



# GLOBAL REPORT

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**Redefining protected areas:  
A study on the criminalization of  
and human rights violations against  
Indigenous Peoples in conservation**



**Indigenous Peoples  
Rights International**

Championing Indigenous Peoples Rights

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Caption photo cover:

(above) An indigenous Iban woman walks down to her community's customary lands in Batang Ai, Sarawak to start her day's work in the fields. (Photo by June Rubis)

(below) A forest guard makes his round of inspection in a nearby forest reserve in Central Kalimantan, Indonesian Borneo. (Photo by June Rubis)

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## About this report

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As part of its work to confront criminalization of, and human rights violations against Indigenous Peoples, the Indigenous Peoples Rights International (IPRI) decided to contribute to the ongoing calls for a human rights-based approach to conservation. As a start, we conducted a research study on the issue and commissioned global and country reports covering the Democratic Republic of Congo, Kenya, Tanzania, Nepal, and Thailand. Each report is published independently and can be read as stand-alone publication.

The study aims to contribute in raising awareness and attention to the issue of criminalization and violations of Indigenous Peoples' rights in relation to environmental conservation. We hope that it will be useful for Indigenous Peoples and human rights organizations in their advocacy initiatives at the national, regional, and global levels. We also hope the reports will be useful for states and conservation institutions when developing programs and policies that aim to address human rights violations in conservation, including the access to justice and remedy of the victims of criminalization and human rights violations in conservation areas.

In order to discuss the impact of conservation activities on the rights of Indigenous Peoples, including the violence and criminalization they are being subjected to due to conservation actions, this briefing paper will present positive advances at the international level in terms of both the recognition of the rights of Indigenous Peoples and of the importance of their role to achieve the conservation objectives pursued by States and environmental organizations.

In spite of this progress, there persist ongoing violations and criminalization affecting Indigenous Peoples in the context of conservation initiatives. These adverse impacts are often related to the rights of Indigenous Peoples to their lands, territories and resources; to their traditional occupations and livelihoods, and to their culture and governance systems. Some examples, described in the country reports supported by IPRI and other sources, were synthesized in the second section of this briefing paper.

To respond to this situation, a growing number of environmental and conservation organizations and states including those under the International Union for the Conservation of Nature (IUCN), have adopted some policies and

commitments in line with a human rights approach to conservation. The briefing paper will mention some of these steps in a new paradigm of conservation that aligns with human rights law, and some examples that show, as pointed out by the UN Special Rapporteur on the rights of Indigenous Peoples, that significant challenges remain in ensuring the effective implementation of this new paradigm.

Finally, the briefing paper will present some conclusions and recommendations on actions needed to ensure that conservation activities stop being a source of violence and criminalization against Indigenous Peoples.



Members of the Network of Indigenous Peoples in Thailand (NIPT) and Save-Bangkloy Alliance rally in Bangkok to demand the government to allow the Karen community of Bangkloy to return to their ancestral forest in Kaeng Krachan and practice subsistence agriculture peacefully. *(Photo by Phnom Thano – IMN)*

## Overview of developments at the international level

## Increased recognition of the rights of Indigenous Peoples

*Respecting and protecting human rights, especially the rights of Indigenous Peoples [...], is an obligation under international law and an effective, equitable and cost-efficient conservation strategy that should be applied to all efforts to safeguard nature.*

– Special Rapporteur on Human Rights and the Environment, Policy brief on human rights-based approaches to conserving biodiversity, 2021<sup>1</sup>

In the last two decades, there has been a process of increased recognition of the rights of Indigenous Peoples in international law, both in the human rights and the environmental arenas, together with the international community's increased awareness of the links between environmental and human rights issues, which Indigenous Peoples have advocated for in multilateral negotiations within the United Nations processes for decades.

The sustained struggles of Indigenous Peoples to assert and defend their rights and their engagement with the United Nations system led to the adoption of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) by the UN General Assembly in 2007 as the minimum human rights standards for the recognition, respect and protection of their rights. This set of rights includes, among others, the right of Indigenous Peoples to self-determination, to autonomy or self-government, to their lands, territories and resources, and their rights to cultural integrity, including their distinct cultural heritage.

After its adoption, UNDRIP has been incorporated as an interpretative instrument on fundamental human rights as they pertain to Indigenous Peoples through the work of the UN Treaty Bodies and other international human rights mechanisms, including the Inter-American and African regional human rights systems.

Parallel to these developments is the Indigenous Peoples' participation in multilateral environmental negotiations since the landmark Rio Conference in 1992. This resulted in the recognition of Indigenous Peoples as one of the Major Groups that should be ensured full participation in international and domestic/national processes to achieve the environmental and sustainable development goals set in the Conference, including in the conservation and sustainable use of biodiversity and the fight against climate change. The Convention on Biological Diversity (CBD) recognizes the importance of protecting indigenous traditional knowledge and sustainable use of biodiversity (articles 8(j), 10(c) and related provisions). The CBD has incorporated the requirement for indigenous

free, prior and informed consent (FPIC) in some of its programs of work, while indigenous participation entails the respect for indigenous rights in mitigation and adaptation measures to climate change.

The UNDRIP underlines the importance of Indigenous Peoples' collective rights to self-determination, self-government and autonomy and to their lands, territories and natural resources which have been massively affected by conservation measures, such as the establishment of protected areas that overlap with indigenous territories. The Declaration also stresses the need to remedy past and ongoing violations of the rights of Indigenous Peoples. Their right to redress includes compensation for lands, territories and resources that have been confiscated, taken, occupied, used or damaged without their FPIC, including for conservation practices or initiatives. While States are the primary duty bearers under international law, other non-state actors such as non-governmental organizations including international and national conservation organizations and institutions, investors, and philanthropic foundations also have human rights responsibilities.<sup>2</sup>

A human rights approach to conservation means the full respect for Indigenous Peoples' internationally recognized rights when conservation activities affect their lands, territories and resources.

## **Increased recognition of the role of Indigenous Peoples in conservation**

*Taking stock of the standing in international law of Indigenous Peoples' rights in relation to conservation thus requires consideration of the interrelatedness of the different bundle of rights, notably self-determination, cultural integrity and collective property rights, and appreciation of the complementarity of international human rights law and international environment law.*

– Special Rapporteur on the rights of Indigenous Peoples, Report to the 74th session of the Human Rights Council<sup>3</sup>

Indigenous governance institutions are persistent, sophisticated and resilient socio-ecological and political-economic systems that contribute to indigenous stewardship in shaping sustainable socio-ecological relationships.<sup>4</sup> They have strong ties to lands and territories, with many holding governance mechanisms, laws and institutions that lead to conservation of biodiversity.<sup>5</sup> Indigenous Peoples are the de facto custodians of numerous State- and privately governed protected and conserved areas, and they are also conserving a significant proportion of



lands and nature outside of such areas. It is estimated that territories and areas conserved mostly by Indigenous Peoples cover at least one-fifth of the world's land surface (at least 28 million km<sup>2</sup>).<sup>6</sup> Of this, 83 percent (23 million km) lies outside of protected and conserved areas that are governed by states or private actors. Therefore, at least 17 percent of the world's land is conserved uniquely by Indigenous Peoples outside of State- and privately governed protected and conserved areas.<sup>7</sup> Furthermore, the Intergovernmental Science Policy Platform on Biodiversity and Economic Services (IPBES) stated in their report that Indigenous Peoples are not threats but instead, are essential to conservation.<sup>8</sup>

Indigenous Peoples manage or have tenure rights over at least 38 million km<sup>2</sup> in 87 countries or politically distinct areas in all inhabited continents that encompass at least 40 percent of the global protected areas that are State-led.<sup>9</sup> Thus, for regions where Indigenous Peoples are still in the process of regaining tenure rights, the maintenance of biodiversity conservation depends on the governance institutions of Indigenous Peoples. This reinforces the importance of rights-based and 'bottom-up' conservation approaches where Indigenous Peoples' rights are fully respected, given the limited success of 'top-down' conservation approaches,<sup>10</sup> including the protected area system. Approaches that take into account Indigenous Peoples' unique ties with nature and their extensive indigenous knowledge and technology necessitate the re-evaluation of existing dominant conservation frameworks.

Indigenous protected areas, or protected areas that are co-managed or with meaningful engagement of Indigenous Peoples have higher levels of biodiversity conservation and better management of climate change issues.<sup>11</sup> When Indigenous Peoples are able to assert their rights and are able to govern their territories, there are also lower carbon emissions.<sup>12</sup> There are fewer wildfires in indigenous-managed areas than in strictly protected areas that have no Indigenous Peoples' input.<sup>13</sup> In the Amazon, indigenous lands are as effective as protected areas in reducing deforestation.<sup>14</sup> In Colombia, a study revealed that co-management of protected areas with indigenous communities can be successful in reducing conflict at grassroots level.<sup>15</sup> The World Bank's Independent Evaluation Group concluded that community-managed forests are more effective in reducing deforestation than strictly protected areas and, "[i]n Latin America, indigenous areas are almost twice as effective as any other form of protection."<sup>16</sup> Similar conclusions were drawn from a review on Africa stating that with stronger land tenure, indigenous communities are able to enact their land governance structures more effectively, contributing to overall better biodiversity.<sup>17</sup> Moreover, in spite of domestic environmental legislations on protection, mining, logging and other extractive activities incompatible with conservation are often allowed within State-protected areas.<sup>18</sup>

At least 26 percent of the world's state and private terrestrial protected and conserved areas overlap with territories and areas conserved by mostly Indigenous Peoples.<sup>19</sup> The ICCA global spatial analysis further estimates that over 52 percent of the extent of terrestrial Key Biodiversity Areas<sup>20</sup> (KBA) lies outside of state and privately governed protected and conserved areas. Of this area, an estimated one-fifth (20 percent) is within territories and areas conserved by Indigenous Peoples.<sup>21</sup> These findings highlight the global significance of Indigenous Peoples' contributions to environmental conservation and protection outside of the existing network of State and privately governed protected and conserved areas.



Members of the Indigenous Ogiek community march in protest over the killing of a 16-year-old boy by the police. (Photo: OPDP)

## The situation on the ground: ongoing criminalization and human rights violations

*Conservation efforts were traditionally state-centric and based on expropriation of lands subsequently placed under government control. Indigenous Peoples were displaced, denied self-governance, deprived of access to natural resources for their traditional occupations and livelihood and their traditional and spiritual links to ancestral land were disrupted. The already marginalized and impoverished Indigenous Peoples have continued to struggle for access to their territories and tenure rights, resulting in enduring friction and conflict.*

– Special Rapporteur on the rights of Indigenous Peoples, Report to the 74th session of the Human Rights Council<sup>22</sup>

*Conservation is Indigenous Peoples' way of life. It is likened to fish in an aquatic environment. The simplest rule of protection of trees from logging is to equate this to cutting the umbilical cord between a mother and her child.*

– Elias Kimaiyo, an Indigenous Peoples human rights defender of the Sengwer community in Kenya<sup>23</sup>

Despite of the advances in the recognition of the rights of Indigenous Peoples and their important role in environmental protection, sustainable development, biodiversity conservation and climate change adaptation and mitigation, Indigenous Peoples are still commonly regarded as enemies of conservation in many parts of the world. Indigenous Peoples' identities are regarded as uncivilized and their ways of life backward. Their customary practices in natural resource use and management are not valued enough by States and international conservation organizations, to ensure that they are guaranteed respect and protection instead of being criminalized.

Exclusionary conservation or fortress conservation<sup>24</sup> is still the model promoted by some states and transnational conservation NGOs,<sup>25</sup> where humans are seen as separate from nature. Although argued to be a bygone model, this conservation approach rooted in colonialism is still implemented. It negates the historical continuity and survival of Indigenous Peoples as they have sustained their interdependent and reciprocal relations with nature resulting in the protection and sustainable management of their natural environment. Thus, this top-down and fortress conservation approach violates the individual and collective human rights of Indigenous Peoples.

The colonial mentality is exemplified with the persistence of initiatives such as the Queen's Commonwealth Canopy, or the lack of concrete actions to address the past and ongoing human rights violations within UNESCO World Heritage

Sites.\* This is the reason for the Indigenous Peoples' apprehension of the 30x30 Initiative because they are arguing that there is no clear commitment to respect and protect their rights and their meaningful partnership. The aspiration and target for the 30 percent of the Earth to be protected as part of the overall goal of preserved areas by 2030 echoed in the zero draft of Post-2020 Global Biodiversity Framework of the CBD can pose serious threats. This may even contribute to the ongoing criminalization and violations of Indigenous Peoples' collective rights to lands, territories, and natural resources, self-determination and cultural integrity, unless it clearly commits to respect indigenous rights and is developed in real partnership with Indigenous Peoples.

In this sense, Indigenous Peoples are arguing that the 30 percent of protected Earth is already in indigenous territories, and that measures should be aimed at supporting the recognition and protection of such indigenous territories, in partnership with them. They are also reminding that the global target should incorporate an equity element that implies the recognition of their rights over their lands and territories, the need to respect their FPIC and the establishment of an adequate redress mechanism to address historic and ongoing violations of their rights due to creation of protected areas, as well as measures to protect them when they defend their rights.<sup>26</sup> It also means their right to equitable benefit sharing in relation to their contributions in biodiversity protection and sustainable resource management.

Human rights violations caused by conservation measures have impacted Indigenous Peoples worldwide by the expropriation of their land, forced displacement, denial of self-governance, lack of access to their traditional occupations and livelihoods, loss of cultural and spiritual sites, non-recognition of their own customary authorities, and denial of access to justice and reparation, including restitution and compensation. Conservation measures have also resulted in cases of violence against indigenous women including rape and sexual abuse largely committed by security guards of conservation areas such as national parks. Indigenous women face higher risk of gender-based violence during incidents of eviction and displacement.

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\* The Queen's Commonwealth Canopy is a project launched in 2015 wherein all 53 Commonwealth nations to contribute areas of indigenous forest to be preserved in perpetuity to mark Her Majesty's lifetime of service to the Commonwealth. In Kenya's country report, it noted that Ogiek community dreads disenfranchisement from their ancestral lands with the Mau Forest being admitted to the Queen's Commonwealth Canopy in 2020. (Read more on Kenya's country report here: <https://bit.ly/3ESPZgc>)

## **Squatters in their own land: violations of the rights of Indigenous Peoples to their lands and territories and criminalization of their existence and their traditional livelihoods and occupation**

*Protected areas in countries which have failed to undertake legal reforms and recognition of collective land rights for Indigenous Peoples have been marred by the highest and most persistent incidence of human rights violations against Indigenous Peoples. Furthermore, conservation efforts in countries where Indigenous Peoples remain marginalized have had the least sustainable and successful outcomes, which has prompted scrutiny of international conservation policies.*

– Special Rapporteur on the rights of Indigenous Peoples, Report to the 74th session of the Human Rights Council<sup>27</sup>

*We don't know what will happen to us if the fishing ban continues. Government, conservationists, and park authorities must think about the survival of our community too.*

– Suresh Bote, member of the Indigenous Bote Peoples living in Bharatpur-31 in Chitwan National Park, Nepal<sup>28</sup>

The establishment of protected areas that overlap indigenous lands and territories without the Indigenous Peoples' FPIC is a violation of their internationally recognized human rights. When indigenous territories are included totally or partially under protection figures, the control and management of the lands are under the jurisdiction of State bodies in charge of protected areas. This creates an imposed jurisdiction in violation of Indigenous Peoples' rights to self-determination and self-government.

National legal frameworks in many countries lack legal recognition of Indigenous Peoples and their collective and individual human rights. Even in countries where there is legal recognition, the environmental legislation is often not coherent with the State's obligations regarding Indigenous Peoples' rights. These legal frameworks result in the criminalization of Indigenous Peoples when they exercise their rights over their lands, territories and resources, traditional occupations and livelihoods, and their customary practices for resource management. "Among the principal challenges that Indigenous Peoples continue to face globally are difficulties in gaining legal recognition of collective ownership over their ancestral lands, especially when these have already been declared protected territories. National legislation is often contradictory to laws on conservation and forestry and international law that state the rights of

Indigenous Peoples, and the authorities responsible for enforcing the different laws frequently fail to coordinate.”<sup>29</sup>

Indigenous Peoples also have the right to FPIC, and participate in decision-making on activities that affect them. These rights, enshrined in international human rights law, are violated whenever protected areas are created on indigenous lands without Indigenous Peoples’ consent. Although many conservation organizations working with states in conservation activities argue that they conform to domestic legislation, they still have responsibilities to go beyond national requirements to ensure that they respect international human rights standards.

Indigenous Peoples have the right to pursue their own models of development as expression of their right to self-determination. In many instances, when their lands and territories are included in protected areas, their centuries-old sustainable traditional livelihoods and occupations are forbidden. They are criminalized and face high fines and even imprisonment when they access and use their natural resources. There are several domestic legislations on conservation and land management in general that discriminate, criminalize and restrict Indigenous Peoples’ customary practices, and traditional occupations and livelihood inside protected areas.

In Nepal,<sup>30</sup> the National Parks and Wildlife Conservation Act, 1973 prohibits persons to occupy, clear, reclaim or cultivate any part or grow or harvest any crop, to graze any domestic animal or bird, or feed water to it; to cut, clear, fell, remove or block trees, plants, bushes or any other forest resources, or do anything to cause any forest resources dry, or set it on fire, or otherwise harm or damage it; and to cause damage to forest resources or wildlife or birds or any land. These prohibited activities are directly and indirectly related to Indigenous Peoples’ traditional occupations and livelihoods and they are subject to punishment with up to ten years of imprisonment or a fine of up to one million NRS (approx. USD 8,000). It also allows for warrantless arrest provided that the authorized person believes with reasonable ground that the person being arrested violated the Act. It specifies that if the alleged offender resists arrest or attempts to escape, the arresting officer may “resort to the use of arms [and] may open fire aiming, as far as possible, below the knee, and if the offender or the accomplice dies as a result of such firing, it shall not be deemed to be an offense.” In general, the Act restricts Indigenous Peoples’ access to protected areas. Their mere presence in protected areas is viewed with suspicion by park authorities. Access is given only to those who are able to secure specific permits for any of the following activities: hunting, and collection of specimen and/or gathering of any natural resources. However, permits are granted more to tourism-related developments such as construction

of hotels, lodges, public transportation, and other similar activities through a contract.

In Thailand, the 2019 National Park Law imposes severe penalties to those convicted of encroachment including up to 20 years in prison and payment of two million Thai Baht (around USD 66,000) in fines. This is a clear case of criminalization of Indigenous Peoples exercising their right to live and or practice their traditional occupations and sustainable resource management systems in their customary lands that have been designated as national parks without consulting them or obtaining their FPIC. Likewise, the National Parks Department reported that from October 2020 to June 2021, there were 1,244 legal cases filed for violating the 2019 Protected Areas Laws. These were charges of encroachment of forest areas, causing forest fire, logging and collecting non-timber forest products, and wildlife poaching in national parks, wildlife sanctuaries and non-hunting areas.

In Kenya,<sup>31</sup> the Forest Conservation and Management Act no. 34 of 2016 provides for the establishment, development and sustainable management, including conservation and rational utilization of forest resources for the socio-economic development of the country. Sections 46 and 47 provide that local communities can participate in forest management. However, section 39 of the same law provides for the declaration of natural reserves and prohibits community livelihood activities such as grazing, fishing, hunting and honey collection. It further requires people to obtain permission and pay fees to access these resources. This Act has been used many times to deprive forest communities of their livelihoods through eviction where the government refers to them as encroachers or illegal settlers. Also, under Wildlife Conservation and Management Act of 2013, a person who engages in hunting for subsistence commits an offence and is liable of conviction to paying a fine and/or imprisonment.

In Tanzania,<sup>32</sup> the Wildlife Conservation Act No. 5 of 2009 provides for responsibilities and restrictions to local communities, users and other beneficiaries of wildlife resources. It outlaws hunting without permission, but permission is only given to commercial hunters. In general, environmental legislation allows nature-based tourism, commercial hunting, scientific education and research, but strictly regulates Indigenous Peoples' access and use of these preserved areas. Indigenous Peoples are criminalized for hunting for food, grazing their livestock, and practicing subsistence cultivation within and around these preserved areas.



## Nepal: Chitwan National Park<sup>33</sup>

From January 1, 2020 to June 24, 2021, there had been 22 incidents of harassment, abuse, and torture within Chitwan National Park. These incidents of human rights violations affected 536 individuals, 35 of them are Dalit while 139 are indigenous men and 397 are indigenous women. All the cases of the women happened while, or because they were found within the perimeters of the park collecting vegetables and ghongi, which is a popular dish significant to the Tharu peoples.

It is common for members of indigenous communities to be hired as daily wage laborers by the National Park Management to clear bushes in buffer zones and national parks. Often, it is while doing this work that they also collect and gather forest produce. But when the Nepali Army finds them collecting and gathering, they are met with violence and the produce are seized and destroyed. The attacks often involve slander or insults and beating or other forms of physical harm. Similarly, indigenous men also face the same fate from the army but their cases often involve fishing. In some occasion, even just being seen near the Narayani River gets them into trouble. In one incident, nine Indigenous Tharu men were beaten by the army after being accused of illegal fishing. Three of them were illegally detained. In some cases, indigenous men are set up by the army. Their traditional fishing nets are confiscated and they are photographed by the army with commercial fishing nets that serve as proof for a trumped-up case against them.

There was a case at the Chitwan National Park where the army arrested and beat up indigenous men who were collecting ghongi. Chiran Kumar Buda, the perpetrator in the killing of Rajkumar Praja was meted a nominal punishment. He was imprisoned for only nine months by the Chitwan District Court.<sup>34</sup> Rajkumar Praja who belonged to the Chepang community was tortured on July 16, 2020 when the army brutally beat him with sticks and kicked him with boots and tried to drown him in the river.<sup>35</sup> Santalal Chepang who was tortured along with Praja said that the latter was severely wounded with his whole body covered with bruises. They and the other men were compelled to carry wooden logs to the LigLige Post. Praja died while undergoing medical treatment on July 23, 2020. The decision of the Court was not consistent with Chapter 12 of the Muluki Criminal Code, 2017 which states that recklessly killing a person is subject to three to 10 years of imprisonment and a fine of 30 thousand to three hundred thousand NRS.<sup>36</sup>

In March 2021 there was a quarrel between an army man and a local who was one of the seven indigenous persons accused of going near the river. The men are still living in fear that they might be targeted by the army and slapped with false charges.

On July 14, 2021, in the Buffer Zone area in Bharatpur Municipality-22, more than 25 drunken National Park Guards (Army) beat up seven men namely, Amar Bote, Kamal Bote, Yani Majhi Bote, Bashudev Bote, Jitendra Mahato, Subash Mahato, and Dinesh Tamang who were attending the mortuary rite of Mr. Jita Mahato. According to their culture, neighbors must accompany the family of a dead person for 21 days. The victims said that army personnel compelled them to sign a paper that said they had committed violations at the national park and that the army had nothing to do with this case, after which they were released. This has been a trend with the army to control and suppress Indigenous Peoples living in the CNP Buffer Zone.

In the protected areas, park authorities who are commonly biased and prejudiced against Indigenous Peoples treat the latter as if they were criminals or involved in criminal activities whom they can interrogate anytime without any reason or cause. In the name of combating anti-poaching activities, the army and authorities raid the community and barge into houses at night, arrest people arbitrarily and hold them in detention centers. Various reports reveal that people are tortured in unprecedented methods for them to confess the allegation against them. The confession is key in the court's decision on the case. When someone is caught while searching for forest products, wild vegetables, or ghongi, the most common charge is poaching or clearing the forest products, which is strictly prohibited by laws. The fact is, the buffer zones in the Terai are home to some of the most disadvantaged and impoverished indigenous groups, including the Tharu, Chepang, Sohana, Bote, Kumal, and Santhal.<sup>37</sup> For sustenance, they rely heavily on the natural resources found along the borders of forest reserves. Indigenous Peoples in the protected areas face false charges due to the chicanery of authorities.

## Eviction and forced displacement

Generations of Indigenous Peoples have experienced and continue to experience forced evictions from their customary lands due to the establishment of protected areas and other conservation "figures of authority." Forced displacement from their traditional lands and territories is a particularly gross violation of the rights of Indigenous Peoples to their lands and territories the exponential impacts on all of their fundamental human rights. Dispossession of their lands and territories causes serious and irreparable damages to their survival identity and ways of life. The intergenerational transmission of their cultural values, knowledge and customary practices of using and managing their lands and natural resources is disrupted and adversely affected. Their displacement from their customary lands has led to food insecurity, poverty, health problems, and the destruction of their subsistence economy based on mutual cooperation, to name a few. This desperate situation pushes displaced Indigenous Peoples to be dependent on state welfare programs and/or humanitarian projects, affecting their dignity and wellbeing.

The UNHCR Principles on internal displacement remind States that they are "under a particular obligation to protect against displacement the Indigenous Peoples, minorities, peasants, pastoralists, and other groups with a special dependency on and attachment to their lands."<sup>38</sup> FPIC of Indigenous Peoples is a prerequisite for displacement as provided in UNDRIP and ILO Convention 169. If forced displacement has occurred, Indigenous Peoples have the right to remedy, including restitution and compensation for the lands and resources lost and, where possible, the option to return to their lands. Compensation should preferably take the form of lands, territories and resources equal in quality, size and legal status to the ones they have lost. The CBD's program of work on protected areas requires the FPIC of Indigenous Peoples for resettlement due to the establishment of protected areas. Furthermore, it points out that the establishment, management and monitoring of protected areas should take place with the full and effective participation of, and full respect for the rights of, Indigenous Peoples.<sup>39</sup>

In spite of this, national reports illustrate the persistence of evictions and forced displacement linked to the establishment of protected and conservation areas.

## Uganda: Benet Peoples of Mount Elgon

The Benet Peoples were first evicted from the forest by the National Forest Authority in 1983, and subsequently by the Uganda Wildlife Authority (UWA) in 1993 when the Ugandan government declared the forest a national park. In 2008, UWA forcefully evicted about 200 Benet families. This time the UWA targeted members of the community who they claimed were still settled inside the national park despite the government allocating the same land to them after the previous evictions.

It was not only a violent eviction from the forest and removal from their ancestral home. Today, 13 years later, the Benet Peoples are still living in temporary settlements of flimsy huts made of mud and sticks, deprived of essential services such as clean drinking water, electricity, healthcare and education.

The Benet Peoples have accused UWA of killings, unlawful use of force and firearms including shootings, beatings, and even crimes under international law. These include torture and other cruel, inhumane and degrading treatment when they try to enter the forest which was declared a national park in 1993. They also report being subjected to extortion by UWA wardens deployed to prevent them from returning to the forest to cultivate crops, graze animals or perform their cultural rituals.

The Benet Peoples are not the only community to have suffered from forced evictions. In May 2018, Ugandan soldiers and UWA forcibly evicted communities in Apaa, northern Uganda, claiming that they had settled in a wildlife reserve. By May 2018, more than 250 homes had been burned and destroyed, leaving hundreds of people, including children, homeless. Similar unlawful and violent evictions continued in 2019 and 2020.<sup>40</sup>

## Kenya: Sengwer Peoples of Embobut Forest

In 2018, the Sengwer Peoples were attacked and evicted from their ancestral home in Embobut forest, Kapkok glade, Elgeyo Marakwet County. The government declared it as a move to conserve the forest. Members of the Kenya Forest Service (KFS) burned makeshift houses of the local communities. In a span of four years (2018 to 2021), the Sengwer indigenous community was forcefully and continually evicted from their ancestral home in the Embobut forest.

In the recent evictions in 2020 and 2021, non-forest dwellers took advantage of the eviction and further worsened the situation by attacking and stealing the Sengwers' cattle. The Sengwer were evicted even at the height of the COVID-19 restrictions (curfew and county lockdown) causing severe risk and harm to the community.

Between January and May 2021, over 20 Sengwer houses were raided and burned down by alleged bandits backed by powerful politicians. The human rights defenders from the Sengwer community were threatened and intimidated against speaking about these violations besides restricting their movements in activism.

## Eviction of the Jenu Kuruba, India<sup>41</sup>

Nagarhole National Park, also known as Rajiv Gandhi National Park, is located in both Mysore and Kodagu districts. Originally constituted as a game sanctuary in 1955, then later declared as a national park in 1983, it is considered a critical tiger habitat that spans over 1,500 km<sup>2</sup>. Three major tribal groups namely, Betta Kurumba, Yerava, and Jenu Kuruba, considered as particularly vulnerable groups by the Indian state, currently reside within the boundaries of the park. Nearly 4,000 members of the Jenu Kuruba tribe live in 22 hamlets of which 15 are in the so-called core zone inside the forest.

In March 2021, the Jenu Kuruba, an indigenous tribe in Karnataka state in southern India, held a major protest against eviction attempts and asserted their rights to live in their forest<sup>42</sup> which is part of the Nagarhole National Park. Later in May, in retaliation and a renege on promises by authorities to recognize their rights, six Jenu Kuruba leaders were charged for alleged serious criminal offences against forest rangers. JK Thimma spoke out against the eviction of his people, "We've been living

inside this forest for the past several years. Our ancestors are also buried here. Their spirits continue to roam the forest. Nobody can evict us from our land,” says JK Thimma.

“We, Jenu Kuruba have been fighting for land, community and habitat rights for the past several years but our claims have always been rejected. Over 4,000 claims for land rights have been filed but not one has been granted. Even those who have managed to get their individual land rights recognized aren’t allowed to expand their homes or cultivate the land,” Thimma adds. A recent court judgement recognized his right to build a house in the national park; acquitted him of violations of wildlife laws and said it could not be ruled out that the charges against him were false and in retaliation for his resistance to evictions. Evictions are carried out by India’s Forest Department with the support of Wildlife Conservation Society (WCS) which is the parent organization of the Bronx Zoo. WCS insists these are “voluntary relocations” which benefit the tribes.

## **Violence, killings and militarization of protected areas**

The Special Rapporteur on Human Rights and Environment noted in his briefing paper that “[c]onflicts between communities and agencies implementing fortress conservation abound, as do reports of arbitrary detention, confiscation of property, forced labor, illegal searches, threats, intimidation, assault and battery, rape and other sexual violence, torture, and extrajudicial killings. The most egregious abuses are often attributed to militarized conservation regimes involving heavily armed eco-guards hired by governments to combat poaching and illegal wildlife trade, sometimes with the support of government soldiers. In these ways, conservation measures fail to adopt a rights-based approach and violate human rights including the rights to life, self-determination, development, health, food, water and sanitation, a healthy environment, education, freedom from discrimination, and cultural rights.”

Wildlife reserves management is increasingly employing armed guards that often attack ‘softer targets’ (e.g. local and indigenous communities who live near the protected area) instead of more powerful perpetrators of environmental destruction and wildlife trade.<sup>43</sup> This phenomenon is described as the militarization of conservation,<sup>44</sup> which has also been termed as ‘war by conservation.’<sup>45</sup>

It was noted in the Nepal country report that the National Parks and Wildlife Conservation Act, 1973 and associated regulations do not have any provision for the involvement of the army in protected areas. However, there are 188 Nepali Army posts established in 12 of the 22 protected forests. The twelve battalions and army units with around 6,778 troops have been policing the forest areas measuring around 9,767 km<sup>2</sup>. Majority of the human rights violations in national parks involve the Nepali Army.

IPRI country reports reflect examples of criminalization and violations of Indigenous Peoples' rights to their lands and resources in protected areas. Some incidents reported just within the period of January 2020 to June 2021 prove the persistence and scale of the violence:

- In the Democratic Republic of Congo (DRC), two incidents of killings involving five Indigenous Batwa men were reported. Three of them were killed after a protest was violently dispersed by the Congolese Institute for the Conservation of Nature and the Armed Forces of the DRC. The other two were killed by eco-guards of the Kahuzi-Biega National Park. Two separate incidents of criminalization involved twelve Indigenous Pygmy people. Seven of them were arrested while searching for dried wood in the Virunga National Park and accused as accomplices of poachers. The other five were also arrested in the same park while searching for medicinal plants.
- In Kenya, there were reports on around a dozen arrests and trumped-up charges against indigenous defenders from Ogiek and Maasai communities, and series of violent evictions of the Sengwer community.
- In Tanzania, there were reports on two incidents of violent evictions resulting in the burning of 23 settlements and the death of a four-year-old girl; an incident of criminalization of two members of the Maasai community; and two incidents of abuse of power by armed wardens resulting in the suicide of a young pastoralist and the destruction of property and confiscation of 135 cattle belonging to a group of Maasai young men grazing their livestock.
- In Nepal, From January 1, 2020 to June 24, 2021, there had been 22 incidents of harassment, abuse, and torture within Chitwan National Park. These incidents of human rights violations affected 536 individuals: 35 of them are Dalit, 139 are indigenous men, and 397 are indigenous women. All the women were found within the perimeters of the park collecting vegetables and ghongi, a kind of snail, which is a popular dish particularly significant

to Indigenous Tharu Peoples. Also, in Bardia National Park, on May 11, 2021, Soma Sonaha, 35, and Fulram Sonaha, 40, were arrested and detained by the Army at the Thakurdwara Army Camp for illegal fishing. These violations are common to other national parks and protected areas in Nepal.

In Thailand, 85 Indigenous Karen, including 20 women, were illegally detained and 22 of them were charged with encroachment, construction, clearance, seizure, possession and other acts of degrading or changing the natural state of Kaeng Krachan Forest Complex without permission. There are 1,244 legal cases related to encroachment of forest areas, causing forest fire, logging and collecting non-timber forest products, and wildlife poaching under the 2019 Protected Areas laws. Protected areas in the country are home to around 2,000 indigenous communities.

### **Democratic Republic of Congo: The case of Jean-Marie Kasula and the Kahuzi-Biega National Park<sup>46</sup>**

On February 4, 2020, Jean-Marie Kasula, along with five other men and two Indigenous Batwa women were prosecuted in a one-day trial at Bukavu Garrison Military Court (TMGB). They were charged for possession of weapons and munitions of war, criminal conspiracy, and malicious destruction of the Kahuzi-Biega National Park/Parc National du Kahuzi-Biega (PNKB). Kasula was sentenced to 15 years in prison along with the five men, while the two women were given sentences from one to five years. The accused men were each fined USD 5,000 and the women for 200,000 Congolese Franc (around USD 103) each. The fines are for purported damages to PNKB, which is under the protection of the Congolese Institute for the Conservation of Nature/L'Institut Congolais pour la Conservation de la Nature (ICCN).

The two women, Nsimire M'Manda and Faïda Bahati, were released on bail on July 30 and Kasula and one man were provisionally released on August 27. But on January 21, 2021, Kasula was again arrested after the eco-guards found him supposedly digging the soil for minerals within PNKB. The eco-guards took photos and videos of this second arrest and posted them on social media which went viral. The first case of Kasula received conflicting





opinions within the indigenous movements in the Democratic Republic of Congo (DRC). His second arrest further complicated the situation. Since his provisional release in August, the eco-guards have been harassing Kasula and making unfounded statements against him.

Diel Mochire Mwenge of Programme Intégré pour le Développement du Peuple Pygmée (PIDP) and Joseph Itongwa Mukumo of Alliance Nationale d'Appui et de Promotion des Aires du Patrimoine Autochtone et Communautaire en RD Congo (ANAPAC-DRC) view Kasula's cases as shameful to Indigenous Peoples who take pride in their culture and identity as conservationists and peaceful problem-solvers. "We deal with our problems not through the use of weapons," Mochire said, and indeed, Kasula is reported to have strongly denied that he has ever used weapons.

Kasula's case might seem like an incident of denial of justice, particularly when understood in the context of the one-day trial that the military court administered. But in a broader perspective, his case and the preceding similar cases of imprisonment without trial are much more than that. These incidents are tied to DRC's colonial past, and are linked to the forcible removal of Indigenous Batwa people from their ancestral lands and territories in the name of conservation.

### **Displacement in PNKB and the role of ICCN**

The ICCN was created in 1925 and the PNKB in 1970. The ICCN is responsible for managing seven national parks, including the PNKB. It employs rangers or 'eco-guards' whose "job is to protect, conserve and manage the national parks, reserves and other sites of conservation interest." The 'eco-guards' have long been accused of grave human rights abuses toward Indigenous Peoples of DRC, including rape and extrajudicial killings. Their manner of conservation and management has been causing constant clashes with the Batwa communities.

Batwa is a term referring to a number of cultural groups found living across the Great Lakes region, i.e. Burundi, Rwanda, Uganda, and the DRC. Within the DRC, they reside around the Lake Tumba region in the north-west, as well as in Kivu near the Uganda and Rwanda borders, and the Bambuti of the Ituri forest in the north-east. They are hunter-gatherer communities that have been violently evicted with the creation

of PNKB. Since then, they have been prohibited access to their ancestral forest. They have been alienated from their livelihood and their cultural and spiritual heritage. The Indigenous Batwa have freely walked and lived on those forests far longer than before these institutions were established or the creation of DRC as a nation-State. They are among the first inhabitants of sub-Saharan Africa.

The shooting of Mbone Christian Nakulire and his father Munganga Nakulire in 2017 by ICCN's park rangers is a clear example of the ICCN's abuse of power over the lives and territories of the Batwa communities during those five decades. To what should have been just a normal day of walking in their ancestral forest to gather some medicinal herbs, their day ended with Mbone's father being badly wounded and him dying at just 17 years old.

Mbone's father still remembers when a "white man they called Adrien Deschryver arrived with a couple of village leaders and settled things." Deschryver is PNKB's founder and a descendant of the last Belgian colonies Minister. Munganga was five years old when he and his family were thrown out of the park. For all those years, he recalls living a life "like animals, maybe even a bit worse" on the fringes of PNKB.

ICCN agreed to pay for the funeral expenses and to extend further compensation for the damages caused to Mbone's family. But the shooters were left free from any prosecution or consequences.

'Eco-guards' in other national parks in DRC are no different from those in PNKB as revealed in an exposé of BuzzFeed. The report also uncovered how the World Wildlife Fund (WWF), the world's leading conservation organization, turned a blind eye to these violations over the years.

## **Discrimination towards the stewards of the forest**

Referring to the actions of the first case of Kasula, the spokesperson of PNKB, Hubert Mulongoy, said in a report, "Failure to comply with the clauses is no reason to attack the park. We have respected more than 80 percent of these clauses. It is true that sometimes funding is lacking but we are trying." The PNKB spokesperson is known to also have accused Kasula of leading an attack on a ministerial convoy on the same day he



was present in the military court in Bukavu. Mulongoy is also known to have been releasing unfounded accusations of the involvement of some national and international NGOs of providing arms to Kasula.

The respect for 80 percent of the clauses that Mulongoy was referring to was PNKB's support for "the schooling of indigenous children and the recruitment of some of them as 'eco-guards.'" Mulongoy's statement failed, among others, to recognize the role of the Batwa community as stewards of the forests. They also do not need PNKB's schooling.

Mulongoy and PNKB will be giving the Batwa community a better deal by moving aside and respecting the right of the people to manage and protect their own ancestral forest. That might also settle their worries over PNKB's meagre funds.

## **Obstacles to access to justice**

Indigenous Peoples in most countries of the world confront severe difficulties to access ordinary justice and therefore to exercise their rights to remedy and redress when their human rights have been violated. Obstacles to access ordinary justice have been analyzed by regional and international human rights bodies. These range from physical difficulties (to avail of ordinary justice services due to geographical distance), to cultural obstacles (language, lack of understanding of the legal system), and to power-imbalance (lack of resources for legal counsel). Discrimination against Indigenous Peoples within the justice system are also evident in country reports.<sup>47</sup>

Moreover, in many instances, when Indigenous Peoples have managed to file their claims in national or regional Courts and obtained decisions that uphold their rights, there is a high degree of State non-compliance. This situation makes particularly important the existence of adequate mechanisms of complaint and redress.

### *Indigenous Peoples' rights, conservation and regional human rights systems*

Of particular importance to the rights of Indigenous Peoples in the context of conservation is the judgment of the Court in the *Kaliña and Lokono Peoples v. Suriname* case in November 2015, relating to three nature reserves established on their ancestral territory to which the people's access is partly prevented. The judgment ordered the State to implement a series of guarantees of non-repetition, including the legal recognition of territorial and other rights of all indigenous and tribal peoples in Suriname. The Court furthermore concluded that respect for the rights of Indigenous Peoples may have a positive impact on environmental conservation and therefore the rights of Indigenous Peoples and international environmental laws should be seen as complementary rather than exclusionary rights. In February 2015, the Special Rapporteur acted as an expert witness in the case and emphasized Indigenous Peoples' right to effective participation in conservation management and their right to restitution for lands incorporated into protected areas without their consent. She underlined three basic principles in relation to protected areas, as follows: first, that States must recognize and protect the rights of Indigenous Peoples to own, develop, control and use their communal lands, territories and resources; second, that decision-making in relation to all aspects of protected areas must take place with Indigenous Peoples' effective participation and consent where any restrictions on their rights may be proposed; and third, that Indigenous Peoples have a right to restitution and other forms of redress where their lands have been incorporated into protected areas without their consent.

In the African human rights system, the African Commission on Human and People's Rights held in the case of *Endorois Welfare Council v. Kenya* that the rights of the Endorois had been violated when they were denied access to their traditional lands after the lands were turned into a game reserve in 1973. The Commission found that the Kenyan State was obliged to recognize the communal land rights of the Endorois Indigenous Peoples and provide compensation and restitution by returning the lands or by providing alternative lands of equal extent and quality in agreement with the indigenous community. Importantly, the Commission found that, although their land had become a game reserve, the Endorois were its ancestral guardians and thus best equipped to maintain its delicate ecosystem. Also, their alienation from their land threatened their cultural survival and thus the encroachment was not proportionate to the public need.

In 2017, the African Court on Human and Peoples' Rights in the land rights case African Commission on Human and Peoples' Rights vs Kenya decided that the Ogiek from the Mau Forest were an Indigenous People, that the Kenya Forestry Service had violated their rights to property, life and culture, among others, and won compensation and the right to stay in the Mau Forest.

Vilima Vitatu Village is one of the areas that the Barabaig pastoralists consider as ancestral land. About 13,000 hectares out of 19,800 of the village were annexed to form the Burunge Wildlife Management Area (WMA) in 2000, after a purported decision by the Village Council on December 11, 1999 and Village Assembly on December 14, 1999 to be part of the WMA.

The village gave a French establishment, the UN EN-Lodge Afrique a total of 4,084 hectares of the Vilima Vitatu without the consent of Barabaig pastoralists. The state sued pastoralists for trespassing, but managed to appeal.

In 2013 the Court of Appeal in Civil Appeal No.77 of 2012 ruled in favor of the Barabaig pastoralists declaring that the WMA had been established without the free, prior and informed consent of the Barabaig pastoralists and that the land should be returned to the community.

As of today, the state has not returned the land and continues to attack the pastoralists. On February 7, 2020, the state burned 23 traditional settlements of Barabaig pastoralists in Maramboi area in Vilima Vitatu, Babati District. More than 60 households were rendered homeless.<sup>48</sup>

## Thailand: Kaeng Krachan National Park<sup>49</sup>

### A bitter fight for justice

The former Kaeng Krachan National Park (KKNP) Chief, Chaiwat Limlikit-aksorn, and three other park rangers are walking free from the murder of Porlajee “Billy” Rakchongcharoen, the indigenous Karen human rights activist. The state prosecutors dropped the charges against them on 23 January 2020.

Billy’s wife Pinnapa “Muenoor” Prueksapan’s hope for justice in the killing of her husband in 2014 quickly took a dark turn. It was on November 28, 2019 when Thailand’s Department of Special Investigation (DSI) issued warrants of arrest to the accused park rangers after finding Billy’s burned body inside an oil barrel in April 2019. Until then, Billy was a desaparecido, a case of enforced disappearance.

Through those years, Muenoor, a mother of five, never stopped looking for her husband. The wide public attention within Thailand and from the international community had quite an impact on the progress of the case. For one, there was pressure on Thailand’s DSI to look into Billy’s case in 2018 after initially rejecting the earnest appeal of Muenoor a year before. With the recent development, the world is yet to see if the DSI will fail her again.

Muenoor’s lawyer is confident that the DSI will argue against the state prosecutor’s decision and demand that the four park rangers face murder charges. But he is also already preparing a briefing for Muenoor in case she will have to pursue the criminal charges on her own.

The four park rangers will now only be made accountable for minor charges, i.e. failing to hand over Billy to the police when they arrested him for allegedly collecting wild honey in the forest on April 17, 2014 when he was last seen alive.

Billy’s story of how he never made it back home after the four KKNP park rangers arrested him has caught the attention and interest of many Thai activists and various international human rights groups. Since they were brutally evicted from their forest in 2011 and endured the hardships of life as a result of such eviction, Billy had been actively organizing members of the Karen indigenous communities in Kaeng Krachan. Unbeknownst



to Billy, his fight for his and his communities' right to live in the forest was gradually earning the ire of the KKNP authorities. On the day he was arrested, he had with him proof that will pin Chaiwat over the burning of their bamboo homes and rice barns.

In November 2020, immediately after warrants of arrest were issued, all four park rangers were released on an 800,000 THB (around 26,000 USD) bail each. Within the same month, the Secretary of the Natural Resources and Environment Ministry agreed to transfer Chaiwat from Ubon-Ratchathani Protected Area to the Provincial Office for Natural Resources and Environment in Pattani in deep south Thailand. The Secretary denied the transfer had anything to do with the National Park Chief's involvement in the murder case.

According to Pranom Somwong, the representative of Protection International in Thailand, the transfer seriously worries human rights defenders and local communities living in the more remote deep south of Thailand. Incidents of wrongdoings or violations very rarely get public attention, especially when conducted by high-ranking government officials.

### **In the name of conservation**

Billy's case is just one of numerous incidents of criminalization against members of indigenous communities in Thailand. His case is definitely an alarming forecast on the future of the five million self-identified Indigenous Peoples in the country, especially those who dare assert and defend their rights. Often living in remote areas and majority of them considered stateless, Indigenous Peoples in Thailand face an uphill battle with authorities implementing the government's heartless conservation and environmental policies.

Land rights activists have been condemning Thailand's National Park Act and Community Forest Act which were both updated in 2019. These policies are being used to justify often brutal and unceremonious evictions of forest dwellers whose traditional agricultural practices are regarded as averse to the country's conservation efforts.

The Indigenous Karen communities have been working the lands and natural resources of the Kaeng Krachan forest through their belief, traditional practices and knowledge for generations. A military map dated 1912 shows Billy's village had been in the same location for at least a century. The declaration of the area as national park was not until 1981. But with the formulation and implementation of these laws, the Karen communities' contributions of having kept the forest worthy of conserving, enough to be declared a national park, are entirely disregarded.

Public attention to Billy's case and the ruthless eviction of the Karen communities from the KKNP has been significant enough for the World Heritage Committee to reconsider their decision to recognize KKNP as a UNESCO site. But as public interest is gradually waning, the Thai government is again eager to appeal to UNESCO. Unless local and international support parallels that of the resolute Muenoor as she continues to fight for justice for Billy's killing, the Thai government may have UNESCO reconsider their appeal and, worse, further toughen its conservation efforts.

### **Lack of benefit sharing**

The revenues from conservation through trade of carbon credit as part of the Reducing Emission from Deforestation and Forest Degradation (REDD+) projects and tourism, as shown in the country reports,<sup>50</sup> do not benefit Indigenous Peoples in many countries. In most cases, they are unaware of the extent of the economic gains of the state and international conservation institutions. These gains are at the expense of Indigenous Peoples' loss of their lands and the resources therein, and violations of their individual and collective rights. Further, these revenues do not necessarily transform into adequate and indigenous-led programs to address the challenges of impoverishment, lack of quality education or healthcare services, among others. The Indigenous Peoples' situation is worsened by existing government corruption and underlying discrimination by the government, the media, and the society against them and their way of life.





Indigenous Batwa leader, Kasole Kalimbiro, stands on his community's customary forest next to Kahuzi-Biega National Park. (Photo: ANAPAC-RDC)

## Progress and gaps: paradigm shift and human rights approach to conservation

*While the conservation community is in the process of adopting conservation measures that respect the human rights of Indigenous Peoples, considerable implementation gaps remain and new threats to human rights-based conservation are emerging.*

– Special Rapporteur on the rights of Indigenous Peoples, Report to the 74th session of the Human Rights Council<sup>51</sup>

*The Congolese State's primary priority is conservation over Indigenous Pygmy Peoples' lives and rights, particularly their collective rights to lands and territories, and their self-determination. Since the demarcation of these conserved and protected areas, they have been prohibited to access these spaces. Their establishment has been marred with violence that persists to this day.*

– Democratic Republic of Congo, country report on criminalization of Indigenous Pygmy Peoples in conservation<sup>52</sup>

It is evident that there is a need to adopt a new approach to conservation that takes into account the full respect for human rights as well as the full involvement of Indigenous Peoples. In this sense, several initiatives have emerged at the regional and international levels which are part of this paradigm shift in conservation.<sup>53</sup>

This section summarizes some initiatives adopted by States, international bodies and conservation NGOs within the multilateral international scene as well as some examples that showcase their limitations in terms of respecting the human rights of Indigenous Peoples.

## **The Escazú Agreement**

A new international treaty has been adopted within the multilateral arena. The Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters, also known as the Escazú Agreement, is a legally binding regional instrument on environment protection covering Latin America and the Caribbean.<sup>54</sup> The Agreement was adopted in 2018 and entered into force on April 22, 2021, after it reached its 12<sup>th</sup> ratification.<sup>55</sup> It provides for the obligation of State Parties to prevent, investigate and punish violence against defenders. It also states that 'In the implementation of the present Agreement, each Party shall guarantee that its domestic legislation and international obligations in relation to the rights of Indigenous Peoples and local communities are observed.'<sup>56</sup>

## Article 9. Human rights defenders in environmental matters

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

### Commitments within the IUCN

The International Union for the Conservation of Nature (IUCN) is a membership organization. States, government agencies, international and national NGOs and Indigenous Peoples' organizations are among its members.

IUCN shapes the global policy of conservation. Every four years, members meet at the World Conservation Congress (WCC) and adopt decisions and resolutions that will guide public and private conservation actions. Every ten years, the World Parks Congress (WPC) is held to deliberate on issues linked to protected areas. Regional inter-sessional processes also mobilize conservation actors in search of agreements and common policies and actions.

Indigenous Peoples have participated in the IUCN processes to promote respect for their rights. In 2003, IUCN publicized a 'paradigm shift' regarding protected areas, reflected in the Durban Accord and Durban Action Plan (WPC 2003).<sup>57</sup> In 2008, the WCC decided to establish a redress mechanism for rights violations related to protected areas (see box), and adopted a resolution 4.052 (2008)

endorsing the UNDRIP and calling upon all IUCN members to apply it in their respective activities.

In 2009, IUCN and seven international conservation NGOs launched the Conservation Initiative on Human Rights (CIHR) to improve conservation policy and practice by promoting respect for human rights. Eight international conservation organizations<sup>†</sup> with a shared interest to promote the integration of human rights in conservation policy and practice joined the initiative. Each organization in CIHR commits to uphold a set of human rights principles which include: respecting human rights; promoting human rights within conservation programs; protecting the vulnerable; and encouraging good governance.

There are additional efforts towards implementing the principles in accordance with their own organizational governance structures and operating partnership models. These are in relation to redress mechanisms that include addressing conservation-human rights links in the design; implementing and monitoring their programs; establishing the appropriate accountability measures; and applying the policies and principles in agreement with subcontracting organizations and implementing partners.<sup>58</sup>

## Durban Action Plan

The Action Plan adopted in the 2003 World Parks Congress included Outcome 5, “the Rights of Indigenous Peoples, Mobile Peoples and Local Communities Recognized and Guaranteed in Relation to Natural Resources and Biodiversity Conservation” with three key targets:

- Key Target 8: All existing and future protected areas shall be managed and established in full compliance with the rights of Indigenous Peoples, mobile peoples and local communities.
- Key Target 9: Protected areas shall have representatives chosen by Indigenous Peoples and local communities in their management proportionate to their rights and interests.

<sup>†</sup> Birdlife International, Conservation International, Fauna & Flora International, Wildlife Conservation Society, IUCN, The Nature Conservancy, Wetlands International and World Wildlife Fund.

- Key Target 10: Participatory mechanisms for the restitution of Indigenous Peoples' traditional lands and territories that were incorporated in protected areas without their free and informed consent to be established and implemented by 2010.

In her 2014 report to the UNGA, UNSR VTC commented that “[r]egretfully, these three Durban Action Plan targets are still far from being achieved [...]”

In 2012, the IUCN adopted an overall Policy on Conservation and Human Rights for Sustainable Development (RES 5.099) that included a set of Guiding Principles, among them the requirement of free, prior and informed consent of Indigenous Peoples for conservation activities affecting them.<sup>59</sup> At the WPC held in Sydney, Australia in 2014, IUCN members in the “Promise of Sydney Vision” reiterated their commitment to work in partnership with Indigenous Peoples, and recognize their long traditions and knowledge and collective rights to land, water, natural resource and culture.

IUCN has promoted discussions on new governance categories within their universal categorization of protected areas, to include indigenous governance systems. It has also supported participatory activities of mapping and research on protected areas with Indigenous Peoples. However, each individual IUCN member organization designs and implements their own policies and guidelines.

## Whakatane Mechanism

The Whakatane Mechanism emerged from the 2008 IUCN World Conservation Congress. It is a non-judicial redress mechanism that aims to assess the situation in different protected areas around the world and where people are negatively affected, propose and implement solutions.<sup>60</sup> The mechanism promotes and supports the respect for the rights of Indigenous Peoples and their FPIC in protected areas policy and practice, as required by IUCN resolutions, the Convention on Biological Diversity (CBD), and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Since January 2011, the Whakatane Mechanism has been piloted in three places: at Mount Elgon in Western Kenya, in Ob Luang National Park in northern Thailand, and in Kahuzi Biega National Park in the Democratic Republic of Congo.<sup>61</sup>

## UNESCO and the World Heritage Convention

*We are particularly concerned that the UNESCO World Heritage Committee has adopted commitments towards Indigenous Peoples on paper but in practice does not have working methods that allow Indigenous Peoples to participate effectively and have their voices heard in the nomination process.*

– UN experts on Kaeng Krachan Forest Complex' inscription as UNESCO World Heritage Site<sup>62</sup>

UNESCO's World Heritage Convention sets out the duties of States Parties in identifying potential heritage sites and their role in protecting and preserving them. The Convention holds a strong legacy of empire and colonialism, and a centralization of top-down authority and decision-making in relation to significance assessment and conservation policy and procedure.<sup>63</sup>

Although many World Heritage sites are fully or partially located in Indigenous Peoples' territories, there is a lack of regulations and appropriate mechanisms to ensure the meaningful participation of Indigenous Peoples in Convention processes and decisions affecting them and in the respect for their FPIC for the declaration of the sites.

In 2015, UNESCO's Operational Guidelines for the Implementation of the World Heritage Convention were updated, introducing a number of more specific references to Indigenous Peoples to recognize them as potential partners "in the protection and conservation of World Heritage."<sup>64</sup> UNESCO has also adopted a policy on engagement with Indigenous Peoples.<sup>65</sup> But, so far, the implementation of these instruments have not been useful in addressing issues of human rights violations against Indigenous Peoples in protected areas, including in World Heritage sites.

## Kaeng Krachan Forest Complex<sup>66</sup>

The Kaeng Krachan Forest Complex (KKFC) includes the four forest conservation areas: Kaeng Krachan National Park, Kui Buri National Park, Chaloem Phrakiat Thai Prachan National Park, and Mae Nam Phachi Wildlife Sanctuary. The complex covers a total of 482, 225 hectares. They are all located in the Tenasserim mountain range in west Thailand and meanders through the north-south direction border with Myanmar.

The Karen communities had settled and have been living in the KKFC areas for centuries. Their principal and satellite villages are dispersedly located in three provinces namely, Ratchaburi; Petchaburi; and Prachubkirikhan. The Karen Indigenous People have been practicing environmentally friendly and sustainable ways such as hunting and gathering and rotational farming (shifting cultivation). There are twenty villages of Karen Indigenous Peoples living inside and around the KKFC, and three principal villages and six satellite villages located within the conserved forest areas.

The first dispute at KKFC occurred in 1995-1996 when several Karen Indigenous Peoples were forcibly relocated to new settlement areas: Baan Pah Mak, Baan Prak Ta Kror and Baan Pah Deng. There was no allocation and management of new plots of land and arable areas. The Karen villagers who were originally settled there had to share their plots of lands and arable areas to all newcomers. In Baan Bang Kloi, all 57 households (391 villagers) were provided lands and arable areas of 5-15 rai (1.97-5.92 acre) each, but no basic infrastructure was provided. In 2009, some villagers decided to move back to their original communities in Baan Jai Pan Din and Baan Bang Kloi Bon. The KKFC National Park head and officers, with military officers implemented the Tanintharyi action plan from 2010-2011 to move all villagers from Baan Bang Kloi Bon. The villagers were forcibly relocated while 98 houses were demolished, and properties, rice bans and belongings were burned. There was no clear and systematic plan about allocation of land and arable areas.

Although the Royal Thai Government (RTG) adopted Cabinet Resolution dated August 3, 2010 on the policy and operational guidance on the Karen's livelihood revitalization, nothing was implemented yet in the KKFC. The Baan Bang Kloi community, with support from Porlajee "Billy" Rakchongcharoen and the allies (i.e., Lawyers' Council, human rights organizations, etc.), had heightened their struggle and negotiation for

justice from the KKFC authority and the RTG. Then Billy went missing in 2014 and in 2019, five years after his disappearance, the Department of Special Investigation (DSI) found his burned body in an oil container submerged in the reservoir site near the suspension crossing bridge of the KKFC.

On January 14, 2021, villagers from 28 households of Baan Bang Kloi Lang trekked back to cultivate rice fields on their previously occupied farmlands in Baan Bang Kloi Bon. On March 5, 2021, involuntary relocation and arrests happened again when affected villagers decided to go back to their homeland to farm to sustain their families. When the KKFC authorities were informed, they called various forces such as the military, police, and local administration authorities to control the villagers and move them out from the areas. The Court of Petchaburi province was asked to issue warrants of arrest to 30 Karen villagers with charges of “encroachment, construction, clearance, seizure, possession and other acts of degrading or changing of areas from their original nature in the KKFC without permissions granted,” in accordance with Section 19 of the National Park Act, 2019. All the 85 Karen villagers including women, children and men (65 men and 20 women), were detained under the custody of the Kaeng Krachan National Park officers. In this group, 22 persons with warrants of arrest were imprisoned in the central prison of Petchaburi province.

In July 2021, despite the persistent situation of human rights violations against the Karen, the declaration of Kaeng Krachan Forest Complex as a World Heritage Site was approved. This is cause for serious concern on UNESCO’s sincerity to adhere to its policies and uphold the human rights principles enshrined in its Constitution. In fact, UN Special Rapporteur, Indigenous Peoples organizations and their allies made a strong appeal to defer the decision until the legitimate concerns of the Karen are addressed by the government of Thailand. Yet these were ignored.



## IUCN, UNESCO and the situation in Ngorongoro

The Government of the United Republic of Tanzania is planning to evict 73,000 Indigenous Peoples from Ngorongoro Conservation Area (NCA). On April 12, 2021, the Ngorongoro Conservation Area Authority (NCAA) had already initially issued a 30-day eviction notice to 45 indigenous pastoralists living in Ngorongoro Conservation Area. The NCAA considers them illegal immigrants. Their baseless pronouncement that Indigenous Peoples and their pastoralist way of life are endangering the ecological balance of Ngorongoro Conservation Area was further disseminated by the mainstream media's biased coverage of the issue.<sup>[1]</sup>

The NCAA and the Ministry of Natural Resources and Tourism (MNRT) have been responsible for a number of human rights violations against the indigenous pastoralist communities, such as the demolition of their homesteads and threats against their lives and livelihoods. The recent eviction order, although currently put on hold, threatens to continue these violations, including the destruction of government-constructed facilities such as schools, health centers, police posts, churches and mosques.

The threats and attacks of NCAA and MNRT on the indigenous pastoralist communities and their way of life contravene the concern of President Samia Suluhu Hassan, to take steps to preserve Ngorongoro Conservation Area's ecology and wildlife.

In light of the impending escalation of human rights violations against the indigenous pastoralist communities in Ngorongoro Conservation Area, we stand in solidarity with them and fully support their legitimate demands for the respect and protection of their rights and wellbeing. We reecho their urgent call to the President of the United Republic of Tanzania, Samia Suluhu Hassan, to:

- Revoke the eviction order of MNRT and NCAA, and ensure the respect and protection of indigenous pastoral communities' rights to life, livelihood and cultural integrity;
- Fully recognize and support indigenous pastoralist communities' sustainable practices and systems of conservation and management of resources;



- Address hunger and starvation of indigenous pastoralist communities by lifting the ban on farming in twenty-five villages and the restrictions imposed on the movement of livestock for pasture and water in the conservation area;
- Organize an independent committee to investigate decades of injustices and human rights violations of the MNRT and NCAA against the indigenous pastoralist communities; and
- Establish a multi-stakeholder commission composed of self-identified representatives from the pastoralist communities, ecology and wildlife experts, and human rights advocates to develop a rights-based approach to manage and preserve the Ngorongoro Conservation Area.

We also wish to draw the attention and action of the UNESCO and the IUCN as partners of the Tanzanian government in the management of the Ngorongoro Conservation Area, over the impending unjust eviction of indigenous pastoralist communities. This is clearly against the principles and commitments of UNESCO and IUCN in respecting the rights of Indigenous Peoples.<sup>67</sup>

## **Complaint and conflict resolution mechanisms**

Complaint and conflict resolution mechanisms can fill the gap should states remain non-compliant to decisions of national and regional courts that uphold the rights of Indigenous Peoples. But their success depends on enabling factors that may not always be present in particular situations. Majority of these mechanisms rely on the premise that the affected Indigenous Peoples agree to work within the framework of the mechanism where putting a stop to the ongoing or planned protected area is often impossible. Their framework often miss to consider that quite a number of protected areas were established under colonial rule and free, prior and informed consent was simply non-existent. Furthermore, there is also an assumption that all stakeholders, among them, Indigenous Peoples, management authorities, government officials and/or representatives of the mechanisms are on equal footing at the negotiation table.

## ***The Ridge to Reef: Integrated Protected Area Land and Seascape Management in Tanintharyi***

The Ridge to Reef: Integrated Protected Area Land and Seascape Management Project is a 5-year conservation project to be implemented by the UNDP, with funds from the Global Environment Facility (GEF). Other project co-financers include Myanmar's government, Fauna and Flora International, and the Smithsonian Institution. The project covers 1.4 million hectares of land, and comprises about one-third of the Tanintharyi region in southern Myanmar. Holding some of Southeast Asia's largest intact forests, Tanintharyi encompasses hundreds of islands in the Myeik Archipelago, the mangrove coastline, evergreen forests and mountainous spine that forms the Thai-Myanmar border.

About 224 villages within the project area, including 73 Karen Indigenous villages are affected by the project through threats of eviction and increased militarization of the area. Karen Indigenous communities claim there was no comprehensive FPIC process and that the project was conducted from a top-down approach to conservation. In addition, the project threatens to prevent Internally Displaced Persons (IDPs) and refugees who were forced to leave their land during the civil war from returning to their homes in the project area, violating their right of return.

The Tanintharyi Region is held under mixed administration between the Government of Myanmar and the Karen National Union (KNU). Under interim arrangements of the National Ceasefire Accords (NCA) agreed to by the Government of Myanmar and eight Ethnic Armed Organizations, including the KNU, governance decisions within mixed control areas must have the agreement of both administrations. KNU has further warned that this project would break the terms of the NCA, citing the interim arrangement period that acknowledged separate governance systems of administration including KNU, and its subsequent ban of large-scale conservation projects or any other large-scale projects that are drawn up by one party and implemented in ceasefire areas.

Due to these concerns, Conservation Alliance Tanawthari (CAT) submitted a formal complaint in July 2018 to the Global Environment Facility (GEF) Conflict Resolution Commissioner,<sup>68</sup> who facilitated direct contact with UNDP and its accountability mechanism. In August 2018, CAT decided to forward its GEF complaint to UNDP's accountability office, with the signatures of 612 indigenous individuals from villages in Lenya and Monorone areas. The complaint details local communities' concerns about the project that:

- i) is violating the indigenous communities' right to FPIC;
- ii) will violate the rights of IDPs and refugees who were displaced by the civil war to return to their land in the project area;
- iii) threatens to violate the interim arrangements for governance decisions in mixed control areas under the National Ceasefire Accords;
- iv) violates the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) and the land and resource rights of indigenous communities; and
- v) fails to recognize and support indigenous, community-driven initiatives to protect territories, strengthen local institutions, and protect forests and resources in the project area.

The complaint calls for the suspension of the Ridge to Reef project until a comprehensive FPIC process is carried out and guarantees are put in place for the safe and voluntary return of those displaced by civil war. CAT has first requested a compliance review investigation by the UNDP Social and Environmental Compliance Unit (SECU), followed by a dispute resolution process facilitated by the UNDP Stakeholder Response Mechanism (SRM) to re-design the project in a way that supports the conservation efforts that Karen Indigenous communities have engaged in for centuries.

The project was suspended on December 26, 2018 and remains suspended until the UNDP Administration Decision is issued.<sup>69</sup> A second field mission due last February 2020 as part of the review process was postponed due to COVID-19 outbreak. SECU maintains a public case file on the ongoing investigation.<sup>70</sup>

### ***Allegations of human rights violations in WWF-supported projects***

The World Wildlife Fund for Nature (WWF) was the first international conservation organization to adopt principles on Indigenous Peoples' rights in 1996. In 2009, WWF signed onto the 2009 Conservation Initiative on Human Rights and adopted the WWF Statement of Principles on Indigenous Peoples and Conservation.<sup>71</sup> Recently, the WWF 2020 Environmental and Social Safeguards Framework was developed which provides an institutional mechanism to manage environmental and social risk of WWF'S work.<sup>72</sup> It aims to systematize good governance practices to achieve human rights, transparency, non-discrimination, public participation, and accountability. Criticism holds that the framework still falls short of the transformational changes needed. For example, the Principles on Law Enforcement and Rangers is unclear on WWF plans to

explicitly follow the UNGRI, the UN Guiding Principles on Business and Human Rights, or any international human rights standard as a guide, other than just a literal footnote.

The framework also provides country- and project-level grievance redress mechanisms to receive and respond to complaints related to the environmental or social impacts of WWF projects. The mechanisms aim to address concerns raised about a particular project, identify the root causes of the issue, find, and pursue options (including but not limited to dialogue and mediation) to resolve the grievance. Project-level grievance redress mechanisms are not implemented in every WWF project, but instead are established for 'high-risk projects.' High-level resolutions of grievances that cannot be addressed at project- or country-level may be escalated to the ombudsperson's office.

The most recent publicized case is the widespread abuse committed by WWF-supported forest rangers and highly militarized management of national parks in the Democratic Republic of Congo (DRC) and Nepal.<sup>73</sup> A UNDP report<sup>74</sup> of the proposed 1,345 sq km Messok Dja national park in the DRC documented credible testimony<sup>75</sup> that the eco-guards engaged in violence and threats against the Baka people. The UNDP team found the Baka community in a state of 'deep distress,' recounting claims of multiple beatings, houses being burned down, women being stripped and raped, taken to prison and being tortured to the point of death.<sup>76</sup> In 2016, Survival International lodged a formal complaint against the WWF at the Organization for Economic Cooperation and Development (OECD).<sup>77</sup>

In 2019, WWF commissioned an independent panel of experts to perform a review of WWF practices connected to projects in Cameroon, the Central African Republic, the DRC, the Republic of Congo, and Nepal.<sup>78</sup> The independent panel released its report in November 2020,<sup>79</sup> recommending several actions that WWF could take to prevent future harm and to respect human rights in the course of its activities. In the US Congressional meeting conducted in October 2021 to discuss WWF's involvement in these allegations, WWF was criticized for not taking any accountability on their actions. John Knox, a member of the independent panel said, "It is frankly shocking to hear WWF portray the report as if it largely exonerated WWF, when in fact, the panel found that WWF knew, often for many years, about alleged human rights abuses at the parks it supports in each of the countries," he said at the hearing. "WWF nevertheless continued to provide financial and material support. Most importantly, WWF often failed to take effective steps to prevent or respond to the abuses."<sup>80</sup>

## Salonga National Park

After detailed allegations of abuse were raised by civil society organizations in 2018, WWF International took the lead in developing response measures, including commissioning two investigations in 2019 that identified widespread allegations of extremely grave abuses by eco-guards and army personnel, including allegations of multiple murders, rapes, torture and beatings. WWF International adopted an action plan in April 2019, which included urging ICCN to approve and implement a code of conduct for eco-guards; ensuring that each eco-guard receives human rights training; improving measures for monitoring patrol missions; agreeing with ICCN on Standard Operational Procedures for investigating allegations and imposing disciplinary measures; referring identified cases to the authorities for prosecution; and setting up a complaint mechanism for local residents. As of July 2020, the training had been partially implemented, and some cases had been referred to the relevant military authorities but had not resulted in prosecution. The code of conduct had not been approved and the other listed elements of the plan had not been implemented.

WWF has not fulfilled its human rights commitments in relation to activities it supports in Salonga National Park in the DRC. There are systemic problems in relation to the National Park and its eco-guards that are not easy to solve, some of which are beyond WWF's control. Nevertheless, to meet its responsibility to respect human rights, WWF must address these issues more consistently and effectively [...]<sup>81</sup>

One key recommendation to WWF is to operationalize and ensure the effectiveness of its Ombudsperson office which is envisioned to serve as WWF's independent accountability mechanism. The panel recognized that the effectiveness of the Ombudsperson office will depend on whether it has sufficient authority and resources, and it urged WWF to engage and respond to the advice and findings of the Ombudsperson once it is operationalized. The first Ombudsperson has been appointed in March 2021.<sup>82</sup>

It also urged WWF to further commit to best practice within the office of the Ombudsperson, including committing to provide remedy and redress for people who have been negatively affected by WWF projects and findings that result from the Ombudsperson process. This can be done by designing processes to effectuate remedy, including the establishment of a remedy fund.

A United States of America bipartisan government investigation into whether federal conservation funds supported anti-poaching guards implicated in human rights abuses in Africa led to a halt of more than USD 12 million to conservation NGOs, including WWF and WCS. Survival International reported a leak in confidential government documents that detail how conservation organizations such as WWF failed to inform the US government that programs it was funding were responsible for serious human rights abuses in many countries. The document from US Deputy Secretary of the Interior Kate MacGregor dated September 18, 2020 disclosed, among other revelations, that US government funding was misused by conservation organizations for purposes prohibited under US laws. WWF and other conservation organizations hid from US authorities whose funds they were receiving, knowledge of abuses such as murder, severe torture, and multiple rapes. Conservation organizations refused to cooperate with federal investigators, withheld reports that documented the abuses, and were effectively auditing themselves.



Majhi Indigenous Women hold a banner saying "River is our life, stream is our life, and the River is the Identity of Majhi Indigenous women" at a protest during the 2019 World's Indigenous Peoples Day in Kathmandu, Nepal. (Photo: Dev Kumar Sunuwar)

## Conclusions and recommendations



In the last decades, Indigenous Peoples' active participation at the international level in the human rights and environmental arenas has resulted in the recognition of their fundamental human rights and of their central role to achieve the global goals of biodiversity conservation, fight against climate change and sustainable development. New policies and mechanisms have been adopted by the conservation community with the framework of a human-rights approach to conservation, incorporating the respect for the rights of Indigenous Peoples in the context of their actions and activities. Domestic legislation and measures in several countries are promoting support for Indigenous Peoples' own conservation initiatives in the exercise of their self-determination and self-government.

Nevertheless, the new conservation paradigm has yet to be translated from paper or expression of commitment into reality or practice. Models of fortress conservation persist. Protected areas and other conservation figures imposed on indigenous lands and territories that consider Indigenous Peoples as squatters in their own lands are still a source of egregious human rights violations. These include forced displacement, killings, torture and destruction of their property and resources, and violence against indigenous women as shown in the reports commissioned by IPRI in several countries in Asia and Africa.

Compounded with racism and discrimination, lack of access to justice and the lack of accessible complaint and redress mechanisms, the ongoing criminalization and violence against Indigenous Peoples in protected areas need to be urgently addressed by all actors involved. It is paramount and urgent to ensure that a human rights-based approach to conservation and environmental protection is adopted and properly implemented. This should be coupled with strong and effective accountability mechanisms at different levels to end the criminalization of and prevent the human rights violations of Indigenous Peoples in the context of conservation. International conservation organizations and other actors which have declared support and commitment to a human rights approach to conservation need to act to make this a reality on the ground.

To this end, IPRI would like to propose the following recommendations:

States should:

- Immediately stop forced evictions and displacement of Indigenous Peoples from their traditional lands and territories overlapped by State or private protected areas and provide adequate remedy for those who have been displaced.

- Adopt all the necessary legal, policy and administrative measures to respect, protect and ensure the human rights of Indigenous Peoples, including their right to self-determination and their rights to their lands, territories and natural resources.
- Align their national environmental and conservation laws and policies with international human rights standards on the rights of Indigenous Peoples, including the UN Declaration on the Rights of Indigenous Peoples, ILO Convention 169, UN Convention on the Elimination of All Forms of Racial Discrimination, and UN Convention on the Elimination of All Forms of Discrimination Against Women. This includes the review of policies and guidelines relating to designation and management of national parks and conservation areas in indigenous territories without their FPIC; and repeal of laws that discriminate and criminalize Indigenous Peoples' traditional occupations and management of their lands and resources.
- Comply with their duty to consult and obtain the FPIC of Indigenous Peoples before the adoption of any conservation initiative, including the establishment of protected areas overlapping or affecting indigenous lands and territories.
- Adopt the necessary measures to ensure adequate remedy for Indigenous Peoples who have lost their lands, territories and resources due to the establishment of protected areas, including restitution as provided in international human rights standards on the rights of Indigenous Peoples.
- Establish effective mechanisms to ensure access to justice for the victims of criminalization, human rights violations and violence against women and children linked to conservation initiatives, including for those who have been unjustly imprisoned, who paid stiff penalties, and those forcibly displaced or who have lost their livelihoods as a result of the implementation of a top-down conservation approach.
- Comply with the relevant decisions of the Inter-American and African regional courts regarding the rights of Indigenous Peoples affected by conservation activities.
- Support Indigenous Peoples' own initiatives and sustainable conservation practices and establish real partnerships with Indigenous Peoples to work together in the common goals of sustainable and equitable conservation.

#### Intergovernmental organizations:

- UNESCO should properly implement its policies and guidelines regarding the respect for the rights of Indigenous Peoples. In particular, it shall reform the Operational Guidelines for the Implementation of the World Heritage Convention to align them fully with UNDRIP and ensure that Indigenous Peoples' free, prior and informed consent has been obtained before the declaration of any World Heritage Site that may affect them, as reiteratively recommended by UN human rights bodies and experts.
- Intergovernmental organizations, including UNEP and UNDP, should ensure that the rights of Indigenous Peoples are respected and protected before supporting any conservation activity affecting them. They should also ensure that adequate and accessible complaint mechanisms are available for Indigenous Peoples at all levels. UN agencies involved in conservation projects shall have a clear policy of zero tolerance to human rights violations

#### Conservation organizations shall:

- Fully adhere to, and effectively implement a human rights-based approach to conservation including the full respect for the rights of Indigenous Peoples as enshrined in UNDRIP and relevant international human rights standards.
- Ensure that the free, prior and informed consent of Indigenous Peoples has been obtained before engaging in any conservation initiative with States or other partners that affects Indigenous Peoples' lands, territories and resources.
- Establish culturally adequate complaint and redress mechanisms that will allow for the prompt and effective response in cases of criminalization, violence and any human rights violations affecting Indigenous Peoples as a result of conservation activities and take measures to actively work to prevent such violations. This should include particular measures to address violence against indigenous women and girls.
- Conduct participatory assessments and review their management of protected areas and national parks that overlap with Indigenous Peoples' customary lands to address long-standing issues of affected indigenous communities in relation to the protection and exercise of their rights, including cases of violence against indigenous women.

- Establish equitable partnerships with Indigenous Peoples including indigenous women, to ensure their meaningful participation in decision-making in relation to conservation measures, programs and targets. Conservation organizations need to prioritize support to Indigenous Peoples' own initiatives for the conservation of their lands, territories and biodiversity; and provide the needed support to indigenous women in enhancing their roles and contributions in the protection of the environment as well as addressing their needs and aspirations.
- Establish effective mechanisms for the fair sharing of benefits and costs of conservation activities, fully respecting Indigenous Peoples' rights and aspirations.

The conservation community as a whole:

- States and non-state actors including donors, shall commit to the prevention of any further violations of Indigenous Peoples' rights in conservation activities, and establish and strengthen partnership with Indigenous Peoples for effective actions to conserve biodiversity, combat climate change and advance sustainable development for all.
- Ensure that the implementation of new conservation targets, particularly the 30x30 Initiative, fully respects the rights of Indigenous Peoples. The conservation community should consider that Indigenous Peoples do already comply with the 30/30 target, and should support indigenous governance and control over their lands, territories and natural resources as the most effective way to achieve this goal.
- Establish an independent monitoring body for compliance to human rights obligation and commitments of states and conservation organisations to observe zero tolerance for human rights violations including the individual and collective rights of Indigenous Peoples. This independent body shall conduct monitoring and investigations and publish an annual report of its observations, findings and recommendations.

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