

# Criminalization of and impunity against indigenous peoples in the time of Covid-19<sup>1</sup>

A mid-year special issue of Indigenous Peoples Rights International's (IPRI) on the Global Initiative to Address and Prevent Criminalization of and Impunity Against Indigenous Peoples

The Covid-19 pandemic has not only unveiled the existing issues of indigenous peoples with regards to access to proper health care and other basic social services. It has also revealed their general vulnerability to attacks and violence while defending their lands and territories. The UN Special Rapporteur on the Rights of Indigenous Peoples (UNSRIP), Jose Francisco Cali Tzay, had already raised the alarm in May saying "I am receiving more reports every day from all corners of the globe about how indigenous communities are affected by the [COVID-19](#) pandemic and it deeply worries me to see it is not always about health issues."

Indigenous peoples are not only facing the threat of Covid-19 but also, if not more so, the threat of a growing epidemic of impunity. Governments and business corporations are taking advantage of the pandemic to further disregard their individual rights and collective rights to their lands and territories. Indigenous Peoples Rights International's (IPRI) [echoes](#) the concern of human rights organizations and local activists over governments imposing oppressive measures that seem to be more effective in curbing human rights than the spread of Covid-19. With the current oppressive measures, the criminalization of and impunity against indigenous peoples have worsened in this time of Covid-19.

"The forest personnel not only ruined our crops on acres of land, but also pelted stones and assaulted us."

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Lakha Singh, tribal villager of Hardi village, Rewa district who was forcefully [evicted](#) in violation of India's Forest Rights Act

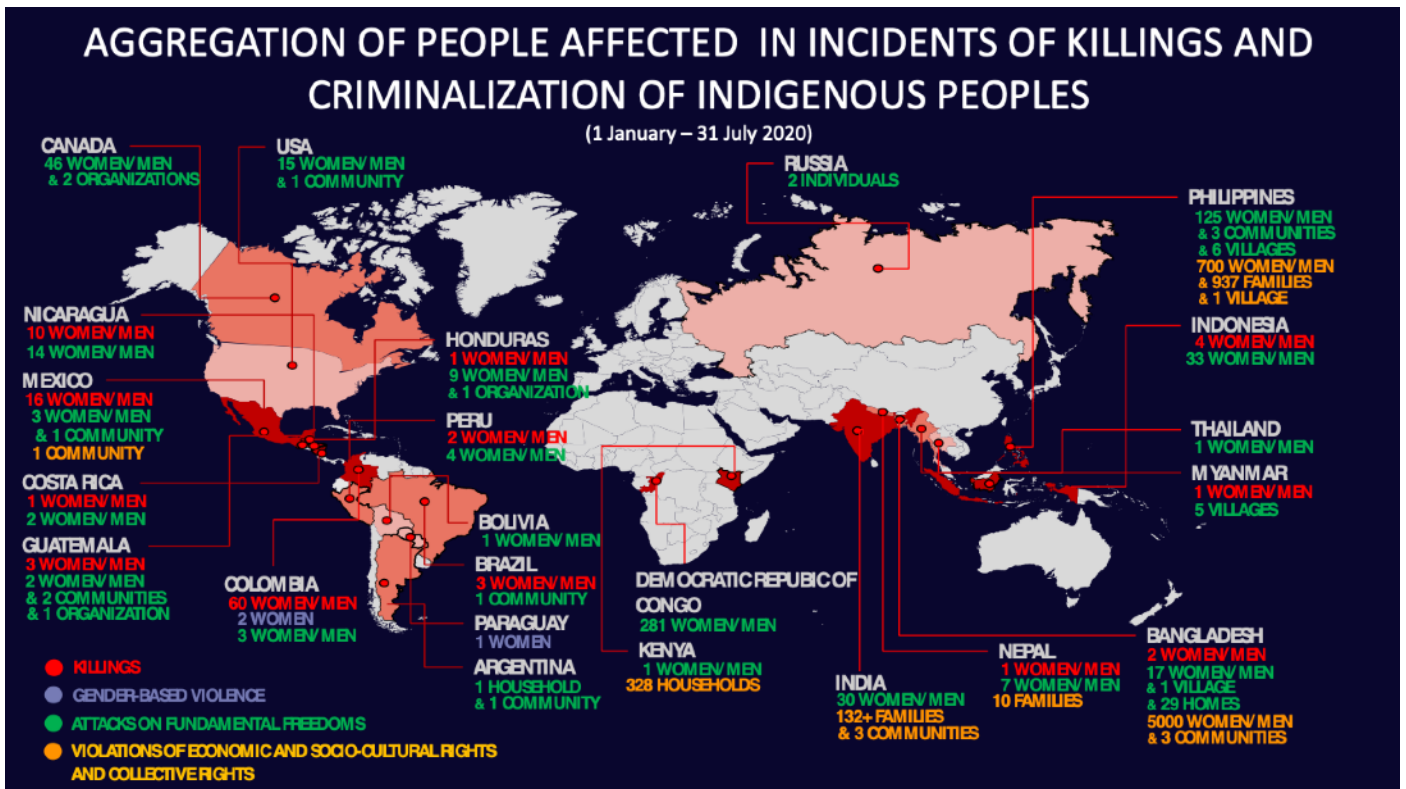
## *Criminalization of and impunity against indigenous peoples in the time of Covid-19*

*"The two murdered Indigenous leaders [Omar Guasiruma and Ernesto Guasiruma of the Emberá indigenous community] and the two wounded belong to the same family and were at home following the quarantine order."*

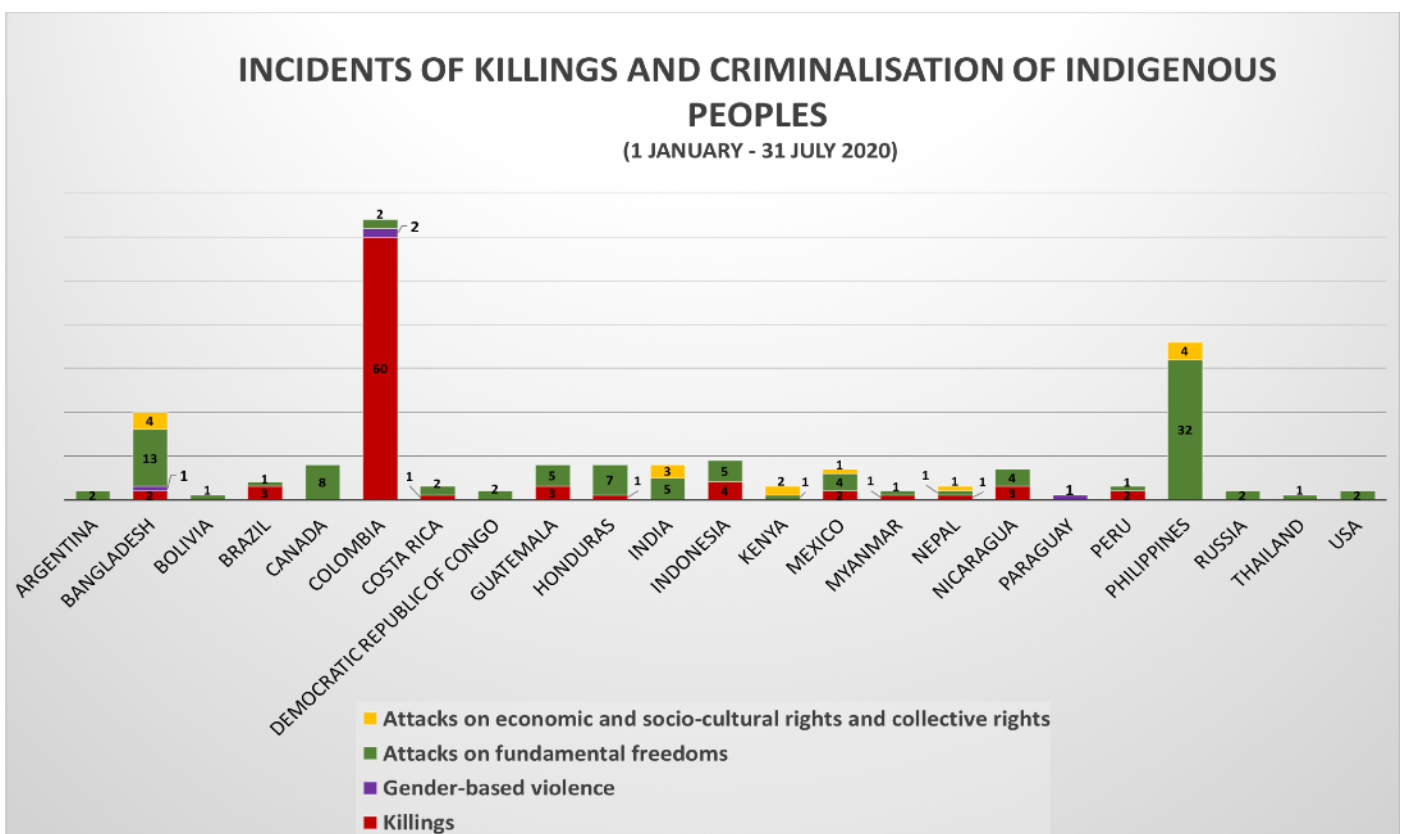
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National Indigenous Organization of Colombia/Organización Nacional Indígena de Colombia ([ONIC](#))

While indigenous communities comply with the imposed lockdowns, if not observe their traditional practice of self-isolation, they are either killed or violently harassed in their homes and ancestral lands. Similarly, as indigenous peoples are restricted from organizing peaceful protests and expressing their legitimate dissent, business corporations, particularly those that involve exploitation of natural resources within indigenous territories, are continuing with their operations and advancing their attempts to seize indigenous territories.

*Figure 1 and Figure 2<sup>2</sup> provide a glimpse at the alarming trend of attacks and criminalization of indigenous peoples during this pandemic.*



**Figure 1: Incidents of killings and criminalization on indigenous peoples.** It shows the incidents of human rights violations in indigenous communities in 23 countries from 1 January – 31 July 2020. The incidents refer to the number of instance or occurrence of rights violations broadly categorized as killings, attacks on fundamental freedoms, attacks on economic and socio-cultural rights and gender-based violence. The data on *killings* are reflected separately from attacks on fundamental freedoms. The data on *attacks on fundamental freedoms* are those that involve trumped-up charges, abduction, confinement, attacks on freedom of assembly and expression, illegal arrest and illegal detention, among others. The data on *attacks on economic and socio-cultural rights* are more focused on collective attacks on indigenous peoples’ right to livelihood, housing, culture and self-determination. The *gender-based violence* is separated from the attacks on fundamental freedoms to better reflect the particular assaults to indigenous women and girls.



**Figure 2: Aggregation of incidents of killings and criminalization of indigenous peoples.** It shows the number of people affected per incident of rights violation. The incidents of rights violations have varying counters. The attacks on fundamental freedoms or attacks on economic and socio-cultural rights often affect indigenous peoples collectively. Thus, the use of collective counters (i.e. home, household, village, community and/or organization). The collective counters are reflected separately as each collective counter is not a repetition from the other counters. There is a current challenge to streamline the counters for collective incidents of rights violations unless particularly reported from partners on the ground. The decision to use women/men to refer to individual count was to emphasize that women are also affected in the other incidents and not only in gender-based violence.

Figure 1 and Figure 2 show a correspondence between the incidents of killings and gender-based violence and their respective number of people affected, i.e. the number of incidents is equal to the individual number of people affected.

It is just the start of the third quarter of 2020 but Colombia already shows an alarming record on killings. The 60 killings reflected in the *Figure 1* is already equivalent to its recorded number of killings for the whole year of 2019 as shown in IPRI's 1<sup>st</sup> global report released in December 2019. Also, [Defending Tomorrow](#), Global Witness' 2019 account on murdered land and environmental defenders released in July 2020, reveals that the highest number it has ever recorded in Colombia is in 2019. The 2018 and 2019 accounts of Global Witness exposed how Colombia, together with the Philippines, is notorious for being the most dangerous countries for environmental defenders.

In this special issue of IPRI, Philippines has 32 incidents of attacks on fundamental freedoms, the highest in all 23 countries shown in *Figure 1*. So far, there has been no record of killings of members of indigenous communities within the period covered in this issue. The 32 incidents of attacks on fundamental freedoms accounted to a total of 125 individuals, three communities and six villages.

*On 18 May 2020, the 88th Infantry Battalion of the Armed forces of the Philippines (AFP) arrested members of the indigenous Lumad communities and peasants. They rounded up the residents of three villages in Bukidnon province of the island of Mindanao. They arrested residents they suspected to be members of the New People's Army (NPA), the armed wing of the Communist Party of the Philippines (CPP). NPA is considered a terrorist organisation by the Philippine government and the international community.*

National Alliance of Indigenous Peoples in the Philippines/  
Kalipunan ng mga Katutubong Mamamayan ng Pilipinas  
(Katribu), Special [Report](#): Philippine Indigenous Peoples  
amidst Covid-19 pandemic, June 2020

With regards to attacks on economic and socio-cultural rights, Bangladesh and Philippines have the highest number accounting to four for each country. Those four incidents affected 5000 individuals and three communities, for Bangladesh, and 700 individuals, 937 families and one village, for Philippines. The incidents of attacks on economic and socio-cultural rights are often a consequence of institutionalized operations of land grabbing and displacement. Government initiatives like imposition of conservation and other infrastructure projects are among the major causes. There is also the impunity of corporations and private individuals that either

acquire indigenous territories without the communities' free, prior and informed consent (FPIC) or with outright violence.

The reported incidents of attacks on gender-based violence account to three incidents in total, with two happening in Colombia and one in Paraguay. The two incidents in Colombia involve a woman and a 13-year-old girl. The woman is [Jakelin Romero](#) from the Wayúu community in La Guajira, Colombia. She is an indigenous rights activist and have been vocal about her resistance to the [Cerrejón](#) coal mine. Receiving death threats went together with her protesting against the coal mine. "They threaten you with rape, or with the killing of your son or your mother," she said. And that happens to all the other women who voice out their dissent to Cerrejón.

The 13-year-old girl is from the Emberá community. Seven soldiers confessed to raping her. The perpetrators are now facing [civilian trials](#) but the community have initially [requested](#) their government that the perpetrators be subjected to their own laws, which is recognized in Colombia's constitution.

The [case](#) in Paraguay is another child, a 12-year-old girl from the Guaraní community. The perpetrator is a 26-year-old and he has been in custody. The report does not mention if the case has been filed in court.

The incidents of gender-based violence is overshadowed by the higher number of incidents of the other broad categories of rights violation reflected in the *Figure 1*. But IPRI recognizes that our data partially reflect the reality on the ground; it provides a vignette of the threats that indigenous women and girls endure. The [UN Women](#) has pointed out that Covid-19 stay-at-home orders dramatically increased the susceptibility of women and girls to domestic violence, including in indigenous communities. It has described the violence on women as the “[shadow pandemic](#)” in the context of Covid-19.

It should be noted that the three incidents on gender-based violence are not the only cases that affected indigenous women and girls. Within the other categories of rights violations that are currently used here in IPRI’s special issue, there are also indigenous women and girls who were affected but accounted under other the broad category of rights violation. Just to provide an example, an incident in Nepal involving seven youths included two women. They are from Chepang community. They were illegally detained by the army for collecting snails they call Ghongi at Chitwan National Park on 16 July. Their case was put under attacks on fundamental freedoms. Another example is a case of illegal arrest of four individuals from West Papua, Indonesia. That case included an elderly woman and was categorized under the attack of fundamental freedoms. Also, in Nicaragua, a 16-year-old Miskitu girl was shot at within the Wangki Twi-Tasba Raya territory in February—this is again under attacks on fundamental rights. Another case on attacks of fundamental freedoms that involves women is a case of physical attacks involving police beating five indigenous women, including a 16-year-old girl, while they were on their way home. Another case is with the three Wet’suwet’en matriarchs – Tait, Freda Huson and Brenda Michell – who were among the 28 people arrested in relation to Canada’s Coastal GasLink project, which was accounted under attacks on fundamental freedoms. And, the case of the threat and intimidation of Katima Leeja, an indigenous Lisu, from Thailand was also categorized under attacks on fundamental freedoms. Furthermore, the case of a pregnant Jumma on her way to the hospital was detained by security forces and died while in their custody—this was under the category of killings. These are just few examples of the almost 200 incidents documented in this issue that, although, involve women and girls, are accounted in the broad categorization of rights violations.

### *Threats from repressive policies and measures to address economic impact of Covid-19<sup>3</sup>*

There have been [oppressive laws and policies](#) and other emergency declarations that were imposed as a measure to curb the spread of Covid-19 that directly affect the right to freedom of expression, assembly and privacy.<sup>4</sup> But aside from these ad hoc policies, which are often [implemented even beyond a crisis](#), there have also been a surge of economic plans and targets that further threaten indigenous lands and territories. These measures are justified as solutions to the economic downturn that is also sweeping the world as a consequence of dealing with the Covid-19 pandemic. But many indigenous activists and human rights organizations are quick to criticize such measure. They have raised concerns over its long-term impact even after the imminent threat of the pandemic.

In India, Prime Minister Narendra Modi launched commercial mining on 18 June 2020. That will open doors for the private sector, from both national and overseas, to a regulated coal sector for commercial mining. He [claims](#) “that the consumption and demand are gradually reaching the pre-Covid levels and there can't be a better time for ushering in this reform.” He expects this to generate more revenue and create more employment opportunities.

In Indonesia, there is the so-called Omnibus Bill that are expected to [amend](#) 1,200 amendments to at least 80 existing laws in a bid to deregulate the economy and boost investment, including in the environmental sector. Indigenous communities and activists are primarily worried about the removal of the environmental impact assessment (EIA) and environmental permits as requirement for businesses to operate.

Shinta Kamdani, deputy chairwoman of Indonesia's Chamber of Commerce and Industry, said, "The COVID-19 pandemic has made the bill even more relevant and essential to support economic recovery. We need structural reform and a greater amount of investment to offset the job losses caused by the pandemic." President Jokowi Widodo also [strongly supports](#) the fast-track passing of the bill. He expects the bill to have gone through deliberations by this coming September.

In Peru, the Minister of Economy, María Antonieta Alva, suggested to conduct prior consultations for mining projects via virtual platform but the Minister of Energy and Mines, Susana Vilca, later refuted this suggestion. The indigenous communities strongly rejected the Alva's suggestion. There are [13 extractive projects](#) within their territories that are expecting prior consultations.

Other allies also voiced out their criticism to such a callous suggestion at the time of a pandemic that are hitting indigenous communities particularly hard. César Ipenza, a lawyer specializing on environmental issues said, "It is contradictory that the government has last attended to the indigenous communities with regards to the Covid-19 and now wants to accelerate investment processes in this same population. It's not just a matter of sending information and saying "answer me'," even more so when the communities don't even have Internet. I think there was an unrealistic situation in the country, which would not have met the standards of demanding an open and clear dialogue as required by law."

Similar to Indonesia, environmental and indigenous activists in Canada are also [raising](#) their concerns over EIA and indigenous rights being sacrificed for the sake of rapid post Covid-19 economic recovery in their country. They noted Quebec Bill 61 and Ontario's Bill 197 also known as Covid-19 Economic Recovery Act, 2019 as among the most worrying of these economic measures.

The Quebec Bill 61 "would allow the government to expedite environmental reviews for 202 projects and make certain provisions of the Environmental Quality Act inapplicable." While the Bill 197 of Ontario "introduces substantial amendments to the province's *Environmental Assessment Act* with the goal of reducing assessment time for major projects by up to 50%."

*Excessive privileges to large-scale investment so far have shown facts that are very detrimental to Indigenous Peoples. Customary territories were seized and permits were granted for investment in the forestry, plantation, mining and others sectors. But in fact, even without these investments, Indigenous Peoples are able to survive and earn high incomes.*

-- Alliance of Indigenous Peoples in the Archipelago/  
Aliansi Masyarakat Adat Nusantara, [Public statement](#) on Indonesia's Omnibus bill

*Several mining companies [confined employees](#) at their workplace. The confinement facilities for workers are very crowded like the cases of Katanga, Tanganyika, North Kivu, South Kivu and Kasai. In May 2020, more than 273 pygmies have been victims of this situation of confinement in mining sites for more than two months under deplorable hygiene conditions.*

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Programme Integre Pour le Developpement du Peuple  
Pygme au Kivu (PIDP-Kivu), Report on the human  
rights situation of indigenous peoples and the impact  
of Covid-19 in Democratic Republic of Congo,  
June 2020

The Canadian EIA legislation is quite an important framework for First Nations in the country. It includes "mechanisms for delegating some of the impact assessment, or even substituting the entire process to Indigenous jurisdictions." Although far from flawless, the EIA still provides a space for First Nations to have a sense of control on projects that will directly affect them and their territories. But these are all threatened with the introduction of laws and policies that undermines indigenous collective rights' to FPIC.

*Conclusion*

The systemic discrimination of indigenous peoples rooted in colonialism and assimilation has pushed indigenous peoples at a disadvantaged position in the society. In nation-states where indigenous peoples exist, they are often the poorest and have the least access to proper health care, quality education, employment and access to justice, just to name a few. The Covid-19 has made these underlying issues ever more prominent. This is not even mentioning Covid'19's possibility to wipe out an entire indigenous community due to their general lack of immunity to such novel viruses.

The threat of Covid-19 on their health is surpassed by another long-standing concern that they have been known to fight and die for, either consciously or not, and that is, defending their territories. In this special issue of IPRI, the criminalization of and attacks against indigenous peoples as a result of having their rights inadequately respected and protected show an alarming increase in its occurrence globally. It also presented the worrying trend of governments and business corporations explicitly capitalizing on the Covid-19 pandemic to prioritize profit over indigenous rights. This has resulted to rollbacks in human rights and environmental safeguards that were hard-won progresses in the past.

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<sup>1</sup> Any use of content or information in this report should be cited. Suggested citation: Indigenous Peoples Rights International (2020). *Criminalization and impunity against indigenous peoples in the of Covid 19: A mid-year special issue of Indigenous Peoples Rights International's (IPRI) on the Global Initiative to Address and Prevent Criminalization of and Impunity Against Indigenous Peoples*. Baguio City, Philippines.

<sup>2</sup> The data presented are from both primary and secondary data. The primary data are from indigenous organizations and other allies that closely work with communities on the ground. The secondary data are from international and local news reports and reports from national and local human rights and/or indigenous organizations. Whenever necessary and possible, the secondary data are verified with our sources of primary data. IPRI is aware that the data presented is not comprehensive as many incidents of criminalization and impunity against indigenous peoples are left unreported or undocumented; IPRI also recognizes the limitation of its current resources.

<sup>3</sup> IPRI is also monitoring laws and policies that pose threat to the rights of indigenous peoples. But for this special issue, it will focus on those that are justified in relation to addressing the economic impact of Covid-19.

<sup>4</sup> Despite the general shrinking of democratic in this time of a pandemic, on 5 June 2020, the National Assembly of Democratic Republic of Congo (DRC) [adopted](#) the bill that recognizes and safeguards the rights of indigenous peoples. Although much still needs to be done, this is a huge progress for indigenous peoples in the country and their allies who have been pushing for the adoption of the bill since 2014.