



COVID-19 & Indigenous Peoples

Fact-sheets on UN recommendations and other sources





These fact-sheets aim to support the work of indigenous activists and human rights defenders working on issues related to Indigenous Peoples. Franciscans International (FI) also hopes that they will serve as a tool to become familiar with the vocabulary, design and formulations coming from the different United Nations human rights mechanisms and that they will facilitate advocacy work at the national, regional, and international levels.

Each fact-sheet is dedicated to a different theme and contains a general description of the problem, some general and specific recommendations, and a section dedicated to other authoritative sources related to each issue.

While the recommendations are related to the COVID-19 pandemic, many of them can be adapted to address human rights situations more generally.

The fact-sheets cover the following topics:

- **Access to health care and vaccines**
- **General non-discrimination clause**
- **Women and gender-based issues**
- **Access to Covid-19 information**
- **Free, prior and informed consent in the context of business activities**
- **Traditional medicine**
- **Water and sanitation**
- **Right to adequate food**
- **Human rights defenders**

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The fact-sheets are also available in English, Spanish, and Portuguese at www.franciscansinternational.com/news/launches/factsheets



COVID-19 & Indigenous Peoples



Access to health care and vaccines during the COVID-19 pandemic

Indigenous communities are often located in remote regions, usually **excluded** from, or with **limited access** to, healthcare.¹ In addition, indigenous peoples are **particularly vulnerable** to pandemics, and have shown little resistance to respiratory illnesses in the past.² Indigenous peoples living in urban areas including many who migrated to cities due to land grabbing, poverty, militarization and the deterioration of traditional livelihoods, often have limited access to health services due to an array of barriers such as poverty, racism and discrimination.³ In Brazil, by law, the Special Secretariat of Indigenous Health has the obligation to provide with health services to indigenous peoples located in indigenous lands. However, many of them do not live in demarcated indigenous lands, they live in urban areas, or they have to move to other cities where Brazil's public health system (SUS) is located due to the lack of equipment and capacity at the Special Indigenous Health Districts (DSEI).⁴



Recommendation

Ensure **non-discriminatory access** to quality, **culturally appropriate**, age and gender-sensitive, medical care and treatment for indigenous peoples during COVID-19. Access to personal protective equipment, testing, hygiene, cleaning and disinfection materials, and urgent emergency care are essential.⁵



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Specific Recommendations:

Report of the Special Rapporteur on the rights of indigenous people⁶

- “Indigenous authorities, communities and associations should prepare or update contingency plans for pandemics, identifying the areas they can manage entirely independently and those where they may require support. The plans should include options for the isolation of sick members of the community, as well as a communication tree, clearly identifying the counterparts within the local and regional governments with which they will coordinate or collaborate. They should designate individuals within the community as focal points for implementation.”

OHCHR: COVID-19 and Indigenous Peoples’ Rights⁷

- “Take into account indigenous peoples’ distinctive concepts of health, which are inextricably linked with the realization of other rights, including the rights to self-determination, development, culture, land, language and the natural environment.”
- “Create plans to provide non-discriminatory access to culturally acceptable, age and gender-sensitive healthcare; sexual and reproductive health services should be included as well.”
- “Provide access to personal protective equipment, testing and urgent emergency care paramount for indigenous peoples. Protect, recognize and provide indigenous midwives, as frontline health workers, with the same personal protective equipment as other frontline health workers.”
- “Pay particular attention to ensure that the health crisis does not lead to an increase in maternal mortality among indigenous women and adolescent girls. Ensure that health structures for indigenous women receive adequate funds to assist them.”
- “Provide targeted attention to indigenous people living in urban contexts, by supporting local health committees in urban areas, and involving indigenous health representatives in the prevention and treatment of patients with COVID-19, without discrimination.”
- “Ensure that no one is denied treatment on the basis of disability, as well as any form of medical bias against indigenous persons with disabilities. Identify and remove barriers to treatment, including ensuring accessible environments.”

Public Letter to Brazil from the Committee on the Elimination of Racial Discrimination⁸

- “To ensure that indigenous peoples, Afro-Brazilians and *quilombola* have access without discrimination to quality and culturally appropriate medical care and treatment, as well as COVID-19 testing; accurate and culturally adapted information; hygiene, cleaning and disinfection materials; as well as to the emergency income aid provided in the context of the pandemic.”

Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Guatemala⁹

- “Continue to strengthen dialogue and coordination between the traditional and the national health systems, and enhance access to health services with cultural adequacy to indigenous peoples, including women and girls.”

Statement on universal and equitable access to vaccines for the coronavirus disease (COVID-19)¹⁰

- “States have an obligation to take all the measures necessary, to the maximum available resources, to guarantee access to vaccines for COVID-19 to all persons, without discrimination. The duty of States to provide immunization against the major infectious diseases and to prevent and control epidemics is a priority obligation concerning the right to health. Under the current conditions, States are required to give maximum priority to the provision of vaccines for COVID-19 to all persons.”

The right to health care for indigenous peoples is expressly recognized in the:

ILO Convention No.169¹¹

- “Article 25:
 1. Governments shall ensure that adequate health services are made available to the peoples concerned, or shall provide them with resources to allow them to design and deliver such services under their own responsibility and control, so that they may enjoy the highest attainable standard of physical and mental health.
 2. Health services shall, to the extent possible, be community-based. These services shall be planned and administered in cooperation with the peoples concerned and take into account their economic, geographic, social and cultural conditions as well as their traditional preventive care, healing practices and medicines.
 3. The health care system shall give preference to the training and employment of local community health workers, and focus on primary health care while maintaining strong links with other levels of health care services.
 4. The provision of such health services shall be coordinated with other social, economic and cultural measures in the country.”

UN Declaration on the Rights of Peasants¹²

- “Article 23:
 1. Peasants and other people working in rural areas have the right to the enjoyment of the highest attainable standard of physical and mental health. They also have the right to have access, without any discrimination, to all social and health services.
 2. Peasants and other people working in rural areas have the right to use and protect their traditional medicines and to maintain their health practices, including access to and conservation of their plants, animals and minerals for medicinal use.
 3. States shall guarantee access to health facilities, goods and services in rural areas on a non-discriminatory basis, especially for groups in vulnerable situations, access to essential medicines, immunization against major infectious diseases, reproductive health, information concerning the main health problems affecting the community, including methods of preventing and controlling them, maternal and child health care, as well as training for health personnel, including education on health and human rights.”

International Convention on the Elimination of All Forms of Racial Discrimination¹³

- “Article 5:

In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

(e) Economic, social and cultural rights, in particular:

(iv) The right to public health, medical care, social security and social services.”

General Comment No. 14 on the Right to the Highest Attainable Standard of Health¹⁴

- “The Committee considers that indigenous peoples have the right to specific measures to improve their access to health services and care. These health services should be culturally appropriate, taking into account traditional preventive care, healing practices and medicines. States should provide resources for indigenous peoples to design, deliver and control such services so that they may enjoy the highest attainable standard of physical and mental health.”

UN Declaration on the Rights of Indigenous Peoples¹⁵

- “Article 24:
 1. Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals. Indigenous individuals also have the right to access, without any discrimination, to all social and health services.
 2. Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health. States shall take the necessary steps with a view to achieving progressively the full realization of this right.”



References

1. Office of the High Commissioner for Human Rights: COVID-19 and Indigenous Peoples' Rights, p.1, at https://www.ohchr.org/Documents/Issues/IPeoples/OHCHRGuidance_COVID19_IndigenousPeoplesRights.pdf
2. United Nations State of the World's Indigenous Peoples: Indigenous Peoples' Access to Health Services, p. 136, at <https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/03/The-State-of-The-Worlds-Indigenous-Peoples-WEB.pdf>
3. Ibid, p. V
4. Lacerda, Paula. "Tragédia em curso: Covid-19 se alastra por aldeias indígenas da Amazônia brasileira e pode dizimar povos inteiros" (Tragedy in progress: Covid-19 spreads through indigenous villages in the Brazilian Amazon and may decimate entire peoples) OGLOBO, 11 June 2020, at <https://oglobo.globo.com/sociedade/coronavirus/tragedia-em-curso-covid-19-se-alastra-por-aldeias-indigenas-da-amazonia-brasileira-pode-dizimar-povos-inteiros-24464714>
5. Office of the High Commissioner for Human Rights: COVID-19 and Indigenous Peoples' Rights, p.3-4, at https://www.ohchr.org/Documents/Issues/IPeoples/OHCHRGuidance_COVID19_IndigenousPeoplesRights.pdf
6. United Nations General Assembly 75th session (A/75/185), para. 96
7. Office of the High Commissioner for Human Rights, p. 3-4
8. Committee on the Elimination of Racial Discrimination (CERD/EWUAP/101st session/2020/Brazil/CA/ks)
9. Human Rights Council 46th session (A/HRC/46/74), para. 93(C)
10. Committee on Economic, Social and Cultural Rights (E/C.12/2020/2), para. 3
11. International Labour Organization, Indigenous and Tribal Peoples Convention (No. 169), Part V. Social Security and Health
12. United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas (A/HRC/RES/39/12), p. 14
13. Committee on the Elimination of Racial Discrimination, Part I
14. Committee on Economic, Social and Cultural Rights: General Comment No. 14 on Article 12 of the International Covenant on Economic, Social and Cultural Rights, para. 27
15. United Nations Declaration on the Rights of Indigenous Peoples, p. 18

COVID-19 & Indigenous Peoples



General non-discrimination clause

Indigenous Peoples are being **disproportionately impacted** during the pandemic.¹ Their way of life, culture, cosmovision and connection to their land and resources are a vital source of their **resilience** to the pandemic. However, inadequate government support for indigenous peoples, in the response to COVID-19, has further **threatened their right to health** as well as other **civil, cultural, economic, political and social rights**.² For example, in Brazil, “the structural and pervasive discrimination affecting indigenous peoples, Afro-Brazilians and *quilombolas* has been exacerbated by the seriousness and magnitude of the spread of COVID-19.”³



Recommendation

States, as a matter of priority, and following **consultation** with affected communities, should adopt targeted measures including through international cooperation, to mitigate the impacts of, and ensure the equitable recovery from, the COVID-19 pandemic on indigenous peoples.⁴ Special consideration must be given to indigenous peoples’ rights and their needs, as well as the **intersecting forms of discrimination** they faced prior to and during the pandemic.⁵



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Specific Recommendations:

International expert group meeting on the theme “Indigenous peoples and pandemics”⁶

- “Governments should ensure the effective participation of indigenous peoples in all recovery efforts, and culturally appropriate health services and education are integral to these recovery plans. It is essential that recovery efforts take into consideration the impacts of the pandemic on indigenous women and girls and include actions to address these.”

Statement on the coronavirus disease (COVID-19) pandemic and economic, social and cultural rights⁷

- “All States parties should, as a matter of urgency, adopt special, targeted measures, including through international cooperation, to protect and mitigate the impact of the pandemic on vulnerable groups (...) Such measures include, among others, providing water, soap and sanitizer to communities that lack them; implementing targeted programmes to protect the jobs, wages and benefits of all workers, including undocumented migrant workers; imposing a moratorium on evictions or mortgage bond foreclosures against people’s homes during the pandemic; providing social relief and income-support programmes to ensure food and income security to all those in need; taking specially tailored measures to protect the health and livelihoods of vulnerable minority groups, (...) as well as those of indigenous peoples; and ensuring affordable and equitable access to Internet services by all for educational purposes.”

Human rights and indigenous peoples⁸

- “Encourages all stakeholders, in their responses to and recovery from the COVID-19 pandemic, to work in collaboration with indigenous peoples’ representatives and institutions”
- “Encourages States to give due consideration to the rights of indigenous peoples and the multiple and intersecting forms of discrimination faced by indigenous peoples and individuals, including potential setbacks and aggravated barriers caused by COVID-19, in fulfilling the commitments undertaken in the 2030 Agenda for Sustainable Development and in the formulation of relevant international and regional programmes, as well as national action plans, strategies and programmes, applying the principle of leaving no one behind;”
- “Encourages States, according to their relevant national context and characteristics, to collect and disseminate data disaggregated by ethnicity, income, gender, age, race, migratory status, disability, geographic location or other factors, as appropriate, in order to monitor and improve the impact of development policies, strategies and programmes aimed at improving the well-being of indigenous peoples and individuals, to combat and eliminate violence and multiple and intersecting forms of discrimination against them, to include the specific needs and priorities of indigenous peoples in addressing the global COVID-19 outbreak and to support work towards the achievement of the Sustainable Development Goals and the 2030 Agenda.”

UN Women: Response to COVID-19⁹

- Consult indigenous women’s groups through innovative means, to secure their views on equitable approaches for designing, reviewing and implementing stimulus packages.

Indigenous Peoples' Rights are expressly recognized in the:

UN Declaration on the Rights of Indigenous Peoples¹⁰

- *Article 1:*

Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law.

ILO Convention No. 169¹¹

- *Article 1:*

1. This Convention applies to:

(a) tribal peoples in independent countries whose social, cultural and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations;

(b) peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonisation or the establishment of present state boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions.

General Recommendation No. 23 of the International Convention on the Elimination of All Forms of Racial Discrimination¹²

- The Committee affirms that, “that discrimination against indigenous peoples falls under the scope of the Convention and that all appropriate means must be taken to combat and eliminate such discrimination.”

Other sources that could be applicable in some contexts:

UN Declaration on the Rights of Peasants¹³

• *Article 1:*

3. The present Declaration also applies to indigenous peoples and local communities working on the land, transhumant, nomadic and semi-nomadic communities (...)



References

1. United Nations Permanent Forum on Indigenous Issues: The rights of indigenous peoples in Latin America and the Caribbean in the context of the exceptional measures adopted during the pandemic (E/C.19/2021/9), para. 24, at <https://undocs.org/Home/Mobile?FinalSymbol=E%2FC.19%2F2021%2F9&Language=E&DeviceType=Desktop>
2. United Nations Permanent Forum on Indigenous Issues (E/C.19/2021/9), states that “The pandemic has exacerbated inequality and conditions of extreme poverty for most indigenous peoples by suspending the activities by which they earn their livelihoods, such as the sale of handicrafts or trade in agricultural products. The income from these activities has not been replaced by meaningful State financial support to alleviate hunger or provide access to goods (...)”, para. 22, at <https://undocs.org/Home/Mobile?FinalSymbol=E%2FC.19%2F2021%2F9&Language=E&DeviceType=Desktop>
3. Public Letter to Brazil from the Committee on the Elimination of Racial (CERD/EWJAP/101st session/2020/Brazil/CA/ks), at https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/BRA/INT_CERD_ALE_BRA_9239_E.pdf
4. Committee on Economic, Social and Cultural Rights: Statement on the coronavirus disease (COVID-19) pandemic and economic, social and cultural rights (E/C.12/2020/1), para. 15, at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2f2020%2f1&Lang=en
5. Resolution adopted by the United Nations Human Rights Council 45th session: Human rights and indigenous peoples (A/HRC/RES/45/12), para. 17, at <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2FRES%2F45%2F12&Language=E&DeviceType=Desktop>
6. United Nations Permanent Forum on Indigenous Issues (E/C.19/2021/7), para. 54
7. Statement by the Committee on Economic, Social and Cultural Rights (E/C.12/2020/1), para. 15
8. Resolution adopted by the United Nations Human Rights Council 45th session (A/HRC/RES/45/12), para. 12, 17 and 25
9. UN Women: “Making Indigenous Women and Girls Visible in the Implementation of the UN Framework for the Immediate Socio-Economic Response to COVID-19 Accessing Funds Through Multi-Partner Trust Fund, section “Window 2: Mitigate the socio-economic impact and safeguard people and their livelihoods”, p. 7
10. United Nations Declaration on the Rights of Indigenous Peoples, p. 7-8
11. International Labour Organization, Part I. General Policy
12. Committee on the Elimination of Racial Discrimination, para. 1
13. United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas, p. 5

COVID-19 & Indigenous Peoples



Women and gender-based issues

Throughout the pandemic, there has been a drastic increase in **gender-based violence** as a result of 'stay at home' orders.¹ Furthermore, the pandemic has **compounded economic impacts on women**. Indigenous women are particularly affected as they generally are underpaid and hold insecure jobs,² and violence against women correlates with economic insecurity.³ In Guatemala many young indigenous women working as domestic workers in the capital city were fired, without compensation or the means to go back to their place of origin.⁴



Recommendation

Ensure that indigenous women and girls' specific needs are fully integrated in national COVID-19 responses and recovery measures, particularly to **combat gender-based violence** and to **ensure equitable economic recovery**.⁵ Such recovery measures should contribute to effectively address pre-existing intersecting discriminations that indigenous women have been facing. It is essential that indigenous women are given a **leadership role** to develop and implement measures which aim to end the intersecting forms of aggravated discrimination they face during the health crisis.⁶



Franciscans International
A voice at the United Nations

Specific Recommendations:

The rights of indigenous peoples in Latin America and the Caribbean in the context of the exceptional measures adopted during the pandemic⁷

- “Generate or activate operating procedures to eliminate all forms of violence against indigenous women and girls, avoiding revictimization during investigations, and guaranteeing genuine participation in such processes.”

OHCHR: COVID-19 and Indigenous Peoples’ Rights⁸

- “Ensure access to information about preventive measures and support services for victims of gender-based violence and about how to access essential sexual and reproductive health services during the pandemic.”
- “Ensure that the specific needs of indigenous women and girls are addressed in measures to mitigate the socioeconomic impact of the pandemic.”

Public Letter to Brazil from the Committee on the Elimination of Racial Discrimination⁹

- “To address the specific needs of indigenous women, as well as Afro- Brazilian and *quilombolas* women in the context of the pandemic, particularly to ensure their access to adequate employment, education and health services, including sexual and reproductive health; their participation in decision-making processes, as well as measures to combat gender-based violence against women in the context of the pandemic.”

UN Women: Response to COVID-19¹⁰

- “Proposals must furthermore include designated safe spaces for indigenous women to safely report abuse. They must also integrate violence prevention efforts and essential services into COVID-19 response plans, while supporting culturally appropriate shelters and other indigenous women’s organizations on the front lines of the response.”
- “Consult indigenous women’s groups through innovative means, to secure their views on equitable approaches for designing, reviewing and implementing stimulus packages.”

Indigenous womens’ rights are expressly recognized in:

International Covenant on Civil and Political Rights¹¹

- “Article 3:
The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.”

International Covenant on Economic, Social and Cultural Rights¹²

- “Article 3:
The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.”

Convention on the Elimination of All Forms of Discrimination Against Women¹³

- “Article 11:
States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights (...)
► [continues](#)

- *“Article 14:*
 1. States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of the present Convention to women in rural areas.
 2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development (...)”

General Recommendation No. 19 on Violence Against Women¹⁴

- “Rural women are at risk of gender-based violence because of traditional attitudes regarding the subordinate role of women that persist in many rural communities. Girls from rural communities are at special risk of violence and sexual exploitation when they leave the rural community to seek employment in towns.”

General Recommendation No. 34 on the Rights of Rural Women¹⁵

- “Rural women are also more likely to be excluded from leadership and decision making positions at all levels. They are disproportionately affected by gender-based violence, and lack access to justice and effective legal remedies. Clearly, the importance of rural women’s empowerment, self-determination, and position in decision- making and governance must not be ignored, and when this occurs, States jeopardize their own progress.”

Other sources that could be applicable in some contexts:

UN Declaration on the Rights of Indigenous Peoples¹⁶

- *“Article 21:*
 2. States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities.”
- *“Article 22*
 1. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities in the implementation of this Declaration.
 2. States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.”

UN Declaration on the Rights of Peasants¹⁷

- *“Article 2:*
 2. Particular attention shall be paid in the implementation of the present Declaration to the rights and special needs of peasants and other people working in rural areas, including older persons, women, youth, children and persons with disabilities, taking into account the need to address multiple forms of discrimination.”
- *“Article 4:*
 1. States shall take all appropriate measures to eliminate all forms of discrimination against peasant women and other women working in rural areas and to promote their empowerment in order to ensure, on the basis of equality between men and women, that they fully and equally enjoy all human rights and fundamental freedoms and that they are able to freely pursue, participate in and benefit from rural economic, social, political and cultural development
 - ▶ *continues*



2. States shall ensure that peasant women and other women working in rural areas enjoy without discrimination all the human rights and fundamental freedoms set out in the present Declaration and in other international human rights instruments, including the rights:
 - (a) To participate equally and effectively in the formulation and implementation of development planning at all levels;
 - (b) To have equal access to the highest attainable standard of physical and mental health, including adequate health-care facilities, information, counselling and services in family planning;
 - (c) To benefit directly from social security programmes;
 - (d) To receive all types of training and education, whether formal or non-formal, including training and education relating to functional literacy, and to benefit from all community and extension services in order to increase their technical proficiency;
 - (e) To organize self-help groups, associations and cooperatives in order to obtain equal access to economic opportunities through employment or self-employment;
 - (f) To participate in all community activities;
 - (g) To have equal access to financial services, agricultural credit and loans, marketing facilities and appropriate technology;
 - (h) To equal access to, use of and management of land and natural resources, and to equal or priority treatment in land and agrarian reform and in land resettlement schemes;
 - (i) To decent employment, equal remuneration and social protection benefits, and to have access to income-generating activities;
 - (j) To be free from all forms of violence.”

References

1. United Nations General Assembly 75th session: Report of the Special Rapporteur on the rights of indigenous peoples (A/75/185), para. 65, at <https://undocs.org/Home/Mobile?FinalSymbol=A%2F75%2F185&Language=E&DeviceType=Desktop>
2. UN Women, Policy Brief: The Impact of COVID-19 on Women, p.2, at <https://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2020/policy-brief-the-impact-of-covid-19-on-women-en.pdf?la=en&vs=1406>
3. See Submission by the Native Women's Association of Canada cited in the United Nations General Assembly 75th session: Report of the Special Rapporteur on the rights of indigenous peoples (A/75/185), para. 65, at <https://undocs.org/Home/Mobile?FinalSymbol=A%2F75%2F185&Language=E&DeviceType=Desktop>
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5. Public Letter to Brazil from the Committee on the Elimination of Racial Discrimination (CERD/EWUAP/101st session/2020/Brazil/CA/ks), at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolNo=INT%2fCERD%2fALE%2fBRA%2f9239&Lang=en
6. See United Nations Entity for Gender Equality and the Empowerment of Women, “In Guatemala, investing in indigenous women’s economic empowerment is key to building back better after COVID-19”, cited in the Report of the Special Rapporteur on the rights of indigenous peoples (A/75/185), para. 90, at <https://www.unwomen.org/en/news/stories/2020/6/feature-empowering-indigenous-women-in-guatemala-in-covid-19-response>
7. United Nations Permanent Forum on Indigenous Issues (E/C.19/2021/9), para. 66
8. United Nations Office of the High Commissioner for Human Rights, p.7 and 9
9. Committee on the Elimination of Racial Discrimination (CERD/EWUAP/101st session/2020/Brazil/CA/ks)
10. UN Women: Making Indigenous Women and Girls Visible in the Implementation of the UN Framework for the Immediate Socio-Economic Response to COVID-19 Accessing Funds Through the Multi-Partner Trust Fund, p.5 and 7
11. Human Rights Committee, Part II
12. Committee on Economic, Social and Cultural Rights, Part II
13. Committee on Elimination of Discrimination Against Women, Part III
14. Committee on the Elimination of Discrimination against Women, para. 21
15. Committee on the Elimination of Discrimination against Women, General Recommendation No. 34 on Article 14 on the Convention on the Elimination of All Forms of Discrimination against Women New York, para. 6
16. United Nations Declaration on the Rights of Indigenous Peoples, p. 17
17. United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas, p. 14

COVID-19 & Indigenous Peoples



Access to COVID-19 information

COVID-19 related information is not always **translated** into indigenous languages, may not be **culturally relevant** in content, or may be presented in formats that are **inaccessible** to certain indigenous peoples.¹ When information is not accessible, the pandemic poses even greater **risks for indigenous peoples**. In Guatemala, some COVID-19 measures were only published and disseminated in Spanish, despite that they are legally bound to include indigenous people's languages.²

Recommendation

Ensure access to **periodic, timely** and **accurate** COVID-19 related information to indigenous communities. This information should be **developed in consultation with indigenous peoples**, accessible in content and format, including in their indigenous languages; and disseminated through their own institutions and channels.³



Franciscans International
A voice at the United Nations

Specific Recommendations:

The rights of indigenous peoples in Latin America and the Caribbean in the context of the exceptional measures adopted during the pandemic⁴

- “Establish policies that allow access to or improvement of information and communications technology infrastructure, based on the recognition that territorial rights include use of the ether. Such measures should include digital literacy, full access to new technologies, the availability of translators and interpreters when needed, and the promotion of indigenous peoples’ own community networks.”

Report of the Special Rapporteur on the rights of indigenous people⁵

- “Indigenous peoples in urban and rural settings should receive timely and accurate information on care and prevention during the pandemic, as well as, for instance, on support services for victims of gender-based violence during any periods of confinement, in accessible languages and formats (radio, social media, easy-read) that have been identified by the communities. States should also fund indigenous peoples’ own initiatives in this regard.”

OHCHR: COVID-19 and Indigenous Peoples’ Rights⁶

- “Ensure that timely, accessible and accurate information about prevention and care, how to seek help in case of symptoms, and what is being done to address the pandemic, is made available to indigenous peoples living in their ancestral territories and in urban contexts, in as many indigenous languages and formats (oral, written, child- friendly) as possible.”
- “Support information campaigns with and for indigenous peoples on the pandemic, including health information specific to persons with disabilities, communicated in accessible modes, means and formats and developed in consultation with (...) indigenous representatives. Provide information on preventive measures in indigenous languages, and through their own representatives and institutions, to ensure information is accessible and culturally appropriate and inclusive to all, including indigenous persons with disabilities. Involve indigenous youth in the dissemination of COVID-19 related messages within the communities, particularly through social media.”

Statement on the coronavirus disease (COVID-19) pandemic and economic, social and cultural rights⁷

- “Accurate and accessible information about the pandemic is essential both to reduce the risk of transmission of the virus and to protect the population against dangerous disinformation. Accurate and accessible information is also crucial in reducing the risk of stigmatizing, harmful conduct against vulnerable groups, including those infected by COVID-19. Such information should be provided on a regular basis, in an accessible format and in all local and indigenous languages. Measures should also be taken to expedite access to affordable Internet services (...).”

The right to information for indigenous peoples is expressly recognized in:

ILO Convention No.169⁸

- “Article 30:
 1. Governments shall adopt measures appropriate to the traditions and cultures of the peoples concerned, to make known to them their rights and duties, especially in regard to labour, economic opportunities, education and health matters, social welfare and their rights deriving from this Convention.
 2. If necessary, this shall be done by means of written translations and through the use of mass communications in the languages of these peoples.”

Convention on the Elimination of all forms of Discrimination Against Women:⁹

- “Article 10:

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

(h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.”

International Convention on the Elimination of All Forms of Racial Discrimination¹⁰

- “Article 7:

States Parties undertake to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination and to promoting understanding, tolerance and friendship among nations and racial or ethnical groups, as well as to propagating the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, and this Convention.”

General comment No. 34 on Freedoms of Opinion and Expression¹¹

- “To give effect to the right of access to information, States parties should proactively put in the public domain Government information of public interest. States parties should make every effort to ensure easy, prompt, effective and practical access to such information.”

General Comment No. 14 on the Right to the Highest Attainable Standard of Health¹²

- “The right to health in all its forms and at all levels contains the following interrelated and essential elements, the precise application of which will depend on the conditions prevailing in a particular State party:
 - (b) *Accessibility*. Health facilities, goods and services⁶ have to be accessible to everyone without discrimination, within the jurisdiction of the State party. Accessibility has four overlapping dimensions:
 - i) Non-discrimination: health facilities, goods and services must be accessible to all, especially the most vulnerable or marginalized sections of the population, in law and in fact, without discrimination on any of the prohibited grounds;”
 - iv) Information accessibility: accessibility includes the right to seek, receive and impart information and ideas concerning health issues. However, accessibility of information should not impair the right to have personal health data treated with confidentiality;”

UN Declaration on the Rights of Indigenous Peoples¹³

- *“Article 16:*
 1. Indigenous peoples have the right to establish their own media in their own languages and to have access to all forms of non-indigenous media without discrimination.
 2. States shall take effective measures to ensure that State-owned media duly reflect indigenous cultural diversity. States, without prejudice to ensuring full freedom of expression, should encourage privately owned media to adequately reflect indigenous cultural diversity.”

Other sources that could be applicable in some contexts:

UN Declaration on the Rights of Peasants¹⁴

- *“Article 11:*
 2. States shall take appropriate measures to ensure that peasants and other people working in rural areas have access to relevant, transparent, timely and adequate information in a language and form and through means adequate to their cultural methods so as to promote their empowerment and to ensure their effective participation in decision-making in matters that may affect their lives, land and livelihoods.”

References

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2. La Academia de las Lenguas Mayas de Guatemala (The Academy of Mayan Languages of Guatemala), Article 4 (D) and 5 (D), at <https://www.acnur.org/fileadmin/Documentos/BDL/2008/6701.pdf>
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4. United Nations Permanent Forum on Indigenous Issues (E/C.19/2021/9), para. 63
5. United Nations General Assembly 75th session: Report of the Special Rapporteur on the rights of indigenous peoples (A/75/185), para. 101
6. Office of the United Nations High Commissioner for Human Rights, p. 7
7. Committee on Economic, Social and Cultural Rights (E/C.12/2020/1), para. 18
8. International Labour Organization, Indigenous and Tribal Peoples Convention (No. 169), Part VI. Education and Means of Communication
9. Committee on the Elimination of Discrimination Against Women, Part III
10. Committee on the Elimination of Racial Discrimination, Part I
11. Human Rights Committee: General Comment No. 34 on Article 19 of the International Covenant on Civil and Political Rights, para.19
12. Committee on Economic, Social and Cultural Rights: General Comment No. 14 on Article 12 of the International Covenant on Economic, Social and Cultural Rights, para. 12
13. United Nations Declaration on the Rights of Indigenous Peoples, p. 14-15
14. United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas, p. 8

COVID-19 & Indigenous Peoples

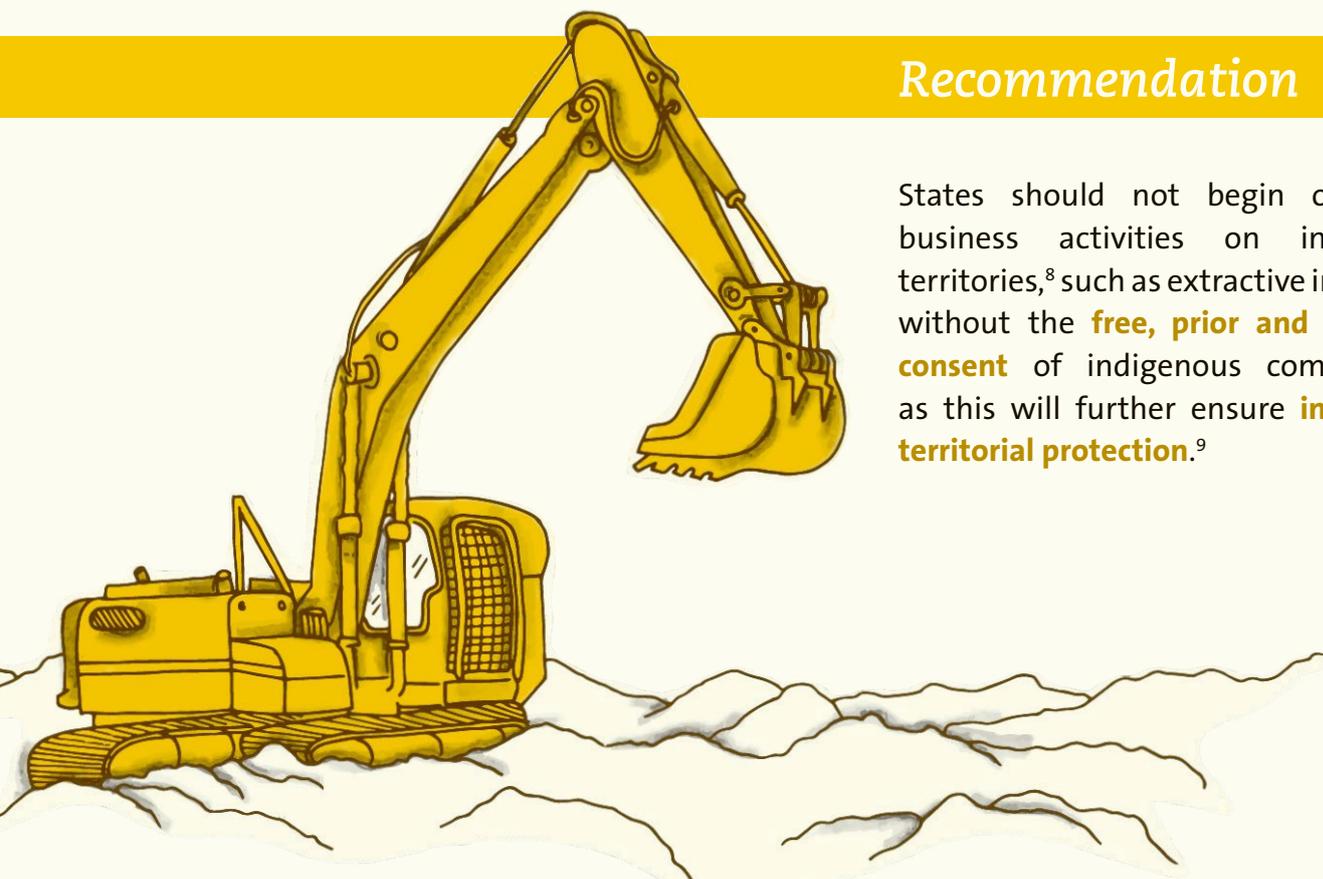


Free, prior and informed consent in the context of business activities

State measures, in a bid to stimulate the economy, have given priority to the private sector,¹ allowing many companies to continue their operations and activities, including those that **encroach on** and **adversely impact indigenous lands**.² Many governments have made attempts to make environmental regulations and licensing processes less rigorous³ and have approved business activities during states of emergency, **without the free, prior and informed consent** of indigenous peoples, endangering their territorial rights and exposing them to a heightened risk of contracting COVID-19.⁴ While business and megaprojects continued operating during the pandemic, measures were implemented to restrict indigenous peoples' activities.⁵ In March 2020, indigenous communities from the Amazon issued a statement demanding a moratorium on logging, mining, oil extracting and agribusiness activities on their lands,⁶ however, activities like mining were considered essential.⁷

Recommendation

States should not begin or renew business activities on indigenous territories,⁸ such as extractive industries, without the **free, prior and informed consent** of indigenous communities, as this will further ensure **indigenous territorial protection**.⁹



Franciscans International
A voice at the United Nations

Specific Recommendations:

Report of the Special Rapporteur on the Rights of Indigenous Peoples¹⁰

- “Given the new pandemic-related risks, the resumption or continuation of business activity occurring on indigenous territory should take place only with the renewed consent of concerned indigenous peoples. States should consider a moratorium on all logging and extractive industries operating in proximity to indigenous communities. Neither State authorities nor businesses should be permitted to exploit the situation to intensify activities to which indigenous peoples have objected.”
- “States should refrain from introducing legislation or approving extractive or similar projects in the territories of indigenous peoples in any circumstance where measures against COVID-19 prevent proper consultation and consent. States should equally refrain from proceeding to or threatening indigenous peoples with eviction of from their lands and seek to demilitarize indigenous lands.”

Report of the Special Rapporteur on human rights defenders¹¹

- “Businesses, while responsible for protecting human rights defenders, are often complicit in attacks on them, including on those working on land rights, indigenous rights and environmental rights. Many such defenders are among those working in remote rural areas.”
- “Pay particular attention to the most exposed groups, in particular those working in remote or isolated areas, environmental defenders, defenders of the rights of lesbian, gay, bisexual, transgender and intersex persons, women human rights defenders and those who work for women’s rights, defenders who are children, defenders working on the climate crisis, defenders working in the area of business and human rights, defenders working on migrant rights and related issues and defenders working on the rights of persons with disabilities.”

OHCHR: COVID-19 and Indigenous Peoples’ Rights¹²

- “Ensure indigenous territorial protection and the health of indigenous peoples during the pandemic by considering a moratorium on extractive mining, oil, and logging activities, industrial agriculture, and all religious proselytization within or on the border of indigenous territories, and take mitigating measures against encroachment upon indigenous land.”

The right of indigenous peoples to free, prior and informed consent is recognized in:

International Covenant on Civil and Political Rights¹³

- “Article 1:
 1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.”

International Covenant on Economic, Social and Cultural Rights¹⁴

- “Article 1:
 1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.”

General Comment No. 24 on State Obligations in the Context of Business Activities¹⁵

- “The obligation to respect economic, social and cultural rights is violated when States parties prioritize the interests of business entities over Covenant rights without adequate justification, or when they pursue policies that negatively affect such rights. This may occur for instance when forced evictions are ordered in the context of investment projects. Indigenous peoples’ cultural values and rights associated with their ancestral lands are particularly at risk. States parties and businesses should respect the principle of free, prior and informed consent of indigenous peoples in relation to all matters that could affect their rights, including their lands, territories and resources that they have traditionally owned, occupied or otherwise used or acquired.”
- “States parties should ensure that, where appropriate, the impacts of business activities on indigenous peoples specifically (in particular, actual or potential adverse impacts on indigenous peoples’ rights to land, resources, territories, cultural heritage, traditional knowledge and culture) are incorporated into human rights impact assessments. In exercising human rights due diligence, businesses should consult and cooperate in good faith with the indigenous peoples concerned through indigenous peoples’ own representative institutions in order to obtain their free, prior and informed consent before the commencement of activities. Such consultations should allow for identification of the potentially negative impact of the activities and of the measures to mitigate and compensate for such impact. They should also lead to design mechanisms for sharing the benefits derived from the activities, since companies are bound by their duty to respect indigenous rights to establish mechanisms that ensure that indigenous peoples share in the benefits generated by the activities developed on their traditional territories.”

General Comment No. 14 on the Right to the Highest Attainable Standard of Health¹⁶

- “The Committee considers that development-related activities that lead to the displacement of indigenous peoples against their will from their traditional territories and environment, denying them their sources of nutrition and breaking their symbiotic relationship with their lands, has a deleterious effect on their health.”

UN Declaration on the Rights of Indigenous Peoples¹⁷

- *“Article 32*
 1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.
 2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.
 3. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.”



References

1. Human Rights Council 48th Session, (A/HRC/48/54), para. 14
2. The United Nations Permanent Forum on Indigenous issues (E/C.19/2021/9) states that, "During the emergency, governments have prioritized those areas of the economy which they considered necessary for economic recovery. Thus, States have promoted extractive, energy and agro-industrial projects that affect indigenous territories", para. 54, at <https://undocs.org/Home/Mobile?FinalSymbol=E%2FC.19%2F2021%2F9&Language=E&DeviceType=Desktop>
3. Human Rights Council 48th Session, (A/HRC/48/54), para. 9
4. United Nations 75th General Assembly (A/75/185): Report of the Special Rapporteur on the Rights of Indigenous People, para. 86 and 87, at <https://undocs.org/Home/Mobile?FinalSymbol=A%2F75%2F185&Language=E&DeviceType=Desktop>
5. The United Nations Permanent Forum on Indigenous issues (E/C.19/2021/9) states that, "The pandemic has exacerbated inequality and conditions of extreme poverty for most indigenous peoples by suspending the activities by which they earn their livelihoods, such as the sale of handicrafts or trade in agricultural products", para. 22, at <https://undocs.org/Home/Mobile?FinalSymbol=E%2FC.19%2F2021%2F9&Language=E&DeviceType=Desktop>
6. United Nations 75th General Assembly (A/75/185): Report of the Special Rapporteur on the Rights of Indigenous People, para. 88, at <https://undocs.org/Home/Mobile?FinalSymbol=A%2F75%2F185&Language=E&DeviceType=Desktop>
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8. Ibid n (2), para. 106 and 107
9. Office of the High Commissioner for Human Rights: COVID-19 and Indigenous Peoples' Rights, p.9, at https://www.ohchr.org/Documents/Issues/IPeoples/OHCHRGuidance_COVID19_IndigenousPeoplesRights.pdf
10. United Nations 75th General Assembly (A/75/185), para. 106 and 107
11. United Nations 75th General Assembly (A/75/165), para. 35 and 91(F)
12. Office of the High Commissioner for Human Rights, p.9
13. The Human Rights Committee, Part I
14. Committee on Economic, Social and Cultural Rights, Part I
15. Committee on Economic Social and Cultural Rights: General Comment No. 24 of the International Covenant on Economic, Social and Cultural Rights, para. 27
16. Committee on Economic Social and Cultural Rights: General Comment No. 14 on Article 12 of the International Covenant on Economic, Social and Cultural Rights, para. 12 and 17
17. United Nations Declaration on the Rights of Indigenous Peoples, p. 23

COVID-19 & Indigenous Peoples



Traditional medicine

Indigenous peoples' particular understanding of health is rooted in their deep **traditional knowledge**, especially in their use of traditional medicine.¹ Combating COVID-19 in a medically plural society can be challenging but it is essential that a **culturally acceptable approach** be taken to ensure and protect indigenous peoples' rights.² Indigenous peoples' traditional medicine is not only vital to their culture, but it is central to their well-being.³

Recommendation

Ensure that indigenous peoples' distinctive understanding of health, including their **traditional knowledge and medicine**,⁴ are maintained, considered and supported alongside **inclusive** and **culturally adapted** health services as an integral part of COVID-19 responses.



Franciscans International
A voice at the United Nations

Specific Recommendations:

International expert group meeting on the theme “Indigenous peoples and pandemics”⁵

- “Member States must ensure that indigenous peoples have the right to their traditional medicines and that they can maintain their health practices by strengthening intercultural health services and indigenous health systems that are based on indigenous peoples’ values, physical and spiritual health and a sustainable and respectful relationship with nature.”

Report of the Special Rapporteur on the rights of indigenous people⁶

- “Health-care protocols and preventive measures applicable to indigenous peoples should take into account their distinctive concepts of health, including their traditional medicine. They should be jointly developed and delivered by State health institutions and indigenous health systems that complement each other. Where distinct indigenous health structures do not exist, States should support their creation. States should also coordinate with indigenous peoples to ensure continuity of medical care for non-COVID indigenous patients.”

OHCHR: COVID-19 and Indigenous Peoples’ Rights⁷

- “Take into account indigenous peoples’ distinctive concepts of health, which are inextricably linked with the realization of other rights, including the rights to self-determination, development, culture, land, language and the natural environment.”
- “Support indigenous peoples environmental conservation projects and initiatives in the Amazon region and elsewhere, including the conservation of their vital medicinal plants, animals and minerals, taking into account and highlighting their traditional knowledge, medicines and health practices.”

Indigenous peoples’ right to their traditional medicine is recognized in the:

ILO Convention No.169⁸

- “Article 25:
 2. Health services shall, to the extent possible, be community-based. These services shall be planned and administered in co-operation with the peoples concerned and take into account their economic, geographic, social and cultural conditions as well as their traditional preventive care, healing practices and medicines.”

Convention on Biodiversity⁹

- “Article 8:
 - (j) Subject to its national legislation, respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices.”

Paris Agreement¹⁰

- “Article 7:
 5. Parties acknowledge that adaptation action should follow a country-driven, gender- responsive, participatory and fully transparent approach, taking into consideration vulnerable groups, communities and ecosystems, and should be based on and guided by the best available science and, as appropriate, traditional knowledge, knowledge of indigenous peoples and local knowledge systems, with a view to integrating adaptation into relevant socioeconomic and environmental policies and actions, where appropriate.”

General Comment No. 14 on the Right to the Highest Attainable Standard of Health¹¹

- “27. (...) These health services should be culturally appropriate, taking into account traditional preventive care, healing practices and medicines. States should provide resources for indigenous peoples to design, deliver and control such services so that they may enjoy the highest attainable standard of physical and mental health. The vital medicinal plants, animals and minerals necessary to the full enjoyment of health of indigenous peoples should also be protected. (...)”

General Comment No. 25 on Science and Economic, Social and Cultural Rights¹²

- “39. Local, traditional and indigenous knowledge, especially regarding nature, species (flora, fauna, seeds) and their properties, are precious and have an important role to play in the global scientific dialogue. States must take measures to protect such knowledge through different means, including special intellectual property regimes, and to secure the ownership and control of this traditional knowledge by local and traditional communities and indigenous peoples.”
- “40. Indigenous peoples and local communities all over the globe should participate in a global intercultural dialogue for scientific progress, as their inputs are precious and science should not be used as an instrument of cultural imposition. States parties must provide indigenous peoples, with due respect for their self-determination, to both the educational and technological means to participate in this dialogue. They must also take all measures to respect and protect the rights of indigenous peoples, particularly their land, their identity and the protection of the moral and material interests resulting from their knowledge, of which they are authors, individually or collectively. Genuine consultation in order to obtain free, prior and informed consent is necessary whenever the State party or non-State actors conduct research, take decisions or create policies relating to science that have an impact on indigenous peoples or when using their knowledge.”

UN Declaration on the Rights of Indigenous Peoples¹³

- “Article 24:
 1. Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals. Indigenous individuals also have the right to access, without any discrimination, to all social and health services.”



Other sources that could be applicable in some contexts:

UN Declaration on the Rights of Peasants¹⁴

- *“Article 23:*
 2. Peasants and other people working in rural areas have the right to use and protect their traditional medicines and to maintain their health practices, including access to and conservation of their plants, animals and minerals for medicinal use.”

References

1. United Nations General Assembly 75th session: Report of the Special Rapporteur on the rights of indigenous people (A/75/185), para. 41 at <https://undocs.org/Home/Mobile?FinalSymbol=A%2F75%2F185&Language=E&DeviceType=Desktop>
2. Pan American Health Organization “Considerations on Indigenous Peoples, Afro-Descendants, and Other Ethnic Groups during the COVID-19 Pandemic”, p. 13 at https://iris.paho.org/bitstream/handle/10665.2/52251/PAHOIMSPHECOVID-19200030_eng.pdf?sequence=1&isAllowed=y
3. Ibid n (1)
4. Ibid n (1), para. 102
5. United Nations Permanent Forum on Indigenous Issues (E/C.19/2021/7, para. 55
6. United Nations General Assembly 75th session (A/75/185), para. 102
7. United Nations Office of the High Commissioner for Human Rights, p.3 and 9
8. International Labor Organization, Indigenous and Tribal Peoples Convention (No. 169), Part V. Social Security and Health
9. United Nations Convention on Biological Diversity, p. 6
10. Paris Agreement, at https://unfccc.int/sites/default/files/english_paris_agreement.pdf
11. Committee on Economic, Social and Cultural Rights: General Comment No. 14 on Article 12 of the International Covenant on Economic, Social and Cultural Rights, para. 27
12. Committee on Economic, Social and Cultural Rights: General Comment No. 125 on Article 15 (1) (b), (2), (3) and (4) of the International Covenant on Economic, Social and Cultural Rights, para 39 and 40
13. United Nations Declaration on the Rights of Indigenous Peoples, p. 18
14. United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas, p.14

COVID-19 & Indigenous Peoples



Water and sanitation

Access to water and sanitation is essential to **prevent the spread** of COVID-19, yet many indigenous peoples lack **access to safe and clean water**, and to **basic sanitation**.¹ In Guatemala, one in four households lack access to running water, and in regions heavily populated by indigenous peoples, this is only exacerbated.² **Climate change** is further compromising indigenous peoples' access to water, exposing them to water-borne diseases and therefore increasing their vulnerability to the virus.³ The lack of proper legislation, like in Guatemala, has led to violations of the **right to water** for many indigenous communities.⁴

Recommendation

Ensure access to **safe drinking water** and **sanitation** for all, including indigenous peoples, especially those living in rural, remote or otherwise marginalized areas.⁵



“The human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses.”

General Comment No.15
Committee on Economic, Social and
Cultural Rights



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A voice at the United Nations

Specific Recommendations:

OHCHR: COVID-19 and Indigenous Peoples' Rights⁶

- “Provide continuous access to sufficient clean water and soap to indigenous peoples, particularly those living in the most vulnerable conditions. Water service continuity, where possible, should be maintained during the pandemic, including proper treatment and accessibility for all.”
- “For indigenous areas unserved with safe drinking water, temporary measures should be taken to facilitate access to safe water, or to facilitate household water treatment.”

Report of the Special Rapporteur on the Human Rights to Safe Drinking Water and Sanitation⁷

- “The average amount of water required for human survival needs to be applied in context. For instance, during the coronavirus disease (COVID-19) pandemic, the level of water considered necessary for domestic use must include water for frequent handwashing, which is the primary means of preventing the spread of the disease. The following questions could provide guidance:
 - (a) What is the minimum essential amount of water and what is the minimum essential level of sanitation needed for a specific person or group in a specific social, economic and environmental condition to avoid intolerable health risks and provide privacy and dignity?
 - (b) How long does it take individuals to collect the minimum amount of water they need?”

Report of the Special Rapporteur on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment⁸

- “Respect the rights of indigenous peoples, local communities, Afro-descendants and peasants in all actions related to water and healthy aquatic ecosystems, including legal recognition of traditional knowledge, customary laws, collective ownership, and indigenous peoples’ right to free, prior and informed consent.”
- “A final legislative imperative is recognizing the rights of indigenous peoples, Afro-descendants, peasants, local communities and women to use, protect and govern water. These rights, associated rights related to land titles and tenures, customary laws, customary governance systems, and the value of traditional ecological knowledge should be explicitly incorporated in legislation.”
- “Recognize, in law, the land and water titles, tenures, rights and responsibilities of indigenous peoples, Afro-descendants, peasants and local communities, enabling them to apply customary laws, traditional ecological knowledge and their own governance systems to the sustainable stewardship of water.”
- “Enact legislation guaranteeing the free, prior and informed consent of indigenous peoples for all projects or programmes that could harm water in their territories.”



The right to water and sanitation of indigenous peoples is expressly recognized in:

Convention on the Elimination of All Forms of Discrimination Against Women⁹

- *“Article 14*
 2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:
 - (h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.”

Convention on the Rights of the Child¹⁰

- *“Article 24*
 1. States parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health (...)
 2. States parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:
 - (c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, (...) the provision of adequate nutritious foods and clean drinking water (...)

General Comment No. 15 on the Right to Water¹¹

- “Article 11, paragraph 1, of the Covenant specifies a number of rights emanating from, and indispensable for, the realization of the right to an adequate standard of living ‘including adequate food, clothing and housing’. The use of the word ‘including’ indicates that this catalogue of rights was not intended to be exhaustive. The right to water clearly falls within the category of guarantees essential for securing an adequate standard of living, particularly since it is one of the most fundamental conditions for survival.”

General comment No. 36 on the Right to Life¹²

- “The duty to protect life also implies that States parties should take appropriate measures to address the general conditions in society that may give rise to direct threats to life or prevent individuals from enjoying their right to life with dignity (...) The measures called for to address adequate conditions for protecting the right to life include, where necessary, measures designed to ensure access without delay by individuals to essential goods and services such as food, water, shelter, health care, electricity and sanitation, and other measures designed to promote and facilitate adequate general conditions (...)

UN Declaration on the Rights of Indigenous Peoples¹³

- *“Article 21:*
 1. Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security.”
- *“Article 25:*

Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.”



Other sources that could be applicable in some contexts:

UN Declaration on the Rights of Peasants¹⁴

- *“Article 21:*

1. Peasants and other people working in rural areas have the human rights to safe and clean drinking water and to sanitation, which are essential for the full enjoyment of life and all human rights and human dignity. These rights include water supply systems and sanitation facilities that are of good quality, affordable and physically accessible, and non-discriminatory and acceptable in cultural and gender terms.
2. Peasants and other people working in rural areas have the right to water for personal and domestic use, farming, fishing and livestock keeping and to securing other water-related livelihoods, ensuring the conservation, restoration and sustainable use of water. They have the right to equitable access to water and water management systems, and to be free from arbitrary disconnections or the contamination of water supplies.
3. States shall respect, protect and ensure access to water, including in customary and community-based water management systems, on a non-discriminatory basis, and shall take measures to guarantee affordable water for personal, domestic and productive uses, and improved sanitation, in particular for rural women and girls, and persons belonging to disadvantaged or marginalized groups, such as nomadic pastoralists, workers on plantations, all migrants regardless of their migration status, and persons living in irregular or informal settlements. States shall promote appropriate and affordable technologies, including irrigation technology, technologies for the reuse of treated wastewater, and for water collection and storage.
4. States shall protect and restore water-related ecosystems, including mountains, forests, wetlands, rivers, aquifers and lakes, from overuse and contamination by harmful substances, in particular by industrial effluent and concentrated minerals and chemicals that result in slow and fast poisoning.
5. States shall prevent third parties from impairing the enjoyment of the right to water of peasants and other people working in rural areas. States shall prioritize water for human needs before other uses, promoting its conservation, restoration and sustainable use.”

References

1. See GWOPA UN Habitat: “What Water and Sanitation Operators Can do in the Fight Against COVID-19” cited in OHCHR: COVID-19 and Indigenous Peoples’ Rights, p.10 at https://www.ohchr.org/Documents/Issues/IPeoples/OHCHRGuidance_COVID19_IndigenousPeoplesRights.pdf
2. United Nations Human Rights Council 46th session: Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Guatemala (A/HRC/46/74), para. 53, at <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F46%2F74&Language=E&DeviceType=Desktop>
3. See IOM: “IOM Combats COVID-19 With Clean Water, Sanitation and Hygiene” cited in OHCHR: COVID-19 and Indigenous Peoples’ Rights, p.10 at https://www.ohchr.org/Documents/Issues/IPeoples/OHCHRGuidance_COVID19_IndigenousPeoplesRights.pdf
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6. United Nations Office of the High Commissioner for Human Rights, p.10
7. United Nations Human Rights Council 45th session (A/HRC/45/10), para. 36
8. United Nations Human Rights Council 46th session (A/HRC/46/28), para 54(f), 69, 89(v) and 89 (w)
9. Committee on the Elimination of Discrimination Against Women, Part III
10. Committee on the Rights of the Child, Part I
11. Committee on Economic, Social and Cultural Rights: General Comment No. 15 on Articles 11 and 12 of the International Covenant on Economic, Social and Cultural Rights, para. 3
12. Committee on Civil and Political Rights: General comment No. 36 on Article 6 of the International Covenant on Civil and Political Rights, para. 27
13. United Nations Declaration on the Rights of Indigenous Peoples, p. 17 and 19
14. United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas, p. 13-14

COVID-19 & Indigenous Peoples



Right to adequate food

Some governmental measures during the pandemic, such as **limits on freedom of movement**, can negatively affect indigenous peoples' right to adequate food and therefore reduce their ability to sustain themselves. **Availability of and access to adequate food is vital to the enjoyment of all other rights.**¹ In Guatemala, restrictions of movement, coupled with government failure to support local sellers and communities, adversely impacted the livelihoods and the ability of indigenous and rural families to have adequate food². In contrast, transnational companies, particularly agroindustry, were authorized by the government to move throughout the country to the detriment of self-sustainable food models.³

Recommendation

Support policies and measures that **address and alleviate** threats to adequate food for indigenous peoples including threats to their traditional livelihood and food sovereignty.⁴ Special attention is needed to ensure **access to adequate food** for indigenous children⁵ and women, as well as indigenous communities in remote areas. Disaster relief packages must be respectful of traditional dietary requirements.⁶



Franciscans International
A voice at the United Nations

Specific Recommendations:

OHCHR: COVID-19 and Indigenous Peoples' Rights⁷

- “Put in place support schemes to address the socio-economic effects of COVID-19, including threats to their traditional livelihood, food insecurity and food sovereignty. For indigenous peoples not to be left behind, there should be an expansion of safety net programs to include those most affected by the coronavirus, including ensuring food access in isolated areas.”
- “Include indigenous peoples in economic and disaster relief packages, which must be respectful of traditional dietary requirements.”

UN Women: Response to COVID-19⁸

- “Address malnutrition among indigenous children and meet their ongoing food and educational needs through school meal programmes and access to learning opportunities. In doing so, take full account of potential discrimination against indigenous girls in the distribution and implementation of such services.”

The right to adequate food is expressly recognized in:

International Covenant on Economic, Social and Cultural Rights⁹

- *“Article 11:*
 1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.
 2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:
 - a. To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;
 - b. Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.”

Convention on the Rights of the Child¹⁰

- *“Article 24*
 1. States parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health ...
 2. States parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:

(...)

 - (c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, (...) the provision of adequate nutritious foods and clean drinking water (...)

General Comment Nr. 12 on the Right to Adequate Food¹¹

- “The Committee affirms that the right to adequate food is indivisibly linked to the inherent dignity of the human person and is indispensable for the fulfilment of other human rights enshrined in the International Bill of Human Rights. It is also inseparable from social justice, requiring the adoption of appropriate economic, environmental and social policies, at both the national and international levels, oriented to the eradication of poverty and the fulfilment of all human rights for all.”
- “Accessibility. (...) Victims of natural disasters, people living in disaster-prone areas and other specially disadvantaged groups may need special attention and sometimes priority consideration with respect to accessibility of food. A particular vulnerability is that of many indigenous population groups whose access to their ancestral lands may be threatened.”

General Comment Nr. 25 on Science and Economic, Social and Cultural Rights¹²

- “Scientific and technological advancements have increased agricultural productivity, contributing to higher availability of food per person and reduction of famine. Nevertheless, the environmental impacts of certain technologies associated with the Green Revolution and the risks associated with increased dependency on technology providers has led, inter alia, the General Assembly to acknowledge that peasants and other people working in rural areas have the right to determine their own food and agriculture systems, recognized by many States and regions as the right to food sovereignty. Thus, the right to participate in and to enjoy the benefits of scientific progress and its applications in agriculture should preserve, not violate, the right of peasants and other people working in rural areas to choose which technologies suit them best. Low-input eco-friendly agronomic techniques that increase organic matter content in soil, carbon sequestration and protect biodiversity should also be supported.”
- “In addition, States parties should take appropriate measures to ensure that agricultural research and development integrates the needs of peasants and other people working in rural areas and to ensure their active participation in the determination of priorities and the undertaking of research and development, taking into account their experience and respecting their cultures.”

Other sources that could be applicable in some contexts:

United Nations Declaration on the Rights of Peasants¹³

- “Article 15:
 1. Peasants and other people working in rural areas have the right to adequate food and the fundamental right to be free from hunger. This includes the right to produce food and the right to adequate nutrition, which guarantee the possibility of enjoying the highest degree of physical, emotional and intellectual development.
 2. States shall ensure that peasants and other people working in rural areas enjoy physical and economic access at all times to sufficient and adequate food that is produced and consumed sustainably and equitably, respecting their cultures, preserving access to food for future generations, and that ensures a physically and mentally fulfilling and dignified life for them, individually and/or collectively, responding to their needs.
 3. States shall take appropriate measures to combat malnutrition in rural children, including within the framework of primary health care through, inter alia, the application of readily available technology and the provision of adequate nutritious food and by ensuring that women have adequate nutrition during pregnancy and lactation. States shall also ensure that all segments of society, in particular parents and children, are informed, have access to nutritional education and are supported in the use of basic knowledge on child nutrition and the advantages of breastfeeding.

► *continues*



4. Peasants and other people working in rural areas have the right to determine their own food and agriculture systems, recognized by many States and regions as the right to food sovereignty. This includes the right to participate in decision-making processes on food and agriculture policy and the right to healthy and adequate food produced through ecologically sound and sustainable methods that respect their cultures.
5. States shall formulate, in partnership with peasants and other people working in rural areas, public policies at the local, national, regional and international levels to advance and protect the right to adequate food, food security and food sovereignty and sustainable and equitable food systems that promote and protect the rights contained in the present Declaration. States shall establish mechanisms to ensure the coherence of their agricultural, economic, social, cultural and development policies with the realization of the rights contained in the present Declaration.”

References

1. General Comment No. 12 on the Right to Adequate Food (art.11) of the International Convention on Economic, Social and Cultural Rights, para. 1, available at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2f1999%2f5&Lang=en
2. See: UN Inter-Agency Support Group states that, “Indigenous peoples are three times more likely to be living in extreme poverty, making it harder for them to buy and store food, or to pay for medicines or treatment, and to sustain themselves whilst they are unable to work”, p. 1, at https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2020/04/Indigenous-peoples-and-COVID_IASG_23.04.2020-EN.pdf. In addition, according to the Report on the Situation of human rights in Guatemala of the United Nations High Commissioner for Human Rights (A/HRC/46/74), “The severe social and economic impact of COVID-19 has underscored inequalities in a country where even before the pandemic, 6 out of 10 people lived in poverty. Among indigenous peoples, the rate was even higher, with poverty affecting 8 out of 10 people”, para. 7, at <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F46%2F74&Language=E&DeviceType=Desktop>
3. Statement submitted by Franciscans International to the United Nations Economic and Social Council (E/CN.9/2021/NGO/18), 19-23 April 2021, available at <https://digitallibrary.un.org/record/3897757?ln=en>
4. Office of the High Commissioner for Human Rights: COVID-19 and Indigenous Peoples’ Rights, p. 9, at https://www.ohchr.org/Documents/Issues/IPeoples/OHCHRGuidance_COVID19_IndigenousPeoplesRights.pdf
5. UN Women: “Making Indigenous Women and Girls Visible in the Implementation of the UN Framework for the Immediate Socio-Economic Response to COVID-19 Accessing Funds Through Multi-Partner Trust Fund, section “Recommended Actions”, p.7, at <https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2020/04/Prioritizing-indigenous-women-in-the-MPTF-April-2020.-UN-Women.pdf>
6. Ibid n (4)
7. Office of the High Commissioner for Human Rights, p. 9
8. UN Women: “Making Indigenous Women and Girls Visible in the Implementation of the UN Framework for the Immediate Socio-Economic Response to COVID-19 Accessing Funds Through Multi-Partner Trust Fund, section “Recommended Actions”, p.7
9. Committee on the Economic, Social and Cultural Rights, Part III
10. Committee on the Rights of the Child, Part I
11. Committee on Economic, Social and Cultural Rights: General Comment No. 12 on Article 11 of the International Covenant on Economic, Social and Cultural Rights, para. 4 and 13
12. Committee on Economic, Social and Cultural Rights: General comment No. 25 on Article 15 (1) (b), (2), (3) and (4) of the International Covenant on Economic, Social and Cultural Rights para. 64 and 65
13. United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas, p. 10-11

COVID-19 & Indigenous Peoples



Human rights defenders

Indigenous peoples increasingly fear for their and their families' lives while they seek to defend their lands and environments, particularly where States have lessened legal protections of rights and freedoms through declarations of states of emergency during lockdown.¹ In some cases, states of emergency have been utilized to target **indigenous peoples and human right defenders**.² In 2019, Front Line Defenders found that “land, environmental and indigenous peoples' rights remained **the most dangerous** sector of human rights defense.”³

Recommendation

States should provide **additional protection** for human rights defenders in the form of legislation, policies and institutional structures. The reporting by defenders of human rights violations and abuses are **essential** during the pandemic. States **must protect human rights defenders from harassment and intimidation**, as well as hold perpetrators (state and non-state actors) accountable and ensure access to justice, remedy and reparation.

“Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.”

Article 1
UN Declaration on human rights defenders



Franciscans International
A voice at the United Nations

Specific Recommendations:

Report of the Special Rapporteur on the rights of indigenous peoples⁴

- “States should provide additional protection to indigenous and other human rights defenders who may be at additional risk due to confinement or other measures. States should recognize the monitoring and reporting of human rights violations and abuses by defenders as an essential service that should be permitted to continue.”
- “Emergency powers must not be abused to quash, dissent or silence indigenous leaders and rights defenders. States should urgently remove or reduce the presence of State militaries in indigenous territories and communities. Attacks on indigenous, land, environmental and women human rights defenders must be stopped, perpetrators held accountable and access to justice and remedy and reparation guaranteed.”

Report of the Special Rapporteur on human rights defenders⁵

- “Businesses, while responsible for protecting human rights defenders, are often complicit in attacks on them, including on those working on land rights, indigenous rights and environmental rights. Many such defenders are among those working in remote rural areas. The responsibilities of businesses and financial institutions will be a focus of the work of the Special Rapporteur.”
- “Pay particular attention to the most exposed groups, in particular those working in remote or isolated areas, environmental defenders, defenders of the rights of lesbian, gay, bisexual, transgender and intersex persons, women human rights defenders and those who work for women’s rights, defenders who are children, defenders working on the climate crisis, defenders working in the area of business and human rights, defenders working on migrant rights and related issues and defenders working on the rights of persons with disabilities.”

Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Guatemala⁶

- “Strengthen legislation, policies and institutional structures for the protection, including from criminalization, of human rights defenders, including journalists, judges and prosecutors, and ensure implementation of the recommendations contained in the report of OHCHR and the Office of the Ombudsperson on the situation of human rights defenders in Guatemala.”

UN Women: Response to COVID-19⁷

- “Enhance collaboration and partnerships with human rights defenders who are at the frontline in the defense of indigenous peoples’ ancestral lands, natural resources and livelihoods.”

Guidance Note on CEDAW and COVID-19⁸

- “Consider alternatives to detention for women deprived of liberty, such as judicial supervision or suspended sentences with probation, in particular for women detained on grounds of administrative or other non-severe offences, low-risk offenders and those who can safely be reintegrated into society, women nearing the end of their sentences, pregnant or sick women, older women and women with disabilities. Women political prisoners, including women human rights defenders detained without sufficient legal basis should be released.”

The rights of human right defenders are expressly recognized in the:

Escazú Agreement⁹

- *“Article 9: Human rights defenders in environmental matters*
 1. Each Party shall guarantee a safe and enabling environment for persons, groups and organizations that promote and defend human rights in environmental matters, so that they are able to act free from threat, restriction and insecurity.
 2. Each Party shall take adequate and effective measures to recognize, protect and promote all the rights of human rights defenders in environmental matters, including their right to life, personal integrity, freedom of opinion and expression, peaceful assembly and association, and free movement, as well as their ability to exercise their access rights, taking into account its international obligations in the field of human rights, its constitutional principles and the basic concepts of its legal system.
 3. Each Party shall also take appropriate, effective and timely measures to prevent, investigate and punish attacks, threats or intimidations that human rights defenders in environmental matters may suffer while exercising the rights set out in the present Agreement.”

Declaration on Human Rights Defenders¹⁰

- *“Article 1:*
Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.”

References

1. Human Rights Council 48th session, (A/HRC/48/54), para. 42
2. United Nations General Assembly 75th session: Report of the Special Rapporteur on the rights of indigenous peoples (A/75/185), para. 79, at <https://undocs.org/Home/Mobile?FinalSymbol=A%2F75%2F185&Language=E&DeviceType=Desktop>
3. Front Line Defenders Global Analysis 2019, p. 7, at https://www.frontlinedefenders.org/sites/default/files/global_analysis_2019_web.pdf
4. United Nations General Assembly 75th session (A/75/185), para. 109 and 110
5. United Nations General Assembly 75th session (A/75/165), para. 35 and 91(f)
6. United Nations Human Rights Council 46th session (A/HRC/46/74), para. 93(g)
7. UN Women: “Making Indigenous Women and Girls Visible in the Implementation of the UN Framework for the Immediate Socio-Economic Response to COVID-19 Accessing Funds Through Multi-Partner Trust Fund, section “Recommended Actions”
8. Committee on the Elimination of Discrimination against Women, para. 7
9. See p. 29
10. Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, p. 3

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