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## Human Rights Council

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### Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development

## Panel discussion on the rights of Indigenous Peoples

### Report of the Office of the United Nations High Commissioner for Human Rights

#### *Summary*

The present report, submitted pursuant to Human Rights Council resolution 51/18, contains a summary of the annual half-day panel discussion on the rights of Indigenous Peoples held at the fifty-fourth session of the Council. It includes summaries of the opening statements and of the presentations made by the panellists, and highlights from the interactive discussion that followed. The theme of the panel discussion was the impact of certain development projects on the rights of Indigenous Peoples, in particular the impact on Indigenous women.



## I. Introduction

1. On 27 September 2023, the Human Rights Council held its annual half-day panel discussion on the rights of Indigenous Peoples, as mandated by Council resolution 18/8. Pursuant to Council resolution 51/18, the theme of the discussion was the impact of certain development projects on the human rights of Indigenous Peoples, with a particular emphasis on Indigenous women. Council resolution 51/18 also requested the Office of the United Nations High Commissioner for Human Rights to prepare a summary report on the discussion for submission to the Council prior to its fifty-sixth session.

2. The panel discussion was aimed at:

(a) Examining the repercussions of development projects on the human rights of Indigenous Peoples, especially Indigenous women, and delving into topics such as land rights, access to natural resources, cultural preservation, and socioeconomic opportunities;

(b) Facilitating the exchange of experiences and initiatives undertaken by Indigenous women to address existing or potential impacts of development projects;

(c) Identifying best practices and lessons learned from development projects that have incorporated a human rights-based approach, respecting the rights of Indigenous Peoples;

(d) Deliberating over the measures that States, the private sector, financial institutions and Indigenous Peoples can adopt to prevent and address the impacts of development projects on the rights of Indigenous Peoples, with a specific focus on the impacts on Indigenous women, exploring how the United Nations, particularly the Office of the United Nations High Commissioner for Human Rights, the United Nations Development Programme and the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) can provide support in implementing these measures.

3. The panel was chaired by the Vice-President of the Human Rights Council and Permanent Representative of Luxembourg to the United Nations Office and other international organizations in Geneva, Marc Bichler. The opening remarks of the panel discussion were delivered by the United Nations Assistant Secretary-General for Human Rights, Ilze Brands Kehris. The panellists were Sheryl Lightfoot, Chair of the Expert Mechanism on the Rights of Indigenous Peoples; Anabela Carlón Flores, a lawyer for the Yaqui people in Mexico; José Francisco Calí Tzay, Special Rapporteur on the rights of Indigenous Peoples; and Adriana Quiñones, head of human rights and development at the UN-Women Geneva office.

4. The opening remarks were followed by presentations by the panellists and interactive discussions. The panel discussion ended with concluding remarks by the panellists. The panel discussion was made accessible to persons with disabilities through the use of sign language interpreters and closed captions and was webcast and recorded.<sup>1</sup>

## II. Summary of the proceedings

### A. Opening remarks

5. In her opening remarks, the Assistant Secretary-General for Human Rights stated that at the heart of the panel discussion lay the United Nations Declaration on the Rights of Indigenous Peoples which recognized the right of Indigenous Peoples to define their priorities for the exercise of the right to development. That foundation set the stage for a comprehensive dialogue on the impact of development projects on Indigenous communities. She underlined that, while development projects offered societal benefits, they also created significant challenges to the lives of Indigenous persons. Those challenges intersected with crucial issues

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<sup>1</sup> The webcast may be viewed at: <https://webtv.un.org/en/asset/k10/k10t210isk>.

such as land rights, environmental conservation, cultural preservation and economic empowerment.

6. The Assistant Secretary-General for Human Rights emphasized that Indigenous women served as the backbone of their communities and played pivotal roles in preserving cultural heritage, transmitting traditional knowledge and ensuring the sustainability of their societies. Nonetheless, they often bore disproportionate adverse effects from development projects, which included forced displacement, gender-based violence, loss of access to lands, territories and resources, and economic marginalization. In addition, when they advocated for land rights and opposed non-consensual development projects, they faced severe threats, including violence, harassment, arbitrary detention, and criminalization of their work. Those negative impacts contributed to exacerbating gender inequality within Indigenous Peoples.

7. She stressed that respecting the rights affirmed in the United Nations Declaration on the Rights of Indigenous Peoples was crucial, especially when infrastructure, development, and natural resource extraction projects or other major development projects were undertaken. Governments, financial institutions, the private sector and other non-State actors must fully respect the right to self-determination and ensure the recognition and implementation of the principle of free, prior and informed consent of the Indigenous Peoples concerned. She noted that that principle guaranteed Indigenous Peoples a voice in decisions that had a bearing on their lives and entitled them to engage in negotiations to shape the design, implementation, monitoring and evaluation of projects affecting their lands and territories.

8. The Assistant Secretary-General for Human Rights also highlighted general recommendation No. 39 on the rights of Indigenous women and girls, which had been adopted by the Committee on the Elimination of Discrimination against Women in October 2022. She noted that the Committee recommended preventing and regulating activities of business corporations and other actors that may undermine Indigenous Peoples' rights – including measures to ensure the availability of remedies, to grant reparation and to ensure guarantees of non-repetition of human rights violations.

9. Finally, she called attention to global issues that had an impact on Indigenous Peoples' rights, such as the triple planetary crisis (climate change, biodiversity loss, and pollution), and the pursuit of the Sustainable Development Goals. Indigenous Peoples' knowledge and practices played a key role in environmental stewardship and biodiversity conservation. This underscored the importance of supporting Indigenous Peoples in their quest for self-determination and sustainable development as a matter of global survival.

## **B. Presentations by the panellists**

10. Ms. Lightfoot began by highlighting the significance of article 23 of the United Nations Declaration on the Rights of Indigenous Peoples, which guaranteed the right of Indigenous Peoples to determine priorities and strategies for exercising their right to development. She also highlighted article 22 of the Declaration, which called for special attention to the rights and specific needs of Indigenous women and girls in the implementation of the Declaration, including their full protection from all forms of violence and discrimination.

11. She underlined that there were many examples of Indigenous Peoples from all regions expressing their self-determination by dissenting from or refusing to consent to development projects on their land, as noted in a report of the Expert Mechanism on the Rights of Indigenous Peoples in 2021.<sup>2</sup> Mass evictions, the dispossession of land for use in conservation projects or infrastructural development by extractive industries as well as the privatization of Indigenous lands for investment negatively affected their livelihoods, economic resources, and social and cultural identity, and their self-determination. Moreover, Indigenous Peoples had identified a recurring association between militarization and development projects, often resulting in violations linked to foreign businesses.<sup>3</sup>

<sup>2</sup> [A/HRC/48/75](#).

<sup>3</sup> [A/HRC/54/52](#), para. 20.

12. Ms. Lightfoot further emphasized that States should recognize Indigenous Peoples' right to lands, territories, participation, and consultation, harmonizing their legislation to make it consistent with the right to self-determination. She also stressed that free, prior and informed consent was integral to the right to self-determination. Indigenous Peoples must be able to oppose or to withhold consent for development projects without fear of reprisals, violence or undue pressure.

13. Concerning Indigenous women, she noted that patriarchal laws contributed to intersecting forms of discrimination, particularly laws governing inheritance and joint ownership of family lands and resources. She recalled that the Expert Mechanism on the Rights of Indigenous Peoples had recommended that States ensure that Indigenous women had access to possession or ownership of their lands, territories, and resources on an equal basis with Indigenous men, including by revoking or amending discriminatory laws and policies.

14. She noted that in 2022 the Expert Mechanism had dedicated a panel discussion during its fifteenth session to the impact of development projects on Indigenous women.<sup>4</sup> One of the main conclusions of the panel discussion related to the importance of recognizing Indigenous women as agents of change and peacemakers, and essential contributors to food production and sustainable development, including when addressing Indigenous Peoples' rights in the context of development projects.

15. Ms. Carlón Flores emphasized the impacts of development projects on Indigenous Peoples' rights, which she underlined were not only material but also intangible, due to their effects on the spirits and collective consciousness of Indigenous Peoples.

16. She cited instances where projects had been implemented without the consent of Indigenous Peoples affected, or by deceit and intimidation. She mentioned a case where Indigenous women affected by projects had filed legal complaints that had led to the recognition of their ancestral possessions and the right to reparation for the moral damage suffered. This had also led to the establishment of dedicated programmes to support community projects. Nonetheless, she stressed that some Indigenous leaders, who had claimed their rights, had been subject to criminal proceedings which persisted to date.

17. Ms. Carlón Flores highlighted other experiences where members of Indigenous communities faced criminal investigations, and emphasized the need for a dedicated body or institution within the State responsible for defending Indigenous Peoples' rights and addressing such issues. She also underscored that, when international financial institutions subsidized development projects, there must be a proper verification of the human rights compliance of those projects, with the participation of Indigenous women.

18. Mr. Calí Tzay began by outlining Indigenous women's role as custodians of collective knowledge and cultural identity, as documented in his 2022 thematic report.<sup>5</sup> He noted that climate change had given new and further urgency to the need to preserve Indigenous women's scientific knowledge.

19. He cited instances from Australia, Kenya and Thailand of how Indigenous women had contributed, through their traditional knowledge, towards alleviating the effects of climate change, protecting biodiversity, and achieving sustainable development. Nevertheless, by means of different examples, Mr. Calí Tzay warned that the lack of legal recognition of Indigenous women's knowledge caused the commodification of that knowledge, fostering loss of common identity.

20. Mr. Calí Tzay noted that best practices led by Indigenous Peoples provided reasons for hope. He then described examples from Australia, Colombia and Nicaragua of Indigenous women's contributions to creating environments that were conducive to the preservation, development, use and transmission of their knowledge.

21. He concluded by emphasizing that the international community needed to keep bringing Indigenous Peoples on board, especially Indigenous women, and listen to them. Only by giving them a voice and leadership opportunities would the international community

<sup>4</sup> A/HRC/51/49, paras. 67–70.

<sup>5</sup> A/HRC/51/28.

ensure that Indigenous scientific and technical knowledge was preserved, transmitted and applied, contributing significantly to the sustainable development of all of humanity.

22. Ms. Quiñones celebrated general recommendation No. 39 (2022) of the Committee on the Elimination of Discrimination against Women and its focus on the rights of Indigenous women and girls. According to Ms. Quiñones, general recommendation No. 39 provided essential guidelines to address historical discrimination against Indigenous women while upholding their individual and collective rights.

23. She mentioned that Indigenous women's organizations, as well as the UN-Women country and regional offices, working collaboratively with the experts of the Committee on the Elimination of Discrimination against Women, had played a central role in the historic process that had led to the adoption of general recommendation No. 39 (2022). Drawing from her experience, Ms. Quiñones emphasized the leadership of Indigenous women in shaping visionary approaches. She also underscored Indigenous women's role in crafting paths to truth, sanction and reparation for sexual violence during internal armed conflicts, as demonstrated by the ruling on the *Sepur Zarco* case in Guatemala and the resulting reparation programmes.

24. She highlighted several impactful projects that were being carried out by UN-Women in collaboration with Indigenous women. In Brazil, "Voz das Mulheres Indígenas" had begun a sustainable partnership with grass-roots Indigenous women's organizations that had led to the establishment of a national network of Indigenous women and to the creation of the Ministry of Indigenous Peoples, currently led by an Indigenous woman. Similarly, she noted that, in Guatemala, the Indigenous Women's Platform, with over 300 leaders, functioned as an advisory body for public institutions, engaged in advocacy and promoted political training. Meanwhile, the "EmPower" project in Viet Nam had empowered Indigenous women, enabling them to utilize solar food-drying systems. Ms. Quiñones also mentioned other projects and positive examples from Argentina, Cambodia, Chile, India and Mexico.

25. She stressed that stakeholders should make continuous efforts to learn about Indigenous women's visionary approaches to different issues. She concluded by emphasizing the need to support the leadership, vision and accomplishments of Indigenous women to shift the paradigm of development.

### C. Interactive discussion

26. Representatives of Member States and international and non-governmental organizations took the floor to make comments or ask questions.<sup>6</sup> Several Member States welcomed the focus of the panel and highlighted the key role played by Indigenous women as guardians of Indigenous knowledge, which contributed to preserving biodiversity, protecting the environment and ensuring food security. The importance of empowering and supporting Indigenous women in various fields, such as farming, food production, textiles, natural medicine, music and the arts, was highlighted.

27. Participants expressed concerns over discrimination against Indigenous women, which hindered their equal access to lands and resources and their participation, among other things. Inequality, health issues, limitations of reproductive rights, and education challenges faced by Indigenous women were stressed. Reference was made to general recommendation No. 39 (2022) of the Committee on the Elimination of Discrimination against Women on the rights of Indigenous women and girls. Some countries underlined the importance of ensuring the participation of Indigenous women in decision-making and in development processes to contribute to equitable development and address historical disparities.

28. The discussions also highlighted the need for consultations with Indigenous Peoples, especially Indigenous women, to obtain their free, prior and informed consent for development projects. The lack of such consent was noted to disproportionately affect

<sup>6</sup> The statements received can be accessed at <https://hrcmeetings.ohchr.org/HRCSessions/RegularSessions/54/Pages/Statements.aspx?SessionId=70&MeetingDate=27/09/2023%2000%3a00%3a00>.

Indigenous Peoples, particularly Indigenous women, leading to displacement, environmental damage, biodiversity loss and ecological degradation.

29. Development projects were acknowledged for their potential positive effects but also for their capacity to cause forced displacement, and alterations of the social and cultural Indigenous ecosystems, as well as loss of livelihood and traditional knowledge or spiritual connection to ancestral lands. The well-being and cultural identity of Indigenous women were identified as particularly vulnerable. Concerns were raised about activities such as mining, logging, road construction and related operations without obtaining Indigenous Peoples' free, prior and informed consent, causing challenges for Indigenous communities and negative environmental consequences. Some participants outlined how those negative impacts could disproportionately affect women as repositories of Indigenous knowledge and practices. The importance of ensuring Indigenous communities' access to natural resources within their territories by focusing on sustainable practices was highlighted. Calls for the application of a human rights-based approach to development projects to enhance respect for the rights of Indigenous Peoples were reiterated.

30. Participants also acknowledged the historical struggles of Indigenous Peoples, particularly women, to protect their territory, self-determination and equality. The discussions stressed the fundamental contribution of Indigenous Peoples to sustainable development through their knowledge. The need to preserve Indigenous traditional knowledge and practices for the benefit of the entire planet in the context of the current global climate and biodiversity crises was stressed. The importance of promoting and preserving Indigenous languages was also mentioned.

31. Several State representatives showcased the commitments of their countries to uphold the rights of Indigenous Peoples. They gave examples of how their countries had strengthened national institutional and legal frameworks or adopted policies with the intention of better protecting Indigenous Peoples' rights. Other State representatives referred to specific projects and programmes aimed at empowering Indigenous Peoples, enhancing their participation and strengthening their organizations and networks. A number of representatives referred to the presence of Indigenous women in high-level positions within national institutions. Some also noted the absence of Indigenous Peoples in their countries while expressing support for the promotion of their rights globally.

32. The representative of the United Nations Development Programme underscored the need to fully take into account the voices, knowledge and needs of Indigenous Peoples in decision-making processes, particularly focusing on gender equality, as part of a broader effort to promote the Sustainable Development Goals. The importance of increasing the financial support for local initiatives and Indigenous women-led projects was also underscored. The International Development Law Organization stressed the key role played by the rule of law in protecting Indigenous Peoples' rights, as well as the importance of ensuring access to justice, including by supporting Indigenous justice systems.

33. Civil society representatives expressed their commitment to promoting peace and sustainable development by guaranteeing Indigenous Peoples' rights. They drew attention to the right of Indigenous Peoples to determine their economic, social and cultural development as outlined in the United Nations Declaration on the Rights of Indigenous Peoples.

34. They highlighted the negative consequences of development projects implemented without the free, prior and informed consent of the Indigenous Peoples affected. This encompassed labour exploitation, increasing migration, incidents of excessive use of force by law enforcement officials, forced evictions, displacement, and the impoverishment of Indigenous communities, which exacerbated pre-existing inequality and discrimination. They also expressed concern over instances of militarization of Indigenous territories to safeguard the interests of private business companies. Concerns were raised about the resulting negative effects on the well-being and cultural identity of Indigenous Peoples and their communities.

35. Environmental violence, especially against Indigenous women and girls, was mentioned as a matter of concern. Civil society representatives noted that such violence encompassed exposure to toxic contaminants, sexual violence, exploitation and human trafficking, which were often associated with extractive industries.

36. Civil society representatives emphasized the pivotal role played by Indigenous human rights defenders, particularly Indigenous women, in safeguarding the rights of their communities amidst development projects. They also condemned the criminalization, persecution and violence against Indigenous human rights defenders. They conveyed particular concern over stigmatization faced by Indigenous women advocating for their rights.

37. Civil society representatives urged Governments to take urgent actions to address these situations, to ensure the free, prior and informed consent of the Indigenous Peoples concerned, and to tackle violence against Indigenous women and its root causes.

38. Some of the participants asked the panel to share positive experiences and examples of development projects that had been implemented by applying a human rights approach and that had ensured the respect of Indigenous Peoples' and Indigenous women's rights. Questions were also raised regarding what further steps should be taken to protect Indigenous Peoples' rights, and how international organizations, the private sector and other stakeholders could support Governments in this regard.

#### **D. Concluding remarks by the panellists**

39. In her concluding remarks, Ms. Lightfoot emphasized that the right of Indigenous Peoples to development was extensively captured within the United Nations Declaration on the Rights of Indigenous Peoples. She noted the deep connection between the right to self-determination and free, prior and informed consent. She underscored that Indigenous Peoples were developing their own consent and consultation protocols, which typically involved the elderly, women and youth. She called upon States and third parties to utilize and respect those protocols when they existed and invited all relevant stakeholders to support Indigenous communities in developing them when they did not exist yet. Concerning the questions raised on possible positive practices, she referred to the studies published by the Expert Mechanism on the Rights of Indigenous Peoples, which described different challenges but also elicited promising experiences.

40. Ms. Carlón Flores emphasized that ensuring the rights of Indigenous women and girls in the context of development projects represented a significant challenge. She pointed out that companies should communicate with legitimate Indigenous authorities and not rely on arrangements created ad hoc for development projects. States should also respect the rights of Indigenous Peoples and their compliance should be continuously reviewed by international organizations. Furthermore, she underlined the crucial role that women played in Indigenous communities, which was often overlooked, and the importance of their inclusion in negotiation processes. Lastly, she recognized Indigenous women's activism to protect their rights despite the several challenges that they faced.

41. Mr. Calí Tzay addressed the questions about how the participation of Indigenous women could be further guaranteed. He noted that States and the private sector should take measures to ensure the meaningful inclusion of Indigenous women in decision-making processes related to development projects. This included improving projects' gender perspective, ensuring adequate funding to Indigenous women's organizations, and promoting their participation throughout the project's life cycle. Parts of the funding arising from development projects should be allocated to support Indigenous Peoples, especially women. Development partners should also adapt their projects, through continuous consultations, to make them culturally acceptable by Indigenous Peoples. Projects should also include an intercultural commitment and envisage cooperation with Indigenous organizations to develop technical capacities. He stressed that Indigenous communities had their own languages, knowledge, and sustainable resource management skills. He emphasized that their connection to traditional lands was essential for their physical and cultural survival as a people. Indigenous Peoples should be able to define their own concept of development on the basis of their values, visions, priorities and needs.

42. Ms. Quiñones made three recommendations in response to questions posed from the floor. Her first recommendation was to increase the support to national or local institutions dedicated to supporting and promoting the rights of Indigenous Peoples. She highlighted the

importance of involving Indigenous women in decision-making processes, both locally and at the national level, and suggested that donors include the participation of Indigenous women as a condition for supporting development projects. Lastly, she emphasized the need to invest in the translation of general recommendation No. 39 (2022) of the Committee on the Elimination of Discrimination against Women into Indigenous languages.

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