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**Human rights questions, including alternative approaches
for improving the effective enjoyment of human rights
and fundamental freedoms**

Freedom of religion or belief

Note by the Secretary-General**

The Secretary-General has the honour to transmit to the members of the General Assembly the interim report of the Special Rapporteur on freedom of religion or belief, Ahmed Shaheed,¹ submitted in accordance with General Assembly resolution 76/156.

* A/77/150.

** The report was submitted late to ensure that all data gathered by 31 July 2022 informed the report.

¹ Ahmed Shaheed's tenure as Special Rapporteur ended on 31 July 2022.

Interim report of the Special Rapporteur on freedom of religion or belief

Indigenous peoples and the right to freedom of religion or belief

Summary

In the present report, the Special Rapporteur on freedom of religion or belief, Ahmed Shaheed, initiates a critical conversation within the UN system and beyond on obstacles and opportunities facing indigenous peoples' freedom of religion or belief—a largely overlooked subject. Understanding indigenous peoples and their diverse religions or beliefs is impossible without acknowledging historical and ongoing experiences of discrimination, violence, and hostility, even threatening their spiritual, cultural, and physical survival. The Special Rapporteur explores "indigenous spirituality" as a typically nature-based "way of life," documents experiences of affected rights-holders—from forced displacement to environmental destruction—and proposes recommendations to protect and promote freedom of religion or belief of indigenous peoples, consistent with international law.

I. Introduction²

1. Indigenous peoples are diverse and complex, with 476 million living in 90 countries, speaking over 4,000 languages, and owning, occupying, or managing over one-quarter of the world's land.³ Consistent with their right to self-determination, indigenous peoples are free to define and determine their spiritual identity for themselves. Many conceptualize spirituality as a "way of life": shaping distinctive emotions, habits, practices, or virtues, fashioning distinct beliefs and ways of thinking, and a particular way of living together and communicating. Thus, spirituality concerns the transcendent and is intrinsic to indigenous peoples' daily experiences and practices. Albeit diverse, indigenous spirituality and culture are often grounded in community, identity, and relationships with traditional lands.

2. Contemporary crises in human rights for indigenous peoples frequently stem and are inseparable from unremedied past policies and practices. Beyond State restrictions on spiritual ceremonies, symbols, and leaders in the name of "assimilation," challenges for their right to freedom of religion or belief could encompass forced displacement, exploitation of indigenous territories without their Free, Prior, and Informed Consent ("FPIC")⁴, environmental damage and destruction, as well as the impacts of climate change.⁵ Severe, systematic, and systemic discrimination and marginalization affect their ability to survive, let alone thrive—by exercising their innermost religious or belief convictions.

3. Recalling the UN Secretary-General's position, ensuring "equal and meaningful participation, full inclusion and empowerment" towards realizing human rights and opportunities for all indigenous peoples is imperative.⁶ While Article 18 of the International Covenant on Civil and Political Rights ("ICCPR") safeguards followers of every faith or none, a frequently recurring question from rights-holders and key stakeholders is whether its application has been adequate or appropriate for indigenous peoples. Recognizing the mandate's relatively limited engagement with indigenous peoples to date,⁷ the Special Rapporteur aims to develop a framework for productive, sustained exchange with this report — highlighting existing and emerging challenges to indigenous peoples' enjoyment of freedom of religion or belief.

II. Activities of the Special Rapporteur

4. Throughout his mandate, the Special Rapporteur focused on furthering State implementation and engaging diverse stakeholders to advance the protection of the right to freedom of religion or belief worldwide by (1) championing the revitalization or development of effective normative and institutional frameworks promoting the right; (2) engaging the broader UN system, and platforming voices that were previously neglected or marginalized from advocacy spaces; (3) encouraging stakeholders to develop tools for assessing implementation progress; and (4) highlighting key intersections between freedom of religion or belief and multifaceted issues, including freedom of expression, sustainable development, gender equality, countering violent extremism, and emerging technologies.

5. Since his last report to the Human Rights Council ("HRC"), the Special Rapporteur contributed to the UN Office on Genocide Prevention and Responsibility to Protect's ("UNOGP") review of the Fez Plan of Action in June 2022, emphasizing that a gendered approach is vital for future implementation. He further (1) called for comprehensive

² The Special Rapporteur, Ahmed Shaheed, is grateful for the excellent research undertaken for the report by Rose Richter, Jennifer Tridgell and Mathilde Renaud, and his Research Fellows, Brady Earley, Christopher Gray, Iqra Saleem Khan, Gihan Indraguptha, Jonas Skorzak and Sarthak Roy. He also thanks Erik Fattorelli/OHCHR for their contributions.

³ <https://www.worldbank.org/en/topic/indigenouspeoples>.

⁴ [E/C.12/GC/21](#), (para.3); [UNDRIP](#); <https://www.ohchr.org/sites/default/files/Documents/Issues/IPeoples/FreePriorandInformedConsent.pdf>.

⁵ [A/76/L.75](#).

⁶ <https://news.un.org/en/story/2021/04/1090112>

⁷ [A/HRC/31/18](#), (para.87); [A/HRC/19/60/Add.1](#), (paras.45-53,64); [A/71/269](#), (para.39).

implementation of Resolution 16/18 in the eighth meeting of the Istanbul Process this February; (2) published an eight-point action plan on countering antisemitism;⁸ and (3) supported an online forum for discussing a Panel of Independent International Experts' findings of alleged international law violations against Muslims in India since 2019.⁹ On 10 June 2022, with several mandate-holders, he urged the HRC to convene a special session on China and create a standing mechanism for monitoring, analysing, and reporting annually on its human rights situation.

6. In concluding his mandate, the Special Rapporteur thanks his predecessors for the solid foundation they have established and the mandate-holders of other Special Procedures for their support. He is grateful to the UN Office of the High Commissioner for Human Rights and UNOGP for their close collaboration. He acknowledges valuable cooperation from civil society, States, and intergovernmental organizations, especially the International Contact Group on freedom of religion or belief and the NGO Committee on freedom of religion or belief. He is incredibly grateful for close and wide-ranging support from the Freedom of Religion or Belief Project/ City University of New York, Essex Human Rights Centre Clinic, Human Rights, Big Data and Technology Project, and Essex Autonomy Project.

III. Methodology

7. The Special Rapporteur convened 16 bilateral meetings and 25 consultations across all five geographical regions (18 virtual, four hybrid, and seven in-person¹⁰) to inform the present report. Participants included survivors of rights violations, indigenous leaders and influencers; human rights defenders; policymakers; academics; UN offices, and other intergovernmental organization officials. Despite limited Internet connectivity and language barriers, the Special Rapporteur sought to engage indigenous peoples in geographically remote locations wherever possible. In response to his Call for Submissions, he received and reviewed 39 submissions from civil society, 36 from individuals, four from States, and one from a multilateral organization. The Special Rapporteur extends his deepest gratitude to all who provided their time and insight.

8. A methodological challenge in preparing this report was the lack of comprehensive or disaggregated data mapping indigenous peoples' experiences with the freedom of religion or belief framework. Researchers may overlook concerns or hold certain biases towards indigenous spirituality. Security was another key concern where indigenous peoples live in conflict-afflicted or insecure situations, potentially fearing violent retribution.

9. Acknowledging the diversity of indigenous peoples' beliefs and lived experiences, the report does not analyse all concerning situations but provides an evidence-based analysis of trends and illustrative examples. The Special Rapporteur adopts an intersectional lens, noting reports of multiple, intersecting forms of discrimination, violence, and hostility based on various characteristics (e.g., religion or belief, race, ethnicity, language, sexual orientation, gender identity, political opinion),¹¹ including a gender lens—consistent with his mandate—for analysing violations and issuing recommendations.

IV. Conceptual and legal framework

10. International law has no universally accepted definition of "indigenous peoples." Nevertheless, community self-identification is widely regarded as a "fundamental criterion,"¹² with many considering themselves distinct by possessing "historical continuity" with pre-colonial societies on their land.¹³ Objective criteria could also be considered (e.g.,

⁸ <https://www.ohchr.org/sites/default/files/2022-05/ActionPlanChanges-May2022.pdf>

⁹ <https://piieindia.wordpress.com>.

¹⁰ Canada, Ecuador, Greenland, Kenya, Norway, USA.

¹¹ [A/HRC/30/41](#), (para.8); [A/HRC/50/26](#), (para.74).

¹² [CRC/C/GC/11](#), (para.19); UNDRIP, art.33.

¹³ [E/CN.4/Sub.2/1986/7](#).

distinct language),¹⁴ yet States often instrumentalize said criteria to deny recognition of indigenous peoples' existence and rights, including self-determination.¹⁵ For the same reasons, the Special Rapporteur notes that indigenous peoples resist description as "minorities."¹⁶ Where indigenous peoples may technically constitute a minority, based on objective proportional criteria, this status should not preclude their additional recognition and rights as indigenous peoples.¹⁷

11. "Spirituality" is the preferred term of many indigenous peoples in characterizing their religion or belief identity. Reasons include (1) lack of equivalent translation for "religion";¹⁸ (2) delineation between their "religion" (e.g., Christianity, Islam) and indigenous beliefs;¹⁹ or (3) tainted legacy of "religions" being instrumentalized to inflict gross rights violations against them. Some interlocutors seek to "decolonize" language framing their spirituality, including "ritual," "witchcraft," or "superstition," as such rhetoric has been deployed to depict them as "lesser" and justify harmful practices.

12. Indigenous people employ broader terms interchangeably with "spirituality," including "worldview," "way of life," or "culture."²⁰ Often they recognize the holistic nature of their beliefs, encompassing "spiritual ceremonies, but also [wide-ranging] activities such as hunting, fishing, herding and gathering plants, medicines and foods [with] a spiritual dimension[...]."²¹ Their way of life is intrinsically intertwined and "cannot be divided into frameworks and categories."²²

13. For this report, "indigenous spirituality" consists of diverse spiritual beliefs and practices that indigenous peoples identify as integral to their indigeneity: such as their "distinctive spiritual relationship" with "traditionally owned or otherwise occupied and used lands, territories, waters, coastal seas, and other resources" ("indigenous lands").²³ Such practices are often localized and should not be homogenized into a globalizing discourse on "indigenous spirituality."²⁴ Many indigenous peoples subscribe to theistic and other belief systems that they do not necessarily consider "indigenous." They may practice their beliefs in combination with indigenous spirituality "rooted in [their] lived reality and practices" as rights-holders.²⁵

14. Protecting persons of all faiths and none, the right to freedom of religion or belief is enshrined in Articles 18 of the Universal Declaration on Human Rights ("UDHR") and ICCPR and elaborated upon in the 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief ("1981 Declaration"). Their protections extend beyond followers of "institutionalized" belief systems to encompass adherents to "theistic, non-theistic and atheistic beliefs,"²⁶ including those of indigenous peoples.

15. In mapping obstacles and opportunities for indigenous peoples' exercise of freedom of religion or belief, the Special Rapporteur was guided by the United Nations Declaration

¹⁴ https://www.un.org/esa/socdev/unpfii/documents/5session_factsheet1.pdf; [E/CN.4/Sub.2/AC.4/1996/2](#), (para.69); [E/CN.4/Sub.2/1986/7/Add.4](#), (paras.379-380).

¹⁵ [E/CN.4/Sub.2/AC.4/1996/2](#), (paras.71-74); [A/HRC/27/52](#), (para.16).

¹⁶ Some States use "ethnic minorities" (e.g. China, Vietnam, Russia).

¹⁷ [A/74/160](#), (para.52); [CCPR/C/21/Rev.1/Add.5](#), (paras.3.1-3.2).

¹⁸ Submission-Indigenous Values Initiative and American Indian Law Alliance ("IVI&AILA").

¹⁹ Consultations-Ecuador; Scandinavia; Greenland; Western & Central Africa; Eastern Europe & Central Asia ("EECA"); Kenya.

²⁰ E.g. https://www.iwgia.org/doclink/iwgia-book-the-indigenous-world-2022-eng/eyJ0eXAiOiJKV1QiLCJhbGciOiJIUzI1NiJ9.eyJzdWIiOiJpd2dpYS1ib29rLXRoZS1pbmRpZ2Vub3VzLXdxcmxkLTlwMjltZW5nIiwiaWF0IjoxNjUxMTM5NTg1LCJleHAiOiJlE2NTEyMjU5ODV9.jRnv3PeantfRZtJg4jph8xdshK5Mh25Z3hlcPs9As_U, (pp.438, 639, 679).

²¹ [A/HRC/45/38](#), (para.16).

²² Submission-IVI&AILA.

²³ UNDRIP, art.25; <https://www.ohrc.on.ca/en/policy-preventing-discrimination-based-creed/11-indigenous-spiritual-practices>

²⁴ <https://www.routledge.com/Indigenous-Religions-Local-Grounds-Global-Networks/Kraft-Tafjord-Longkumer-Alles-Johnson/p/book/9780367898588>.

²⁵ [A/76/178](#), (para.6).

²⁶ [CCPR/C/21/Rev.1/Add.4](#), (para.2).

on the Rights of Indigenous Peoples (“UNDRIP”) — a universally accepted soft-law instrument developed in consultation with indigenous peoples to articulate their rights, including spiritual practices. Article 12 UNDRIP protects access to and maintenance of religious and cultural sites, ceremonial objects, and repatriation, while Article 25 recognizes their spiritual relationship to traditional lands. Aspects of indigenous spirituality reportedly appear elsewhere in UNDRIP, resulting in mutually reinforcing protection.²⁷ Many actors worldwide—including States, regional and domestic courts, scholars, and rights-holders—employ UNDRIP to interpret ICCPR vis-à-vis, indigenous peoples.²⁸

16. Several experts observe that Article 18 of the UDHR was shaped mainly by debates between Islamic and Protestant Christian groups. At the same time, the diplomatic push for expanding protections for both “religion or belief” foregrounded the rights of atheists in Soviet states.²⁹ Indigenous spirituality, they argue, was generally overlooked and poorly understood within this framework, and “primacy and relative longevity of the ‘freedom of religion or belief’ umbrella has all but sidelined competing rights conceptions regarding religion.”³⁰

17. Articles 18 and 27 of the ICCPR protect the right to manifest religion or belief “individually or in community with others,” as well as minorities’ right to practice their faith.³¹ Yet some experts wonder whether international human rights law fully protects indigenous peoples’ collective rights or spirituality when narrowly interpreted. As the Inter-American Court of Human Rights (“IACtHR”) observes, indigenous peoples’ relationship with traditional land is not merely about “possession and production but [has] a material and spiritual element” that they must enjoy to preserve culture.³² Indigenous spirituality encompasses diverse beliefs and traditions. Many describe their relationship with nature as “balanced” or “cyclical,” embracing places, phenomena, flora, and fauna as sacred and emphasizing respect for nature and other humans. Others practice animism or ancestor worship; maintain ceremonial or burial sites; and consider hunting and using other resources sustainably as part of their spiritual customs.

18. While “sacred sites” in the 1981 Declaration (i.e., freedom “to establish and maintain places of worship”)³³ seemingly apply to manufactured structures, experts argue that protections must also extend to traditional lands that are integral to indigenous spirituality.³⁴ Yet several States allegedly fail to protect believers of indigenous spirituality equally, often dismissing legal claims invoking the right to freedom of religion or belief as justification for protecting indigenous peoples’ access and use of traditional lands. The Canadian Supreme Court, for example, authorized the building of a ski resort in the mountains considered sacred since the “state’s duty ... is not to protect the object of beliefs.”³⁵ Some US courts have ruled that commercial use of traditional lands would not “coerce” indigenous peoples to act contrary to their religious beliefs,³⁶ and the State could use federal lands anyway “even if [it] makes [their] worship [...] ‘impossible.’”³⁷

²⁷ <https://brill.com/view/title/34582>, (pp.54,70-71);

<https://www.tandfonline.com/doi/abs/10.1080/13642987.2018.1562916>, (p.26).

²⁸ E.g. *Federal UNDRIP Act 2021*; *ACommHPR v. Kenya*, (paras.209-211); *Cal v. AG*; <https://opil.ouplaw.com/view/10.1093/law/9780199673223.001.0001/law-9780199673223-chapter-11>, (p.290).

²⁹ <https://www.cambridge.org/core/books/religious-liberty-and-international-law-in-europe/1D2BBECB3F7DD49D610EDF4C40D43BCA>, (p.204).

³⁰ <https://berkeleycenter.georgetown.edu/responses/indigenous-religious-freedom-between-individual-and-communal-human-rights>.

³¹ ICCPR, art.27.

³² *Mayagna (Sumo) Awas Tingni Community v. Nicaragua*, (para.149).

³³ *A/HRC/RES/6/37*, (para.9(g)). Also *A/RES/36/55*, (art.6(a)); *CCPR/C/21/Rev.1/Add.4*, (para.4); <https://www.ohchr.org/en/special-procedures/sr-religion-or-belief/international-standards#6>.

³⁴ Submission-First Peoples Law LLP. https://link.springer.com/chapter/10.1007/978-3-319-48069-5_2, (pp.19-21); https://www.jstor.org/stable/23919704#metadata_info_tab_contents, (pp.144-45).

³⁵ *Ktunaxa Nation v BC*, (para.71).

³⁶ E.g. *Lyng v Northwest Indian Cemetery*, (paras.18,26); *Navajo Nation v US*, (p.1070).

³⁷ *Apache Stronghold v US*.

19. While all human rights are interconnected and mutually reinforcing, the intersection between culture and freedom of religion or belief for indigenous peoples draws considerable attention. The UN Committee on Economic, Social, and Cultural Rights observes that maintaining and strengthening their "spiritual relationship" with ancestral lands is "indispensable to their cultural life." Incidentally, indigenous peoples primarily cite cultural rights in complaints to the Human Rights Committee regarding spiritual practices.³⁸ This is not to say that freedom of religion or belief is less practical/applicable, but it is less commonly cited and understood vis-à-vis indigenous peoples. Regional and domestic courts also invoke culture, property, or intellectual property law to protect indigenous spiritual practices.³⁹

20. Several experts warn that analogizing "indigenous spirituality" for the non-indigenous world—often to gain public support—may decontextualize them. For instance, describing elders as their "priests" or indigenous lands as their (admittedly irreplaceable) "Church." The notion that religious groups may be rights-holders without some formal institution, organization, or other legal personality is unfamiliar to most modern, liberal legal systems.⁴⁰ Yet as one interlocutor opined, "[i]ndigenous religions should not have to be likened to Judeo-Christian practices and beliefs to make them acceptable [or deemed worthy of protection]."⁴¹ Nor does international human rights law demand it: freedom of religion or belief is protected regardless of whether the State recognizes its existence.

V. Key findings

A. Forcibly assimilated and denied recognition

21. Harrowing historical experiences of colonization, forced assimilation, and dispossession have shaped and are inseparable from indigenous peoples' contemporary concerns for spiritual, cultural, and physical survival. Several States invoked variations of the Doctrine of Discovery ("Doctrine") to justify forcibly removing indigenous peoples from their lands.⁴² The Doctrine—developed in support of religious institutions' ambitions to "invade, capture, vanquish, and subdue [...] all Saracens and pagans, and other enemies of Christ"⁴³—furnished a "discovering" sovereign with "exclusive right" to "extinguish" indigenous peoples' pre-existing title and interests in their lands.⁴⁴ Experts further describe forced sedentarization—placing migratory, mobile, or nomadic indigenous peoples into settlements—as causing loss of their spirituality by separating them from their lands.

22. Several reports of State efforts to further assimilation initiatives detail attempts to control indigenous women's sexuality and reproductive capacities, including sterilization of Native American women in the USA; "biological absorption" (via forced impregnation) in Australia's Stolen Generations; and Denmark's insertion of IUD devices into approximately 4,500 Greenlandic women and girls often without their consent.⁴⁵

23. Other reports document the forced removal of indigenous children from their families and communities for distant, often religious institution-led schools, where they were "exclusively taught the dominant religion and culture" and prohibited from using their own

³⁸ E.g. [CCPR/C/110/D/2102/2011](#); [CCPR/C/95/D/1457/2006](#); [CCPR/C/84/D/879/1999](#); [CCPR/C/33/D/197/1985](#).

³⁹ <https://www.mdpi.com/2077-1444/12/10/869/html>, (p.7); https://www.iwgia.org/images/publications/0002_Land_Rights_of_Indigenous_Peoples_In_Africa.pdf; <https://www.justiceinitiative.org/publications/strategic-litigation-impacts-indigenous-peoples-land-rights>, (pp.30-34).

⁴⁰ <https://doi.org/10.18584/iipj.2011.2.4.4>, (pp.3-4,8-11).

⁴¹ Consultation-USA.

⁴² <https://doctrineofdiscovery.org/assets/pdfs/lcb154art1millerpdf.pdf>; Submissions-United South and Eastern Tribes Sovereignty Protection Fund, Michael McNally.

⁴³ [E/C.19/2012/CRP.2](#), (para.62).

⁴⁴ <https://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=1050&context=facpubs>, (p.67).

⁴⁵ <https://www.gao.gov/assets/hrd-77-3.pdf>; https://humanrights.gov.au/sites/default/files/content/pdf/social_justice/bringing_them_home_report.pdf; <https://www.justiceinfo.net/en/103874-denmark-greenland-traumatic-birth-control-campaign.html>.

languages, culture, and spiritual practices under threat of punishment.⁴⁶ In 2022, the US Government observed that this assimilative policy closely accompanied the intergenerational loss of indigenous spirituality.⁴⁷ Canadian interlocutors highlight enduring trauma from this imposed rupture with loss of ancestral identity and spirituality.⁴⁸

24. The loss of traditional language significantly affects indigenous spirituality, where oral expression is the "bedrock" of ceremony and transmitting knowledge. One interlocutor stated, "when you lose language, you lose everything." Yet many indigenous languages steadily disappear amidst inadequate State support and prohibitions, such as the Vietnamese Government allegedly intimidating and arresting Khmer Krom Buddhist monks seeking to teach and speak Khmer.⁴⁹

25. Article 18 of the ICCPR explicitly prohibits coercion in matters of religion or belief. Yet, according to interlocutors, many indigenous peoples today are still being forcibly converted to non-indigenous religions "to survive" amidst State and religious institutions' threats of violence, hostility, and discrimination. Actors in Mexico have reportedly coerced indigenous women to participate in majoritarian Catholic activities,⁵⁰ while others in Malaysia have pressured indigenous peoples' conversion to Islam by offering better housing.⁵¹ In Brazil, civil society has raised concerns over the head of the federal Indigenous Affairs Department unit charged with protecting uncontacted indigenous tribes, fearing improper pressure for their conversion.⁵²

26. Although State recognition is not theoretically required to exercise one's freedom of religion or belief, denial of recognition poses practical challenges. At least 18 States deny recognition of indigenous peoples and/or their spirituality, typically through arbitrary administrative requirements.⁵³ For instance, without the US Bureau of Indian Affairs' recognition, the Winnemem Wintu tribe describes lacking uninterrupted access to their lands to perform coming-of-age ceremonies; or participation in decisions about spiritually significant fisheries.⁵⁴ Without a listed option for indigenous spirituality, followers of Kepercayaan spirituality in Indonesia allegedly identify themselves as "Hindus" to receive national identification cards.⁵⁵

B. Relationship to indigenous land

27. The Special Rapporteur is deeply concerned at widespread reports of States failing to protect or deliberately undermining indigenous peoples' occupation, access, or use of indigenous lands without FPIC, with significant implications for their enjoyment of spirituality.⁵⁶ For the African Commission on Human and Peoples' Rights, "any impediment to, or interference with accessing the natural environment [has] considerable repercussions on [Ogieks'] enjoyment of freedom of worship."⁵⁷ Likewise, the relocation of burial sites has prohibited indigenous peoples from practising traditional burial ceremonies.⁵⁸ Growing

⁴⁶ https://www.un.org/esa/socdev/unpfii/documents/IPS_Boarding_Schools.pdf.

⁴⁷ https://www.bia.gov/sites/default/files/dup/inline-files/bsi_investigative_report_may_2022_508.pdf, (p.53).

⁴⁸ https://ehprnh2mwo3.exactdn.com/wp-content/uploads/2021/01/Volume_5_Legacy_English_Web.pdf.

⁴⁹ <https://unpo.org/downloads/2718.pdf>, (pp.12-14); <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=5940&file=EnglishTranslation>, (pp.1-2).

⁵⁰ <https://www.csw.org.uk/mexicoreport2022.htm>, (p.55).

⁵¹ <https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.625.6689&rep=rep1&type=pdf>, (p.487).

⁵² <https://www.survivalinternational.org/articles/evangelical-missionary-Brazil-uncontacted-tribes>.

⁵³ USA, Ecuador, Bangladesh, India, Rwanda, Cameroon, Russia, Laos, Myanmar, Thailand, China, Japan, Mongolia, Norway, French Guiana (France), Algeria, Nepal, Tanzania.

⁵⁴ <https://intercontinentalcry.org/tribal-leaders-challenge-forest-service-to-protect-native-womens-rights/>.

⁵⁵ Consultation-South East Asia.

⁵⁶ ILO Convention 169; UNDRIP art.26.

⁵⁷ *ACommHR v. Kenya*, (para.164).

⁵⁸ *Plan de Sánchez v. Guatemala*, (para.36(4)). Also <https://www.mdpi.com/2077-1444/12/10/869/html>

urbanization in South America has replaced indigenous worship sites with city infrastructure. A mining company destroyed ancient rock structures in Juukan Gorge, Australia, with profound spiritual significance to traditional owners.⁵⁹ Obstacles to indigenous people's access and use of their lands may prevent them from enjoying spiritual practices and transmitting knowledge to future generations while engendering spiritual and psychological distress by creating a sense of alienation.⁶⁰

28. Yet States and non-State actors have forcibly evicted or denied indigenous peoples access to their land and inflicted environmental degradation and destruction in their territories (including for construction, extractive industries, agro-industrial farming, logging, cash crop plantations, hazardous waste dumping, and tourism). Interlocutors submit that Russian State-sponsored logging companies have proposed a 1,000-kilometer paved road through the Udege peoples' sacred forest.⁶¹ Extractive companies in the Philippines, India, and Cambodia have forcibly evicted indigenous peoples from their lands, in some cases supported by national police/military.⁶² UN experts recently scrutinized Tanzania's escalating violence in forcibly evicting Maasai peoples for development and conservation reserves, deploying live ammunition, and tear gas.⁶³ Operators of the Kathmandu Valley Road Expansion Project reportedly forcibly evicted Newars en masse and risked the destruction of countless cultural heritage sites considered "integral [to their] life and identity."⁶⁴

29. The Special Rapporteur received reports from every region that States have instrumentalized their legal and policy frameworks to frustrate indigenous peoples' access or use of indigenous land, often treating their rights as secondary considerations to political and economic objectives.⁶⁵ In 2019, Pakistan's Supreme Court approved the transfer of Bahria Town Karachi to a private developer, with experts estimating that approximately 10% of indigenous communities were forcibly removed after "illegally occupying" 40,000 acres of traditional land.⁶⁶ State ambivalence or complicity is also a concern. The Brazilian Government's lack of regulation on agricultural fertilizers has allegedly caused water pollution on indigenous territory, threatening spiritually significant waters.⁶⁷ Without adequate legal protection in Canada, recent years have reportedly witnessed increasing vandalism and desecration of sacred First Nations sites containing indigenous pictographs and petroforms.⁶⁸

30. Many indigenous peoples seek land tenure as the "only way" to protect their territories against these serious challenges, even if the anthropocentric Lockean concept of land ownership is contrary to their worldview. For Mapuche people in Chile, "I belong to the earth; the earth doesn't belong to me."⁶⁹ Yet despite indigenous peoples holding and using over a one-quarter of the world's land, they enjoy secure tenure for only 10%. The Special Rapporteur recalls that secure tenure rights are a critical indicator for Sustainable Development Goal ("SDGs") No. 1 of ending all forms of poverty everywhere.⁷⁰

31. Arbitrary designation of State borders encompassing indigenous lands may also undermine their freedom of religion or belief where they cannot cross over, including to access a sacred site or engage tribal members in traditional ceremonies. Although the USA's "Enhanced Tribal Identification" cards may facilitate access across the Mexico border, rights-

⁵⁹ <https://doi.org/10.1017/bhj.2021.18>.

⁶⁰ Consultation-Kenya.

⁶¹ <https://www.culturalsurvival.org/news/illegal-logging-threatens-survival-russias-indigenous-udege>.

⁶² [AL PHL 1/2019](#); KHM 1/2015; UA IND 8/2017.

⁶³ <https://www.ohchr.org/en/press-releases/2022/06/tanzania-un-experts-warn-escalating-violence-amidst-plans-forcibly-evict>.

⁶⁴ [UA NPL 3/2017](#).

⁶⁵ E.g. [A/HRC/18/35](#) (paras.30-55); [A/77/183](#) (para.40).

⁶⁶ <https://thediplomat.com/2021/07/the-battle-over-bahria-town-karachi/>.

⁶⁷ [OL BRA 4/2022](#).

⁶⁸ <https://indiancountrytoday.com/archive/indigenous-pictographs-canada-vandalized>

⁶⁹ <https://www.abc.net.au/news/2022-08-22/chile-hydroelectric-plant-indigenous-sites-trufu-river/101354004>.

⁷⁰ [A/75/385](#) (para.48).

holders express concerns that its verification process may further racial discrimination and stereotyping if potentially based on "Indian" appearance or blood quantum.⁷¹

32. Rather than being forcibly evicted for specific projects, some indigenous peoples are displaced from traditional lands by living in regions prone to natural disasters or embroiled in conflict, typically resource-rich areas.⁷² With the scant immediate prospect of return, indigenous internally displaced persons and refugees may hold fears for their "cultural loss," compounding or exacerbating psychological distress.⁷³

33. Nature's vitality is at the heart of many indigenous cultures and spirituality, as well as their daily survival, with over 60 million indigenous peoples materially reliant upon forest resources.⁷⁴ Consequently, indigenous peoples frequently "bear an unfair share" of costs arising from activities damaging nature.⁷⁵ This extends to their disproportionate suffering from climate change, despite being amongst those who contributed the least to this historically,⁷⁶ which furthers their socio-economic marginalization, food insecurity,⁷⁷ and displacement from increasingly uninhabitable lands.⁷⁸ In a landmark decision adopted on 22 July 2022, the Human Rights Committee has found that Australia's failure to adequately protect indigenous Torres Islanders against adverse impacts of climate change violated their rights including to enjoy their culture, while observing a "strong cultural and spiritual link between indigenous peoples and their traditional lands."⁷⁹

34. Experts have asserted that the "best way" to protect nature typically is to protect the rights of those living there.⁸⁰ Compelling evidence indicates that indigenous peoples are often "custodians of biological diversity within ancestral territories," especially where they enjoy secure land rights, given their rich reservoir of knowledge of nature and behavioural adaptation to maintain ecological balance.⁸¹ Disregarding indigenous peoples and the loss of their languages—as a source and conduit of knowledge—misses valuable opportunities for biodiversity conservation, climate mitigation, and sustainability,⁸² especially considering that indigenous peoples are only 6% of the global population yet protect 80% of its biodiversity.

35. The Special Rapporteur is concerned at reports of some conservation and climate mitigation measures violating indigenous peoples' rights. Several States and nature protection groups have embraced "fortress conservation," blocking their access to indigenous lands—including sacred sites—in the name of "environmental protection," without FPIC and even where they live sustainably in keeping with their spirituality. Having denied their formal permit requests, some interlocutors claim that Kenyan park rangers have extracted bribes from indigenous persons seeking to conduct spiritual ceremonies on their lands in conservation zones. According to Sami peoples in Scandinavia and Baka in Congo and Cameroon, specific conservation measures unduly restrict their sustainable hunting and fishing activities. Interlocutors particularly emphasize that the IUCN's goal to protect 30%

⁷¹ <https://doi.org/10.1080/08865655.2022.2101140>, (pp.8-9,14); <https://www.ohchr.org/sites/default/files/Documents/Issues/IPeoples/EMRIP/Call/IndigenousAllianceWithoutBorders.pdf>.

⁷² [A/HRC/49/44](https://www.unhcr.org/refugees/49/44); https://www.internal-displacement.org/sites/default/files/publications/documents/P-0073_Indigenouspeoples_BP.pdf. Also [A/HRC/32/35/Add.3](https://www.unhcr.org/refugees/32/35/Add.3), (para.90).

⁷³ https://www.internal-displacement.org/sites/default/files/publications/documents/P-0073_Indigenouspeoples_BP.pdf, (p.3).

⁷⁴ https://www.forestpeoples.org/sites/fpp/files/publication/2012/05/forest-peoples-numbers-across-world-final_0.pdf

⁷⁵ [A/75/161](https://www.unhcr.org/refugees/75/161), (para 52).

⁷⁶ [A/HRC/36/46](https://www.unhcr.org/refugees/36/46), (para.6).

⁷⁷ <https://openknowledge.worldbank.org/bitstream/handle/10986/22787/9781464806735.pdf?sequence=13&isAllowed=y>, (pp.2-6).

⁷⁸ [A/HRC/36/46](https://www.unhcr.org/refugees/36/46), (para.90). Also [A/HRC/4/32](https://www.unhcr.org/refugees/4/32), (para.49).

⁷⁹ CCPR/C/135/D/3624/2019.

⁸⁰ <https://news.trust.org/item/20210603135601-wshfn/>.

⁸¹ https://iwgia.org/doclink/iwgia-book-the-indigenous-world-2021-eng/eyJ0eXAiOiJKV1QiLCJhbGciOiJIUzI1NiJ9.eyJzdWUiOiJpd2dpYS1ib29rLXR0ZS1pbmRpZ2Vub3VzLXdxvcmxkLTlwMjEtZW5nIiwiaWF0IjoxNjI4ODM5NjM2LCJleHAiOiE2Mjg5MjYwMzZ9.z1CuM7PcT5CPkV0evx8ve88y6v0vmwDu_51JQ_lwAkM, (p.665).

⁸² [A/HRC/36/46](https://www.unhcr.org/refugees/36/46), (paras.16-24); https://rightsandresources.org/wp-content/uploads/2018/06/Cornered-by-PAs-Brief_RRI_June-2018.pdf.

of the planet by 2030 must not disproportionately affect indigenous peoples or their human rights.

36. As the Special Rapporteur on human rights defenders ("HRDs") observes, protection of environmental HRDs—including indigenous peoples—is "inherently linked" to the "protection of their communities and peoples,"⁸³ including their freedom of religion or belief. Yet State and non-State actors intimidate, torture, and even murder them for advocating for their rights and protection of sacred lands, such as Brazilian miners reportedly "open[ing] fire with automatic weapons from speed boats" on Yanomami peoples.⁸⁴ In 2021, Front Line Defenders verified murders of 358 HRDs across 35 countries, 26% of whom were indigenous.⁸⁵ Insecurity and impunity foster such violence, with indigenous HRDs in Colombia being increasingly caught up in the crosshairs of paramilitary and criminal violence and targeted in their homes during COVID-19 lockdowns.⁸⁶

37. Indigenous women HRDs have described experiencing gendered forms of violence, harassment, and intimidation from State and non-State actors seeking to quell their advocacy as "a triple punishment:" for being indigenous women and HRDs against powerful interests.⁸⁷ They also report threats of sexual and gender-based violence ("SGBV") and smear campaigns (e.g., accusations of "unfaithfulness") on online platforms.⁸⁸ Civil society highlight that Indian security forces have systematically used SGBV to intimidate, humiliate and terrorize Adivasi activists, undermining community cohesion and resistance to land displacement and exploitation.⁸⁹

C. Restrictions on manifestations of indigenous spirituality

38. Countless indigenous communities have reported living with historical and ongoing violations of their freedom of religion or belief through State restrictions on ceremonial practices and spiritual leaders, often aimed at forced assimilation and conversion. Until the early 20th century, Japan banned several Ainu practices, including their bear-spirit-sending ceremony (iyomante), ostensibly only reversing the decision to capitalize on its tourism value as a "savage spectacle."⁹⁰ Canada and the USA previously banned Sun Dances, potlatches, and other traditional practices considered "anti-Christian" that are essential for worship and intergenerational transmission of knowledge.⁹¹ Given their spiritual centrality, some still practised them clandestinely. Religious organizations have similarly stigmatized and banned indigenous spiritual practices as "morally damaging" or "corrupt."⁹² Greenlandic experts observe that the State-sponsored Lutheran Church imposed such restrictions, impairing their drum dance and shamans.

39. According to the Expert Mechanism on Rights of Indigenous Peoples ("EMRIP"), improper acquisition, retention, and use of ceremonial objects may violate indigenous peoples' right to freedom of religion or belief.⁹³ Many indigenous peoples regard these objects, and human remains as physical representations or homes of spirit, respectively,

⁸³ [A/HRC/46/35](#), (para.54).

⁸⁴ <https://www.nationalgeographic.com/history/article/war-on-indigenous-amazon-communities-in-brazil>.

⁸⁵ https://www.frontlinedefenders.org/sites/default/files/2021_global_analysis_-_final.pdf, (p.5).

⁸⁶ <https://www.globalwitness.org/en/campaigns/environmental-activists/last-line-defence/>; https://static.globalwitness.org/interactives/2021/led-data-explorer/data/global_witness_led_20-10-21.csv

⁸⁷ Submission-Survival International. [A/HRC/50/26](#), (para.32).

⁸⁸ [A/HRC/40/60](#), (paras.63-65); [A/HRC/39/17](#), (para.78).

⁸⁹ https://assets.survivalinternational.org/documents/2057/Brutalized_for_resistance.pdf.

⁹⁰ <https://www.asianstudies.org/publications/ea/archives/ainu-e-instructional-resources-for-the-study-of-japans-other-people/>

⁹¹ <https://archive.nytimes.com/tierneylab.blogs.nytimes.com/2008/12/15/the-potlatch-scandal-busted-for-generosity/>; <http://projects.leadr.msu.edu/firststoryna/exhibits/show/blackfoot-moccasins/american-indian-religious-free>

⁹² E.g. <https://www.jstor.org/stable/41348743>, (pp.850-851).

⁹³ [A/HRC/45/35](#).

treating them as sentient beings.⁹⁴ Removing these items from indigenous communities, land, and spiritual leaders may break their relationship with attached spirits⁹⁵ or risk "spiritually-caused illnesses" that persist through future generations.⁹⁶ Plundered by colonizers, displayed as curiosities, and even utilized to justify pseudo-scientific racist theories about indigenous peoples, it is reported that over one million indigenous ancestral remains and cultural items still reside in repositories worldwide.⁹⁷ Interlocutors emphasize that public display of such objects may inflict spiritual and physical harm, damaging its spiritual essence and relationship with indigenous peoples, particularly where there are inappropriate preservation methods, untrained staff, and breaches of cultural secrecy.

40. Yet States, museums, other cultural institutions, and private collectors often express reluctance to repatriate ceremonial objects and remains, prioritizing proprietary "ownership" or scientific/historical value over indigenous rights. Interlocutors further report facing temporal, financial, and legal hurdles for successful repatriation, such as many national laws "limit[ing] deaccessioning" and enabling State justifications to set aside repatriation claims.⁹⁸ Article 11 UNDRIP emphasizes that indigenous peoples must enjoy effective redress and restitution for spiritual property taken without FPIC.

41. Recalling that educational institutions were historically sites for forced assimilation and loss of cultural identity of indigenous peoples, restrictions on indigenous spiritual practices within this context remain contentious. In the Middle East, North Africa, Tajikistan, Vietnam, Mongolia, and Bolivia, interlocutors observe barriers to teaching their children about indigenous spirituality. Barriers include mandatory religious education that promotes "dominant," non-indigenous spiritual teachings without accessible opt-out options and a lack of indigenous language options in schools. Some highlight primary and secondary schools restrict indigenous students from donning traditional clothing and sacred symbols, including eagle feathers.⁹⁹

42. EMRIP submits that appropriating indigenous peoples' cultural heritage causes "spiritual, cultural, religious and economic harm."¹⁰⁰ In several regions, states and non-State actors have reportedly commercialized indigenous spirituality — fuelling derogatory stereotypes and violating cultural secrecy or commercializing their sacred sites, practices, and objects—including plants and their genetic material—without FPIC or sharing benefits with traditional custodians. Food, pharmaceutical, tourism, and fashion industries are amongst those implicated. "Folklorization," the re-stylizing of traditional expressions to reduce aesthetic and semantic complexity for outside consumption, often homogenizes and ignores the complex identities of indigenous peoples, including their spirituality.¹⁰¹ For instance, interlocutors observe that Kenya tourism material often treats "Maasai" as shorthand for all indigenous peoples.

43. Corporatized "cultural exchange" (especially given the speed and reach of the Internet in driving globalization and following the colonial-induced loss of traditional knowledge) might either homogenize indigenous voices or may magnify some while silencing others.¹⁰² Appropriation does not occur on equal playing fields, often perpetuating unremedied histories of oppression and exploitation. Between 60% and 80% of "Aboriginal and Torres Strait Islander," arts and crafts sold are created without their involvement or benefit received.¹⁰³ One interlocutor has described appropriation as "another form of colonization,"¹⁰⁴ taking from those who already had everything taken from them.

⁹⁴ https://www.uctp.org/_files/ugd/2b292f_a11c68dabe624648be7a4e7b497dda7d.pdf, (pp.472-73)

⁹⁵ [A/HRC/45/35](#), (para.14); Submission-Pueblo of Acoma

⁹⁶ *Moiwana Community v. Suriname*, (para.195).

⁹⁷ Submissions-International Repatriation Project/Association on American Indian Affairs, and International Indian Treaty Council ("IITC").

⁹⁸ [A/HRC/45/35](#), (paras.18-19).

⁹⁹ <https://lakotalaw.org/news/2019-06-03/right-to-regalia>

¹⁰⁰ [A/HRC/45/35](#), (para.38).

¹⁰¹ <https://ich.unesco.org/doc/src/05297-EN.pdf>, (p.6).

¹⁰² [A/76/178](#), (paras.36,41).

¹⁰³ <https://www.pc.gov.au/inquiries/current/indigenous-arts/draft/indigenous-arts-draft.pdf>.

¹⁰⁴ <https://www.creativespirits.info/aboriginalculture/arts/are-dot-paintings-traditional-aboriginal-art>.

44. Controversy arises when States and companies turn indigenous sacred sites and ceremonies into tourist "spectacles," affecting their spiritual value and access to followers.¹⁰⁵ In Russia and the USA, interlocutors report being required to pay entrance fees to access their sacred sites, designated as tourist attractions, including within national parks. One interlocutor observed that the event calendars of national parks' for tourists often insensitively clash with indigenous traditions. "It's like going into a Church and announcing a party."¹⁰⁶

45. Many indigenous peoples embrace diverse forms of syncretism; reflecting the fluidity of intercultural exchange and rejecting assimilation, homogenization, and binary conceptualizations.¹⁰⁷ In Kyrgyzstan, interlocutors observe a trend of Imams adopting indigenous spiritual traditions over recent decades. In Indonesia, some Kayan peoples combine Catholic and indigenous spiritual practices, singing hymns in a traditional way. Others incorporate indigenous iconography into Christian churches. Though not necessarily amounting to undue restrictions on manifestations, syncretistic practices may attract resistance, typically from religious institutions, that may result in individuals downplaying their indigenous spirituality. Generating public controversy, the Church recently suspended a Lutheran priest in Greenland after he incorporated the Inuit drum dance into a service.

46. By restricting access to spiritually significant plants, including those with psychoactive properties, indigenous interlocutors claim that States and international organizations have limited their spiritual practices. The 1961 Single Convention on Narcotic Drugs bans the coca leaf, which is spiritually significant in Bolivia and Peru, while State drug policies have restricted access to peyote, white sage, and ayahuasca.¹⁰⁸ Such limitations are not necessarily unlawful since States may prohibit manifestations of spirituality for specific reasons, such as for public health, in limited circumstances—including that measures are legislated, necessary, and proportionate. Experts submit that non-indigenous peoples sometimes exploit indigenous peoples' traditional knowledge to pursue social harms (e.g., cocaine production), but legal safeguards preventing this exploitation may disproportionately affect indigenous communities.

D. Women, equality, and freedom of religion or belief

47. Several experts have asserted that, traditionally, many indigenous belief systems were matriarchal or egalitarian, with women holding powerful and influential positions in spiritual, socio-economic, and political spheres. Across several regions, the Special Rapporteur has heard that indigenous women were key—even primary—carriers and custodians of indigenous spirituality, presiding over rituals and celebrations, healing, advising, controlling lands, and transmitting knowledge to future generations.¹⁰⁹ In the Philippines, indigenous women (babaylans) are "a reflection of strength in their tribes."¹¹⁰ Women were considered "central to the identity, existence, and longevity of their communities,"¹¹¹ even though other interlocutors described their societies as patriarchal.¹¹²

48. Having imposed patriarchal structures and principles, some States and non-State actors have invalidated or undermined gender dynamics within indigenous communities, stripping women of their elevated status, agency, and social mobility. Forced sedentarization has brought formerly migratory indigenous groups under State administrative procedures that recognized men as "heads of household." The growing influence of religious institutions, which ban women from being spiritual leaders, was described as effectively sidelining indigenous women and shrinking their space to fulfil sacred roles and responsibilities.

¹⁰⁵ Consultation-East Asia; Submission-United Confederation of Taíno People ("UCTP").

¹⁰⁶ Consultation-USA.

¹⁰⁷ [A/76/178](#), (para.6).

¹⁰⁸ https://www.hr-dp.org/files/2019/06/12/Drug_Policy_and_Indigenous_Peoples.pdf, (p.271).

¹⁰⁹ [Plan de Sánchez Massacre v. Guatemala](#); <https://www.fnha.ca/Documents/FNHA-PHO-Sacred-and-Strong.pdf>, (pp.6-8); <https://www.oas.org/en/iachr/indigenous/docs/pdf/Brochure-MujeresIndigenas-en.pdf>, (pp.1,10)

¹¹⁰ Submission-Commission on Human Rights of the Philippines("CHRP").

¹¹¹ Consultations-India, Canada, USA, Latin America, EEAC, Greenland, MENA.

¹¹² Consultation-Kenya.

Interlocutors report that restrictions flowing from Canada's 1867 Indian Act effectively prevented indigenous women from voting, serving as elected representatives, or benefiting from matriarchal inheritance, entrenching inequality.¹¹³ Land appropriation often has gendered ramifications, particularly "underminin[g] indigenous women's status and roles" in matriarchal and matrilineal societies.¹¹⁴ In one recent comparative survey, 22 of 30 States gave greater legal recognition to men's rights over women's in inheriting traditional land.¹¹⁵

49. Historically, colonial and patriarchal systems steeped in prejudice towards indigenous culture and spirituality have depicted women as "untamed savage[s]," "witches," and "uncivilized"¹¹⁶ —a subject to "normalize" through forced assimilation—to "exotic" and "sexually deviant"¹¹⁷ because of norms for sexual and reproductive practices (e.g., birth outside of marriage and widow re-marriage). The Special Rapporteur is concerned with reports that media, cultural influencers, and individuals hypersexualize, fetishize and objectify indigenous women. Patriarchal concepts of sex- and gender-based roles, sex-based superiority or inferiority, increasing social inequalities, and the prevalence of male-dominated power structures are among multidimensional causes of harmful practices against indigenous women¹¹⁸ which threaten their ability to live freely, equally, and in keeping with their right to freedom of religion or belief.

50. Amongst those harmful practices, many indigenous women worldwide are disproportionately vulnerable to SGBV, trafficking, and acts related to witchcraft accusations and ritual attacks.¹¹⁹ The National Human Rights Commission ("NHRI") of Nepal recently found that 49% of women trafficking survivors are indigenous.¹²⁰ Indigenous Australian women are 35 times more likely to experience domestic and family violence.¹²¹ In Cameroon, 55% of Mbororo women testify to surviving domestic violence before they were 15 years old.¹²² "Man camps" (temporary housing facilities for the majority non-indigenous workforce) in Malaysia, India, and Canada have reportedly heightened SGBV against indigenous women.¹²³ One study of Fort Berthold Indian Reservation found a correlation between workers' arrival and an approximately 75% increase in sexual assaults.¹²⁴ Interlocutors also highlight that indigenous survivors of SGBV often face stigmatization from within their communities and the police. Said treatment and attitudes often deter reporting, increase the risk of revictimization, and effectively function to "protect perpetrators and silence women."¹²⁵

51. Several scholars characterize indigenous women as occupying a space that oscillates between invisibility in private—primarily as survivors of SGBV—and hypervisibility in

¹¹³ https://indigenousfoundations.arts.ubc.ca/marginalization_of_aboriginal_women/

¹¹⁴ A/HRC/30/41, (para.16)

¹¹⁵ https://rightsandresources.org/wp-content/uploads/2017/07/Power-and-Potential-A-Comparative-Analysis-of-National-Laws-and-Regulations-Concerning-Womens-Rights-to-Community-Forests_May-2017_RRI-1.pdf

¹¹⁶ E.g. Submissions-UCTP, IITC.

¹¹⁷ E.g. https://nwac.ca/assets-knowledge-centre/Fact_Sheet_Root_Causes_of_Violence_Against_Aboriginal_Women-1.pdf, (p.3).

¹¹⁸ A/HRC/50/26, (paras.24-25); <https://www.unfpa.org/resources/breaking-silence-violence-against-indigenous-girls-adolescents-and-young-women>, (pp.19-26).

¹¹⁹ Submissions-UCTP, IITC;

<https://journals.sagepub.com/doi/abs/10.1177/097185240000400301>, (p.18);

<https://vc.bridgew.edu/cgi/viewcontent.cgi?article=1219&context=jiws>, (pp.21-22);

<https://www.oas.org/en/iachr/reports/pdfs/indigenouswomen.pdf>, (paras.113-117).

¹²⁰ <https://www.culturalsurvival.org/news/indigenous-women-and-girls-disproportionately-trafficked-nepal>.

¹²¹ <https://www.dss.gov.au/women/programs-services/reducing-violence/the-national-plan-to-reduce-violence-against-women-and-their-children-2010-2022>

¹²² <https://ffacameroon.org/activities/gender-based-violence-against-indigenous-women-and-girls-gbv/>

¹²³ <https://scholarlycommons.law.northwestern.edu/nulr/vol116/iss2/4/>;

<https://www.asianindigenouswomen.org/index.php/violence-against-indigenous-women/73-a-wider-context-of-sexual-exploitation-of-penan-women-and-girls-in-middle-and-ulu-baram-sarawak-malaysia/file>

¹²⁴ <https://scholar.law.colorado.edu/cgi/viewcontent.cgi?article=1671&context=articles>, (pp.2-4).

¹²⁵ A/HRC/30/41, (para.71).

public as "deviant bodies."¹²⁶ They are often targeted with discrimination, hostility, and violence from State and non-State actors because of their visible, empowered choices regarding religious dress, whether in wearing traditional attire (such as *mujeres de pollera* in Bolivia)¹²⁷ or refusing to wear gendered clothing based on interpretations of another religion.¹²⁸ In Algeria, indigenous women have felt pressure to remove traditional tattoos (symbolizing fertility) with acid to avoid negative attention, as the majority Muslim community considers them "haram" (forbidden). In a verdict later overturned, Sudan convicted Christian Nuba women with "indecent dressing" under the 1991 Criminal Act for wearing skirts and trousers.¹²⁹

52. Several States¹³⁰ legitimately restrict harmful practices perpetuated in the name of indigenous culture and spirituality that violate the rights of members of indigenous communities.¹³¹ Restrictions have applied to such practices promoting banishment, trafficking, beatings, child marriage, SGBV, mutilation and amputation, torture, and murder, including persons with albinism.¹³² Some persons also invoke their interpretations of indigenous beliefs to justify discrimination, violence, and hostility against indigenous of lesbian, gay, bisexual, transgender/transsexual plus ("LGBT+") persons.¹³³ In several regions, indigenous women call for alternative "rites of passages" to female genital mutilation.¹³⁴ Interlocutors further report that indigenous girls are forcibly married and raped in Thailand. In a practice known as "beading," indigenous girls in Kenya—sometimes as young as nine—are coerced into sexual relations with men of "warrior" age in exchange for beads and other goods.¹³⁵ It is essential to delink hostility, violence, and discrimination emanating from external sources and attitudes within indigenous belief systems.¹³⁶ As interlocutors repeatedly emphasized, indigenous peoples are not inherently violent, and the causes of violence are multifaceted: poverty, displacement, conflict, and structural disenfranchisement.

53. Some indigenous women feel compelled to make a supposedly binary choice between "culture or rights," namely advancing communities' culture or enforcing their human rights.¹³⁷ This false dichotomy can "further entrench[...] vulnerability of indigenous women to abuse and violence."¹³⁸ The Special Rapporteur recalls that the universal right to equality is unqualified. States must protect the freedom of religion or belief of indigenous peoples while ensuring that religion or belief systems are not invoked to justify violence and discrimination, including barriers to indigenous women's sexual and reproductive healthcare and services.¹³⁹ Where permissible under international law, indigenous women must decide whether a specific cultural practice violates their rights.¹⁴⁰

¹²⁶ <https://cjc.utpjournals.press/doi/full/10.22230/cjc.2006v31n4a1825>, (p.899).

¹²⁷ https://www.oas.org/en/iachr/media_center/PReleases/2019/321.asp

¹²⁸ https://www.ilo.org/wcmsp5/groups/public/---dgreports/---gender/documents/publication/wcms_173293.pdf.

¹²⁹ <https://www.ohchr.org/en/press-releases/2015/08/young-woman-risks-20-lashes-indecent-dressing-un-experts-urge-sudan-overturn>; <https://www.amnesty.org.uk/sudan-court-overturns-conviction-teenager-sentenced-indecent-dress>

¹³⁰ [A/HRC/24/57](#), (paras.22,50-51).

¹³¹ [CEDAW/C/GC/31/REV.1 - CRC/C/GC/18/Rev.1](#).

¹³² [A/HRC/24/57](#), (paras.19-32); [A/HRC/30/41](#), paras.(28,44,47,54-57).

¹³³ [A/HRC/30/41](#), (para.57).

¹³⁴ E.g. <https://www.unfpa.org/news/silent-epidemic-fight-end-female-genital-mutilation-colombia>.

¹³⁵ https://www.iwgia.org/images/publications/0607_SEEDO_research_report.pdf, (p.4);

https://www.iwgia.org/images/publications/0752_ST_Girl-Child_beadng_Research_in_Laikipia_Samburu_and_Marsabit_Counties.pdf.

¹³⁶ [A/HRC/30/41](#), (para.59).

¹³⁷ <http://www.jstor.org/stable/41345477>, (pp.231-238); [A/36/40](#), (pp.166-174).

¹³⁸ [A/HRC/30/41](#), (para.13).

¹³⁹ [A/HRC/43/48](#).

¹⁴⁰ <https://muse.jhu.edu/article/730068>.

E. Sexual orientation and gender identity

54. In several indigenous communities worldwide, individuals that self-identify as "third gender" have held visible, recognizable, and valued positions within indigenous communities. Said positions include healers, priests, and keepers of spiritual knowledge (e.g., mǎhū in Native Hawaiian and Tahitian communities,¹⁴¹ "two-spirit persons" in certain Canadian indigenous tribes,¹⁴² and muxes amongst Zapotec in Mexico).¹⁴³

55. Colonial, non-indigenous actors, regarded these gender-diverse views and practices as "immoral," "perverse," and "unnatural" and imposed draconian rules that criminalized and pathologized said practices.¹⁴⁴ The British Raj-introduced Criminal Tribes Act 1871, which criminalized homosexuality and cross-dressing, has been linked to the severe contemporary marginalization of Khawaja Siras (gender variant considered to have a feminine soul) in Pakistan.¹⁴⁵ Many consider mǎhū a derogatory term today, with negative connotations that ostensibly coincide with colonization.¹⁴⁶ Such practices and policies have profoundly impacted the spiritual roles and status of indigenous LGBT+ persons, impairing their exercise of freedom of religion or belief and exacerbating their vulnerability to violence and discrimination in wider society. Studies indicate that indigenous LGBT+ persons often face a high risk of intimate violence, especially compared to non-indigenous LGBT+ persons or indigenous heterosexual persons.¹⁴⁷ Some in MaeSamLaep, Thailand—misguided about the mutability of sexual orientation and gender identity—reportedly perpetrate the crime of so-called "corrective rape" (via forced marriage) against them.¹⁴⁸

F. Socio-economic challenges

56. Contrary to the UN SDG's objective that "no one is left behind,"¹⁴⁹ many indigenous peoples struggle to survive in a culture of widespread discrimination, let alone enjoy their rights, including freedom of religion or belief. Scapegoating, stigmatizing, and negatively stereotyping indigenous peoples and their spirituality only furthers marginalization. No faith or belief system is protected from critique in international human rights law. However, States, religious institutions, and broader society have deployed terms such as "witchcraft," "folklore," "pagan," "devil-worship," and "anti-development" to characterize indigenous spirituality, to deny their equal participation in society—including access to essential goods and services—and even to justify rights violations including of their freedom of religion or belief and non-discrimination.

57. Within several States, State educational curriculums and teachers reportedly have stereotyped, underrepresented, or misrepresented indigenous peoples, including their spirituality, often excluding positive representations of them, peddling discriminatory tropes, or whitewashing colonial history.¹⁵⁰ Indigenous healers claim that the lack of differentiation between "witchdoctors" and "traditional doctors" in Uganda's 1957 Witchcraft Act could stigmatize and penalize them.¹⁵¹ Allegedly, ethnic majority Tajiks brand Pamiri as

¹⁴¹ <https://glreview.org/article/gender-fluidity-in-hawaiian-culture/>

¹⁴² <https://rainbowresourcecentre.org/files/16-08-Two-Spirit.pdf>

¹⁴³ <https://uapress.arizona.edu/book/behind-the-mask>, (pp.9-11).

¹⁴⁴ A/HRC/38/43, (para.52); <https://muse.jhu.edu/book/3074>, (p.1-2).

¹⁴⁵ <https://www.routledge.com/Gender-Sexuality-Decolonization-South-Asia-in-the-World-Perspective/Roy/p/book/9780367901240>, (p.265).

¹⁴⁶ <https://glreview.org/article/gender-fluidity-in-hawaiian-culture/>; <https://www.mdpi.com/2075-471X/2/2/51/htm>, (p.51).

¹⁴⁷ <https://www150.statcan.gc.ca/n1/pub/85-002-x/2021001/article/00007-eng.htm>, (p.6);

<https://equalityaustralia.org.au/resources/dvreport/>, (pp.30-31).

¹⁴⁸ <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=8848&file=CoverPage>, (pp.4-5).

¹⁴⁹ [A/75/385](https://www.un.org/es/events/indigenousday/pdf/Backgrounder%20Indigenous%20Day%202016.pdf).

¹⁵⁰ <https://www.un.org/es/events/indigenousday/pdf/Backgrounder%20Indigenous%20Day%202016.pdf>

¹⁵¹ <https://www.icj.org/wp-content/uploads/2022/02/Uganda-Violations-of-the-Right-to-Freedom-of-Religion-or-Belief-publications-briefing-paper-2022-ENG.pdf>, (p.28).

"backward" people and discriminate against those seeking decision-making roles as civil servants and politicians in Tajikistan.¹⁵²

58. Indigenous peoples have also faced discrimination, violence, and hostility for their perceived "failure" to assimilate, especially where they advocate for their rights and express their cultural and spiritual identity.¹⁵³ In a 2020 study, 97% of indigenous Australian respondents encountered harmful social media content weekly, including threats and demands from white nationalists for forced assimilation.¹⁵⁴ Respondents were also concerned that social media companies are less likely to understand—and thereby moderate—hatred based on their "way of life" and spiritual identity compared to other religions. In a Norwegian survey, approximately 33% of respondents had observed hateful speech or conduct against Sami peoples, typically questioning their indigeneity and reindeer herding—a spiritually significant practice.¹⁵⁵ Harmful practices against indigenous peoples, including hateful rhetoric, disinformation, and derogatory tropes, may travel from offline to online worlds and vice versa. The Special Rapporteur recalls that HRC Resolution 16/18¹⁵⁶ prohibits incitement to discrimination, hostility and violence based on one's religious or belief identity, as guided through the Rabat Plan of Action's six-step test.¹⁵⁷

59. Interlocutors noted that systematic and widespread discrimination can pressure indigenous peoples, especially younger generations, to assimilate to survive or "to succeed"¹⁵⁸ in broader society, thereby self-censoring, reducing, or ceasing spiritual practices—feeding fears of "traditional knowledge going extinct." In Tunisia, Amazigh perceives social pressure to conform, concealing their language and clothing to secure employment and social acceptance. Indigenous peoples from Sangha, Congo, "saw no other viable option [besides integration] for ensuring survival" once driven from their forests and forbidden from hunting.¹⁵⁹ Others seek Western education to "learn the white man's way," effectively using State legal systems to challenge adverse policies and practices, including those undermining their freedom of religion or belief.¹⁶⁰

60. Underlying many indigenous peoples' current interactions with State apparatuses is an enduring distrust engendered by centuries of institutionalized discrimination, dispossession, and forced assimilation.¹⁶¹ Today, certain State actors are still perceived as hostile or exclusionary, deterring participation and perpetuating disadvantage. In Bolivia, Peru, and the Philippines, healthcare authorities' stigmatization and restrictions on indigenous midwives have reportedly driven many indigenous women to choose homebirths in accordance with spiritual beliefs, limiting access to emergency medical services should complications arise.¹⁶²

61. While human rights are interdependent and indivisible, this is particularly relevant to indigenous peoples whose "spiritual worldview" governs every aspect of their lives. For example, indigenous peoples often conceptualize health holistically, encompassing one's physical well-being and the spiritual, intellectual, and emotional health of the whole

¹⁵² https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/TJK/INT_CERD_NGO_TJK_28052_E.pdf, (pp.8-9).

¹⁵³ E.g. <https://www.peacemakersnetwork.org/wp-content/uploads/2021/10/Amplifying-Youth-Led-Peacebuilding-in-South-Asia.pdf>

¹⁵⁴ https://research-management.mq.edu.au/ws/portalfiles/portal/135775224/MQU_HarmfulContentonSocialMedia_report_201202.pdf

¹⁵⁵ <https://www.nhri.no/rapport/holdninger-til-samer-og-nasjonale-minoriteter-i-norge/>

¹⁵⁶ [A/HRC/RES/16/18](#).

¹⁵⁷ [A/HRC/22/17/Add.4](#).

¹⁵⁸ Consultation-Kenya.

¹⁵⁹ [A/HRC/45/34/Add.1](#), (paras.31-33).

¹⁶⁰ Consultations-USA, Greenland, Ecuador.

¹⁶¹ E.g.

<https://www.ourcommons.ca/Content/Committee/432/SECU/Reports/RP11434998/securp06/securp06-e.pdf>

¹⁶² E.g. <https://www.unfpa.org/news/giving-birth-upright-mat%C3%A9%E2%80%93peru-clinics-open-arms-indigenous-women>; <https://chr.gov.ph/wp-content/uploads/2022/06/2022.-Sectoral-Monitoring-on-the-Situation-of-Indigenous-Women-and-Girls-During-the-Pandemic.docx>

community, which depends on indigenous lands as a critical source of life and healing.¹⁶³ Many justice systems are community-orientated, using rehabilitation and reintegration in "seek[ing] to heal the offender, victim, and community."¹⁶⁴ And their socio-economic philosophies frequently emphasize "social responsibility and reciprocity," guiding production and distribution of goods, sustainable practices, and engagement in traditional occupations (e.g., hunting, fishing).¹⁶⁵

62. By failing to develop culturally relevant, holistic solutions that consider indigenous peoples' rights and needs, several interlocutors submit that States' practices and policies are relatively ineffective—and may even be detrimental. Invoking neoliberal principles, some States have paternalistically sought to justify or legitimize rights violations as being in indigenous peoples' "best interests." Such claims include rationalizations that forced relocation facilitates indigenous peoples' access to modern goods and services, despite profoundly rupturing community cohesion and identity. States often consider traditional livelihood activities as "irrelevant" and sometimes discourage them "even in the absence of viable alternatives."¹⁶⁶

63. For interlocutors, the lack of culturally appropriate options and the State's failure to fulfil positive obligations in protecting their collective identity and their rights to exercise culture, language, and religion have compounded disadvantages.¹⁶⁷ Many indigenous peoples globally have comparatively low educational achievement rates (low attendance and literacy and high dropout). Cited factors include lack of indigenous language options, culturally appropriate curricula, physically accessible schools, or institutional accommodation of traditional practices (e.g., hunting, nomadic lifestyle, and sacred ceremonies).¹⁶⁸

G. Civic and political exclusion

64. When the rights of one community suffer, the whole of society suffers. Empowering indigenous peoples by respecting their rights to equal participation within political and public spheres is paramount for ensuring democracy, peace, and security, especially by empowering them to mitigate disadvantages and better advocate for rights, including freedom of religion or belief. However, many indigenous peoples regularly suffer exclusion from civic and political spaces because of their indigeneity and/or religion or belief identity.

65. Some States prohibit those not belonging to their official religion or belief system from holding public office, contrary to their right to non-discrimination.¹⁶⁹ Other indigenous peoples are divested or denied citizenship, affecting their socio-economic participation. Myanmar's 1982 Citizenship Law reportedly fails to recognize the ethnoreligious Rohingya community as citizens, rendering them stateless and denying them myriad civil and political rights, including participation in elections.¹⁷⁰ Sedentarization, forced dispossession and relocation, and denial of citizenship rights have significantly impaired the tribal traditions of the Bedouins and their relationship to the land in several Middle Eastern countries.

66. States have legitimate interests in upholding public safety and national security. Yet several States have allegedly instrumentalized their 'security' and counterterrorism frameworks — contrary to a human-rights-based approach — to discriminatorily impede or criminalize indigenous peoples' enjoyment of their rights, including their freedom of

¹⁶³ <https://winnunga.org.au/wp-content/uploads/2018/10/Spirituality-Review-2009.pdf>

¹⁶⁴ <https://berkleycenter.georgetown.edu/responses/on-lifeways-and-litigation-rethinking-native-american-religious-freedom>. Also [A/HRC/42/37](#), (paras.24-25).

¹⁶⁵ [A/HRC/36/53](#), (paras.3,24).

¹⁶⁶ https://www.un.org/en/ga/69/meetings/indigenous/pdf/IASG%20Thematic%20paper_%20Employment%20and%20Social%20Protection%20-%20rev1.pdf, (p.3).

¹⁶⁷ [CCPR/C/21/Rev.1/Add.5](#), (para.6.2).

¹⁶⁸ https://www.ilo.org/wcmsp5/groups/public/---dgreports/---gender/documents/publication/wcms_792208.pdf, (p.49).

¹⁶⁹ [A/HRC/37/49](#), (para.56); <https://www.pewresearch.org/fact-tank/2014/07/22/in-30-countries-heads-of-state-must-belong-to-a-certain-religion/>

¹⁷⁰ [A/HRC/39/64](#), (para.30).

assembly, association or expression, and spiritual practice, and to justify rights violations. For example, Bangladesh has reportedly invoked "security" justifications to reject indigenous land claims in the Chittagong Hill Tracts, thereby restricting their opportunities for worship.¹⁷¹

67. States also have weaponized counterterrorism legislation to surveil indigenous peoples during their spiritual ceremonies, lower due process standards and increase penalties against indigenous activists expressing political dissent. The Committee on the Elimination of Racial Discrimination has expressed concern that Ecuador has brought criminal proceedings against indigenous activists on charges including terrorism, sabotage, and resistance, resulting in convictions and fines disproportionate to the acts' seriousness.¹⁷² Drawing on and cultivating misrepresentation of indigenous peoples, the Philippines' Anti-Terrorism Law 2020 supports the "red-tagging" of indigenous HRDs. They have been allegedly labelled as "communists" based on their political opinions, subject to arbitrary arrest and extra-judicial killings, and had indigenous schools shut for being "breeding grounds for terrorists" or having "anti-government" curriculums.¹⁷³ Civil society also highlights that indigenous peoples' social media use for advocacy and community organization may increase their vulnerability, observing Facebook/Meta's role in facilitating "red-tagging."¹⁷⁴

68. Both violating indigenous peoples' rights and limiting their advocacy against such violations, several States allegedly have intimidated, surveilled, threatened, arbitrarily arrested, or violently attacked peaceful indigenous protestors with excessive force.¹⁷⁵ In Algeria, 41 Amazigh were reportedly arrested and imprisoned in 2019 for drawing attention to their indigenous identities during peaceful protests.¹⁷⁶ States blocking Internet access is never justifiable, including to reinforce public order or protect national security.¹⁷⁷ Indonesia has imposed Internet blackouts in majority-indigenous West Papua to reportedly quash community organizations and quell advocacy for their rights domestically and abroad.¹⁷⁸ Steadily, more States are moving towards regulating online communications through hate speech legislation.¹⁷⁹ Such measures may deliberately or inadvertently discriminate against indigenous peoples, such as concerns that Canada's online hate speech bill could characterize their political organization as "anti-government."¹⁸⁰

H. Access to justice

69. Worldwide, interlocutors from every region have observed a reoccurring disconnect between State rhetoric—in extolling respect for indigenous peoples' rights—and reality, with States failing to recognize indigenous peoples and uphold their rights, including freedom of religion or belief.¹⁸¹ Such shortcomings are often borne from complicity or denial of responsibility. States have fully implemented merely 28% of IACtHR's reparation orders in land rights cases,¹⁸² with low compliance rates attributed to various factors, including lack of State ability or political willpower—often where the alleged perpetrators still hold power.¹⁸³ Impunity for rights violations reigns in such permissive climates. Despite progressive

¹⁷¹ Consultation-South Asia.

¹⁷² [CERD/C/EQU/CO/23-24](#), (para.20).

¹⁷³ [A/HRC/44/22](#), (paras.49-61); Submission-CHRP.

¹⁷⁴ https://www.icj.org/wp-content/uploads/2022/01/ICJ_PhilippinesRedTagging_270122.pdf; <https://www.malayamovement.com/weaponizationsocialmedia>

¹⁷⁵ E.g. Tajikistan, Argentina, Indonesia ([AL IDN 7/2019](#)). Also [A/HRC/49/44](#), (paras.20,32,38).

¹⁷⁶ <https://www.amnesty.org/en/documents/mde28/0664/2019/en/>

¹⁷⁷ <https://www.osce.org/files/f/documents/e/9/78309.pdf>, (para.6.e).

¹⁷⁸ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24942&LangID=E>

¹⁷⁹ <https://www.cfr.org/backgrounder/hate-speech-social-media-global-comparisons>

¹⁸⁰ <https://torontosun.com/news/national/indigenous-racialized-lgbtq-groups-and-sex-workers-criticize-online-hate-bill>

¹⁸¹ [E/CN.4/Sub.2/AC.4/2004/4](#).

¹⁸² [A/HRC/42/37](#), (para.33); <https://academic.oup.com/jids/article/12/2/223/5981765>, (pp.11-13); Submission-Oglala Sioux Tribe.

¹⁸³ <https://academic.oup.com/jids/article/12/2/223/5981765>, (pp.21-25).

legislation protecting indigenous rights in the Philippines, attacks against indigenous HRDs reportedly escalated over 2020-2021.¹⁸⁴ And in Mexico, up to 95% of murders of environmental HRDs, including indigenous persons safeguarding their sacred lands, allegedly do not result in prosecution.¹⁸⁵

70. The Special Rapporteur recalls that the role of the police, which function as frontline defenders in the criminal justice system, is imperative for ensuring effective remedies for rights violations of indigenous peoples. Interlocutors reported incidents of police brutality, unconscious bias, and failure to investigate violent crimes, including where rooted in prejudice towards indigenous peoples and their spiritual identity.¹⁸⁶ Furthermore, As the Special Rapporteur on violence against women observes, domestic legislation and policies to prevent violence against women often overlook "specific vulnerabilities and realities of indigenous women."¹⁸⁷

71. States must ensure effective remedies to victims of rights violations,¹⁸⁸ with UNDRIP specifying that grounds of redress include taking indigenous "religious and spiritual property" without FPIC.¹⁸⁹ Treatments may differ depending on victims' wishes and contexts, and interlocutors often describe currently available options as inadequate or inappropriate for remedying past wrongs, particularly forced assimilation and displacement. Despite the court in *United States v Sioux Nation* ordering monetary compensation—worth approximately \$1.2 billion today—for land dispossession, Sioux peoples have not accepted it, instead seeking restitution as the only appropriate remedy. Given traditional lands' spiritual value, they "cannot be exchanged for other lands once[...]lost."¹⁹⁰

72. Some seek reparations to partly remedy the violations of their rights, while others believe "no amount of money" can heal "years of misery, despair, and death" under government policy.¹⁹¹ Public apologies and recognition may help some survivors, while other interlocutors decry such symbolic measures as insufficient without reform to provide substantive equality. When Denmark recently apologized for its forced "re-education" of 22 Greenlandic children in the 1950s, it attracted criticism for not offering other remedies—or redressing other alleged violations.¹⁹²

73. Interlocutors report that indigenous peoples' overrepresentation in criminal justice processes globally¹⁹³ frequently affects their ability to exercise spirituality. Banning indigenous spiritual practices in prisons—including sweat-lodge, pipe and drum ceremonies, growing of long hair, and "smudging"—may hinder traditional healing, intergenerational transfer of knowledge, rehabilitation, and "cultural survival" upon release.¹⁹⁴ Mapuche peoples in Chile have decried judicial rejection of its traditional healer's (machi) request to partly serve his sentence in his community in fulfilling his essential healing obligations, especially amidst the COVID-19 pandemic.¹⁹⁵

¹⁸⁴ <https://www.iwgia.org/en/philippines/4656-iw-2022-philippines.html>

¹⁸⁵ <https://www.globalwitness.org/en/campaigns/environmental-activists/last-line-defence/>

¹⁸⁶ https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Final_Report_Vol_1a-1.pdf, (pp.621-634); <https://journals.sagepub.com/doi/full/10.1177/10778012211013903>

¹⁸⁷ [A/HRC/50/26](#), (para.47).

¹⁸⁸ ICCPR, art.2(3); Convention Against Torture, art.14; Convention on the Elimination of All Forms of Discrimination Against Women, art.2; Convention on the Elimination of Racial Discrimination, art.6; Convention on the Rights of Persons with Disabilities, art.4.

¹⁸⁹ UNDRIP, arts.8(2)(d),11(2).

¹⁹⁰ <https://p302.zlibcdn.com/dtoken/fd029466550fc24c2dc22114c8f4f523/978-3-319-48069-5.pdf>, (pp.19, 21).

¹⁹¹ <https://www.aisc.ucla.edu/ca/Tribes2.htm>

¹⁹² <https://www.stm.dk/presse/pressemeddelelser/danmark-og-groenland-beslutter-historisk-udredning-af-de-to-landes-forhold/>

¹⁹³ E.g. USA (<https://bjs.ojp.gov/content/pub/pdf/p20st.pdf>); Canada (<https://www.justice.gc.ca/eng/rp-pr/jr/oip-cjs/p3.html>); Australia (<https://www.culturalsurvival.org/news/overrepresentation-indigenous-peoples-incarceration-global-concern>); New Zealand. (<https://www.corrections.govt.nz/resources/research/over-representation-of-maori-in-the-criminal-justice-system>)

¹⁹⁴ Submission-Huy; *Native American Council of Tribes v Weber*

¹⁹⁵ [AL CHL 6/2020](#); <https://irct.org/assets/uploads/Letter%20to%20the%20Editor.pdf>

74. Indigenous peoples may face specific obstacles in effectively advocating or proving violations of their freedom of religion or belief, including absent historical records amidst colonization, "cultural secrecy," and the voluntary isolation of "uncontacted tribes," precluding their self-representation.¹⁹⁶ Cultural secrecy can place indigenous peoples in a "double bind"—forced to choose between revealing their spiritual practices to satisfy legal standards in physically protecting an item or retaining this secrecy but losing access or tolerating others damaging the item's spirituality. To claim land rights, indigenous people must sometimes prove their unbroken connection to indigenous lands to the same State that forcibly broke those connections. The Special Rapporteur has learned that indigenous peoples may face other structural barriers in accessing the justice system, such as translating spirituality into legally-actionable language, expensive and complex legal processes to register traditional lands, and insufficient translators.

I. Good practice

75. Many indigenous peoples successfully develop and lead programmes to protect their rights, including gender equality and freedom of religion or belief. In several States, indigenous communities are revitalizing spiritual and cultural practices, particularly engaging youth for cultural continuity and working directly to support resilience and recovery of positive aspects of the past in contemporary contexts.¹⁹⁷ In 2022, Katuaq Cultural Center, Greenland, hosted a drum dance workshop with Inuit from across the Arctic and Polar regions.¹⁹⁸ Advocacy from EMRIP, IITC, and others has driven successful repatriations.¹⁹⁹ In consultation with indigenous peoples, UNESCO developed a Global Action Plan for the International Decade of Indigenous Languages (2022-2032), with several States embracing the initiative.²⁰⁰ Several efforts to recognize indigenous culture in national calendars and discourse are observable.²⁰¹

76. The Special Rapporteur welcomes legislative and policy reform to restore indigenous peoples' access or use of their lands in accordance with their spiritual beliefs and practices.²⁰² Ukraine,²⁰³ the Democratic Republic of the Congo,²⁰⁴ and Canada recently passed laws recognizing indigenous peoples and their rights.²⁰⁵ Australia is reportedly committed to implementing the Uluru Statement from the Heart.²⁰⁶ Several indigenous peoples welcome rights accorded to nature (e.g., India and New Zealand) but emphasize that related measures must still fulfil FPIC. Some corporations uphold FPIC operationally, but their insufficient practical implementation is concerning.²⁰⁷ Some State museums, universities, and collectors

¹⁹⁶ <https://www.oas.org/en/iachr/decisions/2014/ECAD422-06EN.pdf>

¹⁹⁷ E.g. Costa-Rica, India, Philippines, Russia, Suriname, Thailand, Uganda. Also <https://www.waterstones.com/book/a-world-you-do-not-know/colin-samson/9780957521001>

¹⁹⁸ <https://www.cbc.ca/news/canada/north/nuuk-katuarpalaq-drum-dancing-festival-1.6410671>

¹⁹⁹ Submission-Hui Iwi Kuamo.

²⁰⁰ <https://en.unesco.org/indil2022-2032/globalactionplan>; <https://indil2022-2032.org/all-resources/national-action-plan/>

²⁰¹ <https://www.cnn.com/2022/06/23/world/new-zealand-matariki-mori-new-year-first-indigenous-holiday-intl-hnk/index.html>

²⁰² E.g. <https://parksaustralia.gov.au/uluru/discover/culture/uluru-climb/>; <https://www.culturalsurvival.org/news/sacred-homelands-returned-wiyot-tribe>

²⁰³ <https://www.ecmi.de/infocchannel/detail/ecmi-minorities-blognative-others-what-implications-does-the-law-on-indigenous-peoples-have-for-ukraines-indigenous-population>

²⁰⁴ <https://www.clientearth.org/latest/latest-updates/news/how-the-republic-of-congo-s-new-forest-law-can-help-preserve-world-s-second-lung/>

²⁰⁵ <https://www.canada.ca/en/departement-justice/news/2022/06/statement-by-minister-lametti-on-the-first-annual-progress-report-on-the-implementation-of-the-united-nations-declaration-on-the-rights-of-indigeno.html>

²⁰⁶ Submission-Australia.

²⁰⁷ <https://www.iwgia.org/en/resources/publications/305-books/4419-the-un-guiding-principles-on-business-human-rights-and-indigenous-peoples-%E2%80%93-progress-achieved,-the-implementation-gap-and-challenges-for-the-next-decade.html>

have repatriation policies for human remains, including the State Ethnographic Collections in Saxony, Germany.²⁰⁸

77. In acknowledging violations and seeking remedies for indigenous survivors of forced assimilation policies, Finland and other States have established Truth and Reconciliation Commissions, and USA officials have investigated federal Indian Boarding Schools.²⁰⁹ A recent Papal apology for the acts of Catholics in Canada's residential school system was lauded as historic but criticized for neither pledging reparations nor acknowledging institutional responsibility.²¹⁰ An Argentinian court also ordered reparations for the Napalpi Massacre that facilitate spiritual healing for victims' descendants.²¹¹ In the absence of national safeguards or effective remedies, indigenous peoples have approached regional and international human rights mechanisms.²¹²

78. Efforts to prevent rights violations against indigenous peoples, including those that may amount to atrocity crimes, are underway in several States—including tailored policies to prevent and respond to SGBV.²¹³ With the Network for Religious and Traditional Peacemakers, the UNOGP is advancing a consultative process to develop a Plan of Action for Traditional Actors to Prevent Atrocity Crimes.²¹⁴ While Royal Canadian Mounted Police receive cultural awareness and anti-bias training, some doubt its ability to singlehandedly address systemic racism. States—including Sweden, Australia, and New Zealand—incorporate indigenous peoples' history, contributions, and legacy in education programs to challenge prejudices and discriminatory practices.²¹⁵

79. Strong civil society and NHRIs—through advocacy, litigation, monitoring, and reporting—have an invaluable role in holding duty-bearers to account for violations of indigenous peoples' rights, including freedom of religion or belief. Kenya's NHRI has supported the development of a training manual for conserving indigenous lands,²¹⁶ and CHRP has established the Indigenous Peoples' Human Rights Observatory alongside indigenous peoples to monitor rights violations and promote community-orientated solutions.²¹⁷ Center for the Support of Native Lands produces maps of indigenous territories to assist in their legal protection and fight unwanted resource exploitation. While civil society coalitions work to better monitor violence against indigenous environmental and HRDs.²¹⁸

80. Some initiatives build bridges between indigenous peoples' spiritual needs and those of other faith communities. Indigenous communities in Kyrgyzstan who practice Islam advocate the majority communities for better protection of pilgrimage practices and natural, but also Islamic, sacred sites.²¹⁹ Indigenous peoples in French Polynesia protest against the effects of nuclear testing with strong support from local church groups.²²⁰ UNEP's Faith for Earth Strategy explicitly encourages using indigenous traditional knowledge for sustainable environmental management.²²¹

81. Efforts are underway to protect the intellectual property rights of indigenous peoples, including their spiritual practices. WIPO's Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge, and Folklore is currently

²⁰⁸ Submission-Northwestern University.

²⁰⁹ <https://www.doi.gov/pressreleases/department-interior-releases-investigative-report-outlines-next-steps-federal-indian>

²¹⁰ <https://www.npr.org/2022/07/25/1113498723/pope-francis-apology-canada-residential-schools-indigenous-children>; <https://www.nytimes.com/2022/04/02/world/canada/catholics-reparations-indigenous-canada-schools.html>

²¹¹ <https://www.iwgia.org/en/news/4852-the-ruling-on-the-napalp%C3%AD-massacre-in-argentina-justice-for-the-past-and-inspiration-for-the-present.html>

²¹² Submission-Endorois Welfare Council.

²¹³ [A/HRC/29/40](#), (para.56); [A/HRC/50/26](#), (para.48).

²¹⁴ Submission-Network for Religious and Traditional Peacemakers.

²¹⁵ <https://unesdoc.unesco.org/ark:/48223/pf0000369698>

²¹⁶ Submission-Kenya National Commission on Human Rights.

²¹⁷ Submission-CHRP.

²¹⁸ https://d3o3cb4w253x5q.cloudfront.net/media/documents/a_crucial_gap_low_res.pdf, (pp.33-35).

²¹⁹ Consultation-EECA.

²²⁰ <https://www.iwgia.org/en/resources/indigenous-world.html>, (p.596).

²²¹ <https://www.unep.org/about-un-environment-programme/faith-earth-initiative/strategy>

negotiating an international agreement—yet its timing and provisions are unclear.²²² In 2019, the rooibos tea industry delivered 1.5% of profits to Khoikhoi and San peoples in South Africa, who traditionally cultivated this sacred plant.²²³

J. Conclusion

82. A better understanding of indigenous peoples' right to freedom of religion or belief will not only benefit indigenous peoples but allow a broader appreciation of what a fuller realization of freedom of religion or belief for all entails. The right equally protects everyone, without a hierarchy of belief identity, whether enjoyed by millions or hundreds or exercised in buildings or sacred groves on indigenous territories.

83. Reflecting the richness and diversity of human experiences, the Special Rapporteur recalls that indigenous peoples belong to all faiths and none—and many enjoy them syncretistically. Protecting indigenous peoples' freedom of religion or belief must consider their distinctive spiritual needs, practices, and beliefs through a consultative approach. Such conditions include access to and use of territories, which are essential components of their physical, spiritual, and cultural survival and effective realization of their human rights more broadly, especially noting the holistic nature of their "worldview." Reports of forced displacement and sedentarization—frequently during development, extractive, tourism, or conservation projects—desecration and destruction of their sacred sites and, in several States, violence against indigenous HRDs raise serious concerns for their right to freedom of religion or belief. The Special Rapporteur emphasizes that it is impossible to analyse existing challenges to their exercise of freedom of religion or belief without acknowledging past exclusion and inequality. Systematic discrimination further makes it difficult for indigenous peoples to live, let alone live consistently with their spirituality.

84. As a Special Rapporteur on indigenous peoples has observed, a "lack of awareness" of indigenous rights repeatedly creates serious situations damaging their enjoyment of spirituality, culture, and traditional knowledge.²²⁴ This report initiates a valuable conversation within the UN system by analysing obstacles and opportunities for indigenous peoples in exercising their fundamental right to freedom of religion or belief rather than marking an endpoint.

K. Recommendations

85. The Special Rapporteur acknowledges the historic exclusion of many indigenous peoples from the development of international law instruments that affect them, including the right to freedom, religion, or belief. Emphasizing that holistic and human-rights-based solutions typically encompass indigenous spiritual considerations and address systematic disadvantage, and must ensure their FPIC, noting concerns that there should be "nothing about us, without us," the Special Rapporteur recommends:

1. States

(i) Establish legal and policy frameworks that recognize the right of indigenous peoples to their beliefs and comprehensively promote and protect their rights—drawing on UNDRIP specifically—including freedom of religion or belief. To this end, regularly review and revise such frameworks to tackle discrimination, undue restrictions on spiritual manifestations, and impediments to access and use of their lands.

(ii) Establish collaborative, consultative mechanisms for indigenous peoples to effectively influence decision-making on issues that affect them, including developing holistic rights-based policies and matters affecting spiritual practices. Consider and seek to

²²² <https://www.wipo.int/tk/en/igc/>.

²²³ <https://www.culturalsurvival.org/publications/cultural-survival-quarterly/indigenous-peoples-share-tea-industry-profits>.

²²⁴ [A/HRC/15/37](#), para.28.

overcome intersectional barriers based on religion or belief identity, disability, sexual orientation and gender identity, and ethnicity.

(iii) Deliver effective and appropriate remedies for indigenous survivors of rights violations, developed in consultation with them, consistent with international principles and guidelines,²²⁵ such as reparations, restitution, and supporting recommendations of truth and reconciliation commissions. Where applicable, acknowledge historical and ongoing harms of colonization, the Doctrine of Discovery and forced assimilation/dispossession more broadly for their spirituality and culture.

(iv) Condemn harmful practices that result in human rights violations against indigenous peoples, including those invoking religion or belief or related to accusations of witchcraft and ritual attacks.

(v) Take effective measures to ensure accountability, protection, and empowerment of all indigenous persons, including those targeted for their sexual orientation and gender identity or disability.²²⁶ Eliminate all discrimination and violence against indigenous women.²²⁷

(vi) Launch investigations against non-State actors, including private enterprises, forcibly displacing indigenous persons from their lands and violating freedom of religion or belief and other rights.

(vii) Where feasible and sufficient data protection safeguards are instituted, collect disaggregated data to improve monitoring and reporting mechanisms on discrimination, violence, and hostility targeting indigenous peoples, including HRDs and where these are based on religion or belief identity.

(viii) Collaborate with indigenous spiritual leaders and influencers to support conservation efforts and sustainable development of traditional lands through a human rights-based approach. States should also comply with Akwé: Kon guidelines.²²⁸

(ix) Develop human rights-based educational resources recognizing the connection between colonization and dispossession/marginalization of indigenous peoples; and tackling unconscious bias, stigmatization, and stereotyping towards indigenous peoples and their spirituality, including among teachers, police, judges, and other public servants.

2. UN and international/regional organizations

(a) Reemphasize the importance of UNDRIP in elucidating the rights of indigenous persons and encourage States to fully respect and protect those rights, including provisions relating to indigenous spirituality.

(b) Develop and support linkages between UN, international and regional human rights mechanisms to embed indigenous peoples' rights within their daily operations where affected, ensuring no one is left behind. Explore avenues for effectively engaging self-governing indigenous territories and entities, which may lack Statehood, on matters affecting them—notably climate change.

(c) Continue to support global interfaith dialogue, including indigenous spiritual leaders, on climate change and other environmental challenges.

(d) Facilitate exchange between UNESCO, International Council of Museums, and indigenous peoples on indigenous spirituality to develop international guidance on appropriate storage and display of indigenous objects, including repatriation. Support the development of international protections for the intellectual property rights of indigenous peoples.

²²⁵ [A/RES/60/147](#).

²²⁶ [A/HRC/RES/47/8](#), (paras.1-2).

²²⁷ [A/HRC/32/L.28/Rev.1](#).

²²⁸ <https://www.cbd.int/traditional/guidelines.shtml>.

3. Civil society (including religious or belief actors)

(a) Recognize the responsibility or complicity of religious and other civil society institutions in violating the rights of indigenous people and provide appropriate remedies to the victims.

(b) Promote interfaith dialogue that engages adherents of indigenous spirituality, including youth, opposes stereotypical narratives based on religion or belief identity, and includes space for syncretism.

(c) Continue undertaking and supporting advocacy, monitoring, and reporting, effectively holding States and non-State actors to account for violations of the freedom of religion or belief of indigenous peoples.

(d) Continue to engage with the UN human rights system, including Special Procedures, EMRIP, and the UN Permanent Forum on Indigenous Issues.²²⁹

4. Media

(a) Provide training to staff to address misinformation/stereotypes towards indigenous peoples and their spirituality, and combat speech inciting violence, discrimination, and hostility in accordance with human rights standards and guidance, including the Rabat Plan of Action, Fez Plan of Action, and UN Strategy and Plan of Action on Hate Speech.²³⁰

5. Private enterprise

(a) Promote and respect the rights of indigenous peoples in line with the UN Guiding Principles on Business and Human Rights, even when domestic law fails to recognize or protect those rights. When seeking FPIC, processes should respect their rights and customary decision-making processes. Those seeking to use or commercialize traditional indigenous iconography, art, or other cultural practices,²³¹ especially related to indigenous spirituality, should also recognize their contributions appropriately and carefully consider who benefits from that cultural borrowing/appropriation.

(b) Seek to provide suitable opportunities for indigenous peoples who face disadvantage and discrimination in wider society.

6. Museums and Cultural Centres

(a) Collaborate with traditional custodians and government officials to facilitate prompt and culturally-sensitive repatriation of indigenous peoples' ceremonial objects, and human remains, according to relevant international guidance, with attention to those with spiritual significance.²³²

7. Political parties

(a) Initiate opportunities for indigenous participation through meaningful representation within political parties and raise indigenous rights through party platforms so they may gain wider recognition.

²²⁹ <https://www.un.org/development/desa/indigenouspeoples/unpfii-sessions-2.html>.

²³⁰ <http://www.ohchr.org/EN/Issues/FreedomOpinion/Articles19-20/Pages/Index.aspx>;
http://www.un.org/en/genocideprevention/documents/publications-and-resources/Plan_of_Action_Religious-rev5.pdf; <http://www.un.org/en/genocideprevention/hate-speech-strategy.shtml>.

²³¹ [ILO 169](#), art.16; [UNDRIP](#).

²³² <https://www.unidroit.org/instruments/cultural-property/1995-convention/>.