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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development****Regional consultation on the rights of indigenous peoples in
Asia****Report of the Special Rapporteur on the rights of indigenous peoples***Summary*

With the aim of engaging with indigenous peoples in Asia, the Special Rapporteur on the rights of indigenous peoples, Victoria Tauli-Corpuz, conducted a regional consultation jointly with the Office of the United Nations High Commissioner for Human Rights in Bangkok and with the support of the Asia Indigenous Peoples Pact and the Indigenous Peoples' International Centre for Policy Research and Education. The consultation was held in Bangkok from 13 to 15 November 2019 and attended by more than 100 representatives of indigenous peoples from Bangladesh, Cambodia, India, Indonesia, the Lao People's Democratic Republic, Malaysia, Myanmar, Nepal, the Philippines, Timor-Leste, Thailand and Viet Nam, as well as Taiwan Province of China. Academics, lawyers and representatives of civil society organizations, independent national human rights institutions, the United Nations Environment Programme and the International Union for Conservation of Nature also participated.

The consultation focused on self-determination, governance and justice systems; lands, territories and resources; conservation; climate change; business and human rights; human rights defenders; and the Sustainable Development Goals. The impact of climate change on the enjoyment of economic, social and cultural rights was emphasized, as was the critical role played by indigenous peoples in protecting the environment, including through traditional knowledge. The consultation aimed, among other things, to exchange experiences and discuss the current challenges faced by indigenous peoples in Asia.

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Contents

	<i>Page</i>
I. Introduction	3
II. Overview of human rights issues facing indigenous peoples in Asia.....	3
A. Self-determination, indigenous governance and justice systems	3
B. Lands, territories and resources	5
C. Conservation.....	7
D. Climate change	9
E. Business and human rights	11
F. Suppression of the right to freedom of association and attacks against and criminalization of indigenous human rights defenders	13
G. Sustainable Development Goals and economic, social and cultural rights	14
III. Conclusions and recommendations	15
A. Self-determination, indigenous governance and justice systems	16
B. Lands, territories and resources	16
C. Conservation.....	17
D. Climate change	17
E. Business and human rights	17
F. Suppression of the right to freedom of association and attacks against and criminalization of indigenous human rights defenders	17
G. Sustainable Development Goals and economic, social and cultural rights	18

I. Introduction

1. With the aim of engaging with indigenous peoples in the region, the Special Rapporteur on the rights of indigenous peoples, Victoria Tauli-Corpuz, conducted a regional consultation jointly with the Office of the United Nations High Commissioner for Human Rights in Bangkok and with support of the Asia Indigenous Peoples Pact and the Indigenous Peoples' International Centre for Policy Research and Education. The consultation was held in Bangkok from 13 to 15 November 2019 and attended by more than 100 representatives of indigenous peoples' organizations from Bangladesh, Cambodia, India, Indonesia, the Lao People's Democratic Republic, Malaysia, Myanmar, Nepal, Philippines, Timor-Leste, Thailand and Viet Nam, as well as Taiwan Province of China. Academics, lawyers and representatives of civil society organizations, independent national human rights institutions, the United Nations Environment Programme and the International Union for Conservation of Nature (IUCN) also participated.

2. The consultation focused on self-determination, indigenous governance and justice systems; lands, territories and resources; conservation; climate change; business and human rights; human rights defenders; and the Sustainable Development Goals. The impact of climate change on the enjoyment of economic, social and cultural rights was emphasized, as was the critical role played by indigenous peoples in protecting the environment, including through traditional knowledge. The consultation aimed, among other things, to exchange experiences and discuss the current challenges faced by indigenous peoples in Asia.

3. In parallel, the Special Rapporteur issued a public call for contributions to a report on the situation of the human rights of indigenous peoples in Asia, in follow up to the regional reports prepared by her predecessors in 2007 and 2013.¹ In the present report, the Special Rapporteur provides an overview of the main issues raised during the consultation, by thematic area, and of the information received in submissions, communications and open sources. In preparing the report, the Special Rapporteur adopted a participatory approach and methodology to gathering information about the situation of indigenous peoples in Asia with a view to analysing thematic issues and formulating pertinent recommendations. Emblematic cases that were discussed during the consultation and information communicated by the Special Rapporteur are highlighted.

4. Asia is the continent with most of the world's indigenous peoples. More than two thirds of the world's indigenous peoples live in the region.² While estimates vary – among other reasons, due to the inconsistent national terminology used to describe indigenous peoples and the challenges indigenous peoples face in terms of self-identification – approximately 400 million indigenous peoples live in Asia.³ Indigenous peoples in Asia include those referred to in national legislation and policies as tribal peoples, hill tribes, ethnic minorities, natives, customary communities, scheduled tribes and Adivasis. All Asian States voted in favour of the adoption of the United Nations Declaration on the Rights of Indigenous Peoples by the General Assembly in 2007, with the exception of Bangladesh, which abstained.

II. Overview of human rights issues facing indigenous peoples in Asia

A. Self-determination, indigenous governance and justice systems

5. The exercise of the right to self-determination can be realized through autonomy or self-government⁴ and is indispensable for indigenous peoples to pursue their economic, social and cultural development and enjoy all the collective and individual human rights pertaining to them. The United Nations Declaration on the Rights of Indigenous Peoples sets

¹ [A/HRC/6/15/Add.3](#) (2007) and [A/HRC/24/41/Add.3](#) (2013).

² Stefania Errico, *The Rights of Indigenous Peoples in Asia: Human Rights-Based Overview of National Legal and Policy Frameworks against the Backdrop of Country Strategies for Development and Poverty Reduction* (International Labour Office, Geneva, 2017), p. 1.

³ See, e.g., Asia Indigenous Peoples Pact, *Status of Indigenous Peoples' Lands, Territories and Resources in Asia* (2019), p. 6.

⁴ United Nations Declaration on the Rights of Indigenous Peoples, arts. 3 and 4.

out the right of indigenous peoples to maintain and develop their own indigenous decision-making institutions and political, economic and social systems.⁵ States should, in consultation and cooperation with indigenous peoples, support measures, including legislative measures, to achieve the ends of the Declaration, as well as ways and means for financing their autonomous functions.⁶

6. The degree of legal recognition of indigenous peoples varies across Asia. Certain countries, including Bangladesh, Cambodia, India, Indonesia, Malaysia, Nepal, the Philippines and Timor-Leste, have adopted legal provisions that provide some autonomy through the recognition of customary justice practices or communal land rights.⁷ Constitutional recognition of indigenous peoples exists in certain parts of India (Nagaland and Mizoram, in the north-east), Malaysia (Sabah and Sarawak) and the Philippines (the Cordilleras and Mindanao). In Bangladesh, the Chittagong Hill Tracts Accord of 1997 creates a special tripartite administrative system that combines elective, civil servant and traditional indigenous authorities.⁸ In most Asian countries, however, there are significant gaps between legislation and practice, as well as legislative inconsistencies.

7. Recognition of indigenous customary justice practices is an important element of implementing self-governance. For indigenous peoples, State justice systems are often associated with a history of colonialism, dispossession and racial discrimination.

8. Participants in the regional consultation discussed the advantages of customary justice practices, including their accessibility (aspects such as geography and indigenous languages), their relative timeliness, their affordability and their non-adversarial nature. Challenges were also identified, notably the insufficient participation of women. It was noted that women face obstacles to attaining equal access to justice in patriarchal systems, be they State or customary justice systems.

9. Many participants emphasized that, while indigenous and other traditional and customary systems are able in many cases to provide effective forms of redress, overall access to justice remains a major issue. Several participants noted the highly disproportionate rate of incarceration of indigenous persons in State justice systems compared to non-indigenous persons. Intercultural dialogue and meaningful engagement between indigenous and State justice systems are needed in order for them to coordinate and harmonize their co-existence and strengthen the respect for human rights in both systems.

10. In the context of efforts to achieve Sustainable Development Goal 16, indigenous justice systems are receiving increasing attention globally for their potential role in promoting the rule of law and effective, accountable and inclusive institutions in a manner consistent with human rights.⁹ The Special Rapporteur is convinced that indigenous and State justice systems should be seen as complementary and necessary to guarantee effective and equal access to justice for indigenous peoples. She calls for stronger measures to exchange information and harmonize the systems.¹⁰

11. Strengthened legal recognition, autonomy and self-governance among indigenous peoples should be viewed as part of nation-building rather than as posing a risk of fragmentation; such recognition will result in societies based on inclusiveness and increase the legitimacy of the State. The Special Rapporteur emphasizes that the adequate implementation of the right to autonomy and self-governance implies changes in the governance of State authorities, which will have a constructive impact on human rights compliance, the remedying of discrimination, marginalization and inequality, the building of more democratic, participatory and inclusive societies and ultimately, the enhancement of sustainable development for all.¹¹

⁵ Ibid., arts. 5, 14, 18, 20 and 23.

⁶ Ibid., arts. 4, 38 and 39.

⁷ [A/73/176](#), [A/74/149](#) and [A/HRC/42/37/Add.2](#).

⁸ Raja Devashish Roy, "Indigenous peoples' rights in Asia", in *Handbook of Indigenous Peoples' Rights*, Corinne Lennox and Damien Short, eds. (Routledge, 2016), pp. 371–393.

⁹ International Commission of Jurists, *Indigenous and Other Traditional or Customary Justice Systems in the Asia-Pacific Region: Report of the 2018 Geneva Forum of Judges and Lawyers* (Geneva, 2019), p. 5.

¹⁰ [A/HRC/42/37](#), paras. 83 and 103.

¹¹ [A/74/149](#), para. 17.

B. Lands, territories and resources

12. The right to self-determination is intrinsically linked to the right to land, territories and resources, upon which indigenous peoples depend for their livelihoods, culture and spiritual and religious traditions. Communal land use is core to the collective identity of indigenous peoples and to their sense of responsibility towards future generations.¹² Traditionally, indigenous peoples have relied on their own customary laws and community-based practices for regulating access to and the use and management of land and resources. Such practices have enabled the sustainable use of and equitable access to land and resources, thereby providing livelihoods and food security for indigenous communities, whether subsistence farmers, fisherfolk or hunter-gatherers.¹³

13. Indigenous customary land practices are being threatened and undermined by intensified pressure from State policies that favour the private sector and the escalation of large-scale projects for the extractive industries, hydropower dams, agribusiness and tourism. Without autonomy over their lands, indigenous peoples continue to be marginalized in decision-making, fail to be consulted and remain vulnerable to dispossession and displacement as private investors take control over their territories. In some instances, indigenous peoples have been tricked into selling their lands. Indigenous human rights and environmental defenders who oppose the expansion of private land ownership are being increasingly threatened, criminalized and accused of belonging to left-wing guerrilla groups, especially in India, Indonesia and the Philippines.¹⁴

14. Only a limited number of States in Asia have adopted legal provisions that recognize indigenous lands, territories and resources and traditional tenure systems. Even where legal provisions exist, their implementation tends to be hampered by complex administrative procedures, uncoordinated and understaffed authorities, corruption and contradictory sectorial legislation on land use, such as conflicting provisions on forestry and mining.

15. The Indigenous Peoples' Rights Act of 1997 in the Philippines, one of the most advanced pieces of legislation in the region, recognizes indigenous peoples' collective ownership and titling of their ancestral territories. It is one of the few laws globally that requires the free, prior and informed consent of indigenous peoples. The Philippines' National Commission on Indigenous Peoples is responsible for delineating and issuing land titles to indigenous communities. While indigenous communities hold title to over 14 per cent of the total land area of the Philippines,¹⁵ there are serious concerns over delays in the titling process of hundreds of pending claims and over the manipulation of free, prior and informed consent processes resulting in the authorization of numerous projects, in particular mining and dam-construction projects, in indigenous territories.

16. In India, the Forest Rights Act of 2006 formally provides for the determination of collective land and resource rights by village councils (*Gram Sabha*) in specific areas (known as fifth schedule areas). It is the only law in Asia to give indigenous communities such rights at the local village level. In practice, however, the major displacement of Adivasis continues across India.¹⁶ During her mandate, the Special Rapporteur has raised concerns over several situations occurring in the context of logging, mining and hydroelectric projects and conservation measures on indigenous lands in the States of Jharkhand, Madhya Pradesh, Chhattisgarh, Telangana, Manipur, Odisha and Gujarat.¹⁷

17. In Cambodia, specific provisions have been adopted on indigenous peoples' rights over lands and natural resources. The Land Law of 2001 recognizes indigenous peoples' collective ownership over the lands on which they have established their residence and where they carry out traditional cultivation activities. Subsequent decrees and regulations have set

¹² United Nations Declaration on the Rights of Indigenous Peoples, arts. 25–29 and 32.

¹³ Asia Indigenous Peoples Pact, *Status of Indigenous Peoples' Lands, Territories and Resources in Asia*, p. 13.

¹⁴ A/HRC/39/17.

¹⁵ Asia Indigenous Peoples Pact, *Status of Indigenous Peoples' Lands, Territories and Resources in Asia*, p. 15.

¹⁶ A/71/229, para. 57.

¹⁷ See communications IND 1/2018, IND 9/2017, IND 8/2017 and IND 4/2015. All communications of special procedure mandate holders can be found at <https://spcommreports.ohchr.org/TmSearch/Results>.

out the procedures to be complied with in order to claim and obtain communal land titles. In practice, however, the process is complex, lengthy and costly. The Special Rapporteur has expressed concern about the lengthy procedural steps required for acquiring collective titles to indigenous lands, and has noted that these protracted titling processes jeopardize the effective protection of indigenous peoples' lands from encroachment by outsiders.¹⁸ Following a communication sent by the Special Rapporteur in 2017 on the forced relocation of an indigenous community due to the operationalization of a dam in Stung Treng Province,¹⁹ the Government of Cambodia subsequently allowed the community to register the non-flooded area as indigenous communal land. That registration is reportedly being processed. In April 2019, the Ministry of Land Management, Urban Planning and Construction publicly acknowledged the need to assess the current communal and titling process and identify "areas for simplification".

18. In Malaysia, customary law is recognized as a basis for granting land rights in Sabah and Sarawak.²⁰ However, the Government tends to promote individual titles over communal titles, enabling the expansion of large-scale commercial monocrop agricultural activities on native lands, notably for palm oil plantations. As an example of a good practice, the national human rights commission²¹ launched a national inquiry after receiving over 1,100 complaints of indigenous land rights violations. The report on that inquiry, which was published in 2013, contained recommendations based on the United Nations Declaration on the Rights of Indigenous Peoples, including the need to obtain the free, prior and informed consent of affected communities in order to improve the current status of land rights for indigenous peoples in Malaysia.²² Although a task force was established by the Government to study the report and a Cabinet-level committee was set up in 2015 to monitor implementation, progress has been slow.

19. Similarly, in 2014 the national human rights commission of Indonesia²³ conducted a national inquiry into alleged violations of indigenous peoples' land rights. In the Philippines, a national inquiry into the situation of indigenous peoples, including their ancestral lands, was carried out by the Commission on Human Rights in 2017.

20. During her country visit to Timor-Leste in 2019, the Special Rapporteur observed that the Constitution recognized traditional norms and customs related to land ownership and management. The Government is registering lands as a means to address the complex land issues deriving from colonialism and occupation. It is worrying, however, that few communal titles have been awarded to date and that the lack of knowledge among the Timorese population about the land registration process has the potential for causing further conflicts over lands and resources. The Special Rapporteur recommended that the legal framework ensure respect for and recognition of customary land systems and traditional practices governing lands and resources. She stressed the need to guarantee equal treatment of individual and community land claims, the rights of women to own property and due consideration to be given to the needs of the elderly, widows and persons with disabilities.²⁴

21. In Myanmar, a national land use policy recognizing the customary rights and land tenure practices of ethnic nationalities was adopted by Parliament in 2016. The policy is expected to form the basis for the development of related legislation. However, in 2018 the Vacant, Fallow and Virgin Lands Management Law of 2012 was amended to require anyone occupying or using "vacant, fallow or virgin land" to apply for a permit to use the land for 30 years or face eviction, a fine and up to two years of imprisonment. In January 2019, the Special Rapporteur, jointly with other United Nations experts, addressed concerns to the Government of Myanmar that the amended law might be used to illegally dispossess land users of their land without due process or adequate notice, undermine their human rights and have a disproportionate impact on rural poor ethnic nationalities and indigenous peoples.²⁵

¹⁸ [KHM 6/2017](#).

¹⁹ [KHM 2/2017](#).

²⁰ [A/74/149](#), para. 56.

²¹ See www.suhakam.org.my/.

²² Asia Indigenous Peoples Pact, *Status of Indigenous Peoples' Lands, Territories and Resources in Asia*, p. 26.

²³ See www.komnasham.go.id/.

²⁴ [A/HRC/42/37/Add.2](#), paras. 39–47 and 85–87.

²⁵ [MMR 5/2018](#).

22. Participants in the regional consultation discussed the discrepancies between legal provisions and their practical implementation and the challenges faced in registering, demarcating and titling indigenous lands. While it is important to register lands in order to affirm collective land rights, there are also dangers involved, as titling processes may prioritize individual titles that benefit private entities over collective titles. Moreover, it is challenging for indigenous peoples to seek legal recourse through the courts. Although in several countries indigenous peoples have achieved landmark judgments, enforcement is often lacking. In some instances, indigenous peoples prefer to not apply for titles, as doing so is contrary to their concept of land ownership. In such situations, it is essential to ensure that measures are in place to prevent the transfer of titles to individuals and private entities.

23. Participants stressed the importance of indigenous peoples empowering themselves by participating in demarcation processes and debates on the development of legislation, in order to voice their concerns in decision-making processes. International donors that support land registration processes should be mindful of the implications of such processes for indigenous peoples and ensure that such initiatives respect the rights and seek the participation of indigenous peoples.

C. Conservation

24. The archaic “fortress” approach to nature conservation, which fails to apply a rights-based approach, continues to pose another threat to indigenous peoples. This approach persists despite evidence of the important role that traditional indigenous practices play in preserving of biodiversity and despite the fact that indigenous lands contain the most intact ecosystems, thus proving that indigenous practices ensure the most effective and sustainable forms of conservation.

25. There is significant spatial overlap between the traditional lands of indigenous peoples and areas with the highest levels of biodiversity. Traditional indigenous territories, which encompass around 22 per cent of the world’s land surface, coincide with areas that hold 80 per cent of the planet’s biodiversity. Studies have demonstrated that the territories of indigenous peoples who have been given land rights have been significantly better conserved than the adjacent lands.²⁶ Nevertheless, only a small percentage of protected areas worldwide are governed by indigenous peoples and local communities.

26. Participants in the regional consultation expressed concern that indigenous lands continue to be declared protected areas without prior consultation with the affected indigenous communities and without the adoption of measures to ensure their involvement in managing conservation. Across Asia, there is still a lack of understanding of indigenous traditional practices such as rotational crop cultivation and forest management and of the contribution that indigenous peoples make to sustainable conservation and biodiversity.²⁷ Indigenous peoples are furthermore concerned that tourism is increasingly being prioritized over their rights and may have a negative impact on conservation. It was noted that indigenous lands are at times declared by the United Nations Educational, Scientific and Cultural Organization (UNESCO) to be World Heritage sites without consultation with the indigenous peoples affected.

27. In India, the Forest Rights Act of 2006 only allows forest rights holders to be resettled if critical wildlife habitats are being damaged irreversibly and coexistence is not possible. Even then, resettlement can only be carried out after obtaining the free, prior and informed consent of those affected. In July 2019, the Special Rapporteur raised concern about a Supreme Court order to evict up to 9 million Adivasis across India and about amendments to the Indian Forest Act of 1927 that would increase the discretionary policing powers of forest officers.²⁸ The litigation in the Supreme Court, which was initiated by national conservation organizations, could result in mass evictions in 21 states following the rejection of 1.2 million

²⁶ Claudia Sobrevila, *The Role of Indigenous Peoples in Biodiversity Conservation: the Natural but Often Forgotten Partners* (Washington, D.C., World Bank, 2008).

²⁷ Madhav Karki and others, eds., *Knowing our Lands and Resources: Indigenous and Local Knowledge and Practices Related to Biodiversity and Ecosystem Services in Asia* (Paris, United Nations Educational, Scientific and Cultural Organization, 2017).

²⁸ IND 13/2019; www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=24786&LangID=E.

forest rights claims under the Forest Rights Act. The Supreme Court's eviction order was suspended temporarily and hearings have been postponed until 2020. The proposed amendments to the Indian Forest Act were formally withdrawn by the Government in mid-November 2019, following an intense national debate. The Special Rapporteur will continue to monitor the situation closely and urges the Supreme Court to give careful consideration to the rights of indigenous peoples in its final decision on the eviction order.

28. In Thailand, the vast majority of indigenous peoples live in protected areas. Three national laws on natural resource management that entered into force in November 2019 could potentially play a role in addressing the persistent tensions between the authorities and communities living in or adjacent to forests in Thailand. These laws are the Wildlife Preservation and Protection Act of 2019, the National Park Act of 2019 and the Community Forest Act of 2019. The Community Forest Act applies only outside of national parks. The National Park Act of 2019 (sects. 64–65) envisages that persons registered as living in national parks could potentially participate in conservation projects. Responsibility for the elaboration and control of such projects would, however, remain with the Department of National Parks, Wildlife and Plant Conservation. Furthermore, the National Park Act (sect. 64) requires that a survey be carried out to establish who was living in a national park up until 240 days after the Act entered into force. The consequences for communities that could not be recorded as living in a national park during the period set out for the survey are unclear, and there are concerns that such communities may be charged with trespassing. The National Park Act explicitly excludes land rights (sect. 64) and does not refer to consultations, co-management or benefit-sharing with indigenous communities.

29. In Timor-Leste, the Special Rapporteur observed how traditional justice systems have, through local regulations referred to as *tara bandu*, proved to be highly effective resource conservation mechanisms by, for instance, prohibiting and penalizing the cutting and burning of forests and restricting hunting and fishing in specific locations during certain periods, thereby protecting ecosystems and allowing species to regenerate. The Special Rapporteur visited several communities that had effectively resorted to *tara bandu* in order to expand mangrove forests so as to protect the coastline or to enforce temporary no-fishing zones, with remarkable gains for the coral reef ecosystem.²⁹

30. The Special Rapporteur recognizes the positive response of the funder and implementing partners of the Ridge to Reef project in the Tanintharyi region, southern Myanmar, which was suspended in 2019 following complaints by indigenous communities and other villagers affected. The project is a conservation project worth US\$ 21 million involving a consortium of international and national groups, including the Global Environmental Facility, the United Nations Development Programme (UNDP), Flora and Fauna International and the Forest Department of Myanmar. The project intended to expand the protected areas in Tanintharyi by 3.5 million acres, equal to 33.5 per cent of the total land area of the region. The project was planned and designed, however, without the participation or the free, prior and informed consent of the Karen indigenous peoples, while threatening to displace and exclude them from their territories. The Social and Environmental Compliance Unit of UNDP is conducting an investigation into allegations of violations of the rights of indigenous peoples.³⁰ In May 2020, indigenous communities developed an alternative vision for landscape conservation with the aim of protecting biodiversity, livelihoods, local indigenous practices and cultures, and peace throughout the region, and called upon conservation financiers and organizations to abandon top-down conservation initiatives and to support instead the community-based vision for conservation in the region.³¹

31. The Special Rapporteur has repeatedly raised concerns about the continuing impact of the violations of the rights of the indigenous Karen peoples in the Kaeng Krachan Forest Complex in Thailand. The Government of Thailand nominated the Forest Complex to be designated as a UNESCO World Heritage site, first in 2011 and then again in February 2019. The Special Rapporteur sent communications to the Government of Thailand, the UNESCO

²⁹ A/HRC/42/37/Add.2, para. 58.

³⁰ See <https://info.undp.org/sites/registry/secu/SECUPages/CaseDetail.aspx?ItemID=28>; <https://info.undp.org/sites/registry/secu/SECUPages/CaseFile.aspx?ItemID=28>; <https://www.accountabilitycounsel.org/2019/07/press-release-un-watchdog-visits-myanmar-to-investigate-conservation-project-jeopardizing-indigenous-peoples-rights>.

³¹ See www.iccaconsortium.org/index.php/2018/07/13/stop-the-ridge-to-reef-project-in-burma-myanmar/.

World Heritage Committee and IUCN, raising concerns about alleged violations against the Karen, the lack of consultation and the failure to seek their free, prior and informed consent and also about how World Heritage status, if awarded, might affect Karen communities' land rights and livelihoods.³² In July 2019, at its forty-third session, the World Heritage Committee decided not to award World Heritage status to the Forest Complex and referred the nomination back to the Government to Thailand, asking it to demonstrate that all concerns had been resolved, in full consultation with the local communities.³³ In January 2020, the Government once again nominated the Complex for World Heritage status and, in April 2020, the Special Rapporteur reiterated that her concerns remained unaddressed.³⁴

32. In her 2016 thematic report to the General Assembly, the Special Rapporteur presented global recommendations on how indigenous peoples' rights should be better protected in conservation policy and practice, underlining the importance of indigenous peoples being consulted, participating in the design, implementation, management and monitoring of conservation initiatives and having effective access to complaints mechanisms so that they can seek remedy for violations of their rights.³⁵

D. Climate change

33. Participants in the regional consultation identified and discussed a wide range of serious impacts that climate change has on their communities across the region, including droughts in mountain areas, the escalation of wildfires, rising sea levels affecting coastal areas, floods, landslides and overall changes in seasonal patterns brought on by rising temperatures. Land grabbing has intensified as the area of fertile lands shrinks. Tropical insects and vector-borne diseases are proliferating. Pollution is increasing as more fertilisers and chemicals are being used to keep lands fertile and combat pests. The livelihoods and food security of indigenous peoples are affected as biodiversity is shrinking and crops are failing.

34. The expansion of single-crop, export-oriented plantations aggravates the impact of climate change. It has resulted in the destruction of natural habitats in both highlands and lowlands and in the depletion of water sources and has severely limited the amount of land available for indigenous livelihoods.³⁶

35. The impact of climate change also has a gender dimension, as women and girls are forced to walk further and spend more time collecting water and firewood. Indigenous persons with disabilities and indigenous elders too face additional climate-related challenges. The loss of the traditional livelihoods and environmental destruction also affects the mental health of indigenous peoples.

36. Climate-induced displacement is taking place as indigenous peoples, especially youth, are forced to migrate to urban areas due to shortages in resources and food. This situation may be aggravated by climate change adaptation and mitigation projects that commercialize the forests upon which indigenous peoples are dependent. Displacement is also taking place as the proliferation of dams, erroneously claimed to constitute climate change mitigation measures, force indigenous peoples to relocate, often without consultation or redress. The displacement of indigenous peoples from their traditional lands and territories deprives them of their connection to their lands and ruptures the transmission of traditional knowledge to future generations.

37. Participants in the regional consultation emphasized that the most diverse ecosystems are within the territories taken care by indigenous peoples and that increased levels of carbon capture are recorded on indigenous lands. A holistic approach to human rights, development and the environment should be applied, as everything is interdependent.

38. The Intergovernmental Panel on Climate Change has expressed concern that existing climate change policies and regulations might lead to limiting access to territories, the substitution of traditional livelihoods, reduced genetic diversity and harvesting opportunities and loss of transmission of indigenous knowledge, which in turn may limit the effects of

³² THA 2/2019, OTH 7/2019 and OTH 8/2019.

³³ Decision 43 COM 8B.5; <https://whc.unesco.org/archive/2019/whc19-43com-18-en.pdf>.

³⁴ THA 4/2020, OTH 22/2020 and OTH 23/2020.

³⁵ A/71/229.

³⁶ A/HRC/36/46.

climate change adaptation measures in many regions.³⁷ In 2019, the Panel emphasized the crucial role played by indigenous peoples and local communities in preserving ecosystems and preventing deforestation, which are key to combating climate change.³⁸ Nevertheless, the valuable contributions of indigenous peoples towards protecting the environment from climate change continue to be denied.

39. Participants in the regional consultation exchanged experiences of how their indigenous traditional knowledge is effective in combating climate change. The use of indigenous seasonal seeds enhances biodiversity and a sustainable traditional diet. Improved food security increases the autonomy of indigenous communities and leads to a more efficient use of resources. Indigenous rainwater harvesting and irrigation systems provide effective tools for water retention. Indigenous forest management and the planting of local tree varieties rather than imported species avoids draining the soils of nutrients and water sources and reduces erosion. Traditional fire control techniques help to control wildfires. Indigenous building techniques can create house structures that are more resilient to flooding and earthquakes. Platforms for exchanging information about traditional practices among indigenous peoples are extremely important.

40. Education and the transmission of traditional knowledge to indigenous youth and children about measures to address climate change is crucial. As a positive example, the Government of Timor-Leste has decided to make permaculture a compulsory subject in the primary school curriculum since 2015. During her country visit, the Special Rapporteur witnessed inspiring initiatives undertaken in schools to educate children hands-on about plants and conservation, as a measure to transmit indigenous knowledge to future generations.³⁹

41. While increased funding is being dedicated to climate change-related projects, indigenous peoples are concerned about their inadequate participation and consultation in such projects. More communication materials need to be developed in indigenous languages and processes need to be culturally adapted to ensure the participation of indigenous peoples. Participatory monitoring mechanisms of projects are essential.

42. Climate finance has the potential to bolster the efforts made by indigenous peoples to adapt to climate change and contribute to climate change mitigation. The Special Rapporteur notes, however, that unless it is based on respect for the land rights of indigenous peoples, climate finance without adequate human rights safeguards has the potential to undermine the rights of indigenous peoples.

43. The Special Rapporteur calls for the adoption of all the policy, legal and administrative measures necessary to effectively engage indigenous peoples in climate change adaptation and mitigation measures, with full recognition of their rights over their lands, territories and resources, as enshrined in international human rights law and as recognized in the United Nations Framework Convention on Climate Change, the Paris Agreement and the Sustainable Development Goals. States, funders and donors all carry responsibilities in this regard.⁴⁰

E. Business and human rights

44. Activities linked to large-scale development projects (including for the construction of megadams), extractive industries, monocrop plantations (notably for the production of palm oil) and logging are increasing in the region, which in turn results in the loss of indigenous lands and territories, the massive displacement of indigenous peoples, the destruction of their environment, rising poverty and migration. These consequences arise against the backdrop of weak or absent legal regulations capable of affirming or protecting

³⁷ Intergovernmental Panel on Climate Change, *Climate Change 2014: Impacts, Adaptation, and Vulnerability – Part A: Global and Sectoral Aspects* (Cambridge University Press, 2014), chap. 7.

³⁸ Ibid., *Climate Change and Land: an IPCC Special Report on Climate Change, Desertification, Land Degradation, Sustainable Land Management, Food Security, and Greenhouse Gas Fluxes in Terrestrial Ecosystems* (2019).

³⁹ A/HRC/42/37/Add.2, para. 55.

⁴⁰ A/HRC/36/46; www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25003&LangID=E.

indigenous peoples' rights to their lands and territories, to self-determination, to being consulted and to obtaining their free, prior and informed consent.

45. During the seven years since the previous mandate holder held a consultation on the situation of indigenous peoples in Asia,⁴¹ certain concerns relating to business activities have mounted. Permits and concessions have continued to be issued for the extractive industries, hydropower projects and large-scale plantations, infrastructure development has escalated and additional issues relating to the establishment of economic zones have emerged. In most instances, indigenous peoples have been left without recourse or access to legal remedies and, even in cases where remedies have been formally available, indigenous peoples have not had the resources or the information needed to access them.

46. Business activities contribute to the loss of indigenous lands, increasing poverty among indigenous peoples. Moreover, environmental degradation, deforestation, the destruction of biodiversity, water and air pollution, shrinking coastlines and health problems are all common consequences of business activities in the region. Indigenous peoples who have asserted their right to lands have been subjected to attacks, criminalization, arbitrary detention and harassment and seen their rights to freedom of expression and association suppressed.

47. The right of indigenous peoples to self-determination, including their right to participate in decision-making and to seek and obtain their free, prior and informed consent on all matters affecting them, is widely violated across countries in the region in relation to business plans and activities. Information received shows a regional trend of lack of meaningful consultation and participation and a deliberate undermining of free, prior and informed consent processes, which are commonly not undertaken in good faith.

48. More often than not, no environmental or human rights impact assessments are conducted prior to the commencement of a business activity. In most cases where assessments are conducted, the participation of indigenous peoples is minimal or inexistent, information is not available in indigenous languages and the outcomes often do not reflect the impact of a proposed activity on the economic, social and cultural rights of indigenous peoples. The engagement of relevant government ministries, such as the ministry responsible for public health, is frequently lacking in assessment processes.

49. During her mandate, the Special Rapporteur has sent communications on the negative impact on indigenous peoples of numerous megadams, mining projects, monocrop plantations and logging, for example dams in the Lao People's Democratic Republic⁴² and India,⁴³ mining in the Philippines⁴⁴ and India,⁴⁵ monocrops in Cambodia⁴⁶ and Malaysia,⁴⁷ and infrastructure development in Nepal.⁴⁸

50. The mandate of the Special Rapporteur, jointly with the Working Group on Business and Human Rights, is also increasingly sending communications directly to private companies responsible for carrying out megaprojects on indigenous territories, also States where such companies are registered and to private investor, such as banks, supporting such projects. Among the recipients of communications are Australian, Chinese and Korean mining companies, Chinese agribusiness as well as Lao, Malaysian, Korean and Thai investors in dam projects.⁴⁹

51. In several countries, including the Philippines, Indonesia and India, militarisation in indigenous territories and restrictions on the freedom of assembly and expression are increasing and closely aligned to business interests.

52. The Special Rapporteur notes that in the whole Asian region, only Thailand has put in place a national action plan to implement the United Nations Guiding Principles on

⁴¹ [A/HRC/24/41/Add.3](#).

⁴² [LAO 1/2020](#) and [LAO 1/2016](#).

⁴³ [IND 8/2017](#) and [IND 4/2015](#).

⁴⁴ [PHL 1/2019](#).

⁴⁵ [IND 1/2018](#) and [IND 9/2017](#).

⁴⁶ [KHM 1/2015](#).

⁴⁷ [MYS 1/2020](#).

⁴⁸ [NPL 3/2017](#).

⁴⁹ [OTH 52/2020](#), [OTH 51/2020](#), [OTH 50/2020](#), [OTH 49/2020](#), [OTH 17/2020](#), [OTH 16/2020](#), [OTH 15/2020](#), [OTH 14/2020](#), [OTH 8/2020](#), [OTH 6/2020](#), [OTH 5/2020](#) and [OTH 2/2019](#).

Business and Human Rights. Indigenous peoples in Thailand however lament that they were excluded from the design of the national action plan, and that their rights especially to their lands and territories, to free, prior and informed consent and to adequate and appropriate compensation are not protected.

53. In its report on the adverse human rights impact of business activities in Thailand,⁵⁰ the Working Group on the issue of human rights and transnational corporations and other business enterprises described situations that resonated among indigenous peoples in other countries in the region. The Working Group reported on the adverse effects of environmental pollution on human health, on the forced eviction of communities without or with inadequate compensation and on the lack of or the inadequacy of public consultations with communities affected by large-scale development projects, among other topics.

54. During the regional consultation and in allegations received during her mandate, the Special Rapporteur obtained information about infrastructure development and extractive industry projects that have been carried out in indigenous territories in various countries in Asia and that are covered by international investment agreements. These have included mining, oil and gas, and agribusiness projects that have resulted in or may result in serious violations of indigenous peoples' rights to their lands and territories and to self-determination. The Special Rapporteur recalls her 2016 report on the impact of international investment agreements on the rights of indigenous peoples,⁵¹ in which she analysed the global context of such agreements and how they were causing gross violations of indigenous peoples' rights. In that report, the Special Rapporteur laid down a detailed set of recommendations aimed at ensuring the protection of indigenous peoples' rights in relation to decisions on the content of international investment agreements and of related negotiation processes, investment dispute settlements and corporate obligations, as well as measures to mitigate the impact of international investment agreements and long-term reforms that would require a shift in the worldview on such agreements. Those recommendations are undoubtedly highly relevant for States in Asia where projects supported by international investment agreements affect indigenous peoples, their lands and their territories.

55. Furthermore, the Special Rapporteur has, together with other United Nations experts, addressed communications to several States in the region, including China, Indonesia, India, Japan, Malaysia, Republic of Korea, Singapore, Pakistan, the Philippines and Thailand, calling upon them to reform investor-State dispute settlement mechanisms so that they conform to international human rights standards, the Guiding Principles on Business and Human Rights and the Sustainable Development Goals.⁵² In those communications, the experts raised concerns in relation to the lack of consistency, coherence, predictability and correctness of arbitral decisions made by tribunals involved in investor-State dispute settlements; the lack of transparency and diversity in appointing decision makers; the high cost and long duration of investor-State dispute settlement cases; and the limited access to remedy and participation of affected third parties. Recommendations on how to address each concern were included in the communications.

F. Suppression of the right to freedom of association and attacks against and criminalization of indigenous human rights defenders

56. Suppression of the right to freedom of association and attacks against and criminalization of indigenous human rights and environmental defenders across the region are closely linked to large-scale development projects and, in certain subregions, to conservation efforts. Threats against indigenous human rights defenders are exacerbated by the intensifying global competition over natural resources and by increasing militarization where State and non-State actors collude to grab indigenous lands for profit. This is occurring in the context of a lack of legal and administrative frameworks for indigenous peoples to seek security of land tenure. Even when such procedures do exist, an impossible burden of proof is often placed on indigenous peoples to prove traditional occupancy and land ownership.

⁵⁰ A/HRC/41/43/Add.1;

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22915&LangID=E>.

⁵¹ A/HRC/33/42.

⁵² CHN 1/2019, IDN 5/2019, IND 7/2019, JPN 1/2019, MYS 1/2019, KOR 1/2019, SGP 2/2019, PAK 1/2019, PHL 2/2019 and THA 4/2019.

When indigenous peoples' ways of life, practices and traditions are deemed inappropriate or incompatible with economic policies, development goals or conservation objectives, forced evictions occur. Indigenous communities that object or protest are repressed and subjected to restrictions on their freedom of association and expression, arbitrary detention, criminalization, threats and intimidation. In the worst instances, indigenous human rights defenders are the victims of extrajudicial executions, torture and sexual violence. Forced evictions disproportionately affect women, children and elderly persons.

57. Participants in the regional consultation emphasized the need for a more in-depth analysis of the situation faced by indigenous human rights defenders in the region and for opportunities to exchange experiences in order to strategize on how to address these concerns. In the absence of an effective regional human rights system in Asia, independent national human rights institutions and international human rights mechanisms are vital allies.

58. In 2018, the Special Rapporteur dedicated her thematic report to the Human Rights Council to a global analysis of attacks against and the criminalization of indigenous human rights defenders and identified India and the Philippines as countries among those with the highest incidence worldwide.⁵³ Overall, the high rates of attacks against and criminalization of indigenous human rights defenders in the region are often unreported and do not reach the international community. Throughout her mandate, the Special Rapporteur has issued communications to several States regarding allegations of violations linked to the targeting of indigenous human rights defenders. This limited number of cases, however, some of which are highlighted below, provides an incomplete snapshot of the situation on the ground.

59. Indigenous female human rights defenders in particular have been targeted, including in Bangladesh,⁵⁴ India⁵⁵ and the Philippines.⁵⁶ Indigenous environmental defenders have been victims of executions in several countries, including Myanmar⁵⁷ and Thailand.⁵⁸ Intensified militarization in India,⁵⁹ Indonesia⁶⁰ (especially in West Papua) and the Philippines,⁶¹ is increasing the stigmatization and targeting of indigenous peoples. Accusations of belonging to left-wing armed opposition groups have resulted in an increase in extrajudicial executions and in the use of security legislation to prosecute indigenous leaders and community members who seek to claim their rights.

60. The Special Rapporteur sent a joint communication regarding a land dispute between an indigenous community and the Chinese sugar cane company Hengfu Sugar in Preah Vihear Province, Cambodia, in September 2018.⁶² Subsequently, in June 2019, the Ministry of Land Management, Urban Planning and Construction of Cambodia set up a team to measure and demarcate the land of indigenous communities, in support of their collective land title application. The land demarcation depends, however, on the resolution of the land dispute. Community members who have been particularly outspoken have expressed concern about being targeted. Between 2014 and September 2019, 15 indigenous community members and 2 staff members of non-governmental organizations were charged and put under judicial supervision in relation to this land dispute. In February 2020, Hengfu Sugar reportedly stopped operating.⁶³ Sugar-related economic land concessions across Cambodia, including in Preah Vihear, have resulted in thousands of people being dispossessed from traditional lands of spiritual significance.

61. In February 2019, together with other special procedures, the Special Rapporteur sent a communication to the Government of the Philippines and to the Australia-based mining company OceanaGold regarding allegations that the establishment and operation of a gold and copper mine by OceanaGold had resulted in violations of the human rights of the indigenous peoples and local communities living near Didipio, Nueva Vizcaya Province,

⁵³ [A/HRC/39/17](#), paras. 41–42, 57–58 and 63.

⁵⁴ [BDG 2/2018](#).

⁵⁵ [IND 1/2019](#) and [IND 1/2016](#).

⁵⁶ [A/HRC/39/17](#), para. 58.

⁵⁷ [MMR 2/2018](#).

⁵⁸ [THA 4/2020](#) and [THA 2/2019](#).

⁵⁹ [IND 2/2017](#) and [IND 1/2016](#).

⁶⁰ [IDN 8/2019](#), [IDN 6/2019](#), [IDN 3/2019](#), [IDN 7/2018](#), [IDN 4/2016](#) and [IDN 8/2015](#).

⁶¹ [PHL 10/2018](#), [PHL 2/2018](#), [PHL 16/2017](#), [PHL 8/2017](#), [PHL 1/2016](#) and [PHL 5/2015](#).

⁶² [KHM 6/2018](#).

⁶³ [A/HRC/45/34](#), para. 16.

including through impacts on their livelihoods and overall environmental degradation.⁶⁴ The company has engaged in dialogue with special procedures over human rights concerns. On 15 October 2019, the company announced publicly that it had suspended its operation of the Didipio mine. The action of the special procedures may have had a role in prompting the company to recognize its human rights responsibilities. Disputes have persisted in 2020, however, along with allegations that certain activities by the mining company are still being carried out. The Special Rapporteur has publicly reiterated her concerns over the mining project.⁶⁵

62. In Thailand, the Special Rapporteur has repeatedly raised concerns over attacks against the Karen in the Kaeng Krachan Forest Complex by park officials working under the Ministry of Environment. The attacks include the enforced disappearance of the Karen human rights defender Pholachi Rakchongcharoen, known as Billy, in 2014. He was last seen alive in the custody of officials of the National Parks, Wildlife and Plant Conservation Department. In September 2019, Billy's charred remains were found in the vicinity of the Forest Complex. The suspected park officials were charged for Billy's murder by the Department of Special Investigation on 23 December 2019.⁶⁶ However, on 23 January 2020, the Attorney-General's Office dropped the murder charges, citing insufficient evidence, and the outcome of the investigation remains uncertain. The Special Rapporteur will continue to monitor the situation and recalls the importance of establishing accountability.⁶⁷

G. Sustainable Development Goals and economic, social and cultural rights

63. The Sustainable Development Goals are designed to leave no one behind. All the Goals relate to the rights and well-being of indigenous peoples, even if they are not mentioned in these specific terms. Only two targets refer directly to indigenous peoples: target 4.5, on equal access to education, and target 2.3, on increasing agriculture productivity and incomes.

64. Asia is not on track to meet any of the Sustainable Development Goals.⁶⁸ Indigenous peoples continue to face high levels of poverty and remain marginalized in national development efforts across the region. The loss of their traditional lands, territories and resources entrenches the impoverishment of indigenous peoples, and the lack of basic rights, such as to education and health services, reflects the discrimination and exclusion that indigenous communities continue to face. Data is not available for two thirds of the indicators related to the Sustainable Development Goals, which means that those left behind cannot be measured. The lack of disaggregated data on indigenous peoples means they continue to be invisible in policy design and in the consciousness of majority populations.⁶⁹

65. Participants in the regional consultation discussed the need to reverse the top-down approach regarding the Sustainable Development Goals. There is no recognition of collective rights, which are of crucial importance for indigenous peoples, especially in terms of land tenure. Indigenous peoples continue to confront intersectional and multiple forms of discrimination relating to gender, disability, age and sexual orientation, factors which all require consideration in effective policy measures. Due to their marginalization, many indigenous peoples are unaware of their rights. Scarce allocations for public services in indigenous territories are compounded by poor road conditions. In several countries in the region, people without birth registration and identification papers are stateless and are denied access to basic social services. This is a major obstacle impeding indigenous peoples' access to education and health services.

66. In terms of education, participants noted that indigenous children are disadvantaged in school by the failure in several countries to provide education in indigenous languages,

⁶⁴ PHIL 1/2019 and OTH 2/2019. See also

<https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=34621>.

⁶⁵ See www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=25850&LangID=E.

⁶⁶ See www.bangkokpost.com/thailand/general/1822474/former-park-chief-charged-on-6-counts-in-billy-murder-case#cxrecs_s.

⁶⁷ THA 4/2020, THA 2/2019 and A/HRC/45/34, para. 24.

⁶⁸ See www.unescap.org/sites/default/files/publications/ESCAP_Asia_and_the_Pacific_SDG_Progress_Report_2020.pdf.

⁶⁹ See <https://indigenouspeoples-sdg.org/index.php/english>.

despite global recognition of the importance of mother tongue-based multilingual education. The high dropout rates among indigenous children perpetuate poverty and undermine national development indicators. In some countries, including Bangladesh, the Philippines and Timor-Leste, there is some government support for mother tongue-based multilingual education; in most countries in the region, however, there is no such education or its provision would require significant additional resources. Indigenous peoples need to be involved and consulted in the design of educational policies and educational materials.

67. Food insecurity, poverty and chronic malnutrition have serious impacts on the health of indigenous peoples in the region. In relation to health, the use of traditional medicine is widely relied upon. In most countries, however, culturally appropriate public medical services are hard to access and training opportunities are lacking for indigenous community health workers. In some countries, indigenous midwives and traditional health practitioners are criminalized.

68. The Special Rapporteur has raised concerns over the failure to provide health services in indigenous communities, for instance in the Indonesian Province of West Papua⁷⁰ and in Malaysia,⁷¹ and over the grave consequences that such failure has had during epidemics. In relation to the impact of the coronavirus disease (COVID-19), additional information is contained in the Special Rapporteur's thematic report to the General Assembly at its seventy-fifth session.⁷²

III. Conclusions and recommendations

69. **Indigenous peoples in Asian countries continue to face discrimination and marginalization. Human rights violations stem from the lack of effective protection in domestic laws and policies regarding indigenous peoples' rights over their traditional territories, lands and natural resources, as well as the failure to respect their rights to participate and to be consulted, in good faith, in decisions affecting them and to obtain their free, prior and informed consent. Land-grabbing and activities linked to large-scale development projects (including the construction of hydroelectric dams), extractive industries, monocrop plantations and logging are increasing in the region, which in turn results in the massive displacement of indigenous peoples, the destruction of their environment and rising poverty.**

70. **The promotion of the rights of indigenous peoples and their traditional practices, are key to sustainable conservation, biodiversity and climate change adaptation and mitigation measures. For States to put into action their development pledge of leaving no one behind, the obligations towards indigenous peoples must be at the forefront and must be reflected in effective policy measures and in the effective allocation of resources.**

A. Self-determination, indigenous governance and justice systems

71. **Strengthened autonomy and self-governance among indigenous peoples must be viewed as a part of nation-building. Implementation of these rights implies making changes in the governance of State authorities that will have a constructive impact on human rights compliance, the remedying of discrimination, marginalization and inequality and the building of more democratic, participatory and inclusive societies. Ultimately, it will enhance sustainable development for all. Indigenous governance systems that are still functioning should be recognized and strengthened. The use of indigenous languages in schools and in the courts should be supported.**

72. **The rights of indigenous peoples to be identified, to their lands, territories and resources and to self-determination must be respected and protected at all times. Consequently, States must ensure that indigenous people participate in decision-**

⁷⁰ IDN 3/2016.

⁷¹ MYS 1/2020.

⁷² A/75/185. See

www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=25893&LangID=E.

making and must acquire the free, prior and informed consent of indigenous peoples on all matters affecting them.

73. Indigenous and State justice systems should be seen as complementary and necessary for guaranteeing effective access to justice for indigenous peoples and stronger measures should be taken to harmonize the systems. Intercultural dialogue is needed between indigenous and State justice systems in order to coordinate and strengthen respect for human rights in both systems.

B. Lands, territories and resources

74. Laws that recognize the collective rights of indigenous peoples to their lands, territories and resources should be adopted and implemented. Contradictory sectorial legislation on land use, such as conflicting provisions on forestry and mining, should be reformed.

75. States should, in consultation with indigenous peoples, develop mechanisms for the registration, demarcation and titling of lands and territories traditionally owned, occupied and used. The right of indigenous peoples to have their free, prior and informed consent obtained should be respected whenever socioeconomic projects, infrastructure projects or projects for the extraction of natural resources are implemented in their lands and territories.

76. International donors that support land registration processes should be mindful of the implications of such processes for indigenous peoples and ensure that they respect the rights of indigenous peoples, including their right to participate in processes that affect them.

C. Conservation

77. There needs to be better understanding of indigenous traditional practices, such as rotational crop cultivation and forest management, and the contribution of indigenous peoples to the conservation, protection and sustainable use of biodiversity. Indigenous peoples should be consulted and participate in designing, implementing, managing and monitoring conservation initiatives and have effective access to complaints mechanisms to seek remedies for violations of their rights. National laws that make illegal the traditional livelihood practices of indigenous peoples, such as shifting cultivation, should be repealed.

78. Tourism cannot be prioritized over the rights of indigenous communities. Protected areas should not be declared, nor should UNESCO World Heritage status applications be submitted, without consultation and without obtaining the free, prior and informed consent of the indigenous peoples affected.

D. Climate change

79. Indigenous traditional knowledge is crucial for combating and adapting to climate change. Platforms for information exchange about traditional practices among indigenous peoples should be strengthened.

80. Climate finance has the potential to bolster the efforts made by indigenous peoples to adapt to climate change and contribute to climate change mitigation. Unless it is based on respect for the land rights and traditional livelihood practices of indigenous peoples, however, climate finance without adequate human rights safeguards has the potential to undermine the rights of indigenous peoples. Climate change-related projects must be designed with the meaningful participation of and in consultation with indigenous peoples. States, funders and donors all carry responsibilities in this regard.

E. Business and human rights

81. States and private companies should comply with the Guiding Principles on Business and Human Rights and independent monitoring of this should be strengthened.

82. States must strengthen the legal regulations of private companies and the procedures for environmental and human rights impact assessments prior to the commencement of a business activity. The outcomes of environmental and human rights impact assessments should be accessible, available in indigenous languages and reflect the projects' impacts on the economic, social and cultural rights of indigenous peoples.

83. National action plans to implement the Guiding Principles on Business and Human Rights should be developed. In the process, the participation and consultation of indigenous peoples should be ensured, and the full protection of their rights should be reflected in the national action plans. Where national action plans are adopted, indigenous peoples should be involved in their implementation.

84. Indigenous peoples' rights should be protected in the context of international investment agreements, including in relation to decisions on the content of such agreements and of related negotiation processes, investment dispute settlements and corporate obligations, as well as measures to mitigate the impact of international investment agreements. Investor-State dispute settlement mechanisms should be reformed in order to conform with international human rights standards.

F. Suppression of the right to freedom of association and attacks against and criminalization of indigenous human rights defenders

85. States must take measures to prevent violence and attacks against and the intimidation, harassment and criminalization of indigenous peoples arising from the exercise of their rights and the defence of their lands and territories against business activities, including activities linked to the extractive industries, the construction of hydropower dams, agribusiness, logging and tourism projects. Perpetrators of such violations should be held accountable. Counter-terrorism laws that are used to criminalize indigenous peoples should be amended to ensure that the human rights of indigenous peoples are protected.

G. Sustainable Development Goals and economic, social and cultural rights

86. States should establish effective mechanisms for ensuring the sustained engagement, participation and inclusion of indigenous peoples in developing and implementing laws, policies and programmes, taking into account intersectional and multiple forms of discrimination relating to gender, disability, age and sexual orientation. Disaggregated data on indigenous peoples should be collected in order to inform effective policy measures. Effective participation of indigenous peoples in designing, implementing and evaluating education, health and welfare services should be ensured so that the knowledge and cultures of indigenous peoples can be integrated into such services.

87. United Nations country teams, United Nations entities in the region and international donors should promote the participation of indigenous peoples in assessing the national implementation of the Sustainable Development Goals.