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"Recognition of Indigenous Peoples' rights in the context of the climate crisis, biodiversity governance and territorial integrity: focusing on nomadic and semi-nomadic peoples, including pastoralists and shifting cultivators"

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Extracts from Thematic Reports of the Special Rapporteur on Climate Change and Human Rights

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Extracts from A/80/188: A human rights-based approach to the energy transition (2025)

According to the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services, assessing the full life cycle of renewables at the nexus of climate, nature, food, water and health avoids escalating resource competition and ecological degradation. "Nexus thinking" helps to prevent human rights harm arising from climate mitigation measures, in line with all the substantive dimensions of the human right to a healthy environment. A life cycle approach is needed to ensure full consideration for the negative impacts of climate change on renewables sources and infrastructure: an increasing number of industrial accidents in the renewables and transition minerals sectors (see ECE/CP.TEIA/2024/2), for instance, threatens workers' health and safety, the health and well-being of directly affected communities and the right of all people to development.

Life cycle assessments should rely on best available science, including Indigenous science, across climate, biodiversity, toxics and human and planetary health concerns (see A/79/176). They should be participatory and genuinely inclusive of the lived experiences of those most affected by climate change and by existing renewables projects, to ensure consideration of intersectionality (see A/HRC/56/46) and fill any information gaps on climate change and human rights (see A/79/176).

On the other hand, it is imperative to understand the violations of Indigenous Peoples' human rights related to renewables as the latest in a series of extractive activities, conservation initiatives and climate actions that have violated their rights over generations, in cumulative ways (see A/70/301, A/HRC/24/41, A/HRC/36/46 and A/HRC/54/31), further degrading ecosystems vital to their survival, cultural identity and livelihoods. This is also a "double burden" placed on Indigenous Peoples, as they are not only among those most affected by climate change, but also expected to bear the negative impacts of mitigation efforts.

Violations are more frequent when domestic legal frameworks are not aligned with international law on Indigenous Peoples' human rights. In many countries, Indigenous Peoples themselves are not recognized, their territories are not demarcated or Indigenous communities (notably, pastoralist or nomadic) are absent from public registries and land-use planning maps. There are often contradictions across domestic legal systems that undermine the protection of their rights. protection is often inadequate for Indigenous Peoples in voluntary isolation.

The violations of Indigenous Peoples' rights in the context of renewables are also the result of the disregard for – or lack of genuine engagement with – Indigenous science in developing climate solutions that are aligned with planetary health and all the interlinked substantive dimensions of the human right of all people to a healthy environment. Paradoxically, violations of Indigenous Peoples' rights erode the material and immaterial conditions for Indigenous science to evolve, by preventing its being practised in the territories and transmitted to future generations. As underscored by the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services, when shared with humanity, Indigenous knowledge can inform just transition planning, thus supporting transformative change.

* The views expressed in this paper are those of the author and do not necessarily represent those of the United Nations.

Indigenous Peoples' rights are particularly affected by a lack of access to information, free, prior and informed consent processes and fair and equitable benefit-sharing in large-scale renewables projects and related mining. The latter is especially worrying, as the International Renewable Energy Agency has estimated that more than 50 per cent of energy transition minerals are found in Indigenous territories.[1] These harmful practices have been extensively documented by the Special Rapporteur on the rights of Indigenous Peoples in other extractive sectors (see A/HRC/21/47 and A/HRC/24/41). Even when consultations occur, developers bypass customary decision-making processes or threaten or attack Indigenous representatives who question irregularities in permission processes (see A/HRC/39/17/Add.2). In addition, benefit-sharing negotiations are held in bad faith, with a view to dividing communities; there is no room for Indigenous Peoples' world views to shape the project and its benefits; and agreed benefits do not materialize or, when they do, they are minimal, such as scarce or low-level employment opportunities.

A human rights-based participatory approach to the planning and implementation of renewables can thus support processes for evaluating, on the basis of best available science, including Indigenous science, the impacts on climate mitigation, electricity generation, water supply, flood and drought management, irrigation, navigation, fisheries and recreational activities, as well as the economic benefits.

Fairly and equitably sharing the benefits of a just energy transition, as a requirement of the human right to science and Indigenous Peoples' human rights, entails moving away from a mere logic of exchange and "damage control", shifting instead to collaboratively identifying and understanding opportunities for positive impacts, both locally and globally, according to Indigenous peoples' and Indigenous women's world views.[2] States are responsible for ensuring the genuine nature of consent in the context of customary institutions, with a view to providing the foundations for the emergence of a new resource governance model, premised on the notion of partnership.[3] Thus, States should put in place norms and practices to ensure that fair and equitable benefit-sharing supports community agency in the context of an iterative dialogue aimed at understanding different world views and realizing Indigenous Peoples' choice and capabilities.[4] Both benefits protecting or enhancing Indigenous Peoples' control over natural resources and benefits providing support for the exercise of effective control are needed. In addition, in the consideration of alternatives and of the justification for the final outcome, it is necessary to show how assessments differed from merely providing a pre-set array of development options to Indigenous Peoples. Any benefit must

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[1] See www.irena.org/Digital-Report/Geopolitics-of-the-Energy-Transition-Critical-Materials. See also A/78/155.

[2] Elisa Morgera, *Fair and Equitable Benefit-sharing in International Law* (Oxford University Press, 2024).

[3] Victoria Tauli-Corpuz, "The concept of Indigenous Peoples' self-determined development or development with identity and culture: challenges and trajectories", paper commissioned by UNESCO, 2008.

[4] African Commission on Human and Peoples' Rights, *Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v Kenya*, communication No. 276/2003, Judgment, 4 February 2010.

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be measured against the broader context of historical and systemic injustices faced by Indigenous Peoples.

States should therefore:

(a) Oversee consultations and their outcomes, in order to mitigate power imbalances between business entities and Indigenous Peoples, including by guaranteeing access to independent technical and legal advice;

(b) Ensure that strategic environmental assessments and environmental impact assessments serve to identify, in an integrated fashion, the positive and negative impacts on the environment and on human rights of proposed renewables and related mining projects, in addition to any potential damage to ways of life, livelihoods, well-being and knowledge systems;

(c) Ensure that strategic environmental assessments and environmental impact assessments serve to genuinely support free, prior and informed consent and consultation processes, providing full, trustworthy and accessible information and consideration of benefit-sharing as early as the screening and scoping phases, including consideration of all alternatives and siting options, and integrating Indigenous methodologies;

(d) Require strategic environmental assessments and environmental impact assessments consultants to demonstrate sufficient understanding of Indigenous Peoples' science and other knowledge systems;

(e) Allow sufficient time for internal discussion within Indigenous Peoples' and create channels for sustained, effective and reliable dialogue with communities' representative institutions, supporting the realization of their right to decide their own development priorities;

(f) Prevent misuse of benefit-sharing, such as when an economic advantage is offered in exchange for obtaining consent, when social cohesion of affected communities is undermined through bribes or selective negotiations tactics or when paternalistic mechanisms are not responsive to communities' needs;

(g) Support, in the first instance, Indigenous Peoples' ownership or co-ownership and, where communities chose to engage with a business entity, require both community participation in decision-making and a share in profits and other benefits, such as high-skill employment and energy price reduction packages;

(h) Require compensation beyond market value for land acquisition, to ensure full livelihood restoration, ensuring that full compensation for resettlement is provided before landholders are required to vacate land;

(i) Verify that benefit-sharing agreements with business entities fully respect human rights.

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Extracts from A/HRC/59/42: The imperative of defossilizing our economies - Report of the Special Rapporteur on the promotion and protection of human rights in the context of climate change (2025)

There is no scientific doubt that fossil fuels (coal, gas and oil) are the main cause of climate change, and the main driver of other planetary crises – biodiversity loss, toxic pollution, inequalities and mass human rights harm. Several United Nations mechanisms have already identified an international human rights obligation to phase out fossil fuels and related subsidies.

Despite these legal clarifications, and the recognition of the need for a fossil fuel phaseout in the international climate change regime and the Pact for the Future, fossil fuel extraction and use are projected to increase. This is despite the significant progress made in decarbonizing the energy sector: in 2023, renewables provided 30 per cent of global electricity supply, and scientific evidence points to the feasibility of an 100 per cent global reliance on renewable energy, including leapfrogging opportunities for developing countries and for workers. Some States have taken fossil fuel phaseout measures, but what is needed is priority, comprehensive and coherent action on the fossil fuel phaseout within this decade, to ensure a liveable future for all.

Several international human rights law obligations underpin the fossil fuel phaseout. Strict due diligence is required to protect the right to self-determination, which is a peremptory norm of international law, given that …the cultural survival of the populations of small island developing States, Indigenous Peoples, people of African descent, peasants and small-scale fishers is impaired by loss of territories, protracted unsafe climatic conditions and/or severe ecosystem degradation.

Strict due diligence implies a continuous obligation to prevent significant harm, especially across borders, requiring States to proactively identify and monitor risks, and take all available reasonable measures to prevent foreseeable harm, including by private actors, and remedy to it. Peremptory norms of international law are universally binding, regardless of consent, and allow no derogation.

The phaseout should further be interpreted as a component of States' obligation to prevent discrimination, including by discontinuing patterns of racial discrimination and prioritizing reparations for historical climate harm. The prohibition of racial discrimination is also a peremptory norm of international law. There are clear patterns of discrimination against Indigenous Peoples, peasants and people of African descent in the fossil fuel life cycle, with increased pollution, land grabbing and conflicts, disproportionate attacks against environmental human rights defenders from these groups, and forced displacement having profound, pervasive and intergenerational impacts on the rights to a livelihood, food and health, and on cultural rights, notably knowledge production and transmission.[5]

All States should immediately start inclusive processes to co-develop defossilization plans and measures, with the informed and meaningful participation of workers and unions, representatives

[5] Global Climate and Health Alliance, From Cradle to Grave: The Health Toll of Fossil Fuels.

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of human rights holders most affected by climate change, Indigenous Peoples, people of African descent, peasants, women, children and youth, and representatives of States that depend on fossil fuel production in that country.

In terms of compensation, given the widespread, substantial and protracted human rights impacts of fossil fuels, fossil fuel-producing States, according to their historical responsibility, current contributions and respective capabilities, should provide financial compensation for damage caused throughout the fossil fuels life cycle, domestically and extraterritorially, by: Ensuring restitution of territories to Indigenous Peoples, people of African descent and peasants in areas previously allocated to fossil fuel operations, as long as the return is desired and is made possible through the dismantling of fossil fuel infrastructure, and ecosystem restoration and full remediation of toxic contamination. Otherwise, compensation should be provided.

Extracts from A/79/176: Access to information on climate change and human rights- Report of the Special Rapporteur on the promotion and protection of human rights in the context of climate change (2024)

Timely access to high-quality, trustworthy, evidenced-based and accessible information on climate change and human rights is essential to ensure that public authorities understand the foreseeability and preventability of negative human rights impacts of climate change and response measures and make holistic, effective and inclusive decisions to mitigate and adapt to climate change. The public must be informed about the magnitude of actual and potential negative human rights risks and impacts of climate change and response measures, and about the adequacy of States' and businesses' responses to effectively protect and respect human rights in the context of climate change. This is necessary to support the resilience and adaptive capacities of people in vulnerable situations to respond to the adverse impacts of climate change.

It is thus essential to fill gaps and connect sources of information across different sectors and levels of government, as well as across civil society, the research community and international organizations. Information is needed on climate change sources and effects, including on biodiversity and ecosystem services, weather and natural disaster patterns, as well as on impacts on human health, mobility, labour, social, economic and cultural rights, and the right to a clean, healthy and sustainable environment, in terrestrial, freshwater and marine contexts. It is imperative to identify and respond – locally, nationally, regionally and internationally – to the greatest need for progress in knowledge production and information- and data-sharing, in order to protect the human rights of those in vulnerable and marginalized situations in the context of climate change.

States must take enhanced measures to ensure access to information for those most affected by climate change and related decisions, in particular Indigenous Peoples, with a view to fulfilling obligations related to their free, prior and informed consent, with a view to ensuring recognition and respect of their knowledge systems and territorial connections, and those who face intersectional discrimination (see A/HRC/37/59, annex, principle 15, and A/HRC/56/46), including in the context of displacement and planned relocations (see A/HRC/56/47).

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Access to information is acutely needed on carbon credits (see A/HRC/54/31), including confirmation of free, prior and informed consent of Indigenous Peoples.

Without adequate access to information on States' plans to prevent and minimize the human rights impacts of climate change and response measures, there can be no meaningful public participation to ensure the respectful integration of Indigenous science, based on free, prior and informed consent, into assessment, planning and monitoring processes. These inputs are essential to ensure holistic and effective responses that prioritize the protection of those in situations of vulnerability.

States, civil society and research institutions should support participatory research methodologies by providing training, capacity-building and other support to community members and recognize the value of Indigenous knowledge in informing local and national climate change adaptation and mitigation strategies.

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