



Food and Agriculture Organization
of the United Nations



Sustainable Development Goal 16 & Indigenous Peoples' Collective Rights to Land, Territories & Resources

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Key messages

- FAO notes with great concern the acts of violence, criminalisation, and threats aimed at Indigenous Peoples worldwide, posing a risk for peace and the achievement of the Sustainable Development Goals (SDGs). During the last decade, the pressure on natural resources increased, putting Indigenous Peoples more than ever in the frontlines of economic interests, environmental issues and territorial struggles.
- Despite the importance of Indigenous lands for biodiversity, and their spiritual, social and cultural value as sources of identity, Indigenous Peoples' rights over their lands have been historically disregarded. Tenure insecurity has led to Indigenous Peoples being forcefully evicted, displaced and relocated, thus affecting their security and cultural survival.
- The COVID-19 pandemic is aggravating the situation, as there is evidence of a trend to lower the levels of legal protection for Indigenous Peoples in order to facilitate the approval of land-based projects that jeopardise their access to land and other natural resources.
- While the pandemic is affecting Indigenous Peoples and their food security differently around the world: those with access to land and who rely on their Indigenous Peoples' food systems to generate food are coping better than other communities who rely heavily on the market to meet their food needs. (FAO, 2020a)
- Aware of the importance of security of tenure for Indigenous Peoples, and especially in the context of the current COVID-19 pandemic, FAO has urged Governments to intensify protection measures to stop any planned or ongoing evictions, and to stop external farmers, settlers, private firms, industries and miners from entering Indigenous Peoples' territories taking advantage of the present crisis. (FAO, 2020a)
- Based on International Law and soft law instruments applicable to Indigenous Peoples' rights concerning land tenure, food security and biodiversity, FAO supports countries in their efforts to achieve respect and recognition of Indigenous Peoples and their collective rights to their lands, territories and resources.
- The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT) recognise Indigenous Peoples' rights to their land and natural resources as an avenue to achieve food security. The VGGT could be used by countries as a guiding instrument to prevent conflict and ensure access to land tenure to Indigenous Peoples as a condition for the achievement of the Agenda 2030.
- In this paper, FAO shares experiences and proposes actions to advance towards the realisation of Indigenous Peoples' rights to land, territories and resources, urging the countries to protect Indigenous Peoples' rights as an avenue to achieve the SDG 16.

Table of content

Introduction	4
An insight on the criminalisation of and violence against Indigenous Peoples	7
□ What does criminalisation mean?.....	7
□ Criminalisation of Indigenous Peoples in numbers	8
The current situation regarding Indigenous Peoples' access to land, territory and resources....	10
□ Indigenous Peoples' land rights and the pressure on natural resources	10
□ Indigenous Peoples' land rights under a strain: the cases of Latin America and Asia	11
Latin America	11
Asia.....	11
□ How land tenure insecurity and uncertainties affect the lives of Indigenous women, children and youth.....	13
Ensuring security of tenure and Indigenous Peoples' governance systems as preconditions for fulfilling Indigenous Peoples' rights and the attainment of peace	14
□ Legal protection of Indigenous Peoples' collective rights to land, territory, and natural resources	14
□ Indigenous Peoples' land rights and the right to food	16
□ Promoting and strengthening customary and Indigenous Peoples' justice systems as a means to achieve SDG 16	18
FAO's role in supporting Indigenous Peoples and countries in achieving SDG 16	23
□ The role of soft law: the VGGTs as an avenue to prevent conflict and secure land tenure for Indigenous Peoples	23
□ Free, Prior and Informed Consent, a working principle for FAO projects with Indigenous Peoples	24
□ The role of technology and geo-referencing for land demarcation and tenure of Indigenous Peoples.....	24
□ Natural resources management and Indigenous Peoples' biocentric restoration	25
□ Facilitate policy dialogue between the governments and Indigenous Peoples.....	25
□ The importance of data: establishing dialogue between statisticians and Indigenous Peoples	26
□ Creating an online legislative database on Indigenous Peoples' rights	26
□ Join forces with UN partners and allies to raise awareness on Indigenous Peoples' access to justice	27

Conclusions: findings and ways forward on sustainable development goal 16, Indigenous Peoples and FAO mandate.....	28
□ The lack of recognition of Indigenous Peoples	28
□ The lack of recognition of Indigenous Peoples' collective rights and the disregard of Indigenous Peoples' traditional land use and access	28
□ The intensified competition over natural resources and the escalation of extractive projects and investments in the context of climate change	28
□ The adoption of incoherent and contradictory laws or policies undermining Indigenous Peoples' rights	29
□ The lack of legal recognition and effective coexistence between the state and Indigenous Peoples' justice systems	29
Final remarks	31
References	32

Introduction

As the United Nations leading organisation with the mandate to eradicate hunger and malnutrition, the Food and Agriculture Organization of the United Nations (FAO) has land tenure and land rights as the cornerstone of most of its interventions.

When created in October 1945, after the end of the Second World War, the founders of FAO had the firm conviction that to avoid conflict, violence and war, that food had to be guaranteed along with the right to land. As stated, many years later by the UN Office of the High Commissioner on Human Rights (OHCHR), "land is not a mere commodity, but an essential element for the realisation of human rights" (OHCHR, 2015).

In 2004, FAO's Members adopted the *Voluntary Guidelines to support the progressive realisation of the right to adequate food in the context of national food security*. This action reaffirmed their political commitment to advance the realisation of the right to food and Indigenous Peoples' collective rights by enshrining that Indigenous Peoples' right to food was intrinsically and directly linked to the access of their ancestral lands.

Later in 2012, the Committee on World Food Security (CFS) endorsed the *Voluntary Guidelines on the responsible governance of tenure of land, fisheries and forests in the context of national food security* (VGGTS). The Voluntary Guidelines, set out principles and internationally accepted standards of responsible practices for the use and control of land, fisheries and forests. It further expanded the interconnection of achieving food security through access to land since section 9 duly recognised Indigenous Peoples' and pastoralists' customary rights to their lands and natural resources (FAO, 2012).

In 2014, the Sustainable Development Goals (SDGs) were established. The final resolution "Transforming Our World: the 2030 Agenda for Sustainable Development" (United Nations General Assembly, 2015) refers to Indigenous Peoples 6 times, three times in the political declaration; two in the targets under Goal 2 on Zero Hunger (target 2.3) and Goal 4 on education (target 4.5), and one in the section on follow up and review that calls for Indigenous Peoples' participation.

Target 2.3 which is of direct relevance for FAO's mandate aims at doubling the productivity and incomes of small-scale food producers including in particular women, Indigenous Peoples, family farmers, pastoralists and fishers, through secure and equal access to land, other productive resources and inputs, knowledge, financial services, markets and opportunities for value addition and non-farm employment. In a few words, access to land and other resources is fundamental to end hunger, achieve food security and improved nutrition and promote sustainable agriculture.

Beyond the explicit mentions, many of the SDG's targets and indicators are of great relevance to Indigenous Peoples. In particular, the fact that the 2030 Agenda seeks to reduce inequalities is key for Indigenous Peoples who are in a disadvantaged situation compared to many sectors of society.

The SDGs are a call to achieve economic prosperity while taking care of the planet with a central and transformative commitment to leave no one behind (United Nations General Assembly, 2015). The Preamble of the Resolution that approved the Agenda 2030 states that:

"This Agenda is a plan of action for people, planet and prosperity. It also seeks to strengthen universal peace in larger freedom(...) eradicating poverty in all its forms and dimensions, including extreme poverty, is the greatest global challenge and an indispensable requirement for sustainable development" (United Nations General Assembly, 2015).

This is further supported by SDG 16, "Peace, Justice and Strong Institutions", which are the prerequisites for any society to carry out actions towards sustainable development that are inclusive, accountable, and provide access to justice for all.

However, it is hard to envision the achievement of peace and access to justice with the high number of killings of human rights defenders, especially those who seek to protect the lands of Indigenous Peoples, who are exposed to the greatest vulnerability.

According to information gathered by the United Nations High Commissioner for Human Rights (OHCHR) and supplemented by credible sources, at least 281 human rights defenders were killed in 2019. Since 2015, a total of 1,323 have been killed. Environmental human rights defenders, those protesting land grabs or those defending the rights of Indigenous Peoples, by objecting to Governments that are imposing business projects on communities without free, prior and informed consent seem to be particularly exposed to these attacks. According to the Special Rapporteur on the situation of human rights defenders's latest report, one in two victims of killings recorded in 2019 by OHCHR had been working with communities around issues of land, environment, impacts of business activities, poverty and rights of Indigenous Peoples, Afrodescendants and other minorities (Special Rapporteur on the situation of human rights defenders, 2020)¹.

At present, criminalisation and acts of violence against Indigenous Peoples represent a barrier to the achievement of the SDGs and the fulfilment of Indigenous Peoples' human rights as distinct peoples. During the past years, the already existing vulnerability of Indigenous Peoples to violence and conflict due to land tenure insecurity, has been aggravated by the increasing pressure over natural resources related to an unprecedented global need for commodities.

Most of the criminalisation and violence cases documented by the Special Rapporteur on the Rights of Indigenous Peoples (hereinafter The Special Rapporteur) involved opposition to large scale projects where traditional lands are affected, territorial disputes with illegal armed groups, and drug trafficking where there is no effective security guaranteed by the State. In some

¹ As international custodian of Sustainable Development Goal indicator 16.10.1, OHCHR has been reporting global and regional aggregated data on cases of killings of human rights defenders, journalists and trade unionists that have occurred since 2015. The work is carried out in collaboration with the United Nations Educational, Scientific and Cultural Organization and the International Labour Organization, and it considers publicly available data from international and regional human rights mechanisms, Front Line Defenders, the Business and Human Rights Resource Centre, Global Witness and other civil society organizations. See Report of the Special Rapporteur on the situation of human rights defenders, Mary Lawlor, 2020. A/HRC/46/35. (available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/355/11/PDF/G2035511.pdf?OpenElement>)

instances, conservation efforts were used to justify the criminalisation of Indigenous Peoples communities, leading to arrests, forced evictions and other violations of human rights (Special Rapporteur on the Rights of Indigenous Peoples, 2017). Other causes of violence have to do with territorial struggles in places where there is a lack of effective presence and protection by the State and where there is a strong presence of illegal armed groups operating in drug trafficking or other illicit activities. In those territories, Indigenous Peoples are seen as a barrier to such illegal activities and are therefore victims of systematic attacks.

Violence and conflict have a common origin: the lack of guarantees for Indigenous Peoples to securely and safely access their lands, territories and natural resources. Such a context has prompted Indigenous Peoples to mobilise to look for the protection of their collective rights and inform and organise their communities. However, by engaging in legitimate protests and activism, they are often portrayed by the media or the government as an obstacle to development and economic or political interests. Consequently, they have been murdered, targeted, persecuted and subjected to criminal charges, which regularly earn them the label of trespassers or illegal occupants of their very sacred and ancestral lands. Ultimately, they are subject to forced evictions and removal from their lands (Interamerican Commission on Human Rights, 2015).

The achievement of peace and equality are more than ever at risk due to the effects of the COVID-19 pandemic. Criminalisation and violence towards Indigenous Peoples are even more worrying in times of pandemic where Indigenous Peoples are already in a more vulnerable situation due to the virus and the lack of effective access to health services, but also due to the worrisome trend whereby some countries have lowered the level of protection in the laws and regulations that apply to Indigenous Peoples.

As part of national responses to the pandemic, a trend towards lowering the levels of legal protection of Indigenous Peoples' land rights has been noticed. Research has shown a rolling back of social and environmental laws, regulations and safeguards out of 'economic necessity'. This is characterised by legislative and regulatory change; the exclusion of Indigenous Peoples from decision-making processes; the expansion of industrial activities; increased land grabbing, illegal mining and illegal logging in or near Indigenous Peoples' territories; and an alarming growth in the criminalisation of, and violence against, Indigenous Peoples' human rights defenders (Forest Peoples Programme, 2021).

In summary, land rights are interlinked with peace and development, are the trigger for conflict and disputes involving Indigenous Peoples' rights in almost every region in the world (United Nations Indigenous Peoples Major Group for Sustainable Development, 2019). This phenomenon is now exacerbated by COVID-19 pandemic and by some of the measures adopted during the pandemic, undermining the collective rights of Indigenous Peoples and peace.

An insight on the criminalisation of and violence against Indigenous Peoples

▪ What does criminalisation mean?

There is no internationally agreed definition, but criminalisation is defined as “creating, changing or re-interpreting laws so as to make once legitimate activities illegal, and turn those doing them into criminals.” (Global Witness, 2019).

In one of the latest reports, the Special Rapporteur on the Rights of Indigenous Peoples disclosed that violence and criminalisation are not reserved solely for the Indigenous Peoples activists standing up to protect their peoples' lands and opposing policies, laws, and extractivist projects and investments, such as mining, agribusiness, hydroelectric, dams, infrastructure and logging. Lawyers and civil society who work with Indigenous Peoples are also very often targeted. Furthermore, the criminalisation of Indigenous Peoples usually follows an established pattern: “enforced disappearances, forced evictions, judicial harassment, arbitrary arrests and detention, limitations to the freedom of expression and freedom of assembly, stigmatization, surveillance, travel bans and sexual harassment.” (Special Rapporteur on the Rights of Indigenous Peoples, 2018).

Criminalisation is carried out through defamation campaigns, threats, harassment, interceptions and stigmatisation. Such actions are followed by criminal charges, namely, trespassing, unlawful association, perturbation of public order, seizure, robbery, coercion, usurpation, incitement, conspiracy, terrorism, murder and others (Rights and Resources Initiative, 2018).

Evidence suggests that some of the problems underlying criminalisation of Indigenous Peoples among others are i) the historical disregard of Indigenous Peoples' rights of traditional land use and legitimate occupation; ii) the lack of recognition of the existence of Indigenous Peoples; iii) the lack of recognition of collective rights; iv) the lack of an intercultural approach in pluricultural societies; v) the intensified competition over natural resources due to climate change and the escalation of extractive projects and investments; vi) the adoption of laws and policies against Indigenous Peoples' collective rights; vii) the lack of legal recognition and incorporation of Indigenous Peoples or Indigenous Peoples' customary justice systems within the national framework; and viii) the lack of effective coexistence between the state and Indigenous Peoples' justice systems.

In North America, Navajo communities are autonomous over their own affairs, such as their own justice system. They created the Navajo Peacemaker Court as a legal institution that resolves community disputes based on their circular - distributive justice model using traditional Navajo legal values. This institution is led by a *naat'aanii* who is a traditional Navajo civil leader chosen by the community to be the "peacemaker". In January 2000, the Navajo Nation Council eliminated jail time and fines for 79 offenses. The Council also incorporated the traditional concept of *nalyeeh* into the criminal code. *Nalyeeh* refers to the process of confronting someone who hurts others with a demand that they talk out the action and the hurt it caused so that something positive will come of it. (See Yazzie, 2016)

In Navajo peacemaking, offenders are brought in to a session involving the person accused of an offense and the person who suffered from it, along with the "tag-along" victims of the crime, namely the relatives of the accused and of the person hurt by the accused. Navajo law focuses more on helping a victim than finding fault, healing, integration with the group, and strengthen relationships with the immediate and extended family of the offender and victim, relatives, neighbors and community (Yazzie, 1994).

Furthermore, it is observed that due to criminalisation, the rate of Indigenous Peoples imprisonment is growing since they cannot exercise their customary judicial system but are judged by ordinary courts. In this regard, Indigenous Peoples are subject to reiterated suspension of hearings, prolonged trials, long periods of pretrial detention, illegal surveillance, confiscation and arrest warrants despite a lack of evidence or corroborated witness testimonies. They also are deprived of procedural guarantees, legal counsel and an interpreter (Interamerican Commission on Human Rights, 2015; Special Rapporteur on the rights of Indigenous Peoples, 2018).

Consequently, this phenomenon neutralises and discourages Indigenous Peoples' actions against injustices, which negatively impacts their right to self-determination.

▪ **Criminalisation of Indigenous Peoples in numbers**

Criminalisation against Indigenous Peoples has increased over the years. Evidence suggests that Indigenous Peoples are overrepresented in state prisons. According to the 2019 report of the Special Rapporteur on the Rights of Indigenous Peoples, Indigenous Peoples are overrepresented in every stage of criminal justice processes, from arrest through the serving of prison sentences, in every region of the world. Among the factors contributing to this are direct or indirect discrimination in legislation, policies, law enforcement strategies, and other practices; long-term dispossession, socioeconomic marginalization and poverty, intergenerational trauma; individual and institutional racism and discrimination; overpolicing of Indigenous Peoples' communities; insufficient access to legal counsel; lack of effective judicial review; limited access to information; and language barriers (Special Rapporteur on the Rights of Indigenous Peoples, 2019a).

The incarceration rates in Australia shows that Aboriginal and Torres Strait Islander adults make up around 2 percent of the national population, they constitute 27 percent of the national prison population" (Australian Law Reform Commission, 2018). In Canada, as of March 31, 2018, Indigenous Peoples' inmates represented 28 percent of the total federal in-custody population while comprising just 4.3 percent of the Canadian population (Department of Justice, 2018). In New Zealand, Māori made up 52 percent (4,996) of the total prison population (Ara Poutama Aotearoa/the Department of Corrections, 2019). In the United States, by midyear 2014, an estimated 10,400 American Indian and Alaska Native (AIAN) inmates were held in local jails, nearly double the number held in 1999 (5,500) (U.S. Department of Justice, 2017).

Regarding murders related to Indigenous Peoples and defenders of their rights, organizations such as Global Witness have documented the following data:

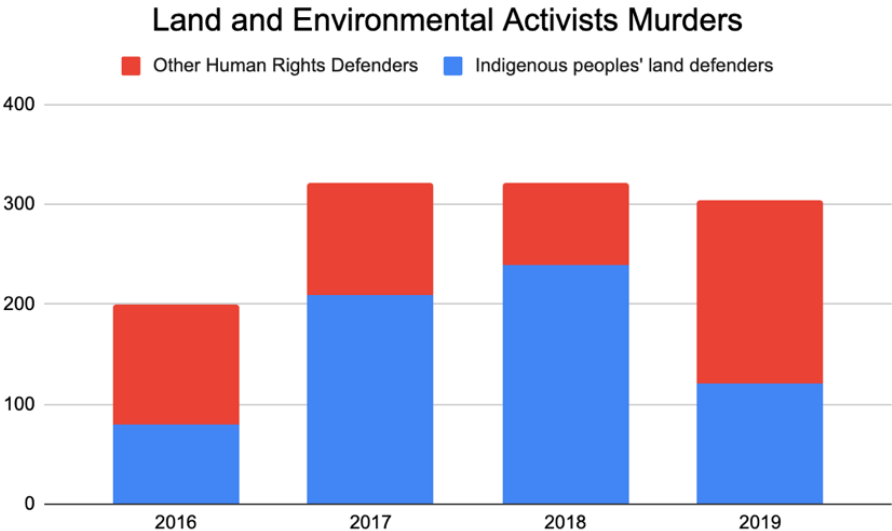


Figure 1: Land and Enviroment Activist Murders - Data collected from Global Witness' reports 2016, 2017, 2018 and 2019

The current situation regarding Indigenous Peoples' access to land, territory and resources

▪ Indigenous Peoples' land rights and the pressure on natural resources

During the last decades, the Global South has experienced an unprecedented economic growth based on the globalisation of transports and communications, the export of commodities, and the exploitation of natural resources. Countries in Asia, Africa and Latin America have moved quickly from low-income countries to middle-income countries (United Nations Indigenous Peoples Major Group for Sustainable Development, 2019.)

The world's population growth and the increasing demand for consumer goods has added further pressure and fuelled competition over resources. Due to the high dependency on natural resources for feeding themselves, Indigenous Peoples have been among the most affected by the consequences of this rapid economic growth. They have experienced an increased risk of losing their livelihoods and the basis of their food systems when their lands are expropriated or converted for large scale projects of mining, agriculture or intensive crop farming. (United Nations Indigenous Peoples Major Group for Sustainable Development, 2019.)

The last report presented by International Labor Organization (ILO) showed that Indigenous Peoples have not benefitted from economic growth in terms of income, consumption and access to assets (2019). While the reduction of extreme poverty worldwide went from 35.9 percent in 1990 to 10 percent in 2015, Indigenous Peoples' extreme poverty rates grew, being now 19 percent of the world's extreme poor and 14 percent of the poor. Indigenous Peoples are nearly thrice as likely to be living in extreme poverty compared to their non-indigenous counterparts. More particularly, 18.2 percent of Indigenous Peoples live with an income below \$1.90 a day compared to 6.8 percent of non-indigenous people. Some of the causes is informal employment among Indigenous Peoples, obstacles to land ownership and overall the lack of access to natural, and productive resources. The other key factors are restricted access to education, care services and infrastructure. (ILO, 2019).

The UN Working Group on the Issue of Human Rights and Transnational Corporations and other Business Enterprises, raised concerns regarding Indigenous Peoples' situation and the absence of specific protection measures vis-à-vis their unique relationship with land and natural resources. Even in countries with specific legislation on the right of consultation, the Group has found that there is a need for clear guidelines and meaningful processes and that environmental human rights defenders and Indigenous Peoples' leaders, in particular, have been targeted when they have opposed development projects. (Working Group on the Issue of Human Rights and Transnational Corporations and other Business Enterprises, 2019)

The UN Working Group presented a report to the General Assembly stating that Indigenous Peoples are often disproportionately impacted by business-related activities and marginalised from the decision-making processes affecting their lands and resources. Furthermore, the UN Working Group urged states and business enterprises to commit to and respect UNDRIP and ILO Convention 169 and implement the Guiding Principles on Business and Human Rights.

▪ Indigenous Peoples' land rights under a strain: the cases of Latin America and Asia

Latin America

During the last two decades, propelled by the ratification of ILO Convention 169 and the rise of an organised Indigenous Peoples' movement, many Latin American countries² advanced with the recognition of Indigenous Peoples' collective rights in their national constitutions. Such legal recognition confer, among others, political, participatory and territorial rights to Indigenous Peoples, entitling different levels of autonomy over their ancestral lands, territories and resources. As for territorial rights, the recognition was given based on different administrative categories across the region, such as reservations (Colombia), territorial entities and circumscriptions of municipalities (Bolivia, Ecuador, Panama, Mexico, Peru and Nicaragua).

However, such legal acknowledgment of Indigenous Peoples' rights took place simultaneously when large land acquisitions intended for the exploitation of natural resources were boosting the region's economy with commodities exports. The Economic Commission for Latin America and the Caribbean (ECLAC) stated that the region accounted for 30 percent of the global foreign direct investment in mining in 2013 and 50 percent of copper projects worldwide (ECLAC, 2015). Also, ECLAC reported that 1,233 cases of conflict-related to Indigenous Peoples and territorial rights occurred between 2015 and the first semester of 2019 (ECLAC and FILAC, 2020).

As a result, Indigenous Peoples have faced forced evictions and displacement with extremely negative consequences on their collective rights and cultural identity. In some cases, Indigenous Peoples have sought protection claiming their rights in the national judiciary system. Still, when courts recognised Indigenous Peoples' rights, the implementation of judicial decisions was difficult due to lack of resources or administrative inconsistencies within the national land institutions in charge of enforcing them (See Oxford University, Bodleian Libraries; Herencia Carrasco, 2015). The pressure over land and resources has prompted Indigenous Peoples in Latin America to move to the cities in search of opportunities, making migration to urban centres an option for many. The impact of migration is illustrated in the ILO report that shows more than half of Indigenous Peoples in Latin America live in the cities. The report states that Indigenous Peoples in Latin America and the Caribbean constitute 11.7 percent of the total population and 29.8 percent of the extreme poor (ILO, 2019). The reports are based on 9 countries which represent 90 percent the Indigenous population residing in the region.

Asia

In Asia, Indigenous Peoples' organisations noted that one of the main concerns in the region is that many countries deny the existence of Indigenous Peoples' within their borders. UNPFII has pointed out that some countries either state that all their citizens are equally Indigenous or that

² Guatemala, 1985; Nicaragua, 1987; Brasil, 1988; Colombia, 1991; Paraguay, 1992; Perú, 1993; Argentina, 1994; México, 1994; Venezuela, 1999; Ecuador, 2008, and Bolivia, 2009.

there are no Indigenous Peoples in their countries. Thus, this context jeopardises the security of Indigenous Peoples' land tenure in the region and prevents progress in the legal implementation of international instruments that protect the rights of Indigenous Peoples in an unequivocal manner. In many cases, lands that have been used by Indigenous Peoples for centuries are considered empty or non-productive lands and are given to foreign investors or farmers, fuelling conflict and violence.

As in Latin America, in Asia as well, the last two decades marked an unprecedented economic growth of both regions. In Asia's case, the vast majority of the Indigenous Peoples live in rural areas (72.8 percent) and are highly dependent on forests and agriculture. The rapid industrialisation of the countries and mechanisation of agriculture have posed a threat to Indigenous Peoples' ways of living, pushing them to seek jobs in the informal economy. (ILO 2019).

However, in recent years, countries such as the Philippines, India, Indonesia, Malaysia, and Myanmar have advanced Indigenous Peoples' rights to land in national laws and policies. There have been difficulties in the implementation of such laws and policies due to the overlapping with other legal instruments and government institutions with conflicting mandates that recognize Indigenous Peoples' collective rights.

This relates with the fact that Indigenous Peoples' land rights in Asia have been deeply related to forest rights legislation. In many countries, forest conservation and environmental protection laws overlap or collide with Indigenous Peoples' use of forests and, therefore, deny land tenure security as per their customary rights.

For example, in the case of the Philippines, while the Indigenous Peoples' Rights Act 1997 (APRI) is considered a progressive law that protects Indigenous Peoples' rights to land and has granted Indigenous Peoples lands of up to 14 percent of the countries' surface land area, it overlaps with statutes related to agricultural lands, national protected areas, and mining, making it difficult in practice to assert ownership by Indigenous Peoples (United Nations Indigenous Peoples Major Group for Sustainable Development, 2019).

Along the same lines, in India, since the Indian Forest Rights Act (FRA) was approved in 2006 establishing the right to free, prior and informed consent of Indigenous Peoples; more than 3 million claims were filed due to the lack of enforcement of that statutory regulation, showing the extent of land tenure issues in the country. In 2019, the Supreme Court ordered the eviction of 2 million people, affecting the Adivasi people. The ruling responded to a demand filed by conservation groups demanding that forest remain protected and therefore claiming the non-use of forests for human purposes (United Nations Indigenous Peoples Major Group for Sustainable Development, 2019). In July 2019, the Special Rapporteurs on the Rights of Indigenous Peoples, Adequate Housing and the Issue of Human Rights Obligations relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment urged India to prevent evictions and "conduct a transparent and independent review of the rejected claims and to ensure (...) Indigenous Peoples are aggrieved." (Special Rapporteur on the right to adequate housing, 2019).

The existence of laws and policies that disregard Indigenous Peoples' rights has encouraged Indigenous Peoples to claim their rights before national courts. For example, in Indonesia and

Malaysia, positive results have opened windows of opportunities for Indigenous Peoples' access to land tenure. In Indonesia, the National Land Agency's data recorded around 8 000 land conflicts in the country in 2012 alone. In 2013, the Constitutional Court ruled in favour of Indigenous Peoples, recognising them as legitimate subjects of law with rights over land, territories and resources, including forests. The implementation of the ruling supposed regulations and budget allocations at the local and district level. In addition, in 2015, when the Prevention and Eradication of Forest Degradation and Forestry Act affected Indigenous Peoples' rights to food and became a source of violence, the same Court stated that Indigenous Peoples have the right to use forests for non-commercial purposes. According to Indigenous Peoples' organisations, the lack of free, prior and informed consent is the root cause of land conflicts in Indonesia.

Similarly, in Malaysia, Indigenous Peoples claimed their land rights before national courts, presenting as evidence their traditional knowledge, culture, and community maps, as evidence in a case against companies and the state. The court upheld the Dusun and Sungai peoples' rights to their lands. (UNMG, 2019).

▪ How land tenure insecurity and uncertainties affect the lives of Indigenous women, children and youth

Indigenous women are often the keepers of Indigenous Peoples' traditional knowledge over plants, medicines and sustainable practices of natural resources management and are responsible for the transmission of their traditional knowledge to younger generations. Also, Indigenous women are usually the main labor force in food production activities, being responsible for the provision of food, fodder, water and fuel. Regardless of the control, access and use of the collective lands and resources from Indigenous cultures, the loss of lands and forest has deep repercussions in Indigenous women's livelihoods (FAO, 2020c).

When lands are lost, Indigenous women are forced to migrate to urban areas or work as labour force in commercial intensive agriculture, in order to financially support their families while facing discrimination and being part of the informal economy. Indigenous women have particularly high informality rates constituting 25.6 percentage points more likely to work in the informal economy than their non-indigenous counterparts. (ILO, 2019).

Women and men are equally likely to be subjected to criminalization. Yet when the men are criminalised, Indigenous women are left behind in charge of the children and the elders without any income or resources (UNPFII, 2016). In consequence, all these factors have a tremendous negative impact on Indigenous women's physical autonomy and mental health (UN Women, 2018). Furthermore, Indigenous children and Indigenous youth are deeply affected by the insecurity of land tenure rights affecting their health, education and the possibility of making plans for their future. Globally, Indigenous Peoples aged 15 to 24 years are 12 percent more likely to be unemployed than non-indigenous youth (ILO, 2019). Indigenous youth have also stated that their mental health and well-being are affected due to the land tenure insecurity as their territory and land are the foundation of their identity and culture (Angel, 2016). As a result, the suicide rates among Indigenous children and Indigenous youth are growing, which has been a matter of concern for many years in North America (Wright, 2020).

Ensuring security of tenure and Indigenous Peoples' governance systems as preconditions for fulfilling Indigenous Peoples' rights and the attainment of peace

As presented above, criminalisation of Indigenous Peoples is continuously increasing. The United Nations Permanent Forum on Indigenous Issues (UNPFII) has noted that "land claim disputes were at the root of a large proportion of rights issues for most Indigenous Peoples. (...) In many cases, traditional institutions had been undermined and weakened by (...) the pressures of State models and structures" (UNPFII, 2020).

Similarly, Indigenous Peoples claim that land is the basis of Indigenous Peoples' culture and identity, but also that Indigenous Peoples' governance systems and institutions were centred on lands, territories and resources, characterised by rules and procedures for ownership, use and transmission and conflict resolution mechanisms (UNPFII, 2020).

Drawing on such affirmations, it is observed how Indigenous Peoples' territories and Indigenous Peoples' institutions and systems are intertwined, constituting their harmonised nature that holds their identity. In this order, disruption of those entities represents a matter of grave concern for Indigenous Peoples, impairing their livelihoods' sustainability and the continuity of their traditional knowledge and practices. Consequently, the lack of land tenure security and the disregard of Indigenous Peoples' customary systems and institutions are other problematics that become systemic and structural problems hindering the achievement of SDGs, especially SDG 16: Peace, justice and strong institutions, SDG 1: No Poverty and SDG 2: Zero Hunger.

▪ Legal protection of Indigenous Peoples' collective rights to land, territory, and natural resources

Lands, territory, and resources have spiritual, social, cultural, economic and political importance for Indigenous Peoples as sources of their identity and, ultimately, the preservation of their particular distinct cultures.

For Indigenous Peoples, the right to land refers to the right to possess, own, use, control and manage the physically occupied spaces according to their traditional practices, as well as areas destined for cultural tradition and subsistence activities. The exercise of those land-use practices and livelihoods are embedded in Indigenous Peoples' knowledge and belief systems governed by customary institutions.

Territory is where Indigenous Peoples display their culture and exercise their right to self-governance and self-determination (Inter-Agency Support Group on Indigenous Peoples' Issues, 2014). Indigenous Peoples' traditional territory is defined as "lands and waters traditionally occupied or used by Indigenous Peoples and local communities" (Convention On Biological Diversity, 2018). It has been mentioned that "Indigenous Peoples do not have rights

only to the land they directly cultivate or inhabit, but to the broader territory, encompassing the total environments of the areas which they occupy or otherwise use, inclusive of natural resources, rivers, lakes, and coasts" (Feirin, 2013). Furthermore, during the High-Level Expert Seminar on Indigenous Peoples' Food Systems in 2018 at FAO, the importance of Indigenous Peoples' territories was recognised as a fundamental element for the recognition of the Indigenous Peoples' food system and, therefore, their food security.

Using geospatial resources, the Center for International Forestry Research (CIFOR) reported in 2018 that Indigenous Peoples manage or have tenure rights for over more than 38 million km² in 87 countries (CIFOR, 2018). These Indigenous Peoples' territories intersect with 35 percent of all terrestrial protected areas, including water ecosystems and ecologically intact landscapes, holding 80 percent of the world's biodiversity (Sobrevila, 2008).

In 2019, the UN Permanent Forum on Indigenous Issues reaffirmed the significance of the entanglement between conservation and Indigenous Peoples asserting that Indigenous groups have maintained biodiversity for centuries while sustainably generating foods for and boosting the communities' livelihoods (UNPFII, 2019). To illustrate, evidence indicates that Indigenous Peoples' territories encompass 28 percent of the globe's surface (Garnett et al., 2018) and contain 11 percent of the world's forests. Within this 28 percent of the global surface, Indigenous Peoples are guardians to 80 percent of the world's remaining terrestrial biodiversity (Sobrevila, 2008). Remarkably, 45 percent of the remaining intact forests in the Amazon Basin are in Indigenous Peoples' territories (FAO and FILAC, 2021). Additionally, evidence has shown that a number of territorial and natural resource management practices, including forest management, shifting cultivation and some agroforestry systems are largely based on Indigenous Peoples' ancestral and traditional knowledge (Parrotta, Yeo-ChangYoun, and Diamante Camacho, 2016).

Thus, Indigenous Peoples' collective rights are interlinked with the environment and the survival of ecosystems. In this regard, the UNDRIP states in article 32 that Indigenous Peoples have the right to conserve and protect the environment and the productive capacity of their lands, territories, and resources. This collective dimension has also been recognised by the UN Human Rights Bodies in general recommendations related to health, stating the connection between Indigenous Peoples' nutrition and "breaking their symbolic relationship with their lands" (Committee on Economic, Social and Cultural Rights, 2000).

The international legal framework recognises Indigenous Peoples' access to land in the ILO Convention 169, more precisely in articles 14 and 15, and in article 26 of the UNDRIP. Both instruments state that Indigenous Peoples have the right to ownership and possession of lands, territories and natural resources traditionally owned, occupied or used. The ILO Convention 169 determines that the State is obliged to resolve Indigenous Peoples' land claims within the national legal system and respect the traditional procedures used by Indigenous Peoples to transmit their land rights.

In addition, article 10 of UNDRIP and article 6 of ILO Convention 169 establish that Indigenous Peoples cannot be forcibly removed from their land or territories and guarantee that relocation shall only take place with the free, prior and informed consent of Indigenous Peoples.

Furthermore, the UNDRIP and ILO Convention 169 enshrined Indigenous Peoples' right to meaningful participation in decision making with representatives chosen by themselves and the right to determine the means of development interventions of their concern. As an expression of the right to participation and information, Indigenous Peoples should be consulted and express their free, prior and informed consent before any measure, legislative or administrative that affects them is adopted.

FAO has defined land tenure security as the certainty that rights to land will be recognised by others and protected in cases of unique challenges. Therefore, the right to land entails protecting people against competing claims, forced evictions, harassment and the reassurance that the ability to access food and enjoy sustainable livelihoods is secured (FAO, 2002). It is evident that tenure's informality does not allow in itself the denial of tenure and does not justify forced eviction.

Likewise, regarding forced eviction, The United Nations Human Settlements Programme (UN-Habitat) and Office of the United Nations High Commissioner for Human Rights (OHCHR) have established a series of guidelines and basic principles to ensure that stakeholders respect human rights over a particular status regarding land, including ownership (UN Habitat and OHCHR, 2014). The guidelines establish specific measures for the protection of Indigenous Peoples in case of eviction.

▪ Indigenous Peoples' land rights and the right to food

Access to land is closely related to the right to adequate food, as recognized under article 25 of the Universal Declaration of Human Rights and article 11 of the International Covenant on Economic, Social and Cultural Rights.

"The right to adequate food is realized when every man, woman and child, alone or in community with others, has the physical and economic access at all times to adequate food or means for its procurement" (Committee on Economic, Social and Cultural Rights, 1999).

Natural resources are the main direct source of food for the majority of Indigenous Peoples. While land and water are central to food production, forest resources provide a basis for subsistence harvesting as well as for income-generating activities, e.g. through the collection and use of non-wood forest products. Thus Indigenous Peoples' right to food often depends closely on their access to and control over their lands and other natural resources in their territories. For many traditional communities, especially those living in remote regions, access to hunting, fishing and gathering grounds for their subsistence livelihoods is essential for ensuring their adequate nutrition, as they may have no physical or economic access to marketed food (Knuth, 2009).

There is therefore a key relationship between realising the right to food and improving access to natural resources which is also recognised by the Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security (Right to Food Guidelines) adopted by FAO Council in 2004. Right to Food Guideline 8.1 states, *inter alia*, that "[S]tates should respect and protect the rights of individuals with respect to resources such as land, water, forests, fisheries, and livestock without any discrimination" and

that "special attention may be given to groups such as pastoralists and Indigenous Peoples and their relation to natural resources". This Section recognizes the fundamental importance of securing rights regarding land and resources for Indigenous Peoples and highlights the need for special protection.

The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the context of national food security (VGGT) endorsed by the Committee on World Food Security in 2012, and which will be addressed in detail later on, provide that States should "ensure that policy, legal and organizational frameworks for tenure governance recognise and respect, in accordance with national laws, legitimate tenure rights including legitimate customary tenure rights that are not currently protected by law" (guideline 5.3).

The VGGT also provide that there are publicly-owned land, fisheries and forests that are collectively used and managed (in some national contexts referred to as commons), where States should, where applicable, recognise and protect such publicly-owned land, fisheries and forests and their related systems of collective use and management, including in processes of allocation by the State. (guideline 8.3).

In light of international law and the soft law instruments mentioned above, the human rights obligations related to the right to food imply that states must respect the existing access to and use of land and resources when such access and use represent the main means of production or procurement of food for Indigenous Peoples. Yet, very often traditional land and territories where Indigenous Peoples are not recognized as collective rights, and usually they are not in possession of land titles (Knuth, 2009b). As part of its obligations, states should also protect Indigenous Peoples rights to land from third parties by ensuring that adequate legal safeguards recognising their land rights and mechanisms to enforce those rights are in place.

Under the present crisis caused by the COVID-19 pandemic, such legal safeguards are even more important, as without them Indigenous Peoples are more easily exposed to eviction, forced migration and urban poverty, having an immediate impact on their food security and the realisation of the right to food.

While the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) does not contain a provision on the right to food, all the provisions related to land, territories and natural resources and subsistence activities, are directly relevant to the realisation of Indigenous Peoples' right to food. Together with the ILO Convention 169, and other international legal instruments, they establish concrete principles and obligations that States should observe as an essential element for the realisation of their right to food.

The relationship between the collective rights of Indigenous Peoples to land and the right to food has been widely developed not only in international instruments but also in a large number of judicial decisions at the national and regional levels, especially in the inter-American human rights system as well as in the African human rights system (Cruz, 2010) . In these rulings, courts have evidenced the direct and evident relationship between access to land and access to

food, highlighting the vital importance of this relationship for Indigenous Peoples who depend on access to natural resources for their subsistence³.

In this regard, the Special Rapporteur on the Right to Food has established that, for Indigenous Peoples, “the measures that the states are obliged to take in order to guarantee the access to productive resources that are key for their livelihoods should be complemented with the access to land, territories and resources, including access to fishing grounds, grazing grounds and water points for fisherfolk, herders and pastoralists, for whom the protection of commons is vital.” (Special Rapporteur on the Right to Food, 2010).

Therefore, for Indigenous Peoples’ land, forests, plants, water, land, fisheries and other natural resources are part of a holistic view of the territory and indispensable sources for their livelihoods and food systems.

▪ **Promoting and strengthening customary and Indigenous Peoples’ justice systems as a means to achieve SDG 16**

Access to justice implies the possibility to seek redress before an independent and competent court or appropriate and impartial mechanism. International instruments, and in particular, the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and the International Labour Organisation Indigenous and Tribal Peoples Convention 169 (ILO Convention 169) establish that Indigenous Peoples’ justice systems are integral to the internally recognised rights of Indigenous Peoples to self-determination and their own culture.

The UN Declaration provides in Art. 5 that “[I]ndigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State”. Arts. 34 and 35 also mention that Indigenous Peoples have the right to promote, develop and maintain their juridical systems and customs “in accordance with international human rights standards”. Indigenous Peoples are also entitled “to determine the responsibilities of individuals to their community”. The UN Declaration also provides the right to self-determination of Indigenous Peoples as a prerequisite for exercising other rights (Art. 38). ILO Convention 169 also protects Indigenous Peoples’ right to maintain their own customs and institutions in compatibility with the human rights standards. In case there is a conflict between the national legal system and the Indigenous legal system, appropriate procedure should be established (art. 8 (2)).

In this respect autonomy of Indigenous Peoples should be constantly taken into account. Art. 8 (1) prescribes – when applying national laws to the Indigenous Peoples – to include the latter’s customs and customary law. Art. 9 provides that “1. To the extent compatible with the national legal system and internationally recognised human rights, the methods customarily practised by the peoples concerned for dealing with offences committed by their members shall be

³ For an extensive elaboration on these cases, see the 2010 Report of the Special Rapporteur on the right to food which focuses on access to land and security of tenure (A/65/281).

respected. 2. The customs of these peoples in regard to penal matters shall be taken into consideration by the authorities and courts dealing with such cases" (Agnieszka, 2019).

The Constitution of Timor-Leste, Section 2 (4) acknowledges that "the State shall recognise and value the norms and customs of East Timor that are not contrary to the Constitution and to any legislation dealing specifically with customary law". Timorese people generally appropriate their customary practices as part of everyday life owing to its importance of resolving disputes between individuals and communities, such as land disputes, conflict between communities and natural resources management. Even though, neither the Constitution, the Penal Code nor other legislation has determined how such customs should be endorsed in practice, most conflicts are settled in the customary justice system at the hamlet (aldeia) or village (suco) level. Such customary justice practice is exercised by either the Lia Nain ("owners of words" in Tetum), who are traditional leaders and community authorities on spiritual and traditional law matters, or the elected suco council according to customary rules established by the local community. The Lia Nain is the transmitter of traditional knowledge from the ancestors to the present generation. The rules are based on spiritual traditions of sacred practice which for many centuries have regulated community relationships. Special Rapporteur on the Rights of Indigenous Peoples, 2019b.

However, evidence suggests that Indigenous Peoples are often less likely to receive favourable rulings than non-indigenous litigants and even in cases where courts rule in favour of an Indigenous person or community, the judgements are far less likely to be enforced. Several recurring issues arise globally and continue to cause deep concern about Indigenous Peoples individual and collective rights as regards to access to justice and the right to maintain distinct customary legal systems.

The Special Rapporteur on the Rights of Indigenous Peoples upholds that Indigenous Peoples' justice as part of Indigenous Peoples' everyday life is recognised for effectively resolving disagreements "between Indigenous individuals and communities, such as land disputes, management of natural resources, and protection of the environment" (2019a, 6).

Recognition of the traditional justice systems and customary laws of Indigenous Peoples varies throughout the world, but remains generally limited. While numerous countries recognise legal pluralism at the constitutional level, in practice the interaction between legal systems frequently remains ad-hoc and is strained by discriminatory attitudes and a lack of acknowledgement of the potential contribution of Indigenous Peoples' juridical systems to equal access to justice.

Indigenous Peoples' justice systems, laws and customs are characterised by: i) being founded not on codification or judicial precedents, but rather on Indigenous Peoples' customs, oral histories, uses and cosmovision; ii) seeking the restoration of equilibrium with the environment and the harmonization of relations within the community, family or clan; iii) composing

controversies within the community by redressing victims and assuring the reintegration of offenders rather than by way of retribution; iv) articulating natural laws closely connected with Indigenous Peoples' sacred territory and traditional lands; and v) being procedurally and substantively regulated by their particular set of Indigenous law, by particular traditional authorities, and in the related language, all of which contributes to providing a less threatening environment for the parties to convene.

The goal of Indigenous restorative justice is to promote peace, heal the network of relationships of those involved, including the parties, families and members of the community; and eradicate political, spiritual and emotional injustices (See Ross, 1996, 5; Alfred, 1999, xiv, 42; and Giff, 2001, 70).

The Special Rapporteur on the Rights of Indigenous Peoples (2019a) has pointed out that Indigenous Peoples' courts and customary mechanisms exist in many countries, but they are frequently not recognised by the State legal system. Such lack of recognition is caused by a fundamental disregard of the significance of Indigenous Peoples' justice as part of Indigenous Peoples' everyday life. The Special Rapporteur has also raised the lack of effective recognition of their systems of justice by local, regional and national authorities, ongoing discriminatory and prejudicial attitudes against Indigenous

Peoples in the ordinary justice system and their distinct Indigenous Peoples' systems of justice; inadequate redress and reparation; and the lack of effective coordination between Indigenous Peoples' justice systems and the state justice authorities.

Despite their long usage, there are challenges associated with the administration of Indigenous Peoples' justice. For instance, in the Indigenous Peoples' justice system, hearings are frequently carried out in public, which may be unsuitable for some crimes. Some customary justice practices may entail physical punishments in contravention of international human rights standards. Additionally, other difficulties rely on the paramountcy of some collective concerns over individual rights and the existence of unwritten customary laws that may vary among communities, which may lead to clashes of jurisdictions especially regarding criminal cases (Special Rapporteur on the Rights of Indigenous Peoples (2019a)).

In Central and South America and the Caribbean region, in 2008, the Ecuadorian Constitution i) recognised an Indigenous Peoples' legal system (art. 57); ii) granted jurisdictional functions to Indigenous Peoples limited by the constitution and international treaties and oriented by the principles of cooperation and coordination; iii) conceded equal hierarchy between Indigenous and ordinary justices; and iv) obliged to respect women's rights (art. 171). Meanwhile, in 2009, Bolivia adopted a new constitution that recognised an Indigenous jurisdiction (*jurisdicción indígena originaria campesina*) characterized for i) being ruled by its cosmovision, customary law, and own Indigenous authorities and respectful of the constitution's rights (Art. 30.II.14 and 190); ii) having equal hierarchical status with the ordinary jurisdiction (Art. 179); and iii) having competence over actions committed by Indigenous Peoples either within the Indigenous community or outside of them in case those have effects within their jurisdiction (Art. 191).

In Guatemala, Indigenous authorities in Totonicapán signed an agreement in 2004 with local justice officials that reaffirms the right of Indigenous authorities to issue decrees and carry out sanctions within the community and recognise the validity of these decisions as long as they do not violate fundamental

In addition, the Expert Mechanism on the Rights of Indigenous Peoples (2014) pointed out the risk of Indigenous Peoples subjected to prosecution for the same alleged actions under both legal systems and the State and Indigenous Peoples' justice system. Such a scenario brings the discussion of which jurisdiction should be paramount, which compel to develop measures to overcome those jurisdictions' overlapping.

Furthermore, there are also some boundaries to exercise the jurisdiction of Indigenous Peoples' judicial systems. These include, among others, the difficulties in the availability of interpreters; requirements of formal legal training to the people who administer traditional justice and certification of expert elders; the lack of awareness of public employees, especially judicial officials about Indigenous Peoples' rights to administer their own justice practices; the lack of capacity building within some Indigenous Peoples to perform their own system; and the subordination of Indigenous Peoples' justice systems to ordinary justice systems. In some cases, customary laws are recognised with limitations, as long as they do not contradict domestic and international laws. In this respect, the UNDRIP requires only compliance with international human rights standards but not with national systems (Special Rapporteur on the Rights of Indigenous Peoples, 2019a). On the other hand, another concern about criminalisation of Indigenous Peoples is the negative consequences derived from their submission to state prison systems. This causes a cultural detachment, as Indigenous Peoples are deprived of their way of life, land and livelihood and are subject to estranging dynamics and acts of discrimination, affecting many of their essential cultural traits, such as their diet or language. Additionally, these circumstances would not allow them to perform spiritual rituals and the traditional redress process, usually mandated and guided by the traditional authorities in order to restore the natural equilibrium broken by the offense.

Furthermore, the importance of Indigenous Peoples' justice is strongly supported when one considers its contribution to the following purposes: i) decreasing the caseload before ordinary jurisdictions, owing to the transfer of competence to Indigenous Peoples' authorities, which would allow more people to access justice; ii) scaling down the crime rate and ultimately prevent it, as a result corroborated by the reduction of criminality in jurisdictions where Indigenous Peoples administer their justice institutions; iii) facilitating access to justice for Indigenous Peoples because of their cultural relevance, availability and proximity, especially in contexts where access to domestic State systems could be limited due to distance, language barriers, costs, systemic discrimination, lack of legal aid and knowledge of one's own rights in the legal system.

In Australia, the Children's Koori Court in Victoria deals with young Koori people who have been found guilty of committing a criminal offence. Elders and respected persons of the Koori community are involved as advisors in the court process. They provide cultural advice to the Judge or Magistrate concerning the young person's situation and dialogue with the person about his or her situation. This program seeks to adapt proceedings to a more culturally appropriate approach aiming to reduce offending behavior and the number of young Koori people imprisonment (Children's Court of Victoria, n.d.). In New Zealand, The Hōkai Rangi strategy aims to address the significant over-representation of Māori in the corrections system by lowering the proportion of Māori in prison and the disproportionate recidivism rates and uplifting the well-being of Māori and their whanau/family. The strategy results from external consultations with Indigenous Peoples and stakeholders and internal engagement within Ara Poutama Aotearoa (Ara Poutama Aotearoa/the Department of Corrections, 2019.)

Given the worrying escalation of problems that Indigenous Peoples have to face owing to the lack of recognition and protection of their rights, Indigenous Peoples' justice systems can contribute to tackle the systemic problem of Indigenous Peoples' imprisonment. Such institutions should be considered an effective channel for community members to seek redress for breaking their own law, considering the systems' capability to solve disputes of different kinds and even to handle accusations of criminality directed against Indigenous Peoples. Nonetheless, this proposal requires a great effort, willingness and commitment by states, organisations, agencies, the private sector and all actors involved. For this reason, it is crucial to take concrete steps to not only recognise the existence of Indigenous Peoples legal systems, but also to make them accessible, effective, and efficient by providing adequate avenues. To start with, it is necessary to review and, where necessary, amend relevant legislation and to supervise its implementation and enforcement to ensure compliance with international human rights law and to avoid any kind of barriers that may hinder or limit unduly the ability of Indigenous human rights defenders to exercise their work.

FAO's role in supporting Indigenous Peoples and countries in achieving SDG 16

- **The role of soft law: the VGGTs as an avenue to prevent conflict and secure land tenure for Indigenous Peoples**

The VGGTs promote an approach that shifts from the traditional concept of production to an approach of sustainable use and governance of natural resources in line with the collective rights' view of Indigenous Peoples.

The VGGTs call upon States to respect and promote customary approaches used by Indigenous Peoples and other communities with customary tenure systems to resolve tenure conflicts within their societies "consistent with their existing obligations under national and international law, and with due regard to voluntary commitments under applicable regional and international instruments" (7-8). For land, fisheries and forests that are used by more than one community, means of resolving conflicts between communities should be strengthened or developed.

Even though, the VGGTs are not legally binding, they have emerged as soft law by offering a framework of guidance to implement existing international human rights legally recognised by States; such as the International Covenant on Civil and Political Rights, the International Covenant on Social, Economic and Cultural Rights and the International Convention on the Elimination of All Forms of Racial Discrimination, along with the specific international legal framework that protects Indigenous Peoples' rights: the International Labour Organization Convention 169 and the United Nations Declaration on the Rights of Indigenous Peoples.

The VGGTs also recognise the importance for States and other parties to consider additional measures to support vulnerable or marginalised groups who could not otherwise access administrative and judicial services. Measures should include legal support, such as affordable legal aid as well as the provision of paralegal or para-surveyor services and mobile services for remote communities and mobile Indigenous Peoples.

The VGGTs include the rule of law as one of the principles of implementation that are essential to contribute to responsible governance of tenure of land, fisheries and forests. The VGGTs establish the principle of the rule of law in Guideline 3 B, Principle 7: "Rule of law: adopting a rules-based approach through laws that are widely publicised in applicable languages, applicable to all, equally enforced and independently adjudicated, and that are consistent with their existing obligations under national and international law, and with due regard to voluntary commitments under applicable regional and international instruments".

Moreover, the VGGTs recognise the importance of respecting and protecting the civil and political rights of human rights defenders, peasants, Indigenous Peoples, fisherfolks, pastoralists and rural workers. The VGGTs call States to observe their human rights obligations when dealing with individuals and associations acting in defence of (their) land, fisheries and forests. Given that all human rights are universal, indivisible, interdependent and interrelated, the governance

of tenure of land, fisheries and forests should not only take into account rights that are directly linked to access and use of land, fisheries and forests, but also all civil, political, economic, social, and cultural rights.

- **Free, Prior and Informed Consent, a working principle for FAO projects with Indigenous Peoples**

In 2010, FAO's Policy on Indigenous and Tribal Peoples recognised the Free, Prior and Informed Consent (FPIC) as a core principle for FAO's work with Indigenous Peoples. Currently, FPIC is required in all FAO's projects and programmes that could affect Indigenous Peoples as it is a pre-condition for internal approval and budget allocation.

In 2012, in the context of the VGGTs, States have committed to hold good faith consultation with Indigenous Peoples before initiating any project or before adopting and implementing legislative or administrative measures affecting the resources for which the communities hold rights. Such projects should be based on an effective and meaningful consultation with Indigenous Peoples, before and during the life of a project, through their own representative institutions in order to obtain their free, prior and informed consent under the UNDRIP and with due regard for particular positions and understandings of individual States. Consultation and decision-making processes should be organised without intimidation and be conducted in a climate of trust (VGGTs, 2012, 9.9)

Furthermore, investors have the responsibility to abide by national law and legislation, and recognise and respect tenure rights of others and the rule of law in line with the general principle for non-state actors as contained in these Guidelines. Investments should not contribute to food insecurity and environmental degradation. (VGGTs, 2012, 12.12)

In this context, as requested by Indigenous peoples and resource partners FAO adopted in 2016 the Free Prior and Informed Consent Manual and introduced and made compulsory FPIC in projects and programmes.

FAO has also developed technical guidelines and has helped governments in developing instruments to implement consultations processes in the framework of the VGGTs. In countries like Guatemala, extensive processes of participation and technical advice have taken place in recent years.

- **The role of technology and geo-referencing for land demarcation and tenure of Indigenous Peoples**

Technology and open data can play a key role in making Indigenous Peoples' lands, territories and natural resources visible. It can serve as a quicker and less expensive means to protect Indigenous Peoples' rights from invasions and illegal land appropriation by third parties.

FAO has experience working with Indigenous Peoples monitoring and assessing forests and natural resources (FAO, n.d.). In particular, forestry monitoring using technology has been an important avenue of knowledge for the tenure of Indigenous Peoples' territories and natural

resources (Tenure Facility, 2019). The forestry monitoring mechanisms have shown the importance of training Indigenous Peoples to efficiently monitor their lands, providing technology and building capacities that remain within the territories.

In addition, FAO has developed the Open Tenure application, which supports a crowdsourcing approach to collecting tenure-related data carried out by communities. Open Tenure could be used with little to no modification as an in-the-field map and data recorder as a tool in support of systematic registration; building permit inspection; regulated spatial planning; land consolidation; restitution; expropriation; logging disputes and their resolution; digital lodgement for property; registration; property valuation; climate change consequences.

The Open Tenure application was tested in Sierra Leona and the data gathered with it is currently supporting the enforcement of a judicial sentence that ruled in favour of Indigenous women in a case of restitution of their ancestral lands in Guatemala (FAO, 2020b).

- **Natural resources management and Indigenous Peoples' biocentric restoration**

Through its technical divisions, FAO works closely in the conservation of biodiversity and the sustainable use of natural resources. In the SDGs' framework, the planet and people are at the centre of all its interventions. In this regard, forests, water, land and fisheries interact for the sustainable management of territories and countries sustainable development. For example, regarding fisheries, the Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication (SSF) provide guidelines that have been applied for Indigenous Peoples in Central America to share experiences and organize in a regional network.

To address the issue of conservation, which has been at the centre of forced evictions and denial of access to Indigenous Peoples' land in many countries, FAO with Indigenous Peoples has developed the Indigenous Peoples' biocentric approach. With this approach, Indigenous Peoples restore and conserve their territories by applying an adequate blending of new technologies with ancestral knowledge and practices that have allowed them to use and conserve their territories sustainably. Indigenous Peoples will lead the restoration and conservation processes rooted in their traditional food and territorial management systems. Such an approach will facilitate the transmission of traditional knowledge from Indigenous elders to their youth – through permanent dialogue mechanisms; such as Schools of Life. It will also foster the development capacity of Indigenous women and their full involvement in decision-making processes and project activities. It will also contribute to secure Indigenous Peoples' collective and individual rights to access and use their traditional territories, natural resources and lands and systematize different Indigenous Peoples' food systems.

- **Facilitate policy dialogue between the governments and Indigenous Peoples**

FAO supports and promotes policy dialogue between Indigenous Peoples and governments. These dialogues are based on the core principle that Indigenous Peoples should participate in

decision-making processes that affect them in equal conditions with governments and other stakeholders. In this regard, consistent with the international framework on Indigenous Peoples and oriented by the principle of Free, Prior and Informed Consent, FAO has facilitated policy dialogues between Indigenous Peoples and governments of Colombia, Paraguay, El Salvador, Panama, and Indonesia.

As a result, national policies and plans were approved after carrying out consultation processes based on the agreed-upon methodologies between Indigenous Peoples and government representatives. Some initiatives that FAO has supported are the National Action Plan for Indigenous Peoples established in 2018 by El Salvador and the Indigenous Peoples' National Plan adopted in 2021 by the Government of Paraguay. The latter initiative was started by FAO in 2016.

These initiatives show that it is possible to build bridges and facilitate areas of work in order to find common grounds between Indigenous Peoples and governments (Secretario de Cultura de la Presidencia, 2015).

- **The importance of data: establishing dialogue between statisticians and Indigenous Peoples**

A coordinated mechanism of data analysis with the participation of Statistics Institutes, Human Rights Institutes, and Indigenous Peoples' authorities and organisations working together could serve as a way to maintain public systems for the collection of quantitative data on criminalisation of Indigenous Peoples; and Indigenous imprisonment disaggregated by levels of arrest, crimes, convictions, incarceration, judgments, Indigenous status, gender and age and understand how this criminalisation relates to land and other natural resources issues.

FAO has worked with Indigenous Peoples' authorities and organisations and statistics institutes and governments in developing local methodologies that adapt the food insecurity experience scale to the culture and mindset of Indigenous Peoples. In 2018, FAO carried out three successful pilots in Indigenous Peoples' territories in Panama and El Salvador.

- **Creating an online legislative database on Indigenous Peoples' rights**

In recent years, in many countries, a more protective legal and policy framework with relation to Indigenous Peoples has been established. However, for Indigenous Peoples, the legislation is not always easy to access and/or use in reclaiming their rights.

For that reason, FAO is developing a comprehensive and up-to-date legislative and policy database related to Indigenous Peoples rights in the context of food and agriculture, including their collective rights to land, territories and other natural resources. This initiative is driven by FAO's interest in improving current access to legislation on Indigenous Peoples in the context of FAO's mandate. The use of the database by Indigenous Peoples, member countries and stakeholders will contribute to the implementation and enforcement of the legislative frameworks that protect and recognise Indigenous Peoples' rights.

The global legislative database specialized on Indigenous Peoples is unique considering its wide geographical coverage across all areas of work in FAO; namely, food security and nutrition, land and water tenure, forestry, fisheries and aquaculture, climate change and biodiversity conservation.

- **Join forces with UN partners and allies to raise awareness on Indigenous Peoples' access to justice**

Coordination among the UN is a pillar of FAO's work with Indigenous Peoples. The activities related to this pillar are of particular significance and they support liaison with UN agencies and UN Indigenous mechanisms, amongst others.

Despite its mandate not being intrinsically related to justice and the rule of law, FAO is supportive of UN efforts and the initiatives of Indigenous Peoples' organisations and universities to raise awareness and build capacity on Indigenous Peoples' rights.

FAO has delivered trainings on Indigenous Peoples' rights and FPIC to improve access to land and natural resource management. From a legal perspective, FAO promotes and provides technical support to countries in the development of legislation that is respectful of international law and international standards applicable to Indigenous Peoples. Giving the lack of training judges, lawyers, prosecutors and law enforcement officials on Indigenous Peoples' justice systems, FAO considers that training this personnel and creating universities curricula on Indigenous Peoples' rights is of great importance. For instance, the Special Rapporteur on the rights of Indigenous Peoples urges States to “include compulsory training on the status, concepts and methods of Indigenous [Peoples'] justice (...) recognizing Indigenous [Peoples'] justice systems as a right” (2019a, 19).

Conclusions: findings and ways forward on sustainable development goal 16, Indigenous Peoples and FAO mandate

Evidence suggests that Indigenous Peoples' enjoyment of peace and access to justice is being affected by:

- **The lack of recognition of Indigenous Peoples**

In spite of the existence of a solid international legal framework regarding Indigenous Peoples' rights, there are some countries in which Indigenous Peoples do not have a constitutional nor legal recognition as such. The absence of effective legal recognition of Indigenous Peoples as peoples allows states to take unilateral actions in complete disregard of the rights of the Indigenous Peoples living on those lands.

FAO considers that recognising the existence of Indigenous Peoples is the first step to guarantee Indigenous Peoples' rights and protect their lives and well-being.

- **The lack of recognition of Indigenous Peoples' collective rights and the disregard of Indigenous Peoples' traditional land use and access**

In many countries, there is recognition of Indigenous Peoples. However, It may be that such recognition does not grant Indigenous Peoples collective rights to lands, territories, and resources. In turn, Indigenous Peoples are deprived of accessing and using their traditional and ancestral rights and, thus, their livelihoods and means of life.

Considering that one of the underlying causes of the criminalisation of Indigenous Peoples is the insecurity of tenure rights, the security of tenure of land, territories and resources is essential in order to realise Indigenous Peoples' right to peace, justice, and adequate food.

FAO urges the member states to implement mechanisms that guarantee Indigenous Peoples' secure tenure over their lands, territories and resources. The VGGTs and FAO's expertise on this subject can provide countries with support in achieving this objective.

- **The intensified competition over natural resources and the escalation of extractive projects and investments in the context of climate change**

The exploitation of natural resources is affecting Indigenous Peoples' lives across the world. On this regard, participation of Indigenous Peoples is fundamental to achieve peace and avoid conflict. According to the international legal framework, Indigenous Peoples have the right to be consulted and provide their free, prior and informed consent in all the investments that affect

or may affect their territories, resources and rights. In this regard, FAO has experience providing FPIC training to different actors and has also implemented the FPIC in several countries. Therefore, FAO can provide technical assistance to countries and Indigenous Peoples on this matter.

Furthermore, integrating Indigenous Peoples in the development agendas and hearing their voices and views on sustainable development could be the key to achieving peace. Taking into account that Indigenous Peoples are keepers of a vast part of the world's remaining biodiversity, their knowledge is of significant value to us all and close attention ought to be paid to what they have to contribute.

- **The adoption of incoherent and contradictory laws or policies undermining Indigenous Peoples' rights**

FAO recommends to review and, if applicable, amend relevant legislation to ensure compliance with international human rights law avoiding any kind of legal barriers that may hinder or limit unduly the ability of Indigenous Peoples to exercise their rights.

On the other hand, when legislation protecting Indigenous Peoples is already in place and administrative and legal institutions have been created and are operative, it is crucial to avoid overlapping legislation and administrative functions on the detriment of Indigenous Peoples' rights. It is a human rights principle that laws which have entered in force protecting human rights cannot be repealed by legislation that would abolish those rights or provide less protection.

FAO is ready to provide assistance to countries upon request on the revision and development of legislation to ensure protective laws and avoid the overlapping of legislation.

- **The lack of legal recognition and effective coexistence between the state and Indigenous Peoples' justice systems**

FAO considers crucial to promote the effective use of Indigenous Peoples' justice in cases where such jurisdiction applies and strengthen the collaboration between both judicial systems.

Most of the relevant offenses allegedly committed within Indigenous Peoples' territories and their charges are mainly related to Indigenous Peoples' land, territory, and resources, usually in the guise of trespassing, unlawful association, perturbation of public order, robbery, coercion and usurpation.

In this respect, Indigenous Peoples should be allowed to appeal to their justice systems in order to investigate and adjudicate, following their own law and customary practices. While this might not solve the underlying cause of the problem, it would certainly help tackle the worrying escalation of Indigenous Peoples' criminalisation.

There may be some shortcomings in both the state justice system and the Indigenous Peoples' justice system, among which there are a few controversial customary justice practices adopted

by Indigenous Peoples. Notwithstanding, it is important to recognise that Indigenous Peoples' customary justice systems hold added value with respect to the state system, as their foundations are built on Indigenous customs, oral histories, uses, and worldview, as well as on their close relationship with sacred territory and traditional lands.

Finally, Indigenous Peoples' justice systems may play a crucial role in preventing crime by decreasing the caseload before ordinary jurisdictions, so that more people can benefit from having access to justice; reducing the imprisonment of Indigenous Peoples; and, at the same time, guaranteeing Indigenous Peoples access to justice systems based on customary law. Ultimately, it is an avenue to enhance their identity, customary law, governance, and self-determination as well as to tackle clashes of jurisdictions and different worldviews.

Final remarks

This paper has highlighted the intrinsic relationship that exists between Indigenous Peoples, territories and resources, and SDG 16 on peace justice and strong institutions. Thus, the achievement of SDG 16 is a precondition to fulfill the entire SDGs in the light of the 2030 Agenda.

The increasing rate of violence, criminalisation, and threats against Indigenous Peoples worldwide is of great concern for FAO. This phenomenon poses a risk for peace and the achievement of the Sustainable Development Goals. Furthermore, in times of COVID-19, evidence is showing a worrisome regression of the legal protection of Indigenous Peoples' rights in many countries, exacerbating existing vulnerabilities to land tenure insecurity and food insecurity.

Therefore, the increased criminalization and killings of Indigenous Peoples and human rights defenders require urgent action from states to ensure the effective implementation of international Indigenous Peoples' framework and standards at the national level. In light of the 2020 call of the Chief Executives Board for Coordination, the United Nations system should also take action to support the protection of Indigenous Peoples, boosting national efforts to address conflicts involving Indigenous Peoples by promoting specialized prevention.

In this regard, to prevent criminalization and violence against Indigenous Peoples is crucial to acknowledge the existence of Indigenous Peoples within countries' borders, granting them constitutional or legal recognition as such. Furthermore, it is essential to recognize and ensure the full and effective exercise of collective rights to land, territory and resources as a critical condition for implementing the right to self-determination as enshrined in UNDRIP and the other international treaties. The legal protection of the collective rights of Indigenous Peoples implies not only respecting their collective rights to land, territory and natural resources, which is at the core of FAO's mandate, but also their right to exercise their justice and governance systems.

It is observed that due to criminalisation, the rate of Indigenous Peoples' imprisonment is growing since they cannot exercise their judicial system but are judged by ordinary courts. To reduce those rates, the respect for Indigenous Peoples' institutions, justice systems and customary law within the framework of legal pluralism is needed as an intrinsic part of SDG16. The achievement of peace depends precisely on this.

In order to adopt effective actions, FAO is committed to preventing violence and criminalization against Indigenous Peoples. In this respect, FAO will continue providing technical assistance to countries on VGGTs. The VGGTs are an excellent avenue for states to prevent conflict, ensure legal protection, and secure land tenure for Indigenous People. FAO will remain to raise awareness, provide training on FPIC to governments and Indigenous Peoples, and support and promote policy dialogue between Indigenous Peoples and governments to ensure Indigenous Peoples' participation in decision-making processes and the adoption of measures towards the realization of their rights.

References

- Angel, D. 2016. UNPFII15 - Indigenous Youth Overcoming the Challenges of Self Harm and Suicide Press Conference. New York. [Cited 20 November 2020] https://www.youtube.com/watch?v=JV79MvHThKw&ab_channel=UNDESADISD
- Ara Poutama Aotearoa Strategy 2019–2024. (also available at https://www.corrections.govt.nz/_data/assets/pdf_file/0003/38244/Hokai_Rangi_Strategy.pdf)
- Ara Poutama Aotearoa/the Department of Corrections , 2019. Hōkai Rangi Australian Law Reform Commission. 2018. Disproportionate incarceration rate. (also available at <https://www.alrc.gov.au/publication/pathways-to-justice-inquiry-into-the-incarceration-rate-of-aboriginal-and-torres-strait-islander-peoples-alrc-report-133/executive-summary-15/disproportionate-incarceration-rate/>)
- Alfred, Taiaiake. 1999. Peace, Power, Righteousness. And Indigenous Manifesto. Don Mills: Oxford University Press.
- Children's Court of Victoria. n.d. Koori Court. The Children's Koori Court deals with young Koori people who have been found guilty of committing a criminal offence. [Cited 25 August 2020]. . <https://www.childrenscourt.vic.gov.au/criminal-division/koori-court>
- CIFOR. 2018. A spatial overview of the global importance of Indigenous lands for conservation. (also available at <https://www.cifor.org/knowledge/publication/6991/>)
- Committee on Economic, Social and Cultural Rights. 1999. CESCR General Comment No. 12: The Right to Adequate Food (Art. 11). (also available at <https://www.refworld.org/pdfid/4538838c11.pdf>)
- Committee on Economic, Social and Cultural Rights. 2000. CESCR General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12). (also available at <https://www.refworld.org/pdfid/4538838d0.pdf>)
- Convention On Biological Diversity (CBD). 2018. Glossary of relevant key terms and concepts within the context of Article 8(j) and related provisions. (also available at <https://www.cbd.int/doc/decisions/cop-14/cop-14-dec-13-en.pdf>).
- Cruz, L. 2010. Responsible Governance of Land Tenure: an essential factor for the realization of the Right to Food. Land Tenure Working Paper. Rome, Italy. (also available at <http://www.fao.org/publications/card/en/c/48f2c4a0-f7b0-5700-979e-783c3c1cbc69/>)
- Department of Justice of Canada, 2018. <https://www.justice.gc.ca/eng/rp-pr/jr/oip-cjs/p3.html>
- Environmental defenders in 2017 (also available at <https://www.globalwitness.org/en/campaigns/environmental-activists/at-what-cost/>)
- Expert Mechanism on the Rights of Indigenous Peoples. 2014. Access to justice in the promotion and protection of the rights of Indigenous Peoples: restorative justice, Indigenous juridical systems and access to justice for Indigenous women, children and youth, and persons with disabilities. A/HRC/27/65. (also available at <https://undocs.org/A/HRC/27/65>)

FAO. n.d. Community-based forest monitoring in Indigenous territories in Panama. Rome. [Cited 08 April 2020] www.fao.org/indigenous-peoples/our-work/monitoring-forests/es/

FAO. 2002. Land Tenure and rural development, number 3. (also available at <http://www.fao.org/3/y4307e/y4307e00.htm>)

FAO. 2004. Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security. Rome. (also available at <http://www.fao.org/3/y7937e/y7937e.pdf>).

FAO. 2009. Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the context of national food security (VGGTs). Rome. (also available at <http://www.fao.org/policy-support/mechanisms/mechanisms-details/en/c/448858/#:~:text=The%20Voluntary%20Guidelines%20on%20the,sustainable%20development%20and%20enhancing%20the>)

FAO. 2020a. Policy brief COVID-19 and Indigenous Peoples. (also available at <http://www.fao.org/policy-support/tools-and-publications/resources-details/en/c/1307959/>)

FAO. 2020b. Herramientas tecnológicas para el registro de tierras: la experiencia en Sierra Leona traducida en Guatemala [online]. Guatemala. [Cited 22 May 2020] www.fao.org/guatemala/noticias/detail-events/en/c/1293815/

FAO. 2020c. Indigenous women, daughters of Mother Earth. Rome, FAO. 16 pp. (also available at <http://www.fao.org/3/cb0719en/CB0719EN.pdf>).

FAO and FILAC. 2021. Forest governance by Indigenous and Tribal Peoples. An opportunity for climate action in Latin America and the Caribbean. Santiago. FAO. (also available at <http://www.fao.org/publications/card/es/c/CB2930EN/>)

Feiring, B. 2013. Indigenous Peoples' rights to lands, territories and resources. International Land Coalition, Rome. (also available at <https://www.landcoalition.org/en/resources/indigenous-peoples-rights-to-lands-territories-and-resources/>)

Forest Peoples Programme, Middlesex University, & Lowenstein International Human Rights Clinic Yale Law School. 2020. Rolling back social and environmental safeguards in the time of COVID-19. The dangers for Indigenous Peoples and for tropical forests. 66 pp. (also available at <https://www.forestpeoples.org/sites/default/files/documents/Rolling%20Back%20Social%20and%20Environmental%20Safeguards%20-%20Global%20Report%20ENGLISH%20FINAL.pdf>)

Garnett, S.T., Burgess, N.D., Fa, J.E., Fernández-Llamazares, Á., Molnár, Z., Robinson, C.J., Watson, J.E., Zander, K.K., Austin, B., Brondizio, E.S. and Collier, N.F., Duncan, T., Ellis, E.,

Giff, Naomi. 2000. The Aboriginal Justice Strategy: Trends in Program Organization and Activity. Ottawa: Department of Justice.

Global Witness. 2016. On Dangerous Ground. (also available at <https://www.globalwitness.org/en/campaigns/environmental-activists/dangerous-ground/>)

Global Witness. 2017. Defenders of the earth. (also available at <https://www.globalwitness.org/en/campaigns/environmental-activists/defenders-earth/>)

Global Witness. 2018. At What Cost? Irresponsible business and the murder of land and

Global Witness. 2019. Enemies of the State? How governments and business silence land and environmental defenders. (also available at <https://www.globalwitness.org/en/campaigns/environmental-activists/enemies-state/>)

Global Witness. 2019. Spotlight on Criminalisation of Land and Environmental Defenders. (also available at <https://www.globalwitness.org/en/press-releases/spotlight-criminalisation-land-and-environmental-defenders/>)

Global Witness. 2020. Defending Tomorrow (also available at <https://www.globalwitness.org/en/campaigns/environmental-activists/defending-tomorrow/>)

Herencia Carrasco, Salvador. 2015. Public Interest Litigation in the Inter-American Court of Human Rights: The Protection of Indigenous Peoples and the gap between legal victories and social change. *Revue québécoise de droit international/Quebec Journal of International Law/Revista quebequense de derecho internacional* 1: 199-220.

Inter-Agency Support Group on Indigenous Peoples' Issues (IASG). 2014. Thematic Paper on Lands, Territories and Resources. 2014 World Conference on Indigenous Peoples. (also available at <https://www.un.org/en/ga/69/meetings/indigenous/pdf/IASG%20Paper%20%20Lands%20territories%20and%20resources%20-%20rev1.pdf>)

Interamerican Commission on Human Rights. 2015. Criminalisation of the Work of Human Rights Defenders / Inter-American Commission on Human Rights. Washington, DC. (also available at <http://www.oas.org/en/iachr/reports/pdfs/criminalization2016.pdf>)

International Labour Organization (ILO). 2019. *Implementing the ILO indigenous and tribal peoples convention No. 169: towards an inclusive, sustainable and just future*. Geneva, Switzerland. (also available at https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_735607.pdf).

IPBES. 2019. Global Assessment report on Biodiversity and Ecosystem Services. (also available at <https://ipbes.net/global-assessment>)

Knuth, L. 2009. *The Right to Food Guidelines and Indigenous Peoples: an Operational Guide*. Rome, Italy. (also available <http://www.fao.org/right-to-food/resources/resources-detail/en/c/164792/>)

Knuth, L. 2009b. The right to adequate food and Indigenous Peoples, Rome, Italy. (also available <http://www.fao.org/right-to-food/resources/resources-detail/en/c/49280/>)

Land Tenure Facility. 2019. Landmark decision accelerates Land Rights in Panama. *Land Tenure Facility*, 16 December 2019. (also available at <https://thetenurefacility.org/article/landmark-decision-accelerates-land-rights-in-panama/>)

New Zealand Official Yearbook, 2012. (also available at http://archive.stats.govt.nz/browse_for_stats/snapshots-of-nz/yearbook/society/crime/corrections.aspx)

Office of the United Nations High Commissioner for Human Rights (OHCHR). 2015. Land and Human Rights. Standards and Applications. (also available at https://www.ohchr.org/Documents/Publications/Land_HR-StandardsApplications.pdf)

Parrotta, J.A., Yeo-ChangYoun, Y., & Diamante Camacho, L. 2016. Traditional knowledge for sustainable management and provision of ecosystems services". (also available at https://www.researchgate.net/publication/299646424_Traditional_knowledge_for_sustainable_forest_management_and_provision_of_ecosystem_services)

Ross, Rupert. 1996. *Returning to the Teachings. Exploring Aboriginal Justice*. Toronto: Penguin Books Canada.

Rights and Resources Initiative. 2018. The stages of criminalization (also available at <https://www.theyshouldhaveknownbetter.com/stages>)

Secretario de Cultura de la Presidencia. 2015. *Política Pública para los Pueblos Indígenas de El Salvador*. El Salvador.

Sider, R. 2007. The judiciary and Indigenous rights in Guatemala. *International Journal of Constitutional Law*, Volume 5(2):211–241.

Sobrevila, C. 2008. *The role of Indigenous Peoples in Biodiversity Conservation. The Natural but Often Forgotten Partners*. Washington, DC., World Bank. 102 pp. (also available at <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/995271468177530126/the-role-of-indigenous-peoples-in-biodiversity-conservation-the-natural-but-often-forgotten-partners>)

Sobrevila, C. 2008. *The role of Indigenous Peoples in Biodiversity Conservation. The Natural but Often Forgotten Partners*. Washington, DC., World Bank. 102 pp. (also available at <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/995271468177530126/the-role-of-indigenous-peoples-in-biodiversity-conservation-the-natural-but-often-forgotten-partners>)

Special Rapporteur on the right to adequate housing. 2019. A/74/183. (also available at <https://undocs.org/A/74/183>)

Special Rapporteur on the right to food, 2010. *Access to Land and the Right to Food*, report to the General Assembly. (also available at http://www.srfood.org/images/stories/pdf/officialreports/20101021_access-to-land-report_en.pdf)

Special Rapporteur on the Rights of Indigenous Peoples. 2019a. A/HRC/42/37. (also available at <https://www.undocs.org/A/HRC/42/37>)

Special Rapporteur on the Rights of Indigenous Peoples. 2019b. A/HRC/42/37/Add.2. (also available at <https://undocs.org/A/HRC/42/37/Add.2>)

Special Rapporteur on the Rights of Indigenous Peoples. 2018. A/HRC/39/17. (also available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24786&LangID=En> dia)

Special Rapporteur on the Situation of Human Rights Defenders. 2020. A/HRC/46/35. (also available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/355/11/PDF/G2035511.pdf?OpenElement>)

Szpak, Agnieszka. 2019. *Indigenous justice systems and harmonisation with the ordinary justice system – information submitted to the Special Rapporteur on the Rights of Indigenous Peoples* (also available at <https://www.ohchr.org/Documents/Issues/IPeoples/SR/IPAndJustice/20-A.SzpakJustice.pdf>)

United Nations Entity for Gender Equality and the Empowerment of Women (UN Women). 2016. Indigenous women & the women, peace and security agenda. . (also available at <https://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2017/wps-and-indigenous-women-en.pdf?la=en&vs=42>)

U.S. Department of Justice, 2017. Bureau of Justice Statistics. American Indian and Alaska Natives in Local Jails, 1999-2014. (also available at <https://www.bjs.gov/content/pub/pdf/aianlj9914.pdf>).

United Nations General Assembly. 2015. A/RES/70/1. Ginevra. (also available at https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_70_1_E.pdf)

United Nations Human Settlements Programme (UN Habitat) and Office of the United Nations High Commissioner for Human Rights (OHCHR). 2014. Forced Evictions, fact sheet 14. (also available at <https://www.ohchr.org/Documents/Publications/FS25.Rev.1.pdf>)

United Nations Indigenous Peoples Major Group for Sustainable Development. 2019. Global report on the situation of land territories and resources of Indigenous Peoples. (also available at <https://www.iwgia.org/en/resources/publications/3335-global-report-on-the-situation-of-lands-territories-and-resources-of-indigenous-peoples.html>)

United Nations Permanent Forum on Indigenous Issues (UNPFII). 2016. Report on the fifteenth Session (09 - 20 May 2016)E/2016/43. (also available at https://www.un.org/esa/socdev/unpfii/documents/2016/Docs-updates/Indigenous_women_UNPFII_session_15.pdf)

The Economic Commission for Latin America and the Caribbean (ECLAC). 2015. Los pueblos indígenas en América Latina Avances en el último decenio y retos pendientes para la garantía de sus derechos. Santiago, Chile. (also available at https://repositorio.cepal.org/bitstream/handle/11362/37050/4/S1420783_es.pdf)

The Economic Commission for Latin America and the Caribbean (ECLAC) and FILAC Los pueblos indígenas de América Latina – Abya Yala y la Agenda 2030 para el Desarrollo Sostenible: tensiones y desafíos desde una perspectiva territorial. Santiago, Chile. (also available at <https://www.cepal.org/es/publicaciones/45664-pueblos-indigenas-america-latina-abya-yala-la-agenda-2030-desarrollo-sostenible>)

United Nations Permanent Forum on Indigenous Issues (UNPFII). 2019. Report on the eighteenth session (22 April–3 May 2019). (also available at <https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2019/06/English.pdf>)

United Nations Permanent Forum on Indigenous Issues (UNPFII). 2020. E/C.19/2020/7. (also available at <https://undocs.org/en/E/C.19/2020/7>)

University of Oxford, nd. Bodleian Libraries - Indigenous Peoples: legal resources: Latin America. [online] Oxford [Cited 15 November 2020]. <https://libguides.bodleian.ox.ac.uk/c.php?g=423197&p=2889675>

Wright, T. 2020. Saskatchewan chief concerned about mental health impacts of COVID 19 in First Nations. *Global News Canada*, 3 May 2020. (also available at <https://globalnews.ca/news/6899452/first-nations-covid-19-mental-health-impact/>)

Working Group on the issue of human rights and transnational corporations and other business enterprises. 2019. Visit to Kenya - A/HRC/41/43/Add.2. (also available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/143/56/PDF/G1914356.pdf?OpenElement>)

Yazzie, R. 1994. Life comes from it: Navajo justice concepts. *NML Rev.*, 24: 175-190.

Yazzie, R. 2016. The Navajo Notion of Justice. *Daily good*, 1 Nov 2016 (also available at <http://www.dailygood.org/story/1429/the-navajo-notion-of-justice/>)

Food and Agriculture Organization of the United Nations (FAO)

Indigenous Peoples' Unit & Development Law Service

Indigenous-peoples@fao.org | LEGN-Chief@fao.org

@faoindigenous

Viale delle Terme di Caracalla 00153 Roma, Italia