

RIGHTS OF INDIGENOUS PEOPLES INTEREST GROUP NEWSLETTER

Interest Group Highlights

On Friday June 26 the RIPIG held a virtual business meeting as part of the ASIL AGM. We pass on our thanks to those who attended and offered suggestions on future plans for this year. We remind everyone that members are invited to organize webinars to be hosted by ASIL and this interest group on topics relating to Indigenous peoples' rights. For information on what is involved, please contact the Co-Chairs.

RIPIG congratulates José Francisco Cali Tzay for his appointment as the new United Nations Special Rapporteur on the Rights of Indigenous Peoples. We also thank Victoria Tauli-Corpuz for her tireless work in this position over the previous 6 years.

The Newsletter

The Newsletter is a place to share information concerning recent developments, scholarship, and other matters of interest to the Group relating to the rights of Indigenous peoples. Your contributions are essential to the quality and success of this publication. To contribute to an upcoming issue, please contact Harry Hobbs at Hobbs.Harry@uts.edu.au, or Ayla do Vale Alves at a.alves@unsw.edu.au.

RIPIG welcomes Ayla do Vale Alves as newsletter editor. Ayla is a PhD Student at the University of New South Wales Faculty of Law (Australia). Ayla's research examines cultural appropriation of Indigenous cultural heritage from an international law perspective. Her research interests include international law, international human rights law, and Indigenous rights. Ayla has a LLM in International Human Rights Law from the University of Liverpool (2018).

Indigenous Rights Developments

- [The National Football League's Washington franchise has retired their racially discriminatory nickname and logo](#) (July 13, 2020). Following a protracted campaign led by Native Americans, and years of resistance from the club's owner, the Washington NFL franchise has declared that it will drop their name and logo. A new name will be selected soon. The decision is expected to place further pressure on other professional sporting clubs to re-examine their derogatory nicknames. Indeed, several days later, the Canadian Football League's

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Rights of Indigenous Peoples Interest Group

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Views contained in this publication are those of the authors in their personal capacity. The American Society of International Law and this Interest Group do not generally take positions on substantive issues, including those addressed in this periodical.



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Edmonton Football team announced that they too will change their name, retiring a derogatory, colonial era name for Inuit people.

The Washington NFL statement is available here:

<https://www.redskins.com/news/washington-redskins-retiring-name-logo-following-review>

More information is available here: <https://www.abc.net.au/news/2020-07-13/washington-nfl-team-drops-the-redskins-name/12451730>.

News on the Edmonton CFL announcement is here: <https://globalnews.ca/news/7201833/edmonton-eskimos-football-team-name-change/>

- [The Australian state of Victoria will set up the country's first truth and justice commission to acknowledge historic and ongoing injustices against Aboriginal people \(July 10, 2020\).](#) The First Peoples' Assembly of Victoria will elaborate and guide the truth-telling process following community consultation to delineate the project's scope and form. The Assembly's Bangerang Wiradjur co-chair, Geraldine Atkinson, anticipates that the commission will provide an opportunity to address a range of issues from frontier wars, massacres, displacement, and policies of assimilation to over-incarceration of Aboriginal people and their deaths in custody. While the assembly wants to make sure that reparations and redress are part of the truth-telling process, Atkinson stresses that the possibility of reaching these more tangible outcomes is yet to be worked out with the state.

More information available here: https://www.theguardian.com/australia-news/2020/jul/11/victoria-to-set-up-australias-first-truth-telling-commission-led-by-first-peoples-assembly?CMP=Share_iOSApp_Other

- [The United States Supreme Court held by 5-4 that a large portion of eastern Oklahoma is Native American land \(July 9, 2020\).](#) The decision in *McGirt v Oklahoma* is perhaps the most significant Supreme Court decision for Native American tribes in the last two decades. It means that around 47 per cent of the state of Oklahoma is recognized as Native American land.

The federal *Major Crimes Act* provides that Native Americans who commit serious crimes on Native American lands will be tried by federal rather than state courts. In the 1980s, McGirt was tried and convicted of three serious sexual offences by an Oklahoma State Court. McGirt argued that the State lacked jurisdiction because he is an enrolled member of the Seminole

Nation of Oklahoma and his crimes took place on the Creek Reservation. The question for the Court was whether such a reservation existed and whether Congress had disestablished the Creek Reservation.

The Court accepted that a reservation had been established. In 1832, Congress established a reservation for the Creek Nation. An 1833 Treaty fixed borders for a 'permanent home to the whole Creek Nation of Indians', and promised that the United States would 'grant a patent, in fee simple, to the Creek nation of Indians for the [assigned] land' to continue 'so long as they shall exist as a nation, and continue to occupy the country hereby assigned to them'. In 1866, the United States entered another treaty with the Creek Nation, which reduced the size of the land set aside for the Creek. That 1866 Treaty restated the earlier commitment that the land would 'be forever set apart as a home for said Creek Nation'.

The next question was whether the reservation had been disestablished. Oklahoma argued that the Creek Nation's Reservation had been disestablished by various acts, including the 1906 *Oklahoma Enabling Act*, which facilitated the Oklahoma Territory's statehood, and the policies of allotment. The majority decision, authored by Justice Gorsuch, rejected this position.

Justice Gorsuch adopted a textualist approach. In finding whether Congress has disestablished a reservation, Gorsuch held that the Court must 'ascertain and follow the original meaning of the law' (p 18). To allow the Court to consider 'extratextual evidence' would 'only serve to allow States and courts to finish work Congress has left undone, usurp the legislative function in the process, and treat Native American claims of statutory right as less valuable than others' (pp 20-21). As Justice Gorsuch held, although many laws and policies passed by the United States Congress over the years 'represented serious blows to the Creek ... just as plainly, ... [they] left the Tribe with significant sovereign functions over the lands in question' (p 14). As such, the Reservation had never been disestablished.

In following his textual approach, Justice Gorsuch dismissed Oklahoma's argument that the decision would create significant uncertainty. His Honor concluded by noting that:

The federal government promised the Creek a reservation in perpetuity. Over time, Congress

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has diminished that reservation. It has sometimes restricted and other times expanded the Tribe's authority. But Congress has never withdrawn the promised reservation. As a result, many of the arguments before us today follow a sadly familiar pattern. Yes, promises were made, but the price of keeping them has become too great, so now we should just cast a blind eye. We reject that thinking. If Congress wishes to withdraw its promises, it must say so. Unlawful acts, performed long enough and with sufficient vigor, are never enough to amend the law. To hold otherwise would be to elevate the most brazen and longstanding injustices over the law, both rewarding wrong and failing those in the right (p 42).

The decision reaffirms that the United States Congress has sole authority to disestablish reservations, and that the Court will not lightly infer such an action.

Chief Justice John Roberts wrote the dissent. The dissent eschewed the textual approach adopted by the majority, finding that the combination of a series of laws and policies implemented over the years evidenced Congress' intent to disestablish the Creek Nation's Reservation. In reaching this decision, Chief Justice Robert emphasized the practicalities of the majority's decision:

The State's ability to prosecute serious crimes will be hobbled and decades of past convictions could well be thrown out. On top of that, the Court has profoundly destabilized the governance of eastern Oklahoma. The decision today creates significant uncertainty for the State's continuing authority over any area that touches Indian affairs, ranging from zoning and taxation to family and environmental law (pp 46-47).

Lawyers for the tribal groups reject this uncertainty, stating that the decision will only affect Native American descendants within the lands as no private land ownership will change hands.

Following the decision, Oklahoma and the Five Tribes issued a joint statement, declaring:

The nations and the state are committed to implementing a framework of shared jurisdiction that will preserve sovereign interests and rights to self-government while affirming jurisdictional

understandings, procedures, laws, and regulations that support public safety, our economy, and private property rights. We will continue our work, confident that we can accomplish more together than any of us could alone.

The Supreme Court decision is available here: https://www.supremecourt.gov/opinions/19pdf/18-9526_9okb.pdf

More information is available here: <https://www.nytimes.com/2020/07/09/us/supreme-court-oklahoma-mcgart-creek-nation.html>

The Joint Statement is available here: <http://www.oag.ok.gov/state-muscogee-creek-choctaw-and-seminole-nations-release-joint-statement-in-response-to-scotus-decision-in-mcgart-case>

- The Supreme Court of Brazil has ordered the Brazilian government to establish a crisis response team to protect Indigenous peoples and communities from COVID-19 (July 8, 2020). The order requires that the government prevent outsiders from entering Indigenous lands without permission, establish COVID-19 testing sites and provide health care for all Indigenous people. The order follows a June 29, 2020 petition filed by a Brazilian Indigenous rights organization and six political parties asserting that COVID-19 could lead to a 'genocide' of Brazil's already at-risk Indigenous population. The Supreme Court decision is available (in Portuguese) here: <https://static.poder360.com.br/2020/07/adfp-cautelar-barroso-indigenas.pdf>
More information is available here: <https://theconversation.com/judge-orders-brazil-to-protect-indigenous-people-from-ravages-of-covid-19-142356>
- Brazilian President Jair Bolsonaro has vetoed 16 provisions of a Bill aimed at protecting Indigenous communities from the outbreak of COVID-19 (July 8, 2020). The proposed legislation would establish an emergency plan to combat the pandemic in Indigenous communities, require that the government provide access to safe drinking water, distribute free hygiene products, increase the number of hospital beds and intensive care units for Indigenous peoples, among other elements. The Brazilian Congress and Senate can override the veto by majority vote in both houses.
More information is available here: <https://www.mercurynews.com/2020/07/08/bolsonaro-vetoes-covid-19-aid-for-brazils-indigenous-people/>

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- The United States District Court has invalidated the Dakota Access Pipeline Permits (July 6, 2020). The controversial 1200-mile pipeline was completed in 2017 and has received the backing of President Donald Trump. It has been the site of lengthy global protests led by the Standing Rock Sioux Tribe. The District Court for the District of Columbia ruled that the construction of the pipeline had fallen short of environmental standards and a more thorough environmental review was necessary. That review is expected to take 13 months. More information is available here: <https://www.nytimes.com/2020/07/06/us/dakota-access-pipeline.html>. The order is available here: <https://turtletalk.files.wordpress.com/2020/07/standing-rock-order.pdf>
- Colombian Indigenous representatives demand the prosecution, before the Special Indigenous Justice system, of members of the Colombian Armed Forces who sexually abused a 12-year-old Emberá Indigenous girl (July 5, 2020). Indigenous representatives have denounced the practice of sexual abuse by soldiers of the Armed Forces against Indigenous women and children. Indigenous representatives allege that such abuse is part of ongoing historic and systematic discriminatory behaviour that should be subjected to Indigenous mechanisms of justice. Activists and organizations have also called on the government to adopt strategies to prevent such practices and change the racist and sexist structure that enables the continuing violence and abuse from Colombian public forces targeting Indigenous peoples. More information available (in Spanish) here: <https://www.elespectador.com/opinion/violencia-sexual-militares-y-cadena-perpetua/>
- The Canadian province of British Columbia has issued its first annual report on the implementation of the United Nations Declaration on the Rights of Indigenous Peoples (July 3, 2020). The report is required under the Declaration on the Rights of Indigenous Peoples Act passed in the provincial legislature last year. The report recognizes steady progress in certain areas, including in updating the provinces' school curriculum to include more Indigenous culture and history, and changes to child welfare laws to keep Indigenous children with their families and communities. It acknowledges that more is needed to be done. The report is available here: https://www2.gov.bc.ca/assets/gov/british-columbians-our-governments/indigen-nous-people/aboriginal-peoples-documents/dripa_annual_report_2020.pdf
- Peruvian Minister of Economy and Finance proposes implementing prior consultation with Indigenous peoples through an online platform (July 3, 2020). Indigenous peoples in Peru denounced the Minister's proposal as a violation of ILO Convention 169 and Peruvian Law n. 29785, as their right to participate in decision-making processes that may affect their communities could not adequately be fulfilled through digital platforms. Most Indigenous persons and communities in Peru do not have access to the internet. Indigenous representatives also argued that an online consultation process would preclude the appropriate and necessary intercultural dialogue. Following strong domestic and international criticism, the government discarded the possibility of online consultation, acknowledging that any consultation will only happen in person. More information available (in Spanish) here: <http://derechoshumanos.pe/2020/07/no-a-las-consultas-virtuales-van-contra-el-dialogo-intercultural-y-el-derecho-a-la-consulta-previa/>
- Canada's Supreme Court has dismissed an application for leave to appeal from a group of First Nations who had sought to challenge the approval of the controversial Trans Mountain pipeline expansion project (July 2, 2020). The decision effectively upholds the Federal Court of Appeal's decision in *Coldwater First Nation v Canada (Attorney-General)* [see volume 7(1) of this newsletter] and may signal the end of legal challenges to the approval of the Trans Mountain Pipeline Expansion Project. Decision available here: <https://decisions.scc-csc.ca/scc-csc/scc-l-csc-a/en/item/18411/index.do>
- Indigenous peoples in Peru have requested the Peruvian Congress amend a law that protects Indigenous Peoples in Voluntary Isolation or Initial Contact (PIACI, in Spanish), to eliminate loopholes that enable extractive activities to take place in Indigenous reserves in case of public need (July 1, 2020). Indigenous representatives argue that due to the recent outbreak of COVID-19, Indigenous Peoples in Voluntary Isolation or Initial Contact are particularly vulnerable to the health risks that the invasion of their territories by non-Indigenous persons bring, as uncontacted commu-



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nities have not created the necessary antibodies to protect themselves from common illnesses in mainstream societies. Activists and organizations have formally petitioned Congress to amend Law 28736 (known as the PIACI law) that will guarantee the absolute inviolability of PIACI territories and preclude oil, logging and mining companies from entering. The Congress is yet to deliberate on the matter.

More information available (in Spanish) here: <http://www.inforegion.pe/274353/demandan-al-parlamento-la-modificacion-de-la-ley-piaci/>

More information available in English here: <https://www.stand.earth/latest/forest-conservation/amazon-sacred-headwaters/indigenous-federations-peru-raise-global>

- [Lidia Thorpe becomes the first Aboriginal person from the state of Victoria to serve in the Australian Parliament](#) (June 20, 2020). The Gunnai-Kurnai/Gunditjmara woman is the fifth Aboriginal person serving in the current Parliament. Only 10 Aboriginal or Torres Strait Islander people have ever held office. Ms Thorpe said she would pursue a treaty with Indigenous Australians in Federal Parliament. More information here: <https://www.smh.com.au/politics/federal/lidia-thorpe-to-be-next-greens-senator-for-victoria-20200620-p554i2.html>
- [Report denounces the difficulties Native Americans must overcome to engage with non-Native political processes](#) (June 11, 2020). The document launched on June 4, 2020, entitled "Obstacles at Every Turn: Barriers to Political Participation Faced by Native American Voters", was prepared by the Native American Rights Fund (NARF) and the Native American Voting Rights Coalition (NAVRC), and developed through a series of interviews aimed at exploring the experience of Native Americans with political participation in non-Native contexts. The document exposes the struggles and discrimination Native Americans face in those contexts, such as the requirement of documents and information unavailable in Native contexts for the first steps of registration as a voter. The organizations that launched the report expect it to guide public policy, as well as encourage and inform Native Americans about political participation and political rights in and out of their communities. More information available here: <https://www.cultural-survival.org/news/new-report-outlines-obstacles-native-americans-face-voting-and-political-participation> ;

The report is available here: https://vote.narf.org/wp-content/uploads/2020/06/obstacles_at_every_turn.pdf

- [Rio Tinto destroys culturally significant Juukan Gorge in the western Pilbara region of Australia exposing problems in heritage protection law](#) (May 26, 2020). The 46,000-year-old site was decimated in blasts conducted by the mining company. Rio Tinto had received permission to conduct the blasts in 2013 under the Western Australian *Aboriginal Heritage Act*. In 2014, an archaeologist found several 'staggering' artefacts believed to be the earliest use of grindstone technology in Western Australia, but this did not trigger a review of the initial permission. The Puutu Kunti Kurrama and Pinikura people, the traditional owners of the land, were not told and discovered the blasts by accident. The destruction has sparked a wave of criticism. Aboriginal and Torres Strait Islander and human rights organisations have called on the Corporate Human Rights Benchmark to strip Rio Tinto of its status as a global human rights leader. Institutional shareholders have also criticised the company. The Western Australian government is reviewing the Heritage Act; draft legislation is expected to be released for public comment soon. More information is available here: <https://www.abc.net.au/news/2020-05-26/rio-tinto-blast-destroys-area-with-ancient-aboriginal-heritage/12286652>
- [The Brazilian Minister of the Environment proposes relaxing environmental laws to facilitate deforestation in the Amazon while media and society are focused on COVID-19](#) (May 21, 2020). The Brazilian Supreme Court released a video of a ministerial meeting that took place on April 22 in which the Minister of the Environment, Ricardo Salles, called the attention of other ministers and President Jair Bolsonaro to what Salles considered an opportunity created by the COVID-19 pandemic: to take advantage of the media's distraction by COVID-19 to amend and deregulate protective environmental laws in order to facilitate the use of protected territories or lands in the process of demarcation for agriculture and cattle raising. While Indigenous peoples have asked for Salles's resignation since the early stages of his mandate, due to his connections to agribusiness and his disregard for Indigenous land rights, the minister's statement caused widespread indignation and has increased pressure for his dismissal.



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More information (in Portuguese) here: <https://brasil.elepais.com/brasil/2020-05-22/salles-ve-oportunidade-com-coronavirus-para-passar-de-boiada-desregulacao-da-protecao-ao-meio-ambiente.html>

- Hereditary chiefs of the Wet'suwet'en people have agreed to a deal with the Canadian and British Columbia governments to negotiate their land rights dispute (May 15, 2020). The memorandum of understanding aims to resolve tensions over the construction of a pipeline in unceded Wet'suwet'en land and could lead to Canadian law recognising Wet'suwet'en title to 22,000km² of their traditional territory. The three parties have agreed to negotiate directly, bypassing the expensive and lengthy British Columbia treaty process. More information here: <https://www.theguardian.com/world/2020/may/15/canada-wetsuweten-historic-deal-land-rights-pipeline>
- The Inter-American Commission on Human Rights (IACHR) has warned of the specific vulnerability of Indigenous peoples in face of the COVID-19 pandemic and has called on States to adopt targeted, culturally appropriate measures to adequately respond (May 6, 2020). The Commission's warning comes as part of its Rapid and Integrated Response Coordination Unit on the COVID-19 Pandemic. The call complements IACHR Resolution No. 1/2020 (see below) by focusing specifically on Indigenous peoples and communities. It identifies histories of discrimination, consequent high levels of poverty, and the structural violation of Indigenous peoples' human rights in the Americas as factors contributing to the particular vulnerabilities Indigenous peoples face from COVID-19. The Commission also warns about cultural challenges in dealing with the effects of the pandemic as most health measures do not incorporate elements of traditional healing practices and medicine, and disregard linguistic and cultural particularities of Indigenous communities. Due to social distancing and the impossibility of in-person meetings, the IACHR also asks States to interrupt administrative procedures concerning the execution of extractive and exploration activities affecting Indigenous territories in order to respect the right of effective participation of Indigenous peoples in relevant decisions. Ultimately, the Commission draws attention to the right of self-determination to emphasize the obligation of States to include Indigenous representatives in the elaboration and monitoring of any efforts to respond to the pandemic. More information available here: https://www.oas.org/en/iachr/media_center/PReleases/2020/103.asp
- Nicaragua is failing to protect Indigenous peoples from land grabs finds a report by the Californian-based Oakland Institute (May 4, 2020). The report details the violence and dispossession that Indigenous communities face in the Caribbean Coast Autonomous Regions. The Report accuses the government of failing to enforce legal protections of Indigenous lands, and of playing an active role in the colonization and exploitation by transnational firms. The report is available here: <https://www.oaklandinstitute.org/nicaragua-failed-revolution-indigenous-struggle-saneamiento>
- The Inter-American Commission on Human Rights has adopted a resolution on 'Pandemic and Human Rights in the Americas' (April 10, 2020). Although focusing on general human rights concerns, Resolution No. 1/2020 requires States to respect Indigenous culture, traditional medicines, human rights, and land rights when responding to the effects of the pandemic in Indigenous communities ([54]-[57]). IACHR Resolution No. 1/2020 is available here: <https://www.oas.org/en/iachr/decisions/pdf/Resolution-1-20-en.pdf>
- José Francisco Cali Tzay, a Maya Kaqchikel person from Guatemala was appointed the new United Nations Special Rapporteur on the Rights of Indigenous Peoples for a mandate of three years (March 16, 2020). Mr Tzay has significant experience as an advocate for Indigenous Peoples, most recently serving on United Nations Committee on the Elimination of Racial Discrimination. Mr Tzay takes over from the previous Special Rapporteur, Victoria Tauli-Corpuz, who served in this position from June 2014 to April 2020. More information available here: <https://www.culturalsurvival.org/news/jose-francisco-cali-tzay-appointed-new-united-nations-special-rapporteur-rights-indigenous> ■



Book Reviews

- *Indigenous Peoples and International Trade: Building Equitable and Inclusive International Trade and Investment Agreements* (Cambridge University Press, 2020), review by Harry Hobbs.

International trade law and the international economic system has historically marginalized Indigenous peoples and communities. These systems were, after all, built upon alienation, dispossession and 'colonization of indigenous territory, resources and labor' (p 2). It is no wonder then that the contemporary operation of international trade and investment law can continue to harm and disempower Indigenous peoples and communities. And yet, as the contributors to this excellent volume argue, because this risk exists irrespective of Indigenous peoples' engagement, it can be valuable for Indigenous communities to participate and seek to shape the system towards their own visions and perspectives. Drawing on Indigenous peoples' own knowledges and ways of being, in concert with existing law, may offer the potential to transform international trade law to better reflect and respect their unique rights and interests. The contributors do not shy away from the fact that this goal is challenging; it is not simply a matter of opening up international trade to Indigenous peoples but a process of re-centering and rebuilding that system around Indigenous peoples' normative commitments to their law.

The collection provides a comprehensive account of Indigenous peoples' participation in the international economic system. Part I explores historical and regional perspectives. It begins with a nuanced overview that examines what the resurgence of Indigenous peoples' law means for the evaluation of international trade agreements. It is followed by more discrete chapters that explore historic Indigenous trade in the Americas, as well as the how the contemporary international trade regime challenges Indigenous peoples' trading relationships and economic rights in Mexico, Latin America, and the European Union. Part II is especially valuable. Focusing on modern free trade agreements (FTA), it demonstrates how Indigenous peoples are pressuring sovereign states to consider how international trade can be broadened to protect and benefit Indigenous communities. In some cases, a degree of success has been realized. Chapter 11 examines the

'Treaty of Waitangi' exception that is included in each FTA signed by New Zealand. As Amokura Kawharu explains, the exception is aimed at ensuring the New Zealand government enacts measures to give effect to its obligations to Māori under the Treaty of Waitangi, even if those measures would be inconsistent with the obligations assumed by New Zealand under the FTA. While the exception has not evolved in line with developments in New Zealand's approach to FTAs, its existence indicates an alternative path that other states can adapt. As the chapters in this volume attest, many Indigenous peoples and communities will continue to pressure states to do so.

- *Antonietta di Blase and Valentina Vadi (eds), The Inherent Rights of Indigenous Peoples in International Law* (University of Roma III Press, 2020), review by Elsa Stamatopoulou.

Framing the rights of Indigenous Peoples as 'inherent rights', this fascinating volume navigates and places Indigenous rights within the origins of human rights law and the concept of human dignity. This much needed reframing, itself a response to skeptics of the collective aspects of human rights, at the same time, opens new conceptual spaces for a deeper understanding of Indigenous rights as contributing to an intercultural understanding of all human rights. This succinct volume adopts an International Law perspective, and at the same time, stresses the importance of history in any discussion of Indigenous rights, as well as the impact of such time frames in interpreting these rights today, including the concepts of sovereignty and self-determination. In addition to an enticing discussion on sovereignty and self-determination, as well as land rights (mainly through analysis of decisions of the Inter-American Court of Human Rights and the African Court on Human and Peoples Rights), the book points out the inadequacies of international protection of cultural rights, including Indigenous Peoples' cultures. Finally, the emphasis on economic law and Indigenous Peoples' rights is another special contribution of this volume. The *Inherent Rights of Indigenous Peoples* is an innovative volume, and should be read by all those interested in the rights of Indigenous Peoples, students and practitioners alike.

Recommendations from UN and Treaty Bodies

Human Rights Committee (HRC)

The Human Rights Committee made recommendations relating to indigenous peoples' rights in its Concluding Observation on state periodic reports at its 128th Session (2–27 March 2020), including with respect to the Central African Republic (CCPR/C/CAF/CO/3, paras 37-8).

Committee on the Elimination of Discrimination against Women (CEDAW)

No recommendations relating to Indigenous women's rights were made in the Committee's last Concluding Observations on state periodic reports (75th session - 10 February–28 February 2020).

Committee on the Elimination of Racial Discrimination (CERD)

The 101st Session (20 April 2020 – 08 May 2020) has been postponed. No new recommendations on Indigenous peoples' rights have been made.

Committee on Economic, Social and Cultural Rights (CESCR)

The Committee on Economic, Social and Cultural Rights made recommendations relating to indigenous peoples' rights in its Concluding Observations on state periodic reports at its 67th session (11 February–06 March 2020), including with respect to Belgium (E/C.12/BEL/CO/5, para

3), Norway (E/C.12/NOR/CO/6, paras 12-3) and Ukraine (E/C.12/UKR/CO/7, paras 47-8).

Committee on Migrant Workers (CMW)

No new concluding observations relating to Indigenous peoples' rights.

Committee on the Rights of the Child (CRC)

The Committee on the Rights of the Child made recommendations relating to Indigenous peoples' rights in its Concluding Observations on state periodic reports at its 83rd session (20 January–07 February 2020), including with respect to Costa Rica (CRC/C/CRI/CO/5-6, paras 13, 16, 19-22, 28, 32, 36, 40, 44 and 51) and Rwanda (CRC/C/RWA/CO/5-6, para 42).

Committee on the Rights of Persons with Disabilities (CRPD)

No new concluding observations relating to Indigenous peoples' rights.

Human Rights Council

No resolutions on "Human Rights and Indigenous Peoples" nor "Human Rights and Indigenous Peoples: Mandate of the Special Rapporteur on the Rights of Indigenous Peoples" last session.

Selected Publications & Reports

Books

- Bain Attwood, *Empire and the Making of Native Title: Sovereignty, Property and Indigenous People* (Cambridge University Press, 2020)
- Jonas Bens, *The Indigenous Paradox: Rights, Sovereignty, and Culture in the Americas* (University of Pennsylvania Press, 2020)
- Antonietta di Blase and Valentina Vadi (eds), *The Inherent Rights of Indigenous Peoples in International Law* (University of Roma III Press, 2020)
- John Borrows and Risa Schwartz (eds), *Indigenous Peoples and International Trade: Building Equitable and Inclusive* *International Trade and Investment Agreements* (Cambridge University Press, 2020)
- Giselle Corradi, Koen de Feyter, Ellen Desmet and Katrijn Vanhees, *Critical Indigenous Rights Studies* (Routledge, 2019)
- Matthew Fletcher, *American Indian Tribal Law* (Wolters Kluwer, 2nd ed, 2020)
- Sarah Maddison and Sana Nakata (eds), *Questioning Indigenous-Settler Relations: Interdisciplinary Perspectives* (Springer, 2020)

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Selected Publications & Reports —continued from page 8

- Robert Miller, Miriam Jorgensen and Daniel Stewart (eds), *Creating Private Sector Economies in Native America: Sustainable Development through Entrepreneurship* (Cambridge University Press, 2019)
- Krushil Watene and Eric Palmer (eds), *Reconciliation, Transitional and Indigenous Justice* (Routledge, 2020)
- George Williams and Harry Hobbs, *Treaty* (Federation Press, 2nd ed, 2020)
- Evana Wright, *Protecting Traditional Knowledge: Lessons from Global Case Studies* (Edward Elgar, 2020)
- Anthony Diala, 'Peacebuilding and the Interface of State Law and Indigenous Market Laws in Southern Nigeria' 64:1 *Journal of African Law* 1 (2020)
- Heather Fast and Brenda Gunn, 'Aboriginal Jurisdiction over the Environment', in Sara Bagg, Patricia Galvao, Bill Tilleman and Alastair Lucas (eds), *Environmental Law and Policy* (Emond Publishing, 4th ed, 2020) 317-347
- Matthew Fletcher, 'Politics, Indian Law, and The Constitution' 108 *California Law Review* 495 (2020)
- Matthew Fletcher, 'Indian Lives Matter: Pandemics and Inherent Tribal Powers' 73 *Stanford Law Review Online* (2020)
- Stephen Gray, 'The Northern Territory Intervention: An Evaluation' (Castan Centre for Human Rights Law, 2020)
- Harvard Law Review, 'Aloha 'Āina: Native Hawaiian Land Restitution' 133 *Harvard Law Review* 2148 (2020)
- Tilahun Weldie Hindeya, 'The Right to Self-Determination under the Ethiopian Constitution: A Legal Tool for Indigenous Peoples' Protection against Land Alienation?' 63:3 *Journal of African Law* 359 (2020)
- Harry Hobbs, 'A Queensland Treaty: Current Steps and Potential Challenges' 45:1 *Alternative Law Journal* 25 (2020)
- Felix Hoehn, 'The Duty to Negotiate and the Ethos of Reconciliation' 83 *Saskatchewan Law Review* 1 (2020)
- Polly Hyslop and Brian Jarrett, 'Circle Peace-Making in Alaska: A Return to Indigenous Practice Through Intercultural Dialogue' in Samuel Peleg (ed), *Intercultural and Interfaith Dialogues for Global Peacebuilding and Stability* (2019) 146
- Sébastien Jodoin, Shannon Snow and Arielle Corobow, 'Realizing the Right to be Cold? Framing Processes and Outcomes Associated with the Inuit Petition on Human Rights and Global Warming' 54:1 *Law & Society Review* 168 (2020)
- Sabaa Ahmad Khan, 'Rebalancing state and Indigenous Sovereignties in International Law: An Arctic Lens on
- Jeroen van Bekhoven, 'Reforming the Constitution; Reforming the Postcolonial State? Indigenous Peoples and Constitutional Reforms in Taiwan' 14:2 *Asian Journal of Comparative Law* 245 (2019)
- Kylie Benton-Connell and D. T. Cochrane, "'Canada Has a Pipeline Problem": Valuation and Vulnerability of Extractive Infrastructure' 119(2) *South Atlantic Quarterly* 325 (2020)
- Michael Bevilacqua, 'Silent Intent? Analyzing the Congressional Intent Requirement to Abrogate Tribal Sovereign Immunity' 61 *Boston College Law Review Electronic Supplement* II-156 (2020)
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- Trajectories for Global Governance' 32:4 *Leiden Journal of International Law* 675 (2020)
- Sarah Krakoff, 'Not Yet America's Best Idea: Law, Inequality and Grand Canyon National Park' 91 *University of Colorado Law Review* 559 (2019)
 - Milan Kumar, 'American Indians and the Right to Vote: Why the Courts Are Not Enough' 61 *Boston College Law Review* 1111 (2020)
 - Samuel Lazerwitz, 'Sovereignty-Affirming Subdelegations: Recognising the Executive's Ability to Delegate Authority and Affirm Inherent Tribal Powers' 72:4 *Stanford Law Review* 1041 (2020)
 - Stacey Lee, 'Saachi v Argentina: Fighting for Indigenous Children's Climate Rights' *UCLA Law Review Online: Law Meets World* (2020)
 - Kylie Lingard, Elena Marchetti and Tegan Kelly, 'Strategies to Support Aboriginal and Torres Strait Islander People to Access and Complete an Undergraduate Law Degree' 22(3-4) *Journal of Australian Indigenous Issues* 89 (2019)
 - Fergus MacKay, 'The Evolution and Revolution of Indigenous Rights' in Andreas von Arnould, Kerstin von der Decken and Mart Susi (eds), *The Cambridge Handbook of New Rights* (Cambridge University Press, 2020) 233
 - Stéphane Guimont Marceau, Dolores Figueroa Romero, Vivian Jiménez Estrada and Roberta Rice, 'Approaching Violence against Indigenous Women in the Americas from Relational, Intersectional and Multiscalar Perspectives' 45:1 *Canadian Journal of Latin American and Caribbean Studies* 5 (2020)
 - Kent McNeil, 'The Louisiana Purchase: Indian and American Sovereignty in the Missouri Watershed' 50:1 *Western Historical Quarterly* 17 (2019)
 - Madonna Moss, 'Did Tlingit Ancestors Eat Sea Otters? Addressing Intellectual Property and Cultural Heritage through Zooarchaeology' 85:2 *American Antiquity* 202 (2020)
 - Julian Murphy, 'Indigenous Languages in Parliament and Legislation: Comparing the Māori and Indigenous Australian Experience' *Māori Law Review* (July 2020)
 - Assis da Costa Oliveria, 'Indigenous Youth and a Generational Perspective on Indigenous Rights: The Case of Monitoring the United Nations Declaration on the Rights of Indigenous Peoples' 45:1 *Canadian Journal of Latin American and Caribbean Studies* 45 (2020)
 - Shiri Pasternak, 'Assimilation and Partition: How Settler Colonialism and Racial Capitalism Co-Produce the Borders of Indigenous Economies' 119(2) *South Atlantic Quarterly* 301 (2020)
 - Sherry Pictou, 'Decolonizing Decolonization: An Indigenous Feminist Perspective on the Recognition and Rights Framework' 119(2) *South Atlantic Quarterly* 371 (2020)
 - Dayna Nadine Scott, 'Extraction Contracting: The Struggle for Control of Indigenous Lands' 119(2) *South Atlantic Quarterly* 269 (2020)
 - Daria Shapovalova, 'Indigenous Rights and Resource Extraction in Guyana: A Learning Opportunity for the New Offshore Sector?' 18:2 *Oil, Gas & Energy Law Intelligence* (2020)
 - Dinah Shelton, 'The Rights of Indigenous Peoples: Everything Old is New Again' in Andreas von Arnould, Kerstin von der Decken and Mart Susi (eds), *The Cambridge Handbook of New Rights* (Cambridge University Press, 2020) 217
 - Erin Shields, 'Conservation, Co-Management, and Power-Balancing in Haida Gwaii' *UCLA Law Review Online: Law Meets World* (2020)
 - Jaylin Stevenson, 'Kānāwai: Using Ancient Hawaiian Law to Prepare for the Future' *UCLA Law Review Online: Law Meets World* (2020)
 - Claire Timperley, 'Justice in Indigenous Land Claims: A Typology of Problems' 8:1 *Politics, Groups, and Identities* 1 (2020)
 - Gerald Torres, 'Decolonization: Treaties, Resource Use, and Environmental Conservation' 91 *University of Colorado Law Review* 709 (2020)

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Statements and Reports

- UN human rights experts renew call for an on-the-ground independent, impartial investigation into human rights violations in the Philippines (June 25, 2020) Statement available here: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25999&LangID=E>
- United Nations Special Rapporteur on the situation of human rights defenders calls on Costa Rica to effectively protect indigenous defenders (June 8, 2020) Statement available here: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25938&LangID=E>
- United Nations Special Rapporteur on the rights of Indigenous people issued a statement expressing his concerns over the impacts of the COVID-19 pandemic on Indigenous peoples (May 18, 2020). Media release available here: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25893&LangID=E>
- UN experts urged the Philippines government not to discriminate against indigenous peoples in favor of business interests and when enforcing anti-COVID19 measures (April 30, 2020) Statement available here: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25850&LangID=E>
- United Nations Special Rapporteur on the rights of Indigenous people issued a statement on Indigenous Peoples and the COVID-19 Pandemic (April 29, 2020). Statement available here: <http://unsr.vtaulicorpuz.org/?p=2821>

Upcoming Events

- *Indigenous Peoples: Theory and Practice* (University of Warsaw, Faculty of Law) September 25, 2020: <https://wpia.uw.edu.pl/pl/konferencje/seminar-devoted-to-indigenous-peoples>
- The Committee on Economic, Social and Cultural Rights issued a statement on the coronavirus disease (COVID-19) pandemic and economic, social and cultural rights (April 17, 2020). The Statement calls on States to take tailored measures to protect the health and livelihoods of Indigenous peoples, ensure access to Internet for educational purposes, and provide accurate and accessible information on a regular basis in Indigenous languages (paras 9, 15 and 18). CESCR Statement available here: <https://undocs.org/E/C.12/2020/1>
- United Nations Expert Mechanism on Indigenous Peoples issued a statement on COVID-19 and its impact on Indigenous peoples (April 10, 2020). Statement available here: <http://unsr.vtaulicorpuz.org/?p=2804>
- United Nations Special Rapporteur on minority issues calls on States to teach indigenous and minority children in their own language (March 11, 2020) Statement available here: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25705&LangID=E>

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- Rebecca Tsosie, 'Introduction: Indigenous Peoples, Sustainability and Climate Change' *UCLA Law Review Online: Law Meets World* (2020)
- Stephen Young, 'Computing Compensation for Extinguishing Native Title in Australia' 4 *New Zealand Law Journal* 153 (2020)
- Stephen Young, 'The Sioux tribes' opposition to the Dakota Access Pipeline - *Standing Rock Sioux Tribe v US Army Corps of Engineers* (DDC) *Civil Action No 16-1534'* *Māori Law Review* (July 2020)
- Dana Zartner, 'Justice for Juristac: Using International and Comparative Law to Protect Indigenous Lands' 18 *Santa Clara Journal of International Law* 175 (2020) ■