

Suggested citation: Harrop, E., Hyde, S. and Ronan, O. (2022) How integrated conceptions of earth rights and human rights in indigenous traditions can teach the Global North about true sustainability. In Pathak, Y.V. and Adityanjee, A. (editors) *Human Rights, Spirituality and Religious Freedom: Perspectives from the Dharmic and Indigenous Cultures*. Kovidnam Vani, Delaware, USA.

How integrated conceptions of earth rights and human rights in indigenous traditions can teach the Global North about true sustainability

Elizabeth Harrop www.libertyandhumanity.com, Samuel Hyde, Olivia Ronan

16 June 2022

Abstract

The deeply spiritual and practical relationship between Indigenous cultures and the earth is one founded on a holistic worldview where everything and everyone is interconnected. This is a conceptual framework that industrialized society has long pilloried, but is now being forced to confront as it grapples with supply chain issues, increasing levels of homelessness, inward migration and a cost-of-living crisis resulting from complex intersections relating to conflict, climate change and the socioeconomic impacts of COVID-19 response measures.

Conceptions of earth right and human rights can both be found in indigenous societies, but are seamlessly integrated in support of each other. This stands in contrast to conceptions of earth rights and human rights in international and domestic legal systems where these frameworks can clash, for example either through denying Nature Rights, or through a forest guard system which views nature as a distinct entity to be protected from humans, and denies many indigenous rights as a result.

As we are forced headlong into a world of complex global emergencies as a result of the abuse and negligence of the West, indigenous ways of being have much to teach industrialized society, and indeed may provide the only option for sustainable ecosystems that are still welcoming of humans. There is a sense that many of us need to decolonize ourselves of deeply rooted, but false ways of being with the world, in order to achieve this.



Spiritual leader "Mamo" of the Kogui indigenous people at the Lost City, Sierra Nevada de Santa Marta, Colombia. Photo by [Berend Leupen](#) on [Unsplash](#)

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1. Conventional conceptions of earth rights and human rights

1.1 Human rights frameworks

Core human rights instruments

The Universal Declaration of Human Rights (UDHR) was adopted by the UN General Assembly after World War II in 1948. Together, the UDHR and the International Covenant on Economic Social and Cultural Rights (ICESCR), and the International Covenant on Civil and Political Rights (ICCPR) are known as the International Bill of Human Rights¹.

In addition to the Bill of Rights are core human rights treaties such as the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) 1969; Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) 1981; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) 1987; Convention on the Rights of the Child (CRC) 1990; and Convention on the Rights of Persons with Disabilities 2006².

The principles contained in these treaties can also be found in, and are complemented by, regional treaties such as the European Convention on Human Rights (ECHR)³ and the African Charter on the Rights and Welfare of the Child (ACRWC)⁴; as well as thematic treaties such as the International Labour Organization (ILO) Conventions on child labour⁵.

UN human rights instruments are legally binding treaties. This means that states which ratify the treaty are legally bound by it, while states that do not are neither bound by the treaty obligations or entitled to invoke those obligations against other States Parties⁶.

Criticisms of the UN system

While there are now 193 United Nations member states (and an original 51 members in 1945)⁷, the majority are the result of colonial empires or colonial demarcations which are relatively young (Ethiopia for example, is the only country in sub-Saharan Africa that was never colonized). This compares to indigenous nations which have existed for thousands of years, but which are subsumed by the dominant worldview and international legislative frameworks determined by United Nations (UN) member states.⁸

The UDHR - as a declaration rather than convention or covenant which States choose to ratify - is not legally binding on States. However, as the founding instrument of the body of international human rights law, the UDHR has huge influence, but is not without controversy. It has been criticized for being based on Western political philosophy which provides only one particular interpretation of human rights⁹.

¹ OHCHR, International Bill of Human Rights <https://www.ohchr.org/en/what-are-human-rights/international-bill-human-rights>

² United Nations Office of the United Nations High Commissioner for Human Rights (OHCHR), Human Rights Instruments <https://www.ohchr.org/en/instruments-listings>

³ European Convention on Human Rights 1950 www.echr.coe.int/documents/convention_eng.pdf

⁴ African Charter on the Rights and Welfare of the Child 1990 <https://au.int/en/treaties/african-charter-rights-and-welfare-child>

⁵ Convention No. 138 on Minimum Age and Convention No. 182 on the Worst Forms of Child Labour. ILO, ILO Conventions on child labour www.ilo.org/ipec/facts/LOconventionsonchildlabour/lang-en/index.htm

⁶ Elizabeth Harrop, Human rights mechanisms and international law, 2001 <https://libertyandhumanity.com/themes/international-human-rights-law/human-rights-mechanisms-and-international-law/>

⁷ United Nations, Growth in United Nations membership <https://www.un.org/en/about-us/growth-in-un-membership>

⁸ Schumacher Centre for New Economics, Voices from White Earth: Gaa-Waabaabiganikaag
By Winona Laduke <https://centerforneweconomics.org/publications/voices-from-white-earth-gaa-waabaabiganikaag/> and E-International Relations, The UN as Both Foe and Friend to Indigenous Peoples and Self-Determination, 12 March 2020 <https://www.e-ir.info/2020/03/12/the-un-as-both-foe-and-friend-to-indigenous-peoples-and-self-determination/>

⁹ Elizabeth Harrop, The Universal Declaration's bias towards Western democracies, January 2003 <https://libertyandhumanity.com/themes/international-human-rights-law/the-universal-declarations-bias-towards-western-democracies/>

Likewise, the Paris Climate Agreement - adopted in 2015 to limit global warming to well below 2 degrees Celsius (°C), preferably to 1.5°C, compared to pre-industrial levels¹⁰ - is viewed by indigenous activists as a trade agreement that does nothing but privatize, commodify and sell carbon offsets for ocean, forest and agricultural lands, allowing those who are the most responsible for greenhouse emissions to not only buy their way out of compliance, but also make a profit from it¹¹. The Agreement omits any mention of the rights of Indigenous peoples, and does not address the demand for payments for reparations and restoration of loss of and damage to indigenous lands, territories and livelihoods¹².

The commodification of the earth is found in other agreements such as the UN Convention on the Law of the Sea which states (article 82) that “The coastal State shall make payments or contributions in kind in respect of the exploitation of the non-living resources of the continental shelf”¹³. Exploitation is acceptable if money changes hands.

The international human rights system does however, explicitly acknowledge the relationship between environmental degradation and human rights. For example, a draft UN General Assembly resolution on human rights and climate change 2021¹⁴ recognizes that climate change, biodiversity loss and other types of environmental degradation, impact the right to adequate food, and exacerbate disease emergence and increase the impact of pandemics. And in October 2021, the UN Human Rights Council in Geneva passed a resolution recognizing access to a healthy and sustainable environment as a universal right, heralded as a victory for environmental activists. Although Human Rights Council resolutions are not legally binding, they act as a catalyst for governments to amend their constitutions, thus paving the way for formal recognition of the respective right¹⁵.

The right to a sustainable environment finds echoes in Māori culture, with the concept of “Ko ahau te taiao, ko te taiao, ko ahau” – the ecosystem defines my quality of life (also translated as I am the environment and the environment is me).¹⁶

There are severe short-comings of a human rights-based approach to environmental protection, as it may ignore important aspects of the environment that are not reducible to human needs and interests. It is therefore necessary to consider the limits of looking to human rights for environmental standards¹⁷.

1.2 The rights of indigenous peoples

“Indigenous peoples have lived sustainably in this land for thousands of years. I am absolutely sure that our societies could live without yours, but I’m not so sure that your society can continue to live without ours”, Winona Laduke, Anishinaabekwe (Ojibwe) member of the White Earth Nation¹⁸

Who are indigenous peoples?

Indigenous peoples have retained social, cultural, linguistic, economic and political characteristics that are distinct from those of the dominant societies in which they live, sometimes for thousands of

¹⁰ United Nations Framework Convention on Climate Change (UNFCCC) Paris Agreement <https://unfccc.int/process-and-meetings/the-paris-agreement/the-paris-agreement>

¹¹ Alliance of Guardians and Children of Mother Earth, The Declaration of the Alliance of Guardians and Children of Mother Earth, 2017 http://allianceofguardians.org/doc/call2017/AMNG_Global-Call-2017-&-Annex_EN.pdf

¹² ibid

¹³ United Nations Convention on the Law of the Sea 1982 https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf

¹⁴ Human Rights Council Forty-seventh session, Human rights and climate change, A/HRC/47/L.19 8 July 2021 <https://undocs.org/en/A/HRC/47/L.19>

¹⁵ United Nations, The right to a healthy environment, 15 October 2021 <https://news.un.org/en/story/2021/10/1103082>

¹⁶ Environment Guide, Māori and Biodiversity <https://www.environmentguide.org.nz/issues/biodiversity/maori-and-biodiversity> and Ministry for the Environment, New Zealand, Te timatanga o te ao Māori The creation story <https://environment.govt.nz/te-ao-maori/te-timatanga-o-te-ao-maori/>

¹⁷ UN General Assembly, Knox, John H., Preliminary Report of the Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, 2012, A/HRC/22/43 www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-43_en.pdf

¹⁸ Voices from White Earth: Gaa-Waabaabiganikaag by Winona Laduke <https://centerforneweconomics.org/publications/voices-from-white-earth-gaa-waabaabiganikaag/>

years¹⁹. Indigenous peoples make up 6.2 percent of the global population and comprise over 476 million individuals. Their cultural heritage and landscapes are diverse, representing 5,000 different cultures (nations) and speaking more than 4,000 languages in 90 countries.²⁰

Nearly 70 million indigenous people depend on forests for their livelihoods, and many more are farmers, hunter gatherers or pastoralists²¹. Due to their close relationship with the land, indigenous communities thrive by living in harmony with their surroundings. This involves a deeply held respect for the balance of life, and not taking more than they need in order to allow an ecosystem to flourish; that ecosystem including their own flourishing.

United Nations Declaration on the Rights of Indigenous Peoples

**“The United Nations Declaration on the Rights of Indigenous Peoples is the most comprehensive statement of the rights of Indigenous peoples ever developed, giving prominence to collective rights to a degree unprecedented in international human rights law”,
Cree Nation Government 2015²²**

The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) (note this is a declaration and not a legally binding covenant) was adopted by the UN General Assembly in 2007 after over 20 years of complex and contentious negotiations²³. Tellingly four (colonial) states voted against the declaration: Australia, Canada, New Zealand and the United States of America (USA). Since then, these four countries have now endorsed the Declaration²⁴.

The declaration guides States in developing law and policy that have an impact on indigenous peoples, in the areas of the right to self-determination; the rights to lands, territories and resources; economic, social and cultural rights; equality and non-discrimination; and collective rights. Some of these areas contain rights and freedoms (such as self-determination and non-discrimination) which are set out in the binding international human rights treaties outlined above²⁵.

UNDRIP recognizes collective as well as individual rights in a move heralded as ground-breaking, as prior to that, the international human rights system had been slow to endorse the concept of group rights, with the exception of the right to self-determination.²⁶ The Declaration states that “indigenous peoples possess collective rights which are indispensable for their existence, well-being and integral development as peoples”.²⁷

Obstacles to enforcement of indigenous rights include:

- The fact that countries such as Canada and the USA have **yet to develop national action plans to codify the rights in UNDRIP** into their domestic legal systems, thus undermining the spirit of their support for the declaration;
- Even where there are **favourable court rulings, these may not be implemented**, such as in Norway, where a supreme court decision in favour of the Sami people has yet to be enforced, and in Kenya, where the government has failed to execute recommendations from the African Commission on Human and Peoples Rights to return ancestral lands to the Endorois people who were evicted to create a wildlife reserve²⁸;

¹⁹ United Nations, Department of Economic and Social Affairs, Indigenous Peoples <https://www.un.org/development/desa/indigenouspeoples/about-us.html>

²⁰ The Declaration of the Alliance of Guardians and Children of Mother Earth, 2017 and United Nations Development Programme (UNDP), 10 things to know about indigenous peoples <https://stories.undp.org/10-things-we-all-should-know-about-indigenous-people>

²¹ UNDP, 10 things to know about indigenous peoples

²² E-International Relations, The UN as Both Foe and Friend to Indigenous Peoples and Self-Determination, 12 March 2020

²³ UN Permanent Forum of Indigenous Issues, Declaration on the Rights of Indigenous Peoples, Frequently Asked Questions https://www.un.org/esa/socdev/unpfii/documents/dec_faq.pdf

²⁴ OHCHR, Indigenous Peoples and the United Nations Human Rights System, Fact Sheet No. 9 Rev.2, 2013 <https://www.ohchr.org/sites/default/files/fs9Rev.2.pdf>

²⁵ OHCHR, Indigenous Peoples and the United Nations Human Rights System, Fact Sheet No. 9 Rev.2, 2013

²⁶ ibid

²⁷ UNDRIP https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf

²⁸ Grist, The plan to ensure Indigenous peoples have a voice at the UN, 9 May 2022 <https://grist.org/article/the-plan-to-ensure-indigenous-peoples-have-a-voice-at-the-un/>

- The need to give **enhanced participation status to the UN Permanent Forum on Indigenous Issues** (UNPFII) so that it can participate in the UN General Assembly process on an equal footing with UN member states²⁹.

Violations of the rights of indigenous peoples relating to the environment

Indigenous peoples from around the world share common threats to the protection of their rights. Key among them is access to land, which is a cross-cutting issue that impacts directly on the enjoyment of a number of human rights including access to livelihoods, and social and cultural rights. Growing food insecurity, climate change and rapid urbanization have also refocused attention on how land is being (mis)used, controlled and managed by States and private actors³⁰.

Forced eviction for millions of people result in their living in extreme poverty and destitution, which has knock on effects to other rights including the right to health, education and to be free from violence and discrimination. Some of these evictions are done in the name of (colonial) conservation (see below).

“Co-violations” of rights occur when governments, industries, or both violate both nature’s rights and human rights with the same action, and are expanding worldwide. Thirty percent of the cases examined by the Earth Law Centre, involved harm to indigenous peoples’ rights and 28 percent of human rights violations examined involved at least one murder³¹. These multiple stressors can have cumulative and compounded effects on Indigenous peoples, their culture and resilience.³²

Examples of indigenous rights violations according to UNDRIP articles are as follows:

States shall consult and cooperate in good faith with the indigenous peoples concerned to obtain their free, prior and informed consent (FPIC) (Articles 10, 18, 19, 29 of UNDRIP): State and corporate actors often do not recognize or respect the right to FPIC. Instead, the dissent of indigenous peoples is used to legitimize their stigmatization and criminalization, and violence, killings, and impunity³³. Indigenous lands are at times declared by the United Nations Educational, Scientific and Cultural Organization (UNESCO) to be World Heritage sites without consultation with the indigenous peoples affected.³⁴ In Asia, indigenous lands continue to be declared protected areas without prior consultation with the affected indigenous communities and without measures to ensure their involvement in managing conservation³⁵. In Venezuela, the declaration of the Caura National Park in 2017 was given without FPIC involving the Ye’kwana and Sanëma peoples who have been demanding the recognition of their territories for over 15 years.³⁶

The right to practice and revitalize cultural traditions and customs (Article 11): The close connection to place, to their land, of indigenous peoples is inextricably linked to cultural practices. The northern island of the Ainu in Japan was annexed by the Government in 1868 with their language banned, and their culture forbidden in an attempt to make them extinct through assimilation.³⁷ Today, more than a fifth of the Amazon is severely degraded and the entire ecosystem is facing collapse. The impacts of this destruction fall hardest on the indigenous peoples who have lived in and protected the region for generations, with their culture woven around their sense of place.³⁸

²⁹ ibid

³⁰ OHCHR, OHCHR and land and human rights <https://www.ohchr.org/en/land>

³¹ Earth Law Centre, Co-Violations of Rights Report 2016 <https://www.earthlawcenter.org/co-violations-of-rights/>

³² ICCA Consortium, Territories of Life: 2021 Report <https://report.territoriesoflife.org/wp-content/uploads/2021/09/ICCA-Territories-of-Life-2021-Report-FULL-150dpi-ENG.pdf>

³³ International Work Group for Indigenous Affairs (IWGIA), Land Defence and Defenders <https://iwgja.org/en/land-defence-defenders.html>

³⁴ Human Rights Council Forty-fifth session 14 September–2 October 2020 Agenda item 3, Regional consultation on the rights of indigenous peoples in Asia, Report of the Special Rapporteur on the rights of indigenous peoples A/HRC/45/34/Add.3*, 4 September 2020 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/193/69/PDF/G2019369.pdf?OpenElement>

³⁵ ibid

³⁶ RAISG Amazon Geo-Referenced Socio-Environmental Information Network, Amazonia Under Pressure 2020 <https://www.amazoniasocioambiental.org/en/publication/amazonia-under-pressure-2020/>

³⁷ Cultural Survival, Ainu People Reclaim Their Rights, March 2020 <https://www.culturalsurvival.org/publications/cultural-survival-quarterly/ainu-people-reclaim-their-rights>

³⁸ International Union for Conservation of Nature (IUCN), Building global support for indigenous-led efforts to protect 80% of Amazonia by 2025, 25 November 2021 <https://www.iucn.org/crossroads-blog/202111/building-global-support-indigenous-led-efforts-protect-80-amazonia-2025>

Protection against all forms of violence (Articles 7 and 22): Indigenous peoples are the earth's frontline defenders, as they struggle to preserve their spiritual and practical relationship with their land, their cultural identity, and right to self-determination. Between 2015 and the first half of 2019, 232 leaders of indigenous communities were assassinated in the Amazonia region³⁹. The three most targeted categories of human rights defenders in the Americas were: land, environmental, and indigenous peoples' rights (40%).⁴⁰

Indigenous peoples shall not be forcibly removed from their lands or territories (Article 10): Land grabbing for resource extraction has led to mass forced evictions of indigenous peoples and other gross human rights violations. Article 10 requires FPIC and agreement of just and fair compensation and, where possible, the option of return. However, this is little evidenced. By 1920, 99 percent of original White Earth Reservation lands was in non-indigenous hands. Three generations were forced into poverty, and were internally displaced.⁴¹

The protection of traditional knowledge and intellectual property: In some countries, 80 percent of the population depend on traditional medicine, including for primary healthcare⁴². Intellectual property violations such as unauthorized use by third parties of traditional medicinal plant knowledge are not adequately addressed by UNDRIP or the existing international intellectual property system. Many indigenous communities and governments have called for an international legal instrument providing such protection, one example of which is currently in draft form⁴³. FPIC also concerns violations relating to intellectual property rights, to combat unlawful and offensive appropriation of traditional knowledge, especially its spiritual, sacred and secret dimensions. FPIC should be applied in the context of accessing such knowledge and sharing of the profits generated.⁴⁴

1.3 Conceptions of earth rights

Many of the laws in our world serve property - they are based on ownership. But imagine a law that has a higher moral authority... a law that puts people and planet first. Imagine a law that starts from first do no harm, that stops this dangerous game and takes us to a place of safety", Polly Higgins, 2015⁴⁵

Nature as a rights-bearing partner

Respect for earth rights or the rights of nature⁴⁶ is the only foundation for truly sustainable living⁴⁷, as indigenous communities have understood for thousands of years. At its heart is the acknowledgement of nature as a rights-bearing partner with which humanity has co-evolved⁴⁸, which is very much akin to the indigenous worldview of humanity's symbiosis with nature, and where decisions and values are based on what is good for the whole – where whole means the whole ecosystem, and not a utilitarian human perspective.

In contrast, legal systems around the world treat land and nature as property with no legal standing: The interests of human beings take precedence over the natural world, and the interests of property-owning humans over the landless. Recognizing that humans are not the only beings with rights is key to reducing the damage to the planet that this exploitative and extractive human-centric view perpetrates, and to addressing this blind spot in the legal system.

³⁹ The set of national Amazon regions that make up this regional unit in: Bolivia, Brazil, Colombia, Ecuador, Guyana, Guyane Française, Perú, Suriname, Venezuela

⁴⁰ IUCN, Building global support for indigenous-led efforts to protect 80% of Amazonia by 2025, 25 November 2021

⁴¹ Voices from White Earth: Gaa-Waabaabiganikaag by Winona Laduke

⁴² World Intellectual Property Organization, Intellectual Property and Traditional Medical Knowledge, Background Brief N°6 https://www.wipo.int/export/sites/www/tk/en/documents/pdf/background_briefs-e-n6-web.pdf

⁴³ WIPO, Draft International Legal Instrument Relating to Intellectual Property, Genetic Resources and Traditional Knowledge Associated with Genetic Resources Prepared by Mr. Ian Goss Chair, WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore, 30 April 2019

https://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_40/wipo_grtkf_ic_40_chair_text.pdf

⁴⁴ The Declaration of the Alliance of Guardians and Children of Mother Earth, 2017

⁴⁵ Stop Ecocide International <https://www.stopecocide.earth/>

⁴⁶ Used interchangeably here.

⁴⁷ Whether sustainable development remains is a viable concept is not explored fully here, hence the phrase sustainable living.

⁴⁸ United Nations Harmony with Nature, Rights of Nature Law and Policy <http://www.harmonywithnatureun.org/rightsOfNature/>

Rights of nature acknowledges that nature in all its life forms has the right to exist, persist, maintain and regenerate its vital cycles. The ecosystem itself can be named as the injured party, with its own legal standing rights, in cases alleging rights violations⁴⁹. Earth rights laws stop development and use of property that interferes with the functioning of ecosystems and natural communities, overruling the property owner in that regard⁵⁰.

Arguments against Nature Rights include viewing it as a religious creed, the promotion of which would impinge upon freedoms such as freedom of conscience. However, even if that were the case, indigenous peoples have the right to uphold it as a cultural value, and to promote its status in domestic or international law.⁵¹

Earth rights in international law

“Civilization cannot wage a relentless war on life without losing the right to be called civilized. The idea of Rights of Nature or Rights of Mother Earth can address our dire need to truly become “civilized” in the highest sense of this word—meaning to live civilly with each other and our Earth, respecting both natural laws and the Earth’s ecosystems”, Osprey Orielle Lake, founder/president of the Women’s Earth and Climate Caucus⁵²

A proposed law on ecocide recognizes the intrinsic value of the natural world. The Stop Ecocide campaign was founded in 2017 to support the establishment of ecocide as an international crime, in order to forbid and prevent further devastation to life on Earth. Governments including Belgium, Chile, France, Mexico, Spain and West Papua have advocated for an ecocide law⁵³.

Part of this accountability to nature is a “true cost” economic model. This looks at all the costs associated with protecting the integrity of ecosystems for the entire cycle of production and transportation. Rather than polluting and destroying nature being incentivized by quick profits (and required by Executive Board accountability), this approach makes it totally cost-prohibitive (as well as prohibited) to pollute and harm Nature.⁵⁴

Earth rights in domestic legislation

At least 30 countries have proposed or enacted laws which recognize the Rights of Nature⁵⁵. Examples include:

- **Bolivia’s Mother Earth Law 2012:** The Mother Earth Law respects the balance between human life and the natural environment, and prioritizes the rights and knowledge of the country’s majority indigenous population⁵⁶. The law came about after Bolivia hosted the World People’s Conference on Climate Change and the Rights of Mother Earth in April 2010, which also produced the Universal Declaration of the Rights of Mother Earth⁵⁷.
- **Ecuador’s 2008 Constitution:** The constitution made Ecuador one of the first countries in the world to consider the Rights of Nature. This has supported favourable legal decisions upholding the rights of nature and of indigenous peoples against extractive industries.⁵⁸
- **India gives rights to Nature:** In 2022, the Madras High Court declared Mother Nature as a Living Being with all corresponding rights, duties and liabilities of a living person. This follows

⁴⁹ ibid

⁵⁰ Institute for Population Studies, People’s Rights, Planet’s Rights Holistic Approaches to a Sustainable Population, 2013 https://566259-1852283-raikfcquaxqncofqfm.stackpathdns.com/wp-content/uploads/2021/09/York_People_Planet-Rights_2013.pdf

⁵¹ United Nations Economic and Social Council, Permanent Forum on Indigenous Issues Ninth session, Study on the need to recognize and respect the rights of Mother Earth, E/C.19/2010/4 15 January 2010 <https://www.un.org/esa/socdev/unpfii/documents/E.C.19.2010.4%20EN.pdf>

⁵² Tikkun, Rights of Nature and an Earth Community Economy, 28 January 2013

<https://www.tikkun.org/nextgen/2013/01/28/rights-of-nature-and-an-earth-community-economy/>

⁵³ Stop Ecocide International, Leading States, Key Dates <https://www.stopecocide.earth/leading-states>

⁵⁴ Tikkun, Rights of Nature and an Earth Community Economy, 28 January 2013

⁵⁵ United Nations Harmony with Nature, Rights of Nature Law and Policy

⁵⁶ <https://www.climate-laws.org/geographies/bolivia/laws/the-mother-earth-law-and-integral-development-to-live-well-law-no-300>

⁵⁷ Tikkun, Rights of Nature and an Earth Community Economy, 28 January 2013

⁵⁸ RAISG, Amazonia Under Pressure 2020

a declaration of the glaciers including Gangotri and Yamunotri rivers as legal entities to preserve and conserve them.⁵⁹

- **Uganda’s National Environment Act 2019:** This states that “Nature has the right to exist, persist, maintain and regenerate its vital cycles, structure, functions and its processes in evolution. A person has a right to bring an action before a competent court for any infringement of rights of nature under this Act.”⁶⁰
- **New Zealand Te Urewera Act 2013:** The Act gives the Te Urewera National Park “all the rights, powers, duties, and liabilities of a legal person.” There is no longer a requirement to demonstrate personal injury in order to protect the land; lawsuits “can be brought on behalf of the land itself.”⁶¹ The aim of the Act is to establish and preserve in perpetuity a legal identity and protected status for Te Urewera for its intrinsic worth, its distinctive natural and cultural values, the integrity of those values, and for its national importance.⁶²
- **Sweden constitutional amendment:** A constitutional amendment has been proposed to create the right of nature to “exist, flourish, regenerate and evolve”⁶³.
- **USA local ordinances:** In 2016, the Wisconsin Nation of Ho-Chunk became the first US tribe to adopt the rights of nature⁶⁴ and in 2017 the Ponca Nation became the second⁶⁵. Over 24 communities in the United States have passed local ordinances, which recognize Rights of Nature to protect their ecosystems.⁶⁶
- **Minnesota USA rights of wild rice:** In 2018, the White Earth Band of Ojibwe and the 1855 Treaty Authority adopted Rights of Manoomin for on and off reservation protection of wild rice and the clean, fresh water resources and habitats in which it thrives. This right includes the right to a healthy climate system and a natural environment free from human-caused global warming impacts and emissions.⁶⁷

Further, more than 155 States have recognized some form of a right to a healthy environment in international agreements or their national constitutions, legislation or policies⁶⁸. Nations with constitutional protections for the right to a healthy environment have stronger environmental laws, enhanced enforcement, and greater government accountability. As a result, they also have smaller ecological footprints, rank higher on comprehensive indices of environmental performance, and have reduced pollution faster⁶⁹.

2. Indigenous conceptions of earth and human rights

2.1 Indigenous approaches to earth rights and human rights

⁵⁹ Indian Express, Madras High Court grants mother nature ‘living being’ status with rights and duties, 1 May 2022 <https://indianexpress.com/article/cities/chennai/madras-high-court-grants-mother-nature-living-being-status-with-rights-and-duties-7895543/>

⁶⁰ Uganda National Environment Act, 2019

<https://nema.go.ug/sites/all/themes/nema/docs/National%20Environment%20Act,%20No.%205%20of%202019.pdf>

⁶¹ Earth Law Centre, How Earth Law Supports Indigenous Views of Nature, 7 August 2018 <https://www.earthlawcenter.org/blog-entries/2018/8/how-earth-law-supports-indigenous-views-of-nature>

⁶² New Zealand Te Urewera Act 2014 <https://www.legislation.govt.nz/act/public/2014/0051/latest/DLM6183610.html>

⁶³ Community Environmental Legal Defense Fund (CELDF), Media Release: Rights of Nature Constitutional Amendment Introduced in Sweden’s Parliament, 8 October 2019 <https://celdf.org/2019/10/media-release-rights-of-nature-constitutional-amendment-introduced-in-swedens-parliament>

⁶⁴ CELDF, Press Release: Ho-Chunk Nation General Council Approves Rights of Nature Constitutional Amendment, 18 September 2016 <https://celdf.org/2016/09/press-release-ho-chunk-nation-general-council-approves-rights-nature-constitutional-amendment>

⁶⁵ GARN, Ponca Nation of Oklahoma to Recognize the Rights of Nature to Ban Fracking, 29 January 2018 <https://therightsofnature.org/ponca-rights-of-nature/>

⁶⁶ Tikkun, Rights of Nature and an Earth Community Economy, 28 January 2013

⁶⁷ 1855 Treaty Authority, Chippewa Establish Rights of Manoomin on White Earth Reservation and Throughout 1855 Ceded Territory, 11 January 2019 <https://healingmnstories.files.wordpress.com/2019/01/right-of-manoomin-media-statement.pdf>

⁶⁸ UN General Assembly, Human Rights Council Forty-eighth session 13 September–8 October 2021 Agenda item 3, The human right to a safe, clean, healthy and sustainable environment, 5 October 2021 A/HRC/48/L.23/Rev.1 https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/48/L.23/Rev.1

⁶⁹ David R. Boyd, The Environmental Rights Revolution, A Global Study of Constitutions, Human Rights, and the Environment 2011 <https://www.ubcpres.ca/the-environmental-rights-revolution>

“There is no separation between the rights of Indigenous peoples and the rights of Mother Earth”, Alliance of Guardians and Children of Mother Earth⁷⁰

A systems approach

Indigenous worldviews adopt a systems perspective which recognizes the complexity and interrelationship of all of life on this planet; something the West is seemingly only just beginning to grasp as a result of COVID-19 and climate breakdown, among other emergencies. Human beings are members of a community of life – not dominant monopolizes of it - and have distinct responsibilities to other members of that community – plant, animal, waters and otherwise.

In Māori culture, all living things are connected through mauri - a unifying life force that exists in all living and non-living things - so that the health or well-being of one member, affects the health and well-being of all other members⁷¹. In Nepal, water, plants, trees, and animals are considered holy, and even given the status of gods and goddesses. Protecting jal (jungle) and jameen (water, forest, and land) is an age-old practice of Indigenous communities there, with a dharmic duty to have an abundant and flourishing planet⁷².

The natural laws of mother earth and the connectedness and dependency of every being, mean that indigenous knowledge and culture inherently support the flourishing of the ecosystem in which “nature” and “humans” are interconnected entities. Thus, the rights of nature are inherent in human rights and vica versa, and it is inconceivable to indigenous peoples that nature would not be a rights-bearer, just as humans are.⁷³

Chief Seattle, a Suquamish Tribe and Dkhw'Duw'Absh (Duwamish) chief sums this idea up well: “Whatever befalls the earth befalls the sons and daughters of the earth. If men spit upon the ground, they spit upon themselves. We did not weave the web of life; We are merely a strand in it. Whatever we do to the web, we do to ourselves”⁷⁴.

Climate change is not seen as a simplistic environmental issue, but the result of an unjust economic system, built on inequality and the pursuit of endless growth, and over-exploiting Nature to the point of collapse.⁷⁵ While ancient, these understandings are consistent with contemporary scientific understandings regarding the interrelated nature of the cosmos and the functioning of natural systems.⁷⁶

Human beings as part of an earth family

“Imagine this: The CEO who ordered the mining operation, the government official who sanctioned it, has the water balance in their own body destroyed, so they are always thirsty. Their head throbbing unrelentingly, unable to live without pain until they rectify their decision. Then and only then, is the balance in their own body and the earth’s balance restored. For when the earth is cut, so are we”, Elizabeth Harrop, When the Earth is Cut⁷⁷

⁷⁰ The Declaration of the Alliance of Guardians and Children of Mother Earth, 2017

⁷¹ Environment Guide, Māori and Environmental Law <https://www.environmentguide.org.nz/overview/maori-and-environmental-law/>

⁷² Cultural Survival, Loss of Traditional Knowledge Is Due to Lack of Documentation, September 2019 <https://www.culturalsurvival.org/publications/cultural-survival-quarterly/loss-traditional-knowledge-due-lack-documentation>

⁷³ Fundación Pachamama, Recognizing Rights for Nature in the Ecuadorian Constitution <https://566259-1852283-raikfcquaxqncofqfm.stackpathdns.com/wp-content/uploads/2021/09/Recognizing-Rights-for-Nature-in-the-Ecuadorian-Constitution-Fundacion-Pachamama.pdf>

⁷⁴ “Earth Prayers from around the World,” edited by Elizabeth Roberts and Elias Amidon

⁷⁵ The Declaration of the Alliance of Guardians and Children of Mother Earth, 2017

⁷⁶ Cormac Cullinan, The Legal Case for The Universal Declaration of The Rights of Mother Earth, 2010 <https://566259-1852283-raikfcquaxqncofqfm.stackpathdns.com/wp-content/uploads/2021/09/Legal-Case-for-Universal-Declaration-Cormac-Cullinan.pdf>

⁷⁷ Elizabeth Harrop, When the Earth is Cut, 2014 <https://liveencounters.net/january-2014/09-september/elizabeth-willmott-harrop-when-the-earth-is-cut/>

Human beings are seen as part of a wider earth “family”. The Mapuche people see themselves as sons and daughters (buds) of the Earth: Mapu means Earth, while che means people. They believe that people, land and nature constitute a single entity.⁷⁸

The Māori word for land - whenua – is the same as for placenta, linking the earth with the human. All life is seen as being born from the womb of Papatūānuku, under the sea. The placentas from her womb float, forming islands of land. Traditionally, the whenua (placenta) and pito (umbilical cord) of newborns are buried in the earth, to reinforce the relationship between the newborn child and the land of their birth⁷⁹.

As women are also bearers of life, they are intrinsically linked together in Anishinaabekwe culture with the earth and its waters. An act against the waters through exploitation, is to commit an act of violence against women. Women are seen as guardians and stewards of ancestral lands and can often be found wearing garments made from their environment to represent how they are linked⁸⁰.

Bob Randall, a Yankunytjatjara elder and traditional owner of Uluru (Ayer's Rock) says of nature as family: “You feel you are living with family when you include everything that is alive in that space, and you grow up knowing these are all your family. You can never feel lonely in that situation. How can you when all around you are family members from this ground up to all the trees around you to the clouds, the birds flying, the animals and reptiles that are hidden in the shrub. It is a beautiful way of being. And the completeness of being who you are where you are is a really good feeling”.⁸¹ This worldview is in complete contrast to a consumerist view of individualized lack, and a hunger for material possessions to fill the void.

2.2 Natural law and customary law and practices

Respect for natural law

“You can’t negotiate with a beetle. You are now dealing with natural law. And if you don’t understand natural law, you will soon”, Oren Lyons, Chief of the Onondaga Nation Council of Chiefs of the Six Nations of the Iroquois Confederacy, the Haudenosaunee⁸²

The worldviews, traditional knowledge and customary laws and practices of indigenous peoples are derived from the laws of the Earth, i.e. from natural law.

A word in the language of the Anishinaabekwe - minobimaatisiwin - describes the practice of living in harmony with natural law, in relationship with other individuals, with the land and all the things which animate on the land. Minobimaatisiwin is an expression of cultural values which allow practices to be kept in order and in check to create sustainable communities at one with the land⁸³. Winona LaDuke of the White Earth Nation sums up some of the principles of indigenous respect for natural law⁸⁴:

- **Cyclical nature:** Much in nature is cyclical: the movements of moons, the tides, the seasons, the human body. Time itself, in most indigenous worldviews, is cyclical.
- **Balance in nature:** The essential nature of human beings is to live in balance with nature: Most indigenous ceremonies are about the restoration of balance. Nature itself continually tries to balance, to equalize.

⁷⁸ United Nations Economic and Social Council, Study on the need to recognize and respect the rights of Mother Earth, E/C.19/2010/4 15 January 2010

⁷⁹ Encyclopedia of New Zealand, Whenua – the placenta <https://teara.govt.nz/en/papatuanuku-the-land/page-4>

⁸⁰ Dress to Redress, an exhibition of the work of contemporary Anishinabe artist Celeste Pedri-Spade, 19 March to 3 July 2022, The American Museum, Bath, UK

⁸¹ Global Oneness Project, The Land Owns Us with Bob Randall, a Yankunytjatjara elder and traditional owner of Uluru (Ayer's Rock), 27 February 2009 <https://www.youtube.com/watch?v=w0sWIVR1hXw>

⁸² Schumacher Centre for New Economics, The Ice is Melting by Oren Lyons <https://centerforneweconomics.org/publications/the-ice-is-melting/>

⁸³ Voices from White Earth: Gaa-Waabaabiganikaag by Winona LaDuke

⁸⁴ ibid

- **Animate world:** most of the world is animate which is reflected in language, such that most nouns are animate. Naming the aliveness of things (corn, tree, rice, stone) allows these things to have spirit and standing on their own.
- **Reciprocity:** When you take, you always give. This is about balance and equity, respect for the earth. There is a mutual respect for nature, as nature supplies the resources needed to survive and the people caretake nature.
- **Take only what you need:** When you take, you must take only what you need and leave the rest. If you take more than you need, you have brought about imbalance. This is a very big disgrace, a violation of natural law, and it leaves no guarantee of continued harvesting.
- **Conspicuous distribution (not consumption):** Events for sharing and giveaways carry much more honour than accumulation. The more you give away, the greater your honour.

These principles are embodied in many indigenous cultures. The Buryat people of the Lake Baikal region in Siberia say “To live a life of honour is to live with tegsh,” meaning to live in appreciation and balance with all of life⁸⁵. The Andean concept of Pachamama, is symbiosis between humankind and nature. Pachamama – the fertile and productive Mother Earth - has her own laws and rights. It is through compliance that one becomes a qamiri, one who is educated in the ways of life and who lives a full life in harmony with nature.⁸⁶

These concepts are embedded in the deeply held value systems of indigenous culture which have historically provided a rock-solid foundation for ‘doing the right thing’ in terms of nature conservation. Land is also seen as a cultural expression in and of itself. This is one of many reasons why colonialism was so disastrous, as peoples were removed from their intimately known landscapes which disconnected them from language (which intimately described that relationship and landscape) and their cultural heritage⁸⁷.

Māori leadership draws on Tikanga Māori (cultural authenticity) and a commitment to “the Māori way of doing things”⁸⁸, despite the globalized world we live in and the immense pressure indigenous nations face to homogenize themselves.

Customary law and practices

Recognition of the rights of Nature is embedded in customary laws, in contrast to modern environmental laws which are anthropocentric in nature⁸⁹. The customary laws, customary practices and customary justice regulations of indigenous peoples – be they oral or in writing – thereby play an important role in respect for earth rights and human rights, and their inter-relationship. This includes the accumulation and use of unique spheres of indigenous knowledge over generations.

In Timor-Leste, tara bandu are local regulations and moral codes of conduct – “hanging prohibitions” as some of these rules were traditionally signalled by placing items in trees. Examples of tara bandu include prohibiting and penalizing the cutting and burning of forests and restricting hunting and fishing in specific locations during certain periods. These have expanded mangrove forests to protect the coastline and created remarkable gains for the coral reef ecosystem.⁹⁰

The strength of tara bandu is two-fold: firstly, through providing an effective, participatory and community-driven approach to forest and marine conservation by regulating the use of natural resources to ensure their sustainability; and secondly through strengthening traditional practices and

⁸⁵ Tikkun, Rights of Nature and an Earth Community Economy, 28 January 2013 and <https://scholarworks.umt.edu/cgi/viewcontent.cgi?article=5806&context=etd>

⁸⁶ United Nations Economic and Social Council, Study on the need to recognize and respect the rights of Mother Earth, E/C.19/2010/4 15 January 2010

⁸⁷ Creative Spirits, Meaning of land to Aboriginal people

⁸⁸ University of Waikato, Five key values of strong Māori leadership <https://www.waikato.ac.nz/news-opinion/media/2019/five-key-values-of-strong-maori-leadership>

⁸⁹ United Nations General Assembly Seventy-fifth session, Harmony with Nature Report of the Secretary-General, A/75/266 28 July 2020 <https://digitallibrary.un.org/record/3892593?ln=en>

⁹⁰ Visit to Timor-Leste - Report of the Special Rapporteur on the rights of indigenous peoples A/HRC/42/37/Add.2, 2 August 2019

community cohesion⁹¹. In this way, cultural diversity is integral to biological diversity for maintaining sustainable societies, a premise reflected in other indigenous cultures⁹².

An important part of customary practices with regard to community decision making is the absence of the West's top-down approach to policy making or even of voting. Instead, matters may be resolved by consensus, which means everybody, or almost everybody, must agree.⁹³ Oren Lyons of the Onondaga Nation comments: "The leadership has to know everybody or just about. You don't let your nation get beyond the point where that is possible. If it does, then you break off and you begin another one".⁹⁴ Further, by addressing potential causes of conflict at a pre-emptive early stage, customary justice contributes to conflict prevention, unlike the reactive and perpetrator-focused approach of formal justice systems.⁹⁵

The Bhil of India have the long-standing tradition of Halma. This is the process of gathering to discuss problems facing the community. In 2016, 10,000 gathered from over 300 villages to agree to the building of over 100 contour trenches to conserve water, something of increasing importance as droughts have plagued the area. Previous to this meeting, it is estimated that around 11,000 trees had been planted along with three large ponds being constructed. Overall, around 20,000 Bhil have engaged with the idea of rebuilding the forest and adapting to climate change⁹⁶.

During the past decade, there has been growing recognition of the customary laws of indigenous peoples in constitutional and international law, and so the lines between customary and statutory legal systems have started to blur to positive effect. Three court rulings in the Americas provide evidence of indigenous narratives being recognized for the first time in statutory legal systems⁹⁷:

- On 7 November 2019, a verdict by the Constitutional Court of Guatemala recognized the spiritual and cultural relationship between indigenous people and water as a living entity, which therefore could not be killed by contamination.
- On 6 February 2020, a decision by the Inter-American Court of Human Rights recognized the right to ancestral land in northern Salta Province, Argentina. With its verdict, the Inter-American Court set a precedent on the right to water, food, a healthy environment and cultural identity.
- On 1 April 2020, another unprecedented court settlement guaranteed reparations for crimes committed almost 40 years ago against the Ashaninka people in the Brazilian Amazon, whose lands were deforested in the 1980s to supply the European furniture industry.

Concepts of land ownership

"The whole issue of absentee land ownership needs to be addressed – particularly in America, where the idea of private property is so sacred, where somehow it is ethical to hold land that you never see", Winona Laduke⁹⁸

Due to consumer culture, very little value is placed on anything which is owned. If it is owned, it is disposable, can be taken for granted, abused, ignored. The property-based legal system and nonrecognition of the inherent rights of nature has contributed to distancing people culturally and personally from their connection to the earth, and living planet⁹⁹. The idea that humans have dominion over nature through owning and exploiting living creatures, land, sea and other territories, is a serious failure of non-indigenous thought and rights, with echoes of owner and chattel relationships towards women, and slaves.¹⁰⁰

⁹¹ *ibid*

⁹² *Voices from White Earth: Gaa-Waabaabiganikaag* by Winona Laduke

⁹³ Schumacher Centre for New Economics, *The Ice is Melting* by Oren Lyons

⁹⁴ *ibid*

⁹⁵ *Visit to Timor-Leste - Report of the Special Rapporteur on the rights of indigenous peoples A/HRC/42/37/Add.2*, 2 August 2019

⁹⁶ *Hindustan Times*. (2016). *Bhil tribes revive old tradition to conserve forest and water*. [online] Available at: <https://www.hindustantimes.com/indore/bhil-tribes-revive-old-tradition-to-conserve-forest-and-water/story-hA184PTrx0MNF6bFXnuxaJ.html>.

⁹⁷ United Nations General Assembly Seventy-fifth session, *Harmony with Nature Report of the Secretary-General, A/75/266* 28 July 2020

⁹⁸ *Voices from White Earth: Gaa-Waabaabiganikaag* by Winona Laduke

⁹⁹ *Tikkun, Rights of Nature and an Earth Community Economy*, 28 January 2013

¹⁰⁰ United Nations Economic and Social Council, *Study on the need to recognize and respect the rights of Mother Earth*, E/C.19/2010/4 15 January 2010

Land registration and the concept of private property is alien to most indigenous peoples. With colonialism, the concept of 'land as property' was introduced to indigenous cultures around the world, which facilitated land-grabbing.

Customary practices that govern collective ownership and management of land date back long before colonization. For example, in Timor-Leste, pre-Portuguese traditions identified boundaries to lands through customary practices, without codification.¹⁰¹ In the Congo, collective ownership of land and resources has proved crucial to improve the sustainability of livelihoods over generations.¹⁰²

There is a deep sense that the people belong to the land and not the other way around. Bob Randall, a Yankunytjatjara elder comments: "My people see land ownership as being totally different to the English way of ownership. The land owns us. Everything that has been with life in the flesh has gone. But the land is still here".¹⁰³ Similarly in New Zealand, when Māori describe themselves as tangata whenua (people of the land), they are invoking a familial attachment to land, a bond not unlike that of mother (earth) and her children¹⁰⁴. Similarly, the Anishinaabe indigenous group in the United States and Canada sees itself, not as an owner of wild rice but a symbiotic partner and "a parallel entity from the Creator"¹⁰⁵.

Many indigenous cultures embrace varying degrees of a nomadic existence depending on their environment – again something little accepted by industrialized culture which insists on continuity of residence in a fixed individually owned or rented home, and is suspicious of travelling communities. Winona LaDuke explains that "In our society a person harvested rice in one place, trapped in another place, got medicines in a third place, and picked berries in a fourth. These locations depended on the ecosystem; they were not necessarily contiguous". Traditional forms of land use and ownership are thus akin to a community land trust, where land is collectively owned and managed, and each family has traditional areas where it fishes and hunts¹⁰⁶.

The Inuit, who have lived in the Canadian Arctic and Greenland for thousands of years, have traditional practices of hunting and seasonal migration. In the summer months, the Inuit would often use skin tents framed from whale bones for structure. These tents were easy to construct and allowed groups to follow their food source. The modern Inuit are now beginning to set up home in more permanent, prefabricated houses. Opting to still leave in the Spring where often whole communities return to traditional hunting practices¹⁰⁷.

Due to this way of being with the land, territory may be wrongly perceived by non-indigenous populations as being "unoccupied" and subject to designation as forest reserves, national parks or conservation areas or for commercial exploitation.¹⁰⁸ This is because the colonial Doctrine of Discovery and terra nullius (a Latin term signifying land without human habitation) held that European countries who 'discovered' lands inhabited by Indigenous peoples could claim them as their own.¹⁰⁹

Box 1 Indigenous people's relationship with the earth

Indigenous people's relationship with the earth

¹⁰¹ Visit to Timor-Leste - Report of the Special Rapporteur on the rights of indigenous peoples A/HRC/42/37/Add.2, 2 August 2019

¹⁰² Human Rights Council Forty-fifth session 14 September–2 October 2020 Agenda item 3, Visit to the Congo - Report of the Special Rapporteur on the right of indigenous peoples A/HRC/45/34/Add.1, 10 July 2020

<https://www.ohchr.org/en/documents/country-reports/visit-congo-report-special-rapporteur-right-indigenous-peoples>

¹⁰³ The Land Owns Us with Bob Randall, 27 February 2009

¹⁰⁴ Foreign Policy, How New Zealand Recognizes the People There First, 28 November 2021

<https://foreignpolicy.com/2021/11/28/maori-land-native-new-zealand/>

¹⁰⁵ DW, Rights of nature: Can Indigenous traditions shape environmental law? 5 February 2020

<https://www.dw.com/en/environment-nature-rights-indigenous-activism-legal-personhood/a-52186866>

¹⁰⁶ Voices from White Earth: Gaa-Waabaabiganikaag by Winona Laduke

¹⁰⁷ Climate Generation, The Inuit, 12 January 2008 <https://www.climategen.org/blog/the-inuit>

¹⁰⁸ Visit to the Congo - Report of the Special Rapporteur on the right of indigenous peoples A/HRC/45/34/Add.1, 10 July 2020

¹⁰⁹ E-International Relations, The UN as Both Foe and Friend to Indigenous Peoples and Self-Determination, 12 March 2020

Indigenous peoples the world over have a special relationship with the earth, with the land they are associated with, and all living things in it; acknowledging its nature as a complex system. This is typified by characteristics such as:

- Nature is the **“source” of all life not a “resource”**.
- The **Earth Community comprises** human communities together with ecosystem communities of river, forest, desert, ocean, mountain, and all that those imply.¹¹⁰
- The earth is not something that can be owned and exploited. The **earth is part of the human being and vice versa**. In the Māori worldview “I am the River and the River is me.”¹¹¹
- The earth is **a living being (Mother Earth) who procreates and nourishes**. Mother Earth is *uywiri*, the one who rears.¹¹²
- The earth and nature may contain the presence of the creator or spirit, and is **the subject of special relations of a spiritual nature grounded in reverence, humility and reciprocity**.
- Connection with their territories is a **bond of livelihood, energy and health**. It is a source of identity and culture, autonomy and freedom. It is the connecting tie among generations. It is the ground on which communities learn, identify values and develop self-rule. It is a connection between visible and invisible realities, material and spiritual wealth. With territory and nature go life, dignity and self-determination as peoples¹¹³.
- A respectful relationship, where **the land will sustain you if you care for it**¹¹⁴.
- “We cultivated our land, but in a way different from the white man. We endeavour to **live with the land; they seemed to live off it.**” Tom Dystra, Aboriginal elder¹¹⁵.
- The relationship to **land extends to the sea and sky**. In Māori culture for example, the earth mother and sky father are central to beliefs; ‘mother ocean’ is celebrated by groups in the North Pacific such as Haida or Sgaan Kinghlas; and the sea is central to Inuit culture.

2.3 The role of indigenous peoples in nature conservation

Guardians of the land for future generations

“If we are indeed responsible for seven generations to come, then we need to act that way, but the current fixation on market-driven decisions for everything leaves no room for that. If you’re going to make your decisions on the basis of profit and loss, then the loss is certainly going to be to your grandchildren”, Oren Lyons¹¹⁶

Inherent to the concept of community lands in indigenous culture is the collective obligation to protect and preserve them. In Timor-Leste, customary practices revolved around the concept of intergenerational responsibility to protect lands and resources to sustain the present and future generations. This is reflected in the value, “*ema iha oan, rai la bele iha oan*” (people can have children, land cannot), which also seeks to ensure equal access for all to lands and sufficient resources to sustain the population¹¹⁷.

The concept of guardianship of the land for future generations – a responsibility often bestowed by ancestors – is common to many indigenous cultures. A key value of Māori leadership is the concept of

¹¹⁰ Tikkun, Rights of Nature and an Earth Community Economy, 28 January 2013

¹¹¹ Earth Law Centre, How Earth Law Supports Indigenous Views of Nature, 7 August 2018

¹¹² United Nations Economic and Social Council, Study on the need to recognize and respect the rights of Mother Earth, E/C.19/2010/4 15 January 2010

¹¹³ ICCA Consortium, Territories and Areas Conserved by Indigenous Peoples and Local Communities

<https://www.iccaconsortium.org/index.php/discover/>

¹¹⁴ Petchary’s Blog, Custodianship and Country: Some Australian Aboriginal Beliefs About the Environment, 28 December 2020

<https://petchary.wordpress.com/2020/12/28/custodianship-and-country-some-australian-aborigin>

¹¹⁵ Creative Spirits, Meaning of land to Aboriginal people <https://www.creativespirits.info/aboriginalculture/land/meaning-of-land-to-aboriginal-people>

¹¹⁶ Schumacher Centre for New Economics, The Ice is Melting by Oren Lyons

¹¹⁷ Visit to Timor-Leste - Report of the Special Rapporteur on the rights of indigenous peoples A/HRC/42/37/Add.2, 2 August 2019

kaitiakitanga which acknowledges the need for sustainable guardianship and protection – not as a goal – but as a practice over a lifetime¹¹⁸.

Many Aboriginal groups within Australia, such as the Wiradjuri people and Torres strait islander group, stress the importance of guardianship and stewardship over their lands, as their ancestors once did and continue to do today. To continue these traditions of guardianship, they must pass down their beliefs through generations to protect the land¹¹⁹. “Granny Law” gives responsibility to new generations to continue to care for their mother (earth). “To be responsible in caring in every single way, we call Kanyini; caring with unconditional love and responsibility” says Bob Randall¹²⁰. Kanyini provides clear guidelines for how to make Love active and concrete by caring deeply and equally for all beings, within humanity and with the Natural World.¹²¹

This sense of loving responsibility means that indigenous peoples give back what they take from nature, or you only take what is needed, leaving no waste, so that future generations will not be put in peril. A stark contrast to the view of the western world, where commercialism is ruining the environment through a) extracting more than is needed and then b) dispensing of vast amounts of waste which then pollute the land.

The Plateau First Nations people originate in the West Coast of Canada, mainly around Vancouver, and incorporate the Yakama peoples. This group has a long-standing myth known as the Legend of the Lost Salmon. This story, passed down through generations, can be likened to a fable criticizing overconsumption and waste. Its main premise is that when the people took too much salmon from the river and let it go to waste, the Salmon no longer returned. To recover the lost Salmon, the old ‘grandfather’ placed his spirit inside the Salmon for it to return. This has led to the Yakama people to place high value on the salmon they hunt, believing that every salmon caught retains some spirit of the old grandfather¹²².

The Ainu used plant fibres and animal or even fish skins to fashion clothes which were treasured and kept. The robes made from plants include those made from the bast fibre of elm (sometimes linden) tree bark or vegetable fibre made from nettle grass.¹²³ This stands in strong contrast to fast fashion which sees 1 in 2 people throwing little-worn clothes straight in the waste bin, resulting in 64 percent of the 32 billion garments produced each year ending up in landfill.¹²⁴

Box 2 Indigenous peoples in Suriname, South America, protect land for generations to come

Indigenous peoples in Suriname, South America, protect land for generations to come¹²⁵

Despite the region’s isolation, the Trio and Wayana indigenous communities have seen increased pressure on the forests from logging and mining activities. In 2015, the Communities presented a declaration of cooperation to the National Assembly of Suriname to create a conservation corridor spanning 72,000 square kilometres (almost half of the total area of Suriname)¹²⁶.

Like other indigenous peoples, the Suriname people’s conception of earth rights has necessarily evolved, due to the extraction and exploitation of the land by industrial actors. Whereas the symbiosis of man and nature has always been viewed as an interdependency, this now includes indigenous peoples having to act as defenders of Earth, their own culture and livelihoods.

¹¹⁸ University of Waikato, Five key values of strong Māori leadership

¹¹⁹ Petchary’s Blog, Custodianship and Country: Some Australian Aboriginal Beliefs About the Environment, 28 December 2020

¹²⁰ The Land Owns Us with Bob Randall, 27 February 2009

¹²¹ Earthwise Centre, The Wisdom of Kanyini – Love with Responsibility, 5 August 2017

<https://www.earthwisecentre.org/blog/the-wisdom-of-kanyini-love-with-responsibility>

¹²² First People, Legend of The Lost Salmon - A Yakima Legend <https://www.firstpeople.us/FP-HTML-Legends/Legend-Of-The-Lost-Salmon-Yakima.html>

¹²³ Hali, ‘Master – An Ainu Story’, The Brunei Gallery, SOAS, London, 12 December 2018 <https://hali.com/news/master-ainu-story-brunei-gallery-soas-london/>

¹²⁴ Edge Fashion Intelligence, Fashion Industry Environmental, Waste, and Recycle Statistics <https://edgexpo.com/fashion-industry-waste-statistics/>

¹²⁵ WWF, Guardians of the Forest: Indigenous Peoples Take Action to Conserve Nearly Half of Suriname, 10 March 2015 https://wwf.panda.org/wwf_news/?241222/Guardians-of-the-Forest-Indigenous-Peoples-Take-Action-to-Conserve-Nearly-Half-of-Suriname

¹²⁶ *ibid*

**“As people we need earth’s resources to live, the forest provides this. If we think and care about our future generations, now is the time to act and work together to preserve our nature.”
Captain Shedde of the Trio village of Alalapadu**

“The indigenous people believe they borrow the lands from their grandchildren and we as a country, ought to be doing the same.” John Goedschalk, Director of CI’s Suriname office

Custodians of the Earth

“For Aboriginal peoples, country is much more than a place. Rock, tree, river, hill, animal, human – all were formed of the same substance by the Ancestors who continue to live in land, water, sky. Country is loved, needed, and cared for, and country loves, needs, and cares for her peoples in turn. Country is family, culture, identity. Country is self,” Ambelin Kwaymullina, Palyku community¹²⁷

Indigenous Peoples are often called the custodians or stewards of the Earth¹²⁸. Their common respect for and harmonious living within their environment, means that indigenous peoples have become synonymous with conservation. Traditional indigenous territories encompass around 22 percent of the world’s land surface, and coincide with areas that hold 80 percent of the planet’s biodiversity¹²⁹. Thus, Indigenous peoples and local communities play a vastly expanded role in the governance, conservation and sustainable use of the world’s biodiversity and nature, and as such are providing the basis for clean water and air, healthy food and livelihoods for people far beyond their boundaries¹³⁰.

Indigenous territories – also known as Indigenous and community conserved areas (ICCAs)¹³¹ - are lands that have generally been ancestrally occupied by indigenous peoples in a balance with nature that enables ecosystems to thrive in states closely corresponding to their natural evolution.¹³² . The ability to do this comes from a deeply held understanding and reverence for nature and its cycles, the local landscape with its flora and fauna, indigenous food systems, and traditional knowledge which is passed down through the generations. ICCAs are as diverse as the peoples and communities who shape and sustain them through their unique cultures, governance systems and practices¹³³.

Around the world, Indigenous Peoples protect and care for their collective lands and waters as integral to their own survival, health and wellbeing. For example, indigenous peoples have a deep understanding of wildlife behavioural patterns and life cycles that enables them to hunt in a sustainable manner while supporting the thriving of wild animals.¹³⁴

Centred around the valley of Ziro in Northern India, the Apatani have used sustainable methods of farming for generations and are one of the only groups within this region of Asia to grow paddy crops while cultivating fish¹³⁵. Their use of bamboo to allow natural irrigation from streams in the surrounding forests means they both sustain the forest while also using every inch of their agricultural lands to minimize environmental impacts. They have even been able to create natural tapyo (salt) from specific plant ashes, making the community less susceptible to goitre compared to other groups in their area¹³⁶.

¹²⁷ Creative Spirits, Meaning of land to Aboriginal people <https://www.creativespirits.info/aboriginalculture/land/meaning-of-land-to-aboriginal-people>

¹²⁸ Cultural Survival, Indigenous Peoples Are One with Mother Earth, 4 June 2021 <https://www.culturalsurvival.org/news/indigenous-peoples-are-one-mother-earth>

¹²⁹ Regional consultation on the rights of indigenous peoples in Asia, Report of the Special Rapporteur on the rights of indigenous peoples A/HRC/45/34/Add.3*, 4 September 2020

¹³⁰ ICCA Consortium, Territories of Life: 2021 Report

¹³¹ ICCAs are territories and areas conserved by indigenous peoples and local communities, and has been in international discourse formally since the IUCN World Conservation Congress 2008 in Barcelona as key governance actors in nature conservation. IUCN, ICCAs for biological and cultural diversity, 31 May 2019 <https://www.iucn.org/news/protected-areas/201905/iccas-biological-and-cultural-diversity>

¹³² RAISG, Amazonia Under Pressure 2020

¹³³ ICCA Consortium, Territories of Life: 2021 Report

¹³⁴ Visit to the Congo - Report of the Special Rapporteur on the right of indigenous peoples A/HRC/45/34/Add.1, 10 July 2020

¹³⁵ Journal of World Heritage Studies, Exploring Nature-Culture Linkages in The Apatani Valley, Arunachal Pradesh, India, Special Issue 2020 https://tsukuba.repo.nii.ac.jp/record/56131/files/JWHS_si2020-17.pdf

¹³⁶ Better India, A Small Tribe In Arunachal Pradesh Is Showing How Man And Nature Can Co-exist In Perfect Harmony, 6 June 2014 <https://www.thebetterindia.com/11268/apatani-ziro-arunachal-pradesh-tribe-environment-friendly-nature-harmony>

Evidence supports the correlation between secure indigenous tenure and positive conservation outcomes, compared to adjacent and/or State-managed protected areas (from which indigenous peoples may sometimes be excluded)¹³⁷. For example, in Amazonia 87.5 percent of deforestation took place outside protected natural areas and indigenous territories, highlighting the vital role these areas play in protecting forests¹³⁸.

Indigenous knowledge

“I witnessed my father’s health care practices. He was a professor of social work and social sciences but also gave medicine for snake bites. It was made out of leaves, roots and filled with Indigenous knowledge. I had seen a lot of people coming to my home for treatment and getting well. He did not have the formal education for giving medicine for snake bites, but it had been passed onto him by his uncles”, Archana Soreng, Kharia tribe in Odisha, eastern India¹³⁹

The rich web of local and indigenous knowledge systems, passed down through generations offers unrivalled insights into sustainability practices. Indigenous knowledge is part of a complex cultural collective which includes language, classification systems, resource use practices, social norms, ritual and spirituality.

Indigenous knowledge is derived from experiences and observations, specific to a locality, both from current and past generations. This knowledge base is transcribed and understood through actions, such as production methods, verbally through sayings and myths, or by cultural events¹⁴⁰.

Indigenous knowledge has historically been ignored and denigrated by one-size-fits-all often-technological fixes to environmental and social problems, and the West has been slow to catch on. Things are changing, albeit slowly. A recent Intergovernmental Panel on Climate Change (IPCC) report for example notes that Indigenous knowledge can be a unique source for techniques for climate change adaptation and may be favoured over externally generated knowledge¹⁴¹.

There is an urgent need to complement mainstream education with the intergenerational transmission of indigenous knowledge, and ensure that teachers using national languages do not replace parents and elders as the holders of knowledge and authority in vernacular languages¹⁴². Further, there is a need to ensure that indigenous knowledge is not exploited, with the evolution of legal frameworks to support this.

Box 3 Indigenous knowledge in practice

Indigenous knowledge in practice

- **Observation of the sun and the stars merges with study of nature** and the behaviour of animals, permitting the forecast of phenomena such as drought, frosts and the rainy seasons.¹⁴³

¹³⁷ Regional consultation on the rights of indigenous peoples in Asia, Report of the Special Rapporteur on the rights of indigenous peoples A/HRC/45/34/Add.3*, 4 September 2020

¹³⁸ Protected natural areas in Amazonia operate in different administrative contexts (national, departmental, and municipal governments, as well as in the private sector). RAISG, Amazonia Under Pressure 2020

¹³⁹ UNDP, “The world is finally willing to hear Indigenous voices – and I’m here to speak up.” 8 August 2021 <https://www.undp.org/stories/%E2%80%9C-world-finally-willing-hear-indigenous-voices-%E2%80%93-and-i%E2%80%99m-here-speak-%E2%80%9D>

¹⁴⁰ Susan Materer, Corinne Valdivia and Jere Gilles, Indigenous Knowledge Systems: Characteristics and Importance to Climatic Uncertainty, January 2002 https://www.researchgate.net/publication/46472800_Indigenous_Knowledge_Systems_Characteristics_and_Importance_to_Climatic_Uncertainty

¹⁴¹ IPCC, Working Group III contribution to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change, Climate Change 2022, Mitigation of Climate Change, 2022 https://report.ipcc.ch/ar6wg3/pdf/IPCC_AR6_WGIII_FinalDraft_FullReport.pdf

¹⁴² UNESCO, Indigenous Knowledge and Knowledge Transmission <https://en.unesco.org/links/transmission>

¹⁴³ United Nations Economic and Social Council, Study on the need to recognize and respect the rights of Mother Earth, E/C.19/2010/4 15 January 2010

- The Haida on the Northwest coast make totem poles and plank houses, and can **take a plank off a tree and still leave the tree standing**.¹⁴⁴
- For Aboriginals in Australia, the extreme conditions of their environment mean they understand **what to, and how much, to harvest in each season** to allow continued growth and sustainability of their communities. They have long used **controlled fires at the perfect time** of year to allow fresh growth such as Kangaroo grass to produce seed¹⁴⁵.
- Indigenous knowledge has been effective in **developing measures to cope with climate hazards** and has contributed to increased food security. Examples include the Inuit knowledge of climate variability when hunting, the Inca traditions of crop diversification and knowledge of genetic diversity and, in the Sahel, the use of water-harvesting strategies and weather forecasting¹⁴⁶
- Calls remain for **indigenous knowledge to be recognized in areas such as Disaster Risk Management**, for example indigenous women in Tanzania observing the behaviours of birds, insects and plants to predict the weather¹⁴⁷.
- The Anishinaabekwe use **careful management and observation such as a “tallyman”**, who makes sure there are enough animals for each family in a given area. If a family can't sustain itself, the tallyman moves them to a new place where animals are more plentiful¹⁴⁸.
- When a member of the Anishinaabekwe intends to trap beavers, he reaches his hand into a beaver house and **counts how many beavers there are to know how many he can take**. He only has to count if he hasn't already been observing that beaver house for a long time - a kind of thorough observation which can come only with residency and attachment to place.¹⁴⁹

Impact of industrialization and climate change on indigenous peoples

Communities dependent on natural resources, particularly in the developing world, suffer disproportionate impacts from climate change and are especially vulnerable to any changes to the ecosystem which may impact on their way of life and survival¹⁵⁰.

In the Congo for example, seasonal changes are less pronounced which is deeply affecting indigenous peoples' hunting and gathering practices, as changes in the weather can no longer be used to accurately predict the arrival of different kinds of wild food. In addition, abnormal periods of dry spells and out-of-season rainfall are disrupting foraging and fishing opportunities, negatively affecting livelihoods and food security.¹⁵¹

Traditional Inuit elders have also felt an impact in how they can predict the weather for travelling and hunting, due to changing wind and cloud patterns. This has also made it hard to pass on this tradition to younger generations. A decrease in traditional food sources has created a reliance on more store-bought food, and an increase in diabetes within Inuit communities¹⁵².

In Asia, climate change has a range of serious impacts in indigenous communities. These include droughts in mountain areas; the escalation of wildfires; rising sea levels affecting coastal areas; floods; landslides; overall changes in seasonal patterns; and an increase in tropical insects and vector-borne diseases¹⁵³.

¹⁴⁴ Voices from White Earth: Gaa-Waabaabiganikaag by Winona Laduke

¹⁴⁵ Petchary's Blog, Custodianship and Country: Some Australian Aboriginal Beliefs About the Environment, 28 December 2020

¹⁴⁶ Human Rights Council Thirty-sixth session 11-29 September 2017 Agenda item 3, Report of the Special Rapporteur on the rights of indigenous peoples A/HRC/36/46, 1 November 2017 <https://digitallibrary.un.org/record/1479947?ln=en>

¹⁴⁷ UNESCO, UNESCO calls for recognizing African Indigenous knowledge in disaster management, 2 December 2021 <https://en.unesco.org/news/unesco-calls-recognizing-african-indigenous-knowledge-disaster-management>

¹⁴⁸ Voices from White Earth: Gaa-Waabaabiganikaag by Winona Laduke

¹⁴⁹ ibid

¹⁵⁰ European Parliament Directorate-General for External Policies of The Union, Indigenous peoples and climate change, May 2009 [https://www.europarl.europa.eu/RegData/etudes/etudes/JOIN/2009/407009/EXPO-DROI_ET\(2009\)407009_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/etudes/JOIN/2009/407009/EXPO-DROI_ET(2009)407009_EN.pdf)

¹⁵¹ Visit to the Congo - Report of the Special Rapporteur on the right of indigenous peoples A/HRC/45/34/Add.1, 10 July 2020

¹⁵² Nunavut Climate Change Secretariat, Climate Change Impacts <https://www.climatechangenunavut.ca/en/understanding-climate-change/climate-change-impact>

¹⁵³ Regional consultation on the rights of indigenous peoples in Asia, Report of the Special Rapporteur on the rights of indigenous peoples A/HRC/45/34/Add.3*, 4 September 2020

As biodiversity and fertile lands erode, land grabbing has intensified, pollution is increasing as more fertilizers and chemicals are being used, and crops are failing. Climate-induced displacement is taking place as indigenous peoples, especially youth, are forced to migrate to urban areas due to shortages in resources and food.¹⁵⁴ As young people leave, so traditions begin to die out within the community.

For first nations peoples, pollution and contamination and disruption of wildlife habitats have reduced the supply and purity of traditional foods and herbal medicines¹⁵⁵. This impacts the health and culture of indigenous peoples and forces them towards pharmaceuticals, and out of their cherished harmony with nature and her healing properties.

Role of indigenous people in combatting climate change

“The success of Native peoples to heal and strengthen our communities remains invisible to mainstream American society. Native grassroots groups remain on the front lines of environmental protection in America – mitigating climate change, restoring biodiversity and bringing back local food economies – but this work remains unseen and either unfunded or under-funded.” Honour The Earth¹⁵⁶

Indigenous peoples can contribute to numerous potential climate change adaptation activities informed by their traditional knowledge. Examples of such activities include documentation of indigenous knowledge; climate monitoring and reporting; traditional fire management; disaster preparedness and response and early warning systems; rainwater harvesting; traditional agriculture techniques; coastal marine management; alternative energy development; the development of sustainable livelihoods; and stopping deforestation through local governance, land titling, forest management and conservation.¹⁵⁷

In countries such as Timor Leste and New Zealand, the knowledge and resource management practices of indigenous peoples in keeping territories resilient to climate change are valued and promoted by Government.¹⁵⁸ However this is far from usual.

Indigenous peoples are doubly disadvantaged by mainstream society in that they are suffering the consequences of industrialization and consumerism in the form of climate change impacts, for which they are not responsible; and the traditional knowledge they hold which can help enrich scientific knowledge and adaptation activities is largely ignored.

This is because international climate change law and policy has an emphasis on monetary, knowledge and technology transfer from developed to developing countries and fails to recognize indigenous peoples' own coping and adaptive strategies and a reverse emphasis on indigenous knowledge transfer to “developed” countries.¹⁵⁹

Indigenous peoples have been demanding greater protection of their human rights and increased participation in international discussions on climate change for over two decades.¹⁶⁰ While the management capacity of indigenous peoples is recognized by organizations such as International Union for Conservation of Nature (IUCN), as late as 2016, such governance only existed in less than 5 percent of all protected areas.¹⁶¹ The UN Special Rapporteur on the rights of indigenous peoples

¹⁵⁴ ibid

¹⁵⁵ Assembly of First Nations, Honouring Earth

¹⁵⁶ Aboriginal Mapping Network, Building Resilience in Indigenous Communities Initiative (Honor the Earth)

<http://nativemaps.org/?p=3478>

¹⁵⁷ Report of the Special Rapporteur on the rights of indigenous peoples A/HRC/36/46, 1 November 2017

¹⁵⁸ Human Rights Council Forty-second session 9–27 September 2019 Agenda item 3, Visit to Timor-Leste - Report of the Special Rapporteur on the rights of indigenous peoples A/HRC/42/37/Add.2, 2 August 2019

<https://www.ohchr.org/en/documents/country-reports/visit-timor-leste-report-special-rapporteur-rights-indigenous-peoples> and New Zealand Department of Conservation Summary of the Te Mana o te Taiao – The Aotearoa New Zealand Biodiversity Strategy 2020 <https://www.doc.govt.nz/nature/biodiversity/aotearoa-new-zealand-biodiversity-strategy/te-mana-o-te-taiao-summary/>

¹⁵⁹ Report of the Special Rapporteur on the rights of indigenous peoples A/HRC/36/46, 1 November 2017

¹⁶⁰ ibid

¹⁶¹ UN General Assembly, Rights of indigenous peoples, Note by the Secretary-General A/71/229, 29 July 2016

<https://digitallibrary.un.org/record/838642?ln=en>

noted in late 2020 that the valuable contributions of indigenous peoples towards protecting the environment from climate change continue to be denied¹⁶².

When will we listen? And when will we learn?

3. Decolonizing ourselves and our broken relationship with the land

3.1 Colonial conservation

**“Colonial Conservation in Africa is exclusive, right-wing, militarized, violent and racist.”
Mordecai Ogada, Conservation Solutions Afrika, Kenya¹⁶³**

Fortress approach to nature conservation

In our attempt to rally around the earth, mainstream conservation actors have drawn upon colonial principles of domination over the land and the people who inhabit it, this time in the name of saving it. In the Congo for example, restrictions on indigenous peoples’ access to their territories have increased along with commercial exploitation of the forests, and as the rich biodiversity of the country’s remaining areas has attracted conservation projects.¹⁶⁴

This archaic “fortress” approach to nature conservation which excludes indigenous peoples from their land in the name of earth rights, fails to respect the incredible role which indigenous peoples play in protecting nature – excluding the human part of the ecosystem who can create the greatest ecological gains. Ironically, by failing to integrate earth rights and human rights, earth rights are compromised.

On 28 January 2016, the Inter-American Court of Human Rights found Suriname responsible for multiple rights violations including grants of individual titles to non-indigenous persons and restrictions imposed on the Kaliña and Lokono peoples in two nature reserves. The Court concluded that because respect for the rights of the indigenous peoples may have a positive impact on environmental conservation “the rights of the indigenous peoples and international environmental laws should be understood as complementary, rather than exclusionary, rights.”¹⁶⁵

The US\$ 21 million Ridge to Reef conservation project in the Tanintharyi region, southern Myanmar – involving the Global Environmental Facility, the United Nations Development Programme (UNDP), Flora and Fauna International and the Forest Department of Myanmar - was suspended in 2019 following complaints by indigenous communities and other villagers affected. The project was planned and designed without the participation or FPIC of the Karen indigenous peoples, while threatening to displace and exclude them from their territories. In May 2020, indigenous communities developed an alternative vision to protect biodiversity, livelihoods, local indigenous practices and cultures, and peace throughout the region, and called upon conservation donors and implementing organizations to abandon top-down conservation initiatives.¹⁶⁶

Indigenous people in Sangha used to hunt and collect forest produce to sustain their families but now consider this too risky due to the repeated arrests and acts of harassment to which they were subjected by eco-guards.¹⁶⁷

Indeed, violence against indigenous peoples, associated with colonial conservation is often reported. In Africa and Asia, while tourists and other outsiders are welcomed into “Protected Areas” or “National Parks” (which were formally land belonging to indigenous peoples but stolen from them in echoes of original colonial land grabbing), the eco-guards and park rangers burn down local people’s homes,

¹⁶² Regional consultation on the rights of indigenous peoples in Asia, Report of the Special Rapporteur on the rights of indigenous peoples A/HRC/45/34/Add.3*, 4 September 2020

¹⁶³ Survival International Instagram

¹⁶⁴ Visit to the Congo - Report of the Special Rapporteur on the right of indigenous peoples A/HRC/45/34/Add.1, 10 July 2020

¹⁶⁵ Forest Peoples Programme, Indigenous peoples in Suriname win important case in the Inter-American Court of Human Rights, 23 February 2016 <https://www.forestpeoples.org/en/topics/inter-american-human-rights-system/news/2016/02/indigenous-peoples-suriname-win-important-cas>

¹⁶⁶ Regional consultation on the rights of indigenous peoples in Asia, Report of the Special Rapporteur on the rights of indigenous peoples A/HRC/45/34/Add.3*, 4 September 2020

¹⁶⁷ Visit to the Congo - Report of the Special Rapporteur on the right of indigenous peoples A/HRC/45/34/Add.1, 10 July 2020

steal goods, vandalize property, and beat, torture, rape and kill local people with impunity. Conservation groups such as World Wildlife Fund (WWF), Wildlife Conservation Society (WCS) and African Parks continue to fund and support the perpetrators of these atrocities, which they are alleged to have been aware of for many years¹⁶⁸.

Impact of climate change measures

Climate change adaptation and mitigation projects can also commercialize the forests upon which indigenous peoples are dependent. For example, displacement is taking place as the proliferation of dams - erroneously claimed to constitute climate change mitigation measures - force indigenous peoples to relocate.¹⁶⁹

IPCC has expressed concern that existing climate change policies and regulations may inadvertently constrain the effects of climate change measures in many regions, due to limiting access to indigenous territories, reducing genetic diversity, and loss of transmission of indigenous knowledge.¹⁷⁰

3.2 Disconnected

“One has to lay blame at the feet of the cultures of States bent on unbridled development through the exploitation of nature, conceived as a mere repository of resources”, United Nations Economic and Social Council, Study on the need to recognize and respect the rights of Mother Earth¹⁷¹

Our institutions – governments, religions, universities, corporations, and especially the legal systems underpinning them – rest upon a perspective centred exclusively on the human. Other life forms are objects not subjects and have reality and value only through their use by the human.¹⁷² This is in dramatic contrast to indigenous ways of being, which have been subsumed by these ideals.

The concept of development is based on Western notions of achievement, progress and well-being. As indigenous peoples were forced away from their ways of being with the land, whether that be through land grabbing or a kind of cultural osmosis, the result is not ‘progress’ in any form.

Indigenous peoples were forced to replace subsistence with poverty; a wealth of meaning and connection with abandonment; plant medicine with pharma; traditional foods with processed foods; indigenous wisdom with mainstream education in national languages; indigenous livelihoods for wage labour far from “home”; and belonging for stigmatization and violence.

The indigenous peoples excluded from their forests by guards in Sangha, say their desire to integrate with mainstream culture was fuelled by their being driven away from the forest. And with a lack of employment or any other source of income to support their families, they had no other viable option for ensuring their own survival. Members of the younger generation may believe that living off the forest is stigmatizing and perpetuates the image of indigenous peoples as inferior, due to Western notions of development and consumerism.¹⁷³

However, employment opportunities may be scarce. In the Congo, the logging company Congolaise Industrielle des Bois (CIB) and the Wildlife Conservation Society cited high levels of illiteracy, lack of qualifications and the semi-nomadic lifestyle as major barriers to the employment of indigenous peoples. Instead, they prefer to recruit indigenous peoples for a limited number of roles that specifically drew on their indigenous knowledge, for example as animal trackers, to guide tourists to wildlife, or tree specialists.¹⁷⁴ It seems highly unjust that peoples are forced from their land which they are best-placed to protect – and then the only employment options offered are those cherry picked

¹⁶⁸ Survival, Decolonize Conservation <https://www.survivalinternational.org/conservation>

¹⁶⁹ Regional consultation on the rights of indigenous peoples in Asia, Report of the Special Rapporteur on the rights of indigenous peoples A/HRC/45/34/Add.3*, 4 September 2020

¹⁷⁰ *ibid*

¹⁷¹ United Nations Economic and Social Council, Study on the need to recognize and respect the rights of Mother Earth, E/C.19/2010/4 15 January 2010

¹⁷² Edited by Peter Burdon, Exploring Wild Law The Philosophy of Earth Jurisprudence, 2011 https://566259-1852283-raikfcquaxqncofqfm.stackpathdns.com/wp-content/uploads/2021/09/Burdon_Exploring_Wild_Law_extract_2011.pdf

¹⁷³ Visit to the Congo - Report of the Special Rapporteur on the right of indigenous peoples A/HRC/45/34/Add.1, 10 July 2020

¹⁷⁴ *ibid*

from the wealth of indigenous knowledge that has just been side-lined. In the Congo, where employment was gained, indigenous women reported working in the fields from the early hours of the day for CFA 500–700 (approximately US\$ 1) per day.¹⁷⁵

This forced disconnection is still happening. And in some ways at various levels it has happened to us all – that disconnection from values which sustain and nourish, and a restless search for meaning and comfort in acquisition and competition. Many indigenous peoples can still remember and practice their traditions, but for those of us born into industrialized society, we have to re-remember the connection to the land that lies dormant in all of us.

However, we cannot do that via eco-tourism, where it compromises both indigenous and earth rights. In Asia for example, indigenous peoples are concerned that tourism is increasingly being prioritized over their rights and may have a negative impact on conservation¹⁷⁶.

3.3 Applying indigenous values

“Only to the white man was nature a wilderness”, Chief Luther Standing Bear¹⁷⁷

The values of indigenous societies provide a bedrock for sustainable, harmonious living, at one with the family of life, the earth mother. Contrast this with the values of contemporary society in ‘developed’ countries and the picture is utterly bleak.

The values of modern consumer society are based on acquisition and emptiness. Acquiring more and more to fill a spiritual void, and to find connection in a world in which we are disconnected to everything but technology, to which we are plugged in like a life support machine. Except it takes our life force away.

Winona Laduke sums up the flaws in industrial thinking¹⁷⁸:

- Instead of believing that natural law is preeminent, industrial society believes that **humans are entitled to full dominion** over nature;
- Instead of modeling itself on the cyclical structure of nature, industrial society is patterned on **linear thinking, with its associated values** of progress, technological advancement and economic growth;
- The **superiority of what is cultivated or “tame” as opposed to wild**, and the superiority of civilized over primitive peoples. Related is the idea that some people have the right to civilize and tame;
- Industrial society speaks a **language of inanimate nouns**. Industrial language has changed things from being animate, alive, and having spirit to being inanimate, mere objects, and commodities of society;
- The intent of capitalism is **accumulation and conspicuous consumption**, always to take more than is needed. From an indigenous point of view, capitalism is inherently out of harmony with natural law.

Exploitation and extraction are not viable in the long term, only stewardship and guardianship are. However, one needs to look through a lens of connection with the earth, with all of life, in order to reset our worldview and our intentions.

If we can look at the environment in such a way that we place it both as something to be revered and as something which is our equal, our fellow in a rich web of life, and also as something that simply is us – just as the Māori say the River is me and I am the River, this richer relationship will allow the world to instinctively protect and care for all of nature. Our current status quo based on extraction, acquisition and disconnection can be allowed to fall away.

¹⁷⁵ *ibid*

¹⁷⁶ Regional consultation on the rights of indigenous peoples in Asia, Report of the Special Rapporteur on the rights of indigenous peoples A/HRC/45/34/Add.3*, 4 September 2020

¹⁷⁷ Survival International Instagram <https://www.instagram.com/survivalinternational/>

¹⁷⁸ Voices from White Earth: Gaa-Waabaabiganikaag by Winona Laduke

The UN Secretary-General's Harmony with Nature Report 2020 notes that the key to sustainability and a healthy planet lies in restoring humanity's broken relationship with the land and with Nature as a whole¹⁷⁹. Indigenous peoples around the world still hold that relationship. They understand that life is about respectful, harmonious co-existence in which one takes only what one needs. And in which 'needs' are not grounded in fantasies perpetuated by advertising billboards.

3.4 The need for action and frameworks recognizing the interdependence of earth and human rights

“The success of every sector, system and institution of our society can be judged based not on the old bottom line of whether they maximize money, profit and power, but instead by the extent to which they maximize love and caring, kindness and generosity, empathy and compassion, social, economic and environmental justice, peace and nonviolence, and protection of the life support system of our planet”, Network of Spiritual Progressives, A New Bottom Line¹⁸⁰

The importance of unifying indigenous rights with earth rights and conservation efforts

A compelling argument for a holistic approach to human rights and earth rights is the fact that the most diverse ecosystems are under the stewardship of indigenous peoples.

High levels of cultural diversity and biodiversity are strongly connected, with a direct relationship between the two. Cultural diversity is thus as important as biological diversity to sustainability, and the recognition of the territorial rights of indigenous peoples are vital for socioenvironmental diversity¹⁸¹.

Take for example, an indigenous community in Assam in India, who produce a local wine containing over 100 different plant ingredients, requiring the maintenance of rich cultural and biological diversity for its production¹⁸². Indeed, traditional indigenous food systems demonstrate an interdependent sociocultural relationship with Mother Earth, in contrast with the globalized corporate food system, which disconnects food consumption from food production¹⁸³ and which creates devastating environmental impacts. Each year, around a third of all food produced - equivalent to 1.3 billion tonnes worth around \$1 trillion - ends up rotting in the bins of consumers and retailers, or spoiling due to poor transportation and harvesting practices¹⁸⁴.

Change is afoot. In Amazonia, the prevailing view from mainstream perspectives including Government, was that it was a region to be exploited, due to the enormous presence of natural resources. Indigenous populations were thus seen as obstacles to “development”. This view has been partially overcome thanks to action internationally, by groups supportive of environmental rights and indigenous rights, which have started to be incorporated into national constitutions and laws.¹⁸⁵

What helped promote the intersection of these rights is evidence: In the Brazilian Amazon, in areas where the State has recognized the forest rights of indigenous peoples, the deforestation rate is 11 times lower than in forests where their rights are not recognized. A recent study of 80 forest areas in 10 countries in South Asia, East Africa and Latin America also showed greater carbon storage, and concluded that strengthening indigenous peoples' territorial rights is a way for Governments to meet climate goals.¹⁸⁶

¹⁷⁹ United Nations General Assembly Seventy-fifth session, Harmony with Nature Report of the Secretary-General, A/75/266 28 July 2020

¹⁸⁰ The Network of Spiritual Progressives, A New Bottom Line <https://spiritualprogressives.org/visionary-strategies/a-new-bottom-line/>

¹⁸¹ RAISG, Amazonia Under Pressure 2020

¹⁸² Rituraj Phukan, Connecting Indigenous Wisdom with Sustainability Practices in the Global North, Climate Coaching Alliance webinar, 12 May 2022

¹⁸³ United Nations General Assembly Seventy-fifth session, Harmony with Nature Report of the Secretary-General, A/75/266 28 July 2020

¹⁸⁴ Elizabeth Harrop, At What Cost? The impacts of advertising and consumerism on human, community and planetary well-being. How to use international law to challenge human rights violations and climate impacts, caused by excessive consumption and advertising. Adfree Cities. Bristol, UK. 2021 <https://adfreecities.org.uk/our-reports/at-what-cost/>

¹⁸⁵ RAISG, Amazonia Under Pressure 2020

¹⁸⁶ Report of the Special Rapporteur on the rights of indigenous peoples A/HRC/36/46, 1 November 2017

Rather than constraining the rights of indigenous peoples, anyone truly interested in environmental protection in indigenous territories, should be advocating for them.

Strong foundations

In reframing and reconceptualizing our relationship to human rights and to the earth, there are foundations to draw upon, some laid decades ago¹⁸⁷. These include:

- In 1949, Aldo Leopold proposed a **Land Ethic**, arguing that the individual is part of a community and that this community is a Whole, in which the human is a citizen of the land not conqueror of it. This has echos of UNDRIP in which collective rights are recognized;
- In 1969, James Lovelock proposed the **Gaia Hypothesis**, which considered the Earth as a single organism in which all parts, including human beings, are almost as closely interrelated and as interdependent as the cells of the human body;
- In 1973, Norwegian philosopher Arne Naess initiated the **deep ecology movement**, in which anthropocentrism is replaced by ecocentrism, in which every living thing has inherent value regardless of its utility to human beings.
- The **Earth Charter** was created by the independent Earth Charter Commission, which was convened as a follow-up to the 1992 Earth Summit in order to produce a global consensus statement of values and principles for a sustainable future. The charter sees the protection by human beings of Earth's vitality, diversity, and beauty as a sacred trust, and recognizes that "all beings are interdependent and every form of life has value regardless of its worth to human beings"¹⁸⁸.
- In 2009, The first **UN General Assembly Resolution on Harmony with Nature** was adopted and the UN General Assembly proclaimed **22 April "International Mother Earth Day"**, this has been followed with other resolutions and reports on a yearly basis¹⁸⁹.
- In 2010 Bolivia hosted the World People's Conference on Climate Change and the Rights of Mother Earth, a key outcome of which was the **Universal Declaration of the Rights of Mother Earth** which notes that in an interdependent living community it is not possible to recognize the rights of only human beings without causing an imbalance within Mother Earth¹⁹⁰.

Indigenous peoples are calling for radical – and yet appropriate change. More recently, the Alliance of Guardians and Children of Mother Earth, made up of indigenous representatives from around the world, called on world leaders, the UN and civil society to start phasing out juridical systems inherited from the colonial times and replacing them with others that take up Nature, Mother Earth as a rights holder. The Alliance urges that we must evolve towards a paradigm based on Indigenous thought and philosophy, which grants equal rights to Nature and which honours the interrelationships between all life forms and the preservation of Mother Earth¹⁹¹.

The international movement Rights for Nature is calling upon the UN to add a seat within the General Assembly for a representative of each of the five landscapes recognized by the UN: Oceans, Mountains, Forests, Drylands, and Wetlands in order to give voice to nature in decision making as an important stakeholder.¹⁹²

We are undergoing an evolution in non-indigenous cultures – drawing on indigenous ways of being - in light of evidence that we urgently need a new relationship with nature.

Conclusion

¹⁸⁷ United Nations Economic and Social Council, Study on the need to recognize and respect the rights of Mother Earth, E/C.19/2010/4 15 January 2010

¹⁸⁸ Earth Charter https://earthcharter.org/wp-content/uploads/2020/03/echarter_english.pdf

¹⁸⁹ United Nations Harmony With Nature, Chronology <http://www.harmonywithnatureun.org/chronology/>

¹⁹⁰ Universal Declaration of the Rights of Mother Earth 2010 <https://celdf.org/wp-content/uploads/2016/03/UNIVERSAL-DECLARATION-OF-THE-RIGHTS-OF-MOTHER-EARTH-APRIL-22-2010.pdf>

¹⁹¹ The Declaration of the Alliance of Guardians and Children of Mother Earth, 2017

¹⁹² Rights For Nature, About Us <https://www.rightsfornature.org/about-us>

“Don’t try to carry the whole future; if you do, you’ll just burn yourself out. And if you’re worried about the past, all you can do is look back and reflect on it and take counsel from it. But today is the day that you live”, Oren Lyons¹⁹³

The deeply spiritual and practical relationship between Indigenous cultures and the earth is one founded on a holistic worldview where everything and everyone is interconnected. This is a worldview industrialized society has long pilloried but is now being forced to confront, as it grapples with supply chain issues, increasing levels of homelessness, inward migration and a cost-of-living crisis resulting from complex intersections relating to conflict, climate change and the socioeconomic impacts of COVID-19 response measures.

Conceptions of earth right and human rights can both be found in indigenous societies, but are seamlessly integrated in support of each other. This stands in contrast to conceptions of earth rights and human rights in the Global North where these frameworks can clash, for example either through denying Nature Rights, or through a forest guard system which views nature as a distinct entity to be protected from humans, and denies many indigenous rights as a result.

As we are forced headlong into a world of complex global emergencies as a result of the abuse and negligence of the West, indigenous ways of being have much to teach industrialized society, and indeed may provide the only option for sustainable ecosystems still welcoming of humans. There is a sense that those of us in the industrial north need to decolonize ourselves of deeply rooted, but false ways of being with the world, in order to achieve this.

There is an exciting challenge which is also an invitation to us all: To imagine and create means of Indigenous self-determination that do not revolve around or rely on state structures¹⁹⁴. This can impact not only Indigenous peoples, but all peoples who wish to live a more enriching and sustaining life, out of and away from colonial paradigms.

Our ability to self-determine our place in the world and our relationship to it, is ever more pressing, as issues such as environmental breakdown and food insecurity become a reality for us all. Indigenous cultures are well ahead: “Our work is about strengthening and restoring our own traditional economy, thereby strengthening our traditional culture as well, so that we can produce 50 percent or more of our own food independently, and can eventually produce enough surplus to sell... (as) part of an integrated restoration process that is focused on the full human being”, comments Winona Laduke¹⁹⁵.

La Hontan, a French soldier and historian in the seventeenth century, asked a community member of North American Indian nations, “What is this freedom you keep talking about?”. The man went inside his home and came back out holding a handful of corn. He said, “this is our freedom”¹⁹⁶.

ENDS

¹⁹³ Schumacher Centre for New Economics, The Ice is Melting by Oren Lyons

¹⁹⁴ E-International Relations, The UN as Both Foe and Friend to Indigenous Peoples and Self-Determination, 12 March 2020

¹⁹⁵ Voices from White Earth: Gaa-Waabaabiganikaag by Winona Laduke

¹⁹⁶ Schumacher Centre for New Economics, The Ice is Melting by Oren Lyons