**Questionnaire in relation to Human Rights Council resolution 47/24 on human rights and climate change**

1. Please describe the impacts of the adverse effects of climate change on the full and effective enjoyment of the human rights of people in vulnerable situations. Where possible, please share specific examples and stories.

EarthRights International works along indigenous communities in the Amazon and elsewhere and has seen firsthand their fight to protect their territorial rights and environment against extractive activity carried out in their lands without their consent by both states and corporations. Increasingly, we see how the direct negative impacts like oil spills and deforestation brought by these extractive activities, which on their own violate fundamental indigenous rights, are now accompanied and exacerbated by the negative impacts of climate change, which those very same extractive activities are causing. In effect, indigenous communities are suffering a double harm from the resource rushes in their territories combined with the warming planet those activities cause.

The climate crisis also has a direct impact on democracy and civil and political rights. As outlined by the UN special rapporteur on poverty in his 2019 report on climate change, the climate crisis can cause governments to respond with repressive measures that augment governments' powers and affect people’s rights. We have seen examples of this pattern in the US with the anti-pipeline laws adopted by several states. Countries continue to enact legislation to stop people opposing fossil fuel projects and at the same time support new laws and policies to guarantee the continuity of extractive industries that directly contribute to the climate change crisis.

The Wampis Nation is an Indigenous people made up of more than 85 native communities. Since 2015, they have been represented by the Autonomous Territorial Government of the Wampis Nation (GTANW). The Wampis territory covers 1 million 327 thousand hectares and is located in the north of the Amazon of Peru, between the regions of Loreto and Amazonas.

Within the Wampís territory, there are Protected Natural Areas, such as the Ichigkat Muja National Park (Cordillera del Cóndor), the Santiago Comainas Reserved Zone (Kampankias), and the Tuntanain Communal Reserve (Santiago and Cenepa). The Wampis territory is a "hot spot" of biodiversity. This rich diversity of flora and fauna is essential for the livelihood of the Wampis peoples, but also the maintenance of climatic cycles in this region of the Amazon. The Wampis community plays a fundamental role in conserving and protecting their territory. The protection of the Wampis territory has profound implications for the maintenance of the natural cycles of the Amazon rainforest.

A key part of the traditional beliefs and political system of the Wampis Nation is protecting their territory and environment. For generations, communities have lived in this part of the Amazon with a deep connection to their territory and the protection of their natural resources. In 2015, when the Wampis Nation began its organizing process under GTANW (Gobierno Territorial Autonomo de la Nacion Wampis), the communities adopted a statute that reflects their vision and commitment to protecting their territory[[1]](#footnote-1). The Wampis statute includes principles such as the right to self-determination, the right to decide their development priorities, and the right to say no to extractive industries, as such activities do not align with their cultural values. A key concept of the Wampis Government Statute is the concept of *Tarimat Pujut* or collective welfare. This principle requires that the Wampis peoples work for the adoption of policies that protect their territories and natural resources as a common good. Tarimat Pujut promotes a concept of unity and integrity of the territory where the well-being of the community depends on the protection of its rivers, mountains, forests, and fauna.

The communities belonging to the Wampis Nation are aware of the serious impacts that the climate crisis will have on their territories. Communities have already begun to notice an increase in heat that affects their orchards and their working hours, floods in the river basins that cross their territories, changes in the local flora and fauna that threaten their eating patterns, as well as impacts on the health of community members.

To respond to the climate crisis, the Wampis Nation is demanding the protection of their rights and their territories. Wampis peoples know that their work as defenders of the Amazon is fundamental in the fight against climate change. They are demanding to end all mining, oil, and illegal mining activities that contribute to their territories’ deforestation. At the same time, the autonomous territorial government of the Wampis Nation has begun to work on an adaptation plan to the climate crisis to avoid further damage to the rights of communities due to the effects of the climate crisis. This climate action plan has various components, including actions and commitments for addressing the accumulation of carbon stock, reducing forest degradation by the year 2030, and others.[[2]](#footnote-2)

**Native Federation of the Madre de Dios River and Tributaries (FENAMAD)**

EarthRigths also works closely with the Native Federation of the Madre de Dios River and Tributaries (FENAMAD), the representative organization of the seven Indigenous peoples of Madre de Dios, in the Peruvian Amazon basin. It was founded in 1982 by the Indigenous peoples themselves and is currently comprised of 37 native communities.

As part of its mandate, FENAMAD defends and protects the rights of Indigenous peoples, including those who live in isolation. It has recognized the impacts that deforestation and climate change have, noting that Indigenous peoples live in their ancestral territories, and are the first to face the direct consequences of climate change due to their dependence on the environment and its resources to meet their needs and have a full life.

FENAMAD also points out that climate change exacerbates the difficulties already faced by vulnerable indigenous communities, such as political and economic marginalization, loss of land and resources, and discrimination.[[3]](#footnote-3) And FENAMAD clearly recognizes the double harm of climate change and extractive activities. It notes that “the effects of climate change are getting stronger and stronger and this is affecting indigenous peoples and the land in general, which is becoming weaker and weaker. At the same time there is an accelerated depredation of our forests driven by government policies that promote extractive activities; this affects indigenous territories, rivers, animals, crops and forests.”[[4]](#footnote-4) Consequently, the federation has taken steps to address the problem, developing a “climate strategy that begins in the communities and organizations with a holistic vision based on life plans.”[[5]](#footnote-5)

To give one specific example of climate impacts in the region, in Madre de Dios indigenous peoples have identified changes in the climate that affect their daily activities and access to important resources for food security. In particular, the increase in rainfall and droughts is having a severe impact on food and indigenous family supplies. For example, on February 20 of this year, heavy rains increased the flow and subsequent overflow of the Madre de Dios, Tambopata, Las Piedras and Tahuamanu rivers, causing flooding in 29 (78%) of FENAMAD's base communities, which lost farms and homes. On February 21, Madre de Dios was declared in a State of Emergency by Supreme Decree N° 030-2021-PCM, as a result of the impact of the damages caused by the intense rainfall.[[6]](#footnote-6)

Impacts like these are not unique to FENAMAD, of course. For example, Indigenous communities in Brazil have [reported shifts](https://news.mongabay.com/2013/04/indigenous-tribes-say-effects-of-climate-change-already-felt-in-amazon-rainforest/) in precipitation patterns, humidity, river levels, temperature, and fire and agricultural cycles affecting traditional ways of life that date back thousands of years. The differentiated impact that Indigenous communities suffer was also [recently highlighted](https://larutadelclima.org/wp-content/uploads/2019/10/Informe-sobre-Cambio-Clim%C3%A1tico-y-Derechos-Humanos-en-las-Am%C3%A9ricas-2019.pdf) in a report to the IACHR. And tribes in the northwestern United States have produced [detailed studies](https://nwtreatytribes.org/climatechange/) on how climate change has affected the natural resources on which they depend, efforts that should be replicated in the Amazon and elsewhere. These changes impact the rights of the indigenous peoples in basic and evident ways, including the right to an adequate and balanced environment; the right to cultural identity; the right to a dignified life; and the right to health.

These impacts are exacerbated when States do not provide adequate resources for adaptation strategies of indigenous peoples or consult them when formulating and implementing climate and environmental policy that directly affect their territories. When government climate and environmental policy are developed and implemented in indigenous territories without consultation or consent, it violates the rights to self-determination and free prior informed consent of indigenous peoples. For example, while in Peru there are policy efforts to support the development of holistic “life plans” by indigenous communities that often include climate change adaptation and mitigation strategies,[[7]](#footnote-7) these plans are often never incorporated into regional or municipal policies and often lack financial resources for implementation. This type of exclusion prevents communities from deciding how they will adapt to and mitigate risks that pose fundamental threats to their survival.

**Anishinaabe peoples lead the opposition against Line 3 in Minnesota**

Line 3 is a pipeline expansion that would bring 760,000 barrels of tar sands crude oil per day from Alberta, Canada, to Superior, Wisconsin. Pipeline opponents estimate that the project has a climate impact on par with Keystone XL and poses an existential threat to waterways like the Mississippi River. Most of the pipeline route in the United States runs through northern Minnesota, including the treaty territory of multiple Anishinaabe tribes holding rights to hunt, fish, and harvest wild rice. Enbridge, a Canadian pipeline company responsible for the largest inland oil spill in the United States, is behind the project.

The pipeline corridor runs through untouched wetlands and the Mississippi River headwaters to the shore of Lake Superior. Construction on the pipeline began in late 2020 and ended in October of 2021, despite vociferous opposition from an Indigenous-led movement of water protectors in Minnesota. The pipeline was constructed subject to both state and federal permits, whose validity is subject to pending litigation and appeals that were not decided before construction was completed.

The Line 3 pipeline will have profound impacts on the climate. Based on the amount of carbon in the oil that Line 3 would move, water protectors calculate that building it is equivalent to building 50 new coal-fired power plants[[8]](#footnote-8) . Tar sands are among the dirtiest, costliest, and most carbon intensive fuel sources on the planet. A gallon of gasoline made from tar sands produces about 15 percent more carbon dioxide emissions than one made from conventional oil[[9]](#footnote-9) . Tar sands also have major impacts on water supplies and produce toxic pollution. The Line 3 pipeline could continue to transport harmful tar sands oil into 2070, way beyond the date when countries should achieve carbon neutrality[[10]](#footnote-10) . Additionally, new fossil fuel infrastructure opens the door for new extraction projects: “Pipelines are the keys that open up untapped reserves, by giving producers an affordable, reliable means to get oil to market.”[[11]](#footnote-11) When pipeline capacity is limited, oil production is curtailed6. To combat climate change, we need to stop building infrastructure that perpetuates our reliance on fossil fuel.

Water protectors have been leading the opposition to the pipeline through legal advocacy, organizing, and direct action. They have used a wide range of civil disobedience tactics, including sit-ins and locking themselves to excavators and drills and overturning cars and barrels of cement. The company and authorities have responded with inappropriate use of force. Line 3 water protectors have alleged that the Minnesota state police are acting in close coordination with Enbridge and regularly share intelligence, including the names of people attending anti-Line 3 meetings and coordinating actions. Enbridge provides financial support to the police via an escrow account.

In August 2021, water protectors publicly denounced escalating violence[[12]](#footnote-12) as the police shot protestors with non-lethal weapons and used “pain compliance” tactics[[13]](#footnote-13). Activists have also faced harassment and surveillance as the company engages in corporate counterinsurgency strategies against the resistance movement[[14]](#footnote-14). Water protectors continue resisting in camps along the construction route of the pipeline and calling on the Biden administration to stop the project and protect the rights of the Indigenous communities.

7. Please provide any additional information you believe would be useful to support climate action that promotes the full and effective enjoyment of the human rights of people in vulnerable situations.

Protecting the rights of communities on the frontlines of climate justice, who are the most vulnerable to the effects of the changing climate, is essential for avoiding the worst impacts of climate change. Governments, corporations, and financial institutions should take immediate actions to respect the rights of communities, including the right to protect their territories and oppose climate destruction.

We propose urgent action be taken in five broad areas:

**Decriminalize Opposition to Fossil Fuels and Deforestation:**

* Governments should rescind laws or policies that outlaw opposition to fossil fuel projects, including laws penalizing opposition to pipelines, laws criminalizing protests at or near business worksites, and blanket bans on particular forms of protest.
* Governments should adopt anti-SLAPP legislation that would prevent the bringing of retaliatory lawsuits against protestors.
* Governments should respect the rights to freedom of assembly and association. This includes refraining from bringing spurious charges against community members who oppose fossil fuels or other development projects. Vague and oppressive defamation laws, national security legislation, and other similar laws that are being used to repress communities should be repealed or significantly amended.
* Fossil fuel and agribusiness companies should adopt and implement zero-tolerance policies for reprisals against opponents of their activities.
* Governments should investigate and prosecute individuals directly and intellectually responsible for threats and violence against climate defenders and community leaders.

**Fight Corruption and State Capture that Drives Illegal Resource Extraction and Deforestation:**

* Governments should increase efforts to investigate and prosecute officials and corporations implicated in illegal natural resource extraction and exports.
* Governments should place economic and travel sanctions on individuals implicated in illegal resource extraction and deforestation and violations of the rights of environmental and land defenders.
* Governments should ban the importation of wood and other agricultural commodities produced on illegally deforested land, including land used without the consent of Indigenous peoples.
* Governments should adopt laws banning and establishing penalties for companies' involvement in human rights violations anywhere in their supply chains.
* Governments should end subsidies for fossil fuels in all forms.

**End the Use of Public Security Forces to Protect Fossil Fuel and Agribusiness Projects:**

* Governments should ban the paid employment of public security forces by private companies to protect their operations. Governments must ban the provision of any other financial support by private companies in exchange for policing activities.
* Governments should ban the use of “pain compliance,” and other coercive tactics against peaceful protestors engaged in opposition to fossil fuels and agribusiness projects.
* Police forces should refrain from establishing financial and cooperation agreements with private companies to offer security services to extractive projects.

**Recognize and respect frontline communities’ land rights, and the right to participate in the decisions that impact their territories and environment:**

* Governments and corporations should respect Indigenous peoples' right to free, prior, and informed consent. No projects should go forward on Indigenous lands without consent.
* Governments should recognize and protect the land rights of Indigenous communities, including Indigenous peoples in isolation.
* Governments should formalize the land rights of communities through Indigenous reserves and other legal agreements that protect their territories and prevent any climate-damaging projects from taking place.
* Governments should protect the rights of local communities to access information and participate in decision-making processes that affect their rights and territories.
* In Latin America, governments should continue ratifying the Escazu Agreement and accelerate its implementation. Governments in other regions can learn from the experiences of Europe with the Aarhus Convention and Latin America with the Escazu Agreement to develop similar legal instruments that protect communities’ and defenders’ access rights.

**Allow Access of Frontline Communities to Global Climate Negotiations:**

* Governments should allow frontline communities to have meaningful participation in global climate negotiations. Explicit provisions must be made for the protection of their rights in global climate agreements.
* Governments should make support for civil society’s participation in global climate decision-making a foreign policy priority, including by increasing political and diplomatic efforts to protect environmental human rights defenders and frontline communities.
* Governments and multilateral institutions should ensure the participation of representatives from frontline communities in climate summits and negotiations by eliminating existing barriers and providing official opportunities for participation. Governments hosting these events should respect the rights of environmental activists and frontline communities and provide the necessary support for their participation.

1. Gobierno Territorial Autónomo de la Nación Wampis. Ambición y estrategia climática del Gobierno Wampis. First Edition. October 2020. Pag 15. [↑](#footnote-ref-1)
2. Gobierno Territorial Autónomo de la Nación Wampis. Ambición y estrategia climática del Gobierno Wampis. First Edition. October 2020. Pag 38 [↑](#footnote-ref-2)
3. Estrategia para la acción climática y la protección de los territorios indígenas en Madre de Dios FENAMAD, 2020, p. 23. [↑](#footnote-ref-3)
4. *Id.* at 3. [↑](#footnote-ref-4)
5. *Id.*  [↑](#footnote-ref-5)
6. *Id*.at 23. [↑](#footnote-ref-6)
7. *See* Decreto Supremo que aprueba el Reglamento de la [Ley Nº 30754](https://go.vlex.com/vid/710485937?fbt=webapp_preview), Ley Marco sobre Cambio Climático, Artículo 5.20. [↑](#footnote-ref-7)
8. See stop Line 3. At: https://www.stopline3.org/issues/#climate [↑](#footnote-ref-8)
9. See Union of Concerned Scientists. At: https://www.ucsusa.org/resources/what-are-tar-sands [↑](#footnote-ref-9)
10. See Timothy Donaghy, Greenpeace USA, “Dangerous Pipelines Enbridge’s History of Spills Threatens Minnesota Waters”, November 2018. At https://static1.squarespace.com/static/58a3c10abebafb5c4b3293ac/t/5f eb8b5b2a4ee65eb2cba0bd/1609272161420/Greenpeace-Report-Dangerous-Pipelines.pdf [↑](#footnote-ref-10)
11. Adam Scott and Greg Muttitt, Oil Change International, “Climate on the Line: why new Tar Sands pipelines are incompatible with the Paris goals”, January 2017. At: http://priceofoil.org/content/uploads/2017/01/climate\_on\_ the\_line\_FINAL-OCI.pdf [↑](#footnote-ref-11)
12. See Tara Houska,founder

    giniwcollective at https://twitter.com/zhaabowekwe/status/1426229847349764100?s=20 [↑](#footnote-ref-12)
13. See Kelly Hayes,“Line 3 Resisters Light the way in a battle for life on earth”,Truthout, at https://truthout.org/articles/line-3-resisters-light-the-way-in-a-battle-for-life-on-earth/ [↑](#footnote-ref-13)
14. See Allen Brown “Corporate Counterinsurgency Against Line 3 Pipeline Resistance”, The intercept, July 7, 2021, at https://theintercept.com/2021/07/07/intercepted-line-3-pipeline-minnesota/ [↑](#footnote-ref-14)