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**Mapping Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment**

Individual Report on the International Convention on the Elimination of All Forms of Racial Discrimination

Report No. 3

Prepared for the Independent Expert on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy, and Sustainable Environment

December 2013

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# INTRODUCTION

1. This report describes obligations under the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) relating to the enjoyment of a safe, clean, healthy and sustainable environment, as they have been explained by the Committee on the Elimination of Racial Discrimination. CERD was adopted by the UN General Assembly in 1965 and entered into force in 1969. As of December 2013, CERD has 176 parties.
2. This report is one of a series of 14 reports that examine human rights obligations related to the environment, as they have been described by various sources of international law in the following categories: (a) UN human rights bodies and mechanisms; (b) global human rights treaties; (c) regional human rights systems; and (d) international environmental instruments. Each report focuses on one source or set of sources, and all reports follow the same format.
3. These reports were researched and written by legal experts working *pro bono* under the supervision of John H. Knox, the UN Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment. In March 2012, in Resolution 19/10, the Human Rights Council established the mandate of the Independent Expert, which includes, *inter alia*, studying the human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment and reporting to the Council on those obligations.

4. In his first report to the Council, U.N. Doc. A/HRC/22/43 (24 December 2012), the Independent Expert stated that his first priority would be to provide greater conceptual clarity to the application of human rights obligations related to the environment by taking an evidence-based approach to determining the nature, scope and content of the obligations. To that end, he assembled a team of volunteers to map the human rights obligations pertaining to environmental protection in as much detail as possible. The results of the research are contained in this and the other reports in this series.

5. The Independent Expert’s second report to the Council, U.N. Doc. A/HRC/25/53 (30 December 2013), describes the mapping project and summarizes its conclusions on the basis of the findings of the 14 specific reports. In brief, the main conclusions are that the human rights obligations relating to the environment include procedural obligations of States to assess environmental impacts on human rights and to make environmental information public, to facilitate participation in environmental decision-making, and to provide access to remedies, as well as substantive obligations to adopt legal and institutional frameworks that protect against environmental harm that interferes with the enjoyment of human rights, including harm caused by private actors. States are also subject to a general requirement of non-discrimination in the application of environmental laws, and have additional obligations to members of groups particularly vulnerable to environmental harm, including women, children and indigenous peoples.

## Summary of the Research Process

6. This report examines human rights obligations set out in CERD and elaborated by the Committee on the Elimination of Racial Discrimination (the Committee), the committee of independent experts responsible for monitoring the progress made in the implementation of CERD, including considering reports made by State Parties on their implementation of the Convention.[[1]](#footnote-1) This report is based on an examination of certain primary materials produced by the Committee in relation to its function of promoting and protecting human rights under CERD.

7. The categories of CERD Committee documentation reviewed were the following:

(a) General Recommendations;

(b) Annual Reports;

(c) Opinions on Communications and Early Warnings; and

(d) Decisions on individual complaints.[[2]](#footnote-2)

8. Due to time and resource constraints, examination of the materials listed above was limited to documentation produced between 2000 and 2013. Of the documentation reviewed, the research was narrowed to those materials containing relevant search terms.

9. The search terms covered a broad range of topics relevant to the environment, including the principal causes of environmental harm and several ways that environmental harm and its consequences are manifested. Additionally, the search terms included the names of key instruments or principles adopted in the international sphere in relation to the various aspects of environmental damage and degradation. The relevant terms are set forth in the table below:

|  |  |  |
| --- | --- | --- |
| * Environment\*
* Water
* Flood
* Drought
* Storm
* Hurricane
* Ecolog\*
* Sustain\*
* Sanitary
* Toxic
* Stockholm Declaration
* Aarhus
* Biodiversity
* Chemical
* Deforest\*
 | * Natural Resources
* Climate
* “Global warming”
* Emission\*
* Greenhouse
* Food
* Pollut\*
* Contamina\*
* Nature
* Rio Declaration
* Principle 10
* Agenda 21
* Habitat
* Mining
* Typhoon
* Drown
 | * Carbon dioxide
* CO2
* Sea level\*
* Erosion
* Hazardous
* Asbestos
* PCB
* Mercury
* Acid
* Extinct; extinction
* Endangered
* Ecosystem
* Dam
* Desertification
* Flaring
 |

10. Due to the large volume of responsive materials to the term “water,” only statements related to the pollution or contamination of water sources were reviewed. General discussions of inadequate water supplies or unsanitary water conditions were not incorporated into this report.

11. The main source for the relevant documentation was the website for the United Nations Office of the High Commissioner for Human Rights,[[3]](#footnote-3) which contains a comprehensive collection of documents relating to the work of the Committee.

## Overview of the Report

12. Part II discusses the human rights under CERD that are threatened by environmental degradation and exploitation. Part III examines State parties’ substantive and procedural obligations relating to the protection of the environment as they have been recognized by the Committee, including specific duties that are owed to members of particularly vulnerable groups. Part IV considers cross-cutting issues. Part V discusses conclusions and trends.

13. The work of the Committee to date in this context has primarily addressed the rights of, and duties owed to, indigenous peoples.

# HUMAN RIGHTS THREATENED BY ENVIRONMENTAL HARM

14. The text of CERD does not explicitly articulate a “human right to a healthy environment.” Nevertheless, the Committee has acknowledged that environmental harm can compromise the enjoyment of human rights protected by CERD, particularly the rights of indigenous peoples. The human rights that have been implicated and addressed by the Committee when considering the impact of environmental harm include the right not to be discriminated against in the enjoyment of: (a) the right to property; and (b) the right to health.

## Right to Property

15. Article 5 of CERD provides that “States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of . . . (d)(iv) [t]he right to own property alone as well as in association with others.”

16. The CERD Committee has addressed environmental harm in connection with the right to property as it affects the traditional lands of indigenous peoples. For example, the Committee has described activities such as the transfer of indigenous lands to multinational extractive industries and energy developers, the opening of a nuclear waste repository, the use of explosive and open pit gold mining activities, the issuance of geothermal energy leases, and underground nuclear testing on indigenous lands as affecting the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources.[[4]](#footnote-4) The Committee has also stated that “the grant of licences to private companies for activities such as logging, extraction of subsoil resources and the construction of pipelines or hydroelectric dams leads to privatization and ecological depletion of territories traditionally inhabited by indigenous peoples.”[[5]](#footnote-5)

## Right to Health

17. Article 5 of CERD requires State parties “to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of . . . (e)(iv) [t]he right to public health, medical care, social security and social services.”

18. The Committee has determined that environmental harm prejudices the enjoyment of the right to health. The Committee has cited Article 5(e)(iv) in reference to environmental pollution, including mining activities and nuclear waste storage in areas inhabited by indigenous peoples.[[6]](#footnote-6) The Committee has also explicitly stated that the right to health may be infringed by activities threatening the environment of indigenous peoples or by disregarding the spiritual and cultural significance they give to their ancestral lands.[[7]](#footnote-7) The Committee has therefore recommended measures to ensure the right to health in response to environmental pollution.[[8]](#footnote-8)

# OBLIGATIONS ON STATES RELATING TO THE ENVIRONMENT: DUTIES RELATING IN PARTICULAR TO INDIGENOUS PEOPLES

19. The CERD Committee has stated that State parties have substantive and procedural obligations to protect human rights against the adverse impacts of environmental harm. The Committee has addressed such obligations only in the context of the rights of indigenous peoples.

1. The Committee’s General Recommendation XXIII, on the rights of indigenous peoples, affirms that discrimination against indigenous peoples falls under CERD and that all appropriate means must be taken to combat and eliminate such discrimination. In particular, the Recommendation calls upon State parties to:

[p]rovide indigenous peoples with conditions allowing for a sustainable economic and social development compatible with their cultural characteristics;

. . .[e]nsure that members of indigenous peoples have equal rights in respect of effective participation in public life and that no decisions directly relating to their rights and interests are taken without their informed consent; . . . [and]

recognize and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources and, where they have been deprived of their lands and territories traditionally owned or otherwise inhabited or used without their free and informed consent, to take steps to return those lands and territories. Only when this is for factual reasons not possible, the right to restitution should be substituted by the right to just, fair, and prompt compensation.[[9]](#footnote-9)

21. More specifically, the CERD Committee has identified substantive and procedural obligations on State parties with respect to indigenous peoples. Substantive obligations include the duties to recognize and protect the property rights of indigenous peoples; to ensure healthy conditions for indigenous peoples; and to develop specific policies to deal with environmental impacts affecting indigenous peoples. Procedural obligations include the duties to conduct environmental impact assessments in relation to development activities on indigenous peoples’ lands; to ensure the participation of indigenous peoples in decision-making concerning their lands; to ensure reasonable benefit or compensation to indigenous peoples impacted by natural resource exploitation; and to ensure that indigenous peoples affected by exploitation of natural resources on their lands have effective access to judicial action. Each obligation is discussed below.

## Substantive Obligations

38. The Committee has addressed substantive obligations imposed on State parties relating to environmental harms affecting indigenous peoples. These substantive obligations include State parties’ duties to: (1) recognize the property rights of indigenous peoples; and (2) ensure healthy conditions for indigenous peoples.

### 1. Duty to Recognize Property Rights of Indigenous Peoples

39. Article 5(d)(v) recognizes the right to own property without discrimination. In this context, the Committee has recognized the “imperatives of safeguarding the environment with respect to land use.”[[10]](#footnote-10) The Committee has also called upon States to adopt a legislative framework which “clearly sets forth the broad principles governing the exploitation of the land, including the obligation to abide by strict environmental standards as well as fair and equitable revenue distribution.”[[11]](#footnote-11)

40. As noted above, General Recommendation XXIII specifically recognizes the application of this right to indigenous peoples and confirms that indigenous peoples have the right “to own, develop, control and use their communal lands, territories and resources.”[[12]](#footnote-12) States should provide legal acknowledgement of this right.[[13]](#footnote-13)

41. The Committee has stated that “[e]ncroachment on the traditional lands of indigenous peoples or forced removal of these peoples from their lands, in particular for the purpose of exploitation of natural resources” and “[p]olluting or hazardous activities that reflect a pattern of racial discrimination with substantial harm to specific groups” serve as indicators to implicate its Early Warning and Urgent Action procedure.[[14]](#footnote-14)

42. Further, the Committee has stated that the property rights of indigenous peoples should be the primary consideration for States when considering development or exploitation of natural resources on indigenous territory. For example, the Committee recommended that a State party “give primary consideration to [indigenous peoples’] special needs prior to granting licences to private companies for economic activities on territories traditionally occupied or used by those communities; ensure that licensing agreements provide for adequate compensation of the affected communities; and withdraw support for [a dam] and other large-scale projects threatening the traditional lifestyle of indigenous peoples.”[[15]](#footnote-15)

43. In fulfilling this obligation, States must “take the interests of the [indigenous peoples] and environmental conservation needs into account in matters of land use.”[[16]](#footnote-16) They must “ensur[e] that economic activities, especially mining, carried out on indigenous territories do not adversely affect the protection of the rights recognized to indigenous peoples.”[[17]](#footnote-17) A failure to recognize the indigenous peoples’ rights to the land and its resources—such as with respect to the dumping of mercury as a result of mining activities—constitutes a “threat to their health and environment” and “serious violations” of their rights.[[18]](#footnote-18)

44. The Committee has frequently stated that even if domestic law provides that the State has control over natural resources, such a principle “must be exercised consistently with the rights of indigenous and tribal peoples.”[[19]](#footnote-19) The Committee has also stated that the property rights of indigenous peoples must be taken into account in the application of environmental protection standards. For example, in 2009, the Committee requested that Indonesia submit comments on measures taken to safeguard the rights of indigenous communities, particularly in respect of “allegedly discriminatory provisions in regulations to reduce emissions from deforestation, adopted within the framework of the United Nations Framework Convention for Climate Change,” which “reportedly ignore[d] the property rights of indigenous peoples over their traditional lands.”[[20]](#footnote-20) The Committee also expressed concern to Thailand in 2013 that “various forestry and environmental protection laws may have a discriminatory effect on ethnic groups living in forests,” and urged Thailand “to review the relevant forestry laws in order to ensure respect for ethnic groups’ way of living, livelihood and culture, and their right to free and prior informed consent in decisions affecting them, while protecting the environment.”[[21]](#footnote-21)

### 2. Duty to Ensure Healthy Conditions for Indigenous Peoples

45. The right to health articulated in Article 5(e)(iv) of CERD informs the obligation of State parties to ensure healthy conditions for indigenous peoples, particularly access to clean drinking water.

46. Accordingly, State parties must “take all necessary measures to ensure that [indigenous peoples] enjoy the full right to health and health care.”[[22]](#footnote-22) The Committee has noted the particular vulnerability of indigenous peoples with respect to drinking water access, and encouraged State parties to take steps to guarantee access to drinking water.[[23]](#footnote-23) For example, when confronted with pollution of hydrographic basins, leading to a spread of sanitation-related diseases infecting indigenous communities, the Committee urged Guatemala to take “urgent steps to ensure access to safe drinking water” for indigenous communities, and to “develop suitable tools for preventing and monitoring water pollution, and ensure proper treatment of those hydrographic basins that are already polluted.”[[24]](#footnote-24)

### 3. Duty to Develop Specific Policies to Address Environmental Impacts Affecting Indigenous Peoples

47. Regarding the situation of the Mapuche communities in the Araucanía region affected by activities that are harmful to the environment, health and their traditional ways of life, the Committee recommended that Chile:

spare no effort to develop a specific policy, in line with international standards, to deal with the environmental impacts affecting indigenous peoples. To this end, the Committee recommends that scientific assessments should be carried out regularly. The Committee further recommends that the State party should amend its legislation on land, water, mining and other sectors so that it does not conflict with [national legislation protecting indigenous peoples] and ensure that the protection of the rights of indigenous peoples prevails over commercial and economic interests.[[25]](#footnote-25)

## Procedural Obligations

22. The CERD Committee has articulated procedural obligations with which State parties should comply so that human rights of indigenous peoples under CERD are not compromised by environmental harm.

### 1. Duty to Conduct Environmental Impact Assessments in Relation to Development Activities on Indigenous Peoples’ Lands

23. The CERD Committee has recommended on several occasions that an environmental impact assessment be carried out before the exploration for or exploitation of natural resources on lands traditionally inhabited by indigenous peoples.[[26]](#footnote-26) For example, in a report on Bolivia, the Committee recommended that environmental impact assessments “be carried out by an independent body before authorization is given for natural resource exploration and production in areas traditionally inhabited by indigenous [peoples].”[[27]](#footnote-27) Such studies “take cultural and environmental impacts into consideration,”[[28]](#footnote-28) and should be conducted “before any operating licenses are issued,”[[29]](#footnote-29) or “prior to authorizing any mining or similar operations which may threaten the environment in areas inhabited by [indigenous] communities.”[[30]](#footnote-30)

### 2. Duty to Ensure the Participation of Indigenous Peoples in Decision-Making Concerning Their Lands

24. Article 5 of CERD requires State parties “to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law,” including in the enjoyment of “(c) [p]olitical rights, in particular the right to participate in elections-to vote and to stand for election-on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service.”

25. State parties should ensure that indigenous peoples can exercise the right to participate in decisions affecting them and can provide their free, prior and informed consent in relation to decisions involving their indigenous territories.[[31]](#footnote-31) The participation of indigenous peoples is important because it “enable[s] them to fully enjoy their human rights and fundamental freedoms and to maintain and develop their culture, means of livelihood, including management of land and natural resources.”[[32]](#footnote-32)

26. The Committee has frequently addressed the participation of indigenous peoples in decisions concerning the exploitation of natural resources or potential environmental harms, because the “right to prior consultation and consent is frequently violated in conjunction with megaprojects relating to infrastructure and natural resource exploitation, such as mining, oil exploration or monoculture.”[[33]](#footnote-33) For example, in an Opinion on a report submitted by the United States, the Committee “expresse[d] concern with regard to information on plans for expanding mining and nuclear waste storage on Western Shoshane ancestral lands … and other actions affecting the rights of indigenous peoples.”[[34]](#footnote-34) The Committee recommended that the United States “ensure effective participation by indigenous communities in decisions affecting them, including those on their land rights, as required under Article 5(c) of the Convention” and General Recommendation XXIII.[[35]](#footnote-35) When considering mining and nuclear waste activities on indigenous lands, the Committee has also recommended “effective participation by indigenous communities in decisions affecting them … as required under Article 5(c) of the Convention. [[36]](#footnote-36) The Committee recommended to Chile that it:

amend its legislation on land, water, mining and other sectors so that it does not conflict with the Indigenous Peoples Act (No. 19.253) and ensure that the protection of the rights of indigenous peoples prevails over commercial and economic interests. The Committee urges the State party to take immediate steps to resolve the issue of the waste dumps established in [indigenous] communities without their prior consent.[[37]](#footnote-37)

27. Simply implementing consultation mechanisms does not satisfy the obligation of the State party unless they are used systematically and meaningfully. The Committee has expressed concern when mechanisms in place for obtaining the consent of indigenous peoples “are not carried out systematically with regard to natural resource development projects or regional infrastructure projects”[[38]](#footnote-38) or when such consultations are “rare.”[[39]](#footnote-39)

28. The consultation must be “meaningful,”[[40]](#footnote-40) and “merely consulting” indigenous communities prior to exploiting their resources “falls short of meeting the requirements set out in the Committee’s general recommendation XXIII on the rights of indigenous peoples.”[[41]](#footnote-41) The Committee has often recommended that States obtain the “prior informed consent” of indigenous peoples.[[42]](#footnote-42) In its Concluding Observations in respect of Peru, for example, the Committee noted that the right of indigenous peoples to be consulted and to give their informed consent prior to the exploitation of natural resources was not being “fully respected in practice,” resulting in a “negative impact on health and the environment.”[[43]](#footnote-43) The Committee therefore urged Peru to consult the indigenous peoples “at each step of the process.”[[44]](#footnote-44) Importantly, consent must be obtained before plans to extract natural resources are implemented and before any concessions are awarded.[[45]](#footnote-45)

29. In Concluding Observations to Mexico, the Committee stated that the consultations must be “effective” and must be carried out “at each stage of the process.”[[46]](#footnote-46) The goal of the consultations is to obtain the free, prior and informed consent of the indigenous peoples.[[47]](#footnote-47) As part of the consultations, the State should “[p]romote forums where government representatives can actively participate in different discussion groups with indigenous peoples, ensuring that these lead to concrete, viable and verifiable agreements that are properly implemented,” and “encourage the use of alternative dispute-settlement methods in line with international standards in the field of human rights and the rights of indigenous peoples.”[[48]](#footnote-48)

31. As a result, the Committee has urged the passage of legislation regarding “the consultation and participation of indigenous peoples in environmental matters,” in order to fulfill this obligation.[[49]](#footnote-49)

### 3. Duty to Ensure Reasonable Benefit or Compensation for Indigenous Peoples Impacted by Natural Resource Exploitation

32. As part of their right to own, develop, control, and use their communal lands and resources, indigenous peoples have a “right to exclusive benefit of renewable natural resources situated on their lands.”[[50]](#footnote-50) Therefore, when considering the exploitation of natural resources on the territory of indigenous peoples, States have an obligation to ensure that the indigenous people derive reasonable benefit from such activities or are otherwise compensated.[[51]](#footnote-51)

33. The Committee has expressed concern and recommended changes when a State does not provide for such equitable sharing of benefits for the exploitation of natural resources or compensation for their loss.[[52]](#footnote-52) These recommended measures strive for “[p]rofit-sharing when natural resources are extracted from the territories of [indigenous peoples].”[[53]](#footnote-53)

34. These profit-sharing or compensation measures must be applied meaningfully and systematically. When considering a report made by the Russian Federation, the Committee noted that the State’s Ministry of Regional Development had approved a method for calculating damages caused to the traditional habitat of indigenous peoples by private companies.[[54]](#footnote-54) However, the Committee expressed concern that “payment of compensation is on a voluntary basis,” and indigenous communities “rarely receive compensation for the destruction of their habitat and resources by private companies.”[[55]](#footnote-55)

35. The question of consultation and compensation is especially relevant when eviction or dispossession is concerned. On several occasions, the Committee has considered the development of projects or the exploitation of natural resources that has caused indigenous peoples to be dispossessed of their lands. The Committee has recommended that the State party not only “effectively consult the communities that may be affected by development projects or the exploitation of natural resources with a view to obtaining their free, prior and informed consent,” but also “obtain their consent before executing projects involving the extraction of natural resources.”[[56]](#footnote-56) If exceptional cases where the relocation or eviction of indigenous people is considered “necessary,” the Committee has recommended that the State party:

ensure the observance of article 16 paragraph 2, of ILO Convention No. 169 and article 10 of the United Nations Declaration on the Rights of Indigenous Peoples, which require free and informed consent and fair and equitable compensation, and provide relocation sites equipped with basic utilities, such as drinking water, electricity, and washing and hygiene facilities, and with appropriate services, including schools, health-care centres and means of transportation.[[57]](#footnote-57)

### 4. Duty to Ensure Effective Judicial Access for Indigenous Peoples Affected by Exploitation of Natural Resources on Their Lands

36. Judicial access is an important issue under CERD. The Committee has stated that often “indigenous and tribal peoples cannot as such seek recognition of their traditional rights before the courts because they are not recognized legally as juridical persons.”[[58]](#footnote-58) Consequently, the Committee has expressed concerns regarding “the alleged denial of access to judicial remedies … for indigenous landowners suffering environmental destruction of their lands and resources.”[[59]](#footnote-59)

37. The Committee has emphasized that “indigenous and tribal peoples should be granted the right of appeal to the courts, or any independent body specially created for that purpose, in order to uphold their traditional rights and their right to be consulted before concessions are granted and to be fairly compensated for any damage.”[[60]](#footnote-60)

# Cross-Cutting Issues

## Obligations Related to Non-State Actors and Transboundary Environmental Harm

48. The Committee has acknowledged that non-State actors are capable of causing environmental harm that jeopardizes human rights under CERD, and the Committee has paid special attention to the actions of transnational corporations taken outside the territory of the State party. In such instances, the Committee encourages State parties to take steps to prevent such harm by corporations registered in their jurisdiction and to hold corporations liable for their actions outside of the State.

49. For example, in Concluding Observations in relation to Norway, the Committee expressed concern about the “impact on [indigenous peoples’] way of life and on the environment of the activities by transnational corporations.”[[61]](#footnote-61) The Committee recommended that Norway:

take appropriate legislative or administrative measures to ensure that the activities of transnational corporations domiciled in the territory and/or under the jurisdiction of Norway do not have a negative impact on the enjoyment of rights of indigenous peoples and other ethnic groups, in territories outside Norway. In particular, the State party should explore ways to hold transnational corporations domiciled in the territory and/or under the jurisdiction of Norway accountable for any adverse impacts on the rights of indigenous peoples and other ethnic groups, in conformity with the principles of social responsibility and the ethics code of corporations.[[62]](#footnote-62)

50. The Committee has expressed similar concerns and made similar recommendations to Canada, the United Kingdom and the United States.[[63]](#footnote-63)

51. The adverse effects of environmental harm caused by non-state actors within a State party’s jurisdiction have also been scrutinized. In particular, the Committee has expressed concern about the “negative health and environmental effects produced by extractive activities at the expense of the exercise of the right to land and the cultural rights of the indigenous peoples concerned.”[[64]](#footnote-64) With respect to the exploitation of subsoil resources on the traditional territories of indigenous peoples, the Committee has encouraged Ecuador “to ensure that oil companies carry out environmental impact studies in the areas where they plan to begin operations before obtaining licences.”[[65]](#footnote-65)

## References by the Committee to Sources outside CERD to Inform Human Rights Duties in Relation to the Environment

52. The Committee has occasionally looked outside CERD to recognize a connection between the duty to protect the environment and human rights.

53. At its sixty-first session in March 2002, the Committee adopted a statement to the participants at the World Summit on Sustainable Development, which recognized the interwoven nature of human rights and the environment. The Committee stated that “policies, practices and the lack of enforcement of certain laws perpetuate racial discrimination, ‘environmental racism’ and other forms of oppression which violate the rights to freedom, equality and adequate access to basic needs such as clean water, food, shelter, energy, health and social care,” and that “some negative aspects of globalization, including unbalanced economic growth, unfair terms of trade, unabated production and consumption, land and water pollution, displacements of people, the hoarding of natural resources and mismanagement of external debt, all undermine efforts to combat racial discrimination at national and international levels.”[[66]](#footnote-66) The Committee also called Agenda 21 a document “of paramount importance, not only for the preservation of the Earth’s environment and the promotion of sustainable development, but also, and above all, a fundamental instrument for the worldwide observance of human rights.”[[67]](#footnote-67) The Committee called upon States to “respect and protect all human rights” and to recognize that diversity is an essential precondition for sustainable development, encouraged the World Summit on Sustainable Development to ensure the inclusion of human rights and the prohibition of racial discrimination in its final documents, and welcomed the opportunity to cooperate with State parties and other UN bodies in upholding those human rights norms and standards relevant to sustainable development and set forth in CERD.[[68]](#footnote-68)

54. When discussing the duty of States to ensure that actions taken on indigenous territory receive the participation and consent of the indigenous peoples, the Committee has also frequently advised States to act in accordance with International Labor Organization Convention No. 169 and relevant recommendations of the ILO Committee of Experts, and to seek technical advice from the United Nations Office of the High Commissioner for Human Rights in implementing such policies.[[69]](#footnote-69)

# Conclusions

55. Although CERD does not provide for an explicit right to a clean and healthy environment, the Committee has confirmed that the enjoyment of human rights recognized by CERD depends upon their protection against environmental harm. To date, its discussion of these issues has focused on the rights of indigenous peoples. In this regard, the Committee has expressed concerns or recommended State action when it feels that environmental damage jeopardizes the right to non-discrimination of indigenous peoples when exercising their rights to property, health or political participation.

56. Specifically, the Committee has recognized that pollution can adversely affect such rights, especially in the context of activities by extractive industries in relation to the exploitation of natural resources on traditional lands. The Committee has articulated procedural requirements with which State parties must comply when granting licenses and concessions, or otherwise conducting activities on indigenous lands, that may affect the rights of indigenous peoples.

1. International Convention on the Elimination of All Forms of Racial Discrimination, 660 U.N.T.S. 195, 21 December 1965 (entered into force 4 January 1969) [hereinafter CERD]. Article 9 states in full: “1. States Parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted and which give effect to the provisions of this Convention: (a) within one year after the entry into force of the Convention for the State concerned; and (b) thereafter every two years and whenever the Committee so requests. The Committee may request further information from the States Parties. 2. The Committee shall report annually, through the Secretary General, to the General Assembly of the United Nations on its activities and may make suggestions and general recommendations based on the examination of the reports and information received from the States Parties. Such suggestions and general recommendations shall be reported to the General Assembly together with comments, if any, from States Parties.” [↑](#footnote-ref-1)
2. The Committee’s opinions and decisions were contained in the Annual Reports except for two decisions from 2013, which were reviewed separately. The Annual Reports are dated according to the publication date given to each report on the webpage of the Committee where the reports can be downloaded, http://tb.ohchr.org/default.aspx?ConvType=17&docType=36. [↑](#footnote-ref-2)
3. Webpage of the Committee on the Elimination of Racial discrimination, <http://www.ohchr.org/EN/HRBodies/CERD/Pages/CERDIndex.aspx>. [↑](#footnote-ref-3)
4. *Report of the Committee on the Convention on the Elimination of All Forms of Racial Discrimination for the Sixty-eighth and Sixty-ninth sessions*, *Prevention of Racial Discrimination, Including Early Warning and Urgent Procedures: Decision 1(68) on the United States*, 1 October 2006, U.N. Doc. A/61/18, ¶¶ 7-10. [↑](#footnote-ref-4)
5. *Report of the Committee on the Convention on the Elimination of All Forms of Racial Discrimination for the Seventy-second and Seventy-third sessions, Consideration of Reports, Comments and Information Submitted by States Parties: Russian Federation*, 1 November 2008, U.N. Doc. A/63/18, ¶ 374. [↑](#footnote-ref-5)
6. *Report of the Committee on the Convention on the Elimination of All Forms of Racial Discrimination for the Fifty-eighth and Fifty-ninth sessions,* *Consideration of Reports, Comments and Information Submitted by States Parties: United States*, 30 October 2001, U.N. Doc. A/56/18, ¶ 400. [↑](#footnote-ref-6)
7. *Decision 1(68) on the United States*, note 4 *supra,* ¶¶ 7-10 (discussing privatization of indigenous ancestral lands for transfer to multinational extractive industries and energy developers and plans to open a nuclear waste repository, use explosive and open pit gold mining activities, issue geothermal energy leases, and resume underground nuclear testing on indigenous lands). [↑](#footnote-ref-7)
8. *Report of the Committee on the Convention on the Elimination of All Forms of Racial Discrimination for the Fifty-sixth and Fifty-seventh sessions,* *Consideration of Reports, Comments and Information Submitted by States Parties: Slovakia*, 17 October 2000, U.N. Doc. A/55/18, ¶ 265 (expressing concern about “poor access to clean drinking water, adequate sanitation, and high exposure to environmental pollution in Roma settlements”). [↑](#footnote-ref-8)
9. *Committee on the Elimination of Racial Discrimination, General Recommendation XXIII, Rights of Indigenous Peoples*, 18 August 1997, U.N. Doc. A/52/18, Annex X, ¶¶ 4-5. *See also Report of the Committee on the Convention on the Elimination of All Forms of Racial Discrimination for the Sixty-fourth and Sixty-fifth sessions, Consideration of Reports, Comments and Information Submitted by States Parties: Nigeria*, 1 October 2004, U.N. Doc. A/59/18, ¶ 194 (“In light of general recommendation XXIII on the rights of indigenous people,” States have the obligation to “take urgent measures to combat ‘environmental racism’ and degradation.”). [↑](#footnote-ref-9)
10. *Report of the Committee on the Convention on the Elimination of All Forms of Racial Discrimination for the Seventy-second and Seventy-third sessions, Consideration of Reports, Comments and Information Submitted by States Parties: Togo,* 1 November 2008, U.N. Doc. A/63/18, ¶ 460. [↑](#footnote-ref-10)
11. *Consideration of Reports, Comments and Information Submitted by States Parties: Nigeria*, note 9 *supra*, ¶ 194. [↑](#footnote-ref-11)
12. *General Recommendation XXIII,* note 9 *supra,* ¶ 5. [↑](#footnote-ref-12)
13. *Report of the Committee on the Convention on the Elimination of All Forms of Racial Discrimination for the Sixty-fourth and Sixty-fifth sessions, Consideration of Reports, Comments and Information Submitted by States Parties: Suriname*, 1 October 2004, U.N. Doc. A/59/18, ¶ 190 (recommending the “legal acknowledgment by the State party of the rights of indigenous and tribunal peoples to possess, develop, control and use their communal lands and to participate in the exploitation, management and conservation of the associated natural resources”). [↑](#footnote-ref-13)
14. *Report of the Committee on the Convention on the Elimination of All Forms of Racial Discrimination for the Sixty-second and Sixty-third sessions, Guidelines for the Early Warning and Urgent Action Procedure*, 1 October 2007, U.N. Doc. A/62/18, ¶ 12(i). In 1993, the Committee adopted a working paper on the prevention of racial discrimination utilizing early warnings and urgent procedures: early warning measures are intended to prevent “existing structural problems from escalating into conflicts;” and urgent procedures consist of a request from the Committee for an urgent submission of a special report concerning measures taken to prevent a serious, massive, or persistent pattern of racial discrimination. This procedure allows the Committee to act when it deems it necessary to address serious violations of the Convention in an urgent manner. The CERD Committee updated the 1993 working paper with Guidelines to reflect how the Committee had been addressing complaints under the early warning and urgent action procedure. In particular, the Guidelines set out indicators that the Committee uses to assess the urgency of alleged violations, and also discusses possible measures that the Committee can take under both procedures. *See ibid.* Parts C-D. [↑](#footnote-ref-14)
15. *Consideration of Reports, Comments and Information Submitted by States Parties: Russian Federation*, note 5 *supra,* ¶ 374; *see also Consideration of Reports, Comments and Information Submitted by States Parties: Suriname*, note 13 *supra,* ¶ 194 (responding to concerns about the “deleterious effects of natural resource environment on [indigenous peoples’] environment,” the Committee expressed its “regrets that the State party does not seem to have attached the highest priority to dealing with the problem of mercury contamination”). [↑](#footnote-ref-15)
16. *Report of the Committee on the Convention on the Elimination of All Forms of Racial Discrimination for the Seventieth and Seventy-first sessions, Consideration of Reports, Comments and Information Submitted by States Parties: Democratic Republic of the Congo*, 1 October 2007, U.N. Doc. A/62/18, ¶ 332 (expressing concern that the rights of indigenous peoples to own, exploit, control and use their lands was not guaranteed and that concessions were granted on the lands of indigenous peoples without prior consultation, and recommending that the State party “make provision for the forest rights of indigenous peoples” and “proclaim a new moratorium on forest land”). [↑](#footnote-ref-16)
17. *Report of the Committee on the Convention on the Elimination of All Forms of Racial Discrimination for the Seventy-fourth and Seventy-fifth sessions, Consideration of Reports, Comments and Information Submitted by States Parties: Philippines*, 28 November 2009, U.N. Doc. A/64/18, ¶ 42(22); *Report of the Committee on the Convention on the Elimination of All Forms of Racial Discrimination for the Seventy-second and Seventy-third sessions, Consideration of Reports, Comments and Information Submitted by States Parties: Namibia*, 1 November 2008, U.N. Doc. A/63/18, ¶ 300 (“encourag[ing] the State party to strengthen its laws and policies aimed at ensuring that national parks established on ancestral lands of indigenous communities allow for sustainable economic and social development compatible with the cultural characteristics and living conditions of those indigenous communities”). [↑](#footnote-ref-17)
18. *Report of the Committee on the Convention on the Elimination of All Forms of Racial Discrimination for the Sixty-second and Sixty-third sessions,* *Decisions adopted by the Committee: Decision 3(62), Suriname,* 23 October 2003, U.N. Doc. A/58/18, ¶ 3. [↑](#footnote-ref-18)
19. *Consideration of Reports, Comments and Information Submitted by States Parties: Suriname*, note 13 *supra,* ¶ 190; *Report of the Committee on the Convention on the Elimination of All Forms of Racial Discrimination for the Seventieth and Seventy-first sessions, Consideration of Reports, Comments and Information Submitted by States Parties: Indonesia*, 1 October 2007, U.N. Doc. A/62/18, ¶ 359. [↑](#footnote-ref-19)
20. *Report of the Committee on the Convention on the Elimination of All Forms of Racial Discrimination for the Seventy-fourth and Seventy-fifth sessions, Prevention of Racial Discrimination, Including Early Warning and Urgent Action Procedures,* 28 November 2009, U.N. Doc. A/64/18, ¶ 21. [↑](#footnote-ref-20)
21. *Report of the Committee on the Convention on the Elimination of All Forms of Racial Discrimination for the Eighty-first and Eighty-second sessions, Consideration of Reports, Comments and Information Submitted by States Parties: Thailand,* 6 January 2012, U.N. Doc. A/66/18, ¶ 51(16). [↑](#footnote-ref-21)
22. *Consideration of Reports, Comments and Information Submitted by States Parties: Slovakia*, note 8 *supra*, ¶ 265 (expressing concern about “poor access to clean drinking water, adequate sanitation, and high exposure to environmental pollution in Roma settlements”). [↑](#footnote-ref-22)
23. *Report of the Committee on the Convention on the Elimination of All Forms of Racial Discrimination for the Sixty-eighth and Sixty-ninth sessions, Consideration of Reports, Comments and Information Submitted by States Parties: El Salvador*, 1 October 2006, U.N. Doc. A/61/18, ¶ 88; *Report of the Committee on the Convention on the Elimination of All Forms of Racial Discrimination for the Sixty-fourth and Sixty-fifth sessions, Consideration of Reports, Comments and Information Submitted by States Parties: Slovakia,* 1 October 2004, U.N. Doc. A/59/18, ¶ 388 (expressing “alarm[] at the critical health situation of some Roma communities” and “encourag[ing] the State party to take further measures to address the issues of drinking water supplies and sewage disposal systems in Roma settlements”). [↑](#footnote-ref-23)
24. *Report of the Committee on the Convention on the Elimination of All Forms of Racial Discrimination for the Seventy-sixth and Seventy-seventh sessions, Consideration of Reports, Comments and Information Submitted by States Parties: Guatemala,* 28 November 2010, U.N. Doc. A/64/18, ¶ 41(14). [↑](#footnote-ref-24)
25. *Report of the Committee on the Convention on the Elimination of All Forms of Racial Discrimination for the Seventy-fourth and Seventy-fifth sessions, Consideration of Reports, Comments and Information Submitted by States Parties: Chile*, 28 November 2009, U.N. Doc. A/64/18, ¶¶ 32(21)-(23). [↑](#footnote-ref-25)
26. *See Report of the Committee on the Elimination of Racial Discrimination* *for the Seventy-eighth and Seventy-ninth sessions*, 6 January 2012, U.N. Doc. A/66/18, ¶ 28; *Report of the Committee on the Elimination of Racial Discrimination*, *Sixty-eighth and Sixty-ninth sessions*, 1 October 2006, U.N. Doc. A/61/18*,* ¶ 147 (Committee “recommends that the State party undertake environmental impact assessments and seek the informed consent of concerned indigenous communities prior to authorizing any mining or similar activities”). [↑](#footnote-ref-26)
27. *Report of the Committee on the Convention on the Elimination of All Forms of Racial Discrimination for the Seventy-eighth and Seventy-ninth sessions*, *Consideration of Reports, Comments and Information Submitted by States Parties: Bolivia,* 6 January 2012, U.N. Doc. A/66/18, ¶ 20. [↑](#footnote-ref-27)
28. *Report of the Committee on the Convention on the Elimination of All Forms of Racial Discrimination for the Eighty-first and Eighty-second sessions, Consideration of Reports, Comments and Information Submitted by States Parties: Ecuador,* 2013, U.N. Doc. A/68/18, ¶ 39(24). [↑](#footnote-ref-28)
29. *Consideration of Reports, Comments and Information Submitted by States Parties: Suriname*, note 13 *supra,* ¶ 194. [↑](#footnote-ref-29)
30. *Conclusions and Recommendations of the Committee on the Elimination of Racial Discrimination: Guyana*, 10 March 2006, U.N. Doc. CERD/C/GUY/CO/14, ¶ 19; *see also Report of the Committee on the Convention on the Elimination of All Forms of Racial Discrimination for the Seventy-sixth and Seventy-seventh sessions,* *Prevention of Racial Discrimination, Including Early Warning and Urgent Action Procedures,* 31 October 2010, U.N. Doc. A/65/18, ¶ 20 (when considering the alleged negative impact of uranium extraction activities on traditional lands, the Committee encouraged the State to “collect more information on the impact of the mining activities in the environment by conducting a study with an independent institution”); *Report of the Committee on the Convention on the Elimination of All Forms of Racial Discrimination for the Seventy-eight and Seventy-ninth sessions, Prevention of Racial Discrimination, Including Early Warning and Urgent Action Procedures,* 6 January 2012, U.N. Doc. A/66/18, ¶ 37 (encouraging State to conduct environmental impact assessment regarding an energy project). [↑](#footnote-ref-30)
31. *General Recommendation XXIII,* note 9 *supra,*  ¶¶ 4-5. [↑](#footnote-ref-31)
32. *Concluding Observations of the Committee on the Elimination of Racial Discrimination,: Norway,* 11 March 2011, U.N. Doc. CERD/C/NOR/CO/19-20, ¶ 18 (referring in particular to the right to maintain indigenous peoples’ subsistence through reindeer grazing and fishing). [↑](#footnote-ref-32)
33. *Conclusions and Recommendations of the Committee on the Elimination of Racial Discrimination: Colombia*, 28 August 2009, U.N. Doc. CERD/C/COL/CO/14, ¶ 20. *See also Report of the Committee on the Convention on the Elimination of All Forms of Racial Discrimination for the Sixty-eighth and Sixty-ninth sessions, Consideration of Reports, Comments and Information Submitted by States Parties: Norway*, 6 January 2010, U.N. Doc. A/61/18, ¶ 325 (welcoming procedures that enhanced the indigenous peoples’ “right to participate in the decision-making processes regarding management of land and natural resources in the areas they occupy”). [↑](#footnote-ref-33)
34. *Consideration of Reports, Comments and Information Submitted by States Parties: United States of America*, note 6 *supra*, ¶ 400. [↑](#footnote-ref-34)
35. *Ibid*.; *see* *Report of the Committee on the Convention on the Elimination of All Forms of Racial Discrimination for the Eighty-first and Eighty-second sessions, Prevention of Racial Discrimination, Including Early Warning and Urgent Action Procedures*, 2013, U.N. Doc. A/68/18, ¶ 26 (expressing concern over “ongoing mining activities … without the consultation of the [indigenous] people” in the Philippines and asked for more information on the matter); ¶ 30 (expressing concern over “mining activities [taking] place on indigenous territories…without their free and prior informed consent” in Guyana and once again asking for more information regarding the matter); *Report of the Committee on the Convention on the Elimination of All Forms of Racial Discrimination for the Eighty-first and Eighty-second sessions, Consideration of Reports, Comments and Information Submitted by States Parties: Finland,* 2013, U.N. Doc. A/68/18, ¶ 41(13) (expressing concern that “various projects and activities, such as mining and logging, continue to be carried out in the traditional lands of Sámi people without their prior, free and informed consent”). [↑](#footnote-ref-35)
36. *Consideration of Reports, Comments and Information Submitted by States Parties: United States of America*, note 6 *supra*. [↑](#footnote-ref-36)
37. *Consideration of Reports, Comments and Information Submitted by States Parties: Chile*, note 25 *supra,*  ¶ 31 (23). [↑](#footnote-ref-37)
38. *Concluding Observations of the Committee on the Elimination of Racial Discrimination: Bolivia,* 8 April 2011, U.N. Doc. CERD/C/BOL/CO/17-20, ¶ 20 (concerning a mining project). [↑](#footnote-ref-38)
39. *Consideration of Reports, Comments and Information Submitted by States Parties: Suriname*, note 13 *supra,* ¶ 192. [↑](#footnote-ref-39)
40. *Consideration of Reports, Comments and Information Submitted by States Parties: Indonesia,* note 19 *supra,*  ¶ 359 (expressing concern with a plan to establish oil palm plantations and stating that the State party must secure the possession and ownership rights of local communities and “meaningful consultations” before proceeding further with the project). [↑](#footnote-ref-40)
41. *Report of the Committee on the Convention on the Elimination of All Forms of Racial Discrimination for the Sixty-second and Sixty-third sessions, Consideration of Reports, Comments and Information Submitted by States Parties: Ecuador*, 23 October 2003, U.N. Doc. A/58/18, ¶ 62. [↑](#footnote-ref-41)
42. *Ibid.*; *Report of the Committee on the Convention on the Elimination of All Forms of Racial Discrimination for the Sixty-eighth and Sixty-ninth sessions, Consideration of Reports, Comments and Information Submitted by States Parties: Guatemala*, 1 October 2006, U.N. Doc. A/61/18, ¶ 119 (expressing concern that mining licenses were granted to enterprises and that indigenous peoples were not consulted or informed that permission to exploit the subsoil of their territory had been awarded and recommending that, when taking such decisions, the State party endeavor to obtain the informed consent of the indigenous peoples). [↑](#footnote-ref-42)
43. *Report of the Committee on the Convention on the Elimination of All Forms of Racial Discrimination for the Seventy-fourth and Seventy-fifth sessions, Consideration of Reports, Comments and Information Submitted by States Parties: Peru*, 29 November 2009, U.N. Doc. A/64/18, ¶ 41(14). [↑](#footnote-ref-43)
44. *Ibid.* [↑](#footnote-ref-44)
45. *Ibid.*; *Consideration of Reports, Comments and Information Submitted by States Parties: Suriname*, note 13 *supra,* ¶ 192. [↑](#footnote-ref-45)
46. *Concluding Observations of the Committee on the Elimination of Racial Discrimination: Mexico,* 4 April 2012, U.N. Doc. CERD/C/MEX/CO/16-17, ¶¶ 16-17. [↑](#footnote-ref-46)
47. *Ibid*. ¶ 17. [↑](#footnote-ref-47)
48. *Ibid.* [↑](#footnote-ref-48)
49. *Consideration of Reports, Comments and Information Submitted by States Parties: Peru*, note 43 *supra,* ¶ 41(9). [↑](#footnote-ref-49)
50. *Report of the Committee on the Convention on the Elimination of All Forms of Racial Discrimination for the Sixty-second and Sixty-third sessions*, *Consideration of Reports, Comments and Information Submitted by States Parties: Bolivia*, 30 October 2001, U.N. Doc. A/56/18, ¶ 335. [↑](#footnote-ref-50)
51. *Consideration of Reports, Comments and Information Submitted by States Parties: Ecuador*, note 41 *supra,* ¶ 62 (stating that, in considering exploitation of subsoil resources, States must ensure “the equitable sharing of benefits to be derived from such exploitation,” including making remedies available to indigenous people “claiming compensation for the environmental depletion of their traditional lands”). [↑](#footnote-ref-51)
52. *Consideration of Reports, Comments and Information Submitted by States Parties: Peru*, note 43 *supra,* ¶ 41(20) (recommending that the State “provide compensation for the damage and harm suffered by [the indigenous] community” resulting from catchment basins installed on wetland areas); *Consideration of Reports, Comments and Information Submitted by States Parties: Russian Federation*, note 5 *supra,* ¶ 374 (urging the State to ensure that licensing agreements to private companies for logging, extraction of subsoil resources and the construction of hydroelectric dams “provide for adequate compensation of the affected communities”); *Consideration of Reports, Comments and Information Submitted by States Parties: Bolivia*, note 27 *supra,* ¶ 43(20) (recommending that the State ensure “fair compensation for any harm or damage suffered” as a result of natural resource exploitation); *Report of the Committee on the Convention on the Elimination of All Forms of Racial Discrimination for the Seventy-eighth and Seventy-ninth sessions,* *Prevention of Racial Discrimination, Including Early Warning and Urgent Action Procedures,* 6 January 2012, U.N. Doc. A/66/18, ¶ 27 (expressing concern at the denial of compensation “for indigenous landowners suffering environmental destruction of their lands and resources”). [↑](#footnote-ref-52)
53. *Consideration of Reports, Comments and Information Submitted by States Parties: Bolivia,* note 27 *supra*, ¶ 43(7)(f). [↑](#footnote-ref-53)
54. *Report of the Committee on the Convention on the Elimination of All Forms of Racial Discrimination for the Eighty-first and Eighty-second sessions, Consideration of Reports, Comments and Information Submitted by States Parties: Russian Federation,* 2013, U.N. Doc. A/68/18, ¶ 47(20). [↑](#footnote-ref-54)
55. *Ibid.* [↑](#footnote-ref-55)
56. *Consideration of Reports, Comments and Information Submitted by States Parties: Guatemala,* note 24 *supra,* ¶ 40(11). [↑](#footnote-ref-56)
57. *Ibid.*; *see also* *Report of the Committee on the Convention on the Elimination of All Forms of Racial Discrimination for the Seventy-sixth and Seventy-seventh sessions, Consideration of Reports, Comments and Information Submitted by States Parties: Argentina*, 31 October 2010, U.N. Doc. A/65/18, ¶ 31(26) (commenting on the eviction of indigenous people and the lack of the free, prior and informed consent in the evictions). [↑](#footnote-ref-57)
58. *Consideration of Reports, Comments and Information Submitted by States Parties: Suriname*, note 13 *supra,* ¶ 193. [↑](#footnote-ref-58)
59. *Prevention of Racial Discrimination, Including Early Warning and Urgent Action Procedures,* note 54 *supra,* ¶ 27*.*  [↑](#footnote-ref-59)
60. *Consideration of Reports, Comments and Information Submitted by States Parties: Suriname*, note 13 *supra,* ¶ 193 (considering a State’s draft mining act requiring indigenous peoples to accept mining activities on their lands following agreement on compensation—absent such an agreement, the legislation provided for the matter to be settled by the executive branch rather than the judiciary); *Consideration of Reports, Comments and Information Submitted by States Parties: Bolivia,* note 27 *supra,* ¶ 43(20) (regarding natural resource exploration in areas traditionally inhabited by indigenous peoples, the Committee recommended that indigenous people be “guaranteed access to the courts or to any special independent body established for this purpose so that they may defend their traditional rights, their right to be consulted before concessions are awarded and their right to receive fair compensation for any harm or damage suffered”). [↑](#footnote-ref-60)
61. *Report of the Committee on the Convention on the Elimination of All Forms of Racial Discrimination for the Seventy-eighth and Seventy-ninth sessions,* *Consideration of Reports, Comments and Information Submitted by States Parties: Norway*, 6 January 2012, U.N. Doc. A/66/18, ¶ 17. [↑](#footnote-ref-61)
62. *Ibid.* [↑](#footnote-ref-62)
63. *Report of the Committee on the Convention on the Elimination of All Forms of Racial Discrimination for the Seventieth and Seventy-first sessions, Consideration of Reports, Comments and Information Submitted by States Parties: Canada,* 1 October 2007, U.N. Doc. A/62/18, ¶ 78; *Report of the Committee on the Convention on the Elimination of All Forms of Racial Discrimination for the Seventy-eighth and Seventy-ninth sessions, Consideration of Reports, Comments and Information Submitted by States Parties: United Kingdom*, 6 January 2012, U.N. Doc. A/66/18, ¶ 59(29); *Report of the Committee on the Convention on the Elimination of All Forms of Racial Discrimination for the Seventy-second and Seventy-third sessions, Consideration of Reports, Comments and Information Submitted by States Parties: United States*, 1 November 2008, U.N. Doc. A/63/18, ¶¶ 500-501. [↑](#footnote-ref-63)
64. *Report of the Committee on the Convention on the Elimination of All Forms of Racial Discrimination for the Seventy-second and Seventy-third sessions, Consideration of Reports, Comments and Information Submitted by States Parties: Ecuador*, 1 November 2008, U.N. Doc. A/63/18, ¶ 143. [↑](#footnote-ref-64)
65. *Ibid.* [↑](#footnote-ref-65)
66. *Report of the Committee on the Convention on the Elimination of All Forms of Racial Discrimination for the Sixtieth and Sixty-first session, Decisions, Statements and General Recommendations: Statement by the Committee to the World Summit on Sustainable Development*, 1 November 2002, U.N. Doc. A/57/18. [↑](#footnote-ref-66)
67. *Ibid.* [↑](#footnote-ref-67)
68. *Ibid.* [↑](#footnote-ref-68)
69. *Report of the Committee on the Convention on the Elimination of All Forms of Racial Discrimination for the Seventy-fourth and Seventy-fifth sessions, Consideration of Reports, Comments and Information Submitted by States Parties: Colombia,* 28 November 2009, U.N. Doc. A/64/18, ¶ 33(20); *Consideration of Reports, Comments and Information Submitted by States Parties: United States of America,* note 34 *supra,* ¶ 400; *Report of the Committee on the Convention on the Elimination of All Forms of Racial Discrimination for the Sixty-sixth and Sixty-seventh sessions, Decisions adopted by the Committee: Decision 1(67), Suriname,* 3 October 2005, U.N. Doc. A/60/18, ¶ 5; *Report of the Committee on the Convention on the Elimination of All Forms of Racial Discrimination for the Sixty-eighth and Sixty-ninth sessions,* *Consideration of Reports, Comments and Information Submitted by States Parties: Guyana*, 1 October 2006, U.N. Doc. A/61/18, ¶ 144; *Report of the Committee on the Convention on the Elimination of All Forms of Racial Discrimination for the Seventy-second and Seventy-third sessions, Consideration of Reports, Comments and Information Submitted by States Parties: Peru,* 1 November 2008, U.N. Doc. A/63/18, ¶ 41(9); *Consideration of Reports, Comments and Information Submitted by States Parties: Argentina,* note 59 *supra,* ¶ 31(26); *Consideration of Reports, Comments and Information Submitted by States Parties: Guatemala,* note 24 *supra*, ¶ 40(11); *Consideration of Reports, Comments and Information Submitted by States Parties: Finland*, note 35 *supra,* ¶ 41(13). [↑](#footnote-ref-69)