

HUMAN RIGHTS COUNCIL – 57th SESSION

Annual half-day panel discussion on the rights of Indigenous Peoples

25 September 2024

Ms. Ize Brands Kehris, UN Assistant Secretary General for Human Rights, opened the panel discussion by emphasizing the importance of implementing Article 38 of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), which calls for comprehensive measures to uphold indigenous rights. The Declaration, adopted nearly two decades ago, remains the most comprehensive international instrument on Indigenous rights, addressing historical injustices such as colonization and dispossession. Despite its progress, Indigenous Peoples continue to face significant obstacles to the full enjoyment of these rights, particularly in the context of free, prior, and informed consent regarding development projects, environmental protection, and socio-economic rights. **While some States have adopted new laws or constitutional provisions, many still do not recognize Indigenous Peoples' collective rights, and others fail to implement the legal reforms in practice.** To achieve the goals of the Declaration, a holistic approach is required—one that integrates legal, policy, and institutional reforms with consistent dialogue and cooperation with Indigenous Peoples at every stage of decision-making.

Ms. Valmaine Toki, Chair of the Expert Mechanism on the Rights of Indigenous Peoples, emphasized the UNDRIP as a crucial international instrument affirming the rights of Indigenous rights. The Declaration signifies Member States' commitments to human rights and serves as a guide for interpreting their obligations under various treaties. Implementing it often requires new legislation or amendments, yet many States lack adequate Indigenous-specific policies. Ms. Toki highlighted **the need for broader legal and institutional changes that align with international obligations, as specified in Article 38 of the Declaration.** She provided examples from Mexico, Ecuador, Canada, and the Democratic Republic of the Congo, where Indigenous rights have been recognized in legislation. While progress has been made, many States still struggle to incorporate the Declaration's principles. Ms. Toki recommended that the Human Rights Council encourage States to ensure Indigenous Peoples' direct participation in legislative reforms.

Mr. José Francisco Calí Tzay, Special Rapporteur on the Rights of Indigenous Peoples, addressed the critical implementation gap between the UN Declaration on the Rights of Indigenous Peoples and the reality faced by Indigenous communities. He emphasized that Article 38 mandates meaningful collaboration with Indigenous Peoples in legislative processes, highlighting the need for their voices to be central in decision-making. However, he noted a persistent discrepancy between the Declaration's commitments and the lived experiences of Indigenous Peoples, often marked by inadequate consultation and the failure to incorporate their input. He pointed out that even when legislation is in place, challenges such as resource constraints and bureaucratic inertia render many laws symbolic. He cited the undermining of land rights by extractive industries and the barriers Indigenous Peoples face in seeking justice, including legal costs and discrimination. He stressed the importance of addressing structural inequalities rooted in historical colonization and systemic discrimination, which perpetuate socio-economic disparities. To bridge this implementation gap, he proposed **reframing the relationship between States and Indigenous Peoples as a true partnership, moving beyond formal consultation to continuous dialogue.** The Special Rapporteur emphasized that achieving the goals of the Declaration requires ongoing commitment, recognizing that the implementation gap is fundamentally a matter of justice and human dignity.

Ms. Ana Manuela Ochoa Arias, Judge of the Special Tribunal for Peace in Colombia, highlighted the significant role Colombian courts have played in advancing the rights of Indigenous Peoples in line with the UN Declaration on the Rights of Indigenous Peoples. While Colombia has strong legislative measures and its Constitutional Court has issued nearly 3,000 rulings on Indigenous rights, **the real challenge lies in ensuring the effective implementation of these rights beyond written norms.** She noted that Colombia has nearly 9 million victims of conflict, many of whom are Indigenous and previously unrecognized by the state. The Special Tribunal has created unique mechanisms for addressing Indigenous rights through coordination with Indigenous jurisdictions and promoting intercultural dialogue. This includes protocols to ensure proper coordination with Indigenous authorities, and the inclusion of Indigenous worldviews and self-law in judicial decisions. Two key areas of progress are the recognition of Indigenous "law of origin" or self-law and the recognition of territory as a victim of armed conflict. These advancements represent a shift in how the judicial system acknowledges Indigenous perspectives, emphasizing that harm affects not only individuals but also communities, nature, and the balance between them. Judge Ochoa emphasized the importance of the ethnic chapter in Colombia's final peace

agreement, which ensures the rights recognized in the UN Declaration and other international instruments are upheld. This inclusion marks a significant step toward securing the collective rights of Indigenous Peoples through transitional justice.

Mr. Donald Nicholls, Director of Justice and Correctional Services of the Cree Nation Government in Canada, shared the Cree Nation's experience in advancing Indigenous rights through treaties and partnerships with Canada. The Cree Nation, based in northern Quebec, signed the first modern-day treaty with Canada in 1975, which led to the creation of various Cree institutions overseeing education, health care, justice, and economic development. Over the years, the Cree Nation has continued to strengthen its relationship with Canada, culminating in agreements such as the 2008 New Relationship Agreement, which transferred more authority to the Cree Nation Government. Mr. Nicholls emphasized the Cree Nation's advocacy for Indigenous rights both within Canada and internationally. At the domestic level, the Cree Nation played a key role in ensuring that Aboriginal and Treaty rights were enshrined in the Canadian Constitution in 1982. Internationally, they contributed to the development of the UNDRIP. In 2021, Canada passed legislation committing to the full implementation of UNDRIP, a significant step towards reconciliation. This legislation requires Canada to ensure that its laws are consistent with the Declaration and to develop a national action plan to guide its implementation. Mr. Nichols highlighted a recent Supreme Court decision in Canada, which effectively incorporated UNDRIP into Canadian law, signalling a positive shift in Canada's relations with Indigenous Peoples. While Mr. Nicholls acknowledged progress, he stressed the need for further work, particularly in establishing independent oversight mechanisms to monitor the implementation of UNDRIP. He called for continued collaboration to address ongoing issues such as poverty, lack of housing, substandard health care, and access to clean drinking water.

Panel discussion

21 country delegations took the floor during the panel discussion. Overall, **many delegations highlighted the commitment to advancing Indigenous rights**, focusing on the diverse challenges and initiatives undertaken by various countries. Delegations underscored the need for culturally relevant policies, the importance of legal recognition, and the ongoing struggles faced by Indigenous communities worldwide.

Many countries, including **Bolivia** and **Mexico**, highlighted their efforts to integrate the UNDRIP into national laws. Bolivia has explicitly recognized Indigenous rights in its constitution since 2009, while Mexico has established the National Institute for Indigenous Peoples and is working on decrees that protect sacred sites and recognize Indigenous Peoples as subjects of public law. **Canada** and **Guyana** also noted significant legal advancements, with Canada implementing 181 measures to align federal legislation with Indigenous rights and Guyana granting special rights to Indigenous Peoples through the Amerindian Act.

Several countries, such as **Peru** and **Guatemala**, emphasized the importance of preserving Indigenous languages and cultures. Peru has initiated training courses for interpreters in Indigenous languages, while Guatemala's constitution supports the preservation of Indigenous lifestyles, customs, and languages.

The empowerment of Indigenous communities was a recurring theme. **Spain** highlighted projects that enhance Indigenous women's participation in governance, while **Mexico** established a National Council for Indigenous Peoples to ensure broader representation. **Vanuatu** and the **United States** also called for the inclusion of diverse Indigenous voices in policy discussions, emphasizing the need for representation of women and LGBTQI+ individuals.

The recognition of historical injustices was stressed by several delegations, particularly by the **United States** and **Ukraine**, who addressed past policies that harmed Indigenous peoples and the ongoing persecution of Indigenous groups like the Crimean Tatars. **Canada** similarly acknowledged its historical injustices and has committed to rectifying them through collaborative measures with Indigenous partners.

The impact of climate change on Indigenous communities was raised by the **European Union** and **Brazil**, both emphasizing the need for action to address these challenges, which disproportionately affect Indigenous Peoples. Brazil noted efforts to reduce illegal mining in Indigenous territories to protect their lands.

UN Women emphasized the Sepur Zarco case in Guatemala, which has led to public policies ensuring justice for Indigenous women facing violence. They called for adherence to CEDAW recommendations for land access and reparative measures.

UNDP reaffirmed support for Indigenous communities, focusing on environmental justice and integrating Indigenous rights into programming. They aim to collaborate with UNEP and OHCHR to support environmental defenders.

UN-Habitat stressed the importance of security of tenure for Indigenous Peoples and advocated for the integration of Indigenous laws in land governance and adequate urban services.

UNESCO is promoting Indigenous languages during the International Decade of Indigenous Languages (2022-2032), urging Member States to create national action plans for language rights to preserve cultural identity.

UNFPA highlighted disparities in maternal health for Indigenous women and emphasized the need for culturally appropriate healthcare to enhance reproductive rights and reduce maternal mortality.

NHRIs and NGOs emphasized the critical challenges faced by Indigenous communities, pointing out that despite legal frameworks like UNDRIP, implementation remains inadequate. For instance, the **International Service for Human Rights** underscored ongoing discrimination and land rights violations in Guatemala, while the **International Committee for the Indigenous Peoples of the Americas** called for systemic reforms in Argentina to address persistent poverty and environmental degradation. Land and resource rights were a recurring theme, with **Justiça Global** reporting violent attacks against the Guaraní people in Brazil, and **Stichting Global Human Rights Defence** urging the UN to intervene in the displacement of the Sindhi people in Pakistan due to unlawful land acquisitions. The need for improved legal frameworks was echoed by **Geneva for Human Rights**, which highlighted the inadequacies of existing laws in fully respecting Indigenous rights, and **APG23's** call for a cooperative paradigm to address historical injustices. The **Indian Water Foundation** discussed socioeconomic challenges faced by Indigenous communities in India, while the **Legal Analysis and Research Public Union** called for dialogue to facilitate the return of displaced Azerbaijani populations, reinforcing the interconnectedness of justice, recognition, and reconciliation for Indigenous peoples worldwide.

Delegations that took the floor during the panel discussion (21 country delegations):

Ukraine, Spain, European Union, Estonia, Guyana, Armenia, Brazil, Canada, Russian Federation, Peru, Guatemala, Mexico, Bolivia, United States of America, Colombia, Venezuela, Honduras, Vanuatu, United Republic of Tanzania, Malaysia, China.

NHRIs and NGOs that took the floor during the panel discussion (12):

International Service for Human Rights, International Committee for the Indigenous Peoples of the Americas, Geneva for Human Rights, Justiça Global, Stichting Gloal Human Rights Defence, Conselho Indigenista Missionário CIMI, Indian Law Resource Center, IDPC Consortium, India Water Foundation, Legal Analysis and Research Public Union, ECO-FAWN, APG23.

International organizations: UN Women, UNDP, UN Habitat, UNESCO, UNFPA.

To watch the full meeting refer to the [UN WEB TV](#).