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Impact of colonization and armed conflicts on Indigenous Peoples' rights: the imperative of peacebuilding

Note by the Secretariat

The Secretariat has the honour to transmit to the Permanent Forum on Indigenous Issues the study by Hanieh Moghani, Hannah McGlade and Geoffrey Roth, members of the Permanent Forum, on the impact of colonization and armed conflicts on Indigenous Peoples' rights: the imperative of peacebuilding.

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Study on the impact of colonization and armed conflicts on Indigenous Peoples' rights: the imperative of peacebuilding

Summary

In the present study, Hanieh Moghani, Hannah McGlade and Geoffrey Roth, members of the Permanent Forum on Indigenous Issues, examine the impacts of colonization and armed conflicts on Indigenous Peoples, highlighting the systematic violation of rights recognized in the United Nations Declaration on the Rights of Indigenous Peoples, including the rights to life, self-determination, land, territory, resources, health and cultural preservation.

Drawing on the philosophy of Frantz Fanon, the authors of the present study underscore the necessity of dismantling colonial legacies, addressing psychological and structural oppression and transitioning from negative peace, defined as the cessation of violence, to positive peace, characterized by equity, justice and harmony.

Key recommendations of the study include addressing violations of Indigenous rights in armed conflicts, implementing justice mechanisms, ensuring Indigenous participation in governance and dismantling neocolonial practices. The authors emphasize the need for peacebuilding efforts to integrate Indigenous cosmologies and knowledge systems, which envision peace as a holistic balance encompassing human, environmental and spiritual well-being.

I. Introduction

1. The compounded impacts of colonization and armed conflicts have systematically shaped the lives and rights of Indigenous Peoples, leaving profound legacies of dispossession, marginalization and systemic injustice. Far from being historical artefacts, these injustices persist in modern forms through neocolonial practices, structural inequalities and resource-driven conflicts. The lives, lands, territories and cultural heritage of Indigenous Peoples remain central to these dynamics, as land, territory and resources are often targeted for their economic and strategic value. The authors of the present study illuminate the nexus between colonization and armed conflict, examining their intersecting impacts on Indigenous Peoples' rights and framing peacebuilding and peacekeeping as an essential pathway to justice and reconciliation.

2. Colonization has been characterized by the systematic violation of Indigenous Peoples' right to life and human dignity, the disruption of sociocultural and economic systems, dispossession and the imposition of alien governance structures. These practices have led to persisting economic inequalities and cultural erasure, often amplified by armed conflicts in which Indigenous territories of life are exploited for political and economic gain. Armed conflicts, whether internal or cross-border, disproportionately affect Indigenous Peoples, displacing them from ancestral lands and territories, eroding cultural cohesion and perpetuating cycles of systemic violence. In this context, peacebuilding and peacekeeping must go beyond conventional frameworks of conflict resolution to address the root causes of injustices.

3. Drawing on the critical philosophy of Frantz Fanon, the authors of the present study frame colonization as an ingrained system of oppression that dehumanizes the colonized while entrenching structural domination. Fanon's analysis of the psychological, material and systemic dimensions of colonial violence offers a theoretical lens to understand the ongoing marginalization of Indigenous Peoples. His call for the reclamation of identity and liberation underscores the necessity of addressing colonial legacies as foundational to achieving meaningful peace. Fanon also highlights the interplay between the psychological scars of colonization and the structural systems that sustain exploitation, emphasizing that peace cannot signify merely the absence of violence but must also involve dismantling systems of inequity and restoring dignity.

4. The authors of the present study argue that the pursuit of peace for Indigenous Peoples requires a dual focus: addressing historical harms through reparative justice while establishing mechanisms to prevent future violations. This necessitates moving from negative peace, defined as the cessation of violence, to positive peace, characterized by justice, equity and the empowerment of marginalized communities. International frameworks such as the United Nations Declaration on the Rights of Indigenous Peoples and General Assembly resolution 60/147 on the basic principles and guidelines on the right to a remedy and reparation for victims of gross violations of international human rights law and serious violations of international humanitarian law provide critical foundations for addressing these systemic issues. However, the effectiveness of these instruments depends on their operationalization, which often falters due to insufficient political will and accountability.

5. Through an interdisciplinary approach that encompasses historical analysis, legal critique and philosophical inquiry, the authors of the present study critically examine the structural dimensions of colonization and armed conflict. They highlight the gaps between international norms and their practical implementation, offering actionable insights into how justice and a positive form of peacebuilding and peacekeeping can be achieved for Indigenous Peoples. By centring on Indigenous

cosmologies, which conceptualize peace as harmony among humanity, the environment and spirituality, the authors advocate a transformative approach to peacebuilding – one that is not only a moral imperative but also a necessary foundation for sustainable development and equitable statecraft.

6. In reimagining peacebuilding as a dynamic and inclusive process, the authors of the present study seek to contribute to the broader discourse on justice for Indigenous Peoples. They underscore the need to confront colonial legacies and armed conflict not as isolated challenges but as interconnected phenomena requiring comprehensive, systemic transformation. Only by addressing these foundational issues can the global community move towards a future characterized by genuine peace, equity and the restoration of human dignity.

II. Types of justice

7. Justice has an important role in several different fields, and each field expresses the principles of justice and fairness in its own way. Just entities seek to establish stability, well-being, justice and fairness among all parties. The absence of justice may lead to destabilizing injustice, with dissatisfaction, civil unrest, rebellion or revolution. Different types and concepts of justice therefore have important national and international effects on social, economic, political, civil and criminal aspects, as described below.

8. Distributive justice, also known as economic justice, is concerned with fairness in the resources that people receive and use, whether they are goods or services, within a system. Its roots are in the social system and socialism, as equality is an inherent principle therein.

9. Procedural justice is focused on making and implementing decisions through fair processes that ensure fair treatment. This type of justice requires procedures to be highly impartial and applied continuously in order to reach an unbiased decision or result. Those implementing these procedures should be impartial, and those directly affected by the decisions should have a voice or meaningful representation in the decision-making process. Procedural justice has a major role in dispute settlement, negotiation, mediation, arbitration and case adjudication.

10. Retributive justice is a retroactive approach that justifies punishment as a response to unjust actions or wrongdoing in the past. This type of justice has a major role in responding to crimes, including violations of international law and human rights, and war crimes.

11. Restorative justice is aimed at the restoration of the situation before the harm and seeks to promote genuine remorse and repentance on the part of the offending party and potentially forgiveness on the part of the aggrieved. Payment or compensation is also required. Restorative justice is also known as corrective justice.

12. Transitional justice, which is akin to restorative justice, is achieved when societies respond to the legacies of serious human rights violations. Global transitional justice practice has elaborated a combination of five essential processes: (a) the preservation of memory; (b) accountability (prosecution and/or amnesty); (c) reparations; (d) guarantees of non-repetition; and (e) national reconciliation. Above all, transitional justice is about victims and emphasizes measures to be taken in their favour. However, based on wide agreement that gross violations have been committed against victims, transitional justice involves the important element of reconciliation, which promotes the restoration of fraternal relations within the State.

13. The present study is focused on restorative justice as an effective, enduring process concerned with repairing damage to relationships and society and redressing the damage and harm caused to victims. In this process, victims have a major role to play in determining the responsibility and obligations of the perpetrators within the framework of international law.

III. Colonial practices and their enduring legacies

14. In its classical form, colonization fundamentally reshaped societies, particularly Indigenous ones, through systematic dispossession and exploitation, as well as physical and cultural erasure. These processes have not been incidental; rather, they have been deliberate and are deeply rooted in the imperialist ideologies according to which Indigenous Peoples were viewed as obstacles to territorial and economic expansion. The alienation from ancestral lands and territories disrupted and suppressed Indigenous cosmologies, dismantling socioeconomic, health and nutritional systems that had thrived for centuries.[1] This multidimensional dislocation remains a cornerstone of Indigenous struggles today, perpetuating intergenerational poverty and eroding cultural identity.

IV. Classical colonization: land, territory, culture and identity loss

15. Land and territorial dispossession has been at the heart of colonial domination, serving as the linchpin of economic and territorial control. Colonial powers have seized fertile lands and territories, displacing Indigenous Peoples and repurposing territories to fuel colonial economies. In Africa and Asia, the British and French empires marginalized Indigenous agricultural and pastoralist practices to prioritize cash crops for export.[2] Similarly, there was widespread loss of Indigenous territories in the Americas and Australia, with profound sociocultural and health consequences. As emphasized in article 25 of the United Nations Declaration on the Rights of Indigenous Peoples, the connection between Indigenous Peoples and their lands and territories of life is central to their identity, special status[3] and existence. Severing land and territory from Indigenous Peoples deprives them of their human attributes, human needs and, therefore, human rights and is thus a violation of fundamental human rights and the Charter of the United Nations.

16. Cultural erasure was another potent mechanism of colonization, manifesting in forced assimilation, religious indoctrination, forced dietary changes, imposed health practices and the suppression of Indigenous languages. The residential school systems of Canada, the United States of America and Australia exemplify this practice, wherein children were forcibly removed from their families, forbidden from speaking their languages and subjected to widespread systemic abuse under the guise of "civilizing" them.[4] These policies not only dismantled cultural heritage but also deprived Indigenous Peoples of critical resources needed to address enduring intergenerational trauma, fragmented social cohesion and persistent health disparities.

[1] Joseph Schechla, "A human right to land", Housing and Land Rights Network, 2021.

[2] Jean-Paul Sartre, *Colonialism and Neocolonialism* (Routledge Classics, 2006); and Suzana Sawyer and Edmund Terence Gomez, eds., *The Politics of Resource Extraction: Indigenous Peoples, Multinational Corporations, and the State* (Palgrave Macmillan, 2012).

[3] See E/CN.4/Sub.2/1986/7/Add.4.

[4] See the final report of the Truth and Reconciliation Commission of Canada and its volumes, available at https://nctr.ca/records/reports/#trc-reports.

17. Even with international frameworks such as the Declaration, colonial ideologies persist in subtler forms. Cultural appropriation and the commodification of Indigenous traditions for profit and tourism also reflect the lingering trivialization of Indigenous cultures, perpetuating systemic inequalities and reinforcing hegemonic narratives.

V. Modern colonization: economic dependency and neocolonial practices

18. Colonial exploitation has evolved into neocolonial practices, whereby economic dependency, resource exploitation and structural inequalities replicate historical inequities. Unilateral coercive measures, imposed by powerful States or economic blocs, exemplify this modern form of domination and subjugation. Currently, over 40 countries are subject to such sanctions, often justified as a means of enforcing international norms. However, these measures disproportionately harm Indigenous Peoples. For instance, the unilateral coercive measures imposed on the Bolivarian Republic of Venezuela and the Islamic Republic of Iran have exacerbated resource shortages, disproportionately affecting Indigenous populations.

19. In conflict-affected States such as the Syrian Arab Republic, Iraq and Afghanistan, unilateral coercive measures create socioeconomic crises that further marginalize Indigenous communities. By restricting access to global markets, health systems and development aid, these measures deepen existing inequalities. Moreover, the proliferation of such measures over the past decade has resulted in catastrophic humanitarian consequences not only in the targeted States but also in third countries, and has even had negative impacts on human rights in the sanctioning States. These sanctions, often imposed simultaneously by multiple countries, have cumulative effects with wider implications for the targeted populations. Basic human needs such as access to safe drinking water, sanitation, essential medicines, vaccines and crops are significantly affected, resulting in rising mortality rates, child wasting and undernourishment (see A/HRC/57/55). Thus, unilateral coercive measures perpetuate structural inequalities, economic dependency and socioeconomic crises, reinforcing modern neocolonial practices under the guise of economic control and diplomacy, and mirroring the coercive control of classical colonization.

VI. Debt mechanisms: the new chains of economic colonization

20. Economic dependency also manifests through debt mechanisms, with international financial institutions such as the International Monetary Fund and the World Bank imposing structural adjustment programmes tied to loans. Under these programmes, priority is given to fiscal austerity and privatization, often at the expense of social welfare. In the Plurinational State of Bolivia, for instance, structural adjustments in the 1980s led to the privatization of water resources, sparking protests by Indigenous Peoples who viewed this as a violation of their communal rights.[5] Such mechanisms subvert Indigenous sovereignty, entrenching inequalities and perpetuating poverty cycles.[6]

[5] Balakrishnan Rajagopal, *International Law from Below: Development, Social Movements, and Third World Resistance* (Cambridge University Press, 2003).

[6] Frantz Fanon, *The Wretched of the Earth* (New York, Grove Press, 1963).

VII. Colonization and armed conflicts: their impact on Indigenous Peoples' rights

21. The legacy of colonization extends into the realm of armed conflicts, in which Indigenous Peoples have historically been exploited and further marginalized. Armed conflicts, whether internal or international, often take place in or involve Indigenous territories, driven by competition over natural resources, territorial disputes and political dominance. Indigenous Peoples, who frequently live in resource-rich areas, bear the brunt of violence, displacement and sociocultural disruption, revealing the enduring nexus between colonization and armed conflict.

VIII. Historical context: colonization and armed conflicts

22. The intrinsic link between colonization and armed conflict is evident in historical patterns of violence against Indigenous Peoples. During the plains wars in North America in the nineteenth century, for example, Indigenous resistance to settler encroachment was met with forced removal and systemic socioeconomic destruction.[7] Similarly, the frontier wars in Australia exemplified the violent suppression of Indigenous Peoples, with settler dominance reinforced through massacres and repression.[8] These historical episodes have led to the portrayal of Indigenous Peoples as barriers to colonial expansion and the embedding of structural violence in modern armed conflicts.

23. Today, neocolonial practices continue to provoke conflicts in Indigenous territories. Extractive industries often incite land disputes and environmental degradation, leading to militarized responses against Indigenous resistance (see A/HRC/39/17). For example, in the Amazon rainforest, Indigenous Peoples such as the Yanomami and Guarani are facing displacement and cultural erosion due to extractive corporate activities.[9] Similarly, in West Papua, which is rich in natural resources, the intersection of extractive activities and State violence is starkly evident. The Grasberg mine, one of the world's largest gold and copper mines, is partly owned by the United States mining company Freeport-McMoRan. While this company generates immense profits, its operations have caused severe environmental degradation. Efforts to oppose the mine and other so-called "economic development" projects are met with violence, further entrenching the cycle of structural violence against Indigenous Papuans.[10]

IX. Contemporary armed conflicts and Indigenous rights

24. Contemporary armed conflicts represent a pressing global failure of policy, diplomacy and the legal order that disproportionately affects Indigenous Peoples, exacerbating historical injustices and undermining their rights. Despite international legal frameworks such as the United Nations Declaration on the Rights of Indigenous Peoples and human rights conventions and instruments, Indigenous Peoples remain vulnerable to the socioeconomic, environmental and cultural consequences of warfare. Articles 25 to 32 of the Declaration highlight the vital link between Indigenous lands, territories, resources and culture and self-determination, and yet

[7] Roxanne Dunbar-Ortiz, *An Indigenous Peoples' History of the United States* (Boston, Beacon Press, 2014).

[8] Patrick Wolfe, "Settler colonialism and the elimination of the native", *Journal of Genocide Research*, vol. 8, No. 4 (2006).

[9] Sawyer and Gomez, eds., *The Politics of Resource Extraction.*

[10] Genocide Watch, "Country report: West Papua", 2022.

these universal human and Indigenous rights are systematically violated during armed conflicts, leading to displacement, resource exploitation and cultural destruction.

X. Armed conflicts as violations of peace and humanitarian law

25. Armed conflicts, whether internal or international, fundamentally disrupt the peace and stability of Indigenous Peoples. These conflicts are often concentrated in resource-rich or strategically significant Indigenous territories, driven by competition over land, the extraction of natural resources and political dominance. Indigenous Peoples frequently endure disproportionate impacts, including violence, forced displacement, the erosion of sociocultural structures, loss of habitat and denial of their means of subsistence.

26. According to the Secretary-General, a record number of conflicts are inflicting enormous pain and suffering globally.[11] In 2023, conflicts involving States totalled 59, which was the highest number since data collection began in 1946.[12] These conflicts challenge the principles of positive and negative peace.

27. Under international humanitarian law, as codified in the Geneva Conventions of 12 August 1949, State and non-State actors are obligated to protect civilian populations during armed conflicts. For instance, article 27 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War mandates the safeguarding of cultural practices and civilian dignity during hostilities. However, in Indigenous territories, these provisions are routinely disregarded, reflecting broader patterns of neglect and marginalization within the global humanitarian framework.

XI. Internal and cross-border armed conflicts: patterns and impacts

A. Internal armed conflicts

28. Civil wars and insurgencies often unfold in resource-abundant regions inhabited by Indigenous Peoples, severing them from their ancestral lands and territories and disrupting their traditional socioeconomic systems.

29. In Colombia, decades of conflict between government forces and armed groups have displaced tens of thousands of Wayuu and Embera Indigenous Peoples. These displacements have stripped Indigenous Peoples of their land, undermined their self-determination and exposed them to violence and socioeconomic instability.[13]

30. In Myanmar, the ongoing armed conflict has disproportionately affected the Karen and Kachin Indigenous Peoples, who face forced evictions, the destruction of their cultural sites and violations of their right to self-determination.

[11] United Nations, “Secretary-General’s message to launch the 2025 Global Humanitarian Overview”, 4 December 2024.

[12] Uppsala University, “UCDP: record number of armed conflicts in the world”, 3 June 2024.

[13] Internal Displacement Monitoring Centre, *Global Report on Internal Displacement* (Geneva, 2023).

B. Cross-border armed conflicts

31. Wars between States also wreak havoc on Indigenous Peoples, often turning their territories into strategic battlegrounds. The impact of these conflicts is multifaceted.

32. During the Viet Nam war, the widespread use of chemical defoliants such as Agent Orange devastated the ecosystems of entire communities in Viet Nam, while the Indigenous victims from the Lao People's Democratic Republic and Cambodia were largely unacknowledged.[14] This environmental destruction disrupted their agricultural livelihoods and led to intergenerational health crises.

33. In West Asia, external conflicts in Iraq and the Syrian Arab Republic have disproportionately affected the Yazidi, an ethnic minority, through targeted violence and cultural genocide, without sufficient remedy.[15]

34. Both internal and cross-border conflicts illustrate the systemic vulnerabilities of Indigenous Peoples, who are often excluded from peace negotiations and post-conflict reconstruction and recovery efforts, further entrenching cycles of marginalization. For example, in the Sudan, peace agreements between warring parties have frequently excluded the Nuba people, ignoring their claims to land and political representation.

XII. Militarization of Indigenous territories: a colonial legacy

35. The militarization of Indigenous territories is deeply rooted in colonial histories, when Indigenous lands and territories were appropriated for their economic or strategic value. In contemporary armed conflicts, militarization perpetuates this legacy by prioritizing State or corporate interests over Indigenous rights.

36. In the Philippines, military operations against insurgent groups frequently occur in Lumad territories, resulting in forced displacements, the destruction of livelihoods and cultural suppression. Indigenous leaders who resist militarization are often criminalized or subjected to extrajudicial killings.[16]

37. In Brazil, Indigenous territories such as the Amazon are militarized under the pretext of combating illegal logging or insurgency. However, these operations often facilitate land grabs for agribusiness, cattle ranching or mining, displacing Indigenous Peoples from their ancestral lands and destroying their cultural and ecological heritage.

38. This militarization exacerbates environmental degradation and human rights abuses, with State and corporate actors exploiting Indigenous lands and territories for economic gain. Indigenous resistance to militarization is frequently met with violence, reinforcing cycles of dispossession and marginalization.

XIII. Violations of humanitarian and human rights protections

39. Armed conflicts systematically undermine the humanitarian and human rights protections afforded to Indigenous Peoples. Despite international legal safeguards, violations are widespread, with profound consequences for Indigenous Peoples.

[14] Charles Dunst, "The U.S.'s toxic agent orange legacy", *The Atlantic*, 20 July 2019.
[15] Human Rights Watch, "Iraq: compensation for ISIS victims too little, too late", 9 May 2023.
[16] Amnesty International, *Amnesty International Report 2022/23: The State of the World's Human Rights* (London, 2023).

A. Genocide and killing of Indigenous Peoples

40. Genocide and the targeted killing of Indigenous Peoples represent some of the gravest violations of humanitarian and human rights protections. These actions, often tied to armed conflicts or resource exploitation, are aimed at eliminating Indigenous Peoples, their cultures and their claims to land and sovereignty. For example, the Darfur conflict in the Sudan has been characterized by genocidal violence against the Indigenous Fur, Masalit and Zaghawa communities. Widespread atrocities, including mass killings, sexual violence and the destruction of villages, driven by State and militia forces seeking to assert control over resource-rich territories, have been documented in United Nations reports.[17] Such actions not only destroy lives but also erode cultural and societal structures, underscoring the urgent need for robust international accountability mechanisms to protect Indigenous Peoples.

1. Forced displacement

41. Millions of Indigenous Peoples globally have been forcibly displaced by armed conflicts, which have severed their ties to ancestral lands and territories. Displacement not only disrupts traditional livelihoods but also erodes cultural continuity. For instance, the Rohingya, a persecuted group in Myanmar, have faced mass displacement and statelessness, leading to the loss of their cultural practices and sociopolitical identity.[18]

2. Resource exploitation

42. Indigenous territories rich in natural resources are frequently targeted during conflicts. Resource extraction often occurs without the consent of Indigenous Peoples, violating their land and territorial rights and depriving them of sustainable livelihoods. For example, conflict-driven mining in the Democratic Republic of the Congo has devastated the Indigenous Batwa people, forcing them into economic dependency and social marginalization.

3. Cultural destruction

43. Armed conflicts destroy sacred sites, suppress Indigenous languages and disrupt cultural practices. This cultural erasure represents an attack on the spiritual and historical continuity of Indigenous Peoples. In the Syrian Arab Republic, the Yazidi people have faced the destruction of religious sites and forced assimilation, exemplifying the intersection of armed conflict and cultural genocide.

4. Environmental racism

44. Environmental racism refers to environmental policies, actions and decisions that disproportionately disadvantage racialized individuals, groups and communities.[19] The Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes noted that "Indigenous Peoples in particular, find themselves on the wrong side of a toxic divide, subject to conditions that would not be acceptable in respect of other groups" (A/HRC/45/12/Add.1, para. 105). Examples abound where colonialism has resulted in hazardous sites and long-term pollution of the land and water in Indigenous

[17] Human Rights Watch, "Sudan: ethnic cleansing in West Darfur", 9 May 2024. See also, Alice Wairimu Nderitu, Special Adviser to the Secretary-General on the Prevention of Genocide, statement on the renewed escalation of violence in Darfur, Sudan, 14 November 2023.

[18] Office of the United Nations High Commissioner for Refugees, "Global trends: forced displacement in 2023", 13 June 2024.

[19] Robert D. Bullard, ed., *Confronting Environmental Racism: Voices from the Grassroots* (Boston, South End Press, 1993).

communities. Environmental racism has serious physical, emotional, psychological and spiritual health effects; in an era of truth and reconciliation, its causes and consequences must be addressed and remediated.

XIV. Conceptualizing peace: defining negative and positive peace

45. Peace is a complex and layered concept that transcends the simplistic notion of the absence of violence. It is traditionally categorized into two key dimensions: negative peace and positive peace. Negative peace refers to the cessation of direct violence or armed conflict. While crucial for stabilizing societies in the short term, it offers only a fragile and temporary solution. Positive peace, however, represents a more transformative ideal that encompasses justice, equality and the eradication of the underlying causes of conflict. It aims to build societal structures that ensure harmony, inclusivity and sustained peace.

46. The global experience of the twentieth century, particularly during the First and Second World Wars and the subsequent decolonization struggles, have underscored the limitations of negative peace. While ceasefires and peace treaties sometimes halted immediate violence, they often failed to address the root causes of conflict, including systemic inequality, political marginalization and historical injustices such as colonization. This realization has pushed scholars and policymakers to prioritize positive peace as a comprehensive approach to conflict resolution and social justice. Positive peace, characterized by the presence of justice and equality, is shattered when Indigenous Peoples are denied autonomy and their cultural and territorial rights. Negative peace, or the absence of direct violence, is also violated, as Indigenous communities become targets of systemic violence and exploitation.

A. Historical evolution of peace: from reactionary frameworks to proactive norms

47. The evolution of global peace frameworks reveals a gradual shift from reactive instruments designed to mitigate the consequences of war to proactive measures aimed at fostering positive peace. Early international agreements, such as the Hague Conventions of 1899 and 1907, were focused on regulating warfare and protecting non-combatants. However, these treaties were limited in scope, addressing the symptoms rather than the structural causes of violence.

48. The devastation of the Second World War was a catalyst for a transformative approach to peace. The establishment of the United Nations in 1945 and the adoption of the Universal Declaration of Human Rights in 1948 marked a turning point, with the principles of justice, equality and human dignity embedded into the global peace agenda. This paradigm shift included the recognition that sustainable peace required the structures of oppression, colonialism and systemic inequality to be dismantled.

49. One of the most significant developments in this trajectory was the adoption of the United Nations Declaration on the Rights of Indigenous Peoples by the General Assembly. By affirming the rights of Indigenous Peoples to self-determination, cultural preservation and equitable and sustainable resource access, use and control, the Declaration provided a critical framework for addressing the historical injustices impeding positive peace. It underscored the principle that peace is not merely the absence of violence but is also the presence of justice.

B. Colonialism as a barrier to positive peace

50. Colonialism, both in its historical and modern manifestations, represents one of the greatest obstacles to achieving positive peace. Unlike armed conflicts, which often end with treaties or ceasefires, the legacies of colonialism persist in structural injustices that continue to affect marginalized communities, particularly Indigenous Peoples.

C. Armed conflicts as antithetical to positive peace

51. Armed conflicts, whether driven by territorial disputes, resource competition or political power struggles, directly undermine both negative and positive peace. They exacerbate existing inequalities, disrupt social structures and marginalize vulnerable communities. For Indigenous Peoples, the impacts of armed conflicts are particularly severe due to their historical marginalization and their deep connection to their land, territories and cultural heritage.

D. Role of the United Nations Declaration on the Rights of Indigenous Peoples in promoting positive peace

52. The United Nations Declaration on the Rights of Indigenous Peoples offers a comprehensive framework for addressing the structural injustices that hinder positive peace. By emphasizing self-determination, equitable resource distribution and cultural preservation, the Declaration supports the principles of restorative justice necessary for lasting peace.

53. Key provisions of the Declaration include:

(a) Article 3, on the right to self-determination, empowering Indigenous Peoples to control their political, economic, social and cultural development;

(b) Article 26, on recognition of Indigenous Peoples' rights to lands, territories and resources traditionally owned or occupied or otherwise acquired;

(c) Article 28, on mechanisms for restitution and compensation for lands, territories and resources unjustly taken, ensuring reparative justice.

54. However, the implementation of the Declaration remains inconsistent. States often prioritize national sovereignty and economic interests over Indigenous rights, creating barriers to the realization of positive peace. Although States were urged to adopt national action plans to implement the Declaration at the World Conference on Indigenous Peoples in 2014, progress has been uneven. To date, only Canada, the Plurinational State of Bolivia, El Salvador and British Columbia have enacted legislation to fulfil their obligations under the Declaration, demonstrating the ongoing gap between advocacy and action.

XV. Role of Indigenous wisdom in positive peacebuilding under the United Nations Declaration on the Rights of Indigenous Peoples

55. Indigenous wisdom and knowledge provide critical insights into achieving positive peace by addressing the structural injustices that perpetuate conflict and inequality. Integrating Indigenous perspectives into peacebuilding efforts and conflict resolution processes is essential, not only for ending armed conflicts but also for improving the sociopolitical and cultural conditions experienced by Indigenous

Peoples in these contexts. Indigenous world views are inherently interconnected, emphasizing the unity and interdependence of all life processes, including peacebuilding, environmental stewardship and conflict resolution (see E/C.19/2023/5). Unlike dominant paradigms whereby aspects of life are compartmentalized, Indigenous approaches prioritize equilibrium, not merely among conflicting parties, but also in relation to the well-being of Mother Earth, biodiversity, spirituality and the collective health of all living beings.

56. This holistic and intergenerational perspective offers a unique pathway to transformative justice. By encompassing the cultural, environmental and spiritual dimensions, Indigenous wisdom ensures that peacebuilding efforts move beyond temporary resolutions to address the root causes of systemic injustices. Without such inclusive approaches, peacebuilding initiatives risk replicating the very power imbalances and exclusions that fuel conflict, thereby undermining their effectiveness.

57. Despite international frameworks such as the United Nations Declaration on the Rights of Indigenous Peoples and the principle of free, prior and informed consent, global and national systems remain insufficiently equipped to protect Indigenous self-determination and uphold their legal obligations under those frameworks. Structural barriers rooted in ignorance, apathy or intentional resistance persist within international institutions, hindering the realization of Indigenous rights (see E/C.19/2024/5). These barriers are exacerbated by practices such as the "minoritization" of Indigenous issues, whereby Indigenous concerns are subsumed under broader demographic categories, deprioritizing their unique needs and perspectives in favour of dominant groups.

58. Without significant structural reforms, global systems risk perpetuating neocolonial practices that marginalize Indigenous Peoples in times of both peace and conflict. A commitment to decolonizing institutional frameworks and integrating Indigenous rights-based policies into decision-making processes is imperative. Such reforms must include meaningful engagement with Indigenous methodologies in high-level negotiations, research, data collection and the equitable management of land and resources.

XVI. Fragmentation in international law and the erosion of accountability: colonial mindset and power politics

59. The contemporary fragmentation of international law reflects more than simply technical challenges within the global legal order; it exposes the enduring influence of colonial legacies and the geopolitical ambitions of power-driven States (see A/CN.4/L.702). What was once a vision of collective governance underpinned by justice, as embodied by the formation of the United Nations, is now compromised by competing national interests, systemic impunity and weakened international institutions. The increasing disarray of international law undermines its ability to address crises effectively, leaving vulnerable populations, especially Indigenous Peoples, at the mercy of unchecked power politics.

A. Colonial mindset: a root cause of fragmentation and impunity

60. At the heart of the fragmentation in international law lies a deeply ingrained colonial mindset. Historically, colonial powers manipulated legal frameworks to justify their domination over Indigenous lands, territories and resources, employing narratives of cultural superiority and portraying their conquests as acts of "civilization" and economic progress. While such overt ideologies have diminished in explicitness, their remnants persist in modern political and economic practices and

contemporary governance and international relations, in which the self-determination and sovereignty of Indigenous Peoples are frequently disregarded under the pretence of development, security or even humanitarian intervention. Today, powerful States often exploit legal loopholes or selectively enforce international norms to advance their geopolitical and economic interests, sidelining the principles of equity and justice central to the global legal order. This mindset manifests in three interrelated ways.

61. First, Indigenous lands remain targets for resource extraction, often conducted without the free, prior and informed consent of Indigenous communities. These activities not only devastate ecosystems but also displace Indigenous Peoples, severing their cultural and spiritual ties to their territories.

62. Second, Indigenous voices are systematically excluded from decision-making processes at both the national and the international levels, even when the decisions directly affect their rights, lands and resources. Such political marginalization perpetuates their invisibility in global governance and reinforces cycles of dependency.

63. Third, powerful States selectively apply international legal instruments, ignoring or undermining the provisions of, for example, the United Nations Declaration on the Rights of Indigenous Peoples and General Assembly resolution 60/147 when they conflict with strategic interests. This selective enforcement erodes the credibility of international law and perpetuates systemic impunity.[20]

B. Impact of fragmentation on justice and positive peace

64. The fragmentation of international law has profound implications for the pursuit of positive peace, as discussed in the preceding sections. Positive peace, which emphasizes justice, equity and reconciliation, requires cohesive legal norms to address historical and ongoing injustices. However, the disjointed nature of international legal frameworks often leads to the prioritization of State sovereignty over the collective rights of Indigenous Peoples, creating barriers to meaningful implementation. For instance, while the Declaration and General Assembly resolution 60/147 provide robust principles for restitution, compensation and rehabilitation, their enforcement remains inconsistent, undermined by geopolitical rivalries and the absence of binding mechanisms.

65. This disarray also compromises the ability of international institutions to respond effectively to crises. As discussed in the subsequent section on restorative justice, the global legal system must transition from a punitive approach to one that prioritizes victim-centred remedies. Without addressing the fragmentation that weakens accountability and perpetuates impunity, these efforts risk being superficial and ineffectual.

C. Geopolitical conflicts and the burden on Indigenous Peoples

66. The fragmentation of international law, rooted in colonial legacies, continues to leave Indigenous Peoples vulnerable in modern geopolitical conflicts. The selective enforcement of international norms allows powerful States to prioritize strategic interests over equity and accountability, perpetuating systemic impunity.

67. Geopolitical conflicts such as those in Gaza, Ukraine, the Sudan and Myanmar reveal how historical injustices and colonial ideologies intersect with modern power politics. These cases highlight the disproportionate harm borne by Indigenous Peoples

[20] Antony Anghie, *Imperialism, Sovereignty, and the Making of International Law* (Cambridge University Press, 2005).

and the urgent need to integrate their rights and perspectives into global governance to address the root causes of conflict and build lasting peace.

68. The protracted conflict in Gaza highlights patterns of historical dispossession and the systemic denial of Palestinian sovereignty. Indigenous Palestinians face violence, displacement and political marginalization, with their plight aggravated by the competing ambitions of external powers.[21]

69. The geopolitical struggle in Ukraine has intensified the suffering of Indigenous minorities such as the Crimean Tatars, who have been historically persecuted and are now caught in the crossfire of territorial disputes and political rivalries.[22]

70. Military regimes and authoritarian juntas in the Sudan and Myanmar, driven by a desire for territorial and political control, have perpetrated systematic violence against Indigenous and ethnic minorities. These regimes often operate with impunity, shielded by global power politics that prioritize strategic alliances over human rights.[23]

XVII. From Nuremberg and Tokyo to General Assembly resolution 60/147: the shift toward restorative justice

71. While geopolitical conflicts exemplify the systemic failures of accountability and equity within fragmented legal frameworks, they also highlight the critical need for a paradigm shift in global justice mechanisms. The international military tribunals at Nuremberg (1945–1946) and Tokyo (1946–1948) were groundbreaking in establishing the legal doctrine of individual accountability for crimes against humanity, war crimes and genocide. They codified the principle that perpetrators of mass atrocities, including State leaders, could be held accountable under international law. However, these tribunals focused primarily on retributive justice, giving little attention to the reparative needs of victims or the systemic harms inflicted on colonized and marginalized populations.[24]

72. Punitive justice, focused solely on retribution, has proved inadequate to address the root causes of systemic oppression and historical marginalization, particularly for Indigenous Peoples. For Indigenous Peoples and other historically oppressed groups, the absence of restorative mechanisms in these frameworks meant that structural injustices such as genocide and ecocide, land dispossession, cultural destruction and socioeconomic marginalization remained unaddressed. This gap underscored the limitations of punitive justice in achieving lasting peace and equity.

73. The evolution of international law from the punitive focus of the Nuremberg and Tokyo tribunals to the reparative principles of General Assembly resolution 60/147 reflects a profound shift in the global approach to justice, representing an effort to reconcile accountability with victim-centred remedies. Moving beyond punishment, restorative justice seeks to address structural injustices, restore dignity and establish guarantees of non-repetition.

74. The adoption of General Assembly resolution 60/147 marked a crucial step towards addressing these limitations. By emphasizing restitution, compensation,

[21] United Nations, Office for the Coordination of Humanitarian Affairs, “Humanitarian needs overview: Occupied Palestinian Territory”, January 2023.

[22] See www.amnesty.org/en/location/europe-and-central-asia/eastern-europe-and-central-asia/ukraine/report-ukraine/; and Brian Glyn Williams, *The Crimean Tatars: From Soviet Genocide to Putin’s Conquest* (Oxford University Press, 2015).

[23] Amnesty International, “‘No one can protect us’: war crimes and abuses in Myanmar’s Rakhine State”, May 2019; and International Crisis Group, “Sudan: a year of war”, 11 April 2024.

[24] Steven R. Ratner and Jason S. Abrams, *Accountability for Human Rights Atrocities in International Law: Beyond the Nuremberg Legacy*, 2nd ed. (Oxford University Press, 2001).

rehabilitation, satisfaction and guarantees of non-repetition, the resolution prioritized the needs of both victims and wider society in addressing the root causes of systemic harm. This transition from punitive to restorative justice reflects a broader recognition that accountability must include not only the prosecution of perpetrators but also the restitution of dignity and rights for affected communities.[25]

75. The following section explores this transformative shift, illustrating how the progression from punitive to reparative justice frameworks provides a road map for addressing historical and systemic harm while advancing a sustainable positive form of peace and equity. This transition holds particular significance for Indigenous Peoples, whose experiences of colonization and armed conflict demand comprehensive reparative approaches that bridge the gap between global legal norms and their lived realities.

XVIII. Advancing Indigenous justice through the framework of the right to a remedy and reparation: synergies and principles

76. While General Assembly resolution 60/147 is not explicitly designed for Indigenous contexts, its principles are highly relevant and synergize effectively with the United Nations Declaration on the Rights of Indigenous Peoples. This alignment offers pathways to transitional and transformative justice for Indigenous Peoples, particularly those affected by historical injustices and systemic violations such as colonialism and armed conflict. Below, the key principles of the right to a remedy and reparation are merged with practical mechanisms tailored to Indigenous contexts.

A. Land and territorial restitution: foundational to reparative justice

77. Restitution, as defined in resolution 60/147, seeks to restore victims to their pre-violation status. For Indigenous Peoples, this principle is tied to the return and preservation of ancestral lands and territories, which are central to their cultural identity and self-determination. Articles 8 and 28 of the Declaration underscore the imperative of restitution in cases where lands, territories and resources have been taken without free, prior and informed consent.

78. To address the challenges in implementing this principle, restitution must also include mechanisms for consensual resettlement to equivalent lands and territories when physical restoration is impossible. Beyond land return, holistic rehabilitation, encompassing cultural, economic and legal restoration, plays a crucial role in achieving justice.[26]

B. Truth commissions: amplifying Indigenous narratives

79. The inclusion of Indigenous perspectives in truth-telling processes is in line with the principles of satisfaction and guarantees of non-repetition under General Assembly resolution 60/147. Truth commissions serve as vital platforms for documenting systemic violations, cultural erasure and historical injustices. They validate the lived experiences of Indigenous Peoples, fostering a sense of justice and reconciliation. Measures such as public acknowledgments, apologies and commemorations are

[25] William A. Schabas, *An Introduction to the International Criminal Court* (Cambridge University Press, 2011).

[26] Laurence J. Kirmayer, Joseph P. Gone and Joshua Moses, “Rethinking historical trauma”, *Transcultural Psychiatry*, vol. 51, No. 3 (2014).

essential components of satisfaction but must be guided by the participation and consent of the affected communities (see E/CN.4/Sub.2/1994/31, annex).

C. Guarantees of non-repetition and institutional reforms: embedding Indigenous rights into national legal frameworks

80. Guarantees of non-repetition, as outlined in General Assembly resolution 60/147, require structural reforms, such as civilian or democratic control of military and security forces, protective measures, the recognition of Indigenous legal systems and the enforcement of the principle of free, prior and informed consent, to dismantle systemic discrimination and prevent future violations. In the Indigenous context, the rights of Indigenous Peoples must be embedded into national legal frameworks, including through the recognition of traditional laws, tenure systems and governance structures. Educational reforms, the enforcement of the principle of free, prior and informed consent and civilian oversight of military forces are critical for achieving systemic transformation. By institutionalizing these measures, States can build trust and ensure the sustainability of reparative efforts.

D. Compensation: addressing material and immaterial losses

81. Compensation, a core principle of General Assembly resolution 60/147, addresses material and immaterial harms, including economic losses, pain and suffering. However, financial compensation alone is insufficient for Indigenous Peoples, as it cannot replace the cultural and spiritual significance of the loss of their peoples, lands, territories, resources, cultures and languages. Article 28 of the Declaration emphasizes the primacy of land restitution or consensual replacement with equivalent lands and territories over monetary compensation. Nonetheless, financial measures can play a supplementary role, covering opportunity costs or damages incurred during the period of dispossession.[27] Restitution of land, territory and resources or replacement with comparable land, territory and resources, or a combination of the two, would therefore be acceptable with the affected community's consent, as noted in article 28, paragraph 2, of the Declaration.[28]

E. Rehabilitation: restoring holistic well-being

82. Rehabilitation under General Assembly resolution 60/147 extends beyond medical and psychological care to include social, legal and vocational services that restore victims' dignity and autonomy.[29] For Indigenous Peoples, rehabilitation must also address the socioeconomic and psychological impacts of dispossession and historical injustices. Culturally sensitive programmes that prioritize the restoration of identity, community cohesion and economic self-sufficiency are indispensable.

F. Satisfaction

83. The Declaration supports measures to foster satisfaction that justice has been done, including the disclosure of the truth, the recovery of bodies, the apprehension and prosecution of perpetrators and official declarations, commemorations and

[27] S. James Anaya, *Indigenous Peoples in International Law*, 2nd ed. (Oxford University Press, 2004).

[28] "Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress."

[29] Kirmayer, Gone and Moses, "Rethinking historical trauma".

tributes in recognition of the victims. Beyond these recommendations, however, only the victims can determine whether they are satisfied with the outcome of such measures and whether remedy and reparation have in fact been achieved.

84. Despite the challenges posed by fragmentation and impunity, instruments such as General Assembly resolution 60/147 demonstrate the potential of international law to advance justice when implemented with political will and good faith. By aligning reparative and restorative principles with the collective rights of Indigenous Peoples, the global community can move towards a more equitable legal order. The integration of these frameworks into transitional justice mechanisms offers a pathway to transformative justice, ensuring that the rights of Indigenous Peoples are not only recognized but also realized.

85. The challenge lies not in the absence of legal norms but in their implementation. The international community must rise above the colonial mindset and power politics that perpetuate injustice, and embrace the principles of restitution, accountability and equity as the foundation for a just and sustainable future.

86. While calling for fundamental change through social and cultural transformation may seem ambitious, the necessary tools for the practical work towards restorative justice already exist. Practical examples include the normative methods and quantitative impact assessment tools developed by the Housing and Land Rights Network of the Habitat International Coalition.[30] Its detailed impact-assessment tool[31] enables affected communities to take a comprehensive inventory of the values at stake in the deprivation of habitat experienced by Indigenous Peoples. Aligned with General Assembly resolution 60/147 and grounded in other codified human rights norms, the tool has been applied in 30 cases across eight countries, promising to fill the gap of detail that is overlooked in the usual macro-level and remote methods of damage assessments in response to conflicts and environmental disasters.[32] It is designed to provide the details needed to achieve justice and eventual remedy, reparation and reconciliation for affected communities.

XIX. Conclusion and recommendations

A. Conclusion

87. The compounded impacts of colonization and armed conflicts have resulted in systematic violations of the rights of Indigenous Peoples, including their fundamental rights to life, self-determination, land, territories, resources and cultural preservation. These violations, ranging from forced displacement to environmental destruction, stem from both historical colonial practices and their modern manifestations. Armed conflicts, frequently centred in resource-rich Indigenous territories of life, have exacerbated these injustices, subjecting Indigenous Peoples to violence, loss of lands and territories, cultural erosion and socioeconomic instability. Such actions not only are breaches of international law but also reflect a persistent colonial mindset that disregards the inherent dignity and rights of Indigenous Peoples.

88. In the present study, the authors have traced the historical evolution of justice frameworks, from the punitive approaches of the Nuremberg and Tokyo tribunals to the reparative principles enshrined in General Assembly resolution 60/147. This

[30] Housing and Land Rights Network, Violation Database, available at www.hlrn.org/welcome_violation.php.

[31] Available at www.hlrn.org/spagenew.php?id=qnE=.

[32] Housing and Land Rights Network, “Applications of HLRN’s Violation Impact-Assessment Tool”, n.d.

transition reflects an acknowledgment that justice must go beyond punishment to address structural harms, restore dignity and guarantee non-repetition. The authors also emphasized the fact that the tools for achieving this transition are already embedded in international law and human rights frameworks, including the United Nations Declaration on the Rights of Indigenous Peoples and resolution 60/147. These instruments provide robust mechanisms to address historical injustices, protect Indigenous rights and foster reconciliation.

89. Drawing on the philosophy of Frantz Fanon, the authors demonstrated that dismantling the psychological, material and structural mechanisms of colonialism is essential to achieving justice and equity. Fanon's call for liberation and the reclamation of identity provides a foundational framework for addressing systemic oppression. Moreover, transitioning from negative peace, defined as the mere cessation of violence, to positive peace necessitates confronting the root causes of inequality and prioritizing the interconnectedness of justice, equity and dignity. Indigenous cosmologies, which conceptualize peace as harmony among humanity, the environment and spirituality, offer a transformative lens for reimagining global peacebuilding and peacekeeping efforts.

90. Although international law provides robust mechanisms for protecting Indigenous rights, their implementation remains inconsistent due to a lack of accountability and political will. To bridge the gap between principles and practice, the global community must commit to implementing these instruments, holding States and institutions accountable and promoting Indigenous Peoples' voices in all peacebuilding and peacekeeping processes.

B. Recommendations

1. Transition from negative peace to positive peace

91. Peacebuilding and peacekeeping efforts must go beyond ending violence to address the structural injustices that perpetuate conflict and inequality. Positive peace should integrate Indigenous cosmologies, which emphasize interconnectedness and balance across all aspects of life. This approach requires dismantling colonial legacies, restoring Indigenous lands and territories, and fostering harmony not only among conflicting parties but also with the environment, biodiversity and the spiritual realms.

2. Address violations of Indigenous rights in armed conflicts

92. Indigenous Peoples are disproportionately affected by armed conflicts, which often target their lands, territories and resources. Armed conflicts violate not only their sociocultural rights but also their fundamental right to life. States and international actors must ensure strict adherence to humanitarian and human rights laws, particularly articles 25 to 32 of the United Nations Declaration on the Rights of Indigenous Peoples, which provide for the protection of Indigenous territories and self-determination. Immediate measures should include a complete peace process in Indigenous lands and territories and the halting of resource extraction without free, prior and informed consent, thus preventing forced displacement and safeguarding cultural heritage and human life during armed conflicts.

3. Implement restorative justice mechanisms

93. The restitution of ancestral lands and territories, the rehabilitation of communities and guarantees of non-repetition must be prioritized in restorative justice frameworks. Where physical restitution is unfeasible, equivalent compensation should be offered, guided by the consent and participation of Indigenous Peoples. Rehabilitation

programmes must address intergenerational trauma and be focused on restoring socioeconomic stability and cultural identity.

4. Strengthen accountability and compliance

94. International frameworks such as the Declaration and the Geneva Conventions of 12 August 1949 and other international human rights laws must be implemented to hold States and corporations accountable for violations of Indigenous rights. Mechanisms for monitoring compliance should include independent oversight bodies to ensure the implementation of the principle of free, prior and informed consent, land restitution and equitable resource management. Violations of the right to life, dignity and cultural integrity must be met with robust legal consequences.

5. Empower Indigenous participation

95. Indigenous Peoples must be active participants in peacebuilding, peacekeeping, governance and resource management processes. Their perspectives and knowledge should guide decision-making at all levels, ensuring that policies reflect their needs and aspirations. International institutions must create inclusive and effective platforms for Indigenous voices to shape global frameworks for justice and reconciliation.

6. Address neocolonial practices

96. Modern forms of colonization, such as economic dependency, resource exploitation, unilateral coercive measures and sanctions, must be dismantled. International financial institutions should reform debt mechanisms and structural adjustment programmes that undermine Indigenous sovereignty. States must also ensure that unilateral coercive measures, sanctions and other economic measures do not disproportionately harm Indigenous Peoples, depriving them of development, essential resources, services and livelihoods.

7. Operationalize the United Nations Declaration on the Rights of Indigenous Peoples and integrate it into national legislation

97. States must incorporate the Declaration into national legal and policy frameworks to comprehensively protect Indigenous Peoples' rights. Articles 3, 26 and 28 should be prioritized to ensure land restitution, self-determination and reparations. International institutions should support States through technical and financial assistance while monitoring compliance and progress.