

# 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**.<sup>1</sup> In Guatemala, one in four households lack access to running water, and in regions heavily populated by indigenous peoples, this is only exacerbated.<sup>2</sup> **Climate change** is further compromising indigenous peoples' access to water, exposing them to water-borne diseases and therefore increasing their vulnerability to the virus.<sup>3</sup> The lack of proper legislation, like in Guatemala, has led to violations of the **right to water** for many indigenous communities.<sup>4</sup>

## Recommendation

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



“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



**Franciscans International**  
A voice at the United Nations

## Specific Recommendations:

### OHCHR: COVID-19 and Indigenous Peoples' Rights<sup>6</sup>

- “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 Sanitation<sup>7</sup>

- “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 Environment<sup>8</sup>

- “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 Women<sup>9</sup>

- *“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 Child<sup>10</sup>

- *“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 Water<sup>11</sup>

- *“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 Life<sup>12</sup>

- *“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 Peoples<sup>13</sup>

- *“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 Peasants<sup>14</sup>

- *“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](https://www.ohchr.org/Documents/Issues/IPeoples/OHCHRGuidance_COVID19_IndigenousPeoplesRights.pdf)
2. United Nations Human Rights Council 46<sup>th</sup> 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](https://www.ohchr.org/Documents/Issues/IPeoples/OHCHRGuidance_COVID19_IndigenousPeoplesRights.pdf)
4. United Nations Human Rights Council 45<sup>th</sup> session: Oral Statement delivered by Franciscans International on September 15, 2020, at [https://franciscansinternational.org/fileadmin/media/2020/UN\\_Sessions/HRC45/HRC45\\_Item3\\_WaterandSanitation.pdf](https://franciscansinternational.org/fileadmin/media/2020/UN_Sessions/HRC45/HRC45_Item3_WaterandSanitation.pdf)
5. United Nations Office of the High Commissioner for Human Rights: COVID-19 and Indigenous Peoples’ Rights, p.10, at [https://www.ohchr.org/Documents/Issues/IPeoples/OHCHRGuidance\\_COVID19\\_IndigenousPeoplesRights.pdf](https://www.ohchr.org/Documents/Issues/IPeoples/OHCHRGuidance_COVID19_IndigenousPeoplesRights.pdf)
6. United Nations Office of the High Commissioner for Human Rights, p.10
7. United Nations Human Rights Council 45<sup>th</sup> session (A/HRC/45/10), para. 36
8. United Nations Human Rights Council 46<sup>th</sup> 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