

**INTERNATIONAL SEMINAR ON
INDIGENOUS PEOPLES' RIGHTS AND UNREPORTED STRUGGLES:
CONFLICT AND PEACE¹**

Summary observations, lessons-learnt and recommendations

Indigenous Peoples have experienced conflict for centuries and have been making efforts to resolve conflicts, both internal and external, placing their traditional as well as other conflict resolution methods into value and taking concrete initiatives.

A. Causes of conflict, impact and challenges

1. Causes of conflict are traceable to longstanding historical injustices, originating in colonization, demarcation of state's territories without regard to the customary territories of Indigenous Peoples, settlement and dispossession of Indigenous Peoples' lands, territories and resources. Continuing discrimination, structural violence and forced assimilation, and also outright colonization, are part of Indigenous Peoples' realities in various parts of the world.
2. Disrespect to the self-governance/ self- determination of indigenous peoples and land disputes are the most common root causes of conflict. In many instances there are private interests that use the military and other state agents to land-grab and exploit resources; other times the military itself exploits indigenous resources; yet other times armed groups claim ideological grounds to claim Indigenous land. Private actors use private armed actors to advance their interests.
3. Conservation projects targeting large areas that are traditional ancestral lands of Indigenous Peoples have been another source of displacement and conflict affecting their livelihoods and survival, but also criminalizing Indigenous peoples carrying out subsistence activities in their own lands.

¹The International Seminar was held at Columbia University on 14 and 15 May 2016. It was organized by Columbia's Institute for the Study of Human Rights (Indigenous Peoples' Rights Program) and co-sponsored by Columbia's Center for the Study of Ethnicity and Race, The Human Rights Institute of Columbia Law School, Heyman Center for the Humanities, The Columbia University Seminar on Indigenous Studies and The Department of Anthropology. It was also co-sponsored by Gáldu Resource Center for the Rights of Indigenous Peoples (Norway), The International Work Group on Indigenous Affairs (Denmark), Tebtebba Foundation (The Philippines) and The Universidad Indígena Intercultural de America Latina y el Caribe. The Seminar had 9 panels and 28 speakers, including 2 keynotes (the UN Special Rapporteur on the Rights of Indigenous Peoples and the Special Rapporteur in the Field of Cultural Rights). The Seminar was attended by some 120 participants from Indigenous Peoples, governments, intergovernmental organizations, non-governmental organizations and academia.

4. The failure of states to fully implement the UN Declaration on the Rights of Indigenous Peoples, including, inter alia, provisions relating to Free, Prior and Informed Consent regarding forced relocation (Article 10), legislative and administrative matters (19), environmental toxics (29) and development (32), as well as Article 26 regarding land rights, is a direct cause of conflict. The implementation of the Declaration, including its provisions for just and participatory conflict resolution contained in articles 27, 28, 37 and 40, can provide a basis for conflict prevention and resolution.

5. Conflict affects Indigenous Peoples around the world. While each conflict is different, many grave consequences are shared: forced displacement, sexual violence, forced recruitment of children, extrajudicial executions; trauma and harm that rips apart the social fabric.

6. Conflict affects Indigenous Peoples who are already marginalized, entrenches them in poverty, leads to high illiteracy rates, poor health and other negative social indicators.

7. Conflict also leaves Indigenous Peoples vulnerable to non-state armed actors.

8. Peace negotiations and agreements continue for the resolution of conflicts. In their efforts to solve situations of conflict Indigenous Peoples have been faced with numerous challenges.

9. In cases of guerrilla movements, while these might provide protection to Indigenous Peoples against despotic landlords, police, and politicians, indigenous families often become paramilitary targets based on these relationships. Indigenous members of armed groups who attempt to go back to communities face challenges, as they might not be welcomed back, they may become identified by revolutionary members as state agents, and are therefore at risk of being recruited by the paramilitary.

10. Divisions among Indigenous Peoples, often prompted by the state and corporations, impede their capacity to deal with conflict.

11. Forced recruitment of Indigenous boys and youth continues and many communities are obliged to send their young sons away to avoid such recruitment. In other situations, private security guards of corporations present in territories recruit Indigenous men to protect the resources they wish to extract.

12. The impact of conflict on Indigenous women has been particularly grave, in terms of sexual violence and poverty. The militarization of Indigenous lands and the presence of extractive industries exacerbates such violence.

13. The abuse of anti-terrorism legislation against Indigenous peoples, especially Indigenous human rights defenders, has been a polarizing factor in various countries, as it criminalizes advocates who often see themselves imprisoned and tortured.

14. Other challenges leading to conflict include the minoritization of Indigenous Peoples in their own lands through settlement; the imposition of so-called development projects, especially mega projects, that undermine their traditional livelihoods and way of life; the use of religions as a tool of forced assimilation; the denial of citizenship to Indigenous Peoples; centralization of state administration; corruption of state officials; corporatization and the weakening of the state; majoritarianism and inadequate application of democracy leading to the exclusion of Indigenous Peoples; the marginalization of Indigenous women's voices in peace processes; pollution and contaminations of Indigenous Peoples' lands; and the inadequacy of peace-related international mechanisms to support conflict resolution affecting Indigenous Peoples, or the inadequate use of those that exist.

B. International legal standards

15. Both International Human Rights Law (IHRL) and International Humanitarian Law (IHL) apply concurrently in situations of armed conflict. IHL is binding on all parties, based on distinction and proportionality: all sides in a conflict must distinguish between military targets and civilians; the obligation to ensure respect for IHL applies in all circumstances and does not depend on reciprocity.

16. Common article 3 of the Geneva Conventions, and those in Customary IHL, bind all parties to the conflict to apply humane treatment of persons who do not take part in hostilities, without distinction.

17. States who violate IHL must make full reparation for the injury caused; serious violations of IHL constitute war crimes and entail individual criminal responsibility; states must investigate these, and if appropriate prosecute perpetrators.

18. ILO Convention No.169 stipulates that the peoples concerned shall not be removed from their lands; any relocations will take place with free and informed consent; they will have the right to return to traditional grounds.

19. The UN Declaration on the Rights of Indigenous Peoples (UNDRIP) is a major normative framework for preventing and solving conflicts. It contains relevant articles in this area: military activities shall not take place in territories of Indigenous peoples unless justified by relevant public interest or requested by Indigenous peoples concerned; states shall make effective consultations through appropriate procedures, especially representative institutions, prior to using lands for military activities; it affirms Indigenous peoples shall not be forcibly removed, no relocation will take place without free, prior and informed consent, and agreement on just and fair compensation; Indigenous peoples have the right to redress by means that can include restitution, and just, fair, equitable compensation for lands and resources

C. Positive Responses and Recommendations

20. Historic reconciliation processes, peace agreements, effective access to justice, including reparations constitute positive tools towards resolution of conflicts affecting Indigenous Peoples.

21. Indigenous Peoples continue to use national and International Law and accountability processes to promote peace and resolve conflict. These efforts should continue and states should strengthen the rule of law and access to justice processes in good faith.

The responsibility of holding perpetrators responsible lies with the states.

The recent positive court ruling in the Sepur Zarco case in Guatemala is an encouraging example.

22. In some regions where positive court decisions of national and international courts to ensure Indigenous peoples' rights and conflict resolution have not been implemented, alternative mechanisms of conflict resolution should be pursued.

23. Cooperation among Indigenous peoples in promoting peace and learning from each other's experiences in conflict resolution has proven useful. This includes positive experiences of cooperation among Indigenous Peoples divided by borders. In the latter cases, special attention should be paid to the protection of indigenous cultural heritage as a peace-building measure among Indigenous Peoples and among states.

24. Peace agreements are welcome efforts in resolving conflict. However, these have to be implemented by states following the principle of good faith and demonstrating the sincere political will of states. Moreover, in order for peace agreements to have the desired long-lasting effect for peace, Indigenous Peoples must participate fully in the negotiations through their own representative institutions and with appropriate procedures. The mapping of Indigenous lands by Indigenous Peoples before the conclusion of peace agreements or the adoption of relevant laws has proven to be a positive practice. It is also important for Indigenous Peoples to pay attention to specific details in peace agreements during negotiations as they prove to be crucial in the stages of implementation. Indigenous Peoples should not negotiate peace as only focusing on disarmament but also promote positive structural changes in the state.

25. The engagements and peace initiatives and facilitation by third parties, such as states, academia and other civil society actors in conflicts involving Indigenous peoples can be a positive contribution to peace and should continue.

26. The media have an important role to play in cultivating a culture of peace and respect for human dignity and diversity. Media should cover Indigenous Peoples' realities in conflict, avoid stereotypes and demonstrate respect for Indigenous Peoples' dignity and diversity in this process.

27. The cooperation of Indigenous Peoples with various actors internationally, such as the UN, various states and civil society is a facilitating factor in conflict resolution and peace-building.

28. Regional and global intergovernmental organizations have a number of mechanisms that can be and are used by Indigenous Peoples, they are accessible to them and have produced positive results in some cases.

29. Intergovernmental organizations can work with Indigenous Peoples also through civil society initiatives, including via academia. Indigenous Peoples can give public profile to their issues through such cooperation.

30. States must strengthen national institutions, so that they represent all sectors of the population, including Indigenous Peoples. Political empowerment is also achieved through the recognition of cultural diversity. Such inclusive institutions foster peace.

31. National institutions for Indigenous Peoples should explore synergies with national human rights institutions in order to enhance their effectiveness also through such cooperation.

32. During the current consultations of the President of the General Assembly on enhanced participation of Indigenous peoples in UN fora (following the Outcome Document of the World Conference on Human Rights), it is recommended that Indigenous institutions emanating from peace agreements are included in such fora.

33. The UN Department of Peacekeeping Operations (DPKO) should develop specific guidelines for Indigenous Peoples due to the particular vulnerability of their situation.

34. It is imperative for states and all other actors concerned to pursue the demilitarization of indigenous territories.

35. There is a need to systematize Indigenous Peoples' conflict resolution and peace-building practices, including the role of Indigenous women. Indigenous women in many countries have developed dynamic initiatives for peace and conflict resolution at the local and national level; more visibility, documentation and exchange of their experiences will contribute to peace-building.

36. Indigenous Peoples have been able to impact the understanding of the UN Human rights system to include new concepts and expand applicability of existing human rights concepts. For example, Indigenous women have been able to achieve recognition of environmental violence as a human rights violation experienced in particular by Indigenous women and girls at the UNPFII. As a result of Indigenous grass roots peoples' submissions, the Committee on the Rights of the Child also recently recognized environmental health as a right protected under the Convention regarding children's and maternal health. Indigenous Peoples have been able to expand the understanding of the Special Rapporteur on Human Rights Defenders to take into account Collective and

Environmental Human Rights Defenders and have utilized the CERD to call on states to take responsibility for human rights violations against Indigenous Peoples carried out by corporations they license operating in other countries.

37. Conservation agencies, safari companies, businesses, international financial institutions (IFIs) should develop clear updated guidelines and codes of conduct that uphold the rights of indigenous peoples as guaranteed in the UNDRIP, other international instruments and relevant jurisprudence.

38. UN agencies, governments and other actors should generate desegregated data on Indigenous Peoples victims of conflicts.

39. The three Indigenous Peoples-related UN mechanisms- the UN Permanent Forum on Indigenous Issues, the Special Rapporteur on the Rights of Indigenous Peoples and the Expert Mechanism on the Rights of Indigenous Peoples- should consider ways of cooperation in order to facilitate dialogue among relevant parties for the resolution of conflicts affecting Indigenous Peoples.

40. The UN system and other relevant actors should facilitate the strengthening of capacities of Indigenous Peoples in peace processes.

41. Indigenous Peoples' cultural heritage is a human rights issue. Indigenous cultural rights defenders often face persecution; the UN human rights mechanisms can be used to promote the protection and full respect of their human rights.

42. Education system reforms should be part of creating peaceful societies through the elimination of discrimination and the fostering of appreciation of diversity and understanding among cultures. The review of education curricula to include Indigenous Peoples is highly recommended.

43. Truth commissions are an important tool for dealing with conflict. The UNPFII Study on the rights of indigenous peoples and truth commissions and other truth-seeking mechanisms on the American continent (E/C.19/2013/13) provides significant insights and lessons learnt in this field.

Through peace building processes, Indigenous Peoples are writing their own histories and creating more just societies.

Indigenous Peoples continue to uphold a fundamental principle: DIGNITY

