

Rolling back social and environmental safeguards in the name of COVID-19

Webinar Report



Women are part of the monitoring of the Xakriaba territory, Brazil, 2020. In addition to making and wearing protective masks.

Credit: Edgar Kanaykô / If Not Us Then Who

The webinar Rolling back social and environmental safeguards in the name of COVID-19, organized by **Forest Peoples Programme**, the **Tenure Facility**, **Middlesex University**, the **Lowenstein International Human Rights Clinic** and the **Land Portal Foundation**, took place on Thursday, February 18, 2021.

Global leaders increasingly recognize that land rights for indigenous and local communities are a prerequisite for achieving national and international goals for forest governance, food security, climate mitigation, economic development and human rights.

In 2020, however, the COVID-19 pandemic shifted the political context in many countries, and some governments used the pandemic as a justification for dismantling the protections gained by Indigenous and Forest Peoples. This has been particularly common in heavily forested countries where there are large indigenous communities.

In partnership with various civil society organizations, Forest Peoples Programme (FPP), the Allard K. Lowenstein International Human Rights Clinic of Yale Law School, Middlesex University London, and local researchers have developed five country-specific reports on Brazil, Colombia, the Democratic Republic of the Congo, Indonesia, and Perú. These reports address the following question: Since the outbreak of COVID-19, to what extent are the five most tropically forested countries rolling back social and environmental safeguards and if so, what are, or may be, the negative consequences in terms of land grabs, rights abuse and deforestation in indigenous territories.

This webinar launched the report and presented its findings to a global audience. The 90 minute session included the report presentation, a panel discussion including representatives from four countries and a Q&A with the audience. The webinar was conducted in English and Spanish.

Moderator:

- **Jonathan Watts, Global Environment Editor, The Guardian**

Panelists:

- **Dr. Cathal Doyle, Dr. Cathal Doyle, LLM Programme Leader and Senior Lecturer at School of Law, Middlesex University**
- **Rukka Sombolinggi, Secretary General, Indigenous Peoples' Alliance of the Archipelago (AMAN), Indonesia**
- **Biviany Rojas Garzon, Lawyer and Coordinator of the Xingu Program at the Instituto Socioambiental (ISA), Brazil**
- **Camilo Niño, Speaker of the National Commission of Indigenous Territories Observatory, Colombia**

A complete recording of the webinar is available on YouTube: <https://youtu.be/Q3W6qHBkwCg>

Key Findings of the Study ‘The Rollback of Safeguards for Indigenous Peoples’ Rights’

Social and environmental laws, regulations and safeguards have been weakened purportedly in the name of economic continuity and recovery, with no consideration given to the profound implications for indigenous peoples and their territories.

The consequences have been serious in all five countries. This rollback of safeguards is already affecting indigenous peoples and the integrity of their territories and will continue to cause even greater harm if not reversed.

The report has four major findings:

- 1. Governments have prioritized the expansion of energy, mining, logging and agribusiness activities in or near indigenous territories in the name of economic recovery, while weakening safeguards and violating indigenous peoples’ rights.**
- 2. Governments have aided and abetted, or turned a blind eye to, land grabbing for illegal deforestation, mining and agricultural activities in indigenous territories. As a result, deforestation continued to surge in 2020, with no sign of abating.**
- 3. Changes to policies and regulations governing land use to enable commodity production and extractive industries have been rushed through during the pandemic. They further weaken social and environmental safeguards, including consultation and free prior and informed consent, and facilitate systematic violations of indigenous peoples’ rights.**
- 4. Indigenous peoples who attempt to assert their rights face alarming and increasing levels of violence, arrests and criminal prosecution.**

“A pandemic can never be an excuse to trample upon human rights and destroy our planet. Rolling back environmental and social protections in the name of promoting economic recovery is adding insult to injury for indigenous peoples.” - Joan Carling, Director of Indigenous Peoples Rights International

Webinar Summary

1) HAVE YOU SEEN AN INCREASE IN LAND GRABBING IN BRAZIL SINCE THE BEGINNING OF COVID-19? (BIVIANY ROJAS GARZON)

- Brazil is in a process of legalizing the acquisition of public lands, promoted with greater intensity since the election of the Bolsonaro administration. Part of the land grabbing process begins with the deforestation of areas and the apparent productive occupation of these areas.
- The increase in deforestation is related to administrative stimuli that create the expectation of legalization of public lands. Two administrative acts have stimulated the process of deforestation with the expectation of land grabbing: the Provisional Measure, or executive decree 910/2019, which is currently bill 2633/20.
- The executive decree and the bill establish rules to increase the extension of the plausible area for legalization and amnesty for environmental crimes related to land titling, without on-site verifications of the intended lands and only self-declaratory demarcations.

2) COULD YOU DESCRIBE THE EXPANSION OF THE ILLEGAL MINING INDUSTRY DURING THE PANDEMIC? (BIVIANY ROJAS GARZON)

- The expansion of illegal mining within indigenous territories has increased exponentially over the last two years in the Brazilian Amazon. In just four years, between July 2015 and July 2019, 5,713 hectares were destroyed by mining activity that is getting closer and closer to the villages, putting the health of the indigenous people at risk and causing conflicts associated with the inadequate distribution of the benefits generated, the promotion of prostitution, as well as the violence caused by the easy access to alcoholic beverages and other drugs. This number is greater than double all the deforestation that occurred in the Kayapó IT since the 1980s until June 2015. In 2020, in the first five months of the year alone, 684 hectares have already been deforested.

3) THE REPORT INDICATES THAT LEGISLATION BY THE GOVERNMENT OF INDONESIA HAS WEAKENED ENVIRONMENTAL PROTECTIONS AND IN PARTICULAR HAVE INTRODUCED THE CONCEPT OF INDIGENOUS LANDS AS ABANDONED LAND. WHAT HAS BEEN YOUR RESPONSE? (RUKKA SOMBOLINGGI)

- The “concept” of indigenous lands in Indonesia being vacant is not new. In nearly all planning processes since the beginning of Indonesia as a country, the reality that 40-50 million Indigenous Peoples occupying approximately 52 million hectares lands throughout the archipelago has been ignored by the economic powers that be including government planners.
- Internationally, the term has been “invisible peoples.” This is due to the fact that We - Indigenous Peoples have not been considered a development asset but rather a development liability by the state and therefore ignored or even intentionally made invisible on Maps designed to facilitate land-grabbing by corporations.

- This is a global problem that is not unique to Indonesia. What the report points to is a recently passed, ambitious consolidating piece of legislation in Indonesia called the Omnibus Law on Job Creations. This law is designed to facilitate local and international investments into Indonesia and reduces the few safeguards that existed to protect the rights of Indigenous Peoples and our environment.
- Equally important, the way in which We – Indigenous Peoples in Indonesia interact with our territories and resources is also invisible to the government’s planning and resource management actions. Indigenous Peoples in Indonesia are self-sufficient and we provide what globally is called “environmental services.”
- These services are biodiversity protection, watershed protection and keeping massive amounts of carbon stored safely in forests. AMAN’s Indigenous Maps to date cover 10.52 million hectares, of which 63% are forest and storing about 5.96 billion tons of carbon (Above ground carbon: 1,327,648,366 tons; Below ground carbon: 298,393,550 tons and Soil carbon: 4,340,542,523 tons).
- Sadly, all of these global priorities and the programs designed to support them have yet to, in any significant way, benefit the Indigenous Peoples who are actually providing these services. This is because we continue to be INVISIBLE.

4) THE REPORT INDICATES THAT THE GOVERNMENT OF COLOMBIA IS CHANGING LAND USE POLICIES TO DEPRIVE INDIGENOUS PEOPLES OF CUSTOMARY LAND RIGHTS. CAN YOU ELABORATE ON HOW THIS IS HAPPENING IN PRACTICE? (CAMILO NIÑO)

- Legislative changes in the use of uncultivated territories have favored their economic exploitation by multinationals, resulting in the dispossession of indigenous peoples’ ancestral territories.
- New obstacles to stop progress of the processes of formalization of indigenous territories have been established. These include administrative obstacles using the excuse of the pandemic not to advance with the requests as well as political obstacles in which the entities argue the lack of progress in formalization as a consequence of the presence of armed groups. This favors the illegal occupation and ownership of lands by regional political and economic sectors.
- Currently, the national land agency of Colombia is processing 959 requests for formalization of indigenous territories. In 2020, only 23 were processed; at this pace, the formalization of the territories would take about 47 years.

5) THE REPORT ALSO INDICATED THAT THE GOVERNMENT HAS WEAKENED CONSULTATION PROCESSES. CAN YOU DESCRIBE WHY THESE ARE CRUCIAL FOR DEFENDING THE LAND RIGHT OF INDIGENOUS PEOPLES IN COLOMBIA? (CAMILO NIÑO)

- The economic crisis caused by the global pandemic has led to a drop in the price of oil and has positioned the value of gold, which has encouraged the Colombian government to move forward with these projects for economic reactivation. Thus, prior consultation is of great relevance.

- The fundamental right to prior consultation has been blurred from a process for the granting of a title or license. It is necessary to recognize the right of indigenous peoples in Colombia to a veto in these processes.
- In the framework of the pandemic, the government has tried to minimize the consultation by not providing the guarantees for its compliance by seeking to implement virtual consultations, which imply the maintenance of power asymmetries in the agreement and violates their right to participation.

5) DEFORESTATION IN BRAZIL HAS INCREASED DURING THE PANDEMIC. CAN YOU DESCRIBE HOW THIS HAS HAPPENED? (BIVIANY ROJAS GARZON)

The increase in deforestation in the Brazilian Amazon is related to two processes:

- The decrease in enforcement operations resulting from the change of command of specialized agencies such as IBAMA and ICMBIO, for operations of the national army, without experience in combating deforestation, with much more costly operations and without destruction of machines or prisons of violators.
- Secondly, there is an expectation that activities related to deforestation will be legalized, including timber theft through the relaxation of controls for the export of native wood, the expectation of legalization of public lands and the expectation of legalization of illegal mining on indigenous lands.

6) HOW HAS THE COMPANY SEIZURE OF LAND IN INDONESIA PLAYED OUT DURING THE PANDEMIC? (RUKKA SOMBOLINGGI)

- AMAN has received numerous reports throughout Indonesia that invasions of indigenous lands continue to take place across Indonesia. In 2020 alone, AMAN recorded 40 cases of criminalization and violence against Indigenous Peoples.
- One case of criminalisation of indigenous leaders happened in Central Kalimantan in September 2020. Authorities arrested Mr. Effendi Buhing, a Dayak Leader in Laman Kinipan in Lamandau district, over a land dispute that has been going on for years between the palm oil company PT Sawit Mandiri Lestari (SML). The company claimed to have obtained permits to manage around 19,000 hectares of the land. Mr. Buhing was later released after a nationwide outrage.
- On 29 September 2020, a state own company using security forces and military personnel expelled Indigenous Peoples in Durian Selemak Community. Many farms, houses and vehicles were destroyed after a failed attempt by the company to bribe the community leaders.
- Early this year, In North Kalimantan near Indonesian-Malaysia border, 17 of our Dayak Agabag Indigenous Leaders were reported by Malaysian oil palm company to the police. They have been bailed by seven Members of Local Parliament. Just recently seven indigenous leaders were invited to meet the local parliament, and on their way there they got arrested by Malaysian authorities. They were returned yesterday after days of diplomatic communication between Indonesian and Malaysian authorities.

7) THERE IS INDICATION THAT PALM OIL PRODUCTION IS UNDER EXPANSION IN COLOMBIA. HOW IS THIS PLAYING OUT ON THE GROUND? (CAMILO NIÑO)

- The promotion of agribusiness is a priority of the Colombian government, which is identified with the encouragement of palm monoculture, cocoa, etc. Colombia is the fourth largest palm oil producer in the world and the first in the Americas. The Colombian government is interested in granting permission for projects of this kind, while at the same time territorial legal insecurity is instrumentalized to transfer indigenous territories to companies.
- The increase in palm monoculture not only depletes the territory through incorrect land use, but is also the cause of territorial conflicts and increased deforestation. This type of project is also accompanied by social aid that generates tensions and community divisions.
- There is a close relationship between the use of violence and palm plantations by companies in Jiguamiandó in Curvaradó. These facts led the Inter-American Commission on Human Rights to urge the Colombian State to adopt protection measures for the black communities of Chocó. At the domestic level, the national justice system has condemned businessmen for their alliances with paramilitary groups to displace Afro-descendant communities living in the villages of Jiguamiandó and Curvaradó, in the department of Chocó, in order to develop extensive palm plantations.
- In Guaviare, in the territory of the Nukak people, who are at risk of extinction, there are about 250 hectares planted with oil palm and another 3,800 hectares being prepared for other agribusiness crops. In addition to the hectares of oil palm cultivated in Nukak territory, there is also the presence of illegal armed groups, anti-personnel mines, illicit coca leaf crops, and cattle ranching.

8) WHAT KIND OF STRATEGIES HAVE INDIGENOUS PEOPLES IN BRAZIL USE TO DEFEND THEIR TERRITORIES FROM ILLEGAL MINING AND LAND GRABBING? (BIVIANY ROJAS GARZON)

- In the context of a government that denies the existence and seriousness of the pandemic, as well as the exponential increase in the deforestation of indigenous territories, the indigenous peoples have developed a strategy focused on partnerships with organized civil society and the judicial defense of their rights.
- Among the main actions carried out by indigenous organizations is the production of information on the pandemic, with independent data on records of sick and dead people, as well as the development of preventive campaigns that will help explain the characteristics of the disease for indigenous peoples and the main practices of prevention in village contexts and specific cultural practices such as funeral rites and collective coexistence of the sick. It is also important to highlight that the conditions of social isolation are intensifying efforts to establish connectivity for indigenous peoples, mainly in the Amazon region where internet connections are rare and scarce.

- Alliances between indigenous organizations and civil society for the defense of territories, such as the Xingu+ Network, have proven to be highly relevant in a context of public disinformation and destructuring of public entities. The Xingu+ Network, composed of indigenous, indigenist and riparian community organizations, implements a strategy of producing information with high precision about what is happening in the territories that forces the public powers to act.
- The main strategy for the defense of indigenous territories is the legal fight in the courts to force the government to comply with the Federal Constitution. This has partially worked. The main success of the most recent judicial decision is the recognition by the Constitutional Court of the national indigenous organization APIB (Articulation of Indigenous Peoples of Brazil) as a legitimate subject of constitutional litigation,

9) HOW ARE YOU USING INTERNATIONAL LAW TO ENSURE THE PROTECTION OF INDIGENOUS RIGHTS IN INDONESIA? (RUKKA SOMBOLINGGI)

- Indigenous Peoples in Indonesia have not really benefited much from the direct use of international law that protects our rights, but the United Nations Declaration on the Rights of Indigenous Peoples has played an important role in our national level advocacy, as has the ILO convention 169. These are important tools that are increasingly being taken seriously by legal analysts and advocates in Indonesia.
- Our efforts to engage directly with the United Nations through the UN Committee on the Elimination of Racial Discrimination has not been productive. We have on three occasions, together with support organizations locally and internationally, submitted requests for further consideration of the situation of indigenous peoples in Indonesia. Last year we also filed a complaint to ILO concerning land grabbing that destroys our “traditional occupation” of Indigenous Peoples in North Sumatera.
- While these submissions did achieve media attention in Indonesia, there were no concrete results, as the Indonesian government consistently ignored their obligations to the UN Standard.

10) THERE HAS BEEN A VERY UNFORTUNATE INCREASE IN VIOLENCE AGAINST INDIGENOUS LEADERS IN COLOMBIA DURING THIS PANDEMIC. WHAT IS THE REAL LIFE IMPACT ON INDIGENOUS PEOPLES AND HOW ARE YOU RESPONDING? (CAMILO NIÑO)

- Since the adoption of the ethnic chapter in the peace agreement, 312 indigenous people have been murdered. 2020 was the most violent year for indigenous peoples, with 114 indigenous people being murdered, representing a third of the cases (36%).
- Cases of forced displacement and confinement of indigenous communities have increased as a result of the presence and harassment between armed groups due to disputes over territorial control, which has meant for indigenous communities conditions of starvation, massive exposure to COVID-19 contagion and loss of territory. Institutional responses to the humanitarian crisis tend to be delayed without a cultural approach and the State entities do not provide a structural or comprehensive response to protect the rights of indigenous communities.

Notable Quotes from the Panelists



“THE LAST MALE MEMBER OF THE JUMA PEOPLE, ARUKÁ, IN THE BRAZILIAN AMAZON DIED AFTER FALLING ILL WITH COVID-19. I ASK FOR A MOMENT OF SILENCE TO REMEMBER HIM AND ALL THE OTHER INDIGENOUS VICTIMS OF COVID-19.”

- JONATHAN WATTS, GLOBAL ENVIRONMENT EDITOR, THE GUARDIAN



“WHAT WE ARE SEEING IS BUSINESS AS USUAL, BUT WITH ITS DESTRUCTIVE IMPACTS SIGNIFICANTLY INTENSIFIED AT A TIME WHEN INDIGENOUS PEOPLES AND FOREST-DEPENDENT COMMUNITIES ARE AT THEIR MOST VULNERABLE AND UNABLE TO DEFEND THEIR RIGHTS. ”

- DR. CATHAL DOYLE, LL.M PROGRAMME LEADER AND SENIOR LECTURER AT SCHOOL OF LAW, MIDDLESEX UNIVERSITY



“INDIGENOUS PEOPLES WHO STILL LIVE IN HARMONY WITH NATURE ARE NOW PROVEN TO HAVE ADEQUATE FOOD SUPPLIES. IN THE SPIRIT OF RECIPROCITY, INDIGENOUS PEOPLES WITH FOOD SURPLUSES ARE HELPING FELLOW INDONESIANS WHO LACK FOOD DURING THIS DIFFICULT TIME.”

- RUKKA SOMBOLINGGI, SECRETARY GENERAL, INDIGENOUS PEOPLES' ALLIANCE OF THE ARCHIPELAGO (AMAN), INDONESIA



“INDIGENOUS PEOPLES HAVE BEEN LOSING THEIR WISE MEN, LEADERS AND COMMUNITY MEMBERS AS A RESULT OF THE VIRUS AND VIOLENCE, WHOSE CONSEQUENCES ARE IRREPARABLE AND WHOSE EFFECTS WILL BE STRUCTURAL, AFFECTING THEIR SURVIVAL.”

- CAMILO NIÑO, SPEAKER OF THE NATIONAL COMMISSION OF INDIGENOUS TERRITORIES OBSERVATORY, COLOMBIA



“THE EXPANSION OF ILLEGAL MINING WITHIN INDIGENOUS TERRITORIES HAS INCREASED EXPONENTIALLY IN THE LAST 2 YEARS IN THE BRAZILIAN AMAZON.”

- BIVIANY ROJAS GARZON, LAWYER AND COORDINATOR OF THE XINGU PROGRAM AT THE INSTITUTO SOCIOAMBIENTAL (ISA), BRAZIL

