

Human Rights and Access to Justice for Indigenous Peoples

Human Rights 75 Regional Dialogue of the Americas

25-26 October 2023

On 25-26 October in Santiago (Chile), the UN Human Rights Offices in Americas organized a regional dialogue to gather proposals on how to overcome the obstacles faced by Indigenous Peoples in accessing justice in the region. Over 90 judges and lawyers, representatives of Indigenous Peoples, UN and UN Human Rights Mechanisms, the Inter-American Commission for Human Rights, human rights defenders, civil society organisations and specialists participated in this in person exchange. The Dialogue was opened and closed by ritual ceremonies performed by Indigenous Peoples' representatives.

In a video message, the UN High Commissioner for Human Rights, Volker Türk, described the lack of access to justice for Indigenous Peoples as “one of the most pressing human rights issues in the Americas”. Some of the challenges identified to access justice includes discrimination and racism against Indigenous Peoples, despite regulatory advances, and the imbalance resources of companies to face judicial process. There are also challenges in the coordination between judicial systems in countries that recognize Indigenous justice; as well as threats and criminalisation of Indigenous Peoples as defenders of human rights and the environment, and impunity towards these acts.

Proposals put forth to improve Indigenous People's access to justice.

Four main lines of actions emerged from the dialogue to improve Indigenous People's access to justice.

First, to impulse the recognition and implementation of judicial pluralism. There was a call to move forward with laws that recognize Indigenous legal systems and their authority, as well as better coordination with “ordinary” justice systems and capacity building of justice operators in Indigenous issues.

Second, to improve Indigenous People's access to ordinary justice, including accessing remedy for all infringements of their individual and collective rights, in full respect for their customs, traditions and legal systems. This includes the infringements committed by businesses. It was also highlighted the need to give more visibility to relevant jurisprudence and recommendations from UN and regional human rights mechanisms, as well as national Constitutional and Supreme Courts.

Third, to launch or accelerate processes of demarcation of Indigenous People's land and territory, respecting Indigenous rights and avoiding excessive cost and bureaucracy.

Fourth, to strength the protection of human rights defenders of Indigenous rights and the environment. The Dialogue emphasized the urgency of creating or strengthening systems of protection of human rights defenders, as well as investigating and punishing all attacks and threats against them.

In addition, in the dialogue it was strongly emphasized the importance of considering the specific needs and demands of Indigenous women and girls and to act accordingly, so that their voices are heard and considered as contribution to the development of their peoples and their access to justice.

“The desire of the Office is that justice systems and their operators become strong allies of the Indigenous Peoples in the search for justice”, explained Jan Jarab, representative of UN Human Rights in South America. “Working with and for Indigenous Peoples is an unwavering priority for our Office”, said Alberto Brunori, UN Human Rights representative for Central America.