



Looking back, looking forward

Perspectives on the integration of indigenous peoples' and forest peoples' rights in EU law, policy and practice

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Front cover photo: Ogiek community, Mount Elgon, Kenya. **Credit:** Tom Rowley, FPP

Contents

| | |
|-------------------------------------------|----------|
| Executive summary | 4 |
| Background | 5 |
| Note on terminology | 6 |
| List of acronyms | 7 |
| Interviews | |
| Hector Jaime Vinasco | 8 |
| Laura George | 10 |
| Norman Jiwan | 12 |
| Mina Beyan | 14 |
| Aristide Chacgom | 16 |
| Guangchunliu Gangmei | 18 |
| Yblin Roman | 20 |
| Alancay Morales Garro | 24 |
| Wendel Trio..... | 26 |
| Saskia Ozinga | 28 |
| Marcus Colchester..... | 30 |
| Anna Cavazzini | 32 |
| Faith Doherty and Vanesa Richardson | 34 |
| Patricia Borraz | 36 |
| Johannes Rohr | 38 |

Executive summary

Over the course of the last two years, the EU has adopted multiple pieces of legislation with relevance to indigenous peoples' and forest peoples' rights – including in particular the legislation related to deforestation (the European Deforestation Regulation - EUDR) and to human rights and environmental due diligence by businesses (the Corporate Sustainability Due Diligence Directive - CSDDD). Yet these long-awaited pieces of legislation have also been swept up in a broader political and electoral backlash against progressive policies, that saw the CSDDD reopened and watered down before its final adoption, and the EUDR likely amended to delay its implementation.

At this pivotal moment, it seems important to reflect on the achievements, attained through years of committed advocacy by indigenous peoples, forest peoples and allies, and on the continued challenges for the integration of indigenous peoples' and forest peoples' rights in EU law, policy and practice, and explore new directions for advocacy in the EU context. *'Looking back, looking forward'* compiles the perspectives of 15 representatives from indigenous peoples, civil society organisations from the global south, researchers, lawyers, campaigners, activists and policy makers on this question.

Their diverse backgrounds offer insight into a wide range of issues. There are also however some common themes that emerge across the interviews:

- Looking back, there has been a noticeable increase in visibility of indigenous peoples' and forest peoples' concerns in policy processes in the EU and globally in the past few decades.** This is evident for example in the EU's support for the adoption of the UNDRIP, references to indigenous peoples' rights in reports from EU institutions (such as the 2018 report from the EU parliament), and direct reference to indigenous peoples' rights in legislative texts (including the EUDR and the CSDDD).
- Despite this visibility, for now this has had little or no impact on the ground for affected indigenous peoples and forest peoples.** In spite of the many commitments made by the EU to support better protection for the rights of indigenous peoples and forest peoples, the resulting laws, policies and practices adopted and implemented have fallen short. While in some cases they provided platforms for affected communities to participate in discussions at national level, this rarely resulted in achieving outcomes that led to material changes.
- Proactive consultation and inclusion of indigenous peoples and forest peoples in legislative and policy processes is still lacking.** There is no formal mechanism for the EU to consult with indigenous peoples or forest peoples (including indigenous peoples within the EU), nor do EU processes generally involve specific outreach and consultation with indigenous peoples and forest peoples. Rather, indigenous peoples' and forest peoples' contributions depend on ad-hoc meetings of EU institutions with delegations of indigenous peoples and forest peoples who visit the EU, or else are mediated through European civil society organisations, which may not always be completely aligned with their perspectives.
- Within the EU, some countries (and particularly those with indigenous peoples) are still reluctant to support integration of indigenous peoples' rights in EU law and policy.** Others continue to put profit and business interests first. As a result, while indigenous peoples' and forest peoples' rights may be on the agenda, they are often sidelined or reduced in the final negotiations and decision-making (as was the case for example in both the EUDR and the CSDDD).
- There is a need for the EU to support more work with indigenous peoples and forest peoples in their national contexts.** This includes by helping to open space for them to participate at national level, supporting capacity building (with both national governments as well as indigenous peoples and forest peoples and their organisations), and using its influence in bilateral as well as multilateral fora to push for improved respect for and protection of indigenous peoples' rights and forest peoples' rights - and also through channelling more direct funding to indigenous peoples and forest peoples, including as part of the EU's broader work on climate and nature.
- Looking forward, the EU must be vigilant to ensure that the green transition, and the mineral resources sought for it, do not come at the expense of the rights of indigenous peoples and forest peoples.** Mining is among the most damaging of industries. The lands and territories of indigenous peoples and forest peoples are very vulnerable to transition mineral mining, and their human rights at particular risk in the global rush to secure supply chains for transition minerals, which appears to be sidelining social and environmental safeguards.

Background

The EU is a trading bloc that maintains trade relationships across the whole world. It is the biggest donor of development aid globally and is also a key international player in areas including human rights, development, environmental protection and corporate accountability. For all these reasons, it is an important policy arena in which to influence law, policies and actions that have an impact on the realisation of indigenous peoples' and forest peoples' rights. This section sets out some important (but not all) legislative and policy processes that have involved or had implications for those rights.

The EU began engaging with indigenous peoples' concerns in the mid-1990s. Among the first concrete manifestations of this was the development of a working document published in 1998, entitled "*On support for Indigenous Peoples in the development co-operation of the Community and Member States*". This report set out principles for integrating indigenous peoples in development funding, including through their participation in development activities that affected them as well as supporting indigenous peoples' own priorities. The working document was welcomed and recognised by a resolution of the Council of Ministers in the same year.

Since that time, indigenous peoples' rights and concerns have been included in a variety of instruments and policy documents of the EU, including the European Consensus on Development (2006) and iterative version of the EU's strategic framework and action plans on human rights and democracy. In its 2015 trade report (Trade for all) it also recognised the importance of ensuring that the EU's trade and investment policies were consistent with respect for human rights, and noted that human rights abuses associated with global supply chains deserved particular attention. In 2018, the European Parliament adopted a report on the violation of the rights of indigenous peoples in the world. The report called on the EU and its member states to take all necessary measures to ensure the respect of the rights of indigenous peoples, including their rights to own lands, and to control territories and resources. It urged the EU to involve indigenous peoples in decision-making related to developments that will have an impact on them and on their lands and in strategies for tackling climate change, and to increase transparency and accountability of land acquisitions involving EU-based corporations and actors of EU-funded development projects. This report served as a basis for later legislative instruments relating to corporate violations of the rights of indigenous peoples.

At the global scale, the EU also supported the adoption of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2007, with all EU member states voting in favour of the declaration. The EU also supported

the adoption by the UN General Assembly of the Outcome document coming out of the 2014 World Conference on Indigenous Peoples. In addition, six EU member states (Denmark, Germany, Luxembourg, the Netherlands, Norway and Spain) have ratified ILO Convention No. 169 on indigenous and tribal peoples.

Indigenous peoples' and forest peoples' rights have been more directly implicated in specific legislative and policy processes within the EU. These include the EU's Forest Law Enforcement, Government and Trade (FLEGT) Action Plan, adopted in 2003, which led in turn to the adoption in 2010 of the EU Timber Regulation (EUTR). The EUTR regulated the trade on the EU market of wood and timber products that had been produced without complying with national laws in their country of production - i.e. it prevented illegally produced timber (or products made from it) from being sold on the EU market. While there were potential opportunities for this to capture production that was illegal under laws relating to customary or other land rights, the provisions and enforcement in relation to this were relatively weak.

Accompanying the EUTR, the EU entered into Voluntary Partnership Agreements (VPAs) with a number of timber-producing countries. These agreements are bilateral trade agreements that agreed timber products imported to the EU would be legal, and set out measures to identify and track legality in producing countries. VPAs provided a framework for EU development aid support to negotiate and develop these legality and traceability frameworks in producer countries.

The EUTR was replaced by the EU Deforestation Regulation, which was adopted in 2022 (but is not yet in force). The EUDR expands on the EUTR in several important ways. Firstly, it applies not only to timber but to 6 other commodities that are frequently linked to deforestation, notably coffee, cattle (beef and leather), soy, palm oil, rubber and cocoa. It regulates the trade of these products on the EU market if they have been produced on land deforested since 2020 – regardless of whether that deforestation is legal or illegal under national law in the country of production. The EUDR also makes clearer that it applies to commodities produced in violation of indigenous peoples' tenure rights or FPIC, where these are protected by nationally applicable laws. There are still likely to be some loopholes in the coverage of indigenous peoples' and forest peoples' rights in practice, particularly in countries with limited national-level protection of these rights. Some indigenous peoples and smallholders have also expressed concern that the provisions will prevent them from being able to sell their products on the EU market.

In tandem with the EUDR, the EU is developing “forest partnerships” to support implementation of the regulation in producer countries. However, there is relatively little detail available on the shape and nature of these at this time (although some memoranda of understanding have already been signed).

In November 2022, only a month before the EUDR was adopted, the EU also adopted the Corporate Sustainability Reporting Directive (CSRD). The CSRD, which replaced the earlier and less comprehensive non-financial reporting directive, requires companies to report on their environmental and social impact. It requires companies to consider and report on human rights risks, including risks to both indigenous peoples and to local communities, and to engage with stakeholders (and rightsholders) in determining those risks. Companies are required to take into account both financial risks to the company as well as broader risks to society. Companies must make and implement plans to address risks identified, but are not required to achieve concrete outcomes.

Another key legislative development was the adoption in May 2024 of the Corporate Sustainability Due Diligence Directive. This directive requires EU member states to enact legislation requiring companies over a certain size that are headquartered or operating in their jurisdictions to conduct due diligence on the human rights and environmental

impacts that are linked to their business operations, through their supply chains and business partners. The directive sets out a list of rights that businesses must always consider when conducting due diligence, which includes, among others, “The right of individuals, groupings and communities to lands and resources and the right not to be deprived of means of subsistence, which entails the prohibition to unlawfully evict or take land, forests and waters when acquiring, developing or otherwise using land, forests and waters, including by deforestation, the use of which secures the livelihood of a person”. While the term “indigenous peoples” was not mentioned, the directive will clearly provide some protection for indigenous peoples’ and forest peoples’ rights to lands, territories and natural resources, among other rights. Its application is however limited to the very largest companies operating in the EU, and implementation will only begin in 2027.

In a less promising development, the Critical Raw Materials Act was adopted by the Council of the EU in March 2024. This Act seeks to secure the supply of critical raw materials for the green transition, in particular transition minerals. It provides however for very limited social and environmental safeguards for these processes. This is of particular concern given that a significant level of energy transition mining is already taking place on or near indigenous peoples’ and forest peoples’ lands.

Note on terminology:

FPP works with both indigenous peoples – who have distinct framework of internationally recognised collective rights – as well as with a wider group of forest peoples and communities who are not indigenous. Forest peoples that we work with generally have collective customary governance systems, strong cultural, social, economic and spiritual attachments to land, and distinct cultures. These forest peoples are also generally entitled to collective rights under international human rights law (for example as “peoples” or as “tribal peoples”). In some contexts (notably for the purposes of this publication, Liberia, Cameroon and Indonesia) these peoples are generally referred to as “local communities”. In deference to the local use we have kept this term in all interviews, while acknowledging that the term “local communities” when used globally can refer to a diverse range of actors with different characteristics, and therefore that the rights applicable to any particular “local community” need to be considered on a case-by-case basis.

List of acronyms

CETM – Critical Energy Transition Minerals

CRMA – Critical Raw Materials Act

CSDDD – Corporate Sustainability Due Diligence Directive

CSRD – Corporate Sustainability Reporting Directive

EUDR – European Union Deforestation Regulation

EUTR – European Union Timber Regulation

FAO – United Nations Food and Agriculture Organisation

FLEGT – Forest Law Enforcement, Governance and Trade

FPIC – Free, Prior and Informed Consent

FSC – Forest Stewardship Council

ILO – International Labour Organisation

GTLAS - Guyana Timber Legality Assurance System

MEP – Member of the European Parliament

OECD – Organisation for Economic Co-Operation and Development

RSPO – Roundtable for Sustainable Palm Oil

SVLK – Indonesian Timber Legality Assurance System

UNDRIP – UN Declaration on the Rights of Indigenous Peoples

UNDROP – United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas

VPA - Voluntary Partnership Agreements

Hector Jaime Vinasco

Hector Jaime Vinasco is an indigenous Embera Chamí man and member of the governing council of the Indigenous Resguardo Cañamomo Lomaprieta, located in Caldas, Colombia. He has been directly engaged in supporting the communities of the Resguardo to revitalise their cultural traditions, restore their lands, and defend their territory, in particular from mining interests, and has faced serious threats for doing so. Over many years Hector Jaime has engaged with the European Union delegation in Colombia, as well as with several European embassies, seeking support for the protection of human rights.

How have you experienced EU law, policy and practice?

As a Resguardo our engagement with the European Union has been quite limited, but the EU has been a very important player in the peace process in Colombia.

The EU also has an impact at global level as a key actor in the promotion of human rights and key values of non-discrimination, democracy and equality. The EU supported UNDRIP, but some European countries didn't ratify ILO Convention No. 169 because they didn't have indigenous peoples in their country. But protection of indigenous peoples' rights also involves protecting those rights from the activities of your companies operating in countries where indigenous peoples live.

In recent years, the European Union has offered renewed support for realising human rights. It needs to continue advancing the protection of human rights in countries which it has links with, including in the context of business. It is very important that the European Union demands compliance by companies with the recently adopted European laws on deforestation and human rights and environmental due diligence. There must be strong mechanisms to identify violations of these regulations.

Have progressive policy changes translated into real change on the ground?

We don't feel it ... we don't feel it. Our situation is complicated by the presence of illegal actors, and the ongoing violence. Many companies continue to operate extractive activities even when there are illegal actors present. There is clear evidence that some companies in Colombia, including multinational companies, have entered into negotiations with illegal actors so they can continue their business operations.

Planting trees in Cerro Sagrado Carhunco, Héctor Jaime Vinasco, Member of the Governing Council, Cañamomo Lomaprieta Colonial Indigenous Reservation.

Photo by Yeison Aguirre. November 2023.





I come from a collective territory that behaves fundamentally through collective decisions, that has a collective territory and that its decisions are made within this collective framework. From organisations as important as the European Union, we expect there to be coherence between policies, including on environmental issues, responding to the global crises.

But there is always this double language. On the one hand we see progressive rules and laws coming out. But on the other hand, there are rules that favour investor security or market security or global financial security. We seem to be on two highways. There is the highway of those of us who talk about human rights, demand democracy, and talk about the need for equality on the planet. But on the other hand, there is a whole highway that has more to do with the economic model. Then there is a discourse and a series of powers that are fundamentally centred on the discussion of the global economy.

Where do we go from here?

So many products consumed in the EU don't comply with human rights requirements. We need to continue and deepen the discussions around this. The European Union has 500 million citizens living in 27 countries and it has so many companies that are importing and exporting products with links to human rights abuses, or that are destroying habitats that are of paramount importance to humanity. Large-scale economic activities are also undermining local food production for the family basket, and generating environmental and social conflicts.

These products need to have full traceability. We need to ensure that products coming from territories owned by indigenous peoples or other ethnic groups respect their human rights, and products from other areas respect the rights of peasants and workers. The EU shouldn't

accept products from companies that don't comply with environmental policies or respect human rights, including FPIC in cases of indigenous or ethnic territories. We need more robust certification processes. The EU must also act on the many shareholders and financiers to companies that are ignoring human rights, who are profiting from that abuse.

The EU also needs more actions aimed at resolving structural or underlying human rights problems, including inequality, at community level – for example, basic things like access to clean water.

The EU also has an important role in other global processes, for example in the International Monetary Fund and multilateral banks and in climate change processes. They also have an important role to play in transforming agricultural production, shifting away from toxic and synthetic agricultural inputs, and reducing water pollution.

Finally, we need the EU to be a voice for peace. The EU has always talked about liberty, democracy, equality. But recently we also see so many high-level EU officials almost calling for war. In Colombia we have lived this, we are still living this, because unfortunately we have not managed yet to stabilise a peace process that has moved us away from the darkness of war. This year 144 leaders killed, 54 massacres in the national territory, and 25 peace signatories killed. The EU needs to support peace.



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Laura George

Laura George worked for many years as Governance and Rights Coordinator for the Amerindian Peoples Association (APA) in Guyana where she advocated for the inclusion of indigenous peoples within the EU-Guyana FLEGT/VPA process and pushed for legislative reforms on protecting the rights of indigenous peoples. Laura later concluded that as long as policy makers have no political will to enact legislative reforms that respect the rights of Indigenous Peoples, it will remain the same. Today she serves as Advisor on Indigenous Affairs to the Alliance For Change (AFC), a political party which will be contesting the general elections in 2025. Her goal is to continue representing the rights of Indigenous Peoples from the policy level.

What has been your experience working on EU policies and practices related to indigenous peoples' and forest peoples' rights?

My experience with working on representing indigenous peoples' rights within the EU/Guyana VPA process was when I was at the APA. I focused a lot on calling for indigenous peoples to be included in plans to raise awareness on what the VPA is, what impacts it may have on indigenous people's land rights, what opportunities it can provide towards policy and legislative reform to ensure that indigenous peoples' rights are protected. Those are the broad calls that we made from the very beginning. Discussions around the VPA, and the engagement on it, raised awareness on the need for enhanced protection for the rights of indigenous peoples.

If we are to talk about achievements, the VPA did achieve to raise awareness on how much work Guyana still had to do to protect the rights of indigenous peoples effectively. I would say also that it created an opportunity for Guyana to improve its laws, but the government lacked the willingness to do so.

What have been the challenges in pushing for improving protections for the rights of indigenous peoples and forest peoples?

From the very beginning when we spoke about land rights, we made it clear that the final outcomes of the negotiations would have to require Guyana to ensure that land rights are protected in law. But the government kept saying that there were rights protections under the Amerindian Act of 2006, but we pointed out that it only recognised lands that had been granted by the state.

Sunset over Shulinab in southern Rupununi, Wapichan territory, Guyana.

Credit: Helen Tugendhat, FPP





But the lands of indigenous peoples are lands which are territories upon which communities are located, territories that we know to be our lands that we have occupied from time immemorial, that we use up to this today, which is still very much important to us. And, you know, because this is where we have our farming lands, fishing, hunting grounds. And we also understand that they are investments that were made by individuals and companies, but it was the responsibility of the government to ensure that those logging concessions did not overlap with indigenous peoples' lands.

The government, the Guyana Forestry Commission, and the EU, repeated that the purpose of the VPA was to focus on compliance with the laws of Guyana that exist. But we maintained that there are commitments and international obligations of both the EU and Guyana to make sure that the rights are protected effectively, for example in the UNDRIP.

I did find that the EU was responsive in meeting with and listening to our concerns, but in terms of really pushing for rights protections, they couldn't get Guyana to enhance protections.

In your view, to what extent have policy changes translated into real impacts on the ground for indigenous peoples and forest peoples?

There have been impacts, with a lot of investments and supports to Guyana, for example with the forest partnership. But it gets devoid of indigenous peoples' inclusion and participation. I feel like the signing of the forest partnership was rushed. In one hand it appears as though the EU is open to make sure that there is support for participation, but at the same time the process is rushed and it ends up excluding indigenous peoples.

Case in point, indigenous forestry groups are unable to meet the criteria of the "Revolving Fund" which was established under the Forest Partnership.

There has been steps for the Guyana Timber Legality Assurance System (GTLAS) - government agencies to coordinate on their systems to meet the requirements of the VPA. This still needs to translate effectively to the communities for them to access the services effectively. The larger policy of forest governance of Guyana though, does not recognise and respect that it is Indigenous Peoples who have protected these forests under their own form of Indigenous Governance.

As a movement, where do you think our work at EU level should go from here?

You see with the new EU regulation on deforestation that it is difficult to include rights, like the right to free, prior and informed consent, in new laws. The focus there is on zero deforestation but a holistic approach is needed because the rights of indigenous peoples, of peoples who live in forests and protect the forest need to be included and protected in our policy and legislative designs.

I also believe that funding is necessary, independent funding is important to go to organized groups so that they can support indigenous peoples. There is a need for continued, independent representation of indigenous peoples. There needs to be holistic support for communities, to strengthen forest governance and help them articulate what rights protections they would like to see in terms of protecting the ecosystems, protecting our waterways and protecting human rights. The EU needs to support independent civil society groups and independent indigenous peoples' organisations. The EU could probably work to create a broader space that could support this.



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Norman Jiwan

Norman Jiwan is a Dayak indigenous leader from Borneo, West Kalimantan Indonesia. Over the past two decades, he has worked for Friends of the Earth Indonesia (WALHI) Kalimantan Barat, Sawit Watch and TuK INDONESIA and actively participated in the Roundtable on Sustainable Palm Oil (RSPO) standard setting and accountability processes, including spending four years on the Executive Board. He has equally been involved with filing numerous complaints under the RSPO complaints procedures, and is qualified to audit RSPO standards. Norman has held voluntary membership roles in international best practices and policy developments, among others, Lead Discussant members to criticize and comment on the draft of the World Bank Group Framework and IFC Strategy for Engagement in the Palm Oil Sector (2010/2011); Indigenous Peoples Advisory Group (IPAG) to provide critics and perspectives to the draft of the Asian Development Bank's Environmental and Social Safeguards (2023-2024); and FoE US Indigenous Advisory Group (IAG) 'No Go Areas' Bank and Biodiversity (2023-present).

What do you think are the key achievements in EU policies and practices in the last 15 years related to indigenous peoples' and forest peoples' rights?

Over the last 15 years, if you look at the regime itself, the commitment is not strong enough. In the forestry sector, you are talking only about certification, and verification of legality in the logging industry. Which is an achievement from the government point of view, and maybe for the EU, but it is not for indigenous peoples. It doesn't address the root of the problem, which is that the forestry laws are discriminatory against indigenous peoples. What about human rights? What about indigenous peoples' rights and women's rights? Did these timber products that were required to be certified to enter the European Market help address these rights issues? I think these legality requirements did not require the industry to go beyond business as usual.

When you also look at the rate of deforestation, EUTR did not contribute to significant achievements to tackle deforestation in Indonesia. And even when there was some limited progress, human rights abuses associated with deforestation were left unaddressed.

Do you think new EU policies could have a positive impact for the protection and recognition of the rights of indigenous peoples and forest peoples?

The EUDR will be challenging because I still don't see a strong human rights based approach in the regulation. The problem is always the same when you rely on national legal frameworks for the recognition and protection of the rights of indigenous peoples, because we are lacking this framework in Indonesia. And because of this, companies can always say that it is not their responsibility if the legal framework doesn't protect these rights. And the EUDR fails to address this issue.

Barge at the pulp and paper company, APRIL's port next to Penyengat village loading Acacia, Indonesia.

Credit: Harry Oktavian





Also, looking at the objectives of the EUDR, the cut-off date feels strange. Why make it 2020 and not, for example, 1994 like the cut-off date for the Forest Stewardship Council, or 2005 like the cut-off date for the Roundtable for Sustainable Palm Oil? They could have been more ambitious but they weren't, they don't want to look at past impacts of deforestation.

My issue is how do we make sure that the EUDR brings solutions for indigenous peoples, and for ecological justice, and climate resilience? This needs to be done through a human rights based approach. The EUDR is an achievement for deforestation, but if the legal approach doesn't require to go beyond business as usual for recognising and protecting the rights of indigenous peoples, it won't be an achievement for human rights.

As a movement, where do you think our work at EU level should go from here?

We have to focus on the strategic issues, strengthen the tools for implementation, and jointly develop collaborative, self-determined, time-bound priorities for effective implementation of the EUDR at community-level. Especially with indigenous peoples and other affected groups, those that are at the forefront of deforestation. We need a bottom-up, human rights based approach to link real solutions that can sustain the future of forests and people. But we shouldn't only look at future impacts and only set targets for zero deforestation, we also need to address the continued impacts of past deforestation, including inequalities, discrimination and poverty.

There also should be a project with dedicated funds to support operational remedies that work proactively and do not wait for complaints to act. That is a serious problem with SVLK, EUTR and RSPO, they only address issues when there is a complaint, after the harm is done.

Even if the EUDR doesn't directly address smallholders issues, as a legal framework it can always put priorities on improving the lives of smallholders, of indigenous peoples and of local communities. Not only with funding but also with giving the resources and capacities needed to make sure that it is not just a good policy on paper but that it brings real human rights impacts. You need to work with indigenous peoples organisations and civil society to strengthen the monitoring and implement a human rights based agenda. Otherwise, human rights are going to be neglected or undermined.

You can't have spaces, like the previous meeting of EU-Indonesia-Malaysia Joint Task Force on deforestation, where only industry interests are inside the room. Task force and working groups need to have indigenous peoples, local communities and smallholders as top priority members of these groups.

I think the EUDR has limitations in addressing environmental issues and human rights, but there is room for it to be operationalised, we need to push it further and we need to act immediately, we can't delay it.

We also need to look into the financial sector which contributes massively to these problems along the supply chain, both directly and indirectly. We also need to look into the impacts of mining, biomass, but also carbon offsets. We see carbon offset projects keeping the forest standing but undermining the rights of indigenous peoples. We can't let industries make profit with these projects without respecting rights.



I think the EUDR has limitations in addressing environmental issues and human rights, but there is room for it to be operationalised, we need to push it further and we need to act immediately, we can't delay it.

Mina Beyan

Mina Beyan is a human rights activist who has been working with Social Entrepreneurs for Sustainable Development (SESDev), a Liberian civil society organization, for the last 11 years. SESDev works towards the respect of local communities' rights, particularly their land rights, in the context of agricultural development (including especially palm oil). Mina has engaged with various EU policy processes, including the EUTR and VPA processes as well as, more recently, the EUDR and the CSDDD.

What have been the achievements of EU policy for local communities' rights?

For me the greatest achievement has been the EUDR and the CSDDD. These laws are positive in their orientation, although they have their shortcomings. For example, the EUDR doesn't really speak enough to human rights, and the role they play in biodiversity conservation. But it's also important because it creates a link between production for the EU, and consumption in the EU, and the way of life of local communities. Deforestation to a large extent takes away the life of local people. Now as a company you need to trace your impacts back to the level of local communities – living in the forest, depending on the forest, it's just a way of life for these communities. And the CSDDD equips rightsholders with new avenues to hold companies accountable. But it's going to be really important to look at monitoring compliance and enforcement.

In what areas have we been less successful?

There hasn't been enough done in the country to make local communities aware of these regulations, and what they can mean for communities. Due to the traceability system that was put in place in Liberia under the EUTR/VPA, it is now easier to track timber and wood linked to deforestation back to communities' land. When it comes to oil palm, which we have lots more of in Liberia, there are no traceability systems established. Unless a traceability system is put in place for that in Liberia – and I don't see that happening – the EUDR won't create much difference for local people. Also, here in Liberia, communities' land rights were recognised and protected by the Land Rights Act 2018, although there is a lot still to be done to materialise this. There hasn't been any thinking or work done on how those community land rights will interact with the national systems of industrial palm oil or agrocommodity production. A lot more needs to be done at the local level to be able to get to the level that the EUDR expects. I don't know what the EU is doing



There is also really not enough awareness about these laws at the country level. It is hard to access EU funding, as the process is very cumbersome and stringent. But there is so much work to be done.



about that, but there is a lot more that needs to be done to ensure that oil palm, rubber that comes from Liberia is not just entering the EU markets without mechanisms to track deforestation.

As a movement, where do we need to go from here?

What the movement can do is to advocate for the EU to support putting systems in place in producing countries like Liberia. The movement should also look at other loopholes that could allow products from Liberia into the EU market when they shouldn't be. For example, we have oil palm from Liberia supplying the West African market. How well with the system be able to capture illegal oil palm that is being added to the supply of a larger palm oil producer who has other legal sources? What about palm oil that goes to China or India, and not to the EU market? We need to go beyond the EU market, and target other buyers such as China, India, the West African market. And we need to think about how to strengthen the legal frameworks in the countries where commodities are sourced from, to make this a system wide approach. The EU can strengthen its bilateral collaboration to support this approach of ensuring that producer countries do not deforest and do not violate the rights of local communities and indigenous peoples.

There is also really not enough awareness about these laws at the country level. It is hard to access EU funding, as the process is very cumbersome and stringent. But there is so much work to be done.

Finally, it's really important for the movement to advocate for the systems of accountability set up under these new laws to be accessible and adapted to local communities' use, so that if there is need for complaint they can be a tool for redress.

Woman carrying water from a creek back to her village, which is part of the Totoe Chiefdom, Sinoe County, Liberia. At least 20 metres from the creek there is a clear line of sandals and flip-flops, demonstrating the care the village take to keep their drinking water clean and safe to drink.

Credit: Tom Lomax, FPP



Aristide Chacgom

Aristide Chacgom is the coordinator of Green Development Advocates (GDA), a Cameroonian organisation that works on the rights of indigenous peoples as well as of local communities, particularly in the forest areas of Cameroon. In addition to their work in country, Aristide has worked on EU policy issues linked to Cameroon since around 2010, when he supported GDA's work on VPAs. Working together with other civil society organisations, GDA sought to ensure that the rights of indigenous peoples and of local communities were taken into account in the VPA and reforms linked to it, and that they received a fair share of benefits. Since that time, he has also provided input to other law and policy processes, including the EUDR and the CSDDD.

What has been your experience of EU law, policy and practice?

At the beginning of the VPA process, around 2011, in the part leading up to and just after the signature of the agreement, there was a genuinely participatory process and consultation by the Ministry of Forests and Fauna (MINFOF). National civil society organisations, including indigenous peoples' organisations, had a seat at the table to share their point of view. It wasn't perfectly balanced or equal, but it was nonetheless a real space where different actors could participate in policymaking and discuss forest exploitation. The EU really supported creating that space for discussion. It was really innovative.

This was important also because the VPA process anticipated the revision of key laws that affect indigenous peoples and local communities, such as the property law and the forestry law. It seemed like a real opportunity.

Unfortunately, it hasn't continued that way. The process for the signature of the agreement was participatory, but the implementation phase has been very different. There seems to have been a lot of disagreement between the EU delegation and the Cameroonian government, and at some point there was a point of inflection after which the process that had been working well just completely stalled. That has affected everything since. For example, there were serious problems in the government's collaboration with civil society for the Forest Law which was adopted earlier this year. Just like the VPA as a whole, the process for reforming the forest law started off as participatory, but after the first few years that all stopped. Civil society had limited influence on the final version of the law. Unfortunately, because of these blockages and issues, the EU doesn't want to continue working on the VPA in Cameroon.

In relation to the EUDR, we also worked on that text but, where most of our European partners were focussed on the zero deforestation aspects, our work was looking at how it could impact indigenous peoples and local



Fishing session carried out by Baka women, Cameroon.
Credit: Andre Ndomba



communities. Cameroon also produces rubber, palm oil, coffee, but we focussed particularly on cocoa, which many communities in Cameroon produce for export. For the indigenous peoples who have made cocoa cultivation part of their livelihoods – often after having specifically been encouraged to do it as an alternative livelihood by conservation organisations – how will they be able to meet the requirements, for example, of traceability? And indigenous peoples also sometimes have fields inside protected areas [that were created without their consent on top of their traditional territories], which will make their products automatically illegal. How will this affect them?

The CSDDD will be more useful for addressing directly issues of indigenous peoples who are affected by industrial oil palm and rubber, which tend to be large industrial concessions.

Have these policy changes had impacts on the ground, at community level?

There aren't really any impacts at the level of communities themselves. It created some new opportunities for accountability that have been used in a couple of isolated instances (for example, the work of SYNAPARCAM [a Cameroonian organisation] with SOCFIN [a palm oil company with European parent companies] has led to a few improvements for the communities living alongside the palm company, but it hasn't had a widespread positive impacts.

If you go to a community and ask them if it's had an impact, they will generally say no. Communities generally aren't aware of the opportunities that exist, and they also can't usually take advantage of them without assistance from external organisations, so the impact stays really only at national level.

Where should we go from here?

When I see developments such as the EUDR and the CSDDD, it feels like the EU is improving, that it's trying to work with

countries that have weak governance. We can see there is a desire to put in place legislation to address problems of human rights violations and environmental harm.

But the major question is at the operational level - how can we make this legislation accessible and functional. I'd like to see for example the EU delegation directly supporting implementation in Cameroon, putting in place frameworks that allow them to receive grievances, to act as a relay. Having more local options would make it much more accessible. The EU needs to go further than what it has done so far.

The EUDR is also an opportunity for us to do advocacy at a local level, to analyse what happens, and also to consider how we can better protect the rights of people in rural areas, including using UNDROP (the UN Declaration on the Rights of Peasants and Other People Working in Rural Areas).

It's important and relevant to do this work of linking policies in Cameroon with other policies internationally that affect us like those of the EU. But if I had a reproach to make, it's that sometimes there is a difference of perspective between organisations in Brussels and civil society organisations here. It can be difficult to reconcile those different points of view, and our perspective often has less influence. This is the case for example with the zero-deforestation approach, which is a key ask of many organisations in Brussels. They see it as key for stopping global deforestation and breaking the link between European consumption and deforestation. And that's true, but also communities here, as a result of colonisation, have adopted the cultivation of cocoa for export. In most cases here cocoa cultivation is done as agroforestry, but it will still count as deforestation – so having a strict approach to zero deforestation threatens communities' livelihoods. We need to reinforce our collaboration and dialogue, but also decolonise those relations with organisations of the global north.



Having more local options would make it much more accessible. The EU needs to go further than what it has done so far.

Guangchunliu Gangmei

Guangchunliu Gangmei is a Naga indigenous woman from the north-east of India, who has worked for Asia Indigenous Peoples Pact (AIPP), and indigenous peoples' organisation based in Thailand, for about 6 years. Her role includes a focus on business and human rights, including work at global, Asia regional and national level on business and human rights, including supporting challenges to harmful business activities. AIPP has also been directly involved with training EU delegations in Asia on better supporting indigenous peoples' rights in their dealings with national governments in Asia. Guangchunliu has been broadly following the developments in the EU with regard to the CSDDD and EUDR.

What do you think are the key achievements in EU law, policy and practice for indigenous peoples?

It's very important that the EU is developing certain guidelines and policies for companies – that is a welcome effort. However, indigenous peoples need to be more aware of and involved in these processes. We've proposed to European actors a regional consultation and information sharing with indigenous peoples on some of these key laws, but it didn't materialise. There is very little understanding in Asia at least on how these laws, policies and guidelines can be implemented at regional level, and how they can be used by human rights defenders in their activities. Some organisations know more because they have closer links with organisations working in Europe, but on the whole these linkages are still missing.

Capacity building around the directive is therefore a critical aspect. There is some scope for this in the CSDDD, but it remains to be seen how this will be implemented.

Even if there is language on human rights, the implementation is always problematic. Everybody is looking at profit, all countries are looking at this. Look for example at the opposition from European countries to the EUDR, which is leading to delay in implementation. There is all this opposition from states or companies who will not benefit from the regulation – but there are really good things that could come from this regulation for everyone.

Where do you think we as a movement have had less success?

There are significant challenges in Asia because most countries do not recognise indigenous peoples. In Philippines, Nepal and Cambodia there is some semblance of recognition but otherwise there is consistent denial of indigenous peoples. A challenge for the EU is how to position itself when there is not State recognition.



Foresters carefully mark the trees for easier monitoring during a training on resource inventory mapping held in Nueva Viscaya, Philippines.

Photo by Ella Carino / PIKP



It has been a welcome move for the EU to expand their understanding and strategise with indigenous peoples on how to do better.

The EU needs to really take the initiative to speak to indigenous peoples, to consult with them more regularly, to see how they can do things better. And that is also linked to information sharing. There is a need to strengthen the connection between indigenous peoples and European institutions.

Have you seen evidence of change on the ground?

Specifically related to EU policies, I'm not really sure there has been any change on the ground. But with the increased understanding of business and human rights after the adoption of the United Nations Guiding Principles on Business and Human Rights, I think there is much greater understanding of how global supply chains work and the role that financial institutions play. I think we as indigenous peoples have been better able to connect these different actions and better strategise in our advocacy for certain cases. Now people know to follow the money. We have connections to different organisations with expertise on filing complaints with development banks, and people are demanding access to remedy. There has been a tremendous transformation in understanding, and people have even been able to use some of these mechanisms. It still hasn't always had a big impact on the ground, for communities, but it's been very important for building understanding, building solidarity, building some common positions. There has been a lot of thought and discussion about corporate due diligence, about what this needs to look like, and advocacy to try to get it in place, for example with the Asian Development Bank.

In the last decade, there has been more consultation with indigenous peoples, and indigenous peoples have made a much greater contribution. As a movement, indigenous peoples have been stronger and able to bring more pressure to bear. It's a continuous process – it is often two steps forward and one step back – but there has been movement.

Where should we go from here?

The EU could play a very important role, if there is will to do so, in supporting indigenous peoples' agendas in different fora and processes – such as climate change, biodiversity, business and human rights. They could use their influence to enhance participation by indigenous peoples in these and other spaces, and to improve protection of human rights. For example, they could use the guidelines on human rights defenders they have developed as an example to encourage countries in Asia to protect human rights defenders. They also need to use their influence with states to support effective implementation of new legislation such as the CSDDD.



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Yblin Roman

Yblin Roman is a Policy Advisor for the SIRGE Coalition, which advocates for the rights of Indigenous Peoples within the green economy. She works at the regional level in Europe, focusing on mining and renewable energy. Her work involves key EU legislative instruments, including the EU Corporate Sustainability Due Diligence Directive, the Critical Raw Materials Regulation, and the Battery Regulation.

What do you think are the key achievements in EU policies and practices over the past 15 years regarding Indigenous Peoples' and forest peoples' rights?

I would say there are four key areas worth noting for forest peoples, all aligned with the EU's Green Deal goals. First, there is the EU's deforestation regulation, essential for protecting biodiversity and reducing environmental harm. Then, we have the Corporate Sustainability Due Diligence Directive (CSDDD) and the Critical Raw Materials Act (CRMA). Lastly, the Green Deal itself, along with the 2030 Biodiversity Strategy, includes both EU-focused and international elements.

Also, one of the most significant shifts has been a growing recognition of Indigenous Peoples' rights, especially regarding Free, Prior, and Informed Consent, or FPIC. While enforcement of FPIC is not yet consistent, its acknowledgement in recent EU legislation is definitely a step forward.

Do you think there have been times when, as a movement, things did not go as well as they could have? Any missed opportunities to better advance Indigenous Peoples' and forest peoples' rights in EU policies?

I think it is more about limited successes rather than missed opportunities. Take the Critical Raw Materials Act (CRMA) for example. We had the chance to meet with policymakers and made sure they understood how essential FPIC is. Our recommendations even passed through the European Parliament, and we were so happy. But in the final trilogue negotiations, FPIC was removed—purely a political decision.



Shipibo leader and Peruvian forest defender, Miguel Guimaraes participating in the climate justice march in Glasgow along with Kichwa leaders from Peru, and FPP allies on the margins of UNFCCC COP-26, November 2021.

Credit: Claire Bracegirdle, FPP



Looking back, perhaps if we had already built stronger connections with organisations in EU member states, they could have helped hold their governments accountable and fought to keep those strong safeguards for Indigenous Peoples' rights in the final text.

While I see growing acknowledgment of Indigenous Peoples' importance globally, it often feels like we are there for the picture, not for real action. When it is time to make concrete changes, Indigenous voices are often not invited to the table. Consistent measures are still missing, especially to ensure compliance with FPIC during the implementation phase.

And I think it's because of the economic model. At the end of the day, you always find that our structures and our legislation are built on a colonial economic model. It makes things difficult because the structures and the legislation are very hard to change and to change them you need political will, which is not really widespread.

It sounds like there is recognition, but it rarely translates into substantial policy changes. What are your thoughts on how to push governments and the EU to put words into action?

To make sure words lead to real action, we need a few things. First, FPIC should be a core requirement in all relevant EU legislation, with enforceable guidelines and real accountability. Indigenous Peoples should have legal options for justice if their rights are violated.

Second, Indigenous Peoples need consistent representation in EU policy discussions, similar to the spaces created for women and youth. Meaningful engagement would ensure that policies genuinely reflect Indigenous priorities, rather than just offering symbolic gestures.

And third, within the Indigenous rights movement, we could improve our coordination and cooperation, especially with organisations based in EU member states. Working together would help keep Indigenous Peoples' rights front and centre in EU conversations.

To what extent do you think these policy changes have translated into real change on the ground for Indigenous and forest Peoples?

The acknowledgement of Indigenous Peoples' rights in EU legislation is a step forward, I think. However, on the ground, there has been little visible impact so far, and that is partly because these policies are not fully rolling out yet. For example, the Critical Raw Materials Act (CRMA) had its first call for strategic project applications in August 2024, and the 170 applications submitted are now under review, with final decisions expected in early 2025. The lack of clear, enforceable FPIC safeguards in these processes is worrying, because it limits the potential of these policies to meaningfully protect Indigenous Peoples' rights.

For these policies to have a real impact on the ground once implemented, we will need a standardised and enforceable FPIC requirement, plus a strong framework for monitoring compliance. Civil liability mechanisms are also essential, so that when rights are violated, Indigenous Peoples have access to justice and a pathway to correct the situation.



The acknowledgement of Indigenous Peoples' rights in EU legislation is a step forward, I think. However, on the ground, there has been little visible impact so far, and that is partly because these policies are not fully rolling out yet.

Can you share some insights on the risks related to critical minerals and the implementation of the CRMA?

There is a lot of talk about risks for Indigenous Peoples, but the truth is, it is not just a risk—it is a reality. Mining has been happening on Indigenous lands for hundreds of years, often without respect for their rights. This continues with energy transition projects, including mining, solar, wind, and hydropower. Indigenous Peoples from the seven socio-cultural regions of the world recently gathered at an Indigenous Peoples Summit in Geneva, to denounce that these energy transition projects are moving forward without their Free, Prior, and Informed Consent.

Global Witness documented that 196 defenders were murdered in 2023 trying to protect their lands and the environment from harm. Of those murdered, 43 percent were Indigenous Peoples. The growing demand for minerals, especially with green transition projects, is exacerbating these threats, and communities are attempting to resist harmful developments on their territories. If we think of a Just transition, as called upon recently by the UN Secretary General's panel on Critical Energy Transition Minerals, the implementation of the CRMA needs to put strong safeguards in place, for defenders and Indigenous Peoples' rights in general. Since 54% of the CETMs are on Indigenous Peoples' lands, with the critical energy transition minerals without strong safeguards the question is not whether their rights will be violated, but to what extent.

What do you think, as a movement, should be our focus in the future when it comes to EU work?

Moving forward, we need to focus on the implementation phase to address the gaps left during the legislative process in all new legislation and make sure that enforcement happens on the ground. Indigenous Peoples should be involved in developing guidelines and roadmaps.

I see three main areas to focus on. First, ensuring compliance with FPIC, making sure it is included and enforced in all relevant plans and projects. Second, Indigenous voices should be directly involved in both the rollout of these policies and in energy transition plans. Finally, we need real financial support. At COP26, for example, governments pledged €1.7 billion for Indigenous Peoples, but of the 48 percent already allocated, only two percent has gone directly to Indigenous communities. Funding like this, if properly directed, could have a tremendous impact. If we think about forest and biodiversity for example, when Indigenous voices and needs are overlooked in conservation and biodiversity programmes, these efforts often fail and can even lead to forced relocations and rights violations. Indigenous Peoples should be empowered according to their self-determined goals and priorities.



Alancay Morales Garro

Alancay is an indigenous person from the Brunka people in Costa Rica. He has a background in Engineering and Human Rights Law. His experience includes law reform, public policy, advocacy, research, and project management. He has worked at the national and international levels; in non-governmental organizations; and in the public and private sector.

What do you see as the key achievements in EU law and policy for indigenous peoples' rights?

EU member states have taken some positive measures. For instance, in Germany, a measure that was taken out of solidarity for indigenous peoples around the world was the ratification of ILO Convention No. 169. That was a valuable commitment. And in the process of the EU Corporate Sustainability Due Diligence Directive (CSDDD) indigenous peoples have provided inputs to the process in various stages. We believe the directive could lead for a better protection of indigenous peoples' rights.

As we know, the political conversation that took place in the decision making was rather a complicated one. If we think of the directive as a fishing net, the holes of the fishing net are way too big, so it's only applicable to businesses of certain size and turnover. A lot of things can pass by without protection. Another challenge we anticipate around this process is how the directive will be implemented in each of the EU Member States.

There is also the EU legislation that was recently adopted on critical raw materials. The materials that are declared as critical might generate a pressure on resources that we know are on indigenous peoples' lands. It's estimated that over 50% of the transition minerals are located on indigenous peoples' lands, and the context of the countries where these materials are found varies a lot. There are states that do not recognise the existence of indigenous peoples. This is a potential risk that that we have to look out for.

Salitre and Terraba, Costa Rica.

Credit: Nathalia Ulloa, FPP





Also, the legal landscape is becoming more complex. The legislation and directives that have been enacted at the national level, for example Germany and France, more broadly with the CSDDD and even with the OECD's responsible business conduct are part of this landscape. So, it may be a challenge for indigenous peoples to navigate all these and use them effectively.

What do you think will be the key issues when the CSDDD is transposed?

The UN Declaration on the Rights of Indigenous Peoples is the minimum set of standards. All EU member countries voted in favour of it when it was adopted back in 2007. UNDRIP must guide policy development. We have encountered that in policy development there are situations where states do wrong interpretations as to their obligations under international human rights law.

One of the main limitations leading to gaps in this law and in other instruments is that indigenous peoples are not a part of the conversation. It's often a closed group that's having those discussions in the EU. This is not the same practice that was developed over decades in other institutions. For example, indigenous peoples were fully involved in developing the UNDRIP. So we need to make more space for us in these processes.

Where do you think, as a movement, our work should go from here?

I think we need to see how we can prioritise the countries that host a majority of the companies with direct impacts on indigenous peoples, and target our efforts in key countries and industries. This includes developing relationships with parliamentarians, with NGOs and others that have expertise in these key countries.

Another point, the renewable energy value chain, specifically with the extraction of transition minerals and the deployment of renewable energy projects is a major threat against indigenous peoples.

And lastly, we need to push for stronger requirements in the funding side of the equation. Investors, banks also have a responsibility in relation to the projects they fund. They must also ensure that their funding is not enabling human rights violations.



I think we need to see how we can prioritise the countries that host a majority of the companies with direct impacts on indigenous peoples, and target our efforts in key countries and industries.

Wendel Trio

Wendel Trio was involved in European work in solidarity with indigenous peoples from the late 1980s. For 1993-1998, he was the director of the European Alliance with Indigenous Peoples, a coalition of organisations from different European countries (Belgium, the Netherlands, the UK, Denmark and Germany) all working to support indigenous peoples' rights. While with the Alliance he was directly involved in developing European policies connected to indigenous peoples, advocacy in support of indigenous peoples' rights, as well as supporting delegations of indigenous peoples' representatives who came to Brussels to engage with European institutions. He has since worked with several climate and environmental campaigning organisations, and now works as a freelance consultant on climate policy.*

Looking back to when you started, what do you think have been the achievements in integrating indigenous peoples' rights in EU law, policy and practice?

It's hard to judge. In some ways, even though now indigenous peoples' issues are very visible politically, it feels that indigenous peoples' rights as a standalone issue has less importance in European institutions than it did during the 1990s. Indigenous peoples have obviously come to the forefront in other international negotiations, such as climate, but I'm not sure it's seen that way within European institutions. I feel there was more specific engagement on indigenous peoples' concerns previously. For example, there was an intergroup on indigenous peoples in the parliament – that doesn't exist anymore. There were a lot of specific resolutions adopted on indigenous peoples.

Also, the European Commission funded us at the European Alliance with Indigenous Peoples to do evaluations of indigenous peoples' participation in Commission-funded development projects. We made a lot of progress in that area. And then later, in 1995, a Danish national expert was seconded to the Commission and wrote a position paper that dealt with indigenous peoples' participation in development projects and indigenous peoples' rights – I don't think it was ever formally adopted but it had a strong influence. This was the same time that debates were ongoing around the (then draft) Declaration on the Rights of Indigenous Peoples, and it influenced how the EU engaged. There have been advances since then, but it feels to me that overall indigenous peoples have less influence now than they did before.

Panoramic view of the Sacred Carhunco Hill, Cañamomo Lomapieta Colonial Indigenous Reservation.

Photo from the Cabildo Archives. October 2021.



Where have we had less success as a movement?

One thing we were trying to do at the European Alliance for Indigenous Peoples was to get official recognition from the EU that there are indigenous peoples in Europe – the Saami are of course the biggest example – that the EU needed to address and accommodate. That was never acknowledged in a material sense. That is the EU didn't adopt specific consultation approaches to ensure their participation in EU-level decision-making. That links to another issue – there is no forum or official space for discussions and consultations between EU institutions and indigenous peoples, to enable the EU to discuss, understand and consult on impacts of its different policies, be it trade, development, or something else. Despite our efforts, we were never able to get a formal or regular space for these kinds of discussions. It has remained ad hoc, based on when different delegations come to Brussels and have meetings with the Commission. Of course, this would not be a panacea, because there is a huge diversity of indigenous peoples globally and realistically, only a tiny portion of representatives would be able to participate in this space. But it would be some kind of recognition from the EU that it took its responsibilities seriously and it acknowledged that you should have conversations not only with nation states, but also with representatives of indigenous peoples' nations.

Do you think there has been an impact on the ground for indigenous peoples?

This is something I'm not really in a position to judge. I think things like the EUDR could have a positive impact, but it's too early to tell - the devil will be in the implementation. So how much that will have an impact is an open question.

We really worked hard on getting more European development funding to indigenous peoples, and to be more open to indigenous peoples' participation, firstly to ensure projects were not harmful but secondly to provide more support to realising indigenous peoples' rights. I have no knowledge of current practices – I really hope there are some good projects for supporting indigenous peoples' rights that are having a positive impact for communities, but I can't say.

Where do we go from here, as a movement?

I still regret that the European Alliance with Indigenous Peoples wasn't able to continue. I think some kind of direct representation of indigenous peoples' rights based in Brussels, really specifically focussed on this, not just part of a portfolio of issues that includes indigenous peoples' rights, might be useful to elevate the profile of indigenous peoples' rights to another level. It's of course important that other organisations also include this, but it is different from a specific organisation that is focussed on it. And continuing to have indigenous peoples' delegations coming to Brussels to explain their situation. I know of course that still happens, but I do think this continued direct visibility of indigenous peoples in EU institutions is really useful. Also having contacts with European delegations in different countries, but that is something different.



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Saskia Ozinga

Saskia Ozinga has been working on EU law and policy for nearly 30 years. Having been part of the World Rainforest Movement in the late 1980s, in 1995 she founded the NGO Fern, whose objectives were to advocate for EU policies and EU activities to take care of forests and forest peoples. Fern also supports networking between European NGOs to be more informed of and involved in European policymaking around forests, and seeks to open doors for people from the global south to have their voices heard in the European Commission and the European Parliament.

What has changed in EU law, policy and practice over your time in the movement?

The biggest change is visibility. In the early 1990s, there was very little visibility for indigenous peoples in discussions around tropical forests. Now indigenous peoples have become very very visible in discussions around forests. It is impossible for governments to completely ignore indigenous peoples. This is mainly due to indigenous peoples themselves, but also the support of organisations such as Forest Peoples Programme. It is clearly visible in EU policy.

For as long as I can remember, the EU has had an indigenous peoples policy and a rights-based approach – but what does that mean in practice? That has always been the question with the EU in general. Things like free, prior and informed consent are now more common in EU policy documents than they were before, but that doesn't mean that it is really happening. The EU is a governmental body – it talks to other governments it doesn't talk to people necessarily, and it's a trade bloc. It has a lot of development aid, and relatively speaking quite a lot of it goes to the ground, but at the same time, economic interests will always override what happens on the ground.

What could we have done more or better as a movement?

There are probably some areas where we as a movement could have done more, been more precise and more proactive. For example, I think we could have used the opportunity of voluntary partnership agreements (EU-producer country agreements around timber production under the Forest Law Enforcement, Governance and Trade Action Plan) to open up discussions in more countries about recognition of customary rights to land. It happened in some places but not all. I also think we could have made more noise about European countries (especially those



Boats assembled on the banks of the Sehnkwehn River, Sinoe County, Liberia.

Credit Tom Lomax, FPP



who also have indigenous peoples, such as Sweden) blocking the inclusion of indigenous rights in EU law and policy.

Do you think policy changes have translated into real change on the ground?

There are different ways to look at this question. Really on the ground, in the lives of indigenous peoples, I find it difficult to see that there has been a direct impact. But I think it's much more difficult to completely ignore indigenous peoples in policymaking now, and you would expect that to have some impact on the ground. There's also much more money available for indigenous peoples, and increasingly so, although not really because of the EU. Whether and how that money will really change the lives of indigenous peoples on the ground I don't know.

In terms of policies influencing things on the ground – we really need to see the impacts of these new pieces of human rights legislation, when they are implemented – like the EUDR, the forced labour legislation, the CSDDD. It's very early days, it probably takes a decade before you see an impact with those types of policies. I'd like to think they'll have a positive impact on the ground but I don't know.

Where do we go from here?

I strongly believe that the change will happen on the ground – it is not going to happen anywhere else. All the EU can do and all we can do as a movement is create that space for forest peoples on the ground. I tend to look at policies through that lens – is this policy going to increase indigenous peoples' and other local civil society organisations' space, or is it going to undermine it? The EUDR cannot stop deforestation. But Indonesia, Brazil, whatever country you want to talk about, they can stop it, if they want to. But they need to be supported in

stopping it in many different ways. There are many forces out there who don't want to stop it but others who do. We need to look at how we enable and block to create an enabling environment for change. Where you can bring together some political will, some organised action on the ground by indigenous peoples or other communities, and some trade link or development aid link, when you can combine the three then you can probably get some change on the ground.

More concretely, I think we should think about making more use of the OECD guidelines and FAO guidelines on tenure more – they are not being used that much, even though there is a lot of international consensus around the positions they contain that could form the basis of stronger law and policy. And UNDROP - although I recognise the EU did not always play a particularly constructive role in that declaration!



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Marcus Colchester

Marcus Colchester is an Oxford-trained social anthropologist who has worked in support of indigenous peoples since the 1980s. He is the founder and original director of Forest Peoples Programme and currently Senior Policy Advisor.

What do you think are the key achievements in EU policies and practices in the last 15 years related to indigenous peoples' and forest peoples' rights?

So my experience of this has come from the work in Indonesia, although I also have a broader view of what the EU has been trying to do in relation to indigenous peoples and forests. Obviously a significant thing was that with the exception of the United Kingdom, the whole of the European Union voted in favour of the UNDRIP, and that did filter down through to various government policies within Europe. And we've seen some countries even signing up to ILO Convention 169. The main thing that we've been observing in working with our partners in Indonesia was the FLEGT program. And the good thing was that the European Commission seemed to accept that human rights and indigenous rights should be part of the framing. The crucial first step for that was the agreement on a definition of what does legality mean, and in the Indonesian case, because of the preparatory work that some of the NGOs did, we went into that process already with a sort of full list of all the laws that needed to be taken into consideration and some of the shortcomings of those laws, that also needed to be taken into account in terms of Indonesia's human rights obligations under ratified conventions. So we started off fairly well with a lot of engagement by civil society in the development of the definition of legality.

Where have we as a movement been less successful or missed opportunities?

What the partners experienced through the several years of the FLEGT/VPA process was that every time they got good text into a draft legality definition, it would be mysteriously edited and come back with all the gains somehow taken out again. It was extremely frustrating for them. And the eventual definition of legality did not really have anything about indigenous

RSPO-member First Resources alleged shadow group FAP Agri plantations in North Kalimantan, Indonesia





peoples' rights and land rights, and even wider human rights considerations. So it ended up being forestry, law enforcement, governance and trade, not forest law enforcement. That was pretty disheartening. Even more disheartening was that when we had meetings with European Commission officials in Indonesia to raise these concerns, they would say "oh, well, you know, I'm sorry our hands are tied. We can't go further. This is the best we can do."

As a result, we could see that they were accepting timber as legal that had been stripped from indigenous peoples' lands without their consent, without respect for their rights. So we ended up concluding that the VPA was really just a way of legitimising timber theft from indigenous lands, at least in Indonesia.

I was also very disappointed that the NGO community doing advocacy at the European Union didn't want to bring this point up too strongly because they were desperate to hang on to the FLEGT/VPA process. And for me, this was extremely demoralising. All their professed support for forest peoples, for human rights, for indigenous peoples' rights didn't seem to count for anything when it came to them making a strategic calculus. So there's an enormous degree of moral hazard in this kind of advocacy, that these groups feel that they know best, even when the Indonesian peoples have their own different view about what needs to be said in Europe.

As we were talking about FLEGT, do you feel like there's been some benefits for indigenous peoples and forest peoples in Indonesia?

I think it's true that some of the loggers were exposed under FLEGT, but not the bigger fishes behind the scene who were making money out of the whole thing at scale. And so it didn't have the effect that we wanted because

of the lack of political will to really enforce it. As far as the peoples who live in the forests were concerned, because of the weak legality definition, their interests were not addressed. And my analysis is that they suffered more as a result of this process because it legitimised operators whose presence on their lands they were contesting. These operators could say "no, no, no, we're legal. We've got a certificate." And that's because FLEGT was only looking at a handful of the laws and ignoring the ones that were meant to protect the rights of the peoples in the forest. So if you're trying to weigh up, was there a net benefit or a net impact? I would say there were some marginal benefits in terms of excluding illegal loggers, but at the high cost of legitimising wide scale timber theft from indigenous lands.

Where do we go from here?

Well, I suppose there's quite a lot of ways of framing this. I was going to say, you know, the discussion is often framed as do we need regulation or should we rely on voluntary systems? I think you have to have both and we need much more work directly with the communities and the social movements in these countries to build up capacity to use any system. However good it is, it has to be used well. None of these elements by themselves is adequate. I feel that we have to go down that regulatory road. That's my answer to this - it's not an either/or strategy. It's a both and more strategy.



I was also very disappointed that the NGO community doing advocacy at the European Union didn't want to bring this point up too strongly because they were desperate to hang on to the FLEGT/VPA process.

Anna Cavazzini

Anna Cavazzini is the Chair of the European Parliament internal market committee, and a member of the INTA committee. She has worked extensively on the EU deforestation regulation, and on other files including corporate sustainability due diligence in the last 5 years. She is the vice chair of the Parliament's Brazil delegation.

What do you think are the key achievements in EU policies and practices in the last 15 years, related to indigenous peoples' and forest peoples' rights?

The EU timber regulation and the EU anti-deforestation regulation are our key achievements in the last 15 years. I am especially proud of the anti-deforestation regulation, which I have fought for tooth and nails. It is not perfect, but it is the most powerful tool we could imagine and obtain to fight imported deforestation. In the past term of the European Parliament, we also made progress and signed several Voluntary Partnership Agreements with Guyana, Honduras and Cote d'Ivoire. In the case of Honduras, indigenous communities managed to be meaningfully involved. Finally, the new supply chain due diligence law should also help protecting the rights of indigenous peoples and forest peoples around the world.

Where have we as a movement been less successful or missed opportunities?

The biggest issue is trade agreements. Trade agreements have a huge impact on forests and forest peoples by increasing the export of commodities linked with deforestation, including raw materials. From EU-Vietnam, EU-Mexico to EU-Mercosur, the EU has not properly taken the issue of forest protection and indigenous rights seriously in its trade agreements. The EU anti-deforestation regulation and the new law on supply chain due diligence could contribute to limiting the negative impacts of trade agreements, but increasing the trade of commodities will always increase the pressure on people and nature. The anti-deforestation regulation is even facing a big backlash from trade partners, including from majorly forested countries like Indonesia or Brazil. When face with a choice between getting Brazil's approval for the EU-Mercosur agreement, or defending the timely implementation of the anti-deforestation regulation, EU leaders chose



Logs stacked in a timber yard in Sinoe County, Liberia.
Credit Tom Lomax, FPP.



wrong and bowed to pressure to delay the regulation. This is a worrying precedent, especially since all helpful pieces of legislation passed last mandate still have to be implemented, and the pushback is gathering strength.

In your view, what have been the biggest obstacles (if any) to stronger inclusion of indigenous and forest' peoples rights in EU laws and policies?

One big obstacle is that many raw materials deposits are under indigenous land. Since the EU and a majority of its policy makers, led by conservatives, prioritise access to these materials over anything else, they reject any fundamental protections for indigenous and forest peoples' rights. We saw this play out in the negotiations on the Critical Raw Materials act two years ago, with a blanket rejection of our demands to include Free, Prior and Informed Consent as a guiding principle. They also rejected including this principle in the sustainability chapter of trade agreements or in FLEGT VPAs. For example, in the EU-Chile agreement, we only managed, and with high opposition from the conservatives, to include a weak reference in the accompanying non-binding resolution giving the Parliament's position on the agreement, regretting that FPIC and the ILO convention 169 were not mentioned in the agreement's trade and sustainable chapter. In the same vein, the EU is negotiating agreements on raw materials with many countries around the world. Those are often relevant for indigenous peoples, but they are completely absent from the discussions. Even the European Parliament is barely involved.

As a movement, where do you think our work at EU level should go from here?

The highest priority in the next 12 months is to defend all supply chain laws against the current pushback, and ensure an orderly implementation. If the implementation fails, our case in favour of those laws will weaken, and there won't be a second chance.

The new "Clean Trade and investment Partnerships" proposed by the commission are also an issue to keep an eye on. Can they actually bring benefit on the ground, or are they only a green washing exercise?

Finally, several forest-relevant trade agreements might be concluded soon, including the one with Mercosur and with Indonesia.



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Faith Doherty and Vanesa Richardson

Faith Doherty is an international campaigner with over 30 years of experience in environmental and human rights investigations and advocacy. Specific expertise in addressing forest governance issues working closely with civil society and communities within the EU and East Asia. Faith Doherty currently works as Forests Campaign Leader at the Environmental Investigation Agency.

Vanessa Richardson is a forest ecologist and campaigner with a PhD focused on the socio-economic and ecological impacts of Amazonian logging. Over 16 years of experience addressing the impacts of forest-risk commodities, transboundary wildlife trafficking, and related policy issues across Brazil, the EU, and the UK. Vanessa Richardson currently works as Senior Forests Campaigner at the Environmental Investigation Agency.

What do you think are the key achievements in EU policies and practices in the last 15 years related to indigenous peoples' and forest peoples' rights?

Key achievements include the passing of the EUDR in 2023 – there are provisions that require companies, when conducting their due diligence risk assessment, to consider the presence of indigenous peoples, their claims of registered land use, ownership, and whether prior consultation was conducted. However, much of these safeguards depend on a given country's national laws on indigenous peoples, these may not always exist or be fully implemented. Also, the EUDR does not extend these provisions to other relevant local communities that might depend on forests.

It's tricky from the EU side, because I don't think the EU fully addresses indigenous peoples' rights as strongly as they could. Consultation on the impact for indigenous peoples and for local communities could be included in all its trade agreements, this could be part of a holistic approach and addressed every time they engage with a country.

Where have we as a movement been less successful or missed opportunities?

I think one of the big issues is with climate funding. There are rarely mechanisms on the ground to get the money directly to indigenous peoples. For them to access the money it goes through American or European based NGOs, it doesn't go directly to them. The Tenure Facility had discussions with the UK government to find ways to get money directly to the ground, without having to go through northern NGOs, but it still hasn't been addressed enough in the EU to my knowledge. There are a few mechanisms that exist for direct funding for indigenous peoples and for local communities, but to have this acknowledged throughout would be helpful.



We need to do more to decolonise the conversations and approaches made, because often they don't include the people that are affected on the ground in these countries.



Announcements are made but “the plumbing” on the ground has yet to be established far more.

You also have the issue of the just transition, when European countries and the EU do trade deals related to extractive industries with other countries, they leave it up to the national laws of that country to address impacts on indigenous peoples, which is the sovereign right of that country to enact, but they should have a more rigorous approach and find avenues to make sure these impacts can really be addressed in their trade deals. Because right now, when it comes to critical mineral extraction, they don't acknowledge these impacts, it's just about promoting business and extraction.

What do you think the movement could focus on in the EU to address these issues?

We need to do more to decolonise the conversations and approaches made, because often they don't include the people that are affected on the ground in these countries. There needs to be better representation of their voices in these discussions, and the EU needs to more proactively consult them. If you take for example the European Commission's multi-stakeholder platform on deforestation, NGOs should be freely allowed to join. They should reform the current structure to allow for voices to be heard from the ground. They also should have done focused conversations on specific commodities in different regions of the world as part of it, because the devil is in the details and there is a lot of nuance here and differences that they didn't really pick up on. It's supposed to be an expert stakeholders group, but to be honest it's often just a platform for industries to complain.

In the rotational farming field of Mae Yod village, a Karen Indigenous Woman collects vegetables for her family members. Rotational farming is the cultural heritage of Karen Indigenous Peoples that not only ensures food security and well being of community members but also contributes to the conservation and enhancement of biodiversity. Mae Yod village is in Chiang Mai Province of Thailand.

Photo by Lakpa Nuri Sherpa, Asia Indigenous Peoples Pact (AIPP)



Patricia Borráz

Patricia Borráz is an independent consultant on human rights, indigenous peoples' rights and the United Nations system, she is a Senior Advisor for Latin America, Global Research and the United Nations at Indigenous Peoples Rights International (IPRI) and a member of the Board of Trustees of the Forest Peoples Programme.

What has been your experience of EU policies and practices?

My experience with EU policy comes mostly from the late 90s, early 2000s, when I was working at Almaciga. We started engaging, with other NGOs, at EU level because we had this concern that, as a movement, we didn't really have an impact with EU institutions. And that was reflected in the lack of consideration the EU had for the rights of indigenous peoples in its policies. They were, at the time, some initiatives in the European Parliament, but it was mostly MEPs personally interested in talking about particular issues in, for example, Brazil or Colombia. There was no institutional culture, no effort to integrate indigenous peoples' rights at different levels of EU policies.

And it felt like we were mostly just reacting to what the EU was doing, there would be a new directive or a new policy being developed, and we would try to give input to include the concerns of indigenous peoples, but the lack of cross-cutting approach on this in the institutions was always an issue.

Another problem is that, at the country level, the delegations are so diverse when it comes to this, and in some countries you don't have anyone in the EU delegation that wants to get involved or be consistently proactive in the promotion of the rights of indigenous peoples.

In your view, what has been the impact of EU policies on the ground for indigenous peoples and forest peoples?

I think generally the EU is not considered a strong actor when it comes to the rights of indigenous peoples on the ground. Particularly in Latin American countries, you would often find embassies from various countries that engage in dialogue, or meet with and support indigenous peoples, but it feels like the EU delegation sits in the



The Kichwa people of Puerto Franco, San Martin, Peru.
Credit: Matias Perez Ojeda del Arco, FPP



middle of all this and doesn't really engage. Embassies can be really active on this, but in terms of human rights, in none of the countries in which I have participated in high level diplomatic meetings on Indigenous Peoples' rights and issues the EU was a strong voice.

In Brussels, my feeling is that during our visits there, we had meetings with various desk officers, depending on the issue, and they seemed responsive, but that was it. It never seemed to transpire to actual impacts on the actual policies and regulations or on the ground.

I think sometimes the EU has good initiatives, good frameworks. But in the end, they are too far removed from what's happening at the local level, and probably due to the different interests and positions of the EU members in each particular country, they do not seem very interested in getting in touch with local realities for the implementation of Brussels decided projects and programmes.

It seems like they don't make any effort to reach out to indigenous peoples when they develop policies. I don't think I've ever found anybody from the EU representation at the country level actively pursuing people that they think should be participating in consultations, or trying to inform them of what is happening.

As a movement, where do you think our work at EU level should go from here?

We need to foster a dialogue between indigenous peoples and the European Union at the political level. Not just in countries, or with desk officers, or with people in charge of specific projects, but also at the highest level of decision making in the EU. We should have a platform where common concerns can be regularly discussed and where we could get strong commitments. Because, too often, a lot of effort is put in getting a mention of indigenous

peoples' rights in a policy, and then it gets cut down in the process. And maybe we could push to get something stronger at higher levels that would help us have this more cross-cutting approach to integrating indigenous peoples' rights in EU policies and actions.



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Johannes Rohr

Johannes Rohr has worked with indigenous peoples of the Russian North since the 1990s, working for the International Work Group on Indigenous Affairs (IWGIA) and the German-based Institute for Ecology and Action Anthropology (INFOE). His initial focus was on impacts of oil and gas extraction on the ability of indigenous peoples of Western Siberia to feed themselves. His focus later broadened to include civil and political rights of indigenous peoples, which he helped defend by using international human rights mechanisms such as the UN treaty bodies. In 2018, the Russian secret service FSB handed down an unprecedented 50 years entry ban against Johannes, until his 100th birthday. Johannes has also been working on the issue of business and human rights and on indigenous peoples of Ukraine (Crimean Tatars, Krymchaks and Karaites)

What do you think are the key achievements in EU policies and practices in the last 15 years related to indigenous peoples' and forest peoples' rights?

I'm not sure whether it's actually a main achievement with regards to indigenous peoples, but the new EU mandatory due diligence legislation might be useful for indigenous peoples. Although I think the real test is still ahead. In theory it could be helpful, but it's really a question of whether when push comes to shove, it actually gets applied.

There was also the resolution from the European Parliament in 2018 on the rights of indigenous peoples, and if the measures they recommended would have been implemented it would have been quite an achievement. Including, for example, their recommendation to install a dedicated rapporteur on the rights of indigenous peoples in the parliament. They also wanted to introduce a mechanism to carry out independent impact assessments studies prior to conclusion of trade and cooperation agreements.

Also specifically in Germany, they ratified ILO Convention 169. But the problem now is that the German government says, "well, we ratified the convention only out of solidarity, and there is no practical applicability". Because it only would refer to indigenous peoples living within Germany, so they don't see any application. They don't see any extraterritorial application, which really contravenes the whole idea of supply chain responsibility. This is a struggle which is currently ongoing. We fought for 25 years or so to get the ratification of this convention and now we are struggling with the government about whether or not you actually have to do anything after you've ratified it.

I'm seeing that in general Germany, during the negotiations of the EU CSDDD, has played a rather destructive role. It was Germany that almost brought down the whole legislation, because in the last minute,



Wampis community in an assembly in Kankaim, Peru.
Credit: Evaristo Pujapat Shirap



the liberals who were part of the governing coalition said they were not going to approve it. And the Chancellor didn't use his authority to override them. So Germany abstained from the vote, and it the then Belgian presidency that really managed to salvage it, but they had to severely weakened it.

In your view, to what extent have policy changes translated into real change on the ground for indigenous peoples and forest peoples?

I think there is still a lot left to be desired with existing remedy mechanisms. For instance, with the OECD National Contact Points, it really takes a lot of expertise to use them in the first place, usually negotiations take years and years and then the outcome is very intangible. Often it really doesn't bring benefits because many of them are usually not independent. Those contact points are housed by the Ministry of Economics, which is part of who the complaint is against. The German contact point, for instance, has really massive problems in regards of independence and whether it actually is able to generate meaningful outcomes. I think indigenous peoples don't really benefit from the existence of these mechanisms.

What do you think would be important to keep in mind during the implementation of the EU due diligence law?

I was involved a couple of years back in a report by an indigenous member of the UN working Group on Business and Human Rights which was looking into the food and beverage industry and their policies. We looked into ten large corporations including Nestlé, Coca-Cola and several others. Most of them actually had adopted rather really good looking policies, which included, for instance, zero tolerance for land grabbing. But then when you ask them how do they actually monitor that, they claim that they're unable to monitor down to the farm level. So the question really is how do you bind

that together if you have those policies, and how do you install mechanisms which are really effectively monitoring implementation and are able to impose sanctions. That's the biggest hurdle as I see it.

What do you think would be important to focus on as a movement in the future?

One issue which I think is going to become ever more relevant is the question of how indigenous peoples' rights can be protected in the context of the transition to a green economy. What they call transition minerals is one of the issues where indigenous peoples in Russia are quite affected because regardless of all the ongoing sanctions, the imports of metals used for electromobility from Russia has actually, to my knowledge, risen since the start of the war.

As we transition to what they call a green economy, there is no guarantee that indigenous peoples' rights are going to be respected. And it's almost guaranteed that they will not be unless we really fight hard for it.

What are your thoughts on the widespread lack of recognition of indigenous peoples' rights in national legal frameworks?

I have been in discussions recently about how can a community actually reassert their rights and their sovereignty by means, for instance, of developing their own FPIC protocol. Do they have the legal right to do so? And I think it's not a matter of legal rights because FPIC protocols are often not enshrined in national legislation, so it's really about asserting their rights, asserting their sovereignty. A couple of years back, somebody from the Philippines said, when this issue came up, that it didn't matter if the government doesn't actually recognise the protocol. The important thing is really the community asserting their rights and if the government fails to recognize their rights, then that's a breach by the government of their obligations. The government doesn't have the right to grant or withhold rights. Rights just exist.



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