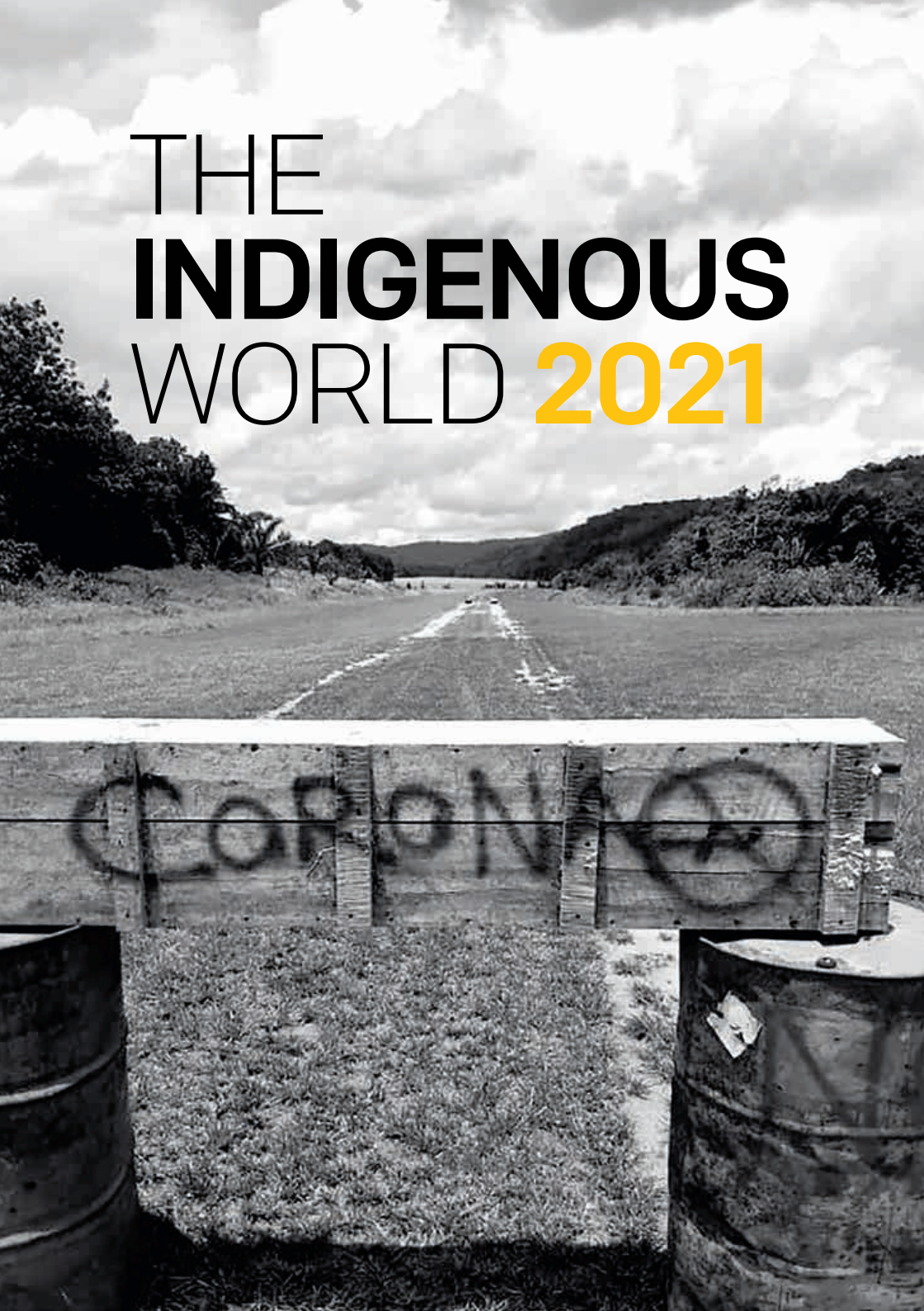
THE **INDIGENOUS** WORLD 2021



The Indigenous World 2021

35th Edition

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Editorial

2020 was an unprecedented year for the world's population who experienced a once-in-a-lifetime global pandemic. Indigenous Peoples – armed with knowledge and experience spanning generations from having faced contagious illnesses and other pandemics – responded to COVID-19 with traditional as well as innovative new methods for protection and prevention; all against the disproportionate discrimination and marginalisation they come up against every day.

Despite a lack of or inadequate emergency relief programmes and implementation, weak policies, and little to no social, health and economic support from governments, Indigenous Peoples proactively took matters in their own hands to protect themselves and support each other. Quite simply, while Indigenous Peoples have shown resolute resilience during the pandemic, COVID-19 has also highlighted and exponentially amplified the profound inequalities they continue to face globally.

The pandemic had such a grave impact on the rights and wellbeing of Indigenous Peoples that the newly appointed UN Special Rapporteur for the rights of indigenous peoples, Francisco Calí Tzay, dedicated his first thematic report to COVID-19 and the particular risks and global issues this raised for Indigenous Peoples. In it he noted that Indigenous Peoples are "rarely taken into account in contingency plans" and, according to findings in his report, a majority of states have not included Indigenous Peoples in their COVID-19 recovery plans, stressing the importance of Indigenous Peoples' right to free, prior and informed consent in decisions that affect them.[1]

The evidence and experiences presented in this edition of *The Indigenous World* are overwhelmingly clear and similar: the rights, needs and challenges of Indigenous Peoples during the pandemic were simply not taken into consideration. Across nearly every continent, in many cases, health facilities were inaccessible, health information was not disseminated or made available in Indigenous languages, personal protection equipment was not distributed, relief packages did not consider Indigenous economic markets, and remote education did not factor in

the lack of electronic equipment and unavailability of internet access to Indigenous children and students.

Further, in most countries, COVID-19 data related to, for example, health and economic impacts, was not disaggregated either at all or for Indigenous Peoples in particular, meaning it has been nearly impossible to get a clear picture of how the virus affected Indigenous populations in individual countries, which could have helped authorities provide the specific help Indigenous Peoples need.

The Indigenous Navigator Initiative,[2] on the basis of collaborative, community-led data gathering efforts and testimonies from Indigenous communities, provided some first-hand information on the situation of Indigenous Peoples in the 11 countries (Bangladesh, Bolivia, Cambodia, Cameroon, Colombia, Kenya, Nepal, Peru, Philippines, Suriname and Tanzania) where communities participated in data collection, advocacy and project implementation. In this initiative, the data and interviews identified how the pre-existing barriers to health, social security and education have been fuelling disproportionate impacts from the pandemic on Indigenous Peoples. They also indicated a rise in food insecurity related to loss of livelihoods and lack of access to land and natural resources. Conversely, reports have shown that when Indigenous Peoples have secure land rights, they are much better suited to survive the pandemic, not worrying as much about prolonged lockdowns or being able to cultivate and access food and medicinal plants.[3]

But the findings have also underlined the vital role played by Indigenous communities in building the response and recovery to the global crisis.

Once again – as with other pandemics, viruses and illnesses – Indigenous Peoples had to fend for themselves through a variety of activities, including reviving traditional self-isolation and protection practices, employing traditional medical therapies to boost their immune systems or treat other diseases to avoid exposure by going to clinics or hospitals, making their own personal protection equipment, and creating their own information and awareness-raising initiatives on the virus in their own languages. Many more examples of how Indigenous Peoples addressed the situation with their own self-determined, culturally sensitive and rights-based approach can be found throughout this edition.

In addition to the struggles and mitigation efforts Indigenous Peo-

ples faced due to the virus, they continued to fight discrimination and targeted violence, struggled against a shrinking civic space, lacked recognition of their rights as peoples, and suffered from land dispossession, evictions and the negative impact of climate change as well as of top-down conservation efforts. Not only are Indigenous Peoples disproportionately impacted by the effects of COVID-19 and its consequences; they are also facing increased repression by states that are using the pandemic as a way to enact laws that further encroach on their rights. For Indigenous Peoples, the long-term consequences of the pandemic may be devastating.

COVID-19 impacts on Indigenous Peoples' health

History has demonstrated that diseases like COVID-19 can wreak havoc on Indigenous Peoples due to a variety of factors, from poor access to infrastructure to a lack of basic health services, including vaccination.

Indigenous Peoples already face marginalisation and inadequate medical services and health information, including insufficient information in their languages, making it difficult for them to receive the proper information and care they need to either test and identify cases of infection or treat those who may become infected. Additionally, many communities often don't have access to clean or sufficient water sources either due to improper or non-existent infrastructure, drought or pollution, meaning that one of the main measures in preventing the spread of the disease – washing one's hands with soap – is a difficult preventative step for communities to take. And an absence of governments taking Indigenous communities into consideration in developing their prevention plans makes the situation more difficult for Indigenous Peoples.

Ultimately, COVID-19 exposed the poor national health system of many countries, not just in general, but specifically in how it responded to the immediate and varied health needs of Indigenous Peoples and their communities. Medical facilities were not near enough to Indigenous communities and lacked proper equipment, medical practitioners could not reach many communities, protection measures were not evenly implemented by governments, communications were not culturally sensitive or done in Indigenous and local languages, and Indige-

nous Peoples were not consulted or included in designing emergency prevention and treatment programmes, completely disregarding their traditional therapies and needs, and information material was only provided in Indigenous languages after persistent lobbying by Indigenous organisations.

Some articles in this edition have very clear numbers that show the disproportionate impact of COVID-19 on Indigenous communities. In some states in the US, for example, the mortality rate of American Indians between the ages of 20 and 50 was 10 times higher than that of non-indigenous people; in Canada, First Nations Peoples experienced the effects of COVID-19 at a rate 40% higher than non-indigenous people, and in Chile one community – the Yagán community – had the highest infection rate in the country, almost triple the national average, affecting the community's elderly, including one who is the last native speaker of their language.

Other articles clearly show the under-reporting of incidents of and deaths from COVID-19 in Indigenous communities in remote areas. In Suriname, for example, the mortality rate of Indigenous Peoples due to COVID-19 was disproportionate in comparison to non-indigenous people. However, despite Indigenous organisations' reports and push back to authorities, these deaths were not reported or investigated. In Kenya, due to the remoteness of many Indigenous communities and a lack of medical equipment, COVID-19 cases were also not reported.

These factors were exacerbated by the fact that COVID-19 spread fast, meaning it tore through Indigenous communities with little built-up immunity. These communities are often very tight knit, relying on one another or living in close proximity to each other where resources and homes are shared, making the impact more severe when strategies such as social distancing aren't as viable.

In Israel, for example, the construction of villages and dwellings of Bedouin communities made isolation nearly impossible. Due to their remote locations and a lack of paved roads, access to medical care was limited. Further, the provision of COVID-19 information in Arabic was limited by the government, not just in printed material but also with staffing hotline operators who could speak Arabic. Such was the case for Indigenous Peoples in Vietnam who live far away from medical facilities and whose access to information on the virus was low and rarely in their languages. Indigenous Peoples in Cameroon faced the same sit-

uation and experienced weak involvement from the government and a general lack of coordination amongst a variety of governmental bodies.

Indigenous Peoples in French Guiana got COVID-19 as people carried the virus over the border with them as they freely travelled into the country from Brazil, which has had lax policies in response to the pandemic. French policies were also weak as far as travel to and from French Guiana, which helped the spread of the virus. Food and personal protection equipment were only made available to Indigenous Peoples because the people themselves applied and appealed to international non-governmental organisations for help. Indigenous Peoples in Bolivia had to travel to other communities to receive medical supplies, treatment and vouchers – as those products and services were not available in their communities – where they would, in some cases, get the virus and take it back to their vulnerable communities acting as a vector.

In much the same vein, lockdowns in India left millions of migrant workers stranded; when they could return to their hometowns, many brought the virus back with them. Further, many of these Indigenous people working or studying in major cities in the Northeast, far from their homes, suffered racial discrimination, being directly accused of bringing the virus with them because of the way they look. Some were kicked out of their rented rooms, others were spat on in the streets, and some were denied access to medical facilities. There have even been reports of some being thrown off moving trains.

Food insecurity and economic impacts

As the world locked down, Indigenous Peoples were affected considerably by a severe shrinking of their economic opportunities, falling deeper into poverty and becoming dangerously food insecure. The loss of jobs, such as in the case of Vietnam and Thailand, forced some to move from urban areas and larger cities back to their native villages, which caused an additional burden on communities that were also barely surviving. In some extreme cases, people couldn't even access their own fields to grow food for their own households.

Traditional practices, such as farming and animal raising for the purposes of selling goods in markets was virtually stripped away as markets closed, transportation was limited, and roads were blocked. In

Tanzania and Burkina Faso, the market value of livestock dropped when markets re-opened and reduced the income for herders extensively. In many cases, herders had to sell more of their cattle to make ends meet.

Indigenous Peoples in a number of countries rely on tourism for the sale of goods as well as for income through working in parks. Indigenous youth in Kenya, and Batwa in Uganda, for example, who work in the field of wildlife tourism and act as pastoral guides, lost their income due to the sharp drop in tourism.

Impact on elders and education

Indigenous elders in many cultures are the bearers of traditional knowledge, history and language, and hold important positions in decision making for their communities. COVID-19 threatened the survival of these elders and the culture and tradition they carry, as in the US where many tribal elders died and with them endangered languages and traditions. In Peru, by the time the government had made a plan to deal with COVID-19 it was already too late for many Indigenous communities who lost several leaders.

Lockdowns not only shut down communities and cities, but also many services, including schools and universities that had to make the switch to fully virtual and online education. However, access to internet and electronic equipment was rarely taken into consideration when it came to addressing the circumstances of Indigenous Peoples, who were disproportionately affected as in Bangladesh where 75% of Indigenous students were not able to access classes broadcast on national TV due to a lack of electricity or having access to a television, and in French Polynesia where only half the student population has access to internet. In Malaysia, Indigenous students simply dropped out of school and those who made the attempt and had the ability to stay in school had to travel long distances to high hilltops in the hopes of finding an internet connection.

As ever, Indigenous Peoples showed their resilience in this regard and came up with solutions to these challenges. Again, in Bangladesh, where education was disproportionately affecting Indigenous students, a group of Chakma youth university students who had to return to their village due to the pandemic started a project – *Pohr Sidok* (Let the light

shine) – when COVID-19 hit and began teaching children in their village through regular textbook teaching. The initiative in the village spread and led youth in adjacent villages to do the same.

Land grabbing and large-scale projects continue despite pandemic

As UN Special Rapporteur Calí Tzay commented in his report, Indigenous Peoples continued to experience injustice as large companies appeared to be allowed to freely continue their activities, encroaching on Indigenous lands, while restrictions on the Indigenous Peoples' own movement and freedom to use and protect their lands was repressively enforced.

In Chile, though lockdown measures were in place, large economic projects continued while individual people couldn't conduct their small business ventures or sell goods in markets. As economic projects continued, those that were undergoing Indigenous consultation processes went ahead online, without respecting the digital divide between Indigenous Peoples and the companies – an issue that was brought up to Calí Tzay. Moreover, the number of projects submitted for environmental impact studies in the country doubled from March to May 2020 – at the time when COVID-19 started its spread – in comparison to the same time period in 2019 and 2018.

Chile was not the only country in Latin America or elsewhere that exhibited this disturbing and deleterious behaviour. In many countries, including India, Nepal and the Philippines among others, mining activities, hydrocarbon exploitation and agribusiness were considered to be a way of keeping national economies from falling into extreme debt and were therefore exempted from the restrictions imposed by governments to prevent spread of the disease.

As part of COVID-19 recovery measures, the government of India opened up dozens of coal blocks for the purposes of commercial mining, many of which were on Indigenous lands. And even though India was hard-hit by the pandemic, security forces and armed opposition did not stop their targeting, kidnapping and killing of Indigenous people, and evictions of Indigenous people from their forests also continued unabated with over four million claims placed under the Forest Rights

Act by Indigenous and Tribal Peoples. In Cambodia, the government's response focused largely on urban areas, which allowed for illegal logging and land grabbing operations to not only continue but increase. In Malaysia, despite the lockdown, the government allowed logging to continue, and in a particularly egregious case, loggers moved into a territory that was declared to have logging halted in 2019.

Meanwhile, in other countries, such as Aotearoa, pandemic emergency laws with respect to the conducting of business were drawn up and approved with loopholes that allowed for the circumvention of consent processes, while in Australia legislation included clauses allowing the consultation of Indigenous Peoples to be overridden.

Targeting of Indigenous Peoples Human Rights Defenders

Alongside the dangerous threat of the COVID-19 pandemic, Indigenous Peoples faced a second dangerous problem: the targeting of Indigenous Peoples Human Rights Defenders under cover of the disarray or scaling up of emergency measures.

Despite COVID-19 virtually halting the world, Indigenous Peoples continued to struggle to defend their human, land and environmental rights. 2020 was another deadly year for rights defenders. At least 331 Human Rights Defenders were killed in 2020 – 44 of them women. More specifically, 26% of these brave defenders were working specifically on Indigenous Peoples' rights and 69% of those killed were working on land and environmental rights in addition to Indigenous Peoples' rights. According to the violations reported to Front Line Defenders for the annual global analysis report, the most targeted defenders were those defending Indigenous Peoples', land and environmental rights[4] – the main rights that Indigenous Peoples fight for every day.

In response to the pandemic, some countries have introduced or increased the presence of military and police in rural areas where Indigenous Peoples live. The lack of access to communication and information further increased the risk of human rights violations, and such violations could go undetected by monitoring and protection mechanisms affected by lockdowns and other legal measures, thus leaving no one accountable.

Such was the case in Myanmar in 2020 at the start of the pandemic – before the 2021 coup – where under emergency measures 220 websites, many of them run by ethnic minorities and Indigenous Peoples, were shut down for allegedly spreading fake news about the virus. And an internet blackout that began in 2019 in eight conflict-affected townships continued during the pandemic, despite criticism from civil society, leaving these areas unable to share vital information about the virus.

The government in the Philippines took a militaristic approach to restrictions and measures. An anti- terrorism law was passed with vague definitions that allowed people to be arrested without cause. Severe lockdowns left Indigenous Peoples extremely isolated leaving some people stranded for long periods in communities that weren't their own due to extreme travel bans. And despite these extreme restrictions, large infrastructural and agricultural projects continued and Indigenous Peoples who were defending their land and communities continued to be targeted, including via the distribution of materials, fake news sites and fake social media profiles claiming Indigenous individuals and Indigenous organisations were terrorist groups.

In Nicaragua, attacks against Indigenous Peoples led to the death of 13 people and 10 others missing. In Guatemala several Indigenous and non-indigenous people standing up for Indigenous rights were killed, and according to the Inter-American Commission on Human Rights, targeted for their activism.

As more areas see further lockdowns, governments have increased their powers through snap emergency legislation, and in some countries deployed military forces to implement the emergency legislation, meaning rights defenders are at further risk as they cannot move around freely. Thus, these important defenders are easier to find, their emergency support network is harder to mobilise for protection, and authorities continue to gain wider abilities to silence them.

Resilience of Indigenous Peoples: Self-protection and awareness raising

Indigenous communities have for generations experienced human rights violations, including violations of their right to health due to viral

infections. They have learned how to protect themselves to survive and thus be strong and resilient communities. Indigenous Peoples' communities in all regions of the world have already responded to the pandemic using their self-determined protection mechanisms and have taken advanced measures to seal off their villages or retreat further into nature to avoid contact, long before national governments took action. Around the globe Indigenous Peoples proactively rose to the challenge to meet a critical need for information with radio/podcast communications disseminating COVID-19 information to their communities, as well as precaution measures in Indigenous languages (see for example the articles on Bolivia, Indonesia, Nepal, Tanzania, Thailand and Zimbabwe).

The response to the pandemic by Indigenous Peoples in the Arctic showed their strength and resilience by using their extensive oral traditions that tracked the long history of how pandemics have affected them to help tackle COVID-19. For example, using the knowledge of how to evade smallpox infections by understanding how the disease spreads and what actions were effective to mitigate it. Others employed nomadic practices to avoid disease hotspots. Many still have vivid memories of their family and community members sharing stories of the last global pandemic – the 1918-1920 Spanish flu pandemic – and as such were still able to implement particular traditional practices because the necessary skills and knowledge have been kept alive through oral traditions transferred between generations.

In Indonesia, national Indigenous organisations coordinated and advised each other on how to respond to the pandemic through what they called a "dignified quarantine" and held numerous virtual meetings to share information and learn from each other on how to adapt. At the same time, Indigenous women and youth were on the frontline of the response making sanitiser from natural ingredients and creating video tutorials to teach Indigenous communities how to stay safe from the virus. Indigenous communities in Thailand also came together to support each other by exchanging goods, sharing information on COVID-19, and teaching each other how to make sanitiser, gels and face masks.

In Australia, the Aboriginal Community Controlled Health Sector was able to deliver culturally appropriate solutions to the virus, demonstrating the importance and effectiveness of community control and self-determination which led to six times less cases of infection in those Indigenous communities. Some of the interventions includ-

ed home test visits, working with food banks and cafes for those who needed food, delivering written translated materials and communicating over several social media platforms, and creating a specialised tool kit for prevention.

Hundreds of Indigenous communities around the world took steps to self-isolate, protecting their villages and territories from outsiders, including the closing of roads, air strips and transportation routes. In Bangladesh, Cambodia, India and Thailand, Indigenous communities blocked their villages. Indigenous Peoples in Algeria, Bolivia, Costa Rica and Nicaragua did the same, creating security cordons, blocking people from entering and exiting areas or setting up controls, ensuring those who had contact with outsiders wore masks, alongside other measures. In Suriname, as the cover of this book shows, Indigenous communities went so far as to block airstrips. In Rapa Nui, flights were also blocked despite causing severe unemployment and a spike in the cost of goods as planes filled with cargo rather than tourists were only allowed. However, to adapt to the situation, Indigenous people on the island revived their food growing methods and fishing and the government turned its entire budget to focus on job creation.

In the US tribes set up health checkpoints at entrances to their territories to protect themselves from the virus; in Canada communities locked down access to travel and commerce; and in Malaysia, many Indigenous Peoples retreated further into forests not only for protection, but also for self-subsistence. These self-isolation tactics were in many cases the reason why there was a low spread of the virus among these communities.

In many cases the measures taken for self-isolation and self-protection drew on ancient traditional knowledge and practices that were re-invigorated. Indigenous Peoples also revived traditional medical and therapeutic practices, using traditional remedies and plants to help care for their communities and prevent the spread of the virus, examples can be found in the articles on Kenya and Tanzania. In Guatemala, for a number of Indigenous communities, the pandemic resulted in a re-invigoration of traditional medicine and healthy eating based on native products – rather than relying on non-native products – and has re-affirmed the need to strengthen the bonds of solidarity across communities and to defend their ancestral territories.

When national governments implemented COVID-19 laws to deal

with the pandemic, some Indigenous communities were able to successfully push back on stipulations that were not culturally sensitive. In Aotearoa, for example, the government passed laws without consulting Maori and thus, after much political action, laws were amended to, for instance, allow larger gatherings for traditional practices and ceremonies. In Kenya, the government banned rites of passage in an unprecedented move, but elders opened dialogue with the government to reach a compromise and rituals were able to be carried out with a mind for COVID-19 prevention.

International and regional processes and mechanisms find a new way to engage

As the pandemic spread, many international and regional mechanisms and agencies, such as the UN Permanent Forum on Indigenous Issues and the Inter-American Human Rights System, were quick to cancel their meetings and find ways to continue their important work. In the beginning adjustment proved difficult to become accustomed to online and virtual platforms and to bridge the digital gap between them and Indigenous Peoples, but it soon became an integral and widely used solution.

One major drawback, however, to the temporary online reality of global meetings has been that while Indigenous Peoples took advantage of the opportunity to proactively engage, states and other relevant stake holders did not. Without presential sessions Indigenous representatives were not able to directly engage with states and promote their views and demands. The pandemic has clearly shown a decrease of engagement of states with Indigenous Peoples and in general with civil society actors.

One further troubling aspect of state behaviour has been in a situation such as that of Peru and Colombia, where consultation processes were forced to continue online, which was continuously argued against and rejected by Indigenous Peoples.

A virtual model is not a replacement for *in situ* meetings and work where networks are made and fostered, and where cross-regional learning is made possible, but it is a new and complementary method of engagement that is "here to stay", as Calí Tzay told IWGIA.[5]

Perhaps one of the positive aspects to come out of the pandemic has been the success of Indigenous Peoples being able to harness the opportunity of no longer being tied to having their voices heard in face-to-face meetings, but rather could do so virtually, more frequently and with more representatives online. Additionally, representatives of the various mechanisms, such as the Permanent Forum and the Expert Mechanism on the Rights of Indigenous Peoples, organised an increasing amount of global and regional dialogues with Indigenous Peoples, especially on the topic of COVID-19 and its impact on them.

Indigenous Peoples from all regions engaged and contributed in these new opportunities and in many ways their voices were strengthened. In fact, many of the recommendations made by these mechanisms came directly from Indigenous Peoples through these dialogues, with UN Special Rapporteur Calí Tzay's report on COVID-19 to the UN General Assembly being a prime example. And agencies, such as the International Fund for Agricultural Development (IFAD) and the Food and Agriculture Organization of the United Nations, concretely reacted to Indigenous Peoples' recommendations by targeting them in their COVID-19 programming.

Indigenous Peoples and human rights mechanisms dealing with Indigenous Peoples rights have found the outcomes, increased frequency of being able to meet and more broad representation to be an important new development in how engagement can be done with increasing effectivity. But real change cannot be done online alone.

As we look to the future it will be important to continue to hold states accountable and to ensure that the success of virtual engagement is not seen out of context, replacing all future Indigenous Peoples' participation processes to only online platforms. As the world embraces the benefits of technology, the voices of Indigenous Peoples must not be silenced by transferring crucial processes from in-person, community-driven engagement to online meetings.

We also need to look at strengthening connectivity to expand the reach of representation and engagement as access to stable internet connections is not a common reality for many Indigenous communities. Much can continue to be done to bring Indigenous communities online, not just for the sake of engagement with international and regional mechanisms, but also to overcome the challenges with online

education and the spread of information and news. Strengthening connectivity also provides a great opportunity for Indigenous Peoples themselves to share their experiences with each other, bolster advocacy efforts and support solidarity initiatives across regions.

IWGIA would like to recognise the tremendous effort these bodies have taken to ensure the experiences and recommendations of Indigenous Peoples were heard and brought to a global platform.

Building back better

As the pandemic has magnified the inequalities Indigenous Peoples have faced for generations, but also sharpened the focus on the strength and resilience of Indigenous Peoples and their communities in coming together and implementing traditional practices and knowledge for their survival, how do we build back better?

One of the necessary measures that needs to be taken is the increase of efforts to provide Indigenous communities with the adequate and necessary means of prevention in relation to COVID-19, including access to adequately equipped and culturally appropriate healthcare facilities, and information in Indigenous languages. Inclusive and community-led assessments of risks and needs should be undertaken in order to understand the specific situation of Indigenous Peoples. Strengthening capacities in Indigenous Peoples' rights for state institutions charged with dealing with Indigenous issues should be strengthened, including mechanisms for the participation of, and consultation with, Indigenous Peoples. Indigenous Peoples' full and effective participation in the management of health and educational services, including the return to school, should also be ensured and distance learning opportunities provided.

As national governments focus on economic recovery to upend the damage of the global pandemic, many may opt for traditional ways of economic development with a focus on natural resources, large infrastructural projects and extractive opportunities.

Indigenous Peoples have long experienced threats to their lands, territories and natural resources from extractive industries and large industrial projects. A building back "better" economy that focuses on these sectors is again likely to have a negative impact on Indigenous

Peoples and violate their rights and livelihoods. Furthermore, they have the ability to set humankind back in its aim to curb climate change. Business as usual is not the solution.

Therefore, building back better initiatives need to take point of departure in Indigenous Peoples' rights and particularly the right to land , territories and natural resources, which are essential for their traditional activities and for sustainable and regenerative practices. Indigenous Peoples' own initiatives and businesses must come first and be prioritised. Indigenous Peoples' labour rights also must be ensured at all stages of crisis response and recovery measures.

For building back better, Indigenous Peoples' solutions need to be heard as Indigenous communities and organisations hold knowledge essential in the design of the response to the COVID-19 pandemic and beyond, taking advantage of their resilience capacities and traditional knowledge and practices, and with full respect of Indigenous Peoples' rights.

Dwayne Mamo
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Copenhagen, March 2021

Notes and references

1. United Nations. "Indigenous Peoples Increasingly Succumb to Extreme Poverty as Land Evictions Spike amid COVID-19, Special Rapporteur Tells Third Committee." Meetings Coverage and Press Releases, GA/SHC/4292, 12 October, 2020. https://www.un.org/press/en/2020/gashc4292.doc.htm
2. See https://indigenousnavigator.org/
3. Asia Indigenous Peoples Pact. "Flash Update on COVID-19: Lessons learned from IPs in Asia." 20 April, 2020. https://aippnet.org/wp-content/uploads/2020/04/Combined-2nd-flash-Brief-C19.pdf
4. Front Line Defenders. "Global Analysis 2020." 2020. https://www.frontlinedefenders.org/sites/default/files/fld_global_analysis_2020.pdf
5. García-Alix, Lola, and Alejandro Parellada. "Francisco Calí Tzay: In situ visits to countries are important." Debates Indígenas, 1 February, 2021. https://debatesindigenas.org/ENG/ns/90-cali-tzay-interview.html

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 35 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 2020. *The Indigenous World 2021* adds not only documentation, but also includes a special focus on climate change.

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
Algieres
TUNISIA
MOROCCO
ALGERIA
LIBYA
MAURITANIA
MALI
NIGER

The Amazighs are the Indigenous people of Algeria and other countries of North Africa. However, the Algerian government does not recognise 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 Amazighs 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 Amazighs 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 Arabised 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 recognised as a "national and official language" in Algeria's Constitution in 2016. But, in the facts, the Amazigh identity continues to be marginalised and folklorised 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 arabisation).

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

main 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.

A new Constitution for the country

The new Algerian President, Mr. Abdemajid Tebboune, commenced a reform of the Constitution following his election in December 2019. His stated objective was "the construction of a new Republic in order to achieve the demands of the people".[1] The government's proposed reform was adopted by means of a referendum held on 1 November 2020, with a turn-out of 23.83%, the lowest ever for an Algerian election.[2]

The Amazigh boycotted the constitutional referendum, as they had the presidential elections, in protest at the oppression they suffer. In Kabylia, for example, which is where most Algerian Amazigh live, the turn-out was less than 1%. In fact, the referendum took place against a backdrop of great social instability, with almost daily demonstrations accompanied by police violence and various acts of repression. Amnesty International notes that "this reform actually came at a time when the Algerian authorities were taking advantage of the COVID-19 pandemic to increase repression against activists and dissident voices, with dozens of new police summons, arrests and prosecutions..."[3]

The new Algerian Constitution includes some improvements, particularly as regards recognising the Amazigh identity. In its preamble, the new text thus refers for the first time to the "Numidian kingdom" that fought the Roman Empire in North Africa and also mentions "Algeria, an Arab and Amazigh, Mediterranean and African country", whereas the old version stated that Algeria was solely "Arab and Muslim". The other new innovation is that Article 223 on "national constants", i.e., matters that cannot be modified by any constitutional review, now refers to the Amazigh language as a national and official language.[4]

Article 4 enshrining Tamazight as a "national and official language" remains unchanged, providing for the creation of an "Algerian Academy of Tamazight" responsible for creating "the conditions for the promotion

of Tamazight with a view to achieving, in the long term, its status as an official language". It also specifies that "the methods of application of this article shall be set out in an organic law". Nevertheless, the organic law in question (Law No. 18-17 of 2/09/2018), which was adopted on 2 September 2018, does not address implementation of official recognition of the Amazigh language as intended but only the creation of the "Algerian Academy of Tamazight". In addition, defenders of the Amazigh language note that no specific deadline is set for the official recognition of Tamazight. There is therefore a continuing vagueness and serious confusion in the wording of this article, which is interpreted by Amazigh organisations as a demonstration of the Algerian government's lack of goodwill with regard to the "official recognition" of their language.

At the same time, the Arab-Islamic ideological frame of reference is strongly reaffirmed in the new Algerian Constitution. In addition, many of the Constitution's articles are conditional upon the use of a law which very often defines the way in which constitutional articles are to be applied in a restrictive manner.

A law to prevent and fight discrimination and hate speech

On 28 April 2020, the Algerian Parliament adopted Law No. 20-05 on preventing and fighting discrimination and hate speech.[5] This law provides, among other things, for the creation of a national observatory for the prevention of discrimination and hate speech. Of the 10 members of this body, all of whom will be appointed by the President of the Republic, Article 11 of the law states that four of them will be "representatives of associations working in the observatory's area of expertise" albeit without specifying how they will be selected. None of its members have been appointed to date.

Penal Code reform dangerous for freedoms

On 20 April 2020, the Algerian government submitted Bill of Law No. 20-06 to Parliament, amending and supplementing Order No. 66-156 of 8 June 1966 on the Penal Code. According to the government, the bill

aims to "criminalise acts that threaten the security and stability of the country, public order and safety, or that undermine state security and national unity". This draft was subsequently approved by the National Assembly on 22 April 2020 in a restricted session without debate. It came into force on 29 April 2020.[6] Such an important law has thus been passed in haste and without thorough debate. More worrying, however, are some of the provisions contained in the law. Article 2, is aimed at both individuals and civil society organisations, provides for:

> *a penalty of five (5) to seven (7) years' imprisonment and a fine of 500,000 to 700,000 Algerian dinars for anyone who receives money, a gift or an advantage, by any means whatsoever, from a state, institution, or public or private body, or from any natural or legal person, inside or outside the country, with the aim of undertaking acts that could harm the security of the state and the stability of its institutions, or national unity and territorial integrity. These penalties are doubled if the money is received by an association, or an assembly or organisation, whatever its form and name.*

For the Amazigh, solidarity and mutual aid within and between communities is a fundamental value and a natural part of daily life. During this time of pandemic, everyone recognises that it is thanks to the solidarity and goodwill seen in village communities and also among associations that the number of COVID-19 cases has been so largely limited. The means used by the Amazigh to act in the collective interest have always been supported by funds raised from community members, whether living in the territory or in other parts of the country or abroad. Amazigh emigrants are a cornerstone of their communities of origin and their contributions are essential to the lives of their families and their territories, with which they maintain close and permanent relations. Consequently, Article 2 of this law is very dangerous for the Amazigh because it could be used to prohibit them from receiving remittances from their compatriots living elsewhere, and this would deal a severe blow to the act and spirit of mutual aid and sharing that is a part of their culture. This would be a serious attack on their way of life and, consequently, on the life of the Amazigh communities and people.

These fears are unfortunately well-founded because, as the World Amazigh Congress reports, based on the testimony of citizens:

> *Local authorities (particularly the chiefs of police and gendarmes) have sent a clear message to committed citizens and local Amazigh organisations threatening them with legal proceedings for 'illegal activities' and even 'terrorism' for having received aid from members of their communities living abroad, even though this aid has been used to finance initiatives of general interest such as setting up a drinking water supply network, buying an ambulance, renovating a school, etc. In an arbitrary and aggressive manner, the Algerian government is thus criminalising civic acts committed to the common good.*[7]

Article 3 sets penalties of one to three years in prison and a fine of 100,000 to 300,000 dinars for the dissemination of "false information" that might "undermine public security and order" as well as "the security of the State and national unity". These penalties are doubled in the case of a repeat offence. As many jurists and the NGOs Amnesty International and Reporters Sans Frontières (RSF) note, "this very vague law is liberticidal because it aims at nothing more than a muzzling of the press and prohibiting freedom of opinion and expression".[8]

For Amazigh organisations, this article will have the effect of criminalising all Amazigh actors who dare to express their opinion, denounce human rights violations and abuses of power, or demand or simply raise awareness among citizens of their rights and freedoms and especially their right to self-determination. This is in violation of the Constitution, particularly Articles 38, 42, 48 and 50, and of the international treaties ratified by Algeria.

Violations of Amazigh human rights

Fifteen people who raised the Amazigh flag during demonstrations in July 2019 were arrested without any legal basis on 31 December 2020 and taken before the judge of Batna Court, Aurès region (eastern Algeria). The Public Prosecutor called for a sentence of one year in prison and a fine of 100,000 dinars for each of the accused for violating "state security" and "national unity".

On 27 September 2020, Khaled Tazaghart, a former member of parliament, was sentenced by the Akbou Court in Kabylia to one year

in prison and a fine of 100,000 dinars (USD 775) for "incitement to unauthorized assembly, publication affecting public order and violation of sanitary lockdown measures". In fact, he had participated in a public demonstration in support of political prisoners in Algeria.

Lounès Hamzi, leader of the Movement for the Self-Determination of Kabylia (MAK) was arrested on 7 September 2020 in the street in Tizi-Wezzu and was taken to the Sidi-Mhamed Court in Algiers. He is currently being held in pre-trial detention in Kolea Prison near Algiers. He is charged with "undermining national unity" and "organising and leading a rebel movement". The MAK is an organisation that campaigns for Kabylia's right to self-determination and has always acted peacefully and in line with international law.

The Amazigh-Kabyl citizens Zahir Bouchalal, Abderezak Yacine, Abderezak Ouaissa, Farid Djenadi, Djamel Mansouri, Riad Hamchache, Djamel Harour, Lahcen Boussaid and Yahyoun Larbi were summoned by the Public Prosecutor of Vgayet on 31 December 2020 and prosecuted on the basis of Articles 79 and 100 of the Algerian Penal Code for "undermining national unity and participation in an unarmed gathering". These charges relate to their participation in a peaceful rally in support of At-Mzab detainees in 2016. The penalty ranges from one to ten years in prison. Due to the demonstrations that subsequently took place in favour of the defendants, their trial was postponed to 28 January 2021.

Police, administrative and judicial harassment of human rights defenders, locally-elected officials and engaged citizens

Active and committed citizens, particularly within village committees or Amazigh communities, find themselves subjected to various forms of intimidation and threats from the local state security services to persuade them to give up their voluntary activities. This is notably the case of Hamid Sebouai, known as Silas, member of the Federal Council (FC) of the World Amazigh Congress (CMA), who is very active in his village of Icerqiyen, Maatkas commune, Kabylia (Algeria). Since the start of the COVID-19 pandemic, as have other citizens of his village and commune, Silas has naturally thrown himself into organising the lockdown, helping others and appealing to the solidarity of the Kabyl diaspora. His goal and that of his colleagues is to serve others, especially those in most

need. Instead of congratulating and encouraging him, the Maatkas police and gendarmes are scaling up malicious acts and threats against him. Malicious rumours are also being spread anonymously with the aim of smearing his honour and morality. In addition, requests that administrative authorisation be granted to the village committee and cultural association of Icerqiyen village have been blocked by the Maatkas gendarmerie for almost a year now because Hamid is an active (and much appreciated) member of both.

Rachid Belkhiri, member of the Federal Council of the CMA of the Aurès region, in the east of Algeria, is being prosecuted by the Algerian justice system for having carried the Amazigh flag during public demonstrations. His trial, which has been postponed several times, is now scheduled for 13 January 2021.

The CMA summer school, scheduled to take place on 18 and 19 September 2020 at the municipal library of Tichy in Kabylia in accordance with anti-coronavirus health regulations, was banned by the Algerian police. The organisers of the event, Kamira Nait Sid, co-president of the CMA and Yuva Meridja, member of the Federal Council of the CMA, together with Karim Smaili and Karim Mersel, members of the "Literary Café of Tichy" and Mouloud Taïakout, member of the "Literary Café of Aokas", were arrested, interrogated and threatened at the Tichy police station. This is not the first time that an activity of the CMA has been banned in Algeria, in violation of freedom of expression and the right of assembly, both of which are protected by the Algerian Constitution and international treaties ratified by Algeria.

In October 2020, Sofiane Oumellal, mayor of Afir municipality in Kabylia, was suspended from his duties by an administrative decision of the Wali of Boumerdès for having lent a municipal hall to a family to celebrate a wedding in the summer of 2019.[9]

In November 2020, the same sanction was imposed on Hamid Aissani, Mayor of Tichy, by the Wali of Vagyet in Kabylia.[10]

In December 2020, the Wali of Vgayet, the government representative in the Wilaya (Province) of Vgayet in Kabylia, commenced administrative proceedings against the socio-cultural association "Itri n Tlelli n At-Soula" for "undermining national unity" due to having made invitations to people to speak. The objective is most likely to destroy this independent association and prosecute its president, Tarik Chiboub. The Mayor of Chemini municipality, Mr. Oudak, who issued the administrative authorisation for this association, was also summoned by the

Administrative Court in order to remove him from his position as Mayor.

This incessant police, administrative and judicial harassment is simply aimed at preventing any possibility of autonomous action and expression by the Amazigh, and at hindering the expression and promotion of human rights. This is in violation of the provisions of international charters, conventions and pacts ratified by Algeria and it severely hinders the will of the Amazigh people to protect and promote their language, culture, institutions and way of life.

Violations of freedom of belief and religious observance

Yacine Mebarki, a young Amazigh Chawi from the Aurès region was arrested on 30 September 2020, taken before the Khenchela Court on 6 October, and sentenced to 10 years imprisonment and a fine of one million dinars (USD 7,750) for "offending the precepts of Islam, inciting atheism and undermining national unity". In fact, the police found an old copy of the Qur'an at his home with a page torn out. Following his appeal, which took place on 25 November 2020, the penalty was reduced to one year in prison and a fine of 50,000 Dinars (USD 400).

On 15 December 2020, Abdelghani Mammeri, a Christian, was sentenced by the Amizour Court in Kabylia to six months imprisonment and a fine of 100,000 dinars for "offence to the Prophet and the Muslim religion" while Mebrouk Bouakaz, known as Yuva, was sentenced by the Vgayet Court on 17 December 2020 to three years in prison and a fine of 50,000 dinars for the same reasons.

Thirty-one people of the "Ahmadiyya" faith, a minority branch of Islam, were summoned to appear before the court in Tizi-Wezzu, Kabylia on 24 November and again on 15 December 2020. They are accused of belonging to a religion not recognised in Algeria and, in particular, of "occupying a building to hold a religious service secretly without authorisation" and of "collecting funds and donations without authorisation", in application of Article 96 of the Penal Code and Articles 05, 07, 12 and 13 of the Law on the conditions for organising non-Muslim religions. The Public Prosecutor's Office called for a penalty of three years in prison and a fine of 50,000 dinars for four defendants and 18 months in prison and 30,000 dinars for the others. On 22 December, the court finally sentenced four of the defendants to a two-month suspended sentence and

a fine of 20,000 dinars while the others were discharged. Their lawyers, Kader Houali and Sofiane Dekkal, consider this trial to be "yet another attack on freedom of religion in Algeria".[11] In fact, these convictions are in violation of Article 51 of the Algerian Constitution, which states that "freedom of opinion is inviolable. The freedom to practise one's religion is guaranteed."

International bodies react to human rights violations in Algeria

During its 88th session (24 to 28 August 2020), the UN Working Group on Arbitrary Detention stated in its Opinion No. 53/2020 that the deprivation of liberty of Messaoud Leftissi, arrested and detained from February to November 2019 on the grounds of "undermining national unity" for the simple act of carrying the Amazigh flag, "was arbitrary in that it is contrary to Articles 7, 9, 19, 20 and 21 of the Universal Declaration of Human Rights and Articles 9, 19, 21, 22, 25 and 26 of the International Covenant on Civil and Political Rights".[12]

On 25 November 2020, the European Parliament adopted a resolution on the deteriorating human rights situation in Algeria[13] in which it recalls, in particular, that between 30 March and 16 April 2020, "three communications were sent to the Algerian Government in relation to arbitrary and violent arrests, unfair trials and reprisals against human rights defenders and peaceful activists, with a fourth communication on 27 August 2020 regarding Mohamed Khaled Drareni" before expressing its numerous grievances against the Algerian government with regard to its responsibility for serious violations of freedoms and human rights.

The Amazigh of Algeria in the context of COVID-19

Thanks to foreign television, the Internet and their diaspora, the Amazigh received early warning of the spread of the coronavirus around the world and were able to anticipate its arrival in their territories. They were thus able to react in advance to protect themselves, without waiting for directives from the authorities.

Based on their traditions of autonomy and community solidarity, the Amazigh closed their territories to non-essential foreign visitors

and set up entry and exit controls, advocated a lockdown for inhabitants and organised collective distributions of food, medicines and other basic necessities. People in contact with the outside world now systematically wear masks, some of which are made locally, and vehicles and public spaces are regularly disinfected. The village committees also ensured that the most needy and vulnerable people were not overlooked. This whole organisation is based on solidarity and mutual aid, the key words during this health crisis.

The result of this self-organisation and shared responsibility in the fight against the coronavirus has been extremely positive as the number of cases in these territories has remained very low. According to some testimonies, in order to combat the coronavirus, Amazigh people in some regions have also revived their knowledge and know-how of pharmacopoeia and traditional medicine to treat themselves. In fact, the deaths that occurred over the course of this year in the Amazigh regions were mostly due to causes other than COVID-19.

The great lesson to be learned from the handling of this ordeal is that when the Amazigh regain their autonomy, when they become free to organise themselves, they instinctively reconnect with the tangible and intangible values and resources of their ancestral culture in order to come up with solutions appropriate to their concerns and needs.

The government authorities do not understand these traditional Amazigh community institutions and their autonomous management and they therefore tried to hinder the way these community structures were working. Testimonies report that local state representatives (heads of local governments, police and gendarme authorities) were highly visible on the ground during the health crisis, monitoring, summoning and attempting to intimidate members of village committees by threatening to prosecute them for illegal activities and even for "undermining state authority and national unity". The gendarmes intervened in several places, particularly in Kabylia, to dismantle checkpoints set up by village committees, carried out acts of violence against people and even tried to interfere in operations to distribute food to the inhabitants. And these gendarmes are generally Arabs who do not understand and do not speak Tamazight, the Indigenous language. This does not facilitate exchanges, nor the peaceful nature of relations with the population. This has resulted in several incidents between members of the Indigenous communities and the gendarmes.

The government has never consulted the Amazigh on the health measures adopted to deal with the coronavirus, nor on how they are being implemented. The dates and times of the lockdown and its easing were decided unilaterally, for example, without consultation with Indigenous Peoples' representatives. In most Amazigh territories, the authorities failed to distribute coronavirus protection materials (masks, sanitiser, etc.) and nor did they adequately disseminate information in the Amazigh language.

In March 2020, under the pretext of fighting the spread of the coronavirus, the Algerian authorities decided, without any consultation with the representatives of the Kel-Tamasheq (Tuareg) Indigenous populations, to close the border between Algeria and Mali. Algerian border guards have put up a barbed-wire fence that has brutally cut off the two sister settlements of Tin-Zawaten on the Algerian side and Ikhraben on the Malian. This fence has also cut off the Tin-Zawaten population from the river that passes through their territory, preventing them from accessing this water source. Representatives of Tin-Zawaten alerted the Algerian authorities to this fact without success. Public demonstrations against the fence were then organised from May onwards and, on 15 June, Algerian gendarmes drew their weapons, injuring several people and killing the young Ayoub Ag Adji. In addition to the climatic hazards that are severely affecting this desert region, the Kel-Tamasheq Indigenous populations are also subjected to the Algerian state's violence whenever they protest against their situation of destitution and marginalisation.

Notes and references

1. Algérie Presse Service (APS). "Référendum sur la Constitution: aboutissement d'une priorité majeure du Président Tebboune [Referendum on the Constitution: major priority for President Tebboune achieved]." 25 August, 2020. http://www.aps.dz/algerie/108983-referendum-sur-la-constitution-aboutissement-d-une-priorite-majeure-de-tebboune-pour-une-algerie-nouvelle
2. Results published by the National Independent Electoral Authority (ANIE) on its website: ANIE. "2020." 27 December, 2020. https://ina-elections.dz/2020/12/27
3. Amnesty International. "Algeria, a reform of the Constitution in the midst of repression." 29 June,2020. https://www.amnesty.fr/liberte-d-expression/actualites/algerie-une-reforme-de-la-constitution-en-pleine-repression
4. Official Journal of the Algerian Republic. "No. 54 of 16/09/2020." General Secretariat of the Government, 2021. www.joradp.dz
5. Official Journal of the Algerian Republic. "No. 25 of 29/04/2020." General

Secretariat of the Government, 2021. https://www.mfdgi.gov.dz/images/pdf/textes_reglementaires/F2020025.pdf
6. Ibid.
7. Congrès Mondial Amazigh. "Quelques aspects de la vie des Amazighs dans le contexte du covid-19 [Amazigh life under COVID-19]." 12 May, 2020. https://www.congres-mondial-amazigh.org/2020/05/12/aspects-de-la-vie-des-amazighs-dans-le-contexte-du-covid-19/
8. Reporters Sans Frontières (RSF). "Algérie, projet de loi anti "fake news" [Algeria, draft anti fake news law]." 23 April, 2020. https://rsf.org/fr/actualites/projet-de-loi-anti-fake-news-en-algerie-comment-museler-un-peu-plus-la-liberte-de-la-presse
9. Leslous, Samir. "Le Président de l'APC de Afir suspendu par le Wali [Afir APC's President suspended by the Wali]." Liberte Algerie, 21 October, 2020. https://www.liberte-algerie.com/actualite/le-p-apc-rcd-dafir-suspendu-par-le-wali-347644
10. Ouamar, Mohand. "Un Maire suspendu par le Wali de Béjaia [Mayor suspended by the Wali of Béjaia]." Observ Algerie, 9 November, 2020. https://www.observalgerie.com/kabylie-un-maire-suspendu-par-le-wali-de-bejaia-le-ffs-crise-au-scandale/2020/
11. Ouazi, Pica. "Kabylie: "Des Ahmadis condamnés par le tribunal de Tizi-Ouzou [Kabylia: Ahmadis sentenced by Tizi-Ouzou court]." Observ Algerie, 23 December, 2020. https://www.observalgerie.com/kabylie-des-ahmadis-condamnes-par-le-tribunal-de-tizi-ouzou/2020/
12. OHCHR. "Avis adoptés par le Groupe de travail sur la détention arbitraire à sa quatre-vingt-huitième session (24-28 août 2020)." A/HRC/WGAD/2020/53, 9 October, 2020. https://www.ohchr.org/documents/issues/detention/opinions/session88/a_hrc_wgad_2020_53_advance_edited_version.pdf
13. European Parliament. "Resolution of the European Parliament on the deteriorating situation of human rights in Algeria, in particular the case of journalist Khaled Drareni." 2020/2880(RSP), 25 November, 2020. https://www.europarl.europa.eu/doceo/document/RC-9-2020-0375_EN.html

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Botswana

Botswana is a country of 2,317,233 inhabitants that celebrated its 50th year of independence in 2016. Its government does not recognise any specific ethnic groups as Indigenous, maintaining instead that all citizens of the country are such. However, 3.14% of the population identifies as belonging to Indigenous groups. These include: the San (known in Botswana as the Basarwa), who number around 68,000; the Balala (2,350); and the Nama (2,750), a Khoekhoe-speaking people. The San were in the past traditionally hunter-gatherers but today the vast majority consists of small-scale agro-pastoralists, cattle post workers, or people with mixed economies. They 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, 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. Of the San, only an estimated 300 people are full-time hunter-gatherers.

Botswana is a signatory to the Conventions on the Elimination of all Forms of Discrimination against Women (CEDAW), on the Rights of the Child (CRC) and on the Elimination of all Forms of Racial Discrimination (CERD), and it voted in favour of the United Nations 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, nor is the concept of Indigenous Peoples included in the Botswana Constitution. Botswana normally takes part in the UN Permanent Forum on Indigenous Issues (UNPFII) but its 19th annual meeting in New York, scheduled for April 2020, was postponed due to the coronavirus pandemic.

Policy issues

There were no changes in legislation involving Indigenous or minority communities in Botswana in 2020. Botswana did draft a mid-term review of its progress in implementing the recommendations received from other nations in 2018, when Botswana took part in the Universal Periodic Review (UPR) process of the United Nations' Human Rights Council. Ditshwanelo, the Botswana Centre for Human Rights, convened representatives from over 30 stakeholder NGOs to prepare a response to the government's review.

According to Ditshwanelo's report, Botswana had accepted 93 of the 207 recommendations made by other states. The stakeholder's review found that only three had been fully implemented. Of the remainder, some progress had been made on approx. 54% of the recommendations, while 43% had not been implemented. No progress at all had been made in implementing four recommendations on incorporating human rights conventions that Botswana itself has ratified into national legislation. Progress had been made in implementing recommendations for the protection of orphans and vulnerable children, for the prevention of AIDS and of human trafficking. Although some improvements had been made in access to health care, the stakeholders reported that San children who were not born in hospitals lacked birth certificates and San adults often lacked identity cards, both of which are required for free access to health care and other government services. The reviewers found that there was "a gap between programmes and policies, and poor outcomes in relation to the health of children—over half of the under-5 children die before their fifth birthday".[1]

COVID-19

The Botswana government declared a COVID-19 emergency on 31 March 2020, resulting in a lockdown and travel restrictions. The lockdown was extended in late September 2020 and reimposed at the end of 2020. It was estimated by the World Health Organization that Botswana had one of the lowest COVID-19 death rates in Africa. The main impacts of COVID-19 included a reduction in incomes and employment in the country, tied in part to the substantial decline in the number of

tourists entering Botswana. The government shifted its budget priorities, increasing funding for the Ministry of Health and Wellness to deal with the coronavirus pandemic and its impacts.

The income from minerals, including diamonds, which dominates the Botswana economy, declined some 6% according to the Botswana government's economic figures. There were no recorded deaths due to COVID-19 in Botswana among the San, Balala or Nama during 2020 but income levels and employment declined due to the pandemic. The San Youth Network organised a programme to provide food, hand sanitiser and masks to Ghanzi communities during the COVID-19 pandemic. They also supplied information on social distancing and other recommendations in mother-tongue San languages, prepared by the Kalahari Peoples Fund, to community members.[2]

Hunting issues

Several issues loomed large in Botswana with respect to Indigenous and minority peoples in 2020. President Mokgweetsi Masisi did away with the country-wide hunting ban and opened auctions for elephant hunting licenses in early 2020. As a consequence, San communities such as Khwaai and Mababe made bids for the licenses, and Mababe was allocated a total of 20 elephants. However, when they sought to allocate them to potential safari hunters, they found that a former Department of Wildlife and National Parks official had allegedly colluded with an American safari company operator to obtain the licenses at a low price of 1.5 million Pula for his clients. These incidents caused a huge rift in the Mababe community and led to calls for an official investigation by the Ministry of Natural Resources, Environment and Tourism.[3]

Beginning in May 2020, a spike in the number of elephant carcasses was seen near the village of Seronga in the Okavango Delta.[4] Eventually, the number of elephant deaths totalled some 400. It took several months of testing to determine the likely cause, which was probably cyanobacteria or toxic algae.[5] The elephants' tusks were not removed, so poaching was ruled out. However, three Tsexa San people at Mababe were found with elephant tusks and were arrested on 14 August 2020. Their actions were condemned by the Mababe Zokotshama Community Development Trust.

No San, Nama or Balala were shot by the Botswana Defence Force (BDF) in 2020 but members of other groups, some of them from Namibia and Zambia, were shot and killed during anti-poaching operations. The "shoot-to-kill" policy of the Botswana government was called into question by the Namibian government.[6] On 24 March 2020, four G//ana San men were arrested by the Botswana Police for illegal hunting in the Central Kalahari Game Reserve (CKGR). Their Magistrates Court trial in Ghanzi set for 10 June was postponed[7] and had still not been held as of 31 December 2020. Smith Moeti, a San activist, said the charges were just one indication of a recent increase in government harassment and persecution of San and Bakgalagadi in the CKGR.[8]

The issue of trophy hunters and their relationship with communities continued to be important in 2020. In some cases, community-based organisations felt that they were benefitting from the safari hunting operations but that those benefits had declined significantly with the imposition of the hunting ban. In response, community trusts were attempting to diversify their income sources and forge links with companies and NGOs working in ecotourism. They were pleased that the trophy hunting was being allowed again in 2020 because the economic returns were high compared to other activities.[9]

Botswana extractive industry issues

The main issues with mining and prospecting from the perspective of Indigenous minorities are: (a) employment (few San, Nama or Balala have obtained jobs); (b) benefits from the mining operations are not shared with communities but rather paid as royalties to the government or kept as profits for the mining companies; and (c) in some places, San have been excluded from mining sites, as occurred in Letlhakane in Central District, the Gope (Ghaghoo) area of the CKGR, the Khoemacau mining site on the Toteng River in North West District, and in the northern Ghanzi District.

In 2020, moves were made by the company that had bought the Gope (Ghaghoo) mine in the CKGR, ProCivil, to refurbish the mine's workings. Former employees of Gem Diamonds, the mine's former owner, said that they had not been hired by ProCivil. Ghagoo community members complained that the mine's new guards were harassing

their domestic animals and that the company had failed to supply water to the communities around the mine. When it was owned by Gem Diamonds, Ghaghoo had provided standpipes outside the mine area for use by local people.

Reconnaissance Energy Africa (ReconAfrica), a Canadian oil company that is exploring for oil and gas in the North West District of Botswana (License 001/2020), has already begun drilling in adjacent Namibia.[10] There were worries among northern Botswana communities relating to ReconAfrica's explorations and the potential impacts of hydraulic fracturing (fracking) on the water table and the effects of the drilling operations on local vegetation and wildlife. The Village Development Committee in the Tsodilo Hills stated that they had been told by company and government officials that they would probably have to be resettled to an unknown location to the south of Tsodilo.[11] Tsodilo Community Development Trust has plans to dispute the resettlement possibility by legal means.

There were continued complaints by San communities in 2020 about the disturbance of San graves in mining areas, and individuals were told by mining company officials in Central and North West Districts that they could not visit their ancestral graves in those areas.[12]

Central Kalahari Game Reserve (CKGR) issues

Communities in the CKGR continued to bring their concerns before the Botswana government and the Ghanzi District Council in 2020. In late October, several government ministers flew into the CKGR and told the residents that there would be six boreholes drilled there. No specifics were provided to the communities on where the boreholes would be placed, nor were community members asked for their input.[13] They specifically asked the ministers whether there were plans to resettle them but the ministers did not address this question. The community members raised concerns about the Ghanzi District Council's plans for a wildlife (game) farm. This was to be a farm containing wildlife that is either sold by auction to farmers or is kept for hunting purposes by fee-paying clients. This farm, much to the communities' chagrin, was far from the reserve, a point made by CKGR community members to a sub-committee of the Ghanzi Council when they visited the reserve.[14]

The communities also requested that the government allow British barrister Gordon Bennett to return to Botswana to advise them on how to ensure their legal rights to land and resources in the CKGR.[15]

The government's plans to build an elephant-proof fence from the Namibian border to the east across the northern border of the CKGR and down the eastern side of the reserve before heading east to the South African border were questioned repeatedly in various meetings by CKGR community members during 2020, as were government plans for a trans-Kalahari Railway from the Morupule coal mine near Palapye traveling west across the CKGR and Ghanzi District south of the Ghanzi Farms to Walvis Bay in Namibia. In both cases, the people of the CKGR asked the government if an Environmental Impact Assessment had been carried out for the fence and the railway. The government has yet to disclose the EIAs for either planned activity.

At least four diamond prospecting companies were operating in the CKGR in 2020 and, during community consultation meetings, community members questioned whether the companies were following the government's environmental regulations. People in the CKGR wanted to know more about the Kgalagadi-Ghanzi Drylands Ecosystem Project (KGDEP) and what benefits and risks were anticipated for the CKGR community members, especially because project plans included expanded anti-poaching operations.[16] Finally, CKGR community members were told by government officials they had no right to grow crops in the Central Kalahari, something that they strongly disagreed with.[17]

New water system for the Bere settlement

With a grant from the World Bank, the Government of Botswana is planning to construct a new water system for the Bere settlement in Ghanzi District, a San settlement that has existed since the 1960s. A new reservoir and pipes will be constructed, and the existing borehole will be improved.[18] The population of Bere has doubled in the past decade, from 778 in 2011 to 1,412 in 2018,[19] partly due to the resettlement of 100 individuals from Ranyane, after Ranyane's borehole was dismantled by the Ghanzi District Council.[20] It is unclear where the additional 500+ residents came from.

Problems with boarding schools for San children

On 4 May 2020, an 11-year-old San girl living with her family on a cattle post in northwest Botswana committed suicide by hanging herself from a tree after seeing a social worker's vehicle approaching her home. The girl was apparently afraid that the social worker had come to take her back to the Kuke boarding school where she was a student. The school, in Ghanzi District, serves mostly San students and has had very high dropout rates for years. A Ghanzi social worker was quoted in a newspaper article discussing how difficult it was to deal with truant children: "Sometimes we use force and actually chase them down and throw them into the vehicle and take them to school."[21]

In July 2020, the Khwedom Council and the San Youth Network held a virtual meeting of 20 San leaders from across Botswana to discuss the incident. They were unanimous in their view that hostels are often overcrowded. Caregivers, few of whom are of San descent, discriminate against San children, failing to supervise them, to attend to their health care or to prevent sexual abuse.

In September 2020, a teacher in the Makgadikgadi Junior School in Central District, whose students are mostly San, complained to school officials that children were being beaten excessively, denied food and even undressed as punishment for perceived wrongdoings. A second teacher added that students, once stripped of clothing, had also been sexually abused.[22]

An assessment of the capacity of Botswana's social services to protect children from violence was undertaken early in 2020. The study, funded by UNICEF and conducted in collaboration with the Botswana Department of Social Protection,[23] found that severe understaffing in Botswana's boarding schools was a systemic problem, permitting rampant neglect and abuse of children. A major reason for the understaffing was the government's freeze on recruitment into the civil service, put in place in 2013, according to the report.[24]

Calls by Indigenous women and youth

In September 2020, President Mokgweetsi Masisi moved to amend the 2015 Botswana Land Policy in order to give married women in Botswana

the right to own land.[25] A number of San have certificates to agricultural land, and this policy will therefore affect San women.

Various women's organisations, including the Gender-based Violence Prevention and Support Centre and the San Youth Network, called in public statements for greater attention to be paid to women's rights in the country, especially the right to freedom from domestic abuse, something that affects both San and non-San women.[26] In September, and again in November 2020, San called on the government in public statements to teach mother-tongue San languages throughout Botswana after hearing that minority languages would be taught in the schools of Ngamiland.[27]

The Indigenous and minority peoples of Botswana collectively said that they hoped that 2021 would be a year in which coronavirus vaccines were available to all, that the economy would improve, and that Botswana would enhance its efforts to promote human rights and social justice in the country.

Notes and references

1. Ditshwanelo. "Botswana Universal Periodic Review (UPR) Civil Society Mid-Term Review Stakeholder Report Third UPR Cycle." 31 August 2020. Gaborone: Ditshwanelo. Accessed on 2 February 2021. https://www.ohchr.org/Documents/HRBodies/UPR/NGOsMidTermReports/CSJointSubmissionBotswana31Aug2020.pdf
2. Morris, Job. Personal communication, 14 October 2020 and Kalahari Peoples Fund. Personal communication, 18 October 2020.
3. Mmana, Francinah Baaitse. "Elephant hunting saga divides community." Okavango Voice, 10 March 2020. Accessed on 2 February 2021. https://news.thevoicebw.com/2020/03/elephant-hunting-saga-divides-community/
4. K. Ontebetse, Khonani. "Spike in elephant carcasses numbers baffle officials." Sunday Standard, 16 July 2020. https://www.sundaystandard.info/spike-in-elephant-carcasses-numbers-baffle-officials/
5. S. Azeem, R. Bengis, R. van Aarde, and A.D.S. Bastos. "Mass Die-Off of African Elephants in Botswana: Pathogen, Poison, or a Perfect Storm." African Journal of Wildlife Research 50(1):149-156.
6. Mowena, Nicholas. "Namibia is not happy with BDF extra judicial killings." Botswana Guardian, 12 November 2020.
7. Moeti, Smith. Personal communication, 31 March 2020.
8. Ontebetse, Khonani. "UK based rights group Survival International renews fight against Botswana govt." Sunday Standard, 15 June 2020. Accessed on 2 February 2021. https://www.sundaystandard.info/uk-based-rights-group-survival-international-renews-fight-against-botswana-govt/
9. Coe, Katherine Kellam. "An Exploration of the Adaptive Capacity of Community-

Based Organizations in Northern Botswana in Response to A Hunting Ban." M.Sc. thesis, University of Montana, Missoula, 2020.

10. Barbee, Jeffrey and Kerry Nash. "Mystery Surrounds Plans to start Fracking Near Namibia's Kavango River and Botswana's Tsodilo Hills." Daily Maverick, 16 September 2020. https://www.dailymaverick.co.za/article/2020-09-16-mystery-shrouds-plans-to-start-fracking-near-namibias-kavango-river-and-botswanas-tsodilo-hills/; Barbee, Jeffrey and Laurel Neme. "Oil drilling, possible fracking planned for Okavango Oil drilling, possible fracking planned for Okavango region—elephants' last stronghold." National Geographic Society, 28 October 2020. https://www.nationalgeographic.com/animals/article/oil-drilling-fracking-planned-okavango-wilderness
11. Tsodilo Village Development Committee. Personal communication to authors, 14 December 2020.
12. Complaints to the Botswana Khwedom Council, June 2020.
13. Galekhutle, Mothusi. "Govt to Drill Six Boreholes at CKGR." Daily News, 3 November 2020. https://www.facebook.com/DailyNews.BW/posts/govt-to-drill-six-boreholes-at-ckgr-government-intends-to-drill-six-boreholes-at/3405173546198845/
14. Ghanzi District Council. "Central Kalahari Game Reserve Report to Full Council to be held on the 21st – 25th Sep 2020." Ghanzi: Ghanzi District Council.
15. Ontebetse, Khonani. "Bushmen Resurrect Ancestral Right Fight." Sunday Standard, 4 October 2020. Accessed on 2 February 2021. https://www.sundaystandard.info/bushmen-resurrect-ancestral-rights-fight/
16. Questions raised with personnel from the UNDP KGDEP personnel, November 2020.
17. Ontebetse, Khonani. "UK Based Rights Group Survival International Renews Fight Against Botswana Government." Sunday Standard, 15 June 2020. Accessed on 2 February 2021. https://www.sundaystandard.info/uk-based-rights-group-survival-international-renews-fight-against-botswana-govt/
18. Water Utilities Corporation, Botswana Government. "Botswana Emergency Water Security and Efficiency Project (BEWSEP): Environmental and Social Impact Assessment (ESIA) and Environmental and Social Management Plan (ESMP) for the Bere Settlement Water Supply Sub-Project." April 2020.
19. Ibid. p.15
20. Sapignoli, Maria. Personal communication, 21 December 2020; Hitchcock, R.K. "Forced Displacement, Migration, and Resettlement: A Central Kalahari Case." Presentation to Core 003 - Forced Displacement, Migration, and Resettlement, Department of Psychology, Claremont College, Claremont, California, 2020.
21. Mmana, Francinah Baaitse. "Girl, 11, Driven to Suicide by Fear of School." The Okavango Voice, 8 May 2000. Accessed on 21 February 2021. https://news.thevoicebw.com/2020/05/girl-11-driven-to-suicide-by-fear-of-school/amp/
22. Dipholo, Kabelo. "Teachers' Schoolyard Scrap Leads to Child Abuse Claims." The Okavango Voice, 29 September 2020. Accessed on 2 February 2021. https://news.thevoicebw.com/2020/09/teachers-schoolyard-scrap-leads-to-child-abuse-claims/
23. Child Frontiers. "Protecting Children of Nomadic Groups in Botswana." May 2020. Accessed 27 December 2020. https://www.childfrontiers.com/features-jun-2020-gt-botswana
24. Child Frontiers. "Mapping and Capacity Gap Analysis: Strengthening the social service workforce to prevent and respond to violence against children in Botswana. Final Report." March 2020. Accessed on 27 December 2020. https://

childfrontiers.app.box.com/s/yr0rkq5t68kj5v6wkzoio7w009bliex5
25. Maytham, Emma. "Women's Rights in Botswana." The Borgen Project, 6 November 2020. Accessed on 16 December 2020. www.borgenproject.org
26. San Youth Network. Personal communication, 15 September 2020; see also Kamelhar, Benjamin. "Reforming the Right to Property: How Botswana's Progressive Judiciary Helps Lift Women Out of Poverty." Georgetown Journal on Law and Policy. 26 March 2020.
27. Mmana, Francinah Baaitse. "Maun Schools to Use Native Languages in Teaching." The Voice, 1 September 2020. Accessed on 2 February 2021. https://news.thevoicebw.com/2020/09/maun-schools-to-use-native-languages-in-teaching/. Chebanne, Andy. University of Botswana. Personal communication, 18 November 2020.

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Burkina Faso

Burkina Faso has a population of 21.510.181[1] comprising some 60 different ethnic groups. The Indigenous Peoples include the pastoralist Peul (also called the *fulbe duroobe egga hoɗɗaaɓe*, or, more commonly, *duroobe or egga hoɗɗaaɓe*) and the Tuareg. There are no reliable statistics on the exact number of pastoralists in Burkina Faso. They can be found throughout the whole country but are particularly concentrated in the northern regions of Séno, Soum, Baraboulé, Djibo, Liptaako, Yagha and Oudalan. The Peul and the Tuareg most often live in areas which are geographically isolated, dry and economically marginalised and they are often the victims of human rights abuses. Burkinabe nomadic pastoralists, even if innocent of any crime, have thus been subjected to numerous acts of violence: their houses burned, their possessions stolen, their animals killed or disappeared, children and the elderly killed, bodies left to decay and their families forbidden from retrieving them.

Peul pastoralists are gradually becoming sedentarised in some parts of Burkina Faso. There are, however, still many who remain nomadic, following seasonal migrations and travelling hundreds of kilometres into neighbouring countries, particularly Togo, Benin and Ghana. Unlike other populations in Burkina Faso, the nomadic Peul are pastoralists whose whole lives are governed by the activities necessary for the survival of their animals and many of them still reject any activity not related to extensive livestock rearing.

The existence of Indigenous Peoples is not recognised by the Constitution of Burkina Faso. The Constitution guarantees education and health for all; however, due to lack of resources and proper infrastructure, the nomadic populations can, in practice, only enjoy these rights to a very limited extent. Burkina Faso voted in favour of the United Nations Declaration on the Rights of Indigenous Peoples.

General situation of Burkina Faso's nomadic pastoralists

2019 was a deadly year for nomadic pastoralists, with hundreds killed by jihadists, armed militia commonly known as *kogleweogo* and also by uncontrolled elements of the country's forces of law and order.[2] 2020 has been no better. Pastoralists very often pay the price for the various counter-terrorism operations organised by Burkina Faso's security and defence forces but also for the offensives of armed militia such as the *kogleweogo*. The Peul are falsely linked to the terrorist groups, suffer attacks from armed militia, and have even been arrested and killed, particularly along the Fada NGourma - Pama - Benin border. In some areas, their movements are restricted and they are forbidden to travel to market. At the same time, they are also targeted by the jihadists and therefore find themselves caught between a rock and a hard place. Many have therefore taken the decision not to return to Burkina following their nomadic travels to Benin, Ghana and Togo for fear of being branded terrorists. 2020 was marked by an "ethnicisation" of terrorism, with nomadic pastoralists increasingly associated with the terrorists.

Pastoralism and COVID-19 in Burkina Faso

Burkina Faso recorded its first case of COVID-19 on 9 March 2020. On 29 December 2020, the government information service attached to the Office of the Prime Minister communicated the number of confirmed cases of COVID-19 since that first date: 6,631, of whom 2,437 women and 4,194 men, with a total of 84 deaths. From March to December 2020, however, the nomadic Peul pastoralists of Burkina found themselves in a very difficult situation due to the imposition of lockdowns, curfews and border closures.

Lockdown

Many transhumant pastoralists began their usual movements in the first quarter of 2020, both inside Burkina and across its borders. Prepa-

rations require the sale of one or two animals to buy grain for the family. Unfortunately, COVID-19 meant that the large towns that receive almost all the animals for sale were in lockdown (see map of the cities and towns in lockdown).[3] Only village markets remained open where small amounts of money could be obtained with which to buy grain. Since traders were unable to take their animals to the towns, they had to sell them locally at a much cheaper price.

In addition, the urban lockdown paralysed the system by which nomadic pastoralists obtain supplies of pharmaceutical products with which to treat their animals on the journey. As these products generally come from Ouagadougou, the lockdown in this city prevented veterinary pharmacies from replenishing their supplies. It was also impossible to buy products such as salt lick, and especially cattle feed, thousands of tonnes of which are needed to ensure that enough animals survive the "lean cow" period from March to June. Without vaccination and without feed, it therefore became impossible to travel.

Market closures

The mobility of nomadic pastoralists depends on water points, the security of the route, and also on village markets where they can sell a ram, a calf, or a sick or very lean cow or bull that is unable to continue the journey. For fear of encouraging the transmission of the coronavirus, however, markets have remained closed. This has put a strain on transhumance, with the nomadic pastoralists forced to sell their animals at a low price, and even to sell two or three animals instead of one.

Moreover, the situation did not improve once the markets reopened because there was such a large surplus that "animal prices have fallen slightly on average compared to the previous season. For example, at Mani, in Gnagna, a male bovine that cost 155,000 FCFA between February and March now costs 125,000 FCFA. The price of sheep has declined from 80,000 FCFA to 75,000 FCFA and that of goats from 18,500 FCFA to 17,500 FCFA, a decrease of 7% and 6% respectively."[4]

Border closures

Pastoralism relies on the mobility of livestock. This means that thousands of pastoralists cross Burkina Faso's borders each year in search of fodder for their animals. Unfortunately, however, the country's land borders have been closed since March 2020 and have still not reopened. Crossborder mobility has thus been interrupted by this closure, and it has had a negative impact on pastoral activities.

The Director of Pastoral Security in Burkina Faso furthermore notes that "in the Central-Eastern and Eastern regions, the closure of borders with host countries (Benin, Togo, Ghana) has resulted in a concentration of animals and a scarcity of water and pasture in the transit areas. This closure of borders has restricted the flow of animals to the coastal countries, and some pastoralists have been forced to wait along the border in the communes of Logobou, Madjoari and Kompienga, creating a concentration of animals that could lead to conflicts if the situation continues."[5] Many nomadic pastoralists whose food supply systems rely on the transit areas were thus left helpless.

Conclusion

Generally speaking, 2020 in Burkina Faso was marked, on the one hand, by the violent extremism of the jihadists and armed militia and, on the other, by the COVID-19 pandemic. The former, which has pushed many pastoralists to leave Burkina Faso, has also deprived the many nomadic pastoralists of their animals and sometimes even cost them their lives. As for COVID-19, it has exacerbated "the difficulties of the lean season for pastoralists and agropastoralists due to a drastic reduction in residual fodder, difficulties in accessing water points, decapitalisation, theft, difficulties in accessing basic social infrastructure (health centres, schools, wells, veterinary pharmacies), the unavailability of livestock feed on the markets, and conflicts with sedentary farmers. This has led to a deterioration in the living conditions of pastoralists and their animals".[6] Support measures need to be implemented to assist these nomadic pastoralists in their struggle for survival.

Notes and references

1. Institut National de la Statistique et de la Démographie. "CHIFFRES CLÉS." 2020. www.insd.bf
2. Diallo, Issa. "Burkina Faso." In The Indigenous World 2020, edited by Dwayne Mamo, 45. IWGIA, 2020. http://iwgia.org/images/yearbook/2020/IWGIA_The_Indigenous_World_2020.pdf
3. APESS. "Note d'analyse des premiers impacts de la pandémie du COVID 19 sur les Exploitations Familiales Agropastorales membres de l'APESS." [Note analysing the first impacts of the COVID-19 pandemic on APESS member family farms]. APESS Communication, 29 April, 2020. https://www.apess.org/note-danalyse-des-premiers-impacts-de-la-pandemie-du-covid-19-sur-les-exploitations-familiales-agropastorales-membres-de-lapess/
4. Action Contre la Faim (Action Against Hunger). "Bulletin de Surveillance Multisectorielle dans la Region de L'est- --Burkina Faso—Avril-Mai 2020." [Multisectoral Surveillance Bulletin in the Region of East-Burkina Faso-April-May 2020] June 2020. Accessed 30 December, 2020. https://sigsahel.info/wp-content/uploads/2020/06/Bulletin_Surveillance_Multi_Sectorielle_BurkinaFaso_Juin2020.pdf
5. Ministry of Animal and Fishery Resources. "The impact of COVID-19 on Pastoral Activity." Ouagadougou, Burkina Faso, 22 April, 2020. Accessed 27 December, 2020. http://agrhymet.cilss.int/wp-content/uploads/2020/06/contribution_Burkina_faso.pdf
6. CILSS, Agrhymet Regional Centre. "Situation pastorale face à la pandémie du COVID-19." [Pastoral situation in the face of the COVID-19 pandemic] Agrhymet News, 9 June, 2020. Accessed 30 December, 2020. http://agrhymet.cilss.int/index.php/2020/06/09/situation-pastorale-face-a-la-pandemie-du-covid-19/

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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 the developments in international law, civil society 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 Bagyéli 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 Bagyéli live in an area of around 12,000 km^2 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 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 Regions.

The Kirdi communities live high up in the Mandara Mountain range, in the north of Cameroon. Their precise number is not known.

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

COVID-19 and its impact on Indigenous Peoples in Cameroon

The first case of COVID-19 was declared in early March 2020 and national statistics show that there have been a total of 26,277 cases, with 24,892 recovered, 446 deaths and 937 active cases.[1]

Most COVID-19-related information is on social media and the different TV stations such as CNN, Africa 24, Al Jazeera, BBC and the national television networks. Government officials have also most often resorted to Twitter in order to communicate. Only a few Indigenous Peoples have access to these facilities or have android phones that would allow them to get information through WhatsApp or Tweets, which are the most commonly used means of communication. Indigenous organizations have access to WhatsApp but the wider communities cannot be reached due to the remoteness of their localities. The majority do not read or write and therefore cannot access information that is as complex as the coronavirus pandemic. Almost all are aware of the existence of a new deadly disease but they do not know much about it, how it is manifested or how to avoid it. Around 10 Indigenous individuals were infected in Yaoundé and Bafoussam, with some serious cases but no deaths registered so far.

It is worrying that even those who live in cities and have TVs and Android phones are not aware of the dangers of COVID-19 because traditional and religious values outweigh the government and international community's protocols to reduce the infection rate. When a person is infected, the whole community visits his/her home or the hospital. Everyone wantsto pay the patient a visit as tradition requires. Community life continues despite the high risk of the virus spreading.

Women, children and those with disabilities have been even more vulnerable and gender-based violence has been a serious problem in Indigenous communities due to lockdowns and economic hardship.

There is a need to raise awareness and educate Indigenous Peoples on this new pandemic. There is also a need to provide protective equipment such as soaps, utensils for water, face masks and disinfectants. Indigenous Peoples' organizations such as OKANI, CADDAP, BACUDA, MBOSCUDA and AIWO-CAN ran awareness raising campaigns in some Indigenous communities and distributed face masks, soaps, buckets for hand washing and sanitizer. Some of the organizations as-

sisted local governments' services in awareness raising and the distribution of health kits. Much still remains to be done, however, to make all of Cameroon's Indigenous people aware.

International Day of the World's Indigenous Peoples

The official celebration of the 26th International Day of the World's Indigenous Peoples, the 12th such event in Cameroon, was presided over by the Minister of Social Affairs alongside the representative of the United Nations Centre for Human Rights and Democracy in Central Africa (CNUHD-AC), representing the UN Secretary General. Participating in the ceremony were the different Indigenous Peoples' Organizations in Cameroon (MBORORO, BAKA, BAKOLA, BAGYELI, BEDZANG), various public administrations, international organizations, UN agencies and CSOs.

This 26th celebration was held under the theme of "The COVID-19 pandemic and the resilience of Indigenous Populations". The speech of the UN Secretary General, read out by the representative of the CNUHD-AC, focussed on the devastating impact of COVID-19 on Indigenous Peoples, particularly Indigenous women, and called on the government to come up with strategies to fight the pandemic and reinforce the Indigenous Peoples' capacities for resilience. In her opening address, the Minister of Social Affairs indicated that several awareness raising campaigns had been carried out on the COVID-19 pandemic in more than 100 local municipalities during the month of April and she indicated that the session would focus on creating efficient strategies to ensure the effective protection of Indigenous Peoples' rights.

7th session of the Comité Intersectoriel de Suivi des Programmes et Projets Impliquant les Populations Autochtones Vulnérables (CISPAV)

The 7th session of CISPAV[2] was held on 7 August 2020 within the context of the celebrations for International Day of the World's Indigenous Peoples. The aim of the session was to follow-up on programmes and projects relating to Indigenous Peoples, and participants included

public administrations, international and national development partners, civil society organizations, Indigenous Peoples' organizations and the technical secretariat of the committee. The session was held with the theme of "The International Public Health Emergency" due to the COVID-19 pandemic and with the general objective of conducting an assessment of actions carried out by all actors in favour of Vulnerable Indigenous Populations (PAVs)[3] in the fight against the pandemic. Actions on the prevention of and fight against the COVID-19 pandemic included training, awareness raising and education as well as technical, material and financial support.

Implementation of the different activities to fight the COVID-19 pandemic was not without some difficulties, the main ones being:

- Lack of coordination and collaboration among actors working in the same zones;
- Socio-cultural barriers facing PAVs;
- Insufficient communication due to language barriers and communication facilities;
- Weak involvement of the different government departments in the execution of certain projects;
- Lack of potable water and a clean environment; and
- Inaccessibility of zones inhabited by the Indigenous Peoples.

Civil strife and its effects on the Mbororo pastoralists

Civil strife and socio-political and social unrest in the two English-speaking regions of Cameroon, the North-West and the South-West, remained a cause of great concern in 2020 for the Mbororo pastoralists. Killings, abductions, ransom taking and the ban on schools and businesses continued in 2020. Since 2017, attending school has been forbidden by the secessionists in these two regions. Businesses and public transport have also been banned from operating on Mondays and on certain official public holidays.

The Mbororo pastoralists have been victims of the blind violence that reigns in the North-West and South-West regions of Cameroon,

and they have suffered assassinations, maiming and confiscation of livestock, kidnapping for ransom, forced displacements, torture and inhumane and degrading treatment from the secessionist armed groups.

These atrocities have been committed in different areas such as in Sabongari in Donga-Mantung Division and in Achah, Jakiri, Ndawara, Santa and Bafut in Mezam Division. Statistics show that from the beginning of the crisis to December 2020, 260 Mbororo were killed, 3,210 were injured, 12,000 displaced, some 6,000 children dropped out of school, 525 houses were destroyed and burnt, ransoms worth 163 million FCFA were paid out, and a total of 2,700 cattle were maimed, rustled or confiscated with a total value of 810 million FCFA.[4] This has impoverished the Mbororo community and deprived them of their basic livelihood. According to the survey results published in 2020 by the Cameroonian NGO *Observatoire du Développement Sociétal* (OBS): "The Mbororo community in the north-west is threatened with genocide by the secessionist armed groups."[5]

During the night of 23 October 2020, Mrs Habiba Hammadu, a 34-year-old woman, and her two children were killed in the North-West region. Her children were five-year-old Umaru Hammadu and three-month-old Nafisah Hammadu, who were burnt alive by the secessionist armed groups in their home at Ntamruin Donga-Mantung Division. Despite efforts to end this conflict through the organization of the Major National Dialogue and efforts at implementing some of the recommendations, the year was characterized by an unprecedented upsurge in the violence.

According to the Mbororo Social and Cultural Development Association's (MBOSCUDA) regional office, over the 2014 to 2020 period, 2,437 Mbororo were taken hostage in the East Region, 69 were killed and 288 were released after a ransom of 267, 300,000 FCFA was paid.

Other human rights violations towards Indigenous Peoples

Still in the East Region, in Missoume – a Baka village on the outskirts of Abong-Mbang – Mocka Guy Janvier, a Baka youth, was attacked and beaten to death in a nearby village by a group of Bantu men. Jean-Ma-

rie Boleka of the *Centre d'action pour le développement durable des autochtones pygmées* (CADDAP) filed a complaint and five men were arrested in connection with the killing. Two of them were released and three are still in custody – while the investigation is ongoing. There is high risk of further attacks on CADDAP's organizer and other Baka youth, including girls, if these men are not prosecuted.

Another Baka youth, Yombo Hortense from Mbang village in the same locality of Missoume, was the victim of a gang rape in Nkouamb, a Bantu village when she went to buy some goods. She was caught and detained for many days by a group of seven boys who raped her repeatedly. When she was found, she was taken to the hospital where she was examined and a medical certificate established confirming the gang rape. A complaint was written but her parents opted for an amicable settlement.

There were also reports of grabbing of the Bagyeli peoples' land by their Bantu neighbours who are then selling the land to foreigners in Bipindi and Kribi localities in the Ocean Division of South Region. One case is pending before the court.

A persistent issue affecting Indigenous hunter-gatherer communities like the Baka is also the violence and evictions which they face as a result of the determination of international NGOs and governments to preserve the wildlife. These bodies have claimed vast swaths of Cameroon's rainforests as protected areas for wildlife, effectively "locking out the very people who have preserved these forests over thousands of years".[6] For the communities concerned, there is often no difference in outcome for them between those attempting to protect the forest and those cutting it down.[7] This is a two-way threat coming, on the one hand, from the destruction posed by poachers and, on the other, from eco-guards who are often ill-equipped and under pressure to obtain results. As anthropologist Jerome Lewis puts it: "Unable to act against the powerful perpetrators of the illegal wildlife trade, eco-guards began to attack softer targets: the hunter-gatherers and villagers".[8]

The violent abuse against the Baka has resulted in mounting pressure on WWF, which manages the parks in Cameroon and provides financial and technical support and training to the controversial eco-guards. Although WWF has shown a willingness to discuss the issues and also signed access agreements (MoUs) to the parks with the Baka

communities, implementation still remains a problem as access to the forest is conditional upon the communities having to apply for said access from local officials of the Ministry of Forests and Wildlife (MINFOF). WWF have also developed a guide on human rights to be used by the wildlife enforcement officials with the support of the Cameroon Human Rights Commission.

General Assembly of the hunter-gatherer network

The Indigenous forest peoples of Cameroon are organized within the Network *"Réseau Recherches Actions Concertées Pygmées"* (RACOPY), which brings together the Indigenous Baka, Bagyéli, Bakola and Bedzang communities to debate issues specific to Indigenous forest communities. The 63rd General Assembly of RACOPY was held from 24 to 25 October 2020 in Yokadouma in the East Region. The Network comprises some 40 organizations including Hunter-Gatherer Organizations as well as national and international NGOs. The General Assembly issued a number of recommendations, including to:

- Lobby for the participation of hunter-gatherers in decision-making on issues that affect their lives.
- Recognize their customary rights to the forest and their tenure rights.
- Safeguard their rights to resources from the forest, especially non-timber products.
- Secure Indigenous communities' access to resources in some reserves and parks such as the Lobeke, Mbomba Bek and Nki.

Indigenous Peoples, REDD+ and climate change

The REDD+ process in Cameroon is inclusive, with Indigenous Peoples, civil society organizations, government, research institutions, private sector and local communities being major stakeholders.

In 2020, the Cameroon government was able to re-launch the REDD+ process (which had been stalled for some years) by creating a

working group whose members includedthe African Indigenous Women Organization Central African Network (AIWO-CAN), the lead organization for the platform "REDD+ and the Indigenous Peoples of Cameroon" (PREPAC). The efforts saw the mobilization of all major stakeholders and several meetings were held in Douala and Yaoundé when the COVID-19 measures were eased in order to finalise major documents and to prepare for the 13th Participants Assembly and the 29th Participants Committee of the Forest Carbon Partnership Facility (FCPF) from 20 to 22 October. The Participants Committee discussed Cameroon's request to reinstate the Readiness Grant (additional funding). The Participants Committee took note of Cameroon's renewed commitment to advance the REDD+ readiness process and encouraged the World Bank/FMT to work further with Cameroon to re-assess the provision of the REDD+ readiness funding. Indigenous Peoples are entitled to be a part of the funding to finalise capacity building initiatives and develop tools for monitoring ongoing REDD+ pilot projects in or around their communities.

Draft National Development Plan for Indigenous Peoples presented

In her role to protect, promote and provide assistance to socially vulnerable peoples,[9] the Ministry of Social Affairs has produced a draft document entitled the "National Development Plan for Indigenous Peoples" (PNDPA). This Development Plan aims to fight poverty and social inequalities among Indigenous Peoples. The draft document was presented during the 4th National Solidarity and Entrepreneurship Week, which took place in December 2020. The workshop brought together government departments, technical partners, Indigenous Peoples' organizations and civil society organizations working with Indigenous Peoples. The draft document was presented and improved by all stakeholders to reflect the reality of the Indigenous Peoples (forest peoples and the pastoralists). The main objective of the Development Plan is to guide, supervise and coordinate the different initiatives of public administrations, civil society organizations, and the technical and financial partners for effective and efficient actions in favour of the socio-economic development and inclusion of Indigenous Peoples.

Notes and references

1. MinsanteCameroun. "Official page of the Cameroon Ministry of Public Health.". Twitter, 2021. https://twitter.com/minsantecmr?lang=en
2. Created by Ministerial Order No. 022/A/MINAS/SG/DSN on 6 August 2013 by the Ministry of Social Affairs.
3. Peuples Autochtones Vulnerables.
4. Civil society human rights initiative."Justice and dignity campaign."
5. National Commission on Human Rights and Freedoms. "Press release on the atrocities committed against the Bororo People in some Regions of Cameroon." 24 November, 2020. http://www.cndhl.cm/sites/default/files/Press%20 release%20on%20the%20atrocities%20on%20bororo%20people.pdf
6. Clarke, Catherine. In and Around Cameroon's Protected Areas: A rights-based analysis of access and resource use agreements between Indigenous Peoples and the State. Moreton-in-Marsh: Forest Peoples Programme, 2019. https://www.forestpeoples.org/sites/default/files/documents/In%20and%20 Around%20Cameroons%20Protected%20Areas-ENG-final.pdf
7. Lewis, Jerome. From Abundance to Scarcity. Contrasting conceptions of the forest in Northern Congo-Brazzaville, and issues for conservation. Presented to the Canadian Anthropology Society, Dalhousie University, 2003.
8. Lewis, Jerome. "How 'Sustainable' Development Ravaged the Congo Basin." Scientific American, May 2020. https://www.scientificamerican.com/article/ how-sustainable-development-ravaged-the-congo-basin/
9. International Labour Organization. "Décret n° 2011/408 du 9 décembre 2011 portant organisation du gouvernement." 9 December 2011. https://www.ilo.org/ dyn/natlex/natlex4.detail?p_lang=en&p_isn=96928&p_classification=07

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Central African Republic

The Central African Republic (CAR) lies at the heart of the African continent, far from any coastline. It straddles the equator and thus enjoys a tropical climate. Its ecosystem comprises savanna woodland and steppe in the north, gallery forest in the centre and dense tropical rainforest in the south.

There are three Indigenous groups living in the CAR: the M'bororo Fulani, the Aka and the Litho.

The M'bororo Fulani are generally nomadic herders. They live in the prefectures of Ouaka in the centre-east, M'bomou in the south-east and Lobaye in the south-west. The 2003 census estimated their population at 39,299 individuals, or around 1% of the total population. They have a strong presence in rural areas, accounting for 14% of the global population, as opposed to 0.2% in urban areas. However, the constant military and political crises in the CAR since 2013 have profoundly disrupted their pastoralist way of life. The Mbororo are becoming increasingly drawn to a sedentary lifestyle and are opting for agriculture to survive.

The exact number of Aka Pygmies is unknown but they are estimated to number in the tens of thousands. Around 90% of them live in the forests, which they consider to be their heritage and where they live by their traditional activities of hunting, gathering and fishing. The Aka live in the prefectures of Lobaye, Ombella Mpoko and Sangha-Mbaéré in the south-west, and Mambéré Kadéi in the west.

The Litho are a minority group located in the north of the country. They are semi-nomadic and practise farming, hunting, gathering and fishing.

CAR voted in favour of the UN Declaration on the Rights of Indigenous Peoples in September 2007 and ratified ILO Convention 169 in August 2010. It was the first and only African State to ratify this Convention. On 11 August 2011, under the terms of the ILO Constitution, the Convention entered into force.

The consequences of the 2013 crisis

In 2013, an armed rebellion broke out in the CAR that seized power from the state. This resulted in a period of multiple and serious human rights violations including, among other things, looting, robbery, killings and ransoms. Much of the geographical area occupied by the Mbororo was the theatre of war for the armed groups at that time, who kidnapped and ransomed the Mbororo.

The consequences of the 2013 crisis can still be seen today. The Mbororo are overwhelmingly displaced groups, known as Internally Displaced Persons (IDPs). They have lost virtually all their livelihoods, including their livestock. They live in total vulnerability, either on sites for the displaced, in their villages where they are called "returnees", or in new villages where they have chosen to settle in order to protect themselves from the armed groups and other bandits who continue to ransom them and loot their livestock.

The same is true of the Aka who traditionally live in forest areas but who have been forced to leave the forest to join other communities. The situation is difficult for them and they also find themselves vulnerable without the resources of the forest to rely on.

With this in mind, the World Food Programme (WFP) commissioned a study in 2020 to assess the living conditions of Indigenous populations in CAR generally with a view to drawing the attention of the international and national community to their plight. The report of this study has yet to be published.

The 2020 elections

In 2020, all national and international eyes were on the presidential and legislative elections in CAR. Financial, political and legal priorities therefore revolved around these elections and very little attention was paid to issues of Indigenous rights. Unfortunately, there was no electoral mobilisation of Indigenous Peoples by the government, donors, or other actors working with them, and no initiatives were taken to encourage Indigenous people to register as voters and candidates.

COVID-19

COVID-19 was one of the major events of the year in CAR but, once again, the particular concerns and rights of Indigenous communities were largely overlooked. No specific measures were taken by the government with regard to Indigenous communities. There is still no national plan for the care or protection of Indigenous populations if COVID-19 were to spread among them and this is of great concern.

Non-governmental organisations (NGOs) – such as Centre for Environmental Information and Sustainable Development (CIEDD), Global Ecovillage Network - Central Africa Republic (GEN-RCA) and House of the Pygmy Child and Woman (MEFP) – were the first to advocate for Indigenous communities to be included in the national disease response plan. These same organisations have mobilised resources to conduct field visits to inform the Indigenous populations about the disease, particularly its symptoms and preventive measures. This has enabled the communities to have a better understanding of the pandemic, to better comply with preventive measures and to obtain protective equipment and handwashing kits.

These actions targeted the Aka located in the forest zone in particular. The Mbororo were not really targeted by NGOs because of their mobility during certain seasons and the remoteness of their sites or villages, with poor insecurity.

A few highlights for Indigenous communities

Despite this situation, significant progress has been made by the Indigenous populations of CAR. The Wildlife and Protected Areas Management Code[1] was adopted by the National Assembly in 2020 and Indigenous communities' rights were prominently included. Work to revise the Environmental[2] and Forestry[3] codes began in 2020 and will continue into 2021. These revisions will be important for Indigenous communities. Finally, a national forestry policy that incorporates the concerns of Indigenous Peoples should have been discussed in the National Assembly in 2020. The parliamentary session at which the draft could have been adopted did not take place, however.

Notes and references

1. Presidency of the Republic, Central African Republic. "Portant Code de Gestion de la Faune et des Aires Protegees en Republique Centrafricaine." https://www.apvrca.org/index.php/225-code-de-la-faune/file
2. Journal Officiel de la Republique Centrafricane. "Edition Speciale Loi Portant Code de l'Environnement de la Republique Centrafricaine." March, 2008. http://extwprlegs1.fao.org/docs/pdf/caf105925.pdf
3. Droit Afrique. "République Centrafricaine Code forestier." 17 October, 2008. http://www.droit-afrique.com/upload/doc/rca/RCA-Code-2008-forestier.pdf

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Democratic Republic of the Congo (DRC)

The concept of "Indigenous Pygmy People" is accepted and approved by the government and civil society organisations (CSOs) in the Democratic Republic of Congo (DRC). In the DRC, 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 at around 700,000 (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] They 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 pharmacopeia and medicinal plants. The forest lies at the heart of their culture and living environment.[3]

However, it is little recognised that their traditional knowledge and practices have significantly contributed to preserving the Congolese forests. Worse, Indigenous Pygmy People's 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 ethnic identity loss to lethal conflicts, as recently occurred in Tanganyika and around the Kahuzi-Biega National Park.

Nevertheless, there is hope. In 2020, the DRC showed the world its commitment to protecting and promoting the rights of Indigenous people through several breakthroughs, including some major progress on the proposed Law on the promotion and protection of Indigenous Pygmy People's rights.

The impact of COVID-19

While Central Africa has been relatively less affected by the COVID-19 pandemic than other regions of the world, its effects have been significant on local communities, especially

the Indigenous Pygmy People. Restrictions on international and national travel have resulted in a scarcity of – and inflated prices for – essential goods, aggravating poverty in rural areas in particular. Due to the pandemic, there was limited local authority control of the commercial drivers of deforestation such as artisanal and industrial loggers, increasing the pressures on Indigenous Peoples' home forests. Living in remote and sometimes barely accessible forest areas, Indigenous Peoples have remained poorly – if at all – informed about the pandemic and basic prevention, thus increasing their vulnerability.

Law on the promotion and protection of Indigenous Pygmy People's rights

Since 2008, through their representative organisations at national and provincial level, Indigenous Pygmy People have been working with a group of members from the House of Representatives to propose an "Organic law on the fundamental principles of protection and promotion of Indigenous Pygmy People's rights".[4] This was first tabled in the National Assembly in 2014 but had not been debated at a full session since. 2020 was a pivotal year for Indigenous Pygmy People: on 5 June, the proposal was deemed eligible by the honourable members of the 3rd Parliament of the 3rd Republic.

In November 2020, the proposal was sent for examination by the Sociocultural Commission, the Human Rights Commission and the Commission on Political, Administrative and Legal Affairs of the National Assembly. It was then renamed the "Law on the promotion and protection of Indigenous Pygmy People's rights". It provides hope for the rehabilitation of Indigenous Pygmy People from the injustice and prejudice they have been enduring for many decades.

Based on the Constitution of the DRC established on 18 February 2006,[5] this law highlights the protection and promotion of land rights, environmental rights and cultural rights. These are the guarantors of Indigenous Pygmy People's well-being and development and will secure their effective participation in the DRC's sustainable development.

The law was to be discussed – and hopefully finally adopted – at a plenary session of the National Assembly in December 2020 but political turmoil unfortunately meant that it was postponed to the ordinary sessions of 2021.

Strong message from the President of the DRC on guaranteeing the enjoyment of Indigenous Pygmy People's fundamental rights and promoting their traditional culture and knowledge

In his speech for International Day of the World's Indigenous People in 2020, His Excellency Sir Felix Tshisekedi, President of the Democratic Republic of Congo, concurred with the legislative assembly in reinforcing the DRC's commitment to recognising Indigenous Pygmy People. Important directions were given by the Chief of State for the coming years to "legally protect Indigenous Pygmies' traditional lands and territories as large natural, ecological and collective reserves, according to these people's will and under their control."[6]

Establishment of the National Indigenous People's Development Support Fund (FONADEP) is a sign of the effective progress being made in the Chief of State's commitment.

Support from faith groups to Indigenous Pygmy People to protect DRC's rainforests

Gathered together in the Interfaith Rainforest Initiative of the Democratic Republic of Congo (IRI-RDC),[7] religious communities, faith-based organisations, traditional leaders, local communities, Indigenous people and their institutions have all undertaken to protect the rainforests and the life these shelter and nurture.[8] This initiative thus highlights the Indigenous people's key role in forest protection through their traditional knowledge and practices.

In order to show its commitment, the IRI-DRC has allied with Indigenous Pygmy People to promote the adoption of the law on the promotion and protection of Indigenous Pygmy People's rights. This commitment was further enhanced in the IRI's Declaration of Support to the law on 20 October 2020.

Based on "the acknowledgement of the Dignity of Man created in God's image" and the need to "reconsider the Democratic Republic of Congo's view of and relations with its citizens,"[9] this declaration is a powerful call from these religious and moral authorities to the deci-

sion-makers in various state institutions of the DRC to legally recognise Indigenous people.

Indigenous people, civil society organisations and committed parliamentary members are hopeful that this law will be finally adopted in 2021, during the coming ordinary parliamentary sessions. The prospect of such an adoption ahead of the next Conference of Parties to the Convention on Biodiversity would give strong international resonance to the DRC's commitment to its Indigenous people.

Notes and references

1. World Bank. "République Démocratique du Congo cadre stratégique pour la préparation d'un programme de développement des Pygmées." December 2009. http://documents1.worldbank.org/curated/en/394761468247843940/pdf/511080ESW0FREN1Strategy0Egl0version.pdf
2. ERND."Rapport d'études, 2017, L'expulsion des populations Pygmées du Parc National de Kahuzi Biega: faits, conséquences et perspectives. " pp. 25- 27.
3. Barume, Albert K. IWGIA "Democratic Republic of Congo. " In Indigenous World 2017, edited by Katrine Broch Hansen, Käthe Jepsen and Pamela Leiva Jacquelin, 470-477. IWGIA, 2017. https://www.iwgia.org/images/documents/indigenous-world/indigenous-world-2017.pdf
4. Proposed Law on the promotion and protection of Indigenous Pygmy People's Rights, November 2020, Ordinary session September 2020, 3rd Parliament of the 3rd Republic, National Assembly of the DRC, Chapter V, Art 42-50, Chapter IV, Arts.39-41, Chapter III, Section 3, Arts.28-35.
5. Constitution of the Democratic Republic of Congo, Art.51, page 16, chapter 3 relating to "Collective Rights" and Art. 123 page 31, Title III, section 3 "On the relations between the executive and the legislative"
6. Speech of the Chief of State during the International Day of the World's Indigenous People (JIPA), 9 August 2020.
7. Interfaith Rainforest Initiative. 2021. https://www.interfaithrainforest.org/
8. Interfaith Rainforest Initiative. "Declaration of Interreligious Initiative for the Rainforests of Democratic Republic of Congo." Launch event, 3-5 December 2019. http://www.interfaithrainforest.org/s/declarations/declaration-iri-drc-en.pdf
9. IRI-RDC support for the proposal of the organic law on the fundamental principles relating to the protection and promotion of Indigenous Pygmy People's rights in DRC. 20 October 2020.

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Eritrea

Eritrea is home to a culturally, ethnically, linguistically and religiously heterogeneous society. In spite of this, it has a highly centralised and unitary state. Its government wields complete control and monopoly of the state apparatus, and all national and natural resources belonging to the Eritrean people. With no available legal remedies, the rights of Indigenous Peoples and minorities remain severely curtailed. Eritrea has neither a national legislative nor institutional framework that protects the rights of minorities or other societal groups that lay claim to indigeneity.

In an Eritrean context, reference to Indigenous Peoples is primarily based on the claim of indigeneity made by some Eritrean ethnic groups such as the Afar, Kunama, Saho and Nara.[1] Lately, a newly-formed political movement known as Agazian is also making radical claims of indigeneity. Due to the extremely closed political situation in Eritrea itself, such claims are made outside Eritrea (in diaspora circles) by organisations or advocates representing said ethnic groups. The country does not have either an operative constitution or a functioning parliament. It has never held free and fair national elections. Rights to freedom of association and expression are severely curtailed. The rights of Indigenous Peoples are not formally acknowledged, nor are there any representative organisations advocating for them.

Since 2001, in particular, the country has continued to suffer from an aggravated political crisis that has given rise to widespread and systematic human rights violations, described by a United Nations Commission of Inquiry as amounting to crimes against humanity.[2] Reliable data on the exact numbers of ethnic and linguistic groups in Eritrea, including disaggregated data on the socio-economic situation of Indigenous groups, is rarely available. Eritrea is a State party to the CERD, CEDAW and CRC but not to ILO Convention 169 or the UNDRIP. There is a huge gap between the commitments made in the treaties Eritrea has signed and the government's actual practice.

A continued problem of gross human rights violations

Overall, Eritrea remains a very difficult country not only for Indigenous Peoples' rights but also for enjoyment of fundamental rights and freedoms by its population generally. This is due to the widespread problem of human rights violations in the country, which is clearly documented in the two major reports of the United Nations Commission of Inquiry on Human Rights in Eritrea (COIE).[3] Since publication of the first chapter/article on Eritrea in this annual report (in 2017), the overall situation of human rights, including the situation of Indigenous Peoples' rights in Eritrea, has not shown any meaningful improvement.

In this context, and for the period under review (January to December 2020), this chapter focuses on three major developments that have a direct bearing on Indigenous Peoples' enjoyment of fundamental rights and freedoms in Eritrea. These are developments related to: 1) COVID-19; 2) a newly-erupted armed conflict in the northern province of Ethiopia (the Regional State of Tigray), with far-fetching implications for the Indigenous peoples of Eritrea living along the common border between Eritrea and Ethiopia; and 3) a new claim of indigeneity made by a newly-formed and radical political movement known as Agazian.

The impact of COVID-19

According to official figures from the Eritrean government, Eritrea has one of the lowest numbers of reported cases of COVID-19 in Africa. As of 14 January 2021, it is reported that there had been a total of 1,805 coronavirus cases, from which 1,014 people had recovered and only six people had died. There are 785 patients receiving treatment in hospital.[4] Since March 2020, the country has been in near complete lockdown with far-reaching implications for food security and other vital elements of survival. COVID-19 restrictions include the total lockdown of public transport nationally since March 2020, making people's life difficult. Due to the prevailing lack of transparency and a deep-seated political crisis in the country, the impact of the pandemic on Indigenous Peoples is difficult to gauge accurately. Moreover, in spite of the sustained lockdown,

the government continues to conscript citizens into an indefinite military conscription programme, as noted on 20 September 2020 by the United Nations Special Rapporteur on the situation of human rights in Eritrea.[5]

The implications of an elusive peace with Ethiopia

In July 2018, Eritrea and Ethiopia signed a new peace agreement aimed at resolving a prolonged two-decade-long political stalemate dating back to a 1998-2000 border conflict. There were high expectations for the enduring potential of this new peace agreement. However, the new peace process has been strained due to a deteriorating political crisis in the northern part of Ethiopia (the Regional State of Tigray), with which Eritrea shares its longest border of more than 1,000 kilometres.

Since early November 2020, there has been ongoing armed conflict in the Regional State of Tigray in Ethiopia in which the active involvement of Eritrean troops has been reported by various credible sources, including by a high-ranking Ethiopian army commander (although the Eritrean government has never officially admitted such claims).[6] Armed groups have attacked major refugee camps in Tigray and, as a result, Eritrean refugees in those camps (including those who claim indigeneity) have reportedly been exposed to various levels of danger, such as abduction, killing and forcible return to Eritrea.[7] In a matter of one month, the UN refugee agency (UNHCR) issued two official statements expressing deep concern about the plight of Eritrean refugees in Ethiopia. In an official statement of 14 January 2021, the head of the UN refugee agency said:

> *I am very worried for the safety and well-being of Eritrean refugees in those camps. They have been without any aid for many weeks. Furthermore, and of utmost concern, I continue to receive many reliable reports and first-hand accounts of ongoing insecurity and allegations of grave and distressing human rights abuses, including killings, targeted abductions and forced return of refugees to Eritrea. Reports of additional military incursions over the last 10 days are consistent with open-source satellite imagery showing new fires burning and other fresh signs of destruction at the two camps. These are concrete indications of major violations of international law.*[8]

In relation to this matter, on 27 January 2021 the US government issued its strongest statement since the start of the conflict in which it demanded the immediate withdrawal of Eritrean troops from Tigray and expressed great concern at the forcible return of Eritrean refugees from Tigray to Eritrea by Eritrean soldiers.[9] As far as the plight of Eritrean refugees in the four major refugees camps[10] in Ethiopia is concerned, there is a need for an immediate cessation of hostilities in the area and re-establishment of full protection services by UNHCR and other humanitarian agencies. Since the beginning of the armed conflict in Tigray (in early November 2020), a UN-wide call for full and unimpeded access to the refugee camps has been largely ignored by the Ethiopian authorities, even after the authorities claimed that the "rebellious group" in Tigray had been defeated by the end of November 2020.

New and competing claims of indigeneity

Over the past few years, the Eritrean political scene has seen the emergence of a new and radical political movement, commonly known as Agazian or the Agazian Brotherhood. The term Agazian literally refers to speakers of the ancient language of Geez, which is presently found only in liturgical services, mainly in the Eritrean and Ethiopian Orthodox churches.

In a relatively short period of time, Agazian has attracted a widespread support base in various Eritrean diaspora places. The movement openly avows to establish a Tigrinya Orthodox Christian state in what is now Eritrea and the northern part of Ethiopia (the Regional State Tigray). In so doing, it propagates its political objective by using anti-Muslim and openly militant rhetoric, giving itself the semblance of an extremist and far-right nationalist political organisation, with far-fetching consequences for a deepening of the divisions within the already fractious political landscape of the Eritrean diaspora. One particular element of direct relevance to the discourse on Indigenous Peoples' rights is the movement's claim that goes as follows:

> *According to Agazians, Eritrea's (and northern Ethiopia's) Indigenous population are the Tigrinya speakers, who are Orthodox Christians, and as such virtually all others are considered to be foreign migrants. Agazians define their political*

ideology "not only by the shared identity they claim, but also by a shared enemy — anyone who is not Tirgrinyan and Orthodox Christian, and particularly all Muslims".[11] The movement, which also portrays high level of propensity towards Zionism,[12] has started to challenge traditional conceptions of indigeneity articulated by other smaller Eritrean ethnic groups, such as the Afar, Kunana, Nara and Saho. With the exception of the Kunama, the other three ethnic groups are believed to be entirely Muslim communities.

As a new form of political and/or ethnic identity, there is a need for a thorough investigation of Agazian's claim to indigeneity. This movement is, in part, a continuation of the long history of a dichotomous discourse on identity, framed as Christian Tigrinya and Islamic-Arabic.[13] The movement introduces a new constellation in the Eritrean discourse of Indigenous Peoples' rights. Furthermore, now and in the future, this new development will pose critical challenges to Eritrea's long-awaited transition to democracy, where all issues related to the protection of fundamental rights and freedoms, including all claims of indigeneity, will need to be addressed in a democratic way. The emergence of a radical political movement, of the Agazian ilk, is expected to make the country's forthcoming post-dictatorship era fraught with uncertainty – because it is only in that post-dictatorship era that all outstanding issues and claims to indigeneity can be resolved meaningfully.[14]

Notes and references

1. According to the 2020 IWGIA chapter on Eritrea, the total population of Eritrea is estimated at between 4.4 and 5.9 million. From this, the following figures can be deduced: Afar (between 4 and 12% of total population), Kunama (2%), Saho (4%) and Nara (>1%).
2. United Nations Human Rights Council. "First Report of the Commission of Inquiry on Human Rights in Eritrea". A/HRC/29/42, 4 June 2015.; United Nations Human Rights Council. "Second Report of the UN Commission of Inquiry on Human Rights in Eritrea." A/HRC/32/47, 8 June 2016.
3. Ibid. See also, Tronvoll, Kjetil, and Daniel R. Mekonnen. The African Garrison State: Human Rights and Political Development in Eritrea. James Currey, 2014.
4. Ministry of Information, "Information from the Ministry of Health". 14 January 2021. https://shabait.com/2021/01/14/%e1%88%93%e1%89%a0%e1%88%ac%e1%89%b3-%e1%8a%ab%e1%89%a5-%e1%88%9a%e1%8a%92%e1%88%b5%e1%89%b5%e1%88%aa-%e1%8c%a5%e1%8b%95%e1%8a%93-46/.

5. OHCHR. "Statement of Ms Daniela Kravetz, United Nations Special Rapporteur on the situation of human rights in Eritrea." 75th Summit of the General Assembly, Social, Humanitarian and Cultural Issues (Third Committee, 26 October 2020. https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26439&LangID=E.
6. Reuters. "Ethiopian general says Eritrean troops entered Tigray: Video clip." 7 January 2021. https://www.reuters.com/article/uk-ethiopia-conflict-idUKKBN29C2L4.
7. UNCHR. "Statement attributable to the UN High Commissioner for Refugees Filippo Grandi on the situation in Ethiopia's Tigray region." 11 December 2020. https://www.unhcr.org/news/press/2020/12/5fd3ab2d4/statement-attributable-un-high-commissioner-refugees-filippo-grandi-situation.html.
8. UNHRC. "Statement on the situation of Eritrean refugees in Ethiopia's Tigray region." 14 January 2021. https://www.unhcr.org/admin/hcspeeches/600052064/statement-situation-eritrean-refugees-ethiopias-tigray-region.html.
9. AP News. "US says Eritrean forces should leave Tigray immediately." 27 January 2021. https://apnews.com/article/eritrea-coronavirus-pandemic-africa-ethiopia-kenya-83b90a145d271eb39d664726bd5acbe5.
10. The major refugee camps under attack, with over 100 000 Eritrean refugees, are: Mai Aini, Adi Harush, Shimelba and Hitsats. See note 7 above.
11. Ben Yehuda, Inbal. "The far-right nationalist movement roiling Eritreans in Israel." +972 Magazine, 7 May 2018. https://www.972mag.com/the-far-right-nationalist-movement-roiling-eritreans-in-israel/.
12. In one article, posted on an Israeli website, the founder of Agazian, the controversial Tesfazion Gerhelase, is described as follows: "Tesfazion Gerhelase is a British-Eritrean citizen, a Tigrigna nationalist and Zionist. He is the founder of Agaiazian Media and Education Centre (AMEC), which is dedicated to fighting anti-Semitism and BDS delegitimization of Israel." See Gerhelase, Tesfazion. "Without Israel, the Middle East is lost." Jewish News Syndicate, 19 August 2019. https://www.jns.org/opinion/without-israel-the-middle-east-is-lost/. The movement's website is: https://agaiazian.org/.
13. ¨Bereketeab, Redie. "The politics of language in Eritrea: Equality of languages vs. bilingual official language policy." African and Asian Studies 9 (2010): 168.
14. See also on similar pressing issues, Mekonnen, Daniel. "The right to cross-border identity of individuals with Eritrean and Ethiopian ancestry: International and comparative law perspectives." Ethiopian Yearbook of International Law (2019): 49-79.

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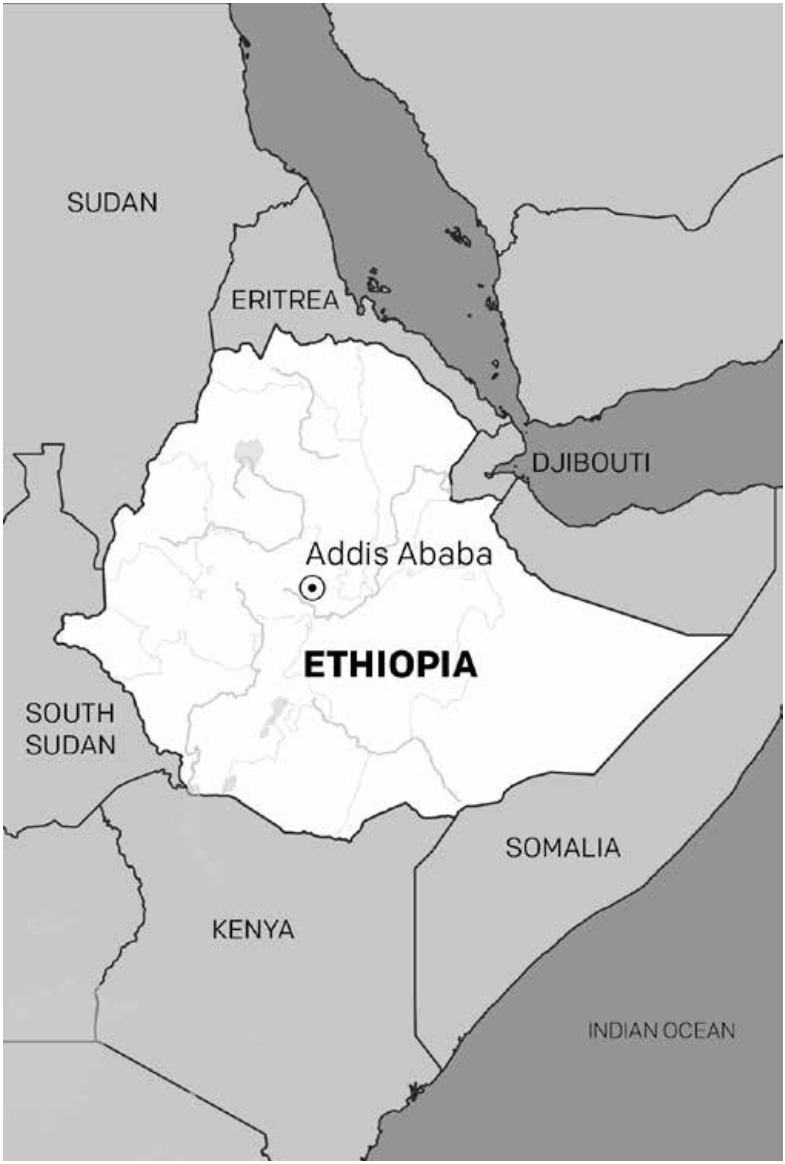
Ethiopia


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 110 million. Around 15% are pastoralists and sedentary farmers who live across the country but particularly in the Ethiopian lowlands, which constitute some 61% of the country's total landmass. There are also several hunter-gatherer communities, including the forest-dwelling Majang (Majengir) and Anuak peoples, who live in the Gambella region.

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 only emphasized the already 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.

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. The implementation of these constitutional provisions is to be determined by law. There is no national legislation protecting Indigenous Peoples, and Ethiopia has neither ratified ILO Convention 169 nor was it present during the voting on the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). Political uncertainty and natural calamities in Ethiopia in recent years have compounded the problems that Indigenous Peoples face there.

Since the political transition of April 2018 that brought Prime Minister Abiy Ahmed to power, Ethiopia has been going through changes at breakneck speed. His ascent to power was mostly received with euphoria and optimism followed by a whirlwind of reforms that saw the release of political prisoners and journalists, the return of activists and political dissidents to the country, the amendment and/or repeal of

draconian legislation, reform of notorious and dysfunctional government offices and institutions, and a rapprochement with neighboring Eritrea.

Paradoxically, the last three years have also witnessed the killing of high government and military officials and unprecedented levels of internal conflict and unrest. The year 2020 saw a dwindling of the political space in the country with the detention of political opposition figures and journalists, open disregard for the rule of law by some state agents, continued turmoil and the break-out of conflict between the Federal Government and the Tigray Regional State in early November.

In this mixed bag of progress and regress, Indigenous communities find themselves in the most uncertain political environment, which has a direct and indirect impact on their livelihoods and survival.

Indigenous Peoples in the context of the prevailing political situation

In the ongoing heated political debate and discourse on the past, present and future of the country, the issue of Indigenous Peoples is conspicuously absent. Politicians, political pundits, academics and activists, who often represent the interests of major and larger groups, and who have abrogated and monopolized responsibility for speaking for the masses, seem to have either conveniently forgotten or are unconcerned about the most marginalized and oppressed communities in the country. This is happening regardless of the fact that most of the ongoing discussions revolve around injustices, discrimination and marginalization, terminology that has become synonymous with the Indigenous Peoples' cause. This is perhaps an indication that the elite of the country are oblivious to the deplorable situation of these communities and, as a result, diversity and co-existence continue to be debated among and within the context of the political heavy-weights.

With the political transition of April 2018 and the ensuing reforms, many had hoped that the injustices against Indigenous Peoples and their territories would be addressed and redressed. Contrary to these expectations and hopes, with the exception of a few cases where the lease agreements of investors who failed to cultivate the lands they had leased were cancelled, the status quo has been maintained, leaving many pas-

toralists – particularly in SNNPR (Southern Nations, Nationalities, and Peoples' Region) and Gambella regional states – landless and displaced.[1] Even more worrying are reports of continued harassment and intimidation of Indigenous communities by the state. At the end of 2019, there were reports of arbitrary detention and abuse of the Bodi and Mursi communities of the Lower Omo Valley by security forces,[2] and a year later the government is yet to officially address and investigate this matter.

In this regard, the Legal and Justice Affairs Advisory Council, an independent body of legal professionals under the auspices of the Office of the Attorney General, is doing laudable work in spearheading the reform of the justice and legal system. Thus far, however, the Council has shied away from discussing or even considering the issue of Indigenous Peoples as part the ongoing legal reform.[3]

Policy developments

In a laudable move, a draft policy on pastoralism developed by the Ministry of Peace was adopted by the Council of Ministers in February. A number of consultations were also reportedly held in the lead-up to the adoption, although it is not known if concerned communities were consulted. Since the policy is yet to be made public and implementation has not started, it is not possible to comment on the content or practical significance of the policy to the lives and livelihood system of pastoralists.

On the economic front, in a clear departure with the previous administration, the government has embarked on a policy of liberalization. It is therefore opening up the economy by privatizing a number of economic and financial sectors. In doing so, some consultations have taken place albeit limited to the urban elites who, needless to say, represent a significantly small proportion of the country's population. Moreover, the new administration's economic policies and projects seem to be urban-centered. For instance, in the past two and a half years, multi-million dollar megaprojects aimed at beautifying urban centers, mainly the capital Addis Ababa, have been underway. Substantial amounts of money are also being spent on refurbishing government offices and premises. While these contribute towards rebranding and changing the image of cities and towns, priority should be given to transforming the

rural economy for two compelling reasons. First, the country's economy is predominantly agriculture- and agro-pastoral-based. Second, over 85% percent of the population live in rural areas.

One commendable policy of the current administration that will have a positive impact on the lives and livelihoods of Indigenous communities is the Green Legacy initiative. Launched in 2019 by Prime Minister Abiy Ahmed, the initiative is part of the government's plan to plant 20 billion seedlings by 2024. The government is aggressively pursuing the Green Legacy policy by opening up city parks and recreational centers as well as devoting time, money and resources to planting seedlings across the country.[4] If implemented faithfully, this reforestation effort will help mitigate the adverse effects of deforestation and climate change that are disproportionately affecting pastoral and hunter-gatherer communities.

Impact of political turmoil and conflicts on Indigenous Peoples

The longstanding and intractable conflict between the Afar and Issa/Somali communities that had subsided for some time resurged in December 2018 and has continued to date.[5] Over the course of 2020, more than 150 Afars and Somalis are believed to have died, scores more been injured and properties destroyed as a result of the fighting between these two Indigenous communities. The fighting is caused by a land dispute over grazing land as well as claims to three contested *kebelles*/towns that were handed over to the Afar region in a 2014 Agreement.[6]

The situation in Guji and Gedeo is still uncertain although almost all of the internally-displaced persons (IDPs) who were displaced in the 2018 conflict between the two communities have now returned to their homes. The conflict could relapse at any time unless the root causes are addressed.[7]

In the north, since the outbreak of the conflict in early November between federal and regional forces in Tigray, nearly 54,000 people have been displaced to Sudan (as of 26 December), with millions more displaced internally.[8] Although information is scarce, the fighting will have a heavy toll on the Kunama Indigenous people who live in the border area between Eritrea and Ethiopia.

Confluence of natural calamities

2020 has been one of the toughest and roughest years in Ethiopia. In addition to the protracted and mutating political turmoil, COVID-19, flooding and a locust outbreak have created a dire humanitarian crisis in the country. Heavy rainfall has led to flooding, resulting in the destruction of crops, loss of livestock and displacement of people. Swarms of multiplying desert locusts have also been destroying pastures and crops, leading to further food insecurity.

Impact of COVID-19

The first case of COVID-19 was reported in mid-March 2020 and, in the first few weeks, disaggregated data by region were available. As the cases started to surge, however, the health system became overwhelmed and now only total numbers of new cases, deaths and recoveries are reported. This has made it difficult to obtain reliable data from official sources on the impact that the pandemic is having on Indigenous communities living in various corners of the country.

The low population densities common to pastoral areas could reduce transmissibility but the movement inherent to pastoralism increases mixing and contact, thereby increasing transmissibility.[9] Besides, pastoralists generally have poor health compared to the national average, with pre-existing acute and chronic health conditions and widespread malnutrition that puts them at a higher risk. Due to limited access to care, for example, pastoralists in Ethiopia receive inadequate treatment for tuberculosis thus increasing their susceptibility to COVID-19.[10]

Moreover, movement restrictions due to COVID-19 affect desert locust control, human and livestock disease prevention and control, and disaster relief. Many pastoral areas in Ethiopia have also been flooded due to heavy rainfalls and the overflow of dams and rivers. Emergency support personnel coming from population centers to pastoral areas act as a source of infection, and movement restrictions limit emergency support.[11]

The closure of livestock markets in the early days of the pandemic adversely impacted food security and livelihoods as pastoralists need to sell animals to purchase food and other basic items. Fears of con-

tracting the virus have also prevented many pastoralist women from accessing essential reproductive and other health services, which has again had a serious impact on their well-being. The problem is further compounded by the relatively low density of healthcare facilities and health professionals in areas inhabited by Indigenous communities.[12]

Desert locust invasion

Heavy rainfall in many parts of Ethiopia encouraged vegetation growth, providing favorable ecological conditions for desert locust breeding. This has resulted in the worst locust invasion in 25 years. The locust swarm has damaged an estimated 200,000 hectares of land since January.[13] Over one million Ethiopians have suffered crop losses due to the locust outbreaks and the loss of crops and animal pasture has contributed to 11 million Ethiopians being forecast to go hungry in the first half of 2021.[14]

Agro-pastoral and pastoral communities in Somali, Oromia and Afar regions have been hit the hardest due to their pre-existing food insecurities. Desert locust damage has also diminished browsing and pasture availability for livestock, which reduces the productivity of their animals.[15] Reports indicate that up to 1.3 million hectares of pasture and browsing were affected. Communities estimated a 61% reduction in the pasture in the Somali region, 59% in Afar, 35% in SNNPR and 31% in Oromia. The sale of livestock has likely eroded the resilience of livestock keepers, particularly in Afar, Somali and Oromia regions where the trend was observed.[16]

Furthermore, the conflict in the country's Tigray region made it more difficult to proceed with efforts to control the locust invasion, while also restricting access to humanitarian support.[17]

Flooding

Heavy rainfall between June and September 2020 and the discharge of filled dams in some areas caused flooding and landslides, displacing people in several parts of the country.[18] Reports indicate that close to 1,017,854 people were affected and 292,863 people displaced by floods

across the country. Displacements occurred mainly in Somali, Oromia, Afar, SNNP and Gambella regions,[19] where most of the country's Indigenous Peoples are found.

In Gambella region, in addition to the 12,096 people affected by the July 2020 floods, there were at least 7,136 people affected by flooding in 2019 who are still dependent on relief food assistance for survival. In addition, 1,000 hectares of maize and sorghum cropland was damaged by flooding. Affected communities are also reportedly suffering from diseases, including pneumonia and malaria. Twenty-two water schemes have further been damaged across the affected area, adding an additional burden on women who must travel longer distances to fetch water.

Meanwhile in Somali region, flooding on 4 August affected 34,974 people. Earlier flooding in the region (April 2020) had affected 404,172 people. More than 34,006 hectares of cropland was completely destroyed, and 10,739 livestock killed.

In northern Ethiopia, river and flash floods in July and August 2020 affected 67,885 people, including 40,731 people displaced in Afar region. Some 3,714 livestock also died, further affecting the food security of pastoralist communities in the area.[20]

Due to little or no attention being given to numerically-smaller Indigenous groups in the Lower Omo Valley and western Ethiopia areas, coupled with their inaccessibility, it has been impossible to obtain information on their situation and the impact that the confluence of natural and man-made disasters has had on their well-being and livelihoods. This is yet another bitter reminder of how these communities are forgotten and marginalized, and how they continue to live on the periphery of the state.

Notes and references

1. Cochrane, Logan and Danielle D. Legault, "The Rush for Land and Agricultural Investment in Ethiopia: What We Know and What We Are Missing." MDPI, 22 May 2020.
2. Maisel, Naomi and Anuradha Mittal. "As Ethiopia's Abiy Ahmed collect the Nobel Peace Prize, abuses in the Lower Omo Valley must be addressed." Lifegate, 10 December 2019.
3. Reports and Work Plans of the Legal and Justice Affairs Advisory Council available at http://ljaac.gov.et/ResourceCenter/index/2

4. Federal Democratic Republic of Ethiopia, Office of the Prime Minister. "Green Legacy." https://pmo.gov.et/greenlegacy/
5. Yasin, Abubeker. "Between Hope and Despair: Reflections on the Current Political Developments in Afar.", in Ethiopia in the Wake of Political Reforms, edited by Melaku Geboye Desta et al, 453. 2020.
6. The Somali Regional State withdrew from the Agreement in 2019 citing a lack of constitutional basis for the agreement, a failure to consult the affected populations, coercion and bad faith. (Addis Standard. "News: at least 27 killed in the clashes in the border between Afar, Somali Regions." 29 October 2020. https://addisstandard.com/news-at-least-27-killed-in-clashes-in-the-border-between-afar-somali-regions/) The Afar people. on the other hand. blame the Federal Government for siding with the Somali Regional State and the current Afar Regional leadership for being complicit (See endnote 5).
7. Several factors have contributed to the conflict and the resulting causalities and displacements. However, identity politics, claims of marginalization and domination and the quest for self-governance have played a key role in brewing tension and fueling conflict between these two communities.
8. World Food Programme (WFP) and Famine Early Warning System Network (FEWS Net). "Ethiopia Food Security Outlook Update." December 2020. https://reliefweb.int/sites/reliefweb.int/files/resources/ETHIOPIA_FSOU_December%202020_Final.pdf
9. Griffith, Evan F., et al. "COVID-19 in pastoral contexts in the greater Horn of Africa: Implications and Recommendations." Pastoralism 10, 22 (2020). https://doi.org/10.1186/s13570-020-00178-x
10. Ibid.
11. Ibid.
12. Ibid.
13. Aljazeera. "Ethiopia struggles to suppress desert locust infestation." 21 October 2020. https://www.aljazeera.com/gallery/2020/10/21/in-picture-ethiopia-struggles-to-suppress-desert-locust-infestat
14. New Business Ethiopia News. "Food insecurity, conflict deteriorate Ethiopia's humanitarian situation." New Business Ethiopia, 21 December 2020. https://newbusinessethiopia.com/tragedy/food-insecurity-conflict-deteriorate-ethiopias-humanitarian-situation/?utm_source=ICPAC_NEWSLETTER&utm_campaign=86e60cf7da-EMAIL_CAMPAIGN_2019_02_25_06_47_COPY_01&utm_medium=email&utm_term=0_0ea0a0abaf-86e60cf7da-
15. ACAPS. "ACAPS Briefing Note: Locusts in Ethiopia." 15 November 2019. https://reliefweb.int/sites/reliefweb.int/files/resources/20191115_acaps_briefing_note_locusts_in_ethiopia.pdf
16. OCHA Humanitarian Response. "Impact of Desert Locust Infestation on Household Livelihoods and Food Security in Ethiopia." Joint Assessment Findings, April 2020. https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/assessments/desert_locust_impact_assessment_report_for_ethiopia.pdf
17. New Business Ethiopia News. "Food insecurity, conflict deteriorate Ethiopia's humanitarian situation." New Business Ethiopia, 21 December 2020. https://newbusinessethiopia.com/tragedy/food-insecurity-conflict-deteriorate-ethiopias-humanitarian-situation/?utm_source=ICPAC_NEWSLETTER&utm_campaign=86e60cf7da-EMAIL_CAMPAIGN_2019_02_25_06_47_COPY_01&utm_medium=email&utm_term=0_0ea0a0abaf-86e60cf7da-
18. OCHA Relief Web. "Ethiopia: Floods - Flash Update No. 3, as of 18 August 2020."

Situation Report, 18 August 2020. https://reliefweb.int/report/ethiopia/ethiopia-floods-flash-update-no-3-18-august-2020

19. OCHA Humanitarian Response. "Flood Response Plan, Ethiopia." 2020 Kiremt Season Floods, September 2020. https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/ethiopia_-_flood_emergency_response_plan_for_2020_kiremt_season_16_sep_2020.pdf

20. OCHA Humanitarian Response. "Joint Government – Humanitarian Partners National Flood Contingency Plan." 2020 Kiremt Season, June 2020. https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/flood_contigency_plan_june_2020.pdf

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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 no specific legislation on Indigenous Peoples and has yet to adopt the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) or ratify International Labour Organization (ILO) Convention 169. However, Kenya has ratified the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the Convention on the Elimination of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC).

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 mi-

norities and marginalized groups. Under Articles 33, 34, 35 and 36, freedom of expression, the media, and access to information 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.

COVID-19 and its impact on Indigenous Peoples in Kenya

COVID-19 presents a new threat to the health and survival of Indigenous Peoples in Kenya. The country was unprepared to tackle the crisis in terms of allocating resources, personnel and creating awareness of the virus. Due to the remoteness and vastness of the areas occupied by Indigenous Peoples, their access to health services are not adequate, making them the most "vulnerable" health category in the country.

The interaction between Indigenous Peoples and other communities and the exchange of goods and services were seriously and negatively impacted due to the closure of markets and the stringent COVID-19 curfew rules. The income that Indigenous Peoples predominantly depend on from livestock trading, sale of honey and other products declined rapidly. The interruption in the movement of goods and services due to the lockdown increased the food insecurity of Indigenous Peoples since they could no longer purchase alternative foodstuffs such as cereals, which they normally purchase on market days. Although inter-communal sale of livestock continued, the prices were lower than normally as the animals were being purchased at the farm gates.[1]

The COVID-19 pandemic also negatively impacted young Indigenous people engaged in formal employment within the tourism industry. Many tourism investments, wildlife sanctuaries and conservancies are located on the lands of Indigenous Peoples and local communities, and the COVID-19 pandemic with its travel restrictions and lockdowns has led to the closure of tourism facilities[2] and businesses. The pastoral tour guides who depend on this wildlife tourism industry have lost

touch with their traditional livelihood systems and have therefore been left without a fall-back option.

The Ministry of Health developed a strategy to provide national statistics on the COVID-19 pandemic. The statistics mention specific counties but they do not disaggregate the data in a way that Indigenous Peoples can be identified. The epidemiological reports show that, from March 2020 to the end of December, the cumulative numbers of confirmed coronavirus cases in some of the northern counties (where many Indigenous people live) were: 1,025 in Laikipia, 160 in Samburu, 225 in Isiolo, 151 in Marsabit and 958 in Turkana.[3] Due to the lack of mass testing equipment and the remoteness of the areas in which Indigenous Peoples live, relatively few COVID-19 cases were detected or reported among Indigenous people.

The COVID-19 pandemic has also offered some opportunities for reviving traditional medicine as a preventive measure. It has also led to innovation among the Indigenous communities – where water is scarce – to make sure they are following the hand washing guidelines by converting 5-litre cans into tip-taps (a tip-tap is a simple structure made from readily available materials – families can wash their hands by pressing a lever with their foot).[4]

On the other hand, COVID-19 containment measures have led to human rights violations and brutality by the security forces, and increases in crimes and homicides, gender-based violence, physical battering and sexual harassment and rapes, early pregnancies among school-going girls, school drop-outs among youth, together with a loss of economic livelihoods and increased unemployment. There are thus many wounds to be healed.

The Kenyan government has come up with a COVID-19 recovery strategy and, prior to this, it was lobbying the financial lenders for waivers to cushion businesses from collapse by extending the loan repayment periods. Recovery kitties are in place but they unfortunately have stringent requirements that Indigenous people are unable to meet because securing financial recovery assistance through collateral arrangements is not possible in relation to commonly-held lands that are collectively used.

Due to COVID-19, the authorities instituted a ban on conducting traditional rites of passage ceremonies for boys in pastoralist communities. Such a ban has never been seen before and it led the community elders to organize and lobby the government to allow the ceremonies to

be performed while observing COVID-19 guidelines, with shorter periods for the ceremonies. The dialogue was held with the county administrations in Samburu and elsewhere, and they agreed to the community elders' proposals, including the observance of COVID-19 guidelines and hygiene procedures. The pastoral organization IMPACT rendered rapid assistance in terms of providing information through the use of vernacular radio stations, songs and vehicles mounted with public address systems and it provided food and personal protective equipment (PPE).[5]

Forest issues

Kenya has a host of laws and policies (18 in all) that relate to forest management[6] with overlapping roles that require harmonization. The lack of clarity of roles and responsibilities has exacerbated the ongoing human rights violations towards forest communities who identify with the forests as their community lands and whose tenure rights are not recognized.

In 2020, Community Land Action Now (CLAN), a network of local rural community CBOs and NGOs, pushed for recognition of the forest communities and challenged the Draft National Forest policy, which implies that the government will manage all Indigenous forests, as noted in paragraph 4 of section 4.2 of the policy. It also challenged the continuing harassment of the Ogiek and Sengwer peoples and the demolition of 300 Ogiek homes in the Mau forest and of 28[7] Sengwer homes in the Embobut forest.[8] The bullying and use of excessive force by Kenya Forest Service (KFS) officers, including extra-judicial killings among forest communities, are taking place with the aim of driving them out of the forests based on unfounded allegations of illegal activities within them.

Given the ongoing legal challenges affecting the KFS in local, regional and international courts, there is need to scrutinize policy statements relating to Indigenous and forest-based communities. KFS has issued some problematic policy statements relating to Indigenous and forest-based communities that are a cause for concern.[9] These include statements such as:

> *Three of the five main water towers of Kenya host Indigenous communities. They are the Ogiek (Mt Elgon and Mau) and the Segwer of Cherengani Hills. Their traditional way of life has*

> *changed and their livelihood activities now include livestock grazing and food crops production that are not compatible with forest conservation. These livelihoods activities have compromised the integrity of ecosystems and the services they provide, such as water, to the communities in the lower catchment.*[10]

If such statements are not checked carefully and if they do not recognize the critical role of Indigenous and forest communities' custodianship and ownership, this could result in the forest sector reverting to top-down governance policies, largely utilizing command and control mechanisms.

CLAN organized Zoom events with the international community and facilitated the forest community leadership representatives to come up with a communiqué that was shared with relevant authorities on the unfair treatment and human rights violations committed against the forest communities. The communiqué also demanded a halt to the continuing loss of woodlands and forests on untitled community lands, including via gazettement of such lands as Public Forests. The communiqué emphasized that the Draft National Forest Policy should explicitly pledge that state actors will actively assist every community in Kenya living on community land to bring these existing resources (lost woodlands and forest within untitled community lands) under their focused protection as Community Forests.[11]

Community land progress and new challenges

The progress in securing community lands has seen a break-through as a result of the sustained momentum for self-organization among pastoral communities under the former group ranches arrangement. The pastoralist communities have been at the forefront of seeking to implement the Community Land Act of 2016, mobilizing their resources and organizing meetings and knocking on the doors of the Cabinet Secretary of Land. The milestone that ignited hope that this might be possible was the fact that three pastoralist communities had registered their community lands and acquired titles by the end of 2020. These communities are the Ilngwesi and Musul communities in Laikipia North Sub-county (securing 12,000 ha for over 20,000 people) and the Olkerin

Community in Kajiado county (5,000 ha for 3,000 people). The delay in government taking up its roles and responsibilities under the Community Land Act became an opportunity for the pastoralist CSOs in terms of pursuing and finding avenues for the implementation of the Act, both at the national and county levels with the devolved county governments.

Ongoing constitutional review

There is, via the Building Bridges Initiative (BBI), an ongoing initiative for a national constitutional review whereby a commission was set up to gather the views of the public and come up with recommendations that will lead to a referendum on the constitutional review. The committee's report was acceded to by the president in 2020 and it is being disseminated at county level. The Pastoralists Parliamentary Group and the Frontier Counties Development Council have demanded to be heard by the BBI steering campaign team and demanded that their views and concerns be incorporated into the final report. Notable issues of concern for pastoralists and Indigenous Peoples are equity in resource allocation, representation, gender parity, the needs of Persons with Disabilities, and protection of community lands. Regarding community land protection, they emphasize that pastoralism is the most viable land use practice in the drylands and that pastoralists' lands must be recognized by government and policy-makers as a key factor for production and appropriate land use and as an important sector for the national economy and peoples' livelihoods.[12]

Notes and references

1. National Drought Management Authority (NDMA). "Marsabit County, Drought Early Warning Bulletin for May 2020." May, 2020, p.10. https://www.ndma.go.ke/index.php/resource-center/send/14-marsabit/5644-marsabit-may-2020
2. Northern Rangelands Trust (NRT). "The community-level impact of COVID-19 in northern and coastal Kenya - insights from NRT." 2021. https://www.nrt-kenya.org/covid19-impact
3. Statista. "Cumulative number of confirmed coronavirus (COVID-19) cases in Kenya as of February 16, 2021, by county." Kenya, 2021. https://www.statista.com/statistics/1136519/cumulative-coronavirus-cases-in-kenya-by-county/
4. Send a Cow. "Tip Tap." 2021. https://sendacow.org/us/product-us/tip-tap-2/
5. "Covid-19 IMPACT RAPID RESPONSE report for Samburu East Constituency and part of Mukogodo East Ward, 27 April." July, 2020, p.2. Unpublished report.

6. Republic of Kenya, Ministry of Environment and Forestry. "Draft National Forest Policy, 2020." 19 May 2020, pp.13-14. http://www.environment.go.ke/wp-content/uploads/2020/06/Draft-Forest-Policy-19May-2020-.pdf
7. Kenrick, Justin. "Sengwer call for end to human rights violations by Kenyan authorities following burning of 28 homes." Forest Peoples Programme, 14 July 2020. https://www.forestpeoples.org/en/sengwer-call-for-end-human-rights-violations-kenyan-authorities-after-burning-of-28-homes
8. Community Land Action Now (CLAN). "Kenyan Report illegal Evictions during Covid-19." CLAN Press release, 23 July 2020, p.1. https://www.forestpeoples.org/sites/default/files/documents/2020.07.23%20CLAN%20Press%20Statement_FINAL_.pdf
9. Forestry Society of Kenya. "Forestry Professionals Comments on the Draft National Forest Policy 2020." Section 2.12 on Indigenous and Local communities in the Draft National Forest Policy. July 2020. http://fsk.or.ke/2020/07/forestry-professionals-comments-on-the-draft-national-forest-policy-2020/
10. Republic of Kenya, Ministry of Environment and Forestry. "Draft National Forest Policy, 2020." 19 May 2020, Section 2,12.1. http://www.environment.go.ke/wp-content/uploads/2020/06/Draft-Forest-Policy-19May-2020-.pdf
11. Community Land Action Now (CLAN). "Draft CLAN submission on Forest Policy to the Committee Ministry of Environment and Forestry." July 2020. Unpublished report.
12. Cheruyot, Kevin. "Pastoralists Parliamnetary Group wants their views to be integrated in BBI report." The STAR, 3 November 2020. https://www.the-Star.co.ke

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Libya

MEDITERRANEAN SEA
TUNISIA
Tripoli
ALGERIA
LIBYA
EGYPT
NIGER
CHAD
SUDAN

The Amazigh form the Indigenous population of Libya. They 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 south-east, 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. They are originally from the Tibesti plateau in Chad and they 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 recognise Libya's "Arab-Islamic identity".

Following the 2011 "revolution", a "Provisional Constitutional Council" submitted a draft new Constitution in 2017 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 dis-

criminatory 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.

Civil war continues, with less intensity

For Libya, 2020 represented a continuation in the backdrop of civil war that has negatively affected the population's living conditions. The risks of a loss of life or injury are still present and public infrastructure (health, education, communication infrastructures, etc.) has been destroyed or seriously damaged, especially in the cities.

The country still has two parliaments and two governments, one in Benghazi in the east of the country and the other in Tripoli, the two waging a merciless war with disastrous consequences for the population. In addition to these two major players, there are dozens of armed militias controlling different territories and economic interests (oil and gas fields, export ports, etc.).

This war is largely being fueled and exacerbated by interference from foreign states such as Egypt, Russia, the United Arab Emirates, Qatar, Turkey, the United States, France, the United Kingdom and others, all seeking their share of the country's natural resources. These countries provide soldiers, equipment, funding, and logistical and diplomatic support to the warring parties. Some are even testing their new weapons, such as guided missiles and drones, in the country. Stephanie Williams, the UN Special Envoy in Libya states that: "Libya is turning into an experimental field for all kinds of new weapons systems, with foreign supporters of its warring parties shipping in arms and fighters

in violation of an embargo".[1] The UN arms embargo on Libya[2] has never been enforced.

On 19 January 2020, Germany hosted a "Libya Conference" in Berlin under the auspices of the UN, bringing together the main governments involved in Libya: Russia, Turkey, the United States, France, Italy, the United Kingdom, Algeria, Egypt, the United Arab Emirates and Germany. The participants promised "a permanent ceasefire", respect for the "arms embargo" and an end to all foreign "interference" in the country. Apart from this solemn declaration, however, no timetable or methodology for its implementation was decided upon. The general public see this as a mere declaration of good intent without any real political will to solve the Libyan crisis.[3]

Indigenous communities have adopted different strategies depending on whether they live in urban areas or in their traditional territories. In the city of Tripoli, the Amazigh – who make up about a quarter of the population – have been forced to participate in the war in one way or another, alongside the Tripoli government. In their territories, both in the north and in the south, they have more or less adopted a strategy of withdrawal and self-organisation as a way of protecting themselves from the effects of war and meeting the collective needs of their members.

The outbreak of the coronavirus pandemic in the spring of 2020 reduced the number of armed clashes, and the intensity of the civil war has subsequently decreased significantly. Indigenous communities have, however, found themselves facing a new danger: that of the coronavirus pandemic.

A precarious life for Libya's Indigenous Peoples

In the absence of a government capable of protecting them and taking care of their needs, Indigenous communities have attempted to self-organise in accordance with their autonomous traditions in order to collectively face up to the challenges ahead.

In the Amazigh territories west of Tripoli, it is thus the local authorities that form the decision-making power and are providing essential public services (health, education, security, etc.) as best they can.

And yet even during this multidimensional crisis, the Amazigh continue to face discrimination. In a public speech in August 2020, the

Prime Minister of the Tripoli government declared that it was time to reactivate the draft constitution of 2014, rejected by both Amazigh and Toubou because it discriminated against them. A government circular was likewise sent to all local authorities reminding them not to include non-Arabic first names in the register of births. Faced with strong protests from Amazigh representatives, this circular was finally withdrawn. Amazigh and Toubou are also discriminated against in terms of accessing jobs and obtaining positions of responsibility in companies and the state administration. For example, in the gas port of Melitta, near At-Willul (Zwara), in Amazigh territory, only 10% of the 1,300 employees are Amazigh.

In the south, the Kel-Tamasheq (Tuareg) and the Toubou suffer specific discrimination dating back to Gaddafi's time: that of the administration's refusal to grant Libyan nationality to more than 100,000 inhabitants of this region. Following the "revolution" of 2011, the government introduced a national identity number for all Libyans[4] but this is denied to tens of thousands of people belonging to the Kel-Tamasheq and Toubou communities. This means these Libyans are "undocumented" and therefore have no identity cards and thus no access to school, public health services, or any other public service, nor can they obtain a salaried job. The complaints addressed to the Libyan administration since 2011 have fallen on deaf ears.

The other challenge for the inhabitants of this region is the poverty caused by their socio-economic marginalisation. This region has oil wells controlled by the government or northern militia but the local population receives none of the income generated by these resources, which are exploited with the help of foreign companies. They are entitled only to take on menial jobs in the extractive industries.

Citing security reasons, Algeria regularly closes its border with Libya for long periods of time, preventing trade between the Kel-Tamasheq communities living on both sides of the border. Family visits and traditional trade between the areas of Ghat in Libya and Djanet in Algeria are often abruptly interrupted, preventing the exchange of basic necessities such as food and medicines. This problem results in repeated food and health crises, causing stress and further deterioration in the families' living conditions.

The Toubou are a non-Arab community in Libya, as are the Kel-Tamasheq, their neighbours in southern Libya. As a result, they have

been victims of racism and marginalisation since the time of Gaddafi. They do not have access to the resources on their territory and have to resort to weapons to defend their territory.[5] They sometimes form their own militia for the autonomous defence of their lands or sometimes they ally with the Kel-Tamasheq or with either the army of General Haftar or that of the Tripoli government.

The Toubou and Amazigh of Libya are also excluded from political affairs. Whenever representatives of the communities and regions of Libya meet to discuss a way out of the country's ten-year-long crisis, representatives of the Amazigh and Toubou communities are never invited. This remained the case for the inter-Libyan meeting that took place in Tunis in November 2020. Hicham Ahmadi, member of the High Council of the Amazigh of Libya noted on this subject: "Despite our numerous meetings with representatives of the United Nations Support Mission in Libya (UNSMIL), we were not invited".[6] The Amazigh and Toubou therefore formed an alliance in September 2020 called the "Union of Indigenous Peoples of Libya" aimed at taking forward their demands and defending their rights.

The non-Arab Indigenous communities in Libya propose and desire a federal state with autonomous status for their territories within the context of the right to self-determination. This could be a solution that would preserve the rights and interests of each party as well as ensure peace.

Indigenous communities in Libya in the context of COVID-19

Amnesty International is alarmed that:

> *Libya's public health system has been undermined by years of armed conflict and insecurity, including attacks on medical facilities, the exodus of qualified medical personnel and frequent militia interference in the provision of medical services. In addition to these general risks, pre-existing discrimination against ethnic minority groups such as the Tabu and Tuareg create additional barriers to their access to healthcare.*[7]

The presence of numerous rival armed groups and fighting for control of territory and wealth makes travel to healthcare centres dangerous. Moreover, they are all controlled by one militia or another. As a result, the fear of violence discourages patients from attending medical consultations. Hospitals and dispensaries lack equipment and hygiene conditions are deplorable. No special government welfare measures have been enforced. Members of the Toubou and Tuareg communities face additional barriers in accessing public healthcare as they do not possess identity documents.[8]

Libya's Indigenous communities have, however, been successful in limiting the spread of the COVID-19 pandemic by establishing their own autonomous services for organising and monitoring the lockdown, limiting access to their territories and using traditional medicines.

Notes and references

1. Reuters Staff. "Libya turning into 'experimental field' for arms as war heats up -UN." Reuters, 23 April, 2020. https://www.reuters.com/article/libya-security-idUSL5N2CB738
2. United Nations Security Council. "Security Council resolution 2473 (2019)." 6 October, 2019. https://digitallibrary.un.org/record/3808759?ln=en
3. Courrier International. "Libye: à la conférence pour la paix à Berlin, le bal des hypocrites [Libya: at the Peace Conference in Berlin, the hypocrites' ball]." 20 January, 2020. https://www.courrierinternational.com/article/opinion-libye-la-conference-pour-la-paix-de-berlin-le-bal-des-hypocrites
4. Law 8 - 2014, Article 7: *"All ministries and administrative units of the government and institutions, civil and military bodies, public companies and the like shall use the national number assigned to each Libyan citizen in the payment of all salaries and remuneration of all administrative, financial and economic procedures related to the Libyan state. All the parties mentioned shall suspend the salary, bonus or financial entitlement of any Libyan citizen in case he fails to submit the national number assigned to him. The aforementioned parties shall not complete any financial, administrative or economic activities for any Libyan citizen except by the national number"*
5. Said, Asma. "Libye: Le Fezzan, une région en lutte contre sa marginalisation [Libya: Fezzan, a region struggling against its marginalization Orient] XXI, 24 December, 2020. https://orientxxi.info/magazine/libye-dans-le-fezzan-toubous-et-touaregs-entre-division-et-abandon,4379
6. Bakir, Assia. "Sans les Amazighs et les Toubous, il sera impossible de construire une stabilité politique en Libye [Without the Amazigh and the Toubou, it will be impossible to build political stability in Libya]."El-Watan, 14 November, 2020. https://www.elwatan.com/edition/international/hichem-ahmadi-membre-fondateur-du-haut-conseil-des-amazighs-de-libye-hcal-sans-les-amazighs-et-les-toubous-il-sera-impossible-de-construire-une-stabilite-politique-en-

libye-14-11-2020
7. Amnesty International. "Libya: Historic discrimination threatens right to health of minorities in the south amid COVID-19." 20 April, 2020. https://www.amnesty.org/en/latest/news/2020/04/libya-historic-discrimination-threatens-right-to-health-of-minorities-in-the-south-amid-covid19/
8. Ibid.

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Morocco

The author is not responsible for the content of this map

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 it and instead claim a rate of 65 to 70%. This means that the Amazigh-speaking population could well number around 20 million in Morocco and around 30 million throughout North Africa and the Sahel as a whole.

The Amazigh people founded an organization called "Amazigh Cultural Movement" (MCA) to defend their rights. It is a civil society movement based on the universal values of human rights. Today there are more than 800 Amazigh associations established throughout Morocco.

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 a 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. The parliament finally adopted in 2019 the organic law for the implementation of article 5 of the constitution, after several years of waiting. Work to harmonize the legal arsenal with the new Constitution should begin.

Morocco has not ratified ILO Convention 169 and has not voted against the United Nations Declaration on the Rights of Indigenous Peoples.

Context of COVID-19

COVID-19 has caused hundreds of thousands of deaths around the world. The African continent has been least affected so far but the scourge has gained ground and deaths are in the thousands. The World Health Organization (WHO) called on African coun-

tries to prepare for the worst and, following this call, several countries declared a total or partial lockdown.

It was against this backdrop that Morocco experienced its first case of COVID-19 on 3 March 2020. It then declared a total lockdown lasting more than three months. Morocco's preventive approach to the management of COVID-19 has been praised by WHO. A support fund was created to assist destitute families during the lockdown, as this was accompanied by a total work stoppage. The textiles industry mobilised to manufacture masks, and the tech industry redirected its production towards the manufacture of health and para-medical equipment. The education sector adapted to distance learning. Using this approach, Morocco was able to save thousands of lives.

And yet, despite all these efforts by the state, the specific rights of the Amazigh Indigenous Peoples have not always been taken into account.

Amazigh rights at a time of COVID-19

All Indigenous rights bodies have expressed their concern at the pandemic and the devastation it may cause among Indigenous Peoples. It is clear that these peoples are particularly vulnerable to the coronavirus, given their limited access to the health system, their traditional way of life and their marginalisation. The isolation in which these populations live, particularly in rural areas, is both a curse, as the population cannot receive appropriate and prompt medical care, and a blessing, as movements of people likely to spread COVID-19 to these areas are very limited. This explains why the rural Amazigh regions have so far been relatively less affected by the pandemic.

COVID-19 has directly affected the application and implementation of Organic Law 26.16/2019 on the official recognition of Tamazight, planned for 2020.[1] Implementation has been delayed due to the disruption within government and within all departments that would need to implement this law. As for other Amazigh rights, in this case the demand for official recognition of the Amazigh New Year[2] as a public holiday, a number of parliamentary groups have challenged the Minister for Human Rights on this subject. Minister El Mostafa Ramid said in response to questions from several parliamentary groups that the decision to make the Amazigh New Year a holiday would have to wait for

the implementation of a whole package aimed at developing the official status of the Amazigh identity in the country.[3]

Another relevant discussion in Parliament during 2020 concerned Law 04.20 on the national electronic identity card.[4] In its version tabled in Parliament, the text provides that the new version of the national identity card (CIN) will include information on the Moroccan citizen in Arabic language and Latin characters. The Amazigh language is not anticipated in the law. At a meeting of the Interior Commission, several parliamentarians raised this discrimination against the Amazigh language. This omission provoked violent reactions in Parliament, as well as within the Amazigh Cultural Movement (MCA). After several lengthy discussions, the bill was passed omitting the Tifinagh alphabet. The Ministry of the Interior has, however, committed to ensuring that Tamazight is incorporated into all departments of the Ministry as an official language once the pandemic has passed.[5]

Teaching the Amazigh language during a pandemic

The Office of the High Commissioner for Human Rights published instructions to be followed in order to guarantee human rights during the pandemic. "The right to education needs to be protected in the case of school closures; for example, and where possible, through online accessible and adapted learning, and specialised TV and radio broadcasts."[6]

The Ministry of Teaching and Education decided to opt for distance learning throughout the lockdown. However, this option requires the availability of technology throughout the country. The Internet and equipment such as televisions, tablets and smartphones are not always available in the rural areas where most Amazigh live. The Ministry did make efforts to ensure that so-called "essential" education was guaranteed in its entirety. The teaching of Tamazight was not included in these "essential" subjects, however, so students wishing to continue their study of this language were unable to follow classes.

Awareness raising and information in Tamazight

The Office of the High Commissioner for Human Rights urged states to take care of vulnerable people and communities in marginalised situ-

ations during the pandemic. "COVID-19 information and response efforts will need to take particular care to identify people who may be at risk of being missed or excluded, such as national, ethnic or religious minorities, indigenous peoples...."[7] It should be noted that Morocco's approach to combating COVID-19 was praised by most observers, both inside and outside the country. Information, awareness raising and mobilisation around the pandemic took place in all languages, including Tamazight. The Amazigh therefore generally had a clear understanding of what they needed to do to fight COVID-19. Tamazight was not, however, specifically used in the posters to raise awareness of COVID-19, and MCA activists were quick to point out that this discriminated against an official language of the country.

An awareness and communication campaign against COVID-19 also ran for five weeks in the region of Souss-Massa to raise awareness among the region's Amazigh:

> *This campaign aims to preserve the health of workers in the agricultural sector by means of awareness raising and communication; to put in place the means necessary to succeed in preventing COVID-19; to achieve the start-up and perpetuation of activity in the production units and packing stations necessary for the health crisis; and to mobilise all actors and partners with the aim of implementing prevention measures adapted to the specific needs of the agricultural sector. This initiative further wishes to preserve existing jobs, ensure the continuity of recruitment, and guarantee the supply of markets both regionally and nationally while also maintaining exports.*[8]

Notes and references

1. Bureau de la Chambre. "Projet de loi organique N°26.16 définissant le processus de mise en œuvre du caractère officiel de l'amazighe, ainsi que les modalités de son intégration dans l'enseignement et dans les domaines prioritaires de la vie publique." Chambre des Representants, 2019. https://www.chambredesrepresentants.ma/fr/%D8%A7%D9%84%D9%86%D8%B5%D9%88%D8%B5-%D8%A7%D9%84%D8%AA%D8%B4%D8%B1%D9%8A%D8%B9%D9%8A%D8%A9/projet-de-loi-organique-ndeg2616-definissant-le-processus-de-mise-en-oeuvre-du
2. The Amazigh New Year begins on 13 January each year. The Amazigh calendar commenced in 950 BC and so 2021 corresponds to the year 2971.
3. La Rédaction. "Le Nouvel An amazigh bientôt jour férié?" Telquel, 7 January,

2020. https://telquel.ma/2020/01/07/le-nouvel-an-amazigh-bientot-jour-ferie_1663761
4. Maroc Diplomatique. "Le projet de loi 04.20 relative à la CINE adopté en commission à la Chambre des Conseillers." 21 July, 2020. https://maroc-diplomatique.net/le-projet-de-loi-04-20-relative-a-la-cine-adopte-en-commission/
5. Ibriz, Sara. "Nouvelle CNIE : la polémique sur l'intégration de l'Amazigh portée au Parlement." Medias 24, 16 June, 2020. https://www.medias24.com/nouvelle-cnie-la-polemique-sur-l-integration-de-l-amazigh-portee-au-parlement-11179.html
6. COVID-19 Response. "Principes Directeurs Concernant la COVID-19." OHCHR, 8 May, 2020. https://www.ohchr.org/Documents/Press/COVIDPublicMessaginFR.pdf
7. OHCHR. "Principes Directeurs Concernant la COVID-19." 2021. https://www.ohchr.org/FR/NewsEvents/Pages/COVID19Guidance.aspx
8. Map Ecology. "Souss-Massa/Agriculture: Campagne de Sensibilisation et de Communication Anti COVID-19." 6 October, 2020. http://mapecology.ma/actualites/souss-massa-agriculture-campagne-de-sensibilisation-de-communication-anti-covid-19/

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Namibia

ANGOLA
ZAMBIA
NAMIBIA
BOTSWANA
Windhoek
ATLANTIC OCEAN
SOUTH AFRICA

The Indigenous Peoples of Namibia include the San, the Ovatjimba, Ovatue and Ovahimba, and potentially a number of other peoples, including the Damara (ǂNūkhoen) and Nama. Taken together, these Indigenous Peoples represent some 8% of the total population of the country, which was 2,630,073 in 2020. The San (Bushmen) number between 28,000 and 35,000, and they represent slightly more than 1% of the national population. They include the Khwe, the Hai||om, the Ju|'hoansi (and related ‡Kao||'aesi), the !Xun (comprising of four or more distinct populations), the Naro and the !Xóõ (and related N|oha). 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 marginalised peoples in the country. The Ovatjimba and Ovatue (Ovatwa) are largely pastoral people, formerly also relying on hunting and gathering, residing in the Kunene Region, in the semi-arid and mountainous north-west of Namibia. Together, they number some 27,000, representing 1.02% of the total Namibia population.

The Namibian government prefers to use the term "marginalised communities" when referring to the San, Otavue and Ovatjimba, support for whom falls under the Office of the President in the Division for Marginalised Communities (DMC). The Constitution of Namibia prohibits discrimination on the grounds of ethnic or tribal affiliation but does not specifically recognise the rights of Indigenous Peoples. The main legislation drawn up in relation to Namibian marginalised communities, a White Paper,[1] had not been approved by the Namibian Cabinet as of the end of 2020. Namibia voted in favour of the United Nations 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 set out 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 submitted two mid-term reports to the Universal Periodic Review (UPR) of the UN Human Rights Council. In 2020. COVID-19 led to a lockdown in Namibia on 17 March 2020, which reduced the spread of the disease but which also affected livelihoods, employment, incomes and tourism in Namibia. Namibia did not attend the 19th annual meeting of the Permanent Forum on Indigenous Issues (PFII) in April 2020 as the meeting was postponed due to the coronavirus pandemic.

Impact of COVID-19 on Indigenous Peoples

The COVID-19 pandemic seriously impacted Indigenous Peoples in 2020 and led to a reduction in incomes and employment for virtually all Indigenous and marginalised communities in the country.[2] The number of tourists visiting Namibia in the period between March and December 2020 declined substantially, affecting revenues for the government and incomes for Indigenous people, who benefit from tourism. Returns from tourism and safari hunting declined in 2020 in the Nyae Nyae and N‡a Jaqna Conservancies and in Bwabwata National Park, the only national park in the country in which people are allowed to reside,[3] as did community craft sales.

The government mounted food and water assistance efforts for marginalised communities. The Kalahari Peoples Fund and One Pencil, an NGO working in Kunene, provided information on strategies to cope with the coronavirus, including mask-wearing, social distancing and hand washing, in Nyae Nyae Conservancy, among other major San communities and in Kunene Region among Ovatjimba and Ovatue communities.

Some Ovahimba and San communities complained of a lack of access to the limited state grants provided during the pandemic,[4] while

administration and budget deficits in government food distribution programmes further impacted on the increased food insecurity during the pandemic.[5] In a few areas of Namibia, local government is reconsidering approaches to assisting San communities, which may lead to better long-term outcomes.[6]

Insufficient land reform discussions

Discussions on communal land reform in 2020 in the Commission of Inquiry into Claims of Ancestral Land Rights and Restitution[7] were felt by many Indigenous and minority communities to be insufficient in terms of addressing their needs equitably and fully.[8] The President received the report from the Commission of Inquiry into the Claims of Ancestral Land Rights and Restitution in July 2020, following extensive national consultations. The report was published in January 2021.

Legal cases

In terms of the various legal cases that have been filed by San communities, the Hai||om collective action case saw no action by the Namibia High Court on its appeal, due in 2021. The Nyae Nyae illegal grazing case was postponed in November to early 2021. The N‡a Jaqna Conservancy did not see government enforcement of its successful case, which was to involve the removal of illegal grazers and fencers in 2020 and, in fact, additional fences were found in the conservancy and in the M'Kata and N‡a Jaqna community forests.[9] Fencing off of communal land in Namibia continued to be an issue in 2020.[10]

Opposition to the Baynes Dam

Members of the Ovahimba community continued to oppose the Baynes Dam development between Angola and Namibia, which was subject to renewed agreements to proceed in 2020.[11] A community-driven attempt to remove the government-recognised Traditional Authority Chief of the

Ovahimba, who supports the dam's development, was overturned by the High Court on appeal in July 2020.[12]

Oil and gas exploration

Particular concerns were expressed by communal conservancies in the Kavango East Region and by the Namibian Association of Community-Based Natural Resource Management Support Organisations (NACSO) regarding the oil and gas exploration activities of a Canadian oil company, Reconnaissance Energy Africa Ltd. (ReconAfrica), which surveyed in the region north of Khaudum National Park in December 2020, bringing the potential threat of fracking should reserves be located.[13] Local people in the area expressed concern at a potential decline in the water table and the loss of valuable wildlife and wild plant products as a result of the oil drilling operations. Dispersed San populations are found within the exploration area. San communities in Kavango East and West received special attention in 2020 due to their particularly acute poverty, food insecurity, lack of access to education and health issues.[14, 15]

Access and benefit sharing

Namibia made progress in developing policies on access and benefit sharing agreements relating to genetic resources under the Nagoya Protocol in 2020.[16] Indigenous plant products such as Devil's Claw (*Harpagophytum procumbens*) are exploited by Indigenous and minority communities, generating as much as N$1 million per communal conservancy.[17] Work has been conducted at the University of Namibia and the Namibia University of Science and Technology (NUST) on high-value plant resources that have potential for increasing funds for Indigenous and minority communities in Namibia and for the country as a whole. One sad event that occurred in Nyae Nyae was the death on 12 June 2020 of |Kunta Boo, a highly respected traditional healer (known in the Ju|'hoan language as a *g!aeha*) who not only performed healing acts but also mentored young people in Ju|'hoan healing practices and taught others about medicinal plants.

Bwabwata National Park (Kavango East and Zambezi regions)

Bwabwata National Park in north-eastern Namibia was established in 2007 and is the only park in Namibia where Khwe San are allowed to reside within the park. According to local people, Traditional Ecological Knowledge (TEK) is eroding, in part because people are not allowed to practise many of their traditional skills due to restrictions in the park.[18] Unlike some other San groups in the country, the Khwe in Bwabwata lack a Traditional Authority (TA), which limits their ability to influence regional and national-level politics. In September 2020, the Ministry of Environment, Forestry and Tourism (MEFT) announced its intention to implement a Cabinet decision from 1999 to remove cattle from Bwabwata National Park. Some members of local San, Mafwe and Mbukushu communities complained bitterly about the negative effect this decision would have on their livelihoods[19] while other members of the same communities, especially the San, supported it due to the land degradation and illegal migration into the park that is caused by excessive cattle ownership.[20]

The N‡a Jaqna Conservancy, the Nyae Nyae Conservancy and the Etosha Hai||om Concession

The two largest San conservancies in Namibia are the N‡a Jaqna Conservancy and the Nyae Nyae Conservancy. Both have faced incursions from the outside by cattle-owning groups. Tensions continued to be felt between the !Kung Traditional Authority (KTA), Glony Arnold, the chief of the !Kung San people, and the people of the N‡a Jaqna Conservancy over the !Kung Traditional Authority's decisions regarding alleged encouragement of people from outside of the conservancy to bring their cattle into the area and establish cattle posts and build fences, some 62 of which were in existence at the end of 2020. There were also claims by the !Kung chief that some people living in the conservancy did not have identity cards and were thus not full citizens of Namibia, something that local people contested.[21] The M'kata Community Forest Management Committee and the N‡a Jaqna Conservancy Forest Management Committee both took issue with plans to resettle additional

farmers in the N‡a Jaqna Conservancy as proposed by the government and supported by the !Kung TA.

Issues raised at the Annual General Meeting of the N‡a Jaqna Conservancy in August 2020 included a desire for expanded Devil's Claw exploitation opportunities, the problems of a decline in tourism, the lack of enforcement of their legal case, the need for additional food to offset the hunger resulting from COVID-19, and the desire for the trophy hunting company operating in the area to maintain the work force. Complaints were also made about the failure to repair the water facilities.[22]

The High Court claim by members of the Hai||om San people regarding Etosha National Park and Mangetti West made no progress in 2020, with the appeal hearing scheduled for 2021 after rejection of their collective action lawsuit by the High Court in 2019.[23] Some of them would like to see Etosha and its surrounding area become part of a Kunene People's Park.[24] Ongava Game Reserve was selected as the preferred bidder to partner with the Hai||om for the new Etosha Community Joint Venture Concession in December 2020. This joint venture concession covers a portion of Etosha National Park and ex-commercial farm areas adjacent to the park that have been purchased by the government to resettle the Hai||om. Ongava, a private reserve and safari company with close ties to the Hai||om, will collaborate with the !Gobaōb Hai||om Community Association in the joint venture concession. The Hai||om Traditional Authority and David ||Khamuxab, the chief of the Hai||om, are supportive of these efforts, according to the Secretary of the Hai||om Traditional Authority.[25]

Role of Indigenous women and youth

Various women's organisations in Namibia, including those in San, Himba and Ovatue areas, pressed for greater recognition of women's rights in 2020, including the right of women to own land and for greater protection of women from exploitation and domestic abuse. The San Youth Network (SYNet) also argued for greater recognition of Indigenous and minority youth roles in decision-making in their communities, and they assisted in the COVID-19 relief efforts in Omaheke and Otjozondjupa regions. Women and youth are playing an increasingly important role

in the Indigenous movement in Namibia. One of their areas of concern relates to the treatment of refugees and immigrants, including those housed in the Osire Refugee Camp south of Otjiwarongo. They were particularly worried about the lack of availability of information on COVID-19 for both refugees and host community members, and have been seeking lasting solutions for refugees and asylum seekers as well as Indigenous and minority communities in Namibia.[26] Indigenous and minority youth are also concerned about access to preschool and primary school education, and they were grateful for the Village Schools Programme in Nyae Nyae and other educational efforts that were being pursued in various parts of the country.[27]

The San, Ovahimba, Ovatue and other marginalised communities in Namibia are all hoping that the coming years will see the coronavirus pandemic brought under control, an expansion of tourism and the strengthening of the Namibian economy. They are also hoping for action from the High Court on their legal cases and for greater movement on their human rights concerns.

Notes and references

1. Division of Marginalised Communities. "Draft White Paper on the Rights of Indigenous Peoples in Namibia." Windhoek: Division of Marginalised Communities, Office of the President, 2020.
2. Information from the Division of Marginalised Communities (DCM), Office of the President, 15 December 2020.
3. Reports from the Nyae Nyae and N‡a Jaqna Conservancy Management Committees and from the Kyaramacan Association, August-December, 2020.
4. Jason, Loide. "Himbas, San left out of N$750 grant." New Era Live, 12 May 2020. Accessed 8 February 2021. https://neweralive.na/posts/himbas-san-left-out-of-n750-grant
5. Simasiku, Obrien. "Hunger stalks San community." New Era Live, 13 October 2020. Accessed 8 February 2021. https://neweralive.na/posts/hunger-stalks-san-community
6. Ashipala, Nuusita. "118 San learners registered for school." New Era Live, 6 August 2020. Accessed 10 February 2021. https://neweralive.na/posts/118-san-learners-registered-for-school
7. Republic of Namibia. "Commission of Inquiry into Claims of Ancestral Land Rights and Restitution." Windhoek: Republic of Namibia, 24 July 2020.
8. See, for example, Delgado, Guillermo, and Uhuru Dempers. "The Second Crossroads in Namibia's 'Land Question'." Rosa Luxemburg Stitfung, 27 August 2020. https://www.rosalux.de/en/news/id/42884/the-second-crossroads-in-namibias-land-question?cHash=6b2f8fee2f8617296dbca6f3b7acd5fb; Odendaal, Willem and Wolfgang Werner. "'Neither Here nor There': Indigeneity,

Marginalisation, and Land Rights in Post- Independence Namibia." Windhoek: Legal Assistance Center, 2020. http://www.lac.org.na/projects/lead/Pdf/Neither_here_nor_there-2020.pdf

9. Data from the N‡a Jaqna Conservancy and the M'kata and N‡a Jaqna Conservancy Forest Management Committees, September 24 2020; see also "Fighting Fences: The N‡a Jaqna Conservancy Caught Between State Policies, Overlapping Authorities, the Judiciary, and Land Grabbers." African Affairs, 2020.
10. See Kashululu, Rose-Mary Popyeni, and Paul Hebinck. "The fencing question in Namibia: A case study in Omusati." In "'Neither here nor there'...Indigeneity, marginalisation and land rights in post-Independence Namibia," edited by Willem Odendaal and Wolfgang Werner, 163-183. Windhoek: Legal Assistance Centre, 2020.
11. Mota, Siziwe. "With a new dam proposed on the Kunene River, the Himba people mobilize to permanently protect their lifeblood." International Rivers, 27 February 2020. Accessed 8 February 2021. https://www.internationalrivers.org/news/blog-with-a-new-dam-proposed-on-the-kunene-river-the-himba-people-mobilize-to-permanently-protect-their-lifeblood/
12. Menges, Werner. "Himba leader wins chief status appeal." The Namibian, 24 July 2020. Accessed 10 February 2021 https://www.namibian.com.na/202927/archive-read/Himba-leader-wins-chief-status-appeal
13. Tan, Jim. "Alarm as Exploratory Drilling for Oil begins in northern Namibia." Mongabay, 28 December 2020. https://news.mongabay.com/2020/12/alarm-as-exploratory-drilling-for-oil-begins-in-northern-namibia/; see also Barbee, Jeffrey and Kerry Nash. "Mystery Surrounds Plans to start Fracking Near Namibia's Kavango River and Botswana's Tsodilo Hills." Daily Maverick, 16 September 2020. https://www.dailymaverick.co.za/article/2020-09-16-mystery-shrouds-plans-to-start-fracking-near-namibias-kavango-river-and-botswanas-tsodilo-hills/; Barbee, Jeffrey and Laurel Neme. "Oil drilling, possible fracking planned for Okavango Oil drilling, possible fracking planned for Okavango region—elephants' last stronghold." National Geographic Society, 28 October 2020. https://www.nationalgeographic.com/animals/article/oil-drilling-fracking-planned-okavango-wilderness; Brown, C. Namibia Nature Foundation, December 2020.
14. Rasmeni, Mandisa. "Ndama's San Community Plagued by Unidentified Infectious Disease, Pleads For Government Assistance." Namibia Economist, 7 October 2020. Accessed 10 February 2021. https://economist.com.na/56378/health/ndamas-san-community-plagued-by-unidentified-infectious-disease-community-plead-for-government-assistance/
15. New Era Live "San in Kavango West trapped in extreme poverty." 29 April 2020. Accessed 9 February 2021. https://neweralive.na/posts/san-in-kavango-west-trapped-in-extreme-poverty
16. Hazam, John, and Jessica Lavelle. "Implementing Namibia's Access to Biological and Genetic Resources and Associated Traditional Knowledge Act." Voices for BioJustice, Policy Brief, June 2020. https://static1.squarespace.com/static/5ca2d827aadd343de55a408b/t/5f1df2f20e1af3503cc4af5a/1595798260053/2020_Implementing+Namibia%E2%80%99s+Access+to+Biological+and+Genetic+Resources.pdf
17. See, for example, Bollig, Michael. "Shaping the African Savannah: From Capitalist Frontier to Arid Eden in Namibia." Cambridge: Cambridge University

Press, 183-184, 327-328.; Wiessner, Pauline. "Traditions and Transition Fund annual report 2020." 2020.

18. Paksi 2020. Op.cit.; see also Thomsen, Jennifer Marie Thomsen, Selma Lendelvo, Katherine Coe, and Melanie Rispel 2021. "Community perspectives of empowerment from trophy hunting tourism in Namibia's Bwabwata National Park." Journal of Sustainable Tourism, 2021. https://www.tandfonline.com/doi/full/10.1080/09669582.2021.1874394
19. Namibian Broadcasting Corporation. "Mukwe Communities oppose removal of their livestock out of Bwabwata National Park." 6 August 2020. https://www.nbc.na/news/mukwe-communities-oppose-removal-their-livestock-out-bwabwata-national-park.34986
20. Namibia Broadcasting Corporation. "Ministry of Environment says removal of cattle from Bwabwata will not negatively impact livelihoods." 7 August 2020. Accessed 9 February 2021. https://www.nbc.na/news/ministry-environment-says-removal-cattle-bwabwata-will-not-negatively-impact-livelihoods.34997
21. Chairperson and management committee of the N‡a Jaqna Conservancy, personal communications, September 2020. See also Matthys, Donald. "N‡a Jaqna Conservancy Sustains Itself through Enterprising by Activities." Namibia Economist, 19 May 2020. https://economist.com.na/53039/community-and-culture/n%E2%89%A0a-jaqna-conservancy-sustains-itself-through-enterprising-activities/
22. Mathys. Op. cit.; Smit, Ellanie. "N‡a Jaqna Holds Best AGM yet." Namibian Sun, 10 August, 2020. https://www.namibiansun.com/news/na-jaqna-holds-best-agm-yet2020-08-10/
23. Harrisberg, Kim. "Indigenous Namibians Fight for Ancestral Land in National Park." Reuters, 13 April 2020. https://www.reuters.com/article/us-namibia-land-indigenous-idUSKCN21V0PI
24. Statements by Hai//om interviewed in 2020.
25. Secretary of the Hai//om Traditional Authority, personal communication, 28 December 2020.
26. UNHCR. 2020. "South Africa Representation Office, July-September 2020." Johannesburg: United Nations High Commissioner for Refugees (UNHCR), 3 November 2020. https://reliefweb.int/report/south-africa/unhcr-fact-sheet-south-africa-representation-office-july-september-2020
27. Reports of the Kalahari Peoples Fund and Village Schools Programme, Melissa Heckler, Bruce Parcher, Megan Biesele, Kerry Jones, personal communications 2020.

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Republic of the Congo

Situated in Central Africa, at the heart of the second largest forest in the world and straddling the equator, the Republic of Congo covers 341,821 km^2.

The Congolese population numbered 5,279,517 million in 2018 with an annual growth rate of 3.68%. It comprises two distinct groups: the Pygmies and the Bantu. The Pygmies are generally nomadic or semi-nomadic hunger/gatherers although some have now settled on the land and are working on agricultural or livestock farms, in commercial hunting or as trackers, prospectors or workers for the logging companies.[1]

The last national census, conducted in 2007, estimated that the Pygmy population accounted for 1.2% of the population, or 43,378 individuals. A UN study dating from 2013 has a figure of 2%, or approximately 100,000 individuals. The government itself gives a much wider possible range, between 1.4 and 10% of the population.

In actual fact, we do not know precisely how many Pygmies there are in the Congo. The government has never made any effort to find out. It justifies this lack of action by warning of the possible consequences that an ethnic census could have.

These peoples' name varies according to the department in which they live: Bakola, Tswa or Batwa, Babongo, Baaka, Mbendjele, Mikaya, Bagombe, Babis, etc. Although they are found throughout the Congolese territory, the Pygmies are more concentrated in the departments of Lékoumou, Likouala, Niari, Sangha and Plateaux.

The Congo is a highly forested country (23.5 million hectares of forest, or 69% of the national territory) with a low rate of deforestation and forest degradation, only 0.05% or around 12,000 hectares being felled per year (CNIAF 2015). Forest cover is not uniform across the whole country but varies according to population density, transport infrastructure, forest wealth, historic exploitation and the existence of urban areas.[2]

While not an exhaustive list the following are some of the texts that form the legal framework applicable to Indigenous populations:

- the Law on Wildlife and Protected Areas (28 November 2008)
- the Law governing the Forest Code (20 November 2000)
- the Law on Environmental Protection (23 April 1991)
- the Law setting out the general principles applicable to private and state-owned land regimes (26 March 2004)
- the Law establishing the agricultural land regime (22 September 2008)
- the Decree establishing forest management and use conditions (31 December 2002)

On 25 February 2011, the Republic of Congo became the first country in Africa to enact a specific law on Indigenous Peoples: the Law promoting and protecting Indigenous Peoples' rights in the Republic of Congo.

COVID-19

2020 was marked by the impact of the global COVID-19 pandemic and the measures taken by the Government of Congo to address it.

On 24 June, the World Bank approved USD 50 million in funding from the International Development Association (IDA) to help the Republic of Congo improve household resilience to the COVID-19 crisis.[3]

The Lisungi Project for the Emergency Response to COVID-19[4] (PLRUC) will provide temporary financial support to poor and vulnerable households affected by the COVID-19 health and economic crisis in certain areas of the country.

Nearly 200,000 households will benefit from a one-off emergency cash payment of 50,000 FCFA and a campaign publicising hygiene and sanitation measures. The project will use electronic payments via mobile phones as well as a number of payment service providers to expand the project's coverage. It will also support income-generating activities for women and marginalised groups, particularly through training in small business management. The project does not explicitly mention

Congo's Indigenous Peoples but does imply that marginalised groups are largely Indigenous.

"Because of the impact of the coronavirus pandemic on household incomes, it is important to put social safety nets in place to protect the poor and vulnerable at this time of crisis," explained Jean-Christophe Carret, the World Bank's Director of Operations for the Republic of Congo, the Democratic Republic of Congo, the Central African Republic and Burundi.[5]

On 25 January, as part of the second phase of its project in the Republic of Congo, the Order of Malta announced the refurbishment and equipping of the Enyellé health centre, located in Likouala department, where its medical teams are providing medical care to the population.[6] Likouala is the region that is home to the largest Indigenous population, according to Guy Steiner, project leader of the Order of Malta France in Congo, who stated that the population would benefit from medical care once the work on the health centre was complete. "Once it is up and running, we hope by the end of the year, we will begin to do amazing things... We will set up a pharmacy, a laboratory, an operating theatre for essential surgery such as Caesarean sections, hernias, etc.," explained Guy Steiner.[7]

Thanks to its mobile clinics, the Order of Malta's teams are able to treat people living in remote areas of Likouala, where they provide care to patients suffering from leprosy and other diseases. "The fight against leprosy is at the heart of our work. We travel out to the population using vehicles or canoes. More than 400 cases of leprosy have been discovered," said the Order of Malta's project leader in Congo.[8]

The Order of Malta will implement this project, which is highly anticipated by the local population, over a three-year period. It is working in partnership with the Congolese Ministry of Health, the French Development Agency, *Congolaise Industrielle des Bois* (CIB) and other structures.

Mechanisms for sharing the benefits of using the genetic resources and exploiting the knowledge of local communities and Indigenous Peoples[9]

In August 2020, Cynthia Nina Kiyindou Yombo, Programme Officer for Forest Communities' Rights and Natural Resources at the Congolese

Human Rights Observatory (OCDH), gave an interview to ERA Environnement on the mechanisms in place in Congo.

She explained that Indigenous Peoples' genetic resources include roots, plants, sap, bark, leaves, as well as those derived from wildlife products such as animal skin and bones. Genetic resources are fundamental to Indigenous communities because their lives depend on them, they are the resources that they use for their pharmacopoeia, for their rituals in the forests or at sacred sites.

She noted that if these resources were managed properly today, there would be no issue over their use. Now, however, with the COVID-19 pandemic, more and more people were making use of these resources. Proper regulation by means of a law was therefore needed to ensure that the rights of Indigenous Peoples are protected.

Cynthia Nina Kiyindou Yombo had been involved in some of the work to review the Congolese Forestry Code and, in the latest version adopted by the Council of Ministers on 20 July 2020,[10] a number of provisions were included on resource management and benefit-sharing by and with Indigenous populations. Given that there have since been amendments, however, it is difficult to know whether these provisions have been retained. There have also been delays in enacting the new Forestry Code.

Access to these resources is currently not prohibited for local communities and Indigenous Peoples because they have use rights. These same populations retain these rights of use in logging zones and protected areas: they have the right to take genetic resources for their food security, health and cultural needs.

Cynthia Nina Kiyindou Yombo hoped that the government would take the necessary steps to ensure that these unknown resources receive special attention because they are fundamental to Indigenous communities. There is currently a text protecting Indigenous pharmacopoeia and this is positive. The government must, however, find a solution that is satisfactory to the country's Indigenous peoples with regard to all genetic resources so that their use will benefit their communities, who have traditionally been the custodians of these resources since time immemorial. Greater legal guarantees are needed because the Nagoya Protocol, to which the Republic of Congo is a signatory, states that all signatory states must take legislative and regulatory measures

at the national level to ensure the "benefits arising from the utilization of traditional knowledge associated with genetic resources are shared in a fair and equitable way with indigenous and local communities holding such knowledge."[11]

She therefore called on all authorities and on the financial and technical partners to implement the Nagoya Protocol nationally, which stipulates that there must be "procedures for obtaining prior informed consent or approval and involvement, as appropriate, of indigenous and local communities and establishing mutually agreed terms including benefit-sharing".[12]

Suspension of US funding of World Wide Fund for Nature and the Wildlife Conservation Society in the Congo Basin[13]

In November, the US government cut more than USD 12 million (approximately EUR 10 million) in funding to the World Wide Fund for Nature (WWF), the Wildlife Conservation Society (WCS) and other conservation NGOs, dealing a major blow to the conservation industry. The decision follows a cross-party US investigation into whether federal conservation funds had supported anti-poaching rangers involved in human rights abuses in Africa. WWF and WCS are behind the creation and management of protected areas in Africa and Asia, which have reportedly displaced and negatively affected the lives of thousands of Indigenous and local people.[14]

The news was revealed in a leaked government document. It explains how conservation organisations such as WWF have failed to inform the US government that the programmes it is funding are responsible for serious human rights violations in many countries. WWF has been working in the Congo Basin for more than 20 years and supports teams that have committed violent abuses against Congo's Indigenous Peoples.

The government document heralds unprecedented rules on how environmental projects can be funded, including:

- Conservation organisations will no longer receive federal funding unless they have obtained the Free, Informed and Prior Consent

(FPIC) of Indigenous Peoples.
- The US will no longer fund eco-guards, law enforcement or community relocation activities, voluntary or not.[15]

The news came just days after the UN Biodiversity Summit at which many government leaders supported WWF's and WCS's call to establish protected areas over 30% of the world's lands by 2030. The revelations contained in the leaked report show how dangerous this would be.

Notes and references

1. Population Data. "Congo."16 March, 2020. https://www.populationdata.net/pays/congo/
2. République du Congo. "Forest Reference Emission Levels - Submission to the UNFCCC Secretariat." January, 2016. https://redd.unfccc.int/files/2016_submission_frel_republicofcongo.pdf
3. La Banque Mondiale. "La République du Congo renforce la protection sociale face à la pandémie COVID-19." 24 June, 2020. https://www.banquemondiale.org/fr/news/press-release/2020/06/24/republic-of-congo-lisungi-emergency-covid-19-response-project
4. See Congo Article in GITPA's French translation of IWGIA's The Indigenous World 2020: Bayeni, Emmanuel, and Patrick Kulesza. "République du Congo." GITPA, 2020. http://gitpa.org/web/CONGO%20en%202019.pdf
5. La Banque Mondiale. "La République du Congo renforce la protection sociale face à la pandémie COVID-19." 24 June, 2020. https://www.banquemondiale.org/fr/news/press-release/2020/06/24/republic-of-congo-lisungi-emergency-covid-19-response-project
6. Elion, Christian Brice. "Santé : l'Ordre de Malte France va rénover l'hôpital d'Enyellé." Agence d'Information d'Afrique Centrale. 25 January, 2020. https://www.adiac-congo.com/content/sante-lordre-de-malte-france-va-renover-lhopital-denyelle-111932
7. Agence d'Information d'Afrique Centrale. "Santé : l'Ordre de Malte France va rénover l'hôpital d'Enyellé." Ordre de Malte. 25 January, 2020. https://www.orderofmalta.int/fr/in-the-news/sante-ordre-de-malte-france-va-renover-hopital-enyelle/
8. Ibid.
9. Nzikou-Massala, Marien. "Congo-Brazzaville : «Il faut veiller à ce que l'utilisation des ressources génétiques soit bénéfique aux communautés» – 27 août 2020." Logging Off. Interview, 27 August, 2020. https://loggingoff.info/library/congo-brazzaville-il-faut-veiller-a-ce-que-lutilisation-des-ressources-genetiques-soit-benefique-aux-communautes-27-aout-2020/
10. ATIBT News. "La République du Congo promulgue le nouveau Code forestier." Timber Trade Portal, 29 July, 2020. https://www.timbertradeportal.com/action/news/item/24/la-r-publique-du-congo-promulgue-le-nouveau-code-forestier/?language=3
11. Convention on Biological Diversity. "Text of the Nagoya Protocol." 21 May, 2019.

https://www.cbd.int/abs/text/
12. Ibid.
13. Les Scoops d'Afrique. "Au Congo,les États-Unis suspendent le financement du WWF et de la WCS." 17 November, 2020. https://www.lescoopsdafrique.com/a-la-une/au-congoles-etats-unis-suspendent-le-financement-du-wwf-et-de-la-wcs/
14. World Wide Fund for Nature (WWF). "Embedding Human Rights in Nature Conservation: From Intent to Action. Report of the Independent Panel of Experts of the Independent Review of allegations raised in the media regarding human rights violations in the context of WWF's conservation work." 17 November 2020. https://wwfint.awsassets.panda.org/downloads/independent_review___independent_panel_of_experts__final_report_24_nov_2020.pdf
15. Les Scoops d'Afrique. "Au Congo,les États-Unis suspendent le financement du WWF et de la WCS." 17 November, 2020. https://www.lescoopsdafrique.com/a-la-une/au-congoles-etats-unis-suspendent-le-financement-du-wwf-et-de-la-wcs/

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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, 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 mainly 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 the 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; however, this is shifting with the pending Traditional and Khoisan Leadership Act, which will come into force on 1 April 2021. South Africa voted in favour of adopting the UN Declaration on the Rights of Indigenous Peoples but has yet to ratify ILO Convention No. 169.

As of 13 December 2020, 860,964 COVID-19 cases and 23,276 deaths had been reported in South Africa.[1]

The country has since emerged from a devastating second wave of COVID-19 infections. During December 2020, a new COVID variant was found in South Africa. Similar to the variant found in the UK, it was found to be more transmissible than the previous. According to the World Bank, South Africa is one of the most economically unequal countries

in the world.[2] The difference between wealthy and poor in South Africa has been increasing steadily since the end of apartheid in 1994, and this inequality is closely linked to racial divisions in society.[3] South African communities continue to struggle with food insecurity, rights to resources, employment, landlessness and corruption, greatly impacting on their quality of life.

Amidst these realities, both the UN Special Rapporteur on the rights of indigenous peoples' Mission Report to South Africa (2005) and the South African Human Rights Commission (2018) confirmed that the Khoikhoi and San communities are disproportionately affected by these struggles. Like other fellow disadvantaged communities in South Africa, they continue to bear the double marginalization of being unable to access their human rights. Access to COVID relief measures similarly remains a structural barrier that these communities continue to face as a result of not being formally recognized. The particular nature of their concerns amidst the COVID crisis was exacerbated due to the tourism industry closing down, food insecurity, joblessness, criminal prosecutions for hunting their wildlife, amongst other things.[4]

COVID-19 and criminal charges against Kalahari San elders

Some of the San community members of the Southern Kalahari who form part of the ‡Khomani San Communal Property Association are currently facing criminal charges for allegedly hunting their wildlife to address hunger challenges.[5] Given the ‡Khomani San's relative distance to economic centres, the community was severely impacted by the hard COVID-19 lockdown in South Africa (Level 5) whereby access to food and other essential supplies became increasingly difficult. Only small retail outlets are within reasonable proximity of the community and, with the outlets' price inflation due to the market stress of the lockdown, basic food items became unaffordable for the community. The community's struggle to access basic needs during this time was further exacerbated by precarious work circumstances and loss of income. Much of the ‡Khomani San community depend on tourism for livelihood purposes, an industry that has been severely and negatively

impacted since the onset of COVID-19.[6]

The Khomani San community successfully claimed their land back as part of South Africa's land restitution process. They comprise some 1,500 San community members managing 38,000 hectares of land.

The ‡Khomani San's elder and traditional leader is Petrus Vaalbooi, whose family holds a proud history and lineage of fighting for their community's Indigenous rights. He is currently one of the defendants facing these criminal charges.[7]

As the San youth Ivan Vaalbooi reported, the current situation in the Southern Kalahari is continuing to deteriorate, with members increasingly struggling to access clean drinking water, proper nutrition, better health services and access to legal representation. The community members believe they are the lawful owners of their customary resources and thus well within their rights to hunt for their subsistence needs. The criminal case is ongoing.

Traditional & Khoisan Leadership Act: President signs commencement date for Act

On 2 December 2020, the South African Parliament announced that President Cyril Ramaphosa had signed the Traditional and Khoi-San Leadership Bill (TKLA) into law. Among other things, the Act grants *already recognized* traditional leaders the power to make decisions on communal land such as signing deals with investment companies - in some cases without the consent of those whose land rights are directly affected. This Act amalgamates these communal land communities' rights frameworks with the recognition of the Khoikhoi and San into this legislation called the Traditional and Khoisan Leadership Act. This heralds a new moment for the Khoikhoi and San as self-identifying African Indigenous communities. The President signing this legislation into law is ending a more than 20-year-long journey for the Khoikhoi and San communities to be included in the formal traditional leadership and governance system in South Africa. This recognition will, for the first time, ensure that their collective and cultural existence is formally recognized. It will also aid their access to justice as communities who have so far been formally left outside of the South African rule of law as it pertains to their cultural recognition, customary communities, Indigenous

languages and ancestral lands. The commencement date for this Act will be from 01 April 2021. The commencement of this law will, for the first time, give these communities formal representation at the different levels of government and some form of access to justice.[8]

Rooibos benefit-sharing and COVID-19

Following nine years of negotiations, a landmark benefit-sharing agreement was launched in South Africa between the Khoikhoi and San, and the South African Rooibos industry in 2019.[9]

The agreement recognizes the Khoikhoi and San peoples as the traditional knowledge holders of the uses of the indigenous Rooibos plant. The agreement forms the basis on which the Khoikhoi and San communities of South Africa will have access to a percentage of the profits from the marketing of Rooibos by the South African Rooibos industry.

The first levy payment by the Rooibos industry was due and payable to the Khoikhoi and San communities during June 2020. However, aside from governmental administrative delays, the Rooibos industry reported that COVID-19 had also affected their farming. This resulted in the first ever Rooibos levy not being paid out to the South African Biodiversity Fund. The Biodiversity Fund should, in turn, pay the levy over to the two groups. The Khoikhoi and San communities in the meantime have formed their respective community trusts in order to distribute the projected benefits to the communities once the levy is received.[10]

Land reform – Khoikhoi & San's redress?

South Africa continues to grapple with land reform, a process which aims to bring justice, restore dignity and foster equity after systemic land dispossession under apartheid formalized unequal land distribution based on racial discrimination. The three components of this broad effort include: (i) land restitution to return land to victims of dispossession; (ii) redistribution, which redresses inequality of land holdings to fulfil societal land needs; and, finally, (iii) land tenure reform to better secure and protect contemporary land rights. Given both the impor-

tance as well as delayed implementation of land reform, in 2018 the South African government approved a report endorsing a constitutional amendment to Section 25 of the Constitution that would allow the expropriation of land without compensation and accelerate the land reform process. The Presidential Advisory Panel appointed to guide and give recommendations on this process, however, is not representative of Khoikhoi and San communities. In the Advisory Panel's 2019 output report, there was therefore little and unclear reference with regard to guiding the implementation of a plan that would meaningfully include and accommodate the needs of the Khoikhoi and San in the process of land reform. In this way, once again, the Khoikhoi and San are being disregarded in contemporary development initiatives to redress land dispossession and historical violence.

Despite the multitudinous layers of the Khoikhoi and San's connection to their ancestral lands as the first peoples, they are limited in land restitution claims. As per Land Restitution Act 22 of 1994, only claims of land lost due to racially discriminatory apartheid legislation post-1913 is permissible. However, the Khoikhoi and San lost the vast majority of their land during the colonial era beginning in 1652. In this way, the Advisory Panel concurred that, as it stands, the Act "will not and has not delivered substantive justice for those persons that lost land long before 19 June 1913."[11]

The report produced by the Presidential Advisory Panel on Land Reform in South Africa is a very important report for the country. Questions do, however, remain on the inclusion of the Khoikhoi and San Indigenous representation on this panel. The unique historical and structural particularities of the Khoikhoi and San communities' land concerns were not properly represented in the report. It is also unclear what will be the direction and measures to help address their land concerns practically going forward. The communities are yet to understand the process following the production of this report, as was stated by one of the National Khoisan council members, Prof. Stanley Petersen.

Notes and references

1. COVID-19 South African Online Portal. "Update on Covid-19 (13th December 2020)." 13 December 2020. https://sacoronavirus.co.za/2020/12/13/update-on-

covid-19-13th-december-2020/
2. The World Bank. "South Africa Economic Update." 2018. http://pubdocs.worldbank.org/en/798731523331698204/South-Africa-Economic-Update-April-2018.pdf
3. International Monetary Fund (IMF). "Six Charts Explain South Africa's Inequality." 30 January 2020. https://www.imf.org/en/News/Articles/2020/01/29/na012820six-charts-on-south-africas-persistent-and-multi-faceted-inequality
4. Stavenhagen, Rodolfo. "Human rights and indigenous issues: report of the Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People" 15 December 2005. https://digitallibrary.un.org/record/564557?ln=en ; South African Human Rights Commission (SAHRC). "Annual Report 2018." 2018. https://www.sahrc.org.za/index.php/sahrc-publications/annual-reports
5. Interview with Petrus Vaalbooi. January 2021.
6. Cupido, Delme. "Largely on their own – again." Good Governance Africa, 29 January 2021. https://gga.org/largely-on-their-own-again/
7. Khomani San. "New Traditional Leader." 2021. http://www.khomanisan.com/‡khomani-sans-new-traditional-leader/
8. Parliamentary Monitoring Group. "Traditional and Khoi-San Leadership Bill (B23-2015)." 2020. https://pmg.org.za/bill/593/
9. See Jansen, Lesle. "South Africa." In The Indigenous World 2020, edited by Dwayne Mamo, 160-166. IWGIA, 2020. http://iwgia.org/images/yearbook/2020/IWGIA_The_Indigenous_World_2020.pdf
10. National Khoisan Council. "Khoikhoi Peoples Rooibos biocultural community protocol." Natural Justice, 2019. https://naturaljustice.org/wp-content/uploads/2020/04/NJ-Rooibos-BCP-Web.pdf
11. Advisory Panel on Land Reform and Agriculture. "Final Report of the Presidential Advisory Panel on Land Reform and Agriculture." 4 May, 2019. https://www.gov.za/sites/default/files/gcis_document/201907/panelreportlandreform_0.pdf

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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 organising 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 determine, 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 marginalisation. 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 recognise 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.

Loliondo case at the East African Court of Justice (EACJ)

Loliondo Division in Ngorongoro District, Arusha Region in northern Tanzania is one of the areas that has suffered numerous evictions and human right violations due to its wealth of natural resourc-

es. The area borders Serengeti National Park to the west, Ngorongoro Conservation Area to the south, Kenya to the north and Longido District to the east. Its geographical location provides abundant subsurface streams, open grasslands, palatable acacia and lavish mineral licks, which attract varied wildlife populations all year round.

The wildlife resources of Loliondo and its proximity to Serengeti National Park attract big hunting and photographic tourism businesses and companies. Serious conflicts started when one hunting company (Ortello Business Corporation) was awarded a hunting concession by the government in 1991. Local Indigenous Maasai people were initially evicted in 2009, regardless of their legal proof of ownership to the land and, since then, a series of human rights violations have been reported, including destruction of property, beating and harassment of the Indigenous Maasai people.

Following another forceful eviction in mid-2017, four Village Councils (Ololosokwan, Oloirien, Kirtalo and Arash) filed a suit in the East African Court of Justice in Arusha, (Reference No. 10 of 2017) seeking orders for a permanent halt to the evictions, arrests, prosecutions and destruction of their properties as well as reparations. The applicants allege that the government's acts, orders and decisions are in violation of Articles 6(d) and 7(2) of the Treaty for the Establishment of the East African Community, as well as the Constitution of the United Republic of Tanzania and the Village Land Act of 1999.

As part of the East African Court Justice directive, the conflicting parties were required to provide evidence of the violation of human rights, the locations of the destroyed pastoralists' homesteads at the time of eviction and legal proof of ownership of their land.

Since its filing in 2017 and as of the submission of evidence in 2020, the case had survived different legal and political challenges and hurdles, including numerous preliminary objections by the defendants (the government), threats towards the Indigenous people's witnesses, difficulty in reaching the area, threats towards civil society actors who were supporting the case, intimidation of the local village leaders, threats towards the expert witness, language barriers due to low levels of formal education among Indigenous Peoples and, recently, the COVID-19 pandemic which made it difficult for submissions to take place physically and resulted in technical communication problems. All this slowed down the final determination of the case.

One of the most challenging issues encountered in relation to the case in 2020 was the fact that in 2019 the Indigenous Peoples engaged a GIS expert to prove that the settlements that were burned down in 2017 were within the village lands and not inside the Serengeti National Park. At great cost, the Indigenous people hired an expert who conducted a study on the geographical positions of the destroyed pastoralist homesteads in the four villages of Ololosokwan, Kirtalo, Oloirien and Arash.

The report was filed in court in October 2019 but, unfortunately, the expert was threatened and could therefore not appear to defend the report in March 2020 when he was summoned by the court. This caused a serious setback and delay to the case. However, another expert from outside the country was engaged in May 2020 and managed to submit the expert report, which was admitted by the court in November 2020.

On 10 July 2020, the government also submitted its evidence in the form of maps provided by their expert. Despites the challenges, the main case is now at the final stage as each party has already brought its evidence and witnesses, and the case is closed for final submissions with the following timelines: applicants to file their Written Submissions-in-Chief on 31 December 2020, Respondent to file their Written Submissions-in-Response on 15 February 2021 and, finally, on 2 March 2021, the applicants will file their Written Submissions-in-Rejoinder. The final decision in this important and long-standing case is awaited within the first quarter of 2021.

Some of the important milestones for the case in 2020 were that, for the first time, three senior government officials were forced to testify in court with cross-examination by lawyers representing Indigenous Peoples. The court also issued a ruling restraining and prohibiting the respondent from evicting the Indigenous people, confiscating their livestock, burning their homes and beating them. And, lastly, the two most recent court hearings were livestreamed on the court website, the first time this happened.

Ngorongoro Conservation Area and threats of eviction of Indigenous Peoples

The fate of the Maasai, Barabaig and Hadza hunter-gatherers living in

the world famous Ngorongoro Conservation Area (NCA) in Northern Tanzania remains uncertain. The Ngorongoro Conservation Area Authority (hereinafter NCAA) has been expressing concerns at the deterioration in the area. In December 2019, the NCAA paid editors and journalists to meet in a workshop in Ngorongoro. The Ngorongoro Conservator stirred up a sense of urgency about the imminent threat towards the NCA, which he said was being caused by the greatly increased human and livestock populations. The state-owned newspaper, Daily News, published a seriously misleading story on 29 December 2020. The lead article was captioned, "Ngorongoro at tipping point as populations soars."[3] The article claimed that more than 100,000 pastoralists were living within the Ngorongoro Crater; however, in reality not a single pastoralist lives in the crater. *Jamhuri*, a weekly newspaper, which has also advocated for the eviction of pastoralists in other parts of the country, published negative and gravely biased articles on 5 and 12 January 2021 calling for the eviction of the Maasai.[4]

Different events preceded this negative publicity, including the December 2016 visit of the Prime Minister of the United Republic of Tanzania to Ngorongoro.[5] Following the visit, livestock were banned from entering various areas within the NCA, including the Ngorongoro Crater, Olmoti Valley, Embakaai Valley, Lake Ndutu, Masek and the Northern Forest Reserve, which are all critical for livestock.

Other related and important issues are the development of a new Ngorongoro General Management Plan, which commenced in August 2017; an amendment to the law on the NCA, which was initiated in 2018; and a Task Force formed by the Permanent Secretary of the Ministry of Natural Resources and Tourism in 2018 to review the Multiple Land-Use Model of the NCA and recommend management options.[6] These processes continued throughout 2020 with no or inadequate representation of the Indigenous inhabitants.

Indigenous residents complained in 2020 of being side-lined in all three processes. Three hand-picked community members were added to the Task Force and then dropped again instantly without attending any Task Force meetings. At a meeting held in Dodoma in April 2020, the residents again complained about the one-sided composition of the Task Force. In the same month of April, four hand-picked community members were thereafter added. Soon after, however, they were given unfavourable terms of reference. One condition in these was that

the four community representatives could not consult with or involve the NCA residents. Another was that residents who had opinions about the Multiple Land-Use Plan should submit these in writing to the Task Force in Arusha and that no community meetings would be held. In protest, the Ngorongoro Pastoralists Council withdrew the four community members from the Task Force after that same month, having been told they would not have the right to consult the community.

In July 2020, it was announced that the Task Force (without any representation of Indigenous Peoples) had submitted its report to the government. The report made unsubstantiated allegations, including of a human and livestock population explosion in Ngorongoro.

One of the suggestions advanced by the Task Force was to evict 73,000 pastoralists from the NCA. In addition, it has been suggested that NCA should be enlarged from its current 8,100 km^2 to over 12,000 km^2. To accomplish this, it is proposed to incorporate land from Loliondo Division and from Longido and Monduli Districts into the NCA. This will result in further threats to pastoralists from Loliondo, Longido and Monduli because they will be subjected to the very strict and limiting regulations of the NCA. The outbreak of the COVID-19 pandemic and the general elections in Tanzania did, however, slow down the impending eviction for much of 2020.

The Engaruka Soda Ash Project and threats of loss of land

In 2014, through the National Development Cooperation (NDC), the Government of the United Republic of Tanzania conducted exploratory works that discovered a total of 4.7 trillion tonnes of brine in the Engaruka Basin, which is a shallow depression in the Rift Valley. This discovery threatens to alienate the land of the Indigenous Peoples living in the Engaruka Basin, and Maasai pastoralists from the four affected villages have been protesting against the expropriation and alienation of 25,000 hectares of their prime grasslands since 2014.[7]

In June 2020, the NDC published the Scoping Report and Terms of Reference for the establishment of a Soda Ash Project aimed at extracting the brine[8] and it has commissioned Tanzania Industrial Research and Development Organization (TIRDO) to conduct an assessment of

the project. This is the first time that the NDC has sought consultation with Indigenous Peoples.

On 20 July 2020, TIRDO visited the Indigenous Peoples' umbrella organization, PINGO's Forum,[9] in Arusha to discuss the project. From the visit, it was apparent Indigenous Peoples had not been consulted since the very design of the project in 2014.

From 10 to14 August 2020, PINGOs Forum conducted a fact-finding mission to Engaruka Basin and produced a report based on an analysis of the project and interviews with the Indigenous Peoples living in Engaruka.[10] The report[11] stated that the proposed project was seen by the government as important to the economic development of Tanzania and that the government believes that it will have a positive economic effect on Tanga Port activities, the Tanga to Arusha railway and job creation, among others. However, the report also found that the villages in the basin are experiencing pressure on natural resources from ongoing changes in land use, and that the Soda Ash Project is a potential threat to the survival of the Maasai people and their wildlife. Furthermore, the report found that the project could potentially result in pollution from the boilers and from emissions and that sound and air pollutions could affect areas as far away as Ngorongoro Conservation Area and Serengeti National Park.

COVID-19 and Indigenous Peoples

When the COVID-19 pandemic hit, Indigenous Peoples in Tanzania were – like people the world over – shocked and so they turned to their own traditional ways of dealing with the pandemic.

Being the institutions focused on the interests of the Indigenous people, civil society organizations (CSOs) took initiatives to develop COVID-19 projects aimed at helping the government to mitigate the impact of COVID-19 on Indigenous Peoples in Tanzania through information provision on the spread, transmission and prevention of the virus and distribution of personal protective equipment (PPE). Information was provided through the local radio, TV, and the distribution of fliers, addressing information gaps and raising awareness. The implementation of the activities took into consideration distancing and followed all WHO's directives, including wearing masks, keeping distances and

conducting regular handwashing. CSO assistance was also directed at supporting access to PPE for health workers (especially rescue teams formed to deal with the pandemic), public servants working in public offices where Indigenous Peoples obtain services, health centres, dispensaries and district hospitals.

These efforts were made until the government stopped reporting and updating data on cases of COVID-19. From April 2020 on, when the government's updated stopped, Indigenous people continued making personal efforts to protect themselves from the virus. They continued to use traditional medicine to increase their immunity and treat the symptoms of any respiratory-related disease.

There is no documented evidence of Indigenous people dying of the coronavirus although many people have fallen sick with similar symptom to COVID-19. Available information shows that those who contracted the disease have recovered and they are taking precautions to continue their businesses.

Just like other communities, Indigenous Peoples felt the effects of the pandemic socially, culturally, politically and economically. The pandemic has limited interaction within the communities and people have stopped interacting in the ways they were used to. The livestock markets have been seriously affected and this affects the economic capacities of Indigenous people. The full effect and impact of COVID-19 may not be immediately clear but it is likely to be considerable.

The major challenge now is how Indigenous people can cope and adapt to living with the pandemic since the virus keeps mutating, making it difficult to deal with. Indigenous people are also facing difficulty in accessing vaccinations, both in terms of their high cost and a lack of accessibility. Measures are needed to help Indigenous people access coronavirus vaccinations at a lower cost and with increased possibilities of access. Lastly, the Tanzania government's stance of ignoring the existence of the virus and discouraging any interventions to address the pandemic remains a serious threat to all of the country's citizens.

Notes and references

1. National Bureau of Statistics and Office of Chief Government Statistician. "2012 Population and Housing Census: Population Distribution by

Administrative Areas." Tanzania, March 2013. https://www.google.co.tz/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKEwjMtN7Xz_PuAhWisXEKHeIMAfgQFjACegQIARAD&url=http%3A%2F%2Ftanzania.countrystat.org%2Ffileadmin%2Fuser_upload%2Fcountrystat_fenix%2Fcongo%2Fdocs%2FCensus%2520General%2520Report-2012PHC.pdf&usg=AOvVaw1E9NTiC9WCMu5kGjMGlnEP

2. Other sources estimate the Hadzabe at between 1,000 – 1,500 people. See, for instance, Madsen, Andrew. The Hadzabe of Tanzania: Land and Human Rights for a Hunter-Gatherer Community. Copenhagen: IWGIA, 2000.
3. Ngowi, Deus. "Tanzania: Ngorongoro At Tipping Point As Population Soars." All Africa 29 December 2020. https://allafrica.com/stories/202012290072.html; Ngowi, Deus. "Ngorongoro At Tipping Point As Population Soars." Daily News Tanzania, 29 December 2020. https://dailynews.co.tz/news/2020-12-285fe9d69b473e0.aspx
4. See Jamhuri. "Ngorongoro yalemewa." In Print 5 January 2021. Headline seen on https://web.mpaper.co.tz/embed/owner/jamhuri
5. Qorro, Edward. "PM orders human, livestock census in Ngorongoro. IPP Media, 10 December 2016. https://www.ippmedia.com/en/news/pm-orders-human-livestock-census-ngorongoro
6. Ministry of Natural Resources and Tourism (MNRT)."The Multiple Land Use Model of Ngorongoro Conservation Area: Achievements and Lessons Learnt, Challenges and Options for the Future, Final Report, Dodoma August." 2019.
7. National Development Cooperation. "Scoping Report and Terms of Reference for the establishment of Soda Ash Project at Engaruka basin in Monduli District, Arusha, Tanzania." p. 1.
8. Ibid.
9. Pastoralists Indigenous NGOs Forum.
10. PINGOs Forum. "Rejoinder on the Scoping Report & Terms of Reference for the Soda Ash ProjectA response following the request by TIRDO for comments on the Engaruka Soda Ash Project." Unpublished report, 2020.
11. Ibid.

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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 (the Amazigh language) speakers, accounting for some 10% of the total population. Tunisia is the country in which the Amazigh have suffered the greatest forced Arabisation. 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 Arab.

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, Djerba and Tozeur. 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, recognise 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. In its recitals, the text refers to the Tunisians' sources of "Arab and Muslim identity" and expressly affirms Tunisia's membership of the "culture and civilisation 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". For the Tunisian state, therefore, the Amazigh do not exist in this country.

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 in 2007. These international texts remain unknown to the vast majority of citizens and legal professionals, however, and are not applied in domestic courts.

Amazigh denial ever present

The primary and most striking expression of Amazigh denial can be seen in the 2014 Tunisian Constitution, which contains no reference whatsoever to the existence of the Indigenous Amazigh community and makes no mention of this people's history, culture or language. Unfortunately, there is no indication that this is likely to change in the near future. Quite the opposite, many political, academic and media actors publicly state that "there is no Amazigh issue in Tunisia" and that "almost no-one claims to be Amazigh" or that "the Amazigh issue is external to Tunisia".

Organic Law No. 2018-50 of 23 October 2018 on the elimination of all forms of racial discrimination was interpreted by government and non-government actors alike as a law intended primarily to protect migrants from other African lands and not the Amazigh. These latter are seen as Tunisians like the rest of the population, i.e., "Arabs and Muslims" who cannot therefore suffer any discrimination based on race, colour, descent, national or ethnic origin or indeed any other form of racial discrimination.

Amazigh citizens and associations are not only afraid to contradict this dominant discourse but also face great difficulties in getting their voices heard. The mass media, both public and private, are closed to them and they fear stigmatisation, insults and threats on social media, along with reprisals in their daily lives.

Even when suffering the denial of their identity and discrimination, the Amazigh of Tunisia consequently do not dare to publicly raise their grievances and suffering. And the dominant Arab-Islamic society (both state and civil society) relies on this "forced silence" to assert that there is no "Amazigh problem" in Tunisia, or even Amazigh in the country.

Nonetheless, against a general backdrop of hostility to the fundamental rights of the Amazigh, the government did finally agree to the Amazigh associations' request to abolish Circular No. 85 of 12/12/1965 banning parents from giving non-Arabic first names to their new-borns. On 16 July 2020, the Minister for Local Affairs sent an official letter to all mayors justifying the government's decision by the fact that they were obliged to respect Tunisia's international commitments to freedoms and human rights. In fact, the Tunisian government has previously been called to order on this subject, most notably in 2009 by the Committee on the Rights of the Child, and in 2016 by the Committee on Economic, Social and Cultural Rights. In addition, Tunisia was due to submit its periodic report to the Committee on the Rights of the Child under the International Convention on the Rights of the Child in 2020 and it is likely the government was hoping to be able to announce this good news at that time. Due to the COVID-19 pandemic, however, the committee's session was postponed to May 2021.[1]

This government letter does not solve everything, however. Many Islamist and Arab nationalist mayors have publicly stated that they will continue to refuse to register non-Arab names. Parents wishing to choose an Amazigh first name for their child will therefore have to resort to the courts. But how many will? For Mohsen Esseket, President of the Tamagit Association for Amazigh Rights, Freedoms and Culture, "It is difficult to take such a step, it is discouraging for parents."[2]

Ongoing discrimination

Amazigh who, despite the above, do dare to show or promote their language or culture are subject to intimidation and threats. The owner of a store in Nabeul who displayed his shop sign in three languages: Arabic, French and Tamazight was ordered by the police and the governor to remove the Amazigh script under threat of prosecution and a tax audit.

The Anti-Discrimination Points (PAD)[3] report that: "High school students have been transferred to different schools far from their homes for talking to each other in Tamazight in the school yard".[4]

In March 2020, the Central Bank of Tunisia issued a new banknote paying tribute to the Amazigh potters and pottery of Sejnane, listed by UNESCO as Intangible Cultural Heritage of Humanity in 2018. However, the banknote uses the term "Berber" instead of "Amazigh", which translates into Arabic as "barbaria", clearly implying the word "barbarian" in its Arabic pronunciation. The Amazigh associations protested at this stigmatisation and offence and demanded (unsuccessfully) that the bank note be withdrawn and replaced with another correctly phrased.[5]

Amazigh cultural activities

For the first time, the Amazigh New Year or *Yennayer*, which falls on 12 January each year, was celebrated by Amazigh associations, in some areas with the support of the local authorities.[6] Programmes involving lectures on Amazigh history and heritage, musical performances, and exhibitions of Amazigh arts and crafts were organised in Tunis, Gabès, Tamezret, Azemour, Sidi-Daoud, Azoghrane and Kélibia.

Several newspapers also took the opportunity to publish articles on the Amazigh, lifting a veil on this hitherto hidden Indigenous culture.[7]

The resurgence of Amazigh culture in Tunisia echoes the Amazigh cultural revival that is taking place in other countries of Tamazgha (North Africa) and meets a real need of the Amazigh to live and bring to life their ancestral culture, making it visible and sharing it. And yet the government and some Tunisians from the national Arabist and Islamist movement reject any expression of the Amazigh identity, accusing it of being the bearer of "division"[8] of the Tunisian nation, founded – they say – solely on an Arab-Islamic identity.

Tunisia's Amazigh in the context of COVID-19

From the outset of the COVID-19 pandemic, several international bodies (FAO, WHO, the Special Rapporteur on the rights of Indigenous Peoples,

the UN Expert Mechanism on the Rights of Indigenous Peoples, the UN Permanent Forum on Indigenous Issues)[9] called on states to ensure that Indigenous Peoples and their territories were protected and to provide them with timely and accurate information on all aspects of the pandemic, in their own languages and in culturally appropriate forms.

No specific measures were taken to protect Amazigh populations in Tunisia. On the contrary, it was during the pandemic that water stoppages became more frequent, especially in the southern territories inhabited by the Amazigh. Nor was information on the COVID-19 pandemic and the measures implemented to combat the coronavirus translated into or disseminated in the Amazigh language. And protective equipment (masks, sanitisers, etc.) arrived very late in the Amazigh territories of the hinterland. The communities had to fend for themselves to obtain information and introduce a lockdown in order to limit the spread of the virus.

The absence of public services in the Amazigh territories is a consequence of the State's abandonment of these territories, as it considers them of no economic interest and therefore "useless". This marginalisation of the Amazigh regions was noted in the Concluding Observations of the Committee on Economic, Social and Cultural Rights at its 59th session in September 2016 (E/C.12/TUN/CO/3).

Notes and references

1. UN Treaty Body Database. "CRC - Convention on the Rights of the Child." 87th committee session, 17 May to 4 June 2021. OHCHR. https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=2446&Lang=en
2. Raynal, Matthias. "En Tunisie, la fin des prénoms interdits."Slate, 31 August, 2020. http://www.slate.fr/story/194313/tunisie-etat-civil-choix-prenom-enfant-parents-bizerte-fin-circulaire-1965-lotfi-zitoun
3. These are associations designated as discrimination watchdogs created by the Minority Rights Group in the context of its project 'For the Capacity Building of Tunisian Civil Society in the Fight Against Discrimination'.
4. Jelassi, Mohamed Amine. "Rapport d'analyse des données sur les cas de discriminations récoltées par les Points Anti-Discrimination." Points Anti-Discriminations (PAD). Tunisia, May, 2020. https://minorityrights.org/wp-content/uploads/2020/05/rapport-PAD-discrimination-2019-FR.pdf
5. Amazigh World Congress. "Letter from the CMA to the Governor of the Central Bank of Tunisia." 22 September, 2020. https://www.congres-mondial-amazigh.org/2020/09/22/lette-du-cma-au-gouverneur-de-la-banque-centrale-de-

tunisie/
6. Kapitalis. "Les 5 Journées Tunisiennes de la Culture Amazigh se tiendront du 10 au 14 janvier 2020 à Tunis[The 5 Tunisian Days of Amazigh Culture will be held from January 10 to 14, 2020 in Tunis]." , 9 January, 2020. http://kapitalis.com/tunisie/2020/01/09/les-5e-journees-tunisiennes-de-la-culture-amazighe-se-tiendront-du-10-au-14-janvier-2020-a-tunis/
7. Tunisie.co Tourisme Culture. "Le Nouvel An Amazigh, ça se fête aussi en Tunisie [Amazigh New Year also celebrated in Tunisia]." 10 January, 2020. https://tunisie.co/article/13019/sortir/calendrier/le-nouvel-an-amazigh-tunisie-550610
8. Metallaoui, Mohamed, and Neila Rhouma. "Discovering the Amazigh architectural heritage of Tunisia." HAL Open Archives, 19 April, 2020. https://hal.archives-ouvertes.fr/hal-02547360/document
9. Food and Agriculture Organization (FAO). "Indigenous peoples' health and safety at risk due to Coronavirus (COVID-19)." 27 March, 2020. http://www.fao.org/indigenous-peoples/news-article/en/c/1268353/

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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 and 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 had an estimated population of 1,094,100[2] according to a mid-2018 estimate by the Uganda Bureau of Statistics. The Basongora number 15,897 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. They have experienced various human rights violations, including continued forced evictions and/or exclusions from ancestral lands without community consultation, consent or adequate (or any) compensation. Other violations include violence and destruction of homes and property, including livestock; 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 envisaged to deal with the historical disadvantages of children, people with disa-

bilities 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 in the voting on the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2007.

Legislation, policies and programmes

There have been no major changes in legislation related to Indigenous communities in Uganda. On the contrary, repressive laws still restrict them from accessing their ancestral lands. There continues to be limited media coverage of issues affecting them and repression has continued to take place in all Indigenous communities in Uganda.

There is, however, a notable realization on the part of government of the importance of understanding possible roles that Indigenous Peoples can play in putting climate-friendly programmes in place. For instance, the local district governments have been advocating for targeting the Benet Indigenous community in programmes on restoration of the forest cover through distributions of tree seedlings. This is meant to supplement conservation efforts and the Ministry of Lands recently launched a pilot project in Benet community on soil protection, training communities in how to use modern farming methods as well as digging trenches to reduce soil erosion along riverbanks.

The Ministry of Gender, Labour and Social Development organized regional consultation meetings with Indigenous people across the country between October and November. This was part of the process of finalizing the draft National Affirmative Action Programme for Indigenous People in Uganda (NAAPIPU), headed by the same ministry in

which 10 Indigenous Peoples' representatives are supposed to represent the Indigenous communities at the National Indigenous Peoples Reference Committee (NIPRC). Through financial and technical support from the United Nations Department of Economic and Social Affairs, Indigenous people were able to organize national, regional and local consultations with stakeholders on shaping the NAAPIPU.

Benet issues

The Benet community in Kween district and their local district council drafted and presented a petition to the President during his visit to Sebei sub-region on 25 November 2020. The petition raised issues related to resettlement of the landless Benet families, access to resources/controlled grazing, representation through the creation of a Mosop constituency, recognition as a tribe called Mosopishek, and sports development. The Benet lobby group organization spearheaded a joint local influencing and engagement effort, which brought the Sebei local district leadership to seek a way forward on the Benet land question. One immediate resulting agreement was that since protected areas and land are governed by the central government, there is an urgent need to request that said central government convene a national engagement on these issues. This proposed engagement eventually took place in Kampala and was attended by representatives from the Ministry of Gender, Labour and Social Development, the Uganda Wildlife Authority, the Ministry of Lands, Housing and Urban Development and the Equal Opportunities Commission.

The Indigenous Benet women and youth have taken progressive initiatives to demand their rights by organizing peaceful demonstrations against the massive human rights violations, especially the shootings of their Indigenous children in July and October by park rangers, which led to the death of two children – Kamakete Moses and Kiplimo Clinton – who were found grazing their animals in a protected area. Benet women and youth have also protested against the heavy fines levied on cattle grazing in the Mount Elgon National Park, and they have been involved in awareness rising programmes via radio talk shows on relevant land and human rights issues affecting the Benet community.

Batwa issues

The COVID-19 pandemic in 2020 and subsequent lockdown seriously affected the Batwa people. They could neither access food nor offer casual labour services (which much of their meagre income depends upon) since almost everything was closed down. Tourism activities in national parks came to a standstill, and this seriously affected the income of many Batwa people who normally work as porters, guides and dancers.

Human rights violations have continued to take place towards the Batwa people and, due to the COVID-19 lockdown, it was sometimes hard to report these issues due to the closure of offices and limited public transport. Some violations therefore went unaddressed while others were solved amicably. Such cases dealt, among others, with issues of sexual assaults and land grabbing.

Despite all the challenges faced by COVID-19 and the lockdown, the Batwa people sought to adjust to the reality and find ways of surviving. This included engaging more in farming activities and opening up small-scale businesses such as sugarcane or charcoal selling. They kept together and comforted each other as most family members were at home due to the lockdown. Batwa people were also supported by their donors who provided essential supplies such as food and soap and they continued paying salaries to the staff of the Batwa organization UOBDU to enable them to continue their work from their homes.

The biggest achievement for the Batwa people in 2020 was that their court case against the Government of Uganda for the loss of their land rights – for which they have been fighting for more than eight years now - was finally heard on 20 August 2020 and the judgment is pending.

The Batwa struggle for their land rights is still continuing despite COVID-19 and the upcoming elections in Uganda and the community is determined to work hand in hand with their organization UOBDU and their partners to reclaim their land rights.

Basongora issues

One of the longest standing desires of the entire Basongora community is to be granted a district in which political representation and cultur-

al identity would be a reality, accompanied by effective service delivery, security as well as economic empowerment. The community had hopes that such district status might be granted in early 2020 but, with the outbreak of COVID-19, there was silence on the issue leading to a loss of hope. Two members of the Basongora community petitioned the Speaker of Parliament over the issue but she noted that the issue needed to be looked into politically.[5]

Meanwhile, the majority Bakonzo people are continuing to fight the Basongora attempts, making it difficult for the Basongora to have their own district in which they can make majority decisions. Most Bakonzo propose boundaries that will further marginalize the Basongora by dividing them into smaller units that would make it even harder for Basongora to garner a simple majority vote.[6]

Some of the promising aspects of 2020, however, are that five (one being a woman) members of the Basongora community started campaigning for the district council representative seats and chances are they will be successful during the January 2021 elections, which will significantly improve the direction of district council resolutions regarding the Basongora community.

The situation of the Karamojong people

The security situation in North Karamoja remained fragile in 2020 with violent raids on livestock committed by the formerly conflicting communities of Dodoth, Jie and Turkana. These raids have destabilized the relative peace in the region and caused communities who had embarked on farming production to flee from fertile areas such as Lolelia and Sangar sub-counties. The security situation in Karamoja region deteriorated at the start of 2020 as a result of the rearmament of the Karamojong youth with weapons from the Turkana people in Kenya and the Toposa people of South Sudan. This led to an increase in livestock thefts and raiding was noted across the sub-counties coupled with killings during the raids, all of which led to loss of life and property. There are community reports that guns are being exchanged for animals, with two cows per gun from the Turkana (Kenya) and Toposa (South Sudan) black markets.

During dialogue meetings in November 2020 in Kotido and Moroto

Districts, the Karamojong pastoralists – especially women and students – raised issues of the rearmament and the lack of cross border engagement between Uganda and Kenya as a potential trigger for conflict in the region with the government authorities. A regional programme on disarmament or arms control is needed to deal with the long-term supply of weapons in the Karamoja region.

The insecurity became even worse in 2020 due to COVID-19 as more of the security apparatus was shifted to managing the enforcement of COVID-19 measures. In mid-2020, the Uganda Peoples Defence Force (UPDF) deployed helicopters to quell the livestock raids and cattle rustling that had risen during the lockdown. This left scores of animals and armed warriors dead due to aerial bombing and bullets used in the process and in the fire exchanged between warriors and security forces. On Christmas Eve, a pregnant woman was shot dead by the Local Defence Unit (LDU) in Kangole Town Council in Napak district.

On 2 May 2020, over, 1,000 head of cattle and goats were raided in Kololo Kraal in Kaabong Town Council by suspected Karamojong Jie, and this left two Uganda Peoples Defence Force and Local Defence Unit soldiers dead in Kaabong.[7] The Kololo kraal only had oxen to support the women in cultivating and marketing their crops, and this attack forced women to protest by marching to the Resident District Commissioner's (RDC) office calling for action.[8]

COVID-19 emergency and pastoralism in Karamoja

The COVID-19 response in Uganda generally – and in Karamoja in particular – put in place public health measures aimed at reducing the spread of COVID-19. These included shutting down international air travel, and campaigns on social distancing and handwashing with soap and water. Although the measures were intended to be countrywide, many rural people, including those in Karamoja, are not yet aware of the recommended measures and have continued living as if it were business as usual. This indicates that information on public health measures has not adequately reached rural communities, especially pastoralists and agro-pastoralists in the *manyattas* and Kraals (local settlements). It is thus evident that the communication channels used were inappropriate and non-responsive to the needs of the pastoralists.

The COVID-19 Standard Operating Procedures that led to the closure of most public spaces such as livestock markets also affected household income, food and nutrition – and reportedly also fuelled insecurity related to cattle theft and raids across the region. For example, in Karamoja sub-region, the cutting-off of the livestock trade in markets led to reduced access to income and an increase in cattle raids, theft, loss of property and lives – actions carried out by bandits from across the borders and internally within ethnic groups.

Due to the COVID-19 situation, the Ministry of Agriculture, Animal Industry and Fisheries (MAAIF) declared a quarantine in Karamoja, restricting movement of livestock and livestock products within and outside the region. This had major implications for the livelihoods of pastoralist and agro-pastoralist communities as their major source of income was affected. The communities resorted to undercover selling of livestock and using violence to fend off any obstacles to the illegal activity. The prolonged livestock quarantine broke the coping strategies of the pastoralist and agro-pastoralist communities and increased animosity between people because they could not purchase and sell livestock products, thus limiting their access to nutritional diets. The end result of the livestock quarantine was that it led to malnutrition among the communities in North Karamoja.

Due to limited access to markets and thus limited access to food and income, the pastoralist and agro-pastoral communities – including women, young children and youth – have become more involved in deforestation for commercial firewood and charcoal production as a means to augment household incomes.

The prison break in Moroto district

In early September 2020, over 224 prisoners escaped from the Moroto prison facility in Moroto municipality of Karamoja sub-region,, most of whom were former armed gang members. The incident left seven prisoners dead. While 16 were captured, by the end of the year an estimated 201 prisoners were still missing.[9] The break is putting the Karamojong people at risk as it is reported that many prisoners escaped with arms. Knowing that the inmates who broke out of prison were former cattle raiders and mostly from Kaabong and Kotido Districts, the community feels insecure.

Notes and references

1. United Organization of Batwa Development in Uganda (UOBDU). "Report about Batwa data." Uganda, August 2004, p.3.
2. Uganda Bureau of Statistics. "2018 Statistical Abstract." May 2019. https://www.ubos.org/wp-content/uploads/publications/05_2019STATISTICAL_ABSTRACT_2018.pdf
3. Baker, Wairama G.. Uganda: The marginalization of Minorities. (Minority Rights Group International (MRG), 2001), p.9. https://minorityrights.org/publications/uganda-the-marginalization-of-minorities-december-2001/
4. "Land Act." 1998, Articles 2, 32; and "National Environment Statute." 1995, Article 46.
5. Nathan. "Basongora ask Kadaga to involve in the process of sub-dividing Kasese district." Daily Media, 1 July 2020. https://dailymedia.co.ug/2020/07/01/basongora-ask-kadaga-to-involve-in-the-process-of-sub-dividing-kasese-district/
6. Bisiika, Asuman. "Bakonzo, Basongora need to make concessions on Kasese District split." Daily Monitor, 22 May 2020. https://www.monitor.co.ug/uganda/oped/commentary/bakonzo-basongora-need-to-make-concessions-on-kasese-district-split-1891312
7. The Independent. "Kaabong to use diplomatic approach to recover stolen cattle in Kenya." 16 June 2020. https://www.independent.co.ug/kaabong-to-use-diplomatic-approach-to-recover-stolen-cattle-in-kenya/
8. Northernews Wire. "Pictorial: Protest in Kaabong as 1,000 Heads of Cattle and 2 Lives are Lost in Nasty Raid." 7 May 2020. https://northernnewswire.com/2020/05/07/pictorial-protest-in-kaabong-as-1000-heads-of-cattle-and-2-lives-are-lost-in-nasty-raid/
9. Misairi, Thembo Kahungu. "Moroto prison break: Only 20 escapes were convicts." Daily Monitor, 25 September 2020. https://www.monitor.co.ug/uganda/news/national/moroto-prison-break-only-20-escapes-were-convicts-2371800

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Zimbabwe

While the Government of Zimbabwe does not recognise 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 2,950 Tshwa and 1,450 Doma in Zimbabwe, approximately 0.032% of the country's population of 14,546,314 in 2020. The government uses the term "marginalised 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, though a survey was done of Tshwa in 2020. 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, tourism and small-scale business enterprises. Remittances from relatives and friends both inside and outside the country make up a small proportion of the total incomes of Tshwa and Doma. As is the case with other Zimbabweans, some Tshwa and Doma have emigrated to other countries in search of income-generating opportunities, employment and greater social security.

The realisation of core human rights in Zimbabwe continues to be challenging. Zimbabwe is party to the CERD, CRC, CEDAW, ICCPR and ICESCR. Reporting on these conventions is largely overdue but there were efforts in 2020 to meet 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 marginalised communities. 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 recognised in the country, and there is some awareness within government of the need for more information and improved approaches to poverty alleviation and improvement of well-being among minorities and marginalized communities.

Serious economic situation exacerbated by COVID-19

Sizable numbers of Tshwa, Doma and other Zimbabweans were seriously affected by the continuing decline in the country's economic situation and the coronavirus (SARS-CoV-2) pandemic in 2020.[1] The economy of Zimbabwe was in its worst state since the serious economic downturn of 2008-2009, with inflation at over 800%.[2] Much of the hope that the government of President Emmerson Mnangagwa would relieve the economic crisis dissipated in 2020 as livelihoods declined, and the abuse of anti-government demonstrators increased.[3] Zimbabweans protested against corruption and human rights abuses using social media in 2020.[4] Some Tshwa San and Doma communities are struggling with food insecurity as incomes and employment decline in the face of the coronavirus pandemic and economic stagnation.[5] The national lockdown offered limited opportunities for the informal labour opportunities that many San communities rely on and, as reported by the Zimbabwe Human Rights Commission, government outreach during the pandemic was delayed or did not materialise.[6, 7]

National parks and World Heritage Sites

An important area of concern for Tshwa and Doma in 2020 was the interaction between their communities and the Zimbabwe Parks and Wildlife Management (Zimparks). Arrests of Tshwa in Tsholothso and Doma in the Zambezi Valley for alleged violations of wildlife laws increased, particularly after the declaration of the COVID-19 lockdown in Zimbabwe on 24 March 2020. Local people in the Zambezi Valley said that they were sometimes blamed for taking action against predators and other wild animals in response to human wildlife conflicts (HWC).[8] For ZimParks, the department was having to deal with a reduction in the number of government wildlife personnel due to financial cutbacks as a result of COVID-19.[9]

A survey of Tshwa in Tsholotsho and Bulilimamangwe Districts revealed Tshwa concerns including discrimination, marginalisation, lack of equitable treatment, poverty, and lower levels of access to social infrastructure and services than was the case for other people in Zim-

babwe.[10] One of the issues raised in the interviews was their desire to have some control over culturally-significant sites that contain rock art and archaeological remains. They also wanted to have access to World Heritage Sites such as the Hwange National Park (14,651 km^2) and the Matobo National Park (424 km^2) so that they could visit sites they believe are sacred to them, such as graves and former villages and places where rituals were practised.

Community programmes

Zimbabwe Tshwa and Doma want to obtain greater benefits from CAMPFIRE, the Communal Areas Programme for Indigenous Resources. The benefits that some 800,000 people in hundreds of communities across Zimbabwe receive include employment, meat from safari hunting, and funds for local infrastructure including roads, community centres and water systems.[11] Some communities maintained that the economic returns from the community-based natural resource management (CBNRM) programmes in 2020 were lower than in the past.

Access and rights to land

Both Tshwa and Doma want rights of access to forests in Zimbabwe, where they can obtain non-timber forest products (NTFPs) such as Mopane worms (*Imbrasia belina*), and high value timber items such as Zimbabwe teak (*Baikiaea plurija*) and Kiaat (*Pterocarpus angolensis*). Since many of these forests are in communal areas, they want to have the opportunity to visit them without being arrested for violating forest protection laws and to be able to sell products on the commercial market.[12]

Organisations such as the Tsoro-o-tso San Development Trust (TSDT), the Zimbabwe Human Rights Commission (ZHRC) and the Zimbabwe People's Land Rights Movement (ZPLRM) are all arguing for greater security of land tenure for Indigenous and marginalised communities in communal and resettlement areas. A halt to forced evictions in rural areas was a major goal of the ZPLRM throughout the year.[13]

San organisation

The Tsoro-o-tso San Development Trust, the only San community-based organisation in Zimbabwe, continued its efforts to advocate for the rights and well-being of Tshwa communities in 2020. Some of TSDT's activities included the provision of information to San and other communities on strategies to prevent the spread of coronavirus, assisting children and youth in education, carrying out leadership training with a Council of Elders and others, promoting the learning and use of the Tjwao language, sponsoring youth performing arts programmes involving drama, dance and music, and working with communities to address issues of climate change.[14]

Education

Primary and secondary education efforts for San and Doma children and youth were an important focus of concern in 2020. Surveys revealed that Tshwa faced constraints in terms of access to education in Tsholotsho.[15] The closure of schools in March 2020 due to the coronavirus pandemic resulted in children not being able to get the face-to-face education they required, and many Tshwa children ended up either working for their parents or other people or roaming the land searching for food and medicinal plants.[16] Tsoro-o-tso San Development Trust continued to provide support to two Early Child Development (ECD) centres in Wards 7 and 8 in Tsholotsho. Discussions with these centres and other schools in Tsholotsho and Bulilimamangwe revealed that the students were in need of curricular materials, notebooks, pencils and other supplies.[17] Work continued on the development of a Tshwa language dictionary and grammar in 2020 with assistance from Zimbabwean and international linguists.[18]

The First Lady of Zimbabwe, Auxillia Mnangagwa, continued to provide some support for education, health and livelihoods to San and Vadoma communities through her foundation, Angel of Hope. The foundation has recently encouraged the opening of local primary schools targeted at both groups, and it has carried out COVID-19 awareness campaigns.[19]

Violations of women's and children's rights

Tshwa and Doma stated in community meetings that they continued to be concerned about issues of women and children being exposed to domestic abuse and physical and verbal mistreatment both at home and outside, sometimes at the hands of members of other groups. Over half of all women in Zimbabwe, including members of Indigenous and minority groups, were forced to exchange sexual favours for jobs, medical attention, and school placements for their children in 2020.[20] Some San community members said they wanted the Zimbabwe Human Rights Commission to look into these problems of abuse and mistreatment.[21] Access to healthcare for Indigenous peoples in Zimbabwe, particularly women, remained a concern in 2020.[22]

Equal treatment urged

The ZHRC highlighted the need for urgent action for marginalised groups, including the Indigenous San and Vadoma, in terms of accessing identity documents and therefore removing barriers to their rights and freedoms.[23]

By the end of 2020, Indigenous and marginalised communities in Zimbabwe were continuing to pressure the government for equitable and fair treatment before the law and for full recognition of their social, political, economic and cultural rights. They were also calling for access to coronavirus vaccines and for programmes aimed at addressing their loss of livelihoods, incomes and employment due to the coronavirus pandemic.

Notes and references

1. Koro, Emmanuel. "COVID-19 Plunges Zimbabwe into Wildlife Management Crisis." Chronicle, 9 July 2020. https://www.chronicle.co.zw/covid-19-plunges-zimbabwe-into-wildlife-management-crisis/; Ndlovu, Davy. 2020a "Annual Report of the Tsoro-o-tso San Development Trust for 2020." Tsoro-o-tso San Development Trust, Tsholotso.
2. Economist. "For a Few Dollars More: Zimbabwe's worst economic crisis in more than a decade." The Economist, 11 July 2020. https://www.economist.com/middle-east-and-africa/2020/07/09/zimbabwes-worst-economic-crisis-in-more-than-a-decade; Mutsaka, Farai. "Zimbabwe's 'keyboard warriors' hold

protests off the Streets." AP News, 29 August 2020. https://apnews.com/article/c1661acb128a3b27faf73be747bc8d6e

3. Kingsley, Patrick, and Jeffrey Moyo. "Zimbabwe Locks Down Capital, Thwarting Planned Protests." New York Times, 31 July 2020. https://www.nytimes.com/2020/07/31/world/africa/zimbabwe-coronavirus-protest.html; Mutsaka, Farai. "Scores of Zimbabwean Protestors arrested, military in streets." Washington Post, 31 July 2020. https://www.washingtonpost.com/world/africa/empty-streets-in-zimbabwe-as-security-forces-thwart-protest/2020/07/31/cda13416-d309-11ea-826b-cc394d824e35_story.html
4. Patrick, Anita. "Zimbabweans stage solo social media protests against human rights abuse in the country." CNN, 10 August 2020. https://edition.cnn.com/2020/08/10/africa/zimbabwe-solo-protest-intl/index.html
5. Ndlovu, Davy. 2020b. "Research Report: Decades of Land Dispossession and Loss of Ancestral Land, Cultural Assets and Livelihoods: A Case for the San in Zimbabwe." Tsoro-o-tso San Development Trust, Bulawayo; data on Doma obtained during surveys done for a United Nations Development Programme (UNDP) project entitled "Strengthening Biodiversity and Ecosystems Management and Climate-Smart Landscapes in the Mid to Lower Zambezi Region of Zimbabwe" Harare, Zimbabwe, 2020.
6. Zimbabwe Human Rights Commission. "Zimbabwe Human Rights Commission (ZHRC) Statement on the Human Rights Situation in the Extended Phase of the National Lockdown in Response to the Covid-19 Pandemic." 22 April 2020. Accessed 27 January 2021, http://www.zhrc.org.zw/wp-content/uploads/2020/11/ZIMBABWE-HUMAN-RIGHTS-COMMISSION-ZHRC-STATEMENT-ON-THE-HUMAN-RIGHTS-SITUATION-IN-THE-EXTENDED-PHASE-OF-THE-NATIONAL-LOCKDOWN-IN-RESPONSE-TO-THE-COVID-19-PANDEMIC.pdf
7. Muvundusi, Jeffrey. "San Community Goes Hungry as Govt Dithers." Daily News, 7 June 2020. Accessed 27 January 2021, https://dailynews.co.zw/san-community-goes-hungry-as-govt-dithers/
8. Data from Doma in Mbire District, 2020; see also De Wit, Anton H., Vincent Jani, and Nigel L. Webb. "Disputes, relationships, and identity: a 'levels of conflict' analysis of human-wildlife conflict as human-human conflict in the mid-Zambezi valley, Northern Zimbabwe." South African Geographical Journal 102, 1 (2020): 59-76.
9. Data from ZimParks, the Bhejane Trust and personnel in Hwange National Park and the Chewore Safari Area in the Zambezi Valley.
10. Ndlovu, Davy. 2020b. "Research Report: Decades of Land Dispossession and Loss of Ancestral Land, Cultural Assets and Livelihoods: A Case for the San in Zimbabwe." Tsoro-o-tso San Development Trust, Bulawayo.
11. See the CAMPFIRE Association website, www.campfirezimbabwe.org, accessed 28 December 2020: Saarinen, Jarkko, and Ngoni Courage Shereni.. "Community perceptions on the benefits and challenges of community-based natural resources management in Zimbabwe." Development Southern Africa, 2020.; Mashapa, Clayton, et al. "An Assessment of Women Participation in Community-Based Natural Resource Conservation in Southeast Zimbabwe." Open Journal of Ecology 10 (2020):189-199.
12. Mudombi-Rusinamhodzi, Grace, and Andreas Thiel. "Property rights and the conservation of forests in communal areas in Zimbabwe." Forest Policy and Economics 121 (2020).
13. Zhou, Hillary. "Zimbabwe People's Land Rights Movement: Land Food, and

Shelter Now." Progressive International, 27 October 2020. https://progressive.international/wire/2020-10-27-zimbabwe-peoples-land-rights-movement-zplrm-land-food-and-shelter-now/en; Ndlovu, Davy. 2020a. Op.cit.

14. Tsoro-o-tso. http://tsorotso.org/, Accessed 15 January 2021; Ndlovu, Davy. 2020a. Op.cit.
15. Dube, Thulani, et al. "Access to formal education for the San community in Tsholotsho, Zimbabwe: challenges and prospects." Heliyon 6, 7 (2020).
16. Ndlovu, Davy. 2020c. "A case study on how COVID-19 lockdown is impacting continued access to education for Indigenous Minority San Students in Tsholotsho." Tsoro-o-tso San Development Trust, Bulawayo.
17. Ndlovu, Davy. Field observations, September-December 2020.
18. Some of these linguists included Admire Phiri, Anne-Maria Fehn, and Jeffrey Wills.
19. Rupapa, Tendai. "First Lady takes campaign to Binga." The Herald, 10 June 2020. Accessed 27 January 2021, https://www.herald.co.zw/first-lady-takes-campaign-to-binga/
20. 18 Chingono, Nyasha. "More than half of women in Zimbabwe have faced sextortion, finds survey." The Guardian, 8 February 2020. https://www.theguardian.com/global-development/2020/feb/08/more-than-half-of-women-in-zimbabwe-have-faced-sextortion-finds-survey; Transparency International Zimbabwe. "Gender & Corruption in Zimbabwe 2019.", Transparency International Zimbabwe. 2020, Harare. http://www.tizim.org/wp-content/uploads/2020/07/Gender-and-Corruption-in-Zimbabwe-2019.pdf
21. 19 Statements made in community meetings in Tsholotsho and Bulilimamangwe Districts in Matabeleland North and South, and Mbire District in the Zambezi Valley, July-December 2020.
22. Moyo, Providence. "Tsholotsho's Phelandaba residents bemoan lack of access to healthcare." Community Voices Zimbabwe. Accessed 27 January 2021 http://cvz.org.zw/Tsholotsho.php
23. Ntali, Elia. "Zimbabwe: Urgent Attention to Acquisition of Identity Documents Needed – ZHRC." allAfrica, 30 September 2020. Accessed 27 January 2021, https://allafrica.com/stories/202010010339.html

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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 2011 census, the country's Indigenous population numbers approximately 1,586,141[1] which represents 1.8% of the total population. Indigenous Peoples in the country, however, claim that their population stands at some 5 million.[2] The majority of the Indigenous population live 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-three 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.

Luxury hotel to evict Mro villagers

Indigenous Mro villagers of the Chimbuk Range in Bandarban district in the Chittagong Hill Tracts (CHT) are under threat of eviction from their ancestral lands due to the construction of a luxury five-star hotel. Mro villagers will lose their farmlands, village forests and cremation grounds due to this luxury hotel under construction.

The ancestral lands of the Mro people have been reportedly encroached upon jointly by the Army Welfare Trust (the business concern

of the Army of Bangladesh) and the business giant Sikder Group's R&R Holdings Ltd.[5] This joint venture was made public on 12 September 2020 through an announcement of these influential groups. The hotel and its accompanying modern recreational facilities, including a dozen luxury villas, cable cars and a swimming pool, will adversely affect an estimated 800-1,000 acres of lands belonging to Indigenous Peoples.

Some Mro families have already been evicted while others are under threat of losing their lands. The affected villages are Kapru Para, Dola Para, Era Para, Markin Para, Long Baitong Para, Mensing Para, Riamanai Para and Menring Para. The lands, which are the main source of livelihood for the Indigenous communities in these villages, are already off-limits for the members of some villages due to regular threats and intimidation from company officials as well as the military personnel guarding the spot.

Together with different national and transnational advocacy groups, Mro villagers staged rallies and signed petitions addressing the policy-makers, including the Prime Minister Sheikh Hasina, amid the COVID crisis. However, no positive response has yet come from the authorities to address the matter. As a consequence, the affected Mro communities are currently living in great uncertainty.

It is notable that this five-star hotel project forms part of the burgeoning military-corporate ventures in the region that have little regard for the people or nature. The CHT is the "last frontier" of the country with monsoon forests, hilly terrains and rich biodiversity, all of which are embedded with the ways of life of local Indigenous Peoples. If such plundering of rich natural and cultural resources continues in this fashion, it will not be long before we see ecological as well as humanitarian disasters happening in this region.

Violence against Indigenous women and girls remains a matter of concern

Violence against Indigenous women and girls continues to be an issue of concern in the plains and the CHT region of the country. Human rights organization Kapaeeng Foundation reported[6] at least 54 cases of violence against Indigenous women and girls in 2020. Thirty-five (35) of these cases were reported in the plains and the rest reportedly took

place in the CHT. A minimum of seven women and girls were either sexually or physically assaulted in the aforementioned 54 incidents.

Among the reported incidents, at least 18 women and girls were raped, four were killed or killed after rape, and 14 suffered from attempted rape. Justice remains an illusion for the victims despite there being legislative (such as Women and Children Repression Prevention Act) and institutional measures (such as One Stop Crisis Centres and One Stop Crisis Cells) to prevent violence against women and children and despite the state's repeated promises made before international forums.

Persecution by state forces continues in the CHT

State violence and terrorization targeting Indigenous communities in the CHT, in particular Indigenous Peoples' human rights defenders (IPHRD), continued even amid the COVID crisis. Hundreds of IPHRDs remained on the run for fear of being arrested or killed at gunpoint.

The Indigenous political organization Parbatya Chattagram Jana Samhati Samiti (PCJSS) reported 139 cases of human rights violations (against IPHRDs as well as ordinary people) perpetrated by state forces – the Bangladesh Army, Border Guard Bangladesh and Bangladesh Police.[7] The annual human rights report of PCJSS reported incidents involving three extrajudicial killings, 50 arbitrary arrests, 49 temporary detentions and 54 physical assaults in the CHT.[8]

These cases were perpetrated without any regard for the country's legal justice system or the human rights of the people. Local sources stated that victims of such state persecution barely have any chance to defend themselves from these "pre-planned" plots.

COVID hampers education of Indigenous students

A large number of Indigenous students have been deprived of attending online as well as televised classes during the COVID-19 pandemic. While this scenario was commonplace throughout the country, characterized as it is by extreme resource and income inequality, Indigenous students' studies have been found to be disproportionately affected by the pandemic.[9]

Many Indigenous students coming from poor economic backgrounds, especially those based in rural and hard-to-reach areas, were largely unable to access the virtual classes organized as a result of the pandemic. An online discussion entitled "Impact of COVID-19 on Education in Bangladesh" on 20 June 2020 revealed that 75% of school-going Indigenous students were unable to take part in classes broadcast via the Parliamentary Television BTV.[10] Citing a survey by the NGO BRAC, participants in an online meeting revealed that the national average was only 56% in this regard. The report further showed that students have been deprived of their ability to participate in the televised classes due to a lack of electricity, TV and cable connections.

Amid all these challenges, some young Indigenous university students started teaching the school students in their villages who were at home without schooling. For example, in a small village of *Ajachara* in Rangamati district of the CHT, an education program entitled *Pohr Sidok* (Let the light shine) was started during the COVID-19 pandemic by a group of Chakma youth. They teach school-going students in their village and provide education through cultural and psychosocial lessons along with regular textbook teaching.[11] The initiative of the Indigenous youth of *Ajachara* village was highly appreciated by all and it has also influenced other youth to do the same in adjacent villages.

Indigenous traditional lockdown customs

During the pandemic, different Indigenous groups implemented the lockdown in different traditional ways. The concept of lockdown is not new for Indigenous communities. Indigenous Khasi people in Sylhet region observed traditional "*Bonchnong*" (isolation) and maintained strict hygiene protocols in 90 *punjis* (villages), which kept them safe from infection.[12] Similarly, in the CHT, Chakma people observed their traditional custom of "*Adam-bon*", Tripura people "*Para Khernai*", and the Mro community "*bon-kuya*" to deal with the pandemic. Most Indigenous communities in the CHT are maintaining lockdown using these traditional practices.[13]

Measles outbreak affects Indigenous children: 10 die and 300 infected

A sudden outbreak of measles in Sajek Union of Rangamati and Lama Union of Bandarban hill district in March became a matter of grave concern for the affected Indigenous communities, even surpassing the anxieties caused by COVID-19.

This sudden outbreak of measles claimed the lives of 10 Indigenous children in the CHT[14] while at least 300 more were affected. Kapaeeng Foundation and other sources reported[15] that some 250 people were affected in six villages of Sajek Union during this outbreak, with Arunpara village being the worst hit. Children were the most infected and seven lost their lives within several weeks of catching the disease in Arunpara. Locals alleged that the infected children had no access to any medical treatment for several weeks. As the news of the deaths of children spread through the media, teams from the Upazilla Health and Family Planning Department, EPI Department and Sajek Union Council rushed to the affected villages. These teams vaccinated nearly 300 children and provided them with necessary vitamins and other nutrients.

At around the same time, 42 Mro became infected with measles in Layapara village of Lama. Thirty-three (33) of them were children, while a four-month-old Mro baby lost her life during this outbreak. The infected children were later brought to Lama Upazilla Healthcare Complex by truck and provided with treatment. It is noteworthy that there are no healthcare facilities such as health complexes and clinics within close reach of these villages. The healthcare workers rarely pay any visits. As a result, Indigenous Peoples and their children have remained undernourished and with no access to healthcare services for years.

Voluntary National Review of Bangladesh

The Voluntary National Review (VNR) is a process by which countries showcase their progress in achieving the global Sustainable Development Goals (SDGs) and, furthermore, allow themselves to be evaluated by other countries. In 2020, 46 nations, including Bangladesh, were reviewed at the High-Level Political Forum 2020, under the auspices of

the United Nations Economic and Social Council (ECOSOC). The title of the Bangladesh government's VNR 2020 was "Accelerated action and transformative pathways: realizing the decade of action and delivery for sustainable development".[16] This is the second time that Bangladesh has volunteered for the review, the first being in 2017.

Due to the unprecedented health crisis of the COVID-19 pandemic, like all the other reviewed countries, Bangladesh presented its VNR 2020 virtually on 13 July 2020. The report was presented by the Planning Minister of Bangladesh, Mr. M A Mannan MP. In the presentation, the minister described how Bangladesh is approaching its target of meeting the SDGs despite different challenges. He highlighted the Bangladesh government's achievements in poverty reduction, gender parity in primary and secondary enrolment, reduction of under-5 mortality rates, access to electricity and social protection coverage.[17] He mentioned that the Government of Bangladesh has undertaken initiatives to create an enabling environment for SDG implementation by creating ownership of the SDGs, incorporating them into national frameworks, integrating the three dimensions, leaving no-one behind, mainstreaming SDGs in the national plans, etc.

The minister also shared how the government is handling COVID-19 challenges in the SDG implementation processes. However, despite being one of the most vulnerable groups in society, there was no mention of the Indigenous Peoples' perspective in the VNR report. Indigenous Peoples and their representative organizations did not even form part of the process of formulating the VNR report. Indigenous Peoples' issues therefore remained invisible in the report just as they are invisible in the SDG implementation processes as a whole in the country even after five years of adoption of the SDGs.

8th Five-Year Plan

The Government of Bangladesh has embarked on its 8th Five-Year Plan for the period of FY2021 – FY2025 with the theme of "Promoting Prosperity and Fostering Inclusiveness". Unlike the previous government's five-year plans, this time a number of promises have been included for the development of the country's ethnic minorities.

The plan rightly observes the vulnerable situation of Indigenous Peoples ("ethnic minorities" as the government calls them) by stating:

> *the ethnic communities in Bangladesh are the most deprived of economic, social, cultural and political rights, mainly due to their ethnic status. Ethnic identities are creating barriers to ethnic minority peoples' inclusion in wider social networks ... the result is that ethnic people are socially isolated, with little access to mainstream economic and political spheres.*[18]

This important government plan also reveals

> *a complex interplay of ethnic inequality, enduring discrimination, lack of education, little access to land and lack of employment has resulted in increased poverty amongst these groups. One of the major problems for all minority communities is land grabbing by influential people from the mainstream population. Policies to protect the land of ethnic people have not been adequate.*[19]

Given this dire situation for Indigenous Peoples, the government has proposed some strategic plans and commitments for their fundamental human rights and social security, along with enabling their social, cultural and traditional identities. The plan also guarantees to fulfil Indigenous Peoples' rights to access education, healthcare, food and nutrition, employment and overseas employment, as well as to protect their rights to land and other resources. The plan further mentions that a Prospective Plan for the development of the CHT will be formulated through a consultative process with the key stakeholders. The 8th Five-Year Plan reiterates the government's commitment to consider implementing the 2007 UN Declaration on the Rights of Indigenous Peoples and to ratify the ILO Convention 169, among others.[20]

All in all, the plan addresses the harsh-lived realities of Indigenous Peoples with some concrete promises of affirmative action to address them. It has thus opened up many windows of opportunity for constructive dialogue, cooperation and partnership between the government and Indigenous Peoples' organizations and customary institutions concerning issues affecting them.

Notes and references

1. Bangladesh Bureau of Statistics. "Population and housing census 2011." p. 3. Government of the Peoples Republic of Bangladesh, 2011.
2. Barkat, Abul. "Political Economy of Unpeopling of Indigenous Peoples: The Case of Bangladesh." Paper presented at the 19th biennial conference, Bangladesh Economic Association, Dhaka, 8-10 January 2015.
3. Halim, Sadeka. "Land loss and implications on the plain land adivasis." In "Songhati", edited by Sanjeeb Drong, p. 72. Bangladesh Indigenous Peoples Forum, 2015.
4. Article 23A stipulates: "The State shall take steps to protect and develop the unique local culture and tradition of the tribes, minor races, ethnic sects and communities."
5. AIPP. "Protect the Indigenous Mro People from Forced Eviction." Accessed on 8 February 2021. https://aippnet.org/protect-the-Indigenous-mro-people-from-forced-eviction/
6. Kapaeeng Foundation. "Human Rights Report 2020 on Indigenous Peoples in Bangladesh." 2021.
7. Parbatya Chattagram Jana Samhati Samiti (PCJSS). "Annual Report on Human Rights Situation in CHT in 2020." Accessed on 8 February 2021. https://www.pcjss.org/annual-report-on-human-rights-situation-in-cht-in-2020/
8. Ibid
9. Kapaeeng Foundation: "A Rapid Assessment Report: The impact of COVID-19 on Indigenous and Tribal Peoples in Bangladesh." 2020.
10. Hill Voice. "139 human rights violations by the army, BGB and police in 2020 - PCJSS Annual Report." 5 January 2021. Accessed on 8 February2021. https://hillvoice.net/139-human-rights-violations-by-the-army-bgb-and-police-in-2020-pcjss-annual-report/
11. Saha, Perth Shankar. "করোনায় পাহাড়ে 'পহর ছিদোক'." Prothomalo, 9 August 2020. Accessed on 8 February 2021. https://www.prothomalo.com/bangladesh/district/%E0%A6%95%E0%A6%B0%E0%A7%87%E0%A6%BE%E0%A6%A8%E0%A6%BE%E0%A7%9F-%E0%A6%AA%E0%A6%BE%E0%A6%B9%E0%A6%BE%E0%A7%9C%E0%A7%87-%E2%80%98%E0%A6%A-A%E0%A6%B9%E0%A6%B0-%E0%A6%9B%E0%A6%BF%E0%A6%A6%E0%A7%87%E0%A6%BE%E0%A6%95%E2%80%99
12. Deshwara, Mintu. "How 90 indigenous villages in Sylhet region keep coronavirus at bay." The Daily Star, 9 August 2020. Accessed on 8 February 2021. https://www.thedailystar.net/frontpage/news/examples-worth-following-1942001
13. Kapaeeng Foundation. "A Rapid Assessment Report: The impact of COVID-19 on Indigenous and Tribal Peoples in Bangladesh." 2020.
14. Star Online Report. "Measles outbreak in CHT: One more child dies in Rangamati." The Daily Star, 1 April 2020. Accessed on 8 February 2021. https://www.thedailystar.net/measles-outbreak-in-chattogram-one-more-child-dies-in-rangamati-1888543
15. Kapaeeng Foundation. "Sudden Outbreak of Measles in Sajek and Lama: 8 Dead & 300 Infected." 24 March 2020. Accessed on 8 February 2021. https://www.kapaeengnet.org/sudden-outbreak-of-measles-in-sajek-and-lama-8-dead-300-infected/; Hill Voice. "Sudden measles outbreak in Sajek & Lama, 300 infected, 7 children died." 22 March 2020. Accessed on 8 February 2021. https://hillvoice.net/sudden-measles-outbreak-in-sajek-lama-300-infected-7-children-died/; Star Online Report. "Measles outbreak in CHT: One more child

dies in Rangamati." The Daily Star, 1 April 2020. Accessed on 8 February 2021. https://www.thedailystar.net/measles-outbreak-in-chattogram-one-more-child-dies-in-rangamati-1888543; Chakma, Himel. "Facts behind the measles outbreak in Sajek." The Daily Star, 7 April 2020. Accessed on 8 February 2020. https://tbsnews.net/bangladesh/health/facts-behind-measles-outbreak-sajek-66304; Rangamati Correspondent, "Five children die from measles, around 100 others infected in remote Rangamati villages." bdnews24.com, 20 March 2020. Accessed on 8 February 2021. https://bdnews24.com/health/2020/03/20/five-children-die-from-measles-around-100-others-infected-in-remote-rangamati-villages

16. General Economics Division. Bangladesh Planning Commission. Ministry of Planning. Government of the People's Republic of Bangladesh. "Bangladesh Voluntary National Reviews (VNR) 2020." 2020. Accessed on 8 February 2021. https://pea4sdgs.org/knowledge/pea-publications/bangladesh-2020-voluntary-national-review-and-sdgs-monitoring-and-evaluation-framework

17. Dhaka Tribune. "Bangladesh Voluntary National Reviews held along with side event on accelerating post Covid-19 recovery." 15 July 2020. Accessed on 8 February 2021. https://www.dhakatribune.com/bangladesh/2020/07/15/bangladesh-voluntary-national-reviews-held-along-with-side-event-on-accelerating-post-covid-19-recovery

18. Bangladesh Planning Commission. Ministry of Planning. Government of the People's Republic of Bangladesh. "8th Five Year Plan FY2021 - FY2025: Promoting Prosperity and Fostering Inclusiveness." 2020.

19. Ibid

20. Ibid

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Cambodia

THAILAND
LAOS
CAMBODIA
Phnom Penh
VIETNAM
GULF OF THAILAND

Cambodia is home to 24 different Indigenous Peoples, who speak mostly Mon-Khmer or Austronesian languages and constitute approx. 3% of the national population.[1] With an estimated population of 250,000 to 400,000, they are not clearly disaggregated in national census data.[2] The Indigenous territories include the forested plateaus and highlands of North-eastern Cambodia, approximately 25% of the national territory. Cambodia's Indigenous Peoples continue to face discrimination and forced displacement from their lands, which is extinguishing them as distinct groups.[3] These patterns are driven by ongoing state and transnational corporate ventures for 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 without reservation in 2007, and has ratified the CERD, CEDAW and CRC but has still not ratified ILO Convention 169.[4]

During its last Universal Periodic Review (UPR) in 2019, Cambodia accepted a recommendation to "Step up efforts in land matters, including through the effective and transparent implementation of measures to tackle land evictions and provide with fair compensation the victims of land grabbing, particularly indigenous people" and "Implement a coherent resettlement policy and simplified process for granting communal land titles, consulting communities, civil society and indigenous groups". However, this has so far not led to actual remedy to the discrimination and land insecurity Indigenous Peoples continued to face in 2020. The Indigenous Peoples' rights movements continued to fight for their human rights; however, with deteriorating democratic freedoms and serious human rights violations, the ground on which the Indigenous rights movement exists has become more precarious. The repressive regime of Hun Sen and the Cambodian People's Party (CPP), which has ruled the country since 1985, has persisted on a path of corruption, human rights abuses and non-democratic rule. In 2020, the government continued to target the independent media, civic organizations, NGOs, individuals exercising their civil and political rights and the opposition, the Cambodia National Rescue Party (CNRP), which was banned in 2017.

The overall consequences of the pandemic

While Cambodia has been spared the level of COVID-19 cases experienced in many other countries, the pandemic has severely affected the economy, educational opportunities and heightened the health risks for many Indigenous Peoples.[5] According to the Cambodia Indigenous Peoples' Organization (CIPO), Indigenous communities have had extremely limited access to COVID-19 testing facilities, as testing has been restricted to Phnom Penh and Siem Reap, both far from the rural highlands where most Indigenous Peoples reside, meaning that official COVID-19 statistics may not be accurate. Furthermore, the period was marked by a surge in illegal logging and land grabbing, which has caused widespread deforestation and insecurity among Indigenous communities.

According to the Special Rapporteur on the situation of human rights, 2020 in general was marked by shrinking civic space and continued political tensions across the globe. During the pandemic, restrictions on peaceful political activity and voices critical of the government intensified. Critics and political opponents continued to be targeted by repressive measures, including arbitrary detention and apparent misuse of criminal laws. At least 140 persons associated with the CNRP were arrested, charged with plotting against the state, incitement to commit a felony, and discrediting judicial decisions. The United Nations High Commissioner for Human Rights (OHCHR), received numerous reports of acts of intimidation against civil society and human rights organizations throughout 2020. These reports raised serious human rights concerns as the authorities were failing to adhere to national laws and to international human rights law on arrest, due process and the deprivation of liberty. OHCHR documented 46 instances in which the activities of human rights and civil society organizations had been subjected to undue interference, restrictions on the rights to freedom of expression and peaceful assembly, intimidation, or harassment by authorities in the context of COVID-19.

In April, the government approved legislation authorizing a state of emergency in response to the pandemic. Drafted without public consultation, it empowers the government to declare a state of emergency for up to three months, which can be extended without review. It also allows

for restrictions on – *inter alia* – the exercise of freedoms of movement and assembly, the right to obtain information, the right to privacy and the right to work. CIPO fears that the government will use the legislation to further restrict and abuse human rights. The law has furthermore been criticized as it risks silencing free speech and criminalizing peaceful assembly, and because of concerns as to the expedited enactment of the law and its substance, as well as insufficient review and oversight.

COVID-19 effects on Indigenous communities

According to CIPO, the pandemic has severely affected the local economy of many Indigenous Peoples. Although the government handed out cash to approx. 670,000 poor and vulnerable families,[6] the aid rarely reached Indigenous communities.[7] Additionally, Indigenous communities have had problems selling their crops as access to local markets has been restricted and prices for e.g. cashew nut and cassava have fallen to nearly half their regular price. At the community level, the majority of Indigenous Peoples have not been able to protect themselves from COVID-19, as many are unable to afford masks and sanitizer or to meet the expense of hospital treatment. In response, some communities have protected their community members, based on traditional Indigenous regulations, by blocking outsiders from entering their villages.

The closure of schools in March and the implementation of e-learning wedged a greater gap of inequality between wealthy and poor students.[8, 9] Numerous Indigenous youth have been unable to attend school as many rural and Indigenous families do not have access to the Internet or their own devices for accessing e-learning, which has resulted in many Indigenous students dropping out of school during the pandemic.[10]

COVID-19 information was mostly shared by the government through Facebook and so access to news for many Indigenous communities was limited. In some Indigenous villages, the local authorities circulated information through speakers on vehicles, on occasion in a selection of Indigenous languages. However, as there is no infrastructure in place for the government to share information effectively, detailed information about COVID-19 has far from reached all Indigenous communities.

Land registration in Mondulkiri province

In 2020, the government initiated the Land Allocation for Social and Economic Development Project (LASED) in Mondulkiri province, financed by the World Bank. LASED is being promoted to "improve land tenure security and access to infrastructure and agricultural and social services for landless and poor smallholders and indigenous communities" with the aim of registering all state land.[11] The project has been strongly criticized by IPs for being rushed through by the authorities with inadequate Free, Prior and Informed Consent (FPIC) and, as a result, civil society organizations, communities and village authorities have not had time to organize or prepare resources for participation. There have furthermore been reports of authorities pushing the communities to apply for individual rather than collective land titles, resulting in conflict among community members. The authorities involved have little experience of the local context and Indigenous communities were repeatedly met with the view that they "were demanding too much land", thus disregarding essential parts of Indigenous cultures such as spiritual mountains, forests and burial grounds. A letter of complaint has been sent to the World Bank, wherein CIPO urges the World Bank and the authorities to respect FPIC and consult with IPs when initiating land demarcation. So far they have received no response. CIPO stressed how difficult and protracted the process is to gain community land titles for Indigenous Peoples and the LASED has so far not simplified the process. Meanwhile, the procurement of land by large-scale businesses is less complicated, which CIPO describes as the result of corruption among Cambodian politicians, the military and the police.

Forest crimes under the cover of the pandemic

Cambodia's government has strenuously promoted long-term leasing of forested land as Economic Land Concessions (ELCs) under the 2001 Land Law in order to attract agroindustrial investors and development. However, ELCs have resulted in few benefits but huge social and environmental impacts.[12] ELCs are not allowed to exceed 10,000 ha, but this provision has been regularly violated; companies have been known to create multiple entities or proxy companies that are then granted their

own 10,000 ha plots, thus enabling one company to occupy far more land than allowed.[13] Furthermore, at least 15 companies, all of which are owned by tycoons and CPP senators, have been granted more than 10,000 ha – far exceeding the amount permitted. A growing segment of Cambodia's Indigenous population has become landless and pushed below the poverty line as a result of systematic land grabbing and forced evictions while the country's natural resources – particularly its forests – are being destroyed or depleted at an unprecedented scale and pace.

Despite the government-imposed lockdowns, the COVID-19 pandemic has exacerbated illegal logging and land grabbing in many of Cambodia's protected forests.[14, 15] According to satellite data from the Global Land Analysis at the University of Maryland, 1,403,414 forest loss alerts were registered in 2020 affecting approx. 105,000 ha, of which more than half were registered within protected areas.[16]

Within the Keo Saima Wildlife Sanctuary in Mondulkiri, the ancestral home of the Indigenous Bunong people, exploitative agro-businesses and illegal loggers have ravaged large areas of the protected forest under cover of the pandemic. Similarly, within Phnom Samkos and Botum Sakor in the Cardamom mountains, a surge in illegal deforestation surfaced during the pandemic. Within the Phnom Nam Lear Wildlife Sanctuary, in Mondulkiri, the Bunong community – who depend on the land for their livelihood and traditional lifestyle – filed a complaint against the local authorities for illegally clearing the protected forest.[17] Correspondingly, a complaint is being prepared by another Bunong community against a military officer for illegally clearing a large area inside the same protected sanctuary.[18] The destruction of forests is emerging as a deeply-rooted systemic problem of corruption, with few international environmental stakeholders taking action against the devastating development.

In March, in Ratanakiri province, 12 Indigenous communities were awaiting official ratification of the return of (a fragment of) their ancestral land by the Ministry of Agriculture, following a protracted land dispute with agro-industrial giant Hoang Anh Gia Lai (HAGL). HAGL was required by the government to return 742 ha of its 50,566 ha concession (a concession equivalent to five times the legal limit) but, instead of returning the forest to the Indigenous communities, it was completely cleared. Satellite images and photos from the ground portray a burned

wasteland of dirt and tree stumps. As a consequence, old-growth forest, two spirit mountains, wetlands, hunting areas and burial grounds have all been destroyed, causing immense harm to land of priceless spiritual value to the communities.[19]

Prey Lang Wildlife Sanctuary

In February, armed officials deployed by the Ministry of Environment (MoE) blocked hundreds of community members, monks and environmental activists from entering the Prey Lang Wildlife Sanctuary to join their annual tree-blessing ceremony.[20] The ceremony, which combines Buddhist spirituality with the traditions of the Kuy Indigenous People, is held to raise awareness of illegal logging[21] and to pray for the future of the forest.[22] The Prey Lang Community Network (PLCN), which organized the ceremony, is an established activist group that monitors illegal logging. It has been working since 2000 to defend Indigenous land rights and to protect the forest. According to the MoE, the tree-blessing ceremony was prohibited because PLCN is not registered with the Ministry of Interior[23] in relation to the Law on Associations and NGOs (LANGO).[24] Despite past assurances from the Ministry of Interior that LANGO would not be used to hinder the activities of grassroots groups, the law is being used as a justification to prohibit the legitimate conservation activities of the PLCN. Moreover, the MoE declared that PLCN did not have permission to enter the forest,[25] referring to Article 11 of the Protected Areas Law[26] which prohibits any person's entry into a protected area without permission. However, Article 11 refers to areas that have been zoned, and states that only the most protected of four types of zone—the "core zone"—requires permission to enter. While Prey Lang was labelled a Protected Area in 2016, the forest has not yet been zoned, however, despite encouragement from conservation groups.

Following the ceremony ban, MoE furthermore banned PLCN from patrolling the forest on a daily basis. MoE has warned that it will take legal action against members of the PLCN if they continue to patrol or collect data, thus prohibiting the documentation of forest crimes. Meanwhile, the ban has provided the opportunity for criminals, and especially companies, to log and transport timber from protected areas with impunity.[27] This has resulted in a dramatic increase in logging in-

side the protected forest, according to Global Forest Watch.[28]

Two companies in particular – Think Biotech and Angkor Plywood are seen by PLCN as the biggest immediate threat to the Prey Lang forest. Clusters of recent deforestation are particularly found around the Think Biotech concession. Both companies are politically connected companies who have continued to operate during the COVID-19 outbreak. Corruption within the official forest sector is widespread, with illegal logging frequently linked to the military, police or the Ministry of Environment, thus making it extremely difficult to untangle. Large parts of the concession used to be covered by natural forest but this has now been replaced by plantations, with huge costs to biodiversity, river pollution and the local Indigenous Kuy populations.

Notes and references

1. UNCHR. "Committee on the Elimination of Racial Discrimination reviews report of Cambodia, asks about nationality, land grabs and civic space." 29 November 2019. Accessed on 29 January 2021. https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25372&LangID=E
2. Cambodia Indigenous Peoples' Organization (CHRO). "Indigenous Peoples Data." Accessed on 29 January 2021. http://cipocambodia.org/our-work/developing-indigenous-peoples-center/#1585208858312-76224c71-df89
3. Committee on the Elimination of Racial Discrimination (CERD). "Concluding observations on the combined fourteenth to seventeenth reports of Cambodia." 12 December 2019. Accessed on 29 January. https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fKHM%2fCO%2f14-17&Lang=en
4. International Labour Organization (ILO): "Up-to-date Conventions and Protocols not ratified by Cambodia." Accessed on 29 January 2021. https://www.ilo.org/dyn/normlex/en/f?p=1000:11210:0::NO:11210:P11210_COUNTRY_ID:103055
5. UN General Assembly. Human Rights Council, Forty-fifth session, 14 September–2 October 2020. Agenda items 2 and 10. Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General. "Role and achievements of the Office of the United Nations High Commissioner for Human Rights in assisting the Government and people of Cambodia in the promotion and protection of human rights. Report of the Secretary-General." Accessed on 29 January 2021. Https://cambodia.ohchr.org/sites/default/files/Ohchr-report/Annual%20Report%20of%20OHCHR%202020%20(EN).pdf
6. Kunthear, Mom. "PM: Covid-19 cash to needy will continue." The Phnom Penh Post. 26 November 2020. Accessed on 29 January 2021. https://www.phnompenhpost.com/national/pm-covid-19-cash-needy-will-continue
7. According to CIPO.
8. Oudom, Sam and Ros Phthinaraut. "In Rural Mondulkiri, Teachers Fear Poorer Students Have Fallen Behind." VOD, 4 Sep 2020. Accessed on 29 January 2021.

https://vodenglish.news/in-rural-mondulkiri-teachers-fear-poorer-students-have-fallen-behind/

9. Open Development Cambodia (ODC). "Socio-economic impact of COVID-19 on Cambodia." 29 September 2020. Accessed on 29 January 2021. https://opendevelopmentcambodia.net/profiles/socio-economic-impact-of-covid-19-on-cambodia/
10. Flynn, Gerald and Jazmyn Himel. "School Closures Highlight Inequality in Education as Classes Move Online." Cambodianess, 23 March 2020. Accessed on 29 January 2021. https://cambodianess.com/article/school-closures-highlight-inequality-in-education-as-classes-move-online
11. The World Bank. "Cambodia: $93 Million Project to Improve Land Tenure Security for Poor Farmers, Indigenous Communities." Press release, 26 June 2020. Accessed on 29 January 2021. https://www.worldbank.org/en/news/press-release/2020/06/26/cambodia-93-million-project-to-improve-land-tenure-security-for-poor-farmers-indigenous-communities
12. Radio Free Asia (RFA). "Cambodia's Land Concessions Yield Few Benefits, Sow Social and Environmental Devastation." 26 August 2020. Accessed on 29 January 2021. https://www.rfa.org/english/news/cambodia/concessions-08262020174829.html
13. Crothers, Lauren. "Goldman Prize-winning Cambodian activist arrested, released in Cambodia." Mongabay, 24 March 2020. Accessed on 29 January 2021. https://news.mongabay.com/2020/03/goldman-prize-winning-cambodian-activist-arrested-released-in-cambodia/
14. Humphrey, Chris. "Under cover of COVID-19, loggers plunder Cambodian wildlife sanctuary." Mongabay, 31 August 2020. Accessed on 29 January 2021. https://news.mongabay.com/2020/08/under-cover-of-covid-19-loggers-plunder-cambodian-wildlife-sanctuary/
15. Humphrey, Chris. "Alleged gov't-linked land grabs threaten Cambodia's Cardamom Mountains." Mongabay, 1 December 2020. Accessed on 29 January 2021. https://news.mongabay.com/2020/12/alleged-government-linked-land-grabs-threaten-cambodias-cardamom-mountains/
16. Global Forest Watch. Accessed on 29 January 2021. https://www.globalforestwatch.org/
17. Koemsoeun, Soth. "Mondulkiri officials 'cleared forest'." The Phnom Penh Post, 6 February 2020. Accessed on 29 January 2021. https://www.phnompenhpost.com/national/mondulkiri-officials-cleared-forest
18. Savi, Khorn. "Soldiers, residents trade blame over illegal logging in Mondulkiri." The Phnom Penh Post, 27 March 2020. Accessed on 29 January 2021. https://www.phnompenhpost.com/national/soldiers-residents-trade-blame-over-illegal-logging-mondulkiri
19. Tatarski, Michael. "Vietnamese agribusiness firm HAGL accused of clearing indigenous land in Cambodia." Mongabay, 15 June 2020. Accessed on 29 January 2021. https://news.mongabay.com/2020/06/vietnamese-agribusiness-firm-hagl-accused-of-clearing-indigenous-land-in-cambodia/
20. Radio Free Asia (RFA). "Authorities Threaten to Arrest Activists Monitoring Illegal Logging in Cambodia's Prey Lang Forest." 23 April 2020. Accessed on 29 January 2021. https://www.rfa.org/english/news/cambodia/forest-04232020172540.html
21. Keeton-Olsen, Danielle. "Cambodian firm accused of creating a 'monopoly in the timber business'." Mongabay, 13 May 2020. Accessed on 29 January 2021. https://news.mongabay.com/2020/05/cambodian-firm-accused-of-creating-

a-monopoly-in-the-timber-business/
22. Radio Free Asia (RFA). "NGOs, Activists Decry Blocking of Tree-Blessing Ceremony at Cambodia's Prey Lang Forest." 25 February 2020. Accessed on 29 January 2021. https://www.rfa.org/english/news/cambodia/ceremony-02252020125131.html
23. Keeton- Olsen, Danielle and Hun Sirivadh. "Officials Block Prey Lang Activists From Forest Ahead of Annual Event, VOD, 21 February 2020. Accessed on 29 January 2021. https://vodenglish.news/officials-block-prey-lang-activists-from-forest-ahead-of-annual-event/
24. Prathna, Saut Sok. "Ministry, Forest Patrollers Accuse Each Other of Breaking the Law." VOD, 25 February 2020. Accessed on 29 January 2021. https://vodenglish.news/ministry-forest-patrollers-accuse-each-other-of-breaking-the-law/
25. Sovuthy, Khy. "Groups 'appalled' after ministry bars conservationists from protecting forests." Cambodian Journalists Alliance Association, 26 February 2020. Accessed on 29 January 2021. https://cambojanews.com/groups-appalled-after-ministry-bars-conservationists-from-protecting-forests/
26. "Law on Nature Protection Area (Protected Areas Law)_080104_080104. Kingdom of Cambodia. Nation – Religion – King. Protected Areas Law. February 2008." Accessed on 29 January 2021. http://www.cambodiainvestment.gov.kh/law-on-nature-protection-area-protected-areas-law_080104_080104.html
27. Koemsoeun, Soth. "Activist ban 'spurs forest crimes'." The Phnom Penh Post, 21 July 2020. Accessed on 29 January 2021. https://www.phnompenhpost.com/national/activist-ban-spurs-forest-crimes
28. Dara, Voun. "Mondulkiri officials under fire for land encroachment." The Phnom Penh Post, 20 September, 2020. https://www.phnompenhpost.com/national/mondulkiri-officials-under-fire-land-encroachment

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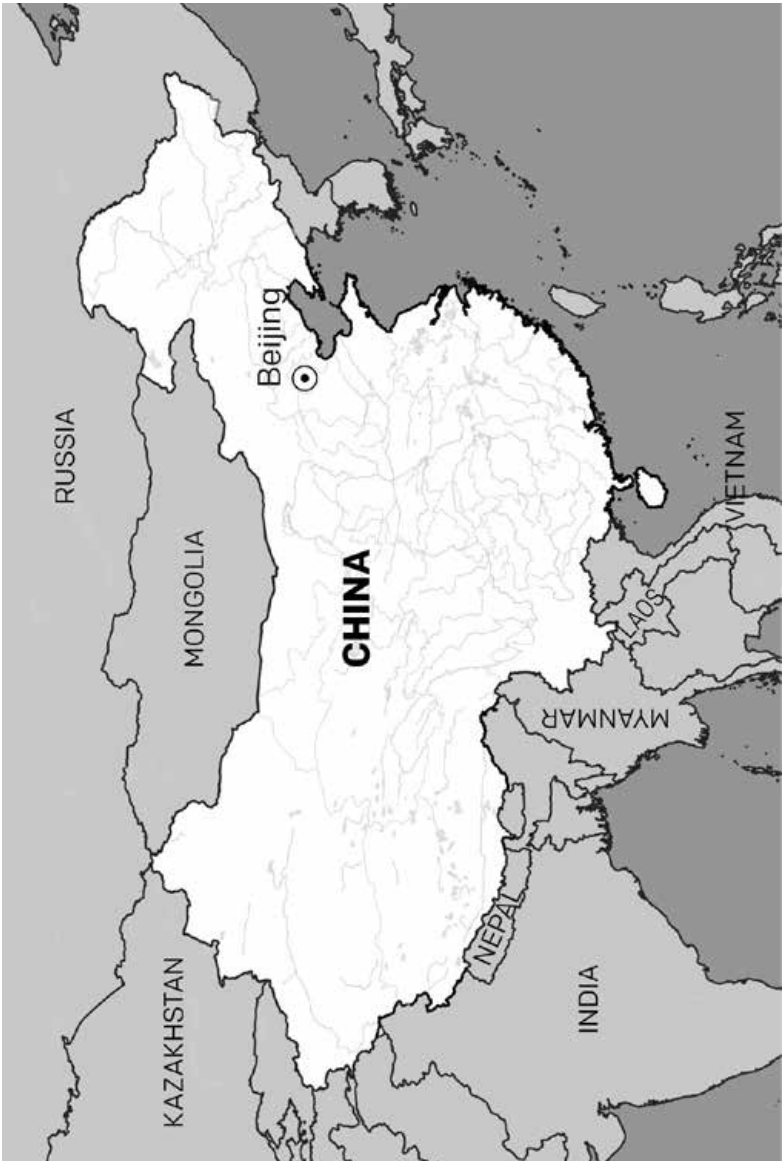
China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The People's Republic of China (PRC or China) officially proclaims itself to be a unified country with a diverse ethnic make-up, and all nationalities are considered equal in the Constitution. Besides the Han Chinese majority, the government recognises 55 *minority nationalities* within its borders. According to the latest national census in 2010, the combined minority nationalities' population stands at 111,964,901, or 8.49% of the country's total population. There are also "unrecognised ethnic groups" in China, numbering a total of 640,101 persons. Minority nationalities are socially marginalised 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 Uygur Autonomous Region.

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

Legislation affecting Indigenous Peoples

China adopted the Yangtze River Conservation Law on 26 December 2020.[1] This is the first national legislation in China on a specific river basin, which covers a large number of regional national autonomous areas in Tibet, Qinghai, Yunnan, Sichuan, Chongqing, Guizhou, Guangxi, Hubei and Hunan provinces. In view of the huge scale of hydropower and water resource exploitation in the river basin, the implementation of this law, which will take effect on 1 March 2021, aims to establish a national coordination mechanism by promoting well-coordinated environmental conservation and avoiding excessive

development across the Yangtze River basin. While the law itself is a move in the right direction, there is a need to improve the participatory mechanism and the application of FPIC rule both in the legislative process as well as in further implementation of the law because of the potential effect these initiatives may have on the Indigenous Peoples who live in Yangtze River basin.

In January, the People's Congress of Tibet Autonomous Region (TAR) adopted Regulations on the Establishment of a Model Area for National Unity and Progress in TAR, which came into effect on 1 May 2020. The stated aims of this legislation are to consolidate a sense of the Chinese nation's community and to build TAR into a model area for national unity and progress.[2] However, controversy over the real purpose and function of the regulations, together with the obscure terms of the legislation, were widely raised by Tibetan communities, NGOs, statesmen and observers.[3] International pro-Tibet organisations argue that these regulations will further erode the fundamental liberties of Tibetans and infringe upon their human rights.[4] The largely undefined phraseology in the regulations provide the state with an additional legal tool to suppress Tibetan resistance.[5] The vaguely defined activities of Article 46 provide the grounds for oppressing legitimate claims and freedom of expression. The regulations will further undermine Tibetan national and cultural identity in the region by consolidating the sense that the "Chinese culture is always the emotional support, spiritual destination and spiritual homeland of all ethnic groups in Tibet." (Article 11).

Relevant legal developments abroad

Internationally, two new pieces of legislation adopted in the USA may affect relevant policies and actions in China, one addressing the situation of the peoples of Xinjiang and the other the situation in Tibet.

The *Uyghur Human Rights Policy Act* of 2020 condemns gross human rights violations of ethnic Turkic Muslims in Xinjiang, and calls for an end to the arbitrary detention, torture and harassment of these communities inside and outside China. It also introduces mechanisms for applying sanctions on those individuals involved in these human rights violations.[6]

The *Tibetan Policy and Support Act*, among others, establishes a US position on issues surrounding the reincarnation of the Dalai Lama and establishes that, from the US government's point of view, these matters are exclusively the authority of the current Dalai Lama, Tibetan Buddhist leaders and the Tibetan people. Any interference by Chinese government officials in these affairs will be met with serious sanctions under the *Global Magnitsky Act*, including denial of entry into the United States.[7]

Central work conferences on Tibet, Xinjiang and major programmes

The work conferences convened by the Central Committee of the Chinese Communist Party (CCP) are a special decision-making mechanism that have been convened on an irregular basis since the 1980s to discuss issues in Tibet and Xinjiang.

The Seventh Tibet Work Conference took place on 28 and 29 August in Beijing and summarised the "CCP´s strategy on governing Tibet in the new era".[8] The concrete policies discussed and decisions made at the conference on Xinjiang, which took place in July, were not made public.[9]

Both conferences signified that China had strengthened its top-down approach on the governance of ethnic affairs, social stability, environmental and economic issues in its border regions. A legislative proposal made by the CCP Committee of TAR on "Construction of Ecological Civilisation in TAR" in November 2020 expressly referred to the decisions of the Seventh Central Tibet Work Conference.[10]

The Fifth Plenary Session of the 19th Central Committee of CCP adopted two decisive documents on 29 October 2020: Proposals of the Central Committee of CCP for the Formulation of the 14th Five-Year Plan (2021-2025) for National Economic and Social Development, and Long-Range Objectives through to the Year 2035. Important decisions in the Proposals are the implementation of the Sichuan-Tibet railway project and the world's largest hydropower project downstream on the Yarlung Zangbo (Brahmaputra) River. These major programmes have great significance since they will be undertaken in areas inhabited by

various Indigenous communities with distinctive cultures.[11]

The Sichuan-Tibet Railway project is a 1,011-kilometre-long railway that will connect Ya'an in Sichuan Province to Nyingchi in TAR. The construction started in 2020 and it is set to be completed in 2030. After the Qinghai-Tibet Railway linking Tibet to Northwest China, it will be the second railway entering TAR. The Central authorities stated that this new construction is a major strategic plan with a long-term perspective. The Chinese media highlighted the significance of the project in developing natural resources in the area, promoting cultural integration, consolidating national unity and border stability.[12] However, the potential environmental, social and cultural impacts on local and Indigenous communities remain unclear. There is no evidence to show that the principle of free, prior and informed consent or due diligence of human rights were applied in the decision-making and project operational processes.

Further, building the world's largest hydropower station on the Yarlung Zangbo River (Brahmaputra River), as proposed by the CCP during the 14th Five-Year Plan period, has evoked concerns inside and outside China because of its potentially massive environmental destruction, negative social impacts and downstream water shortages.[13]

The dam will impact downstream seasonal hydrological cycles, which hold important cultural and economic significance and impact Indigenous and local communities in India and Bangladesh. In China, although the relocation of Indigenous communities in this project may be relatively small, compared to other similar constructions, it could result in a significant influx of Han Chinese into Tibet.

Educational reform affecting Mongolian language learning

In accordance with the Central authority's requirements, in August the Inner Mongolia Autonomous Region's (IMAR) government issued the directive "Implementation Plan for the Use of Nationally-Compiled Chinese Textbooks in the First Grade of Primary School and the First Grade of Secondary School with Ethnic Language Teaching in the Region". Following the plan, starting from September the IMAR bilingual (Mongolian

and Chinese languages) education schools will use the nationally-compiled "Chinese" textbook in the first grade of primary school and first grade of secondary school. Furthermore, from 2021, the first grades of primary and secondary schools will use the nationally-compiled "Ethics and Rule of Law" (politics) textbook while, from 2022, the first grade of secondary school will use the nationally-compiled "History" textbook.[14]

This new plan changes the established mode of bilingual education in the IMAR. The changes include not only that the former Chinese language textbook used in bilingual schools is now replaced with the nationally-compiled Chinese language textbook, which does not reflect the cultural reality of IMAR, but also that Chinese language education is now starting a year earlier. This nationally-compiled textbook is the same as the one used in Chinese-medium schools and is much more demanding than the one currently used in Mongolian bilingual schools, where most children come from families that use Mongolian in their private life. Children with Mongolian mother-tongue will therefore be assessed and learn the same content as their Chinese mother-tongue peers. In addition, the course named "Language and Literature", referring to Mongolian language and literature, has been replaced with "Han Chinese language and literature".

These changes are sensitive because they mean a noticeable reduction in Mongolian language teaching in bilingual schools. Protests erupted in several cities and areas in the IMAR and outside China against this attack on Mongolian language and culture in public schools and moves to impose Han culture. The resistance did not prevent the authorities from implementing the plan.

International concerns and China's responses

In 2020, international media and human rights organisations continued to report on the massive human rights violations against Uyghurs and other minority nationalities in China, including internment of citizens in "re-education" camps, forced labour, mass sterilisation, forced abortions, religious oppression, travel restrictions and restrictions on the use of ethnic minority languages.[15] These reports raised grave concerns among UN experts, human rights officials, treaty bodies and member

states, as well as global civil society.

In June 2020, nearly 50 UN Special Procedure mandate holders issued a letter of concern, calling on China to "abide by its international legal obligations" and respect human rights.[16] They expressed severe concerns regarding the repression of "fundamental freedoms", including the collective repression of the population, especially religious and ethnic minorities in Xinjiang and Tibet.[17]

More than 300 NGOs signed an open letter to the UN Secretary-General, the UN High Commissioner for Human Rights (HCHR), and the UN Member States calling for an international human rights monitoring mechanism on China.[18] The UN HCHR, Michelle Bachelet, raised concerns over rights violations in Xinjiang Uyghur Autonomous Region in her inaugural statement at the 45th session of the Human Rights Council on 14 September. In a declaration drafted by Germany and presented at the UN General Assembly in the Third Committee General Debate on 6 October in New York,[19] 39 predominantly Western countries denounced China for gross human rights violations in Xinjiang, Tibet and Hong Kong.

During its 101st session in 2020, the Committee on the Elimination of Racial Discrimination reviewed China's follow-up report responding to its 2018 Concluding Observations and considered that the response to its recommendations was "unsatisfactory". Based on multiple sources, the Committee repeated its concerns regarding the following issues: (1) The current legal framework and practice has created a restrictive environment preventing NGOs from documenting and investigating violations of the Convention. These NGOs working on human rights issues, including those working on issues relating to the Convention, have not been able to register or re-register as required in order to be able to conduct their work. Staff members of these NGOs have been subjected to arbitrary detention, disappearances and torture. (2) Large numbers of Uyghurs and members of other minorities are being arbitrarily detained in extrajudicial detention facilities operating as education and training centres and in forced labour camps, in contravention of any recognised legal process with fair trial rights. (3) Children of those detained Uyghurs have been placed in state-run institutions, even when their parents have not given consent or where other close relatives are willing to care for the children. (4) Government controls over day-to-day life in

Xinjiang primarily affect members of Uyghur, Kazakh and other Muslim minorities, which would amount to violations of international legal prohibitions against discrimination, in particular the Convention. (5) Government restrictions on the use and teaching or preservation of ethnic minority languages have continued or become more stringent in some cases, and language rights advocates continue to face persecution. (6) Travel restrictions.[20]

The Committee requested that China disclose the current location and status of Uyghur students, refugees and asylum seekers who disappeared upon returning to China from abroad. It also recommended that China take steps to ensure that public discussions of education issues can be held without threat of reprisals. The Committee requested that comments and responses on actions taken by the State party on these issues be included in its next periodic report to be submitted by 28 January 2023.

China responded with a statement that it "categorically rejects the accusations".[21] China accused the CERD Committee's Observations of repeated lies and slander fabricated by anti-China separatist forces, and that it was maliciously smearing China through Xinjiang and Tibet-related issues. The Chinese statement reiterates that the essence of Xinjiang and Tibet-related issues is China's determination to safeguard national sovereignty, security and unity and protect the rights of people of all ethnic groups to live in peace and contentment. China denies all allegations and insists that reported issues in Xinjiang and Tibet are not human rights issues by any definition.[22]

Notes and references

1. Xinhua News Agency. "Yangtze River Protection Law of the People's Republic of China." 27 December 2020. http://www.xinhuanet.com/legal/2020-12/27/c_1126911654.htm
2. 西藏统一战线. Regulations on the Establishment of a Model Area for National Unity and Progress in the Tibet Autonomous Region, Article 1. 10 April 2020. http://www.xztzb.gov.cn/ziliao/1586505437655.shtml
3. Finney, Richard. "New Law Requiring 'Ethnic Unity' in Tibet Raises Concerns." Global Security, 15 January 2020. https://www.globalsecurity.org/military/library/news/2020/01/mil-200115-rfa03.htm
4. International Campaign for Tibet. "New regulations on ethnic unity officially depart from preferential ethnic policies, threaten Tibetan culture and violate international human rights norms." February 2020. https://4vo.170.

myftpupload.com/wp-content/uploads/2020/02/02112020-ethic-unity.pdf
5. Desal, Tenzin. "Rule by Law: China's New "Ethnic Unity" Regulation in "TAR"." Central Tibetan Administration, 12 February 2020. https://tibet.net/rule-by-law-chinas-new-ethnic-unity-regulation-in-tar/
6. Authenticated U.S Government Information, GPO. "UYGHUR HUMAN RIGHTS POLICY ACT OF 2020." 17 June 2020. https://www.congress.gov/116/plaws/publ145/PLAW-116publ145.pdf
7. Central Tibetan Administration. "US President Trump signs Tibetan Policy and Support bill; CTA is recognized and funding for Tibet provided." 28 December 2020. https://tibet.net/us-president-trump-signs-tibetan-policy-and-support-bill-cta-recognized-and-funding-for-tibet-provided/
8. Tibet.cn. "Xi Jinping Attends the Seventh Central Tibet Work Symposium and Delivers an Important Speech." 2020. http://www.tibet.cn/cn/zt2020/xzzth/
9. Zhang, Hui and Liu Xin. "Xi calls for law-based governance, unity via long-term efforts at Xinjiang meeting." Global Times, 26 September 2020. https://www.globaltimes.cn/content/1202150.shtml
10. 刘倩茹. "Luosangjiangchun Chairs the 23rd Conference of the 11th Session of the Standing Committee of the TAR People's Congress." China Tibet News, 26 November 2020. http://www.vtibet.cn/xw_702/sz_704/202011/t20201126_1060298.html
11. Xinhua News Agency. "Article 19 of the Proposals of the Central Committee of the Communist Party of China for the formulation of the 14th Five-Year Plan for National Economic and Social Development and the Long-Range Objectives Through the Year 2035." Chinese Government, 3 November 2020. http://www.gov.cn/zhengce/2020-11/03/content_5556991.htm
12. Fan, Anqi and Li Qingqing. "Construction of Sichuan–Tibet railway to boost local development and border stability." Global Times, 31 October 2020. https://www.globaltimes.cn/content/1205235.shtml
13. Pandya, Jay. "China Reveals Plan To Build The World's Largest Hydropower Project On Brahmaputra River." Republic World, 30 November 2020. https://www.republicworld.com/world-news/china/china-reveals-plan-to-build-the-worlds-largest-hydropower-project-on-brahmaputra-river.html
14. From the autumn semester, the national language teaching schools in our district use nationally compiled Chinese textbooks https://mp.weixin.qq.com/s/LT7jaG_RgDsusj1WVmNcpg
15. The report of Australian Strategic Policy Institute reveals on "Re-education", forced labour and surveillance beyond Xinjiang. See Xu, Vicky Xiuzhong et al. "Uyghurs for Sale." Australian Strategic Policy Institute (ASPI), 2020. https://www.aspi.org.au/report/uyghurs-sale; Zenz, Adrian. "China's Own Documents Show Potentially Genocidal Sterilization Plans in Xinjiang." Foreign Policy, 1 July 2020. https://foreignpolicy.com/2020/07/01/china-documents-uighur-genocidal-sterilization-xinjiang/
16. OHCHR. "UN experts call for decisive measures to protect fundamental freedoms in China." 26 June 2020. https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26006
17. Ibid.
18. Human Rights Watch. "Global call for international human rights monitoring mechanisms on China." 9 September 2020. https://www.hrw.org/news/2020/09/09/global-call-international-human-rights-monitoring-mechanisms-china
19. Permanent Mission of the Federal Republic of Germany to the United Nations.

"Statement by Ambassador Christoph Heusgen on behalf of 39 Countries in the Third Committee General Debate." 6 October 2020. https://new-york-un.diplo.de/un-en/news-corner/201006-heusgen-china/2402648

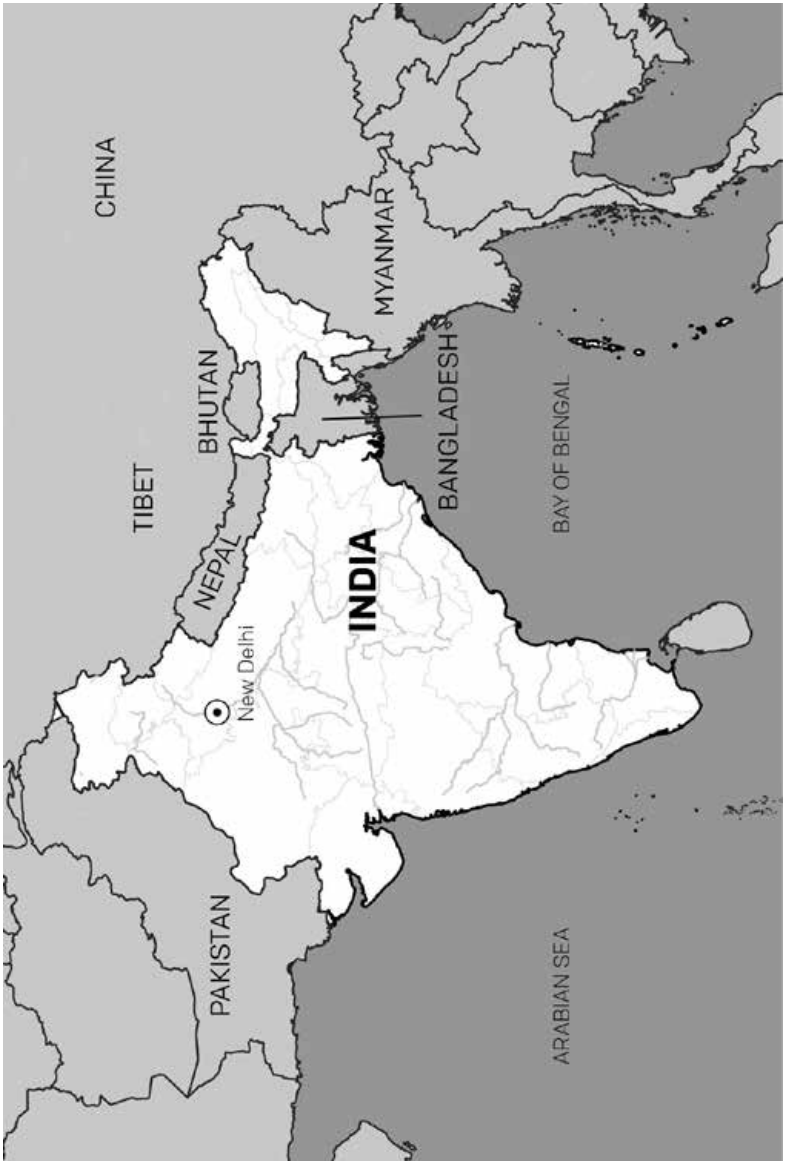
20. OHCHR. "CERD/101st session/FU/MK/ks." 24 November 2020. https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/CHN/INT_CERD_FUL_CHN_43684_E.pdf

21. Ministry of Foreign Affairs of the People's Republic of China. "Press Release by the Permanent Mission of China to the UN Office at Geneva." 25 November 2020. Accessed 16 December 2020. http://www.china-un.ch/eng/dbdt/t1835662.htm

22. Ibid.

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, 705 ethnic groups are recognised as Scheduled Tribes. In central India, the Scheduled Tribes are usually referred to as *Adivasis*, which literally means 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; as a result estimates of the total number of tribal groups are higher than the official figure. As an example, the Supreme Court in its judgment dated 18 December 2020 held that the Bombay High Court "could not have entertained the claim or looked into the evidences to find out and decide that tribe 'Gowari' is part of Scheduled Tribe 'Gond Gowari', which is included in the Constitution (Scheduled Tribes) Order, 1950."[2]

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 Indian government voted in favour of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) with a condition that, since independence, all Indians are considered Indigenous. However, the Government of India has increasingly been using the term "Indigenous populations". In its notification dated 27 September 2018, the Government of India created a High-Level Committee to look into the "social, economic, cultural and linguistic issues of the Indigenous population in the State of Tripura".[3] In 2019, India while introducing the *Citizenship Amendment Bill* in the Lok Sabha (lower house of Parliament) stated that: "The Bill further seeks to protect the constitutional guarantee given to indigenous populations of North-Eastern States covered under the Sixth Schedule to the Constitution and the statutory protection given to areas

covered under the 'Inner Line' system of the Bengal Eastern Frontier Regulation, 1873". The state government of Jharkhand declared the International Day of the World's Indigenous Peoples celebrated on August 9 every year worldwide as a state holiday.[4] These are major developments in terms of the official recognition of Indigenous populations.

Legal rights and policy developments

India abruptly declared a nationwide lockdown effective from midnight on 24 March to contain the COVID-19 pandemic. The media reports on the suffering of millions of migrant workers, including Indigenous Peoples, shook the world. Reports and images emerged of police officers beating migrant workers with batons for breaking quarantine rules and even allegedly spraying migrant workers on the road with disinfectant. Unable to pay for rent or food, and in the absence of inter-State public transport, migrant workers were compelled to undertake long and perilous journeys on foot in the scorching summer. Many migrant workers died on the road due to exhaustion, including Kasa Madkami, a 22-year-old Indigenous man from Odisha who died on 11 May 2020 while walking back home from Hyderabad.[5]

Instead of addressing the primary concerns of the people regarding food, health, shelter and livelihoods during the lockdown, the Government of India used the lockdown period to evict Indigenous Peoples from their lands and take policy decisions with far-reaching consequences for the environment and the well-being of people, disproportionately impacting the Indigenous Peoples of the country. Among these measures was the government's recovery plan for the COVID-19 pandemic. On 12 May, Prime Minister Narendra Modi announced the launch of the Aatma Nirbhar Bharat Abhiyan (Self-reliant India Campaign) as a recovery package to help the country recuperate from the fallout of the COVID-19 pandemic. As part of this plan, on 18 June, Prime Minister Modi launched an online auction of 41 coal blocks (later brought down to 38) in Madhya Pradesh, Jharkhand, Maharashtra and Odisha for commercial mining.[6] These coal mines are mostly located in the dense

forests and areas inhabited by Indigenous Peoples whose livelihoods are dependent on the forests and forest resources. This new coal policy will undoubtedly facilitate more evictions and oppression of Indigenous Peoples as highlighted in the report, "*Bearing the Brunt: The Impact of Government Responses to COVID-19 on Indigenous Peoples in India*"[7] published by IWGIA in September 2020.

The government's decision to auction the coal blocks was met with a surge of protests from local inhabitants, coal workers and environmental activists. On 2 July 2020, coal workers' unions started a nationwide protest against the central government's decision to auction the coal blocks.[8] The state government of Jharkhand has moved the Supreme Court and challenged the government's decision stating that it has an environmental impact, and that the tribal population and its forests are likely to be adversely affected.[9] The state governments of Maharashtra and Chhattisgarh have also written to the union government opposing the auction.[10] A number of organisations working with the Indigenous communities such as Jharkhand Janadhikar Mahasabha,[11] the Chhattisgarh Bachao Andolan[12] and the National Alliance of People's Movements (NAPM)[13] have opposed the coal mine auction. Several villages in Chhattisgarh have also opposed the move. On 15 June, nine Gram Panchayats (village heads) representing 25 villages wrote to the Prime Minister requesting the removal of five coal blocks in the state from the auction list.[14] Twenty Gram Sabhas (village councils) from the state had already passed resolutions in 2015 opposing any auction of coal mines in the Hasdeo-Arand region of the state arguing that an auction would violate the *Forest Rights Act (FRA) 2006*.[15] The FRA empowers Gram Sabhas to block any move to divert their lands without consent. On 20 June 2020, protests were also reported in Chandrapur, Maharashtra.[16] On 6 November 2020, the Supreme Court in its interim order declined to halt the e-auction of coal mines in Jharkhand but clarified that any action of the centre would be subject to its final orders.[17]

Further, in the midst of the complete lockdown, on 11 April, the Ministry of Environment, Forests and Climate Change (MoEFCC) released the Draft Environment Impact Assessment (EIA) Notification 2020 to replace the existing EIA Notification of 2006.[18] The new draft undermines the rights of Indigenous Peoples and the authority of the Gram Sabhas. The consent of the Gram Sabha is mandatory for commencing

any project under the *Panchayats (Extension to the Scheduled Areas) Act, 1996* (PESA) and the FRA, which the Draft EIA Notification violates/dilutes. The Draft EIA Notification 2020 also proposes ex post-facto clearance, which means that any project functioning without environmental clearance will have an opportunity to become a legal unit by submitting a remedial plan and paying the prescribed penalty.[19] Due to overwhelming objections from the length and breadth of the country, the Government of India has not yet finalised the EIA Notification 2020.

On 22 April, the Supreme Court quashed the January 2000 order of the erstwhile state of Andhra Pradesh which provided 100% reservation to the Scheduled Tribe candidates for the post of teachers in schools in the Scheduled Areas, saying it was "arbitrary" and "not permissible" under the Constitution. The court reiterated the 1992 Indira Sawnhey judgment which held that constitutionally valid reservations cannot go beyond 50%. The judgment, passed by a five-judge constitution bench, came on the plea challenging the Andhra Pradesh High Court order which had upheld the government's order providing 100% reservation.[20] The 100% reservation of the Scheduled Tribes was intended to promote the educational development of the Scheduled Tribes given the absenteeism of non-indigenous teachers in the educational institutions in the Scheduled Areas. The Supreme Court order is therefore a setback for the educational upliftment of the Indigenous Peoples. The order also undermines the sanctity of the Fifth Schedule of the Constitution, which is meant to protect Indigenous rights.

Violations of the rights of Indigenous Peoples by security forces

Security forces continued to be involved in human rights violations throughout 2020, including custodial death and torture of Indigenous Peoples. Some Indigenous persons who died due to alleged torture in police custody after they were arrested for petty crimes included two Indigenous men killed at Madhuban police station in Giridih district of Jharkhand on 5 September[21] and at Mayakonda police station in Davanagere district of Karnataka on 6 October.[22]

The Adivasis in central India were victims of torture and extraju-

dicial killings during anti-Maoist operations. On 20 March, an Indigenous man was shot dead by the Central Reserve Police Force (CRPF) during anti-Maoist operation near Kumhardih village in Khunti district of Jharkhand.[23] On 15 June, CRPF personnel allegedly tortured several tribal villagers during an anti-Maoist operation at Anjadbera village in West Singhbhum district of Jharkhand. A fact-finding committee from Jharkhand Janadhikar Mahasabha (JJM) confirmed that 11 tribal villagers were tortured by the CRPF.[24]

Violations of the rights of Indigenous Peoples by armed opposition groups

Armed opposition groups, particularly the Maoists, continued to be responsible for gross violations of international humanitarian law during 2020, involving abductions and killings of civilians, including Indigenous Peoples. The Maoists continued to torture and kill people on charges of being "police informers", or simply for not obeying their diktats. In a press statement on 8 October, the Maoists claimed to have killed 25 tribals after a summary trial in a *janadalat* (People's Court) in recent months, as a punishment for working as police informers in Bijapur district in Chhattisgarh. A spokesperson for the Maoists said those killed by the Maoists included 12 secret agents, five covert operatives and eight police informers.[25] While the Maoists' statement did not specify when these killings were carried out, the police claimed that the Maoists had killed 16 tribal villagers in the last week of September 2020.[26] Some other killings of tribals took place in the Sarjamburu forest under Goilkera police station area in West Singhbhum district of Jharkhand on 19 April;[27] near Chintalaveedhi in Pedabayalumandal in Visakhapatnam district of Andhra Pradesh on 3 August;[28] and at Khajuriguda village in Malkangiri district of Odisha on 21 October.[29]

Non-restoration of alienated tribal land

There are a plethora of laws prohibiting the sale or transfer of Indigenous Peoples' lands to non-indigenous persons and restoring alienated

lands to the Indigenous landowners. These laws, however, remain ineffective and seldom invoked to either protect Indigenous lands or restore the alienated lands. Alienation of Indigenous Peoples' lands through fraudulent means or by force continued to occur during 2020.

In early 2020, 420 Indigenous families in Kerala found out that their lands, roughly 2,730 acres, had been leased by the Attappady Cooperative Farming Society (ACFS) to LA Homes, a Thrissur-based construction company, on 8 February 2019. The society is a state-run project at Attappady village in Palakkad district and was set up in 1975 to provide land to 420 Indigenous families. The *pattayam*, or title deeds, of this transferred land are in the names of these 420 Indigenous families but they came to know about the illegal transfer, which is effective for 25 years, in early 2020 when businessmen began touring the land. On 18 September, 50 tribal activists, from various tribes of Attappady, filed a petition against the ACFS board's decision before the Kerala High Court. On 22 September, the court stayed the contract for a period of two months, pending further proceedings. On 20 November, the court further stayed the contract for another three months.[30]

Indigenous Peoples in the Northeast region faced attacks for protecting their lands. On 22 October, a tribal was grievously injured (and later died in hospital) in an attack by non-tribals who wanted to grab his land at Laljuri in Kanchanpur, Tripura.[31] Indigenous Peoples who resisted land alienation were detained, tortured and implicated in false cases. On 2 November, a tribal was allegedly abducted, tortured and later implicated in a false case by the police after he protested against illegal occupation of farmers' lands by a private company in Vijawada in Andhra Pradesh.[32]

Conditions of the internally displaced Indigenous Peoples

The Government of India does not have any data on the number of Indigenous people displaced as a result of various construction/development projects or conflicts.[33] The government has failed to rehabilitate Indigenous people displaced due to both conflicts and development projects over the years. Thousands of Bru (Reang) tribals continue to

live in sub-human conditions in relief camps in Tripura since their displacement from Mizoram due to ethnic conflicts in 1997. On 16 January, the Government of India signed an agreement with the state governments of Tripura and Mizoram and leaders of the Bru community to permanently settle around 34,000 Bru IDPs in the state of Tripura. As per the agreement, each Bru displaced family shall get one-off assistance of Rs 4,00,000 as a fixed deposit, a 40 by 30 foot plot of land, Rs 1,50,000 to build houses, financial assistance of Rs 5,000 per month and free rations for the next two years from the date of settlement. The Government of India has sanctioned some Rs 600 crore (a monetary and number measurement in India equalling 10 million units) as resettlement package.[34] Although Union Minister for Home Affairs Amit Shah presided over the signing of the agreement, which the Government of India described as "historic",[35] the Brus could not be rehabilitated by the end of 2020, largely due to fierce opposition from local Bengalis (non-tribals) and Mizos (tribals) who opposed the alleged plans of the state government of Tripura to settle 5,000 Bru families in six locations in Kanchanpur sub-division.[36] On 21 November, the Joint Movement Committee (JMC), comprising Bengalis and local Mizos, blocked the Assam-Agartala National Highway-8. The protest turned violent and one protestor was shot dead by the Tripura State Rifles (TSR) and one fire service personnel, a tribal, was beaten to death by protestors at Panisagar in North Tripura district.[37]

Repression under forest laws

A large number of forest-dwelling Indigenous Peoples continued to be denied their rights in 2020. According to information available from the Ministry of Tribal Affairs, as of 31 March 2020, a total of 4,251,545 claims had been filed under the FRA of which 41.22% were rejected.[38] Section 4(5) of the FRA specifically states that no member of a forest-dwelling Scheduled Tribe or other traditional forest dwellers shall be evicted or removed from the forest land under their occupation until the recognition and verification procedure is complete. The *Panchayats (Extension to Scheduled Areas) Act, 1996* also provides that the Gram Sabha or the Panchayats at the appropriate level shall be consulted before acquir-

ing land in the Scheduled Areas or implementing development projects and before resettling or rehabilitating persons affected by such projects in the Scheduled Areas. However, the Indigenous Peoples were evicted despite their claims under the FRA being under adjudication.

The governments continued to evict Indigenous Peoples even during the COVID-19 lockdown when ordinary people were struggling for basic needs such as housing, food, education and medical facilities, etc. The forced evictions exposed the victims to extreme poverty, destitution and vulnerability to COVID-19 infections and left them severely traumatised. Cases of forcible evictions by forest officials during the lockdown period included three families of the Gutti Koya tribe at Kotha Kotturu village in Chintooru mandal in East Godavari district of Andhra Pradesh on 13 April;[39] 32 tribal families comprising 90 persons at Sagada village adjacent to the Khandualmali forest area in Kalahandi district of Odisha on 24 April;[40] 81 families belonging to Koya tribe at Satyanarayanapuram village in Bhadradri-Kothagudem district of Telangana in June;[41] and 20 tribal families evicted from Dugli village in Dhamtari district of Chhattisgarh on 13 October.[42] In many cases, the authorities burnt down houses, destroyed standing crops and set fire to food grains leading to pauperisation of the evicted IP families.

Situation of Indigenous women

Indigenous women and girls in India are deprived of many of their rights. Both collective and individual rights are violated in private and public spaces. Sexual violence, trafficking, killing/branding as a witch, militarisation or state violence and the impact of development-induced displacement, etc. remained major issues. In its latest report "Crime in India 2019" published on 1 October 2020, the National Crime Records Bureau (NCRB) of the Government of India stated that 1,133 tribal women were raped in 2019.[43] Indigenous women faced sexual assault from both civilians and the security forces. The trend continued in 2020 with several reported cases. A 21-year-old Indigenous woman was allegedly raped by a constable of the CRPF when she had gone to graze cattle near the CRPF camp in Dubbakota area under Sukma district of Chhattisgarh on 27 July 2020. The CRPF constable was arrested after the victim filed a police complaint.[44] On 1 July 2020, the Inspector-In-Charge

of Biramitrapur police station in Sundargarh district of Odisha was arrested and dismissed from service for repeatedly raping a 13-year-old tribal girl inside the police station.[45]

Men and women, including Indigenous Peoples, were humiliated, brutalised and killed in the name of witch-hunting. According to the latest report of the NCRB, cases of "witchcraft"-motivated murders increased from 63 cases in 2018[46] to 104 cases in 2019,[47] showing an increase of 65%. Yet there is no national law prohibiting witch-hunting. Incidents of witch-hunting continued to be regularly reported in 2020. On 26 June, a Koya tribal couple were allegedly beaten to death by two persons on suspicion of practising witchcraft at Pendalguda village in Malkangiri district of Odisha.[48] On 24 July, a 36-year-old tribal widow was tied to a pole and tortured by some villagers on suspicion of being a witch near Valod town in Tapi district of Gujarat.[49] Another tribal woman was tortured and set on fire by her relatives in Gujarat's Rajkot district on 18 November.[50] In October, three members of one Munda tribal family, his wife and daughter were beheaded by the villagers at Kuda village in Khunti district of Jharkhand on suspicion of "practising witchcraft".[51] On 30 September, two tribals identified as witches, including one woman, were lynched, beheaded and set on fire by an angry mob over suspicions of practising witchcraft at Rahimapur village in Karbi Anglong district of Assam.[52]

With the majority of the victims being women, witch-hunting remains one of the most common forms of violence against Indigenous women. These attacks are motivated by a combination of superstitious beliefs, religious practices and patriarchal norms. The witch-hunted victims are often those who dare to challenge patriarchal norms and superstitions within their communities.

Notes and references

1. Since the Scheduled Tribes or "tribals" are considered India's Indigenous Peoples, these terms are used interchangeably in this text.
2. Bhardwaj, Prachi. "Bombay High Court could not have granted Scheduled Tribe status to 'Gowari' community, holds SC. Read what happens to admissions, employment secured so far." SCC Online, 18 December 2020. https://www.scconline.com/blog/post/2020/12/18/bombay-high-court-could-not-have-granted-scheduled-tribe-status-to-gowari-community-holds-sc-read-what-happens-to-admissions-employment-secured-so-far/

3. Government of India, Ministry of Home Affairs. "Office Order, 11011 /53/2012-NE-V." 27 September 2018. Accessed 19 February 2020. https://mha.gov.in/sites/default/files/filefield_paths/HLC_Tripura.PDF
4. ASRP Mukesh. "World Indigenous People's Day: Jharkhand CM declares public holiday, Congress plans grand celebration." The Times of India, 9 August 2020. https://timesofindia.indiatimes.com/city/ranchi/world-indigenous-peoples-day-cm-declares-public-holiday-cong-plans-grand-celebrations/articleshow/77438738.cms
5. Das, Sib Kumar. "Coronavirus lockdown | Malkangiri tribal migrant worker dies of exhaustion." The Hindu, 14 May 2020. https://www.thehindu.com/news/national/other-states/coronavirus-lockdown-malkangiri-tribal-migrant-worker-dies-of-exhaustion/article31584759.ece
6. "Unleashing Coal: New Hopes for Atmanirbhar Bharat." Press Information Bureau, 11 June 2020. https://coal.nic.in/sites/upload_files/coal/files/curentnotices/PIBCoal-11062020.pdf
7. Erni, Chris, and Signe Leth. "Bearing the Brunt: The Impact of Government Responses to COVID-19 on Indigenous Peoples in India." National Campaign Against Torture, ILAI and IWGIA. 10 September 2020. https://www.iwgia.org/en/resources/publications/3838-bearing-the-brunt.html
8. ANI. "Coal India unions on 3-day strike to protest against commercial mining, FDI." Business Standard, 3 July 2020. https://www.business-standard.com/article/economy-policy/coal-india-unions-on-3-day-strike-to-protest-against-commercial-mining-fdi-120070300530_1.html
9. IANS. "SC says e-auction of Jharkhand coal mines subject to its final orders." Economic Times, 7 November 2020. https://energy.economictimes.indiatimes.com/news/coal/sc-says-e-auction-of-jharkhand-coal-mines-subject-to-its-final-orders/79093104
10. Jamwal, Nidhi. "After Jharkhand, Chhattisgarh and Maharashtra oppose the Centre's auction of 41 coal blocks for commercial mining." Gaon Connection, 22 June 2020. https://en.gaonconnection.com/after-jharkhand-chhattisgarh-and-maharashtra-oppose-the-centres-auction-of-41-coal-blocks-for-commercial-mining/
11. Ibid.
12. "NAPM demands that Centre immediately revoke the commercial auction of 41 coal blocks." Sabrang India, 26 June 2020. https://sabrangindia.in/article/napm-demands-centre-immediately-revoke-commercial-auction-41-coal-blocks
13. Ibid.
14. Rajalakshmi, T.K. "Auction of coal mines: Against all reason." Frontline, 17 July 2020. https://frontline.thehindu.com/the-nation/article31951331.ece
15. Aggarwal, Mayank. "20 gram sabhas in Chhattisgarh pass resolutions against auction of coal mines." Mint, 15 January 2015. https://www.livemint.com/Politics/9ReivDrAjzdvv7d6Hw8NGL/20-gram-sabhas-in-Chhattisgarh-pass-resolutions-against-auct.html
16. Ali, Mazhar. "Uproar in Chandrapur over Bander coal block auctioning." Times of India, 21 June 2020. https://timesofindia.indiatimes.com/city/nagpur/uproar-in-chandrapur-over-bander-coal-block-auctioning/articleshow/76487744.cms
17. IANS. "SC says e-auction of Jharkhand coal mines subject to its final orders." Economic Times, 7 November 2020. https://energy.economictimes.indiatimes.com/news/coal/sc-says-e-auction-of-jharkhand-coal-mines-subject-to-its-final-orders/79093104

18. PIB Delhi. "Notice period for draft Environment Impact Assessment Notification(EIA), 2020 extended till 30th June." Press Information Bureau, Government of India., 7 May 2020. https://pib.gov.in/PressReleseDetailm.aspx?PRID=1621800
19. Suresh, Sara. "Explained: The Curious Case of India's Draft EIA Notification 2020." The Print, 11 August 2020. https://www.thequint.com/explainers/explained-the-curious-case-of-india-draft-environment-impact-assessment-notification-2020
20. Supreme Court of India, Civil Appellate Jurisdiction. "Chebrolu Leela Prasad Rao and Ors. v. State of AP and Ors." 22 April 2020. https://main.sci.gov.in/supremecourt/2002/8431/8431_2002_31_1501_21807_Judgement_22-Apr-2020.pdf
21. Khare, Divy. "Man thrashed for goat 'theft', dies in custody." The Times of India, 6 September 2020. https://timesofindia.indiatimes.com/city/ranchi/man-thrashed-for-goat-theft-dies-in-custody/articleshow/77956547.cms
22. Express News Service. "Four cops suspended in Karnataka custodial death case, kin to get Rs 8.25 lakh in compensation." The New Indian Express, 7 October 2020. https://www.newindianexpress.com/states/karnataka/2020/oct/07/four-cops-suspended-in-karnataka-custodial-death-case-kin-to-get-rs-825-lakh-in-compensation-2207123.html
23. "Govt assistance for kin of youth killed by CRPF." The Telegraph, 24 June 2020. https://www.telegraphindia.com/jharkhand/govt-assistance-for-kin-of-youth-killed-by-crpf/cid/1783497
24. Sarkar, Debashish. "CRPF personnel in Jharkhand booked for allegedly beating villagers in anti-Maoist ops." The Hindustan Times, 21 June 2020. https://www.hindustantimes.com/india-news/crpf-personnel-in-jharkhand-booked-for-allegedly-beating-villagers-in-anti-maoist-ops/story-SFvSyqJvlrZ72joB3lYwZL.html
25. Apparasu, Srinivasa Rao. "Killed 25 'traitors' in Bastar, Maoists claim in statement." The Hindustan Times, 10 October 2020. https://www.hindustantimes.com/india-news/killed-25-traitors-in-bastar-maoists-claim-in-statement/story-8VN7Q2p6ihmgHdsseIvRiK.html
26. Ibid.
27. TNN. "Naxals kill 'cop informer' in West Singhbhum forest" The Times of India, 21 April 2020. https://timesofindia.indiatimes.com/city/jamshedpur/naxals-kill-cop-informer-in-west-singhbhum-forest/articleshow/75258786.cms
28. Express News Service. "Two tribals killed as Maoists trigger landmine blast in Vishaka Agency area." The New Indian Express, 3 August 2020. https://www.newindianexpress.com/states/andhra-pradesh/2020/aug/03/two-tribals-killed-as-maoists-trigger-landmine-blast-in-vishaka-agency-area-2178653.html
29. Mohanty, Aishwarya. "Tribal killed in suspected Maoist attack in Odisha." The Indian Express, 27 November 2020. https://indianexpress.com/article/cities/bhubaneswar/tribal-killed-in-suspected-maoist-attack-in-odisha-6821309/
30. Konikkara, Aathira. "We all refused: Adivasis contest lease of 2,730 acres to private firm in Attappady, Kerala." The Caravan, 23 November 2020. https://caravanmagazine.in/communities/we-all-refused-adivasis-contest-lease-of-2730-acres-to-private-firm-in-attappady-kerala
31. "FIR lodged against Vivekananda Memorial Club for attempt to murder in Laljuri, Kanchanpur." The Jummo Times, 23 October 2020. https://www.thejummotimes.com/posts/fir-lodged-against-vivekananda-memorial-club-

for-attempt-to-murder-in-laljuri-kanchanpur#
32. Subba Rao, GVR. "TDP writes letter to NHRC, ST panel over attack on tribal." The Hindu, 17 November 2020. https://www.thehindu.com/news/national/andhra-pradesh/tdp-writes-letter-to-nhrc-st-panel-over-attack-on-tribal/article33111372.ece
33. Response of the Minister of Tribal Affairs, Government of India to Unstarred Question No. 71 in the Lok Sabha on 14.09.2020 relating to "Displacement of Tribals"
34. Singh, Vijaita. "34,000 Bru refugees to be settled in Tripura." The Hindu, 16 January 2020. https://www.thehindu.com/news/national/other-states/displaced-bru-tribals-from-mizoram-to-permanently-settle-in-tripura/article30577152.ece
35. PIB Delhi. "Shri Amit Shah presides over signing of Historic Agreement to end the Bru-Reang Refugee Crisis; Around 34,000 Internally Displaced People to be settled in Tripura." Press Information Bureau, 16 January 2020. https://pib.gov.in/PressReleseDetailm.aspx?PRID=1599633
36. Deb, Debraj. "Explained: Why the protests against Bru resettlement in Tripura have flared up?" The Indian Express, 23 November 2020. https://indianexpress.com/article/explained/tripura-bru-migrants-settlement-protest-7061521/
37. PTI. "Death toll rises to 2 in Tripura firing incident." The Times of India, 22 November 2020. https://timesofindia.indiatimes.com/city/agartala/death-toll-rises-to-2-in-tripura-firing-incident/articleshowprint/79351995.cms
38. Government of India, Ministry of Tribal Affairs. "Monthly update on status of implementation of the Forest Rights Act, 2006 for the period ending 31st March 2020." 31 March 2020. https://www.fra.org.in/document/FRA%20Status%20Report%20up%20to%2031st%20March%202020-MoTA.pdf
39. Tippana, Appala Naidu. "NHRC takes note of 'assault on tribal people by forest staff'." The Hindu, 19 April 2020. https://www.thehindu.com/news/national/andhra-pradesh/nhrc-takes-note-of-assault-on-tribal-people-by-forest-staff/article31384186.ece
40. Dubey, Mithilesh Dhar. "The Odisha Forest Department demolishes homes of 32 tribal families amid the lockdown." Goan Connection, 28 April 2020. https://en.gaonconnection.com/the-odisha-forest-department-demolishes-homes-of-32-tribal-families-in-kalahandi-amid-the-nationwide-lockdown/
41. Uppuleti, Jahnavi. "Haritha Haram and forest rights: How a scheme to increase green cover has upended the lives of Telangana's tribals." FirstPost, 18 September 2020. https://www.firstpost.com/india/haritha-haram-and-forest-rights-how-a-scheme-to-increase-green-cover-has-upended-the-lives-of-telanganas-tribals-8827481.html
42. Pal, Sumedha. "Chhattisgarh: Tribal Houses Razed to Ground in Dhamtari District." The News Click, 26 October 2020. https://www.newsclick.in/Chhattisgarh-Tribal-Houses-Razed-to-Ground-in-Dhamtari-District
43. National Crime Records Bureau, Ministry of Home Affairs. "Crime in India 2019." 2019, p. 615. https://ncrb.gov.in/sites/default/files/CII%202019%20Volume%202.pdf
44. Press trust of India. "CRPF Soldier Arrested For Allegedly Raping Tribal Woman In Chhattisgarh: Police." NDTV, 31 July 2020. https://www.ndtv.com/cities/crpf-soldier-arrested-for-allegedly-raping-tribal-woman-in-chhattisgarh-police-2271698#:~:text=The%20accused%2C%20identified%20as%20Dulichand,her-%20parents%2C%20senior%20police%20said&text=Sukma%3A,the%20police%20said%20on%20Thursday

45. TNN. "Former inspector dismissed for 'raping' minor inside police station in Odisha." The Times of India, 1 July 2020. https://timesofindia.indiatimes.com/city/bhubaneswar/former-inspector-dismissed-for-raping-minor-inside-police-station-in-odisha/articleshowprint/76723659.cms; Mishra, Ashutosh. "Odisha Police Sacks Cop Over Conduct in Minor's Rape Case, Apologises to Survivor." The Wire, 2 July 2020. https://thewire.in/rights/odisha-tribal-minor-rape-case
46. National Crime Records Bureau. "Crime in India 2018." 2018, p. 161. https://ncrb.gov.in/sites/default/files/Crime%20in%20India%202018%20-%20Volume%201_3.pdf
47. National Crime Records Bureau, "Crime in India 2019." 2019, p. 161. https://ncrb.gov.in/sites/default/files/CII%202019%20Volume%201.pdf
48. Express News Service. "Koya tribal couple killed over witchcraft suspicion." The New Indian Express, 28 June 2020. https://www.newindianexpress.com/states/odisha/2020/jun/28/koya-tribal-couple-killed-over-witchcraft-suspicion-2162465.html
49. TNN. "Gujarat: Tribal widow tied to a pole and branded witch rescued." The Times of India, 26 July 2020. https://timesofindia.indiatimes.com/city/surat/tribal-widow-branded-witch-tied-to-pole-rescued/articleshowprint/77174257.cms
50. Ahmedabad, Satish Jha, and DHNS. "Tribal woman set on fire on suspicion of witchcraft in Gujarat." Deccan Herald, 21 November 2020. https://www.deccanherald.com/national/west/tribal-woman-set-on-fire-on-suspicion-of-witchcraft-in-gujarat-918312.html
51. "Three of same family beheaded by villagers in tribal Jharkhand for practising 'witchcraft'." The Free Press Journal, 29 October 2020. https://www.freepressjournal.in/india/three-of-same-family-beheaded-by-villagers-in-tribal-jharkhand-for-practising-witchcraft
52. Press Trust of India. "Two lynched, beheaded, set on fire over witchcraft suspicion in Assam." The Hindustan Times, 2 October 2020. https://www.hindustantimes.com/india-news/two-lynched-beheaded-set-on-fire-over-witchcraft-suspicion-in-assam/story-2OqrnHYZZ2a3uYrrftWq8H.html

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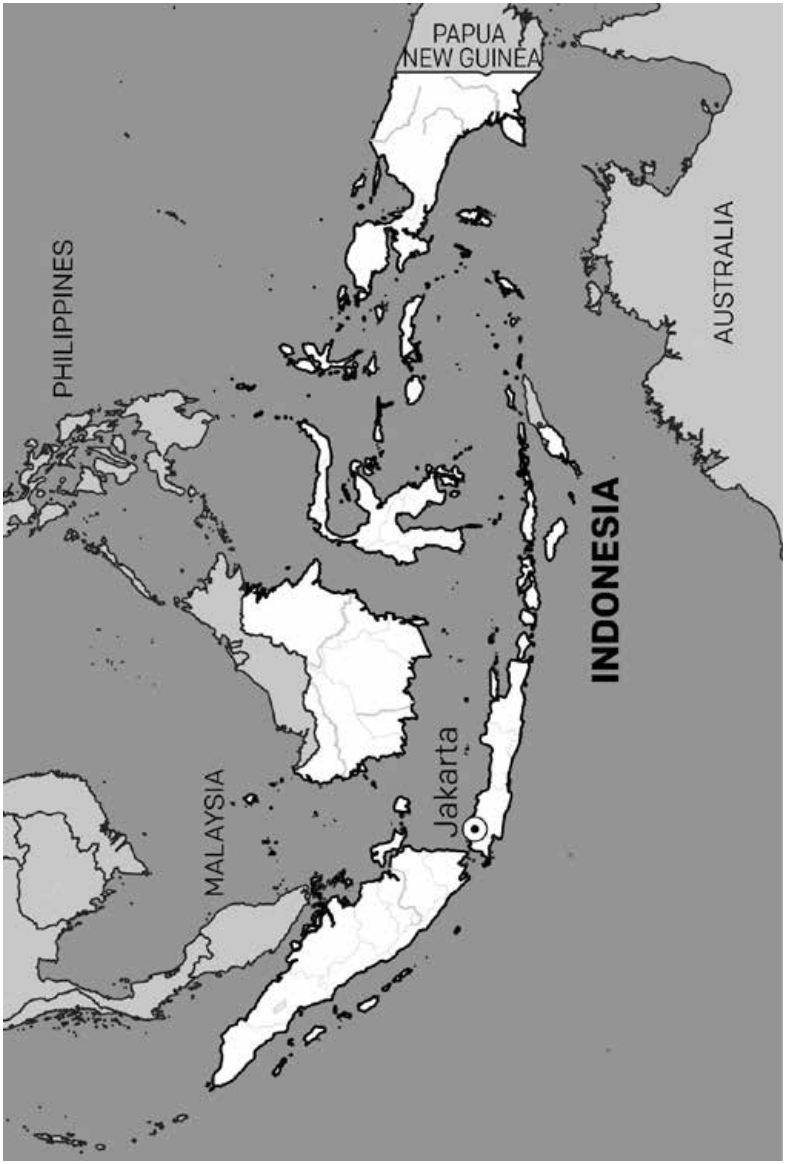
Indonesia


PHILIPPINES
MALAYSIA
Jakarta
INDONESIA
PAPUA
NEW GUINEA
AUSTRALIA

Indonesia has a population of approximately 260 million. According to the Central Bureau of Statistics, the government recognizes 1,331 ethnic groups.[1] The Ministry of Social Affairs identifies some Indigenous communities as *komunitas adat terkecil (KAT)*, or geographically-isolated Indigenous communities. However, many more peoples self-identify as or are considered by others to be Indigenous. Recent government acts and decrees use the term: *Masyarakat Adat* to refer to Indigenous Peoples. The national Indigenous Peoples' organization, Aliansi Masyarakat Adat Nusantara (AMAN), estimates that the total population of Indigenous Peoples in Indonesia is between 50 and 70 million.

The third amendment to the Indonesian Constitution recognizes Indigenous Peoples' rights in articles 18 B-2 and 28 I-3. In more recent legislation, there is implicit recognition of some rights of Indigenous Peoples, where they are referred to as: *Masyarakat Adat* or *Masyarakat Hukum Adat*, including Act No. 5/1960 on Basic Agrarian Regulation, Act No. 39/1999 on Human Rights, and MPR Decree No. X/2001 on Agrarian Reform. Act No. 27/2007 on the Management of Coastal Areas and Small Islands and Act No. 32/2010 on the Environment clearly use the term: *Masyarakat Adat* and use the working definition of AMAN. The Constitutional Court affirmed the constitutional rights of Indigenous Peoples to their land and territories in May 2013, including their collective rights to customary forests.

While Indonesia is a signatory to the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), government officials argue that the concept of Indigenous Peoples is not applicable as almost all Indonesians (with the exception of the ethnic Chinese) are Indigenous and thus entitled to the same rights. The government has consequently rejected calls for specific needs from groups self-identifying as Indigenous.

West Papua covers the western part of the island of New Guinea and comprises the two Indonesian provinces of Papua and West Papua (Papua Barat). It has a population of 4.378 million people split across two provinces, with 3.5 million in Papua

province and 878,000 in West Papua province. More than 50% of the population in both provinces are migrants who came from other parts of Indonesia through the government-sponsored transmigration program between the 1970s and early 2000s.

West Papua has the most diverse cultures and languages in Indonesia. While Bahasa Indonesia is the official language spoken now, there are more than 250 tribal languages spoken by Indigenous Papuans today. West Papua is divided into seven distinct customary territories: Mamberamo Tabi (Mamta), Saireri, Domberai and Bomberai, Mee Pago, La Pago and Ha Anim.

Since Indonesia took control over the region from the Netherlands in 1969, West Papuans have continued to seek independence from Indonesia. In 2001, the Indonesian government issued a Special Autonomy Law for Papua formerly called Irian Jaya, after which the government forcibly divided the Indonesia-controlled part of the island into Papua and West Papua provinces.

Land conflicts and criminalization

In 2020, the entire world was affected by the COVID-19 pandemic in which the rate of human activity has slowed down. However, some companies in Indonesia did not stop their operations and, what is worse, were busy criminalizing Indigenous Peoples who stood in the way to them expanding their businesses.

Disheartening news arrived from Lamandau District in Central Kalimantan Province on 26 August. The chief of the Laman Kinipan Indigenous community, Effendi Buhing, was arrested by Central Kalimantan Provincial Police over a dispute with PT Sawit Mandiri Lestari (SML), a palm oil company.[2] The customary leader was prosecuted for leading the community struggle to defend his community's forest.

The scene of the chief's arrest went viral in Indonesian social media. Fully armed police and a number of vehicles took the Kinipan com-

munity by surprise. They came to arrest Buhing in full force, as if they were going after a terrorist, even though Buhing was sitting relaxing in the porch of his stilt house.[3] His wife, who filmed the incident, was in tears watching her husband dragged from his house in his ancestral village. After public pressure, Buhing was released and allowed to return home, although a sense of unease remains.

Several months prior to his arrest, five other Laman Kinipan Indigenous people were arrested and put in jail.[4]

The Besipae-Pubabu Indigenous Peoples on Timor Island in East Nusa Tenggara province are being criminalized by the local authorities for defending their customary forest from being cleared to create space for a corn plantation and cattle raising.[5] They are defending their forest because clearing it would affect the availability of water in the wells surrounding the forest and reduce the flora and fauna on which the Indigenous community rely.

On a number of occasions in 2020, state security agents violently attacked community forest defenders. As a result of clashes that took place in August, 37 families were violently evicted from the area and had their houses demolished. In October, clashes resulted in injuries to at least five community members, including children.[6]

The conflict between the Besipae-Pubabu community and the provincial authorities started in 2013 when the authorities granted a right-to-use certificate for a 3,780 hectare-area of the forest without the consent of the community.[7] Ironically, the August events took place just one day after the celebration of Indonesia´s Independence Day, where the country's president Joko Widodo proudly wore traditional clothes from one of the Timorese Indigenous communities.[8]

In a similar case, the Rakyat Penunggu Indigenous Peoples of Durian Selemak and Pertumbukan villages in North Sumatra Province clashed with state security agents and private security officers hired by PT Perkebunan Nusantara II (PTPN II), a state-owned agribusiness company on 29 September 2020 when the latter arrived to clear the community's 966-hectare ancestral domain in order to convert it into a sugarcane plantation.[9] The company justified the forced occupancy claiming that the Rakyat Penunggu's land was in fact owned by the state.

Ten women from the community blocked heavy machinery from entering the village. PTPN II Security used violence to move community

activists from the road. One elderly woman was punched in the stomach and was in such pain that she almost fainted.[10]

The three cases illustrate how, despite the pandemic, the private sector and the authorities in Indonesia are continuing to harass and criminalize Indigenous Peoples in order to appropriate their lands.

Legislation

The Job Creation Law, a part of the Omnibus Law package,[11] was passed on 5 October 2020 despite strong opposition from Indonesia's civil society.

The Alliance of Indigenous Peoples of the Archipelago (AMAN), the nationwide Indigenous organization, has strongly opposed the Omnibus Law since its early formulation. In March, the organization issued a position paper on the Job Creation Bill – nicknamed "Cilaka" or the Disaster Bill – detailing Indigenous Peoples' fundamental problems with the bill. These range from procedural issues, whereby Indigenous Peoples' were excluded from participating in the drafting process, to its very essence, as the bill was created on the pretence that only special investments in the natural resources sector could create jobs.[12] Indonesia's Indigenous Peoples are fearful that the Omnibus Law will trigger more extensive and massive violence and criminalization against Indigenous Peoples.

AMAN National Work Meeting

One important agenda in 2020 for Indonesia's Indigenous Peoples was the biannual National Work Meeting organized by the Alliance of Indigenous Peoples of the Archipelago (AMAN). As in the past, the National Work Meeting was going to take place in March, alongside the commemoration of the Awakening Day of Indigenous Peoples of the Archipelago on 17 March and coinciding with the adoption of AMAN's declaration on 17 March 1999. The Meeting was planned to take place in Ende, East Nusa Tenggara, but was postponed due to the COVID-19 pandemic.

The National Work Meeting finally took place on 17-19 November

2020 and, for the first time in its history, was held virtually. Despite the obvious challenges of the digital divide across the country, the overall evaluation of the meeting was positive and, according to AMAN's Secretary General Rukka Sombolinggi, has demonstrated Indigenous Peoples' resilience in the face of challenges.

Reflections on the pandemic

While the Government of Indonesia lacked seriousness in preventing the spread of the coronavirus, AMAN's Secretary General Rukka Sombolinggi showed strong leadership in the face of the public health disaster.

An emergency response task force called "Gugus Tugas AMANkan COVID-19" was formed.[13] This task force included an extensive network of COVID-19 response teams operating in areas populated by Indigenous Peoples throughout the archipelago. As of today, there are 108 teams in operation.

The majority of the response team members are Indigenous youth and women. Their work focuses mostly on ensuring their villages are not exposed to the virus. In doing so, they have sometimes introduced innovative solutions. For example, members of the Indigenous Youth Front of the Archipelago (BPAN) in North Sulawesi, the Osing in East Java, and Sembalun, West Nusa Tenggara made hand sanitizer from natural ingredients. They also recorded the process in video tutorials[14] so that Indigenous youth in other areas could learn. In addition, both Indigenous youth and women are engaging in farming and thus contributing to making their communities more resilient amidst the pandemic.

Soon after the start of the pandemic, AMAN issued a recommendation to all Indigenous communities to introduce a lockdown, following a concept of *dignified lockdown*.[15] This concept allows Indigenous Peoples to continue to carry out their activities as usual as long as they do not leave their communities. Indigenous Peoples can continue to tend their rice fields and gardens, harvest forest products and carry out other activities. *Dignified lockdown* ensures the resilience of Indigenous Peoples and is a manifestation of Indigenous Peoples' sovereignty in the face of the COVID-19 pandemic.

Indigenous Peoples and local communities, for example AMAN

and the Consortium for Agrarian Reform (KPA), together supplied 10 tons of rice as well as fish and vegetables to the residents of Jakarta.[16] The beneficiaries were population groups that were among those hardest hit by the pandemic, including daily wage laborers, informal sector workers and journeymen. This acts not only demonstrates that, armed with their traditional knowledge, Indonesia's Indigenous Peoples, are resilient in the face of such large-scale disasters as the COVID19 pandemic but that they are also able to generously extend their support to their fellow citizens in cities.

Indigenous women

In November, PEREMPUAN AMAN presented a report on Gender-Based Violence in Natural Resource Management in Indonesia. The report was produced on the basis of data collected in 21 Indigenous communities and details the situation of Indigenous women in Indonesia, including their occupations, participation in customary decision-making, and access to natural resources. The reports emphasizes that while the role of women in sustainable resource management is very high, their participation in customary decision-making remains low. As a result, they remain vulnerable to discriminatory practices and violence. Researchers behind the report hope that it could be used to encourage changes in development policy in Indonesia so that it takes into account the interests and needs of Indigenous Peoples in general and Indigenous women in particular.[17]

WEST PAPUA

COVID-19 in Papua

On 26 March 2020, Papua Provincial authorities officially closed access to the province to passenger traffic by air and sea in order to prevent the spread of the coronavirus in Papua province.[18] Land border crossings to Papua New Guinea were also closed to passenger traffic. In addition to access to the province, certain restrictions on social gatherings were also introduced. The restrictions were initially introduced for a period

of two weeks but were extended thereafter. While passenger traffic has been suspended, the transportation of goods has continued. Access to Papua province was finally reopened on 8 June although certain COVID-19 restrictions remained in place until the end of the year.

West Papua province also closed access to its territory although restrictions on movement here were somewhat less strict.

While the number of cases of COVID-19 recorded among Indigenous Peoples in Papua and West Papua provinces in 2020 was not very high, the death rate among those cases was among the highest in Indonesia.[19] The situation was exacerbated by insufficient healthcare infrastructure in the two provinces, where Indigenous Peoples often live far from the health facilities. Due to limited availability of hospital beds, some COVID-19 patients were hospitalized in hotels, where treatment was inadequate.

The economic impact of COVID-19 was especially strong in urban areas. Due to the slow response from the government, some community businesses had to shut down.[20]

The already precarious situation of the Indigenous Peoples displaced from Nduga regency to other regencies of Papua province following Indonesian Army's counterinsurgency operation in 2018-2019[21] was exacerbated by the pandemic-related restrictions.[22] In addition to health problems, a shortage of food and lack of access to education for displaced children has also been an issue of concern.

Moreover, restrictions on movement introduced in March prevented people from engaging in their daily duties, even work so that they can meet their daily needs, thus further worsening their economic situation. Internally Displaced People (IDPs) are also suffering hostility from the local residents and are sometimes unable to go to fetch water and firewood.[23]

Internet blackout decision and online disinformation

On 3 June, a panel of judges at the Jakarta State Administrative Court ruled in the case on the termination of Internet access in Papua and West Papua that occurred during the anti-racist demonstrations in 2019. The court ruled that the action of the Ministry of Communication and Information and the President of the Republic of Indonesia to slow

down and cut Internet access in the provinces of Papua and West Papua in August and September 2019 was an unlawful act.[24] The Internet blackout that occurred in 2019 prevented access to information on the protests from reaching the rest of the country.

Meanwhile a joint open-source investigation by the BBC and the Australian Strategic Policy Institute published in 2020 uncovered a well-funded and coordinated disinformation campaign on the Internet seemingly targeting the Free Papua movement.[25] The campaign, which involved hundreds of social media accounts on Twitter and Facebook, as well as dozens of websites with content in Indonesian, English, German and Dutch, is spreading confusing and outright false information. It seems that the purpose of the disinformation campaign is to influence international opinion about the situation in Papua and activists involved in the struggle for self-determination.

In a situation where the region is cordoned off for international journalists, while local independent media is restricted, such a disinformation campaign has huge potential to influence the international community's perception of the situation in Papua.[26]

Trial of seven prisoners in Kalimantan

On 17 June, a Panel of Judges at the Balikpapan District Court, East Kalimantan found seven Papuan political prisoners guilty of treason for their participation in anti-racism demonstrations in Jayapura in 2019.[27] The trial was held outside Papua to prevent expressions of popular support for the defendants.

Among the seven activists were Deputy Chairman of the Legislative Body of the United Liberation Movement for West Papua (ULMWP) Buchtar Tabuni, chairman of the National Committee for West Papua (KNPB) Agus Kossay, and President of the Student Association at Jayapura University of Science and Technology (USTJ) Alexander Gobay. The prosecution were asking for harsh sentences of up to 15 years in prison but, in the end, the court handed down sentences ranging from between 10 and 11 months.[28] Sentenced activists are also required to pay a court fee of IDR 5,000.

Violence against civilians in Intan Jaya

On 19 September, pastor and Indigenous community leader Yeremia Zanambani was shot and killed by the Indonesian National Army (TNI) during a counterinsurgency operation in the vicinity of Hitadipa, Intan Jaya, Papua. The accident caused a public outcry and requests to the President of Indonesia, Joko Widodo, to investigate the killing.[29]

An independent investigation[30] conducted by the Papua Province Humanitarian Team revealed that the murder of Pastor Zanambani was related to the disappearance earlier the same year of two civilians following raids carried out by TNI in Hitadipa.

On 21 April 2020, a group of TNI soldiers in Sugapa, Intan Jaya regency carried out a raid on the community under the pretext of ensuring compliance with the COVID-19 health protocols. Intan Jaya Covid Task Force later stated that the operation was not part of the handling of the COVID-19 pandemic in Intan Jaya.

During the raid, the TNI arrested three civilians. One was soon released; however, the other two, brothers Apinus Zanambani (22) and Luther Zanambani (23), were taken to Sugapa Sub-District Military Command Headquarters and have not been seen since. When, after some time without news from the Apinus and Luther, their family started to press the military for answers, TNI denied knowing the whereabouts of the young men. The families of the missing men requested Pastor Jeremiah Zanambani, who was from the same clan as them, to intervene.

In December 2020, TNI announced that it was investigating nine members of the military for their suspected involvement in the disappearance of the two men.

Pastor Zanambani is the 14th victim in a series of violent events in Hitadipa since 2019 when, in response to the West Papua National Liberation Army's (TPNPB) killing of three civilians, TNI established its field base in Hitadipa. Another eight civilians have been injured since.

The widespread violence to which civilians have been subjected shows that the Indonesian Army was not fully in control of the excesses of its members during the counterinsurgency operations in Intan Jaya. Furthermore, the prosecution of the military personnel involved in violence has been slow and insufficient.

Violence in Hitadipa resulted in mass displacements of civilians to

other districts of Intan Jaya regency. Hitadipa residents are calling for TNI's departure from the area so that they can return home.[31]

Cancellation of the Papuan People's Assembly Hearing Meeting

In November, Indonesian authorities disrupted a series of hearings about Papuans' satisfaction with the region's special status granted by the Indonesian government some 20 years ago. The hearings were organized by the Papuan People's Assembly (MRP), a special government body introduced by the law on the Special Autonomy Status.

In Merauke, in the southern part of Papua, the MRP team in charge of the hearings was arrested by police and escorted handcuffed to a police station where they were accused of being involved in organizing pro-independence debates and interrogated. After interrogation, all those arrested were released.

In Wamena, participants in the hearings were confronted at the airport by pro-government militia Barisan Merah Putih.[32]

Those who did manage to make it to the venue in Papua's capital, Jayapura, were turned away by police citing COVID-19 restrictions, although the number of people present was lower than the maximum allowed by the authorities.[33]

Prospects for 2021

In the upcoming year, the Indonesian government and Parliament are hopefully going to pass the Indigenous Peoples Bill. It is hoped that passing this bill into law will counterbalance the Job Creation Law in that it will offer certain guarantees of protection for the rights of Indigenous Peoples.

Notes and references

1. Badan Pusat Statistik. "Informasi Terbaru." 2021. https://bps.go.id/
2. Arbi, Ivany Atina. "Police arrest customary leader in Central Kalimantan over

land dispute." The Jakarta Post, 27 August 2020. https://www.thejakartapost.com/news/2020/08/27/police-arrest-customary-leader-in-central-kalimantan-over-land-dispute.html

3. Najwa, Mata. "Effendi Buhing: Hati Saya Sakit, Seperti Dianggap Teroris." Narasi, 2021. https://www.narasi.tv/mata-najwa/effendi-buhing-hati-saya-sakit-seperti-dianggap-teroris
4. Barahamin, Andre. "KNPA: Hentikan Perampasan Wilayah Adat dan Kriminalisasi Masyarakat Adat Laman Kinipan!." Aliansi Masyarakat Adat Nusantara, 27 August 2020. https://www.aman.or.id/2020/08/46507/
5. Solidaritas Perempuan. "KRONOLOGI KONFLIK MASYARAKAT ADAT PUBABUDENGAN PEMERINTAH PROVINSI NUSA TENGGARA TIMUR." 13 May 2020. http://www.solidaritasperempuan.org/sub/wp-content/uploads/2020/05/Kronologi-Konflik-Masyarakat-Pubabu-dengan-Pemerintah-NTT.pdf
6. Ghaliya, Ghina. Authorities clash with NTT indigenous community over disputed land." The Jakarta Post, 15 October 2020. https://www.thejakartapost.com/news/2020/10/15/authorities-clash-with-ntt-indigenous-community-over-disputed-land.html
7. Ibid.
8. Litha, Yoanes. "Aliansi Masyarakat Adat Nusantara Kecam Tindakan Represif terhadap Masyarakat Adat Besipae." VOA Indonesia, 20 August 2020. https://www.voaindonesia.com/a/aliansi-masyarakat-adat-nusantara-kecam-tindakan-represif-terhadap-masyarakat-adat-besipae/5551290.html
9. Gunawan, Apriadi. "Indigenous peoples injured in clash with state-owned plantation company in N. Sumatra." The Jakarta Post, 30 September 2020. https://www.thejakartapost.com/news/2020/09/30/indigenous-peoples-injured-in-clash-with-state-owned-plantation-company-in-n-sumatra.html
10. Perempuan. "Sikap PEREMPUAN AMAN atas Rencana Penggusuran Paksa PTPN II di Kampung Durian Selemak, Kabupaten Langkat Sumatera Utara." Perempuan Aman, 28 September 2020. https://perempuan.aman.or.id/sikap-perempuan-aman-atas-rencana-penggusuran-paksa-ptpn-ii-di-kampung-durian-selemak-kabupaten-langkat-sumatera-utara/
11. For details on the law see Mambor, Victor, and Jakob Siringoringo. "Indonesia." The Indigenous World 2020, edited by Dwayne Mamo, 250-266. IWGIA, 2020. https://iwgia.org/images/yearbook/2020/IWGIA_The_Indigenous_World_2020.pdf
12. Barahamin, Andre. "OMNIBUS CILAKA YANG MEMBAWA PETAKA BAGI MASYARAKAT ADAT." Aliansi Masyarakat Adat Nusantara, 3 March 2020. https://www.aman.or.id/2020/03/omnibus-cilaka-yang-membawa-petaka-bagi-masyarakat-adat/
13. Aliansi Masyarakat Adat Nusantara. "Tanggap Bencana Covid 19." 2021. https://www.aman.or.id/tanggap-bencana-covid-19/
14. BPAN Official. 2020. "Pembuatan Antiseptik - Hand Sanitizer oleh BPAN Daerah Sembalun Menggunakan Bahan-bahan Alami." Uploaded on 17 April 2020. YouTube video, 6:04 min. https://youtube/vSvY9WKIxJ8; BPAN Official. 2020. "Hand Sanitizer ala Pemuda Adat Osing." Uploaded on 12 May 2020. YouTube video, 2:19 min. https://youtu.be/zAMFvsYEYmo; BPAN Official. 2020. "Membuat Handsanitiser dengan Captikus (Alkohol tradisional Minahasa) oleh BPAN PD MINAHASA SELATAN." Uploaded on 16 June 2020. YouTube video, 3:45 min. https://youtube/amMOLQ56w_4
15. Siringoringo, Jakob. "Instruksi Sekjen AMAN Merespon Perkembangan

Penyebaran COVID-19." Aliansi Masyarakat Adat Nusantara, 19 March 2020. https://www.aman.or.id/2020/03/instruksi-sekjen-aman-merespon-perkembangan-penyebaran-covid-19/

16. Konsorsium Pembaruan Agraria (KPA). "GeSLA Atasi Covid-19: Donasi Pangan Petani Pasundan, Gerakan Solidaritas dari Lumbung Agraria." 11 April 2020. http://kpa.or.id/media/baca/Liputan%20Khusus/514/
17. Perempuan. "Workshop Konsultasi Hasil Riset Pemantauan Kekerasan Berbasis Gender PEREMPUAN AMAN." Perempuan Aman, 27 November 2020. https://perempuan.aman.or.id/workshop-konsultasi-hasil-riset-pemantauan-kekerasan-berbasis-gender-perempuan-aman/
18. Pemerintah Provinsi Papua. "Provinsi Papua Resmi Tutup Bandara Dan Pelabuhan Cegah Penyebaran Covid-19." 2020. https://www.papua.go.id/view-detail-berita-7181/provinsi-papua-resmi-tutup-bandara-dan-pelabuhan-cegah-penyebaran-covid-19.html
19. CNN Indonesia. "Kasus Covid-19 Pecah Rekor 8.369, Tertinggi di Papua." 3 December 2020. https://www.cnnindonesia.com/nasional/20201203163550-20-577655/kasus-covid-19-pecah-rekor-8369-tertinggi-di-papua
20. Ramah. "Dampak pandemi Covid-19, sebanyak 1.832 pekerja di Kota Jayapura dirumahkan." Jubi, 6 October 2020. https://jubi.co.id/papua-1-832-pekerja-di-kota-jayapura-dirumahkan/
21. See Kulesza, Patrick. "West Papua." The Indigenous World 2019, edited by Dwayne Mamo, 328-335. IWGIA, 2019. https://www.iwgia.org/images/documents/indigenous-world/IndigenousWorld2019_UK.pdf ; Mambor, Victor, and Jakob Siringoringo. "Indonesia." The Indigenous World 2020, edited by Dwayne Mamo, 250-266. IWGIA, 2020. https://iwgia.org/images/yearbook/2020/IWGIA_The_Indigenous_World_2020.pdf
22. Pademme, Arjuna. "Derita pengungsi Nduga tak ada habisnya, Raga: Ambil air dan kayu bakar saja dilarang." Jubi, 3 December 2020. https://jubi.co.id/derita-pengungsi-nduga-tak-ada-habisnya-raga-ambil-air-dan-kayu-bakar-saja-dilarang/
23. Ibid.
24. Kompas. "Kasus Blokir Internet di Papua, Jokowi Divonis Bersalah hingga Batal Ajukan Banding." 21 June 2020. https://nasional.kompas.com/read/2020/06/21/08493401/kasus-blokir-internet-di-papua-jokowi-divonis-bersalah-hingga-batal-ajukan?page=all
25. Strick, Benjamin, and Famega Syavira. "Papua: Cara kerja jaringan bot penyebar hoaks soal Papua dengan biaya miliaran rupiah." BBC, 9 October 2019. https://www.bbc.com/indonesia/indonesia-49969337
26. Strick, Benjamin. "Investigating Information Operations in West Papua: A Digital Forensic Case Study of Cross-Platform Network Analysis." Belling Cat, 11 October 2019. https://www.bellingcat.com/news/rest-of-world/2019/10/11/investigating-information-operations-in-west-papua-a-digital-forensic-case-study-of-cross-platform-network-analysis/
27. For more on demonstrations see Mambor, Victor, and Jakob Siringoringo. "Indonesia." The Indigenous World 2020, edited by Dwayne Mamo, 250-266. IWGIA, 2020. https://iwgia.org/images/yearbook/2020/IWGIA_The_Indigenous_World_2020.pdf
28. Amnesty. "Seven Papuan PoCs Sentenced To Jail For Joining Peaceful Anti-Racism Protest." 17 June 2020. https://www.amnesty.id/seven-papuan-pocs-sentenced-to-jail-for-joining-peaceful-anti-racism-protest/

29. Aranditio, Stephanus, and Dwi Bowo Raharjo. "Persatuan Gereja Desak Jokowi Usut Tuntas Penembakan Pendeta Yeremia." Suara, 21 September 2020. https://www.suara.com/news/2020/09/21/151130/persatuan-gereja-desak-jokowi-usut-tuntas-penembakan-pendeta-yeremia
30. Jubi. "Papua Humanitarian report of Intan Jaya." 19 September 2020. https://jubi.co.id/laporan-tim-kemanusiaan-intan-jaya-duka-dari-hitadipa/
31. West Papua Daily. "Intan Jaya conflict (2): Civilians become victims of TNI-TPNPB war." 29 January 2021. https://en.jubi.co.id/intan-jaya-conflict-2-civilians-victims-of-tni-tpnpb/
32. Lantipo, Yuliana. "Diadang sekelompok orang, tim RDP Otsus Papua tertahan di Bandara Wamena." Jubi, 15 November 2020. https://jubi.co.id/diadang-sekelompok-orang-tim-rdp-otsus-papua-tertahan-di-bandara-wamena/
33. Adisubrata, Islami. "DAP: Tolak kedatangan MRP, negara cederai wajah sendiri." Jubi, 16 November 2020. https://jubi.co.id/papua-tolak-mrp-negara-cederai-wajah-sendiri/

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Japan

RUSSIA
CHINA
SEA OF JAPAN
JAPAN
SOUTH
KOREA
Tokyo
PACIFIC OCEAN

The two Indigenous Peoples of Japan, the Ainu and the 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 centres for work and to escape the more prevalent discrimination on Hokkaido. Since June 2008, the Ainu have been officially recognised as 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), though experts estimate the actual population to be much higher.[1]

Okinawans, or Ryūkyūans, 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 colonised the Ryūkyūs 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 and Okinawans became Japanese. The island of Okinawa is home to 1.1 million of the 1.4 million Okinawans living throughout the Ryūkyūs. The Japanese government does not recognise Okinawans as Indigenous people.

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

Following implementation of the Ainu New Law in 2019,[2] the Ainu people were again in the spotlight in the Japanese media in 2020 due to the opening in July of a new National Museum of the Ainu (the Upopoy National Ainu Museum and Park, hereafter "Upopoy"). Many issues nevertheless remain in regard to advancing Indigenous policy, particularly in terms of the rights to self-determination and free, prior and informed consent.

In terms of the impact of the COVID-19 pandemic, while there have been no reports of deaths among the Ainu of Japan, just like members of any other society. Ainu communities in Hokkaido have faced severe economic challenges in maintaining their livelihoods. Considering particularly that the tourism industry plays an important role in the Hokkaido economy, Ainu individuals engaged in small-scale tourism-related businesses have been hard hit.[3] Moreover, despite now being at a critical juncture in terms of lobbying against the shortcomings of Ainu policy set out in the New Ainu Law and the running of the Upopoy, critical public discussion on these developments has been forced to a virtual halt by the effects of the coronavirus.[4]

Upopoy National Ainu Museum and Park

Following developments in Ainu-rights politics in Japan in the wake of the Japanese government's vote in favour of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2007, and official recognition of the Ainu as Indigenous people of Japan in 2008, the Cabinet-chaired Council for Ainu Policy Promotion in 2009 proposed creating a "symbolic space for ethnic harmony". A decade later, in July 2020, this proposal took concrete shape with the opening of the Upopoy National Ainu Museum and Park in Shiraoi Town, Hokkaido, under the management of the Ainu Culture Promotion / Research Foundation.[5]

The Upopoy, which cost over USD 182 million to construct,[6] is the first national facility honouring the Ainu, and it aims to promote Ainu culture and raise public awareness of the Ainu. The Upopoy is built on the former site of – and replaces – the Ainu Museum at Shiraoi, which was independently and privately run by an Ainu general incorporated association. In terms of size, the new national museum now surpasses

that of the Ainu exhibit at the Hokkaido Museum in Sapporo, run by Hokkaido Prefecture. The Upopoy complex is over 100,000 square metres in size, comprising three areas for displaying and preserving Ainu culture: a National Museum building, an outdoor National Ethnic Harmony Park museum, and a memorial facility for housing Ainu ancestral remains.[7] The Hokkaido Shimbun compiled data based on the 2019 survey results from the Ministry of Education, Culture, Sports, Science and Technology (MEXT). The 2019 MEXT report showed that there were some 1,574 Ainu human remains stored in 12 universities throughout the country. Some of them were repatriated at the request of individuals and communities. The Upopoy memorial facility houses the human remains of 1,323 Ainu individuals and 287 boxes of aggregated remains and has been cast as a "temporary resting place" for these ancestors until they can be repatriated to their home communities, upon request.[8] The challenge posed by the repatriation of Ainu human remains sheds lights on the highly problematic and unethical research conducted by researchers in the 19th and 20th centuries.

As a first step toward increasing awareness about the Ainu, as well as providing opportunities for Ainu individuals to gain employment in a job that will allow them to practise their culture, the museum has been welcomed by some Ainu.[9] However, criticism has also been levelled at the Upopoy by Ainu activists who feel that the "culture" being displayed there is not authentic,[10] that the information shared is not reflective enough of the colonial nature of Ainu history,[11] that the voices of local Ainu communities have not been fully reflected in the planning and creation of the displays,[12] that the presence of the memorial facility alone does not substitute for an apology by universities[13] for the grief and sorrow wrought by highly problematic and unethical research on Ainu human remains,[14] and that the repatriation process supported by the memorial facility is insufficient.[15]

Lack of self-determination and free, prior and informed consent

Meanwhile, over and above the issues raised by Ainu involvement in the running and management of the Upopoy, the major shortcoming in the Ainu New Law, namely that the Japanese government has not

yet recognized Ainu self-determination as an Ainu right,[16] continues to be criticized by Ainu activists. A number of significant issues came to light in 2020.

First, disputes over the inherent Ainu right to use their land and resources freely for their own community development are continuing. While these issues currently revolve around riverine fishing rights, what is ultimately at stake is the restoration of Ainu rights to self-determination over the territories and resources that were stripped from them during the processes of colonization and incorporation into the Japanese state.[17]

Criminal charges brought against Ainu fisherman Hatakeyama Satoshi[18] for harvesting salmon without prior permission in September 2018 were ultimately suspended by the Asahikawa District Court in July 2020. Hatakeyama, aged 79, has since suffered a stroke and has been in the hospital since spring 2020. The reason for suspending the charges is not known but it can be assumed that their filing in court would have led to considerable negative publicity for Hokkaido Prefecture and the Japanese state.[19] That the indictment has been suspended rather than dropped, however, continues to cast a threat over further Ainu protests over fishing as they remain potentially "illegal" actions. In the meantime, Ainu and non-Ainu supporters of Hatakeyama are gathering petitions to submit to the Hokkaido Governor to rectify this situation.

Meanwhile, another Ainu organization, the Rahoro Ainu Nation of Urahoro Town (formerly the Urahoro Ainu Association) has taken a different route in the fight to restore their rights to resources. In a historic turn of events that foregrounds the entire historical process of the annexation and colonization of Hokkaido, the Rahoro Nation has filed litigation against the Japanese state and the Prefecture of Hokkaido to confirm that their riverine harvesting rights have historically never been extinguished by Japanese law.[20] How this litigation will develop remains to be seen but, if the plaintiffs' core argument that their rights remain intact is recognized, it could lead to recognition of a variety of Ainu communal rights. It is expected that the government will fight tooth-and-nail to deny the plaintiff's claim.

In what is an affront to the right to free, prior and informed consent to development conducted on Indigenous lands, in October, two Hokkaido municipalities, Suttsu Town and Kamuynai Village, filed to become

potential nuclear waste-disposal sites without any consultation of the Ainu people. Citizens' groups, including Ainu members, have submitted statements to the mayors of the two municipalities[21] denouncing the municipal authorities' decisions and indicating that these constitute a breach of FPIC. Given that neither Hokkaido Prefecture nor the Japanese state even mentioned the Ainu in their exchanges with the two municipalities, this issue also throws light on the question of prefectural and national intervention for the sake of local Indigenous rights.[22]

COVID-19 in Okinawa

In 2020, COVID-19 brought various difficulties to Okinawans, as it did to other Indigenous Peoples across the globe. After the first case was registered on the islands in February, subsequent increases[23] meant that, by August, the number of confirmed cases per 100,000 population in Okinawa was higher than the national average, and continued to grow thereafter.[24] One of the reasons for this is assumed to be travel to and from Okinawa, stimulated by the national government's tourism policy that commenced in July to boost the depressed economy, as also pointed out by the Governor of Okinawa.[25] An additional concern in this regard is secondary infection through US military personnel in Okinawa.[26] Despite the increase in number of positive cases on the bases,[27] US military authorities shared only limited information about them, for example withholding information on transmission routes. Moreover, according to media reports, not all the military personnel were taking infection tests on entering Okinawa until the end of July.[28]

As elsewhere in the world, COVID-19 has affected many of the plans on the human rights agenda as many gatherings, meetings or events had to be postponed or scaled down. For instance, the trial dates on the repatriation of ancestral human remains were postponed, and the number of public seats at open trials was considerably reduced.[29] However, migration of some events online, for example the symposium on the US military bases in December, which brought together panellists from Okinawa and Tokyo, may have helped to reach a wider audience and broaden alliances.[30]

Disputes on Indigeneity

One of the significant issues carried over from previous years was a dispute on whether Okinawans are Indigenous Peoples. Notably, several local governments in Okinawa, as well as the main island of Japan that received the petition, have adopted resolutions on this matter in recent years. They are calling on the Government of Japan to work with human rights treaty bodies such as the Committee on the Elimination of Racial Discrimination (CERD) and the Human Rights Committee to convince them to withdraw their recommendations that recognize Okinawans as Indigenous Peoples. In response to one of the latest such resolutions adopted by Ginowan City Council (GCC) in December 2019, the All Okinawa Council for Human Rights issued a statement in November 2020 criticizing the GCC's resolution for its failure to understand international human rights law and treating the notion of Indigenous Peoples as based on biological distinctions rather than collective rights holders under international law.[31] Various individual opinions and editorials on the subject, both in support of UN treaty bodies' recommendations and against them, were also published in local newspapers during 2020, stimulating the debate on the notion of Indigenous Peoples on Ryūkyū islands.[32]

US military bases

Another ongoing struggle was against the US military bases in Okinawa, especially with regard to the Japanese government's plan to construct a new base in Henoko. Notably, the land reclamation works for the base, which started in December 2018, carried on during 2020 with only a two-month suspension from April to June because of COVID-19.[33] The Government of Japan is forging ahead with the plan,[34] ignoring the opposition to it from Okinawans, particularly expressed through a local referendum in February 2019 where more than 70% of the votes went against the construction.[35] The protestors have continued their sit-ins to oppose the construction, totalling 6,000 days in all in September.[36] Among the multiple court cases,[37] the Supreme Court of Japan ruled in favour of the Japanese government in March, dismissing Okinawa Pre-

fecture's lawsuit seeking to stop the landfill work.[38] In November, Naha District Court also rejected another lawsuit by Okinawa Prefecture, which then appealed to the higher court in December.[39]

In this context, it is notable that Okinawan youth have been actively standing against these issues, particularly the construction of a new base in Henoko. For instance, the 2019 local referendum questioning the plan was proposed and campaigned on by one of the young Okinawans, Jinshiro Motoyama, who over the years has given many talks on this matter across Japan, including this year.[40] He and a group of other young Okinawans also submitted the petition to local governments in both Okinawa and the main island of Japan, requesting that they respect the result of the referendum and stop the construction.[41] The petition has been adopted by multiple local governments, including Okinawa Prefectural Assembly in March 2020.[42] To provide clearer historical views, a young Okinawan activist has also developed YouTube videos on the subject.[43] In addition, in February, 40 students at Okinawa International University submitted their letters to the UN Secretary General, António Guterres, inviting him to visit the islands and see the human rights situation there.[44]

Repatriation movement

The repatriation of Okinawan human remains is also an ongoing issue. In 2020, the 5th, 6th and 7th hearings were held in the lawsuit against Kyoto University,[45] filed in December 2018, concerning human remains taken by anthropologists in the early 20th century.[46] Referring to Article 12 of the UN Declaration on the Rights of Indigenous Peoples, the plaintiffs in the case have demanded repatriation of their ancestral remains. Kyoto University, the defendant, denies Okinawan Indigeneity and hence dismisses the demand for repatriation of the human remains concerned.[47] As the battle in court was unfolding, in July 2020, the Okinawa Prefectural Board of Education measured and investigated 63 sets of human remains transferred from National Taiwan University in March 2019. The Board is built into a Japanese bureaucratic system and the investigation was done despite the bereaved families' requests for repatriation and aerial reburial.[48] Furthermore, in October, the re-

search facility under the Board that was holding these remains refused the request of several Okinawans to perform the ritual for their ancestors at the facility.[49]

On 1 December, at the Pacific and Asia virtual regional meeting within the 13th session of the UN Expert Mechanism on the Rights of Indigenous Peoples, Prof. Yasukatsu Matsushima read a joint statement on behalf of two Indigenous rights organizations, Nirai Kanai nu Kai[50] and Shimin Gaikou Centre, in this regard. The statement reads, "Grave robbery, storage, and research of our ancestors' human remains by academic institutions have deeply damaged our funerary practices, spiritual world, peace of mind, and dignity as peoples," asserting the violation of their human rights as Indigenous Peoples.[51]

Other incidents

Contributing to the awareness of human rights issues in Okinawa, there were also multiple events in 2020. For instance, the 34th Human Rights Training and Research Assembly was held for the first time in Okinawa in February. The speakers and participants, more than 1,000 people, discussed various human rights issues surrounding the islands, including structural discrimination, historical assimilation and sexual violence.[52] In the same month, Meio University held an international symposium on the revitalization of Okinawan languages and cultural education.[53]

The ongoing struggles for human rights will continue in 2021. The impacts of COVID-19 will persist and further work needs to be carried out to address various concerns, including construction of the new base in Henoko, the repatriation of human remains, as well as the dispute over the Indigeneity of Okinawans.

Notes and references

1. Population figure for Hokkaido taken from the 2017 Survey of Ainu Livelihoods conducted by the Hokkaido prefectural government in cooperation with the Ainu Association. Hokkaido Government, Environment and Lifestyle Section. "Hokkaido Ainu Survey on Livelihood Report." 2017 Accessed 10 January 2019. http://www.pref.hokkaido.lg.jp/ks/ass/H29_ainu_living_conditions_survey_digest.pdf Population figure for the rest of Japan taken from the 2011 Survey of Non-Hokkaido Ainu Livelihoods conducted by the Council for Ainu

Policy Promotion. "Non-Hokkaido Ainu Survey on Livelihood Report." 2011. Accessed 10 January 2019. https://www.kantei.go.jp/jp/singi/ainusuishin/dai3/haifu_siryou.pdf. Many with Ainu ancestry do not publicly identify as Ainu due to discrimination and stigma in Japanese society. Ainu observers estimate the actual population of those with Ainu ancestry to be between 100,000 and 300,000, with 5,000 in the greater Kanto region alone. See body of the report for further discussion on the 2017 survey.

2. Gayman, Jeff, and Kanako Uzawa. "Japan." In The Indigenous World 2020, edited by Dwayne Mamo, 267-273. Copenhagen: IWGIA, 2020. https://iwgia.org/images/yearbook/2020/IWGIA_The_Indigenous_World_2020.pdf
3. Kimura, Fumio, on behalf of Citizens' Group for Ancestral Remains of Biratori, Monbetsu Ainu Association, Alliance for the Achievement of Ainu (=Human Beings) Rights, Citizens' Alliance for The Examination of Ainu Policy, Sapporo Freedom School "YU". Statement by Hokkaido Ainu to 13th Session of EMRIP Asian and Pacific Virtual Regional Meeting, 2 December 2020. https://www.ohchr.org/Documents/Issues/IPeoples/EMRIP/Session13/submissions/AP/2020-12-01-statement-hokkaido-ainu.pdf
4. Kimura, Ibid.
5. Upopoy National Ainu Museum and Park. "About Upopoy." Accessed 10 January 2021. https://ainu-upopoy.jp/about/
6. Bassetti, Francesco. "Japan opens the Upopoy Museum, the first dedicated to Ainu indigenous identity." Lifegate Homepage, 22 July 2020. Accessed 17 December 2020. https://www.lifegate.com/upopoy-museum-ainu-japan
7. Bassetti, Ibid.
8. Hokkaido Shimbun. "Ainu repatriation stalled 202 bodies and 59 boxes in 8 universities stakeholders demand more positive involvement from State one year after aggregation of remains at Upopoy." Hokkaido Shimbun Press, 27 December 2020. https://www.hokkaido-np.co.jp/article/496226
9. Ukaji, Shizue. The point is how to best foster the Upopoy. Special Issue: How do the Ainu see 'Upopoy'? Gekkan Ki. Tokyo: Fujiwara Shoten, p.2
10. Bassetti, Francesco. "Japan opens the Upopoy Museum, the first dedicated to Ainu indigenous identity." Lifegate Homepage, 22 July, 2020. Accessed 17 December 2020. https://www.lifegate.com/upopoy-museum-ainu-japan
11. Hokkaido Shimbun. "Symposium on Upopoy, Sapporo. Face history, transmit culture." Hokkaido Shimbun Press, 25 August 2020. Original article on file with the author.
12. Hokkaido Shimbun, Ibid.
13. The human remains of approximately 200 Ainu ancestors are said to be held at various universities and museums throughout the country of Japan, at least in part because some descendants refused to allow the universities to transfer them to the Upopoy memorial facility. The issue of a lack of official apology from these universities is a related challenge.
14. Hokkaido Shimbun. "Ainu people claim "Japanese State violates rights". Four organizations deliver statement at UN online conference." Hokkaido Shimbun Press, 2 December 2020. Accessed 17 December 2020. https://www.hokkaido-np.co.jp/article/487337
15. Hokkaido Shimbun, Ibid.
16. Gayman, Jeff, and Kanako Uzawa. "Japan." In The Indigenous World 2020, edited by Dwayne Mamo, 267-273. Copenhagen: IWGIA, 2020. https://iwgia.org/images/yearbook/2020/IWGIA_The_Indigenous_World_2020.pdf
17. Centre for Environmental and Minority Policy Studies (CemiPos), Citizens'

Alliance for the Examination of Ainu Policy, Monbetsu Ainu Association, Sapporo Freedom School. 2 December 2020. Submission to the UN Human Rights Committee at Geneva for the Periodic Review of Japan. https://docs.google.com/document/d/1pMd_aZkUZIJrpAdcDXdleXIOoFQ7uEfLq0nbrL2rHxc/edit See also Basseti, Ibid, and Kimura, Ibid, p.1.

18. Gayman, Jeff, and Kanako Uzawa. "Japan." In The Indigenous World 2020, edited by Dwayne Mamo, 267-273. Copenhagen: IWGIA, 2020. https://iwgia.org/images/yearbook/2020/IWGIA_The_Indigenous_World_2020.pdf

19. IPRI (Indigenous Peoples Rights International). "Criminalising Rituals and Traditional Occupations: The Struggle of Ainu in Japan, A Century Hence." 9 September 2020. Accessed 17 December 2020. https://indigenousrightsinternational.org/news-and-events/news-and-features/criminalising-rituals-and-traditional-occupations-the-struggle-of-ainu-in-japan-a-century-hence

20. Asahi Shimbun."Litigation for Indigenous title "A turning point" "If discussion is deepened"." 18 August 2020. Accessed 17 December 2020. https://www.asahi.com/articles/ASN8K7D8GN8KIIPE00Q.html

21. Citizens' Alliance for the Examination of Ainu Policy, Ainu Information Center of the Japan Christian Church Hokkaido Branch, Council on Peace and Social Justice of the Catholic Church, Sapporo Branch, Peace Council of Hokkaido Ecumenical Organizations. "Statement on the Decision of the Municipalities Regarding Nuclear Waste Disposal Facilities." 5 October 2020. https://ainupolicy.jimdofree.com/%E5%B8%82%E6%B0%91%E4%BC%9A%E8%AD%B0%E3%81%AE%E6%8F%90%E6%A1%88-%E5%A3%B0%E6%98%8E/%E6%A0%B8%E3%81%AE%E3%81%94%E3%81%BF-%E6%9C%80%E7%B5%82%E5%87%A6%E5%88%86%E5%A0%B4%E3%81%AE%E9%81%B8%E5%AE%9A%E3%82%92%E3%82%81%E3%81%90%E3%82%8B%E8%87%AA%E6%B2%BB%E4%BD%93%E3%81%AE%E6%B1%BA%E5%AE%9A%E3%81%AB%E9%96%A2%E3%81%99%E3%82%8B%E5%A3%B0%E6%98%8E/

22. Centre for Environmental and Minority Policy Studies (CemiPos), Citizens' Alliance for the Examination of Ainu Policy, Monbetsu Ainu Association, Sapporo Freedom School. "Submission to the UN Human Rights Committee at Geneva for the Periodic Review of Japan." 2 December 2020. https://docs.google.com/document/d/1pMd_aZkUZIJrpAdcDXdleXIOoFQ7uEfLq0nbrL2rHxc/edit

23. For a transitioning situation of COVID-19 cases in Okinawa, see: "Data on COVID-19 in Okinawa Prefecture." NHK (Nippon Hoso Kyokai). Accessed 17 December 2020. https://www3.nhk.or.jp/news/special/coronavirus/data/pref/okinawa.html

24. Yomiuri Shimbun. "The number of the people infected in Okinawa per 100,000 population is higher than that of Tokyo... The first outbreak in Akita." 8 August 2020. Accessed 17 December 2020. https://www.yomiuri.co.jp/national/20200807-OYT1T50283/

25. Okinawa Times. "Expansion of COVID-19 in Okinawa 'GoTo is one of the factors,' the Governor Tamaki: Call to tourists for their health care." 24 August 2020. Accessed 17 December 2020. https://www.okinawatimes.co.jp/articles/-/621005; Tonaki, Morita. "Highest infection rate, government's 'man-made disaster': Clarified routes through GoTo and US military." Okinawa Times. 20 August 2020. Print.

26. Nirai Kanai nu Kai and Shimin Gaikou Centre. "Joint Statement" submitted to 13th Session of EMRIP/Pacific and Asia Virtual Regional Meeting. 1 December

2020. http://shimingaikou.org/wp-content/uploads/2020/12/the-Joint-Statement-by-Nirai-Kainu-nu-Kai_SGC.pdf

27. Handa, Shigeru. "People infected by COVID-19 in US military bases, arising in succession: 'Emergency' as no information provided with Japan."" Gendai Business. 30 March 2020: https://gendai.ismedia.jp/articles/-/71457; Okinawa Times. "72 confirmed cases, the highest number per day, at US military bases in Okinawa: All traveled from the oversea, confirmed as positive after the quarantine." 1 December 2020. Accessed 17 December 2020. https://www.okinawatimes.co.jp/articles/-/671595

28. Handa, op. cit.; "'Okinawa is a paradise': Shallow sense of danger among the military personnel." Okinawa Times. 9 August 2020. Accessed 17 December 2020. https://www.okinawatimes.co.jp/articles/-/614045 Yet, in August, some of them could still be entering without infection tests. See Tonaki, op. cit.

29. Nirai Kanai nu Kai and Shimin Gaikou Centre, op. cit.

30. Ryukyu Shimpo. "2 years since the dirt dumped to Henoko, thinking about the military issues in Tokyo, 'the main island should direct their eyes to Okinawa.". 13 December 2020. Accessed 17 December 2020. https://ryukyushimpo.jp/news/entry-1240976.html

31. Ryukyu Shimpo. "Concerns on Okinawan councils working on the retreat of 'Recommendations on Indigenous peoples': Researchers' organisation says, 'They promote human rights abuses'." 8 November 2020. Accessed 17 December 2020. https://ryukyushimpo.jp/news/entry-1221805.html The statement of All Okinawa Council for Human Rights can be downloaded at: http://okinawahumanrights.blogspot.com/

32. For example, Hiroshi Nakachi. "Abe's era and Okinawa." Okinawa Times. 8 September 2020. Print; "Governor's view, 'self-torment historical view'." Okinawa Times. 25 September 2020. Print; Uchimi, Shozo. "Rondan: Thinking about local governments' resolutions, accept 'UN recommendations'." Ryukyu Shimpo. 2 November 2020. Print.

33. Okada, Shohei and Shinichi Fujiwara. "Restart of the Henoko construction stopped by COVID-19: The governor says, 'A huge regret'." Asahi Shimbun. 12 June 2020. Accessed 17 December 2020. https://www.asahi.com/articles/ASN6D3SMRN6DTIPE002.html

34. The new Prime Minister Suga, replaced in September, is also sticking to the plan. See Prime Minister's Office of Japan. "General Policy Speech by Prime Minister Suga at 203rd Diet session." 26 October 2020. Accessed 17 December 2020. https://www.kantei.go.jp/jp/99_suga/statement/2020/1026shoshinhyomei.html

35. Ryukyu Shimpo. "Editorial: 2 years since the dirt dumped into Henoko, the construction should be stopped immediately." 15 December 2020. Accessed 17 December 2020. https://ryukyushimpo.jp/editorial/entry-1241420.html

36. Ryukyu Shimpo. "Sit-ins in Henoko for 6,000 days: Citizens' renewed resolution, continuing the protest." 22 September 2020. Accessed 17 December 2020. https://ryukyushimpo.jp/news/entry-1195293.html In June 2019, one of the leaders of the protest, Hiroji Yamashiro, received the Peace Prize from the Peace Studies Association of Japan.

37. By the end of 2020, there had been nine cases in all between Okinawa Prefecture and Japan.

38. Asahi Shimbun. "Editorial: Supreme Court ruling on Henoko project defies common sense." 31 March 2020. Accessed 17 December 2020. http://www.asahi.com/ajw/articles/13259428

39. NHK Web. "Henoko trial: Decision rejecting the claim of Okinawa Prefecture at Naha District Court." 27 November 2020. Accessed 17 December 2020. https://www3.nhk.or.jp/news/html/20201127/k10012734841000.html
40. Okinawa Times. "'Unconditional acceptance that the national security is difficult' on the land without the bases: The youth who led the local referendum in Okinawa, 'I believe that the people in the main island will act." 24 February 2020. Accessed 17 December 2020. https://www.okinawatimes.co.jp/articles/-/538598
41. Asahi Shimbun. "Henoko, 'pointed at Yamato,' Mr. Komesu of the petition." 7 December 2018. Accessed 17 December 2020. https://www.asahi.com/articles/ASLCY6SMSLCYUTIL04K.html; Mainichi Shimbun. "Kunitachi City Assembly, 'Stop Henoko construction,' adopted the petitioned submission." 26 June 2019. Accessed 17 December 2020. https://mainichi.jp/articles/20190626/ddl/k13/010/004000c
42. Committee for A New Proposal to Stop the New US Military Base Construction in Henoko. 2020. "Assemblies that adopted the petitions." 2020. https://henokostopaction2017.p-kit.com/page481790.html
43. The YouTube videos can be accessed at: https://www.youtube.com/channel/UC8Kxe-Wh3Baop2ui76xq5-Q
44. Ryukyu Shimpo. "'Please see the current situation of Okinawa': 40 students at Okinawa International University, letters to the UN Secretary General." 9 February 2020. Print.
45. Each trial date is 27 February (5th), 30 July (6th), and 19 November (7th).
46. For an overview of the processes moving towards the repatriation trial, see Uemura, Hideaki, Kihei Maekawa, and Yasukatsu Matsushima. "Discriminations caused by the modern academics: Human remains issues of Ainu and Ryukyu, and international law." In Animated Discussions - Thinking About Ryukyu Independent; History, Education, Law, and Identity, Edited by Yasukatsu Matsushima and Kihei Maekawa. Tokyo: Akashi Shoten (2020):151-157.
47. Ryukyu Shimpo. "Kyoto University recognises its preservation of the old human remains from Motobu: Denial illegality and refusal of disclosure, repatriation trial." 22 November 2020. Accessed 17 December 2020. https://ryukyushimpo.jp/news/entry-1229437.html
48. Nirai Kanai nu Kai and Shimin Gaikou Centre, op. cit.
49. Nirai Kanai nu Kai and Shimin Gaikou Centre, op. cit. On this issue, the YouTube video is also shared at: https://www.youtube.com/watch?v=LMwabRhZ3jQ
50. Nirai Kanai nu Kai is an Okinawan organisation for the repatriation and aerial reburial of their ancestral human remains into original graves.
51. Nirai Kanai nu Kai and Shimin Gaikou Centre, op. cit.; Ryukyu Shimpo. "A statement by Professor Matsushima at UN 'The university should repatriate Okinawan human remains': Criticism on robbery and response by researchers." 2 December 2020. Accessed 17 December 2020. https://ryukyushimpo.jp/news/entry-1234870.html
52. Okinawa Times. "Solidarity of human rights, from Okinawa: Research assembly, first time in Okinawa." 26 February 2020. Print; Ryukyu Shimpo. "Social discrimination, work together: Ginowan, human rights enlightenment assembly, until today." 27 February 2020. Print.
53. Ryukyu Shimpo. "Proposals for revitalisation of Okinawan languages." 27 February 2020. Print.

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Laos

CHINA
VIETNAM
SOUTH
CHINA
SEA
LAOS
Vientiane
THAILAND
CAMBODIA

With a population of just over 7 million,[1] Laos, officially the Lao People's Democratic Republic or Lao PDR, is one of the most ethnically diverse countries in mainland Southeast Asia. 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 these 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 recognised by the government, despite the fact that Laos voted in favour of adopting the UN Declaration on the Rights of Indigenous Peoples. The Lao government uses the term ethnic group to refer to Indigenous people.

The Lao government currently recognises 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 are experiencing 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 worse access to healthcare, lower rates of education, and less access to clean water and sanitation. Indigenous Peoples' 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, that percentage rises to between 30.3 to 46.3% among Indigenous Peoples.[2]

Laos has ratified ICERD (1974), CEDAW (1981), CRC (1991), ICCPR (2009). The Lao government, however, severely restricts fundamental rights, including freedom of speech (media), as-

sociation, assembly and religion, and civil society is closely controlled. Organisations 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.

Decree on Ethnic Groups

The rights of ethnic groups as stated in the Constitution and other policies and laws were detailed and strengthened in the recent Government Decree on Ethnic Groups, finally adopted in March 2020 and which includes provisions to enforce comprehensive support to ethnic groups in rural areas, such as access to infrastructure, education, health, information, justice and gender. However, as pointed out in *The Indigenous World 2020,*[3] there is room for interpretation of some provisions of the decree (including Article 10.2 on resettlement and Article 10.7 on banning shifting cultivation) which could potentially worsen the already difficult economic and social situation of Indigenous communities.[4]

COVID-19

The Laos government has taken considerable measures to fight against COVID-19. On 3 February, the National Taskforce Committee for COVID-19 Prevention and Control was set up to provide appropriate responses and disseminate information to the public. On 29 March, the Prime Minister issued Order No. 06/PM, which comprised of a series of measures, including an order for the public to remain at home, border closures and prohibitions on increases in the prices of food and other essential products.[5]

Despite lacking equipment, medication and medical personnel, as of 31 December only 41 cases had been recorded from COVID-19 in Laos and no deaths.[6] This low figure may in part be due to the low rate

of testing and tracing conducted; however, the government's efforts to educate the public on the pandemic as well as to encourage them to reduce their social contacts have been evaluated positively by independent observers.[7]

The impact of COVID-19 on Lao PDR has thus far been largely socio-economic given that domestic and regional supply chains collapsed, along with local economies and, with them, household incomes and consumer demand.

With a total population of 7.1 million, almost half a million people are estimated to have lost their jobs, and roughly 383,000 people are expected to slide back into poverty, further exacerbating pre-existing inequalities. Food security, already an issue, has become critical, while the disruption of school education could lead to substantial learning losses in a country already facing an education crisis. The initial data on food security and agriculture indicates a visible impact of COVID-19 on sales of farmer produce, as well as on the availability and prices of some food products in Luangnamtha and Bokeo Provinces. It also shows an unemployment spike in many parts of the country, in particular in Attapeu, Bokeo, Luangnamtha, Savannakhet Provinces, and Vientiane Capital, with day labourers being most affected. Overall incomes for farmer households also declined as a result of both a reduced volume of sales and price fluctuations.[8]

The sudden surge in unemployment, as a result of workers who were employed domestically being laid off and migrant workers returning home from abroad, together with losses of income for micro-entrepreneurs, could have a profound impact on Lao PDR's achievements and progress towards meeting the 2030 SDGs and its ambitions for middle-income status. The socio-economic impact of the COVID-19 pandemic is disproportionately affecting the livelihoods and well-being of the most vulnerable, including the poor, elderly, women, children, adolescents, Indigenous people, people with disabilities, people living with HIV/AIDS, migrants and other groups.[9]

Migrant and mobile populations run a high risk of infection as well as being affected by the wider social and economic impacts of COVID-19. This is due to several factors and barriers such as a lack of or inadequate access to proper information on prevention; limitations in or exclusion from accessing diagnostic and treatment services; cramped

and crowded living and working conditions; stigma and discrimination; and other factors.[10]

It was also reported that women's domestic workloads increased disproportionally during the lockdown. Moreover, a survey commissioned by the UN Development Programme (UNDP) found that 3.3% of men and 3.2% of women had noted an increase in arguments within the household, and 5.3% of men and 4.4% of women reported seeing increased violence in their "households or neighbourhood" during the lockdown.[11]

Children and breastfeeding women in poor households are at risk of deteriorating health due to reduced food consumption and nutritional intake. Rising unemployment and falling incomes due to the pandemic further exacerbate women's, including girls', risk of falling victim to sexual exploitation and human trafficking. As they try to find a way to survive the crisis, this vulnerable group of women and girls has become more exposed to the risk of severe exploitation.[12]

As of 30 May 2020, 82,976 people had been reached with mental and psychosocial support messages through social media, Lao PDR Women Union Hotline counselling and other awareness raising activities provided by the Ministry of Health.[13] Additionally, the government broadcast TV/radio spots and public announcements on violence against children, child online protection and hotline numbers for violence in Lao and Indigenous languages.

In overcoming these challenges, it will be critical to ensure that no-one is left behind and that priority is placed on reaching those furthest behind first in the country's recovery efforts to avoid disproportionate humanitarian consequences and intensifying inequalities.

COVID-19 and Indigenous Peoples

Traditionally, many Indigenous communities in Laos separate the safe space of their village from the outside world, where potentially dangerous spirits and entities roam. Some erect village "gates", using wood, bamboo and symbolic amulets to delineate the boundary between the two, protecting the village's inhabitants. In line with these customs and in response to the pandemic, communities belonging to Mon-Khmer

speaking groups in Dakcheung District of Sekong Province placed human effigies along the roads as a marker and warning to travellers from outside and who may be carrying the virus in order to frighten away any bad entities that could enter the village, be it evil spirits or viruses.[14]

Impact on Indigenous Peoples' health

While isolation may be an effective way to protect the population from becoming infected, it does not substitute for the inadequate healthcare infrastructure existing in remote areas where a large proportion of Indigenous Peoples live. Indigenous Peoples often have to travel great distances to access qualified medical attention, while the medical structures that are available lack modern technologies and communications.

To bridge the gap in access to and comprehension of pandemic-related information, the UN Communications Group supported the translation of key messages related to COVID-19 risk education into Indigenous languages such as Akha, Hmong, Khmu and Souay, broadcast through community radio stations in five provinces and displayed on distribution trucks travelling to 2,000 villages.[15]

Impact on Indigenous Peoples' livelihoods, income and food security

Indigenous Peoples of Laos have been among the groups hardest hit by the socio-economic impacts of the pandemic. And this situation has been further exacerbated by an already higher poverty rate compared to the dominant population and a higher reliance on traditional practices, which are being threatened by the reduction in natural habitats, biodiversity and climate change.

During the lockdown, Indigenous Peoples, including the Mon-Khmer, Mien, Hmong, and Sino-Tibetan groups, were found to have higher unemployment rates (76.9 percent) than the Lao-Tai majority (62.8 percent).[16] For many Indigenous people, who mostly live in rural and relatively isolated areas, earnings from day labouring may be the most important source of cash income for their families, especially the

poor. The UNDP commissioned a survey and a rapid assessment by the World Food Programme and the UN Food and Agriculture Organization (FAO) (May 2020) found that day labourers in both agriculture and non-agriculture were significantly affected.[17]

For Indigenous communities that have been resettled by the state and who have lost access to natural resources due to various types of concessions (mining, hydropower, industrial plantation) and who rely on wage labour in urban centres or neighbouring Thailand, the pandemic has exacerbated their vulnerabilities. The situation has become even more catastrophic for single-headed households and persons with a disability.[18]

Food insecurity in Indigenous communities goes beyond the impact of COVID-19. Climate change has been the cause of a long-term impact on food security, especially for the rural poor, as droughts and floods in 2019 put roughly 76,000 people at high risk of food shortages by March of this year, as pointed out in a rapid assessment by the WFP and FAO (May 2020).[19]

From June to July 2020, the Regional Community Forestry Training Centre for Asia and the Pacific (RECOFTC) and the FAO undertook research in seven Asian countries: Cambodia, Indonesia, Lao PDR, Myanmar, Nepal, Thailand and Viet Nam into how forest communities were dealing with COVID-19 and lockdowns in order to understand whether community forests were helping people to cope and to establish what kind of support they need most to recover and build back better.[20]

Based on findings from phase one of the research, RECOFTC estimates that personal savings generated by selling timber and non-timber forest products from community forests helped people cope during the first months of the lockdown. Eighty percent of respondents said the lockdown harmed their livelihoods or food security. Half reported being unable to sell their forest products because of travel restrictions, a lack of buyers or depressed prices that made trading unprofitable.

The negative impacts of the pandemic were greater for women, with women bearing greater workloads because of home-schooling and caring for the family, and they faced increasing rates of domestic violence and abuse. When asked what they needed to cope and build back better after the pandemic, three-quarters of respondents said financial support.

Education

There is also strong inequality across ethnic groups when it comes to accessing education, as children from Indigenous groups have lower attendance rates than children who belong to Lao-Tai groups. Most of this inequality across ethnolinguistic groups is explained by socio-economic differences, such as wealth and place of residence. However, the socio-economic impact of the COVID-19 pandemic is expected to further exacerbate these pre-existing disparities in education. The overlap between these factors also needs to be acknowledged.

For example, children and young people with disabilities from the poorest families in the Mon-Khmer ethnic group, the one that has the lowest school attendance rates in the country, the highest drop out rates and which is among the lowest in terms of socio-economic status, will be more vulnerable.[21]

Notes and references

1. United Nations Development Programme, Human Development Reports. "Lao People's Democratic Republic." 2021. http://hdr.undp.org/en/countries/profiles/LAO; World Bank, Country Profile. "Lao PDR." 2021. https://databank.worldbank.org/views/reports/reportwidget.aspx?Report_Name=CountryProfile&Id=b450fd57&tbar=y&dd=y&inf=n&zm=n&country=LAO
2. OHCHR. "Statement by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights on his visit to Lao PDR, 18-28 March 2019." 28 March 2019. https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24417&LangID=E
3. "Laos." In The Indigenous World 2020, edited by Dwayne Mamo, 274-281. IWGIA, 2020. https://iwgia.org/images/yearbook/2020/IWGIA_The_Indigenous_World_2020.pdf
4. Department of Ethnic and Religious Affairs (DOERA). "Decree on Ethnic Groups, No. 207/ GoL." Ministry of Home Affairs, Vientiane, Lao PDR, 20 March 2020.
5. Lao People's Democratic Republic. "The Prime Minister's Order on reinforcement measures on containment, prevention and full response to the COVID-19 pandemic." 29 March 2020. http://www.mpwt.gov.la/attachments/article/2185/PM's%20Order%20No%2006PM%20on%20COVID-19.pdf
6. Data from Covid National Committee. Facebook, September, 2020. https://www.facebook.com/CIEH.MoH.Lao
7. OXFAM. "COVID-19 and Responses from Laos and the Greater Mekong Subregion." 2020. https://laos.oxfam.org/latest/stories/covid-19-and-responses-laos-and-greater-mekong-subregion
8. UN Country Team in Lao PDR."UN Lao PDR Socio-Economic Response Framework to COVID-19." UN SDG, September 2020. https://laopdr.un.org/sites/

default/files/2020-12/UN%20Lao%20PDR_Socio-Economic%20Response%20to%20COVID-19_Draft%20as%20of%2029%20September.pdf

9. Southichack, Mana, Phothong Sikiphong and Boumy Inthakesone. "Socioeconomic Impact Assessment of COVID-19 in Lao PDR."UNDP Lao PDR Office, 31 August 2020. https://www.laomfa.org/wp-content/uploads/2020/10/Socioeconomic-Impact-Assessment-of-COVID-19-in-Lao-PDR-31-AUGUST-2020.pdf
10. UN Country Team in Laos. "United Nation Lao PDR. COVID – 19 Situation Report, No. 2 (Reporting period 1-31 May 2020)." United Nations Lao PDR, 13 July 2020. https://reliefweb.int/report/lao-peoples-democratic-republic/united-nations-lao-pdr-covid-19-situation-report-no-2
11. Southichack, Mana, Phothong Sikiphong and Boumy Inthakesone. "Socioeconomic Impact Assessment of COVID-19 in Lao PDR."UNDP Lao PDR Office, 31 August, 2020. https://www.laomfa.org/wp-content/uploads/2020/10/Socioeconomic-Impact-Assessment-of-COVID-19-in-Lao-PDR-31-AUGUST-2020.pdf
12. Southichack, Mana, Phothong Sikiphong and Boumy Inthakesone. "Socioeconomic Impact Assessment of COVID-19 in Lao PDR."UNDP Lao PDR Office, 31 August 2020. https://www.laomfa.org/wp-content/uploads/2020/10/Socioeconomic-Impact-Assessment-of-COVID-19-in-Lao-PDR-31-AUGUST-2020.pdf
13. UN Country Team in Laos. "United Nation Lao PDR. COVID – 19 Situation Report, No. 2 (Reporting period 1-31 May 2020)." United Nations Lao PDR, 13 July 2020. https://reliefweb.int/report/lao-peoples-democratic-republic/united-nations-lao-pdr-covid-19-situation-report-no-2
14. UNESCO, Intangible Cultural Heritage. "Effigies to ward off COVID-19 in Laos." 2021. https://ich.unesco.org/en/living-heritage-experience-and-covid-19-pandemic-01124?id=00021
15. UN Country Team in Lao PDR."UN Lao PDR Socio-Economic Response Framework to COVID-19." UN SDG, September 2020. https://laopdr.un.org/sites/default/files/2020-12/UN%20Lao%20PDR_Socio-Economic%20Response%20to%20COVID-19_Draft%20as%20of%2029%20September.pdf
16. Southichack, Mana, Phothong Sikiphong and Boumy Inthakesone. "Socioeconomic Impact Assessment of COVID-19 in Lao PDR."UNDP Lao PDR Office, 31 August 2020. https://www.laomfa.org/wp-content/uploads/2020/10/Socioeconomic-Impact-Assessment-of-COVID-19-in-Lao-PDR-31-AUGUST-2020.pdf
17. Southichack, Mana, Phothong Sikiphong and Boumy Inthakesone. "Socioeconomic Impact Assessment of COVID-19 in Lao PDR."UNDP Lao PDR Office, 31 August 2020. https://www.laomfa.org/wp-content/uploads/2020/10/Socioeconomic-Impact-Assessment-of-COVID-19-in-Lao-PDR-31-AUGUST-2020.pdf
18. Daviau, Steeve. Baseline study – Community Participatory Mapping for the Community Based Inclusive Development (CBID) Project in Chomphet District, Luangprabang Province, Lao PDR. Christoffel Blindenmisssion (CMB) & Association for Rural Mobilization and Improvement (ARMI), 2020.
19. Southichack, Mana, Phothong Sikiphong and Boumy Inthakesone. "Socioeconomic Impact Assessment of COVID-19 in Lao PDR."UNDP Lao PDR Office, 31 August 2020. https://www.laomfa.org/wp-content/uploads/2020/10/Socioeconomic-Impact-Assessment-of-COVID-19-in-Lao-PDR-31-AUGUST-2020.pdf

20. RECOFTC. "New research shows community forests help people cope with COVID-19."28 October 2020. https://www.recoftc.org/news/new-research-shows-community-forests-help-people-cope-covid-19

21. UN Country Team in Lao PDR."UN Lao PDR Socio-Economic Response Framework to COVID-19." UN SDG, September 2020. https://laopdr.un.org/sites/default/files/2020-12/UN%20Lao%20PDR_Socio-Economic%20Response%20to%20COVID-19_Draft%20as%20of%2029%20September.pdf.

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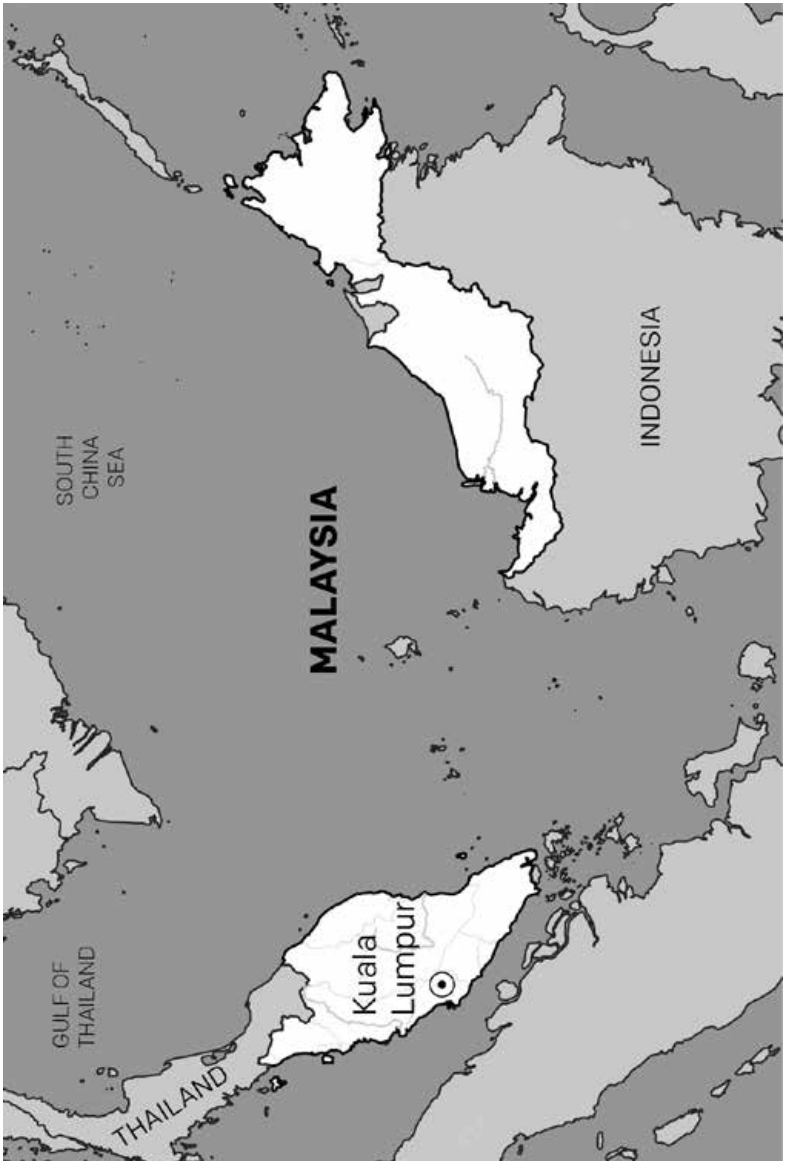
Malaysia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Kuala Lumpur
INDONESIA

As of 2017, the Indigenous Peoples of Malaysia were estimated to account for around 13.8% of the 31,660,700 million national population. They are collectively known as Orang Asal. The Orang Asli are the Indigenous Peoples of Peninsular Malaysia. The 18 Orang Asli subgroups within the Negrito (Semang), Senoi and Aboriginal-Malay groups account for 0.7% of the population of Peninsular Malaysia (31,950,000). In Sarawak, the Indigenous Peoples are collectively known as natives (Dayak and/or Orang Ulu). They include the Iban, Bidayuh, Kenyah, Kayan, Kedayan, Lunbawang, Punan, Bisayah, Kelabit, Berawan, Kejaman, Ukit, Sekapan, Melanau and Penan. They constitute around 1,932,600 or 70.5% of Sarawak's population of 2,707,600 people. In Sabah, the 39 different Indigenous ethnic groups are known as natives or Anak Negeri and make up some 2,233,100 or 58.6% of Sabah's population of 3,813,200. The main groups are the Dusun, Murut, Paitan and Bajau groups. While the Malays are also Indigenous to Malaysia, they are not categorised as Indigenous Peoples because they constitute the majority and are politically, economically and socially dominant.

In Sarawak and Sabah, laws introduced by the British during their colonial rule recognising the customary land rights and customary law of the Indigenous Peoples are still in place. However, they are not properly implemented, and are even outright ignored by the government, which gives priority to large-scale resource extraction and the plantations of private companies and state agencies over the rights and interests of the Indigenous communities. In Peninsular Malaysia, while there is a clear lack of reference to Orang Asli customary land rights in the *National Land Code*, Orang Asli customary tenure is recognised under common law. The principal act that governs Orang Asli administration, including occupation of the land, is the *Aboriginal Peoples Act 1954*.

Malaysia has adopted the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and endorsed the Outcome Document of the World Conference on Indigenous Peoples but has not ratified ILO Convention 169.

Two major "tragedies", both impacting on Indigenous lives and futures, hit Malaysia in 2020. The global COVID-19 pandemic did not spare Malaysia, causing much social and economic upheaval in the lives of many Malaysians, the Orang Asal notwithstanding. Following closely in the wake of the health and medical crisis in March 2020, the country was then thrown into political turmoil at the national level, and later at the level of some states.

Locked down and lost out

The first Movement Control Order (MCO), Malaysia's version of the lockdown to control the spread of the COVID-19 virus transmission, began on 18 March 2020. Almost immediately, many Orang Asal communities began barricading their villages, effectively isolating themselves from outsiders and not allowing any of their own people to leave their settlements. Many of those who were living on the forest fringe chose to retreat further into the forest, not just to self-isolate but also to secure subsistence food. For the Orang Asli community in Peninsular Malaysia, this strategy was effective as the number of cases in the community was low (less than a half dozen), with all reported cases being contracted at the victim's workplace in the towns.[1]

For those Orang Asal who depend on daily work and wages, or who are rubber and oil palm smallholders, as well as those who depend on the cash economy to sell their products,[2] the food security situation was dire in the early weeks.[3] Food needs were then supplemented with food aid from the government and other social bodies. It should be noted, however, that in Peninsular Malaysia and Sabah, in particular, the Orang Asal were at the forefront of organising the collection and distribution of food aid to their communities.

As the pandemic dragged on throughout the year, schools and colleges remained closed and classes migrated to online lessons. The lack of good Internet connectivity, or even any connectivity at all, plus the lack of access to digital equipment such as laptops, tablets, mobile phones and even printers meant that the majority of Orang Asal children were unable to follow the online lessons, or could not follow them fully. Some students literally had to trek to make-shift huts on

hillocks just to get an Internet connection.[4] The digital divide between the Orang Asal students and those of mainstream society was clearly evident. A significant number of students found it difficult to access the online classes, making it difficult for them to keep up with the other more tech-equipped students.[5] As such, the disproportionately high pre-pandemic dropout rates among Orang Asli students, for example, are likely to worsen when schools reopen in the coming year.[6]

Logging is an essential activity

The day after the Movement Control Order was enforced, and with the endorsement of the National Security Council, the Ministry of Plantation Industries and Commodities decreed that logging activities could continue as usual.[7] The rationale: logging is regarded as an essential activity. Hence while Orang Asal communities were in self-imposed quarantine, their lands continued to be plundered by loggers.[8]

This was particularly so in the Gerik district of Perak. The state government had called a halt to all logging activities in the Air Chepam Forest Reserve on 1 August 2019.[9] This was in response to the blockades mounted by the Orang Asli and the outpouring of public support for the Orang Asli when the blockades were repeatedly demolished by the state and a number of Orang Asli arrested and detained. Even so, the loggers never really stopped their work. They merely went to the neighbouring forest reserve and continued their "essential" activity during the COVID-19 lockdown. When the logs in that area ran out, they returned to the Air Chepam Forest Reserve in November 2020 and continued as usual despite the protests and blockades the Orang Asli had put up.[10] And despite no notice being issued that the halt on logging activities in that forest reserve had been lifted.

Logging activities continued throughout the year despite the COVID-19 restrictions on the operation of businesses and movement of people. The middle and end of 2020 also saw severe flooding in many areas of the peninsula and Sabah.[11] No-one disputed the link between deforestation and the floods. Orang Asli livelihoods were affected as the floods damaged their crops, destroyed bridges and made road conditions impassable.[12] For those communities affected, securing enough food was always a major concern.

Federal government falls

The *Pakatan Harapan* ("Alliance of Hope") government – which achieved an unprecedented victory in the 2018 general election and replaced the ruling coalition that had governed Malaysia uninterruptedly since Independence in 1957 – was ousted in a political coup in March 2020.[13] The Pakatan Harapan government was seen as relatively Indigenous-friendly, having specifically outlined in its Election Manifesto its intention to support Orang Asal rights to their customary lands and to adopt the principles of the UNDRIP.[14]

During its 22-month stint in power, the Pakatan Harapan government worked towards establishing working relationships with the Orang Asal groups and on restoring rights to the Orang Asal. Among other actions taken were the establishment of an Institutional Reforms Committee, which heard representations for Orang Asli reforms,[15] the organising of a National Convention on Orang Asli Development with more than 700 Orang Asli leaders participating,[16] and the appointment of an Orang Asli anthropologist as Director-General of the Department for Orang Asli.[17]

While the pace towards formally recognising Indigenous rights was slow, with very little achieved legally or institutionally, at least the movement was in the right direction. Perhaps the most significant pro-Orang Asal action taken by the Pakatan Harapan government was the commencement of a civil suit by the federal government against the (then opposition-controlled) State Government of Kelantan (and others) for recognition of the land rights of the Temiar in the Pos Simpor region. This was a case where loggers and *durian*[18] plantation owners had encroached onto Orang Asli customary lands, leading to protests and blockades that were summarily demolished by the authorities. Notably, this was the first time the Malaysian Federal Government, or perhaps any federal government, had taken proactive action on behalf of its Indigenous Peoples.[19]

The new Perikatan Negara (National Alliance) party tends to be more pro-Malay in its direction and policies.[20] Orang Asal interests do not feature highly in its political priorities. This was evident in November 2020, for example, when they presented the Budget for the coming year. A total of RM 158 million (USD 39 million) was allocated for the 215,000 Orang Asli in 853 villages. This works out to RM 738.00 (USD 183.00) per

Orang Asli per year. Or RM 61.50 (USD 15.00) per Orang Asli per month. Compare this to the allocation of RM 190 million (USD 47 million) in the same budget for just one Quranic village meant for Muslims.[21]

Malaysia: Land of the Malays?

In keeping with the pro-Malay disposition of the new Perikatan Negara, a member of that government arrogantly declared in Parliament that Malaysia is the land of the Malays and that their rights as the "original people" of Malaysia should not be questioned.[22]

This claim naturally incensed the Orang Asal, especially those on the islands of Sabah and Sarawak that have an Indigenous population of 58.6% and 70.5% respectively. The then Sabah Deputy Chief Minister, Wilfred Madius Tangau, pointed out that the Sabah and Sarawak islands in Malaysian-Borneo together make up 60% of the land mass of Malaysia. He added that such an inaccurate mindset was dangerous as it ignored the presence of Sabah and Sarawak as equal partners in the federation. It would also lead to the two regions, the majority of whose people are Indigenous Orang Asal, being sidelined and marginalised.[23]

Sabah government falls

In July 2020, the former Chief Minister of Sabah, Musa Aman, declared that he had obtained sufficient support from state assembly members to form a new state government in the state. To pre-empt this from happening, the Sabah Chief Minister, Shapie Apdal, announced the dissolution of the State Legislative Assembly, paving the way for a snap election.[24] The incumbent Warisan coalition government lost in the closely-contested fight and a new coalition party formed the new state government on 26 September 2020.[25]

The change in government, to one that is perceived as less sympathetic to Indigenous issues and priorities, effectively puts the proactive initiatives of the previous government in jeopardy. This includes the setting up of a Native Court Judiciary Department under the (State) Ministry of Law and Native Affairs, a programme to end under-age marriages in the state, and the move to enact the principle of Free, Prior and Informed Consent (FPIC) into law.[26] In fact, the Ministry of Law and Native Affairs was subsequently abolished by the new state government.[27]

Marrying young and marrying out

The incidence of child marriage – a child being defined as one who is under the age of 18 – is still rampant among the Indigenous communities, especially in Sabah and Sarawak.[28] In Sabah, the 2018 statistics show that many child marriages occur in cities. In Kota Kinabalu, the state capital, it was reported that 130 pregnant girls aged 10-19 years had opted to marry compared to 64 who opted to be single mothers or give their child up for adoption. In another Indigenous-dominated town, Keningau, 82 had opted to marry, while 19 did not.[29] With the change in the state government, it is unclear whether the initiatives of the previous government to adopt a 10-year "Action Plan on Ending Marriage Under 18 Years" and corresponding measures to amend the Native Court Amendment 1992 (to take child marriage into account) will be continued.[30]

In Peninsular Malaysia, in the highland vegetable-farming region of Lojing, it has been reported that some 50 Orang Asli women have been abandoned by their foreign husbands.[31] They married foreign workers, bore their children and now find themselves all alone when their husbands go back to their home countries never to return. These women do not receive any support from their foreign husbands, and many find themselves unable to raise the children on their own. According to village heads there, the Orang Asli girls were always a target for the foreigners working on vegetable farms. Such marriages or unions are frowned upon by the community, even to the extent that the women concerned are expelled from the community.[32] In such cases, couples tend to elope and not register their marriages. When this happens, the children born of such unions may not be documented and, as such, may be regarded as stateless.[33] Some measures aimed at educating the community on such issues are about the only means being taken to address the matter.

Sarawak gives and takes native customary lands

In the wake of the Federal Court's negative decision in the TR Sandah case, the ability of the Sarawak natives to claim native customary rights (NCR) to their land has become increasingly more difficult and pessimistic.[34]

The dismal state of the non-recognition of NCR rights is best illustrat-

ed by two incidences reported in the media in October 2020. In one, the Deputy Chief Minister, James Masing, said that he was "almost brought to tears" while witnessing the granting of land titles to 479 hectares for landowners in Sungai Majau in Baleh, which is his state constituency.[35]

Yet, in the same month, 173 longhouse natives in Tanjung Manis who had filed a suit against the state government and the Land and Survey Department to obtain a declaration of NCR land and their land title lost the case in the High Court at Sibu and therefore lost their claim to 15,000 hectares of NCR land.[36] It was not reported as such but you can be sure they were certainly shedding real tears then.

Notes and references

1. Based on information privy to the Center for Orang Asli Concerns and corroborated with field workers and the Orang Asli Hospital in Gombak. See COAC's reports on the first few cases available at: https://www.facebook.com/notes/409915093350141/ and https://www.facebook.com/notes/380405766424082/
2. For example, Orang Asal women in Sarawak who are dependent on the market economy experienced severe hardship during this period. There were no walk-in customers and they could not go to town to sell their farm produce. Some who ran community homestays had to close their businesses for the duration of the pandemic. Nevertheless, many took up the challenge and adapted. Some got their children to set up an online business platform for their produce. Others changed their crops from perishable vegetables to more "hardy" crops such as pumpkins. *(Personal communication with Niloh Anson of SADIA, Sarawak Dayak Iban Association).*
3. The Star. "Orang Asli in dire need of food supplies."28 March 2020. https://www.thestar.com.my/news/nation/2020/03/28/orang-asli-in-dire-need-of-food-supplies
4. Dzafri, Dzamira. "More students in Malaysia are climbing trees for online classes due to poor internet connection." SoyaCincau, 19 November 2020. https://www.soyacincau.com/2020/11/19/more-students-in-malaysia-are-climbing-trees-for-online-classes-due-to-poor-internet-connection/
5. Achariam, Noel. "Orang Asli pupils will be left behind when schools reopen, say activists." Malaysian Insight, 28 June 2020. https://www.themalaysianinsight.com/s/257169
6. The dropout rates of Orang Asli students after Year 6 were high in comparison to the national rates. From 2016 to 2018, the national dropout rates were consistently below 4%, while the Orang Asli students' dropout rates were above 17% and it increased significantly to 26% in 2017. See Wan, Ya Shin. "Education policies in overcoming barriers faced by Orang Asli children: Education for all." Institute for Democracy and Economic Affairs (IDEAS), October 2020, p. 13. https://www.ideas.org.my/wp-content/uploads/2020/10/P_66_OA_V4.pdf
7. Aziz, Adam. "Limited oil palm, rubber, logging activities to continue during MCO." TheEdge Markets, 19 March 2020. https://www.theedgemarkets.com/

article/limited-oil-palm-rubber-logging-activities-continue-during-mco
8. Mahavera, Sheridan. "Loggers plunder jungles while attention focused on Covid-19." The Malaysian Insight, 4 April 2020. https://www.themalaysianinsight.com/s/234742
9. The Malaysian Insight, "Perak orders logging to stop on customary Orang Asli land." 1 August 2019. https://www.themalaysianinsight.com/s/172576
10. Chung, Nicholas. "Orang Asli set up blockades as loggers return." Free Malaysia Today, 18 June 2020. https://www.freemalaysiatoday.com/category/nation/2020/06/18/orang-asli-set-up-blockades-as-loggers-return/
11. Hakim, Akmal. "Over 7,000 Orang Asli In Kelantan Cut-Off From Civilization Due To Floods." The Rakyat Post, 20 July 2020. https://www.therakyatpost.com/2020/07/20/over-7000-orang-asli-in-kelantan-cut-off-from-civilization-due-to-floods/
12. Bernama. "Damaged roads leave Gua Musang Orang Asli stranded." Malaysiakini, 2 January 2020. https://www.malaysiakini.com/news/505709
13. Chin, James. "Malaysia: the 2020 putsch for Malay Islam supremacy." The Round Table: The Commonwealth Journal of International Affairs. 109 (2020): 288-297. https://www.tandfonline.com/doi/abs/10.1080/00358533.2020.1760495?journalCode=ctrt20
14. Nicholas, Colin. "Malaysia." In The Indigenous World 2019, edited by David Nathaniel Berger, 276-277. IWGIA, 2019. https://www.iwgia.org/images/documents/indigenous-world/IndigenousWorld2019_UK.pdf
15. The Institutional Reform Committee was established by the Council of Eminent Persons, which was tasked specifically to look into the reforms needed to move the country forward. The recommendations presented by the Center for Orang Asli Concerns to this committee are available at: https://drive.google.com/file/d/1l5t8DxcUuw_EKf7kbvdTEh5Ydf_Gi3Sv/view
16. Malay Mail. "Customary land rights main resolution for Orang Asli community." 14 January 2020. https://www.malaymail.com/news/malaysia/2020/01/14/customary-land-rights-main-resolution-for-orang-asli-community/1827996
17. See The Star interview with the Direct-General of Jakoa on video: The Star. 2019. "Exclusive: Jakoa DG shares plans for Orang Asli development." Uploaded on 4 August 2019. YouTube video, 5:23 min. https://www.youtube.com/watch?v=mJ_Ncs4KM8g
18. Durian is the spiny oval tropical fruit of a large tree of the same name. Its creamy pulp, despite its fetid smell, is highly valued for its flavour and, in recent years, prices for fruit have skyrocketed due to an increase in demand from durian lovers in China.
19. Reuters. "In unprecedented move, federal gov't sues Kelantan over Orang Asli land rights." New Straits Times, 18 January 2019. https://www.nst.com.my/news/nation/2019/01/452021/unprecedented-move-federal-govt-sues-kelantan-over-orang-asli-land-rights
20. Zahiid, Syed Jaymal. "At pro-government convention, Hadi says uniting Muslims is Perikatan's feat." Malay Mail, 1 September 2020. https://www.malaymail.com/news/malaysia/2020/09/01/at-pro-government-convention-hadi-says-uniting-muslims-is-perikatans-feat/1899172
21. Farid, Aminah. "Even a billion ringgit won't solve Orang Asli woes if rights are ignored, say activists." Malaysian Insight, 21 November 2020. https://www.themalaysianinsight.com/s/285874 and https://www.facebook.com/centerfororangasliconcerns/photos/a.571592796213080/3594470713925258/
22. Azis Khan, Oleh. "Suka atau tidak Malaysia adalah Tanah Melayu, kata pemimpin UMNO." [Like it or not Malaysia is the Land of the Malays, says UMNO

leader] Borneo Today, 20 July 2020. https://www.borneotoday.net/suka-atau-tidak-malaysia-adalah-tanah-melayu-kata-pemimpin-umno/; Tham, Jia Vern. ""This Is A Malay Land" - Pasir Salak MP argues after alaiming DAP is unfair to Malaysians." Says, 25 July 2018. https://says.com/my/news/this-is-malay-land-pasir-salak-mp-accuses-dap-of-being-unfair-to-all-races

23. Wahid, Ramieza. "Malaysia is not 'Tanah Melayu', Sabah DCM refutes Tajuddin." Malaysiakini, 22 July 2020. https://www.malaysiakini.com/news/535566

24. Lee, Poh Onn, and Kevin Zhang."The collapse of the state government in Sabah: Back to the drawing board." South East Asia Globe, 4 August 2020. https://southeastasiaglobe.com/sabah-state-assembly-dissolution/

25. New Straits Times. "Sabah 2020: Official results." 26 September 2020. https://www.nst.com.my/news/nation/2020/09/627517/sabah-2020-official-results

26. Nicholas, Colin. "Malaysia." In The Indigenous World 2020, edited by Dwayne Mamo, 287-288. IWGIA, 2020. https://iwgia.org/images/yearbook/2020/IWGIA_The_Indigenous_World_2020.pdf

27. Roseni, Shalina. "Two ministries not wasteful – CM." The Borneo Post, 8 September 2020. https://www.theborneopost.com/2020/09/08/two-ministries-not-wasteful-cm/

28. Vanar, Muguntan. "NGO calls for more awareness campaigns against child marriages in Sabah." The Star, 24 November 2020. https://www.thestar.com.my/news/nation/2020/11/24/ngo-calls-for-more-awareness-campaigns-against-child-marriages-in-sabah

29. Jannie Lasimbang. 2020. "Press statement by Jannie Lasimbang (State Assemblyman Kapayan) and Anne Lasimbang (Executive Director of Pacos Trust)." Facebook, 25 November 2020. https://www.facebook.com/permalink.php?id=1829454817367332&story_fbid=2700908383555300

30. Ibid.

31. Ibrahim, Ramli. "Orang Asli women taken for a ride." New Straits Times, 3 August 2020. https://www.nst.com.my/news/nation/2020/08/613720/orang-asli-women-taken-ride

32. Ibid.

33. Ibid.

34. Nicholas, Colin. "Malaysia." In The Indigenous World 2019, edited by David Nathaniel Berger, 278. IWGIA, 2019. https://www.iwgia.org/images/documents/indigenous-world/IndigenousWorld2019_UK.pdf

35. Malay Mail. "Don't sell your land, Sarawak deputy CM tells longhouse folk." 26 October 2020. https://www.malaymail.com/news/malaysia/2020/10/26/dont-sell-your-land-sarawak-deputy-cm-tells-longhouse-folk/1916258

36. Moh, Jane. "Court rules against longhouse folk in Tanjung Manis seeking NCR status for 15,000 ha." Borneo Post, 21 October 2020. https://www.theborneopost.com/2020/10/21/court-rules-against-longhouse-folk-in-tanjung-manis-seeking-ncr-status-for-15000ha/

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Myanmar

INDIA
CHINA
BANGLADESH
MYANMAR
Naypyidaw
LAOS
BAY OF BENGAL
THAILAND
ANDAMAN SEA
GULF OF
THAILAND

There is no accurate information about the number of Indigenous Peoples in Myanmar, partly due to a lack of understanding of the internationally recognised 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* in describing Indigenous Peoples, based on international principles; using the criteria of non-dominance in the national context, historical continuity, ancestral territories and self-identification.[1]

The government recognises 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 beginning of the first British annexation) are considered *taung yin tha*.[2] However, there are more ethnic groups that are considered or see themselves as Indigenous Peoples, such as the Naga, that would not identify with any of those groups.

While the democratic transition from quasi-military government to quasi-civilian took place peacefully, and early signs of progression took place via ministerial development focussed on Indigenous rights and development via the newly established Ministry of Ethnic Affairs, the overwhelming feeling held by Indigenous rights activists is that the governing National League for Democracy party (NLD) have not honoured pre-election manifesto promises to eradicate harmful policies which restrict fundamental freedoms such as the right to assembly and peaceful expression. Furthermore, the stated aims of the NLD for "national reconciliation" via the 21st Century Panglong forums are presently stalled, with conflict escalating in many ethnic states and regions. The NLD, led by Aung San Suu Kyi as State Counsellor, coexists with the military, which retains 25% of unelected seats in the Hluttaw (House of Rep-

resentatives), allowing it a veto over constitutional change as well as three ministers in the government and one of the two vice-presidents.

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), and 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).

On 1 February 2021, just hours before the first scheduled session of the recently elected Myanmar parliament, the Tatmadaw (Myanmar military) declared a state of emergency, annulled the election results and deposed civilian leaders. While at the time of publishing it is still too early to evaluate the full impact of this latest development, one could expect that it may have major influence on the course and outcomes of some of the processes described in this chapter.

Elections

National elections took place in Myanmar in 2020 despite calls for their postponement by the military-backed Union Solidarity Party (USDP) and 24 other parties due to the wave of COVID-19 and resulting lockdowns in Myanmar.[3] The Aung San Suu Kyi-led National League for Democracy (NLD) secured more than 390 combined seats in both the Upper and Lower Houses of Parliament, 60 seats more than necessary to form the next government (the minimum is 322). These figures surpassed the NLD's 2015 landslide victory.[4]

The elections were widely condemned due to the disenfranchisement and marginalisation of the Rohingya refugee and internally-displaced populations, who are not considered citizens and were banned from voting in what was deemed an apartheid election.[5] Rohingya candidates were also banned from contesting the elections.[6] Furthermore, on 16 October the NLD-appointed Union Election Commission (UEC) announced the cancellation of voting in six townships in Shan State and hundreds of village tracts throughout Kachin and Karen states and Bago Region, as well as one in Mon State.[7] The UEC also cancelled voting in the northern townships of the conflict-ridden, Rakhine State and the majority of village tracts in Chin State's Paletwa Township.[8] This was condemned as an attempt by the NLD to deny seats to ethnic parties under vaguely-stated security grounds, the effect of which wiped out the majority of Rakhine's electoral constituencies and disenfranchised 73% of its 1.6 million voters while maintaining the constituencies in the south of the state where the NLD has a stronger foothold.[9]

During the lead up to the elections, in March, the NLD voted down a proposed constitutional amendment bill, supported by ethnic parties and the USDP, which would have granted state and regional parliaments the ability to choose chief ministers as opposed to the current determination by presidential decree.[10] This would have allowed ethnic parties, if successful, to govern their own states with a local mandate, increasing the process of decentralisation. The blocking of this amendment was seen to be in contradiction to the NLD's promise to deliver a "federal democracy" and allow more meaningful representation in the ethnic states.[11] The NLD later insisted that the reform could only happen once the Tatmadaw's constitutional allocation of 25% of seats in all Hluttaws (Parliament chambers) had been removed.[12]

A handful of seats were won by ethnic political parties in Kayah, Mon and Shan states. Following the landslide victory, the NLD sent official letters to 48 ethnic parties headed "The issue of unity and Myanmar's future" and signed by its vice-chairman, Zaw Myint Maung. The letter stated that "the aims of the ethnic parties align with those of the NLD and our party will focus on the wishes and desires of ethnic people in the future" and that the NLD hoped that ethnic political parties would cooperate and work with the NLD "towards building a federal democratic union".[13] There was no formal response from the Shan Nationalities League for Democracy – the most successful ethnic party – nor the

Mon Unity Party, which made gains in Mon State, although leaders from both parties told the media that they welcomed the gesture.[14]

Following the election, the military wing of the government announced a unilateral permanent committee "to continue peace talks as quickly as possible" with ethnic armed organisations.[15] The committee, made up of five lieutenant-generals, has no civilian representation and indicates a growing divide between the military and the NLD. The committee will engage with both signatories to the Nationwide Ceasefire Agreement (NCA) and non-signatory ethnic armed groups.[16]

COVID-19

It is unclear how many deaths and infections have occurred in Myanmar due to a lack of systematic data collection and limited testing.[17] By the end of December, the government data repository had registered 2,532 deaths from the virus; [18] however, there has so far been no testing in IDP camps across the country.[19] Government support has also been variable. The April 2020 COVID-19 Economic Relief Plan "Overcoming as One",[20] which aimed to provide unconditional cash and in-kind food transfers to vulnerable households and at-risk populations, was accused of failing in its objective to "leave no-one behind" in South-East Myanmar as only villagers living in government-controlled areas received assistance.[21] The political response to the pandemic, however, endorsed by the NLD government, has seen the Myanmar military use COVID-19 as a tool to intensify its repression of ethnic communities, rights defenders and the media.[22]

On the same day that the government officially announced the appearance of the first COVID-19 cases in Myanmar, President Win Myint also declared the Arakan Army (AA), its political wing the United League of Arakan (ULA), and affiliated groups and individuals to be a terrorist outfit under the *2014 Counter-Terrorism Law.*[23] In stating that the AA had "constituted a danger to law and order, peace and stability of the country and public peace", the armed group was also declared unlawful under Section 15(2) of the *Unlawful Associations Act*.[24] This resulted in escalations of airstrikes and violations of International Humanitarian Law (IHL) in Rakhine and Chin states.

Similarly, on 23 March, the Ministry of Transport and Communications issued a directive ordering all telecommunications providers to block access to more than 220 websites that were allegedly spreading "fake news".[25] The directive included multiple independent ethnic media sites that had been reporting on conflict and sharing updates related to the coronavirus pandemic, such as the Rakhine State-based Narinjara and Development Media Group and the Karen Information Centre.[26]

During 2020, a wave of prosecutions of journalists and social media activists took place under the Myanmar Penal Code, the *Natural Disaster Management Law* and the *Telecommunications Act* for spreading "misinformation" related to COVID-19. Many of these prosecutions have been linked to COVID-19 and government efforts to control narratives around the pandemic.[27] The third union-level committee headed by the military nominated Vice President U Myint Swe and, with strong military representation but no Ministry of Health and Sports representation, was established to deal with the emergency response. Other task force members included all three military-appointed members of Aung San Suu Kyi's Cabinet, namely the Ministers of Defence, Home Affairs and Border Affairs. Five civilian ministers were also included. The committee's sweeping powers to prosecute anyone deemed to be spreading "misinformation" and the fact that it was headed by a former powerful general was evidence that the Tatmadaw were leveraging power in response to COVID-19.[28]

The Internet blackout instituted by the NLD government in June 2019 persisted in eight conflict-affected townships in northern Rakhine and southern Chin states, leaving communities in these areas without the ability to receive updates or share information on either the ongoing civil war or the COVID-19 pandemic. This continued to be widely criticised by civil society[29] as well as by the former UN Special Rapporteur on the situation of human rights in Myanmar, Yanghee Lee, who called for "mobile internet in Rakhine and Chin states to be reinstated in all areas."[30]

After the World Health Organization (WHO) officially declared COVID-19 a global pandemic,[31] UN Secretary-General Antonio Gutierrez appealed for a global ceasefire to address the crisis.[32] Despite calls from United Nations bodies,[33] diplomatic missions,[34] civil society,[35] and Ethnic Armed Organisations (EAOs)[36] to implement a ceasefire, the military increased hostilities and operations in Paletwa and Northern Rakhine. During February, March and April, Paletwa Township endured the worst

state atrocities committed at any point since 2015 as the Tatmadaw began carrying out indiscriminate airstrikes on locations in the Rakhine and Chin state border regions. In March and April alone, 31 civilians died and many more were injured as a result of the air assaults. As a result, the numbers of internally displaced people more than doubled in Chin and Rakhine states in 2020. There are over 10,000[37] currently displaced in Chin State, and over 80,000 newly displaced in Rakhine State.[38] In April, Yanghee Lee, the outgoing UN Special Rapporteur on the situation of human rights in Myanmar, said in a statement that the country's armed forces were escalating assaults and targeting the civilian population while the world was "occupied with the COVID-19 pandemic".[39]

Universal Periodic Review

In January 2021, Myanmar will undergo its 3rd Cycle Universal Periodic Review at the Human Rights Council (HRC). In the Summary of Stakeholders report, Indigenous rights were highlighted on a number of occasions. It was reported that the lack of formal legal recognition continues to negatively impact Indigenous People's rights to representation, consultation and participation in decision-making processes. Indigenous Peoples, it was reported, are poorly represented within ministries and high-level civil service positions. As a result, many laws, policies and practices undermine Indigenous customary practices and are not in line with relevant international standards. In addition, a series of new laws that have a direct impact on Indigenous Peoples such as the *2018 Forest Law* and the 2018 *Conservation of Biodiversity and Protected Area Law* do not specifically mention Indigenous Peoples *(htanay-taing-yin-tha).*[40] As such, issues of state-sanctioned land grabbing were raised; for example, large tracts have been confiscated within Myanmar's Permanent Forest Estate, the establishment of which took place without the free, prior and informed consent of local communities.[41]

Amendments to the *2018 Vacant, Fallow and Virgin Land Management Law (See Indigenous World 2020)*[42] were also noted to have facilitated displacement and the criminalisation of people who failed to meet the six-month deadline to register their land. Furthermore, the prevailing model of mega-development projects such as deep-sea ports, hydropower dams and roads continued to fuel grievances among Indigenous

communities regarding land rights and their autonomy over the use of traditional land, resulting in social and environmental injustices.[43]

The Summary of Stakeholders report also highlighted that Indigenous and environmental human rights defenders were struggling to protect their land, environment and natural resources and that they were being criminalised, harassed or killed in their work to prevent land grabbing and negative environmental impacts.[44]

As well as health and education facilities being chronically underfunded and understaffed in Indigenous areas in Myanmar, there is also a lack of schools and suitably qualified teachers.[45] The report specifically highlighted the inadequacy of COVID-19 treatment provision in Indigenous areas.[46]

The government report to the HRC highlighted the establishment of certain institutions such as the Ministry of Ethnic Affairs, which they stated had the aims of achieving equal citizens' rights for all ethnic peoples, preserving ethnic literature, and culturing and fostering ethnic unity and socio-economic development. The government also highlighted laws such as the Ethnic Rights Protection Law 2015, which provides that "No-one shall commit any act which is intended or is likely to promote feelings of hatred, enmity and discord among the ethnic groups."[47]

International recognition of Indigenous and community conserved areas

The Salween Peace Park (SPP) was awarded the 2020 Equator Prize in June. The SPP is a community-led initiative that is striving to empower local Indigenous communities to manage their own natural resources. The SPP spans 5,485 km^2 of biodiverse landscape in Mutraw District, Karen State and is managed sustainably by Indigenous Karen communities through an inclusive democratic governance structure that provides spaces for local people and leaders.[48]

The SPP is an example of Indigenous self-determination that has transcended the complexities of land and natural resource governance in Myanmar. While the National Land Use Policy (NLUP) – which seeks to "recognise and protect customary land tenure rights and procedures of the ethnic nationalities"[49] (Indigenous people) and harmonise the cur-

rent myriad of overlapping land laws – remains some way from being implemented, and the park remains militarised and unrecognised by the union government, the SPP provides an example of conservation activities that does not seek recognition within the centralised bureaucracy of Myanmar and resistance against land grabs for commercial development purposes.

Notes and references

1. Coalition of Indigenous Peoples in Myanmar. "Joint Submission to the UN Universal Periodic Review". March 2015.
2. Section 3 of the *"Burma Citizenship Law 1982, Pyithu Hluttaw Law No 4 of 1982".*
3. Myanmar Now. "NLD dismisses calls to postpone election because of Covid-19 outbreak." 16 September 2020.https://www.myanmar-now.org/en/news/nld-dismisses-calls-to-postpone-election-because-of-covid-19-outbreak
4. US-ASEAN Business Council. "Myanmar Analytical Update: Ruling NLD Party Wins 2020 General Elections in a Landslide; Will Form New Government." https://www.usasean.org/article/2020/11/12/myanmar-analytical-update-ruling-nld-party-wins-2020-general-elections-landslide
5. Burma Campaign UK. "An Apartheid Election Less Free and Fair than the Last." 5 November 2020. https://burmacampaign.org.uk/an-apartheid-election-less-free-and-fair-than-the-last/
6. Aljazeera. "Myanmar bars Rohingya candidate from contesting election." 12 August 2020. https://www.aljazeera.com/news/2020/8/12/myanmar-bars-rohingya-candidate-from-contesting-election
7. Burma News International, "UEC Cancels Voting in Nearly All Paletwa Village Tracts." 2 November 2020. https://www.bnionline.net/en/news/uec-cancels-voting-nearly-all-paletwa-village-tracts
8. Union Election Commission. "2020 General Elections Cancelled Areas." Myanmar Information Management Unit, 27 October 2020. http://themimu.info/sites/themimu.info/files/documents/Map_2020_Election_Cancelled_Areas_As_of_27_Oct_IFES_MIMU1713v02_28Oct2020_A3.pdf
9. Dunant, Ben. "Myanmar's Election Marks a Step Away From Peace." The Diplomat, 4 November 2020. https://thediplomat.com/2020/11/myanmars-election-marks-a-step-away-from-peace/
10. "Constitution of The Republic of the Union of Myanmar." 2008, Section 261. http://www.wipo.int/edocs/lexdocs/laws/en/mm/mm009en.pdf
11. Aljazeera. "Myanmar bars Rohingya candidate from contesting election." 12 August 2020. https://www.aljazeera.com/news/2020/8/12/myanmar-bars-rohingya-candidate-from-contesting-election
12. Naing, Kaung Hset. "NLD olive branch leaves ethnic parties wary." Frontier Myanmar, 16 December 2020. https://www.frontiermyanmar.net/en/nld-olive-branch-leaves-ethnic-parties-wary/
13. Zaw, John. "UEC Cancels Voting in Nearly All Paletwa Village Tracts."UCA News, 2 November 2020. https://www.ucanews.com/news/ethnic-parties-suffer-major-losses-in-myanmar-election/90310#
14. Naing, Kaung Hset. "NLD olive branch leaves ethnic parties wary." Frontier

Myanmar, 16 December 2020. https://www.frontiermyanmar.net/en/nld-olive-branch-leaves-ethnic-parties-wary/

15. Radio Free Asia. "Myanmar Military Launches Body For Talks With Ethnic Armies as Vote Count Goes On." 11 December 2020. https://www.rfa.org/english/news/myanmar/peace-talks-committee-11102020202224.html

16. Burma News International. "Tatmadaw creates new committee to hold talks with ethnic armed groups." 12 November 2020 https://www.bnionline.net/en/news/tatmadaw-creates-new-committee-hold-talks-ethnic-armed-groups

17. Kyi Soe, Aung Phay. "Missing data leaves the pandemic's true death toll in Myanmar in the dark." Frontier Myanmar, 19 December 2020. https://www.frontiermyanmar.net/en/missing-data-leaves-the-pandemics-true-death-toll-in-myanmar-in-the-dark/

18. Myanmar Ministry of Health and Sports. "Coronavirus disease 2019 (COVID-19) situation reports (Myanmar)." 25 December 2020.https://www.mohs.gov.mm/page/9575

19. Maung, Manny. "Human Rights Watch Statement:Impacts of Covid-19 on Internally Displaced People in Myanmar." Human Rights Watch, 14 December 2020. https://www.hrw.org/news/2020/12/14/human-rights-watch-statement-impacts-covid-19-internally-displaced-people-myanmar

20. Government of the Republic of the Union of Myanmar. "Overcoming as One: COVID-19 Economic Relief Plan." April 2020.

21. Karen Human Rights Group. "Delayed and Uneven: COVID-19 Response in Rural Southeast Myanmar, March to June 2020." October 27, 2020. https://khrg.org/2020/10/20-4-nb1/delayed-and-uneven-covid-19-response-rural-southeast-myanmar-march-june-2020#ftn11

22. Progressive Voice. "A Nation Left Behind: Myanmar's Weaponization of COVID-19." June 2020. https://progressivevoicemyanmar.org/wp-content/uploads/2020/06/Final_PV-COVID-19_Report-2020.pdf

23. Myanmar Anti-Terrorist Central Committee, Order No. 1/2020, 23 March 2020.

24. Myanmar Ministry of Home Affairs, Order No. 1/2020, 23 March 2020.

25. Article 19. "Myanmar: Immediately lift ban on ethnic news websites." 1 April 2020. https://www.article19.org/resources/myanmar-immediately-lift-ban-on-ethnic-news-websites/

26. These were, among others: Narinjara News, https://www.narinjara.com/; 19 Development Media Group, https://www.dmediag.com; 20 Karen Information Center/Karen News, http://karennews.org/; 21 BNI Multimedia Group, https://www.bnionline.net/en; Progressive Voice. "A Nation Left Behind: Myanmar's Weaponization of COVID-19." June 2020. https://progressivevoicemyanmar.org/wp-content/uploads/2020/06/Final_PV-COVID-19_Report-2020.pdf

27. Article 19. "Briefing Paper: Freedom of Expression concerns related to COVID-19 Response." August 2020. https://www.article19.org/wp-content/uploads/2020/08/2020.08.31-COVID-19-briefing-paper-Myanmar.pdf

28. Lintner, Bertil. "Covid-19 restores Myanmar military's lost powers." Asia Times, 2 April 2020. https://asiatimes.com/2020/04/covid-19-restores-myanmar-militarys-lost-powers/

29. Progressive Voice. "Joint Statement Condemning One of the World's Longest Internet Shutdowns in Rakhine State." 21 December 2019. https://progressivevoicemyanmar.org/2019/12/21/joint-statement-condemning-one-of-the-worlds-longest-internet-shutdowns-in-rakhine-state/

30. UN OHCHR. "Myanmar must allow free flow of information and aid to protect right to health in COVID-19 crisis – UN Special Rapporteur Yanghee Lee." 9 April

2020.
31. World Health Organization. "WHO Director-General's opening remarks at the media briefing on COVID-19." 11 March 2020. https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-mediabriefing-on-covid-19---11-march-2020
32. UN News. "COVID-19: UN chief calls for global ceasefire to focus on 'the true fight of our lives.'" 23 March 2020. https://news.un.org/en/story/2020/03/1059972
33. Anadolu Agency. "UN Urges Myanmar to immediately extend ceasefire." 16 September 2020. https://www.aa.com.tr/en/asia-pacific/un-urges-myanmar-to-immediately-extend-cease-fire/1974730
34. Nyein, Nyein. "Ambassadors Call for End to Conflict in Myanmar Amid COVID-19." The Irrawaddy, 2 April 2020. https://www.irrawaddy.com/specials/myanmar-covid-19/ambassadors-call-end-conflict-myanmar-amid-covid-19.html
35. "Civil Society Organizations Calls for Immediate Protection of Civilians in Armed Conflict in Myanmar," 15 April 2020. https://mailchi.mp/chro.ca/joint-statement-civil-society-organizations-calls-for-immediate-protection-of-civilians-in-armed-conflict-in-myanmar
36. Weng, Lawi. "Myanmar Rebel Coalition Calls for Military to Extend Ceasefire to Rakhine." The Irrawaddy, 11 May 2020. https://www.irrawaddy.com/news/burma/myanmar-rebel-coalition-calls-military-extend-ceasefire-rakhine.html
37. Chin Human Rights Organisation. "Annual Report: Human Rights Situation In Chin State and Western Burma." December 2020. https://www.chinhumanrights.org/annual-report-2020/
38. OCHA. "Myanmar: Humanitarian Update No.2" December 2020. https://reliefweb.int/sites/reliefweb.int/files/resources/OCHA%20Myanmar%20-%20%20Myanmar%20Humanitarian%20Update%20No%202.pdf
39. Gunia, Amy. "Myanmar's Military May Be Committing War Crimes While the World Is Distracted by Coronavirus, Says U.N. Rights Expert." Time, 29 April 2020. https://time.com/5829012/u-n-human-rights-myanmar-war-crimes-coronavirus/
40. Human Rights Council. "Universal Periodic Review Second Cycle." Thirty-seventh session, 18–29 January 2021. at para 69 https://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMMStakeholdersInfoS23.aspx
41. Ibid at para 72
42. Chin Human Rights Organisation (CHRO). "Myanmar". In The Indigenous World 2020, edited by Dwayne Mamo, 291-30. IWGIA, 2020.
43. Human Rights Council. "Universal Periodic Review Second Cycle." 37th session, 18-29 January 2021. At para 70 https://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMMStakeholdersInfoS23.aspx
44. Ibid at para 71
45. Ibid at para 52
46. Ibid at para 50
47. UN-OHCHR. https://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMMStakeholdersInfoS23.aspx
48. Progressive Voice. "Salween Peace Park Wins 2020 Equator Prize." 15 June 2020. https://progressivevoicemyanmar.org/2020/06/15/salween-peace-park-wins-2020-equator-prize/
49. The Republic of the Union of Myanmar. "National Land Use Policy." 2016. http://faolex.fao.org/docs/pdf/mya152783.pdf

The author and publisher of this article are well aware of the existing Myanmar/Burma name dispute; however, Myanmar is used consistently in this article to avoid confusion.

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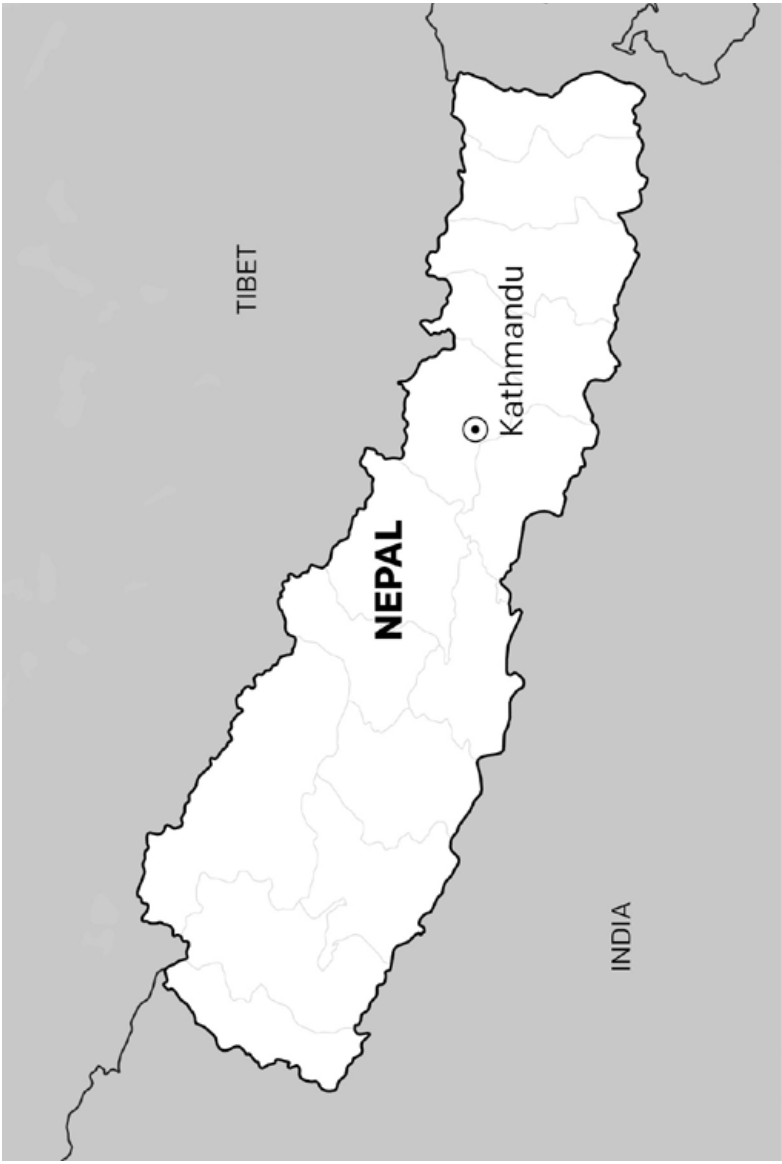
Nepal



According to the 2011 census, the Indigenous Nationalities (*Adivasi Janajati)* of Nepal comprise 36% of the total population of 30.2 million,[1] although Indigenous Peoples' organizations claim a larger figure of more than 50%. The 2011 census listed the population as belonging to 125 caste and ethnic groups, including 63 Indigenous Peoples; 59 castes,[2] including 15 Dalit castes; and three religious groups, including Muslim groups.

Even though Indigenous Peoples constitute a significant proportion of the population, they have been systematically discriminated, marginalized, excluded, subjugated, dominated, exploited and internally colonized by the dominant caste groups throughout Nepal's history in terms of land, territories, resources, language, culture, customary laws, political and economic opportunities and collective way of life.

The new Constitution of Nepal promulgated in 2015 recognizes Khas Arya supremacy but denies the collective rights and aspirations of Indigenous Peoples[3] despite the fact that Nepal has ratified ILO Convention 169 on Indigenous and Tribal Peoples and voted for the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) and the World Council of Indigenous Peoples (WCIP) Outcome Document. Their implementation is still lacking. Laws, draft bills, ordinances and policies are not in line with UNDRIP and ILO Convention 169. The Nepalese government has shown no signs of implementing the recommendations, which include amending the Constitution to explicitly recognize right to self-determination and all the rights of Indigenous women, in line with the UNDRIP, as recommended by the UN Committee on Elimination of Discrimination against Women (CEDAW).

The President dissolved the House of Representatives on 20 December 2020 based on the recommendation of the Prime Minister. It is said that new elections will be held on 30 April and 10 May 2021. The Supreme Court's verdict is pending as to whether or not the dissolution was constitutional.

2020 turned out to be an unforgettably forgettable year for Nepal's Indigenous Peoples. The government was not only regressive but also highly repressive. Indigenous Peoples faced insecurity and hardship in their everyday life as the government took undue advantage of a series of lockdowns, due to the COVID-19 pandemic, to violate human rights and fundamental freedoms.

Activities related to national parks

Violations of the human rights of Indigenous Peoples continue unabated in national parks and protected areas. News about such violations covered the front pages of national newspapers and drew the attention of the international community. During the heavy monsoon season, for example, Chitwan National Park authorities forcefully attempted to evict 10 Chepang families from a buffer zone in South Central Nepal by burning down two houses and destroying eight more with elephants.[4] In a statement, Amnesty International said: "Authorities must stop ruthless evictions of Indigenous peoples", and "Forcing anyone from their homes is an act of cruelty. To do so with the use of arson and charging elephants, risking lives and destroying the few possessions of an already marginalized community, is unconscionable and a human rights violation."[5]

In another incident, on 16 July, six Chepang youths who had gone to collect *ghongi* (mud-water snails) from a river inside the Chitwan National Park were detained by the Nepal Army patrol inside the park. They were released the same day but one of them died from what were believed to be injuries inflicted by the army personnel after he was caught.[6] The father of the victim filed a complaint at the District Police Office claiming that his son was tortured by the Army patrol, which led to his death.[7] The Nepal Army released a press statement regarding an internal investigation into the case.[8]

In February 2020, a Fact-Finding Mission was conducted by the Lawyers Association for Human Rights of Nepalese Indigenous Peoples (LAHURNIP) and the National Indigenous Women's Federation (NIWF) in response to human rights allegations connected to WWF as revealed by the Kathmandu Post in 2019.[9] A report was prepared and submitted to

an Independent Panel of Experts that the WWF had established to conduct an independent review into the allegations.[10] The report revealed a number of human rights violations by the National Park Authorities and army personnel that included killings, sexual abuse, arbitrary detention, torture, harassment, verbal and physical abuse, and racism.[11]

In another case, Indigenous Peoples from Upper Dolpo, who have a customary practice of long-distance trade between Tibet and the lowlands of Nepal, are facing other kinds of difficulty due to their trails being inside the She-Foksundo National Park. The trails are in a bad condition, making their journey miserable during the time of seasonal migration. Village municipalities have given priority to building trails but the Ward Chair of She-Foksundo-8 said that the She-Foksundo National Park had become an obstacle to its construction works, and that their development works were stalled because the Park officials had not given permission for the work.[12]

Land grabbing

The government continued to scale up the grabbing of Indigenous Peoples' lands in various parts of the country. It decided to form a Land Issue Resolving Commission (LIRC) and issued an ordinance[13] which came into effect on 16 April 2020. The main purpose of the commission is to distribute land to landless sections of the population, including Dalits, squatters and informal settlers.[14] It is highly likely that Indigenous Peoples' lands will be occupied by non-indigenous landless settlers. The legislation includes: a) the Land Use Act, b) the Working Procedure for Collection of Data by the Local Level on Landless Dalit, Landless Squatters and Unsystematic Settlements, 2020, and c) The Identification and Verification of Landless Dalit, Landless Squatters and Unsystematic Settlers, 2020.[15] These were all drafted without the participation and representation of, and without the obtaining free, prior and informed consent of, Indigenous Peoples.

The protest of Indigenous Newa in Khokana, Lalitpur against such land grabbing by the government resulted in a clash between them and the police.[16] "Police say four personnel injured; locals say over a dozen

were hurt in the incident" and "Local residents said they are not against development but that uprooting a community from its settlement is unacceptable".[17] Police fired tear gas but it did not dim the spirits of the protestors. Representatives of UNESCO and ILO carried out a field visit to the historic sites in Khokana and Bungmati to determine whether the government projects were destroying the Newa's cultural heritage. They also interacted with the Indigenous community members.[18] The government has furthermore demolished houses in the Balaju area for road expansion and the Newa are "protesting against demolition of houses done without any basis or information."[19] The independent complaints mechanism of the World Bank Inspection Panel has also registered a Request for Inspection from the affected Indigenous Newa communities in relation to the construction of a dry port in Chobhar, Kathmandu, for non-compliance with the Bank's Environmental Assessment policies.[20]

An influential private company is implementing the Patibhara Darshan Private Limited Cable Car in Mukumlung, known as "Patibhara", in Taplejung district, in order to develop the Indigenous sacred site into a tourist hub by constructing a cable car without obtaining the free, prior and informed consent of the Indigenous Peoples. The representatives of the Yakthung ("Limbu") clans and LAHURNIP jointly submitted a complaint to the National Human Rights Commission, demanding that its original name of Mukumlug be retained and urging the NHRC to put pressure on the government and the company to stop the destruction of their sacred sites.[21]

Indigenous Majhi communities are protesting against the Dudhkoshi Hydropower project at Rabhunwaghat and Sunkoshi Marine Diversion Project in Ramechap. They have been pleading with the government to let them remain on the riverbanks but, if the hydropower project goes through, they will be evicted and lose their land, their livelihood and their culture.[22] The Magar Indigenous people are likewise protesting against the Tanahu Hydropower project in Tanahau for the same reasons.

Indigenous women

The National Indigenous Women's Federation (NIWF) came up with a Position Paper on Indigenous Women's land rights in 2020. Of the 29 positions, Position 1 stated, "Let no one violate, interfere, deny, abuse, non-comply or ignore we indigenous women's collective human rights related to lands, territories and resources as these are our inalienable, indivisible, natural, inherent, universal and fundamental human rights and freedom."[23]

A series of regional and national dialogues with policy makers, political leaders and other stakeholders were organized by the Indigenous women's organizations in Nepal to discuss meaningful implementation of CEDAW's 14 November 2018 recommendations, which include amending the Constitution to explicitly recognize the rights of Indigenous women, in particular their right to self-determination, in line with the United Nations Declaration on the Rights of Indigenous Peoples.

Climate change

The government passed an Environment Protection Regulation on 7 October 2020 without consulting or obtaining the free, prior and informed consent of Indigenous Peoples.[24] The Ministry of Forest and Environment has called for experts to enrol on its Roster of Environmental Experts. The stated qualifications do not include Indigenous Peoples' expertise in customary knowledge, skills, technology and practices, and Indigenous Peoples are thus not considered as environmental experts by the government – although they are the custodians of much of Nepal's remaining biodiversity.[25]

COVID-19 pandemic

After confirmation of the first COVID-19 case in Nepal on 23 January, the government imposed a nationwide lockdown on 24 March and lifted it on 21 July.[26, 27] By 31 December, the total number of confirmed cases

was 260,593, with 252,359 recoveries and 1,856 deaths.[28] The lockdown made the lives of poor and working Indigenous Peoples and Dalits more difficult due to job losses, food insecurity, racial and gender discrimination, domestic violence, violence against Indigenous Peoples and deaths due to hunger and suicide. The government furthermore took undue advantage of the lockdown to scale up the repression and grab Indigenous Peoples' land.[29, 30]

Dissolution of the House and general outlook for the coming year

On 20 December, the President dissolved the House and declared elections for 30 April and 10 May 2021. The Supreme Court of Nepal is due to give a verdict on whether or not this move was constitutional.[31] After the collapse of the elected government within three of the last five-year terms, Nepal's political situation has become highly fluid. If the Supreme Court should declare that the dissolution of the House was unconstitutional and call for its re-establishment then the existing parliament will be under the full control of the Khas Arya racial supremacist party and leaders. It means Indigenous Peoples' rights would continue to be violated by the government and private business companies. If the Court justifies the Prime Minister's move then Indigenous Peoples are still represented only through the main political parties, which are against the collective rights of Indigenous Peoples.

For Indigenous Peoples to be directly represented through their own representative organizations, chosen through their own processes a change in the election law would be needed (which is quite unthinkable). There is also a possibility that the Prime Minister may impose emergency rule for at least a year and, if so, repression against Indigenous Peoples would continue. Whichever course politics takes, it appears that gross violations of human rights and fundamental freedoms, land grabbing of Indigenous Peoples' ancestral lands, forced evictions, the marginalization of customary self-government systems, and cultural genocide will be further intensified. Infiltration by and co-option of Indigenous Peoples by the main political parties will further weaken the resistance of the Indigenous Peoples' movement. ILO Convention No.

169 and the UNDRIP will be limited to the theory but not the practice.

The year 2021 and beyond will remain a significant challenge to Indigenous Peoples in terms of enjoying their human rights. Indigenous Peoples have started to scale up their resistance movement, bottom-up from community level, but international support is needed now more than ever before to stop the violations, denial, interference, abuse, non-compliance and disregard for Indigenous Peoples' inalienable, indivisible, natural, inherent, universal and fundamental human rights and freedoms on the part of the state and private business companies.

Notes and references

1. The Central Bureau of Statistics (CBS) of Nepal make a population projection every day. The projected population on 15 January 2020 was 30,212,287. Central Bureau of Statistics, Government of Nepal. "Today's Population." https://cbs.gov.np/
2. Hindu cosmology divides the population into hereditary caste groups who are ranked according to ritual purity and impurity. The Dalit castes form the lowest tier of the caste system and are highly marginalized to this day. (Ed. note)
3. 61 Indigenous Peoples were initially officially recognized in Nepal through the ordinance *Rastriya Janajati Bikas Samiti (Gathan Adesh) 2054*. Indigenous Peoples have been officially and legally recognized by the government since 2002 (2059 B.S.) through the *National Foundation for the Development of Indigenous Nationalities Act* (known as the NFDIN Act), which lists 59 distinct Indigenous communities in the country.
4. Indigenous Voice. "Indigenous Chepang people's houses burnt down in Chitwan." 20 July 2020. https://www.indigenousvoice.com/en/indigenous-chepang-peoples-houses-burnt-down-in-chitwan.html
5. Amnesty International. "Nepal: Authorities must stop ruthless evictions of Indigenous peoples." 21 July 2020. https://www.amnesty.org/en/latest/news/2020/07/nepal-authorities-must-stop-ruthless-evictions-of-indigenous-peoples/
6. Kumar Paudel, Ramesh. "Nepal Army personnel blamed for death of Chepang youth." The Kathmandu Post, 24 July 2020. https://kathmandupost.com/province-no-3/2020/07/24/kin-of-chepang-youth-who-died-after-being-thrashed-by-nepal-army-personnel-seek-impartial-investigation-into-the-incident
7. Ibid.
8. People's Review. "NA soldiers beat a youth to death, investigation initiated." 24 July 2020. https://www.peoplesreview.com.np/2020/07/24/na-soldiers-beat-a-youth-to-death-investigation-initiated/
9. See Bhattachan, Krishna B. "Nepal." In The Indigenous World 2019, edited by David Nathaniel Berger, 366-373. IWGIA, 2019. https://www.iwgia.org/images/documents/indigenous-world/IndigenousWorld2019_UK.pdf
10. WWF. "Embedding Human Rights in Nature Conservation - from Intent to Action." 17 November 2020. https://wwf.panda.org/wwf_news/wwf_

independent_review_/?
11. National Indigenous Women's Federation (NIWF). "Fact Finding Mission Report-Violation of Indigenous Peoples' Human Rights in Chitwan National Park of Nepal." February 2020. http://niwf.org.np/publication/fact-finding-mission-report-chitwan-national-park/
12. Mian, Abdullah. "उपल्लो डोल्पालीका दुःख." Kantipur National Daily. https://ekantipur.com/news/2020/12/01/160678504498768797.html
13. Text in Khas Nepali language: Land Issue Resolving commission (LIRC), 16 April 2020. http://lirc.gov.np/assets/uploads/download/download/2020-05-18/aayogko_tor_rajpatra_ma_prakasit.pdf Text
14. नेपाल सरकार, भूमि सम्बन्धी समस्या समाधान आयोग. "LIRC, About." 2021. http://lirc.gov.np/about
15. Ibid.
16. See a video of the clash at Srijana Creation. 2020. "Farmers and Nepal Armed Police force clash at Khokana..." Uploaded on 4 July 2020. YouTube video, 4:47 mins. https://www.youtube.com/watch?v=2aqu4NqlYbo
17. Dhungana, Shuvam. "Khokana locals, police clash over 'paddy transplantation protest'." The Kathmandu Post, 4 July 2020. https://kathmandupost.com/visual-stories/2020/07/04/four-policemen-injured-in-clash-with-locals-in-khokana
18. Online Khabar. "युनेस्कोको प्रतिनिधिले गरे खोकना–बुङ्मतीको अवलोकन." 2020. https://www.onlinekhabar.com/2020/08/887339
19. Shrestha, Sangita. "Balaju-Bypass Road Expansion: Displaced locals in relay fast." My República, 12 August 2020. https://myrepublica.nagariknetwork.com/mycity/news/balaju-bypass-road-expansion-displaced-locals-in-relay-fast
20. Community Empowerment & Social Justice Network (CemSoJ). "Campaign to restore archaeological Kamal Pokhari in Thamel urges ILO and UN to protect rights infringed due to construction of Chhaya Center." 3 May 2020. https://cemsoj.wordpress.com/2020/05/03/campaign-to-restore-archaeological-kamal-pokhari-in-thamel-urges-ilo-and-un-to-protect-rights-infringed-due-to-construction-of-chhaya-center/
21. Naya Online. "पाथीभराको नाम सच्याउन र पोक्लाबाङको समाधिस्थल भत्काउनेलाई कारवाही गर्न मानवअधिकार आयोगमा उजुरी." 1 July 2020. https://nayaonline.com/2020/07/01/41138/; Lawyers' Association for Human Rights of Nepalese Indigenous Peoples (LAHURNIP). "Mukkumlung (in Khas Nepali language –'Pathibhara') - the sacred lands of Yakhung ('Limbu') Indigenous Peoples." 2020. https://www.lahurnip.org/mukkumlung-in-khas-nepali-language-pathibhara-the-sacred-lands-of-yakhung-limbu-indigenous-peoples
22. Khabar, Halesi. "हामीलाई नदी आसपासमै पुनःस्थापन गरियोस् : दूधकोशीका माझी समुदाय." Halesikhabar, 23 December 2020. https://www.halesikhabar.com/25389/?__FB_PRIVATE_TRACKING
23. National Indigenous Women's Federation (NIWF) and the European Commission. "Position Paper on Indigenous Women's Land Rights." September 2020. http://niwf.org.np/wp-content/uploads/2020/09/2-eng-Part.pdf
24. Government of Nepal, Ministry of Forests and Environment. http://www.mofe.gov.np/downloadfile/Env_Regulation_rajpatra_1592360474.pdf
25. Government of Nepal, Ministry of Forests and Environment. "वातावरण विज्ञहरुको सूची (Roster) को लागि दरखास्त आह्वान सम्बन्धी सूचना." 9 December 2020. http://www.mofe.gov.np/noticedetail/374/2020/43922161
26. PTI. "Nepal confirms first case of deadly coronavirus." The Economic Times, 24 January 2020. https://economictimes.indiatimes.com/news/

international/world-news/nepal-confirms-first-case-of-deadly-coronavirus/articleshow/73590302.cms

27. Republica. "Govt decides to lift nationwide lockdown from Tuesday midnight." My República, 22 July 2020. https://myrepublica.nagariknetwork.com/news/nepal-all-set-to-end-nationwide-lockdown-from-tuesday-midnight/

28. THT Online. "Man found dead in Kirtipur." The Himalayan Times, 21 May 2016. https://thehimalayantimes.com/kathmandu/man-found-dead-kirtipur-2/

29. Kumar Jha, Abdesh, and Binu Subedi. "The lockdown is killing the poor and the marginalized." The Kathmandu Post, 4 June 2020. https://kathmandupost.com/province-no-2/2020/06/04/the-lockdown-is-killing-the-poor-and-the-marginalised

30. Pradhan, Shirish B. "Nepal's daily wagers walk home amid coronavirus lockdown." Outlook India, 17 April 2020. https://www.outlookindia.com/newsscroll/nepals-daily-wagers-walk-home-amid-coronavirus-lockdown/1805924

31. Ghimire, Binod. "House dissolution: Whether it's lawful is now for Supreme Court to decide." The Kathmandu Post, 22 December 2020. https://kathmandupost.com/national/2020/12/22/house-dissolution-whether-it-s-lawful-is-now-for-supreme-court-to-decide

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Philippines

The population census conducted in the Philippines in 2010 for the first time included an ethnicity variable but no official figure for Indigenous Peoples has been released yet. The country's Indigenous population thus continues to be estimated at between 10% and 20% of the national population of 100,981,437, based on the 2015 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 United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), but the government has not yet ratified ILO Convention 169.

COVID-19 response and impacts

The Philippine government was caught unprepared by the COVID-19 pandemic. Even as cases were rising from January to February, the country remained open to travellers from China and other countries. Belatedly, the government imposed a total lockdown and enhanced community quarantine starting on 15 March 2020. This meant the cancellation of flights, restriction of movement in almost all provinces and cities, stoppage of work, closure of schools, 24-hour curfew, home quarantine for all except key workers, and the suspension of public transport except for emergency cases. Using a militarist approach to address the health crisis, the government mobilised the military and police to enforce health and security protocols and arrested alleged 177,540 violators of "quarantine violations",[1] including 52,535 detained as of 21 May 2020.[2]

This situation affected Indigenous communities in the country and disrupted the peoples' economic, political and social lives. Many lost their livelihoods, some were stranded in communities and cities with limited access to food supplies, basic health services or testing for COVID-19. Indigenous organisations responded to the pandemic by conducting relief operations, producing information materials on the virus and how to protect oneself, and marketing local products to provide a source of income for farmers. These efforts were undermined by the military in some areas where they dropped flyers from helicopters warning people not to avail themselves of relief goods being distributed by alleged "front organisations" of communist terrorists. The use of Indigenous knowledge and practices such as traditional community quarantine and herbal remedies was also reported.

The pandemic came in the midst of a worsening human rights situation under the administration of President Duterte. The COVID-19 crisis has accelerated the shrinking of democratic space in the country. In a push to implement its neo-liberal economic programmes and end the communist insurgency by 2022, the government has continued its so-called "war on drugs", intensified its counter-insurgency operations, and heightened political repression.

Legislation affecting Indigenous Peoples

On 24 March 2020, the Philippine Congress passed the Bayanihan to Heal as One Act (Republic Act No. 11469) declaring a state of national emergency, creating an inter-agency task force to combat the COVID-19 pandemic, imposing penalties for violations of the law, and granting the President additional authority to appropriate funds in order to finance stimulus packages and development projects.[3] The Bayanihan Act was shortly followed by Republic Act No. 113,32, creating guidelines for Enhanced Community Quarantine (ECQ). Together, these two laws were used to push Duterte's development agenda while inhibiting public mobilisation and protest. Indigenous organisations criticised the law for its provisions, which facilitated further violations of the people's civil, political and socio-economic rights.[4]

On 4 June 2020, the Accelerated Recovery and Investments Stimulus for the Economy of the Philippines (ARISE Philippines) was passed. The law allotted a PhP 1.3 trillion stimulus package, of which PhP 650 billion was allocated to enhance the government's Build Build Build infrastructure programme.[5] There are over 100 Build Build Build projects, many of which are to be constructed on Indigenous Peoples' territories.[6]

This was followed on 27 July 2020 by the passage of the Bayanihan to Recover as One Act (Bayanihan Act 2) "providing for COVID-19 response and recovery interventions and establishing mechanisms to accelerate recovery and bolster the resilience of the Philippine economy".[7] President Duterte is using his executive powers under these laws to divert and appropriate funds for the COVID-19 response as well as to fund infrastructure projects that will receive stimulus support.

On 3 July 2020, Republic Act No. 11479 or the Anti-Terrorism Act of 2020 was passed by Congress and signed into law by the President.[8] The law's vague definition of terrorism is so broad that it covers all acts intended to cause violence, destroy or kill. It violates the right to speech and prohibits legitimate grievances, without due process. It sets severe penalties for possible acts of terrorism, such as life imprisonment without parole. It sets up an Anti-Terrorism Council (ATC) composed of cabinet officials, which is authorised to "designate" individuals and organisations as terrorists. The ATC can order the arrest of persons designated as terrorists without formal warrant, and their detention in unspecified facilities without formal charges for between 14 and 24 days.

As a whole, the law is unconstitutional and violates the principle of the separation of powers of the different branches of government. It is designed to stop and prevent legitimate protest by curtailing fundamental freedoms and human rights. As of September 2020, a total of 34 petitions had been filed in the Supreme Court by various groups, including the Integrated Bar of the Philippines and Indigenous Peoples' organisations questioning the constitutionality of the law.[9]

Attacks on Indigenous Peoples

Following the issuance of Executive Order 70 by President Duterte in December 2018, the National Task Force to End Local Communist Armed Conflict (NTF-ELCAC) accelerated the government's counter-insurgency programme in 2020. Under the leadership of the National Security Adviser and the Chair of the National Commission on Indigenous Peoples (NCIP), the NTF-ELCAC aims not only to crush the armed resistance in the countryside but also to stop the alleged support coming from city-based progressive legal organisations. In the process, NTF-ELCAC is actively labelling Indigenous Peoples' organisations and non-government organisations as legal fronts of the Communist Party of the Philippines and New People's Army (CPP-NPA).[10] Indigenous Peoples' rights defenders safeguarding their ancestral domains from plunder are among those targeted and branded as communist fronts, their members vilified as terrorists through social media and the distribution of propaganda materials by the NTF-ELCAC.[11, 12]

Based on military intelligence reports, Indigenous communities are among the main supporters of the CPP-NPA. The military is thus implementing an "IP-centric" approach in its Whole-of-Nation counter-insurgency strategy.[13] The NTF-ELCAC is actively red-tagging Indigenous organisations, their leaders, support NGOs and advocates, resulting in a marked increase in violations of the individual and collective rights of Indigenous Peoples.

Comprehensive campaign to discredit & delegitimise Indigenous organisations

The government is targeting Indigenous Peoples' organisations using a combination of various strategies through the judicial, legislative and

executive branches. State laws and institutions such as the military, courts, police, local government units and national government agencies are weaponised to attack Indigenous Peoples' human rights defenders and deny them access to justice. Reports from the field show that development NGOs are vilified as alleged terrorists or leftists and are being denied access to communities for the delivery of relief and other services. In addition, the AFP has been deceiving and forcing members of local Indigenous Peoples' organisations to "clear" their names as supporters of the NPA and to renounce their membership of red-tagged organisations.

Terrorist-tagging worsened during the COVID-19 pandemic and is expected to intensify with the implementation of the Anti-Terrorism Act of 2020. The military has been using numerous Facebook accounts to spread lies, sow intrigue and destroy the reputation of Indigenous leaders who are good-standing citizens. One example is the case of Cordillera Peoples Alliance (CPA) Chair Windel Bolinget, who has been a victim of numerous malicious social media posts against him and his family.[14] In addition, tarpaulins, posters and leaflets maligning him and other CPA leaders and members have been scattered, in addition to death threats received by text, phone call and mail. The AFP is conducting a disinformation campaign in barangays referring to the CPA as a front organisation of the CPP-NPA-NDF.

The AFP and the DILG are aggressively pushing local government units to issue resolutions declaring CPA *persona non grata* and to post tarpaulins announcing this. All these moves point to a systematic campaign by the military to discredit and delegitimise CPA and to deprive the organisation of access to communities in the Cordillera region. There have also been attempts to deny the historical role of CPA in the Indigenous Peoples' movement. This was done through a series of Facebook posts by the Mayor of Sadanga municipality, spreading false information about the Cordillera people's movement and the CPA. Moves were also instigated by the Police Regional Office in the Cordillera (PRO-COR) to demolish the heroes' monument in Tinglayan, Kalinga, which was established by CPA and the local Butbut community to honour their valiant defence of the land from being submerged by the proposed Chico River dams during the 1970s and 80s.

In Mindanao, attacks against Lumad schools continued even dur-

ing the lockdown. From March to May 2020, the Save Our Schools (SOS) Network documented 32 attacks on Lumad schools, including forced closure, illegal arrest of students and aerial bombings. The latest count is 178 Lumad schools that have been forced to shut down since 2016, denying 5,500 students of their right to education.[15] Furthermore, under the "new normal" system of online classes and distance learning, Indigenous children are particularly disadvantaged since there is hardly any access to electricity, much less the Internet, in remote Indigenous communities.

Criminalisation, trumped up charges, killing

Republic Act No. 10,591, or the Comprehensive Firearms and Ammunition Regulation Act, has been used to falsely accuse, criminalise, arrest and detain Indigenous Peoples. No distinction is made between combatants and civilians. Trumped up criminal charges are being filed against Indigenous leaders and members through illegal searches, planting evidence of possession of firearms and explosives in order to file criminal charges, illegal arrest and detention, and denial of due process. Among the recent victims is Beatrice Belen, a staunch leader from Uma, Kalinga, active in the fight against the Chevron geothermal project in their community. She was arrested on 25 October 2020 after an illegal search on false charges of illegal possession of explosives. In Mindanao, Gloria Tumalon, a Manobo Indigenous activist and opponent of mining projects, was arrested in Surigao del Sur. Tumalon was one of 468 people accused of being an NPA member.[16]

In Zambales, four Indigenous Ayta community members (two male farmers and two female minors) were illegally arrested and subjected to torture such as force-feeding of faeces by the military. Japer Gurung and Junior Ramos were arrested while evacuating with their families from their ancestral land due to ongoing military operations. Criminal charges were filed against them including illegal possession of firearms, ammunitions and explosives. This case is the first publicly known criminal charge filed using the Anti-Terrorism Act of 2020.[17]

The most recent heinous incident happened in Panay Island on 30 December 2020 where nine unarmed, non-combatant Indigenous Tumandok leaders were massacred during a joint operation by the Phil-

ippine National Police, Army, and Criminal Investigation and Detection Group in Tapaz, Capiz. Family members of Eliseo Gayas were ordered out of their house. Armed operatives then entered and killed him outright with four gunshots. Meanwhile, Mario Aguirre's and Roy Giganto's houses were forcibly entered by operatives who then shot them both dead in their sleep, in the presence of their families. In the same operation, 16 other Indigenous Tumandok from different barangays in Calinog, Iloilo and Tapaz, Capiz were arrested using search warrants signed by a judge in Metro Manila. Those arrested had firearms and explosives planted on them as evidence and were charged with violating Republic Act 10,591 (Comprehensive Firearms and Ammunition Regulation Act of 2020) and RA 9,516 for illegal possession of explosives. Those killed and arrested were respected Indigenous leaders in their respective barangays who were strongly resisting the construction of the destructive Jalaur Mega and Pan-ay dams. Their ongoing fight to defend Indigenous Peoples' rights was the reason why they were tagged by the military as members of rebel groups.[18]

Continuing development aggression

Mining operations and other aggressive development projects were continuing in Indigenous territories even during the community quarantine. In July 2020, Sagittarius Mines, Inc. (SMI), developer of the US$ 5.9 billion Tampakan copper-gold project located in Indigenous B'laan territory in South Cotabato, "reacquired" its environmental compliance certificate (ECC), one of the requirements needed to proceed to the commercial production phase. The ECC of SMI, which was cancelled in 2017, was restored by the Office of the President (OP).[19] In a later welcome development, a court upheld a ban on open-pit mining in the province of South Cotabato.[20]

Another example is the Kaliwa, Kanan and Laiban dams in Quezon and Rizal provinces, which will displace thousands of Indigenous Dumagat and Remontado in order to supply water to Metro Manila. Construction of the access road to the project site continued during the lockdown. Another emblematic case is New Clark City in Central Luzon, which is displacing Indigenous Ayta from their ancestral land to make

way for a Sports Complex, an airport and special economic zone for foreign investors.[21]

Quarantine protocols were used to criminalise community members defending their land from mining operations by OceanaGold on ancestral lands. On 6 April 2020, around 100 police officers in full battle gear escorted company trucks bringing in fuel supplies for the mining operation and violently dispersed the barricade set up by Tuwali-Ifugao in Barangay Didipio, Nueva Vizcaya. The barricaders were trying to stop the continued destructive open-pit mining operation of OceanaGold given that its Financial and Technical Assistance Agreement with the government had already expired.[22] The incident led to the arrest of Rolando Pulido, chair of Indigenous organisation Didipio Earth Savers Movement Association (DESAMA), along with 14 others who were charged with violating the guidelines for Enhanced Community Quarantine and resistance to and disobedience of a person in authority. At least three women Indigenous barricaders were injured during the violent dispersal.[23] After a series of typhoons hit Luzon in October 2020, the tailings pond of OceanaGold overflowed spilling toxic mine waste on rice fields, gardens and streams.[24] Also in October, around 30 elements of the PNP from Nueva Vizcaya escorted 50 security guards from the mining company to deliver fuel to the mining site. Local barangay officials and environmental groups tried to prevent the illegal entry but the police allegedly threatened protestors with arrest.[25]

The Department of Environment and Natural Resources also reportedly plans to advance mining and river dredging in order to spur on the country's economic recovery programme.[26] Large-scale mining in the Philippines is highly destructive and is widely protested by affected Indigenous communities and environmental defenders in many parts of the country.

Further, the Department of Agriculture (DA) and National Commission on Indigenous Peoples (NCIP) jointly proposed implementing the Plant, Plant, Plant programme in Mindanao by targeting the ancestral lands of the Lumad as idle lands.[27] The government's plan is to take over ancestral lands for development by investing in commercial agriculture, palm oil plantations, mining, special economic zones, and other aggressive development projects. This poses a threat to Indigenous traditional farmers in their ancestral domains, as well as those who rely on the forests for their sustenance.

OHCHR report to the UN Human Rights Council

In response to resolution 41/2 of the UN Human Rights Council (HRC), the Office of the High Commissioner for Human Rights (OHCHR) presented a comprehensive report on the situation of human rights in the Philippines during its 44th Session in Geneva on 6 June 2020.[28] The report described the human rights situation in the Philippines as marked by an overarching focus on public order and national security, including countering terrorism and illegal drugs. The Philippine state was seen to have violated human rights in its response to countering terrorism and conflicts. Further, "red-tagging" or labelling of individuals and groups as communists or terrorists was seen as a persistent and powerful threat to civil society and freedom of expression.

Particular to the situation of Indigenous Peoples, the OHCHR report found that various controversial large-scale projects to which the Indigenous communities have not consented remain pending. Land and environmental rights defenders were among the documented killings of human rights defenders, with widespread impunity. Teachers and students of NGO-run Indigenous community learning centres were found to have been attacked and harassed.

Among the key recommendations for action by the Philippine government were to disband and disarm all private and State-backed paramilitary groups; review Executive Order 70 to ensure compliance with the rule of law and international human rights norms and standards; ensure full respect for the principle of free, prior and informed consent and meaningful participation at all stages of development projects that affect Indigenous communities; and ensure universal access of Indigenous children to quality education in line with their cultural identity, language and values. In response to the report, UNHRC passed a resolution during its 45th session on 7 October 2020 calling for "technical assistance and capacity-building" for domestic efforts on human rights and urging High Commissioner Michelle Bachelet to "provide support for the country in its continued fulfilment of its international human rights obligations and commitments". The resolution likewise noted the government's cooperation and participation with the UNHRC, including its "announcement of the creation of a review panel that would re-evaluate cases where deaths occurred during operations under the anti-illegal drugs campaign". Rights groups expressed disappointment with

the resolution "as it fell far short of the expectations of victims of human rights violations."[29]

In light of the continuing COVID-19 pandemic and the worsening human rights situation in the country, the general outlook for the coming year (2021) is bleak. Indigenous Peoples are bracing themselves for more difficult days ahead until the end of President Duterte's term in 2022.

Notes and references

1. IBON International. "CPDG: Philippine CSOs denounce human rights violations and closing civic space amid COVID-19." Last modified 26 May 2020. https://iboninternational.org/2020/05/26/cpdg-philippine-csos-denounce-human-rights-violations-and-closing-civic-space-amid-covid-19/
2. Torres-Tupas, Tetch. "What you need to know when arrested for quarantine violation." Inquirer, 22 May 2020. https://newsinfo.inquirer.net/1279565/what-arrested-for-quarantine-violators-need-to-know
3. UP sa Halalan. "A Primer Bayanihan to Heal as One Act 2020." https://polisci.upd.edu.ph/resources/bayanihan-primer/
4. Katribu. "Phil. IPs amidst Covid-19 pandemic." Special Report, June 2020. https://aippnet.org/wp-content/uploads/2020/06/IPs-and-Covid-19_-Katribu-Special-Report.pdf
5. Cepeda, Mara. "House approves P1.3-trillion economic stimulus package vs pandemic." Rappler, 4 June 2020. https://www.rappler.com/nation/house-3rd-reading-bill-economic-stimulus-package-coronavirus-pandemic
6. The Build Build Build programme of the Duterte administration was initiated in July 2018 as a flagship programme under the Philippine Development Plan (PDP) 2017-2022.
7. Eighteenth Congress of the Republic of the Philippines. Republic Act (RA) No. 11494, Bayanihan II Act. 27 July 2020. https://www.officialgazette.gov.ph/downloads/2020/09sep/20200911-RA-11494-RRD.pdf
8. Eighteenth Congress of the Republic of the Philippines. Republic Act (RA) No. 11479, Anti-Terrorism Act of 2020. 22 July 2019. https://www.officialgazette.gov.ph/downloads/2020/06jun/20200703-RA-11479-RRD.pdf Republic of the Philippines Department of Justice Anti-Terrorism Council. The 2020 Implementing Rules and Regulations of Republic Act No. 11479. 16 October 2020. https://www.doj.gov.ph/files/2020/news%20articles/IRR%20ATA%20 2020%20-%20CTC.PDF
9. Buan, Lian. "IBP files 34th petition: Hard to defend suspects under vague anti-terror law." Rappler, 12 September 2020. https://www.rappler.com/nation/ibp-34th-petition-anti-terror-law
10. Agoot, Liza. "IPs most affected by terrorist insurgency: NCIP chief." Philippine News Agency, 3 December 2019. https://www.pna.gov.ph/articles/1087719
11. Asia Democracy Chronicles. "New Normal, Old Crisis." Last modified 10 December 2020. https://adnasia.org/philippine-task-force-for-indigenous-peoples-rights-on-the-human-rights-situation-of-indigenous-peoples-during-the-covid-19-pandemic/
12. Katribu. "Phil. IPs amidst Covid-19 pandemic." Special Report, June 2020.

https://aippnet.org/wp-content/uploads/2020/06/IPs-and-Covid-19_-Katribu-Special-Report.pdf.

13. According to Katribu, in a report submitted to the UPR, the Whole of Nation Initiative of the Philippine Army identifies IP communities, particularly the Lumad in Eastern Mindanao, as part of the New People's Army (NPA). It states that in Eastern Mindanao "74% of the NPA are IP", and that "90% of the NPA bases are in ancestral domains".
14. Cordillera Peoples Alliance, 2020. "Appeal for Urgent Action on the Attacks Against the CPA and its Leaders." Facebook, 11 May 2020. https://www.facebook.com/cpaphils/posts/3052051951498312
15. Save Our Schools Network, 2021. "Save Our Schools Network's Facebook Page." Facebook. https://www.facebook.com/saveourschoolsnetwork
16. Aspinwall, Nick. "Philippines: brutal crackdown on activists and environmental defenders amid spread of Covid-19." Business & Human Rights Resource Centre, 6 April 2020. https://www.business-humanrights.org/en/latest-news/philippines-brutal-crackdown-on-activists-and-environmental-defenders-amid-spread-of-covid-19/
17. Torres-Tupas, Tetch. "Anti-Terror Law's first hit: Two Aetas from Zambales – group." Inquirer, 18 November 2020. https://newsinfo.inquirer.net/1362348/anti-terror-laws-first-hit-two-aetas-from-zambales-group#ixzz6iZcLN5Mp
18. Panay Today, 2021. "Panay Today's Facebook Page." Facebook. https://www.facebook.com/panaytoday
19. Sarmiento, Bong S. "Environmental certificate for Tampakan project 'restored' by Office of the President." Mindanews, July 11, 2020. https://www.mindanews.com/environment/2020/07/environmental-certificate-for-tampakan-project-restored-by-office-of-the-president/
20. Sarmiento, Bong S. "Philippine court upholds open-pit mining ban in Mindanao." Mongabay, 19 October 2020. https://news.mongabay.com/2020/10/philippine-court-upholds-open-pit-mining-ban-in-mindanao/
21. Beltran, Bernice. "Philippines' 'Smart City' Threatens Tribal Displacement." The Diplomat, 8 January 2020. https://thediplomat.com/2020/01/philippines-smart-city-threatens-tribal-displacement/
22. In a recent resolution, the Court of Appeal (CA) denied the petition of OceanaGold (Philippines), Inc., (OGPI) for an injunction allowing the resumption of its operations at Didipio mine in Nueva Vizcaya. The injunctive relief would have allowed the Didipio mine to keep operating pending its legal challenge against the 15 June 2019 order of Governor Carlos Padilla to shut down the mine in Barangay Didipio, Kasibu municipality. The closure order followed the expiry of a 25-year financial and technical assistance agreement (FTAA) on midnight of 20 June 2019. Abogado. "CA won't stop Didipio mine closure, but won't let OceanaGold save face by withdrawing case." Last modified 23 October 2020. https://abogado.com.ph/ca-wont-stop-didipio-mine-closure-but-wont-let-oceanagold-save-face-by-withdrawing-case/?fbclid=IwAR3PfASTyStfIIukYg3AZpUbh_UOVUahlo0RmvmMbcOEcL0Dh0QGI0f7Zxg
23. Visaya, Vince Jacob A. "Police dismantle human barricade." The Manila Times, 8 April 2020. https://www.manilatimes.net/2020/04/08/news/regions/police-dismantle-human-barricade/711197/
24. Judy Pasimio, LILAK, November 2020. https://www.facebook.com/judy.a.pasimio/posts/10216017927274827
25. Alyansa Tigil Mina. "ATM Statement on illegal entry of fuel trucks in Nueva Vizcaya." Last modified 26 November, 2020. https://www.alyansatigilmina.net/

single-post/2020/11/26/ATM-Statement-on-illegal-entry-of-fuel-trucks-in-Nueva-Vizcaya?fbclid=IwAR3R21qi_aeZKaKGj5eOqRdHMhA0ykIYmWY5pL_xIe_uHkuGf3Xm6fL7_yo

26. Magsino, Dona. "DENR eyes mining, river dredging to spur economic recovery amid COVID-19." GMA News,10 June 2020. https://www.gmanetwork.com/news/news/nation/742025/denr-eyes-mining-river-dredging-to-spur-economic-recovery-amid-covid-19/story/

27. DA Communications Group. "DA eyes idle ancestral lands as food prod'n areas." Department of Agriculture, 16 April 2020. https://www.da.gov.ph/da-eyes-idle-ancestral-lands-as-food-prodn-areas/

28. UN Human Rights Council. Report of the United Nations High Commissioner for Human Rights on the situation of human rights in the Philippines. 4 June 2020. https://reliefweb.int/report/philippines/report-united-nations-high-commissioner-human-rights-situation-human-rights

29. Subingsubing, Krixia. "UNHRC resolution: No drug war probe but support, cooperation for PH efforts on human rights." Inquirer, 7 October 2020. https://globalnation.inquirer.net/191417/unhrc-resolution-no-drug-war-probe-but-support-cooperation-for-ph-efforts-on-human-rights#ixzz6iZ6aNQBv

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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 (known by the derogatory term Chao-Khao). Nine so-called "hill tribes" are officially recognised: the Hmong, Karen, Lisu, Mien, Akha, Lahu, Lua, Thin and Khamu.[1]

The estimated Indigenous population in Thailand is around five million people, which accounts for 7.2% of the total population.[2] According to the Department of Social Development and Welfare (2002), the total officially recognised "hill-tribe" population numbers 925,825 and they are 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 in South-East Asia were drawn during the colonial era, and as a result in the wake of decolonisation, many Indigenous Peoples living in remote highlands and forests were 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 constitutional monarchy and has ratified or is a signatory to the Convention on Biological Diversity (CBD), the United Nations 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 Convention on the Elimination of All Forms of Racial Discrimination (CERD) and the Universal Declaration of Human Rights. It voted in support of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) but does not officially recognise the existence of Indigenous Peoples in the country.

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.

COVID-19 pandemic: its impacts and Indigenous Peoples' response

The coronavirus outbreak in Thailand began in January 2020. The first reported local transmission was confirmed on 31 January. The number of cases remained low in the beginning but rapidly increased in mid-March 2020, forcing the government to take drastic measures to deal with the situation, such as the closure of public places and businesses in Bangkok and several other provinces. Later, on 25 March, Prime Minister Prayut Chan-o-cha declared a state of emergency, followed by a curfew in early April 2020 to control the situation. The country was in lockdown.

These measures were considered effective in controlling the spread of the disease. At the same time, however, they also very negatively affected the country's economy and the way of life of ordinary people, including Indigenous Peoples.

Impact on Indigenous Peoples in Thailand

Many communities felt anxiety and panic over the spread of the disease. Some communities decided to lock down their villages for at least two weeks and perform specific rituals to protect their village members, such as the "*Kraw Yee* ceremony" of the Pga K'nyaw people, the "*Pua Sia*" ceremony of the Mien people, etc.

Indigenous Peoples who had migrated to live in the city faced greater problems. Many of them became unemployed and suffered a lack of income after companies and businesses were temporarily shut down. They lacked sufficient food to sustain their families. They had no land to farm and could not travel back to their communities.[4]

For those who live in forest areas and still practise traditional farming systems, the impacts were minimal. They had enough food from their farms and surrounding forest to feed their families for more than a month without leaving their communities. However, some farm produce such as cabbages, tomatoes, pumpkins, etc., could not be transported and sold in the city as all markets were closed in line with the lockdown measures imposed by the government. This resulted in a loss of income

and funds for investment.

In addition, the price of some products sky-rocketed as there was great demand but insufficient supply of goods such as dry foods, canned foods, eggs, salt, face masks, hand sanitizer, etc.

Helping each other

Given the above, a large number of Indigenous Peoples' organizations, civil society groups, academic institutions and Indigenous communities formed an ad-hoc self-help group to find ways to support and help each other. The actions of this group included: mobilizing foods (rice, vegetables, shallots, etc.) from various sectors, including from Indigenous communities, in order to help communities and people affected by the epidemic, especially those living in the city; an exchange of rice for fish between Indigenous Peoples living in the north and south of Thailand; training village leaders on how to make simple sanitizing hand gel and face masks; sharing information on the coronavirus and basic prevention measures in different Indigenous languages (e.g. Hmong,[5] Karen,[6] Lisu,[7] Dara-ang and Mien languages) in order to reach out to Indigenous communities in different areas through social media platforms and applications such as Line, Facebook and YouTube.

The situation of the pandemic began to improve from May on. The number of new infections gradually decreased and even fell to zero. The government therefore eased the restrictions step by step. The state of emergency, however, remained in effect.

A second wave of the virus broke out in Samut Sakhon province in early December 2020 and spread rapidly to nearby provinces. The government has already imposed the necessary measures to contain the spread of disease. Many Indigenous communities have also begun locking down their communities and closely monitoring the situation and information from the Centre for COVID-19 Situation Administration (CCSA).[8]

Land surveys according to the new National Park law

AThe Thai government passed several forestry laws in 2019.[9] One of them was the National Park Act which came into effect on 25 November

2019. According to Articles 64 and 65, this law requires the park authorities to conduct a land-use survey of all villages located in the park areas. This has to be undertaken within 240 days of the date the law comes into force. Due to the spread of COVID-19, the land survey process has been delayed. Several areas have been unable to complete the survey or have not had time to re-check the information gathered.[10] This will become a problem later on as some villagers could lose their land rights and consequently face legal action when they farm their lands.

The land-use survey process has, however, been rejected altogether by some Indigenous individuals and families such as in the Kaeng Krachan forest complex (KKFC) area and in some communities in the north, stating that the government should recognize their traditional land tenure rights. The land-use survey will only provide the communities with a temporary use right. Communities have to renew this permit once every 20 years and it will be subject to certain conditions. This makes villagers feel very insecure. They propose using the measures in the Cabinet Resolution of 3 August 2010 (revitalization of Karen traditional livelihoods) as a mean of resolving the land problems. It is more appropriate and relevant to the Indigenous Peoples' way of life.

Another issue related to the new park law is the enactment of a decree to elaborate on the scope of work under Articles 64 and 65 of the law. The draft decree has been completed and opened for an online public hearing.[11] This process was strongly protested by P-Move (Peoples' Movement for a Just Society), civil society organizations and Indigenous communities as the law has a significant impact on a large number of people, especially those living in protected areas – most of whom do not have access to the Internet nor to devices to engage in the consultation. The National Parks Department finally agreed to conduct additional public hearings in different sub-regions before finalizing the decree.[12] The dates will be determined once the pandemic has subsided.

Study on the problems faced by Indigenous Peoples approved by National Legislative Assembly

The Parliamentary Standing Committee on Children, Youth, Women, Elderly, Disabled, Ethnic Groups and LGBTQ people (PSC) conducted a study into the situation, problems and ways of promoting and protecting

ethnic groups in Thailand in mid-2020. The study was presented to and approved by the National Legislative Assembly on 16 December 2020.[13] The outcomes and findings of the study will be used as a framework to formulate and/or enact a specific policy and law to protect and promote the rights of Indigenous Peoples and ethnic groups in Thailand.

The study identified the key problems and challenges facing Indigenous Peoples. These include the lack of a comprehensive policy addressing the needs and problems of Indigenous Peoples. Their rights to land and resources have still been ignored.

The Committee recommended that:

1. The government should expedite the enactment of a "Draft Act on Promotion and Protection of Ethnic Groups B.E (Buddhist Era)".

2. The Sirindhorn Anthropology Centre (Public Organization) should consider the merging of two draft laws – the draft law on the Promotion and Preservation of Ethnic Groups' Livelihoods B.E and the draft law on the Council of Indigenous Peoples in Thailand B. E – so that the single, integrated law could easily be considered by members of parliament.

3. The Ministry of Natural Resources and Environment, the Department of National Parks, Wildlife and Plant Conservation and the Royal Forestry Department should act in accordance with the Cabinet Resolution of 3 August 2010 on policy guidelines for the revitalization of Karen traditional livelihoods. Any prosecution of Indigenous Peoples as a result of the enforcement of recently adopted forestry laws (e.g. the Community Forestry Act, Wildlife Sanctuary Act 2019 or the National Park Act 2019) that directly affects the livelihoods or lifestyle of Indigenous groups should be deferred.

4. The Ministry of the Interior should expedite the process of granting Thai citizenship to eligible Indigenous and ethnic groups in order to gain access to education and other rights such as medical treatment, and welfare for the elderly and disabled.

The 4th nomination of Kaengkrachan Forest Complex (KKFC) as a natural World Heritage site by the Thai government

At a press conference in January 2020, the Thai government clearly stated that Thailand would again nominate the KKFC for consideration at the next World Heritage Committee meeting. This has created considerable anxiety among the local Karen communities with regard to the continuation of their traditional lifestyle and farming and use of forest resources in the area.

In response, together with their allies, the Karen Network for Culture and Environment (KNCE) in the west conducted a public dialogue on 16 December 2020 to monitor and examine the Thai government's actions in addressing the problems cited and recommendations made by the Office of the High Commissioner for Human Rights (OHCHR)[14] as well as the recommendations of the Karen communities suffering the impact of those problems to ensure that the registration of the KKFC as a World Heritage site is founded on the genuine participation of the affected communities in all respects.

In the dialogue, villagers stated that many problems had not yet been addressed, such as land rights issues, the expansion of the protected area boundary to overlap with villagers' farmlands and settlement areas, charges made against villagers who are not participating in the land-use survey and registration under the 30 June 1998 Cabinet Resolution framework.

The 44th meeting of World Heritage sites has been postponed until an unspecified date in June or July 2021 in Fuzhou, China due to the COVID-19 virus pandemic. The KNCE will closely monitor the discussion.

Progress in drafting a new law on promoting and protecting the rights of Indigenous Peoples

Three draft laws on the promotion and protection of the rights of ethnic groups and Indigenous Peoples are currently being reviewed and finalized. These include:

1. The draft law on the Council of Indigenous Peoples in Thailand B.E.[15] The Executive members of the Council of Indigenous Peoples (CIPT) agreed to conduct another round of review before tabling this for cabinet consideration.
2. The draft law on the Promotion and Protection of Ethnic Group B.E. This has been drafted by the Parliamentary Standing Committee (PSC). It will be opened up for another round of public hearings before being submitted to Parliament for consideration.
3. The draft law on the Promotion and Preservation of Ethnic Group's Livelihoods B.E. This draft has been prepared by the Sirindhorn Anthropology Centre (SAC). It is considered a governmental draft law. It is being discussed and will be finalized in March this year.

These three draft laws have some similarities and differences. The challenge is how to ensure these draft laws are integrated, complementary to each other and address the real needs of Indigenous Peoples.

Indigenous Peoples' Day celebrations

The Indigenous Peoples' Day celebrations are held annually on 9 August. This year, due to the spread of COVID-19, the event was split up and held in four different sub-regions (north-east, west, south and north). The aim was to mainstream the issue of Indigenous Peoples and strengthen solidarity among Indigenous Peoples in Thailand.[16]

Notes and references

1. Ten groups are sometimes mentioned, with the Palaung also included in some official documents. The Department of Social Development and Welfare's 2002 Directory of Ethnic Communities in 20 northern and western provinces also includes the Mlabri and Padong.
2. From the Council of Indigenous Peoples in Thailand's (CIPT) report.
3. Composed of Moken, Moklen and Urak-rawoy.
4. IMN Voices. 2021. "ชนเผ่าฯ ปันน้ำใจ ฝ่าโควิด-19." Facebook, 20 April 2020. https://www.facebook.com/media/set/?vanity=imnvoices&set=a.1612844622197555
5. UNDP Thailand. 2021. "7 Steps to prevent the Spread of COVID-19." khun Pojong Seng-kue, Hmong ethnic community. Facebook, 2 May 2020. https://www.

facebook.com/UNDPThailand/videos/255547295626332
6. UNDP Thailand. 2021. "7 Steps to prevent the Spread of COVID-19." Khun Masu, Karen ethnic community. Facebook, 24 April 2020. https://www.facebook.com/UNDPThailand/videos/2600431686728828
7. Asia Indigenous Peoples' Pact. 2021. "Message from Mr. Sakda Saemi (Lisu), Director of IMPECT and NIPT Coordinator." Facebook, 23 April 2020. https://www.facebook.com/AIPPnet.org/videos/264172371641805
8. A central response centre established by the government to deal with the spread of COVID-19.
9. Rattanakrajangsri, Kittisak. "Thailand." In The Indigenous World 2020, edited by Dwayne Mamo, 335-336. IWGIA, 2020. http://iwgia.org/images/yearbook/2020/IWGIA_The_Indigenous_World_2020.pdf
10. Transborder News. "ครบ 240 วันสำรวจถือครองที่ดินในป่าอนุรักษ์-ชาวบ้านโวยตกหล่นอื้อ นักกฎหมายแนะออก พรก.ขยายเวลา." 21 July 2020. https://transbordernews.in.th/home/?p=25616
11. Thai National Park. ขอเชิญร่วมแสดงความคิดเห็นประกอบการจัดทำร่างกฎหมายลำดับรองตามพระราชบัญญัติสงวนและคุ้มครองสัตว์ป่า พ.ศ. 2562 [Invitation to express their opinions in conjunction with the preparation of a draft law under the Wildlife Preservation and Protection Act B.E.] http://portal.dnp.go.th/Content?contentId=18216
12. Mr.Prayong Doklamyai (an advisor to the Peoples' Movement for a Just Society (P-Move)). Interview, 16 December 2020, Nong Ya Plong district.
13. National Legislation Assembly, Government of Thailand. "Study Report." 16 December 2020. http://edoc.parliament.go.th/getfile.aspx?id=731811&file=(4)+%E0%B8%8A%E0%B8%B2%E0%B8%95%E0%B8%B4%E0%B8%9E %E0%B8%B1%E0%B8%99%E0%B8%98%E0%B8%B8%E0%B9%8C.pdf&download=1
14. OHCHR Regional Office South-East Asia. "Supplemental Information concerning the application to designate Kaeng Krachan Forest Complex (Thailand) as a UNESCO World Heritage Site. 30 April 2015. https://drive.google.com/file/d/18t8Rkgm5Z7q4O_KUHLMNJoWlrrclpO5l/view
15. Brache-a, Rfoo. "ร่าง พ.ร.บ. สภาชนเผ่าพื้นเมืองแห่งประเทศไทย พ.ศ.." IMN Voices. 23 December 2020. https://imnvoices.com/%e0%b8%a3%e0%b9%88%e0%b8%b2%e0%b8%87-%e0%b8%9e-%e0%b8%a3-%e0%b8%9a-%e0%b8%aa%e0%b8%a0%e0%b8%b2%e0%b8%8a%e0%b8%99%e0%b9%80%e0%b8%9c%e0%b9%88%e0%b8%b2%e0%b8%9e%e0%b8%b7%e0%b9%89%e0%b8%99%e0%b9%80/
16. North Public News. "ชนเผ่าพื้นเมืองปี 63 ขู่มั่นคงทางอาหาร "ปันรัก ปันสุข จากภูผาสู่มหานที"." 8 August 2020. http://www.northpublicnews.com/%E0%B8%8A%E0%B8%99%E0%B9%80%E0%B8%9C%E0%B9%88%E0%B8%B2%E0%B8%9E%E0%B8%B7%E0%B9%89%E0%B8%99%E0%B9%80%E0%B8%A1%E0%B8%B7%E0%B8%AD%E0%B8%87%E0%B8%9B%E0%B8%B5-63-%E0%B8%8A%E0%B8%B9%E0%B8%A1%E0%B8%B1/

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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 Minority (EM) groups. These groups comprise an estimated 14.1 million people or around 14.7% of the country's total population of about 96 million. Each EM 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 EM have Vietnamese citizenship, and Vietnam's constitution recognizes that all people have equal rights. Among EM communities, there is a higher proportion of peoples living in poverty. Multidimensional poverty rates in the Northern Mountains and Central Highlands regions, where the majority of EM live, is more than two times higher than the national average. The proportion of people without education certificates in EM groups is double that of the Kinh and Hoa (Chinese-Vietnamese) ethnic groups. In addition, the gaps in income and expenditure between the EM and Kinh and Hoa people have widened over recent years.[1]

Vietnam is a member of seven out of nine core international human rights instruments and continues to consider the possibility of accession to the International Convention for the Protection of all Persons from Enforced Disappearances (CPED) and the International Convention on the Protection of all Rights of Migrant Workers and their families (ICRMW). Vietnam has not ratified ILO Convention No.169[2] and, although Vietnam voted in favour of the UNDRIP, it does not recognize ethnic minorities as Indigenous Peoples.

Vietnam has introduced a number of policies, laws and programmes[3, 4, 5, 6] in recent years, developed with consideration of the core international human rights instruments to which Vietnam is a party.

In April, Prime Minister Nguyễn Xuân Phúc approved a programme entitled "Protection and development of EM in the 2021 - 2030 period".

This programme, which targets EM with very small populations, i.e. those with populations of less than 10,000, will be implemented in 12 provinces and will address the social and health issues affecting these groups, including maternal and child health, malnutrition, child marriages, etc.[7]

In June 2020, the National Assembly adopted a landmark programme, the National Target Programme (NTP) on Social and Economic Development for Ethnic Minority Groups and Mountainous Areas for 2021-2030. This programme is the first of its kind in that it addresses various issues contributing to the low socio-economic indicators of the EM and it is expected to boost socio-economic development in these areas and drastically reduce poverty amongst the EM. The programme sets multiple targets in the socio-economic sphere, the environment and biodiversity protection, etc. Due to the limited capacity of the national budget, the programme will initially prioritize improving local livelihoods and infrastructure in dire need, housing, production land allocations and clean water for EMs. In September, Prime Minister Nguyễn Xuân Phúc approved the programme's implementation plan.[8]

In addition to the NTP, the government took a number of decisions in 2020 that are of immediate relevance to EMs.

In December, the government introduced a priority regime of admission to public education institutions for EM students, specifically mentioning EMs with small population or EMs from areas with difficult socio-economic conditions where there are few if any EM holding public offices or working as civil servants and public employees. The system will come into effect in January 2021.[9]

Also in December, Prime Minister Nguyễn Xuân Phúc approved an extension of the government project "Strengthening international cooperation to support socio-economic development in ethnic minority areas" to 2025. The project, initiated in 2013, aims to boost support and investments in EM areas and exchange of experiences with other countries, promote cooperation and exchange of experiences with international organizations, overseas collectives and individuals and thus contribute to the successful and effective implementation of the NTP.[10]

In December, the Ministry of Culture, Sports and Tourism issued a guideline on the Regular organization of festivals, exchanges, cultural, sports and tourism events in EM areas and nationally for the period

2021-2030. In the true spirit of a highly centralized state, the guideline details the frequency, structure, award structure and awards, as well as processes around organizing festivals. The overall aim of the guideline is to assist local authorities with the preparation and organization of events, ensuring "appropriate scale and frequency, to avoid spread of ostentation and waste and, at the same time, encourage people. To ensure that ethnic minorities preserve and promote traditional cultural values in the process of national integration and development".[11]

COVID-19 in Vietnam

The first COVID-19 case in Vietnam was recorded on 23 January 2020. In March and August 2020, the country experienced a second and third wave of COVID-19. As of the end of 2020, there had been 1,445 cases recorded and 35 deaths.[12] According to the report of the Committee for Ethnic Minority Affairs (CEMA), there were only five EM people who tested positive with COVID-19, and all of them recovered.

The pandemic and, particularly social distancing policies, have had a major impact on the livelihoods and well-being of EM people.

On the one hand, the negative impact was due to the inadequate healthcare infrastructure available in areas inhabited by EM, most of them living in mountainous areas far from hospitals and clinics. Health facilities that are accessible to them often do not have the necessary equipment to treat COVID-19. Moreover, there has also been an evident lack of access to correct information about the virus, either because of limited access to the Internet or due to an absence of information in some EM languages, or because of the widespread dissemination of inaccurate information.

However, the most profound effect of the pandemic on EMs was not that of the disease itself but of the measures implemented to prevent its spread. Due to movement restrictions, EM could not access their usual markets and hence could not sell their produce. This, in turn, resulted in EMs being unable to gain a return on their investments or pay off loans and, consequently, not only being unable to buy necessary supplies for the next crop but also risking falling into further debt.

In addition, many migrant workers, mostly men, who lost their jobs in cities and abroad moved back, often without any savings, to their

home communities. These people, who in normal circumstances are seen as a source of income for their families, have been turned by the pandemic and by the government measures adopted in response to it, into an additional burden for households that were already in a precarious situation, often due to a scarcity of farmland (which is the most common reason for migrants to leave their home communities). Given that most of the domestic work is on the women's shoulders, this also meant a further burden for EM women in these households. On some occasions, migrant workers found themselves stranded in cities without any funds or income, unable to return to their home communities. The loss of income due to COVID-19-related restrictions on movement has resulted in many people falling into poverty and, as a result, there has been an increase in the number of people falling victim to human trafficking.[13] The pandemic has also badly affected the practice of labour exchange which, in some cases, resulted in a reduction in agricultural production.

Finally, in the periods of lockdowns, impoverished EM children were not only absent from school but, due to the lack of mobile Internet devices, were unable to access online schooling.[14]

Since the outbreak of the pandemic, the Government of Vietnam has implemented various measures to reduce the negative impact of the pandemic on the population. Among others, the government has subsidized a reduction in electricity prices for workers whose contracts were terminated or who were forced to take unpaid leave, as well as for poor households and those on the brink of poverty.[15]

Unfortunately, the government support was not designed to address all the complexities of the EM situation. For example, the government's VND 62,000 billion (approx. USD 2.6 billion) package was not made available to migrant workers who returned home to their native communities.

Only a small proportion of migrant workers received any assistance and this mostly came in the form of food assistance from foreign agencies and local social assistance groups.[16] For example, in Ha Giang province in northern Vietnam, with funding and cooperation from the Government of Japan and the Multilateral Trust Fund, the UN Development Fund provided support to 1,200 poor EM households whose livelihoods had been severely affected by COVID-19. In addition, 600 members of the linen cooperatives in the same province were support-

ed financially since those cooperatives were forced to close because of the virus. Through this support, people had funding for essential needs as well as to recover their livelihoods, such as purchasing seedlings, cattle and similar, and personal protective equipment for pandemic prevention.[17] In Lao Cai province, also in northern Vietnam, UN Women and the Lao Cai Women's Union organized a programme entitled "Giving multi-purpose monetary assistance to EM women affected by COVID-19". The programme offers financial support so that those affected by the pandemic can buy food, essential items and invest in their livelihoods for recovery.[18]

However, most of the support received by EMs was directed at supporting the daily food needs of those affected and did not address the issue of recovery from the mid- to long-term effects of the pandemic.

Notes and references

1. United Nations. "One UN Results Report 2019, Vietnam." 2019, p.9 https://vietnam.un.org/sites/default/files/2020-07/2019%20One%20UN%20Results%20Report_English_Final.pdf
2. International Labour Organization (ILO). "Up-to-date Conventions and Protocols not ratified by Viet Nam." 2021. https://www.ilo.org/dyn/normlex/en/f?p=1000:11210:0::NO:11210:P11210_COUNTRY_ID:103004
3. Open Development Vietnam. "Decision No. 1557/QD-TTg approving a number of MDG indicators for ethnic minorities associated with the SDGs after 2015." 10 September 2015. https://data.vietnam.opendevelopmentmekong.net/en/dataset/decision-no-1557-qd-ttg-approving-a-number-of-mdg-indicators-for-ethnic-minorities-associated-with- Government of Vietnam. "The National Action Plan for the implementation of the 2030 sustainable development agenda." 10 May 2017. https://vietnam.un.org/index.php/en/4123-national-action-plan-implementation-2030-sustainable-development-agenda#:~:text=The%20National%20Action%20Plan%20to,were%20approved%20at%20the%20Summit
4. Hoàng, Trung Hải. "ON APPROVAL OF THE NATIONAL ACTION PROGRAM ON REDUCTION OF GREEN-HOUSE GAS EMISSIONS THROUGH EFFORTS TO REDUCE DEFORESTATION AND FOREST DEGRADATION, SUSTAINABLE MANAGEMENT OF FOREST RESOURCES, AND CONSERVATION AND ENHANCEMENT OF FOREST CARBON STOCKS" 2011 – 2020." 27 June 2012. https://vanbanphapluat.co/decision-no-799-qd-ttg-on-approval-of-the-national-action-program-on-reduction
5. Ủy ban Dân tộc. "Quyết định Ban hành Chương trình hành động thực hiện Kế hoạch phát triển kinh tế - xã hội vùng đồng bào dân tộc thiểu số và miền núi giai đoạn 2021-2025." 21 August 2020. http://csdl.ubdt.gov.vn/noidung/vanban/Pages/chi-tiet-vbpq.aspx?ItemId=20174
6. The Parliament of Vietnam. "Resolution 88/2019/QH14 on approving Master

Plan on Socio-economic development of Ethnic Minorities and Mountainous areas 2021-2030." 2019. https://data.vietnam.opendevelopmentmekong.net/en/dataset/resolution-88-2019-qh14-on-approving-master-plan-on-socio-economic-development-of-ethnic-minorities/resource/806057e1-14a1-4883-af3b-ad69d0cd87a7

7. There are 16 EMs with a population of less than 10,000 people, of which 05 have under 1,000 people, with a total of 74,359 people, accounting for 0.08% of the national population, equivalent to 0.55% of the EM population. Nguyên, Phương. "Nâng cao chất lượng dân số của các dân tộc thiểu số rất ít người." Mặt trận, 12 July 2020. http://tapchimattran.vn/dai-doan-ket/nang-cao-chat-luong-dan-so-cua-cac-dan-toc-thieu-so-rat-it-nguoi-36171.html
8. Committee for Ethnic Minority Affairs. "Thủ tướng Chính phủ Nguyễn Xuân Phúc ký Quyết định ban hành kế hoạch triển khai Chương trình mục tiêu quốc gia phát triển KT-XH vùng đồng bào DTTS và miền núi giai đoạn 2021-2030." 17 September 2020. http://cema.gov.vn/phat-trien-kinh-te-xa-hoi-vung-dong-bao-dan-toc-thieu-so-va-mien-nui.htm
9. Committee for Ethnic Minority Affairs. "Quy định mới về chế độ cử tuyển đối với học sinh, sinh viên dân tộc thiểu số." 15 December 2020. http://cema.gov.vn/tin-tuc/tin-tuc-su-kien/y-te-giao-duc/quy-dinh-moi-ve-che-do-cu-tuyen-doi-voi-hoc-sinh-sinh-vien-dan-toc-thieu-so.htm
10. Committee for Ethnic Minority Affairs. "Kéo dài hỗ trợ phát triển KT - XH vùng đồng bào dân tộc thiểu số đến năm 2025." 22 December 2020. http://www.cema.gov.vn/tin-tuc/tin-tuc-su-kien/chu-truong-chinh-sach/keo-dai-ho-tro-phat-trien-kt-xh-vung-dong-bao-dan-toc-thieu-so-den-nam-2025.htm
11. Committee for Ethnic Minority Affairs. "Tổ chức định kỳ ngày hội VHTTDL vùng đồng bào dân tộc thiểu số." 21 December 2020. http://www.cema.gov.vn/tin-tuc/tin-tuc-su-kien/van-hoa-van-nghe-the-thao/to-chuc-dinh-ky-ngay-hoi-vhttdl-vung-dong-bao-dan-toc-thieu-so.htm
12. Google. "COVID-19 Map." 2021. https://news.google.com/covid19/map?hl=vi&mid=%2Fm%2F01crd5&gl=VN&ceid=VN%3Avi
13. Vu Thanh Long, iSEE, Vietnam Pioneer Network. "BÁO CÁO CHUYÊN ĐỀ." 2020. http://isee.org.vn/wp-content/uploads/2020/09/Tac-dong-Covid-toi-mot-so-cong-dong-dan-toc-thieu-so.pdf
14. Vu Thanh Long, iSEE, Vietnam Pioneer Network. "BÁO CÁO CHUYÊN ĐỀ." 2020. http://isee.org.vn/wp-content/uploads/2020/09/Tac-dong-Covid-toi-mot-so-cong-dong-dan-toc-thieu-so.pdf
15. THƯ VIỆN PHÁP LUẬT. "QUY ĐỊNH VỀ VIỆC THỰC HIỆN CÁC CHÍNH SÁCH HỖ TRỢ NGƯỜI DÂN GẶP KHÓ KHĂN DO ĐẠI DỊCH COVID-19." 24 April 2020. https://thuvienphapluat.vn/van-ban/lao-dong-tien-luong/Quyet-dinh-15-2020-QD-TTg-ho-tro-nguoi-dan-gap-kho-khan-do-dich-COVID19-441047.aspx; BÁO ĐIỆN TỬ. "Mở rộng đối tượng được hỗ trợ do ảnh hưởng của COVID-19." 19 October 2020. http://baochinhphu.vn/Chi-dao-quyet-dinh-cua-Chinh-phu-Thu-tuong-Chinh-phu/Mo-rong-doi-tuong-duoc-ho-tro-do-anh-huong-cua-COVID19/411244.vgp; BỘ LAO ĐỘNG. "Chính phủ ban hành Nghị quyết số 154/NQ-CP sửa đổi, bổ sung một số biện pháp hỗ trợ người dân gặp khó khăn do đại dịch COVID-19." 21 October 2020. http://www.molisa.gov.vn/Pages/tintuc/chitiet.aspx?tintucID=223218; Ministry of Health Portal. "Chỉ thị số 15/CT-TTg của Thủ tướng Chính phủ : Về quyết liệt thực hiện đợt cao điểm phòng, chống dịch COVID-19." 27 March 2020. https://moh.gov.vn/web/dich-benh/cac-van-ban-chi-dao-cua-dang-nha-nuoc/-/asset_publisher/zRev3D15XCJB/content/chi-thi-so-15-ct-ttg-cua-thu-tuong-chinh-phu-ve-quyet-liet-thuc-hien-ot-

cao-iem-phong-chong-dich-covid-19; Ministry of Health Portal. "Thủ tướng Chính phủ vừa ban hành Chỉ thị số 16/CT-TTg ngày 31/3/2020 về thực hiện các biện pháp cấp bách phòng, chống dịch COVID-19." 31 March 2020. https://moh.gov.vn/web/dich-benh/cac-van-ban-chi-dao-cua-dang-nha-nuoc/-/asset_publisher/zRev3D15XCJB/content/thu-tuong-chinh-phu-vua-ban-hanh-chi-thi-so-16-ct-ttg-ngay-31-3-2020-ve-thuc-hien-cac-bien-phap-cap-bach-phong-chong-dich-covid-19

16. Vu Thanh Long, iSEE, Vietnam Pioneer Network."BÁO CÁO CHUYÊN ĐỀ." 2020. http://isee.org.vn/wp-content/uploads/2020/09/Tac-dong-Covid-toi-mot-so-cong-dong-dan-toc-thieu-so.pdf
17. Tạp chí điện tử Bảo hiểm Xã hội. "UNDP hỗ trợ người dân tộc thiểu số nghèo bị ảnh hưởng bởi Covid-19 tại Hà Giang." 23 December 2020. http://baobaohiemxahoi.vn/vi/tin-chi-tiet-undp-ho-tro-nguoi-dan-toc-thieu-so-ngheo-bi-anh-huong-boi-covid19-tai-ha-giang-5d8bd00f.aspx
18. Committee for Ethnic Minority Affairs. "Hỗ trợ tiền cho phụ nữ dân tộc thiểu số bị ảnh hưởng bởi đại dịch Covid-19." 4 December 2020. http://www.cema.gov.vn/phong-chong-dich-covid-19/thong-tin-tuyen-truyen/ho-tro-tien-cho-phu-nu-dan-toc-thieu-so-bi-anh-huong-boi-dai-dich-covid-19.htm

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Central and South America and the Caribbean

Argentina

BOLIVIA
CHILE
PARAGUAY
PACIFIC OCEAN
BRAZIL
URUGUAY
Buenos Aires
ARGENTINA
ATLANTIC OCEAN

Argentina comprises 23 provinces with a total population of approximately 40 million. The most recent national census (2010) gave a total of 955,032 people who self-identify as descended from or belonging to an Indigenous people. There are 35 different officially recognised Indigenous Peoples in the country. They legally hold specific constitutional rights at the federal level and in various provincial states.

In addition, ILO Convention 169 and other universal human rights instruments such as the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic and Social and Cultural Rights (ICESCR) are of constitutional force in the country. Argentina voted in favour of the UN Declaration on the Rights of Indigenous Peoples.

Health emergency: the impact of COVID-19 on Indigenous Peoples

The year 2020 will be remembered as "the year of the pandemic", a phenomenon that has affected all of humankind and whose impact is still difficult to measure. While the emergence of different vaccines heralds some improvement in the medium term, the truth is the consequences will remain with us for several years to come. Indigenous Peoples were not untouched by this extraordinary situation. On the contrary, their vulnerabilities meant they suffered a greater impact than other sectors due to the reality of their health status, the phenomena of racism and discrimination, and a deepening of institutional violence. All this resulted in a deterioration in their overall situation.

It is interesting and relevant to consider the time variable in this analysis – a diachronic perspective – as this enables us to reflect on a pre-pandemic time, a pandemic time and a future post-pandemic time. This perspective is closely linked to processes of visibility/invisibility which, in some cases, conceal or disguise long-standing structural problems and deficiencies and, in others, emphasise an unwavering stance on the part of Indigenous Peoples in their relationship with and defence of nature, denouncing the depredatory advance of an environment whose effects are causing the global health emergency.[1]

The endemic and concomitant diseases that exacerbate COVID-19, such as diabetes, malaria, dengue fever and tuberculosis, are present in Indigenous communities and weaken their ability to deal with the virus. In addition, food insecurity and a lack of water[2] only aggravate an already very worrying situation.[3] In Argentina, the definition of "vulnerable groups" was even broadened to include Indigenous Peoples (alongside health workers and residents of "popular neighbourhoods" – a euphemism for shantytowns), demonstrating the state's admission of the worrying situation in Indigenous communities and their special health status (Ministry of Health, 2020).

Alongside this, the Emergency Committees set up across the country to establish guidelines and policies for addressing COVID-19 did not have – and nor do they have at the time of writing – any Indigenous participation or presence. At a time when it is a priority to ascertain the needs and requirements of each sector, all the more so for Indigenous communities that find themselves in differing situations (some with difficulties in accessing water, an essential element in confronting the pandemic), their absence from decision-making is inexplicable, and also a sign that they are not seen as a major player on the national political scene.

The explanation for their absence from the public debate – the fact that they were not invited to take part, beyond some national-level actions that attempted to mitigate these deficits – is clearly a reflection of the discrimination and racism that form the Indigenous reality in Argentina. An example will illustrate what I mean. A few months after the start of the pandemic, in Fontana town in Chaco (near the city of Resistencia, the provincial capital), the police entered the home of a Qom family – without a search warrant and in violation of all constitutional guarantees – took the young people present to the police station, threatened them, beat them and tortured them, all the while shouting "infected Indians". Not only is this an example of structural and systematic violence directed at Indigenous communities but it also reflects a state system that is both colonial and racist.[4]

The pandemic has coloured both the country's public and private life; Indigenous Peoples are no exception and have had to adapt to very changing circumstances. The institutional violence has continued, however, and structural problems in health, education and territorial issues only got worse, with their living conditions significantly affected. While the health emergency initially led some to consider "suspend-

ing" their historical territorial disputes, it is precisely the severity of the phenomenon we have experienced in 2020 that has demonstrated that humankind is not up to the task. In other words, harassment and criminalisation have not gone away and, indeed, have intensified over the last year.

Territorial conflicts

2020 was marked, like so many other years, by territorial disputes, eviction attempts, court cases and a lack of public policies. In February 2020 (pre-pandemic), the Federal Security Council met in Tucumán province where the Minister of Security expressed her intention to transform the crime prevention and prosecution paradigm within the context of the new government's administration. An alternative mechanism for resolving territorial conflicts with Indigenous Peoples was established as part of these changes, especially designed for the outstanding territorial conflicts with Mapuche communities.

However, tensions around Indigenous territorial rights that were not guaranteed by the state escalated over the months. On the one hand, the lack of a law on Indigenous communal ownership has left the door open to old and new evictions (its passage through parliament seems increasingly remote, particularly in a year when Congress has sat for only a short length of time and given that a bill of this nature is never a priority on the parliamentary agenda). On the other hand , the advance of landowners, extractive activities and economic interests into areas around the Indigenous territories is resulting in daily acts of violence. Prosecution through the courts does not mean that "justice will be done" by the state; on the contrary, it leads to a doubling down and endorsement of the spiralling violence that is already taking hold of their territories.

An example of the above can be seen in the Mapuche community of Buenuleo in the city of Bariloche, Río Negro province, where violent acts have been perpetrated by individuals resulting in physical violence against community members and intimidation of their children.[5] Although it is also true that the state activated its mechanisms after these acts of violence, and representatives visited in an attempt to bring about dialogue and a response to this situation of permanent violence, the actions came too late given that the heralded attacks had

already taken place. The Inter-American Commission on Human Rights granted a precautionary measure in May 2020 in favour of the Indigenous community. It called on Argentina to take all necessary and culturally-appropriate measures to protect the communities' right to life and physical integrity.[6]

Another case worthy of mention given that it illustrates the degree of violence that the coercive apparatus of the state can achieve is that of the Lafken Winkul Mapu community, which has recovered territory opposite Lake Mascardi, also in Río Negro province. At the very place where Rafael Nahuel was murdered in 2017, and in the midst of a health crisis, attempts are again being made by the provincial police to evict the community, once more resulting in an upsurge in violent harassment and constant threats.[7] The year 2020 ended with the community in a state of alert, neighbours organizing marches from Bariloche in a notably racist demonstration (even though it is not their private property at stake but rather a dispute with the National Parks Administration and the Bishopric of San Isidro, which would have acquired a portion of the territory from said administration), and with attempts to ensure continuing discussions with national and provincial authorities that have thus far yielded no results.

Judgment of the Inter-American Court: case of the Lhaka Honhat Association vs. Argentina

Given the "austere" reception given to Indigenous rights in the Constitution, this judgment of the Inter-American Court of Human Rights is paradigmatic in that it is the first time the Court has held the Argentine state responsible for violations of various Indigenous rights. It moves the content of the Constitution forward and establishes a violation of Indigenous communal property as being a violation of the rights to consultation, to a healthy environment, to adequate food, to water, and to cultural identity. In short, the judgment overwhelmingly defines the scope of Indigenous territorial rights and their interdependence with other rights.

At the heart of the case is the claim being made by 132 Indigenous communities of the Wichí (Mataco), Iyjwaja (Chorote), Komlek (Toba), Niwackle (Chulupí) and Tapy'y (Tapiete) peoples who live in what is known as the Chaco Salteño (Salta province). They are laying claim

to a single, undivided title to 400,000 hectares of land. The measures ordered by the Court were directed at both the Legislative and the Executive branches, in both their national and provincial dimensions.[8] Not only must the work of delimiting and demarcating the territory now be completed, together with the relocation of the Creoles, but the state must also refrain from carrying out works or ventures on the territory that could affect its existence, value or enjoyment, without first ensuring due participation of Indigenous Peoples through their right to consultation. It also orders a study to be conducted within six months into the critical situation of lack of water and food in order to draw up an action plan to remedy this. It is further noteworthy that the Court considered that Argentina lacks adequate legislation – and therefore cannot guarantee the right to Indigenous communal property – and thus ordered the adoption, within a reasonable timeframe, of the legislative and/or other measures that may be necessary to give legal certainty to the right to Indigenous communal property, providing for specific procedures to that end.

In addition to all of the above, the most novel and innovative aspect of the ruling, in my opinion, is the content of Recital 201. This recital notes that this is the first contentious case to come before the Court in which it has been called to rule upon the rights to a healthy environment, to adequate food, to water and to participation in cultural life, on the basis of Article 26 of the Convention. It further considers the four rights as being interdependent and central to guaranteeing the lives of Indigenous Peoples.

A separate paragraph sets out the rights to adequate food and access to water (even more so in the context of a pandemic). Food means more than simply adequate and suitable nutrition for the preservation of health. In line with the international human rights treaties and the observations of the Committee on Economic, Social and Cultural Rights (CESCR), it highlights both the cultural relevance of food and the importance of its accessibility - food security - in terms of guaranteeing it for both present and future generations.

In turn, water is conceptualized as a condition for the full enjoyment of life and all human rights. When applied to Indigenous Peoples, this must be understood within the context of their habits and customs. In addition, also in accordance with the CESCR and its General Comment, it affirms that the right to water entails both freedoms and rights: freedoms associated with not being subject to interference (for exam-

ple, contamination of water resources) and rights in terms of a guaranteed water supply and management.

In short, the ruling opens the door to more solid protection of Indigenous communal property and advances the protection of rights to nature by perceiving the environment as an autonomous right. In its Recital 203, the Court refers to Advisory Opinion OC-23/17 to define the right to a healthy environment. The Court thus says: "...It stated on that occasion that the right to a healthy environment 'constitutes a universal value' and 'is a fundamental right for the existence of humankind', and that 'as an autonomous right (...) it protects the components of the (...) environment, such as forests, rivers and seas, as legal interests in themselves, even in the absence of the certainty or evidence of a risk to individuals. It is about protecting nature' not only because of its 'usefulness' or 'effects' with respect to human beings 'but because of its importance to the other living organisms with which we share the planet.'"

The Court's interpretive work in this case has contributed significantly to protecting the rights of Argentina's Indigenous Peoples and will certainly have a considerable impact at the regional level.

Conclusion

The situation of Indigenous Peoples and their rights in 2020 of necessity has to be assessed in the light of the pandemic, of the actions the state has taken to address this, and the impact it has had – and continues to have – on Indigenous communities, not only in terms of their health but also in terms of the other structural situations from which they suffer, and which have been exacerbated. This is in addition to the contradictions and inconsistencies of the government's public policies which, on the one hand, are aimed at protection while, on the other, resort to actions of intimidation, criminalisation and dispossession.

The diachronic overview offered in this article is useful to the extent that it can be used as a parameter by which to evaluate the context and current situation of Indigenous Peoples. The COVID-19 virus is a global phenomenon and we can therefore see how old and new relationships between Indigenous Peoples and the state are being established, detecting gaps and also acknowledging encouraging prospects such as the strengthening of some territorial autonomies. Faced with such a tangible threat of infection and the fluctuating and ambivalent poli-

cies of the state, Indigenous communities are finally drawing on their internal strength and overcoming and resisting the repeated violations of their rights.

Notes and references

1. Ramírez, Silvina, "Los pueblos indígenas frente a la emergencia sanitaria". In Bohoslavsky, Juan Pablo (editor), *"COVID-19 y Derechos Humanos. La pandemia de la desigualdad.* Editorial Biblos, Buenos Aires, 2020.
2. The *"Expanded Report: Socioeconomic and Cultural Effects of the COVID-19 Pandemic and the Social, Preventive and Compulsory Isolation of Indigenous Peoples in Argentina, Second Phase, June 2020"* states in one of its conclusions: "...2.3 Lack of access to water (not only in quantity but also in quality) and sanitation or basic hygiene - among other things - limit the possibility of enjoying healthy conditions with which to face up to the COVID-19 pandemic. Another factor that limits this possibility is the absence or low frequency of waste collection, which causes sewers to overflow, the outskirts or peripheral areas of urban centres usually lacking in such infrastructure." Conicet. ihucso.conicet.gov.ar/informe-nacional/
3. So much so that these rights form part of a judgment of the Inter-American Court, which will be considered in more detail in another section of this article.
4. See the press release of the Permanent Assembly of Human Rights (APDH) dated 2 June 2020, among many others issued to repudiate these events.
5. "Bariloche: golpes y herida de arma blanca en ataque a comunidad mapuche", *ANRED*, 29 April 2020. https://www.anred.org/2020/04/29/bariloche-golpes-y-herido-de-arma-blanca-en-ataque-a-comunidad-mapuche/
6. Resolution 23/2020 of the IACHR.
7. "Bariloche: represión a Lof Winkul Mapu". *ANRED*, 21 May 2020. https://www.anred.org/2020/05/21/bariloche-represion-a-la-lof-winkul-mapu/
8. It should be recalled that Argentina is a federal state, and that the provinces retain their autonomy.

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Bolivia

BRAZIL
PERU
BOLIVIA
La Paz
PARAGUAY
ARGENTINA
CHILE
PACIFIC OCEAN

According to the 2012 National Census, 41% of Bolivians over the age of 15 are of Indigenous origin although the 2017 projections from the National Statistics Institute (INE) indicate that this may now have increased to 48%.[1] Of the 36 peoples recognised in the country, most Quechua (49.5%) and Aymara (40.6%) speakers live in the Andean region where they self-identify as one of 16 nationalities. The Chiquitano (3.6%), Guaraní (2.5%) and Moxeño (14%) peoples live in the Lowlands where, together with the remaining 2.4%, they make up the other 20 recognised Indigenous Peoples. The Indigenous Peoples have thus far consolidated 23 million hectares of collectively owned land as Native Community Lands (*Tierras Comunitarias de Origen*/TCO), representing 21% of the country's total area. Following the approval of Decree No. 727/10, the TCOs changed their official name to Peasant Native Indigenous Territories (*Territorio Indígena Originario Campesino*/TIOC). Bolivia has ratified the main international human rights conventions and has been a signatory to ILO Convention 169 since 1991, with the UN Declaration on the Rights of Indigenous Peoples in full effect since the approval of Law No. 3760 of 7 November 2007. With the new 2009 Political State Constitution, Bolivia adopted the status of Plurinational State.

Transitional government of Jeanine Añez

Senator Jeanine Añez became President of Bolivia on 10 November 2019 following Evo Morales' resignation earlier that day. This was in the wake of a 21-day national strike and multiple conflicts arising due to complaints of electoral fraud reported by the election observation mission of the Organization of American States' (OAS), which recommended that the October elections be re-run. To this day, people are divided as to what actually caused the departure of the former president: whether it was a *"coup d'état"* that removed him from office or a "popular insurrection" that rejected his candidacy as illegal in view of the results of the 2016 referendum, which denied him the possibility of a

further term in office. The mobilisations were, in fact, triggered by irregularities in the "quick counting" electoral system identified by the OAS mission in an independent technical audit requested by Evo Morales himself. Following the successive resignations of Alvaro García Linera, Vice-President, and then the presidents of the legislative chambers and other different positions in the constitutional line of succession, the role fell to Añez, second vice-president of the Senate.[2] The legislative chambers retained their majorities for the Movement for Socialism (MAS), and the party continued to control seven of the nine governorships and more than 200 of the 330 Bolivian municipalities.[3]

The new government tried to quell protests by Evo's supporters with violent repression and by prosecuting former officials and media activists critical of the situation. They accompanied this with a media and social network campaign that criminalised the MAS and anyone referring to that "dictator", a strategy very similar to those practised by military governments of the past. More than 1,500 people were arrested on charges of "terrorism", in some cases solely for being in contact with those previously in charge. The grimmest case was that of Evo Morales' legal representative, Dr. Patricia Hermosa, who, despite being heavily pregnant, was detained for several months for trying to get her client authorised as candidate for senator in Cochabamba department.[4] The "most wanted" former leaders took refuge in the Mexican embassy in La Paz, which was besieged by pro-government sectors, self-proclaimed defenders of "freedom", who harassed them, and others in their private homes, for months.

The Inter-American Commission on Human Rights (IACHR) and the UN High Commissioner for Human Rights condemned this policy in press releases and reports calling for the repeal of totally arbitrary and unconstitutional laws that authorised the unbridled use of the armed forces in social conflicts or that sanctioned those expressing dissent over the national political situation, all with the excuse of combating COVID-19.[5]

As for the MAS, there was never any recognition of the political errors that had led citizens to mobilise in November 2019 in the first place. On the contrary, a story was constructed around an alleged international conspiracy led by the United States that was using the OAS to justify the "coup" and take Bolivia's lithium, bringing the country to its knees before the transnationals, and in which the military was also apparently

prominently involved.[6] This position gave the transitional government constant reason to scale up the persecution, attacks and public intimidation, creating a polarisation that permanently fuelled the ensuing electoral campaign.

Demonstrating for elections

After a rigid lockdown was decreed on 23 March, further national elections that were due to have been held in May had to be suspended twice. The new Supreme Electoral Court[7] finally set a date for 18 October after a national roadblock lasting several days threatened the supply of oxygen to the hospitals, which is brought by truck from plants in the east of the country to the Andes. The conflict lasted several days and although the government tried to pass it off as a criminal act instigated from Buenos Aires, where Evo Morales was in exile, the blockade was in fact an autonomous action and even against the wishes of the exiled leader, who also made unsuccessful attempts to defuse it.

This conflict damaged yet further the image of an illegitimate government which had already been handling the health crisis caused by the pandemic very badly. Their only response to the ensuing political crisis was the demonisation of Evo Morales and violent repression, kept somewhat in check by constant public challenging of their actions from a significant sector of society and the bold actions of international organisations and friendly countries, who acted as the guarantors of peace.

COVID-19 and Indigenous Peoples

The pandemic was administered by the Añez government as if the country's Indigenous Peoples did not exist.[8] More than 100 days after the lockdown was decreed, a specific strategy document for the Indigenous population was finally made public by the Vice-Minister of Health, who was dismissed a few days later. The transitional government approved two specific coupons to alleviate the economic crisis generated by the pandemic: the Family Basket Coupon and the Family Coupon[9] but this resulted in large numbers of Indigenous people travelling to in-

termediary settlements to collect the coupons and then taking the virus back to their communities. The same happened with the distribution of COVID-19 medicines. Those who visited the communities (officials or soldiers) were often the vectors of infection for entire communities, ruining the organisations' efforts to isolate themselves from the disease.

The Indigenous organisations submitted several documents and made various submissions to the state calling for the adoption of culturally-appropriate measures given the plurinational nature of Bolivian society but they received no response whatsoever. For their part, the Indigenous communities, together with their support institutions, took a series of measures of their own to protect themselves. Several campaigns were conducted to provide the health posts with useful medicines, booklets were produced on preventive[10] health protocols and humanitarian aid was dropped in territories declared in an urgent situation.

The organisations' main self-protection measure was to ban entry and exit to and from their communities, as well as to incorporate their traditional medicines into the prevention protocol: their knowledge of their medicines' effects in reinforcing antibodies and providing immunological defence. These actions were autonomous measures taken by Indigenous Peoples, who did not need external advice, counsel or guidance from "mainstream" medicine.[11]

October elections and the return of the MAS

Against all odds, or at least against those who believed that the fall of Evo Morales would plunge the MAS into a deep crisis never to return to power, the corrupt and repressive administration of those who put themselves forward as the alternative never managed to draw the eye of the Bolivian electorate. Those running as a centrist alternative, such as former President Carlos Mesa, were strategically and mercilessly attacked from both sides of the political spectrum, resulting in a boost for the MAS and a limitation of their chances, as well as those of the extreme right as represented by civic leader Luis Fernando Camacho. Their only proposal being that the "dictator" should not return, and with the errors of the transitional government weighing heavy on their

shoulders, the political opposition never had a chance. The Lucho-David team won 55.1% of the vote, Mesa 28.3% and Camacho 14%. The explanation for such a vote for the MAS after a year out of power, its leaders persecuted and with systematic scorn and intimidation via the social media, largely lies in the following reasons: firstly, a lack of understanding of the ethnic/cultural composition of the country, in which more than 80% of the population are of Indigenous or popular heritage and who felt, despite justified criticism of the abuses committed by Evo Morales, that this white/*mestizo* minority had no legitimacy to trample on hard-won rights, above all that of their dignity as Indigenous people, a right that was systematically violated by an opposition campaign that often bordered on the most recalcitrant racism. The second factor was related to the fact that the MAS's competition were completely unable to detach themselves from the catastrophic administration of the transitional government and ended up paying the price. Thirdly, and linked to the above, they never really put forward an electoral proposal that went beyond criticising the 14-year tenure of Evo Morales, even though the MAS itself failed to offer anything much new beyond their past offers.

At the inauguration ceremony, the message of Vice-President David Choquehuanca reverberated strongly in political circles, not only because of its profound and conciliatory content but also because of who he is: the most legitimate Aymara leader among the Indigenous Peoples and the urban intelligentsia, and one who had distanced himself from the MAS when sectarian positions began to prevail. The vice-president claimed the beginning of a new dawn, a new *pachacutik*: "A new sun and a new expression in the language of life where empathy for the other or the collective good replaces selfish individualism.... We are in times of being *Jiwasa* once more: I am not me, we are us."

He also stressed that, after everything that had happened, the Indigenous people were still alive and remained a reference for the construction of a more just, supportive and inclusive society. Above all, this last aspect was a breath of fresh air that helped ease the tensions in Bolivian society, at least for a while, in the face of fears that the return of the MAS to power could herald the start of a new cycle of polarisation and revenge. Despite the hopes of the current political opposition, however, this has not been forthcoming.

Situation of the Indigenous territories

This year, as last, voracious forest fires were once again reported in the east of the country. There were 7,144 hot spots recorded in 48 Indigenous territories.[12] This new disaster came on top of the pandemic, leaving several Indigenous Peoples in crisis. Such was the case of the Ayoreo people, and significant migration was noted from their titled territories.[13] The impact was also severe on families in a state of voluntary isolation in the Chaco region, under the jurisdiction of Charagua Iyambae, where the areas identified for the protection of these groups will need to be reconsidered due to the almost total destruction of the forests they occupied.

The new cycle of fires called into question the state's true desire to preserve its natural forests and to promote real policies of conservation and responsible natural resource use. In this context, the transitional government of Jeanine Añez approved a set of regulations aimed at finally opening the doors to transgenic crops, including the adoption of Supreme Decree 4232/20 authorising genetically-modified corn, sugar cane, cotton and wheat. The Guaraní Nation and other environmental activists proposed a class action in response. The current government has mooted the possibility of repealing the decree in question in the context of a technical and policy discussion on agricultural development.

Progress in Native, Peasant, Indigenous Autonomy (AIOC) access procedures

As the quarantine measures began to be lifted, the agenda for accessing Indigenous autonomy for those territories involved was revived. The formation of autonomous Indigenous governments in Indigenous municipalities and territories is a right enshrined in the 2009 Constitution. The procedure for accessing autonomy is regulated by the Constitution itself and the *Framework Law on Autonomies* and consists of a seemingly endless series of stages that force the people to go through all four branches of government before validly electing their authorities and setting up their own governments. To date, only three of 36 autono-

my procedures have resulted in the successful formation of Indigenous autonomies; the others have either been suspended due to internal conflicts or are still in the process of completing the more than 12 stages involved. Most Indigenous autonomy processes are taking place in the highlands. Of the 33 autonomies being processed, only nine are in the lowlands, including the Beni Multiethnic Indigenous Territory (TIM I), the Monkox Nation of Lomerío Territory in Santa Cruz, and the Kabineño People's Territory, all of which are being supported by the CEJIS Centre for Legal Studies and Social Research.

The TIM and Lomerío are currently in the final stages of endorsing the autonomous statutes within their jurisdictions in order to form a government, the last stage of Indigenous autonomy. Over the next few months, these two territories are expected to finally achieve autonomy despite the bureaucratic barriers the state has put in their path.

Notes and references

1. INE 2017, sobre consulta para el Navegador Indígena –Bolivia.
2. This succession was endorsed by the Constitutional Court in Ruling 0003/01.
3. This particular political/institutional situation supports the thesis that Añez' transitional government was far from being a "dictatorship", despite its authoritarian way of governing.
4. Even while in detention, parliamentary members were denied visits to check on her state of health in prison. Pagina siete "*Impiden que comisión de diputados visite a Patricia Hermosa*" [MP delegation prevented from visiting Patricia Hermosa], 16 June 2020. https://www.paginasiete.bo/seguridad/2020/6/16/impiden-que-comision-de-diputados-visite-patricia-hermosa-258559.html?fbclid=IwAR1_6PCDnnh0BiuiNjmRvQq0iE9TGkAS35EkGlOxV0fKyd-f1VIvq9xzOro
5. The IACHR and various bodies publicly challenged the adoption of Supreme Decree 4078/20 of 14 November, which authorised the security forces to intervene in conflicts but provided for no punishment with respect to any excesses they might commit (Art. 3). The government abrogated this rule 14 days later. Through Supreme Decree 4231/20, the government gave itself the authority to prosecute and punish those who spread news causing "anxiety" among the population, thus hindering the right to freedom of expression. Los Tiempos. 13 May 2020. https://www.lostiempos.com/actualidad/pais/20200513/derechos-humanos-onu-pide-modificar-ds-4231-no-criminalizar-libertad?fbclid=IwAR36_cXI9wFhjwAiSw6Q57Iu71GPxcOm1UyZLWhGWA5_30y1wlUsneBLJow#
6. Evo Morales approved Supreme Decree 2310/19, which empowered him to negotiate the lithium of the Salar de Uyuni, the main tourist site in Bolivia, awarding it to an unknown German company. This led to protests in Potosí even before the elections, as this department was left without royalties or any possibility of creating work for its inhabitants, in express violation of

the Constitution. Finally, Evo repealed the decree as a way of appeasing the mobilisations. DW. *"Evo Morales deroga el decreto de empresa mixta de litio con una firma alemana."* [Evo Morales repeals decree on lithium joint venture with German firm]. https://www.dw.com/es/evo-morales-deroga-el-decreto-de-empresa-mixta-de-litio-con-una-firma-alemana/a-51100894

7. Because the Supreme Electoral Court (TSE), which administered the 2019 elections, was dismissed due to serious allegations of having been part of the irregularities revealed by the OAS, and was even later detained on that accusation, it was re-established with its seven members being elected from lists of three "notable names" proposed by each of the different political forces, including the MAS. The member of the TSE was directly appointed by President Añez, Dr. Salvador Romero Ballivián, a prestigious legal professional; three other members came from sectors related to the MAS and the final three from sectors critical of Evo Morales' administration.
8. Vargas Delgado, Miguel, "Entre el abandono y el etnocidio: pueblos indígenas y COVID-19 en Bolivia," [Between abandonment and ethnocide: Indigenous Peoples and COVID-19 in Bolivia]. Indigenous Debates, 1 July 2020. https://www.debatesindigenas.org/notas/55-abandono-etnocidio.html
9. Ministry of Economy and Public Finance *"En todo el país se realizaron 8 millones de pagos en bonos sociales."* [8 million payments in social coupons made throughout the country] 2 June 2020. https://www.economiayfinanzas.gob.bo/en-todo-el-pais-se-realizaron-8-millones-de-pagos-en-bonos-sociales.html
10. CEJIS, *"Cartilla de medidas básicas de bioseguridad frente al COVID-19 para las comunidades del TIM I, Beni"* [Basic biosafety measures against COVID-19 in the TIM I communities, Beni], 28 December 2020. https://www.cejis.org/cartilla-de-medidas-basicas-de-bioseguridad-frente-al-covid-19-para-las-comunidades-del-tim-i-beni/
11. Monasterio Mercado, Fátima: *"Remedios del monte: indígenas amazónicos de Bolivia lanzan un recetario de medicinas ancestrales"* [Remedies from the countryside: Bolivian Amazonian peoples launch book of ancestral medicines]. Indigenous Debates, 11 May 2020. https://www.debatesindigenas.org/notas/45-remedios-del-monte.html
12. CEJIS. *"Reporte de focos de calor acumulados entre el 1 y el 30 de noviembre de 2020"* [Report on cumulative hotspots between 1 and 30 November 2020], 14 December 2020. https://www.cejis.org/reporte-de-focos-de-calor-acumulados-entre-el-1-y-el-30-de-noviembre-de-2020/
13. ORE Bolivia: *"Recuperación del hábitat del pueblo ayoreo después de los incendios en la región de la Chiquitanía y el Chaco."* [Recovery of the habitat of the Ayoreo people after fires in the Chiquitanía and Chaco region], 2020, WWF Bolivia, Santa Cruz de la Sierra.

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Brazil

ATLANTIC OCEAN
VENEZUELA
COLOMBIA
BRAZIL
PERU
BOLIVIA
Brasilia
PARAGUAY
PACIFIC OCEAN
URUGUAY
ARGENTINA

Brazil's Indigenous population stands at 896,900 individuals, 36.2% of whom live in urban areas. A total of 505 Indigenous Lands have been identified, covering 12.5% of Brazilian territory (106.7 million hectares). There are 305 different peoples, most of whom live in the Amazon region and speak 274 languages.

It is estimated that there are 115 peoples living in isolation,[1] of which 28 are confirmed and the rest are in the process of being identified.

The dismantling of Indigenous Peoples' protection policies

Let us begin with a phrase from President Jair Bolsonaro, published in various media outlets: "There will be no demarcation of Indigenous Lands under my government."[2] The current situation of the Indigenous population could be analysed through their public responses to this but there would not be enough space in this article for all of them.

It should be noted that this government's entire project rests on a policy that has been implemented since the start of the Republic: one of continuous development, albeit with different nuances depending on the historical moment. In the last two years, the focus has been on agribusiness exports.

This offensive against Indigenous Peoples can be illustrated by the policies of four specific ministries: Environment, Agriculture, Health (which includes the Special Secretariat for Indigenous Health-SESAI) and Justice (which houses the National Indian Foundation, FUNAI). These are the key ministries of a clearly developmentalist policy. The abandonment of the Paris Agreement and the consequent departure from the Millennium Development Goals are clear examples of how sustainable development no longer forms part of the Brazilian political agenda. And this agenda directly affects the country's most vulnerable peoples, such as the Indigenous, Quilombola and riverine peoples.

These four ministries are working jointly to dismantle public economic and social policies, with the consequent result of increased fires in environmental preservation areas, invasions by squatters, logging

and other mineral extractors, and increased deaths among the leaders of the Amazon rainforest's preservation movements and the Indigenous population generally.

In the words of Ricardo Salles, Minister of the Environment: "Since the media's attention is on COVID-19, we can move forward with our standards".[3] In collaboration with the rural lobby, Salles is accused of deliberately dismantling the environmental control agencies in order to unleash an unrestricted expansion of the agricultural frontier into the north of the country.[4] According to the Climate Observatory, between January and August, the minister allocated only 105,000 reales (R$) to environmental policy, i.e. 0.4% of the budget for climate change-related initiatives, biodiversity protection and urban environmental quality improvements.

With such meagre expenditure and reduced environmental inspections, an environmental disaster is looming. According to the Socio-Environmental Institute, 2020 has been the worst year for Indigenous Lands and Conservation Units since 2008. One hundred and eighty-eight thousand (188,000) hectares of forest have been destroyed in these territories, an area greater than the city of São Paulo, and only surpassed by the almost 200,000 hectares recorded in 2019. This represents 90% more than the average between 2009 and 2018.[5]

These disasters are the consequence of a set of measures that have the end goal of implementing the current government's development plan, which includes: a freeze on fines collected by the Brazilian Institute for the Environment (IBAMA); harassment of environmental officers and exoneration of the guilty; technical advice given to release illegal wood; legislative proposals that threaten protected areas; a failure to implement the budget for fire inspection and extinction; a decline in prosecutions and seizures for deforestation; defamation of the scientific knowledge of the National Institute for Spatial Research (INPE); a failure of military operations to combat deforestation.

The Indigenous areas most affected by illegal mining operations, the agricultural frontier, and the burning and illegal invasions are: the Xingu basin, TI Munduruku, TI Urubu Branco, TI Manoki, TI Karipuna; and the Conservation Units: Suroeste de Pará, Área de Preservación Ambiental (APA) Triunfo do Xingu. In the words of Mobu Odo, Indigenous Guacamayo and chief of the Cachoeira Seca village: "We are under threat, deforestation will wipe out our territory."[6]

FUNAI's role

The National Indian Foundation (FUNAI) is gradually losing financial support as well as staff members strategic to the Indigenous Land demarcation policies due to a series of arbitrary dismissals. Policies for the protection of isolated peoples and peoples in voluntary isolation, considered a model for many Latin American countries, are also being dismantled.

Marcelo Xavier, FUNAI's current president and a former Federal Police Commissioner, is working with the Ministry of Environment and Agriculture to prevent any demarcation of Indigenous Lands, the most prominent example being the timeframe thesis. Defended by the rural lobby, this interpretation holds that Indigenous Peoples only have the right to demarcate lands that were already in their possession on 5 October 1988, the date of enactment of the Constitution, or which were in physical dispute or under proven judicial litigation as of that date.

This thesis, one of the greatest threats to the legalisation of Indigenous Lands, is defended by FUNAI's president thus: "(...) it will serve to stop encouraging Indigenous people to form cooperatives in order to develop economic activities on their lands. One of our priorities is mining activities," he is quoted as saying, citing a bill that has been underway in Congress since February regulating this initiative.[7]

According to one of the executive coordinators of *Articulación de los Pueblos Indígenas de Brasil* (APIB), Dinaman Tuxá, "Agribusiness has taken over FUNAI is contaminating Indigenous policy. It is doing so within the very institution that should be protecting Indigenous Peoples."[8]

The "timeframe thesis",[9] proposed by then President Michel Temer, was a resounding, strategic and clearly unconstitutional blow to the process of approving Indigenous Lands. According to anthropologist Manuela Carneiro da Cunha:

> *The rural lobby wants the demarcation limit to be 5 October 1988, the date of enactment of the Constitution. Indigenous people can only apply for areas they occupied on that date. And yet forced evictions of Indigenous people were taking place in Mato Grosso do Sul and western Paraná in the 1940s, and this does not invalidate their right to the land.*

Along the same lines, Eloy Terena of APIB argues:

> *The time frame thesis is unconstitutional. When the Constitution was enacted in 1988, it did not give a specific date. It recognised the Indigenous Peoples' original right to the lands traditionally occupied by them. At no point does the Constitution restrict their right to land occupied on that date.*[10]

If the timeframe is regularised by decree, it opens up the possibility of making numerous Indigenous Lands that have not yet completed their formal procedures unviable. There is still a great need for land demarcation. According to data from the *Conselho Indigenista Missionário* (CIMI), 63% of Indigenous Lands are not legalised. In other words, of the 1,290 Indigenous lands, 821 are in a precarious situation because they do not have demarcated boundaries. Most of these have not even commenced their legalisation procedures.

The following are the numbers of Indigenous Lands approved during the different presidential terms:

- Fernando Henrique Cardoso (1995 - 2002): 145 approvals.
- Luiz Inácio Lula da Silva (2003 - 2010): 79 approvals.
- Dilma Rousseff (January 2011 - August 2016): 21 approvals.
- Michel Temer (August 2016 - December 2016): 1 approval.
- Jair Bolsonaro (January 2019 - to date): 0 approvals.

This constant decline in approvals of Indigenous Lands during each presidential term reveals the increasing lack of relevance of these peoples, now considered the major obstacle to Brazil's neoliberal development project.

It is precisely against this backdrop of extreme vulnerability, invasions and fires, that the COVID-19 pandemic began to wreak havoc in Indigenous territories.

Special Secretariat for Indigenous Health and COVID-19

This strategy of "civilising Indigenous Peoples" also involves the Spe-

cial Secretariat for Indigenous Health (SESAI), which reports to the Ministry of Health and is linked to the Unified Health System. Despite being responsible for primary care, this policy of dismantling is also taking place during the pandemic. The strategy is being repeated: lack of resources, layoffs or transfers of technical staff, allegations of corruption to discredit NGOs working in the sector, a ban on hiring more doctors and biomedical staff, all leading to the running down of the system. It is against this backdrop that COVID-19 has reached the Indigenous Peoples.

By 23 January 2021, Brazil had recorded a total of 215,299 deaths and 8,755,133 cases of COVID-19 and was still noting a daily average of 1,293 new cases. With respect to the Indigenous population, these cases are increasing and, although they are less documented, according to APIB there are 46,677 confirmed cases, with 931 deaths and 161 affected.

In the midst of this national catastrophe, which is the result of a policy based on denial and false narratives, and which fails to recognise the state of emergency in which Brazil finds itself, President Bolsonaro is acting as one of the main agents of scientific counter-information, denying the protocols of the World Health Organization (WHO) and calling the pandemic and its terrifying case load "a light flu".

On 10 July, the president signed Bill 1142/2020 into law. This recognises Indigenous, Quilombola and other traditional peoples as "extremely vulnerable groups" during the COVID-19 pandemic; however, he vetoed excerpts of the text that stipulated that the government was obliged to provide "access to drinking water", to distribute basic food baskets and "hygiene, cleaning and disinfection materials to the peoples free of charge". In addition, the law does not guarantee "the emergency supply of hospital and intensive care beds" and nor is there an obligation to purchase "ventilators and blood oxygenation machines" for these communities.[11] Other presidential vetoes have included those requiring the government to release emergency funds for Indigenous health, to facilitate access to emergency aid for Indigenous and Quilombola peoples, and to install Internet in the villages. According to the Executive, these and other measures have been vetoed because they create a "mandatory expense" without demonstrating "their respective budgetary and financial impact, which is unconstitutional". Congress, which has the final say on vetoes, could still override them.

In addition, Regulatory Instruction No. 9/2020[12] allows for the regularisation of non-indigenous invasions onto Indigenous lands that have not yet completed their recognition process, which is prohibited by the Federal Constitution. This measure may lead to a rampant increase in invasions and transmission of COVID-19.

The virologist Marcus Barros, one of the national reference points for infectious diseases, states that the delays in making decisions about these peoples is serious and worrying:

> *Indigenous people are more sensitive to any viral disease. If a common flu can completely destroy them, imagine a pandemic with a new respiratory virus the consequences of which are not yet known. It is a very dangerous situation, a death foretold.*

Gersem Baniwa, one of the founders of the Foro de Educación Escolar y Salud Indígena (Foreeia-AM) points out that the relations established between the federal government and Indigenous Peoples reflect the lack of priority given to the attention, prevention and care of Indigenous people:

> *There is no place for specifics on the global agenda. The main concern is the global, national and regional scenario, with a strong economic bias. Indigenous populations remain invisible.*

Made up of deputies and senators, Indigenous organisations and civil society, the *Frente Parlamentario Mixto en Defensa de los Derechos de los Pueblos Indígenas* [Joint Parliamentary Front in Defence of the Rights of Indigenous Peoples] organised in July with a list of 196 signatures. The *Map of the World's Indigenous Peoples* sent to Tedros Adhanom Ghebreyesus, Director-General of WHO, recommended that, in the face of the pandemic, countries should prioritise concrete measures to ensure the protection of Indigenous Peoples and the creation of an emergency fund. The map was submitted on the last day of the Free Land Camp (ATL) programme, 30 April 2020.[13]

The manifesto produced by the Alliance of Indigenous Parliamentarians of Latin America asks WHO to consider:

> *Indigenous Peoples as the population most exposed and vulnerable to COVID-19; to guarantee food security and access to basic sanitation and health services, as well as other social and economic rights during the period of the pandemic; and to ensure the involvement and participation of Indigenous organisations and their representatives in the planning and execution of actions against COVID-19.*

In Brazil, attention is drawn to the dismantling of the health system when it comes to guaranteeing protective equipment for professionals who care for Indigenous people, the insufficient support measures for communities, which requires moving from the villages to the cities where there is greater transmission of the virus, and the invisibility of Indigenous people living in the cities in epidemiological reports related to COVID-19. In addition, during the pandemic, the government issued Regulatory Instruction No. 9/2020, which allows for the regularisation of non-indigenous encroachment onto Indigenous Lands that have not yet completed their recognition processes, which is prohibited by the Federal Constitution. This measure may lead to a rampant increase in invasions and transmission of the virus to Indigenous people, including those living in voluntary isolation.[14]

On the one hand, Indigenous Peoples are living through one of the most dangerous and intimidating moments due to constant government offensives, as represented by the rural and evangelical lobbies, which are promoting land invasions, and a lack of respect for the Indigenous rights ratified by Brazil, questioning rights deriving from the 1988 Constitution and denying the COVID-19 pandemic. On the other, we can say that this is the most challenging time, and yet it has resulted in a strengthening of the Indigenous movement and an unprecedented increase in Indigenous candidates in this year's elections for city and local councils. The number of Indigenous mayors has increased from 6 to 8 compared to the 2016 elections, while the number of councillors has increased from 168 to 179. We are facing a completely new paradigm.[15]

In relation to Indigenous organisations, we would like to highlight the work of APIB, which has been fundamental in fighting the excesses and violations of the traditional peoples' constitutional guarantees, and its documented campaign of denouncing the state's abandonment of

them in the face of COVID-19.[16]

In July of this year, APIB, together with six political parties, took a case to the Federal Supreme Court (STF) for Non-Compliance with Fundamental Precept No. 709, demanding health protection actions for Indigenous Peoples due to the coronavirus. According to this action, "The COVID-19 mortality rate among Indigenous Peoples is 9.6%, while among the Brazilian population in general it is 5.6%."

The injunction was approved by Minister Luís Roberto Barroso in July and endorsed by the full STF in August. As a result, the Union was obliged to develop a COVID-19 control plan for Indigenous Peoples that established sanitary cordons around 33 lands with the confirmed presence of Indigenous people in isolation (without contact with the surrounding society) and also made it possible to contain and isolate invaders, potential disease spreaders.

According to writer and activist Ailton Krenak and Indigenous leader Joziléia Kaigang:[17]

> *One of our victories was the approval, in August, by the Supreme Court, of the lawsuit for breach of constitutional precepts (DPF 709), which forced the government to implement a plan to address COVID-19 within 30 days, guaranteeing sanitary cordons and the isolation of Indigenous Lands.*

"This was a great victory," continued Kaigang. In addition, Krenak pointed out that:

> *The native peoples have increased their capacity for debate, intervention and external coordination, mainly by allying themselves with Europe and other countries in a struggle that needs to be further scaled up.*

Joziléia adds:

> *With the support of civil society, both Brazilian and international, and through companies and civic groups, we have implemented a set of combined actions that our government has unfortunately failed to carry out.*

On the other hand, Indigenous organisations denounce the fact that the implementation of sanitary cordons is continuing at a deplorable pace and that personal protective equipment (PPE) and tests are insufficient. According to the STF minister:

> *Despite the spread and lethality of the virus, it is incredible that after almost 10 months of pandemic, the Union has not achieved the minimum: a plan with its essential elements. It is a situation that continues to put the lives and health of Indigenous Peoples at risk.*

This negligence is paid with the lives of Indigenous people. In the Yanomami Indigenous Land alone, the coronavirus has increased 250% in three months. In some regions, there has been community transmission of the disease due to miners operating in the area illegally.

Together with five other political parties, CONAQ (National Coordinating Body for Rural Black Quilombola Communities) proposed ADPF No. 742 (Argument for Non-Compliance with a Fundamental Precept) to combat COVID-19 among the Quilombola. To date, however, this case remains with the office of Minister Marco Aurélio, and the preliminary application has not yet even been examined.

Conclusion

In a speech to the 74th UN General Assembly in September 2019, President Bolsonaro repeated one of his electoral promises: no more demarcation of Indigenous Lands. Fourteen percent (14%) of Brazilian territory is currently demarcated as Indigenous Lands. "I want to make it clear: the area already demarcated as Indigenous Lands will not increase to 20%," the president stated. He also criticised Indigenous protection organisations, accusing them of manipulating ethnic leaders, and directly attacked Kayapo Chief Raoni Metuktire.[18]

This statement is contrary to the challenges facing the world and the objectives of the 2030 Agenda for Sustainable Development, the set of programmes, actions and guidelines that guide the work towards sustainable development being led by the United Nations.

Bolsonaro is continuing his predatory vision of development,

which is a huge setback for human and Indigenous rights in Brazil. Never before has the 1988 Constitution been so denigrated. All Brazilian citizens are being insulted and only with full exercise of citizenship will Brazil be able to place itself on the global agenda in the struggle for the preservation of biomes, respect for cultural diversity and economic and social equality.

Notes and references

1. See https://pib.socioambiental.org/pt/Onde_estão_os_isolados%3F
2. "Bolsonaro quer acabar com demarcação de terras indígenas." *Minas State*, 6 November 2018. Available at: https://www.em.com.br/app/noticia/internacional/2018/11/06/interna_internacional,1003269/bolsonaro-quer-acabar-com-demarcacao-de-terras-indigenas.shtml
3. "Ministro do Meio Ambiente defende passar 'a boiada' e 'mudar' regras enquanto atenção da mídia está voltada para a Covid-19." *G1*, 22 May 2020. Available at https://g1.globo.com/politica/noticia/2020/05/22/ministro-do-meio-ambiente-defende-passar-a-boiada-e-mudar-regramento-e-simplificar-normas.ghtml
4. "Política ambiental de Ricardo Salles é alvo de críticas de ambientalistas, empresários e ex-integrantes do governo". *G1*, 19 July 2021. Available at: https://g1.globo.com/fantastico/noticia/2020/07/19/politica-ambiental-de-ricardo-salles-e-alvo-de-criticas-de-ambientalistas-empresarios-e-ex-integrantes-do-governo.ghtml
5. Destruição de áreas protegidas na Amazônia explode com Bolsonaro". *Instituto Socioambiental*, 22 December 2020. Available at: https://www.socioambiental.org/pt-br/noticias-socioambientais/destruicao-de-areas-protegidas-na-amazonia-explode-com-bolsonaro
6. Ibidem.
7. Daniela Chiaretti and Marcos de Moura e Souza, "Especialistas atacam nova política da Funai". *Valor Econômico* V21, 17 June 2020. Available at: https://www2.senado.leg.br/bdsf/bitstream/handle/id/575249/noticia.html?sequence=1&isAllowed=y
8. Ibidem.
9. The so-called timeframe thesis is an action of the Federal Supreme Court (STF) that holds that Indigenous Peoples can only claim lands they already held on 5 October 1988.
10. Daniela Chiaretti and Marcos de Moura e Souza, "Especialistas atacam nova política da Funai". *Valor Econômico* V21, 17 June 2020. Available at: https://www2.senado.leg.br/bdsf/bitstream/handle/id/575249/noticia.html?sequence=1&isAllowed=y
11. Joana Oliveira. "Bolsonaro veta obrigação do Governo de garantir acesso à água potável e leitos a indígenas na pandemia". *El País*, 8 July 2020. Available at: https://brasil.elpais.com/brasil/2020-07-08/bolsonaro-veta-obrigacao-do-governo-de-garantir-acesso-a-agua-potavel-e-leitos-a-indigenas-na-pandemia.html
12. Instrução Normativa Nº 9/2020 da Funai promove segurança jurídica e

pacificação de conflitos
13. Assesoria de Comunicação do Cimi. "Povos indígenas divulgam documento final do Acampamento Terra Livre 2020". *Conselho Indigenista Missionário*, 30 April 2020. Available at: https://cimi.org.br/2020/04/povos-indigenas-documento-final-atl-2020/
14. Ibidem.
15. Ibidem.
16. Juliana de Paula Batista and Tiago Moreira dos Santos, "Defesa judicial dos direitos indígenas avançou em 2020". *Instituto socioambiental,* 4 January 2021. Available at: https://www.socioambiental.org/pt-br/blog/blog-do-ppds/defesa-judicial-dos-direitos-indigenas-avancou-em-2020
17. "Vitórias e derrotas em um ano desafiador para os indígenas". *Sociedade Brasileira para o Progresso da Ciência,* 4 December 2020. Available at: http://portal.sbpcnet.org.br/noticias/vitorias-e-derrotas-em-um-ano-desafiador-para-os-indigenas/
18. Andreia Verdélio. "Em discurso na ONU, Bolsonaro destaca riqueza da Amazônia". *Agencia Brasil,* 24 September 2020. Available at: https://agenciabrasil.ebc.com.br/politica/noticia/2019-09/em-discurso-na-onu-bolsonaro-destaca-riqueza-da-amazonia

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Chile

BOLIVIA
PACIFIC OCEAN
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Despite being in constant increase since the 1990s, the Indigenous population of Chile has not varied greatly since the 2017 census, resulting in 2,185,792 people self-identifying as Indigenous, or the equivalent of 12.8% of the country's total population of 17,076,076. The Mapuche are the most numerous (almost 1,800,000 individuals), followed by the Aymara (156,000) and the Diaguita (88,000).[1] There has been a notable and sustained increase in the proportion of Indigenous population living in urban areas, with 87.8% of Indigenous members now living in cities compared to 12.2% living in the countryside.[2]

Law 19,253 of 1993 on the Promotion, Protection and Development of Indigenous Peoples, or the "Indigenous Law" has not been amended to date, even though reform is urgently 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 United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and the 2016 American Declaration on the Rights of Indigenous Peoples.

Following the social protests that broke out in the country from October 2019 onward demanding in-depth institutional change, and with approval given for the drafting of a new constitution in a referendum held in October 2020, there is now a new opportunity opening up for the recognition of Indigenous Peoples and their collective rights within the new Political Constitution.

Indigenous Peoples and COVID-19

As in other countries, Chile's Indigenous Peoples are one of the groups most vulnerable to the COVID-19 pandemic.[3] This is due to the structural inequalities they face in terms of accessing services; the burden of diseases such as diabetes and high blood pressure as a result of dietary changes forced on them by the reduction in their territories;[4] and the economic downturn, which does not bode at all well for their communities.[5]

Against this backdrop, the national COVID-19 strategy has involved no differentiated approach for Indigenous Peoples, nor has there been any official data on the pandemic's impact on these peoples.[6] And nor have they been called upon to participate in the state's response to the pandemic.[7] Within this scenario, mention should be made of the situation of the Yagán community of Puerto Williams, in Magallanes, for whom COVID-19 has become a new threat to their very survival.[8] In addition, the region has the highest cumulative rate of infection per 100,000 inhabitants in the country: 11,430.1 compared to the national average of 3,950.3.[9] This community in Puerto Williams comprises only 94 people, ten of whom are elderly, including Cristina Calderón, 92 years of age and who is the last native speaker of her people. In a press statement, the community called on the authorities to reinstate the lockdown on Navarino Island until infected people could be identified and isolated; to establish protocols to ensure that economic activity did not speed up transmission of the disease; and to draw up a special protocol, with the consent of the community, to provide adequate assistance to its members.[10]

The pandemic has also had a strong impact on Indigenous women, who face an enormous workload, being responsible for the care and food security of their families and communities. Such is the case, for example, of the Mapuche vegetable growers who market their produce in the town of Temuco, and whose work as micro-producers and vendors took a turn for the worse during the pandemic when they found themselves in a disadvantaged and vulnerable situation: they were unable to sell their produce and thus earn an income.[11] This situation worsened when, once the first lockdown was lifted in Temuco, they were strongly and violently repressed by the police as they began to resume selling their produce in the town centre, preventing them from working, arresting three of them, and seizing and destroying their merchandise.

The Environmental Assessment Service (SEA), however, did not generally suspend the processing deadlines for projects subject to environmental assessment where consultation processes were already underway. On the contrary, they tried to continue them remotely, ignoring the digital divide and the reality of many Indigenous communities. This was the case of the Atacameño community of Peine and the Environmental Impact Study for a continuation of the Zaldívar mining company's operations.[12] Moreover, the number of investment projects

submitted for Environmental Impact Assessment (EIA) between March and May 2020 doubled compared to the same time period in 2019 and 2018.[13]

Given this situation, the different peoples and communities have been protecting themselves from the pandemic by establishing territorial controls, erecting sanitary cordons or self-quarantining, as was the case, for example, in the Mapuche-Williche communities of Lake Maihue (Los Ríos region),[14] and in the communities that make up the Council of Atacameño Peoples (Antofagasta region). The Council issued a public statement to announce the closure of all tourist centres and demanded that the Soquimich (SQM) and Albemarle mining companies – the two largest lithium companies in the country – minimise the flow of personnel for prevention purposes since their operations were carried out in the vicinity of the communities.[15] Among Indigenous Peoples' other responses to the pandemic were barter networks, local fairs for the marketing of their produce, and the use and dissemination of their traditional medicine.

The constitutional process

After the social protests of October 2019, in which citizens expressed their concern at the injustices and exclusions existing in the country, including that of Indigenous Peoples, and at the persistence of the institutional structures of the dictatorship (1980 Constitution), the political actors agreed on a timetable for a referendum to decide whether Chile should have a new constitution and if so, what sort of body should produce it. Although initially scheduled for April 2020, this referendum had to be postponed until October 2020 due to the pandemic. The result was categorical with nearly 80% of voters in favour of a new constitution, and the same percentage agreeing that it should be drafted by a Constitutional Assembly, 100% elected by the citizens, and not by a Mixed Assembly including parliamentarians.

Indigenous views on this process and on their participation, however, were varied. On the one hand, the current constitution does not have a mechanism that would enable Indigenous Peoples' participation in this process. On the other, several Mapuche organisations made known their scepticism given that similar constituent processes in Lat-

in America, in which Indigenous rights and plurinationality were recognised, have not resulted in any real transformation of state structures. They also argued that Indigenous Peoples already enjoy the right to self-determination, and therefore do not require that this right be recognised by the state.[16] Other organisations representing the country's different Indigenous Peoples (Mapuche, Aymara, Atacameño, etc.) expressed their support for Indigenous participation in the process, not only as a way of ensuring recognition of Indigenous Peoples in the constitution, together with the rights that have been recognised them internationally, but also because of the plurinational nature of the state.

These organisations promoted a constitutional reform that would ensure reserved seats proportional to the size of their population in the Constitutional Assembly to be elected in April 2021. After almost a year of debate, Parliament approved this reform, reserving a total of 17 seats (seven for the Mapuche people, two for the Aymara people and one for each of the other peoples recognised in the law) out of the total of 155 assembly members to be elected.[17]

However, the number of seats reserved for Indigenous Peoples is not proportional to the size of their population (12.8% total population), excludes the Afro-descendant tribal people recognised by law in 2020,[18] requires identification by the state to vote in a national countrywide Indigenous district (ignoring the necessary self-identification criteria) and was late in terms of enabling the registration of Indigenous candidates; nonetheless in less than a month there were a total of 185 assembly candidates registered from across the Indigenous Peoples.[19] This is an historic milestone as it will be the first time that Indigenous Peoples in Chile will participate, together with the Chilean people, in the drafting of a fundamental charter to establish a new basis for interethnic and intercultural coexistence and hopefully recognise their collective rights as peoples.

Criminalisation of Indigenous social protest

The policy of criminalising Mapuche social protest, the excessive use of force to repress it and the militarisation of communities continued and even worsened during 2020. In addition, because of the pandemic Mapuche prisoners faced serious threat to their life and health due to

the poor sanitary conditions and overcrowding of prisons, being held for long periods of preventive detention or handed down disproportionate sentences due to the criminalisation of their social protest. This situation led the Mapuche prisoners held in Angol Prison to go on hunger strike for more than 114 days,[20] and they were also joined in this by those being held in Temuco and Lebu prisons.

The strikers' demands related to conditions inside the prisons and, in turn, the need for a change in precautionary measures and the way their sentences were served in the context of the pandemic, so that they could be served in their communities in accordance with ILO Convention No. 169. In addition they claimed the status of political prisoners, since they are deprived of their liberty for crimes related to the Mapuche people's territorial claims following questionable judicial proceedings in terms of due process.

One emblematic case was that of Machi Celestino Córdova who, after 107 days of hunger strike, decided to end his fast on 18 August on coming to an understanding with the Ministry of Justice. In the agreement,[21] some of his demands were partially accepted, especially his transfer to the *Centro de Estudios y Trabajos* (CET), a semi-open prison, and authorisation to perform a ceremony in his rewe Mapuche sacred altar. In addition, measures were taken to improve prison conditions for Mapuche deprived of their liberty. In the case of the other strikers, the government's intransigence meant that no agreement was reached, which forced them to end their strikes with serious detriment to their health.

The hunger strike was accompanied by various demonstrations and occupations of public institutions by their relatives and supporters. These were repressed by the police force and resulted in numerous injuries,[22] accompanied by arbitrary arrests for alleged crimes of public disorder.

One of the most serious cases occurred on the night of 1 August when, during the curfew, and without any authorisation to meet, a large number of people armed with sticks, iron bars and even firearms gathered outside the municipal offices of Victoria and Curacautín, occupied by Mapuche people in support of the strikers, in order to evict them from the building. The violent eviction in Curacautín took place in the presence of police officers who were at the site. They actively participated and did not prevent the racist beatings, insults and threats to which

Mapuche men, women and children were subjected. Meanwhile, armed civilian groups gathered in front of the Victoria municipal building and, with racist shouts, proceeded to set fire to a Mapuche rewe set up in the town's main square.[23] It should further be noted that the only people arrested for the events that took place that night were Mapuche. They were taken before the judge the next day for crimes of public disorder, damage, occupation of public offices and attacks or threats against authorities.

The government made no effort to lay responsibility at the feet of anyone other than the Mapuche for these violent acts, making it clear that we are facing a structural racism that is embedded not only in the police but which is supported and justified by the central authority itself, as it has to date not filed any legal action against the armed civilians or against the police, who acted outside of all protocols.

Peoples in northern Chile

Regarding the mining conflicts affecting Andean peoples in the north of the country, it is worth noting the jurisprudential developments that have taken place over the last year, with some progress in protecting their rights. Indeed, as noted in The Indigenous World 2020, in December 2019 the First Environmental Court passed judgment in environmental sanction proceedings brought against the company SQM Salar S.A. (SQM), a lithium producer based in the Atacama Salt Flats. They partially accepted the claims of the Atacama people's communities and recognised the effects on the water systems of the salt flats. In accordance with the precautionary environmental principle, however, the measures and actions presented by the offending company in a Compliance Programme aimed at reversing the damage caused, among other things, by the extraction of brine and fresh water, should have been disregarded.

Despite the severity of the impacts on the Atacama Salt Flats, which have endured this type of extraction of large volumes of water for two decades, this ruling was appealed both by the Environmental Superintendency (SMA), which had previously approved the Compliance Programme, and by the company.[24] Nevertheless, the day before the case was to be heard in the Supreme Court, both the SMA and SQM

withdrew their respective appeals, alluding to an out-of-court agreement reached with one of the parties, which turned out to be one of the Atacama communities.[25] The judgment of the Environmental Court therefore became final and enforceable, fulfilling all its legal effects. This case is notable as one of the highlights of 2020.[26]

It should be noted that, following the ruling, the Council of Atacameño Peoples called for compliance. At the same time, it also requested that the SMA reopen sanction proceedings which, in the case of a very serious infraction by the company, as is the case here, could result in the imposition of the highest sanction established by the legal system, the revocation of the company's environmental licence. This could quite possibly result in the termination of the state's contracts with SQM and would open up a possible whole new debate on the ownership of lithium as a strategic mineral. In this regard, the SMA does indeed have the power to and the possibility of sanctioning SQM; however, the agreement reached with one of the communities does partially reduce the likelihood of imposing such a severe sanction on the lithium company.

In addition, the environmental damage lawsuit filed by the State Defence Council (CDE), which involved the Council of Atacameño Peoples and the Atacama communities, against Minera Escondida Limitada (operated by BHP Billiton) is noteworthy. The company is being sued for the negative impacts in the Punta Negra Salt Flats of the extraction of fresh water for its copper production operations, extractions that occurred between 1997 and 2017. The plaintiff has argued in this regard that the damaged aquifer may eventually recover in a hundred years, but this will have had a severe impact on the flora and fauna of the fragile desert ecosystem, in addition to its impact on the way of life of the Atacama communities. The legal action was filed before the court and several steps have already been taken to resolve the matter.[27]

Finally, it is worth noting some recent rulings by the Supreme Court,[28] all dated 12 February 2020, requested by Aymara community members (Indigenous Historical and Heritage Community of the Aymara People of Tiacolpa) and based on ancestral use. In these rulings, which expressly referred to ILO Convention No. 169, Indigenous ancestral ownership was recognised and it was ruled that the claimed surface water use rights should be registered in the name of the petitioners, community members of the Aymara people.

Southern groups

In the southern areas, now known as Patagonia, there are currently Mapuche-Williche, Kawésqar and Yagán peoples,[29] all of them recognised by the "Indigenous Law" (Law 19,253). According to the 2017 census, the Kawésqar people represent 0.16% of the country's total Indigenous population with 3,448 people and the Yagán people 0.07% with 1,600 people. There is no record of the Mapuche-Williche (southern Mapuche) population, as the census does not distinguish between the different territorial identities of the Mapuche people. Like all of Chile's Indigenous Peoples, those who self-identify as belonging to the Yagán and Kawésqar peoples are currently spread across all regions of the country, albeit concentrated in urban areas, especially in the Metropolitan Region. According to the 2017 census, 28% of the Kawésqar people (955 people) and 19% of the Yagán people (306 people) live in the Magallanes region where their ancestral territories of use and occupation are located.[30]

Given the geography of the territory, characterised by a vast archipelago with extensive channels and fjords, the southern peoples – formerly nomadic and seafaring – have maintained a close relationship with the marine and coastal space, which are home to their livelihoods and worldview. The ancestral territory of the Mapuche-Williche people is located between the Chiloé archipelago and the Golfo de Penas, the Kawésqar territory between the Golfo de Penas and the Strait of Magellan and the Yagán territory south of Tierra del Fuego between the Beagle Channel and Cape Horn. Due to the features of these territories, they also present a high interest for biodiversity conservation and, at the same time, for the salmon industry. Several State Protected Wildlife Areas (ASPE), both marine and terrestrial, thus overlap with the ancestral territory of the southern peoples, as does the salmon industry, both of which have significant impacts on the livelihoods of these peoples. Although they have contributed to slowing the expansion of the salmon industry and protecting the biodiversity of the territory – as have most protected areas in the world – these ASPEs were created without the free, prior and informed consent of these peoples, and they are to this day shut out of their governance and management, with the exception of a few incipient initiatives that are seeking to change this trend.

In this context, Law 20,249 creating the Marine Coastal Spaces

of Indigenous Peoples (ECMPO), known as the "Lafkenche Law", has emerged as an alternative of growing interest in the control and safeguarding of the territories of coastal Indigenous communities. Its objective is to "safeguard the customary use of these spaces in order to maintain the traditions and natural resource use of the communities linked to the coastal areas" (Art. 3). However, enforcement of this law has been slow and arbitrary. As of January 2020, of the 93 ECMPOs requested by coastal communities throughout Chile, 65% (60 ECMPOs) were located in southern peoples' territories. In addition, only 13 (five of them in southern territories) have obtained their designation decrees, all of them after long and bureaucratic processing periods exceeding four years.[31] The Indigenous communities have encountered various obstacles to the application of this law[32] mainly due to the overlapping interests of the aquaculture and fishing industry. In addition, Indigenous communities have received little support from the state in their requests for an ECMPO, having to face these processes alone by creating alliances between communities. Despite the difficulties, ECMPO applications have had the practical effect of slowing down the expansion of the salmon industry into the fjords and canals of Chilean Patagonia. This situation is now being recognised by conservation organisations, who are viewing the ECMPOs as a tool for biodiversity protection that respects and guarantees the rights of Indigenous Peoples.[33]

Notes and references

1. National Institute for Statistics (INE), 2018 *Síntesis de resultados Censo 2017.* Available at: https://www.censo2017.cl/descargas/home/sintesis-de-resultados-censo2017.pdf
2. *Ibid cit.*
3. Economic Commission for Latin America and the Caribbean (ECLAC) and others. *El impacto del COVID-19 en los pueblos indígenas de América Latina-Abya Yala: entre la invisibilización y la resistencia colectiva.* Economic Commission for Latin America and the Caribbean (ECLAC), Santiago, 2020. Available at: https://www.cepal.org/es/publicaciones/46543-impacto-covid-19-pueblos-indigenas-america-latina-abya-yala-la- invisibilizacion
4. Paula Huenchumil. "Si la desigualdad ha aflorado más con la pandemia, en la población mapuche el estrago es peor" [The pandemic has highlighted inequalities but they are far worse in the Mapuche population]. *Viviendo al día,* 11 May 2020. Available at: https://infoinvi.uchilefau.cl/entrevista-a-andres-cuyul-covid-19-en-la-araucania-si-la-desigualdad-ha-aflorado-mas-con-la-pandemia-en-la-poblacion-mapuche-el-estrago-es-peor/

5. Economic Commission for Latin America and the Caribbean (ECLAC) and others (2020), op cit.
6. According to a report of the Economic Commission for Latin America and the Caribbean (ECLAC) and others (2020), cited above, the health services or authorities in some regions, such as the Araucanía Norte Health Service, the Arica Health Service and the Health SEREMI of the Arica and Parinacota Region, did produce audiovisual materials and worked on a protocol of recommendations for the Indigenous population but, almost a year after the start of the pandemic, this latter is still not available.
7. Observatorio Ciudadano y otros. "Emergencia sanitaria en el contexto de la pandemia por Covid-19 en Chile y su impacto en los derechos de los pueblos originarios". June 2020. Available at: https://observatorio.cl/covid-19-entregan-informe-sobre-situacion-de-pueblos-indigenas-en-chile-a-relator-especial-de-naciones-unidas/
8. Along with assimilation policies, diseases resulting from bacteriological contact with navigators, missionaries and settlers arriving in the area brought the Yagán people to near extinction. See "Comunicado de alerta de la Comunidad Indígena Yagán de Bahía Mejillones frente al COVID-19" [COVID-19 alert from the Yagán Indigenous community of Bahía Mejillones]. *Observatorio Ciudadano,* 21 April 2020. Available at: https://observatorio.cl/comunicado-de-alerta-de-la-comunidad-indigena-yagan-de-bahia-mejillones-frente-al-covid-19/
9. *Informe epidemiológico COVID-19.* Ministry of Health, 18 January 2021. Available at https://www.minsal.cl/wp-content/uploads/2021/01/Informe-Epidemiologico-87.pdf
10. *Ibid.*
11. *Observatorio Ciudadano* and others. June 2020, "Emergencia sanitaria...", op cit.
12. *Ibid. Cit.*
13. Lucio Cuenca Berger. "Informe sobre ingreso abusivo de proyectos al Sistema de Evaluación de Impacto Ambiental (SEIA) en tiempos de Pandemia". *OLCA*, 20 May 2020. Available at http://olca.cl/articulo/nota.php?id=107913
14. El control territorial de las comunidades mapuche del Lago Maihue para defenderse del COVID-19" [Territorial control of the Mapuche communities of Lake Maihue to defend themselves from COVID-19". *Mapuexpress*, 5 May 2020. Available at: https://www.mapuexpress.org/2020/05/05/el-control-territorial-de-las-comunidades-mapuche-del-lago-maihue-para-defenderse-del-covid-19/
15. *Observatorio Ciudadano* and others. June 2020, "Emergencia sanitaria...", op cit.
16. Nicolás Romero. "Aucán Huilcamán: 'El Estado Plurinacional no ha resuelto nada en relación a los pueblos indígenas'" [Aucán Huilcamán: 'The Plurinational State has resolved nothing in relation to the Indigenous Peoples']. *Revista de Frente*, 3 February 2020. Available at: http://revistadefrente.cl/aucan-huilcaman-el-estado-plurinacional-no-ha-resuelto-nada-en-relacion-a-los-pueblos-indigenas/
17. "Carta pública ante nulo avance de reforma constitucional sobre escaños reservados y participación de pueblos originario en el Congreso Nacional" [Public letter on the lack of progress in the constitutional reform on reserved seats and participation of Indigenous Peoples in the National Congress]. *Observatorio Ciudadano,* 14 October 2020. Available at https://observatorio.cl/

carta-publica-ante-nulo-avance-de-reforma-constitucional-sobre-escanos-reservados-y-participacion-de-pueblos-originarios-en-el-congreso-nacional/

18. "Afrodescendientes presentan recurso de protección en contra de la Cámara de Diputados y la Ministra de Desarrollo Social" [Afro-descendants file appeal for constitutional protection against the Chamber of Deputies and the Minister of Social Development]. *Observatorio Ciudadano,* 14 January 2021. Available at https://observatorio.cl/afrodescendientes-presentan-recurso-de-proteccion-en-contra-de-la-camara-de-diputados-y-la-ministra-de-desarrollo-social/

19. Of these, 12 were rejected for not meeting the requirements established by the Electoral Service for these purposes. See https://www.servel.cl/resoluciones-de-aceptacion-y-rechazo-de-candidaturas-elecciones-abril-2021/

20. "Huelga de hambre de presos mapuche: ¿quiénes son los ocho de la cárcel de Angol?". [Hunger strike by Mapuche prisoners: who are the eight in Angol prison?]. *Interferencia*, 25 August 2020. Available at https://interferencia.cl/articulos/huelga-de-hambre-de-presos-mapuche-quienes-son-los-ocho-de-la-carcel-de-angol

21. Document available at https://radio.uchile.cl/wp-content/uploads/2020/08/Carta-2020.08.17.pdf

22. Among the best-known cases are that of *lonko* Juan Nahuelpi of Lof Liukura de Lumako, injured by pellets in the face on 6 August, and Teresa Marín, mother of Camilo Catrillanca, a young man killed by police in 2018, who was temporarily blinded after receiving pepper spray directly into her eyes from police officers after a protest in Temuco on 16 September.

23. Aylwin, José, "Conflicto interétnico y odio racial en la Araucanía" [Interethnic conflict and racial hatred in Araucanía]. In *El Mostrador*, 5 August 2020. Available at https://www.elmostrador.cl/destacado/2020/08/05/conflicto-interetnico-y-odio-racial-en-la-araucania/

24. "SMA apela a fallo del Tribunal Ambiental y defiende plan de SQM en el Salar de Atacama" [SMA appeals Environmental Court ruling and defends SQM's plan in the Atacama Salt Flats]. *La Tercera,* 15 January 2020. Available at https://www.latercera.com/pulso/noticia/sma-apela-fallo-del-tribunal-ambiental-defiende-plan-sqm-salar-atacama/974447/

25. Azócar, Vanessa y Cárdenas, Leonardo. "$1.700 millones por la paz en el Salar de Atacama: SQM llega a acuerdo con comunidad indígena en proceso por uso de aguas" [US 1,700 million for peace in Atacama Salt Flats. SQM reaches agreement with Indigenous community in water use lawsuit]. *La Tercera,* 21 August 2020. Available at https://www.latercera.com/la-tercera-pm/noticia/1700-millones-por-la-paz-en-el-salar-de-atacama-sqm-llega-a-acuerdo-con-comunidad-atacamena-en-proceso-judicial-por-uso-de-aguas/X7PD6BBCM5EBRJ654SEAB343UM/

26. "Chile: las 10 historias ambientales que marcaron el 2020" [Chile: the 10 environmental stories that marked 2020]. *Mongabay Latam,* 23 December 2020. Available at https://es.mongabay.com/2020/12/chile-las-10-historias-ambientales-que-marcaron-el-2020/-. See also: Carrera, Michelle. "Chile: ¿Qué está en juego en el Salar de Atacama?" [Chile: What's at stake in the Atacama Salt Flats?] *Mongabay Latam,* 3 September 2020. Available at: https://es.mongabay.com/2020/09/chile-que-esta-en-juego-en-el-salar-de-atacama/

27. First Environmental Court accepts environmental damage lawsuit against Hidden Mining. *First Environmental Court,* 14 April 2020. Available at https://www.1ta.cl/primer-tribunal-ambiental-acoge-a-tramite-demanda-por-dano-ambiental-en-contra-de-minera-escondida/

28. Case Roll Nos. 12.290-2019, 12.988-2019, 14.162-2019.
29. This vast territory has been inhabited by different peoples for more than 10,000 years, including, along the coast from north to south, the Mapuche-Williche (or Veliche), Chono, Kawésqar (or Alacalufes) and Yagán (or Yámana) peoples; and in the continental steppe zone, the Aónikenk (or Tehuelche) peoples and in Tierra del Fuego, the Selk'nam (or Onas) and Haush (or Mánekenks). However, these identities are complex and comprised a range of sub-identities with their own shifting boundaries.
30. National Institute of Statistics (INE). Radiografía de Género: Pueblos Originarios 2017. December 2018. Available at https://historico-amu.ine.cl/genero/files/estadisticas/pdf/documentos/radiografia-de-genero-pueblos-originarios-chile2017.pdf
31. Meza-Lopehandía, M. "La Ley Lafkenche. Análisis y perspectivas a 10 años de su entrada en vigor". *Biblioteca del Congreso Nacional de Chile, Asesoría Técnica Parlamentaria*, June 2018. Available at https://www.bcn.cl/obtienearchivo?id=repositorio/10221/25431/1/BCN___FINAL___La_Ley_Lafkenche_10_anos_despues_2018.pdf
32. Villalobos, María Paz. "La torcida aplicación de la Ley Lafkenche" [The tortuous application of the Lafkenche Law]. *El Desconcierto,* 2 February 2021. Available at https://www.eldesconcierto.cl/opinion/2021/02/02/la-torcida-aplicacion-de-la-ley-lafkenche.html
33. See for example: https://science.sciencemag.org/content/370/6517/669.2/tab-e-letters

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In Colombia, both Indigenous Peoples and traditional black, Raizal and Palenquero communities are recognised as ethnically, historically and culturally differentiated groups, with human and territorial rights of a collective nature. According to the 2018 Census, the Colombian Indigenous population numbers some 1,905,617 individuals who, in turn, belong to 115 different native peoples. Approximately 58.3% of this population lives in 717 collectively-owned *resguardos* (reserves).

The same census counted 4,671,160 people (9.34% of the national total) who self-identify as black, Afro-Colombian, Raizal or Palenquero. Around 7.3% of this population lives in 178 collectively-owned territories, organised around Community Councils.

As a result of a resurgence in the internal armed conflict following the 2018 electoral success of President Iván Duque, who is opposed to the Peace Agreement, violence and the armed retaking of many of the regions inhabited by these peoples intensified during 2020. In this context, as stated by the Ombudsman's Office, there is a conspicuous delay in implementing the Ethnic Chapter of the Peace Agreement and a clearly deteriorating humanitarian situation which, in 2020 alone, left 112 Indigenous people dead in different regions, not to mention the members of Afro-descendant communities, whose deaths are not fully differentiated in the records.

Indigenous Peoples and ethnic communities in an abysmal time of pandemic

During 2020, the full force of the hegemonic and criminal powers that are targeting the very heart of Indigenous Peoples and ethnic communities, their territories, resources and collective rights, was felt with particular severity in Colombia. In a widespread atmosphere of violence, a weakening of democracy and the pandemic, the current government and its parliamentary majority made firm progress in dismantling laws that enshrine constitutional principles of individual and collective rights in order to replace them with norms of lower hier-

archy such as decrees, resolutions and circulars issued to suit them. This was due to the extraordinary powers granted to the President of the Republic to legislate during the State of Emergency declared under the COVID-19 pandemic, together with the weakness of the opposition forces in the Congress of the Republic, reduced to paralysis due to the transfer of its work online.

Throughout the year, declarative provisions and the legal scope of the principles set out in the Colombian Constitution, including the statement that it is a multiethnic and multicultural state, thus continued to succumb to the global trend that is extinguishing democratic life and, with it, the space for different societies and cultures to exist within our nation states.

Between the machinery of death and the dismantling of the Peace Agreement

It seems like *déjà vu* to be talking about the situation of Indigenous Peoples in Colombia in the context of the armed conflict. The massive violations of human and collective rights caused by the internal armed conflict over past decades left millions of victims in the country – most of them from Indigenous Peoples and ethnic communities – but, between 2012 and 2016, a formal dialogue took place that resulted in the signing of a Peace Agreement with the guerrilla forces of the Revolutionary Armed Forces of Colombia (FARC). There followed a gradual de-escalation of the conflict, a decrease in the number of victims, the return of some communities to their territories and a climate of relative peace.

Since this de-escalation, however, particularly in rural areas, a new cycle of violence has begun to occur with the arrival of Iván Duque and his party, the "Democratic Centre", to power at the end of 2018. This sector has had a decisive influence on how the conflict has developed and on the re-taking of regions by armed actors, setting in motion its stated desire to "tear the peace process to shreds", i.e., destroy the structure of the Peace Agreement, especially its components of traditional justice; comprehensive rural reform; truth, justice, reparation and non-repetition; the dismantling of paramilitarism; and plans for the substitution of illicit crops.[1]

In this context, as reported by the Ombudsman's Office in its most recent report on the post-agreement in ethnic territories, not only is the implementation of the Ethnic Chapter of the Peace Agreement lagging but the humanitarian situation is dramatically worsening in the country's ethnic territories:

> *Threats, attacks, assassinations and displacements of leaders, authorities and ethnic communities for their activities in defence of human rights are on the rise. The Ombudsman's Office has verified the serious situation being experienced in departments such as Chocó, Nariño, Valle del Cauca, Cauca, Putumayo, Norte de Santander, Guajira and Magdalena by authorities and ethnic leaders. Their involvement in the processes of crop substitution, land restitution, reparation of victims and defence of environmental rights are some of the main factors that trigger threats, murders and accusations against ethnic communities, their authorities and leaders.*[2]

One of the cruellest humanitarian casualties of this resurgence in violence in 2020 was the assassination, individually or in massacres, of hundreds of social leaders, human rights defenders, environmentalists, workers, journalists, activists of opposition parties and movements, as well as people demobilised within the framework of the Peace Agreement. Among these new victims in 2020 were 112 Indigenous people from different regions of the country, not including members of Afro-descendant communities, whose deaths are not fully differentiated in the records.[3]

The regions most affected include, in order, the departments of Cauca, Nariño and Chocó, areas involving phenomena such as illicit crops and, at the same time, voluntary substitution plans, a commitment under the Peace Agreement but which has been obstructed both by the current government – which prefers to impose a forced strategy of aerial spraying with glyphosate despite its ineffectiveness and serious environmental and social consequences –[4] and by the same armed actors who aspire to maintain control of production areas and drug trafficking routes. These territories are also threatened by land grabbing, extractive projects, the development of mega infrastructure projects

and, more generally, the significant presence of legal and illegal armed actors: paramilitaries,[5] guerrillas of the National Liberation Army (ELN) and groups of FARC dissidents who did not accept the Peace Agreement.

Consultation and consent on the road to insignificance

2020 was also not a favourable year in terms of guaranteeing the right to Free, Prior and Informed Consultation and Consent, despite the government boasting of having achieved 14,242 prior consultations in 1,838 projects involving Indigenous, Afro-descendant and Raizal peoples.[6]

This unusual proliferation of prior consultations, far from representing a true guarantee of the protection of the rights of peoples and communities in Colombia, has reduced this right to a mere procedural requirement, automated and redesigned so as to smooth the way for infrastructure works and extractive projects.[7]

In 2020, as soon as the measures for controlling the COVID-19 pandemic were imposed nationally, the Ministry of the Interior – without conducting any consultation – issued a circular giving the green light to the holding of prior consultations virtually. This decision later had to be revoked by the same ministry due to pressure from Indigenous organisations, different social and environmental actors and the Attorney General's Office, who pointed out that this mechanism for consultation did not meet the minimum international standards for guaranteeing this right.[8]

And yet this was not the end of the national government's efforts to make consultation and consent an insignificant right with no effect on infrastructure works or extractive projects when there is a supposed sense of urgency and "national priority". The path was opened up for a "Proportionality Test" in 2020 (already applied in 66 cases), designed by the national government to replace consultation in those cases where ethnic communities decide not to attend the consultative processes convened by the government and companies, or when their consent is not achieved. This instrument, also implemented with no consultation, violates the very essence of Indigenous Peoples' right to participate in

decisions affecting them and has been rejected by the organisations and questioned by the Ombudsman's Office itself in the following terms:

> *It should be noted that a mechanism implemented in line with a regulation such as Presidential Directive 10 of 2013, which has not been agreed upon or consulted with the ethnic peoples and community rights holders, and through compliance with which it seeks to achieve efficiency and good practice, cannot be considered completely random (...) It is therefore the role of the Ombudsman's Office to warn of the risks of applying the proportionality test in the terms established in Directive 10 of 2013. This is in order to prevent a mechanism for guaranteeing rights such as this from being confused with a procedural tool (...).*

The setback of the century in the right to collective territory

Another event that began to call into question the legal security of the territorial rights of Indigenous Peoples and ethnic communities in the country in 2020 was the unprecedented declaration of retroactive nullity issued by the Bolívar Administrative Disputes Court with regard to the collective property title previously granted by the state to the Black Community of La Boquilla in recognition of its historic debt to this Afro-descendant community, which has for centuries inhabited an area that is now being absorbed into the urban development of Cartagena de Indias.

The overturning of this property title, the result of a problematic judicial decision in several ways, demonstrates that "fundamental rights in our country are not permanent victories" as stated by Professor Pablo Ruiz,[9] and that it is possible for the state itself to act in violation of the collective territories of Indigenous Peoples and black communities, constitutionally recognised as unseizable, imprescriptible and inalienable even if they have not been granted a property title by the state.[10]

Regarding guarantees of black or Afro-descendant communities right to territory specifically, the Colombian Constitutional Court has

repeatedly stated that the Constitution recognises the right of black communities to collective territory under similar conditions to those of Indigenous Peoples and that, consequently, enjoyment of this right also means that other collective rights such as Free, Prior and Informed Consent and Consultation are guaranteed.[11]

Unfortunately, by determining that this title was null and void with the veiled aim of gentrifying the area and meeting the needs of hoteliers and developers, this court ruling is not simply an example of an infringement of an Afro-descendant community's right to collective territory. It also opens the door to a review of other titles previously administratively granted to Black Community Councils, with the aim of making spurious legal arguments that will further enable other peoples' and ethnic communities' right to collective territory to be ignored.

The Minga in the eye of the hurricane

To close this brief review of some of the significant events involving Indigenous Peoples and ethnic communities in Colombia in 2020, one final event should be mentioned. It caused a national stir due to its force and magnitude but, in fact, for other reasons, it also raises questions about the status of the relationship between the peoples and their organisations and the state.

I am referring to the Indigenous Minga that took place in October 2020, a large mobilisation of peoples and communities the name of which derives from the Quechua term "*minka*", a traditional form of collective work for the common good that has spread to various peoples from the Indigenous regions of the Colombian Andes. This movement, which brought together thousands of Indigenous and Afro-descendant people from the centre and south-west of the country, was organised by a number of Indigenous and black organisations from Cauca department and was linked to the national strike called by various social and workers' sectors demanding national government compliance with previous agreements, as well as guarantees for the protection of life, territories, work, health, education, plus national measures to mitigate the serious social and economic effects of the COVID-19 pandemic.

After an insistent request for direct dialogue and President Iván

Duque's refusal to agree to this, the Minga decided to mobilise en masse in Bogotá,[12] where the President still refused to meet them. Instead, he went on a trip and delegated the task to emissaries prepared to consider the technical rather than the "political" issues in the regions, and with other leaders, an attitude interpreted as making a mockery of the communities and organisations that legitimately represent them.

Beyond this particular tale, however, this response from the national government highlights the divisive strategy that continued to be promoted in 2020 by state institutions themselves because, while the peoples and some of their organisations are working to preserve and defend their rights and collective territories, new organisations and leaderships have been formed and co-opted by the government and companies with the aim of legitimising public and private interventions that violate the life project and interests of the communities, their members and legitimate organisations (see also the case of the Arhuaco People of the Sierra Nevada de Santa Marta).[13]

During 2020, an attempt was thus made, using the principle of "divide and rule", to weaken the unity that lies at the very heart of the peoples and communities and, although the power of the majority, their authorities and organisations still prevails, there are real forces attempting to fragment the peoples that will require additional efforts at resistance in the years to come.

Notes and references

1. Noticias Uno. "Fernando Londoño y Alejandro Ordóñez prometen volver trizas el acuerdo de paz" [Fernando Londoño and Alejandro Ordóñez promise to tear the peace agreement to shreds]. YouTube video, 7 May 2017. Available at https://www.youtube.com/watch?v=vIRJK2d84-8
2. Ombudsman of the People. "Informe defensorial. El posacuerdo en los Territorios Étnicos". 2020. Available at www.defensoria.gov.co
3. Indepaz. "Líderes sociales y Defensores de Derechos Humanos asesinados en 2020". 2020. Available at http://www.indepaz.org.co/lideres/
4. See timeline in "Colombia: pese a evidencias científicas sobre daños a la salud y la baja efectividad de la aspersión de cultivos ilícitos, el Gobierno busca reanudar uso del glifosato". Available at https://www.business-humanrights.org/es
5. The paramilitaries, formerly identified as Criminal Gangs (Bacrim) are now referred to by the government as Organised Criminal Groups (GDO) and Organised Armed Groups (GAO).
6. Ombudsman of the People. "Informe defensorial: Garantía y Protección del

Derecho Fundamental a la Consulta Previa y el Consentimiento Libre, Previo e Informado de los Pueblos y Comunidades Étnicas en Colombia". 2020.

7. Diana Mendoza. "Protocolos Autonómicos de Consulta Previa en Colombia: restablecimiento de los derechos a la autonomía y la autodeterminación en pueblos y comunidades étnicas de Colombia". In: *Protocolos Autonómicos de Consulta Previa Indígena en América Latina*. IWGIA, 2020. Available at www.iwgia.org/images/documentos/Protocolos_Autonmicos_de_Consulta_Previa_Indgena_en_Amrica_Latina.pdf
8. Ibidem.
9. Pablo Ruiz Sáiz. "La sentencia que anuló el título colectivo de La Boquilla y la precariedad de los derechos fundamentales" [The judgement that overturned the collective title of La Boquilla and the vulnerability of fundamental rights]. Ámbito Jurídico, 13 October 2020. Available at https://www.ambitojuridico.com/noticias/analisis/constitucional-y-derechos-humanos/la-sentencia-que-anulo-el-titulo-colectivo-de
10. Constitutional Court, Ruling T-661-15. Available at https://www.corteconstitucional.gov.co/relatoria/2015/t-661-15.htm
11. Constitutional Court, Judgment T-680-12. Available at https://www.corteconstitucional.gov.co/relatoria/2012/T-680-12.htm
12. "Siete cosas ejemplares que dejó el paso de la minga indígena" [Seven ways in which the Indigenous minga set an exemplary example]. *Diario El Tiempo,* 22 October 2020. Available at https://www.eltiempo.com/politica/cosas-ejemplares-que-dejo-la-minga-indigena-2020-544659
13. "Pueblo Arhuaco rechaza nombramiento de gobernador sin su participación" [Arhuaco people reject appointment of governor without their involvement]. *El campesino.co,* 14 December 2020. Available at https://www.elcampesino.co/pueblo-arhuaco-rechaza-nombramiento-de-gobernador-sin-su-participacion/

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Costa Rica

NICARAGUA
CARIBBEAN SEA
San José
COSTA RICA
PANAMA
PACIFIC OCEAN

Eight Indigenous Peoples live in Costa Rica: the Huetar, Maleku, Bribri, Cabécar, Brunka, Ngäbe, Bröran and Chorotega, constituting 2.4% of the total population. According to the 2010 National Census, a little over 100,000 people self-identify as Indigenous.

Twenty-four (24) Indigenous territories cover some 6.7% of the national territory (3,344 km^2) although this is only the formal area stated in the decrees establishing the territories as a large proportion has been invaded by non-indigenous settlers.

In a country where nearly 20% of the general population lives below the poverty line, this percentage attains alarming heights in the case of the country's Indigenous Peoples: Cabécar 94.3%; Ngäbe 87.0%; Bröran 85.0%; Bribri 70.8%; Brunka 60.7%; Maleku 44.3%; Chorotega 35.5% and Huetar 34.2%.

Costa Rica ratified ILO Convention 169 in April 1993 and added recognition of its multiculturalism to the Political Constitution of the Republic in August 2015.

The Indigenous Law of 1977, in turn, recognised the traditional Indigenous organisations. However, a later regulation imposed a completely alien status on their traditional power structures: the Associations for Integral Indigenous Development (ADII), under the supervision of the National Directorate for Community Development, an entity that is incapable of understanding either cultural diversity, Indigenous rights or an intercultural approach.

The National Commission for Indigenous Affairs has been in place since 1973. The fact that it recognises the ADII as territorial representatives, together with its welfarist approach, has eroded its legitimacy. This has resulted in its limited recognition among Indigenous people and its relegation from institutional policies.

Among the Indigenous organisations that enjoy national and regional legitimacy and which are working to defend Indigenous rights, the following are noteworthy: the National Indigenous Roundtable of Costa Rica (MNICR), the National Front of Indigenous Peoples (FRENAPI), the Indigenous Bribri-Cabécar

Network (RIBCA), the Pacific Ngäbe Association, the Regional Aboriginal Association of Dikes (ARADIKES), the National Forum of Indigenous Women, and the Inter-University Indigenous Movement.

More than a quarter of a century waiting for the Law on the Autonomous Development of Indigenous Peoples

The draft Law on the Autonomous Development of Indigenous Peoples was published in the Official Gazette in 1994.[1] And yet 2020 marked the 26th anniversary of parliament's refusal to discuss it and the Executive's failure to prioritise it, even though its enactment has been a promise in the run-up to several elections. Strong resistance of a racist nature persists, as well as strong opposition from the private sector and the conservative political parties who believe it would pose a threat to extractive investments and who furthermore do not accept a concept of territory that does not view land as a commodity.

The struggle for land: more violent this year

Costa Rica's Indigenous lands were titled without prior regularisation (*saneamiento*) or physical demarcation. The 24 territories have been established by various executive decrees passed since the 1950s. The Indigenous Law of 1977 allocated an annual budget for the purchase of non-indigenous lands within the boundaries of those territories. However, the state has not, to date, fulfilled its commitment in this regard. On the contrary, it has tolerated the invasion and dispossession of Indigenous lands by local landowners and politicians.

Indigenous organisations, notably the MNICR and FRENAPI, have been demanding the regularisation of their lands for decades. The Institute for Rural Development (INDER) commenced the process in 2016 but, three years on, the only progress it had made was to have surveyed less than 5% of the total area.

In March 2020, INDER reported that it had 193 files ready for the administrative expropriation and compensation procedure. Eight months later, in November 2020, the Ombudsman's Office confirmed that no expropriations had yet taken place on Indigenous territories. At the end of the year, INDER's Board of Directors authorised the creation of a trust to commence in 2021 with the sum of 500 million colones (approximately USD 800,000), an amount that will be increased by 80% of the institution's non-tax revenues for 2022 and 2023, and by 50% for 2024, 2025 and 2026. The Ombudsman's Office stated in this regard that it would "push this issue with INDER because the response received is not satisfactory in terms of honouring the state's debt to Indigenous Peoples for the return of their ancestral lands".[2] By FRENAPI's calculation, the annual allocation amount would only be sufficient in a few cases to cover the compensation payments required in a single territory.

The delay in the studies and the lack of political will to carry out the regularisation and evict illegal occupants has resulted in the emergence and consolidation of a land recovery movement which, since 2011, has been evicting illegal occupants itself.

During a recovery process, the movement settles people in camps on lands illegally occupied by non-indigenous people within the territory's boundaries. The non-indigenous invaders, however, then denounce the Indigenous people for usurpation of their own lands and, with a speed never achieved when the boot is on the other foot, obtain eviction orders and the mobilisation of squads of riot police. The Inter-American Commission on Human Rights (IACHR) was able to verify this on meeting with representatives of the Bröran people at the recovered Crun Shurin farm in the Indigenous Territory of Térraba when:

> *...the security forces came to notify them of an eviction order. A curious fact is that the Buenos Aires land claims judge who issues these eviction orders is married to the daughter of a landowner who illegally owns land in Térraba (...). Such family ties, verifiable through the Civil Registry, raise legitimate doubts as to the neutrality or impartiality of the judge (...) Indigenous people are the victims of all kinds of aggression from landowners, including murder, and yet the state does not*

> *take the necessary measures to effectively investigate, prosecute or punish those responsible.*[3]

The violence against Indigenous people fighting for their land intensified in 2020 but the issue has been described by the state as a mere series of isolated events. This is simply not true: these are gangs organised by landowners and encouraged by the local media to openly spread racist messages in a country where public expressions of racism do not seem to be a crime. The National Front of Indigenous Peoples thus stated in a press release:

> *...contrary to what the state alleges in response to the communication sent by UN special rapporteurs to Costa Rica, the murder of Indigenous leader Sergio Rojas Ortiz was not an isolated event: it took place in a context of widespread violence that is well known to the state (...) and was encouraged by various media and by the Municipal Council of Buenos Aires in Puntarenas, which went so far as to declare Sergio Rojas (by means of Ordinary Act 31-2012 of 11 August 2012) persona non grata in the canton of Buenos Aires.*[4]

The precautionary measures issued by the Inter-American Commission on Human Rights in April 2015 have not yet been implemented five years on and, as of 2020, the leaders and people involved in recovering lands were continuing to be threatened. In March 2019, Sergio Rojas, an Indigenous Bribri leader from the Salitre territory, and one of the founders of FRENAPI, was murdered. On 26 September 2020, the justice system decided to close the case (File 19-000178-0990-PE) due to an alleged lack of evidence. With this decision, Sergio's crime will go unpunished and a message will be sent to invaders of Indigenous lands and their hitmen that their crimes will not even be investigated.

Violence in the Bröran de Térraba territory has intensified since the start of 2020. Several of its leaders have received death threats. On 24 February 2020, Jerhy Rivera Rivera was murdered with five shots to the back after participating in a meeting to defend the territorial rights of his people. He had been receiving threats since 2013. The murderer was caught by the police at the scene of the crime. However, despite the fact

that the confessed killer and his brother were identified and prosecuted, both were released following a ruling by the Buenos Aires Criminal Court in Puntarenas.[5]

> *We strongly condemn the crime against Mr. Jerhy Rivera Rivera, Indigenous Bröran, on the night of 24 February 2020 at approximately 9 pm, committed by Eduardo Varela Rojas. We note that, although the police were close to the scene, their actions were insufficient to prevent the confrontation and his subsequent murder. We condemn the savage acts of vandalism carried out by dozens of non-indigenous people in the centre of Bröran Térraba community during the night and early morning with the biased impunity of the security forces, as well as their movements, since in many cases they travel around in in the cabs of cars and trucks without documents, or without license plates, under the impassive gaze of the authorities.*[6]

Land recoveries intensified significantly in the Cabécar territory of China Kichá in 2020 where, in October, a judge issued an eviction order against those reclaiming their own land while the entrance to their territory was blocked by armed landowners. Recoveries are continuing in the territories of Bröran de Térraba, Bribri de Salitre, Brunka de Yimba Cájc and Maleku de Guatuso.

It is clear that the structural causes of Indigenous Peoples' social, political, economic and cultural exclusion, notably in relation to territorial rights and self-determination, continue to be an outstanding issue in 2020 and that there is still resistance within institutions and the judicial system to address these causes from a rights-based perspective.

Indigenous Peoples in the context of a pandemic

The government's action plan for addressing COVID-19 in the Indigenous territories of Costa Rica was focused around four lines of action: community participation; prevention; dealing with suspected cases; and care of infected patients.

The MNICR and territorial organisations had begun to take measures to prevent infection from the very start, taking into account the recommendations of the Ministry of Health and supplementing them with their own actions, for example checkpoints on entering and leaving their territories, in exercise of their right to self-determination. In addition, MNICR lobbied to make sure that Indigenous Peoples were supported. While the first case of COVID-19 in the country was recorded in March, it was not until the end of June that cases were detected in Indigenous territories, thanks in large part to the measures that they themselves had implemented. As of December 2020, based on reports from territorial and community leaders, the MNICR had counted nearly 600 cases in Indigenous territories and 30 deaths. The state does not keep disaggregated records of Indigenous cases despite repeated requests by the MNICR.

> *The MNICR negotiated the cooperation of humanitarian aid in food and health products and, with the support of FIAY/CICA/GIZ and the World Bank, more than 800 packages were obtained comprising a total of 13,000 food and COVID-19 prevention products, which were distributed in most of the Indigenous territories. It was not possible to reach some territories due to administrative issues with the suppliers that could not be corrected. In addition, with regard to the COVID-19 pandemic, resources and food have been allocated to address the COVID-19 emergency in Indigenous territories through the Social Protection Platform, with the participation of various state institutions.*[7]

Progress during 2020

With funds from the Inter-American Development Bank, the Vice-Ministry of Political Affairs and Social Dialogue under the Ministry of the Presidency published a *Guide for the Institutional Care of Costa Rica's Indigenous Peoples*[8] in 2020 aimed at "facilitating an awareness among public officials"[9] as regards their relationship with Indigenous Peoples. Although it could have represented an important step forward,

however, the document actually went no further than describing Indigenous Peoples from a culturalist perspective, summarising national and international legislation, and recommending paternalistic care.

The General Mechanism for Consultation with Indigenous Peoples, promulgated in 2018, is continuing its institutional implementation process via the formation of Territorial Bodies for Indigenous Consultation. However, the allocation of technical and financial resources to the Technical Unit for Indigenous Consultation under the Ministry of Justice and Peace remains insufficient.

For its part, the National Institute for Water Supply and Sewage Systems has begun an assessment of the water situation in the country's Indigenous territories in order to establish the basis for an institutional policy of working with Indigenous Peoples and to draw up a specific ethnically- and culturally-sensitive action plan.

Future prospects

In terms of Indigenous rights in Costa Rica, 2020 offered progress in some areas alongside significant setbacks in others. Areas of progress included the commencement of an assessment of the water situation on Indigenous territories, the continuation of the culturally-appropriate housing programme of the Banco *Hipotecario de la Vivienda* and increased public investment on Indigenous territories, notably in areas of social assistance and educational infrastructure.

Structural issues, however, remain unresolved. Land grabbers continue to act with impunity, threatening and killing, and the state is taking no steps to end the problem. This lack of progress is largely due to the fact that the state continues to consider land recovery as a topographical and legal issue, failing to understand the complex historical, political and socio-cultural reality of the conflicts. Although research by the *Universidad Nacional a Distancia* (National Distance Learning University) and Costa Rica University is providing strategic information, INDER has been unable to take advantage of this due to a lack of professionals qualified in intercultural conflict analysis and resolution. Nor are there any concrete actions for the eviction and compensation of non-indigenous occupants when necessary.

Notes and references

1. Legislative Assembly of the Republic of Costa Rica. "Law on the Autonomous Development of Indigenous Peoples (File No. 14,352)," 2010. http://proyectos.conare.ac.cr/asamblea/14352%203M137.pdf
2. "Defensoría exige al INDER acelerar expropiación legal de tierras en favor de pueblos indígenas" [Ombudsman demands INDER speed up land expropriations for Indigenous Peoples] El país, *Costa Rica*, 13 November 2020. http://www.elpais.cr/2020/11/13/defensoria-exige-al-inder-acelerar-expropiacion-legal-de-tierras-en-favor-de-pueblos-indigenas/?fbclid=IwAR1lKlND8Wfr6Ll7EBxt0hystHLdMVHE5kcch4emKP9QLoJOu6zm1RUccvc
3. Rinaldi Karine, "En Costa Rica los indígenas arriesgan sus vidas porque el Estado no cumple la ley" [Indigenous people in Costa Rica are risking their lives because the state is not complying with the law] Delfino, 14 December 2020. https://delfino.cr/2020/12/en-costa-rica-los-indigenas-arriesgan-sus-vidas-porque-el-estado-no-cumple-la-ley
4. Ibid.
5. "Térraba lleva dos días bajo ataque, nuevas amenazas de muerte, incendios y vandalismo" [Térraba has been under attack for two days, with new death threats, fires and vandalism] *Informa-Tico*, 4 March 2020. https://www.informa-tico.com/4-03-2020/terraba-lleva-dos-dias-ataque-nuevas-amenazas-muerte-incendios-vandalismo?fbclid=IwAR0fz9K2rqWvwauQ2vys2gqEP2bavAWFwQUSolNrD9Yb9Nx82HyaCnQn_Ww
6. Council of Bröran Elders, "Urgent Press Release, Bröran de Térraba Indigenous Territory", 25 February 2020.
7. National Indigenous Roundtable of Costa Rica, "Avanzamos hacia el buen vivir." 2020 Report. San José, MNICR, 2020. pp 1-2.
8. Volio, Astrid Fischel, Gilberto Guzmán Saborío and Ana Maritza Barahona Martínez, "Guía para la atención institucional de los pueblos indígenas de Costa Rica", San José, Fundación Ciudadanía Activa, IDB, 2020.
9. Ibid. Page 5.

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Ecuador

The current population of Ecuador is 17,475,570 inhabitants (National Institute of Statistics and Census INEC, August 2020), and there are 14 Indigenous nationalities totalling nearly 1,100,000 inhabitants, grouped into a number of local, regional and national organisations. 24.1% live in the Amazon and belong to 10 nationalities; 7.3% of the Andean Kichwa live in the Southern Highlands; 60.3% of the Andean Kichwa live in six provinces of the Central-Northern Sierra; and the remaining 8.3% live in the Coastal region and the Galapagos Islands. More than eight years after the new Constitution came into force and 20 years after ILO Convention 169 was ratified in the country, there are still no clear and specific public policies to prevent and neutralise the risk of the disappearance of these peoples.

Four events directly affected the living conditions and economic and social rights of Ecuador's Indigenous Peoples and nationalities in 2020: the aftermath of the great popular protest of October 2019; the unleashing of the COVID-19 pandemic; the rupture of the main oil pipeline and subsequent oil spill; and the political dispute surrounding the 2021 presidential and congressional elections.

Criminalisation of the October 2019 social protest

The first months of 2020 were clearly marked by the negative reaction of the Ecuadorian government, headed by President Lenin Moreno, to the popular protest unleashed in October 2019. On the one hand was the President's insistence on a conspiracy theory in the form of a coup led by former President Rafael Correa and involving governments (including that of Venezuela) together with different Indigenous groups and leaders. On the other was the fact that he has continued regardless to impose the economic adjustment package agreed with the International Monetary Fund (IMF) to mitigate the difficult economic situation the country is going through, exacerbated by the COVID-19 pandemic.

On the first point, the Moreno government rejected the report presented on 14 January by the Inter-American Commission on Human

Rights (IACHR). An IACHR mission visited the country at the end of October 2019 and received testimonies from 439 people including police, journalists, military, authorities, social leaders and relatives of those injured or killed during the demonstrations.[1]

In its conclusions, the IACHR held the National Police and Armed Forces responsible for allegedly committing "grave human rights violations against the Indigenous movement". Among its recommendations, the IACHR called for respect for and a guarantee of the people's right to protest, freedom of expression, peaceful assembly and political participation. It also called for an immediate action plan and comprehensive reparations for the victims of the protests and their families; a strengthening of measures to punish those responsible for acts of violence; and the convening, at the highest level of government, of a national dialogue process that would enable those likely to be affected by the authorities' economic decisions to obtain information.[2]

In response to these statements, María Paula Romo, Minister of the Interior, questioned what she called a "lack of objectivity and bias in the work of the IACHR" and, with the support of the mainstream media allied to the regime, launched a counter-offensive to highlight the conspiracy theory of a coup, emphasise the "vandalism and attacks on private property" and deny that the deaths and injuries caused to the demonstrators were the responsibility of the state's repressive forces.[3] She also moved from mere rhetoric to action: legal cases coordinated between the Ministry of the Interior and the State Prosecutor's Office resulted in court summonses and arrest warrants against members of the so-called Citizen's Revolution Movement (*Movimiento de la Revolución Ciudadana*), linked to former President Correa.

In addition, more than 500 social leaders and members of social, women's, student and Indigenous organisations were called to testify in court. Most significant were the actions against Jaime Vargas and Leonidas Iza, against whom the Prosecutor's Office opened an investigation into alleged crimes of instigating sabotage, rebellion and terrorism.[4]

Alongside these events, the Confederation of Indigenous Nationalities of Ecuador (CONAIE) filed a lawsuit against the state for alleged "crimes against humanity" and called on the Constitutional Court to declassify documents related to the October 2019 strike and mobilisation, arguing that part of the complaint contained evidence regarding the "state's systematic violation and persecution of social leaders".[5]

The COVID-19 pandemic, its impact and the Indigenous communities' responses

The COVID-19 pandemic arrived in the country at an advanced stage in the so-called "Austerity Plan" that was being implemented by the government, and which was focused on dismissing more than 50,000 public sector employees and reducing the education and health budgets. According to the National Institute of Statistics and Census, by the end of 2019, poverty levels had increased to 25.5% nationally and 43.8% in the countryside, affecting the peasant and Indigenous population disproportionately, among whom almost double the national average was recorded. Indigenous Peoples suffer the highest indicators of malnutrition, infant mortality, unemployment and underemployment, the consequences of a highly exclusive socio-historical and territorial structure.[6]

When evaluating compliance with the Sustainable Development Goals (SDGs) for 2020 in relation to access to water, sanitation and hygiene, data from the National Council for Equality of Peoples and Nationalities establishes that only 43.8% of Indigenous people have access to safe water; in the Amazon the figure is less than half the population (42.5%) and, in the case of rural communities, it is scarcely 51.4%. This survey specifies that handwashing products are scarcer in the Amazon (72.8%) and among the Indigenous population (68.6%).[7]

In this context, the social determinants of poverty with regard to health pose a highly unfavourable and high-risk scenario for Indigenous communities throughout the territory, even more so in remote regions such as the Amazon rainforest. According to Andrés Tapia, head of communications for the Confederation of Indigenous Nationalities of the Ecuadorian Amazon (CONFENIAE):

> *(...) the situation is becoming critical due to the geographical location of many communities, which can only be accessed by air or river, complicating any kind of healthcare. In these circumstances, we are talking about very high vulnerability, especially among peoples and nationalities with low population densities (...) Among the Indigenous Amazonians, the risk of infection is higher due to the lack of infrastructure, testing and access to basic supplies.*[8]

One illuminating case was that of the Siekopai nationality. When COVID-19 hit the Siekopai communities, the first victims to die were never examined. The government response was extremely slow: the first test results only arrived two weeks after the first death. Justino Piaguaje, President of the Organisation of the Siekopai Nationality (OISE), accused the government of abandoning them to their fate in remote communities, surrounded by oil fields and palm plantations. "We are 700 people and the death of one of our elders, in addition to the pain of being a beloved member of our family, results in the disappearance of our language, historical memory, spirituality and the knowledge of our ancestral sciences," explains Piaguaje. For Jimmy Piaguaje, a filmmaker: "We live in fear of extinction."[9]

At the peak of the outbreak, dramatically epitomised by the overflowing morgues of Guayaquil, the largest city in the country, it became evident that the Moreno government was not going to conduct mass testing but was instead relying on a questionable "herd immunity".[10]

In the meantime, the Indigenous communities were trying to establish lockdowns on their own. In the case of the Amazon, led by CONFENIAE, some support institutions and grassroots organisations launched an interactive online monitoring platform to track cases of the disease in Indigenous communities and identify outbreaks so that medical brigades, PCR tests and emergency kits could be directed wherever they were most needed. As of November, the platform had recorded more than 3,000 cases among the 10 Indigenous nationalities. Carlos Mazabanda, Amazon Watch's field coordinator for Ecuador who helped create the platform, said: "In the absence of a government response, Indigenous Peoples were forced to take matters into their own hands".[11]

One of the most outstanding actions, in the case of the Siekopai, was the relocation of the entire community to the interior of their territory in Lagartococha, on the border with Peru, where their relatives also live, in order to improve social distancing and take preventive measures based on a knowledge of their ancestral medicine, in which the role of the wise healers and spiritual leaders is crucial. Alfredo Payaguaje, one of their wise men, describes the functions of each plant: a herb called *umu'co*, or cat's claw, helps with fever; wild ginger relieves coughs; the

bitter bark of the *cinchona* tree, full of quinine, relieves inflammation. The forest is like a big supermarket, he says: "(...) there are things that you eat; others with which you build, but also others that cure you".[12]

Not all actions were successful, however. The pandemic claimed many lives, and the risk is threatening the integrity of entire communities.

In an environment marked by an absence of public healthcare, communities decided to follow CONFENIAE's prevention protocol. This explains what COVID-19 is, how to prevent it and what to do in case of virus-related symptoms.

As of 25 November 2020, CONFENIAE had conducted 9,522 COVID-19 tests. Of these, 3,240 were positive, 5,619 negative and 663 were suspected cases. So far, 2,229 people have recovered and 50 have died. While the Indigenous organisations have tried to isolate their communities and enforce a stricter lockdown, the oil, mining and forestry industries have continued their operations regardless thus increasing – through workers in the field – the risk of transmission to the communities.[13]

Oil pipeline collapse and oil spill in northern Amazon

On Tuesday 7 April, almost a month after the start of the health crisis, another catastrophic event occurred: the rupture of the Trans-Ecuadorian Oil Pipeline System and the Shushufindi-Quito polyduct, causing a spill of crude oil and fuel of undisclosed quantities in the San Rafael sector, on the border between the provinces of Napo and Sucumbíos.[14]

The cause of the disaster was erosion in the bed of the Coca River, which caused a land slip resulting in a 70-metre sinkhole together with reduced pressure in the pipelines. Petroecuador and OCP Ecuador reported the incident and that they had suspended pumping crude oil but did not warn of the oil spill, so the communities using the water of the Coca and Napo rivers did not take the necessary preventive measures to protect themselves.

Just three days later, on Friday 10 April, René Ortiz Durán, Minister of Energy and Non-Renewable Natural Resources, ventured to estimate the oil spill at 4,000 barrels. The residents of communities living along the banks of the Coca River, however, stated that this spill was the largest they had ever seen. Some experts estimate that the amount

easily exceeded 15,000 barrels.[15]

The impacts have been enormous along the Coca River, and this flows into the Napo River, a tributary of the Amazon. According to CONFENIAE, the spill is likely to have affected at least 150 Indigenous and peasant communities, home to some 100,000 people. The oil slick crossed the Ecuadorian border down the Napo River and reached the town of Cabo Pantoja in Loreto department, Peru. In addition, the route of the spill ran near or through three national parks: Cayambe Coca, Sumaco-Napo Galeras and Yasuní.[16]

State-owned Petroecuador and the private company Oleoducto de Crudos Pesados (OCP) announced environmental remediation activities in response to the spill. According to Pablo Flores, General Manager of Petroecuador:

> *(...) it is essential that each point addressed and remediated complies with environmental standards, including the removal of contaminated vegetation, the placement of absorbent material and the removal of crude oil and contaminated soil identified in order to be treated by a qualified handler (...) we have delivered water and food kits, non-perishable items considered basic and essential.*

According to official sources, they have invested close to USD 4 million in environmental remediation actions, involving 1,191 people 85% of whom belong to local communities. For the local communities affected, however, these actions have been insufficient.[17]

In view of the environmental, economic and health damage caused by the spill, several organisations filed a protective action and requested precautionary measures from the state, OCP and Petroecuador, including the provision of drinking water and sufficient food for all members of the affected communities until the Coca and Napo rivers return to their pre-spill conditions.[18]

According to Carlos Jipa, President of the Federation of Communes Union of Natives of the Ecuadorian Amazon (FCUNAE) and representative of those affected: "We are already suffering from several diseases caused by oil and now we also have to face a pandemic. The state, once again, has not included us in its emergency plans. We feel

discriminated against. That is why the FCUNAE families have decided to file this lawsuit, because we do not want this to happen again". On Tuesday 1 September, Jaime Oña, judge of the First Court of Criminal Guarantees of the province of Orellana, rejected their requests.[19]

Political disputes in the run-up to the presidential and legislative elections

In the midst of the various economic, social and health crises resulting from the pandemic and the neoliberal policies being implemented by the Moreno administration, the process of nominating candidates to run in the next presidential and legislative elections (due in February 2021) began in mid-2020.

For Indigenous Peoples, the process has been mired in controversy and internal difficulties. The most prominent of these has been the tension between CONAIE and the Plurinational Movement Pachakutik (MPP).[20]

This primarily relates to the exclusion of leaders Jaime Vargas, President of CONAIE, and Leonidas Iza, President of the Indigenous and Peasant Movement of Cotopaxi, and the decision of the National Political Council of the MPP to nominate Yaku Pérez Guartambel as candidate for the presidency of the Republic instead. Until the time of his appointment, Pérez was the Prefect of Azuay, having won the sectional elections of 24 March 2019.[21]

Iza and Vargas were the two most visible leaders during the popular protests of October 2019 organised against the neoliberal policies of the Moreno government, placing them in the sights of the authorities, as explained earlier in this chapter.

According to Iza, the designation of the Indigenous movement's candidate should above all be a democratic exercise, with the participation of the grassroots organisations and CONAIE itself. Additionally, he pointed out that there were surveys, studies and statistics that showed that he had the highest acceptance rate among the electorate. However, the decision of the MPP leaders was arbitrary, explains Iza: "(...) none of the processes of Pachakutik have been democratic (...) even the candidacy of Pérez Guartambel was announced on 28 July

when primaries had not even been held, as required by the Code on Democracy (electoral law)".[22]

With an eye on the presidential elections, the political agreements established between the MPP and the Moreno government during the first part of his term in office from 2017-2019 shed light on the change in political direction of this group, once part of the left-wing and anti-neoliberal current. The MPP supported the referendum promoted by Moreno and a broad coalition of right-wing parties, making possible the restructuring of the Council for Citizen Participation and Social Control (CPCCS), a body created in the 2008 Constitution with responsibility for designating the authorities of state control (Public Prosecutor's Office, Attorney-General's Office, Comptroller-General's Office and National Electoral Council). The CPCCS, now restructured and comprising "anti-Correa" figures, has also appointed similar members to these bodies in order to proscribe the Citizen's Revolution Movement (MRC) and block former President Correa's possible participation in the electoral process.[23]

During the October 2019 crisis, Pérez was one of the leaders who agreed to a truce with the government and directly influenced the demobilisation of the Indigenous grassroots, while the MPP – through its assembly members – has directly supported several of the laws tabled by Moreno in the legislature since 2017. The most controversial of these have been the so-called Production Development Law and, more recently, the Humanitarian Support Law and the Health Code. The first was part of the government's agreements with the IMF and made it possible to eliminate subsidies and the remittance and/or deferral of payment of taxes owed to the Treasury, among other things; the second has enabled employers – in the midst of the pandemic – to ignore their obligations set out in the Labour Code and to proceed to the untimely dismissal of workers with the excuse of reviving the pandemic-affected economy. The third law, related to health, was rejected and would have made the right to abortion a public health problem and enabled women to have a termination, without fear of sanction, when they are the victim of rape.[24]

Pérez Guartambel, a lawyer from the Maoist ideological tendency – and who has stood for the Popular Democratic Movement (MPD) in previous sectional elections – has moved in recent years towards a more environmentalist position and has been a prominent member of the so-

called "anti-Correa" movement; he has built a strong image around the defence of water, of '*pachamama*', and the anti-mining struggle in the southern region of the Sierra. He enjoys enormous sympathy from urban-mestizo environmental groups, right-wing movements and in the mainstream media.

Iza has rejected accusations from the government and its allies that he is close to Correa: "I am not a part of 'Correism' and I will not stand as a candidate for another political organisation; however, the leadership of Pachakutik and its actions is leading to a divorce between the party and CONAIE," he concluded.[25]

Notes and references

1. "IACHR presents observations on its visit to Ecuador". OAS, 14 January 2020. Available at http://www.oas.org/es/cidh/prensa/comunicados/2020/008.asp
2. Document already cited.
3. "La CIDH no tiene competencia para investigar la violencia civil" [IACHR has no jurisdiction to investigate civil violence]. *Primicias*, 23 January 2020, Cf. Available at http://www.primicias.ec/noticias/politica/cidh-competencia-investigar-violencia-civil
4. "Leonidas Iza y Jaime Vargas rinden versión por supuesto secuestro: hubo una marcha para apoyar a dirigentes indígenas" [Leonidas Iza and Jaime Vargas give their version of alleged kidnapping: there was a march to support Indigenous leaders]. *El Comercio*, Quito, 26 October 2020 Cf. Available at https://www.elcomercio.com/actualidad/iza-vargas-fiscalia-secuestro-protestas.html
5. "Sarzosa: En 10 días estará lista la demanda de la Conaie contra el Estado" [Sarzosa: In 10 days Conaie's lawsuit against the State will be ready]. *Diario Expreso,* Guayaquil, 6 February 2020, Cf. Available at https://www.expreso.ec/actualidad/sarzosa-10-dias-estara-lista-demanda-conaie-4778.html
6. National Institute of Statistics and Census (INEC), "Living Conditions Survey 2020". Quito. Cf. Available at https://www.ecuadorencifras.gob.ec/condiciones-de-vida-y-problemas-sociales/
7. Technical Planning Secretariat, Ecuador. "Informe de Avance del Cumplimiento de la Agenda 2030 para el Desarrollo Sostenible" [Progress Report on the Implementation of the 2030 Agenda for Sustainable Development]. Quito, 2019. Available at https://www.planificacion.gob.ec/wp-content/uploads/downloads/2019/07/Informe-Avance-Agenda-2030-Ecuador-2019.pdf
8. Romero Edgar, "¿Por qué los pueblos indígenas de la Amazonía ecuatoriana están en 'riesgo inminente' ante la pandemia?" [Why are the Indigenous Peoples of the Ecuadorian Amazon at 'imminent risk' from the pandemic?] *Amazonía Socioambiental,* 14 May 2020, Cf. Available at https://www.amazoniasocioambiental.org/es/radar/por-que-los-pueblos-indigenas-de-la-amazonia-ecuatoriana-estan-en-riesgo-inminente-ante-la-pandemia/
9. Riederer, Rachel. "Fighting COVID-19 in the Amazon, with Herbs and the

Internet". *The New Yorker,* 11 December 2020 Cf. Available at https://www.newyorker.com/news/news-desk/fighting-covid-19-in-the-amazon-with-herbs-and-the-internet

10. "Coronavirus en Ecuador: cuerpos en las calles de Guayaquil en medio de la pandemia" [Coronavirus in Ecuador: bodies in the streets of Guayaquil in mid-pandemic]. *CNN*, 1 April 2020, Cf. https://youtu.be/f7L9ZIK3xIQ. Also in OECD. "Making Development Happen. Impacto Social del Covid-19 en Ecuador: desafíos y respuestas" [Making Development Happen. Social Impact of COVID-19 in Ecuador: Challenges and Responses]. Vol.4. Available at https://www.oecd.org/dev/Impacto-social-COVID-19-Ecuador.pdf

11. CONFENIAE. "Actualidad, autogestión e impacto de la pandemia en territorios Amazónicos" [Update, self-management and impact of the pandemic in Amazonian territories]. Cf. Available at https://confeniae.net/2020/actualidad-autogestion-e-impacto-de-la-pandemia-en-territorios-amazonicos

12. Taken from Riederer, Rachel. "Fighting COVID-19 in the Amazon, with Herbs and the Internet". *The New Yorker,* 11 December 2020 Cf. Available at https://www.newyorker.com/news/news-desk/fighting-covid-19-in-the-amazon-with-herbs-and-the-internet

13. CONFENIAE. "Monitoreo Covid-19. Actualización de registros de Covid 19 y lanzamiento del portal interactivo para monitoreo del impacto de la pandemia en territorios amazónicos" [COVID-19 monitoring. Update of COVID-19 records and launch of the interactive portal for monitoring the impact of the pandemic in Amazonian territories]. Available at https://confeniae.net/covid19

14. Paez, Antonio. "Ecuador: demandan al Estado y a empresas petroleras por derrame de crudo en los ríos Coca y Napo" [Ecuador: State and oil companies sued for oil spill in the Coca and Napo rivers]. *Mongabay Latam,* 30 April 2020, Cf. Available at https://es.mongabay.com/2020/04/derrame-de-petroleo-rio-coca-indigenas-demandan-a-ecuador/

15. "Más de 150 comunidades indígenas en el Oriente del Ecuador siguen afectadas por el derrame de petróleo" [More than 150 Indigenous communities in eastern Ecuador still affected by oil spill]. *El Universo,* 30 April 2020, Cf. Available at https://www.eluniverso.com/noticias/2020/04/30/nota/7827513/derrame-petroleo-afecta-mas-150-comunidades-indigenas-oriente/

16. "Organizaciones y comunidades amazónicas demandan a entidades del Estado por el derrame de petróleo causado por rotura de oleoducto" [Amazonian organisations and communities sue state for oil spill caused by pipeline rupture]. *El Universo,* 29 April 2020, Cf. Available at https://www.eluniverso.com/noticias/2020/04/29/nota/7826484/ongs-comunidades-amazonicas-demandan-entidades-estado-derrame-crudo/

17. "Gerente general de EP Petroecuador, Pablo Flores, minimiza el impacto del derrame de crudo en los ríos Coca y Napo por la ruptura del SOTE/OCP/Poliducto a 7 comunidades" [General Manager of EP Petroecuador, Pablo Flores, minimises impact of oil spill in the Coca and Napo rivers due to rupture of the SOTE/OCP/Polyduct to 7 communities]. 16 April 2020, Cf.https://ddhhecuador.org/sites/default/files/documentos/2020-04/Alerta_21_Hipervinc.pdf; Petroecuador EP. "Gerente General de EP Petroecuador informó a la Comisión de Biodiversidad de la Asamblea Nacional sobre acciones de remediación ambiental y trabajos en el SOTE" [General Manager of EP Petrocuador, informed National Assembly's Biodiversity Commission of environmental remediation and works in the SOTE]. 20 April 2020. Available at https://www.eppetroecuador.ec/?p=8480

18. "Organizaciones sociales demandan al estado ecuatoriano por derrame de crudo en la amazonía" [Social organisations sue Ecuadorian government for oil spill in the Amazon]. *Amazonia Ambiental,* 29 April 2020, Cf. Disponible en https://www.amazoniasocioambiental.org/es/radar/organizaciones-sociales-demandan-al-estado-ecuatoriano-por-derrame-de-crudo-en-la-amazonia/

19. Nación Siekopai. "Carlos Jipa, presidente FCUNAE, sobre derrame de crudo" [Carlos Jipa, FCUNAE president, on oil spill]. Facebook, 27 April 2020, Cf. Available at https://ms-my.facebook.com/siekopai/videos/carlos-jipa-presidente-fcunae-sobre-derrame-de-crudo/237806380765705/

20. "Jaime Vargas marca distancia con Pachakutik de cara a las elecciones" [Jaime Vargas marks distance from Pachakutik with a view to the elections]. *El Comercio,* 16 December 2020, Cf. Available at https://www.elcomercio.com/actualidad/vargas-pachakutik-elecciones-conaie-organizaciones.html

21. "'No estamos necios' dice Leonidas Iza, tras inscribir su precandidatura para las presidenciales del 2021 que organiza Pachakutik" ['We're not idiots,' says Leonidas Iza, after registering his pre-candidacy for the 2021 presidential elections organised by Pachakutik. *El Universo,* 8 August 2020, Cf. Available at https://www.eluniverso.com/noticias/2020/08/08/nota/7935240/elecciones-presidenciales-ecuador-2021-candidatos-leonidas-iza/

22. "Leonidas Iza: 'Ninguno de los procesos de Pachakutik ha sido democrático'". [Leonidas Iza: 'None of Pachakutik's processes have been democratic']. *Diario Expreso,* 17 August 2020, Cf. Disponible en https://www.expreso.ec/actualidad/leonidas-iza-ninguno-procesos-pachakutik-sido-democratico-88131.html

23. Sánchez, Gonzalo. "Pachakutik, partido de Yaku Pérez, ha sido uno de los sostenes de Lenín Moreno" ["Pachakutik, Yaku Pérez's party, has been one of Lenin Moreno's supporters]. *El Estado.Net,* 1 February 2021, Cf. https://elestado.net/2021/02/01/pachakutik-yaku-perez-sostenes-lenin-moreno/; Cf, also in: Ramírez Gallegos, Franklin. "Las masas en octubre. Ecuador y las colisiones de clase" [The masses in October. Ecuador and class collisions]. Nueva Sociedad No. 284, November-December 2019. Available at https://nuso.org/articulo/las-masas-en-octubre/

24. Toscano, Dax. "Pachakutik y su relación con la derecha: nada nuevo bajo el sol" [Pachakutik and its relationship with the right: nothing new under the sun]. *Ruta Krítica,* 13 February 2021, Cf. Available at https://rutakritica.org/blog/2021/02/13/pachakutik-y-su-relacion-con-la-derecha-nada-nuevo-bajo-el-sol/?v=3fd6b696867d

25. José Rabalino. "Según Leonidas Iza, los procesos internos en Pachakutik no han sido democráticos" [According to Leonidas Iza, the internal processes in Pachakutik have not been democratic]. *Pichincha Comunicaciones,* 17 August 2020, Cf. Available at http://www.pichinchacomunicaciones.com.ec/segun-leonidas-iza-los-procesos-internos-en-pachakutik-no-han-sido-democraticos/

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French Guiana

French Guiana is a French overseas territory located in South America. It shares a border to the west with Suriname, along the Maroni River, and to the east with Brazil along the Oyapock River. It covers an area of 83,846 km^2. The population numbers 268,700 inhabitants (INSEE, 2017) who live mainly in the capital of Cayenne and along the coast. The interior of the country is covered with dense equatorial forest and is only accessible by plane or canoe.

French Guiana officially became a colony of France in 1604. France applied the principle of "*terra nullius*" to appropriate the lands of the Indigenous Peoples. Since 1946, French Guiana is no longer a colony but remains administered by France. More than 90% of Guiana's territory is owned by the French government.

The French Constitution prohibits ethnic statistics. According to researchers' estimates, its Indigenous Peoples make up some 4% of Guiana's population, or more than 10,000 individuals. Six Indigenous communities survived colonisation: the Kali'na Tileuyu, Lokono and Pahikweneh who live on the coast near the urban centres and the Wayãpi, Teko and Wayana people who live in isolated territories in the headwaters of the Oyapock and Maroni rivers.

France ratified the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2007 but has not signed up to ILO Convention 169. Since 1987, areas of collective use rights, concessions and land transfers have been granted to the Indigenous Peoples. They do not hold title deeds, however, because the French government remains the owner of these lands. These areas account for more than 750,000 hectares, or around 5% of the total area of French Guiana.

During the social protests in French Guiana between March and April 2017, on 2 April, the Minister for Overseas France signed a Memorandum of Understanding with the Indigenous and Bushinenge peoples in which the government made 20 commitments. These included the return of 400,000 hectares of land to the Amerindian peoples, and a referral to the Council of State to consider the constitutionality of ILO Convention 169. This Memorandum of Understanding is included in the French Guiana Agreements of 21 April 2017. No land has been returned to date, however.

The impact of the COVID-19 pandemic on the Indigenous people

On 17 March 2020, the French government decided to enforce a strict quarantine of the population in French Guiana, even though the pandemic had not yet reached a level of severity in South America. On 11 May 2020, once the pandemic in Europe had subsided, the French government decided to end the quarantine, including in French Guiana. It was not until May 2020, however, that the COVID-19 pandemic actually became a serious issue in South America.

Moreover, the lack of effective border controls facilitated the movement of individuals between France and French Guiana, and also between Brazil and French Guiana. The lax policy around COVID-19 implemented by the President of Brazil, Jaïr Bolsonaro, resulted in thousands of Brazilian citizens becoming infected, and the fact that they were able to cross into French Guiana therefore caused a huge increase in the number of people infected with COVID-19 in the border area. French Guiana's Indigenous Peoples were therefore the first to suffer from this transmission.[1]

The lockdown of the entire country in March 2020 led to a halt in supplies to food stores in isolated areas. As a result, Indigenous people living in remote areas suffered food shortages as well as shortages of personal protective equipment such as masks and hydroalcoholic gels. The Indigenous associations had to call for donations from international NGOs in order to distribute food and health products to the Indigenous villages themselves. The lockdown of Indigenous villages in April 2020 subsequently led to mistrust and stigmatisation of the Indigenous Peoples on the part of the Guianese population.

In addition, illegal gold panners took advantage of the lockdown to scale up illegal gold panning on the Maroni and Oyapock rivers. This situation created major tension. The Indigenous leaders of the Wayana community warned the French authorities that they would build their own dam on the river if France was unable to stop these people. In fact, these movements by gold panners facilitated the transmission of COVID-19 in the Indigenous territories. With no cooperation between the military forces of France and Suriname, however, the illegal gold panners continued to escape the authorities.

To address the situation, the French government therefore took

unilateral measures, without proper consultation of the Indigenous communities. At the start of the pandemic, the French Health Agency published information on COVID-19 in the media in French, Portuguese and Creole (Afro-descendant dialect). At the request of the Indigenous associations, this information was translated into the different Indigenous languages.

The World Health Organization (WHO) has reported that Indigenous Peoples are more vulnerable than other groups to pandemics such as COVID-19.[2] However, the French Health Agency refused to put specific health measures in place for the Indigenous population. Indeed, the French Constitution prohibits taking measures based on the race or origin of individuals. The French Health Agency is also refusing to communicate the number of Indigenous individuals infected, hospitalised, on ventilation or having died due to COVID-19. There is therefore no data to determine the impact of the pandemic on French Guiana's Indigenous Peoples.

The Customary Grand Council of the Amerindian and Bushinenge populations

The Customary Grand Council is a consultative body created at the initiative of France by means of *Law No. 2017-256 of 28 February 2017 for Real Equality in Overseas France.*[3] The Customary Grand Council is responsible for representing the Amerindian and Bushinenge populations of French Guiana and defending their legal, economic, social, cultural, educational and environmental interests. This body forms part of the Territorial Collectivity of French Guiana but is administered by the representative of the French government (the Prefect of French Guiana). In 2018, the members of the Grand Customary Council elected an Indigenous Chief, Mr. Sylvio Van Der Pilj, as President for a three-year term. On 14 January 2020, he spoke to the Congress of Elected Representatives:

> *The Customary Grand Council is a body under the authority of the representative of the French government and the Territorial Collectivity of French Guiana. It enables Indigenous Peoples to provide an advisory-only opinion. And yet this body needs to play a decision-making role on matters such as land management or mining permits.*[4]

During the lockdown of Indigenous villages, the Customary Grand Council and Indigenous associations publicly condemned the stigmatisation of Indigenous Peoples by the Guianese population. The President of the Grand Customary Council criticised the French government for not sufficiently involving the Indigenous population in decision-making.[5]

Plans to move French Guiana towards autonomy

This project is the result of the social struggles of 2017, which led to the French Guiana Agreements signed by France on 21 April 2017.[6] These agreements provide for the possibility of moving French Guiana towards greater autonomy. This move could be achieved through the adoption of a law or a reform of the French Constitution that would give more power to the Territorial Collectivity of French Guiana. The negotiations with the French government are currently at a standstill, however.

Furthermore, the President of the Grand Customary Council criticised the Territorial Collectivity of French Guiana for not involving its Indigenous Peoples in the decision-making. Indeed, unlike the independence negotiations for New Caledonia, the negotiations between France and French Guiana are not being conducted by the Indigenous Peoples themselves but by elected politicians and separatists from the majority Afro-descendant population.

In his speech on 14 January 2020, Mr. Sylvio Van Der Pilj recalled that "the project to move towards the autonomy of French Guiana must take place in consultation with all the communities of French Guiana, starting with its Indigenous peoples". In the same speech, he challenged the separatist flag of French Guiana, whose trade union and Afro-separatist origins do not represent the Indigenous population.[7]

Notes and references

1. Massiot, Aude. "Covid-19 : le risque d'un lourd tribut des peuples autochtones." Libération, 20 April, 2020. https://www.liberation.fr/planete/2020/04/20/le-risque-d-un-lourd-tribut-des-peuples-autochtones_1785857/
2. UN News. "WHO concerned about COVID-19 impact on indigenous people in the Americas." 20 July, 2020. https://news.un.org/en/story/2020/07/1068681
3. Légifrance. "LOI n° 2017-256 du 28 février 2017 de programmation relative à l'égalité réelle outre-mer et portant autres dispositions en matière

sociale et économique." 2017. https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000034103762/

4. See Guyane 1ère: ONAG 973. "Discours du Grand conseil coutumier et des élus - Congrès des élus - 14 janvier 2020." Uploaded on 17 January, 2020. Youtube video, 39:57 min. https://www.youtube.com/watch?v=WaX6bp4BAI4
5. Grand Conseil Coutumier des Peuples Amérindiens & Bushinengé. "Communiqué: La Guyane face à l'urgence de la Pandémie du Covid-19." April, 2020. https://radioka.makan-dev.com/wp-content/uploads/2020/04/GCC-Communiqu%C3%A9-Covid-19.pdf
6. Légifrance. "Accord de Guyane du 21 avril 2017 - Protocole « Pou Lagwiyann dékolé ».'' 2017. https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000034519630
7. See Guyane 1ère: ONAG 973. "Discours du Grand conseil coutumier et des élus - Congrès des élus - 14 janvier 2020." Uploaded on 17 January, 2020. Youtube video, 39:57 min. https://www.youtube.com/watch?v=WaX6bp4BAI4

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Guatemala

MEXICO
BELIZE
GUATEMALA
Guatemala City
HONDURAS
EL SALVADOR
PACIFIC OCEAN

Guatemala has a population of 14.9 million people, of which 6.5 million (43.75%) belong to the 22 Mayan (Achi', Akatec, Awakatec, Chalchitec, Ch'ortí, Chuj, Itzá, Ixil, Jacaltec, Kaqchikel, K'iche, Mam, Mopan, Poqomam, Poqomchí, Q'anjob'al, Q'eqchí, Sakapultec, Sipakapense, Tektitek, Tz'utujil and Uspantek), one Garífuna, one Xinca and one Creole or Afro-descendant peoples.

Indigenous people continue to lag behind Guatemalan society as a whole in terms of health, education, employment and income, a situation that is worse for Indigenous women. This is because structural racism lies at the root of the inequality and social exclusion, as well as of the violations of the fundamental rights, of Indigenous Peoples. Although the Political Constitution of the Republic of Guatemala recognises the existence of Indigenous Peoples and calls itself a multicultural society, and despite the fact that the country has ratified international agreements on the rights of Indigenous Peoples, in practice, the social, economic and political gap between the Indigenous and non-indigenous population is a wide one. For example: the state invests USD 0.4 per day in each Indigenous person and USD 0.9 per day in each non-indigenous person;[1] poverty affects 75% of Indigenous people and 36% of non-indigenous people;[2] chronic malnutrition affects 58% of Indigenous people and 38% of non-indigenous people;[3] and, in terms of political participation, Indigenous individuals represent no more than 15% of parliamentarians and high-ranking public officials.

Guatemala has ratified ILO Convention 169 (which the Constitutional Court elevated to constitutional status in 2010, obliging the country to recognise the rights of Indigenous Peoples), the United Nations Declaration on the Rights of Indigenous Peoples, the International Convention on the Elimination of All Forms of Racial Discrimination, and the FAO Policy on Indigenous and Tribal Peoples. However, in practice, exclusion is prevalent. For example, there is a national media that prioritises Spanish as the official language while the Indigenous language media have only limited local coverage.

Introduction

The year 2020 began with newly-elected representatives to the Presidency, Congress and local councils, coinciding precisely with the arrival of the COVID-19 pandemic. The pandemic shone a light on the social exclusion and structural racism affecting Guatemala's Indigenous population, and severely affected their living conditions, exacerbating their poverty and food insecurity. And yet the pandemic also showed how resilient Indigenous people can be when faced with these situations, drawing on their knowledge of traditional medicine, good living, territorial governance and solidarity.

The pandemic did not stop the Indigenous struggle for recognition of their fundamental rights, although criminalisation of land and territorial defenders also increased. Even more than its predecessors, the new government has shown a lack of interest in Indigenous issues, taking the structural racism that persists in Guatemalan society to new levels not seen since the signing of the Peace Accords (1996).

From pandemic to pandemic

> *And behold, during the 25th year (1520) the plague appeared, oh my children! First, they were sick with coughs, they suffered from nose bleeds and urinary infections. It was truly terrible the number of deaths that occurred at that time.*

This is how the *Memorial de Sololá, Anales de los Kaqchikeles* [Memories of Sololá, Annals of the Kaqchikel][4] relates the pandemic brought by the Europeans, which spread rapidly among the native population. Historians estimate that, by 1525, when the Spanish invasion of Guatemala took place, the native population had already plummeted by 50% and, 25 years later, by 80%. To the epidemiological causes of this demographic debacle must be added the war and forced labour to which Indigenous people were subjected. Diseases against which they have no immunity have been a recurrent feature of their history and, together with wars, exploitation of their labour and abuses in the form of the collection of taxes, have been the cause of the disappearance of numerous Indigenous communities.[5]

Vulnerability and racism

The impacts of the COVID-19 pandemic have highlighted the profound ethnic inequality that continues to prevail in Guatemalan society. Indigenous peoples are more vulnerable due to poverty, social exclusion and structural racism. According to the multidimensional poverty index, the rate of poverty is 80% among Indigenous people and 50.1% among non-indigenous people,[6] thus creating an unequal basis from which to attempt to prevent the pandemic in terms of frequent hand washing, the use of masks, disinfectants and essential medicines, items that most Indigenous people simply cannot afford.

Social exclusion is demonstrated in a lack of health services sufficiently equipped to meet the needs of the Indigenous population, especially those living in remote areas.[7] The pandemic has shed light on the neglect of the health system generally as a result of privatisation policies. The few hospitals and health centres operational were already on their knees before the pandemic and, although the government boasted of its investment in their improvement, in reality this related only to a few temporary centres with makeshift equipment that did not live up to the needs of the situation.

Structural racism has further manifested itself in the failure to include Indigenous therapies and healers in prevention and treatment programmes. There have also been no culturally-relevant communication programmes in native languages. In addition, many of the lockdown measures were not evenly implemented. In the city of Sololá, Indigenous people blocked the Inter-American highway in protest at the government's restriction on the transportation of local products while large companies were exempt.[8]

In the midst of the pandemic, in an act not seen since the end of the civil war, the President of the Republic, Alejandro Gammattei, publicly humiliated the Indigenous mayor of the Kaqchikel people of Comalapa, Chimaltenango. This affront marked a rift between the government and the Indigenous people, who denounced this racist and overbearing treatment and demanded substantial changes in the way the state is run.[9]

The government formed a State Council to address issues of national importance, including strategies to address COVID-19, to which various sectors of the country (businessmen, religious leaders, civil society) were invited. In clear demonstration of the prevailing structural

racism, however, Indigenous organisations were excluded. At a meeting to establish strategies to face up to tropical storm Iota, the President of the Republic deliberately denied entry to the Mayor of San Pedro Carchá, Alta Verapaz, an indigenous Q'eqchí, despite the fact that his municipality was one of the most affected by the storm.[10]

In addition, the promise of economic support consisting of USD 400 distributed in three monthly payments to those with an electricity bill was reduced to a total of USD 165 with no explanation as to the reasons for the reduction, in addition to which thousands of Indigenous families with no electricity were excluded from this support.[11]

Impact on living conditions

The most severe impact of the pandemic on Guatemala's Indigenous population has undoubtedly been the loss of human life, especially the elderly, healers, midwives, spiritual guides, men and women who have fallen victim to this disease. One unfortunate loss was that of Mr. Reginaldo Chayax Huex, leader of the Maya Itzá people in Petén department. He devoted his life to his people's cultural revival, including their endangered native language, herbalism and natural medicine. He was also a great promoter of environmental protection through the creation of the Bioitza Indigenous Community Reserve.[12]

The pandemic has also made living conditions, particularly for the Indigenous population, more difficult due to the restrictions on movement and access to markets and sources of labour. People have been unable to travel in order to study, work, sell their products or purchase supplies for their various activities. As a result, poverty and food insecurity have increased and the greatest effects will be felt in the immediate future.

The impacts on Indigenous women emerged in the additional workload they had to endure in relation to household tasks and the impossibility of carrying out their economic activities. In fact, they have been more restricted than men in terms of their mobility both inside and outside their communities.

Indigenous Peoples' strategies for dealing with the pandemic

Despite the severe impacts of the pandemic, the Indigenous Peoples have been resilient, mobilising their traditional knowledge and practices for the prevention and treatment of disease in the face of delayed and insufficient government assistance. Indigenous medicine has been important for strengthening the immune system, controlling fever and reducing respiratory congestion. This largely comprises native plants found on the ancestral territories, both in backyard gardens and in natural areas protected by the communities. The traditional use of steam baths (*tuj, chuj or temascal*) using native plants has been used since ancient times to improve the immune system and is frequently used by midwives in their therapies.

The Q'eqchí people use infusions of wild guava leaves (*Psidium guajava*); the Ch'ortí use Quina (*Cinchona officinalis*), a plant from which quinine, the active component for treating malaria, is extracted. The plant known as Tres Puntas (*Neurolaena lobata*) has also been used, which is attributed with antibiotic, antimalarial, antiophidic and anti-inflammatory properties. Plantain (*Plantago major*), known for its expectorant properties, is also drawn up.

Although the official health services do not acknowledge that Indigenous medicine is capable of preventing or treating COVID-19, Indigenous Peoples continue to rely on their own therapies. On International Day of Indigenous Peoples, Indigenous organisations stressed the need to be included and participating in COVID-19 response strategies, asked to be consulted and demanded culturally-relevant approaches.

For the Indigenous communities, the pandemic has resulted in a re-evaluation of traditional medicine and of healthy eating based on native products and has reaffirmed the need to strengthen the bonds of solidarity and to defend their ancestral territories.

Where's the money?

There were several peaceful demonstrations in November 2020 across the country protesting at the abuse of power, corruption, discrimination

against Indigenous Peoples, and the lack of government attention to the pandemic, along with the alleged approval of an unrealistic budget for the country.[13] The government suppressed these protests, resulting in deaths, injuries and arrests. The K'iché Indigenous organisation of the 48 Cantons of Totonicapán, the Xinca People's Parliament and the Indigenous Peoples of Sololá led a further protest in the capital for the same reasons.[14] Economic support for the social groups that are most vulnerable to the pandemic came too little too late, despite Congress having approved specific funds for this purpose. With the slogan: *Where's the money?* society demanded transparency and fairness in the use of public funds.

Beyond the pandemic

In October and November 2020, the Central American region was devastated by hurricanes Eta and Iota, wreaking havoc on the people and their livelihoods, especially the Indigenous Peoples of the Atlantic Coast or Northern Lowlands. In Guatemala, those most affected were the Q'eqchí, Poqomchí, Ixil, Mam and Ch'orti peoples. Quejá, an indigenous Poqomchí community in San Cristóbal Verapaz, Alta Verapaz department, suffered a landslide that resulted in the deaths of nearly 50 people, with at least 100 more missing.[15] Then, tropical storm Iota caused huge devastation, including the flooding of several towns that were subsequently declared uninhabitable, such as Campur and Sesajal, two Q'eqchí communities in San Pedro Charchá, in Alta Verapaz department, where around 900 homes were completely submerged.[16]

There was no halt to the criminalisation of community members defending their territories and natural resources from dispossession and extractivism despite the pandemic. One widely repudiated act was the murder of Domingo Choc, a Q'eqchí Indigenous healer from San Luis, Petén department. Domingo Choc was murdered in his own community, accused of practising witchcraft. This reflects the systematic way in which the production, preservation and transmission of native peoples' wisdom is attacked in an attempt to impose other ways of knowing, thinking and believing. It is a clear manifestation of epistemic inequality in which Indigenous knowledge is underestimated for its supposed lack of scientific rigour or is cancelled completely because it goes against the beliefs of the dominant religions.[17]

The following individuals were also murdered over the year: Alberto Cucul Cho (Q'eqchí park ranger), Medardo Alonzo (Ch'ortí leader), Fidel López (peasant leader), Abel Raymundo (Ch'ortí leader), Benoît Maria (French citizen dedicated to defending Indigenous Peoples), Misael López Catalán (community leader), Carlos Mucú Pop (Q'eqchí leader) and an Indigenous leader from Purulha, Baja Verapaz, among others. The Inter-American Commission on Human Rights (IACHR) emphasises that these events targeted people who were defending Indigenous Peoples' rights.[18]

Among the more positive aspects of the year, the following are noteworthy: a) the appointment of Mr. Francisco Calí Tzay, an Indigenous Kaqchikel, as UN Special Rapporteur on the rights of indigenous peoples;[19] b) four favourable rulings issued by the Constitutional Court in favour of the restitution of Indigenous ancestral lands to the Ixil and Ch'ortí peoples, promoted by the *Mesa de Tierras Comunales* [Community Lands Board];[20, 21] c) the ruling of the Constitutional Court suspending the activities of the CGN mining company operating in Q'echí territory and requiring consultation of the community;[22] and d) the recognition by the municipal authorities of Itzapa, Escuintla department, and Taxisco, Santa Rosa department, of the Xinca and Mestizo communities' rights of ownership and ancestral occupation of their ancestral territories located in the Pacific Coastal Region.[23]

Notes and references

1. "*Inversión en pueblos indígenas, según el presupuesto ejecutado en 2015.*" [Investment in Indigenous Peoples, according to the 2015 budget implemented] Central American Institute for Fiscal Studies Guatemala, July 2017. https://www.icefi.org/sites/default/files/inversion_en_pueblos_indigenas_0.pdf
2. "*Situación de Derechos Humanos en Guatemala.*" [Human Rights situation in Guatemala] Guatemala, IACHR, 31 December 2020. http://www.oas.org/es/cidh/multimedia/2016/guatemala/guatemala.html
3. "*Análisis de situación, nutricional de Guatemala.*" [Analysis of Guatemala's nutritional status] Ministry of Food Security and Nutrition. http://www.sesan.gob.gt/wordpress/wp-content/uploads/2018/05/Situacion-SAN-Guatemala-dia-1.pdf
4. "*Memorial de Sololá Anales de los Cakchiqueles.*" Direct translation from the original and notes by Adrián Recinos. Editorial Piedra Santa. Guatemala. 2006.
5. Martinez, Francisco Mauricio. *"Los pueblos coloniales de la costa sur de Guatemala."* [The colonial villages of Guatemala's south coast], Prensa Libre, 22 January 2017. https://www.prensalibre.com/revista-d/los-pueblos-coloniales-

de-la-costa-sur/
6. "*Guatemala afronta una pobreza multidimensional del 61%*". [Guatemala suffering 61% multidimensional poverty"] El Economista, 26 November 2019. https://www.eleconomista.net/actualidad/Guatemala-afronta-una-pobreza-multidimensional-del-61-20191126-0028.html
7. Montepeque, Ferdy. "*Pueblos indígenas, los más vulnerables ante el COVID-19.*" [Indigenous Peoples most vulnerable to COVID-19]. El Periódico, 23 May 2020. https://elperiodico.com.gt/nacionales/2020/05/23/pueblos-indigenas-los-mas-vulnerables-ante-el-covid-19/
8. Escobar, Erving. "*Productores de verduras bloquean Los Encuentros a pesar del confinamiento por el coronavirus*" [Vegetable producers block Los Encuentros in spite of coronavirus lockdown] Prensa Libre, 15 May 2020. https://www.prensalibre.com/ciudades/solola/giammattei-responde-a-campesinos-que-bloquearon-los-encuentros-a-pesar-del-confinamiento-por-el-coronavirus-breaking/
9. "*Indígenas cierran caminos en Guatemala para exigir la renuncia del presidente.*" [Indigenous peoples close roads in Guatemala to demand President's resignation] Infobae, 9 December 2020. https://www.infobae.com/america/agencias/2020/12/10/indigenas-cierran-caminos-en-guatemala-para-exigir-renuncia-del-presidente
10. Vega, Juan Manuel. "*Niegan el ingreso al alcalde de Carcha a reunión con el presidente Alejandro Giammattei.*" [Carcha Mayor denied entry to meeting with President Alejandro Giammattei] Prensa Libre, 7 November 2020. https://www.prensalibre.com/ciudades/alta-verapaz/niegan-ingreso-a-alcalde-de-carcha-a-reunion-con-el-presidente-alejandro-giammattei/
11. "*Bono familia: negocio para algunos, falsa expectativa para otros.*" [Family voucher: business for some, false expectations for others] Perspectiva, 22 July 2020. https://www.perspectiva.gt/noticias/bono-familia-negocio-para-algunos-falsa-expectativa-para-otros/
12. "*Reginaldo Chayax Huex.*" The New York Times, 11 October 2020. https://www.legacy.com/obituaries/nytimes/obituary.aspx?n=reginaldo-chayax-huex&pid=196929391
13. "*Un incendio premeditado y gases lacrimógenos esperaban a una manifestación pacífica.*" [Arson and tear gas awaited peaceful demonstration] El Periódico, 22 November 2020. https://elperiodico.com.gt/nacionales/2020/11/22/un-incendio-premeditado-y-gases-lacrimogenos-esperaban-a-una-manifestacion-pacifica/
14. "*Pueblos indígenas denuncian abuso de autoridad por parte del gobierno actual.*" [Indigenous Peoples denounce government's abuse of authority] El Periódico, 24 November 2020. https://elperiodico.com.gt/nacionales/2020/11/24/pueblos-indigenas-denuncian-abuso-de-autoridad-por-parte-del-gobierno-actual/
15. Barrientos Castañeda, Miguel, "*Tragedia en Quejá, San Cristobal Verapaz: suspenden búsqueda por ETA.*" [Tragedy in Quejá, San Cristobal Verapaz: search suspended by Eta] Prensa Libre, 10 November 2020. https://www.prensalibre.com/ciudades/alta-verapaz/tragedia-en-queja-san-cristobal-verapaz-suspenden-busqueda-de-victimas-por-eta/
16. Oliva, William. "*Estamos viviendo entre escombros.*" [We are living in the ruins] Guatevisión, 10 January 2021. https://www.guatevision.com/nacionales/departamentos/estamos-viviendo-entre-escombros-a-mas-de-dos-meses-de-la-inundacion-en-campur-gobierno-aun-analiza-que-acciones-tomar

17. Elías, Silvel. *"La violencia epistémica contra los pueblos indígenas."* [Epistemic violence against Indigenous Peoples] Debates Indígenas, 1 August 2020. https://debatesindigenas.org/ENG/ns/59-epistemic-violence.html

18. *"La CIDH condena asesinatos y agresiones contra personas defensoras en Guatemala."* [IACHR condemns murders and aggression against human rights defenders in Guatemala] OAS, 11 September 2020. http://www.oas.org/es/cidh/prensa/comunicados/2020/215.asp

19. *"El guatemalteco José Calí fue nombrado relator de ONU para Pueblos Indígenas."* [Guatemalan José Calí appointed UN rapporteur on the rights of indigenous peoples] El Periódico, 30 April 2020. https://elperiodico.com.gt/nacionales/2020/04/30/el-guatemalteco-jose-cali-fue-nombrado-relator-de-onu-para-pueblos-indigenas2/

20. Herrera, Feliciana. *"Nebaj: derechos de tierras ejidales es restituido al pueblo Ixil."* [Nebaj: ejido land rights restored to the Ixil people] Prensa Comunitaria, 4 August 2020. https://www.prensacomunitaria.org/2020/08/nebaj-derecho-de-tierras-ejidales-es-restituido-al-pueblo-ixil/

21. *"Tres comunidades vencieron a las municipalidades que intentaban usurpara sus tierras."* [Three communities defeated municipalities trying to usurp their land] Nómada, 17 August 2020. https://nomada.gt/identidades/guatemala-rural/3-comunidades-vencieron-a-las-municipalidades-que-intentaban-usurpar-sus-tierras/

22. Toro, David. *"CC: la mina CNG no puede trabajar hasta que se realice consulta comunitaria y delimite el terreno de operaciones."* [CC: the CNG mine cannot operate until community consultation implemented and area of operations demarcated], Prensa Comunitaria, 19 June 2020. https://www.prensacomunitaria.org/2020/06/cc-la-mina-cgn-no-puede-trabajar-hasta-que-se-realice-consulta-comunitaria-y-delimite-terreno-de-operaciones/

23. Comudinch. *"Comunidades Xinkas de la Costa Pacífica y comunidades Maya Che` Orti` convocan a conferencia de prensa."* [Xinka communities of the Pacific Coast and Maya Che'Ortí communities call press conference] Facebook, 31 October 2019. https://www.facebook.com/comundichgt/photos/a.110418727061610/110417707061712/?type=3

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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 are grouped into nine Indigenous Nations, based on language. The Warao, the Arawak and the Carib (Karinya) live on the coast. The Wapichan, the Arekuna, the Makushi, the Wai Wai, the Patamona and the Akawaio live in villages scattered throughout the interior. Amerindians constitute 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, while minerals under the same lands remain under ultimate national government authority. 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 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 Constitution of Guyana in its Preamble recognises "the special place in our nation of the indigenous peoples" and recognises "their right as citizens to land and security and to their prom-

ulgation 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.

[No] changes in legislation

Both of the main political parties (People's National Congress (PNC, African Guyanese) and People's Progressive Party (PPP, East Indian Guyanese)) continued their 2020 election manifestos with promises to update the defective 2006 Amerindian Act after consultation with Amerindian communities. The Indigenous representative body (National Toshaos Council) reminded the winning PPP of this commitment[3] and that this issue remains the highest priority for the Indigenous Peoples.[4] It is not clear what will happen to the village-level consultations begun under the PNC[5] in June 2016.[6] By year end 2020, no re-start had been recorded on the MOAA website.

Good policies

The Hinterland Employment and Youth Service (HEYS) project and Village Improvement Plans (VIPs) mentioned in the 2020 IWGIA report[7] continued to function at the beginning of 2020. The presidential grants programme funded a US$ 155,000 29-stall shopping mall in Santa Rosa, Moruca, the village consolidating its grant over two years to afford this investment in a single building.[8] Entrepreneurs pay a monthly fee for utilities and maintenance costs and now have a clean safe space in which to sell the handicrafts for which the area is renowned. With the change of government in August 2020, all the projects and programmes initiated by the PNC government were halted by the incoming PPP. It reverted to its own projects and programmes that had been terminated by the incoming PNC in May 2015.

Modelled on the multi-country One Laptop Per Child project, the PPP's One Laptop Per Family started in 2011 and was audited in 2016

when it was found to have substantially under-delivered (many laptops were defective or stolen) and under-performed (the training aspects were cancelled in 2013).[9] The PPP now proposes to group 20 laptops per community in village-level Information and Communications Technology hubs.[10] Electricity will come from a revived solar panel project. It is not clear how Internet connectivity will be assured. The original project was three-quarters funded by China (which supplied the Huawei laptops) and the rest by Guyana.

Major events

National election

Fifteen months after a no-confidence vote in the National Assembly (December 2018), the PNC government finally bowed to a succession of defeats in court and held a national election in March 2020. Although voting during the election itself was deemed to have been a smooth and efficient operation across the country, the PNC contested the vote counting once more through court battles that reached Guyana's apex court, the Caribbean Court of Justice, only accepting defeat reluctantly in August. For five months, the normal operations of government were without parliamentary supervision and without proper budgets. The indigenous 11% of the people, mostly living in the hinterland, were invisible spectators during what was essentially a coastlander election struggle. The Liberty and Justice Party (LJP) convened by Lennox Shuman, a former elected Arawak village leader, to be a new party to represent the peoples of the nine Indigenous Nations, could not break the Stalinist cell structures of the two major parties and garnered only 2,667 of 464,563 votes (0.6%). However, by combining with two other new minority parties (thus totalling 1.1% of the vote), the LJP leader gained the only independent seat in the 65-member parliament. He was the first Indigenous Deputy Speaker elected to the National Assembly.

COVID-19 pandemic

The PNC government was distracted by electoral matters for the first seven months of 2020 and gave only sporadic attention to mitigating the COVID-19 pandemic. However, most international air travel was curtailed, except for essential business travel. This allowed the oil com-

panies to fly-in/fly-out their rotating crews to the offshore deep-water Stabroek tract. A variety of restrictions were also imposed on in-country travel, including seating on the ubiquitous minibuses, as well as social distancing and use of face masks. Implementation of the restrictions was variable in 2020.

The weekly dashboard of cases posted by the Ministry of Health and reported in the daily newspapers shows that all ten regions of Guyana had confirmed cases. Just less than one-third of confirmed cases were in the four regions (1, 7, 8 and 9) where the Indigenous Peoples are mainly located, with 2,072 of 6,348 cases recorded by 1 January 2021; only 20 cases had been reported for the whole country by the beginning of August 2020. Three public and two private clinics provide COVID-19 testing, all on the coast. It is thus likely that the infection rate in the Indigenous hinterland territories is under-estimated. Testing sites were identified in each community and mobile teams from the Ministry of Health could be deployed for testing, tracking and tracing if the Village Councils reported rising infection rates. Tracking and tracing are more difficult in the rural areas, however, because of the scattered farming population and logging and mining crews, along with much lower rates of cell phone coverage than on the coast.[11]

Village Councils imposed various rules to mitigate the pandemic, including face masking and social distancing. Some villages imposed temporary lockdowns, aided by Ministry of Health monitoring teams. Villages in north-eastern Guyana on travel routes to Suriname were identified as hotspots.[12] Some villagers were opposed[13] to limits on inter- and intra-community movements, expressing the traditional sense of Amerindian autonomy against rules felt to infringe personal liberties. The government made special efforts to communicate the terrible potency and infectiousness of the coronavirus in culturally appropriate language via radio and social media. Nevertheless, the infection rate in Amerindian communities was three times greater than in the more densely populated coastal areas by the end of 2020. Press comments noted the silence of the Ministry of Amerindian Affairs[14] but most news articles commented favourably on the geographical spread of efforts by the Ministry of Health. The NGO Amerindian Peoples Association was also active in distributing posters about COVID-19 designed specifically for Indigenous communities,[15] and was important in distributing food parcels, supported by a donation from the Government of France.

Outcomes from international processes

Norwegian funding through the Guyana REDD+ Investment Fund (GRIF) was channelled through the World Bank and administered by the UN Development Programme (UNDP). Two projects were explicitly for Indigenous Peoples.

The Amerindian Development Fund (US$ 8.1M) commenced in late 2014 and was used mainly to finance capital expenses in 153 communities as part of their Community Development Plans[16] developed under PPP auspices. The groundwork continued in 2015-2020 under the PNC's Village Improvement Plans. The GRIF webpages were mostly not maintained by the PNC government over the 2015-2020 period but information was continued for 2015 and 2016 through the Ministry of Indigenous Peoples Affairs.[17] The incoming PPP administration immediately scrapped the PNC projects and indicated its intention to re-start the funding of Community Development Plans as part of its election manifesto. For the Amerindians, the name of the project is not important, just the continuity of the funding.

The second project under the GRIF was for Amerindian Land Titling (GRIF/ALT) with a budget of US$ 10.1M.[18] Although started in 2013, progress has been very slow. Much procedural documentation was produced but the mid-term review commissioned by the UNDP, the administrator of the GRIF/ALT, in 2017 was critical. This GRIF steering committee was slow to release further funding after the review, allegedly caused by hesitancy in the Norwegian International Climate and Forests Initiative. The GRIF/ALT project has by far the largest single budget for Amerindian development, but the Amerindian NGOs and the representative National Toshaos Council have been unable to overcome the weak support and poor intra-government coordination in the project's own advisory board, where government agencies are seen as more powerful than the Amerindian participants.

Although Guyana endorsed the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2007, and the endorsement is explicit in the PPP's Low Carbon Development Strategy, which is also being resumed after the change of government, legal confirmation of customary land tenure for Amerindian communities is not widely supported in

Guyana. The opposition comes mainly from artisanal gold and diamond miners. The miners argue that statutory Amerindian Village Land titles already cover 14% of the land area of Guyana while the Amerindian population accounts for only 11% of the total. Miners are aware of Amerindian land claims covering 43% of the land area, through the Amerindian Lands Commission in 1969, when the Amerindian population was around 40,000.[19] With improved public health measures, the number of Amerindians recorded in the latest (2012) national census has doubled to 78,500 (11%) of a national total of 746,955 in the preliminary report;[20] no official report with an analysis of racial composition has been issued by the Statistics Bureau of Guyana for the 2012 census.

The Amerindian Act 2006 requires non-Amerindian miners to seek permission from village councils for mining on titled Amerindian lands. However, the Minister for Amerindian Affairs can override a Village Council's refusal to allow large-scale mining on the grounds of undefined "public interest".[21] The lack of progress in the GRIF/ALT project has allowed the Guyana Geology and Mines Commission (GGMC) to continue to issue mining concessions for prospection and production over Amerindian customary lands even when applications have already been filed for statutory land title or extension of title. The cheaply acquired and cheaply retained mining concessions are treated legally as property interests,[22] which then prevent the issuing of statutory land title to the Amerindian community. It is not clear on what legal basis the temporary and recent mining concessions issued by the GGMC should be given higher priority than the inherent rights of Amerindian communities established since time immemorial, but that is how the Amerindian applications are treated.

Problems are magnified when news spreads of new gold finds and itinerant miners flock into Amerindian areas. Inter-family and political rivalries may also be more openly expressed and charges laid about or against members of the Village Council when villagers feel that access to minable land is being appropriated inequitably. Poor record-keeping and failures to observe due process in decisions on the management of village lands may compound the problem. Persistent problems in communities that have experienced inconclusive court hearings on land tenure and gold mining remained unresolved in 2020: Arau, Chinese Landing, Isseneru.

A long-running dispute in the Amerindian village of Campbelltown in the Mahdia gold mining region included ministerial intervention and the dismissal of the elected village leader (Toshao) at the end of 2020[23] following the submission of a petition. In accordance with the Amerindian Act 2006, a petition for which at least 51% of the village general meeting voted in favour triggered a ministerial investigation and the dismissal was ordered on the grounds of breaches of the Act,[24] although the allegations had not been tested in a court of law. As reported, the ministerial action appeared to be a politically partisan decision based on limited evidence; another good reason for revising this defective Act.

Role of Indigenous women and children

One of the significant features of the HEYS project for Indigenous entrepreneurs during 2015-2020 was the opportunity given equitably to male and female youths and to those with disabilities.[25] Indigenous men and women generally tend to face deep-seated prejudice from the non-indigenous but socially and politically dominant coastlanders.

General outlook for 2021

The election manifesto of the PPP for 2020 contained 16 explicit commitments to improve the lives of the Indigenous Peoples of Guyana.[26] It is not clear why the PPP had not acted on most of these commitments during its previous 23 uninterrupted years in government from 1992-2015, or why the activities had very small budgets associated with them. There are possibly eight Amerindians in the National Assembly (parliament) as of August 2020 but only one is independent and outside the PNC and PPP parties. The country's leaders are publicly expressing expectations of enhanced budgets from a tiny share in the wealth being generated from the beginning of 2020 from offshore deep-water oil and gas. However, the astonishingly one-sided production sharing agreement signed with ExxonMobil in 2016 and the antiquated legislation gives Guyana very little leverage over the next four decades of the agreement's lifetime.

Notes and references

1. Bureau of Statistics, Guyana. 2012 Census, Compendium 2 on population composition. July 2016: https://statisticsguyana.gov.gy/wp-content/uploads/2019/11/Final_2012_Census_Compendium2.pdf
2. Ministry of Legal Affairs, Guyana. The Constitution of the Co-operative Republic of Guyana, chapter 001:01, Preamble, p.26. https://mola.gov.gy/information/laws-of-guyana/410-chapter-101-the-constitution-of-the-co-operative-republic-of-guyana
3. "Indigenous groups call on gov't to honour commitment for revision of Amerindian Act". Stabroek News, 28 December 2020: https://www.stabroeknews.com/2020/12/28/news/guyana/indigenous-groups-call-on-govt-to-honour-commitment-for-revision-of-amerindian-act/
4. "Revision of Amerindian act 2006 is of highest priority". Guyana Chronicle, 23 December 2020: https://guyanachronicle.com/2020/12/23/revision-of-amerindian-act-2006-is-of-highest-priority/
5. The Government of Guyana from May 2015 – August 2020 was formed of an unequal coalition between A Party of National Unity (itself a coalition) and the Alliance for Change. However, all major decisions, including those affecting the Indigenous Amerindians, were taken by the dominant partner, the PNC. In this text we have indicated the PNC as being the political party in charge.
6. "Consultations on revision of Amerindian Act to continue next week". Stabroek News, 18 May 2018: https://www.stabroeknews.com/2018/05/18/news/guyana/consultations-on-revision-of-amerindian-act-to-continue-next-week/
7. IWGIA, 2020. The Indigenous World 2020. 34th edition. Copenhagen, Denmark; International Work Group for Indigenous Affairs. "Guyana: Government support to Amerindian communities", p. 429.
8. "Minister Garrido-Lowe commissions $31M Modern Moruca Mall". Ministry of Indigenous Peoples Affairs, 02 March 2020: https://moaa.gov.gy/minister-garrido-lowe-commissions-31m-modern-moruca-mall/
9. "Learning from mistakes". Stabroek News editorial, 01 January 2021: https://www.stabroeknews.com/2021/01/01/opinion/editorial/learning-from-mistakes/
10. "One laptop per family project to be reintroduced – President". Stabroek News, 28 December 2020: https://www.stabroeknews.com/2020/12/28/one-laptop-per-family-project-to-be-reintroduced-president/
11. "Addressing COVID-19 in hinterland areas demands different skills and mindset than coastal areas". Kaieteur News Online, 08 November 2020: https://www.kaieteurnewsonline.com/2020/11/08/addressing-covid-19-in-hinterland-areas-demands-different-skills-and-mindset-than-coastal-areas/
12. "Traffic between Orealla and Siparuta shut over COVID". Stabroek News, 24 November 2020: https://www.stabroeknews.com/2020/11/24/news/guyana/traffic-between-orealla-and-siparuta-shut-over-covid/; "Orealla-Siparuta village council orders two week lockdown". Kaieteur News Online, 28 November 2020: https://www.kaieteurnewsonline.com/2020/11/28/orealla-siparuta-village-council-orders-two-week-lockdown/; "Siparuta imposes lockdown: Orealla restricting movements". Kaieteur News Online, 29 November 2020: https://www.kaieteurnewsonline.com/2020/11/29/siparuta-imposes-lockdown-orealla-restricting-movements/; "Lockdown lifted in St Cuthbert's Mission. Kaieteur News Online, 01 December 2020: https://www.kaieteurnewsonline.com/2020/12/01/lockdown-lifted-in-st-cuthberts-mission/
13. "Deaths heighten fears of Waramuri COVID-19 outbreak". Stabroek News, 07

November 2020: https://www.stabroeknews.com/2020/11/07/news/guyana/deaths-heighten-fears-of-waramuri-covid-19-outbreak/
14. "Indigenous peoples are under threat". Kaieteur News Online, Peeping Tom feature column, 19 November 2020: https://www.kaieteurnewsonline.com/2020/11/19/indigenous-peoples-are-under-threat/
15. "COVID 19 and Indigenous Peoples". Amerindian Peoples Association, Issues We Follow, wall posters: https://apaguyana.com/issues-followed/
16. "Amerindian Development Fund project". Guyana REDD+ Investment Fund project: https://www.guyanareddfund.org/index.php/grif-projects/amerindian-development-fund
17. "Amerindian Development Fund". Ministry of Indigenous Peoples Affairs: https://moaa.gov.gy/amerindian-development-fund/
18. "Amerindian Land Titling and Demarcation project". Guyana REDD+ Investment Fund project: https://www.guyanareddfund.org/index.php/grif-projects/amerindian-land-titling
19. Amerindian Lands Commission (1969) Report by the Amerindian Lands Commission. Georgetown, Guyana; Ministry of Local Government, paragraph 51.
20. Bureau of Statistics, Guyana. 2012 Census, Compendium 2 on population composition. July 2016: https://statisticsguyana.gov.gy/wp-content/uploads/2019/11/Final_2012_Census_Compendium2.pdf
21. Ministry of Legal Affairs, Guyana. Amerindian Act 2006, chapter 29:01, section 61 (1) (h): https://mola.gov.gy/information/laws-of-guyana/587-chapter-2901-amerindian
22. Ministry of Legal Affairs, Guyana. Amerindian Act 2006, chapter 29:01, section 50 (1) (a): https://mola.gov.gy/information/laws-of-guyana/587-chapter-2901-amerindian
23. "Minister removes Campbelltown Toshao after probe finds breaches of law". Stabroek News, 01 January 2021: https://www.stabroeknews.com/2021/01/01/news/guyana/minister-removes-campbelltown-toshao-after-probe-finds-breaches-of-law/
24. Ministry of Legal Affairs, Guyana. Amerindian Act 2006, chapter 29:01, sections 27-29: https://mola.gov.gy/information/laws-of-guyana/587-chapter-2901-amerindian
25. "Nadeza Rodrigues runs thriving HEYS business despite disability". Kaieteur News Online, 09 January 2020: https://www.kaieteurnewsonline.com/2020/01/09/nadeza-rodrigues-runs-thriving-heys-business-despite-disability/
26. "PPP-C appeals for a chance with launch of elections manifesto". Stabroek News, 30 November 2019: https://www.stabroeknews.com/2019/11/30/news/guyana/ppp-c-appeals-for-a-chance-with-launch-of-elections-manifesto/

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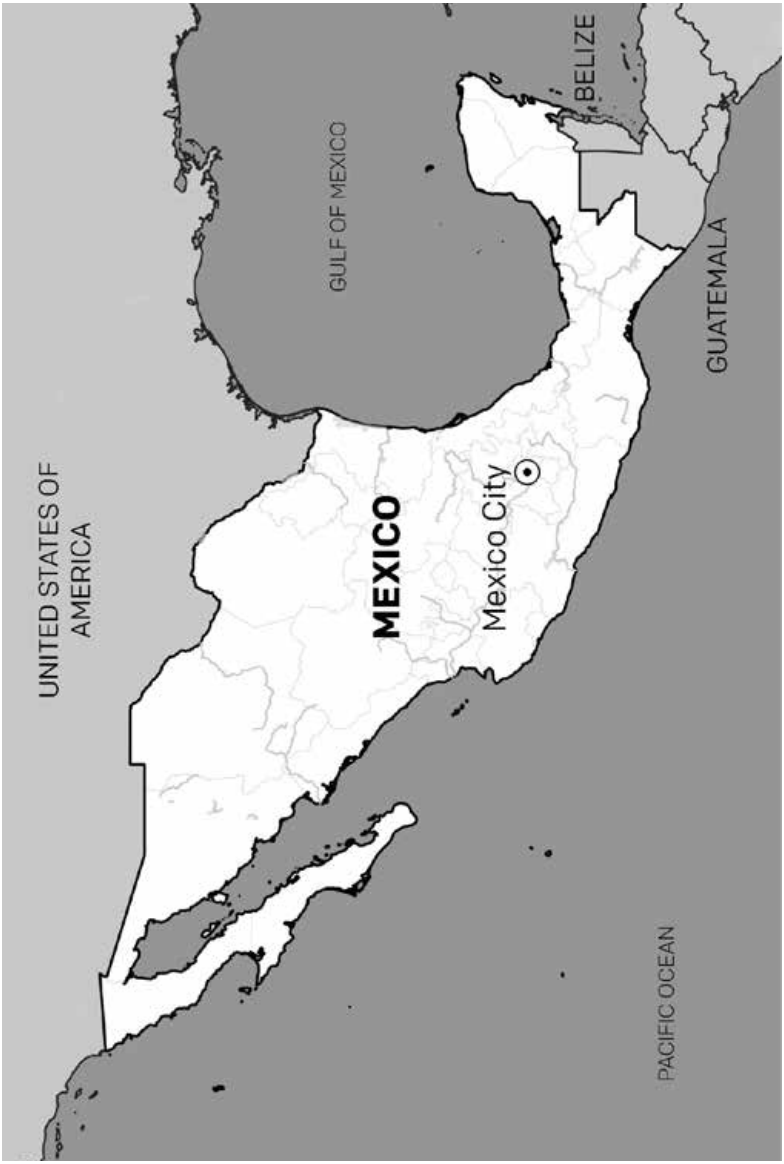
Mexico


UNITED STATES OF AMERICA
MEXICO
Mexico City
GULF OF MEXICO
BELIZE
GUATEMALA
PACIFIC OCEAN

Mexico is home to 68 Indigenous Peoples, each speaking their own native language and together accounting for 364 variants. The 2020 Census, produced by the National Institute of Statistics and Geography (INEGI), indicated that 6.1% of the national population aged three years and over was registered as speaking an Indigenous language, being some 7.36 million people. This proportion was 6.6% in the 2010 Census. In addition, the 2020 Census noted that 11.8 million people live in Indigenous households in Mexico, 5.7 million of them men and 6.1 million women. In terms of native languages, Nahuatl continues to be the most widely spoken, with 22.5% of Indigenous language speakers, or 1.65 million people, followed by Mayan with 774,000 speakers (10.6%).[1] Two percent (2.0%) of the national population also reported being of African descent, of whom 7.4% confirmed speaking an Indigenous language.[2] It is, however, important to note that problems of under-reporting of the Indigenous population were exacerbated by the early suspension of census data collection due to the COVID-19 pandemic. Outside of census data, the National Institute of Indigenous Languages indicates that 25 million people identify as belonging to an Indigenous people.[3]

Due to marginalisation, discrimination, violence, land dispossession and a lack of access to decent housing and public health services, among other factors, Mexico's Indigenous population has become one of the most vulnerable sectors to the SARS-CoV-2 virus. Indigenous communities decided to respond by designing and implementing their own methods and protocols to combat the pandemic, such as disseminating information through their community communication systems and in their native languages, restricting movements in and out of their territories, and ensuring a strengthened sense of solidarity and communality. The virus has, nonetheless, reached most of their regions.

Declaration of Los Pinos (Chapoltepek)

In Mexico City towards the end of February 2020, the UN Educational, Scientific and Cultural Organization (UNESCO) and the Mexican government published the "Declaration of Los Pinos (Chapoltepek). Building a Decade of Action for Indigenous Languages", which set out the foundations on which the International Decade of Indigenous Languages (2022-2032) would be developed, with the aim of, among other things:

> *incorporating linguistic diversity and multilingualism into global frameworks for sustainable development, ensuring that Indigenous language users are recognised in the economic, political, social and cultural spheres through inclusive and equitable educational and learning environments, with the presence of mother-tongue languages in the provision of justice and public services, digital empowerment, and equal job opportunities in Indigenous languages.*[4]

The pandemic has, however, demonstrated that those who speak an Indigenous language are precisely among the most vulnerable because they are excluded from health, education, employment, justice and food services.

Mexico's Indigenous Peoples in the face of the SARS-CoV-2 pandemic

The social and economic inequality prevalent in Mexico, which disproportionately affects the most vulnerable sectors of society, including the Indigenous population, is a determining factor in the way in which the population is suffering the pandemic today. Economic, social and health development indicators show that Indigenous Peoples present the lowest social development indicators in the country. They live in areas with the highest socioeconomic lag as a consequence, among other things, of unemployment (in 2018, 30.5% of this population were not in work).[5] Their inequality in comparison to other sectors of the population

is also confirmed by a lack of basic infrastructure, including clean water and drainage services. According to INEGI[6] and data from the National Institute of Indigenous Peoples, 12.8% of the population does not have piped water in their homes, and 26.9% lacks a sewage system, making it more likely that they will suffer from health problems and making it even more difficult to face up to a pandemic situation. As UNESCO notes: "Water is of great value [in] the current health crisis",[7] as is drainage.

In this context, the pandemic caught the Indigenous Peoples of Mexico by surprise, suffering as they were with various problems in their territories: deterioration of natural resources, political, interethnic and religious conflicts, and insufficient educational opportunities. In short, Indigenous Peoples' asymmetric incorporation into the economy and the free market generally means they are disproportionately vulnerable and exposed to the pandemic. The following statistical estimates, based on data available from the Ministry of Health from January to December 2020, provide an overview of the impact of the pandemic on the Indigenous population.

Ministry of Health data[8] had recorded 9,439 negative, 719 suspected and 9,179 positive cases as of 24 September 2020, the latter figure more than doubling from the July figure of 4,140 cases. Of the positive cases recorded, as of 24 September 2020, 57% were male and 43% were female. The age groups currently most affected correspond to people of productive age, the highest proportion being between 45 and 49 years of age with 907 cases. Most of the Indigenous population (72%) who have become ill with COVID-19 are treated by the Ministry of Health and Welfare given that most of them do not have social security (83%), as noted in the National Household Income and Expenditure Survey 2018.[9]

As the pandemic progressed, 9,837 cumulative confirmed cases had been recorded by December 2020, 398 more than the number as of 24 September 2020. As for cumulative deaths, 1,661 were recorded up to December 2020, of which 1,092 were male and 569 female.[10] The pandemic affected the country's Indigenous regions differently, with the Maya and Huasteca regions having the highest number of cases, with 2,635 cases infected in the former and 858 people in the latter. This is followed by Montaña de Guerrero, one of the poorest and most marginalised regions in the country, with 359 cases. The Director of

the Tlachinollan Human Rights Centre pointed out, in this regard, the lack of medical infrastructure and the effect this has on the death rate among those infected: "The difficulty in accessing COVID-19 tests for Indigenous Peoples and communities results in a higher death rate than among the general population".[11] Other complications affecting Indigenous Peoples have been detected and are a result of the health situation in the country. A widespread strategy on the part of various peoples has been to close off access to their lands and territories as a protective measure in the face of deficient health coverage. Some aspects recorded by UNESCO's Mexico office are as follows:

1. Food: when schools are closed, the school-age population on the Full-Time School Programme are unable to receive the meals on which they depend.
2. Education: limited access to technology (Internet and open TV signal, computers, tablets and mobile phones) restricts their educational training under the Mexican Ministry of Public Education's "Learn at home" programme. This situation also affects their access to information related to the pandemic.
3. Domestic violence: due to the lockdown, violence against women has increased.[12]

These aspects bring into focus the inequalities that deeply affect Mexico's Indigenous Peoples and exacerbate their living conditions in the face of the health crisis the world is currently experiencing. These adverse conditions have also been highlighted by various civil society organisations, which recommend several lines of action: information, health, economy and food, Indigenous migrant population, prevention of human rights violations and prevention of intra-community conflicts.

In terms of education and access to information alone, the social distancing and suspension of activities implemented by the authorities requires computer equipment or mobile telephony and Internet access to be available, highlighting the unequal distribution of access to new information and communication technologies (ICTS). According to the National Survey on the Availability and Use of Information Technologies in Households, seven out of 10 Mexicans aged six years or above are Internet users (70.1%) but only 56.4% of households are connected to the

Internet. Furthermore, in rural areas, the percentage of the population with Internet access is 47.7%[13] but only 19% of households in rural areas have an Internet connection; 19.3% own a computer or tablet, and 77.3% own a mobile phone. The states of Chiapas, Oaxaca and Guerrero have the lowest levels nationally on the ICT Development Index and these are, in turn, the states with the highest levels of poverty and Indigenous population.[14]

At the end of 2020, the National Council for the Evaluation of Social Development Policy estimated that coronavirus cases had been recorded in 430 Indigenous municipalities (84.6%).[15] This is shocking if we consider that, according to official figures, in the month of July alone, the COVID-19 mortality rate among the Indigenous population was 18.8%, while in the rest of the national population it was 11.8%.[16]

There is fierce discussion around how official data on the impact of the pandemic in the country is being recorded. There have been virtually no cases of official recording that have taken the voice of Indigenous Peoples and their communities into account. For this reason, the *Mapa de pueblos indígenas y negros de América Latina impactados por COVID-19* [Map of Indigenous and black peoples in Latin America affected by COVID-19], prepared by the University Programme for the Study of Cultural Diversity and Interculturality, represents an important effort to systematise the impact based on documentation produced by various Indigenous and black organisations and movements in Latin America, and this reveals that, by 31 August, there had been 568 peoples infected across 17 Latin American countries.[17]

The pandemic among Mexico City's Indigenous Peoples

One of the regions with the highest concentration of Indigenous population in the country is Mexico City, and the pandemic has particularly affected the Indigenous people living there, both migrant and native. One of the highest peaks of active COVID-19 cases was recorded during the first wave of infections in May, and one of the most affected communities was the town of San Gregorio Atlapulco, in the municipality of Xochimilco.[18] The Indigenous Peoples of Iztapalapa, Tláhuac, Contreras, Álvaro Obregón and other municipalities were also severely affect-

ed. On 12 July 2020, a list of settlements, towns and neighbourhoods that would receive priority attention due to the increase in infections was published, which gave 12 communities from six municipalities with 357 active cases of COVID-19 out of a total of 34 settlements and towns with 896 infections registered up to that point. Two months later, on 6 September 2020, the city government issued bulletin 519, which reported infections in 53 Indigenous communities in 10 of the city's municipalities.[19] Priority attention measures, such as the installation of rapid testing kiosks and mobile health centres near to the most affected neighbourhoods and towns, did not succeed in stopping the spread of infection. Although many villages and community organisations suspended their celebrations and invited people to follow ritual activities through social media, the intense collective activity that normally marks the daily lives of the communities was a disadvantage. Another factor that has hindered the control of the pandemic in these communities is their economic activities, such as agriculture or trade, which require transportation to large commercial distribution points such as the Central Market in Iztapalapa and travelling markets that move around the various neighbourhoods and towns throughout the week. While aimed at alleviating the economic devastation caused by the pandemic, the support planned by the government institutions does not take into account the dynamics of community life, in all its various facets, that take place throughout the length and breadth of the city.

Zapatista National Liberation Army (EZLN)

In a press statement issued in March, the EZLN decreed a red alert in its territories due to the pandemic, considering it a "real, scientifically-proven threat" and criticising government institutions for their lack of gravity in dealing with it. They also pointed out the lack of accurate and timely information on the severity of the virus, as well as the absence of any real plan to "face up to the threat". For this reason, they decided to close the Good Government Councils and the rebel autonomous municipalities, urging them not to cease their work to combat violence against women.[20]

In October, the EZLN issued the press statement "A mountain on the high seas" in which, along with various statements against gender

violence, environmental depredation, and management of the pandemic by government bodies, they announced a tour of several European countries during 2021, with a delegation composed largely of women, in the context of the "500 years of the alleged conquest of what is now Mexico". This will conclude on 13 August (day of the fall of the emblematic city of Tenochtitlan) in Madrid, Spain, with the statement: "We were not conquered. We continue in resistance and rebellion."[21]

Notes and references

1. INEGI, "Population and Housing Census 2020". Mexico, *INEGI*, 2021. Available at https://www.inegi.org.mx/contenidos/programas/ccpv/2020/doc/Censo2020_Principales_resultados_EUM.pdf
2. "En el país, 25 millones de personas se reconocen como indígenas: INALI" [INALI states that 25 million people self-identify as Indigenous in the country]. INALI, 8 February 2019. Available at https://www.inali.gob.mx/es/comunicados/701-2019-02-08-15-22-50.html
3. INEGI, "Population and Housing Census 2020". Op. Cit.
4. UNESCO: "Los Pinos Declaration [Chapoltepek] lays foundations for global planning for the International Decade of Indigenous Languages". *UNESCO*, 21 July 2020. Available at https://en.unesco.org/news/pinos-declaration-chapoltepek-lays-foundations-global-planning-international-decade-indigenous
5. INEGI, "Household Income and Expenditure Survey, ENIGH". Mexico, *INEGI*, 2018. Sánchez C. "La migración indígena mexicana interna e internacional". In Remesas y migración en comunidades indígenas de México, Roldán G. and Sánchez, C. Mexico, UNAM, 2015.
6. INEGI. "Intercensal Population and Housing Survey, 2015". Mexico, *INEGI*, 2015.
7. UNESCO. "Indigenous Peoples and COVID-19: The view from Mexico". UNESCO, 4 August 2020. Available at https://en.unesco.org/news/indigenous-peoples-and-covid-19-view-mexico accessed on 26 January 2021.
8. Ministry of Health (SSA). "COVID-19 México: panorama en población que se reconoce como indígena". Mexico, *SSA*, 24 September 2020.
9. INEGI, "Household Income and Expenditure Survey, ENIGH". Op. cit.
10. Gómez Mena, Carolina. "Llega a 12 mil 526 la cifra de indígenas contagiados" [The number of infected Indigenous people comes to 12,526]. *La Jornada*, 24 December 2020.
11. Aura Investigación Estratégica, Tlachinolla. Fray Bartolomé de las Casas Human Rights Center, A.C., et al. "Los pueblos y comunidades indígenas frente al COVID-19 en México". 2020. Available at http://docplayer.es/192941368-Los-pueblos-y-comunidades-indigenas-frente-al-covid-19-en-mexico.html
12. INEGI. "Intercensal Population and Housing Survey, 2015". Op. cit.
13. INEGI, "Statistics for World Internet Day (17 May). National data". Mexico, *INEGI*, 14 May 2020. Available at https://www.inegi.org.mx/contenidos/saladeprensa/aproposito/2020/eap_internet20.pdf
14. Gómez Navarro, Dulce Angélica and Martínez Domínguez, Marlen, (n/d).

"Brechas digitales indígenas en tiempos de COVID-19". Mexico, *Ichan Tecolotl* CIESAS. Available at: https://ichan.ciesas.edu.mx/brechas-digitales-indigenas-en-tiempos-de-covid-19-2/

15. García, Ana Karen. "El COVID-19 alcanzó a 8 de cada 10 comunidades indígenas en México" [COVID-19 reached 8 out of 10 Indigenous communities in Mexico]. *El Economista,* 9 January 2021. Available at https://www.eleconomista.com.mx/politica/El-Covid-19-alcanzo-a-8-de-cada-10-comunidades-indigenas-en-Mexico-20210109-0001.html

16. FILAC. "COVID tiene letalidad de 18.8% en pueblos indígenas: UNAM" [COVID fatality rate 18.8% among Indigenous Peoples]. FILAC, 6 July 2020. Available at https://www.filac.org/wp/comunicacion/actualidad-indigena/covid-tiene-letalidad-de-18-8-en-pueblos-indigenas-unam/

17. PUIC-UNAM, "Pueblos Indígenas y Negros de América Latina Impactados por COVID-19" [Indigenous and Black peoples of Latin America affected by COVID-19]. Mexico, *PUIC-UNAM*. Available at http://www.nacionmulticultural.unam.mx/pueblos-covid19/

18. "Si vives en CDMX consulta este mapa y conoce cuántos casos activos de COVID hay en tu colonia" [If you live in Mexico City, check this map to find out how many active cases of COVID there are in your neighbourhood]. *Animal Político,* 29 June 2020. Available at https://www.animalpolitico.com/2020/06/mapa-cdmx-casos-activos-covid-colonia/

19. Mexico City Government. "Fortalece gobierno capitalino programa de colonias, pueblos y barrios de atención prioritaria por COVID-19 para atender más casos" [Capital's government strengthens programme of priority attention neighborhoods, towns and districts to address more cases of COVID-19]. *Mexico City Government*, 6 September 2020.

20. "EZLN decreta 'alerta roja' por coronavirus y cierra sus centros de autogobierno en Chiapas" [EZLN decrees 'red alert' for coronavirus and closes its self-government centres in Chiapas]. *Aristegui Noticias*, 17 March 2020. Available at https://aristeguinoticias.com/1703/mexico/ezln-decreta-alerta-roja-por-coronavirus-y-cierra-sus-centros-de-autogobierno-en-chiapas/

21. Press statement from the Clandestine Revolutionary Indigenous Committee. "Sexta parte: Una montaña en alta mar" [Sixth part: a mountain on the high seas]. Mexico, *Enlace Zapatista.* 5 October 2020. Available at http://enlacezapatista.ezln.org.mx/2020/10/05/sexta-parte-una-montana-en-alta-mar/Romero, María Teresa. "Sentido de comunidad y política en Los Reyes, Coyoacán". Doctoral thesis in Anthropology, UNAM, Mexico, 2015. Sánchez, Carolina, "La migración indígena mexicana interna e internacional". In Remesas y migración en comunidades indígenas de México, Roldán G. and Sánchez, C.UNAM, Mexico, 2015.

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Nicaragua

CARIBBEAN SEA
HONDURAS
NICARAGUA
Managua
COSTA RICA
PACIFIC OCEAN

Three of Nicaragua's seven Indigenous Peoples live in the Pacific, central and northern regions: 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, also known as "ethnic communities" in national legislation. These include the Creole or Kriol (43,000) and the Garífuna (2,500).

The Sandinista National Liberation Front (FSLN) came to power in Nicaragua in 1979, subsequently having to confront the U.S.-funded "Contra" rebel groups. Peasant farmers from the Pacific and the Indigenous Peoples of the Caribbean Coast participated in the Contra. In 1987, following a friendly settlement of the conflict through the Inter-American Commission on Human Rights (IACHR), and in order to put an end to this 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). Following the judgment of the Inter-American Court of Human Rights (IA Court) in the case of the *Mayangna (Sumo) community of Awas Tingni 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* was issued, recognising these communities' right to self-government and creating a procedure for the titling of their territories. The state began the titling process in 2005 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 and in 2010 ratified ILO Convention 169. The Alliance of Indigenous and Afro-descendant Peoples of Nicaragua (APIAN) was formed in 2015.

State's failure to provide protection from COVID-19

The Nicaraguan government initially denied the severity of COVID-19 and failed to comply with World Health Organization (WHO) measures, in response to which WHO publicly expressed its concern.[1] The IACHR and its Special Rapporteurs on Freedom of Expression and Economic, Social, Cultural and Environmental Rights (OSFREFE and OSRESCER) also expressed concern at the absence of reliable information and the persistence of official misinformation on the scope of the pandemic in Nicaragua.[2] As protection measures are a right, the State of Nicaragua has a duty to provide them, in accordance with the duty to guarantee human rights.

President Daniel Ortega was largely absent from the public eye during the height of the pandemic and, in the absence of leadership, civil society formed the *Observatorio Ciudadano COVID-19* [COVID-19 Civic Observatory] to inform and guide citizens on protective measures while also quantifying casualties. With a population of 6.5 million inhabitants, Nicaragua was under-reporting its deaths. The Observatory had reported 11,993 suspected cases and 2,867 deaths as of 30 December 2020 while the Ministry of Health had reported only 6,046 suspected cases and 165 deaths. According to the Observatory, there were 254 deaths in the RACCS and 211 in the RACN, each accounting for 2% of total deaths.[3]

In April, after the Government of Nicaragua had already acknowledged the first cases of COVID-19, the Indigenous deputy Brooklyn Rivera, from the Indigenous party YATAMA (*Yapti Tasba Masraka Nanih Aslatakanka,* "Children of Mother Earth"), stated as follows in Nicaragua's National Assembly: "So far, we know of no particular measures for our peoples",[4] referring to the fact that the state had not issued any measures related to informing or protecting Indigenous and Afro-descendant peoples during the pandemic. Indigenous and Afro-descendant peoples live in some of the poorest and most remote municipalities in the country and so, in most cases, those affected by the pandemic would have to travel for several hours to reach a hospital and, in some cases, would only be able to reach one by river.

Indigenous Peoples' actions to address the pandemic

This lack of protection and adequate information led the Indigenous and Afro-descendant territorial and communal governments to take their own self-protection measures, decreeing a lockdown and regulating transport, movements and alcohol consumption, among other things. With an area of approximately 27,260 km² (21.1% of the national territory) and a multi-ethnic population of 408,326 inhabitants, the Regional Government in Bluefields (57,000 inhabitants) decreed a voluntary lockdown in the RACCS. In the territory of the Twelve Indigenous and Afro-descendant Communities of the Pearl Lagoon Basin, a group of members (resident abroad) raised funds to provide the community with medical materials and equipment to face up to the pandemic.[5] The territories of Sandy Bay and Karawala, at the mouth of the Rio Grande de Matagalpa declared themselves in lockdown.[6]

By June, official data indicated that the pandemic had infected 1,118 people and killed 46. Meanwhile, the Observatory had recorded 4,217 cases and 980 deaths. The Rama and Kriol Territorial Government (RTG-K) therefore declared its territory under lockdown and, in its resolution, requested that "the authorities of the State of Nicaragua respect the preventive measures related to the COVID-19 pandemic".[7] However, following a visit by officials from the Ministry of Family Economy (MEFFCA) to the Kriol community of Monkey Point, several community members developed symptoms of COVID-19, and one person died.[8] In September, when the Observatory reported at least 240 cases in the RACCS, members of the Rama Indigenous people of Rama Cay (Cayo Rama), where 40% of the Rama people live and where there is only one pharmacy and a small health centre, said they were "overwhelmed by fear and a lack of economic resources" due to the state's secrecy and lack of funding to deal with the pandemic.[9]

Data from the Observatory from between 18 and 24 June also confirmed 124 suspected cases in the RACCN, which has an area of 32,159 square kilometres covering 25% of the national territory and a multi-ethnic population of 250,000 people. This included 66 deaths, equivalent to more than half of the number of cases. In the only RACCN hospital, located in Bilwi (85,000 inhabitants), seat of the Regional Gov-

ernment, there were only two ventilators available out of the 160 existing in Nicaragua.[10]

In September, Mayangna Indigenous leaders complained that the regional authorities were not providing any information or health support to prevent COVID-19 in their communities. Quite the contrary, they were promoting a massive party-political activity during the traditional commemoration of the Mayangna Nation of the Suda in the Bosawás Biosphere Reserve. The officials seized the limelight of the commemoration to transport people from the nine Mayangna communities without any kind of prevention measures, thus creating a crowd.[11]

The pandemic has revealed even more clearly that respiratory infections can spread more rapidly among Indigenous and Afro-descendant peoples due to the poor health and sanitary conditions in which they live; and particularly due to their remote and difficult access, the lack of drinking water and the contamination of the rivers from which they draw their water for human consumption due to mining activities, deforestation or monocropping on their traditional territories. This is above all due to the emergency situation created by the systematic dispossession to which the Miskitu and Mayangna Indigenous Peoples have been subjected for the last decade in the mining triangle around Bosawás and the Coco River basin (Wangki), which has exacerbated the health crisis caused by COVID-19.

Ongoing threats not halted by health crisis

The Indigenous Peoples Unit of the UN Food and Agriculture Organization (FAO) issued a document containing 12 recommendations in which it urged states to address the pandemic from an intercultural approach, recognising the vulnerable situation of these peoples. It also warned of the need to avoid land dispossession since "some actors may take advantage of the present crisis",[12] as is clearly happening in Nicaragua. Despite the global emergency created by the pandemic, there were around 10 armed attacks on Indigenous territories[13] during 2020.[14]

The state is implementing a covert policy of settling the Indigenous territories of the Caribbean Coast of Nicaragua, which commenced several decades ago with the in-migration of non-indigenous people and the advance of the agricultural frontier and extensive cattle

ranching onto these territories, to the detriment of the forest and the traditional ways of life of the Indigenous people.[15] The government has also implemented a policy of natural resource extraction in the territories titled to these peoples.[16] Through companies such as Alba-forestal, which monocrops trees like the African Palm,[17] they are plundering the forests.[18] Eniminas is an example of a national company that promotes mining operations,[19] in most cases without the consent of these peoples.

Along with extractivism, land grabbing is being undertaken by groups of armed non-indigenous settlers who invade Indigenous territories and attack these peoples' settlements, destroying them and killing the residents. They are constantly threatening to kidnap, rape, injure and kill community members who are accessing the fishing, hunting, cultivation and fruit gathering areas of their own traditional territories; they mainly threaten women and children who are collecting water for their families. The elderly, women and children are thus constantly forced to flee into the forest and spend days in hiding because of threats from settlers. The Indigenous people live in fear and violence, resulting in very high levels of psychological stress. And because of a lack of access to the lands on which they depend both spiritually and economically – their economy is subsistence farming and the lands provide them with food – the Indigenous people are now suffering from food insecurity, malnutrition and even forced displacement.[20]

In 2020 alone, these attacks left 13 dead; 10 missing; three wounded (one of them paraplegic and another with an amputated leg); and two kidnapped. This is in addition to the direct violence against Miskitu girls: one was injured in the face[21] and another kidnapped on 14 July.[22] There have also been 31 victims of direct physical attacks and 26 houses torched. These facts contrast with a total of 34 Miskitu Indigenous people killed, 44 injured, 25 kidnapped and four missing between 2011 and 2018.[23]

Attacks on the Miskitu and Mayangna Indigenous Peoples

The Bosawás Biosphere Reserve, recognised by the "Man and the Biosphere Programme" in October 1997 as a UNESCO World Heritage site, has traditionally been home to the Mayangna and Miskitu communities. And yet, since 2015, systematic attacks have been perpetrated against

them, also result in significant destruction of Bosawás.[24]

Throughout this time, the IACHR has granted precautionary measures and the Inter-American Court has granted provisional measures in favour of the Indigenous communities under attack. The Nicaraguan state has not complied with these measures, however, and has even denied that the attacks are occurring.[25]

Attack on Alal goes unpunished

The attacks have been escalating. The worst one was reported on 29 January 2020 in the 800-member Mayangna community of Alal in the heart of Bosawás. This community was attacked by 80 heavily armed settlers with the result that 16 homes were burned, 10 people went missing, and four men from the Indigenous community were killed and two wounded, one of whom was left paraplegic as a result of the gunshot wounds he received during the attack. The settlers also slaughtered the Indigenous people's livestock.[26]

The attack on Alal was unlike previous attacks, however, because the very night it happened, its leaders and authorities took to social media and the independent press to call for help. Indigenous leaders also reported that 80 men from the Kucalón gang were responsible.[27]

Meanwhile, pro-government media outlets published statements from public officials of Indigenous origin attempting to minimise the impact of Alal's attack. The National Police also issued three press releases between 30 January and 1 February that failed to put the event into any context,[28] even though social media was flooded with photographs and statements about the massacre from the community of Alal itself.

After the attack on Alal, members of the National Police and the Nicaraguan Army occupied the community for several weeks and violently removed the hunting weapons and machetes these people use for their work in the field. Similar complaints are constantly made against the authorities by the Indigenous communities of Bosawás and Waspam-Río Coco.[29] Although the National Police announced the arrest of a member of the Kucalón gang, Indigenous leaders denounced the fact that he had later been released.[30]

Recent forced displacements

On 3 September, 30 families – some 180 people – from the Sangni Laya community were likewise forcibly displaced by threats from armed settlers, making them victims of a violation of their physical, psychological and moral integrity. Furthermore, along with other members of these Indigenous Peoples, their economic, social and cultural rights are being violated.[31] And yet despite the denunciations and national and international appeals to the Nicaraguan state,[32] this has been happening to the Miskitu and Mayangna peoples since 2015 with total impunity.[33]

Notes and references

1. IA Court. "IACHR and OSRESCER Express Serious Concern About the Human Rights Situation During the Response to the COVID-19 Pandemic in Nicaragua". 8 April 2020, accessed 8 January 2021. Available at https://www.oas.org/en/iachr/media_center/PReleases/2020/072.asp
2. IACHR. "IACHR, OSFRE, and OSRESCER Express Serious Concern Over Violations of the Right to Information in Nicaragua and the Impact of These on Access to Health During the COVID-19 Pandemic". 27 May 2020, accessed 8 January 2021. Available at https://www.oas.org/en/iachr/media_center/PReleases/2020/119.asp
3. El Observatorio COVID-19 Nicaragua. Accessed on 8 January 2020. https://observatorioni.org/
4. Ocaña, Daliana, "Pueblos indígenas de Nicaragua vulnerables y sin información ante la pandemia" [Indigenous Peoples of Nicaragua vulnerable and uninformed about pandemic]. *Voice of America,* 9 April 2021, accessed 11 January 2021. Available at https://www.voanoticias.com/centroamerica/nicaragua-pueblos-indigenas-vulnerables-ante-coronavirus
5. Herrera, Joel. Shakira Simmons: "Mientras más negra sos, más probable que te discriminen" [The blacker you are, the more likely you are to be discriminated against]. *La Lupa*, 14 June 2020, accessed 8 January 2021. Available at https://lalupa.press/2020/06/14/racismo-en-nicaragua-mientras-mas-negra-sos-mas-probable-que-te-discriminen/
6. Cruz M. Delwin. "Dos comunidades indígenas de Nicaragua se declaran en cuarentena. Estas son las medidas que tomaron" [Two Indigenous communities in Nicaragua declare themselves under lockdown. These are the measures they took]. *La Prensa*, 21 May 2021, accessed 11 January 2020. Available at https://www.laprensa.com.ni/2020/05/21/nacionales/2676475-dos-comunidades-indigenas-de-nicaragua-se-declaran-en-cuarentena-estas-son-las-medidas-que-tomaran
7. "Indígenas ramas y krioles de Nicaragua se declaran en cuarentena por COVID-19" [Indigenous Rama and Kriol of Nicaragua declare lockdown due to COVID-19]. Infobae, 3 June 2020, accessed 11 January 2021. Available at https://www.infobae.com/america/agencias/2020/06/03/indigenas-ramas-y-

krioles-de-nicaragua-se-declaran-en-cuarentena-por-covid-19/

8. Noticias de Bluefields. "Dolor y angustia en familia de Bluefields y Monkey Point" [Pain and anguish among families of Bluefields and Monkey Point]. Facebook, 6 July 2020, accessed 11 January 2021. Available at https://www.facebook.com/NotiBluefields/posts/dolor-y-angustia-en-familia-de-bluefields-y-monkey-pointpor-muerte-de-joven-con-/1693879194100356/
9. Castillo V., Houston. "Nicaragua: comunidad indígena enfrenta la pandemia y abandono del gobierno" [Nicaragua: Indigenous community faces pandemic and government abandonment]. *Voice of America*, 1 September 2020. Accessed 11 January 2021. Available at https://www.voanoticias.com/centroamerica/indigenas-nicaragua-enfrentan-pandemia-y-abandono-gobierno
10. Vásquez, Bladimir. La COVID-19 en el Caribe Norte: "Los indígenas estamos desamparados" [COVID-19 in the Northern Caribbean: "Indigenous people are abandoned"] *Confidencial*, 28 June 2020, accessed on 11 January 2021. Available at https://confidencial.com.ni/la-covid-19-en-el-caribe-norte-los-indigenas-estamos-desamparados/?fbclid=IwAR3SzUpIdXE9-ppw00VT6aGgZU5VfyiUGx7K1SNE0E7Iw3-IhyL7
11. "Oficialismo politiza encuentro mayangna y sin prevención a la pandemia de COVID-19" [Mayangna government party meeting with no COVID-19 prevention measures]. *Obrera de la Tecla*, 21 September 2020, accessed on 11 January 2021. https://obreradelatecla.com/oficialismo-politiza-encuentro-mayangna-y-sin-prevencion-a-la-pandemia-de-covid-
12. FAO. "Indigenous peoples' health and safety at risk due to Coronavirus (COVID-19)". Accessed on 11 January 2021. Available at http://www.fao.org/indigenous-peoples/news-article/en/c/1268353//
13. "Otro asesinato de indígena Mayagna en el caribe norte de Nicaragua, se contabilizan trece en lo que va del año" [Another Indigenous Mayagna murdered in the northern Caribbean of Nicaragua, 13 so far this year]. *100 noticias,* 11 December 2020, accessed on 11 January 2021. https://100noticias.com.ni/sucesos/104212-indigena-asesinado-caribe-norte-nicaragua/
14. Tórrez García, Cynthia. "CIDH condena ataque contra indígenas mayangnas en la comunidad Wasakin Caribe Norte" [IACHR condemns attack on Indigenous Mayangnas in the Wasakin Caribe Norte community]. *La Prensa*, 31 March 2020, accessed 11 January 2021. Available at https://www.laprensa.com.ni/2020/03/31/nacionales/2657590-cidh-condena-ataque-contra-indigenas-mayangnas-en-la-comunidad-wasakin-caribe-norte "Denuncian masacre de cinco líderes indígenas en Bosawás" [Massacre of five Indigenous leaders in Bosawás denounced]. *Confidencial*, 28 March 2020, accessed 11 January 2021. Available at https://confidencial.com.ni/denuncian-masacre-de-cinco-lideres-indigenas-en-bosawas/?fbclid=IwAR2fdrjqL1uPJIN2i4dVYZ67BeLW9-J_YYIxcFR9EpMix0Q-5zryH18JhUw Munguia. Ivette. "Ataque de colonos deja un mayangna muerto y otro herido en San José de Bocay" [Attack by settlers leaves one Mayangna dead and another injured in San Jose de Bocay]. *Confidencial*, 12 July 2020, accessed 11 January 2021. Available at https://confidencial.com.ni/ataque-de-colonos-deja-un-mayangna-muerto-y-otro-herido-en-san-jose-de-bocay/"Indígena miskitu denuncia ataque de colonos este mañana en Sangni Laya" [Indigenous Miskitu denounces attack by settlers this morning in Sangni Laya]. *República 18*, 10 September 2020, accessed 11 January 2021. Available at https://republica18.com/indigena-miskitu-denuncia-ataque-de-colonos-este-manana-en-sangni-laya/ CEJUDCAN, "El día 21 de

septiembre de 2020, los colonos armados secuestraron dos comunitarios" [On 21 September 2020, armed settlers kidnapped two community members]. Facebook, 21 September 2020. Accessed on 11 January 2021. https://www.facebook.com/cejudhcan.derechoshumanos/posts/2873374459559484 Centro Jurídico y Sociocultural desde el Pensamiento Mayangna, "Press statement" Facebook, 12 October 2020. Accessed 11 January 2021. https://www.facebook.com/Centro-Jur%C3%ADdico-y-Sociocultural-desde-el-Pensamiento-Mayangna-105942574597409/photos/pcb.130397145485285/130397968818536/ Galo, Abigail, "Organismo de derechos humanos solicitan a Ortega investigar asesinato de líder Mayangna" [Human rights body calls on Ortega to investigate murder of Mayangna leader]. *Radio Corporación,* 19 November 2020, accessed 11 January 2021. Available at https://radio-corporacion.com/blog/archivos/73322/organismo-de-derechos-humanos-solicitan-a-ortega-investigar-asesinato-de-lider-mayangna/ See also: https://twitter.com/cidh/status/1328821777729019909?s=24

15. Rautner, Mario and Cuffer, Sandra. "¿Qué tiene que ver la carne que exporta Nicaragua al mundo con la deforestación?". Mangobay, 3 October 2020. Available at https://es.mongabay.com/2020/10/que-tiene-que-ver-la-carne-que-exporta-nicaragua-al-mundo-con-la-deforestacion/

16. National Commission for Demarcation and Titling, CONADETI. (2013). CONADETI and CIDT's Executive Report to 30 June 2013. Nicaragua. Available at https://www.poderjudicial.gob.ni/pjupload/costacaribe/pdf/informe_costacaribe3006.pdf "Comandante-presidente Daniel entrega títulos comunitarios a pueblos originarios de la Costa Caribe de Nicaragua" [Comandante President Daniel delivers community titles to native peoples of the Caribbean Coast of Nicaragua]. 29 October 2016. Available at https://www.el19digital.com/articulos/ver/titulo:48337-comandante-presidente-daniel-entrega-titulos-comunitarios-a-pueblos-originarios-de-la-costa-caribe-de-nicaSalinas

17. Carrere, Michelle. "Empresa de palma violó normativas ambientales" [Palm oil company violated environmental regulations]. *Confidencial*, 14 September 2017, Available at https://confidencial.com.ni/nacion/empresa-palma-violo-normativas-ambientales/

18. Enríquez, Octavio, "Gobierno protege a Alba Forestal" [Government protects Alba Forestal]. *Confidencial*, 5 June 2013. Available at http://confidencial.com.ni/archivos/articulo/12124/quot-gobierno-protege-a-alba-forestal-quot

19. Campos, Víctor. "Con el modelo extractivista crecemos, pero, ¿nos desarrollamos? Y con la minería ni crecemos ni nos desarrollamos" [With the extractivist model we grow, but do we develop? And with mining we neither grow nor develop]. *Envío*, July 2017. Available at https://www.envio.org.ni/articulo/5364

20. Oakland Institute, "Nicaragua's Failed Revolution: The Indigenous Struggle for *Saneamiento*". April 2020, accessed 11 January 2021. Available at https://www.oaklandinstitute.org/nicaragua-failed-revolution-indigenous-struggle-saneamiento See also: Miranda A., Wilfredo. "Etnocidio en Nicaragua: La violenta embestida de los invasores que desplaza a los indígenas en la Costa Caribe" [Ethnocide in Nicaragua. The violent onslaught of invaders displacing Indigenous people on the Caribbean Coast]. Divergentes, 9 August 2020, accessed 11 January 2021. Available at https://www.divergentes.com/colonos-desplazan-indigenas-nicaragua See also: CEJIL. "Resistencia mískitu: una lucha por el territorio y la vida" [Miskitu Resistance: A Struggle for Territory and

Life]. August 2019. Accessed 11 January 2021. Available at https://cejil.org/es/informe-resistencia-miskitu-una-lucha-territorio-y-vida and, APIAN. "Informe sobre la Situación de los Derechos Territoriales de los Pueblos Indígenas y Afrodescendientes de Nicaragua" [Report on the Territorial Rights of Indigenous and Afrodescendant Peoples in Nicaragua]. December 2017, accessed 11 January 2021. Available at http://www.temasnicas.net/informeapian.pdf

21. "Alerta sobre crisis humanitaria en comunidades indígenas de Nicaragua" [Warning of humanitarian crisis in Indigenous communities in Nicaragua]. *Despacho 505*, 18 February 2020, accessed on 11 January 2021. https://www.despacho505.com/ataque-comunidades-indigenas-nicaragua/

22. Chiffman, Geovanny, "Denuncian secuestro de niña a manos de colonos en una comunidad de Puerto Cabezas" [Kidnapping of girl by settlers in Puerto Cabezas denounced]. *Artículo 66*, 14 July 2020, accessed 11 January 2021. Available at https://www.articulo66.com/2020/07/14/denuncian-secuestro-nina-colonos-comunidad-puerto-cabezas/

23. Torres G. Cinthya. "Porque son tan frecuentes las matanzas de indígenas en Nicaragua (como en Bosawás)?" [Why are the massacres of Indigenous people so frequent in Nicaragua (like in Bosawás)?] *La Prensa*, 2 February 2020, accessed 11 January 2021. Available at https://www.laprensa.com.ni/2020/02/02/nacionales/2635944-por-que-son-tan-frecuentes-las-masacres-de-indigenas-en-nicaragua-como-la-ocurrida-en-bosawas-en-la-justicia-esta-la-clave

24. Selser, Gabriela. "Nicaragua. Mueren los indígenas y también el bosque" [Nicaragua. The Indigenous people die and so does the forest]. *DW*, 18 February 2020. Available at https://www.dw.com/es/nicaragua-mueren-los-ind%C3%ADgenas-y-tambi%C3%A9n-el-bosque/a-52411880

25. EFE. "Policía de Nicaragua niega reciente ataque a indígenas que causó indignación" [Nicaraguan police deny recent attack on Indigenous people, which caused outrage]. *La Vanguardia*. 20 February 2020. Available at https://www.lavanguardia.com/vida/20200220/473673845106/policia-de-nicaragua-niega-reciente-ataque-a-indigenas-que-causo-indignacion.html

26. Camhaji, Elias. "Una masacre en una aldea indígena de Nicaragua deja cuatro muertos" [Massacre in Nicaraguan Indigenous village leaves four dead]. *El País*, 31 January 2020. Available at https://elpais.com/internacional/2020/01/31/america/1580491598_557089.html 100% Noticias. "Gobierno territorial Mayagna denuncia atroz asesinato de indígenas" [Mayagna territorial government denounces atrocious murder of Indigenous people]. YouTube video. 30 February 2020. Available at: https://www.youtube.com/watch?v=HUIYI4eIfBw&feature=share&fbclid=IwAR18VQocIhX034GRNBKbCZwa_rHYImjXqznuYRtjuxjvDaZTQ7I5u-SiYZw

27. Acosta María L. "Nicaragua: la masacre de Alal es solo la punta del iceberg" [Nicaragua: the Alal massacre is only the tip of the iceberg]. *Servindi*, 11 February 2020, accessed 11 January 2021. Available at https://www.servindi.org/actualidad-noticias/10/02/2020/nicaragua-la-masacre-de-alal-es-solo-la-punta-del-iceberg

28. Shiffman, Geovanny, "Policía orteguista patina por tercera vez y ahora dice que si hubo cuatro asesinados en el Caribe" [Ortega police blunder for the third time and now say there were four killed in the Caribbean]. *Artículo 66*, 1 February 2020. Available at https://www.articulo66.com/2020/02/01/policia-orteguista-patina-por-tercera-vez-y-ahora-dice-que-si-hubo-cuatro-asesinados-en-el-caribe/

29. CALPI. Denuncia Pública. Liberan a detenido por ataque a la Comunidad Indígena de Alal y Ejército podría estar involucrado en el ataque. [Public Complaint. Detainee released for attack on Alal Indigenous Community and Army could be involved in the attack]. 8 June 2020. Available at https://www.facebook.com/calpinicaragua/posts/4166665220018116/

30. "Capturan a integrante de la banda 'Chabelo' autor de los delitos en perjuicio en la Comunidad Alal" [Member of 'Chabelo' band captured, author of crimes against Alal community]. El 19 digital, 12 February 2020. Available at https://www.el19digital.com/articulos/ver/titulo:99994-capturan-a-integrante-de-la-banda-chabelo-autor-de-los-delitos-en-perjuicio-en-la-comunidad-alal CALPI. Denuncia Pública. Liberan a detenido por ataque a la Comunidad Indígena de Alal y Ejéercito podría estar involucrado en el ataque [Public Complaint. Person detained for attack on Alal Indigenous Community released and Army could be involved in the attack]. Facebook, 8 June 2020. Available at: https://www.facebook.com/calpinicaragua/posts/4166665220018116/

31. See above Note 21. See also: Cruz, Ana L. "Colonos desplazan a más de treinta familias indígenas de la comunidad Sangni Laya" [Settlers displace more than 30 Indigenous families from the Sangni Laya community]. *Confidencial*, 6 September 2020, accessed on 11 January 2021. Available at https://confidencial.com.ni/colonos-desplazan-a-mas-de-treinta-familias-indigenas-de-la-comunidad-sangni-laya/

32. Nicaragua: Experta de la ONU condena el asesinato de un activista y pide proteger a los defensores medioambientales. [Nicaragua: UN expert condemns activist's murder and calls for protection of environmental defenders]. *UN Noticias*, 1 February 2021. Available at https://news.un.org/es/story/2021/02/1487382#:~:text=La%20relatora*%20especial%20sobre%20la,a%20los%20responsables%20ante%20la IACHR. (23 March 2020) IACHR Urges the State of Nicaragua to Cease Violations of the Rights of Indigenous Peoples and Communities. Available at https://www.oas.org/en/iachr/media_center/PReleases/2020/061.asp

33. Oakland Institute, "Nicaragua's Failed Revolution: The Indigenous Struggle for *Saneamiento*". April 2020. Available at https://www.oaklandinstitute.org/nicaragua-revolucion-fallida-lucha-indigena-saneamiento See also: Miranda Aburto, Wilfredo. "Etnocidio en Nicaragua: La violenta embestida de los invasores que desplaza a los indígenas en la Costa Caribe". *Divergentes*, 9 August 2020. Available at: https://www.divergentes.com/colonos-desplazan-indigenas-nicaragua/ See also: CEJIL. *Resistencia mískitu: una lucha por el territorio y la vida.* August 2019. Available at https://cejil.org/es/informe-resistencia-miskitu-una-lucha-territorio-y-vida

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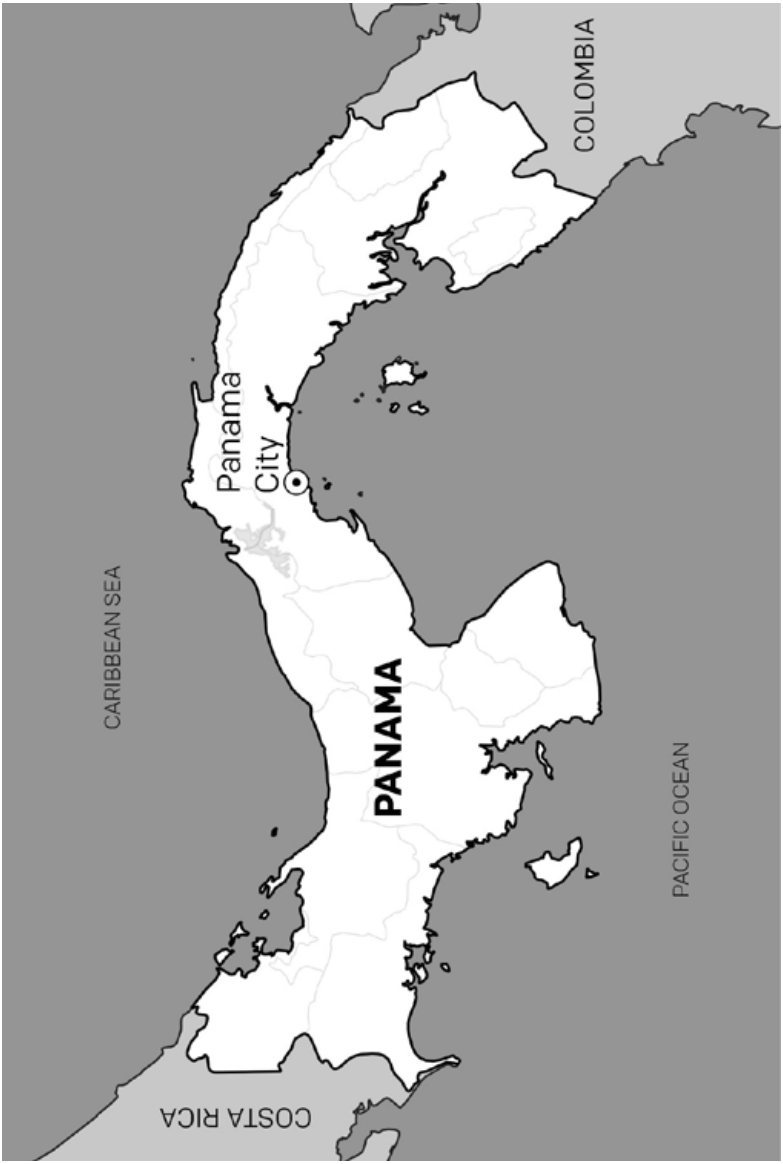
Panama


CARIBBEAN SEA
COLOMBIA
Panama City
PANAMA
PACIFIC OCEAN
COSTA RICA

The national census was scheduled to take place in 2020 but, due to the COVID-19 pandemic, it had to be postponed. The figure for the Panamanian population is therefore frozen in time at 3.4[1] million inhabitants, of which 417,559[2] (12.28%) are Indigenous.

The Dule, Embera, Wounaan, Ngäbe, Bugle, Naso Tjër Di and Bri Bri Indigenous Peoples are all members of and participate in the umbrella organization the National Coordinating Body of Indigenous Peoples of Panama[3] (COONAPIP). This year, the 12[4] congresses and councils were further consolidated within the Vice-Ministry of Indigenous Affairs under the Ministry of the Interior. Everyone therefore had a place in the National Council for the Comprehensive Development of Indigenous Peoples.[5]

After more than 40 years of struggle and demands for their ancestral lands, the Naso Tjër Di this year achieved a certain degree of autonomy and recognition of their political-administrative division by adding one more *comarca*.[6]

Panama has not yet ratified ILO Convention 169 but did vote in favour of the United Nations Declaration on the Rights of Indigenous Peoples.

Progress in political and social rights in the midst of the pandemic

Two events were noteworthy in the midst of the year's death and suffering. Firstly, following their continued efforts, the communal authorities led by King[7] (traditional authority) Reynaldo Santana of the small (small in size but great in maintaining harmony and balance in their relationship and contact with Mother Earth on their territory measuring 160,616[8] hectares) kingdom (village) of Naso Tjër Di became the sixth[9] *comarca* of Panama on 4 December.

The continued efforts were needed because, before it was finally promulgated in the Official Gazette, Law 656 had passed from pillar to post, from government agencies to the National Assembly of Dep-

uties, from president to president of the Republic, even to radical environmentalists who wanted rid of the communal ancestral home of the Naso Tjër Di altogether. The final word came from the Supreme Court of Justice,[10] which stated:

> *Article 1 of Law 656 does not infringe upon the content of Articles 4 or 120 of the Political Constitution, one of which relates to Panama's obligation to abide by the norms of International Law, and the other of which refers to the State's duty to protect the environment.*[11]

Secondly, the peoples' right to communication and information was enhanced. On 25 November 2020, the Indigenous Peoples' digital radio station *Voces Originarias Panamá* [Native Voices of Panama] was launched on air.[12] One of its promoters, Ariel González of the National Coordinating Body of Indigenous Peoples of Panama, explains that while there are free radio frequencies in the Indigenous districts, Panamanian legislation limits the opening of formal radio stations for Indigenous Peoples. They therefore opted for this alternative after failing to obtain a space on the airwaves from the National Telecommunications Directorate of the National Authority of Public Services (ASEP).

The station broadcasts programmes in seven of the Indigenous languages of Panama, offering music, an analysis of events in the *comarcas*, issues relating to collective land ownership and annexed areas, and news.

Medicine and intercultural awareness in a time of COVID-19

It would have helped if the concept and practice of interdependence between the two different types of knowledge: Western and Indigenous, and therefore between Western and Indigenous medicine, had been overcome during the pandemic as this would have enhanced disease prevention in all its proper dimensions. While the former is dominated by a positivist model of knowledge that basically takes the disease and its symptoms into account, the latter operates a model based on a more spiritual vision of the world, related to its physical, social and cultural reality.

From the very start in March – when the first COVID-19 case from Spain was declared – the Ministry of Health and the Indigenous Peoples should have invoked Law 17 of 27 June 2016, which protects the knowledge of Indigenous traditional medicine. Dialogue was already progressing in this regard and all that was needed was to comply with the provision set out in Art. 2.7 of Law 17:

> *Indigenous traditional medicine is the set of knowledge, songs, rituals that Indigenous Peoples possess collectively, acquired by generations or by some competent body, on the properties and use of biodiversity or biological resources in the prevention, healing and rehabilitation of spiritual or symptomatic diseases of human beings.*[13]

An extraordinary and exceptional opportunity to unify the two complementary visions was thus wasted. Official data did not specify the impacts on communities and Indigenous Peoples, nor were they considered a priority sector for prevention and mitigation actions.

The period of the COVID-19 pandemic was extremely difficult for Indigenous Peoples: insecurity and fear reigned, with voluntary lockdowns decreed by the communities' traditional authorities themselves, among other measures. Although the national government was systematic in its guidance and campaigns through the governors' offices, district representatives and Indigenous officials, these messages were not transmitted in a culturally-relevant way. Little if anything was done to take into account Indigenous Peoples' own medicine in the face of the health crisis.

Two million disbursed for COVID-19 prevention and control

As of 10 July 2020, a disbursement to the order of USD 2 million had been announced, in compliance with the Action Plan for the Prevention and Control of COVID-19 in the *comarcas* and Indigenous collective territories. The coordination between the Ministries of the Interior, Health and Economy and Finance to "speed up" the purchase of health supplies and equipment within the framework of the Project to Support the

National Development Plan for Indigenous Peoples was met with criticism and demands from Indigenous Peoples.[14]

Should Indigenous authorities take decisions or wait for the Ministry of Health to take them?

In the first few months, the Guna general congresses of the Gunayala *comarca* decreed sanitary cordons and the closure of major entry points, especially at the ports of Niga Kantule and Dibin in the Gardi sector, to prevent the virus from reaching the region. As the months progressed, as was the case for all Panamanians, the companies began to suspend the jobs of Indigenous people. Although the government decreed that no forced evictions should take place, owners took action in their own hands, leading the general congresses to request that the Ministry of Health help those Guna with financial and food problems to travel back to Gunayala *comarca*. After sending letters to the competent central government authorities and receiving no response, the Guna authorities sought alternative channels through the Vice-Ministry of Indigenous Affairs.

These concrete actions by the Guna (*sagladummagan*) authorities, aimed at safeguarding the health and lives of their people, were not seen as appropriate, however, either by the Regional Health Director of Gunayala or the Mayor (Governor) of the region. In this context, the Indigenous authorities sent a note accusing them of "wanting to interfere with the actions of the highest bodies in an emergency situation"[15] and considered them to be acting in a party-political manner that was bureaucratic and disrespectful to the local and regional authorities, who had worked so hard to combat COVID-19.

Government officials had to accept their mistake. As of 31 October, that is, in just two and a half months, 3,364 people, including men, women and children from the 50 communities, had been transferred back to Gunayala.[16]

Mask or face-covering incident

Gunayala *comarca* is home to a Dule people with two traditional institutions: the Guna General Congress with political-administrative func-

tions, and the General Congress of the Guna Culture, which serves to safeguard the cultural and spiritual heritage and acts as the custodian and transmitter of Guna knowledge, practices and wisdom. In this context, the *saglagan* (spiritual authorities) gathered in their General Assembly in the community of Aggwadub, from 20 to 26 October 2020 to analyse a number of health measures that the Ministry of Health and the national government were decreeing without free, prior and informed consultation, such as: COVID-19 community health committees in each of the 51 communities, the use of masks or face coverings, social distancing, and so on.

With regard to the COVID-19 community health committees, the spiritual authorities felt that, by giving these bodies a leadership role, they were also taking other decisions that did not correspond to them. This situation of overlapping powers created unease among the leadership. They therefore decided that "the use of masks in the communities is banned" and ruled that "our medicine shall prevail".[17]

Other actions in a time of COVID-19

On 29 November 2020, Gunayala municipality received a donation from the Embassy of the People's Republic of China[18] comprising: 15,000 surgical masks, 120 packs of liquid soap, 120 packs of 70% alcohol, 240 packs of antibacterial gel and five infrared thermometers, all as part of a strategy to assist the most vulnerable communities in the midst of the COVID-19 pandemic.

In conjunction with the Office of the Comptroller-General of the Republic and the Ministry of Health, the National Health Survey of the Gorgas Memorial Institute[19] came to the following conclusion in its report: "The Indigenous area relied on a greater proportion of family help, bank loans and donations to cover their healthcare costs." The same report explained that 53.9% of families in the Indigenous area stated that they never or almost never had enough income to cover health expenses.

Another situation that made the headlines in the Panamanian mass media was an outbreak of COVID-19 that was reported on 17 April in the Indigenous community of Koskuna, in the township of Veracruz (West Panama) within the Metropolitan Health Region. The Ministry of

Health set up a COVID-19 testing centre and installed a sanitary cordon around this community. There was loss of life but, within a month, things were back to normal.

Notes and references

1. Geographical Distribution and Internal Migration in Panama. 2010 Census. Office of the Comptroller-General of the Republic, National Institute of Statistics and Census (INEC). Panama, 2014. Demographic Analysis Unit. Table 1: Total population in the Republic, by area. Census 1950 - 2010. P. 2. Accessed 2 December 2020. Available at https://www.inec.gob.pa/archivos/P0705547520200925152431Distribuci%C3%B3n%20Territorial%20y%20Migraci%C3%B3n%20Interna%20en%20Panam%C3%A1-Censo2010_F.pdf
2. Assessment of the Indigenous population of Panama based on the 2010 Population and Housing Census. 2010 National Census: XI of Population and VII of Housing. Table No. V.3: Area, population of Indigenous *comarcas*: 2000 and 2010 censuses. P. 40 Accessed 2 December 2020. Available at: https://www.inec.gob.pa/archivos/P6571INDIGENA_FINAL_FINAL.pdf
3. See: https://www.coonapippanama.org/ Accessed 27 December 2020.
4. The Gunadule, for example, live in four independent autonomous territories: the Gunayala Comarca, the Kuna Comarca of Madungandi, the Kuna Comarca of Wargandi and the Tule Ancestral Territory of Tagarkunyala. The Emberá and Wounaan followed the same path when the Emberá Comarca was created in 1983 on two plots of land known as Cémaco and Sambú. Forty-three Embera and Wounaan communities were left out of this process in Darién Province and so they created their own governance structures. We therefore have the General Congress of Collective Emberá and Wounaan Lands, the Wounaan National Congress and the General Congress of the Upper Bayano Embera. Meanwhile, in western Panama, we have the Naso Tjer Di General Council, the Bri Bri General Council, the Ngäbe-Buglé and Peasant General Congress and the Buglé General Congress.
5. "Consejo Nacional de Desarrollo Integral de los Pueblos Indígenas abordan avances de proyectos" [National Council for the Comprehensive Development of Indigenous Peoples makes progress with projects]. Ministry of the Interior, Government of Panama, 5 April 2020, accessed 2 January 2021. Available at: https://www.mingob.gob.pa/consejo-nacional-de-desarrollo-integral-de-los-pueblos-indigenas-abordan-avances-de-proyectos/.
6. Law No. 188 (4 December 2020) creating the Naso Tjër Di Comarca. Official Gazette No. 29170-A, 7 December 2020.
7. Article 9 of Law No. 188 of 2020: "The State recognises the traditional regime of government and administration of the Naso comarca, formed by the Naso General Council, which will have as its highest authority the king and his deputy."
8. Article 1 of Law 188 of 2020.
9. Daniel M. Alarco. *La Estrella de Panamá*. 4 December 2020
10. Official Digital Gazette. Year CXVIX. Panama, R. of Panama, Wednesday, 2 December 2020. No. 29167-A. Supreme Court of Justice. Ruling No. (none) (of Wednesday 28 October 2020) "Whereby it is declared that Articles 1 and 8 of Bill

of Law No. 656 'Creating the Naso Tjer Di comarca' are not unconstitutional." Available at: https://www.gacetaoficial.gob.pa/pdfTemp/29167_A/GacetaNo_29167a_20201202.pdf

11. Ibid. 2020. pp. 4, 7, 8, 11, 32 and 33.
12. Dimitry Díaz. "Pueblos Indígenas de Panamá ya tienen su radio digital" [Indigenous Peoples of Panama now have their digital radio station]. *Mi diario.com*, 25 November 2020. Available at https://www.midiario.com/ciencia-y-tecnologia/pueblos-indigenas-de-panama-ya-tienen-su-radio-digital/#:~:text=Los%20pueblos%20ind%C3%ADgenas%20ya%20cuentan,para%20tener%20una%20m%C3%A1s%20formal.
13. Republic of Panama. Ministry of Health. Executive Decree No. 39 of 12 February 2019, regulating Law 17 of 27 June 2016, protecting the knowledge of Indigenous traditional medicine.
14. "Coordinan acciones para el desembolso de 2 millones de dólares para controlar pandemia en Territorios Indígenas" [Coordinated actions for the disbursement of USD2 million to control pandemic in Indigenous Territories]. Ministry of the Interior, 10 July 2020, accessed 5 January 2021. Available at https://www.mingob.gob.pa/coordinan-acciones-para-el-desembolso-de-2-millones-de-dolares-para-combatir-pandemia-en-territorios-indigenas/
15. "Aclaración sobre gestiones de Congresos Generales en medio de la crisis sanitaria" [Clarification on General Congress management in the midst of the health crisis]. Gunayala General Congress, 20 August 2020. Available at: https://www.gunayala.org.pa/comunicado_aclaraciones_sobre_gestiones_congresos_generales_gunayala.htm
16. "Comunidades que han recibido a su gente" [Communities have welcomed their people]. Gunayala General Congress, 31 October 2020. Available at: https://www.gunayala.org.pa/lista_traslado_a_gunayala.htm
17. Resolution N° 4. *Onmaggeddummad Namaggaled* / General Congress of the Guna Culture, meeting in its General Assembly in the community of Aggwadub from 20 to 26 October 2020.
18. "Gobernación de Guna Yala recibe donación" [Guna Yala Government receives donation]. Ministry of the Interior, Government of Panama, 29 November 2020. Available at: https://www.mingob.gob.pa/gobernacion-de-guna-yala-recibe-donacion/
19. According to Ismael Gordón Guerrel's note published in La Estrella de Panamá, 22 November 2020. Available at www.laestrella.com.pa/nacional/201122/panama-cuatro-hogares-cuenta-ingresos

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Paraguay

Five linguistic families and 19 Indigenous Peoples self-identify in Paraguay: Guaraní (Aché, Avá Guaraní, Mbya, Pai Tavytera, Guaraní Ñandeva, Guaraní Occidental), Maskoy (Toba Maskoy, Enlhet North, Enxet South, Sanapaná, Angaité, Guaná), Mataco Mataguayo (Nivaclé, Maká, Manjui), Zamuco (Ayoreo, Yvytoso, Tomáraho) and Guaicurú (Qom). According to 2017 statistics, the country's Indigenous population numbers 122,461 individuals.

Chapter V of the 1992 Constitution recognises Indigenous Peoples as groups with cultures that precede the formation and organisation of the Paraguayan state, recognising their rights to ethnic identity, communal property, participation and an education that takes into account their specific cultures, etc.

Paraguay has a legal framework that guarantees and recognises a fairly wide range of rights to Indigenous Peoples, having ratified the main international human rights instruments, both in the universal and inter-American systems.

The distress in which Indigenous communities find themselves was reflected as never before in 2020, and this not only because of the effects of the pandemic. The crimes that Indigenous people living on the streets fall prey to are acts which, historically, could be considered to have begun to be perpetrated long before they are actually committed. Their origins lie in the persistent forced displacement of Indigenous people to the cities as a result of continued land grabbing, by means of forced eviction and criminalisation, as exemplified by several of the cases reported in this article. The paucity of public policies aimed at tackling these problems leaves Indigenous people at the mercy not only of a pandemic – which has reached their communities and from which they have had to defend themselves virtually alone – but also of big capital, which has redoubled its efforts and continues to promote agribusiness encroaching onto their lands and rights without the state intervening to protect them. This paucity of public policies also suffers from insufficient monitoring and supervision, leading both to the direct subjugation of Indigenous rights and to the introduction of external factors and actors into community issues, to the detriment of their rights.

Indigenous Peoples and the pandemic

The economic and social impact of the coronavirus pandemic has highlighted and exacerbated pre-existing problems in society, mostly associated with the lack of a comprehensive social protection system, for example, or the poor public health service. These problems are exacerbated by conditions of poverty and extreme poverty or by contingent factors such as drought and forest fires, thus increasing Indigenous communities' lack of protection.

The public health system is deficient and provides insufficient care for Indigenous communities, as acknowledged in the official statistics themselves. Existing health centres are poorly equipped and have limited human resources both in terms of quantity and specialisation and are – including the Indigenous promoters in the communities – overwhelmed by the needs of their beneficiary population. There are no therapy units available, insufficient ventilators and ambulances, and little personal protective equipment to distribute (masks, alcohol, etc.). This is compounded by the failure to prioritise and strengthen the National Directorate for Indigenous Peoples' Health (DINASAPI) under the Ministry of Public Health and Social Welfare (MSPyBS). This lack of protection for the Indigenous population is not the sole responsibility of the MSPyBS but of other state ministries and institutions as well, such as the Paraguayan Institute for Indigenous Affairs (INDI), the Ministry of Public Works and Communications, the Ministry of Labour, Employment and Social Security, the Ministry of Education and Science, the National Emergency Secretariat, the Institute of Social Security, the Ministry of the Environment and Sustainable Development (MADES), the National Environmental Sewage Service (SENASA), and others. They all have specific obligations, such as legal and territorial assistance, food, labour and environmental protection and safety, the provision and maintenance of community roads, drinking water and other basic services, and have not addressed or prioritised the most basic needs of the Indigenous population, either before or during the pandemic.

From the very outset of the health emergency, the state failed to design prevention and protection measures for Indigenous communities despite its obligations arising from the unique legal status of these peoples' own rights and international human rights law. Such measures should have taken into account their conditions of particular vulnerability due to the geographical location of many Indigenous communities,

the critical lack of road infrastructure, and the situation of poverty and extreme poverty in which many of them find themselves.

The economic impact of the pandemic was, in turn, reflected primarily in a food crisis in many communities. These peoples were thus forced to protest publicly to demand food assistance and water. Such was the case of the Chaco communities, for example, which also suffered the onslaught of drought and forest fires. Some communities that were more compromised by their remoteness and the lack of roads even had to take legal action to ensure the corresponding institutions took up their duty of care to them. Such was the case of the Paiseyameixempa'a community, comprising the villages of Buena Vista and Colonia 96, which only received state assistance after filing an appeal for protection through a court in the capital. This was favourably received and "comprehensive assistance of the appellant" ordered.[1]

As far as health measures are concerned, the openness of the public health authorities to receiving proposals from civil society must be highlighted. This made it possible to implement a visit and contact protocol with the communities, and to disseminate the prevention measures recommended by the MSPyBS for the whole population in different languages, in addition to Spanish and Guaraní.

By the end of December 2020, 26 Indigenous persons had died in Paraguay, with 252 infected and, to date, 70 Indigenous communities belonging to 14 of the 19 Indigenous Peoples are at risk.[2]

Finally, in this context, one event occurred that demonstrates how exposed Indigenous workers are to arbitrary and discriminatory practices. Indigenous members of the Y'apy Santa Isabel community, in Yryvukua district, San Pedro department, reported having been injected with a veterinary product in order to prevent COVID-19.[3] The state's intervention has not resulted in any public report on the government measures taken in this regard.[4]

Indigenous people on the street, suffering extreme violence and sexual exploitation

Violence against Indigenous people living on the streets reached alarming levels during the period in question, in terms of both the number and types of crimes observed. In addition, several people were subjected to extreme violence and there were also cases of sexual exploitation.

"Pleasure" killings. One case that caused a stir was that of Lorenzo Silva, a young Indigenous man who died while sleeping at a bus stop on the public highway. Silva was shot from a passing car. The perpetrator appears to have had no motive other than hatred towards people living in poverty on the streets, or for the mere "pleasure of killing"[5] as the papers reported in the days following the event.

Women and girl victims of violence. Cases involving Indigenous women and girl victims demonstrate particularly extreme levels of violence which, although not new[6] and recognising the multiple forms of this manifestation, were more visible this year. Among these was the case of a 12-year-old Indigenous girl from the Mbya Guaraní people whose dismembered body was found in a backpack near the bus terminal. And that of a 23-year-old street girl from the same people who was found dead in Caballero Park. Or another Indigenous girl who was found handcuffed and with signs of sexual abuse in an abandoned brewery, all in the city of Asunción. Meanwhile, in Itapúa, a 12-year-old girl was found dead in a cornfield, with signs of having been sexually assaulted.

Sexual exploitation. A complaint was also filed against the alleged sexual exploitation of children in the Jaguary Indigenous community,[7] located in the J. E. Estigarribia district, Caaguazú department. This case has the aggravating factor of having triggered the prosecution of two Indigenous leaders who denounced one of the cases. After an unusually premature dismissal of the claims they had brought to the attention of the Public Prosecutor's Office, they were charged with false reporting. This was likely a retaliation devised by powerful business interests that were not comfortable with the investigation of and publicity surrounding the serious events taking place not only in the community mentioned but in at least two others in the same area.[8]

No let up in land grabbing, even during the pandemic

The growing needs of agribusiness continue to put pressure on Indigenous territories, and the main tool used in this regard remains the same: forced evictions and the criminalisation of leaders. To this must be added the increasing use of armed non-state actors in the implementation

of illegal evictions, as reported in several cases recorded during this reporting period.

Veraró community. Canindeyú department suffered numerous conflicts in 2020 associated with land disputes involving peasant settlements and Indigenous communities. In terms of the latter, the case of the Avá Guaraní people of Veraró community is noteworthy. Its leaders have been denouncing constant harassment from armed civilians since the end of 2019, aimed at completely depriving them of their lands. They already find themselves hemmed in on their land, resisting the onslaught, even though they hold the title to the plot, registered in the name of INDI. Thus far, none of the actions promoted by the state body has managed to reverse the situation and provide these people with security.[9]

Cases in Caaguazú. The other department where the human rights crisis is affecting Indigenous communities is Caaguazú, where there are regular media reports on evictions, Indigenous people living on the streets, and armed attacks on displaced communities. The National Organisation for Independent Native Peoples (ONAI) denounced the situation facing the communities of Guyra Payu[10] and Huguá Po'i,[11] victims of parastate and state abuses, respectively. The former endured an eviction and intimidation by armed persons not identified as belonging to the security forces, which left 17 families in total distress on Route 2 after their belongings were destroyed and also thrown onto the public highway. The community of Huguá Po'i, also of the Mbya Guaraní people in the same department, who have reoccupied their lands after suffering several evictions years ago, were again intimidated at the beginning of 2020 by the Public Prosecutor's Office. The Indigenous people's determination and resistance prevented them from being evicted, however, although the threat still hangs over the community.

Jacuí Guasú community.[12] There are once again reports of armed civilians acting with particular violence to evict the Jacuí Guasú community (news reports are particularly descriptive in this regard).[13] The press version is also backed up by Senator Pedro Santa Cruz, who visited the site after the event and met with the victims of the attack.[14]

Yakye Axa: when access to a right also forms part of that right

The Enxet of Yakye Axa obtained a favourable ruling from the Inter-American Court of Human Rights in 2005 which, according to the ruling, should have been fully implemented within three years. This deadline was not met but, seven years later, they did manage to get the state to provide them with legally secure land for their resettlement. To date, however, 15 years after their rights were recognised by the Inter-American Court, they have not been able to fully occupy the lands because they are unable to access them.

The painful experience of getting this judgment implemented has been an endless struggle in which they have faced all kinds of discrimination, even though their rights are fully recognised and they are the owners, like any other legal entity, of land that their neighbours will not allow them to access. This is down to the state's failure to protect the community. The Enxet of Yakye Axa thus had land secured for their resettlement in 2012 but, due to the refusal of two private owners, who denied them passage, they were never able to occupy it. Congress had to pass a law expropriating the strip of land needed for the construction of the road in 2019.[15] This, in turn, required an amendment so that it could be implemented in 2020,[16] and this was in fact the highlight of the year.

The Loma case: cattle rustling and parliamentary protection[17]

Cattle ranchers have been denounced for invading 10,079 hectares of land that the Institute for Rural Welfare (IBR) – the predecessor to the current National Institute of Rural and Land Development (INDERT) – considered belonging to the Loma community of the Guaraní Ñandéva people in 1984 because it was an area of occupation and ancestral domain of this native people, who inhabit Boquerón department on the border with Bolivia and Argentina. The Paraguayan state ratified the titling of the land in favour of the community stating that the cattle ranchers who had grabbed it had to leave by August 2020 and return it to the Indigenous people.[18] The usurpers resisted, however, and ran a prolific media campaign aimed at discrediting the Indigenous leaders. In addition, its allied organisation, Alter Vida, found echo in the farming

lobby of the Patria Querida Party, whose leader – the landowner Senator Fidel Zavala – has acted in clear support of the land grabbers, ignoring INDERT's administrative decisions.[19]

Budget for a dignified life

In addition to neither offering equitable reductions nor being backed up by participatory or planned studies and reflections from the different public bodies, the austerity policy demanded for 2021 will disproportionately affect historically vulnerable sectors such as the Indigenous communities. With respect to INDI, the 2021 General Budget of the Nation tabled by the Executive has cut its resources by 16%. This is equivalent to USD 10.9 million. To put this into perspective, the amount allocated to land purchases would scarcely buy 600 hectares of land in the country at an average cost of USD 1,000 per hectare. This amount is dramatically insufficient and will only result in greater shortages for the country's Indigenous communities.

INDI's anticipated budget seriously compromises the possibility of implementing actions in favour of land security, food production and the creation of basic services in the short term. This regressive budgetary policy reflects a budget that is not oriented towards human development. As is to be expected, it has provoked the reaction and demands of numerous Indigenous organisations and civil society allies, who have brought a proposal to reverse the situation before Congress, in the hope of greater financial allocations for 2021.[20]

Friendly solution took its time coming

On 28 May 2020, a law was passed "declaring of social interest and expropriating in favour of the Paraguayan Institute for Indigenous Affairs (INDI), for its subsequent award to the Y'akã Marangatú Indigenous community, Estate No. 581, Padrón 911, with an area of 219 hectares, 4,112 square meters in the district of Carlos Antonio López, Itapúa department". The reasons behind this project include the need to restore the ancestral lands of the Indigenous community, by means of expropriation, in accordance with a duty to respect the community's right to its lands, as well as the duty of the various agencies and powers of the

Paraguayan state to work together for full compliance of Paraguay's international obligations, a situation celebrated by the Inter-American Commission on Human Rights (IACHR) with a press release on the subject.[21]

Conclusions

COVID-19 was a good test of what still needs to be improved. As noted, the disease brought nothing new to the situation of Indigenous Peoples but rather deepened and aggravated the circumstances in which they find themselves. It also shone a greater light on the steps the state needs to take to advance the realisation of their rights.

2020 was clearly a year in which the state could not be expected to function normally in terms of implementing specific plans. However, there is a feeling that this unforeseen situation has also served as an excuse to put a stop to activities which, even with the pandemic, could have been completed. For example, intercultural dialogue, the coordination of efforts and public works (which was one of the most authorised activities in the different health phases dictated by the government).

The state has a wonderful opportunity to learn from the fact that it does not need to be in the midst of a health, food, or climate-related emergency to take concrete preventive and mitigating actions, nor to develop planned, progressive measures agreed with the Indigenous Peoples in terms of their human rights.

Notes and references

1. "Ordenan asistencia integral para comunidad indígena" [Comprehensive assistance ordered for the Indigenous community]. *Tierraviva*, accessed 4 October 2020. http://www.tierraviva.org.py/ordenan-asistencia-integral-para-comunidad-indigena/
2. "Población indígena rural y urbana con casos confirmados de COVID-19" [Rural and urban Indigenous population with confirmed cases of COVID-19]. *Tierras Indígenas*, accessed 7 December 2020. https://experience.arcgis.com/experience/2a1e7ad30b3549d18b298f51f911b524
3. "Indígenas inyectados con medicamento animal presentan malestares" [Indigenous people injected with animal medicine present discomfort]. *El Independiente*, 20 July 2020, accessed 4 October 2020. https://independiente.com.py/indigenas-inyectados-con-medicamento-animal-presentanmalestares/
4. "Comitiva corroborará denuncia de nativos obligados a vacunarse con

antiparasitario de uso animal" [Comitiva will corroborate natives' complaint of forced vaccination with antiparasitic product of veterinary use]. *Agencia IP*, 20 July 2020, accessed 4 October 2020. https://www.ip.gov.py/ip/comitiva-interinstitucional-corroboraradenuncia-de-nativos-obligados-a-vacunarse-con-antiparasitarios-de-uso-animal/

5. "Identifican al indígena asesinado y no descartan crimen de odio" [Murdered Indian identified: hate crime not ruled out]. *ABC Color*, 17 December 2019, accessed 4 October 2020. https://www.abc.com.py/nacionales/2019/12/17/identifican-al-indigena-asesinado-y-no-descartancrimen-de-odio/
6. Gómez, Rocío "La silenciosa violencia contra niñas indígenas en Paraguay" [Silent violence against Indigenous girls in Paraguay]. *La Nación*, 31 May 2019, accessed 4 October 2020. https://www.lanacion.com.py/pais_edicion_impresa/2019/05/31/la-silenciosa-violencia-contra-ninasindigenas-en-paraguay/
7. "Denuncian explotación sexual de niños indígenas en J. Eulogio Estigarribia" [Sexual exploitation of Indigenous children denounced in J. Eulogio Estigarribia]. *La Nación*, 4 June 2020, accessed 4 October 2020. https://www.lanacion.com.py/pais/2020/06/04/denuncian-explotacion-sexual-de-ninosindigenas-en-j-eulogio-estigarribia/
8. "Líderes indígenas del Dpto. de Caaguazú son detenidos y procesados judicialmente luego de reunirse con la CODEHUPY" [Indigenous leaders from Caaguazú department detained and prosecuted after meeting with CODEHUPY]. *Codehupy*, 15 July 2020, accessed 4 October 2020. http://codehupy.org.py/lideres-indigenasdel-dpto-de-caaguazu-son-detenidos-y-procesados-judicialmente-luego-de-reunirse-con-la-codehupy/
9. "Comunidad indígena de Canindeyú denuncian atropellos y quema de viviendas" [Indigenous community of Canindeyú denounces abuses and burning of houses]. *Última Hora*, 5 December 2019, accessed on 4 October 2020. https://www.ultimahora.com/comunidad-indigena-canindeyu-denuncian-atropellosy-quema-viviendas-n2858404.html
10. "Repudian violento desalojo y atropello a comunidad indígena en Caaguazú" [Violent eviction and overrunning of Indigenous community in Caaguazú disowned]. *Última Hora*, 8 August 2020, accessed 5 October 2020. https://www.ultimahora.com/repudian-violento-desalojo-y-atropello-comunidad-indigenacaaguazu-n2898895.html.
11. "Hugua Po'i resiste al desalojo". [Hugua Po'i resists eviction]. *E'a*, 11 February 2020, accessed 5 October 2020. http://ea.com.py/hugua-poiresiste-al-desalojo/
12. González Vera, Roque: "Indígenas mbya denuncian a civiles armados que arrasaron sus viviendas" [Mbya Indians denounce armed civilians who destroyed their homes]. *ABC Color*, 27 October 2020, accessed 5 October 2020. https://www.abc.com.py/nacionales/2020/10/27/indigenas-mbyadenuncian-a-civiles-armados-que-arrasaron-sus-viviendas/
13. "Desalojan a nativos que vivieron dos décadas en un asentamiento" [Natives evicted after two decades living in their settlement}. *Noticias Paraguay,* 26 October 2020, accessed 26 October 2020. https://npy.com.py/2020/10/desalojan-a-nativos-que-vivieron-dos-decadas-en-unasentamiento/
14. Santa Cruz, Pedro Arthuro, "Comunidad indígena Ysyry Miri - Mbya Guaraní desalojado por agro-toro," [Ysyry Miri - Mbya Guaraní Indigenous community evicted by Agro-toro] 30 October 2020. https://www.facebook.com/100001114765720/videos/3389100934470365/

15. "Senadora entrega copia de Ley de expropiación a comunidad de Yakye Axa" [Senator delivers copy of Expropriation Law to Yakye Axa community] Senate, 11 December 2019, accessed 3 October 2020. http://www.senado.gov.py/index.php/noticias/noticias-comisiones/5059-senadora-entrega-copia-de-la-ley-de-expropiacion-a-comunidad-de-yakye-axa-2019-12-11-16-57-10

16. "Iniciarán trabajo de construcción del #CaminoAyakyeAxa" [Work to begin on the construction of #CaminoAyakyeAxa]. *Tierraviva*. http://www.tierraviva.org.py/iniciaran-trabajosde-construccion-del-caminoayakyeaxa/

17. Manzoni, Maxi "Ganaderos invaden y deforestan tierras indígenas en el Chaco" [Cattle ranchers invade and deforest Indigenous lands in the Chaco]. *El Surtidor*, 26 September 2020, accessed 4 October 2020. https://elsurti.com/futuros/reportaje/2020/09/26/ganaderos-invaden-y-deforestantierras-indigenas-en-el-chaco/

18. González Vera, Roque: "Ante atropello a la comunidad, Indert sale en favor de indígenas ñandéva" [Faced with the community being overrun, Indert comes out in favour of the Ñandéva Indians]. *ABC Color*, 19 October 2020, accessed 4 October 2020. https://www.abc.com.py/nacionales/2020/10/19/ante-atropello-a-lacomunidad-indert-sale-en-favor-de-indigenas-nandeva/

19. "Senador Zavala defiende a ganaderos que invadieron comunidad Guaraní Ñandéva" [Senator Zavala defends cattle ranchers who invaded the Guarani Ñandéva community]. *E'a*, 15 October 2020, accessed 4 October 2020. http://ea.com.py/senador-zavala-defiende-a-ganaderos-que-invadieron-comunidadguarani-nandeva/

20. Articulación Nacional Indígena por una Vida Digna "Presupuesto Digno. Proposal for a General Budget of the Nation that guarantees the restitution of the rights and development of Paraguay's Indigenous Peoples", October 2020. http://www.tierraviva.org.py/wp-content/uploads/2020/10/Propuesta-Presupuesto-Digno-2021.pdf

21. "CIDH saluda aprobación del proyecto de Ley de expropiación de tierras..." [IACHR welcomes approval of the draft bill on land expropriations]. *OAS*, 29 July 2020, accessed 4 October 2020. http://www.oas.org/es/cidh/prensa/comunicados/2020/181.asp

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Peru

According to the 2007 Census, there are more than 4 million Indigenous people in Peru: 83.11% are Quechua, 10.92% Aymara, 1.67% Asháninka and 4.31% belong to other Amazonian Indigenous Peoples. The Indigenous or Native Peoples Database (BDPI) reports the existence of 55 Indigenous Peoples in the country speaking 47 Indigenous languages.

On the other hand, 21% of the national territory is covered by mining concessions, and these overlap with 47.8% of the territory of the peasant communities. Furthermore, 75% of the Peruvian Amazon is covered by hydrocarbon concessions. The overlapping of rights to communal territories, the enormous pressure from the extractive industries, the absence of land-use planning and the lack of any effective implementation of prior consultation are all exacerbating territorial and socio-environmental conflicts in Peru, a country that has signed and ratified Convention 169 of the International Labour Organization (ILO) and which voted in favour of the UN Declaration on the Rights of Indigenous Peoples in 2007.

2020 began with Peru seeking to overcome the major headache left behind by the political crisis of 2019: the dissolution of Parliament. The national agenda in January was largely dominated by congressional elections. A couple of months later, however, the national agenda – along with unfinished social policies and economic activities – had ground to a halt in order to focus efforts on the greatest health crisis the modern world has ever known: the COVID-19 pandemic. Indigenous and Afro-descendant peoples, together with the most impoverished sectors of society, ended up being the main victims of a global pandemic that had still not fully played out by the end of 2020.

The pandemic and a new political crisis have clearly exposed the structural social inequalities in Peru. Endemic problems such as Amazonian deforestation, the impact of mining projects, the vulnerability of the country's Indigenous peoples, violence against environmental defenders, the criminalisation of protest, the impact on human rights and the precarious labour situation in the agricultural sector were par-

ticularly visible issues throughout 2020, a complex year that left more debts hanging than resolved.

Parliamentary elections

Peru began the year without a Parliament. Former President Martín Vizcarra had dissolved Congress in September 2019 amidst a crisis generated by opposition sectors when they passed a vote of no confidence in the Cabinet of Ministers, then chaired by Salvador del Solar. The elections held on 26 January resulted in a legislature divided between nine political parties, none with an absolute majority. The historic level of abstentionism was noteworthy: 25% of eligible voters simply did not turn out. The divorce between the political class and the population had become evident once more, under the spotlight of the congressional elections.

Indigenous individuals tried for Baguazo finally acquitted

On 3 February, the Supreme Court's Transitory Criminal Court acquitted the 53 defendants, mostly Indigenous Wampís, Awajún and Shawi, who had been prosecuted by the Peruvian state for hindering the functioning of the public services, rioting, disturbance and illegal possession of firearms. The origins of the trial lie in the conflict that occurred in Bagua (Amazonas) in June 2009 during the approval of decrees promoted by former President Alan García to bring the country into line with the Peru/US Free Trade Agreement, with the aim of liberalising Peru's Indigenous territories. Indigenous protests and the authorities' refusal to talk led to a confrontation that resulted in 33 deaths, including police and civilians, and another person disappeared.

The Supreme Court's acquittal was interpreted as an act of justice towards the Indigenous individuals who had participated in this tragic event. The acquittal was passed by four votes in favour to three against and involving the casting vote of Judge Susana Castañeda Otsu who stated that her decision was based on an intercultural approach and

the violations of the rights to protest, to prior consultation and to defend the Indigenous territory as enshrined in the Constitution and ILO Convention 169. Among the Indigenous leaders benefiting from this acquittal were Alberto Pizango, Santiago Manuin and Ronal Requejo.

State recognises three additional Indigenous languages

At the end of February, the Ministry of Education (Minedu) recognised three more Amazonian languages: Munichi, Omagua and Taushiro, bringing the total number of native languages officially recognised by the Peruvian government to 46. The Peruvian state thus has only two languages pending formalisation in order to reach the 48 submitted in 2019 within the context of the International Year of Indigenous Languages. Despite the efforts of Minedu and the Ministry of Culture, the potential disappearance of native languages continues to be a threat. What records there are note that 37 languages have now disappeared from the Peruvian territory, including Cholón, Culli, Puquina, Palta and Muchik. In addition, there are languages at serious risk of extinction such as the Amazonian Iñapari languages, of which there are only four fluent speakers, and Taushiro, with only one speaker remaining.

COVID-19 reaches Peru

March 2020 was to change the country's agenda forever. In the first week of that month, the first case of COVID-19 was recorded in the country. A week later, with 71 confirmed cases, former President Martín Vizcarra decreed a state of emergency and suspended all international and domestic travel to and in Peru, as well as all non-essential economic activities.[1] As expected, the first to be affected by these lockdown measures were the most vulnerable economic sectors. In the following weeks, a massive series of lay-offs was to take place involving large companies, and several smaller economic sectors went bankrupt due to their inability to trade.

In an attempt to mitigate the economic impact caused by the lockdown, at the end of March the Vizcarra administration announced

the first in a series of vouchers that the Executive would offer throughout 2020. Nonetheless, these vouchers were to reveal one of the major problems of the national public administration: the lack of a registry of those in need. With the aim of granting vouchers to the most disadvantaged sectors, Vizcarra announced that they would be provided to people registered on the "*Juntos*" and "*Pensión 65*" social programmes, both targeted at people in extreme poverty. To begin with, however, several sectors were excluded from this economic aid. The National Agrarian Confederation (CNA) denounced the fact that this measure discriminated against the more than six million people engaged in agricultural work in Peru, including peasant farmers who were in a situation of poverty.

Virus hits Indigenous Peoples

A month later, in April, the virus reached the Indigenous communities of the Amazon and Martín Vizcarra himself acknowledged that the public and health services were inadequate:[2] "The native communities are, right now, it has to be said, a sector that is not being reached as it should and we have to correct this as soon as possible and act immediately," declared the Head of State on 14 April.

In early May, Loreto, the largest region of the Peruvian Amazon, became the epicentre of the pandemic in the country. With more than 1,500 people infected in six weeks and a rate of 40 deaths per day, the Peruvian rainforest was experiencing its deadliest period of the health crisis. In the midst of this situation, the National Human Rights Coordinator demanded that former President Martín Vizcarra develop a differentiated multisectoral plan to address the needs of the Amazon and its Indigenous Peoples. The improvised plan that the government had designed for the country's main cities, especially Lima, simply did not fit the realities of the Amazonian communities.

Thus, 100 days after the state of emergency was first declared, the Executive issued an emergency decree to implement an intervention plan led by the Ministry of Health with an allocation of a little over 88 million soles, or the equivalent of 1% of the stimulus fund allocated for business recovery.[3] The plan was aimed at ensuring the purchase of protective equipment, diagnostic tests and improving the conditions

in health facilities. By the time the Vizcarra administration issued this plan, however, the virus had already hit Indigenous communities hard.

In mid-May, leader Humberto Chota, President of the Federation of Native Ticuna and Yagua Communities of the Lower Amazon (Feconatiya) and leader of the Regional Organisation of Indigenous Peoples of the East (Orpio), died from the virus, due to a lack of access to oxygen. Chota was to be the first of a list of Indigenous leaders to die as a result of COVID-19 and a lack of healthcare. Among the victims taken by the pandemic in Indigenous communities were well-known leaders such as Santiago Manuin Valera, historic leader of the Awajún people; Silvio Valles Lomas, Shipibo mayor of the Masisea district; the Awajún brothers Hernán and Arturo Kinin Inchipish; and Marcial Quintana Litano, the living memory of the Tallán people, among many others.

The situation of Peru's Indigenous Peoples, especially in the Amazon, declined yet more as 2020 progressed. By September, it was estimated that there were more than 20,000 cases among Indigenous Peoples, Loreto being the region most affected with 50% of the cases. The late intervention of the state, including its action and inaction, and the lack of an intercultural approach that could have adapted the emergency plan to the reality of the Indigenous communities left an historical and fatal legacy that has diminished the native population.

Throughout Latin America and the Caribbean, the pandemic has highlighted the vulnerability of Indigenous Peoples, largely due to their lack of access to healthcare systems. In the Amazon, however, vulnerability was estimated to be 10 times higher than in urban areas due to climatic factors and the fact that its native population is particularly vulnerable to new pathogens.[4]

The latent threat of the Amazon Waterway project

As if the pandemic were not tragic enough for the Amazonian peoples, in October the Interethnic Association for the Development of the Peruvian Rainforest (Aidesep) denounced the government's interest in building the Amazon Waterway,[5] a massive river transport route that would require the dredging of millions of tonnes of earth from the main rivers of the Peruvian Amazon, affecting the Amazonian ecosystems,

food security and worldview of the native peoples. The National Environmental Certification Service (Senace) made more than 400 comments on the project's Environmental Impact Assessment (EIA) in 2019, which the construction company was unable to remedy in time.[6]

Despite this situation, Cohidro – the consortium (including Chinese capital) that was awarded the project – is insisting on commencing the dredging of more than 2,600 kilometres of Amazonian rivers with the support of the Ministry of Transport and Communications (MTC), which has issued an addendum to the waterway contract to expand the dredging area without prior consultation.[7] Uncertainty remains for the territorial, food and cultural sovereignty of the Indigenous peoples of the Amazon, who reiterated their request for the project to be cancelled.

Rejection of the Escazú Agreement

One of the first actions of the Congress of the Republic, which resumed most of its activities in October, was to refuse to ratify the Escazú Agreement, an international agreement that establishes protocols for protecting the environment and its defenders.[8] Despite requests from the executive, civil society, Indigenous organisations and the Ombudsman's Office itself,[9] Parliament's Foreign Affairs Committee refused to ratify it, supported by the votes of members of *Fuerza Popular* (People's Force), *Acción Popular* (People's Action) and *Alianza Para el Progreso* (Alliance for Progress).

Even though more than 50 environmental defenders have been murdered in Peru over the last decade,[10] Congress bowed to pressure from business sectors who accused the Escazú Agreement of interfering in the country's economic sovereignty. In the days following the Committee's rejection, the judiciary called on Parliament to reconsider its decision and ratify the agreement;[11] the legislature nonetheless filed the case.

The rejection of the Escazú Agreement is particularly critical for a country such as Peru. In 2020 alone, five environmental defenders were murdered: Arbildo Meléndez Grándes (Huánuco) and Benjamín Ríos Urimishi (Ucayali); in May, Gonzalo Pío Flores (Junín); and in July, Lorenzo Wampagkit Yamil (Amazonas), some of them members of Indigenous communities.

Vacancy, dictatorship and repression

In November, Peru was to experience its most politically turbulent weeks in recent decades. On the 9th of that month, Congress removed Martín Vizcarra – without investigation – on the accusation of "permanent moral incapacity" due to a series of audio tapes in which the president and his personal advisor were coordinating his defence against investigations being brought against him by the Attorney General's Office.[12] Despite the opposition of most of the population, who considered it inappropriate to dismiss the president in the midst of a pandemic, and of some specialists who claimed that there were insufficient grounds to invoke moral incapacity, Vizcarra was dismissed and the then President of Congress, Manuel Merino, sworn in as the new President of the Republic, only to be subsequently and overwhelmingly rejected by a majority of the population. One hundred and five (105) Congressmen and women voted in favour of Vizcarra's removal, with 19 against and four abstentions. Only the Partido Morado (Purple Party) and a few representatives of the *Frente Amplio* (Broad Front) and *Acción Popular* opposed the controversial decision.

Manuel Merino took office on 10 November, amidst a series of popular protests that were to develop over the coming week. Following the resignation of Martín Vizcarra's entire ministerial cabinet, Merino waited two days after the swearing-in ceremony to appoint a new cabinet led by conservative politician, Antero Florez-Araoz. Protests took place throughout the country. Millions of people took to the streets to express their rejection of what they considered a "*coup d'état*" by Parliament. Merino responded only with repression.

The disaster that was Peruvian politics in 2020 was to reach its peak on the night of Saturday 14 November when the second national march against the Merino administration was convened. With millions of people demonstrating throughout the country, the National Police repressed the protests, resulting in the deaths of two young students: Jack Brian Pintado (22) and Jordan Inti Sotelo Camargo (24). With these deaths confirmed, the members of Florez-Araoz's cabinet began to resign in the early hours of the morning of 15 November. Faced with an untenable political and social situation, Merino resigned from the presidency at noon on Sunday 15 November.

On Monday 16 November, amidst protests demanding a new Con-

stitution, Congress appointed (by consensus) Francisco Sagasti, a member of the *Partido Morado* and opponent of the original dismissal, as the new President of the Republic. In his first speech, Sagasti apologised to the relatives of the victims of the Merino protests and ordered a minute's silence in their honour. In early January, the United Nations High Commissioner for Human Rights issued an initial report of its investigation and noted that the Peruvian National Police had made "unnecessary and excessive use of force" against the demonstrators.[13]

Agrarian strike and repression

Just as it seemed that 2020 might end on a calm note, a new protest emerged on the scene. It began in Ica on 30 November when a group of farmers went on strike and took over the Pan-American Highway demanding the repeal of the Agrarian Promotion Law, a law that created a particularly disadvantageous system of labour for sector workers. The protests spread to other regions such as La Libertad, Apurímac, Piura and Junín. The protesters were demanding decent working conditions, producing evidence of payments below the minimum wage and no social benefits or security. The agro-export business sector, beneficiary of this special system, rejected the protests and the National Police once again resorted to repression, resulting in the death of farmer Jorge Muñoz Jiménez (19) and Mario Fernández (24) in La Libertad. Faced with this social pressure, Congress repealed the Agrarian Promotion Law.

With a commitment to draft a new agrarian labour regime, the Congress of the Republic prioritised the debate and formulated a new law during the early days of December. However, by the 21st, after 15 days of peace, the protesters had once again blocked the roads, denouncing Parliament's lack of speed and political will. Confrontations, road blockades, repression and Parliament's lack of attention set the tone for the last week of 2020, a year marked by social, political and health crises.

Pluspetrol withdraws leaving environmental liabilities

At the end of the year, the transnational company Pluspetrol, which has had a presence in Peru for more than 20 years, operating the largest

gas field in Camisea (Cusco) and the largest oil field in Plot 192 (Loreto), announced it would be withdrawing from the country and liquidating its assets.[14] The company is accusing the Environmental Evaluation and Oversight Agency (OEFA) of harming it by determining that Pluspetrol was responsible for the spills that occurred in the heart of the Amazon at the Plot 192 facilities. The controversy lies in the fact that the company argues that an arbitration decision exonerated it of any responsibility for environmental liabilities dating back to the years prior to its entry into Loreto; however, the OEFA maintains that its ruling forms part of the sanctioning procedure, one of its main functions. Meanwhile, members of different Indigenous Peoples and communities in the Amazon region affected by the spills in Plot 192 are demanding compliance with an historic process of environmental remediation and reparation.

Outlook for 2021

2020 came to a close with a second wave of coronavirus infections on the horizon and the campaign for presidential and parliamentary elections set for April 2021. Candidates will have to run campaigns that avoid large rallies of people and carefully consider the possibility that their electoral activities may well result in more infections.

The government has declared 2021 the "Bicentennial Year of Peru: 200 years of Independence". The CNA issued a statement in this regard noting that the native Indigenous Peoples continued to be excluded, discriminated against and dispossessed of their territories and therefore have no independence or bicentennial to celebrate.

Regardless of the controversy over the actual date of emancipation from the Spanish Crown and the process of forming a nation based on citizens with rights, Peru entered 2021 still further from achieving the 2030 Agenda and the Sustainable Development Goals (SDGs),[15] immersed in one of the biggest economic and health crises of recent history.

Notes and references

1. "¿Estamos preparados para la emergencia?" [Are we prepared for the emergency?], Servindi, 15 March 2020. https://www.servindi.org/actualidad-

noticias/15/03/2020/estamos-preparados-para-la-emergencia
2. "Vizcarra: 'Las comunidades nativas no están siendo atendidas como debieran'." [Vizcarra: 'Native communities are not being reached as they should be"], Servindi, 14 April 2020. https://www.servindi.org/actualidad-noticias/14/04/2020/vizcarra-las-comunidades-nativas-no-estan-siendo-atendidas-como
3. "Cuestionan a Vizcarra por inacción para atender a pueblos indígenas." [Vizcarra challenged for inaction in addressing the needs of Indigenous Peoples], Servindi, 7 May 2020. https://www.servindi.org/actualidad-noticias/07/05/2020/cuestionan-vizcarra-por-inaccion-para-atender-pueblos-indigenas
4. "Indígenas amazónicos, hasta 10 veces más vulnerables a COVID-19." [Amazonian Indigenous peoples up to 10 times more vulnerable to COVID-19], Servindi, 16 November 2020. https://www.servindi.org/actualidad-informe-especial/16/11/2020/indigenas-amazonicos-hasta-10-veces-mas-vulnerables-covid-19
5. "Organizaciones demandan suspensión definitiva de Hidrovía." [Organisations demand definitive halt to Waterway], Servindi, 15 October 2020. https://www.servindi.org/actualidad-noticias/15/10/2020/organizaciones-demandan-suspension-definitiva-de-hidrovia-amazonica
6. "Comunidades indígenas demandan suspensión del proyecto Hidrovía Amazónica." [Indigenous communities demand halt to Amazonian Waterway Project], Inforegión, 15 October 2020. https://www.inforegion.pe/278373/comunidades-indigenas-demandan-suspension-del-proyecto-hidrovia-amazonica/
7. "Proyecto Hidrovía Amazónica pretende ampliar áreas de dragado." [Amazon Waterway Project intends to extend dredging area], Servindi, 25 November 2020. https://www.servindi.org/actualidad-noticias/25/11/2020/hidrovia-amazonica-pretenden-ampliar-areas-de-dragado-sin-consulta
8. "¡Primaron los intereses privados! Perú no ratifica Acuerdo de Escazú." [Private interess prevail! Peru decides not to ratify Escazú Agreement], Servindi, 20 October 2020. https://www.servindi.org/actualidad-noticias/20/10/2020/primaron-los-intereses-peru-no-ratifica-acuerdo-de-escazu
9. "Defensoría del Pueblo pide aprobación de tratado de derechos humanos en materia ambiental." [Ombudsman calls for approval of environmental rights treaty], Ombudsman of Peru, 2 June 2020. https://www.defensoria.gob.pe/defensoria-del-pueblo-pide-aprobacion-de-tratado-de-derechos-humanos-en-materia-ambiental/
10. "Perú es el cuarto país más peligroso del mundo para un defensor ambiental." [Peru fourth most dangerous country for environmental defenders], International Network for Intercultural Studies. https://red.pucp.edu.pe/ridei/noticias/peru-es-el-cuarto-pais-mas-peligroso-del-mundo-para-un-defensor-ambiental/
11. "Poder Judicial pedirá al Congreso ratificar Acuerdo de Escazú para mejorar y proteger justicia ambiental." [Judiciary to ask Congress to ratify Escazú Agreement in order to improve and protect environmental justice], Justicia TV, 26 June 2020. https://justiciatv.pj.gob.pe/poder-judicial-pedira-al-congreso-ratificar-acuerdo-de-escazu-para-mejorar-y-proteger-justicia-ambiental/
12. "Congreso aprueba la vacancia del presidente Martín Vizcarra." [Congress approves President Martin Vizcarra's dismissal], Servindi, 9 November 2020. https://www.servindi.org/actualidad-noticias/09/11/2020/congreso-aprueba-

la-vacancia-del-presidente-martin-vizcarra
13. Arciniegas, Yurany. "ONU: policía de Perú hizo uso 'excesivo de la fuerza' durante las protestas de noviembre." [UN: Peru's police made 'excessive use of force' during November protests], France 24, 12 January 2021. https://www.france24.com/es/am%C3%A9rica-latina/20210112-peru-onu-informe-policia-uso-excesivo-fuerza-protestas-merino
14. Silva, Christián, "Controversia entre Pluspetrol y OEFA por pasivos ambientales," [Controversy between Pluspetrol and OEFA over environmental liabilities], La República, 5 October 2020. https://larepublica.pe/economia/2020/10/05/controversia-entre-pluspetrol-y-oefa-por-pasivos-ambientales-la-republica/
15. "Panorama de los ODS en los pueblos indígenas de la Amazonía peruana." [Overview of SDGs among Indigenous Peoples in the Peruvian Amazon], Servindi, 26 November 2020. https://www.servindi.org/actualidad-noticias/26/11/2020/panorama-de-los-ods-en-los-pueblos-indigenas-de-la-amazonia-peruana

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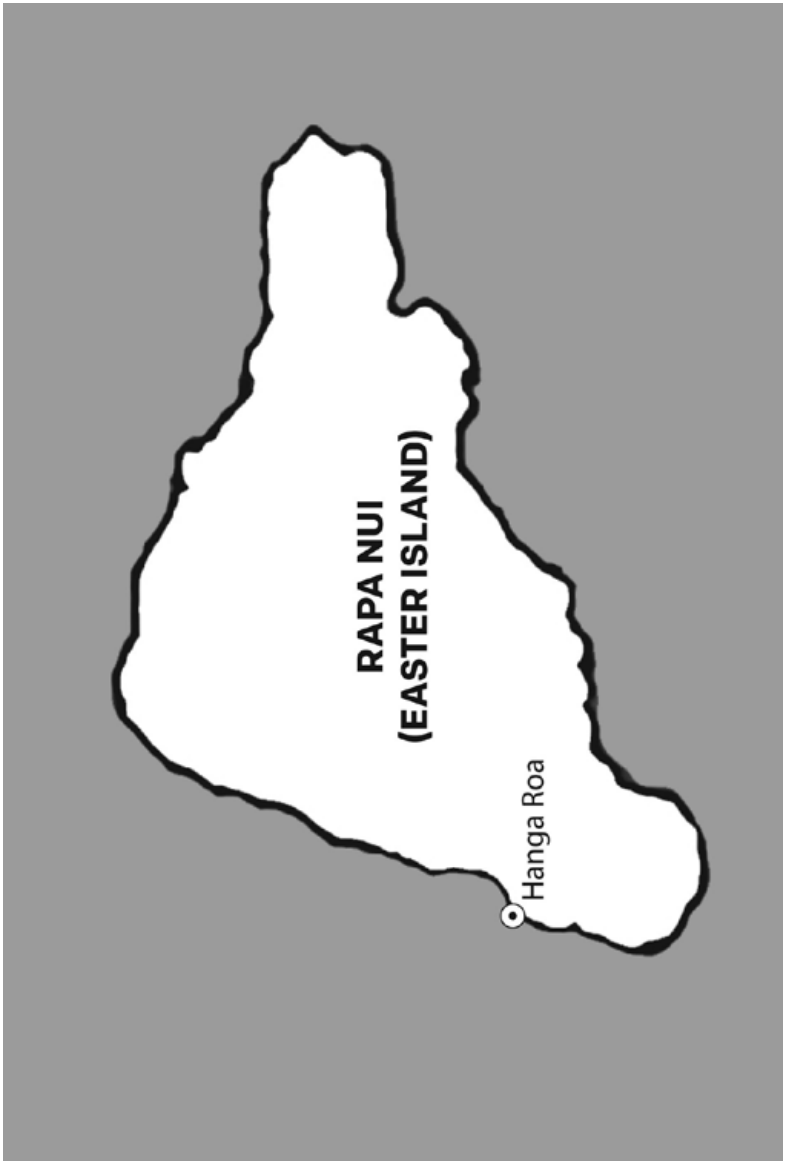
Rapa Nui



The world has been suffering the effects of the COVID-19 pandemic since the early months of 2020. This has resulted in catastrophic effects globally, with Indigenous Peoples suffering serious impacts not only on their health and the exercise of their right to health but also in terms of the social inequality they have historically suffered, and which has resulted in major consequences for the exercise of their economic, social, cultural and environmental rights.

Against this backdrop, the Rapa Nui people last year set an example of how to address the pandemic, through coordinated work on the part of their leaders and use of their traditional knowledge.

Initially, on 17 March, 14 days after the first case of COVID-19 was detected in Chile and in light of the Chilean government's refusal to take measures to protect the Rapa Nui territory, the people acted autonomously and in unity with their administrative and political authorities, such as the HONUI Clan Assembly, the Rapa Nui Parliament and the Municipality of Rapa Nui, to close their borders. The airport was taken over by protestors to prevent commercial flights from continuing to arrive without any kind of checks. Air is the only way to enter Rapa Nui, a small island located in the middle of the Pacific Ocean, 3,700 kilometres from the coast of continental Chile, and which has neither the health professionals nor the infrastructure necessary for the day-to-day medical needs of the population let alone the capacity to face a pandemic of this nature.

The first case of COVID-19 on the island was confirmed on 23 March 2020. It was brought in by a tourist who had entered the island precisely at the time the Chilean government was being asked to cancel flights to Rapa Nui.

On 27 March, the Government of Chile finally decreed a lockdown on Easter Island due to the presence of five individual cases and the impossibility of tracing the infection's transmission. Then, on 5 April, the government inexplicably announced an end to the lockdown, despite no change in the health situation, without first consulting the local authorities, and without any consideration for the different and particular features of this Indigenous territory. A constitutional appeal was filed through Chile's higher courts[1] requesting an annulment of this measure, as it left the Indigenous people unprotected. The appeal was rejected by the Chilean courts on the grounds that the country was in a state

of constitutional emergency and that this permitted the government to take whatever measures necessary, including limiting the rights of its citizens.

Faced with this abandonment by the government, the Rapa Nui authorities, together with the mayor, decided to invoke the ancestral law of their people through a measure known as Tapu, a concept that forms a sacred order based on coexistence and respect for the rules of nature. They called for a total and voluntary lockdown across the Rapa Nui territory. The entire community responsibly complied with the measure and, through the efforts of the people themselves, they managed to control the disease on their territory.

Once the pressure from the authorities had successfully led to the cancellation of flights to the island, however, this meant that hundreds of Rapa Nui were trapped on the Chilean mainland. A plan for a "Safe Return to Rapa Nui" was therefore conceived locally and autonomously, without any government assistance, in order to bring these people back to the island while avoiding the re-entry of the COVID-19 virus. This plan comprised an autonomous protocol and action team involving the entire community. It proved to be a success and has to date achieved the repatriation of more than 1,000 community members while keeping the territory free from COVID-19.

The socio-economic impacts of the COVID-19 pandemic have, however, been severely felt in Rapa Nui given that the local economy is based solely on the tourism industry, and this has been the sector most affected by the pandemic. Up until March 2020, two commercial flights would arrive daily in Rapa Nui bringing more than 120,000 tourists per year. The cancellation of flights has caused the economy to collapse and resulted in a state of complete unemployment.

In addition, a large proportion of Rapa Nui's food and supplies arrive by air. With no tourist flights (only cargo), the cost of products rose sharply and, added to the lack of income, this has affected much of the island. It should be noted that the Chilean government has refused to send food or donations to the Rapa Nui people, despite several requests from local leaders.

Faced with this bleak outlook, the Rapa Nui people – who have an incredible history of resilience and survival down the ages – turned to producing their own food: growing vegetables and going fishing, and

this has enabled them to autonomously and self-sustainably survive all these months of pandemic and total closure of borders, a situation that continues to this day.

In addition, the Municipality of Rapa Nui established an unprecedented job creation programme, allocating its entire budget to providing work for more than 700 inhabitants based around five themes: promoting food security; renovating and maintaining public spaces; safeguarding and promoting cultural values; supporting local entrepreneurs, mentors and contractors; and strengthening the information, security and social protection system. A large number of workers from the Maú Henua Indigenous Community, the body that runs the Rapa Nui National Park, who had lost their jobs, were thus re-employed.

This pandemic has brought into focus the situation of state neglect faced by the Rapa Nui people, whereby basic rights such as access to telecommunications, connection to the outside world, supply and transfer of cargo, are all totally dependent on private and transnational companies. Another major problem has been the lack of autonomy that the people have over their territory. This prevents their traditional authorities from taking decisions in the best interests of the community and forces them to depend on the decisions of government authorities located thousands of kilometres away on the continent, taken in ignorance of the Rapa Nui reality.

Exercise of the Rapa Nui people's rights to self-determination and territorial rights over their own island has become an important necessity and forms the priority demand of their people through national and international bodies today.

Notes and references

1. Appeal for Protection, Case No. 11,033-2020, Valparaiso Court of Appeal.

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Suriname

ATLANTIC OCEAN
GUYANA
Paramaribo
FRENCH GUIANA
SURINAME
BRAZIL

The Indigenous Peoples 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 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 recognise Indigenous or Tribal Peoples, and Suriname has no legislation governing Indigenous and Tribal Peoples' land or other rights. 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 in 2007.

As in many other countries around the world, the COVID-19 pandemic has painfully exposed the disproportionately vulnerable and marginal or even discriminatory position that Indigenous Peoples in Suriname find themselves in. After the first cases of COVID-19 in Suriname were confirmed in mid-March 2020, and especially after the first large wave in May/June, many Indigenous villages went into self-isolation and blockaded entry roads[2] and even local airstrips.[3] However, after the general elections, which were held on 25 May 2020, the number of cases surged throughout the country. Villages in border

areas were particularly affected as there was a great deal of movement across the borders from the heavily-affected neighbouring countries of Brazil and French Guiana with people coming to vote. There was strong stigmatisation of Indigenous and Maroon villages at that time, which were indicated as a "source of the virus" threatening the rest of the country. In one case, a village chief was even briefly detained by the police for "housing a potentially infected person from French Guiana".[4] The national measures against the spread of the virus also had a strong impact on the villages, many of which were temporarily deprived of food and other basic commodities due to a lack of transportation. Tourism was hit hard and agricultural and other common saleable products from the villages could no longer be taken to market.

The provision of suitable, understandable information was another major issue for Indigenous and Maroon villages, many of which do not receive mainstream communication media such as television and radio. The national traditional Indigenous authority structure, VIDS (Association of Indigenous Village Leaders in Suriname), made efforts to provide information in Indigenous languages and Sranantongo[5] and also visual materials,[6] and furthermore established a national WhatsApp group for faster communication.

Most concerning was the fact that the number of Indigenous persons dying due to COVID-19 was disproportionately high, accounting for approximately 15% of the deaths, although the Indigenous population is estimated at only 4% of the national population. The national authorities were not aware of these statistics but they were pointed out by VIDS. The authorities gave no explanation despite saying they would investigate this further. Participation in policymaking around COVID-19 measures was (and remains) minimal despite VIDS sending various letters and requests for closer involvement to the national, United Nations and Pan-American Health Organization (PAHO) authorities. VIDS submitted information on the impact of COVID-19 on Indigenous Peoples in Suriname to the UN Special Rapporteur on the rights of indigenous peoples[7] and also published a report on the participation of Indigenous traditional authorities in policymaking during the COVID-19 outbreak in Suriname.[8]

Legislative developments

After a lengthy (more than one-year) process with many discussions and consultations, a draft law on the Collective Rights of Indigenous and Tribal Peoples in Suriname was developed by a government-installed "Management Team" and its technical commissions. The draft law was tabled in the National Assembly (Parliament) by a group of parliamentarians but never actually got discussed due to the national general elections held in May 2020. The elections brought the former opposition parties to power, marking a radical change in the political landscape. In November 2020, the new government under President Chandrikapersad Santokhi installed a new presidential commission to provide advice to the government on the – still unrecognised – rights of Indigenous and Tribal Peoples in Suriname. Unlike the previous commission, which consisted of government and traditional authority representatives, this new commission comprises only government-proposed experts. It is expected, however, that the existing draft will be used as the basis for further discussions. Both the president and the new vice-president, Ronnie Brunswijk, who is from the N'Dyuka tribal Maroon people, have stated that they want "to have the land rights issue settled within a year".

The 2015 Kaliña & Lokono judgment of the Inter-American Court of Human Rights,[9] effective 28 January 2016, remains unimplemented. In that judgment, the Court ordered Suriname, among other things, to legally recognise the collective property of the Kaliña and Lokono peoples as regards their traditional lands and resources, and their legal personality before the law in Suriname. In addition, the judgment also affirms the rights of the Kaliña and Lokono over the protected areas that were established in their territories and orders a process of restitution of or compensation for those lands. The Court also decided similarly on third-party titles to Indigenous lands that have been issued without their consent. The state of Suriname is further required to rehabilitate the area affected by bauxite mining in the Wane Kreek Nature Reserve. Because of the repeated nature of Suriname's violations of Indigenous and Tribal Peoples' rights (see also the Saramaka[10] and relevant parts of the Moiwana[11] cases), the Court ordered similar measures for all Indigenous and Tribal Peoples of Suriname in this judgment.

In spite of this judgment, the state has continued to issue land and/or resource exploitation titles within Indigenous and Tribal Peoples' territories, leading to conflicts with affected villages,[12] which most often only become aware of these concessions and land titles once the "owners" start undertaking activities such as forest clearing. Well-known names are often given as the holders of these titles.

One notable development in 2020, also shortly before the general elections of May 2020, was the speedy approval of the Framework Law on the Environment, which had been under preparation for over 18 years and even tabled for discussion in the National Assembly but always returned to the backburner until March 2020. The law largely establishes the creation of a National Environment Authority tasked with, among other things, designing and implementing national environment policies. Being a framework law, it will require a great deal of additional legislation to become effective. The new government has established a committee to revise the law "on technical grounds".[13] It was prepared without significant Indigenous and Tribal Peoples' participation and does not recognise their collective rights, although FPIC is superficially mentioned in the definitions of terms.

Other developments

The national general elections held on 25 May 2020 marked a 180 degree turn in the political landscape of Suriname, with the ruling NDP party of then-president Desiré Bouterse winning only 16 of the 51 seats in Parliament, down from 26. The former opposition parties VHP, ABOP, NPS and PL secured a resounding majority of 33 seats in all (VHP having the largest share, 20 seats, followed by ABOP with eight) and quickly formed a new four-party coalition government, headed by President Chandrikapersad Santokhi of the VHP and Vice-President Ronnie Brunswijk of ABOP. The new government has expressed its desire for "strong ties" with the interior although structural engagement is yet to materialise. The political parties that make up the current government have been in power before, however, and have never previously given much priority to the rights and livelihoods of the Indigenous and Tribal Peoples.

The economy of Suriname, already weak after years of low natural resource prices, low domestic production and high foreign debts, sank even further in 2020 after the COVID-19 crisis hit. Major credit rating institutes ranked the country as "in default" in July 2020,[14] although this was slightly upgraded some months later after talks of debt restructuring by the new government and expectations of renewed International Monetary Fund (IMF) assistance. It is expected that the new government's recently published Crisis and Recovery Plan will be implemented in 2021 with assistance from the IMF. This plan does not pay much attention to the interior other than in general statements on low-income groups, even though it is an historic given that Indigenous and Tribal Peoples in Suriname are hardest hit by austerity and economic restructuring measures. Extractive industries and infrastructure, with accompanying foreign investments, are very high on the agenda of the new government. Recent crude oil finds off the coast of Suriname are giving the country high hopes, even though it also says it will continue to be "the greenest country" in the world with its record 93% forest cover.

Notes and references

1. The population is highly ethnically and religiously diverse, consisting of Hindustani (27.4%), Maroons ("Bush negroes", 21.7%), Creoles (16%), Javanese (14%), mixed (13%), Indigenous Peoples ("Amerindians", 3.8%) and Chinese (1.5%) (*census 2012*). At least 15 different languages are spoken on a daily basis in Suriname but the only official language is Dutch, while the *lingua franca* used in less formal conversations is *Sranan Tongo* (Surinamese).
2. See, for example: VIDS. 2020. "Stop." Facebook, 17 April 2020. https://www.facebook.com/VIDSSuriname/photos/pb.525313404329029.-2207520000../1280872708773091/?type=3&theater; Waterkant. "Inheemse dorpen gezamenlijk in stijd tegen Covid-19." 8 June 2020. https://www.waterkant.net/suriname/2020/06/08/inheemse-dorpen-gezamenlijk-in-strijd-tegen-covid-19/; Suriname Nieuws. "Inheemse dorpen treffen COVID-19-maatregelen." 3 June 2020. https://www.srnieuws.com/suriname/290424/inheemse-dorpen-treffen-covid-19-maatregelen/; SNC. "Inheemse dorpen Para gaan wegbarricade niet verwijderen." 20 June 2020. https://surinamenieuwscentrale.com/content/inheemse-dorpen-para-gaan-wegbarricade-niet-verwijderen; VIDS. "Maatregelen van inheemse dorpen tegen COVID-19." 26 March 2020. https://vids.sr/maatregelen-van-inheemse-dorpen-tegen-covid-19/
3. Waterkant. "Inheemsen barricaderen vliegveld na landing vliegtuig uit Paramaribo." 30 March 2020. https://www.waterkant.net/suriname/2020/03/30/inheemsen-barricaderen-vliegveld-na-landing-vliegtuig-uit-paramaribo/

4. Politie Suriname. "Kapitein Erowarte afgezonderd in O'ter cel vanwege besmettingsgevaar." 17 April 2020. https://www.politie.sr/kapitein-erowarte-afgezonderd-in-oter-cel-vanwege-besmettingsgevaar/
5. VIDS. 2020. "Covid Prakseri Suriname onder Lockdown." Facebook, 7 June 2020. https://www.facebook.com/VIDSSuriname/photos/pb.525313404329029.-2207520000../1319969171530111/?type=3&theater
6. Star Nieuws. "VIDS helpt mee met strijd tegen Covid-19." 23 January 2021. https://www.starnieuws.com/index.php/welcome/index/nieuwsitem/62667
7. VIDS. "Impact of COVID-19 on Indigenous Peoples in Suriname." 19 June 2020. https://www.ohchr.org/Documents/Issues/IPeoples/SR/COVID-19/IndigenousCSOs/SURINAME%20%20-%20VIDS%20submission.docx
8. VIDS: Vereniging van Inheemse Dorpshoofden in Suriname. 2021. www.vids.sr
9. Inter-American Court of Human Rights. "Case of the Kaliña and Lokono Peoples v. Suriname." 25 November 2015. http://www.corteidh.or.cr/docs/casos/articulos/seriec_309_ing.pdf
10. Inter-American Court of Human Rights. "Case of the Saramaka People v. Suriname." 28 November 2007. http://www.corteidh.or.cr/docs/casos/articulos/seriec_172_ing.pdf
11. Inter-American Court of Human Rights. "Case of the Moiwana Community v. Suriname." 15 June 2005. http://www.corteidh.or.cr/docs/casos/articulos/seriec_124_ing.pdf
12. Shoeket. "Vids strijdt tegen 'massale' gronduitgifte." 18 October 2018. https://www.shoeket.com/nieuwsbericht/9731/
13. Star Nieuws. "VIDS helpt mee met strijd tegen Covid-19." 23 January 2021. https://www.starnieuws.com/index.php/welcome/index/nieuwsitem/62667
14. Baria, Steven. "S&P, Fitch downgrade Suriname, reflecting default event." S&P Global Market Intelligence, 13 July 2020. https://www.spglobal.com/marketintelligence/en/news-insights/latest-news-headlines/s-p-fitch-downgrade-suriname-reflecting-default-event-59414975

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Venezuela

The Constitution recognises Venezuela as a multiethnic and multicultural society, and its basic provisions (Art. 9) establish that Indigenous languages are also official in the country. Indigenous Peoples account for approximately 2.8% of the total population of 32 million inhabitants. According to the 2011 Indigenous Census, there are some 51 different peoples. There was a remarkable resurgence of peoples considered extinct and from other countries in the region in the 2011 Census. The 15th National Population and Housing Census (2021) is currently being prepared, which includes Indigenous self-recognition, the use of languages, the criteria for communities in traditional contexts and the registration of centres of population of non-traditional Indigenous use.

The current legal framework is fairly wide and comprehensive. The Constitution establishes Indigenous rights in a chapter beginning with Article 119, recognising their existence, their social, political and economic organisation, their cultures, uses and customs, languages and religions, as well as their habitats and original rights over the lands they ancestrally and traditionally occupy, and an obligation on the part of the Venezuelan state to demarcate and guarantee the collective ownership of the lands. In 2001, the Venezuelan state ratified ILO Convention 169, and various regulations have been approved on specific rights such as the Law on Habitat and Land Demarcation (2001), the Organic Law on Indigenous Peoples and Communities (2005), the Law on Indigenous Languages (2007), and the Law on the Cultural Heritage of Indigenous Peoples and Communities (2009).

During 2020, the situation of Indigenous rights in Venezuela was characterised by the emergence of new realities that affected not only their personal, social, economic and cultural integrity but also their ancestral territory, being the entirety of the space in which their collective life takes place.

Mining: the main threat

One of the most complex problems that has become evident in recent years in Indigenous territories is the significant expansion of illegal mining in several regions of the country. In fact, several reports indicate a growth in mining activities and their expansion into different areas of Amazonas and Bolivar states. Socio-environmental organisations such as the Wataniba Association and Indigenous organisations such as the Regional Organisation of Indigenous Peoples of Amazonas (ORPIA Amazonas) and Kuyujani del Caura (Bolivar) issued public alerts during 2020 in this regard, not only related to the expansion of mining activity but also to its serious environmental and socio-cultural consequences. The main impacts relate to the destruction of large areas of wood and forest (Indigenous habitats); the contamination of water with toxic substances (mercury), which affects the health of the population; and the fragmentation of Indigenous communities, which has a strong impact on cultural identity.

All this led the Inter-American Commission on Human Rights (IACHR) to conclude that:

> *In relation to Venezuela, mining is reportedly the primary threat to the integrity of forests and the cultural survival of their inhabitants. The threat comes in the shape of deforestation and pollution of rivers and groundwater. The traditional fish-based diet of many communities has been restricted due to the fact that mercury used in mining has contaminated the rivers.*[1]

In addition, in 2020, the allocation of mining concessions to exploit minerals along the courses of several rivers in Bolivar state, and the creation of military commercial companies to exploit natural resources in the southern region of the country, such as forest products and minerals, were highlighted. There has been an expansion of these promotional activities by the Venezuelan state through the Arco Minero del Orinoco mega-project, by means of which the exploration and exploitation of several minerals is planned. This project has been publicly challenged by various national and international sectors and, during 2020, a report from the Office of the United Nations High Commissioner for

Human Rights (OHCHR) bearing witness to serious violations of Indigenous rights in the context of implementing the Arco Minero del Orinoco became public. The United Nations report states:

> *According to the Pan American Health Organization (PAHO), the mining municipalities of Bolivar state are the main source of the increase in malaria cases observed in Venezuela. Ponds holding the contaminated water from mining activities have become malaria hotspots. Malaria and other conditions such as diarrhoea and respiratory infections, and vaccine-preventable diseases such as measles, are proliferating among the Indigenous population with often fatal outcomes as these communities often have limited or no access to treatment.*[2]

This report insists that mining in southern Venezuela is perhaps the main problem facing Indigenous Peoples and communities. In this regard, it explains:

> *Mining has different impacts on Indigenous Peoples and the exercise of their individual and collective rights, mainly due to the presence and actions of armed groups and environmental damage. One such consequence is the loss of control over traditional territories and natural resources, which has a strong impact on their right to self-determination. Those interviewed by OHCHR also highlighted the difficulties arising from the lack of official demarcation of Indigenous territories, and their conviction that these peoples would exercise greater control over what happens on their territory if they had official titles. The presence of military units, criminal gangs and armed elements generally undermines peace and security in their communities.*[3]

In addition, the national government adopted a resolution during 2020 that would allow mining activity along the courses of the main rivers of Bolivar state. For the first time, river mining is expressly authorised without the environmental and socio-cultural impact studies required by the Constitution, and without processes of free, prior and informed consultation of the Indigenous Peoples and communities present in these territories.

External armed groups in Indigenous territories

Another notable aspect of Indigenous Peoples and communities in 2020 was the increased presence of numerous armed groups on their territories, acting and operating freely with the aim of exercising political and spatial control, without any measures being taken by the Venezuelan state. This reality has resulted in several clashes in Indigenous communities and threats made to Indigenous leaders who are defending their collective rights.

Notable in this regard was the invasion of the ancestral territory of the Uwottüja people in Amazonas state, who have seen their lands occupied throughout the Sipapo river basin by groups of illegal miners protected by external armed groups. The Uwottüja of Sipapo Indigenous Organisation (OIPUS) has been calling on different civil and military authorities of the Venezuelan state to take action to clear the area and put a halt to all mining activities in the region.

In March 2020, numerous communities of the Sipapo, Cuao, Autana, Guayapo and Middle Orinoco rivers held an assembly in the community of Pendare in which more than 300 people participated and took the decision to block the entry of these unlawful groups into their territory. This created strong tensions and discussions between the illegal groups and the communities and resulted in a temporary evacuation of the area albeit with strong pressure to continue their illegal activities, which include mining, fuel and food smuggling, drug trafficking and related activities, together with the forced recruitment of young people for illegal activities. The actions of OIPUS and ORPIA resulted in an eviction of these players at the end of March 2020, with the intervention of a number of public institutions such as the Ombudsman's Office and the Attorney General's Office. It should be noted that several of the Indigenous movement's leaders have been placed under pressure and threatened. By the end of 2020, the situation was quite tense in the area due to pressures to recommence the mining activity once more, with some communities divided, leading to internal confrontations.

In the case of Bolivar state, it is important to highlight the situation of the Ye'kwana and Sanöma Indigenous people in the Caura river basin which, by 2020, had been completely invaded by illegal mining activities, resulting in a serious situation that has left the communities

completely terrorised. Armed groups (unions and Colombian guerrilla dissidents) are operating in the area and not only protecting the miners but also controlling all activity in the basin. This has created a very tense environment, with threats to the personal and cultural integrity of these peoples, environmental destruction, different types of illegal activities and serious clashes between the communities and the mining and armed groups. Despite the various public complaints that have been made, Venezuelan government agencies have not been able to bring this serious problem under control.

Another situation that is generally affecting the Pemón people in Bolivar state, and their extensive territory in the Gran Sabana, Alto Paragua and Ikabarú sector, relates to the fact that it has been completely taken over by illegal and legal mining activities. The problems in the Pemón territory worsened considerably in 2020 due to the intervention of external public and private agents, leading to serious clashes between communities and military groups or external armed groups, in disputes over the control of areas rich in minerals. These clashes have led to several cases of Indigenous people being arrested, with the opening of legal proceedings and the displacement of numerous Pemón families to Brazil and Guyana. The serious problems experienced in the area have led some affected communities to request precautionary measures from the IACHR, which did in fact issue protective measures for several communities in Gran Sabana. At the end of 2020, tensions intensified due to the serious health conditions of some of the Pemón being held in various prisons around the country, including the death of one of them who was in a critical condition.

Territorial rights

The territorial rights of Indigenous Peoples are set out in Article 119 of the Constitution. This provision establishes that Indigenous Peoples and their communities have original rights over their habitats and lands, which must be demarcated in order to guarantee collective ownership. It is important in this regard to assess the progress made in complying with this constitutional duty to carry out the demarcation of Indigenous territories.

It is public knowledge that the national demarcation process started in 2001 and was in place until approximately 2015. By 2020, however, more than five years had passed without any further demarcations of Indigenous habitats and lands, not only failing to comply with the constitutional duty to demarcate but also hindering the possibility of effectively protecting Indigenous ancestral territories.

The suspension of all activities and processing of files submitted by communities or peoples to the regional demarcation commissions of each of the states with Indigenous population is noteworthy in this regard. The files have been archived and there is no substantiation of the technical requirements to move forward. The public agency in charge of conducting the process, the Ministry of Indigenous Peoples, normally argues that there is no budget to substantiate the files. And yet everything indicates that the paralysis of the process is fundamentally due to a lack of political will to carry out the effective delimitation of Indigenous territories, in a context of growing state extractivism and the imposition of different types of projects in Indigenous territorial spaces.

Everything indicates that there was again no progress in carrying out further demarcations or issuing titles in 2020, with approximately 85% of Indigenous territories still to be demarcated, even though the Constitution itself establishes that the process should be completed within two years. As Vladimir Aguilar, lecturer at the Universidad de los Andes and researcher at the Wataniba Association, has pointed out: "Faced with the *res nullius* of their territories, Venezuela's Indigenous Peoples have had to appeal to their traditions, their own institutions, uses and customs to confront the other non-indigenous law but, above all, to contain the process of territorial fragmentation to which they are being subjected."[4]

Indigenous health

The Constitution recognises the right of Indigenous Peoples to comprehensive healthcare that takes into account their practices and cultures, as well as their traditional medicine. 2020 was characterised by evidence of serious deficiencies in the functioning of the public health

system in Indigenous territories, as revealed by the need for preventive care and assistance in the context of the COVID-19 pandemic. Similarly, the general health condition of the Indigenous population has been affected by a failure to implement adequate public policies and the structural decline in the public health system, resulting in serious consequences in terms of controlling endemic diseases and epidemics, and specifically in terms of managing the COVID-19 pandemic, due to deficiencies in the functioning of outpatient services and hospitals, a lack of medicines and equipment, and no logistical support with which to visit Indigenous territories.

During 2020, serious health problems continued in Indigenous habitats and lands, linked to endemic diseases such as malaria, tuberculosis, hepatitis, gastrointestinal and respiratory diseases, as well as epidemics of measles and, more specifically, COVID-19. In addition to this, there has been an increase in morbidity and mortality in Indigenous territories due to these diseases, as a result of the growth in mining activity that has taken place over the last five years. This problem has arisen mainly in the Amazon region, which is home to approximately 30 different Indigenous Peoples. The direct relationship between increased disease and the mobility of miners is noteworthy; for example, malaria is high in municipalities on Indigenous lands where there is a presence of illegal mining.

With regard to the pandemic, it is important to note that it spread into Indigenous territories whose health systems were already characterised by serious operational problems, no early warning system and without any proposals for effective social distancing. The Ministry of Health did prepare a guide containing a plan to address the COVID-19 pandemic among Indigenous Peoples and communities, including various policies to address the emergency and, for the first time, highlighting specific measures for Indigenous Peoples in voluntary isolation or initial contact. This was quite significant because, until that point, there had been no express recognition by the Venezuelan state, hence the particular importance of this guide. The plan states that:

> *The Venezuelan state has been taking a series of exceptional measures to address the COVID-19 pandemic. Such measures have differentiated impacts on populations, especially*

> *groups in vulnerable situations, including Indigenous Peoples, and could affect their lives and integrity but also the cultural survival of these native peoples.*[5]

The way the pandemic developed in Indigenous territories was specific to each region of the country. In Amazonas state, in the south of the country, the first cases arrived from Brazil via the Río Negro but were dealt with quite effectively by the health authorities, considerably slowing down the spread of the disease in the area. In other regions, such as Alto Ventuari in the Ye'kwana and Sanöma communities, however, there was widespread transmission in August and September 2020, a situation that highlighted the deficiencies in the regional health system. Regarding the Upper Orinoco and, specifically, the Yanomami population, the information publicly available is that approximately 40 Indigenous individuals from this people were infected but they were held and treated in the town of La Esmeralda to prevent them from entering the Yanomami territory. In the south of Bolivar state, in the territory of the Pemón people, the first infections were reported in communities near San Elena de Uairén, with an indeterminate number of cases but with public information referring to a significant number of Indigenous infections. Although varying degrees of infection were reported in the Warao population of the Orinoco Delta, there was evidence of numerous cases in the area during 2020. The situation was the same in Zulia state among the Wayuú Indigenous population and among the Yukpa and Barí peoples of the Sierra de Perijá.

In the general context of the pandemic, it is important to highlight the efforts made by the ORPIA-Wataniba Observatory on COVID-19 formed in Amazonas by these two organisations, who created a multiethnic work team composed of 20 Indigenous representatives from 10 different peoples, and the technical support provided by the Wataniba Association, with the fundamental objective of informing the region's Indigenous communities of the most important aspects of the pandemic and keeping them updated on its development, promoting advocacy actions for the intervention of the public health authorities and establishing early warning systems, especially in communities that are difficult to access.

What is clear is that the sanitary conditions and the systematic

presence of endemic diseases exacerbated the COVID-19 crisis in the country in 2020, and those living near the border with Brazil and Colombia, both countries that suffered seriously from the pandemic, were disproportionately affected. According to the ORPIA-Wataniba Observatory bulletins, the Amazonian region of both countries was among the areas with the highest number of cumulative infections and incidence,[6] placing Indigenous Peoples at greater risk from the very start of the pandemic. In the Venezuelan case, government policies regarding COVID-19 were marked by clear failures in diagnosis, testing and a lack of transparency in recording, making decentralised care aimed at exercising the right to health difficult. The ORPIA-Wataniba Bulletin recorded a total of 4,868 infections in the three states of the Venezuelan Amazon region (Amazonas, Bolivar and Delta Amacuro), 878 of which were Indigenous. In addition, 38 Indigenous people died.[7]

The Ye'kwana del Caura (Bolivar) "Kuyujani" Indigenous Organisation denounced the situation due to the deaths of 26 Indigenous people from complications associated with malaria.[8] In addition, by contaminating the rivers, the extractive activities are affecting the nervous, digestive, respiratory and immune systems of many inhabitants of communities near the mines,[9] recording "high rates of diabetes, high blood pressure and other chronic diseases", thus exacerbating 2020's health emergency, as reported by PAHO and the Zulia Human Rights Commission (CODHEZ). Both organisations also reported chronic malnutrition among Indigenous children, high maternal mortality rates, and the presence of malaria and dengue fever.[10] It was also reported that there were numerous communities in the states of Zulia, Delta Amacuro, Monagas and Apure that lacked clean drinking water, sanitation and intercultural care.[11]

Added to this was the dilapidated health infrastructure on Indigenous lands, as pointed out by the Venezuelan Episcopal Conference: "Healthcare is precarious, the health clinics and health posts in Indigenous communities do not have the minimum presence of health workers or equipment to resolve basic medical situations".[12] This was reflected in the complaints made by the Indigenous Peoples of the communities of Alto Caura and Erebato, in Sucre Municipality of Bolivar State, claiming their right to health, fuel and urgent humanitarian aid from the national government[13] and a protest in Caracas on the part of

300 members of the Yukpa people because of their health and housing problems.[14]

Physical integrity

Due to the occupation of Indigenous territories by armed groups and other actors, conflicts have arisen between Indigenous Peoples and security forces, irregular groups and others. One example of this was on the Caura River where there was a confrontation between irregular groups and 15 members of the Ye'kwana, Sanöma and Wayuú peoples.[15] Another notable case was the torture of three Yukpa youths by police officers from the Cuadrantes de Paz mission in Libertad de Machiques parish, Zulia state.[16] In addition, there was the supposed militarisation of Guajira, Zulia state, in the Paraiguiapoa area, as a result of protests over the lack of water, electricity and food, which resulted in the National Guard firing pellets and tear gas in the early hours of the morning in early October 2020, and again on the Caribbean trunk road and in Guarero in April, resulting in several Wayuú Indigenous people wounded, three more arrested, 17 raids without warrants and a good number of Añú and Wayuú Indigenous people persecuted by state security forces, their homes raided unlawfully.[17] Protests in the centre of Caracas following a mobilisation of Indigenous people from Zulia state due to the security forces similarly resulted in five Yukpa injured for political and social reasons.[18] In addition, two general *caciques* and more than 37 Indigenous leaders denounced the fact that dissident members of the Colombian guerrilla group had taken control of Indigenous resources and territory.[19] The presence of armed groups, ELN guerrillas and FARC dissidents, and mining activity in the territories of the Uwottüja people, were also denounced.[20]

Crossborder migrations

Cross-border migration continued during 2020, despite the pandemic and lockdown measures. Venezuelan Indigenous people who most commonly emigrate are those from the Venezuelan Amazon (Amazo-

nas, Bolivar and Delta Amacuro states), especially the E'ñepa people and those who live in Zulia state, a situation that normally goes unnoticed in the context of the national crisis.

It has been stated in this regard that: "Much has been said about the Venezuelan migration crisis and the increase in Venezuelan migrants but, in contrast, little is known of the situation of Indigenous migrants – most of them members of the Wayuú, Warao, Yukpa and Pemón ethnic groups."[21] During 2020, the most representative groups of Indigenous migrants were from the Warao people, since at least 6,000 migrated to Brazil, Suriname and Guyana.[22] Many of these Indigenous groups are now living in refugee camps in northern Brazil and Colombia, in a critical condition, as UNHCR points out: "Forced to leave Venezuela, the Wayuú, Warao, Barí and Yukpa, among others, have difficulty accessing basic services due to lack of documentation".[23]

Notes and references

1. Inter-American Commission on Human Rights. *Indigenous and Tribal Peoples of the Pan-Amazon Region*. Washington D.C., September 2019. P. 65.
2. Office of the United Nations High Commissioner for Human Rights. *Informe sobre la situación de los Derechos Humanos en la región del Arco Minero del Orinoco*. [Report on the Human Rights situation in the Arco Minero del Orinoco Region]. July 2020. P.11.
3. Idem P. 13.
4. Aguilar Vladimir. *Derechos Indígenas en 20 años de Constitución Bolivariana. Consistencias e Inconsistencias de Derechos Reconocidos en Venezuela*. Document mimeographed by the Wataniba Association, March 2020.
5. People's Ministry of Health. *Plan for the prevention and containment of infection and control of COVID-19 disease among Indigenous Peoples and communities*. Caracas, April 2020.
6. ORPIA-Wataniba Observatory. *COVID-19 en la Amazonia venezolana*. Newsletter No. 14, 6 December 2020. Available at https://www.amazoniasocioambiental.org/es/radar/observatorio-wataniba-orpia-covid-19-en-la-amazonia-venezolana-boletin-numero-14/
7. ORPIA-Wataniba Observatory. *COVID-19 en la Amazonía venezolana*. Newsletter No. 13, 15 November 2020. Available at https://www.amazoniasocioambiental.org/es/radar/observatorio-wataniba-orpia-covid-19-en-la-amazonia-venezolana-boletin-numero-13/
8. María Ramírez Cabello. "Kuyujani pide inmediata atención tras muerte de indígenas por malaria en el Caura y crisis de combustible" [Kuyujani asks for immediate support following the death of Indigenous people from malaria in Caura and fuel crisis]. *Correo del Caroni,* 23 June 2020. Available at https://www.correodelcaroni.com/ciudad/region/5771-kuyujani-pide-inmediata-atencion-tras-muerte-de-indigenas-por-malaria-en-el-caura-y-crisis-de-

combustible
9. Sebastiana Barráez, "El desesperado grito de los waraos venezolanos para que la comunidad internacional no los deje morir de hambre y enfermedades" [Venezuelan Waraos desperately call on international community to prevent them from dying of hunger and disease]. Infobae, 5 June 2020. Available at https://www.infobae.com/america/venezuela/2020/06/05/el-desesperado-grito-de-los-waraos-venezolanos-para-que-la-comunidad-internacional-no-los-deje-morir-de-hambre-y-enfermedades/
10. "Indígenas de la Amazonía y OPS unen fuerzas ante la COVID-19" [Indigenous people of the Amazon and PAHO join forces in the face of COVID-19]. Inter Press Service, 16 July 2020. Available at http://www.ipsnoticias.net/2020/07/indigenas-la-amazonia-ops-unen-fuerzas-ante-la-covid-19/
11. Ibidem.
12. "Indígenas venezolanos en alto riesgo de morir por COVID-19 y por hambre" [Indigenous Venezuelans at high risk of dying from COVID-19 and starvation]. *Vatican News,* 27 May 2020. Available at https://www.vaticannews.va/es/iglesia/news/2020-05/obispos-venezuela-indigenas-amazonia-coronavirus.html
13. "'Necesitamos ayuda:' el grito de los indígenas del alto Caura y Erebato" ['We need help': the cry of the Indigenous people of the Upper Caura and Erebato]. El Nacional, 16 December 2020. Available at https://www.elnacional.com/venezuela/necesitamos-ayuda-el-grito-de-los-indigenas-del-alto-caura-y-erebato/
14. Yazmín Antía. "Qué trajo a los Yukpas a Caracas?" [What brought the Yukpa to Caracas?]. *El Universal,* 11 November 2020. Available at https://www.eluniversal.com/politica/85052/que-trajo-a-los-yukpas-a-caracas
15. "Situación en la cuenca del río Caura: actualización 11 mayo 2020" [Situation in the Caura river basin: update 11 May 2020]. *Wataniba*, 11 May 2020. Available at https://watanibasocioambiental.org/situacion-en-la-cuenca-del-rio-caura-actualizacion-11-mayo-2020/
16. Luisbi Portillo. "Tres jóvenes yukpa detenidos fueron torturados por la policía" [Three detained Yukpa youths tortured by the police]. *Indymedia*, 22 October 2020. Available at http://indymedia-venezuela.contrapoder.org/spip.php?article1950&lang=fr
17. Guajira Human Rights Committee, "Por la resistencia indígena contra la militarización de la Guajira" [Indigenous resistance against the militarization of La Guajira]. *Indymedia*, 19 November 2020. Available at http://indymedia-venezuela.contrapoder.org/spip.php?article1963&lang=fr
18. Carlos D' Hoy. "Cinco heridos dejó protesta de indígenas Yukpa cerca de Miraflores" [Five injured after protest of Yukpa Indians near Miraflores]. El Universal, 11 November 2020. Available at https://www.eluniversal.com/sucesos/85045/cinco-heridos-dejo-protesta-de-indigenas-yukpa-cerca-de-miraflores
19. María Ramírez Cabello, "Indígenas de Amazonas rechazan actividades mineras de disidencias de las FARC en sus territorios" [Amazonian Indigenous people reject FARC dissidents' mining activities on their territories]. Correo del Caroni, 26 September 2020. Available at https://www.correodelcaroni.com/ciudad/region/6986-indigenas-de-amazonas-rechazan-actividades-mineras-de-disidencias-de-las-farc-en-sus-territorios
20. Organización Indígena Pueblo Uwottüja del Sipapo (OIPUS) "Pueblo Uwottüja ('piaroa') ante la presencia de grupos armados y actividad minera en su

territorio" [Uwottüja people ("piaroa") in the presence of armed groups and mining activity on their territory]. *Indymedia*, 9 March 2020. Available at http://indymedia-venezuela.contrapoder.org/spip.php?article1810&lang=fr

21. Sabrina Velandia. "COVID-19 también afecta a las migrantes de Venezuela" [COVID-19 is also affecting migrants from Venezuela]. *Global Voices*, 8 April 2020. Available at https://es.globalvoices.org/2020/04/08/covid-19-tambien-afecta-a-las-migrantes-indigenas-de-venezuela/

22. Jhoalys Siverio, "Refugiada warao de Delta Amacuro muere de COVID-19 en hospital de Boa Vista" (Warao refugee from Delta Amacuro dies of COVID-19 in Boa Vista hospital). *Correo de Caroni*, 11 May 2020. Available at https://www.correodelcaroni.com/salud/coronavirus/5276-refugiada-warao-de-delta-amacuro-muere-de-covid-19-en-hospital-de-boa-vista

23. UNHCR. *El hambre y la desesperación empujan a grupos indígenas a salir de Venezuela* [Hunger and desperation push Indigenous groups to leave Venezuela]. 7 August 2018. Available at https://www.acnur.org/noticias/stories/2018/8/5b69ba424/el-hambre-y-la-desesperacion-obligan-a-los-indigenas-venezolanos-a-huir.html

*The **Wataniba Amazon Socio-environmental Working Group** was founded in 2005. It promotes socio-environmentally sustainable territorial management processes, strengthening the technical and identitary capacity of the peoples that inhabit the Amazon, jointly designing, together with the Indigenous Peoples, public policies consistent with the social and environmental rights widely recognised in Venezuelan legislation.*

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CONTENTS

The Arctic

Kalaallit Nunaat (Greenland)

Kalaallit Nunaat (Greenland) has been a self-governing country within the Danish Realm since 1979. The population is 88% Greenlandic Inuit with a total of 56,367 inhabitants (July 2020).[1] The majority of Greenlandic Inuit refer to themselves as Kalaallit.

Ethnographically, they consist of three major groups: the Kalaallit of West Greenland, who speak Kalaallisut; the Tunumiit of Tunu (East Greenland), who speak Tunumiit oraasiat (East Greenlandic) and the Inughuit/Avanersuarmiut of the north. The majority of the people of Greenland speak the Inuit language, Kalaallisut, which is the official language, while the second language of the country is Danish.

Greenland's diverse culture includes subsistence hunting, commercial fisheries, tourism and emerging efforts to develop the oil and mining industries. Approximately 50% of the national budget is financed by Denmark through a block grant. In 2009, Greenland entered into a new era with the inauguration of its Act on Self-Government, 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 recognises the Greenlandic people as a people under international law with the right to self-determination. Greenland has a public government and it aims to establish a sustainable economy in order to achieve greater independence.

Greenland's self-government consists of the Inatsisartut (Parliament), which is the elected legislature, and the Naalakkersuisut (Government), which is responsible for overall public administration, thereby forming the executive branch. The Inatsisartut has 31 elected members. The Government of Greenland adopted the UNDRIP upon its ratification in 2007 and subsequent governments have committed to its implementation. Greenland and Denmark jointly prepare reports regarding good practice on implementation of Indigenous 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 prioritised actions to establish the Indigenous Peoples' collective rights to land and resources in their territories.

The history of removing Greenlandic children from their families: finally an apology

On 8 December 2020, the Prime Minister of Denmark, Mette Frederiksen, gave an official apology to 22 Greenlanders who, as children in 1951, were removed from their families and sent to Denmark in a social experiment aimed at educating them in Denmark and then sending them back to Greenland to become the leaders of their country.[2] This was an apology that many had long waited for and one that former Prime Ministers had, in their inaction, refused to give. The removal of these children had devastating effects on them throughout their lives. Today, only six of the 22 people are still alive and able to receive the apology. The historical report, published by the Danish government and the Government of Greenland, shows the human consequences in the form of alcohol and other substance abuse, mental disorders, hospitalisation, homelessness and suicide attempts that are recurrent among half of the reports received on these children and their relatives.[3]

Member of Danish Parliament Aaja Chemnitz Larsen (Inuit Ataqatigiit party) suggested in the Danish Broadcast news magazine Deadline[4] that the Greenlandic government should also apologise for its involvement in the decision to remove the children, given the devastating futures many of them had in their adulthood. Aaja Chemnitz also stressed the importance of focusing on adoption practices more generally since the experiment in 1951, and the need for researchers and politicians of both countries to continue to investigate the severe impacts and consequences of these practices for hundreds of other children adopted from Greenland to Denmark.

Some of the children were taken from impoverished families with a

large number of children and some were orphans but many adoptions were made anonymously and just after birth. There are testimonies from social workers in Greenland at the time who witnessed mothers signing Danish adoption papers. They were apparently not well-informed regarding the legal terms and, even years after they had given up their child, fully expected them to be coming back home again.[5] Adoption practices in Greenland are different, as is the cultural custom regarding what adoption involves for the child and the whole family. Before 1950 it was widespread social practice that a child could be brought up in a household other than their parents' and this was an important part of strengthening family ties, creating and maintaining an extended network of generations with openness and respect.[6]

Several articles on the legal basis of adoptions from Greenland from the 1960s on were published throughout the year by the Danish newspaper *Information*, criticising the questionable legal basis for agreement on which many of the adoptions rested. Politicians and researchers from both Greenland and Denmark are recommending a thorough investigation into the adoption practices.[7]

Decolonisation discourse and events in 2020

The historical relationship between Greenland and Denmark is a complex one and 2021 is a special year. Three hundred years have passed since the Norwegian-Danish priest Hans Egede arrived in West Greenland (Kalaallit Nunaat, previously known as Inuit Nunaat = the country of the Inuit/People) in 1721. Godthåb (today called Nuuk, the capital of Kalaallit Nunaat) was established in 1728. The discourse on decolonisation was sparked when, on the night of 21 June 2020, the National Day of Greenland, the statue of Hans Egede in Nuuk was graffiti-tagged with the word "Decolonisation". Many statues around the world had been falling around that time in a movement against colonisation and prejudice.[8] As a result, a vivid debate ensued among Greenlanders discussing what the Hans Egede statue meant for people in Greenland, and whether the historical and contemporary relationship with Denmark should be broken off after 300 years of colonisation history, for better or worse.

Another part of the decolonisation process is acknowledging pre-colonial traditions such as the celebration of the winter solstice, in Greenlandic called Ullukinneq.

The shortest day of the year is an important day and our ancestors had several customs, including producing new *kamiks*, clothing and hunting equipment, drum dancing and storytelling. The stars (aassuutit) are central to Ullukinneq; the story about them tells how they drive the sinking sun and send it upwards so the light can return. A story of brighter days and an allegory of renewal. These customs started to fade when Christianity took over.[9] Minister of Education, Culture and Church, Katti Frederiksen, welcomed last year's revival of Indigenous cultural customs and activities in the municipalities and culture houses, saying: "Ullukineq is an important part of Greenlandic identity".

ICC's 40-year anniversary

COVID-19 restrictions affected several events and anniversaries throughout the year, such as the Inuit Circumpolar Council's (ICC) 40-year celebrations, which had to be held online on Facebook. The Inuit Circumpolar Council is a multinational non-governmental Indigenous Peoples' organisation representing the 180,000 Inuit, Yupik and Chukchi peoples living in Alaska, Canada, Greenland and Chukotka. The President of ICC Greenland, Hjalmar Dahl, highlighted the fact that one of the most important outcomes of the organisation's work for Indigenous Peoples was the adoption of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) in September 2007. In terms of future ICC leadership, Dahl focused on the importance of involving Greenland's young people.[10] He expressed concern at the financial developments this year, since the Government of Greenland was cutting the budget for the ICC, with even further cuts expected in 2021.[11]

Speaking of carrying the torch onwards, ICC's office manager Tukumminnguaq Olsen, a young human rights activist and Inughuit (the northernmost group of Greenlandic Inuit), was appointed by UN Secretary General António Guterres as new Board of Trustee member for the UN Voluntary fund for Indigenous Peoples.[12] Tukumminnguaq Olsen will be representing the Arctic Region from January 2021 to December 2023.[13]

The UN Special Rapporteur's planned country visit to Greenland

United Nations Special Rapporteur on the Rights of Indigenous Peoples Ms Victoria Tauli-Corpuz,[14] an Indigenous leader from the Kankana-ey Igorot people of the Cordillera Region in the Philippines, visited Denmark from 9 to 19 March 2020, just before the COVID19-lockdown on 18 March. Ms Tauli-Corpuz planned to travel to Greenland afterwards for a special procedure country visit[15] but this was postponed due to COVID-19.[16] However, she was able to meet with young students and several associations for Greenlanders in Denmark on the night before Denmark was shut down. The participants presented her with their daily challenges and struggles as Greenlanders in Denmark, including discrimination and a lack of recognition of the colonial history between Denmark and Greenland. Other topics that were raised were the misrepresentation of:

> *the Greenlandic people in Danish education materials and the lack of responsiveness in the Danish education system to Greenlanders who come to Denmark to study. All these challenges, apart from the effects already mentioned, have also had a detrimental effect on the mental health of Greenlanders both in Greenland and Denmark.*[17]

Ms Tauli-Corpuz stressed the need "to look at the past to have a better future; claiming history – the *right* history – not the one written by the colonisers. That is crucial. This is what the struggle is all about: knowing your history; making the state address all of these injustices."

She further stated that: "Denmark is doing a lot for Indigenous Peoples around the world; they should do more here in Denmark." She also noted that Indigenous Peoples, including Greenlanders in Denmark, need to talk more about pride of their own culture, identity and history – and that Greenlanders have the right to the recognition [...] of negative effects of colonisation. That is part of the rights laid out [...] in the UNDRIP, which is supported by both Denmark and Greenland.[18]

Greenland and COVID-19 in 2020

The story of COVID-19 in Greenland is quite different from in other parts of the world, as Greenland has been spared many of the challenges,

partly due to its relative geographical isolation. There are two ways of entering Greenland: by air or by sea. Greenland has two regular flight routes: one is to Denmark and the other to Iceland. This is an advantage for the largest island in the world in that things are relatively easy to monitor. Cities, towns and settlements are far from each other, and the only way to access them is by plane, helicopter or boat. Greenland imposed some restrictions but they were short and relatively few.

The Government of Greenland was effective in ensuring the safety of Greenlanders. Restrictions were placed on how many people could gather in specific locations. The restrictions in Greenland were, however, far less in number than in many other places around the world. There were no curfews. People travelling from overseas to Greenland were required to go into quarantine. Greenland's Prime Minister Kim Kielsen announced in a press conference in March that school grades 1-10 were closing for 14 days and commercial flights, both domestic and international, would cease to operate on 23 March, also for 14 days.[19] Kielsen stated that the country would gradually open up after that. With regard to the country's economy, the tourism sector was particularly hard hit and the government therefore provided subsidies to the affected businesses.[20]

Articles and news in the national media and radio were informative and not intended to create attention-grabbing headlines that could cause panic in the country. People seemed mindful of the quantities of goods in the stores. This was particularly important for a country that primarily imports its goods. There was honesty and solidarity in Greenland.[21]

As of 8 January 2021, there had been 29 confirmed cases of the coronavirus in Greenland, of which 28 had recovered and thus a remarkable 0 deaths. There have been 16,170 COVID-19 tests conducted in Greenland.[22] This is a high number of tests for a population of less than 60,000.

On one of the last days of 2020, 29 December, 975 COVID-19 vaccines arrived in Greenland.[23]

Domestic violence escalates during the coronavirus crisis

The consequences of the coronavirus lockdown in 2020 were more concerning for vulnerable children and youth in Greenland. It is known

that more women contacted crisis centres due to domestic violence and abuse during the lockdown in the spring,[24] which inevitably affected the children in the families in question. Greenland's Minister of Social Affairs, Family and Justice, Martha Abelsen, encouraged children with concerns related to the coronavirus crisis or any other issues to contact the social authorities via a direct hotline. Further help for families was also offered on the national medical office website and the government provided additional funds for the healthcare system.

The optimistic hope for the year to come rests on expectations for the Danish vaccination strategy, which also covers Greenland, and for the lives of Inuit living in both Greenland and Denmark. Once the vaccines are rolled out, many anticipate fewer restrictions worldwide and an opening up of international travel. This will open Greenland up once more for tourism, business-related activities and family visits between Greenland, Denmark and the rest of the world.

Notes and references

1. Grønlands Statistik. "Befolkning 2020." [Population Estimate July 2020.] 2020. https://stat.gl/dialog/topmain.asp?lang=da&subject=Befolkning&sc=BE
2. Nørrelund Sørensen, Helle. " Eksperimentbørn: Mette Frederiksen giver officiel undskyldning i brev." [Experimental children: Mette Frederiksen gives an official apology in a letter.]. Kalaallit Nunaata Radioa, 8 December 2020. https://knr.gl/da/nyheder/eksperimentb%C3%B8rn-mette-frederiksen-giver-officiel-undskyldning-i-brev
3. Statsministeriet. "Undskyldning til de 22 grønlandske børn, som blev sendt til Danmark i 1951." 8 December 2020. https://www.stm.dk/presse/pressemeddelelser/undskyldning-til-de-22-groenlandske-boern-som-blev-sendt-til-danmark-i-1951/
4. DR2 Deadline. "Undskyldning til Eksperiment-børn." 8 December 2020. https://www.dr.dk/drtv/se/deadline_-julen-er-anbefalingernes-fest_225171
5. Vaaben, Line. Information. "Øjenvidne: I 1960'ernes Grønland udviklede børneadoption sig til et tag selv-bord." Information, 28 October 2020. https://www.information.dk/indland/2020/10/oejenvidne-1960ernes-groenland-udviklede-boerneadoption-tag-bord
6. Jensen, Einar Lund, Sniff Nexø Andersen, and Daniel Thorleifsen. "Historisk udredning om de 22 grønlandske børn, der blev sendt til Danmark i 1951." København: Den danske regering og Naalakkersuisut, 15 November 2020. https://www.ft.dk/samling/20201/almdel/GRU/bilag/21/2299923/index.htm
7. Vaaben, Line. "Grønlandske adoptioner bør undersøges grundigt." Information, 30 October 2020. https://www.information.dk/indland/leder/2020/10/groenlandske-adoptioner-boer-undersoeges-grundigt?lst_srs
8. Sommer, Karsten. "Hans Egede statue over painted during the night." Kalaallit

Nunaata Radioa, 21 June 2020. https://knr.gl/da/nyheder/hans-egede-statuen-overmalet-i-nattens-l%C3%B8b

9. Government of Greenland, Naalakkersuisut. "Lykønskning ved Naalakkersuisoq for Uddannelse, Kultur og Kirke Katti Frederiksen i forbindelse med Ullukinneq, 21. December." 21 December 2020. https://naalakkersuisut.gl/da/Naalakkersuisut/Nyheder/2020/12/2112_ullukinneq
10. Kristensen, Marie Kuitse. "Menneskerettighedsorganisationen ICC fejrer 40-års jubilæum." Kalaallit Nunaata Radioa, 12 August 2020. https://knr.gl/da/nyheder/menneskerettighedsorganisationen-icc-fejrer-40-%C3%A5rs-jubil%C3%A6um
11. Jacobsen, Marc. "The ICC's 40th Anniversary: International, regional and local perspectives as seen from Nuuk." High North News., 17 February 2020. https://www.highnorthnews.com/en/iccs-40th-anniversary-international-regional-and-local-perspectives-seen-nuuk
12. The United Nations Voluntary Fund for Indigenous Peoples was established by the General Assembly in 1985 as a response to Indigenous Peoples' need to participate and self-represent their nations and organisations in the UN Working Group on Indigenous Populations. See OHCHR. "UN Voluntary Fund for Indigenous Peoples: 30 years of empowering indigenous peoples to claim their rights." https://www.ohchr.org/Documents/Issues/IPeoples/Fund/BookletVoluntaryFund.pdf
13. Sermitsiaq AG. "Tukumminnguaq Olsen får bestyrelsespost i FN." Accessed 8 January 2021. https://sermitsiaq.ag/tukumminnguaq-olsen-faar-bestyrelsespost-i-fn?fbclid=IwAR2q8VErW6ldQfaLTIKF0YH5_3AWbKk-MVPUIoJ9Wspv7r6iBtfe08Ie2Gk
14. Ms Tauli-Corpuz has worked on building a movement among Indigenous Peoples and as an advocate for women's rights for over three decades. She has served as the UN Special Rapporteur on the Rights of Indigenous Peoples since 2014. She is the former Chair of the UN Permanent Forum on Indigenous Issues (2005-2010) and has served as the chairperson-rapporteur of the Voluntary Fund for Indigenous Populations.
15. Special procedure country visits are an essential means of obtaining information direct and first-hand, and of assessing the positive developments as well as the challenges and gaps in the protection and promotion of the rights of Indigenous Peoples. Country visits are based on engagement with, and information gathering from, Indigenous representatives and organisations, individuals and communities affected by policy decisions, independent national human rights institutions, members of civil society, academia, international cooperation and international non-governmental organisations as well as UN agencies and entities.
16. United Nations, OHCHR. "Call for inputs on upcoming country visit to Denmark and Greenland." 2021. https://www.ohchr.org/EN/Issues/IPeoples/SRIndigenousPeoples/Pages/Callforinput_Denmark_Greenland.aspx
17. IWGIA. "Greenlanders in Denmark voice their concerns to UN Special Rapporteur." 13 March 2020. https://www.iwgia.org/en/news/3543-greenlanders-in-denmark-voice-their-concerns-to-un-special-rapporteur.html
18. Ibid.
19. Schultz-Nielsen, Jørgen. "Kielsen: Schools and air traffic closes." Sermitsiaq AG, 17 March 2020. https://sermitsiaq.ag/node/220165
20. Hvid Toft, Mathies, and Andreas Wille. "Naalakkersuisut wants to to prolong more subsidies to the business community." Kalaallit Nunaata Radioa, 28 December 2020. https://knr.gl/da/nyheder/naalakkersuisut-vil-

forl%C3%A6nge-flere-hj%C3%A6lpepakker-til-erhvervslivet
21. Hyldal, Christine. "Corona, corona and rotten potatoes: here are the year's most read articles on knr.gl." Kalaallit Nunaata Radioa, 30 December 2020. https://knr.gl/da/nyheder/corona-corona-og-r%C3%A5dne-kartofler-her-er-%C3%A5rets-mest-l%C3%A6ste-artikler-p%C3%A5-knrgl
22. Kalaallit Nunaata Radioa. "Coronavirus." Accessed 8 January 2021. https://knr.gl/da/coronavirus
23. Dall, Anders, and Marie Kuitse Kristensen. "Covid-19 vaccines arrived in Greenland." Kalaallit Nunaata Radioa, 29 December 2020. https://knr.gl/da/nyheder/covid-19-vacciner-ankommet-til-gr%C3%B8nland%C2%A0
24. Schultz-Nielsen, Jørgen. "Martha - øget vold i Nuuk - ekstra pladser på krisecentre." Sermitsiaq AG, 28 March 2020. https://sermitsiaq.ag/node/220474

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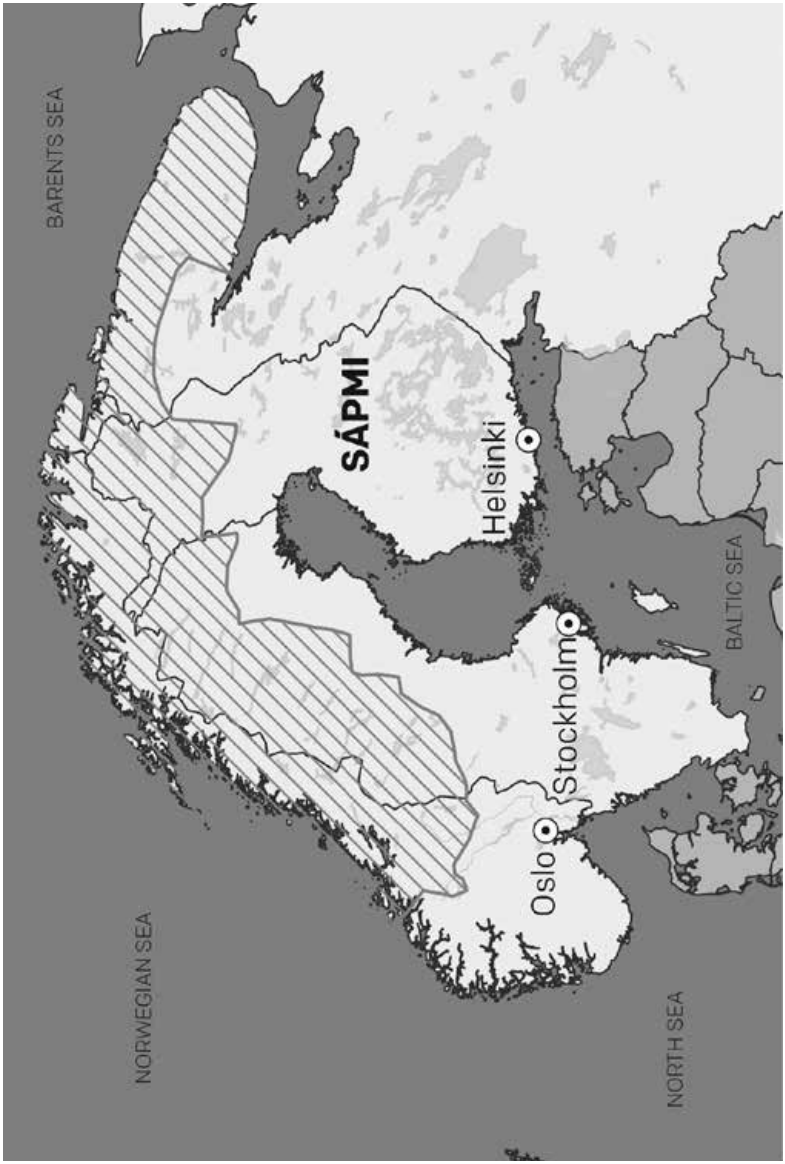
Sápmi


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. 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 0.22% of Sweden's total population of around nine million. The north-western part of the Swedish territory is the Sámi people's traditional territory. The Sámi reindeer herders, small farmers, hunters, gatherers and fishers traditionally use these lands. Around 50-65,000 live in Norway, between 1.06% and 1.38% of the total Norwegian population of approximately 4.7 million. Around 8,000 live in Finland, which is approximately 0.16% of the total Finnish population of around five million. Around 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 Sámi Council, which is a central Sámi NGO representing 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 United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) in September 2007, while Russia abstained.

COVID-19 impacts on the Sámi people[1]

The Indigenous Sámi people's history has been shaped by the impact of pandemics over the centuries. There are still some Sámi elders who have survived earlier pandemics and who have been able to share their experiences with younger generations in Sámi society.

Increased State security measures in Finland, Norway and Sweden imposed during the emergency situation caused challenges for Sámi and their communities, and particularly Sámi families divided by national borders. Family and social relations have been strongly disrupted, and this has affected family life, Sámi children and elders in particular. Family members have mobilized and organized provisions of food and medicines to elders and family members who have self-isolated. Sámi organizations and institutions have been sharing strategies with each other across the borders, making sure that travelling to the most vulnerable communities was limited to necessary transport of goods, medicine and food.

Both as a consequence of the pandemic and lockdowns, as well as of the crisis caused by deep snow and ice covering grazing lands, reindeer have been prevented from obtaining sufficient food by natural grazing. The crisis persisted the whole winter, and a large number of animals would have died of starvation if the Government of Norway had not paid for crisis measures such as procurement and transport of supplemental feed.[2] The reindeer meat market, consisting of a small number of reindeer meat buyers and slaughterhouses, was limited due to export/import restrictions.

Another disruption was reported in reindeer herding areas due to the high number of domestic tourists in the mountains, as they disturb herds. With foreign tourists absent, there has been an increasing trend in "homesteading"- tourism. Reindeer industry organizations in Sweden have reported that it is very difficult to detect these disturbances in economic terms, but they have requested assessments of the economic impacts of this homesteading tourism on Sámi homeland areas.

Sámi community leaders expressed a clear aim to align with national and global health directives, putting a wide range of emergency measures into effect that have affected both the social and family lives, livelihoods, political processes and economy of Sámi traditional and

cultural industries. Lockdowns, quarantine and other isolation measures imposed as a response to the pandemic have caused additional hardships for the Sámi people's access to basic economic, cultural and social rights. At the same time, however, reports from the Sámi areas also indicate that the lockdown has been a positive opportunity for Sámi to reconnect with their traditional lands and to practice Sámi culture.

COVID-19 has amplified issues both of preparedness and vulnerability in Sámi communities. Statements from Sámi representatives at the regional dialogue of the UN Expert Mechanism on the Rights of Indigenous Issues (EMRIP) stressed the fact that, according to Article 36 of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), Indigenous Peoples, in particular those who are divided across international borders, have the right to maintain and develop contacts, relations and cooperation, including activities for spiritual, cultural, political, economic and social purposes, with their own members as well as other peoples across borders.[3] The Sámi Parliament of Norway informed EMRIP that border traffic had been restricted since March 2020 and that national emergency measures and restrictions had had a significant impact on Sámi society. As freedom of movement is a crucial factor for Sámi industries and their profitability, closed borders have challenged the availability of social and health care services in Sámi homeland areas, as well as cross-border Sámi education. Sámi representatives also reminded states of the Sámi people's right to self-determination and the right to participate in decision-making in matters concerning the Sámi, and that these rights should not be impaired even in extraordinary circumstances.

Lack of data and information in Sámi languages

The lack of disaggregated data on Sámi people has long been one of the main challenges when monitoring the implementation of Sámi human rights. In its submission to the first report of the UN Special Rapporteur on the rights of indigenous peoples, Francisco Calí Tzay, to the General Assembly, on the impact of COVID-19 on the rights of Indigenous Peoples, the Sámi Parliament in Sweden pointed out that there was no disaggregated data on the Sámi and COVID-19 health impacts available within the Swedish part of Sápmi.[4] This is very much the case also in

Finland and Norway. Moreover, the Sámi Parliament argues that since there is no official statistical data on Sámi health, wellbeing, economic development etc., it is challenging to present a comprehensive picture of rights recognition, discrimination, livelihoods etc.

Public information on the pandemic and emergency measures have generally been provided in the majority languages of Finland, Norway and Sweden but there are also some leaflets, posters and information online in Sámi languages.[5] The Sámi Parliaments in Finland, Norway and Sweden have compiled information about COVID-19 on their websites, and other Sámi institutions have also translated relevant information about national measures for their Sámi speaking staff.[6] The Nordic governments responsible for providing information about the emergency measures failed to provide timely and adequate information in Sámi languages although several UN bodies, including the UN Educational, Scientific and Cultural Organization (UNESCO), did highlight the importance of information in appropriate languages, and of involving people from within Indigenous communities to help conceptualize prevention and care strategies. UNESCO recognizes that emergency responses are enhanced where there are efficient mechanisms for dialogue between Indigenous Peoples and national authorities to implement culturally appropriate responses to current and future impacts of the pandemic.[7]

None of the Nordic countries established specific spaces for participation and dialogue to address the current emergency and its impact on Sámi communities. Sámi representatives argued that insufficient information in Indigenous Sámi languages was causing a serious risk to health.

Sámi Truth and Reconciliation Commissions

There is still some progress in matters relating to reconciliation and public investigations into the effects of colonial policies, discrimination and oppression of the Sámi people in Finland, Norway and Sweden. In December 2019, the Sámi Parliament in Finland proposed the establishment of a Sámi Truth and Reconciliation Commission in Finland (TRC).

In May 2020, the Sámi Parliament and the Siida Assembly of the Skolt Sámi in Finland consulted Sámi organizations and communities in Finland and received 16 proposals for expert candidates for the TRC.

In December 2020, the Sámi Parliament decided to propose, Heikki Hyvãrinen and Miina Seurajãrvi for the position of commissioner on the TRC, while the Siida Assembly of the East Sámi in Finland proposed Irja Jefremoff.[8] The Finnish state will appoint two commissioners after consultation with the Sámi Parliament, before then establishing the TRC. The process of establishing a Sámi TRC in Finland has been delayed due to COVID-19 and obstacles created by public health directives in response to the pandemic. Further, it takes time to secure culturally appropriate psychosocial support services to accompany those participating in the work of the commission.[9]

The Sámi in Finland have used the TRCs in Canada and several countries in South America as models during TRC preparation in Finland. Two of the commissioners who served on Canada's TRC, Marie Wilson and Wilton Littlechild, as well as Peruvian sociologist Eduardo González, have all been involved in advising the Sámi in Finland.[10]

There are also preparations for establishing a Sámi TRC in Sweden, and the Sámi Parliament in Sweden, like their sister institution in Finland, has also emphasized the importance of obtaining the free, prior and informed consent of their own Sámi people before taking any decision and embarking on negotiations with the government. COVID-19 has affected the process as the planned community meetings had to be downscaled, allowing for a smaller number of Sámi representatives to participate in physical meetings. A steering group with seven members and a reference group with participants from Sámi organizations should ensure broad participation from Sámi civil society, individuals and interest groups.[11]

In December 2020, the Sámi Parliament in Sweden sent out a letter to all Sámi registered on the parliament's electoral roll asking for their views on the establishment of the TRC.[12] The Sámi Parliament's preparations and consultations with Sámi communities and organizations should be complete by March 2021, and are being funded by the Swedish Ministry of Culture.[13]

As reported in *The Indigenous World 2020*, there is already a TRC in Norway with a mandate that includes the Indigenous Sámi, Kven minority, Forest Finns and Norwegian Finns minority.[14] The Norwegian TRC should also take into consideration the parallel processes in Finland and Sweden but this may prove difficult given that the processes in Finland and Sweden are delayed, mainly due to COVID-19.

Industrialization on Indigenous Sámi territories

The Sámi homeland territories are facing many challenges due to industrialization. The extensive development of the wind power industry on lands used by Sámi reindeer herders and on sites sacred to the Sámi is causing many conflicts between the Sámi and the private sector. Many Sámi see windfarms as a threat to their ancient cultural practices, as turbines of up to 200 metres tall can stretch for kilometres and are often built in areas used for reindeer herding. Studies and Indigenous local knowledge show that reindeer prefer to avoid areas with wind turbines. Establishing sites for the wind industry also requires the building of roads and other infrastructure, often in areas with little or no existing infrastructure.

There are numerous cases of the development of the wind power industry in Sámi areas without the free, prior and informed consent of Sámi rights holders (read more in *The Indigenous World 2020*).[15] Wind power projects have often been supported by local municipalities through one-off contributions of property taxes, income taxes, promises of employment for local people, land rental payments, sponsorship funds and more.

Øyfjellet windfarm and Davvi windfarm in Norway are two of the projects being strongly opposed by the Sámi as they disturb migration routes. In September 2020, reindeer herders from Jillen-Njaarke in Nordland lost their case against the Øyfjellet wind park when the court ruled against the reindeer herders and upheld the original licence. Øyfjellet wind park is being built by the Swedish-German company Elous Wind. They have a licence to construct 72 wind turbines in this area. The Sámi reindeer herders claimed that the establishment of Øyfjellet wind park was violating the *Reindeer Husbandry Act* of 2007 and would obstruct the use of the legally-protected traditional migration routes of the reindeer. They argued that the project was disrupting the Sámi community's sustainable way of living, which protects their land.

As a consequence of the loss of grazing land, the Sámi fear that the state authorities will require herd reductions. According to reports from Protect Sápmi, a certain amount of land has to be calculated for a certain amount of reindeer.[16] This would mean that one or several traditional Sámi reindeer herders will no longer have a sufficient economic

basis for their livelihood.[17] The reindeer herders in Jillen-Njaarke have taken their case to the court of appeal as they have not managed to reach an agreement with Eolus Wind on measures to secure the rights of the Sámi.[18]

The Davvi Wind Park owned by Grenselandet AS is planning to establish a wind power site in Laksefjordvidda, one of the largest wilderness areas in Norway. This Arctic environment is undisturbed by industry and buildings. The wind farm is planned to consist of 100-267 wind turbines with a total installed capacity of up to 800 MW. The industrial site covers an area of approx. 78 km^2. The Finnish mega energy corporation St1 is listed as one of the owners of Grenselandet AS, together with Vindkraft Nord and Ny Energi. This area is very important for the Sámi Indigenous people. The sacred mountain Rásttigáisá is located near the area planned for the wind farm, which includes areas important for the reindeer as a refuge from troublesome insects. Reindeer herding in this area of Troms and Finnmark county is already under severe pressure from a number of development projects.

One of the largest Norwegian environmental organizations, Naturvernforbundet, is also strongly opposed to this project, referring to the severe harm it will cause the Sámi reindeer herding livelihood.[19] In spite of claims from the Sámi Parliament and environmental organizations, when amending the decision-making processes for licences for new wind power projects in Norway, the Norwegian Parliament did not include any proposals for the enhanced participation of the Sámi Parliament or Sámi rights holders in these kind of processes.[20]

The Girjas landmark decision

On 23 January 2020, a historic verdict was passed down by the Swedish Supreme Court in the Girjas case (Case No.: T 853-18) (for background see *The Indigenous World 2020*).[21, 22] The Girjas Sámi District (čearru/sameby – the Girjas Sámi reindeer herding community), located in Gällivare, northern Sweden, won their case against the Swedish state on the rights to manage hunting and fishing within the areas traditionally used and occupied by Girjas Sámi Village.[23]

The ruling by the Supreme Court of Sweden has put an end to a

more than 10-year dispute between Girjas Sámi District and the Swedish state.[24] In its ruling, the Supreme Court concludes that: Girjas Sámi District may grant small-game and fishing rights in the area without the consent of the state and that the state is not permitted to grant such rights. The Court was unanimous in this verdict. The Supreme Court did not examine the issue of ownership rights to Girjas district land, as Girjas Sámi District did not make a claim for ownership of the land.

The Swedish state claimed that, as the landowner, it was the state alone that should retain hunting and fishing rights in Girjas district, including the right to grant hunting and fishing rights to others. The Supreme Court ruled that the Girjas community retained the sole right to manage the rights to hunting and fishing in this area based on possession since time immemorial, including the right to lease these rights to others. Girjas Sámi District conducts reindeer husbandry, including in a very large area above the cultivation line in Norrbotten County, northern Sweden. As a consequence of this, the state does not retain hunting and fishing rights in these areas that would normally pertain to ownership of the land and watercourses. Pursuant to the Swedish Reindeer Husbandry Act (SFS 1971:437), members of a Sámi district/village have the right to hunt and fish in their own district. The Act also contains provisions stating that neither the Sámi district nor its members are permitted to grant hunting and fishing rights to others; rather, as a rule it is the county administrative board that grants such rights. This regulation has remained largely unchanged since the first *Reindeer Grazing Act* in Sweden of 1886.

What also makes the Girjas case so interesting from a pan-Sámi and international perspective is the way the Supreme Court of Sweden refers to ILO Convention No. 169 on the rights of Indigenous Peoples, despite the fact that Sweden has not ratified this convention. By referring to ILO 169, the Girjas case will also be of great legal value for Norwegian courts, as Norway is a signatory to ILO 169. As scholars have said, the Girjas judgement is indeed a landmark decision as it develops a deeper understanding of what Sámi rights are, not only according to Swedish law but also across our Nordic legal community.[25] As there are a great number of Sámi cases in the courts in Norway, many Sámi reindeer communities are following the development of Sámi law in Sweden with great interest. Experts on Sámi and Swedish law have analyzed the

case, and concluded *inter alia* that:

> *this case signifies a considerable development in the area of Sámi law. In its decision, the Supreme Court made some adjustments to the age-old doctrine of immemorial prescription and provided insights into how historic evidence should be evaluated when the claimant is an Indigenous people. A common motivator for these adjustments is an enhanced awareness of international standards protecting Indigenous peoples and minorities.*[26]

As a consequence of the Girjas judgement, the Government of Sweden has decided to consider possible changes to the 1971 *Reindeer Husbandry Act* of Sweden in order to adapt the legislation to the current situation in Sweden.[27]

During the 10-year trial, but increasingly since the historic win in the Supreme Court, the Girjas Sámi community and also Sámi reindeer herders more generally in northern Sweden have received death threats, been exposed to hate speech, violence and there have also been reports of several incidents in which reindeer have been tormented or killed.[28] Sámi language road signs have been removed and property belonging to the Sámi reindeer herding community in Girjas and other Sámi reindeer communities has been damaged. The Swedish police received a number of complaints of death threats and hate speech immediately following the verdict.[29] For the Indigenous Sámi reindeer herders, this is clearly an act of hatred and violence, hatred which unfortunately was present long before the start of the Girjas case.[30]

Acknowledgement

I would like to acknowledge those who have passed away because of the COVID-19 pandemic and express my heartfelt compassion to their loved ones.

Notes and references

1. This article covers developments in the Sámi homeland areas in Finland, Norway and Sweden. The Sámi traditional territory also include areas in the Kola Peninsula, Russia.
2. Government of Norway. "Additional financial measures to mitigate the economic effects of the coronavirus crisis." 3 April 2020. https://www.regjeringen.no/en/aktuelt/additional-financial-measures-to-mitigate-the-economic-effects-of-the-coronavirus-crisis/id2696548/
3. OHCHR. "The 13th Session/ Regional meetings of the Expert Mechanism on the Rights of Indigenous Peoples: The impact of COVID-19 on the rights of indigenous peoples under the UN Declaration on the Rights of Indigenous Peoples." 30 November-4 December 2020. https://www.ohchr.org/EN/Issues/IPeoples/EMRIP/Pages/Session13.aspx
4. Sámediggi. "Submission from the Sámi Parliament in Sweden to the Report of the Special Rapporteur on the rights of indigenous peoples to the General Assembly Impact of COVID-19 on indigenous peoples." 22 June 2020, p. 1. https://www.ohchr.org/Documents/Issues/IPeoples/SR/COVID-19/IndigenousCSOs/SWEDEN_Sami%20Parliament%20Sweden.pdf; See also OHCHR and Sámediggi. "Statement by Per-Olof Nutti, President of the Sámi Parliament in Sweden at EMRIP virtual regional meeting for the Arctic, Central and Eastern Europe, Russian Federation, Central Asia and Transcaucasia." Sámi Parliament, Sweden, 2 December 2020. https://www.ohchr.org/EN/Issues/IPeoples/EMRIP/Pages/Session13.aspx
5. See endnote i, see examples from Folkhälsomyndigheten (Sweden). "Om covid-19 på olika språk." 2 November 2020. https://www.folkhalsomyndigheten.se/smittskydd-beredskap/utbrott/aktuella-utbrott/covid-19/om-covid-19-pa-olika-sprak/; Krisinformation.se (Sweden). "Fler språk/more languages." 27 January 2021. https://www.krisinformation.se/detta-kan-handa/handelser-och-storningar/20192/myndigheterna-om-det-nya-coronaviruset/andra-sprakother-languages/fler-sprak; Helsedirektoratet (Norway). "Samisk." 2021. https://www.helsedirektoratet.no/search?searchquery=samisk; Valtioneuvosto (Finland). "Monikieliset korona-aineistot." https://valtioneuvosto.fi/tietoa-koronaviruksesta/aineistoja-kielilla#kieli-pohjoissaame
6. For instance, see Sámediggi. "DIEHTU KORONAVIRUSA BIRRA SÁMEGILLII." Sámi Parliament in Finland, 2021. https://www.samediggi.fi/diehtu-koronavirusa-birra-samegillii/?lang=dav&lang=dav, Sametinget. "Sametinget och coronaviruset." Sámi Parliament in Sweden, 2021. https://sametinget.se/146554 ; Sametinget. "Samleside for informasjon i forbindelse med korona-pandemien." Sámi Parliament in Norway, 2021. https://sametinget.no/aktuelt/samleside-for-informasjon-i-forbindelse-med-korona-pandemien.3805.aspx
7. UNESCO. "COVID-19 recovery and indigenous peoples." 5 August 2020. https://en.unesco.org/news/covid-19-recovery-and-indigenous-peoples
8. Sámediggi. "Press release from the Sámi Parliament of Finland." 18 December 2020. https://www.samediggi.fi/samiid-duohtavuoda-ja-soabadankomisuvdna/?lang=dav
9. Quinn, Eilís. "Sami Parliament in Finland agrees more time needed for Truth and Reconciliation Commission preparation." The Barents Observer, 23 February 2021. https://thebarentsobserver.com/en/arctic/2021/02/sami-parliament-finland-agrees-more-time-needed-truth-and-reconciliation-commission
10. Sámediggi. "Press realease from the Sámi Parliament of Finland." 18

December 2020. https://www.samediggi.fi/samiid-duohtavuoda-ja-soabadankomisuvdna/?lang=dav

11. Sametinget (Sámi Parliament of Sweden). "Förankringsarbetet startar." 13 October 2020. https://sametinget.se/forarbete-sanningskommission

12. Sametinget (Sámi Parliament of Sweden). "Brevutskick om förberedelser inför en sanningskommission." 19 January 2021. https://sametinget.se/154372

13. Regeringskansliet (Government Offices of Sweden). " Sametinget får medel för en förankringsprocess inför kommande sanningskommission." Press release from the Swedish Ministry of Culture and the Ministry of Employment, 9 June 2020. https://www.regeringen.se/pressmeddelanden/2020/06/sametinget-far-medel-for-en-forankringsprocess-infor-kommande-sanningskommission/

14. Vars, Laila Susanne. "Sápmi." In The Indigenous World 2020, edited by Dwayne Mamo, p. 533. IWGIA, 2020. https://iwgia.org/images/yearbook/2020/IWGIA_The_Indigenous_World_2020.pdf

15. Read more in Vars, Laila Susanne. "Sápmi." In The Indigenous World 2020, edited by Dwayne Mamo, 526-535. IWGIA, 2020. https://iwgia.org/images/yearbook/2020/IWGIA_The_Indigenous_World_2020.pdf

16. The Protect Sápmi Foundation was founded by the Sami Reindeer Herders' Association of Norway and the National Union of the Swedish Sami People. The purpose of the Foundation is stated in Section 2 of its Statutes: " *The Foundation's purpose is to maintain and develop the Sami cultural community, including the promotion of the interests of Sami industries, adapted to the requirements of modern society. The Foundation shall build and maintain a strong and professional organization in order to provide assistance in securing the interests, land rights, resource rights and potentialities for development of Sami land rights holders.*" Protect Sápmi. "About Protect Sápmi." 2021. http://protectsapmi.com/engelsk/about-protect-sapmi/; See also Blom, Andreas, Anders Johansen Eira, and Isak Henrik Eira. "REINDRIFTSFAGLIG UTREDNING i forhold til Davvi vindkraftverk." Protect Sápmi, December 2017. https://motvind.org/wp-content/uploads/2020/03/Reindriftsfaglig-utredning_Protect-Sapmi_31122017.pdf

17. Business and Human Rights Resource Centre. "Norway: Wind park allegedly threatens herding livelihoods of indigenous Saami community." 18 August, 2020. https://www.business-humanrights.org/en/latest-news/norway-wind-park-allegedly-threatens-herding-livelihoods-of-indigenous-saami-community/

18. Nilsen Trygstad, Andreas and Kari Skeie. "Reineierne hevder de ble tilbudt 5000 kroner per vindturbin i møte med vindkraftutbygger." NRK, 18 June 2020. https://www.nrk.no/nordland/eolus-wind-haper-pa-enighet-med-appfjell-og-reinbeitedistrikt-uten-at-det-blir-rettssak-1.15057870 ; See also a similar case in Karagiannopoulos, Lefteris. "Norway to build wind farm despite concerns of reindeer herders." Reuters, 21 December 2018. https://www.reuters.com/article/us-norway-wind-un-idUSKCN1OK1WS

19. Naturvernforbundet. "Si nei til vindkraft i Finnmarks natur!" Letter to St1 and Grenselandet AS dated 24 February 2020. Updated 23 June 2020. https://naturvernforbundet.no/davvi/category4063.html

20. Government of Norway. "Meld. St. 28 (2019-2020) Melding til Stortinget (White Paper to the Norwegian Parliament), Vindkraft på land: Endringer i konsesjonsbehandlingen." 19 June 2020. https://www.regjeringen.no/no/dokumenter/meld.-st.-28-20192020/id2714775/

21. Supreme Court of Sweden. "The Girjas Case- Press realease." Case No.: T

853-18, 4 September 2020. https://www.domstol.se/en/supreme-court/news-archive/a-decision-on-cancellation-of-real-estate-sales-agreements/

22. For background see Vars, Laila Susanne. "Sápmi." In The Indigenous World 2020, edited by Dwayne Mamo, 526-535. IWGIA, 2020. https://iwgia.org/images/yearbook/2020/IWGIA_The_Indigenous_World_2020.pdf

23. Bye, Hilde-Gunn. "Girjas Sami Village Won Swedish Supreme Court Case. May Have Consequences in Other Countries." High North News, 28 January 2020. https://www.highnorthnews.com/en/girjas-sami-village-won-swedish-supreme-court-case-may-have-consequences-other-countries

24. Ravna, Øyvind. "A Sámi Community Wins Case against the Swedish State in the Supreme Court." In Debates on Arctic Law and Politics, Arctic Review on Law and Politics 11 (2020): 19–21. https://arcticreview.no/index.php/arctic/article/view/2173/4031

25. Ibid.

26. Allard, Christina and Malin Brannstrom, "Girjas Reindeer Herding Community v. Sweden: Analysing the Merits of the Girjas Case." In Debates on Arctic Law and Politics, Arctic Review on Law and Politics 12 (2021): 56-79. https://arcticreview.no/index.php/arctic/article/view/2678/5159

27. Regeringskansliet (Government Offices of Sweden). "Utredning kommer tillsättas för en översyn av rennäringslagstiftningen." Press realease from the Ministry of Industry, 23 July 2020. https://www.regeringen.se/pressmeddelanden/2020/07/utredning-kommer-tillsattas-for-en-oversyn-av-rennaringslagstiftningen/

28. DeGeorge, Krestia. "After winning a historic court victory, Sweden's Sami face attacks, including death threats." Arctic Today, 30 January 2020. https://www.arctictoday.com/after-winning-a-historic-court-victory-swedens-sami-face-attacks-include-death-threats/; See also Orange, Richard. "Reindeer found dead in Lapland in apparent backlash against indigenous herders' land rights win." The Telegraph, 26 February 2020. https://www.telegraph.co.uk/news/2020/02/26/reindeer-found-dead-lapland-apparent-backlash-against-indigenous/

29. Västerbottens-Kuriren. "Polisen: Tar samers oro på största allvar." 29 January 2020. https://www.vk.se/2020-01-29/polisen-tar-samers-oro-pa-storsta-allvar

30. Civil Rights Defenders,. "Civil Rights Defenders Condemns Increased Racism and Violence Against the Sami People After Verdict in the Girjas Case." Press Release 13 March 2020. https://crd.org/2020/03/13/civil-rights-defenders-condemns-increased-racism-and-violence-against-the-sami-people-after-verdict-in-the-girjas-case/; See also Dagens Nyheter. "Så har den nya striden om fjället väckt samehatet till liv. " 20 April 2020. https://www.dn.se/nyheter/sverige/sa-har-den-nya-striden-om-fjallet-vackt-samehatet-till-liv/

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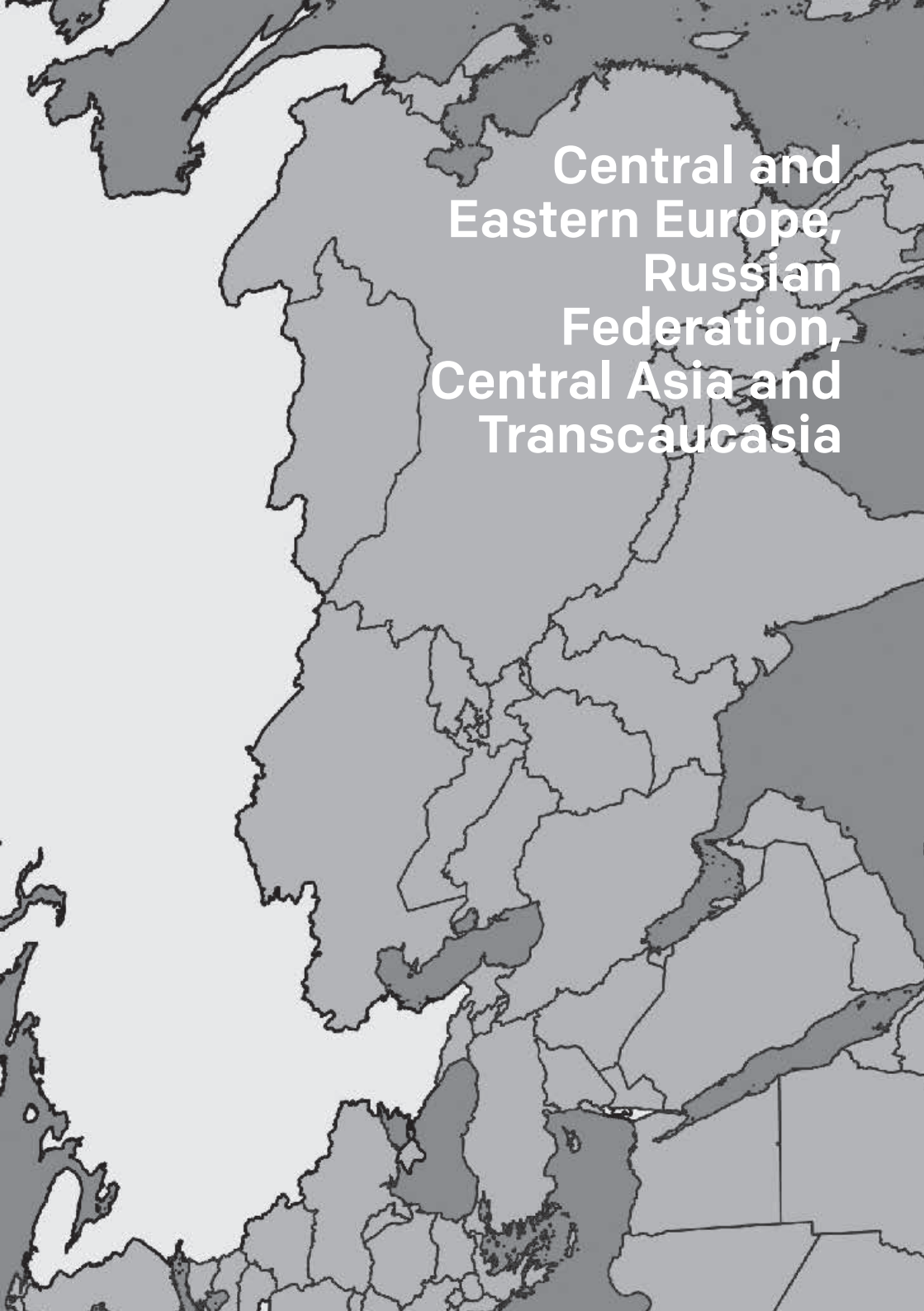

Central and Eastern Europe, Russian Federation, Central Asia and Transcaucasia

Israel

LEBANON
SYRIA
MEDITERRANEAN SEA
PALESTINE
Jerusalem
ISRAEL
EGYPT
JORDAN

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. Prior to 1948, some 65-100,000 Bedouin lived in the Naqab. After 1948, most were expelled or fled to Gaza, Egypt, the West Bank and Jordan, with only approx. 11,000 remaining in the area.

During the early 1950s and until 1966, Israel concentrated the Bedouin into a restricted area, known by the name of "al-Siyāj", under military administration, representing only around 10% of their original ancestral land. During this period, entire villages were displaced from their locations in the western and northern Naqab and their people were transferred to the Siyāj area.[1]

Today, some 258,500 Bedouin citizens of Israel live in the Naqab, in three types of location: government-planned townships, recognised villages, and villages that Israel refuses to recognise (unrecognised villages).[2] There are 35 unrecognised Bedouin villages in the Naqab that Israel refers to either as the "dispersion" or as "illegal villages", calling their inhabitants "trespassers" on state land and "criminals".[3]

Most of the Bedouin population lost their land when Israel declared it as Mawat ("dead", uncultivated agricultural lands) and reclaimed it as state land.[4] The land that belonged to those Bedouin who became refugees, as well as much of the land owned by the Bedouin who remained in Israel, was appropriated and nationalized by way of a number of laws, including the Absentee Property Law (1950)[5] and the Land Acquisition Act (1953).[6]

There was no exception made for the Naqab Bedouin, who were forcibly evicted from their ancestral lands by the very same Israeli government that went on to become the "rightful" guardian of those homesteads. The *Planning and Building Law* enacted in 1965 led to the classification of most of the Siyāj

area as agricultural land. From the moment the law came into effect, every house built in this area was defined as illegal and all the houses and structures already standing in the area were retroactively declared illegal.[7]

Since the beginning of the 1970s, Israel has been conducting an ongoing non-consensual and non-participatory urbanisation process. As a result, according to the CBS (Central Bureau of Statistics), more than 72% of the Bedouin population in the Naqab today reside in recognised townships and villages that are characterised by poverty, deprivation, high unemployment, crime and social tension, as well as inadequate provision of state services.[8] In addition to the seven townships, the state recognised 11 Bedouin villages from 1999 onwards,[9] hailing their recognition as a fundamental shift in government policy, which had previously focused exclusively on forced urbanisation. Two decades later, however, there is no significant difference between these villages and the unrecognised villages. The residents of most recognised villages continue to be denied access to basic services and are under constant threat of house demolitions.[10] The remaining 28% of the Bedouin population (around 90,000 people) live in unrecognised villages[11] 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 for the Unrecognised Villages (RCUV), an informal community body.

Mechanisms of forced displacement during the COVID-19 crisis

In 2020, Israel continued to promote its policy of dispossession through its national "development" projects. These include:

- the expansion of Ramat Beka Special Industrial Zone, resulting in severe construction restrictions that will lead to the forcible

transfer of around 1,200 families and result in health risks to the remaining Bedouin residents;[12]

- the extension of Road 6, expected to result in the demolition of around 600 Bedouin structures across at least nine unrecognised villages;[13]
- the establishment of a phosphate mine in Sdeh-Barir (which is expected to result in the demolition of more than 1,995 buildings and endanger the health of approximately 11,000 Bedouin residents) is currently on hold with a conditional order of two years; the state needs to explain why health implications and effects have not been taken into consideration. If that order were to become permanent, then its construction could be prevented. A hearing in the Supreme Court is scheduled for 23 February 2021 to review the status of the order; [14]
- the creation of two new railway lines planned to cut through several Bedouin villages –including the two Bedouin townships of Ksīfih and ʿArʿarah an-Nagab, as well as several unrecognised villages, including az-Zaʿarūrah, al-Furʿah, al-Bḥīrah, al-Gaṭāmā, al-Ġazzah and Rakhamah, that will be cut in half – causing significant upheaval and land seizures.[15]

Israel's use of demolitions as a mechanism for the forced displacement of the Bedouin population in the Negev/Naqab has continued despite the pandemic, violating the right to adequate housing recognised in the Universal Declaration of Human Rights in 1948[16] and in the ICESCR in 1966.[17] Tens of thousands of Bedouins in the Negev/Naqab currently live in homes that are subject to demolition orders due to the lack of approved building schemes for their villages, both recognised and unrecognised. In the case of the dozens of Bedouin villages in the Negev/Naqab that are unrecognised, they remain without approved building schemes, and without the possibility of applying for or receiving building permits, for as long as the Israeli government continues to define them as illegal villages.

Since March 2020, and in spite of the state of emergency and the government's instruction to stay at home,[18] the authorities continued to distribute demolition orders and plough up hundreds of acres of fields

in over a dozen Bedouin villages, both recognised and unrecognised by the state. This illustrates the continuation of the policies implemented in 2019, with a large investment of resources in enforcement, and which led to the demolition of some 2,241 structures during that year.[19]

In response to the request of civil society organisations[20] and a Bedouin Member of the Knesset, Mr. Saeed Al- Kharumi, the Ministry of Justice undertook to halt the demolition of residential structures in the Naqab, reduce administrative demolition orders and minimise direct contact between the National Unit for Enforcing Planning and Construction Laws and the population during the COVID-19 crisis.

Between March and December 2020, NCF continued to monitor the situation, documenting over 85 incidents in which the enforcement authorities continued to distribute demolition warrants and execute demolitions, as well as interrogate livestock farmers and issue fines to herders, mainly for the purpose of harassment.[21] This and more – residents of the villages informed NCF that many inspectors and police officers were patrolling the villages and interacting with the population without taking any of the precautions required to prevent people from spreading the virus. As noted above, these enforcement measures, which are effective in driving the populace to destroy their own property, can and do cause extreme duress, especially during a pandemic.[22]

The rising trend in demolitions

Although data has not yet been released for the demolitions inflicted on Bedouin communities in 2020, the harmful rising trend has continued since 2019, even during the COVID-19 crisis.

There was a slight decrease in the number of building demolitions in 2019, 3.65% fewer than in 2018 (from 2,326 to 2,241), of which 30% (655) were being used as dwellings. The trend in demolitions performed by the owners of the structures (hereinafter "Self-demolitions") continued, amounting to 88% of all structures demolished.[23] Another significant figure is the 146% increase in the number of demolitions undertaken by the owners of structures before any demolition order has been issued – 736 structures in 2019 (33% of all demolitions) compared to

299 structures in 2018.[24] These numbers reflect the individual decisions made by the Arab Bedouin residents to demolish their own residential homes to prevent the replication of former traumatic experiences that involved the violent presence of the police and law enforcement officers.

This rising trend must also be seen in the context of legislative measures determined by the 2017 *Kaminitz Law* designed to increase the enforcement and penalisation of offences under Israeli planning law.[25] This was also accompanied by the adoption of new regulations (in June 2018) that increased the fines for violations of the *Planning and Building Law*, as well as removing judicial oversight from the process.[26] These have increased the pressure on the Arab Bedouin residents to demolish their own structures because of the threat of receiving high fines.

Through judicial orders, heavy administrative fines, the constant presence of supervisors and police officers in the field, and the use of drones the enforcement bodies have contributed to increasing the element of intimidation and threat to Bedouin residents in order to bring them to "agreements" with the Authority for Development and Settlement of Bedouin in the Negev (hereinafter "Bedouin Authority") against their will. These mechanisms are ordained by the Bedouin Authority's priorities and serve "as an incentive... to reach evacuation agreements with the residents."[27]

The State of Israel is using all means at its disposal to concentrate the Bedouin community in large, crowded townships and against the wishes of most members of the community, rather than negotiating fairly to resolve the issue of Bedouin land ownership and settlement. In practice, there is no obstacle to reaching a solution agreed upon by all, one that respects the wishes of the Bedouin population and the aspirations of the state. Dispossession and a policy of aggressive and violent negotiation, including the use of enforcement tools and demolition of homes, will not lead to such a solution. The use of demolitions in the Bedouin communities of the Naqab has devastating consequences, including the disintegration of the community's social structure and a decline in levels of authority, together with feelings of fear and distrust of the state and the authorities acting on its behalf.

Insufficient basic services and emergency response during the pandemic

Arab Bedouin students from the Naqab were harshly affected by the pandemic since the government's decision to switch to remote learning was not accompanied by the required infrastructure needed to continue with online lessons.[28] The Bedouin population has little access to the Internet, and there are difficulties in connecting due to lack of electricity and wireless connection – this is the case in most Bedouin villages and townships.

The proportion of households connected to the Internet in Bedouin localities is only 34%[29] and, in the unrecognised villages, where there is no basic infrastructure for an Internet connection, they are forced to rely on the mobile network. This is also not a real solution, however, since there is no mobile reception at all in many unrecognised villages, while reception in the rest is only partial. The residents are thus not able to connect and most of them lack computers and devices with Internet access. In many communities, access to television or mobile services is also limited. As a result of the crisis, many services and much information was provided online – however, the lack of basic services prevented them from accessing this valuable information, receiving their benefits and allowances, applying for unemployment benefit, and more. Furthermore, there was an opportunity for the government to provide computing devices to every student in need but that plan turned out to be unsuccessful.[30]

There is much concern that many of the students will drop out because of the gaps in access to education and communication. There will apparently be a very significant drop out of Arab Bedouin students in the Naqab – 52% of Arab students are thinking of dropping their studies because the online learning is almost impossible for them to maintain and the university fees are too high for them to afford at the moment.[31] According to the evaluation of Dr. Sarab Abu-Rabia-Queder, the inability of the state to provide timely solutions will result not only in high dropout rates but also in irreversible consequences for the future of the Arab Bedouin youth.[32]

In terms of health, medical services are gravely lacking in unrecognised villages and, for most of the population, the clinics are remote and inaccessible. MDA emergency services have no way of reaching large parts of the unrecognised villages (as there are no paved roads) and, in the absence of public transportation, distance is a major obstacle to receiving medical treatment. Sanitary conditions are dire, particularly due to the lack of running water and lack of sewage systems. The physical conditions of dwellings in the villages do not allow for real isolation. For Arab Bedouin women, this becomes even more difficult as there are currently no appropriate isolation facilities that are culture-sensitive and cater to their needs.

One of the basic conditions for minimising inequality in health is promoting cultural-specific access to information on the part of diverse population groups and communities. While the primary national tool for fighting the pandemic was initially based on active participation and awareness of the population as to the risk of infection, critical information was not made sufficiently accessible. In the early weeks of the COVID-19 crisis, the Ministry of Health exposed a lack of readiness to convey organised messaging in Arabic. The budget allocated by the Ministry of Health for Arabic-language campaigns was only 4.1 million NIS, some 10% of the budget, while the Arabic-speaking sector comprises approximately 20% of Israel's entire population.[33] Moreover, NCF received reports of a shortage of Arabic-language telephone representatives on MDA hotlines, which further limited Arabic speakers' access to healthcare services during the pandemic.[34] With the recent launch of a vaccination campaign for populations at risk and healthcare workers in Israel, only two locations are providing vaccinations in the Naqab: one in Rahat and one in Beer Sheva.[35]

With regard to appropriate isolation facilities for Arab Bedouin women, the government has not found any appropriate and satisfactory isolation solutions for Arab Bedouin living in the Naqab villages. Women from these villages live in homes that offer no real isolation. As of the end of December 2020, no isolation facilities had been established in the Bedouin townships, and the offered solutions were unsuitable for Muslim Bedouin women from the Naqab.

International intervention: unresolved land claims and home demolitions

On 12 October 2020, six UN Special Rapporteurs wrote to the Israeli government with concerns about the treatment of Bedouin communities.[36] Their statement expressed concern particularly at forced evictions and home demolitions in the midst of the COVID-19 pandemic in the Naqab, as well as the use of criminal and administrative sanctions against human rights defenders, including Sheikh Sayah Abu Madhi'm al-Turi and other members of the family from Al-ʿArāgīb. As a result, they requested information on measures provided by the government to protect the residents of the villages and townships in relation to their health risk in the context of the COVID-19 pandemic.[37]

The conclusions of the UN Committee on the Elimination of Racial Discrimination,[38] published in January 2020, expressed concern at house demolitions and the absence of meaningful participation and consultation with Bedouin communities in the formulation of such plans, affecting their access to land and property. The Committee also expressed concern for the limited access to adequate housing, water and sanitation facilities, electricity, and public transportation;[39] and commended several measures taken to improve the situation of Bedouin people, including the adoption of the Socioeconomic Development Plan for Negev Bedouin (2017–2021), and to enhance their educational opportunities and their access to public and social services. The Committee recommended resolving the pending land ownership claims in a timely, transparent and effective manner; recognising the unrecognised villages; taking all necessary measures to improve their living conditions and halting house demolitions and evictions of Bedouin from their ancestral lands.

It furthermore recommended that the State of Israel remove all barriers faced by Bedouin women in terms of obtaining access to employment, education, health care and justice, and incorporate a minority women's perspective into all gender-related policies and strategies. Regarding rights to education, work and health, the Committee expressed its concern as to limitations in employment for the Bedouin communities, and recommended Israel address the high dropout of Bedouin

students and the shortage of classrooms and kindergartens as well as providing education and training for Arab Bedouin women, tailored to their experience and level of job skill.

General outlook for 2021

Arab Bedouin students from unrecognised villages and townships were harshly affected by the pandemic as remote learning was the only alternative offered by the government to continue education programmes during the lockdown. There remains an enormous problem of equity, however, since students who live in unrecognised villages in the Naqab are at a severe disadvantage in remote instruction. Lacking Internet connection, computer devices and electricity demonstrates that while the pandemic clearly exacerbates this problem, it is not the cause. The government needs to solve the equity problem permanently, not just during the pandemic. The opportunity to mitigate the damage would have entailed massive logistical issues in terms of distribution and connecting the Naqab's villages to the Internet but this is what responsive governments do in times of crisis, although our politicians chose not to.

The government recently postponed a motion to vote on the resolution to establish three Bedouin villages that are still unrecognised: ʿAbdih, Rakhamah, and Khašim Zannih.[40] This delay was due to the opposition of most of the right-wing ministers and their demand to vote through the establishment of 46 "young Jewish settlements" (illegal outposts) in the Occupied Territories of the West Bank, as the main priority of national interest.[41] The ministers that disagreed with recognising the Bedouin villages argued that the regularisation of a young Jewish settlement on the West Bank that they had promoted recently had been blocked, and upheld that a government that approved the regularisation of Bedouin villages in the Naqab but not that of a young settlement in the Occupied Territories was in danger of losing its "right to exist". These governmental manoeuvres are based merely on political interests rather than on the benefit of the Arab Bedouin Indigenous people, who unfairly continue to experience a lack of water resources, electricity, paved roads and basic services with which to carry out a dig-

nified life. The decision not to recognise the Bedouin villages is evidently intertwined with the next round of upcoming elections in Israel and the inability of the government to reach an agreement.

Given the crisis in trust among the Bedouin society in the Naqab, and as a result of the government's eviction policy and negligence, only 15% of Arab Israelis aged 50 and over are getting vaccinated, compared to 25.5% of non-Haredi Jews and 27.8% of ultra-Orthodox groups.[42]

Notes and references

1. "The Arab-Bedouin Community in the Negev-Nagab – A Short Background". Negev Coexistence Forum for Civil Equality, accessed 17 February 2020: https://www.dukium.org/the-arab-bedouin-community-in-the-negev-nagab-a-short-background/
2. CBS, Localities and Population, by District, Sub-District, Religion and Population Group, 2018.
3. For an interactive map of the Arab Bedouin villages in the Negev-Naqab, including background and information on services and infrastructure, see: https://www.dukium.org/map/
4. For example, see: http://law.haifa.ac.il/images/documents/ColonialismColonizationLand.pdf
5. Absentee Property Law, 1950. [Hebrew] https://www.nevo.co.il/law_html/Law01/313_001.htm
6. Land Acquisition Law, 1953. [Hebrew] https://www.nevo.co.il/law_html/Law01/p214_002.htm
7. See the NCF Report on demolitions, July 2020, p.8, for more details, available at: https://www.dukium.org/wp-content/uploads/2020/07/HDR-2020-Data-on-2019-Eng-3.pdf
8. Op. Cit. (1)
9. Op. Cit. (7)
10. See the NCF and Adalah's report to UN CERD, January 2019, p.2, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCERD%2fNGO%2fISR%2f37260&Lang=en
11. CBS, Total population estimations in localities, their population and other information, 2018.
12. Op. Cit. (7)
13. Op. Cit. (7)
14. Op. Cit. (7)
15. For more details of these projects and their implications for the Bedouin community, see NCF and Adalah report, 2019, "Joint NGO Report: UN Committee on Economic, Social and Cultural Rights Re: List of Issues for the State of Israel Violations of the ICESCR by Israel against the Arab Bedouin in the Negev/Naqab desert"
16. Declaration of Universal Human Rights, UN, https://www.un.org/en/universal-declaration-human-rights/
17. The United Nations General Assembly. (1966). International Covenant on

Economic, Social, and Cultural Rights. Treaty Series, 999, 171, https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx

18. Explained: New coronavirus guidelines edging Israel closer to total lockdown. (2020). Retrieved 28 December 2020, from https://www.haaretz.com/israel-news/new-coronavirus-guidelines-edging-israel-closer-to-total-lockdown-1.8683889

19. Op. Cit. (7)

20. Ministry of Justice's response to civil society request to stop home demolitions, March 2020, https://www.dukium.org/wp-content/uploads/2020/03/%D7%9E%D7%A2%D7%A0%D7%94-%D7%9E%D7%A9%D7%A8%D7%93-%D7%94%D7%9E%D7%A9%D7%A4%D7%98%D7%99%D7%9D.pdf

21. Coronavirus: As Israel shuts down, authorities destroy Bedouin crops. (2020). Retrieved from: https://www.middleeasteye.net/news/coronavirus-israel-shut-down-authorities-continue-evict-bedouin

22. As part of our multimedia and advocacy project, we have produced a video with a compilation of demolition orders served and execution of demolitions that occurred during the COVID-19 crisis in the Negev. Demolition of buildings in the Naqab during COVID-19. (2020). https://www.youtube.com/watch?v=kcf6pYfY7tQ&t=3s

23. Self-demolitions are carried out by the owners of the structures themselves, after a demolition order has been issued, to avoid the presence of police forces and criminal sanctions that may be imposed on the owners. See the NCF Report on demolitions, July 2020, available at: https://www.dukium.org/wp-content/uploads/2020/07/HDR-2020-Data-on-2019-Eng-3.pdf

24. Ibid

25. Op. Cit. (7)

26. Op. Cit. (7)

27. Southern Administration for the Coordination of Enforcement of Land Laws, 'Summary of Working Year 2019', 2020, p. 21 Section 15 [Hebrew], https://foi.gov.il/sites/default/files/%D7%A1%D7%99%D7%9B%D7%95%D7%9D%20%D7%A9%D7%A0%D7%AA%20%D7%A2%D7%91%D7%95%D7%93%D7%94%202019%20-%20%D7%9E%D7%99%D7%A0%D7%94%D7%9C%D7%AA%20%D7%9E%D7%A7%D7%A8%D7%A7%D7%A2%D7%99%D7%9F%20%D7%93%D7%A8%D7%95%D7%9D.pdf

28. Green, D. (2021). Bedouin in remote Negev villages fend for themselves during COVID-19 pandemic. https://www.haaretz.com/israel-news/.premium-bedouin-in-remote-negev-villages-fend-for-themselves-during-COVID-19-pandemic-1.8799409

29. Abu-Kishk, H. and Mendels, Y., 2020. Digital Divide and Distance learning among Bedouin students during the COVID-19 crisis.

30. The Follow Up Committee on Arab Education-Israel, 2020. Arab life in Israel: Needs and problems that require immediate treatment in preparation for the opening of the 2021-2020 school year.

31. www.calcalist.co.il. 2020. Survey: Half of students fear they will not find a job after graduation. (Hebrew).

32. Everything is political. The Ministry of Education abandons the children and leaves them to take care of themselves, 2020 [Hebrew], https://www.themarker.com/news/education/.premium-1.9282515

33. Rosner, Y., Ziv, H., Litvin, A., Gutzeit, Z. and Majadle, G. (2020). The First 100 Days of COVID-19 in Israel's Healthcare System. [online] Physicians for Human Rights.

34. "Model for developing local emergency response in Arab local authorities to address the challenges of the coronavirus", Sikkuy, April 22, 2020 [Hebrew].
35. Health officer from Clalit (5.1.2021), personal communication.
36. Communication sent to the State of Israel on behalf of the Special Rapporteurs on housing, cultural rights, human rights defenders, Indigenous Peoples, internally displaced persons, minority issues and racism, https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=25601
37. Ibid
38. See the conclusions of the Committee on the Elimination of Racial Discrimination, E/C.12/ISR/CO/4, 27 January 2020. Available at: https://www.un.org/unispal/document/concluding-observations-on-the-combined-seventeenth-to-nineteenth-reports-of-israel-advance-unedited-version-cerd-c-isr-co-17-19/
39. Ibid
40. And there comes the Minister of Settlement, Tzachi Hanegbi. (2021). https://www.haaretz.co.il/opinions/.premium-1.9427890
41. Lazaroff, T. (2021). Settlers start hunger strike, saying they, not Arabs are Netanyahu's base. https://www.jpost.com/israel-news/settlers-start-hunger-strike-saying-they-not-arabs-are-netanyahus-base-654243
42. Boxerman, A. (2021). Officials concerned by low vaccination rate among Arab Israelis, https://www.timesofisrael.com/officials-concerned-by-low-vaccination-rate-among-arab-israelis/

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 organisation 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.*

Palestine

MEDITERRANEAN SEA
PALESTINE
East Jerusalem
ISRAEL
EGYPT
JORDAN

Following Israel's declaration of independence in 1948, the Jahalin Bedouin, together with four other tribes from the Negev Desert (al-Kaabneh, al-Azazmeh, al-Ramadin and al-Rshaida), took refuge in the West Bank, then under Jordanian rule. These tribes are traditionally semi-nomadic agro-pastoralists living in the rural areas around Hebron, Bethlehem, Jerusalem, Jericho and the Jordan Valley.

These areas are today part of the so-called "Area C" of the Occupied Palestinian Territory (OPT), representing 60% of the West Bank. Under the 1995 Oslo Accords, Israel was granted temporary administrative and security control of Area C, which was due to be gradually returned to the Palestinian Authority by 1999.[1, 2] This never happened and today, 25 years after the Oslo Accords were signed, Israel retains near exclusive control of Area C, including over law enforcement, planning and construction. It is home to all West Bank Israeli settlements, industrial estates, military bases, firing ranges, nature reserves and settler-only by-pass roads, all under Israeli military control. Over the years, Israel has dispossessed Palestinians of roughly 200,000 hectares of land, including farmland and pastureland, which it then generously allocated to settlements. Some 630,000 Israeli settlers currently live throughout the West Bank (including East Jerusalem) in over 200 settlements, enjoying nearly all the rights and privileges accorded to Israeli citizens living in Israel proper, inside the Green Line.[3] The recently launched Trump "Deal of the Century" recognises permanent Israeli possession of those settlements, in contravention of the landmark UN Security Council Resolution 2334 of 23 December 2016 which reaffirmed the illegality of Israeli settlements in the West Bank, including East Jerusalem.

The situation of the Indigenous Palestinian Bedouin refugees of 1948, some 27,000 pastoral herders living under full Israeli military control in Area C, is currently a major humanitarian issue. Most at risk are 7,000 Bedouin (60% of whom are children) living in 46 small communities in the Jerusalem Periphery. Donor-funded humanitarian structures (shelters, goat pens, water tanks, schools, solar panels, etc.) continue to be

deliberately targeted for demolition and confiscation, and the war crime of forced displacement by Israeli authorities remains a constant threat.

Arms deals and demolitions

Indigenous issues in Israel-Palestine were mainstream yet as invisible as ever during 2020. *De jure* annexation was a major topic,[4] exacting international criticism at the highest levels.[5] That annexation was supposedly "prevented" by the Abraham Accords of the Trump Administration, since United Arab Emirates' (UAE) communications boasted[6] of a "peace treaty" signed in order to stave off annexation.[7] Hawk eyes soon reported that, in Arabic, the agreement referred to cancelling annexation,[8] while in Hebrew the chosen word was "suspended".[9] Meanwhile, the Israel-UAE "deal" enabled Abu Dhabi to acquire some 50 F-35 stealth fighters and other long-coveted military hardware from the United States,[10] characterising the treaty as more an arms deal than a peace accord, not least since Israel and the UAE have never waged war on each other and are said to have conducted covert business together for many years.[11, 12]

Despite UAE's conviction that it had prevented annexation, *de facto* annexation by ongoing land grab, forcible displacement and continued colonisation has stormed ahead. Israeli military force continues to displace Palestinians, including Bedouin, especially in the Jordan Valley and South Hebron Hills. The pace of demolition, driven by the Israeli settlement enterprise, has been acute this past year, signalling no empathy for Palestinians made homeless in days of mid-winter or COVID-19. On 3 November, US Election Day, Israel demolished an entire village of Bedouin at Khirbet al-Humsa in the Jordan Valley,[13] destroying 83 structures including two solar panel systems, while displacing 73 people, 41 of whom were children, including a new-born baby.[14] As reported by The Independent: "This is despite indications from the Israeli authorities that such orders would be frozen, given the health implications hindering social distancing measures and lockdown amid the coronavirus pandemic."[15]
The demolitions in the Jordan Valley corresponded with the stated aims

of the Trump "Vision for Peace":

> *Israel is given sovereignty over regions seen as important for its security: the Jordan Valley, the Jerusalem corridor, and the area that controls Israel's urban and economic centre, namely Gush Dan and Ben Gurion International Airport. In total area, Israel receives 30% of the West Bank (according to Israel's account), including 115 of the 130 Israeli settlements in the West Bank and 97% of the settlers living there.*[16]

Israel was therefore apparently either staking out that claim by working to remove Indigenous Palestinian Bedouin living there or testing the water to see what response would come from the USA (fully absorbed in its contentious election) or the international community.[17] Indeed, strong words were issued[18] but no price-tag was added to those statements, as ever. Adv. Michael Sfard, a leading Israeli human rights lawyer, wrote in Haaretz:[19]

> *The increase in demolishing Palestinian buildings is achieved under pressure by settler organizations, by an unprecedented investment of manpower and resources for the purpose, and the formulation of truncated procedures for demolitions. In other words, the procedural rights of residents who aspired to challenge the demolition of their homes was sharply reduced, and legal procedures launched to stop demolition orders from being implemented were accelerated, all in order to increase the inventory of structures that can be demolished. If the Israeli government continues to enjoy the de facto immunity of the transition period, and if the transition period lasts long enough, Area C in the West Bank will undergo significant change, primarily acceleration of the present process of causing the Palestinian presence to vanish. Or, in less forgiving words: the ethnic cleansing will accelerate.*

Confirming this opinion was news of the Israeli government budgeting a further USD 6.2 million to monitor "unauthorised Palestinian building" in Area C through the purchase of drones, such as those already in use by Regavim[20] and "erecting fences and closing off various areas, building roads and purchasing electronic monitoring devices."[21]

The UN Office for the Coordination of Humanitarian Affairs (UNOCHA) reports in its overall statistics of forcible displacement for 2020

that 393 people from Bedouin herding communities were displaced by demolitions in Area C, with 2,543 people affected by those demolitions. The demolition of Khirbet al Humsa on 3 November 2020 contributed towards making November's statistics the worst of the year: the Israeli authorities demolished, forced people to demolish, or seized 178 Palestinian-owned structures across the West Bank; the highest such figure in a single month since UNOCHA began systematically documenting this practice in 2009.[22]

These demolitions, which according to international law experts run contrary to International Humanitarian Law (IHL) and human rights principles,[23] throw into distinct focus the limitations of international law when UN member states such as Israel violate it, and other UN member states such as the US choose to ignore it. The lack of accountability for demolitions and other violations in Area C is exacerbated by the overdue ruling from the International Criminal Court (ICC). Moreover, most of Area C (having been due for return to Palestine by 1999) is now being claimed by the Israeli right-wing as "state lands", which they accuse the Palestinian Authority (PA) and the EU of stealing.[24] The fact that a settler NGO, Regavim (describing itself as a "think tank and lobbying group dedicated to the protection and preservation of Israel's sovereignty" and founded by far-right member of the Knesset, Bezalel Smotrich), is partly funded by the Israeli government[25, 26] starkly reflects its true status. Yet its members and supporters ignore the human suffering they are causing, while claiming they are "simply upholding the law".

The case of al-Khan al-Ahmar

On 15 December 2020, UNOCHA launched its Humanitarian Response Plan on Facebook.[27] The director of Regavim's international division trolled humanitarians attending the virtual launch, presumably feigning innocence (without channelling the fact that Regavim is, for example, petitioning the High Court for immediate demolition of al-Khan al-Ahmar and its iconic "car tyres" school):

> *Was this school built legally? Does it have any sewage, water, electricity? Has the Civil Administration been involved in its construction? Is there a safe school in Area B nearby? How many people live in the "community" this school serves? Per-*

haps a better use of resources would be a school bus?
A humanitarian worker responded:

> *The closest school for the particular community is several km away - a difficult trek/walk for students to walk to and from school, particularly in the winter months. To reach the area, children would have to walk across highways, through a rock mini quarry and hills. The specific school in Ras Al-Tin provides education for 50 students within those communities. The school has very basic WASH (sanitation) facilities.*

The response: "Perhaps applying for a construction permit would ensure normal conditions for these children - sewage and electricity, Internet and playground, pavement and access road?"

UNICEF Palestine responded: "Irrespective of planning laws, which themselves may be in contravention of international law, children have a right to education."

The humanitarian replied: "Well said UNICEF, and recalling that destruction of property, irrespective of motive, and absent military necessity, is prohibited, and conducted in an extensive and wanton fashion, would be a grave breach of IHL, to which Israel is accountable."

Yet that same Regavim spokesperson in 2018, at the High Court, during a hearing on the demolition of al-Khan al-Ahmar, spoke contemptuously about Indigenous Bedouin, the refugee desert-dwellers living in Area C: "It's the 21st century. Everyone moves to cities. They have to accept that as a fact of life."[28] At a time when cities are increasingly seen as reservoirs of COVID-19 and major sources of carbon emissions, the fact that to date only two Bedouin, living in rural communities, have succumbed to the virus should render such an opinion highly questionable in 2021. Indeed, they who undertake "law-fare" as a policy for forcible displacement often themselves live in homes built illegally in settlements.[29, 30]

The lawyer for al-Khan al-Ahmar's Bedouin, Adv. Tawfiq Jabareen, stated in his summation of the November 2020 hearing: "We are trying to solve the problem of Khan al-Ahmar by an outline plan that we submitted before two years to the Israeli legal system and they refused to deal with it."[31] The issue of the Civil Administration planning committee refusing in 2018 to review the Bedouin's master plan (while informing the High Court that the committee meeting had taken place, as if it had

"gone by the book") suggests a deeply flawed system in such cases.

The Israeli government highlights the lack of Israeli-issued building permits when demolishing or forcing Palestinians to destroy homes and sources of livelihood but the UN and rights groups refer to the fact that these are almost impossible for Palestinians to obtain. Yvonne Helle, a senior UNDP official in the Palestinian territories, criticised the Coordinator of Government Activities in the Territories' (COGAT)[32] reasoning for demolishing the entire village of Khirbet al-Humsa, some of which had been donated as humanitarian aid: "The lack of Israeli-issued building permits is typically cited as a reason, even though, due to the restrictive and discriminatory planning regime, Palestinians can almost never obtain such permits. Demolitions are a key means of creating an environment designed to coerce Palestinians to leave their homes."[33]

Such a planning regime does indeed have that ulterior motive – as evidenced by both Regavim's and the State's position when responding in the High Court: to move Palestinians out of Area C into Areas A and B, leaving Israel with the 60% of the West Bank cleansed of its Palestinian inhabitants. This is an area where the main water sources are already weaponised under Israeli control, in which farmland (and therefore the Palestinian food basket) is located, together with strategic assets such as access to Jerusalem and its tourism revenues, Dead Sea minerals, the Jordanian border (i.e. Palestinian state sovereignty, since borders define states,[34] with Israeli control of the Allenby Bridge border denying Palestine its border control, a quintessential exercise of sovereignty),[35] and which has a territorial and transport contiguity that makes today's 620,000 settlers so totally integrated into "mainstream" Israel (inside the internationally recognised "Green Line" border), especially through the huge Israeli highway system extending into occupied territory. Trump's "vision" of gifting 30% of the West Bank might therefore be wrapped in the language of "economic peace" but closer scrutiny reveals policies of deliberate de-development premised on serious breaches of international law.

Criticism of Israel's policies

Those Israeli policies, especially of demolition, have been met with harsh words by the international community present in Israel, Palestine

and the capitals. For example the EU has unequivocally stated:

> *Israeli domestic laws, creating the basis for the claims to evict the families, do not exempt Israel, as the occupying power, from meeting its obligations to administer the occupied territory in a manner that provides for and protects the local population. Israel has not acquired sovereignty over the territory in the course of its administration. In line with the EU's long-standing position on Israel's settlement policy, illegal under international law, and actions taken in that context, such as forced transfers, evictions, demolitions and confiscations of homes, the EU calls on the Israeli authorities to reverse the rulings on the intended evictions. The EU missions in Jerusalem and Ramallah recall the successive Foreign Affairs Council Conclusions and statements in which the EU has repeated its strong opposition to Israel's settlement policy and actions taken in this context, including evictions. This policy is illegal under international law and its continuation undermines the viability of the two-state solution, the prospect for a lasting peace and seriously jeopardizes the possibility of Jerusalem serving as the future capital of both States.*[36]

When inaugurating a new school in Area C, funded by the EU and French Development, EU Representative, Sven Kühn von Burgsdorff, echoed this reading of international law: "We also repeat our call on the Israeli authorities, as the occupying power, to respect their obligations under international humanitarian law, with a view to ensuring the welfare of the Palestinian population under their control."

The EU press release added:

> *This newly inaugurated school building is part of the EU and Member States' support to developmental interventions in Area C. All EU activity in the West Bank is fully in line with international humanitarian law. The EU provides humanitarian assistance to communities in need in Area C in accordance with the humanitarian imperative. The EU also works with the Palestinian Authority to develop Area C and support Palestinian communities. This includes projects promoting economic*

> *development and improving the quality of life of Palestinian communities in the areas of private sector development, environment and agriculture.*[37]

It comes as no surprise that 43 Palestinian schools in Area C and eight in East Jerusalem bear Israeli demolition orders.[38] What is perhaps surprising is how many settlement units, including in Kfar Adumim, al-Khan al-Ahmar's neighbour, are without permits (150 were cited in court by al-Khan al-Ahmar's lawyer), as are the homes of Regavim's staff.[39] Or, as J Street (a US-based organisation "created to serve as the political home and voice for pro-Israel, pro-peace Americans")[40] states:

> *The demolitions and displacement brought on by settlement expansion inflict a heart-breaking, incalculable cost on the individual communities that are targeted — destroying the lives of families simply trying to build a better future. In the long run, by obstructing progress towards a two-state solution, the settlement expansion and displacement advanced by Regavim also exacerbates conflict and imperils the future of both Israelis and Palestinians.*[41]

As for the invisible Bedouin: the November 2020 High Court hearing of Regavim's petition calling for the immediate demolition of al-Khan al-Ahmar gave the Israeli government until July 2021 to respond. Speculation suggests the government may wish to avoid antagonising the incoming Biden Administration. Or wait until after Israel's March elections. Or until a new system, now being developed, for registering "state lands" in Area C is instituted, in order to undermine Bedouin claims that they are living on privately-owned Palestinian land, leased from its owners.

The High Court ruling came after a three-hour session, an hour of which was behind closed doors. The court failed to facilitate attendance by the Bedouin themselves or allow for a postponement until such time as they could attend; due to COVID-19, only 17 members of the public were allowed to enter the court – so none of those diplomats present witnessed the proceedings either. One thing is certain: the court issued no injunctions against demolition orders active on every structure at al-Khan al-Ahmar, including the school. The military visited the village next morning, reviewing every structure. *Ergo*, demolition could take place at any time.

Notes and references

1. Peace Agreements & Related. "Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip (Oslo II)." 28 September 1995. https://www.refworld.org/docid/3de5ebbc0.html
2. Pundak, Ron. "Decoding Bibi's West Bank Agenda." Haaretz, 1 August 2012. https://www.haaretz.com/opinion/decoding-bibi-s-west-bank-agenda-1.5275189
3. B'Tselem. "Expel and Exploit: The Israeli Practice of Taking over Rural Palestinian Land". December 2016. https://www.btselem.org/publications/summaries/201612_expel_and_exploit
4. B'Tselem. "With or without flights to Abu Dhabi, Israel annexed the West Bank long ago." 27 October 2020. https://www.btselem.org/press_releases/20201027_the_annexation_that_was_and_still_is
5. Liebermann, Oren, and Abeer Salman. "UN and EU slam Israel after West Bank demolition leaves 73 Palestinians homeless." CNN, 5 November 2020. https://edition.cnn.com/2020/11/05/middleeast/israel-west-bank-khirbet-humsa-intl/index.html
6. Federman, Josef, Jon Gambrell, and Matthew Lee. "UAE to establish diplomatic relations with Israel to halt annexation of occupied West Bank lands." Chicago Tribune, 13 August 2020. https://www.chicagotribune.com/nation-world/ct-nw-israel-uae-diplomatic-relations-20200813-brnte7wasncalme6fkj7ksk3ey-story.html
7. MEE and agencies. "UAE official says annexation of West Bank will not end normalisation deal." Middle East Eye, 1 September 2020. https://www.middleeasteye.net/news/uae-admits-annexation-wont-collapse-deal
8. al-Mughrabi, Nidal, and Dan Williams. "Stop or suspend West Bank annexation? Devil in the detail for Israel-UAE deal." Reuters, 2 September 2020. https://www.reuters.com/article/us-israel-emirates-usa-communique-idUSKBN25T2FE
9. Middle East Monitor. "UAE envoy says Israel postponed West Bank annexation for normalisation deal." 28 September 2020. https://www.middleeastmonitor.com/20200928-uae-envoy-says-israel-postponed-west-bank-annexation-for-normalisation-deal
10. Turak, Natasha. "UAE to get its first Reaper drones, clinches F-35 deal as Trump administration pushes through final arms sales." CNBC, 12 November 2020. https://www.cnbc.com/2020/11/12/uae-set-to-get-its-first-reaper-drones-clinch-f-35-deal-as-trump-administration-pushes-through-final-arms-sales-.html
11. Bowen, Jeremy. "Five reasons why Israel's peace deals with the UAE and Bahrain matter." BBC, 14 September 2020. https://www.bbc.com/news/world-middle-east-54151712
12. Guzansky, Yoel, and Ari Heistein. "Is the Israel-UAE agreement a game changer for Israel?" Middle East Institute, 16 September 2020. https://www.mei.edu/publications/israel-uae-agreement-game-changer-israel
13. Aljazeera. "Israeli army razes entire village in occupied West Bank." 4 November 2020. https://www.aljazeera.com/news/2020/11/4/israeli-troops-raze-an-entire-village-in-occupied-west-bank
14. Magid, Jacob. "Already neglected, Jordan Valley Palestinians fear Trump plan will confine them." The Times of Israel, 12 June 2020. https://www.timesofisrael.com/already-neglected-jordan-valley-palestinians-fear-trump-plan-will-confine-them/
15. Foreign Desk. "Largest Israeli demolition in a decade displaces dozens of Palestinians in the West Bank." Independent, 4 November 2020. https://www.

independent.co.uk/news/world/middle-east/israel-west-bank-demolition-palestine-netanyahu-un-b1590169.html
16. The White House. "Peace to Prosperity." January 2020. https://www.whitehouse.gov/wp-content/uploads/2020/01/Peace-to-Prosperity-0120.pdf
17. Tirza, Dan. "Among the Maps: President Trump's Vision vs. An Israeli Proposal." Washington Institute, 14 August 2020. https://www.washingtoninstitute.org/policy-analysis/among-maps-president-trumps-vision-vs-israeli-proposal
18. Department of Foreign Affairs, Ireland. "Statement by Minister Coveney on demolitions in the West Bank. 6 November 2020. https://www.dfa.ie/news-and-media/press-releases/press-release-archive/2020/november/statement-by-minister-coveney-on-demolitions-in-the-west-bank.php
19. Sfard, Michael. "Gantz, Stop the Ethnic Cleansing in the West Bank." Haaretz, 31 December 2020. https://www.haaretz.com/israel-news/.premium-gantz-stop-the-ethnic-cleansing-in-the-west-bank-1.9414960
20. Hass, Amira. "Settlers Control the Drones. The Israeli Army Then Pulls the Trigger." Haaretz, 4 January 2021. https://www.haaretz.com/opinion/.premium-settlers-control-the-drones-the-israeli-army-then-pulls-the-trigger-1.9423245
21. Shezaf, Hagar. "Israel to Fund Drones, Patrol Units to Monitor Unauthorized Palestinian Construction." Haaretz, 31 December 2020. https://www.haaretz.com/israel-news/.premium-israel-to-fund-drones-patrol-units-to-monitor-unauthorized-palestinian-construction-1.9415601
22. OCHA Occupied Palestinian Territory. "West Bank demolitions and displacement." November 2020. https://www.ochaopt.org/content/west-bank-demolitions-and-displacement-november-2020
23. Boutruche, Théo, and Marco Sassòli. "Expert Opinion on the Occupier's Legislative Power over an Occupied Territory Under IHL in Light of Israel's On-going Occupation." June 2017. https://www.nrc.no/globalassets/pdf/legal-opinions/sassoli.pdf
24. Regavim. "The Roots of Evil: Land Theft in Area C is Creating a De Facto Palestinian State." Last modified November 2018. https://www.regavim.org/the-roots-of-evil-land-theft-in-area-c-is-creating-a-de-facto-palestinian-state
25. Bob, Yonah Jeremy. "Right-wing NGO using Israeli state funds to fight gov't in High Court." The Jerusalem Post, 21 November 2017. https://www.jpost.com/israel-news/right-wing-ngo-using-israeli-state-funds-to-fight-govt-in-high-court-514820
26. Berger, Yotam. "How Israeli Taxpayers Are Funding a Right-wing NGO Dedicated to Getting Palestinians Evicted. Haaretz, 19 January 2018. https://www.haaretz.com/israel-news/israeli-right-wing-ngo-regavim-gets-millions-of-shekels-in-public-fund-1.5744933
27. United Nations OCHA Occupied Palestinian Territory. "Launch of the 2021 Humanitarian Response Plan." Facebook, 15 December 2020. https://fb.watch/2L3e8kLzMR/
28. Schwartz, Yehuda Alain. "Facebook Live." Facebook, 1 August 2018. https://www.facebook.com/yehuda.schwartz/videos/10157777276889498
29. Ahronoth, Yedioth. "7 Days." 6 June 2018. http://docs.wixstatic.com/ugd/cdb1a7_a8795a3be9b84f078c4c9e78aef00a09.pdf
30. Google Maps. "Regavim." 2021. https://www.google.com/maps/d/u/0/viewer?mid=1hj8rZx62sxCQN8T-_2bYrOXRtnD9dMkM&ll=31.69470128611766 3%2C35.1956493197697&z=10
31. AP Archive. "MEEX MEA Court." 29 November 2020. http://www.aparchive.com/metadata/MEEX-MEA-Court/7038c41cde684fbdaf378108b4cfe432

32. COGAT – Coordination of Government Activities in the Territories
33. Liebermann, Oren, and Abeer Salman. "UN and EU slam Israel after West Bank demolition leaves 73 Palestinians homeless." CNN, 5 November 2020. https://edition.cnn.com/2020/11/05/middleeast/israel-west-bank-khirbet-humsa-intl/index.html
34. Nail, Thomas. Review of the politics of borders: Sovereignty, security, and the citizen after 9/11, by Matthew Longo. Contemporary Political Theory, 19, 3 (2020): S206-S209. https://link.springer.com/article/10.1057/s41296-019-00316-0
35. Ferris, Elizabeth, and Susan F. Martin. "Border Security, Migration Governance & Sovereignty." Perry World House, 8 December 2017. https://global.upenn.edu/perryworldhouse/blog/border-security-migration-governance-sovereignty
36. The Office of the European Union Representative (West Bank and Gaza Strip, UNRWA). "Local EU statement on the imminent risk of eviction of Palestinian families in East Jerusalem." 11 December 2020. https://eeas.europa.eu/delegations/palestine-occupied-palestinian-territory-west-bank-and-gaza-strip/90415/local-eu-statement-imminent-risk-eviction-palestinian-families-east-jerusalem_en
37. Consulate General of France in Jerusalem. "Inauguration of the Furush Beit Dajan school in zone C." 23 September 2020. https://jerusalem.consulfrance.org/Inauguration-de-l-ecole-de-Furush-Beit-Dajan-en-zone-C
38. OCHA, ReliefWeb. "Schools under the risk of demolition in the West Bank 2019." 22 June 2020. https://reliefweb.int/map/occupied-palestinian-territory/schools-under-risk-demolition-west-bank-2019
39. Ahronoth, Yedioth. "7 Days." 6 June 2018. http://docs.wixstatic.com/ugd/cdb1a7_a8795a3be9b84f078c4c9e78aef00a09.pdf
40. J Street. "The political home of pro-Israel, pro-peace Americans." 2021. https://jstreet.org/
41. Schinazi, Yann. "The Hypocrisy of Regavim- The Settler Movement's Cheerleader for Demolitions." J Street, 13 June 2018. https://jstreet.org/the-hypocrisy-of-regavim-the-settler-movements-cheerleader-for-demolitions/#.X_DKTtgzY2w

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Russian Federation

Indigenous Peoples are not recognised by Russian legislation as such; however, Art. 67 of the current constitution guarantees the rights of "Indigenous Minority Peoples", (literally: "Indigenous small-numbered peoples"). The 1999 Federal Law "On Guarantees of the Rights of the Indigenous Minority Peoples of the Russian Federation" specifies that Indigenous Minority Peoples are groups of less than 50,000 members, perpetuating some aspects of their traditional ways of life and who continue to live on their ancestral lands.[1] According to this and two other framework laws that were enacted during the late Yeltsin era, Indigenous Minority 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-centralisation 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 recognised as "Indigenous Minority Peoples". Of those, 40 inhabit or used to inhabit places in "the North, Siberia and the Far East". The latter together number around 260,000, less than 0.2% of the total Russian population, of which ethnic Russians account for roughly 80%. One more group, the Izhma Komi or Izvatas, is seeking recognition, which continues to be denied, and at least one other, the Kerek, is already extinct. Seven more Indigenous Minority Peoples live in European Russia.

Larger peoples, for example the Tuvans and Yakuts, are not officially considered Indigenous Peoples, and their self-identification varies. Since the Russian annexation of Crimea, several ethnic groups who self-identify as Indigenous have come under Russia's control: the Crimean Tatars, the Krymchaks and the Karaim; however, Russia has not recognised this self-identification.

Two-thirds of Indigenous Peoples are rural and largely depend on traditional subsistence strategies such as fishing,

hunting and reindeer herding, while Russia as a whole, is a highly urbanised country.

Civil society in Russia is affected by continually shrinking civic space. Since 2012, NGOs that receive foreign funding can be officially classified "foreign agents", leading many of them to close down in order to minimise exposure to legal risks. Many foreign NGOs have been banned as "undesirable organisations".

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. Like many resource-rich countries, Russia is heavily affected by the "resource curse", fuelling authoritarianism, corruption and bad governance and which, in many ways, impacts negatively on the state of Indigenous Peoples' human rights and limits opportunities for their effective protection.

Russia has not ratified ILO Convention 169 and nor has it endorsed the UNDRIP. The country has inherited its membership of the major UN Covenants and Conventions from the Soviet Union: the International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), International Convention on the Elimination of all Forms of Discrimination Against Women (ICEDAW) and Convention on the Rights of the Child (CRC). It also has ratified the Framework Convention on the Protection of National Minorities (FCNM) of the Council of Europe.

New constitution

The legislative change with the most impact on the country on a whole was the amendment of the constitution, which *inter alia*, allows serving President Vladimir Putin to remain legally in power until 2036.[2]

The updated constitution has preserved all of the most important norms concerning the rights of Indigenous Peoples. However, prior to amendment, Article 69 exclusively dealt with Indigenous Peoples, guaranteeing the rights of Indigenous Peoples in accordance with international treaties, principles and norms, thus emphasising, *inter alia*, the rights of Indigenous Peoples to the lands and resources traditionally used by them. In the amended version, however, this is diluted by the inclusion of two new paragraphs, including one on protecting the cultural identity of ethnic Russians abroad.

Other laws and executive measures

A Federal Law entitled *"On State Support for Entrepreneurial Activity in the Arctic Zone of the Russian Federation"*[3] was adopted on 13 July. Under public pressure, and at the suggestion of the parliament of Sakha Republic (Yakutia), an Article 28 was added entitled: *"Targeted state support measures for traditional economic activities of Indigenous Minority Peoples of the Russian Federation carried out in the Arctic zone"*.

According to this article, in order to protect and support the traditional economic activities of Indigenous Peoples in the Arctic Zone, the government will approve a programme of state support. Furthermore, the federal body in charge will, in coordination with the Arctic Zone's public council, approve a "responsibility standard for residents of the Arctic Zone in relation to the Indigenous Minority Peoples of the Russian Federation residing and/or carrying out traditional economic activities in the Arctic Zone". At the time of writing, this programme was not available to the public, while the Responsibility Standard, although approved by the Arctic Zone Civic Council in September 2020, is still pending approval by the government.

In October, the president issued a decree *"On the Strategy for the Development of the Arctic Zone of the Russian Federation and on Ensuring National Security for the Period until 2035"*.[4] In an open letter issued by the Indigenous Network Aborigen Forum (AF) in response to the decree, Indigenous activists pointed to the lack of conditions in the Strategy for a self-determined development of Indigenous Peoples and, in particular, to Russia's long-standing failure to implement the 2001

Federal Law On Territories of Traditional Nature Resource Use, which would require Indigenous territories to be delineated and titled prior to the granting of concessions to business enterprises or the deployment of military installations. AF further noted that Russia was duty-bound to ensure good-faith consultations and respect of the right to FPIC when it came to Arctic development.[5]

In September, the Russian government issued a decree regarding consultation and compensation for Indigenous Peoples for damages inflicted on the areas of their traditional occupation.[6] The Evenk association "Arun" noted that the decree is informed by a strategy that seeks to support and promote an extractivist agenda and further deepen the dependence of the government and many regional governments on oil, gas and other mineral revenues.[7]

The decree violates the right to FPIC by establishing government-picked regional Indigenous Councils who are going to represent the Indigenous side in any written agreements, even though they are not legally incorporated. According to the decree, draft agreements will be announced to the public via the media, and people will be able to comment; however, this process in no way complies with the state's duty of good-faith consultation with Indigenous Peoples.[8]

The "List of members of Indigenous Peoples" – ending collective rights

A highly consequential decree was passed by the government on 23 September, entitled *"On the Approval of the Rules for the Maintenance of the List of Persons Belonging to Indigenous Minority Peoples"*.[9]

The decree operationalises a new provision "on the registration of persons belonging to Indigenous Minority Peoples" that had previously been added to the framework Federal Law "On Guarantees of the Rights of the Indigenous Minority Peoples of the Russian Federation". Confirming the worst fears of the Indigenous activists, the addition limits most of the rights and entitlements of Indigenous Peoples in Russia to persons included on the List, thus officially turning most substantive rights from collective into individual rights that can be granted or withheld by authorities, signalling a final departure from a rights-based approach

to legislation.

The new Article 7.1 of the law "On Guarantees" introduces a complicated bureaucratic procedure for those wishing to be included on the List, including an 11-page-long application template. In addition to proof of ethnicity, the applicant is required to provide several pieces of documentary evidence, including registration of residence, traditional occupation, membership of an Indigenous community, taxpayer identification number and social security number, which most nomadic or semi-nomadic Indigenous people do not have.

At the same time, the decree specifies that, to be eligible for inclusion on the List, an applicant must be registered in an area listed on the federal register of traditional settlements and that he or she must engage in a traditional activity listed in the federal register of traditional economic activities of Indigenous Minority Peoples, both documents adopted by the Russian government in 2009.[10]

Both registers have long been criticised because, for some territories, the register of settlement areas lists only the settlements themselves and not the places where their hunting, fishing, gathering and reindeer herding activities are carried out. The register of traditional economic activities is also outdated. It has been criticised for not including traditional activities related to the preservation and development of native languages, traditional culture and its promotion, teaching of traditional knowledge, activities and skills, including those related to the development of ethno-tourism.

The legislation adopted in 2020 reflects a paradigm shift. While the 1999 Federal Law on Guarantees reflected the "traditionalist" view, whose proponents believe that the Indigenous Peoples themselves must decide on their development and the state should limit itself to a protective role, since the early 2000s proponents of the state-led "modernisation" concept, similar to that implemented in the Soviet period in 1930-1970s, have gained the upper hand in defining the state's approach to Indigenous Peoples.[11] The "modernisers" reject ideas fundamental to international human rights law such as the special relationship Indigenous Peoples have to their land and traditional way of life and their right to freely choose their path of development and the right to autonomy.

Before the introduction of the amendments, some 260,000 Indig-

enous people of the North had the prerogative of priority use of traditional natural resources, tax exemptions for their use, early retirement and other rights and entitlements. While pretending that the new legislation is introduced in the interests of Indigenous Peoples, the Russian government seems to be seeking to dramatically reduce the number of beneficiaries of state benefits, disempower Indigenous Peoples as collective rights holders, and erode their Indigenous identity.[12]

Gennady Shchukin, a Dolgan activist and member of the local council of Taimyr peninsula, a formerly autonomous Arctic territory belonging to Krasnoyarsk Krai commented:

> *You [the government] have already divided our people, separating our intelligentsia from the tundra people, children from parents, pensioners from grandchildren, wife from husband, by the List even before it has come into force. The people cannot be divided into "asphalt" and "dirt road" people. A people cannot be on the List or not be on the List. A people is one entity, in its diversity.*[13]

Indigenous territories hit by environmental disasters

Meanwhile, in May, a major industrial accident affected the Indigenous territories of Taimyr when an oil storage facility owned by a subsidiary of the mining giant Norilsk Nickel spilled some 20,000 tonnes of oil products, which leaked into soils, rivers and lakes near the mining city of Norilsk.

In July, the Russian Agency for Environmental Monitoring estimated the amount of environmental damage from the spill at 148 billion roubles, or approximately 1.67 billion Euro.[14] The head of the Federal Fisheries Agency estimated that it would take at least 18 years to recover fish stocks in the Taimyr.[15]

The disaster had a major effect on the Indigenous communities of the area for whom freshwater fish from the lakes and rivers of Taymyr is an important source of food.[16]

In December, seven months after the disaster, it was announced

that a total of 699 people would be compensated by the company responsible for the disaster.[17] A total of 174 million roubles, 1.9 million Euro had been allocated, meaning that each party on average will receive a total of 2,750 Euro in compensation for having lost their livelihood, probably for good. The compensation agreement was rubber-stamped by the government-controlled national umbrella organisation of Indigenous Peoples, RAIPON.[18] There is no assistance earmarked for those victims who will have to change their place of residence, buy a new house, take up a new profession, look for a job, etc.

In August, Indigenous rights activists form Russia appealed to Elon Musk,[19] the head of Tesla – one of the largest consumers of Nornickel products – to not buy from Nornickel unless the company:

- Undertakes an assessment of the cumulative environmental damage in the Taimyr Peninsula and Murmansk Region [another Russian region with Nornickel production facilities];
- Compensates the Indigenous Minority Peoples for damage to their traditional way of life caused by the company's operations;
- Prepares and funds a remediation plan for the territories in the Taimyr Peninsula and Murmansk Region contaminated by the company;
- Revises its policy on Indigenous Peoples to include the provisions of the UN Declaration on the Rights of Indigenous Peoples on the right to free, prior and informed consent.

Industrial projects without consent

In Chukotka, Indigenous reindeer herders are being threatened by a major industrial project already approved by the Russian government, but without consent from local Indigenous communities: the construction of a mining and processing complex, a road linking it to the bay, and the construction of a new port at Cape Nagleynyn.

Cape Nagleynyn and the entire Chaun Bay are surrounded by nature reserves that protect the spring migration of geese and other waterfowl. The port will be right on the Cape, known to locals as the heart of Chukotka. On both sides of the bay are two villages, Rytkuchi and Ayon,

where a total of 600 people, families of Indigenous reindeer herders, live.

In desperation, the Indigenous Chukchi wrote a letter to the governor and their senator, with a copy to the UN representation demanding a halt to the construction and organisation of proper consultations with the affected communities. In response, the communities received a letter from the local authorities informing them that consultations had already taken place albeit in other locations.[20]

In the Murmansk region, a government-approved project to develop the Fedorov Tundra platinum deposit, located in areas traditionally inhabited by Saami Indigenous Peoples, is also underway. Saami leaders are trying to get in touch with Rostekh, the company that won the tender, to no avail.[21] The Saami know all too well the consequences of such projects, for these have been developed on their ancestral lands since the Soviet industrialisation of the 1930s. As a result, land and water bodies in large areas of Murmansk region are now contaminated and vast stretches of forest destroyed.

International human rights mechanisms

The only human rights mechanism that concluded a review in 2020 was the Framework Convention for the Protection of National Minorities (FCNM) of the Council of Europe (COE). On 8 December, the COE's Committee of Ministers adopted resolution CM/ResCMN(2020)14[22] concluding its review of the Russian Federation, which as the first item on its "recommendations for immediate action" asks Russia to:

> *Take resolute measures to guarantee full and effective equality for persons belonging to national minorities; strengthen efforts to implement the Concept Paper for the sustainable development of indigenous small-numbered peoples; ensure that conditions are in place for persons belonging to Indigenous Peoples to maintain and develop their cultures in the widest sense and provide for their effective participation in matters concerning them, including the use of land and resources.*

Meanwhile, on 14 August 2020, the UN Committee on Civil and Political Rights/Human Rights Committee adopted a list of Issues on the Russian Federation (UN Document CCPR/C/RUS/Q/8),[23] paragraph 16 of which requests Russia to respond to its previous concluding observations and

> *describe the measures taken to respect and protect the rights of indigenous peoples, including their right to recognition as indigenous, and to ensure their free, prior and informed consent in any decisions affecting them, especially with regard to the operations of extractive industries.*

It refers to the case of the Shor village of Kazas, whose sacred mountain has been desecrated by mining, and the situation of the two leading Indigenous rights defenders from this village, now exiled in Sweden, asking Russia to:

> *Indicate the measures taken in law and practice to prevent the pollution of the air and soil, the degradation of drinking water- and the destruction of sacred sites and burial sites, such as the sacred mountain Karagay-Lyash, as a result of industrial operations. Respond to the allegations of the harassment of indigenous human rights defenders, including Vladislav Tannageshev and Yana Tannagesheva, and the forced liquidation of indigenous organizations, such as the Centre for Support of Indigenous Peoples of the North.nageshev and Yana Tannagesheva, and the forced* liquidation of indigenous organizations, such as the Centre for Support of Indigenous Peoples of the North.

Notes and references

1. Russian Federation. "О гарантиях прав коренных малочисленных народов Российской Федерации." http://pravo.gov.ru/proxy/ips/?docbody=&nd=102059473
2. ГОСУДАРСТВЕННАЯ ДУМА, ФЕДЕРАЛЬНОГО СОБРАНИЯ РОССИЙСКОЙ

ФЕДЕРАЦИИ. "Constitution of the Russian Federation as amended in 2020." 2020. http://duma.gov.ru/news/48953/ Adopted by popular referendum on 12 December 1993 and amended by a nationwide referendum on 1 July 2020.

3. Russian Federation. "*O gosudarstvennoj podderzhke predprinimatel'skoj dejatel'nosti v Arkticheskoj zone Rossijskoj Federacii*" Law N 193-FZ, 13 July 2020. http://www.consultant.ru/document/cons_doc_LAW_357078/
4. Ukaz Prezidenta Rossijskoj Federacii."O Strategii razvitija Arkticheskoj zony Rossijskoj Federacii i obespechenija nacional'noj bezopasnosti na period do 2035 goda." g. № 645, 16 October 2020. http://kremlin.ru/acts/bank/45972
5. Indigenous Russia. "Открытое заявление Абориген Форума о Стратегии развития Арктической зоны Российской Федерации и обеспечении национальной безопасности на период до 2035 года." https://indigenous-russia.com/archives/8894
6. Постановление Правительства РФ."Об утверждении Положения о порядке возмещения убытков, причиненных коренным малочисленным народам Российской Федерации, объединениям коренных малочисленных народов Российской Федерации и лицам, относящимся к коренным малочисленным народам Российской Федерации, в результате нанесения ущерба исконной среде обитания коренных малочисленных народов Российской Федерации хозяйственной деятельностью организаций всех форм собственности, а также физическими лицами" N 1488, 18 September 2020. http://www.consultant.ru/document/cons_doc_LAW_362663/
7. Indigenous Russia. "Обращении общественной организации КМНС Эвенкийского района Красноярского края "Арун" в органы власти по вопросу о несоответствии действующему законодательству Положения о порядке возмещения убытков, причиненных КМНСС и ДВ РФ в результате нанесения ущерба исконной среде обитания коренных народов." 12 October 2020. https://indigenous-russia.com/archives/8862
8. Ibid.
9. Постановление Правительства РФ."Об утверждении Правил ведения списка лиц, относящихся к коренным малочисленным народам Российской Федерации, предоставления содержащихся в нем сведений, а также осуществляемого в связи с его ведением межведомственного взаимодействия." N 1520, 23 September 2020. http://www.consultant.ru/document/cons_doc_LAW_363124/
10. Контактная информация. Pravila vedenija Spiska lic, otnosjashhihsja k korennym malochislennym narodam Rossii. 23 September 2020. http://www.consultant.ru/document/cons_doc_LAW_363124/f137c37d1b99e9cdc923c63d3039b9f12ae39049/
11. Tishkov V.A. Rekviem po etnosu: Issledovanija po social'no-kul'turnoj antropologii. M.: Nauka. 2003. S. V. Sokolovskij Nasel'niki i nasil'niki: opyt kriticheskogo analiza ponjatij "korennye narody", "men'shinstva" i "migranty": Novye etnicheskie gruppy v Rossii. Puti grazhdanskoj integracii (pod red. Stepanova V.V., Tishkova V.A.) — M.: FGNU "Rosinformagroteh", 2009.
12. Britskaya, Tatiana. "Учти меня, олень! ФСБ берет под полный контроль малые народы. Это-то еще зачем?!." Novaya Gazeta, 9 September 2020. https://novayagazeta.ru/articles/2020/09/09/87006-uchti-menya-olen
13. Ibid.
14. See RBC. "Rosprirodnadzor ocenil summu jekologicheskogo ushherba ot razliva TJeC-3." Noril'skogo Nikelja, 2 October 2020. https://www.rbc.ru/

business/02/10/2020/5f748a779a79478068822a48
15. Kommersant. "Росрыболовство оценило ущерб от аварии в Норильске в 3,5 млрд рублей.." 25 September 2020 https://www.kommersant.ru/doc/4508805
16. Pimenov, Dmitry. "My poterjali vozmozhnost' pit' chistuju vodu": kak avarija na TJeC v Noril'ske otrazilas' na zhizni narodov Tajmyra." Enisey, 22 September 2020, https://www.enisey.tv/news/post-25017/
17. Сибирь Реалии. ""Норникель" заплатит компенсацию коренным народам Таймыра." 22 December 2020. https://www.sibreal.org/a/31012882.html
18. Agentsvo Neftegazovoi Informatsii. "Na Taimyre korennym narodam nachali vyplachivat kompensatcii za razliv topliva." 24 December 2020. www.angi.ru/news/2885870-На-Таймыре-коренным-народам-начали-выплачивать-компенсации-за-разлив-топлива/
19. Indigenous Russia. "#AnswerUsElonMusk! A Global Appeal by Aborigen Forum." https://indigenous-russia.com/archives/6719
20. Новая Газета. Обменяли на стекляшки: Почему чукотская деревня пожаловалась в ООН и при чем здесь Роман Абрамович. 4 September 2020 https://novayagazeta.ru/articles/2020/08/28/86870-obmenyali-na-steklyashki
21. Фёдоровы тундры. Призыв к СП «Ростеха» о начале диалога с саами. 21 June 2020 https://kolasapmi.com/2020/06/21/2020-30/
22. Council of Europe, Committee of Ministers. "Resolution CM/ResCMN(2020)14 on the implementation of the Framework Convention for the Protection of National Minorities by the Russian Federation." 8 December 2020. https://search.coe.int/cm/pages/result_details.aspx?ObjectId=0900001680a07744
23. United Nations, International Covenant on Civil and Political Rights. "List of issues in relation to the eighth periodic report of the Russian Federation." CCPR/C/RUS/Q/8, 14 August 2020. http://undocs.org/CCPR/C/RUS/Q/8

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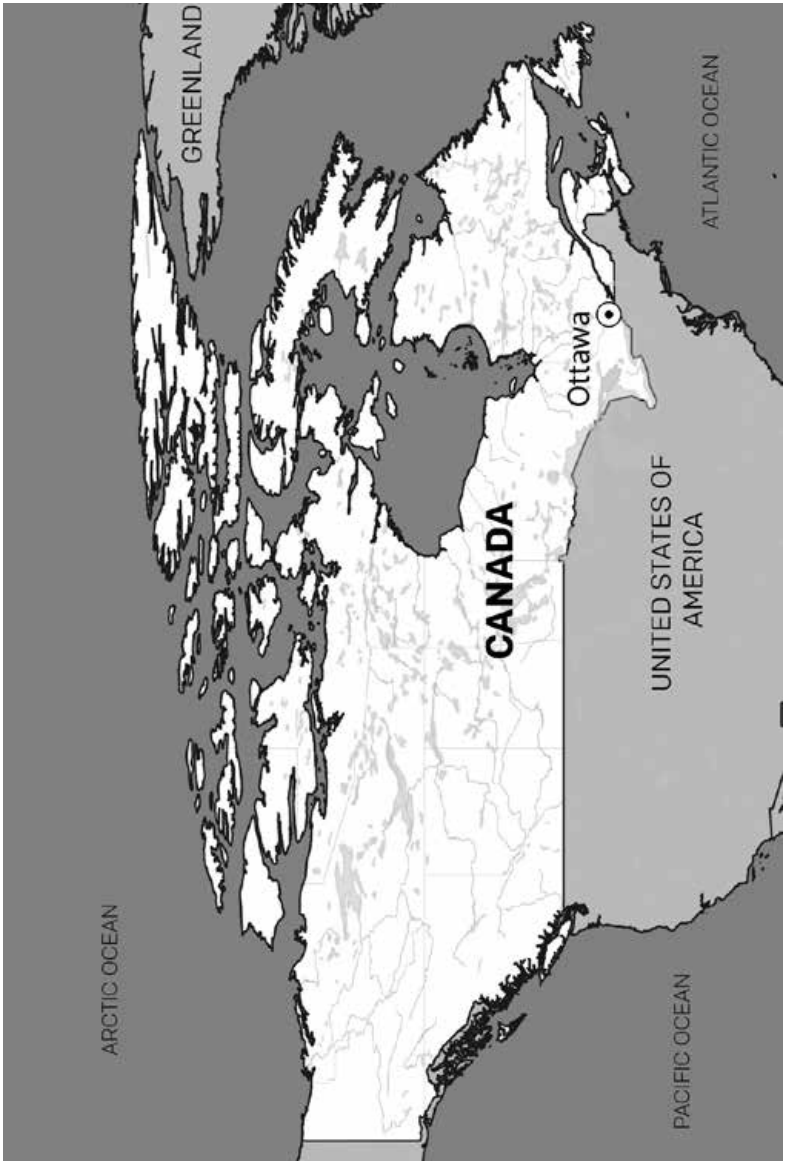
North
America

Canada


ARCTIC OCEAN
GREENLAND
CANADA
Ottawa
UNITED STATES OF AMERICA
PACIFIC OCEAN
ATLANTIC OCEAN

Indigenous Peoples in Canada are collectively referred to as "Aboriginal Peoples". The Constitution Act of 1982 recognizes three groups of Aboriginal Peoples: Indians, Inuit and Métis. According to the 2016 Canadian Census, there were 1,673,785 Aboriginal Peoples in Canada, accounting for 4.9% of the total population. 977,230 people identified as a First Nations person. First Nations (defined as "Indians" in the Indian Act (R.S.C., 1985., 1985, c. I-5) and the Constitution Act (1982)) are diverse Nations and peoples representing more than 600 distinct First Nations and encompassing more than 60 languages. The Métis constitute a distinct Aboriginal nation, number 587,545 in 2016, many of whom live in urban centres. The Inuit represent an Indigenous people who have occupied Inuit Nunangat in Canada's north, and numbered 65,025 in 2016.

Indigenous Peoples in Canada are represented by a number of representative organizations regionally, provincially and nationally. National Indigenous representative organizations include, but are not limited to, the Assembly of First Nations, the Congress of Aboriginal Peoples, the Inuit Tapiriit Kanatami, the Métis National Council, and the Native Women's Association of Canada.

Canada's Constitution Act recognizes and affirms the existing Aboriginal and treaty rights of Aboriginal Peoples. The Supreme Court has called the protection of these rights "an important underlying constitutional value" and "a national commitment". In 2007, Canada was one of four states that voted against the United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration). In 2010, the Canadian government announced its endorsement of the UN Declaration and, in 2016, Canada re-affirmed its support "without qualification". Canada has not ratified ILO Convention 169. The Aboriginal Peoples Television Network serves Canada's Indigenous Peoples as an independent television network and news broadcaster, broadcasting programs made by, for and about Indigenous Peoples, with government support.

United Nations Declaration on the Rights of Indigenous Peoples

In November 2019, British Columbia (BC) became the first province in Canada to enshrine the human rights of Indigenous Peoples into law by unanimously passing Bill 41, the Declaration on the Rights of Indigenous Peoples Act.[1] The Act establishes a process to align BC's laws with the UN Declaration. The Act was developed in partnership with provincial Indigenous representative organizations (the BC Assembly of First Nations, the First Nations Summit, and the Union of BC Indian Chiefs). The legislation requires the co-development of an action plan to achieve provincial alignment with the Declaration over time, with appropriate transparency and accountability mechanisms.

In addition, the legislation allows the flexibility for the Province to enter into agreements with a broader range of Indigenous governments. Further, it provides a framework for decision-making between Indigenous governments and the Province on areas of joint concern. The Act will be far reaching, covering a range of policy areas including: Children and Families, Fisheries and Aquaculture, Agriculture and Ranching, Forestry, Environmental Assessment, Mining and more.

The Action Plan was delayed due to a fall 2020 Provincial Election which resulted in a majority BC NDP (New Democratic Party) government. The BC NDP's campaign platform included a number of promises to increase support for First Nations' rights to self-determination, shared decision-making and the creation of a dedicated Secretariat to ensure that new legislation and policies align with the UNDRIP.[2]

In 2019, the Federal Government of Canada, under the leadership of Prime Minister Trudeau and the Federal Liberal Party, was unable to pass Bill C-262, a federal private member's bill which sought to "ensure that the laws of Canada are in harmony" with the UN Declaration. Following their reelection in the fall of 2020, the incumbent Prime Minister Trudeau committed to passing Bill C-15, *An Act respecting the United Nations Declaration on the Rights of Indigenous Peoples.*[3] Bill C-15 uses the failed Bill C-262 as the floor for recognizing and implementing the UNDRIP within a domestic framework.

Bill C-15, collaboratively developed with Indigenous organizations and leaders following decades of Indigenous advocacy, affirms the Dec-

laration as a universal international human rights instrument with application in Canadian law and provides a framework for the Government of Canada's implementation of the Declaration. The bill further seeks to bring Canada's laws into alignment with the Declaration. To achieve these objectives, the Federal government, in consultation and cooperation with Indigenous Peoples, will develop and implement an action plan that will include measures to address injustice, prejudice, violence and discrimination against Indigenous Peoples and to promote mutual respect and understanding as well as good relations. Measures will also include a specific mechanism to monitor and provide oversight, resource, remedy or other accountability measures to the implementation of the Declaration. The Bill provides a three-year timeline for the collaborative development of the action plan.

Although the bill has received wide support from Indigenous groups and leaders, there are some that remain sceptical of Canada's political will to act on its own obligations.[4] This mistrust has been fuelled by Canada's response to ongoing conflicts surrounding its promotion of the resource sector and the assertion of Indigenous rights by Indigenous land defenders, as seen in the 2019 Wet'suwet'en protests opposed to the Coastal GasLink pipeline, the 2018 purchase of the TransMountain pipeline and the ongoing opposition of Indigenous communities, and the Teck Frontier mine, to name but a few.

Pipelines and the development of fossil fuel infrastructure

In 2020, the extractive resource industry and the development of fossil fuel pipelines continues to be a primary source of conflict between governments and Indigenous Peoples. On 13 December 2019, the UN Committee on the Elimination of Racial Discrimination released a two-page statement urging Canada to immediately stop the construction of the Coastal GasLink Pipeline, the Trans Mountain Pipeline expansion and the Site C Dam until it has obtained the free, prior and informed consent of First Nations. The committee noted its concern at the lack of free, prior and informed consent from the affected Indigenous groups, alongside the forced removal, disproportionate use of force, harassment and intimidation, and escalating threat of violence being used against Indigenous land defenders.

Coastal GasLink

In the province of British Columbia, there are plans to build a 670-kilometre pipeline, which is expected to transport natural gas from north-eastern BC to LNG Canada's export terminal in Kitimat on BC's coast. Despite having been reviewed by the BC Environmental Assessment process and obtaining the approval and required permits from the provincial and federal governments, a large portion of the pipeline crosses the territory of the Wet'suwet'en Nation, a route rejected by most of the Nation's hereditary chiefs, who remain fiercely opposed to the project and the potential impacts on their lands and way of life. This is further complicated by the five elected Indian Act band councils that constitute the Wet'suwet'en Nation having signed benefit agreements with both Costal GasLink and the BC government.

In 1997, hereditary Wet'suwet'en and Gitxsan chiefs won a landmark ruling in the Supreme Court of Canada when all nine judges affirmed the existence of Aboriginal title post-Confederation. The Wet'suwet'en, like most First Nations in the province of British Columbia, have neither signed treaties with the Crown nor ceded their respective territories through sale or loss of territories through warfare.

In an expression of their Indigenous and sovereign rights, Wet'suwet'en Hereditary Chiefs, members and supporters have reoccupied their territory and established a number of checkpoints and healing camps. These checkpoints and camps are currently preventing Coastal GasLink workers and contractors from accessing the Nation's territory to clear the permitted right-of-way for the construction of the pipeline.[5]

On 13 January 2020, the Wet'suwet'en Hereditary Chiefs submitted a formal request to the United Nations to monitor the actions of the RCMP, the State and Coastal GasLink on their traditional, unceded territory.[6]

2019 saw significant conflict between Indigenous land defenders and the pipeline proponents, supported by the RCMP. In the year since these conflicts and RCMP raids, the Coast GasLink project has laid more than 140 kilometres of pipeline in northern BC. Indigenous groups have accused the company of taking advantage of the 2020 COVID-19 pandemic and the disproportionate vulnerability of Indigenous communities in the north to push the project forward while Indigenous communities are caring for their communities, elders and most vulnerable members.[7]

Children and Families

Canada has introduced a new Indigenous child welfare law, Bill C-92,[8] which came into force 1 January 2020.

The new legislation creates national standards on how provincial and territorial child welfare agencies deal with apprehended Indigenous children. It also delineates jurisdiction for Indigenous governing bodies - First Nation, Inuit and Métis - to pass laws governing their own child welfare systems that would supersede provincial, territorial and federal laws.

Indigenous Peoples have criticized Canada for failing to work in cooperation with Indigenous organizations to prepare for the new law's implementation, although many organizations celebrated the law's passing as the result of a collaborative effort between Indigenous Peoples and the Canadian government.

COVID-19

Canada's remote Indigenous communities have been particularly vulnerable to the global COVID-19 pandemic. First Nations people living on reserves have been experiencing COVID-19 cases at a rate 40% higher than the general Canadian public.[9] Contributing to Indigenous Peoples' vulnerability are ongoing, disproportionate health impacts that include vulnerabilities to diabetes, obesity, asthma and arthritis, all of which place individuals at greater risk of morbidity when exposed to COVID-19.

Many First Nations communities have developed and implemented their own pandemic plans. Multiple First Nations communities have issued a state of emergency due to COVID-19 infections,[10] or have closed their communities to the public, tourism and industry through the use of blockades and checkpoints. This has been mirrored by the Assembly of First Nations, the national advocacy body for First Nations in Canada, which declared a state of emergency in March 2020.[11] Some First Nations have gone further by introducing fines to individuals who enter the community unlawfully.[12] Indigenous cultures, languages and traditional knowledge have been particularly vulnerable given the threat the pandemic poses to Indigenous knowledge holders, including holders of specific ecological and cultural knowledge, including culturally signifi-

cant sites, cultural practices, languages and stories. The loss of these elders would significantly deprive not only the family and the community of a mentor and loved one but would also represent a significant loss to the cultural survival and distinct identities and practices of current and future generations.[13]

Advocacy organizations and Indigenous leaders have called on the federal and provincial governments to prioritize vaccine distribution amongst remote and urban Indigenous communities to help offset the particular vulnerabilities of Indigenous Peoples. The roll-out of COVID-19 vaccinations falls under provincial authority and, as a result, the beginning of 2021 saw a range of vaccination strategies, the majority of which accounted for the vulnerabilities of remote Indigenous communities with plans to prioritize and expedite vaccine delivery to remote communities and Indigenous elders. Unfortunately, urban Indigenous communities that live in densely-populated Canadian cities appear to have been overlooked in the initial vaccination strategies, despite being subject to similar vulnerabilities.

Healthcare

In conjunction with the COVID-19 pandemic and, given the particular vulnerability of Indigenous Peoples, a number of events across Canada have revealed the prominent racism existing within Canada's healthcare system, representative of a long-troubled relationship between Canada's public healthcare institutions and Indigenous patients.

The recent focus on Indigenous Peoples' treatment at the hands of healthcare professionals was partly triggered by the death of Joyce Echaquan of the Atikamekw Nation in a Quebec hospital in September 2020. Echaquan was seeking treatment for stomach pain and recorded her experience within the public healthcare institute, revealing the racist practices of her attendants. The attendants were recorded eschewing racial epithets, disparaging and taunting Echaquan, and refusing appropriate treatment.

Since Echaquan's death, the racist treatment of Indigenous Peoples within Canada's healthcare system has become a focus across the country. In November 2020, Mary-Ellen Turpel-Lafond released her report, "In Plain Sight: Addressing Indigenous-specific Racism and Discrimination in BC Health Care."[14]

The report was mandated following the reporting of a racist game being played in some BC hospital emergency departments in which healthcare workers attempted to guess the blood alcohol content of Indigenous patients. The report found that, of the more than 2,700 Indigenous people surveyed, 84% reported experiencing discrimination within the healthcare system. The report made a number of findings which suggest "a major problem of Indigenous-specific racism in the BC healthcare system. This problem has significant impacts on Indigenous patients, women and healthcare workers. It contributes to inequitable health outcomes, including in the context of the public health emergencies of COVID-19 and the overdose crisis."[15] The report makes 24 recommendations aimed at advancing structural and comprehensive change.

Policing

On 25 May 2020, following the death of George Floyd Jr. in the United States at the hands of Derek Chauvin and three other American police officers,[16] the rise of the Black Lives Matter movement, alongside calls for the defunding and abolition of police forces and for a comprehensive inquiry into the systemic discrimination within policing institutions began to spread from the U.S. into Canada.

Policing institutions in Canada have a long and troubled relationship with Indigenous Peoples, playing a significant role in the historic and continuing removal of Indigenous children from their homes, families and lands, and the removal and arrests of Indigenous land defenders from their territories, as seen in the Wet'suwet'en protests in opposition to Coastal GasLink pipeline.[17]

The past year has seen Canada's national and local policing institutions coming under close scrutiny and criticism. This attention has largely been driven by a number of events involving the RCMP throughout 2020, including: the June 2020 recording of the violent treatment of Chief Allan Adam by the RCMP on 10 March,[18] the failure of the RCMP to respond to the terrorizing of Mi'kmaw fishermen by lobster fishermen in Nova Scotia;[19] the 2020 police killings of Regis Korchinski-Paquet, 29-year-old Black-Indigenous woman, Eishia Hudson, a 16-year-old In-

digenous girl,[20] Chantel Moore, a 26-year-old Tla-o-qui-aht/Nuu-chah-nulth woman[21] and Rodney Levi, a 48-year-old man from the Metepenagiag First Nation.[22]

In response to these events, Indigenous leaders have called for the defunding or abolition of the RCMP as well as various municipal/regional police forces,[23] and the funding of Indigenous approaches to cultural safety and mental health. In October 2020, the AFN called on the Prime Minister to remove RCMP Commissioner Lucki[24] in response to the Commissioner's denial of ongoing systemic racism within the police force.[25] The Prime Minister has yet to act on these requests.

Murdered and missing Indigenous women and girls

In response to the ongoing crisis of Canada's murdered and missing Indigenous women, Canada has begun work to develop a national action plan to address this issue. The action plan was co-developed with the federal, provincial and territorial governments alongside Indigenous leaders, families and women's groups as a follow-up to the 2019 National Inquiry into Missing and Murdered Indigenous Women and Girls and its 231 recommendations. The COVID-19 pandemic has been cited as a delaying factor in the release of this plan and the community engagements required to inform it. Indigenous leaders have criticized the delay in the action plan, and the government's delay in actioning the recommendations of the 2019 inquiry.[26]

Notes and references

1. Parliament of BC. "Bill 41 – 2019 Declaration on the Rights of Indigenous Peoples Act." Legislative session: 4th Session, 41st Parliament, 2019. https://www.leg.bc.ca/parliamentary-business/legislation-debates-proceedings/41st-parliament/4th-session/bills/first-reading/gov41-1
2. https://www.bcndp.ca/platform
3. House of Commons of Canada. "Bill C-15, An Act respecting the United Nations Declaration on the Rights of Indigenous Peoples." Second Session, Forty-third Parliament, 3 December 2020. https://parl.ca/DocumentViewer/en/43-2/bill/C-15/first-reading
4. McIvor, Bruce. "Hope for the Best from Canada's UNDRIP Law. But Expect More of the Same." The Tyee, 28 December 2020. https://thetyee.ca/Analysis/2020/12/28/Hope-Best-Canada-UNDRIP-Law-Expect-More-Same/

5. Wet'suwet'en Hereditary Chiefs. "No Access Without Consent." Unist'ot'en, 7 January 2020. https://unistoten.camp/wetsuweten-hereditary-chiefs-no-access-without-consent/
6. Wickham, Jennifer. "Wet'suwet'en Hereditary Chiefs Call for UN Intervention." Unist'ot'en, 13 January 2020. http://unistoten.camp/unintervention/
7. Trumpener, Betsy. "A year after West'suwet'en blockades, Coastal GasLink pipeline pushes on through pandemic." CBC News, 5 February 2020. https://www.cbc.ca/news/canada/british-columbia/coastal-gaslink-pipeline-bc-wet-suwet-en-pandemic-1.5898219
8. House of Commons of Canada. "Bill C-92, An Act respecting First Nations, Inuit and Métis children, youth and families." First Session, Forty-second Parliament, 21 June 2019. https://www.parl.ca/DocumentViewer/en/42-1/bill/C-92/royal-assent
9. Somos, Christy. "A year later, Indigenous communities are fighting twin crises: COVID-19 and inequality." CTV News, 25 January 2021. https://www.ctvnews.ca/health/coronavirus/a-year-later-indigenous-communities-are-fighting-twin-crises-covid-19-and-inequality-1.5280843
10. CBC News. "2 B.C. First Nations under state of emergency due to COVID-19." CBC News, 5 February 2021. https://www.cbc.ca/news/canada/british-columbia/bc-first-nations-covid-state-of-emergency-1.5903312
11. AFN. "Assembly of First Nations Declares State of Emergency on COVID-19 Pandemic." AFN, 24 March 2020. https://www.afn.ca/assembly-of-first-nations-declares-state-of-emergency-on-covid-19-pandemic/
12. Yellowhead Institute. "COVID-19 in community: How are First Nations responding?" Yellowhead Institute, 7 April 2020. https://yellowheadinstitute.org/2020/04/07/corona-in-community-the-first-nation-response/
13. Grabish, Austin. "Vaccinating knowledge keepers part of effort to preserve Indigenous identity in Manitoba." CBC News, 6 February 2021. https://www.cbc.ca/news/canada/manitoba/knowledge-keepers-vaccines-manitoba-1.5902957
14. Turpel-Lafond, Mary-Ellen. "In Plain Sight: Addressing Indigenous-specific Racism and Discrimination in BC Health Care, Summary Report." BC, November 2020. https://engage.gov.bc.ca/app/uploads/sites/613/2020/11/In-Plain-Sight-Summary-Report.pdf
15. Ibid, 20.
16. Hill, Evan, Ainara Tiefenthäler, Christiaan Triebert, Drew Jordan, Haley Willis and Robin Stein. "How George Floyd Was Killed in Policy Custody." The New York Times, 31 May 2020. https://www.nytimes.com/2020/05/31/us/george-floyd-investigation.html
17. Dhillon, Jaskiran and Will Parrish. "Exclusive: Canada police prepared to shoot Indigenous activists, documents show." The Guardian, 20 December 2019. https://www.theguardian.com/world/2019/dec/20/canada-indigenous-land-defenders-police-documents
18. Morin, Brandi. "Chief Allan Adam on being beaten by police and Indigenous rights." Aljazeera, 15 July 2020. https://www.aljazeera.com/features/2020/7/15/chief-allan-adam-on-being-beaten-by-police-and-indigenous-rights
19. Forester, Brett. "DFO, RCMP knew violence was coming but did nothing to protect Mi'kmaw lobster harvesters: Documents." APTN News, 10 February 2021. https://www.aptnnews.ca/national-news/dfo-rcmp-knew-violence-was-coming-but-did-nothing-to-protect-mikmaw-lobster-harvesters-documents/
20. Martens, Kathleen. "Family of Eishia Hudson calls for inquiry after Winnipeg police cleared in fatal shooting." APTN News, 28 January 2021. https://www.

aptnnews.ca/national-news/they-got-us-now-no-charges-laid-against-officer-in-shooting-death-of-eishia-hudson/

21. Sayers, Judith. "A Nation Mourns for Chantel Moore." The Tyee, 17 June 2020. https://thetyee.ca/Analysis/2020/06/17/Nation-Mourns-Chantel-Moore/

22. Moore, Angel. "Metepenagiag First Nation left with many questions after RCMP shooting of Rodney Levi." APTN News, 15 June 2020. https://www.aptnnews.ca/national-news/metepenagiag-first-nation-search-for-answers-after-rcmp-shooting/

23. Sterritt, Angela. "'It's putting a Band-Aid on a broken leg': Indigenous leaders say police training inept, join calls to defund." CBC News, 13 June 2020. https://www.cbc.ca/news/canada/british-columbia/indigenous-leaders-say-training-not-working-1.5610501

24. AFN. "AFN National Chief Perry Bellegarde Calls for the Removal of RCMP Commissioner Brenda Lucki." AFN, 23 October 2020. https://www.afn.ca/afn-national-chief-perry-bellegarde-calls-for-the-removal-of-rcmp-commissioner-brenda-lucki/

25. Palmater, Pam. "Brenda Lucki must go." Maclean's, 18 June 2020. https://www.macleans.ca/opinion/brenda-lucki-must-go/

26. Stefanovich, Olivia. "Ottawa delays release of national action plan on missing and murdered Indigenous women." CBC News, 26 May 2020. https://www.cbc.ca/news/politics/stefanovich-mmiwg-action-plan-delay-1.5583585 chieve_consent

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United States of America

The number of Indigenous people in the United States of America is estimated at between 2.5 and 6 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, official status of American Indian or Alaska Native is conferred on members of federally-recognised tribes. Five hundred and seventy-four (574) Native American tribal entities were recognised as American Indian or Alaska Native tribes by the United States in January 2020,[2] and most of these have recognised national homelands. Federally-recognised 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 power 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-recognised and non-recognised 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 25%.

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 in the United States are generally American citizens, they are also citizens of their own nations.

As elsewhere, the COVID-19 virus impacted Indigenous Peoples with devastating consequences in the USA in 2020. However, other important developments also occurred. In November, the

presidential elections brought a change from Donald Trump (Republican) to Joe Biden (Democrat), who will take office in January 2021. Biden has nominated his future cabinet, and Deb Haaland (Laguna Pueblo, D) has accepted her nomination to be Secretary of the Interior. She was one of the first two Native women elected to Congress in 2018 (see *The Indigenous World 2019*). Haaland will be the first Native person to be a cabinet secretary and will lead the department that oversees the Bureau of Indian Affairs. The Interior department also controls about a fifth of the USA's land base and the natural resources located on those lands. Haaland has proposed restoring protections over those lands eroded by the Trump administration, especially for Bears Ears and Grand Staircase-Escalante National Monuments (see *The Indigenous World 2018 and 2020*). In an interview with The Guardian, referring to the racial injustice protests gripping the USA in 2020, Haaland said, "So many Native Americans joined the Black Lives Matter protests because Indian Country[3] recognised that we are allies in the fight for environmental justice, economic justice and racial justice ... These communities on the frontline deserve to have the resources to be able to lift themselves up."[4]

COVID-19

The novel coronavirus pandemic hit Native communities especially hard. Some reservations tried to protect themselves by controlling access. In South Dakota, the Cheyenne River Sioux Tribe and the Oglala Sioux Tribe put in place health checkpoints on the roads leading into the reservation in April. Because these roads included federal and state highways over which states maintain control, the governor of South Dakota, Kristi Noem (R), contacted the Department of the Interior, and the Bureau of Indian Affairs (BIA) asked the tribes to consult with the state. In May, Noem demanded the checkpoints be removed and threatened legal action. Amidst worsening COVID-19 conditions, the Rosebud Sioux Tribe then also installed checkpoints. After the chairman of the Cheyenne River Sioux Tribe, Harold Frazier, refused to remove the checkpoints, Noem appealed to the Trump administration. The administration then threatened to end the tribe's law enforcement agreement

under Public Law 93-638 as well as to withhold further payments of COVID-19 relief funds to the tribe. Cheyenne River then sued the federal government.[5] The checkpoints were still up in December.

Other tribes established checkpoints with much more help from state governments. In New Mexico, for example, the state government assisted Zuni Pueblo, Zia Pueblo and other nations in keeping visitors out of their communities. Acoma Pueblo, Picuris Pueblo and the Hopi reservation were among nations who closed access. The governor also completely closed down the city of Gallup, a hub for the nearby Navajo reservation.

The Navajo Nation has been one of the hardest hit communities in the United States. The nation was under a lockdown order from March to August and declared another lockdown with weekend curfews in November for the rest of the year. As in many other Native communities, health care resources were stretched to and beyond their limits. Intensive care beds, oxygen hook-ups and staff were all insufficient. In many Native communities, patients not suffering from COVID-19 that needed treatment were flown to other facilities. This meant that their families could not be near to them. The Indian Health Service (IHS) often had to make difficult decisions, and some of them were made without consulting with tribes. For example, in July the IHS closed emergency room and inpatient critical care services at its Acoma-Cañoncito-Laguna unit because the hospital could no longer be staffed due to a shortage of medical workers.

The mortality rate from COVID-19 among American Indian and Alaska Native persons was higher than among White Americans. A study using data from 14 states found the mortality rate to be 1.8 times higher. For people between 20 and 49 years of age, the mortality rate was some 10 times higher. Unfortunately, this is not surprising given the state of healthcare in Native communities. The authors concluded that:

> *Long-standing inequities in public funding; infrastructure; and access to health care, education, stable housing, healthy foods, and insurance coverage have contributed to health disparities (including higher prevalences of smoking, obesity, diabetes, and cardiovascular disease) that put Indigenous Peoples at higher risk for severe COVID-19–associated illness.*[6]

Because COVID-19 predominantly affects older people, tribes have lost many elders during this pandemic. This is not only a huge personal loss for the families but also amounts to a loss of tradition and language, as elders are often the knowledge keepers and the last fluent speakers. It is difficult to estimate the impact these losses will have on language education and survival but, judging from anecdotal evidence, it could be catastrophic for many tribes.

In March, the federal government signed into law the *Coronavirus Aid, Relief and Economic Security Act (CARES Act)* providing USD 2 trillion to businesses, agencies, and organisations impacted by the pandemic. Of that money, USD 8 billion was reserved for Native tribes. Several tribes filed lawsuits protesting the eligibility of Alaska Native Corporations for that money. The 12 Alaska Native regional and 177 Alaska Native village corporations are for-profit shareholder corporations and separate entities from federally-recognised Native Alaska villages. The tribes, including several from Alaska, argued that the corporations are not tribal governments. In September, the United States Court of Appeals for the District of Columbia agreed with the tribes.[7] The federal government and the Alaska Native Corporations filed an appeal to the Supreme Court. Meanwhile, the monies promised to tribes were only paid out after long delays in June and the sensitive data that tribes had to provide to apply for funds was leaked to outside parties almost immediately. The data contained information on territory, tribal enrolment, tribal employees and expenditure; Native nations have been extremely reluctant to share such data. Tribal bank accounts for fund deposits were also included.

Oil and minerals

The pandemic did not stop developments in other areas, especially natural resource extraction and transportation. The Keystone XL pipeline (see *The Indigenous World 2019* and *2020*) remained blocked after the Supreme Court in July upheld a May lower court ruling that invalidated the pipeline's permits for river crossings. The court agreed that the Army Corps of Engineers had violated its obligations under the *Endangered Species Act* when issuing the permits.[8] In October, the same judge denied a request by the Rosebud Sioux Tribe and the Fort Belknap Indian

Community in a separate lawsuit to temporarily halt construction of a 1.5-mile-long segment that crosses the U.S.-Canada border.

In March, federal judge James Boasberg decided that the U.S. Army Corps of Engineers had to complete a full environmental review on the Dakota Access pipeline's Missouri River crossing near the Standing Rock Sioux Reservation (see *The Indigenous World 2017, 2018, 2019*, and *2020*).[9] In July, the same judge ordered that the pipeline be shut down within 30 days.[10] The ordered shutdown was rejected by the U.S. Court of Appeals in August, which, however, left the decision on the environmental review intact. This means that the Dakota Access pipeline is now operating without a valid permit.

In December, the Red Lake Band of Chippewa, the White Earth Band of Ojibwe, Honor the Earth, and the Sierra Club filed a lawsuit against the Army Corps of Engineers over river-crossing permits provided to Enbridge for the construction of Line 3. The oil pipeline across northern Minnesota would cross treaty territories and wild rice areas (see *The Indigenous World 2019*).

In Alaska, the Trump administration announced in August that it would open up the entire coastal plain of the Arctic National Wildlife Refuge (ANWR) for oil drilling (see The Indigenous World 2020). Following the election, the administration announced a January date for the lease sale, before president-elect Biden takes office. The Gwich'in Steering Committee asked a federal judge to block the sale. Two weeks after the initial announcement, the Trump administration reduced the sale by a third. On the other hand, the Environmental Protection Agency (EPA) denied a permit to the Pebble Mine on Bristol Bay in Alaska (see *The Indigenous World 2014, 2015, 2018, 2019,* and *2020*).

In a last push, the administration is trying to provide approval to many extraction projects. The National Forest Service will publish an Environmental Impact Statement on the planned Resolution Copper mine in Arizona. This project will destroy much of Oak Flats, a holy place of immense significance to the San Carlos Apache (see *The Indigenous World 2012* and *2014*). Rio Tinto and BHP, the companies behind Resolution Copper, have worked intimately with the Trump administration. In a visit to the site in October, Commerce Secretary Ross said that the mine "was one of the major reasons why President Trump moved so aggressively to reduce the red tape involved in such projects"[11] (see *The Indigenous World 2018*).

In November, the Environmental Protection Agency (EPA) gave final water permits for the Dewey-Burdock project in South Dakota. This project is an in-situ uranium mine where the uranium is dissolved from the ore underground using a leaching agent and then pumped to the surface. The mine would be located on grounds in the Black Hills, illegally taken from and sacred to the Lakota Nation, on the headwaters of the Cheyenne River. All Lakota tribes oppose the mine, as do the Northern Cheyenne.

The McGirt decision

In July, the Supreme Court decided *McGirt v. Oklahoma (see The Indigenous World 2020)* in favour of McGirt and the Muscogee (Creek) Nation. The lawsuit was brought by Jimcy McGirt, who had been convicted to life in prison by the state of Oklahoma for sex crimes against an underage child. McGirt asserted that since he and the victim were Native and the crime happened on Indian land, the state lacked jurisdiction; major crimes involving Native people in Indian Country fall under federal jurisdiction.

The question was whether or not the location of the crime was in Indian Country. Oklahoma asserted that the Creek Reservation had been disestablished. The Supreme Court, deciding for McGirt and the Muscogee, asserted that the Creek Reservation was still in existence. This decision followed established precedent (see *The Indigenous World 2015* and *2016*) but was widely noted, perhaps because its implied consequences affect a large area - at least the eastern half of Oklahoma. The Supreme Court has decided some recent cases against tribes based on contemporary political calculation rather than historical accuracy, noting that enough time passed establishes a precedent no longer correctable by law (see *The Indigenous World 2006* and *2018*). Justice Gorsuch, writing for the majority in McGirt, rejected this approach:

> *[M]any of the arguments before us today follow a sadly familiar pattern. Yes, promises were made, but the price of keeping them has become too great, so now we should just cast a blind eye. We reject that thinking. If Congress wishes to withdraw its promises, it must say so. Unlawful acts, performed long enough and with sufficient vigor, are never enough to amend the law.*[12]

The decision in *McGirt v. Oklahoma* means that the historical boundaries of the Muscogee (Creek) Nation are still intact and that the state of Oklahoma therefore has no jurisdiction over crimes involving Native people within the reservation boundaries. Because the Cherokee, Choctaw, Chickasaw and Seminole reservations, at the very least, were supposedly disestablished under the same circumstances, the decision will likely affect their reservations, too. While the decision in *McGirt* only looked at jurisdiction, the fact that the Muscogee (Creek) reservation is still in existence could also carry other consequences over regulations and taxation, although it will not change land ownership.

The Attorney General of Oklahoma, Mike Hunter, presented an Agreement in Principle with the leaders of the Muscogee, Choctaw, Cherokee, Chickasaw and Seminole Nations after the decision but the leaders of the Seminole and Muscogee Nation rejected that agreement within days. Hunter also cited the case of a non-Native man on Oklahoma death row for killing a Chickasaw woman and her two children, and said he thought everybody could agree that the man should be executed by the state. The man filed for appeal on the grounds that Oklahoma has no jurisdiction; Hunter is opposing this appeal, demonstrating that the understanding of federal and tribal jurisdiction over Indian Country will still need some time. In the meantime, a Latimer County judge already decided in November that the Choctaw reservation, too, was never disestablished. Jimcy McGirt was re-convicted under federal law.

Wampanoag

In March, Secretary of the Interior David Bernhardt announced that the Mashpee Wampanoag reservation in Massachusetts would be disestablished (see *The Indigenous World 2019*). In June, a federal judge overturned that decision.[13] The federal government is appealing the case. As Deb Haaland, the nominee for Secretary of the Interior, supported the Wampanoag tribe throughout their dispute with the Trump administration, this appeal will likely be dropped. In the meantime, a group calling themselves the Mattakeeset Massachusett tribe is challenging the lands on which the Mashpee Wampanaog have been trying to build a casino. The Mattakeeset are not federally- or state-recognised and reformed as a group in 2014.

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 and another population group. The Bureau of Indian Affairs, the Indian Health Service and other agencies of the federal government provide numbers based on enrolment in federally-recognised tribes and/or based on eligibility for their services.
2. Department of the Interior, Bureau of Indian Affairs. "Indian Entities Recognized by and Eligible To Receive Services From the United States Bureau of Indian Affairs." Federal Register 85 (20) 5462-5467. https://www.govinfo.gov/content/pkg/FR-2020-01-30/pdf/2020-01707.pdf
3. The term "Indian Country" means all lands in the United States over which tribes and the federal government share control (and most often jurisdiction). These include (according to federal law, 25 U.S.C. § 1151) lands within reservations under federal jurisdiction, "dependent Indian communities", and all Indian allotments (i.e., Indian trust lands outside reservations).
4. Lakhani, Nina. "'I'll be fierce for all of us': Deb Haaland on climate, Native rights and Biden." The Guardian, 27 December 2020. https://www.theguardian.com/environment/2020/dec/27/deb-haaland-interview-interior-secretary-native-americans
5. United States District Court for the District of Columbia. "*Cheyenne River Sioux Tribe v. Donald J. Trump et al.*" Case No. 1:20-cv-01709.
6. Arrazola, Jessica, *et al.* "COVID-19 Mortality Among American Indian and Alaska Native Persons — 14 States, January–June 2020." Morbidity and Mortality Weekly Report, December 2020, 69 (49), 1853-1856.
7. United States Court of Appeals for the District of Columbia Circuit. "*Confederated Tribes of the Chehalis Reservation, et al. v. Steven Mnuchin et al.*" No. 20-5204, Consolidated with 20-5205, 20-5209. Decided 25 September 2020.
8. United States District Court for the District of Montana, Great Falls Division. "*Northern Plains Resource Council et al. v. Army Corps of Engineers et al.*" CV-19-44-GF-BMM.
9. United States District Court for the District of Columbia. "*Standing Rock Sioux Tribe et al. v. U.S. Army Corps of Engineers et al.*" Civil Action No. 16-1534 (JEB), 25 March 2020.
10. United States District Court for the District of Columbia. "*Standing Rock Sioux Tribe et al. v. U.S. Army Corps of Engineers et al.*" Civil Action No. 16-1534 (JEB), 6 July 2020.
11. "Remarks by Commerce Secretary Wilbur L. Ross at the Rio Tinto Resolution Copper Site Visit Roundtable in Phoenix, Arizona." U.S Department of Commerce. 9 October 2020. https://www.commerce.gov/news/speeches/2020/10/remarks-commerce-secretary-wilbur-l-ross-rio-tinto-resolution-copper-site
12. Supreme Court of the United States. "*McGirt v. Oklahoma.*" No. 18-9526, 591 U.S.9 July 2020.
13. United States District Court for the District of Columbia. "*Mashpee Wampanoag Tribe v. David Bernhardt et al.*" Civil Action No. 18-2242 (PLF), 5 June 2020.

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The Pacific

Aotearoa (New Zealand)

Māori, the Indigenous people of Aotearoa, represent 16.5% of the 4.7 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 signed, and an English-language version. *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 in 2010 (UNDRIP). Aotearoa has not ratified ILO Convention 169.

Māori disproportionately affected by COVID-19

The COVID-19 pandemic dominated the experiences of Māori, as it did all New Zealanders, in 2020. Aotearoa has been praised for its response to the pandemic internationally, recording comparatively fewer deaths as a result of its swift and significant lockdown measures and bouncing back quickly from its pandemic-induced recession. Yet, for many, the pandemic will have ongoing reverberations. Māori are among those New Zealanders who have been disproportionately affected by the COVID-19 pandemic. Māori have not tested positive for COVID-19 in high numbers: of the total cases recorded to 13 January 2021, 194 Māori had tested positive for COVID-19, only 8.7% of all recorded cases in Aotearoa. But Māori are more likely to die from the

virus: five of the 25 individuals who have passed away from COVID-19 in Aotearoa were Māori.[2] Māori are also more likely to experience an exacerbation of already stark social and economic inequities, including in employment, health outcomes and access, experiences of family violence, access to education, housing and criminal justice. Further, Māori have often borne the brunt of shortcomings in the government's handling of the pandemic.

At key points, the government failed to engage with Māori as *Tiriti* partners in its response to COVID-19. These included disproportionate incursions into the practice of *Māori tikanga*. For example, in the government's haste to enact the COVID-19 *Public Health Response Act 2020*, one of several legislative responses to the pandemic, it provoked an outcry with its provision for warrantless search powers to be exercised on *marae* (traditional Māori meeting places). As Claudia Geiringer observes, "[u]ninvited police entry onto *marae* offends *tikanga* (law and custom), undermines *tino rangatiratanga*, and plays out against a long history of heavy-handed police action in relation to Māori."[3] A last minute amendment to the Act, purportedly to address concerns by Māori, ultimately removed an additional layer of protection applicable to searches of *marae*.

The government also sought to place unduly restrictive limits on the number of people who could attend *tangihanga* (Māori funerals). *Tangihanga* are central to Māori *tikanga* and wellbeing. Initially, in May, the government announced that it would limit the number of people who could attend to 10, which prominent Māori lawyer Moana Jackson described as "an assault on our people".[4] In response to criticism, however, the figure was quickly adjusted upwards and has continued in the same direction.

A host of issues arose in the criminal justice context, which disproportionately affect Māori given their overrepresentation in the justice system. These included access to justice issues as the country's already overburdened judicial system had court proceedings limited to urgent, time-sensitive, matters during lockdown and jury trials suspended until the end of July.[5] At points, in prisons (where Māori are a numerical majority), prisoners were reportedly kept in their cells for more than 22 hours a day and "non-essential" movements such as *whānau* (family) visits were suspended.[6] Further, concerns were raised regard-

ing the severe sentence imposed upon a Māori mother who escaped a managed isolation facility with her four children so that her children could see their dead father's body. The mother was jailed for 14 days, while other facility escapees received non-custodial sentences.[7]

Māori and their rights have the potential to be adversely affected by aspects of the government's economic recovery efforts, too. For instance, the COVID-19 *Recovery (Fast-track Consenting) Act 2020* was passed in July. The Act is a temporary two-year measure that enables qualifying development projects, such as large infrastructure projects, to circumvent the usual consent process under the *Resource Management Act 1991* (RMA). As concerned Māori have pointed out, "RMA processes generally enable iwi [nation] involvement to a much greater degree than this Act provides"[8] putting, for instance, *wāhi tapu* (sacred sites) at risk.

Māori demonstrated strong leadership during the pandemic. Some provided flu vaccinations within their *rohe* (areas), delivered food to *kaumatua* (elders), supported the provision of education and made personal protective equipment available to Māori health providers. Notably, Māori also exercised their authority, under *tikanga Māori*, to restrict access to at-risk communities. For example, *iwi* including *Te Whānau-ā-Apanui* in the Bay of Plenty and Ngāti Porou on the East Coast organised community checkpoints to support restrictions on travel during peak periods of concern.[9] The checkpoints were operated in collaboration with the police, local councils and civil defence (despite strong anti-Māori rhetoric from some quarters) – a positive example of Māori spearheading the practice of *Te Tiriti* partnership with government.

National elections bring strong representation

In the 2020 national general elections, the incumbent centre-left Labour Party won an outright majority of 65 of the 120 seats in the House of Representatives and resumed power. This is the first time one party has won a majority since the Mixed-Member Proportional voting system was introduced in Aotearoa. Labour has an encouraging Māori policy manifesto but an uneven track record in its respect for Māori rights, including in relation to the COVID-19 pandemic as discussed above. La-

bour subsequently entered into a cooperation agreement with the leftist Green Party, which makes provision for the Green Party co-leaders (one of whom is Māori) to hold ministerial portfolios outside of Cabinet in exchange for supporting Labour on procedural motions.

Māori secured a high level of representation in the House of Representatives. There are now 25 Members of Parliament (MPs) of Māori descent, which translates to 20.8% of all MPs.[10] This is higher than the proportion of Māori in the population but less than the proportion secured in the previous election.

Māori representation in Cabinet is historically high. Māori Ministers secured 25% of all Cabinet seats, which will help support a strong Māori voice in decision-making, even as Māori remain a numerical minority. Five Māori hold ministerial roles inside Cabinet and two outside. In total, Māori MPs hold 13 ministerial portfolios as well as a number of associate ministerial roles. Of note, Nanaia Mahuta is the first woman – and the first Māori woman – to hold the foreign affairs portfolio in Aotearoa.[11]

Another positive win for Māori was the return of the Māori Party, a political party with an explicit Māori *kaupapa* (vision), to the House of Representatives. The Māori Party regained two seats after failing to secure representation in the 2017 elections.

Tikanga decision potentially ground-breaking

A potentially ground-breaking decision on the place of Māori *tikanga* in state law was made by the Supreme Court, the highest court in Aotearoa, in 2020. In *Ellis v R*[12] the Court permitted an appeal regarding criminal convictions against the deceased Pākehā appellant to continue after hearing submissions regarding "how a *tikanga* Māori approach might displace the common law position that a right of appeal ends with the death of the appellant."[13] The Court reserved their reasons, which will be provided in the Court's judgment on the substantive appeal. Notably, counsel for both parties, as well as the Māori Law Society as intervener, agreed that *tikanga* is a source of law that can inform state law and that it is relevant to the case. The decision has the potential to fundamentally transform the way *tikanga* Māori is recognised within the state legal system.[14]

Expert links homelessness to colonisation

The United Nations Special Rapporteur on the right to adequate housing, Leilani Farha, was critical of Māori experiences of inadequate housing and homelessness following her country mission to Aotearoa in February 2020. In her end-of-mission statement, the Special Rapporteur recognised the centrality of *Te Tiriti* and the UNDRIP in understanding whether the right to housing is enjoyed in Aotearoa; connected disproportionately negative Māori housing outcomes to the ongoing impacts of colonisation; and called for a dramatic shift in Maori-Crown relations to be led by Māori. Her key recommendation was that the government should recognise the country's housing crisis as a human rights crisis. She also recommended the creation of a Commissioner for Indigenous Peoples' Rights within the New Zealand Human Rights Commission and government support and resourcing for iwi, iwi authorities and Māori housing providers to determine their own housing solutions.[15] The government has indicated that it will give close consideration to the Special Rapporteur's findings.[16] The Special Rapporteur's full report on her mission is expected to be released early in 2021.

Māori freshwater interests on agenda

Māori interests in freshwater remained on the agenda in 2020. In a landmark decision, Ngāti Tūwharetoa became the first iwi authority to assume local government functions via a transfer under section 33 of the *Resource Management Act 1991*. Local councils have had the ability to transfer their functions to local iwi since 1991 but this is the first time it has been done. The transfer will hand over water quality monitoring functions around Lake Taupō from the Waikato Regional Council to the Tūwharetoa Māori Trust Board. While the specific functions handed over are modest, the transfer of authority itself is historic. It is seen by Ngāti Tūwharetoa as an initial step towards enhanced power-sharing by local and central government with *iwi*.[17]

Two important government policies on freshwater came into effect in September, both of which reference Māori freshwater values: the *National Policy Statement for Freshwater Management 2020 and the*

Resource Management (National Environmental Standards for Freshwater) Regulations 2020. The former also provides for Māori to have an active role in freshwater management.[18]

Late in 2020, Ngāi Tahu began legal action against the Crown seeking recognition of its *tino rangatiratanga* over the freshwater within its area. The litigation was brought to address the degradation of local rivers and lakes as a result of environmental mismanagement.[19]

Additional developments

Additional developments of note in 2020 included the partial public release of a 2019 report on the development of an UNDRIP action plan prepared by a government-appointed technical working group (see The Indigenous World 2020);[20] Waitangi Tribunal reports, including on stage 1 of the *Marine and Coastal Area (Takutai Moana) Act 2011* inquiry;[21] enactment of the *Prisoner Voting Rights Electoral (Registration of Sentenced Prisoners) Amendment Act 2020*, which restores the rights of prisoners sentenced to less than three years in prison to vote; publication of the interim report of the Royal Commission of Inquiry into Abuse in State Care and in the Care of Faith-based Institutions (see The Indigenous World 2020 and 2019);[22] the government's announcement that it will buy back the land at the centre of the dispute at Ihumātao (see The Indigenous World 2020);[23] progress on the negotiation of *Te Tiriti* settlements;[24] and support for the establishment of Māori wards within local councils in Taranaki.[25]

Notes and references

1. "Statistics New Zealand." Stats NZ. http://www.stats.govt.nz (these statistics are primarily drawn from the 2018 Census).
2. Ministry of Health. "COVID-19 Case demographics." https://www.health.govt.nz/our-work/diseases-and-conditions/covid-19-novel-coronavirus/covid-19-data-and-statistics/covid-19-case-demographics.
3. Geiringer, Claudia. "The COVID-19 Public Health Response Act 2020" New Zealand Law Journal 159 (2020).
4. Curtis, Elana. "An open letter to the government from a Māori public health specialist." E-tangata, 5 April 2020. https://e-tangata.co.nz/comment-and-analysis/an-open-letter-to-the-government-from-a-maori-public-health-specialist/.

5. Lynch, Nessa, and Yvette Tinsley. "Court adjourned: How the pandemic is delaying justice in criminal cases." The Spinoff, 12 May 2020. https://thespinoff.co.nz/society/12-05-2020/court-adjourned-how-the-pandemic-is-delaying-justice-in-criminal-cases/.
6. Mills, Alice. "From locked up to locked down." Newsroom, 12 May 2020. https://www.newsroom.co.nz/ideasroom/2020/05/12/1167542/from-locked-up-to-locked-down.
7. Radio New Zealand. "Questions raised after isolation escapee jailed." https://www.rnz.co.nz/national/programmes/middayreport/audio/2018761565/questions-raised-after-isolation-escapee-jailed.
8. See, e.g., Te Ohu Kaimoana. "Our feedback on COVID-19 Recovery (Fast-Track Consenting) Act 2020." 8 July 2020. https://teohu.maori.nz/our-feedback-on-covid-19-recovery-fast-track-consenting-act-2020/.
9. Charters, Claire. "The relevance of te Tiriti o Waitangi in the Covid-19 era." Newsroom, 19 April 2020.https://www.newsroom.co.nz/ideasroom/2020/04/19/1133089/auckland-op-ed-on-ti-tiriti-by-april-22.
10. Linkhorn, Craig. "2020 General Election and government formation." Māori Law Review, December 2020.
11. Ibid; Te Puni Kōkiri. "UN Declaration on the Rights of Indigenous Peoples" https://www.tpk.govt.nz/en/whakamahia/un-declaration-on-the-rights-of-indigenous-peoples.
12. [2020] NZSC 89.
13. Harris, Elliott. (with foreword by Carwyn Jones) "Sir Edward Taihakurei Durie student essay competition 2020 – Interrogating Ellis v The Queen: Tikanga Māori in the common law of Aotearoa New Zealand." Māori Law Review, December 2020.
14. Ibid.
15. Farha, Leilani. "End of Mission Statement: Visit of the Special Rapporteur on the right to adequate housing to New Zealand." 19 February 2020. [1], [2], [14], [18], [63], [66], [80].
16. Wilson, Simon. "Homelessness: Housing a human right, make evictions illegal, UN visitor says." NZ Herald, 19 February 2020. https://www.nzherald.co.nz/nz/homelessness-housing-a-human-right-make-evictions-illegal-un-visitor-says/PS2RRF7X2HRQGLZPWUWYZDDPRI/.
17. Tūwharetoa Māori Trust Board. "Section 33 Transfer with Waikato Regional Council." 31 July 2020. https://www.tuwharetoa.co.nz/ngati-tuwharetoa-set-to-become-first-iwi-to-utilise-a-section-33-transfer-with-waikato-regional-council/; Webb-Liddall, Alice. "Finally, a council has transferred responsibilities to iwi for the first time under the RMA." The Spinoff, 6 August 2020. https://thespinoff.co.nz/atea/06-08-2020/a-council-has-transferred-responsibilities-to-iwi-for-the-first-time-under-the-rma/.
18. Randal, Dave, et al. "Māori interests in natural resource management: 2019 and (much of) 2020 in review." Māori Law Review, October 2020.
19. Te Rūnanga o Ngāi Tahu. "Ngāi Tahu Rangatiratanga over Freshwater." 2 November 2020. https://ngaitahu.iwi.nz/environment/ngai-tahu-rangatiratanga-over-freshwater/.
20. Charters, Claire, et al. "He Puapua: Report of the Working Group on a Plan to Realise the UN Declaration on the Rights of Indigenous Peoples in Aotearoa/New Zealand" 2019.
21. Waitangi Tribunal. "The Marine and Coastal Area (Takutai Moana) Act 2011 Inquiry: Stage 1 Report." 2020.
22. Royal Commission of Inquiry into Abuse in State Care and in the Care of Faith-based Institutions. "The Interim Report – Tāwharautia: Pūrongo o te Wā". 2020.
23. Patterson, Jane. "Ihumātao: Deal struck between government and Fletcher Building

to buy disputed land." Radio New Zealand, 17 December 2020. https://www.rnz.co.nz/news/political/433043/ihumatao-deal-struck-between-government-and-fletcher-building-to-buy-disputed-land.

24. New Zealand Government. "Recent Treaty Settlements." 17 November 2020. https://www.govt.nz/browse/history-culture-and-heritage/treaty-settlements/recent-treaty-settlements/.

25. Groenestein, Catherine. "Unanimous South Taranaki District Council vote for Māori wards is welcomed." Stuff, 12 November 2020. https://www.stuff.co.nz/taranaki-daily-news/news/300157256/unanimous-south-taranaki-district-council-vote-for-mori-wards-is-welcomed.

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Australia

INDIAN OCEAN
CORAL SEA
AUSTRALIA
PACIFIC OCEAN
Canberra
TASMAN SEA

Aboriginal and Torres Strait Islander peoples make up 3.3% of the nation's population. Geographically, 62% of the Indigenous population live outside of Australia's major cities, including 12% in areas classified as very remote. The median age for Aboriginal and Torres Strait Islander peoples is 23 compared to 38 for the non-indigenous population.[1] Aboriginal and Torres Strait Islander peoples are vastly overrepresented in the Australian criminal justice system, with 2,481 prisoners per 100,000 Indigenous people—15 times greater than for the non-indigenous population.[2]

Official government targets set for 2018 in 2008 to halve the gap between Indigenous and non-indigenous Australians as regards child mortality, employment, and reading and numeracy, as well as closing the gap in school attendance, were not met this year. The target to close the gap in life expectancy by 2031 is not on track.[3] The government has established 16 new targets under a new agreement to close the gap.

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.[4]

There is currently no reference to Aboriginal and Torres Strait Islander peoples in the national Constitution although the movement towards constitutional recognition has intensified.

The impact of COVID-19

Owing to the unique health challenges faced on a day-to-day basis by Aboriginal and Torres Strait Islander peoples, they are at a higher risk of morbidity and mortality during a pandemic. Consequently, COVID-19 created some particular challenges for Aboriginal and Torres Strait Islander peoples. However, one of the real success stories to come out of 2020 was the effectiveness with which Aboriginal and Torres Strait Islander communities and Aboriginal Community-Controlled Health Organisations (ACCHOs) managed the impacts of the pandemic.

As of 13 December 2020, a total of 28,031 cases of COVID-19 had been reported in Australia. This included 25,473 recovered cases and, unfortunately, 908 deaths. As of 13 December 2020, there have been 147 cases reported among Aboriginal and Torres Strait Islander peoples. The strength of the Aboriginal and Torres Strait Islander response from communities, ACCHOs and everyone involved can clearly be seen in these numbers. The number of cases among Aboriginal and Torres Strait Islander peoples is six times lower than it would have been had the population been affected at the same rate as the rest of Australia.[5]

The success of the COVID-19 response is due to the role of the Aboriginal Community-Controlled Health Sector. This was able to deliver culturally-appropriate solutions, demonstrating the importance and effectiveness of community control and self-determination. In the Australian state of Victoria, which has been hardest hit by the pandemic, ACCHOs quickly moved to deliver a range of support measures. Budja Aboriginal Cooperative provided COVID-19 testing in people's homes because many people were struggling to access clinics during isolation. Other organisations, including Wathaurong Aboriginal Cooperative and the Victorian Aboriginal Health Service, set up local partnerships with nearby foodbanks and cafés to ensure people had the supplies they needed. Many ACCHOs also delivered written information to the homes of community members' who do not have access to the Internet while Kirrae Health Service delivered iPads to people.[6]

The effective use of a wide range of communication mediums was key to the success of ACCHOs across Australia. The Aboriginal Health and Medical Research Council of New South Wales distributed resources promoting COVID-19 prevention via their website,[7] Facebook, Twitter, YouTube and Instagram accounts. In addition, they created the Aboriginal Community-Controlled Health Service Pandemic Response Tool Kit,[8] which was distributed through similar channels. Apunipima, a Cape York ACCHO in Queensland communicated via platforms including TikTok, and by distributing printed resources. As early on as 6 March 2020, Apunipima was distributing simple, evidence-based prevention messages about handwashing, followed by infographics and short localised video updates.[9]

Cultural heritage – destruction of the Juukan Gorge site

On 24 May 2020, the mining company Rio Tinto conducted a blast as part of its extension of the Brockman 4 iron ore mine. The blast destroyed Aboriginal Heritage sites at Juukan Gorge, including two rock shelters of great cultural, ethnographic and archaeological significance.[10] One of these shelters had provided evidence of continuous occupation by Aboriginal people going back some 46,000 years, making it a site of national and international significance. For the Puutu Kunti Kurrama and Pinikura (PKKP) peoples, however, it was something even worse—the theft of a vital part of their living culture. Their grief at the loss is indescribable.

The destruction of the Juukan Gorge sites gave rise to widespread condemnation of Rio Tinto's actions. However, Rio Tinto were legally authorised to destroy the rock shelters under Section 18 of the *Aboriginal Heritage Act 1972* (WA) (the Act), the principal legislation affording protection to Aboriginal Heritage in Western Australia. Under the Act, significant power is given to the Minister to authorise destruction of a site, and to provide immunity from committing an offence under the Act. Yet despite the power vested in the hands of the Minister, there are some requirements under the Act to consult with and gain the consent of the Aboriginal people affected by the decisions made.[11]

In September 2020, the Western Australian government released a draft version of the *Aboriginal Cultural Heritage Bill 2020 (WA)* for public consultation. The draft Bill seeks to establish a new approach to protecting Aboriginal cultural heritage in Western Australia and to how Aboriginal cultural heritage is identified, managed and conserved. The Bill does have improved procedures; however, it still contains a Ministerial override "in the interests of the State". Significant concerns have been raised over this by Aboriginal groups in Western Australia.[12] The PKKP Peoples argue that, in its current form, the new Bill:

> *still positions Aboriginal cultural heritage, heritage that Traditional Owners have serious responsibilities to protect, as being somehow owned by the State of Western Australia and something that a Minister of the State has the power to make*

> *decisions over... Although this Bill does set out a process for the involvement of Aboriginal people in the management and protection of Aboriginal heritage, the ultimate power still rests with the Minister to make decisions about the destruction of sites.*[13]

Closing the gap – A new National Agreement

On 12 February 2020, the Australian Prime Minister tabled the 12th Closing the Gap Report before the Australian Parliament. Two of the seven targets were on track to be achieved: the target to have 95% of Indigenous four-year-olds enrolled in early childhood education by 2025, and the target to halve the gap for Indigenous Australians aged 20–24 in Year 12 attainment or equivalent by 2020. Unfortunately, four targets expired in 2020 without being met:

- halve the gap in child mortality rates;
- halve the gap for Indigenous children in reading, writing and numeracy;
- close the gap between Indigenous and non-indigenous school attendance; and
- halve the gap in employment outcomes between Indigenous and non-indigenous Australians.

The headline Closing the Gap target – to close the gap in life expectancy between Aboriginal and Torres Strait Islander peoples and non-indigenous Australians by 2031 – is not on track.

The 2020 edition of *The Indigenous World* discussed the decision to refresh Australia's Closing the Gap targets in 2019, noting the slow progress being made towards achieving the original targets set in 2009.[14] On 30 July 2020, the new National Agreement on Closing the Gap was released. Under the new agreement, four priority reform areas have been established that focus on changing the way in which governments throughout Australia work with Aboriginal and Torres Strait Islander people. These reforms are intended to:

- strengthen and establish formal partnerships and shared decision-making;
- build the Aboriginal and Torres Strait Islander community-controlled sector;
- transform government organisations so they work better for Aboriginal and Torres Strait Islander people; and
- improve and share access to data and information to enable Aboriginal and Torres Strait Islander communities to make informed decisions.

In addition, the new National Agreement has established 16 new Closing the Gap targets across the following outcome areas: education, employment, health and wellbeing, justice, safety, housing, land and waters, and languages. In a departure from the previous Closing the Gap agreement, the new National Agreement has established joint accountability across the Commonwealth Government, state and territory governments, local governments and the Coalition of Aboriginal and Torres Strait Islander Peak Organisations. Reviews of progress against targets and the National Agreement will be led every three years by the Australian Productivity Commission, as well as independent Aboriginal and Torres Strait Islander-led reviews within 12 months of each independent review by the Productivity Commission.

Black Lives Matter and Aboriginal Deaths in Custody

Between 1 January 1980 and 31 May 1989, 99 Aboriginal people died in custody. Following a widespread community outcry, including a representation to the United Nations by Helen Corbett of the National Committee to Defend Black Rights, the Australian government established a Royal Commission into Aboriginal Deaths in Custody in 1987.[15] The Royal Commission made 339 recommendations to the government. By 2018, however, only 64% of these recommendations had been implemented in full.[16]

Since the 1991 report of the Royal Commission, the number of Aboriginal deaths in custody has remained significant. Aboriginal and Torres Strait Islander peoples continue to be overrepresented in the justice

system with high death rates. As of December 2020, there had been at least 441 deaths of Aboriginal peoples in custody without anyone being convicted for these deaths, an increase of 345% in 30 years. Justice is urgently needed along with accountability for Aboriginal and Torres Strait Islander lives.[17]

Black Lives Matter rallies were held across Australia following the American rallies over the death of George Floyd. Tens of thousands of people rallied across Australia to call for an end to Indigenous deaths in custody, the abuse caused by historical policies, unjustifiable behaviour and ignorance, and to call out racial inequality.[18]

The Black Lives Matter movement in Australia has supported increased awareness of the racism faced by Indigenous Australians.[19] The 2020 Australian Reconciliation Barometer[20] notes that 60% of Aboriginal and Torres Strait Islander respondents agree that Australia is a racist country, up from 51% in 2018. In addition, 43% of the non-indigenous community agree that Australia is a racist country, up from 38% in 2018. Aboriginal and Torres Strait Islander peoples have also reported being more likely to have experienced racial discrimination from institutions in the last 12 months, with racist interactions with police at 30% compared to 16% in 2018.[21]

Bushfires

The Australian bushfires of 2019-2020 were catastrophic. They were the worst bushfires in Australian history, with up to 19 million hectares burnt. Thirty-three (33) people lost their lives, over 3,000 homes were destroyed, and an estimated 1.25 billion animals were killed.[22]

Fire for Aboriginal peoples is an important symbol of great spiritual meaning. Aboriginal peoples have used fire for tens of thousands of years to manage their lands, and for warmth, hunting and cooking. Aboriginal traditional fire management is often called "cultural burning" and utilises low-intensity fires that are both quick and cool. Cultural burning has many benefits, including saving the flora and fauna, being self-extinguishing and avoiding the need for chemical weed killers.[23]

The Royal Commission into National Natural Disaster Arrangements (2020) was established in response to the extreme bushfire

season of 2019-2020. The report recommended that Australian, state, territory and local governments should engage further with Aboriginal Traditional Owners to explore the relationship between Indigenous land and fire management and natural disaster resilience and should explore further opportunities to leverage Indigenous land and fire management insights in the development, planning and execution of public land management activities.[24]

Cultural achievements

Founded in 1921, the Archibald Prize is one of Australia's most prestigious art awards and is awarded annually for the best portrait "preferentially of some man or woman distinguished in art, letters, science or politics, painted by any artist resident in Australasia". In 2020, the Archibald Prize was won by Vincent Namatjira OAM, a Western Arrernte artist, for his painting *Stand strong for who you are*. The grandson of one of Australia's most iconic Aboriginal artists, Albert Namatjira, Vincent Namatjira is the first Aboriginal artist to win the Archibald Prize.[25] The painting shows Vincent standing alongside Australian Rules Football great Adam Goodes, whom Vincent contacted after hearing about the racism Adam Goodes had experienced in the sport. Vincent stated:

> *[Adam and I] share some similar stories and experiences – of disconnection from culture, language and Country, and the constant pressures of being an Aboriginal man in this country. We've also both got young daughters and don't want them to have to go through those same experiences.*[26]

On 10 December 2020, Wiradjuri author Tara June Winch became the first Aboriginal author to win both of Australia's most prestigious literary prizes – the Miles Franklin Literary Award in July 2020 and the Australian Prime Minister's Literary Award for Fiction in December. The Miles Franklin Award is awarded each year to a novel that is of the highest literary merit and presents Australian life in any of its phases.[27] Her latest novel, The Yield, is her third and also won a number of other awards during the year. *The Yield* explores the legacies of colonial violence, shame, intergenerational trauma and environmental destruction. Winch cele-

brates and amplifies the contemporary resurgence and relevance of the Wiradjuri language.[28]

Notes and references

1. Australian Bureau of Statistics. "Estimates of Aboriginal and Torres Strait Islander Australians." June 2016. https://www.abs.gov.au/statistics/people/aboriginal-and-torres-strait-islander-peoples/estimates-aboriginal-and-torres-strait-islander-australians/latest-release#:~:text=The%20final%20estimated%20resident%20Aboriginal,of%20the%20total%20Australian%20popul
2. Australian Bureau of Statistics. "Prisoners in Australia." 2020. https://www.abs.gov.au/statistics/people/crime-and-justice/prisoners-australia/latest-release
3. Department of the Prime Minister and Cabinet. "Closing the Gap Report 2019." 2019 6-10. https://www.niaa.gov.au/sites/default/files/reports/closing-the-gap-2019/sites/default/files/ctg-report-20193872.pdf
4. Department of the Prime Minister and Cabinet. "Annual Report 2017-18." 2018. https://www.pmc.gov.au/sites/default/files/publications/annual_reports/2018-19-HTML/index.html
5. National Aboriginal Community Controlled Health Organisation. "Aboriginal and Torres Strait Islander Advisory Group on COVID-19, 14 December 2020." 16 December 2020. Accessed 17 January 2021. https://www.naccho.org.au/aboriginal-and-torres-strait-islander-advisory-group-on-covid-19-14-december-2020/
6. Victorian Aboriginal Community Controlled Health Organisation. "VACCHO, our Members, and the State Government work together in creative and responsive ways to protect the health and wellbeing of Aboriginal Victorians." 14 September 2020. Accessed 17 January 2021. https://www.vaccho.org.au/news-media/mr/covid19-partnership/
7. Aboriginal Health & Medical Research Council Of NSW. "COVID-19 Outbreak." 2020. https://www.ahmrc.org.au/coronavirus/
8. Aboriginal Health & Medical Research Council of NSW. "Aboriginal Community Controlled Health Services Pandemic Response Toolkit: Preparing a Comprehensive Plan and Response to Pandemics." March,2020. https://n8p4t5m5.stackpathcdn.com/wp-content/uploads/2020/03/AHMRC_Pandemic-Toolkit_Final_March-2020-v5.0.pdf
9. Finlay, Summer and Mark Wenitong. "Aboriginal Community Controlled Health Organisations are taking a leading role in COVID-19 health communication." Australian and New Zealand Journal of Public Health, 44, 4 (2020): 251-252 https://doi.org/10.1111/1753-6405.13010
10. Wahlquist, Calla. "Rio Tinto Blasts 46,000-Year-Old Aboriginal Site to Expand Iron Ore Mine". The Guardian, 26 May 2020. https://www.theguardian.com/australia-news/2020/may/26/rio-tinto-blasts-46000-year-old-aboriginal-site-to-expand-iron-ore-mine
11. Southalan, John. "Inquiry into the destruction of 46,000-year-old caves at the Juukan Gorge in the Pilbara region of Western Australia: Submission 130 to Joint Standing Committee on Northern Australia." Parliament of Australia, 1 October 2020. https://research-repository.uwa.edu.au/en/publications/inquiry-into-the-destruction-of-46000-year-old-caves-at-the-juuka

12. Knowles, Rachael. "Over 60 per cent of stakeholders oppose new WA cultural heritage bill." National Indigenous Times, 20 November 2020. Accessed 17 January 2021. https://nit.com.au/over-60-per-cent-of-stakeholders-oppose-new-wa-cultural-heritage-bill/
13. Ibid.
14. Gately, Iain, and Belinda Kendall. "Australia." In The Indigenous World 2020, edited by Dwayne Mamo, 598-605. IWGIA, 2020. http://iwgia.org/images/yearbook/2020/IWGIA_The_Indigenous_World_2020.pdf
15. Marchetti, Elena. "Critical Reflections upon Australia's Royal Commission into Aboriginal Deaths in Custody." Macquarie Journal of Law, 5 (2005): 103-125.
16. Deloitte Access Economics. "Review of the implementation of the recommendations of the Royal Commission into Aboriginal deaths in custody. "Department of Prime Minister and Cabinet, Canberra, 2018. https://www.niaa.gov.au/resource-centre/indigenous-affairs/review-implementation-royal-commission-aboriginal-deaths-custody
17. National Aboriginal and Torres Strait Islander Legal Service. "Black Lives Matter." 2020. Accessed 17 January 2021. https://www.natsils.org.au/blm/
18. ABC Behind the News. "Australian Black Lives Matter." 16 June 2020. Accessed 17 January 2021. https://www.abc.net.au/btn/classroom/australian-black-lives-matter
19. Jenkins, Keira. "Black Lives Matter movement has raised awareness & understanding of racism in Australia." NITV, 30 November 2020, Accessed 17 January 2021. https://www.sbs.com.au/nitv/article/2020/11/30/black-lives-matter-movement-has-raised-awareness-understanding-racism-australia
20. The Australian Reconciliation Barometer is the only survey conducted in Australia that measures progress in reconciliation between Aboriginal and Torres Strait Islander people and non-indigenous Australians. It is a biennial, national research study undertaken by Reconciliation Australia since 2008. It maps Australia's progress towards the five dimensions of reconciliation – race relations, equality and equity, unity, institutional integrity and historical acceptance.
21. Reconciliation Australia, *Australian Reconciliation Barometer Report*, 2020, Reconciliation Australia, Canberra.
22. World Wide Fund for Nature. "Emergency response to the Australian bushfires." 2020. Accessed 17 January 2021. https://www.wwf.org.au/what-we-do/bushfires#gs.oo1del
23. Creative Spirits. "Cool burns: Key to Aboriginal fire management." 2 January 2021. Accessed 17 January 2021. https://www.creativespirits.info/aboriginalculture/land/aboriginal-fire-management
24. Royal Commission into National Natural Disaster Arrangements. "Report October 2020." 28 October 2020. https://naturaldisaster.royalcommission.gov.au/
25. Ocula. "Vincent Namatjira." 2020. Accessed 17 January 2021. https://ocula.com/artists/vincent-namatjira/
26. Art Gallery of New South Wales. "Winner: Archibald Prize 2020." Accessed 17 January 2021. https://www.artgallery.nsw.gov.au/prizes/archibald/2020/30235/
27. Perpetual. "Miles Franklin Literary Award." 2020. Accessed 17 January 2021. https://www.perpetual.com.au/milesfranklin
28. Perpetual. "Tara Junes Winch's The Yield Wins the 2020 Miles Franklin Literary Award." 15 July 2020. Accessed 17 January 2021. https://www.perpetual.com.au/insights/tara-june-winchs--sp-the-yield-wins-the-2020-miles-franklin-literary-award

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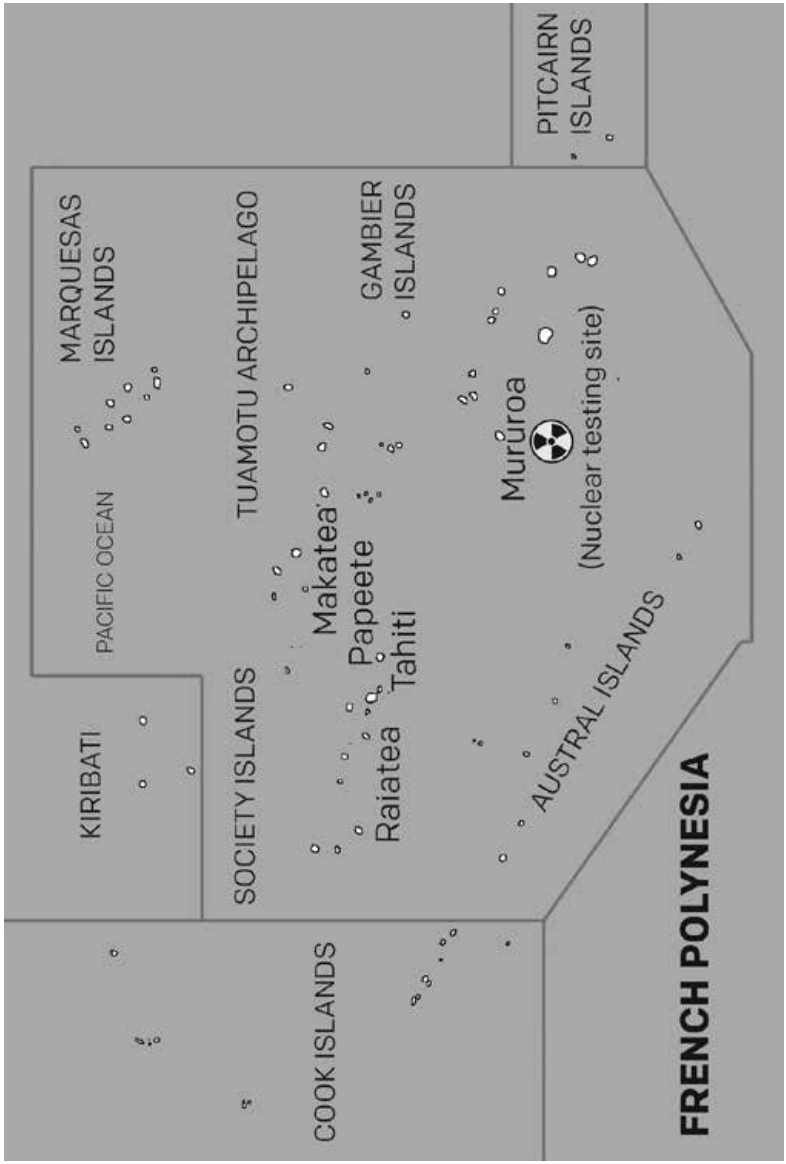
French Polynesia



A former French colony, French Polynesia has been an Overseas Collectivity of France since 2004. It comprises 278,000 inhabitants, some 80% of whom are Polynesian,[1] and has relative political autonomy within the French Republic through its own local institutions: the Government and the Assembly of French Polynesia. The demographic profile for 2019 indicates a slowdown in population growth due to a declining birth rate and migration, particularly on the part of young men to pursue their studies in Metropolitan France, together with an aging population.[2] French Polynesia is characterized by increasing social inequality, as highlighted by the Institute of Statistics of French Polynesia (ISPF). Its surveys – particularly the 2015 family budget survey – show that income inequality is higher in French Polynesia than in Metropolitan France. This situation can be explained in large part "by the very poor redistribution efforts of the Polynesian tax system",[3] i.e. the absence of income tax. One-fifth of the Polynesian population were living below the poverty line in 2015.[4]

A polarization of political life has long characterized French Polynesia with the *Tavini Huiraatira* pro-independence party led by Oscar Temaru, on the one hand, and the *Tahoera'a Huiraatira* autonomist party of Gaston Flosse – which advocates maintaining French Polynesia within the Republic – on the other. In 2016, a succession crisis in *Tahoera'a*, following Gaston Flosse's ineligibility, led to the creation of a third political party, the *Tapura Huiraatira*. This autonomist party was created in 2016 by Edouard Fritch, president of French Polynesia since September 2014 and re-elected in the regional elections of April-May 2018. The election in September 2020 of two senators who are members of *Tapura Huiraatira* – Lana Tetuanui and Teva Rohfritch – confirms the marginalization of Gaston Flosse's party in recent years. Flosse was sentenced to five years of ineligibility for embezzlement of public funds in December 2020 and will therefore not be able to run again in the next elections.[5] These electoral results are regularly raised by the elected representatives of *Tapura* to remind the French representatives and the UN that even though these elections do not have the value of a referendum on self-determination, they do highlight the low numbers of those in favour of independence.

The UN and the right to self-determination

French Polynesia has been on the UN list of Non-Self-Governing Territories (NSGT) since May 2013. While opponents of re-registration on the UN NSGT list see it as an implicit way of demanding independence, its supporters point out that re-registration should lead to the organization of a referendum on self-determination, giving the possibility of choosing between departmentalization, independence or association (associated state). The French State, which considers "the issue of French Polynesia" to be a domestic matter, had not, until 2019, been cooperating with the Fourth Committee of the UN General Assembly (in charge of decolonization issues), leaving it to Edouard Fritch to solemnly request, in October 2019, the removal of French Polynesia from the list of Non-Self-Governing Territories.

However, on 23 October 2020, Nicolas Rivière, France's Permanent Representative to the UN, intervened for the first time in this committee to ask that this registration be reviewed. He first stressed that the autonomous status of French Polynesia guaranteed democratic elections and that it was:

> *respectful of the identity, history, culture and specific features of French Polynesia [which] suits the Polynesians, as repeatedly expressed in elections meeting the highest democratic standards" before concluding: "we believe that the inclusion of this territory of the French Republic on the list of Non-Self-Governing Territories was not in line with the democratic choice of the Polynesians and did not take into account France's offers of dialogue.*[6]

These comments did not strike a chord in French Polynesia, particularly given that the coronavirus epidemic had prevented the Polynesian representatives from participating in these debates. *Tavini*, through the voice of Richard Tuheiava, nevertheless does believe that this intervention by the French State, after seven years of an "empty chair" policy, constitutes progress on a diplomatic level since it is the first time that the French representative has spoken officially on the Polynesian issue.[7] The representative was nevertheless anxious to distinguish very clearly between the New Caledonian situation and that of French Polynesia.

A year marked by the pandemic

As elsewhere in the world, 2020 was marked by the COVID-19 pandemic, which deeply affected the economic, political, cultural and social life of French Polynesia. The first case of coronavirus in French Polynesia was that of parliamentary representative, Maina Sage, on 10 March 2020 following her return from a parliamentary session in Paris. It was only at the end of July, however, two weeks after the reopening of international airlines, that the spread of the virus accelerated substantially: a festive evening organized by the French military to celebrate the end of a two-month mission in French Polynesia seems to have contributed heavily to the spread of the virus.[8]

The pandemic affected 17,000 people (6% of the overall population) and claimed 114 lives in 2020.[9] Joint management of this health crisis by the High Commissioner, representative of the French State with responsibility for security and the restriction of individual liberties, and the Government of French Polynesia, responsible for health matters, showed the extent to which the raft of measures was modelled, at least initially, on that of Metropolitan France, even though the epidemiological situations were not comparable. French Polynesia thus experienced a first two-month lockdown from 21 March together with the closure of classes, as in Metropolitan France, and then a gradual opening up before the resumption of international air traffic on 15 July.

In contrast, at the end of October, French Polynesia did not opt, like Metropolitan France, for a second lockdown but chose less restrictive measures based on establishing a "curfew". Edouard Fritch, President of French Polynesia, considered that "a lockdown as we experienced last April (...) would be an economic and social disaster for all Polynesians".[10] The lockdown and ban on international flights did indeed have considerable economic consequences, especially for the tourism sector, which is one of the most important sectors of the Polynesian economy, and resulted in an estimated 10% fall in GDP over the first six months of the year.[11] The number of tourists decreased by 70% over the same period, leading to the closure of the Pacific Beachcomber group's Intercontinental Hotel in Moorea and, along with this, the loss of 190 jobs.[12]

The Government of French Polynesia did not consider a new lockdown even though the health situation was more worrying than in

March, although this was partly due to the fact that the French State did not extend its support mechanisms for individuals and companies to French Polynesia, something that Senator Lana Tetuanui lamented during her intervention in the Senate on 26 November 2020:

> *When the crisis emerged in Polynesia, we scraped all the funds together to pay for our masks, tests and everything else. A state of emergency was decreed by the State 20,000 kilometres away but we had to take responsibility for the consequences. We had to suffer the consequences of short-time working hours! We haven't asked anyone for anything. Meanwhile, the State boasts of helping us with loans.*[13]

In the absence of any economic support from the French State, the Government of French Polynesia was forced to take out an initial loan of 240 million euros from the French Development Agency.[14] On a cultural level, major events such as the *Heiva* (annual festival of song and dance) were cancelled. In social terms, the ISPF surveys demonstrate that the lockdown measures were experienced differently depending on a family's housing conditions and Internet access. While a computer and Internet access are essential to be able to work at home and for educational continuity, only 52% of people (and 54% of those in school) had Internet access in 2017.[15] The health crisis has, in fact, only exacerbated the social inequalities in French Polynesia.

Oscar Temaru and the French State

The year 2020 was also marked by a series of actions against Oscar Temaru, independence leader and mayor of Fa'a'a, a town bordering Papeete with a population of 30,000. Oscar Temaru was sentenced in September 2019 to a six-month suspended prison sentence and a fine of 42,000 euros for grants paid by the Faa'a municipality to the radio station *Te Reo o Tefana*, on suspicion of serving the political interests of the Fa'a'a municipal team, without the content of the radio broadcasts having been examined at any point in the proceedings. Oscar Temaru has appealed this conviction.

Without waiting for a second ruling, the Public Prosecutor, Hervé Leroy, under the authority of the Minister of Justice, ordered a preliminary investigation into the regularity of the jurisdictional protection granted by the Fa'a'a City Council to Oscar Temaru in his capacity as mayor. This protection allows the municipality to cover his legal fees; this is guaranteed by Article L. 2123-34 of the General Code on Local Authorities, which states that "the municipality is required to grant protection to the mayor (...) when the latter is subject to criminal proceedings in connection with acts that are not by nature misconduct detachable from the performance of his or her duties".

In the context of the same proceedings, 92,000 euros were also seized from the personal account of the mayor of Fa'a'a on 4 June. Having appealed his conviction and with legal proceedings underway, Oscar Temaru has also filed a complaint against the Public Prosecutor for "violation of the presumption of innocence". He considers that these new measures are a relentless attack by the French State on the representative of the pro-independence party. This case has also elicited reactions from the academic and cultural world in both French Polynesia and Metropolitan France.[16] The Temaru Leroy case was outsourced to Nouméa in New Caledonia because the judges cannot hear a case against the Head of the Public Prosecutor's Office of their own jurisdiction.[17]

Finally, the appeal in the Radio Tefana case was also postponed, as Oscar Temaru's defence lawyers filed a complaint with the Court of Cassation on the grounds of legitimate suspicion against the entire Court of Appeal after noting contact between the President of the Court of Appeals and the Public Prosecutor while the session was adjourned.[18] This case thus raises questions as to the impartial and apolitical functioning of the justice system in French Polynesia.

Notes and references

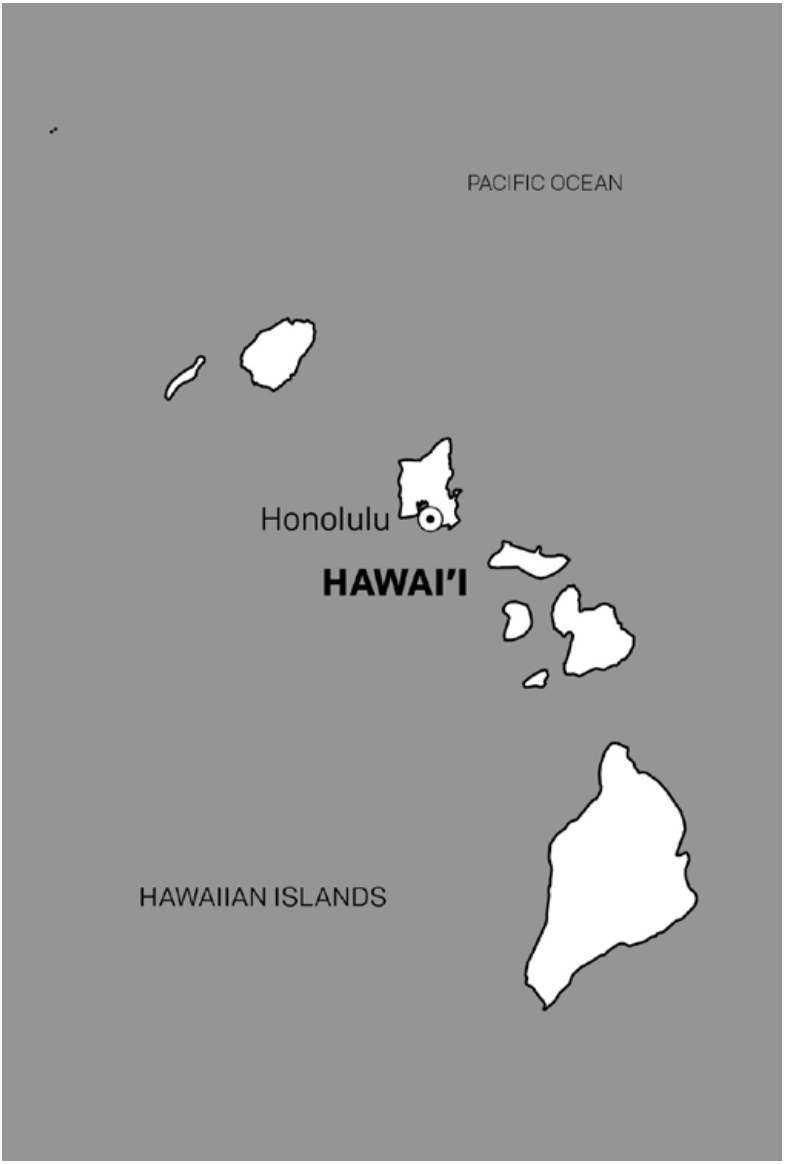
1. ISPF."Point Etudes et Bilan de la Polynésie française, No. 1207 Bilan démographique 2019." [French Polynesia Studies and Assessments, No. 1207. Demographic profile 2019]. July, 2020. http://www.ispf.pf/docs/default-source/publi-pf-bilans-et-etudes/peb-07-2020-1207-bilan-d%C3%A9mographique-2019.pdf?sfvrsn=4 The last census noting "ethnic" categories dates from 1988: "Polynesians and similar" represented 80.58% of

the population, "Europeans and similar" 13.28% and "Asians and similar" 5.42%.
2. Ibid.
3. Franc de Ferrière, Jacques. "Les inégalités de revenus bien plus fortes au fenua qu'en métropole." Tahiti Infos, 2 September, 2019. https://www.tahiti-infos.com/Les-inegalites-de-revenus-bien-plus-fortes-au-fenua-qu-en-metropole_a184613.html?fbclid=IwAR0_EKzio8uW3GgxILRBO74PK_l8txsY9m_ByX9Cp02a0nybQ7SeuNZWtH0
4. ISPF. "Budget des familles." 2017. http://www.ispf.pf/bases/enquetes-menages/budget-des-familles-2015/publications
5. Le Monde avec AFP. "Gaston Flosse condamné à cinq ans d'inéligibilité pour détournement de fonds publics" [Gaston Flosse sentenced to five years' ineligibility for embezzlement of public funds]. Le Monde, 11 December, 2020. https://www.lemonde.fr/societe/article/2020/12/11/gaston-flosse-condamne-a-cinq-ans-d-ineligibilite-pour-detournement-de-fonds-publics_6062994_3224.html
6. Samoyeau, Antoine. "France demande la désinscription de la Polynésie à l'ONU." [France demands Polynesia's deregistration from the UN]. Tahiti Infos, 6 December, 2020. https://www.tahiti-infos.com/La-France-demande-la-desinscription-de-la-Polynesie-a-l-ONU_a196528.html
7. Samoyeau, Antoine. "Le Tavini salue l'instauration du dialogue onusien avec la France. " [Tavini welcomes the establishment of UN dialogue with France]. Tahiti Infos, 6 December, 2020. https://www.tahiti-infos.com/Le-Tavini-salue-l-instauration-du-dialogue-onusien-avec-la-France_a196529.html
8. Bienvault, Pierre. "Une soirée basque amère à Tahiti pour les gendarmes de Tarbes." [A bitter Basque evening in Tahiti for the gendarmes of Tarbes]. La Croix, 15 August, 2020, https://www.la-croix.com/France/soiree-basque-amere-Tahiti-gendarmes-Tarbes-2020-08-15-1201109294
9. Tahiti Infos. "Aucun décès lié au Covid-19 en Polynésie ce jeudi." 31 December, 2020.. https://www.tahiti-infos.com/Aucun-deces-lie-au-Covid-19-en-Polynesie-ce-jeudi_a197201.html
10. Le Parisien avec AFP. "La Polynésie refuse le confinement malgré une contamination massive." [Polynesia refuses lockdown despite mass infections]. Le Parisien, 31 October, 2020. https://www.leparisien.fr/societe/coronavirus-la-polynesie-refuse-le-confinement-malgre-une-contamination-massive-31-10-2020-8405862.php#:~:text=La%20Polyn%C3%A9sie%20fran%C3%A7aise%20ne%20referme,baisse%20du%20PIB%20de%2010%20%25.
11. Ibid.
12. Polynésie la 1ère. "Fermeture de l'Intercontinental Moorea confirmée : 190 personnes sont licenciées." France tv info, 28 May, 2020. https://la1ere.francetvinfo.fr/polynesie/moorea/fermeture-intercontinental-moorea-confirmee-190-personnes-sont-licenciees-837360.html
13. Sénat. "Projet de Loi de Finances pour 2021 n° 2020-1721. " Interventions de Mme Lana TETUANUI, 26 November, 2020. https://www.senat.fr/interventions/tetuanui_lana14275y/tetuanui_lana14275y_seance20201126.html
14. Leyral, Mike. "En Polynésie française, le coronavirus s'est plus diffusé en une semaine qu'un cinq mois. " [In French Polynesia, the coronavirus has spread more in one week than in five months]. Le Monde, 13 August, 2020. https://www.lemonde.fr/planete/article/2020/08/13/en-polynesie-le-coronavirus-s-est-plus-diffuse-en-une-semaine-qu-en-cinq-mois_6048867_3244.html#:~:text=de%20Covid%2D19-,En%20Polyn%C3%A9sie%20

fran%C3%A7aise%2C%20le%20coronavirus%20s'est%20plus%20diffus%C
15. ISPF. "Point Etudes et Bilans de la Polynésie française. Le quotidien des Polynésiens en confinement." [French Polynesia Studies and Assessments. The daily life of Polynesians in lockdown.] April, 2020. https://www.ispf.pf/docs/default-source/publi-pf-bilans-et-etudes/peb-04-2020-1199-confinement-2020.pdf?sfvrsn=8
16. Mediapart. "En Polynésie française, à quoi joue l'État?" 16 June, 2020. https://blogs.mediapart.fr/les-invites-de-mediapart/blog/160620/en-polynesie-francaise-quoi-joue-l-etat
17. Urarii Pambrun, Vaite. "Affaire Temaru Leroy le curieux renvoi." [Temaru Leroy the curious deferment]. Tahiti Infos, 3 November, 2020. https://www.tahiti-infos.com/Affaire-Temaru-Leroy-le-curieux-renvoi_a195744.html
18. Samoyeau, Antoine. "Le procès Radio Tefana renvoyé au 15 février." [Radio Tefana trial postponed to 15 February]. Tahiti Infos, 30 November, 2020. https://www.tahiti-infos.com/Le-proces-Radio-Tefana-renvoye-au-15-fevrier_a196368.html

Gwendoline Malogne-Fer *is a sociologist-researcher with the Centre Maurice Halbwachs, (CNRS/EHESS/ENS) in Paris. In 2007 she published a book based on her sociology thesis entitled Les femmes dans l'Eglise protestante mā'ohi. Religion, genre et pouvoir en Polynésie française [Women in the mā'ohi Protestant Church. Religion, gender and power in French Polynesia]. (Karthala). Her work sits at the crossroads between gender studies, the sociology of Protestantism and the anthropology of migration. With Yannick Fer, she has also directed two documentary films on cultural demands within the mā'ohi Protestant Church "Pain ou coco. Moorea et les deux traditions" [Bread or Coconut. Moorea and the two traditions] (https://vimeo.com/104943192) and on the challenges of cultural transmission in French Polynesia "Si je t'oublie Opunohu. Les chemins de la culture à Moorea" [Lest I forget you Opunohu. The paths of culture in Moorea] (https://archive.org/details/SiJeToubliepinohu-LesCheminsDeLaCultureMoorea)*

Hawai'i



Ka Pae Aina (the Hawai'ian Archipelago) is made up of 137 islands, reefs and ledges stretching 2,451 kilometres southeast / northwest in the Pacific Ocean and covering a total of 16,640 square kilometres.

The Kanaka Maoli, the Indigenous Peoples of Ka Pae Aina or Hawai'i, make up around 20% of the total population of 1.2 million.

In 1893, the Government of Hawai'i, led by Queen Lili'uokalani, was illegally overthrown and a provisional government established without the consent of the Kanaka Maoli and in violation of international treaties and law. It was officially annexed by the United States and became the Territory of Hawaii in 1898. Hawaii acquired statehood in 1959 and became a part of the United States of America. The Kanaka Maoli continue to fight for self-determination and self-government and continue to suffer from past injustices and ongoing violations of their rights. Some members are involved in the Hawai'ian sovereignty movement, which considers the overthrow of the Kingdom of Hawai'i in 1893 illegal, along with the subsequent annexation of Hawai'i by the United States. Among other things, the movement seeks free association with and/or independence from the United States.

There have been formal requests for reparations from the United States for the overthrow of Queen Lili´uokalani in 1893 and for what has been described as a prolonged military occupation, starting with the 1898 annexation. The so-called "Apology Resolution" passed by the U.S. Congress in 1993 is cited as a major boost by the Hawai'ian sovereignty movement.

The United States announced in 2010 that it would endorse the U.N. Declaration on the Rights of Indigenous Peoples (UNDRIP) as a moral guide after voting against it in 2007. The United States has not ratified ILO Convention No. 169. Indigenous people born in the United States of America are generally U.S. citizens; they are also citizens of their own nation. However, the UNDRIP guides the actions and aspirations of Hawai'i's Indigenous Peoples, as do local declarations such as the Palapala Paoakalani.

Events in 2020

The Kanaka Maoli's opposition to construction of the observatory on Mauna Kea continued in 2020.

Statement from the Governor of Hawaii on the Thirty Metre Telescope (TMT)

On 19 February 2020, Hawaii Governor David Ige told reporters that he had reassured the head of the Department of Education, Science and Technology that Hawaii remained committed to the rule of law and would ensure peaceful and safe access to the project site.[1] Ige said:

> I would like to assure them of the efforts we are making to resolve the disputes over the project, through the *ho'oponopono*[2] sessions that are underway and the Reconciliation Commission that I will be forming to talk about the broader issues of reconciliation with indigenous Hawaiians.

Hawai'i Island Mayor Harry Kim had previously said that he wanted to delay construction of the TMT for two months or more and that the extra time could allow TMT officials to reach an agreement with the project's opponents. *"I would like to have a longer extension so that we can use this quiet, non-confrontational period to see what we can do to move forward,"* he said.[3]

Anti-TMT forces calling themselves *kia'i* or "mountain protectors" believe that Mauna Kea is sacred and that building the telescope would be a desecration. Demonstrators have occupied the road leading to the summit, delaying construction for several months. Mayor H. Kim negotiated a temporary truce in December 2019 that reopened the road and suspended construction of the telescope. The truce is expected to expire in less than two weeks, however, and Kim says it will take longer than this to find common ground. TMT spokesperson Scott Ishikawa confirmed that Mayor Kim has contacted TMT for an extension. However, he stated that TMT had no deadline to begin construction of Mauna Kea.[4]

Codification of rules for activities authorized on Mauna Kea

Meanwhile, the new rules developed by the University of Hawaii to regulate permitted activities on Mauna Kea could take up to a year to be fully implemented, officials have said. The governor approved the rules in January 2020. But it will likely be six to 12 months before they are implemented, the Hawaii Tribune-Herald has reported.[5] *"Full implementation will require a number of steps,"* said Greg Chun, member of the Mauna Kea Management Office's Board of Directors. The rules prohibit waste, speeding, noise, fires, drugs, alcohol, drones and camping. They are also intended to regulate commercial activities, circuits and motorized traffic, including off-road driving.

COVID-19 spread is limiting the presence of TMT opponents on Mauna Kea

Amidst the continuing spread of the new coronavirus, COVID-19, and the respiratory difficulties it causes, native Hawai'ians who oppose the construction of the TMT have reduced their presence on the Hawai'ian mountainside.

On 14 March 2020, the *Pu'uhonua o Pu'uhuluhulu* community camped on the mountainside issued a statement on their website and via Twitter asking kupuna (the elderly) and *"those at higher risk of respiratory disease to stay home and off the mountain"*.[6]

The group, which describe itself as *kia'i* or guardians, also asked visitors and supporters to refrain from visiting Mauna Kea until the worst of the pandemic had passed.

On 1 April 2020, Hawaii reported a total of 258 confirmed or suspected cases of COVID-19.

In addition to taking the generally recommended precautions, the *kia'i* said they were concerned that tourists visiting Hawaii from elsewhere would put their elderly at increased risk.

Although the elderly have been asked to withdraw for their own safety, there is still a *kia'i* presence on the mountain, Kupuna and Kia'i spokesman Noe Noe Wong-Wilson told Space.com. *"We're still here,"* she said, adding that this reduction in their active presence did not mean that the movement was winding down.[7]

Controversy between TMT opponents and Canadian astronomers

On 27 September 2020, the Canadian Astronomical Society designated the controversial TMT as its priority project for the next 10 years. The Canadian government undertook to contribute CAD $250 million of the TMT's total CAD $2.4 billion cost in 2015. However, the challenges have forced Canadian astronomers involved in the project to consider how best to reconcile their scientific ambitions with Indigenous rights.[8]

Astrophysicist Sara Ellison, President of the Canadian Astronomical Society, said:

> It is not for the astronomers to make the final decision about the future of the TMT. The Canadian Astronomical Society, which recently made the TMT its priority project for the decade, has nonetheless been careful to advise a policy based on indigenous consent in its long-term plan. It is up to the indigenous Hawaiians and the State of Hawaii to decide whether or not we are welcome. If we aren't then we won't go.[9]

Pauline Bramby, astronomer and co-chair of the group that drafted the long-term plan, hopes that *"the creation of an indigenous consent policy will spark more conversations among astronomers, where we can reflect on the kinds of privileges we have as astronomers and how these privileges relate to colonialism"*.[10]

Uahikea Maile, a Kanaka Maoli Professor of Indigenous Politics at the University of Toronto, considers that:

> relegating the construction of the TMT to the status of an internal issue in Hawaii is a way for Canadian astronomers to distance themselves from the ethical considerations that arise when dealing with human populations. In fact, to be able to study the stars and the universe, they have to face the people of our planet.[11]

Mr. Maile hopes that Canada will withdraw from this project and wants to raise awareness of the Kanaka Maoli position. He believes that, although the conflict surrounding the TMT may seem to be a clash between culture and science, it is rather a territorial and jurisdictional

issue resulting from colonialism and the fact that decision-making control has been taken away from the Indigenous Peoples.

Notes and references

1. Press, Associated, and Ku`uwehi Hiraishi. "Hawaii Governor Recommits To TMT; Protest Costs Now At Least $12M." Hawai´i Public Radio, 19 February, 2020. https://www.hawaiipublicradio.org/post/hawaii-governor-recommits-tmt-protest-costs-now-least-12m#stream/0
2. The Ho´oponopono (ho-o-pono-pono, sometimes translated as "putting things in order" or "restoring balance") is a social and spiritual tradition of repentance and reconciliation among Hawaiian elders.
3. Brestovansky, Michael. "Mayor Asks TMT To Delay Construction For Two More Months". Hawaii Tribune Herald, 18 February, 2020. https://www.hawaiitribune-herald.com/2020/02/18/hawaii-news/mayor-asks-tmt-to-delay-construction-for-two-more-months/
4. Idem.
5. Brestovansky, Michael. "Implementation Of Maunakea Rules Could Take 6-12 Months". Hawaii Tribune-Herald, 16 February, 2020. https://www.hawaiitribune-herald.com/2020/02/16/hawaii-news/implementation-of-maunakea-rules-could-take-6-12-months/
6. "COVID-19 Statement: FOR THE SAFETY OF OUR KUPUNA AND CAMP KIA'I". Puuhonua O Puuhuluhulu, 14 March, 2020. https://www.puuhuluhulu.com/; https://www.puuhuluhulu.com/s/COVID-19-Puuhuluhulu.pdf
7. Urrutia, Doris Elin. "At Thirty Meter Telescope Protest, Native Hawaiian Elders Leave Mountain Over Coronavirus Threat". Space.Com, 2 April, 2020. https://www.space.com/coronavirus-shrinks-thirty-meter-telescope-protest-in-hawaii.html
8. Jones, Caleb. "La Construction D'Un Télescope À Hawaï Oppose Toujours Autochtones Et Astronomes". Radio-Canada.Ca, 27 September, 2020. https://ici.radio-canada.ca/espaces-autochtones/1736910/ttm-astronomie-science-autochtones-kanaka-maoli-mauna-kea
9. Ibid.
10. Ibid.
11. Ibid.

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Papua New Guinea

Papua New Guinea (PNG), formally the Independent State of Papua New Guinea, is a country in Oceania that covers an area of 462,840 km^2 and encompasses the eastern half of the island of New Guinea.[1] The country's name comes from "Papou" which, according to the naturalist Alfred Wallace, originates in the Malaysian *puwah-puwah* or *papuwah* meaning "frizzy".[2] New Guinea was the name given to the area by a 16th-century Spanish explorer due to the assumed resemblance of its inhabitants to those of Equatorial Guinea in Africa. The country gained independence in 1975 and is now a member of the Commonwealth of Nations.[3]

Almost symbolically a federal structure, PNG comprises 20 administrative provinces: Bougainville, Central, Chimbu, Eastern Highlands, East New Britain, East Sepik, Enga, Gulf, Madang, Manus, Milne Bay, Morobe, National Capital, New Ireland, Northern, Sandaun, Southern Highlands, Western, Western Highlands and West New Britain.

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 inhabitants of PNG are known as Papua New Guineans or Papuans. It is the most multilingual country in the world, with 830 languages spoken among a population of 8.4 million, i.e., an average of 9,100 speakers per language.[4]

PNG was absent from the vote on the UN Declaration on the Rights of Indigenous Peoples in September 2007.

The Situation in Bougainville

Paguna Mine – progress in the complaint against Rio Tinto

The Anglo-Australian giant Rio Tinto has long been accused of avoiding its responsibility to clean up toxic waste from the Panguna mine on the island of Bougainville, these complaints have now been formally filed on 22 September 2020 in Australia.[5] The Human Rights Law Centre (HRLC) in Melbourne filed the complaint on be-

half of more than 150 Bougainville residents. The complaint adds to the pressure the mining group is under after it gained significant attention for destroying an ancient aboriginal site in May of 2020.[6]

The mine, which has a notorious history, was once the world's largest open-pit copper mine and accounted for up to 40% of Papua's exports. The mine and its unequal wealth distribution is recognised to have played a major part leading to Bougainville's bloody civil war in the 1980s and 90s. The mine's legacy lives on as it continues to pollute nearby watercourses more than three decades after its closure. In operation from 1972 to 1989, it generated more than a billion metric tons of mining waste. Toxic waste continues to seep into the region's water sources, contaminating drinking water supplies and causing disease and environmental destruction.[7]

"Our rivers are being poisoned with copper, our houses invaded by dust from the mounds of waste, and our children are falling sick from the pollution," denounced Theonila Roka Matbob, member of the local Parliament, in a press statement.[8]

The environmental damage caused by the mining activity and the lack of financial benefits have long been the cause of strong protests among the population.

The British-Australian mining company Rio Tinto divested from its majority stake in the local operating company in 2016 after being notified in 2014 of the government's plans to clean up the site, in which Rio Tinto was meant to share responsibility. The company now holds that the governments of Bougainville and PNG, now the majority shareholders, are best placed to address the problems. Public protests have dogged the company since the 2016 decision, accusing the mining group of trying to avoid the costs of cleaning up the site.[9] Matbob said:

> *The Panguna mine devastated our communities physically and culturally and we are still living with the consequences. Our land is destroyed and our rivers are poisoned. Kids are drinking and bathing in the polluted water and getting sick. New areas of land are still being flooded with the waste from the mine. We urgently need Rio Tinto to come back and deal with these problems so our communities can find healing.*[10]

The complaint accuses the mining group of having failed to manage the risks that are allegedly causing health problems for more than 12,000

people living downstream and of having been non-compliant with existing environmental regulations during its operation.

Keren Adams, Legal Director at the Human Rights Law Centre, stated:

> *Rio Tinto's decision to cut and run from Panguna without addressing the massive problems created by the mine is an appalling breach of its responsibilities [...] Rio Tinto holds itself up as a global corporate leader on human rights and the environment. Unless it faces up to its legacy at Panguna, however, and contributes to fixing up the massive problems it has created, the company will remain in serious violation of its human rights and environmental obligations.*[11]

The complaint calls on the Australian government to press Rio Tinto to enter into negotiations with residents and, if those negotiations fail, to launch an investigation.[12]

Presidential elections

Bougainville's presidential elections took place from 12 August to 1 September 2020. Legislative elections were held simultaneously. Outgoing President John Momis was not eligible for re-election.[13]

Originally scheduled for June 2020, the elections were postponed several months due to the COVID-19 pandemic.

The high number of candidates and the outgoing president's absence led to an election described as the most open the island has ever seen. The vote was also of great importance as the new president is expected to lead negotiations with the central government on the island's independence following the self-determination referendum held from 23 November to 7 December 2019. More than 98% of the population voted in favour of independence.

Ishmael Toroama, one of the former commanders of the Bougainville Revolutionary Army, was declared the winner on 23 September, taking office two days later.[14]

The extractive industries and Papuan communities

PNG has a dual economy. Economic growth is driven primarily by the relatively prosperous enclaves of the mining sector, which have little fi-

nancial impact on the rest of the country's population. The extractive industries are modern, capital-intensive and largely foreign-owned. They export all their production and account for the bulk of private investment. They provide only a small proportion of employment, however, and coexist alongside a stagnant subsistence economy.[15]

Numerous conflicts have arisen and are ongoing both between the mine-impacted Papuan tribes and between the Papuan tribes and government or provincial officials in power who have been labelled by the Papuan tribes as *neo-Guinean*.

Major mining conflict continue in 2020

Ok Tedi Mine - North West Province - Copper - BHP Billiton

On 7 August 2020, the Ok Tedi mine ceased operating after the mining town recorded seven positive cases of COVID-19. The cases occurred despite Ok Tedi's halting of all charter flights to and from Tabubil on 28 July 2020 in order to protect employees from the escalation of positive cases in the capital city, Port Moresby. The company identified one individual who had travelled from Port Moresby to Kiunga on a commercial airline on 31 July as the source of the transmission.

Unfortunately, one of the positive cases in Tabubil town was an Ok Tedi employee who caught the virus after close contact with the traveller from Kiunga. The employee travelled to and from work by bus, leading Ok Tedi to believe that "more people were probably infected, creating an unacceptable risk of accelerated transmission within Ok Tedi's workforce."[16]

On 10 September 2020, despite COVID cases having been identified among the mine's employees and temporary suspension of its activities as a result, the President of Ok Tedi Ltd announced that the mine's exploitation rights were to be extended to 2029. This was also of concern as protests continue 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.[17]

It is of note that the State of PNG owns 67% of the mine, with the remaining 33% in the hands of three landowning groups.

Porgera Mine - Enga Province - Gold and silver - Barrick Gold

At the end of April 2020, the PNG government made the surprising

announcement that it would not be extending the operating lease of Porgera Mine, a gold mine that accounts for some 10% of the country's total exports. The decision not to renew the special mining lease was a shock, particularly for the mine's operator, Barrick Gold, and their joint venture partner, Zijin Mining.[18]

Porgera is one of the oldest gold mines in PNG, which has been in operation for 30 years in the highland province of Enga. It employs more than 5,000 people and the participation of 5% of landowners, together with provincial actions, has helped speed up service and education efforts in one of the most remote provinces in the country. Although a significant economic contributor, the mine has also generated significant controversy, including human rights concerns,[19] environmental issues and compensation disputes.

While the government seemed within its rights not to renew the lease, the shock of the announcement led Barrick to lash out at the decision, claiming that it was "equivalent to nationalization without due process".[20]

So why did the government take this radical step?

Prime Minister Marape was sworn in in May 2019 and rapidly implemented a discourse of "taking back the PNG's interests", arguing that PNG was not receiving its fair share of the benefits of the formal economy and major natural resource projects. The current economic crisis in PNG has been well documented and is only expected to worsen with the fallout from COVID-19. As the world's 10th largest resource-dependent economy, it is not surprising that the natural resource sector has found itself in the government's sights. The government is in the process of negotiating several major natural resource agreements all of which have tremendous economic potential if negotiated properly.[21]

It can be understood that the Porgera decision is an attempt by the government to both reap more benefits from existing projects and send a signal to those projects still being negotiated. The approach is not without risks, while Marape had hoped that Barrick would keep the mine operating while negotiating its exit, the company issued a categorical rejection of this option and ordered the immediate closure of the mine. Further, Zijin Mining, Barrick's Chinese joint venture partner, mobilised its political pressure and noted international political ramifications, warning that the lease dispute could harm bilateral relations between PNG and China.[22]

What's at stake?

PNG might be able to find another operator to take over the mine

and re-open it but would likely find this awkward in the midst of high-stakes legal litigation. The immediate prospects are emerging as a lose-lose situation for both sides. PNG is taking control of the income from the mine at a time when it needs to stabilize its finances. However, any compromise to allow Barrick to continue operating would harm the strong local support that Marape has gained. Barrick on the other hand has the financial capital to weather the storm and is large enough to survive without Porgera's revenues. Nevertheless, the longer a legal dispute with the government continues, the more its claims to a social license to operate would be diminished.

Ramu Mine - Madang Province - Nickel - MCC (Metallurgical Corporation of China)

In February 2020, a coalition of more than 5,000 villagers plus a provincial government in Madang launched a lawsuit against Ramu NiCo, the world's most productive nickel battery plant, over dumping of millions of tons of mining waste into the ocean.[23]

In 2019, PNG's environmental authority shut down the Ramu Mine and Nickel processing plant in August after a spill of what was first reported to be 80,000 litres but was then identified as 200,000 litres of toxic slurry which was released into the bay and surrounding ocean.[24] This release from a holding tank, before the tailings had been pumped out to sea, was the tipping point that spark the new complaint.

Ramu NiCo has been dumping waste into the ocean since 2012 and evidence of environmental and health impacts is mounting against them.[25] Previous lawsuits, including one filed in 2010 which ended up at the supreme court, have not prevented the company from practicing deep-sea tailings disposal, ruling at that time that there was no proof of environmental harm.

However, in the 2020 lawsuit, the complainants demanded that not only should its Chinese owners (MCC) pay a total of 18 billion kina ($5.2 billion USD) in restitution, but that it should also stop dumping mining waste into the ocean and clean up the allegedly contaminated waters, documenting and presenting evidence of environmental harms. Half a million people depend on local fisheries in the Coral Triangle biodiversity hotspot, and the complainants argue that their lives and food supplies are at stake.[26]

The lawsuit seeks the highest environmental damages in the country's history and is based on some of the most significant studies

ever conducted on the dumping of mining waste into the ocean. This evidence will hopefully be sufficient to reverse the decision from the 2010 case.

"If it succeeds, it will be a landmark case, in particular because no one has ever claimed for environmental damages on such a large scale," said Ben Lomai, the lawyer representing the complainants in the case.

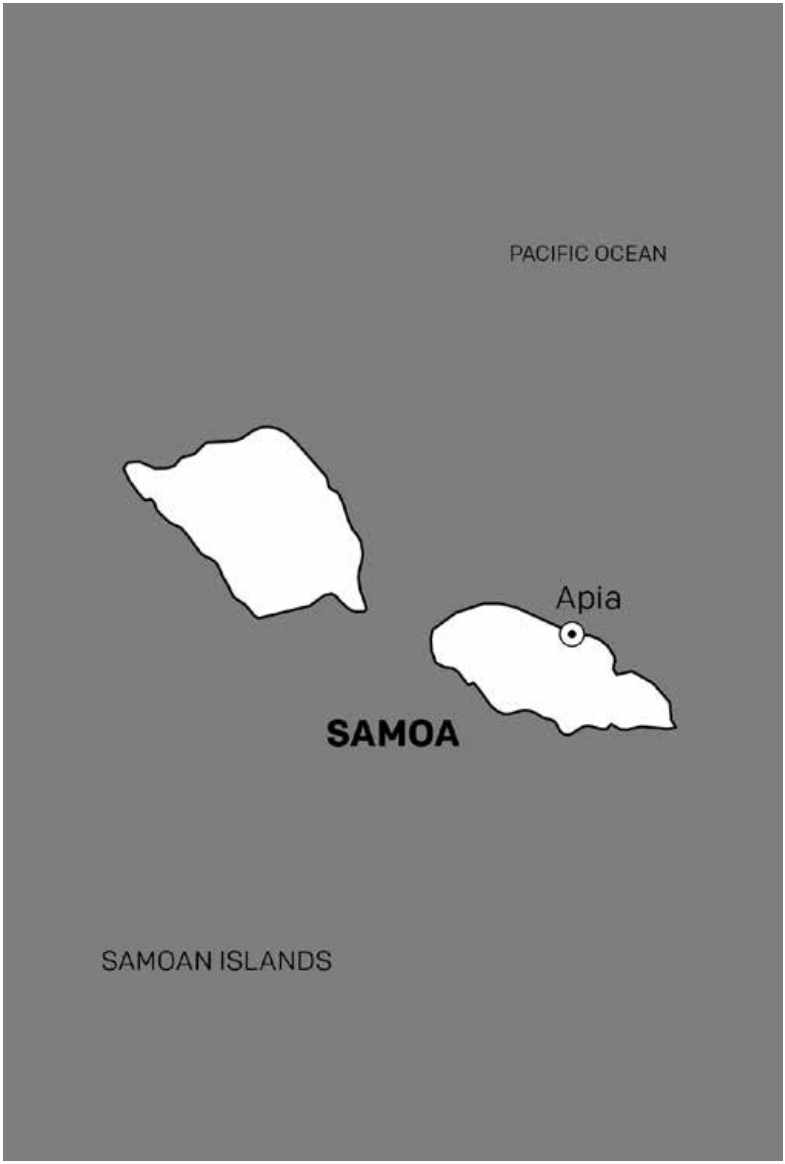
Notes and references

1. The other half of the island, Western New Guinea, forms part of Indonesia
2. "Papouasie- Nouvelle-Guinée." 2021. Cefan.Ulaval.Ca. http://www.axl.cefan.ulaval.ca/pacifique/papoung.htm
3. The Commonwealth.2021. "Papua New Guinea: History." https://thecommonwealth.org/our-member-countries/papua-new-guinea/history
4. GITPA. " Qui sont les Papous?" 2021. https://gitpa.org/Peuple%20GITPA%20500/GITPA%20500-9WEBDOCPAPOUSQUISONTILS.htm
5. BBC News. "Rio Tinto: Mining Giant Accused Of Poisoning Rivers In Papua New Guinea." 29 September, 2020. https://www.bbc.com/news/world-asia-54340227
6. The blast destroyed Aboriginal Heritage sites at Juukan Gorge, including two rock shelters of great cultural, ethnographic and archaeological significance ; Southalan, John. "Inquiry into the destruction of 46,000 year-old caves at the Juukan Gorge in the Pilbara region of Western Australia: Submission 130 to Joint Standing Committee on Northern Australia." Parliament of Australia, 1 October, 2020. https://research-repository.uwa.edu.au/en/publications/inquiry-into-the-destruction-of-46000-year-old-caves-at-the-juuka
7. Cannon, John C. "Decades-Old Mine In Bougainville Exacts Devastating Human Toll: Report". Mongabay Environmental News, 17 April, 2020. https://news.mongabay.com/2020/04/decades-old-mine-in-bougainville-exacts-devastating-human-toll-report/
8. AFP. "Pollution Of The Panguna Mine In Bougainville: Rio Tinto Targeted By A Complaint In Australia - France 24." Teller Report, 29 September, 2020. https://www.tellerreport.com/news/2020-09-29-pollution-of-the-panguna-mine-in-bougainville--rio-tinto-targeted-by-a-complaint-in-australia---france-24.rJxW8NYlUD.html
9. Cannon, John C. "Decades-Old Mine In Bougainville Exacts Devastating Human Toll: Report". Mongabay Environmental News, 17 April, 2020. https://news.mongabay.com/2020/04/decades-old-mine-in-bougainville-exacts-devastating-human-toll-report/
10. Bennett, Michelle. "Report Exposes The Deadly Human Cost Of Rio Tinto's Abandoned Mine." Human Rights Law Centre, 1 April, 2020. https://www.hrlc.org.au/news/2020/3/30/report-exposes-the-deadly-human-cost-of-rio-tintos-abandoned-mine
11. Idem.
12. AFP. "Pollution De La Mine De Panguna À Bougainville : Rio Tinto Visé Par Une Plainte En Australie." Sciences Et Avenir, 29 September, 2020. https://www.sciencesetavenir.fr/nature-environnement/mine-de-panguna-a-bougainville-

rio-tinto-vise-par-une-plainte-en-australie_147765
13. RNZ. "Bougainville allowing for three week election because of Covid-19." Radio New Zealand, 17 June, 2020. Accessed 12 August, 2020. https://www.rnz.co.nz/international/pacific-news/419215/bougainville-allowing-for-three-week-election-because-of-covid-19
14. Jorari, Leanne, and Ben Doherty. "Bougainville Independence High On Agenda As Ishmael Toroama Elected President." The Guardian, 23 September, 2020. https://www.theguardian.com/world/2020/sep/23/bougainville-independence-high-on-agenda-as-ishmael-toroama-elected-president
15. B'Trade. "Papouasie-Nouvelle-Guinée : Le contexte économique." October, 2020. Accessed 24 February, 2021. https://www.btrade.ma/fr/observer-les-pays/papouasie-nouvelle-guinee/economie-3
16. Haselgrove, Salomae. "Ok Tedi Suspends PNG Operations Due To COVID-19." Australian Mining, 7 August, 2020. https://www.australianmining.com.au/news/ok-tedi-suspends-png-operations-due-to-covid-19/
17. Kulesza, Patrick. "Papua New Guinea." in The Indigenous World 2020, edited by Dwayne Mamo, 617-622. IWGIA, 2020. http://iwgia.org/images/yearbook/2020/IWGIA_The_Indigenous_World_2020.pdf
18. Pryke, Jonathan, and Shane McLeod. "Politics And Porgera: Why Papua New Guinea Cancelled The Lease On One Of Its Biggest Mines." The Guardian, 12 May, 2020. https://www.theguardian.com/world/2020/may/12/politics-and-porgera-why-papua-new-guinea-cancelled-the-lease-on-one-of-its-biggest-mines
19. Op Cit. Kulesza, Patrick.
20. Barrick. "Barrick Niugini Limited Challenges Non-Extension Of Special Mining Lease." 24 April, 2020. https://www.barrick.com/English/news/news-details/2020/barrick-niugini-limited-challenges-non-extension-of-special-mining-lease/default.aspx
21. Idem.
22. Daly, Tom, and Tom Westbrook. "Zijin Warns Papua New Guinea Of China Anger Over End Of Gold Mine Lease." Reuters U.S., 29 April, 2020. https://www.reuters.com/article/barrick-gold-png-china-idUSL3N2CH18J
23. Morse, Ian. "Locals Stage Latest Fight Against PNG Mine Dumping Waste Into Sea." Mongabay Environmental News, 22 May, 2020. https://news.mongabay.com/2020/05/locals-stage-latest-fight-against-png-mine-dumping-waste-into-sea/
24. Op Cit. Kulesza, Patrick.
25. Op Cit. Kulesza, Patrick.
26. Idem.

Patrick Kulesza, *Executive President of GITPA, the Groupe International de travail pour les peuples autochtones - France (www.gitpa.org), conducted a fact-finding mission to Papua from November 2018 to June 2019. This mission resulted in the construction of a documentary website that can be found at: http://gitpa.org/Peuple%20GITPA%20500/GITPA%20500-9WEBDOCPAPOUSENTREE.htm*

Samoa



Samoa was the first Pacific Island State to secure the right to self-determination and independence in Oceania during the 20th century (1962).[1] Samoa's population is estimated at 198,414 people.[2] The demographics of Samoa are: Samoan 96%, Euronesians 2% (persons of European and Polynesian ancestry), and other 1.9%.[3] Through decades of direct action in non-violent protest via the Mau movement, combined with repeated delegations to the League of Nations and later the United Nations, and in the face of violent oppression, the Indigenous Peoples of Samoa secured a seat at the United Nations as a full member in 1976.[4] Samoa originally abstained in the vote to adopt the UNDRIP in 2007; however, they have since expressed their support.[5]

When Samoa achieved its independence, it created a modern nation state upholding the rule of law. However, Samoa retained the *fa'a* Samoa (traditional culture) in political structures and in its Constitution. *Matai* (traditional chiefs) are able to stand for election to the *Fono* (unicameral parliament). The Human Rights Protection Party (HRPP) has been in power since 1982 and has supported specific steps towards universal values of equality. Universal suffrage was introduced in 1990, granting women the right to vote for the first time. In 2013, the Constitution was amended guaranteeing women five seats in the Fono. The *Komesina o Sulufaiga (Ombudsman) Act 2013* expanded the mandate of the *Komesina o Sulufaiga Act* from 1989 onwards to include the National Human Rights Institution of Samoa (NHRI). The independent institution was given three main functions: good governance, human rights and a special investigation unit.

Updates in 2020

Samoa continues its commitment to the United Nations human rights machinery, ensuring a space for civil society to raise concerns and coordinate human rights campaigns. In the second

cycle of the Universal Periodic Review (UPR) 2016, Samoa received 129 recommendations.[6] One of them called for the strengthening of the National Human Rights Institution (NHRI) and implementation of all the recommendations made in the NHRI State of Human Rights Report 2015, including the protection of land rights for Indigenous communities.[7]

Major concerns raised since the UPR of 2016 include a bill amending the Constitution that declares Samoa a Christian nation (2017) and the status of women's rights, particularly noting the findings of the Samoa Family Safety Study, which was launched for the second time and found an alarming number of cases of violence against women, reaching 60%.[8] The UN Human Rights Council's Working Group on discrimination against women in law and practice also conducted a 10-day visit to Samoa in 2017 and concluded that there was a need for public reflection and discussion on cultural preconceptions, calling for a coherent national strategy. The five-member Working Group also discussed how a cycle of violence starts with normalized corporal punishment. This is prevalent among men who, victimised as children, go on to repeat the pattern in adulthood.[9] These issues have also been raised by civil society throughout 2020.

Samoa implemented human rights through two main global mechanisms in 2020. It hosted the 84th Extraordinary Session of the Committee on the Rights of the Child (CRC84), where over 100 youth engaged with the Committee in the first ever regional review hosted outside Geneva.[10] Samoa also underwent its second Voluntary Local Review at the UN High Level Political Forum virtually.[11] Samoa presented its vision and experience of realising the rights embodied in the UN Sustainable Development Goals.

84th Extraordinary Session of the Committee on the Rights of the Child (CRC)

Samoa became the first state to host a UN human rights treaty body mechanism to review members of a region. The essence of this exceptional exercise was to put people at the heart of the UN Convention on the Rights of the Child and it forms part of the UN's piloting of efforts to host meetings outside of the UN's Geneva headquarters. It is therefore contributing to building a better model for participation and engage-

ment with UN processes, not only in the Pacific but around the world. Samoa is also the first Pacific Islands State to have a member on one of the nine core human rights treaty institutions. Justice Vui Nelson is the only person from the Pacific to serve as a full member of a committee. Justice Nelson also played a diplomatic role in convincing the UN Office of the High Commissioner to be bold and host the session in the Pacific region.[12]

Samoa's engagement in 2019 advocating for the decentralisation of these meetings was a first, critical step towards achieving this decades-long call. The regional treaty body session brought the process closer to duty bearers and rights holders in Apia, Samoa – resulting in a historic event that ran from 2-6 March 2020.[13]

As the session began, special attention was paid to local custom. On 2 March, as the sun rose over the Pacific Ocean, the UN CRC Chair raised a coconut shell of '*ava* above his head in front of the assembled *matai* to launch the 84th Extraordinary Outreach Session of the Committee on the Rights of the Child. The traditional '*ava* ceremony bestowed honour upon the CRC members, and breathed life into greater community engagement with the global committee in the "best interest of the child".

Besides the historic nature of this decentralised meeting, the Committee reviewed a record number of Pacific Islands Nations – the Cook Islands, the Federated States of Micronesia, and Tuvalu – and developed a list of issues for Kiribati. The Committee hosted numerous formal and informal sessions with multiple colleges and academics on important issues in the island nations — domestic violence, capital punishment, gender justice, sustainable development and the climate crisis.

In preparation for the event, and throughout 2020, Samoa had already been focusing on children's rights with a national competition among 10 local schools to debate the forthcoming side-event topics. Six outstanding youths chosen from these competitions acted as moderators for the side events. These attracted Committee members as well as stakeholders from across Oceania. In total, over 700 people took part in the public *talanoa* side events, which covered topics ranging from "Human rights, culture and religion" to "children's rights to health" and "protection from abuse and neglect", and had school children speaking on the panels.

The UN CRC was the first meeting held in 2020. The 84th session became the final in-person session for all participants. It was a major feature, with zero cases of COVID-19 in the dawning of the global pandemic.

Samoa at the UN High Level Political Forum

Samoa continued to participate in global gatherings such as the UN High Level Political Forum in July 2020, representing key challenges facing the Indigenous Peoples of Samoa. The Voluntary National Review (VNR) process allowed the Samoan government to share how the 2030 Agenda is being implemented for 20 minutes, while civil society raised questions and made recommendations for achieving it.

Samoa presented a pre-recorded message, while civil society stayed up through the early hours to interact directly – posing questions and recommendations concerning priorities among Indigenous Peoples. Of particular concern to civil society were the preparations for the third cycle of the UPR in 2021. In addition, Indigenous Peoples in Samoa still face human rights violations around gender-based violence, despite progress made in addressing this, as noted above. Civil society also drew attention to violence related to corporal punishment and its effects, particularly the linkage to violent behaviour later in life.

Constitutional challenges and separation of executive, legislative and judicial powers

Civil society also expressed grave concern over the transfer of the Supreme Court Justices away from Parliament's oversight and to a Judicial Services Commission, which they note undermines the independence of the judiciary. The Law Society has raised concerns regarding the independence of the judiciary: "The SLS [Samoa Law Society] sub-committee claimed that, along with removing Supreme Court oversight of Constitutional rights, the bills [*Constitution Amendment Bill* 2020, the *Land and Titles Bill* 2020 and the *Judicature Bill* 2020] undermined the separation of (executive, legislative and judicial) powers entrenched in the Constitution and weaken judicial independence."[14] The concern has

also been raised with the UN Special Rapporteur on the Independence of Judges and Lawyers.

Addressing the climate crisis

Climate and the climate crisis remained a major issue that was again highlighted in 2020. Civil society called for greater urgency in national policy and implementation of the Paris Agreement, urging the government and duty bearers to hold the increase in global average temperature well below 2°C and to pursue all efforts to limit temperature increase to 1.5°C.

Notes and references

1. Ghai, Yash. "Reflections on Self-Determination in the South Pacific." In Self-Determination, edited by Clark, Donald and Robert Williamson, 173-199London: Palgrave Macmillan, 1996. https://doi.org/10.1007/978-1-349-24918-3_10
2. Worldometer. "Countries in the world by population (2021)." 2021. https://www.worldometers.info/world-population/population-by-country/, Data produced by United Nations, Department of Economic and Social Affairs, Population Division. World Population Prospects: The 2019 Revision.
3. CIA, The World Factbook. "Samoa." 25 February 2021. https://www.cia.gov/the-world-factbook/countries/samoa/#people-and-society
4. United Nations. "List of Member States: S". Accessed 27 November 2020. https://www.un.org/en/member-states/#gotoS
5. UNPFII - United Nations Permanent Forum On Indigenous Issues. "UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES." March, 2008. Accessed 3 March 2021. https://web.archive.org/web/20120120122457/http:/www.un.org/esa/socdev/unpfii/en/declaration.html
6. OHCHR. "Universal Periodic Review – Samoa." 3 May 2016. https://www.ohchr.org/EN/HRBodies/UPR/Pages/WSindex.aspx
7. Samoa National Human Rights Institution. "State Of Human Rights Reports." 2015. https://ombudsman.gov.ws/state-of-human-rights-reports/
8. Berrell, Jacqui. "Samoa's Historic Inquiry into Family Violence Sparks A National Conversation." UN Women Asia and the Pacific, 2017. https://asiapacific.unwomen.org/en/news-and-events/stories/2017/11/samoas-historic-inquiry-into-family-violence
9. United Nations, Human Rights Council. "Report of the Working Group on the issue of discrimination against women in law and in practice on its mission to Samoa." A/HRC/38/46/Add.1, 14 May 2018. https://undocs.org/A/HRC/38/46/Add.1
10. APIA. "84th Extraordinary Outreach Session of the Committee on the Rights of the Child Comes to Pacific Providing Important Regional Awareness Opportunity." The Pacific Community, 24 January 2020. https://www.spc.

int/updates/news/2020/01/84th-extraordinary-outreach-session-of-the-committee-on-the-rights-of-the

11. Government of Samoa, SDG Taskforce. "Samoa's Second Voluntary National Review Report For Implementation Of Sustainable Development Goals." 2020. https://sustainabledevelopment.un.org/content/documents/26429Samoa_Samos2ndVNR2020reduced.pdf
12. Asia Pacific Forum of National Human Rights Institutions. "Landmark Treaty Body Session to be held in Apia." 27 October 2019. https://www.asiapacificforum.net/news/landmark-treaty-body-session-be-held-apia/
13. Bowe, Ashley and Joshua Cooper. "Putting People at The Heart of The Human Rights Treaty Body System." Open Global Rights, 17 June 2020. https://www.openglobalrights.org/putting-people-at-the-heart-of-the-human-rights-treaty-body-system/
14. Godfrey, Dominic. "Samoa Law Society Says Govt Could Undermine Constitution." RNZ, 27 April 2020. https://www.rnz.co.nz/international/pacific-news/415234/samoa-law-society-says-govt-could-undermine-constitution

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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 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 in and outside the continent, including states, national human rights institutions, NGOs, Indigenous communities and their organizations.

The continued participation of Indigenous Peoples' representatives in the sessions of the ACHPR as well as in the various activities of the WGIP, which include sensitisation seminars, country visits, information activities and research, also play a crucial role in ensuring and maintaining this vital engagement and dialogue.

ACHPR Press Release: Impact of the COVID-19 Virus on Indigenous Populations/Communities in Africa

In 2020, the WGIP followed the situation of the COVID-19 epidemic in Africa and its impact on Indigenous Peoples. In April 2020, it made a press release[1] expressing its concerns about the spread of COVID-19 on the continent and the precarious conditions in which the majority of Indigenous populations, especially Indigenous women, live, constituting a real risk for the spread of the virus in their communities.

The WGIP highlighted that Indigenous populations/communities often have no access to health services due to lack of resources and their remote location, as well as the inappropriateness of national health policies to the Indigenous way of life. In addition, the WGIP noted that the responses of some States to COVID-19 have a disproportionate impact on Indigenous Peoples, including the closure of markets in Indigenous areas, which curtails their livelihoods, as well as restrictions on mobility that hamper their pastoral activities.

The WGIP called upon States Parties to take all appropriate measures for the protection of Indigenous communities from COVID-19 through proper prevention due to their vulnerability, including access to information in their languages, safe drinking water, soap, sanitizers, health facilities and other basic social services. The WGIP urged the States Parties to take into consideration the way of life of Indigenous Peoples in all decisions taken for the prevention and control of COVID-19 and to involve representatives of Indigenous populations/communities with a view to obtaining their free, prior and informed consent in decision-making and actions. The WGIP further urged States Parties to ensure that COVID-19 responses are designed and implemented in a way that respect fundamental human rights and do not lead to persecution and violence towards Indigenous populations.

ACHPR Sessions

In 2020, all ACHPR sessions were held online due to COVID-19. The rights of Indigenous Peoples were on the ACHPR agenda during its 66th

Ordinary Session held in July-August 2020 and 67th Ordinary Session held in November-December 2020.

In 2020, Commissioner Soyata Maiga, who has been the Chairperson of the WGIP since 2011, ended her mandate as Chairperson of the ACHPR and Chairperson of the WGIP. She was replaced by Commissioner Alexia Amesbury who was mandated as the new Chairperson of the WGIP during the 66th Ordinary Session. At this session, the mandate of the WGIP was also renewed and expanded to include the rights of minorities, with the following amended title: "Working Group on Indigenous Populations/Communities and Minorities in Africa".[2]

Meeting of the WGIP

The WGIP held online meetings on 19 October 2020 to take stock of the activities that it had undertaken for the past year and planned activities for the forthcoming year.

Continued monitoring of the situation of Indigenous Peoples' rights

In 2020 the ACHPR continued to closely monitor the situation of Indigenous Peoples on the African continent. As part of this monitoring exercise, the Chairperson of the WGIP gave updates on the state of Indigenous Peoples in Africa in her activity reports to the 66th and 67th Ordinary Sessions.

In her last report during the 66th Ordinary Session,[3] Commissioner Maiga highlighted both positive developments and areas of concern regarding the recognition and protection of the rights of Indigenous populations on the continent. She welcomed, among other things, that a Khwe San community obtained from the Government of Botswana the right to relocate on their former ancestral lands where housing and a borehole were planned for them in preparation for their resettlement, as well as the adoption of six out of nine draft decrees to implement the 2011 law on the promotion and protection of the Indigenous populations of the Republic of the Congo.

On the other hand, she also raised concern about, among other things, the human rights abuses committed during the disarmament process by State security agents against the Bodi, Mursi and Suri Indigenous communities in the Lower Omo Valley in Ethiopia; the continuing threats of eviction of the Sengwer community of Kenya from their ancestral lands in Embobut Forest; and the continued lack of implementation by the Government of Kenya of the Commission's 2010 decision in the Endorois case and its weak cooperation with the Commission and the Endorois community.

In her first report during the 67th Ordinary Session,[4] Commissioner Amesbury welcomed the bill on general principles relating to the rights of Indigenous Pygmies in the Democratic Republic of Congo (DRC), which is being studied in Parliament by the tripartite Human Rights, Administrative, Judicial and Socio-cultural Policy Commission. She however raised concern about, among other things, the situation of the Benet in Uganda who routinely experience violence, arrest, destruction of property and forced evictions at the hands of Uganda Wildlife Authority park rangers, and the fact that the Governement of Kenya has, to this date, failed to implement the Ogiek and Endorois rulings.

On 14 May 2020, the WGIP sent a Letter of Appeal to the President of DRC regarding the conviction of eight members of the Indigenous Batwa community of the village of Muyanga, in the Miti grouping, in the Kabare territory, by the military court of Bukavu, in the east of the DRC. In that letter, the WGIP expressed its concern about the irregularities that characterized the judicial process and the violation of the rights of Indigenous communities over their ancestral lands.

On 12 August 2020, the WGIP – together with Commissioner Dersso, who is responsible for the promotion and protection of human rights in the Republic of Kenya under the African Charter, and Commissioner Jamesina King, Chairperson of the Working Group on Economic, Social and Cultural Rights in Africa – sent a Joint Letter of Urgent Appeal to His Excellency, President Uhuru Kenyatta, the President of the Republic of Kenya, regarding evictions of vulnerable groups in the Republic of Kenya. The letter specifically addressed reports received by the ACHPR that Indigenous communities in Kenya, in particular the Ogiek and the Sengwer, have been forcefully evicted from their homes, which were also destroyed. The ACHPR was particularly concerned by the socio-economic

impact of these evictions and destruction of property of people who rely on subsistence farming, especially amidst the ongoing COVID-19 pandemic, leaving some of the most vulnerable persons in society without shelter and access to sanitation, and further exposing them to arrest for not adhering to curfews.

In the Joint letter of Appeal, the ACHPR urged the Government of Kenya, in light of its obligations under the African Charter to, amongst other things:

1. Cease all evictions in line with its moratorium on evictions during the COVID-19 pandemic;
2. Ensure that the Kenya Forest Service respects the rights of minorities and Indigenous populations, including their rights to live in and use the forest resources on which they rely for their livelihoods and their continued existence as a people;
3. Ensure that the human and peoples' rights of all people in Kenya are upheld during the COVID-19 pandemic, including their basic rights to life, dignity, shelter, access to justice and bodily integrity; and
4. Inform the Commission of the steps it has taken, or intends to take, in fulfilment of its obligations with respect to the protection of the rights of the persons who have been evicted.

On 12 June 2020, the WGIP sent a Letter of Appeal to His Excellency Mr. Esaias Afwerki, President of the Republic of Eritrea, regarding the alleged critical situation of the Afar people in Dankalia, Republic of Eritrea, relating to the COVID-19 pandemic. In the letter, the WGIP expressed concern about reports regarding the use of the COVID-19 crisis as a political tool of oppression by the Eritrean Government in order to further its power grip on an extremely vulnerable population by using incommunicado detentions of Afar fishermen, confiscation of food supplies and severely restricting their livelihood and access to healthcare. The letter highlighted reports alleging that since the Eritrean Government's restrictions were introduced in March 2020, following the worldwide pandemic, there has been an increase in the number of Afar people who were detained in coastal villages and bordering trade routes across Dankalia.

On 6 October 2020, the Government of Eritrea responded to the letter essentially contesting the allegations and stating *inter alia* that, Eritrean laws prohibit discrimination of any individual or group on account of ethnicity, race, gender, as well as religious faith. It noted that all restrictions imposed to contain the virus affected all individuals and communities in Eritrea without exception.

Advanced course on the rights of Indigenous Peoples in Africa

The 10th Advanced Course on the Rights of Indigenous Peoples in Africa was held online from 9-13 November 2020 by the Centre for Human Rights of the University of Pretoria in South Africa, in collaboration with the WGIP and the International Work Group for Indigenous Affairs (IWGIA). The course was attended by around 45 participants from various African countries, including Benin, Botswana, Cameroon, Democratic Republic of Congo, Ethiopia, Ghana, Kenya, Namibia, Nigeria, South Africa, Tanzania, and Uganda. Participants included postgraduate students, human rights activists, academics, judicial officers and policymakers.

Themes that were explored during the course included the definition and conceptualisation of indigeneity, Indigenous Peoples' rights within the African regional human rights system, Indigenous knowledge systems, Indigenous women, Indigenous Peoples' land rights, Indigenous Peoples and conservation, the impact of COVID-19 on Indigenous Peoples' rights, Indigenous Peoples vis-a-vis the Convention on Biodiversity, UNESCO's World Heritage and the Nogoya Protocol. Course participants made country presentations on the issues discussed throughout the week.

Selected experts working on the issue of Indigenous Peoples served as resources to course particpants. From the WGIP, Melakou Tegegn, Samuel Tilahun and Lesle Jansen lectured on a wide range of topics. Other experts included Francisco Calí Tzay, the UN Special Rapporteur on the rights of indigenous peoples; Christina Holmgren, a Senior Labour Standards Specialist at the International Labour Organization; Lola García-Alix, senior advisor at IWGIA; Saro Persaud, PhD

Researcher at Queens University; Professor Robert Williams from the University of Arizona; and Professor Frans Viljoen from the University of Pretoria.

Notes and references

1. Maiga, Soyata. "Press Release on the Impact of the COVID-19 Virus on Indigenous Populations/Communities in Africa." African Commission on Human and Peoples' Rights, 23 April, 2020. https://www.achpr.org/pressrelease/detail?id=493
2. African Commission on Human and Peoples' Rights. "455 Resolution on the Renewal of the Mandate, Appointment of the Chairperson, Reconstitution and Expansion of Mandate of the Working Group on Indigenous Populations/Communities, in Africa - ACHPR/Res. 455 (LXVI) 2020." 7 August, 2020. https://www.achpr.org/sessions/resolutions?id=486
3. Maiga, Soyata. "Intersession Activity Report of Honourable Commissioner Soyata Maïga." 66th Ordinary Session of the African Commission on Human and Peoples' Rights, 13 July-7 August, 2020. https://www.achpr.org/public/Document/file/English/Comm_Maiga_InterssessionReport_WGIP_66OS_ENG.pdf
4. Amesbury, Alexia. "Intersession Activity Report of Honourable Commissioner Alexia Gertrude Amesbury." 67th Ordinary Session of the African Commission on Human and Peoples' Rights, 13 November-3 December, 2020. https://www.achpr.org/sessions/sessionsp?id=356

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Arctic Council

The Arctic Council is the leading intergovernmental forum for promoting cooperation in the Arctic. The Arctic Council is unique in that, in addition to eight Arctic States, six Arctic Indigenous Peoples' organizations are granted Permanent Participant status and are institutionally important participants in the Council. Permanent Participants represent the Arctic Indigenous Peoples in the Arctic Council and participate at all levels of the Arctic Council's work.

The founding document of the Arctic Council, the Ottawa Declaration (1996), declares that the Arctic States must "provide active participation and full consultation with the Arctic Indigenous representatives within the Arctic Council". The Permanent Participants comprise the Aleut International Association (AIA), Arctic Athabaskan Council (AAC), Gwich'in International Council (GCI), Inuit Circumpolar Council (ICC), Russian Association of Indigenous Peoples of the North (RAIPON) and the Saami Council.

The unique role and rights of the Arctic Indigenous Peoples were reaffirmed by the Arctic Council Rovaniemi Ministerial Statements (2019), along with the Arctic States' commitment to "consult and cooperate in good faith with Arctic indigenous peoples and to support their meaningful engagement in Arctic Council activities".[1]

The Icelandic Chairmanship

The Arctic Council Chairmanship rotates every two years among the Arctic States. During the Icelandic Chairmanship of the Arctic Council from 2019 to 2021, Iceland set the agenda to pledge support for sustainable development principles and strengthen cooperation in the Arctic region. With sustainability being an important con-

sideration, the Chairmanship highlighted four significant issues: Arctic Marine Environment, Climate and Green Energy Solutions, People and Communities of the Arctic, and a Stronger Arctic Council.

COVID-19

The coronavirus pandemic has had a severe impact on the lives of people around the globe and exposed the vulnerability of the Arctic region. In spring 2020, 50 experts, including researchers, Permanent Participants, Indigenous representatives, Indigenous knowledge holders and Arctic policymakers, co-created the briefing document for Senior Arctic Officials entitled 'Overview of the coronavirus pandemic in the circumpolar Arctic'.[2] This comprehensive and collaboratively-produced document examined the status, risks and potential impacts of COVID-19 on the Arctic communities and the work of the Arctic Council itself. The briefing document paid careful attention to the implications of the pandemic on Indigenous Peoples in the circumpolar world.

The document illustrated that Indigenous communities are concerned with many facets of this far-reaching disease. The shared dialogues included how to combat the disease, lessons learned from previous pandemics in the Arctic, and the Indigenous knowledge that has contributed to rising to the current challenges. The pandemic revealed unique risks and challenges for Arctic communities. The remoteness of many Indigenous settlements, their limited health systems, the higher infection rates among the Indigenous population (often due to overcrowded housing and the lack of potable water), and the need for proper technological infrastructure, including the importance of transportation logistics, telehealth development and connectivity requirements, were all themes that emerged from multiple perspectives.

The response of the Arctic communities to the far-reaching and rapid spread of the disease further demonstrated the strengths and resilience of Arctic peoples. The existing oral Indigenous tradition offered continuity with the history of pandemics in the Arctic, which helps communities tackle similar problems. For example, at the beginning of the 20th century, the Saami in Scandinavia managed to avoid smallpox infection due to a correct understanding of the spread of the disease and pragmatic action. Some Indigenous communities referred to the

practice of a Nomadic lifestyle to avoid disease hotspots: many still have vivid memories of the Spanish flu pandemic and are therefore still able to implement practices of "living on the land" because the necessary skills and knowledge are being transferred down the generations.

At the June 2020 Senior Arctic Officials' executive meeting, and with the assistance of Arctic Council Expert Groups on human health and socio, cultural and economic issues, the Sustainable Development Working Group (SDWG) provided an overview of the findings and recommendations on future disease-related work within the Arctic Council.[3] The Council is continuing to work on assessing the pandemic situation in the circumpolar Arctic and has commissioned the SDWG to coordinate the effort.

Response to COVID

The way in which the Arctic Council works has adapted in response to COVID-19. Some initiatives of the Chairmanship were cancelled or rescheduled, e.g., an Ocean Ministers' Meeting and the International Symposium on Marine Plastic. Similarly, the second round of the Arctic Remote Energy Networks Academy (ARENA) program was postponed due to the pandemic. This outstanding knowledge-sharing program is being led by the GCI and facilitates knowledge exchange on isolated power systems integration throughout the Arctic. It had planned on welcoming its newest cohort of energy professionals in summer 2020.

Although COVID-19 has hindered the implementation of certain Arctic Council projects, it has not prevented the emergence of new initiatives in areas important for the Icelandic Chairmanship, such as marine cooperation and sustainable energy solutions. With most of the Council's project activities switched online, the Arctic Council commenced implementation of the Senior Arctic Officials' (SAO)-based Marine Mechanism (SMM). The SMM was created to provide strategic and policy guidance on Arctic marine issues as well as coordination within the Arctic Council. The SMM was well attended with participation from the Permanent Participants at multiple sessions where they provided their expertise on marine issues to the audience and the SAO. All presentations from these sessions can be found online.[4]

Another new mechanism that crystallized in 2020 was the Arc-

tic Council connectivity coordinator. This position was funded by the United States. The Coordinator took on the work of relevant previous Arctic Council Task Forces and the Arctic Economic Council Connectivity Working Group. Since issues of connectivity are crucial for remote Indigenous communities, the success of the mechanism will rely on the Coordinator's cooperation with Permanent Participants. Another emerging mechanism addresses general cooperation and coordination between the Arctic Council and the Arctic Economic Council in order to pursue and foster an active exchange and cover shared interests in the region, as stated in the Memorandum of Understanding between the Arctic Council and the Arctic Economic Council.[5]

Operating through the pandemic has resulted in a variety of novel approaches to Arctic Council work. For example, one of the Chairmanship's core priorities, the thematic discussion on Climate and Green Energy Solutions, took place in the autumn of 2020, virtually, with short, pre-recorded presentations[6] that were available ahead of the meeting. These recorded presentations on relevant project developments provided background and facilitated a more meaningful discussion between the Working Group Chairs, Senior Arctic Officials and Permanent Participant Heads of Delegations.

Permanent Participant joint priorities

Joint priorities for all six Permanent Participants include youth engagement, education and the revitalization of Indigenous languages. These priorities have been established and reconfirmed multiple times.

In November 2019, more than 60 Indigenous leaders participated in the 6th Arctic Leaders' Summit where they established a platform of joint priorities for Permanent Participants. These priorities were summarized at an Arctic Frontiers 2020 side event entitled "Indigenous Leaders' Vision for the Arctic". This event was organized by the Permanent Participants and the Indigenous Peoples' Secretariat. At the event, the Permanent Participants Panel reconfirmed the joint priorities – Importance of Language Preservation and Revitalization; Preservation of Cultural Identity and Knowledge; Improvements in Mental and Physical Health; Ensuring both environmental and economic stability for generations to come; Involvement of Youth; and Having a valued and respect-

ed voice in matters which affect the Arctic and Indigenous Peoples. This was the last time before the pandemic that all of the Permanent Participants were able to meet face-to-face but the work on these important topics has continued.

2020 resulted in a breakthrough for youth engagement in the Arctic Council. At the June 2020 executive meeting, SAOs reaffirmed the need to foster sustainable and meaningful collaboration and engagement between youth and the Arctic Council. The Permanent Participants are at the forefront of Indigenous youth engagement in the Council's work. In spring 2020, the Permanent Participants' Youth Network (PP Youth) was established to increase opportunities for the voices of the young generation. During the year, PP Youth held regular online meetings that resulted in an online celebration of the anniversary of the First Arctic Youth Leaders' Summit. The most prominent event of the PP Youth Network hosted 70 Indigenous youth professionals and experts from around the Arctic and made further steps to amend the Arctic Youth Leaders' Summit Declaration,[7] which would allow youth to reflect on the up-to-date challenges and recognize the milestones achieved. Another PPs Youth project involves outreach and communication on the Permanent Participants and Arctic Council activities and it is planned for the occasion of the 25th anniversary of the Arctic Council to be celebrated in 2021.

The challenges and Arctic Indigenous languages' revitalization efforts were addressed in "*Ságastallamin*: Telling the Story", an exhibition highlighting the efforts to promote, preserve and develop Indigenous languages in the Arctic.[8] In 2020, the exhibition was physically organized in Tromsø (in connection with the Arctic Frontiers Conference 2020), in Kautokeino (at the Saami University of Applied Sciences) and is now also available online.[9] The exhibition has grown into the project called "Arctic Indigenous languages and revitalization: an online educational resource" that will be delivered during the Russian Chairmanship of the Arctic Council 2021-2023.

Conclusion

The Arctic Council is a unique space that allows and encourages the cooperation and input of Indigenous Peoples. It is important to look at

these accomplishments and appreciate the way in which Indigenous Peoples, hand-in-hand with the Arctic States, have drawn attention to the knowledge systems and expertise necessary to make holistic policy decisions. As new forms of cooperation emerge every year, this year has highlighted how the Arctic Council continues to provide a cooperation platform where the Traditional Knowledge of the Arctic Indigenous Peoples is being heard and respected along with science-based knowledge systems.

The SAO Marine Mechanism and the PP Youth Network are just two of the many examples. We believe these are two examples of room in which the Arctic Council and Permanent Participants have to grow capacity and continue to engage and cooperate with one another. As we embark on the UN decade of Indigenous languages and as we also learn to connect while being so far away from one another, we look forward to working collaboratively to continue to elevate the work that we are involved in at the Arctic Council.

Notes and references

1. Arctic Council. "Rovaniemi Ministerial Statements." Rovaniemi, Finland, 7 May, 2019. https://oaarchive.arctic-council.org/handle/11374/2418
2. Arctic Council. "COVID-19 in the Arctic: Briefing Document for Senior Arctic Officials." Iceland, June, 2020. https://oaarchive.arctic-council.org/handle/11374/2473
3. Arctic Council. "Circumpolar Collaboration Amidst Coronavirus Pandemic." 26 June, 2020. https://arctic-council.org/en/news/circumpolar-collaboration-amidst-coronavirus-pandemic/
4. Arctic Council. 2021. Vimeo. https://vimeo.com/arcticcouncil
5. Arctic Council and Arctic Economic Council. "Memorandum of Understanding between the Arctic Council and the Arctic Economic Council." 6 May, 2019. https://oaarchive.arctic-council.org/handle/11374/2454
6. The pre-recorded presentations are now publicly available at https://vimeo.com/showcase/7908858
7. Arctic Leaders' Summit (ALS). "VI Arctic Leaders' Summit Declaration." Rovaniemi, Finland, 13-15 November, 2019. https://static1.squarespace.com/static/58b6de9e414fb54d6c50134e/t/5dea325f7367373ce5087580/1575629412149/Final+ALS6+and+ALYS+Declaration+%28secured%29.pdf
8. AYLS Declaration is a part of ALS6 Declaration.
9. Arctic Indigenous Languages. "Ságastallamin exhibition." Culture and Social Sciences Library, 16 September-1 November, 2019. https://www.arcticpeoples.com/arctic-languages

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Association of Southeast Asian Nations (ASEAN)

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 member states: Indonesia, Malaysia, Philippines, Singapore and Thailand. Brunei, Cambodia, Lao PDR, Vietnam and Myanmar later joined, making ASEAN a 10-member state institution.

The ASEAN Charter was adopted in November 2007 and came into force in December 2008. It is the legally binding agreement among the 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 in ASEAN, 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,[1] Indigenous Peoples and human rights are "sensitive" topics in ASEAN, especially within the AICHR. As such, the issues involving Indigenous Peoples' human rights defenders (IPHRDs) rarely make it to the discussion table.

ASEAN member states and COVID-19 pandemic

The other human rights mechanisms are the ASEAN Commission Our struggle for self-determination and recognition has continued for centuries. The world must take note, as

these struggles are the struggles of us all. Affluence, spurred through the accumulation of natural resources and wealth, propels environmental destruction that enable zoonotic diseases – such as COVID-19 to proliferate and spread across the world. As the stewards of our territories, defending the rights of Indigenous Peoples is an act of defending all the natural world, both humans and non-humans. – Gam A. Shimray, Secretary General of Asia Indigenous Peoples Pact (AIPP)

Since the identification of the first COVID-19 case in Wuhan, China in December 2019, in addition to the unprecedented health crisis imposed by it, it has also exposed the world to the inability of its existing system to respond to such emergencies. This unprecedented health crisis poses many challenges that have an impact on the social, political and economic landscape: a looming economic recession and worsening human rights situations fuelled by structural inequalities and discrimination. Bearing the brunt of these are the marginalized sectors across the world, including Indigenous Peoples, as COVID-19 poses new threats to their health and survival.

ASEAN members were affected by COVID-19 early in 2020. Thailand identified its first case on 13 January 2020. As of 10 January 2021, the cases recorded in the region had come to 1,653,685,[2] with Indonesia (828,026) having the highest number. The recent report[3] released on the impact of COVID-19 on livelihoods confirmed that "exclusion of vulnerable groups from policy responses risks entrenching existing poverty and expanding the number of poor in ways that will be difficult to reverse". The report also confirmed that the pandemic threatens to increase inequalities.

There are pre-existing cooperative frameworks in place in ASEAN that include regional health security measures, and these could assist the cooperative effort for responses to containing global pandemics. With their overarching, "One vision, One Identity, One Community" motto, ASEAN cooperation has extended to include region-wide disaster responses, framed as "One ASEAN, One Response".

Member states' responses to the pandemic[4] are as diverse as they come, ranging from a strict lockdown in Singapore to "business as usual" in rural areas of developing countries with large informal economies

such as Laos and Myanmar.

And yet member states have a long history of cross-border cooperation, forged through trade regionalization and economic integration. In the health sector, ASEAN cooperation has been infused into region-wide frameworks, including the ASEAN Political-Security Community (APC), ASEAN Economic Community (AEC) and ASEAN Socio-Cultural Community (ASCC). Through these social-cultural pillars, ASEAN has since 1980 developed a basic platform for health security cooperation, as shown, for instance, through ASEAN-level responses to prior pandemics including SARS, H1N1 and MERS-CoV3.

ASEAN member states whose economies rely heavily on tourism, manufacturing, international trade and labour migration have been hit hard by the pandemic, despite having put many protective mechanisms in place. The impact has disrupted the economy and health sectors, with severe impacts on the lives and livelihoods of peoples in the region as laid out in the ASEAN Comprehensive Recovery Framework, adopted at the 37th ASEAN summit.[5] The framework emphasized the underlying effects on long-term development, including the possibility of reversing the gains in human capital development, poverty reduction, gender equality and empowerment, if the pandemic is prolonged.

Trapped in structural inequalities, Indigenous Peoples are disproportionately affected by the health crisis, making them very vulnerable. This is compounded by the fact that most of them have no recognition as Indigenous Peoples in their own countries. AIPP has been monitoring the impacts of COVID-19 on Indigenous Peoples across Asia, as well as community and government responses to the health crisis. According to AIPP, there are approximately 411 million[6] Indigenous Peoples living across Asia, facing an array of vulnerabilities due to COVID-19. Indigenous Peoples in most parts of Asia were already in a precarious situation prior to the COVID-19 pandemic, including the shrinking of the democratic space in Asia over the last few years, which has made it increasingly difficult to ensure their rights to lands, territories and resources. Worse, it has also resulted in a backtracking on existing protections for Indigenous Peoples and their lands, as well as increasing violence against, killings and criminalization of land and environmental activists across the region.[7]

ASEAN's policy response to COVID-19

ASEAN's response to COVID-19 commenced officially on 15 February 2020 with the Chairman's Statement entitled "ASEAN's Collective Response to the Outbreak of the 2019 Coronavirus".[8] The statement highlighted the need to strengthen coordination of national and regional efforts to ensure ASEAN's readiness and responsive measures to mitigate and subsequently eliminate the threat of COVID-19. In addition, the statement provided that the people should be "rightly and thoroughly informed on the COVID-19 situation".

In ASEAN, since February 2020, member states have initiated various types of economic stimulus packages to mitigate outbreaks across the region. There are several common measures that have been taken, such as tax incentives for affected businesses; subsidies, such as cash assistance and discounts on electricity bills for workers plus additional incentives for frontline workers, particularly in the health sector; deferred tax or loan payments; and indemnity from or lower government fees and charges.[9]

The ASEAN Economic Ministers issued a statement on collective action when they gathered at Da Nang, Vietnam, on 10 March 2020 to discuss strengthening ASEAN's economic resilience to the pandemic.[10] Actions included keeping the markets open, sharing and coordinating regional information, working closely with stakeholders in Southeast Asia to promote tourism and investment, and using technologies to maintain long-term supply chain resilience and sustainability. Unfortunately, Indigenous Peoples were not taken into account or fully included in the planning, consultation or outcomes in any of these ASEAN response plans.

In April 2020, the ASEAN Health Minister (AHHM) convened a video conference among member states (chaired by Indonesia's Health Minister) aimed at scaling up regional cooperation with various stakeholders and stepping up measures to mitigate the spread of infection between countries. At the meeting, national delegates reached agreement on the need to: (1) strengthen regional cooperation on risk communication to avert misinformation and the dissemination of fake news; (2) continue sharing information, research and studies in an open, real-time and transparent manner; (3) coordinate cross-border health responses by scaling up the use of digital technology and artificial intelligence for

efficient information exchanges; and (4) institutionalize preparedness, surveillance, prevention, detection and response mechanisms of ASEAN member states with global partners.

Ratified on 14 April 2020, the 2019 Declaration of the Special ASEAN Summit on Coronavirus Disease outlined seven key measures that were agreed upon by member states as a basis for strengthening future forms of cross-border cooperation. Only measure four mentions vulnerable groups so it is unlikely that Indigenous Peoples will benefit significantly from these agreed measures. The measures include: (1) further strengthening public health cooperation measures to contain the pandemic and protect people; (2) preserving supply chain connectivity; (3) cultivating multi-stakeholder, multi-sectoral and comprehensive approaches to effectively respond to COVID-19 and future public health emergencies; (4) collectively mitigating the socioeconomic impacts of the pandemic while safeguarding public well-being as a basis for (political) stability; (5) enhancing the transparent and public dissemination of important health and safety information via mixed media platforms; (6) providing appropriate assistance to support pandemic-affected nationals of ASEAN countries in third countries; and (7) reallocating existing available funds to support the establishment of the COVID-19 ASEAN Response Fund.

ASEAN launches rapid assessment of COVID-19's impact on livelihoods

The ASEAN Secretariat's Socio-Cultural Community Department partnered with The Asia Foundation, the Rockefeller Foundation, and the Australian government to conduct a rapid assessment of the impact of COVID-19 on livelihoods across its 10 member states. The report,[11] released in December 2020, assessed the impact of the pandemic on three key sectors: labour, social protection and education, with a view to what both the ASEAN regional institutions and national sectoral ministries can do to reduce the worst of those impacts and rebuild a region more resilient to future shocks. The analysis provided timely inputs to the ASEAN Comprehensive Recovery Framework. Indigenous Peoples were not mentioned in the analysis

The ASEAN People's Forum 2020 was organized virtually from 5-7

November under the theme: "Southeast Asian People Solidarity for an Inclusive, Cohesive and Responsive Community". A variety of issues were discussed, including peace and security, human rights and access to justice, ecological sustainability, digital rights, racial discrimination and religious extremism.

AIPP's member organization Promotion of Indigenous and Nature Together (POINT) had the opportunity to host a workshop at the forum on ecological sustainability. The workshop addressed the deterioration in nature under the guise of "development" and under the banner of neoliberal capitalism, calling for recognition of Indigenous community actions and responses to protect, restore and manage our common natural resources. It also called out the imbalance and division of power sharing between grassroots / local communities and powerful actors responsible for decision-making based purely on vested interests. Other challenges highlighted included: 1) lack of recognition of Indigenous Peoples' rights to land and territories and resources; 2) limited awareness and capacity among Indigenous Peoples to assert their rights in policies and programmes; and 3) government agencies using pandemic emergency and stay-at-home orders as an opportunity to continue and increase atrocities against Indigenous Peoples, including so-called climate action initiatives that fail to safeguard Indigenous Peoples' rights.

On 18 March, the Asian Development Bank (ADB) initiated a USD 6.5 billion initial relief package for its member states.[12] The package was aimed at protecting the poor, vulnerable and wider populations across the region, and ensuring that economies will rebound as swiftly as possible. Based on the AIPP Response and Communication Network on COVID-19, AIPP members have yet to report that they have benefitted from the initiative.

Given the lack of official disaggregated data concerning Indigenous Peoples,[13] Indigenous organizations such as AIPP have been reporting their on-the-ground situation.[14] Reports from the ground suggest there has been a large and disproportionate impact on Indigenous Peoples in the region. Those that have access to land and Indigenous food systems have adopted traditional lockdown practices and have coped better than other communities that rely directly on markets.

A report published by FORUM-ASIA and the Solidarity for ASEAN Peoples Advocacy (SAPA) found that ASEAN member states had ne-

glected their obligations to respect, protect and fulfil human rights when tackling COVID-19. Member states have repressed human rights, democracy, civic space and fundamental freedoms, using the pandemic as an excuse to implement more stringent and authoritative measures[15] and wide-scale and arbitrary use of surveillance.[16]

The policies are also further exacerbating the public health risks of marginalized populations, including women, the homeless, people living in poverty, Indigenous groups, and LGBTQI.[17]

What is missing in the current recovery framework[18] is a concrete approach to prohibit, prevent and eliminate all forms of discrimination and human rights violations in the region, which have persistently hindered vulnerable groups and human rights defenders from participating in policy-making and gaining benefits from any ASEAN intervention related to the pandemic.

COVID-19 has, to a certain extent, been treated as a collective problem, and the responses at the ASEAN level have been limited to communication exchanges and information sharing among member states on infection statistics and response updates. Coordinated efforts and collective action are needed to prevent and eliminate the spread of subsequent waves of the pandemic and to provide financial and technical assistance to member states that lack adequate health facilities, services and expertise.

The implementation of the ASEAN recovery framework must identify vulnerable groups, including Indigenous Peoples, and consult them on their needs and aspirations for being included in the plan.

Notes and references

1. Two-thirds of the approximately 411 million Indigenous Peoples in the world live in Asia but no accurate data is available on their population in the ASEAN region as few member states consider their Indigenous identities which are, therefore, not taken into account in national censuses.
2. Chua, Yvonne T. "COVID-19 in Southeast Asia: The Numbers." Reporting ASEAN, 2020. https://www.reportingasean.net/covid-19-cases-southeast-asia/
3. The ASEAN Secretariat. "ASEAN Rapid Assessment: The Impact of COVID-19 on Livelihoods across ASEAN." 23 November 2020. https://asean.org/storage/ASEAN-Rapid-Assessment_Final-23112020.pdf
4. Djalante, Riyanti, Laely Nurhidayah, Hoang Van Minh et al. "COVID-19 and ASEAN responses: Comparative policy analysis." Progress in Disaster Science 8 (2020). https://reader.elsevier.com/reader/sd/pii/

S2590061720300661?token=BF1A2F4FBD0879F6BCA30616C76E8808A39E4CC0E8D914FB152DD3F510694ADA13FD81CF6C559B3D8DC3D945F1BBA752

5. The ASEAN Secretariat. "ASEAN Comprehensive Recovery Framework." 2020, p. 13. Accessed 11 March 2021.https://asean.org/storage/ASEAN-Comprehensive-Recovery-Framework_Pub_2020_1.pdf
6. Luithui- Erni, Shimreichon. "Status of Indigenous Peoples' Lands, Territories And Resources In Asia." Asia Indigenous Peoples Pact, Chiang Mai: AIPP Printing Press Co., Ltd, 2019, p.6. [online] https://aippnet.org/wp-content/uploads/2020/01/Status-of-Indigenous-Peoples%E2%80%99-lands-territories-and-resources-in-Asia_website.pdf
7. Asia Indigenous Peoples Pact. "Statements." 2021. https://aippnet.org/statements/
8. ASEAN. "CHAIRMAN'S STATEMENT ON ASEAN COLLECTIVE RESPONSE TO THE OUTBREAK OF CORONAVIRUS DISEASE 2019." February 2020. https://asean.org/storage/2020/02/ASEAN-Chairmans-Statement-on-COVID-19-FINAL.pdf
9. ASEAN. "ASEAN Policy Brief." April 2020. https://asean.org/storage/2020/04/ASEAN-Policy-Brief-April-2020_FINAL.pdf
10. ASEAN. "STRENGTHENING ASEAN'S ECONOMIC RESILIENCE IN RESPONSE TO THE OUTBREAK OF THE CORONAVIRUS DISEASE (COVID-19)." 10 March 2020. https://asean.org/storage/2020/03/AEMR-26-Statement-on-COVID-19-FINAL-10.03.2020.docx.pdf
11. The ASEAN Secretariat. "ASEAN Rapid Assessment: The Impact of COVID-19 on Livelihoods across ASEAN." 23 November 2020. https://asean.org/storage/ASEAN-Rapid-Assessment_Final-23112020.pdf
12. Asian Development Bank (ADB). "ADB Announces $6.5 Billion Initial Response to COVID-19 Pandemic." 18 March 2020. https://www.adb.org/news/adb-announces-6-5-billion-initial-response-covid-19-pandemic
13. Food and Agriculture Organization of the United Nations (FAO). "COVID-19 and indigenous peoples." 9 August 2020. http://www.fao.org/3/ca9106en/CA9106EN.pdf
14. Asia Indigenous Peoples Pact. "COVID-19 Response." 1 April 2020. https://aippnet.org/covid-19-response/
15. ASEAN and FORUM-ASIA. "COVID-19 in ASEAN: the Human Rights Crisis and How to End it." June 2020. https://www.forum-asia.org/uploads/wp/2020/06/ASEAN-COVID-Briefing-paper-FINAL.pdf
16. wide-scale and arbitrary use of surveillance.
17. ASEAN and FORUM-ASIA. "COVID-19 in ASEAN: the Human Rights Crisis and How to End it." June 2020. https://www.forum-asia.org/uploads/wp/2020/06/ASEAN-covid-human-rights-briefing-paper.pdf
18. FORUM-ASIA. "Adopt Human Rights Based Approach to Comprehensive Recovery Framework on COVID-19." 12 November 2020. https://www.forum-asia.org/?p=33330

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Business and Indigenous Peoples' Rights

2020 was a critical year for human rights around the world. Added to the restrictions that many states had already placed on the exercise of these rights both in the global North and South, triggering the protests referred to in *The Indigenous World* last year, restrictions were enforced this year in relation to the COVID-19 pandemic. The pandemic has critically affected the most vulnerable sectors of society, and Indigenous Peoples with particular intensity. This is due not only to the difficulties they face in accessing public health services, and the refusal of states to recognise Indigenous Peoples' own care strategies, including self-isolation in their rural communities, but also because their territories continue to be exposed to business activities, particularly those of an extractive nature. This is despite complaints from Indigenous Peoples themselves and the recommendations of international bodies aimed at preventing business activity from endangering Indigenous Peoples' health. This is paradoxical at a time when the UN Guiding Principles on Business and Human Rights (hereinafter Guiding Principles), which promote the duty of states to protect human rights and that of businesses to respect them in the context of economic activity, including Indigenous Peoples' rights, have been in force for 10 years. In this section, we will refer to the adverse effects COVID-19 has had on Indigenous Peoples and their rights, particularly those caused by persistent business activity on their territories with state acquiescence. We will also refer to the debate that has this year evolved around the critical relationship between business and human rights and the reflections that have arisen in the context of the UN Working Group's call in this regard, at a time when the Guiding Principles have been in force for 10 years.

Impacts of business on Indigenous Peoples' rights in the context of COVID-19

According to all the evidence, Indigenous Peoples have been one of the sectors worst affected by COVID-19 worldwide. While this is not a new phenomenon for Indigenous Peoples, whose populations have long been decimated by disease brought to the Americas, Africa and Asia by European colonisers over the last few centuries, the pandemic has had devastating consequences for them.

In his report to the UN General Assembly on the coronavirus pandemic and Indigenous Peoples, the Special Rapporteur on the rights of indigenous peoples, Francisco Calí Tzay, pointed out the risks it poses for their population:

> *Although representing only 6 per cent of the world population, indigenous peoples are among the most harshly affected indigenous societies, already facing numerous existential threats, face higher risks of dying of the disease, of experiencing discrimination and a disproportionate impact as a result of confinement measures, and of being left without support to defend their peoples from intensifying rights violations even as the pandemic rages.*[1]

This reality is the result of various phenomena, including the difficulties Indigenous people experience in accessing public health services, and states' lack of knowledge and support for communities' own health protection systems, such as self-isolation, aimed at preventing the virus from spreading onto their territories from outside. Closely related to this, the spread of the virus across Indigenous territories has been a consequence of ongoing business activities, particularly those of an extractive nature which, often with government blessing, have continued to undertake their activities with all the risks this implies for the health of the Indigenous population. This seems to be the same no matter where in the world these peoples live. As Calí Tzay comments in his report:

> *In Asia and Latin America, indigenous peoples have expressed a deep feeling of injustice regarding the fact that large companies appear to be freely continuing their activities*

> *and encroaching on indigenous lands while restrictions on the indigenous peoples' own movement and freedom to use and protect their lands is repressively enforced.*[2]

In the case of Latin America, this situation was confirmed in a recent report on the pandemic and Indigenous Peoples in this region:

> *In most countries of the region, mining activities, hydrocarbon exploitation and agribusiness were quickly considered essential in the context of the health crisis and were therefore exempted from the restrictions imposed by governments to prevent spread of the disease. Extractive activities thus forcefully continued to attack Indigenous territories and have become vectors of transmission within them.*[3]

This has been especially critical in the case of Indigenous Peoples in voluntary isolation in the Amazon and the Paraguayan Chaco, who are estimated to number some 200 and who, having had no previous contact with other sectors of the population, are being seriously affected by the virus, generally brought in by miners and loggers illegally entering their territories.[4]

Indigenous representatives from other regions of the planet, such as Africa, Oceania, North America and Eastern Europe, also identify continued business activity on Indigenous territories without the free, prior and informed consent (FPIC) of the affected peoples as one of the factors that has contributed to the spread of the pandemic among their communities.[5]

All of this has occurred in open disregard for the recommendations that various international human rights organisations have made to states urging them to refrain from introducing legislation or approving extractive or similar projects on Indigenous Peoples' territories while the pandemic prevents them from being consulted and giving their consent.[6]

Indigenous voices in international business and human rights fora

The persistence over time and even the exacerbation of the serious impacts of business on the internationally-recognised rights of Indig-

enous Peoples in the context of the pandemic was one of the concerns raised by Indigenous Peoples in regional and global fora on business and human rights held during 2020. This situation is no coincidence since these peoples' representatives identify business activities on their territories of traditional occupation, particularly that of transnational companies, as one of the main causes of the violation of their collective rights. Such violations include not only the right to their lands and territories and natural resources, and to the environment, but also to consultation and FPIC and, consequently, to their self-determination and autonomy.

In addition to demanding the immediate suspension of all extractive activities in or near Indigenous territories as a preventive measure during the pandemic, the suspension of all approvals of investment projects without effective consultation and FPIC processes, and respect for Indigenous rights defenders who are being persecuted, criminalised and murdered for defending their territories, the Declaration presented by Indigenous Peoples' regional representatives at the 5th Regional Forum on Business and Human Rights in Latin America and the Caribbean in September 2020 stated that, as of 2021, the Guiding Principles had been in force for 10 years and:

> *...we recognize that they constitute an opportunity to demand urgent and necessary reforms from the States. They also serve to demand its compliance by companies, provided that they are accompanied by binding and effective national or international mechanisms to ensure access to justice and the right to compensation for damage.*[7]

Indigenous Peoples attending the 9th Session of the UN Forum on Business and Human Rights likewise denounced the disproportionate adverse effects the pandemic was having on their communities, exacerbated by government policies that promote and support human rights violations by the business sector, together with the intimidation and repression of Indigenous rights defenders. In addition, they recommended that states stop using COVID-19 for the "... criminalization and persecution of human rights defenders and the illegal appropriation of Indigenous Peoples' lands and territories".[8]

They also recommended as more permanent measures:

> *Respect our right to Free, Prior and Informed Consent (FPIC) and to include our full and effective participation to constructively engage in processes that may affect our identities, lives, livelihoods and cultures, especially those related to our lands.*[9]

Along the same lines they proposed:

> *Creat[ing] a UN monitoring and reporting mechanism on Business and Human Rights for Indigenous Peoples, where our grievances could be reported, corrected and redressed.*[10]

Given the centrality of the right to FPIC in protecting Indigenous Peoples from business activity, it is worth highlighting the progress made in 2020 in the process of drafting the UN Binding Instrument to Regulate, in International Human Rights Law, the Activities of Transnational Corporations and other Business Enterprises. The second draft, produced by the Intergovernmental Group in charge of its preparation, thus included an explicit reference to Indigenous Peoples' right to FPIC in the context of these companies' activities.[11]

Another significant arena that was confirmed in 2020 as an opportunity for opening the door to introducing transformations for a more effective protection of Indigenous Peoples' rights in the face of business activity was the call made by the UN Working Group on Business and Human Rights on the 10th anniversary of the Guiding Principles to evaluate their implementation and further develop them for the next decade. The call (Guiding Principles +10), which included a stakeholder consultation during 2020, should conclude with the production of a report for the Human Rights Council and a roadmap for the next decade.[12]

Echoing this call, and based on existing documentation and interviews with Indigenous representatives from various regions of the world, IWGIA prepared a report identifying some advances and gaps in the application of the Guiding Principles in relation to Indigenous Peoples.[13]

Among the advances, IWGIA's report notes legislative developments in some states with regard to Indigenous Peoples' rights, such as land protection and the right to consultation, as well as the still incipient inclusion of Indigenous Peoples and their rights in some National Human Rights and Business Plans. The role of the courts in various states, which have affirmed the rights of Indigenous Peoples over their lands

of traditional occupation and to FPIC, is also assessed as positive. The commitments made to these peoples' rights by some business associations are also noted, although implementation in this regard is not so clear. The same is true of the protocols developed by Indigenous Peoples on FPIC, which are being applied in various geographical contexts.

Notwithstanding these advances, the report notes that 10 years on from the adoption of the Guiding Principles, Indigenous Peoples are still among the groups most adversely affected by business activity. Among the implementation gaps, the report identifies:

> *States have not taken sufficient steps to protect against abuse of indigenous peoples by business enterprises nor to prevent, investigate, punish and redress such abuses through effective policies, legislation, regulations and adjudication as demanded by the UNGP. Most business enterprises have not adopted measures which are sufficient to fulfil their independent responsibility to avoid harming the rights of indigenous peoples directly or indirectly. Neither states nor business enterprises have ensured sufficient access to effective remedies to prevent violation of indigenous peoples' rights, or to provide remediation when those rights have been breached in the context of business activity, whether these violations are ongoing or not.*[14]

According to IWGIA's report, if greater respect for and protection of the rights of Indigenous Peoples are to be achieved, in particular the right to self-determination, consultation and FPIC, as well as the right to remedy and effective redress, the next decade of implementing the Guiding Principles will require a much greater commitment from states, businesses and other stakeholders. The report therefore concludes by recommending that states must strengthen their legislation and include Indigenous rights in National Action Plans and in international trade agreements for the protection of their rights. It recommends that companies make an explicit commitment to these rights in their policies, that they respect FPIC, and conduct rights impact assessments prior to their operations. It also recommends that international entities make progress in the processes underway, such as that aimed at producing the binding treaty, with an express recognition of the rights of these

peoples, and greater monitoring of violations of the rights of Indigenous defenders in the context of business activity. To Indigenous Peoples, it recommends the strengthening and development of their own FPIC protocols in the face of business activity; and to civil society, the documentation and monitoring of the implementation of the Guiding Principles to ensure the protection of Indigenous Peoples' rights.

We hope that 2021 will be a better year for Indigenous Peoples, that the pandemic can be overcome both globally and in their communities, and that developing state and international processes will allow for greater protection of their rights from business activity.

Notes and references

1. United Nations, General Assembly, "Report of the Special Rapporteur on the rights of indigenous peoples, José Francisco Calí Tzay". A/75/185, 20 July 2020, para. 5. Available at https://undocs.org/en/A/75/185
2. Ibid., para. 87.
3. Economic Commission for Latin America and the Caribbean (ECLAC) and others. *El impacto del COVID-19 en los pueblos indígenas de América Latina-Abya Yala: entre la invisibilización y la resistencia colectiva.* [In Spanish only]. Santiago, Economic Commission for Latin America and the Caribbean (ECLAC), 2020. Available at: https://www.cepal.org/es/publicaciones/46543-impacto-covid-19-pueblos-indigenas-america-latina-abya-yala-la-invisibilizacion
4. Ibid.
5. See, in this regard, interviews with representatives of Indigenous Peoples from all regions of the world in DOCIP: "Informing about the rights of Indigenous Peoples". *UPDATE*, No. 115, December 2020. Available at: https://cendoc.docip.org/collect/upd_en/index/assoc/HASH203b.dir/Upd115_eng.pdf
6. See United Nations, General Assembly, "Report of the Special Rapporteur...". 20 July 2020. See also Inter-American Commission on Human Rights, "Pandemic and Human Rights in the Americas. Resolution 1/2020." 2020. Available at https://reliefweb.int/sites/reliefweb.int/files/resources/Resolution-1-20-en.pdf
7. Business & Human Rights Resource Centre, "Declaration of the Indigenous Peoples Participating in the V Regional Forum on Business and Human Rights for Latin America and the Caribbean." 2020. Available at https://www.business-humanrights.org/documents/19211/DECLARATION_OF_THE_INDIGENOUS_PEOPLES_PARTICIPATING_IN_THE_V_REGIONAL_FORUM_ON_dwGkRqC.pdf
8. Statement made by the Indigenous Caucus during the 9th session of the Forum on Business and Human Rights. (16 to 18 November 2020) p. 25. Available at: https://cendoc.docip.org/collect/upd_en/index/assoc/HASH203b.dir/Upd115_eng.pdf
9. Ibid.
10. Ibid., p.24.
11. FIDH. "Second Revised Draft of Binding Treaty Reflections on the text in preparation of the 6th Session of the IGWG". 2020. Available at https://www.fidh.org/IMG/pdf/fidh_reflection_second_revised_draft_prior_to_6th_session.

pdf
12. United Nations (United Nations Working Group on Business and Human Rights) "UN Guiding Principles on Business and Human Rights at 10. Business and human rights: towards a decade of global implementation". Available at https://www.ohchr.org/Documents/Issues/Business/UNGPsBHRnext10/CN.pdf
13. IWGIA. "Submission to the UN Working Group on Business and Human Rights. UN Guiding Principles on Business and Human Rights +10 Process". 2020. Available at https://www.iwgia.org/doclink/iwgia-submission-to-the-un-working-group-on-business-and-human-rights-un-guiding-principles-on-business-and-human-rights-10-process-2020/eyJ0eXAiOiJKV1QiLCJhbGciOiJIUzI1NiJ9.eyJzdWIiOiJpd2dpYS1zdWJtaXNzaW9uLXRvLXRoZS11bi13b3JraW5nLWdyb3VwLW9uLWJ1c2luZXNzLWFuZC1odW1hbi1yaWdodHMtdW4tZ3VpZGluZy1wcmluY2lwbGVzLW9uLWJ1c2luZXNzLWFuZC1odW1hbi1yaWdodHMtMTAtcHJvY2Vzcy0yMDIwIiwiaWF0IjoxNjE0Njc1ODUyLCJleHAiOjE2MTQ3NjIyNTJ9.-qoTh74tZQLN1SqgO2eej4imyOIJ41jhfM3Jp_FJ3Y8
14. Ibid., p. 28.

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Convention on Biological Diversity

The Convention on Biological Diversity is an international treaty under the United Nations (UN) adopted in 1992. The Convention has three objectives: to conserve biodiversity, to promote its sustainable use, and to ensure the equitable sharing of the benefits arising from its utilisation (Art. 1).[1]

The Convention 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 Convention recognises the importance of traditional knowledge (Art. 8j) and customary sustainable use of biological resources (Art. 10c) for the achievement of its objectives.

In 2010, the 10th meeting of the Conference of the Parties (also referred to as COP 10) adopted the Nagoya Protocol on "Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilisation" and the Strategic Plan for Biodiversity 2011-2020, including 20 Aichi Biodiversity Targets. The UN Decade on Biodiversity 2011-2020 had hence commenced.

The International Indigenous Forum on Biodiversity (IIFB) was established in 1996, during COP 3, as the Indigenous caucus in the Convention processes. Since then, the IIFB has worked as a coordination mechanism to facilitate Indigenous participation in, and advocacy at, the Convention through preparatory meetings, capacity-building activities and other activities. The IIFB has managed to get many of the Convention's programmes of work to consider the traditional knowledge of Indigenous Peoples, their customary use of biodiversity and

their effective participation. The IIFB has also been active in the negotiations regarding access to genetic resources in order to defend the fundamental rights of Indigenous Peoples that should be included therein.

2020 had, in advance, been billed as the super year for biodiversity with a new biodiversity strategy – the Post-2020 Global Biodiversity Framework – due to be adopted at the 15th meeting of the Conference of Parties (COP 15) in November in Kunming, China.

The Post-2020 Global Biodiversity Framework

COP 14 in 2018 launched new negotiations under an "Open-Ended Working Group" (OEWG) to address the Convention's implementation in the period post-2020. The second meeting of the OEWG took place in February 2020 in Rome, Italy, in which Parties to the Convention were given an opportunity to comment on and propose elements for the Post-2020 Global Biodiversity Framework. The meeting discussed a zero draft of the Framework that had been prepared by the co-chairs of the process, Basile van Havre from Canada and Francis Ogwal from Uganda. They had been mandated to prepare this at the first meeting of the OEWG after some Parties pressed for a document that could serve as a basis for negotiations. Comments on the zero draft were collected, collated and annexed as a document to the conclusions of the meeting. Subsequently, the co-chairs produced an updated zero draft reflecting inputs and proposals made at the meeting.

COVID-19

The OEWG meeting in Rome was one of the last face-to-face meetings under the Convention to take place in 2020. For, even as the meeting was taking place, COVID-19 had started to rage across northern Italy and was soon to become a global pandemic. The plan for a series of

high-profile international environmental meetings in 2020, including a UN Biodiversity Summit on the fringes of the UN General Assembly's annual session in September, ended up for the most part being virtual meetings, or being postponed to 2021.

Important meetings of the Convention's subsidiary bodies were postponed, including the 24th meeting of its Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA 24), which is mandated to "...carry out a scientific and technical review of the updated goals and targets, and related indicators and baselines...as well as the revised appendices to the framework" (containing the preliminary draft monitoring frameworks for the goals and targets of the draft post-2020 global biodiversity framework).[2]

Also postponed until 2021 was the 3rd meeting of the Subsidiary Body on Implementation (SBI 3) which is mandated to:

> *...provide elements to the development of the post-2020 global biodiversity framework, in particular with regard to means to support and review implementation, including implementation support mechanisms, enabling conditions, responsibility and transparency and outreach and awareness...*[3]

Crucially, the 3rd meeting of the OEWG on the Post-2020 Global Biodiversity Framework, mandated to propose a draft biodiversity strategy for adoption at COP 15, was also delayed. COP 15 itself was also delayed and so the new biodiversity strategy ended up not being finalised in 2020.

Global Biodiversity Outlook

The 5th edition of Global Biodiversity Outlook (GBO 5) was launched on 15 September 2020 at a special virtual meeting of SBSTTA 24. The GBO is the Convention's flagship publication assessing progress made in the implementation of the Strategic Plan for Biodiversity 2011-2020, including its 20 Aichi Biodiversity Targets. The Aichi Biodiversity Targets translate some of the general obligations of the Convention into specific strategic goals and targets, which were to be implemented through

Parties' National Biodiversity Strategies and Action Plans (NBSAPs). The GBO 5 report, which was the final "report card" on progress made during the UN Decade on Biodiversity, made global headlines by concluding that not a single Aichi Biodiversity Target would be fully met by the end of 2020.[4]

Local Biodiversity Outlooks

Jointly with the GBO 5 report, the 2nd edition of Local Biodiversity Outlooks (LBO 2) was launched. The LBO is a complementary publication to GBO 5 highlighting the perspectives of Indigenous Peoples and local communities.

A key message of the LBO 2 report focuses on Aichi Biodiversity Target 18 on traditional knowledge and customary sustainable use. The report found that only 11% of Parties reported that Indigenous Peoples and local communities had been engaged in NBSAP processes.[5] National reporting has primarily been piecemeal on projects and activities, and the adopted indicators on traditional knowledge have not been used. The widespread disregard for the vital contributions of Indigenous Peoples and local communities to biodiversity conservation and sustainable use constitutes a major missed opportunity for the UN Decade on Biodiversity 2011-2020. This neglect has contributed to the under-achievement of all 20 Aichi Biodiversity Targets, with fundamental lessons remaining to be learnt about securing the future of nature and cultures. Putting the cultures and rights of Indigenous Peoples at the heart of the Post-2020 Global Biodiversity Framework would deliver sustainable livelihoods and well-being, and positive outcomes for biodiversity and climate. This is strongly supported by growing evidence that Indigenous Peoples have been the best custodians of biological diversity within ancestral territories.[6] This legacy is a historical foundation for improved conservation outcomes into the future.

Another key message of LBO 2 is that nature and culture work together. Overcoming separation and imbalances in the relationships between humans and nature is central to addressing biodiversity and health crises, including the rise of pandemics such as COVID-19. Science needs Indigenous and local knowledge to solve contemporary problems holistically and with reciprocity. Indigenous ways of *knowing,*

being and *doing* evoke new narratives and visions of culture and nature working together within a living and sacred Earth.

The LBO 2 report proposed six critical transitions in the coming decade:

1. Land: securing the land rights and customary land tenure of Indigenous Peoples and local communities will also secure biodiversity.
2. Food: revitalising Indigenous and local sustainable food systems will shift us away from industrial agriculture towards agroecology and food sovereignty.
3. Culture: valuing diverse ways of knowing and doing are fundamental to transformative change.
4. Governance: inclusive decision-making and self-determined development to end discrimination and exclusion in our political life.
5. Economies: sustainable use of resources and the flourishing of diverse local economies away from extractive capitalism and gross social inequalities.
6. Incentives and finance: rewarding effective Indigenous solutions and stopping the financing of destruction.

These are inter-generational visions honouring the historical struggles and wisdom of past generations, drawing on the experience and innovations of today's living generations, and embodying the legacy and hopes for future generations. They contribute to humanity's joint endeavour to save our common home.

UN Biodiversity Summit

The GBO 5 and LBO 2 were timed for release two weeks prior to the semi-virtual High-Level Summit on Biodiversity of the UN General Assembly which took place despite COVID-19. The Summit's theme of "Urgent action on biodiversity for sustainable development" was meant to highlight the urgency of action at the highest levels in support of the Post-2020 Global Biodiversity Framework. The programme included two "Leaders' Dialogues" on "Addressing biodiversity loss and main-

streaming biodiversity for sustainable development" and "Harnessing science, technology and innovation, capacity building, access and benefit-sharing, financing and partnerships for biodiversity". The main outcome from the Summit was a summary of key messages to be transmitted to relevant processes such as the Post-2020 Global Biodiversity Framework.

The UN Biodiversity Summit was preceded by a process in which 70 countries endorsed a Leaders' Pledge for Nature with 10 urgent actions to put nature on a path to recovery by 2030.[7] The Pledge includes strong commitments to addressing Indigenous Peoples' rights and issues in the Post-2020 Global Biodiversity Framework:

- Clear and robust goals and targets, underpinned by the best available science, technology, research as well as Indigenous and traditional knowledge.
- Full and effective participation of Indigenous Peoples and local communities in decision-making and recognition of their rights, as acknowledged in relevant national and international instruments.

A few more countries have since endorsed the Pledge but how the promises will actually be fulfilled remains to be seen.

More than 100 civil society organisations supported an open letter expressing concerns about the UN Biodiversity Summit. In particular, concerns were raised regarding the inadequate representation and lack of a democratic process for civil society participation at the Summit, especially given that it provided "...a prominent role to some of the world's biggest corporations and financial actors who are among those most responsible for biodiversity destruction."[8]

Inputs of Indigenous Peoples and local communities to the post-2020 GBF

A "Second Global Thematic Dialogue for Indigenous Peoples and Local Communities" on the Post-2020 Global Biodiversity Framework was held in early December following a round of regional consultations organised according to the seven cultural-geographic regions recog-

nised by the UN Permanent Forum on Indigenous Issues: Africa; Arctic; Central and South America and the Caribbean; Eastern Europe, Russian Federation, Central Asia and Transcaucasia; North America; and the Pacific. The Indigenous Women's Biodiversity Network (IWBN) also held a consultation. The joint recommendations[9] from these consultations stated that the Post-2020 Global Biodiversity Framework should:

- Be based on the Aichi Biodiversity Targets, particularly Target 18 as minimum standards and no less;
- Use a human rights-based approach and prioritise the protection of nature and the human rights of Indigenous Peoples' defenders;
- Be evidence-based (IPBES Global Biodiversity Assessment, GBO and LBO 1 and 2);
- Ensure coherence and links between Goals and Targets;
- Nature-culture approach and cultural diversity as a cross-cutting element in the post-2020 framework, with IPLCs [Indigenous Peoples and local communities] as proponents of biodiversity and cultural diversity; and
- Protect traditional knowledge of IPLCs and ensure free, prior and informed consent (FPIC), respect and benefit-sharing for their utilisation based on mutually-agreed terms (MAT).

Specific recommendations were also made on a number of targets under the zero draft:

- Full legal recognition of IPLCs' lands and territories and support for community conserved areas and governance under Targets 1 and 2 pertaining to conservation of land, waters, territories and resources;
- Customary sustainable use to be recognised and supported under Targets 3, 4 and 8 pertaining to the sustainable use of biodiversity;
- Implementation of the Nagoya Protocol, including respect for FPIC, benefit-sharing, mutually-agreed terms and community protocols under Targets 12 and 19 pertaining to equitable access and benefit-sharing;
- Add a target explicitly focusing on the legal recognition, re-

spect and promotion of Indigenous and Local knowledge, innovations, practices and technologies in Target 19 pertaining to information and traditional knowledge and address ambiguity in the meaning of "availability of traditional knowledge to decision makers and public";

- Apply a human rights-based approach in accordance with international obligations – including the human right to a healthy environment and the full and effective participation of IPLCs and Indigenous women under Target 20 pertaining to equitable participation and governance;
- Recognise the contribution of traditional knowledge to climate change adaptation and mitigation under Target 7 pertaining to climate change; and
- Create a financial mechanism to support IPLCs under Target 18 pertaining to resources mobilisation.

Reflections on the negotiations of the Post-2020 Global Biodiversity Framework

There is now greater awareness and understanding about the vital role of Indigenous Peoples in the conservation, sustainable use and restoration of biodiversity. This recognition needs to be formalised in international environmental law. The UN Declaration on the Rights of Indigenous Peoples (UNDRIP), adopted in 2007, embodied 25 years of negotiation with states aimed at respecting and upholding the inherent human rights of Indigenous Peoples. If successful, the Post-2020 Global Biodiversity Framework, once finalised in 2021, could mark a similar historic milestone towards international respect and recognition of the vital role of Indigenous Peoples, our cultures, knowledge and our territorial governance for maintaining and renewing the diversity of life. On the basis of the human rights and equality affirmed in the UNDRIP, we are seeking in the biodiversity agreement to redress imbalances in the governance of nature aimed at full recognition of Indigenous Peoples' contributions to the renewal of cultures and nature.

Notes and references

1. CBD. "The United Nations Convention on Biological Diversity" 1992. Accessed 22 February 2021. https://www.cbd.int/convention/text/
2. UNEP and CBD. "Post-2020 Global Biodiversity Framework: Scientific and Technical Information to Support the Review of the Updated Goals and Targets, and Related Indicators and Baselines." CBD/SBSTTA/24/3, 18 November 2020. Accessed 22 February 2021. https://www.cbd.int/doc/c/554b/8fd0/9a25f298136cced23bc819aa/sbstta-24-03-en.docx
3. UNEP and CBD. "Recommendation Adopted by the Open-ended Working Group on the Post-2020 Global Biodiversity Framework." CBD/WG2020/REC/2/1, 29 February 2020. Accessed 22 February 2021. https://www.cbd.int/doc/recommendations/wg2020-02/wg2020-02-rec-01-en.pdf
4. CBD. "Global Biodiversity Outlook 5." 18 August, 2020. Accessed 22 February, 2021. https://www.cbd.int/gbo5
5. CBD. "Local Biodiversity Outlook 2." 31 August 2020. Accessed 22 February 2021. https://www.cbd.int/gbo5/local-biodiversity-outlooks-2
6. IPBES. "Global assessment report on biodiversity and ecosystem services of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services." 2019. Accessed 2 March 2021. https://ipbes.net/global-assessment
7. CBD. "Leaders' Pledge for Nature." 25 September 2020. Accessed 22 February 2021. https://www.cbd.int/article/leaders-pledge-for-nature
8. Lim, Li Lin. "TWN Info Service on Biodiversity and Traditional Knowledge." Third World Network, 4 November 2020. Accessed 2 March 2021. https://twn.my/title2/biotk/2020/btk201101.htm
9. UNEP and CBD. "Report of the Second Global Thematic Dialogue for Indigenous Peoples and Local Communities on the Post-2020 Global Biodiversity Frameork, 1-3 December 2020." 15 January 2021. https://www.cbd.int/meetings/POST2020-WS-2020-05

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Defending the Rights of Indigenous Women

The international agenda for defending the human rights of Indigenous women seemed promising in 2020 given the Beijing +25 anniversary. We in the International Indigenous Women's Forum (FIMI) were organising to design a clear Advocacy Route as well to prepare for our own organisation's 20th anniversary.

Among the priorities identified for work in 2020 was facilitation of the full and effective participation of Indigenous women in the review of the Beijing Platform for Action, which was to take place during the 64th session of the Commission on the Status of Women (CSW) in March 2020. In addition, a joint campaign was being planned with MADRE entitled "CEDAW[1] for Indigenous Women and Girls" and finally, there was the planning for the Second World Conference of Indigenous Women.

The delegation to CSW64 in New York was made up of young, adult and older women from the seven socio-cultural regions of the world. In March 2020, however, the borders closed, a global pandemic shook the world, and Indigenous Peoples were not unaffected by this.

To begin with, we were haunted by uncertainty but, despite of this, we managed to re-organise our work and our processes on behalf of Indigenous women's rights were thus not paralysed but simply re-directed, not forgetting the priorities identified for exposure in the strategic international political advocacy spaces.

Research to strengthen advocacy: our collective proposals in the context of the political agenda and global backdrop

As part of this readjustment of our planning, we at FIMI prepared a report: *The Impact of COVID-19 on the Lives of Indigenous Women*[2] as an urgent tool for rights advocacy. On the basis of the information provided in this report, it can be seen that COVID-19 has created further inequality for Indigenous Peoples, and particularly for Indigenous women.

The report also includes the strategies implemented by women globally, regionally and in their communities to address this crisis. Among the most important impacts identified were a lack of access to health services; spirituality; culture and intergenerational transmission of knowledge; domestic work; food; production systems; marketing and employment; increased violence, discrimination and racism; effects on mental health; and education.

Our older sisters have been at greater risk, and the death of Indigenous elders not only represents a loss of human life but also means a loss of Indigenous culture and it will only increase the ongoing ethnocide of Indigenous Peoples.

Faced with this critical situation, Indigenous women have proved their resilience by adopting innovative, creative measures based on their ancestral knowledge and practices. In this way, they have sought to exercise their rights as women and as members of their respective peoples: participating in the exercise of the right to self-determination; strengthening organisations for personal and community care; respecting different visions and promoting change for a more inclusive and just world.

One example of this is the use of self-isolation to prevent community transmission. This meant banning people from entering and leaving, and closing community borders, as seen in Asia, Africa and Latin America. In some cases, women acted as guards at the gates and cordons.

Several villages conducted healing rituals and practices in which Indigenous women played a leading role, such as the Kankanaey Igorot in the Cordillera (*ubaya/tengaw*) in the Philippines and the Karen in Thailand (*Kroh Yee*). Women of the Lakota Nation in the United States have been drawing on prayers, rituals and cultural beliefs that they have implemented in their communities. Spiritual counselling in several organisations has allowed them to express their problems, restore their physical-mental balance and face up to the effects of the crisis.

Several organisations state that they have implemented therapies using traditional Indigenous medicine to prevent and treat the coronavirus. In the case of Indigenous Women from many countries in Asia, Africa, the United States, Latin America and the Caribbean, this forms part of their relationship with their territory, worldview and environment. They used plants, fire, water, salt, black soap and stones to help in ster-

ilisation, disinfection and purification; they used food and followed rituals for the well-being of the body and mind; and used inhalation or fumigation to clean houses in an environmental and safe way.

To combat food insecurity and keep the community healthy, there were documented cases in which Indigenous communities shared and/or exchanged food, water, disinfectant products, made masks to donate, or provided support to help the return of community members stranded in the cities due to lockdowns, among other things.

Communities implemented measures to lessen the educational lag caused by the pandemic. One such measure was the distribution of books in communities that have little or no access to the Internet or other electronic media for online education, in order to ensure that girls and young women do not fall behind.

The women's organisation in Nigeria prioritised the distribution of face masks to people with disabilities and family members of the unemployed. In other cases, they promoted the creation of small emergency funds.

Faced with a lack of culturally-relevant information, the Indigenous communities developed and disseminated messages in Indigenous languages aimed at ensuring a greater understanding and acceptance of the different forms of transmission, produced infection prevention protocols and information on the disease. Some organisations held public events, conducted home visits, used loudspeakers and community radio to disseminate information on COVID-19. Social networks were very useful for organising campaigns, reporting on the situation and raising funds for the most affected communities.

An intergenerational transmission of knowledge has been key. In several cases, Indigenous girls and young women were trained in the manufacture of reusable masks or in the production of sanitary pads for distribution to women and girls.

The pandemic has undoubtedly demonstrated the global vulnerability of humanity, forcing us to rethink and recreate ourselves in the face of new realities. It has also been an opportunity to demonstrate the importance of the values and knowledge of Indigenous Peoples, such as solidarity, reciprocity, duality of life, traditional medicine, native food production and self-government in order to guarantee health.

In addition, the current context as a result of COVID-19 has forced us to face new dynamics for political advocacy on the international

agenda. Coordination and negotiation processes currently have to be carried out on virtual platforms. This situation is complex because we recognise the limitations on the part of Indigenous women at the local level in terms of accessing technology.

We have therefore sought new ways of raising our voices and finding synergies with key actors so that decisions that affect the lives of Indigenous women can be taken together with them.

25th Anniversary of the Beijing Declaration and Platform for Action

Another innovative tool for our advocacy in this process, which was developed collectively, is the "Global Study on the Situation of Indigenous Women and Girls in the Framework of the 25th Anniversary of the Beijing Declaration and Platform for Action".[3]

This study is important because the inputs gathered come from the organised Indigenous women themselves. Twenty-five years on, it also shines a light on the important progress made in recognising Indigenous women as agents of change, while identifying the many challenges that are still preventing us from achieving full exercise of our rights. The study is a cornerstone that will facilitate the production of a declaration and political agenda during the Second World Conference of Indigenous Women. It will form our compass for action in the years to come.

Tarcila Rivera Zea, President of FIMI, believes that since the adoption of the Beijing Declaration and Platform for Action, we have been strengthening our organisations and influencing international mechanisms with our own voice, putting forward proposals built on our realities, experiences and cultures, achieving significant progress in the formal recognition of our rights and our contributions to sustainable development. And yet the Political Declaration adopted by the governments at the 64th session of the Commission on the Status of Women shows that these 25 years of struggle for inclusion and visibility have still not been enough, given that there is only one reference to Indigenous women in the text as an example of women who "suffer multiple forms of intersectional discrimination, vulnerability and marginalisation". Missing from the declaration are the multiple exclusions, racism

and expropriation of our lands and resources that have left us in this situation.

Our collective journey and an urgent call to action

It is now imperative to adopt the new General Recommendation of the Committee on the Elimination of Discrimination against Women (CEDAW) on the rights of Indigenous women and girls. As a binding instrument, CEDAW is a key tool for driving change in communities and in the daily lives of women and girls around the world.

In 2017, a formal request to promote the General Recommendation was submitted to CEDAW, where recommendations made in 2015 by the special rapporteurs and the Office of the UN High Commissioner for Human Rights were taken into account.

The IXPOP collective has been conducting outreach work on the initiative since 2018. In 2019, an expert meeting on Indigenous women's rights was organised by the Centre for Social Justice, MADRE, FIMI, Center for Women's Global Leadership (CWGL) and Women's Health Research Institute (WHRI).

With this brief account of the achievements of the Indigenous women's movement, FIMI and MADRE would like to invite all Indigenous women to join the "CEDAW for Indigenous Women and Girls" campaign in 2021 and give voice to the initiative until it is formally adopted by the CEDAW Committee in 2022.

It is important to note the need to deepen the debate on advocacy in decision-making spaces for the recognition and protection of the rights of Indigenous women, including the discussion on all of the forms of violence we face and exposing our realities, reducing existing gaps and promoting good practices, and including our contributions as Indigenous women. This is what we hope to do during the Second World Conference of Indigenous Women, when conditions permit. In the meantime, alternative mechanisms will be found to continue our Advocacy Route.

We will continue to be active and at the forefront of the design of strategies that allow us to advance, raise the profile of, dialogue and guarantee the individual and collective rights of Indigenous women and, together with strategic allies, we will move from words to action, at the local, national, regional and international levels.

Notes and references

1. Convention on the Elimination of all Forms of Discrimination against Women.
2. You can find the report at http://fimi-iiwf.org/wp-content/uploads/2020/09/INFORME-COVID-Y-MUJERES-INDIGENAS-TRADUCCION-INGLES.pdf
3. You can find the Global Study at: http://fimi-iiwf.org/wp-content/uploads/2020/09/GlobalStudyFIMI_20-englishRGB-2.pdf

*The **International Indigenous Women's Forum (FIMI)** is a global network that brings together Indigenous women from seven socio-cultural regions. FIMI is focused on advocacy, capacity building, economic empowerment and leadership development.*

CONTENTS

European Union Engagement with Indigenous Issues

The European Union (EU) is a political and economic union of 27 Member States established in 1951. Its legislative and executive powers are divided between the EU main 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 is part of the international process of promoting and protecting the rights of Indigenous Peoples. Four EU Member States have ratified ILO Convention No 169[1] and the EU supported the adoption of the UNDRIP in 2007 as well as the Outcome Document of the World Conference on Indigenous Peoples in 2014.

Aside from the influence within the territory of its Member States, the EU also has a global impact as an international key player, notably on human rights, development, public health and environment issues. In the current context of the COVID-19 pandemic, the EU has had to adapt its system and, together with its Member States, provide a common response, support and reinforce national health systems, tackle the socio-economic impact and ensure a recovery.

The EU has been supporting the rights of Indigenous Peoples since 1998 and integrating their concerns as a cross-cutting aspect of human empowerment and development cooperation. In recent years, the EU has increasingly taken into consideration the rights and issues of Indigenous Peoples and promoted their participation in EU

processes. EU legislation has evolved by incorporating Indigenous Peoples' rights,[2] particularly in the European Parliament Resolution on "violation of the rights of indigenous peoples in the world, including land grabbing" (2018) and the recently passed resolutions that confirm the EU's commitment to Indigenous Peoples. This increasing interest goes hand in hand with the EU's main priorities for the coming years, i.e. the European Green Deal and its Biodiversity Strategy, in which Indigenous Peoples' participation and inclusion should be strongly encouraged.

Finally, as the largest provider of development aid in the world, the EU is seeking to adopt a decisive global response to the COVID-19 pandemic by adapting its priorities and programmes with partner countries and international and local civil society organisations.

Indigenous Peoples and the EU response to COVID-19

Since the adoption of its Resolution on Indigenous Peoples in 2018, the European Parliament has expressed increasing concern over the persistent violations of Indigenous Peoples' human rights, particularly in the context of the COVID-19 crisis. Seven of the European Parliament's committees prepared five resolutions in 2020 (to be adopted at the beginning of 2021) that include Indigenous Peoples' rights and issues. These resolutions,[3] which have had to be adapted to the impact of COVID-19, cover crucial issues for Indigenous Peoples: "Corporate due diligence and corporate accountability";[4] "The effects of climate change on human rights and the role of environmental defenders on this matter";[5] "Human Rights and Democracy in the World 2019";[6] "Protecting and restoring the world's forests";[7] and "The impacts of climate change on vulnerable populations in developing countries".[8]

For its part, the European Commission is also committed to countering the negative effects of the COVID-19 pandemic on Indigenous Peoples' human rights. In collaboration with Indigenous Peoples and civil society organisations, the EU is continuing to address their issues through its human rights dialogues with third countries and monitoring of the situation on the ground by EU Delegations. In addition, the European Instrument for Democracy and Human Rights (EIDHR) is continuing to fund the EU Human Rights Defenders mechanism, which supports Indigenous and environmental rights defenders.

The European Commission has taken concrete steps to keep supporting Indigenous Peoples during the pandemic. According to Sébastien Porter from DG International Cooperation and Development:

> *through its Crisis Facility, the EU has mobilised special funds to address the plight of the pandemic on Indigenous Peoples in the Latin American region. One action (EUR 1M) aims at addressing the lack of high-quality, trustworthy and culturally-relevant information on the COVID-19 pandemic. Another action (EUR 530K) ensures effective protection to Indigenous human rights defenders against the new threats that emerged following the pandemic (land grabbing, seizure of natural resources, etc.).*[9]

In addition:

> *the EU through its EU Delegations launched calls for proposals for inter alia the effective establishment of FPIC protocols by Indigenous Peoples in the protected area of Messok Dja in the Republic of Congo, to improve access to quality health care and education for indigenous minorities' communities in Kenya or support Indigenous Peoples and environmental defenders to become key actors to promote social and environmental policies leading to sustainable development (Uruguay, Brazil, Argentina).*[10]

The European Green Deal

The Green Deal is a vast European action plan aimed at making Europe climate neutral by 2050. Presented on 11 December 2019 by the European Commission and adopted by Member States, the Green Deal aims to propose a whole new growth strategy for the EU and transform it into "a climate neutral, fair society, with a modern, resource-efficient and competitive economy".[11]

The Green Deal is intended to be a holistic strategy influencing every aspect of EU policy. In the future, it is likely that actions, projects and funds related to the environment and climate change will be reviewed

and that there will be a significant number of effects in areas relating to protection of the rights of Indigenous Peoples, such as development aid policies and support for human rights and democracy. It is therefore crucial that Indigenous Peoples are consulted and participate in this process given their predominant role in nature preservation, resource management and the fight against climate change.

There are currently two main initiatives proposed under the Green Deal: the European Climate Law and the EU Biodiversity Strategy for 2030; this article will focus on the latter. In response to Member States' concern[12] about the global rate of biodiversity loss, the European Commission transmitted the communication "EU Biodiversity Strategy for 2030 - Bringing nature back into our lives"[13] to the European Council. This communication is considered one of the central elements of the Green Deal. It aims to protect and restore the EU's biodiversity and ensure well-functioning ecosystems, which are key to boosting the resilience of the EU's economy and societies to future threats such as climate change impacts, forest fires, food insecurity or outbreaks of disease. To this end, the communication includes several commitments on nature protection and restoration, a new biodiversity governance framework and EU global action on biodiversity. For instance, faced with the urgent need to restore biodiversity and reduce the effects of the climate crisis, EU institutions are focusing on extending protected areas. In its 2030 Biodiversity Strategy, in line with the new Convention on Biological Diversity (CBD) goal, the European Commission proposes transforming at least 30% of Europe's land and sea into protected areas.

At this stage, it is difficult to define with any precision the place that will be given to Indigenous Peoples in this process but there are encouraging signs. Firstly, the EU recognises that upholding territorial rights and enabling local communities to manage their lands is the best strategy to protect biodiversity, as long as Indigenous Peoples are protected from land grabbing, the human impacts of conservation projects and abuses by eco-guards. In fact, the European Commission has been confronted with cases of violations of Indigenous Peoples' rights in relation to EU-funded projects and decided to suspend funds in some cases such as that of the WWF and the planned creation of Messok Dja.[14]

Secondly, in its communication on the "EU Biodiversity Strategy for 2030 - Bringing nature back into our lives",[15] the European Commission

proposes that the EU ensure a principle of equality. This principle includes *inter alia* "respect for the rights and the full and effective participation of indigenous peoples and local communities".[16] The European Commission also recommends that in all of its work the EU "strengthen the links between biodiversity protection and human rights, gender, health, education, conflict sensitivity, the rights-based approach, land tenure and the role of indigenous peoples and local communities".[17]

In conclusion, the vast reforms undertaken by the EU as part of the Green Deal are a real opportunity to strengthen consideration of Indigenous Peoples in EU actions, as long as the conservation model chosen by the EU is based on dialogue, participation and inclusion of the Indigenous Peoples and local populations affected.

The EU protection mechanism for Human Rights Defenders (HRDs)

The EU supports HRDs through its "Guidelines on Human Rights Defenders" (2008),[18] emergency resolutions, public statements, political dialogues with third countries, visits to HRDs by diplomats, and dedicated funds. Amidst the spread of the COVID-19 pandemic, the EU has adapted its support to tackle the increasing vulnerability faced by HRDs and local communities at risk.

Through the European Instrument for Democracy and Human Rights (EIDHR), the EU has established an HRD mechanism, "ProtectDefenders.eu",[19] led by a consortium of 12 NGOs active in the field of human rights. The mechanism aims to protect defenders at high risk by providing a stable, comprehensive and gender-sensitive emergency support. Through the emergency grant and temporary relocation grant, HRDs can access urgent security measures to protect themselves, their family and their work. HRDs can request a grant through the secure webform available on the "ProtectDefenders.eu" website or directly through the 24/7 emergency helpline run by Frontline Defenders.

In addition, "ProtectDefenders.eu" provides training, support and capacity building to HRDs and local organisations via a grant-making programme in order to implement activities aimed at advancing a human rights agenda and countering violations.

Notes and references

1. Denmark (1996), The Netherlands (1998), Spain (2007) and Luxembourg (2018).
2. For EU legislative developments related to Indigenous Peoples, please refer to Rodriguez Fajardo, Amalia, and Mathias Wuidar. "European Union Engagement with Indigenous Issues." In The Indigenous World 2020, Edited by Dwayne Mamo, 639-646. IWGIA, 2020.
3. European Parliament. "Committees." 2021. https://www.europarl.europa.eu/committees/en/documents/search
4. Committee in charge: JURI. Committees' opinion: AFET, TRADE.
5. Committee in charge: AFET. Committees' opinion: DEVE, ENVI, LIBE.
6. Committee in charge: AFET. Committee opinion: FEMM.
7. Committee in charge: ENVI. Committees' opinion: DEVE, INTA.
8. Committee in charge: DEVE. Committees' opinion: LIBE, FEMM.
9. Exchange with Mr. Sébastien Porter (European Commission - Directorate-General for International Cooperation and Development - People and Peace - Gender Equality, Human Rights and Democratic Governance - DEVCO.B.1) on 17 December 2020. The authors would like to thank Mr. Porter for his time and inputs.
10. Idem.
11. European Commission. "Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions: The European Green Deal." Brussels, 11 December 2019. https://ec.europa.eu/info/sites/info/files/european-green-deal-communication_en.pdf
12. Council of the European Union. Council conclusions on "Preparation of the post-2020 global biodiversity framework Convention on Biological Diversity (CBD)." Brussels, 19 December 2019. https://www.consilium.europa.eu/en/documents-publications/public-register/public-register-search/results/?AllL anguagesSearch=False&OnlyPublicDocuments=False&DocumentNumber=15272%2F19&DocumentLanguage=EN
13. Council of the European Union. Commission communication on the "EU biodiversity strategy for 2030 - Bringing nature back into our lives." Brussels, 25 May 2020. https://data.consilium.europa.eu/doc/document/ST-8219-2020-INIT/en/pdf
14. European Parliament, Parliamentary questions. "Answer given by Mr. Mimica on behalf of the European Commission." P-002044/2019. 25 June 2019. https://www.europarl.europa.eu/doceo/document/P-8-2019-002044-ASW_EN.html
15. Idem.
16. Idem.
17. Idem.
18. European Union External Action Service (EEAS). "EU Guidelines on Human Rights Defenders." 21 June 2016. https://eeas.europa.eu/headquarters/headquarters-homepage_en/3958/EU Guidelines on Human Rights Defenders
19. ProtectDefenders.eu.2021. https://www.protectdefenders.eu/en/index.html

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Food and Agricultural Organization of the United Nations (FAO) and Indigenous Peoples

The Food and Agriculture Organization (FAO) is a specialized agency of the United Nations 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 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 to achieve 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 endorsed by the World Committee on Food Security emphasized the importance for Indigenous Peoples to have access to their lands and resources to guarantee their right to food.

In 2009, FAO released its first publication dedicated to analyzing 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 of the Rights of Indigenous Peoples, FAO called a caucus of Indigenous leaders from the seven socio-cultural regions of the world to draft the FAO Policy on Indigenous and Tribal Peoples. Today, this policy continues to guide FAO's work with Indigenous Peoples.

In early 2013, the second FAO publication on Indigenous food systems was released in collaboration with McGill-CINE: *Indigenous Peoples' food systems & well-being. Interventions and policies for healthy communities*.

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) Coordination; 2) Advocacy and Capacity Development; 3) Free Prior and Informed Consent; 4) Indigenous Food Systems; 5) Indicators and Statistics for Food Security; and 6) Voluntary Guidelines of Tenure. In 2017, as requested by the Global Indigenous Youth Caucus, FAO integrated a seventh pillar of work: 7) Climate change and traditional knowledge.

Since 2018, the dedicated team that guides FAO's work with Indigenous Peoples has evolved to become a Unit. It coordinates 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 more than 120 technical experts. **Indigenous Peoples and FAO have joined forces to contribute to the 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.[1]

United Nations Secretary-General António Guterres convened a Food Systems Summit in 2021 to launch bold new actions to deliver progress on all 17 SDGs, each of which relies to some degree upon healthier, more sustainable, and equitable food systems.[2]

As a leading UN agency in the fight against hunger, FAO seeks to systematically support the transformation towards

more sustainable food systems by providing improved evidence, policy and regulatory guidance.[3] Thus, recognizing the importance of Indigenous Peoples' food systems in protecting biodiversity and generating livelihoods, FAO has joined forces with Indigenous Peoples' organizations, academia and governments, among other stakeholders, to promote the preservation and generation of knowledge on Indigenous Peoples' food systems, and to inform the global debate on sustainable food systems and climate change.

The Global-Hub on Indigenous Peoples' Food Systems

The year 2020 was a watershed moment in recognizing the sustainable and resilient elements of Indigenous Peoples' food systems. The need for more sustainable food systems and the context of the COVID-19 pandemic has led the international community, scientists and other stakeholders to take into consideration the potential of Indigenous Peoples' knowledge and ancestral techniques.

Indigenous Peoples' food systems have sustained their communities for thousands of years and could be considered among the most sustainable on the planet, as they include the entire spectrum of life in ways that modern food systems do not.[4] They are rooted in the traditional knowledge and customary systems of their peoples, allowing them to ensure continuity of their existence and well-being, sometimes in the face of significant environmental changes.

Despite having prevailed for thousands of years, Indigenous Peoples' food systems are now among the most affected by climate change, extractive industries, intensive livestock farming, agricultural production, displacement, resettlement and land-use changes.[5] Available data shows that Indigenous Peoples and pastoralists are disproportionally affected by food insecurity. Both depend on respect for their collective rights to their ancestral lands and natural resources to ensure their livelihoods and food security.

In this regard, during the 27th session of FAO's Technical Commit-

tee on Agriculture (COAG), held in September 2020, FAO Members endorsed the creation of a **Global-Hub on Indigenous Peoples' Food Systems** at FAO as a knowledge center that will bring together Indigenous experts and organizations, universities, research centers, UN agencies and FAO experts.

The establishment of the Global-Hub responds to the need to promote greater recognition of Indigenous Peoples' food systems and to close the gap between academic and Indigenous Peoples' knowledge, as expressed during the **High-Level Expert Seminar on Indigenous Food Systems** (2018).[6]

As of today, the Global-Hub is formed of FAO and 18 institutions with hands-on research and analysis on Indigenous Peoples and their food systems, including the Asian Indigenous Peoples Pact (AIPP), the Alliance of Bioversity International and the International Center for Tropical Agriculture (CIAT), Centre for Sustainable Development and Environment (CENESTA), Center for International Forestry Research - World Agroforestry (CIFOR-ICRAF), Fund for the Development of Indigenous Peoples of Latin America and the Caribbean (FILAC), Gaia Amazonas, INFOODS, French National Research Institute for Sustainable Development (IRD), the Indigenous Partnership for Agrobiodiversity and Food Sovereignty (TIPs), the Sámi Parliament in Finland, UNESCO, UNFCCC, UNPFII-UNDESA, and the universities of Cambridge, Greenwich, Massey, McGill-CINE and Monash.

The Global-Hub is already operating and working to provide inputs to support the 2021 UN Food Systems Summit and the Voluntary Guidelines on Food Systems and Nutrition of the Committee of World Food Security.

Generating evidence-based information on Indigenous Peoples' food systems

Evidence on Indigenous Peoples' food systems can play a significant role in informing the transformation of food systems towards being more sustainable and respectful of nature.

Indigenous Peoples are the custodians of 80% of the world's remaining biodiversity,[7] and often their territories coincide with the best-preserved areas. Their food systems have generated food in harmony with nature for hundreds of years while protecting the environment.[8]

In 2020, in partnership with the Alliance of Bioversity International and CIAT, plus a Scientific Committee constituted by the French National Research Institute for Sustainable Development and The Indigenous Partnership, and in collaboration with Indigenous Peoples' organizations, FAO edited the third FAO publication focused on Indigenous Food Systems, which will be released in early 2021, complementing the information presented in the 2009 and 2012 editions.[9]

FAO and the Scientific Committee developed a collaborative methodology based on the five principles of sustainable food systems as defined by FAO, and on the FAO Self-evaluation and Holistic Assessment of Climate Resilience of Farmers and Pastoralists (SHARP) approach to undertake the profiling of the current state of different Indigenous Peoples' food systems across the world, along with their aspirations for the near future.

As a result, the publication **Indigenous Peoples' Food Systems: Insights** on sustainability and resilience from the front line of climate change will encompass an analysis of the following Indigenous Peoples' food systems: the *Baka* in Cameroon; the *Maya Ch'ort'i* in Guatemala; the *Khasi*, *Bhotia*, and *Anwal* in India; the *Kel Tamasheg* in Mali; the *Tikuna*, *Cocama*, and *Yagua* in Colombia; the *Inari Sámi* in Finland; and the *Melanesians* in the Solomon Islands. Among the main findings of this research, the following points are noteworthy:

- **Indigenous Peoples preserve and restore the ecosystems through their food systems.** They follow the seasonality of nature for harvesting food, maintaining high species count and biodiversity in their territories, instead of altering the environment to their needs with external inputs as occurs in many other food systems. For instance, the Khasi food system (India) manages a landscape made of land usages dedicated to food that generate 188 food plants.
- **Indigenous food systems encompass many aspects of resilience as they are not only about food.** They include livelihoods, culture and medicine. For example, the Maya Ch'orti' food system in Guatemala uses plants, minerals and animal sources to extract poison for hunting or as medicine.
- **Indigenous food systems can broaden the existing food base**

and their foods are nutritious and diverse. Their food systems generate various food items, which comprise diversified meals. For instance, the Tikuna, Cocama and Yagua peoples (Colombia) obtain more than 80% of their protein intake from traditional fishing activities.

FAO is continuing to work with Indigenous and local organizations to profile unique Indigenous Peoples' food systems across the world and to generate evidence and knowledge on their resilience and sustainable characteristics.

Indigenous Peoples towards the UN Food Systems Summit

The 2021 UN Food Systems Summit provides a timely opportunity for forging interconnected actions and commitments aimed at implementing collective and more coherent actions to deliver improved food systems outcomes that accelerate progress in achieving the full range of SDGs.

Indigenous Peoples, FAO and the Global-Hub on Indigenous Peoples' Food Systems have joined forces to provide evidence-based information and response elements rooted in Indigenous traditional knowledge aimed at contributing to the 2021 UN Food Systems Summit's five action tracks.

In 2020, in collaboration with Indigenous Peoples' organizations and the Global-Hub on Indigenous Peoples' Food Systems, FAO facilitated several technical meetings with the UN Food Systems Secretariat to enhance Indigenous Peoples' engagement in the Summit. This process resulted in an agreement to draft a *White Paper/ Whipala Paper on Indigenous Peoples' Food Systems led by the Global-Hub,* and to establish an Indigenous Peoples' roadmap to the UN Food Systems Summit.

High-Level Expert Seminar on North American Indigenous Peoples' Food Systems

In December 2020, the FAO Indigenous Peoples Unit, the FAO Liaison Office for North America, and the United Nations Permanent Forum on

Indigenous Issues (UNPFII) hosted the **High-Level Expert Seminar on North American Indigenous Peoples' Food Systems** as a platform for experts to present and discuss the critical importance and contributions of North American Indigenous Peoples to the primary objectives of the 2021 Food Systems Summit.[10]

The seminar convened 185 participants and speakers from 11 Canadian provinces and 30 states of the United States of America, including Indigenous Peoples' organizations and representative bodies, academic and research institutes, government agencies from Canada and the United States of America, along with representatives of the UN Food Systems Summit, UN agencies and Indigenous experts from around the world.

The primary outcome of the seminar was the **Statement on North American Indigenous Peoples Food Systems.**[11] It calls on UN Member States, institutions and agencies to take concrete, responsible and urgent actions to ensure Indigenous Peoples' have a formal role in the 2021 UN Food Systems Summit and other decision-making processes affecting food systems, climate change and biodiversity.

Indigenous Peoples' food security and COVID-19

Indigenous Peoples have highlighted enhancing their food systems as a long- term solution to face the effects of the COVID-19 crisis.[12] In addition to the grave health threat that the COVID-19 pandemic poses for them, it has increased the pressure on their livelihoods and food security.

Furthermore, Indigenous Peoples from several regions identified hunger as the main effect of the COVID-19 crisis. This is because food shortages resulted from the combined effects of isolation, remoteness, lockdown, disruption of the food value chains and the suspension of income-generating activities.[13]

The COVID-19 pandemic has shown that Indigenous Peoples who rely on their traditional food systems to generate food and have adopted traditional lockdown practices are coping better than other communities who rely heavily on external foods, incomes and markets.[14]

Accordingly, FAO has taken action to support Indigenous Peoples'

and governments' responses to the crisis. As a first action, FAO established a Multi-Donor Trust Fund (MDTF) to mobilize resources to support FAO's work with Indigenous Peoples. The MDTF includes a specific budget line to support Indigenous Peoples' COVID-19 recovery actions and to strengthen the intercultural approach to emergency interventions within Indigenous Peoples' territories and communities.

Additionally, FAO partnered with a conglomerate of universities and research centers led by the University of Leeds to establish COVID-19 observatories. In collaboration with 24 different Indigenous Peoples, the project aims to document the pandemic's impacts on Indigenous Peoples' communities across 14 countries.[15] The project is being funded by United Kingdom Research and Innovation (UKRI), the Newton Fund and the Global Challenges Research Fund (GCRF), with support from the Wellcome Trust.

FAO also joined forces with other UN agencies and Indigenous Peoples' organizations to launch a dedicated web page to provide information on Indigenous Peoples' health and safety.[16] Additionally, based on the UN Declaration on the Rights of Indigenous Peoples (UNDRIP, 2007) and the WHO messages related to COVID-19, FAO released a **policy brief on the impact of COVID-19 on Indigenous Peoples,**[17] which includes a series of policy recommendations for governments and stakeholders to ensure the cultural and physical survival of Indigenous Peoples.

Notes and references

1. FAO, Committee on Agriculture. "Operationalizing a Food Systems Approach to Accelerate Delivery of the 2030 Agenda." Twenty-seventh session, 28 September - 2 October 2020. Published July 2020. http://www.fao.org/3/nd397en/nd397en.pdf
2. UN Food Systems Summit. "About the Summit." New York, 2020. https://www.un.org/en/food-systems-summit/about
3. FAO, Committee on Agriculture. "Operationalizing a Food Systems Approach to Accelerate Delivery of the 2030 Agenda." Twenty-seventh session, 28 September - 2 October 2020. Published July 2020. http://www.fao.org/3/nd397en/nd397en.pdf
4. FAO and CINE McGill. Indigenous Peoples' Food Systems: the many dimensions of culture, diversity, and environment. Rome, 2009. http://www.fao.org/3/i0370e/i0370e00.htm
5. FAO, Committee on Agriculture. "Operationalizing a Food Systems Approach to Accelerate Delivery of the 2030 Agenda." Twenty-seventh session, 28 September - 2 October 2020. Published July 2020. http://www.fao.org/3/

nd397en/nd397en.pdf
6. The Seminar, organized by FAO and Indigenous Peoples in 2018, brought together more than 200 participants, of which 70 panelists belonged to 22 Indigenous Peoples and 20 research centers and universities. FAO. "The Global-Hub on Indigenous Food Systems." http://www.fao.org/indigenous-peoples/global-hub/en/
7. Garnett et al. "A spatial overview of the global importance of Indigenous lands for conservation." Nature Sustainability 1 (2018): 369–374.
8. United Nations. "Harmony with nature: report of the Secretary-General." New York, UN, 2017.
9. FAO and CINE McGill. Indigenous Peoples' Food Systems: the many dimensions of culture, diversity, and environment. Rome, 2009. http://www.fao.org/3/i0370e/i0370e00.htm; FAO and CINE McGill. Indigenous Peoples' Food Systems and well -being. Rome, 2012.http://www.fao.org/3/i3144e/i3144e00.htm
10. FAO. "FAO in North America." 2020. http://www.fao.org/north-america/news/detail/en/c/1366178/
11. "Statement on North American Indigenous Peoples Food Systems." 24 December 2020. http://msgfocus.com/files/amf_fao/workspace_215/Statements/Final_Statement_on_North_American_Indigenous_Peoples_Food_Sytems_24_Dec_2020_High-Level_Expert_Seminar_DEC_15.pdf
12. FAO. Policy Brief "COVID-19 and Indigenous Peoples". Rome, 2020. http://www.fao.org/policy-support/tools-and-publications/resources-details/es/c/1307959/
13. Ibid.
14. Ibid.
15. Uganda, Kenya, Namibia, Ghana, South Africa, Peru, Bolivia, Sri Lanka, India, Fiji, Russia, Aruba, Australia and Canada
16. FAO. "Indigenous Peoples health and safety during Coronavirus (COVID-19)." http://www.fao.org/indigenous-peoples/covid-19/en/
17. FAO "COVID-19 and Indigenous Peoples." Rome, 2020. http://www.fao.org/documents/card/en/c/ca9106en

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Indigenous Data Sovereignty

Indigenous Peoples have always been "data warriors".[1] Our ancient traditions recorded and protected information and knowledge through art, carving, song, chants and other practices. Deliberate efforts to expunge these knowledge systems were part and parcel of colonisation, along with state-imposed practices of counting and classifying Indigenous populations. As a result, Indigenous Peoples often encounter severe data deficits when trying to access high-quality, culturally-relevant data to pursue their goals but an abundance of data that reflects and serves government interests regarding Indigenous Peoples and their lands.

The concept of Indigenous Data Sovereignty is a relatively recent one, with the first major publication on the topic only appearing in 2016.[2] Indigenous Data Sovereignty is defined as the right of Indigenous Peoples to own, control, access and possess data that derive from them, and which pertain to their members, knowledge systems, customs or territories.[3, 4, 5] Indigenous Data Sovereignty is supported by Indigenous Peoples' inherent rights of self-determination and governance over their peoples, territories and resources as affirmed in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), as well as in domestic treaties. Indigenous Data Sovereignty recognises that data is a strategic resource and provides a framework for the ethical use of data to advance collective Indigenous well-being and self-determination.[6, 7]

In practice, Indigenous Data Sovereignty means that Indigenous Peoples need to be the decision-makers around how data about them are used. Given that most Indigenous data is not in the possession of Indigenous Peoples, Indigenous data governance is seen as a key lever for addressing Indigenous

Data Sovereignty. Indigenous data governance harnesses Indigenous Peoples' values, rights and interests to guide decision-making about how their data are collected, accessed, stored and used.[8] Enacting Indigenous data governance results in Indigenous control of Indigenous data through both internal Indigenous community data governance policies and practices and external stewardship of Indigenous data via mechanisms and frameworks that reflect Indigenous values. The COVID-19 pandemic has highlighted the necessity of enhancing Indigenous data governance as well as the pressing need for increased data for governance and decision-making.[9]

Growth of the Indigenous Data Sovereignty Movement

The Indigenous Data Sovereignty movement grew substantially in 2020 due to continued socialization of the concept; enhancement of Indigenous Nation, community-based data efforts; and the COVID-19 pandemic. The Global Indigenous Data Alliance, or GIDA,[10] is an international network of networks, organizations and individuals pursuing Indigenous control of Indigenous data, engaged policymakers, data communities and scholars. GIDA members advanced recommendations for COVID-related data;[11] compiled an edited collection exploring Indigenous Peoples' data and the link with, implications of and space for change within the data/policy nexus;[12] and guided initial operationalization of the CARE Principles.[13, 14, 15]

COVID-19, Indigenous Peoples and data

COVID-19 has deepened existing inequalities. In many countries, the impacts on Indigenous Peoples have been particularly severe, through higher infection and fatality rates, as well as economic losses, social upheaval and discrimination.[16] The adage "data is king" has found fertile

ground during the pandemic, with governments and researchers leaning heavily on data to monitor and manage the impacts of the pandemic and direct their responses. For Indigenous Peoples, COVID-19 has amplified the importance of data sovereignty, raising new challenges and opportunities.

There are numerous well-rehearsed arguments for why Indigenous Peoples have rights to timely, accurate and relevant pandemic-related data.[17, 18, 19] Without high-quality disaggregated data, it is impossible to know the extent of the pandemic's impacts on Indigenous Peoples, or to deploy well-informed responses. There is growing research on how worldwide data deficits are compromising Indigenous Peoples' health and wellbeing during the pandemic. Key challenges include: a failure to collect Indigenous identifiers; misclassification; limited data disaggregation; lack of data sharing and use agreements; and data analyses that are implicitly or explicitly racist, and which lack context or knowledge of Indigenous communities.[20, 21, 22] These issues exist, to some extent, across all nation states. However the size of the problem – and its impacts – vary enormously. Indigenous Peoples in low- and middle-income countries generally have the least access to data and information, fewer resources to protect their communities, and experience an increased risk of persecution.[23, 24]

The collection and use of Indigenous data is not without risk. The pandemic has provided many examples of why strong forms of Indigenous data governance are needed to address concerns around data harm, group privacy, consent, racist surveillance and algorithmic profiling.[25, 26, 27] In a digitally-connected world, the power of governments and corporations to define, identify and track "problem" populations is historically unprecedented. In some cases, governments have used the pandemic to gain access to Indigenous data in ways that, in "normal" times, would be inconceivable. In the US, for example, tribal nations had to furnish sensitive information on their tribal expenses, citizens and bank account numbers to the Department of the Treasury in order to access funds through the *Coronavirus Aid, Relief and Economic Security (CARES) Act*. In a massive data breach, these data were subsequently downloaded by unknown government officials and emailed to non-government employees.[28]

Indigenous Data Sovereignty researchers and activists have been quick to call out pandemic-related data injustices,[29, 30, 31] and to offer up possible solutions and alternatives. An international collaboration of Indigenous Data Sovereignty researchers developed Indigenous data guidelines for COVID-19 related data, setting out the minimum requirements for Indigenous-designed data approaches and standards, inclusive of Indigenous rights to data governance and decision-making.[32] The guidelines, adopted by the Research Data Alliance, outline obligations for funders, governments, researchers and data stewards in the collection, ownership, application, sharing and dissemination of Indigenous data, specifically in relation to COVID-19 related issues. Indigenous Data Sovereignty networks have also made compelling arguments on the need for targeted investment in Indigenous community-controlled data infrastructure that prioritizes Indigenous needs, supports communality capacity and resilience, and improves the flow of information for effective public health response.[33] It is hoped that in the short-term, Indigenous control over Indigenous data will help advance access to needed resources in the pandemic. In the longer term, Indigenous Data Sovereignty is seen as a mechanism for the system change that is so desperately needed.

Indigenous Data Sovereignty and policy

Data are a cultural, strategic and economic resource. As deployed by nation states, data about Indigenous Peoples form the primary evidence base on which Indigenous policy is framed. Yet, Indigenous Peoples, globally, remain largely alienated from the collection, use and application of data about them, their lands and cultures.[34] Consequently, most existing Indigenous data, and the policy shaped by those data, neither recognise Indigenous knowledge and worldviews nor meet Indigenous Peoples' data needs. Relatedly, Indigenous Peoples encounter distinctive obstacles to fully realising the power of data for driving effective policy. Indigenous policy, therefore, needs to be operationalized as a dual concept, referring to the linked understandings of policy developed and implemented: by a nation state in relation to its Indigenous Peoples

and by Indigenous nations in relation to their own peoples.

In 2020, key Indigenous Data Sovereignty scholars from around the globe came together to produce an edited collection, *Indigenous Data Sovereignty and Policy*, to address this data/policy conundrum.[35] The impetus for the book was to elucidate, from Indigenous perspectives, the problems and challenges of the Indigenous data/Indigenous policy connection. As scholars, we sought to address these issues across socio-cultural spheres, across Indigenous nations, and across nation states. Arguments for the problematics and remediating strategies of data/policy interactions were framed within the central concept of Indigenous Data Sovereignty.

Representing a global endeavour by the networked Indigenous Data Sovereignty scholars and activists, this book sought to highlight how, in the Indigenous realm, the connection between data and policy is imbued with both potential harms and benefits. For example, the continuing power imbalance between those who determine policy and those who are subject to it frequently means that the value of data-driven policy does not accrue to Indigenous Peoples whose interests they purport to serve. As shown by Indigenous scholars from Australia, Sweden, Mexico and Colombia, the resultant policy framework is rarely benign, embedding existing inequalities rather than redressing them.

Other contributions such as that on Indigenous-led health and data initiatives in Canada, the role of data in the contested narratives of victimhood in the Basque Country, the clash of values on data that draw on Indigenous knowledge, and the legacy of colonialism and epistemic injustice, have all highlighted the centrality of power dynamics and often bitter contestation occurring within the data/policy space, cross-nationally. The scholarly writings, however, have also provided multiple examples of the value and validity of Indigenous Data Sovereignty in supporting the transformative potential of data. These have included the contributions to Māori aspirations for self-determination, the practical implementation of Indigenous Data Sovereignty for Pueblo Peoples, the role of the Te Mana Raraunga Māori Data Sovereignty Network in establishing Māori data sovereignty as a legitimate policy discourse, the active work of embedding Quechan Indigenous Data Sovereignty practices, and Kaupapa Māori epidemiology grounded in

Māori values, knowledge systems and ontologies. In these examples, data provide the policy evidence for the benefit of those to whom it relates – Indigenous Peoples.

The collected scholarship demonstrates that the pace of the Indigenous data revolution varies significantly by nation state. In all countries, however, disrupting the existing Indigenous data and policy paradigm remains a continuing task. A shift will require more than formal data agencies taking a different approach. Rather, change requires a re-ordering of data infrastructure alongside prioritizing, mostly for the first time, the data interests of Indigenous Peoples. Above all, if lasting change is to be achieved, changes must be systemic and involve power sharing with Indigenous communities and nations.

Operationalizing the CARE Principles

Released in September 2019, the CARE Principles for Indigenous Data Governance (Collective benefit, Authority to control, Responsibility, Ethics) set minimum expectations for guiding the inclusion of Indigenous Peoples in data governance across other governments', institutions', corporations' and organizations' data ecosystems.[36, 37, 38] In 2020, GIDA engaged through research projects, webinars and collaborations to socialize global data and policy communities to the CARE Principles. Through a series of webinars with ORCID,[39] continued collaborations with the Research Data Alliance and its International Indigenous Data Sovereignty Interest Group,[40] and numerous other virtual engagements, the CARE Principles reached a broad audience across North America, Australia-Asia, and the globe. Translations of the CARE Principles from English to Spanish and Vietnamese increased access to GIDA for Indigenous Peoples and others in the Americas and Asia.[41]

The CARE Principles seek to shift data relationships from regulated consultation to value-based dialogue that forefronts Indigenous cultures and knowledge systems within data ecosystems. The CARE Principles complement the FAIR Principles[42] (Findable, Accessible, Interoperable, Reusable), and making data both CARE and FAIR creates space to infuse provenance, protocol and permissions across the data

lifecycle in order to promote equitable outcomes and benefits from data access, use, reuse and attribution. Operationalizing the CARE and FAIR Principles for Indigenous Peoples' data requires tools to guide the inclusion of Indigenous knowledge within data systems.

Tribal and other institutional laws, policies and practices as well as digital infrastructure can reflect and enact the Indigenous Data Sovereignty and the CARE Principles. Some of these mechanisms existed prior to the Indigenous Data Sovereignty movement and the release of the CARE Principles, such as: Indigenous nations' own codes, guidelines, research review processes, and technical infrastructure and human resources; support for Indigenous Data Sovereignty within the reports by the United Nations Special Rapporteur on the Right to Privacy in the Digital Age;[43] and infrastructure tools that enrich metadata such as the Traditional Knowledge Labels.[44]

In 2020, a proliferation of policies and guidelines that support the CARE Principles and Indigenous Data Sovereignty were developed, including the Australian Institute of Aboriginal and Torres Strait islander Studies (AIATSIS) Code of Ethics for Aboriginal and Torres Strait Islander Research,[45] the draft United Nations Educational, Scientific and Cultural Organization (UNESCO) Recommendation on Open Science,[46] the Policy Partnership on Science, Technology, and Innovation (PPSTI) Statement on Open Science,[47] and "Data sharing respecting Indigenous Data Sovereignty" in the Research Data Alliance COVID-19 Working Group Recommendations and guidelines on data sharing.[48] Digital infrastructure tools were also expanded, such as the development of Biocultural Labels[49] and the Institute of Electrical and Electronics Engineers' (IEEE) efforts to create a Recommended Practice for Provenance of Indigenous Peoples' Data.[50] However, more mechanisms are needed, as well as criteria to assess and evaluate how non-tribal institutions are enacting the CARE Principles.

To reinforce the operationalization of CARE, GIDA and collaborator initiatives have identified a need for and co-production of: (1) CARE Criteria for implementation, such as a set of indicators for the principles; (2) training and educational offerings on various elements related to Indigenous data, sovereignty, and governance for Indigenous Peoples as rightsholders and others as stakeholders; (3) alternative licensing and

agreement systems that support communities in their engagement with external data systems; and (4) mechanisms for provenance, permission, and protocols that embed attribution and use parameters defined by Indigenous Peoples throughout the data lifecycle.

Opportunities and challenges ahead

While strides towards advancing Indigenous Data Sovereignty and the CARE Principles increased in 2020, challenges around Big Data, Open Science and Open Data remain.[51, 52, 53, 54] Additional concerns at the close of 2020 included the implementation gap that occurs when institutions support Indigenous Data Sovereignty but do not enact it despite adopting policies and guidelines; how to operationalize Indigenous Data Sovereignty and the CARE Principles within the private sector – where arguably the biggest risks lie; and broader outreach and collaboration with Indigenous Peoples worldwide, particularly in Africa, Asia and Latin America.

Notes and references

1. Rodriguez-Lonebear, Desi. "Building a data revolution in Indian Country." In Indigenous data sovereignty: Toward an agenda, edited by Tahu Kukutai & John Taylor, 253-72. Canberra: ANU Press, 2016.
2. Kukutai, Tahu, and John Taylor (Eds). Indigenous data sovereignty: Toward an agenda. Canberra: ANU Press, 2016.
3. First Nations Information Governance Centre. "Pathways to First Nations' data and information sovereignty." In Indigenous data sovereignty: Toward an agenda, edited by Tahu Kukutai & John Taylor, 139-55. Canberra: ANU Press, 2016.
4. Kukutai and Taylor, Op Cit.
5. Snipp, Matthew. "What does data sovereignty imply: what does it look like?" In Indigenous data sovereignty: Toward an agenda, edited by Tahu Kukutai & John Taylor, 39-55. Canberra: ANU Press, 2016.
6. First Nations Information Governance Centre, Op Cit.
7. Hudson, Maui, et al. "Tribal data sovereignty: Whakatōhea rights and interests." In Indigenous data sovereignty: Toward an agenda, edited by Tahu Kukutai & John Taylor, 157-78. Canberra: ANU Press, 2016.
8. Walter, Maggie, et al. "Indigenous Data Sovereignty Briefing Paper 1." Miaim nayri Wingara Data Sovereignty Group and the Australian Indigenous Governance Institute, 2018. We acknowledge the pioneering contribution of John Taylor.

9. Carroll, Stephanie Russo, et al. "Indigenous data during COVID-19: From Outside to Within" Under review at Frontiers in Medical Sociology.
10. See: The Global Indigenous Data Alliance, https://www.gida-global.org
11. Research Data Alliance COVID-19 Indigenous Data Working Group. "Data sharing respecting Indigenous data sovereignty." In RDA COVID-19 Working Group (2020). Recommendations and guidelines on data sharing. Research Data Alliance. https://doi.org/10.15497/rda00052
12. Walter, Maggie, Tahu Kukutai, Stephanie Russo Carroll, Desi Rodriguez-Lonebear (Eds.) (2020). Indigenous Data Sovereignty and Policy, New York: Routledge. This book and each of its 14 chapters is available via Open Access from Taylor and Francis at: https://www.taylorfrancis.com/books/indigenous-data-sovereignty-policy-maggie-walter-tahu-kukutai-stephanie-russo-carroll-desi-rodriguez-lonebear/e/10.4324/9780429273957.
13. Research Data Alliance International Indigenous Data Sovereignty Interest Group. September, 2019. "CARE Principles for Indigenous Data Governance." The Global Indigenous Data Alliance. www.gida-global.org.
14. Carroll, Stephanie Russo, et al. "The CARE Principles for Indigenous Data Governance." Data Science Journal, 19: 43, pp. 1–12. Doi: https://doi.org/10.5334/dsj-2020-043
15. Carroll, Stephanie, et al. "Working with the CARE principles: operationalizing Indigenous Data Governance." Ada Lovelace Institute, 9 November 2020. https://www.adalovelaceinstitute.org/operationalising-indigenous-data-governance/
16. Research Data Alliance COVID-19 Indigenous Data Working Group, Op Cit.
17. Research Data Alliance COVID-19 Indigenous Data Working Group, Op Cit.
18. Carroll, et al. "Indigenous Data During COVID-19," Op Cit.
19. See: National Māori Pandemic Group, Te Rōpū Whakakaupapa Urutā, https://www.uruta.maori.nz/
20. Research Data Alliance COVID-19 Indigenous Data Working Group, Op Cit.
21. Carroll, et al. "Indigenous Data During COVID-19." Op Cit.
22. Carroll, Stephanie Russo, et al. "Indigenous Data in the COVID-19 Pandemic: Straddling Erasure, Terrorism, and Sovereignty." Social Science Research Council, Items: Insights from the Social Sciences, June, 2020. https://items.ssrc.org/covid-19-and-the-social-sciences/disaster-studies/indigenous-data-in-the-covid-19-pandemic-straddling-erasure-terrorism-and-sovereignty/.
23. United Nations, Department of Economic and Social Affairs. "Indigenous Peoples & the COVID-19 Pandemic: Considerations." 2020. https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2020/04/COVID19_IP_considerations.pdf World Health Organization. "Situational Report 182: Coronavirus Disease (COVID-19)." 20 July 2020. https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200720-covid-19-sitrep-182.pdf?sfvrsn=60aabc5c_2
24. del Pino S, Camacho A. "Considerations on Indigenous Peoples, Afro-Descendants, and Other Ethnic Groups During the COVID-19 Pandemic." Pan American Health Organization. https://iris.paho.org/bitstream/handle/10665.2/52251/PAHOIMSPHECOVID-19200030_eng.pdf?sequence=1&isAllowed=y
25. Carroll, et al. "Indigenous Data in the COVID-19 Pandemic." Op Cit.
26. Furlow, Bryant. "Federal investigation finds hospital violated patients' right by profiling, separating Native mothers and newborns." Indian Z, 24 August 2020. https://www.indianz.com/News/2020/08/24/hospital-violated-rights-native-

mothers.asp.
27. World Health Organization. "Situational Report 182: Coronavirus Disease (COVID-19)." 20 July 2020. https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200720-covid-19-sitrep-182.pdf?sfvrsn=60aabc5c_2
28. Carroll, et al. "Indigenous Data in the COVID-19 Pandemic." Op Cit.
29. Cormack, Donna and Tahu Kukutai. "Pandemic paternalism: A reflection on Indigenous data from Aotearoa." In COVID-19 from the margins: Pandemic invisibilities, policies and resistance in the Datafied Society, edited by Stefania Milan, Emiliano Treré, and Silvia Masiero. 141 – 144). Amsterdam: Institute of Network Cultures.
30. Carroll, et al. "Indigenous Data in the COVID-19 Pandemic." Op Cit.
31. Carroll et al. "Indigenous Data During COVID-19." Op Cit.
32. Research Data Alliance COVID-19 Indigenous Data Working Group, Op Cit.
33. Carroll et al. "Indigenous Data in the COVID-19 Pandemic." Op Cit.
34. Kukutai, Tahu, and Maggie Walter. "Recognition and indigenizing official statistics: Reflections form Aotearoa New Zealand and Australia." Statistical Journal of the IAOS 31:2, 317-326, 2015. DOI: 10.3233/sji-150896. https://content.iospress.com/articles/statistical-journal-of-the-iaos/sji896.
35. Walter, Maggie, Tahu Kukutai, Stephanie Russo Carroll, Desi Rodriguez-Lonebear (Eds.) Op Cit.
36. Research Data Alliance International Indigenous Data Sovereignty Interest Group, Op Cit.
37. Carroll, et al. "The CARE Principles for Indigenous Data Governance." Op Cit.
38. Carroll et al. "Working with the CARE principles." Op Cit.
39. See: ORCID GIDA Webinars, https://orcid.figshare.com/search?q=:keyword:%20%22GIDA%22.
40. See Research Data Alliance International Indigenous Data Sovereignty Interest Group, https://www.rd-alliance.org/groups/international-indigenous-data-sovereignty-ig.
41. Translations available at www.gida-global.org/care.
42. Wilkinson, Mark D., et al. "The FAIR Guiding Principles for scientific data management and stewardship." Sci. Data 3:160018, 2016. doi: 10.1038/sdata.2016.18
43. UN Special Rapporteur on the right to privacy. Big Data Open Data Taskforce Report (A/73/438); UN Special Rapporteur on the right to privacy. https://undocs.org/A/73/438; Draft Recommendation on the Protection and Use of Health-Related Data. https://www.ohchr.org/Documents/Issues/Privacy/SR_Privacy/DraftRecommendationProtectionUseHealthRelatedData.pdf
44. See: Local Contexts, https://localcontexts.org/
45. Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS). 2020. AIATSIS Code of Ethics for Aboriginal and Torres Strait Islander Research. https://aiatsis.gov.au/sites/default/files/2020-10/aiatsis-code-ethics.pdf
46. United Nations Educational, Scientific and Cultural Organization (UNESCO). "First draft of the UNESCO Recommendation on Open Science." 2020. https://unesdoc.unesco.org/ark:/48223/pf0000374837
47. Policy Partnership on Science, Technology, and Innovation (PPSTI). "Statement on Open Science." 2020. https://www.apec.org/-/media/Files/Groups/PPSTI/2020/Oct/PPSTI-Statement-on-Open-Science.pdf?la=en&hash=5254324CF5CCF763A6CCC19613E3F223A9F6740A
48. Research Data Alliance COVID-19 Indigenous Data Working Group, Op Cit.

49. See: Local Contexts, https://localcontexts.org/
50. See: https://standards.ieee.org/project/2890.html
51. Kukutai, Tahu, Stephanie Russo Carroll, Maggie Walter. "Indigenous Data Sovereignty," in The Indigenous World 2020, edited by Dwayne Mamo, 654-662. IWGIA, 2020. http://iwgia.org/images/yearbook/2020/IWGIA_The_Indigenous_World_2020.pdf
52. Rainie, Stephanie Carroll, et al. "Issues in Open Data: Indigenous Data Sovereignty," in The state of Open Data: Histories and horizons, edited by T. Davies, S. Walker, M. Rubinstein & F. Perini, 300-19. Cape Town and Ottawa: African Minds and International Development Research Centre, 2019.
53. Walter, Maggie, et al. "Indigenous Data Sovereignty in the era of Big Data and Open Data." Australian Journal of Social Issues 4:141, 2020. https://doi.org/10.1002/ajs4.141
54. Hudson, Maui, et al. "Rights, interests and expectations: Indigenous perspectives on unrestricted access to genomic data." Nat Rev Genet 21, 377-384, 2020. https://doi.org/10.1038/s41576-020-0228-x.

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Indigenous Persons with Disabilities Global Network (IPWDGN)

Over 1 billion people, or approximately 15% of the world's population, are persons with disabilities.[1] Applying this percentage to the estimated 476 million Indigenous Peoples globally, the number of Indigenous persons with disabilities stands at approximately 71 million.[2] Similarly, if this percentage of 15% of the population with disabilities were applied to the estimated 185 million Indigenous women worldwide, it would come to 28 million Indigenous women with disabilities globally[3] The Indigenous Persons with Disabilities Global Network (IPWDGN) estimates that 45 million of these Indigenous people with disabilities live in the Asia Pacific region in developing and underdeveloped countries.[4]

Several studies have reflected the higher prevalence of disabilities among Indigenous Peoples because of a high level of poverty, increased exposure to environmental degradation, malnutrition, the impact of large projects such as dams or mining activities and the higher risk of being victims of violence.[5] Indigenous people with disabilities face exclusion, marginalization, and multiple layers of discrimination, and face barriers to the full enjoyment of their rights, based on their disability, ethnic origin and gender. And yet despite higher rates of disability in Indigenous communities, in most cases little or no attention is given to their situation, and they have no access to the services and support they need to participate fully in wider society and their own communities.[6]

Normative principles

The rights of Indigenous people with disabilities have been recognized in the preamble to the Convention on the Rights of Persons with Disabilities (UNCRPD), and in Articles 21 and 22 of the UN Declaration on the Rights of Indigenous Peoples. The Outcome Document of the World Conference on Indigenous Peoples 2014 offers a new and historic opportunity for the Member States and Indigenous Peoples to commit to the inclusion of peoples with disabilities in all efforts to realize the rights of Indigenous Peoples.

In addition, the UN COVID-19 Brief Report-June states that Indigenous people with disabilities have faced greater inequalities in accessing healthcare during the pandemic due to inaccessible health information and other obstacles and barriers such as discrimination in accessing healthcare facilities.[7] Similarly, the UN COVID 19 Brief Report-May states that the global crisis is deepening pre-existing inequalities, exposing the extent of exclusion and highlighting the fact that work on disability inclusion is imperative.[8] People with disabilities experience intersectional and multiple discrimination as a result of their gender identity, age, ethnicity, race, sexual orientation, origin, location and legal status, among other factors, and carry a heavier burden of the immediate and long-term economic and social consequences of the pandemic.[9]

In addition, the UN highlighted exacerbated maternal mortality and morbidity, increased rates of adolescent pregnancies, HIV, and sexually-transmitted infections for women during COVID-19 and it is difficult to find disaggregated data on Indigenous women and Indigenous people with disabilities.[10] So the collective efforts made by Indigenous people with disabilities to raise their voices are crucial at present.

From global to local advocacy

With the support of the Disability Rights Advocacy Fund (DRAF), Indigenous persons with disabilities have launched an incipient international movement by establishing the Indigenous Persons with Disabilities Global Network (IPWDGN), founded in May 2012 to promote the rights of

Indigenous people with disabilities at the global level, reach out to new communities, and engage with international and regional human rights and development processes.[11] This has resulted in a growing interest in addressing the needs and rights of Indigenous people with disabilities by UN entities with mandates focused specifically on the situation of persons with disabilities or Indigenous Peoples.[12]

In addition, together with other Indigenous Peoples' organizations, the International Disability Alliance (IDA) has been supporting the work of IPWDGN at different levels, highlighting the issues and challenges faced by them. The COVID-19 crisis has, in this regard, entrenched systemic gaps, underlying structural inequalities and pervasive discrimination, which have become more visible with inadequate healthcare, access to information, employment and livelihoods, and an inadequate social protection system afforded to persons with disabilities, affecting their lives and advocacy and putting them in a most vulnerable and risky group.

A crisis within a crisis and exclusion within excluded communities

Many Indigenous persons with disabilities have specific existing underlying conditions that make a disease such as COVID-19 more dangerous for them. Their limited access to culturally appropriate information, personal assistance and medical care has affected them, and limited participation in decision-making is putting their human rights in peril during the pandemic.

There is a lack of local government coordination with the organizations of Indigenous people with disabilities and local community leaders, and bureaucratic barriers have prevented this group from being counted and included in relief efforts. This has resulted in starvation, death, and the prevention of the transmission of intergenerational knowledge.[13] This situation has created a crisis within a crisis of long-standing discrimination, inequality, invisibility and exclusion within marginalized communities.

Many women and girls with disabilities, people with intellectual and severe impairments, already have limited mobility in normal times, and they have been even more restricted during the extended lockdown. They are facing an increased risk of threat, isolation, dilemma, anxiety, indifference, abuse and violence.

Different experiences and increasing rates of violence and risk during COVID -19

In June 2020, during the COVID-19 relief distribution process, different people with disabilities expressed how different their experience was. In her statement, one of our interviewees stated:

> *Our experience during the pandemic is different; my life has been limited to isolation within four walls and I have become more vulnerable without support. All my family members are at home and there is no attention and support paid to me as the lockdown has been extended. I cannot even take fresh air, it is crowded and every time I feel insecure, I have no information on health and safety measures and we have no ways/ means to share, whom to ask, where to go, how to say, totally isolated and silenced. I have many things to tell I feel that I am totally locked up.*[14]

For example, in Nepal, through the peer and telephone-counselling support services provided by the National Indigenous Disabled Women Association-Nepal (NIDWAN) in collaboration with local government, it has become clear that most Indigenous women and girls with severe disabilities are unaware of the extent and impact of the pandemic as they have been forced to remain inside. In addition, access to regular health necessities, including Clean Intermittent Catheterization (CIC), incontinence products, diapers, urinary bags, medical supplies and other safety measures, including PCR and COVID-19 testing and information, have been unavailable or complicated to receive.

The virus has increased stigma, negative perceptions and discriminatory behaviour on the part of society. In addition, the extended lockdown has increased mental health problems and hypertension among these people and their parents due to the loss of their regular jobs and the public restrictions on social distancing, cultural rituals and ceremonies.

Information from the ground has also reported that a house owner abused an Indigenous woman with a disability repeatedly and, while protecting herself, she suffered an accident involving multiple disabilities.[15] Likewise, in another conversation, an Indigenous woman with a

disability and mental health problems was put into quarantine without any physical, mental or social support, and left in isolation.[16] A 54-year-old man furthermore raped a ten-year-old girl with a disability from a marginalized group during the lockdown in Rautahat district.[17] The case has been reported but no effective action has been taken. An eight-year-old girl from an Indigenous group was also raped but the incident report states that she fell from a tree. A 31-year-old woman from Lamkichuwa municipality was also gang-raped while she was in quarantine.[18]

Discussion and collaboration during COVID-19 globally

At the global level, in collaboration with global, regional, and national organizations, the IPWDGN has engaged in many consultations, participated in several events to highlight the challenges faced by Indigenous people with disabilities and held several workshops, e.g. the COVID-19 Learning and Preparation for the 2nd Global Disability Summit and the Indigenous Women's Conference-related Workshop in Nepal from 4 to 11 December 2020 highlighting the challenges faced during COVID-19.

At the regional level, the Asia Indigenous Peoples Pact (AIPP) has also undertaken consultations in several meetings and provided relief, recovery and documentation support during the COVID-19 crisis in different countries of Asia.[19] The IPWDGN Asia Focal Person, Ms Pratima Gurung, has been serving as a steering committee member for the Asia Pacific Ministerial Conference on Disaster Risk Reduction (APMCDRR) 2020 preparations and, as such, has engaged in research/an online survey to mainstream Indigenous Peoples' issues into disaster risk reduction in Asia. She will contribute to the next conference.

The Asia Network of IPWDGN has also engaged in the global discussion on the Impacts of COVID on Indigenous Persons with Disabilities, organized by the International Indian Treaty Council (IITC) on 26 June 2020; "Indigenous People and COVID: The Disparate Impact" organized by UNFPA on 27 August 2020; and in the Expert Group Meeting "Analyzing the Socio-Economic Impacts and Consequences of Pandemics on Persons/Women with Disabilities" held on 8 December 2020 by UNDESA and UNPFII. Representing IPWDGN members and the CSO Major Group, on 13 July 2020 Ms Gurung presented a statement to the

High-Level Political Forum of SDG 2030 after the Nepal government had spoken and also presented the statement on behalf of South Asian CSOs at the 4th South Asia SDGs Forum organized by the Government of the Maldives and the UN-ESCAP SSWA office from 2-3 December 2020, which included issues of disability.

National level efforts on Indigenous persons/ women with disabilities

Nationally, during a month-long lockdown in April 2020, NIDWAN submitted a position paper to five UN Special Rapporteurs (SR) on Health, Violence against Women, Rights of Indigenous Peoples, persons with Disabilities and Minority Issues.[20] The objective of the position paper was to draw the national government's attention to the violations of the human rights of people with disabilities.

Similarly after submitting the report in April 2020, and in collaboration with IPWDGN, including 22 other organizations, the Minority Rights Group International (MRG) issued a statement highlighting the specific impact of the pandemic on people with disabilities from minority, Indigenous and other marginalized communities.[21] In response to the absence of specific, disaggregated data on people with disabilities from Indigenous communities, MRG has begun work on updating the World Directory of Minorities and Indigenous Peoples with information on disability. In collaboration with NIDWAN and IPWDGN, MRG has contributed to this new initiative in order to address the data gap for persons with disabilities belonging to minorities and Indigenous Peoples and include them in their work.

In June 2020, the IPWDGN Asia Network and NIDWAN submitted a report on Indigenous Persons with Disabilities in Asia and COVID-19 to the UN Special Rapporteur on the rights of indigenous peoples reflecting the challenges faced during the COVID-19 pandemic. In Nepal, in collaboration with different organizations, NIDWAN created a basket fund and supported more than 500 people with disabilities with relief, recovery, health, hygiene kits, online COVID-19 information sessions, training and workshops both directly and indirectly. NIDWAN engaged in collecting data, producing Information, Education and Communication (IEC) materials on COVID-19, documents, and reports, holding online

workshops and training sessions nationally and internationally from April to December 2020. In this way, Indigenous persons with disabilities are gradually being included, from the grassroot up to global level.

Notes and references

1. United Nations Economic and Social Council, Permanent Forum on Indigenous Issues. "Study on the situation of indigenous persons with disabilities, with a particular focus on challenges faced with regard to the full enjoyment of human rights and inclusion in development." E/C.19/2013/6, 6 February 2013. para. 2. https://www.un.org/disabilities/documents/ecosoc/e.c.19.2013.6.pdf
2. See UN Women. "Fact Sheet on Indigenous Women with Disabilities." 2020. https://www.unwomen.org/en/digital-library/publications/2020/04/fact-sheet-on-indigenous-women-with-disabilities
3. Ibid.
4. Asia Pacific Declaration on the Rights of Indigenous People with Disabilities, First Gathering of Indigenous People with Disabilities from Asia and Pacific Region 2015.
5. United Nations Economic and Social Council, Permanent Forum on Indigenous Issues. "Study on the situation of indigenous persons with disabilities, with a particular focus on challenges faced with regard to the full enjoyment of human rights and inclusion in development." E/C.19/2013/6, 6 February 2013. para. 7. https://www.un.org/disabilities/documents/ecosoc/e.c.19.2013.6.pdf
6. OHCHR. "Expert meeting on Indigenous people with disabilities.", 7-8 July, Geneva. https://www.ohchr.org/EN/Issues/Disability/SRDisabilities/Pages/IPDisabilities.aspx
7. OHCHR, COVID-19 Response."COVID 19 and Indigenous Peoples' Rights." June 2020. https://www.ohchr.org/Documents/Issues/IPeoples/OHCHRGuidance_COVID19_IndigenouspeoplesRights.pdf
8. United Nations. "Policy Brief: A Disability Inclusive Response to COVID-19." May 2020. https://www.un.org/development/desa/disabilities/wp-content/uploads/sites/15/2020/05/sg_policy_brief_on_persons_with_disabilities_final.pdf
9. Ibid.
10. United Nations. "Policy Brief: The Impact of COVID-19 on Women." 9 April 2020. p.10. https://www.un.org/sexualviolenceinconflict/wp-content/uploads/2020/06/report/policy-brief-the-impact-of-covid-19-on-women/policy-brief-the-impact-of-covid-19-on-women-en-1.pdf
11. For example, a caucus of Indigenous persons with disabilities was formed at the 12th session of the UNPFII.
12. For example, the Committee on the Rights of Persons with Disabilities, which has held just 10 sessions to date, has already, in some of the reports it has examined (including Argentina, Peru, Paraguay) taken the opportunity to comment on the situation of Indigenous persons with disabilities. The Permanent Forum on Indigenous Issues included a number of recommendations specifically focused on disability in the reports of its 11th and 12th sessions. Permanent Forum members also prepared a "Study on the situation of indigenous persons with disabilities, with a particular focus on challenges faced with regard to the full enjoyment of human rights and

inclusion in development", which was presented at its 12th session. The Expert Mechanism on the Rights of Indigenous Peoples addressed the situation of Indigenous persons with disabilities in its recent study on "Access to justice in the promotion and protection of the rights of Indigenous Peoples," as well as relevant recommendations in its Advice No. 5(2013) on the same theme. The Global Indigenous Preparatory Conference for the World Conference on Indigenous Peoples, held in Alta Norway in June 2013, included numerous references to Indigenous persons with disabilities in the meeting's outcome document (available at: http://www.un.org/esa/socdev/unpfii/documents/wc/AdoptedAlta_outcomedoc_EN.pdf).

13. Minority Rights Group International (MRGI). "Statement on the Impact of the Global COVID-19 Pandemic on Persons with Disabilities from Minority, Indigenous and other Marginalised Communities." April 2020. https://minorityrights.org/2020/04/27/statement-covid-19-pandemic-on-persons-with-disabilities-from-minority-indigenous-communities/
14. Interview and data collection with NIDWAN focal persons at province level collecting information from May 2020 to Dec 2020.
15. NIDWAN has been conducting COVID research in 7 provinces of Nepal Interview with Province Focal Person, 13 August 2020.
16. Kumar Jha, Prabhat. "Man held for raping minor with disability in Rautahat." The Himalayan Times, 17 April 2020. https://thehimalayantimes.com/nepal/man-held-for-raping-differently-abled-minor-in-rautahat/
17. Ibid.
18. NIWF Report et al. "A Report on Indigenous Women of Nepal COVID 19." United Nations Special Rapporteur on the Rights of Indigenous Peoples, June, 2020. https://www.ohchr.org/Documents/Issues/IPeoples/SR/COVID-19/IndigenousCSOs/NEPAL%20-%20National%20Indigenous%20Women%20Federation_NIWF.docx
19. Asia Indigenous Peoples Pact (AIPP). "News flash: A special volume on indigenous women and Indigenous persons with disabilities." November 2020. https://aippnet.org/wp-content/uploads/2020/12/Flashupdate-4-FINAL.pdf
20. Gahatraj, Krishna, and Gurung Pratima. "Position Paper on COVID 19 and Its impact on Persons with Disabilities and Marginalized Groups in Nepal." National Indigenous Disabled Women Association Nepal (NIDWAN), April 2020. https://nidwan.org.np/wp-content/uploads/2020/04/NEPAL-COVID_NIDWAN-April-.pdf
21. Minority Rights Group International (MRGI). "Statement on the Impact of the Global COVID-19 Pandemic on Persons with Disabilities from Minority, Indigenous and other Marginalised Communities." April 2020. https://minorityrights.org/2020/04/27/statement-covid-19-pandemic-on-persons-with-disabilities-from-minority-indigenous-communities/

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Indigenous Youth: their role in protecting their communities

Introduction

Indigenous youth are aware that the world and its regions are going through a time of change marked, on the one hand, by key actors committed to respecting human rights and, on the other, by current movements ranged against the implementation of those rights.

The global situation in which Indigenous Peoples find themselves as a result of COVID-19 has specific features that differ from those of the general population, mainly due to geographical, cultural and historical conditions and contexts which, in turn, are different in each of the seven socio-cultural regions in which the world's Indigenous Peoples live.

It is important to remember that despite historical efforts to achieve recognition of the individual and collective human rights of Indigenous Peoples, they continue to live in a situation of particular vulnerability. Indigenous Peoples have demonstrated their resilience, mainly due to their own community processes and their lands and territories. Indigenous youth from different regions of the world have made great efforts to incorporate their perspectives into dialogues and policy agendas as a priority. In the current context of social and health emergency, there is a visible lack of progress in eradicating poverty and hunger and in promoting peace and justice in the world, to name just two of the Sustainable Development Goals. We must therefore demand real commitment from states to meet the objectives to which they have signed up.

When the first confirmed cases of COVID-19 became known, governments were reluctant to believe that the virus might reach their countries and that it might even reach the Indigenous territories which is why, in regions such as Africa, Latin America and Asia, many of the measures taken by states were slow and late to be implemented. The Indigenous population's need were covered largely by their own organisations and traditional authorities.

Addressing the situation of Indigenous Peoples during the current pandemic posed a great challenge, largely due to a lack of information and misinformation on what COVID-19 is. In a general context in which Indigenous Peoples were forced to improvise, the participation of youth was therefore paramount.

A little context

The pandemic affected Indigenous youth in many ways and they expressed their concerns about health issues (means available to prevent COVID-19, mental health, health care for the elderly, importance of traditional medicine), education (access to technologies to guarantee the right to education), social security, food security, increased violence (gender violence, violence in the territories, peace processes), climate change and effective information.

The emergency situation for Indigenous Peoples increased as the virus progressed through their communities, leading to the emergence of common strategies aimed at better coping with the health crisis. Indigenous Peoples are governed by their own system of ancestral values, which is why in this time of emergency they have insisted on the need to recover community values such as solidarity, reciprocity, cooperation and mutual aid.

Indigenous youth were of great importance in how Indigenous communities faced up to the pandemic. They were responsible for promoting prevention messages within the communities, as well as for searching for and collecting disaggregated data from Indigenous Peoples in terms of cases of infection, health impacts, economic impacts and gender violence, etc. This was all due to their knowledge, skills and professionalisation, which enabled them to make use of alternative tools such as the promotion and strengthening of community radio for the transmission of prevention messages and collaboration between different communities.

The COVID-19 pandemic should not only be understood as an emergency health issue. It is important that special consideration be given to the vulnerable situation of Indigenous Peoples, who are the most affected by the denialist policies of many countries, clearly reflecting an existing institutional racism.

Information and communication

Since the formation of the Global Indigenous Youth Caucus (GIYC), Indigenous youth have faced many challenges and barriers, such as language, access to full and effective participation in decision-making spaces, and even very often a rejection of their participation; however, this has all allowed them to look for ways to break down barriers of inequality. This is why Indigenous youth from different regions of the world have sought to implement proposals at the local, national, regional and global levels, including dialogue with international organisations such as the Special Envoy on issues related to the pandemic.

Indigenous youth have promoted the dissemination of prevention messages within communities. and were largely responsible for searching for and collecting disaggregated data from Indigenous Peoples in terms of cases of infection, health impacts, economic impacts and gender violence, etc.

The youth were undoubtedly instrumental in organising key prevention and health promotion messages in Indigenous languages and organising webinars with the participation of youth from other regions, which provided an opportunity to exchange knowledge, experiences and local strategies. In Latin America, young people were involved in developing monitoring tools for digital mapping of communities aimed at documenting cases of infection and deaths, work for which they received recognition.[1]

These collective efforts made it possible to establish a dialogue and work programmes with some international agencies and organisations that resulted in the development of affirmative actions such as the creation of platforms and cooperation between different contexts aimed at addressing information gaps in Indigenous languages, such as the Indigenous COVID-19 platform[2] and Translations4ourNations[3] where one can access materials and where Indigenous youth have participated voluntarily to create content, audio materials, brochures, podcasts, videos and so on in order to contribute to and support other sister peoples.

Health and traditional medicine

In 2020, however, they had to deal with an invisible enemy that reached out into every corner of the world. Wherever it passed, it caused fear

and anguish, and it exacerbated inequalities, taking lives and histories in a very short time. The coronavirus pandemic left its mark everywhere, and it was no different for Indigenous Peoples. The pandemic has had a serious impact on Indigenous Peoples, many lives have been lost and, with these, a part of their languages, their cultures, their ancestral wisdom and traditional knowledge has died.

The Indigenous youth have been upset to see the situation of their communities, fundamentally due to the state's failure to implement policies of prevention, promotion and recovery of the health of our peoples.

It is important to recognise that traditional medicine is a fundamental part of health and disease processes in Indigenous communities. COVID has many faces: for some, the disease is a bad spell, for others Mother Nature's revenge for all the evils humankind has caused her. One safeguarding practice in many villages was not to mention the name of the virus so that they could stay healthy and safe.

Many Indigenous organisations promoted sanitary cordons to prevent the spread of the virus and sought the voluntary lockdown of their communities. In the Amazon, an attempt was made to protect peoples living in voluntary isolation. In spite of all the efforts, we can generally say that Indigenous youth experienced feelings of stress, anxiety and fear.

While Indigenous youth have tried to implement different strategies, technological gaps have resulted in different ways of acting in the regions. Nevertheless, as young people, social media and apps have been important elements of communication with the aim of developing short videos, contests and other activities to strengthen identity and traditional knowledge, and thus improve mental health care. In regions such as the Arctic, the Pacific, North America and Latin America, webinars were held with the participation of older leaders. For example, Rosalina Tuyuc from Guatemala shared messages with the Indigenous youth, to whom she said:

> *We are probably afraid of what is happening but each of us is a witness to this whole era, where time invites us to come to a halt, with the strength of fire, air, Mother Earth and with the inner strength that we have retained however often we have been humiliated and despised, however often they have been unable to recognise our great knowledge, which dates from thousands of years ago.*[4]

She said this in reference to what we as youth know of the resistance of our peoples as well as the background of reports on self-harm and suicide among Indigenous youth.[5]

We cannot forget how inequalities affect Indigenous Peoples in particular. According to the Inter-American Development Bank (IDB),[6] young people in developing countries are as likely to die from the pandemic as people over 60 in a rich country. It is important to note the lack of official statistical data on the situation of Indigenous Peoples during the pandemic, the lack of protective equipment, diagnostic tests and vaccines and, more generally, the lack of government work plans to support the protection of Indigenous lives.

It is also important to recognise that mechanisms such as the UN Permanent Forum on Indigenous Issues, Expert Mechanism on the Rights of Indigenous Peoples, the Special Rapporteur on the rights of indigenous peoples, the Indigenous Peoples' Major Group for Sustainable Development and Indigenous Peoples' organisations in the different regions have all allowed spaces to open up for the participation of Indigenous youth. In this context, one of the first actions was to understand that, for Indigenous Peoples, the loss of an elder entails the loss of culture, wisdom and age-old knowledge; "we support each other mentally, culturally and spiritually"[7] was one of the messages that has been replicated through the collective videos of Indigenous youth the world over.

Education

Indigenous youth used virtual platforms to highlight the inequalities created by virtual education, the accelerated impoverishment of communities and the increased transmission of infection without access to health systems, demonstrating that voluntary lockdown was a privilege for some and a concern for others, amidst increasingly serious economic crises. Education is a right that must be guaranteed by states and, in many countries, Indigenous children and youth have not enjoyed this right because they have not had access to the Internet, or to equipment such as computers, phones or tablets to follow virtual classes.

It is also important to guarantee access to education for Indigenous children and youth by providing the necessary tools for distance learning, in close cooperation with the traditional institutions of Indige-

nous Peoples. It is important to think about cooperation plans that can provide guidelines to ensure a good return to schools and universities.

Social systems and social protection

The pandemic has increased social problems because the social protection that would enable Indigenous Peoples, especially those living in remote areas, to comply with the recommendations for avoiding the risk of infection has not been guaranteed by states.

In this sense, it is essential to continue working to find a more comprehensive response, in harmony with the ecological balance, and not to focus solely on economic interests because the consequences have been devastating. Scientists have warned us that the invasion of natural protected areas where zoonotic processes are taking place could cause other pandemics in the future. Existing deep social inequalities have resulted in a greater impact of the pandemic on those of us who have historically experienced racism, exclusion, compartmentalisation, classism and discrimination, all of which are interconnected with a lack of respect for fundamental human rights.

Food security

When we talk about current and future pandemic concerns, one of the main issues is undoubtedly food security and the sustainability of Mother Earth. Bodies such as the Food and Agricultural Organization of the UN have called for specific measures to be taken with regard to nutrition since, if people are not well-nourished, their immune system is weakened and they have fewer defences against disease.

States must commit to adopting emergency food policies to combat hunger and the economic crisis generated by the rapid spread of COVID-19 in Indigenous communities. This great impact has occurred even in those communities where some of the recommended prevention and protection strategies were implemented, such as social distancing or hygiene measures but which, unfortunately, could not always be implemented in the best possible way because biosecurity materials and equipment were scarce and expensive.

In this regard, obtaining food has been a collective concern, and some responses were offered through the organisation of soup kitchens, food collection centres and the distribution of baskets of food products in order to take food to families or hospitals. This has demonstrated that solidarity as a mutual support measure should be taken into account at the next World Food Systems Summit.

Peace and security processes

Respecting the human and collective rights of Indigenous Peoples as recognised in international legal frameworks is one of the main demands of Indigenous Peoples, including respect for free, prior and informed consent (FPIC) in the prevention, development, implementation and monitoring of measures to address COVID-19.

The main call from Indigenous youth has therefore been for states, governments and UN agencies to work in partnership with Indigenous customary self-governance institutions, Indigenous Peoples' own organisations and networks and their communities, in accordance with the UN Declaration and ILO Convention 169.

During the pandemic, Indigenous Peoples were quarantined but our enemies were not. In Brazil and Colombia, to mention just two countries, there was an increase in invasions of Indigenous territories by loggers and miners, consequently resulting in the murder of Indigenous leaders. Indigenous youth played an important role in defending their territories and they used social media to report actions and thus obtain protection for their territories.

Climate Change

The issue of climate change continues to be a priority on the agenda of Indigenous youth, especially when many of the consequences and state policies to mitigate it continue to affect our peoples and put their survival at risk. In addition to the impact of climate change, there are also the invasions of territories, all of which affect food production, and for which reason Indigenous Peoples have implemented strategies that include the creation of communal gardens and monitoring of their ter-

ritories. These strategies continue as natural disasters keep on increasing, for example hurricanes in the Caribbean or earthquakes and forest fires, which have all made this pandemic more difficult.

Conclusions

The COVID-19 pandemic should not only be understood as a matter of emergency health care, because Indigenous Peoples know that there is an intersectoral relationship that is reflected in differentiated impacts, in social, economic and food aspects, para-militarisation, armed conflicts and violations of individual and collective rights that have added to other impacts, such as climate change, natural disasters, and other health pandemics, making 2020 one of the most difficult years for Indigenous Peoples.

All aid must be distributed equally based on the needs of the population and states must work in partnership with Indigenous Peoples in a context of cultural relevance.

It is therefore essential to recognise the role of Indigenous youth and that their full and effective participation is very important to ensure structural change in public policies. It is essential to include Indigenous Peoples' representatives, leaders and customary institutions in the bodies providing emergency assistance in order to ensure the health of their communities.

Young people are not the future, we are agents of change here and now, each and every day.

Notes and references

1. Coordenação das Organizações Indígenas da Amazônia Brasileira. "COIAB e IPAM vencem prêmio Empreendedor Social do Ano com aplicativo de monitoramento." 7 December 2020. https://coiab.org.br/conteudo/coiab-e-ipam-vencem-pr%C3%AAmio-empreendedor-social-do-ano-com-aplicativo-de-1607389387957x892779126617014300
2. Mariaca, Gabriel. "Cumplimos nuestros objetivos. Plataforma Indígena Regional frente al COVID-19." [Meeting our objectives. Regional Indigenous COVID-19 platform]. 18 December 2020. https://indigenascovid19.red/
3. Carrillo, Sitlali. "Huichol." Translations4OurNations. https://www.translations4ournations.org/translation/huichol/

4. FILAC, Red de Jóvenes Indígenas de America Latina y El Caribe, and Foro Indígena de Abya Yala, "Aporte de las Juventudes Indígenas de Abya Yala ante la Pandemia Actual: Diálogos sobre salud mental." [Contribution of Indigenous Youth of Abya Yala to the Current Pandemic. Discussions on mental health.] April 2020. https://indigenascovid19.red/wp-content/uploads/2020/05/Memoria-juventud-indigena-salud-mental-mayo2020.pdf
5. United Nations Permanent Forum on Indigenous Issues. "La autolesión y el suicidio entre los jóvenes." [Self-harm and Suicide among Youth]. 2015. https://www.un.org/esa/socdev/unpfii/documents/2015/concept-notes/youth-self-harm-suicide-es.pdf
6. Jabiel, Sally. "Los jóvenes en Latinoamérica son un grupo de riesgo ante la COVID-19" [Latin American Youth are a High-Risk Group for COVID-19]. El País, 22 January 2020. https://elpais.com/planeta-futuro/2021-01-21/los-jovenes-de-latinoamerica-grupo-de-riesgo.html#:~:text=Sin%20embargo%2C%20lo%20que%20padeci%C3%B3,Interamericano%20de%20Desarrollo%20(BID).
7. Victor Anthony Lopez-Carmen. 2020. "Global Indigenous Youth Leaders on Corona Virus (COVID-19)." Uploaded on 28 March 2020. YouTube Video, 2:20 min. https://www.youtube.com/watch?v=EPSqEJ-YJrk

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International Fund for Agricultural Development (IFAD)

IFAD's Policy on Engagement with Indigenous Peoples aims to enhance its development effectiveness in its engagement with Indigenous Peoples' communities in rural areas. As a key instrument for implementing the IFAD Policy on Engagement with Indigenous Peoples, the Indigenous Peoples' Forum was established at IFAD in 2011. The Forum is a permanent process of consultation and dialogue between representatives from Indigenous Peoples' institutions and organizations, IFAD and governments.

The Forum enables participants to jointly assess IFAD's engagement with Indigenous Peoples, consult on rural development and poverty reduction and promote the participation of Indigenous Peoples' organizations in IFAD's activities at the country, regional and international levels. Overall, these activities help and guide IFAD in implementing its policy and translating its principles into action on the ground.

The global meeting of the Indigenous Peoples' Forum convenes every other year in conjunction with IFAD's Governing Council, IFAD's main decision-making body. In preparation for each global meeting, regional consultation meetings are organized to ensure that the Forum reflects the diversity of perspectives and recommendations gathered from Indigenous Peoples in the various regions where IFAD operates and to track progress in past agreements.

A unique process within the UN system, the Forum institutionalizes IFAD's consultation and dialogue with Indigenous Peoples' representatives at all levels and provides an opportunity for Indigenous Peoples and IFAD to further strengthen their collaboration for rural transformation.[1]

Preparation for the fifth global meeting of the Indigenous Peoples' Forum at IFAD: regional & sub-regional consultations

In late 2020, regional and sub-regional consultation meetings were held in Africa, Asia, Latin America and the Caribbean, and the Pacific in preparation for the fifth global meeting of the Indigenous Peoples' Forum at IFAD.

Due to the COVID-19 pandemic, the Forum's Steering Committee decided to conduct the workshops (both at regional and sub-regional levels) virtually and turn the challenge into an opportunity. Being virtual, the workshops in fact provided an opportunity to broaden participation and engagement of Indigenous Peoples, bringing together over 540 representatives of Indigenous Peoples' organizations, institutions and communities; representatives from IFAD-funded projects; members of the UN Permanent Forum on Indigenous Issues (UNPFII); partners of the Indigenous Peoples' Assistance Facility (IPAF) and participants from IPAF-funded projects; IFAD staff; and development partners (as observers).

All regional consultation meetings were organized by Indigenous organizations in cooperation with IFAD country offices and IFAD staff, and the International Work Group for Indigenous Affairs (IWGIA).

The objectives of the meetings were to:

- Exchange experiences and good practices on the main theme of the Forum: "The value of Indigenous food systems: resilience in the context of the COVID-19 pandemic";
- Identify the challenges that Indigenous Peoples and their livelihoods are facing during the COVID-19 pandemic;
- Review the progress made in implementation of the regional action plans agreed during the last Forum;
- Identify opportunities for strengthening good practices as sustainable solutions, and the corresponding elements for regional strategies to enhance IFAD's support to them;
- Analyze and formulate action-oriented recommendations on the theme of the Forum and draft new regional action plans to be finalized during the global meeting of the Forum; and

- Identify possible contributions and key messages from Indigenous Peoples to the UN Food Systems Summit.

The consultation meetings

Africa (organized by the **Mainyoito Pastoralist Integrated Development Organization, MPIDO**):

- Two regional meetings: two regional consultation meetings covering English and French speaking countries on 5 and 7 November 2020 respectively.

Asia (organized by the **Asia Indigenous Peoples' Pact (AIPP)** and **Tebtebba Foundation**)

- One regional meeting: 26 November 2020.
- Three sub-regional meetings: South-East Asia, South Asia, Mekong region (18-20 November 2020).
- One IPAF-related meeting: 17 November 2020.

Latin America and the Caribbean (organized by the **Fund for the Development of Indigenous Peoples of Latin America and the Caribbean, FILAC**).

- One regional meeting: 22 October 2020.
- Five sub-regional meetings: Caribbean, Central America, Andean region, Amazon region, Southern Cone (5-15 October 2020).

Pacific (organized by **Partners in Community Development Fiji, PCDF**).

- One regional meeting: 14-16 October 2020.

During the virtual consultations, participants also assessed progress in implementation of the IFAD Policy on Engagement with Indigenous Peoples and reviewed the advances made in implementing the recommendations and action plans agreed at the fourth global meeting of the Forum in 2019.

Participants also prepared the regional participation in the fifth global meeting of the Forum, scheduled to take place online in February 2021, in conjunction with the 44th session of IFAD's Governing Council.

Further, they reviewed the candidate proposals for the Indigenous

Peoples' Award launched by IFAD in 2020 to recognize the efforts and achievements of development projects that successfully engage with Indigenous Peoples living in rural areas.

Common issues emerging from the workshops

From their different perspectives, Indigenous representatives who participated in the regional consultation meetings identified a series of issues and recommendations to be further discussed at the 2021 global meeting.

In particular, they shared the challenges faced by Indigenous Peoples during the COVID-19 pandemic and highlighted how it is dramatically affecting their livelihoods, disrupting their economy, causing loss of income for Indigenous families and endangering the food and nutrition security of communities.

The importance of supporting Indigenous farming, production practices and food systems was particularly stressed as key to contributing to the well-being of Indigenous communities, climate change mitigation and adaptation, and overall sustainable development.

Concerning IFAD strategies, policies and operations, participants reiterated the need for the Fund to enhance Indigenous Peoples' engagement at country level and to guarantee their systematic and effective participation in the design, implementation, and monitoring and evaluation of projects and strategies. Systematic consultations of Indigenous Peoples and their organizations, full application of Free, Prior and Informed Consent (FPIC) and the establishment of quotas when hiring Indigenous consultants with the appropriate knowledge to engage with Indigenous communities were particularly highlighted as key tools for the improved participation of Indigenous Peoples and their organizations in IFAD's operations at all levels.

Requests were made to IFAD to reaffirm its commitment to Indigenous Peoples, including by increasing funding for the IPAF and supporting the inclusion of representatives from Indigenous Peoples' organizations on the advisory committee of the Adaptation for Smallholder Agriculture Programme (ASAP+).

Strong importance was also placed on enhancing knowledge generation and sharing on and among Indigenous Peoples (e.g. through

South-South cooperation and research) and on the need to support policy processes and dialogues at the national level on issues of relevance for Indigenous Peoples such as land and natural resource access and management.

In relation to the theme of the 2021 Indigenous Peoples' Forum at IFAD, the main recommendations emerging from the regional workshops included the following:

- Promote organic production, artisanal fisheries and harvesting, and preserve Indigenous Peoples' traditional agricultural practices in order to ensure the food and nutrition security of Indigenous communities including by mobilizing the necessary financial, human and technical resources. Particularly encourage youth and women's engagement and participation in these activities as key sources of livelihoods and for preventing youth migration from communities;
- Facilitate the marketing of Indigenous products by supporting community-based social enterprises and economic initiatives of Indigenous Peoples (including eco-tourism), and improving access to market information, infrastructure facilities, and post-harvest technology;
- Rescue native seeds resistant to disease and climate change and support the creation of local Indigenous seeds banks;
- Recover and strengthen the production of traditional medicines, seeds, crops and Indigenous food with high nutritional potential (e.g. *chaya, ghongi, izaño*, quinoa, llama meat, *moringa*, wild honey) and facilitate the distribution of Indigenous foods and products in school canteens with the ultimate aim of strengthening the food and nutrition security of Indigenous Peoples based on their knowledge, traditional practices and expertise;
- Promote knowledge generation and sharing on Indigenous food systems and traditional farming practices, with particular attention to an inter-generational exchange of knowledge and experiences through studies and research, audio-visuals, ICT tools and technologies, exchanges among Indigenous Peoples, food/culinary fairs and festivals, the documentation of Indigenous recipes and traditional medicines, the creation of digital knowledge management platforms. Engage appropriate part-

ner institutions/agencies with the necessary capacities to support these processes;

- Enhance and ensure access to and use of ICT for Indigenous Peoples for weather advisories, crop planning, pest and disease management, documentation and dissemination of best practices as key to strengthening the resilience of Indigenous food systems;
- Strengthen the capacities of Indigenous organizations, institutions and communities with a focus on reinforcing youth and women;
- Support Indigenous Peoples to access and manage lands, water, territories and natural resources, including through policy dialogue and advocacy. Particularly promote the recovery of water management and administration systems for human consumption and irrigation in Indigenous communities, the restoration of forests to preserve traditional practices, community-based forest protection and management; and
- Support and facilitate policy processes and dialogue at the national level between Indigenous Peoples, governments and the United Nations system on issues of relevance for Indigenous Peoples.

Recommendations formulated during the consultation meetings will be presented and discussed at the 5th session of the Global Forum that will take place in February 2021.[2]

Notes and references

1. More information about the Indigenous Peoples' Forum at IFAD can be found at https://www.ifad.org/en/Indigenous-peoples-forum
2. More information about the 5th Global Meeting of the Indigenous Peoples' Forum at IFAD can be found at https://www.ifad.org/en/web/latest/event/asset/42106119

This contribution is authored by the ***Indigenous Peoples' Steering Committee of the Indigenous Peoples' Forum*** *at IFAD.*

The Expert Mechanism on the Rights of Indigenous Peoples (EMRIP)

The Expert Mechanism on the Rights of Indigenous (EMRIP) is a subsidiary body of the Human Rights Council composed of seven independent members, one from each of the seven Indigenous sociocultural regions: Africa; Asia; the Arctic; Central and Eastern Europe, the Russian Federation, Central Asia and Transcaucasia; Central and South America and the Caribbean; North America; and the Pacific. Resolution 33/25, adopted by the Human Rights Council in 2016, amended EMRIP's mandate to provide the Human Rights Council with expertise and advice on the rights of Indigenous Peoples as set out in the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) and to assist Member States, upon request, in achieving the ends of the UNDRIP through the promotion, protection and fulfilment of the rights of Indigenous Peoples, including through country engagement as mentioned above.

From March 2020, the COVID-19 pandemic had a major impact on the work of the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) as well as on the lives of Indigenous Peoples themselves. International travel was largely suspended for much of the year due to rising infection rates the world over. This resulted in most activities going online and adjustments being made to EMRIP's annual session, seminar, inter-sessional meeting and coordination meetings with other Indigenous mechanisms.

The highlights of the year included EMRIP's four virtual regional meetings, which took place in November/December, replacing the annual session and covering the topic of "The impact of COVID-19 on the rights of Indigenous Peoples under the UN Declaration on the Rights of

Indigenous Peoples". EMRIP had recognized as early as April 2020 that, "The spread of COVID -19 has and will continue to exacerbate an already critical situation for many Indigenous Peoples: a situation where inequalities and discrimination already abound."[1] It was for this reason that EMRIP chose this topic for its regional meetings, in order to develop a better understanding of the global impact of COVID-19 on Indigenous Peoples with the aim of supporting all stakeholders to build back better.

As to other highlights, EMRIP finalized a country engagement with Sweden following a repatriation request from the IITC for the Yaqui Maaso Kova from the National Museum of World Culture in Sweden. This culminated in the parties welcoming the initiation of a process of repatriation of the Maaso Kova and parts of the Museum's Yaqui Collection to the Yaqui Peoples in Mexico.

Thematic annual report on "The impact of COVID-19 on the rights of Indigenous Peoples under the UN Declaration on the Rights of Indigenous Peoples"

EMRIP decided to convert the second half of its 13th session into four regional virtual meetings, which took place from 30 November to 3 December, as well as a closed meeting for members to analyse the outcome of the regional meetings on 4 December. An analysis of the meetings is set out in EMRIP's annual report (A/HRC/46/72), which will be submitted to the Human Rights Council at its 46th session in March 2021.

The regional discussions and written submissions highlighted not only the heightened impact of COVID-19 on Indigenous Peoples but also the often disproportionate impact of lockdown measures, and the need to monitor the effect of both on Indigenous Peoples and their rights.[2] While discussions demonstrated that some elements of the impact differed among Indigenous Peoples, it was clear that the pandemic globally has had a differentiated, and mostly disproportionate, impact on Indigenous Peoples and their rights. Indigenous representatives described universal challenges including how the pandemic has exacerbated underlying structural inequalities for Indigenous communities, particularly lack of access to adequate healthcare and potable water.

Participants referred to intersectional discrimination of Indigenous women and persons with disabilities, systemic exclusion and the dispro-

portionate impact of the pandemic on them. They referred to the lack of participation in decision-making and a lack of information in Indigenous languages, increased violence against women and children, the loss of elders and, with them, traditional knowledge, and they drew links with climate change. They reported facing discrimination from the broader community and being targeted as carriers of the virus. They also expressed concern over increased intimidation and repression of Indigenous human rights defenders, including women, during the pandemic.

Participants from all regions cited good practices of Indigenous communities self-isolating and other self-reliance measures, including a resurgence in traditional practices as an exercise of their right to self-determination, as well as the critical importance of self-determination in general. Several participants referred to the experiences of their ancestors with earlier pandemics, and the impact of viruses brought by outsiders to their communities historically. They spoke of the pandemic as a time of reflection, of return to their communities, reinvigoration of traditional practices, including medicinal, cultural and ecological, and of taking comfort in the realization that they already have the skills and knowledge needed to confront COVID-19. They also expressed hope that the wider society would see the value in their approaches and that the world would turn to Indigenous knowledge.

Implementation of EMRIP's country engagement mandate

Resolution 33/25 provides EMRIP with a mandate to: engage with states at the national level by offering technical assistance on legislation, policies and capacity building; provide advice on implementing the recommendations of human rights mechanisms; and act as a dialogue facilitator between states and/or the private sector and Indigenous Peoples, all with the purpose of implementing the rights in the UNDRIP. This mandate is thus a complement to monitoring mechanisms such as the treaty bodies, the special procedures of the Human Rights Council and the Universal Periodic Review procedure (UPR).

Between 2018 and 2020, EMRIP undertook a country engagement following a repatriation request by the International Indian Treaty Council (IITC) for the Yaqui Maaso Kova (a Yaqui ceremonial deer head) from

the National Museum of World Culture in Sweden. As part of this process, EMRIP facilitated a day-long dialogue between the museum and representatives of the Yaqui peoples on 6 March 2020 in Vancouver, following a seminar held on 4 and 5 March 2020 on the repatriation of ceremonial objects and human remains under the UNDRIP. The objective of the seminar was to obtain substantive input to EMRIP's study on the same theme. Following the dialogue between the museum and representatives of the Yaqui peoples, EMRIP conveyed to the Government of Mexico that the parties welcomed the initiation of a process of repatriation of the Maaso Kova and parts of the Museum's Yaqui Collection to the Yaqui People in Mexico. An Advisory Note, which is a public record of the engagement, can be found on EMRIP's webpage along with advice and information from EMRIP's previous engagements in Mexico City, Finland and New Zealand.[3]

EMRIP regularly encourages Indigenous Peoples and states to make requests under its country engagement mandate: to date, the majority of requests have come from Indigenous Peoples.[4] New country missions relating to these requests are under preparation. Requests for country engagement include: implementation of regional court decisions; implementation of UPR recommendations; eviction of Indigenous Peoples from their land; the protection of Indigenous children; the implementation of legislation recognizing Indigenous Peoples; and traditional fishing rights. EMRIP also began working (remotely) this year on a request for advice from Indigenous Peoples on how to ensure the promotion and protection of Indigenous Peoples' rights, in accordance with the UNDRIP and other relevant international instruments, during and in the aftermath of the COVID-19 pandemic. Unfortunately, a planned country engagement mission to the Democratic Republic of the Congo, which was supposed to take place in February 2020, had to be postponed for security reasons.

Building relationships with other mechanisms

EMRIP is of the view that coordination between the three UN Mechanisms on the rights of Indigenous Peoples is crucial to the success of all these mandates. EMRIP met virtually with the new Special Rapporteur on the rights of indigenous peoples, Francisco Calí Tzay, the Chair of the

UN Voluntary Fund for Indigenous Peoples, Diel Mochire, and the members of the UN Permanent Forum on Indigenous Issues to share updates on the work of the three mechanisms. The virtual nature of these meetings allowed EMRIP, for the first time, to meet with all members of the Permanent Forum, as opposed to only the Chair. Such meetings allow the different mechanisms to deepen their dialogue, enrich their own experiences and avoid duplication of work.

Study on the Right to Land

During part of its 13th session,[5] EMRIP adopted a study on the "Right to Land under the United Nations Declaration on the Rights of Indigenous Peoples: a Human Rights Focus" (A/HRC/45/38).[6]

The Study on the Right to Land highlighted that land is not only, or even primarily, an economic asset and that the protection of lands, territories and natural resources is necessary to guarantee the other rights of Indigenous Peoples, including the right to self-determination, to culture, dignity, health, water and food, and their right to life. The UNDRIP is the only legal international human rights instrument with a specific focus on the all-encompassing significance of lands, territories and resources for Indigenous Peoples.

This study reveals the disparity in the level of protection of Indigenous land across the regions. Some states have established sophisticated means of granting land tenure to Indigenous Peoples. They do so through demarcation, land treaties, agreements on reserved lands, land tribunals and recognition of land rights in constitutions and legislation. Other states have failed to recognize Indigenous Peoples at all, let alone their right to land. The implementation gap remains wide and failure to recognize land rights contributes to ongoing violence in many regions: militarization of Indigenous lands plays its part.

This study exposes the stark reality across all regions that ownership of Indigenous land remains mostly in the hands of the state. This continues to be the case despite provisions in the UNDRIP enshrining: a general right to traditional lands for Indigenous Peoples, a right to pursue practices and traditions on land with which they have a spiritual relationship and a right to redress and restitution of land.

The COVID-19 outbreak has only served to highlight the stark inequalities between Indigenous Peoples and others in the context of land.

EMRIP observes in its study that the lack of secure land rights, including a lack of respect for Indigenous governance, has made it very difficult for Indigenous Peoples to protect their communities from disease. In addition, there have been reports of illegal incursions onto Indigenous lands by loggers and miners and fears for the safety of Indigenous Peoples in voluntary isolation.

Report on the repatriation of ceremonial objects, human remains and intangible cultural heritage

During part of its 13th session,[7] EMRIP also adopted a report on the "Repatriation of ceremonial objects, human remains, and intangible cultural heritage under the United Nations Declaration on the Rights of Indigenous Peoples" (A/HRC/45/35).[8]

The report on the repatriation of ceremonial objects, human remains and intangible resources examines good practices and lessons learned regarding efforts to implement the UNDRIP in the repatriation of ceremonial objects, human remains and intangible cultural heritage. It recommends a human rights-based approach to repatriation, requiring the recognition of Indigenous Peoples' rights to self-determination, culture, property, spirituality, religion, language and traditional knowledge. This also calls for recognition of the applicability of Indigenous Peoples' own laws, traditions and customs. The report concludes with recommendations that include encouraging Member States to support the development of mechanisms to facilitate the international repatriation of Indigenous Peoples' sacred items and human remains.

Inter-sessional meeting, expert seminar and future reports

EMRIP held its expert seminar virtually on 16 and 17 November 2020, hosted by the Centre for Children, Youth and Family Research, University of Greenland, Nuuk, Greenland. The purpose of the seminar was to gather information for EMRIP's study in 2021 on "The Rights of the Indigenous Child under the UN Declaration on the Rights of Indigenous Peoples".

EMRIP will also prepare a report in 2021 on self-determination. This report will be informed by the inputs to a seminar to be held virtually, co-hosted by Treaty Six and the Centre for Human Rights Research, University of Manitoba, Canada, in cooperation with EMRIP, on 4 and 5 February 2021. The draft report on self-determination and the draft study on the rights of the Indigenous child will be discussed and finalized by EMRIP during its 14th session from 12 to 16 July 2021. EMRIP welcomes inputs from Indigenous Peoples and all stakeholders for these reports. For information on the submission process see: https://www.ohchr.org/EN/Issues/IPeoples/EMRIP/Pages/EMRIPIndex.aspx

EMRIP held its inter-sessional meeting virtually on 18 November 2020 to plan its forthcoming activities. EMRIP decided that its annual study for 2022 would be a follow-up study on its right to land study adopted in 2020[9] in order to include responses to and the aftermath of the pandemic as these relate to the protection of Indigenous Peoples' rights. It decided that its report for 2022 would focus on the militarization of Indigenous lands, territories and resources.

Prospects for EMRIP's future and continuing work

The issue of reprisals and attacks against Indigenous human rights defenders remains an issue for EMRIP, an issue it is incorporating into all its work. In its study published this year on the right to land, EMRIP highlighted that land is at the heart of many of these disputes, that Indigenous lands are carved up and sold off, often with little or no consultation, and that those who resist are often brutally treated. This view was shared by the participants at the Human Rights Panel discussion in September 2020 on the Protection of Indigenous Human Rights Defenders, emphasizing that perpetrators enjoy almost total impunity.[10]

A further issue of concern for EMRIP is the absence of requests from states to engage with EMRIP under its country engagement mandate as well as states' failure to respond to EMRIP in relation to requests from Indigenous Peoples regarding country engagement requests and/or missions. EMRIP intends to invite states to its session in July 2021 so that they can share their views on how to facilitate a stronger dialogue with states regarding requests for country engagements.

Notes and references

1. OHCHR. "Expert Mechanism on the Rights of Indigenous Peoples." 2021. https://www.ohchr.org/EN/Issues/IPeoples/EMRIP/Pages/EMRIPIndex.aspx
2. OHCHR. "13th session/ Regional meetings of the Expert Mechanism on the Rights of Indigenous Peoples: The impact of COVID-19 on the rights of indigenous peoples under the UN Declaration on the Rights of Indigenous Peoples." 30 November-4 December 2020. https://www.ohchr.org/EN/Issues/IPeoples/EMRIP/Pages/Session13.aspx
3. Expert Mechanism on the Rights of Indigenous Peoples. "Technical Advisory Note – Repatriation request for the Yaqui Maaso Kova." 16 June 2020. https://www.ohchr.org/Documents/Issues/IPeoples/EMRIP/Session12/MaasoKova.pdf
4. OHCHR. "Expert Mechanism Advice under the country engagement mandate." 2021. https://www.ohchr.org/EN/Issues/IPeoples/EMRIP/Pages/RequestsUnderNewMandate.aspx
5. Due to the COVID-19 crisis, the EMRIP conducted its 13th session virtually on two occasions in 2020. It held part of its 13th session virtually in Geneva on 22, 23 and 24 June, and part in the form of four regional meetings from 30 November to 3 December 2020.
6. United Nations General Assembly, Human Rights Council. "Right to Land under the United Nations Declaration on the Rights of Indigenous Peoples: a Human Rights Focus." A/HRC/45/38, 15 July 2020. https://undocs.org/A/HRC/45/38
7. Due to the COVID-19 crisis, the EMRIP conducted its 13th session virtually on two occasions in 2020. It held part of its 13th session virtually in Geneva on 22, 23 and 24 June, and part in the form of four regional meetings from 30 November to 3 December 2020.
8. United Nations General Assembly, Human Rights Council. "Repatriation of ceremonial objects, human remains and intangible cultural heritage under the United Nations Declaration on the Rights of Indigenous Peoples." A/HRC/45/35, 21 July 2020. https://undocs.org/A/HRC/45/35
9. United Nations General Assembly, Human Rights Council. "Right to Land under the United Nations Declaration on the Rights of Indigenous Peoples: a Human Rights Focus." A/HRC/45/38, 15 July 2020. https://undocs.org/A/HRC/45/38
10. OHCHR. "Experts: Indigenous human rights activists should be protected not criminalised." 12 October 2020. https://www.ohchr.org/EN/NewsEvents/Pages/Indigenous-HR-Defenders.aspx

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The Indigenous Navigator: Self-Determined Development

The Indigenous Navigator is an online portal providing access to a set of tools developed for and by Indigenous Peoples. By using the Indigenous Navigator, Indigenous organisations and communities, duty bearers, NGOs and journalists can access free tools and resources based on updated community-generated data. By documenting and reporting their own situations, Indigenous Peoples can enhance their access to justice and development and help document the situation of Indigenous people globally.

Through the Indigenous Navigator framework, data is collected that can be used by Indigenous people to advocate for their rights and to systematically monitor the level of recognition and implementation of these rights. The Indigenous Navigator framework encompasses over 150 structure, process and impact 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 Indigenous Navigator Initiative (INI), begun in 2014, has been developed and carried forward by a consortium consisting of the Asia Indigenous Peoples Pact (AIPP), the Forest Peoples Programme (FPP), the International Work Group for Indigenous Affairs (IWGIA), the Tebtebba Foundation – Indigenous Peoples' International Centre for Policy Research and Education (TEBTEBBA), The Danish Institute for Human Rights (DIHR) and the International Labour Organisation (ILO). This consortium works in partnership with the European Commission.

Indigenous-led, by and for Indigenous Peoples

With its rights-based approach, the tools of the Indigenous Navigator (IN) allow Indigenous communities to document their situation in a way that is easily communicable to authorities and development actors. The standardised indicators make it possible to compare results across sectors, communities, countries and continents. It also enables longitudinal comparison over time to measure progress and identify major implementation gaps. This data strengthens the position of Indigenous communities as they engage with civic, state and global entities to claim their rights.[1]

The IN was launched in 2014.[2] As the initiative has developed, there have been consistent upgrades and revisions to ensure that the framework and tools meet the needs and expectations of the Indigenous communities which are implementing them. Over the last year (2020), the consortium has embarked on an ambitious program to upgrade and revise the IN's framework and tools, and particularly to rebuild its website and data portal. While this work has been in progress, the INI has continued supporting community-led projects through its small grants facility. These projects are based on the data collected and complement the actions and strategies that have been developed together with Indigenous Peoples and their communities. They act as a direct action on the needs expressed and enhance these communities' ability to claim their rights.

The IN is being implemented in 11 countries (2020): Latin America: Bolivia, Colombia, Peru and Suriname; Asia: Bangladesh, Cambodia, Nepal and the Philippines; and in Africa: Cameroon, Kenya and the United Republic of Tanzania.[3] In addition, national partners and Indigenous Peoples organisations in Myanmar, Norway, Sweden, and Finland have submitted proposals to expand the Indigenous Navigator's implementation to their communities in 2021.

A growing impact

AAs reported in *The Indigenous World 2020*, a total of 165 (Community-150/National-15) questionnaires were completed and entered into

the global portal.[4] These questionnaires are the result of the engagement of over 200 communities in the data-gathering and analysis process. In addition, four national surveys were updated giving comparative data for change over time. The scale of population coverage among the 150 community surveys has been particularly striking, covering a population of over 280,000 people by the end of 2020.

Further the IN's framework, tools, data collection and subsequent discussions on the results from the questionnaires are a new and innovative participatory problem identification process for Indigenous communities. Alongside the identification of issues and sensitisation on rights, results often serve to confirm the experiences and observations of the local communities and allow them to visualise and communicate their issues in a tangible and quantifiable manner. This process has resulted in the development of 57 data-driven pilot projects and are currently in progress. These pilot projects, which are led and carried out by Indigenous communities, promote innovative solutions to urgent issues in the local context, taking into account Indigenous peoples' own values, worldview, economies and life plans. Peoples' commitment and ownership create a solid base to make these projects sustainable.

The COVID-19 pandemic has had a critical effect on the initiative, Indigenous Peoples, and the communities it serves. Nationwide, preventative efforts to control the spread of the pandemic, including lockdowns, limitations on inter-regional and international travel, and the implementation of Indigenous Peoples' own protocols and efforts to contain and isolate themselves delayed the implementation of data collection, advocacy and the small grants facility's activities. Further, to ensure vulnerable communities and leaders were empowered to protect themselves and face the pandemic, restrictions on mass gatherings and domestic travel were adhered to and enhanced, changing plans for training workshops, dialogue meetings, monitoring visits and field activities. The IN's framework and tools provided partners with resources and flexibility to address this crisis, ensuring support for the provision of emergency responses, the adjustment of work plans and timelines, and the altering of activities to respond to urgent needs.

In Peru, the national partners and representatives from Indigenous organisations and communities persevered in demanding their right to access health care services, as well as to effectively participate in the planning and provision processes of such services, and to be included

in the pandemic's response and recovery activities.

Despite the challenges, the consortium partners, along with their national counterparts and Indigenous communities, achieved considerable progress in the implementation of the Indigenous Navigator, which has been instrumental in responding to the immediate and long-term needs of these communities in times of the sanitary, economic and political crisis.

In Nepal, for example, six Indigenous communities have actively used their advocacy skills, enhanced by their experience with the Indigenous Navigator, to have constructive dialogues with local and provincial governments regarding access to public funds, social services and protections, which in turn committed to co-finance the communities' proposals for their self-determined development.

In Suriname, a multi-regional communication project was developed in response to the change in circumstances and context due to the COVID-19 pandemic. It focuses on addressing the weaknesses of the internal and external communication system. In the specific case of COVID-19, this will be important for the Indigenous communities to take well-informed decisions to decide or demand the necessary measures to protect them against contamination and increase their access to equal quality healthcare and information availability and sharing.

In Cameroon, the pilot project focuses on assisting Indigenous forest peoples with accessing citizenship documents to improve their participation in many aspects of public life. Through this project 598 people will receive their birth certificates, which will enable them to enrol in school, move freely around the country, vote, initiate legal procedures, apply for jobs, and perform many other essential life activities. This project, along with the associated advocacy work with local governments and judiciaries, will open the door for Indigenous youth to access basic state services throughout their lifetimes.

In addition to those concrete outcomes, the small-scale pilot projects also had a significant and unforeseen impact at the local level across all three continents. Community members report that they are fostering solid collaboration within communities, restoring their sense of community and revitalising their identities and cultures, renewing collective efforts to achieve their own goals, enhancing Indigenous youth's capacities to lead and advocate for their rights, or receiving SDG awards for their work, as in Kenya.[5] As Indigenous communities

continue to become more aware of their rights, they are now also better equipped to use their data as advocacy tools, which is guiding them to plan their future.

In all, the project has reached 280 Indigenous communities in 2019 and 2020 through the small grants facility and enabled 150 Indigenous communities to prepare concrete proposals during 2018-2020. In Bolivia, 42 Indigenous communities jointly developed four proposals, while in Peru 40 Indigenous communities worked together to develop six proposals. In Colombia, four Indigenous communities prepared five grant proposals, and in Suriname, four Indigenous communities submitted five proposals, including one multi-regional project involving 52 villages across six regions.

On the African continent, 15 Indigenous communities in Cameroon developed two proposals, while in Kenya, six Indigenous communities developed six proposals. Five Indigenous communities in Tanzania submitted four proposals.

In the Asia/Pacific region 11 Indigenous communities submitted six proposals in the Philippines. In Bangladesh, nine Indigenous communities submitted 10 grant proposals. Notably, the partnership with the Bangladesh Indigenous Women's Network, which is working at the national level, covers an additional 20 Indigenous communities. In Cambodia, four communities developed four proposals, while in Nepal, six communities developed six proposals. These communities translate to approximately 156,993 Indigenous people who are expected to benefit from their implementation. Together, these 57 projects address all 17 SDGs.

Alongside the development and implementation of these project proposals, 367 representatives from target groups have been trained in their rights, the SDGs and other relevant public policies and budgets, monitoring and advocacy skills as a result of the IN's implementation.

From local to global

At the country level, building on the data gathered through the surveys, the consortium has produced several knowledge products and regularly engages in direct dialogues and alliance-building activities.[6]

In June-August 2020, the International Labour Organisztion (ILO) and IWGIA conducted a series of consultations, surveys and interviews with IN consortium members, coordinators and the national partner organisations involved in the implementation of the INI's various components. These conversations, in addition to data gathered through community questionnaires, facilitated the elaboration of a series of global reports.

Provision of data for reports and briefings to support Indigenous Peoples' participation at global and local events have supported partners to engage with the SDG Agenda more directly at an international level despite the critical challenges of the COVID-19 pandemic. Presentation of the IN framework and results, as well as advocacy for Indigenous Peoples' rights have continued.[7]

Five global reports have been made available: Implementing the Indigenous Navigator: Experiences around the globe,[8] The impact of COVID-19 on Indigenous communities – Insights from the Indigenous Navigator,[9] Indigenous Women's realities – Insights from the Indigenous Navigator,[10] Dialogue and Self-determination through the Indigenous Navigator,[11] and Indigenous Peoples in a changing world of work: Exploring the labour dimension of Indigenous Peoples' situation through the Indigenous Navigator.[12]

The IN has been recognised as one of 16 success stories in SDG Good Practices: A compilation of success stories and lessons learned in SDG implementation practices for the achievement of the SDGs.[13]

The consortium also made two submissions to the Human Rights Council's 3rd inter-sessional meeting for dialogue and cooperation on Human Rights and the 2030 Agenda for Sustainable Development on the topic of Building Back Better: Integrating Human Rights in Sustainable and Resilient Recovery from the COVID-19 pandemic.[14]

In 2020, Indigenous partners in Peru submitted a shadow report to the High-Level Political Forum and issued a national report on the SDGs utilising IN data. These products help to concretise the communities' experiences and feed into both regional and global knowledge products that serve to inform policy makers and duty bearers. The results captured by the community and national surveys inform policy and advocacy documents and complement efforts and reports produced through the contributions of the Indigenous Peoples Major Group (IPMG)[15] at the global level, for example at the High-Level Political Forum.[16]

The country-level and global level knowledge products, through their findings, continue to contribute to ensuring the effective participation of Indigenous Peoples in the development, implementation, monitoring and review processes of policies and development initiatives at all levels.

Responding to COVID-19

Indigenous Peoples today, in all parts of the world, are still fighting discrimination and targeted violence, struggling against a shrinking civic space, lacking recognition of their rights as peoples, and suffering from land dispossession, evictions and the negative consequences of climate change and conservation efforts. Indigenous Peoples are also disproportionately suffering the effects of COVID-19 and its consequences, including increased repression by states that are using the pandemic as a way to enact laws that further encroach on their rights. For Indigenous Peoples, the long-term consequences of the pandemic may be devastating.[17]

On the basis of a collaborative, community-led data-gathering effort and testimonies from Indigenous communities, the IN worked to provide first-hand information on the situation of Indigenous Peoples in the 11 countries where communities have participated in data collection, advocacy and project implementation.[18] A critical finding has been the differentiated impact that COVID-19 is having on Indigenous Peoples, which also varies from community to community. The data and interviews conducted in 2020 identify how pre-existing barriers in access to health, social security and education are fuelling disproportional impacts from the COVID-19 pandemic on Indigenous Peoples. It has also indicated a rise in food insecurity, related to loss of livelihoods and lack of access to land and natural resources. Despite these critical challenges, the findings have also underlined the vital role played by Indigenous communities in building the response and recovery to the global COVID-19 crisis resulting from the pandemic.

The analysis and recommendations presented from these findings seek to contribute to the design of COVID-19 response and recovery measures that are respectful of Indigenous Peoples' rights and support

their livelihoods, economies and resilience. Firstly, efforts should be increased to provide Indigenous communities with the necessary means of prevention in relation to COVID-19, including preventive mechanisms, access to adequately equipped and culturally appropriate healthcare facilities, and information in Indigenous languages. Secondly, inclusive and community-based assessments of risks and needs should be undertaken in order to understand the specific situation of Indigenous Peoples. State institutions in charge of Indigenous issues should be strengthened, including mechanisms for the participation of, and consultation with, Indigenous Peoples. Indigenous Peoples' participation in the management of health and educational services, including the return to school, should also be ensured and distance learning opportunities provided. Furthermore, measures for the protection of Indigenous Peoples' lands and access to natural resources which are essential for their traditional activities are urgently needed. Indigenous entrepreneurial initiatives should be maintained and promoted, and Indigenous Peoples' livelihoods and local economies should be strengthened in order to ensure the sustainability of their communities. Lastly, Indigenous Peoples' labour rights must be ensured at all stages of crisis response and recovery measures.

The Indigenous Navigator's local partners have also developed their resilience capacities and worked to find ways to support Indigenous communities, while providing them with logistical and technical support to cope with the crisis. In the Philippines, communities are building on previous experiences of crisis (e.g., droughts and rat infestation) and increasingly retrieving traditional seeds and crops, as well as rejuvenating traditional food production systems, as they have realised that reverting to their food production systems and practices makes the community more resilient. In Tanzania, for instance, the Pastoralists Indigenous Non-Governmental Organisation's Forum (PINGO's Forum), in collaboration with community health workers, has trained Indigenous community members in the use of sanitation supplies. In Peru, the National Organization of Indigenous Women has embarked on awareness-raising campaigns relating to the risks associated with COVID-19 in Indigenous communities, including through community radio. In Colombia, the National Indigenous Organization of Colombia (ONIC) has been working on monitoring cases of COVID-19 infections

within Indigenous territories. In Cameroon, the Indigenous Baka-led Association Okani has provided sanitation supplies and awareness-raising on COVID-19 to 50 Indigenous communities, including developing awareness-raising materials in Indigenous languages for local radio stations.

In various instances, local partners have emphasised that COVID-19 responses proposed and implemented by governments are often blind to local realities and therefore rejected by Indigenous groups. Similarly, a partner from Asia highlighted that Indigenous communities and organisations hold knowledge that would be essential in the design of the response to the COVID-19 pandemic. By conducting data collection under the Indigenous Navigator initiative, for example, many communities gathered relevant information in order to diagnose which communities are in a situation of greater vulnerability.

Using data to promote, protect and defend Indigenous Peoples rights

The importance of the INI, as well as some preliminary findings from the data gathered, continue to be highlighted across local, national and international levels, with several Indigenous organisations and communities, governmental actors, civil society groups, National Human Rights Institutions (NHRIs)[19] and international organisations or development actors showing enthusiasm, support and interest towards this unique initiative.

The growing interest among national statistical agencies[20] regarding data on Indigenous Peoples is a testament to successes in dialogues and outreach at national levels. For instance, in Bangladesh and Tanzania, engagements with statistical institutions as well as other government institutions continue to be enhanced at the country level. In the Philippines, Bangladesh, Tanzania and Suriname, dialogues have been established with relevant institutions on Indigenous data generation, management and disaggregation to ensure that Indigenous Peoples data is captured. Further, the IN consortium has reached out to the Global Indigenous Data Alliance and the Inclusive Data Charter to explore partnerships regarding better data practices in regard to Indigenous Peoples.

Continued commitment, a valued tool

The report Implementing the Indigenous Navigator: Experiences Around the Globe[21] gave space to Indigenous voices from the front line who are implementing the IN's tools and frameworks. In their own words and through their experience, partners in all 11 countries noted not only the critical relevance of the IN, but also the tremendous and unique level of ownership among the partners and beneficiaries. Coordinators at the national level also shared reflections on research fatigue, the impact of rights sensitisation and the essential need to scale up implementation of the initiative. Powerfully, these voices share the unique position that the data collected and the resulting products are based on the reality and issues they experience in their everyday life. In some cases, communities note that the IN has been the first opportunity they have had to interact with and learn about their rights. It has also been unique in that the pilot projects are often the first chance these communities have had to design a project based on the issues they have prioritised and on their proposed actions to address these.

The national partners, as well as the beneficiary communities, have proven, and continue to prove, their engagement and commitment to the IN as a valued tool to realise their rights by promoting it and submitting applications to expand their work and its coverage. National partners have organised and conducted planned events and activities that have performed beyond expectations given the local contexts and the catastrophic impacts of COVID-19. They are also continuously supporting the communities who have shown their enhanced capacity to develop grant proposals, manage the implementation of pilot projects and strengthen their demands, describe their internal strategies, and engage with local municipal authorities alongside their visions for their own development.

Notes and references

1. Berger, David. (2020). "The Indigenous Navigator," in Mamo, D. (Ed.), The Indigenous World 2020 (34th Edition, pp. 685-692), Copenhagen, Denmark: International Work Group for Indigenous Affairs (IWGIA).
2. Idem
3. Idem

4. Idem
5. "Indigenous Navigator Partner ILEPA Awarded Prestigious SDG Award in Kenya". 2020. *Indigenous Navigator*. https://Indigenousnavigator.org/news/Indigenous-navigator-partner-ilepa-awarded-prestigeous-sdg-award-in-kenya.
6. Op Cit. 1
7. International Work Group for Indigenous Affairs (IWGIA). 2020. *UNGA 75 Virtual Event: Building an Inclusive and Sustainable Response with Indigenous Peoples*. Video. https://youtu.be/kdUWHsWOLSs; The International Work Group for Indigenous Affairs. 2020. *Indigenous Women in Focus: Leading the Path to Resilience*. Video. https://youtu.be/OFlMyVyn9Ko.
8. International Work Group for Indigenous Affairs (IWGIA). 2020. "Implementing the Indigenous Navigator: Experiences Around the Globe". Copenhagen: IWGIA. https://Indigenousnavigator.org/publication/implementing-the-Indigenous-navigator.
9. International Labour Organization (ILO) and International Work Group for Indigenous Affairs (IWGIA). 2020. "The Impact Of COVID-19 On Indigenous Communities: Insights from The Indigenous Navigator". Copenhagen: IWGIA. https://Indigenousnavigator.org/publication/the-impact-of-covid-19-on-Indigenous-communities.
10. International Labour Organization (ILO) and International Work Group for Indigenous Affairs (IWGIA). 2020. "Indigenous women's realities: Insights from the Indigenous Navigator". Copenhagen: IWGIA. https://Indigenousnavigator.org/publication/Indigenous-womens-realities-insights-from-the-Indigenous-navigator.
11. The International Work Group for Indigenous Affairs (IWGIA). 2021. "Dialogue and Self-Determination through the Indigenous Navigator". Copenhagen: IWGIA. https://Indigenousnavigator.org/publication/dialogue-and-self-determination-through-the-Indigenous-navigator.
12. International Labour Organization (ILO), The International Work Group for Indigenous Affairs. Forthcoming. "Indigenous peoples in a changing world of work. Exploring the labour dimension of Indigenous peoples' situation through the Indigenous Navigator". Copenhagen: IWGIA.
13. United Nations Department of Economic and Social Affairs. 2020. "SDG Good Practices: A Compilation of Success Stories and Lessons Learned in SDG Implementation". SDG Good Practices. UNDESA. https://sdgs.un.org/sites/default/files/2020-11/SDG%20Good%20Practices%20Publication%202020.pdf.
14. The joint submission can be found here: https://Indigenousnavigator.org/news/joint-submission-to-the-hrcs-3rd-intersessional-meeting.
15. The Indigenous Peoples Major Group (IPMG) is an initiative to ensure full participation and representation of Indigenous Peoples' rights as affirmed by the UNDRIP. The focus of the IPMG is on global engagements relating to sustainable development, however it also endeavours to generate all forms of solidarity support and assistance for Indigenous Peoples at the national level in relation to sustainable development. These include awareness-raising, capacity building, support for lobby, advocacy and community mobilisations, among others. https://www.Indigenouspeoples-sdg.org/index.php/english/
16. Indigenous Peoples Major Group and the International Work Group for Indigenous Affairs. "Indigenous Voices at the High-Level Political Forum" 2018. The Indigenous Navigator. https://nav.Indigenousnavigator.com/index.php/en/news/221-Indigenous-hlpf

17. Op Cit. 12
18. Op Cit. 8
19. Op Cit. 1
20. Sometimes referred to as "official data sources" as they are linked to government.
21. Op Cit. 7

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The Inter-American Human Rights System (IAHRS)

The Inter-American Human Rights System (IAHRS) comprises two human rights bodies: the Inter-American Commission on Human Rights (IACHR or the Commission) and the Inter-American Court of Human Rights (IACHR Court). Both bodies work to promote and protect human rights in the Americas. The IACHR comprises seven independent members and two independent special rapporteurships, and is based in Washington, D.C., United States, while the Court comprises seven judges and is based in San José, Costa Rica.

In 1990, the IACHR created the Rapporteurship on the Rights of Indigenous Peoples with the aim of providing support for the Indigenous Peoples of the hemisphere, as well as strengthening, promoting and systematising the work the Commission itself is conducting in this area. To this end, the IACHR uses a variety of instruments, including thematic studies and reports; petitions and cases, including friendly settlements; precautionary measures; thematic hearings; confidential requests for information from states; and press releases. The Rapporteurship also participates in conferences and seminars organised by states, academic institutions and civil society. The Inter-American Court, on the other hand, issues advisory opinions and judgments, among other tasks.

The following sets out some of the main activities undertaken during 2020 by the IACHR and the IACHR Court in relation to the rights of Indigenous Peoples.

Thematic reports

The IACHR did not publish a thematic report on the rights of Indigenous Peoples in 2020. However, the issue of the differentiated and intersectional impacts of COVID-19 on Indigenous Peoples was a particular focus. As part of its monitoring of this issue, the IACHR issued resolutions with specific recommendations to different countries of the Americas aimed at addressing the varying problems faced by Indigenous Peoples in the context of the pandemic from a human rights perspective.

On 10 April 2020, the IACHR issued Resolution No. 1/20 on Pandemic and Human Rights in the Americas today, which contains recommendations related to different vulnerable population groups, including Indigenous Peoples.[1] In addition, on 6 May 2020, it issued Press Release No. 103/20 of 6 May 2020, which highlights the need for states to take specific measures for Indigenous Peoples that are respectful of their worldview and cultural diversity.[2] In these documents, the IACHR recommends that the region's states provide differentiated support, ensuring Indigenous Peoples' direct participation in formulating and implementing public policies for the prevention and medical care of their people, as well as to guarantee the right to health from an approach of intercultural, gender and intergenerational solidarity, taking into account preventive care, healing practices and traditional Indigenous medicines. It was recommended that states refrain from introducing legislation or authorising natural resource exploitation projects in or around Indigenous territories during the period of the pandemic given the impossibility of conducting free, prior and informed consent processes due to the need for social distancing measures and because of the risk of transmission that such types of activity represent. It also urges states to take the utmost measures to protect the life and health of Indigenous Peoples living in isolation and initial contact, striving to respect the principle of no contact with peoples in isolation.

The Commission also held a series of webinars and virtual meetings where representatives of Indigenous leaders presented the challenges the pandemic represents and their responses and strategies for protecting their peoples in the context of the pandemic.

Public hearings

Ten hearings dealing specifically with the rights of Indigenous Peoples took place across the four sessions held in 2020.

175th Period of sessions[3]

During this period, the IACHR held the hearing on Case No. 13.615 – the Miskitu Indigenous Community at Tasbapounie; the Community of African Descent at Monkey Point; the Rama Indigenous People; and the Black Creole Indigenous Community of Bluefields v. Nicaragua. The case concerns the alleged violation of the rights of the people of the South Atlantic Autonomous Region (RAAS) as a consequence of the state of Nicaragua's approval of the construction project for the Nicaragua Grand Canal, allegedly without prior, free, and informed consultation. The purpose of the hearing was to hear testimony from the petitioning party and to hear oral arguments on the merits of the case. The witness claimed that the government's consultation process did not follow the guidelines presented by the communities and had neither independent technical assistance nor the agreement of a majority of the community authorities. It was alleged that the state had usurped the communities' territories and affected their rights. The existence of "parallel" community authorities was also denounced. For its part, the state argued that the petitioners were not the elected authorities of the communities and therefore did not consider them to be their legal representatives. It added that the consultation process had lasted approximately two years and was based on a document coordinated with members of the affected communities' authorities.

The IACHR also held a hearing on the situation of members of the Qhara Qhara Nation and on violations of the human rights of Indigenous Peoples in Bolivia. Indigenous representatives reported on violations of their rights to their territories and collective property, a lack of respect for their traditional forms of collective organisation, and the legal action they had taken to defend their rights. Representatives of the Bolivian state expressed their commitment to addressing the demands of the

Qhara Qhara Nation. Finally, the IACHR expressed its concern at this discrimination and human rights violations against Indigenous Peoples, especially the Qhara Qhara Nation and children.

176th Period of Sessions[4]

The 176th Period of Sessions marked the start of a virtual format due to the conditions created by the coronavirus pandemic (COVID-19). During this session, issues related to petitions, cases and precautionary measures were analysed, and a series of meetings were held with civil society organisations to receive information on the human rights situation in the region, especially in the context of the COVID-19 pandemic. The situation of Indigenous Peoples was also reported, such as the cases of Peru and Ecuador. The IACHR also deliberated on merits reports covering various emblematic issues, including the traditional property of peoples of African descent and the right to consultation, Indigenous Peoples' right to self-determination, and the death penalty.

177th Period of Sessions[5]

During the 177th Period of Sessions, a hearing was held on "Allegations of a lack of protection for groups of victims of armed conflict in Colombia: Indigenous, Afro-descendant, and peasant communities and social leaders". The challenges of implementing the Ethnic Chapter of the Peace Agreement were presented, including the lack of collective land titles, the increase in violence and illicit crops on ethnic land, the difficulties in the collective reparation processes for Indigenous and Afro-descendant peoples, and the low rates of compliance with the agreements made following the Chocó Civic Strike. For its part, the state reported that the "Peace with Legality" policy had been in force two years now, and that this sought to overcome the causes of armed conflict by promoting development in Colombia. It also reported on institutional programmes with an ethnic-territorial focus. The IACHR called on the Colombian state to step up its efforts to ensure a com-

prehensive implementation of the peace agreements, particularly the ethnic chapter, which is significantly delayed. It stressed the importance of making progress in ensuring the right to collective ownership of ancestral territories, continuing with collective reparation policies for ethnic peoples, and improving interinstitutional coordination between the government's and the territories' plans.

During the same session, a hearing was held on "Pandemic and Indigenous Peoples in the Brazilian Amazon", in which it was stated that the COVID-19 pandemic had aggravated the occupation of Indigenous territories, as well as deforestation and death threats towards Indigenous Peoples, as a result of the lack of demarcation and protection of their lands and territories. For its part, the state reported on policies adopted in the context of the pandemic, including food distribution programmes, contingency plans, sanitary barriers and the suspension of permits to enter Indigenous territories. The Commission expressed its concern at the high number of infections and deaths among Indigenous people due to the pandemic and stressed the importance of demarcating and protecting ancestral territories and of guaranteeing intercultural healthcare.

The hearing on "Violations of the human and collective rights of Indigenous Peoples in Ecuador" addressed the impacts of the COVID-19 pandemic on Indigenous Peoples due to the lack of medical assistance and limited access to biosecurity elements. The organisations also denounced the lack of consultation and consent regarding health care protocols and pandemic prevention and mitigation policies, and the lack of a state response to the impacts of the April 2020 oil spill. The Ecuadorian state reported on social policies with an intercultural perspective and other measures for the distribution of information, care and prevention of the pandemic aimed at Indigenous Peoples. The IACHR highlighted the importance of having disaggregated statistics on the impact of the pandemic on Indigenous Peoples in order to shed light on its specific effects on vulnerable groups, as well as the need to take action to address the impact of extractive activities.

The IACHR also held a hearing on the "Human Rights of Indigenous Peoples in the Peruvian Amazon" in which the petitioning parties presented the threats, attacks and murders being suffered by Indigenous

leaders who defend their territorial rights. They stated that the increase in illegal economic activities and activities linked to the extractive and agribusiness sectors was affecting the right of Indigenous Peoples to their ancestral territories and their right to self-determination. The state, for its part, reported on the adoption of a protocol to assist human rights defenders and the national action plan for companies and human rights. The IACHR highlighted the need for consultation and coordination regarding protection measures for Indigenous defenders, as well as the need to investigate and punish those responsible and provide comprehensive reparations for the victims.

A hearing was also held on the right to consultation and free, prior, and informed consent of Indigenous Peoples, with special focus on the cases of Brazil, Colombia, Mexico and Peru. The main problems and challenges identified in this regard include the lack of state recognition and protection of the ancestral territories of Indigenous, tribal and traditional peoples. Particular concern was expressed at the way in which prior consultation is implemented, noting that, in many cases, it is neither prior nor consensual. The fact that some states had drafted laws and regulations on consultation that restrict the scope of international standards in this area was also denounced. Added to this are the threats and attacks suffered by Indigenous and tribal peoples for defending their territory and self-determination. The IACHR reiterated that prior consultation is a general principle of international law and that it is not an end in itself but rather a means to protect the right to self-determination and other rights of Indigenous Peoples. It stressed that it was important not to criminalise Indigenous and tribal peoples for claiming their rights to consultation and self-determination, and that states must recognise the autonomous consultation protocols developed by these peoples.

178th Period of Sessions[6]

In its 178th virtual session, the IACHR held the hearing on Case 13.425 – *Ernestina Ascencio Rosario and Others v. Mexico*. The purpose of the case was to receive statements from the parties in relation to the case

concerning the death of Ernestina Ascencio Rosario, a 73-year-old Nahua Indigenous woman in February 2007. The petitioner stated that the victim had been raped by members of the Army in Veracruz, which constituted an act of gender-based violence that jeopardised the collective and cultural identity of the victim's community. They stated that it constituted an act of torture and a situation of multiple forms of discrimination due to the victim being an elderly, non-Spanish speaking, Indigenous woman living in poverty. For its part, the state indicated that it had not jeopardised the human rights of the victim as it had diligently investigated the case and corrected deficiencies in the investigations, adding that Mrs. Rosario had died of other causes related to her health situation. It also pointed out that the victim's family members had had access to the case file and were informed of the proceedings.

During the same session, a hearing was held on the situation of Indigenous Peoples in isolation and initial contact in Peru, which addressed the impacts of extractive, oil, forestry and mining activities that are jeopardising their lives and territories, all of which have been aggravated by the COVID-19 pandemic. They discussed the excessive delays in responding to requests for the creation of special reserves to protect these peoples. The state, for its part, reported on different measures to address the health situation of Indigenous Peoples, as well as the activation of early warning monitoring systems and territorial control and surveillance measures. The Commission emphasised that the situation of these peoples was a priority issue and expressed its concern over delays in recognising and protecting their territories.

In addition, the hearing was held on Case No. 13.144 – *Embera Katío People of Alto Sinú v. Colombia*. The case deals with the alleged responsibility of the Colombian state for violations arising from the implementation of the Urrá hydroelectric project without prior consultation, which caused the flooding of their lands and the displacement of the people, endangering their survival. The state, for its part, considered that it was not responsible since the Constitutional Court had issued adequate reparations to the victims and highlighted progress in the investigations regarding how the project had affected this people's rights. It reported that the land is being cleaned up and that it has adopted environmental management programmes and measures for the protection

of the people. The IACHR will continue its analysis of the case and will rule on the merits in the report it adopts on the matter.

Precautionary measures

On 17 July 2020, the IACHR granted precautionary measures in favour of members of the Yanomami and Ye'kwana Indigenous Peoples of Brazil. These measures were requested due to the special situation of risk that the population of the Yanomami Indigenous Land find themselves in due to the COVID-19 pandemic, given their particular immunological vulnerability, deficiencies in the health system for their population, the illegal presence of third parties on their territory, mercury contamination and acts of violence against their leaders. The Commission requested that the Brazilian state take the necessary action to protect the rights to health, life and personal integrity of the members of these peoples, implementing culturally appropriate measures to prevent infection by COVID-19, as well as medical care that is adequate in terms of its availability, accessibility, acceptability and quality, in accordance with applicable international standards; and that such measures be agreed upon with the beneficiaries and their representatives.[7]

On 14 October 2020, the IACHR granted precautionary measures in favour of Mayan Poqomchi' Indigenous families from the communities of Washington and Dos Fuentes in Guatemala due to information received regarding the risk they face following a series of threats, intimidation and attacks in the context of an agrarian conflict over lands considered ancestral. The IACHR requested that the Guatemalan state protect the life and personal integrity of these Indigenous families by adopting culturally appropriate measures aimed at addressing, among other aspects, its members' conditions of housing, health, food and access to water, as well as the conditions of those in a situation of displacement. It also ordered the adoption of concerted and culturally appropriate measures to avoid acts of violence by third parties and to safeguard the cultural identity of the proposed beneficiaries, as members of the Poqomchi' Mayan people.[8]

On 28 October 2020, the IACHR decided to grant precautionary measures in favour of members of the Native Community of Santa Clara de Uchunya and Mr. Miguel Guimaraes, in his capacity as President of the Federation of Native Communities of Ucayali (FENOCAU) in Peru. The IACHR was informed that the proposed beneficiaries were at risk due to threats and attacks for defending their land in the Amazonian region of Ucayali. The IACHR requested that Peru adopt the necessary measures, in a concerted manner and from a culturally appropriate perspective, to protect the life and personal integrity of the beneficiaries, preventing acts of violence by third parties. The state was also asked to report on the actions implemented to investigate the events that gave rise to the adoption of this precautionary measure.[9]

On 11 December 2020, the IACHR granted precautionary measures in favour of members of the Munduruku Indigenous people in Brazil. The petitioners alleged that members of the village were at risk due to the COVID-19 pandemic, especially given their particular vulnerability, health care failures and the presence of unauthorised third parties in their territory. The IACHR requested that the Brazilian state adopt, in concert with the beneficiaries, the necessary measures to protect the rights to health, life and integrity of the members of the Munduruku people, implementing culturally appropriate measures to prevent the dissemination of COVID-19 and providing them with adequate medical care, and that it report on the actions taken to investigate the events that led to the adoption of this precautionary measure.[10]

Petitions and cases

Friendly settlements

On 29 June 2005, the IACHR received a petition filed on behalf of the Y'akậ Marangatú Indigenous Community of the Mbya people alleging violations of the community's right to its ancestral property. It was alleged that the community had been harassed by police and judicial authorities with threats of possible eviction, and that it had been requesting the demarcation of the land claimed for many years. The parties entered into a friendly settlement agreement on 2 March 2009. In

this agreement, the Paraguayan state recognised its international responsibility and committed to implement several measures aimed at acquiring or expropriating lands claimed by the community and investigating the environmental harm denounced by the community, among other measures related to economic, social, cultural and environmental rights. In September 2020, the IACHR declared that the friendly settlement agreement was at the level of partial substantial compliance.[11]

Admissibility report

On 14 April 2020, the IACHR approved the admissibility report related to a petition on behalf of the Indigenous Tourist and Environmental Communities of El Tatio Geysers addressing Chile's alleged international responsibility for developing and authorising activities related to the deep drilling project by the company "Geotérmica del Norte S.A." that would affect the rights of the communities of the Atacameño peoples in the region of El Tatio Geysers. The petition argues that the absence of measures to protect and guarantee the rights of Chilean communities has resulted in their defencelessness. The IACHR admitted the petition in relation to the rights to life, personal integrity, freedom of belief and religion, property and judicial protection under the American Convention.[12]

On 2 July 2020, the admissibility report was approved regarding the petition on behalf of the Teribe people in Costa Rica, which alleges violations of the rights of this people as a result of the massive illegal occupation and the lack of adequate demarcation of their ancestral territory; the imposition of the status of Integral Development Association, which ignores the representative institutions of the Teribe; the lack of consultation over the start-up of the El Diquís dam; and the absence of effective domestic remedy for the protection of their rights. The petition was admitted in relation to the rights to legal personality, the right to collective property and political rights under the American Convention, among others.[13]

On 4 August 2020, the IACHR approved the admissibility report regarding the petition on behalf of the Wayúu people of Colombia. The petition alleged violations as a result of the omission of prior consultation of the Wayúu when approving the reform of the royalties regime related

to natural resource exploitation as it directly affects Indigenous Peoples in the Guajira region. It was likewise alleged that the rights to judicial guarantees were violated due to irregularities presented in the judicial process for the claims of unconstitutionality of the acts of the reform. The IACHR admitted the petition in relation to the rights to judicial guarantees, collective property, political rights and judicial protection under the American Convention.[14]

Merits reports

On 24 August 2020, the IACHR published the report on the admissibility and merits of the case of Lezmond C. Mitchell with regard to the United States. The case alleged human rights violations regarding Lezmond Mitchell, a Navajo Indian who was the only Native American sentenced to execution at the federal level, despite the Navajo Nation's objection to capital punishment on cultural grounds and also given that the criminal conduct in question was committed on tribal land. It was also alleged that Mr. Mitchell's due process was violated due to several irregularities and illegalities in his arrest, prosecution and conviction. The IACHR found that the state had violated the American Declaration on the Rights and Duties of Man with regard to the rights to protection from illegal or arbitrary detention, to life and protection from cruel or unusual punishment, and also included an analysis of the right to self-determination and the cultural identity of Indigenous Peoples in relation to the rights to a fair trial and due process of the law. The IACHR recommended that the United States review the trial and sentencing of Mr. Mitchell in accordance with the guarantees of a fair trial and due process set out in the American Declaration, and that it review its laws, policies and practices related to the death penalty, and respect the sovereign decision of the Navajo Nation and other Indigenous Peoples not to use the death penalty, among other measures.[15] Mr. Mitchell was executed on 26 August 2020.[16]

Judgments of the Inter-American Court

On 6 February 2020, the Inter-American Court of Human Rights issued its judgment in the case of the *Indigenous Communities Members of the Lhaka Honhat Association (Nuestra Tierra) v. Argentina.* The case

dealt with the land claims of several communities belonging to the Wichí (Mataco), Iywaja (Chorote), Komiek (Toba), Niwackle (Chulupí) and Tapy'y (Tapiete) peoples in the Province of Salta. For several decades, the communities had been trying to obtain recognition of their lands and protection from illegal logging and cattle ranching activities by Creoles, which was affecting forest resources, biodiversity and their traditional access to water and food. Based on the American Convention on Human Rights, the Court concluded that Argentina had violated the communities' collective property rights, political rights, judicial guarantees and economic, social, cultural and environmental rights. This is the first case in which the Court considered the rights to a healthy environment, adequate food, water and cultural identity autonomously on the basis of Article 26 of the American Convention. Among the main reparation measures, the Court ordered the state to conclude the delimitation, demarcation and titling of the 132 Indigenous communities as a whole, and to complete the transfer of the Creole population outside of the Indigenous territory, in observance of their rights, including resettlement or access to adequate productive lands.[17]

Advisory opinions of the Inter-American Court

There were no advisory opinions regarding Indigenous Peoples published on the IACHR Court's website during 2020.

Notes and references

1. IACHR, Resolution 1/20, Pandemic and Human Rights in the Americas (10 April 2020), paras. 54-57.
2. IACHR, Press Release 103/20, IACHR Warns of the Specific Vulnerability of Indigenous Peoples to the COVID-19 Pandemic, Calls on States to Adopt Targeted, Culturally Appropriate Measures that Respect These Peoples' Land, 6 May 2020.
3. Section based on IACHR Press Release 56/20, IACHR ends its 175th Period of Sessions and Annex: Summary to Public Hearings.
4. Section based on IACHR Press Release 167/20, IACHR concludes 176th Period of Sessions, 19 July 2020.
5. Section based on IACHR, Press Release 253/20 IACHR completes 177th session virtually and Annex: Summary to Public Hearings.
6. Section based on IACHR, Press Release 311/20, IACHR concludes 178th Virtual Period of Sessions. 23 December 2020, and Annex: Summary to Public Hearings.

7. IACHR, Resolution 35/2020, Precautionary Measure No. 563-20, Members of the Yanomami and Ye'kwana Indigenous Peoples, Brazil, 17 June 2020.
8. IACHR, Resolution 67/2020, Precautionary Measure No. 306-20. Poqomchi' Mayan Indigenous Families of Washington and Dos Fuentes communities, Guatemala. 14 October 2020.
9. IACHR, Resolution 81/20, Precautionary Measure No. 776-20, Members of the Indigenous Community of Santa Clara de Uchunya et al., Peru, 28 October 2020.
10. IACHR, Resolution 94/2020, Precautionary Measure No.679-20. Munduruku Indigenous People, Brazil, 11 December 2020.
11. See IACHR, Report No. 256/20, Petition 747-05, Friendly Settlement Report, the Indigenous Y'akâ Marangatú Community from the Mbya People - Paraguay. 28 September 2020.
12. IACHR, Report No. 35-20. P-393-08. Admissibility. Indigenous Rural Tourist and Environmental Communities of El Tatio Geysers, Chile. 14 April 2020.
13. IACHR, Report No. 167/20. Petition 448-12. Admissibility. Teribe Indigenous People. Costa Rica. 2 July 2020.
14. IACHR, Report No. 202/20. Admissibility. Wayúu Indigenous People. Colombia. 4 August 2020.
15. IACHR, Report No. 211/20. Case 13.570. Admissibility and merits (publication). Lezmond C. Mitchell. United States of America. 24 August 2020.
16. IACHR, Press Release 229/20. IACHR Condemns Execution of Lezmond Mitchell, Only Native American on Federal Death Row in the United States, 24 September 2020.
17. I/A Court H.R., Case of the Indigenous Communities of the Lhaka Honhat Association (Our Land) v. Argentina, Judgment of 6 February 2020. Series C No. 400.

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The work of the UN Treaty Bodies and Indigenous Peoples' Rights

The treaty bodies are the committees of independent experts in charge of monitoring the implementation by state parties of the rights protected in international human rights treaties. There are nine core international human rights treaties that deal with civil and political rights; economic, social and cultural rights; racial discrimination; torture; discrimination against women; child rights; migrant workers' rights; persons with disabilities; and enforced disappearances. The main functions of the treaty bodies are to examine periodic reports submitted by state parties, adopt concluding observations and consider individual complaints. Concluding observations contain a review of both positive and negative aspects of a state's implementation of the provisions of a treaty and recommendations for improvement. Treaty bodies also adopt general comments which are interpretations of the provisions of the treaties. A large number of treaty bodies' general comments makes reference to Indigenous Peoples' rights. However, so far, only the Committee on the Elimination of Racial Discrimination (CERD) and the Committee on the Rights of the Child (CRC) have adopted general comments specifically addressing Indigenous Peoples' rights. The Committee on the Elimination of Discrimination against Women (CEDAW) is preparing a general recommendation on the rights of Indigenous women and girls for adoption in 2022.

This article contains a non-exhaustive overview of the reference made by the treaty bodies in their concluding observations, general comments and views, to Indigenous Peoples or to groups who are otherwise self-identifying as Indigenous Peoples, with a specific focus on five treaty bodies: the CERD, the Committee on Economic, Social and Cultural Rights (CESCR), the Human Rights Committee (HRC), the CEDAW and the CRC.[1]

The treaty bodies and Indigenous Peoples' rights

The COVID-19 pandemic deeply impacted the activities of the treaty bodies in 2020. While 123 state party reports were submitted during the year, only 27 concluding observations were adopted and 97 lists of issues were prepared. Despite the limited number of concluding observations, the committees continued to remind state parties of their obligations to protect the rights of Indigenous Peoples to life, equality and non-discrimination, including their collective rights to access, own, use, develop and control their lands, territories and resources and to free, prior and informed consent (FPIC). The CRC and CERD continued to refer some state parties to the provisions of the United Nations Declaration on the Rights of Indigenous Peoples. Under its Early-Warning Measures and Urgent Procedures (EWUP), the CERD processed seven Indigenous rights-related communications. The committees also adopted five new general comments as well as decisions, views and opinions on 215 individual communications, including two related to the violations of the rights of Indigenous Peoples and individuals. The committees also issued a number of guidance notes, advisories and statements on a human rights-based response to the COVID-19 pandemic, with a significant number of them addressing Indigenous-related rights. A compilation of these materials is available on the OHCHR website.[2]

COVID-19 pandemic

In a collective statement, the chairs of all treaty bodies called for the adoption of measures to protect the rights to life, and access to adequate standards of health and care services without discrimination and underlined the need to provide supplementary care for those particularly vulnerable to the effects of COVID-19, including Indigenous Peoples.[3]

The CCPR reminded states parties of their obligations to take measures to protect the rights to life and health of all individuals in the face of the COVID-19 pandemic and to ensure that public discourse in connection with COVID-19 did not constitute advocacy of national, racial or religious hatred, or incitement to discrimination, hostility or violence against specific marginalized or vulnerable groups.[4]

The CESCR highlighted the vulnerability of Indigenous Peoples to the pandemic and noted their higher rates of chronic illnesses and underlying health conditions, which place them at greater risk of developing severe health complications from COVID-19. The committee recommended the adoption of special, targeted measures to protect and mitigate the impact of the pandemic on discriminated groups, including tailored measures to protect the health and livelihoods of Indigenous Peoples and the provision of accurate and accessible information about the pandemic in Indigenous languages.[5] The CESCR also underlined that prioritization of specific groups to receive vaccines must respect general principles prohibiting discrimination and be based on medical need and public health grounds, notably considering those most exposed and vulnerable to COVID-19 due to social determinants of health, including Indigenous Peoples.[6]

Through its EWUP, the CERD underlined the vulnerability of Indigenous Peoples, specifically those living in remote areas and in isolation, to the COVID-19 pandemic and recalled states parties' obligations to ensure the protection of their rights. The CERD also called upon states parties to protect against and mitigate the impact of the pandemic on groups subject to structural discrimination and ensure equal access to healthcare services, adequate housing, employment, education, and to a vaccine against COVID-19, and to guarantee their participation in the design and implementation of emergency measures.[7]

The CEDAW urged states parties to uphold women's rights in their responses to the public health threat posed by COVID-19. The committee also called for the adoption of targeted measures to mitigate the devastating impact of the pandemic on groups of disadvantaged women and, in particular, to ensure that Indigenous women and girls have access to culturally-acceptable healthcare, aiming for an integrated approach between modern medicine and Indigenous traditional medicine as well as equipment, testing and emergency treatment for COVID-19. The committee also underlined the importance of providing such services in collaboration with local Indigenous authorities and ensuring respect for their right to self-determination and territorial protection from virus transmission. The committee finally recommended states parties guarantee that Indigenous women and girls have access to continuous education and COVID-19 related information, including in Indig-

enous languages.[8] The CRC urged states parties to respect the rights of the child when taking measures to tackle the public health threat posed by the pandemic and to notably consider the health, social, educational, economic and recreational impacts of the pandemic on the rights of the child. The committee recommended ensuring that children are fed nutritious food during the period of emergency or lockdown, provided with healthcare, water, sanitation and core child protection services, and that their views be heard and taken into account in decision-making processes on the pandemic. The CRC finally recommended that states parties respect the right of every child to non-discrimination in their measures to address the COVID-19 pandemic and take targeted measures to protect the rights of Indigenous children.[9]

A toolkit of treaty law perspectives and jurisprudence in the context of COVID-19 was compiled to strengthen the human rights-based approach of states' responses to the COVID-19 pandemic.[10] The obligations of states parties to the International Convention on the Elimination of Racial Discrimination to protect the equal rights of Indigenous Peoples to health, access to information, life and security, particularly that of Indigenous Peoples' leaders and human rights defenders, and to protect Indigenous Peoples in voluntary isolation or initial contact were reaffirmed. The obligations of states parties to the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child, and the Convention on the Elimination of All Forms of Discrimination against Women to protect the rights of Indigenous Peoples, children and women to non-discrimination were also underlined.

Summary of concluding observations addressed to the state parties under reviews

Right to land, territory and natural resources

The CCPR expressed concern at the absence of policy and legal frameworks governing the ownership and use of Indigenous land in Dominica.[11] The CERD underlined restrictions on the rights of Indigenous Peoples to freely dispose of their lands and natural resources and the limited progress made towards the protection, restitution and titling of Indigenous territories in Colombia.[12] The CERD also pointed out the

lengthy and bureaucratic land titling process preventing Indigenous groups from registering their collective lands in Cambodia.[13] The CERD and the CESCR noted patterns of forced internal displacement in Colombia (CERD), forced evictions in Guinea (CESCR),[14] and evictions and house demolitions in Israel (CERD).[15] While the CERD underlined the granting of licences for tourism, industrial fishing and mining projects without environmental precautions in Colombia, the CESCR singled out the negative effects of extractive activities on the environment and health of communities in Guinea.

The CCPR called upon Dominica to expand measures promoting the rights of Indigenous Peoples. The CERD recommended that Colombia implement legislation to guarantee and restore the rights of Indigenous Peoples to own and control their lands and territories and to protect them from illegal encroachment. The CERD recommended that Colombia guarantee Indigenous Peoples' right to dispose freely of their lands and natural resources, while the CRC urged Rwanda to recognize the rights of Batwa children and their families to the natural resources of the forests.[16] The CERD further recommended that Israel ensure the rights to property, housing and access to land and natural resources of Bedouin communities and that Cambodia ensure equal access of Khmer Krom to land, while also urging both states parties to resolve pending land disputes and ownership claims. Cambodia was advised to simplify the land titling procedure to enable the recognition of Indigenous lands and Colombia to implement measures and decisions related to lands restitution. The CERD also recommended that Cambodia and Colombia prevent and protect Indigenous Peoples from forced displacement, that Israel stop house demolitions and evictions while the CESCR called upon Guinea to ensure that evictions are carried out in accordance with due process of law, preceded by consultation and consideration of alternatives and subject to appeal. Lastly, Colombia was asked to carry out assessments of the environmental and human rights impacts of economic and natural resource projects and to ensure mitigation measures, compensation for damages and shares in the benefits (CERD). Similarly, Guinea was recommended to undertake independent studies into the effects of extractive and hydroelectric activities on the enjoyment of economic, social and cultural rights and to establish the liability of mining companies involved in water pollution (CESCR).

Right to consultation and free, prior and informed consent

The CERD and CPPR underlined violations related to the right to consultation and FPIC in Dominica and the Central African Republic (CAR)[17] (CCPR) as well as in Israel, Cambodia and Colombia (CERD). The CCPR recommended that the CAR and Dominica ensure consultation to obtain the FPIC of Indigenous Peoples in relation to the adoption or application of any decision or measure that might have an impact on their way of life and culture. The CERD called upon Cambodia and Colombia to ensure the right of Indigenous Peoples and communities to be consulted with a view to obtaining their FPIC before any project, activity, legislative, administrative measure or matters affecting their rights in line with the United Nations Declaration on the Rights of Indigenous Peoples and other international standards. The CERD also recommended that Israel ensure consultation with Bedouin communities in relation to their rights to land and property while the CESCR urged Guinea to ensure that mining operations respect the right to consultation and the legal guarantees of persons whose property has been expropriated, including landowners or persons with land usage rights.

Right to equality and non-discrimination and access to social services

The CERD underlined the persistent structural and historical discrimination faced by Bedouins in Israel, reflected in poor health and shorter life expectancy. It further emphasized low levels of education, high levels of poverty and social exclusion in Colombia, limited access to health care, education or basic services in Colombia and Cambodia, and inadequate standards of living in Cambodia and Israel. The CERD paid particular attention to the discrimination faced by Khmer Krom in accessing employment, education, health care and basic services in Cambodia and by Bedouin communities in accessing adequate housing, water and sanitation facilities, and electricity in Israel.

The CCPR recommended the adoption of a national strategy in the CAR and of a comprehensive anti-discrimination legislation in Dominica to protect the rights of Indigenous Peoples from discrimination. For its part, the CERD called upon Colombia to guarantee their social inclusion and protection from discrimination. The CERD also requested that Indigenous Peoples' right to adequate food be ensured in Colombia, Indigenous Peoples' rights to education, health care and adequate

standards of living be ensured in Cambodia and the living conditions and health status of Bedouins be improved in Israel. The CRC recommended that Costa Rica and Rwanda combat dropout rates among Indigenous children and ensure full and equal access to education. The CERD invited Costa Rica to ensure culturally-appropriate, intercultural bilingual education in consultation with Indigenous children, while the CESCR invited Norway to guarantee the right to education in Sámi languages.[18]

Intersectional discrimination and rights of Indigenous children

The CRC expressed concern at the persistent denial of the existence of Indigenous Peoples, in particular the Batwa in Rwanda, the multiple and intersectional forms of discrimination against Indigenous children in Costa Rica and the persistent discrimination faced by Bedouin children in relation to access to services and protection from violence in Palestine.[19] The CRC and CERD underlined high levels of child and infant mortality (Costa Rica, Israel), chronic malnutrition and related deaths (Colombia) and the vulnerability of Indigenous children to sexual abuse and exploitation (Costa Rica). The CRC also noted the persistence of institutionalization affecting Indigenous children (Costa Rica) while the CERD underscored the ongoing recruitment of Indigenous children by armed groups (Colombia). The CRC emphasized the adverse impact of climate change and natural disasters on the rights of the child in Micronesia,[20] the Cook Islands[21] and Tuvalu.[22]

The CRC recommended that Rwanda grant Batwa children and their families recognition of their special status and adopt measures to combat all forms of discrimination. The committee further recommended that Costa Rica adopt a comprehensive national strategy and action plan addressing multiple and intersectional discrimination against children and that Palestine sanction all forms of violence related to discrimination and strengthen the effectiveness of its social protection system including for Bedouin children. Both the CRC and CERD called upon state parties to address inadequate standards of living (Rwanda), reduce child poverty (Rwanda, Costa Rica), child mortality (Costa Rica), chronic malnutrition (Colombia) and ensure access to health services (Colombia, Rwanda) and adequate housing (Rwanda). The CRC recommended that Costa Rica ensure that systems of reporting and prosecuting of sexual abuse against children avoid the

re-traumatization of the child victim and ensure treatment and compensation. The CRC advised Costa Rica to transform the childcare and protection systems to prevent institutionalization while the CERD recommended Colombia eliminate the recruitment of Indigenous children by armed groups. Taking note of Sustainable Development Goal 13, the CRC recommended that Micronesia, the Cook Islands and Tuvalu take into account the special vulnerabilities, needs and views of children when developing policies and programmes addressing climate change and disaster risk management. In line with its General Comment No. 11 (2009) on Indigenous children, the CRC asked Costa Rica to seek the FPIC of Indigenous children in connection with measures affecting their lives and that development projects, business activities and legislative or administrative measures be subject to consultations and in line with the UNDRIP.

Intersectional discrimination and rights of Indigenous girls and women

The CERD underlined the multiple and intersecting forms of discrimination faced by Indigenous women and girls in relation to accessing employment, education, health care and justice (Israel, Cambodia, Colombia) as well as high rates of violence (Cambodia, Colombia), in particular sexual violence in Colombia. In relation to land rights, the CEDAW expressed concerns regarding discriminatory provisions in the Tuvalu lands legislation in relation to women's rights to inherit land as well as discriminatory customs and practices preventing rural women from accessing and inheriting lands in Pakistan[23] and Zimbabwe.[24] The CESCR also underlined obstacles related to women's rights to inherit property in Benin[25] and to own land in Guinea. The CEDAW further underlined the limited participation of women in the implementation of climate change and disaster risk management programmes and the impact of seawater flooding and pollution on women's access to food, water, firewood and medicinal plants in Kiribati.[26]

Recalling its General Recommendation No. 25 (2000) on gender-related dimensions of racial discrimination, the CERD recommended Colombia, Cambodia and Israel to combat or eliminate the multiple forms of discrimination faced by Indigenous women in accessing justice, employment, education and health services. Cambodia was asked to incorporate the issue of violence against Indigenous women into its national action plans and efforts to end violence against women, while

Colombia was urged to prevent sexual violence, protect victims, and ensure prosecution and reparation. In relation to land rights, the CEDAW recommended that Tuvalu amend the discriminatory provisions of the *Tuvalu Lands Code 1962 and the Native Lands Act 1956*, Zimbabwe to complete an independent land audit to expose inequalities in land redistribution and to facilitate access by women to their inherited land, and Pakistan to eliminate discriminatory practices and customs preventing rural women from acquiring and inheriting property and using lands. The CESCR recommended that Benin ensure that women and girls exercise their equal rights to inheritance and land ownership and that Guinea prevent all forms of discrimination in relation to access to property. Kiribati was finally advised to ensure the participation of women in the implementation of climate change and disaster risk management initiatives and to take measures to address the impact of climate change on women's access to resources and livelihoods.

Civil and political rights

The CERD underlined threats and attacks on Indigenous communities in Cambodia and Colombia, particularly paramilitary incursions into Indigenous territories, criminalization, reprisals, killings of Indigenous leaders and rights defenders, and a failure to protect, investigate and sanction such violations in Colombia. The CERD underlined the difficulties faced by Indigenous Peoples in accessing justice in Israel and Colombia, in particular special Indigenous courts in Colombia, while the CCPR noted allegations concerning enslavement of Indigenous Peoples in the CAR. The CERD also underscored the lack of progress and measures taken to protect Indigenous Peoples at risk of physical or cultural extinction in Colombia, the revocation of the citizenship of Bedouins in Israel and the statelessness of the Khmer Krom in Cambodia. The CERD underlined persistent discrimination in political participation, the lack of adequate Indigenous representation in the public administration in Colombia, as well as recent legislative changes weakening the right to the political participation of minorities in Israel. In the CAR, the CCPR underlined the absence of Indigenous representation in decision-making and in the electoral sphere.

The CERD recommended that Cambodia protect Indigenous Peoples from attacks and intimidation in relation to communal lands and that Colombia prevent acts of violence, threats, and reprisals against

Indigenous leaders and rights defenders and guarantee their protection and access to justice, in particular to the Indigenous justice system. The CERD requested that Israel eliminate barriers preventing access to justice and facilitate the filing of complaints for victims of racial discrimination. The CCPR recommended that the CAR adopt a national strategy to eradicate practices involving the enslavement of Indigenous Peoples. Colombia was urged by the CERD to take urgent measures to ensure the physical and cultural survival of Indigenous Peoples living in voluntary isolation or in a situation of initial contact. Israel was asked to establish a mechanism to end statelessness among Bedouins and Cambodia to provide identification documents recognizing the citizenship of the Khmer Krom. In relation to representation and political participation, the CERD recommended that Colombia guarantee Indigenous participation in the implementation of the Peace Agreement and in public affairs, both in decision-making positions and representative institutions, and that Israel achieve adequate representation of Bedouins in the law enforcement and judicial bodies and ensure their participation in political decision-making processes. The CCPR finally recommended that the CAR promote Indigenous participation in public affairs.

Early-Warning Measures and Urgent Procedures

Under its EWUP,[27] the CERD considered two COVID-related cases in Brazil[28] and Peru[29] issuing a letter and a statement respectively, as well as five other Indigenous rights-related cases in Canada,[30] Panama,[31] United States of America,[32] Russian Federation[33] and Thailand.[34]

General comments and recommendations

The CCPR adopted General Comment No. 37 (2020) on peaceful assembly, which calls upon states parties to ensure that laws do not result in discrimination against Indigenous Peoples in the enjoyment of the right of peaceful assembly.[35]

The CERD adopted General Recommendation No. 36 (2020) on preventing and combating racial profiling by law enforcement officials

in which the committee recognizes that Indigenous Peoples are the most vulnerable to, and targeted by, the continuous practice of racial profiling.[36]

The CESCR adopted General Comment No. 25 (2020) on science and economic, social and cultural rights, which calls upon states parties to eliminate all forms of discrimination, protect local, traditional and Indigenous knowledge, notably through securing ownership and control of this traditional knowledge by Indigenous Peoples, and ensure that Indigenous Peoples participate in intercultural dialogue for scientific progress, notably through genuine consultation in order to obtain free, prior and informed consent.[37]

The CEDAW adopted General Recommendation No. 38 (2020) on trafficking of women and girls in the context of global migration, which underlines the vulnerability of Indigenous women and girls to trafficking.[38]

The CRC adopted draft General Comment No. 25 (2020) on the digital environment, which notably requires states parties to take particular measures to: prevent the discrimination faced by Indigenous children in accessing the digital environment; enhance the provision of diverse, accessible and beneficial content for Indigenous children; support and ensure the safety of Indigenous children advocating for their rights online and support educational and cultural institutions to make available diverse digital and interactive learning resources, including Indigenous resources.[39]

Individual complaints

Under article 14 of its Convention, the CERD adopted an opinion[40] on a complaint[41] submitted by the President of the Sámi Parliament of Sweden and by 14 other members of the Vapsten Sámi Reindeer Herding Community against Sweden.[42] Under article 22 of its Convention, the CAT adopted a decision[43] on a complaint[44] submitted by Flor Agustina Calfunao Paillalef, a national of Chile and a member of the Mapuche people against Switzerland.[45]

Notes and references

1. Due to word limit, the activities of the Committee against Torture (CAT), Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT), Committee on Migrant Workers (CMW), Committee on the Rights of Persons with Disabilities (CRPD) and Committee on Enforced Disappearances (CED) were not included.
2. Compilation of statements by human rights treaty bodies in the context of COVID-19, see OHCHR. "Compilation of statements by human rights treaty bodies in the context of COVID-19." September 2020. https://www.ohchr.org/Documents/HRBodies/TB/COVID19/External_TB_statements_COVID19.pdf
3. UN Human Rights Treaty Bodies call for human rights approach in fighting COVID-19, see OHCHR. "UN Human Rights Treaty Bodies call for human rights approach in fighting COVID-19." 24 March 2020. https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25742
4. United Nations International Covenant on Civil and Political Rights. "Statement on derogations from the Covenant in connection with the COVID-19 pandemic." 30 April 2020. https://www.ohchr.org/Documents/HRBodies/CCPR/COVIDstatementEN.pdf
5. United Nations Economic and Social Council. "Statement on COVID-19 and economic, social and cultural rights." 17 April 2020. https://undocs.org/E/C.12/2020/1
6. United Nations Advance Unedited Version. "Statement on universal and equitable access to vaccines for COVID-19." 27 November 2020. https://www.naccho.org.au/www.naccho.org.au/aboriginal-health-news
7. Committee on the Elimination of Racial Discrimination. "Statement on the coronavirus (COVID-19) pandemic and its implications under the International Convention on the Elimination of All Forms of Racial Discrimination." 4-7 August 2020. https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/1_Global/INT_CERD_SWA_9234_E.pdf
8. OHCHR. "Guidance Note on CEDAW and COVID-19." 2020. https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT/CEDAW/STA/9156&Lang=en
9. OHCHR. "The Committee on the Rights of the Child warns of the grave physical, emotional and psychological effect of the COVID-19 pandemic on children and calls on States to protect the rights of children." 2020. https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT/CRC/STA/9095&Lang=en
10. Human Rights Treaties Branch. "Internal HRTB toolkit of treaty law perspectives and jurisprudence in the context of COVID-19." 15 July 2020. https://www.ohchr.org/Documents/HRBodies/TB/COVID19/HRTB_toolkit_COVID_19.pdf
11. United Nations International Covenant on Civil and Political Rights. "Concluding observations in the absence of the initial report of Dominica." CCPR/C/DMA/COAR/1. 24 April 2020. https://undocs.org/CCPR/C/DMA/COAR/1
12. United Nations International Convention on the Elimination of All Forms of Racial Discrimination. "Concluding observations on the combined seventeenth to nineteenth periodic reports of Colombia." CERD/C/COL/CO/17-19. 22 January 2020. https://undocs.org/CERD/C/COL/CO/17-19
13. United Nations International Convention on the Elimination of All Forms of Racial Discrimination. "Concluding observations on the combined fourteenth to seventeenth reports of Cambodia." CERD/C/KHM/CO/14-17. 30 January 2020.

https://undocs.org/en/CERD/C/KHM/CO/14-17
14. United Nations Economic and Social Council. "Concluding observations on the initial report of Guinea." E/C.12/GIN/CO/1. 30 March 2020. https://undocs.org/E/C.12/GIN/CO/1
15. United Nations International Convention on the Elimination of All Forms of Racial Discrimination. "Concluding observations on the combined seventeenth to nineteenth reports of Israel." CERD/C/ISR/CO/17-19. 27 January 2020. https://www.un.org/unispal/document/concluding-observations-on-the-combined-seventeenth-to-nineteenth-reports-of-israel-advance-unedited-version-cerd-c-isr-co-17-19/
16. United Nations Convention on the Rights of the Child. "Concluding observations on the combined fifth and sixth periodic reports of Rwanda." CRC/C/RWA/CO/5-6. 28 February 2020. https://undocs.org/CRC/C/RWA/CO/5-6
17. United Nations International Covenant on Civil and Political Rights. "Concluding observations on the third periodic report of the Central African Republic." CCPR/C/CAF/CO/3. 30 April 2020. https://undocs.org/CCPR/C/CAF/CO/3
18. United Nations Economic and Social Council. "Concluding observations on the sixth periodic report of Norway." E/C.12/NOR/CO/6. 2 April 2020. https://undocs.org/en/E/C.12/NOR/CO/6
19. United Nations Convention on the Rights of the Child. "Concluding observations on the initial report of the State of Palestine." CRC/C/PSE/CO/1. 6 March 2020. https://undocs.org/CRC/C/PSE/CO/1
20. United Nations Convention on the Rights of the Child. "Concluding observations on the second periodic report of the Federated States of Micronesia." CRC/C/FSM/CO/2. 3 April 2020. https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC/C/FSM/CO/2&Lang=En
21. United Nations Convention on the Rights of the Child. "Concluding observations on the combined second to fifth periodic reports of the Cook Islands." CRC/C/COK/CO/2-5. 2 April 2020. https://undocs.org/en/CRC/C/COK/CO/2-5
22. United Nations Convention on the Rights of the Child. "Concluding observations on the combined second to fifth periodic reports of Tuvalu." CRC/C/TUV/CO/2-5. 31 March 2020. https://undocs.org/en/CRC/C/TUV/CO/2-5
23. United Nations Convention on the Elimination of All Forms of Discrimination against Women. "Concluding observations on the fifth periodic report of Pakistan." CEDAW/C/PAK/CO/5. 10 March 2020. https://undocs.org/en/CEDAW/C/PAK/CO/5
24. United Nations Convention on the Elimination of All Forms of Discrimination against Women. "Concluding observations on the sixth periodic report of Zimbabwe." CEDAW/C/ZWE/CO/6. 10 March 2020. https://undocs.org/en/CEDAW/C/ZWE/CO/6
25. United Nations Economic and Social Council. "Concluding observations on the third periodic report of Benin." E/C.12/BEN/CO/3. 27 March 2020. https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E/C.12/BEN/CO/3&Lang=En
26. United Nations Convention on the Elimination of All Forms of Discrimination against Women. "Concluding observations on the combined initial, second and third periodic reports of Kiribati." CEDAW/C/KIR/CO/1-3. 11 March 2020. https://undocs.org/en/CEDAW/C/KIR/CO/1-3
27. In 1994, the CERD decided to establish early warning and urgent procedures as part of its regular agenda. Early warning measures are to be directed at preventing existing problems from escalating into conflicts and urgent

procedures to respond to problems requiring immediate attention to prevent or limit the scale or number of serious violations of the Convention.

28. Regarding the exacerbation of discrimination against Indigenous Peoples due to COVID-19, see https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/BRA/INT_CERD_ALE_BRA_9239_E.pdf

29. Regarding the increasing spread and threat of COVID-19 among the Indigenous Peoples living in the Amazon region of Peru, see https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/PER/INT_CERD_SWA_PER_9236_E.pdf

30. Regarding the development of the C dam project, the approval of the Trans Mountain Pipeline Expansion project in British Columbia as well as the Coastal Gaz Link Pipeline and their impact on the Secwepemc and We'suwet'en communities, who did not provide their free, prior and informed consent, see https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/CAN/INT_CERD_ALE_CAN_9296_E.pdf

31. Regarding the impact of the Changuinola 1 hydroelectric station on the Ngäbe people, see https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/PAN/INT_CERD_ALE_PAN_9298_S.pdf

32. Regarding the impact of a planned oil and gas development in the Coastal Plain of the Artic National Wildlife Refuge in Alaska on the Gwich'in peoples, see https://tbinternet.ohchr.org/Treaties/CERD/Shared Documents/USA/INT_CERD_ALE_USA_9242_E.pdf and https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/USA/INT_CERD_ALE_USA_9300_E.pdf

33. Regarding allegations of judicial harassment of a non-governmental indigenous organization working on the promotion and protection of the rights of Indigenous Peoples in the Russian Federation, see https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/RUS/INT_CERD_ALE_RUS_9297_E.pdf

34. Regarding allegations of forced evictions and harassment and reported continuing and escalating violence against Indigenous Peoples in the Kaeng Krachan National Park, see https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/THA/INT_CERD_ALE_THA_9299_E.pdf

35. Para 25 calls upon states parties to ensure that laws and their interpretation and application do not result in discrimination in the enjoyment of the right of peaceful assembly, for example on the basis of race, colour, ethnicity, age, sex, language, property, religion or belief, political or other opinion, national or social origin, birth, minority, indigenous or other status, disability, sexual orientation or gender identity, or other status. Particular efforts must be made to ensure equal and effective facilitation and protection of the right of peaceful assembly of individuals who are members of groups who are or have been subjected to discrimination, or who may face particular challenges in participating in assemblies. States moreover have a duty to protect participants from all forms of discriminatory abuses or attacks. (CCPR/C/GC/37), see United Nations International Covenant on Civil and Political Rights. "General comment No. 37 (2020) on the right of peaceful assembly (article 21)." CCPR/C/GC/37. 17 September 2020. https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fGC%2f37&Lang=en

36. Para 4 recalls the provision of the CERD's General Recommendation No. 23 (1997) on the rights of Indigenous Peoples, stressing that Indigenous Peoples should be free from any discrimination, in particular that based on Indigenous origin or identity. Para 6 and Para 11 (CERD/C/GC/36), see United Nations International Convention on the Elimination of All Forms of Racial Discrimination. "General recommendation No. 36 (2020) on preventing and

combating racial profiling by law enforcement officials." CERD/C/GC/36. 17 December 2020. https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fGC%2f36&Lang=en

37. Para 28 notes the General Comment's special focus on Indigenous Peoples, as well as women, persons with disabilities, and persons living in poverty, and addresses the duty of states parties to eliminate all forms of discrimination, with special attention to groups that have experienced systemic discrimination in the enjoyment of the right to participate in and to enjoy the benefits of scientific progress and its applications, such as Indigenous Peoples. Para 39 calls upon states parties to take measures to protect local, traditional and Indigenous knowledge through different means, including special intellectual property regimes, and to secure the ownership and control of this traditional knowledge by Indigenous Peoples. Finally, Para 40 highlights that Indigenous Peoples should participate in a global intercultural dialogue for scientific progress, calling upon states parties to provide Indigenous Peoples with the means to participate in this dialogue. This paragraph also calls upon states parties to take measures to respect and protect the rights of Indigenous Peoples, particularly in relation to their land and their identity, and to hold necessary, genuine consultation to obtain free, prior and informed consent whenever the state party or non-state actors conduct research, take decisions or create policies relating to science that have an impact on Indigenous Peoples or when using their knowledge. (E/C.12/GC/25), see United Nations Economic and Social Council. "General comment No. 25 (2020) on science and economic, social and cultural rights (article 15 (1) (b), (2), (3) and (4) of the International Covenant on Economic, Social and Cultural Rights)." E/C.12/GC/25. 30 April 2020. https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fGC%2f25&Lang=en

38. Para 20, on socio-economic injustice, highlights that marginalized women and girls, including those who belong to Indigenous communities, are most vulnerable to sex and gender-based discrimination and to being trafficked. (CEDAW/C/GC/38), see United Nations Convention on the Elimination of All Forms of Discrimination against Women. "General recommendation No. 38 (2020) on trafficking in women and girls in the context of global migration." CEDAW/C/GC/38. 20 November 2020. https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/38&Lang=en.

39. Para 12, on the right to non-discrimination; Para 53, on the right to access to information; Para 68, on the right to freedom of association and peaceful assembly" and Para 109, on the right to education (CRC/C/GC/25), see United Nations Convention on the Rights of the Child. CRC/C/GC/25. https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f25&Lang=en

40. United Nations International Convention on the Elimination of All Forms of Racial Discrimination. "Opinion adopted by the Committee under article 14 of the Convention, concerning communication No. 54/2013." CERD/C/102/D/54/2013. 18 December, 2020. https://undocs.org/CERD/C/102/D/54/2013

41. United Nations Committee on the Elimination of Racial Discrimination. "Communication No. 54/2013." 2015. https://digitallibrary.un.org/record/797098?ln=en

42. Adopted on 18 December 2020 concerning a communication submitted on 16 September 2013 by Lars-Anders Ågren, Ellen Marie Anne Anti, Henrik Omma,

Ole-Henrik Omma, Elle Merete Omma, Jon Mikael Labba, Inger-Ann Omma, Marja-Kari Omma, Inger Baer-Omma, Lars-Jonas Omma, Liecelotte Omma, Morgan Omma, Lisa Omma, Per-Henning Utsi and Gun-Margret Utsi, Sami members of the Vapsten Sami reindeer herding community, represented by counsel, Mattias Åhrén, head of the Human Rights Unit of the Saami Council. The complainants claimed their right to property (article 5 (d) (v)), to equal treatment before the tribunals and all other organs administering justice (5 (a)), and to an effective protection and remedies (article 6), considering that the state party granted exploitation concessions to a private mining company in the Vapsten's traditional territory without their consent, ignored that the right to non-discrimination requires that the Vapsten be treated as an Indigenous reindeer herding community and not as a Swedish property right holder, and denied them the right this specific issue to a court. The Committee found that Sweden did not comply with international obligations to protect the complainers against racial discrimination by adequately/effectively consulting them in the granting of the concessions and to respect the land rights of the Vapsten Sami Reindeer Herding Community. The Committee further found a violation of the complainers' rights under article 5 (d) (v) and 6 of the Convention. The Committee recommended that Sweden provides an effective remedy to the complainer by effectively revising the mining concessions after an adequate process of free, prior and informed consent and amends its legislation, to reflect the status of the Sami as indigenous people, which would notably enshrine the international standard of free, prior and informed consent.

43. United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. "Decision adopted by the Committee under article 22 of the Convention, concerning communication No. 882/2018." CAT/C/68/D/882/2018. 2 January 2020. https://undocs.org/en/CAT/C/68/D/882/2018

44. Ibid.

45. Adopted 2 January 2020 concerning a communication submitted on 17 August 2018 by Flor Agustina Calfunao Paillalef (represented by counsel, Pierre Bayenet) against Switzerland. The complainant claimed a violation of her right under article 3 of the Convention as she faced deportation to Chile, which she purported would put her at risk of torture and other cruel, inhuman or degrading treatment or punishment, both by the Chilean authorities and by private individuals because of her work in the defence of the rights of the Mapuche people and considering the consistent pattern of human rights violations against Mapuche rights defenders as well a situation of personal risk. The Committee found that the deportation of the complainant to Chile by Switzerland would constitute a breach of article 3 of the Convention by the State party and requested Switzerland to reconsider the complainant's asylum application and refrain from deporting the complainant while her application for asylum is being considered.

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The views expressed herein are those of the authors and do not necessarily reflect the views of the United Nations.

UN Framework Convention on Climate Change (UNFCCC)

The United Nations 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 [pursue] efforts to limit the temperature increase to 1.5°C" (Art. 2a).[1]

The UNFCCC recognises that achieving sustainable development requires the active participation of all sectors of society. Nine "constituencies" are therefore recognised 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 organised within 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 ("the Platform") under the UNFCCC has been gradually operationalised over the last five years since its establishment in 2015. Beginning with an agreement on the Platform's functions and purpose in 2018, progress has since advanced with the creation of a Facilitative Working Group (FWG) – the first constituted body under the UNFCCC with equal representation

between Indigenous Peoples and states. During the FWG's first year of operation, a two-year workplan (2020-2021), comprising 12 activities, was co-developed and then adopted at the 25th Conference of the Parties (COP 25) in December 2019. This progress raised expectations among Indigenous Peoples who, given the lack of recognition of their nationhood, predominantly by states, are trapped between the Convention's 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), offers an argument that they should be given a space at the negotiation table alongside states. As it is still early days for the Platform, it remains to be seen whether the influence and voices of Indigenous Peoples at the UNFCCC will be elevated above those of civil society.

Established by the UNFCCC in 2010, the Green Climate Fund (GCF) is an operating entity of the financial mechanism to assist developing countries in adaptation and mitigation practices to counter climate change. Being the world's largest dedicated climate finance mechanism, the GCF aims to catalyse a flow of finance to investments in low-emission and climate-resilient development pathways, thereby contributing to the 1.5°C goal of the Paris Agreement.[2]

This chapter analyses developments and decisions involving Indigenous Peoples in 2020 – first at the UNFCCC and then at the GCF.

The end of 2019 marked the conclusion of a year with limited meaningful progress in addressing a rapidly changing climate. The year that followed, 2020, was heralded as the year of ambition both for the climate and Indigenous Peoples: a year where Parties would *strengthen* their "Nationally Determined Contributions" (NDCs – also known as their greenhouse gas emission reduction targets), and a year where the much-anticipated work of the Local Communities

and Indigenous Peoples' Platform (hereafter "the Platform") was set to commence. All of that changed when the World Health Organization (WHO) declared COVID-19 a global health pandemic on 11 March 2020.

The health of hundreds of millions of people has been threatened as a result of the virus; a virus that has impacted the way we live, work and relate to each other. At the same time, this reality has caused governments to mobilise funds previously unheard of (a collective mobilisation of several trillion USD to date) to protect the health and well-being of citizens. In so doing, the virus has forced governments and civil society alike to reckon with the inadequacies and inequities of our systems, including the international climate regime. Within one month of the WHO announcement, the year of ambition was put on hold and the 26th Conference of the Parties of the UNFCCC (COP 26) postponed a year, with the new dates being proposed for 1-12 November 2021 in Glasgow, United Kingdom. At the time of writing, only 45 Parties had met the NDC revision deadline, representing just 28% of global emissions.[3]

Making the link: COVID-19 and the climate crisis

While there are numerous parallels between COVID-19 and the climate crisis – the disproportionate impacts on structurally oppressed groups, its lack of respect for state borders, and the connection to racial justice, gender justice, Indigenous justice and disability justice – it is equally worth highlighting the differences. The UN Secretary General, Antonio Gutierrez, summarised this well: "The threat [of COVID-19] is temporary whereas the threat from heat waves, floods and extreme storms resulting in the loss of human life will remain with us for years."[4] Indeed, research has shown that the reduction in annual CO2 emissions, as a result of the pandemic, was between 4% and 7.5% in 2020, with a peak decrease of 17% during the month of April, and if we are to meet our commitments to the Paris Agreement this would need to be sustained over the next decade.[5] These required reductions may also directly contradict government calls to "restart the economy" and reduce "red tape environmental regulations" as tools for economic recovery, while committing atrocities against Indigenous Peoples, including in so-called climate action initiatives that fail to safeguard Indigenous Peoples' rights.

Indigenous involvement in the UNFCCC – the year that wasn't

With the exception of actual negotiations, procedural work at the UNFCCC largely continued throughout 2020 by moving everything online. While this enabled the work to continue, with mixed results, it created obstacles for the full participation of Indigenous Peoples, both between and amongst regions, as they struggle to have access to the Internet and the resources to participate. Processes of accountability, also known as the protection gap, have been swapped for exclusive virtual meetings of UNFCCC officials, Party representatives, and privileged power holders amid COVID-19 restrictions. These issues have also occurred within the broader UN system, as dialogues and debates were swapped for monologues by global leaders, often overwhelmingly male according to observers.[6]

In lieu of the regular subsidiary meetings SB 52 and COP 26, the UNFCCC, in partnership with the Chilean and United Kingdom (UK) presidencies, hosted the June Momentum for Climate Change in June and the UN Climate Change Dialogues 2020 in late November / early December, both virtual. Amongst all the regular side-events, Indigenous Peoples participated as best they could, hosting an open, informal dialogue with the Facilitative Working Group (FWG) of the Local Communities and Indigenous Peoples' Platform in June, and a Special Event on advancing safeguards, protocols and good practices for knowledge-sharing and exchange of experiences for climate change adaptation, resilience and mitigation in November.[7] An informal session between the FWG and the International Indigenous Peoples' Forum on Climate Change (IIPFCC) was organised in September to discuss their distinct but complementary roles within the UNFCCC and broader climate advocacy. In addition to these events, the IIPFCC worked with the UK Presidency to celebrate World Indigenous Peoples Day on 9 August with a video showcasing Indigenous Peoples from around the globe.[8]

The Local Communities and Indigenous Peoples' Platform

The adoption of the initial two-year workplan of the Platform at COP 25 in Madrid, Spain, generated significant momentum and expectations for the activities of the Platform, breathing life into Indigenous-led solutions to addressing the climate crisis. Unfortunately, the pandemic challenged the FWG representatives to adjust their activities to the virtual arena, while remaining accountable to the concrete action expected by them and Indigenous Peoples alike. This led to the hosting of two meetings (FWG 3 and FWG 4) entirely virtually, creating both challenges - navigating different technologies, different interpretation services and different feelings - and successes - maintaining cultural protocol through opening and closing prayers by Indigenous knowledge keepers from different regions.

FWG 3 was held over four days from 5-8 October, where each day involved 3 hours of meetings.[9] In accordance with Decision 2/CP.24, this session included the election of new co-chairs and vice-chairs (one Indigenous representative and one state representative for each).[10] Following this election, each agenda item followed a similar format whereby responsible FWG representatives presented an update on their respective activity, responded to any concerns of other FWG representatives, and then opened the dialogue for other Indigenous representatives and observers to comment. While there was general support for the activities, Indigenous representatives raised concerns about the safety of regional gatherings due to COVID-19 (Activity 2); the treatment and protection of Indigenous knowledge systems on the forthcoming dedicated web portal for the Platform (Activity 3); and the distinction between Indigenous Peoples and local communities in the capacity-building workshops (Activity 4). Additional concerns included the challenge of accessibility and representation in a virtual context due to inconsistent Internet access and the inability of FWG representatives to support a position on the inclusion of human rights and the rights of Indigenous Peoples in Article 6. This inability of the FWG to take positions in support of the rights of Indigenous Peoples highlights an important limitation whereby Indigenous Peoples are still unable to have any formal mechanism to influence key negotiation items.

FWG 4 was held from 14-17 December and, again, each day was structured to include 2.5 hours of virtual meetings.[11] This session was heavily focused on updates on the various activities, most notably a brief discussion on the set of recommendations for the Subsidiary Body for Scientific and Technological Advice (SBSTA) on the engagement and input of Indigenous Peoples into the UNFCCC (Activity 6), a presentation of a technical paper on the engagement of Indigenous Peoples and local communities in national climate policy (Activity 9),[12] a series of presentations on different UN-related funding programmes and a summary paper on the current funding opportunities for Indigenous Peoples (Activity 11)[13] and, finally, an in-depth discussion on, and live demonstration of, the dedicated web portal. Regarding the latter, a detailed and sometimes challenging debate followed on the inclusion of safeguards and protocols for the protection of Indigenous knowledge prior to the expected launch of the portal in early 2021. Concerns were also raised with regard to the approach of the meeting when presentations from various UN agencies prevented Indigenous participants from contributing their expertise to the funding and engagement discussions. This regrettable situation during the session seemed to clearly exemplify what Indigenous Peoples have been saying for decades. The meeting closed with a prayer and song.

The long and winding road to COP 26

The global health pandemic has drastically altered the work and involvement of Indigenous Peoples within the UNFCCC. While the Secretariat and some State Parties are trying to maintain momentum, Indigenous Peoples have raised significant concerns at the inequities exacerbated by the migration to virtual sessions. This is especially relevant when, as per Decision 2/ CP.24, and given the postponement of COP 26 to 2021, the review of the Platform is fast approaching. Discussions on the development of a future three-year workplan for the Platform, extension of the mandate of the FWG, and the challenging topic of local community participation (there remains no constituency) will all be on the table. Combine this with the unanswered concerns on the lack of human rights and the rights of Indigenous Peoples' safeguards in Article 6 and

we have an extremely important COP for Indigenous Peoples in front of us. Combined with the disproportionate impacts facing Indigenous Peoples due to COVID-19, solutions that simultaneously advance decarbonisation and decolonisation have never been more important.

The Green Climate Fund

While at the UNFCCC State Parties continue endless year-on-year negotiations on the language around human rights and safeguards, the reality at the Green Climate Fund (GCF) is different. The GCF had, by the end of 2020, funded a total of 158 projects since its operationalisation in 2015, with project investments amounting to USD 4.9 billion. It is estimated that these projects will benefit 407.8 million people and prevent the emission of 1.2 billion tons of CO2 equivalent.[14] No disaggregated data exist on how these projects affect Indigenous Peoples' land and territories, however, or how Indigenous Peoples are impacted positively and/or negatively by the projects. It is becoming increasingly obvious that the ideal standards being fought for at the UNFCCC so far have not trickled down to be reflected either in the design of most GCF projects or in their implementation. With the adoption of the Indigenous Peoples' Policy in 2018, and its operational guidelines in 2019, it was hoped that 2020 would be a year that saw an increased focus on Indigenous Peoples' rights compliance in projects approved and entities accredited. Despite some progress detected, this did not end up being the case.

Formalisation of the Indigenous Peoples' Advisory Group (IPAG), established as part of the Indigenous Peoples' Policy, did not happen in 2020 as planned. Instead, despite the COVID-19 pandemic, 2020 saw a steady flow of funding proposals, accreditation applications, policies and programmes in the GCF. The numbers of projects approved and funds disbursed were showcased proudly rather than placing a focus on the individual project's impact on Indigenous Peoples and communities on the ground.

Indigenous Peoples kept raising their voices at the GCF in 2020. Despite these efforts, funding proposals were approved without being sufficiently assessed against the Indigenous Peoples' Policy. Many projects were approved without presenting Indigenous Peoples' plans as

stipulated in the policy. This shows that the GCF needs to progress in fulfilling its own obligation to fully respect Indigenous Peoples' rights and effectively engage Indigenous Peoples in the design, development and implementation of strategies and activities financed by the GCF.

In 2020, the 25th, 26th and 27th meetings of the Board took place. Due to the COVID-19 pandemic, the latter two meetings were virtual. The participation of Indigenous Peoples, and of civil society organisations (CSOs) in general, shrank in the virtual setting due to lack of in-person coordination meetings and limited, or almost no, access to Board members, their advisors and the boardroom, amongst other challenges. Overall, following items of the GCF in 2020 endured as being the most relevant for Indigenous Peoples.

Updated Strategic Plan for 2020-2023

The GCF approved its Updated Strategic Plan for 2020-2023 at the 27th Board meeting, after many rounds of discussion and deliberations. The Plan lays out four strategic priorities i.e. strengthening country ownership, fostering a paradigm-shifting portfolio, catalysing private sector finance at scale, and improving access to GCF funding.[15] The document also covers areas such as replenishment, workplan for the Board, allocation of finance to the private sector, greater impact for developing countries compared with the initial resource mobilisation period, balanced funding across mitigation and adaptation over time, and the use of financial instruments and policy compliance in a more stringent manner. Streamlining the Updated Strategic Plan into programming for 2020-2023, the GCF has decided to review its policies and frameworks.

The core question for Indigenous Peoples is how the execution of the Updated Strategic Plan will incorporate a human rights-based approach. There is reference to advancing best practice policies and standards on environmental and social safeguards, Indigenous Peoples, gender and integrity, not only to "do no harm" but also to improve environmental, social and gender outcomes, and generate critical co-benefits. The Plan also mentions that the GCF will enhance engagement with Indigenous Peoples in line with the Indigenous Peoples' Policy, including through establishing the IPAG. Holding the GCF ac-

countable for these promises is a crucial task for Indigenous Peoples' advocacy moving forward.

Integrated Results Management Framework

In 2020, the GCF started to develop an Integrated Results Management Framework (IRMF) so that it can measure and report on the impact of its investment and contribution to paradigm-shifting climate action. Scheduled to be finalised in 2021, the aim of the IRMF is to enable integrated reporting of progress towards delivery of the Updated Strategic Plan. It is of paramount importance to ensure that the IRMF indicators are robust and adequate for assessing compliance with the Indigenous Peoples' Policy across all criteria.

Sectoral guides under development

Sectoral guides are guidance documents aimed at advising accredited entities (AEs), national designated authorities (NDAs) and other stakeholders on potential areas where GCF investment will have the most impact. They aim to guide and inform the development of funding proposals.[16] The GCF Secretariat has been working on the development of sectoral guidance across eight established GCF result areas. Consultation for the guides commenced in November 2020 with agriculture and food security; cities, buildings and urban systems; and energy generation and access. The sectoral guides must safeguard Indigenous Peoples' rights and streamline the Indigenous Peoples' Policy. Full and effective participation of, and consultation with, Indigenous Peoples in developing the sectoral guides is therefore of key importance.

REDD+ result-based payments

The pilot REDD+ result-based payments programme of USD 500 million was exhausted with the approval of two final projects at the 27th Board meeting. Ever since the introduction of the REDD+ mechanism,

Indigenous Peoples have had concerns with regard to non-carbon benefits, benefit-sharing schemes, consideration of the knowledge of Indigenous Peoples, and compliance with rights safeguards, namely the principle of free, prior and informed consent.[17] It is important to critically review this first round of REDD+ and its Scorecard, which is the evaluation matrix with parameters, eligibility criteria and investment frameworks for assessing REDD+ proposals. How the pilot projects have served and/or undermined the REDD+ Cancún Safeguards, the Indigenous Peoples' Policy and other international human rights instruments is an important lesson to learn from this pilot programme before moving to the next REDD+ programme in the GCF.

Looking forward

If we are to achieve the 1.5°C degree goal by shifting climate action from "business as usual" into a "paradigm shift", Parties to the UNFCCC and all stakeholders must recognise the important role of Indigenous Peoples. At the GCF, this is done through ensuring full compliance with the Indigenous Peoples' Policy in all business. Indigenous Peoples will continue to demand accountability and advocate for this to become a reality.

Notes and references

1. UNFCCC. "The Paris Agreement." Accessed 23 February 2021. https://unfccc.int/process-and-meetings/the-paris-agreement/the-paris-agreement
2. The Green Climate Fund. "About GCF." Accessed 23 February 2021. https://www.greenclimate.fund/about
3. Gabbatiss, Josh. "Analysis: Which countries met the UN's 2020 deadline to raise 'climate ambition'?" Carbon Brief, 8 January 2021. Accessed 26 February 2021. https://www.carbonbrief.org/analysis-which-countries-met-the-uns-2020-deadline-to-raise-climate-ambition
4. Crist, Meehan. "What the Coronavirus means for climate change." The New York Times, 27 March 2020. https://www.nytimes.com/2020/03/27/opinion/sunday/coronavirus-climate-change.html
5. Le Quéré, Corinne., Jackson, Robert B., Jones, Matthew W. et al. "Temporary reduction in daily global CO2 emissions during the COVID-19 forced confinement." Nat. Clim. Chang. 10 (2020): 647–653. https://doi.org/10.1038/s41558-020-0797-x
6. Nasr, Leila. "Swapping dialogues for monologues: Virtual gatherings bring

big challenges for meaningful UN engagement." International Justice and Human Rights Clinic at the Allard School of Law, 6 October 2020. Accessed 23 February 2021. https://blogs.ubc.ca/ijhr/2020/10/06/swapping-dialogues-for-monologues-virtual-gatherings-bring-big-challenges-for-meaningful-un-engagement/

7. Three Indigenous experts presented at the event: Francisco Calí Tzay (Mayan Kaqchikel, Guatemala, United Nations Special Rapporteur on the rights of indigenous peoples, and traditional Indigenous farmer); Hindou Oumarou Ibrahim (FWG member representing Indigenous Peoples from Africa); Dalee Sambo Dorough (FWG member representing Indigenous Peoples from the Arctic). The recording of the event can be found here: https://vimeo.com/484528590
8. Indigenous Peoples (@*iipfcc*). 2020. "International Day of Indigenous Peoples." Video on Twitter, 9 August 2020, 3:57am. Accessed 23 February 2021. https://twitter.com/iipfcc/status/1292278755881185281
9. The full FWG 3 can be found here: https://www.youtube.com/watch?v=2TwV6E9re9Q&list=PLBcZ22cUY9RKM9Oy9f07focGh5UATk8Nf&index=1
10. Andrea Carmen (North American Indigenous representative) and Clement Yow Mulalap (State representative) were elected Co-Chairs, and Jane Au (Pacific Indigenous representative) and Irina Barba (State representative) were elected Vice-Chairs.
11. The full FWG 4 can be found here: https://www.youtube.com/watch?v=Eng6gpguRGU&list=PLBcZ22cUY9RJW2ESc_YBqh46-mLjyM-Kq&index=1&t=728s
12. A full list of gaps can be found here: https://unfccc.int/sites/default/files/resource/Draft%20technical%20Paper%20Activity%209_v%203%20Dec.pdf
13. UNFCCC. "Concept note: Activity LCIPP workplan activity 11." 17 April 2020. Accessed 2 March 2021. https://unfccc.int/sites/default/files/resource/Concept%20note%20for%20LCIPP%20activity%2011%2C%20version%20of%20April%202020.pdf
14. Green Climate Fund. "Homepage." Accessed 26 February 2021. https://www.greenclimate.fund/home
15. Green Climate Fund. "Updated Strategic Plan 2020-2023." 11 November 2020. Accessed 23 February 2021. https://www.greenclimate.fund/document/gcf-b27-21
16. Green Climate Fund. "Report of activities of the Secretariat – Addendum II." 30 October 2020. Accessed 23 February 2021.https://www.greenclimate.fund/sites/default/files/document/gcf-b27-inf12-add02.pdf
17. NEFIN. "Position Statement of Indigenous Peoples on Emission Reduction Program of Nepal." November 2016. Accessed 26 February 2021. https://nefinclimatechange.org/wp-content/uploads/2021/01/Position-Satement-of-Indigenous-Peoples-of-Nepal-4.pdf

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UN Permanent Forum on Indigenous Issues (UNPFII)

The United Nations Permanent Forum on Indigenous Issues (Permanent Forum) is an expert body of the United Nations Economic and Social Council (ECOSOC) with the mandate to provide advice on Indigenous issues to ECOSOC and, through it, to the UN agencies, funds and programmes, to raise awareness on 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 and follow up on its effectiveness.

Established in 2000, the Permanent Forum is composed of 16 independent experts who serve for a term of three years, acting in a personal capacity. 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, representing the seven socio-cultural regions that broadly make up the world's Indigenous peoples, with one seat rotating between Asia, Africa, and Central and South America and the Caribbean. The Permanent Forum 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.

The Permanent Forum meets each year for ten working days. The annual sessions provide an opportunity for Indigenous Peoples from around the world to have direct dialogue

with members of the Forum, Member States, the UN system including human rights and other expert bodies, as well as academics and NGOs. The Permanent Forum prepares a report of the session containing recommendations and draft decisions, which is submitted to the ECOSOC.

2020 was a challenging year for the UN Permanent Forum on Indigenous Issues and, indeed, for the entire world. With preparations well underway, the annual session was postponed owing to the COVID-19 pandemic just a few weeks before it was due to take place. Throughout the year, the Permanent Forum continued to carry out its mandate, readjusting to the new circumstances.

For the period of 2020-22, 12 new experts joined the Permanent Forum: Mr. Vital Bambanze (Burundi); Ms Tove Søvndahl Gant (Denmark); Ms Hindou Oumarou Ibrahim (Chad); Mr. Grigory E. Lukiyantsev (Russian Federation); Mr. Bornface Museke Mate (Namibia); Ms Hannah McGlade (Australia); Mr. Darío José Mejía Montalvo (Colombia); Mr. Simón Freddy Condo Riveros (Bolivia); Mr. Geoffrey Scott Roth (USA); Ms Irma Pineda Santiago (Mexico); Mr. Sven-Erik Soosaar (Estonia); and Mr. Aleksei Tsykarev (Russian Federation). Of the total number of members, seven are women and nine are men.

International Expert Group Meeting on Indigenous Peoples and Pandemics

In December 2020, the United Nations Department of Economic and Social Affairs (UNDESA) organized an international expert group meeting entitled "Indigenous Peoples and Pandemics", as recommended by UNPFII and endorsed by ECOSOC. The meeting consisted of five two-hour sessions over five days on an online platform at different times of the day to facilitate participation from all regions.

Over the five-day discussion, there was a sense of urgency among experts regarding the need for various stakeholders to take actions to redress the extreme disadvantages faced by Indigenous Peoples in fully

enjoying their rights. Some issues highlighted were: the lack of culturally-appropriate access to health services, as well as to some basic services such as water and sanitation, threatening the survival of Indigenous Peoples; the inadequate response programmes by some governments during the pandemic; the lack of full and effective participation by Indigenous Peoples in decision-making; the limited or no access to remote learning due to limited access to the Internet, connectivity and electricity.

Nevertheless, Indigenous Peoples have continued to organize themselves to respond to the pandemic by exercising their self-determination and taking care of their members by, for example, providing food and supplies, oxygen tanks, rapid COVID-19 tests, and taking special measures to protect their elders.

The meeting further emphasized the increase in violence, killings or invasions of Indigenous lands by miners and landgrabbers, who are entering Indigenous communities and infecting them. Another issue of concern was the lack of support for Indigenous women and girls, in particular, who faced higher numbers of rapes and domestic violence during the pandemic. Indigenous leaders and experts stressed the urgent need to rebuild trust between Indigenous Peoples and health systems.

The meeting was attended by Indigenous experts, members of the Permanent Forum, the Special Rapporteur on the rights of indigenous peoples and the Chair of the Expert Mechanism, UN entities, government representatives, academics, NGOs and the general public. A report of the expert group meeting will be presented at the 2021 session of the Permanent Forum.

Pre-sessional meeting (Finland)

Each year, a pre-sessional meeting of the Permanent Forum is hosted by a Member State. At the invitation of the Government of Finland, the Permanent Forum members met from 10-14 February 2020 in Inari, Finland. This pre-sessional was significant as it marked the first meeting of the 2020-2022 membership of the Forum. At these meetings, the Forum members prepare the upcoming session, identify their priorities and elect their Bureau members. The Forum members met with representatives of Indigenous Peoples' organizations, members of parlia-

ment, government officials and civil society, as well as members of the Sámi parliaments in Finland and Norway in order to be better informed of the situation of Indigenous Peoples in Finland and the Sápmi region and discussed the government's efforts and initiatives to implement the UN Declaration on the Rights of Indigenous Peoples.

2020 session of the Permanent Forum on Indigenous Issues

Owing to the COVID-19 pandemic, the Permanent Forum postponed its 2020 annual session with the theme of "Peace, justice and strong institutions: the role of Indigenous Peoples in implementing Sustainable Development Goal 16". The theme has consequently been rolled over to the 2021 session.

In an effort to continue its engagement and support, the Permanent Forum held virtual meetings throughout the year with a range of partners, including Member States, Indigenous Peoples, and UN entities, on issues of relevance to the implementation of the Sustainable Development Goals (SDGs). A series of informal regional consultations also took place on the specific situation and priority issues of the seven Indigenous socio-cultural regions, and these included discussions on implementing the recommendations of the Forum, the UN Declaration on the Rights of Indigenous Peoples and the 2030 Development Agenda, with particular relevance to Goal 16. The outcome of the session will be considered by ECOSOC. More informal consultations are expected to take place in early 2021.

COVID-19 dedicated web page and related reports

At the beginning of the COVID-19 pandemic, the Indigenous Peoples and Development Branch-Secretariat of the Permanent Forum created a dedicated web page on COVID-19 and Indigenous Peoples.[1] The web page is updated on a regular basis and contains a wide range of informational resources, including statements on COVID-19 by UN-mandated bodies on Indigenous Peoples' issues and Indigenous Peoples' organizations, as well as relevant reports, articles and announcements from UN

agencies and other entities. Throughout 2020, UN-DESA also published several key publications on Indigenous Peoples and COVID-19, including "Indigenous Peoples and the COVID-19 pandemic: Considerations" and "The Impact of COVID-19 on Indigenous Peoples, Policy Brief #70".[2]

International Day of the World's Indigenous Peoples 2020 (9 August)

The International Day of the World's Indigenous Peoples is celebrated annually on 9 August at the United Nations headquarters in New York. In 2020, due to COVID-19, the event was held online and the theme was COVID-19 and Indigenous Peoples' resilience. The event brought together Indigenous Peoples' organizations, United Nations agencies, Member States, civil society, relevant stakeholders and the general public.

The aim of the event was to share innovative ways in which Indigenous Peoples have continued to demonstrate resilience and strength in the face of the pandemic while confronting grave threats to their survival, and to highlight how the preservation and promotion of Indigenous Peoples' traditional knowledge and practices can be leveraged more fully during the pandemic so that they can build back stronger.

Agenda 2030 for Sustainable Development

As an expert body of the Economic and Social Council, the Permanent Forum has a key role in ensuring that the rights and priorities of Indigenous Peoples are considered in the review and implementation of the Sustainable Development Goals (SDGs) and Agenda 2030.

At the July 2020 High-level Political Forum at UN headquarters in New York under the theme of *"Accelerated action and transformative pathways: realizing the decade of action and delivery for sustainable development"*, Member States noted that progress had been uneven and acceleration was needed in many areas regarding the SDGs in light of the impact of the COVID-19 pandemic. They reflected on the extent to which the international community had responded to the pandemic in a way that puts it back on track to achieve the SDGs and accelerate progress during the decade of action and delivery for sustainable development.

Fourteen of the 47 Member States referenced Indigenous Peoples in their voluntary national reviews, emphasizing that the key to successful implementation of the 2030 Agenda and the principle of leaving no-one behind centred on symbiotic partnerships forged with civil society, the private sector, academia, relevant state entities, and Indigenous communities. Some Member States also noted the challenges of data disaggregation by ethnicity and indigeneity.

In the summary of the July 2020 High-level Political Forum, the President of ECOSOC reported that many speakers had emphasized the need to involve vulnerable groups, including Indigenous Peoples, in decision-making and to take their needs and rights into account. It was further stated that the COVID-19 pandemic had had a devastating and highly disproportionate impact on the most vulnerable communities, notably Indigenous Peoples, *inter alia*, exacerbating pre-existing economic, social and environmental inequalities and threatening the achievement of the SDGs.

At the 2020 United Nations Summit on Biodiversity, under the theme of "Urgent action on biodiversity for sustainable development", held in September at UN headquarters in New York, the importance of the traditional knowledge of Indigenous Peoples was acknowledged by Member States. A call was made for all Member States to, *inter alia,* mobilize a full and effective partnership across states and societies, engaging all relevant businesses and consumers, including Indigenous Peoples and local communities. It was further stated that living in harmony with nature should be promoted through education, science, technology and traditional knowledge, while at the same time safeguarding the rights of Indigenous Peoples and empowering local authorities, women and youth.

The grave socio-economic consequences of the COVID-19 pandemic were also underscored, as many countries noted the opportunities to build back better, including efforts to spend more resources on sustainability and greener and bluer economies while ensuring equity and improving the livelihoods of Indigenous Peoples and local communities.

Within the context of the 2030 Agenda for Sustainable Development and leaving no-one behind, the Indigenous Peoples and Development Branch/Division for Inclusive Social Development of UNDESA has been providing technical support to Member States for their imple-

mentation of the United Nations Declaration on the Rights of Indigenous Peoples.

In 2020, UNDESA continued to work closely with the Government of Uganda, providing capacity development and policy advice on the preparation of an affirmative action programme on Indigenous Peoples in the country. In 2020, the development of the affirmative action programme took place through both virtual drafting meetings and community-level consultations. This support is provided within the framework of the System-Wide Action Plan on the Rights of Indigenous Peoples, as well as the 2030 Sustainable Development Agenda, and includes policy and legislative review, capacity development for government officials and Indigenous representatives and the organization of dialogues that bring together Indigenous representatives, government officials and relevant stakeholders.

This support is also provided by UNDESA at the request of governments from developing countries and it is always provided within the context of the UN Declaration on the Rights of Indigenous Peoples. UNDESA will continue to provide support to Uganda in 2021 as well as other countries when such requests are received. UNDESA also provides support to Resident Coordinators and United Nations Country Teams on matters related to Indigenous Peoples.

System-wide Action Plan on the Rights of Indigenous Peoples

The Inter-Agency Support Group (IASG) for Indigenous issues consists of more than 40 UN entities and other international organizations and has the main task of implementing the System-Wide Action Plan on the Rights of Indigenous Peoples (SWAP). The SWAP was officially launched by the United Nations Secretary-General in 2016, at the 15th session of the Permanent Forum. 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 the implementation of the SWAP.

The annual IASG meeting was hosted by the 2020 co-chair, the United Nations Population Fund (UNFPA), in cooperation with IPDB/SPFII, and held online from 14-16 December. The meeting was attended

by the Chairs of the UNPFII, Expert Mechanism on the Rights of Indigenous Peoples and the UN Special Rapporteur on the rights of indigenous peoples and focused on the way forward and follow-up to the UN System Chief Executives Board for Coordination's Call to Action on Indigenous Peoples, issued in November 2020.[3]

The key outcome of the IASG annual meeting was to enhance coordination, especially given the challenges faced by each entity in carrying out its work during the COVID-19 pandemic. Over the course of the IASG annual meeting, participants identified concrete actions on three main topics: Indigenous human rights defenders; engagement with UN Country Teams; and engagement and participation of Indigenous Peoples and other partners (policy dialogue and capacity development).

Members of the Permanent Forum on Indigenous Issues for the 2020-2022 term

The Permanent Forum on Indigenous Issues for the 2020 to 2022 term are as follows:

- Mr. Aleksei Tsykarev (Russian Federation)
- Ms Anne Nuorgam (Finland)
- Mr. Bornface Museke Mate (Namibia)
- Mr. Darío José Mejía Montalvo (Colombia)
- Mr. Geoffrey Roth (United States of America)
- Mr. Grigory Evguenievich Lukiyantsev (Russian Federation)
- Ms Hannah McGlade (Australia)
- Ms Hindou Oumarou Ibrhaim (Chad)
- Ms Irma Pineda Santiago (Mexico)
- Ms Lourdes Tibán Guala (Ecuador)
- Mr. Phoolman Chaudhary (Nepal)
- Mr. Simón Freddy Condo Riveros (Bolivia)
- Mr. Sven-Erik Soosaar (Estonia)
- Ms Tove Søvndahl Gant (Denmark)
- Mr. Vital Bambanze (Burundi)
- Ms Xiaoan Zhang (China)

Please visit the UNPFII website for more information about the members and the selection process: www.un.org/Indigenous

Notes and references

1. United Nations Department of Economic and Social Affairs, Indigenous Peoples. "COVID-19 and Indigenous peoples." 2021. https://www.un.org/development/desa/indigenouspeoples/covid-19.html
2. United Nations Department of Economic and Social Affairs, COVID-19 Response. "Policy Brief No. 70: The Impact of COVID-19 on Indigenous Peoples." May 2020. https://www.un.org/development/desa/dpad/wp-content/uploads/sites/45/publication/PB_70.pdf
3. UN System Chief Executives Board for Coordination (CEB). "Building an Inclusive, Sustainable, and Resilient Future with Indigenous Peoples: A Call to Action." November 2020. https://unsceb.org/building-inclusive-sustainable-and-resilient-future-Indigenous-peoples-call-action

This article was elaborated by the ***Secretariat of the Permanent Forum***

UN Special Rapporteur on the rights of indigenous peoples

The Special Rapporteur on the rights of indigenous peoples is one of the 56 "special procedures" of the United Nations 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 United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and relevant international human rights instruments; examine ways and means of overcoming existing obstacles to the full and effectively protecting the rights of Indigenous Peoples; promote best practices; gather and exchange information from all relevant sources on violations of the human rights of Indigenous Peoples; and formulate recommendations and proposals on measures and activities to prevent and remedy violations of those rights.

On 1 May 2020, Mr. Francisco Calí Tzay from Guatemala, a former member of the Committee on the Elimination of Racial Discrimination, assumed the mandate of the Special Rapporteur on the rights of indigenous peoples.

Ms Victoria Tauli-Corpuz from the Philippines was the Special Rapporteur from June 2014 to April 2020. She was the first woman and the first person from the Asian region to hold the position.

During 2020, the Special Rapporteur continued to focus on the principal mandated areas of work: promoting good practices; responding to specific cases of alleged human rights violations; conducting thematic studies, undertaking country visits; and making recommendations to governments and other actors.

2020 thematic studies

Each year, the Special Rapporteur presents two thematic reports, one to the Human Rights Council and one to the General Assembly.

First thematic report: COVID-19 and Indigenous Peoples

The new Special Rapporteur, Mr. Calí Tzay, assumed his mandate at the peak of the first wave of the COVID-19 pandemic. He received extensive information on the pandemic-related risks and violations being experienced by Indigenous Peoples across the globe, both due to the virus and due to measures taken by states and private actors during the crisis. The Special Rapporteur therefore decided to devote his first thematic report to the General Assembly to the global impact of the pandemic on the rights of Indigenous Peoples.[1]

In response to a public call for information on the topic, the Special Rapporteur received over 150 responses from Indigenous Peoples and organisations, civil society, independent national institutions, academics and experts.[2] The report notes how Indigenous Peoples are especially vulnerable to the disease due to inadequate access to healthcare and clean water and due to their prior health conditions, and highlights how Indigenous Peoples and states responded in the crucial early period of the crisis.

The report provides an overview of violations of Indigenous Peoples' rights caused or exacerbated by the disease itself but also by certain measures taken by states to contain the pandemic or protect their national economies. The report furthermore refers to actions by companies that have sought to grab land from Indigenous Peoples despite COVID-19 restrictions and consultations with Indigenous Peoples and environmental impact assessments that have been abruptly suspended in order to force through megaprojects relating to agribusiness, mining, dams and infrastructure. In contrast, while companies have continued their activities and encroachment onto Indigenous lands, restrictions on Indigenous Peoples' own movement and freedom to use and protect their lands have been repressively enforced. The escalating evictions of Indigenous Peoples from their lands and the loss of their

traditional livelihoods, combined with the hardships of COVID-19, is aggravating extreme poverty and malnutrition in Indigenous communities.

Indigenous Peoples have been largely neglected in contingency measures and have in most countries only been included late, if at all, in the state's response to COVID-19. As a result, their needs and requirements are neither adequately taken into account nor addressed by national programmes and policies. Effective responses to the pandemic and recovery measures must be a collaborative effort between Indigenous institutions and state institutions, combining Indigenous knowledge of what is best for their own communities and state services and financial support.

Without significantly strengthened action from states, the COVID crisis is pushing Indigenous Peoples even further behind in the realisation of the Sustainable Development Goals. Indigenous Peoples' traditional livelihoods and cultures risk becoming extinct as states prioritise their economic interests over the internationally recognised rights of Indigenous Peoples.

The report underlines the fact that Indigenous Peoples' rights to land and self-determination, including their right to free, prior and informed consent before the approval of any project or measures that may affect them, are essential to building Indigenous resilience to crises the world over. Early inclusion of Indigenous Peoples and their institutions in contingency plans, crisis management and recovery planning is key to ensuring that their needs and requirements are taken into account and addressed by national programmes and policies. Recognition of Indigenous Peoples' land rights is indispensable for the sustainable management of our planet's limited resources, and thus key to the survival of us all.

Second thematic report: Strengthened protection of Indigenous Peoples' rights

The second thematic study developed in 2020 and submitted to the Human Rights Council in September was by the former Special Rapporteur, Ms Tauli-Corpuz.[3] The report highlights examples of positive impacts from around the world with regard to strengthened protection

of the rights of Indigenous Peoples, based on work that was carried out by her mandate during the period 2014-2020.

Among the examples highlighted are her interventions contributing to the acquittal of Indigenous leaders defending the land rights of their communities. Other examples illustrate how she intervened directly with several governments and financial investors in large-scale development projects across Asia, Africa and Latin America and successfully urged them to suspend activities pending compliance with human rights. In some instances, her advocacy contributed to halting evictions of Indigenous Peoples from their traditional lands. In other situations, she contributed to land rights litigation being decided in favour of Indigenous Peoples and the initiation of land demarcation and titling processes.

The same report also considers experiences and lessons learned regarding consultation processes and puts forward recommendations as to the implementation of international standards on consultation and free, prior and informed consent.

Regional overview of Indigenous Peoples in Asia

In addition, the mandate presented a second report to the Human Rights Council in September 2020 containing a regional overview of the situation of Indigenous Peoples in Asia.[4] The former Special Rapporteur conducted a regional consultation in Bangkok in November 2019 attended by more than 100 representatives of Indigenous Peoples from Bangladesh, Cambodia, India, Indonesia, the Lao People's Democratic Republic, Malaysia, Myanmar, Nepal, the Philippines, Timor-Leste, Thailand and Viet Nam, as well as the Taiwan Province of China. During the consultation, discussions and exchanges took place around the current challenges facing Indigenous Peoples in Asia.

The report from the consultation focuses on issues relating to self-determination, governance and justice systems; lands, territories and resources; conservation; climate change; business and human rights; human rights defenders; and the Sustainable Development Goals.[5]

The report raises concerns over the massive displacements that Indigenous Peoples face across Asia, the destruction of their environ-

ment and the rising poverty due to land-grabbing. Large-scale development projects, including dams, mining, monocrop plantations and logging, are increasing in the region and causing serious human rights violations as Indigenous Peoples lose their traditional lands and resources. Across the region, Indigenous Peoples often lack legal recognition of their status and there is a widespread failure to protect their lands and respect their rights to participate and to be consulted in decisions affecting them. The report notes that states must take measures to prevent violence and the criminalisation of Indigenous Peoples who are exercising their rights to defend their lands and territories. Strengthening the regulation of private companies is essential.

In order to disseminate the Asia consultation report and strengthen the mandate's engagement and exchanges with stakeholders, a series of webinars were held jointly with the Asia Indigenous Peoples' Pact (AIPP) and the UN Office of the High Commissioner for Human Rights (OHCHR) Bangkok Office in late 2020. Over 450 participants from across the Asian region participated.

Future thematic priorities

In terms of future thematic priorities, the Special Rapporteur will continue the focus on human rights concerns relating to land rights, the impact of COVID-19, attacks and criminalisation of Indigenous Peoples, conservation and climate change. The mandate will also explore issues that require additional attention, such as challenges faced by Indigenous Peoples in urban areas, the impact of forced and bonded labour, and an analysis of how environmental and social impact assessments are carried out.

Country visits

In March 2020, the Special Rapporteur Ms Tauli-Corpuz commenced an official country visit to Denmark and Greenland[6] that unfortunately had to be interrupted due to the COVID-19 pandemic. As soon as public health conditions allow, Mr. Calí Tzay intends to resume the visit, which will be his first official country visit as Special Rapporteur. The empha-

sis of the visit will be on human rights concerns relating to *inter alia* self-government, development, health, the situation of children and youth and also climate change impacts.

In September 2020, the report from the country visit undertaken to the Republic of the Congo in 2019 was presented to the UN Human Rights Council (HRC).[7] The Special Rapporteur will continue to seek country visits to Asia and Africa and urges states in these regions to accept requests to visit officially.

Communications

During 2020, the Special Rapporteur issued more than 60 communications to over 28 states and other entities such as private corporations and intergovernmental organisations in response to information received on alleged violations of the human rights of Indigenous Peoples.[8] These communications on cases are included in the special procedures' joint communications report, which is submitted to each session of the HRC, and in the special procedures communications database.[9] The mandate also issued numerous press releases on cases of urgency or special concern.[10]

Collaboration with other UN specialised agencies, regional human rights bodies and other activities

The Special Rapporteur continued his mandate's collaboration with the UN Permanent Forum on Indigenous Issues (UNPFII) and the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP). In November, he participated in the EMRIP seminar on the rights of the Indigenous child and in December he was a panellist at the Expert Group Meeting on pandemics organised by the UN Department of Economic and Social Affairs (DESA).

The Special Rapporteur maintained his engagement with various United Nations agencies with a view to promoting good practices in their work regarding the rights of Indigenous Peoples. He participated in meetings of the United Nations Inter-Agency Support Group on Indigenous Issues (IASG) to further the integration of Indigenous issues into

the UN system agenda and the implementation of the UN Declaration on the Rights of Indigenous Peoples.

During the second half of the year, he participated in several webinars held by the UN Educational, Scientific and Cultural Organization (UNESCO), the International Labour Organization (ILO) and the UN Population Fund (UNFPA) on COVID-19 impacts and how to strengthen Indigenous Peoples' inclusion in recovery measures. He also spoke at various events relating to racism and discrimination organised by UNESCO and the World Health Organization (WHO).

The mandate continued to collaborate with the human rights treaty bodies and special procedures. In November, the Special Rapporteur acted as a panellist at the session on Indigenous Peoples during the UN Forum on Business and Human Rights.

In terms of cooperation with regional human rights mechanisms, at the request of the African Court on Human and Peoples' Rights, in April the mandate submitted written expert testimony on reparations in the Ogiek case (reparations).[11] The Special Rapporteur furthermore participated in several events by regional organisations, including the Inter-American Commission on Human Rights, relating to Indigenous Peoples in isolation and COVID-19 impacts in the Americas. In December, he was invited to a webinar on human rights safeguards and the EU's responsibilities, organised by the European Parliament.

The Special Rapporteur contributed to an event arranged by IWGIA on Indigenous Autonomy in November. He also acted as a panellist at a Forum organised by the International Commission of Jurists on issues relating to Indigenous, traditional and customary justice systems in December. Over the course of the past year, he continued to participate in meetings relating to the environment and the rights of Indigenous Peoples, and also engaged in various activities related to Indigenous human rights defenders.

Notes and references

1. United Nations General Assembly. "Report of the Special Rapporteur on the rights of indigenous peoples, José Francisco Calí Tzay." Rights of Indigenous Peoples, A/75/185, 20 July 2020. https://www.undocs.org/en/A/75/185
2. UN OHCHR. "Report on the impact of COVID-19 on the rights of indigenous peoples." Special Rapporteur on the rights of indigenous peoples, 19 June 2020.

https://www.ohchr.org/EN/Issues/IPeoples/SRIndigenousPeoples/Pages/Callforinput_COVID19.aspx

3. United Nations General Assembly. "Report of the Special Rapporteur on the rights of indigenous peoples." Rights of indigenous peoples, A/HRC/45/34, 18 June 2020. https://undocs.org/en/A/HRC/45/34
4. United Nations General Assembly. "Report of the Special Rapporteur on the rights of indigenous peoples." Regional consultation on the rights of indigenous peoples in Asia, A/HRC/45/34/Add.3, 4 September, 2020. https://undocs.org/A/HRC/45/34/Add.3
5. UN OHCHR. "The situation of indigenous peoples in Asia." Special Rapporteur on the rights of indigenous peoples, 4 September 2020. https://www.ohchr.org/EN/Issues/IPeoples/SRIndigenousPeoples/Pages/CallforinputIPAsia.aspx
6. UN OHCHR. "Call for inputs on upcoming country visit to Denmark and Greenland." 2021. https://www.ohchr.org/EN/Issues/IPeoples/SRIndigenousPeoples/Pages/Callforinput_Denmark_Greenland.aspx
7. United Nations General Assembly. "Report of the Special Rapporteur on the rights of indigenous peoples." Visit to Ecuador, A/HRC/42/37/Add.1, 4 July 2019. https://undocs.org/A/HRC/42/37/Add.1
8. For details of all communications issued and responses received by the mandate: UN OHCHR. "Communication Report and Search." 2021. https://spcommreports.ohchr.org/TmSearch/Mandates?m=26
9. UN OHCHR. "Communication Report and Search: Communication Search." 2021. https://spcommreports.ohchr.org/Tmsearch/TMDocuments
10. See UN OHCHR. "OHCHR Latest News." 2021. www.ohchr.org/en/NewsEvents/Pages/NewsSearch.aspx?MID=SR_Indigenous_People
11. UN Human Rights Special Procedures. "United Nations Special Rapporteur on the Rights of Indigenous Peoples Expert Testimony at the request of the African Court on Human and Peoples' Rights on reparations in the case of the African Commission on Human and Peoples' Rights v. Kenya." 006/2012, 29 April 2020. https://www.ohchr.org/Documents/Issues/IPeoples/SR/TestimonyOgiek.pdf

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World Intellectual Property Organization (WIPO)

Indigenous Peoples have rights over their traditional knowledge,[1] traditional cultural expressions[2] and genetic resources,[3] including associated intellectual property rights, as recognized in Article 31 of the UN Declaration on the Rights of Indigenous Peoples.[4] However, conventional intellectual property laws, in large measure, are woefully inadequate in protecting Indigenous Peoples' intellectual property rights. In the absence of effective legal recognition and protection, 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 fashion, film and pharmaceutical 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 aimed at developing legal instruments for the protection of Indigenous Peoples' and local communities' traditional knowledge, traditional cultural expressions and genetic resources. Negotiations are centred around three draft texts, one for each of the three subject matters.[5] A fourth draft text was developed in 2019 by the IGC Chair as an alternative genetic resources text.[6] The IGC concluded its 40th session in June 2019. Four negotiation sessions were

scheduled for 2020 but all were postponed due to the pandemic. IGC 41, which will address the genetic resources text, was scheduled to take place in a hybrid format from 8-12 February 2021 but, in late January 2021, was once again postponed. At this time, no new dates have been announced.

Impacts to progress on the IGC's 2020-2021 mandate and work program due to the pandemic

The IGC operates under two-year mandates, requiring biennial renewal by the WIPO General Assembly. At its 2019 meeting, the WIPO General Assembly approved the IGC mandate and work program for 2020-2021.[7] The mandate directed the IGC to "continue to expedite its work, with the objective of finalizing an agreement on an international legal instrument(s) ...which will ensure the balanced and effective protection of" genetic resources, traditional knowledge and traditional cultural expressions. The work program provided for six negotiating sessions, four to take place in 2020 and two in 2021.

Rather than being able to "expedite its work", the IGC formal negotiation process came to a complete halt during 2020, with none of the four planned IGC sessions taking place. The first, IGC 41, scheduled for 16-20 March 2020, was abruptly postponed as COVID-19 infections spread and travel restrictions were implemented. Initially rescheduled to August 2020, then to October 2020, and then to 8-12 February 2021, the session has been postponed further, and at present no new dates have been announced.[8]

2020 accomplishments despite the pandemic

Although none of the formal negotiation sessions planned for 2020 took place, the work of the IGC did not entirely cease. The following is a brief summary of tasks accomplished by the IGC in 2020 despite the pandemic.

Update of Technical Review of Key Intellectual Property-Related Issues of the WIPO Draft Instruments within the Framework of Human Rights

In 2019, Indigenous representatives at the 18th Session of the UN Permanent Forum on Indigenous Issues, which had as its theme "traditional knowledge", advocated for and received several recommendations from the Forum related to the IGC negotiations.[9] One of the Forum's recommendations was that WIPO commission an update of the 2016 *Technical Review of Key Intellectual Property-related Issues of the WIPO Draft Instruments on Genetic Resources,*

Traditional Knowledge and Traditional Cultural Expressions (Technical Review) prepared by former UN Special Rapporteur on the rights of indigenous peoples, Professor James Anaya.[10] The Forum recommended that the update of the Technical Review reflect current issues in the draft texts, and be made with an emphasis on how concepts such as "balancing" and "public domain" might conflict with Indigenous Peoples' human rights and customary laws and the obligation to incorporate and respect human rights in the work of WIPO.[11]

At its next session, which took place in June 2019, the WIPO IGC immediately embraced and acted upon the Forum's recommendation, requesting the WIPO Secretariat to commission an Indigenous expert to perform the update. The Secretariat engaged Ms Neva Collings, Board Director, NSW Aboriginal Housing Office, Department of Family and Community Services, Australia, and Mr. Elifuraha Laltaika, Senior Lecturer and Director, Research Tumaini University Makumira, United Republic of Tanzania, to perform the work, and their *Update of the Technical Review of Key Intellectual Property-Related Issues of the WIPO Draft Instruments on Genetic Resources, Traditional Knowledge and Traditional Cultural Expressions Within the Framework of Indigenous Human Rights* (Updated Technical Review) was made available in October 2020.[12]

With respect to "balancing", the Updated Technical Review explains that although states' intellectual property systems may balance the interests of different stakeholders, the rights of Indigenous Peoples must be respected; the intellectual property rights of other stakeholders cannot override Indigenous rights enshrined in existing interna-

tional agreements and the UN Declaration on the Rights of Indigenous Peoples.[13] Concerning the concept of "public domain", the Review articulates that, from the Indigenous perspective, a time-limited period of intellectual property protection followed by creative works becoming freely available for use by the public conflicts with their human rights, and is misaligned with their own customary laws and values associated with their traditional knowledge and traditional cultural expressions, which are timeless in nature, integral to their culture, and transmitted intergenerationally.[14] The Review highlights in particular the right to self-determination, the principle of free, prior and informed consent (FPIC), and Indigenous Peoples' rights to lands, territories and resources, all of which are not subject to time limits and do not expire.[15]

The Updated Technical Review also addresses a number of other key issues related to the texts: (1) the right to redress for unauthorized use of traditional knowledge, traditional cultural expressions and genetic resources and associated traditional knowledge, including restitution and repatriation;[16] (2) the need for FPIC to be obtained for any exceptions and limitations to protections of traditional knowledge and traditional cultural expressions;[17] (3) the "tiered approach", which would divide traditional knowledge and traditional cultural expressions into categories and provide varying levels of protection commensurate to the level of sensitivity Indigenous Peoples place on each category;[18] (4) databases and knowledge registers;[19] (5) Indigenous Peoples' rights to genetic resources and issues related to digital sequencing and traceability;[20] (6) the mandatory disclosure requirement for patent applicants' disclosure of information regarding the source of genetic resources and associated traditional knowledge;[21] and (7) dispute resolution mechanisms.[22]

The Review concludes that the legal instruments under negotiation at the IGC should be mutually supportive of other international instruments, especially those related to human rights.[23] It suggests the creation of a *sui generis* regime for protection of traditional knowledge and traditional cultural expressions, taking into account Indigenous Peoples' human rights and their customary laws, and respecting their rights to control and protect their traditional knowledge and traditional cultural expressions, as an alternative to trying to fit protection of traditional knowledge and traditional cultural expressions within the conventional intellectual property system.[24]

The Updated Technical Review will be provided to Member States and observers as an information document for future negotiation sessions.[25] It is anticipated that it will be cited by the Indigenous Caucus in future negotiations to amplify the human rights considerations supporting the Caucus's various negotiation positions.

Inter-sessional activities of Member States and accredited observers

In view to continuing the efforts of the IGC and furthering its work despite the pause in formal negotiating sessions, in 2020 the WIPO Secretariat proposed several inter-sessional activities, which were approved by Member States. Under these activities, Member States and accredited observers were invited to:

1. Submit comments on the Chair's genetic resources text to the IGC Chair, Mr. Ian Goss;[26]
2. Review WIPO's initial online compilation of national and regional *sui generis* regimes providing intellectual property protection for traditional knowledge and/or traditional cultural expressions and provide comments, corrections or updates;[27] and
3. Review and provide updated information for the online resources available on the WIPO Traditional Knowledge Division website, particularly the "Disclosure Requirements Table",[28] and the repository of "Regional, National, Local and Community Experiences".[29]

All the activities were voluntary. Any submissions made were without prejudice to Member States' and observers' positions and have no official status in the negotiations.

Virtual meetings of Indigenous Caucus participants

In the IGC negotiations, Indigenous Peoples participate as any other accredited observers do, but they can also participate collectively as part of an *ad hoc* Indigenous Caucus.[30] IGC Member States frequently comment on the vital role of Indigenous Peoples in the deliberations

and acknowledge the need for their involvement for the legitimacy of the IGC's work.

In the interest of continuing the momentum of the work of the Indigenous participants on the highly complex and technical negotiation issues associated with the genetic resources texts, and at the request of the former Co-Chair of the Indigenous Caucus at IGC 40, Ms Jennifer Tauli Corpuz, the WIPO Secretariat provided support for a series of five virtual meetings in 2020 of Indigenous Caucus participants from past IGC sessions. The meetings took place on 14 May, 1, 15 and 29 September and 17 October 2020, and focused on developing edits and comments on the Chair's genetic resources text. On 1 December 2020, the Indigenous Caucus representatives participated in an informal virtual meeting with the IGC Chair, and they are continuing to finalize comments on the Chair's genetic resources text to be submitted to the Chair in advance of IGC 41.

Looking forward

As noted above, when it ultimately occurs IGC 41 will address genetic resources.

In preparation for IGC 41, WIPO organized a Seminar on Intellectual Property and Genetic Resources to take place virtually from 20-22 January 2021. The seminar provided an opportunity for the sharing of regional, national and local experiences and case studies, and for discussion of substantive issues and exchange of views related to the issues involved in the genetic resources text negotiations.[31]

In consideration of the standstill in progress on the IGC's formal negotiations under the 2020-2021 mandate and work program, in its session from 21-25 September 2020, the WIPO General Assembly determined to include the report of the IGC among other agenda items for postponement to extraordinary sessions to be scheduled sometime in the first half of 2021.[32] The General Assembly will presumably address adjustments to the 2020-2021 mandate and work program to accommodate the delays caused by the pandemic, one possibility being extension of the current mandate and work program to 2023.

Notes and references

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 constructing housing. See https://www.wipo.int/tk/en/tk/. In their international advocacy, Indigenous activists engaged in multilateral processes recognize that the term "traditional knowledge" can be somewhat misleading, as it implies antiquity. In these contexts, many Indigenous advocates therefore prefer to refer simply to the "knowledge of Indigenous Peoples" or "Indigenous knowledge". Indigenous representatives involved in the WIPO negotiations emphasize that traditional knowledge is not confined to ancient knowledge but includes new and evolving Indigenous knowledge.
2. Traditional cultural expressions are the forms in which traditional culture is expressed. Examples include music, dance, stories, art, ceremonies, designs and symbols. See https://www.wipo.int/tk/en/folklore/.
3. Genetic resources are defined as genetic material having actual or potential value found in plants, animals or micro-organisms. Examples include medicinal plants, agricultural crops and animal breeds. Genetic resources found in nature are not creations of the mind and thus are not intellectual property. But intellectual property issues are 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. See https://www.wipo.int/tk/en/genetic/.
4. "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, United Nations Declaration on the Rights of Indigenous Peoples (13 Sept 2007), art. 31(1).
5. Current versions of the traditional knowledge, traditional cultural expressions and genetic resources draft texts as of the conclusion of the 2018-2019 biennium are attached as annexes to the IGC's 2019 report to the WIPO General Assembly: WO/GA/51/12.
6. The Chair's text on the *Draft International Legal Instrument Relating to Intellectual Property, Genetic Resources and Traditional Knowledge Associated with Genetic Resources* (Chair's genetic resources text), developed by the IGC Chair Mr. Ian Goss, is available at WIPO/GRTKF/IC/40/CHAIR TEXT. The Chair's genetic resources text has been approved by Member States as a working document to be included in future IGC sessions. See WIPO. "Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore." 21 June 2019. (Decision on Agenda Item 7). https://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_40/wipo_grtkf_ic_40_decisions.pdf
7. The 2020-2021 mandate and work program is available at https://www.wipo.int/export/sites/www/tk/en/igc/pdf/igc_mandate_2020-2021.pdf

8. See WIPO. "Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore." 8-12 February 2021. https://www.wipo.int/meetings/en/details.jsp?meeting_id=55246. In consideration of the ongoing pandemic and medical protocols instituted by the WIPO Secretariat to protect participants and staff, when IGC 41 was planned to take place in February, it was to be in a hybrid format. Only one delegate per Member State was to be permitted to attend in person. All other participants, including Indigenous Caucus members, were to participate virtually, via WIPO's new online remote participation platform.
9. E/2019/43-E/C.19/2019/10, paras. 9-11, available at https://undocs.org/en/E/2019/43.
10. Ibid., para. 10. The Technical Review is available at WIPO/GRTKF/IC/29/INF/10.
11. E/2019/43-E/C.19/2019/10, para. 10, available at https://undocs.org/en/E/2019/43.
12. In October 2020, the Updated Technical Review was posted on the WIPO website as an informational document (WIPO/GRTKF/IC/41/INF/10) for IGC 41, which was scheduled at that time to take place from October 19-23 2020. However, due to the subsequent postponement of the session, the document is not presently posted.
13. Updated Technical Review, paras. 52-53.
14. Ibid., paras. 18-22.
15. Ibid., para. 22.
16. Ibid., paras. 14-17.
17. Ibid., paras. 25-28.
18. Ibid., paras. 30-33.
19. Ibid., paras. 34-38.
20. Ibid., paras. 39-43, 50.
21. Ibid., paras. 44-47.
22. Ibid., paras. 48-49.
23. Ibid., para. 51.
24. Ibid., para. 11.
25. The Updated Technical review is expected to be re-posted as an information document and made available with other IGC 41 meeting documents at WIPO/GRTKF/IC/41.
26. See WIPO. "Chair's text on GRs and ATK." WIPO/GRTKF/IC/40/CHAIR TEXT, https://www.wipo.int/meetings/en/doc_details.jsp?doc_id=438199
27. See WIPO. "Compilation of Information on National and Regional Sui Generis Regimes for the Intellectual Property Protection of Traditional Knowledge and Traditional Cultural Expressions." 18 January 2021. https://www.wipo.int/export/sites/www/tk/en/resources/pdf/compilation_sui_generis_regimes.pdf
28. See WIPO. "Annex: Disclosure Requirements Table." November 2020. https://www.wipo.int/export/sites/www/tk/en/documents/pdf/genetic_resources_disclosure.pdf
29. See WIPO. "Regional, National, Local and Community Experiences." 2021. https://www.wipo.int/tk/en/resources/tk_experiences.html
30. Like other observers, the Indigenous Caucus may make interventions on the floor of the IGC and may propose modifications to the text under negotiation. Proposed modifications are incorporated into the draft text if they receive the support of at least one Member State. In addition, the Caucus has a role beyond that of other observers, including the ability to nominate representatives to participate in the various IGC working methodologies, such as ad hoc expert

groups, informals and small contact groups.

31. The seminar presentation materials have been published at https://www.wipo.int/meetings/en/details.jsp?meeting_id=60429, and the webcast recording of the seminar is available at https://c.connectedviews.com/05/wipo.

32. See WIPO. "Convening of 2021 Extraordinary Sessions." A/61/8, 4 September 2020. https://www.wipo.int/meetings/en/doc_details.jsp?doc_id=513493

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PART 3

General Information

About IWGIA

IWGIA is a non-governmental human rights organisation promoting, protecting and defending Indigenous Peoples' collective and individual rights. We have supported our partners in this fight for more than 50 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, protect 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

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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 35 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 2020. *The Indigenous World 2021* adds not only documentation, but also includes a special focus on COVID-19.

Throughout 2020, Indigenous Peoples were disproportionately affected by the COVID-19 pandemic with, among other things, lack of access to proper health services, limited health information in Indigenous languages, minimal to no virtual education opportunities for Indigenous students and closure of markets for the sale of goods. Indigenous Peoples proved their resilience by setting up their own networks and solutions, connecting communities to help transfer information and goods, and implementing traditional methods of protection to keep themselves safe from the virus and the intrusion of outsiders who potentially carried it. Nonetheless, as the pandemic spread, Indigenous Peoples continued to be persecuted, threatened, criminalised and killed in their efforts to defend their rights, sometimes under the guise of emergency laws enacted to mitigate the virus, but which also allowed for Indigenous Peoples' rights to be violated and their lands to be exploited.

The 62 regional and country reports and 20 reports on international processes and initiatives covered in this edition underscore these trends. IWGIA publishes this volume with the intent that it is used as a documentation tool and as an inspiration to promote, protect and defend the rights of Indigenous Peoples, their struggles, worldview and resilience.

IWGIA

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