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

## Rights of indigenous peoples

### Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on the rights of indigenous peoples, José Francisco Calí Tzay, in accordance with Human Rights Council resolution [42/20](#).

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\* [A/77/150](#).



## **Report of the Special Rapporteur on the rights of indigenous peoples, José Francisco Calí Tzay**

### **Protected areas and indigenous peoples' rights: the obligations of States and international organizations**

#### *Summary*

In the present report, the Special Rapporteur on the rights of indigenous peoples, José Francisco Calí Tzay, revisits the issue of protected areas and the rights of indigenous peoples and assesses recent developments with a focus on the obligations of States and international organizations to respect, protect and promote indigenous peoples' rights.

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## I. Introduction

1. The present report is submitted by the Special Rapporteur on the rights of indigenous peoples, José Francisco Calí Tzay, pursuant to Human Rights Council resolution 42/20. He provides herein a brief summary of his activities since his previous report to the General Assembly (A/76/202/Rev.1) and considers the implications of protected areas for the rights of indigenous peoples.
2. The Special Rapporteur considers it urgent and timely to revisit the issue of protected areas and the rights of indigenous peoples, which was addressed by the previous mandate holder in 2016, and assess recent developments with a focus on the obligations of States and international organizations to respect, protect and promote indigenous peoples' rights.

## II. Activities of the Special Rapporteur

3. Following his previous report to the General Assembly, the Special Rapporteur organized an expert meeting in late 2021 to commemorate the twentieth anniversary of the mandate, providing an opportunity to reflect on achievements, good practices and persistent gaps and challenges in the implementation of the United Nations Declaration on the Rights of Indigenous Peoples, and to propose strategies for the coming decade. The Special Rapporteur carried out an official country visit to Costa Rica in December 2021 and hopes to visit Namibia, Denmark/Greenland and Chad during the coming year. In June 2022, at the international meeting entitled "Stockholm+50: a healthy planet for the prosperity of all – our responsibility, our opportunity", he delivered a statement on the disproportionate impact of climate change on indigenous peoples' rights and the need to ensure the rights of indigenous peoples in conservation and climate change action.<sup>1</sup> The Special Rapporteur participated in the annual meetings of the Permanent Forum on Indigenous Issues and the Expert Mechanism on the Rights of Indigenous Peoples.

## III. Protected areas and the rights of indigenous peoples: the obligations of States and international organizations

4. For centuries, indigenous peoples' scientific knowledge, land tenure systems and sustainable management of resources have preserved and conserved the planet. Respect for indigenous peoples' collective rights is therefore a fundamental step towards the sustainable and effective achievement of conservation goals. However, indigenous peoples continue to be dispossessed of their lands, territories and resources for conservancies, climate change programmes, national parks, game reserves and cultural heritage protection.
5. In the present report, the Special Rapporteur assesses relevant developments since the 2016 report on this topic by the previous mandate holder (A/71/229), in particular with regard to: (a) the last stages of the negotiations on the post-2020 global biodiversity framework, which should accelerate the implementation of the Convention on Biological Diversity; (b) the designation of United Nations Educational, Scientific and Cultural Organization (UNESCO) World Heritage sites; and (c) the impacts of initiatives related to reducing emissions from deforestation and forest degradation and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks in developing countries (REDD-plus).

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<sup>1</sup> The statement is available at [www.ohchr.org/sites/default/files/2022-06/SRIP-Statement-2-June-2022.docx](http://www.ohchr.org/sites/default/files/2022-06/SRIP-Statement-2-June-2022.docx).

6. The Special Rapporteur also highlights examples of indigenous conservation efforts, the management or co-management of protected areas by indigenous peoples and other culture-based initiatives led by indigenous peoples, as well as good practices of States and international organizations in recognizing and respecting indigenous peoples as not only stakeholders but also rights holders.

## A. Methodology

7. The Special Rapporteur identified this theme as the focus of the present report after participating in meetings of the World Conservation Congress of the International Union for Conservation of Nature (IUCN) and the UNESCO Intergovernmental Committee for the Protection of the World Cultural and Natural Heritage in 2021. Over the past two years, the Special Rapporteur participated in numerous other meetings and consultations related to protected areas, including the IUCN regional forum of indigenous peoples' organizations and the Indigenous Council of Central America on indigenous peoples, protected areas and other effective conservation measures.

8. In the preparation of the present report, the Special Rapporteur reviewed the following materials: official United Nations documentation and other thematic studies; 30 written responses to a call for input from Member States, indigenous peoples and their organizations, academics and non-governmental organizations; information collected during academic visits to Bolivia (Plurinational State of), Colombia, Costa Rica, Guatemala, Honduras, Mexico, Peru and Sweden; and 29 oral and written submissions by indigenous participants for a consultation organized by the Special Rapporteur in April 2022. The Special Rapporteur drew from communications and observations on country visits by previous mandate holders relating to the impact of protected areas on the rights of indigenous peoples.

9. The Special Rapporteur builds on the conclusions drawn by his predecessor (see [A/71/229](#) and [A/HRC/36/46](#)), who highlighted that conservation programmes have historically dispossessed indigenous peoples of their lands and drew attention to the critical importance of indigenous stewardship in maintaining biodiversity and mitigating climate change. He was also guided by the work of other special procedures, including the recent policy brief of the Special Rapporteur on human rights and the environment on human rights-based approaches to conserving biodiversity.<sup>2</sup>

## B. Terminology

### *"Protected areas"*

10. According to the Convention on Biological Diversity, a protected area is "a geographically defined area which is designated or regulated and managed to achieve specific conservation objectives" (art. 2). IUCN defines a protected area as a "clearly defined geographical space, recognized, dedicated and managed, through legal or other effective means, to achieve the long-term conservation of nature with associated ecosystem services and cultural values".<sup>3</sup>

<sup>2</sup> Available at [www.ohchr.org/Documents/Issues/Environment/SREnvironment/policy-briefing-1.pdf](http://www.ohchr.org/Documents/Issues/Environment/SREnvironment/policy-briefing-1.pdf).

<sup>3</sup> Nigel Dudley, ed., *Guidelines for Applying Protected Area Management Categories* (Gland, Switzerland, IUCN, 2008). Available at <https://portals.iucn.org/library/sites/library/files/documents/pag-021.pdf>.

*“Indigenous peoples and local communities”*

11. Indigenous peoples enjoy a unique status under international law, protected by a legal framework distinct from the rights of minorities,<sup>4</sup> peasants<sup>5</sup> and “local communities”. This is because indigenous peoples exist within nation States as political, social and legal entities represented through their own governance structures. This sui generis status entitles them to a wide range of collective rights, including the rights to self-determination, lands and resources, and free, prior and informed consent. Indigenous peoples constitute “peoples” under international law, as affirmed in international instruments such as the United Nations Declaration on the Rights of Indigenous Peoples and the Indigenous and Tribal Peoples Convention, 1989 (No. 169) of the International Labour Organization (ILO), as well as international jurisprudence in which their rights are defined.

12. Indigenous peoples exist regardless of formal State recognition or the terminology used by States to describe them.<sup>6</sup> The use of terms or phrases such as “indigenous peoples and local communities” should be avoided to the greatest extent possible, without undermining the situation of unrecognized indigenous peoples. Any use of such terms should be expressly without prejudice to the specific rights of indigenous peoples under international law.

*“Indigenous scientific knowledge”*

13. The Special Rapporteur uses the terminology “indigenous scientific knowledge” in response to calls to avoid terms such as “customary” or “traditional” that do not appropriately reflect the importance of indigenous knowledge. In his report to the Human Rights Council of 2022 ([A/HRC/51/28](#)), the Special Rapporteur provides further analysis of these concepts.

## IV. International legal standards

### 1. International human rights law

14. The standards relating to indigenous peoples’ rights in the context of conservation and protected areas have developed through international human rights law, international labour law and international environment law and were examined in the report of the previous mandate holder to the General Assembly on conservation in 2016 ([A/71/229](#), paras. 20–32). Fundamental legal sources include the United Nations Declaration on the Rights of Indigenous Peoples, ILO Convention No. 169 and other universal and regional human rights instruments. Such instruments recognize indigenous peoples’ rights to their traditional lands and resources, self-government, self-determination, participation, consultation, free, prior and informed consent, and restitution. These rights form the basis of indigenous peoples’ collective identity and their physical, economic and cultural survival.

15. The United Nations Declaration on the Rights of Indigenous Peoples highlights the responsibility of the United Nations system to continuously promote and protect these rights. Under article 41 of the Declaration, the organs and specialized agencies of the United Nations system and other intergovernmental organizations, including UNESCO, the United Nations Environment Programme and the secretariat of the Convention on Biological Diversity, are required to contribute to the full realization of the Declaration through the mobilization of financial cooperation and technical

<sup>4</sup> Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.

<sup>5</sup> United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas.

<sup>6</sup> ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169), art. 1.

assistance and the establishment of ways and means of ensuring participation of indigenous peoples on issues affecting them. Under article 42, United Nations specialized agencies, including at the country level, and States shall promote respect for the full application of the provisions of the Declaration and follow up on its effectiveness.

## **2. International environmental law**

16. In addition to the laws and policies directly affirming indigenous peoples' rights, a number of international environmental treaties regulate the management of lands, including the Convention on Biological Diversity, the United Nations Framework Convention on Climate Change and the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa. All three conventions derive from the Earth Summit held in Rio de Janeiro, Brazil, in 1992 and address interdependent issues. Predating them are the UNESCO Convention for the Protection of the World Cultural and Natural Heritage of 1972 and the Convention on Wetlands of International Importance especially as Waterfowl Habitat of 1971. In the present report, the Special Rapporteur will focus on the Convention on Biological Diversity and the World Heritage Convention because they both deal with the designation of protected areas.

17. Under article 8 (j) of the Convention on Biological Diversity, the States parties are required to respect, preserve and maintain knowledge, innovations and practices of indigenous peoples relevant for the conservation of biological diversity, to promote their wider application with the approval of knowledge holders and to encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices. Although the human rights of indigenous peoples are not explicitly recognized in the Convention, the Conference of the Parties to the Convention has supported numerous initiatives relating to the rights of indigenous peoples, including the Ad Hoc Open-ended Inter-sessional Working Group on Article 8 (j) and related provisions, established in 1998. The Working Group has developed a number of guidelines to strengthen the inclusion of indigenous peoples in decision-making, including the Mo'otz Kuxtal and Rutzolijirisaxik Voluntary Guidelines, adopted in 2016 and 2018, respectively.<sup>7</sup>

## **V. Current impacts on indigenous peoples' rights in protected areas**

18. Indigenous peoples across the globe have overall not seen a concrete improvement in the realization of their rights in the context of conservation initiatives since the issuance of the relevant thematic report by the previous mandate holder in 2016. The Special Rapporteur continues to receive a high number of communications with allegations of alarming violations in protected areas. Indigenous peoples are denied their rights to land and resources, self-determination and autonomy, and cultural heritage, and suffer from forced evictions, killings, physical violence and abusive prosecution. Such violations have had particularly negative impacts on women and girls, who are primarily responsible for gathering food, fuel, water and medicine and are therefore exposed to risks of sexual violence at the hands of militarized security forces, park rangers and law enforcement. The ability of indigenous peoples to maintain and transmit their knowledge is also impeded by limited access to natural resources and sacred sites.

<sup>7</sup> See [www.cbd.int/convention/wg8j.shtml](http://www.cbd.int/convention/wg8j.shtml).

19. The placing of indigenous lands under the control of government conservation authorities has often illustrated the lack of capacity and political will to effectively protect the areas and has left such lands exposed to destructive incursions, the activities of extractive industries, illegal logging, agribusiness expansion, tourism and large-scale infrastructure development.

20. In May 2022, the Special Rapporteur organized consultations bringing together indigenous representatives from different regions to discuss the impact of protected areas on indigenous peoples' rights. Participants revealed that the exclusionary approach to protecting biodiversity known as "fortress conservation" continued to prevail and had led to violent evictions, militarized violence and the dispossession of the lands of indigenous peoples, who are the best stewards of nature. According to participants, indigenous peoples are, in most cases, not consulted when protected areas are planned and do not participate in the management of, or derive benefits from, State conservation projects. They are often forced to relocate to temporary resettlement camps without access to essential services. Participants highlighted that the eviction of indigenous peoples from protected areas or the denial of their access thereto leads to the loss of irreplaceable lands, sacred places and resources and of the transmission of knowledge systems, culture, language, identity and livelihoods. Such violations are all compounded by the threat of climate change.

21. Imposed conservation disregards and undermines the complex system of knowledge and conservation practised by indigenous peoples on their lands. Indigenous peoples and their organizations continue to raise concerns about the fact that protected areas are often conceptualized without consideration of indigenous world views or the system of management, control and protection of their traditional lands that has effectively protected nature for generations.

22. Protected areas are often created without consulting or obtaining the free, prior and informed consent of indigenous peoples, who are then excluded from the administration and management of their traditional territories and are often left without adequate compensation. Indigenous peoples are, in some cases, required to purchase permits to enter their territories and face severe restrictions on their subsistence livelihood activities, such as hunting, fishing or grazing.

23. Incorporating indigenous lands into protected areas in this manner takes management and control away from indigenous peoples, and allows States to define the rules, administration and use of those lands, often under the influence of financially powerful international conservation organizations. Indigenous peoples have expressed the concern that Western conceptions of land management are devoid of any meaningful human connections with the land. In many parts of the world, indigenous peoples view the creation of protected areas as a form of colonization and seek to "decolonize conservation". Meanwhile, in some countries with greater recognition of indigenous land rights, indigenous peoples are using protected areas status to defend their territories against extractive activities.<sup>8</sup>

24. The persistent practice of forced evictions for conservation purposes is particularly worrying in Africa. In the United Republic of Tanzania, the Maasai have a long history of being violently evicted from their lands, and the Government has plans to displace a further 150,000 Maasai from the Ngorongoro Conservation Area and the Loliondo Division of Ngorongoro District. In June 2022, the Special Rapporteur publicly called for the planned evictions to be halted and consultations with the Maasai to be initiated, and urged the UNESCO World Heritage Committee to reiterate to the Government of the United Republic of Tanzania that plans

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<sup>8</sup> Submission by the Forest Peoples Programme to the Special Rapporteur.

concerning the Ngorongoro Conservation Area must comply with relevant human rights standards.<sup>9</sup>

25. In Kenya, the Ogiek indigenous peoples have been subjected to forced evictions without respite during the coronavirus disease (COVID-19) pandemic and are denied access to their ancestral lands in the Mau forest complex despite the landmark judgment in their favour by the African Court on Human and Peoples' Rights in 2017.<sup>10</sup> The Special Rapporteur was requested by the Court to provide expert testimony in the reparations phase of the Ogiek case proceedings. In his written testimony, the Special Rapporteur emphasized that indigenous peoples play a crucial role in conservation and that, in order to ensure restitution, indigenous peoples need to be able to effectively exercise their right to their lands, territories and resources, and there must be delimitation, demarcation and titling of these.<sup>11</sup>

26. In Latin America, indigenous peoples in protected areas, notably those in voluntary isolation and initial contact, have been made increasingly vulnerable. States have jeopardized the physical and cultural existence of indigenous peoples in voluntary isolation by allowing extractive activities on, and illegal trespassing into, their ancestral territory and by failing to demarcate such territory. Oil pollution in the Peruvian Amazon and the escalation of illegal mining activities and associated mercury pollution in Brazil highlight the serious threats faced by indigenous peoples.<sup>12</sup>

27. Across Asia, there is still a lack of understanding of indigenous traditional practices, such as rotational crop cultivation and forest management, and of the contribution made by indigenous peoples to sustainable conservation and biodiversity. Tourism projects in protected areas continue to result in restrictions on indigenous peoples' lands in several countries, including Bangladesh, India and Indonesia (see [A/HRC/45/34/Add.3](#)). In July 2019, the Special Rapporteur raised concern about an order of the Supreme Court of India to evict up to 9 million Adivasis across the country and about amendments to the Indian Forest Act of 1927 that would increase the discretionary policing powers of forest officers.<sup>13</sup>

<sup>9</sup> See [www.ohchr.org/en/press-releases/2022/06/tanzania-un-experts-warn-escalating-violence-amidst-plans-forcibly-evict](http://www.ohchr.org/en/press-releases/2022/06/tanzania-un-experts-warn-escalating-violence-amidst-plans-forcibly-evict).

<sup>10</sup> Communications UA KEN 2/2016 and AL KEN 3/2020 addressed to Kenya, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=16640> and <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25492>. All communications of special procedure mandate holders can be found at <https://spcommreports.ohchr.org/TmSearch/Results>.

<sup>11</sup> The written expert testimony is available at [www.ohchr.org/sites/default/files/Documents/Issues/IPeoples/SR/TestimonyOgiek.pdf](http://www.ohchr.org/sites/default/files/Documents/Issues/IPeoples/SR/TestimonyOgiek.pdf).

<sup>12</sup> Communications AL BRA 15/2021 and AL BRA 3/2021 addressed to Brazil, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26913> and <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26420>; communication AL PER 9/2020 addressed to Peru, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25732>; [www.ohchr.org/en/press-releases/2021/06/brazil-un-experts-deplore-attacks-illegal-miners-indigenous-peoples-alarmed](http://www.ohchr.org/en/press-releases/2021/06/brazil-un-experts-deplore-attacks-illegal-miners-indigenous-peoples-alarmed); and Inter-American Commission on Human Rights, *Pueblos Indígenas en aislamiento voluntario Tagaeri y Taromenane, Ecuador*, Case No. 12.979.

<sup>13</sup> Communication IND 13/2019 addressed to India, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24665>; [www.ohchr.org/en/press-releases/2019/07/india-must-prevent-eviction-millions-forest-dwellers-say-un-experts?LangID=E&NewsID=24786](http://www.ohchr.org/en/press-releases/2019/07/india-must-prevent-eviction-millions-forest-dwellers-say-un-experts?LangID=E&NewsID=24786); [www.ohchr.org/en/press-releases/2021/03/indonesia-un-experts-flag-rights-concerns-over-3bln-tourism-project](http://www.ohchr.org/en/press-releases/2021/03/indonesia-un-experts-flag-rights-concerns-over-3bln-tourism-project); and [www.ohchr.org/en/press-releases/2021/02/un-experts-call-halt-contentious-tourism-resort-bangladesh](http://www.ohchr.org/en/press-releases/2021/02/un-experts-call-halt-contentious-tourism-resort-bangladesh).

## VI. International conservation measures and processes

### 1. Post-2020 global biodiversity framework

28. In 2020, the secretariat of the Convention on Biological Diversity issued a final assessment of the rate of implementation of the Aichi Biodiversity Targets. The 20 global targets were established in 2010 as part of the Strategic Plan for Biodiversity 2011–2020, with the aim of addressing the drivers of biodiversity loss, including deforestation, unsustainable agriculture, pollution, habitat loss and invasive species, while increasing protected areas and the integration of biodiversity into policymaking. Among the targets set by the parties to the Convention was the expansion of protected area coverage to at least 17 per cent of terrestrial and inland water areas and 10 per cent of coastal and marine areas by 2020.

29. In its final assessment report, the secretariat concluded that, globally, none of the 20 targets had been fully achieved, but six targets had been partially met. The secretariat observed that the increased proportion of the planet's land and oceans designated as protected areas was likely to reach the targets for 2020, but that progress had been modest in ensuring that protected areas safeguarded the most important areas for biodiversity and were equitably and effectively managed.<sup>14</sup>

30. The Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services has also warned about the rapid unprecedented decline in biodiversity and the fact that 1 million species of plants and animals are threatened with extinction.<sup>15</sup>

31. The secretariat of the Convention on Biological Diversity and the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services have demonstrated in their analysis that opportunities for effective action have been missed owing to insufficient recognition and participation of indigenous peoples in conservation, and have recommended that stronger requirements for future action on biodiversity to address indigenous peoples' rights as a foundational prerequisite be set in the new global framework.<sup>16</sup>

32. A draft post-2020 global biodiversity framework is currently being negotiated and is expected to be adopted at the fifteenth session of the Conference of the Parties to the Convention on Biological Diversity, to be held in December 2022. The first draft, presented by the secretariat of the Convention on Biological Diversity in July 2021, set out a target to increase to at least 30 per cent global protected areas on land and at sea by 2030 in order to reduce threats to biodiversity.<sup>17</sup> More than 100 States have since expressed support for an international campaign to support an increased target for protected areas, often referred to as the "30 by 30 Alliance for Biodiversity".<sup>18</sup>

33. The implications of this target are immense. Given that some 15.7 per cent of the world's land is currently covered by protected areas, to reach 30 per cent would require a near doubling of the area under some form of protection or recognized conservation.<sup>19</sup> While the expansion of protected areas to 30 per cent is a laudable

<sup>14</sup> Secretariat of the Convention on Biological Diversity, *Global Biodiversity Outlook 5* (Montreal, Canada, 2020). Available at [www.cbd.int/gbo/gbo5/publication/gbo-5-en.pdf](http://www.cbd.int/gbo/gbo5/publication/gbo-5-en.pdf).

<sup>15</sup> Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services, *The Global Assessment Report on Biodiversity and Ecosystem Services* (Bonn, Germany, 2019). Available at <https://ipbes.net/global-assessment>.

<sup>16</sup> Secretariat of the Convention on Biological Diversity, *Global Biodiversity Outlook 5*; and Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services, *The Global Assessment Report*.

<sup>17</sup> The first draft is available at [www.cbd.int/article/draft-1-global-biodiversity-framework](http://www.cbd.int/article/draft-1-global-biodiversity-framework).

<sup>18</sup> See [www.hacfornatureandpeople.org/home](http://www.hacfornatureandpeople.org/home).

<sup>19</sup> Submission by the Forest Peoples Programme to the Special Rapporteur.

target, not enough assurances have been given so far to indigenous peoples that their rights will be preserved in the process. They fear a new wave of green investment without recognition of their land tenure, management and knowledge, increased restrictions on access to their lands, waters and resources, and scaled up approaches to conservation based on protected areas, which have proved to generate forced evictions, violence and killings. Real drivers of biodiversity decline, such as industrialization, overconsumption and climate change, must be addressed. Simply enlarging the global protected area surface without ensuring the rights of indigenous peoples dependent on those areas is not the solution.

34. Indigenous peoples call for express recognition of their rights under international law, including their right to free, prior and informed consent, and demand a clear commitment to a human rights-based approach in the post-2020 global biodiversity framework. They also call for the inclusion of indicators to monitor indigenous land tenure.

35. The Special Rapporteur welcomes the multiple references to indigenous peoples in the draft targets of the post-2020 global biodiversity framework. Nevertheless, States must demonstrate a genuine commitment to a human rights-based approach to conservation by including express recognition thereof in the final text to be adopted at the fifteenth session of the Conference of the Parties.

## **2. United Nations Educational, Scientific and Cultural Organization World Heritage sites**

36. Together with previous mandate holders, the Special Rapporteur has long advocated that the Operational Guidelines for the Implementation of the World Heritage Convention should be revised in line with the United Nations Declaration on the Rights of Indigenous Peoples and that further human rights violations at World Heritage sites should be prevented. The World Heritage Committee, which is tasked with implementing the Convention, is a governing body consisting of 21 States, with UNESCO acting as its secretariat.

37. In 2017, following several years of consultations, the UNESCO Executive Board took note with satisfaction of the UNESCO policy on engaging with indigenous peoples.<sup>20</sup> In the policy, it is noted that, consistent with article 41 of the United Nations Declaration on the Rights of Indigenous Peoples, UNESCO, as a specialized agency of the United Nations, is committed to the full realization of the provisions of the Declaration. UNESCO also commits itself to mainstreaming in its work the rights of indigenous peoples as defined in the Declaration.

38. The inclusion of a site in the World Heritage List implies funding for site protection and conservation and essentially guarantees a sustained increase in tourism and associated economic benefits in the State. UNESCO assumes that the inclusion of a site on indigenous territory in the List will generally have a positive impact on indigenous peoples' rights.<sup>21</sup> If designed and managed with the inclusion and full and effective participation of indigenous peoples, and with respect for their collective rights, World Heritage sites could serve to support indigenous peoples' livelihoods and self-determined development. The international attention and oversight that comes with World Heritage status can potentially be used to promote improved indigenous participation in the management and governance of sites, enhanced benefit-sharing and redress for past violations of indigenous rights.<sup>22</sup>

<sup>20</sup> Available at <https://en.unesco.org/indigenous-peoples/policy>.

<sup>21</sup> Submission by UNESCO to the Special Rapporteur.

<sup>22</sup> Submission by the International Work Group for Indigenous Affairs to the Special Rapporteur.

39. As documented in the report of the previous mandate holder on conservation in 2016, however, allegations from indigenous peoples around the world indicate to the contrary that the inclusion of sites in the World Heritage List may aggravate the loss of control by indigenous peoples over their lands and resources and human rights violations.<sup>23</sup> Indigenous peoples continue to express concerns about rights violations in the nomination and management of specific sites. Such concerns relate to disrespect for indigenous peoples' rights to self-determined development and to participation in the identification, nomination and listing of sites, marginalization in the management and governance of sites, violations of the rights of access to, and use of, their lands, territories and resources in the management of sites, and of the right to share equitably in tourism benefits, and lack of consultation in the monitoring and evaluation of sites.<sup>24</sup> Indigenous peoples rarely receive part of the derived benefits, economic or otherwise, from the inclusion of sites on their territories in the List.

40. The World Heritage Convention differentiates between cultural and natural heritage, and a distinction between cultural and natural World Heritage sites is generally maintained in awarding World Heritage status. As of 2022, the UNESCO World Heritage Committee has designated 257 sites for conservation, of which 218 are natural sites and 39 are mixed natural and cultural sites.<sup>25</sup> This practice is highly problematic where indigenous peoples' territories and heritage are concerned. The inclusion of natural sites in the World Heritage List without recognition of associated indigenous heritage values in the justification for such inclusion disregards the fact that for indigenous peoples, cultural and natural values are inseparably interwoven and should be managed and protected in a holistic manner.<sup>26</sup>

41. With a view to strengthening international advocacy on indigenous peoples' rights, the International Indigenous Peoples' Forum on World Heritage was created in 2017 to represent the voices of indigenous peoples in engagement with the World Heritage Committee, the World Heritage Centre, advisory bodies and States parties.<sup>27</sup>

42. The World Heritage Committee revised the Operational Guidelines for the Implementation of the World Heritage Convention in 2015, 2019 and 2021 to include provisions requiring States parties to adopt a human rights-based approach to the identification, nomination and management of World Heritage sites. The Guidelines now specify that "States parties shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before including the sites on their tentative list" of sites for nomination to the World Heritage List when the site affects the lands, territories or resources of indigenous peoples. States are further encouraged to actively promote initiatives to develop equitable governance arrangements, collaborative management and redress mechanisms for indigenous peoples.<sup>28</sup>

43. Despite these policy changes, the Special Rapporteur continues to receive reports of indigenous peoples' being excluded from the nomination, declaration and management of World Heritage sites on their lands. While UNESCO has recognized numerous instances in which advisory bodies such as IUCN have proposed deferring

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<sup>23</sup> Submission by the International Work Group for Indigenous Affairs to the Special Rapporteur; and A/71/229, para. 51.

<sup>24</sup> Submission by the International Work Group for Indigenous Affairs to the Special Rapporteur.

<sup>25</sup> Submission by UNESCO to the Special Rapporteur.

<sup>26</sup> Submission by the International Work Group for Indigenous Affairs to the Special Rapporteur, citing the report of the Expert Mechanism on the Rights of Indigenous Peoples; and A/HRC/30/53, annex, para. 7.

<sup>27</sup> See <https://iipfwh.org/>.

<sup>28</sup> Operational Guidelines for the Implementation of the World Heritage Convention, paras. 12, 14bis, 64, 111, 117, 119, 123, 211, 214bis and 239. Available at <https://whc.unesco.org/en/documents/190976>.

the nomination of sites when indigenous peoples' human rights are not respected, UNESCO stresses that the World Heritage Committee has the final say on whether to include a site in the List and is not obliged to follow these recommendations.<sup>29</sup>

44. A number of gaps exist that prevent the meaningful participation of indigenous peoples in decision-making processes at the international and national levels. The Operational Guidelines do not require evidence of indigenous peoples' free, prior and informed consent to nominations affecting them, and nominations are not made publicly available before the nomination decision is made. The rules of procedure of the World Heritage Committee prevent indigenous peoples from participating effectively in the Committee's decision-making on issues affecting them in line with article 41 of the United Nations Declaration on the Rights of Indigenous Peoples, and no official mechanism exists through which indigenous peoples can participate. In practice, representatives of indigenous organizations cannot address the Committee until after it has already adopted decisions relating to sites.<sup>30</sup>

45. Since 2020, the Special Rapporteur has raised concerns about alleged indigenous peoples' rights violations at or in the vicinity of several sites that have been nominated for or included in the World Heritage List, including in Thailand, Kenya, Nepal, the United Republic of Tanzania, Botswana, Namibia, Denmark/Greenland and Sweden.

46. In Thailand, Karen indigenous peoples forcibly evicted from the Kaeng Krachen forest complex continued to face harassment by conservation authorities for asserting their land rights, and there are ongoing reports of harassment, criminalization and extrajudicial killings of Karen leaders and community members by national park officials with impunity. The Special Rapporteur urged the Government of Thailand and the World Heritage Committee to defer the inclusion of the park in the World Heritage List because of the failures to protect the rights of the Karen peoples, to consult and obtain their free, prior and informed consent for the nomination of sites to the List, to allow independent monitoring in situ and to prosecute violations by conservation authorities.<sup>31</sup> IUCN also recommended deferral pending the resolution of the human rights violations. Nevertheless, the Kaeng Krachen forest complex was included in the List in July 2021.<sup>32</sup> The Special Rapporteur, despite having formally requested to make a statement on the nomination of the site, was not given the opportunity to do so until after the Committee had adopted its decision.<sup>33</sup> UNESCO maintains that issues involving the rights of the Karen community will be closely monitored through the "reactive monitoring mechanism" under the Convention.<sup>34</sup>

47. In Nepal, the Chitwan National Park was included in the World Heritage List in 1984 without the consent of the local indigenous peoples. In 2009, the then mandate holder raised concerns about the mistreatment, arbitrary detention and sexual abuse of indigenous peoples in the Park (A/HRC/12/34/Add.3 and A/HRC/9/9/Add.1, paras. 326–338). In 2020, the Special Rapporteur sent a communication regarding renewed allegations of forced eviction and torture and ill-treatment of Chepang

<sup>29</sup> Submission by UNESCO to the Special Rapporteur.

<sup>30</sup> Submission by the International Work Group for Indigenous Affairs to the Special Rapporteur.

<sup>31</sup> Communication AL OTH 209/2021 addressed to the World Heritage Committee, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26517>; communication AL THA 4/2021 addressed to Thailand, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26518>; [www.ohchr.org/en/press-releases/2021/07/thailand-un-experts-warn-against-heritage-status-kaeng-krachen-national-park](http://www.ohchr.org/en/press-releases/2021/07/thailand-un-experts-warn-against-heritage-status-kaeng-krachen-national-park); and A/71/229, para. 63.

<sup>32</sup> World Heritage Committee, decision 44 COM 8, adopted at the extended forty-fourth session of the Committee in July 2021; and submission by UNESCO to the Special Rapporteur.

<sup>33</sup> His statement is available at [www.ohchr.org/sites/default/files/2022-03/SR%20statement%20WHC%20on%20KKFC%2026%20July%202021.docx](http://www.ohchr.org/sites/default/files/2022-03/SR%20statement%20WHC%20on%20KKFC%2026%20July%202021.docx).

<sup>34</sup> Submission by UNESCO to the Special Rapporteur.

indigenous peoples in the Park. Indigenous peoples continue to be targeted for their livelihood practices, and their homes have been destroyed in retaliation for collecting resources, including medicinal herbs, within the Park.<sup>35</sup>

48. In the United Republic of Tanzania, Maasai pastoralists residing in the Ngorongoro Conservation Area have been systematically excluded from the management of the area and progressively restricted to smaller and smaller portions of this World Heritage site recognized in 1979, to such an extent that their physical and cultural survival is endangered.<sup>36</sup> Between 2013 and 2021, the current and former mandate holders issued seven communications raising concerns about the failure of the Government of the United Republic of Tanzania to ensure Maasai leadership and consent in the management of the site, and about the repeated forced evictions, attacks, intimidation and harassment of the Maasai people.<sup>37</sup>

49. In Botswana and Namibia, the Okavango Delta, home to various indigenous peoples, including the San people, was declared a UNESCO World Heritage site in 2014. The San were forcefully evicted from their lands without their free, prior and informed consent, and continue to be denied access to sacred areas and hunting and fishing grounds. In August 2021, the Special Rapporteur raised concerns about petroleum licences issued to a Canadian-owned company because future exploration and extraction could cause irrevocable damage to the fragile ecosystem on which the San depend for their physical and cultural survival. The Okavango Delta is of great ecological significance because it provides water to millions of people and animals, including threatened and endangered species such as the African savanna elephant.<sup>38</sup>

50. In February 2022, the Special Rapporteur urged Sweden not to issue a licence for an iron ore mine in the Gallok region, close to the World Heritage site of Laponia, noting that the open pit mine would generate vast amounts of pollution and toxic waste affecting Sami traditional lands and endanger the protected ecosystem, including reindeer migration.<sup>39</sup>

51. The Special Rapporteur welcomes the fact that UNESCO has raised concerns about the negative impact of planned extractive activities on indigenous peoples' rights both in the Okavango Delta and in the vicinity of Laponia.<sup>40</sup>

<sup>35</sup> Communication AL NPL 3/2020 addressed to Nepal, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25642>.

<sup>36</sup> Communication AL TZA 3/2021 addressed to the United Republic of Tanzania, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26938>.

<sup>37</sup> Communications TZA 3/2013, TZA 1/2014, TZA 1/2015, TZA 1/2016, TZA 1/2017, TZA 2/2019 and TZA 3/2021 addressed to the United Republic of Tanzania, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=22007>, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=22743>, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=17993>, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=3343>, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=22948>, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24872> and <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26938>.

<sup>38</sup> Communication AL BWA 3/2021 addressed to Botswana, available at <https://spcommreports.ohchr.org/fr/TMResultsBase/DownloadPublicCommunicationFile?gId=26804>; and communication AL NAM 2/2021 addressed to Namibia, available at <https://spcommreports.ohchr.org/fr/TMResultsBase/DownloadPublicCommunicationFile?gId=26802>.

<sup>39</sup> Communication AL SWE 2/2022 addressed to Sweden, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=27057>.

<sup>40</sup> See <https://whc.unesco.org/en/news/2230/>; and internal document cited in communication AL SWE 2/2022.

### 3. REDD-plus initiatives

52. REDD-plus initiatives have the potential to reduce greenhouse gas emissions and support ecosystem services for the benefit of all. Nevertheless, these initiatives, including forest conservation and deforestation remediation projects, may also create collisions between indigenous peoples' rights and environmental protection interests and lead to land-grabbing and evictions for forest conservation purposes.

53. Indigenous peoples have expressed concerns about the lack of transparency in the sharing of benefits from, and of meaningful participation in, REDD-plus projects globally. Some indigenous peoples report direct or structural discrimination by national authorities, which, in some cases, question the ability of indigenous peoples to implement these projects or encourage indigenous peoples to move away from protected forests and abandon their traditional lifestyle ([A/HRC/30/41/Add.1](#), para. 52, and [A/HRC/45/34/Add.1](#), para. 22). As noted by the former Special Rapporteur, in addition to discrimination, the global lack of formal recognition of indigenous peoples' land rights in their territories makes them particularly unlikely to become the recipient of any form of benefit arising from REDD-plus projects ([A/HRC/36/46](#), para. 97).

54. In the Latin American region, for example, indigenous peoples are often not made aware of how many carbon credits are being sold through REDD-plus projects or to whom they are being sold. In a 2015 report on Paraguay ([A/HRC/30/41/Add.1](#)), the previous mandate holder highlighted the prevalence of discriminatory views with respect to the ability of indigenous peoples to develop their own economic alternatives, including the implementation of the REDD-plus programme. In Costa Rica, indigenous peoples reported that access to payments for environmental services were hindered by administrative requirements that were culturally inappropriate and did not take into account the specific situation of indigenous peoples ([A/HRC/51/28/Add.1](#), para. 61).

55. In her report on her visit to the Congo ([A/HRC/45/34/Add.1](#)), the previous mandate holder noted that the Ministry of Forest Economics had supported an approach to the REDD-plus mechanism that encouraged indigenous peoples to abandon their traditional semi-nomadic lifestyle in favour of settling down in villages to pursue income-generating activities. The Special Rapporteur warns against government practices that prevent indigenous peoples from engaging in their traditional livelihood activities, in particular in protected areas, because such practices will eventually lead to the loss of the indigenous knowledge that has for so long maintained the few remaining zones of high biodiversity.

56. Another concern is that many REDD-plus initiatives lack adequate grievance mechanisms. Where World Bank funding is involved, communities can in theory file a complaint to the World Bank Inspection Panel, but the Panel is essentially inaccessible without significant external support.<sup>41</sup>

57. Even in past instances when indigenous peoples have turned to the World Bank Inspection Panel to complain about violations occurring in the context of conservation, such as the case of the Sengwer indigenous people in the Cherangany Hills in Kenya, experience has regrettably demonstrated that there are insufficient

<sup>41</sup> Submission from the Rainforest Foundation to the Special Rapporteur.

guarantees to safeguard against recurring violations in subsequent conservation projects in the same area.<sup>42</sup>

## VII. Good practices in promoting indigenous land tenure and management, and benefit-sharing

58. The concept of indigenous and community conserved areas is defined by IUCN as natural and/or modified ecosystems containing significant biodiversity values, ecological benefits and cultural values that are voluntarily conserved by indigenous peoples and local communities, both sedentary and mobile, through customary laws or other effective means.<sup>43</sup> To qualify as an indigenous and community conserved area, the people and the site must be closely interrelated, and the management of the site must lead primarily to the conservation of biodiversity and culture. In 2016, IUCN adopted a policy on recognizing and respecting indigenous and community conserved areas that overlap with protected areas, in which it observed that government-designated and privately protected areas often overlap with indigenous and community conserved areas without appropriate recognition of or respect for them.<sup>44</sup> Indigenous and community conserved areas exist in the Caribbean, Africa and Latin America, and often outperform State-run protected areas.

59. In Peru, Federación Nativa del Río Madre de Dios y Afluentes, in coordination with indigenous peoples and a State agency, is implementing “no contact” protection plans through a network of surveillance checkpoints surrounding indigenous peoples living in voluntary isolation and initial contact, including points bordering the Madre de Dios Territorial Reserve and the Manu and Alto Purús National Parks. The network monitors threats to the territories of indigenous peoples living in voluntary isolation and initial contact, documents possible evidence of their presence and implements measures to prevent forced contact and conflicts.<sup>45</sup>

60. In Canada, Anishinaabe First Nations played a leading role in preparing the nomination of Pimachiowin Aki to become a World Heritage site, providing informational materials on the nomination process in the Anishinaabemowin or Ojibwe language. The Bloodvein, Little Grand Rapids, Pauingassi and Polar River First Nations, in collaboration with provincial governments, nominated the site to protect their ancestral territories, continue community-led stewardship based on Anishinaabe values and create new livelihoods. Included in the World Heritage List in 2018, Pimachiowin Aki is protected and managed cooperatively by the four First Nations and two provincial governments through a consensual, participatory governance structure and management framework grounded in Anishinaabe customary governance and provincial government law and policy.<sup>46</sup>

<sup>42</sup> Communication UA KEN 1/2018 addressed to Kenya, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=23570>; European Union External Action, “EU suspends its support for Water Towers in view of reported human rights abuses”, 17 January 2018, available at [www.eeas.europa.eu/node/38343\\_en](http://www.eeas.europa.eu/node/38343_en); and World Bank Inspection Panel, “Kenya: national resource management project”, available at [www.inspectionpanel.org/panel-cases/natural-resource-management-project](http://www.inspectionpanel.org/panel-cases/natural-resource-management-project).

<sup>43</sup> Grazia Borrini-Feyerabend, *Bio-cultural Diversity Conserved by Indigenous Peoples and Local Communities: Examples and Analysis* (Tehran, Indigenous and Community Conserved Areas Consortium and Centre for Sustainable Development, 2010); and [www.iccaconsortium.org/index.php/discover/](http://www.iccaconsortium.org/index.php/discover/).

<sup>44</sup> Submission by IUCN to the Special Rapporteur.

<sup>45</sup> Information received from indigenous peoples during the Special Rapporteur’s academic visit to Peru in 2022.

<sup>46</sup> Submission by the International Work Group for Indigenous Affairs to the Special Rapporteur.

61. In the United States of America, the Bears Ears National Monument is to be co-managed with five Native American tribes. One elected officer from each tribe will sit on the Bears Ears Commission, tasked with the planning, management, conservation, restoration and protection of the sacred lands and the protection of ceremonies, rituals and traditional uses that are part of the tribal nations' way of life.<sup>47</sup> The Special Rapporteur is particularly encouraged by this development because the previous mandate holder expressed concerns about the Bears Ears site in 2018.<sup>48</sup>

62. In Australia, under a federal indigenous rangers programme, Aboriginal and Torres Strait Islander people are employed in land and sea management around the country. Some 2,000 indigenous rangers are employed under more than 80 projects that support them in combining traditional knowledge with conservation training to protect and manage their land, sea and culture, including through bushfire mitigation and the protection of threatened species.<sup>49</sup>

63. In July 2019, the Budj Bim Cultural Landscape in Victoria, Australia, was included in the World Heritage List in recognition of the significance of the complex aquaculture system developed by the Gunditjmara people for trapping, storing and harvesting eel.<sup>50</sup> The nomination was prepared by the traditional owners themselves. The Budj Bim Cultural Landscape is Aboriginal-owned and is managed with respect for the customary and legal rights and obligations of the Gunditjmara traditional owners. The site is protected and managed through an adaptive and participatory framework of overlapping and integrated customary, governance, legislative and policy approaches.<sup>51</sup>

64. In the Russian Federation, the Bikin National Park was included in the World Heritage List in 2018 after years of advocacy by the Udege, Nanai and Orochi indigenous peoples. The legislative framework governing the Park explicitly protects their rights to hunting, harvesting and the use of natural resources for traditional economic activities in almost 60 per cent of the Park.<sup>52</sup>

65. In Sweden, the Laponia Area is an example of a World Heritage site whose outstanding universal value is based on recognition of indigenous cultural values, not only ensuring that those values are considered in conservation decisions, but also institutionalizing indigenous peoples' primary role in decision-making and site management processes. The area was initially nominated as a natural site, but the application was denied and it was then renominated and designated a mixed site in 1996, in recognition of both its natural features and the significance of the Sami reindeer herding culture in the area. Following successful advocacy by Sami leaders, a new management organization, Laponiatjuottjudus, was established in 2012 with a Sami majority on the basis of consensus decision-making, allowing for integrated management of the indigenous cultural values and natural values of the site.<sup>53</sup> The management stakeholders are the nine Sami villages in Laponia, two municipalities (Gällivare and Jokkmokk), the Norrbotten County Administrative Board and the Swedish Environmental Protection Agency.

<sup>47</sup> See [www.blm.gov/sites/blm.gov/files/docs/2022-06/BearsEarsNationalMonumentInter-GovernmentalAgreement2022.pdf](http://www.blm.gov/sites/blm.gov/files/docs/2022-06/BearsEarsNationalMonumentInter-GovernmentalAgreement2022.pdf).

<sup>48</sup> Communication OL USA 1/2018 addressed to the United States, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=23594>.

<sup>49</sup> See [www.niaa.gov.au/indigenous-affairs/environment/indigenous-ranger-programs](http://www.niaa.gov.au/indigenous-affairs/environment/indigenous-ranger-programs).

<sup>50</sup> See [www.budjbim.com.au/](http://www.budjbim.com.au/); and <https://whc.unesco.org/en/list/1577/>.

<sup>51</sup> Submission by the International Work Group for Indigenous Affairs to the Special Rapporteur.

<sup>52</sup> Ibid.

<sup>53</sup> See <https://laponia.nu/om-oss/laponiatjuottjudus/>; and [https://laponia.nu/wp-content/uploads/2014/08/Laponia-forvaltningsplan-eng-web-150327\\_2.pdf](https://laponia.nu/wp-content/uploads/2014/08/Laponia-forvaltningsplan-eng-web-150327_2.pdf).

## VIII. Conclusions and recommendations

66. Deforestation and worsening climate change are understandable impetuses to increase the number of protected areas. However, increasing the number protected areas cannot effectively address the causes or consequences of climate change; major changes in cultures of consumption and huge reductions in emissions are ultimately required. In the meantime, indigenous peoples should not be made to pay the costs of inaction on consumption and emissions by non-indigenous societies. There can be no shortcuts to sustainable and effective conservation; it needs to be done together with those who have protected these areas of rare biodiversity for thousands of years. Indigenous peoples must be recognized not only as stakeholders, but as rights holders in conservation efforts undertaken in their lands and territories. Their way of life and knowledge need to be preserved and protected, together with the lands that they inhabit. Respect for the rights of indigenous peoples, and not their exclusion from their territories in the name of conservation, will ultimately benefit the planet and its peoples as a whole.

67. Tangible progress in the recognition of indigenous peoples' rights has been made since the report of the previous mandate holder on this topic in 2016, giving hope for the universal acceptance of new conservation approaches that assert the rights of indigenous peoples. However, better recognition of indigenous peoples' rights urgently needs to be translated into action. States and all other conservation actors, as well as financial institutions, must apply new conservation models, while immediately addressing historical and contemporary wrongs caused to indigenous peoples by conservation projects.

68. It is imperative that, in the post-2020 global biodiversity framework, genuine commitment to a human rights-based approach to conservation be demonstrated by including express recognition thereof in the final text to be adopted at the fifteenth session of the Conference of the Parties to the Convention on Biological Diversity.

69. The Special Rapporteur recognizes the efforts of UNESCO, notably the adoption of the policy on engaging with indigenous people and revisions to the Operational Guidelines for the Implementation of the World Heritage Convention. These are concrete steps in the right direction, but further steps must be taken to implement these policies within the World Heritage Committee and on the ground at World Heritage sites. As the previous mandate holder noted (see [A/71/229](#)), it is possible for the nomination of sites for, and their inclusion in, the World Heritage List to be carried out constructively and with the consent of the indigenous peoples affected, ensuring that such procedures would in practice provide an effective contribution to conservation and the protection of human rights. Indigenous peoples should be the ones to nominate and manage their own sites and should fully and effectively participate in processes related to World Heritage sites to ensure respect for their rights, livelihoods and self-determined development.

70. The Special Rapporteur wishes to make the following recommendations. States should:

- (a) Recognize indigenous peoples' special and unique legal status;
- (b) Provide indigenous peoples with legal recognition of their lands, territories and resources; such recognition should be given with due respect for the legal systems, traditions and land tenure systems of the indigenous peoples concerned;

(c) Apply a strict rights-based approach to the creation or expansion of existing protected areas;

(d) Only extend protected areas to overlap with indigenous territories when indigenous peoples have given their free, prior and informed consent;

(e) Ensure that indigenous peoples have the right of access to their lands and resources and undertake their activities in accordance with their world view, which has ensured the sustainable conservation of the environment for generations, and halt the criminalization of indigenous peoples carrying out sustainable activities linked to their way of life, activities that may be forbidden to non-indigenous peoples;

(f) Protect indigenous peoples from encroachment on their ancestral lands and strictly forbid logging and extractive activities in protected areas;

(g) Accept official country visits by special procedures to investigate alleged human rights violations at World Heritage sites and in other protected areas.

71. Member States, United Nations agencies, donors and all actors involved in conservation should:

(a) Allocate funding to support indigenous-led conservancies, and create intercultural channels of communication to encourage the full participation of indigenous peoples in the management of protected areas and the inclusion of indigenous knowledge systems in conservation;

(b) Implement efforts to ensure that indigenous peoples, including indigenous women, are well represented in decision-making processes, and adopt a rights-based approach at each stage of the design, implementation and assessment of conservation measures;

(c) Learn from indigenous knowledge systems to determine, together with indigenous peoples, conservation protocols related to sacred areas or spaces and important species;

(d) Protect and promote the role of indigenous women in preserving, transmitting, applying and developing indigenous scientific knowledge related to conservation and the protection of biodiversity;

(e) Include, in collaboration with indigenous peoples, the knowledge and rights of indigenous peoples in conservation-related education curricula;

(f) Institute and apply indigenous hiring preferences when recruiting officials for the management of protected areas and environmental protection;

(g) In consultation with indigenous peoples, ensure transparent and equitable benefit-sharing for their contributions to biodiversity protection on their lands and territories, and ensure that funding directed towards indigenous peoples is managed by them;

(h) Support the development of the capacity of indigenous peoples to participate in and influence international conservation processes, including the post-2020 global biodiversity framework, the nomination and management of World Heritage sites, and the planning and monitoring of, and reporting on, REDD-plus and other conservation and climate change mitigation projects;

(i) Adopt a culturally appropriate human-rights based approach when planning and implementing conservation projects, including REDD-plus initiatives, taking into consideration indigenous peoples' distinct and special relationship to land, waters, territories and resources, and ensure that

**indigenous peoples receive culturally appropriate funding for climate finance opportunities;**

**(j) Establish or strengthen grievance mechanisms that are independent, accessible and culturally appropriate for indigenous peoples;**

**(k) Protect indigenous peoples living in voluntary isolation and initial contact by taking into account their nomadic lifestyle and voluntary isolation as a right of indigenous peoples.**

**72. UNESCO should apply a strong human rights-based approach to the inclusion of sites in the World Heritage List. Such an approach should include:**

**(a) Human rights impact assessments carried out together with indigenous peoples before the nomination process begins;**

**(b) The revision of the World Heritage Committee's rules of procedure to ensure the effective participation of indigenous peoples and United Nations human rights experts in decision-making processes affecting indigenous peoples before the Committee makes its final decision;**

**(c) Periodic reporting on, and reviews of, the human rights situation at World Heritage sites and measures to reconsider World Heritage status if requirements are not met;**

**(d) The establishment of an independent grievance mechanism for violations at World Heritage sites.**

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