



23 March 2022

Mr. José Francisco Cali Tzay  
Mandate of the Special Rapporteur on the rights of indigenous peoples,  
OHCHR-UNOG  
8-14 Avenue de la Paix  
1211 Geneve 10  
Switzerland  
Sent via email to: [ohchr-indigenous@un.org](mailto:ohchr-indigenous@un.org)

RE: Submission to 77th General Assembly report

Dear Mr. Cali Tzay,

It is with great pleasure that Project Expedite Justice (“PEJ”) submits its observations for consideration, noting that your mandated report to the 77th UN General Assembly is due shortly. Our observations are based on our exploratory report (*See*, Annex 1 attached hereto), finalized in early 2022. PEJ’s report identifies the existence, under a low evidence threshold, of the systematic commission of human rights violations against indigenous peoples (“IPs”) in protected areas (“PA”). Our findings illustrate the pressing need to pursue accountability to uphold indigenous peoples’ rights, obtain redress, and mitigate and deter future violations that are probable to occur as conservation actors implement the 30x30 initiative.

PEJ’s research identified a three-step pattern of systematic human and indigenous rights violations consisting of (1) indigenous and ancestral land dispossession and eviction, often with the use of violence, through defective, deceptive, or complete absence of free, prior, and informed consent processes, and upheld through different domestic legal instruments; (2) human and indigenous peoples rights violations derived from the eviction and dispossession from the land, including, the rights to non-destruction of their culture, the right to housing, right to food and water, right to practice cultural traditions, etc.; and (3) gross human rights violations such as murder, torture, arbitrary detention, rape, etc. committed by eco-guards or law enforcement personnel financed, trained, and supported by the government and conservation organizations. These violations are not isolated incidents but, instead, systemic in nature and meet the definition of systematicity for crimes against humanity.



Our report relies on open-source research and contacts with indigenous peoples from ten (10) protected areas worldwide. The ten parks were selected based on criteria that include: the pattern of violations, availability of information, and the possibility of collaboration with indigenous peoples. Nonetheless, the systematic pattern is not isolated to these areas and will likely intensify as conservation efforts increase. The selected PAs are as follows:

1. Chitwan National Park – Nepal
2. Bardiya National Park – Nepal
3. Kaziranga National Park – India / UNESCO World Heritage Site
4. Ngorongoro Conservation Area – Tanzania / UNESCO Mixed World Heritage Site
5. Mount Elgon – Uganda / UNESCO Biosphere Reserve
6. Salonga National Park – Democratic Republic of Congo / UNESCO World Heritage Site
7. Dzanga-Sangha Protected Area – Central African Republic / UNESCO World Heritage Site
8. Lobeke National Park – Cameroon / UNESCO World Heritage Site
9. Noubalé-Ndoki National Park – Republic of Congo / UNESCO World Heritage Site
10. Messok Dja – Republic of Congo / Proposed UNESCO Man and Biosphere Reserve

In our exploratory report *“Trapped Outside the Conservation Fortress: The Intersection of Global Conservation Efforts and Systematic Human Rights Violations,”* we present human rights violations committed in all ten of the above-mentioned PAs, with a clear depiction of how the pattern of exclusion repeats itself almost identically in all of the PAs, as a direct consequence of “fortress conservation.”

Our findings conclude that, in the studied pattern, indigenous peoples do not participate in managing the protected areas, nor do they receive substantial benefits from its creation. In most cases, indigenous peoples are dispossessed from their lands and relocated to small geographic areas that do not carry the same cultural significance and importance as their ancestral territories. Additionally, indigenous peoples do not have tenure over the lands they are relocated to; sometimes, their relocation is provisional. The land is frequently shared with other communities that enjoy an advantageous position over indigenous peoples. This constellation of factors leads to increased uncertainty and precariousness in IPs’ situation. These factors are frequently compounded by the fact that these reallocated territories are dissimilar to their ancestral territories, including geographical size, access to medicinal plants, opportunities to farm, feed livestock, or fish, all of which prevent IPs from





exercising their traditions and customs. Thus, eviction impacts their cultural existence and leads to famine and sickness. This vulnerable situation also makes them prone to abuse from other actors in those areas.

Regarding free, prior, and informed consent (“FPIC”), we have identified that these processes are flawed in most cases and deceptive in other cases due to several factors. First, conservation organizations and other actors involved do not have proper knowledge and training as to how to obtain FPIC and fully air the consequences for IPs to make a fully informed decision. In most cases, sufficient time is not allocated to the consent process to fully advise the IPs of all issues in an impartial manner that affords the IPs the ability to make a voluntary, intelligent, and knowing decision. IPs are not treated as equal peers, where their rights are respected, understood, and upheld. Also, in many circumstances, indigenous peoples are promised a bevy of beneficial conditions, including better land, tenure rights, participation in the project, employment opportunities for the communities, access to services, etc., in exchange for their consent. These promises are ultimately unfulfilled after the FPIC is obtained.

Additionally, there are issues with selecting actors chosen to engage in the FPIC processes and whether they truly represent the indigenous peoples in question. For example, recently, in Ngorongoro, there were reports of faulty FPIC processes where Maasai leaders that did not belong to the communities or leaders in other PAs were receiving personal benefits “in exchange” for their FPIC. In other situations, IPs have refused to sign attendance lists to FPIC meetings due to the fear of exploitation, as in the past, the collected signatures were distorted to indicate consent. Overall, indigenous peoples are not meaningfully involved in the creation of PAs. Instead, they are detrimentally affected by the PAs creation and suffer severe violations of their rights.

As the 30x30 and other initiatives advance, including initiatives such as the Post-2020 Global Biodiversity Framework, it is probable that the creation of PAs will increase as the urgency to meet the objectives developed in the Framework rises. The creation of PAs utilizing the existing model will only exacerbate and amplify the violations of indigenous peoples’ rights as their ancestral lands are targeted for conservation purposes.

Second, our findings demonstrate that the methodology used to create PAs is inherently flawed in its relationship to indigenous peoples. The failure to include IP’s in each phase of a PA’s creation is prone to be riddled with violations at every step of the process, with each



violation compounded by another violation in a subsequent phase. It is insufficient to adjust the model to the underlying philosophy of this model – fortress conservation – which by definition promotes an exclusionary relationship with IPs and, in its application, excludes the possibility of a successful model of coexistence and conservation where IPs act as stewards of the land. Consequently, the existing PA model of fortress conservation does not recognize a model where indigenous peoples act as owners of their ancestral lands, are afforded the opportunity to remain on the land, and steer and lead conservation actions. Bluntly put, IPs have no seat at the table.

Further, the fortress conservation model does not adhere to the international human rights obligations and indigenous peoples’ rights enshrined in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Significantly, the UNDRIP includes the right to self-determination and autonomy (arts. 3 & 4), the right to maintain their distinct institutions (art. 5), the right to preservation and non-destruction of their culture (art. 6), the right to remain in their lands (art. 10), and, among other rights, the right to participate in decision-making in matters that would affect their rights (art. 18). Therefore, based on our findings contained in Annex 1, if the fortress conservation model is not abandoned and replaced with a model that focuses on the indigenous peoples and their rights, the 30x30 initiative presents a threat to indigenous peoples’ well being and existence.

We hope that this letter and the corresponding report detailing our research will assist you in fully airing the facts and fulfilling your mandate. We stand ready should you require further information or clarification. It is an honor and privilege to be of service. Please feel free to direct any correspondence to our Executive Director, Cynthia Tai – [cynthia@projectexpeditejustice.org](mailto:cynthia@projectexpeditejustice.org), or our Conservancy and Indigenous Peoples Project Director, Nicolás Süßmann Herrán – [nicolas@projectexpeditejustice.org](mailto:nicolas@projectexpeditejustice.org).

Respectfully,

A handwritten signature in black ink, appearing to read 'Cynthia T. Tai'.

Cynthia T. Tai  
Executive Director

A handwritten signature in black ink, appearing to read 'Nicolás Süßmann Herrán'.

Nicolás Süßmann Herrán  
Director  
Conservancy and Indigenous Peoples  
Project