

# CONCEPT NOTE

## AN ELUSIVE JUSTICE?

### Indigenous peoples access to justice and remedy in the context of business operations

November 12 | 06:00 PST, 09:00 EST, 15:00 CET, 16:00 EET, 22:00 PHST  
Languages: English, Spanish, and French

Indigenous Peoples persist in protecting and defending their lands, territories and resources in order to maintain their distinct identities, ways of life, governance systems, dignity and collective wellbeing. However, their collective rights to their lands, territories and resources, to self-determination and cultural integrity are systematically violated with impunity. This is particularly the case in the context of huge investment activities affecting their lands and territories. These activities include extractive industries, such as mining, logging and oil exploration and exploitation energy projects, huge infrastructures, agri-business, tourism, and the establishment of special economic zones, among others. These destructive projects are fostered by States in the name of national development and economic growth, and usually developed by big corporations and international investors.

In the context of these operations, Indigenous Peoples are suffering forced displacement, and other gross violations of their human rights, including killings, torture, threats, and criminalization. These violations further undermine the self-determination, unity and cooperation of indigenous peoples in upholding their collective survival and wellbeing.

In many cases, indigenous peoples have tried to access to justice and remedy for these violations, through judicial and no judicial procedures. But, when confronted with the domestic legal system, they face many challenges and difficulties in achieving justice and defending their rights and dignity. Faced with the enormous power of corporate interests and with the complicity of States, they are often at the losing end.

Removing impediments and ensuring the full exercise of their right to access to justice is crucial in order to protect Indigenous Peoples from the abuses of businesses and to affirm the responsibility of States to prevent, investigate, punish and redress such abuse. The UN Guiding Principles on Business and Human Rights identifies access to justice as the third pillar in achieving full respect of human rights in the context of business. As the UN Forum on Business and Human Rights will take place on November 16-18, 2020, with the theme "Preventing business-related human rights abuses: The key to a sustainable future for people and planet", this webinar aims to highlight the continuing challenges Indigenous Peoples face in accessing justice in relation to business operations.

#### OBJECTIVES

The webinar shall serve as a venue for substantive presentations and discussions on Indigenous Peoples' access to justice and remedy in the context of business activities:

- The challenges for Indigenous Peoples in the realization of their right to access to justice and remedy;
- Experiences of Indigenous Peoples in exercising their right to access to justice, with highlight on good practices; and
- Recommendations to States and business on mechanisms to ensure access to justice and remedy for Indigenous Peoples

#### SPEAKERS



##### **FRANCISCO CALI TZAY** **UN SPECIAL RAPPORTEUR ON THE RIGHTS OF INDIGENOUS PEOPLES**

Mr. Calí Tzay is Maya Kaqchikel from Guatemala, with experience in defending the rights of Indigenous Peoples, both in Guatemala and at the level of the United Nations and the OAS. He was founder and member of a different indigenous organizations in Guatemala and as well Ambassador of Guatemala to the Federal Republic of Germany and was President of the Committee for the Elimination of all forms of Racial Discrimination, a treaty body from which he was elected for four consecutive periods of 4 years each. He was Director of Human Rights at the Ministry of Foreign Affairs of Guatemala; he was member of the Presidential Commission against Discrimination and Racism against Indigenous Peoples in Guatemala (CODISRA) and President of the National Reparation Program for Victims of the Internal Armed Conflict.

He will provide a global overview on Indigenous Peoples and access to justice in the time of COVID19, and share recommendations for the full realization of the right.



##### **LEONARDO ALVARADO** **INTER-AMERICAN COMMISSION OF HUMAN RIGHTS**

He will discuss how the issue of the impact of business operations affecting indigenous peoples has been approached within the jurisprudence of the Inter-American Human Rights System and IACHR reports, monitoring and other areas of its work.



##### **SANDRA CREAMER** **CHAIRPERSON OF THE GLOBAL BOARD OF THE INDIGENOUS PEOPLES RIGHTS INTERNATIONAL (IPRI)**

Sandra Creamer is a Waanyi/Kalkadoon Indigenous woman from Australia. Sandra is the CEO of the National Aboriginal and Torres Strait Islander Women's Alliance, Lawyer and Adjunct Professor in Public Health at the University of Queensland. She was awarded a Member of the Order Of Australia (AM) award on the Queens Birthday 2019 by the Attorney General of Australia for her work with Indigenous women and peoples. She is an advisor for the Seventh Generation Board Fund, on the Board of the International Indigenous Women's Forum and on the Advisory team for the Queensland Human Rights Commissioner. She advocates on human rights for Indigenous women and peoples, some of her work has been: lecturing, writing submissions, writing articles, writing programs, Short film clips, as well as workshop in providing information on how to film and advocate your rights and violations with WITNESS Human Rights. She has been involved with the international arena for many years and in particular working with Indigenous women globally. Sandra has attended the United Nations Permanent Forum for Indigenous peoples and was the co-chair for the Global Indigenous Women's Caucus.

She will share the national situation of Indigenous Peoples in Australia in relation to access to justice, situation of Indigenous Peoples under incarceration, challenges to and actions of Indigenous Communities, and any case that can be considered as good practice.



**AURELIO CHINO**  
**PRESIDENT, FEDERACIÓN INDÍGENA QUECHUA DEL PASTAZA (FEDIQUEP)**

Aurelio is the president of the Federacion Indígena Quechua del Pastaza (FEDIQUEP), an indigenous organization that represents 17 communities of the Quechua and Achuar people of the Pastaza River, in the northern jungle of Peru, since 2006. FEDIQUEP brings together Quechua and Achuar communities affected for 50 years by the activity of lots 1AB / 192. These communities have sustained historical struggles against oil companies such as Occidental Petroleum Company (OXY) and Pluspetrol. The Quechua people were especially hit in 2008 by a process of criminalization of 27 community members by the State and Pluspetrol. The group was under the leadership of Aurelio, and after two years of judicial process, they were all released. Since 2011, this organization has been part of the United Amazonian Indigenous Peoples in Defense of their Territory (PUINAMUDT) platform, which brings together four indigenous organizations from the Peruvian Amazon in a common agenda to face the consequences generated by oil activity. In 2017, FEDIQUEP, as part of PUINAMUDT, received the National Human Rights Award in Peru in recognition of the years of struggle in defense of the rights of indigenous nationalities affected by oil exploitation.

He will share on the experiences of indigenous platform PUINAMUDT in their struggle to achieve justice and reparation for the human rights violations and environmental impacts of the activities of Pluspetrol in their lands and territories.



**VICTORIA TAULI-CORPUZ (MODERATOR)**  
**FORMER UN SPECIAL RAPPORTEUR ON THE RIGHTS OF INDIGENOUS PEOPLES, AND GLOBAL CO-DIRECTOR OF THE INDIGENOUS PEOPLES RIGHTS INTERNATIONAL (IPRI)**

Vicky is an indigenous activist from the Kankana-ey Igorot people of the Cordillera Region in the Philippines. She is a social development consultant, civic leader, human rights expert, public servant, and an advocate of women's rights. As an indigenous leader, she actively engaged in the drafting and adoption of the UN Declaration on the Rights of Indigenous Peoples in 2007. She served as the chairperson of the United Nations Permanent Forum on Indigenous Issues from 2005 to 2010, and as the chairperson-rapporteur of the Voluntary Fund for Indigenous Populations. She was appointed as the UN Special Rapporteur on the Rights of Indigenous Peoples from 2014 to 2020. Vicky is the founder and current executive director of Tebtebba Foundation (Indigenous Peoples' International Center for Policy Research and Education). She has founded and managed various NGOs that are involved in social awareness raising, climate change, and advancement of indigenous peoples' and women's rights.

**THE WEBINAR**

The webinar shall follow the panel discussion format, allowing speakers eight (8) minutes each to share their presentation and then giving opportunity for an open forum with participants. It will follow the following process:

Activity	Person in Charge
Welcome	One from the organizers
Panelist introductions	Moderator
Panelist presentations/initial comments	Panelists/Speakers
Moderator-curated questions directed to the panelists	Moderator
Questions from the audience directed to a panelist(s)	Moderator
Summary	Moderator
Thank you/Administrative Remarks	Moderator

**CO-ORGANIZERS:**

