

Observations on the State of Indigenous Human Rights in the Solomon Islands

Prepared for

**United Nations Human Rights Council: Universal
Periodic Review**

October 2020

Cultural Survival is an international Indigenous rights organization with a global Indigenous leadership and consultative status with ECOSOC. Cultural Survival is located in Cambridge, Massachusetts, and is registered as a 501(c)(3) non-profit organization in the United States. Cultural Survival monitors the protection of Indigenous peoples' rights in countries throughout the world and publishes its findings in its magazine, the *Cultural Survival Quarterly*, and on its website: www.cs.org

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The American Indian Law Clinic of the University of Colorado, established in 1992 as one of the first of its kind, represents individuals, Indian Tribes and Tribal entities in a variety of settings involving federal Indian law and involving the law and legal systems in Indian Country, as well as work with the United Nations.

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I. Issue Summary

The Solomon Islands have still not endorsed the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) nor Convention 169 of the International Labor Organization (ILO 169),ⁱ despite Indigenous Peoples comprising 95% of the population of the nation.ⁱⁱ In their response to the Universal Periodic Review (UPR) submitted in 2015, the Solomon Islands did not accept the recommendations to endorse the aforementioned UN and ILO instruments.ⁱⁱⁱ These frameworks are essential to the young State as it grapples with environmental chaos due to climate change, the effects of extractive industry on rural communities, protecting delicate biodiversity. Rates of domestic violence against women remain high, discrimination against LGBTQ communities have not been addressed.

II. Background

The Solomon Islands have a population of over 669,823,^{iv} of which over 95% is Indigenous to the islands.^v One hundred twenty different Indigenous languages are spoken across three hundred forty-seven of its inhabited islands. Guadalcanal, internationally known as the site of decisive World War II battles, is the largest of these islands. The country has an aggregate land area of 28,370 km together with large areas of coral reefs, lagoons, and open ocean. The majority of the islands' rapidly growing population are Melanesian and Indigenous to the land, but there are also several other small minority groups, most of whom arrived to the islands through migration. The largest of these minority groups are Polynesians and i-Kiribati and, like most other minority groups on the Solomon Islands, their presence on the islands is the result of the British colonization that took place during the 19th century. It was not until 1978 that the islands' independence was recognized and a local government was formed.

III. Ongoing Human Rights Violations

A. **Climate Change and effects on Indigenous Peoples: *Relevant treaties: CDESCR*** (Article 1, 6, 7, 11, 12, 15)

As reported in the 2015 UPR, climate change continues to be a significant threat to the human rights of Indigenous people in the Solomon Islands. The State has since taken some measures to try to limit the impact of climate change, such as signing the 2016 Paris Agreement,^{vi} and, in partnership with Indigenous representatives,^{vii} contributing to the adoption of the Indigenous Peoples' Platform at the United Nations Framework Convention on Climate Change at the 23rd Conference of Parties.^{viii} "These efforts raised awareness among negotiators of the impacts of climate change on Indigenous Peoples, while highlighting their solutions, which has since enabled and strengthened Indigenous Peoples' leadership role in the UNFCCC process."^{ix}

The effects of climate change are resulting in direct threat to the majority of human rights guaranteed to Solomon Islanders under international law. The Human Rights Measurement Initiative reports that 40% of their experts indicate that Indigenous Peoples are at risk of having their right to food violated, and 60% of their experts indicate that people living in certain geographic areas are at risk.^x Eighty percent of Indigenous Peoples in the Solomon Islands live in rural areas^{xi} and continue to rely on the forests for their daily needs from food to constructing houses, building canoes to generating income. Therefore, the Solomon Islands ecosystems, including land, people, flora, and fauna, are extremely vulnerable to climate change. Climate change poses a significant risk to the enjoyment of individual and collective rights by Indigenous Peoples.

Minority Rights Group notes, “As the local environment is inextricably tied to everything from income generation and nutrition to spirituality and cultural expression, the impacts on the rights and wellbeing of Indigenous communities are likely to be devastating if unaddressed.”^{xii}

Due to climate change, sea levels in the Solomon Islands are rising at unprecedented rates and are “amongst the highest globally.”^{xiii} In 2016, five of the Solomon Islands were lost due to rising sea levels.^{xiv} Six other islands had swaths of land washed into the sea; two islands lost entire villages, which resulted in forced *ad hoc* relocations not planned or funded by the government but rather by the communities themselves.^{xv} Such forced relocation, especially of Indigenous communities, will become more and more prevalent as sea levels continue to rise and more land mass is lost.^{xvi} Because Indigenous communities largely rely on the land for subsistence, forced relocation also threatens their right to food and their economy.

Melchior Mataki, head of the Solomon Islands’ Disaster Council, stated that the consequences of climate change will require engagement in relocation planning and more support from development partners and international financial mechanisms.

Rising sea levels have also resulted in “unprecedented threats to the biota on these fragile islands and the subsistence communities who inhabit them.”^{xvii} The change in sea levels disrupts fish migratory patterns which will result in a loss of income for fisherfolk and increase in food insecurity.^{xviii} This threatens traditional lifeways, such as fishing and seafaring, peace and stability, as well as loss of culturally significant sites and Indigenous lands.^{xix} Therefore, “sea level rise is one of the biggest threats to [Indigenous] community resilience.”^{xx}

Furthermore, much of the Indigenous population lives in informal settlements. “Over 65 per cent of housing in informal settlements lacks durability, meaning that it would likely not withstand strong winds or earthquakes. The settlements, some of which are located on steep slopes, are therefore at high risk of collapsing in the event of a natural disaster, leaving residents in a situation of extreme vulnerability.”^{xxi}

Natural disasters are not uncommon in the Solomon Islands. The Solomon Islands are located along the “Ring of Fire,” “a zone of seismic activity and volcanoes around the edges of the Pacific Ocean...where about 90% of the world's earthquakes occur, according to the [U.S. Geological Survey].”^{xxii}

In December of 2016, the country experienced one of the worst earthquakes in the islands’ history near the island of Makira. ^{xxiii} The earthquake damaged housing, medical facilities, and water services. Disruption of access to clean water increased the risk for improper hygiene and illnesses.^{xxiv} The earthquake damaged housing, hospitals, community kitchens, food sources, and livelihoods, and fear of tsunamis caused relocation to higher ground. Due to the destruction of homes, many people were forced to live in the bush with very minimal shelter during seasonal rains. As climate change continues to increase the frequency of natural disasters, Indigenous Peoples in the earthquake-prone nation could experience further threats to food security, housing, and livelihood.^{xxv}

B. Gender and Sexuality: Relevant treaties: CEDAW (art. 6, 11, 12, 14, 16), CESCR (Article 3)

The Solomon Islands are party to the CEDAW. The Human Rights Measurement Initiative (HRMI) tracks how well a state is using its resources to ensure that their people’s quality of life

and rights are being fulfilled.^{xxvi} The percentage data points refer to how well the country is doing at protecting specific rights in comparison to what is possible at that country's income level, specifically, the percentage is the income-adjusted benchmark. The HRMI shows that women's right to education is not currently being adequately protected or ensured, with 54.5% fulfillment for women vs. 57% for men.^{xxvii} The percentage for women has decreased by 4.5% since the submission of the last UPR in 2015 (from 59% to 54.5%).^{xxviii}

The Solomon Islands has one of the highest rates of sexual violence in the world.^{xxix} A recent survey showed that one in two women experience domestic or sexual violence in their lifetime;^{xxx} however, the rate of acceptance of domestic violence has decreased: 31% of participants in the current survey^{xxxi} as compared to the 71% reported in previous studies.^{xxxii} Foreign workers arriving in the Solomon Islands as a result of the logging industry have increased sexual exploitation of women and underage girls. The loggers do not take responsibility for the children and leave them behind without support for the mothers. Many underage girls end up dropping out of school as a result. Although there are agreements made with the logging companies that such relationships will not occur and that if they do there will be compensation paid to the family, there is no one to advocate or push for enforcement of these agreements.^{xxxiii}

In 2015, the International Centre for Advocates Against Discrimination reported that judges were cutting sentences related to sexual assault, resulting in disproportionately low consequences for men who committed violence against women.^{xxxiv} In a study of over 900 cases, sentences were being reduced, on average, by 60% in domestic violence cases and 40% in sexual assault cases, and gender discrimination was found to result in sentence reductions in over 50% of all cases.^{xxxv}

The government has taken some steps to respond to the high rate of domestic violence. For example, it signed a Memorandum of Understanding with NGOs and civil society to build SafeNet, an organization that provides services to victims of sexual abuse and domestic violence.^{xxxvi} In 2016, it amended its penal code to "impose harsher penalties in sexual assault and domestic violence cases. Women's rights advocates in Solomon Islands and in the region have been working to push these important changes for years" and this update served as an acknowledgement by the government of the "extreme prevalence of violence against women and girls."^{xxxvii}

Despite the progress made, domestic violence continues to be a prevalent issue and women's lack of access to the judicial system and lack of ability to obtain positions of power in the government will likely continue to pose obstacles to women's full access to their rights. Currently, only three out of 50 seats in the Solomon Islands' Parliament are occupied by a woman.^{xxxviii}

There are currently no laws prohibiting discrimination against a person based on their sexual orientation or gender identity.^{xxxix} Consensual sex between same-gender partners is criminalized.

C. Rights Violations Related to the Logging Industry

Excessive and largely unregulated logging activities threaten food and water sovereignty, violate the right to Free, Prior and Informed Consent, and threaten the survival of the islands and their inhabitants.^{xi} This problem was described in Cultural Survival's 2015 submission and it continues. The forests of the Malaita province provide edible flora, various fauna, and intact watersheds necessary for providing drinking water. Indigenous Peoples are no longer able to access these fundamental aspects of their livelihoods. Logging also damages coral reefs and mangroves. Reefs are heavily damaged during the construction of log ponds and are continually injured by the repeated docking of barges and use of machinery. Corals are also harvested to be made into gravel for new roads for logging. The result of all this is destruction and contamination of fish and shellfish resources, important sources of communities' sustainable livelihoods, in the reefs near logging operations. Logging machinery and related oil spills have also contaminated freshwater sources, damaging fisheries, water, other resources, and human health.^{xii}

Although some politicians have called for a curb to the widespread logging operations^{xiii} timber across the Solomon Islands continues to be harvested at more than 19 times the sustainable rate by mostly foreign companies, making the Solomon Islands the second largest supplier of tropical logs to China.^{xiii} According to the World Bank's World Integrated Trade Solution (WITS) database, wood accounted for approximately seventy-five percent of the Solomon Islands' exports in 2018,^{xiv} making it the Solomon Islands' largest export.^{xiv}

Although there is a legal process for licensure to log, endemic corruption enables timber companies to bypass the process almost entirely.^{xvi} The corruption does not stop at the licensure process. In 2019, residents of Nende Island were arrested for protesting what they claimed was an illegal logging operation of a Malaysia-based company, Xiang Lin SI Ltd.^{xvii} The land being logged had been permitted by the local government without consultation with local communities, and logging was resulting in water contamination and crop, reef, and forest habitat destruction.^{xviii} After 29 adjournments due to insufficient evidence, and allegations that the police had not complied with due process requirements,^{xix} three of the five accused were acquitted in June 2020, while one, Clement Tauto, continues to face a life sentence for arson and the other, Jerry Meioko, faces larceny and unlawful damage charges.¹

Meanwhile, deforestation is ramping up on Nende as logging roads multiply and displace the island's old growth rainforest.ⁱⁱ As illegal logging operations continue to expand, Indigenous communities' sustenance and livelihoods are threatened.ⁱⁱⁱ When customary lands are seized and turned over to logging companies, women are unable to access logging jobs and their traditional foraging practices are interrupted by lack of access to traditional lands.ⁱⁱⁱ

Additionally, aggressive logging operations have caused a loss of topsoil, resulting in a decrease in agriculturally viable land, an increase in flooding, and an increase in runoff which has contaminated the drinking water and poisoned fish, which are a source of food and income for Indigenous Peoples.^{liv}

Many of the logging operations operate under expired licenses, fail to consult with locals, conduct environmental impact reports and site inspections as required by law.^{lv}

The State's had failed to both enforce current laws regarding logging and provide additional, more stringent standards for extractive industries. The Solomon Islands became a candidate for implementing the rigorous Extractive Industries Transparency Initiative Standard in 2012, but withdrew in 2018.^{lvi}

D. Land Rights and Protections

Although the Solomon Islands constitution makes few references to the rights of Indigenous Peoples and the country has not endorsed the UN Declaration on the Rights of Indigenous Peoples, it has been generally upheld that traditional land rights are respected.^{lvii}

A US\$240.48 million dollar national energy project, Tina River Hydropower Development Project (TRHDP) is currently in development by the government of the Solomon Islands. Given that there are no domestic laws mandating a process of gaining the Free, Prior, Informed Consent of affected communities, this project is currently carrying out a voluntary FPIC process^{lviii} that may, or may not, meet standards set by UNDRIP.

An estimated 90% of land in Solomon Islands is held as customary land.^{lix} Customary land rights have helped some communities displaced by rising sea levels to re-occupy more traditional, in land settlements used by previous generations after needing to abandon coastal villages established primarily by missionaries in the 1990s^{lx}

An oil spill in 2019 caused an immediate threat to the islands.^{lxi} The island most directly affected, Rennell, is the world's largest coral atoll, protected by UNESCO.^{lxii} The coastal villages of Matanga, Vangu, Lavangu and Kangava have been the hardest hit.^{lxiii} The spill has threatened Indigenous lives and livelihoods: it has poisoned marine life and limited access to water, means of sustenance and livelihoods.^{lxiv} Fisherfolk know that waters have been contaminated, yet without anywhere else to fish nor financial capital as a cushion, they are still forced to fish, and they are experiencing illness due to the contamination of water and air.^{lxv}

The Fisheries Management Act of 2015 was passed to address the long-term management of fisheries and the conservation of marine ecosystems.^{lxvi} Article 21 (1) states, "Customary rights shall be fully recognised and respected in all activities falling within the scope of this Act."^{lxvii} This recognition of customary rights was an update from the 1998 version of the Act, which did not recognize them.^{lxviii}

Although Parliament passed an amendment to the Wildlife Protection Management Amendment Act in 2017, it does nothing to provide protection for wildlife whose habitat is threatened by logging operations or by climate change. Instead, the Act focuses on regulations for the import and export of certain species of flora and fauna. The Act is concerned with the legality of trafficking animals. It does not provide regulations to protect and/or preserve the biodiversity of the Solomon Islands.^{lxix}

E. Impact of COVID-19 on Indigenous Communities

As of the World Health Organization's most recent report on Sept. 28, 2020, the Solomon Islands had not reported any cases of COVID-19.^{lxx} However, the nation reported its first case on October 3, 2020.^{lxxi}

The pandemic has had a notable impact on the tourism industry. Tourism was down 50 percent from expected from January to March 2020.^{lxxii} Loss of tourism has led to layoffs from restaurants and hotels, exacerbating the poverty of Indigenous Peoples. Many residents of the Solomon Islands interviewed by the Island Sun newspaper reported having been laid off with no

warning and no severance pay, increasing poverty among those whose financial situations were already tenuous.^{lxxiii}

Among the most affected by COVID-19 in the Solomon Islands are the students in Honiara and Guadalcanal whose education has been interrupted by schools which closed down due to the pandemic. They have been sent back to their villages and most of them do not have access to any learning facilities. Schools have been reopened but students from remote islands lack access to reliable transportation to return them to the city and students from poorer homes lack the funds to pay for return fares.^{lxxiv}

The UNICEF recommendation for Solomon Islands regarding sending children to school during the COVID-19 pandemic includes making a plan for continued education in the event that the schools cannot remain open. The recommended plan includes online education, home study, and assigning educators to check in with students on a daily or weekly basis.^{lxxv} However, lack of access to reliable internet could cause many Indigenous students in more impoverished parts of the country to fall behind if schools cannot physically remain open due to COVID-19.

A 2009 report found that 14% of people in the Solomon Islands have a disability. The structural marginalization and exclusion faced by Indigenous individuals with disabilities place them at exaggerated risk for COVID-19-related challenges, including access to personal protective equipment and healthcare.^{lxxvi} In April 2020, People With Disability Solomon Islands called on the government to take special steps to ensure the safety and health of Solomon Islanders with disabilities in its pandemic response.^{lxxvii}

IV. Recommendations

Cultural Survival urges the Government of the Solomon Islands to:

1. Endorse the UN Declaration on the Rights of Indigenous Peoples.
2. Ratify Convention 169 of the International Labor Organization.
3. Enact national legislation to create protocols for the implementation of the right to Free, Prior and Informed Consent during every stage of development projects that affect Indigenous Peoples.
4. Uphold the highest standards of Free Prior Informed Consent at every stage of development of the Tina River Hydropower Development Project.
5. Ensure that government bodies charged with the oversight of foreign and local industries, especially logging, comply with relevant law related to land concessions and are equipped with the resources and funding they need to monitor and audit these projects.
6. Take steps to rejoin the Extractive Industries Transparency Initiative Standard as a way to regulate the logging industry.
7. Include women in leadership roles to assess and expanding services and justice for victims of domestic and sexual violence.

8. Amend the Constitution to include sexual orientation and gender identity as prohibited grounds for discrimination.
9. Develop, in collaboration with Indigenous Peoples, preparations for mitigation of climate change-related disasters. This may include relocation plans and other plans that ensure Indigenous communities continue to have access to the lands and waters they need to carry out their subsistence lifeways, always with Indigenous communities' Free, Prior and Informed Consent.
10. Invite the UN Special Rapporteur on the Rights of Indigenous Peoples to visit the Country.
11. Implement the World Conference on Indigenous Peoples Outcome Document, beginning with drafting a National Plan of Action to achieve the ends of the Declaration.
12. Ratify the International Covenant on Civil and Political Rights.
13. Ratify the Convention on the Rights of Persons with Disabilities and ensure the safety and health of Solomon Islanders with disabilities in its pandemic response.

Endnotes

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