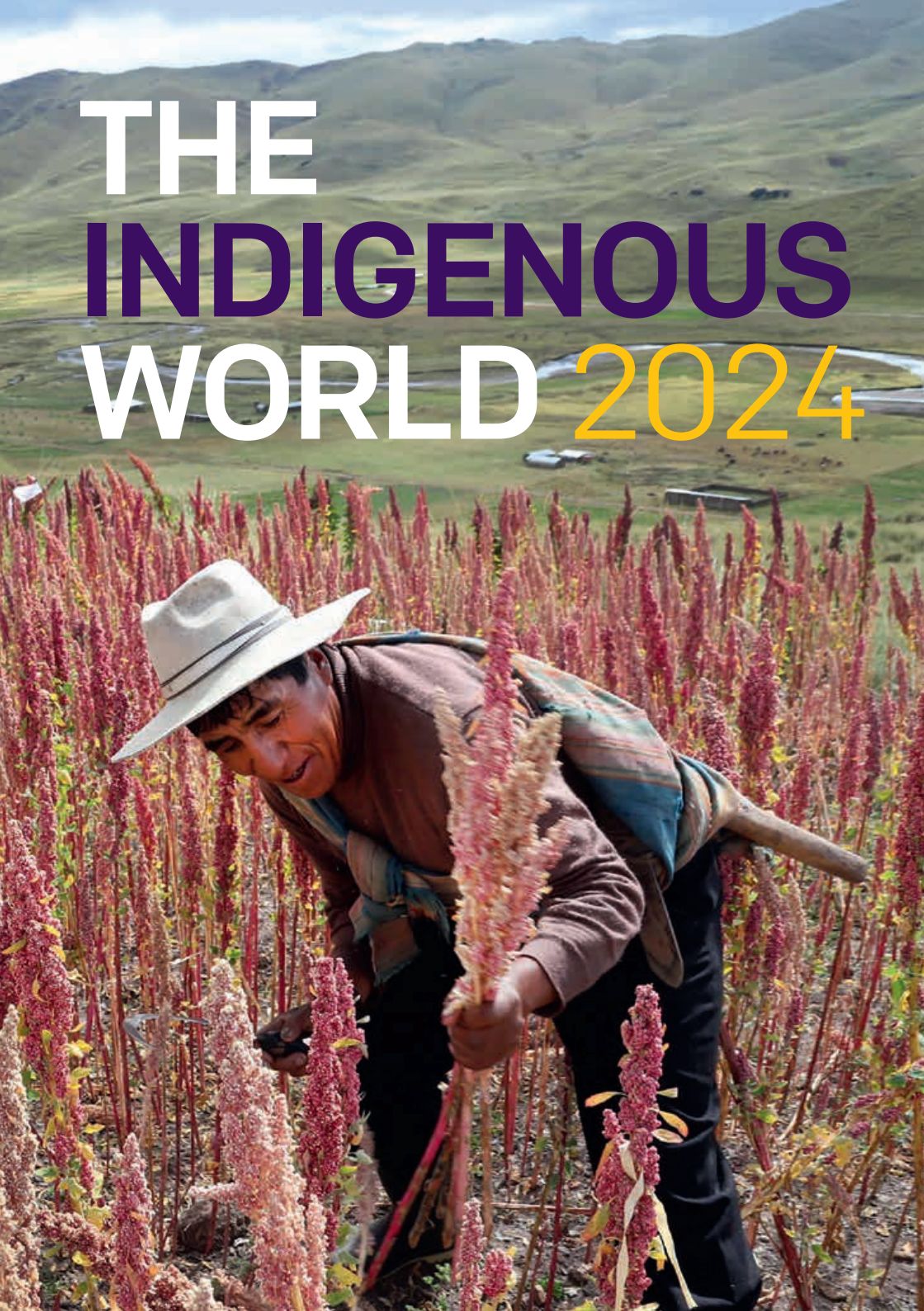
THE INDIGENOUS WORLD 2024



The Indigenous World 2024

38th Edition

General Editor: Dwayne Mamo
Regional Editors:
David Nathaniel Berger, Nikita Bulanin, Lola García-Alix, Marianne Wiben Jensen, Signe Leth, Ena Alvarado Madsen, Dwayne Mamo, Alejandro Parellada, Geneviève Rose, Frida Ravn Rosling, Stefan Thorsell and Kathrin Wessendorf
Maps: David Nathaniel Berger and Dwayne Mamo
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English translation: Elaine Bolton
Proofreading: Elaine Bolton, Floralie Dupré, Käthe Jepsen and Dwayne Mamo
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Executive Director: Kathrin Wessendorf
Head of Finance and Operations: Frank Lausten

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Editorial

This year's edition of *The Indigenous World* takes a closer look at Indigenous Peoples' rights to lands, territories and resources.

The UN Declaration on the Rights of Indigenous Peoples (UNDRIP), adopted in 2007, devotes several of its articles to land rights – especially Articles 25, 26 and 32 – recognizing this as an essential human rights issue for Indigenous Peoples. The UNDRIP preamble recognizes "the urgent need to respect and promote the inherent rights of Indigenous Peoples which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies, especially their rights to their lands, territories and resources."[1]

ILO Convention 169 concerning Indigenous and tribal peoples likewise includes a human rights-based approach to land. It notably affirms that, in applying the Convention: "Governments shall respect the special importance for the cultures and spiritual values of the peoples concerned of their relationship with the lands or territories, or both as applicable, which they occupy or otherwise use, and in particular the collective aspects of this relationship."[2]

2023 commemorated the 75th anniversary of the Universal Declaration of Human Rights (UDHR). It is essential to highlight the profound significance the UDHR has for Indigenous Peoples' rights worldwide as it offers a universal legal framework that underscores the fundamental values of equality, non-discrimination and justice. It importantly upholds the universality of human rights and serves as a moral and legal framework for promoting justice, peace and dignity for humanity as a whole.

Since the UNDRIP's adoption in 2007, the UN Treaty Bodies have increasingly made reference to it in their reviews of State party reports. Some Treaty Bodies have further urged States to "comply" with the UNDRIP and integrate it into national legislation. Recently, the UNDRIP has also become a regular reference point in UN Treaty Bodies' general comments and recommendations. In one of its most recent general comments, the Committee on Economic, Social and Cultural Rights (CESCR) identifies a core obligation of States to obtain free, prior and informed consent (FPIC) where Indigenous Peoples' natural and cultural resources are threatened.

The right to FPIC, as spelled out in Article 32 of the UNDRIP, is one of the most fundamental rights of Indigenous Peoples, who have the right to give or *withhold* consent for any project affecting their lands, territories and resources. And their decision must be respected. Despite this core right, powerful actors continue to encroach onto Indigenous Peoples' territories in all regions of the world without proper, if any, information, consultation or consent, that is in a culturally appropriate manner, in Indigenous Peoples' own languages and with enough time to seek genuine FPIC.

The resulting land grabbing is happening virtually everywhere Indigenous Peoples live and is driven by a number of powerful forces, including governments, businesses and dominant elites, that are pushing projects of all sizes – from small artisanal mining operations to mega development/infrastructure projects – without respecting the rights of Indigenous Peoples.

The Government of India, for example, is ploughing ahead with its much-criticized 17,000-hectare Great Nicobar Island mega project, which, at the very least, will threaten the survival of two Indigenous tribes. In the first six months of 2023 alone, Myanmar exported over EUR 710 million worth of rare earth minerals to China. Additionally, 80 hydropower dams are scheduled to be built, including one in northern Shan State that will threaten 11 villages as their areas will be flooded and tens of thousands will need to be relocated. In the United States, the Biden administration approved the building of the large onshore oil drilling Willow project on Indigenous lands in northern Alaska, which is projected to produce 600 million barrels of oil over the next 30 years (approx. 200,000 barrels a day). And in Kenya, authorities destroyed dozens of homes in the name of conservation in the Mau Forest Complex, a legally-recognized traditional Indigenous land, making over 700 Ogiek women, children and men homeless.

In many countries extractive industries continue their relentless advance onto Indigenous territories in search of resources, and many Indigenous Peoples and organizations find it difficult to resist the enormous pressure from industries such as those of oil and mining.

In addition to the ever-increasing pressure, including a seemingly insatiable global demand for hydrocarbon extraction, Indigenous Peoples' natural resources are increasingly targeted under the green transi-

tion paradigm, which has precipitated an industrial and financial boom requiring vast quantities of transition minerals at an unprecedented pace unheard of in the history of industrialization.

Protecting Indigenous Peoples' lands is connected to the protection of our shared climate

Despite having contributed the least to climate change, Indigenous Peoples are among the first to face its direct effects. Many live in particularly sensitive ecosystems, such as tropical forests, and are heavily reliant on their natural resources.

This is particularly of concern when 2023 saw record forest fires sweep across Canada and in several countries of Europe and Latin America. In Bolivia, 49 of the 58 Indigenous territories in the lowlands were the site of over 25,000 forest fires, in some of which people lost homes and crops. Territories in Beni were some of the worst affected, with over 16,000 forest fires. More than half of the 16 communities in the Multiethnic Indigenous Territory (TIM) were affected by the loss of over 22,000 hectares to forest fires, the largest area it had lost to fire in the last five years.

Meanwhile, in Africa, Kenya experienced massive flooding in 38 counties in the northern part of the country that left over 500,000 people homeless, killed thousands of livestock and flooded over 640,000 hectares of land. Despite the flooding, Kenya also suffered its 7th consecutive year of drought. The story is much the same in Ethiopia, which has endured its 5th consecutive failed rainy season but was also racked by flooding in seven of its 12 regions. All of this continues to exacerbate conflicts between communities throughout the continent over scarce water and pasturelands.

Constituting just 6% of the world's population, Indigenous Peoples protect at least 28% of the global land surface. Their territories contain the vital ecosystems, biodiversity and carbon that are stored within. Studies document that nature is better conserved in Indigenous territories than in adjacent areas.[3] In line with this, the Intergovernmental Panel on Climate Change (IPCC) has concluded that "...securing and recognising tenure for Indigenous communities...has been shown to

be highly cost effective in reducing deforestation...and is therefore also apt to help improve Indigenous communities' ability to adapt to climate changes".[4]

Indigenous Peoples have cultivated knowledge systems and customary practices for countless generations that have helped them to manage and protect the ecosystems in which they live. Indigenous Peoples can therefore contribute positively to addressing climate change with their knowledge, innovations and practices, which have historically contributed to the efforts to conserve ecosystems and biodiversity.[5]

While the important role of Indigenous Peoples in protecting and conserving the environment is recognized, their marginalisation and discrimination at the country level has had dire consequences for their livelihoods and socio-cultural practices, resulting in discriminatory policies and legislation. Part of this legislation is directly related to environmental protection and climate action.

As mentioned above, the current model for the global energy transition requires an increasing quantity of transition minerals, infrastructure and land. There is immense pressure to spend and incentives to rapid action, often at the cost of human rights.

Climate finance continues to grow and many mitigation initiatives are impacting Indigenous Peoples' rights to lands, territories and resources. These initiatives have the potential to bring positive change provided that Indigenous Peoples are consulted and engaged in their design and implementation. Unfortunately, however, many projects still fail to do this or at least encounter tremendous challenges in their attempts to do so. Without obtaining the FPIC of the Indigenous Peoples affected, these projects risk violating their rights.

This also places the very projects at risk because, without ensuring that Indigenous Peoples are on board and take ownership, these projects are likely to fail in meeting their climate objectives.

At a more general level, it is crucial for Indigenous Peoples to continue monitoring climate finance flows, including from green development projects such as renewable energy and carbon credit initiatives, as many of these investments are increasingly placing pressure on Indigenous Peoples' land, territories and resources and unfortunately do not address the root causes of the climate crisis.

To use an example from this book, in the Philippines, President

Marcos Jr. has been aggressively pursuing his renewable energy programme, which has completely ignored the Indigenous Peoples affected by energy projects even when they are implemented in Indigenous territories. Alarmingly, in the Cordillera region alone, 100 renewable energy projects are planned, some of which are in official Indigenous Community Conservation Areas, Protected Areas and biodiversity hotspots.

However, there have been positive developments as well.

The election of President Luiz Inácio Lula da Silva signalled a stark contrast in the Brazilian State's stance towards Indigenous issues and the environment after years of Jair Bolsonaro's devastating policies, which had disastrous consequences for Indigenous Peoples and the climate. Politically, the Ministry of Indigenous Peoples has been set up with a mission to craft and implement policies that address the specific needs of Indigenous communities, protect their rights, and respect their autonomy. Further, Joênia Wapichana, Brazil's first Indigenous woman lawyer, was appointed President of FUNAI (Brazil's National Indigenous Peoples Foundation).

With regard to environmental protection, although an estimated 9,000 km^2 of forest in the Amazon was cut down, there was a 22% reduction in the deforestation rate of the Amazon compared to 2022 and President Lula has committed the country to a zero deforestation target for 2030, while acknowledging at the same time the importance of Indigenous lands to achieving this target. Consequently, after a five-year hiatus, the government resumed the demarcation of Indigenous territories and demarcated six Indigenous territories in 2023, representing an area of over 6,000 km^2, bringing the total up to 732 such territories and over 117 million hectares, or nearly 14% of the country's total area. These areas are thus not only about protecting Indigenous Peoples' rights and traditions but also an acknowledgement of the crucial role they play in environmental conservation efforts.

Globally, while COP 28 in Dubai received its share of criticism for not being strong enough in its language for fossil fuel phase-out, in a year that was the hottest on record, Indigenous Peoples' representation continued to grow and references to Indigenous Peoples in the Global Stocktake decision text improved compared with the COP 27 outcome text from the year before. The decision text made nine references to Indigenous Peoples, including references to their rights in the preamble to

the Paris Agreement, as well as references to building solutions using Indigenous knowledge, engaging in meaningful participation and dialogue with Indigenous Peoples for sustainable and just climate crisis solutions, and recognizing the importance and protection of their values, traditions, cultures and worldviews in climate-resilient infrastructure.

The President of the International Fund for Agricultural Development (IFAD), Alvaro Lario, officially opened the 6th Global Meeting of the Indigenous Peoples' Forum at IFAD by emphasizing that the only way to turn the tide on climate change was for governments and institutions to join forces with Indigenous Peoples because they know the land, seas and earth's plant and animal life "with an intimacy that no agronomist, project designer or funding provider ever will". Lario added that, for humanity to respond to climate change, "there is a need to advocate for social justice and land rights for Indigenous Peoples' communities".

José Francisco Calí Tzay, UN Special Rapporteur on the rights of Indigenous Peoples, focused one of his two 2023 thematic reports on green financing, emphasizing that the transition towards a green economy should be just, and based on human rights. He further noted that the transition must not perpetuate the current violations linked to extractive and fossil fuel projects, as the likelihood of green initiatives unfolding on Indigenous lands is high. The Rapporteur stressed in the report that it is crucial for national governments and finance institutions to implement human rights due diligence from the very beginning of a project, from its very planning, and that such projects must be rooted in acknowledging Indigenous Peoples' collective rights to land and self-determination.

In his other thematic report, presented to the 78th session of the UN General Assembly in October 2023, on the impact of the tourism industry on Indigenous Peoples, Calí Tzay highlights that the preservation of Indigenous lands for tourism purposes has seldom resulted in an improvement in Indigenous Peoples' security of land tenure. On the contrary, it has often led to widespread evictions from forests, grazing areas, wildlife habitats, and seashores. Additionally, it has resulted in restricted access to sacred places and resources for Indigenous communities.

As the demand for Indigenous Peoples' lands, territories and resources increases, they often have to defend their lands at great risk, a trend that is sadly reported too often in this, and other, editions of *The*

Indigenous World. Year after year, thousands of Indigenous environmental defenders all over the world are being harassed, intimidated, threatened, surveilled, evicted, arbitrarily detained, illegally arrested and, worse, killed for protecting lands that have been theirs since time immemorial.

The danger that defending Indigenous land poses

The attack on rights activists and stigmatization of Indigenous Peoples reflects a continued shrinking of the democratic space. An increasing number of attacks are being detected against defenders of the lands and forests that are being exploited by extractive industries, agribusinesses or even "green" energy projects, among others.

Another concerning trend experienced in 2023 was the increasing acts of intimidation, harassment, and reprisals toward Indigenous representatives who seek to exercise their right to report on their human rights situation in UN meetings.

Indigenous Peoples Human Rights Defenders (IPHRDs) and environmental defenders are protecting much of the remaining rich and biodiverse ecosystems left in the world, as well as their peoples' homes, which they have inhabited for centuries. And they are paying a high price.

In Bangladesh there were over 24 dangerous incidents in the Chittagong Hill Tracts (CHT), including violent attacks and forcible land occupation / grabbing attempts, which led to over 200 Indigenous persons suffering human rights violations, including the killing of six persons. In the plains, over 10 such incidents were also reported.

Without acknowledging the rights of Indigenous Peoples, and in many cases openly violating them, the loss of land and natural resources continues to erode the economic security, socio-cultural cohesion and human dignity of numerous Indigenous communities around the world. With loss of land and natural resources comes loss of traditional livelihood practices and, with that, the inter-generational transfer of traditional knowledge, the undermining of social organization and traditional institutions, and of cultural and spiritual practices. All of which causes poverty, food insecurity, social disintegration, and a loss of identity and human dignity.

The invasion and grabbing of Indigenous Peoples' lands is exacerbated by the fact that many Indigenous Peoples suffer from weak legal protection (lack of formal legal recognition and titles) of their collective (and individual) community lands and are therefore very vulnerable to land grabbing and the associated human rights violations.

This is particularly the case in Africa and Asia where very few countries have ratified ILO Convention 169 and where almost no countries have legal frameworks providing for the recognition and protection of Indigenous Peoples and their lands.

Where legal frameworks do exist, their implementation is very weak or non-existent. Indigenous Peoples' collective lands are often perceived as "empty" and "unused" by States and government authorities, which paves the way for easy, often violent and widespread, land grabbing.

And where national, regional or international systems step in, such as the African Commission on Human and Peoples' Rights (ACHPR), Inter-American Human Rights System or the UN, States and governments often ignore their rulings and recommendations.

In early November, authorities from the Kenya Forest Service and Kenya Wildlife Service rangers forcibly evicted over 700 Ogiek women, children and men, who were only informed of the forced eviction just days before, effectively receiving no prior warning, other information or plans for relocation or reparations. The actions of the Government of Kenya are in direct violation of two pioneering legal judgements by the African Court on Human and Peoples' Rights that recognize Ogiek ownership of their ancestral land in the Mau Forest, require the government to return the land to them and require them to pay for material and moral damages.

In neighbouring Uganda, in the name of conservation, the Uganda Wildlife Authority (UWA) carried out frequent raids on the Benet people in 2023, burning down 96 houses, destroying 33 others, arresting 70 people and impounding over 1,200 animals. The ACHPR called on the Ugandan authorities to take immediate action to stop these measures but the government has yet to respond.

In 2023, the Inter-American Court of Human Rights condemned the State of Guatemala for human rights violations against the Indigenous Maya Q'eqchi' community, particularly over the lack of response to Indigenous requests that have been made for more than 40 years

asking for guarantees of the right to collective ownership of their ancestral lands. Part of the ruling is in relation to a mining concession granted in 2006 by the government without any prior consultation with the community. Among other obligations, according to the ruling, the State of Guatemala must collectively title and demarcate the ancestral lands and consult with the community according to their own criteria and customs.

Formal legal community land titles can go a long way to making the land tenure situation of Indigenous Peoples more secure but are often insufficient, as evidenced by numerous cases in this edition.

As windows of opportunity open, doors also close on rights

As mentioned earlier, internationally, the rights of Indigenous Peoples are enshrined in several UN declarations and their rights, as well as their contributions, are increasingly being recognized in other agreements and frameworks, including those concerned with climate, biodiversity and environmental protection. In some cases, those international precedents have had a positive effect on national legislation. In 2023, many States enacted laws that recognize Indigenous Peoples and their rights, including those to lands, territories and resources.

In Laos, a new Decree on Protected Areas was adopted, marking a major step forward in the management and governance of biodiverse-rich lands. The law sets up "Guardian Villages" in which inhabitants – often Indigenous – within the protected area or in surrounding villages co-manage the area, actively participating in decision-making about resource use with regard to conservation.

In the Democratic Republic of the Congo (DRC), the 2022 Law on Protecting and Promoting the Rights of Indigenous Peoples came into force in February 2023, officially recognizing the rights and cultural identity of Indigenous Peoples, as well as their rights to their lands, territories and resources, and their contributions to protecting forests, marine ecosystems and biodiversity.

In Mexico, President Andrés Manuel López Obrador signed a decree to protect and preserve the sacred sites and pilgrimage routes of

four Indigenous groups that have been threatened by the activities of transnational companies.

In Chile, a law came into force creating the National Biodiversity and Protected Areas Service to ensure better administration of protected areas in the country and recognize the right of Indigenous Peoples to participate in and manage these protected areas, although it does not take the further step of guaranteeing their right to self-govern those territories.

In Canada, following two years of work with First Nations, Inuit and Métis from across the country, the federal government released its 2023-2028 National Action Plan to ensure that federal laws are in line with the UNDRIP. One priority area among many in the plan is a focus on the rights to lands, territories and resources, ensuring that Indigenous Peoples can exercise their inherent rights, affirming and respecting their jurisdiction over their lands, waters and resources.

Indigenous Peoples and their defenders know full well that a law adopted on paper is only as strong as the real-time, genuine implementation of its provisions and protections. As such, despite these positive legal developments for Indigenous Peoples, 2023 was also a year of legal regression in many countries, which either blatantly ignored their legal obligations or amended laws to afford the State and corporations even more rights.

In late December, the Government of Nepal endorsed the National Action Plan on Business and Human Rights, which comprises six thematic sectors, including one on Indigenous Peoples, specifically recognizing the importance of following FPIC, meaningful participation and customary institutions. However, based on the previous experiences of Indigenous Peoples in the country and the current political situation, many are sceptical that the government will seriously or genuinely put this into practice.

In India, the Forest (Conservation) Amendment Act 2023 empowers the government to acquire land for development, eco-tourism, mining and security/defence projects. Criticism of the act has been ongoing for years, including that it violates the forest rights of Indigenous Peoples as well as the right to FPIC.

The Law on Protected Areas 2008 in Cambodia was amended in 2023, changing the term "Indigenous Peoples" to "Local Communities", which has no specific definition. When it takes effect in 2024 the

rights of Indigenous Peoples thus risk being undermined.

The Qinghai-Tibet Plateau Ecological Protection Law of the People's Republic of China took effect in late 2023 with the aim of conserving biodiversity through the restoration of ecosystems by setting up national parks, reserves and other protected areas. The law, however, makes no mention of FPIC, especially in relation to what will happen when people have to be relocated, and introduces measures such as grazing bans and setting up of enclosures that will affect Indigenous Peoples' herding rights and nomadic way of life.

In 2021, the Supreme Court of Norway unanimously determined that two wind power facilities – the Storheia and Roan wind power plants on the Fosen peninsula – violated Sámi reindeer herders' rights to practise their culture under Article 27 of the International Covenant on Civil and Political Rights (ICCPR). The two facilities combined have built 151 wind turbines and 159 km of wide roads on traditional winter grazing lands. However, nearly two years after the judgement, the Government of Norway had yet to follow-up on its own Supreme Court's legal ruling. Throughout 2023, Sámi and Norwegian youth led protests and civil disobedience actions that garnered international attention to call out the government's inaction. By the end of the year, the government admitted ongoing human rights violations and publicly apologized to the reindeer herders and a settlement was eventually reached for financial compensation, replacement grazing areas provided by the State, and a power of veto over further licensing after the first 25-year concession runs out.

Indigenous women at the front line of land defence

While land dispossession and land tenure insecurity is a major problem for all Indigenous Peoples, Indigenous women are even more affected since they traditionally have very limited influence and decision-making power over land matters, and they often suffer the most when land is lost and they are no longer able to provide for themselves and their children.

Indigenous women all over the world experience a "broad, multifaceted and complex spectrum of mutually reinforcing human rights abuses"[6] due to their particular position of vulnerability within patriarchal power structures. Women are disproportionately affected by the systemic poverty that affects Indigenous Peoples due to their roles

as caregivers and managers of resources in their communities. The UN Special Rapporteur on the rights of Indigenous Peoples found that Indigenous women are commonly excluded from both Indigenous decision-making structures and local and national political processes, which leads to a lack of priority for women's concerns in policy making.

This was noted in Guatemala where women are routinely left out of rural development and land access programmes and are often the ones most affected by violent evictions and conflict.

At the 67th session of the UN Commission on the Status of Women (CSW67), Indigenous women emphasized the importance of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)'s General Recommendation 39 (GR39)[7] on the rights of Indigenous women and girls, adopted in late 2022, and its relevance to their empowerment. They stressed that concrete measures needed to be implemented to guarantee the legal recognition and protection of their rights to lands, territories and resources, as established in GR39, as well as the effective participation and consultation of Indigenous women on these issues.

Given the various serious forms of intersectional discrimination that Indigenous women face, it is imperative to scale up the pressure on States and demand accountability in fulfilling their legal obligation to recognize, respect and protect Indigenous women's rights. This commitment must be consistently reflected in State human rights reporting, ensuring that Indigenous women's rights are fully acknowledged and addressed.

The Government of Nepal, for example, did not respond to any of the 15 recommendations made by CEDAW, including a constitutional amendment explicitly recognizing self-determination and the rights of Indigenous women, in its periodic report to CEDAW in 2023. The government report also made no mention of GR39.

Nepal is also one of many countries intensely pursuing numerous hydroelectric projects, many of which threaten Indigenous Peoples' lands and lives and, as such, many Indigenous people are trying to oppose and rally against these projects. In 2023, armed police forces targeted their weapons specifically at the Tamang women who formed part of a demonstration demanding that the construction of an electricity substation on their land be stopped.

Indigenous women are very often targets of multiple forms of violence, including structural violence, which results in their being victimized by the circumstances of everyday life. Some of the forms of violence they face include sexual violence, gender-based killings, traditional harmful practices, domestic violence, violence in the context of conflict, tribal segregation and trafficking.

Too many reports in *The Indigenous World* year after year note these various forms of violence against Indigenous women and girls. In this edition, in India alone, the National Crime Records Bureau recorded a total of 1,347 cases of rape of Indigenous women and girls (some of which ended in death) in 2022, at the hands of civilians, security forces and government officials. In southern Ethiopia, extreme climate factors have dried up water sources and killed livestock, forcing the displacement of hundreds of thousands of people, including pastoralists, which has reportedly left women and girls in these displacement camps vulnerable to sexual violence, rape and forced marriage.

Indigenous women are also active IPHRDs. Facing not only many of the same challenges and threats as their male counterparts, women IPHRDs face additional risks and threats, such as sexual violence, harassment and, in some cases, discrimination within – and a lack of support from – their own communities. Figures on sexual violence remain indicative since cultural taboos, language and capacity barriers, and security concerns often prevent women from seeking justice.

Although Indigenous women and girls face enormous challenges and discrimination, they should not, however, be portrayed as victims. Indigenous women are active agents of change.

In 2023, in Nagaland, for example, Indigenous Naga women broke gender barriers when Salhoutuonuo Kruse and Hekani Jakhalu became the first women elected to the Nagaland Legislative Assembly, with Kruse becoming the first Naga female minister.

Indigenous-led actions

Throughout 2023, there were several key wins and positive developments by Indigenous Peoples in their fight for their lands and self-determination.

In the United States, Native tribes fought to get several lands returned that have been taken from them. In Minnesota, the Upper Sioux Community got the Upper Sioux Agency State Park back, and the Winnebago Tribe, through a Congressional bill, will get land back in Iowa and Nebraska. In California, a USD 100 million (approx. EUR 91 million) grant programme was introduced for Native tribes to buy back lands lost from colonialization for the creation of cultural and conservation projects. Additionally, where lands could not be restored to Native tribe hands, co-management cooperative agreements – almost 200 of such in 2023 – with the federal government were announced.

In Australia, over 8,500 km^2 of traditional lands, including the Twelve Apostles national icon, are back in Aboriginal hands. This marks the first native title determination in 10 years in Victoria state.

Indigenous communities in the Lower Valley of the Omo in Ethiopia have taken ownership and management responsibility for the Tama Community Conservation Area (TCCA), the country's largest community conservation area. These communities are now legally responsible for ensuring the sustainable use and preservation of the area's ecological and cultural heritage. The TCCA covers an area of 197,000 hectares where communities will be allowed to engage in their agricultural and pastoral activities, managed by the communities themselves.

In Bolivia, Indigenous organizations were able, through large scale social mobilizations and public awareness campaigns, to reverse agreements made between the National Service for Protected Areas (SERNAP) and the Mining Administrative Jurisdictional Authority (AJAM) to undertake activities within protected areas and Indigenous territories in the Amazon. Additionally, a judge ordered that mining activities in several rivers and their tributaries in the Amazon should be stopped and that the AJAM should suspend contracts with mining operators in order to implement a process of consultation with Indigenous communities.

The first autonomous government in an Indigenous territory to obtain municipal jurisdiction in Bolivia was the Multiethnic Indigenous Territory (TIM). Bolivian President Luis Arce enacted Law No. 1497/2023 creating the TIM as a territorial jurisdiction in which the Indigenous government, elected in accordance with its Autonomous Statutes, will exercise all the powers assigned by the Constitution. Elections for the new TIM government took place in July.

Land rights: a continued future of strength and resilience at the heart of Indigenous recognition

Indigenous Peoples have proven to be very strong, resilient and able to defend themselves and, to some extent, their land.

They still occupy many of their ancestral territories; they maintain, to a large extent, their unique cultures, traditions, knowledge and languages; and they continue to act as guardians of much of the world's remaining cultural and biological diversity.

They are no longer struggling in isolation but have organized themselves in a global movement supported by many allies; they have secured their rights in international law; they play active roles in major international processes affecting their rights and livelihoods; they have, through persistent advocacy, managed to receive favourable concluding observations from several international human rights mechanisms and secured important rights recognitions and language in declarations; and they have won important legal cases nationally and internationally.

These are all unique and important windows of opportunity that they have fought for and gained and which form the point of departure for the continued fight against land dispossession.

Dwayne Mamo
General Editor

Kathrin Wessendorf
Executive Director

Geneviève Rose
Head of Programmes

Copenhagen, March 2024

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About The Indigenous World

The compilation you have in your hands is the unique result of a collaborative effort between Indigenous and non-Indigenous activists and scholars who voluntarily document and report on the situation of Indigenous Peoples' rights. We thank them and celebrate the bonds and sense of community that result from the close cooperation needed to make this one-of-a kind documentation tool available.

For 38 consecutive years IWGIA has published *The Indigenous World* in collaboration with this community of authors. This yearly overview serves to document and report on the developments Indigenous Peoples have experienced throughout 2023. *The Indigenous World 2024* adds not only documentation, but also includes a special focus on Indigenous Peoples' rights to lands, territories and resources.

IWGIA publishes this volume with the intent that it is used as a documentation tool and an inspiration to promote, protect and defend the rights of Indigenous Peoples, their struggles, worldviews and resilience.

It is our hope that Indigenous Peoples themselves, along with their organisations, find it useful in their advocacy work and in improving the human rights situation of Indigenous Peoples. It is also our wish that *The Indigenous World* is used as a main reference by a wider audience interested in Indigenous issues who, through these pages, can dive into local realities and further familiarise themselves with the current situation of Indigenous Peoples' rights worldwide.

We would like to stress that any omission of a specific country report should not be interpreted as no news is good news. In fact, sometimes, it is precisely the precarious human rights situation that makes it difficult to obtain contributions from specific countries. In other cases, we have simply not been able to get an author to cover a particular country. If you would like to contribute to *The Indigenous World*, please contact IWGIA.

The articles in this book are the views and visions of the authors, and IWGIA cannot be held responsible for the opinions stated herein. The respective country maps are, however, compiled by IWGIA and the content therein is the responsibility of IWGIA and not the authors. We wish to stress that some of the articles presented take their point of departure in ethnographic regions rather than strict state boundaries. This is in accordance with Indigenous Peoples' worldview and cultural identification which, in many cases, cuts across state borders.

PART 1

Region and Country Reports

Africa

Algeria

ATLANTIC OCEAN
MEDITERRANEAN SEA
Algiers
TUNISIA
MOROCCO
ALGERIA
LIBYA
MAURITANIA
MALI
NIGER

The Amazigh are the Indigenous people of Algeria and other countries of North Africa. However, the Algerian government does not recognize the Indigenous status of the Amazigh and refuses to publish statistics on their population. Because of this, there is no official data on the number of Amazigh in Algeria. On the basis of demographic data drawn from the territories in which Tamazight-speaking populations live, associations defending and promoting the rights of Amazigh people estimate the Tamazight-speaking population to be around 12 million people, a third of Algeria's total population. The Amazigh of Algeria are concentrated in five territories: Kabylia in the north-east (Kabyls represent around 50% of Algeria's Amazigh population), Aurès in the east, Chenoua, a mountainous region on the Mediterranean coast to the west of Algiers, M'zab in the south (Taghardayt), and Tuareg territory in the Sahara (Tamanrasset, Adrar, Djanet). Many small Amazigh communities also exist in the south-west (Tlemcen, Bechar, etc.) and in other places scattered throughout the country. It is also important to note that large cities such as Algiers, Oran, Constantine, etc., are home to several hundred thousand people who are historically and culturally Amazigh but who have been partly Arabized over the years, succumbing to a gradual process of acculturation and assimilation.

The Indigenous populations can primarily be distinguished from Arab inhabitants by their language (Tamazight) but also by their way of life and their culture (clothes, food, songs and dances, beliefs, etc.). After decades of demands and popular struggles, the Amazigh language was finally recognized as a "national and official language" in Algeria's Constitution in 2016. But, in reality, the Amazigh identity continues to be marginalized and folklorized by state institutions. Officially, Algeria is still presented as an "Arab country" and "land of Islam", and anti-Amazigh laws are still in force (such as the 1992 Law of Arabization).

Internationally, Algeria has ratified the main international standards, and it voted in favour of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2007. However, these

texts remain unknown to the vast majority of citizens, and thus not applied, which has led to the UN treaty-monitoring bodies making numerous observations and recommendations to Algeria urging it to meet its international commitments.

Algeria finally agrees to the visit of two UN Special Rapporteurs on human rights

Planned in 2011 but constantly postponed at the request of the Algerian government, the visit of the UN Special Rapporteur on freedom of peaceful assembly and of association finally took place from 16-26 September 2023. In his preliminary report on the visit[1] the Special Rapporteur, Mr. Clément Nyaletsossi Voule, expressed concern that:

1. Law 12-06 of 2012 on associations, which remains in force awaiting the adoption of the new law on associations, contains overly restrictive and vaguely formulated provisions, leaving wide discretion to authorities to reject requests for the creation of an association. Notably, associations cannot be contrary to "national values" (article 50) and are prohibited from engaging in cooperating with associations abroad (article 23) or receiving funding from such associations (article 30) without prior authorization. This contradicts the International Covenant on Civil and Political Rights (ICCPR) ratified by Algeria, which stipulates that any restriction imposed on the enjoyment of the right to association must be precise, prescribed by law and be necessary in democratic society as explained by the Human Rights Committee through General Comment No. 37 (2020) on the right of peaceful assembly and the African Commission Guidelines on Freedom of Association and Assembly.

2. Although the 2020 Constitution recognized Tamazight as an official national language, assertions of regional identities are also presented as a threat to national unity and security, in particular in the Kabylie region where there have been calls for greater au-

tonomy. In 2021, the Movement for the Autonomy of Kabylie (MAK) was classified as a terrorist organization for having called for the independence of the Kabylie region, and several persons and associations have faced charges related to their alleged association with MAK or other activities seen to undermine national unity under article 87bis of the Penal Code. I note the case of the co-president of the World Amazigh Congress (CMA), whose imprisonment, since August 2021, the UN Working Group on Arbitrary Detention recently determined to be arbitrary, calling for her immediate release. In my meetings, I also learned that charges of undermining national unity had also been brought against several persons who had waved the flag of the Amazigh community.

3. It is essential for government authorities to loosen up current tight restrictions on associations, bringing laws into conformity with the Constitution and international human rights standards.

Ms Mary Lawlor, UN Special Rapporteur on the situation of human rights defenders, also visited Algeria from 26 November to 5 December 2023. In her statement[2] issued at the end of her mission to Algeria, she noted:

1. Despite the repeated assurances I heard from various government figures that Algeria is a country ruled by law, and that everyone is treated equally before that law, it is clear to me that human rights defenders who choose to operate outside of the government-designed civil society framework face serious difficulties, which also impact on their families.

2. There is a lack of transparency in relation to suppressive actions taken against human rights defenders, where little information is provided about who gives an order against them, on what authority and for what reason. Numerous individuals made reference to a political police force that exists in the shadows, and which would not seem accountable to any transparent oversight.

3. Some human rights defenders I intended to meet, refused or cancelled at the last minute, for fear of reprisals. My visit was also overshadowed by a number of human rights defenders, members of

civil society organizations and victims of human rights violations being prevented from reaching Tizi Ouzou while I was there. As they travelled to the city, they were either stopped at checkpoints or detained in a police station for over 10 hours. Exemplifying the lack of transparency noted above, when the human rights defenders asked why they were being stopped, they were simply told, "You know why, orders have come from above". I was further informed that those prevented from travelling were under routine surveillance and regularly stopped when attempting to attend meetings, events or on other significant occasions.

4. The definition of terrorism in this article, and throughout Algerian national legislation, is so broad and vaguely worded that it allows huge scope for the security services to arrest human rights defenders. Kamira Nait Sid, a woman human rights defender and co-president of the World Amazigh Congress (CMA) who promotes the cultural, economic and linguistic rights of the Amazigh people, was sentenced to three years in prison on such a charge. I visited Kamira in prison where I was told that the specific charge against her relates to her brief attendance at a conference in a university where she was scheduled to conduct a human rights event the following day. She was later arrested and tried on charges of "undermining national unity" and "belonging to a terrorist organization". Her case is currently under appeal and I call for her release.

5. I call for the release of all human rights defenders imprisoned for exercising their freedom of expression, opinion and association, and for the articles of the Penal Code relating to terrorism and undermining national unity (including articles 79, 87bis, 95bis and 96) to be amended to bring them into line with international standards.

Attacks on freedoms and discrimination against Amazigh

The children's book fair organized by the Tagmatt cultural association in Ait-Saada, Yatafen commune in Kabylia, from 31 August to 2 September 2023, did not receive authorization from the Wilaya of Tizi-Wezzu and was

cancelled. Other Amazigh cultural events also failed to receive authorization in Sidi-Aich, Tizi-N-Berber, Akbou, Tizi-Wezzu and Imcheddalen.

Koukou Editions, a small, young book publishing house founded and run by Kabyle journalist Arezki Ait-Larbi, was excluded from the *Salon International du Livre d'Alger* (Sila) held from 26 October to 4 November 2023. In a press release, its director denounced "the censorship fascists".[3]

On 19 February 2023, the office of the private television channel "Berbère-TV" in Algiers was closed and placed under judicial seal by the Algerian police.[4] A few days later, the police removed the seal and the channel was able to resume its activities. The closure of Berbère-TV's office in Algeria is both an attack on press freedom and on the Amazigh people's right to promote and enjoy their culture. The temporary closure of the Amazigh television channel was also understood by the public as a warning to the media to strictly comply with government policy.

Every year on 20 April, Amazigh celebrate the Amazigh Spring (*Tafsut Imazighen*). In 2023, Algerian police violently prevented traditional ceremonies commemorating this event. Several dozen people were arrested to prevent them from organizing or taking part in the activities planned for that day. For the Amazigh, this is a serious infringement of their right to honour their memory and traditions.

During the 17th edition of the Vgayet (Béjaia) half-marathon in Kabylia, which took place on 1 December 2023, the Amazigh flag was banned from the entire course, as was the wearing of traditional Kabyle dress during the medal ceremony for the winners. The organizers did their utmost to conceal any reference to the Amazigh identity of the town of Vgayet and its region.

No respite from Amazigh human rights violations

Cherif Mellal, president of the *"Jeunesse Sportive de Kabylie"* (JSK) soccer club, was arrested and imprisoned on 19 January 2023 for "undermining the integrity of national territory", under article 79 of the Algerian Penal Code. This baseless accusation is undoubtedly linked to the fact that the JSK president had his club's photos taken with the Amazigh flag.

Kamira Nait Sid, co-president of the Amazigh World Congress, detained since 24 August 2021 and charged with membership of a terror-

ist organization, apologist for terrorism and undermining national unity, was tried and sentenced on 5 December 2022, by the Sidi-Mhamed Court in Algiers, to five years' imprisonment and a fine of 100,000 Dinars (approx. EUR 9,200). During her appeal trial on 3 March 2023, her sentence was reduced to three years' imprisonment. Several UN mechanisms have called for her release, to no avail.

On 23 July 2023, the Algiers Court of Appeal confirmed Slimane Bouhafs' conviction of three years' imprisonment for "receiving funds from abroad for the purposes of political propganda", "hate speech and discrimination", "using new technologies to spread false information" and "conspiracy".[5] Slimane Bouhafs is president of the *Coordination de Saint-Augustin des chrétiens en Algérie*, which defends minority rights and religious freedom in the country.

On 26 November 2023, university teacher and Amazigh rights activist Mira Moknache and several other Amazigh cultural activists appeared in court in Amizour, Kabylia. They were charged with undermining national unity. Mira Moknache, who has been the target of judicial harassment since 2019, is being prosecuted in a number of cases across several courts (Vgayet, Amizour, Algiers, Oran) on the same grounds: "undermining national unity and membership of a terrorist group".[6]

Fifty-four defendants were sentenced to death in connection with the fires in Kabylia in the summer of 2021 and the death of a young man, a further 26 were given sentences ranging from 2 to 10 years in prison and 17 others were acquitted at the trial held in November 2022 at the Algiers court.[7] During the appeal trial, which began on 15 October 2023, the Algiers Court of Appeal tried and sentenced 38 people to death, six more to 20 years in prison and 23 others to sentences ranging from 3 to 10 years, while 30 others were acquitted.

The defence lawyers noted serious breaches of the law and judicial procedure. Both trials were unfair, and the convictions are therefore tainted with arbitrariness. A fair trial is one that respects national and international law and legal procedures, and respects the rights of lawyers and defendants, who are innocent until proven guilty. This was not the case, according to the lawyers and human rights NGOs.[8]

During 2023, the inhabitants of Larvaa-Nat-Iraten in Kabylia, where the death row inmates come from, regularly observed a general strike to protest at what they considered to be unjust sentences handed down for unspoken "political" reasons.[9]

An unknown number of Amazigh, particularly human rights defenders, are being prevented from leaving the country without due process, and others are being actively sought by the police Research and Intervention Brigade (BRI). Others leave the country by whatever means, including clandestinely, to reach Europe.

A land policy that ignores the collective rights of Indigenous Peoples

After Algerian independence in 1962, Algerian land policy consisted of nationalizing the former lands belonging to the French settlers, followed by those of the large Algerian landowners, and the *Archs* lands, i.e. the collective lands belonging to the Amazigh tribes. It should also be noted that all the former lands of the French settlers were originally lands that belonged mainly to the Amazigh tribes, stolen by the French administration.

As the new Algerian state administration was copied from the French Jacobin Club system, Algerian land policy has been a continuation of the former colonizer's system: it has not returned the land stolen from the Amazigh tribes and, in the 1980s, began privatizing State-owned land (Law 83-18 of 13 August 1983), strongly encouraging access to private property. The 1989 and subsequent Constitutions stipulate that "public property is the property of the national community. It includes the subsoil, mines and quarries, natural sources of energy, the mineral, natural and living wealth of the various zones of the national maritime domain, waters and forests" (article 18 of the 2020 Constitution).

As the Amazigh are not recognized as an Indigenous people of this country, they are unable to benefit from the rights internationally recognized to Indigenous Peoples. The State consequently disposes of their lands, territories and natural resources as it sees fit, without consulting them or obtaining their free, prior and informed consent.

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Belkacem Lounes *is a doctor of Economics, university teacher (Grenoble Alpes University), former expert member of the Working Group on Indigenous Populations/Communities in Africa of the African Commission on Human and Peoples' Rights (2016-2021), member of the UN Expert Mechanism on the Rights of Indigenous Peoples (2018-2020), author of numerous reports and articles on Amazigh and Indigenous rights.*

Botswana

Botswana is a country of 2,417,596 inhabitants, having celebrated its 57th year of independence in 2023. Its government does not recognize any specific ethnic groups as Indigenous, maintaining instead that all citizens of the country are Indigenous. However, 3.2% of the population identifies as belonging to an Indigenous group. These include: the San (known in Botswana as the Basarwa) who number around 73,586; the Balala (2,661); and the Nama (3,271), a Khoekhoe-speaking people. The San were traditionally hunter-gatherers but today the vast majority consists of small-scale agro-pastoralists, cattle post workers, or people with mixed economies. Only an estimated 300 San people are full-time hunter-gatherers although many others hunt or gather as a supplement to other food sources. The San belong to a large number of sub-groups, most with their own languages, including the Ju/'hoansi, Bugakhwe, Khwe-ǁAni, Ts'ixa, ǂX'ao-ǁ'aen, !Xóõ, ǂHoan, ‡Khomani, Naro, G/ui, G//ana, Tsasi, Deti, Bakhwe, Shua, Tshwa, Cuaa, Kua, Danisi and /Xaise. The San, Balala and Nama are among the most underprivileged people in Botswana, with a high percentage living below the poverty line.

Botswana is a signatory to the Conventions on the Elimination of All Forms of Discrimination against Women (CEDAW), the Rights of the Child (CRC) and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), and it voted in favour of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). However, it has not signed the Indigenous and Tribal Peoples Convention No. 169 (ILO 169). There are no specific laws on Indigenous Peoples' rights in the country and nor is the concept of Indigenous people included in the Botswana Constitution. Botswana's census does not include information on ethnicity. Botswana took part in the 22nd Session of the UN Permanent Forum on Indigenous Issues (UNPFII) held in New York from 17-28 April 2023. Botswana also participated in the Universal Periodic Review of the UN from May to October 2023.

Land rights and examination by international mechanisms

The issue of land rights in Botswana was raised frequently in 2023 by citizens and by international mechanisms and agencies.[1] Botswana was a focus during the 43rd Session of the Universal Periodic Review (UPR) Working Group, which was held in Geneva from 1-12 May 2023.[2] A final report was published on 23 June 2023 after the full Human Rights Council had considered it during its 43rd session ending on 6 October.[3] In all, more than 30 UN members recommended that Botswana improve its human rights record. The United States recommended that Botswana "promote respect for the rights of members of minority communities such as the Basarwa or San" and stated that: "We remain concerned that mining, tourism, and agriculture activities are displacing communities like the Basarwa or San, and that these communities are not able to effectively challenge their displacement or equitably access land, and that members of these communities suffer human rights abuses."[4] Canada asked Botswana to "protect the rights of [I]ndigenous [P]eoples to the lands, territories and resources which they have traditionally occupied, used or acquired; protect [I]ndigenous [P]eoples from delocalization threats, and provide access to quality education and timely public services."[5]

Dr. David R. Boyd, the UN Special Rapporteur on human rights and the environment, toured Botswana from 3-11 October 2023. He stated in his preliminary report[6] that the challenges to Botswana's citizens' rights to clean water, health, and nutrition constituted a "human rights crisis" in a country "plagued by poverty". Twenty percent of the rural population have no access to acceptable drinking water, 23% are undernourished, and 19% have no access to sanitation. Boyd travelled to Maun and Ganzi, and to the villages of Kuke and Habu. While in Kuke, a San community, he watched a long line of people, consisting mostly of women and girls, waiting for one of only two standpipes that provide water for a community of more than 1,000 people. "Water scarcity may force some families to rely on unsafe sources of water. Diarrheal diseases linked to contaminated water and food are a major contributor to under-five mortality in Botswana,"[7] he wrote.

Due to the climate crisis, Botswana will face both an increase in the number of hot days and a rainfall decline of 10-20% in the coming

years. Boyd advised Botswana to invest in solar energy but, if renewable energy projects are planned for territory occupied by Indigenous Peoples and local communities, "their rights to free, prior and informed consent must be respected". Boyd's final report will be presented to the UN Human Rights Council in 2024.

ReconAfrica continues oil exploration, despite environmental concerns

In July 2023, President Mokgweetsi Masisi declared that the past year's drought had been especially severe in Ngamiland, the location of the Okavango Delta, a UN World Heritage site that is home to approximately 20,000 members of the San and other minority communities.[8] Most of their livelihoods, as farmers or workers in the tourist industry, depend on the waters of the Okavango.

ReconAfrica's Botswana operation, called Reconnaissance Energy Botswana (REB), has a licence to explore for oil in the area[9] but no operations have begun on the ground. REB's then CEO, Scot Evans, said in May 2023 that: "REB's work to date has been focused on gathering and interpreting desktop data". They have completed a "Stakeholder Mapping and Regulation Review" project, holding meetings in 46 villages, and encountering little resistance to the project, according to Evans.[10]

ReconAfrica's explorations for oil in Botswana and Namibia have drawn worldwide criticism from environmentalists.[11] In June, a potentially game-changing study was published in a scientific journal asking "whether contamination from drill sites in the lease area could spread through the Okavango River Basin through surface water and groundwater contamination", which would be especially severe during periods of drought. The authors recommended prohibiting oil exploration and production activities "until future studies can determine the impacts of hydrocarbon extraction with greater certainty".[12]

UNESCO's World Heritage Committee considered the Okavango Delta during its annual meeting in September. In its conclusion, it expressed great concern about oil and gas exploration activities in the areas near and upstream from the Okavango Delta that could pose "significant risks to the interconnected water system and the ecosystem and

could hence affect the property's OUV" (Outstanding Universal Value, a criterion for status as a World Heritage Site). UNESCO reiterated its request that Botswana "ensure that petroleum exploration and other large-scale development projects with potential adverse impact on the OUV of the property are subject to rigorous and critical prior review, including through EIAs" (Environmental Impact Assessments).[13]

In August, ReconAfrica announced that Brian Reinsborough, an experienced oil executive, had been appointed CEO, replacing Scot Evans, and that several new vice-presidents had also joined the firm. Attending an energy conference in Cape Town in October, Reinsborough said the company would begin a new drilling campaign early next year. He "downplayed criticism from environmental groups", saying that "when we operate, we operate well, we operate safely, we operate within the guidelines of everything, so the noise out there is just noise".[14]

Hunting and Community-Based Natural Resource Management (CBNRM) issues

In his State of the Nation speech to Parliament on 6 November, H.E. President Mokgweetsi Masisi stated that, during the 2023 hunting season, revenue for the hunting quota accrued to communities participating in the CBNRM programme "amounted to approximately Twenty-Seven Million Pula (P27 million), which will be used for the upliftment of rural livelihoods". Many of the communities said that they had not, in fact, received much in the way of economic benefits from the hunting quotas even though some of the animals on the quotas had been allocated to their communities. At least half a dozen communities in Ghanzi and Ngamiland complained formally to the government but had yet to receive a reply by the end of 2023.

Arrests of community members for violation of wildlife conservation laws continued at an increased pace in 2023. Some of those arrested disputed their arrests and obtained the services of lawyers to assist them. In July 2023, a group of people were arrested for being in possession of wild animal meat but they were released a few days later.[15] Based on Wildlife Department records, at least 16 people who self-identified as San were arrested in 2023.

Community organizes to confront unjust land allocation in Letlhakane

Metsiaela/Buuhe is a ward in the town of Letlhakane that is home to at least 4,000 San people. The word Bakhwe is often used for San in this area, which is in the Boteti Sub-District in the Northeast part of Botswana. The term Metsiaela means "squatter camp", referring to the fact that many of its residents live in crowded conditions as squatters, having been evicted from their nearby homes.[16] In 2006, the government designated Metsiaela/Buuhe as a "gazetted settlement" (official village), requiring a registration process for potential owners, which has excluded many of its residents, making them homeless.[17]

The diamond mining company Debswana owns three diamond mines in the area, in Letlhakane, Orapa and Damtshaa.[18] These mining developments have displaced thousands of San/Bakhwe people, and the Botswana Khwedom Council (BKC), led by its CEO, Keikabile Mogodu, has been working with them for years. In January 2023, the BKC wrote a letter to the Ngwato Land Board, which governs land use on the Boteti district level, complaining of the treatment the Bakhwe were receiving from the local Letlhakane Sub Land Board. BKC's spokesman, Banyatsi Salutu, said there was a long waiting list of Bakhwe who had applied for residential plots but that the plots continued to be awarded to outsiders. Other plots were available for industrial, commercial, or agricultural use but the Bakhwe were not eligible for them, even though many have skills in these areas, because they do not have identity documents.[19]

"We feel that land allocation should be done fairly amongst all communities in Botswana and many factors must be considered by the Sub Land Board such as preservation of cultural sites and burial places," Salutu said in an interview.[20]

On 1 February, it was reported that a 65-year-old man, Tobokane Galesiame, had died when the Land Board came to evict him from his home to give it to someone else. He confronted them but immediately suffered a heart attack. His family and the people of Metsiaela/Buuhe condemned the actions of the Land Board as "monstrous".[21]

In mid-April, not having heard from the Ngwato Land Board, the BKC began preparing to engage lawyers to confront the Letlhakane Sub Land Board with their illegal treatment of the Bakhwe in Metsiaela/Buu-

he.[22] A short time later, the Ngwato Land Board said they had arranged a meeting with the BKC and with Metsiaela/ residents for 24 April.

When the delegation from the Ngwato Land Board, led by its Chairman, David Modisagape, arrived at the outdoor meeting, they found a group of several dozen community members who had many questions. Kgosi Alfred Petelelo told Modisagape that even though the ward was officially recognized years ago, many of his people were still waiting to register their plots with the Land Board. "You can't even connect water if your plot is not properly registered!" he exclaimed. The Boteti Region Chairperson of the Botswana Council of Churches, Boitshwarelo Dennis Mopedi, called the situation a social crisis.

Chairman Modisagape conceded that the land allocations were intended to prioritize marginalized groups, the old, youth and disabled. He admitted that the Land Board had been too slow in fulfilling this mission.

Salutu, who attended the meeting, rejected the Chairman's explanation and accused the Land Board of deliberately discriminating against San/Bakhwe. He said: "There were 896 plots allocated in Letlhakane, and not a single person from Bakhwe was given a plot." He continued:

> *Land Board officials arrived here on the 18 November to allocate plots already occupied by our people. Families were evicted from their homes as officers erected pegs for strangers. We want the Land Board to reverse this decision. We've long applied for ploughing farms but were told the land was not for farming; today the same land is being allocated to elite members of the society for integrated farming and feed lots.*[23]

There was no further information during 2023 about the Land Board's response to issues raised by the meeting and BKC's complaints.

In August 2023, Hon. Molemi Galeragway, the Boteti District Council Chairperson "expressed deep concern regarding the mushrooming of squatters from the Basarwa community" whose numbers, he said, had increased to 6,000. He called on community leaders to help the squatters.[24]

Outstanding challenges from previous years

One important issue that had not been resolved by the end of 2023 was what to do about the body of Pitseng Gaoberekwe, a resident of Metseamonong in the Central Kalahari, who had died in December 2021. The Appeals Court had ruled that his body had to be buried outside the Central Kalahari Game Reserve, a position which Mr. Gaoberekwe's family had appealed to the African Commission on Human and Peoples' Rights in 2023. At the end of the year, Mr. Gaoberekwe's body remained in a morgue in Ghanzi.

An ongoing challenge facing the Indigenous communities of Botswana and other residents of the country is that of climate change. Several Indigenous Batswana attended the COP 28 meetings in Dubai where climate change solutions were discussed as part of the UN Climate Change Conference (30 November - 10 December). One Indigenous community member remarked that the San and other minorities were heavily affected by climate change but were not a part of the Botswana Climate Change Network where these matters were discussed at the local and national levels.[25]

And, last but not least, Indigenous community members argued that they were still being affected by mining activities in the country, one example being the copper-silver mine known as Khoemacau in northern Ghanzi and southern North West District, where people who were relocated out of the mining zone had yet to receive alternative land.

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Robert K. Hitchcock *is a Professor of Anthropology at the University of New Mexico, Albuquerque, New Mexico, USA. rkhitchcock@gmail.com*

Judith Frost *is an independent researcher who has done extensive work on San issues in southern Africa. frostjjaa@gmail.com*

Maria Sapignoli *is an Assistant Professor of Anthropology at the University of Milan, Italy. maria.sapignoli@unimi.it*

Cameroon

NIGERIA
CHAD
CAMEROON
CENTRAL AFRICAN REPUBLIC
Yaoundé
EQUATORIAL GUINEA
GABON
REPUBLIC OF THE CONGO

Among Cameroon's more than 20 million inhabitants, some communities self-identify as Indigenous. These include the hunter/gatherers (Pygmies), the Mbororo pastoralists and the Kirdi.

The Constitution of the Republic of Cameroon uses the terms Indigenous and minorities in its preamble; however, it is not clear to whom this refers. Nevertheless, with developments in international law, civil society, Indigenous Peoples and the government are increasingly using the term Indigenous to refer to the above-mentioned groups.

Together, the Pygmies represent around 0.4% of the total population of Cameroon. They can be further divided into three sub-groups, namely the Bagyeli or Bakola, who are estimated to number around 4,000 people, the Baka – estimated at around 40,000 – and the Bedzang, estimated at around 300 people. The Baka live above all in the eastern and southern regions of Cameroon. The Bakola and Bagyeli live in an area of around 12,000 km2 in the south of Cameroon, particularly in the districts of Akom II, Bipindi, Kribi and Lolodorf. Finally, the Bedzang live in the central region, to the north-west of Mbam in the Ngambè-Tikar region.

The Mbororo people living in Cameroon are estimated to number over one million and they make up approx. 12% of the population. They live primarily along the borders with Nigeria, Chad and the Central African Republic. Three major groups of Mbororo are found in Cameroon: the Wodaabe in the Northern Region; the Jafun, who live primarily in the North-West, West, Adamawa and Eastern Regions; and the Galegi, popularly known as the Aku, who live in the East, Adamawa, West and North-West and North Regions.

Cameroon voted in favour of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2007 but has not ratified ILO Convention 169.

Legislative reforms

Some laws in favour of Indigenous Peoples have recently been enacted. Large infrastructure projects such as dams, roads, and extractive industries occur mostly on the territories of Indigenous Peoples and, for this reason, the government decided to give responsibility for monitoring social and environmental safeguards to the Department of Social Affairs, which is also responsible for Indigenous Peoples through Act No. 2022/ 5074 / PM of 4 July 2022,[1] thus replacing the Ministry of Environment, Nature Protection and Sustainable Development (MINEPDED), which is usually responsible for environmental issues.

Cameroon has internalized the Convention on Biological Diversity (CBD) and the Nagoya Protocol by means of Law No. 2021 / 014 of 9 July 2021 regulating access to genetic resources, their derivatives and the traditional knowledge associated thereto and the benefit-sharing arising from their utilization. These texts have been developed in order to protect and promote Indigenous Peoples' cultures and traditional knowledge. The law that transposed the Nagoya Protocol was emphasized during a workshop held during the International Day of the World's Indigenous Peoples to sensitize, educate and inform the public, Indigenous Peoples and local communities on the advances that have been made in implementing the CBD and its related texts. The focal person said there was a need to build the capacity of Indigenous Peoples and re-enforce communication strategy at national and international levels so that Indigenous Peoples can better understand and be better able to negotiate benefit-sharing. These are some of the actions that will take place in the coming years.

The Intersectoral Committee for the follow-up of programmes and projects involving vulnerable Indigenous Peoples

The 11th session of the CISPAV[2] was held on 25 July 2023 in the run-up to the commemoration of International Day of the World's Indigenous Peoples, under the auspices of the Ministry of Social Affairs (MINAS).

The sessions are held every year and serve to take stock of the achievements made towards the promotion and protection of the rights of Indigenous Peoples in Cameroon, in collaboration with technical and financial partners, sectorial ministries, civil society organizations (CSOs) and Indigenous people representing their organizations. The session was chaired by the Minister of Social Affairs, Mrs. Pauline Irène Nguene.

In her opening remarks, she highlighted the importance of the right to citizenship, noting the significant number of Indigenous people who do not have civil status documents, thus hindering their participation in the political life of the nation and constituting a setback to their self-determination. In relation to this theme, it was noted that there had been significant advances made during the year, such as the provision of birth certificates for Indigenous children in East and Adamawa regions through a mechanism of community participation for the registration of births, the promotion of Indigenous Peoples' participation in party politics supported by Elections Cameroon (ELECAM), and work on the education of Indigenous children and income-generating activities for women.

The first presentation of the day was by the Director in charge of National Solidarity and Social Development, Mr. Georges Makita, who also addressed the importance of citizenship for Indigenous Peoples and said that results of the evaluation of the Operational Plan for the Development of Indigenous Peoples and Local Communities in Cameroon show that actions that guarantee the rights of access to citizenship were particularly emphasized during the year. He also highlighted the importance of the protection and promotion of Indigenous Peoples, and how both the International Day of the World's Indigenous Peoples and the CISPAV were central to carrying out this work.

International Day of the World's Indigenous Peoples

The 29th annual celebration of International Day of the the World's Indigenous Peoples, which is the 15th time it has been held in Cameroon, was commemorated under the theme of "Citizenship education as a strategy for social inclusion of Indigenous Peoples". It took the form of workshops and the attendees included sectorial departments, techni-

cal and financial partners and Indigenous people from their different organizations along with CSOs working in the area.

The meeting was chaired by the Secretary General of the Ministry of Social Affairs. Many themes were presented on the participation of Indigenous Peoples in inclusive sustainable development. Several presentations were given by three government officials, the Director of National Solidarity, the focal persons for the CBD and the Nagoya Protocol, on "The problem of the social inclusion of Indigenous Peoples in Cameroon", emphasizing the inclusion of Indigenous youth and the Sustainable Development Goals (SDGs), and two other presentations were given on the themes of "Environment and Natural Resources, the Convention on Biological Diversity and the Nagoya Protocol" and "Benefit-Sharing for Indigenous Peoples and Local Communities in genetic resources in association with traditional knowledge", highlighting Indigenous Peoples as custodians of traditional knowledge and genetic resources and placing them central to research, and noting the importance of benefit-sharing for and the effective participation of Indigenous Peoples and Local Communities.

Presentations were also made by an Indigenous leader and a traditional leader from local communities.

Aissatou Manu, Secretary General of the Ministry of Social Affairs, showed how Indigenous Peoples use their traditional knowledge to preserve the environment and how they can be agents of climate change adaptation and mitigation.

Indigenous leader, His Majesty Mvondo, gave a presentation on what is traditional knowledge (TK) and showed that all inventions have their origin in the TK of Indigenous Peoples and Local Communities, which therefore means that Indigenous Peoples are rich because they have right to share the benefits from their genetic resources.

In her closing remarks, the Chair reflected on the solidarity shown by the presence of several well-known figures from the government services. She called on Indigenous Peoples to be agents of sustainable development. She added that Indigenous youth are changing due to social mutations and the development of extractive industries on their territories. She also said that promoting the collective rights of Indigenous Peoples, civil status registration and automation and self-determination were key to the survival of Indigenous Peoples.

Indigenous Peoples and conservation

The protected areas of Cameroon include national parks, wildlife sanctuaries, faunal reserves, and one floral sanctuary.

Over the past decade, due to strong criticism of the conservation societies' gross human rights violations and strong advocacy from human rights organizations and development organizations, coupled with the increasing problems and escalating costs associated with traditional conservation models and the growing realization of the potential benefits to conservation from working with communities, and Indigenous communities in particular, some conservationists have begun to accept the need to involve communities in their conservation plans. It was in this light that, through the Ministry of Forestry and Wildlife (MINFOF), the Cameroon government signed the first Memorandum of Understanding (MoU) with Indigenous-led organizations in some of the parks.

In 2021, they signed an MoU with the *Association Sanguia Baka Buma'a Kpodé* (ASBABUK), a Baka association based in Moloundou District, Boumba-et-Ngoko Division in the East Region of Cameroon, to grant access for Baka communities living around the Lobéké National Park to carry out their traditional activities within the park. Other MoUs were signed for the Campo Ma'an to allow access to the Bagyeli communities. The MoUs did not yield the expected results, however, because of the fear that these communities have towards the well-trained forest guards, who have often used extreme brutality against these communities when they trespassed into the parks. There was also not enough sensitization to this important act, which will have immense benefits for the Baka and Bagyeli peoples, who have long been deprived of the resources of these parks.

A new MoU, No. 0077, was signed between MINFOF and ASBABUK on 19 September 2023 granting access to Baka communities to spaces and resources within four national parks in the East of Cameroon: the National Parks of Lobéké, Nki, Boumba Bek, and Ngoyla Faunal Reserve. This was a breakthrough that will transform the relationship between conservation and Indigenous Peoples from conflictual to inclusive and promote participatory conservation. There has been a great deal of mobilization among the Indigenous Peoples' networks and other organizations working for the promotion and protection of Indigenous People's

rights to sensitize and educate the communities on this MoU. The conservators are also keen to see that the MoU is this time implemented and producing the expected results.

Indigenous Peoples mobilized through the general assemblies of their organizations and networks

The *Réseau Recherche - Actions Concertées Pygmées* (RACOPY) network held a consultation meeting in December in Lokomo East Region, in collaboration with the services of the MINFOF, the conservator of Lobéké National Park and the World Wide Fund for Nature (WWF).

The objective of the meeting was to discuss how to publicize the renewed MoU between MINFOF-ASBABUK and to draft an action plan to render the MoU effective in 2024 by giving access to spaces in the park to the Baka communities around the park so that they can carry out their traditional activities as well as contribute to the sustainable management of the resources. The Association of the Baka (ASBABUK) insisted on article 4, which talks about engaging stakeholders with Indigenous communities, and hoped that partners would respect the agreement. Some recommendations were made at the end of the consultative meeting, such as strengthening the capacity of the members of RACOPY and the Executive Bureau of ASBABUK around engaging the Baka community and sensitizing all the neighbouring communities, and women in particular, around the park as regards to how the MoU affects them.

RACOPY held its 75th General Assembly from 2-3 November under the auspices of the Bagyeli Cultural and Development Association (BACUDA). The President of the host association welcomed the participants, who came from all the regions where there are hunter-gatherers, and all three groups were represented. The major activities carried out during the year were presented and these included actions regarding the complaints mechanisms in cases of human rights violations; inquiries made by Indigenous organizations in relation to the evaluation of the MoU for the National Park of Campo Ma'an; the national validation of the layout plan for Lobeke National Park;[3] the training of 75 women in income-generating activities such as the harvesting of Non-Timber Forest Products (NTFPs) in Yokadouma; supporting ASBABUK in the renewal of the MoU between themselves and MINFOF,[4] and raising awareness of and obtaining civil status documents such as identification cards and birth certificates.

The General Assembly of the Mbororo Social and Cultural Development Association (MBOSCUDA) was also held in November. The national association for the Mbororo pastoralists holds its General Assembly every four years and it culminates in the election of a new executive committee for the next four years. Each committee is renewable just once. The incumbent Adamou Amadou was the only candidate and was re-elected with some changes to his former committee.

Human rights violations

There was a global backlash against gender-based violence generally in 2023 and, in Cameroon in particular, this manifested against femicides[5] from intimate partners and the armed groups in the North-West and South-West regions.

In Abong-Mbang and Mindourou local councils in the Eastern Region

- Edwige Miloh and Jeannette Adie died following violent beatings by their alcoholic spouses in July and August 2023, respectively.
- Christine Mami was killed by her drug-addicted partner after she refused to pay back his 200 FCFA (approx. EUR .03) on 28 October 2023.
- Akade and Henriette Mowe were killed following stabbings by their spouses.
- A 16-year-old youth arrested for stealing an Android phone died in his cell in the Abong-Mbang gendarmerie brigade in September 2023.
- Céline Mboutou received a blow to her head with a pickaxe from her husband Jean-Pierre Ndondo and ended up in a coma on 26 November 2023.
- Brigitte Kokosso, aged 20, was burned with a hot knife by her Bantu husband Victor Tsala on 20 January 2024.

In the Ocean Division, South Region

- A young Bagyeli girl was killed by a Bantu in a rape attempt in October 2023.
- In Dioula, a Baka woman died as a result of injuries inflicted by four Baka men in 2023.

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Hawe Hamman Bouba *is Commissioner for Human Rights at the Cameroon Human Rights Commission. She is an expert member of the Working Group on Indigenous Populations/Communities and Minorities in Africa of the African Commission on Human and Peoples' Rights, and she is Executive President of the African Indigenous Woman Organization Central African Network (AIWO-CAN).*

Democratic Republic of the Congo (DRC)

The Democratic Republic of the Congo (DRC) is inhabited by four major ethnic groups: the Bantu, the Nilotic, the Sudanese and the Pygmy. The concept of "Indigenous Pygmy people" is accepted and approved by the government and civil society organizations (CSOs) in the DRC and the term refers to the Mbuti, Baka and Batwa peoples.

The exact number of Indigenous Pygmy people in the DRC is unknown. The government estimates it to be around 750,000 (1% of the Congolese population)[1] but CSOs give a figure of up to 2,000,000 (3% of the population). They are widely acknowledged as the first inhabitants of the national rainforests[2] and live in nomadic and semi-nomadic groups throughout virtually all of the country's provinces. Indigenous Peoples' lives are closely linked to the forest and its resources: they practise hunting, gathering and fishing and treat their illnesses through the use of their own pharmacopoeia and medicinal plants. The forest lies at the heart of their culture and living environment.[3]

There is, however, little recognition that their traditional knowledge and practices have significantly contributed to preserving the Congolese forests. Worse, Indigenous Pygmy peoples' customary rights are blatantly ignored and Indigenous groups are often evicted from their traditional territories with neither consent nor compensation. This tenure insecurity has dramatic socioeconomic consequences – from loss of ethnic identity to lethal conflicts, as has occurred in Tanganyika and around the Kahuzi-Biega National Park.

Nevertheless, there is hope. On 15 July 2022, DRC President Felix Antoine Tshisekedi enacted the first national Law No. 22/030 on protecting and promoting the rights of Indigenous Pygmy peoples,[4] which started to take effect in 2023.

Entry into force of the Indigenous Peoples Law and follow-up

The enormous progress made in 2022, as seen in the enactment of Law No. 22/030 on protecting and promoting the rights of Indigenous Pygmy peoples in the DRC, has been hailed by the Congolese nation and the international community. The law officially came into force in February 2023, and marked the recognition of the rights of Indigenous Peoples and their cultural identity, as well as the exercise of rights to their lands, territories and resources. Their contribution to protecting forests and biodiversity, forest and marine ecosystems is also recognized.

It is important to note that over 1,200,000 Indigenous Pygmy peoples are found in 21 of the DRC's 26 provinces, living in areas that are conserved and protected in accordance with their way of life, using traditional knowledge and practices.

Over the years, Indigenous Peoples have repeatedly been evicted from their lands without their free, prior and informed consent or compensation. This is due, among other things, to the expansion of national parks and protected areas as well as the granting of titles by the government to artisanal and industrial companies in the mining, timber and agriculture sectors.

In the DRC, the government has, with the help of civil society organizations, developed a legal, institutional and operational framework to support community forestry. In February 2016, DRC finally completed the legal framework for community forests, 14 years after it adopted the 2002 Forest Code. After a Ministerial Order on the management of community forests was signed, a 2014 Presidential Decree followed which laid out the process through which Indigenous Peoples and communities could apply to secure these community forests,[5] through community forest concession titles (CFCLs), which give them perpetual legal rights over the land and its resources. By 2023, through the community forestry process, more than 3,298,270 hectares in 14 provinces of living space, territories and land of Indigenous Peoples and local communities have been mapped, secured and recognized by the Congolese government, by means of 166 CFCLs.[6] The aim of this process is to secure the land and living territories of the Indigenous Pygmy peoples in order to guarantee their land, social, economic and cultural stability.

A national dialogue was organized from 9 to 11 May 2023 in Kinshasa focused on capitalizing on the achievements and taking into account the rights of Indigenous Peoples in the implementation of the Kunming-Montreal Global Biodiversity Framework. The dialogue was attended by a number of key players and stakeholders involved in promoting initiatives that have a positive effect on biodiversity conservation outside of conventional protected areas. A roadmap has been drawn up, contributing to the government's determination to achieve the goal of conserving at least 30% of the national landscape in different ways by 2030.

Human rights defenders

Adopted in June 2023, Law No. 23/027 on the protection and responsibility of human rights defenders was enacted and published in the Official Gazette on 17 October 2023. This law is also important for Indigenous human rights defenders, who suffer many violations of their rights on the part of, among others, the government, companies, armed groups, poachers and rangers.

Literacy centres for Indigenous Peoples

On the social front, literacy centres were set up in 2022 and continued to operate in 2023:

- 6 literacy centres are operational, i.e. all of the centres set up in Walikale territory;
- 193 learners took part in the courses, 190 of whom were women (98%) and three men (out of a total of 210 learners initially enrolled);
- 11, or 5% of learners, hold positions of treasurer and secretary in the mutual solidarity groups (MUSOs);
- Learners are able to read the Bible without difficulty in the Mothers' services and morning services; and
- Ongoing monitoring and supervision is provided by all parties involved in the literacy activity.

Armed conflict

Despite this progress, peace in the eastern part of the DRC remained a major concern for the Indigenous Pygmy peoples in 2023, particularly in the territories of Masisi, Rutshuru, Nyiragongo, Beni, Tanganyika, Kalehe and Kabare. Thousands of Indigenous Pygmies have been forced to flee their homes and live in camps for the displaced with little or no assistance. In 2023, malnutrition and lack of access to quality health care resulted in the deaths of more than 20 leaders in Kanyaruchinya camp alone, along with 43 Pygmy children and 23 women.

As a result, Indigenous Pygmy peoples are being deprived of their right to exercise their traditional knowledge, as some have become displaced in their own country. Those from Rutshuru and parts of Nyiragongo and Masisi are not registered, and consequently denied the right to vote. If this situation persists, there is a high likelihood of statelessness for this segment of the population, who have no ID cards and are not known as Congolese. Conflicts between Indigenous Pygmy peoples are not always resolved.

In light of all of the above, we recommend the application and implementation of Article 30 of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) together with Articles 42 to 48 relating to land and natural resources. The return of Indigenous Pygmy peoples to their homelands would guarantee their stability.

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Diel Mochire *is an Indigenous activist and Provincial Director of the Programme Intégré pour le Développement du Peuple Pygmée au Kivu (PIDP), a vocal Indigenous organization based in North Kivu.*

Eritrea

Eritrea borders the southern Red Sea in the Horn of Africa. It emerged as an Italian colonial construct in the late 19th century, which was superimposed over Indigenous populations. Eritrea's current population is between 4.4 and 5.9 million inhabitants.[1] There are at least four Indigenous Peoples: the Afar (between 4 and 12% of total population), Kunama (2%), Saho (4%) and Nara (>1%).[2] These groups have inhabited their traditional territories for approximately 2,000 years. They are distinct from the two dominant ethnic groups by language (four different languages), religion (Islam), economy (agro and nomadic pastoral), law (customary), culture and way of life. All four Indigenous groups are marginalized and persecuted.[3]

Following a UN Resolution in 1950 calling for the federation of Ethiopia with the Eritrean colony that Britain had captured from the Italians, a federation was established in 1952. Tensions arose immediately when Ethiopia interfered with the Eritrean courts and executive branch. An armed national liberation struggle broke out in the 1960s when Ethiopia abolished Eritrea's official languages, imposed Ethiopia's national language, Amharic, dissolved the federation and annexed Eritrea. The ensuing 30-year struggle succeeded in 1991 when the current regime marched into the capital and took power. Following a referendum in 1993, Eritrea seceded from Ethiopia to form a new state.

Eritrean nationalism emanates from the two large ethnic groups (80% of total population combined) that control power and resources. This nationalism is based on suppressing sub-state identities, which the elites see as threatening to the nation building process. In particular, the Indigenous Peoples have been pressured by the government's policy of eradicating identification along regional and religious lines. The regime expropriates Indigenous lands without compensation and has partially cleansed Indigenous Peoples from their traditional territories by violence.

The existence of Indigenous Peoples as intact communities is under threat by government policies aimed at destroying

Indigenous cultures, economies, landholdings and, for some, their nomadic and pastoral lifestyles.

Eritrea is a party to the CERD, CEDAW and CRC but not to ILO Convention 169 or the UNDRIP. It is the subject of complaints to the UNHRC, the UN Commission of Inquiry on Human Rights in Eritrea, the UN Special Rapporteurs on the situation of human rights in Eritrea (all of which sustained the allegations) and the Special Rapporteur on Indigenous Peoples. The complaints allege mass murder, ethnic cleansing, displacement of Indigenous Peoples from their traditional territories and intentional destruction of the Indigenous economy.

A country over the brink

On 8 June 2016, the Commission of Inquiry on Human Rights in Eritrea (COI) reported that there are reasonable grounds to believe that Eritrean officials have committed crimes against humanity in a widespread and systematic manner over the past 27 years. The COI provided detailed evidence relating to specific crimes of enslavement, imprisonment, enforced disappearance, torture, reprisals and other inhumane acts, persecution, rape and murder.[4]

Notably, the COI found that these crimes were perpetrated against two of Eritrea's four indigenous peoples, the Afar and the Kunama. Eritrea persecuted these groups, the COI concluded,[5] and accordingly the COI recommended that the UN and other entities initiate protective actions to safeguard these two indigenous groups.[6] The recommended measures include that Eritrea's crimes and human rights violations be brought to the attention of the relevant special procedures,[7] that the UN Security Council determine that the Eritrean situation poses a threat to international peace and security;[8] and accordingly that the Security Council refer the situation in Eritrea to the Prosecutor of the International Criminal Court.[9]

The situation continues (2021-2022)

In August 2021, the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) sanctioned General Filipos Woldeyohannes the Chief of Staff of the Eritrean Defence Forces, for being a leader or official of an entity engaged in serious human rights abuses committed during the conflict in Tigray.

In November 2021, OFAC expanded its sanctions and designated four entities and two individuals pursuant to Executive Order 14046 in response to the growing humanitarian and human rights crisis and expanding military conflict in Ethiopia including numerous reports of looting, sexual assault, killing civilians, and blocking humanitarian aid. The individuals and entities designated by OFAC are the Eritrean Defence Force, the People's Front for Democracy and Justice (the governing party in Eritrea), and military-associated business entities and individuals. Among the human rights violations and international crimes that Eritrean forces engaged in were kidnapping Indigenous refugees from Ethiopia and forcibly returning them to Eritrea, to either fight on the Tigray front in the ongoing Tigray war, be imprisoned in Eritrea or end up disappeared and presumed murdered.

Because the situation in Ethiopia became unsafe for Eritrean Afar refugees in 2022, 104 Eritrean Afar families fled the country on foot, crossed the border into neighbouring Djibouti and requested asylum there. Djibouti established a refugee camp at Oblock for these Eritrean Afar. The Oblock camp grew to house 1,680 people in 2023.

The situation continues (2023)

On 9 May 2023, pursuant to a mandate from the UN Human Rights Council, Special Rapporteur on the situation of human rights in Eritrea, Dr. Mohamed Abdelsalam Babiker, delivered the most current report on the situation of human rights in the country. Dr. Babiker's general conclusions were stark: "There were no signs of progress in the human rights situation in the country."[10] On the contrary, Dr. Babiker observed, there was "a deterioration in a number of areas."[11]

In particular, Dr. Babiker's report singled out Eritrea's treatment of "Eritrean Afar Indigenous communities" who, he wrote:

> *are one of the most disenfranchised communities in Eritrea. For several decades, they have been subjected to discrimination, harassment, arbitrary arrests, disappearance, violence and widespread persecution.*[12]

Persecution on a widespread basis is a crime against humanity.[13] Dr. Babiker elaborated as to how Eritrea was persecuting the Afar Indigenous people. The country's measures, he said, "caused the displacement of Afar Indigenous communities from their traditional territory of Dankalia,"[14] "prevented [the Afar] from carrying out their traditional occupation, namely fishing,"[15] "eroded their culture,"[16] and "threatened their way of life." [17] Dr. Babiker called on Eritrea to "refrain from subjecting Indigenous communities to discriminatory practices, including arbitrary arrests, and respect and protect their traditional ways of life and means of livelihood."[18] He did not stop there. He also called on UN Member States and international organizations to exercise universal jurisdiction over alleged crimes against humanity and initiate legal proceedings against individuals responsible for the commission of international crimes and violations of human rights law and international humanitarian law. "Member states and International organizations," he said, should "exert maximum pressure on the Government of Eritrea to end the two-decade practice of enforced disappearance, torture, arbitrary and incommunicado detention and persecution of thousands [of its opponents]."[19]

Diaspora resistance

Reaction to Eritrea's brutality spilled out of official UN monitoring processes and poured onto the streets of Western democracies in 2023. Eritrea sponsors festivals in several cities around the world that are home to significant Eritrean diaspora communities (approximately 20% of the country's population has fled and live abroad as refugees and asylum seekers). Eritrea presents the festivals as cultural events.

They are not perceived thus by an increasingly militant Eritrean diaspora who object to the glorification of the dictatorial leader, Isaias Afwerki, the ubiquitous presence of government officials, intimidation of

the diaspora including pressure to pay a 2% tax, threats against those who flee the country and more. "These programmes promote the brutal dictatorship, glorify war and whitewash the name of the dictator himself," said Semhar Ghebreslassie, a member of global Eritrean activist group Yiakl.[20] First in Stockholm, then in Toronto, Calgary, Minneapolis, Washington and other cities in Germany, USA, Sweden, The Netherlands and Canada, the festivals descended into violence and chaos. Regime opponents attacked the events with knives, clubs and stones sending people to hospital; set fires to cars; and generally provoked such widespread chaos beyond the control of riot squads that some city administrations shut the festivals down.[21]

Situation of Eritrean Afar refugees in Ethiopia

In 2023, approximately 200,000 Eritrean Afar and an unknown number of other Indigenous Eritrean peoples fled Eritrea and now live as refugees and asylum seekers in neighbouring countries. Eritrean Afar live in close proximity to Afar State in Ethiopia, which has an Afar population of 1.8 million.[22] Approximately 57,000 Eritrean Afar refugees are registered in Ethiopia's Afar state. Ethiopia has traditionally welcomed Eritrean Afar refugees in two camps at Barhale and Asayita.

The Tigray war (2020-2022) dramatically changed this situation. Barhale, one of the two refugee camps Ethiopia established for the Eritrean Afar, was destroyed by military action in 2022, and its Afar population resettled in the Ethiopian Afar town of Semera.[23] In the second Afar refugee camp at Asayita, Ethiopia discriminated against the Eritrean Afar. From 2022 on, Ethiopia denied Indigenous Afar access to asylum procedures in violation of its commitments under the Refugee Convention, drawing criticism from the Dr. Babiker.[24] To make matters worse, Ethiopia engaged in mass deportations of Eritrean Afar back to Eritrea, with some returned refugees conscripted into the military and sent to the Tigray front[25] and others subjected to "torture, ill-treatment, enforced disappearance, trafficking and arbitrary detention."[26] An impressive panel of 14 UN special procedures mandate holders condemned these mass deportations and refoulements.[27]

For the future

The situation of Indigenous Peoples inside Eritrea is grim. The country has never held free national elections; it lacks a functioning legislature; the country is controlled by a small group of men connected to the President; only government media operate; there is no freedom of speech or political space; individuals are routinely arbitrarily arrested and detained, tortured, disappeared or extra judicially executed."[28] There are no guarantees for, and no institutional structures to protect, Indigenous rights or Indigenous Peoples – quite the opposite. Indigenous Peoples are persecuted by the regime to such an extent that important UN agencies have consistently called for the perpetrators to answer for crimes against humanity, including as recently as May 2023.[29]

There is no panacea for this grim situation. I will, however, continue to work with my colleagues, among other things, to bring to light what is happening inside this repressive regime.[30] I hope international agencies and institutions will do the same, as the Human Rights Council and its mandate holders have done so far. It would be truly helpful if the democracies could model, in their behaviour, what just relations between Indigenous Peoples and their surrounding societies can look like so that they will have the standing to be firm with both Eritrea and Ethiopia when the day of reckoning arrives and with it, hopefully, relief for the persecuted Indigenous Peoples of Eritrea.

Notes and references

1. 4.39 million is an estimate by the *World Bank, see World Bank Country Profile: Eritrea*, https://www.worldbank.org/en/country/eritrea/overview; 5.9 million is an estimate by the CIA, see CIA, World Factbook, https://www.cia.gov/the-world-factbook/countries/eritrea/
2. The numbers are disputed. There are no reliable figures to resolve the dispute as there is no count and no census that has been conducted by Eritrea or others. The CIA, *World Factbook* reports Afar at 2% but this is very unlikely given that there are 20,000 UN documented Afar refugees in two refugee camps in neighbouring Ethiopia and many more undocumented asylum seekers inside of Ethiopia – this alone would likely count for 2% of Eritrean population. The figure for the Saho is reported by Abdulkader Saleh Mohammad, *The Saho of Eritrea: Ethnic Identity and National Consciousness* (Berlin: Lit Verlag, 2013).
3. *Eritrea: Constitutional, Legislative and Administrative Provisions Concerning*

Indigenous Peoples (a joint publication of the International Labour Organization, the African Commission on Human and Peoples' Rights, and the Centre for Human Rights, University of Pretoria, 2009, pp. 5-7. http://www.chr.up.ac.za/chr_old/indigenous/country_reports/Country_reports_Eritrea.pdf

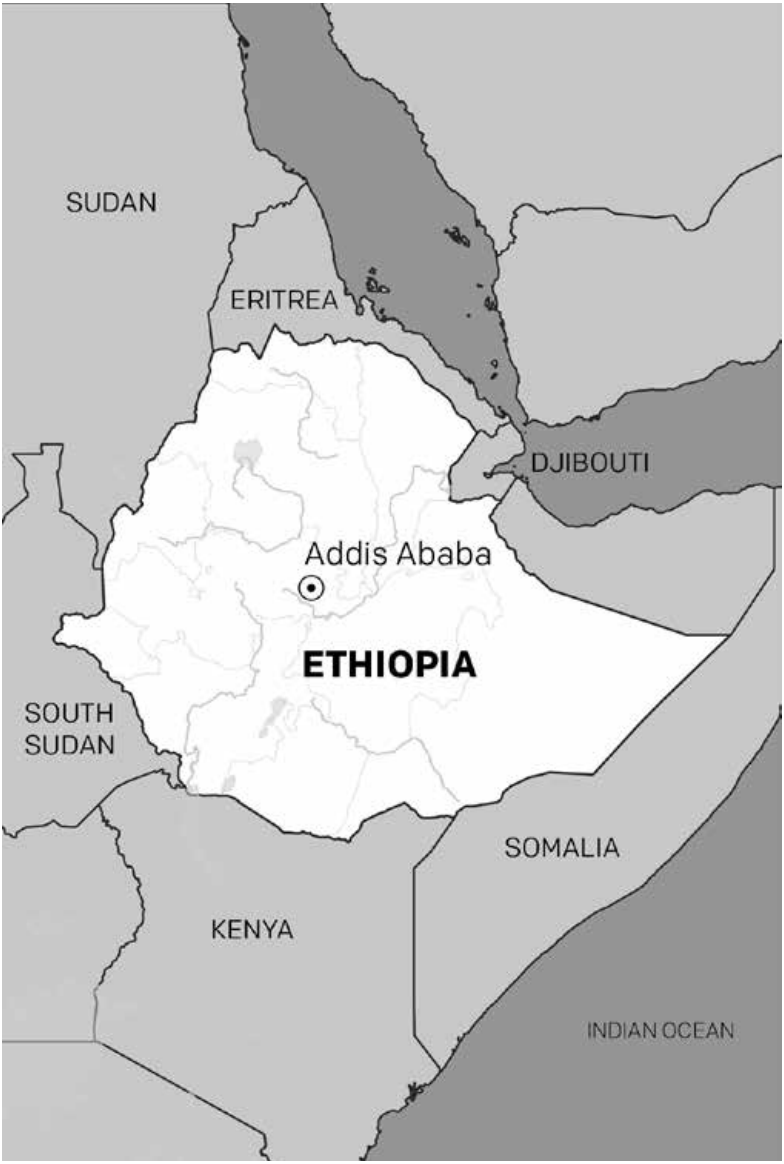
4. *Second Report of the UN Commission of Inquiry on Human Rights in Eritrea*, A/HRC/32/47, 8 June 2016, paragraph 60, http://www.ohchr.org/Documents/HRBodies/HRCouncil/CoIEritrea/A_HRC_32_CRP.1_read-only.pdf
5. Paras 87-88, 124, 129(b)
6. Para 124 (The COI referred to the Afar and Kunama as "ethnic groups".)
7. Para 129(b)
8. Para 132(a)
9. Para 132(b)
10. *Report of the Special Rapporteur on the situation of human rights in Eritrea*, UN Doc. A/HRC/53/20 (May 9, 2023), para 2. Online: https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F53%2F20&Language=E&DeviceType=Desktop&LangRequested=False This was also the conclusion of Dr. Babiker's predecessors as SR. SR Sheila, Keetharuth confirmed in an Oct 24/18 Press Release, as did SR Daniela Kravetz in a June 21, 2019, Press Release that "the human rights situation in Eritrea remains unchanged." See https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=24721&LangID=E.
11. Id., para 2.
12. Id., paras 58 and 78.
13. *Rome Statute of the International Criminal Court*, art. 7(1)(h) and 7(2)(g). See generally, F. Pocar, *Persecution as a Crime Under International Criminal Law*, [2008] 2 Journal of National Security Law and Policy 355.
14. Supra, note 10, para 59.
15. Id., para 58.
16. Id.
17. Id.
18. Id, para 80(l).
19. Id., para 81 (c) and (d).
20. The Guardian, *Eritrean diaspora vow to continue disrupting festivals that 'promote dictatorship'*. Online: https://www.theguardian.com/world/2023/aug/12/eritrean-diaspora-vow-to-continue-disrupting-festivals-that-promote-dictatorship; CBC News, *Why Eritreans in Canada are clashing at festivals*. Online: https://www.cbc.ca/amp/1.6944229.
21. The Guardian, Id.
22. Ethiopia, Central Statistical Agency. This is a projection for 2017.
23. Ethiopian Citizen, Feb. 27, 2022. Online: https://www.ethiopiancitizen.com/2022/02/tplf-forces-displaced-over-34246-refugees-from-harhale.html?m=1.
24. Supra, note 10, paras. 66-67.
25. Witness statements on file with the Eritrean Afar National Congress, contact ahmedy.mohamed@gmail.com.
26. Office of the High Commissioner for Human Rights, Press Release (13 July2023). Online: https://www.ohchr.org/en/press-releases/2023/07/un-experts-urge-ethiopia-halt-mass-deportation-eritreans
27. Id.
28. *Report of the detailed findings of the Commission of Inquiry on Human Rights in Eritrea*, A/HRC/29/CRP.1, 5 June 2015, p. 1, http://www.ohchr.org/EN/HRBodies/HRC/CoIEritrea/Pages/ReportCoIEritrea.aspx

29. In 2013 the SR-Eritrea reported that Eritrea engaged in a campaign of killings, disappearances, torture and rape to force the Afar indigenous people from their traditional territory, and to destroy their traditional means of subsistence and livelihood: *Report of the Special Rapporteur on the situation of human rights in Eritrea*, UN Doc A/HRC/23/53, 28 May, 2013, para 77. Online: http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A.HRC.23.53_ENG.pdf. The First Report of the COI in 2015 confirmed these findings: *Report of the detailed findings of the Commission of Inquiry on Human Rights in Eritrea*, UN Doc A/HRC/29/CRP.1, 5 June 2015, paras 1121, 1171. Online: http://www.ohchr.org/EN/HRBodies/HRC/CoIEritrea/Pages/ReportCoIEritrea.aspx. In June, 2018 the SR reported that Eritrea's crimes are ongoing: *Report of the Special Rapporteur on the situation of human rights in Eritrea*, paras 90-93, 11 June, 2018, A/HRC/38/50. Online: https://reliefweb.int/sites/reliefweb.int/files/resources/A_HRC_38_50.pdf. And, as stated in the text, a newly appointed SR confirmed in 2023 that the situation is not only ongoing – it is deteriorating.

30. I have been legal counsel to the Afar nation since 2010, and accordingly have developed a wide network of people inside the Horn countries who provide first hand information as to events transpiring there.

***Joseph Eliot Magnet**, FRSC, Professor, Faculty of Law, University of Ottawa.*

Ethiopia


SUDAN
ERITREA
DJIBOUTI
Addis Ababa
ETHIOPIA
SOUTH SUDAN
SOMALIA
KENYA
INDIAN OCEAN

The Indigenous Peoples of Ethiopia make up a significant proportion of the country's estimated population of 120 million. Around 12% are pastoralists who live across the country, particularly in the Ethiopian lowlands, which constitute some 60% of the country's total landmass. There are also several hunter-gatherer communities, including the forest-dwelling Chabu community of South-West Ethiopia and the Majang (Majengir) and Anuak communities, who live in Gambella Regional State.

Ethiopia is believed to have the largest livestock population in Africa, a significant number of which are in the hands of pastoralist communities living on land that, in recent years, has been under high demand from foreign investors. Such "land grabbing" has further exposed the tenuous political and economic situation of Indigenous Peoples in Ethiopia. Indigenous Peoples' access to healthcare provision and to primary and secondary education remains highly inadequate. In recent years, a confluence of conflicts and natural calamities have further compounded the difficulties that Indigenous Peoples face in Ethiopia.

According to the 1995 Ethiopian Constitution, land is owned by the State and the peoples of Ethiopia and cannot be sold and exchanged. The Constitution guarantees the rights of pastoralists to free land for grazing and cultivation as well as the right not to be displaced from their own lands. Nevertheless, the Constitution states that the implementation of these constitutional provisions is to be determined by law. To date, there is no national legislation that recognizes and protects the rights of Indigenous Peoples. Ethiopia has not ratified ILO Convention 169 and it was absent during the voting on the UN Declaration on the Rights of Indigenous Peoples (UNDRIP).

The old resilient country of diverse and rich cultures, languages and religions is rapidly descending into a fragile condition due to a confluence of political, security, economic, social and natural crises that are seriously eroding the viability of the state. This was succinctly summarized by a report from the UN Office for Coordination of Humanitarian Affairs (OCHA):

> *Ethiopia is, once again, on the verge of a major humanitarian situation due to cycles of multiple, often overlapping crises, which severely weakens communities' ability to cope. These crises are primarily driven by the convergence of four major factors: climate crises (flood and drought), armed conflicts, diseases, and economic shocks. The convergence of these shocks are pushing more people into displacement, food insecurity, malnutrition, disease outbreaks, and increased protection concerns amid rising global prices of essential commodities, inflation, and continual devaluation of the local currency.*[1]

This convergence of crises has disproportionately impacted Indigenous communities as they have been hit the hardest, particularly by recurrent droughts and flooding caused by climate variability. Moreover, the magnitude and severity of the country-wide crises has dwarfed and drowned out the plight and cause of Indigenous Peoples.

Natural disasters

As Ethiopia endured its fifth consecutive failed rainy season in 2023, the effects of climate change have translated into increased pressure on vulnerable households throughout the lowlands of Ethiopia, inhabited by pastoral communities. Rainfall variability, also a result of climate change, has resulted in increased flooding in both the highlands and lowlands.

Drought

Severe drought hit virtually all of the 12 regions of Ethiopia, including the Afar, Amhara, Oromia, Somali, South Ethiopia, South-West Ethiopia People's Regions and Tigray, at a time when communities in the affected regions are still grappling with the lingering effects of the 2021-2023 drought and the devastating northern conflict (2020-2022), amidst poor economic conditions.[2]

In the Afar pastoral community, livestock conditions reveal a dire situation characterized by a severe drought and depleted grazing lands.

The scarcity of water and pasture is being further compounded by an invasion of thorny bushes, acutely limiting feed resources for over 3.5 million livestock. According to government sources, more than 253,000 people are in need of emergency food assistance in the Afar Region, in addition to 56,800 Internally Displaced People (IDPs) and 222,900 returnees.[3]

In the Somali Region, there has been a significant loss of animal resources as a result of the region's repeated droughts, and this has been exacerbated by epidemics suffered by livestock. Over two million livestock are believed to have perished due to the drought. A decline in livestock productivity is also having a detrimental effect on the lives and livelihood systems of pastoralists.[4]

Another large pastoral community in Ethiopia, the Borena people of the Oromia Region, have been hit the hardest by the recurrent drought. The Borena are a centuries-old pastoralist community that roam the lands of southern Ethiopia and northern Kenya. Their political and age-grading system has been in place for over 500 years and, like in many pastoralist societies, the wealth of the Borena is measured in cattle.[5] According to the multi-agency rapid assessment report for the Borena zone, a scarcity of livestock feed and water caused by consecutive failed rainy seasons resulted in the deaths of 3.3 million head of livestock, the displacement of around 300,000 people and rendered more than half of the 1.7 million population dependent on food assistance.[6] A proud pastoralist society, normally self-sufficient, is consequently currently dependent on aid and many have been forced to move to IDP camps in Southern Ethiopia. The situation in the IDP camps is dire, and women and girls are reported to have been subjected to rape, sexual harassment and forced marriage.[7]

The drought in the affected pastoral areas has therefore resulted in food insecurity, severe disruption to pastoralists' livelihoods, and the displacement of people.

Flooding

The impact of flooding spans 23 zones, affecting 85 districts in seven of the country's 12 regions. In some areas, communities report this as the worst flooding witnessed in years. The south and south-eastern parts of

the country recorded one of the highest cumulative rainfalls in the past 40 years caused by the impacts of El Niño.[8]

The record-breaking rainfall led to extensive flooding in the Somali, Oromia, and South Ethiopia regions in October and November, causing considerable population displacement, pushing pastoralists to migrate their livestock to higher-ground areas and resulting in the loss of main season crops among agro-pastoralists, mainly in riverine areas along the Shebelle and Omo rivers. The Somali Region alone accounted for 80% of those affected, with Shabelle, Afder, Liban, and Dawa zones experiencing the most substantial impact.[9]

Reports further indicate that over 616,000 people were displaced and/or lost their homes across the Somali, South Ethiopia, and South-West Ethiopia People's regions. In the Somali Region, more than 27,000 livestock died and over 72,000 hectares of planted crops were destroyed. The heavy rains also resulted in short-term disruptions to market activity and trade flows due to destruction of roads and other essential infrastructure.[10]

In the South Ethiopia Region, Dasenech Woreda (South Omo Zone) experienced the worst floods, with a devastating impact. Unseasonal and heavy rainfall in the highland parts of the South and South-West regions in October and the first half of November resulted in the Omo River bursting its banks and flooding 27 of the 40 *kebeles*[11] in the *woreda*. Consequently, 79,828 people have been affected and 69,256 people displaced. The flood submerged 123,000 hectares of grazing land and a large number of livestock migrated to Kenya and bordering areas in Hamer and Nyngatom *woredas* in South Omo. An estimated 889,454 livestock have been displaced and 2.99 million encircled by water. 1,763 hectares of farmland were also damaged by the flood. Finally, the flood affected a total of 14 schools, of which six were fully flooded and eight encircled by water.[12]

Similarly, in early September, over 28,000 individuals were uprooted by the flooding of the Baro, Akobo, Alwero and Gilona rivers in the Gambella Region. The flooding also affected crops and livestock. According to regional officials, the five districts of the Nuer Zone, inhabited by the Nuer community, have been highly affected and their cattle and possessions washed away.[13]

Conflicts

Following the end of the devastating and costly conflict in Tigray with the signing of the Permanent Ceasefire Agreement on 2 November 2022 in Pretoria, South Africa, hopes were high that the country would return to relative peace and stability. However, these hopes were dashed when the country was once again plunged into another round of conflict as the Federal Government waged war against its former ally in the Tigray war, the Amhara Fano militia, and also renewed its operations against the Oromo Liberation Army based in Oromia Region. The im-pact of these protracted conflicts is far-reaching and has brought the economy to its knees.

Inter-communal conflicts, mainly among pastoral communities, over grazing land, water and borders have also continued unabated. To name but a few, deadly conflicts occurred between the Afars and Somalis, Somalis and Oromos and in the Gambella Region between the Anyuak and Nuer communities.

Afar-Somali conflict

2023 saw a resurgence in the long-running dispute between the Afars and Somalis over contested territory,[14] home to important resources including the Awash River, which both communities use for their livestock, and the Ethio-Djibouti highway and railway, which are vital for the national as well as the local economy. Several incidents took place in Siti zone of the Somali Region in the first half of the year.

On 22 February, ethnic Afar militia clashed with ethnic Somali militia in Asbuli (also known as Casbuli) in Erer *woreda* resulting in around 35 militiamen reportedly killed and several others injured on both sides.[15]

In March, residents of Aysha town in Ayisha *woreda* closed the Ethio-Djibouti highway and railway to demonstrate against the displacement of ethnic Somali civilians by Afar armed groups and objecting to the perceived federal support of Afar forces in the border dispute.[16] Members of the Ethiopian National Defence Force (ENDF) reportedly shot and killed three civilians and wounded six others when the ENDF attempted to forcibly open the blocked highway. The conflict subsequently escalated into a multifrontal clash between Afar and Somali militants.[17]

Militia from the two ethnic groups also clashed on 6 April in Dabamara in Afdem *woreda* resulting in an unknown number of casualties.[18]

Oromo-Somali conflict

In the Oromia Region, violence against ethnic Oromo civilians was reported along the Oromia-Somali regional borders in the context of a disputed well. On 9 and 10 March 2023, Somali militias reportedly shot and killed four and wounded nine civilians – mostly ethnic Oromos – in Mekenisa *kebele* in Chinaksen *woreda*, East Hararge, after blocking residents from accessing drinking water. Over the next two days, militias from the two groups clashed over disputed grazing land and water wells, leaving seven people dead and an unknown number of people wounded.[19]

In September, a dispute over Khat[20] tax collection in bordering areas of the Oromia and Somali regions escalated and took an ethnic dimension after armed forces from Oromia in Oromia Special Forces uniforms attacked Somali IDPs killing over 10 people, including two children.[21]

Gambella

In May, inter-communal clashes broke out between Nuer and Anyuak ethnic militias in Pignuwa and Ler *kebeles* of Itang special *woreda*, as well as in Gambela city. The clashes began after militiamen from one of the ethnic groups shot and killed a militiaman from the other ethnic group as he was rowing a boat. The clashes resulted in at least five people reportedly killed and seven others wounded. Civilians from both sides were forced to flee their homes, and several houses were burned.[22]

On 18 July, an armed attack on Nuer village of Gambella city killed 31 people and injured 20. In response, the Gambella regional cabinet held an emergency meeting on 19 July and issued an indefinite curfew prohibiting all movements between 1am and 12pm, which has since been lifted.[23]

Indigenous communities of Lower Omo River to own and manage community conservation area

Indigenous communities in the Lower Omo River Valley in the southwest have taken ownership of and management responsibility over what is now Ethiopia's largest community conservation area, the Tama

Community Conservation Area (TCCA). In 2023, the regional government signed the conservation area into law entrusting the responsibility of ensuring the sustainable use and preservation of Tama's ecological and cultural heritage to the Indigenous communities inhabiting the area, namely the Mursi, Bodi, Northern Kwegu and Ari communities, who are largely agriculturalists and pastoralists with a rich heritage and culture.[24]

The conservation area covers 197,000 hectares of land between two national parks and will be managed by a community council comprising members from the four Indigenous communities.[25] The communities will be allowed to engage in agricultural and pastoral activities within the area but these activities will be managed by the communities themselves. Illegal hunting, cutting of trees and use of land for farming and grazing without approval from the community council is prohibited.[26]

This is a commendable move that will allow the Indigenous communities to administer their land and manage their own affairs. However, detailed directives and guidelines aimed at preventing human-wildlife conflict are yet to be issued and may limit the rights of the communities unless the communities are meaningfully represented in the process of preparing such documents.

Conclusion

Ethiopia is in a downward spiral and risks disintegrating or becoming a failed state unless there is a major shift in policy and/or approaches to dealing with the country's deep-seated and complex socio-economic, political and security problems. Only genuine, transparent and all-inclusive national dialogues/processes can transition the country out of its current crises.

The fate of the long forgotten and marginalized Indigenous communities of Ethiopia, who have lived on the margins of the State, is very much intertwined with that of the State itself. In this regard, it is imperative that Indigenous communities are well represented and their voices heard in any and every forum or process meant to chart the way forward towards a sustainable and lasting solution to the multifold challenges afflicting the country.

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Samuel Tilahun Tessema *has been a member of the Working Group on Indigenous Populations/Communities and Minorities since November 2022 and is a Senior Legal Adviser to the Inter-Governmental Authority on Development (IGAD) Special Envoy for South Sudan. Before joining IGAD, he worked with the African Commission on Human and Peoples' Rights in different positions for over nine years.*

Gabon

CAMEROON
EQUATORIAL GUINEA
Libreville
GABON
REPUBLIC OF THE CONGO
ATLANTIC OCEAN

Gabon's total population is estimated at 2,397,368. The percentage of Indigenous Peoples in Gabon is thought to be less than 1% of the national population, or between 18,000 and 20,000 people.[1] This estimate will become clearer when the final report of the 2023 general population census is published.

Indigenous Peoples are mainly hunter/gatherer communities comprising nine ethnic groups (Baka, Babongo, Bakoya, Baghame, Barimba, Akoula, Akowa, Bavarama, Bakouyi) with different languages, cultures and geographical locations. They live both in the towns and in the forest. Their livelihoods and their cultures are inextricably linked to the forest, however, which covers 85% of Gabon. Gabon's Indigenous Peoples continue to live in precarious poverty. There is no recent specific data on this population, and it would be good to see Gabon make greater efforts to obtain reliable statistics on its Indigenous Peoples.

Gabonese legislation does not recognize the concept of "Indigenous people" but certain texts do provide for the concept of "Indigenous and village communities". These benefit from customary rights, particularly in land and forestry matters.

The Gabonese Republic has ratified several international treaties and conventions protecting various aspects of Indigenous Peoples' rights, including the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). The country has still not adopted ILO Convention 169, however.

Indigenous Peoples and land rights

Article 28 of the Transition Charter of 2 September 2023[2] specifies that: "The right to property is guaranteed. No land may be expropriated except in the public interest, under the conditions and in the form prescribed by law, and subject to prior and fair compensation." The charter makes no mention of the rights of Indigenous Peoples and gives no specifics regarding their land rights or their free, prior and informed consent. It is therefore essential that a new legal frame-

work is designed that will protect the ancestral lands and territories of Indigenous Peoples in Gabon.

Article 13 of the Forestry Code[3] states that: "All forests form part of the national forest estate and are the exclusive property of the State." However, Ordinance No. 005/PR/2012 establishing the land ownership regime[4] indicates that such land may belong to a private individual or legal entity if they have completed the formality of registration. Forest-dwelling peoples have never owned any land through formal registration, however, because the communities who have lived there for generations are not familiar with this highly administrative process. They are only aware of the practice of ownership by occupation (the land belongs to the first occupant) or common forms of transmission (gift, bequest, sale, inheritance).

Since the colonial era, Indigenous populations have lost virtually all rights to ownership they had over their traditional lands, to the benefit of either the state or large foreign concession holders. Customary ownership does still exist in rural areas of Gabon, acquired by successive inheritance over generations, but this is not formally recognized by the state. Customary uses and ownerships have been sporadically permitted or tolerated in Gabon, even with the possibility of registering land under customary tenure. Land rights thus acquired were, however, called into question by Ordinance No. 52 of 3 October 1970[5] on the expropriation of insufficiently developed land. Through this mechanism, many local communities that were once the traditional owners of their land, especially those whose occupation and use of the land may not have been so apparent, became tenants living from day to day at the whim of the State and large landowners.

The Constitution of the Gabonese Republic[6] sets out the fundamental principles of property rights, as well as the conditions of application and the general rules governing expropriation. Paragraph 10 of Article 1 on fundamental principles and rights contains the following principle: "Everyone, whether individually or in community, has the right to own property. [...]." And yet the principle of "ownership" as affirmed by the constitution is not defined. According to Article 1 of the Constitution: "[...] No one may be deprived of their property except when legally established public necessity so requires, and subject to fair and prior compensation. However, expropriation of property for public utility, due

to inadequate or non-existent development, and involving registered properties, is governed by law. Private property, whether individual or collective, is inviolable."

Consequently, "public utility" and "inadequate or non-existent development" can result in expropriation, an act whereby the landowner is deprived of their property against their will. The constitution nevertheless stipulates that these expropriations can only be carried out "subject to fair and prior compensation" for the owner. It should be emphasized, however, that only those in possession of a title deed can receive compensation for the expropriation of their land, and very few formal title deeds exist in rural areas, as these are mainly issued for properties within the boundaries of organized urban centres.

Mining and Indigenous Peoples

In 2023, the Ministry of Industry and Mines conducted a census of local Gabonese people (mainly Indigenous Peoples) engaged in artisanal mining activities in order to regularize their activities in the gold, diamond and quarry material (sand or gravel) sectors. To this end, a campaign to regularize these actors was launched on 11 October 2023, with a view to issuing artisanal exploration cards. As a result, artisanal miners were told to "present themselves individually to the administrative teams in charge of mines, by area of operation, with a dossier and the sum of 50,000 FCFA (approx. EUR 76). Teams from the Ministry of Mines were deployed across the country from 16 October 2023 to issue artisanal exploration cards." The campaign was launched three weeks after the temporary suspension of gold-panning activities in Gabon was lifted. This measure had been taken in 2018 to combat the development of unregulated and illegal gold mining sites. This illicit activity had become "of concern" in many parts of the country's interior. However, this regularization campaign does not take into account the specific rights of Indigenous Peoples, who now have to pay a sum of money they do not possess.

In November 2023, for example, ClientEarth, in association with *Essono Ondo pour le social et l'environnement* (CEO-SE), published a study[7] on implementation of the provisions of the Mining Code (Law

No. 037/2018 of 11 June 2019 regulating the mining sector)[8] and the Hydrocarbons Code (Law No. 002/2019 of 16 July 2019 regulating the hydrocarbons sector)[9] with regard to profit-sharing in these sectors in Gabon. Starting in 2019, the mining and hydrocarbons sectors have undertaken to devise a profit-sharing mechanism and, to this end, both laws establish local community development funds (FDCL). Although the establishment and running of FDCLs has yet to be defined, the right to profit-sharing has definitely made its mark on the mining and oil and gas sectors.

Forests and Indigenous Peoples

On 17 August 2023, the Republican Guard (GR) paraded a team of trackers attached to the GR's forestry section made up exclusively of members of Indigenous Peoples. These men have been incorporated into the ranks of a special unit of the GR known as the "forest section". The community contingent will harness the traditional skills of these peoples for the protection of Gabon's natural resources. This initiative has contributed to a positive change in attitude towards these peoples, and to official recognition of their role in preserving Gabon's environmental heritage.

The One Forest Summit,[10] held in Libreville on 1 and 2 March 2023, was co-hosted by France and Gabon at the request of the French and Gabonese presidents. It brought together 13 Heads of State and Government and 27 ministers from around the world, as well as a large number of leaders from international organizations, financial institutions, the private sector and civil society, including international NGOs and Indigenous leaders. The theme of the summit was tropical forests, with a focus on the Congo Basin, and it was aimed at advancing a collective ambition to preserve and sustainably manage its tropical forests. During the summit, an initiative was launched by Uganda, France and Gabon: the "One Forest Guardians" coalition.[11] This has the intention, by 2024, of bringing together those countries wishing to call for Indigenous Peoples' cultural practices relating to emblematic tropical forest animal species to be inscribed on the UNESCO World Heritage List.

From 18 to 20 September 2023, the Regional Post-Graduate Train-

ing School on Integrated Management of Tropical Forests and Lands (ERAIFT) took part in a regional forum co-organized in Kinshasa by the Ministry for the Protection of the Environment and Natural Resources, Forests and the Sea of Gabon (MEDD) and the Centre for Support of Sustainable Management of Tropical Forests (CAGDFT), with the support of the Tenure Facility (TF). This forum focused on Nature Conservation and the Land Rights of Indigenous Peoples (IPs) and local communities (LCs) in the Congo Basin.[12] It was attended by over 100 participants, including religious leaders, local and Indigenous communities, technical and financial partners, universities and research institutions, government departments and the media, etc. The recommendations made were as follows: (1) To secure customary land rights with a view to aligning with the Kunming-Montreal Global Biodiversity Framework and (2) To ensure that the Congo Basin governments promote a rights-based conservation model and strategies through the Roadmap for Nature Conservation. The forum ended with a pooling of the work done in the workshops, which agreed on the need for a framework for exchange or a task force to share experiences at sub-regional level, to monitor and advocate for the legal protection of the rights of local communities and Indigenous Peoples, and to act as a catalyst for reflection on other mechanisms such as community forestry, which directly empowers communities to contribute to global biodiversity objectives.

UN initiatives for Indigenous Peoples

In its "Equality, Inclusion and Enhanced Social Protection" component, the UN Framework Plan for Gabon (2023-2027)[13] includes improved access to social safety nets and universal health cover for children, particularly in periurban areas, for children with disabilities and children of Indigenous Peoples.

The UN Food and Agriculture Organization (FAO) organized a sub-regional meeting of the multidisciplinary team in Yaoundé, Cameroon, from 14 to 16 November on: "Improving food systems and strengthening the resilience of vulnerable populations in the ECCAS region". The aim of this meeting was to identify innovative solutions and formulate concrete recommendations with which to sustainably bring food and nutrition security problems to an end in Central Africa.

A National Food Security Policy is being implemented in Gabon for the period 2017 to 2025.[14] An analysis of all the strategic areas of this document highlights the following land-related actions:

- Facilitate secure access to agricultural land for family farms and private investment through the implementation of tools and mechanisms for the responsible governance of land tenure systems in the context of food and nutritional security;
- Facilitate women's access to land;
- Mark out buffer zones between protected areas, forestry permits, mining concessions and agricultural land;
- Characterize and map out the country's agricultural lands;
- Finalize and implement the National Land Allocation Plan; and
- Improve the governance of natural resources, in particular by supporting access to and security of agricultural land tenure through integration of the relevant provisions of the Voluntary Guidelines for Responsible Governance of Land Tenure, Fisheries and Forests in the context of national food security.

On 29 September 2023, the UN Development Programme (UNDP) organized a consultation with 40 young people in anticipation of a series of national consultations with all sectors of Gabonese society. This consultation was not inclusive, however, as none of Gabon's Indigenous Peoples' associations were in attendance. Organizing this consultation formed part of the UNDP's desire to create a space for exchange, providing Gabonese youth with the tools to take ownership of key concepts linked to civic engagement and citizen participation. This will enable the role to be played by young people in the political transition period to be formulated. The consultation recommended the creation of a commission for young people, women and Indigenous Peoples in order to support the development of strong institutions capable of promoting good governance, with checks, balances and control mechanisms.

Indigenous women's rights

The Gabonese government has drawn up a programme for the UN Decade for Women (2015-2025).[15] Unfortunately, this plan did not take into

account the real problems faced by Indigenous women in Gabon.

The first forum of Indigenous women from local communities in Central Africa and the Congo Basin[16] was held from 8 to 12 May 2023, in Brazzaville, Congo. The forum focused on environmental preservation. The meeting brought together some 150 women from a dozen African countries, including Gabon, as well as from other continents and from donors. The aim of the forum was to draw attention to and promote the essential role played by women in preserving their natural environments, whether they be Fulani, desert nomads or Pygmy women from the equatorial forest. Indigenous women play a vital role in protecting the environment and have specific systems of protection and adaptation that are passed on from mother to daughter. Indigenous women are marginalized and face problems of illiteracy and a lack of access to direct funding. As a result of the forum, a roadmap was drawn up to develop their environmental protection activities over a three-year period, with pledges of funding.

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Davy Pouaty Nzembialela *has been President of L'Association pour le Devenir des Autochtones et de leur Connaissance Originelle (ADACO) since its creation in 2016. He holds a degree in English, a diploma in business management and a diploma in diplomacy.*
association-ADACO@outlook.com or pouatydav@yahoo.fr

Kenya

SOUTH SUDAN
ETHIOPIA
UGANDA
SOMALIA
KENYA
Nairobi
TANZANIA

The peoples who identify with the Indigenous movement in Kenya are mainly pastoralists and hunter-gatherers, as well as some fisher peoples and small farming communities. Pastoralists are estimated to comprise 25% of the national population, while the largest individual community of hunter-gatherers numbers approximately 79,000. Pastoralists mostly occupy the arid and semi-arid lands of northern Kenya and towards the border between Kenya and Tanzania in the south. Hunter-gatherers include the Ogiek, Sengwer, Yiaku, Waata and Awer (Boni) while pastoralists include the Turkana, Rendille, Borana, Maasai, Samburu, Ilchamus, Somali, Gabra, Pokot, Endorois and others. They all face land and resource tenure insecurity, poor service delivery, poor political representation, discrimination and exclusion. Their situation seems to get worse each year, with increasing competition for resources in their areas.

Kenya's Indigenous women are confronted by multifaceted social, cultural, economic and political constraints and challenges. Firstly, by belonging to minority and marginalized peoples nationally and, secondly, through internal social and cultural prejudices. These prejudices have continued to deny Indigenous women equal opportunities to overcome high illiteracy and poverty levels. It has also prevented them from having a voice to inform and influence cultural and political governance and development policies and processes due to unequal power relations at both local and national levels.

Kenya has ratified the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC) but not the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) or ILO Convention 169.

Chapter Four of the Kenyan Constitution contains a progressive Bill of Rights that makes international law a key component of the laws of Kenya and guarantees protection of minorities and marginalized groups. Under Articles 33, 34, 35 and 36, freedom of expression, the media, and access to informa-

tion and association are guaranteed. However, the principle of free, prior and informed consent (FPIC) remains a challenge for Indigenous Peoples in Kenya although the Constitution does guarantee the participation of the people.[1]

Kenya's prevailing economic situation is in an intractable crisis. It is a profound indictment of the status quo that a disproportionate number of Indigenous communities continue to bear the burden of crisis after crisis evidenced through impacts of climate change, insecurity and apparent food insecurity.

Despite some shifts in rhetoric, however, climate financing projects targeted at most Indigenous Peoples' landscapes are seemingly failing to bridge the inequality gap and are, in most cases, coordinated by elites.

On the other hand, despite concerted efforts to secure the collective land rights of communities, disruptive actions such as the Ogiek community eviction are a glaring reminder that we are far from securing human rights and, particularly, tenure rights for most Indigenous communities in Kenya.

Climate change

The climatic context for most of Kenya's Indigenous Peoples could be summed up in the few words "from drought to devastating floods" in 2023.[2] It seemed as if the long-awaited rains brought with them disaster in equal measure since they not only claimed lives, livestock and destroyed homes but also put the health of communities at risk, compounding the existing challenges already being faced by vulnerable communities.

Affecting 38 counties in Kenya, the floods rendered over 500,000 people homeless, killing thousands of livestock. Although the arrival of the rains eased the drought, it also significantly heightened the risk of communicable diseases and further threatened livelihoods, primarily those of Indigenous communities. The above-average rainfall, particularly in November, resulted in destructive flooding in Mandera, Wajir, Garissa, Turkana, Tana River, Isiolo, and Samburu, where rivers burst

their banks. All together, some 640,000 hectares of lands were flooded in northern Kenya.[3]

Despite the impact of the floods, however, the rains also supported improvements in livestock production and households' access to milk. The increased access to milk for sale and consumption, and significantly above-average livestock prices, helped maintain household purchasing power against the high price of staple foods in the current battered economy.[4]

Africa Climate Summit

The inaugural Africa Climate Summit, held from 4-6 September and hosted by the Kenyan government, was held alongside Africa's Climate week. The summit was a moment for Africa's states to define a collective Africa Climate Action Plan.

The focus of the summit, however, was seemingly more concerned with market solutions to mitigating the climate crisis, specifically the sale of carbon credits, rather than addressing the humanitarian crises resulting from climate-induced factors such as floods and droughts – especially at a time when Kenya was in its seventh consecutive year of drought.

Another topic that failed to gain prominence in the climate change discussions was that of land rights and tenure rights, and how all the planned climate action will impact these rights in Africa. While many expected that the Africa Summit would make this a priority, it did not feature as prominently as some had hoped. Global climate action aimed at addressing the causes and effects of climate change includes a majority of actions to be undertaken on the land and, consequently, on the land of Indigenous and other communities living in these areas, which should be given ultimate priority, and their tenure rights considered.

It is clear that Kenya's priorities in the climate discourse are primarily that of mirroring a Western agenda revolving around carbon sinks, carbon sequestration and climate-positive approaches. The summit achieved nothing for the environment except that we learned that Kenya remains a classic client-state for Western projects, making efforts to enable the expansion of international imperialism.

Further, Kenya's attendance at COP 28 in Dubai was against the backdrop of this summit. While continually rehashing the same benign concept, the onset of COP 28 revealed a new problematic carbon trading deal between a UAE-based company, Blue Carbon, and Kenya, Tanzania, Liberia, Zambia and Zimbabwe, covering a land area the size of the United Kingdom. The deal in Kenya was reported to target hundreds of hectares of forests, putting thousands of Indigenous people at risk.[5]

State of human rights

Ogiek evictions from the Mau Forest

In May 2017, the African Court on Human and Peoples' Rights delivered a judgement in the case of the African Commission on Human and Peoples' Rights v Republic of Kenya.[6] The Court found that the Kenyan government had violated the Ogiek Indigenous community's rights as enshrined in the African Charter and ordered the government to take appropriate measures within a reasonable timeframe to remedy all violations established by the Court.

In 2022, the Court further reaffirmed its findings in the 2017 ruling, outlining remedies for the Ogiek community and mandating the Kenyan government to take all necessary measures, in consultation with the community and its representatives, to identify, delimit and grant collective land title to the community and, by law, assure them of unhindered use and enjoyment of their land.[7]

However, things took a drastic turn, beginning on 2 November, when joint efforts between the Kenya Wildlife Service and Kenya Forest Service began the forcible eviction of over 700 Ogiek residents from their homesteads following the mass destruction of homes in Sasimwani, Mau Forest Complex. These evictions came with no reparation and no plans for relocation or restitution. The glaring human rights violations levelled against the Ogiek community and the blatant disregard for the Court orders is symbolic of a high level of impunity in the Kenyan governance system and is in breach of the State's obligation to observe, respect, protect, promote and fulfil the rights and fundamental freedoms in the Bill of Rights.[8] The government's reluctance to implement the African Court's two decisions recogniz-

ing the Ogiek's rights to their land, the issuance of legitimate titles and effective payment of the outlined remedies places the residents of various parts of the Mau Forest Complex in a precarious situation of insecure tenure.

Following these evictions, an order for injunction was issued on 15 November by the Kenya Environment and Land Court awaiting a ruling on the Ogiek's land rights.

New laws

Land Law (Amendment) Bill, 2023

Proposed amendments under the Land Law (Amendment) Bill, 2023[9] include shifting the authority for compulsory acquisition from the National Land Commission to the Ministry of Lands, Public Works, Housing, and Urban Development through the Cabinet Secretary. The concept of a separate entity – the National Land Commission – to manage public land as envisaged by Article 62 of the Constitution reaffirms a recommendation at a time when land reform was a necessity owing to the concerns over social, economic and political mischief associated with Kenyan land history, a vital factor in the dynamics of land reform. This explained the desire to establish a public entity with a land-resource mandate, independent of the central government.[10] However, a proposal to blur the foundational principle of the separation of powers threatens the independent procedures and guidelines involved during the compulsory acquisition of lands for a public purpose.

Aligned with Kenya's development agenda, it is apparent that most mega projects with an underlying need to employ the principle of compulsory acquisition are located on Indigenous Peoples' lands. This places Indigenous communities in a precarious situation whereby competing interests, of the communities and of central government, intersect; a factor that is likely to mirror historical contexts when autocracy used to undermine communities' rights.

As the bill is passing through the various stages of the Parliamentary process, at present the Committee Stage, this remains a piece of legislation with vital implications for Indigenous communities in Kenya.

The Climate Change (Amendment) Act, 2023 and The Climate Change (Carbon Markets) Regulations, 2023

To align with carbon regulation standards, the government has also stepped up efforts to establish a legal framework to guide carbon trading. Since March 2023, the government has been developing legislation to regulate carbon offset projects.

The Climate Change (Carbon Markets) Regulations proposed were made pursuant to the Climate Change Amendment Act, 2023,[12] which aims to provide a regulatory framework for an enhanced response to climate change, as well as mechanisms and measures to achieve low carbon development. The Act incorporates carbon markets and makes provisions for participation in carbon markets in order to enhance climate change resilience and determine benefit-sharing mechanisms of greater significance to many communities dwelling on community lands in Kenya, including Indigenous communities.

The Act, however, fails to put land rights, or land ownership, at the centre of these projects, and consequently fails to provide safeguards for Indigenous and local communities who rely on these lands for their livelihood and food security.[13]

Some of the notable provisions in the Regulations include frequent reference to certain terms such as "project idea", "carbon credit period" and "community project" without clear definitions, something that is also absent from the language within the Act. Lack of clarity over the meanings of these terms could lead to investors in carbon markets being delayed by technicalities when making the required applications for approval when they wish to undertake carbon projects. For example, "a project idea"[14] has to be approved before drafting a "project concept note" but the characteristics of a project idea are not outlined.

Similarly, the framing of the Act suggest that communities are beneficiaries only.[15] However, acknowledging that many of the carbon offset projects are land-based, communities are not simply "impacted communities"[16] but rather key shareholders in the project. Use of the term "impacted communities" in both the Act and Regulations assumes that communities are only impacted by the project and play no role in contributing to a reduction in carbon emissions and increasing absorption.

The grasslands carbon project is an example of a carbon offset project in which communities are central to the methodology and are the backbone of reduced greenhouse gas (GHG) emissions. Specific ways of engaging communities living in areas where major carbon sinks are situated, in particular the northern and southern rangelands and coastal regions, are lacking. The language used in the Community Development Agreements (CDAs) needs to be simple and not too technical for local communities. Further, the government needs to dedicate adequate funds for community sensitization regarding carbon markets in order to fulfil its public education mandate.

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Mali Ole Kaunga *is a Laikipiak Maasai and an Indigenous Peoples' expert with a key interest in land rights, the impact of investments/business on Indigenous Peoples, and collective action/movement building and capacity building around natural resources. He is the founder and Director of IMPACT (Indigenous Movement for Peace Advancement and Conflict Transformation – www.impactkenya.org), Convenor of PARAN (Pastoralists Alliance for Resilience and Adaptation in Northern Rangelands), and Senior Adviser to the research team for Shared Lands (https://shared-lands.com). He is also the Co-convenor of the Alliance for Indigenous Peoples and Local Communities (IP&LCs) for Conservation in Africa (AICA) (https://aica-africa.org).*

Purity N. Gakuo*, IMPACT's Manager for Responsible Investment, Business and Human Rights, has contributed to this article. Purity is an Advocate of the High Court of Kenya. She coordinates legal and policy work across different workstreams in IMPACT.*

Libya

MEDITERRANEAN SEA
TUNISIA
Tripoli
ALGERIA
LIBYA
EGYPT
NIGER
CHAD
SUDAN

The Amazigh form the Indigenous population of Libya and are estimated to number some one million people, or more than 16% of the country's total population.

They live in various areas of Libya in the north, east and south of the country albeit without any geographical continuity. To the west of Tripoli, on the Mediterranean coast, they live in the town of At-Wilul (Zwara) and in the Adrar Infussen (Nefoussa) mountains, on the border with Tunisia; in the southeast, on the border with Egypt, they live in the oases of Awjla, Jalu and Jakhra; in the south, the Fezzan region is traditionally Kel-Tamasheq (Tuareg) territory, including the areas of Murzuq, Sebha, Ubari, Ghat and Ghadamès. Libya's Kel-Tamasheq are naturally linked to other Kel-Tamasheq communities living across the borders with Niger and Algeria. Tripoli is also home to a significant Amazigh community.

In addition to Arab and Amazigh communities, there is an ethnic minority in Libya known as the "Toubou", comprising some 50,000 individuals, who are originally from the Tibesti plateau in Chad and live along the Libya/Chad border. They live a nomadic way of life and practise pastoralism across an area that extends from northern Niger to the Sudan.

During the time of Gaddafi (1969-2011), Libya was declared an exclusively "Arab and Muslim" country. The 1969 Constitutional Proclamation states in its first article that "Libya is an Arab republic (...), the Libyan people are a part of the Arab nation and its aim is total Arab unity. The country's name is the Arab Republic of Libya". Article Two adds that "Islam is the state religion and Arabic its official language". Government policy since then has always relentlessly persecuted anyone who does not recognize Libya's "Arab-Islamic identity".

Following the 2011 "revolution", a "Provisional Constitutional Council" submitted a draft new Constitution in 2017[1] that in no way changed the country's identitary foundations. Article Two still provides that "Libya forms part of the Arab nation" and

that "Arabic is the state language". Article Six notes that "Islam is the state religion and Sharia the source of its law". Other discriminatory articles then follow prohibiting a non-Muslim Libyan from standing for election to the Chamber of Representatives (Article 69) or as President of the Republic (Article 101) and stating that justice shall be passed down "in the name of Allah" (Article 189). These articles are clearly aimed at imposing an Islamic republic, to the detriment of the diversity of cultures and beliefs in Libya. Due to Amazigh and Toubou opposition, however, and also because of the war, this draft constitution has not yet been adopted.

Libya voted in favour of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP).

The political crisis persists

The legislative and presidential elections scheduled for 2023[2] did not take place and Libya remains divided and governed by two separate bodies, the so-called "*government of national unity*" led by Prime Minister Abdelhamid Dbeiba, based in Tripoli, and a government described as the "*government of national stability*" headed by Osama Hammad and based in Benghazi in the east of the country.

The ceasefire agreed between the two sides in October 2022 has, nonetheless, generally held to date although sporadic armed clashes do occur in various parts of the country, including Tripoli, which remains the headquarters of foreign embassies and international institutions. The south of the country, rich in oil and gas resources in particular, is in the hands of various armed groups. Libya is still facing a chaotic situation, aggravated by the presence of a large number of local militias allied to one or other of the two camps, or sometimes independent. The presence of foreign mercenaries and the interference of foreign states who are constantly intervening to safeguard their strategic interests, in support of either the government in Benghazi or that in Tripoli, are constantly adding fuel to the conflict, insecurity and instability in the

country. The absence of legitimate and recognized State institutions gives free rein to all kinds of illegal trafficking (oil, arms, drugs, metals, emigration) and corruption. In its 2022/23 report, Amnesty International noted that:

> *Authorities, militias and armed groups imposed severe restrictions on civic space and humanitarian access to affected communities, and engaged in smear campaigns against international and Libyan rights groups. Militias and armed groups have killed and wounded civilians and destroyed civilian property in sporadic, localized clashes. Impunity remained widespread, and authorities funded abusive militias and armed groups. Women and girls faced entrenched discrimination and violence. Ethnic minorities and internally displaced people faced barriers in accessing education and healthcare.*[3]

The UN's efforts to end the political violence and implement an electoral process are being hampered by serious political differences, notably over the electoral law and the Constitution. The Special Representative of the Secretary-General for Libya, Abdoulaye Bathily, declared to the UN Security Council in December 2023 that "the situation is at a standstill for the moment".[4]

Amazigh continue to face the same challenges

It may seem paradoxical but Libya's most vulnerable communities, especially its minorities and Indigenous Peoples, particularly the Amazigh, are in no hurry to see a "national entente" between the two major camps in eastern and western Libya, and the establishment of a strong central state, as this would be subject to an Arab-Islamic ideology that rejects and opposes the country's ethnic and sociocultural diversity and human rights in their universal sense. Article 1 of Libya's Interim Constitutional Declaration[5] states that "Islam is the religion of the State and Islamic Sharia is the principal source of legislation". The text also specifies that "Arabic is the official language". Amazigh fear that this article will be used as a way of preventing them from expressing their language and culture.

Moreover, in practice, Amazigh continue to face various forms of racism, discrimination, intimidation and violations of their rights, as in the days of the deposed Gaddafi regime.

In its 2023 annual report, the organization Itran[6] notes that: "Amazigh communities are among the most vulnerable, discriminated and marginalized in the country. Although the Amazigh people live in regions rich in natural resources, such as oil and gas, they still face many political, economic and social challenges." The report notes that, in 2023, Amazigh in Libya were faced with anti-Amazigh government actions based on laws dating back to the Gaddafi era.

On 23 October 2023, the Director of the Legal Affairs Office of the Ministry of Education sent a letter to the Director of the Corporate Affairs Office stating that it was illegal to use non-Arabic names for any public or private labelling or communication, in accordance with Law No. 24 of 2001. In another letter addressed to the education office and Zwara municipality, the Ministry of Education rejected the Amazigh name "Tussna" for a local primary school and asked that it be given an Arabic name.

Although there is no law prohibiting the registration of Amazigh first names, the central civil registry authority continues to send letters to its local offices in Amazigh territories (notably the north-west region of Libya) asking them not to register non-Arabic or non-Muslim first names. Local officials of the Interior Ministry's Civil Affairs Authority have been threatened with financial penalties if they register non-Arabic or non-Muslim names for newborns.

The Omar Al-Mukhtar University discriminates in the recruitment of new assistants, making their hiring conditional upon "adherence to Libyan Arab values".[7]

In recent years, Amazigh people have been intimidated and arrested by police and armed militias simply for carrying the Amazigh flag.

In southern Libya, 15 to 20,000 families, or around 80 to 100,000 Kel-Tamacheq (Tuareg) people, are still deprived of Libyan nationality and identity documents.[8] As a result, they cannot take part in elections, access public education and training services or health care, nor can they be legally employed. Regular complaints to the Libyan administration have gone unanswered since 2011.

Libya's Kel-Tamasheq community is also facing the challenge of Algeria's closure of the Algerian-Libyan border on security grounds. The Kel-Tamacheq populations living on either side of the border have been

dramatically affected by the hindrance to their free movement around their traditional territories, which straddles the state border.

Indeed, for many years now, Libya's non-Arab communities, and particularly the Amazigh, have been expressing their desire for autonomous status for their territories, with the aim of preserving their specific sociocultural characteristics. No response has been received to date.

The land issue in Libya

Libya is a large country (1.76 million km^2, fourth largest in Africa). It is 90% desert, with 85% of its population living along the 10% of its territory that is the Mediterranean coastline. Its land tenure system is confused, influenced by the colonizations the country has suffered in recent centuries and by the political direction of its governments.[9] Land law in Libya has thus been successively influenced by Muslim, Ottoman (16th century) and Italian (1911-1942) law, and by the guidelines of the Kingdom of Libya (1951-1969) and then by the Socialist Republic until 2011. Since the "revolution" of 2011, civil war and the absence of a central state have left the land issue unchanged.

During Libya's socialist period (1969-2011), the government passed Law No. 39 in 1973, abolishing customary land rights to tribal lands and transforming them into State property.[10] At the same time, the government was redistributing land to families who undertook to farm it, in application of the slogan "the land to those who work it". Today, there is no clear land policy and the country has no up-to-date land registry. The hard-copy registries that were held in various offices across the country were damaged, destroyed or lost during the civil war. Libya's land tenure system is, however, becoming increasingly liberalized through private ownership of land and real estate, albeit informally for the time being. The State domain remains important, and collective ownership of tribal lands persists, particularly in rural areas.

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Belkacem Lounes *is a doctor of Economics, university teacher (Grenoble Alpes University), former expert member of the Working Group on Indigenous Populations/Communities in Africa of the African Commission on Human and Peoples' Rights (2016-2021), member of the UN Expert Mechanism on the Rights of Indigenous Peoples (2018-2020), author of numerous reports and articles on Amazigh and Indigenous rights.*

Morocco

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The Amazigh (Berber) peoples are the Indigenous Peoples of North Africa. The last census in Morocco (2016) estimated the number of Tamazight speakers at 28% of the population. However, Amazigh associations strongly contest this and instead claim a rate of 85%. This means that the Amazigh-speaking population could well number around 29.6 million out of a total population of 37 million in Morocco in 2023.[1]

Today there are more than 900 Amazigh associations established throughout Morocco. The Amazigh Movement is the political continuation of the armed resistance led by Amazigh tribes, mainly in the Atlas region, against France, its trailblazers being the late Abdelmalek Oussaden (1st Amazigh university graduate) and Mohamed Chafik (1st rector of the Royal Institute of Amazigh Culture (IRCAM)[2]). However, under the impact of events in the early 1970s[3] and the virulent repression that targeted the Amazigh, the movement was forced to proclaim itself the Amazigh Cultural Movement. The Amazigh Movement is also an identitary movement that rejects the predominant pan-Arab and Islamist ideologies because they are incompatible with universal Amazigh values based on human rights. The demands of the Amazigh Movement have evolved in recent years and are no longer limited to the cultural sphere. Following their demands for identity in the late 1990s, they now champion the demands of Indigenous Peoples generally and are calling for all of the rights enshrined in the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), starting with rights to lands, territories and natural resources.[4]

The administrative and legal system of Morocco has been strongly Arabized, and the Amazigh culture and way of life are under constant pressure to assimilate. Morocco has for many years been a unitary state with centralized authority, a single religion, a single language and systematic marginalization of all aspects of the Amazigh identity. The 2011 Constitution officially recognizes the Amazigh identity and language. This could be a very positive and encouraging step for the Amazigh people of Morocco. Parliament finally adopted an organic law for the im-

plementation of Article 5 of the Constitution in 2019, after several years of waiting. Twelve years on from the Constitution and four years after the organic law was passed in Parliament, however, nothing has really changed: Tamazight language teaching is still at the same stage and will have to wait until 2030 to be extended to all primary schools; and linguistic discrimination is still the order of the day, since the Tifinagh script is absent from national identity cards, passports and the new Moroccan banknotes that went into circulation on 24 November 2023.[5]

Morocco has not ratified ILO Convention 169 and has not adopted UNDRIP.

General situation of the Amazigh in 2023

The situation of Morocco's Amazigh saw no palpable progress in 2023, and issues such as education, the rejection of Amazigh first names and land dispossession continue to weigh heavily on the daily lives of the people. The Moroccan government's policy towards the Amazigh people is not born of a genuine desire to effectively recognize the country's Indigenous people but instead forms part of a logic of "action-reaction" aimed at giving the impression that there is progress in the handling of certain issues.

Morocco was reviewed, for the 4th time in its history, by the Universal Periodic Review (UPR) mechanism during its 41st session held on 8 November 2022.[6] This examination was the most significant in the country's history as far as the Amazigh are concerned. The UN compilation of information highlighted all the inequalities and irregularities that Amazigh face in relation to their living conditions, the socioeconomic and cultural marginalization they face, and the denial of their rights to their lands, territories and natural resources. It should be noted that this is the first time that the case of the Amazigh has been cited and highlighted in the UPR reports. In response to the UPR report, Morocco symbolically recognized Amazigh New Year ("Yennayer") as a national (paid) holiday. A press release from the Royal Cabinet made the announcement on 3 May 2023.[7]

In contrast, one month later, on 1 June 2023, the Minister of National Education, Preschool and Sports, Chakib Benmoussa, declared that the teaching of Tamazight could not be rolled out across the primary level before 2030. This is dismaying given that we are 12 years on from the 2011 Constitution and its extension to secondary education has not even been considered. A lack of human and financial resources, budgetary allocations, training and, above all, the lack of a sincere desire to make this national language official are all obstacles in the path of an action that the country's policy of Arabization is constantly undermining.[8]

Amazigh associations, for their part, continue to face refusals to renew or grant permits from the Ministry of the Interior unless their demands relate to purely folkloric activities, thus limiting the Amazigh's right of association.

Right to land

The debate over language and the introduction of the Amazigh New Year are merely issues obscuring the bigger picture, however, since the fundamental problem of the Amazigh people is still not on the agenda: their rights to lands, territories and natural resources. Without access to these fundamental rights, the forced assimilation, impoverishment and devaluation of the Amazigh population is and will remain an obstacle to self-determination and free, prior and informed consent (FPIC), as the state sets itself up as the uncontested guardian of the Amazigh.

Since 2019, the collective lands of the ethnic communities, held in undivided ownership, are no longer protected by the principle of inalienability, even though they account for a majority of the country's land mass. They are now at the mercy of national and foreign investors, even though only a public interest prerogative has permitted the state access to a tiny part of them[9] for the last 100 years (1919- 2019).[10]

2023 was designated the year of melkization.[11] Melkization is an operation that consists of the privatization of the collectively owned lands of the ethnic communities[12] and will result in watering down and fragmentation, threatening the break-up of the communal and social structures of the Amazigh people.[13] Framed within the context of Law

64/17, adopted in 2019, melkization lies at the heart of the "Rural Land" component of the "Compact II" cooperation programme, funded by the Millennium Challenge Corporation (MCC) and the Generation Green 2020-2030 project launched in application of the partnership agreement concluded on 7 November 2019 between MCA-Morocco and the *Office National du Conseil Agricole* (National Office of the Agricultural Council/ONCA).[14] With a total budget of 20.5 million dirhams (approx. EUR 1.9 million), 76% of which has been provided through support from Compact II (15.6 million dirhams (approx. EUR 1.45 million)), these projects affect the provinces of Kenitra (4 projects), Sidi Slimane and Sidi Kacem (3 projects each) and El Kelâa des Sraghnas (5 projects). The melkization of collective lands in the Kenitra region was launched on 14 March 2023. It should be recalled that, according to its terms of reference,[15] this Moroccan-American project aims to "boost the land market", and this includes the liberalization and commercialization of the ancestral lands that form the basis of the Amazigh people's identity.

The grabbing of Amazigh lands and territories not only affects irrigated land but forests, too, along with water, grazing lands and mines. There are no fewer than seven mining operations located in the regions of Haouz, Taroudant, Azilal and Ouarzazate, offering no benefit either to the Amazigh people or to their communities' development.[16] The gold, silver, uranium, cobalt, molybdenum and other riches of these territories belong to the state, which makes them available to private companies, both national and international, without any need to respect FPIC. On 8 September 2023, a powerful 7.0 magnitude earthquake shook these Amazigh-speaking mountain regions, which had been the landlocked stronghold of the struggle for independence since 1956. Far from the limelight, cut off from everything, they suffer from cumulative socioeconomic discrimination and are considered the "useless element" of a country that prefers its land to its inhabitants. Instead of allowing the Amazigh to exploit and grow their land and territory together, practising their ancestral knowledge and know-how (such as the Agdal, the Tiwiza), they therefore suffer dispossession, the grabbing of most of their land, changes to their lifestyles, and mass displacement.[17]

In conclusion, the state's hold on land, territories and natural resources is enforced by laws with colonial connotations, while the intention to make Tamazight an official language of Morocco remains

dependent on hypothetical timetables that run counter to the country's Constitution. Today, instead of engaging in a policy of recognition, reparation and reconciliation with the Amazigh, the state is simply trying to appropriate their claims by devaluing them and reducing them to mere empty shells: it talks about teaching Tamazight when the Amazigh Movement calls for teaching in Tamazight; it talks about Soulaliyate Lands[18] for women when neither women[19] nor men nor young people have access to the rights to land; it talks about investment and development but without creating job opportunities for those entitled to them and excluding the Amazigh from any development process; it talks of "Green Morocco Plan" and "Generation Green" and encourages water-intensive agriculture[20] for export while the Amazigh are cruelly short of water and suffering the effects of climate change, which is threatening their health as a whole: water scarcity, extractive pollution, ecosystem destruction and biodiversity degradation.

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Amina Amharech *was born in El Hajeb, in the Moroccan Middle Atlas. She is a teacher, artist, poet and committed Amazigh activist. A fellow of the OHCHR Indigenous Fellowship Programme in 2018, she defends the land, cultural, identity and linguistic rights of the Amazigh and Indigenous Peoples generally. She is a founding member and president of the Association Action Culturelle Amazighe Laïque (ACAL) created in 2014 in El Hajeb, a founding member of the Amazigh community network AZUL, created in 2013, which she represented on the Global Council of the International Land Coalition from 2018 to 2021, and a founding member of the Feminist Platform for FLP Land since 2019. She is currently co-chair of the Indigenous Peoples Platform of the ILC for the EMENA region, where she is a member of the Steering Committee and the Governance Committee. Contact: aminaamharech@gmail.com*

Namibia

ANGOLA
ZAMBIA
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ATLANTIC OCEAN
SOUTH AFRICA

The Republic of Namibia celebrated its 33rd year of independence in March 2023. The Indigenous Peoples of Namibia include the San, the Ovatue, Ovahimba and Ovatjimba and, potentially, a number of other peoples including the Ovazemba, Damara, Nama, and Topnaars. Taken together, the Indigenous Peoples of Namibia represent some 8% of the total population of the country, which was 2,779,232 as of July 2023. The San (Bushmen) number between 28,000 and 35,000 and account for between 1.045% and 1.33% of the national population, although some estimates state the population as much higher. They include the Khwe, the Hai||om, the Ju|'hoansi, the!Kung, the!Xun, the Naro, and the!Xóõ. Each of the San groups speaks its own language and has distinct customs, traditions, and histories. The San were mainly hunter-gatherers in the past but, today, many have diversified livelihoods. Over 80% of the San have been dispossessed of their ancestral lands and resources, and they are now some of the poorest and most marginalized peoples in the country. The Ovahimba, Ovatjimba and Ovatue (Ovatwa) are largely pastoral people, formerly also relying on hunting and gathering, and residing in the semi-arid and mountainous north-west of Namibia (Kunene Region). Together, the pastoralists number some 28,675, or 1.04% of the total Namibian population.

The Namibian government prefers to use the term "marginalized communities" when referring to the San, Otavue and Ovatjimba, support for whom falls under the Division of Marginalized Communities (DMC) in the Ministry of Gender Equality, Poverty Eradication and Social Welfare. The Constitution of Namibia prohibits discrimination on the grounds of ethnic or tribal affiliation but does not specifically recognize the rights of Indigenous Peoples. Namibia voted in favour of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) when it was adopted in 2007 but has not ratified ILO Convention No. 169. Namibia is a signatory to several other binding international agreements that affirm the norms represented in the UNDRIP, such as the African Charter on Human and Peoples'

Rights (ACHPR), the Convention on the Rights of the Child (CRC), the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), and the International Covenant on Civil and Political Rights (ICCPR). Namibia produced a mid-term report for the Universal Periodic Review of the Human Rights Council in 2022. Namibia representatives attended the 22nd session of the UN Permanent Forum on Indigenous Issues (UNPFII) in New York from 17-28 April 2023. In November 2023, the National Census was carried out and disaggregated for some different San languages for the first time.

Land rights issues

In his 16 March 2023 State of the Nation Report, His Excellency Hage Geingob (who sadly passed away in February 2024) described 2023 as the "Year of Revival". Land issues were among those discussed in the report, including those related to the Flexible Land Tenure Act, which saw land being allocated to individuals in informal settlements.[1] Land issues also arose in Namibia as a result of a series of Ancestral Land Claims (ALCs) made before the Namibian High Court in the years leading up to 2023. Unfortunately, none of these land claims were successful although they did set important precedents.[2]

Land issues arose in Kavango West Region as a result of the oil and gas prospecting activities of ReconAfrica, a Canadian company. There were a number of impacts of the prospecting, including the construction of roads in sensitive ecological areas, the resettlement of several villages and, according to local people, the dropping of the water table in some areas, making it difficult for people to access potable water. Local communities and non-government organizations such as the Namibian Association of Community Based Natural Resource Management (CBNRM) Support Organizations (NACSO), the Indigenous Peoples of Africa Co-ordinating Committee (IPACC), and the Namibia Nature Foundation (NNF) raised questions about the impacts of the ReconAfrica drilling activities, including the effect on downstream Indigenous Peoples and biodiverse areas. By the end of 2023, the ReconAfrica activities had not

demonstrated the presence of oil and gas but the fracking and other activities were continuing.[3] The government announced revisions to the National Resettlement Policy in May 2023, some of which are designed to benefit Marginalized Communities and their generational farm workers in the form of land allocations and greater tenure security.

Questions about land rights arose in several areas of Namibia, including Kunene, Otjozondjupa, and the Zambezi Regions. In Tsumkwe District of Otjozondjupa, people from other areas of Namibia continued to enter the district with their cattle and graze and fence illegally. Similar problems were seen in the N/a Jaqna Conservancy to the west of Tsumkwe District. In Zambezi Region, there were land-use conflicts between Mbukushu and Khwe San in and around Bwabwata National Park and areas to the east.[4] The Legal Assistance Centre and the European Union are combining efforts to train San paralegals to assist in legal cases involving land.

Namibian media reported a wide range of stories on San communities in 2023, including various successes in livelihood and education projects, a San cultural festival in Omaheke in November, San families living in rubbish dumps and old swimming pools, undocumented residents (also including Ovahimba and Ovatjimba) and 45 San children who died of malnutrition in Omaheke in July.[5]

Small-scale fisheries and marine conservation

Topnaar (!Aonin) representatives participated in a series of workshops beginning in September 2023 on climate change and small-scale fisheries, the draft Marine Spatial Planning (MSP) in Nambia, and the legal and financial aspects of fishing. These were sponsored in part by One Ocean Hub in Henties Bay, Luderitz, Walvis Bay, Swakopmund, and Windhoek, culminating in a workshop in Windhoek on 2 December 2023. Issues raised at these workshops ranged from Topnaar participation in decision-making on small-scale fisheries to conservation planning for marine resources with the Ministry of Fisheries and Marine Resources.[6] Topnaar representatives sought meetings in December with the Ministry of Fisheries and Marine Resources regarding small-scale fishing rights.

Reparations and apologies for the Herero and Nama genocide

The issue of reparations and apologies for the 1904-1907 German genocide of the Herero and Nama peoples was raised in December 2023 when Germany backed Israel in its invasion of Gaza. The Government of Namibia pointed out that the Herero and the Nama suffered the first genocide of the 20th century, descendants of the Herero and the Nama claimed that Germany had failed to provide cash compensation or a formal apology for what they suffered and, in February 2023, they filed a lawsuit against the Government of Namibia for how it had handled the negotiations with Germany.[7] Repatriation of the human remains of Herero and Nama from German museums continued in 2023 although the pace had slowed according to Prof. Mitsjinda Kitjua, Chief of the Herero.[8]

Other issues

The Division of Disability Affairs and Marginalized Communities in the Ministry of Gender Equality, Poverty Eradication, and Social Welfare reported that progress had been made in 2023 in addressing poverty and the longer-term economic impacts of COVID-19.[9]

The Division of Marginalized Communities progressed in its partnership with Palms for Life Fund, including completing 10 Early Childhood Development centres and funding 1,000 San youth through their vocational training. A UNDESA-sponsored conference on marginalized communities' youth was held by the same division and the National Youth Council in Swakopmund in May 2023, forming a representative national body. A follow-up meeting was held in November.

Also in November, the inaugural Indigenous Peoples' and Local Communities' Conservation Congress was held in Windhoek with the aim of improving community-led governance in conservation and validating the ACHPR Study on the Impact of COVID-19 on Indigenous Peoples in Africa.[10]

A cross-government meeting was held in June on the White Paper on the Rights of Indigenous Minorities in Namibia but the process remains delayed subject to further information requested by the Namibian Cabinet in 2023.

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Benjamin Begbie-Clench *is a freelance consultant who has worked extensively on San issues throughout Southern Africa, benbegbie@gmail.com*

Robert K. Hitchcock *is an anthropology professor at the University of New Mexico and a member of the Board of the Kalahari Peoples Fund, rkhitchcock@gmail.com*

Maria Sapignoli *is an Associate Professor of Anthropology at the University of Milan, Italy. maria.sapignoli@unimi.it*

South Africa

South Africa's total population is around 59 million, of which Indigenous groups are estimated to comprise approximately 1%. Collectively, the various African Indigenous communities in South Africa are known as Khoe-San (also spelled Khoi-San, Khoesan, Khoisan), comprising the San and the Khoikhoi. The main San groups include the ‡Khomani San, who reside mainly in the Kalahari region, and the Khwe and!Xun who reside primarily in Platfontein, Kimberley. The Khoikhoi include the Nama who reside mainly in the Northern Cape Province; the Koranna mainly in Kimberley and the Free State province; the Griqua in the Western Cape, Eastern Cape, Northern Cape, Free State and KwaZulu-Natal provinces; and the Cape Khoekhoe in the Western Cape and Eastern Cape, with growing pockets in Gauteng and Free State provinces. In contemporary South Africa, Khoikhoi and San communities exhibit a range of socio-economic and cultural lifestyles and practices. The socio-political changes brought about by the current South African regime have created the space for a deconstruction of the racially-determined apartheid social categories such as "Coloureds". Many previously "Coloured" people are now exercising their right to self-identification and are identifying as San and Khoikhoi. African Indigenous San and Khoikhoi peoples are not formally recognized in terms of national legislation. South Africa voted in favour of adopting the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) but has yet to ratify ILO Convention No. 169.

Overview

Land continues to be one of the key areas South Africa is grappling with in its post-apartheid era. Three decades on from the dismantling of apartheid, the legacy of the "Coloured" designation means the Khoikhoi and San remain invisible communities within South African land struggles, with the historical and structural legacy of their land rights, culture, language, and resources not being recognized.[1] In 2013

the South African Parliament introduced an amendment to their Restitution of Land Rights Act 22 of 1994 in order to re-open land claims and enable claims for land taken before 1913. This removed what had been a barrier to lodging land claims for the Khoikhoi and San, many of whom were dispossessed of their ancestral lands during the first waves of European colonization. However, this amendment was overturned in 2019[2] as the Constitutional Court ruled that applicants could only claim under the amended Restitution Act once the first batch of restitution claimants' cases has been resolved. According to the Parliamentary discussion, at the current rate it will take 30 years at a cost of 172 billion rands (approx. EUR 8.4 billion)[3] for the first batch of restitution claimants' claims to be settled and only then will the Khoikhoi and San be able to institute their restitution cases. As a result, the Khoikhoi's and San's many historical land claims and needs remain unaddressed and structurally neglected.

Knoflockskraal

In April 2023, the Department of Forestry, Fisheries and the Environment (DFFE) published a notice degazetting, among others, Knoflockskraal from the National Forests Act 1998, for non-forestry purposes.[4]

The case started in 2020 when seven people occupied an 1,800-hectare area in Western Cape Province in order to establish a self-sustaining sovereign Khoi-San community. Since then, the number of occupants has grown to around 4,000 people living without access to basic services, such as water and sanitation.[5]

DFFE, who was in charge of managing this land, has employed different strategies to evict the communities as trespassers, including referring the case to Western Cape High Court in 2022,[6] and the case has been discussed by the Parliament's Portfolio Committee on Forestry, Fisheries, and the Environment.[7] None of the strategies have worked, however.

One of the consequences of the new move by DFFE is that the land that was previously reserved for agro-forestry projects can now be used for housing purposes. Khoi-San activists occupying Knoflockskraal will now need to make written submissions stating who they are in relation to that area. It remains unclear what this would mean for the Indigenous communities' secure land rights.

Traditional and Khoisan Leadership Act declared unconstitutional

Rural communities, activists and land rights organizations approached the Constitutional Court of South Africa in December 2021 arguing that Parliament did not comply with its constitutional duty to facilitate meaningful public participation when passing the Traditional and Khoi-San Leadership Act 2019. The Act, they said, would have a devastating impact upon the lives of rural people as it gave new and extended powers over land to traditional authorities while clawing back the few democratic principles previously captured in traditional leadership legislation. Most of all, they argued, the Act does not provide for a single mechanism that would allow a community to hold a traditional authority to account. In May 2023, the Constitutional Court subsequently found the Act unconstitutional by stating that: "Parliament overwhelmingly failed in facilitating public participation".[8] The Court has suspended the Act for 24 months to afford Parliament the time to facilitate a constitutionally compliant process.

This Constitutional Court judgement resulted in the old framework of the 2003 law coming back into force to accommodate the communal lands communities, as their recognition as part of the Traditional Leadership system will be affected. Yet no such provision was made for the Khoikhoi and San communities. Furthermore, there is no guarantee that, after the 24-month suspension ruling, the Court's requirements will be met, leaving the Khoikhoi and San communities uncertain of their future.

The 2019 Act built upon and was meant to replace the Traditional Leadership and Governance Framework Act 41 of 2003, which recognized communal land communities but excluded the Khoikhoi or San. However, members of communal land communities told the Court that, for nearly two decades since the passing of this Act, they had been trying unsuccessfully to raise the alarm regrading corrupt and unlawful practices by their leaders which, in some cases, have led to communities losing land and other assets. They told the Court that the 2019 Act entrenches and exaggerates the problems of the 2003 framework and, had the legislature facilitated the meaningful participation of the people who would be directly affected, it would not have passed in its current form.[9]

While the 2019 Act finally gave statutory recognition to the Khoikhoi and San leadership and its communities, it also received criticism

during the public hearings from traditional (non Khoi-San) and Khoi-San communities alike. The overwhelming majority of Khoikhoi and San communities did nonetheless support the enactment as recognition was a key first step to accessing justice and the beginning of South African institutional dispensations documenting and including their communities into post-apartheid developmental aspirations.

The immediate and practical impacts of the Court's decision are many:

i. Unlike the communal land leadership and their communities, who have enjoyed recognition for the last three decades (post-apartheid era), the Indigenous communities remain outside of the formal traditional leadership system. This means they do not have access to justice or to the crucial participation their extremely vulnerable communities need as a collective.
ii. There continues to be no record of the cultural existence of the Khoikhoi and San communities in South Africa.
iii. The suspension of the Act further complicates and delays their struggle for recognition of their Indigenous languages.
iv. Similar to the recent amendment of the Restitution Act, this opportunity has been taken away from them without their free, prior and informed consent.
v. Most of all, to suspend the recognition of the Khoikhoi and San as cultural communities existing in South Africa further complicates and burdens their struggle for land rights.

By delaying the implementation of this Act, it further perpetuates the unlawful stigma of the forced assimilation of being labelled "Coloured" during apartheid.

Fish Hoek coastal area

Peers Cave, close to Fish Hoek at Table Mountain range, South Africa, is a definitive location for prehistoric discoveries dating back 12,000 years. It was declared a National Monument in 1941 and is in close proximity to the Fish Hoek coastal area, which is deeply embedded in Khoik-

hoi ancestral territories and livelihoods. The Indigenous-run Fish Hoek Galley restaurant, museum, and community space is an important cultural touchpoint for the local Indigenous communities, and a small but essential component in the community's recovery from a deeply traumatic history. This cultural hub is now under threat from a pattern of commercial development along the coastal areas that is depriving the Indigenous communities of access to their traditional cultural spaces.

Such was the case on 23 November 2023 when Mathea Eichel, a Khoikhoi Indigenous woman was forced to bid at an auction to maintain control of the Galley. Her bid was unsuccessful, and she was given six months to continue operating before vacating the premises. Mathea appealed on 14 December, assisted by the Khoi Cultural Heritage Development Council, which represents 22 Indigenous communities. As of early January 2024, Mathea and the Council are awaiting a decision by the City of Cape Town municipality.

Sutherland Nine – going home

On 26 November, the remains of nine Khoi and San people, known as the Sutherland Nine, were reburied in Sutherland, Northern Cape Province.

The burial concluded a more than five-year-long process that started with the discovery in 2017 of 11 skeletons during an archiving audit of the University of Cape town's (UCT) Human Skeletal Repository. The nine buried remains were part of this discovery. They were donated to the university between 1926 and 1931 by a UCT medical student, Carel Gert Coetzee, who lived on the farm where eight of the nine were buried. The university concluded that these remains were unethically obtained by the institution and the discovery set in motion a complex process of identification and repatriation of the remains to their descendants.

The importance of this event lies in correcting past injustices and returning dignity to both the ancestors and their descendants. As one participant of the reburial ceremony concluded: "These nine individuals came into the university as specimens but, when they left on Friday, they left as people."[10]

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Lesle Jansen *is an Indigenous attorney from the Cape Flats in Cape Town. She is currently working at Jamma International as its Head of Indigenous Peoples and Local Communities Resource Rights.*

Theo Horton *is a conservationist from Surrey, England. He is currently working at Jamma International in the Conservation and Communities team.*

Tanzania

DEMOCRATIC REPUBLIC OF THE CONGO
UGANDA
KENYA
RWANDA
BURUNDI
TANZANIA
Dar es Salaam
ZAMBIA
MOZAMBIQUE
MALAWI

Tanzania is estimated to have a total of 125 – 130 ethnic groups, falling mainly into the four categories of Bantu, Cushite, Nilo-Hamite and San. While there may be more ethnic groups that identify themselves as Indigenous Peoples, four groups have been organizing themselves and their struggles around the concept and movement of Indigenous Peoples. The four groups are the hunter-gatherer Akie and Hadzabe, and the pastoralist Barabaig and Maasai. Although accurate figures are hard to arrive at since ethnic groups are not included in the population census, population estimates[1] put the Maasai in Tanzania at 430,000, the Datoga group to which the Barabaig belongs at 87,978, the Hadzabe at 1,000[2] and the Akie at 5,268.

While the livelihoods of these groups are diverse, they all share a strong attachment to the land, distinct identities, vulnerability and marginalization. They also experience similar problems in relation to land tenure insecurity, poverty and inadequate political representation. Tanzania voted in favour of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2007 but does not recognize the existence of any Indigenous Peoples in the country and there is no specific national policy or legislation on Indigenous Peoples *per se*. On the contrary, a number of policies, strategies and programmes that do not reflect the interests of the Indigenous Peoples in terms of access to land and natural resources, basic social services and justice are continuously being developed, resulting in a deteriorating and increasingly hostile political environment for both pastoralists and hunter-gatherers.

General observation on 2023

The year 2023 posed a serious challenge for Indigenous Peoples in Tanzania. Their displacement across the country from villages adjacent to Protected Areas (PA)[3] for the exclusive benefit of investment and tourism ventures was observed in different areas. The Indigenous Peoples bordering Serengeti, Ngorongoro Conservation Area

(NCA), Manyara, Tarangire, Arusha, Kilimanjaro, Mkomazi, Ruaha, Mikumi, Nyerere (Selous), Mkungunero, Maswa, Burito-Chato have all been affected by various methods of land grabbing, including the expansion of PA boundaries or the invasion of business and tourism enterprises. This is also accompanied by human rights violations that have been reported in different media, and Indigenous Peoples have witnessed and experienced annexation of their land without their free, prior and informed consent (FPIC) and which, in some cases, resulted in violence and casualties.

Expansion of Loosimingor Forestry Reserve

Monduli is a Maasai district with a total population of 227,585, of which 204,827 are Indigenous Maasai. The district has an area of 6,981 km^2, which is mostly rangelands and farmlands. Monduli is a substantial grazing and forested land with two major forest reserves: Loosimingor and Kaikitet. Both forests are used by the Maasai as grazing areas for dry seasons with rich wildlife populations. However, the forests are also targeted for carbon trading to benefit the central government, which at the same time denies Indigenous pastoralists access to the dry season grazing resources therein.

It was established in 1954 through government Gazette Number 187 (GN187), accounting for 4,649 hectares. The area was later upgraded to a Nature Forest (NF) in 2021/2022. The gazetting and upgrading of the forest area was all done without the FPIC of Indigenous pastoralists and has led to a denial of access to the land for traditional grazing.

The Tanzania Forest Services Agency (TFS) claims to own 6,070 hectares of this grazing area, which is a significant increase in the original 4,649, an area that has encroached by 1,421 hectares onto the ancestral land owned by Indigenous pastoralists. The Loosimingor Nature Forest is of exceptional conservational value as it includes rich biodiversity with endangered flora and fauna, and yet the government allows commercial hunting to take place and the installation of water catchments for both government tourism ambitions and carbon trading schemes, which are paradoxically not as effective or sustainable as traditional pastoralist conservation methods.

Since 2023, hostility between Indigenous Maasai pastoralists and TFS officials has occurred, leading to physical confrontations between

TFS paramilitary forces and Indigenous pastoralists who have been denied access to the forestry resources they used to enjoy and sustainably conserve. The conflict consequently resulted in the pastoralists' loss of property and lives, affecting the 10 villages surrounding LFR – Loosimingor, Makuyuni, Esilale, Baraka, Mungere, Selela, Mbaashi, Losirwa, Makuyuni and Lepurko.

Further, the Indigenous Maasai communities are denied access to their sacred worship sites, the "*Oreteti*". These restrictions have negative consequences for spiritual, environmental and natural resources and fail to respect their culture and customs or freedom to worship.

Traditional Indigenous Maasai Spiritual Leader Olaibon-Loongidong'I, for example, has been denied access to medicinal plants in the forest as a result of TFS-enforcement. Apart from being used by traditional leaders, individuals and families also use the forest resources as a source of medicine and herbs as well for the treatment of different ailments for both humans and livestock. Now that the forest is inaccessible, the Indigenous people of Monduli are denied access to the affordable healthcare products and services offered by the forest that they have relied on and protected for generations. It is well known that the motive behind the upgrade of the community land into a nature forest was also influenced by various factors including investment for tourism activities such as hunting blocks, tented lodges and sites and climate conservation purposes. This includes funding from the Global Environmental Facility (GEF) of more than USD 28 million (approx. EUR 26 million), which has been given to the Tanzania government for conservation of these nature reserves for carbon market investment.

Longido Game Controlled Area

Longido, another Maasai district, has a pastoralist population of 158,324 with an area of 8,064 km^2, of which the Longido Game Controlled Area (LGA) covers 95%. There are processes in motion to upgrade the whole district into a Game Reserve (GR), which would apply even more stringent restrictions on an already restricted pastoralist way of life. Longido has a 21.82 per km^2 population density, meaning the sparse population is increasingly vulnerable to stricter protected area rules that would cover more than 85% of the land being reserved for wet and dry sea-

son grazing. Indigenous Maasai pastoralists are worried about potential land grabbing and increased pressure for them to participate in carbon trading, a move that may place further restrictions on pastoralism.

Simanjiro District

One of the largest Indigenous Maasai pastoralist districts is Simanjiro District, which covers a land area of 19,816 km^2 and has a population of 291,169 people, 262,053 of whom are Maasai pastoralists. This Indigenous Maasai district faces challenges associated with PAs including Tarangire National Park (TNP) and Mkungunero Game Reserve (MGR).

Currently, there are evictions ongoing in Kimotorok village bordering TNP. On 14 December 2023, TNP issued a 21-day notice instructing Kimotorok residents to vacate their homes in a lawfully established village because they had been living in the park. The heading of the notice proclaims the village to be within TNP. At the same time the "vacate notice" accused resident pastoralists of having set up home within the park contrary to the law. Upon expiry of the notice on 5 January 2024, force was used to remove those considered to have illegally entered the park. Conservation paramilitary entered Kimotorok registered village, firing their weapons at people and confiscating livestock, destroying homesteads, and arresting anyone who resisted, taking them into police custody. The village sought legal advice, including bailing out those arrested and filing a case to defend the Kimotorok pastoralists' human, land and resource rights. The case is scheduled for hearing on 6 February 2024 and the government and its institutions are working hard to ensure that the communities drop the case because they know that if the justice system observes the rule of law, namely the legal protection that the Village Land Act No 5 of 1999 provides, then they will not be able to win because the government actions are in contravention of Village Act No 5 of 1999, which legally protects the Masai in the villages. The problem is that individual applicants in the lawsuit are being encouraged to drop the case.

On 21 December 2023, the village government issued a press release explaining the genesis of the 1970s forcible eviction of Indigenous Peoples to establish TNP. Tarangire National Park continues to annex village land into its area without the FPIC of Maasai pastoralists.

Same and Mwanga (Kamwanga) districts

Outside Arusha (Ilarusa) and Manyara (Emanyatta) regions, Indigenous pastoralists are in a minority; however, they remain a unique people. Indigenous Maasai pastoralists occupy villages such as Mindu Tulieni, Kigoda and Msitu wa Swala, among others. Same and Kamwanga districts suffer the same problems. Worse, they are not unified. The impact of Mkomazi National Park on pastoralism affects villages with a majority pastoralist population, including Pangaro, Emugur, Mbuyuni, Jiungeni, Makayo, Alnyasai, Meserani, Ruvu Muungano, Marwa, Gunge, Gonja Msoroba, Pangaro, Karamba Ndeya, Kiria and Mgagao. These pastoralist villages are impacted by Mkomazi National Park, which is having widespread effects on pastoralism in Same and Mwanga districts. This includes the illegal confiscation and auctioning of livestock from village lands adjacent to the park, exorbitant fines of up to TZS 250,000 (approx. EUR 90) levied on pastoralists, bribes given to park rangers of up to TZS 2 million (approx. EUR 715) for each livestock herd that allegedly trespasses into the park, along with the excessive use of force and extrajudicial killings of innocent pastoralists.

Ngorongoro District

There has been conflict in Ngorongoro District over land and natural resource use for years. The conflict is complex, with many stakeholders involved, but the root of the problem is clear – land, tourism and investment do not need the Indigenous Maasai.

Loliondo and Sale divisions- Pololet Game Reserve and Serengeti conflict

Through their village councillors, Indigenous Peoples continue to be pressured by Ngorongoro District councillors to pass German-funded and facilitated legislation to legitimize what has been formulated as the Ngorongoro District Land Use Framework Plan 2023-2043. While all councillors are members of the ruling party, the Maasai councillors refuse to accept the plan. This plan was drawn up by a team of 40 state security councillors and surveyors in late October/November 2022, a

time when many village chairpersons were still in exile in Kenya or in hiding, and village councillors were locked up on remand following the violent evictions in 2022 that were well publicized.[4]

Surveyors were sent to re-survey the villages in Loliondo and Sale. This was done in a very threatening way, and beacons were planted, at least in Ololosokwan village, setting aside zones – outside the stolen land – for exclusive grazing and tourism use. After the legitimate village chairman returned from exile in Kenya, most of these beacons were removed by the local Maasai.

On 29 February and 30 March 2023, meetings were held at the Ngorongoro District Council Hall in Wasso to pressure all local leaders to agree to the Ngorongoro District Land Use Framework Plan 2023-2043. The councillors stood firm and, on 19 May, they unanimously rejected the proposal, which was not just meant to legitimize the already taken Pololet Game Reserve but also extend it to an area next to Lake Natron.

On 10 September, the councillors voted on the same plan again, after being given a Swahili version, which the district government hoped would change their minds. The plan was once again rejected.

Ngorongoro Conservation Area

In an apparent continuation of the effort to promote elite tourism and commercial hunting, the Ngorongoro Conservation Area Authority (NCAA) continued with the narrative of conservation, insisting that the only way to protect the Ngorongoro Conservation Area (NCA) is to remove people from their ancestral lands and to make the pastoralists voluntarily relocate to Msomera, over 500 km from their land. All the while, the government has stopped providing social and humanitarian services and denied access to grazing areas and firewood to people living in Ngorongoro Division where the NCA is located.

Kilimanjaro International Airport

There is evidence that government officials in Arusha and Kilimanjaro defied court orders giving Indigenous pastoralists living on their traditional lands where the Kilimanjaro International Airport (KIA) is located the right to continued occupancy. The Member of Parliament for Hai

District called on the government explain why it is evicting people without their participation.

The government compensated some of the Indigenous Peoples from eight villages who were forced to vacate their ancestral lands without FPIC. The land, estimated to comprise 7,000 hectares of mostly grazing and farmlands, has been earmarked for the expansion of the airport, which is currently occupying around 4,000 hectares. The move will affect more than 20,000 Indigenous Maasai pastoralists and their livestock herds, the same people who originally gave up their ancestral land in the 1970s to establish today's KIA.

A team of 17 Indigenous Peoples' community representatives mobilized to resist the intention of the Tanzania government to grab their land for the KIA; both the Tanzania Civil Aviation Authority (TCAA) and Local Government Authorities (LGAs) supported the government.

Kibaha District

Kigoda village in Kibaha District, Pwani Region is a pure pastoralist village with a territory of 5,000 hectares composed of 376 households with a total population of 803 people. The resident pastoralists, who own a total livestock population of 9,218[5] practise semi-nomadic pastoralism both inside and outside the village during the farming season and after the harvesting season.

The village, today, however, is in crisis as it has found itself in the midst of an increasingly growing urban area that is threatening their traditions, which revolve around individual dignity and respect earned in the community, enhanced by access to and ownership of livestock, grazing land, and related resources.

They are working hard to protect their way of life. Despite managing their land sustainably, neighbouring farming villages are continuously attempting to grab their land and resources.

In response to the various threats, they have started implementing a programme whereby they place the residential homes of young warriors on the village periphery to serve as protection, with a fence marking their boundary, and have established a way of monitoring people entering the forest to harvest forestry resources unsustainably.

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5. The composition of the livestock herd: 4,226 cattle, 4,212 goats and 780 sheep. Initially, they underestimated the market value of sheep and they have now realised how important the sheep herd is. Most households have now started growing their livestock population.

Edward Porokwa *is a lawyer and an Advocate of the High Court of Tanzania. He is currently the Executive Director of Pastoralists Indigenous NGOs Forum (PINGO's Forum), an umbrella organization for pastoralists and hunter-gatherers in Tanzania. He holds a Bachelor's Degree in Law (LLB Hon) from the University of Dar es Salaam and a Master's Degree in Business Administration (MBA) from ESAMI/Maastricht School of Management. He has 15 years' experience of working with Indigenous Peoples' organizations in the areas of human rights advocacy, policy analysis, constitutional issues and climate change.*

Tunisia

As elsewhere in North Africa, the Indigenous population of Tunisia is formed of the Amazigh. There are no official statistics on their number in the country but Amazigh associations estimate there to be around 1 million Tamazight speakers, accounting for some 10% of the total population. Tunisia is the country in which the Amazigh have suffered the greatest forced Arabization. This explains the low proportion of Tamazight speakers in the country. There are, however, increasing numbers of Tunisians who, despite no longer being able to speak Tamazight, still consider themselves Amazigh rather than Arabs.

The Amazigh of Tunisia are spread throughout all of the country's regions, from Azemour and Sejnane in the north to Tittawin (Tataouine) in the south, passing through El-Kef, Thala, Siliana, Gafsa, Gabès, Matmata, Tozeur, and Djerba. As elsewhere in North Africa, many of Tunisia's Amazigh have left their mountains and deserts to seek work in the cities and abroad. There are thus a large number of Amazigh in Tunis, where they live in the city's different neighbourhoods, particularly the old town (Medina), working primarily in skilled crafts and petty trade. The Indigenous Amazigh population can be distinguished not only by their language but also by their culture (traditional dress, music, cooking and Ibadite religion practised by the Amazigh of Djerba).

Since the 2011 "revolution", numerous Amazigh cultural associations have emerged with the aim of achieving recognition and use of the Amazigh language and culture. The Tunisian state does not, however, recognize the existence of the country's Amazigh population. Parliament adopted a new Constitution in 2014 that totally obscures the country's Amazigh (historical, cultural and linguistic) dimensions. The Constitution refers only to the Tunisians' sources of "Arab and Muslim identity" and expressly affirms Tunisia's membership of the "culture and civilization of the Arab and Muslim nation". It commits the state to working to strengthen "the Maghreb union as a stage towards achieving Arab unity [...]". Article 1 goes on to reaffirm that "Tunisia is a free state, [...], Islam is its religion, Arabic its

language" while Article 5 confirms that "the Tunisian Republic forms part of the Arab Maghreb". The new Tunisian Constitution, adopted in July 2022, proclaims that "Tunisia constitutes a part of the Islamic nation" (article 5), that "Tunisia constitutes a part of the Arab nation and that the official language is Arabic" (article 6) and that "the Tunisian Republic constitutes a part of the Greater Arab Maghreb" (article 7). Article 44 stipulates that "the State shall ensure that the younger generations are rooted in their Arab and Islamic identity and their national belonging. It shall ensure the consolidation, promotion and generalization of the Arabic language". Tunisia makes no reference to its Indigenous Amazigh history, nor does it recognize the country's human, linguistic and cultural diversity.

On an international level, Tunisia has ratified the main international standards and voted in favour of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2007. These international texts remain unknown to the vast majority of citizens and legal professionals, however, and are not applied in domestic courts.

Tunisia mired in crisis and unable to meet its people's expectations

After the political crisis of 2020/2021 and the dissolution of the Tunisian parliament in 2021 by the new president, a new "assembly of people's representatives" was elected in January 2023, on the back of a very low voter turnout (11%).[1] There are no Indigenous representatives in this new parliament.

In December 2023, Tunisia will hold elections for local councils that will then elect "regional councils" which will, in turn, appoint "district councils". These latter will form the "Supreme Council of Regions and Districts", which will make up the second chamber of parliament provided for in the 2022 Constitution. The turnout for this election was less than 12%.[2] There is no provision for Indigenous representation in this assembly of the country's regions.

In the midst of a general crisis (institutional, political, economic and social) that has been ongoing since the "revolution" of 2011, Tunisia remains incapable of listening to or meeting the aspirations of the Tunisian people let alone those of the Indigenous community.

Tunisian President makes racist remarks and reaffirms Tunisia's Arab-Islamic identity

At a meeting of the National Security Council on 21 February 2023, Tunisian President Kais Saied insisted on "the need to put a rapid end to immigration" on the part of sub-Saharan Africans, which he said was aimed at "creating a solely African country in Tunisia and not one that is a member of the Arab and Islamic nation". In reality, it is not just sub-Saharan Africans who are being targeted but anyone who does not proclaim to be Arab and Muslim, including the Amazigh. "As long as Amazigh speak Arabic and declare themselves to be of the Islamic faith, they are treated like other Tunisians, but as soon as they want to express themselves in their own language or give Amazigh names to their children, they are considered enemies, dangers to national unity," says H.S., a member of the Tisuraf Association for Amazigh Rights in Tunisia. He adds: "The Constitution ignores us, we are dispossessed of everything and discriminated against, denied our most basic rights. What can we do?" In fact, even anti-racist and human rights organizations hardly ever mention the Amazigh question in Tunisia.

Follow-up to UN recommendations

Over the past 20 years, the Tunisian government has failed to implement any of the recommendations made by UN treaty bodies concerning Indigenous Peoples. The Committee on the Elimination of Racial Discrimination in 2009 and the Committee on Economic, Social and Cultural Rights in 2016, together with the Committee on the Rights of the Child, have all recommended that the State recognize the language and culture of the Amazigh Indigenous people and ensure their protection and promotion. They have also asked the State to collect, on the basis of self-identification, statistics broken down by ethnic and cultur-

al affiliation, to take administrative and legislative measures to ensure the teaching of the Amazigh language at all school levels and encourage a knowledge of Amazigh history and culture, and to facilitate the smooth running of cultural activities organized by Amazigh cultural associations.

In 2022, the Universal Periodic Review (UPR) process endorsed the recommendations of the treaty bodies, calling in particular for Amazigh children to have access to bilingual education that respects their culture and traditions, notably by including Amazigh as a second language at school, and for measures to be taken – in cooperation with Amazigh cultural associations – to promote and raise awareness of Amazigh cultural practices.[3] To date, none of these recommendations have been acted upon.

Land tenure in Tunisia and Indigenous rights

Almost all studies and research on land issues in Tunisia ignore the land rights of the country's Indigenous Amazigh, as if this territory were untouched by human presence prior to foreign occupation. And yet the long wars waged by Amazigh kings,[4] particularly against the Roman Empire (3rd century BC), clearly demonstrate the existence of an Indigenous Amazigh society in North Africa, and particularly in Tunisia. There is also very little information on the political and social organization of the Indigenous Amazigh of Tunisia.

Throughout Tunisia's history, its land has been subject to foreign legislation, naturally in favour of non-natives and to the detriment of natives.[5]

Until the establishment of the French Protectorate in Tunisia in 1881, the Tunisian land tenure system consisted of individual private property (*Melk*), collective land belonging to the mainly Indigenous Amazigh tribes (Archs), Muslim religious land (Habous) and State land, which was previously collective land confiscated from the tribes. As in other North African countries, collective lands belong to the Indigenous tribes who use them, without any possibility of transfer or alienation.

As soon as the French Protectorate was established, a decree was published on 1 July 1885 to "enable Europeans to easily acquire land and thus participate in the agricultural colonization of the country".[6]

Other decrees published in 1893, 1896, 1898, 1903 and 1905 meant that settlers owned nearly a million hectares by 1910.[7] With the decree of 1935, the colonial administration established direct State control over collective lands, dispossessing the populations living on these lands of their right of ownership. The application of this legislation also led to the creation of institutions designed to ensure the durability of the new land tenure system, such as the Real Estate Tribunal, which is the competent legal authority in land and real estate matters, the Land Property Register, which is responsible for registering and archiving property deeds, and the Topographic and Cadastre Office of Tunisia (TCO) , which is responsible for demarcating and drawing up the plans of registered land.

The 1885 land tenure system remained in place until 1956 (date of Tunisia's independence) and is still reflected in Tunisia's current land tenure system. After independence, the Tunisian state reclaimed the land held by French colonialists (law of 12 May 1964)[8] as well as *Habous* lands but continues to use the French colonial legal arsenal to pursue the expropriation of Amazigh tribes and the partial dismemberment of collective lands with the aim of privatizing them and bringing them into the land transaction market.

Since Tunisia does not recognize the Amazigh as an Indigenous people of the country, it does not recognize them any specific rights of any kind. No Tunisian legal text refers to or recognizes Amazigh rights to their collective ancestral lands. Despite repeated requests from UN treaty bodies since 2003 (CERD/C/62/CO/10), the Tunisian government has never provided any information concerning the country's demographic composition. As a result, the Amazigh people of this country are simply ignored and robbed of their lands, territories and natural resources by the State. The State has sold or conceded part of the Amazigh lands to private investors, and continues to exploit part of these lands itself. This is particularly true of mining areas, which are operated by public or private companies under the aegis of the government-controlled National Mines Office without any benefits being paid to local Indigenous communities. Land policies in Tunisia have always been designed and managed without any consultation with the Indigenous communities, and even to their detriment.

As a result, the Amazigh are among the poorest in the country, which has resulted in their exodus to Tunisian cities, where they take the lowest-paid jobs and are losing their language and culture. In addition,

their dislocation from collective land ownership and its privatization has led to a deterioration in values such as mutual aid and community solidarity, and a loss of knowledge and traditional sustainable development practices.

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Belkacem Lounes *is a doctor of Economics, university teacher (Grenoble Alpes University), former expert member of the Working Group on Indigenous Populations/Communities in Africa of the African Commission on Human and Peoples' Rights (2016-2021), member of the UN Expert Mechanism on the Rights of Indigenous Peoples (2018-2020), author of numerous reports and articles on Amazigh and Indigenous rights.*

Uganda

SOUTH SUDAN
DEMOCRATIC REPUBLIC OF THE CONGO
UGANDA
Kampala
KENYA
LAKE VICTORIA
RWANDA
TANZANIA

Indigenous Peoples in Uganda include former hunter-gatherer communities such as the Benet and the Batwa. They also include minority groups such as the Ik, the Karamojong and Basongora pastoralists, who are not recognized specifically as Indigenous Peoples by the government.

The Benet, who number slightly over 8,500, live in the north-eastern part of Uganda. The 6,700 or so Batwa live primarily in the south-western region and were dispossessed of their ancestral land when Bwindi and Mgahinga forests were gazetted as national parks in 1991.[1] The Ik number some 13,939 and live on the edge of the Karamoja/Turkana region along the Uganda/Kenya border. The Karamojong people – whose economy is traditionally based on livestock – live in the north-east of the country (mainly drylands) and have an estimated population of 1,094,100 according to a mid-2018 estimate by the Uganda Bureau of Statistics. The Basongora number around 15,000 people and are a cattle-herding community living in the lowlands adjacent to Mt. Rwenzori in Western Uganda.

All these communities have a common experience of State-induced landlessness and historical injustices caused by the creation of conservation areas in Uganda, in addition to mining interests in the case of Karamoja. They have experienced various human rights violations, including continued forced evictions and/or exclusions from ancestral lands without community consultation, consent or adequate (if any) compensation. Other violations include violence and destruction of homes and property, including livestock and denial of their means of subsistence and of their cultural and religious life through their exclusion from ancestral lands and natural resources. All these violations have resulted in their continued impoverishment, social and political exploitation and marginalization.

The 1995 Constitution offers no express protection for Indigenous Peoples but article 32 places a mandatory duty on the State to take affirmative action in favour of groups that have been historically disadvantaged and discriminated against. This provision, which was initially designed and en-

visaged to deal with the historical disadvantages of children, people with disabilities and women, is the basic legal source of affirmative action in favour of Indigenous Peoples in Uganda.[3] The Land Act of 1998 and the *National Environment Statute* of 1995 protect customary interests in land and traditional uses of forests. However, these laws also authorize the government to exclude human activities in any forest area by declaring it a protected area, thus nullifying the customary land rights of Indigenous Peoples.[4]

Uganda has never ratified ILO Convention No. 169, which guarantees the rights of Indigenous and tribal peoples in independent states, and it was absent from the voting on the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2007.

Situation of the Benet people

The Mosopisyek Benet people, also referred to as Ndorobo, have inhabited Mount Elgon for over 500 years. Without any prior or informed consent, the area was declared a protected area[5] as far back as 1920, and the community has faced challenges ever since. Between October 2022 and November 2023, the Uganda Wildlife Authority (UWA) carried out frequent raids on the community, destroying homes and farms and impounding animals, depriving the community of their means of livelihood. In that period, 96 houses were burnt down, 33 houses destroyed, 70 community members arrested, and 1,295 animals impounded.[6] In addition, more than eight acres of crops planted by community members were destroyed as well as granaries. This has exposed the community to food insecurity.

On 24 May 2023, the Office of the Prime Minister issued a directive ordering the UWA to cease evictions and raids on the community.[7] And yet despite this directive, UWA officers have continued to inflict severe pain and suffering on community members as punishment for lawsuits previously filed against the UWA. During the first week of June 2023, UWA agents arbitrarily arrested more than 30 community members, accusing them of having encroached onto the national park.

On 25 April 2023, UWA carried out the demolition of houses and destruction of crops in Kaptorokwo village, Ligil parish, Benet sub-county; in Kapnoibei village, Teriet parish, Kwoti sub-county, in Kapchorwa district; and in Kital village, Cheberen parish, Kaseko sub-county, Kween district.[8] All these areas were well within the boundaries of the land that had previously been agreed with the authorities for the community to live on but which the UWA are now disputing.[9] Women and children were disproportionately affected in this process since they were left without shelter during the rainy season.

The impounding of animals purportedly grazing in the protected area, the burning of houses and extortion of money from community members is ongoing. And those who advocate for the rights of the Mosopisyek Benet are harassed and risk being arbitrarily arrested. On 6 September 2023, three cows were shot by the UWA in Bukwo district. One of them died and the other two had to undergo treatment. This incident followed the herdsman having to flee from his ancestral home, leaving the cows unattended. Further, on 10 February 2023, a 45-year old man was shot dead by rangers who had found him collecting firewood in Mt Elgon forest.

Benet Mosop Community Association (BMCA) leaders have been targeted by the UWA for mobilizing the community against the brutality. Officials from the Ministry of Tourism, which is the parent ministry of the UWA, have requested that BMCA submit the minutes and attendance lists of past meetings. On 24 April 2023, one community leader received threats to his life from the UWA. On 12 July 2023, BMCA's offices in Kween district were broken into and a desktop, a power stabilizer and some documents were stolen by persons unknown. The raid was reported to the police but the culprit has not been identified to date.

On 16 October 2023, three people (Toskin Fred, 52 years; Walter Kibet, 15 years; and Nicholus Kibet, 33 years) were shot by UWA agents in Kapsekek, Chekwasta sub-county, Bukwo district while grazing their herds, as reported by Uganda Broadcasting Corporation Radio.[10]

On 6 November 2023, Tiyoy Moses, a 34-year-old man from Kostoy village, Mengia parish, Benet sub-county, Kween district, was shot while grazing his herd on ancestral land by a UWA agent named Kiprotich Simon, attached to Piswa station.[11] The two other community members (Cheboyi Wycliffe and Boyi David) he was with were arrested and taken to Kween Central Police Station.

Finally, during 2023, the government floated the idea of resettling the Benet to Kyangwali and Nakivale refugee settlements, both in western Uganda, but the community vehemently refused to go since they were not ready to be refugees in their own country.

Overview of the future

If the events of late 2023 are anything to go by, the future of Benet land rights looks bleak. The authority has continued to impound livestock, charging a hefty USD 14 (approx. EUR 13) for any animal considered to have trespassed onto the protected territory. The year ended with the government being unclear as to the demarcation of boundaries. We say unclear because there have been so many "lines" denoting the demarcation, with all sorts of names, that the community no longer believes that the so-called "black line" now being pursued will solve the problem or otherwise bring consensus between the community and the UWA. We hope that the development organizations supporting the UWA will come to realize that they are supporting an organization involved in gross human rights violations and will call upon it to stop doing so.

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We normally report on the situation not just of the Benet people but also of the Batwa people and the peoples living in the Karamoja region but we were not able to do so for this 2024 edition.

Benjamin Mutambukah *was formerly the Coordinator of the Coalition of Pastoralist Civil Society Organizations in Uganda and Chair of the Eastern and Southern African Pastoralists Network (ESAPN). He is currently ESAPN Coordinator and continues to represent the network on the Global Steering Committee of the World Alliance of Mobile Indigenous Peoples (WAMIP). He is passionate about matters of human rights for marginalized communities. Email: benjamuta@gmail.com.*

Chebet Mungech *is the Coordinator of the Benet Lobby Group, a local Non-Governmental Organization that works with all Benet/Mosopishek, other Sabiny-speaking people and stakeholders to achieve a Benet community that is socially, politically and economically sustainable and empowered. Contact information: +256 779-233-078, Email: Mungech@gmail.com.*

Yesho Alex *is the Chair of Elgon Benet Indigenous Ogiek (MEBIO). Contact information: arapsamsonyeshoalex@gmail.com.*

CONTENTS

Zimbabwe

The Republic of Zimbabwe celebrated its 43rd year of Independence in 2023. While the Government of Zimbabwe does not recognize any specific groups as Indigenous to the country, two peoples self-identify as such: the Tshwa (Tjwa, Cua) San found in western Zimbabwe, and the Doma (Vadema, Tembomvura) of Mbire District in north-central Zimbabwe. Population estimates indicate that there are 3,207 Tshwa and 1,579 Doma in Zimbabwe, representing approximately 0.0031% of the country's population of 15,418,764 in 2023. The government uses the term "marginalized communities" when referring to such groups.

Many of the Tshwa and Doma live below the poverty line in Zimbabwe and together they comprise some of the poorest people in the country. Socio-economic data is limited for both groups, although a survey was done of the Doma in 2021. Both the Tshwa and Doma have histories of hunting and gathering, and their households now have diversified economies, including informal agricultural work for other groups, pastoralism, mining, small-scale business enterprises, and working in the tourism industry. Remittances from relatives and friends both inside and outside the country make up a small proportion of the total incomes of the Tshwa and Doma. As is the case with other Zimbabweans, small numbers of Tshwa and Doma have emigrated to other countries in search of income-generating opportunities, employment, and greater social security.

The realization of core human rights in Zimbabwe continues to be challenging. Zimbabwe is party to the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), Convention on the Rights of the Child (CRC), Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), International Covenant on Civil and Political Rights (ICCPR) and International Covenant on Economic, Social and Cultural Rights (ICESCR). Reporting on these conventions is largely overdue but there were efforts in 2023 to meet some of the conventions' requirements. Zimbabwe also voted for the adoption of the UNDRIP in 2007. Zimbabwe has not signed the only international human rights convention

addressing Indigenous Peoples: ILO Convention 169 on Indigenous and Tribal Peoples of 1989. The government has indicated its wish to expand its programmes and service delivery to marginalized communities but there are no specific laws on Indigenous Peoples' rights in Zimbabwe. However, the "Koisan" language is included in Zimbabwe's 2013 revised Constitution as one of the 16 languages recognized in the country, and there is some awareness within government of the need for more information and improved approaches to poverty alleviation and improvement in the well-being of minorities and marginalized communities. Work was done on the Tjwao language by the Tsoro-o-tso San Development Trust in 2023. Zimbabwe also participated in the 22nd annual meetings of the UN Permanent Forum on Indigenous Issues (UNPFII) in New York from 17-28 April 2023.

Political landscape

The marginalized communities in Zimbabwe, including the Tshwa and the Doma, have not benefitted from the land reform programme that Zimbabwe has initiated. There were no land distributions in 2023 that went to Tshwa or Doma. Government budgets were expended mainly on services and infrastructure. While a relatively optimistic view of the state of the Zimbabwe economy was presented by President Emmerson Mnangagwa in his State of the Nation Address on 3 October 2023,[1] the country continued to deteriorate economically, socially, and politically. The number of Zimbabweans whose livelihoods have become more difficult increased in 2023, both in rural and urban areas. Income levels of Tshwa and Doma dropped by 17-20%, according to the Zimbabwe Human Rights Commission and the Tsoro-o-tso San Development Trust.[2]

The ruling party (the Zimbabwe African National Union – Patriotic Front, ZANU-PF) continued its crackdown on dissidents, and numerous journalists and members of non-governmental organizations were detained, arrested, and jailed. Demonstrations against the Mnangagwa

government continued and even intensified in the run-up to the elections on 27 August 2023. Particular concerns were voiced about the honesty of the elections.

Land rights, reforms and area management

Land rights continued to be a central concern of Indigenous and marginalized communities in Zimbabwe in 2023. The Fast Track Land Reform Programme did not have as many positive benefits as anticipated for marginalized communities throughout the year. There were also complaints about the ways in which the land reform programmes were affecting women, the poor, and minorities.[3] Particular concerns were expressed about the Fast Track Land Reform Programme.[4]

There were evictions from land declared as mines in Tsholotsho North and Tsholotsho South, two districts where the Tshwa are located.[5] Tshwa employees in some of the mines found themselves out of work as the ownership of the gold, diamond, and platinum mines changed hands from government-owned to privately-owned. Artisanal mining continued to be practised in western Zimbabwe, with health and other effects on miners being ongoing problems.

Conversely, one programme in which both the Tshwa and Doma benefitted, at least to some extent, was the Communal Areas Management Programme for Indigenous Resources (CAMPFIRE). CAMPFIRE-related activities were ongoing in 2023 in Tsholotsho and Bulalimamangwe districts where the Tshwa reside, and in Mbire District in north-central Zimbabwe where the Doma reside. Tshwa and Doma both said in interviews that, while they appreciated the CAMPFIRE programme, they felt that individuals should receive direct cash benefits instead of the Rural Development Councils getting to use the funds for their own purposes.

Declining food security

The nutritional status of both Tshwa and Doma deteriorated in 2023, due in part to rising prices caused by international events such as the Ukraine-Russia War and the slowing of shipping through the Red Sea

and Indian Ocean as well as internal economic problems. The Zimbabwe Human Rights Commission and the International Federation of Red Cross and Red Crescent Societies both noted problems in the availability of food in Zimbabwe.[6] The water development efforts – including the drilling of boreholes – did not offset the problems of access to water in Tsholotsho to any significant degree. A number of Tshwa and Doma said that their livelihoods were deteriorating in 2023, due in part to drought and other climatic processes and the economic downturn in Zimbabwe's economy.

Human-wildlife conflicts

Human-wildlife conflicts affected Indigenous and minority populations in western and central Zimbabwe in 2023. There were problems with elephants, in particular, which were destroying water points and crops. The Indigenous and minority groups were hopeful that changes in government legislation on wildlife conservation would be to their benefit, including compensation payments for livestock and crop losses as part of a newly-proposed Human-Wildlife Conflict Relief Fund mentioned by President Mnangagwa in his State of the Nation report for 2023.[7] The relief fund was only recently set up in 2023 but no benefits were provided to Tshwa or Doma for livestock losses to predators during this year.

Participation at international and regional events

Zimbabwe attended the COP 28 UN Climate Change Conference in Dubai from 30 November to 10 December 2023. Zimbabwean non-government organizations that attended the climate change meeting noted the impacts of climate change on Zimbabwe, which they said were particularly problematic because of its land-locked position and the variations in precipitation that were occurring there.

A Tshwa representative attended a conference on minority youth held in Windhoek, Namibia in November 2023. A few Zimbabweans attended a UNESCO-sponsored meeting on Cultural Heritage held in December in Kasane, Botswana. Tshwa pointed out that the cultural heritage of the people residing in Matabeleland North and Matabele-

land South provinces was important, and included rock art and ancestral Tshwa sites which they hoped tourists would visit as the numbers picked up again after the end of the COVID-19-related decline in tourism. Indigenous women were able to generate some additional income through craft sales to the expanded number of tourists in 2023.

Conclusions

Indigenous Peoples in Zimbabwe felt that they were worse off in 2023 than they had been previously. Much of the country's attention was captured by the August 2023 elections. Statements about how marginalized communities were going to be served more effectively by the President and his cabinet turned out to be mainly lip service aimed at obtaining votes. At the same time, the poorest of the poor Indigenous and marginalized community members believed that they were worse off, especially in terms of land access, employment, and income.

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Davy Ndlovu *is the director of the Tsoro-o-tso San Development Trust (TSDT) in Bulawayo, mdavydavy@gmail.com*

Benjamin Begbie-Clench *is a freelance consultant who has worked extensively on San issues throughout Southern Africa, benbegbie@gmail.com*

Robert K. Hitchcock *is an anthropology professor at the University of New Mexico and a member of the Board of the Kalahari Peoples Fund, rkhitchcock@gmail.com*

Melinda C. Kelly *works with the Kalahari Peoples Fund and does research with San peoples in Zimbabwe, Botswana, Namibia, and South Africa, melindackelly@gmail.com*

Asia

Bangladesh

Bangladesh is a country of cultural and ethnic diversity, with over 54 Indigenous Peoples speaking at least 35 languages, along with the majority Bengali population. According to the 2022 census, the country's Indigenous population numbers approximately 1,650,478[1] which represents 1% of the total population. Indigenous Peoples in the country, however, claim that their population stands at some 4 million.[2] The majority of the Indigenous population lives in the plains districts of the country,[3] and the rest in the Chittagong Hill Tracts (CHT).

The state does not recognise Indigenous Peoples as "Indigenous". Nevertheless, since the 15th amendment of the constitution, adopted in 2011, people with distinct ethnic identities beyond the Bengali population are now mentioned.[4] Yet only cultural aspects are mentioned, whereas major issues related to Indigenous Peoples' economic and political rights, not least their land rights, remain ignored.

The CHT Accord of 1997 was a constructive agreement between Indigenous Peoples and the Government of Bangladesh intended to resolve key issues and points of contention. It set up a special administrative system in the region. Twenty-seven years on, the major issues of the accord, including making the CHT Land Commission functional, orchestrating a devolution of power and function to the CHT's institutions, preserving "tribal" area characteristics of the CHT region, demilitarisation and the rehabilitation of internally displaced people, remain unsettled.

Yet another distressing year for land rights

The situation of the land rights of Indigenous Peoples remained distressing throughout the year. Indigenous Peoples in different parts of the CHT and the plains fell victim to different forms of human rights violations centred on land. A report from the Parbatya Chattagram Jana Samhati Samiti (PCJSS) – a political party formed to represent Indigenous Peoples in the CHT – recorded 24 incidents in

the CHT where Indigenous Peoples survived attacks and land-grabbing attempts.[5] Over 200 Indigenous persons suffered from different forms of human rights violations in these incidents, including six people killed, 18 Indigenous homes set on fire and attempts to forcibly occupy Indigenous Peoples' lands. The report identifies the perpetrators as "communal and fundamentalist groups, Muslim Bengali settlers and land grabbers". A report from Hill Voice claimed that several such incidents were backed by members of state security forces.[6]

In several plains districts, families belonging to diverse Indigenous Peoples experienced land-related violence as well. A report from Kapaeeng Foundation claims that at least 17 Indigenous Peoples' land rights incidents occurred in 2023.[7] The report alleges that local (politically, socially and economically) influential Bengali persons are the perpetrators of these incidents. Several of these incidents include ongoing violence experienced by the Khasi villagers of several *punjis* (villages) from people (e.g. owners and staff) associated with several tea estates. This trend of using violence against Khasi villagers has been continuing for over a decade.

The CHT Land Dispute Settlement Commission Act was formulated in 2001 and, later, a dispute resolution commission was formed to resolve land-related disputes in the CHT. However, this commission has failed to settle a single dispute to date due to the lack of authority and resources it requires. In the plains, no such safeguard mechanism exists, so a land commission for the plains has been a long-standing demand of the Indigenous Peoples. This demand, however, is yet to be realised by the government.

Violence continues toward Indigenous villagers in Lama

Lama Rubber Industries Ltd. continued its attempts in 2023 to forcibly evict Indigenous Mro and Tripura villagers of Langkom Karbari Para, Joychandra Karbari Para and Rengyen Karbari Para in Lama of Bandarban. Following a trend from the previous year,[8] the company hired over 150 agitators to carry out a violent attack on the villagers of Rengyen Karbari Para in the early hours of 2 January 2023.[9] The attackers burnt down, vandalised and plundered at least nine homes in this village.[10]

Since April 2022, when an intensification of attacks began, at least 11 efforts at forcible eviction have taken place, which include violent attacks, attempts to kill local leaders, arson, demolition and looting of homes and temples, destruction of farms and orchards, fabricated charges and poisoning of a water source of the villagers.[11] Although the National Human Rights Commission and the district administration of Bandarban made on-site visits following the 2 January incident,[12] villagers continue to live in fear of violence and eviction. During the visit, the district administration offered monetary compensation to the victims. The victims rejected the compensation, however, claiming that they wanted their ancestral lands back, not compensation.

Border road project causes devastation in the CHT

A massive border road project, stretching 1,036 km along international borders and across different parts of the CHT[13] has caused serious threats to the land rights of various Indigenous and non-Indigenous communities. Hundreds of families have been uprooted or negatively affected so far due to this project, with more set to suffer in the future as the implementation continues.[14]

The implementation of the border road project started on 1 January 2018 and the first phase was approved by the Executive Committee of the National Economic Council (ECNEC) in March 2018.[15] The border road project, covering the 330-km-long international border of the CHT with India and Myanmar, along with several roads across the CHT connecting to the border road, is aimed at improving road connectivity in the CHT, enhancing border surveillance, increased patrolling of remote areas, and developing trade and tourism.[16] A major objective in this regard is to strengthen surveillance and control over insurgents and weapons smugglers active in the CHT.[17] With the approved budget of BDT 3,860.82 cores (EUR 327.62 million), the construction of the project is being led by the Army Corps of Engineers.[18]

This border project has been rapidly changing the landscape of some of the hitherto remote and untouched parts of the CHT, whose natural environment and biodiversity were very rich compared to most areas of the country. While there is no estimate of the damage to the natural environment as yet, the project's effects on local human habita-

tions have been disastrous so far. A report estimates that approximately 1,500 families will be either uprooted or otherwise seriously affected as a result of this project.[19] In the areas where the project is ongoing or has been completed, several hundred families have already experienced the disastrous impact of this project, as manifested in the loss of access to their homes, farms, orchards, plantations, fish ponds, schools, temples, and mosques.[20]

While the state authorities in question have violated the free, prior and informed consent of Indigenous Peoples in this regard, there are allegations of the use of force and intimidation against Indigenous Peoples by state forces.[21] In many areas where the project has been or is being implemented, lands are owned and used by Indigenous Peoples following customary land management systems. However, the state representatives are claiming many such lands to be *khas* (State-owned) and even intimidating the local headmen[22] to acknowledge them as such.[23]

Despite such a volume of devastation caused by the project, the plan for compensation and rehabilitation of the victim families is insufficient and ambiguous. The ECNEC's project approval paper mentions the plan to acquire 101.12 acres of land and a budget of BDT 137.15 crores (EUR 11.64 million) for this purpose.[24] However, there is no clear directive on how the land would be acquired or how the compensation and rehabilitation process would take place. While the paper completely neglects the historical complexities around land ownership and management in the CHT, this ambiguity in land acquisition has already aggravated the sufferings of the affected families. Many have either not received any compensation or have received a trivial amount compared to the volume of the damages they have experienced.[25]

4th Universal Periodic Review

In November 2023, Bangladesh was reviewed for the 4th time by the UPR Working Group in Geneva during the 44th session of the UN Human Rights Council. Law, Justice and Parliamentary Affairs Minister, Mr. Anisul Huq, attended the review session on behalf of the Bangladesh government and led the government delegation.

At least 115 Member States joined the Bangladesh UPR session

and put forward recommendations targeting different human rights issues. Some of the recommendations were directly relevant to the country's Indigenous Peoples. For example, Denmark suggested announcing a time-bound roadmap for full implementation of the Chittagong Hill Tracts (CHT) Accord of 1997.

Other relevant recommendations included ratification of ILO Convention 169 (Mexico); recognition of the ethnic identity of Indigenous Peoples (Germany); ensuring the political participation of Indigenous Peoples (Costa Rica); ensuring the rights of marginalised peoples, including Indigenous communities; and ensuring the rights of ethnic and religious minorities and their respective religious freedom (Romania, Slovenia, Turkmenistan, Barbados, Cameroon, Ethiopia, France, Italy, Kenya, Republic of Korea). Recommendations on various cross-cutting issues, including religious freedom; torture, harassment, criminalisation, safety and security of human rights defenders; freedom of speech; violence against women and girls; shrinking civic spaces; and free, fair and participatory national election, etc. were also made by UN Member States.

Previous reviews of Bangladesh's human rights record took place in 2009, 2013 and 2018. Unfortunately, as yet, the recommendations previously made by UN Member States to the Government of Bangladesh during these four UPR sessions have not been fulfilled.

The National Population and Housing Census 2022 (Published 2023)

The Population and Housing Census is regarded as the most significant and largest statistical activity in most countries of the world, including Bangladesh. Following Bangladesh's independence, the Bangladesh Bureau of Statistics (BBS) conducted the first Population and Housing Census in 1974. Since then, BBS has conducted six censuses, one every ten years. BBS completed the 6th and first-ever digital Population and Housing Census over the period 15-21 June 2022. However, due to a sudden flash flood, the data collection period was extended to 28 June in Sylhet, Sunamganj, Moulvibazar and Netrokona districts, following the international protocols of census.

According to the full census report, published in 2023, the total

population of Indigenous Peoples in Bangladesh is 1,650,478,[26] which accounts for 1% of the total population.[27] However, the Bangladesh Indigenous Peoples Forum (BIPF) estimates that Indigenous Peoples actually number more than 4 million people in the country. It is believed that the actual figure for the Indigenous population is not accurate in the national census due to the negligence of government field workers given that most Indigenous Peoples live in remote places, and field workers do not want to go there and collect data. As a result, the actual data on Indigenous Peoples remains undisclosed. This indicates that, by excluding the Indigenous Peoples from the official statistics, the government is playing a political game with them to hide their identity, deny their existence, and deprive them of government facilities.

On a positive note, the 2022 census was the first census in which data on Indigenous Peoples (Ethnic Minorities) was disaggregated by ethnicity. This happened for the first time due to the continued lobbying and advocacy of Indigenous Peoples with policymakers and the government.

ILO Convention 107

Progress in the International Labour Organization's (ILO) Conventions is regularly assessed by the Committee of Experts on the Application of Conventions and Recommendations (CEACR), an independent body composed of legal experts who examine the application of ILO Conventions and Recommendations by ILO Member States. Bangladesh ratified ILO Convention 107 in 1972. As a party to ILO Convention 107 on Indigenous and Tribal Populations, Bangladesh is supposed to submit progress reports periodically to the CEACR. Based on the country report, the CEACR then makes observations and informs the party to the Convention. The Government of Bangladesh did not submit a report in the last periodic cycle. However, a government delegation attended the 111th International Labour Conference Session in 2023 where observations were published.

Regarding Article 2 of the Convention and implementation of the 1997 CHT Peace Accord, the CEACR requested that the government continue taking the necessary measures to fully implement the 1997 Accord and continue to provide information in this respect, including on

the sections of the agreement pending implementation and the difficulties encountered in this regard.[28]

Further, regarding Article 3 of the Convention – protection of Indigenous persons – the CEACR recalled the importance of ensuring an environment conducive to the full exercise of the rights of Indigenous and tribal populations. The CEACR urged the government:

> *to take the necessary measures to protect the physical integrity of persons belonging to [I]ndigenous communities, including of those living in the Chittagong Hill Tracts, and to address the root causes of violence in the areas they inhabit. It also requests the Government to conduct, as a matter of urgency, thorough investigations of reported cases of intimidation, violence, including sexual violence, and disappearance of persons belonging to [I]ndigenous communities and to ensure that perpetrators are identified, prosecuted and punished. The Committee requests the Government to provide detailed information in this respect.*[29]

The Committee also made observations on different issues, including:

> *The Committee urges the Government to take the necessary measures to ensure the effective recognition and protection of the rights of [I]ndigenous communities over the land they have traditionally occupied, both in the Chittagong Hill Tracts and the plains. ... The Committee hopes that the amendments to the Chittagong Hill Tracts Land Dispute Resolution Commission Act will contribute to the resolution of existing land- related conflicts in the Chittagong Hill Tracts and requests the Government to provide concrete information in this regard. Finally, the Committee requests the Government to provide information on the progress made towards the adoption of a land policy and the establishment of a land commission for [I]ndigenous communities in the plains, as envisaged by the Eighth Five Year Plan.*[30]

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***Pallab Chakma**, Executive Director, Kapaeeng Foundation.*
Email: pallab.juju@gmail.com

***Bablu Chakma** is a human rights defender.*
Email: bablu_du2004@yahoo.com

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Bedouin in the Negev/Naqab

Israel's Arab Bedouin citizens are Indigenous to the Negev (Naqab, in Arabic) desert, where they have lived for centuries as a semi-nomadic people, long before the establishment of the State of Israel in 1948. Members of the Bedouin community are an integral part of the Arab Palestinian minority, as well as citizens of the State of Israel. Combining herding with agriculture, they are settled in villages linked by kinship (tribes) systems, and this has largely determined land ownership.

During the early 1950s and until 1966, Israel concentrated the Bedouin in a restricted area, known by the name of "al-Siyāj", under military administration, representing only around 10% of their original ancestral land. Today, some 300,000 Bedouin citizens of Israel live in the Naqab, in three types of location: government-planned townships, recognized villages, and unrecognized villages.[1]

There are 35 unrecognized Bedouin villages in the Naqab, which Israel refers to either as the "dispersion" or as "illegal villages", calling their inhabitants "trespassers" on State land and "criminals".[2] Most of the Bedouin population lost their lands when Israel declared it as Mawat ("dead", uncultivated agricultural lands) and reclaimed it as State land.[3]

Since the beginning of the 1970s, Israel has been conducting an ongoing non-consensual and non-participatory urbanization process. The State documents that 72.9% of the Naqab's Bedouin residents live below the poverty line.[4] However, Bedouin residents from unrecognized villages are not included in these national poverty indicators.[5]

In addition to the seven townships, the State recognized 11 Bedouin villages from 1999 onwards.[6] In June 2021, the coalition agreement included recognition of the unrecognized Bedouin villages of Khašim Zannih, Rakhamah, and ʿabdih within the first 90 days of the government. However, the condition that at least 70% of the Bedouin residents give their consent to leave their lands before the recognition process is finalized poses significant challenges.[7]

Two decades later, there is no significant difference be-

tween recognized and unrecognized villages.[8] The remaining 28% of the Bedouin population (around 100,000 people) live in unrecognized villages that do not appear on any official map and most of which contain no health or educational facilities or basic infrastructure. Their residents have no formal local government bodies and are represented only in the Regional Council of Unrecognized Villages (RCUV).

The struggle against demolitions

In spring 2023, the Negev Coexistence Forum for Civil Equality (NCF) released its data on house demolitions, revealing that 2020 marked an unprecedented record year with 3,004 structures destroyed.[9] Even in 2022, despite a 5% decrease, the region experienced massive destruction, totalling 2,745 structures and over 700 homes.[10] The hopes vested in the new Israeli government to execute the five-year plan for Bedouin development in the Negev have been met with disappointment. Instead of progress, the Negev region is witnessing an alarming surge in home demolitions, facilitated by the use of advanced hi-tech cyber equipment.

The issuance of demolition orders in Bīr Haddāj marks a troubling development, accompanied by an unprecedented volume of notifications in the Negev. The implementation of new hi-tech cyber equipment, proudly flaunted by the authorities, enables the mass screening of vast areas and the issuance of numerous demolition orders targeting homes, livestock pens, fences, and sheep enclosures.[11] The destructive impact of these policies is starkly illustrated by the obliteration of seven houses in 'Ar'arah, rendering approximately 80 family members homeless. Tractors ploughing fields in Sa'wah are further exacerbating the crisis, destroying hard-earned crops that Bedouins have cultivated under challenging conditions to sustain their livestock in water-scarce lands. The government's enforcement policy has taken a disconcerting turn, exemplified by initiatives such as afforestation in Bīr al-Hamām.[12] Ostensibly aimed at ecological goals, these actions serve to restrict land use for nearby villages, adding another layer to the mounting chal-

lenges faced by Bedouin communities.[13]

The gravity of the situation prompted a demonstration in Beer Sheva in 2023, where around 1,000 participants united in response to this distressing trend. The collective voice of Bedouins, joined by both Arab and Jewish allies, echoed against the backdrop of unequal rights, the absence of community involvement in planning, and the distressing scale of mass home demolitions. The protest sought to draw attention to the critical need for fair and inclusive policies that honour the Bedouin way of life.[14]

In the heart of the Negev, just west of Route 40, lies al-'Arāgīb, an unrecognized Bedouin village that has become a poignant symbol of resistance against a relentless wave of demolitions. May 2023 brought unprecedented hardship as residents saw their homes razed to the ground not once but twice in a single month. Despite their 13 years of continuous protests, the Bedouin community in al-'Arāgīb faces ongoing challenges, particularly amidst a prolonged trial to determine land ownership. Nevertheless, the residents' resilience is palpable, and evident in their weekly demonstrations against the perpetual threat of demolitions and evictions.

However, the struggle intensified on 30 May when, in a predawn raid at 5:15 am, the Yoav unit apprehended Sheikh Sayyach Al-tori, along with his son Aziz and Aziz's wife, Sabach. Hours of interrogation followed, only to see their eventual release. The very next day, al-'Arāgīb was subjected to its 217th demolition since 2010, underscoring the unyielding pressure faced by its inhabitants.

New settlements

Against this backdrop, the Government of Israel's plans to establish new Jewish settlements on Bedouin land in the Negev have sparked controversy. Despite refusing to recognize over 30 existing Bedouin communities, the government is allocating a substantial NIS 1.6 billion (approx. EUR 406 million) for the expedited establishment of 14 new Jewish communities in the Negev over the next two years.[15]

The Ministerial Committee gave its approval to the controversial Chikli Plan on 24 February 2023,[16] a proposal ostensibly aimed at the development of the Bedouin community in the Negev/Naqab region.

Spearheaded by Minister Chikli, the plan takes a concentrated approach, focusing enforcement efforts in four key areas – Rahat, Hurah, Mareit, and Bīr Haddāj. The plan raises concerns of potential mass evictions, casting a shadow over villages such as Tal-Arad and Awajan. Its core strategy revolves around the forced concentration of Bedouin communities into existing towns, starkly refusing to recognize or incorporate new Bedouin villages into the developmental framework.

The Chikli Plan notably contradicts the broader governmental initiative to establish 14 new Jewish settlements in the Negev. While promising to expedite the establishment of industrial zones in the Negev-Naqab, the plan falls short by not allocating funds for this purpose. Instead, funds are directed towards greater law enforcement, earmarking a substantial NIS 18 million (approx. EUR 4.5 million) for the police in order to exert force against Bedouin villages in the way of future national infrastructure.

One glaring aspect of this decision-making process is the lack of consultation with the Bedouin community, perpetuating a view that considers them obstacles rather than essential partners. Bedouin leaders or representatives were notably excluded from the discussion, leaving decisions about their future made on their behalf.

This absence of meaningful dialogue has resulted in a dearth of viable alternatives for preserving Bedouin communities and facilitating their growth. The ongoing demolition of homes and the forced expulsion from ancestral lands further underscore the contentious nature of these decisions, violating international conventions ratified by Israel.[17]

As this unfolds, it is crucial to revisit the principles outlined in the UN Declaration on the Right to Development (1986) and the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) (2007). These declarations emphasize the right to development as a comprehensive process, promoting the well-being, active participation and fair distribution of benefits for all individuals, principles that seem to have been overlooked in the current developments in the Negev/Naqab, including the Chikli Plan.[18]

The situation since 7 October

The events of 7 October marked a significant turning point for the Bedouin, as they did for everyone in Israel and Palestine, as the Ha-

mas attacks and kidnappings of Israelis had a profound impact on the Bedouin community, which was inevitably caught in the crossfire.

Twenty-one Bedouin, including six children died on that day[19] and the days following, some by rockets fired from the Gaza Strip, others killed by Hamas forces.[20, 21] In one instance, Abu Sabila,[22] a 25-year-old construction worker and father of two young boys, was visiting his brothers who worked as security guards in Sderot near the Sderot police station. He responded to the desperate cries of Odaya Swisa after her husband Dolev was killed by Hamas forces. In an attempt to move the family's car and protect Swisa's little girls, aged 3 and 6, Abu Sabila sat in the driver's seat and was fatally shot sitting next to Odaya. Fortunately, the children were unharmed.[23]

Since that day, an atmosphere of fear, worry, and threat has persisted for the Bedouin community. Despite the release of two Bedouin hostages, 'Ā'ishah (17) and Bilal (18) Ziyadne during the initial ceasefire, their father Youssef (53) and his son Hamzah (22) still find themselves in Gaza. The ordeal continues, casting a lingering shadow of uncertainty.[24]

One particularly tragic incident unfolded with the death of Samer al-Talalka (24) who, along with two other Israeli hostages, was accidentally shot by the Israeli army after an initially successful escape attempt.[25] The pain experienced by Samer's family remains indescribable. During our visit, the parents recounted how, when representatives of the military visited them, all they could express was a fervent hope that no other family would have to receive such heartbreaking news.

The dynamics of unity and support within the affected community are complex. The uncle of one hostage shared with us the profound sense of inclusion and support he feels from other families grappling with similar challenges. He emphasized the palpable solidarity within Israeli society, acknowledging the efforts made to stand together now.

Despite this, after a period of respite likely attributed to the recent conflict, Bedouin communities are now once again being confronted with government-ordered home demolitions, which began in early 2024.[26]

Existing issues exacerbated by war

Navigating through such challenging circumstances is already difficult and, for the majority of residents in the unrecognized villages, the strug-

gle continues. Compounding their concerns is the precarious security situation, as their residences are officially deemed barren land and consequently fall outside the protective umbrella of the State missile defence systems known as the "Iron Dome".

Adding to this complexity, these communities lack essential infrastructure that could offer protection from rocket attacks, such as bunkers or secure rooms. The provision of such facilities is scarce, primarily occurring through self-organization or reluctantly under immense pressure, and often in insufficient measure. This further exacerbates the vulnerability of the inhabitants, leaving them with limited recourse in the face of ongoing threats.

The absence of secure infrastructure, particularly safe rooms in public areas such as schools, leaves community members with limited options for seeking refuge during rocket attacks. For many years, including during past military conflicts and wars, Bedouin, NGOs, and activists have vehemently demanded that all villages, including those not officially recognized, be provided with adequate security structures. There is an urgent need to create security rooms in schools and public facilities, to connect the areas to the Iron Dome and to set up a warning system.[27]

The financial strain on both communal and individual levels further compounds the difficulty in addressing this critical need. So far, these demands have been largely ignored. Occasionally in the past, temporary and portable shelters were erected – as is finally the case during this ongoing war. However, these are neither sufficient in size nor in their protective function to meet the needs of the communities. The continued neglect of these urgent needs has led to an increasing vulnerability of the population in conflict situations and emphasizes the need for a rapid and comprehensive solution by means of external support and intervention to ensure the safety and well-being of these communities.[28]

The already challenging economic conditions have now been further exacerbated by the war, with a drastic worsening of poverty levels. Many are unable to work, given the halt in construction projects and other economic activities. This has resulted in a significant proportion of families losing their primary source of income, leading to heightened food insecurity.[29] The ripple effects of the conflict have intensified the struggles of these communities, pushing them deeper into economic hardship and amplifying concerns about their basic needs, including access to education and adequate nutrition.

Conclusion

In conclusion, 2023 was a year of unprecedented challenges and adversity for the Bedouin community in the Negev/Naqab region. From the relentless destruction of their homes to the devastating impact of the events of 7 October, the resilience of the Bedouin people has been tested like never before. Despite facing systematic discrimination and negligence from the authorities, the Bedouin continue to fight for their rights and their way of life.

As we reflect on the events of the past year, it is clear that urgent action must be taken to address the socio-economic inequalities and security concerns. The government's failure to consult Bedouin leaders and include them in decision-making processes only exacerbates the situation, further eroding trust and leading to greater injustice.

It is imperative that policymakers prioritize inclusive and sustainable development initiatives that respect the rights and dignity of the Bedouin people. This includes an immediate halt to house demolitions, recognizing and supporting existing Bedouin villages, investing in essential infrastructure and services, and ensuring equal access to opportunities for all citizens.

A small ray of hope shone in early 2024 when six members of the Knesset visited unrecognized Bedouin villages to understand their situation better,[30] perhaps indicating that there is a growing awareness of the Indigenous Bedouin in the Negev/Naqab.

Every year we aim to document the situation of the Bedouin in both Israel and Palestine. Unfortunately, this year our authors were not able to provide an article on the Bedouin in Palestine.

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The Negev Coexistence Forum for Civil Equality (NCF) *was established in 1997 to provide a space for Arab-Jewish shared society in the struggle for civil equality and the advancement of mutual tolerance and coexistence in the Negev/Naqab. NCF is unique in being the only Arab-Jewish organization that remains focused solely on the problems confronting the Negev/Naqab area. NCF considers that the State of Israel is failing to respect, protect and fulfil its human rights obligations, without discrimination, towards the Arab Bedouin Indigenous communities in the Negev/Naqab. As a result, NCF has set one of its goals as the achievement of full civil rights and equality for all people who make the Negev/Naqab their home.*

Maria Ebner *is a Master's student of Human Geography from Frankfurt/Germany and currently working as an intern for NCF.*

With contributions from ***Chloé Portheault*** *and* ***Huda Abu Obaid*** *who work at NCF as International and Local Advocacy Coordinator for the Bedouin minority's rights respectively.*

Cambodia

THAILAND
LAOS
CAMBODIA
Phnom Penh
VIETNAM
GULF OF THAILAND

Cambodia is home to 22 different Indigenous Peoples speaking at least 19 Indigenous languages.[1, 2] With an estimated population of 170,000-400,000, they constitute approx. 1.1% of the national population. Disaggregated data on Indigenous Peoples generally vary considerably between surveys.[3, 4, 5] Numbers are likely to be ambiguous since government data classify Indigenous Peoples by language and not ethnicity.[6] Furthermore, the contemporary stigmatization of Indigenous Peoples in Khmer society, as well as a legacy of fear left over from the devastating Khmer-Rouge regime, result in some Indigenous Peoples being unwilling to identify themselves to the authorities as Indigenous, for fear of repercussions.[7]

The Indigenous territories include the forested plateaux and highlands of north-eastern Cambodia, where the majority live in the provinces of Ratanakiri, Mondulkiri, Kratie, Stung Treng, Kampong Thom, and Preah Vihear.

Indigenous Peoples continue to face discrimination and forced displacement from their lands, territories and resources, which is extinguishing them as distinct groups.[8] These patterns are driven by ongoing State and transnational corporate ventures aimed at resource extraction (mainly mining, timber and agribusiness) coupled with growing in-migration from other parts of the country. Cambodia voted to adopt the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) without reservation in 2007 and has ratified the ICERD and the CRC but has still not ratified ILO Convention No. 169 on Indigenous and Tribal Peoples.[9, 10]

Restrictions on peaceful assembly and meetings

During 2023, Indigenous Peoples experienced a continuation of the restrictions on peaceful assembly and freedom of expression. When meetings are organized, especially in rural areas, Indigenous organizations are asked to register these with local authorities. Police officers often then consequently monitor the meetings. In

Mondulkiri Province, the police monitor and request lists of participants and the agenda of all community meetings. If Indigenous community representatives participate in meetings organized at the national level, the local authorities will subsequently oblige them to answer questions about the purpose and content of the meetings, as well as why they participated. Monitoring meetings is a form of intimidation that limits freedom of expression and freedom of assembly and creates fear of repercussions among Indigenous Peoples. For example, the Cambodian Indigenous Peoples Alliance (CIPA) held a national consultation in January and February with 65 community representatives in Stung Treng Province. The meeting was monitored by two police officers. In December, CIPA organized a national consultation, and 189 community representatives attended, most of whom were requested to report to the local authorities.

Collective Land Titles

Obtaining Collective Land Titles (CLTs), a specific land right for Indigenous Peoples in relation to their ancestral territories enshrined in the Land Law of 2002,[11] continues to be a prolonged and complex process. As of 2023, out of 488 Indigenous communities, only 40 had obtained CLTs, two of which were approved in 2023. Overall, 8.2% of Cambodian Indigenous communities hold a CLT. In contrast, economic land concessions (ELCs) for investors, e.g., large-scale plantations, are granted at a much faster pace, with approx. 25,990 ha of land having been approved for three ELCs by September 2023, making a total of 4.25 million ha granted to industrial agriculture and mining since 1996.[12] In comparison, the 40 CLTs granted between 2011 and 2023 cover 40,732 ha in total.[13]

The procedures to obtain a CLT are set out in Sub-Decree 83 of the Indigenous Community Land Registration Procedures. In theory, the Sub-Decree provides Indigenous Peoples with legal land tenure rights, ensures the security of land tenure, and safeguards collective property while preserving the cultural identities, customs and traditions of Indigenous communities. However, the current zoning[14] restrictions do

not correspond to the various cultural uses of land and water systems of the different Indigenous groups. The law inflexibly classifies and divides land, cuts borders, and limits land to small, constricted spaces. The land use of Indigenous Peoples cannot, however, be cut into small, restricted pieces; for Indigenous Peoples, the concept of land is understood as much less uniform and rigid.[15] For example, article 6 restricts the types of land use allowed and limits the size of burial, spiritual, and belief lands to seven ha. In most cases, burial and sacred areas exceed seven ha. The Sub-Decree consequently is not acknowledging, respecting, guaranteeing or protecting the rights of Indigenous Peoples to their ancestral land that are essential to the continuation of the cultures and traditions of Indigenous Peoples.

Moreover, the lack of legal protective measures during the prolonged CLT registration process exposes Indigenous communities to land encroachment while awaiting a title. This includes encroachment by individuals, as well as State-sanctioned encroachment by hydropower dams, mining and economic land concessions, as well as ecotourism concessions and social land concessions (land titles granted to non-Indigenous landless communities). Furthermore, Indigenous communities awaiting a CLT are exposed when Indigenous territories are designated as protected areas with strict limitations of access and use, thus excluding Indigenous Peoples from their territories.[16] The lack of protective measures erodes the individual and collection rights of Indigenous Peoples. In March 2023, 255 hectares of the Burang community, Orang district, Mondulkiri Province, was offered to an individual company. This occurred despite the Burang community having been in the process of obtaining a CLT for years and therefore being under interim protection to ensure that the land in question is not encroached upon by other interests during the registration process.

Criminalization of Indigenous Peoples' traditional land use

For centuries Indigenous Peoples have practised rotational farming as their primary livelihood. This type of sustainable agriculture has been increasingly criminalized by the Cambodia government. By law, rotational

farming is an illegal practice within conservation areas. In June 2023, article 849 of the Environment and Natural Resources Code declared that rotational farming would only be allowed if Indigenous communities are in possession of a CLT. Accordingly, as of 2023, no more than 40 out of 488 Indigenous communities are allowed to practise rotational farming, which is likely to have severe consequences for food and livelihood security for the vast majority of Indigenous communities in Cambodia. In 2023, 93 individuals, including land rights protectors, Indigenous leaders and activists, faced lawsuits for exercising their right to practise their traditional farming. In 2023, 22 individuals were convicted of related crimes.[17] The lawsuits included charges of defamation, damage to property, violence against property owners, and illegal use of natural resources (i.e., rotational farming). For example, Kratie Provincial Court subpoenaed two Indigenous Kraol from Srae Chis commune for incitement to cut down and encroach on forest land, as they had allegedly illegally entered protected areas to practise rotational farming.[18]

Land grabs within the CLTs of Indigenous communities

There is growing concern among Indigenous Peoples regarding the mounting strategy to further prioritize the private sector over Indigenous land rights. As natural resources become increasingly privatized, disputes over land are surging. For the few communities that have obtained CLTs to their ancestral land, the title does not necessarily guarantee a continued secure right to their land. For example, in Orang district of Mondulkiri Province, a Bunong community that received a CLT in 2012 for part of their ancestral land has been subjected to land encroachment within their CLT. The CLT of the Bunong community includes a pristine waterfall. On 20 April 2023, the Ministry of Environment (MoE) issued a letter requesting that three plots of the communal land and community protected area land be removed for individual titles. Consequently, part of the CLT surrounding the waterfall was granted to individual investors due to its ecotourism potential.[19] The investors are believed to have ties to high-ranking officials. The land was grabbed without the consent of the Bunong community.

Surging debts in Indigenous communities

Indebtedness among Indigenous Peoples is another challenge in many communities. Lack of land rights, land grabs, absence of access to forest resources, increased living expenses, reduced farmland, and a decline in crop yields have pulled many Indigenous farmers into cycles of debt to bank loans, microfinance loans, and private moneylenders. These challenges have created a vicious cycle of poverty for many communities that have relied on natural resources for centuries.[20] As a consequence, some community members are starting to sell communal land to private investors or to participate in illegal logging out of desperation, while others find themselves in spirals of despair, leading to ever higher rates of suicide, drug use,[21] especially among Indigenous youth, and gender-based violence, such as domestic violence. "Before we were poor but we had land", "now we are poor, in-debt, with no land".[22]

According to Cambodian law, there is a ban on selling State land and, as stated in Article 259 of the Land Law of 2001, infringements of public property will result in a fine or jail sentence of up to five years; land cannot therefore be sold by either communities or individuals.[23] And yet authorities continue to facilitate the unlawful sale of communal land, for example in the case of Radang Mountain on Indigenous land in Mondulkiri Province, where a mountain was sold without the consent of the entire community.[24]

Amendment to the Law on Protected Areas

In July, the National Assembly approved an amendment to the Law on Protected Areas of 2008,[25] the Law on Forestry of 2002, and the Environment and Natural Resources Code of 29 June 2023. The amendment included a change in terminology, replacing "Indigenous Peoples" with "local communities". The Environment and Natural Resources Code is said to be replacing the 2008 Law on Protected Areas in 2024.[26]

Prior to the approval of the law, the amendment was criticized by numerous Indigenous and international organizations[27, 28] as many predicted that the change in the amendment would render Indigenous Peoples invisible. The amendment is furthermore likely to discriminate against traditional Indigenous land management practices, thus

criminalizing even more Indigenous Peoples. Submerging Indigenous Peoples in the undefined term "local communities" is likely to further deprive Indigenous Peoples of their rights, including both their individual and collective rights as Indigenous Peoples, especially their right to free, prior, and informed consent. The laws provide no clear definition of "local communities" and no recognition of Indigenous Peoples; it is thus expected that it will disregard the unique traditions, languages, religions and cultures of the 22 different Indigenous Peoples of Cambodia.

Prior to the decision, CIPA and 159 Indigenous community members from various Indigenous groups across the country joined forces to make a series of recommendations. These included: a clear legal analysis and recognition of Indigenous Peoples, a requirement to incorporate free, prior and informed consent (FPIC) processes, traditional knowledge and occupation, especially related to recognition of rotational farming, mechanisms for settling disputes, and a specific article in the law(s) enshrining rights consistent with international human rights conventions ratified or adopted by the Cambodian government, especially the UNDRIP and ILO Convention 111. The government rejected the recommendations made by Indigenous Peoples' organizations, demonstrating a complete disregard for the principles of FPIC. Elders, youth, women, representatives, and community members who are decision-makers and collectively agree on consultations for legal input have thus been excluded from taking decisions on the future of their ancestral land.

"They want us to be Khmer, they don't want us to have our rights as Indigenous Peoples, they want us to be invisible, they want to eliminate us." – Indigenous spokesperson who preferred to remain anonymous.

Rampant deforestation in Prey Lang

Despite government promises to prevent illegal logging in the Prey Lang Wildlife Sanctuary, the Prey Lang Community Network (PLCN) – which consists of many Indigenous Kuy who patrol the sanctuary to prevent and document illegal logging – has stated that illegal logging is continuing unabated across the protected area. Some illegal loggers are reportedly armed.[29] The MoE has continued to reject reports sub-

mitted by the PLCN and international researchers.[30] In April, satellite imagery exposed the construction of a new road starting inside the company Think Biotech's Economic Land Concession and extending 12 km into the old-growth forests of the protected wildlife sanctuary, the ancestral forest of the Indigenous Kuy, where they have collected resin from valuable tree species for centuries. After increasing numbers of protest there was a short crackdown on illegal loggers by the Royal Cambodian Armed Forces (RCAF). The RCAF targeted mainly small-scale loggers and, shortly after they had withdrawn, the presence of illegal loggers, bulldozers, trucks and tractors carrying luxury timber surged once more.[31]

Indigenous Peoples fighting injustices

Throughout 2023, Indigenous communities used various approaches to fight back against some of the injustices they are facing. For example, in Kratie, a station under the MoE was set on fire after a dispute between Indigenous Kraol and the MoE. According to community members, the arson was fuelled by growing protests against the planned expansion of the Sor Sor Sdom Sat Tao protected area and numerous instances of harassment by the MoE. Leading up to the arson, community members complained about harassment, encroachment of farmland, evictions of community members, threats of arrests, and damage to and confiscation of property by MoE officials.[32] Moreover, community members were banned from patrolling their community forests, and they were prevented from collecting non-timber forest products and practising rotational farming. Alongside this, however, illegal loggers continued to transport timber out of the area.[33] There are plans to expand protected area by 4,500 ha, much of which overlaps with the ancestral territories of the Kraol. This will result in rotational farming being labelled illegal in the new conservation zones. The arson was a collective action carried out by 300 Indigenous Kraol community members.

In August, in Preah Vihear, Indigenous Kuy hindered the construction of a MoE cow stable on two occasions by removing building materials and dismantling the construction. These protests were fuelled by frustration at MoE officials who had banned community members from

harvesting non-timber forest products and farming on their ancestral land within the Preah Roka Wildlife Sanctuary, as well as a plan by local MoE officials to build a cow stable and deforest an area for pasture within the same sanctuary in order to breed cows for the families of the MoE officials.[34] In December, in Preah Vihear, around 200 Indigenous Kuy protested at bulldozers sent by unknown parties to demolish their ancestral land. Kuy community members were furious at the authorities' failure to end the destruction of the protected forests.[35] Other protests occurred in Mondulkiri and Preah Vihear, where Indigenous elders performed spiritual ceremonies with the intent of cursing those who were harming and stealing their resources and ancestral land, including the MoE officials.[36]

The continued approach of the authorities to evict, displace, criminalize and exclude Indigenous Peoples from conservation efforts, despite increased international awareness of and emphasis, including at the UN,[37] IFAD,[38] and IPCC,[39] on the critical role the environmental knowledge and management systems of Indigenous Peoples play in the current and future protection of biodiversity, water systems and ecological habitats for the survival of human beings, is beyond alarming.

Despite mounting attempts by the authorities and tycoons to silence, violate the rights of and reduce Indigenous Peoples to an invisible mass among the Khmer, the Indigenous Peoples of Cambodia will keep demanding their rights as Indigenous Peoples based on their customary rights and existing national and international law, will continue to show their value as key custodians of natural environments, and will continue to fight to keep their cultures, traditions, languages, and values visible and alive.

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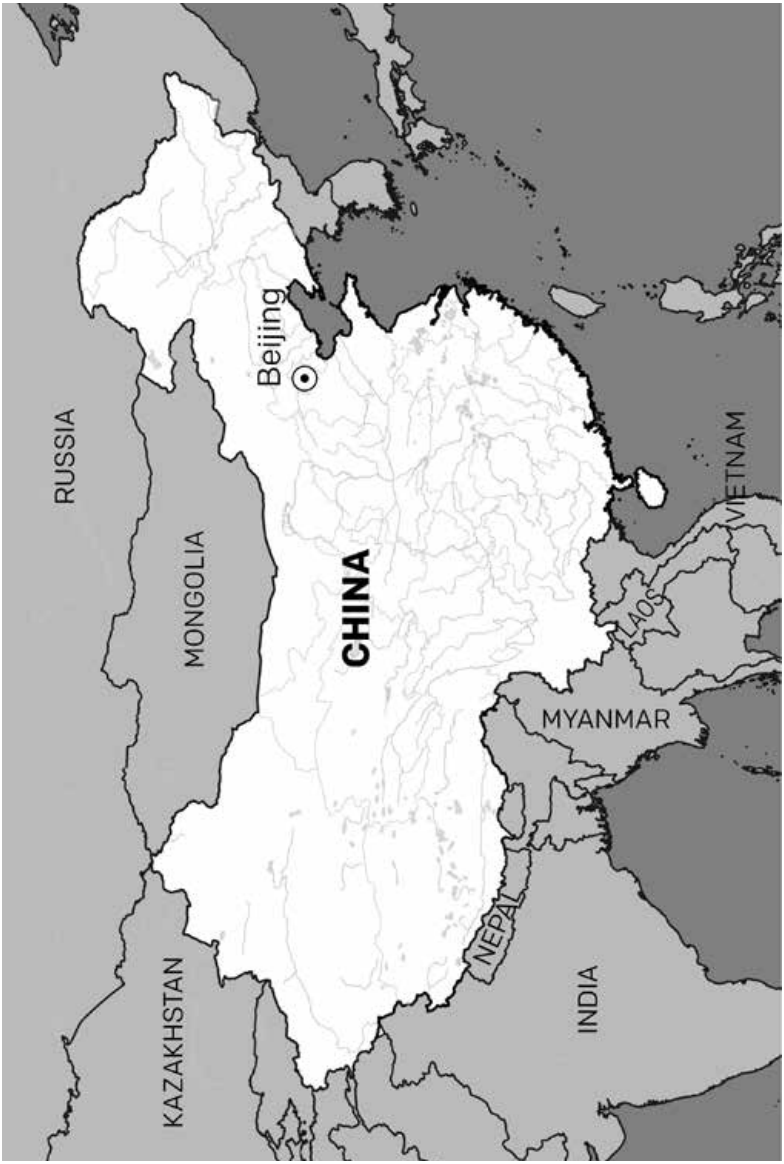
Katrine Gro Friborg *is a researcher working on Indigenous rights and knowledge, gender, agroforestry and ethnobotanical relations.*

China


RUSSIA
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CHINA
NEPAL
INDIA
MYANMAR
LAOS
VIETNAM

The People's Republic of China (PRC or China) officially proclaims itself to be a unified country with a diverse ethnic make-up and all nationalities equal in the Constitution. Besides the Han Chinese majority, the government recognizes 55 *minority nationalities* within its borders. According to the latest national census in 2020,[1] the combined minority nationalities' population stands at 125,332,335 or 8.89% of the country's total population. The "unidentified ethnic groups" in China are included in the "minority nationalities" population, numbering 836,488 persons. Minority nationalities are culturally distinctive and socially marginalized in the Chinese context.

The Law of the People's Republic of China on Regional National Autonomy is a basic law for the governance of minority nationalities in China. It includes establishing autonomous areas for nationalities, setting up their own local governance and giving them the right to practise their own language and culture. These regional national autonomous areas make up approximately 64% of China's total territory and include, among others, vast territories of Tibet Autonomous Region, Inner Mongolia Autonomous Region and Xinjiang Uyghur Autonomous Region.

The Chinese government does not recognize the existence of Indigenous Peoples in the PRC despite voting in favour of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP).

Legislation affecting Indigenous Peoples

Implementation of the Qinghai-Tibet Plateau Ecological Protection Law

The Qinghai-Tibet Plateau Ecological Protection Law came into force on 1 September 2023.[2] The Tibetan Plateau spans around 2.5 million km^2 or a quarter of China's total area. The law underlines biodiversity conservation by establishing a new framework to protect and restore ecosystems through establishing national parks, nature reserves, nature parks, and other protected natural areas. According to Article 19 of the law:

> *the state will strengthen the work of ecological protection and repair in the source of three rivers, conduct systematic protection and zone-based and classified management of national parks established by the law, scientifically adopt measures such as grazing ban and enclosure, increase efforts to manage degraded grasslands, degraded wetlands, and desertified land and prevent and control soil erosion, comprehensively improve severely degraded land, and strictly prohibit various resource development and utilization activities that damage ecological functions or do not meet the requirements of differentiated management and control.*

Some measures introduced by the law, such as grazing bans and enclosures, will affect herding rights and the nomadic way of life in the region. Further, the law does not introduce a requirement to apply the rule of free, prior, and informed consent for those communities that will be relocated in accordance with the law.

Residents of the Plateau are predominantly Tibetans in various subgroup identities, such as Menba, Luoba, Mishmi and others. Indigenous Peoples as rights-holders and contributors to the conservation of the Plateau are under-emphasized in this new law. Although there are statements that the state will take effective measures to protect and promote the traditional ecological cultural heritage of the Tibetan Plateau (Article 9), and improve public participation (Article 48), it is not clear how various stakeholders who hold local knowledge and religious beliefs on wildlife and nature, including Indigenous communities and civil society, will be engaged in collaborative governance.

Implementation should also be considered in the context of the ongoing exploration of mineral and hydropower resources in the region for a green transition. The Tibetan Plateau has now been assessed as holding 90% of the state's lithium ore (at least 3.655 million tonnes of China's estimated 4.047 million tonnes of lithium). A 2023 report reveals that a lithium mining boom is underway in eastern Tibet.[3] Both the world's electric vehicle manufacturers and their competitors in China are becoming increasingly reliant on Tibet's lithium exploitation and production. This acceleration of lithium mining involves a high risk of pollution and destruction of the landscape of the plateau. Local popu-

lations who protest and express any concern about the mines and their impact on their livelihoods have been subjected to repression from the State. This observation needs to be viewed alongside the ongoing revision of the Mineral Resources Law. The Standing Committee of the National People's Congress considered the draft revision of the Mineral Resources Law in December 2023. The revision has prioritized the State's interests in exploiting and protecting mineral resources as well as safeguarding the security of national strategic resources,[4] while protection of the land rights of Indigenous and local communities, in accordance with existing international instruments, has been ignored.

Meanwhile, large-scale hydropower development has also been planned in the region. With exemptions for small projects, the Law on Ecological Protection of the Tibetan Plateau has explicitly outlawed the construction of new hydroelectric projects (Articles 45 and 57); however, it does broadly support projects focused on hydropower, wind, solar and geothermal in order to establish a clean energy system there, and construct facilities for energy transmission out of the region (Article 45). This ambiguity leaves an escape clause that the State and State-owned enterprises can use to engage in the development of large-scale projects with the justification of promoting a green energy transition.

Ongoing legislation and management of national parks

On 7 September 2023, China's national legislature, the Standing Committee of the National People's Congress (NPCSC), released the five-year legislative plan (2023-2028), which included a plan to consider the Law of National Parks during the period. The establishment of national parks has substantial impacts on the lands of Indigenous Peoples and their ways of life in China. China has established 49 national park candidate areas.

The largest national park in China is the Sanjiangyuan National Park, mainly situated in areas inhabited by Tibetans and Mongolians. The park covers 190,700 km^2, and forest and grasslands crucial for the nomadic herding of Indigenous communities cover more than 74% of that area.[5] In August, the Sanjiangyuan National Park management bureau released a master plan for comprehensive protection.[6] Although it aims to improve protective measures for the park, it lacks measures on

how to respect Indigenous Peoples as right-holders and contributors to park governance.

National parks' creation in China often goes hand in hand with a reversal of nomads' grazing rights through land grabs and relocations. While the establishment of national parks promotes China's eco-credentials and "pristine" nature attracts tourists, there is no discussion in the public domain of the issue of dispossessing affected Indigenous communities of their rights.[7]

Major events relevant to Indigenous Peoples

2023 saw official translations of the name "Tibet" in the Chinese government's English-language communication replaced by "Xizang" – the Chinese name in Mandarin referring to the Tibetan region. The white paper "CPC Policies on the Governance of Xizang in the New Era: Approach and Achievements" issued by the State Council Information Office officially reflected this change.[8] Tibetan activists' and experts' observations on this name change in communications reflect China's policies of legitimizing the claim over Tibet and erasing Tibetan culture from global consciousness.[9]

Outcomes from the United Nations and European Union

UN Human Rights Council

At the 52nd Session of the UN Human Rights Council in March 2023, the International Campaign for Tibet (ICT) delivered two statements on behalf of the Helsinki Foundation for Human Rights stressing China's use of torture and repression of environmental defenders in Tibet.[10] The statements were delivered in dialogues with the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the Special Rapporteur on Human Rights Defenders. In its statements, ICT raised issues regarding the increased persecution of Tibetan environmental defenders when protecting Tibetan lands and natural resources from extensive mining, dams, and harmful infrastructure projects.[11]

At the 54th Session of the Human Rights Council, the UN High Commissioner for Human Rights, Volker Türk, called for an increased participatory approach and strong remedial action regarding concerns in Xinjiang following the recommendations of the 2022 OHCHR assessment of human rights concerns in Xinjiang Uyghur Autonomous Region.[12]

Third Committee of the General Assembly

In October, 51 UN Member States led by the UK issued a joint declaration to the UN General Assembly Third Committee condemning the Chinese government's crimes against humanity committed against Uyghurs and other Turkic communities in Xinjiang Uyghur Autonomous Region and calling out systematic human rights abuses in the region.[13]

Pakistan presented a joint statement to the Third Committee insisting that the situation in Xinjiang and Tibet was China's internal affair and opposing the politicization of human rights. China's UN delegation claimed that 72 countries backed that statement.[14] However, given that, in past years, Beijing has included countries that were unaware they were listed as signatories,[15] one cannot discount this having happened again.

Special Procedures and UN Experts

In February 2023, following their previous communications with China, UN experts expressed their alarm at what appears to be a policy of forced assimilation of the Tibetan identity into the dominant Han Chinese majority through the system of residential schools. Initiatives to promote the Tibetan language and culture were reportedly being suppressed, and individuals advocating for the promotion of the Tibetan language and Tibetan-language education being persecuted.[16]

The UN experts included Mr. Fernand de Varennes, UN Special Rapporteur on minority issues; Ms Farida Shaheed, UN Special Rapporteur on the right to education, and Ms Alexandra Xanthaki, UN Special Rapporteur in the field of cultural rights. They stated that the policies were contrary to the principles of prohibition of discrimination and the rights to education, linguistic and cultural rights, freedom of religion or belief, and other minority rights of the Tibetan people.

UN forums on Indigenous and minority issues

The Southern Mongolian Human Rights Information Center (SMHRIC), a US-based organization monitoring the human rights situation in Southern (Inner) Mongolia, highlighted two major issues concerning the banning of the Mongolian language and the state's wider campaign of cultural eradication at the 22nd Session of the UN Permanent Forum on Indigenous Issues (UNPFII)[17] and the 16th Session of the UN Forum on Minority Issues (UNFMI).[18] The statements condemned China's policies of systematic erasure of the Mongolian traditional way of life through projects of "ecological migration" and the "livestock grazing ban", aimed at resettling more than one million nomadic peoples in China from their ancestral pastural lands closer to urban centres in the region.

The Public Uyghur Association of the Kyrgyz Republic made a statement on the discrimination and other abuses the Uyghur and other minorities are facing in the Uyghur region of China at the UNFMI.[19] It described situations of discrimination in employment, concerning religious beliefs, language use, and gender. In addition, the statement raised issues on the destruction of cultural heritage, forced marriages, sexual abuses, and enforced disappearances in the region.

The Chinese delegation expressed its strong protest at the statements. At the UNFMI, China accused the anti-China separatist forces of abusing the forum and insisting on distorting facts, spreading lies and rumours under the pretext of human rights, using Tibetan, Xinjiang, and Mongolian issues at this multilateral platform to smear China in an attempt to create separation and chaos.[20]

UN Treaty Bodies: CERD and CESCR

In the 7th Meeting of the Committee on the Elimination of Racial Discrimination (CERD) in December 2023, one State party asked for an update on actions taken by the CERD under its early warning and urgent action procedure concerning the human rights situation in Xinjiang Uyghur Autonomous Region.[21] Another speaker accused CERD of taking decisions based on false information presented to smear China. CERD experts stated that the CERD had initially addressed the issue of the human rights situation in the region in its dialogue with China but that the situation had worsened since then, hence the CERD felt it neces-

sary to speak out against racial discrimination at an early stage. The CERD was very careful in performing background checks before issuing statements through the procedure.

The Committee on Economic, Social and Cultural Rights (CESCR) considered the 3rd periodic report of China and adopted the concluding observations in March 2023. Under the subtitle of "Indigenous Peoples" in the observations, the CESCR expressed its concern that:

> *resettlement of nomadic herders, particularly Tibetan herders, is carried out in the State party without proper consultation and in most cases without free, prior and informed consent, particularly in the western provinces and in autonomous regions. The Committee is also concerned about reports that large numbers of small-scale farmers and nomadic herders, including from ethnic autonomous areas, have lost their traditional lands and livelihoods owing to poverty alleviation schemes and ecological restoration resettlement measures, and that compensation for expropriated property is often insufficient to maintain an adequate standard of living (arts. 1 (2) and 2 (2)).*

The CESCR recommended that China "immediately halt non-voluntary resettlement of nomadic herders, including Tibetan herders, from their traditional lands and non-voluntary relocation or rehousing programmes" and "carry out meaningful consultations with the affected communities in order to examine and evaluate all available alternative options, and offer full, adequate and timely compensation for expropriations that have already been carried out."[22]

In addition, noting the information provided during the dialogue with China, the CESCR expressed concerns and recommended that China take immediate action on the following major topics:

- Discrimination in Xinjiang Uyghur Autonomous Region[23]
- Coercive measures, including forced labour[24]
- Protection of the family and children[25]
- Cultural and linguistic identity and expression in education[26]
- Cultural heritage and religious practices[27]

China presented its follow-up comments and rejected most of the criticism. Given that China has continuously denied the existence of Indigenous Peoples in the country, it is significant to note that this was the first time that the Committee listed "indigenous peoples" as a subtitle in its observations. Furthermore, it is surprising to see that China did not have comments in response to the facts and recommendations concerning the observations under the subtitle of Indigenous Peoples (paras 27 and 28).[28]

European Parliament

The European Parliament adopted a resolution in December 2023 on the abduction of Tibetan children and forced assimilation practices through Chinese boarding schools in Tibet. The resolution condemns the repressive assimilation policies, especially the boarding school system in Tibet that seeks to eliminate the distinct linguistic, cultural, and religious traditions among Tibetans and other minorities, such as Uyghurs. It calls for the immediate abolition of this authoritarian system imposed on children in Tibet and the practice of family separations as highlighted by UN experts.

The resolution urges the EU to adopt targeted sanctions and raises the issue of human rights violations in China, and particularly the situation in Tibet, at every political and human rights dialogue with the Chinese authorities.[29]

General outlook for 2024

China's 4th Universal Periodic Review (UPR) will be held on 23 January 2024. It is a crucial moment of global scrutiny on the human rights situation in the country due to the absence of debate on substantial issues in the Human Rights Council.

Despite a seemingly high acceptance rate of recommendations – China accepted 284 out of 346 recommendations from its 3rd UPR in November 2018 – China has broadly rejected all recommendations on the rights of Uyghurs and Tibetans.

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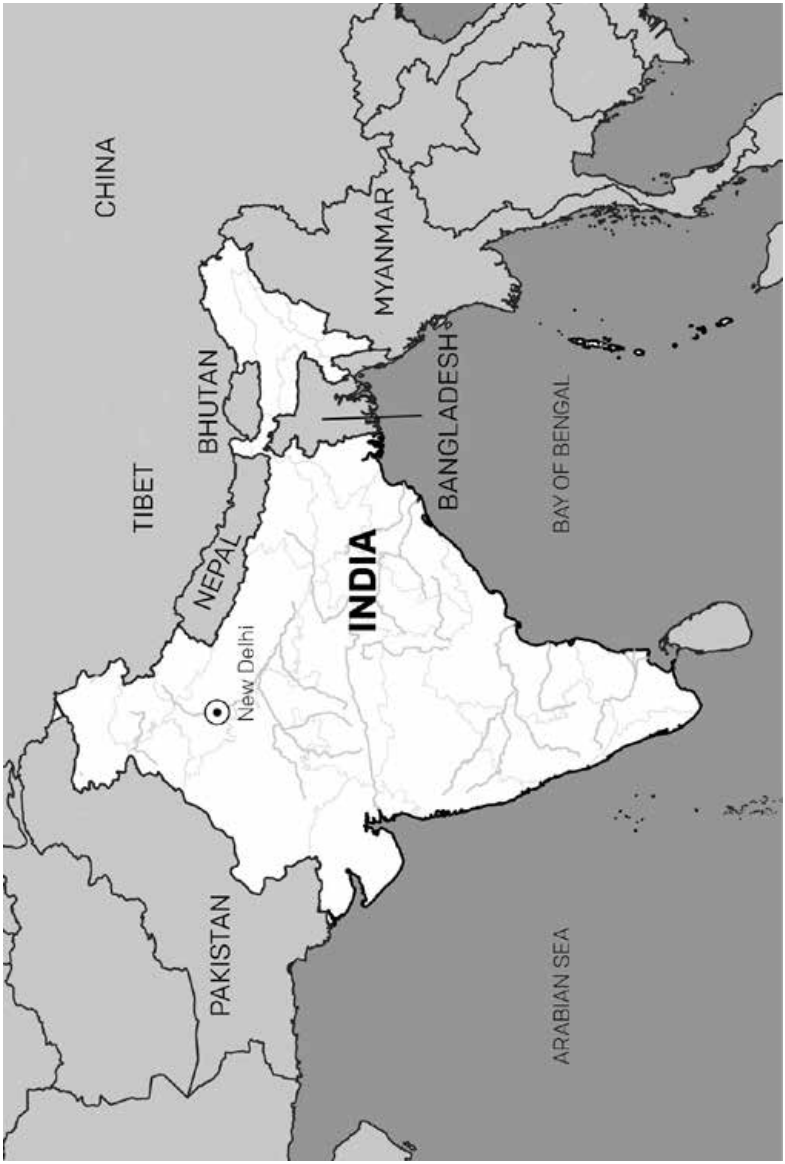
Due to the sensitivity of some of the issues covered in this article, the author prefers to remain anonymous.

India


CHINA
TIBET
NEPAL
BHUTAN
MYANMAR
BANGLADESH
INDIA
New Delhi
PAKISTAN
BAY OF BENGAL
ARABIAN SEA

In India, some 705 ethnic groups are listed as Scheduled Tribes. In central India, the Scheduled Tribes are usually referred to as Adivasis, which literally means original inhabitants, Indigenous Peoples.[1] With an estimated population of 104 million, they comprise 8.6% of the total population. There are, however, many more ethnic groups that would qualify for Scheduled Tribe status but which are not officially recognised and consequently, the total populations of the Scheduled Tribes are higher than the official figure.

The largest concentrations of Indigenous Peoples are found in the seven states of north-east India, and the so-called "central tribal belt" stretching from Rajasthan to West Bengal. India has several laws and constitutional provisions, such as the *Fifth Schedule* for central India and the *Sixth Schedule* for certain areas of north-east India, which recognise Indigenous Peoples' rights to land and self-governance. The laws aimed at protecting Indigenous Peoples have numerous shortcomings and their implementation is far from satisfactory.

The Government of India has increasingly been using the term "Indigenous Populations" in official notifications such as the establishment of a High-Level Committee to look into the "social, economic, cultural and linguistic issues of the indigenous population in the State of Tripura"[2] or in its justification for the Citizenship Amendment Bill, 2019. The State government of Jharkhand declared the International Day of the World's Indigenous Peoples, celebrated on 9 August every year worldwide, a state holiday.[3]

The right to land and forest resources, and free, prior and informed consent diluted

The rights of Indigenous Peoples to land and forest resources have been increasingly targeted through changes to forest and conservation laws.

On 4 August, despite stiff opposition from scientists, conservationists, activists and Indigenous people, the Government of India passed the Forest (Conservation) Amendment Act, 2023.[4] The Act empowers the central government to divert land without forest clearance from certain categories of forest lands. It provides exemptions from the mandatory requirement of forest clearance for security-related linear projects within 100 kilometres of international borders or up to 10 hectares for construction of defence-related projects or camps for paramilitary forces or public utility projects in Left-Wing Extremism-affected areas. The Act also allows for land acquisition for development, eco-tourism, mining and security projects.[5]

The FCA Amendment Act, 2023 violates the forest rights of the Scheduled Tribes and the right to free, prior and informed consent (FPIC) of the Gram Sabhas under Section 4(e) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006[6] (FRA) and Section 4 of the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 (PESA).[7]

The FCA Amendment Act, 2023 came into force on 1 December. A Public Interest Litigation (PIL) was filed in the Supreme Court of India challenging the constitutional validity of the amendments. However, on 30 November, the Supreme Court refrained from staying the amendments after the central government assured that no 'precipitative action' would be taken until guidelines had been framed for an exemption from the definition of forest under the new law.[8]

Across India, the forest rights of Indigenous Peoples were thus violated. In the Parsa East and Kanta Basan (PEKB) coal mining project being operated by the Adani Group in Hasdeo Arand forest in Chhattisgarh, Indigenous communities face renewed onslaught.[9] In December 2023, tree felling for the project started despite protests. Several Indigenous activists travelling to the area to protest against the large-scale felling of trees were detained by the police on 22 December. Phase 2 of the mining for PEKB will affect Ghatbarra village, which will be "displaced entirely". However, as of today, the Ghatbarra Gram Sabha has not given its consent for mining in the area. Previously, the tribals had alleged that fake consent was obtained from the Gram Sabhas in the Hasdeo Arand area.[10]

Contradictory policy developments: the case of Indigenous communities on the verge of extinction

Of all the Indigenous Peoples in India, some 75 groups are identified as Particularly Vulnerable Tribal Groups (PVTGs) by the Government of India, effectively on the verge of extinction. The total population of the PVTGs as per the 2011 Census was 1,702,545, spread across 18 States and the Union Territory (UT) of Andaman and Nicobar.[11]

On 15 November, Prime Minister Narendra Modi launched the Rs 240,000 million Pradhan Mantri Janjati Adivasi Nyaya Maha Abhiyan (PM-JANMAN) scheme for the PVTGs of India[12] to provide a number of facilities including housing, drinking water, sanitation, access to education, health, nutrition, roads, telecom connectivity, and sustainable livelihood opportunities.[13]

On the other hand, the government has continued with the much-criticized Rs 72,000 crore (EUR 8,116.42 million) mega project on Great Nicobar Island, which threatens the survival of two Indigenous tribes – the Shompens and Nicobarese – who are classified by the Government of India as "PVTGs". The first phase of the International Container Transhipment Port (ICTP) project is to be commissioned in 2028 and the Detailed Project Report of the ICTP project is under finalization to invite tenders in early 2024.[14] Apart from ICTP, three other components involve building an international airport, a township and a power plant over 16,610 hectares of the Island.[15]

On 3 March 2023, the National Green Tribunal (NGT), a statutory body that deals with the expeditious disposal of complaints related to environmental protection and other natural resources temporarily put a hold on the mega project on Great Nicobar Island while hearing a petition challenging the hasty clearances given to the project. The NGT constituted a High-Powered Committee (HPC) to revisit the Environment Clearance (EC) granted to the project.[16] However, the NGT refused to interfere with the environmental or forest clearances, saying the project is of great significance not only for economic development but also for defence and national security. The NGT's stand was criticized by activists and conservationists.[17]

On 20 April, the National Commission for Scheduled Tribes (NCST) also intervened in the matter by directing the administration of Andaman and Nicobar Island to submit facts and an "action taken" report.

The Commission also stated that the project was being undertaken without "prior consultation with the NCST".[18]

The Government of India also failed to submit any information to the UN Committee on the Elimination of Racial Discrimination (CERD Committee). In April 2022, the CERD Committee asked the government to submit information, by 15 July 2022, on the measures adopted to prevent any adverse and irreparable impact of the mega project on the PVTGs.[19] On 8 December, the CERD Committee expressed its regret about the lack of response from India and urged the Government of India *"to adopt all necessary measures to address the allegations mentioned above and to protect the rights of the PVTGs in Andaman and Nicobar Islands."*[20]

Across India, alienation of the land rights of the tribals continues unabated. On 14 November, the Odisha government decided to amend the Odisha Scheduled Areas Transfer of Immovable Property (by STs) Regulation, 1956, allowing the tribals to transfer their land to non-tribals in Scheduled Areas with a written permission from the Sub-Collector. It also allows the tribals to mortgage land with any public financial institution for purposes other than agriculture.[21] On 24 November, the Odisha government withheld its decision to amend the Regulation following stiff opposition from tribal groups and opposition political parties. The matter was referred to the Tribes Advisory Committee (TAC) for reconsideration of the decision. However, the decision was only "withheld" and the TAC was headed by the Chief Minister, who approved the 14 November decision.[22]

Violations of Indigenous Peoples' rights by security forces and armed opposition groups

With the exception of Jammu and Kashmir, armed conflicts in India are concentrated on the territories mainly inhabited by Indigenous Peoples. Indigenous Peoples were the victims of human rights violations in 2023, including death in custody and torture.

Some of the cases reported included torture such as rubbing of green chilies in the eyes and private parts of seven Indigenous men, including a minor, aged 17, by police during their illegal detention in Villupuram, Tamil Nadu from 25 to 28 February on charges of theft;[23] kill-

ing of an 18-year-old Indigenous man by police firing during a protest in Madhya Pradesh on 15 March;[24] torturing to death of a 23-year-old Indigenous man by police officers and Forest Department officials in Uttarakhand on 20 March;[25] killing of a 33-year-old Indigenous man by police firing during a protest in West Bengal on 27 April;[27] custodial torture of a 40-year-old Indigenous man by a police officer in Madhya Pradesh for refusing to pay a bribe to settle a case related to an illegal liquor sale on 7 July; death in custody of a 41-year-old Indigenous man from Manipur after his arrest in Andhra Pradesh on 16 July;[28] arrest of a 30-year-old forest rights activist after allegedly implicating him in a false case for protesting against the illegal felling of trees by timber mafia in Madhya Pradesh on 29 August;[29] death of an Indigenous man due to lack of timely medical care during judicial custody in Chhattisgarh on 4 September after his arrest in connection with a case of alleged encroachment on land;[30] and death of a 30-year-old Indigenous man following alleged torture by police after he was detained for creating a ruckus in Madhya Pradesh on 23 August.[31]

A number of Indigenous Peoples in the North-Eastern region and the Naxalite-affected areas in the "tribal belt" were victims of human rights abuses in 2023, including extrajudicial killings by security forces. The incidents included the killing of an Indigenous man by police in a case of mistaken identity during an encounter in Assam on 24 February;[32] killing of two Indigenous men by security forces in an alleged fake encounter in Chhattisgarh on 5 September;[33] killing of a 24-year-old Indigenous man from Arunachal Pradesh by officials of the Assam Forest Department due to disproportionate use of firearms in Assam on 18 September;[34] and death of three Indigenous men and injuries to five others in the custody of the Army due to alleged torture during questioning in connection with the killing of four soldiers by militants in Jammu and Kashmir on 23 December.[35]

Armed opposition groups (AOGs), especially the Maoists, continued to target Indigenous Peoples during 2023 on charges of being "police informers", in clear violations of international humanitarian laws. The victims of Maoist violence included a tribal man who was beaten to death with sticks in Andhra Pradesh on 4 January;[36] a 26-year-old tribal student killed after he was abducted in Maharashtra on 9 March;[37] a tribal man killed in Odisha on 10 May;[38] a 40-year-old tribal man killed in Odisha on 19 October;[39] a 32-year-old tribal man killed following ab-

duction in Maharashtra on 15 November;[40] and a tribal man also killed in Maharashtra on 24 November.[41]

In north-east India, killings of Indigenous People by AOGs were largely reported from Manipur, where ethnic violence is ongoing between the majority Meitei community and Kuku-Zo tribals since 3 May following the Meiteis' demand for Scheduled Tribe status. Instances included three Kuki tribal men, aged 20, 31 and 35, who were allegedly tortured, stabbed and their limbs dislocated before being shot at close range by suspected militants in Ukhrul district on 18 August while they were guarding their village;[42] killing of three tribals belonging to the Kuki-Zo community, and the killing of another two Kuki-Zo men allegedly by suspected militants in Kangpokpi district.[43, 44] Armed groups belonging to Kuki-Zo tribes were also allegedly involved in targeting and killing of Meitei people in the continuing ethnic violence.[45] In Arunachal Pradesh, a tribal leader and former Member of the Legislative Assembly was shot dead by a suspected militant on 16 December.[46]

Situation of Indigenous women

The individual and collective rights of Indigenous women and girls are regularly denied or violated in private and public spaces. Sexual violence, trafficking, killing or being branded a witch, militarization or State violence, and the impact of development-induced displacement remain major issues faced by women and girls.

In its latest report "Crime in India 2022", published on 3 December 2023, the National Crime Records Bureau (NCRB) recorded a total of 1,347 cases of rape against Indigenous women and girls in 2022.[47] The sexual assaults were perpetrated by both civilians and security forces/government officials.

On 18 July, a horrific video of two Indigenous women being paraded naked and sexually assaulted by a mob in Manipur amid the ongoing ethnic violence sparked nationwide outcry. The mob also killed two Indigenous men who tried to protect the women. The victims were reportedly abducted from police custody in Kangpokpi district on 4 May but the incident came to light only on 19 July. The police did not act after the first complaint was lodged on 18 May and did not arrest the culprits even after the First Information Report (FIR) was transferred to the nearest

police station on 21 June. The first arrest was made on 19 July, 77 days after the assault and a day after the video of the incident went viral. Pursuant to a complaint filed by the Indigenous Lawyers Association of India (ILAI), the Manipur government informed the National Human Rights Commission (NHRC) during its open camp hearing in Guwahati, Assam on 17 November that compensation of Rs. 1,300,000 each was paid to the two sexual assault survivors and the criminal case was being investigated by the Central Bureau of Investigation (CBI).[48]

In another gruesome case from Manipur, two Indigenous women, aged 21 and 24, were abducted, tortured, gang-raped and murdered by a mob of some 100-200 persons in the state's capital, Imphal, on 5 May. There was serious police inaction despite a complaint being filed and a FIR registered. This case is also being investigated by the CBI.[49]

Elsewhere, the trend of sexual violence against Indigenous women and girls continued both on the part of security forces/government officials and non-tribals.

On 4 January, a 30-year-old Indigenous woman was raped and murdered, allegedly by forest officials in a forest in Bihar when she went to collect firewood.[50] On 15 June, five Indigenous women from Tamil Nadu were allegedly subjected to sexual harassment and torture by six policemen in Andhra Pradesh after they were arrested.[51] On 15 August, a tribal woman was forcibly picked up, tortured and her modesty outraged by police in Telangana. The police claimed that the victim was brought to the police station for creating a nuisance.[52] On 18 November, a young tribal girl was raped and physically assaulted by two Beat Constables of the Forest Department in Madhya Pradesh. The victim was called to the forest outpost by the two accused on the pretext of cooking food for them.[53]

Some of the reported cases of Indigenous women/girls targeted for sexual violence by non-tribals/upper castes during 2023 included a 12-year-old tribal girl who was gang-raped by three youths from a dominant caste in Madhya Pradesh on 15 January;[54] a tribal woman who was kidnapped and gang-raped by three youths in Odisha on 19 January;[55] two young tribal girls, aged 14 and 17, who were gang-raped by five men in Odisha on 16 April;[56] a 20-year-old tribal woman gang-raped in front of her husband by around seven individuals while returning home after attending a fair in Jharkhand on 27 April;[57] the rape of four Irula PVTG tribal women, aged between 19 and 30 years, by their

employer, who kept them as bonded labourers and subjected them and their families to ill-treatment, humiliation and torture at a woodcutting unit in Tamil Nadu in May;[58] a 16-year-old tribal girl who was abducted and gang-raped by eight non-tribals while she was on the way from a marriage function along with her uncle in Bihar on 6 June;[59] a 15-year-old tribal girl who was abducted and raped by two influential persons in Maharashtra on 10 June;[60] a 26-year-old tribal woman labourer was gang-raped by her employer in Maharashtra on 19 June;[61] a 50-year-old tribal woman who was gang-raped and murdered by three non-tribals in Madhya Pradesh on 22 June;[62] two young tribal girls, aged 14 and 16, who were gang-raped by seven individuals while they were grazing goats in a forest area in Madhya Pradesh on 13 July;[63] a 17-year-old tribal girl who was raped, her eyes gouged out and killed for refusing sexual advances from two upper caste persons in Madhya Pradesh in the intervening night of 24 and 25 August;[64] and a 21-year-old tribal woman raped and physically assaulted by a deputy Sarpanch (village head) under threat in Madhya Pradesh on 20 November.[65]

Indigenous Peoples are the largest group of Internally Displaced Persons in India

Apart from the Kashmiri pandits and Meiteis of Manipur, most of the Internally Displaced Persons (IDPs), both conflict and development-induced, are Indigenous Peoples. The Government of India does not have any data on the number of Indigenous Peoples internally displaced by industrial and infrastructure projects or armed conflicts.

In 2023, the ethnic conflict in Manipur, displaced around 70,000 people, mostly Indigenous people belonging to Kuki-Zomi tribe who were forced to take shelter in relief camps in the state as well as neighbouring states.[66]

Those displaced from Manipur were forced to live in pitiable conditions with shortages of essential items, including food and medical supplies in the relief camps. On 1 September, the Supreme Court directed the central and state governments to ensure basic supplies of food and medicine to the displaced people in Manipur.[67] Some 12,000 displaced Indigenous persons who had fled to Mizoram were living in deplorable

conditions in relief camps due to the lack of assistance from the central government despite the requests of the Mizoram government. Acting on a complaint filed by ILAI, the Mizoram government confirmed to the NHRC that it had received no assistance from the central government and *"has been managing the IDPs with monetary contribution from MLAs, Corporators, Departments of Central and States Governments, Churches, NGOs"*. The matter is now under consideration of a full commission of the NHRC.[68]

The resettlement of the Brus, also known as Reangs, who were displaced from Mizoram due to ethnic violence in 1997, in Tripura was not fully completed by the year's end. In October, the general secretary of Mizoram Bru Displaced Peoples' Forum (MBDPF) alleged that over 600 Bru families, out of 6,953, had not been resettled in new areas.[69] Further, some 2,000 Bru families had not been paid their monthly allowance of Rs. 5,000 since October 2022, thereby putting the displaced families in great financial difficulty and distress.[70]

The displaced Gutti Koya Indigenous people from Chhattisgarh who sought shelter in Telangana and Andhra Pradesh due to the conflict between the Salwa Judum and Maoists in 2005 continued to be at risk of forcible eviction. Acting on a complaint filed by the ILAI on the eviction of the Gutti Koya displaced persons, the NHRC directed its Special Rapporteur for Andhra Pradesh to make enquiries into the matter and submit a report to the NHRC. Pursuant to the directions of the NHRC, the Special Rapporteur submitted the enquiry report (30 January) confirming the allegations of forced evictions to be "true", together with molestation of four Guthi Koya women, merciless violations of human rights on an unprecedented scale, only 13,000 acres out of 1,024 million acres being encroached, abysmal poverty and denial of fundamental facilities, stopping of the issuance of the Scheduled Tribes certificates to Guthi Koyas Tribes without any official communications etc., and no response from the relevant authorities on sharing of policy document that reflect the way and manner through which the field-level officers are handling the Guthi Koya issue.[71] The case is under adjudication and the NHRC also directed that, without due process, the tribals should not be evicted.

The rights of Indigenous Peoples are often violated in the process of evictions or acquiring of lands for business and infrastructure development.

On 16 January, the National Commission for Scheduled Tribes summoned the Collector of Jalgaon district, Maharashtra in connection with a complaint alleging unlawful purchase of tribals' land by a private company with forged documents.[72]

On 11 April, 29 Indigenous families were forcibly evicted by Forest Department officials in Manipur. The Forest Department also dismantled their houses claiming that they were forest land encroachers. However, the evicted tribals claimed that they had been living in the two villages since 1961.[73]

On 18 April, a 30-year-old Indigenous man belonging to the Jenu Kuruba tribe died due to alleged torture by Forest Department officials in Nagarahole Tiger Reserve, Karnataka, after he was caught fishing at Kabini backwaters.[74]

On 24 May, an Indigenous man was killed and four others, including two women, were beaten by non-tribals, including a police constable, after they protested against the grabbing of their land in Jharkhand. The accused police constable and his associates were trying to grab the land. A police complaint was filed from the victims' side but no action was taken.[75]

On 13 August, a tribal couple attempted suicide, perturbed at the forcible attempts by a government official and others to illegally grab their land in Telengana. Prior to the suicide attempt, the couple had submitted a number of representations to the officials concerned to safeguard their land. And yet no prompt action was taken by the authorities.[76]

NAGA HOMELAND

The Naga ancestral land is a geographically compact territory "straddling the official boundary of India and Burma/Myanmar, from just south of the Chinese border."[77] However, when the British colonial forces intruded into Naga territory, they divided Naga land and placed it under different powers to "satisfy their allies, and each time the lines inevitably moved further inside the Naga country."[78] The international boundary runs across Naga territory thereby separating the people between two countries, India and Burma, who in turn further divide the Nagas into different states and regions.[79]

Naga Peoples and their lands – The soul of self-determination

Like most Indigenous Peoples, Naga peoples are intrinsically connected to their geography and their continuing history. This connection is reflected in the Naga political identity, which is closely interwoven with the Naga concept of land and territories. The land is far more sacred and inclusive through Naga eyes, as it represents "territory, place, homeland, culture, religion" and encompasses "water, forests, rocks, stones on the ground, the mineral below ground, and the clouds and sky above ground."[80]

Land is not simply a commodity to be parcelled off, labelled and exploited but is alive, life-giving, and in a relationship with humans.[81] The land enables the Nagas to become "fully human as creators of culture".[82] This fundamentally means that Nagas cultivate the land to transform their lives and, by acting with it, create a new world.[83]

In the summer of 2023, the President of Konyak Union spoke on the continuing violence and trauma of colonisation while interacting with the Recover Restore and Decolonise Team of the Forum for Naga Reconciliation (see more about this in the next section). He said, "These divisions created since the British times continue to hurt us. First, we were split into India and Burma. Later, we were further separated into Assam, Nagaland, and Arunachal Pradesh by the Indian government."[84] He says this policy was a "colonial project, and the trauma of that division continues to cause great suffering and grief to this day."[85]

The violent division of the Naga territory by artificial boundaries and the continuing militarisation has turned their land into one of the most geographically divided and complex areas in the region. This social and territorial fragmentation impedes the Naga peoples' identity and right to self-determination by fracturing their relationship with history and geography, which is leading to a "steady de-recognition of the peoplehood of the Nagas."[86]

Interregnum and decolonisation

In many ways, 2023 was a continuation of 2022 with no significant shift away from the existing macro trends of previous years. The 26-year-old protracted peace process[87] continued without leading to any genuine resolution, thereby inducing an interregnum. Naga society continues to be further entrenched with new divisions and alignments within the Naga political movement and Naga civil society. In the absence of a po-

litical solution, "Nagas have been living within a culture of perpetual flux which is eroding the core foundational values and worldviews of life and co-existence" where "their culture and world are not defined and determined by themselves and for their own purposes,"[88] but by State and corporate interests that have filled the interregnum.

The weakening of Naga societal values and traditional institutions has fuelled several phenomena, including the unchecked migration of people, a consolidation of market forces with more multinational corporations in Naga territories, an assimilation of culture, increasing pressure on Indigenous land and resources, a growing drug trade and drug abuse,[89] and rising tensions between the idea of State-centric development and Indigenous land ownership systems.

Despite these negative trends, the ceasefire between the Government of India (GoI) and the various Naga political groups has held. While the political solution remains elusive, the process did not lapse into armed confrontation. Even though there were isolated incidences of factional violence and splintering between some of the Naga groups,[90] their resolve to support Naga reconciliation remained.

2023 was also a year that Naga women broke gender barriers when Salhoutuonuo Kruse and Hekani Jakhalu became the first women elected to the Nagaland Legislative Assembly, in which Kruse also became the first Naga woman minister. This was the first time that women have been directly elected in parliamentary or assembly elections in Nagaland.[91]

With the ceasefire holding, the democratic space has continued to expand with vibrant dialogue and public engagement on critical social issues. These conditions have created opportunities for Nagas to connect with the outside world, in addition to opening many avenues for building collaboration, partnerships and institutions, especially around areas of education, business, entrepreneurship, creative arts, music and tourism.

One critical intervention that broadened the scope of inter-generational dialogue in 2023 was through the Forum for Naga Reconciliation's (FNR) initiative called Recover Restore and Decolonise (RRaD). FNR "has been facilitating a process to develop and enable a Naga response around the future care of Naga ancestral human remains"[92] taken during the British colonial period and which are currently housed in the Pitt Rivers Museum in Oxford, UK. The RRaD Team visited Naga

towns and villages where they engaged in a participatory process of dialogue and storytelling. This experience enabled people to connect the past, present and future around questions of colonisation, decolonisation, generational trauma of colonial violence, healing and unity, identity, and territory.

Identity politics

In 2019, the Union Cabinet approved removing the generic term "any Naga tribes" in Arunachal Pradesh and replacing it with the specific names of the tribes.[93] In 2023, questions about identity continued. The Rengma Naga People's Council of Karbi Anglong in Assam opposed removing the word "Rengma" when East Rengma Mouza was renamed East Mouza.[94] The removal of the name "Rengma" denies their self-definition as Nagas in a relationship with their ancestral land, "alienating them from their [I]ndigenous rights, and de-legitimizing their identity as a people."[95] Removing the Naga identity in states like Assam and Arunachal Pradesh where Nagas are a minority further fractures the collective identity. This negates the Naga aspiration to live together as a people and exercise their right to self-determination.

For the Nagas whose territory falls under the administrative state of Manipur, 2023 was a year of anxiety and uncertainty. The identity-based conflict between the Meitei and Kuki-Zo people in Manipur, which began on 3 May 2023,[96] has greatly impacted the Nagas. The ongoing conflict has led to the loss of lives, gender-based violence, destruction of properties, distortion of history and the dehumanisation of each other.

This history of identity conflict was institutionalised during the British colonial rule. What triggered the violence in Manipur was a recommendation made by the Manipur High Court to the state government to include Meiteis in the Scheduled Tribe category.[97] The conflict involves questions of land, resources, identity, economics, and governance. One concern is that the violence will evict tribals from their land, thereby making way for private industries and businesses for mining.[98]

The Naga people are not part of this ongoing conflict. However, with violence also perpetuated in Naga territories, daily lives are affected. A few violent incidents against Naga individuals led to a loss of life. While these incidents were seen as attempts to provoke and draw the Nagas into the conflict, the United Naga Council, Manipur urged the Meitei and Kuki-Zo people to refrain from "hostile acts and to hold an

immediate ceasefire from intermittent firing."[99] Furthermore, the Naga Legislators Forum, Manipur told the Home Minister of India that "in the event of any arrangements" between the Meitei and Kuki-Zo, "Naga areas should not be touched ... Naga people should be consulted properly ... that arrangement for the Nagas should be as per the outcome of the Indo-Naga Peace process."[100]

Within Nagaland State, the Eastern Nagaland People's Organisation's (ENPO) demand for a separate Frontier Nagaland state has gained momentum.[101] Following several years of rallies, petitions and negotiations, ENPO accepted GoI's proposal to form a Frontier Naga Territory with legislative, executive, administrative and financial autonomy.[102] Accordingly, the proposed set-up is to be reviewed after a period of 10 years to assess its efficacy in fulfilling the people's aspirations in the region. The ENPO accepted the proposal "without insisting on dividing the Nagaland State" considering the Naga sentiments towards unity and togetherness.[103]

Since 2021, Nagas in Burma have been directly impacted by the military coup as the ongoing armed conflict has intensified. Many Nagas in the east of the Naga territories have been displaced and forced to seek refuge, across the international border, with Nagas in the west.[104] Burma's volatile political situation continues to disturb the well-being of the Nagas in Burma.

Consequently, the changing geopolitics of the South Asia and Southeast Asia regions continues to affect the destiny of the Nagas.

Commodification of land, resources and development

Over the past decade, market forces have grown considerably and systematically consolidated their presence in Naga territories. This has led to various trajectories around materialism, land commodification, ownership patterns, land-based disputes, mono-cropping, State-centric development versus people's development, and the question of extracting minerals and other natural resources. Some examples from 2023 that demonstrate the increasing tensions are:

- **The Forest (Conservation) Amendment Act, 2023**, passed by the Indian Parliament on 26 July 2023,[105] is being contested by the north-east states, including Mizoram and Nagaland, who argue that the law undermines their autonomy in forest

management, affecting special entitlements granted under Article 371 and the Sixth Schedule of the Constitution. Local councils fear a loss of decision-making power and threats to traditional land ownership, while ecologists highlight the potential impact on biodiversity and concerns over forest diversions for commercial purposes.[106] The Nagaland Community Conservation Area Forum labels the Act as unconstitutional, undemocratic, and unacceptable.[107] The Nagaland Legislative Assembly passed a resolution stating that the Forest (Conservation) Amendment Act, 2023, would be applicable only if the constitutional guarantees provided for in Article 371A were adhered to in order to safeguard tribal communities' existing rights to forest lands and resources.[108]

- **Land in Nagaland State is owned by the people.** Because of this landholding system, the Annual Administrative Report 2022-23 of the Planning & Coordination Department of the Government of Nagaland said, "The issue of land ownership is the biggest hurdle in taking up developmental activities. And therefore, Government has to purchase land from private individuals for taking up of developmental activities."[109] Landowners have often been told by the government not to "obstruct progress".[110] The traditional landholding system has thus been projected as an obstacle to development. There are concerns angling to shift the land tenure from community-owned to private ownership.[111]
- **Significant push for oil palm cultivation in the north-east**, including in the Naga territories of Nagaland State and some Naga districts in Manipur, which involves big companies. The Kezekevi Thehou ba (Peace Morung) said the "bid to push oil palm cultivation in North East rings alarm bells" and oil palm plantation in Nagaland State, which began with 140 ha in 2015-2016, had grown to 4,623 ha by 31 March 2021.[112] As of July 2023, the plantation area had increased to 5,423 ha, which is a 39-fold growth since 2015.[113]

  A report pointed out that the forest lands targeted for oil palm plantation "are crucial for biodiversity, climate resilience and protecting the interests of [I]ndigenous cultures, their lifestyles and livelihoods".[114] It said that due to "ecological and cultural significance, the North-East should be a 'No-Go' area for oil palm cultivation."[115]

- **Oil and gas exploration in the Naga context** is intimately "intertwined with the Naga political issue."[116] For this very reason, oil extraction in the villages of Changpang and Oil Tssori by the Oil and Natural Gas Corporation Limited were halted in 1994 due to protests and opposition by communities and organisations. In April 2023, the Assam and Nagaland governments agreed in principle to resume oil and gas exploration in contested areas while considering an out-of-court settlement for their long-standing border dispute.[117] According to reports, the two governments proposed that they would equally share the proceeds from the exploration, aiming to address economic losses caused by the border dispute.[118]

  The agreement to resume oil and gas exploration once again brought the question of oil to the fore. Public opinion differed among several civil society organisations and business associations as well as others. The National Socialist Council of Nagalim (Isak Swu and Th. Muivah) stated that: "Unless an honourable political settlement between the Nagas and Government of India is reached, no exploration of oil and natural gas in Naga territories in any form shall be allowed."[119] Similarly, the Working Committee of the Naga National Political Groups said, "As and when political Agreement is inked, natural resources including fossil fuels will be explored, extracted and utilised for the benefit of Naga people."[120]

Conclusion: Just peace and self-determination

The events and trends of 2023 are once again a reminder that a resolution of the Naga political question is imperative because Naga polity and future revolves around it and requires finding a new path forward.

The Naga conflict is "one of the world's least-known, but longest-running and bloodiest armed conflicts,"[121] and "one of the most persistent and least-known struggles of [I]ndigenous [P]eoples in the world today."[122]

In response to the colonial incursions into their territories, the Nagas initiated "their own national movement for regaining of their sovereignty"[123] and is "the oldest of the self-determination struggles."[124]

India's position was (and remains) "that the Indian Union legally includes all the territories formerly embraced by British India"[125] and it

claims that "Nagaland forms an integral part of India and that complete independence for the Nagas is a preposterous proposition."[126] The Nagas maintain that: "When the British left India, Nagaland was not part of India, but under direct occupation"[127] and that their struggle for self-determination was "part of the unfinished decolonization of the Indian subcontinent."[128]

Over the decades, the Indo-Naga relationship has been an interplay of statecraft, militarisation, and some form of peace agreements. Despite appeals and petitions for a final solution to the current Indo-Naga political negotiations,[129] the outcome of the 26-year-old peace process remained elusive throughout 2023. Now, the peace process seems to be frozen.

In December 2023, Naga National Political Groups (NNPGs) stated that Indo-Naga political negotiations had been "concluded, not deadlocked"[130] while the National Socialist Council of Nagaland (NSCN), in its last round of formal talks on 14 November 2023, said it was "not conclusive but not deadlocked."[131]

The Indo-Naga process offered an opportunity to imaginatively explore creative ways of finding resolutions to self-determination and sovereignty-based conflicts. However, over the years it has become more apparent that the GoI's approach is designed to manage the conflict through a State-centric bureaucratic negotiating process that focuses on short-term gains without making concessions rather than addressing the core political issues in order to find sustainable resolutions. There is an increasing need to shift away from the current Westphalian approach of peace towards one in which a relational understanding of territory, justice and self-determination is the cornerstone of a just peace.

In the Naga cultural worldview, it is the people who define the land and its destiny based on the historic continuity and relationship they share. However, the question as to whether or not the Naga people can determine the destiny of their land and territories continues to decisively impact on the present, and will also shape their polity in the coming years. The Naga peoples' ability to cultivate, interact and be interrelated and interdependent with their land defines their self-determining capacities which, in turn, empowers the Nagas' ability to be self-transforming. When Indigenous Peoples freely exercise their self-determining ability over their land, then just peace, renewal, healing and reconciliation processes will emerge.[132]

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Tejang Chakma *is Head of Research at the Indigenous Lawyers Association of India (ILAI).*

Tungshang Ningreichon *is with the Naga Peoples Movement for Human Rights (NPMHR), based in Delhi.*

Akhum Longkumer *is a member of the Naga Peoples Movement for Human Rights (NPMHR).*

Nepuni Piku, *an Indigenous peace and rights activist, works with the Recover, Restore, and Decolonize (RRaD) project, Forum for Naga Reconciliation.*

Aküm Longchari *is a member of the Forum for Naga Reconciliation (FNR).*

Japan

RUSSIA
CHINA
SEA OF JAPAN
JAPAN
SOUTH
KOREA
Tokyo
PACIFIC OCEAN

The two Indigenous Peoples of Japan, the Ainu and the Ryūkyūans (or Okinawans), live on the northernmost and southernmost islands of the country's archipelago. The Ainu territory stretches from Sakhalin and the Kuril Islands (now both Russian territories) to the northern part of present-day Japan, including the entire island of Hokkaido. Hokkaido was unilaterally incorporated into the Japanese State in 1869. Although most Ainu still live in Hokkaido, over the second half of the 20th century, tens of thousands migrated to Japan's urban centers for work and to escape the more prevalent discrimination on Hokkaido. Since June 2008, the Ainu have been officially recognized as an Indigenous people of Japan. The most recent government surveys put the Ainu population in Hokkaido at 13,118 (2017) and in the rest of Japan at 210 (2011), although experts estimate the actual population to be much higher.[1]

Ryūkyūans, or Okinawans, live in the Ryūkyū Islands, which make up Japan's present-day Okinawa prefecture. They comprise several Indigenous language groups with distinct cultural traits. Japan annexed the Ryūkyū Islands into its territory and established Okinawa prefecture in 1879 but later relinquished the islands to the United States in exchange for independence after World War II. In 1972, the islands were reincorporated into the Japanese State. Some 1.45 million people live throughout Okinawa prefecture. The Japanese government does not recognize the Ryūkyūans as Indigenous Peoples.

Japan has adopted the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) – although it does not recognize the unconditional right to self-determination. It has not ratified ILO Convention 169.

Ainu

Ainu "land" rights

Collective Ainu possession of land, resources and territories is a right that has been stripped from the Ainu people since the early Meiji Era (approximately 1880s) when the Japanese State estab-

lished unilateral and arbitrary laws declaring all territory of the island of Hokkaido as belonging to the State. Individual Ainu ownership of land was recognized to a limited extent by the 1899 Hokkaido Former Aborigines Protection Act, which granted each Ainu family 15 hectares of land—a mere fraction of the territories they had originally possessed as *kotan* (autonomous and self-governing Ainu villages). Additionally, the Ainu experienced a second expropriation of land with the liberation of agricultural land executed by the General Headquarters of the American occupying forces after World War II. However, the question of lands that were originally taken from the Ainu in this way has never been raised, nor has the issue of the lands of Ainu who were forcibly displaced, such as the Sakhalin Ainu or the Niikappu Ainu.[2] Ainu remain disenfranchised on their own lands and territories, with only limited harvesting rights provided for in current legislation, the Ainu Policy Promotion Act (hereinafter, APPA) and, even then, only upon the premise that the harvested resources will be used only for "cultural transmission purposes".

However, 2023 was a year that called this situation into question in two major ways: firstly, calls for a revision of the content of the APPA and secondly, a large international Indigenous symposium held in Urahoro, Hokkaido, in conjunction with the Raporo Ainu Nation litigation against the Prefecture of Hokkaido and the Japanese State over traditional salmon fishing rights.

Raporo Ainu Nation litigation and the 2023 Raporo International Symposium

Although 1 February 2024 will see the end of the trial, with a verdict likely in favor of the State scheduled for 18 April, the Raporo Ainu Nation already plan to appeal to higher courts, and the litigation will continue to have wider ramifications in terms of questioning the unilateral annexation of Ainu lands and resources into Japan, as well as the applicability of Japanese laws to the Ainu people.

In opposition to the State stance that salmon harvesting without a commercial fishing license is illegal under the current Marine Resources Protection Act, the Raporo plaintiffs have argued in the final brief submitted to the presiding judge that Ainu salmon harvesting is based upon several hundred years of tradition and custom and is an inherent Indigenous right recognized internationally.[3] They claim that to assert that Ainu and ethnic Japanese fishermen are equally prohibited under

the law from fishing in rivers is nothing other than assimilation policy[4] and invalid[5] because it contradicts international law.

In order to learn from the struggles of progressive foreign Indigenous Peoples and to spread awareness of Indigenous rights in Japan,[6] from 26-28 May 2023, the Raporo Nation brought seven Indigenous representatives and one lawyer from Finland, Canada, Australia, the United States and Taiwan to the Hokkaido town of Urahoro to hold the international Indigenous symposium, The Right to Fish in Rivers as Indigenous Right.[7] In addition to international media coverage,[8] the Symposium resulted in the 2023 Raporo Declaration,[9] and will be followed by similar international symposia on Indigenous harvesting rights held by Indigenous people in Australia (May 2024) and Taiwan (October 2024).

Revision of the APPA and scheduled 2024 review

As above, the APPA has been identified as lacking in basis for Ainu Indigenous rights. According to the Supplementary Resolutions,[10] it will be subject to review in Fiscal 2024, five years after taking effect in 2019. In order to capitalize on this opportunity to the fullest and to have their voice heard regarding the content of the law, Ainu individuals, in collaboration with civil society organizations, have been in the process of collecting petition signatures since September 2023,[11] as well as approaching Japanese Members of Parliament to arrange in-house seminars to be held at the Tokyo House of Representatives in the spring of 2024.

The content of the petition[12] to be delivered in conjunction with the workshop by the Realizing the Voices of the Indigenous Ainu! Executive Committee calls for a thorough review of the law in terms, *inter alia*, of "Indigenous attributes" as Indigenous Peoples as stipulated by the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), Ainu rights to land, fishing and hunting, Indigenous education, freedom from discrimination, rights to repatriation of ancestral remains, and the right to participation in the administration of the law.

Repeat offenses of hate speech

Pending the commotion caused by the discriminatory remarks of Member of Parliament Mio Sugita, which initially came to light in late November 2022,[13] protest gatherings were held by Ainu groups and other minorities in February[14] and March. Additionally, Ainu and Korean victims

of Sugita's hate speech applied for redress from the Japanese Ministry of Justice and, as a result, in September the Legal Affairs Bureaus of Sapporo and Osaka issued warnings to Sugita to "learn about the Ainu culture, and take caution with her remarks".[15]

Despite these official warnings, Sugita has become a repeat offender, subsequently making remarks suggesting that the apologies she originally made to the victims of her hate speech in December 2022 were not sincere and, furthermore, placing the blame for the subsequent uproar on the victims themselves.[16] These repeated offenses by Sugita have resulted in an official statement of condemnation from the Ainu Association of Hokkaido,[17] as well as in the organizing of further protest gatherings that took place January 2024.

Other developments

2023 was also significant in terms of:

1. Submission of a statement[18] by an Ainu activist in conjunction with a civil society organization to the Hokkaido Museum on the planned transfer of Ainu ancestral remains from the Museum to the Upopoy. This resulted in the museum publicly updating their homepage information regarding where the remains were originally obtained from;
2. The visit of the UN Working Group on Business and Human Rights and public report[19] on their findings, which called for the Japanese State to recognize Ainu collective rights to land and resources. The press conference[20] gained nationwide attention for its focus on human rights abuses in Japan;[21]
3. The repatriation from Australia to Hokkaido of the ancestral remains of a Sakhalin Ainu. This was the first time that Sakhalin Ainu had been involved in the process of receiving Ainu ancestral remains repatriated from a country other than Japan;
4. A statement by Hokkaido Governor Suzuki to the effect that he planned to involve the Ainu in the cultural activities of the 2025 Osaka World Expo. This announcement has been criticized by Ainu activists who point out the resemblance to the actions of the Japanese State in 1903 when it exhibited Indigenous citizens of the Empire in the Fifth National Industrial Exhibition, Osaka 1903.[22]

Ryūkyūans (Okinawans)

Military expansion in the Ryūkyū Archipelago

The rising tensions between the US and its allies in East Asia, on the one hand, and China and North Korea, on the other, have led to further militarization of the already heavily-fortified Ryūkyūs.

In March 2023, the Japan Ground Self-Defense Force established their new base on Ishigaki Island. Despite the civilians' protests, missiles and launch pads were brought into Ishigaki.[23] In May, Defense Minister Yasukazu Hamada ordered the Japan Ground Self Defense Force (JGSDF) to prepare to shoot down a North Korean spy satellite if it were to fall within Japan's territory. As a result, Patriot Advanced Capability-3 (PAC-3) surface-to-air missiles were deployed in Naha-city on Okinawa Island, as well as on Miyako Island, Ishigaki Island, and Yonaguni Island.[24, 25]

In September, it was revealed that the Japanese government had been considering the extension and expansion of runways at the airports of Naha, Ishigaki, and Miyako as well as the expansion and improvement of port quays for the purpose of fortifying defense.[26]

In November, the US Marine Corps deployed the Marine Coastal Regiment to Camp Hansen, which is located in the northern part of Okinawa Island, for the purpose of "deterrence of China" and in cooperation with the JSDF.[27] In October, a joint Japan-US training exercise called "Resolute Dragon" was conducted throughout Okinawa, despite citizen opposition. Osprey aircraft flew over Ishigaki Island for the first time and military vehicles were seen driving on public roads[28, 29] Additionally, in November, the US military deployed the MQ-9 unmanned surveillance aircraft at Kadena Air Base, ignoring the protests and concerns of the prefectural government and Kadena Town Council.[30]

Corresponding to the intensified military expansion in the Ryūkyū archipelago, protest rallies and demonstrations were organized throughout Okinawa and the Ryūkyū archipelago.[31, 32, 33]

Meanwhile, in June 2023, the Japanese government designated 39 locations in Okinawa prefecture as target areas for regulation at the central government council meeting on the Land Regulation Law, which regulates the sale, purchase, and use of land in areas around military facilities and other important national facilities. There are concerns that this move will not only result in restrictions on economic activities but also on protests around military bases.[34, 35]

Land grabbing

In November 2023, a Japanese businessman announced that he would be opening a theme park in northern Okinawa.[36] He stated that Ryūkyū was "the most exotic in Japan" and that "tourism is most profitable", revealing his colonial mindset toward Indigenous lands. Some locals have voiced their doubts about the theme park project and his intentions. Although the mayor of Nakayama Ward in Nago City expects economic growth, such as an increase in employment, he said that some residents have requested that an information meeting be held. "The ongoing construction has already disrupted traffic, and I am concerned about its potential impact on residents' lives."[37]

The park is set to be established in an area around the UNESCO Natural World Heritage site, close to the former US military training site where US military waste materials have been found.[38] And while the theme park touts "Okinawa's Natural World Heritage Site", it does not mention the issue of US military waste. One member of the Nago City Council, stated:

> *I got the impression that they don't care about local traditions, culture, and lifestyles, and that they see climate and nature only as tools to generate profits. They conveniently utilize "the brand" of the World Natural Heritage for their profits. It is disconcerting that the problem of US military waste left in the Northern training area can be concealed.*[39]

Language suppression by Japanese Diet members

At the memorial ceremony for the Battle of Okinawa, held on 23 June 2023, the Governor of Okinawa Prefecture, Denny Tamaki, delivered a speech in a mixture of Uchināguchi (Okinawan language)[40] and English. In response, Japanese Diet member, Masahisa Miyazaki, criticized Governor Tamaki on social media for using Uchināguchi at the ceremony.[41] Governor Tamaki responded by saying that his speech had included mourning for the residents (Indigenous Okinawans) who were killed as "spies" by Japanese soldiers for speaking Uchināguchi during the Battle of Okinawa.[42]

Lawsuit for repatriation of Ryūkyūan remains

Ryūkyūan descendants have filed a lawsuit in this regard. In December, the Osaka High Court dismissed the lawsuit against Kyoto University

filed by descendants of Ryūkyūans whose ancestors' remains, stolen by Japanese anthropologists in the early 20th century, are held by the university.[43] However, the court stated, in its ruling, that "the Ryūkyūan people are Indigenous to Okinawa" and showed a certain level of consideration by mentioning that "the remains should be returned to their home" in the appendices. This is the first case in which a court has recognized that the Ryūkyūans are Indigenous.[44]

In response to this ruling, the plaintiffs announced that they would not appeal to the Supreme Court, saying that there was a chance that "the political intervention" could erase the fact that the court had recognized the Ryūkyūans as Indigenous people. They intend to continue to negotiate with Kyoto University for the repatriation of the ancestral remains.[45]

Participation at the UN

In September 2023, Okinawa Prefecture Governor Tamaki participated in the 54th session of the UN Human Rights Council meeting where he raised the issue of the US military presence and shared his concern that the new base construction at Henoko will threaten Okinawa's peace.[46]

Furthermore, the civic organizations named the *Ginowan Churamizu* (Beautiful Water) Association and the Association of Comprehensive Studies for Independence of the Lew Chewans (ACSILs) participated in the UN Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) meeting in July to draw the international community's attention to the issues of water contamination due to the per- and polyfluoroalkyl substances (PFAS) caused by the US military as well as the need to protect the Ryūkyūan languages.[47]

Hate issue

In November, Ryūkyū Shimpo (local newspaper) hosted a forum on hatred for Okinawa, ranging from hate speech to hate motivated crime. Ushi Chien and Ryoko Nakamura served as panel speakers at the forum. Chinen and Nakamura noted that the ordinance regulating hatred (e.g., hate speech) does not acknowledge Ryūkyūans as an Indigenous ethnic group, while stressing the importance of continuously resisting the discrimination suffered by Okinawans at the hands of the Japanese.[48, 49, 50] Furthermore, in December, three civic organizations petitioned the prefectural government to define "ethnicity" in the human rights ordinance.[51]

Movements to restore the rights of the Indigenous Peoples of the Ryūkyū Islands

In November, the civic group, *Mabuigumi* Association, organized a demonstration in front of the prefectural government office in response to some assembly members' refusal to recognize the Ryūkyūans as Indigenous.[52] In addition, they submitted a written request urging prefectural assembly members to adopt the UN recommendations to ensure the Indigenous rights of Ryūkyūans.[53] There was no particular reaction from the prefectural council members. However, two civilians joined the demonstration after reading the article about it in the local newspapers.

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Jeff Gayman *is Associate Professor in the Research Faculty of Media and Communication and Graduate School of Education, Multicultural Education at Hokkaido University where his research focuses on issues of empowerment of the Ainu in educational arenas. He has been engaged in support of Ainu rights advocacy for over 15 years.*

Dr. Kanako Uzawa *is an Ainu scholar, artist, and rights advocate. She is the founder of AinuToday, a global online platform that delivers living Ainu culture and people. She is an Assistant Professor for the Global Station for Indigenous Studies and Cultural Diversity (GSI) at Hokkaido University in Japan. Her most recent work engages with Ainu art exhibitions as a guest curator in collaboration with the University of Michigan Museum of Art in the United States. She is also affiliated as an associated researcher at the Museum of Cultural History at the University of Oslo in Norway, and is an editorial board member of AlterNative: an International Journal of Indigenous Peoples in New Zealand, Aotearoa.*

Ryoko Nakamura *is a Ryūkyūan Indigenous person. She is the co-representative of "Nirai Kanai nu Kai", a citizens' organization that works for the repatriation of Ryūkyūan human remains.*

Risako Sakai *(she/her/hers) collaborated in drafting the section on Ryūkyūans. She is an Indigenous woman from Okinawa and is currently a PhD candidate in Applied Anthropology at Oregon State University. Her dissertation focuses on marine conservation and Indigenous resurgence, applying decolonizing and Indigenous methodologies.*

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With a population of just over 7 million,[1] the Lao People's Democratic Republic (Lao PDR or Laos) is the most ethnically diverse country in mainland Southeast Asia.[2] The ethnic Lao, comprising around half of the population, dominate the country economically and culturally. There are, however, some provinces and districts where the number of Indigenous people exceeds that of the Lao and where their culture is prominent. There are four ethnolinguistic families in Laos; Lao-Tai language-speaking groups represent two-thirds of the population. The other third speaks languages belonging to the Mon-Khmer, Sino-Tibetan and Hmong-Ew-Hmien families and are considered to be the Indigenous Peoples of Laos. Officially, all ethnic groups have equal status in Laos, and the concept of Indigenous Peoples is not recognized by the government, despite the fact that Laos voted in favour of adopting the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). The Lao government uses the term ethnic group to refer to Indigenous people.

The Lao government currently recognizes 160 ethnic subgroups within 50 ethnic groups. Indigenous Peoples, especially those who speak Hmong-Ew-Hmien languages, are unequivocally the most vulnerable groups in Laos. They face territorial, economic, cultural and political pressures and experience various threats to their livelihoods. Their land and resources are increasingly under pressure from pro-investment government development policies and commercial natural resource exploitation. Indigenous people lag behind the majority Lao-Tai at all economic levels. They have more limited access to healthcare, lower rates of education, and less access to clean water and sanitation. Indigenous people relying on unimproved or surface water ranged from between 20% to 32.5%, compared to just 8.5% of Lao-Tai, and while only 13.9% of Lao-Tai practice open defecation, this rises to between 30.3% to 46.3% among Indigenous people.[3]

Laos has ratified ICERD (1974), CEDAW (1981) and ICCPR (2009). The Lao government, however, severely restricts fundamental rights, including freedom of speech (media), association, assembly and religion, and civil society is closely con-

trolled. Organizations openly focusing on Indigenous Peoples or using related terms in the Lao language are thus not allowed, while open discussions about Indigenous Peoples with the government can be sensitive, especially since the issue is seen as pertaining to special (human) rights.

Under the Constitution of Laos, land and natural resources are considered "national heritage". The State is responsible for managing this in accordance with the law. It is also the responsibility of the State to protect the property rights of organizations and individuals. In theory, the State grants long-term and secure land-use rights to Lao citizens as well as legal persons, collectives and organizations of Lao citizens. The State recognizes the right to use the surface of the land only for cultivation, planting trees or construction, while all natural resources under the ground and on the surface still belong to the national community. 2023 marked a turning point in the development of the legal framework and four main pieces of legislation regarding land rights were promulgated.

Under the current legal framework, land rights in Laos are treated differently for lands located inside and outside forestland. State Forests comprise three main categories: Production Forest Areas (PFAs), Protection Forest Areas (PtFAs) and Protected Areas (PAs). While land holders outside of the three forest categories can receive land titles for their land, holders inside can receive Land-Use Certificates instead. According to the sub-legislation introduced in June, these Land-Use Certificates do not include the rights to transfer, mortgage or lease the land, as would be the case with full land title rights.

New Decree on Protected Areas

After three years in the making, Prime Minister H.E. Mr. Sonexay Siphandone adopted the new Decree on Protected Areas in Laos on 20 June 2023, marking a major milestone for better management and governance of these biodiversity-rich zones.[4]

The decree aims to balance benefits between people and nature by involving the residents of the surrounding villages in the co-management of the PAs through the "Guardian Village" approach. This approach requires a Guardian Village Conservation Contract and promotes PA communities' participation, empowering them to jointly make decisions with the PA Authorities about resource uses and allocations that serve conservation and development objectives. Inside PAs, the forest and natural resources are managed through a collaborative management system. Indigenous Communities are becoming key players in partnership with the Lao government. The decree also recognizes the land tenure of the inhabitants living inside PAs before its designation by means of land registration and land title or land-use certificates for authorized customary land uses inside PAs. This decree is a big step in the recognition of Indigenous Peoples' land rights inside PAs and also for biodiversity protection in Laos.

Guidelines on Village Forest Management Plan

The guidelines, released by the Ministry of Agriculture and Forestry (MAF) in October, set out the principles and procedures for implementing forest management plans at the village level both inside and outside the three main categories of State Forests. Its objective is to ensure a common approach to implementing the forest management plan throughout the country and to strengthen village authorities' capacity to manage and protect forestland and to contribute to the socio-economic development of the country with the idea of ultimately ensuring Indigenous Peoples land ownership and access to land in the three forest categories, including harvesting of Non-Timber Forest Products (NTFPs).[5]

Country Action Plan for the Recognition of Land-Use Rights in Forestland

In November 2023, the Ministry of Natural Resources and Environment (MONRE) and the Ministry of Agriculture and Forestry presented a joined Country Action Plan (CAP) for the Recognition of Land-Use Rights in Forestland. This project is supported by the PROGREEN-funded initiative: Security of Tenure in Forest of East Asia & Pacific.[6]

The development objective of this CAP is to enhance the recognition of land-use rights in forestland in order to promote security of tenure, natural resource protection, and livelihood development. The CAP aims to: create or improve village land allocation plans, and forest and agriculture land management plans for all 3,167 villages located on forestland by 2030; survey and register the land of individuals, legal entities or organizations in at least 628,000 plots, including issuing Land-Use Certificates according to law; and recognize the rights to use State land for collective purposes, including agricultural land and village forests, by means of demarcation and the issuing of village forest management and conservation contracts.

Civil society organizations have raised their concerns about the potential impacts of this legislation on Indigenous communities' access to customary land, both collective land and individual land inside State forestland. Indigenous people that were already settled in the State Forests prior to their establishment have the opportunity to have their customary rights to the land recognized. However, the criteria for identifying these households are unclear and, while they are eligible to obtain a Land-Use Certificate, they will not be able to transfer, sell or use their land as collateral or mortgage it. This illustrates the limitations of this attempt to formalize customary rights.

Indigenous people who settled inside State Forests after their establishment as such face the risk of expropriation or eviction. However, depending on the individual case, compensation may be provided. The risk of not receiving adequate compensation due to the lack of available funds for compensation from the government remains. During the last Land Information Working Group (LIWG) meeting in November 2023,[7] the government reiterated its strategy of resettling remote Indigenous communities located inside State Forests closer to services and permanent livelihoods (sedentary agriculture/paddy cultivation, as opposed to rotational shifting cultivation).

Cancellation of Decree 84 on Resettlement and Compensation

In December, the government officially promulgated the cancellation of Decree 84 on Resettlement and Compensation.[8] This decree provided

principles, regulations and standards on the management and monitoring of compensation for losses and the management of resettlement activities in order to properly and effectively implement development projects. It aimed to ensure that the affected people are compensated, resettled and assisted with permanent livelihood alternatives that will ensure that they are better off or at least on the same level as they were before. Finally, the decree advocated for projects to contribute to the socio-economic development of the nation in a sustainable way.[9]

The decree is replaced by the new Law on Settlement and Occupation,[10] which primarily aims to regulate the impact of development projects on the population by providing rules on the process for identifying the benefits they should receive, particularly compensation, resettlement and training. The law clearly covers projects funded by the private sector but it also appears to cover government projects. The law indicates and, to a degree, authorizes an interventionist role for government in moving communities around the country to suit its plans.

Challenges and opportunities

Free, prior and informed consent (FPIC) was discussed during official meetings conducted in 2023 and is becoming more widespread as a compulsory process for ensuring community ownership and a *sine qua non* factor of sustainability, supported by the Forestry Law (2019).[11] The World Bank-funded Lao Landscapes and Livelihoods (LLL) project implemented FPIC in 334 Indigenous communities targeted by the project.

Limited awareness of land rights prevents Indigenous communities from exercising their rights. Awareness raising is needed on the legal provisions protecting and securing village land and customary tenure, including the possibility of obtaining communal/collective title. The lack of awareness of their rights also means that Indigenous women struggle to have their customary land rights recognized, even during land titling processes.

Fortunately, many international agencies are committed to raising Indigenous communities' awareness of the law. This includes members of the LIWG[12] and the Land Learning Initiative for Food Security Enhancement (LIFE), a capacity building and legal awareness raising project related to land and natural resources in the country.[13]

In late 2023, the Public Information and Awareness Services for Vulnerable Communities in Lao PDR Project (PIASVC)[14] was planning to start using the Information, Education and Communication (IEC) materials developed by LIWG in collaboration with the Department of Agricultural Land Management (DALAM) and used by various civil society organizations and international Non-Government Organizations in the network. The PIASVC is also involved in the Enhancing Systematic Land Registration Project (ESLR), which supports MONRE in improving tenure security and improving the Government of Laos' systematic land registration process and advancing the issuance of property titles throughout the country.[15] However, it appears that all this material is now under scrutiny from the government, as it is planning to revise and comment on all instruments, including videos, tools, etc.[16] This reflects the prevailing climate of sensitivity toward organizations trying to empower and conduct legal awareness in Indigenous communities and, despite the recent development of the regulatory framework, there are still many grey areas that provide both opportunities and challenges for Indigenous people when maintaining their way of life and claiming their rights, including their land rights.

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Steeve Davia *is an anthropologist who has been working on Indigenous Peoples' issues in Laos for over 20 years. daviausteeve@gmail.com*

Myanmar

INDIA
CHINA
BANGLADESH
MYANMAR
Naypyidaw
LAOS
BAY OF BENGAL
THAILAND
ANDAMAN SEA
GULF OF
THAILAND

There is no accurate information on the number of Indigenous Peoples in Myanmar, partly due to a lack of understanding in the country of the internationally-recognized concept of Indigenous Peoples. The government claims that all citizens of Myanmar are "Indigenous" (*taing-yin-tha*) and, on that basis, dismisses the applicability of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) to Myanmar. Indigenous Peoples' rights activists use the Burmese language term *hta-nay-tain-yin-tha* to describe Indigenous Peoples, based on international principles that use the criteria of non-dominance in the national context, historical continuity, ancestral territories and self-identification.[1]

The government recognizes eight ethnic groups as national races or *taung-yin-tha:* Kachin, Karen, Karenni, Chin, Mon, Burman, Arakan and Shan. According to the 1982 Citizenship Law, ethnic groups who have been present in the current geographical area of Myanmar since before 1823 (the start of the first British annexation) are considered *taung-yin-tha*.[2] In the government's classification, smaller groups are lumped in with other bigger groups and sub-groupings. However, there are a number of ethnic groups that are considered or see themselves as Indigenous Peoples, such as the Naga, who would not identify with any of those groups.

In accordance with the 2008 Constitution,[3] Myanmar/Burma is divided into seven states, seven regions, and one union territory. These political boundaries are, to some extent, organized according to ethnic demographics. The seven states are named after seven large ethnic groups namely, Kachin, Kayah (Karenni), Kayin (Karen), Chin, Mon, Rakhine and Shan States. Although the Bamar (Burmese) do not have a specifically named state, they are the dominant ethnic group living in the country, predominantly in six of the seven regions (Sagaing, Magwe, Mandalay, Yangon, Ayerywaddy, and Bago) and the Union Territory of Nay Pyi Taw. There are also five self-administered zones and one self-administered division that form part of regions or states, each named after the

ethnic group that forms the majority in the area (Naga, Danu, Pa-O, Paluang, and Kokang and the Wa Self-Administered Division.

On 1 February 2021, the Myanmar Military (Tatmadaw) attempted a coup d'état by deposing the elected government, the National League for Democracy (NLD), detaining Aung San Su Kyi and members of both Union and State-level Parliaments. The military junta failed to consolidate power after the attempted coup due to resistance from the Myanmar people. Since then, large parts of Myanmar have descended into civil war as a revolution has been taking place, shaped by growing allegiances between elected lawmakers, Ethnic Revolutionary Organizations, strike and protest leaders, and civil society organizations. At the centre of this alliance is the National Unity Government (NUG) and the broader, more representative, National Unity Consultative Council (NUCC), an inclusive body that includes a range of revolutionary organizations that hold territory and act in alliance with the NUG. Most foreign governments and international institutions have so far been reluctant to formally recognize either the junta or the NUG as the government of Myanmar. Governments and other officials do engage with both entities in international fora.

Myanmar voted in favour of the UNDRIP, adopted by the UN General Assembly in 2007, but has not signed the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), nor has it ratified ILO Convention No. 169. It is party to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC) but voted against a bill to ratify the International Covenant on Civil and Political Rights under the rationale that it was a threat to national sovereignty. In 2017, Myanmar became the 165th State Party to the International Covenant on Economic, Social and Cultural Rights (ICESCR).

State Administrative Council (SAC) continues airstrike campaign

In February, the SAC extended the state of emergency that has served as justification for their claim to legitimate authority in Myanmar and declared martial law in 37 townships across eight of the country's 14 states and regions, including eight in Chin State.[4] Later, as Operation 1027 commenced (see below), eight further townships located in Shan State were placed under martial law.[5]

As the SAC continued to suffer heavy ground losses throughout 2023, it continued its campaign of airstrikes, many of which seemed to target civilians and civilian infrastructure as well as being in response to ground offensives by resistance actors. This inevitably led to heavy civilian casualties across the country; as many as 320 civilians were reported to have lost their lives across Myanmar/Burma between October 2022 and June 2023 as a result of SAC airstrikes.[6]

In Chin State, the SAC carried out over 100 airstrikes between the period following UN Security Council (UNSC) Resolution 2669 on 21 December 2022 calling for an end to violence by the end of February 2023.[7] Later, as Chin resistance gained ground in many areas of the township, further airstrikes took place. In one such instance, 11 people, including eight children, were killed after an MAF jet bombed a school in Matupi Township's Vuili village.[8]

Aerial campaigns also took place in Karenni State, where 60 airstrikes were reported to have been carried out in the first nine months of 2023 – more than five times the number during 2022 – with at least 11 camps for internally displaced people (IDPs) in which civilians were taking refuge being hit.[9] On 9 October, the MAF launched an airstrike in Kachin State's Mung Lai Hkyet village, which was hosting hundreds of IDPs, killing 28 civilians, including 11 children, and injuring a further 60.[10]

Operation 1027

At the end of October, the Three Brotherhood Alliance (3BH) – a resistance alliance formed by the Myanmar National Democratic Alliance Army (MNDAA), Ta'ang National Liberation Army (TNLA), and Arakan

Army (AA) – announced "Operation 1027" in Northern Shan State, the military objectives of which were stated as "combating widespread online fraud and gambling, asserting their right to self-defence, maintaining control over their territory, and ultimately eradicating oppressive military rule."[11] By the end of November, the 3BH had claimed 174 SAC camps and checkpoints, and four border towns on the Sino-Myanmar border in Northern Shan State: Chinshawhaw, Mone Koe, Pang Hseng, and Kyinsankyaw.[12]

The operation sparked a fresh impetus for resistance actors across Myanmar. Operation 11.11 was launched in Karenni State,[13] the AA ended the informal ceasefire and launched attacks against SAC positions and outposts in Rakhine State,[14] and the resistance in Chin State[15] and Sagaing Region[16] gained momentum as SAC bases continued to fall under joint military operations by resistance forces.

The sharp escalation has led to a surge in resistance actors reclaiming towns and territories. Where Operation 1027 began, the MNDAA has largely retaken the entire Kokang area, previously run by the Kokang Border Guard force, linked to the SAC. In Chin State, joint operations by CDFs and the Chin National Army (CNA) have resulted in the Chin resistance claiming key Indo-Myanmar border posts. The AA overran SAC police stations in Northern Rakhine State and contested Pauktaw Town close to the Rakhine State capital of Sittwe; and the Karenni Nationalities Defence Force launched an assault on the Karenni State capital of Loikaw.

In other areas, such as Karen State, Karen resistance actors expanded into territory where SAC administration systems were no longer functioning, such as in the Payathonzu (Three Pagodas Pass) area of Kyainseikgyi Township. According to locals, the SAC's administrative apparatus was reported as having entirely disintegrated, leaving the Karen National Union (KNU) primarily responsible for managing the town's administrative and judicial affairs.[17]

Self-Determination from the ground up

During 2023, the push for self-determination by resistance actors gathered pace via the establishment of alternative federal governance

structures. The most prominent, state-level examples are in Karenni and Chin States, as the Karenni State Interim Executive Council (IEC) and the Chinland Council were both formed. In other developments, nascent movements from within the traditional Burmese heartland have also begun the push for alternative governance systems and started establishing federal units.[18] In Sagaing Region, various non-NUG-aligned resistance actors convened the Sagaing Forum to discuss cooperation, outlining their goal to "establish the Sagaing Region Consultative Council (or) a body where all political and revolutionary organizations of the state can collectively coordinate and make decisions in order to eliminate all forms of dictatorship."[19] Although NUG-aligned PDFs reported that they had not received an invitation to the event, the National Unity Consultative Council (NUCC) – the advisory body to the NUG made up of various ethnic armed organizations and majority Bamar groups – was present and delivered a speech to attendees. A spokesperson from the NUG also declared their support for the agenda and that discussions at the forum pertaining to the right to self-determination and self-governance were "in line with the Federal Democratic Charter", adding that the NUG was "satisfied" with the outcomes of the meeting.[20]

In Karenni State, the IEC was formed on 6 June 2023 with the idea of overseeing governance functions, ensuring checks and balances between legislative, executive, and judicial branches, and coordinating and ensuring cooperation between the various revolutionary forces of Karenni State under the guidance of the Karenni State Consultative Council (KSCC).[21] In order to develop collective leadership and the executive of an interim state government, they aim to have at least 12 state affairs departments[22] and have reformed the Karenni State Transitional Constitution Drafting Committee in anticipation of when the future federal democratic union is built.[23]

In Chin State, the Working Committee on Chinland Council Conference (W4C)[24] convened the Chinland Council Conference from 4-7 December, at which the Chin National Front (CNF), Chinland Defence Forces (CDFs), and elected members of parliament from the National League for Democracy (NLD) promulgated the Chinland Constitution and formed the Chinland Council. This development came after the CNF departed from the existing platform in January 2023 – the Interim Chin National Consultative Council (ICNCC) founded on 13 April 2021 as

a vehicle for Chin unity by the CNF, MPs, Chin political parties, and civil society organizations – due to internal disagreements.

The Chinland Council will comprise all 27 incumbent state-level NLD MPs, 27 CNF representatives, and 86 township and region representatives that correspond to the various CDFs across Chin State. So far, 112 members from three membership clusters have joined: 27 from the CNF, 17 NLD Members of Parliament, and 68 from CDF administrations[25] with the exception of stakeholders from Mindat, Falam, and Mindat Townships who have held back from joining the W4C framework as they oppose the departure from the ICNCC route. On 11 December, the Chinland Council announced it had held its first meeting, outlining procedures for establishing executive, legislative and judicial branches of government within 60 days, in line with the provisions of the Chinland Constitution.

Dams and mining operations expand

Largely attributed to the ongoing conflict, development projects and mining operations are being pushed through in an environment in which Indigenous communities have less ability to respond to and safeguard rights. Eighty hydropower dams are reportedly scheduled across Myanmar, with the vast majority in Shan State.[26] Many of these projects, stalled under years of various political transition periods, were restarted in 2023 by the SAC and aligned militias, and, in some cases, ethnic armed actors. For example, communities from 11 village tracts located beside the Namtu River in Northern Shan State's Kyaukme Township reported concerns in May about the Upper Yeywa hydroelectric dam project after the SAC-appointed village chief told them the area would be flooded and relocation would be required – potentially affecting tens of thousands once the 280-megawatt dam is completed. Given the conflict in many parts of the country, the future of these plans is uncertain. Nonetheless, the military's initial moves are already disrupting local and Indigenous communities.[27]

Given shifting patterns of control by EAOs operating in these areas – in 2021 the Shan State Progressive Party (SSPP) and Ta'ang National Liberation Army (TNLA) ousted the Restoration Council of Shan State (RCSS) from these territories – consistent governance approach-

es are largely lacking. Since the RCSS was pushed out from Northern Shan State, the TNLA and SSPP have pursued different trajectories in the wider Myanmar paradigm with the SSPP more engaged with SAC negotiation and dialogue while the TNLA, as part of the 3BA, went on the offensive against the SAC from November. This has led to a lack of a formal position regarding dam projects among ethnic armed organizations and both the TNLA and SSPP have stayed silent on this issue.[28]

In other parts of Myanmar, mines are being dug. In Tanintharyi Region, for example, unregulated gold, lead, tungsten and tin mining has reportedly surged, with minerals being exported to Thailand and China. In October, Dawei Watch reported that unregulated and irresponsible gold mining had surged within the Tanintharyi Nature Reserve (TNR) and Zimbar creek – one of the country's most successful nature reserve projects, claiming areas had been turned into a "moon-like landscape".[29] According to residents, mining in these areas is again linked to the SAC income-seeking activities and the Karen National Union (KNU), which does not recognize the TNR as a nature reserve and taxes industrial mining operations.

In Kachin State, mining of rare earth minerals has reportedly risen in the state's north-eastern Pang War and Chipwi areas bordering China.[30] In the first six months of 2023, the value of rare earth minerals exported from Myanmar to China reached approximately USD 773 million (approx. EUR 709 million).

Cyclone Mocha

Cyclone Mocha made landfall in Myanmar on 14 May as a category four tropical cyclone, bringing winds of up to 250 km per hour, heavy rains, storm surges, flash floods, and landslides.[31] As a result, 3.2 million people in the affected area, which included areas inhabited by Indigenous Peoples, were in need of humanitarian assistance.[32]

In June, the UN Office for the Coordination of Humanitarian Affairs (OCHA) reported that the SAC had suspended humanitarian access to western Rakhine State by rescinding existing travel authorizations pending approval from Nay Pyi Taw, which was badly impacted by the cyclone.[33] Médecins Sans Frontières also reported that their travel authorization for Rakhine had been suspended.[34]

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The author and publisher of this article are well aware of the existing Myanmar/Burma name dispute; however, Myanmar is used consistently here to avoid confusion.

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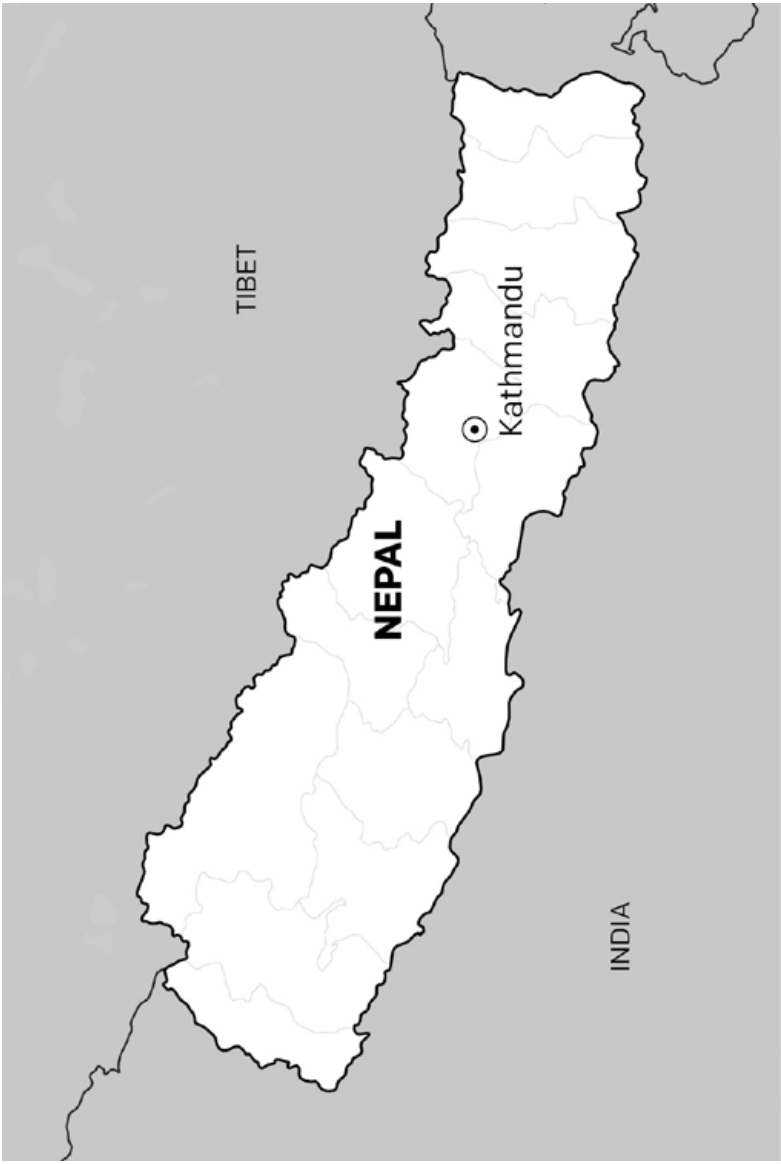
Nepal



According to the Central Bureau of Statistics 2021 Census of Nepal, the total population of Indigenous Peoples in Nepal is 35.08%, which is 29,164,578. However, Indigenous academics and movement leaders believe they are the majority. Fifty-nine Indigenous Peoples in Nepal are formally recognized by the government, and 19 more are identified in the 2021 census but are yet to be formally recognized. All have been facing systematic discrimination, exclusion, and marginalization due to the effects of colonization and continued racism from the dominant Hindu patriarchy for centuries.

These systemic issues include land grabbing in various forms, criminalization of customary practices, militarization, involuntary eviction, and displacement due to development aggression using the Constitution, laws, policies, rules and regulations, directives, plans, and programmes. These practices are formulated and implemented without ever obtaining the free, prior, and informed consent (FPIC) of Indigenous Peoples and are manifested in many ways – visible and invisible. Nepal's Indigenous Peoples have serious concerns about the continued violation, interference, abuse, and non-compliance of international laws and human rights standards, including International Labour Organization (ILO) Convention No. 169, the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), UN Declaration on the Rights of Indigenous Peoples (UNDRIP), and Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) General Recommendation No. 39 (2022), which Nepal has ratified or adopted. Further, Nepal has done nothing to implement the Committee on the Elimination of Racial Discrimination's (CERD) early warning and recommendations, or those made by the CEDAW committees.

2023 will be remembered as a year of resurgence and turbulence in the claiming of long overdue collective identity and land rights for Indigenous Peoples. The year was characterized by a do-or-die

resistance movement committed to stopping further land grabbing and to fighting for the return of stolen lands, including the reinstatement of the land's original Indigenous names.

Government tactics to cut off Indigenous Peoples

Nepal's government has continued its efforts to cut off Indigenous Peoples's lifelines by grabbing lands, especially forests, waters, pastures, and land through a fortress model of conservation, including national parks, wildlife reserves, hunting reserves, conservation areas, buffer zones, community forests as national forest, hydropower projects and other development aggression.[1] The government's other tactics include criminalizing the pastoral way of life, collecting wild foods and medicine from customary forests, and imposing community forests in order to supersede Indigenous customary forest management.

"No Koshi" Movement

Province Number One's assembly passed a resolution on 1 March to rename the province to Koshi. As the Renaming of Province Number One Joint Struggle Committee stated in its press statement issued on 9 June 2023, "The movement continues since the naming of Koshi on 1 March 2023 based on the ruler's single race (clan) by force in guerilla style against the will of the people of the province."[2]

The name change thus jumpstarted the creation of the "No Koshi" movement, which is fighting for two main demands: removal of the new name and renaming the province with full respect for the identity of its Indigenous population. During the movement's protests, one protestor, Padam Kumar Limbu "Lajehang", died after injuries sustained from police brutality; 69 peaceful protestors, including six Indigenous women, were injured by rubber bullets, water cannon and batons; 13 Indigenous persons, including three Indigenous women, are facing court cases, and one Indigenous person was jailed. One of the protestors, in particular, was severely beaten by the security forces even after suffering a gunshot wound to his knee. The attack was deliberate, as streetlights were turned off so that no-one could see or film the police's actions.

Sixty-eight peaceful protestors were arrested between 12 and 17 December 2023.[3]

Furthermore, the "No Koshi" movement publicly shamed 82 legislators from Province No. One who belonged to Indigenous Peoples but agreed to the renaming of Province No. 1 as Koshi Province as *Bansha Gaddar*.

Militarization and criminalization

There are clear indications that there was an increase in militarization and in police brutality against and criminalization of Indigenous Peoples and the Indigenous land rights movements in 2023.

The Tamang Indigenous People are struggling against land acquisition and suffering from threats, intimidation, harassment, pressure and, more importantly, militarization in their ancestral lands. For example, the Nepal Electricity Authority (NEA) – financed by the Asian Development Bank (ADB), the Millennium Challenge Corporation (MCC) and the Norwegian government – built the Tamakoshi-Sunkoshi corridor hydropower sub-station and power transmission line projects on their ancestral lands without obtaining their FPIC.

The NEA forcibly initiated project-related activities on 1 January 2023, deploying police and armed forces that resulted in Indigenous Peoples' peaceful protests. The police threatened the protestors at gunpoint[4] and manhandled the Ward Chair,[5] women, and other protestors, causing injuries to at least a dozen people, including a ward member, and arrested 11 peaceful protestors, including a minor.

These actions drew the international community's attention through the petition "Nepal: Stop State Brutality against the Tamang Indigenous Peoples and Locals." Again, on 17 November 2023, during a peaceful protest, eight were injured, and four were temporarily detained. On 18 November 2023, 11 were arrested from their homes, breaking down their doors in the process. The establishment and mobilization of the Armed Police Force in the village and the execution of the project have created an atmosphere of fear in the community. As a consequence, dozens of protestors have ended up being thrown in jail or beaten up by the security forces simply because they were demanding to be heard and to have a voice.[6]

The Tamang are fighting land grabbing on other fronts as well.

The Upper Tamakoshi Hydropower Victim Struggle Committee is leading the struggle, while Tamang *DhungHyul Chogchen*, a Tamang self-governance system (read more in the autonomy section below) is guiding the struggle. The government established the Shivapuri Nagarjun National Park in 2002 without obtaining the Tamang's FPIC. Since then, the Park has been forcibly evicting the Tamang Indigenous Peoples from their ancestral land and destroying their way of life in the Buffer Zone. Park authorities and security personnel are using threats, intimidation, harassment, pressure, and a flood of corruption. The Shivapuri Nagarjuna National Park Victim Struggle Committee has led the struggle to return their lands since its establishment in 2023.[7]

As the Indigenous Magars have been protesting against the declaration of communities near the Dhorpatan Hunting Reserve as buffer zones, the government has been trying to establish a security post at Dimmurgaira in Putha-Uttarganga Rural Municipality in May without obtaining their FPIC.[8] The community members have not allowed the post to be established.

FPIC gone wrong

There are three basic categories of how free, prior, and informed consent (FPIC) is "implemented": sincere or ideal FPIC, fake FPIC, and malicious FPIC; only two are implemented in Nepal.

Sincere or ideal FPIC, which is not practised in Nepal, is the meaningful implementation of the principle in line with the UNDRIP and CEDAW General Recommendation No. 39, among others.

However, the other two categories – Fake FPIC, as in the appearance of proper FPIC on paper, and malicious FPIC, meaning using the manipulation of people and information to obtain consent – are used extensively in Nepal by both government and businesses.

For example, Dr. Navin Rai's 2023 analytical report[9] found seven major structural and procedural gaps in the FPIC conducted for the Upper Trishuli Hydropower Project. These gaps included the company documenting its FPIC procedures long after it had already carried out the land expropriation from and physical displacement of the Tamang Indigenous Peoples in the area. Further, the company did not seek

FPIC from the six community forest user groups or the wider Tamang community that would be affected by the projects; instead, it sought FPIC from an ad hoc "advisory council" comprised of informally selected individuals who did not represent or have a formally approved mandate from their respective communities. The company also did not give enough time for the affected communities to reach a consensus – only two months – and did not engage the community's self-governing customary institutions, undermining the customary role of Tamang women in the decision-making process.[10]

Rai also noted that the international investment agencies involved, namely the International Finance Corporation (IFC) and Dutch Entrepreneurial Development Bank FMO, are trying to sideline Indigenous Peoples and their demands by bypassing benefit sharing, addressing customary lands, and scaling up the security forces (police, armed police, army).

National Action Plan on Business and Human Rights

Private businesses, especially those involved in hydropower development, cable cars, cement factories, among others, continue to violate the human rights of Indigenous Peoples, despite the government's endorsement of the National Action Plan (NAP) on Business and Human Rights on 27 December 2023, which should guide the work of businesses in terms of human rights.

The NAP comprises six thematic sectors: the environment, labour, consumers, women and children, migrant workers, and Indigenous Peoples, as well as an overall focus on gender equality and non-discrimination. The plan specifically states that the principle of FPIC relates to the meaningful participation of Indigenous Peoples, customary institutions, Indigenous persons with disability, women, children, and elders in the context of the Environmental Impact Assessment (EIA) and that it is committed to implementing the CEDAW recommendations.

Disappointingly, in the draft NAP, Indigenous judicial systems were recognized as mediation and conflict resolution mechanisms relating to disputes arising from business activity but they are not mentioned in the final plan. Based on experience and the current situation, the government is unlikely to implement the NAP seriously.

Land Rights Commission

Of the 984,000 new applications for individual land titles entered into the National Land Commission Information System (NALCIS), the commission identified 78,880 landless Dalits, 153,000 squatters, and 752,000 unorganized settlers, including Indigenous Peoples who are living on their ancestral lands or whose ancestral lands may be in other parts of Nepal. So far, the Land Rights Commission has distributed land rights certificates to only 4,500 applicants.[11]

The commission has been asking local bodies to provide information about empty lands where eligible landless and unorganized settlers could be settled, which poses serious consequences for Indigenous Peoples. For example, if the government resettles outsiders – Bahun, Chetri, Dalit, Madhesi, or Muslims – on Indigenous traditional lands, it means that those outsiders could own a piece of Indigenous ancestral land where Indigenous Peoples are currently in an overwhelming majority but where they could, in the future, become a numerical minority, thus losing custodianship of their lands due to such resettlement.

Climate crisis

In his remarks at the Opening of the event "Call of the Mountains: who saves us from the climate crisis?" at COP 28, UN Climate Change Conference, António Guterres, UN Secretary-General said:

> *Just weeks ago, I was standing in the mighty Himalayas … it is deeply shocking to learn how fast the Himalayan glaciers are melting … and deeply distressing to hear first-hand from local communities about the terrible impact on their lives. Nepal, and other vulnerable mountain countries, are being pounded by a crisis that is not of their making. The country has lost close to a third of its ice in just over thirty years – a direct result of the greenhouse [gas] pollution heating our planet.*[12]

Unfortunately, in his speech delivered in Nepal from Chyanboche near Chomolungma (Mt. Everest) and Dhaulagiri Base camp and in Dubai during COP 28, the UN Secretary-General did not mention Indigenous

Peoples directly. Nor did Nepal's Prime Minister mention Indigenous Peoples in his speeches at COP 28.

If the UN Secretary-General's call for help for Nepal materializes in the form of a climate fund or climate action, Indigenous Peoples in Nepal fear – based on experience – that the dominant caste group would siphon off the bulk of the money with only a trickle reaching local communities, and even less to almost nothing reaching Indigenous Peoples as there would also be no separate climate fund for Indigenous Peoples and no specific conditionality for such in a memorandum.

UN Special Rapporteur academic visit

Mr. José Francisco Calí Tzay, UN Special Rapporteur on the rights of Indigenous Peoples, paid an academic visit to Nepal from 9-18 September 2023 with an invitation from the Central Department of Anthropology, Tribhuvan University (TU). The rapporteur delivered a special comment on development and Indigenous Peoples' issues in Nepal. During his visit, he also heard from the survivors of development aggression in Ye ("Kathmandu"), Damak, Dharan, and Basantapur in Eastern Nepal.

He further participated in a land rights conference and public hearing and visited Menchayem (Tin Jure-Milke Jaljale conservation area) in the ancestral lands of the Yakthung (Limbu) Indigenous Peoples. Background papers were presented on: (1) Issues and challenges of Indigenous Peoples and development in Asia,[13] (2) The Indigenist concept and practice of land tenure in Nepal,[14] (3) Problems and challenges of existing legal and policy frameworks regarding development,[15] and (4) Resurgence of self-determined development.[16]

The rapporteur noted that the accounts of land grabbing and human rights violations suffered by Indigenous Peoples are almost the same in all parts of the world.

Beginnings of autonomy

Given the government's lack of action in implementing treaty body recommendations and court decisions, and the Indigenous movement's legitimate demands, compounded by the continued oppression and harsh treatment Indigenous Peoples suffer, some have started work on

declaring and implementing autonomy and self-rule, following the example of such Indigenous nations as the Wampis in Peru, and defending it at any cost.

For example, the Tamang of DungHyul adopted the *DungHyul Tamang Chyugchen* (Statute of Self-Government) as part of the *HyulThim* (Village Assembly) and the 13 points Kulba (Order) on 25 January 2023, which included stipulations that that the ten Hyuls would be autonomous areas within the Tamang Nation, and Tamang DungHyul Chyugchen customary self-government system would be implemented. These documents form the Indigenous Constitution and the rule of law of the Tamang.

The Yakthung (Limbu) and Magar are also on their way to doing so.[17]

CEDAW shadow report

In its concluding observation and recommendation to Nepal on 14 November 2018,[18] CEDAW made 15 recommendations, including an amendment to the Constitution to explicitly recognize self-determination and the rights of Indigenous women, with a focus on Indigenous women and girls and Indigenous women and girls with disabilities. However, as of August 2023, no responses had been made to these recommendations and there was no mention of CEDAW General Recommendation No. 39 (2021) in the government's seventh periodic report submitted to CEDAW.[19]

Legislation on Indigenous languages as official language

Province No. Three enacted legislation on 9 November, 2023 making Tamang and Newar languages its official languages.

A movement against the criminalization of cross-cousin marriage

Advocate Bhagwati Panday made a seriously objectionable remark in a television interview to the effect that Tamang, Magar, and others who

have a tradition of cross-cousin marriage are criminals because it is incestuous, and that children born of such marriages are born criminals. Her statement created a furore among the Tamang and Magar communities, who demonstrated in front of the police post in Kathmandu demanding the arrest of Panday and that she be brought to justice.

Human rights NGO the Informal Sector Service Centre (INSEC) reported that one of the protestors, "Dilmaya Tamang, who sustained injuries from the police beating, is currently undergoing treatment at the National Trauma Centre in Mahabouddha ... revealed to INSEC that after her arrest and while inside the police office, she was beaten with sticks and boots."[20] Peaceful protestors such as Neruta Tamang not only suffer police torture in custody but receive threats of rape and killing.[21]

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14. Presented by Susma Rai, faculty member, Department of Anthropology, Tribhuvan University.
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Krishna B. Bhattachan *belongs to the TaMhang (Thakali) Indigenous Peoples. He is one of the founding faculty members and former head, now retired, of the Department of Sociology and Anthropology at Tribhuvan University in Nepal. He is associated with the Lawyers' Association for Human Rights of Nepalese Indigenous Peoples (LAHURNIP) as an adviser and Indigenous expert. He is a member of the Asia Indigenous Peoples Pact Regional Team on Indigenous Peoples' Autonomy and Self-Government. He has published several books and articles on Indigenous issues. His latest publication is Customary Self-Government Systems of the TaMhang (Thakali) Nation published in 2023 by the AIPP.*

Philippines

The country's Indigenous population continues to be estimated at between 10% and 20% of the national population of 109,035,343, based on the 2020 population census.

The Indigenous groups in the northern mountains of Luzon (Cordillera) are collectively known as Igorot while the groups on the southern island of Mindanao are collectively called Lumad. There are smaller groups collectively known as Mangyan in the island of Mindoro as well as smaller, scattered groups in the Visayas islands and Luzon, including several groups of hunter-gatherers in transition.

Indigenous Peoples in the Philippines have retained much of their traditional, pre-colonial culture, social institutions and livelihood practices. They generally live in geographically isolated areas with a lack of access to basic social services and few opportunities for mainstream economic activities, education or political participation. In contrast, commercially valuable natural resources such as minerals, forests and rivers can be found primarily in their areas, making them continuously vulnerable to development aggression and land grabbing.

The Republic Act 8371, known as the Indigenous Peoples' Rights Act (IPRA), was promulgated in 1997. The law has been lauded for its support for respect of Indigenous Peoples' cultural integrity, right to their lands and right to self-directed development of those lands. More substantial implementation of the law is still being sought, however, apart from there being fundamental criticism of the law itself. The Philippines voted in favour of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) but the government has not yet ratified ILO Convention 169.

The year 2023 witnessed increasing threats to Indigenous Peoples' ancestral lands and territories, with the government of President Ferdinand "Bongbong" Marcos Jr. aggressively promoting foreign investments, especially targeting the mining, renewable energy and infrastructure sectors. Ancestral lands cover around 13-14 million hectares of the country's land area, and include 5.3 million hectares of for-

ests, comprising 75% of the remaining forest cover in the Philippines.[1] In general, Indigenous lands remain unrecognized. Indigenous Peoples wanting to claim legal recognition of their ancestral domains, as provided for in the Indigenous Peoples Rights Act, face various obstacles, including the very high costs of obtaining a Certificate of Ancestral Domain Title (CADT)[2] and Certificate of Ancestral Land Title (CALT),[3] and an average of 10-20 years to process a title.

In 2023, the National Commission on Indigenous Peoples (NCIP) achieved only 33% of its targeted 1,531 ancestral domains and lands to be issued with CADT and CALT.[4] In addition, data compiled by the Legal Rights and Natural Resources Centre in 2023 show an increase of at least 70,344.96 hectares of ancestral lands that are facing significant risks of negative environmental impact within or in proximity to Indigenous territories, now totalling 1.33 million hectares.[5] The Indigenous Peoples' right to free, prior and informed consent (FPIC) also remains a core problem, beset with violations by the NCIP and private corporations. Further, the climate of impunity persists as State attacks on civil, political and collective rights resulting from the Indigenous Peoples' resistance to land grabbing and resource plunder continue unabated.

Renewable energy

The Philippines has an estimated 246,000 megawatts (MW) of untapped renewable energy and the world's third largest geothermal capacity at 1,900 MW.[6] The government's National Renewable Energy Programme (NREP 2020-2040) has set a target of a 35% share of renewable energy in the power generation mix by 2030 and 50% by 2040.[7] With the country's current mix of renewable energy consisting of 4.3 gigawatts (GW) of hydropower, 896 MW of solar energy and 427 MW of wind power, the NREP aims to increase geothermal capacity by 75%, expanding hydropower capacity by 160%, increasing wind power capacity to 2,345 MW, and adding 277 MW of biomass power.[8] For Indigenous Peoples, this means an aggressive construction of more energy projects on their territories and a consequent intensification of land rights and human rights violations.

In his State of the Nation address on 24 July 2023, President Marcos boasted of the awarding of an additional 126 renewable energy con-

tracts over his first year of presidency. As of July 2023, there are 1,025 active renewable energy projects, mostly hydroelectric projects (436).[9] Marcos is aiming for full electrification of the country by the end of his term in 2028 through the government's One Grid, One Market strategy.[10] He also frequently mentioned the need to address climate change in his speeches.

To attract more foreign investors, the Department of Energy amended the Renewable Energy Act in November 2022 to allow 100% foreign ownership of renewable energy projects.[11] The law previously awarded the exploration, development and utilization of renewable energy sources to companies that were at least 60% Filipino-owned while foreign investors were only allowed to own up to 40% equity in energy projects. Other incentives given to renewable energy companies include income tax holidays, a reduced income tax rate upon expiry of the tax holiday, and tax exemptions for carbon credit generation from renewable energy sources.

In pursuing his renewable energy programme, President Marcos has ignored the Indigenous Peoples affected by the energy projects even when many of these are located on Indigenous territories. In the Cordillera region alone, the Department of Energy has awarded 100 renewable energy projects affecting vast tracts of Indigenous lands, some of which are biodiversity hotspots, Indigenous Community Conservation Areas,[12] and Protected Areas.[13] These include a series of eight large hydropower projects along the Apayao River, which were awarded to the Pan Pacific Renewable Power Philippines Corporation, and six hydropower projects along the Chico River and its tributaries affecting some 17 sub-tribes of the Kalinga Indigenous people. In Panay Island, the controversial Jalaur mega-dam project affecting the Tumandok Indigenous people is nearing completion and is targeted to start operating in 2025.[14] All these projects have been marked by FPIC violations, militarization and human rights violations following opposition from the affected communities.

In a disaster-prone country, Marcos' quest for climate change mitigation is also contradicted by the construction of more hydropower mega-dams and large-scale mining that are destroying forests and the natural environment, thus leading to worsening disasters such as massive landslides and flooding during strong typhoons.

Large-scale mining

The Philippines is considered to be the fifth most mineralized country in the world, with total mineral assets valued at more than USD $1.4 trillion (approx. EUR 1.3 trillion). Globally, it has the third largest deposits of gold, fourth of copper, fifth of nickel, and sixth of chromite. Its untapped coal resources are estimated at some 2.4 billion tonnes. Only 5% of the country's total mineral reserves have been explored and 3% of potential mineral areas are covered by mining contracts.[15]

Following the lifting of the moratorium on new mining agreements and of the ban on open pit mining in 2021, the Marcos administration is aggressively pursuing the revitalization of the mining industry and opening the country up to more foreign mining investments under the pretext of post-pandemic economic recovery. This was no surprise for Indigenous Peoples who have known the Marcos family, including associates of former dictator Ferdinand Marcos Sr., to own mining companies, some of which operated in Indigenous territories such as Benguet Corporation Inc. It will mean, however, that the plunder and destruction of Indigenous lands and resources is bound to worsen.

On 23 February 2023, President Marcos issued Executive Order No. 18,[16] constituting "green lanes" whereby all national government agencies are mandated to speed up the process of approving necessary licences and permits for strategic investments, including mining and energy projects. To further attract investors, on 25 September 2023, the House of Congress passed House Bill 8937, an Act Enhancing the Fiscal Regime for the Mining Industry.[17] Salient features of House Bill 8937 include the lowering of royalty rates from the gross output of mining operations within mineral reservations from 5% to 4% and the non-imposition of export tax, while maintaining a 1% royalty from gross output to the government for those who are operating within ancestral domains. These are in addition to the provisions of the Mining Act of 1995 that are already enjoyed by mining companies, such as 100% ownership of lands and tax holidays.

By the end of 2023, data from the Mines and Geosciences Bureau reveals that there are 349 approved mining permits and contracts.[18] In addition, hundreds of applications for mining permits and contracts are still in process. New mining projects on Indigenous lands cover 223,006 hectares.[19] The mining projects continue to be rejected by Indigenous Peoples due to their immense impact on the environment, biodiversity, resources, livelihood and Indigenous culture. In many cases, Indige-

nous Peoples are protesting the anomalous FPIC processes surrounding mining applications, such as the Makilala Mining Company project[20] in Kalinga province, which plans to commence its 25-year mining project in 2024, and the expansion of Itogon-Suyoc Resources, Inc.'s Sangilo mines,[21] which started operating in Benguet province in 1930 and is now fast-tracking its expansion project for a 25-year mining operation through a special mining permit.

Along the way, some of the gains from local anti-mining struggles have been marked by legal victories. In Sibuyan Island, dubbed by natural scientists as the "Galapagos of Asia", the Sibuyan Mangyan Tagabukid Indigenous people are resisting a nickel mining concession owned by Altai Philippines Mining Corporation (APMC), a subsidiary of the Canadian company Altai Resources Inc., whose project overlaps with a protected area and biodiversity hotspot. Without a permit to operate and despite people's protests, APMC has been extracting ore, cutting trees and constructing a causeway for a port facility.[22] This prompted the people of Sibuyan to file a petition for a *writ of kalikasan*[23] at the Supreme Court against the APMC, Department of Environment and Natural Resources (DENR) and the Mines and Geosciences Bureau (MGB). On 13 June 2023, the Supreme Court granted the *writ of kalikasan* although it denied the petitioners' request for the issuance of a Temporary Environmental Protection Order.[24]

Similarly, in the province of Palawan, the Ipilan Nickel Corporation and Celestial Mining were operating a nickel mining project in areas covered by the National Integrated Protected Areas System[25] and without the FPIC of the Pala'wan Indigenous people. The Pala'wan Indigenous people filed a petition for a *writ of kalikasan* at the Supreme Court against the companies, DENR and MGB, which the Supreme Court granted on 16 August 2023, citing that the mining operations may cause irreparable damage to the protected area and the ancestral domain, that they place the residents in peril, and that continued operations would lead to environmental damage as seen in the extreme flooding and contamination of fishing areas.[26]

Intensified attacks on Indigenous land defenders

In a 2023 Global Witness report, it was noted that the Philippines remains the deadliest country in Asia for land and environment defenders

for the 10th consecutive year and remains in the top five most dangerous countries for land and environment defenders globally.[27] According to the report, out of 16 documented killings in Asia, 11 took place in the Philippines. All over the country, Indigenous defenders of ancestral lands, environment and human rights are experiencing intensified attacks resulting from the State's implementation of "anti-insurgency" and "anti-terror" laws and policies, including Executive Order 70 "Whole of Nation Approach to End Insurgency", which created the National Task Force to End Local Communist Armed Conflict (NTF-ELCAC) and the 2020 Anti-Terrorism Act (ATA).

The KATRIBU National Alliance of Indigenous Peoples' organizations and the SANDUGO Alliance of Moro and Indigenous Peoples have documented 12 victims of abduction and enforced disappearance, 87 victims of extrajudicial killings, and 316 victims of arbitrary arrests of Indigenous Peoples and Moro under the Marcos Jr. administration.[28] In addition, many Indigenous activists are facing trumped-up charges. KATRIBU has also documented 10 incidents of bombings, shelling and strafing in Indigenous communities between July 2022 and November 2023. These include the aerial bombings and artillery shelling in Barangay Gawaan in March 2023 and subsequent intensified militarization of Barangays Gawaan and Poswoy starting in March 2023.[29] Both Barangays are located in Balbalan, Kalinga and are known for their strong resistance to the proposed Saltan hydropower projects, having consistently registered their opposition in the ongoing FPIC process.

Further, the government has started using the draconian Anti-Terrorism Law (ATL)[30] against Indigenous activists. On 7 June 2023, four Cordillera Peoples Alliance (CPA) leaders, including CPA Chairperson Windel Bolinget, were arbitrarily designated as terrorists by the Anti-Terrorism Council (ATC) by means of ATC Resolution No. 41.[31] The law, passed in 2020, was widely opposed by Indigenous Peoples due to its implication for Indigenous Peoples' struggles, which could be wrongly misconstrued as acts of terrorism. Various local and international groups condemned the terrorist designation calling it baseless, unjust, unconstitutional and lacking in due process. The four designated "terrorists" are known defenders of Indigenous Peoples', environmental and human rights. Prior to the "terrorist" designation, they had long been subjected to red-tagging, terrorist-labelling, harassment, surveillance, abduction, and trumped-up charges, which were all dismissed by the

courts due to a lack of evidence. These include a trumped-up case of rebellion, which led to the arrest and detention of Jennifer Awingan-Taggaoa on 30 January 2023.[32] Bolinget and other Indigenous activists were also included and later delisted from the 2018 terrorist proscription petition of the Department of Justice.

The four were the first Indigenous activists to be designated as "terrorists" under the new law, rendering them open targets of warrantless arrest, detention without charge, extrajudicial killing and enforced disappearance. Immediately after the terrorist designation was published on 10 July 2023, the bank accounts of the four activists, some of their family members, and the CPA were frozen on the basis of a resolution issued by the Anti-Money Laundering Council (Resolution No. TF-67)[33] as a result of the terrorist designation. The freezing of the bank accounts affected the economic needs of the four activists and their families. While the CPA was not designated a terrorist organization, its bank accounts were frozen on the basis of the same AMLC resolution, denying Cordillera Indigenous communities the support and services they receive through the CPA.

The four activists were also the first ones to challenge the terrorist designation in court. After the ATC's denial of their request for the delisting of their names from the government's designated terrorists list, the four filed a petition for the nullification of ATC Resolution No. 41, questioning the constitutionality of the ATL in court on 23 November 2023.[34] During the first hearing held on 14 December 2023, at which the four activists' request was considered for a Writ of Preliminary Injunction to provide them temporary relief from the effects of the terrorist designation, in particular their safety and security as well as their financial needs, the four activists were harassed by a police officer wearing civilian clothes and carrying a firearm, which is strictly prohibited inside a courthouse.[35] The incident was proof that the safety and security of the four activists are further at risk due to the arbitrary terrorist designation. The case is ongoing.

Universal Periodic Review and official visit of the UN Special Rapporteur

On 27 March 2023, the UN Human Rights Council adopted the Universal Periodic Review (UPR) outcome of the Philippines. In this fourth UPR

cycle, the Philippine government accepted 215 out of 289 recommendations, adding that "there was no policy to attack or harass human rights defenders and the country had an open civic space which allowed representatives of civil society and the media to fulfil their role in society".[36] Indigenous Peoples and human rights groups, however, were disappointed owing to the fact that there had been no substantial improvement in the human rights situation and democratic space in the country and that the counterinsurgency policies and anti-terrorism law would only result in more extrajudicial killings and grave human rights violations.

Indigenous Peoples in the Philippines continued to engage UN bodies. On 19 July 2023, the UN Special Rapporteur on Human Rights Defenders published a copy of the Special Rapporteur and other UN experts' communication to the Philippine government in which they raised serious concerns regarding the criminal indictment of CPA leaders and other human rights defenders, red-tagging, terrorist-labelling and the portrayal of them and their work as a threat to national security.[37]

From 6-15 November 2023, Mr. Ian Fry, the first UN Special Rapporteur on the Promotion and Protection of Human Rights in the Context of Climate Change, visited the Philippines upon the invitation of the government.[38] Indigenous Peoples participated in a civil society dialogue with the rapporteur on 7 November at which they presented cases of human rights violations and the continued plunder of ancestral lands in the context of climate change. Towards the end of his visit, Indigenous Peoples commended Mr. Fry for his strong recommendations for the government to revoke the ATA and abolish the NTF-ELCAC, which facilitated human rights violations and the harassment of environmental defenders.[39]

As Marcos Jr.'s government continues the bloody legacy of his father, the late dictator Ferdinand Marcos Sr., and former president Duterte, Indigenous Peoples do not expect a let up in the human rights violations and resource plundering over the next few years.

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Sarah Bestang K. Dekdeken *is a Kankanaey Igorot from the Cordillera region of northern Philippines. She is the current Secretary General of the Cordillera Peoples Alliance (CPA), a federation of progressive people's organizations, mostly grassroots-based organizations among the Indigenous communities of the Cordillera region.*

Taiwan

The officially recognized Indigenous population of Taiwan numbers 589,038 people, or 2.51% of the total population.[1]

Sixteen distinct Indigenous Peoples are officially recognized: Amis (also Pangcah), Atayal (also Tayal), Bunun, Kavalan, Paiwan, Puyuma, Rukai, Saisiyat, Sakizaya, Sediq, Thao, Truku, Tsou, Tao (also Yamei), Kanakanavu, and Hla'alua.

Ten lowland Indigenous Peoples' groups (Pingpu) are not recognized as such by the government and hence not extended the same rights as the 16 recognized groups and thus are also excluded from the Council of Indigenous Peoples' (CIP) policies and programmes. The 10 unrecognized peoples are: Babuza, Hoanya, Kaxabu, Ketagalan, Makatao, Papora, Pazeh, Siraya, Taokas, and Tavorlong.

The 16 recognized groups enjoy representation at all levels of government, from parliament to central government's CIP and municipal governments, city and county councillors, and local district and township representatives.

Most of Taiwan's Indigenous Peoples originally lived in the central mountains, on the east coast and in the south. However, nowadays over half of the Indigenous population lives in the urban areas of the country.

The main challenges facing Indigenous Peoples in Taiwan are their rapidly disappearing cultures and languages, encroachment onto their traditional land, the denial of their rights and the exclusion of the 10 lowland (Pingpu) Indigenous Peoples.

The CIP is the State agency responsible for Indigenous Peoples. Taiwan has adopted a number of laws designed to protect Indigenous Peoples' rights, including the Constitutional Amendments on Indigenous representation in the Legislative Assembly, protection of language and culture and political participation (2000); the Indigenous Peoples' Basic Act (2005); the Education Act for Indigenous Peoples (2004); the Status Act for Indigenous Peoples (2001); the Regulations regarding Recognition of Indigenous Peoples (2002); the Name Act (2003), which allows Indigenous Peoples to register their original names in

Chinese characters and to annotate them in Romanized script; and the Indigenous Languages Development Act (2017).

Unfortunately, serious discrepancies and contradictions in the legislation, coupled with only partial implementation of these laws have stymied progress towards the self-governance of Taiwan's Indigenous Peoples.

Since Taiwan is not a member of the UN, it is not party to UN human rights instruments.

200-year commemoration for Central Plains Indigenous Peoples

On the first weekend of December, hundreds of members of plains Indigenous groups (also known as 'Pingpu peoples' 平埔族群) gathered together at a site in Puli town, Nantou County in central Taiwan, to commemorate an important event in history, the 200-year anniversary of Central Plains Indigenous Peoples' migration to settle in Puli town.[2]

In 1823, the Taokas, Pazeh, Kaxabu, Papora, Arikun, Lloa, and Babuza migrated from their original community lands in the central coastal plains of Taiwan to settle in Puli, in Taiwan's geographic centre, surrounded by high mountains. Members of the seven plains Indigenous groups residing in Puli are aware of this significant milestone and worked with academia and local government to put together activities, cultural fair programmes and entertainment performances.

The celebration included a 16-day special exhibition showcasing, through documents, cultural objects and photographs, the historical accounts of the ancestral land dispossession of the Indigenous Peoples of the coastal plains, and the resulting group migration of over 30 communities to settle in central Taiwan's mountainous regions. The exhibition also highlighted how these Indigenous groups, despite not yet having official Indigenous status, have strived to revitalize their culture, language, rituals, and ethnic identity, including efforts to gain official recognition.[3]

Further, in November-December, a series of lectures was organized by professors and researchers. The lectures focused on telling the

story of each of the seven plains groups affected by the land dispossession caused by Han Chinese settlers and which resulted in their migration to central Taiwan.[4]

These seven groups of Taiwan's central region are still not officially recognized by the government and, during the group covenant ceremony, they collectively pledged their commitment to uphold their cultural development and rejuvenate their traditional way of life and ethnic identity, expressing their vision for the future development of contemporary Indigenous communities.

Together, the contributing efforts also resulted in the publication of the "200-Year History of Central Plains Indigenous Peoples, Migration to Puli" (平埔族群入埔200年紀念專書), a special commemoration book authored by Deng Shian-Yang (鄧相揚) and Jian Shih-Lang (簡史郎), two researchers and leading experts on the culture and history of the plains Indigenous Peoples of central Taiwan.

Through the exhibition and commemorative activities, the Indigenous communities aim is to assert the historical significance of Central Plains Indigenous Peoples and seek the respect they rightfully deserve within Taiwanese society.

Paiwan people repatriate ancestors remains

Paiwan Indigenous people from Mudan village of Pingtung County travelled to the University of Edinburgh in the UK to conduct a ceremony for the repatriation of Taiwanese Indigenous ancestral human remains.[5]

In the November visit, the University of Edinburgh held an official ceremony granting the return of four ancestral skulls that were taken from the Mudan community in southern Taiwan by Japanese soldiers during the 1870s. During the ceremony, Paiwan leaders and shamans conducted traditional rituals to guide the ancestors back to their homeland.

This marks the first instance of Taiwan's Indigenous community requesting international repatriation of ancestral human remains and is therefore of historical significance and serves as a pivotal moment in the transitional justice process for Taiwan's Indigenous Peoples.

In Taiwan, the government-run Council of Indigenous Peoples (CIP) has stated that Articles 11, 12, and 31 of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) uphold the right of Indigenous com-

munities to return ancestral remains to their place of origin, and countries should make efforts to enable Indigenous Peoples to obtain such remains held by national governments, and repatriate them to their place of origin.[6]

Damage by Typhoon Khanun

In early August, Typhoon Khanun made landfall and brought heavy rain to mountainous regions in central and southern Taiwan. The medium-strength typhoon triggered landslides in Kaohsiung's mountainous area and caused damage to roads and houses.

This left several Indigenous communities cut off from the rest of the country, with hundreds of people stranded in their mountain villages, and one fatality.[7]

The Taiwan Central Weather Bureau recorded rainfall of 749 and 667 millimetres in the mountains of Nantou County, the highest single-day precipitation in Taiwan since weather records began. This highlights the impact of climate change on weather patterns worldwide, with instances of extreme rainfall affecting mountainous areas in Taiwan and endangering the lives of Indigenous communities.[8]

Many people in the Nantou mountain regions of Taiwan lost their homes and suffered other damage to their property. In response, Taiwan President Tsai Ing-wen announced that the government would assist the reconstruction efforts in Nantou County and restore road access.[9]

Passing of Thao community female priestess

The Thao Indigenous Community in central Taiwan's Sun Moon Lake area lost their 86-year-old female priestess Malash Katibatu in September. Following her death, there are now only five female priestesses who can conduct and assist in presiding over Thao traditional rituals in the community.[10]

According to the Thao Cultural Development Association, the responsibilities of female priestesses, known as "Shinshii", require extensive knowledge and a lifelong commitment. They play a vital role in various ceremonies, including weddings, funerals, prayers for healing,

groundbreaking ceremonies, and house-warming rituals, all of which require communication with the ancestral spirits.

The association also pointed out that in, 2015, the Thao Peoples' "Tungkariri Lus'an" (Ancestral Spirit Ritual) was registered as an important national folk tradition. They therefore stressed that preserving the Thao Indigenous culture and rituals should receive support from the government and society.

In recognition of "Shinshii" Malash Katibatu's lifelong dedication to preserving and promoting Thao Indigenous culture and traditional practice, the Ministry of Culture posthumously awarded her a special commendation, acknowledging her contribution in laying the foundations and preserving the cultural assets of the Thao community.

Amendment to Indigenous Status Act

In December, Taiwan's legislature approved amendments to the "Status Act for Indigenous Peoples" (原住民身分法). The amendments have made the process less stringent for obtaining officially recognized Indigenous status if a person has only one Indigenous parent.[11] The final version of the amendments was the result of a highly participative process following a Constitutional Court ruling in 2022 that deemed the previous version of the Act unconstitutional, as it recognized official Indigenous status only when a person was registered under an Indigenous name, coming either from their Indigenous father or mother.

In a situation where it is still common practice in Taiwan to register under the father's surname, in cases where the father is not Indigenous, or he belongs to one of the "unrecognized" Indigenous groups, the earlier version of the Act prevented individuals from inheriting their mother's Indigenous status.

Following the 2022 Constitutional Court ruling, Indigenous rights activists presented their proposal for changes to the "Status Act For Indigenous Peoples" for consultation and review by the CIP.[12] Activists said other proposed amendments submitted by political parties did not fully address the issues relating to equality and identity rights because, in cases where the mother is Indigenous and her child is born of a mixed marriage, the other proposals retained the requirement for the child to have a traditional Indigenous name to obtain Indigenous status. They

contended that this direction was not aligned with the Court's decision regarding "representation of ethnic identity" and the need to respect each Indigenous group's right to self-determination of their personal and collective cultural identity.

The process resulted in CIP releasing a draft of proposed amendments in September, addressing the criteria for individuals to obtain Indigenous status for those born to mixed Indigenous and non-Indigenous parentage, and also for children adopted by Indigenous families.

Meanwhile, Indigenous youth organizations held a national forum in November to discuss the rights associated with issues of Indigenous status and recognition of ethnic group identity.[13] This resulted in a "youth" version of the draft amendments that incorporated the perspectives of the younger generation. This was submitted to the legislature for review and to be taken into consideration when working on the final version of the amendments.

The process throughout 2023 reflected an evolving interaction between contemporary multicultural Taiwan whereby intermarriage among diverse ethnic groups is becoming more common, leading to new issues and changes concerning recognition of Indigenous identity within the framework of national law.

Following the December approval by legislators, CIP officials said that, in practical terms, more people will now gain official Indigenous status, and that the Taiwan government would need to boost the budget for social welfare, education, healthcare, employment subsidies, and other programmes for Indigenous Peoples.[14, 15]

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Jason Pan Adawai *is a journalist and director of the Indigenous rights activist organization, TARA Ping Pu, and former executive council member of the Asia Indigenous Peoples Pact (AIPP). Jason is an Indigenous Pazeh (one of the lowland Pingpu groups) from Liyutan village, Miaoli County, Taiwan.*

Aidu Mali *is an Indigenous Papora, from the Hazoban community of central Taiwan, and Director of International Affairs for the Papora Indigenous Development Association. She also currently serves as Asia Indigenous Peoples Pact's (AIPP) executive council member for East Asia.*

Kaisanan Ahuan *is Chief Executive Officer of Central Taiwan Pingpu Indigenous Groups Youth Alliance. Kaisanan is an Indigenous Taokas (one of the lowland Pingpu groups) from Waraoral village, Nantou County.*

Thailand

MYANMAR
LAOS
THAILAND
Bangkok
CAMBODIA
GULF OF THAILAND
ANDAMAN SEA
MALAYSIA

The Indigenous Peoples of Thailand live mainly in three geographical regions of the country: Indigenous fisher communities (the Chao Ley) and small populations of hunter-gatherers in the south (Mani people); small groups on the Korat plateau of the north-east and east; and the many different highland peoples in the north and north-west of the country (previously known by the derogatory term "Chao-Khao," or "hill tribes"). Nine so-called "hill tribes" are officially recognized: the Hmong, Karen, Lisu, Mien, Akha, Lahu, Lua, Thin and Khamu.[1]

Estimates put Thailand's Indigenous population at around 6.1 million people, or 9.68% of the total population.[2] According to the Department of Social Development and Welfare (2002), the total officially recognized population numbers 925,825, distributed across 20 provinces in the north and west of the country. There are still no figures available for the Indigenous groups in the south and north-east. When national boundaries were drawn in South-East Asia during the colonial era and in the wake of decolonization, many Indigenous Peoples living in remote highlands and forests became divided. For example, you can find Lua and Karen people in both Thailand and Myanmar, and Akha people in Laos, Myanmar, south-west China and Thailand.

Thailand is a signatory to the Convention on Biological Diversity (CBD), the UN Framework Convention on Climate Change (UNFCCC), the Convention on the Rights of the Child (CRC), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the Convention on the Rights of Persons with Disabilities (CRPD) and the Universal Declaration of Human Rights (UDHR). It voted in support of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) but does not officially recognize the existence of

Indigenous Peoples in the country. Section 70 of the 2016 Constitution refers to "Ethnic groups".

In 2010, the Thai government passed two cabinet resolutions to restore the traditional livelihoods of the Chao Ley[3] and Karen, on 2 June and 3 August respectively.

There were several key developments regarding Indigenous Peoples in 2023, including but not limited to the general election, the resubmission of the Council of Indigenous Peoples in Thailand's (CIPT) draft law to Parliament House, the ongoing struggle of the Karen people of Bangkloy to return to their traditional homeland, and Chaolay's effort to protect their spiritual land.

General election

General elections were held in Thailand on 14 May 2023 in order to elect 500 members of the House of Representatives to run the country. The Move Forward Party, led by Mr. Pita Limjaroenrat, won a majority of the seats, followed by the Pheu Thai Party. Voter turnout was a record 75.22%.[4] Pita's Move Forward Party initially tried to form a coalition government with other political parties but was unable to do so after being blocked by the Senate. The Pheu Thai Party then assumed the lead and nominated Mr. Srettha Thavisin as the 30th Prime Minister of Thailand. He was elected by Parliament on 22 August 2023. Three out of 500 Members of Parliament, or 0.6%, are Indigenous leaders who were elected and now serve as Members of Parliament.

Resubmission of the Council of Indigenous Peoples in Thailand's draft law

The Council of Indigenous Peoples in Thailand's (CIPT) draft law was first submitted to the House of Representatives for consideration in 2022 during General Prayut Chan-o-cha's administration. Unfortunate-

ly, it did not pass as Parliament was dissolved on 20 March 2023. On 9 August 2023, representatives of the CIPT resubmitted the draft law to Parliament and it was placed on the official agenda of the House of Representatives' meeting. On 14 December 2023, representatives of the CIPT were invited to present the rationale and key content of the draft CIPT law at Parliament House.[5] This marked the first stage under the law-making procedure, receiving support from Members of Parliament from both government and opposition parties. The next step involves establishing a joint standing committee to consider the law in detail and consolidate all the submitted draft laws on the protection and promotion of the rights of ethnic groups and Indigenous Peoples.

Review and development of the 5th National Biodiversity Strategic Action Plan

Thailand is preparing its 5th National Biodiversity Strategy and Action Plan (NBSAP) for the period 2023-2027, in accordance with the Kunming-Montreal Global Biodiversity Framework (KMGBF) adopted at the 15th Conference of the Parties of the Convention on Biological Diversity. In this process, the Office of Natural Resources and Environmental Policy and Planning (ONEP), under the Ministry of Natural Resources and Environment (MONRE), will organize a series of national consultations and workshops. These activities aim to collectively brainstorm ideas and establish guidelines for preparing the strategy and action plan. Representatives from various sectors related to the conservation, utilization and management of biodiversity in Thailand, including Indigenous representatives, will be involved.

The first national consultation workshop took place on 19 December 2023, at the Century Park Hotel in Bangkok. The plan is expected to be finalized and submitted to the CBD Secretariat by the end of 2024.

Expansion of Ob Khan National Park area

As mentioned in the Indigenous World 2023, the Government of Thailand has been planning to expand the Ob Khan National Park area for

many years now. Due to protests by villagers in 2023, however, the planned expansion has been temporarily suspended.

Struggle of Karen people from Bang Kloy

On 19 April 2023, General Prayut Chan-o-cha (caretaker government) signed a resolution proposed by the independent committee to investigate the facts and resolve the problems of the Bang Kloy Karen community from Kaeng Krachan.[6] The resolution provides two options: if the villagers want to remain in their current location at Bang Kloy Lang, government agencies must support and improve their quality of life through a participatory process. If villagers choose to return to their homeland (Bang Kloy Bon), the Ministry of Natural Resources and Environment must allow them to do so. A committee, composed of village representatives, independent committee members and ministry officials will conduct a study on Indigenous livelihood practices and their environmental impact. If villagers prove their ability to live in harmony with nature, then their rights to land and to live there must be granted to the Karen of Bang Kloy Bon.

On 26 July 2023, the Bang Kloy villagers submitted a letter to the Permanent Secretary of the Ministry of Natural Resources and Environment requesting the establishment of a three-party committee or working group, as per the Prime Minister's order. The Deputy Permanent Secretary acknowledged receipt of the letter but has not made any progress yet.

Chaolay protects Mai Khao beach

The Chaolay Network of Andaman Sea, consisting of three ethnic groups –Moken, Moklan, and Urak Lawoy– strongly opposes a transnational company's construction of hotels in the Mai Khao beach area, Mai Khao Sub-district, Thalang District, Phuket Province. This area is significant to the Chaolay people, who conduct an annual ceremony and gathering there called "Non Haad", a tradition practised for more than 300 years; in addition, it serves as a nesting area for leatherback turtles.

The company was granted permission for a 30-year long-term lease from the Treasury Department, Ministry of Finance. The company's operation lacks a social and environmental impact assessment and does not align with international human rights and environmental laws such as the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) and the Convention on Biological Diversity (CBD). Furthermore, it contradicts the 2017 Constitution, Section 70, which emphasizes the State's duty to protect different ethnic groups' right to live according to their traditional culture and customs.

Additionally, the area will be one of 14 to be declared cultural protection zones for the Chaolay, following the resolutions and orders of the sub-committee chaired by the Minister of Natural Resources and Environment. The Chaolay demands are as follows:[7]

1. The Governor of Phuket Province must expedite the review of whether private entities should be allowed to lease land for hotel construction given its impact on natural resources, the environment, leatherback turtle nesting areas, and the Chaolay's traditional gathering activities. The hotel that has rented the space should remove the barbed wire fence posts from the beach, and any action should be delayed until a solution is completed.
2. The Ministry of Finance must stop granting permission to the company due to its potential impact on turtle nesting areas and the Chaolay cultural way of life.
3. The Ministry of Culture must expedite the announcement of the area as a cultural protected area for the livelihoods of the Chaolay ethnic group.
4. The media and society are requested to monitor the matter to prevent the government from leasing the land to the transnational company.

In conclusion, Indigenous communities living in forest and marine areas have not yet received any land rights, despite having lived on their ancestral lands for hundreds of years.

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Kittisak Rattanakrajangsri *is a Mien from the north of Thailand. He has worked with Indigenous communities and organizations since 1989. He is currently Executive Director of the Indigenous Peoples' Foundation for Education and Environment (IPF) based in Chiang Mai, Thailand.*

Vietnam

CHINA
Hanoi
LAOS
SOUTH CHINA
SEA
VIETNAM
CAMBODIA
GULF OF
THAILAND

As a multi-ethnic country, Vietnam has 54 recognized ethnic groups, 53 of which are ethnic minorities. These groups comprise 14%[1] of the country's total population of around 100 million.[2] Each ethnic minority group has its own distinct language, culture and traditions. The term "ethnic minorities" is often used interchangeably with "Indigenous Peoples" by international agencies working in Vietnam.

All ethnic minorities have Vietnamese citizenship and Vietnam's constitution recognizes that all people have equal rights. There is a higher proportion of peoples living in poverty among ethnic minority communities. Multidimensional poverty rates in the Northern Mountains and Central Highlands regions, where the majority of ethnic minorities live, is more than double the national average. The proportion of people without education certificates in ethnic minority groups is twice that of the Kinh and Hoa (Chinese-Vietnamese) peoples. In addition, the gaps in income and expenditure between the ethnic minorities and Kinh and Hoa people have widened in recent years.[3]

Vietnam is a party to seven of the nine core international human rights instruments and continues to consider the possibility of acceding to the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED) and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW). Vietnam has not ratified ILO Convention 169 and, although Vietnam voted in favour of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), it does not recognize ethnic minorities as Indigenous Peoples.

Discussion of the draft of Land Law (amended)

In January 2023, the Ministry of Natural Resources and Environment presented a draft of the amended 2013 Land Law and invited domestic and foreign agencies, organizations and individuals to contribute their opinions and inputs to it.[4] The Council for Ethnic Affairs of the Na-

tional Assembly has been very active in providing its input to the draft law.

Building on the existing law, the amended draft law introduces significant changes to State policies regarding land for ethnic minorities. These changes include the allocation of land and support for landless communities and those with insufficient land. With the aim of protecting and preserving land resources for ethnic minorities, the draft law introduces special provisions to deter violations of land policies concerning ethnic minorities, for example, the unauthorized transfer of land-use rights.

Since most of the land in Vietnam already has users assigned to it by the relevant authorities, most of the land to be granted to ethnic minorities will come from the land reclaimed from organizations and businesses, including State-owned entities that are currently using it inefficiently. Any areas that companies or businesses are encroaching on, renting, or lending in violation of legal regulations will form another source of said land.

The final version of the draft is also more sensitive to the conditions, customs, and cultural identity of the diverse peoples of Vietnam, including provisions to support ethnic minorities in developing their economy under the forest canopy.

On 18 January 2024, at its 5th Extraordinary Session, the 15th National Assembly voted to approve the revised Land Law.[5]

Dak Lak attack

In the early hours of 11 June 2023, two groups of people armed with guns, knives and Molotov cocktails attacked the headquarters of the People's Committee of Ea Tieu commune and Ea Ktur commune of Cu Kuin district in Dak Lak province. The attack left nine people dead, including four police officers, two commune officials and three civilians; two more police officers were injured. The People's Committee offices were vandalized and many documents were burned.

Within days, the authorities reported having arrested and indicted nearly all the suspected assailants and other individuals involved. Their trial commenced on 16 January 2024. A total 100 defendants were brought to Dak Lak provincial People's Court for trial in the case. Ten, including five ringleaders, were sentenced to life imprisonment on

charges of "terrorism aimed at opposing the people's administration". Five others received a 20-year prison term each for the same offence, while the rest, including six who are still on the run and who were tried *in absentia*, were sentenced to jail terms ranging from 9 months to 19 years. Ninety-two defendants in the case were ordered to pay compensation to agencies, organizations and individuals suffering material and mental damage.[6]

While the motivation and goal of the Dak Lak attackers remains unclear, the Central Highlands is known to be home to around 30 Indigenous Peoples collectively known as Montagnards (sometimes referred to as Dega). For decades, the area has seen tensions between the Kinh people and the Montagnards, as well as protests and clashes targeting the central state, particularly over land, economic difficulties, and crackdowns on evangelical churches. The Vietnamese authorities claim that, during searches related to the case, in addition to weapons, explosives and ammunition, they also seized 10 FULRO flags,[7] further claiming that the assailants aimed to establish an independent Dega state.[8] FULRO –the *Front Uni de Lutte des Races Opprimées* or the United Front for the Liberation of Oppressed Races – was an armed organization that was dissolved in the early 1990s and which operated in central and southern Vietnam with the objective of achieving autonomy for various Indigenous Peoples and ethnic minorities.

Restrictions on foreign funding

While, on the surface, 2023 did not see any formal changes in the laws regulating civil society organizations, government agencies continued to implement Decree No. 80/2020/ND-CP dated 8 July 2020 on the management and use of non-refundable foreign aid that is not part of official development assistance from foreign organizations and individuals. The decree significantly reduces the possibility of implementing projects funded by foreign donors in Vietnam. In order to receive foreign funding, Vietnamese NGOs have to seek permission from an umbrella government agency, for example, the Vietnam Union of Science and Technology Associations – VUSTA, which is tasked with approving the foreign-funded projects of its members.

While the number of projects approved by VUSTA was in the hundreds annually in the past, from January to November 2023 the asso-

ciation only approved eight projects, with the explanation that those projects declined had not received the required endorsement of the relevant State agencies. As a result, the operations and very existence of Vietnamese NGOs whose main source of funding comes from abroad ground to a halt.

International Convention on the Elimination of All Forms of Racial Discrimination

On 29 November, the Vietnamese delegation left for Switzerland to defend the National Report on the Implementation of the 5th International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) at the 111th Session of the UN Convention Committee in Geneva.

The report claims that the Communist Party of Vietnam and the State always determine and ensure the rights of ethnic minorities as a measure of social progress and development, and that their rights are always given top priority in planning socio-economic development strategies. The report also states Vietnam's commitment to implementing the rights and obligations of member countries of the Convention through perfecting Vietnam's legal system in accordance with international standards and protecting universal values of human rights in general, including the State's efforts to contribute to eliminating all forms of racism and discrimination in particular.

According to the deputy director of the International Cooperation Department at the Government's Committee for Ethnic Minority Affairs (CEMA), Tran Chi Mai, the report's defence is a chance for the country to introduce its achievements in human rights protections along with the Party and State's viewpoints and policies on ethnic minorities and foreigners in Vietnam, saying: "This will help refute slander and distortions of hostile forces and also enhance the mutual understanding between Vietnam and the international community".[9]

In a dialogue with Vietnam's delegation, ICERD experts raised several questions about the treatment of human rights defenders in the country, the lack of recognition of the existence of Indigenous Peoples in Vietnam, the confiscation of the ancestral lands of Indigenous Peoples, widespread stereotyping of ethnic minorities, as well as prohibition and criminalization of religious and cultural activities by ethno-religious minority groups, among others. Experts further brought up cases of In-

digenous activists being prosecuted for promoting information about the UNDRIP and International Covenant on Civil and Political Rights in Vietnam.[10]

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Lu'o'ng Thi Truờ'ng *is the founder and director of the Centre for Sustainable Development in Mountainous Areas (CSDM) and Coordinator of the Vietnam Indigenous Knowledge Network (VTIK). She belongs to the Thai ethnic minority in Vietnam.*

Central and South America and the Caribbean

Argentina

BOLIVIA
CHILE
PARAGUAY
PACIFIC OCEAN
BRAZIL
URUGUAY
Buenos Aires
ARGENTINA
ATLANTIC OCEAN

Argentina is a federal country made up of 23 provinces and an autonomous city (Buenos Aires, the capital), with a total population of 45,892,285 million people, according to the 2022 census data. This last census does not provide specific information on the number of people in the country who are Indigenous or who perceive themselves as Indigenous. There are 35 officially-recognized Indigenous Peoples, although the process of identity recovery is a dynamic one and this number can vary, up to around 40 peoples, according to their organizations. Legally, they have specific constitutional rights at the federal level and in most provincial states. In addition, a set of international human rights treaties, such as the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, among others, are in force, forming part of the constitutional body of law. ILO Convention 169 takes precedence over national laws (it does not form part of the constitutional body of law). It was ratified in 2000 and has been in force as an international treaty since 2001. In Argentina, the UN Declaration and the American Declaration on the Rights of Indigenous Peoples are also in effect with normative force.

Argentina is facing deep changes to its State structures as a result of the 2023 national elections and the new government administration, self-described as "libertarian". Against this backdrop can be discerned the reinforcement of a model that is significantly opposed to recognizing Indigenous rights, especially their territorial rights.

Although this new administration only took office in December 2023, its initial measures are already ushering in an unfavourable political and legal scenario for Indigenous Peoples. 2023 was marked by the electoral campaign and political struggles and the Indigenous communities themselves are no strangers to the emerging tensions. At the time of writing this report, a Necessity and Urgency Decree (DNU, seemingly unconstitutional) and an "Omnibus" Law (so called because

of the diversity of issues it includes) are being debated. These initiatives will radically transform economic, social, labour-related and political aspects of Argentine life, and will, naturally, have an impact on the existing rights of Indigenous Peoples. Suffice it to say that the DNU repeals Law 26,737 on the protection of rural lands, known as the Land Law, which sets out a framework to prevent the foreign ownership of high-demand lands for the specific advancement of extractive activities, real estate business, and other issues. Both regulatory tools are pending approval by Parliament, and the DNU is currently being challenged through the courts.

The Indigenous communities and their organizations (including the Mapuche Neuquén Confederation, CMN) are rejecting these legal instruments because they represent a threat their territory by promoting an extractive model, undermining food sovereignty and creating conditions for the concentration of economic power.

The foundations of the current situation were, in some ways, laid by the previous government – which ultimately opened the doors to this libertarian model – and this situation has been endorsed by the decisions emanating from provincial governments. It should be noted that the constitutional reform undertaken by the government of Jujuy Province is an enormous and ongoing source of conflict with the Indigenous communities. The reform, which was not put out to consultation with the communities and was deeply unconstitutional (failing to comply with the requirements in either form or substance), erects a State model that will encroach onto the territories. It was centrally designed to expand the exploitation of lithium, the region's main resource and in global high demand due to its uses and limited sources.

This constitutional reform, which took place without any public participation, without any consultation of Indigenous Peoples, and which was enacted in an excessively short period of time, goes against all democratic principles. Although the text includes topics that would today be considered "politically correct", such as climate change, animal welfare, spiritual welfare, etc., a careful reading reveals purposes that are incompatible with a State that claims to be egalitarian and discursively states that it respects Indigenous Peoples. The Indigenous mobilizations that have been taking place since June 2023 questioning

its legitimacy (and which have reached as far as Buenos Aires), and the repression ordered by the government in response, are proof of this.

In addition, a new form of territorial dispossession of Indigenous Peoples should be noted. This is taking place through the creation of national parks and nature reserves, without any consultation, installing a kind of "neocolonial model of green conservation" that establishes a new form of expansion onto Indigenous territories, ignoring their presence. Activists and academics are denouncing the proliferation of such strategies, largely in north-western Argentina. This model is exemplified by the creation of the Aconquija National Park in Tucumán province, which is imposing a conservationist vision without guaranteeing the right to free, prior and informed consultation, and is having a significant impact on the Diaguita Nation. This was discussed, among other places, at the XIX International Congress on Regional Integration, Borders and Globalization in the Americas in November 2023, held at the National University of Chilecito, in La Rioja province.[1]

A review of the disputes that have arisen over Indigenous territories in the last year shows that the territorial conflict existing in the vicinity of Villa Mascardi, Río Negro province (see *The Indigenous World 2023*) is far from being resolved. It should be recalled that there was a violent eviction here in 2022, for which four women and their children were deprived of their freedom for almost six months. Three roundtable dialogues were held at which some preliminary agreements were reached: among them, the sacred site of the place (*rewe*) was recognized and access to the *machi* (spiritual authority) was facilitated so that they could continue their spiritual and healing practices. The relocation of the Indigenous Mapuche community of Lafken Winkul Mapu, near the site of the conflict, was also discussed. Six months after signing the agreement, however, in December 2023, the president of the National Institute for Indigenous Affairs (INAI) informed them that the agreement would not be fulfilled, citing "the outcome of the elections" and the imminent inauguration of a new president as the reason.

In short, the aforementioned examples illustrate the difficulties Indigenous communities face in enjoying their territorial rights, the State's permanent denial of their effective recognition, and a future that is predicted to become ever more conflictive.

Reaffirming rights: the law on consultation in Neuquén province

In December 2022, the legislature of Neuquén province unanimously approved the Law on Indigenous Communities' Free, Prior and Informed Consultation (Law 3,401), in accordance with the provisions of ILO Convention 169 and the respective Declarations. This law is a replica of an Executive Decree already in force that was agreed with the Mapuche Confederation of Neuquén.

This law, the first in Argentina, is key to reorienting Indigenous Peoples' relationship with the State and, through it, with the hydrocarbons industry. This is all the more so in a province where fracking (hydraulic fracturing that uses tonnes of chemicals and huge amounts of water, a highly polluting method) has been ongoing at the "Vaca Muerta" oilfield for a decade, causing innumerable conflicts with the Indigenous communities that inhabit the area.

This law is significant for a number of reasons. Firstly, it goes hand in hand with the provisions of the international legal instruments in force in Argentina. Secondly, it considers the Indigenous communities that inhabit Neuquén province as political subjects with whom dialogue should take place. Although this law is not limited to the issue of territory, this is undoubtedly the most noteworthy one. Thirdly, it establishes a procedure for implementing the right to consultation.

However, and here it should be pointed out that this law really deserves a more exhaustive analysis, it has two negative aspects that cannot be overlooked. On the one hand, this right can only be exercised by communities that have registered legal status in the province (art. 8), sidelining those who – for whatever reason – have not obtained this. On the other, the outcomes of the consultations are not binding. Although it contemplates including the communities' observations or suggestions, the administration is finally free to adopt the measure in question (art. 15), which greatly distorts the main objective of the law.

Despite these considerations, the enactment of this law is positive and has been seen as such by the Mapuche Confederation of Neuquén. The great challenge that remains lies in its implementation, and in monitoring how its enforcement authority (the Secretariat of Territorial Development and Environment) will activate the mechanisms envisaged in the law to ensure effective participation.

Conclusions

2023 in Argentina was marked by a remarkable inefficiency in the State's execution of its policies. Indigenous Peoples, as recipients of certain land policies, have not been unaffected by this lack of management, and there has been evident paralysis in the demarcation and subsequent titling of Indigenous territories.

Moreover, and as a consequence of the above, territorial conflicts have worsened. In addition to the lack of response at national level, the provincial states have also demonstrated a refusal to recognize these, generating widespread protest from the Indigenous communities and a permanent source of tensions that persists to this day.

Although there are some positive actions, such as the enactment of the Law on Consultation in Neuquén province, the controversial aspects noted above have to be added to an extremely uncertain political backdrop that augurs a direct impact on Indigenous communities. A political and legal analysis of this last year shows that an absent or inoperative State is delegitimizing the government administration and, worse, undermining the Indigenous rights already achieved, placing Indigenous Peoples in a weaker situation.

And, particularly in a federal country such as Argentina, the provincial states also play a leading role in the protection of rights. They have not, however, demonstrated a vocation to guarantee them, largely because of the natural assets present in their geopolitical space and the economic value that gas, oil or lithium exploitation represents; all these natural assets are present in the territories claimed by the Indigenous communities.

Finally, it would seem logical to anticipate a proliferation of territorial disputes in the immediate future, an abandonment of the territorial survey that has existed since 2006 (albeit with scant results), and a prioritization of economic activities on Indigenous territories, which is in open contradiction with their rights.

Notes and references

1. See infoterritorial.com.ar. One of the main protagonists of this discussion is the Warpe activist and academic Carina Jofré.

Silvina Ramírez *is a lawyer and Doctor of Law. She is a postgraduate lecturer at the Law School of the University of Buenos Aires (UBA), the University of Palermo and other Argentine and Latin American universities and a founding member of the Association of Indigenous Law (AADI). Academic Adviser to the Centre of Public Policies for Socialism (CEPPAS). Member of the Board of Directors of the Institute for Comparative Studies in Criminal and Social Sciences (INECIP) and focal point in Argentina for the Latin American Network of Legal Anthropology (RELAJU).*

Bolivia

BRAZIL
PERU
BOLIVIA
La Paz
PARAGUAY
ARGENTINA
CHILE
PACIFIC OCEAN

According to the 2012 National Census, 41% of the Bolivian population over the age of 15 is of Indigenous origin, although 2017 projections from the National Institute of Statistics (INE) indicate that this percentage is likely to have now increased to 48%. Of the 36 recognized peoples in the country, the majority live in the Andes and are Quechua- or Aymara-speaking (49.5% and 40.6% respectively) and they self-identify as one of 16 nationalities. The remaining peoples live in the lowlands, and are largely the Chiquitano (3.6%), Guaraní (2.5%) and Moxeño (1.4%). Together with the remaining 2.4%, they make up the 36 Indigenous Peoples of Bolivia. To date, Indigenous Peoples have consolidated their collective ownership of 25 million hectares of land in the form of *Tierras Comunitarias de Origen* (Community Lands of Origin / TCO), and these account for 23% of the country's total land mass. Following the approval of Decree No. 727/10, the TCOs acquired the constitutional status of *Territorio Indígena Originario Campesino* (Native Indigenous Peasant Territory / TIOC). At the time of writing this article, a new National Census of Population and Housing is expected to take place on 23 March 2024. Bolivia has ratified the main human rights conventions and has been a signatory to ILO No. 169 since 1991. The UN Declaration on the Rights of Indigenous Peoples (UNDRIP) has been in full force and effect since the approval of Law No. 3760 of 7 November 2007. With the adoption of the new State Political Constitution in 2009, Bolivia took the name of Plurinational State.

Court rulings in favour of Indigenous Peoples and against mineral extraction

In 2023, a new chapter of the conflict arose with the small- and medium-sized cooperative mining sector, which had the previous year benefited from agreements between the National Service for Protected Areas (SERNAP) and the Mining Administrative Jurisdictional Authority (AJAM) to undertake activities within protected areas and In-

digenous territories in the Amazon. However, Indigenous organizations and environmental defenders were able, at least formally, to reverse these agreements by organizing a large-scale social mobilization and public awareness campaign and obtaining rulings of the constitutional and agro-environmental courts.

In September, a judge of the Joint Tribunal, based in Rurranabaque, admitted the class action filed by the *Central de Pueblos Indígenas de La Paz* (Indigenous Peoples of La Paz Central Group/CPILAP) and ordered a halt to mining activities in the Beni and Madre de Dios rivers and their tributaries, as well as in Alto Beni, Kaka, Tuichi, Quiquibey and Tequeje, in the Amazon region of La Paz. The court's ruling instructed AJAM to suspend contracts with mining operators in the area and to implement processes of prior consultation with the local Indigenous communities.

At the same time, empowered because of pressure from the miners through multiple mobilization actions, along with threats made to social leaders and government officials, and illegal incursions into protected areas, all repeatedly denounced by Indigenous organizations, SERNAP also cancelled all environmental licences granted in previous years, particularly those from 2022.[1] This resurgence in the conflict led to a logical reaction from the miners, who once again besieged the seat of government with noisy and intimidating demonstrations. They have so far not been able to change the minds of the Ministry of the Environment or the AJAM regarding reinstatement of the suspended licences.

New cycle of forest fires in Indigenous territories in the Chaco and Amazon regions

2023 was once again a year of environmental crisis in the east of Bolivia. The city of Santa Cruz de la Sierra experienced nearly 20 days of record levels of air pollution, forcing local authorities to suspend the school year, temporarily close airports and take other measures to safeguard the population.[2] Under pressure from environmental activists, who mobilized as they had done in 2019, and in the context of political concessions offered to the opposition by one of the factions into which the ruling party is now divided, a number of the laws being observed by these activist groups, which offered flexibility in terms of forest clearing and burning, were repealed.[3]

The territories occupied by Indigenous Peoples were also severely affected. Of the 58 Indigenous territories in the lowlands with forests, 49 of them were the site of 25,270 forest fires. Territories in the department of Beni being worst affected with 16,242.[4] The most tragic situation was that of the Indigenous populations of Rurrenabaque and San Buenaventura, in the Amazon region of La Paz, where the area's communities suffered the destruction of homes and crops, including the local police infrastructure.[5]

The Multiethnic Indigenous Territory (TIM) lost 22,397 hectares to fires, the largest area for the last five years.[6] The greatest number of forest fires was recorded in November, with 2,452. More than half of the 16 communities were affected. This situation was clearly caused at least in part by extraordinary climate change conditions: high temperatures, low humidity, wind gusts of more than 40 km/h and a delay in expected rains.

Between October and November, a large area of the country's Amazon region was affected by uncontrolled fires.[7] According to the Forest and Land Inspection and Social Control Authority (ABT), by mid-November forest fires and "*chaqueos*" [slash-and-burn practices] had affected a total of 3,518,708 hectares of land throughout Bolivia. The department of Beni was worst affected, with 2,309,761 hectares ablaze, accounting for 66% of the total area burnt. Following this, Santa Cruz recorded a loss of 719,567 hectares and La Paz 295,642 hectares, 20% and 8% of the total area respectively.[8] It was not until the third week of November, after a delay of at least a month and a half, that seasonal rains finally arrived to put out the fires in the region.

Indigenous justice and women's rights in Bolivia

When people speak of Indigenous autonomy or self-government in Bolivia, they are generally referring to local government tasks that are to be assumed by new Indigenous structures, especially those of an administrative and financial nature. And yet little or nothing is known about the situation of Indigenous women and respect for their rights in this new institutional reality. As in the case of municipal councils, Indigenous autonomies need to establish social services to address violence against women and, in so doing, their actions often clash with decisions taken

in the communities or by the traditional authorities, who are accused of undermining these efforts.

One emblematic case arose in the Charagua Iyambae Guaraní Autonomy, albeit in the opposite direction to this accusation. In July, a Guaraní woman approached the Integral Family Unit, which handles complaints of violence against women and children, and reported that she had been savagely beaten by her husband, who also happened to be the head of the autonomous government.[9] Neither her lawsuit nor her verbal complaint were admitted, despite the fact she had to be treated at Charagua hospital for the blows she had suffered to her body and face. The woman was forced to turn to the Prosecutor's Office of a neighbouring district, which subsequently summoned her husband and ordered his immediate detention for 90 days.[10]

This situation had huge ramifications in Charagua, and the different autonomous and traditional public bodies of the Guaraní people were convened, where they unanimously condemned the aggression against the woman and demanded the immediate removal of the perpetrator from his position. However, this decision clashed with a contradictory provision of Law 348, which guarantees women's rights.[11] This law establishes that the removal of elected authorities accused of committing crimes of violence can only occur once a firm sentence has been passed against them.[12] This situation meant that the aggressor could be reinstated to his position despite the severity of the crime, provoking a schism in Guaraní society. Finally, the Departmental Electoral Tribunal of Santa Cruz validated the position of the Guaraní people. This all culminated in an historic decision and, in the end, a female representative was elected as the new Tëtarembiokuai Reta Imborika, TRI.[13]

Indigenous autonomies in the Bolivian Amazon

The first autonomous government in an Indigenous territory to obtain municipal jurisdiction in Bolivia was the Multiethnic Indigenous Territory (TIM), in the South Amazonian department of Beni. After endless and completely unnecessary bureaucratic procedures, State President Luis Arce finally enacted Law No. 1497/2023 creating the Territorial Unit of

the TIM. This law involved creating the TIM as a territorial jurisdiction in which the Indigenous government, elected in accordance with its Autonomous Statutes, will exercise all the powers assigned by the Constitution.

The election of representatives to the two bodies of the new government of the TIM took place from 23-25 July in the community of San José del Cavitu. The Territorial Assembly was elected on 24 July, comprising five representatives (one for each people)[14] and five alternates, as a deliberating body. Finally, the representatives of the Executive Body, the *cacique*, their adviser and the Natural Resources and Culture and Production operators were elected on 25 July.

Elections were attended by more than 1,500 individuals from the peoples that inhabit the TIM, as well as special guests, support institutions and historic leaders of the Indigenous movement.

The unfortunate decision to proceed with individual voting, imposed by sectors from outside the communities, resulted in long delays in obtaining candidate accreditation. Practically none of them met the State's requirements in terms of military service books, criminal records or tax solvency, all of which are expensive documents to obtain and have to be sought in the capital of Trinidad department. In a demonstration of flexibility, the Intercultural Service for Democratic Strengthening finally allowed these documents to be submitted by the elected candidates in the 10 days following their election. The T'simane people had the most difficulty in complying with these formalities as they did not have any of these documents. Had it not been for the support NGOs, their representatives would have been excluded from the positions to which they were elected.

The most closely contested election was between Alfredo Matareco, a Mojeño Trinitario from the host community of San José del Cavitu, and Bernardo Muiba, a native of the community of Puerto San Borja, former president of the TIM branch and current deputy mayor of the TIM Indigenous district. In the end, the former won by a dozen votes, coming from the community of San José itself.

Voting for the other positions was spread out over time in such a way that the number of voters fell considerably on the last day, causing one of the operator candidates to drop out and thus rendering voting for the most operational roles pointless. Now up and running, the Auton-

omous Indigenous Government of the TIM[15] is currently structuring its internal bureaucracy so that it will be able to act formally as from 2024.

Just when it seemed that another of the most inexplicable absurdities generated by the State itself, such as the Agro-environmental Tribunal's annulment of the property title for the Chimanes Forest, would be favourably resolved through an administrative adjustment, this judicial body once again admitted a lawsuit against the legal document regularizing the rights of the TIM peoples to their ancestral territory. The annulment was the result of an appeal filed by a private landowner, who was claiming that his property of more than 3,000 hectares had mistakenly been titled by the National Agrarian Reform Institute in favour of the TIM. To resolve this problem, instead of removing the part of the area that had been titled to the TIM in error and restoring it to the rightful owner, they took almost two years to decide to annul the entire TIM title – covering almost 200,000 hectares – in order to title the 3,000 hectares claimed by the owner and then issue another resolution titling the remaining area to the TIM. This excessive delay emboldened other ineligible claimants, however, and they are now being given the opportunity by the Agro-Environmental Court to keep this new title pending until their petitions have been resolved. This lawsuit is currently in process through this judicial body.

Resumption of the highway through the Isiboro Sécure National Park Indigenous Territory

Since the start of 2023, there has been renewed pressure for the construction of the highway through the Isiboro Sécure National Park and Indigenous Territory (TIPNIS), and this has also involved the Multiethnic Indigenous Territory, this time with greater visibility, given that one of the stretches will cross through its land. These pressures have been expressed by means of successive public events promoted by the departmental and national authorities in which former Indigenous leaders and authorities have given their support for the highway project and demanded that the government of the TIPNIS and TIM territories take a position.

By February, the organizations had been forced to convene extraordinary events to address the issue, such as an extraordinary meeting of *Corregidores* (community leaders) in the community of Monte Grande del Apere on 12 February and an extraordinary meeting in April in the community of Retiro. In both cases, the decision was that, without prior studies, without a prior consultation process, without clear publicity of the impacts, without regularization of the section that is being upgraded through the TIM, it was not possible to talk about accepting a project that the people knew so little about.

Independently, the three Indigenous Peoples' organizations of the TIPNIS[16] met for this same purpose and unanimously rejected the highway project, for the reasons noted above, in particular the government's failure to fulfil multiple initiatives promised since the time of President Evo Morales, who had offered these in exchange for their acceptance of the highway. This decision was subsequently endorsed by the branches of the Indigenous territories of Mojos on 18 March in San Ignacio de Mojos,[17] where rejection of the highway project was ratified.

In loco visit of the Inter-American Commission on Human Rights

On 27 and 31 March, the Inter-American Commission on Human Rights (IACHR) visited the country. Thanks to IWGIA's efforts, a special meeting was held on the TIPNIS highway issue, which was chaired by the first vice-president of the Commission and holder of the Rapporteurship on Indigenous Peoples. At this meeting, the TIM and TIPNIS branches gave a joint presentation on the history of the highway project, the violations of Indigenous rights to prior consultation promised by the State in its attempt to force the communities' to accept it, and the current situation in the two territories. In concluding its visit, the IACHR noted its concern in its preliminary observations at the lack of State consultation with regard to building the highway, as well as the general impact of infrastructure projects on the Indigenous territories.[18] Although this did not seem that significant at the time, in the following months pressure from the authorities and leaders to open the highway through the TIPNIS declined considerably.

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Leonardo Tamburini *holds a Bachelor's degree in Jurisprudence from the Università degli Studi di Macerata (Italy) and a Master's degree in Indigenous Rights and Development from the Universidad Autónoma Gabriel René Moreno (Santa Cruz-Bolivia). He is currently executive director of Oré (Organization for Legal and Social Support).*

Brazil

ATLANTIC OCEAN
VENEZUELA
COLOMBIA
BRAZIL
PERU
BOLIVIA
Brasilia
PARAGUAY
PACIFIC OCEAN
URUGUAY
ARGENTINA

According to data from the 2022 demographic census, Brazil is home to 266 Indigenous Peoples with a population of 1,693,535 people, or approximately 0.83% of the total Brazilian population. These peoples communicate in 275 different languages. The northern region of Brazil holds almost 45% of the Indigenous population and Amazonas state represents the epicentre, with 490,000 Indigenous individuals.

The rights of Indigenous Peoples are set out in a specific chapter of the 1988 Charter (Title VIII, "Social Order", Chapter VIII, "On the Indians"), in addition to other provisions scattered throughout the constitutional text and an article in the transitional provisions.

Brazil ratified ILO Convention 169 on 25 July 2002.

2023 marked a significant change in Brazil's sociopolitical history, especially with regard to Indigenous issues, with the inauguration of President Luiz Inácio Lula da Silva. This historic moment ushered in an era of important change, establishing a new paradigm in the relationship between the Brazilian State and its Indigenous Peoples and in the management of environmental issues. The new administration distanced itself from previous policies, implementing initiatives to strengthen Indigenous representation in different spheres of government and to promote a more inclusive and sustainable approach to environmental conservation

This period is in stark contrast to the previous government of Jair Bolsonaro, whose administration has left a controversial mark on the country's Indigenous and environmental policy. During his tenure, a worrying trend towards weakening both the country's environmental protection bodies and the rights of Indigenous Peoples was observed, with disastrous consequences. The effects of these policies manifested themselves in alarming ways, with a significant increase in Amazonian deforestation and the rampant incursion of *garimpeiros* (illegal miners) and mining companies onto Indigenous territories, exacerbating the vulnerability of these communities.

In addition, this period was marked by increased violence against

Indigenous and environmental rights activists and defenders, tragically exemplified by the cases of Bruno Pereira, a former official of the *Fundação Nacional dos Povos Indígenas* [National Indigenous Peoples Foundation / FUNAI], and Dom Phillips, a British journalist, both murdered while working in the Javari Valley. These shocking events shed light on the risks faced by those opposing illegal interests in the region and highlighted the urgent need to improve the protection of Indigenous Peoples and the environment.

With the inauguration of the current president, however, 2023 set an unprecedented milestone in Brazilian Indigenous politics, ushering in an era of unparalleled protagonism and self-representation for the country's Indigenous Peoples. This progress has materialized in the creation of the Ministry of Indigenous Peoples, an historic achievement that not only reflects a significant change in government structure but also symbolizes a deep commitment to inclusion, representativeness and the defence of Indigenous Peoples' rights at the highest level of the Brazilian public administration.

Under the direction of Sonia Guajajara, an internationally-renowned Indigenous activist, the Ministry of Indigenous Peoples has been set up with a mission to formulate and implement government policies that address the specific needs of Indigenous communities, guaranteeing their protection, and respect for their autonomy and the value of their cultures and traditions. The choice of Guajajara to lead this ministry was more than simply symbolic; it was also strategic, bringing into the heart of power an authentic and experienced voice capable of articulating Indigenous demands effectively and sensitively.

The appointment of Joênia Wapichana as President of the National Indigenous Peoples Foundation complements and strengthens this new direction in Brazil's Indigenous policy. Wapichana, the first Indigenous woman to become a lawyer in Brazil and also the first to hold a position of such significance in FUNAI, represents a paradigm shift and confirmation of a new period of inclusive governance, one that values the direct participation of Indigenous Peoples in management and decisions affecting their lives and territories.

These flagship initiatives of Luiz Inácio Lula da Silva's government signal a commitment to changing the course of history, reorienting public policies to ensure that Indigenous communities are not only heard but also play a central role in the formulation and implementation of policies affecting them. The creation of the Ministry of Indige-

nous Peoples and the appointment of Indigenous leaders to positions of power are not merely administrative acts; they represent the culmination of a new model of governance that recognizes the importance of incorporating Indigenous knowledge and perspectives into national policies, promoting social justice that is truly inclusive and respectful of diversities.

Several measures gave concrete expression to this new direction in 2023:

- After a five-year hiatus, the government demarcated six Indigenous territories in several states, representing an area of 612,863.3 hectares, or 6,128 km^2.
- This relates to the following territories:
  - Arara do Rio Amônia (Acre) with an area of 20,534 hectares, for the Arara people.
  - Kariri-Xocó (Alagoas) with 4,684 hectares, for the Kariri-Xocó people.
  - Rio dos Índios (Rio Grande do Sul) with 711.7 hectares, for the Kaingang people.
  - Tremembé da Barra do Mundaú (Ceará) with 3,511 hectares, for the Tremembé people.
  - Uneiuxi (Amazon) with 551,983 hectares, for the Maku Nadëb people.
  - Avá-Canoeiro (Goias) with 31,427 hectares, for the Avá-Canoeiro people.
- Brazil currently has 732 Indigenous areas demarcated, together covering 117,377,533 hectares, or 13.8% of the country's total area.[1]
- President Lula signed decrees establishing the Management Committee for the National Policy for Territorial and Environmental Management of Indigenous Lands and re-creating the National Council for Indigenous Policy. Both had been discontinued by the previous government.
- Commitment to zero deforestation by 2030. The demarcation of Indigenous lands is about more than protecting the rights and traditions of Indigenous Peoples; it also plays a crucial role in environmental conservation efforts in Brazil. President Lula has emphasized the goal of achieving zero deforestation by 2030, highlighting the importance of Indigenous lands in this effort.[2]

- Territorial rights and legislative conflicts. The territorial rights of Indigenous Peoples in Brazil are a topic of great complexity and controversy and, in 2023, these issues were especially evidenced by the intense debate surrounding the so-called "timeframe" for the demarcation of Indigenous lands.[3] This debate involved both the Judiciary, represented by the Federal Supreme Court (STF), and the National Congress. The timeframe is a legal thesis that proposes that Indigenous Peoples should only be entitled to the lands they were occupying or disputing on the date of enactment of the 1988 Federal Constitution. This thesis significantly limits Indigenous territorial rights as it ignores the expropriations and forced displacements that many peoples have suffered throughout history. When judging cases related to the demarcation of Indigenous lands, the STF has rejected the timeframe thesis, considering it unconstitutional. This decision was a fundamental step in the struggle for Indigenous rights, as it recognized that the historical occupation and territorial rights of Indigenous Peoples cannot be limited to an arbitrary date. In contrast to the STF's position, however, in 2023 National Congress approved the timeframe thesis, even after a presidential veto.[4] This legislative action generated intense controversy and was seen as a setback for Indigenous rights. The approval of the timeframe thesis by Congress represents a significant threat to the territorial rights of Indigenous Peoples as it could lead to a reduction in their lands and the legalization of illegal occupations on historically Indigenous lands. This legislative and judicial dispute reflects the tensions between different visions of Indigenous rights in Brazil. On the one hand, there is a recognition of the importance of protecting and respecting the historical and cultural rights of Indigenous Peoples while, on the other, there are economic and political interests at play that are seeking to restrict these rights in order to enable greater exploitation of natural resources and agricultural expansion.
- Land rights play a crucial role in the security and well-being of Indigenous Peoples. In the case of the Mato Grosso do Sul region, home to approximately 85,000 Indigenous people from eight different ethnic groups, the issue of territorial rights has

taken on even greater relevance. The situation of the Guarani-Kaiowá and Ñandeva populations illustrates the challenges being faced by these communities and the conflicts that can arise. Disputes over territory is one of the main drivers of this conflict. The Guarani-Kaiowá are reclaiming their ancestral lands which, throughout history, have been occupied by farmers, agribusiness and other economic interests. The lack of official demarcation of these lands is a critical factor, contributing to territorial insecurity and fuelling conflicts. According to updated data from 2022, only around 13% of the lands claimed by the Guarani-Kaiowá have actually been demarcated, leaving most of their land claims pending regularization. Land invasions by agribusiness, landowners and luxury condominiums are also an important element of this conflict. These invasions result in the expulsion of Indigenous communities from their traditional lands and often lead to violent confrontations. In 2023, at least three Guarani-Kaiowá communities were subjected to extrajudicial evictions after recovering their territories.[5]

- Armed militias composed of landowners and rural unions are playing a significant role in the escalation of violence. These militias often carry out attacks against Guarani-Kaiowá communities, resulting in physical violence and deaths. The impunity of these groups only perpetuates the insecurity and conflict in Indigenous areas.
- Environmental and social challenges. Indigenous territories, especially in the Amazon and the Cerrado, face significant challenges due to deforestation, mining and illegal mining. Communities such as the Yanomami and Munduruku are suffering serious impacts due to these illegal activities, threatening both the environmental integrity and the health and safety of Indigenous Peoples.[6]

Deforestation

According to the *Instituto Nacional de Pesquisas Espaciais* [National Institute for Space Research / INPE], the estimated area of the Amazon deforested in 2023 was 9,001 km², representing a 22.37% reduc-

tion compared to the 2022 deforestation rate of 11,594 km^2. In addition, there was a 42.5% decrease in deforestation alerts in the Amazon between January and July 2023 compared to the same period in the previous year. In July, the reduction was even more pronounced, reaching 66% compared to July 2022.[7]

In the Cerrado region, the situation was different, as there was a 26% increase in the area under deforestation alerts in July 2023, and a 21.7% increase in the first seven months of 2023 compared to the same period in the previous year.[8]

Mining and illegal mining

The Yanomami Indigenous Land is home to a population of 31,007 Indigenous people distributed across some 384 villages. The territory suffers from deforestation and illegal mining (*garimpo*), as well as mercury contamination, which affects rivers, soil, animals and, consequently, Indigenous food products. This situation has deteriorated in recent years due to the increase in illegal mining activities. According to the *Conselho Indigenista Missionário* [Indigenist Missionary Council / CIMI], it is estimated that more than 20,000 illegal miners are operating on the Yanomami Indigenous Land alone, causing not only environmental degradation but also direct conflict with the Indigenous Peoples. Illegal mining increased sharply during the Bolsonaro administration, with a 59.5% growth in average annual deforestation compared to the previous four years and 75.5% compared to the previous decade.[9]

The Amazon Joint Operational Command and the Armed Forces carried out actions to combat illegal mining in 2023, destroying aircraft and camps, and confiscating tons of cassiterite and equipment. Activities included river barriers and land and air mobilizations, resulting in significant seizures and fines.[10]

Health and safety impacts

Poisoning by mercury and other toxic substances has led to increased numbers of cases of congenital malformations and neurological diseases among the Indigenous communities affected by this illegal mining.

The use of mercury in illegal mining has caused serious health problems. A study published in the *Revista da Sociedade Brasileira de Medicina Tropical* [Journal of the Brazilian Society of Tropical Medicine][11] indicates that more than 90% of Yanomami tested presented with elevated levels of mercury in their bodies, well above the limits recommended by the World Health Organization. Mercury exposure can cause serious health problems, including nervous system damage, kidney problems and, in extreme cases, death. In addition to these aggravating factors, illegal mining is also associated with direct conflicts with Indigenous Peoples and malnutrition.

The federal government took various emergency measures to combat malnutrition and malaria in the region in 2023. More than 21,000 medical care services were provided and 307 children diagnosed with malnutrition were supported. The emergency operation also included the mobilization of some 960 professionals and the reopening of health units in the territory.[12]

In conclusion, 2023 represented a crucial period for Indigenous Peoples in Brazil, marked by significant advances in terms of representation and government policies. However, persistent challenges, especially in relation to land rights and environmental issues, demonstrate that the road to justice and equality remains a complex and challenging one for the country's Indigenous Peoples.

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Maria de Lourdes Beldi de Alcântara *is a professor of medical anthropology at the Faculty of Medicine of the University of Sao Paulo. She is also the coordinator of AJI/GAPK Indigenous Youth Action.*

Chile

BOLIVIA
PACIFIC OCEAN
ARGENTINA
Santiago
CHILE
ATLANTIC OCEAN

Despite steadily increasing since the 1990s, the Indigenous population has not seen any major variations since the 2017 census. 2,185,792 people thus self-identify as Indigenous, equivalent to 12.8% of the country's total population (17,076,076). The Mapuche are the most numerous (almost 1,800,000 people), followed by the Aymara (156,000 people) and the Diaguita (88,000 people).[1] There is a sustained trend of moving to urban areas, with 87.8% of Indigenous people now living in the cities compared to 12.2% in the countryside.[2]

The Law 19,253 of 1993 on the Promotion, Protection and Development of Indigenous Peoples, or the "Indigenous Law", has not been amended despite urgent reform being needed to bring it into line with current international standards on the rights of Indigenous Peoples, such as ILO Convention 169, ratified by Chile in 2008. Chile has also adopted the 2007 UN Declaration on the Rights of Indigenous Peoples (UNDRIP) and the 2016 American Declaration on the Rights of Indigenous Peoples.

The Presidential Commission for Peace and Understanding

On 21 June 2023, President Gabriel Boric announced the formation of a Presidential Commission for Peace and Understanding. The aim of this commission is to lay the groundwork for a medium- to long-term solution to the unresolved land and territorial claims of the Mapuche people and their communities. In turn, it is seeking to contribute to a better coexistence between the inhabitants of the Bíobío, La Araucanía, Los Ríos and Los Lagos regions in the traditional Mapuche territory of southern Chile.

The primary mandate of this commission, composed of eight prominent individuals from a broad political spectrum, including distinguished members of the Mapuche people, parliamentarians, representatives of the business community and farmers from the region, is to determine the Mapuche communities' real demand for land and pro-

pose different concrete mechanisms for their reparation through institutional channels, given the dispossession of the lands and territories to which the Mapuche people have been subjected throughout history.

Although longstanding, land conflicts in the central-southern regions of Chile (from Bíobío to Los Lagos), in the territory traditionally occupied by the Mapuche people, have worsened in recent decades, seriously affecting interethnic coexistence in this part of the country. Indeed, Mapuche communities and organizations have mobilized in recent years to demand the return of the lands and territories of traditional occupation previously taken from them. In the face of this Mapuche protest, in some cases involving violent actions on the part of certain groups, the State's response has been to use force and disproportionate criminal prosecution, often resulting in violations of the rights to life, physical and psychological integrity, and due process, among others.

The Commission's aim is to establish a process of dialogue that will result in a preliminary agreement with the Mapuche representative organizations and communities in order to address their current expectations for land and territorial reparations.

The success of the Commission's work does, however, face significant challenges that cannot be overlooked. On the one hand is the lack of knowledge among its members, some of whom represent sectors (business) and unions (farmers), of the human rights standards that need to be taken into consideration when resolving land and territorial conflicts that affect Indigenous Peoples. Indeed, some of its members have questioned whether the commission should be addressing the so-called "ancestral lands" in its work at all, implying that it should limit itself to dealing only with the demands for land that the State has recognized to the Mapuche but which are not in their possession today. It has also been pointed out that the focus of the Commission's work should be on financial compensation for the lands taken from the Mapuche.

As a result, it is imperative that bodies are created within the scope of this Commission's action that can enable the Mapuche communities and organizations responsible for the territorial claims processes to accredit such claims in line with the requirements of international standards, so that they can channel their legitimate demands through the institutional channels to the Presidential Commission for Peace and Understanding.

Given the diversity of the Mapuche people, another particularly relevant issue is that of identifying effective paths for inclusivity within the dialogue that the Commission is promoting with the different representative organizations of the Mapuche people. The intention is that the agreements reached should have legitimacy among all the different sectors of the Mapuche people, always taking into account the standards of participation envisaged in international law on Indigenous Peoples.

Constitutional process

As noted in the Yearbook 2023, the rejection of the Constitutional Assembly's proposed draft constitution in 2022 (a draft that included Indigenous representation proportional to their population and nearly 50 provisions, out of a total of 380, referring to the recognition of the collective and individual rights of these peoples and recognizing the State of Chile as plurinational and intercultural) resulted in a new process being undertaken during 2023 to produce a new Constitution for Chile.

This new process was driven by an agreement between the political parties with parliamentary representation, and strongly challenged due to its limitations in terms of human rights. This is explained by the fact that it defined the so-called "institutional bases", which includes the rights of Indigenous Peoples, among others, as part of the "Chilean nation". In addition, the institutional framework comprised an Expert Commission appointed by the two chambers of the National Congress, with responsibility for drafting the new constitutional draft, plus a Technical Committee on Admissibility to safeguard the constitutional content, also appointed by both chambers, and a Constitutional Council, comprising 50 democratically elected members, i.e. largely limited to the political parties to the exclusion of any citizens. Although a mechanism was considered for electing Indigenous candidates, via a special list, to the Constitutional Council, their number was conditional upon the percentage of Indigenous votes, which resulted in only one Indigenous representative being elected.

The ensuing text thus embodied the vision of the State and of the conservative majority that made up the Constitutional Council. There

was wholly insufficient recognition of economic, social, cultural and environmental rights in its provisions, and limited recognition of the rights of Indigenous Peoples, plus additional phrasing stating that they form part of the "one and indivisible" Chilean nation, laying bare the conservative parties' unfounded fears of an Indigenous separatist desire.

The conservative vision contained in the constitutional proposal, which was not inclusive of the different visions of State and society existing in the country, culminated in its rejection in the December 2023 referendum.[3] As a result, the 1980 Political Constitution imposed during the dictatorship remains in force. This text makes no mention of Indigenous Peoples nor of their individual or collective rights. Chile therefore remains one of only two countries in Latin America, together with Uruguay, that does not recognize Indigenous Peoples in their Constitution. This is in spite of the country's significant Indigenous population, and the conflict between the Chilean state and the Mapuche people over recognition of their rights which, far from encouraging an institutional solution to this conflict, will very possibly exacerbate it.

Governance and Indigenous conservation in protected areas

To understand territory from an Indigenous perspective involves not only considering its geophysical aspects, nor simply its sociocultural aspects; it also involves understanding the relationships that exist between those who cohabit a space full of meaning. This is signified by dreams, memories, stories, lineages and spirits that guard what is essential for life: water, forests, mountains and medicine.

Today, 85% of the world's biodiversity can be found on Indigenous territories, and efforts in recent years to recognize the contributions of these peoples to global conservation and the advocacy they have been doing in international forums have been significant; for example, in the progress and strategies of the Kunming-Montreal Global Biodiversity Framework.

Law 21,600 came into force in September 2023 in Chile, creating the National Biodiversity and Protected Areas Service (SBAP), a significant step towards ensuring better administration of protected areas in Chile. This includes an unprecedented element: it recognizes the

rights of Indigenous Peoples to participate in and manage these "areas". Unfortunately, the law does not recognize the concept of territory, despite years of requests and advocacy by Indigenous representatives, and only guarantees the concept of "area" for titled Indigenous lands. The question being asked by some Indigenous leaders in Chile is: "Do I have to be the legal owner of my land to protect and safeguard the territory?" The SBAP is indeed a step in the right direction for a country that has historically denied Indigenous Peoples any participation or territorial management rights; however, it does not guarantee Indigenous Peoples the effective exercise of their right to self-govern the territories in which they have historically coexisted, territories that guarantee not only a strengthening of their identity but also of their knowledge, memories and unique relationships with what the Mapuche Nation call *itxofillmogen*, all present and sentient lives. To understand Indigenous Peoples' governance of protected areas requires understanding their ceremonies, their offerings, their harvests, their upbringing, their sociopolitical way of dialoguing with nature. Because, for Indigenous Peoples, there are no areas of traditional conservation; rather, the entire territory is a space of protection and safeguard: the home, the animals, the forest, the waterfalls and the volcanoes.

Today, many territories and communities see the SBAP Law as an opportunity to advance or at least build the foundations of a future process that will see their complete governance of those protected areas already legally conserved, and in which a large part of the biodiversity of their territories is concentrated. There is an awareness and certainty that these areas are also the most vulnerable to extractive pressure and climate change. The communities, territories and Indigenous organizations that have been working on this issue for years therefore urgently need to have an effective impact on creating the implementing regulations required by the SBAP Law nationally. On a local level, they need to make progress in the governance roundtables, where it is essential that Indigenous Peoples present their initiatives for protecting and safeguarding those territories of life that are currently in the hands of the State and the National Forestry Corporation (CONAF). Their management and their decision-making must be recognized in order to advance towards an open, participatory and intercultural conservation, given the backdrop of the continuous depredation of biodiversity on the part of land speculation, the real estate and tourism industries, extractivism and extractive policies.

Attempts to amend the Coastal Marine Spaces Law

The Law of Coastal and Marine Spaces of Indigenous People (ECMPO), a regulation promoted by the Mapuche Lafkenche communities but aimed at all Indigenous Peoples with links to the sea, seeks the recognition and protection of their territorial rights over the coastline and marine space. Since its entry into force in 2008, it has become established as a mechanism by which to hand over the administration of a demarcated marine space to a community or association of communities that has exercised customary use of the space, with the aim of preserving its uses and ensuring the conservation of the natural assets found there and promoting the welfare of the communities.

Since 2008, different Indigenous Peoples have increasingly used this law to defend their territorial rights and to protect their coastal and marine areas, which are being increasingly threatened by exogenous development models, extractivism and pollution. There are currently more than 100 ECMPO applications spread across seven regions of the country and covering an area of more than 30,000 square kilometres. Given the long processing times, which exceed the legal deadlines, only around 13% of these applications have yet come to fruition, however. Political and administrative obstacles began to arise as soon as the scope and impact this law would have on the reorganization and governance of Chile's marine and coastal areas became evident.

In April 2023, a bill was introduced to amend the ECMPO Law (Gazette No. 15.862-21), in order to "perfect its implementation". This attempt to modify the law in reality seeks to curtail the rights acquired by Chile's coastal Indigenous communities since the amendment is being promoted by "sectors linked to the indiscriminate exploitation of marine resources and endorsed by some politicians with clear economic interests that they disguise as 'development'".[4]

Since then, a dangerous disinformation campaign against Ecmpo applications has intensified in the coastal marine territories, along with constant threats to and intimidation of defenders of these coastal spaces. This was denounced in a public statement from the Network of Native Women for the Defence of the Sea [*Red de Mujeres Originarias por la Defensa del Mar*].[5]

More recently, Daniel Caniullán Huentel, lonko of the Pu Wapi Indigenous Community of Melinka, Guaitecas in the Chilean region of Aysén, has been subjected to constant intimidation in his role as a Mapuche authority and as a petitioner in the application for the Cisnes Indigenous Peoples Coastal Marine Area.[6]

These attempts to amend the Ecmpo Law and the threats to defenders of coastal marine areas ignore the important contributions that these areas make to the social, cultural and political development of Indigenous Peoples and the country in general, in terms of their contribution to the conservation of the country's common assets, to the food sovereignty of hundreds of communities and to the family, local and community economy of Indigenous Peoples and Chile generally. They also ignore the alliances that have been built around the Ecmpo application and administration processes with artisanal fishermen, shore gatherers and other key actors who use the coastline.

No consultation on the National Lithium Strategy

In April 2023, President Boric unveiled the main outlines of the National Lithium Strategy that his government intends to promote. This is at a time when global demand for lithium – as well as the price of this non-metallic mineral – is growing exponentially. Among the main actions proposed in this strategy are the creation of a National Lithium Company, the incorporation of the State into the productive activity of the Atacama Salt Flats [*Salar de Atacama*], and the prospecting of other salt flats that are not declared as protected, promoting a form of exploitation that involves the use of technologies with low environmental impact. According to the government, the key objectives of the strategy are to incorporate capital, technology, sustainability and added value into the productive sector, in harmony with the communities.

So far, lithium mining in Chile, which is the world's second largest producer of this non-metallic mineral, has been undertaken by private national and foreign companies in the Atacama Salt Flats, the traditional territory of the Lickanantay or Atacameño people. Its impacts on the rights of these peoples, including their lands, territories, water, culture, development priorities, and so on, have been denounced by the Council

of Atacameño People [*Consejo de Pueblos Atacameños* / CPA).[7]

Given the direct impact that the National Lithium Strategy, as public policy, will have not only on the Lickanantay people who live in the Atacama Salt Flats but also on the Colla people of the Maricunga Salt Flats, where the State has authorized the exploration and exploitation of lithium by Salar Blanco, a company with Australian capital and acquired by the State mining company CODELCO during 2023, the government might have been expected to submit its announcement to consultation. This has not, however, been the case to date.[8] At the end of the year, CODELCO signed an agreement with SQM, a company with national and Chinese capital, for the exploitation of the Atacama Salt Flats. The agreement was signed without prior information or consultation of the Lickanantay people. This is despite the fact that these companies initially involved the Council of Atacameño Peoples in their negotiations. This repeats a pattern of State violation of the Indigenous Peoples' right to consultation and has also aroused much concern on the part of the Council of Atacameño People.[9]

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José Aylwin, Simón Crisóstomo, Hernando Silva *and* ***Karina Vargas,***
members of the ***Observatorio Ciudadano (www.observatorio.cl).***

Colombia

ATLANTIC OCEAN
PANAMA
VENEZUELA
PACIFIC OCEAN
Bogotá
COLOMBIA
ECUADOR
PERU
BRASIL

Colombia is home to some 115 Indigenous Peoples of diverse origins and linguistic and cultural traditions. They live spread throughout the whole country: on the Caribbean and Pacific coasts, in the Amazon, the Orinoco savannahs and the Andean region. In the latest 2018 national census, the total reported Indigenous population stood at 1.9 million people,[1] of which 64% inhabit 846 legalized collective territories. The rest of the population is located in urban centres or scattered across rural areas.

In addition to Indigenous Peoples, the Colombian Constitution and laws also recognize Afro-descendant communities, the Raizal island communities, the Palenqueros of the Caribbean and the Roma people as collective subjects of rights.

Unpaid debts to Indigenous territories

In Colombia, Indigenous reserves are the constitutional form through which the state recognizes and formalizes the collective ownership of these peoples' ancestral territories. This recognition was achieved through a combination of the peoples' struggles, the transposition of international instruments such as ILO Convention 169, and developments in the Colombian Constitutional Court's case law. This progress reaffirms that the mere ancestral occupation of Indigenous collective territories is equivalent to a property title granted by the state. It further establishes that these areas are not limited to lands that are effectively inhabited, exploited and titled but that they also extend to the traditional spaces in which their worldviews, economic systems, vital resources and unique systems of organization take place.

> *Due to the particular significance that land has for Indigenous Peoples, the protection of their territory is not limited to lands that are titled but is a legal concept that extends to the entire area essential to ensure the full and free exercise of their cultural, religious and economic activities, in accordance with the ways they have been undertaken ancestrally. The State has an obligation to protect Indigenous communities from dis-*

> *turbances they may suffer when exercising their activities on what they consider their ancestral territory (...). (Constitutional Court, 2014).*[2]

However, while there has been clear progress in terms of formal recognition of the integral and collective rights of Indigenous Peoples in Colombia, including their right to territory, it is also true that this right has been undermined by delays in the process of titling and expanding the reserves and also because many of the territories already legally constituted are being exposed to *de facto* acts of dispossession and eviction of their populations. This situation is especially prevalent in regions that have been subjected to continued violence due to the presence of armed actors, drug traffickers, settlers, large landowners, or extractive companies.

During current President Gustavo Petro's Preliminary Consultation on the Development Plan 2022-2026,[3] some of the serious problems affecting the country's Indigenous Peoples and ethnic communities were highlighted, together with the disproportionate impact that Colombia's armed conflict and structural violence have had on their societies, territories and resources. The severe damage caused to their natural ecosystems as a result of predatory exploitation models was also recognized.

> *Over the last decade, more than 15% of national deforestation has occurred in ethnic territories. In the case of Indigenous reserves, there has been an increase in deforestation largely in the Amazon biome, a region that includes departments such as Caquetá, Putumayo, Amazonas, Guaviare, Guainía and Vaupés, and some sectors of the departments of Meta, Vichada, Cauca and Nariño (...). The main causes of deforestation in these territories are related to the illegal extraction of minerals, which contaminates water sources with heavy metals such as mercury and cyanide, and causes environmental impacts of great magnitude in areas rich in biodiversity; the illegal extraction of timber results in colonization and expansion of the agricultural frontier and illicit crop corridors (UN-REDD, 2017), leading to socio-environmental land-use conflicts* (National Development Plan, 2022-2026).

In line with this assessment, the plan proposes a change in the relationship between state and Indigenous Peoples and establishes a commitment to work with ethnic communities to overcome delays in land titling and restore their violated individual and collective rights. Within this framework, special mention is given to ethnic territories in the border areas, all of this under the principle of the autonomy and self-determination of these peoples.

With scarcely a year passed since this current government took office, it is premature to make any assessment or determine the scope of the good intentions that have been stated as a central plank of rural land management policies. It is, however, possible to affirm that progress has been made in this direction, including an effective agreement within the National Commission of Indigenous Territories, a body comprising representatives of the Indigenous Peoples and the national government, to address issues related to the guarantee and effective enjoyment of territorial rights.

Current and future figures

According to information from Colombia's National Land Agency,[4] as of August 2023 there were 846 legally constituted Indigenous reserves covering a total of 35,608,579.2 hectares and representing approximately 31% of the national territory. The largest reserves are located in the Amazon region and the south of Orinoquia, where more than 52 different Indigenous Peoples live. In the other regions much smaller reserves predominate, some of them formed of discontinuous plots of land even though they are continuous spaces historically occupied by the same community.

The territorial situation of the Andean peoples in departments such as Cauca, Nariño, Huila, and Tolima, among others, is very poor due to the high population and low productivity conditions of the areas that have been legalized for them. In other regions, such as the Caribbean, the Orinoco foothills and the highlands, Indigenous Peoples face problems attributable in particular to extractive and agroindustrial megaprojects. In any case, a large proportion of Colombia's ethnic territories are exposed to illegal trafficking and drug trafficking corridors that control and disable important areas of occupation and use by ethnic communities.

Under these circumstances, the demands for Indigenous territorial guarantees are focused not only on recognizing their collective property titles but also on the real possibility of their occupation and enjoyment, which will only be possible with effective measures of expansion, regularization, clarification, protection and de-escalation of the violence affecting them. In fact, the National Land Agency reported that, as of the end of 2023, 1,559 applications were in process related to the formalization, consolidation and legal security of the collective ancestral territories of various peoples throughout the country.

The current government's goal is to deliver 39.58% of the hectares available in the National Land Fund for Integral Rural Reform in order to establish, expand and regularize the reserves of the Indigenous Peoples, as well as to coordinate these processes for guaranteeing territorial rights with the actions being carried out by the Land Restitution Unit and the Unit for the Attention and Integral Reparation of Victims. This latter institution has already been implementing the Collective Reparation Route in 429 Indigenous communities that were affected by the armed conflict.[5]

At the November 2023 meeting of the National Commission of Indigenous Territories,[6] a series of specific commitments were renewed and signed for 2024, such as the allocation of USD 33.2 million (approx. EUR 30.8 million) to Indigenous Peoples; the consolidation of the Land Fund; the harmonization of information systems; the filing of 80 land restitution claims before restitution judges, and the completion of the formation and regularization processes for a series of reserves that are in process, among other things.

Total Peace

A surprising event took place in Colombia on 2 October 2016, one that went against the course of the peace agreements reached between the national government, headed by then President Juan Manuel Santos, and the FARC-EP guerrillas. On that day, a referendum took place aimed at ratifying the Peace Agreement that had been signed by the two parties in Havana, Cuba, and which also included a special Ethnic Chapter on the participation of Indigenous Peoples and ethnic communities.[7] Despite the prevailing optimism among locals and outsiders alike, 50.2% of voters voted "no" to ratifying the agreement.

Although the "Yes" campaign was defeated by only 50,000 votes (0.4% of the total), as the days went by, the reasons for this astonishing result were revealed: a high abstention rate (62.5%),[8] the greater weight of voters in urban areas less affected by the conflict, the excessive confidence of the agreement's supporters, and the misinformation and propaganda campaign waged by sectors of the extreme right wing. The victory of the "no" vote not only resulted in a new phase of the negotiations but also in the introduction of a series of significant amendments to the initial content. This has been enough for opponents to create a narrative, however, and they continue to use the same discourse to discredit the process to this day.

> *An analysis of textual statistics shows that the "No" campaign based its message around issues of fear, war and communism. The words most used by these leaders were thus: "war", "terrorism", "impunity", "crimes, "massacres", "drug trafficking", "atrocities", "rape", "chavismo", "Venezuela" and "crimes against humanity". In addition to the issue of war, there was also a discourse of fear around the possibility of the FARC coming to power and Colombia becoming "a new Venezuela."* (Nueva Sociedad, 2017).[9]

From the start, and later with the arrival of Iván Duque's government, the implementation of the Final Peace Agreement with the FARC-EP suffered severe setbacks and sabotage. The first and perhaps most serious of these came from the state itself, headed by the then Attorney General, Néstor Humberto Martínez Neira. This latter became spokesperson for the extreme right-wing forces opposed to the agreement: he not only conceived several legislative amendments to the final text but also designed a judicial framework prejudicial to the main FARC-EP negotiators[10] that ended up causing the desertion of hundreds of guerrillas from the peace process. In this context, the start of implementation of the Final Agreement with the FARC-EP was strewn with mutual distrust and the armed retaking of many territories, which continued to be the scene of confrontation between guerrillas that were not part of the peace process, such as the National Liberation Army (ELN), the new dissident groups, organized armed groups linked to drug trafficking cartels, and the security forces.

The four years of Iván Duque's government thus passed in an atmosphere of tension and a lack of commitment to peacebuilding. During this period, the number of murders of social leaders and signatories of the Peace Agreement, massacres, forced displacements, cocaine exports and other indicators of violence increased once more, particularly in Indigenous and Afro-descendant ethnic territories.

With the election of President Gustavo Petro towards the end of 2022, a commitment to effectively implement the Final Peace Agreement signed with the FARC-EP in 2016 has resurfaced and Total Peace has been established as a state policy. This concept encompasses not only a de-escalation of violence and armed groups but also human security and life in all its forms:

> *It is a matter of generating territorial transformations, overcoming the deficit of economic, social, cultural and environmental rights, and putting an end to armed violence, both that of socio-political origin and that marked by profit, accumulation and the securing of wealth. The communities are calling for an end to the violence, which has taken various different forms. The most recent has to do with unfulfilled peace processes, such as the 2004 demobilization of the paramilitary United Self-Defence Forces of Colombia (AUC), the 2016 Teatro Colón Peace Agreement, or the Medellín and Cali urban pacts.* (National Development Plano 2022-2026).

Based on these principles, talks were resumed with the National Liberation Army (ELN), the Central General Staff (EMC/former FARC dissidents), and with groups associated with organized crime such as the Gulf Clan, one of the armed groups that has had the greatest growth and territorial expansion in recent years, and which maintains control of drug trafficking routes, trafficking of inputs for coca processing, illegal mining, arms trafficking and extensive extortion networks. Discussions are being conducted independently with each group, and progress is still discrete. Nevertheless, animosity and obstacles to Total Peace are the order of the day from the same sectors that opposed the Peace Agreement with the FARC-EP, and they sustain this with the same arguments, the same propaganda and even with the support of the same institutional pillars (Prosecutor's Office, Attorney General's Office).

Total Peace in Indigenous territories

It is a fact that despite dialogue and some partial agreements with the Central General Staff and the ELN for a ceasefire, an end to the kidnapping, and relief from the pressure on communities, the conflict continues to claim victims in the ethnic territories. Although there was a slight decline in relation to 2020 and 2021, the 2023 figures were still worrying in terms of murders of Indigenous people, especially in the departments of Cauca, Nariño and Putumayo. Without clarifying specifically, these can generally be attributed to the illegal armed groups that have not ceased to operate in these regions.

Once again, most of the victims are in regions where powerful interests converge over land, resources and illegal economies, and where they are also suffering serious situations of confinement and forced displacement. This was documented by the Inter-American Commission on Human Rights (IACHR):

> *The International Committee of the Red Cross (ICRC) counted, between January and June 2023, the mass displacement of 26,915 individuals—mostly linked to armed clashes—and the individual displacement of 34,212 people—usually linked to selective homicides, threats, and forced recruitment attempts. The ICRC further recorded 22,755 individual cases of confinement in the first half of the year.*
>
> *The Pacific region holds more than 90% of all forced displacement victims and 84% of all confined individuals in Colombia, with forced displacement being particularly serious in the department of Nariño and confinement being particularly serious in the department of Chocó. The United Nations Office for the Coordination of Humanitarian Affairs (OCHA) noted that, in 2023, 45% of all displacement victims in Colombia were Afro-descendant and 32% were indigenous, while Afro-descendant persons made up 37% of all confinement victims and indigenous persons amounted to 25%.* (OAS, 2023)[11]

The response of the Indigenous Peoples and communities to this still worrying scenario has gone beyond complaint. Various community and institutional scenarios have expressed their support for the current

government's Total Peace policy, on the understanding that the only way to address the structural causes of violence in their regions will be through a complex and comprehensive strategy that adequately addresses the multiple factors at play in the regions. They have also been outlining their own spaces for participating in the dialogue with the ELN and the Central General Staff, thus reiterating their commitment to the peace policy.

> *The authorities of the seven organizations with seats at the Permanent Roundtable for Consultation met over two days with the intention of contributing to and strengthening the processes of Total Peace and the negotiations that the national government is currently working on and through which the Indigenous Peoples, with their territorial scope, naturally have a great interest in reducing the violence in the territories (...). This space enabled both the national government and the ELN to recognize the authorities of the Indigenous Peoples, their differences and specific characteristics in the peacebuilding processes in each of their territories. All participants emphasized the importance of maintaining the autonomy of Indigenous Peoples through their own governments and that they be taken into account in the governance and organizational structure in order to establish their own methodology for contributing to the participatory design* (Permanent Roundtable for Consultation with Indigenous Peoples, 2023).[12]

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Diana Alexandra Mendoza *is a Colombian anthropologist with a Master's in Human Rights, Democracy and the Rule of Law, and a specialist in Cultural Management. She is an independent researcher associated with IWGIA. She has extensive experience in individual and collective rights, environment and culture.*

Costa Rica

NICARAGUA
CARIBBEAN SEA
San José
COSTA RICA
PANAMA
PACIFIC OCEAN

The eight Indigenous Peoples that inhabit the country make up 2.4% of the population. Seven of them are of Chibchense origin (the Huetar in Quitirrisí and Zapatón; Maleku in Guatuso; Bribri in Salitre, Cabagra, Talamanca Bribri and Këköldi; Cabécar in Alto Chirripó, Tayni, Talamanca Cabécar, Telire and China Kichá, Bajo Chirripó, Nairi Awari and Ujarrás; Brunca in Boruca and Curré; Ngöbe in Abrojos Montezuma, Coto Brus and Conte Burica, Alto de San Antonio and Osa; and Brörán in Térraba) and one of Mesoamerican origin (the Chorotega in Matambú). According to the 2010 National Census, just over 100,000 people are recognized as Indigenous.

Although 7% of the national territory (3,344 km^2) is taken up by 24 Indigenous territories, a large part of this area has been invaded by non-Indigenous occupants: 52.3% of the Bribri area has been invaded in Këköldi, 53.1% in Boruca, Brunca territory, 56.4% in Térraba, belonging to the Brörán people, 58.7% in Guatuso belonging to the Maleku people and 88.4% in Zapatón, Huetar territory.[1]

In the country generally, 20% of the population lives below the poverty line; in the case of Indigenous Peoples, however, the figures are alarming: Cabécar 94.3%; Ngöbe 87%; Brörán 85.0%; Bribri 70.8%; Brunka 60.7%; Maleku 44.3%; Chorotega 35.5% and Huetar 34.2%.[2]

Costa Rica ratified ILO Convention 169 in 1993 and added recognition of its multicultural nature to the Constitution of the Republic. Even so, the UN Special Rapporteur on the rights of Indigenous Peoples indicates that "Although article 1 of the Constitution stipulates that Costa Rica is a multi-ethnic and multicultural State, it does not recognize the existence of the [I]ndigenous [P]eoples".[3]

Indigenous Law 6,172 of 1977 recognized Indigenous organizations, establishing the legal status of Indigenous Peoples, mechanisms to prevent the appropriation of land by non-Indigenous persons, and expropriation and compensation procedures and funds. As of 20 December 2023, however, this had still not been implemented.[4] Quite the contrary, the State

has tolerated the invasion and dispossession of Indigenous lands by local landowners and politicians. Indigenous organizations have been demanding regularization of the land for decades. Slowness in the studies and a lack of political will to evict illegal occupants led to the emergence of a land recovery movement that has been evicting squatters since 2011.

A regulation subsequent to the Indigenous Law imposed an entity foreign to the Indigenous Peoples' traditional power structures, the Integral Development Association of Mal Pais and Santa Teresa (ADI), under the supervision of the National Directorate of Community Development, a body that does not have the capacity to understand Indigenous rights or an intercultural approach. For the Special Rapporteur, "as imposed State institutions that report to the executive branch, [they] are not suited to guaranteeing representation for [I]ndigenous [P]eoples, which have their own system of government."[5]

Among the Indigenous organizations that enjoy legitimacy and act in defence of their rights are the *Mesa Nacional Indígena de Costa Rica* (MNICR), the *Frente Nacional de Pueblos Indígenas* (FRENAPI), the *Red Indígena Bribri y Cabecar* (RIBCA), *Asociación Ngôbe del Pacífico,* the *Asociación Regional Aborigen del Dikes* (ARADIKES), the *Foro Nacional de Mujeres Indígenas, Movimiento Indígena Interuniversitario de Costa Rica and the Coordinadora de Lucha Sur Sur* (CLSS), a grouping of Indigenous Peoples' organizations and peasant associations.

Territorial rights of Indigenous Peoples

The 1977 Indigenous Law

> *...emphasizes, on the one hand, the Indigenous right to land, recognizing their reservations and declaring them imprescriptible, inalienable, non-transferable and exclusive to the Indigenous people, ordering the immediate eviction – without compensation – of illegal invaders and the expropriation of good*

> *faith possessors.*[6] *But, at the same time, the State reserves the exclusive right to the rational exploitation of its forests and prohibits the Indigenous people from changing the land use in those areas. The letter of this law, in terms of defending the right to their lands, continues to be unfulfilled as numerous studies on the historical advance of the illegal invasion of lands within Indigenous territories point out. The State has not proceeded to expropriate the previous occupants in good faith nor to evict the illegal invaders, whose numbers continue to increase.*[7]

Moreover, the invaders have opted for a strategy of judicializing the territorial conflict,[8] taking their cases to court in order to defer solutions. The Institute of Rural Development (INDER), responsible for regularizing the Indigenous territories, thus cannot set a deadline for the goal of recovering the Indigenous lands because the process is being held up in the courts. This strategy is, however, beginning to encounter setbacks.[9]

There is a significant gap between legal recognition of the rights of Indigenous Peoples and the effective enforcement of these rights in almost all territories. A lack of land titling, a clear responsibility of the State, lies at the root of many conflicts. The following are the 24 Indigenous territories recognized by the Costa Rican State, although they have been largely invaded by non-Indigenous people.

Costa Rica's Indigenous territories, by people and administrative territorial division[10]

People	Territory	Area[11] (ha)	Province
Bribri	Talamanca Bribri	43,690	Limón
Bribri and Cabécar	Këköldi	3,538	
Bribri	Salitre	11,700	Puntarenas
Bribri	Cabagra	27,860	
Cabécar	Talamanca Cabécar	22,729	Limón
Cabécar	Telire	16,260	
Cabécar	Tayni	16,216	
Cabécar	Nairi Awari	5,038	Cartago
Cabécar	Alto Chirripó	74,687	Cartago

Cabécar	Duchí Ñak (Bajo Chirripó)	19,710	Cartago and Limón
Cabécar	Ujarrás	19,040	Puntarenas
Cabécar	China Kichá	1,100	San José
Ngöbe	Abrojos Montezuma	1,480	Puntarenas
Ngöbe	Altos de San Antonio	1,262	
Ngöbe	Osa	2,757	
Ngöbe	Conte Burica	11,910	
Ngöbe	Coto Brus	7,500	
Brunca	Boruca	12,470	Puntarenas
Brunca	Yimba Cájc (Rey Curré)	10,620	
Huetar	Zapatón	2,855	San José
Huetar	Quitirrisí	3,538	
Brörán	Térraba	9,355	Puntarenas
Maleku	Guatuso	2,743	Alajuela
Chorotega	Matambú	1,710	Guanacaste
	Total	**329,768**	

Persistent barriers to Indigenous self-determination

The draft Law on the Autonomous Development of the Indigenous Peoples of Costa Rica, tabled in 1994, has still not been enacted 29 years later. The most controversial aspect of this law is the discontinuation of the National Commission for Indigenous Affairs (CONAI) and the Integral Development Associations, which are perceived by the Indigenous organizations as parastatal structures being used as substitutes for legitimate forms of Indigenous government.

In addition, it is important to note the State's serious deficiency in terms of information management and data publication in Costa Rica. The publication of the 2020 census, conducted in 2021, processed in 2022 and whose results were released by the National Institute of Statistics and Census (INEC) in 2023, does not include information on Indigenous Peoples. INEC reports that they have not yet processed this data, an unacceptable situation for the Indigenous Peoples, who are once again rendered invisible.[12]

Indigenous movement for territorial recovery continues

In the canton of Sixaola, on the border with Panama, there is a cross-border Ngöbe population, estimated at 10,000 people, who have no territory in which to anchor their culture.[13] They are forced into a perpetual migration for work between the two countries, selling their labour in agro-industrial companies where they suffer mistreatment and abuse.[14] In March, a group of Ngöbe leaders met with the Vice-Minister for Peace, who promised to allocate them a farm through INDER's endeavours. It is still unknown which farm, where it will be located, or even if there has been any follow-up on this still unfulfilled promise.[15]

In the recovered territories in Salitre, Térraba, Cabagra, China Kichá and Guatuso, the Indigenous communities are embarking on a valuable process of cultural and environmental restoration, with strong political and economic implications.[16] The recovery of their ancestral lands is an important milestone in their history because it signifies a long-denied right and allows them to build their own political and territorial governance systems, based on their traditions, culture, forms of social organization, food and their own concept of development and good living.

However, the President of Costa Rica continues to make public statements offensive to Indigenous Peoples. At the start of the year, President Chaves described the Indigenous land recovery movement as a "minority group inclined towards violence against non-Indigenous occupants". This statement was denounced as neocolonialist, discriminatory and racist by the Indigenous movement.[17]

Despite this, Indigenous Peoples continued to have successes and receive legal backing from the legislature. As in the previous year, rulings favouring Indigenous Peoples were forthcoming during 2023. In April, the First Chamber of the Supreme Court reiterated that the Guatuso Indigenous Reserve was the inalienable and non-transferable land of the Indigenous community. In August, that same chamber definitively resolved an appeal by a "bad faith" squatter who had lodged an appeal against the Maleku people in the Guatuso territory.[18] On 4 December, the "Court of Perez Zeledón acquitted an Indigenous family from Cabagra who were being sued by a non-Indigenous person".[19] And, on 7 December, the Constitutional Court ruled in favour of the Bribri people of the Këköldi territory due to the failure to consult them during the drafting of the Coastal Regulatory Plan for Cahuita.[20] The court cancelled the

public hearing at which the Municipality of Talamanca had presented its proposal and ordered that a new hearing take place, with due notice given to the Bribri people of Këköldi.[21]

Incompetence in initiating the regularization process in Indigenous territory

In February, INDER reported that it had invested 656.4 billion colones (EUR 1.14 million) in purchasing land and relocating "bad faith" squatters within Indigenous territories.[22] This is despite repeated resolutions from the Constitutional Chamber[23] making it clear that "bad faith" squatters must be evicted without compensation.[24] It is striking that, in 2022, the previous government left a fund of 3.2 billion colones (EUR 5.57 million) for the Indigenous Territories Recovery Plan, five times more than the amount that was announced in February 2023.[25, 26]

On 20 December, INDER paid 365 million colones (EUR 635,713) to a "good faith" squatter in the Conde Burica territory.[27] This event is historic because, after waiting more than four decades, the government has undertaken an initial (and highly consequential) compensation for the recovery of a non-controversial Indigenous territory.

Recognition of Indigenous knowledge in forestry governance

In a very positive development, the REDD+ mechanism[28] has finally recognized the importance of Indigenous knowledge in forest governance and its substantial contributions to solutions for climate resilience. The first payment of benefits under the Contract for Emission Reductions from Forests (CREF) mechanism was announced in two Indigenous territories: Talamanca Cabécar and Ujarrás.[29]

Impunity continues for the murderers of Indigenous leaders

Against a sociopolitical backdrop that fuels a climate of injustice and historical impunity for people who kill Indigenous individuals and en-

vironmentalists in Costa Rica,[30] 2023 began with a hope of justice for Indigenous Peoples, as the trial of Juan Eduardo Varela,[31] confessed murderer of Indigenous leader, Jehry Rivera, began on 23 January.[32] The crime occurred in the context of a land recovery campaign by the Brörán people of Térraba.[33] The court found Varela guilty of the murder, but he was sentenced to the minimum penalty of 22 years and 15 days in prison (20 for murder, 2 for illegal possession of a weapon and 15 days for threats), even though the Public Prosecutor's Office and the plaintiff had called for the maximum penalty of 35 years for aggravated murder.[34] This was in addition to another disappointment for the Indigenous movement when it was noted that the investigation had focused only on the hitman, with the intellectual authors of the murder remaining invisible to the prosecution. "State prosecutors do not see a connection between the violence against Indigenous leaders and their land rights activism."[35] This hope of justice was again a fleeting illusion: in July, the Cartago Appeals Court issued a release order for Varela, after annulling the trial (due to a drafting error in the sentencing) and ordering a re-trial.[36] As the Special Rapporteur on the rights of Indigenous Peoples stated during his last visit, "Impunity fosters a climate of violence and insecurity for the country's Indigenous Peoples."[37]

It is also noteworthy that, eight years after the Inter-American Commission on Human Rights required precautionary measures from Costa Rica in order to guarantee the life and physical integrity of the Indigenous people living in Salitre, in May the Public Defender finally visited the Brörán and Bribri populations of the community.

Recognition of and tributes to two Indigenous women leaders

Bribri leader, pioneering land campaigner in Salitre, Mariana Delgado Morales Tubölwak, "Doña Mariana", passed away on 3 January 2023. The Centre for Research in Culture and Development of the *Universidad Estatal a Distancia* published a compilation of the contributions and works of this outstanding community researcher and symbolic figure of Indigenous women's protagonism within the land recovery movement.[38] Another renowned Cabécar leader from China Kichá, Doris Ríos, received the International Women of Courage Award presented by the

U.S. Government on 8 March at the White House. The award recognizes her exceptional courage, strength and leadership as a defender of the territory, a work for which she has received death threats.[39]

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Dr. Bettina Durocher *is an agricultural engineer with a Master's degree in rural development, a postgraduate degree in gender studies and a doctorate in education and intercultural mediation. She has conducted and published several studies on Indigenous livelihoods, socio-environmental conflict, agrarian rights and Indigenous women's knowledge of food security and forest conservation. She works as a freelance researcher and international consultant specializing in Indigenous women's rights and Indigenous forest governance, with an emphasis on Indigenous knowledge that fosters climate resilience.*
Contact: durocher.bettina@gmail.com

Ecuador

According to the National Institute of Statistics and Census (INEC, February 2024), Ecuador's current population stands at 17,895,131 inhabitants. There are 14 Indigenous nationalities in the country, totalling 1,301,887 people, and they are organized into local, regional and national organizations representing 7.7% of the total population. The Indigenous nationalities and peoples live mainly in the highlands (68.20%) and Amazon (24.06%), with only 7.56% on the coast. The following Indigenous nationalities were included in the 2022 Census for self-identification purposes: Tsáchila, Chachi, Epera, Awa, Kichwa, Shuar, Achuar, Shiwiar, Cofán, Siona, Secoya, Zápara, Andoa and Waorani. The Kichwa nationality comprises the highest percentage (85.87%) and includes nearly 800,000 people nationwide. Despite the low percentages of most of the nationalities, all have equal importance within the context of a Plurinational State. There is also a significant percentage of Indigenous people living in rural areas in the highland provinces of Tungurahua and Pichincha, and in the Amazonian provinces of Napo and Morona-Santiago, ranging from 50,000 to 80,000 inhabitants. To date, after more than 15 years of the current Constitution and more than two decades on since ratification of ILO Convention 169, there are still no specific or clear public policies to prevent and neutralize the risk of the disappearance of these peoples from the country.

2023 was a highly turbulent year in terms of the country's political and economic systems, resulting in deteriorating living conditions for a majority of the Ecuadorian population generally and violating the economic and social rights of Indigenous Peoples and nationalities, in particular. The ramping up of neoliberal policies, together with an intensive rollback of the State from its regulatory and rights-guaranteeing role, led to the collapse of the political system, including the suspension of the National Assembly, the termination of the mandate of Guillermo Lasso's government and the holding of early presidential elections. This environment further facilitated the expansion of organ-

ized crime throughout the country and, with this, an escalation of violence in prisons and on the streets, ratcheting up the murder rate to record levels. Among these criminal groups' various areas of action was illegal mining, affecting several Indigenous territories.

Economic / political crisis and uncertainty in the face of Indigenous demands

After a decade of political campaigning, banker Guillermo Lasso finally won the election and became President of the Republic in May 2021, leading a broad right-wing coalition that defeated the progressive Andrés Arauz, *Revolución Ciudadana* (RC) candidate, in the elections. However, two years on and Lasso's numerous campaign promises to generate employment through market liberalization, labour flexibilization, the promotion of foreign investment and public-private partnerships, as well as tax reductions, the creation of free trade zones, the privatization of public enterprises and the fight against corruption, all remained mere unfulfilled promises.

Instead, Lasso continued the neoliberal policies agreed with the International Monetary Fund, initiated in 2017 by the government of Lenin Moreno (2017-2021). The 2023 economic crisis in Ecuador was exacerbated by an almost USD 2.5 billion (approx. EUR 2.2 billion) decline in the country's international money reserves.[1] According to Pablo Arosemena, Minister of Economy and Finance, these funds had to be used to pay the public debt but the former manager of the Central Bank, Verónica Artola, suggested that there had also been significant private sector capital flight, to the tune of USD 1 billion (approx. EUR 900 million).[2] The government's explanation focused on the drop in oil exports, especially on the part of private companies, and the 27% decline in tax revenues from foreign currency outflows.[3] Over the course of the year, the Lasso government faced an almost USD 10 billion (approx. EUR 9 billion) defunding of the General State Budget, according to former Finance Minister Marco Flores.[4]

Despite this backdrop, Lasso's neoliberal orthodoxy led him to maintain a hard line and totally rein in public spending, a policy favourable only to small sectors of the banking, commercial-importing and banking-financial bourgeoisie, including foreign debt bondholders.[5] In

this context, the official position warned that defaulting on payment of the public debt could risk dollarization and threaten economic stability. However, according to Wilma Salgado, former Minister of Finance, these threats

> *...were simply used to support unpopular measures which, in reality, go against the country's welfare, such as the reduction in the Tax on Foreign Exchange Outflows, which cheapens capital flight, and the reforms that benefit tax havens.*[6]

The government's prioritization of the banks and the speculative-financial sector of the economy saw its counterpoint in the almost complete abandonment of social policy on education, health or social security and a growing indebtedness among local governments that reached almost USD 1.5 billion,[7] with this absence of public investment resulting in deficiencies in basic services.

The effects of this economic policy could be seen in the deteriorating socioeconomic situation of broad sectors of society. Nationally, 25.5% of the population now live in income poverty, and 61.2% are unable to cover the basic food basket. Against this backdrop, the exclusionary gaps that largely affect Indigenous youth have been amplified. Insecurity is also highlighted as a crucial problem, with a projected increase in the murder rate.[8]

Inequality persists at the provincial level, being more serious in the Amazon, Esmeraldas, Santa Elena and the central highlands, where more than 70% of the population are unable to cover the basic food basket. Indigenous communities in provinces such as Morona-Santiago and Pastaza in the Amazon, or Chimborazo, Bolivar, Cañar and Cotopaxi, have suffered an even greater deterioration in their living standards, with higher rates of poverty and extreme poverty and no guarantees of their basic economic and social rights.[9]

In this context, the Indigenous demands made during the 2022 roundtable dialogues, such as the targeting of subsidies and a reduction in fuel prices, the cancellation of obligations to public banks, price controls and the productive promotion of agriculture and the peasant family economy, remained largely unfulfilled.[10] According to Gary Espinosa, President of the National Federation of Indigenous, Peasant and Black Organizations (FENOCIN),

> *...the opening up of the university entrance exam was started but not completed; as regards family farming, some technical advances were made but, when it comes to investing resources, everything remains the same... And almost all agreements end up like this: they don't put their money where their mouth is.*[11]

Political crisis, early elections and referendum on extractivism

Politically, the start of the year was marked by the scandal known as the "Caso Gran Padrino" [Great Godfather Case] or "*Encuentro*" [Encounter], due to a digital media outlet close to the government publishing a detailed condemnation of a complex corruption scheme and links between senior regime officials, the powerful businessman Danilo Carrera Drouet (brother-in-law and mentor of President Lasso) and the so-called "Albanian Mafia", responsible for cocaine distribution in Europe.[12]

The case shone a light on a process that had been occurring in the political arena in recent years: the fact that criminal capital and international drug trafficking networks (Sinaloa Cartel, Jalisco Cartel - New Generation and the Balkan Cartel or Albanian mafia) had managed to penetrate State structures (central government, police, armed forces and judicial system) in order to consolidate the expansion of their operations in Ecuador.[13] The "Great Godfather Case" was just the tip of the iceberg involving high-ranking officials of the Lasso government.[14]

In response, the National Assembly set up a multi-party commission to initiate investigations and impeach President Lasso. After much political wrangling and lobbying, the impeachment began on 4 March 2023. The process moved at pace with admissibility granted by the Constitutional Court, followed by testimony and evidence in the Oversight Committee. Despite controversy over a "draft report", the plenary of the National Assembly gave the green light to the impeachment trial on 9 May.[15]

In response, the government embarked on a mass media campaign to dismiss the impeachment,[16] backed up by the unconditional support of allied factions of the radical right, the U.S. Embassy in Quito and large media emporiums, who all accused the opposition majority

in the legislature of destabilizing actions and of plotting a coup d'état.[17]

Faced with the impossibility of blocking or reversing the positions taken in the Assembly, the majority of which were in favour of censuring and dismissing Lasso, on 17 May this latter therefore decided to dissolve the legislature and call for early elections by means of Executive Decree 741,[18] invoking a "serious political crisis and internal commotion" in order to activate Article 148 of the Constitution, known as "*la muerte cruzada*" ("mutual death").[19] Lasso's decision led to a suspension of parliamentary activity and the militarization of the Legislative Palace. There were immediate protests in the streets by sectors such as the National Union of Educators (UNE) and university students and other organizations, demonstrating the clear tension and rejection of the government's decision.

To these events were added the unconstitutionality lawsuits filed by Assembly members from different parties, all of which were rejected by the Constitutional Court alleging that it did not have jurisdiction to verify the grounds of "serious political crisis and internal commotion" invoked by Lasso.[20] This situation highlighted a deepening political polarization in Ecuador and raised questions about the legitimacy and legality of the President's actions in the midst of the crisis.

Faced with this scenario, the Confederation of Indigenous Nationalities of Ecuador (CONAIE) assessed the events and, through Leonidas Iza, President of the organization, said:

> *...we are facing a difficult moment for the democracy of our country [...] Lasso, like all cowards, decrees a "mutual death" to prevent the National Assembly, in the face of popular clamour, from removing him from office (...) Lasso's vote-buying in the National Assembly was not enough to save him from impeachment so, seeing himself lost, he activates a covert self-coup d'état.*[21]

The Extended Council of CONAIE ruled out demonstrations but stated that the grassroots of the Indigenous movement and allied organizations would remain on "permanent alert" for the decisions of President Guillermo Lasso.[22]

Following the declaration of "mutual death", the National Electoral Council (CNE) called two rounds of presidential and legislative elec-

tions. The first round of elections was scheduled for 20 August, with a possible run-off on 15 October. The presidential and legislative elections were also combined with a referendum on banning oil exploitation in Block 43, in the vicinity of the Yasuní National Park, as requested by the "Yasunidos" collective.[23] In the Metropolitan District of Quito, a referendum was also to be held on banning metal mining in the parishes of the Andean Chocó, called by the citizens and supported by the "*Quito Sin Minería*" [Quito Free From Mining] collective.

Once the electoral contest had begun, an intense yet short electoral campaign unfolded marred by several violent incidents and threats. The most serious of these was the assassination of presidential candidate Fernando Villavicencio, a close ally of the Lasso government and staunch opponent of *Revolución Ciudadana*, just a few days before the first round of elections on 20 August. According to all the projections and polls leading up to that week, the RC running mates, Luisa González and Andrés Arauz, were set to be victorious in the first round. Villavicencio's family and close allies invoked the RC's involvement in his assassination, however, although they never offered any evidence to back up such an accusation. This, together with the position of Diana Salazar, Attorney General, who also supported this accusation, had a direct impact on the first round results and led to a run-off vote on 15 October, which was finally won by Daniel Noboa with 51.83% of the vote.[24]

In addition to the presidential and legislative elections, a parallel environmental referendum was held in which the "Yes" vote triumphed, with 60% of the votes supporting a suspension of oil exploitation in Block 43 located in the Yasuní National Park. Support for the "Yes" to ban mining in the subtropical zone of Quito was also successful.[25]

Implosion and political crisis in the Indigenous movement

The political crisis had three main consequences for Indigenous Peoples: first, it had a direct impact on the *de facto* suspension of the "dialogue" process and the implementation of the agreements established following the negotiations of the second half of 2022; second, it expedited the co-opting of factions of the Pachakutik movement by the government, thus further aggravating internal tensions and conflicts; and

third, it favoured the extractive sector, whose timetable for concessions and operations – especially mining – on Indigenous territories continued unchanged.

Regarding the first, CONAIE had issued 14 resolutions, including a demand for the resignation of President Guillermo Lasso, and that the Assembly and the Constitutional Court smooth the path to his impeachment. "If the President takes the initiative and decides to dissolve the legislature, the movement will mobilize to prevent 'a dictatorship'", the organization said in a statement, and Leonidas Iza, President of CONAIE, announced that the Indigenous movement would withdraw from the meetings aimed at monitoring the agreements reached in the dialogue process that ended the strike of June 2022. According to the Extended Council, "There has been no political will on the part of the government" to comply with the agreements. On the contrary, it stated, the President "has continued to advance his neoliberal policies in violation of our rights".[26]

On the second point, despite initially counting on solid political support in the 2021 elections, the Pachakutik Plurinational Unity Movement (PK) was not successful in consolidating its position. In the face of the demands made by CONAIE's grassroots organizations in the mass demonstrations and protests of October 2019 and June 2022, the indecisive and ambiguous positions of some sectors closer to the neoliberal governments became increasingly evident during the final stages of the Lasso administration. Tensions between the wing led by Leonidas Iza from CONAIE and the group led by Marlon Santi, President of PK, finally ended in internal rupture. Several legislators were expelled and others maintained their unconditional support for the Lasso government, dismissing the critical positions and government opposition advocated by CONAIE and its affiliated organizations.

This political rupture reached the extreme of repudiating the internal elections held at the end of April in Puyo, Pastaza, when the PK Movement held its Ordinary Congress to elect its leaders. Here, Guillermo Churuchumbi came in first ahead of the list supported by Cecilia Velasque and Marlon Santi, who maintained a position aligned with the Lasso government.[27] Despite the victory of Churuchumbi, former mayor of Cayambe and a supporter of the impeachment trial against Lasso in the Assembly, the process was marred by riots and allegations of irregularities, leading the National Electoral Council to refuse to recognize

this victory.[28] The dispute intensified when the government-allied group filed extortion charges against Churuchumbi, formally accusing him of illegal payments during his term as mayor. [29]

In addition to this lack of a leader, the internal conflict prevented PK from presenting its own candidate for the early presidential elections. After a significant electoral result in 2021, with a block of 25 Assembly members based on support from urban and middle class sectors, the 2023 elections instead resulted in a significant setback. PK achieved barely five seats in the National Assembly. According to Assemblywoman Mariana Yumbay, this was due to various corruption scandals and alignment with the Lasso government, which should now give way to a deep reflection and internal purging in order to revitalize the movement.

Thirdly, the political crisis was taken advantage of by the powerful extractive sector, which managed to get the executive branch to issue Decree 754 without consultation, seeking to facilitate illegal environmental consultation processes in violation of constitutional rights and in defiance of Constitutional Court rulings. In communities where the processes had begun, such as Las Naves and Palo Quemado, and in some parts of the Napo province in the Amazon, extreme State violence was recorded, with shootings and arrests. This decree was issued at a time of media distraction, illustrating the State's willingness to take advantage of the political upheaval to illegally promote extractivism. In addition, the Ministry of the Environment issued another decree making the management plans for protective forests more flexible for any activity, questioning the effectiveness of this environmental concept.[30] The exclusion of protected forests from the National System of Protected Areas (SNAP) reveals a lack of will to establish adequate protection mechanisms. By failing to generate effective standards, Ecuador's legal regulations are turning protected forests into areas where everything is effectively restricted except mining.

Expansion of oil operations in Dureno and assassination of leader Eduardo Mendúa

In January 2023, Indigenous leader Eduardo Mendúa of the A'i Cofán de Dureno community, in Sucumbíos province near the northern bor-

der with Colombia in the Amazon, denounced the violence caused by internal disagreements in his community due to the imposition of an oil project by the State-owned Petroecuador, which was resulting in clashes between community members. Mendúa thus rejected the government-incited confrontation although his warning did not prevent an escalation in tensions.

"We have been resisting for six months here in the territory since they tried to commence the [oil] operations," said Indigenous leader Eduardo Mendúa on 12 January 2023. "As national leader of CONAIE, I categorically reject this type of incitement by the government, which [seeks] confrontation and violence between Cofán brothers. I call on the national government to please stop the violence it has caused."[31]

Just over a month later, on 26 February, Mendúa was shot 12 times and murdered at his home, two days after participating in CONAIE's Extended Council as head of international relations, a meeting that had decided to ramp up the struggle due to the government's non-compliance.

The previously united community of Dureno had suffered divisions seven years ago when then President, Silverio Criollo, negotiated the drilling of 30 wells by Petroecuador on community territory without consultation and behind the backs of the other community members. The resistance led at that time by Mendúa and Edwin Hernández faced sanctions and fines, generating internal tensions that ultimately culminated in a tragic end for the Indigenous leader.[32]

Territorial restoration and right of the Siekopai nationality

In September, the Siekopai nationality achieved a crucial legal victory by regaining possession of their ancestral land in the Ecuadorian Amazon more than eight decades after they were displaced due to the war between Ecuador and Peru. This war resulted in the establishment of a new border based on the 1942 Rio de Janeiro Protocol that put an end to the hostilities. The Siekopai, who live on both sides of the border, ended up displaced, divided and dispossessed of their ancestral territories.[33]

An Ecuadorian appeals court upheld the Siekopai nation's claim to Pë'këya, a highly biodiverse territory in north-eastern Ecuador along

the border with Peru. Last September, with around 800 members, the community filed a lawsuit against the Ecuadorian State arguing that their right to ancestral property had been violated.[34]

Court documents show that, in its ruling, the Sucumbíos Provincial Court gave Ecuador's Ministry of Environment 45 days to provide a land title to the Siekopai people for more than 42,360 hectares of land.[35] In summary, the judgment also requires the placement of marker posts, in coordination with the nation, together with a public apology to the families of the deceased who did not get to see their territory recovered and, indeed, to the entire Siekopai nation. It was decided by the Siekopai people that this apology would take place inside the reclaimed territory, at the Wakarajaira lagoon.

According to Justino Piaguaje, leader of the Siekopai nationality and architect of this process:

> *...this judicial victory for the recovery of the ancestral territory of Pë'këya of the Great Siekopai Nation finally brings justice to the Siekopai after almost 80 years of struggle. The sacred doors of the "Okome" water spirits, the "Nuni ma'a" path to immortality, will be open for future generations to continue the dialogue with the spirits of the different dimensions, according to the Siekopai cosmovision.*[36]

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Pablo Ortiz-T. *is a sociologist and research professor at the Salesian Polytechnic University - Quito Campus. He is coordinator of the State and Development Research Group, GIEDE.*
Contact: portiz@ups.edu.ec / mushukster@gmail.com

Guatemala

MEXICO
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GUATEMALA
Guatemala City
HONDURAS
EL SALVADOR
PACIFIC OCEAN

Guatemala's projected population was 17.6 million for 2023,[1] of which 43.75% belong to the Mayan (Achi', Akateco, Awakateco, Chalchiteco, Ch'orti', Chuj, Itza', Ixil, Jacalteco, Kaqchikel, K'iche', Mam, Mopan, Poqomam, Poqomchi', Q'anjob'al, Q'eqchi', Sakapulteco, Sipakapense, Tektiteko, Tz'utujil and Uspanteko), Garifuna, Xinka and Creole or Afrodescendant peoples.

Indigenous people continue to lag behind Guatemalan society as a whole in terms of health, education, employment and income, a situation that is even worse for Indigenous women. This is because structural racism lies at the root of their inequality and social exclusion, as well as the violations of their fundamental rights.

Although the Political Constitution of the Republic of Guatemala recognizes the existence of Indigenous Peoples and assumes it to be a multicultural society, and despite the fact that the country has ratified international agreements on the rights of Indigenous Peoples, in practice there is a widespread socioeconomic and political gap between Indigenous Peoples and the non-indigenous population. For example, the State spends USD 0.4 per day on each Indigenous person and USD 0.9 per day on each non-Indigenous person,[2] poverty affects 75% of Indigenous people and 36% of non-Indigenous people,[3] chronic malnutrition affects 58% of Indigenous people compared to 38% of non-Indigenous people.[4] In terms of political participation, Indigenous people represent no more than 15% of members of parliament and high-ranking public officials.

Guatemala has ratified ILO Convention 169, which has had constitutional status since 2010, and this requires it to recognize the rights of Indigenous Peoples. The country has also signed up to the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), the International Convention on the Elimination of All Forms of Racial Discrimination, and the UN Food and Agriculture Organization's policy on Indigenous and tribal peoples. In practice, exclusion, discrimination and structural racism prevail.

In August 2023, with broad popular support, the country elected Bernardo Arévalo and Karin Herrera as President and Vice-President of the Republic, respectively. The ensuing five months nonetheless descended into the worst political crisis of the last three decades, as the so-called "Pact of the Corrupt" attempted to block their inauguration, which took place in January 2024.

2023 electoral process: Indigenous Peoples as protagonists in the defence of democracy

The most significant issue for Indigenous Peoples throughout 2023 was their position regarding the presidential, legislative and municipal elections.[5] The process began with the annulment of the Indigenous candidate, Thelma Cabrera, who had managed to come fourth in the 2019 election and whom the business sector labelled as a radical leftist. Her elimination was not directed specifically against her, however, but rather against her running mate, Jordán Rodas, former Human Rights Ombudsman, for failing to obtain a discharge statement from the Comptroller General's Office attesting that he had no outstanding accounts with the State. Rodas claimed that, at the time of his registration, he did in fact have this document.[6]

The event that turned these elections into something extraordinary was the victory of Bernardo Arévalo and Karen Herrera from the *Movimiento Semilla* [Seed Movement] political party, resulting in the greatest political upheaval in the country for the last three decades. The Public Prosecutor's Office scaled up its attacks on the winning party and the electoral authorities, including the thousands of citizen volunteers who had made up the electoral boards and staffed the polling stations, all in a clear attempt to get the result overturned. In an unprecedented action, the Public Prosecutor's Office went as far as to seize the electoral records and ballots and order legal action against the magistrates of the Supreme Electoral Tribunal, declaring the elections null and void.[7]

In response to this situation – described by the Organization of American States (OAS) as an attempted *coup d'état*[8] – broad sectors

of the population took to the streets in mass mobilizations which, at their peak, brought the country to a halt. The main demand was for the resignation of the Attorney General and Head of the Public Prosecutor's Office, the head of the Special Prosecutor's Office against Impunity and one of the judges who had endorsed the actions overturning the electoral process.

The Indigenous organizations were at the forefront of these social mobilizations to defend democracy and the electoral process, calling for and leading the protests from 4 October 2023 outside the offices of the Public Prosecutor,[9] and it is thanks to their struggle that the inauguration of the elected authorities was able to go ahead on 14 January 2024.[10] The ancestral authorities of the Indigenous Peoples proposed that the new government establish permanent dialogue and co-government, with an agenda based on the full and effective recognition of the rights of Indigenous Peoples.[11]

Territorial rights: landmark ruling by the Inter-American Court of Human Rights in favour of communities of the Maya Q'eqchi' people

In its ruling of 16 May 2023, issued on 15 December of the same year, the Inter-American Court of Human Rights condemned the State of Guatemala for human rights violations against the Indigenous Maya Q'eqchi' community of Agua Caliente Lote 9, located in El Estor municipality, Izabal department. In particular, the Court took into account the lack of response to Indigenous requests made for more than 40 years asking for guarantees of the right to collective ownership of their ancestral lands.[12] In 2006, without prior consultation of the community, the State granted a mining licence for the extraction of nickel and other minerals to a company currently operating with Russian capital, and which was accused of corruption by the U.S. government.[13] The Court's ruling obliges the State of Guatemala to collectively title and demarcate the ancestral lands of this community, to consult with the Indigenous Peoples according to their own criteria and customs, to get independent bodies to prepare a new environmental and social impact study, to conduct a consultation process, to prevent State actors or third parties from affecting the existence, value, use or enjoyment of the Indigenous

community's territory and to legislate to enforce the right to consultation with the country's Indigenous Peoples.[14]

Fighting for the restitution of ancestral land rights

During 2023, Indigenous Peoples, especially the Ixil, Q'eqchi, Ch'orti', Xinka, Mam and Kiche', continued to file legal claims through the country's courts for the restitution of land that has been taken from them. Some cases were not admitted for constitutional protection and were instead referred to the ordinary courts to be treated as civil cases, which could take many years to be resolved.

Evictions of Indigenous communities continued alongside this, largely in Alta Verapaz and Baja Verapaz departments where the vast area covered by extractive activities and agricultural monocultures continues to expand. Landowners ramped up their repression of the communities and carried out judicial or extrajudicial actions to expel Indigenous families. A report by Peace Brigades International noted the numerous evictions and lack of government action to prevent the use of force and illegitimate violence and, in general, the lack of legal and institutional recognition of the collective rights of Indigenous communities.[15] One important area of progress was the ruling issued by a court that requires the Attorney General's Office to pay dignified reparations to the Samococh community, Chisec municipality, Alta Verapaz department, which was the victim of a violent eviction in 2014 in which several community members were killed.[16]

At the same time, landowners increased their pressure for institutional support, for example, by having the Public Prosecutor's Office set up permanent offices at which to report land grabs within the Second Property Registry located in Quetzaltenango.[17]

Indigenous women's rights to lands and territories

A report produced by the Tz'ununija' Indigenous Women's Movement, as an input for the fourth cycle of the Universal Periodic Review at the 42nd session of the Human Rights Council, highlighted the extent to which Indigenous women lag behind in their fundamental rights, such

as the right to land and territory. It notes that women continue to be left out of rural development and land access programmes and are the people most affected by violent evictions and agrarian conflict.[18]

Consultation on mining projects in Indigenous territories

Following up on the order issued in 2017 by the Inter-American Court of Human Rights to consult the Xinka Indigenous people on the El Escobal mining project, operated by the Canadian-owned Pan American Silver Guatemala, the government reported that significant progress was made in the process in 2023. Eight plenary meetings, 18 intermediate meetings and nine field activities were held between the parliamentary authorities of the Xinka people and the government institutions involved in the consultation. However, following up on the plans established has been left to the incoming government.[19]

In the Xinka and *mestizo* territory of Asunción Mita municipality, in Jutiapa, adjacent to Lake Güija, which Guatemala shares with El Salvador, the Constitutional Court declared the local consultation held last year, in which people rejected the operations of the Cerro Blanco mine on their territory, to be invalid. In the ruling, the Court argued that Asunción Mita municipality had overstepped its powers since it was not within its remit to decide on "projects of social interest and collective benefit", and the results of the consultation could therefore not be considered binding.[20]

Meanwhile, a study conducted by the *Observatorio de Industrias Extractivas* [Observatory of Extractive Industries / OIE] in the Maya Ch'orti Indigenous territory revealed that extractive activities have exacerbated the precarious socioeconomic conditions and vulnerability of the La Prensa, El Amatillo, El Carrizal, El Cerrón, La Cumbre and El Paternito communities in Olopa municipality, Chiquimula department, near the Cantera Los Manantiales mine. There has been a perceived increase in disease, social division, community violence, shortages of water, reduced agricultural production and further environmental degradation.[21]

Late compliance with the Inter-American Court's judgement on community radio stations

The State of Guatemala was two years late in complying with its obligation to publish, in the Spanish and Mayan languages and in the newspaper with the widest circulation, the 2021 Inter-American Court decision in the case of *Maya Kaqchikel de Sumpango Indigenous Peoples et al vs Guatemala*. Guatemala was shown to have violated the rights of freedom of expression, equality before the law and participation in the cultural life of communities of four of the country's Indigenous Peoples. Finally, the Presidential Commission for Peace and Human Rights published it in Spanish on 24 November, with publication in Mayan languages pending. In relation to this case, the Public Prosecutor's Office stated that it could not stop the legal proceedings against Indigenous communicators until a reform of the Penal Code had taken place.[22]

Migrant tragedy affects Indigenous people disproportionately

Among those migrants who have lost their lives in their attempts to reach the United States are many hundreds of Indigenous people, who are forced to undertake the journey, despite the great risk, because of a lack of opportunities for a better life in Guatemala. The departments with majority Indigenous populations are those with the greatest outflow of migrants: Huehuetenango, San Marcos, Quetzaltenango, Totonicapán, and Quiché, among others. On 27 March 2023, in Ciudad Juarez, Chihuahua, Mexico, 17 young Indigenous Guatemalans from Comitancillo municipality, San Marcos department, lost their lives in a fire.[23] The U.S. Agency for International Development is supporting programmes focused on Indigenous Peoples, women and youth in Guatemala aimed at addressing the lack of economic opportunities, insecurity and inadequate access to basic services and enabling them to achieve prosperous, safe and dignified lives.[24] And yet the migration policy published this year makes no reference and does not include and specific actions to address the migration situation of the Indigenous population.[25]

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Silvel Elías *is an Indigenous Mayan K'iche, professor and coordinator of the Program of Rural and Territorial Studies (PERT-FAUSAC) at the Faculty of Agronomy of the University of San Carlos of Guatemala.*

Guyana

ATLANTIC OCEAN
VENEZUELA
Georgetown
GUYANA
SURINAME
BRAZIL

Indigenous Peoples – or Amerindians as they are identified both collectively and in legislation – number some 78,500 in the Co-operative Republic of Guyana, or approximately 10.5% of the total population of 746,955 (2012 census).[1] They are the fourth largest ethnic group, East Indians being the largest (40%), followed by African Guyanese (29%) and self-identified "Mixed" (20%). The Chinese, Portuguese and Whites constitute tiny minorities. Amerindians refer to these non-Indigenous people as "coastlanders", since most of them are settled on the coast.

The Amerindians belong to nine Indigenous Nations, based on language. The Warao, Lokono Arawak and Carib (Karinya) live on the coast. The Akawaio, Arekuna, Patamona, Makushi, Wapichan and Wai Wai live in villages scattered throughout the interior. Amerindians form the majority of the population of the interior, in some regions constituting as much as 86% of the population. The forest resources/timber on government-titled Indigenous lands (Amerindian Village Lands) are fully under the managerial authority of the Amerindian title holders according to law, while minerals in the same lands ultimately remain under national government authority. In practice, the political administrations and technical agencies are negligent when enforcing the law. Two Amerindian Village Councils have successfully appealed to the Inter-American Commission on Human Rights against continued illegal gold mining and environmental damage, albeit still with no effective government response. The poorly regulated exploitation of these resources by multinationals, illegal miners and loggers is one of the challenges faced by Indigenous Peoples. Their primary concern is therefore to achieve full recognition of Indigenous land rights so that they can defend their ancestral territories from this exploitation.

The Independence Agreement from the United Kingdom (1965) included a land titling process. Recommendations regarding this process from the Amerindian Lands Commission (1967-1969) have never been fully taken up by successive governments. Requests made for collective district titles have

been dismissed, resulting in the fragmentation of traditional territories into small areas under individual village titles. The Preamble to the Constitution of Guyana recognises "the special place in our nation of the indigenous peoples" and recognises "their right as citizens to land and security and to their promulgation of policies for their communities".[2] Guyana endorsed the UNDRIP in 2007. The Ministry of Indigenous Peoples' Affairs reverted to its previous name of "Amerindian Affairs" (MoAA) following the change in ruling party in August 2020.

Revision of the Amerindian Act (2006)

No changes were made to the Amerindian Act in 2023 although the government has begun to implement its election promise from 2020 to revise the *Amerindian Act cap. 29:01*, 2006. However, the government has not engaged with the representative Amerindian associations; rather, it has given training to selected persons to carry out village-level consultations.[3]

Using money to quell dissent

Unfortunately, most government interactions with the Indigenous Amerindian communities have been less positive. The government has tried to smother protests against its illegal seizure of the forest carbon credits attributed to standing forest on titled Amerindian Village Lands.[4] The government has avoided discussion of its illegality[5] by emphasising that it is giving 15% of the net income from the USD 750 million (approx. EUR 691 million) ten-year deal with the US oil company Hess Corporation to all Amerindian communities, whether or not they are titled or have natural standing forest. The funds are disbursed to each community if it has prepared a village sustainability plan according to a template from the Office of the President.[6]

As presumably intended, the injection of an unprecedented cash grant of GYD 10 million (approx. EUR 46,000) per community was suf-

ficient to discourage almost all local protest at the loss of Amerindian control of village forests. In our conversations with Amerindians, they recognise that this limited but significant influx of money is (a) effectively an election bribe and (b) a tiny fraction of the greatly expanded oil-fuelled national budget. Clearly, though, no village council could refuse this extra funding, even though acceptance would imply agreeing to the takeover of control of titled village forests by the Guyana Forestry Commission, a government body.[7]

Throughout 2023, government ministers countered even the muted Amerindian protests at the phantom carbon credits and government seizure of Amerindian forest by repeatedly emphasising the money for infrastructure that was being made available, with over 800 projects being implemented.[8]

Tragic death of 19 Amerindian youth

The emotionally dominant event for Amerindians and the entire country in 2023 was a night-time fire at a secondary school in the town of Mahdia that killed 19 Amerindian teenage girls and one boy, and the governing party's crude use of this tragic case to make political capital[9] against the Opposition Coalition.

Mahdia is a small town in central Guyana that acts as a service centre for the artisanal hydraulic mining of gold and diamonds. The town has a "Wild West" reputation for extravagant spending and drunken behaviour by miners on vacation from the digging.

A state-run secondary school in the town provides dormitories for the male and female students who are boarders as many of the students are from the more remote villages populated mainly by the Indigenous Patamona people. The secondary school was one of those included in a 2015 diagnostic survey of national education commissioned by the Minister of Education. The survey report in 2017 was highly critical of the poor construction and state of maintenance of the school buildings. Apparently, no action was taken on this report before the government changed in August 2020.

The following minister then commissioned another report in September 2021, which was delivered in May 2022 and was also highly critical, noting in particular the poor state of 24 dormitories, which were in

urgent need of repair or replacement. The total cost of renovating these dormitories was estimated at GYD 3 billion (approx. EUR 14 million). By the end of 2022, some GYD 0.8 billion (approx. EUR 3.7 million) had been spent and other construction contracts were in the pipeline; however, the Mahdia school was not considered to be a priority and was therefore not included in this first tranche. The total national budget for 2022 was GYD 529 billion (approx. EUR 2.4 billion), with a high proportion spent on road construction and repair. This shows that money was not a limiting factor in the slow government response.[10]

Additionally, the Guyana Fire Service also received a copy of the May 2022 report, which further noted the absence of fire precautions and fire control in the dormitories; however, they did not take any action because legal responsibility for the physical state of schools lies with the subnational regional governments. The Regional Executive Officer for Region 8 where Mahdia is located also took no action.[11]

The National Fire Service had built a fire station in the town in 2017. In July 2022, a new officer was assigned to the station, and he found that the station had almost no equipment and that the fire engine was almost unusable. In February 2023, he conducted a safety inspection of the school and reported an absence of fire safety equipment and precautions in the dormitories. His urgent report to the Chief Fire Officer generated no response. He also sent a copy of his report to the Regional Education Officer, and it was noted for action but was later misplaced due to staff changes. It is not clear if this Fire Service report reached either the Ministry of Education or the Regional Executive Officer, who would ultimately be responsible for ordering repairs and for training in fire drill.

There were 56 girls aged between 12-18 years in the dormitory on 21 May 2023. Because of a history of gold miners attempting to gain access to teenage girls, the dormitory windows had fixed metal grills and all doors were locked at night for their protection.[12] A fire was allegedly deliberately set by one of the girls, angry that her cell phone had been confiscated in accordance with school rules. The fire spread fast and the untrained dormitory supervisor could not find her keys to let everyone out. Nineteen teenage girls and the supervisor's young child consequently died in the fire.

After some delay, the fire officer was located, who drove the barely usable fire truck to the school to attempt to put out the fire. The truck had a limited amount of water as its backup tank had been sent to an-

other town to wash the streets in preparation for Independence Day celebrations. Additionally, the truck had no tools for removing window grills, breaking locks or demolishing walls. Fortunately, with the help of neighbours, the Fire Service crew was able to make holes in the walls through which 37 girls escaped. The small local hospital has no operating theatre and was obviously overwhelmed by this event. The state medical service did mobilise quickly and the country's only national burns specialist flew from Georgetown to assist. Two severely burned girls were airlifted to New York for treatment; one of them was saved.

Soon after the fire, the government flew the families of the dead and injured girls to Georgetown and offered GYD 5 million (approx. EUR 23,000) for each deceased child, GYD 3 million for those who were badly injured (approx. EUR 14,000), and GYD 0.5 million (approx. EUR 2,300) for those who had sustained minor injuries. These offers, however, were made on condition that the families sign a pre-prepared letter exonerating the government from any further legal action or claims.[13] The government also provided unspecified psychosocial support to the families and people who tried to help, as well as to the villages from where the teenage students originated. It is not clear if this support is ongoing and, if so, in what form. Twenty-eight of the Amerindian teenage boys who were in the adjacent male dormitory have not returned to school.[14]

Two months after the fire, the President of Guyana ordered a three-person Commission of Inquiry (CoI), with few and poorly written Terms of Reference. For example, the *Commissions of Inquiry Act* (cap. 19:03, 1933/1997) specifies that such inquiries should make "a full, faithful, and impartial inquiry" (section 7). This was not included in the Terms of Reference. Moreover, none of the three commissioners had any relevant prior knowledge or experience of conducting a forensic inquiry. There were no witness interviews as to the history or quality of building construction, maintenance, fire prevention or from forensic accident experts. The CoI's December 2023 report[15] instead focussed on the previous government's inaction on the 2017 report, conveniently omitting the little action the current government took on the three subsequent reports drawing attention to the state of the dormitories and the town's fire station. The government also made no commitment to implement those earlier reports calling for urgent action to repair the schools with any more urgency. Instead, the commissioners felt that the commitment begun in September 2022 for some work was "good enough" and came to the unsubstantiated conclusion "that a better-equipped facili-

ty would not have delivered a different result having regard to the cause of the fire, and the speed with which it became an inferno" [quotations from pages 37 and 51 in the CoI report].

Most egregiously, the report placed blame for the fire on alleged Amerindian behaviour patterns, for which no evidence from witnesses was reported. These allegations against Indigenous Peoples were not backed up by direct evidence, were disrespectful and libellous, and were contrary to the Preamble[16] and Article 149G[17] of the National Constitution, which uphold the Amerindian way of life.

Continued struggles for recognition of resource tenure

IWGIA has previously published reports on the intermittent struggle to obtain secure legal tenure of Amerindian Village Lands and resources and to combat illegal gold mining,[18] which continued in 2023.

An attempt by Isseneru village to halt mining by river dredge failed in the High Court. The lawyer for the village failed to demonstrate that the riverbed or riverbanks were damaged and had not realised that Village Lands titled under the Amerindian Act 2006 do not include the surface water in creeks and rivers inside or forming the boundary of said Village Lands.[19]

The more complex case of Chinese Landing was also not resolved. The Ministry of Natural Resources and the Guyana Geology and Mines Commission continue to rely on partial interpretations of law, and the legal team for the village did not use the full breadth of the law to make a solid legal case to close down the enormous gold mining pit at Tassawini, which is located in Chinese Landing's titled land.[20] This case will continue in 2024.[21]

Slow progress towards security of land title for Amerindian villages and communities

Formal government recognition of Indigenous land tenure began with the country-wide survey by the Amerindian Lands Commission 1967-1969, responding to the commitment made to secure Amerindian title

in Annex C of the Independence Agreement 1965 from British colonial rule. Traditional natural topographic boundaries are allowed by Regulation 19 (2) under the State Lands Act 1974[22] and were recorded from aerial surveys beginning in 1974. In the first phase, 65 villages were titled with those natural boundaries for 1.587 million hectares (Mha) in the 1976 amendment to the 1951 Amerindian Act. A further 10 villages were titled in 1991 (0.413 Mha). Titling continued sporadically until 2013, making a total of 3.109 Mha for 110 Amerindian Village Lands. In addition, the names of 48 Amerindian communities and 20 satellite villages were formally registered in 2013, although with unmapped boundaries;[23] this documentation will facilitate future titling.

Over USD 13.3 million (approx. EUR 12.4 million) was allocated to the Amerindian Land Titling (ALT) project[24] under the Norway-Guyana Memorandum of Understanding (2009-2015), extended to 2018.

Progress was slow in the field as the fund manager, the UN Development Programme (UNDP), and the various Guyana government ministries and agencies grappled with a government decision from 1995 (but not operational until 2013) to greatly complicate the land titling process for Amerindians by moving away from the still-valid natural boundaries.

The current three-stage process for land titling includes cut-line boundary demarcations more familiar to the coastlander surveyors certified by the Guyana Lands and Surveys Commission (GLSC). In spite of manuals of procedure and the provision of training courses, the Amerindian communities have continued to complain about the three-stage process of "absolute grants of title", demarcations, and "certificates of title". This process may result in a titled area that differs greatly from the area which the village expected in its application for land security.[25]

The coastlander surveyors are accustomed to working on densely occupied flat lands and are unfamiliar with work in the hilly hinterland. Another perennial complication is that the topographic names used in the Amerindian communities may not correspond to the names in the national gazetteer of the GLSC. One obvious solution is to train and accredit Amerindian land surveyors but this seems to be outside the understanding of the government. It is not clear that the various government ministers themselves understand the different categories and stages of hinterland land tenure, and the figures of reported progress in land titling may consequently be inconsistent even within one docu-

ment,[26] such as in the Low Carbon Development Strategy 2030, which claims that 3.304 Mha are now titled Amerindian Village Lands. We estimate that 7.8 Mha of Amerindian customary land remains to be titled.[27]

It seems possible/probable that rapid demographic expansion has caused some of the 48 Amerindian communities recognised in 2013 to reach the threshold of eligibility for Amerindian Village Land status (25 years of recognised existence and at least 150 members over the last five years; section 60 (1) in the Amerindian Act cap. 29:01 2006). The government claims that the Amerindian population "has more than doubled between 1992 and 2022".[28] This claim cannot be verified, however, since there has been no report issued since the 2012 Census. The ministerial speeches on progress in land titling are nonetheless not clear, and the web pages of the Amerindian Land Titling project are long out of date.

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Janette Bulkan *is an Associate Professor in the Faculty of Forestry, University of British Columbia, Canada. She was previously Coordinator of the Amerindian Research Unit, University of Guyana (1985 to 2000) and Senior Social Scientist at the Iwokrama International Centre for Rainforest Conservation and Development, Guyana (2000 to 2003). Janette carries out long-term collaborative research with Indigenous Peoples and local communities in Guyana. Her research interests are forest governance, Indigenous natural resource management systems, forest concession systems and third-party forest certification systems.*

John Palmer *is a senior associate in tropical and international forestry with the Forest Management Trust, an ENGO based in Montana, USA. His experience of Guyana dates back to 1974, including UK-funded consultancies on forest finance and Iwokrama in the 1990s, and studies from 2006 onwards on the history and many illegalities in the forest and mining sectors. Guyana also figures in his current work on certification standards for quality of forest management.*

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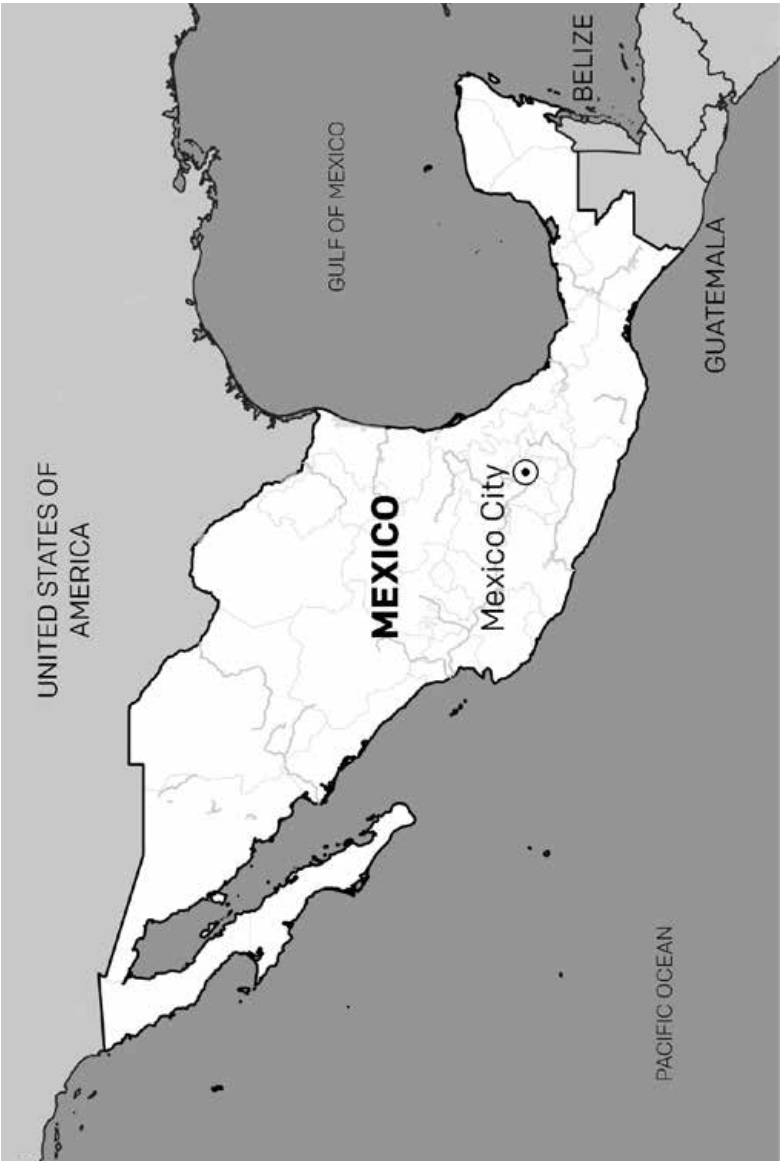
UNITED STATES OF AMERICA
MEXICO
Mexico City
GULF OF MEXICO
BELIZE
GUATEMALA
PACIFIC OCEAN

According to data from the 2020 Population and Housing Census, produced by the National Institute of Statistics and Geography (INEGI), 23.2 million people aged three years and older self-identify as Indigenous in Mexico, equivalent to 19.4% of the country's total population; 51.4% (11.9 million) of these are women and 48.6% (11.3 million) are men. Of the 23.2 million people who self-identify as Indigenous, 7.1 million (30.8%) speak an Indigenous language and 16.1 million (69.2%) do not. The 2020 Census also recorded that 6.1% of the country's total population speaks one of the country's 68 native languages, which can be broken down into at least 364 variants. This is equivalent to 7.36 million people, being 51.4% (3.78 million) women, and 48.6% (3.58 million) men. Of these, 6.4 million also speak Spanish and 866,000 do not, with just four of the country's 32 states (Oaxaca, Chiapas, Yucatán and Guerrero) accounting for 50.5% of the total number of Indigenous language speakers. In addition, the 2020 Census indicated that 11.8 million Mexicans live in Indigenous households, 5.7 million of them men and 6.1 million women, with an average of 4.1 people per household.[1]

Indigenous Peoples and territorial rights in Mexico

Mexico's Indigenous Peoples have inhabited territories of great biological and cultural diversity since time immemorial, characterized by the presence of mineral, biological, water, forest and wind resources, to name but a few. Over this time, they have accumulated knowledge about their natural environment, including on the care, conservation and use of natural resources for survival,[2] enabling us to refer to an "ecology of knowledge". In this sense, beyond the capitalist perspective in which nature becomes valuable only when it is exploited,[3] nature is of value in and of itself to Indigenous Peoples, for what it represents for life. It also has a symbolic cultural value due to the collective representations on the territory, in terms of the symbols that these peoples have configured over time and expressed through cultural practices, myths, links with nature, collective memory, ethnic belonging, language, symbolic boundaries, sacred places and place names, among other aspects.[4]

There is therefore a need to recognize the epistemic diversity of the natural environment given that Indigenous Peoples' worldviews and knowledge of nature are relevant and go beyond the global capitalist system.[5] In August 2023, the President of Mexico signed a decree to protect, preserve and safeguard the sacred sites and pilgrimage routes of the Wixárika, Náayeri, O'dam or Au'dam and Mexikan Indigenous Peoples (Table 1), as they have been threatened by the presence of transnational companies.

In fact, the territories occupied by Mexico's Indigenous Peoples have long suffered from an overexploitation of natural resources associated with the presence of transnational companies, including forestry companies, which has harmed its forested areas through an excessive felling of trees. Environmental damage has also been caused by the extraction of mineral resources on the part of large companies, such as those from Canada,[6] which act under a capitalist logic whereby the value of nature is created via its appropriation and exploitation for the purposes of capital production.[7] The cases of logging and mining in the Sierra Tarahumara of Chihuahua are two examples of this environmental damage.[8]

Table 1. Decree in favour of the sacred sites and pilgrimage routes of Indigenous Peoples (August 2023)[9]

Date	Indigenous peoples benefited	Legal instrument/other	Text
9 August	Wixárika, Náayeri, O'dam or Au'dam and Mexikan	Decree recognizing, protecting, preserving and safeguarding sacred places and sites and pilgrimage routes	"Indigenous Peoples establish links and relationships with their deities and ancestors through rituals and ceremonies, based on their religious beliefs and worldviews, and which represent cultural, historical, spiritual, architectural and other values intrinsic to their identities (...)." "(...) sacred places may include one or more sacred sites"; and pilgrimage route are "the road or path along which Indigenous Peoples travel to access their sacred places and sites in order to carry out the ceremonies and rituals associated with them, and which have been established ancestrally."
22 August	Wixárika, Náayeri, O'dam or Au'dam and Mexikan	Creation of the Presidential Commission	This will monitor compliance with the decree.

Another case is the Sierra Norte de Puebla, where Azamar Alonso[10] has identified hydrocarbon exploration, hydroelectric dams, mining and other extraction or energy generation processes, such as the Cuyoaco solar power plant. Notwithstanding the undoubted economic growth this generates, this growth is taking place under conditions of inequality for Indigenous Peoples, since "neither the benefits nor the burdens are shared equally; in this case the rural or Indigenous population that rents, sells or has its territories expropriated whenever there is natural wealth of some kind either receives no compensation or only [unjust] compensation".[11]

Given the recurrent violations of the rights of Indigenous Peoples to their lands and territories, some Indigenous organizations are now focusing on their defence. Such organizations include the Tosepan Titaniske Cooperative Society, which involves the Nahua and Totonaca, as well as the communities of Cherán, Nuevo San Juan, Uruapan and Donaciano Ojeda, of the Purépecha and Mazahua peoples respectively.[12] The environmental leaders that are emerging in the context of these social movements have also been threatened and, in some cases, murdered because of their struggle for territory,[13] as a result of conflicts or clashes of interests over territory or the negative impacts on the environment and the consequences for local populations.[14]

Data from Global Witness[15] reveals that, of the more than 1,500 environmentalists and land defenders murdered in Latin America, one-third have occurred in Mexico as a result of conflicts, confrontations or executions carried out by the public security forces.[16] In the Sierra Norte de Puebla, there have thus been deaths among people who "were defending their territory and opposing these activities, most of whom were being harassed by public security agencies".[17]

Indigenous territorial defence movements are on the rise as the rights of Indigenous Peoples are increasingly violated, as confirmed by the significant impacts recorded (Table 2) in Indigenous areas. This is despite the fact that national and international legal frameworks set out the right of the Indigenous population to take responsibility for and use their territories, as established in Article 32 of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) (Table 3).

Table 2. Significant impact standard and right to consultation

Thesis 2a. XXVII/2016 (10a.). A series of generic situations considered to have a significant impact on Indigenous groups have been identified, including, but not limited to, the following: 1) Loss of traditional territories and land; 2) Eviction from their lands; 3) Possible resettlement; 4) Depletion of resources necessary for physical and cultural subsistence; 5) Destruction and contamination of the traditional environment; 6) Social and community breakdown; and 7) Negative health and nutritional impacts, among others.[18]

Thesis 2a./J. 11/2023 (11a). Second Chamber. Right to prior consultation. The duty to carry this out is triggered by the mere possibility that a State decision may affect or have a direct or differentiated effect on Indigenous Peoples and communities, without the need to prove the damage and its significant impact.[19]

Table 3. UN Declaration on the Rights of Indigenous Peoples (UNDRIP) (Article 32)[20]

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.
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.[21]

In practice, however, the rights of Indigenous Peoples to their lands and territories are not respected; there is a prevailing overexploitation of natural resources in the country and this has resulted in environmental damage. Climate change and global warming are the current results of a long history of exploiting nature and of the migrations and movements that go with it. Natural resources are also under threat and, consequently, so is humanity, and the responsibility for this deterioration falls on the transnational corporations and the hegemonic groups that support them[22] who, in addition, are violating the rights of future generations.[23]

In 2023, in response to this litany of damage, the World Bank proposed providing funding to train young Indigenous leaders to be able to face up to climate change. This initiative is being undertaken in coordination with the Indigenous Fund for the Development of Indigenous Peoples of Latin America and the Caribbean [Fondo para el desarrollo de los pueblos indígenas de América latina y el Caribe / FILAC] and is a step in the right direction in terms of influencing Latin America's environmental problems. Despite this action, however, other actions of greater import are still necessary to ensure that this problem can be reversed by preventing the dispossession and overexploitation of Indigenous Peoples' territories and mitigating the damage generated by global and neoliberal development projects that only exacerbate the prevailing inequalities in Mexico.

One area of progress in halting these activities was the reform of the Mining Law in May 2023, which sets out measures to protect the territories of Indigenous and Afro-Mexican peoples. The following table shows the articles of this legal instrument relevant to this population:

Table 4. Comprehensive reform of the Mining Law, 8 May 2023[24]

Article 6. In the case of lots located on the territories of Indigenous or Afro-Mexican peoples or communities, in order to grant a mining concession or assignment, the Ministry shall request that the competent authority carry out free, prior, informed, culturally appropriate and good faith consultations in order to obtain the consent of said peoples and communities, under the terms of the applicable regulations, and shall participate in said process within the scope of its powers. The consultation shall be carried out prior to the granting of the concession title and simultaneously with the process required for the environmental impact assessment, a consultation in which information from the social impact study will be provided.

Article 10. With the exception of lithium and other minerals declared as strategic by the State, under the terms of Articles 27 and 28 of the Constitution, the exploitation of the minerals or substances referred to in Article 4, as well as of the salt mines formed directly by marine waters from present-day seas, whether superficial or underground, natural or artificial, and of the salts and by-products thereof, may be carried out through mining concessions granted by the Ministry to *ejidos* and agrarian communities, Indigenous and Afro-Mexican peoples and the communities referred to in Article 2 recognized as such by the constitutions and laws of the Federal Entities, as well as to persons of Mexican nationality who can prove they have the technical, legal, economic and administrative capacity indicated in this law and in the applicable regulations.

Article 14. No concession may be granted for areas of land included in, located in or covered by:
IX. Protected natural areas;

Article 39. In the activities of exploration, exploitation, benefit and use of minerals or substances, the concession holders or assignees must preserve, restore and improve the environment, prevent and control the contamination of air, water, soil and subsoil, and respect the rights of Indigenous and Afro-Mexican communities, in accordance with the provisions applicable to the matter.

Article 55.
II. Failure to execute or verify the works provided for by this law under the terms and conditions set forth therein and its regulations;
VII. Carrying out the works provided for by this law without prior authorization from the competent authorities as regards environmental, water, Indigenous or Afro-Mexican consultation or any other authorization, permit or concession required at the federal, local or municipal level.

This article concludes with the words of the representative of the UN Office of the High Commissioner for Human Rights in Mexico regarding forced displacement in Mexico due to loss of land and other property:

> *In addition to criminal prosecution of the violent perpetrators of forced internal displacement, housing, land and property restitution, and reparations for the underlying violations, are essential to achieving lasting solutions. Culturally relevant housing, land and property rights must be guaranteed that are adequate to the needs of internally displaced persons, particularly those belonging to Indigenous Peoples and communities. It should be recalled that international law recognizes the territorial rights of Indigenous Peoples, who face an aggravated situation due to displacement, as they have a special bond with the lands, territories and resources they have traditionally owned.*[25]

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Dr. Carolina Sánchez García. *Director of the University Programme for the Study of Cultural Diversity and Interculturality.*

Nicaragua

CARIBBEAN SEA
HONDURAS
NICARAGUA
Managua
COSTA RICA
PACIFIC OCEAN

Nicaragua has seven Indigenous Peoples. In the Pacific, centre and north can be found the Chorotega (221,000), the Cacaopera or Matagalpa (97,500), the Ocanxiu or Sutiaba (49,000) and the Nahoa or Nahuatl (20,000). In addition, the Caribbean (or Atlantic) coast is inhabited by the Miskitu (150,000), the Sumu or Mayangna (27,000) and the Rama (2,000). Other peoples who also enjoy collective rights, according to the Political Constitution of Nicaragua (1987), are the Afro-descendants, known as the Creole or Kriol (43,000) and Garifuna (2,500). In 1979, the Sandinista National Liberation Front (FSLN) took power in Nicaragua and were later opposed by the U.S.-funded and armed "Contras". Peasants from the Pacific Coast and Indigenous Peoples from the Caribbean Coast participated in the Contras. In 1987, following a friendly settlement of the conflict through the Inter-American Commission on Human Rights (IACHR) aimed at putting an end to Indigenous resistance, the FSLN created the Autonomous Regions of the Northern Caribbean Coast (RACCN) and Southern Caribbean Coast (RACCS), based on a Statute of Autonomy (Law No. 28). Through the Inter-American Court of Human Rights' (I/A Court HR) judgment in the case of the Mayangna (Sumo) of Awas Tingni Community v. Nicaragua in 2001, Law No. 445 on the Communal Property Regime of the Indigenous Peoples and Ethnic Communities of the Autonomous Regions of the Atlantic Coast of Nicaragua and of the Bocay, Coco, Indio and Maíz rivers, among others, was enacted. This law recognizes the communities' right to self-government and creates a procedure for the titling of territories. In 2005, the State began the titling process for the 23 Indigenous and Afro-descendant territories in the RACCN and RACCS, culminating in the issuing of property titles. In 2007, Nicaragua voted in favour of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) and in 2010 ratified ILO Convention 169. In 2015, the Alliance of Indigenous and Afro-descendant Peoples of Nicaragua was formed.

The Mayangna Sauni As Territory in the context of the internal colonization of Nicaragua's Caribbean Coast

In the case of the Mayangna (Sumo) of Awas Tingni Community v. Nicaragua (2001),[1] the Inter-American Court of Human Rights (I/A Court HR) recognized that the Indigenous Peoples own the land collectively, in the sense that such ownership is not centred on the individual but rather on the community, as well as on the close relationship these peoples have with their lands:

> *(...) the fundamental basis of their cultures, their spiritual life, their integrity, and their economic survival. For Indigenous communities, relations to the land are not merely a matter of possession and production but a material and spiritual element which they must fully enjoy, even to preserve their cultural legacy and transmit it to future generations.*[2]

On the basis of the judgment in the case of the Indigenous community of Awas Tingni and by means of Law No. 445[3] (2003), 23 territories[4] of the Indigenous and Afro-descendant peoples of the Autonomous Regions of the Caribbean Coast were subsequently titled, with the Mayangna Sauni As Territory (TMSA) being one of the first in 2016,[5] along with the other Indigenous territories in the Bosawás Biosphere Reserve.[6]

The TMSA, the major portion of which is located in the core zone of Bosawás, covers an area of 1,638.10 km^2 and has a population of approximately 12,200 people living in 24 Indigenous communities.[7]

Despite this titling, the State of Nicaragua is currently implementing a policy of internal colonization[8] by promoting the in-migration of non-Indigenous people – settlers or third parties[9] – who have taken over the livelihoods and degraded the environment of the Indigenous territories[10] through the expansion of the agricultural frontier and extensive cattle ranching,[11] in addition to monoculture plantations of crops such as African palm (*Elaeis guineensis*),[12] and the implementation of neo-extractivist policies.[13] Through forestry companies linked to the State[14] and also through the Nicaraguan Mining Company (*Empresa Nicaragüense de Minas* / ENIMINAS),[15] the State has granted concessions for metal mining[16] over approximately 23% of the national territory,[17] 66% of the Bosawás Biosphere Reserve and 41% of the TMSA. The Oakland Institute reveals who the shareholders of these mining companies are.[18]

Mining concessions cover 41% of the Mayangna Sauni As Territory

As can be seen from a map of the concessions granted in the Mayangna Sauni As Territory,[19] produced on the basis of information from the Ministry of Energy and Mines (MEM)[20] and the mining company Calibre Mining Corp,[21] contrary to the publicity issued by this company,[22] the authorities and Indigenous leaders are protesting because the concessions were granted without any due consultation[23] since the State has established "parallel governments"[24] and spurious authorities in order to grant the concessions behind the backs of the communities.[25]

Of the 1,638 km^2 that make up the TMSA, 11 concessions have been granted over 666 of them, a further one appears as requested and another as declared, giving a total of 13 lots issued or to be issued to mining companies.

Mining concessions in the Mayangna Sauni As Territory

No.	Company	Lot name	Concession size km^2	Concession status
1	Minerales Matuzalen S.A.	Matusalen	72	Granted
2	Río Waspuk S.A.	Río Waspuk	18.49	Granted
3	Río Waspuk S.A.	Río Waspuk	1.82	Granted
4	HEMCO Nicaragua S.A.	HEMCO-WASPAN I	145.44	Granted
5	HEMCO Nicaragua S.A.	HEMCO-WASPAN I	107.56	Granted
6	HEMCO Nicaragua S.A.	HEMCO-BONANZA IV	53.95	Granted
7	HEMCO Nicaragua S.A.	HEMCO-BONANZA V	29.96	Granted
8	HEMCO Nicaragua S.A.	HEMCO-BONANZA V	28	Granted
9	HEMCO Nicaragua S.A.	BONANZA H-I	161.84	Granted
10	Calibre Mining Nicaragua S.A.	PISPIS	77.34	Granted
11	Calibre Mining Nicaragua S.A.	Jade	262.48	Granted according to company publicity
12	Calibre Mining Nicaragua S.A.	KAKAU	358.34	Requested
13	ENIMINAS/MEM	Mining Reserve Area[26]	200.77	Declared

Attacks and encroachment onto the TMSA

As denounced by their traditional Indigenous leaders,[27] the Mayangna and Miskito Indigenous communities of the Bosawás Biosphere Reserve and the Wangki (Coco) River Basin, in the Autonomous Region of the Northern Caribbean Coast (RACCN), have been under attack from heavily armed criminal gangs of settlers for almost a decade;[28] invasions by non-Indigenous settlers have been reducing the areas under the use and control of the Indigenous communities of the TMSA. Armed settlers are surrounding the territory and dispossessing community members of their traditional lands through systematic violence, all with the acquiescence of the State.

This violence can be seen in the Map of TMSA Violence 2013-2023,[29] put together jointly with community members and leaders and pinpointing the 24 communities that make up the TMSA; the sectors where the communities carry out some specific uses; the communities set on fire by armed gangs; the areas invaded by settlers and which cover 60% of the TMSA; and the attacks that have left fatalities, injuries, and victims of kidnapping, as well as victims of sexual violence.

The settlers repel the Indigenous people with threats, shootings, kidnappings, and torture. In most cases, the bodies of the Indigenous people who are murdered show signs of torture and mutilation, undertaken to instil terror and discourage access to places where the natural assets and traditional livelihoods of the Indigenous people are located. Due to this constant danger and harassment by settlers, women and children[30] are forced to remain isolated and confined to their homes. New diseases are furthermore appearing in Indigenous communities, and the women are being separated or excluded from communal and territorial governance structures.

The violent invasions are restricting access to the forests where communities gather fruits and medicinal plants, and where they also hunt and obtain the protein element of their diet. In addition, deforestation and the change in land use due to the planting of pasture for extensive cattle raising is affecting the flow of rivers and therefore movement via traditional canoe, as well as the quantity and quality of water for human consumption and subsistence fishing due to cyanide spills from mining activities.[31] Agricultural areas and cultural and spiritual spaces are also affected.

From impunity to prosecution

Consistent with the policy of internal colonization of Nicaragua's Caribbean coast, structural discrimination is promoted,[32] evidenced by the fact that, to date, the only people convicted for the attacks systematically perpetrated against Indigenous communities for almost a decade have been eight Indigenous forest rangers, with 25 others being pursued by the National Police.[33] The first TMSA authorities and leaders to be tried and convicted were: Dionisio Robins Zacarías, active member of the Moravian church and volunteer forester in the Indigenous community of Saubí; Donald Andrés Bruno Arcángel, active member of the Moravian church and volunteer forester in the Indigenous community of Kibusna; Argüello Celso Lino, school teacher and community judge in the community of Suniwás; and Ignacio Celso Lino, community trustee in the community of Suniwás. They were arrested and accused of the Kiwakumbaih massacre, despite the survivors of the massacre maintaining that this crime was perpetrated by the criminal gang of settlers[34] led by Isabel Meneses alias "Chabelo". They were nonetheless tried, sentenced to life imprisonment[35] and are currently suffering torture in prison.[36] On 10 July 2023, the Inter-American Court of Human Rights ordered the State of Nicaragua to release the four TMSA authorities and leaders.[37]

The State of Nicaragua has not complied with the measure, just as it has not complied with around 15 other protective measures granted by the Inter-American Human Rights System in favour of the Indigenous communities that have suffered systematic attacks from settlers and their criminal gangs since 2015. Nor has it listened to the clamour of the Indigenous authorities and leaders in this regard.[38] The violence in the TMSA increased with the arrival of mining companies in 2020, with killings in Alal,[39] in Kiwakumbaih in 2021[40] and in Wilú in March 2023,[41] despite the community of Wilú already having precautionary measures[42] in place from the Inter-American Commission on Human Rights (IACHR), measures that the State of Nicaragua has not complied with.

The IACHR this year recognized the deepening repression being suffered by the Indigenous communities of Nicaragua's Caribbean Coast.[43] For its part, the Office of the High Commissioner for Human Rights[44] denounced the assassinations in Wilú and in Alal in 2023. According to the monitoring of the Centre for Legal Assistance for In-

digenous Peoples (CALPI), between 2013 and 2023[45] 117 Indigenous community members were the direct victims of attacks in the TMSA, although 12,200 members across the 24 communities of the TMSA have suffered the usurpation of their territory; 30 houses have been burned; 29 Indigenous people – including two women – have been killed and 76 Indigenous people – including minors – have been attacked, kidnapped, wounded or injured and sexually assaulted by settlers; in addition, 12 Indigenous authorities, leaders and community members have been illegally detained by the National Police.[46] During 2023 alone, at least one of the following occurred:

INCIDENTS IN THE TMSA DURING 2023

8 Indigenous people were killed in the TMSA *	**Other incidents: 8 illegal detentions by the National Police, 6 kidnappings, 5 injured, 5 attacked, 1 attempted rape, 1 destruction of plantations in plots and 1 burning of the Wilú community.**
8	**27**

*Additionally, two Indigenous people were killed outside the TMSA although inside Bosawás.

Some Indigenous people are suffering from the lasting effects of these attacks, such as damaged organs, the loss of fingers or upper or lower limbs, bullets that have not been removed from their bodies and/or the psychological effects of suffering sexual aggression or of children witnessing the murder of their father or relatives.[47] However, none of these people are receiving medical or psychosocial assistance from the State, and the non-governmental organizations that have traditionally supported them have been arbitrarily declared illegal.[48] Constant threats and a lack of food production are resulting in forced displacements of members of Indigenous communities.

In contrast, Nicaragua's gold exports broke all records in 2023,[49] despite sanctions imposed by the United States on the Nicaraguan Mining Company (ENIMINAS),[50] coupled with State acquiescence towards

the systematic attacks being perpetrated by criminal gangs. These are acts that could constitute crimes against humanity – persecution based on political, racial, national, ethnic, cultural or religious grounds – as they are forcing these Indigenous communities to the brink of extermination, among other things by depriving them of access to food, leaving them totally defenceless with their own territories already in the process of internal colonization.[51] All these actions are taking place against a backdrop of serious human rights violations, in which Indigenous communities are being deprived of the right not to be culturally assimilated, to conceive of their development in accordance with their worldview, to exercise their right to self-determination as peoples and to maintain the physical and mental integrity of their members, as well as the right of women to live free from violence. For all these reasons, a genocide could be taking place in the TMSA.[52]

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735,491.35 hectares, composed of undisturbed primary forests; the second zone covers an area of 1,307,044.56 hectares and acts as a buffer zone, comprising the territories of the municipalities of Waslala, Bonanza, Siuna, Waspan, Wiwilí and Cuá-Bocay, the latter covering 30% of the reserve's territory, located in the Caribbean region, and representing approximately 25% of Nicaragua's Atlantic Biological Corridor.

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11. Who are the owners of the meat industry in Nicaragua? *There are seven slaughterhouses in Nicaragua that are certified to export meat. Most of them are associated with strong financial groups that are involved in different sectors of the economy. One of the main owners of Matadero Central S.A. (MACESA) is the Zamora family, of the Lafise financial group, while Industria Comercial San Martín is linked to Grupo Ayucus, founded by Eduardo Fernández Holmann, former CEO of Grupo Financiero Uno. Industrias Cárnicas Integradas S.A. (ICI-Nicaragua) is linked to the Banpro group and supplies Walmart stores in Central America and Mexico, as well as supermarkets in El Salvador. Nuevo Carnic S.A., on the other hand, is owned by a group of businessmen, some of whom are linked to the Sandinista revolution of the 1980s. Novaterra is Costa Rican-owned and, finally, Ganadería Integral Nicaragua S.A. belongs to SuKarne, a giant in the Mexican meat industry which, in 2015, inaugurated a production plant in Nicaragua. The three main markets for Nicaraguan meat are the United States, Mexico and El Salvador. Almost half of the meat goes to the United States, 18% to Mexico and 17% to El Salvador. In 2020, the country became the third largest meat supplier to the United States. Meanwhile, the country continues to lose forest cover and Indigenous and Afro-descendant communities are becoming the victims of increasingly violent attacks*. Arellano, Astrid. "Este gobierno, en materia de protección de los recursos naturales, ha sido el peor que ha tenido Nicaragua en su historia". Interview, *Mongabay*, 2 June 2023. https://es.mongabay.com/2023/07/este-gobierno-en-materia-de-proteccion-de-los-

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Dr. Maria Luisa Acosta *is coordinator of the Centre for Legal Assistance for Indigenous Peoples (CALPI). Contact: calpi2014@gmail.com http://calpi-nicaragua.com*

Paraguay

According to the preliminary results of the National Population and Housing Census conducted in 2022, the Indigenous population comprises some 140,206 people who state that they belong to one of 19 Indigenous Peoples. This represents 2.29% of Paraguay's total population.[1]

In his inaugural speech in April 2023, Santiago Peña, president-elect, did not devote a single word to Indigenous Peoples, nor to their ancestral land claims.

It was against this backdrop that, according to media reports, less than 1% of the eligible candidates running in the 2023 general elections were Indigenous.[2]

During elections, Indigenous Peoples have historically been exposed to practices such as containment, vote buying and welfarism, and this has reduced their participation.

Nevertheless, increased awareness in some communities has brought to the fore the real possibility – albeit with limited resources – of increased Indigenous activism, something that is so necessary in a democratic context.

Among the existing opportunities, worthy of note are the participation of three women candidates who ran for seats in the legislature: Ángela Sales and Tania Vera, from the Ava Guaraní people, and Ana Romero, from the Guaraní people. The former ran for the Senate and the latter two for the Chamber of Deputies; although there were other Indigenous women candidates,[3] none of these women were elected.

In addition, Miguel Fulgencio Rodríguez, a senator and member of the Senate's Indigenous Peoples Commission, has proposed a law which, although not yet finalized, would reserve four seats (two for the eastern region and two for the western region) exclusively for representatives of the Indigenous Peoples.

Violations of Indigenous rights in 2023

In July, several families of the Mbya Guaraní people travelled to the Paraguayan Indigenous Institute (INDI) to protest at the lack of a response to their requests for land and food parcels.[4] This kind of protest was to occur on several occasions throughout 2023. Families are living in their communities without access to the most basic living conditions.

Faced with this problem, INDI publicly declared that, as State officials, they were "the number one defenders of private property",[5] far removed from their mandate to advocate for substantive equality and to remove obstacles in favour of Indigenous Peoples.

In addition to these cases there was a complaint of torture made by a teacher, Silvestre Aguilera, from the Indigenous community of San Carlos del Pueblo Angaité, for which police officers from the Tenth Police Station of Concepción were allegedly responsible, on 25 January 2023. The teacher stated that he had gone to the police station to obtain his living and residency certificate for work purposes but had ended up being subjected to degrading acts, such as being forced to kneel "as a sign of respect" to a non-commissioned officer, while other police officers looked on.

He filed a complaint about these acts with the Special Human Rights Unit of the Public Prosecutor's Office. Despite the complaint, however, no charges have yet been filed. The alleged perpetrators have been fully identified by the victim.[6]

Threat of environmental plundering of Indigenous ancestral territory

On 23 June 2023, the Chamber of Deputies discussed a possible amendment to the law establishing the protected wild area status of the Médanos del Chaco National Park, home to and ancestral sacred place of the Guaraní Ñandéva and Ayoreo peoples,[7] in order to enable private companies to prospect a large area of the park in search of hydrocarbons.

The Médanos del Chaco is a unique biome, with a fauna and flora of invaluable biodiversity that protects the Yrenda freshwater aquifer in

the Chaco region. Some of the Ayoreo people living in voluntary isolation and also some of the Guaraní Ñandéva people live on the lands that would be prospected.[8]

The voices of Indigenous and non-indigenous communities and organizations alike were raised in opposition to this extractivist ambition.[9] They called out the lack of any basis in the statements on possible gas exploitation, and noted the failure to implement a process of free, prior and informed consultation with the affected peoples, in contravention of the provisions of Art. 6 of Law No. 234/93, "Approving ILO Convention 169 on Indigenous and Tribal Peoples in Independent Countries", and Law No. 352/94 "On Protected Wildlife Areas".

Consent given in a free, prior and informed process is binding, whether it is positive or negative, as established by Decree No. 1039/18 regulating Law No. 234 establishing the Consultation Protocol.

The failure to implement this process did not, however, prevent the initiative from being considered in parliament. The project was finally rejected but the developers maintain that they will push for it again.[10]

Violations of the sacred lands of the Pai Tavytera people and other communities

In the first few days of August 2023, violent incidents were once again reported in which strangers entered Tekoha Guasu Yvypyte, the ancestral land of the Pai Tavytera people in the department of Amambay, district of Cerro Corá, with the aim of forcibly removing members of the Indigenous community.[11]

The situation in this department is complex because the area is militarized and unauthorized people are engaging in hugely violent land invasions.

Similar events have been reported in previous Codehupy reports and, according to the National Police, the protagonists of these shootings in the sacred place of the Pai Jasuka Venda are members of criminal gangs belonging to the EPP (Paraguayan People's Army). They are resulting in the deaths of Indigenous people and anxiety among the population.

On 22 October 2023, alleged invaders beat the spiritual leader of Yvypyte, Arnaldo Benítez Vargas, to death. He had already been threat-

ened on several previous occasions. FAPI (Federación por la Autodeterminación de los Pueblos Indígenas) called on the Paraguayan State to urgently investigate this murder, punish those responsible and safeguard the community's legalized ancestral lands.[12]

Despite countless efforts made by a number of organizations and the Pai Tavytera people, this situation of extreme violence still persists without the relevant authorities – INDI, the Judiciary and the Public Prosecutor's Office – having taken any definitive action to seek a solution to the disturbances to which the Pai people are being subjected.

On 11 August 2023, the Tekoha Kola'i Indigenous community in Corpus Christi district of Canindeyú was also subjected to an attack by armed individuals who have been carrying out violent attempts to dispossess them of their territory.[13]

In addition, the case of the Tekoha Sauce community of the Ava Guaraní People, evicted from their ancestral lands since 1970 to make way for the construction of the Itaipu hydroelectric power plant, was still not conclusively resolved during 2023. The systematic violation of their rights persists.[14]

Reports of invasions of Indigenous lands

In September 2022, the Payseyamexyempa'a Indigenous community of the Enxet people, composed of the villages of Colonia 96 and Buena Vista, filed a complaint for land invasion.[15] The community took the necessary steps to protect their rights by filing a complaint with the Public Prosecutor's Office of Pozo Colorado and the Special Environmental Unit of Villa Hayes. However, this complaint was not handled with the necessary diligence or speed to remedy the conflict.

In fact, it emerged that the substantive regulation commonly known as the "Zavala Riera" Law[16] was not being applied equally given that the Pozo Colorado Public Prosecutor's Office only acted following an audit request filed on 9 August 2023 by an Indigenous organization, almost a year after the complaint had been filed.

The Coordinating Body of Leaders of Bajo Chaco requested an audit on the actions carried out by the Prosecutor's Office to investigate the complaint. The Prosecutor then registered the complaint on 15

September 2023. However, the punishable act has not ceased and the alleged offender has not been charged.

Likewise, in January 2023, the Naranhaty Indigenous community of the Enxet People, in the department of Concepción, filed a complaint for land invasion committed by persons unknown. The Prosecutor's Office has taken no measures to protect the community to date.[17]

This lack of speed on the part of the Public Prosecutor's Office, together with the failure to initiate substantive proceedings in response to reports of violent evictions and arrests of people from Indigenous communities[18] demonstrates the selective application of the "Zavala Riera" Law during the period of this report.

Violence, maternal deaths, suicide and a lack of mental health care

The proportion of the Indigenous population living in poverty in 2017 was 66.2%, almost three times more than the national average. In rural areas, where the majority of Indigenous people live, the rate is even higher and stands at 68%.[19]

Indigenous poverty disproportionately affects children, youth and women. 67.7% of women live in poverty, compared to 64.6% of men. By age range, children and adolescents from 0 to 17 years of age are most affected, since 73.7% of this group lives in poverty. The percentage is even higher (75.7%) for children and adolescents living in rural areas.[20, 21]

With regard to pregnancies among young girls and adolescents, the General Directorate of Strategic Health Information reported that there were 71 cases of live births to Indigenous mothers aged 10 to 14 years in 2018.[22] Likewise, in 2021, 96 and in 2022, 84 cases of live births to Indigenous mothers between 10 and 14 years of age were reported.

When we speak of child mothers, we are referring to cases of sexual abuse committed presumably mostly by adults. This should be receiving special attention from the national child protection system.

Indigenous demands: march on 12 October 2023

On 12 October 2023, the Indigenous movement mobilized some 1,500 people from different regions and communities, who gathered in the

Plaza de las Mujeres in the capital city to call for the demands of the Indigenous Peoples to be met. In addition, some 1,000 people blocked the road at the Pozo Colorado intersection with the road to Concepción, Presidente Hayes department, and other rallies were reported in different parts of the country.

In the wake of this mobilization, Interior Minister Enrique Riera, INDI President Marlene Ocampos and other government representatives signed an agreement with representatives of the Indigenous organizations to address the demands in an inter-institutional manner.[23]

The different Indigenous Peoples of Paraguay thus came together to express their collective strength and to state that "Band-Aid" solutions to their just demands for land, autonomy and participation would no longer be accepted.[24]

Conclusion

Although this electoral year resulted in a certain Indigenous activism likely to promote enforceability, the balance for 2023 shows that the different peoples' participation in the political life of the country still has a long way to go from the point of view of plurality and interculturality. The State still has much to do to smooth out the obstacles that result in the exclusion of Indigenous people from electoral processes, not to mention its obligation to promote spaces for democratic discussion.

During 2023, situations involving the legal and structural discrimination of the rights of Indigenous Peoples were evident. And yet the judgement obtained in the Hugua Po'i civil and commercial case in relation to the application of Law No. 43/89 sets an important precedent in terms of recognizing claims to ancestral lands and territories owned by Indigenous Peoples in Paraguay.[25]

Moreover, the Indigenous movement continues to raise its voice loudly, demanding compliance with international standards and the legal and constitutional obligations of the Republic of Paraguay, since "Band-Aid" solutions will only result in the persistence of conditions incompatible with human dignity.

Notes and references

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16. Law No. 6830/2021, "Modifying Art. 142 of the Penal Code", stiffens penalties in cases of trespass.
17. Case No. 41/2023: "Unknown persons re. invasion of another's property",

pending before Ordinary Fiscal Unit No. 2 of Pozo Colorado.

18. According to an investigation by BASE-IS, during the period of Abdo Benítez's government from 2020 to 2023, there were 36 cases of forced evictions and/or intimidation, repression or aggression by the police force and/or armed civilians. See: BASE Investigaciones Sociales. "36 casos de violencia contra comunidades indígenas en los últimos años." 13 June 2023. https://www.baseis.org.py/36-casos-de-violencia-contra-comunidades-indigenas-en-los-ultimos-anos/

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Natalia Rodríguez *is a human rights lawyer and member of Tierraviva's legal team. This article is based on a longer article by the same author, available at: https://www.codehupy.org.py/wp-content/uploads/2024/01/INFORME-ANUAL-DDHH-2023.pdf*

Peru

COLOMBIA
ECUADOR
BRAZIL
PERU
Lima
BOLIVIA
PACIFIC OCEAN
CHILE

The Peruvian State recognizes 47 Indigenous languages spoken by 55 different peoples in the country. In the 2017 National Population Census, almost six million people (5,972,603) self-identified as belonging to an Indigenous or native people, representing slightly more than a quarter of the total population. Of these, 5,176,809 consider themselves to be Quechua and 548,292 Aymara. The Amazonian census population that self-identifies as Asháninka, Awajún, Shipibo, and other Amazonian peoples amounted to 197,667. Some 50,000 consider themselves as belonging to other Indigenous or native peoples. Census under-registration in the Amazon region is known to be an ongoing problem.

More than 20% of the national territory is covered by mining concessions, which overlap with 47.8% of the territory of the peasant communities. In the Peruvian Amazon, hydrocarbon concessions cover 75% of the region, affecting almost all villages. The superimposition of rights on top of communal territories, the enormous pressure from the extractive industries and their contaminating effects, the absence of land-use planning and the lack of effective implementation of prior consultation are all exacerbating territorial and socio-environmental conflicts in Peru, a country that has signed and ratified ILO Convention 169 and which voted in favour of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2007.

2023 was a year of permanent resistance for the Indigenous Peoples of Peru. Several threats previously reported in this Yearbook, which it was thought had been averted by the start of the year, reappeared with tenacity, albeit with varying degrees of danger. Others that had been up in the air finally came to fruition and, finally, there were new acts of violence against Indigenous leaders who are defending the security of their territories and the environment. However, during the year, and based on that same strength to resist, an initial space for dialogue was opened up with the Peruvian State on the right to self-determination, a hugely important step.

A large part of this scenario is a direct result of the political situation and institutional crisis in the country whereby the government of Dina Boluarte, heir to Pedro Castillo's government mandate, has given in and negotiated public policies and norms of all kinds with the Congress of the Republic to the benefit of the private interests of members or close associates of the Legislature or its Prime Minister. The President's weakness is such, and her distancing from civil society so great, that the government is now in the hands of an alliance that almost no-one hesitates to call a mafia.[1]

To the effects of this unusual alliance, in a country where Congress has permanently obstructed the Executive over the last decade and this latter has been the object of repeated attempts to shut it down, with the political parties becoming irrelevant, must be added the control that Congress has gained over the Constitutional Court, with its election of lacklustre and malleable judges. Congress also committed to electing a new Ombudsman and, since taking office, this person has been busy dismantling all the key areas for defending citizens' rights, particularly those of Indigenous Peoples. Evidence or illustration of this clear undermining of the balance of powers can be seen in the decision of the Constitutional Court to exempt Congress from constitutional control, putting on hold for the time being the various appeals filed against the actions of the Legislature. The appointment of a new head of the Attorney General's Office with unexplained links to the criminal organization known as the *"cuellos blancos del puerto"* [White Collars of the Port] who, throughout 2023, took several steps to repudiate the members of the National Board of Justice, has only aggravated the institutional crisis and, in this context, private interests are easily able to find support among actors in Congress and the Executive.

The malaise within the general public can be seen in its disapproval of both branches of government throughout 2023. President Dina Boluarte, who began the year with a 71% disapproval rating, ended it with 85%; Congress went from 88% disapproval to 91%.[2] Also contributing to this malaise is the level of public insecurity, which has spread throughout both urban and rural areas of the country; inflation; the economic crisis; and widespread corruption within Congress. Calls for the resignation of the President and for new elections met with an exasperating stratagem played out by both branches of power aimed at neutralizing the calls and continuing the status quo until 2026, a period which, in view of the institutional crisis, will seem endless and repetitive.

Protests and mobilizations continue

President Castillo's departure at the end of 2022 due to his attempted coup was followed by strong protests and road blockades throughout the country which, in the south, resulted in 28 deaths due to the disproportionate use of force. A Christmas truce ended on 4 January when the Aymara communities of Puno resumed their protests, suffering a high number of injuries in the process. The anger of the Indigenous people of Puno, the most Indigenous department in the country, continued to grow as a result of President Boluarte's comment that "Puno is not the country", in an attempt to dismiss the value of their protest.

The protests in Puno, largely fuelled initially by demands for the release of Castillo from pre-trial detention, his reinstatement as President and constitutional reforms, flared up again in the rest of the country and spread to the cities. Large delegations from Puno and other regions arrived in the capital for what was called "the taking of Lima", resulting in their eviction from the national universities that were giving shelter to the demonstrators. The participation of Indigenous women, some accompanied by their children, was evident in these demonstrations. The Minister of Education responded with an inflammatory remark when he said that Indigenous women were "worse than animals". The protests only subsided in March, when the El Niño phenomenon and the presence of an unusual cyclone on the Peruvian coast caused extensive damage, river flooding and landslides. But the rejection in the south, which coined the slogan "Puno will not forget", remained firm until the end of 2023.

As of 23 January 2023, the working visit of the Inter-American Commission on Human Rights had reported 57 deaths resulting from the demonstrations, due to a disproportionate use of force.[3] Its report bears witness to social demands of a structural nature resulting from a context of discrimination and inequality, which has resulted in people being unable to enjoy their economic, social, cultural and environmental rights (ESCR). This has affected Indigenous Peoples and peasant communities in the provinces located in the south of the country in particular. The report draws attention to the stigmatization of Indigenous people, the labelling of those involved in the protest and their supporters, and even journalists, as terrorists (a practice known

in Peruvian slang as "*terruquear*") and the failure to investigate political and criminal responsibility for these deaths. The independent press did nonetheless manage to document how some killings had occurred outside the actual setting of the protests, which sometimes turned violent.

Illegal mining continues to threaten Indigenous territories

Throughout 2023, illegal mining remained the scourge of many of the Indigenous territories of the Peruvian Amazon. Emboldened by the 2022 regulation (DS 010-2022-MINEM) and announcements regarding an easing of the requirements for registering in and remaining on the REINFO Mining Formalization Registry, groups of miners have invaded large parts of the Amazon basin, causing not only environmental destruction but also acute social conflict. It is now clear throughout all of Latin America, and including Peru, that the expansion of gold mining that has been encouraged by these legal protections is intrinsically linked to the financing of drug trafficking, which finds gold mining to be an efficient system for laundering illegal income.[4]

As in the previous year, in 2023 the Awajún and Wampís territories came under permanent attack from illegal miners. Although collective efforts, either on their own or with the support of the police and other public forces, managed to temporarily dislodge the miners, the financing they have access to and the corruption of some of their agents mean that the attacks are simply repeated over and over again, each time with more sophisticated equipment and weaponry. Some of these invasions are occurring under the protection of mining concessions granted on communal territories that cover stretches of the rivers.

These interests are increasingly global, as are their mechanisms for protection, intimidation and punishment. And these global interests have their protectors in the country. Over the course of 2023, several legislative initiatives were tabled in the Peruvian Congress to extend the deadline for formalizing mining status, either indefinitely or for an extended period. Threats to leaders and communities that resist their presence are a daily occurrence.

Logging interests attempt to take over the reserves for peoples living in isolation

Just when the battle seemed to have been won against the logging interests in Loreto that have their eye on the rich forests in the Indigenous reserves for peoples in isolation and initial contact, a new legal initiative was announced in July 2023 in favour of just that.[5] This time, the actors concerned argued the need to protect the rights of neighbouring native communities, appealed to nationalism in the face of the "internationalization" of Peruvian territory and continued to argue that the presence of the so-called peoples in isolation and initial contact was an invention of non-governmental organizations (NGOs) and sectors labelled "*caviares*" ["champagne socialists"] in order to delegitimize any resistance, including that of regional and national Indigenous organizations.[6] The new regional government, in office since January 2023, openly united with these logging interests. In May, sectors of Congress demanded, and then repeatedly insisted, that Bill No. 3515 should first be discussed in committees before being approved in plenary.

It took a huge national and international media campaign and statements from the countries that are funding initiatives to stop deforestation and mitigate climate change (Norway, Germany and the United Kingdom) to put a stop, for now, to these interests.[7] These same interests are demanding that that opportunities to promote alluvial mining in Loreto should not go to waste, as these would contribute more than oil production. It is clear that Indigenous Peoples, their organizations and civil society will need to brace themselves for further attacks in the future against the territories of these highly vulnerable native peoples.

Environmental packages return

Environmental packages are Trojan horses in Peru that raise their heads from time to time. In 2023, two proposals emerged in this area: the reform of the Forest and Wildlife Law and the proposal to modify the Law of National Protected Areas (NPA).

The "suggestions" for amendments to the forestry law were made

public in January and the issue, accompanied by great media pressure, was resurrected several times throughout the year, forcing the Indigenous organizations to act persistently to point out that, as the original regulations had been approved through a consultation process then so should any reform. Although Congress shelved the initiative in March, one sector managed to get it back on the agenda of the plenary house at the end of the year for reconsideration and accelerated approval. The argument made to the public was that it was due to this law that thousands or even millions of small farmers had no land titles and were therefore being denied benefits such as agricultural credit. The law, approved right at the end of the 2023 legislature, establishes three radical changes: first, the suspension of forest zoning; second, the exclusion of the Ministry of Environment from processes that were formerly under its jurisdiction in forestry matters; and third, the repeal of the procedure for authorizing changes of use in private areas. The specialists warned of a risk of massive deforestation and impacts on the country's climate change goals.

Towards September, it became evident that CONFIEP, the business confederation,[8] was behind the law and that its purpose was to launder or regularize, without more ado, the thousands of hectares deforested without any authorization by corporate oil palm and cocoa interests, and to allow for their expansion. Although secondary, the rule also has the alleged purpose of ensuring that production from estates that were originally established irregularly would not encounter obstacles due to the European regulation, approved in May 2023, that prohibits the purchase of products from areas unlawfully deforested since 31 December 2020, or from land obtained through violence.

In a new game played between the Executive and Congress, the former made public several substantive observations creating the illusion that, if the bill were approved, it would be viewed or even presented as unconstitutional. This was not the case so the law has entered into force and its impact on forests could be huge. Several large companies which, in recent years, have been carrying out deforestation processes on the ground will benefit immediately. These include Ocho Sur, Tamshi and their associates who, in the face of criticism, have not hesitated to criminalize their opponents, in addition to intimidating communities that resist their actions.

The alleged need for economic recovery has also served to pro-

pose another dimension to the weakening of the environmental regime. At Perupetro's request, in the first half of the year, and then again in October, the energy and mining sector proposed an amendment to Law No. 26,834 on Natural Protected Areas (NPAs) via supreme decree.[9] The objective of the reform is to allow oil exploitation in NPAs, and to establish automatic compatibility in the buffer zones of NPAs and Regional Natural Conservation Areas.[10] As pointed out by various specialists, the proposal would largely void the law of any content. Many of the areas where oil exploitation would be unconditionally permitted are found on Indigenous territories. This threat remained as we entered 2024. This proposal to superimpose oil activity on top of protected areas is all the more worrying given the country's record of oil pollution.[11]

The third element of this package is the reintroduction of the so-called one-stop shop, which is intended to facilitate and expedite the approval process for large projects by merging several autonomous agencies that provide opinions on environmental impacts. It is not a new idea but it is new to locate this in the Presidency of the Council of Ministers where it could be subject to non-technical whim. By merging these agencies, including the National Service of Environmental Certification of Sustainable Investments (SENACE), not only would the skills and technical procedures for the approval of environmental impact assessments (EIAs) be reduced; the right of those who could be affected by the projects and plans, including native and peasant communities, to express their opinion on the EIAs would also disappear.

Environmental defenders killed or prosecuted

It is deplorable that, in so many countries, IWGIA's Indigenous Yearbook has to include a section devoted to reporting on or analysing the dangers faced by Indigenous environmental defenders. In Peru, the assassination of Santiago Contoricón Antúnes was mourned in April 2023. An Asháninka teacher from the Tambo basin, he had played an important role in fighting the attacks and forced recruitments of the Shining Path group and the pacification of his communities and held the position of mayor from 2003-2006.

Two other brutal murders occurred in December: that of Kichwa leader Quinto Inuma Alvarado in Santa Rosillo de Yanayacu in the San

Martín region, and that of Benjamin Flores Ríos, a Kakataibo leader from Ucayali. What all these cases have in common is that the authorities had been alerted to the risks they were running because they had already received threats from loggers and drug traffickers. Their families were left defenceless, however, because there were no appropriate mechanisms with which to support them or to neutralize the threats against the communities.

In May, there was an armed attack on the premises of the Awajún organization, ODECOFROC, the Organization for the Development of the Border Communities of the Cenepa Basin, which was resisting an invasion from illegal miners. This was an event that could have resulted in many deaths. Similar threats have taken place in various places at the hands of illegal loggers whose freedom to act with impunity is being challenged, as in the case of the Wampís communities of the Santiago (or Kanús) River in the Amazon region.

In both the forest and in the highlands, lawsuits issued by extractive companies against Indigenous defenders were witnessed in 2023. In May, several leaders were accused of defamation and prosecuted by Glenncore's Antapacay mining company, being sentenced to one year in jail and a fine of 10,000 soles (approx. EUR 2,400). The same argument, this time of "damage to honour, reputation and image" was used by Maderera Canales Tahuamanu against Julio Cusurichi Palacios, then leader of FENAMAD, the Native Federation of the Madre de Dios River and its tributaries, now leader of AIDESEP, the Interethnic Association for the Development of the Peruvian Rainforest, for denouncing the company's entry onto lands in which groups of peoples in isolation were living during the Covid pandemic.

In Loreto, the 18 Kichwa community members from the Tigre River basin who have been on trial since 2022 at the behest of Pluspetrol, for a case that occurred in 2008, continued to be subject to trial throughout 2023. A decision is expected in 2024. This case was followed by another equally unfair case: in October 2023, Petroperú's Piura office prosecuted 16 people for attacking the pipeline earlier that year in collusion with remediation companies.[12] The lawsuit included Kukama community members from the Marañon River, without any evidence of their involvement. An arrest warrant was issued, without warning, against two Kukama members from San Pedro. At the end of 2023, ACODECOSPAT, the organization representing their community, succeeded in getting

them released from the Lima prison to which they had been sent – with no right to communicate or to seek legal counsel – but the time limit for investigation is 36 months. Increasingly audacious methods of intimidation are being used against those who oppose the extractive activities that are affecting Indigenous territorial rights and their impact on the environment. In this context, the case of engineer Lucila Pautrat of the Kené Institute is worthy of note, who had been the subject of a lawsuit from Tamshi SAC since 2019 for "aggravated defamation" due to her documentation of the deforestation of more than 2,500 hectares of forests in Tamshiyacu for cocoa cultivation. Finally, in October 2023, the Transitory Criminal Chamber of the Supreme Court of Justice annulled the higher court's ruling ratifying a previous conviction that had sentenced her to a two-year suspended sentence and the payment of civil reparations of 50,000 soles.

Towards a dialogue on the right to self-determination

Together with the resistance and resilience that the Indigenous Peoples of Peru have shown throughout 2023, a note of hope was set by a forum co-organized by the Autonomous Territorial Government of the Wampís Nation and the Office of the UN High Commissioner for Human Rights through its Mission in Lima on 9 November. Various autonomous governments of the Amazon and representatives of the Peruvian State were invited to the event entitled "The challenge of the right to self-determination of Indigenous and native peoples in Peru. Dialogue with the State". It included a presentation of the "Report on the legal status of Autonomous Indigenous Governments under the principle of self-determination" and interventions via videoconference from Jens Dahl, former Vice-Chair of the UN Permanent Forum on Indigenous Issues, Gam A. Shimray, Secretary General of the Asian Indigenous Peoples Pact (AIPP), and a representative of the Inter-American Commission on Human Rights, together with Peruvian academics. Despite the current climate of crisis and deinstitutionalization, in which such an initial dialogue could not really be expected to bear substantive fruit, this initiative has set out a road map towards a better realization of collective rights.

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Frederica Barclay *is a Peruvian anthropologist and historian. She currently runs the Centre for Public Policy and Human Rights - Perú Equidad.*

Suriname

ATLANTIC OCEAN
GUYANA
Paramaribo
FRENCH GUIANA
SURINAME
BRAZIL

The Indigenous people of Suriname number approximately 20,344 people, or 3.8% of the total population of 541,638[1] (census 2012). The four most numerous Indigenous Peoples are the Kaliña (Carib), Lokono (Arawak), Trio (Tirio, Tareno) and Wayana. In addition, there are small settlements of other Amazonian Indigenous Peoples, mostly in the south of Suriname, including the Akoerio, Warao, Apalai, Wai-Wai, Okomoyana, Mawayana, Katuena, Tunayana, Pireuyana, Sikiiyana, Alamayana, Maraso, Awayakule, Sirewu, Upuruy, Sarayana, Kasjoeyana, Murumuruyo, Kukuyana, Piyanakoto and Sakëta. The Kaliña and Lokono live mainly in the northern part of the country and are sometimes referred to as "lowland" Indigenous Peoples, whereas the Trio, Wayana and other Amazonian peoples live in the south and are referred to as "highland" peoples.

The legislative system of Suriname, based on colonial legislation, does not recognize Indigenous or tribal peoples, and Suriname has no legislation governing Indigenous and tribal peoples' land or other rights, in spite of various judgments of the Inter-American Court of Human Rights to develop and implement such legislation. This forms a major threat to the survival and well-being of Indigenous and tribal peoples, particularly given the strong focus that is being placed on Suriname's many natural resources (including oil, bauxite, gold, water, forests and biodiversity). Suriname is one of the few countries in South America that has not ratified ILO Convention 169. It did vote in favour of adopting the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2007.

Legislative developments

Deliberations on a draft framework law[2] on the Collective Rights of Indigenous Peoples and Tribal Peoples in Suriname are stalled in the National Assembly (the unicameral parliament) of Suriname, after a flood of objections from various political parties. The draft was submitted to the Parliament by President Chandrikapersad Santokhi in

June 2021 but taken into consideration only in January 2023. After the initial round of discussions over the course of the first months of 2023,[3] amendments were announced because the law has to find common ground between all parties, according to Vice President Ronnie Brunswijk in August 2023. By whom, when and how these amendments will be made was, and remains, unclear.

Most of the objections voiced by both coalition and opposition parties in the National Assembly focused on protecting the rights and interests of companies and persons who have been given those rights by the government, mainly logging and mining companies, and titleholders of land, either as property or as long-term land lease. Only a few of the speakers recognized that Indigenous and tribal peoples also have (collective) rights that must be protected. This first round of discussions has again made clear how private interests dominate the legal and political landscape in Suriname, in spite of the binding judgments of the Inter-American Court of Human Rights obliging Suriname to adopt legislation on Indigenous and tribal peoples' rights in the Moiwana (2005),[4] Saramaka (2007)[5] and Kaliña & Lokono cases (2015).[6]

In the meantime, in the absence of such legislation, subsequent governments have continued to give out land and extractive industry concessions to the point that practically half of Suriname (including the vast majority of Indigenous and tribal Peoples' villages) is covered by concessions, and an unknown portion has been given out as land title.[7] Consistent protests, petitions and meetings with government by VIDS, the Association of Indigenous Village Leaders in Suriname, have rendered no immediate or concrete changes, in spite of repeated promises by the government.

The government also submitted a draft "Land Conversion" law[8] to the National Assembly, which would permit the conversion of land lease titles into full property titles. This draft was met with strong opposition, especially from Indigenous[9] and tribal[10] peoples' organizations, who feel that this law will open the door to individual land ownership and large land ownership in their (as yet unrecognized) territories. Discussions in Parliament were halted but President Santokhi subsequently issued a presidential decree bypassing the formal route through Parliament and creating an administrative procedure by which such titles can now still be converted, even in the absence of an approved law and in spite of negative advice from the constitutional State Council that has to ap-

prove draft legislation.[11] This measure was met with a storm of protests[12] but has not been legally contested (yet). A number of property titles have meanwhile swiftly been issued. According to the decree, Indigenous and tribal peoples' territories are excluded from land conversion but how "hard" and enforceable this clause is, is unclear.

Killings

Tensions rose at the start of 2023 when new documents surfaced on social media indicating the issuing of yet more land titles within (the legally unrecognized) Indigenous territory in the district of Para. Soon after, on 2 May 2023, an armed group of Indigenous persons raided the State-owned company, Grassalco, which has a mining concession within their territory and forbids villagers from entering or crossing that area to use their forest and agricultural plots. The group shot at police, burned trucks carrying logs and held Grassalco employees hostage. A heavily armed police unit soon intervened, resulting in two persons dying from police bullets. Photos showed the deceased men with their hands tied behind their backs, raising suspicions that they were executed extrajudicially. According to official records, however, they bled to death after the arrest. A number of other persons were arrested and are still in custody.

The Government of Suriname was quick to portray the group as criminals and, during deliberations in parliament, the word "terrorists"[13] was also heard, whereas Indigenous people described the group as freedom fighters and human rights' defenders acting against the unabated and continuous human rights' violations, abuse and oppression by governments. VIDS called for independent investigations and stressed the need for urgent legal recognition and respect of Indigenous Peoples' rights during emergency talks with the government as well as in letters to UN bodies concerned with Indigenous Peoples' rights and to the Inter-American Commission on Human Rights. The UN Special Rapporteur on the rights of Indigenous Peoples, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the rights to freedom of peaceful assembly and of association issued a communication to the Government of Suriname expressing their concerns and asking for further information about the

use of excessive and lethal force and the lack of legal recognition and protection of Indigenous Peoples' rights in Suriname, which to date remains unanswered.[14] A silent walk calling for justice was held in the streets of Paramaribo on 13 May.[15]

Mennonites

The stated intention of the Mennonites to settle in Suriname has shaken the whole of the country, not least Indigenous and tribal peoples' communities whose lands are eagerly being eyed up. The director of a "matchmaker" company, Terra Invest Suriname and Guyana, said that his company had submitted a request to the government for 34,000 ha,[16] intended to accommodate 50 Mennonite families. Simultaneously, however, documents showed up on social media showing requests by the Ministry of Agriculture for more than 500,000 ha of agricultural land, raising speculation that this would also be intended for the Mennonites. Conversion of such large areas of mostly primary forest, causing potentially irreversible ecosystem, biodiversity and water disturbances, would not only affect the Indigenous and tribal peoples' livelihoods in those areas but also cause Suriname to lose its current carbon-negative status, one of only three countries in the world with such status, as was explained in a petition[17] to the President of Suriname. Suriname currently has the highest percentage of forest cover in the world – over 90% of Suriname's surface is covered by forests – and a relatively low deforestation rate. The Government of Suriname confirmed that 50 Mennonite families have been given permission to settle in Suriname for a pilot period of three years but denied that land titles had already been issued to them.[18] The Minister of Agriculture mentioned in parliament that the requests for land from his ministry were not intended for Mennonites but for agriculture and associated infrastructure.[19]

Other developments

At the request of the Saamaka-oto – Association of Saamaka Authorities (VSG in Dutch) and VIDS, a public hearing was held on the implementation of the Saramaka case (2007) and the Kaliña & Lokono

case against the State of Suriname, during the 188th session of the Inter-American Commission on Human Rights (IACHR) in November 2023 in Washington, DC, USA.[20] Representatives of VIDS and VSG conveyed their deep concern at the lack of implementation of the judgments of the Inter-American Court of Human Rights in their respective cases and also brought up current issues of ongoing violations of the human rights of Indigenous and tribal peoples in Suriname, among others the killings mentioned above, the continued issuing of land titles and permits for extractive concessions, the environmental pollution of their living areas by mercury and cyanide, and the drainage of water from the Brokopondo hydro-lake in 2022 by the Suriname's National Energy, Oil & Gas Company (SPSC). The drainage of water was said to be "controlled" and necessary due to the extremely high level of water in the reservoir after months of continued and heavy rains but various Maroon villages, including the agricultural plots on which they depend for food, said they were left unattended while being submerged in water for various months. During the hearing, the Inter-American Court offered its assistance for an accelerated implementation of the judgments.[21]

The Jodensavanne Archaeological Site in Suriname was inscribed as a cultural site on the World Heritage List in September 2023, during the 45th session of the World Heritage Committee, which decides on new inscriptions.[22] The site lies within Indigenous Peoples' territory and, during the session, a question was raised by the International Indigenous Peoples' Forum on World Heritage (IIPFWH) regarding what the State Party (Suriname) and the International Council on Monuments and Sites (ICOMOS) advisory body had done to ensure that a thorough free, prior, and informed consent process had been carried out properly.[23] The question remained unanswered because the committee chair did not allow it to be raised before the adoption of the inscription decision.

Notes and references

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Max Ooft *is Policy Officer at the Bureau of the Association of Indigenous Village Leaders in Suriname (Vereniging van Inheemse Dorpshoofden in Suriname, VIDS).*

Venezuela

Of Venezuela's total population of 27,227,930, some 724,592 are Indigenous (2.8%), belonging to 51 different peoples and mostly concentrated (85%) in Zulia state and the Amazon region.

In 1999, the constitutional process ensured that the fundamental rights of Indigenous Peoples and communities were guaranteed in the Constitution and that a set of legal and regulatory provisions were established to broadly protect them. These included the Law approving ILO Convention 169, the Organic Law on Indigenous Peoples and Communities, the Law on the Cultural Heritage of Indigenous Peoples and Communities, and the Law on Indigenous Languages.

However, the successes of this legal framework in terms of protecting nature and Indigenous Peoples do not tally with some of the public policies in recent years, which have opted to promote an extractive development model with the aim of alleviating the country's difficult economic situation. Mining is detrimental to the physical and cultural survival of Indigenous Peoples and contradicts established guidelines and land-use planning.

In addition to their own struggles for autonomy and defence of their territories and ways of life, many Indigenous Venezuelans face the same problems as the rest of the population: high levels of poverty, poor services, insecurity, etc. A lack of adequate services, especially in health and education, results in migration to the cities or urban areas. Often, however, this is not a solution as the problems simply become more acute as they distance themselves from their traditional ways of life.

Any analysis of the situation of the rights of Venezuela's Indigenous Peoples has to be viewed within the context of the widespread difficulties that the Venezuelan population as a whole has been facing for some time now, albeit with greater intensity.

The initial difficulty is a lack of clarity over indicators. The tensions that the country has been experiencing since at least 2013 have led to the virtual disappearance and/or freezing of all official data on economic, political, social and even demographic and health issues.

It should be noted that this lack of data now enjoys legal standing, given the enactment, on 12 October 2020, of the so-called *Constitutional Anti-Blockade Law for National Development and the Guarantee of Human Rights* which, among other things, empowers the National Executive not to publish such information, allegedly for national security reasons.

Given this situation, unofficial information has obviously proliferated on virtually all topics of interest, including everything related to Indigenous Peoples.

The problem with this is that although this data is emerging as a legitimate response to citizens exercising their right to information – a right that is of constitutional standing in Venezuela – such information is often unreliable since the organizations that collect it do not always have sufficient means to guarantee its rigour from a methodological point of view.

This is further complicated by the fact that such information is often coloured by different political interests. In other words, organizations or agencies that oppose the national government may err on the side of excess, while actors linked to the government may err on the side of deficit.

While the former may magnify, manipulate or even directly invent issues, the latter may minimize, revive or simply fail to address them, on the grounds that, if they are not named then they do not exist or, in any case, arguing that they should "not fall into the games played by the enemies of the fatherland".

And yet this situation not only involves civil society actors aligned with one or other side in the national conflict: it also – and often above all – affects non-aligned actors or those who are seeking to maintain a certain objectivity in the midst of the conflict and its consequences.

For the latter, drawing attention to a problem or even not agreeing with certain positions has become a high-risk act.

In the case of Indigenous organizations, this is a particularly sensitive issue.

Moreover, Venezuela's Indigenous populations are mostly located in the country's border areas (Zulia, Apure, Amazonas, Bolivar and Delta Amacuro states), which makes them even more prone to being affected by and implicated in situations that involve some "national security" criterion in one or other direction of the political conflict.

If we add to this the fact that many of Venezuela's Indigenous Peoples live in territories that are mineral-rich and therefore vulnerable to conflict then we have a fairly comprehensive map of the situation they face when defending and exercising their rights.

This is particularly the case for the Indigenous Peoples of the Amazon. And it is in this regard that the 2016 creation of the so-called "Orinoco Mining Arc", which directly involves and concerns the Venezuelan Amazonian states, seems to mark a before and after.

For Indigenous and indigenist organizations, as well as for environmentalists operating in these regions, action thus becomes an uphill struggle, if not a downright risky activity. To start with the simplest action and moving to the most complex, they are subject to special supervision and controls on the part of the authorities, which may include anything from free transit through the territory to the right of association and exercise of their political rights. This has resulted – especially in the case of Indigenous organizations – in their being especially careful when considering denouncing or confronting situations that may give rise to punitive actions (criminal or administrative) on the part of the authorities, who see such actions as threats to the security of the State or as direct acts of "treason".

National crisis and extractivism: the dual tsunami that threatens to sweep away Venezuela's Indigenous Peoples

It is no secret that Venezuela is experiencing the most difficult period in its modern history. We are talking about a country that is estimated (and we say "estimated" because there are no official figures available) to have lost close to 80% of its GDP in the last 10 years.

Venezuela's Indigenous populations have been hard hit by this disaster in at least two closely related ways.

First, in general and more comprehensive terms, because the State's framework of care, security and social protection has been dismantled, leaving them without support in areas such as health, food and education.

And, second, because the proliferation of legal and illegal mining,

as well as other extractive and depredatory activities, directly compromises the lives of Indigenous Peoples, especially those of the Amazon, many of whom have ended up being displaced, and even kidnapped, because of it.

Indeed, according to monitoring carried out by Wataniba through satellite imaging and direct sources via work coordinated with Indigenous organizations in the field, the area of the Venezuelan Amazon directly affected by mining has been growing rapidly since 2016. It had already reached some 339 km^2 (or 33,900 hectares) by 2019 but, two years later – 2021 – it had grown to 1,337 km^2 (or 133,700 hectares): a 294% increase.[1] The worsening national crisis, exacerbated by the effects of the global pandemic, has played a key role in this growth.

This situation not only affects the Indigenous people who have been forced to migrate to the mining camps as their only source of income but also those who have remained in the communities, where the community dynamics have changed. Fewer people are now involved in cultivating the land and trading in their traditional products. Their governance structures have been fragmented as a result of conflicting views on mining activity. In addition, their options for facing up to pressure from external groups present on or adjacent to their territories are decreasing. All of this affects the productive capacity of Indigenous Peoples over their lands, territories and resources, as well as their right to autonomy and self-government.

An additional element to consider is the serious environmental impact, which has a direct impact on our Indigenous communities.

There are numerous reports of mercury poisoning from the mines. This contaminates the water and thus animal and plant species and inevitably affects people, causing all kinds of illnesses, including genetic, in Indigenous communities (and also in non-indigenous communities). The spread of diseases brought in by outsiders is likewise wreaking havoc in these communities. The terrible spread of malaria observed in recent years is also a result of the mines because deforestation and soil erosion eventually lead to the waterlogged conditions in which mosquitoes proliferate.

Last but not least, while this may be an ecocide that outrages other Venezuelans to differing degrees, for Indigenous Peoples the devastation caused by extractive activities and the no less harmful resulting

effects (forced labour, prostitution, violence, etc.) represent the end of their world. It is not simply a matter of seeing their "habitat" disappear but, along with it, their way of understanding and living life, their sacred places, the land of their ancestors and their gods, all due to the predatory action of characters and groups driven by ambition. This results in a perverse dilemma for much of Venezuela's Indigenous population: do they challenge this, knowing that it will be an unequal struggle, or do they throw in their lot with the mining sector in the hope that they will at least be making some profit for their immediate family? From the Wayuu in the north of Zulia state to the Yanomami in the south of Amazonas state, with some variations, this is a dilemma that is repeated over and over.

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The Arctic

Arctic Peoples' Conference 2023

From 22 to 25 November 1973, 40 delegates representing 21 organizations of Indigenous Peoples from Arctic Canada, Greenland, Finland, Norway, and Sweden gathered in Copenhagen, Denmark for the first Arctic Peoples' Conference.

This groundbreaking and successful conference "demonstrated mutual understanding and concern for the urgent problems facing all the peoples represented".[1] The conference adopted two resolutions that reflected the representatives' understanding of their joint experiences of identity and culture, in contrast to the culture of other people. They were strong manifestations of the wish to stand together in their concerns, in their protests and in their demands for respect of their rights and to cooperate in the development of visions and collaboration.

The 1973 Arctic Peoples' Conference demonstrated a clear vision for states to recognize the political rights of Arctic Indigenous Peoples, as well as land rights, human rights and equality. Arctic Indigenous Peoples also set out to establish a circumpolar body for further collaboration on their shared visions. Since 1973, Arctic Indigenous Peoples' have further developed their own organizations and representative institutions, while the rights of Indigenous Peoples have been affirmed in, *inter alia*, ILO Convention 169 as well as the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). Arctic Indigenous Peoples have continuously participated in and strongly influenced the international development of Indigenous Peoples' political recognition. Furthermore, regional and international institutions have been established with varying degrees of participation from Indigenous Peoples, including the Arctic Council, where Arctic Indigenous Peoples were not only co-founders but also take part as Permanent Participants. In the UN, the Permanent Forum on Indigenous Issues, the Expert Mechanism on the Rights of Indigenous Peoples and the UN Special Rapporteur on the rights of Indigenous Peoples have all been established. And the work is not finished yet, as demonstrated by the current discussions at the UN on the enhanced participation of Indigenous Peoples through their own representative institutions and in their own right.

The purpose of the 50th anniversary of the Arctic Peoples Conference was to celebrate the cooperation, successes and achievements of Arctic Indigenous Peoples while taking stock of the current situation and discussing visions for the next 50 years. The agenda of the two days of meetings also included a half-day session organized by Arctic Indigenous youth.

The meeting took place from 20 to 21 July 2023 in Ilullissat, Kalaallit Nunaat (Greenland) and was hosted by the Inuit Circumpolar Conference (ICC) and the Saami Council with support from Avannaata Kommunia (the Municipality). The Arctic Peoples' Conference included around 42 delegates from five Arctic Peoples' organizations (ICC, Saami Council, Gwich'in Council International, Arctic Athabaskan Council, and Aleut International Association). The Indigenous Peoples of Russia were not represented at the meeting. They have, however, been an important part of the Arctic Indigenous movement since around 1990 and respect for their important role and for solidarity with them was expressed by the participants not only in the welcoming remarks, statements and addresses from the floor but also by the inclusion of empty chairs in the circle of representatives. Each participating organization included elders as well as youth and some of the participants had even been present at the 1973 conference and were able to share their stories from that historical event. A number of observers also participated in the meeting.

The 2023 conference concluded with a statement that reconfirms the unity of the Indigenous Peoples of the Arctic, their common visions and goals.[2] The statement addresses the issues of:

- Enhanced Engagement, Partnerships, and Allies,
- Rights to Wellbeing,
- Rights to Lands, Waters, and Natural Resources,
- Connection to Marine Environment,
- Impacts of Climate Change,
- Colonialism and Climate Change Response,
- Our Future.

Cultural events took place every evening during the conference and traditional food was shared with the participants.

As Sara Olsvig, International Chair of the Inuit Circumpolar Council (ICC) stressed in her opening remarks:

> *Gathering and aiming to unite across peoples to deliver common messages, is one of the tools Indigenous Peoples have used and continue to use in our constant advocacy for recognition and agency. None of us would gain much standing alone, but standing shoulder by shoulder, we form a solid body of knowledge reflecting the experience accumulated through generations of Indigenous diplomacy.*

A collection of reflective articles written by Indigenous and other experts will be published in connection with the 2023 Arctic Peoples' Conference. These articles will describe the 50 years of Arctic Indigenous advocacy and diplomacy, the achievements and solutions achieved and the current challenges they face.

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Kalaallit Nunaat (Greenland)

Kalaallit Nunaat (Greenland) has been a self-governing country since 1979 within the Kingdom of Denmark (or Danish Realm), which consists of Denmark, the Faroe Islands and Kalaallit Nunaat. The country is a 2 million km^2 island in the Arctic whose population is 88.9% Greenlandic Inuit out of a total of 56,562 inhabitants (May 2022).[1] The majority of Greenlandic Inuit refer to themselves as Kalaallit (Kalaaleq in singular). Approximately 17,000 Kalaallit live in Denmark.

Ethnographically, Kalaallit consist of three major groups: the Kalaallit of West Greenland, who speak Kalaallisut (west Greenlandic); the livit of Kangia (East Greenland), who speak livi oraasia (east Greenlandic) and the Inughuit/Avanersuarmiut near Thule who speak Inuktun (north Greenlandic). Kalaallisut is the official language, which the majority of people speak, while the second official language of the country is Danish. The economy includes subsistence hunting, commercial fisheries, tourism, and emerging efforts to develop the mining industry. Greenland has a per capita GDP of approximately USD 52,500 (approx. EUR 48,000) (approximately 50% of the national budget is financed by Denmark through a block grant).

In 2009, the Act on Self-Government was inaugurated, which gave the country further self-determination within the Kingdom of Denmark. Together with the Danish Constitution, the Self-Government Act articulates Greenland's constitutional position in the Kingdom of Denmark. The Self-Government Act recognizes the Greenlandic people as a people under international law with the right to self-determination.

Greenland's self-government consists of Inatsisartut (Parliament), an elected legislature of 31 elected members, and Naalakkersuisut (Government), which is responsible for overall public administration. The Government of Denmark, on behalf of the Kingdom inc. Kalaallit Nunaat, voted in favour of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2007 and subsequent Danish governments have committed to its implementation. Greenland and Denmark jointly prepare reports regarding good practice on the implementation of In-

digenous Peoples' rights, as described in the UNDRIP and other international human rights instruments. The Government of Greenland had a decisive influence over the Kingdom of Denmark's ratification of ILO Convention 169 in 1996, as Greenland has prioritized actions to establish Indigenous Peoples' collective rights to land and resources in their territories.

Kalaallit Nunaat and land rights

There is no privately-owned land in Kalaallit Nunaat. In the traditional nomadic existence, Inuit (across the Arctic) followed the migration routes of game animals, which made it difficult and impractical to divide hunting areas into smaller privately demarcated areas. Hence, the basic principle was that the land was collectively owned, and use was subject to general territorial rights.

Customary law is part of the Inuit legal culture whereby the right to participate in the utilization of resources is rooted in the membership of a local community. In this context, there are two types of right: 1) the general territorial right, which is collectively utilized by a settlement, and 2) the individual preferential right or right of use to e.g. a special fishing spot or similar that could be acquired through inheritance from the family who had had the right to use the place for several generations. The latter kind of right could be assigned from the residents of the settlement to outsiders[2] if deemed so.

However, with the colonization of Kalaallit Nunaat and the meeting with the outside world and modernization, especially in the post WWII-era, this concept has been challenged. When Kalaallit Nunaat had its formal status changed from colony to county in 1953 and was included in the Danish Constitution, the provisions of the Constitution were extended to the entire kingdom, including that "personal freedom is inviolable"; that "the home is inviolable", and finally that "the right to property is inviolable. No one can be obliged to give up his property, without where the public good requires it. This can only be done by law and against full compensation."

Future Constitutional framework for Kalaallit Nunaat

On 31 March 2023, after six years of work, the Constitutional Commission of Inatsisartut handed over its draft of a constitution for Kalaallit Nunaat to Inatsisartut and Naalakkersuisut at a ceremony at Ilisimatusarfik (the University of Greenland).[3] The Self-rule Act currently in place for Kalaallit Nunaat already has provisions in place on independence stipulating that: "the decision on Greenland's independence is made by the Greenlandic people"; that "independence must be approved by a referendum in Greenland"; and that the "Greenlandic parliament, Inatsisartut, and the Danish Parliament must reach agreement on independence".

The follow-up work on the draft constitution now lies in a specific ministerial portfolio on "statehood" that has been added to the portfolio of Naalakkersuisoq (minister) for Foreign Affairs. Naalakkersuisut has proclaimed that the follow-up work will entail a dialogue with the population of Kalaallit Nunaat about their views on a constitution and an independent Kalaallit Nunaat.

UN Special Rapporteur on the rights of Indigenous Peoples

The UN Special Rapporteur on the rights of Indigenous Peoples (UNSRIP), José Francisco Calí Tzay, visited Denmark and Kalaallit Nunaat in February 2023 to gain information, including on the conditions of Kalaallit living in Denmark.[4] His report (presented to the UN Human Rights Council in Geneva on 28 September 2023) gave a pronounced and unequivocal criticism of Denmark for the racism that is taking place against Kalaallit living in Denmark. This is supported by surveys and reports from the Danish Institute for Human Rights showing a widespread prejudiced attitude among Danes towards Kalaallit and a general group stigmatization.[5]

In the UNSRIP report, some of the Kalaallit he met in Denmark are quoted as having said that they see themselves as "invisible ghosts" in Denmark who have nowhere to go for advice and assistance. The report also made recommendations on how to accommodate these challeng-

es, including that Denmark should establish a central unit that works to ensure equal treatment of Kalaallit in Denmark.

There is still room in Denmark for ensuring that the social, cultural, religious, and spiritual values of Kalaallit in Denmark are recognized and protected, and that the challenges they face – both as a group and as individuals – are worked through in a dedicated manner.

The Danish government has stated that: "the report points to pertinent challenges in ensuring a just and equal society for all Inuit, whether they live in Denmark or in Greenland"[6] but has not put any actions into place in the wake of the report.

Placement of Greenlandic children outside the home

Another critical example also addressed by the Special Rapporteur was the placement of Greenlandic children in Denmark outside their homes. The risk of Greenlandic children in Denmark being placed in foster care is seven times higher than for any other children in Denmark. Not only is the statistical difference significantly high but placing a child outside the home is a grave intervention in itself. The Danish Institute for Human Rights has shown that psychological tests related to assessing the children's parents' parenting abilities have been problematic.[7] The tests were developed in Western countries for Western populations and are not adapted to the culture of Kalaallit, leaving them in a weaker position when answering many of the questions in the tests. It also appeared that interpreters are not used sufficiently when Kalaallit meet with the Danish authorities. While provisions were initiated in 2023 to adapt the psychological tests, the Danish authorities still have work to do in their special obligation towards Indigenous Peoples to ensure Greenlandic children's well-being and development, including access to cultural heritage, language, history, and origins.

Intrauterine device – campaign or scandal?

In recent years, the so-called "IUD campaign" has been revealed by – among others – journalists in Kalaallit Nunaat as well as the Danish

national broadcasting company DR in a podcast series.[8] The coverage showed that, from 1966 to the 1970s, almost half of the 9,000 women and girls of childbearing age (some as young as 12-13 years of age) had an IUD inserted by Danish doctors, often without their own or their parent's knowledge or consent.[9] This represents a State violation of the right to protection from degrading treatment as well as the right of self-determination. This continued up until 1991 when Greenland assumed responsibility from Denmark for the health sector. In 2022, the Greenlandic government, Naalakkersuisut, and the Danish state decided to jointly investigate the campaign from the 1960s through to 1991 to lay out all details, to be finalized within a working period of two years. The Special Rapporteur acknowledged this in his report but pointed out that such an investigation should include more recent cases going beyond 1991. At the same time, the Special Rapporteur stressed that testimony from Greenlandic women should be given weight in the investigation, which also forms part of the Terms of Reference for the investigation.[10] The investigation began in 2023 and is expected to be finished by 2025. In addition, 143 Greenlandic women affected by the IUD campaign have sued the Danish state for DKK 20 million.[11]

Children's rights

11 May 2023 marked exactly 30 years since Kalaallit Nunaat acceded to the UN Convention on the Rights of the Child. It is estimated that up to one-third of the children in Kalaallit Nunaat are disadvantaged in one way or another. The UN Children's Fund (UNICEF) has been working in Kalaallit Nunaat since 2011 and established its office in 2019. Since 2011, awareness of children's rights among Greenlandic school children has increased significantly but there is still work to be done. One of the central projects is NAKUUSA – a collaboration between UNICEF Denmark and Naalakkersuisut working to spread awareness of the UN Convention on the Rights of the Child, and – above all – to include the voices of children and young people on the political agenda.[12] Another important forum for the work on children's rights in Kalaallit Nunaat is MIO – the National Advocacy Center working for Children's Rights. MIO was established in the spring of 2012 and works to spread awareness of the UN Convention on the Rights of the Child in Kalaallit Nunaat, including en-

suring that the convention results in concrete efforts that improve the daily life of – especially vulnerable – children and young people in Kalaallit Nunaat. The MIO's Children's Spokesperson, Aviâja Egede Lynge, who has been in post since 2015, has focused on documenting violations of children's rights (especially cases of sexual abuse and violence in broken families and dysfunctional community structures) throughout Kalaallit Nunaat and was awarded the Ebbe Munck Prize by the Danish Queen Margrethe II in 2023 for her and MIO's tireless work in breaking taboos with regards to violations of children's rights.[13]

Paris Agreement

On 14 November 2023, the Parliament of Kalaallit Nunaat, Inatsisartut, agreed to accede to the Paris Agreement of the UN Framework Convention on Climate Change (UNFCCC). A central reason for not having adhered to the UNFCCC hitherto has been the uncertainty of whether or not Kalaallit Nunaat was bound by Denmark's Nationally Determined Contributions (NDCs) and CO2 reductions obligations. A legal memorandum from the spring of 2023 stated that there was nothing legally preventing Kalaallit Nunaat, in cooperation with the Danish government, from setting a different reduction target than the one Denmark has committed to in the EU-NDC. As a result of the voting in Inatsisartut, Kalaallit Nunaat signed up to the Paris Agreement. The Government of Kalaallit Nunaat, Naalakkersuisut, will announce the accession to the Paris Agreement of the UN Climate Convention (UNFCCC) and, in this context, will need to prepare a national climate strategy containing climate objectives and a direction for how Kalaallit Nunaat will achieve economic growth aligned with the green transition. Based on the coming climate strategy, an NDC containing climate objectives and obligations for each sector must also be developed. Naalakkersuisut has stated that the strategy will be done with the involvement of citizens, businesses, and civil society. Kalaallit Nunaat can decide to leave out some sectors, such as raw materials and/or fishing from its reduction obligations.[14] The NDC is expected to be submitted to the UNFCCC and come into effect from 2030.[15]

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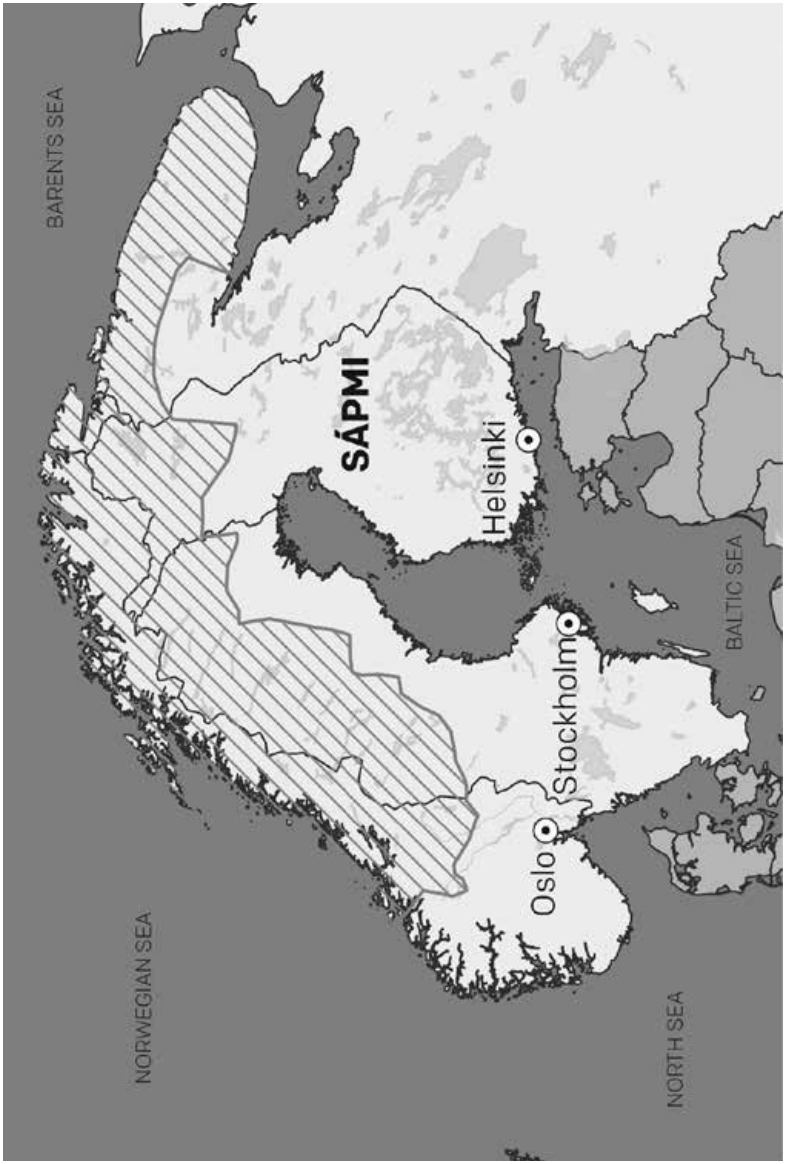
Nauja Bianco *is a native Greenlander, born and raised in the capital, Nuuk, now living and working in Copenhagen, Denmark as an independent consultant. For 15 years, Ms Bianco worked in government and diplomacy for various bodies, including the Government of Greenland, as a diplomat in the Ministry of Foreign Affairs of Denmark and in the intergovernmental organization of the Nordic Council of Ministers. In 2020, she became the CEO of the North Atlantic House and the Greenlandic House in Odense, Denmark. North Atlantic House is a cultural house displaying arts and culture from Greenland, Faroe Islands, and Iceland along with a business network facilitating greater business knowledge of the three countries. Ms Bianco is a member of IWGIA's Board.*

Sápmi


BARENTS SEA
NORWEGIAN SEA
SÁPMI
Helsinki
Oslo
Stockholm
BALTIC SEA
NORTH SEA

Sápmi is the Sámi people's own name for their traditional territory. The Sámi people are the Indigenous people of the northern part of the Scandinavian Peninsula and large parts of the Kola Peninsula and they live in Sweden, Norway, Finland, and Russia. Traditionally, livelihoods such as reindeer herding, fishing, hunting, gathering, agriculture, and handicrafts are central to Sámi culture.

There is no reliable information on the population of the Sámi people; they are, however, estimated to number between 50,000-100,000. Around 20,000 live in Sweden, which is approximately 0.19% of Sweden's total population of approximately 10.5 million. Some 50-65,000 live in Norway, between 0.91% and 1.18% of the total Norwegian population of approximately 5.5 million. Around 8,000 live in Finland, which is approximately 0.15% of the total Finnish population of around 5.5 million. And some 2,000 live in Russia, which is a very small proportion of the total population of Russia.

Politically, the Sámi people are represented by three Sámi parliaments, one in Sweden, one in Norway and one in Finland, while on the Russian side they are organized into non-governmental organizations (NGOs). In 2000, the three Sámi parliaments established a joint council of representatives called the Sámi Parliamentary Council. The Sámi Parliamentary Council is not to be confused with the Saami Council, which is a central Sámi NGO representing nine large national Sámi associations (NGOs) in all four countries. There are also other important Sámi institutions, both regional and local, *inter alia*, the Sámi University of Applied Sciences, which is a research and higher education institution dedicated to the Sámi society's needs and where the Sámi language is mainly used throughout the academic system.

Sweden, Norway and Finland voted in favour of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) in September 2007, while the Russian Federation abstained. However, in 2014, the Russian Federation voted in favour of the Outcome Document of the World Conference on Indigenous

Peoples, which is considered an acknowledgement of the declaration. Norway ratified ILO Convention 169 in 1990, and there have been discussions in Sweden and Finland, without these resulting in ratification of the Convention. The Sámi people are acknowledged as either a people or an Indigenous people, or both, in the constitutions of Sweden, Norway, and Finland.

The green shift and critical raw materials

Climate change is already causing significant negative effects in the Arctic, occurring at a magnitude and pace unprecedented in recent history, and at least three times faster than projected for other world regions.[1] The consequences are higher temperatures and precipitation, permafrost thaw, changes in snow cover, loss of sea and land ice, extreme weather events, declining biodiversity, and northward shifts of species on land and in freshwater and marine ecosystems.

Simultaneously, there is an increased global interest in natural resource development on Sámi land, *inter alia*, wind power, hydropower, and extractive industries such as mining. These projects are often in direct conflict with Sámi livelihoods and in areas essential for the existence of Sámi culture. It means the Sámi people are not only highly affected by climate change itself but also by land encroachments justified by governments and companies with the urgent need for the green transition.[2] From the perspective of Indigenous Peoples, this is often referred to as *green colonialism*.[3]

It has been pointed out that the Sámi people carry a double burden, a paradox highlighted by Sámi representatives.[4] On the one hand, the Sámi are among the people most affected by climate change. On the other, they are also expected to carry the burden of mitigation and to allow land encroachments onto their remaining and already limited land.

The European Union (EU) Critical Raw Materials Act, adopted by the European Parliament on 7 December 2023, aims to secure essential mineral supplies crucial for the EU's green and digital transitions.[5] It seeks to position Europe as a manufacturing hub for green technologies such as electric vehicles and wind turbines. By identifying 34 crit-

ical raw materials, with 17 labelled as "strategic" due to global supply imbalances, the legislation aims to safeguard against potential disruptions to the EU economy.[6]

Of interest to Indigenous Peoples was the fact that an early version included a reference to the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) and the right to free, prior, and informed consent (FPIC). However, the text was considerably weakened in the end.[7]

The Act poses a risk of accelerating mineral extraction in Sápmi, potentially worsening existing injustices in mining-affected regions such as the Kiruna area in Sweden. LKAB, a mining company based in Sweden, is already operating extensively in the Kiruna region. In January 2023, they announced a new discovery, revealing deposits of rare earth elements and further exacerbating the situation for reindeer husbandry.[8] The plans to expand mining activities in this area have already sparked strong reactions from the Sámi community.

The Fosen case

The Fosen case is a conflict centred around the Storheia and Roan wind power plants on the Fosen peninsula in Norway, where they form the main parts of the largest onshore wind power project in Europe. Storheia and Roan are located within the winter pastures of the Sámi reindeer husbandry district of Fovsen-Njaarke, and its two communities, the Nord-Fosen siida (Northern group) and the Sør-Fosen sijte (Southern group).

In 2010, the Norwegian Water Resources and Energy Directorate decided to grant licences for the two wind power facilities and the construction of power lines. Approval was also given for the expropriation of land and rights. In 2013, the Ministry of Petroleum and Energy made a decision to uphold both the licence decisions and expropriation permits with minor adjustments.[9]

These decisions to permit the wind power facilities were challenged in court by the reindeer husbandry district claiming the licences were invalid and citing violations of Article 27 of the International Covenant on Civil and Political Rights (ICCPR).

Nevertheless, the wind companies were granted permission to commence construction. Roan's 71 turbines were commissioned in 2019, and Storheia's 80 turbines began operating in 2020. In all, a total

of 159 km of wide roads were built across the winter grazing lands of the reindeer husbandry district.

In 2021, the case reached the Supreme Court of Norway, which considered the case in its grand chamber and unanimously determined that the wind power facilities violated the reindeer herders' rights to practice their culture according to Article 27 of the ICCPR. In the judgement, emphasis was placed on the vulnerability of the Southern Sámi culture. The decisions regarding the licences and expropriation permits were consequently ruled invalid.[10]

It was undisputed that Sámi reindeer husbandry enjoys protection under Article 27. The Supreme Court based its decision on the Court of Appeal's conclusion that the winter pastures at Storheia and Roan were, in practice, lost and that the wind power facilities were threatening the existence of reindeer husbandry on Fosen unless remedial measures were implemented.

The Supreme Court stated that, as a starting point, there should be no allowance for a proportionality assessment to balance the minority's interests against other interests of society. This is a natural consequence of the justification for minority protection, as it would otherwise be minimally effective if the majority population were able to limit this based on an assessment of its legitimate needs. Nonetheless, in the view of the Supreme Court, a balance might be granted if Article 27 were to come into conflict with other fundamental rights, such as the right to a clean and healthy environment. This was not, however, applicable in the Fosen case, given the availability of alternative sites for wind power facilities.

Regarding potential remedial measures, such as providing substantial compensation for the winter feeding of enclosed reindeer, the Court held the view that interference itself might be incompatible with the reindeer herders' right to enjoy their own culture under Article 27 of the ICCPR, as winter feeding deviates from the cultural practice.

After the judgement, there was no follow-up by the Government of Norway, leading to frustration in Sámi society. Five hundred days after the judgement, in February 2023, Sámi and Norwegian youth occupied the lobby of the offices of the Ministry of Energy. The police forcibly removed them during the night some days later. This escalated the protest, with a week of extensive demonstrations and civil disobedience, including blocking entrances to various ministries.[11]

The protests led to a dual outcome: a public apology from the government to the reindeer herders of Fosen on 2 March – one week after the protests started – and the government finally admitting an ongoing violation of human rights. In the aftermath, the government decided to facilitate mediation between the reindeer husbandry district and the wind companies, even though the Supreme Court had concluded that the State's own licensing decision was invalid.

A new round of protests and civil disobedience ensued in October 2023, marking 700 days since the judgement. This time, there were also protests in the Norwegian Parliament building and outside the building of the State-owned energy company, Statkraft. The protests came to an end after His Majesty King Harald accepted an audience with the youth who had organized the demonstrations.[12]

In December 2023, the mediation resulted in a settlement for the Sør-Fosen sijte (Southern group). Upon implementation, the agreement will provide compensation for the environmental impacts resulting in the loss of winter grazing land for reindeer herding in Sør-Fosen. Key aspects of the mitigation measures include financial compensation, replacement grazing areas committed by the State, and granting the Sør-Fosen sijte the power to veto further licensing once the current 25-year concession period ends.[13]

The Nord-Fosen siida (Northern group) has demanded the demolition of parts of the wind power facilities but there has been no agreement on this in the mediation. All wind turbines in Fosen are still in operation, and the ongoing human rights violation is persisting almost 2.5 years after the Supreme Court decision. Furthermore, the government has not yet taken any active steps to prevent similar violations against the Sámi people in the future.

The Finnmark Act and the Karasjok Estate

The Finnmark Act of 2005 established a legal framework for settling land claims and delineating ownership and usage rights in Finnmark, Norway. This process involves addressing historical disputes and ensuring the recognition of the Sámi people's rights to land and resources. The ongoing mapping of land rights in Finnmark is progressing at a steady albeit rather slow pace.

In April 2023, the Finnmark Land Tribunal issued a ruling concerning the Karasjok area.[14] This area is noteworthy as it represents the first region from the inner parts of Finnmark where the Sámi people are in a majority and where the Sámi culture has not been as severely impacted by the State's assimilation policies as in the coastal areas.

The case related to claims of collective property rights to land in Karasjok, which the Finnmark Estate[15] took over from Statskog SF, the Norwegian State-owned land and forest enterprise, in 2006. The dispute revolved around whether the property rights belong to the Finnmark Estate, to the local population in Karasjok, or solely to the Sámi population in Karasjok.

A majority (3-2) of the Finnmark Land Tribunal concluded that the property rights belong collectively to all individuals who are registered residents of Karasjok at any given time. These property rights were acquired through long-standing customary use and had not been forfeited. Additionally, a majority determined that the State had not acquired property rights to the area through a specific legal arrangement. The potential new property in Karasjok is often referred to as the Karasjok Estate. A minority on the Finnmark Land Tribunal held that the local population had not acquired property rights to the area.

A majority of the Finnmark Estate's Board has appealed the decision of the Finnmark Land Tribunal to the Supreme Court of Norway, which has accepted the case for consideration. The case will be heard in the first quarter of 2024.

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3. The term "green colonialism" was used by the former president of the Sámi Parliament in Norway Ms Aili Keskitalo as early as 2011. In 2023, the term was announced as the new word of the year by the Language Council of Sweden and the newspaper Språktidningen.
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6. Sweden and Finland are members of the European Union. Norway's relation to the EU is regulated by the European Economic Area Agreement.
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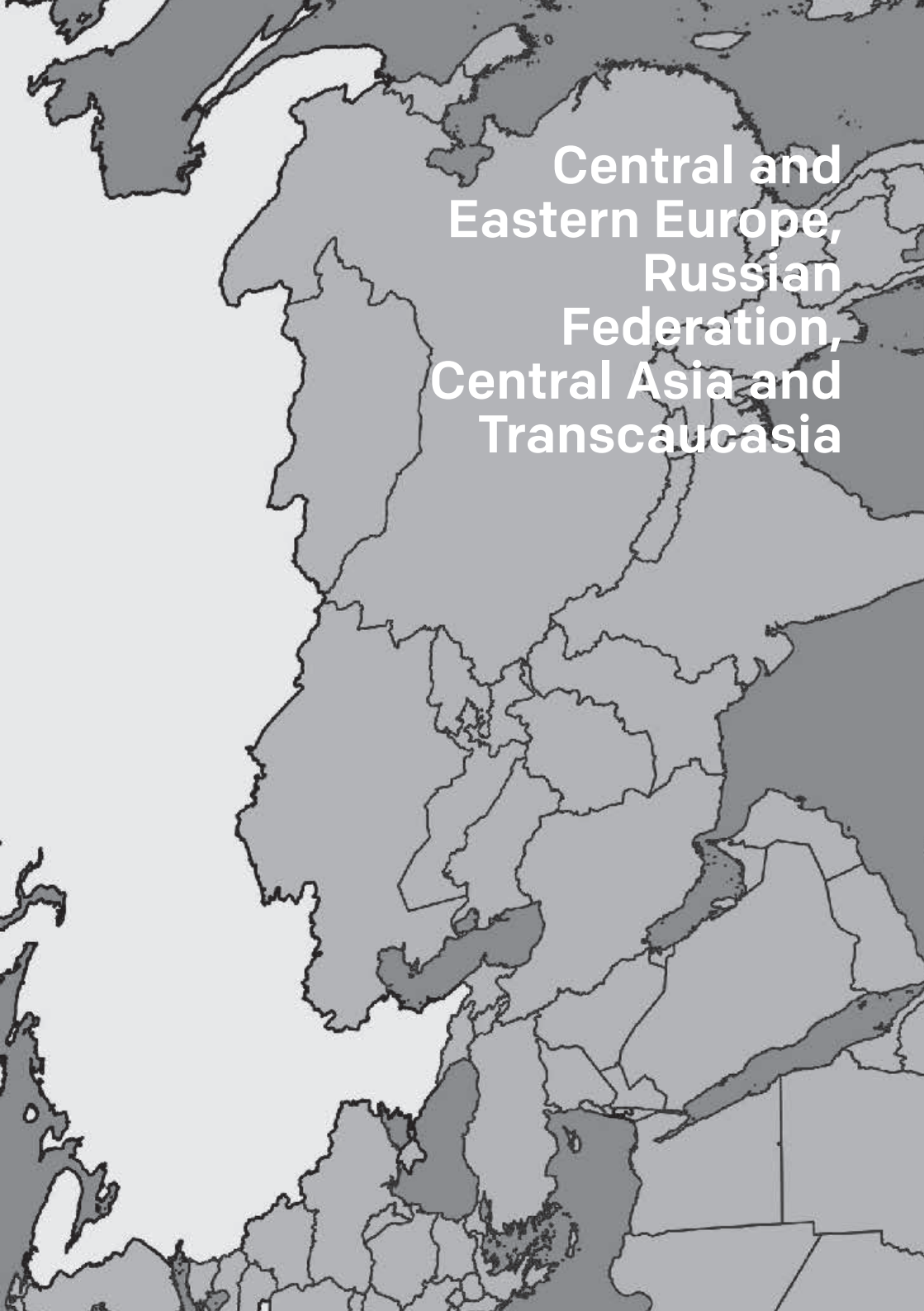
Mr. Eirik Larsen *(Lásse-Ivvár Erke) is an Indigenous Sámi lawyer and holds the position of Head of the Human Rights Unit at the Saami Council. Alongside this role, he serves as a Member of the Sámi Parliament in Norway. Larsen previously served as an adviser to the two most recent presidents of the Sámi Parliament in Norway. He has also acted as an adviser to the Norwegian government on Sámi and Indigenous issues. His activism includes involvement in Sámi associations and engagement in land disputes concerning Sámi and Indigenous territories. For further information about the Saami Council see: www.saamicouncil.net*



Central and Eastern Europe, Russian Federation, Central Asia and Transcaucasia

Russia

EAST SIBERIAN SEA
KARA SEA
BERENTS SEA
RUSSIA
SEA OF OKHOTSK
PACIFIC OCEAN
MOSCOW
MONGOLIA
CHINA
KAZAKHSTAN
UKRAINE

Indigenous Peoples are not recognized by the Russian legislation as such; however, Article 67 of the current constitution guarantees the rights of "Indigenous Small-Numbered Peoples". The 1999 Federal Act "On Guarantees of the Rights of the Indigenous Small-Numbered Peoples of the Russian Federation" specifies that Indigenous Small-Numbered Peoples are groups of less than 50,000 members, perpetuating some aspects of their traditional ways of life. According to this and two other framework laws that were enacted during the late 1990s, Indigenous Small-Numbered Peoples have rights to consultation and participation in specific cases. There is, however, no such concept as "free, prior and informed consent" enshrined in legislation. The last two decades have seen a steady erosion of this legal framework and a heavy re-centralization of Russia, including the abolition of several Indigenous autonomous territories.

Of the more than 160 peoples inhabiting the territory of contemporary Russia, 47 are officially recognized as Indigenous Small-Numbered Peoples, including 40 that are recognized as Indigenous Small-Numbered Peoples of the North, Siberia and the Far East. One more group, the Izhma Komi or Izvatas, is actively pursuing recognition, which continues to be denied. Together, Indigenous Small-Numbered Peoples number over 315,000, including some 265,000 that belong to Small-Numbered Peoples of the North, Siberia and the Far East, around 0.2% of Russia's total population of over 147,000,000 (of which ethnic Russians account for approximately 72%).[1] Many other peoples whose numbers exceed 50,000, such as the Sakha (Yakut) and Buryat of the Russian Far East, the Volga Tatars, Bashkirs and many groups populating the North Caucasus are not officially considered Indigenous Peoples, and their self-identification varies.

Since the Russian annexation of Crimea from Ukraine, several ethnic groups who self-identify as Indigenous have come under Russia's effective control, even though Russia has not recognized this self-identification: the Crimean Tatars, the Krymchaks and the Karaim. In 2021, Verkhovna Rada, Ukraine's

parliament, adopted the Law on Indigenous Peoples of Ukraine recognizing the three groups as Indigenous Peoples of Ukraine.[2]

Two-thirds of Indigenous Peoples are rural and depend on traditional subsistence strategies such as fishing, hunting and reindeer herding although Russia, on the whole, is a highly urbanized country.

Civil society is affected by continually shrinking space as the country's secret police, the FSB, has gradually been gaining power. Since 2013, NGOs that receive foreign funding can be officially classified as "foreign agents", which led many of them to close down in order to minimize their exposure to legal risks. Since 2018, the same practice has been extended to individuals as well. Many foreign NGOs have been banned as "undesirable organizations". Following the start of the war in Ukraine, the Russian government has intensified its crackdown on dissenting voices, leading to the closure of many civil society organizations and independent media.

Russia's export revenues are largely generated from the sale of fossil fuels and other minerals, often extracted from territories traditionally inhabited or used by Indigenous Peoples. The country's development strategy is largely geared towards further increasing the exploitation of the Arctic's natural resources. Like many resource-rich countries, Russia is heavily affected by the "resource curse", fuelling authoritarianism, corruption and bad governance, spurring negative consequences for the state of Indigenous Peoples' human rights, and limiting opportunities for their effective protection.

Russia has neither ratified ILO Convention 169 nor endorsed the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). The country inherited its membership of the major UN Covenants and Conventions from the Soviet Union: the ICCPR, ICESCR, ICERD, ICEDAW and ICRC. Russia has ratified the Council of Europe's Framework Convention on the Protection of National Minorities (FCNM); however, in October 2023, President Putin signed a decree stipulating Russia's exit from the FCNM.

War in Ukraine

In 2023, Russia's full-scale invasion of Ukraine in many ways exacerbated the situation of Indigenous Peoples, both due to the disproportionately high number of casualties among them, but also because the needs of a war economy and the consolidation of authoritarianism have further eroded the remaining safeguards for Indigenous rights and opened up their territories to ever more intense and unmitigated exploitation.

Economic sanctions imposed on Russia by Western countries did not relieve the pressure on Indigenous Peoples' territories. In some sectors, and most notably in what is referred to as "transitional minerals", Russia's exports even increased.[3]

The pressure on Indigenous territories and Indigenous Peoples' restricted access to natural resources and traditional livelihoods such as hunting, fishing and reindeer herding are a key factor as to why Indigenous Peoples today are severely impoverished and this, in turn, is the main reason why Indigenous youth have become easy targets for mobilization into Russia's war in Ukraine.

The disproportionate number of war casualties among Indigenous servicemen has a tangible demographic impact. For example, according to estimates by independent media, as of 19 September 2023, 212 servicemen from the Murmansk region had died in the war in Ukraine, including regular servicemen and mercenaries recruited from among prisoners. Many of the dead were residents of Lovozero district, at the heart of the Russian Sámi territory. Some Sámi activists are suggesting that up to 3% of the male Russian Sámi population has already perished in the war.[4]

Population Census

On 31 December 2022, the all-Russia Population Census data on the ethnic composition of the Russian population 2020 was finally published.[5] The census revealed that seven Small-Numbered Indigenous Peoples of the Far North have shown a noticeable or moderate demographic growth when compared to 2010 census data. For example, the

number of Nenets increased by 11.5% (49,787 in 2020 versus 44,640 in 2010) bringing them very close to the number beyond which they will no longer be considered a Small-Numbered Indigenous Peoples, as stipulated by the existing laws.

Many Small-Numbered Indigenous Peoples continue to experience a decline in the number of individuals who self-identify as belonging to them, most notably the Sámi of the Kola peninsula, whose numbers – according to the latest census – have decreased by 15%. The accuracy of the census numbers has, however, been described as highly questionable, so any trendlines derived by comparing the results of subsequent censuses is unlikely to yield meaningful results.[6] Crucially, the censuses fail to provide socioeconomic data disaggregated by ethnicity such that they do not, for example, reveal how income, child mortality or life expectancy vary between ethnic groups.

Artisanal gold mining

In April, the government introduced a draft federal law to the State Duma (parliament): "On prospecting" (so-called law on freebooting).[7] If it is adopted, individuals registered as individual entrepreneurs will be able to independently mine gold on the plots allocated to them. Deputy Prime Minister and Presidential Envoy to the Far Eastern Federal District Yuri Trutnev expressed hope that, if adopted, the law would start working in pilot mode as from March 2024 in the Far East and the Arctic.[8]

Licences for gold mining are currently only granted to registered companies. According to the bill, an online platform for prospecting activities will be created through which residents of the Far Eastern and Arctic regions will be able, once they have registered as individual entrepreneurs, to select plots for prospecting. A plot of land for prospecting, up to 10 hectares in size, will be granted for a period of three years. Gold mining will only be possible with simple hand tools and at a depth of up to 5 metres. Upon expiry of the period, the miner will need to rehabilitate the site.

According to some experts, if implemented, the bill threatens the ecosystem of the Far East and Siberia.[9] There are fears that it will bring about deforestation and land degradation in areas affected by gold

mining. Mining companies might be able to use individual operators as their front men and get access to larger plots of land for gold mining. There are also serious doubts as to the ability and possibility of monitoring the prospectors' compliance with the law.

Unregulated gold mining is already very common in remote corners of Siberia and the Russian Arctic. In most places where it takes place, it affects the traditional livelihoods of Indigenous communities as it results in deforestation, pollution of water sources and the swamping of areas around mines. In July, the local press in Yakutia reported how a group of reindeer had died in an area flooded by the nearby gold mine in Neryungri district. Indigenous community members told reporters that they had filed numerous written complaints to the authorities about the actions of prospectors who are polluting the taiga. Surprisingly, just before the inspectors come to follow up on the complaints, all the work on the mining site stops and they have no-one to bring to account. Once the inspectors leave, the work resumes, almost as if the miners were informed of inspection's impending arrival.

The law passed its first reading in the State Duma in July.

Draft amendments to the law "On fisheries"

A bill that suggests abolishing the declaratory principle on traditional fishing has been introduced to the State Duma.[10] Among the authors of the bill is Gregory Ledkov, member of the upper chamber of Russian parliament and current president of RAIPON. The authors of the bill claim that it would remove unnecessary bureaucratic barriers such as the annual filing of separate applications for each family member when exercising the right to fishing for personal consumption on the part of Small-Numbered Indigenous Peoples.

Indigenous activists and Indigenous Peoples' rights experts concluded that, in spite of the optimistic publicity around the suggested amendments, the bill would result in further limiting of Small-Numbered Indigenous Peoples' access to aquatic biological resources and their ability to lead a traditional way of life.[11]

According to the existing federal law "On wildlife" N 52-FZ, Indigenous Peoples have the right to priority access to natural resources,

which includes giving citizens and their associations a priority choice of fishing grounds, privileges with regard to the timing and areas of natural resource extraction, the volume of extracted wildlife objects, and the exclusive right to extract certain wildlife objects. In the draft, these federal law norms with regard to aquatic wildlife, and the issue of the priority access of Indigenous Peoples to aquatic bioresources, are not even mentioned. Instead, it proposes establishing an annual quota of catch for each region whereby those exceeding the quota will be punished with a considerable fine. At the same time, just like the existing law, the draft does not explain how the Indigenous Peoples' needs for aquatic resources for their survival will be determined, and how such quotas will be established and thus creates a space for arbitrary decision-making by the authorities. According to the current legislation, an Indigenous person decides and specifies in the application how much fish they and their family need to ensure a decent life, although in practice the authorities in some regions introduce annual quotas for fishing. The new bill deprives Indigenous Peoples of the right to decide for themselves and, instead, grants local authorities the right to establish the annual quota.[12]

According to the draft, the quota will be established "for each citizen who is included in the list of Indigenous minorities formed by the Federal Agency for Nationalities". People who are not included on this list will be able to fish using documents confirming their nationality only during a two-year transition period. However, the decision to be registered in the registry of Indigenous Peoples is a voluntary, highly bureaucratic and cumbersome procedure. Only a minority of Indigenous persons are included on it, in part because many have not applied in the first place, and in part because the authorities have not processed many applications. The draft does not take into account the rights of those that choose not to be included on the list of Indigenous minorities.[13]

EMRIP study on militarization repeats government's talking points

In July, at its 16th session, the UN Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) presented and adopted a thematic study on

the issue of militarization and Indigenous Peoples.[14] Both independent Indigenous activists from Russia and representatives of the Crimean Tatars, whose ancestral territory – Crimea – was annexed by Russia in 2014, submitted inputs for the study. However, the draft version, presented by EMRIP, reflected none of their input and instead repeated the Russian government's version of the situation, for example, claiming that Indigenous persons can enter do an alternative civil service instead of joining the army (which is true only in times of peace), ignoring the disproportionately high casualty rate among Small-Numbered Indigenous Peoples and failing to consider the alleged forced drafting of Crimean Tatars to fight against Ukraine, something that might constitute a breach of international humanitarian law.

A large number of Indigenous representatives from government-sponsored organizations attended the July session at which they focused their interventions on disputing the legitimacy of the independent activists from the International Committee of Indigenous Peoples of Russia (ICIPR). Independent activists' protests[15] went ignored and the study as presented during the 54th session of the UN Human Rights Council remained unchanged in the part concerning the situation in Russia.

Russia's exit from the European Framework Convention on National Minorities

In October, President Putin signed into law Russia's exit from the European Framework Convention for the Protection of National Minorities (FCNM).[16] The FCNM, although originally designed for national minorities and not for Indigenous Peoples, has been the only option for Indigenous Peoples in Europe seeking protection of their rights at the regional level. The exit from the FCNM follows Russia's exit from the Council of Europe, which hosts the FCNM. The decree was published in the midst of the FCNM's 5th review of Russia.

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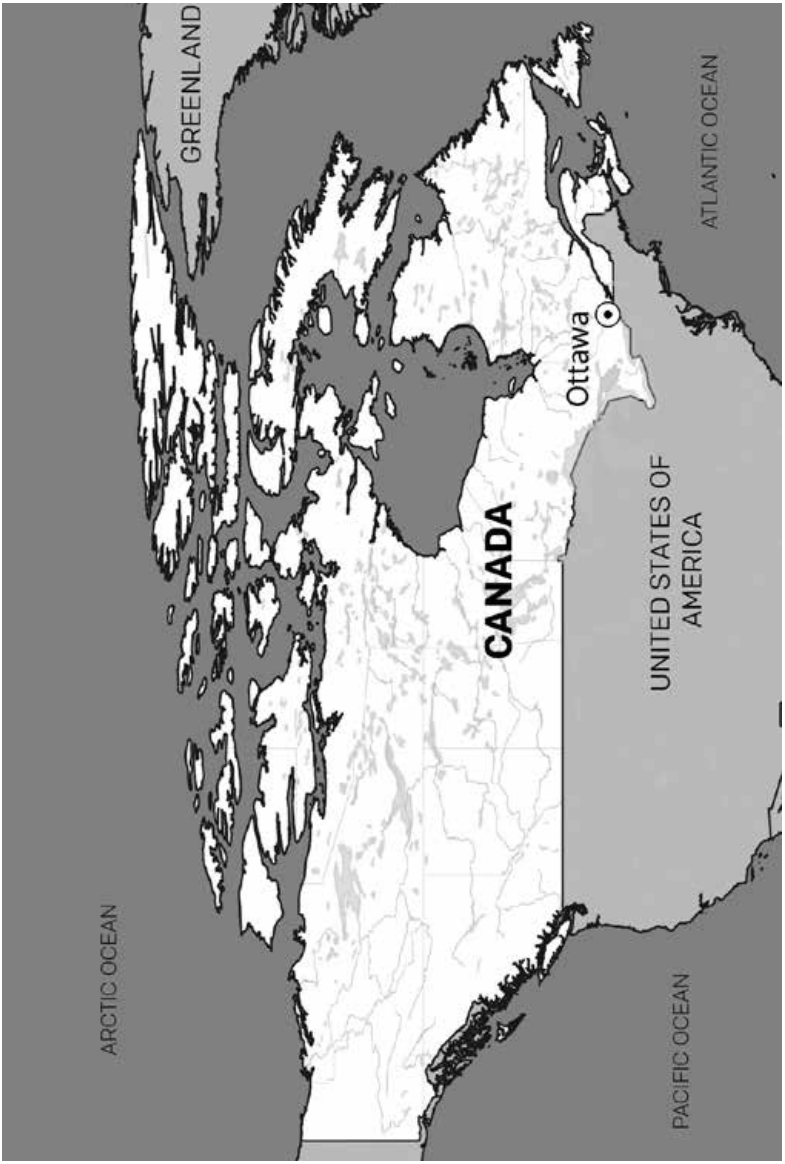
Olga Murashko *is a Russian anthropologist and one of the co-founders of the former IWGIA local group in Moscow. She has been working to support Indigenous Peoples' rights in Russia since the early perestroika years.*

Johannes Rohr *is a German historian who has been working with Indigenous Peoples' organizations in Russia since 1995, focusing on their economic, social and cultural rights. He is currently working as a consultant for INFOE (Germany). In 2018, the Russian intelligence service FSB banned him from the country for 50 years.*

North
America

Canada


ARCTIC OCEAN
GREENLAND
CANADA
Ottawa
UNITED STATES OF AMERICA
ATLANTIC OCEAN
PACIFIC OCEAN

In Canada, the contemporary Indigenous rights and governance framework varies across the country. The *Constitution* Act of 1982, as well as the Charter of Rights and Freedoms, explicitly recognize Aboriginal and Treaty rights and three groups of Aboriginal Peoples (commonly referred to as Indigenous Peoples): Indians (First Nations), Inuit, and Métis. Each Indigenous people are distinct and diverse: First Nations are governed by the 1876 *Indian Act*, with over 630 'reserves' and more than 60 languages; Inuit live in Inuit Nunangat (Inuit homelands), spread across four regions and land claim agreements: Nunavik (northern Quebec), Nunatsiavut (northern Labrador), Nunavut and the Inuvialuit Settlement Region (the Northwest Territories); and the Métis, who emerged as a distinct Indigenous people in the historic Northwest but now encompass Manitoba, Saskatchewan and Alberta and extend into parts of Ontario, British Columbia, the Northwest Territories, and the northern United States. Over half of these populations now reside in urban centres. First Nations, Inuit, and Métis are represented by a number of representative organizations regionally, provincially and nationally, including but not limited to, the Assembly of First Nations, the Inuit Tapiriit Kanatami, and the Métis National Council.

Although the Canadian government originally voted against the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2007, it has since changed tone, being one of the first countries around the world to adopt the UNDRIP into federal law. The *United Nations Declaration on the Rights of Indigenous Peoples Act* was adopted into law in June 2021, acknowledging, in the preamble, that the UNDRIP provides a framework for reconciliation, justice, and peace, and denouncing the doctrines of discovery and *terra nullius* as "...racist, scientifically false, legally invalid, morally condemnable and socially unjust." 2023 was an important year for implementation of the UNDRIP, as the federal government released its 2023-2028 Action Plan implementing, and ensuring federal laws are consistent with,

the declaration. A similar Act, albeit two years earlier in 2019, was adopted in the province of British Columbia, with an Action Plan being released in 2022. Despite relatively strong rights protections, First Nations, Inuit, and Métis citizens, governments and organizations continue to wrestle with the historical and structural legacy of colonization, systemic discrimination, and forced assimilation, which manifests in numerous ways such as missing and murdered Indigenous women, girls, and boys; unmarked graves from Indian Residential Institutions; and unsafe drinking water.

In 2023, Canada faced: the greatest fire season on record, with over 15 million hectares burned in Quebec, British Columbia, Northwest Territories, Alberta, and Yukon; a growing cost of living crisis; and increasingly hostile federal-provincial relationships. It wasn't all negative, however, as the first First Nations person, and second Indigenous person overall, Wab Kinew, was elected as provincial premier of Manitoba in Canada, bringing new hope for the state of provincial politics.[1] In an Indigenous context, headlines included the election of a new National Chief at the Assembly of First Nations,[2] the approval of the CAD 23 billion (approx. EUR 15.8 billion) settlement agreement for First Nations children and families who experienced racial discrimination through chronic underfunding of the child welfare,[3] and the visit of the Special Rapporteur on the rights of Indigenous Peoples, José Francisco Calí Tzay, who visited Canada from 1 to 10 March 2023.[4]

The Special Rapporteur produced a report summarizing his observations from this visit, noting the steps taken since his predecessors' visits in 2004 and 2014. The Special Rapporteur noted numerous outstanding challenges facing Indigenous Peoples, including, for example, residential schools and the discovery of unmarked graves; the Child Welfare System; missing and murdered Indigenous women and girls; over-incarceration and access to justice; and the impact of climate change on Indigenous Peoples. He closed with a series of recommendations to the Canadian government on these challenges, calling on them to

> *... address, as a priority, the deep-set, systemic and structural racism affecting Indigenous Peoples and, without further delay, put into practice the calls issued by the Truth and Reconciliation Commission, the National Inquiry into Missing and Murdered Indigenous Women and Girls and other thematic commissions.*[5]

A key part of this call was to "*...respect their Nation-to-Nation relationships, treaties and self-government agreements and to ensure their full and equal participation in decisions that affect their rights, title and interests.*"[6] These recommendations, at their core, centred the objective of reconciliation (and thus decolonization) on the land, and the reaffirmation of Indigenous Peoples' rights to self-determination over it.

The National Action Plan

Following two years of working with First Nations, Inuit and Métis from across Canada, the Government of Canada published a National Action Plan ("Action Plan") to implement the UNDRIP in June 2023.[7] The Action Plan, according to the government, was not intended to be comprehensive, nor restrictive, but rather an evergreen document that will continue to identify new priorities over time. It was divided into five chapters, supported by a series of Guiding Principles: shared priorities; First Nation priorities; Métis priorities; Inuit priorities; and Modern Treaty Partner Priorities. Under each chapter, proposed measures (180 in total) are grouped together into identified themes, preceded by a clarification of Canada's priority goals.

Overall, the Action Plan works to address departmental injustices, violence, prejudice, systemic racism, and discrimination, as well as to ensure consistency with the UNDRIP. The response to the Action Plan was mixed, as many Indigenous Nations acknowledged the importance of the step but lamented the absence of clear commitments to transformative change.

One priority area, among many others, was a focus on lands, territories and resources. Broadly, this included commitments to ensure that Indigenous Peoples can exercise their inherent rights; to affirm

and respect Indigenous jurisdiction over lands and resources, including through processes of harmonization; and to respect the sacred responsibility and responsibilities of Indigenous Peoples to their lands, waters, and resources. A significant commitment under this area was the government's commitment to the repeal of the Comprehensive Land Claims Policy (CLCP). The current version of the CLCP is highly contested by First Nations because it is premised on the extinguishment of Indigenous rights. In its place, the government committed to issuing a public statement clarifying that extinguishment of Indigenous land rights is no longer a policy objective of the federal government. This statement is significant and could have serious implications for the First Nations who are currently at the negotiation table. In particular, this policy shift could enable First Nations to negotiate the recognition and implementation of their self-determination without having to accept the extinguishment of any existing rights.

Another important commitment of the Action Plan was to work with First Nations to co-develop a re-design of the Addition to Reserve (ATR) Policy. Through the ATR Policy, First Nations can submit proposals to add land to their reserves. By adding land to their reserves, First Nations can take control over culturally significant areas, take advantage of economic opportunities, and create space for community needs. This process is being impacted by severe delays and a massive backlog of ATR proposals.

Finally, the Action Plan also acknowledged the role of self-determination in uplifting Indigenous climate leadership, a position that has been advanced by Indigenous Peoples across the country and is the foundation of the AFN's National Climate Strategy.

A review of consequential cases

In acknowledging the steps taken by the current government, the UN Special Rapporteur also acknowledged that:

> *... the most significant achievements are often acquired through court decisions or case settlement rather than implementation of governmental policies, and these advances are*

> *ultimately the result of Indigenous Peoples' strong determination and unabated courage to defend their rights.*[8]

For those Indigenous Peoples who continue to rely on the courts for recognition of their rights, they must grapple with costly and prolonged processes. In 2023, several court decisions were released that highlight some of the difficulties in establishing recognition of title through the courts.

In May 2023, in *The Nuchatlaht v British Columbia*, the British Columbia (BC) Supreme Court considered an Aboriginal title claim from the Nuchatlaht First Nation to an area on Nootka Island in British Columbia.[9] The court determined that the First Nation had not demonstrated adequate historical evidence showing that it occupied the claim area to a sufficient degree. In arriving at this decision, the court noted that the existing test for proof of Aboriginal title may not be well suited to Indigenous groups in coastal areas but declined to alter any aspect of the existing test.

Also in 2023, the Ontario Court of Appeal released a decision in *Chippewas of Nawash Unceded First Nation v. Canada*.[10] At trial, the judge determined that the Saugeen Ojibway Nation (SON) had failed to prove Aboriginal title to submerged lands in Lake Huron and Georgian Bay. In arriving at this determination, the trial judge reasoned that moving water above submerged land cannot be owned and that SON's claim to title was inconsistent with the right of public navigation. The court deemed it unnecessary to determine whether the right of public navigation is incompatible with Aboriginal title and remitted the case to the trial judge to determine if title could be established to a more limited area than that which SON had originally claimed.

In both *Nuchatlaht* and *Chippewas of Nawash*, the First Nations' claims to Aboriginal title were remitted to trial to determine whether title could be established in more limited areas. Taken together, these decisions highlight some of the major hurdles facing Indigenous Peoples seeking recognition of their land rights in Canadian courts. In particular, both cases demonstrated uncertainty in judicial approaches to Aboriginal title over marine areas. Moreover, these cases highlight the risk in seeking recognition of broad, territorial recognition of Aboriginal title. Magnifying the scope of this injustice is the growing academic and ju-

dicial recognition that Canada's claim to ownership of lands outside of treaty areas is based on the mere assertion of Crown sovereignty, which is a legal fiction used to justify the theft of Indigenous lands.[11]

While First Nations experienced some setbacks in seeking to establish title over their lands through the courts in 2023, Indigenous land defenders were successful in a number of prominent cases. In July 2023, the Ontario Court of Justice assessed whether Skyler Williams, a Mohawk land defender, had acted against the public interest in his role in occupying a proposed housing development on a disputed tract of land in Caledonia, Ontario.[12] The judge relied in part on Haudenosaunee law to determine that Williams was acting in the best interest of the Haudenosaunee. The judge granted Williams an absolute discharge. Similarly, the BC Supreme Court considered Wet'suwet'en law in its acquittal of Sabina Dennis, a Dakelh land defender charged with criminal contempt for her role in the protest actions against the Coastal Gaslink Pipeline.[13] While these decisions from lower courts do not bind other jurisdictions in Canada, they may represent a growing willingness of courts to recognize and give effect to Indigenous legal orders. As Indigenous Peoples continue to directly assert and enforce their land rights, recognition of Indigenous laws may continue to provide an important legal defence.

Indigenous Peoples affirming rights to lands, waters, ice and air

In the face of clear challenges within colonial courts, as well as clear delays in transformative policy decisions by settler governments at the federal, provincial, and territorial level, Indigenous Peoples took matters into their own hands and directly asserted their rights to the land and water. Skyler Williams, described above, was a key member of the land defenders at 1492 Land Back Lane in Caledonia. The land defenders at Wet'suwet'en continue to fight against the construction of the Coastal Gaslink Pipeline in BC, and were successful in pushing the Royal Canadian Mounted Police (RCMP) to open an investigation into the actions of their Community-Industry Response Group, the face of the RCMP that violently removed land defenders in 2021. These examples, including

the Nuluujaat land guardians in Nunavut, focus not only on returning land under Indigenous authority and jurisdiction but also the concept of Land Back. Land Back, as a concept and philosophy, continues to grow in prominence to reassert the role of Indigenous jurisdiction on lands and waters. A concrete form of Land Back that continues to develop is that of Indigenous Protected and Conserved Areas (IPCAs) and Indigenous Guardian programs. IPCAs continue to grow across the country, such as the Simpcw First Nation's declaration of the Raush River watershed, due to the ongoing support from the federal government, committing more than CAD 1.2 billion to Indigenous-led conservation since 2018. Despite these supports, challenges with IPCAs remain, such as with resource extraction, laws and legislation, financing, relationships and capacity, and jurisdiction and governance.[14]

Violence against the land and water is violence against Indigenous women and children

There is a deep connection between violence against the land and water, and violence against Indigenous women.[15] The crisis facing Missing and Murdered Indigenous Women and Girls (MMIWG) continued in 2023. Early in the year, a Roundtable of Indigenous leaders and representatives and federal and provincial/territorial ministers took place. The roundtable was the first national dialogue on MMIWG and 2SLGBTQI+ people, with a focus on how to improve cross jurisdictional collaboration, discuss areas of success, and implement the calls for justice.[16] Several months later, a Federal Pathway Annual Progress Report was released.[17] The work is not all positive, however, as an analysis from the Canadian Broadcasting Corporation (CBC) showed that only two out of the 231 calls for justice have been completed and more than half have not even been started.[18] A perfect example of this is the search for the remains of two First Nations women in a Winnipeg-era landfill, which generated significant controversy when a former Premier used racist campaign messages to justify not spending money on the search.[19]

In 2023, Indigenous Peoples continued to reckon with the existence, and growing number, of unmarked grave sites on the grounds of former Residential Schools. An independent Special Interlocutor,

Kimberley Murray, was named in June 2022 and produced her Interim Report, *Sacred Responsibility: Searching for the Missing Children and Unmarked Burials*, in June 2023 in anticipation of a final report in June 2024. The interim report described her findings from four national gatherings in Edmonton, Winnipeg, Vancouver, and Toronto.[20] During this time, another five First Nations from across the country, Star Blanket Cree Nations, Wauzhushk Onigum Nation, Tseshaht First Nations, Saddle Lake Cree Nation, and the Shíshálh Nation, found anomalies consistent with possible unmarked burials.

Path forward

The Government of Canada's legal obligation to implement the UNDRIP has generated cautious optimism in relation to Indigenous land rights in 2024 and beyond. The over 180 commitments through the Action Plan, including the withdrawal of the CLCP, provide Canada with the opportunity to transform the relationship between Indigenous Peoples and the Crown. The shift away from an extinguishment of rights approach creates a unique opportunity, with a chance to work with Indigenous Peoples to develop fair, open, and transparent mechanisms to negotiate the recognition of Indigenous land rights. Additionally, Canada's commitment to re-designing the ATR Policy could hasten the return of lands to First Nations in the form of expanded reserves. With adequate resources and political willpower, these commitments could have significant, positive impacts on Indigenous land rights in Canada.

While these reforms are ongoing, Indigenous Peoples will continue to assert their land rights through the courts, direct action, and in the establishment of unique land management arrangements, such as IPCAs. These efforts may need to be amplified as Indigenous Peoples ready themselves for the potential return of a conservative government.

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Graeme Reed *is an Anishinaabe from the Great Lakes (Wiikwemkoong Unceded Territory) with mixed ancestry from England, Scotland, and Germany. He works at the Assembly of First Nations leading their involvement in federal and international climate policy, including as North American Indigenous representative of the Facilitative Working Group of the UNFCCC's Local Communities and Indigenous Peoples' Platform, and former co-Chair of the International Indigenous Peoples' Forum on Climate Change. He holds a PhD from the University of Guelph.*

Jesse Donovan *is a Red River Métis. He works at the Assembly of First Nations as the Associate Director of the Lands Sector. His work focuses on the restitution of lands, territories and resources to First Nations. He holds a law degree from the University of Saskatchewan.*

United States of America

The number of Indigenous people in the United States of America is estimated at between 3.1 and 8.7 million,[1] of which around 20% live in American Indian areas or Alaska Native villages.

Indigenous Peoples in the United States are more commonly referred to as Native groups. The state with the largest Native population is California; the place with the largest Native population is New York City.

With some exceptions, the official status of being American Indian or Alaska Native is conferred on members of federally-recognized tribes. Five hundred and seventy-four Native American tribal entities were recognized as American Indian or Alaska Native tribes by the United States as of January 2023,[2] and most of these have recognized national homelands. Federally-recognized Native nations are inherently sovereign nations but their sovereignty is legally curbed by being unilaterally defined as wards of the federal government. The federal government mandates tribal consultation for many issues but has plenary authority over Indigenous nations. Many Native nations have specific treaty rights and the federal government has assumed responsibility for Native peoples through its guardianship, although those responsibilities are often underfunded. There are also State-recognized and non-recognized American Indian tribes but these are not officially Native nations in the eyes of the federal government.

While socio-economic indicators vary widely across different regions, the poverty rate for those who identify as American Indian or Alaska Native is around 18%.

The United States announced in 2010 that it would support the UNDRIP as moral guidance after voting against it in 2007. The United States has not ratified ILO Convention No. 169.

While American Indians born within the territory claimed by the United States are American citizens, they are also citizens of their own nations.

Land rights

American Indians and Alaska Natives can own lands like any other American citizen due to their status as citizens of the United States of America. However, as enrolled members of Native nations (or as these Native nations' governments), much of their lands is owned "in trust". This means that while individuals or tribal governments own the land, the federal government holds the title to the lands in trust for them. Such lands can only be leased, sold, or changed with the agreement of the federal government, they count as federal lands for tax purposes, and these are the lands over which tribal governments hold the most unlimited sovereignty. Sovereignty over "fee lands" (lands for which the owners – Native or non-Native – hold the title themselves) is more contested, although tribal governments hold specific rights over fee lands on reservations.

Some 56 million acres (over 22.5 million hectares) are owned in trust. Trust lands are mostly owned by the 347 federally-recognized tribes in the lower 48 states. The 227 tribes in Alaska have fought for years to be able to own lands in trust. In 2023, a 787 square foot (73 square meters) parcel in Juneau, Alaska became one epicenter of this fight when the state of Alaska filed a suit against taking the property in trust for the Tlingit and Haida tribes. The state argues that the 1971 Alaska Native Claims Settlement Act (ANCSA) prohibits trust lands in Alaska. The Biden administration, however, restored an opinion (previously rescinded by the Trump administration) that allows the federal government to take lands into trust in Alaska *(see The Indigenous World 2017, 2019)*.

Some tribes have no land base at all. One of those, the San Juan Southern Paiute Tribe of Arizona, saw a bill introduced to Congress in 2023 to ratify a treaty between the tribe and the Navajo Nation that would grant them 5,400 acres of the Navajo reservation. While the two nations entered into the treaty in March 2000, the United States has not yet ratified it; the treaty cannot become legal until it does.[3]

Land back

In 1934, Native people in the United States owned 47 million acres, down from 138 million in 1887. Native land holdings have gone up and, in

recent years, a movement called "Land Back" has contributed to this. Tribes are buying land that they lost; in Nebraska, the Winnebago, the Ponca, and the Iowa have bought 3,000 acres of farmland over the past five years, for example. Such purchases often involve purchase prices higher than average for the area, and have to be done in small steps. Another opportunity are lands with conservation easements (*see The Indigenous World 2023*). In August, California announced a USD 100 million (approx. EUR 91 million) grant program available to Native tribes in the state to buy back lands lost during colonization for cultural and conservation projects. In some cases, land is returned to tribes directly. In February, a bill was introduced to Congress to return land in Iowa and Nebraska to the Winnebago Tribe of Nebraska from the U.S. Corps of Engineers. In September, Minnesota gave the Upper Sioux Agency State Park to the Upper Sioux Community. Over the past two decades, tribes have gained back some 420,000 acres through various pathways.

Where tribes cannot get lands restored, the federal government has entered into more co-management cooperative agreements (*see The Indigenous World 2023*). In 2023, almost 200 such agreements were announced. The University of Washington, together with the Native American Rights Fund and other organizations, has opened a clearing house for such agreements.[4]

Sacred sites

In many places, sites that are culturally significant lie outside Native lands. While, in December, the federal government finalized new guidelines for protecting such sites,[5] problems remain. In July, a federal court ruled in favor of a lithium mine in Nevada despite the objections of several Paiute tribes. The Reno-Sparks Indian Colony and the Summer Lake Paiute Tribe are still trying to have the area around Thacker Pass recognized as a cultural district. Meanwhile, construction for the mine is underway.

The Resolution Copper mine, which would destroy the Apache sacred site of Oak Flat in Arizona (*see The Indigenous World 2021, 2022, 2023*), is still being upheld by the courts, and in March the Forest Service said it could not say when it could finalize an Environmental Impact

Statement. The San Carlos Apache appealed to the UN Permanent Forum on Indigenous Issues in April for support against the mine.

Natural resources

In January, the Environmental Protection Agency (EPA) invoked the Clean Water Act to veto the Pebble Mine in Alaska (*see The Indigenous World 2021, 2023*). However, in July, the state of Alaska appealed to the U.S. Supreme Court, asking that Alaska be exempted from the Clean Water Act and that the EPA ruling be overturned. Also in Alaska, in March, the Biden administration approved the Willow oil extraction project, projected to produce 600 million barrels of petroleum over the next 30 years. This is a legacy of the Trump administration, albeit much reduced (*see The Indigenous World 2020, 2021, 2022*).

In July, the first of four hydroelectric dams on the Klamath River in Oregon and California was removed. This is the world's largest dam removal and river restoration project so far, designed to help restore salmon populations, among other environmental concerns (*see The Indigenous World 2023*). In June, the Yurok Tribe signed a memorandum of understanding with CalTrout and Farmers Ditch Company to restore the salmon habitat on the Scott River, a tributary of the Klamath, which produces the most coho salmon in California. In April, the Association of Village Council Presidents and the Tanana Chiefs Conference, together representing around 100 Native villages in Alaska, sued the National Marine Fisheries Service (NMFS). They argue that the NMFS prioritizes commercial fisheries and is thus endangering fish populations.

In Wisconsin, a federal judge ruled in June that an oil pipeline operated by Enbridge – Line 5 – had been trespassing on the Bad River Band of the Lake Superior Tribe of Chippewa's land. The right of way over the Bad River reservation expired in 2013 but Enbridge insisted it had the right to operate the pipeline until 2043. The decision demands the company shut down the portion of the pipeline crossing tribal lands and pay the tribe USD 5.1 million (approx. EUR 4.6 million). The company has appealed the decision. It is also proposing to build a segment of the pipeline that would go around the reservation but resistance is growing against permitting this project.

Water

In June, the Supreme Court ruled against the Navajo Nation, who had sought water rights from the Colorado River. The agreement in place over water from the river leaves tribes dry – every drop in the river is assigned to seven states or Mexico, and the water in the river has diminished by 20% over the past two decades. Under the Winters doctrine,[6] reservations hold water rights but the Supreme Court majority argued that a treaty in 1868 did not contain any "language that imposed a duty on the United States to take affirmative steps to secure water for the Tribe".[7] This is reminiscent of another case involving the Hopi, where the federal government also refused to secure the water system based on narrow legal arguments (*see The Indigenous World 2016*). In the dry western parts of the U.S., in particular, access to water is critical. Around one-third of the people on the Navajo reservation do not have running water in their homes.

Apart from access to water, access to clean water is also an issue. While federally-recognized tribes theoretically have the right to determine clean water standards on a par with states' rights, only 84 tribes out of 326 with reservation lands have been approved under the Treatment as State (TAS) program so far and are able to set their own standards for waters within their jurisdiction.

National Monuments

One way the federal government can attempt to protect lands and landscapes and co-manage them with tribes is by designating them National Monuments. In March, President Biden created the Avi Kwa Ame National Monument in Nevada and the Castner Range National Monument in Texas. Avi Kwa Ame is spiritually important for Paiute tribes as well as the Zuni, Havasupai, Hopi, Hualapai, Kumeyaay, Yavapai, Maricopa, and other nations. Avi Kwa Ame, or Spirit Mountain, was also designated as tribal cultural property. The Castner Range in the Franklin Mountains is seen as an ancestral homeland by the Comanche and Apache. This area was used as an army training base until 1966, and the designation directs the army to work with tribes to open the land to the public. In Au-

gust, the Baaj Nwaavjo I'tah Kukveni – Ancestral Footprints of the Grand Canyon National Monument was designated. This area holds sites sacred to the Havasupai, Hopi, several Paiute tribes, the Navajo, Zuni, and Yavapai-Apache nations. Its designation will also protect the area from further uranium mining.

Rights of nature

More attempts to provide legal rights to natural entities were also initiated in 2023, often with Indigenous leadership. The Great Plains Action Society and the Iowa Tribe of Kansas and Nebraska are calling for the Mississippi River to be invested with rights. In North Carolina, people are calling for the Haw River to have legal rights. In April, the city of Seattle settled a case brought by the Sauk-Siuattle tribe (*see The Indigenous World 2023*) on behalf of the salmon and agreed to operate fish passages in its hydroelectric dams. While some states are passing laws prohibiting communities or counties from passing rights of nature laws, tribes could force the issue because they are sovereign.

Notes and references

1. Estimates vary depending on definitions. The official Census uses self-identification. It gives much smaller numbers for those who only identify as American Indian/Alaska Native than it does for those who identify as American Indian/Alaska Native plus another population group. The Bureau of Indian Affairs, the Indian Health Service and other agencies of the federal government provide numbers based on enrollment in federally-recognized tribes and/or based on eligibility for their services. Current numbers are based on 2021 estimates by the U.S. Census Bureau. American Community Survey, S0201 Selected Population Profile in the United States. https://data.census.gov/table?q=S0201&t=006:009:01A&y=2021&tid=ACSSPP1Y2021.S0201
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4. Sovereign-to-Sovereign (S2S) Cooperative Agreements. https://lib.law.uw.edu/cooperative
5. Best Practices Guide for Federal Agencies Regarding Tribal and Native Hawaiian

Sacred Sites. https://www.bia.gov/sites/default/files/media_document/sacred_sites_guide_508_2023-1205.pdf

6. The Winters doctrine, based on a Supreme Court decision from 1908, states that by establishing reservations, the federal government implicitly also established the right to enough water to fulfill the purposes of the reservation. While this is a federal right, the federal government subsequently gave the right to assess the needs to the states, who also interpret the purposes of the reservations. In many cases, this leads to reservations having theoretical water rights (rights to "dry water") but no access to real water ("wet water").
7. Arizona et al. v. Navajo Nation et al. Supreme Court of the United States. Nos. 21-1484 and 22-51. 22 June 2023.

Sebastian Braun *is Director of American Indian Studies and Associate Professor in Anthropology at Iowa State University. sfbraun@iastate.edu*

The Pacific

Aotearoa (New Zealand)

Māori, the Indigenous people of Aotearoa, represent 16.5% of the 5 million population. The gap between Māori and non-Māori is pervasive: Māori life expectancy is 7 to 7.4 years less than non-Māori; the median income for Māori is 71% that of Pākehā (New Zealand Europeans); 25.5% of Māori leave upper secondary school with no qualifications and over 50% of the prison population is Māori.[1]

Te Tiriti o Waitangi (the Treaty of Waitangi) was signed between the British Crown and Māori in 1840. There is a Māori-language version (Te Tiriti), which most Māori signatories signed, and an English-language version (the Treaty). Te Tiriti granted a right of governance to the British over their subjects, promised that Māori would retain *tino rangatiratanga* (self-determination or full authority) over their lands, resources and other treasures and conferred the rights of British citizens on Māori. Te Tiriti has limited legal status, however; accordingly, protection of Māori rights is largely dependent upon political will and *ad hoc* recognition of Te Tiriti.

Aotearoa endorsed the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2010. Aotearoa has not ratified ILO Convention 169.

Māori land rights threatened

In 2023, there were several developments of relevance to Māori rights to their *whenua* (land). The Waitangi Tribunal released its report into stage 2 of its inquiry into the Marine and Coastal Area (Takutai Moana) Act 2011.[2] The 2011 Act enables Māori to apply for legal recognition of their customary interests in the foreshore and seabed. It replaced heavily criticised earlier legislation that extinguished those customary interests. The Tribunal found that the 2011 Act also breached the Treaty because, among other reasons, "the rights under the Takutai Moana Act do not sufficiently support Māori in their *kaitiakitanga* [guardianship] duties and *rangatiratanga* [authority] rights and fail to provide a fair and reasonable balance between Māori rights and other public and private

rights".[3] The Tribunal recommended a package of amendments to the 2011 Act to address the Treaty breaches it identified. The government has not yet responded to the report.

Māori connections to their *whenua* remain under threat from natural disasters exacerbated by climate change. In February, Cyclone Gabrielle devastated parts of the North Island, including Te Tairāwhiti (the East Coast of the North Island). Some *hapū* (extended kinship groups) in the region have struggled to maintain *ahi kaa* (continuous occupation) of their traditional *whenua* because of the cyclone damage.[4] Yet, the disaster also saw the practical exercise of *mana motuhake* (autonomy) by *hapū* and *iwi* (nations) in the region, as they cared for those affected by the cyclone, including: coordinating evacuation efforts, using *marae* (traditional Māori meeting spaces) to house and feed those displaced and providing essential goods and services.[5]

Māori who are defending rights to their *whenua* and waters also face threats. For example, members of the *iwi* of Ngāti Pāoa, who have occupied the beach at Pūtiki Bay (Kennedy Point) on Waiheke Island to protect their *whenua*, ancestral sea and wildlife from a marina and other concerns, face wilful trespass and other charges before the courts.[6] The case, at the pre-trial stage in 2023, may have important ramifications for how *tikanga* Māori (Māori law and custom) is exercised during protests by Māori.

On the positive side, in 2023, a collective redress package was agreed by *iwi* of Taranaki and the Crown to see Taranaki Maunga (mountains of Taranaki) gain legal personhood and the implementation of a co-governance arrangement to manage the national park where the Taranaki Maunga are located.[7] It remains to be seen whether the legislation giving effect to the redress package will progress under the newly elected government.

Election spurs Māori rights regression

The national general election, on 14 October 2023, delivered a coalition government comprised of three right-leaning parties: the National Party, ACT and New Zealand First. The coalition government is already advancing a regressive agenda regarding Māori and their rights. For example, it has announced plans to: disband Te Aka Whai Ora, the

Māori Health Authority, established to address negative Māori health outcomes; end "race-based policies"; and minimise the use of Māori language spoken within the public service. Most significantly, it will support the introduction of a bill, campaigned for by ACT, calling for a referendum to redefine – effectively, to diminish – the principles of the Treaty. Te Pati Māori (the Māori Party) co-leader Debbie Ngarewa-Packer has described the government's approach as "taking us into a decline like we've never seen in race relations, certainly not since the earliest stages of colonisation".[8]

On the positive side, the elections also saw a stronger bloc of left-leaning minor parties with progressive policies regarding Māori and their rights emerge. Te Pati Māori holds six, and the Green Party 15, seats in parliament – a record number of seats for both parties.[9] There are also a record number of Māori represented in parliament, with 33 Māori members of parliament (MPs), which translates into 27% of all MPs – a higher proportion than the 16.5% of Māori in the total population.[10] Public protests by Māori and their allies in response to the government's policies regarding Māori have also been growing.[11]

Respectful judicial engagement with *tikanga*

There were two notable developments regarding the relationship between *tikanga* Māori (Māori law and custom) and state law in 2023, both of which reflected a respectful engagement with *tikanga*. Firstly, the New Zealand Law Commission (NZLC) released a much-awaited study paper on the topic: *He Poutama*.[12] The study paper sought to help tikanga Māori and state law engage in ways that are authentic and "respectful of both systems' parameters" by offering guiding frameworks for their engagement.[13] The study paper will be a valuable resource for guiding future interactions between the two systems of law.

Secondly, the decision of *Hart v Director-General Conservation*[14] was released. The case concerned a decision by the Department of Conservation to deliver whale jawbones to one *iwi*, on the basis that the *iwi* had cultural interests in the whale. The Department of Conservation's decision was contested by another *iwi*, who also claimed cultural interests in the whale. The High Court held that the Department of Conservation's decision was unlawful. The Court stated that "the question

of any allocation needs to be resolved by an *iwi* to *iwi* process, undertaken consistently with the principles of tikanga".[15] The case has been described as reflective of a positive trend of "judicial caution" where conflicting or competing *tikanga* is involved. Instead of the courts determining the issue, the courts are encouraging *iwi* "to reach a tikanga-based solution amongst themselves".[16]

UN Children's Committee raises concerns

The UN Committee on the Rights of the Child identified a host of concerns regarding the human rights situation of Māori children in its concluding observations on the sixth periodic report of New Zealand under the Convention on the Rights of the Child. The Committee noted, for example, its serious concern at persisting discrimination against Māori children; high suicide rates for Māori children and youth; the overrepresentation of Māori children in state care; the disproportionate number of Māori children living in poverty, experiencing food insecurity and severe housing deprivation; inequitable health outcomes for Māori children; and the overrepresentation of Māori children as victims of violence, abuse and neglect and in contact with the criminal justice system".[17]

The Committee's extensive recommendations included that New Zealand should: address structural discrimination against Māori children; include specific measures targeting Māori children into its suicide prevention strategy and action plan and ensure attention to root causes; pay special attention to the situation of Māori when formulating and implementing, with children's participation, a strategy for preventing and combating violence against children; work with Māori children and their communities to prevent the removal of Māori children into state care; prioritise the delivery of immunisation programmes for Māori; address inequalities in mental health outcomes for Māori; facilitate the access of Māori children and young people, in particular, to meaningful participation in climate change planning and decision-making; take measures to end child poverty, specifically prioritising Māori children; address the racism, discrimination, stigma and bias experienced by Māori children in school; increase the obligation on schools, child protection agents and youth justice decision makers to uphold the right to identity of Māori children; ensure that Māori children's views are con-

sidered in decisions affecting them; finalise the action plans against racism and implement UNDRIP, including Māori children in the process; and develop an action plan to address disparities in the rates of sentencing, incarceration and suicide in detention of Māori children.[18]

Additional developments

Additional developments of note in 2023 include: a host of critical Waitangi Tribunal reports, including the COVID-19 priority report, the stage one report on the housing inquiry into Māori homelessness, the stage one report of the health inquiry, the report on the Comprehensive and Progressive Agreement for Trans-Pacific Partnership, and the report on claimant funding as part of the justice system inquiry;[19] the creation of the role of Rongomau Taketake at the New Zealand Human Rights Commission in order to lead the Commission's work on Indigenous Peoples' rights;[20] and the settlement of historical Treaty claims with iwi, including with Whakatōhea.[21]

Future outlook

With the new conservative coalition government in power for the next three years, it is anticipated that Māori rights will be under heightened threat. However, Māori will continue to mobilise to protect and advance their rights. Positive developments to help uphold *tikanga* Māori and Māori rights are expected to continue in New Zealand's highest courts and Waitangi Tribunal.

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Fleur Te Aho (Ngāti Mutunga) *is a Senior Lecturer in the Auckland Law School at the University of Auckland. Email her at: f.teaho@auckland.ac.nz*

Australia

INDIAN OCEAN
AUSTRALIA
CORAL SEA
PACIFIC OCEAN
Canberra
TASMAN SEA

As of 30 June 2021, there were 984,000 Aboriginal and Torres Strait Islander people, representing 3.8% of the total Australian population.[1] The most recent available data from the Australian Bureau of Statistics indicates that, among Indigenous Australians, 38% (337,400) live in major cities and 18% (154,900) live in remote and very remote areas combined. The proportion of the total population who were Indigenous increased with remoteness, from 1.8% in major cities to 32% in remote and very remote areas.

The Aboriginal and Torres Strait Islander population had a younger age structure than the non-Indigenous population, with both larger proportions of young people and smaller proportions of older people. This reflects higher birth rates and lower life expectancy in the Aboriginal and Torres Strait Islander population compared with that of the non-Indigenous population. One-third (33.1%) of Aboriginal and Torres Strait Islander people were aged under 15 years compared with 17.9% of non-Indigenous people in the same age group. People aged 65 years and over comprised 5.4% of the Aboriginal and Torres Strait Islander population compared with 17.2% of the non-Indigenous population. Aboriginal and Torres Strait Islander peoples are vastly over-represented in the Australian criminal justice system, with 2,481 prisoners per 100,000 Indigenous people –15 times greater than for the non-Indigenous population.

The National Agreement on Closing the Gap (the National Agreement) has 17 national socio-economic targets across areas that have an impact on life outcomes for Aboriginal and Torres Strait Islander people. In 2023, four of these targets were on track to be met, seven showed improvement but were not on track, four were worsening, and four had not recorded any additional data since their baseline years.[2]

There are approximately 3,000 Aboriginal and Torres Strait Islander corporations registered under the federal corporations (Aboriginal and Torres Strait Islander) Act 2006 (CATSI Act), including 186 registered native title land-holding bodies. This does not include a large number of businesses run by Aborigi-

nal and Torres Strait Islander people, of which there are around 12,000-16,000.

There is currently no reference to Aboriginal and Torres Strait Islander peoples in the national Constitution. In 2009, Australia formally endorsed the UN Declaration on the Rights of Indigenous Peoples (UNDRIP).

The Voice Referendum

As a result of decades of campaigning for constitutional recognition, in 2017 Aboriginal and Torres Strait Islander people travelled from all over Australia and came together at Uluru to develop and agree on the Uluru Statement of the Heart, which called for voice, treaty, truth and recognition of Aboriginal and Torres Strait Islander people in the Australian constitution.[3]

On 14 October 2023, Australians voted in a key referendum. This was the first Australian referendum of the 21st century. The referendum was to decide whether changes to the Constitution were to be made that would recognise the First Peoples of Australia. It would do so by establishing a body called the Aboriginal and Torres Strait Islander Voice.

On 23 March 2023, the Prime Minister announced the question that was to be put to the Australian people in the 2023 referendum. That question was:

- To add a proposed Law to alter the Constitution to recognise the First Peoples of Australia by establishing an Aboriginal and Torres Strait Islander Voice.
  - The Australian people were asked, "Do you approve this proposed alteration?"

The referendum question and the constitutional amendment were settled through consultation with the First Nations Referendum Working Group.[4]

Unfortunately, the referendum did not pass. 60.6% of the Australian population voted against the proposed changes. Australian constitutional law requires a majority of voters in at least four of the six Aus-

tralian states to vote in favour of any proposed constitutional change. The Australian Capital Territory (ACT) was the only jurisdiction that voted in favour of the changes. The Northern Territory also voted against enshrining a Voice to Parliament in the constitution, rejecting an idea that was formally requested by Indigenous leaders at Uluru in 2017. Nevertheless, the results show that voters in the territory's Indigenous remote communities voted heavily in favour of the referendum. The votes in the Territories were counted as part of the nationwide overall count but the Territories do not count as part of the State majority count as they are not considered to be Australian states.[5]

Despite this frustrating result, Aboriginal and Torres Strait Islander people are continuing the fight for justice, recognition and the change that is required in Australia. As of 31 December 2023, there was still no reference to Aboriginal and Torres Strait Islander peoples in the Australian Constitution.

Closing the Gap

The National Agreement on Closing the Gap targets includes wellbeing, culture, safety, health, education, employment, economic development, housing, justice and participation in decision-making.[6] Challenges to achieving these targets do, however, continue.

Target 15 identifies that Aboriginal and Torres Strait Islander people maintain a distinctive cultural, spiritual, physical and economic relationship with their land and waters, including sub-targets of a 15% increase by 2030 in Indigenous legal rights to Australia's landmass and interests in the sea.[7]

As of 8 March 2023, the national assessment showed good improvement with the landmass sub-target and was on track to be met while only some improvement could be seen in the sea sub-target, which is still not on track to be met.[8]

The Twelve Apostles

A national icon, the Twelve Apostles, is a collection of monolithic limestone stacks in the Southern Ocean, including a total of 8,578 km^2

of traditional lands. As of 2023, these were finally back in Aboriginal hands and with the peoples of the Eastern Maar nation. The Native Title claim was lodged by representatives from the Maar, Gunditjmara, Tjap Wurrung, Peek Whurrong, Keeray Whurrung, Kuurn Kopan Noot/Yarro waetch and Gulidjan/Gadubanud nations, part of the 156 interest groups.

The area includes more than 100 km of coastline and land from Penthurst in the west to Cape Paton in the east and north to the outskirts of Ararat.

The return of this land is Victoria's first Native Title determination in 10 years. The Federal Court, which assesses native title claims, will only recognise those that can display an unbroken continuation of culture dating back to pre-colonisation. This decision recognises the continued culture, strength and determination of the people of the Eastern Maar.[9]

UN Human Rights Committee decision on Native Title

The UN Human Rights Committee (HRC) announced in 2023 that Australia had violated the cultural rights of Indigenous Peoples, namely the Wunna Nyiyaparli people of the Pilbara region of Western Australia.[10] This is the first decision the HRC has made on the required procedure when governments are determining the interests of Aboriginal and Torres Strait Islander peoples in relation to Native Title in Australia and internationally. The HRC criticised the Federal Court of Australia and, while the decision is non-binding, it puts pressure on the government, particularly when it criticises other UN Member States on human rights and raises questions about the Native Title system in Australia.

The case of the Wunna Nyiyaparli people

The Wunna Nyiyaparli people lodged a Native Title claim in 2012 in the Federal Court, covering three iron ore mines controlled by some of Australia's richest people. Due to a lack of funds, they had to take the decision to represent themselves in court in a procedure set up by the court that was not clearly understood by the Wunna Nyiyaparli people, and

they thus were prohibited from making their own submissions or putting their own evidence forward, which put an end to their claim.

In 2019, however, they filed a grievance with the HRC and the case was determined in late September 2022 wherein the committee urged Australia to reconsider the claim, ensuring the Wunna Nyiyaparli people had effective participation in those proceedings, which are ongoing in 2023.

Pending this reconsideration, Australia is advised to refrain from activities that could detrimentally affect the people's interests in their traditional lands. Additionally, there is a call to review mining concessions granted without their consent, provide adequate compensation for the harm endured, and reassess legal aid funding for native title matters.

Australia has been requested to respond to the HRC by February 2024.[11]

Treaties

While there is work being conducted across Australia, with various agreements being signed related to land rights, native title, royalties and co-management of resources, no treaties have been finalised. Treaties are the embodiment of self-determination and involve three elements: recognition of Aboriginal and Torres Strait Islander peoples as polities; negotiation; and a settlement of claims that provides for Aboriginal and Torres Strait Islander self-government.

There are several treaties under development, although the State of Victoria is the most advanced in the treaty negotiation process.

Victoria marked a significant milestone in June 2022 by ensuring a fair and just treaty process for all Victorians with the establishment of an independent Treaty Authority. Progress throughout 2023 was positive with the First Peoples' Assembly announcing support for a "Yes" result in the national Voice referendum. There was also an announcement of an AUD $138 million (approx. EUR 84 million) investment over four years by the Victorian government to support Treaty negotiations. The First Peoples' Assembly undertook its second Statewide election to elect a new representative Chamber and an independent Panel was established to appoint Members of the Treaty Authority.

The Yoorrook Justice Commission, established in 2021 (which looks into past and ongoing injustices experienced by First Peoples in Victoria) continues its nation-leading truth and justice inquiry. A report, "Yoorrook for Justice: Report into Victoria's Child Protection and Criminal Justice Systems" was released in August 2023 and the truth and justice inquiry continues.[12]

Formal Treaty negotiations are ongoing between the State and First Peoples negotiation parties, these negotiations will continue upon the establishment of the Negotiations Database by the Treaty Authority.[13]

Anti-racism

While Australia is a multicultural society and multiculturalism is embraced by many, racism continues to be a major issue.[14] Aboriginal and Torres Strait Islander people continue to experience racial prejudice, entrenched disadvantage and ongoing institutional racism.[15]

The Call It Out Register, led by the Jumbunna Institute for Education and Research and the National Justice Project, plays an important role in combating racism nationwide, including by documenting instances of racism and discrimination experienced by Aboriginal and Torres Strait Islander peoples.[16]

Its 2022-2023 report, "In Every Corner of Every Suburb"[17] outlines that there were hundreds of reported incidences of racism received from people of various ages across the country who both experienced and witnessed racism in all aspects of their daily lives.

Political and legislative reform was identified as a priority in order to address this discrimination, which calls for the particular inclusion of First Nations Rights. A policy is required that has been developed by Aboriginal and Torres Strait Islander people themselves. The public need educating about racism in order to support change.[18]

In a project conducted by the Australia Capital Territory (ACT) Human Rights Commission, together with the ACT Children and Young People's Commissioner, these experiences of racism were identified and shared. The report "It Really Stabs Me" was released on Harmony Day 2023.[19] Aboriginal and Torres Strait Islander children and youth shared their experiences and stories about racism. One of the key findings of the project and the experiences shared was how pervasive rac-

ism is in every part of Australian society. This includes institutionalised racism in education, in public spaces, online and in sport. The voices of the children and youth also highlighted how adults often ignore, dismiss or enact racism against the victims when incidences are reported.

The project outcomes included several pathways by which to combat racism in the ACT, including by talking about racism and providing education, creating an ACT specific anti-racism campaign, proactively talking to children and young people about racism, and introducing more diverse perspectives and focus on Aboriginal and Torres Strait Islander peoples' voices in the Australian curriculum. Anti-racism strategies and policies were also called for, together with a strategic review of legislation that effectively prevents and punishes racism, more regular celebrations of cultural diversity and achievements, improvements in reporting pathways and support for those who experience racism.[20]

Pat Dodson announces retirement from federal politics

In November 2023, Pat Dodson, a proud Yawuru man from Western Australia, who is known as the father of reconciliation, announced his retirement from the Senate as of 26 January 2024.[21] He first came to prominence as a commissioner on the Royal Commission into Indigenous Deaths in Custody and was appointed to the Senate in 2016 to represent Western Australia. Pat served on the Council of Aboriginal Reconciliation for many years and has been the government's special envoy for reconciliation in Australia and for implementation of the Uluru Statement from the Heart.

Pat has been a strong advocate and lifelong champion supporting Indigenous rights in Australia. He leaves a significant legacy for Indigenous Australians.[22]

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Belinda Kendall *is a Worimi, Barkindji, Wailwan and Wiradjuri woman from NSW and a Director of Aboriginal enterprise Curijo Pty Ltd. Belinda's studies and employment have primarily been in the human and community services, and the child, family, and adult education sector, with her passion being to improve the lives of, and outcomes for, Aboriginal and Torres Strait Islander peoples and all Australians through leadership and healing.*

Bill Pritchard *is a Wiradjuri man from NSW who has significant experience in public and community service and is committed to social justice, equity, and equality. Bill's studies and experience have primarily been in the child, family and community sector holding senior positions including Board and CEO positions on national, state and community organisations. Bill's focus is on equity for Aboriginal and Torres Strait Islander peoples.*

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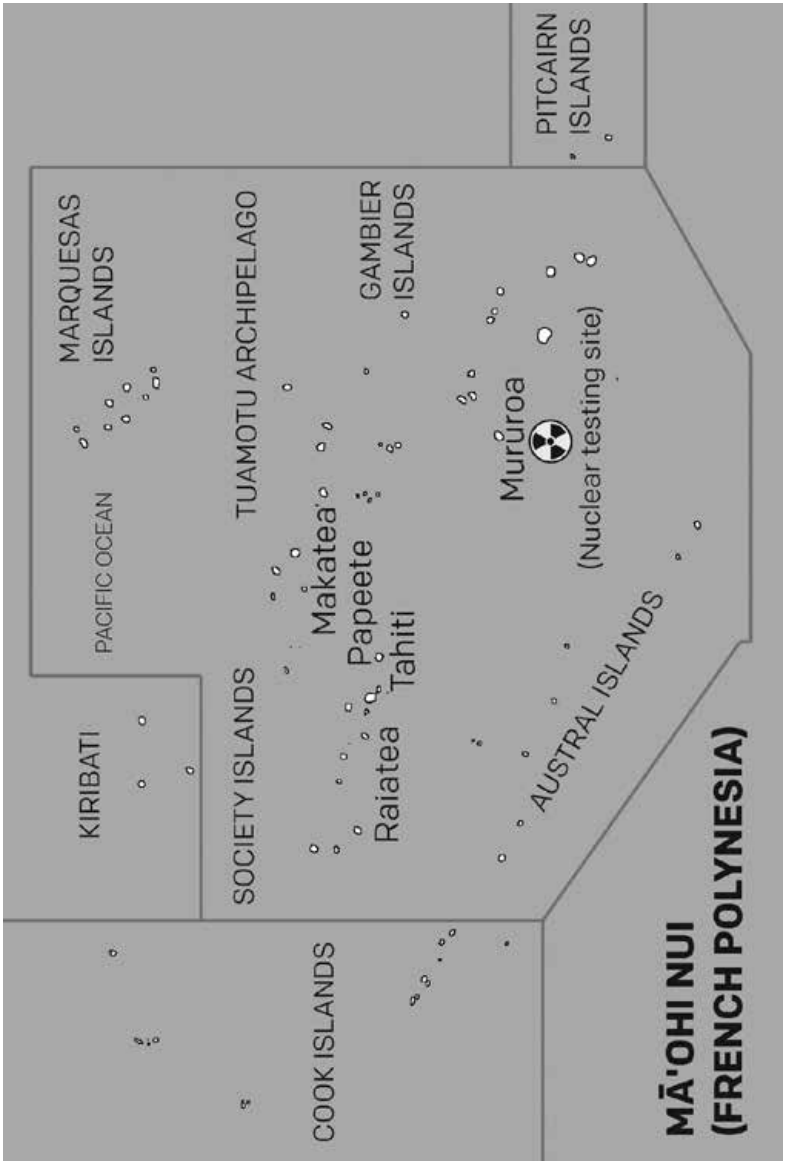
Mā'ohi Nui (French Polynesia)



The Kingdom of Tahiti became a protectorate under the French colonial project in 1842. Mā'ohi Nui (French Polynesia) has been an Overseas Collectivity of the French Republic since 2004. It enjoys relative political autonomy within the French Republic through its own local institutions: the Government and Assembly of Mā'ohi Nui.[1] Mā'ohi Nui has many powers of its own that are no longer controlled by the French State, making these local institutions a key political issue for Polynesian political players.

Today, Mā'ohi Nui has a population of 283,000 (of which some 80% are Polynesians).[2] The demographic profile for 2020 illustrates a slowdown in population growth – due to emigration and a falling birth rate, with an overall fertility rate of 1.7 children per woman – and an ageing population.[3] Mā'ohi Nui is characterized by increasing social inequalities with, in particular, higher income inequalities than in mainland France, as noted by the French Polynesian Institute of Statistics (ISPF) and, in particular, its 2015 family budget survey, which showed that one-fifth of the Polynesian population was living below the poverty line.[4] This situation can be explained in large part "by the very poor redistribution efforts of the Polynesian tax system",[5] i.e. the absence of income tax. With consumer prices an average 31% higher than on mainland France,[6] and after a decade of inflation, the end of 2022 and the start of 2023 were marked by a period of record inflation,[7] leading to a new stage in the weakening of lower and middle-income households' purchasing power, and thus of living conditions in general, with access to sufficient, quality food being a particular problem.

Mā'ohi Nui is also marked by a multitude of other social inequalities in comparison to mainland France. Gender-related inequalities are pronounced, with intra-family sexual violence statistically far more prevalent.[8, 9] Mā'ohi Nui has long been characterized by its polarized political life, with the Tavini Huiraatira, an independence party led by Oscar Temaru, on the one hand, and the Tahoera'a Huiraatira, an autonomist party led by Gaston Flosse, on the other. Until 2016, the latter advocated staying within the French Republic but since then has

focused on changing its autonomous status to that of an associated state.[10] In 2016, a succession crisis within Tahoera'a, following Flosse being declared ineligible to stand for public office (confirmed by the Court of Cassation in January 2022),[11] led to the creation of a third political party, Tapura Huiraatira. This autonomist party was created in 2016 by Édouard Fritch, who was President of Mā'ohi Nui from September 2014 until April 2023.

A year of political upheaval

As covered in previous editions of The Indigenous World,[12] political polarization came to a head in 2022, when for the first time since their creation, the three Polynesian constituencies were all won by pro-separatist candidates.

During the campaign leading up to the 2023 elections, the trio of pro-separatist Members of Parliament formed a united front and stepped up their communication activities in the field, accompanied by supporters and activists from a wide range of sociological backgrounds. For their part, *Tapura* and *Amuitahiraa*, formed an electoral alliance aimed at stemming the *blue wave*, headed by Oscar Temaru. This was not enough, however and, on 30 April 2023, *Tavini* won the second round with 44.32% of the votes cast, enabling them to gain 38 of the 57 seats in the Territorial Assembly, and then to appoint Moetai Brotherson as President a few days later. Ten years after pro-separatist candidates last took the reins of the country, and 20 years after their first, brief term in office, the Polynesian political scene was turned upside down.

As the pro-separatist movement has taken power, challenges remain. The movement is widely perceived as a protest force not sufficiently in touch with economic and political realities required to effectively wield power. The President, his ministers and the majority in the Assembly are keen to demonstrate the opposite and are particularly eagerly awaited by their supporters and the opposition on issues such as the budget, cost of living and employment.

2023, being the first year of their mandate, has found the movement facing the question of the link between democracy, the environment and the island's positioning on the international arena. This included the popular and civil society protest against plans to construct facilities in order to bid for the 2024 Olympic Games,[13] facilities which would have a potentially negative impact on the coral reef.[14] Further, at the end of 2023, violent and destructive storms shed light on the government's lack of capacity to address issues of environmental resilience, which will become all the more acute as the impacts of climate change are increasing in frequency and strength.

Land and contemporary Polynesian society

The issue of land tenure, and more specifically land distribution, is very important in Mā'ohi Nui, and generates strong social tensions. The long process of colonization, which began several centuries ago, first led to a breakdown of the pre-colonial land tenure system, and then to the monopolization and concentration of land in the hands of certain families, resulting in deep inequalities in terms of access to housing and the economic gains inherent to the real estate market. Indeed, the unravelling of the collective land management model and the transition to a model of individual legal ownership has, among other mechanisms, created windows of opportunity for European investors to acquire, in some cases even before setting foot in Mā'ohi Nui, sometimes huge swathes of land, the impacts of which continued to be felt in 2023.

The phenomenon is far more complex, however, as land registration has taken a long time to become established, and the designation of individual owners is still a work in progress and far from complete. In fact, the most recent statistics provided by the Polynesian institutions responsible for these issues show that around 1,857 km^2 of active land plots are registered as undivided ownership,[15] i.e. almost 58%,[16, 17] of the total area of Polynesian lands. Succession wars within families and between different land claimants are the subject of delicate and complex legal procedures and are the subject of a unique mechanism in France, namely a Land Tribunal specifically dedicated to handling claims and indivision resolution cases. What's more, the regular absence of a clear-

ly established genealogy concerning the succession of plots of land encourages a multiplication of claimants and, ultimately, of movements for the physical occupation of land, often leading to violent confrontations. 2023 saw the introduction of a draft law on trusts, which has been promoted by the Minister in charge of Land Affairs, Tearii Te Moana Alpha, and which it is hoped will help to address these land issues.[18]

The UN and the right to self-determination

2023 saw a marked change in regard to the issue of independence.[19] The arrival of Brotherson, following the 2023 elections, suggests a renewed investment on the part of the territory and pro-separatist players in the UN institutional process of decolonization. Indeed, the new President places great emphasis on international relations and, in particular, on multilateral cooperation, as part of his political agenda. In this respect, the meeting of the UN General Assembly's Fourth Committee in October 2023[20] was an important moment in his first months as head of a country with a pro-separatist majority. To mark the occasion, the largest Polynesian delegation ever, led by Brotherson and comprising several *Tavini* heavyweights, attended the debates.

For the first time since 2013, France ended its "empty chair" policy and sent a representative to sit on the Committee. After delivering a speech reiterating France's position on the illegitimacy of the aforementioned Committee's management of Polynesian affairs and Mā'ohi Nui's place on the list of non-self-governing territories,[21] the representative left the room without attending the rest of the debate. The assessment of this situation differs according to the members of the Polynesian delegation. Brotherson welcomed the change in France's negotiating method and saw it as the first step in a slow process towards a change of position. Temaru, however, described the French envoy's attitude as a "disgrace",[22] thus illustrating both the differences of approach between the *Tavini* leadership and the mixed results of this first meeting early on in their mandate. To reinforce the work of the UN Committee, the Territorial Assembly has set up a special commission on decolonization to study all the related issues facing Mā'ohi Nui.[23]

The consequences of nuclear testing

The 193 aerial and underground nuclear tests carried out in Mā'ohi Nui between 1966 and 1996 by the French state, which had terrible consequences for the inhabitants both then and now, still form the object of struggles to obtain compensation for the victims and political recognition of their health consequences.[24]

At the same time, people suffering from radiation-induced illnesses have had difficulty in establishing a causal link between their illness and the nuclear tests, and therefore in obtaining compensation.[25] The compensation process for victims of nuclear testing, insufficiently supported by the Morin law, has not seen the necessary changes demanded by pro-separatist representatives, whose proposed constitutional modifications have been rejected by the central government and did not result in a change to the French constitution. Moreover, the current government's official recognition of the ethical failings of past French governments is still not on the agenda, although it is eagerly awaited by a significant proportion of the population.[26]

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Jules Gautheron *is a doctoral student in sociology at the Centre d'Études Sociologiques sur le Droit et les Institutions Pénales (CNRS/Ministry of Justice/UVSQ/CY University) and the Centre Maurice Halbwachs (CNRS/EHESS/ENS). Originally from the island of Ra'iātea, his thesis focuses on the constitution of post-colonial relations between the French state and Mā'ohi Nui through the day-to-day actions of local security and justice actors, foremost among them the police and judges. Studied from an ethnographic angle, the issues raised intersect with the sociology of the overseas state, coloniality, race, security and justice.*

Papua New Guinea

Papua New Guinea (PNG) is a country in Oceania that covers an area of 462,840 km^2 and the eastern half of the Island of New Guinea and nearby islands. According to the National Statistics Office, it has a population of approximately 11.78 million across 22 provinces as of 2021.[1] The island of Bougainville, which geographically forms part of the Solomon Islands but politically and administratively falls under PNG, became a self-governing region in 2004. The country's population has more than 600 cultural backgrounds with over 840 languages spoken.[2] PNG is considered the most culturally and linguistically diverse country in the world.

PNG is rich in natural resources such as gold, copper, silver, oil, gas, and timber, which make up the majority of the nation's economy. Its key international exports include natural gas, gold, copper, palm oil, nickel, crude petroleum, lumber, refined petroleum, tuna and coffee.[3] The nation is facing many challenges, including an estimated 39.9% of the population living below the poverty line.[4] Further, only an estimated 20.9% of the population has access to electricity.[5] There are also issues around corruption, violence,[6, 7] and environment degradation.[8]

Climate change is significantly affecting PNG, impacting its Indigenous population and the country's development and well-being. The country is facing rising sea levels, coastal and land erosion, saltwater intrusion, coral bleaching, extreme weather events, and health issues, affecting Indigenous communities' lives, livelihoods, food security, health, and culture. Despite these challenges, PNG continues to contribute to global greenhouse gas emissions, primarily from deforestation, land-use change, and the energy sector, with land use, land-use change, and forestry accounting for approximately 70% of its emissions. PNG also emits carbon dioxide from the energy sector, mainly from the combustion of fossil fuels for electricity generation, which accounts for 80% of the total installed electricity capacity.[9]

The Government of PNG was absent from the vote on the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) in September 2007.

The Indigenous Peoples of Papua New Guinea (PNG) are the original inhabitants of the land. We have distinct cultures, histories, and identities. We are often referred to as Papua New Guineans or Papuans but we also have our own ethnic tribal and clan names throughout the 22 provinces. We have a strong connection to our land, which we regard as our source of life, identity, and spirituality. We practise various forms of subsistence farming, hunting, fishing, and gathering, as well as cash crop farming and small-scale mining.

In 2023, the Indigenous Peoples of PNG faced various threats and challenges to our livelihood, rights, and environment.

The Porgera gold mine

As reported in the Indigenous World 2021, Porgera has been on care and maintenance since April 2020 when the government declined to renew its mining lease. Barrick Niugini Limited (BNL) is reported to have spent more than a billion kina (approx. EUR 246 million) on care and maintenance since the mine was closed in 2019.[11] Notably, in 2021, Prime Minister Marape issued a statement stating that Barrick is committed to reopening the mine, and the government – through Kumul Minerals Holdings Ltd as a partner – is similarly committed.[12]

The New Porgera Progress Agreement (NPPA), reached in March 2023 and involving Barrick Gold Corporation, the government, and New Porgera Limited, allowed the resumption of operations at the Porgera gold mine with all parties confirming their commitment to reopening the mine at the earliest opportunity, in line with the terms of two other agreements reached in 2022: the Porgera Project Commencement Agreement and the New Porgera Limited Shareholders Agreement.[13] New Porgera Limited's equity, at 51%, is shared by PNG stakeholders, including local landowners and the Enga provincial government. The mine restarted operations on 22 December 2023.[14]

However, the unresolved problems and challenges that have resulted from the 30-year operation of the mine continued in 2023. The massive open pit mine[15] remains one of the most controversial mining projects in Papua New Guinea as it has a chequered record of serious human rights violations and environmental damage for the Indigenous Ipili people of Porgera and communities in the Porgera Golden Valley.

Despite promises of benefit-sharing and increased ownership of the mine by the government entity, the local communities are concerned that nothing will improve.

Issues that remain unresolved in relation to the mine include: forced evictions; water pollution; disproportionate payment and lack of benefit-sharing; police brutality; extrajudicial killings; sexual violence; physical violence; and a lack of access to justice.[16]

As of the end of 2023, there had been disproportionate efforts and limited progress made to address these issues, nor to initiate proper reconciliation plans for reparations to be provided for victims and the Indigenous communities who have suffered harm.[17]

Bougainville – independence and the Panguna mine

As reported in the Indigenous World 2022,[18] on 7 July 2021, Bougainville's leaders set a deadline of 2027 for obtaining full independence and leaving PNG. In 2019, Bougainville residents voted 97.7% for independence in a referendum under the 2001 peace agreement that set out a roadmap, including the creation of an autonomous government or a referendum by 2020.[19]

As part of that process, in 2023, the Autonomous Bougainville Government (ABG), under the leadership of Ishmael Toroama, laid out a roadmap to increase Bougainville's economic capacity in order to ensure its independence. Toroama has therefore called for the reopening of the Panguna mine. Chief among the concerns around the mine is the outstanding issue of cleaning up toxic waste from the Panguna site.

On 21 July 2021, after 32 years, Rio Tinto agreed to look into the environmental and human legacy of its gigantic Panguna mine.[20] The Panguna site was once the largest open pit copper mine in the world and it alone accounted for up to 40% of Papua New Guinea's exports. The mine was in full operation from 1972 to 1989, when Rio Tinto closed it as PNG descended into civil war. Despite the ongoing concerns surrounding the mine and its legacy,[21] Toroama has called repeatedly for its use:

> *The Panguna Mine is a multi-billion-kina resource that has remained dormant for almost 40 years now. Its mineral resourc-*

es have the potential to transform the lives of Bougainvilleans through high-impact infrastructure development projects and improve and increase the human resource capacity of our people ... If the mine could fund Papua New Guinea's independence, it should rightfully fund Bougainville's independence and development.[22]

Ok Tedi mine - North West Province - copper - BHP Billiton

On 13 September, the Board of the mine approved the extension of the mine's life from 2033 to 2050, further extending the operational life of the longest-running gold, silver, and copper mine in the country. As with other mines in the nation, there remain key issues around human rights violations tied to the mine. Protests have continued over the by-products from the mine, which are estimated to have caused harm, both environmental and social, to the approximately 50,000 people living in the 120 villages downstream of the mine.[23]

Rights recognition as a pathway to addressing critical challenges

In the context of the development and governance of PNG, the recognition and protection of the rights and cultures of Indigenous Peoples is crucial. As evidenced in the updates above in relation to mining, we continue to face threats and barriers to our rights and cultures, including land disputes, mining activities, logging operations, infrastructure development projects, and lack of access to education, health, and justice.

The Indigenous Peoples of PNG also face discrimination, marginalization, and violence, based on our ethnicity, gender and religion. In international processes, including COP 28, Indigenous representatives from PNG continued to advocate for the inclusion of Indigenous Peoples in the decision-making processes that affect our lives and livelihoods. In order to respond to the climate crisis, the resilience and adaptive capacity of Indigenous People must be supported.

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Cressida Kuala *(she/her) is an Indigenous Ipili woman from Porgera District in the Enga Province of Papua New Guinea. She is the founder and CEO of Porgera Red Wara (River) Women's Association Incorporated (PRWWA INC); was selected as a Pacific Indigenous Women Knowledge Holder, 2023; is a Business and Human Rights Advocate, a frontline Women's Rights Defender, and an active Environment Defender.*

PART 2

International Processes and Initiatives

African Commission on Human and Peoples' Rights (ACHPR)

The African Commission on Human and Peoples' Rights (ACHPR) was established in accordance with Article 30 of the African Charter on Human and Peoples' Rights with a mandate to promote and protect human and peoples' rights on the African continent. It was officially inaugurated on 2 November 1987 and is the premier human rights monitoring body of the African Union (AU). In 2001, the ACHPR established a Working Group on Indigenous Populations/Communities in Africa (WGIP), marking a milestone in the promotion and protection of the rights of Indigenous Peoples in Africa.

In 2003, the WGIP produced a comprehensive report on Indigenous Peoples in Africa which, among other things, sets out common characteristics that can be used to identify Indigenous communities in Africa. The report was adopted by the ACHPR in 2003 and was subsequently endorsed by the AU in 2005. The report therefore represents the official position of the ACHPR, as well as that of the AU, on the concept and rights of Indigenous Peoples in Africa. The 2003 report serves as the basis for constructive engagement between the ACHPR and various stakeholders based inside and outside the continent, including states, national human rights institutions, NGOs, Indigenous communities and their organizations.

The participation of Indigenous Peoples' representatives in the sessions of the ACHPR as well as in the various activities of the WGIP, which include sensitization seminars, country visits, information activities and research, has also played a crucial role in ensuring and maintaining this vital engagement and dialogue for many years.

In 2020, at the 66th Ordinary Session of the ACHPR, the mandate of the WGIP was expanded to include the rights of minorities, with the following amended name: "Working Group on Indigenous Populations/Communities and Minorities in Africa" (WGIPM).[1]

Promotion Mission to the United Republic of Tanzania

Following reports of forceful evictions of the Maasai Pastoral Community from their ancestral land in the Loliondo Game Controlled Area and Ngorongoro Conservation Area of the Ngorongoro District by the government, the ACHPR undertook a Promotion Mission to the United Republic of Tanzania from 23-28 January 2023. The specific objective of the mission was to seek information on and assess the human rights situation of Indigenous populations and communities in Tanzania with particular focus on the situation in the Loliondo Game Controlled Area and Ngorongoro Conservation Area. The ACHPR delegation was led by the Commissioner responsible for the promotion and protection of human and peoples' rights in Tanzania, Commissioner Ourveena Geereesha Topsy-Soonoo, and the Chairperson of the WGIPM, Commissioner Litha Musyimi-Ogana.[2]

During the mission, the delegation met with a number of government officials both at the national and district levels and also with relevant non-state actors, including affected communities and community representatives.

At the conclusion of the mission, the ACHPR issued a press statement in which it highlighted, among others, issues of general and specific concern relating particularly to:[3]

- The relocation of pastoral communities from the Ngorongoro Conservation Area, in respect of which there are claims of inadequate consultations and information regarding the relocation and resettlement programmes, as well as reduction in social amenities, which negatively impacts the lives of the

people and effectively forces them to leave the Area;

- The demarcation of 4,000 km^2 of the Loliondo Game Controlled Area into a protected wildlife conservation corridor of 1,500 km^2 and a multiple-use Game Controlled Area of 2,500 km^2, reserved for the inhabitancy of pastoral and farming communities in Loliondo, in relation to which there are claims of a lack of adequate consultation and inclusion of the local communities in the demarcation exercise, as well as reports of use of force and threats against community members who contested the demarcation; and
- The resettlement programme in Msomera, due to claims of a lack of adequate consultation about the relocation and resettlement programme affecting their community, and reported potential for conflict between those who were already settled in Msomera and those who have been relocated from Ngorongoro.

The press statement also included some general and specific interim recommendations to the Government of the United Republic of Tanzania.

During and after the conclusion of the mission, a group of civil society organizations (CSOs) working on and with pastoral communities in the Ngorongoro District expressed alarm and concern at the failure of the ACHPR delegation to "independently accommodate Indigenous Peoples and CSOs and also at the presence of government agents on site during meetings as well as the identification and preparation of participants from communities and CSOs and also of venue by the government" which, according to the CSOs, compromised freedom of expression, posed security issues and discouraged Indigenous communities from providing correct information and evidence.[4]

At the time of writing of this report, the ACHPR is yet to finalize the report of the mission to Tanzania, which has been a source of scathing criticism from Indigenous Peoples' representatives and activists working in/on Tanzania.

Appointment of Expert Members from Southern and North Africa sub-regions

It will be recalled that, in the resolution appointing Expert Members from the Eastern, Central and West Africa sub-regions, the ACHPR de-

cided to re-advertise the call for applications for Southern and North Africa.[5] Accordingly, during its 75th Ordinary Session held from 3-23 May 2023, the ACHPR appointed Dr. Leonard Mukosi as an Expert Member from Southern Africa for a two-year term effective from 23 May 2023.[6] Dr. Mohamed R. Abdelsalam was also appointed as an Expert Member from North Africa at the 77th Ordinary Session of the ACHPR.[7]

Meeting of the WGIPM

After more than a year, the WGIPM held its internal meeting virtually on 28 July 2023. The meeting was aimed at orienting its new members and deliberating on the group's expanded mandate and activities for the year. The meeting served as an opportunity for the new members to familiarize themselves with the mandate and work of the WGIPM.

Continental Workshop on the Status of Indigenous Populations/Communities in Africa

The WGIPM conducted a two-day virtual Continental Workshop on the Status of Indigenous Populations/Communities in Africa from 25-26 August 2023. The workshop brought together various stakeholders, including State representatives, Indigenous representatives, researchers, civil society organizations and international organizations to discuss the status of Indigenous communities on the continent. The workshop focused on various aspects, such as Indigenous knowledge, cultural and traditional practices, art and music, production systems, traditional leadership, environmental resilience, and livelihoods.

NGO Forum prior to the 77th Ordinary Session of the ACHPR

On 16 October 2023, one of the current members of the WGIPM, Ms Hawe Hamman Bouba, participated in a panel on the Status of Indigenous Peoples' Rights in Africa and Prospects at the NGO Forum prior to the 77th Ordinary Session of the ACHPR held in Arusha, Tanzania.

The panel was organized by the newly established Panel of Experts on Indigenous Peoples' Rights in Africa made up of previous and current members of the WGIPM and attended by many ACHPR commissioners, including Commissioner Litha Musyimi-Ogana who is the current Chairperson of the WGIPM, as well as civil society organizations.

Panel Discussion on Indigenous Populations in Africa: Sharing Experiences

On the fringe of the 77th Ordinary Session of the ACHPR held in Arusha, United Republic of Tanzania, the WGIPM organized a Panel Discussion on Indigenous Populations in Africa: Sharing Experiences. The objective of the panel, held on 27 October 2023, was to bridge the outcome of the Continental Workshop by providing a platform for sharing experiences, challenges and best practices related to Indigenous populations/communities in Africa.

Panellists drawn from the WGIPM, ACHPR Secretariat, Minority Rights Group International, United House of Ancestry and the African Union Commission gave presentations on various topics related to the theme of the panel discussion, including: on the outcome of the Continental Workshop; best practices and lessons learned; the nexus between Indigenous populations/communities and minorities; and the AU Guidelines for engaging traditional leaders in Africa and their adaptability to Indigenous communities.

Validation Meeting of the Study on the Impact of COVID-19 on Indigenous Peoples in Africa

In accordance with the 2021 resolution of the ACHPR tasking the WGIPM to conduct a study on the impact of COVID-19 on Indigenous populations/communities in Africa and present it to the commission within two years,[8] Expert Members of the WGIPM undertook the study in the last quarter of 2023. The draft of the study was then presented to Indigenous Peoples' rights experts at a Validation Meeting held in Windhoek, Namibia. Given the fact that the study was based solely on desktop re-

search due to budget constraints, useful feedback and comments were received during the workshop that will help to enrich the draft study.

The WGIPM will Incorporate the comments from participants and table the revised draft study for review by the ACHPR.

Report on the situation of Indigenous Peoples

The WGIPM continued to monitor the situation of Indigenous Peoples in Africa. In her reports to the 75th and 77th Ordinary Sessions of the ACHPR, the Chairperson of the WGIPM reported that the Government of Kenya did not submit a report on the implementation of the African Court judgement on Reparations in the Ogiek case.

The chairperson also reported on the continued reports of violence, intimidation, threats, sexual assault, destruction and confiscation of property, and the forceful eviction of the Mosopisyek community of Benet in and around the Mount Elgon region in Uganda. As per the chair's report, although the ACHPR called on the Government of the Republic of Uganda to take immediate and long-term measures to ease the situation of these communities, the government is yet to respond. During the examination of the Periodic Report of Uganda at the 77th Ordinary Session, the commission also posed follow up questions on the situation of the Benet to the Ugandan delegation.

Moreover, the WGIPM continued to follow up on its Letter of Urgent Appeal sent to the Government of Algeria on 27 September 2021 regarding the devastating effects of COVID-19 on the Amazigh population, and human rights violations and repression against the Amazigh of the Kabylia region.

Advanced Course on the Rights of Indigenous Peoples in Africa

The Advanced Course on the Rights of Indigenous Peoples in Africa was held from 13-17 November 2023 at the Centre for Human Rights of the University of Pretoria in South Africa, in collaboration with the International Work Group for Indigenous Affairs (IWGIA). The course was held in

a hybrid format on the University of Pretoria's main campus.

A total of 56 participants attended the course, including people from: 14 African countries (Malawi, Ethiopia, Kenya, Zimbabwe, Namibia, Tanzania, Uganda, Liberia, Nigeria, Eswatini, Botswana, Cameroon, Zambia, South Africa); one from Europe (Belgium); one from Asia (Nepal) and one from the Middle East (Yemen). Participants were mainly members and representatives of Indigenous communities, middle and senior-level government employees, managers of CSOs and NGOs, academics, private practitioners, legal practitioners, and senior law students and senior staff of National Human Rights Institutions (NHRIs). Among CSO/NGOs, both civil society organizations working on Indigenous Peoples' rights, and those with a more general mandate, attended the course.

The main topics addressed by the course included:

- Concept of indigeneity in Africa and the African regional human rights system
- ILO Convention 169 and the UN human rights mechanisms for Indigenous Peoples
- Linkages between a lack of veterinary services and poverty among the pastoral communities of Ethiopia
- Advocacy strategies to advance the rights of Indigenous Peoples in Africa
- The plight of Indigenous children in Africa
- Indigenous Peoples' livelihoods, environment and sustainable development
- African remedial framework and approaches to reparations for harm caused to Indigenous Peoples
- Indigenous Peoples' land rights: legal basis, scope, rights holders, jurisprudence and challenges
- Impact of climate change on Indigenous Peoples' livelihoods
- The plight of the Maasai of Loliondo and Ngorongoro (Tanzania) and the question of access to justice
- The conditions of Indigenous Peoples in South Africa
- Tensions between business enterprises and the livelihoods of Indigenous Peoples in the Congo Basin
- Experiences of the Inter-American Commission on Human

Rights (IACHR) on the rights of Indigenous Peoples
- The Endorois and Ogiek of Kenya after rulings by the ACHPR and the African Court respectively: a review
- Free, prior and informed consent (FPIC) vis-à-vis Indigenous Peoples
- LGBTIQ+ rights for Indigenous Peoples

Additionally, IWGIA presented its yearbook "The Indigenous World 2023" and course participants made presentations on the issues discussed throughout the week. Selected experts working on the issue of Indigenous Peoples, as well as WGIPM members, served as resource persons and presenters at the course.

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Samuel Tilahun Tessema *has been a member of the WGIPM since November 2022 and is a Senior Legal Adviser to the IGAD Special Envoy for South Sudan. Before joining IGAD, he worked with the African Commission on Human and Peoples' Rights in different positions for over nine years.*

Arctic Council

The Arctic Council is the leading intergovernmental forum promoting cooperation among the Arctic States, Arctic Indigenous Peoples and other Arctic inhabitants on issues of sustainable development and environmental protection in the Arctic.

Arctic Indigenous Peoples are represented on the Council by six Indigenous organizations (Permanent Participants). The category of Permanent Participant was created to provide for *active participation and full consultation* with the Arctic Indigenous Peoples within the Council. They are the Aleut International Association, the Arctic Athabaskan Council, the Gwich'in Council International, the Inuit Circumpolar Council, Russian Association of Indigenous Peoples of the North and the Saami Council.

Decisions of the Arctic Council are taken by consensus among the eight Arctic Council States, with full consultation and involvement of the Permanent Participants.

The Chair of the Arctic Council rotates every two years among the Arctic States. The Chair of the Arctic Council is the Minister of Foreign Affairs of the country holding the Chair.

Indigenous Peoples and the uniqueness of the Arctic Council

The Arctic is a home to over 500,000 Indigenous people, spanning three continents and 30 million km^2. Indigenous Peoples represent approximately 10% of the total population of the Arctic.[1] They have lived on their Arctic homelands for millennia and adapted and evolved over many centuries, turning specialist knowledge of their lands into a deep appreciation of all living beings within their unique environment. However, in recent decades many new challenges have emerged.

Facing the challenges of rapid change in the Arctic region requires true cooperation and the best knowledge available. Climate, environmental and socio-economic issues affect the inhabitants of the Arctic and many of these issues are cross-boundary by nature. Forest and tundra fires, permafrost thaw, land degradation, pollution, changes in legal and management regimes of natural resources are examples of such issues that raise challenges, especially in the Indigenous communities, and lead to severe impacts on Indigenous ways of life, including potential relocation of Indigenous Peoples from their home communities due to climate change. Two examples are the community of Tuktoyaktuk in the Inuvialuit Settlement Region in the western Canadian Arctic[2] and the village of Shishmaref in Alaska.[3] These challenges can only be solved by cooperation, using all available knowledge, including the knowledge of Indigenous Peoples and scientific knowledge.

The unique feature of the Arctic Council is that it brings together representatives of the Indigenous Peoples and of the Arctic States at the same table to discuss issues of common concern. The consensus-based decision-making is fundamental to this cooperation.

Indigenous Peoples' organizations have taken an active part in the political proceedings of the Council, including writing declarations, negotiating key documents and agreements, and actively participating in Ministerial meetings. Most importantly, however, they contribute their knowledge at the expert level of the Arctic Council's work. They initiate and lead projects, for example on health and mental wellness, green energy, wildland fires, and waste management. The Arctic Council Indigenous food project: Indigenous Youth, Food Knowledge and Arctic Change (EALLU),[4] is one example of this unique cooperation. The project aims to develop a sustainable and resilient reindeer husbandry in the Arctic in the face of climate change and globalization and is working towards creating a better life for circumpolar reindeer herders. The project has become a model of how to engage youth in the Council's work.

The Arctic Council is one of the few international arenas that proactively includes and welcomes Indigenous knowledge and perspectives when developing policies addressing climate change, environmental pollution and socio-economic problems. For this reason, Indigenous Peoples support the Arctic Council as a model for decision-making and addressing the challenges caused by the rapid change in the Arctic. Indigenous Peoples' Traditional Knowledge holds significant value in the Arctic Council. The Ottawa Declaration recognized "the traditional knowledge of the [I]ndigenous [P]eople[s] of the Arctic and their com-

munities" and took note "of its importance and that of Arctic science and research to the collective understanding of the circumpolar Arctic".[5]

The art of Arctic diplomacy 2023: transition to Norwegian *Chairship*[6]

In recent years, the Arctic Council's work has been affected by the COVID-19 pandemic and geopolitical tensions hindering opportunities to host in-person Arctic Council meetings and, to varying degrees, hampering project work. The *Arctic Council family* represents a broad network of representatives of States, Indigenous Peoples, observer countries and organizations, as well as knowledge holders and scientific experts. In-person meetings of the Arctic Council have been key to the success of Arctic multilateral cooperation, fostering understanding and finding joint solutions.

In March 2022, all official meetings of the Arctic Council were paused. The pause caused some concerns that Indigenous communities could be left behind when it came to shaping policies in the Arctic. However, a consensus was reached in the Arctic Council to make critical decisions at the political level through a written procedure. The written procedure for decision-making allowed the Council to find a constructive approach for the transition of the Council's Chairship from the Russian Federation to Norway in May 2023.

All of the Arctic States and the Permanent Participants participated in a hybrid format in the 13th Arctic Council meeting on 11 May 2023 and confirmed that they wanted to sustain and strengthen the Council.[7] The meeting marked the transition from the Russian to the Norwegian Chairship and, since then, Norway has been leading the efforts to achieve this goal.

In 2023, the Council proved once again that it can withstand the most challenging times in international politics, and the transition between the Arctic Council Chairs is rightfully called an art of diplomacy.

Norwegian Arctic Council priorities 2023-2025

Norway's priorities for the Arctic Council are based on its general long-term priorities in the Arctic. Through four thematic areas – the oceans;

climate and environment; sustainable economic development; and people in the North – Norway is continuing the Council's efforts to work together towards a sustainable Arctic region. Arctic youth and Arctic Indigenous Peoples are crosscutting priorities of the Norwegian *Chairship*.[8]

However, the overall priority for Norway during its *Chairship* is to maintain the Arctic Council as the premier forum for cooperation and collaboration in the Arctic. Norway worked hard and successfully on resuming the Council's activities following the pause. Examples of such achievements are the resumption of decision-making at the Arctic Council Working Groups' level, providing guidelines for the new modalities of Arctic Council work, identifying projects where the Arctic Council can continue its cooperation, and so forth.

In addition, Norway launched a Wildland Fires Initiative, an inspiring effort and example of advancing the Arctic Council agenda.[9] The Wildland Fires Initiative will provide an information sharing platform to gather collective expertise, experiences and resources on wildland fires from the Arctic Council's Indigenous Permanent Participants, Working Groups and Observers, as well as relevant external actors. The Permanent Participants have been encouraged by this initiative and expressed a readiness to actively contribute and co-lead. The initiative has a true circumpolar and inclusive nature. All six Permanent Participants have their own perspectives about how the wildland fires affect their communities, as well as diverse knowledge on cultural fire practices and management. The Indigenous Peoples' organizations of the Arctic Council have underlined the importance of including Arctic Council observers, who have substantial capacity in this area and of incorporating Russian experience and knowledge of wildland fire work.

Edward Alexander, the Co-Chair of the Gwich'in Council International and Co-Chair of the Wildland Fires Initiative noted: "The Arctic is not just melting, it is on fire!"[10] And Morten Høglund, Chair of the Senior Arctic Officials confirmed: "Wildland fires are a growing emergency, and a prime example of why we need circumpolar cooperation. Wildland fires, their smoke and their impacts to communities, ecosystems and the climate are transboundary."[11]

Norway has committed to strengthening cooperation with the Arctic Indigenous Peoples' organizations and underlined the importance of Indigenous Peoples' contribution to both political and expert levels

of the Council's work. The Norwegian team and the Chair of the Senior Arctic Officials have made great efforts to hear the Permanent Participants' voices and assure their strong and integral role in the Arctic Council's decision-making.

A historical meeting in Girkonjárga/Kirkenes, Norway

The Norwegian Chairship of the Arctic Council hosted a meeting with the six Permanent Participants in Girkonjárga/Kirkenes, Norway on 2-3 October 2023.[12] Given that diplomatic-level meetings at the State level remain on pause, this meeting can be regarded as historic. The meeting happened alongside the Arctic regional gathering of the Local Communities and Indigenous Peoples Platform (LCIPP) under the UN Framework Convention on Climate Change (UNFCCC). This LCIPP meeting was co-organized by the Saami Council and the Inuit Circumpolar Council and set the stage for the discussions in Girkonjárga/Kirkenes.

At the gathering, Indigenous knowledge holders, experts and political representatives worked together on issues such as assessing the impacts of climate change on Arctic ecosystems, Indigenous Peoples and local communities; sharing experiences and approaches of Indigenous Peoples about climate-induced risks, adaptation, and mitigation; and advancing an understanding of the societal implications associated with climate-related changes. Indigenous knowledge holders and leaders presented their views on the Human Rights Framework in relation to climate change, discussed ethical and equitable climate action, climate justice and rights-based approaches to addressing climate change, and held a dialogue with Parties and observers to share their reflections of Indigenous Peoples' visions and solutions.

The significance of these events is difficult to overestimate. The Norwegian Chairship – Permanent Participants meeting in Girkonjárga/Kirkenes was an important step in the Arctic Council's resumption process. All six Permanent Participants met in-person and held in-depth discussions with the Chairship team about the status of the Arctic Council cooperation, the resumption of its activities and the implemen-

tation of its programme, including the Chairship's crosscutting priorities on Indigenous Peoples and youth. All Indigenous Permanent Participant delegations took the floor to share their priorities for the Arctic Council's work, identified their priorities at the Working Group level and reconfirmed their readiness to actively contribute to the Council's work.

The Indigenous Permanent Participants called for more opportunities to meet in person. As a result, the Norwegian Chairship hosted a follow-up meeting back-to-back with the Arctic Frontiers Conference in January 2024 in Tromsø, Norway. This second meeting between the Arctic Council Chair and Permanent Participants meeting also included the Permanent Participants' youth representatives and gave an opportunity for both positive contributions to the Arctic Frontiers Conference and further constructive interactions with the Chairship and broader Arctic Council family.[13]

The importance of Indigenous cooperation and contribution to the Arctic Council: a breakthrough in 2024

The Permanent Participants strongly support the resumption of Arctic Council cooperation. They are an integral part of the Arctic Council's decision-making process and are actively engaged with Working Groups' Heads of Delegation and Senior Arctic Officials in finding common ground when it comes to Arctic Council matters. The Indigenous leaders have raised concerns that the written procedures for the resumption of Arctic Council activities weaken the Permanent Participants' position. Their opinion is that using written procedures is leading to the Arctic Council losing its uniqueness and validity if Permanent Participants are not able to be a part of developing the consensus that happens through the kind of dialogue that only takes place around the table.

The pause and Arctic Council work through written procedures highlighted the fact that the engagement of Indigenous Peoples in the decision-making of the Council had been stronger in practice than is safeguarded in its steering documents. The Permanent Participants have called for moving from written procedures to other ways of having meaningful discussions and reaching a consensus on Arctic Council

decisions. The Indigenous Permanent Participants are therefore supporting the efforts of the Norwegian Chairship to advance the resumption of the Council's work.

A breakthrough occurred in February 2024 when it was announced that a consensus had been reached to resume official Working Group meetings in a virtual format, enabling better coordination and expansion of project work.[14] Sara Olsvig, the International Chair of the Inuit Circumpolar Council notes: "Resuming virtual meetings of the Arctic Council Working Groups is a key step in maintaining and advancing the strong partnerships built over decades, as well as the full and effective participation of Arctic Indigenous Peoples in the work of the Arctic Council."[15]

While virtual Working Group meeting activities will be the first of such meetings to take place since March 2022, diplomatic-level meetings of the Senior Arctic Officials will remain on pause until such time as a consensus is reached by the Arctic States on ways forward, with the active participation and full consultation of Permanent Participants.

The engagement of Indigenous Peoples makes the Arctic Council unique at an international level. The wise perspectives of the Permanent Participants and their knowledge enhances the Council's work. Without the Permanent Participants, the Arctic Council might have resembled many other international fora that were unable to continue their cooperation in the current geopolitical environment. And, vice versa, through their participation in the work of the Arctic Council, the Indigenous Permanent Participants' organizations have strengthened their capacity and are today some of the strongest and most professional in the world's Indigenous movement.

The Permanent Participants support the Arctic Council and the advancement of cooperation under its umbrella, as it is the Council that allows for peaceful cross-boundary and multilateral cooperation in the Arctic and the inclusion of Indigenous knowledge in decision-making. At the historic meeting in Girkonjárga/Kirkenes and the subsequent meeting in Tromsø, Norway, Arctic Indigenous Peoples reconfirmed their responsibility to continue working together to contribute to stability and constructive cooperation in the Arctic and to improve the condition for Indigenous communities in the Arctic.

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Anna Degteva, *Executive Secretary, Arctic Council Indigenous Peoples' Secretariat*

Hjalmar Dahl, *President, Inuit Circumpolar Council Greenland*

Jessica Veldstra, *Executive Director, Aleut International Association*

Chief Bill Erasmus, *Canadian Chair, Arctic Athabaskan Council*

Rosa-Máren Magga, *Adviser, Arctic Council Indigenous Peoples' Secretariat*

Association of Southeast Asian Nations

The Association of Southeast Asian Nations (ASEAN) was established on 8 August 1967 with the signing of the ASEAN Declaration (Bangkok Declaration) by its founding fathers, five of the now 10 Member States: Indonesia, Malaysia, Philippines, Singapore, and Thailand. The other five Member States joined later: Brunei Darussalam on 7 January 1984, followed by Viet Nam on 28 July 1995, Lao PDR and Myanmar on 23 July 1997, and Cambodia on 30 April 1999. The roadmap has been endorsed[1] by ASEAN for Timor-Leste to join[2] and become its 11th member. The ASEAN Secretariat is based in Jakarta, Indonesia.

The ASEAN Charter was adopted in November 2007 and came into force in December 2008. It is the legally binding agreement among Member States that provides ASEAN with a legal status and institutional framework.

ASEAN's fundamental principles, more commonly known as the "ASEAN Way", are founded on non-interference, respect for sovereignty, and decision-making by consensus. Although lauded by the ASEAN Member States, this principle has been considered a major challenge in moving things forward, particularly within the ASEAN Intergovernmental Commission on Human Rights (AICHR) and the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC).

Despite having around 100 million people identifying as Indigenous in Southeast Asia,[3] Indigenous Peoples and human rights are "sensitive" topics in ASEAN, especially within the AICHR. As such, issues involving Indigenous Peoples' Human Rights Defenders (IPHRDs) rarely make it to the discussion table.

Regional Dialogue: Sharing Good Practices on Business and Human Rights in ASEAN

On 1 June 2023, the AICHR held the 2023 AICHR Regional Dialogue: Sharing Good Practices on Business and Human Rights in ASEAN,[4] attended by the AICHR, ASEAN sectoral bodies (ASBs), and regional stakeholders, including national human rights institutions (NHRIs), civil society organizations (CSOs), the business community and international experts.

AICHR recognizes that businesses can create opportunities to enhance the livelihoods of the peoples, workers and communities around them while at the same time causing negative impacts or effects through their practices both inside and outside ASEAN Member States. The adverse impacts need to be discouraged, mitigated and prevented through the adoption of effective and comprehensive strategies on business and human rights.[5]

This dialogue is therefore crucial in raising awareness of the implementation of the UNGPs and Human Rights Due Diligence Procedure[6] and to provide an opportunity for consultation among the AICHR, ASBs, NHRIs, and other stakeholders in order to strengthen the promotion and implementation of these principles in ASEAN and beyond.

The ASEAN Civil Society Conference / ASEAN Peoples' Forum

From 1-3 September 2023, the ASEAN Civil Society Conference / ASEAN Peoples' Forum (ACSC/APF) was convened in Jakarta, Indonesia. The theme of the event was: "Reclaiming Safe Spaces, Restoring Democracy and Equity in Southeast Asia".

More than 800 participants attended the events, including representatives from civil society, Indigenous Peoples, LGBTQIA+, women, Persons with Disabilities, the elderly, faith-based groups, migrant workers, informal workers, trade unions, farmers and fisherfolks, youth, human rights defenders, victims of land conflicts, victims of human rights violations and people's organizations from Southeast Asia such as movements, networks, etc.

The event focused on six thematic areas: 1) Peace and Human Security; 2) Alternative Regionalism; 3) Human Rights and Safe Space for Marginalized Groups; 4) Climate and Environmental Justice; 5) Integrated Approaches to Socio-economic Justice; and 6) Democracy and Anti-authoritarianism. Twenty-five side-events highlighted acts of impunity and pressing concerns affecting ASEAN Member States, Timor-Leste, and the region, especially in relation to political violence, identified as one of the leading human rights issues in ASEAN. Such impunity, underscored by the lack of respect for human rights, can be eradicated when, as noted by one speaker during a plenary session, "Peoples [are the ones who] move the minds of their leaders."[7]

Asia Indigenous Peoples Pact (AIPP) and its Indigenous Peoples' Human Rights Defenders (IPHRDs) members successfully engaged in three workshops during the conference. AIPP supported the participation of an Indigenous youth from the Asia Indigenous Youth Platform (AIYP) network as a speaker in a workshop entitled: "Role of youth in forging an alternative to the neoliberal cultural hegemony" under the Alternative Regionalism thematic area. AIPP and its partner organized a workshop entitled: "Advocating Human Rights in Southeast Asia: Experiences and Stories of Indigenous Peoples" under the Human Rights and Safe Space for Marginalized Groups thematic area. The workshop discussed and strengthened the capacity to understand Indigenous Peoples' right to free, prior and informed consent (FPIC), and good practices and challenges in advocating for Indigenous Peoples, including Indigenous women, in order to be able to participate in decision-making processes at all levels. AIPP joined the workshop in under the theme of Alternative Regionalism, entitled: "Solidarity Economy, Locally-led Initiatives as Counter-narratives to ASEAN Economic Integration and False Climate Solutions". The discussion noted that the current situation requires understanding that upholding human rights and civil liberties also means addressing demands to end poverty and inequality, taxing the rich, ending countries' illegitimate and onerous debt burdens, and addressing the climate crisis and its associated loss and damage. The spaces highlighted the importance of people's solidarity within the region rather than solely the States' projects for profit-making and capitalism as part of ASEAN's agenda.

5th ASEAN Human Rights Dialogue

The 5th ASEAN Human Rights Dialogue[8] was convened on 6 November 2023 at ASEAN headquarters. It was a closed-meeting dialogue attended by AICHR representative delegates, AICHR representative assistants, ASEAN Member States (AMS), Committee of Permanent Representative (CPR) members, the ASEAN Secretariat, national human rights institutions (NHRIs), and CSOs with consultative status with AICHR. CSOs were invited to the ASEAN dialogue for the first time thanks to the leadership of Indonesia's AICHR representatives.

The dialogue allowed AMS, AICHR and other stakeholders to exchange views on the effectiveness of international human rights mechanisms, particularly the Universal Periodic Review (UPR) and UN Human Rights Treaty Bodies. AMS reaffirmed their commitment to human rights dialogue and noted the proposal to continue the dialogue in the future.

The dialogue was perceived as the platform in which to discuss responses to the new and emerging challenges in the region and serious human rights issues of common concern. However, CSOs with consultative status with AICHR and the ASEAN Secretariat were only given 2 minutes each for their interventions and were not allowed to raise any questions with AMS. At the end of the dialogue, the AMS discussed and concluded with a press release.[9]

Land rights situation in ASEAN

The major impediment to a lack of land and territorial rights for Indigenous Peoples in Asian countries is the non-recognition of Indigenous Peoples in national legislations. This makes them absent from the purview of any government development scheme, subsequently denying their inherent rights. In Asia, only a few countries have given full legal recognition to Indigenous Peoples' rights to lands, territories and resources (LTR). In some countries, there is partial recognition of LTR; in others, recognition is of individual property only. There is thus a range going from full legal recognition in the Philippines to the absence of any recognition of rights to LTR as in Thailand. Although, the Philippines, Indonesia and Cambodia recognize Indigenous Peoples in their national

law, implementation and enforcement of laws is dismal and they are sometimes completely disregarded.

Land conflicts are increasing in ASEAN countries, more prominently now post-pandemic mainly due to governments pursuing rigorous economic recovery policies that disregard human rights and environmental issues, with many governments taking a turn to the authoritarian. In the process, more land defenders are being attacked and often killed[10] in the line of duty defending their LTR. The "Business and Human Rights Defenders in Southeast Asia" report says that 70% of such attacks are against land, environmental and climate defenders.[11] Among the victims are Indigenous leaders and farmers responsible for protecting the environment.

One significant development for tenure recognition could be the formal launch of ASEAN Guidelines for the recognition of customary tenure in the forested landscape[12] by the ASEAN Secretariat under the ASEAN Ministers of Agriculture and Forestry (AMAF). The ASEAN Working Group on Social Forestry (AWG-SF) took the lead in this process. The guidelines were developed by the Non-Timber Forest Products Exchange Programme (NTFP-EP) with the support of AIPP and other regional alliances of the Mekong Region Land Governance Project. The ASEAN Guidelines were launched on 15 December 2023. Although the guidelines are not obligatory, they will form a basis for advocacy work on the recognition of land rights.

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Frederic Wilson *belongs to the Indigenous Dusun Putih Llivagu people of Sabah, Malaysia. He has worked with Indigenous Peoples in Malaysia for over 10 years, especially in his own community and Sabah states. He also worked with the Assistant Minister of Law and Native Affairs of Sabah states for a year. Frederic is currently serving the Indigenous Peoples in Asia in his capacity as Programme Officer on the Human Rights Campaign and Policy Advocacy Programme of Asia Indigenous Peoples Pact (AIPP) based in Thailand, which he joined in 2019. Frederic's main focus is on Indigenous Peoples' Human Rights Defenders and as focal person in the engagement of AIPP with ASEAN mechanisms. Contact email: frederic@aippnet.org or frederic.wilson4@gmail.com*

Dharmodip Basumatary *is from the Boro Indigenous Peoples of Northeast India. He is a former Indigenous fellow with the Office of the UN High Commissioner for Human Rights (OHCHR) in Geneva. He has been associated with the peacebuilding process and negotiations between the Separatist Bodoland Movement and the Government of India, as well as being a student activist and human rights defender in Northeast India. He is currently a Programme Officer with Asia Indigenous Peoples Pact (AIPP) focusing on land rights engagement. Contact email: dharmodip@aippnet.org or dharmodipb@gmail.com*

Business and Indigenous Peoples' Rights

The UN Human Rights Council established the Forum on Business and Human Rights[1] in 2011 to serve as a global platform to "discuss trends and challenges in the implementation of the Guiding Principles and promote dialogue and cooperation on issues linked to business and human rights".[2] The Forum is led and chaired by the Working Group on Business and Human Rights.[3]

This Forum is the world's largest annual meeting on business and human rights with more than 1,500 participants, including representatives from governments, business, civil society organizations, Indigenous Peoples' organizations, UN agencies, national human rights institutions, academic institutions, etc.

The Forum provides a unique opportunity to network, exchange experiences and learn from the many initiatives aimed at promoting respect for human rights on the part of businesses.

12th session of the Forum on Business and Human Rights

This session took place at the UN in Palais des Nations in Geneva, Switzerland, from 27-29 November 2023. The theme of the session was "Towards Effective Change in Implementing Obligations, Responsibilities and Remedies". The idea was to discuss the concrete changes that have occurred in the implementation of the UN Guiding Principles on Business and Human Rights in the last 12 years. The different panels looked into actions taken by States and businesses and discussed the extent to which judicial and non-judicial remedies are available for different rights holders, including Indigenous Peoples.

Opening session: the statement of the Global Indigenous Peoples' Caucus[4]

Representatives of Indigenous Peoples from the different sociocultural regions of the world came together as a Global Caucus for the Business and Human Rights Forum. In relation to this year's theme, "Towards Effective Change in the Implementation of Obligations, Responsibilities, and Reparations", they discussed the urgency of advancing various priorities and outlined their positions in a statement.

Indigenous Peoples continue to suffer disproportionately from the impacts of business operations on their rights and wellbeing. Efforts to address these must place human rights at the centre, with special emphasis on the explicit recognition of Indigenous Peoples as a distinct group with collective rights, including their right to self-determination, rights over lands, territories, and resources, and the right to free, prior and informed consent (FPIC). The continuing lack of legal recognition of Indigenous Peoples in many States in Africa and Asia is a key factor in the worsening cases of land grabbing, exploitation, and extraction of their resources for business purposes resulting in rights violations and criminalization with impunity.

Indigenous Peoples underscored their serious concerns at the continuing business-as-usual approach to meeting the growing demand for transition minerals. More than 50% are found in or near Indigenous territories. The extraction of these minerals is being imposed on Indigenous Peoples without their meaningful participation or FPIC, resulting in conflicts, attacks on Indigenous, human rights, land and environment defenders, and further marginalization and denial of justice. These acts are against the three principles of the UN Guiding Principles (UNGP) on Business and Human Rights and will only exacerbate social justice, discrimination and inequity against Indigenous Peoples.

Indigenous Peoples also continue to face the imposition of renewable energy development in their territories, such as solar and wind farms, large hydro-dams, and geothermal stations. The decisions of the Supreme Courts of Kenya and Norway pointing to the violations of Indigenous Peoples' rights in the imposition of wind farms near affected Indigenous communities should serve as a wakeup call. However, actions by States and corporations to implement the decisions of the Supreme Courts are still pending after several years, which only demonstrates

their continuing discriminatory attitude toward Indigenous Peoples, the lack of effective mechanisms for reparations, and the complete disregard for rights and rule of law when it concerns Indigenous Peoples.

Indigenous Peoples support the need for a just transition from fossil fuels but this must be undertaken with their full and effective participation in the context of respect, recognition and protection of their rights, consistent with the UNGP and other international human rights instruments, including the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). Indigenous Peoples have good practices that could be replicated and supported by States and investors. For instance, Indigenous Peoples in Canada, the United States, Australia, and New Zealand have developed their own renewable energy projects, a result of their self-determined decisions. These good practices could also address the huge gap in access to renewable energy on the part of millions of Indigenous Peoples.

Furthermore, the way some industries and companies conduct their activities in or near Indigenous territories must be redefined. Indigenous Peoples have seen numerous examples of greenwashing, whereby industrial associations and companies adopt policies that respect the UNGP and the human rights of Indigenous Peoples but fail to comply with them in practice. This involves industries ranging from mining and metals to oil and gas, from agribusiness to renewable energies. Indigenous Peoples' rights must be protected and respected in both domestic and extraterritorial business activities.

The role of investors and financial institutions is crucial. Indigenous Peoples are deeply concerned about certain financial institutions using different tactics to conceal their investments in businesses. Investing in or financing activities that violate Indigenous Peoples' rights, such as hydroelectric dams or other projects that displace Indigenous Peoples from their territories, is reprehensible and condemnable.

Indigenous Peoples urged that an end be put to the growing violence against them and their defenders. Despite representing approximately 16% of the global population, Indigenous Peoples disproportionately face the effects of killings, criminalization, and violence. In cases such as Mexico, over 40% of human rights defenders murdered are Indigenous. Indigenous leaders are selectively and systematically murdered for speaking out against the extractive companies.

Additionally, defenders, like Indigenous Peoples themselves, face violence, intimidation, persecution, strategic lawsuits against public participation (SLAPPs), and displacement. There is an urgent call for companies to apply the UNGP to ensure their activities do not impact negatively on Indigenous Peoples' rights and ways of life, including those in first contact and voluntary isolation. They must also consider the intersectionality that Indigenous women, persons with disabilities, and youth face. Indigenous Peoples called on States to ratify the Escazú Agreement and to develop similar binding instruments in different regions worldwide. Defenders must be protected, and Indigenous Peoples' basic rights to access information affirmed. Moreover, in the context of the legally binding agreement discussions, Indigenous Peoples called for the obligations to apply to all businesses with domestic and extraterritorial operations.

Finally, the Global Indigenous Peoples' Caucus stated that it wants to engage with States, corporations and investors in advancing the UNGP in order to make the urgent changes necessary for their rights to be fully respected, recognized and protected in business endeavours and to advance social equity and sustainable development for all.

Official session on Upholding the Rights of Indigenous Peoples in the Green Economy[5]

An official session was co-organized by the Working Group on Business and Human Rights and the Indigenous Peoples Caucus of the UN Forum on Business and Human Rights on 29 November 2023. The session presented the rights of Indigenous Peoples in the context of the green economy. Speakers exchanged views on current practices and challenges and explored possible solutions, such as equitable models of renewable energy development in partnership with Indigenous Peoples, and effective engagement approaches for meaningful dialogue. Speakers included, among others, Ms Pichamon Yeophantong, Member of the UN Working Group on Business and Human Rights, Mr. José Francisco Calí Tzay, UN Special Rapporteur on the rights of Indigenous Peoples, Mr. Dmitry Berezhkov Indigenous representative from Russia, and Ms Adaluz Garcia Pedro, Maya Indigenous representative.

Closing of the session: the final statement of the Global Indigenous Peoples' Caucus[6]

Over the three days of the forum, Indigenous Peoples, who came together as a Global Caucus, made meaningful contributions to the different sessions, underscoring the urgent issues they face and putting forward their concrete recommendations in relation to the theme.

They reiterated that, as of the present day, Indigenous Peoples continue to suffer the impacts of business operations on their collective rights, including their right to self-determination, rights over lands, territories, and resources, and the right to FPIC. The continued lack of legal recognition of Indigenous Peoples in many States, land grabbing and resource extraction for business purposes, the business-as-usual approach, greenwashing, the lack of full and effective participation of Indigenous Peoples in policy development and decision-making, repressive laws and the growing violence against Indigenous Peoples and their defenders are all inconsistent with the UNGP and international human rights instruments, including the UNDRIP. This situation must be reversed in order to truly implement the UNGP, recognize Indigenous Peoples' rights and respect human rights.

Indigenous Peoples noted that they engage States, corporations and investors in their territories, respective countries and through international processes and other mechanisms available. They inform stakeholders of the issues and solutions based on lessons they have drawn from their experiences, knowledge systems and practices, and ways of life. They also develop and promote good practices such as on renewable energy development and climate adaptation and mitigation solutions.

To address the urgent issues faced by Indigenous Peoples, they urged States, corporations and investors to act immediately and heed the recommendations made by Indigenous Peoples, including the following:

- For States and businesses to truly recognize Indigenous Peoples' rights as enshrined in the UNDRIP. State laws and policies that violate Indigenous Peoples' rights and human rights, including legislation that favours corporations, should be repealed. On the issue of free, prior and informed consent, a "No"

means "No" consent, which means a complete withdrawal of corporations and business operations. All business operations should fully implement FPIC and FPIC violations should not be tolerated.

- For States and businesses to ensure the protection of Indigenous Peoples and defenders from the criminalization of Indigenous Peoples' resistance to corporate projects, including tagging Indigenous Peoples' struggles as acts of terrorism as in the case of the Cordillera Peoples Alliance in the Philippines, extrajudicial killings and various forms of human rights violations, and State reprisals, with impunity. Corporations should uphold human rights and not invest in countries that are notorious in violating Indigenous Peoples' rights and human rights.
- For businesses to implement enhanced due diligence to fulfil their responsibility for respecting Indigenous Peoples' rights and not rely on domestic laws. All businesses in every sector and the entire environmental, social and governance frameworks should take Indigenous Peoples into account. Benefit-sharing mechanisms in large projects should ensure equitable distribution of project benefits to impacted communities. Corporations should also be held accountable for the violations of human rights and Indigenous Peoples' rights related to their businesses.
- For all States from the so-called Global North and Global South to earnestly engage in the process to develop and adopt a legally binding instrument at the earliest possible time with the honest objective of advancing corporate accountability and access to remedy for affected Indigenous Peoples and other communities. Indigenous Peoples want to see that the scope of the proposed treaty includes all business enterprises – not only transnational corporations but also domestic companies – albeit with greater responsibility on transnational corporations. Indigenous Peoples call upon the EU to ensure the recognition of Indigenous Peoples' rights, including FPIC in the EU Corporate Sustainability Due Diligence Directive (CSDDD) in line with the UNDRIP. Further, for the EU to ensure that companies must identify and address actual and potential abuses of Indigenous Peoples as part of their ongoing due diligence. This

is imperative to rectify the abuses of EU corporations in Indigenous territories across the globe. Likewise, the protection of human rights defenders should also be included in the CSDDD.

- For all corporations and investors to put in place effective grievance and accountability mechanisms that should be gender sensitive and culturally appropriate, in line with the customary laws of Indigenous Peoples.
- For States and investors to support Indigenous-led solutions for the use of their lands, territories and resources that align with their development priorities, including for energy and minerals, in line with their right to self-determination and development.

In conclusion, Indigenous Peoples stated that as long as their rights as Indigenous Peoples continue to be violated, they cannot have a meaningful and effective implementation of the UNGP, genuine recognition of Indigenous Peoples and respect for human rights.

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*This article was written by **Geneviève Rose**, Head of Programmes at the International Work Group for Indigenous Affairs (IWGIA).*

Convention on Biological Diversity (CBD)

The Convention on Biological Diversity (CBD) is an international treaty under the UN, adopted in 1992. The CBD has three objectives: to conserve biodiversity, promote its sustainable use, and ensure the equitable sharing of the benefits arising from its utilization (Art. 1). The CBD recognizes the importance of traditional knowledge (Art. 8j) and customary sustainable use of biological resources (Art. 10c) for the achievement of its objectives. The CBD has developed programmes of work on thematic issues such as marine, agricultural and forest biodiversity, and on cross-cutting issues such as traditional knowledge, access to genetic resources, and protected areas. All the programmes of work have a direct impact on Indigenous Peoples' rights and territories.

The International Indigenous Forum on Biodiversity (IIFB) was established in 1996 during the Conference of the Parties (COP 3) as the Indigenous Peoples' caucus in the CBD processes. Since then, the IIFB has worked as a coordination mechanism to facilitate Indigenous participation in, and advocacy at, the CBD through preparatory meetings, capacity-building activities and other interventions. The IIFB has managed to get many of the CBD's programmes of work to consider Indigenous Peoples' traditional knowledge, as well as their customary use of biodiversity and effective participation. The IIFB has also been active in negotiations regarding access to genetic resources in order to defend the fundamental rights of Indigenous Peoples that should be included therein.

In 2010, the 10th meeting of the Conference of the Parties (COP 10) adopted the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity and the Strategic Plan for Biodiversity 2011-2020. This includes 20 Aichi Biodiversity Targets. None of these were met.

As reported in the Indigenous World 2023,[1] the 15th Conference of the Parties (COP 15) to the CBD in Montreal 2022 adopted the Kunming-Montreal Global Biodiversity Framework (KMGBF). The KMGBF, a product of extensive international negotiations and a consensus on the urgent need to address the escalating biodiversity crisis, set out a roadmap for global action to 2050. Central to the KMGBF's objectives was the development of comprehensive National Biodiversity Strategies and Action Plans (NBSAPs), tailored to reflect the unique ecological, socio-economic and cultural contexts of each participating country.

Decisions were also adopted on the Planning, Monitoring, Reporting and Review of the KMGBF[2] and the Monitoring Framework and Indicators to track its implementation.[3] A new programme of work on traditional knowledge, as well as institutional arrangements on Article 8(j) and other provisions of the CBD related to Indigenous Peoples and local communities, was produced for further development and consideration by the 12th meeting of WG8(j) in 2023.[4] These set the stage for the programme of work under the CBD throughout 2023.

2023 marked a pivotal phase in biodiversity conservation, with efforts geared towards the implementation of the KMGBF. Central to the implementation process was the establishment of robust mechanisms for monitoring, reporting, and reviewing progress. The monitoring mechanisms were designed to be transparent and inclusive, encouraging participation from all stakeholders, including governments, Indigenous Peoples and local communities, civil society, and the private sector.

The KMGBF includes the explicit inclusion of community-based monitoring systems. These systems leverage the local knowledge and expertise of Indigenous Peoples and local communities, recognizing their role as custodians of biodiversity. By integrating community-based data, the KMGBF gains a more granular and accurate understanding of biodiversity trends at the local level, which is crucial for informed decision-making and policy development.

Key relevance to Indigenous Peoples in the KMGBF

Key elements of the KMGBF for Indigenous Peoples were identified and shared in the Indigenous World 2023; however, it is worth highlighting the critical language in order to provide context for the work done in 2023:

> *The Framework acknowledges the important roles and contributions of Indigenous Peoples and local communities as custodians of biodiversity and partners in the conservation, restoration and sustainable use. Its implementation must ensure their rights, knowledge, including traditional knowledge associated with biodiversity, innovations, worldviews, values and practices of Indigenous Peoples and local communities are respected, documented, preserved with their free, prior and informed consent, including through their full and effective participation in decision-making, in accordance with relevant national legislation, international instruments, including the United Nations Declaration on the Rights of Indigenous Peoples, and human rights law. In this regard, nothing in this framework may be construed as diminishing or extinguishing the rights that Indigenous Peoples currently have or may acquire in the future.*[5]

The KMGBF consists of four overarching goals and 23 targets. Several targets explicitly refer to human rights, particularly the collective rights of Indigenous Peoples and local communities.[6] Other targets point to topics of spatial planning, harvesting and use of wild species, respect for traditional territories, gender equality, participation in decision-making processes, and protection of environmental human rights defenders.[7]

There are, however, notable gaps in the KMGBF.[8] Despite the advances in human rights language, there is insufficient attention to the direct and indirect drivers of biodiversity loss and the KMGBF's approach to regulating business impacts on biodiversity. Further, the KMGBF agreement relies heavily on its implementation at national and local levels. This includes the need for adequate resources, reform of harmful policies, and the empowerment of Indigenous Peoples and local communities. At this level, there is a battle for interpretation, and this can affect and challenge the recognition and realization of rights.

Advances in recognizing Indigenous Peoples and Local Communities' contributions

The recognition of Indigenous Peoples and local communities as key actors in biodiversity conservation formed a cornerstone of the KMGBF, reflecting a paradigm shift in the way biodiversity conservation is ap-

proached globally. The Framework explicitly acknowledged Indigenous Peoples and local communities not just as stakeholders but as custodians and partners in the stewardship of biodiversity. This acknowledgement was rooted in the understanding that, through their traditional knowledge and sustainable practices, they have played a crucial role in maintaining ecological balance and conserving biodiversity.

In 2023, concerted efforts were made to ensure that the rights, knowledge, and practices of Indigenous Peoples and local communities were not only recognized but actively integrated into biodiversity conservation strategies. This included in decision-making processes and by incorporating their traditional ecological knowledge into conservation science and practice.

Furthermore, there was a growing emphasis on the legal and institutional recognition of Indigenous Peoples' land and resource rights. Secure land tenure was increasingly seen as essential for effective biodiversity conservation as it provided Indigenous Peoples and local communities with the authority and tools to defend their territories.

Key events in 2023

New programme of work

A webinar took place on 7 March 2023 to clarify the rationale, objectives, and methodology of the approaching negotiations for the new programme of work, possible institutional arrangements, and their *modus operandi* for Indigenous Peoples and local communities. During the webinar, a summary of the decisions taken at COP 15 in relation to Indigenous Peoples and local communities was presented. It focused on the peer review process, opened a call for submissions by Parties and organizations, and created an Ad Hoc Technical Expert Group (AHTEG) on the new programme of work, institutional arrangements, and necessary next steps. In response to the call, the International Indigenous Forum on Biodiversity (IIFB) conducted an intensive process to gather views from Indigenous Peoples, including a series of meetings and consultations, leading to a collective submission.

From 11-13 July 2023, the Ad Hoc Technical Expert Group on the New Programme of Work and Institutional Arrangements on Article 8(j) and Other Provisions of the Convention Related to Indigenous Peoples

and Local Communities met in Manaus, Brazil.[9] There they specifically noted the relevance of paragraph 7 (a) of section C of the KMGBF, focused on the contribution and rights of Indigenous Peoples and local communities, as well as Goal C, on access and benefit-sharing. They also addressed Targets 1, 2, 3, 5, 9, 10, 13, 19, 21, 22 and 23. Further, in relation to element 6, on the full and effective participation of Indigenous Peoples and local communities, they noted that the element was aimed at ensuring the active involvement of Indigenous Peoples and local communities in decision-making related to biodiversity and the comprehensive implementation of the entire KMGBF.

The expert group also set out a proposal to introduce two new elements into the programme of work, namely, a human rights-based approach and direct access to funding for biodiversity conservation on the part of Indigenous Peoples and local communities. Regarding the proposed new element on direct access to funding for biodiversity conservation, the expert group recommended tasks aimed at enhancing the role of collective actions, in particular by Indigenous Peoples and local communities.

Work on KMGBF monitoring framework and indicators

The first meeting of the Ad Hoc Technical Expert Group (AHTEG) on Indicators for the KMGBF[10] was held on 2 May 2023. It was decided that the AHTEG would offer advice on unresolved issues within the monitoring framework, such as headline indicators,[11] indicator disaggregation, binary indicator development, and the necessary questions to be included in national reporting.

Further the AHTEG was asked to guide the incorporation of indicators into the online reporting tool for national reporting and to provide direction on addressing temporal and spatial data gaps through big data, community-based monitoring, and other data forms. Lastly, the AHTEG would advise on capacity-building gaps and requirements.[12] This programme of work is of particular interest for Indigenous Peoples due to the integral component on community-based monitoring and the recognition of Indigenous Peoples and local communities.

Throughout 2023, the Ad Hoc Technical Expert Group (AHTEG) on Indicators met three additional times[13] to advance and refine its work on developing and reviewing indicators crucial for monitoring biodiversity targets. These meetings focused on enhancing the methodology for

reviewing the metadata of headline indicators and identifying prospective binary indicators.[14] The AHTEG produced a revised list of global indicators derived from binary responses, which was provided to the 25th meeting of the SBSTTA for its consideration. In relation to Disaggregation and Inclusivity, the AHTEG identified 15 indicators that could potentially be disaggregated by Indigenous Peoples and local communities. The meeting also identified critical data gaps in the indicators.

The fourth and final AHTEG meeting in December, saw it prioritize the output of the Working Group on Article 8(j) (WG8(j)). In November 2023, WG8(j) had considered an analysis of the four traditional knowledge indicators and work on community-based information systems. Further, it had adopted recommendation 12/4[15] requesting the Executive Secretary to conduct an additional analysis of the four traditional knowledge indicators and community-based monitoring systems. A significant milestone in this collaboration was the recommendation for further analysis of traditional knowledge indicators and their integration into the broader indicator framework, particularly highlighting the potential linkage between traditional knowledge and binary indicators for specific targets on participation and data inclusivity.

Meeting of the Subsidiary Body on Scientific, Technical and Technological Advice

The 25th meeting of the Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA-25) was held in Nairobi from 15-20 October 2023.[16] The meeting's outcomes, including decisions on the monitoring framework and thematic areas such as Invasive Alien Species (IAS) and Sustainable Wildlife Management, are pivotal for the continued advancement of biodiversity conservation.

SBSTTA-25 agreed to further develop the monitoring framework established in decision 15/5. Reports from the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) and the Intergovernmental Panel on Climate Change (IPCC) were discussed, with a particular focus on the findings of IPBES, including assessments of the IPCC's Sixth Assessment Report.[17] These reports underscored the interconnectedness of biodiversity, climate change, and human activity, including the impacts on and contributions of Indigenous Peoples.

SBSTTA-25 also endorsed voluntary guidance for IAS manage-

ment based on the IPBES Thematic Assessment Report. IAS can significantly impact biodiversity and Indigenous territories, affecting traditional livelihoods and ecosystem services.

SBSTTA-25 also called for a comprehensive review of existing tools and guidance to support the KMGBF implementation. This review considers inputs from a broad range of stakeholders, including Indigenous Peoples. SBSTTA-25's focus on developing practical, inclusive, and scientifically robust strategies for biodiversity conservation was a strong step forward in ensuring that the KMGBF underscores the importance of Indigenous Peoples' participation and recognition of their rights and knowledge in global biodiversity conservation efforts.

Geneva meetings

From 12-18 November 2023, in Geneva, Switzerland, the 12th meeting of the Ad Hoc Open-ended Intersessional Working Group on Article 8(j) and Related Provisions of the Convention on Biological Diversity and the First meeting of the Ad Hoc Open-ended Working Group on Benefit-sharing from the Use of Digital Sequence Information on Genetic Resources took place. Collectively known as the Geneva meetings, these events focused on the enhanced role and participation of Indigenous Peoples and local communities. The proceedings re-affirmed the role and participation of Indigenous Peoples and local communities in the work of the CBD, emphasized the knowledge management component of the KMGBF, and added elements related to the role of traditional knowledge and its relationship to science and other knowledge systems. Key to this discussion was the development of a multilateral mechanism for benefit-sharing from the use of Digital Sequence Information (DSI), which is significant for Indigenous Peoples and local communities as it involves aspects of their traditional knowledge. The discussions aimed to establish a fair, transparent, and inclusive mechanism for benefit-sharing.[18]

In a 13 November press conference,[19] the IIFB emphasized the historic agreement in the KMGBF to apply a human-rights based approach at every level of biodiversity conservation. This approach seeks to respect, recognize, and implement the rights and traditional knowledge of Indigenous Peoples and local communities in biodiversity efforts. The IIFB stressed the importance of putting Indigenous leadership at the centre of international, national, and local biodiversity conservation

efforts, recognizing the critical role that Indigenous Peoples and local communities play in managing and protecting ecosystems.

There was also a focus on Target 3 of the KMGBF, which aims to protect 30% of the world's lands and waters by 2030, leading the IIFB to express its concern at the potential negative consequences, such as land grabbing or rights violations in the name of conservation. Emphasis was placed on ensuring that the implementation of this target honours the language on Indigenous and Traditional Territories and free, prior and informed consent. The IIFB highlighted the need for policies created at the international level to translate effectively to local levels. This point was illustrated by referencing the eviction of the Indigenous Ogiek Peoples from their ancestral home in Kenya, which contradicts the principles of the KMGBF. The IIFB called for the effective incorporation of traditional knowledge and Indigenous perspectives into the implementation of the KMGBF. This includes recognizing Indigenous territories as home to a significant portion of the world's biodiversity and valuing Indigenous traditional knowledge in conservation practices.

Despite progress during the Geneva meetings, the outcomes of the meeting highlighted challenges on the road toward COP 16 in 2024. Major documents up for review and discussion, including on the programme of work and institutional arrangements for Article 8(j) and other provisions of the Convention related to Indigenous Peoples and local communities, remained bracketed,[20] for negotiation and adoption or deletion, during COP 16.[21]

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*This article has been written by **Joji Cariño**, Senior Adviser, Forest Peoples Programme (FPP) and **David Nathaniel Berger**, Adviser, International Work Group for Indigenous Affairs (IWGIA).*

CONTENTS

Defending Indigenous women's rights

The strategy adopted by the Indigenous women's movement to confront the structural inequalities they face in all countries of the world has been to walk together, collectively influencing strategic spaces from the local to the global level, both socially and politically. Practically, this means ensuring a presence in the community assemblies on their territories, reaching out to national spaces with proposals for governments and contributing to international spaces such as the UN.

The adoption of General Recommendation 39 on the rights of Indigenous women and girls,[1] under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), represents a milestone in discrimination and violence against them. Its main objective is to provide guidance to States Parties on relevant legislative, policy and other measures in order to ensure compliance with their obligations in relation to the rights of Indigenous women and girls under the principles set out in the CEDAW.

In this General Recommendation, the CEDAW (Committee) identifies and addresses the different forms of intersectional discrimination faced by Indigenous women and girls, as well as their key role as leaders, knowledge bearers and transmitters of culture within their villages, communities, families and society.

Entire generations of Indigenous women have been actively involved, from the local to the global. Undoubtedly, the coordinated work that Indigenous women carry out at the local, regional, national and international levels will be fundamental to ensuring progress in the implementation of General Recommendation 39, which is a bastion of promoting the individual and collective rights of the world's Indigenous women.

Indigenous women open a strategic dialogue at CSW67 with key stakeholders, UN mechanisms and the donor community for the effective implementation of CEDAW's GR39 on the rights of Indigenous women and girls

At the 67th session of the UN Commission on the Status of Women (CSW67), Indigenous women emphasized the importance of CEDAW General Recommendation 39 (GR39) and its relevance to their empowerment. Indigenous women highlighted the need to implement concrete measures to guarantee the recognition and protection of their rights to land, territories and natural resources, as established in GR39.

During the session, a strategic dialogue was held between the International Indigenous Women's Forum (FIMI) and the Indigenous Peoples and Development Branch/Secretariat of the Permanent Forum on Indigenous Issues (IPBD/SPFII).[2] The main objective of this dialogue was to strengthen the Indigenous women's movement and establish a global advocacy agenda to ensure the implementation of CEDAW GR39, which protects the individual and collective rights of Indigenous women and girls.

The event was attended by Indigenous leaders from different regions, government delegations and donors, who discussed the progress and challenges in implementing GR39.

At this event and throughout the session, the importance of actively involving Indigenous women in decision-making and in the formulation of policies relating to sustainable natural resource management was highlighted. Emphasis was placed on the need to respect and promote the principle of Indigenous communities' free, prior and informed consent in all initiatives affecting their lands and territories.

In addition, during the session, the Indigenous women shared examples of good practice in and successful experiences of protecting the environment and promoting sustainability. These exemplary cases underscored the importance of recognizing and valuing Indigenous communities' traditional knowledge of biodiversity conservation and sustainable natural resource management.

In summary, the 2023 session of the UN Commission on the Status of Women provided an important platform for discussing and pro-

moting the implementation of CEDAW General Recommendation 39, recognizing the central role of Indigenous women in protecting Mother Earth and promoting their empowerment at all levels.

CEDAW's General Recommendation 39

CEDAW's GR39 recognizes the importance of ensuring that Indigenous women have access to and control over their lands, territories and natural resources. This recommendation arose in response to the multiple forms of discrimination and violence they face in relation to their individual and collective rights, which are moreover amplified by their gender and by their Indigenous status. GR39 urges States Parties to take measures to ensure:

- **Legal recognition and guaranteed access to land:** States must recognize and protect Indigenous women's rights to land, territories and natural resources, and guarantee their participation in decision-making over these resources.
- **Non-discrimination and empowerment:** States must prevent and eliminate gender and ethnic discrimination against Indigenous women, promoting their empowerment and effective participation in land-related issues.
- **Consultation and free, prior and informed consent:** States must consult and obtain the free, prior and informed consent of Indigenous women before undertaking projects that affect their lands, territories and resources.

Contributions of Indigenous women to protecting the land

Indigenous women play a fundamental role in protecting and conserving the land and the environment. According to ILO data, there are currently 476.6 million Indigenous people, accounting for 6.2% of the global population. They have a presence in 90 countries where they safeguard 5,000 cultures.[3] Indigenous Peoples' cultures are intimately related to the environment because it is from Mother Earth that they acquire what they need to live in harmony with all beings in the surrounding environ-

ment; it is for this reason that they are considered one of the main actors in conserving the planet's biodiversity.

It is through language that Indigenous Peoples interrelate with all their traditions, including respect for the land and knowledge of its use; knowledge of the different seasons; and knowledge of medicine, food, crafts and dance. Judy Winter, an Indigenous activist from the Wapichan territory in southern Guyana, is just 18 years of age and she is travelling the towns and villages of her region in search of elders and "*knowledge holders*" willing to share what they know with the youth of their communities.

For Indigenous Peoples, and particularly Indigenous women, their traditional knowledge of sustainable natural resource management, biodiversity and environmentally-friendly agricultural practice is invaluable. In addition, their deep spiritual connection to the earth motivates them to actively and committedly care for it.

The key contributions of Indigenous women include:

- **Biodiversity conservation:** Indigenous women are the custodians of seeds and traditional agricultural practices that contribute to the genetic diversity of crops and the conservation of native species.
- **Environmental awareness:** Indigenous women's knowledge of natural cycles and the relationship between humans and nature fosters conservation and sustainable practices.
- **Natural resource management:** Indigenous women are at the forefront of the community's management of resources such as forests, rivers and pastures, promoting their responsible use and preventing their destructive exploitation.

Indigenous women united in the face of climate change

Indigenous women from the Ololunga community in Kenya are challenging the deforestation that is affecting their land through the Paran Women's collective. In 2005, Indigenous activist Naiyan Kiplagat began meeting with several Indigenous women leaders in her community to promote a series of productive activities that would enable them to generate an income, gain empowerment and, at the same time, contribute to saving their forests and water sources.

The women of the Paran collective have established nurseries in which they cultivate seeds of trees native to the forest that has been felled. They also grow legumes and vegetables, which they sell together with the trees ready for reforestation.

> *We have planted trees around our homes, in schools and everywhere we can. So far we have rehabilitated more than 150,000 hectares. The change has been magnificent, there are already women who have access to clean water, which has changed the lives of many people, as contaminated sources cause many diseases, especially among the children in our communities, says Naiyan.*

Currently, together with the Paran women, Naiyan is seeking funding to be able to spread her message of caring for the forest to further regions of Kenya that are likely to be severely affected by climate change and the other negative effects of natural resource exploitation.

Leadership that sows change

In 2018, a group of women from eight provinces in Cambodia came together to address their communities' land dispossession. Companies are now occupying the territory that their forefathers and their forefathers' grandparents inhabited for generations, with their bamboo houses in the middle of the trees, cultivating the land on the banks of the great rivers and caring for Mother Earth. This has taken place without their consent, with dams being built that have flooded their homes and crops, their forest being destroyed, and the land being drilled to extract precious minerals that pollute their soil and water. Women have been severely affected as they are responsible for feeding their families.

In this situation, the Indigenous communities have felt totally defenceless against the invasive force of the companies, which have entered with State support. In 2016, several Indigenous women attended a workshop on rights. They learned that if they could obtain the title to their land, they would be able to claim their rights from the State and stop the companies. And so they formed the Cambodian Indigenous Women's Working Group (CIWWG).

Sreymom Choeun, a member of this collective, commenced the process of gaining title to the communal lands of her ancestors and, with other women, studied the laws of Cambodia that recognize the rights of Indigenous Peoples to their land. They thus came to understand that the law recognizes five uses of the land: for habitation, for cultivation, for future generations, for ancestors and the sacred forest land for spiritual ceremonies. They also learned that the titling process involves three applications to three different ministries through a complex system of bureaucracy. This is how, through the CIWWG, they were able to obtain the land titles they now possess.

Guaraní leadership and resilience

Angelina Barrientos is the founder of the Guaraní Indigenous Women's Organization. Angelina has travelled across the Chaco region of Paraguay meeting with colleagues from various Indigenous women's organizations.

Drought has been spreading through the Paraguayan Chaco due to the climate crisis that is affecting the region. According to various sources, rainfall has declined significantly in recent decades, resulting in a serious scarcity of water in the Indigenous communities. In response to this situation, Angelina has focused her work on measures to mitigate the effects of the drought, such as installing pipes, constructing a water cistern[4] and supplying water to the communities. Despite the benefits of this, some of her male colleagues objected but Angelina responded, "We're all in this together, we're not doing it alone. We all have to work side by side."

There is an interconnection between local and global actions, and this is evident in the work of Angelina and her organization fighting climate change and its adaptation. It is important for Indigenous women and organizations to recognize the challenges they are facing so that they can build the skills that will enable them to connect on an international level, albeit with the end result of bringing about local change in their own communities.

The International Indigenous Women's Forum (FIMI)[5] has acted as a bridge to mobilize and facilitate resources for initiatives led by and for Indigenous women at all levels. Collectively, they are seeking "*el*

buen vivir" [good living] for 238.4 million Indigenous women, 6.2% of the world's female population. In 2023, under the leadership of FIMI, Indigenous women began to coordinate with the aim of implementing CEDAW GR39.

Their strategy is to walk together for change that will take from the local to the global: regional and global dialogues in UN bodies and mechanisms, such as the CSW,[6] in the Permanent Forum on Indigenous Issues,[7] with CEDAW,[8] and at the Conference of the Parties on Climate Change,[9] with the aim of getting governments to promote the good practices of Indigenous women.

Promoting good practices

It is imperative that governments take measures to promote the good practices of Indigenous women in protecting land and territories. Some key reasons include:

- **Gender and ethnic justice:** guaranteeing their right to land is a step towards gender equality and the recognition of our individual and collective rights.
- **Environmental sustainability:** their sustainable practices contribute to the conservation of natural resources and the mitigation of climate change.
- Strengthening Indigenous communities: their protection of Mother Earth strengthens communities as a whole, improving resilience and well-being.
- **Fulfilment of international obligations:** States that have ratified the CEDAW have a responsibility to implement GR39, to demonstrate accountability and comply with international human rights standards.

Conclusion

CEDAW GR39 recognizes the importance of Indigenous women's right to land, territories and resources and their vital contribution to protecting Mother Earth. Governments must take concrete actions, such as the creation of public policies, and allocate budgets and specific pro-

grammes to promote our good practices in sustainable land and resource management. This will not only benefit Indigenous women and their communities but also contribute to a more just and sustainable future for humanity.

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European Union Engagement with Indigenous Issues

The European Union (EU) is a political and economic union of 27 Member States. Its legislative and executive powers are divided between the main EU institutions: the European Parliament (co-legislative authority), the Council of the European Union (co-legislative and executive authority) and the European Commission (executive authority). In addition, the EU has its own diplomatic service, the European External Action Service (with EU Delegations throughout the world).

The EU maintains trade relations with the whole world and is the biggest donor of development aid. Aside from its influence within the territory of its Member States and its influence in international organizations, the EU also has a global impact, being an international key player in the area of human rights, development, and monitoring of corporate and environmental issues.

The EU forms part of the international process of promotion and protection of Indigenous Peoples' rights. Five EU Member States have ratified International Labour Organization (ILO) Convention No 169[1] and the EU supported the adoption of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2007 as well as the Outcome Document of the World Conference on Indigenous Peoples in 2014.

In recent years, the EU has moved from a relatively passive position regarding recognition of Indigenous Peoples' rights to much more active involvement in ensuring the effectiveness of these rights in its policies.

2023 was marked by negotiations on EU commitments and initiatives aimed at developing measures to address the adverse human rights and environmental impacts of trade-related activities. Aware that many actors who encroach on Indigenous lands, as well as those who finance or purchase raw materials or products from them, have direct and indirect relationships and connections with European markets, companies, and financial institutions, and in order to influence the practices of these companies, the EU is beginning to introduce legislation to protect human rights. In this context, the protection of Indigenous lands, the right to free, prior and informed consent (FPIC) and the role of the UNDRIP have been the subject of numerous negotiations.

Proposal for the Corporate Sustainability Due Diligence Directive

The aim of the Corporate Sustainability Due Diligence Directive (CSDDD) proposed by the European Commission (EC)[2] is to establish a system that legally requires companies to identify, prevent, halt or mitigate the negative impacts of their activities on human rights and the environment.

The Annex[3] to the proposed directive lists the human rights conventions protected by the directive, including the UNDRIP, and identifies as a violation of the law punishable by the directive, violations of the rights:

> *of [I]ndigenous [P]eoples to the lands, territories and resources which they have traditionally owned and occupied or otherwise used or acquired, in accordance with article 25, article 26, paragraphs 1 and 2, article 27 and article 29, paragraph 2, of the United Nations Declaration on the Rights of Indigenous Peoples.*

I would like to make a brief aside here to draw the readers' attention to the fact that the EC includes the UNDRIP in its list of conventions and proposes giving it binding force through the application of the directive. This is a credible and effective proposal on the part of the European ex-

ecutive power in that it does not exclude the part of the world's population most affected and most vulnerable to violations committed by companies. Nevertheless, the status of the UNDRIP will be the subject of debate, particularly on the part of the European Council, which will attempt to reduce the scope of the Directive.

The European Parliament, for its part, supports the EC's position and has reinforced it by formulating its own due diligence recommendations in a resolution dated March 2021.[4] On this occasion, the Parliament underlined its deep concern at the impact of certain commercial activities on Indigenous Peoples' rights, and recommended that the directive include ILO Convention 169, and that particular attention be paid to respect for the right to FPIC.

The Council, in response to the Parliament, came out in favour of a drastic reduction in the number of human rights conventions protected by the directive, proposing to exclude the rights of Indigenous Peoples from the scope of the directive.[5]

The Parliament adopted its final position on 1 June 2023,[6] proposing several amendments to the text drawn up by the EC. Among the amendments proposed, amendments 352 and 353 link Indigenous Peoples' rights to self-determination, FPIC, and lands, territories and resources to the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). Linking the rights to self-determination and FPIC to these texts is a skilful response on the part of the Parliament, which counters the argument of the lack of binding force of the UNDRIP by contrasting it with legally binding texts.

The final version of the directive has not yet been produced as it will emerge from the current negotiations (known as Trilogue) between the Parliament, the EC and the Council.

EU Deforestation Regulation

The EU Deforestation Regulation (EUDR)[7] – which entered into force on 29 June 2023 – aims to reduce the EU's impact on deforestation, greenhouse gas emissions and biodiversity loss. To this end, the regulation establishes that livestock, cocoa, coffee, palm oil, rubber, soy,

timber and their derivatives placed on or exported from the EU market must (1) be produced on land that has not been subject to deforestation or forest degradation after 31 December 2020, and (2) comply with the relevant legislation of the country of production (in particular, legislation concerning human rights, land-use rights, environmental protection, as well as tax, anti-corruption, trade and customs regulations).

The regulation requires operators and traders to establish and maintain a due diligence system guaranteeing product traceability and covering risk assessment and mitigation processes. According to art. 10 of the regulation, risk assessment must take into account

> *the presence of [I]ndigenous [P]eoples in the country of production or in certain parts thereof, consultation and cooperation in good faith with [I]ndigenous [P]eoples, the existence of duly substantiated claims on the part of [I]ndigenous [P]eoples, based on objective and verifiable information concerning the use or ownership of the area used for the production of the commodity concerned.*

In addition, art. 12 states that:

> *operators shall report publicly on their due diligence systems on an annual basis. This report shall include, where appropriate, a description of the consultation process with [I]ndigenous [P]eoples and other customary land rights holders or civil society organizations present in the production area of the commodities and products concerned.*

Finally, according to art. 14, Member States must designate the competent authority responsible for fulfilling the obligations arising from this regulation by 30 December 2023.

The regulation defines its objectives and measures as being in line with existing agreements, commitments and frameworks aimed at reducing deforestation and forest degradation. Among the tools mentioned in the regulation are the UN Framework Convention on Climate Change (UNFCCC), the Convention on Biological Diversity (CBD) and the UN Convention to Combat Desertification (UNCCD), as well as the UNDRIP. Finally, like all EU regulations, and unlike EU directives, the

text on deforestation-free products requires no national transposition to be effective in Member States. Now that the regulation has entered into force, retailers and operators have 18 months to implement the new rules, while the deadline for micro and small businesses is 30 June 2025.

Proposal for a regulation on prohibiting products made with forced labour on the EU market

On 14 September 2022, the EC issued a proposal for a regulation to ban products made using forced labour from the EU market.[8] The proposal concerns products manufactured in the EU but also imported goods. The proposal is based on internationally-agreed definitions and standards and aims to empower national authorities to remove products derived from forced labour from the EU market. EU customs authorities will also be empowered to seize the products of forced labour at EU borders. This proposal is currently being examined by the European Parliament and the Council.[9]

The EU has shown great ambition when it comes to business and human rights, and the introduction of this legislation, although not without its problems, represents a significant step forward in the protection of the rights of Indigenous Peoples and their territories. These developments in the European internal system also appear to be modifying the EU's position on the creation of a UN binding instrument on business and human rights. If the EU had not been in favour of – or had at least shown great restraint in – creating a treaty, the evolution of its own legislation may well have contributed to a reversal of its position.

Indeed, during the negotiations surrounding the CSDDD and EUDR, the political groups opposing these initiatives argued that these obligations would penalize European companies in relation to other companies that would not be subject to these human rights obligations. It is not very bold to consider that these same groups would welcome the creation of an international treaty putting all companies on the same footing.

Parliament also began 2024 by voting, by a very large majority, for a resolution on shaping the EU's position on the UN binding instrument on business and human rights, in particular on access to remedy and the protection of victims.[10]

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Mathias Wuidar *is a human rights lawyer. He works as representative to the EU for the Indigenous Peoples' Centre for Documentation, Research and Information (Docip).*

FAO and Indigenous Peoples: Indigenous Youth

The Food and Agriculture Organization (FAO) is a Specialized Agency of the UN that leads international efforts to defeat hunger and malnutrition. FAO was founded in 1945, and its primary goal is to achieve food security for all by making sure that people have regular access to enough high-quality food to lead active and healthy lives. With over 194 Members, FAO has offices in over 130 countries worldwide. FAO recognizes Indigenous Peoples as key allies, not only as technical assistance recipients but primarily as equal partners, and as fundamental stakeholders in achieving the Sustainable Development Goals (SDGs).

Over time, FAO's work with Indigenous Peoples has evolved to become more progressive and inclusive. For instance, in 2004, the Voluntary Right to Food Guidelines[1] endorsed by the Committee on World Food Security (CFS) emphasized the importance of Indigenous Peoples having access to their lands and resources in order to guarantee their right to food. In 2009, FAO released its first publication[2] dedicated to analysing Indigenous Peoples' food systems, focused on the many dimensions of culture, diversity and environment for nutrition and health. One year later, in aligning the organization's work with the 2007 UN Declaration on the Rights of Indigenous Peoples (UNDRIP), FAO called a caucus of Indigenous leaders from the seven sociocultural regions of the world to draft the FAO Policy on Indigenous and Tribal Peoples,[3] which continues to guide FAO's work with Indigenous Peoples today.

In early 2013, the second FAO publication on Indigenous Peoples' food systems was released in collaboration with McGill-CINE: Indigenous Peoples' food systems & well-being. Interventions and policies for healthy communities.[4] In 2014,

FAO created a dedicated Indigenous Peoples team which, jointly with a caucus of Indigenous representatives, drafted a work plan that matches Indigenous Peoples' needs and priorities to FAO's technical competencies. This resulted in a work plan consisting of two main focus areas: a) Indigenous youth; and b) Indigenous women, and six main pillars: 1) Indigenous Peoples' Food Systems; 2) Free, prior and informed consent; 3) Coordination; 4) Governance of natural resources – collective rights and Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGTs); 5) Advocacy and Capacity Development; and 6) Indicators for Food Security. In 2017, as requested by the Global Indigenous Youth Caucus (GIYC), FAO included a seventh pillar of work: 7) Climate change action, resilience and Indigenous Peoples' traditional knowledge.

In 2021, FAO released its third publication[5] on Indigenous Peoples' food systems, with a focus on insights into sustainability and resilience from the front line of climate change. In the same year, it also published the White/Wiphala Paper on Indigenous Peoples' food systems,[6] which was drafted and coordinated by the Global-Hub on Indigenous Peoples' Food Systems. It was acknowledged as a technical reference paper by the Scientific Group of the UN Food Systems Summit (UNFSS), thereby establishing Indigenous Peoples' food systems to be recognized as "game-changers" during the UNFSS Pre-summit.

Since 2019, the dedicated unit that guides FAO's work with Indigenous Peoples has been coordinating a network of more than 40 national and regional focal points on Indigenous Peoples across FAO offices globally, along with the FAO Interdepartmental Working Group on Indigenous Peoples, which gathers together more than 120 technical experts. Indigenous Peoples and FAO have joined forces to contribute to a transformation towards more sustainable food systems. More resilient, inclusive, and sustainable food systems are a key entry point for accelerating progress towards achieving the Sustainable

Development Goals (SDGs). However, the outcomes of many contemporary food systems fall short of the aspirations of the 2030 Agenda. Indigenous Peoples' food systems could be considered among the most sustainable on the planet. In this regard, in 2020, during the 27th session of FAO's Committee on Agriculture (COAG), FAO Members endorsed the creation of a Global-Hub on Indigenous Peoples' Food Systems.

Global-Hub on Indigenous Peoples' Food Systems

In March 2023, the Global-Hub,[7] a space for the co-creation of knowledge on Indigenous Peoples' food systems, convened its first post-pandemic in-person meeting. With over 80 participants from diverse regions and organization, this gathering laid the groundwork for impactful collaboration. As a result, the Global-Hub's membership increased from 20 to 31 organizations and also prompted an increase in requests from academics, researchers, and Indigenous organizations to join the collective efforts. This collaborative spirit, extended to the formation of five drafting committees and three working groups, contributed to the finalization of two Wiphala papers and the editing of the Standards of Practice on ecosystem restoration. In particular, a new White/Wiphala paper on mobile Indigenous Peoples, biodiversity preservation and collective rights will be published in 2024.

In this regard, in June 2023, the FAO's Indigenous Peoples Unit and the Global-Hub participated in the first meeting of the International Expert Consultation on the Resilient and Inclusive Transformation Impact Initiative (RITII).[8] At RITII, it was highlighted that one of the drivers causing the marginalization of Indigenous Peoples' is the constant pressure from external factors on their territories, lands, and natural resources. In addition, policies are inadequately designed, failing to take into account Indigenous Peoples' food and knowledge systems as key elements for biodiversity restoration and conservation. In this context, the Global-Hub was invited to draft a technical paper entitled "Indigenous Peoples: From discrimination and marginalization to inclusion in a meaningful and effective way", to bring attention to the specifics that

pertain to Indigenous Peoples when it comes to the design, implementation and monitoring of development policies and projects.

In addition, the Global-Hub presented two additional research papers: "Impacts of the Energy transition on Indigenous Peoples and their territories worldwide", authored by the Centre for Support of Indigenous Peoples of the North (CSIPN); and "Impacts of the implementation of conservation policies on Indigenous Peoples and their territories worldwide", authored by the Pastoralists Indigenous Non Governmental Organization's Forum (PINGO's Forum).

II Session of the Biennial UN Global Indigenous Youth Forum

Indigenous youth are the present and future guardians of Indigenous Peoples' food systems as well as their cosmogony, culture and language. Their connection with territories, land and natural resources is more important than ever to ensure the continuation of their knowledge and food systems for future generations. At the same time, Indigenous youth are the most affected by conflict, violence, forced displacement and land grabbing. To address these challenges and highlight the importance of their role in the context of climate action and biodiversity conservation, FAO hosted the II Session of the UN Global Indigenous Youth Forum (UNGIYF)[9] in October 2023.

Following a 2019 joint UN Department of Economic and Social Affairs (UNDESA) / UN Permanent Forum on Indigenous Issues (UNPFII) recommendation, the FAO has been working with the Global Indigenous Youth Caucus (GIYC) to put together a dedicated UN Forum for Indigenous Youth. The first session of this biennial UNGIYF took place in 2021, despite the Covid-19 pandemic, where 163 Indigenous youth came together to draft a Declaration on Indigenous Youth and Food.

In October 2023, for the first time in history, 186 Indigenous youth from all seven sociocultural regions travelled in person to gather at FAO headquarters for a week and discuss the issues affecting Indigenous youth, their food and knowledge systems with UN organizations, Member States, academia and other stakeholders. This session of the UNGIYF took place inside an Indigenous territory created in a Sámi nomadic tent installed and managed by the Association of World Reindeer Herders – NOMAD Indigenous FoodLab.

The Forum's discussions revolved around the policies and decisions affecting the future of Indigenous Peoples' food and knowledge systems, climate and biodiversity action, the impact of ultra-processed foods and pesticides on Indigenous Peoples' health, the safeguarding of Indigenous Peoples' plant genetic resources, and Indigenous-led education. The discussions gave shape to the "Rome Declaration on Safeguarding Future Generations in times of Food, Social, and Ecological Crisis",[10] which was officially introduced at the 51st Session of the Committee on World Food Security (CFS) and officially launched during a dedicated event at COP 28 in Dubai, UAE.

The declaration, endorsed by five of the seven regions, focused on the policies and actions necessary for the present and future of Indigenous Peoples' food and knowledge systems. Central to it is the symbolic number seven, deeply rooted in the cosmovisions of Indigenous Peoples. Seven is the number of the messages delivered to the world by Indigenous youth, serving as a bridge between the last seven generations that have endured and the next seven, which hopefully will have a prosperous future:

1. **"We are the next generation":** Indigenous youth commit to preserving traditional knowledge, emphasizing the need for supportive regulatory and policy frameworks.
2. **"We must have land, water, and biodiversity security":** Acknowledging the fundamental role of lands and waters in Indigenous Peoples' food and knowledge systems, the declaration stresses the essentiality of recognition and land tenure security.
3. **"We must be free from cultural genocide":** Urging an end to the introduction of harmful chemicals and wanton extractivism, disrupting Indigenous Peoples' food and knowledge systems, causing irreparable damage and displacement.
4. **"We must prevent green colonialism":** Emphasizing that sustainable practices must respect Indigenous Peoples' rights, the declaration calls for a halt to practices that harm Indigenous communities under the guise of sustainability.
5. **"We must be free from violence":** Rejecting all forms of violence – be it physical, cultural, or territorial – the declaration underscores the immediate harm and impediment to realizing inherent rights caused by such acts.

6. **"We must safeguard our food systems, our health, and mental health":** Highlighting the adverse effects of ultra-processed foods, the declaration champions traditional food and knowledge systems as the pathway to holistic nourishment, spiritual well-being, and mental health.
7. **"We must not be subject to biopiracy; there must be measures to protect Indigenous biocultural intellectual property":** Stating that Indigenous knowledge benefits society at large, the declaration calls for robust safeguards to ensure equitable participation and prevent unjust exploitation.

In addition, the GIYC drew inspiration for the declaration from the "My Food Vision Is..." campaign.[11] This campaign, launched by the GIYC in 2022, highlights the challenges faced by Indigenous Peoples' food and knowledge systems while promoting sustainable solutions. The declaration, crafted by GIYC leadership alongside the seven sociocultural regions, will serve as a beacon for policy recommendations and action on all platforms.

Coalition on Indigenous Peoples' Food Systems

At the global level, the Global-Hub plays a crucial role in supporting the Coalition on Indigenous Peoples' Food Systems[12] to provide technical backstopping. This collaboration strengthens the coalition's strategic work and addresses requests from countries and Indigenous Peoples' organizations.

In fact, the Coalition, founded in 2021, gained momentum in 2023 with the addition of five new countries. Expanding to 12 FAO Members (Canada, Mexico, New Zealand, Norway, Dominican Republic, Finland, Spain, Colombia, Costa Rica, Ecuador, Lesotho, Panama), six UN organizations, and several Indigenous Peoples' organizations, the coalition drafted a comprehensive workplan for implementation in 2024. A remarkable milestone is the inclusion of a thematic area in the CFS Multi-Year Programme of Work 2024-2027 on preserving, strengthening, and promoting Indigenous Peoples' food and knowledge systems and traditional practices for sustainable food systems.

Meanwhile, although their knowledge and food systems can serve as solutions to the triple crisis of biodiversity loss, climate change and food security that humanity is facing, the environmental funds are not reaching them. This is why the FAO and Indigenous Peoples have joined forces through the Indigenous Peoples' Biocentric Restoration (ongoing projects in India, Peru, Ecuador, Thailand, Costa Rica, Paraguay, Colombia, and Brazil). This Indigenous-led approach incorporates Indigenous Peoples' food and knowledge systems and their rights as key elements for biodiversity restoration, revolutionizing conventional restoration approaches. FAO aims to ensure that we move from recognizing the relevance of Indigenous Peoples' food and knowledge systems in preserving biodiversity to concrete action that bridges the gap between evidence and inclusive policy-making.

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12. In 2021, as a result of the UN Food Systems Summit, the first-ever global Coalition on Indigenous Peoples' Food Systems, chaired by the president of the UN Permanent Forum on Indigenous Issues, was launched at FAO headquarters in Rome. Seven FAO Members and seven Indigenous Peoples from each of the seven sociocultural regions of the world called with urgency to join forces to respect, preserve and promote Indigenous Peoples' food and knowledge systems as game-changers for the benefit of all of humanity.

*This chapter was written by the **FAO Indigenous Peoples Unit**, under the coordination of **Yon Fernández-de-Larrinoa** and **Anne Brunel**. Contact: Indigenous-peoples@fao.org*

Green Climate Fund (GCF)

The Green Climate Fund (GCF) is the world's largest climate fund, mandated to support developing countries achieve their Nationally Determined Contributions (NDCs) and to raise ambition towards low-emission climate-resilient pathways.[1] The GCF was established by the UN Framework Convention on Climate Change (UNFCCC) in 2010 and has been in operation since 2015. The GCF's main mandate is to provide support for the Paris Agreement goal of limiting average global temperature rise to 1.5°C. In doing so, the GCF accepts financial contributions, generally termed as climate finance, from so-called developed countries also known as UNFCCC Annex-1 Countries, as well as from public, non-public and alternative sources.[2] For key decision making, the GCF has a Board of 12 members from UNFCCC Annex-1 Countries and another 12 from Non-Annex Countries. It also has four Active Observers (AOs) able to participate in Board sessions – two representatives from accredited civil society organizations (CSOs) from Annex-1 Countries and Non-Annex Countries respectively, as well as two from accredited private sector organizations (PSOs) also representing Annex-1 Countries and Non-Annex Countries. These observers' term is two years with a maximum of two consecutive terms.

The GCF is yet to recognize Indigenous Peoples as a distinct constituency of Observers despite this being an established UNFCCC practice. Nonetheless, the GCF has an Indigenous Peoples Advisory Group (IPAG) that was operationalized in 2022, and a stand-alone Indigenous Peoples Policy. The AOs from civil society represent the GCF Observer Network of Civil Society Organizations, Indigenous Peoples and Local Communities (CSO Network), a coalition of non-profit observer organizations and Indigenous Peoples' organizations. Besides engaging in the CSO network, Indigenous Peoples and their allies are organized in an Indigenous Peoples Advocacy Team (IPAT).

In terms of financial authority, following a rapid institutional start-up phase, the GCF's Initial Resource Mobilization (IRM) in 2014 raised USD 10.3 billion (approx. EUR 9.4 billion) in pledges. Of this, USD 8.3 billion (approx. EUR 7.6 billion) were confirmed through unconditional contributions and, after accounting for variations in exchange rates, USD 7.2 billion (approx. EUR 6.6 billion) have been available for the commitment during the IRM period. At its 21st Board Meeting in October 2018, the first replenishment of the GCF, called GCF-1, was launched. It raised USD 10 billion (approx. EUR 9.1 billion) equivalent in pledges, of which USD 9.9 billion (approx. EUR 9 billion) equivalent was received during the GCF-1 time period. Moving forward, the 33rd Board Meeting held in July 2022 formally launched the second replenishment (GCF-2) process for the period 2024-2027. The first consultation meeting on the second replenishment of the fund (GCF-2) was held in December 2022 followed by another consultation meeting in April 2023.

Overview

As of 31 December 2023, the GCF had approved a total of 243 projects with project investment commitments amounting to USD 13.5 billion (approx. EUR 12.3 billion) (the committed amount refers to the amount allocated to projects as approved by the GCF Board). Of the total commitment, the GCF is implementing USD 10.9 billion (approx. EUR 10 billion). Projects are under implementation once the Funded Activity Agreement (FAA) with the Accredited Entity (AE) becomes effective. The GCF has already disbursed USD 4 billion (approx. EUR 3.6 billion). The GCF estimates that these projects will help 1 billion people increase their climate resilience and will contribute to preventing the emission of 3 billion tonnes of CO2 equivalent.[3] In terms of project scale, micro- and small-scale projects constitute less than half of the portfolio (11% and 34%) while medium and large-scale projects account for 36% and 19%, respectively. GCF figures show that the number of large-scale projects continues to increase in the project port-

folio. The large-scale project portfolio increased by 1% in just one year (from 2022-2023). The size of a project is important given that larger projects have a higher risk of having a negative impact on nature and human rights. In terms of financial instruments, the project investment amount comprises 41% grants, 40% loans, 12% equity, 4% result-based payments and 3% guarantees.[4] The amount of loans is significant compared to other investment instruments.

Compared to 2022, the GCF's grant investment has increased by 1% and equity investment by 3% in the project portfolio. These figures raise the question of whether or not climate finance is flowing in accordance with Article 9 of the Paris Agreement, particularly paragraph 9.4, which states that climate finance should be grants-based on the principle of Common But Differentiated Responsibilities (CBDR) with respective capabilities.[5] Contrary to paragraph 9.4, loan investment is still significant in the GCF portfolio.

Across result areas, a significant amount is being invested in "livelihood of people and communities" – although there is no data available on how this has included Indigenous Peoples' climate-friendly lifeways – followed by "health, food and water security", "ecosystem and ecosystem services", "energy generation and access" and "forest and land use". Indigenous Peoples across the world have bitter experiences with interventions on forest and land use, as well as with energy generation. Of the eight GCF result areas, the lowest amount of investment goes to "transport" and "building, cities, industries and appliances". By investment theme, 54% goes towards adaptation and 46% towards mitigation in grant equivalent terms. In nominal terms, however, adaptation constitutes 44% and mitigation 56% of the portfolio. In terms of access modality, 77% of funds are accessed by international Accredited Entities (AEs), 13% by national Direct Access Entities (DAEs), and 10% by the regional DAEs.

Overall, these figures show how the GCF emphasizes project impact in quantifiable terms of tonnes of CO2 equivalent mitigated and number of people building their resilience in general. It is, however, equally important to have data on the projects' impact on the social, cultural, economic, ecological and overall well-being of communities and Indigenous Peoples.

Second replenishment at a glance

In continuation of the launch and consultations held in 2022, the GCF held a High-level Pledging Conference on its second replenishment (GCF-2) in October 2023. As of December 2023, GCF-2 had received USD 12.8 billion (approx. EUR 11.7 billion) in pledges for the period 2024-2027. At the outset, with increasing financial pledges and a growing project portfolio, several questions remain critical. For example, how can Indigenous Peoples directly access GCF finance themselves in order to be able to utilize such finance in a self-determined manner? From a paradigm shift perspective, how can the increasing number of GCF projects support and promote Indigenous Peoples' contribution to climate action by recognizing the distinct relationships Indigenous Peoples have with nature, and their contribution in keeping the natural environment safe? From a country ownership point of view, how can it be ensured that GCF projects are not simply driven by governments but also owned and led by Indigenous Peoples when a project will be implemented on their territories or is going to affect matters related to Indigenous Peoples? How are the needs identified by the government and the AEs – are those needs grounded in the culture, values, worldviews and real need of Indigenous Peoples? These aspects need more attention and enlightening in the GCF as well. The GCF's Strategic Plan 2024-2027 has picked up some of those elements. This could be a starting point of progress for the GCF to become a real vehicle for a paradigm shift.

Strategic Plan 2024-2027 from an Indigenous perspective

The GCF adopted its Strategic Plan for the period 2024-2027 at its 36th Board Meeting in July 2023. The Strategic Plan sets out the Board's long-term strategic vision for the GCF, as well as its objectives and portfolio targets, and operational priorities for the specific programming period. Likewise, the Strategic Plan sets out the major programming directions and operational and institutional priorities for the GCF-2 period.[6] In May 2022, at its 32nd Board Meeting, the Board decided to launch a consultation process to inform the review and update the Strategic Plan 2024-2027. In response to the GCF call for submissions, the Indig-

enous Peoples Advisory Group (IPAG) submitted its inputs by highlighting the following, among other points:

A. Recognition of the different needs of Indigenous Peoples.
B. Effective participation of Indigenous Peoples and recognition of their knowledge in climate action as highlighted by the Sixth Assessment Report of the Intergovernmental Panel on Climate Change (IPCC AR6).
C. Recognition of Indigenous Peoples' knowledge of adaptation as per Article 7.5 of the Paris Agreement and support for non-carbon benefits in mitigation as stated in Article 5.2.
D. Direct access for Indigenous Peoples to GCF finance.
E. Effective monitoring of safeguard implementation.
F. Indigenous Peoples' disaggregated data.
G. Engagement of Indigenous Peoples in readiness activities.
H. Focus on smaller, locally-led initiatives.
I. Compliance of the Strategic Plan with relevant articles of Paris Agreement in a holistic and integrated manner.
J. The significant role of public funds as noted in Article 9.3 of the Paris Agreement.
K. Importance of mobilizing grant-based climate finance pursuant to Paris Agreement Article 9.4.

The Strategic Plan 2024-2027, under its long-term strategic vision, states that

> *...the GCF puts specific focus on supporting developing countries, and their communities and people, who are most vulnerable to the adverse effects of climate change, striving for inclusive climate action in line with its Revised Environmental and Social Policy, and integrating local communities, indigenous peoples, women and girls and people with disabilities as agents of change.*[7]

Likewise, in the section on strategic programming directions, the Strategic Plan sets the Programming Priorities for 2024-2027, wherein it:

> *...seeks to replicate innovative and inclusive approaches, such as incubators and accelerators for climate technologies, solu-*

> *tions based on local, traditional and indigenous knowledge, seed capital, and expand access to green finance, including by supporting green bonds and sukuks.*

In the context of supporting paradigm shifts across sectors of mitigation and adaptation, it states it will:

> *...pursue collaboration with the Indigenous Peoples Advisory Group (IPAG) and with other stakeholders including local communities, women, youth, civil society and organisations for persons with disabilities to scope where there is potential for inclusive innovation based on traditional, local and [I]ndigenous knowledge and practices among other things to identify opportunities to source and aggregate pipeline of locally-led solutions.*

Furthermore, in addressing urgent and immediate adaptation and resilience needs, it states it will:

> *...curate easy-to-access resources on climate risks, impacts and vulnerability assessments to support planning and origination: working with the World Meteorological Organisation (WMO), IPAG and global experts to draw on best available climate information and traditional, local and [I]ndigenous knowledge and practices.*

Under the same section, it also mentions significantly expanding the deployment of the Enhancing Direct Access (EDA) Guidelines and other devolved financing approaches to enable more rapid access to finance for locally-led adaptation action, engaging affected communities, civil society and Indigenous Peoples in delivering to meet the needs of last-mile beneficiaries.

In the context of the private sector and promoting innovation and catalysing green financing, it mentions launching requests for proposals through which the GCF will seek to identify promising partners and project ideas for climate solution incubators and accelerators, and also accelerators of inclusive innovation based especially on traditional, local and Indigenous knowledge and practices, as well as enhancing the involvement of the private sector capable of innovation programming

through the full implementation of the Project-specific Assessment Approach (PSAA). In institutional priorities for consolidating capacity for delivery, it emphasizes its policies and safeguards, wherein it mentions continuing to advance best practices on environmental and social safeguards and on matters related to Indigenous Peoples, local communities, gender, integrity, and information disclosure, to not only include "do no harm" safeguarding measures but also to improve outcomes. In the results, knowledge and learning section, it also envisages establishing more structured fora for stakeholder engagement and expert feedback, learning loops and advice, adopting participatory approaches that draw on the insights of affected communities, Indigenous Peoples, civil society, women, youth and academia.

Independent Redress Mechanism

In 2023, the Independent Redress Mechanism (IRM) followed up on complaints received concerning Project FP146 - "Bio-CLIMA: Integrated climate action to reduce deforestation and strengthen resilience in BOSAWÁS and Rio San Juan Biospheres" in Nicaragua. The project was approved in 2020 but has yet to be implemented. It aims to reduce deforestation in the UNESCO-designated Bosawás and Rio San Juan biosphere reserves in the Caribbean Region of Nicaragua. The complaint to the IRM documented repeated attacks against Indigenous Peoples, with dozens of people murdered, kidnapped or raped over the last few years and heightened concerns that implementation of the project may fuel further violence. Consequently, in a precedent-setting decision, the GCF Board suspended the project in July 2023.

Going forward

Towards the end of 2022, IWGIA, the Forest Peoples Programme (FPP), the Tebtebba Foundation (Indigenous Peoples' Centre for Policy Research and Education), the Centre for the Indigenous Peoples' Autonomy and Development (CADPI), the Nepal Federation of Indigenous Nationalities (NEFIN), and the Pastoralists Indigenous Non Governmental Organization's Forum (PINGO's Forum), drafted and submitted comprehensive inputs to the draft GCF Environmental and Social Safeguards

(ESS). Unfortunately, the ESS was not discussed by the Board in 2023 but will hopefully be so in 2024. It is crucial for Indigenous Peoples to continue monitoring GCF projects as many of these are placing increasing pressure on Indigenous Peoples' land and resources and, paradoxically, do not address some of the root causes of the climate crisis, such as overproduction and consumption.

Consistent engagement of Indigenous Peoples in the GCF is important in order to materialize the Indigenous Peoples Policy[8] and the GCF Strategic Plan into action. Overall, as in previous years, Indigenous Peoples' voices and advocacy at the GCF continue to be pivotal. Keeping human rights and the rights of Indigenous Peoples at the centre of climate finance is key for the well-being, integrity and survival of Indigenous Peoples and their communities as well as keeping the Paris Agreement goal within reach.

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Tunga Bhadra Rai *(tungarai@hotmail.com) belongs to the Rai Indigenous Nation of Nepal. He is an Indigenous researcher and anthropologist currently working as the Director of the Climate Change Programme of the Nepal Federation of Indigenous Nationalities (NEFIN). He engages in advocacy at the UNFCCC, GCF, and in other national and international fora. Mr. Rai has published articles on Indigenous Peoples.*

IFAD's Engagement with Indigenous Peoples

The Indigenous Peoples' Forum at the International Fund for Agricultural Development (IFAD) was established in 2011 as a permanent process of consultation and dialogue between representatives of Indigenous Peoples' institutions and organizations, IFAD and governments. The global meeting of the forum convenes every second February in conjunction with IFAD's Governing Council, the fund's main decision-making body. A series of regional consultations lead up to each global meeting, ensuring that the forum reflects the diversity of perspectives and recommendations gathered from Indigenous Peoples around the world. The overall process is guided by a steering committee (SC) composed of representatives of Indigenous Peoples' organizations from the different regions, representatives of Indigenous youth, the Indigenous Peoples Assistance Facility (IPAF) Board, the UN Permanent Forum on Indigenous Issues (UNPFII) and IFAD.

A unique process within the UN system, the forum aims to improve IFAD's accountability and enhance its development effectiveness for Indigenous Peoples. The global forum process, including its preparatory processes, enables participants to assess IFAD's engagement with Indigenous Peoples, consult on rural development and poverty reduction, and promote the direct and effective participation of Indigenous Peoples' organizations in IFAD's operations at the country, regional and international levels. These activities help IFAD to implement its Policy on Engagement with Indigenous Peoples and translate the policy's principles into action on the ground.

2023 marked the first year of implementation of IFAD's updated Policy on Engagement with Indigenous Peoples (December 2022). Following more than a decade of implementa-

tion of its first Policy on Engagement with Indigenous Peoples (2009), and in light of the experience and lessons learned on the ground, IFAD committed to updating it in the Report of the Consultation on the 12th Replenishment of IFAD's Resources to reflect a number of important changes within IFAD and in the global context, with the objective of strengthening the fund's role in championing Indigenous Peoples' issues.

IFAD's updated Policy on Engagement with Indigenous Peoples

IFAD's updated Policy on Engagement with Indigenous Peoples,[1] approved by the Executive Board in December 2022, began its implementation in 2023. In providing updated information on the situation of Indigenous Peoples and responses to their longstanding and newly emerging challenges through IFAD's instruments, the updated policy also builds on the fund's comparative advantage in climate change-related interventions.

The updated policy calls for a paradigm shift whereby IFAD now works with Indigenous Peoples as equal partners who contribute to co-creating strategies and who design and monitor investments to improve their livelihoods based on their own perspectives.

In addition to the nine already existing principles of engagement: (i) recognizing cultural heritage and identity as assets; (ii) free, prior and informed consent; (iii) community-driven development; (iv) land, territories and resources; (v) Indigenous Peoples' knowledge; (vi) environmental issues and climate change; (vii) access to markets; (viii) empowerment; and (ix) gender equality, the updated policy includes a new principle (number x) on food sovereignty, food security and nutrition.

The updated policy will inform IFAD's overall engagement with Indigenous Peoples for the next decade, until 2032. The Indigenous Peoples' Forum at IFAD remains the entry point for engagement with Indigenous Peoples at all levels, and the Indigenous Peoples Assistance Facility (IPAF) as the instrument to work directly with Indigenous Peoples' communities and their organizations, complementing IFAD's

loan and grants investments. In addition, the other major instruments for policy implementation are policy engagement and partnerships, human resources, and knowledge management.

Theme of the 6th Global Meeting of the Indigenous Peoples' Forum at IFAD

The 6th global meeting of the Indigenous Peoples' Forum at IFAD[2] (IPFI) took place on 9, 10 and 13 February 2023, focusing on: Indigenous Peoples' Climate Leadership: Community-based Solutions to Enhance Resilience and Biodiversity.

Preparation of the global meeting

In preparation for the global meeting,[3] regional and sub-regional consultation meetings took place throughout October and November 2022 gathering insights on the theme in order to inform the meeting with different perspectives from the regions.

The theme of the sixth global meeting places the very life-sustaining capacity of the planet in jeopardy and is hence the single most important threat humanity faces. Its effects are felt across all facets of life, including food security, livelihoods, gender equality, employment, health, and political stability and peace. However, while all ecosystems are affected, the causes and the burden of the effects of climate change are unevenly distributed. Those who contribute the least to the problem must bear the heaviest burden of its effects, aggravating already existing disparities.

Indigenous Peoples, who are intimately connected with and dependent on the land and its resources, and who live in some of the most vulnerable regions and conditions, are on such a receiving end. Their life-sustaining natural and cultural assets are being undermined and their political, economic and social exclusion is being exacerbated by climate change and, at times, climate policies and actions.

Historically, containment, displacement, deracination and dispossession have reduced the land base on which Indigenous Peoples depend, pushing them onto marginal lands, or completely dispossessing them. Their labour, economies and resources have been subordinated to external exploitative interests that have impoverished and marginal-

ized them. Unfortunately, these dynamics continue to be replicated in contemporary policies and practices, including in climate action.

Indigenous Peoples' perspectives, aspirations, concerns and land relations are, at times, sacrificed in the interests of global biodiversity conservation goals and the extraction of minerals for sustainable energy transitions. Indigenous Peoples are also often excluded from climate debates and decision-making. However, Indigenous Peoples display tremendous resilience, leadership and creativity.

They are revitalizing and inventing practices and ways of thinking that are invaluable in confronting the challenges of climate change, biodiversity conservation and sustainability.

In the discussion on the overall theme, many interventions and presentations by Indigenous Peoples' representatives, IFAD and partners, such as the Global Climate Fund (GCF), Global Environment Facility (GEF), UN Development Programme (UNDP) and World Bank, enriched the discussion and enabled participants in the forum to debate and dialogue on issues of relevance, to strengthen mutual knowledge, and to assess opportunities for developing synergies and partnerships.

A keynote speech from Ms Sherilee Harper (Associate Professor, School of Public Health, University of Alberta) showed that, according to recent Intergovernmental Panel on Climate Change (IPCC) studies, Indigenous knowledge alone is a valuable source of evidence, wisdom and information that is critical to understanding, responding to, and governing climate change. To benefit from this knowledge, the self-determination of Indigenous Peoples is key. Looking at the future, IPCC reports should include Indigenous lead authors and remove barriers to engaging with Indigenous knowledge.

The role of Indigenous Peoples as leaders in climate matters was emphasized throughout the discussion, particularly due to the special connection they have with their territories. Within this context, Indigenous land tenure remains the foundation for Indigenous People's well-being, livelihood and autonomy, and the lack of secure land rights constitutes a major threat to climate leadership.

The global meeting

The global meeting brought together 42 Indigenous Peoples' representatives from 33 Indigenous groups from Africa, Asia and the Pacific, and Latin America and the Caribbean to exchange views on developments

in the partnership with IFAD. A total of 57% of the Indigenous representatives were women and 21% were young people under 35 years of age. Over 30 representatives from partner organizations, such as NGOs, foundations, international organizations, UN agencies, research institutes and universities joined the meeting as observers or speakers. Overall, the forum saw the participation of more than 180 attendees.

The global meeting was officially opened by IFAD's President Alvaro Lario, who emphasized that the only way to turn the tide on climate change was for governments and institutions like IFAD to join forces with Indigenous Peoples. He added that Indigenous Peoples are in fact recognized as the stewards of nature and biodiversity and that they know the land, seas and earth's plant and animal life "with an intimacy that no agronomist, project designer or funding provider ever will". According to Mr Lario, the invaluable knowledge of Indigenous Peoples can be a guide to transforming food systems and responding to climate change. "For this to be possible," he concluded, "there is a need to advocate for social justice and land rights for Indigenous Peoples' communities."

The opening remarks from the members of the forum's steering committee further focused on expressing deep appreciation for IFAD's commitment and support over the years. They particularly welcomed the updated Policy on Engagement with Indigenous Peoples.

The opening session was closed with the keynote address of Mr Darío José Mejía Montalvo – Chair of the UN Permanent Forum on Indigenous Issues (UNPFII) – who emphasized the huge contribution of Indigenous Peoples to humanity, the need for a paradigm shift to ensure the fulfilment of their territorial, cultural and political rights, and the need to integrate the knowledge of Indigenous Peoples into policies and investments. He further stressed the need to increase the global budget for projects supporting Indigenous Peoples, including through financing for climate action.

As is the practice at such global meetings, IFAD presented a report analysing the trends and developments in IFAD's partnership with Indigenous Peoples over the biennium (2021–2022), taking stock of IFAD's experience and highlighting success stories and achievements.

In addition, IPAF regional co-managers presented the results achieved so far in the implementation of the IPAF projects in Latin America and the Caribbean, Africa and Asia and the Pacific, respec-

tively. The added value of the facility was emphasized by all speakers as a unique instrument for supporting Indigenous Peoples' self-driven development. According to speakers, the IPAF has strengthened trust within Indigenous communities and successfully supported them to exercise their individual and collective rights and be recognized as contributors to global challenges. At the same time, the need to scale up investments for financing IPAF projects was emphasized.

The Indigenous Peoples Awards ceremony,[4] which was introduced for the first time in forum history in 2021 to recognize the achievements of development projects that effectively engage with Indigenous Peoples, was conducted by Mr Jesús Amadeo Martínez Guzmán, who announced the winners from among the candidates. The "Integral Strengthening Programme for the Camelid Value Chain in the Bolivian High Plateau" (Pro-Camélidos) received the award for best performing IFAD-funded project. The project "Improving the Food Security of Bakola/Bagyeli Children and Ensuring the Self-Sufficiency of the Ngoyang School through Sustainable Agriculture" was awarded best performing IPAF-funded project. Finally, the project "Strengthening Capacities of Community-Based Renewable Energy Systems towards Off-Grid Energy Policy Development in the Philippines" was awarded best performing non-IFAD-funded project.

A panel discussion with the Rome-Based Agencies (RBA) on the Coalition on Indigenous Peoples' Food Systems was also organized. The session was chaired by Ms Lola García-Alix, IWGIA's Senior Advisor on Global Governance. Speakers included His Excellency Miguel Jorge García-Winder, Ambassador and Permanent Representative of Mexico to the UN Agencies Based in Rome, Mr Darío José Mejía Montalvo, Mr Pallab Chakma, and representatives from each of the three RBAs. The discussion underlined the role that the coalition plays in protecting and strengthening Indigenous Peoples' food systems across the world, and in disseminating and scaling up their traditional knowledge and good practices that have the potential to transform global food systems at large. While recognizing that Indigenous Peoples' knowledge, practices and ways of living are key for sustainable food systems, it was noted that the benefits are only possible if Indigenous Peoples' secure land tenure is prioritized. For this to happen, Indigenous Peoples' meaningful engagement at all levels (including country-level dialogue), a partnership and concrete actions from the coalition are all needed.

The Forum was closed by Mr Dominik Ziller (Vice-President of IFAD), who reaffirmed IFAD's commitment to make every effort to translate forum deliberations into meaningful, timely and concrete actions, and to implement the updated Policy on Engagement with Indigenous Peoples and the IPAF, culminating in an Indigenous ceremony.

Synthesis of deliberations

Based on the discussions and contributions from the debates, the Synthesis of Deliberations of the 2023[5] global meeting of the IFPI was adopted. It concluded with 20 recommendations addressed to IFAD, governments and Indigenous Peoples themselves as commitments.

In relation to the recognition and respect of Indigenous Peoples' rights to land, territories and resources, the following two important recommendations were made:

- The Forum recommended that IFAD country programmes integrate Indigenous Peoples' values, land tenure, governance and knowledge systems, taking into account territorial planning and visioning cycles; and ensure that interventions do not disrupt Indigenous Peoples' systems but rather strengthen and build on them.
- Recommendations to governments: develop legislation, policies and programmes that protect and advance the rights of Indigenous Peoples and promote their effective implementation in coordination with their peoples, communities and organizations, by ensuring free prior and informed consent (FPIC), alignment with the UNDRIP, and the implementation of the updated IFAD Policy on Engagement with Indigenous Peoples. Furthermore, the Forum recommended recognizing and protecting the land rights and the integrity of Indigenous "territories of life" and promoting the implementation of self-determined development with the necessary technical, financial and institutional resources.

Governing council and other important events around and after IPFI

Change Cinema

On 2 February 2023, to raise awareness among IFAD staff on the upcoming forum and the struggles that Indigenous Peoples face, and in collaboration with the International Land Coalition (ILC), a Change Cinema event was organized. The documentary "The Illusion of Abundance", co-directed by Erika González Ramírez and Matthieu Lietaert, was screened featuring three women's human rights defenders from Latin America on the frontline of protecting their land and communities.

Private audience with His Holiness Pope Francis at the Holy See

On 10 February, a delegation of Indigenous Peoples' representatives was received at the Holy See for a private audience with Pope Francis. On that occasion, Ms Myrna Cunningham was given the opportunity to read a letter addressed to the Pope on behalf of Indigenous Peoples participating in the forum. In the letter, Indigenous Peoples asked to join forces in the fight against injustice, to promote peace, and to build alternative models of development determined by Indigenous Peoples. The Pope stated that the global meeting offered an opportunity to recognize the fundamental role that Indigenous Peoples play in protecting the environment, and to highlight their wisdom in finding global solutions to the immense challenges that climate change poses to humanity.

IFAD Governing Council

On 14 February 2023, the Synthesis of Deliberations of the Indigenous Peoples' Forum was delivered to the 46th session of the IFAD Governing Council by Ms Margaret Tunda Lepore (youth member of the IPFI Steering Committee). On the same day, Indigenous Peoples' representatives participated in the Interactive Session on Indigenous Peoples' Issues: Indigenous Peoples' Climate Leadership, Holistic Perspective to Achieving Food Security and Nutrition.

Consultation on the 13th Replenishment of IFAD's Resources

On 16 February 2023, Mr Pallab Chakma, member of the IPFI Steering Committee, delivered a statement on behalf of Indigenous Peoples at the first session of the Consultation on the 13th Replenishment of IFAD's

Resources (IFAD 13). The engagement of Indigenous Peoples' representatives, together with youth and farmer organizations' representatives, remained consistent throughout the three other sessions of IFAD 13 replenishment consultations.

Parallel session on equitable and inclusive land governance

IFAD co-organized a parallel session on "Equitable and Inclusive Land Governance" in June during the 2023 SDG 16 Conference, with the participation of ILC, Food and Agriculture Organization (FAO), and the chair of the UNPFII. The outcomes of the conference[6] served as an input to the deliberations of the High-Level Political Forum on Sustainable Development in July and informed the preparations for the SDG Summit in September.

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Ilaria Firmian *is Senior Technical Specialist on Indigenous Peoples at the International Fund for Agricultural Development (i.firmian@ifad.org)*

Indigenous Navigator: Self-Determined Development

The Indigenous Navigator (IN) is an online portal providing access to a set of tools developed for and by Indigenous Peoples. By using the IN, Indigenous organizations and communities, duty bearers, NGOs and journalists can access free tools and resources based on updated community-generated data to advocate for their rights and to systematically monitor the level of recognition and implementation of these rights. By documenting and reporting their own situations, Indigenous Peoples can enhance their access to justice and development and help document the situation of Indigenous Peoples globally.

The IN framework encompasses over 150 structure, process, and outcome indicators to monitor central aspects of Indigenous Peoples' civil, political, social, economic, and cultural rights and fundamental freedoms enshrined in the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), ILO Convention 169 (ILOC169) and other relevant human rights instruments. In addition, the framework enables monitoring of the outcome document of the World Conference on Indigenous Peoples (WCIP) and the Sustainable Development Goals (SDGs).

The IN, initiated in 2014, has been developed and carried forward by a consortium consisting of the Asia Indigenous Peoples Pact (AIPP), Forest Peoples Programme (FPP), International Work Group for Indigenous Affairs (IWGIA), Tebtebba Foundation – Indigenous Peoples' International Centre for Policy Research and Education, Danish Institute for Human Rights (DIHR) and International Labour Organization (ILO). This consortium works in partnership with the European Commission.

Continuing critical work on monitoring Indigenous Peoples' rights

The Indigenous Navigator (IN) is a groundbreaking initiative that continues to make remarkable progress in promoting and protecting the rights of Indigenous Peoples. Launched in 2014, it continues to evolve with updates to its framework, tools and surveys.[1] As reported in The Indigenous World 2023,[2] October 2022 saw the start of the third phase of the IN, comprising a geographic and thematic expansion. 2023 saw continued advances, adding consultations and making progress in the drafting of specialized modules on biodiversity, climate, due diligence and gender. Indigenous partner organizations, communities and supporting organizations continue to implement the three pillars[3] of the IN, with data collection ongoing in 29 countries.[4]

Successful outcomes

In 2023, the IN significantly expanded its geographic reach, collaborating with 11 new partner organizations at national level, and supporting monitoring in over 100 additional Indigenous communities. The community survey and IN tools continue to monitor the realization of the rights of over 300,000 Indigenous persons in approximately 320 communities, with published data now available on the global portal from 179 community surveys and 18 UN Member States.[5]

2023 saw the initiative achieve significant milestones and deliver tangible results for Indigenous Peoples in the Arctic, Asia, Africa and Latin America. In 2023, 227 new community surveys were conducted and uploaded to the IN portal. Of these, 30 had been finalized and reviewed as of December 2023. They are now publicly available in the data explorer. National level data for seven new UN Member States — Argentina, Brazil, Guyana, Japan, South Africa, Sweden and Uganda — were completed and published, bringing the total of publicly available national surveys to 18.[6]

Development of the IN portal is ongoing. 2023 saw the drafting of and consultation with Indigenous Peoples from around the globe on new modules and indicators to collect data on climate change, biodi-

versity and environmental due diligence. These modules are expected to be fully integrated into the web portal by mid-2024, further enhancing the project's monitoring of the realization of Indigenous Peoples' rights.

Monitoring implementation of the UNDRIP

Violations of Indigenous Peoples' rights are often not reported or addressed. Knowledge gaps persist in understanding the social and economic situation of Indigenous Peoples. Data from the IN and Indigenous communities confirm challenges regarding data availability, with disaggregated census data for Indigenous Peoples often being non-existent or insufficient. This lack of recognition and disaggregation continues to leave Indigenous Peoples statistically invisible. Further, it results in many Indigenous Peoples lacking a comprehensive analysis of their situation and duty bearers lacking awareness and adequate data on Indigenous Peoples' needs and concerns.

Throughout 2023, the IN continued to focus on highlighting the role of Indigenous-led Community-Based Monitoring and Information Systems (CBMIS) in addressing the polycrisis the world faces and asserting the rights of Indigenous Peoples.

Engagement at the global level

In January, the IN participated in the first international conference on Sámi research data governance, held in Trømso, Norway.[7] This marked the official launch of the Global Indigenous Data Alliance-Sápmi network. The event also highlighted the lack of official data, particularly in Sápmi, and the lack of information about Sámi communities. The dialogue reiterated the crucial role of citizen-generated data (CGD) and emphasized how a lack of data impedes decision-making processes that impact issues involving the Sámi people and society. Critically, it was highlighted that, despite being in the "Global North", there is a lack of critical information such as demographic, economic and health data on Saami in Sápmi.[8]

In February, the IN drafted a submission to the Expert Mechanism

on the Rights of Indigenous Peoples (EMRIP) on "Establishing effective monitoring mechanisms at the national and regional levels for implementation of the UN Declaration on the Rights of Indigenous Peoples".[9]

In April, Indigenous representatives from communities implementing the IN attended the UN Permanent Forum on Indigenous Issues (UNPFII), and consortium members attended the fourth UN World Data Forum (UNWDF) from 24-28 April in Hangzhou, China. At the UNWDF, the IN participated with a focus on thematic area 4: "Emerging trends and partnerships to develop the data ecosystem". The event, entitled "Together we can do more: citizen-generated data for inclusive data ecosystems",[10] provided key engagement on the role of citizen-generated data to address gaps and crises.

In May, following up on its participation in COP 15 of the Convention on Biological Diversity (CBD) that took place in 2022,[11] the consortium made a Submission to the Secretariat of the CBD on behalf of the IN on the "Joint Programme of Work on links between biological and cultural diversity: review and update four indicators on traditional knowledge".[12] This submission highlighted the key areas of monitoring being carried out by the IN through its framework and tools relevant to these four traditional knowledge indicators. Further, it informed the continued development of an additional module with specific focus on the advances made in the Kunming-Montreal Global Biodiversity Framework (KMGBF) (see article on the Convention on Biological Diversity on page 568).

From 5-8 June, the IN joined RightsCon 2023 and organized two side events, as well as a spotlight video interview and presentation on the IN. The primary event was a workshop: "Community-Generated Data, Indigenous Data Sovereignty and defending Indigenous Peoples' rights". On 28 June, IN representatives participated in the International Fund for Agricultural Development's (IFAD) Innovation Day. Here, the IN joined a panel presentation entitled "Innovating for Well-being: Exploring the Latest Indicators for Indigenous Peoples". The presentation highlighted the IN framework, tools and the critical role of a human rights-based approach to Indigenous data and monitoring.

In July, the IN, together with the Indigenous Peoples Major Group on the Sustainable Development Goals (SDGs) and the International Land Coalition (ILC), organized three side events during the High-Level Political Forum (see article on the Sustainable Development Goals on page 633). These events highlighted the critical role of Indigenous Peoples

and citizen-generated data in achieving the SDGs and ensuring that no-one is left behind. The first event, "Recognizing community leadership in water governance: towards equitable partnerships with Indigenous Peoples in ensuring control over and access to water resource and clean energy", showcased the role of Indigenous Peoples in managing, preserving and protecting water resources. In a key side event co-organized with ILC: "An Urgent Case for Complementary Data: Indigenous, Land and Environmental Defenders in SDG (Sustainable Development Goal) 16.10.1", the need for enhanced support for citizen-generated data on both lethal and non-lethal attacks was highlighted. The IN also organized an event entitled, "Implementing Indigenous Peoples' rights, key to accelerating the Sustainable Development Goals", which emphasized the crucial role Indigenous Peoples have in ensuring a more just and sustainable future.

In August, the IN organized a workshop together with the UN Statistics Division and key ministries of the Government of Nepal, including the National Statistical Office.[13] The workshop, "Partnerships for better data availability and use on Indigenous Peoples in Nepal", concluded that there is a significant gap when it comes to disaggregated data on Indigenous Peoples in Nepal, especially concerning their status on a wide range of development indicators within the fields of health, education, employment and landownership, among others. The gap is not only a matter of data not being collected but also a matter of the collected data not being trusted, processed and/or disseminated in a digestible format.[14]

August also saw the publication of "Traditional Occupations of Indigenous and Tribal Peoples in Labour Statistics" by the International Labour Organization.[15] This technical paper, published by the ILO and the IN consortium, explores how to measure the traditional occupations of Indigenous and tribal peoples in labour statistics. It reviews the concepts, definitions, indicators and data sources for capturing these occupations, which are vital for their cultural, economic, social and environmental well-being. It also proposes some options for a statistical definition and indicators based on existing classification systems and suggests that additional information on the use of Indigenous knowledge at work is needed. The paper is intended to serve as a basis for further consultations and development of definitive and comprehensive

guidance and supporting materials on the collection and compilation of statistics on traditional occupations. The IN's framework and methodology were a key contribution to the paper.

In September, the IN joined the Expert Group Meeting (EGM) of the UN Statistical Division, held in Copenhagen, Denmark.[16] The meeting aimed to develop a conceptual framework for understanding and harnessing citizen contributions and initiatives for data production and use in public policy and SDG monitoring.[17] The IN shared its experience and insights on how citizen-generated data can support the rights and well-being of Indigenous Peoples. Two events were organized during the SDG Summit in New York by Indigenous Navigator partner, the Indigenous Peoples Major Group for Sustainable Development (IPMG).[18]

In October, national surveys for Finland, Norway and Sweden were completed and published, allowing for an overview and comparison of the national level of implementation of Indigenous Peoples' rights in these three countries. The Saami Council organized a meeting wherein the IN's results were presented to discuss the next steps and pathways forward utilizing the data generated by the surveys.[19]

In November, the IN organized an official side event in Geneva for the Working Group Meeting on Article 8j of the CBD. Representatives from Africa, Asia and the Americas took centre stage and shared their experiences of using the IN community monitoring framework and tools.[20] Further, in line with the development of the new module on biodiversity, the IN organized a broad consultation with Indigenous experts involved in the process to identify relevant indicators and questions for Indigenous Peoples within the KMGBF.

In December, representatives of the IN consortium joined COP 28 of the UN Framework Convention on Climate Change (UNFCCC), held in Dubai. Indigenous leaders from Cambodia, Nepal, Thailand, the Philippines, Kenya, Tanzania and Peru participated with the support of the IN, which also organized an official side event "Indigenous Navigator: Indigenous knowledge and data to secure Indigenous Peoples' rights and manage the risks and in restoration of the impacts of climate change" at the Indigenous Peoples Pavilion on 1 December. Further, supported representatives engaged in bilateral dialogues on the value and findings of IN data through the main plenary sessions, side events and Indigenous-led campaigns as well as in the Global and Asia Indigenous

Caucus meetings held alongside the COP. Supporting Indigenous voices from the global majority to attend and amplify their voices and their experiences in advocating for the respect and implementation of their rights is one of the key benefits and aims of the IN.

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*This article has been written by **David Nathaniel Berger**, Advisor, International Work Group for Indigenous Affairs (IWGIA).*

Indigenous Persons with Disabilities Global Network (IPWDGN)

With disability rates on the rise, the global Indigenous community is confronted with profound challenges. An estimated 54 million Indigenous individuals face disabilities, of whom 28 million are Indigenous women. Within the Asia Pacific region alone, 45 million Indigenous persons with disabilities are facing extreme poverty and vulnerability, exacerbated by inadequate services and the perils of disasters and climate crises.

Their existence is marred by constraints, as their lives are subject to external determinants, denying them the autonomy to exercise their individual and collective rights. The struggle lies in navigating the contradiction between asserting their rights and succumbing to societal norms that undermine their journey towards equality and human rights.

Conventional disability paradigms fall short in embracing the collective rights and cultural identities of Indigenous communities. Rooted in colonial perspectives, these frameworks perpetuate a narrow understanding of disability, predominantly focusing on individual deficits and systemic structures. Consequently, policies, programmes, and support services often overlook Indigenous values, social customs, and traditional knowledge systems.

The narrative of Indigenous persons with disabilities challenges the dominant worldview, urging a shift towards inclusive and culturally-sensitive approaches. It underscores the imperative of recognizing Indigenous rights to self-determination and cultural autonomy within disability discourse.

In redefining disability through an Indigenous lens, Indigenous persons with disabilities are embarking on a journey towards equity, honouring diversity, and empowering marginalized voices in the pursuit of genuine inclusion and social justice.

Unvoiced, unheard, unseen: the struggle of Indigenous persons and women with disabilities

The struggles that confront the global Indigenous communities and peoples affects us as well because we too are members of Indigenous Peoples' communities first and foremost, living with various types of disabilities. Therefore, if our presence is not recognized and excluded from the struggles of all Indigenous Peoples, we will be further marginalized by the very society that we struggle to be a part of - Ipul Powaseu[1]

Indigenous persons with disabilities navigate a unique intersection where "racism" and "ableism" converge, compounding the challenges of multiple marginalized identities. This intersectionality underscores a shared experience of social isolation, discrimination, and vulnerability faced by Indigenous individuals and women with disabilities globally. Rooted in historical, structural, and systemic biases, they endure hardships ranging from homelessness and unemployment to familial separation, violence, abuse, and trauma. Lacking adequate support systems, Indigenous persons and women with disabilities grapple with a complex array of challenges worldwide.

Low rates of Indigenous persons' engagement with disability support services stem from a dual challenge: the current framework of disability services often fails to align with Indigenous values and social norms, while Indigenous communities harbour mistrust towards service providers. Moreover, the concept of "othering" exacerbates the issue, as disabled Indigenous identities are stigmatized both within non-Indigenous and Indigenous contexts. Consequently, the multifaceted issues surrounding Indigenous Peoples and women with disabilities remain marginalized and overlooked in both disability and Indigenous discourse. Without a nuanced understanding of these complexities, they struggle to assert their identities and navigate societal acceptance. Addressing these challenges necessitates comprehensive approaches that acknowledge the intersecting factors that shape contemporary disability and Indigenous inquiries.

Discrimination discouraging organizations of Indigenous persons with disabilities

In the lurking gap between the dominant existing disability worldview and the State-led structures and polices, many Indigenous Peoples have lost their traditional customary institutions and are isolated, alienated, fragmented, assimilated and co-opted by State structures for their unification. In this process of uniting for their collective voices, Indigenous persons and women with disabilities have remained critical due to unequal power dynamics; they face discrimination and humiliation by the service provider. The duty bearer seems either unaware of or to disregard the UNDRIP and ILO Convention 169, and laws, draft bills, ordinances and policies are therefore not shaped in line with internationally agreed mandates such as the UNDRIP, ILO Convention 169, CRPD and CEDAW.

Indigenous persons and women with disabilities across Nepal and other Asian countries face discrimination, humiliation, and discouragement from service providers and stakeholders when asserting their rights and establishing organizations. Instances of exclusion and derogatory language in official documents and discussions further marginalize them, limiting their access to State services. Similar challenges are echoed in Bangladesh, Indonesia and beyond, where individuals with disabilities encounter internal and external pressures that silence their advocacy efforts. Combating these injustices requires raising awareness and legitimizing their voices through various channels in order to challenge unequal power dynamics and unfair treatment.

Unvoiced, unheard and undebated on Indigenous persons and women with disabilities' issues

In navigating State mechanisms, Indigenous persons and women with disabilities face hurdles in advocating for their rights amidst various organizations representing disability, Indigenous, and women's interests. Across Asia and beyond, Indigenous women with disabilities express frustration that their voices are marginalized from discussions on inclusion, Indigenous rights, and disability issues at national and local levels.

Despite international frameworks such as the UNDRIP, ILO Con-

vention 169, the WCIP outcome document, the UNCRPD, and others, which recognize the rights of Indigenous persons and women with disabilities, they struggle to openly address their issues and agendas within their communities. The challenges they face include issues not being prioritized or being excluded, limited inclusion leading to tokenism, and agendas being lumped together with other marginalized groups.

As a result, their voices remain marginalized and their concerns often unaddressed in public discourse and documentation.

Seeking meaningful inclusion within Indigenous philanthropy

Indigenous persons and women with disabilities globally face significant challenges in accessing funding and understanding its mechanisms. At the 2nd Global Conference on Indigenous Peoples Funders in Mexico (Feb 2023),[2] discussions emphasized disability-inclusive investment and accessibility, underscoring the need for persons with disabilities in decision-making roles within fund boards.

During the Sixth Global Meeting of the Indigenous Peoples' Forum at IFAD in Rome (Feb 2023),[3] the focus was on Indigenous Peoples' Climate Leadership. Pratima Gurung, a Board member of the Indigenous Peoples Assistance Facility (IPAF), incorporated disability-related language and representation into the discussions, aligning with IFAD's Disability Inclusion Strategy 2022-2027.

Furthermore, in 2023, the Indigenous Peoples of Asia Solidarity (IPAS) Fund[4] established its governing board. Envisaging the inclusion of women, youth, and persons with disabilities, IPAS represents a historic step towards regional solidarity, accountability, and mobilization of funds across Asia. Its official launch at COP 28 underscores a call to action, setting a precedent for Indigenous philanthropy worldwide.

Co-creating spaces for disability-inclusive climate action at COP 28

Since the 2015 Paris Agreement, the National Indigenous Disabled Women Association - Nepal (NIDWAN) and SustainedAbility have

played a pivotal role in advocating for disability-inclusive climate action. Recent global conversations initiated by organizations supporting persons with disabilities have seen increased participation from Indigenous disability organizations such as the Endorois Indigenous Women Empowerment Network (EIWEN), IPWDGN, and others.

Following interventions at COP 27 and the 58th Subsidiary Body for Scientific and Technological Advice (SBSTA 58), NIDWAN continued its engagement by hosting six side events during COP 28. These events aimed to amplify the voices and agendas of Indigenous persons and women with disabilities on various themes, including climate justice, women's leadership, community-led research, and gender equality in the context of climate change impacts.

Collaborating with organizations such as WHO, ARROW, IWRAW, LILAK, KAMY, Women and Gender Constituency, DRF/DRAF, MRG, and others, NIDWAN's president attended these meetings, advocating for recognition of the challenges faced by Indigenous persons and women with disabilities amidst the current climate crisis. This ongoing process signifies a significant step towards disability-, Indigeneity- and gender-inclusive climate initiatives on the global stage.

Implementing CEDAW General Recommendation (GR) No 39 and discussion on upcoming General Comment (GC) on CRPD Article 11

The implementation of CEDAW GR 39 has been crucial in addressing historical discrimination against Indigenous women, girls, and women with disabilities, highlighting their pivotal role in preserving cultures, languages, and collective rights. In August 2023, the Asia Indigenous Peoples Pact organized regional training on CEDAW GR 39 in Kuala Lumpur, with participation from Indigenous women with disabilities from Nepal. The training fostered multidisciplinary discussions on the multifaceted identities of Indigenous women and girls with disabilities, fuelling advocacy efforts within communities.

At the national level, Indigenous Women and Women with Disabilities organizations in Nepal have translated CEDAW GR 39 into Nepali and other accessible formats, sensitizing communities and duty bearers.

The Global Network and NIDWAN have actively engaged in side events and discussions concerning the upcoming General Comment on CRPD Article 11. Notably, interventions were made during the Half Day Discussion on CRPD Article 11, focusing on food insecurity and situations of risk, organized by the World Food Programme and Trinity College Dublin in March 2023. Furthermore, discussions with the CRPD committee and the Special Rapporteur on Persons with Disabilities aimed to advocate for a dedicated section on Indigenous persons with disabilities and their vulnerability to climate change in the upcoming General Comment on Article 11.

Engaging in global and regional initiatives

Commemorating the 75th anniversary of the Universal Declaration of Human Rights; Human Rights and Environment Award 2023 to Pratima Gurung, Global Coalition Member from Asia

The Universal Declaration of Human Rights (UDHR), a cornerstone of global justice, has celebrated its 75th anniversary, guiding international, national, and local laws towards equality and freedom. The Human Rights and Environment Award was established in 2023, championing the right to a clean, sustainable environment. A coalition of over 1,350 organizations worldwide played a pivotal role in advocating for this recognition. Pratima Gurung, representing Asia, was honoured as a coalition member in 2023. This award, to be presented every five years, acknowledges human rights defenders who are advancing environmental and human rights globally.[5]

A Global Report Identifying International Good Practices in electoral participation for Indigenous Peoples and Indigenous Peoples with Disabilities through case studies in Guatemala, Kenya and Nepal was published in Stockholm, Sweden on 5 September 2023 in collaboration with the International Foundation for Electoral Systems. NIDWAN from Asia, FGT from Latin America, and EIWEN from Africa contributed to the research, identifying gaps and barriers in the inclusivity of electoral systems for Indigenous Peoples and persons with disabilities across the three regions.[6] This has added avenues for critical discourse on the political participation of Indigenous Peoples and persons with disabilities.

In another initiative, the Asia Development Bank, Asia Pacific Re-

gion, has developed Equality and Disability Inclusion Guidelines to address the specific needs of women and girls with disabilities through an intersectional lens. Prominent speakers, including Pratima Gurung, General Secretary of the Global Network, introduced the policy/guidelines at the ADB regional headquarters on 12 December 2023.

Additionally, NIDWAN, in collaboration with ARROW, unveiled insights from a Scoping Study on the nexus of climate change on sexual and reproductive health and rights among Indigenous women and girls with disabilities in the Philippines, Bangladesh, and Nepal.[7] The UN Office for Disaster Risk Reduction furthermore conducted the Global Survey Report on Persons with Disabilities and Disasters 2023 to assess progress in disability inclusion in disaster risk reduction.

The South Asia Peoples Forum on Sustainable Development 2023 facilitated discussions on structural barriers and systemic issues related to the sustainable development goals, emphasizing a need to change systems and shift power dynamics. In December 2023, virtual sessions highlighted challenges such as violence against women from minority communities in South Asia, addressing Indigenous women's and women with disabilities' concerns.

Engagement in the UNFCCC COP 28 through a side event focused on reaching Indigenous and Minority Persons with Disabilities, aiming to tackle ableism and racism through intersectional advocacy. Pratima Gurung, representing the Global Network, emphasized the equitable and meaningful participation of Indigenous People with Disabilities at all levels during the opening plenary session.

Representatives from Africa and Asia participated in SBSTA 58 in Germany for the first time, engaging in discussions on climate action, loss and damage, and Indigenous Peoples' inclusion and accessibility requirements.

Lastly, the General Secretary of the Global Network held meetings with various Special Rapporteurs to advocate for the rights of Indigenous Peoples and Indigenous persons with disabilities, emphasizing their vulnerability to climate change and their access to food security. In their collective efforts, Indigenous persons and women with disabilities seek visibility and inclusion across all spheres of life, demanding to be heard, seen, and counted to ensure that no one is left behind.

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Ms. Pratima Gurung *belongs to the Gurung Indigenous Peoples community in Nepal. She is a faculty member at Padmakanya College under Tribhuvan University, Nepal. She is General Secretary of the Indigenous Persons with Disabilities Global Network. You can reach her at mailmepratima508@gmail.com*

Sustainable Development Goals (SDGs) and Indigenous Peoples

Indigenous Peoples have been engaging in relevant processes on sustainable development since the Earth Summit (Rio Conference) in 1992. The main advocacy agenda issues for Indigenous Peoples in these processes are the respect, protection and fulfilment of the rights of Indigenous Peoples as affirmed by the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), as well as the full and effective participation of Indigenous Peoples in the development, implementation, monitoring and review of action plans and programmes on sustainable development at all levels.

The main mechanism of engagement is the Indigenous Peoples Major Group for Sustainable Development (IPMG), which is a forum for coordination and planning. The IPMG sustained its engagement in the Post-2015 Development Agenda. This was coordinated officially by two Organizing Partners (OPs) accredited by UNDESA as part of the nine recognized Major Groups that can officially participate in the SDG processes at the global level. The two OPs are Tebtebba Foundation (Indigenous Peoples' International Centre for Policy Research and Education) and the International Indian Treaty Council (IITC), both of which also act as the facilitators/co-convenors.

The implementation of the Sustainable Development Goals (SDGs) at the national, regional and global levels is critical for Indigenous Peoples. It provides opportunities for, as well as threats to the respect, recognition and protection of Indigenous Peoples, and to pursuing their self-determined development as well. For 2023, the IPMG

facilitated/coordinated the participation of Indigenous Peoples' representatives in the UN Water Conference, regional and subregional SDG forums in the Asia Pacific region, the High-Level Political Forum (HLPF), and the SDG Summit. As a member of the Voluntary National Review Task Group of the Major Groups and other Stakeholders, the IPMG supported Indigenous Peoples in Tanzania and Guyana and civil society representatives in Cambodia and Timor-Leste to provide inputs to and drafting of their collaborative civil society statement for the VNR of their respective countries and their actual participation in the HLPF.

Engagement of Indigenous Peoples in relevant SDG processes at the national, regional, and global levels remains low. This can partly be attributed to insufficient awareness of the SDGs and a lack of opportunities for engaging in the SDG process. Further, access to information is lacking, particularly on the impact of the SDGs and measures to achieve them, as well as how this is impacting their daily lives. Indigenous Peoples and their territories continue to face increasing threats from external development projects that are adversely impacting their livelihoods and the peace and security of their communities.

At the same time, Indigenous Peoples continue to be invisible in the SDGs and in the indicators themselves, due to a lack of data disaggregation by ethnicity in official data and statistics. The challenges faced and the contributions made by Indigenous Peoples to achieving sustainable development are often not recognized. Indigenous Peoples remain invisible, often being clustered together under the broader category of vulnerable groups. Failure to disaggregate data and address the specific contributions of and challenges faced by Indigenous Peoples seriously endangers the pledge to leave no-one behind and reach the furthest behind.

The 2023 High-Level Political Forum (HLPF)

The 2023 HLPF convened under the theme: "Accelerating the recovery from the coronavirus (COVID-19) and the full implementation of the 2030 Agenda for Sustainable Development at all levels." It conducted in-depth reviews of specific SDGs, namely SDG 6 (clean water and sanitation), SDG 7 (affordable and clean energy), SDG 9 (industry, innovation and infrastructure), SDG 11 (sustainable cities and communities) and

SDG 17 (partnerships for the goals), discussing their interrelationships and the overarching impact of the COVID-19 pandemic on their progress. Statements[1] prepared and delivered by the Indigenous Peoples' representatives highlighted the following:

- The transition from fossil fuels to clean energy, including mining of critical minerals needed in the production of clean technologies, is adding to the multiple challenges facing Indigenous Peoples. Critically, the transition is exacerbating land grabbing and violations of their lands, territories and resources. For the transition to be just, Indigenous Peoples are calling for recognition and respect of their collective rights, especially their right to free, prior and informed consent (FPIC) and increased support for initiatives on decentralizing energy access through community-led renewable energy systems.
- Economic disparities have deepened in many countries, especially during the pandemic. Indigenous Peoples are disproportionately left behind. These disparities are further exacerbated by the impacts of climate change and ongoing conflicts and wars. As a result, during the HLPF, Indigenous Peoples called strongly for a need for decisive and immediate action to reverse this trend and close the gaps. This includes transforming the current exploitative and unsustainable economic system to ensure that public interest and welfare are the drivers of an equitable global economic system underpinned by sustainability. It also includes implementing mandatory policies and measures for responsible and accountable business and for equitable trade relations and agreements. Effective participatory mechanisms for the economic empowerment of marginalized and discriminated communities are likewise essential to reach those furthest left behind.
- Indigenous Peoples face the same challenges across low-, middle- and high-income countries. These include a lack of recognition of their collective rights, especially to their land and resources, and discrimination. Compounding this is the difficulty Indigenous Peoples have in accessing support for their needs and priorities given that official development aid is often limited, or not provided to those living in middle-income countries.

Further, during the official session of the Major Groups and Other Stakeholders (MGoS), Director of Indigenous Peoples Rights International (IPRI), Joan Carling, delivered a keynote on behalf of Indigenous Peoples. She emphasized the need to address structural inequalities and systemic discrimination, both of which were highlighted by the COVID-19 pandemic, in order to advance the SDGs. She stressed the importance of tackling issues such as racism, unequal access to healthcare and education, together with the digital divide. Carling called for prioritizing investments in public health, education and infrastructure to improve access for marginalized communities. She also highlighted the need for economic recovery plans to transform exploitative systems and prioritize the needs and rights of Indigenous Peoples. Carling advocated for transparency, accountability, democratic governance and urgent action for environmental sustainability. She underlined the importance of international cooperation based on social justice and equity to address the gaps in achieving the SDGs.[2]

SDG follow-up and review: Voluntary National Review

Thirty-nine countries[3] presented their Voluntary National Review (VNR) this year, including the first regional VNR by the European Union. The VNR is important in the follow-up and review process as it reports on how states are progressing in their implementation of the SDGs. Indigenous Peoples from Guyana, the United Republic of Tanzania, Timor Leste, Cambodia, and Canada participated in the civil society process to ensure that the concerns and recommendations of Indigenous Peoples were included in the civil society collaborative statements that were delivered in the respective VNR sessions of their countries. Indigenous Peoples in said countries also conducted bilateral outreach and dialogue with their respective governments. In the most positive cases, this resulted in their participation in producing their government's official VNR report.

A key reflection from the 2023 cycle is that Indigenous Peoples' engagement in the VNR process still needs to be strengthened. Ensuring the active and meaningful participation and engagement of Indigenous Peoples is essential but, while doing so, states must ensure that

mechanisms and support are in place to ensure that this participation takes place across all efforts to achieve the SDGs. This reflection is also stated in the 2023 VNR synthesis report[4] where it is reiterated that:

> *[R]egular and inclusive reviews of progress at the national and sub-national levels should be country-led and country-driven, drawing on contributions from indigenous peoples, civil society, the private sector and other stakeholders, in line with national circumstances, policies and priorities, and with support from national parliaments as well as other institutions.*

2023 also saw issues around reprisals, harassment, and threats against Indigenous Peoples and civil society engaging in relevant SDG processes, including in regional and global fora. Indigenous Peoples must be guaranteed their rights and must be enabled to speak out on the realities happening on the ground. Reprisals, harassment and threats cannot be tolerated.

The VNR synthesis report[5] further states that countries who report on their VNRs must identify vulnerable groups and those furthest behind, and that this clustering of vulnerable groups includes Indigenous Peoples. Indigenous Peoples have criticized this clustering and reference to vulnerable groups, without any disaggregation for Indigenous Peoples in the SDG reports and official documents. In these reports, the use of this clustering to refer to all groups and persons needing to be empowered, without recognition of the intersecting challenges they face and the unique contributions to development they make, does a disservice to them. Further, clustering at this level and the failure to disaggregate increases their invisibility and there is an inability to track how these policies and action from duty bearers contribute to their vulnerability. This invisibility particularly contributes to an environment in which development policies and projects that do not recognize and respect their rights continue to be implemented and advanced under the guise of sustainable development.

Like other marginalized groups in society, Indigenous Peoples face specific challenges and have specific needs and priorities aligned with their right to self-determined development. Reliable and robust data collection and analysis is needed, especially data disaggregation by ethnicity, disability, and other characteristics in order to better inform

the policies and programmes of states as to the diverse development needs of its constituencies.

The displacement of Indigenous Peoples from their territories to make way for conservation areas or game reserves, the market-based climate solutions that are being implemented by states without the free, prior and informed consent (FPIC) of affected Indigenous Peoples, the non-inclusion of Indigenous Peoples in the VNR process as well as in the overall development process, and harassment and threats against Indigenous Peoples defending their territories, all feature among the concerns raised by Indigenous Peoples during the VNR session in the HLPF.

To ensure just and sustainable development, the SDG follow-up and review process must be grounded in human rights. Local-level review processes should be ensured and inputs to these must feed into the VNRs. Mechanisms to include citizen-generated data in VNR reports should also be put in place if the VNR reports are to be truly reflective of the country situation in relation to its progress in achieving sustainable development.[6]

Midway there but nowhere near

In 2019, progress had been noted in some targets. However, in 2023, according to the Global Sustainable Development Report 2023,[7] the SDGs are in peril, "owing to slow implementation and a confluence of crises". For Indigenous Peoples and civil society, we are midway to 2030 but nowhere near achieving sustainable development. In the SDG Summit Political Declaration, Indigenous Peoples put forward the following recommendations, which were not adopted by states in the final text:[8]

- For states to work in partnership with Indigenous Peoples to address their specific concerns, needs, and priorities.
- To ensure access to, ownership, and control over land and other forms of property, inheritance and other resources, and access to credit, financial resources and services for women and girls, including Indigenous women and girls.
- To increase investment in mother tongue-based education.
- For states to commit to ensuring the sustainable manage-

ment of forests and the protection, restoration, conservation and sustainable use of important landscapes; to recognize the vital role Indigenous Peoples play as stewards of the forests and biodiversity; and to commit to protecting the rights of Indigenous Peoples under the UN Declaration on the Rights of Indigenous Peoples and international human rights law.

- To include reference to Indigenous and traditional knowledge as a form of scientific knowledge.
- To strengthen data collection and analysis, including data disaggregation by ethnicity, disability and other characteristics.

These points are also being put forward in the ongoing negotiations for the Pact for the Future, which will be formally adopted by states in the Summit for the Future on September 2024.[9]

The IPMG continues to argue that states must go beyond "pledges and/or commitments" in addressing the multiple crises the world is now facing. Concerted action to protect the people and the planet by transforming the global economic system and practising principles and values related to sustainability, social justice and equity, non-discrimination and respect for cultural diversity, cooperation and global solidarity are all needed for us to attain a development that benefits all peoples and the whole planet.

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Article prepared by the ***Indigenous Peoples' Major Group on the SDGs.***

CONTENTS

UN Framework Convention on Climate Change (UNFCCC)

The UN Framework Convention on Climate Change (UNFCCC) is an international treaty adopted at the Earth Summit in Rio in 1992 to tackle climate change. In 2015, the UNFCCC adopted the Paris Agreement, a universal agreement to reduce global greenhouse gas emissions. The goal of the Paris Agreement is to hold "...the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C..." (Art. 2a).[1] The UNFCCC recognizes that achieving sustainable development requires the active participation of all sectors of society. Nine "constituencies" are therefore recognized as the main channels through which broad participation is facilitated in UN activities related to sustainable development.

Indigenous Peoples constitute one of these major groups and thereby exercise an influential role in global climate negotiations. The Indigenous Peoples' constituency is organized in the International Indigenous Peoples' Forum on Climate Change (IIPFCC), which serves as a mechanism for developing the common positions and statements of Indigenous Peoples, and for undertaking effective lobbying and advocacy work at UNFCCC meetings and sessions.

The Local Communities and Indigenous Peoples Platform (LCIPP) under the UNFCCC has been gradually operationalized over the last eight years since its establishment in 2015. Beginning with an agreement on LCIPP's functions and purpose in 2018, progress advanced with the creation of a Facilitative Working Group (FWG) – the first constituted body under the UNFCCC with equal representation between Indigenous Peo-

ples and Member States. The FWG will undergo a review in 2024 with the aim of renewing its mandate and adopting its third, three-year workplan at the 29th Conference of the Parties (COP 29).

The LCIPP raised the expectations of Indigenous Peoples who, given the non-recognition of their nationhood, predominantly by Member States, are trapped between the convention state/non-state binary and therefore not fully accommodated within the legal framework of the UNFCCC. Their inherent, collective right to self-determination as *Peoples*, reaffirmed in the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), necessitates a space at the negotiation table alongside Member States. As it is still early days for the LCIPP, at least in UN terms, it remains to be seen whether the influence and direct participation of Indigenous Peoples at the UNFCCC will be elevated above that of civil society.

The United Arab Emirates (UAE) hosted and presided over the 28th Conference of the Parties (COP 28)[2] in Dubai from 30 November - 13 December 2023. COP 28 was the largest in history by a wide margin, as over 85,000 participants, 34,000 more than COP 27, including Indigenous Peoples, party representatives, leaders, media, and civil society, attended.[3] Heralded as the "unprecedented" COP, Dr. Sultan Al Jaber, the COP President pushed Parties, businesses, and civil society to be laser focused on keeping 1.5°C in reach through climate finance and stronger language on fossil fuels, amongst other topics.

During the COP, however, it broke that Dr. Al Jaber was using his role to push countries for fossil fuel partnerships with the UAE,[4] re-igniting early concerns of a conflict of interest due to his role as Chief Executive Officer of the Abu Dhabi National Oil Company (ADNOC).[5] At the same time, preparation for the event was overshadowed by renewed regional tensions between Israel and the Occupied Palestinian Territories, both in Gaza and the West Bank.[6]

2023 was marked as the hottest year on record, with extreme weather affecting every corner of the world,[7] including: the deadliest

fire season on record, with over 15 million hectares of wildfires burning across Canada[8] and in Europe, including in Greece, which experienced the largest wildfire in the European Union;[9] and severe flooding in Libya, the Democratic Republic of Congo, and Rwanda.[10] Our collective emissions reduction trajectory continues to trend in the wrong direction, albeit slower than in previous years: the annual Nationally Determined Contributions (NDCs) Synthesis Report, produced by the UNFCCC Secretariat, confirmed that current NDCs will increase emissions less (by 8.6 % instead of 10.6%) by 2030. However, the UN Intergovernmental Panel on Climate Change (IPCC) warns of the imperative of reducing global emissions by 43% by 2030, compared to 2019 levels.[11] This resulted in both the UNFCCC Executive Secretary and COP 28 President calling for faster implementation to keep warming under 1.5°C.

At COP 28, Indigenous Peoples' presence continued to grow, showing up with more delegates than COP 27 spread across the seven UN socio-cultural regions. This growing representation and presence of Indigenous Peoples is powerful; however, barriers remain to translate the Indigenous advocacy into COP decision texts that reflect their demands. Work remains to translate the vital messages and recommendations from Indigenous Peoples into COP decisions that uphold Indigenous Peoples' rights, Indigenous knowledge systems, and Indigenous leadership on the ground.

COP 28: 'Unite[d], act[ed], deliver[ed]'?

After COP 28, the World Leader's Summit was cemented as a key part of COP programming, following in the footsteps of COP 26 and COP 27. The UAE government hosted their version of the event, welcoming 156 Heads of State and Government. The event, however, raised eyebrows again when a "family photo" demonstrated an absence of gender representation, being dominated by male leaders.[12] The opportunity for Indigenous Peoples and civil society to participate was improved, allowing members from the nine constituencies to witness and, in some cases participate, in the discussions, although this participation remains a far cry from appropriate representation.

The Presidency has been extremely positive about the "UAE Consensus" outcome, especially the mobilization of (approximately) USD

85 billion (approx. EUR 79 billion) in funding, including the replenishment of the Green Climate Fund (GCF), the Adaptation Fund, and the new Loss and Damage Finance Facility ('Finance Facility').[13] The event was hosted at Expo City,[14] a large venue built to host the 2020 World Expo, solving many of the problems from Sharm El-Sheikh (where COP 27 was held) such as access to food, water, and Internet speeds. Most Pavilions (over 150) and side-events took place in stand-alone buildings, creating a distinct atmosphere to previous COPs, and preventing some of the foot traffic that previous COPs had benefitted from. In a similar context to COP 27, Indigenous Peoples and civil society held their annual march for climate justice inside the blue zone.

One of the fastest decisions in COP history took place during the opening plenary of COP 28. The new Finance Facility was officially operationalized and received several pledges from Parties, reaching USD 661 million (approx. EUR 615 million) by the end of the COP. [15] The speed of the decision was largely a result of work by the Transitional Committee, a body of State Parties created to support the operationalization of the Finance Facility. However, Indigenous Peoples were concerned with the process, including the decision for the World Bank (an institution with a poor track record of protecting Indigenous Peoples' rights) to act as interim host, and the absence of solutions to address the dichotomization of Indigenous Peoples between north and south. The decision empowers the proposed new Board of the Finance Facility to work out the details of the fund: a key area of advocacy for Indigenous Peoples in the coming year. On the related Santiago Network,[16] the institutional home was decided – the UN Offices for Disaster Risk Reduction and Project Services – and Indigenous Peoples are working to nominate their representative to the advisory body.[17]

The second, more substantial discussion was that of the Global Stock Take. Following an 18-month technical phase, COP 28 shifted towards political negotiations on whether Parties were doing enough to achieve the goals of the Paris Agreement. The discussions were challenging, requiring the active intervention of the Presidency to convene "Majlis", an Emirate tradition, to bring together Ministers and negotiators, as well as conduct bilateral meetings seeking common ground on contentious topics, such as mitigation, adaptation, climate finance, just transition, and loss and damage. The final decision represented a step forward in some ways, such as a commitment to triple renewable

energy and double energy efficiency.

The big debate surrounding the Global Stock Take decision text was on language related to fossil fuels and their role in the solutions moving forward. The eventual language, having evolved from earlier options with language on an orderly and just phase-out of fossil fuels to "transitioning away from fossil fuels in energy systems, in a just, orderly, and equitable manner...", received mixed reviews but is the first global "commitment" to transition away from fossil fuels. It is, however, quickly followed by a paragraph focused on the role that transitional fuels play in facilitating the transition and ensuring energy security, questioning Parties' sincerity.

For Indigenous Peoples, however, the Global Stock Take decision text was an improvement on the COP 27 outcome, as references to Indigenous Peoples increased to nine, including references to Indigenous Peoples' rights (in the preamble), Indigenous knowledge and values, and the contributions of Indigenous Peoples at national levels. A key priority of Indigenous Peoples was the separating out of Indigenous Peoples and local communities, as called for by the UN mechanisms dedicated to Indigenous Peoples.[18] This was largely successful in the decision.

Other important areas of negotiation for Indigenous Peoples included the ongoing negotiations on Article 6 where Indigenous Peoples, alongside civil society advocates, were successful in sending back both Article 6.2 and Article 6.4 to the Supervisory Body in advance of negotiations in June 2024. On Article 6.8 (non-market mechanisms), a web-based platform was agreed, and more work was recommended in advance of the 5th meeting of the Glasgow Committee. Four negotiations related to adaptation were important, albeit contentious, discussions with only the Global Goal on Adaptation having been operationalized (the others, including the report of the Adaptation Committee and National Adaptation Plans were pushed back until June 2024). The Global Goal on Adaptation decision provided a set of directions and frameworks, including some targets, to inform the long-term implementation of transformational adaptation, taking into account science and the worldviews and values of Indigenous Peoples. Other relevant decisions included the mitigation ambition and implementation work programme, just transition, and the Standing Committee on Finance in advance of the review of the new collective finance goal at COP 29.[19]

Indigenous Peoples: growing representation in the UNFCCC

Taking a page from COP 27, Indigenous Peoples' presence was front and centre in discussions. A productive relationship with the COP 28 Presidency emerged naturally, including a special relationship with the UN Climate Change High-Level Champion, Ms Razan Al Mubarak, who hosted three events in New York City during the UN Permanent Forum on Indigenous Issues and the UN General Assembly. This relationship, in combination with the growing institutional credibility from the second workplan of the Local Communities and Indigenous Peoples Platform (LCIPP), supported the representation and status afforded to Indigenous Peoples. In partnership with the UNFCCC Secretariat and the COP Presidency, another Indigenous Peoples Pavilion was hosted in the blue zone (again funded with support from NDN Collective), and a space for ceremony was created in the green zone.

The pavilion was hosted in an existing, stand-alone building, grouped under Energy, Finance, Urbanization, and Indigenous Peoples. While many Indigenous Peoples treated it as a home base, the location was not central. That said, the pavilion had a large presentation area, with a separate seating area for elders and other Indigenous representatives. Over two weeks, nearly 70 events organized by regional days, representing hundreds of Indigenous Nations from over 25 countries, shared presentations, panel discussions, film screenings, and songs to showcase their initiatives on climate change adaptation and mitigation. Learning from previous COPs, the full suite of presentations was live-streamed and can be found on the stand-alone website.[20]

On 2 December, the International Indigenous Youth Forum on Climate Change, a working group of the Indigenous Peoples' constituency dedicated to creating space and supporting Indigenous youth from the seven UN socio-cultural regions, was officially launched. In addition, Indigenous Peoples had a focused day (5 December) where several high-level meetings were hosted, including a Presidency Dialogue with the COP President, discussions with Indigenous youth, and a closed-door meeting with US Special Presidential Envoy for Climate, John Kerry.

Local Communities and Indigenous Peoples Platform

2023 was the halfway point in the second workplan of the LCIPP. In true UNFCCC fashion, this meant that much of the Facilitative Working Group's (FWG) work was dedicated to both implementing the nine activities and reviewing progress to propose the third three-year workplan. In preparation for each FWG meeting, the UNFCCC Secretariat continued the tradition of "Informal Dialogues with Contributors" to support the full and effective participation of Indigenous contributors.

FWG 9 was held over four days from 30 May to 3 June in Bonn, Germany, marking the first meeting after the body's retreat in January, adopting a new vision and strategy statement.[21] Similar to the year before, members elected new Co-Chairs and Vice-Chairs (two Indigenous representatives and two State representatives, respectively) for a one-year term.[22] Following this election, the meeting opened with its new agenda approach, providing more time for contributors to input to the various agenda items being discussed within the UNFCCC. Tangibly, this included regional break-out discussions on the Global Stock Take, Global Goal on Adaptation, and initial discussions on the upcoming workplan. Other topics included the FWG review, which will place in 2024 at COP 29, ongoing discussions with representatives from constituted bodies and other relevant organizations, such as the IPCC and GCF, and proposed decision points.[23] For more detail on the GCF, please refer to the GCF Chapter in this Indigenous World.

Two regional knowledge holder gatherings were hosted: the Arctic Gathering from 2-5 October in Kirkenes, Norway;[24] and the Pacific Gathering from 16-20 October in Port Douglas, Australia.[25] In Australia, the gathering focused on uplifting Pacific Indigenous impacts and strategies for climate change, including a cultural immersion with the Kuku Yalanji people. In Norway, the gathering was hosted in partnership with the Arctic Council and focused on Indigenous Peoples' activities and climate research; safeguarding the Arctic region for future generations; and building ethical climate action that upholds rights and intergenerational equity. The bi-regional gathering, hosted by the North American and Latin American and Caribbean regions, continues to experience challenges, having been delayed for an indeterminate time.

FWG 10 took place in Dubai, UAE, from 25-28 November. The event

had the highest FWG registration in history with over 300 participants, although only 150 attended the event. Following a ceremonial opening, the meeting was opened by the UN Climate Change High-Level Champion, Ms Razan Al Mubarak, and transitioned into a discussion about the Arctic and Pacific regional gatherings. The meeting followed a similar approach to that of FWG 9, using regional break-out discussions to assess the implementation of current activities and prepare the third three-year workplan.[26] On the final day, many Indigenous contributors left to attend the Indigenous Peoples Preparatory Caucus, hosted at Zayed University.

The third annual gathering of Indigenous knowledge keepers built on the momentum from the second gathering, and 35 representatives from each of the seven socio-cultural regions travelled to Dubai to discuss their experiences, teachings, and reflections.[27] The session included a full-day preparatory meeting followed by a second meeting with States, constituted bodies, and other NGOs. The Co-Leads will again prepare a summary of the recommendations, which tangibly demonstrated the leadership that Indigenous Peoples show on all elements of climate action, proposing new ways, such as an Ethical Protocol for the Ethical Engagement of Indigenous Knowledge Systems, of work for the UNFCCC.

A day later, an all-day, Indigenous youth roundtable was held.[28] This was the second roundtable of its kind, creating a safe space for Indigenous youth through regional roundtables in order to share what is happening in their territories and communicating their experience to other Indigenous youth. The event was moderated by Onel Inanadinia Masardule, Skw'akw'as Dunstan-Moore, and Viktor Sulyandziga. Participants presented a series of recommendations to Parties and relevant constituted bodies to improve the meaningful participation of Indigenous youth. A multi-stakeholder open dialogue focused on Indigenous sciences, technologies, and innovations in adaptation and mitigation, as well as a focused discussion on Indigenous curriculum.

COP 29: moving north to Baku, Azerbaijan

Without a doubt, Indigenous Peoples continue to make progress, increasing their presence and creating unique spaces in colonial institutions that were built on their exclusion, despite frustration at decisions

not adequately reflecting their advocacy in decisions. The LCIPP continues to be one such space.

Looking forward, Indigenous Peoples will bring these perspectives to Azerbaijan, where another former oil executive and current Minister of Ecology and Natural Resources, Mukhtar Babayev, has been announced as COP 29 President-Designate.[29] It is abundantly clear, however, that the leadership of Indigenous Peoples takes place on the ground in partnership with our knowledge keepers, women, youth, and gender-diverse individuals, rather than at the COP. This is the only way that Indigenous Peoples can continue to push for transformative, decolonial, and just change in the face of status quo incrementalism at the UNFCCC.

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Graeme Reed *is Anishinaabe from the Great Lakes (Wiikwemkoong Unceded Territory), with mixed ancestry from England, Scotland and Germany. He works at the Assembly of First Nations leading their involvement in federal and international climate policy, including as Indigenous North American Representative of the Facilitative Working Group of the Local Communities and Indigenous Peoples Platform. He holds a PhD from the University of Guelph.*

Stefan Thorsell *is Climate Adviser at the International Work Group for Indigenous Affairs (IWGIA). In partnership with Indigenous Peoples' representatives, he engages in international climate advocacy at the UNFCCC. In addition to his published contributions on Indigenous Peoples' rights, he has published research on the peace process in Colombia.*

UN Permanent Forum on Indigenous Issues (UNPFII)

The UN Permanent Forum on Indigenous Issues (UNPFII) is an expert body of the UN Economic and Social Council (ECOSOC) with a mandate to provide advice on Indigenous issues to ECOSOC and, through this, to the UN agencies, funds and programmes; to raise awareness of Indigenous Peoples' issues; promote the integration and coordination of activities relating to Indigenous Peoples' issues within the UN system; and promote respect for and full application of the provisions of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) and follow up on its effectiveness.[1]

Established in 2000, the UNPFII is composed of 16 independent experts who serve a three-year term in a personal capacity.[2] They may be re-elected or re-appointed for one additional term. Eight of the members are nominated by governments and elected by the ECOSOC, based on the five regional groupings used by the UN, while eight are nominated directly by Indigenous Peoples' organizations and appointed by the ECOSOC President, one for each of the seven socio-cultural regions that broadly represent the world's Indigenous Peoples, with one seat rotating between Asia, Africa, and Central and South America and the Caribbean.

The UNPFII has a mandate to discuss Indigenous Peoples' issues relating to the following thematic areas: culture, economic and social development, education, environment, health and human rights.[3] The UNPFII meets each year for 10 working days.[4] The annual sessions provide an opportunity for Indigenous Peoples from around the world to have direct dialogue with forum members (details of members can be found online),[5] Member States, the UN system, including human rights

and other expert bodies, as well as academics and NGOs. The UNPFII prepares a report on the session containing recommendations and draft decisions, which is submitted to ECOSOC.[6]

International Expert Group Meeting on Indigenous Peoples in a Greening Economy

At its 2023 session, the UNPFII recommended "Indigenous Peoples in a Greening Economy" as the theme of the Expert Group Meeting that was to take place from 23-25 January 2024 at the University of Colorado Boulder, USA, organized by the UN Department of Economic and Social Affairs (UNDESA).[7]

The overall objective of the meeting was to mobilize action to better integrate the distinct needs and priorities of Indigenous Peoples based on their diverse views of poverty, well-being, and sustainable development in the 2030 Agenda.[8]

Despite recognizing the key role of Indigenous Peoples in achieving sustainable development, they often find themselves on the frontline of the negative effects of climate change, which is destroying their communities, cultures and means of subsistence. Additionally, the forum noted how Indigenous Peoples are frequently negatively affected by "climate change solutions" such as the green economy, which have at times led to violations of their rights through mineral extraction, the building of hydroelectric dams and other large-scale infrastructure without their free, prior and informed consent.[9]

Furthermore, to meet the challenge of creating more sustainable and climate-sensitive development pathways, incorporating the vision, concepts and practices of Indigenous Peoples should be a requirement for the implementation of any green economy process.

During the three-day meeting, experts discussed the following themes: Indigenous Peoples' relationship with the environment; factors that enable or obstruct the participation of Indigenous Peoples in the green economy; case studies on the positive and negative effects of green entrepreneurship and green enterprise on Indigenous Peoples and their communities; human rights and corporate responsibility in the shift to a green economy.[10]

The aim of the discussions was to develop strategic guidance and action-oriented recommendations for Member States, intergovernmental organizations, private companies, the UN system and Indigenous Peoples' organizations to ensure the rights of Indigenous Peoples in the transition towards a more sustainable economy.

The meeting was attended by Indigenous experts, UNPFII Members, UN entities, academics, NGOs and Indigenous Peoples. A report of the expert group meeting will be presented at the 2024 UNPFII session in April 2024.[11]

22nd session of the UNPFII

The 22nd session of the UNPFII took place from 17-28 April 2023 at the UN Headquarters in New York. This year's theme was "Indigenous Peoples, human health, planetary and territorial health and climate change: a rights-based approach".

The session report highlighted Indigenous Peoples' views of health as an equilibrium of all that exists. The health of the land and the health of Indigenous Peoples are synonymous, nurtured through balanced relationships with the physical, spiritual, and social environments. Indigenous Peoples are affected by the legacy of forced evictions and relocations owing to the establishment by colonial powers of military bases and installations on their traditional lands and territories. The forum recommended that colonial Member States, past and present, ensure remedy and reparations for the affected Indigenous Peoples.[12]

The UNPFII urged Member States and UN entities, in particular the World Health Organization (WHO), to recognize that Indigenous views of human and planetary health must be key to the 2030 Agenda for Sustainable Development and emphasized the central need to stabilize and regenerate the biosphere as essential for protecting humanity. The right to a clean, healthy and sustainable environment, the right to health and development, and the rights of Indigenous Peoples must be seen as interconnected and essential to an integrated planetary health governance framework.[13]

The forum again urged Member States to ensure that Indigenous Peoples are afforded full and effective participation in all planning and policy development to address climate change. Indigenous-led climate change policies incorporate the vital knowledge of Indigenous Peoples

for land management and stewardship of natural resources while protecting health, equity, justice and sustainability.[14] Principles of free, prior, and informed consent (FPIC) must be followed in the development of all climate change policies and actions.

In addition to the special theme, the forum discussed the International Decade of Indigenous Languages (2022-2032), Indigenous women and girls, and the 2030 Agenda for Sustainable Development.[15] The forum commended the UN Educational, Scientific and Cultural Organization (UNESCO) and the Global Task Force for Making a Decade of Action for Indigenous Languages (2022-2032) for developing the Global Action Plan of the International Decade of Indigenous Languages.

The forum also stressed how discrimination and violence disproportionately affect Indigenous women and girls worldwide and are intersectional based on factors including sex, gender, Indigenous origin, status or identity, race, ethnicity, disability, age, language, socioeconomic status, HIV/AIDS status and other factors. General recommendation No. 39 reflects and recognizes the fact that Indigenous women and girls are inextricably linked to their peoples, lands, territories, natural resources and culture.[16] Their leadership is critical to the realization of their rights and must be respected and upheld by Member States at all times.

The Permanent Forum decided on the special theme of "Enhancing Indigenous Peoples' right to self-determination in the context of the UN Declaration on the Rights of Indigenous Peoples: emphasizing the voices of Indigenous youth" for their session in 2024.

International Day of the World's Indigenous Peoples

In 2023, the UN Department of Economic and Social Affairs (UNDESA) organized a commemorative event on International Day of the World's Indigenous Peoples, celebrated annually on 9 August, with the theme: "Indigenous youth as agents of change for self-determination", discussing the topics of climate action and the green transition, mobilizing for justice and inter-generational connections.[17]

As part of the event, panel discussions and dialogues were held with invited speakers consisting of representatives of Indigenous Peoples and Indigenous youth. Discussions centred on how Indigenous youth actively promote self-determination and they were presented as critical agents of change. While navigating two worlds in ever-chang-

ing societies, Indigenous youth continue to implement new technologies and develop new skill sets, contributing widely to sustainability and the maintenance of peace. It was highlighted how the meaningful engagement of Indigenous youth in the presented themes is crucial to enhancing self-determination within Indigenous communities. This requires the possibility of participating in decision-making processes and discussions on current issues such as the "green transition", through which the lands, territories, resources, and rights of Indigenous People are often harmed.

Despite long-rooted discrimination, the new generation of Indigenous advocates have become involved in organizations working to revitalize and promote the cultural identities of Indigenous Peoples, and taken to social platforms in celebration of their cultures, languages, and knowledge systems. The online movement mobilizing people in urban, rural, and international areas aims to shift the narrative around Indigenous Peoples, raise awareness of issues, and build solidarity among others. The importance of the inter-generational sharing of knowledge and culture was emphasized, with Indigenous elders building bridges to new generations in shaping identities through family, community, and nature. Both collective and individual identity are often passed on through generations, with language, tradition, ceremonies, and arts not only attached to family ties but also crucial to the continuity of cultures.

Participants included Indigenous Peoples' organizations, UN entities, Member States, civil society, relevant stakeholders and the general public.

System-wide Action Plan on the Rights of Indigenous Peoples

The Inter-Agency Support Group (IASG) on Indigenous issues[18] consists of more than 40 UN entities and other international organizations and has the main task of implementing the System-Wide Action Plan (SWAP) on the Rights of Indigenous Peoples. The SWAP was officially launched by the UN Secretary-General in 2016 at the 15th Session of the UNPFII.[19] The Indigenous Peoples and Development Branch/Secretariat of the Permanent Forum on Indigenous Issues (IPDB/SPFII) is the permanent co-chair of the IASG and plays a central role in implementing the SWAP. In 2023, UNESCO were Co-Chairs of the IASG.

In 2020, the UN System Chief Executives Board for Coordination (CEB) signed a Call to Action to accelerate the work of the SWAP in order to ensure a coherent approach to achieving the aims of the UNDRIP.[20] In March 2022, UNESCO and UNDESA, on behalf of the IASG, presented a summary report and recommendations to the UN High-Level Committee on Programmes (HLCP). The HCLP fully agreed with the report and its recommendations, and specifically encouraged the IASG to pursue the development of an Indicator Framework for the SWAP. The IASG established a working group to produce a first draft in 2023.

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This article was written by the ***Indigenous Peoples and Development Branch/Secretariat of the Permanent Forum on Indigenous Issues****.*

CONTENTS

UN Special Rapporteur on the Rights of Indigenous Peoples

The UN Special Rapporteur on the rights of Indigenous Peoples is one of the 60 "special procedures" of the UN Human Rights Council. The special procedures are independent human rights experts with mandates to report and advise on human rights from a thematic or country-specific perspective. The Special Rapporteur has a mandate to promote the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) and relevant international human rights instruments; to examine ways and means of overcoming existing obstacles to the full and effective protection of the rights of Indigenous Peoples; to promote best practices; to gather and exchange information from all relevant sources on violations of the human rights of Indigenous Peoples; and to formulate recommendations and proposals on measures and activities to prevent and remedy violations of those rights.[1]

On 1 May 2020, Mr. José Francisco Calí Tzay from Guatemala, a former member of the Committee on the Elimination of Racial Discrimination (CERD), assumed the mandate of the Special Rapporteur on the rights of Indigenous Peoples.

During 2023, the rapporteur continued to carry out work within the principal mandated areas: the promotion of good practices; responding to cases of alleged human rights violations; conducting thematic studies; undertaking country visits; and making recommendations to governments and other actors.

2023 thematic studies

Report on green financing

Each year, the Special Rapporteur presents two thematic reports, one to the UN Human Rights Council and one to the UN General Assembly. In addition to contributions received in May, the rapporteur organized virtual consultations with the support of the University of Arizona to inform both reports.

The thematic study submitted to the Human Rights Council in September 2023 focused "on Green financing – a just transition to protect the rights of Indigenous Peoples" (A/HRC/54/31).[2]

The report endeavours to champion a just transition towards a green economy, compelling governments and financial institutions to adopt comprehensive measures. This shift must not perpetuate the current violations tied to extractive and fossil fuel projects. Given the likelihood of green initiatives unfolding on Indigenous lands, irrespective of State recognition of their land rights, it is crucial for states and financial entities to initiate human rights due diligence from the outset, rooted in acknowledging Indigenous Peoples' collective rights to land and self-determination.

Renewable energy projects, including hydropower, wind farms, and lithium mining, are highlighted in the report as projects that often proceed in the absence of consultation, consent, and benefit sharing, leading to forced displacement and environmental degradation of Indigenous territories. The report also addresses challenges in emerging carbon markets and nature-based solutions, emphasizing the potential for land-grabbing, unequal benefit distribution, and new forms of colonization, exacerbated by inadequate national legislation. It advocates for recognizing Indigenous Peoples' land rights in carbon-offsetting agreements and adopting robust safeguards and grievance mechanisms. The report highlights a shortfall in climate finance and official development aid for climate-related issues, specifically in directing adequate funding towards initiatives led by Indigenous Peoples. Notably, there is a lack of progress in advancing the recognition of Indigenous Peoples' collective land rights, preserving their lifestyle, which allows nature to thrive, balancing global carbon emissions, and safeguarding them from encroachment, attacks, and other violence by third parties.

The report concludes that achieving a just green transition requires

dismantling power asymmetries in aid and development financing. It emphasizes the importance of the involvement of Indigenous Peoples, particularly Indigenous women, as rights holders in the finance process. States and financial institutions are urged to integrate human rights due diligence throughout the design, funding, and implementation of green projects. This may involve allocating resources to secure Indigenous Peoples' land tenure or ensuring their direct access to funding. Investors should adapt their financing approach to be consistent with existing international standards on Indigenous Peoples' human rights. In addressing the challenges in green finance and Indigenous Peoples' rights, the report provides a set of recommendations for consideration and implementation.

Report on tourism

The thematic report (A/78/162)[3] presented to the General Assembly in October 2023 focuses on the topic "Tourism and the rights of Indigenous Peoples".

The report underscores the enduring adverse effects of tourism on Indigenous Peoples, encompassing issues such as land and resource expropriation, territorial militarization, violence against human rights defenders, commodification, cultural loss and misuse, unfair benefit distribution, violence towards Indigenous women and children, and inequitable working conditions for Indigenous workers.

In Africa, biodiversity conservation and safari projects offer limited employment opportunities for poorly paid Indigenous workers, with actual participation and co-management being rare. South-East Asia experiences overdevelopment due to leisure tourism, causing forced displacement, threatening fishing livelihoods, community cohesion, and escalating instances of sexual abuse. In North America, concerns arise over damage caused by campers and hikers leaving litter at sacred sites.

The report posits that sustainable tourism that respects Indigenous Peoples' human rights offers an opportunity for self-determination, land rights, social and economic empowerment, and protection of natural and cultural heritage. Examples of Indigenous-led tourism show that it can foster self-determined development, revitalize culture, generate revenue, counter youth migration through employment, and support Indigenous women's participation and entrepreneurship. These benefits require active Indigenous participation and a human rights-based approach.

Concluding with recommendations, the report urges States and companies in Indigenous territories to respect Indigenous Peoples' rights, advocating for redress in cases of cultural misappropriation. Meaningful consultation and obtaining free, prior, and informed consent from impacted Indigenous Peoples are crucial. States should adopt legal frameworks recognizing and protecting Indigenous Peoples' rights in tourism, consulting them on legislation and project approval. The private sector must respect Indigenous Peoples' human rights, following the UN Guiding Principles on Business and Human Rights. States and the private sector should allocate resources to support Indigenous entrepreneurship, especially for women, recognizing and encouraging their community-based tourism projects with full and effective participation.

Official country visits

Denmark and Kalaallit Nunaat (Greenland)

From 1-10 February, the rapporteur visited Denmark and Kalaallit Nunaat. He commended Kalaallit Nunaat as an inspiring example of Indigenous self-determination worldwide and Denmark for its leading role in promoting Indigenous Peoples' rights internationally.

However, during the visit, he witnessed how Inuit Greenlanders living in mainland Denmark continue to face structural racism and a lack of access to justice, political participation, education, health care, and formal employment. He expressed deep concerns about the overrepresentation of Inuit Greenlanders among the homeless and children placed in out-of-home care away from their parents.

During the visit to Kalaallit Nunaat, he observed that, since the formal end of the colonial era in 1953, Danish policies limiting the population growth of Kalaallit Nunaat and imposing Danish culture, language, and social and legal structures have threatened Inuit culture, identity and institutions and their presence in Kalaallit Nunaat. The rapporteur considers it a priority for the governments of Denmark and Kalaallit Nunaat to embrace a process to achieve truth and reconciliation, with the full participation of Inuit people in Denmark and Kalaallit Nunaat, in the design of effective remedies and policies. During the visit, he learned about the adverse environmental and social effects of military activities carried out in Kalaallit Nunaat without the free, prior, and informed consent (FPIC) of Inuit people and the negative effects of climate change

on Inuit culture and their scientific knowledge of hunting, fishing, and agriculture.

The rapporteur noted as a particular concern the lack of established mechanisms by which to implement the Inuit people's right to consultation and FPIC in relation to the Government of Greenland's plans for expansion of mining activities, tourism, and infrastructure. Finally, the report addresses the particular challenges of Inuit persons with disabilities fully enjoying their rights.

Canada

The rapporteur visited Canada from 1-10 March noting the progress made since the previous visit of the mandate 10 years earlier. The rapporteur acknowledged the important steps taken by Canada to advance Indigenous Peoples' rights, including the adoption of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) Act and National Action Plan, serving as an example for other countries to address the historical and ongoing harm done to Indigenous Peoples and advance reconciliation.

During his visit, the rapporteur was informed of good practices for the promotion and protection of the rights of Indigenous Peoples, such as the transference of governance responsibilities to First Nations, Inuit and Métis authorities in relation to criminal justice, child welfare, and health, the signing of self-government agreements and the establishment of self-government negotiation tables.

He also heard, however, from First Nations, Métis and Inuit peoples about the obstacles and barriers in exercising their rights and the deep-set, systemic and structural racism they continue to face, including the legacy of residential schools, the removal of Indigenous children through the child welfare system, missing and murdered Indigenous women and girls, and the overrepresentation and mass incarceration of Indigenous Peoples in the criminal justice system.

Canada was urged to immediately implement the calls issued by the Truth and Reconciliation Commission of Canada, and the National Inquiry into Missing and Murdered Indigenous Women and Girls to gain the trust of Indigenous Peoples in Canada and maintain constructive and collaborative dialogues. Other recommendations included fully respecting treaties and self-government agreements, ensuring Indigenous Peoples' full and equal participation in decisions that affect their rights, and recognizing extraterritorial human rights obligations to en-

sure that Canadian transnational companies are held accountable for human rights violations committed abroad.

The rapporteur will continue to seek country visits to Asia and Africa for the rest of his mandate term and urges UN Member States in these regions to accept requests for official visits.

Communications and press releases

During 2023, the rapporteur issued 105 communications to Member States and other entities in response to information received on alleged violations of the human rights of Indigenous Peoples. These communications on cases are included in the special procedures' joint communications report, submitted to the UN Human Rights Council, and publicly available online in the special procedures communications database.[4] He also issued press releases on cases of urgency or special relevance.[5]

Regarding land-related matters, he publicly applauded the Vatican's rejection of the "Doctrine of Discovery", historically employed to justify the appropriation of Indigenous lands by colonial powers.[6] He issued letters of concern about deforestation in the territory of Indigenous Peoples in voluntary isolation in the Peruvian Amazon, the absence of demarcation and titling of Indigenous lands in Suriname, the infringement of Indigenous land rights in Nepal and Indonesia resulting from tourism projects, and the adverse impact of the development of the Coastal GasLink pipeline project on Indigenous Peoples' land rights in Canada.

Collaboration with UN specialized entities, regional human rights bodies and other activities

The rapporteur continued the mandate's collaboration with the UN Permanent Forum on Indigenous Issues (UNPFII) and the UN Expert Mechanism on the Rights of Indigenous Peoples (EMRIP). He participated in the annual sessions and coordination meetings of both bodies. During the sessions, he held bilateral meetings with delegations of Indigenous Peoples and governments to discuss issues within the scope of his mandate.

In July 2023, in a public statement, the Special Rapporteur, EMRIP and UNPFII expressed concern at the conflation of Indigenous Peoples

with non-Indigenous entities. They urged UN Member States to stop using "local communities" alongside "Indigenous Peoples" in environment, biodiversity, and climate treaties.[7]

Continuing his commitment to advancing Indigenous Peoples' rights and implementation of the UNDRIP, the rapporteur engaged with the broader UN system in various impactful ways. In July, he played a significant role at the WHO First Traditional Medicine Global Summit, contributing speeches and advocating for Indigenous human rights language in outcome documents. In 2023, he actively participated in the 75th Anniversary of the Regional Dialogue of the Americas, organized by the Office of the UN High Commissioner for Human Rights (OHCHR) in Chile, focusing on Indigenous Peoples and access to justice. Additionally, in Lima (Peru), he contributed to the International Labour Organization (ILO) Regional Forum on Challenges in Implementing the Convention on Indigenous and Tribal Peoples No. 169, addressing key topics such as Indigenous Peoples' participation and interpretation of the right to consultation and consent and sharing insights on Indigenous Peoples' human rights challenges in Latin America.

His involvement extended to the UN Working Group on Business and Human Rights in November, where he discussed how to protect Indigenous Peoples' rights within the green economy framework. At the COP 28 UN Climate Change Conference in Dubai in December 2023, he advocated with relevant Member States and stakeholders for a human rights-based approach that encompasses the rights of Indigenous Peoples as recognized in international instruments, the direct participation of Indigenous Peoples in the UN Framework Convention on Climate Change (UNFCCC) processes, and the inclusion of Indigenous Peoples' knowledge in the definition of environmental solutions and effective grievance mechanisms. Finally, the rapporteur initiated a collaboration with the UN Educational, Scientific and Cultural Organization (UNESCO), embarking on a study focused on media and Indigenous Peoples' rights.

Other activities

In terms of cooperation with regional human rights mechanisms, in March the rapporteur submitted an amicus curiae brief in Case No. 11.754 *U'wa Indigenous People v. Colombia* before the Inter-American

Court of Human Rights.[8] The brief addressed Indigenous Peoples' right to consultation and FPIC. In March, he submitted another *amicus curiae* brief in Case No. P-1138-22 *Achuar People of the Pastaza river basin represented by the Federation of the Achuar Nationality of Peru (FENAP) vs. Peru* before the Inter-American Commission on Human Rights (IACHR).[9] The brief addressed the legal concept of the territorial rights of Indigenous Peoples. In May 2023, he submitted another *amicus curiae* brief in Case No. 21332-2022-00699 before the Constitutional Provincial Court of Sucumbíos in Ecuador. The brief addressed the legal concept of the territorial rights of Indigenous Peoples and contributed to obtaining a definitive ruling in favour of the Indigenous community. On 25 August 2023, he delivered opening remarks at the "Continental Workshop on the Status of Indigenous Populations/Communities in Africa", organized by the African Commission on Human and Peoples' Rights (ACHPR) and the Working Group on Indigenous Populations/Communities. He stressed the need to embrace a definition of Indigenous Peoples in line with existing human rights standards and expressed interest in collaborating closely with the Working Group.

He embarked on 10 academic visits encompassing Jamaica, Guatemala, Paraguay, and Nepal, engaging in meaningful exchanges with various Indigenous Peoples, government authorities, and representatives from the international community. Additionally, the rapporteur delivered speeches at 35 workshops and conferences organized by Indigenous groups, NGOs, and academic institutions across 13 different countries. Furthermore, he extended technical assistance to corporations, aiding them in aligning their policies with the UNDRIP and human rights standards.

The Special Rapporteur has established a website in addition to the OHCHR mandate page, which can be accessed at: https://un.arizona.edu/about/mandate.

Notes and references

1. United Nations. OHCHR. "Special Rapporteur on the rights of indigenous peoples." https://www.ohchr.org/en/special-procedures/sr-indigenous-peoples/about-mandate
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on the human rights of Indigenous Peoples, José Francisco Calí Tzay." 21 July 2023. https://www.ohchr.org/en/documents/thematic-reports/ahrc5431-green-financing-just-transition-protect-rights-indigenous

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4. United Nations. OHCHR. "Communications reports of special procedures." https://www.ohchr.org/en/special-procedures-human-rights-council/communications-reports-special-procedures; full communications available online at: https://spcommreports.ohchr.org/Tmsearch/TMDocuments
5. See all press releases: United Nations. OHCHR. "OHCHR Latest News." https://www.ohchr.org/en/latest?field_content_category_target_id%5B158%5D=158&field_content_category_target_id%5B162%5D=162&field_content_category_target_id%5B161%5D=161&field_content_category_target_id%5B159%5D=159&field_entity_target_id%5B1291%5D=1291
6. United Nations. OHCHR. "UN expert hails Vatican rejection of 'Doctrine of Discovery', urges States to follow suit." 6 April 2023. https://www.ohchr.org/en/press-releases/2023/04/un-expert-hails-vatican-rejection-doctrine-discovery-urges-states-follow
7. United Nations. OHCHR. "United Nations Expert Mechanism on the Rights of Indigenous Peoples." July 2023. https://www.ohchr.org/sites/default/files/documents/issues/indigenouspeoples/emrip/Statement_EMRIP_July_2023.pdf
8. United Nations. OHCHR. "Amicus Curiae. Presentado por el Relator Especial de las Naciones Unidas sobre los derechos de los Pueblos Indígenas, José Francisco Calí Tzay, en el caso # 11.754 Pueblo Indígena U'wa y sus Miembros v. Colombia ante la Corte Interamericana de Derechos Humanos." 27 March 2023. https://www.ohchr.org/sites/default/files/documents/issues/indigenouspeoples/sr/sirp-amicus-colombia-es.pdf
9. United Nations. OHCHR. "Amicus Curiae. Presentado por el Relator Especial de las Naciones Unidas sobre los derechos de los pueblos indígenas, José Francisco Calí Tzay, en el caso del Pueblo Achuar del Pastaza, representado por la Federación de la Nacionalidad Achuar del Perú (FENAP), Petición No. P-1138-22 de fecha 17/06/22, ante la Comisión Interamericana de Derechos Humanos (CIDH)." 27 March 2023. https://www.ohchr.org/sites/default/files/documents/issues/indigenouspeoples/sr/srip-peru-amicus-es.pdf

Seánna Howard *and* ***Elisa Marchi*** *are based at the University of Arizona, Indigenous Peoples Law and Policy Program.*

Francisco Alfonzo *and* ***Lilia Petrosyan*** *work on the mandate of the Special Rapporteur on the rights of Indigenous Peoples at the Office of the UN High Commissioner for Human Rights.*

Email to contact the mandate of the Special Rapporteur on the rights of Indigenous Peoples: hrc-sr-indigenous@un.org

World Intellectual Property Organization (WIPO)

Indigenous Peoples have rights over their traditional knowledge, traditional cultural expressions and genetic resources, including associated intellectual property rights, as recognized in Article 31 of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP).[1] The term "traditional knowledge" generally refers to technical know-how, skills and practices developed, utilized and passed down within a community's traditional context. Examples include medicinal, agricultural and ecological knowledge, as well as methods for doing things such as weaving and house construction.[2] "Traditional cultural expressions" are the myriad forms in which traditional culture is expressed, including music, dance, stories, art, ceremonies, designs and symbols.[3] "Genetic resources" are defined as genetic material of actual or potential value found in plants, animals or micro-organisms. Examples include medicinal plants, agricultural crops and animal breeds.[4]

Conventional intellectual property laws are, however, woefully inadequate in protecting these rights. Indigenous Peoples' intangible cultural heritage, ranging in forms from textile designs to traditional songs, medicinal plant knowledge and environmental conservation, is often treated as being in the "public domain", and misappropriation by those within the pharmaceutical, fashion and film industries, among others, is widespread and ongoing.

The World Intellectual Property Organization (WIPO), a UN agency with 193 Member States, provides a forum for negotiating new international intellectual property laws. In 2000, WIPO Member States established the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional

Knowledge and Folklore (IGC). Since 2010, the IGC has conducted formal, text-based negotiations to develop legal instruments for the protection of traditional knowledge, traditional cultural expressions and genetic resources. Indigenous Peoples participate in the IGC as observers and participate collectively through an *ad hoc* Indigenous Caucus averaging around 25 to 30 people per session.

Overview

The IGC operates under two-year mandates, renewed biennially by the WIPO General Assembly. There are three texts presently under negotiation at the IGC – one on traditional knowledge, one on traditional cultural expressions and another on genetic resources and associated traditional knowledge. The 2022-2023 mandate directed the IGC to continue its work, with the aim of finalizing agreements on international legal instruments to ensure the protection of genetic resources, traditional knowledge and traditional cultural expressions.

In 2023, the IGC closed out the biennium with two negotiation sessions focused on the draft traditional knowledge and traditional cultural expressions texts. In preparation for the upcoming 2024 diplomatic conference, the IGC also held a special session to make final revisions to the draft genetic resources and associated traditional knowledge text prior to sending the text to the diplomatic conference and WIPO convened a Preparatory Committee meeting to address diplomatic conference modalities and other related issues. All sessions were held at the WIPO headquarters in Geneva, Switzerland, and were offered in a hybrid format.

In additional developments of note in 2023, the WIPO Secretariat convened a workshop of Indigenous experts, the WIPO General Assembly authorized funding for Indigenous participation, virtual meetings of experts were held on the topics of disclosure requirements and information systems and the WIPO Secretariat convened a dialogue on Indigenous Peoples and Fashion.

Specific details about the background and workings of the IGC and

Indigenous Peoples' participation therein can be found in prior editions of The Indigenous World.[5]

Indigenous Expert Workshop

Kicking off the work in 2023, the WIPO Secretariat acted on a recommendation from the UN Permanent Forum on Indigenous Issues (UNPFII)[6] and organized an *Indigenous Expert Workshop on Intellectual Property and Genetic Resources, Traditional Knowledge and Traditional Cultural Expressions* from 22-24 February 2023 at WIPO headquarters. The Indigenous experts – one each from the seven UNPFII socio-cultural regions – were selected by WIPO and the UNPFII Secretariat. Member States and accredited IGC observers participated in the workshop as observers. The Indigenous experts reviewed the three draft texts and developed a report with analysis of four key negotiation issues – beneficiaries of protection, digital technology, exceptions and limitations and transboundary cooperation – as well as commentary on key cross-cutting principles relevant to all three of the negotiation texts, such as the need to ensure that the rights set out in the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) are reflected throughout the texts.[7] The experts presented their work in the Indigenous Panel on the first day of IGC 46.

IGC 46 & IGC 47

IGC 46 took place from 27 February-3 March 2023 and focused on traditional knowledge and traditional cultural expressions.[8] The session was immediately preceded by a one-day *ad hoc* expert group meeting on key negotiation issues, which included the participation of two representatives selected by the Indigenous Caucus.[9] Negotiations on traditional knowledge and traditional cultural expressions continued at IGC 47 from 5-9 June 2023.[10]

Both IGC 46 and 47 were immediately preceded by an Indigenous Consultative Forum, the usual Indigenous Caucus preparatory meeting facilitated by the WIPO Secretariat. The Caucus received outside funding for an added day-long meeting prior to IGC 47. During the sessions,

the Caucus met multiple times daily and organized meetings with Member State delegations and the IGC Chair. The Caucus developed text proposals that were presented in plenary and "shopped" around Member State delegates. Funding from the WIPO Voluntary Fund supported the participation of one Indigenous representative in each session.

IGC 46 and 47 followed the methodology of issue-by-issue discussions in plenary, informal meetings and small open-ended contact groups, and the use of IGC Facilitators. Key developments included the addition of a definition of "Customary Laws" – with language suggested by the Indigenous Caucus to reflect the myriad forms of expressions of Indigenous Peoples' laws – and refinements of eligibility criteria for protection/subject matter (i.e., what to protect), beneficiaries of protection, scope of protection and relationship with other international instruments. While in general opposing exceptions and limitations to protection, at the suggestion of the Indigenous Caucus language was added to ensure that as a minimum any such exceptions and limitations be developed with input from Indigenous Peoples.[11]

As the final session of the 2022-2023 biennium, IGC 47 also included stocktaking and developing a recommendation to the General Assembly for the 2024-2025 IGC mandate and work programme. The IGC agreed by consensus to recommend renewal of the IGC mandate for 2024-2025 and to forward the traditional knowledge and traditional cultural expressions texts as modified at IGC 46 and 47 as the basis for further negotiations. Importantly, the agreed mandate expressly states that Indigenous Peoples' representatives will be invited to participate in any *ad hoc* expert groups and requests that the WIPO Secretariat facilitate the effective participation of Indigenous Peoples in the IGC's normative work. It also provides for continued discussion of genetic resources issues within the IGC following the 2024 diplomatic conference.[12]

Genetic resources and associated traditional knowledge

WIPO General Assembly

The negotiations on genetic resources and associated traditional knowledge experienced a breakthrough in 2022, with the WIPO General Assembly deciding to elevate the negotiations to the diplomatic level by

convening a diplomatic conference by 2024. A diplomatic conference is the traditional step for concluding a treaty or other legal instrument at WIPO. The General Assembly also decided that a special session addressing substantive text provisions be held prior to the diplomatic conference and that a Preparatory Committee meeting be convened to establish the conference's Rules of Procedure, list of invitees, venue and date, and to address the administrative/non-substantive provisions of the text.[13]

A particular concern for Indigenous Peoples in 2023 was the need to ensure their participation in the upcoming diplomatic conference and related meetings. Responding to advocacy by Indigenous Peoples, in its report of its 22nd Session (2023), the UNPFII called on WIPO and its Member States to ensure Indigenous Peoples' full and effective participation.[14] Subsequently, in a significant positive development, the WIPO General Assembly took the decision at its 64th Series of Meetings on 14 July 2023 to provide funding for participation in the diplomatic conference for two representatives of Indigenous Peoples and/or local communities from each of the seven UNPFII socio-cultural regions.[15]

IGC Special Session

The special session to allow Member States a final opportunity to reach agreement on further refinements to substantive provisions of the genetic resources and associated traditional knowledge text before the diplomatic conference in 2024 took place from 4-8 September 2023. The WIPO Secretariat facilitated an Indigenous Consultative Forum the Saturday and Sunday prior to the session and the WIPO Voluntary Fund supported the attendance of four Indigenous representatives.

Under the methodology for the session, only revisions agreed by consensus were made to the text. Member States were able to reach agreement on only a few text revisions; however, important language was added to the article on information systems requiring that information systems be established, and related safeguards be developed, in consultation with Indigenous Peoples. The text provisions as revised were transmitted to the Preparatory Committee meeting to be included as the substantive articles of the text (the "Basic Proposal") for the diplomatic conference.[16]

Preparatory Committee Meeting

The diplomatic conference Preparatory Committee convened from 11-13 September 2023 and approved the necessary modalities for the diplomatic conference, including the draft Rules of Procedure and the administrative/non-substantive provisions for the Basic Proposal. In a decision supportive of Indigenous participation, the Committee agreed that all IGC-accredited observers would be invited to attend the diplomatic conference, not just those admitted as observers to the WIPO General Assembly.[17] Additionally, the draft Rules of Procedure approved by the Committee for adoption by the diplomatic conference provide that the same "measures" applied to participation of observers in the work of the IGC shall be applied to the work of the various committees and working groups of the diplomatic conference, signalling that Indigenous participation in the diplomatic conference should at least be on par with that in the IGC.

The diplomatic conference venue and dates could not be agreed, however, as no Member State had come forward with an offer to host the diplomatic conference. The Preparatory Committee meeting was thus suspended. The Committee reconvened on 13 December 2023 and agreed that the diplomatic conference would take place at WIPO headquarters in Geneva from 13-24 May 2024.[18]

Other 2023 activities of note

Virtual intersessional activities

Pursuant to a decision taken at a prior IGC session, in 2023 the WIPO Secretariat organized a series of *ad hoc* virtual expert meetings on possible disclosure requirements as well as a series of virtual technical meetings on information systems, registers and databases of genetic resources, traditional knowledge and traditional cultural expressions. The meetings included the participation of Indigenous representatives. Outcomes included recommendations regarding negotiation issues, including specific text proposals, and a recommendation that the IGC create a technical taskforce to further address issues related to information systems.[19]

Indigenous Peoples and Fashion dialogue

The fashion industry is one arena in which incidences of misappropriation of Indigenous Peoples' designs, symbols and patterns are well-known and extensive. On 2 November 2023, the WIPO Secretariat organized a High-Level Dialogue on Indigenous Peoples, Traditional Cultural Expressions and Fashion, bringing together Indigenous Peoples and fashion companies for an informal sharing of experiences and discussion of key issues and constructive pathways for respectful and mutually beneficial collaboration. In a move toward supporting a collaborative approach between Indigenous Peoples and the fashion industry, and the development of relevant best practices, WIPO introduced "Draft Steps when Considering the Use of Elements of Indigenous Peoples' Cultural Expressions in Fashion", which WIPO developed in consultation with representatives of Indigenous Peoples, fashion brands and other experts.[20]

Looking forward

In addition to the diplomatic conference taking place from 13-24 May 2024, under the IGC's provisional schedule for 2024, IGC 48 will take place on 29 November 2024, and will focus on taking stock of the progress made on genetic resources and associated traditional knowledge and discussing any issues arising from the diplomatic conference. IGC 49, from 2-6 December 2024, will continue negotiations on the draft traditional knowledge and traditional cultural expressions texts.[21]

Notes and references

1. "Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions." G.A. Res. 61/295, annex, UN Declaration on the Rights of Indigenous Peoples (Sept. 13, 2007), art. 31(1).
2. "Traditional Knowledge." WIPO, https://www.wipo.int/tk/en/tk/. Because the

term "traditional knowledge" can be somewhat misleading, as it implies antiquity, many Indigenous activists, in their international advocacy in multilateral processes, prefer to refer simply to the "knowledge of Indigenous Peoples" or "Indigenous knowledge". In the WIPO negotiations, Indigenous representatives emphasize that traditional knowledge is not confined to ancient knowledge but includes new and evolving Indigenous knowledge.

3. "Traditional Cultural Expressions." WIPO, https://www.wipo.int/tk/en/folklore/.
4. "Genetic Resources." WIPO, https://www.wipo.int/tk/en/genetic/. Genetic resources found in nature are not creations of the mind and thus are not intellectual property. Intellectual property issues are, however, associated with genetic resources, for example in the case of inventions utilizing genetic resources or where traditional knowledge is associated with the use of genetic resources.
5. See The Indigenous World 2019, April 2019, at 651-658; The Indigenous World 2020, April 2020, at 770-776; The Indigenous World 2021, April 2021, at 805-813; The Indigenous World 2022, April 2022, at 830-837; and The Indigenous World 2023, April 2023, at 703-711.
6. See E/2019/43-E/C.19/2019/10, para. 11.
7. The workshop report is available at WIPO/GRTKF/IC/46/INF/9.
8. IGC 46 documents are available at https://www.wipo.int/meetings/en/details.jsp?meeting_id=75328.
9. The report of the ad hoc expert group meeting is available at WIPO/IPTK-TCES/GE/23/REPORT.
10. IGC 47 documents are available at https://www.wipo.int/meetings/en/details.jsp?meeting_id=75419.
11. For additional background on issues in the traditional knowledge and traditional cultural expressions texts, see Noe, Sue. "The Indigenous World 2023: World Intellectual Property Organization." In The Indigenous World 2023, edited by Dwayne Mamo, 708, Copenhagen: IWGIA, 2023, The Indigenous World 2023: World Intellectual Property Organization (WIPO) - IWGIA - International Work Group for Indigenous Affairs.
12. See https://www.wipo.int/export/sites/www/tk/en/igc/docs/igc-mandate-2024-2025.pdf.
13. See Noe, Sue. "The Indigenous World 2023: World Intellectual Property Organization." In The Indigenous World 2023, edited by Dwayne Mamo, 707, Copenhagen: IWGIA, 2023, The Indigenous World 2023: World Intellectual Property Organization (WIPO) - IWGIA - International Work Group for Indigenous Affairs.
14. See E/2023/43-E/C.19/2023/7, para. 79.
15. See https://www.wipo.int/export/sites/www/about-wipo/en/assemblies/docs/a64-list-decisions.pdf, Item 12(v).
16. The special session documents are available at https://www.wipo.int/meetings/en/details.jsp?meeting_id=76648.
17. Most Indigenous organizations participating in the IGC are not accredited as observers to the WIPO General Assembly.
18. The Preparatory Committee documents are available at https://www.wipo.int/meetings/en/details.jsp?meeting_id=76689.
19. For the report on virtual activities, see WIPO/GRTKF/IC/SS/GE/23/INF/2. The WIPO Secretariat also issued an online survey on information systems, registers, and databases. For survey responses, see www.wipo.int/tk/en/igc/consultations.html.

20. See https://www.wipo.int/tk/en/news/tk/2023/news_0015.html. The program and recording of the event are available at https://www.wipo.int/meetings/en/details.jsp?meeting_id=80168.

21. See https://www.wipo.int/export/sites/www/tk/en/igc/docs/igc-provisional-schedule-2024.pdf.

Sue Noe *is a Senior Staff Attorney with the Native American Rights Fund (NARF), located in Boulder, CO USA. NARF is the oldest and largest non-profit law firm in the USA, representing Native American tribes. Sue has attended IGC sessions since IGC 34 (June 2017) and served on the Indigenous Panel for IGC 36 and IGC 45. She can be reached by email at suenoe@narf.org.*

PART 3

General Information

About IWGIA

IWGIA is a non-governmental human rights organisation promoting and defending Indigenous Peoples' collective and individual rights. We have supported our partners in this fight for more than 55 years. We work through a global network of Indigenous Peoples' organisations and international human rights bodies. We promote recognition, respect and implementation of Indigenous Peoples' rights, including the right to self-determination by virtue of which they can freely determine their political status and freely pursue their economic, social and cultural development.

We believe that Indigenous Peoples as rights holders are powerful agents of change. Our partnership with their organisations and institutions is at the centre of all our work. Together with allies, and in solidarity with Indigenous Peoples, our core ambition is that Indigenous Peoples' rights to land, territories and resources and their self-determined development are promoted, respected and protected.

We foster change by:

- **Documenting** the situation of Indigenous Peoples and the human rights violations they experience, thus contributing to knowledge and awareness of their circumstances and promoting respect for their individual and collective rights;
- **Advocating** for change from decision-makers at local, national and international levels, including active engagement in international networks; and
- **Empowering** Indigenous Peoples' own organisations to act in order to claim and exercise their rights and to amplify the Indigenous Peoples' movements at local, national and international levels.

Our mission

We promote and defend Indigenous Peoples' rights.

Our vision

A world where Indigenous Peoples everywhere fully enjoy their internationally recognised rights.

How to get involved

You can follow our work by signing up for our newsletter: http://eepurl.com/dsPkNP or by following us on Facebook, Twitter, Instagram and LinkedIn – just search for us @IWGIA.

If you are interested in supporting us, please find various options on our support page: https://www.iwgia.org/en/get-involved

IWGIA Publications 2023

English

Books

The Indigenous World 2023
Edited by Dwayne Mamo
ISBN 978-87-93961-61-6

Indigenous Territorial Autonomy and Self-government in the Diverse Americas
Written by Miguel González, Araceli Burguete Cal y Mayor, José Marimán, Pablo Ortiz-T., & Ritsuko Funaki
Edited by Universidad Politécnica Salesiana Abya Yala, CIESAS, IWGIA & Kakenhi
Published by The University of Calgary
ISBN 978-1-77385-463-2

Reports

Consolidating the rights of Indigenous Peoples in climate governance through the Local Communities and Indigenous Peoples Platform

Self-determination, territorial autonomy and access to justice: Insights into the situation of Indigenous Peoples in Brazil from the Indigenous Navigator
Written by Ricardo Verdum

Free, Prior and Informed Consent of the Tamang Indigenous Peoples of Nepal
Written by Navin K. Rai
Published by Lawyers' Association for Human Rights of Nepalese Indigenous Peoples (LAHURNIP), Asia Indigenous Peoples Pact (AIPP) & IWGIA

Indigenous Peoples' Customary Fishing Rights: Key Issues and Input from The Expert Meeting on Indigenous Peoples and Fisheries
Published by the Danish Institute of Human Rights & IWGIA

Joint Programme of Work on links between biological and cultural diversity: review and update of the four indicators on traditional knowledge

Establishing monitoring mechanisms at the national and regional level for implementation of the UN Declaration on the Rights of Indigenous Peoples

Statements & Submissions

Joint Submission on the Human Rights Situation of Indigenous Peoples in Bangladesh
Published by Asia Indigenous Peoples Pact (AIPP), Kapaeeng Foundation & IWGIA

Submission: Views from Parties and non-Party stakeholders on the elements for the consideration of outputs component of the first Global Stocktake - September 2023
Published by Human Rights and Climate Change Working Group & IWGIA

Submissions to the UN Special Rapporteur on the rights of Indigenous Peoples on tourism and Indigenous Peoples' rights
Published by IWGIA & Indigenous Peoples Rights International (IPRI)

Input for the Thematic Report on Tourism of the UN Special Rapporteur on the Rights of Indigenous Peoples
Published by IWGIA & Asia Indigenous Peoples Pact (AIPP)

Videos

IWGIA speaks with Indigenous youth about the climate crisis

Keeping Hope Alive

Celebrating IWGIA's 55th Anniversary

IWGIA Interview: Special Rapporteur on Environmental Defenders, Mr. Michel Forst

Indigenous Women's Voices

Indigenous Peoples and Autonomy

Indigenous World 2023 Launch Event

IWGIA Interview: UN Special Rapporteur on the rights of Indigenous Peoples, Mr. José Francisco Calí Tzay

Podcast

Launch of the Indigenous World 2023 at the UN Permanent Forum on Indigenous Issues

Spanish

Books

El Mundo Indígena 2023
Edited by Dwayne Mamo
ISBN 978-87-93961-62-3

Pensar la paz desde la lucha de la mujeres indígenas en México
Edited by Coordinadora Nacional de Mujeres Indígenas (CONAMI)
Financially supported by IWGIA & Ford Foundation

Africanidades latinoamericanas y caribeñas: legados culturales y horizontes de derechos
Edited by IWGIA & Debates Indígenas
ISBN 978-87-93961-63-0

Reports

Consolidación de los derechos de los pueblos indígenas en la gobernanza climática mediante la Plataforma de Comunidades Locales y Pueblos Indígenas

Autodeterminación, autonomía territorial y acceso a la justicia: Reflexiones sobre la situación de los Pueblos Indígenas en Brasil en el Navegador Indígena
Written by Ricardo Verdum

Pueblos indígenas y gestión de la pandemia por COVID-19
Edited & published by Centro de Estudios Jurídicos e Investigación Social (CEJIS)
Financially supported by Forests of the World, Diakonia, Suecia Sverige & IWGIA

Anuario Debates Indígenas 2022

Statements & Submissions

Aportaciones para el informe del Relator Especial de las Naciones Unidas sobre el turismo y los derechos de los pueblos indígenas
Edited by Indigenous Peoples Rights International (IPRI)

Videos

Autonomías indígenas - Parte 2

Celebrando el 55º Aniversario de IWGIA

PIWAM MERA - Las Voces Del Agua

Pueblos Indígenas y Autonomías

Portuguese

Report

Autodeterminação, autonomia territorial e acesso à justiça: Reflexões sobre a situação dos povos indígenas no Brasil a partir do Navegador Indígena

Written by Ricardo Verdum

The book you have in your hands is the unique result of a collaborative effort between Indigenous and non-indigenous activists and scholars who voluntarily report on the situation of Indigenous Peoples' rights year after year. We thank them and celebrate the bonds and sense of community that result from the close cooperation needed to make this one-of-a kind documentation tool available.

For 38 consecutive years IWGIA has published The Indigenous World in collaboration with this community of authors. This 2024 edition serves to document developments Indigenous Peoples have experienced throughout 2023 and includes a special focus on Indigenous Peoples' rights to lands, territories and resources, which in many ways is at the centre of the Indigenous Peoples' struggle.

The 71 national, regional and international reports in this edition give a comprehensive update on the current state of Indigenous Peoples' rights worldwide.

IWGIA publishes this book with the intent that it is used as a documentation tool and inspiration to promote and defend the rights of Indigenous Peoples, their struggles, worldview and resilience.

"The Indigenous World is an invaluable resource on the state of Indigenous Peoples' rights around the world. I regularly use it to inform my own understanding as well as recommend it to my students."

— Fleur Te Aho, Senior Lecturer, Auckland Law School, University of Auckland; Author of the Aotearoa chapter

"If you want to dance, laugh, cry, and live with the issues of Indigenous Peoples and contribute in doing justice for Indigenous Peoples and Mother Earth, reading The Indigenous World every year is a must."

— Dr. Krishna B. Bhattachan, Member, Asia Indigenous Peoples Pact (AIPP) Regional Team on Indigenous Peoples' Autonomy and Self-Government; Expert/Advisor, Lawyers' Association for Human Rights of Nepalese Indigenous Peoples (LAHURNIP); Author of the Nepal Chapter

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