

Strengthening the Rights to Culture and Mental Health in the Face of Environmental Violence

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ABSTRACT

Connections between the rights to culture and mental health are underdeveloped in international human rights law. This article interrogates the international legal framework relevant to these rights in the context of environmental violence against Indigenous Peoples and other land-dependent communities. It argues these rights can be strengthened by (1) accommodating alternative conceptions of mental health, (2) recognizing the rights to spiritual and cultural health, (3) treating cultural rights as underlying determinants of mental health, (4) evading a narrow focus on culturally appropriate treatment, and (5) framing the rights to culture and mental health as interrelated, interdependent, and mutually enforceable rights.

Keywords: cultural rights; mental health; environmental violence; Indigenous Peoples; climate change

INTRODUCTION

Climate change, pollution, biodiversity loss and other forms of environmental change, destruction, and degradation (referred to in this article, collectively, as ‘environmental violence’) present existential threats to humanity.¹ For Indigenous Peoples and other land-dependent communities, these threats are regrettably coming to fruition in numerous ways.² Their lands, territories and resources are being severely degraded through climate change-induced weather events, unsustainable agricultural practices, tourism, and large-scale development projects.³ Many have been forced from their territories, rendering them unable to physically or culturally exist in their homelands.⁴ These groups suffer further harm from misguided efforts to combat the climate change and biodiversity crises, including through the creation of protected areas, green energy projects, and other mitigation and adaptation measures that infringe on their fundamental rights.⁵ These harms regularly result from and are compounded by ongoing structures and legacies of colonialism which make Indigenous Peoples and other land-dependent communities

disproportionately impacted by environmental violence.⁶

Environmental violence not only affects physical territories and bodies, but it also threatens the non-physical in myriad and severe ways.⁷ For Indigenous Peoples and other land-dependent communities, it causes devastating forms of cultural loss, including through the dispossession of their territories, inability to access cultural and spiritual sites, barriers to engaging with cultural practices and transferring traditional knowledge, and disruptions to traditional livelihoods and activities.⁸ This cultural disconnection jeopardizes particular ways of life and the social fabric that binds communities together and gives their lives meaning.⁹

There is also a growing recognition that environmental violence is negatively impacting human mental health, with Indigenous Peoples and other land-dependent communities being disproportionately affected.¹⁰ Land dispossession, changes to territory, and disruptions to land and water-based activities can cause and aggravate various adverse mental health conditions.¹¹ Psychological conditions such as eco-anxiety, eco-grief, and solastalgia are being experienced by individuals and groups who fear the impact of environmental violence on their lives and who long to return to an environment in which they can work, play and exist as they always have.¹² In many ways, these negative impacts reflect the entangled relationships between culture and mental health in the face of extraordinary threats to territory and the environment.

The relationships between culture, mental health and the environment are being studied and recognized in a growing body of public health and social science literature.¹³ Indigenous researchers, in particular, have been at the forefront of this work.¹⁴ Among other things, it demonstrates that the cultures and mental health of Indigenous Peoples and other land-dependent communities are highly dependent on each other and contingent on their ability to access, enjoy, connect with and benefit from their territories and natural environments.¹⁵ From an international

human rights law perspective, however, these intersections remain underrecognized and underdeveloped in both scholarship and practice. This article seeks to address this specific gap by examining the legal relationship between the right to culture and the right to the highest attainable standard of mental health in the context of environmental violence threatened against or experienced by Indigenous Peoples and other land-dependent communities.

Like all human rights, the rights to culture and mental health are indivisible, interdependent, and interrelated.¹⁶ The interdependence and interrelatedness of Indigenous Peoples' land rights and cultural rights already have strong grounding in the international human rights law framework.¹⁷ The same, however, cannot be said with respect to the links between culture and mental health. This runs counter to the fact that culture is a significant underlying determinant of mental health, particularly for Indigenous Peoples and other land-dependent communities.¹⁸ Cultural rights violations often lead to negative mental health outcomes, precluding individuals and groups from realizing their right to mental health.¹⁹ At the same time, failure to ensure the highest attainable standard of mental health can prevent people from accessing, participating in, enjoying, and benefiting from their cultures.²⁰ Thus, there exists an inextricable relationship between culture and mental health for these groups and that relationship can be reinforced under international human rights law.

This article interrogates the international legal framework relevant to the intersections between culture, mental health and the environment and explores avenues in which international human rights law can bolster cultural and mental health protections in the face of environmental violence. In particular, it argues that the relationships between culture and mental health can be made more explicit and strengthened in international human rights practice and standard-setting by (1) accommodating alternative conceptions of mental health, (2) explicitly recognizing the

rights to spiritual and cultural health, (3) treating cultural rights as underlying determinants of mental health, (4) moving beyond a narrow focus on the right to ‘culturally appropriate’ mental health treatment, and (5) by framing the rights to culture and mental health as interrelated, interdependent, and mutually enforceable rights. For Indigenous Peoples and other land-dependent communities suffering from long-standing and intergenerational cultural loss and psychological trauma, acknowledging and fortifying the links between these rights provides an additional layer of protection regarding both their cultures and their mental health.²¹

This article proceeds in three stages. First, it summarizes how cultural loss, poor mental health and environmental violence intersect for Indigenous Peoples and other land-dependent communities. While the severe effects of environmental violence on territories and physical health are centered in the discourse, there is a growing and evolving space acknowledging its equally devastating impact on cultures and mental health. Second, it briefly provides the legal framework safeguarding cultural rights and the right to the highest attainable standard of mental health under international human rights law. Robust protections exist across various instruments, but significant gaps remain, particularly with respect to a lack of standards specifically protecting culture and mental health in the context of the environment. Lastly, this article explores how the nexus between the rights to culture and mental health can be strengthened for Indigenous Peoples and other land-dependent communities. Five (5) non-exclusive pathways are proposed, all of which seek to bolster and expound the legal relationship between culture and mental health in ways that recognize their close relationship with each other.

ENVIRONMENTAL VIOLENCE, CULTURAL LOSS, AND POOR MENTAL HEALTH

Environmental violence threatens all facets of life. Climate change-induced events, such as rising sea levels, intense droughts, increased flooding, and severe fires and storms are regularly mentioned as core consequences of our increasingly warming world.²² Development projects, large-scale agriculture and extractive activities are commonly positioned as harmful to physical territories and physical well-being.²³ Air pollution and toxic exposure wreak havoc on ecosystems and human bodies.²⁴ It is well-documented that these events and activities directly threaten physical health, including through increases in illnesses, disease, malnutrition, bodily injuries, and premature deaths.²⁵

As a result, health consequences arising from environmental violence are often discussed solely in the context of physical health.²⁶ For instance, on its official website, the European Commission limits its discussion of health-related climate change consequences to mortality, morbidity, disease and changes to air quality and ozone.²⁷ These are described as the ‘most important health effects from future climate change’.²⁸ Moreover, a 2021 survey conducted by the World Health Organization (WHO) found that only 9 out of 95 countries surveyed incorporated mental health support into their national health and climate change plans.²⁹ This is illustrative of a historically narrow approach to understanding environmental violence as primarily damaging physical bodies and spaces.

In recent years, however, it is increasingly recognized that environmental violence threatens the non-physical as well as the physical.³⁰ This article is concerned with two interrelated areas where environmental violence produces non-physical harm to Indigenous Peoples and other land-dependent communities. First, it inflicts devastating forms of cultural loss and associated cultural rights violations on these groups, especially those whose cultural

identities and practices are inseparable from their lands, territories, and resources. Second, it causes and exacerbates adverse mental health outcomes. For Indigenous Peoples and other land-dependent communities, this risk is particularly acute, compounded by pre-existing trauma, structural violence and cultural dislocation brought about by colonialism and sustained through colonial structures and legacies.

A. Environmental Violence and Cultural Loss

Environmental violence is the single largest threat to human cultures, and hence, cultural rights.³¹ Cultural identities are contingent on healthy, thriving ecosystems.³² With climate change, alone, large segments of the global population will not be able to adequately access, participate in and contribute to cultural life if the global warming threshold of 1.5 degrees Celsius is surpassed.³³ Cultural loss is occurring, and will likely intensify and worsen in the coming years, including through forced displacements, loss of territory, erosion of traditional livelihoods, the destruction, inaccessibility or alternation of cultural sites, inability to transfer traditional knowledge, and language loss.³⁴ This has already had profound impacts on the cultural identities and heritage of people across the world.

As rehearsed comprehensively elsewhere, environmental violence does not affect people equally, with certain marginalized groups and places being more vulnerable to environmental change, destruction, and degradation.³⁵ The risks are particularly disproportionate with respect to Indigenous Peoples because their cultural identities and practices are often grounded in specific, physical territories.³⁶ The cultural survival of these groups depends on robust protections from environmental threats and a serious and timely response to the climate

emergency-- one which the global community seems unwilling to meaningfully undertake.³⁷ For many Indigenous Peoples, this represents an urgent threat to their ability to not only engage in certain cultural practices, but to live and exist as culturally distinct peoples.

At the same time, Indigenous cultural knowledge and practices remain underrecognized tools in climate mitigation and adaptation policies. Today, intergovernmental bodies acknowledge that Indigenous Peoples are integral to climate change solutions; yet, they are still commonly perceived as mere victims of climate change, without either power or agency.³⁸ Their traditional ecological knowledge, developed over generations of living in harmony with their environments, is often tokenized, co-opted or disregarded entirely.³⁹ This not only leads to ineffective and unsustainable environmental solutions, but it also exacts its own form of environmental violence on Indigenous Peoples' cultures, denying the value of their worldviews, traditional knowledge, and environmental governance regimes.⁴⁰

Not only have cultural rights not been respected in a manner that could meaningfully respond to environmental threats, but the protection of certain national cultures has been invoked to legitimize ongoing inaction in the face of the environmental crises. For instance, far-right politicians and pundits in the United States regularly engage in fear mongering around the threat of climate change and green transition policies on a so-called 'American way of life'.⁴¹ This rhetoric situates responsible climate action as antithetical to the values, traditions and practices of major industrial, Western societies, like the United States, despite the fact that studies demonstrate overwhelming public support for a more significant climate response amongst majority populations.⁴² This weaponization of culture has helped to normalize inaction and accelerate the erosion of the ways of life of Indigenous Peoples and other land-dependent communities who exist on the frontlines of environmental violence.⁴³

B. Environmental Violence and Poor Mental Health

Human health outcomes are rightly discussed as core consequences of environmental violence.⁴⁴ While most attention is afforded to physical health, mental health impacts are also being increasingly acknowledged. The Intergovernmental Panel on Climate Change (IPCC), the largest intergovernmental body dedicated to advancing knowledge regarding climate change, recently found with ‘very high confidence’ that climate change has adversely affected the mental health of people.⁴⁵ According to the IPCC, negative mental health outcomes, such as anxiety and stress, are likely to increase with further global warming and that certain groups are particularly vulnerable.⁴⁶ The findings of the IPCC are buttressed by a significant body of empirical research demonstrating that environmental violence is negatively affecting the mental health of individuals and groups.⁴⁷

Mental health consequences can be derived directly from natural disasters, extreme weather events, environmental destruction and degradation and land dispossession, among other forms of environmental violence.⁴⁸ These have resulted in increased rates of post-traumatic stress disorder (PTSD), anxiety, depression and suicide.⁴⁹ More indirectly, environmental violence can cause a high degree of loneliness, hopelessness and despair through changes to the environment, displacement from territory, and loss of livelihoods.⁵⁰ In many communities, environmental loss and disruption is accompanied by rises in social problems, such as higher rates of substance abuse, domestic violence and societal discord, all of which can contribute to and exacerbate poor mental health.⁵¹

Indigenous Peoples and other land-dependent communities face unique mental health challenges in the context of environmental violence. In many contexts, they disproportionately suffer from poor mental health compared to majority populations.⁵² For these communities,

adverse mental health impacts are compounded, not only by virtue of their susceptibility to environmental violence, but also through pre-existing structural violence, cultural dislocation and psychological trauma brought about by colonialism and ongoing colonial legacies.⁵³ A study commissioned by the UN Permanent Forum on Indigenous Issues (UNPFII) recently commented more generally around the mental and spiritual trauma inflicted upon Indigenous Peoples through colonialism:

The result of colonial practices is a consistent group of physical, mental and spiritual traumas that have, in many cases, permeated through the population and been embodied as social stigmas, causing havoc in the soul and life of Indigenous Peoples and communities.⁵⁴

Colonialism and colonial legacies are directly associated with both environmental violence and poor mental health.⁵⁵ This has been affirmed in UN practice, especially in relation to Indigenous Peoples.⁵⁶ Studies have found that environmental violence not only creates new mental health challenges for Indigenous Peoples, but aggravates existing mental health challenges stemming from colonial policies.⁵⁷ In many ways, the environmental violence that is experienced by Indigenous Peoples and other land-dependent communities today is a continuation of the colonial encounter.⁵⁸

C. Intersections Between Cultural Loss and Poor Mental Health in the Context of Environmental Violence

The explicit intersections between cultural loss and mental health in the context of environmental violence are also being acknowledged. For many Indigenous Peoples and other land-dependent communities, connection to their lands and territories is essential for both their culture and mental health.⁵⁹ Environmental violence jeopardizes both by drastically changing their natural

environments, forcing their removal from their territories, rendering their traditional livelihoods unsustainable and otherwise preventing Indigenous Peoples and other land-dependent communities from existing as they always have.⁶⁰ Thus, changes to and displacement from territories contribute to both cultural loss and poor mental health for such groups.

Various forms of cultural disruption and erosion, often caused or furthered through colonialism, have resulted in mental health disparities between majority populations and other, marginalized groups. The IPCC, for one, has identified the ‘loss of livelihoods and culture’ as one of the reasons for why climate change is producing and exacerbating negative mental health outcomes.⁶¹ Research has further established links between culture and positive mental health and confirmed that climate change-related disruptions to cultural practices has negatively affective the mental well-being of Indigenous Peoples.⁶² More generally, loss of territory is commonly linked with both cultural loss and mental health. In Canada, for instance, a study on Indigenous mental health found that between 33 percent and 38 percent of Indigenous Peoples think about issues of historical loss related to land, language, and culture every single day.⁶³ At the same time, research also demonstrates the positive impacts that connection to land and culture have on mental health.⁶⁴

These developments seem to suggest that the tripartite relationship between culture, mental health, and the environment is beginning to be more seriously considered amongst scholars, experts, and policymakers. This provides the impetus to study the legal relationships concerning these concepts, particularly as it relates to the protection and advancement of the human rights of Indigenous Peoples and other land-dependent communities. As the rest of this article will make clear, this remains an underdeveloped area in international human rights law, one in which there is capacity to create stronger protections for both culture and mental health in

the face of environmental violence.

APPLICABLE INTERNATIONAL LEGAL FRAMEWORK

The following section briefly charts out the international legal framework protecting the rights to culture and the highest attainable standard of mental health, with special attention afforded to how these rights are protected in the context of environmental violence threatened against or experienced by Indigenous Peoples and other land-dependent communities. Rights to culture and mental health are included in various international standards, scattered across universal and regional instruments, taking the form of binding treaties and soft law declarations and recommendations, and accompanied by interpretations by various human rights bodies. The following analysis demonstrates that while significant protections exist, there are key gaps in the international legal framework, particularly in the lack of explicit links between cultural rights, mental health, and the environment.

D. The Right to Culture

While historically marginalized, cultural rights are widely regarded as human rights, deserving of equal treatment as other rights categories.⁶⁵ They are most commonly combined into a single umbrella right, such as the right to take part in cultural life provided in Article 15(1)(a) of the International Covenant on Economic, Social and Cultural Rights (ICESCR), the signature cultural rights protection under international human rights law.⁶⁶ Pursuant to Article 15(1)(a), States have the positive obligation to adopt specific measures aimed at ensuring the right of

everyone to freely choose their own cultural identity, as well as the negative obligation to refrain from interfering with the right to take part in cultural life.⁶⁷ State obligations under the provision are largely programmatic; however, certain core obligations must be immediately implemented.⁶⁸ Beyond the ICESCR, the International Covenant on the Elimination of Racial Discrimination (ICERD) contains an overarching, non-discrimination provision with respect to the enjoyment of cultural rights, including ‘the right to equal participation in cultural activities’.⁶⁹ Other core human rights treaties protect the cultural rights of specific categories of individuals.⁷⁰

Indigenous Peoples and many other land-dependent communities also benefit from cultural rights protections contained in minority rights provisions. The most significant in this regard is Article 27 of the International Covenant on Civil and Political Rights (ICCPR), which provides for the rights of persons belonging to minorities to enjoy their own culture.⁷¹ This provision has been commonly invoked to safeguard the cultural identities and cultural practices of Indigenous Peoples and other land-dependent communities, including in the context of threatened environmental violence.⁷² The UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities also promulgates several cultural rights standards for minorities, including the right to enjoy one’s own culture, the right to participate effectively in cultural life, and the right to use one’s language.⁷³

Indigenous Peoples are afforded more specific, detailed cultural rights protections, including those in the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), which provides the most comprehensive set of cultural rights protections under international law.⁷⁴ Among other things, the UNDRIP explicitly protects Indigenous Peoples’ rights to (i) maintain, develop, practice and revitalize cultural traditions, ceremonies, customs, histories, (ii) practice,

develop and teach their spiritual and religious traditions, customs and ceremonies; (iii) control and access cultural sites and objects; (iv) demand the repatriation of their human remains; (v) revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures; (vii) maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions; (viii) establish and control culturally appropriate educational systems; and promote, develop, and maintain their institutional structures and juridical systems.⁷⁵ The UNDRIP also prohibits forced assimilation and destruction of Indigenous culture, as well as the forcible transfer of Indigenous children.⁷⁶

While critical cultural rights protections run in favor of Indigenous Peoples and other land-dependent communities, few address the intersections between culture and the environment.⁷⁷ None of the cultural rights protections contained in the core human rights treaties are linked to territory or the environment in a meaningful way.⁷⁸ A slight departure from this neglect can be found in the Declaration on the Rights of Peasants and Other People Working in Rural Areas, which calls on States to comply with their international obligations to combat climate change, including with respect to the practices and traditional knowledge of Peasants and other people working in rural areas.⁷⁹

There are also important developments in UN treaty monitoring body practice. In its General Comment No. 21 on the right of everyone to take part in cultural life, the Committee on Economic, Social and Cultural Rights (CESCR) explicitly linked Indigenous Peoples' right to take part in cultural life with their rights to lands, territories, and resources.⁸⁰ It stated:

Indigenous peoples' cultural values and rights associated with their ancestral lands and their relationship with nature should be regarded with respect and protected, in order to prevent the degradation of their particular way of life, including their means of subsistence, the loss of their natural resources and,

ultimately, their cultural identity.⁸¹

Likewise, the Human Rights Committee's (HRC) General Comment No. 23 on the rights of minorities under Article 27 states:

With regard to the exercise of the cultural rights protected under article 27, the Committee observes that culture manifests itself in many forms, including a particular way of life associated with the use of land resources, especially in the case of indigenous peoples. That right may include such traditional activities as fishing or hunting and the right to live in reserves protected by law.⁸²

This interpretative practice explicates on the links between culture and land, territory, and resources, but it does not directly address the relationship between culture and the environment. This contributes to a general blind spot with respect to considerations of the environment in cultural rights standard-setting.⁸³

Considerations of culture are also largely omitted in environmental law standards. The core international environmental treaties poorly account for the relationship between culture and the environment.⁸⁴ For instance, the preamble of the Paris Agreement observes that Parties should 'respect, promote and consider their respective obligations on human rights' when taking action on climate change, including the rights of Indigenous Peoples.⁸⁵ However, its only reference to culture is in relation to the fact that the integrity of all ecosystems is recognized by some cultures as Mother Earth.⁸⁶ The Convention on Biological Diversity (CBD) only gives cursory attention to culture by calling on States to protect customary use of biological resources 'in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements'.⁸⁷ Moreover, the UN General Assembly resolution on the human right to a clean, healthy and sustainable environment notes that climate change has direct and indirect negative implications for the effective enjoyment of all human rights, but makes no specific reference to cultural rights.⁸⁸

E. The Right to the Highest Attainable Standard of Mental Health

The right to mental health is a fundamental human right now accounted for in several human rights instruments. Article 12 of the ICESCR serves as the hallmark mental health protection in the international human rights law framework. It recognizes the right of everyone to the enjoyment of the highest attainable standard of mental health, alongside that of physical health.⁸⁹ It invokes mostly progressive obligations, but States must immediately ensure that mental health services can be accessed without discrimination.⁹⁰ Critically, the CESCR has made clear that the highest attainable standard of mental health ‘is not confined to the right to health care’ but extends to a wide range of conditions that impact peoples’ health, including the environment.⁹¹

Article 12 of the ICESCR is complemented by protections included in other major human rights treaties, including the Convention on the Rights of Persons with Disabilities, the Convention for the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child.⁹² These are buttressed by soft law standards developed specifically around the protection of mental health and disorders, including the UN Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care adopted by the General Assembly in 1991.⁹³ Principle 7 of that instrument focuses specifically on the role of community and culture in the scope of mental health, including the right of patients to be treated and cared for in their communities and in accordance with their cultural background.⁹⁴

Indigenous Peoples and other land-dependent communities are entitled to be free from discrimination in connection with their right to mental health care.⁹⁵ The UNDRIP, mirroring the language of Article 12 of the ICESCR, further provides that ‘Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health’ and

that ‘States shall take the necessary steps with a view to achieving progressively the full realization of this right.’⁹⁶ Article 7 of the UNDRIP further states that Indigenous individuals have the right to mental integrity, which arguably encompasses some degree of mental health protection.⁹⁷

Like cultural rights, considerations of the environment are rarely considered in the context of the right to mental health. The legal framework identified above does not elaborate on the protection of mental health in connection with the environment. At times, international practice has linked the right to mental health with environmental violence. For example, in the context of climate change, the OHCHR recognized that the impact of climate change on mental health must be addressed as part of the respect, protect, and fulfill framework.⁹⁸ More often, however, links between the right to mental health and environmental and land rights are not explicitly acknowledged.

An exception exists with respect to UN expert mandate holders, who have made significant contributions in connecting the right to mental health with environmental concerns. The former Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health has reiterated that the right to health depends on environmental conditions and has explicitly commented on climate change’s impact on the mental health and well-being of individuals and communities.⁹⁹ He observed that climate-related disasters ‘leave behind more than physical destruction’ with affected people suffering from ‘stress and anxiety-related conditions, including post-traumatic stress disorder, or depression.’¹⁰⁰ Moreover, the former Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance observed the devastating mental health consequences associated with environmental ‘sacrifice zones’.¹⁰¹

There is also little interaction between the rights to culture and mental health under international human rights law. It is often remarked that the right to health is closely related to and dependent upon the realization of other human rights.¹⁰² However, at the level of the UN, connections between mental health and cultural rights have only been sparsely discussed. For instance, the Office of the United Nations High Commissioner for Human Rights (‘OHCHR’) in its 2016 analytical study on the relationship between climate change and the human right of everyone to the enjoyment of the highest attainable standard of physical and mental health noted that ‘[t]he consequences of climate change can have a profound impact on mental health through both its direct impact and its impact on social support systems and cultural traditions.’¹⁰³

Expert mandate holders have also drawn links between the environment, cultural loss, and mental health. The former UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health stressed the importance of understanding how environmental harm threatens the loss of cultural resources and how connectedness with the environment contributes to well-being.¹⁰⁴ The former UN Special Rapporteur in the field of cultural rights has also observed the causal links between the climate crisis, changes to the cultural fabric of entire groups and resulting mental health consequences. This finding was informed by a submission by the Women of the Métis Nation, wherein it noted that:

Métis women are experiencing ecogrief, ecoparalysis, solastalgia (existential distress caused by climate change) and eco-anxiety. We grieve the environment we are used to seeing. There is loss as this important and necessary connection to land changes. Many Métis women and communities are seeing an increase in prescribed medications for depression and anxiety.¹⁰⁵

While these developments are not immaterial, the limited treatment on the intersections between culture, mental health and the environment within international standard setting demonstrates

key gaps which hinder the realization of both set of rights. In turn, Indigenous Peoples and other land-dependent communities could benefit from attempts to bridge these gaps in the legal frameworks.

ACKNOWLEDGING AND STRENGTHENING THE LINKS BETWEEN THE RIGHTS TO CULTURE AND MENTAL HEALTH

The nexus between the rights of Indigenous Peoples and other land-dependent communities to their culture, on one hand, and their right to the highest attainable standard of mental health, on the other, are underrecognized and underdeveloped in international human rights law standard-setting. Culture is not adequately situated as an essential element to realizing the highest attainable standard of mental health. Similarly, ensuring and promoting mental health is rarely positioned as a necessary precondition to accessing, participating in, and benefiting from one's culture. The following discussion sets forth five potential avenues to further recognize and strengthen the legal links between culture and mental health for Indigenous Peoples and other land-dependent communities threatened by or experiencing environmental violence. These are by no means exhaustive; rather, they merely illustrate areas where there is capacity to bolster the international human rights framework applicable to these interconnected rights.

F. Accommodating Alternative Conceptions of Mental Health

International human rights law can strengthen links between culture and mental health by embracing and accommodating alternative conceptions of mental health that deviate from dominant, Western traditions, practices, and beliefs. Despite a lack of consensus on the

definition of mental health, UN bodies tend to adopt the definition promulgated by the WHO:

Mental health is a state of mental well-being that enables people to cope with the stresses of life, realize their abilities, learn well and work well, and contribute to their community.¹⁰⁶

The WHO's definition has been critiqued for alienating minorities and other marginalized communities who have unique experiences of injustice, inequality, and discrimination.¹⁰⁷ For many Indigenous Peoples and other land-dependent communities, such a definition does not necessarily align with their worldviews around mental health.¹⁰⁸ While there is incredible diversity in how mental health is conceived amongst different groups, Indigenous Peoples tend to view it in a broader, more holistic way than it is typically framed in mainstream discourses.¹⁰⁹ The UN Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) has observed how health is multilayered for such groups, in the sense that it contains spiritual, emotional, cultural and social components.¹¹⁰ Mental and physical health cannot be neatly separated, with both being derived from connection and relationships with community, territory, and the environment.¹¹¹ Yet, the WHO's definition does little to account for cultural or environmental factors that may impact mental well-being for these groups.

Another central problem with the WHO's definition is its focus on the role of the individual, rather than that of the community. For Indigenous Peoples and other land-dependent communities, well-being is more likely to be conceived as both individual and collective.¹¹² For instance, the UNPFII has noted that well-being encompasses the 'social, emotional, spiritual and cultural well-being of the whole community.'¹¹³ An overriding focus on the individual— what individuals can do to cope, overcome, learn and work— evades much of the collective violence and inequality that underpins poor mental health outcomes for these communities, including mass cultural loss.¹¹⁴

International standard setting, by largely adhering to an overtly Western conception of mental health, fails to adequately account for the differences inherent in the belief systems of Indigenous Peoples and other land-dependent communities.¹¹⁵ In this way, it sacrifices some of the flexibility necessary to ensure that mental health and cultural rights are protected in the context of environmental violence. It also arguably contributes to a form of ‘neocolonialism’ and ‘medical imperialism’ that has plagued global health policy more generally, largely to the detriment of Indigenous and traditional approaches.¹¹⁶

Seemingly poor mental health conditions under Western traditions may be understood radically different by Indigenous Peoples and other-land dependent communities. For instance, some studies suggest that mental health disorders, such as depression, are seen as evidence of a certain sense of belonging and connection to one’s history and an Indigenous way of life.¹¹⁷ Such worldviews robustly challenge mainstream understandings of mental health and the international legal standards that flow from it.¹¹⁸ For some, acceptance of different worldviews may be an uncomfortable deviation from the ways in which mental health is conceived and the progress that has ostensibly been made in recognizing and treating poor mental health conditions.¹¹⁹

This is not meant to suggest that we should give reflexive deference to all worldviews and cultural practices if they seemingly conflict with the right to mental health. Culture impacts all aspects of mental health, including in potentially negative ways through harmful practices or traditions.¹²⁰ Culture may also contribute to poor mental health in more general ways, including through stigmatizing mental health diagnoses and treatment in ways that affect whether individuals seek treatment, the type of treatment sought, the support they receive, and the manner in which they cope.¹²¹ Thus, certain rights conflicts may arise between culture and mental health

in the context of threatened or actual environmental violence.

While the potential for cultural rights to conflict with other rights seems to be a recurring boogeyman of sorts, there is an urgent need to protect and advance all human rights without unnecessarily weakening the cultural rights of Indigenous Peoples and other land-dependent communities.¹²² In the first instance, it is worth noting that the protection and advancement of cultural rights is overwhelmingly consistent with both positive environmental and mental health outcomes. There is also a need to guard against automatically denominating certain cultural practices, worldviews, or belief systems as detrimental to mental health simply because they may conflict with Western medicine and understandings of well-being. Indeed, it is often the case that mainstream mental health policies and priorities infringe on cultural rights, especially where they disregard or denigrate traditional healing and medicines.¹²³ Indigenous Peoples, pursuant to the UNDRIP, have the right to their traditional medicines and to maintain their health practices, as well as the right to access mainstream mental health services without discrimination.¹²⁴

Thus, cultural rights should not necessarily be curtailed simply because they are incompatible with mainstream mental health practices. What is needed is a nuanced approach to resolving rights conflicts that arise in relation to the protection of culture and mental health in the face of environmental violence. When these conflicts arise, international law has the tools to deal with them, and we should rely on these tools.¹²⁵ To do otherwise would be to tacitly legitimize a human rights hierarchy that has been consistently rejected in theory but remains firmly in place through human rights practice.

G. Recognizing the Rights to Spiritual and Cultural Health

One specific avenue to accommodating more diverse conceptions of mental health is through an explicit recognition of the rights to spiritual health and cultural health as essential components to realizing the right to the highest attainable standard of both physical and mental health. The current legal framework governing the right to health does not adequately and explicitly incorporate one's right to the highest attainable standard of spiritual health or cultural health.¹²⁶ A right to spiritual health is included in Article 14 of the African Charter on the Rights and Welfare of the Child.¹²⁷ Good practice can also be derived from the American Declaration of the Rights of Indigenous Peoples, which provides that Indigenous Peoples have the 'collective and individual right to the enjoyment of the highest attainable standard of...spiritual health.'¹²⁸ Notwithstanding, these references are outliers in international human rights law, and none of the core human rights instruments in the right to health framework reference either concept.

While the rights to spiritual health and cultural health do not have strong roots in international human rights law, both concepts have been developed in other disciplines. In the public health discourse, spiritual health has been described as the fourth dimension of health.

While no consensus definition exists, it has been described as:

a state of being where an individual is able to deal with day-to-day life issues in a manner that leads to the realization of one's full potential, meaning and purpose of life and fulfilment from within.¹²⁹

Indigenous Peoples have been at the forefront of calling for more serious consideration and protection of their spiritual health.¹³⁰ This advocacy has led to positive developments in domestic health policies, such as the inclusion of spiritual health in Australia's National Strategic Framework for Aboriginal and Torres Strait Islander People's Mental Health and Social and Emotional Well Being 2017-2023.¹³¹ Under more holistic worldviews, commonly embraced by Indigenous groups, spiritual health and mental health are not easily compartmentalizable and are

closely linked with both their cultures and their environment.¹³² Thus, maintaining and safeguarding Indigenous cultural practices are imperative for spiritual health and well-being.¹³³ In turn, there is a growing recognition about the importance of protecting and contributing to the spiritual health of Indigenous Peoples.¹³⁴ However, this is yet to be properly reflected in international human rights law.

While even less recognized than spiritual health, the concept of cultural health also has close synergies with mental health and should be integrated into the broader right to health framework.¹³⁵ Cultural health has been conceptualized as having a sense of pride and resilience in one's cultural background.¹³⁶ There are numerous studies showing that possessing cultural pride can have a positive impact on mental health.¹³⁷ Findings from these studies highlight the importance of cultural health in relation to achieving positive mental health outcomes, including reduced instances of anxiety, depression, and psychological distress.¹³⁸ For Indigenous Peoples and other land-dependent communities, it has also shown to protect against adverse effects of historical trauma and contemporary racism.¹³⁹

An affirmative right to cultural health would be closely related to and contingent on a host of established cultural rights under international law, including the right to cultural identity, the right to know one's culture, the right to take part in cultural life and the right to access and enjoy one's cultural heritage. For Indigenous Peoples and other land-dependent communities—groups whose spiritual and cultural life are essential to their well-being and identity—there is value in expressly recognizing a right to cultural health as constitutive of the right to mental health.¹⁴⁰ Accounting for both spiritual and cultural health could aid in promoting broader protections for facets of mental health and well-being that have congruency with worldviews, belief systems and cultures that exist outside of Western thought.

H. Framing Cultural Rights as Underlying Determinants of Mental Health

The right to mental health relies upon the realization of a host of other human rights.¹⁴¹ Much like the rights to water, food, housing and bodily integrity, the right to culture is an underlying determinant of health.¹⁴² This is being borne out in a growing body of research investigating the role of culture on mental health outcomes in the context of climate change and other forms of environmental violence.¹⁴³ Among other things, cultural deprivations are associated with poor mental health, while strong cultural identities and the ability to engage in cultural practices are linked to positive mental health outcomes.¹⁴⁴

Yet, international standards tend to dilute the central role that cultural rights play in determining health outcomes— positive or negative.¹⁴⁵ For instance, the CESCR's General Comment 14 on the right to the highest attainable standard of health does not discuss access to, participation in or enjoyment of culture as an underlying determinant of health in the same way that it does for other rights, such as the rights to food, water, sanitation, housing, and education.¹⁴⁶ It notes the relationships and dependency between the right to health and a host of other human rights, including the rights to food, housing, work, education, human dignity, life, non-discrimination, equality, the prohibition against torture, privacy, access to information, and the freedoms of association, assembly and movement.¹⁴⁷ No similar association is recognized between cultural rights and health.

UN bodies have started to frame economic, social and cultural (ESC) rights as underlying determinants of mental health.¹⁴⁸ In particular, the failure of States to ensure the realization of ESC rights has been identified as contributing to poor mental health conditions.¹⁴⁹ While the ESC category is invoked, the substantive rights discussed as mental health determinants are limited to socio-economic rights, namely one's right to education, work, housing, food, and

water.¹⁵⁰ No individualized or detailed attention is afforded to the role of cultural rights as underlying determinants of mental health. Instead, they seem to be mentioned merely as a byproduct of being the ‘C in the ESC category of rights.’¹⁵¹

The work of the UNPFII represents a departure from this treatment. As far back as 2012, it called upon the WHO to address the cultural determinants of health, such as ‘land, language, ceremony and identity, which are essential to the health and well-being of [I]ndigenous [P]eoples.’¹⁵² Recently it pushed for further recognition of cultural determinants of health for Indigenous Peoples.¹⁵³ In its study on Indigenous determinants of health in the 2030 Agenda for Sustainable Development, the UNPFII commented on the ‘unique determinants of health specific to Indigenous Peoples, their cultures, histories, political status, gender and current experience.’¹⁵⁴ It further concluded that:

The processes of disruption, destruction and disrespect for the Indigenous ways of life remain and must be acknowledged as circumstances determining Indigenous health.¹⁵⁵

For Indigenous Peoples and other land-dependent communities, their right to mental health is dependent on their enjoyment of a host of cultural rights, including those rights whose exercise and enjoyment is contingent on access to lands, territories, and resources.¹⁵⁶ Cultural rights need to be properly framed as underlying determinants of mental health, much in the same way as economic and social rights have been. Among other things, this is congruent with a growing body of research demonstrating both the positive and negative impacts that culture has on the realization of the highest attainable standard of mental health for Indigenous Peoples and other land-dependent communities.¹⁵⁷

I. Moving Beyond the “Culturally Appropriate”

To date, much of the discussion in international human rights fora on the intersections between culture and mental health centers on the delivery of ‘culturally appropriate’ goods and services.¹⁵⁸ In the CESCR’s General Comment No. 21 on the right to take part in cultural life, health is only mentioned in connection with the appropriateness prong of the CESCR’s availability, accessibility, acceptability, adaptability, and appropriateness conditions.¹⁵⁹ The CESCR’s General Comment No. 14 on the right to the highest attainable standard of health also emphasizes the need for health facilities, goods and services to be culturally appropriate - in the words of the Committee, ‘respectful of the culture of individuals, minorities, peoples and communities...’¹⁶⁰ Indigenous rights standards have also tended to focus on securing the provision of culturally appropriate healthcare and health interventions.¹⁶¹

Because different groups have diverse worldviews and belief systems regarding mental health care and healing, the provision of culturally appropriate mental health services is of critical importance to Indigenous Peoples and other land-dependent communities facing environmental violence.¹⁶² It is well-documented that these groups often lack culturally appropriate mental health services.¹⁶³ Research has further found that a general ‘lack of cultural empathy’ exists with respect to Indigenous health and knowledge in connection to responses to environmental violence.¹⁶⁴ This can frustrate the ability of Indigenous Peoples and other land-dependent communities to receive adequate support to cope with the psychological impacts of environmental violence.

At the same time, a narrow focus on culturally appropriate mental health services in international human rights law represents a very limited understanding of the role that culture and cultural rights play in securing the right to mental health.¹⁶⁵ The relationship between culture and mental health extends far beyond maintaining and delivering culturally appropriate health

goods and services. The mental health of Indigenous peoples and other-land dependent communities is influenced and shaped by numerous cultural rights, including the rights to engage in cultural practices and traditional ways of life, maintain their cultural and spiritual sites, cultivate and transfer traditional knowledge and otherwise develop and safeguard their cultural identities and heritage.¹⁶⁶

By discussing the role of culture solely in connection with the provision of culturally appropriate mental health services, international standards neglect the breadth and importance of cultural rights in shaping and influencing mental health outcomes. This narrow approach may also provide cover for States to provide a negligible level of cultural rights protection, while evading the vast majority of obligations necessary to ensure that Indigenous Peoples and other land-dependent communities are able to enjoy and benefit from their culture in furtherance of good mental health.¹⁶⁷ States must respect, protect, and fulfill the whole spectrum of cultural rights in the scope of environmental violence. In this regard, inspiration can be derived from the CESCR's General Comment 14 which, in addition to calling for culturally appropriate health services, highlighted the need to protect Indigenous Peoples' medical plants and animals and observed the deleterious effects that land dispossession has on Indigenous Peoples' health.¹⁶⁸

As such, there is a need to move beyond a narrow understanding of the role of culture in ensuring good mental health outcomes. This does not negate the importance of culturally sensitive and appropriate mental health interventions. Instead, it merely acknowledges that cultural rights must be respected, protected and fulfilled in holistic and integrated ways in furtherance of positive mental health outcomes.

1. Framing the rights to culture and mental health as interrelated, interdependent, and mutually reinforcing rights

In the context of environmental violence experienced by or threatened against Indigenous Peoples and other land-dependent communities, the rights to mental health and culture should not be considered in a silo, but rather, in relation to each other, as well as other rights, such as the right to lands, territories and resources. These rights should be considered and framed as interrelated, interdependent, and mutually reinforcing in international human rights bodies and fora. Doing so recognizes the close relationship between culture and mental health, especially for those communities disproportionately affected by environmental violence and it provides a value-add to the realization of both sets of rights.

Cultural rights protections have been important tools in securing a host of other human rights central to the rights of Indigenous Peoples and other land-dependent communities, including, principally, their rights to land, territories, and resources.¹⁶⁹ This is most apparent in the adjudication of Indigenous Peoples' land disputes.¹⁷⁰ Human rights courts and monitoring bodies have consistently recognized the inextricable links between land rights and Indigenous Peoples' cultural identities.¹⁷¹ Indeed, Indigenous lands are still most commonly protected through enforcing the right to culture, which serves as a necessary vehicle for Indigenous groups to access and benefit from their lands, territories and resources.¹⁷²

For Indigenous Peoples and other land-dependent communities, their right to mental health is also dependent on the protection and realization of their cultural rights.¹⁷³ This includes their rights to access their territories, conduct their land and water-based cultural practices and to engage in traditional activities.¹⁷⁴ To be sure, the right to mental health should be safeguarded, regardless of its nexus to culture and there is a certain risk that such a right could be diluted as a stand-alone right if it can only be furthered through the prism of other rights. It should also not serve as a substitute for addressing underlying root causes of poor mental health, including mass

land dispossession and socio-economic deprivations.¹⁷⁵ At the same time, situating cultural rights as essential to achieving positive mental health gives Indigenous Peoples and other land-dependent communities an additional tool to hold States accountable for their shortcomings in securing the highest attainable standard of mental health in the context of environmental violence.

Just as protecting, respecting, and fulfilling cultural rights is essential to safeguarding the right to mental health, the converse is also true. It has long been recognized that the right to health is a fundamental human right indispensable for the exercise of other human rights, and the way the right to health is implemented will have an on impact on cultural rights.¹⁷⁶ The rights to culture and mental health should be treated in an integrated manner, much in the same way that land and culture are framed and considered in relation to each other in international human rights law. For Indigenous Peoples and other land-dependent communities suffering from long-standing and intergenerational cultural loss and at threat of ongoing environmental violence, this provides an additional layer of protection regarding both their cultures and mental health.

CONCLUSION

Environmental violence has far-reaching consequences for human cultures and mental health. It disrupts the ways in which people understand and exist in the world, often in irrevocable ways. It inflicts a sense of loss and longing for communities who are no longer able to access or use their sacred spaces in the ways in which they always have. The resulting psychological trauma and cultural dislocation are intimately connected and are further compounded and complicated by the colonial structures and ideologies that Indigenous Peoples and other land-dependent

communities continue to endure.

This article advances the case for a more robust and holistic legal treatment around the rights to culture and mental health for Indigenous Peoples and other land-dependent communities threatened by or experiencing environmental violence. For these groups, it is impossible to neatly separate the impact of environmental violence on their rights to culture and mental health. These rights are interconnected, interrelated, and mutually reinforcing and should be increasingly considered in relation to each other as well as other fundamental rights, such as the rights to self-determination and land.

The inextricable nexus between culture and mental health in the context of environmental violence is already being established in the social science and public health literature, as well as in the lived realities of Indigenous Peoples and other land-dependent communities. Indeed, Indigenous Peoples and other land-dependent communities are already demanding reforms at the international level to strengthen the recognition of their cultures and the protection of their mental health and well-being in the face of such violence. To the extent that progress is ultimately made in bolstering the legal framework around the intersections of these rights, it will be on account of the advocacy and contributions of the communities most directly impacted by environmental violence.

This article proposed different avenues designed to strengthen and clarify the legal relationship between these rights through human rights practice and standard setting. Doing so may, at times, require certain deviations from mainstream understandings of mental health and an acceptance of cultural practices that do not always align with Western science and worldviews. But for the most part, it calls for a more critical, nuanced recognition of how culture and mental health intersect for communities that have been forced from their lands or

who otherwise suffer violence on their environments. International human rights law should be responsive to these developments and adapt to the many emerging challenges posed by the environmental crises, including the many impacts they have on mental health and culture.

Endnotes

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¹ The term ‘environmental violence’ was recently used by the Committee on the Elimination of Discrimination against Women in its General Recommendation No. 39 on the rights of Indigenous women and girls, wherein it described environmental violence as taking the form of ‘environmental harm, degradation, pollution or State failures to prevent foreseeable harm connected to climate change.’ Comm. on the Elimination of Discrimination against Women, General Recommendation No. 39 on the Rights of Indigenous Women and Girls, ¶ 37, UN Doc. CEDAW/C/GC/39 (Oc. 31, 2022).

² This article uses the phrase ‘Indigenous Peoples and other land-dependent communities’ to try to encompass, albeit imperfectly, those groups who have intimate connections to land and who are otherwise marginalized in the context of environmental violence. This includes Indigenous Peoples, but also certain minority groups, Afro-descendants, peasants, and rural communities who do not identify as Indigenous, but whose traditional livelihoods, cultures, and/or religions are inextricably rooted in specific territories.

³ Comm. on the Elimination of Discrimination against Women, General Recommendation No. 39, *supra* note 1, ¶ 5.

⁴ Add Cite

⁵ See, e.g., Nicole Redvers, et al., *Indigenous Solutions to the Climate and Biodiversity Crises: A Reflection on UNDRIP*, PLOS GLOB. PUB. HEALTH, June 14, 2023; Dorothée Cambou, *Uncovering Injustices in the Green Transition: Sámi Rights in the Development of Wind Energy in Sweden*, 11 ARCTIC REV. ON L. & POL. 310, 324 (2020); Lara Domínguez & Colin Luoma, *Decolonising Conservation Policy: How Colonial Land and Conservation Ideologies Persist and Perpetuate Indigenous Injustices at the Expense of the Environment*, LAND, Feb. 25, 2020.

⁶ Add Cite

⁷ The phrase ‘non-physical’, as used in this article, encompasses environmental impacts on mental health and culture. At the same time, the author recognizes that poor mental health and cultural loss can lead to adverse physical consequences and that such a distinction between

physical and non-physical in this context is not binary.

⁸ Add Cite

⁹ Add cite

¹⁰ Mental health is a contested term and itself can alienate Indigenous peoples and other land-dependent communities who understand health and well-being in diverse and holistic ways. Nonetheless, it is used in this article as it is the prevailing term in global public health policy and international human rights law embodying emotional, psychological, and social well-being. Jacqueline Middleton et al., *Indigenous Mental Health in a Changing Climate: A Systematic Scoping Review of the Global Literature*, ENVIRON. RESEARCH LETT, Apr. 23, 2020.

¹¹ See, e.g., Joseph P. Gone, *Re-Imagining Mental Health Services for American Indian Communities: Centering Indigenous Perspectives*, 69 AM. J. CMTY. PSYCHOL. 257 (2022); Ghassan Abdallah et al., *Dispossession in Occupied Palestine: Children's Focus Group Reflections on Mental Health*, 6 EUR. J. OF TRAUMA & DISSOCIATION, no. 2, 2022.

¹² Yumiko Coffey et al., *Understanding Eco-Anxiety: A Systematic Scoping Review of Current Literature and Identified Knowledge Gaps*, J. OF CLIMATE CHANGE AND HEALTH, Sept. 2, 2021; Ashlee Cunsolo & Neville R. Ellis, *Ecological Grief as a Mental Health Response to Climate Change-Related Loss*, 8 NATURE CLIMATE CHANGE 275 (2018); Karen E. McNamara & Ross Westoby, *Solastalgia and the Gendered Nature of Climate Change: An Example from Erub Island, Torres Strait*, 8 ECOHEALTH 233 (2011).

¹³ Middleton, *supra* note 10; Paolo Cianconi, Sophia Betrò & Luigi Janiri, *The Impact of Climate Change on Mental Health: A Systematic Descriptive Review*, FRONTIERS IN PSYCHIATRY, Mar. 6, 2020; Lukoye Atwoli, Joy Muhia & Zul Merali, *Mental Health and Climate Change in Africa*, 19 BJPSYCH INT'L 86 (2022).

¹⁴ See, e.g., Sylvia Kokunda et al., *Batwa Indigenous Peoples Forced Eviction for "Conservation": A Qualitative Examination on Community Impacts*, PLOS GLOB. PUB. HEALTH, Aug. 16, 2023.

¹⁵ Add Cite

¹⁶ World Conference on Human Rights in Vienna, *Vienna Declaration and Programme of Action*, ¶5, U.N. Doc. A/CONF.157/23 (June 25, 1993).

¹⁷ There is rarely any explanation given for what it means for human rights to be interdependent and interrelated. Rights are interdependent when their realization requires the realization of other rights. Whereas, interrelatedness denotes a certain level of mutuality or connection between rights. Whelan, *Indivisible Human Rights*, 69 Global Issues Series 3, 3-4 (2010). Add Cite – evidence of the "grounding"?

¹⁸ Ebony Verbunt et al., *Cultural Determinants of Health for Aboriginal and Torres Strait Islander People—A Narrative Overview of Reviews*, 20 INT’L J. FOR EQUITY IN HEALTH PUB. HEALTH, no. 1, 2021.

¹⁹ *Id.*

²⁰ Add Cite

²¹ Add Cite

²² Add Cite

²³ Add Cite

²⁴ Add Cite

²⁵ See, e.g., *Climate Change*, WORLD HEALTH ORGANIZATION, <https://www.who.int/news-room/fact-sheets/detail/climate-change-and-health> [<https://perma.cc/9FDF-S3JQ>] (last visited Oct. 2, 2023); See also Muhammad Tariq Majeed & Ilhan Ozturk, *Environmental Degradation and Population Health Outcomes: A Global Panel Data Analysis*, 27 ENV’T SCI. & POLLUTION RSCH., 15901 (2020).

²⁶ Ashlee Consolo Willox et al., *The Land Enriches the Soul: On Climatic and Environmental Change, Affect, and Emotional Health and Well-Being in Rigolet, Nunatsiavut, Canada*, 6 EMOTION, SPACE, & SOC’Y 14 (2013).

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²⁸ *Id.*

²⁹ WORLD HEALTH ORG., 2021 WHO HEALTH AND CLIMATE CHANGE GLOBAL SURVEY REPORT 10 (2021).

³⁰ Add Cite

³¹ Karima Bennouna (Special Rapporteur in the Field of Cultural Rights), *Promotion and Protection of Human Rights: Human Rights Questions Including Alternative Approaches for Improving the Effective Enjoyment of Human Rights and Fundamental Freedoms*, U.N. Doc. A/75/298 (Aug. 10, 2020).

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³⁴ See, e.g., Neil Adger et al., *Cultural Dimensions of Climate Change Impacts and Adaptation*, 3 NATURE CLIMATE CHANGE 112 (2013).

³⁵ See, e.g., MINORITY RIGHTS GRP. INT’L, MINORITY AND INDIGENOUS TRENDS 2019: FOCUS ON CLIMATE JUSTICE (2019).

³⁶ Add Cite

³⁷ Add Cite

³⁸ James D. Ford, *Indigenous Health and Climate Change*, 102 AM. J. OF PUB. HEALTH 1260 (2012).

³⁹ COLIN LUOMA, MINORITY RIGHTS GRP. INT’L, FORTRESS CONSERVATION AND INTERNATIONAL ACCOUNTABILITY FOR HUMAN RIGHTS VIOLATIONS AGAINST BATWA IN KAHUZI-BIEGA NATIONAL PARK (2022).

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⁴³ Add Cite

⁴⁴ Add Cite

⁴⁵ INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE (IPCC), CLIMATE CHANGE 2023 SYNTHESIS REPORT SUMMARY FOR POLICYMAKERS 7 (Hoesung Lee & Jose Romero eds., 2023).

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⁴⁷ Paolo Cianconi et al., *supra* note 13; Katie Hayes et al., *Climate Change and Mental Health: Risks, Impacts, and Priority Actions*, 12 INT’L J. OF MENTAL HEALTH SYS., June 1, 2018; Nick Obradovich et al., *Empirical Evidence of Mental Health Risks Posed by Climate Change*, 115 PROC. OF THE NAT’L

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⁵⁰ *Id.*

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⁵⁶ See, e.g., U.N. Permanent F. on Indigenous Issues (UNPFII), *State of the World's Indigenous Peoples*, U.N. Doc. ST/ESA/328 (2009).

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⁵⁸ Esme Murdock, *On Telling the Truth Unflinchingly: Climate Catastrophe and Colonialism*, ATMOS (Aug. 10, 2024), <https://atmos.earth/climate-crisis-colonization-environmental-justice/> [https://perma.cc/9J59-HFE6].

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⁶² Lebel, et al., *supra* note 53; see also, Nat'l Indigenous Austl. Agency, *Commonwealth Closing the Gap Annual Report 2022* (Nov. 30, 2022) (available at <https://www.niaa.gov.au/resource->

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⁶⁴ Jessica R. Goodkind et al., *Reconsidering Culturally Competent Approaches to American Indian Healing and Well-Being*, 25(4) *QUALITATIVE HEALTH RESEARCH* 486 (2015).

⁶⁵ Cindy Holder, *Culture as an Activity and Human Right: An Important Advance for Indigenous Peoples and International Law*, 33(1) *ALTERNATIVES* 7, 9 (2008).

⁶⁶ G.A. Res. 2200A (XXI), International Covenant on Economic, Social and Cultural Rights, art. 15(1)(a) (Dec. 16, 1966).

⁶⁷ Comm. On Econ., Soc. and Cultural Rts. (CESCR), *General Comment No. 21, Right of everyone to take part in cultural life* (art. 15, ¶ 1(a) of the *International Covenant on Economic, Social and Cultural Rights*), ¶ 48-49, U.N. Doc. E/C.12/GC/21 (Dec. 21, 2009).

⁶⁸ *Id.* ¶ 48. These include guaranteeing non-discrimination in connection with the right to take part in cultural life, respecting the right to one's cultural identity, and protecting the right of everyone to engage in their own cultural practices.

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⁷⁰ *See, e.g.*, G.A. Res. 34/180, Convention on the Elimination of All Forms of Discrimination Against Women, art. 13 (Dec. 18, 1979); G.A. Res. 45/158, International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, art. 17.1, 31, 43.1(g) (Dec. 18, 1990); G.A. Res. 44/25, Convention on the Rights of the Child, art. 29, 30 (Nov. 20, 1989).

⁷¹ G.A. Res. 2200A (XXI), International Covenant on Civil and Political Rights, art. 27 (Dec. 16, 1966).

⁷² E.P. et al. v. Colombia, U.N. Doc. CCPR/C/39/D/318/1988 (July 15, 1990); Bernard Ominayak, Chief of the Lubicon Lake Band v. Canada, U.N. Doc. CCPR/C/38/D/167/1984 (Mar. 26, 1990); Ilmari Länsman, et al. v. Finland, U.N. Doc. CCPR/C/52/D/511/1992 (Nov. 8, 1994); pirana Mahuika, et al. v. New Zealand, U.N. Doc. CCPR/C/70/D/547/1993 (Nov. 16, 2000); Ángela Poma v. Peru, U.N. Doc. CCPR/C/95/D/1457/2006 (Apr. 24, 2009).

⁷³ G.A. Res. 47/135, U.N. Declaration on the Rights of Person Belonging to National or Ethnic, Religious, and Linguistic Minorities, art. 1, 2 (Dec. 18, 1992)

⁷⁴ G.A. Res. 61/925, U.N. Declaration on the Rights of Indigenous Peoples, art. 11, 12, 13, 15, 34 (Sept. 13, 2007).

⁷⁵ *Id.* art. 11, 12, 13, 15, 34.

⁷⁶ *Id.* art. 7, 8.1.

⁷⁷ Bennoune, *supra* note 31.

⁷⁸ Bennoune, *supra* note 31.

⁷⁹ U.N. Declaration on the Rights of Peasants and Other People Working in Rural Areas, U.N. Doc A/HRC/RES/39/12, ¶ 26(3) (Sept. 28, 2018).

⁸⁰ CESCR, *supra* note 68, ¶ 36.

⁸¹ *Id.*

⁸² U.N. Human Rights Comm., *CCPR General Comment No. 23: Article 27 (Rights of Minorities)*, CCPR/C/21/Rev.1/Add.5, ¶ 49 (Apr. 26, 1994).

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⁸⁴ Links between cultural and environmental rights can be found in some soft law instruments. *See, e.g.*, United Nations Conference on Environment and Development, *Rio Declaration on Environment and Development*, princ. 22, U.N. Doc. A/CONF.151/26 (Vol. I) (Aug. 12, 1992); Agreement to Male' Declaration on the Human Dimension of Global Climate Change, pmbl., Nov. 14, 2007 (available at https://www.ciel.org/Publications/Male_Declaration_Nov07.pdf [<https://perma.cc/TUU8-KWNX>]).

⁸⁵ Paris Agreement, *supra* note 33, pmbl.

⁸⁶ Paris Agreement, *supra* note 33, pmbl.

⁸⁷ U.N. Convention on Biological Diversity, art. 10(c), June 5, 1992, 1760 U.N.T.S. 79.

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⁸⁹ CESCR, *supra* note 67, art. 12.

⁹⁰ Comm. On Econ., Soc. and Cultural Rts. (CESCR), *General Common No. 14 on the Highest Attainable Standard of Health*, ¶¶ 30-45, U.N. Doc. E/C.12/2000/4 (Aug. 11, 2000).

⁹¹ *Id.* ¶ 4.

⁹² U.N. Convention on the Rights of Persons with Disabilities, Dec. 13, 2006, 2515 U.N.T.S. 3; U.N. Convention on the Elimination of All Forms of Discrimination Against Women, 1249

U.N.T.S. 13, Sept. 3, 1981; G.A. Res. 44/25, *supra* note 70.

⁹³ *See, e.g.*, G.A. Res. 46/119, Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care (Dec. 17, 1991).

⁹⁴ *Id.* princ. 7.

⁹⁵ ICERD, *supra* note 70, art. 5(e)(iv).

⁹⁶ UNDRIP, *supra* note 74, art. 24(2).

⁹⁷ UNDRIP, *supra* note 74, art. (7)(1).

⁹⁸ Add Cite

⁹⁹ Dainius Pūras, *Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health*, OHCHR (Mar. 3, 2016), <https://www.ohchr.org/sites/default/files/Documents/Issues/ClimateChange/Impact/DainiusPuras.pdf> [<https://perma.cc/EC6V-UPS8>].

¹⁰⁰ *Id.* ¶ 12.

¹⁰¹ The former Special Rapporteur defined environmental sacrifice zones as ‘extremely contaminated areas where vulnerable and marginalized groups bear a disproportionate burden of the health, human rights and environmental consequences of exposure to pollution and hazardous substances’. U.N. Hum. Rts. Office of the High Comm’r, *The Right to a Clean, Healthy, and Sustainable Environment: Non-Toxic Environment*, ¶ 27, U.N. Doc. A/HRC/49/53 (Jan. 12, 2022).

¹⁰² CESCR, *supra* note 90, ¶ 3.

¹⁰³ OHCHR, *supra* note 49, ¶ 21.

¹⁰⁴ U.N. Human Rights Council, *Report of the Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health*, ¶ 81, U.N. Doc. A/HRC/41/34 (12 April 2019).

¹⁰⁵ Women of the Métis Nation, *Negative Impacts of Climate Change on Culture and Cultural Rights*, OHCHR, (Aug. 10, 2024) https://www.ohchr.org/sites/default/files/Documents/Issues/CulturalRights/Call_ClimateChange/Women-of-the-metis-nation.docx (last visited Aug. 10, 2024).

¹⁰⁶ Laurie Manwell et al., *What Is Mental Health? Evidence Towards a New Definition from a Mixed Methods Multidisciplinary International Survey*, 5 BMJ OPEN 1 (2015); U.N. Office of the

High Comm'r, *Mental Health and Human Rights*, ¶ 4, U.N. Doc. A/HRC/34/32 (Jan. 31, 2017).

¹⁰⁷ Silvana Galderisi et al., *Toward a New Definition of Mental Health*, 14(2) WORLD PSYCHIATRY 231 (2015).

¹⁰⁸ Add Cite

¹⁰⁹ Add Cite

¹¹⁰ Add Cite

¹¹¹ Study by the Expert Mechanism on the Rights of Indigenous Peoples, *The Right to Health and Indigenous Peoples, with a Focus on Children and Youth*, U.N. Doc. A/HRC/33/57 (Aug. 10, 2016); See also U.N. Special Rapporteur on Freedom of Religion or Belief, *Interim rep. of the Special Rapporteur on the freedom of religion or belief*, ¶ 16, U.N. Doc. A/77/514 (Oct. 10, 2022).

¹¹² Add Cite

¹¹³ Permanent Forum on Indigenous Issues, *Report on the Twelfth Session: Econ. and Soc. Council*, ¶ 4, U.N. Doc. E/2013/43-E/C.19/2013/25 (May 20-31, 2013).

¹¹⁴ Add Cite

¹¹⁵ Add Cite

¹¹⁶ Sara Cooper, *Global Mental Health and Its Critics: Moving Beyond the Impasse*, 26 CRITICAL PUB. HEALTH 355 (2016); See also Kathryn Muyskens, *Avoiding Cultural Imperialism in the Human Right to Health*, 14 ASIAN BIOETH. REV. 87 (2022).

¹¹⁷ Secretariat of the Permanent F. on Indigenous Issues, *State of the World's Indigenous Peoples*, U.N. Doc. ST/ESA/328 (Jan. 14, 2010).

¹¹⁸ Add Cite

¹¹⁹ Add Cite

¹²⁰ See, e.g., Kiran Rele, *Forced Marriage*, 4 INT'L PSYCHIATRY 98 (2007); Salma M. Abdalla & Sandro Galea, *Is Female Genital Mutilation/Cutting Associated with Adverse Mental Health Consequences? A Systematic Review of the Evidence*, 4 BMJ GLOBAL HEALTH 1 (2019); Peggy Mulongo et al., *The Psychological Impact of Female Genital Mutilation/Cutting (FGM/C) on Girls/Women's Mental Health: A Narrative Literature Review*, 32 J. OF REPRODUCTIVE AND INFANT PSYCHOLOGY 469 (2014); Sadiq Bhanbhro et al., *Honour Based Violence as a Global Public Health Problem: A Critical Review of Literature*, 9 INT'L J. HUM. RTS. HEALTHCARE 198

(2016).

¹²¹ OFF. OF THE SURGEON GEN. (U.S.), ET AL., MENTAL HEALTH: CULTURE, RACE, AND ETHNICITY- A SUPPLEMENT TO MENTAL HEALTH: A REPORT OF THE SURGEON GENERAL (2001); *See also* NARAYAN GOPALKRISHNAN, CULTURAL DIVERSITY AND MENTAL HEALTH: CONSIDERATIONS FOR POLICY AND PRACTICE (2018); Dinesh Bhurga et al., *Culture and Mental Illnesses*, 33 INT’L REV. PSYCHIATRY 1 (2021).

¹²² Add Cite

¹²³ Anubha Sood, *The Global Mental Health Movement and Its Impact on Traditional Healing in India: A Case Study of the Balaji Temple in Rajasthan*, 53 TRANSCULTURAL PSYCHIATRY 766, 768 (2016).

¹²⁴ UNDRIP, *supra* note 74, art. 24.

¹²⁵ Alexandra Xanthaki, *Against Integration, For Human Rights*, 20 INT’L J. HUMAN RIGHTS 815 (2016).

¹²⁶ *See* G.A. Res. 2200A (XXI), art. 12 ¶ 1 (Dec. 16, 1966).

¹²⁷ African Union, African Charter on the Rights and Welfare of the Child, art. 14(1), July 1, 1990 (entered into force Nov. 29, 1999).

¹²⁸ G.A. Res. 2888, *American Declaration on the Rights of Indigenous Peoples*, art. 18 ¶ 1 (June 15, 2016).

¹²⁹ Neera Dhar et al., *Spiritual Health, the Fourth Dimension: A Public Health Perspective*, 2 WHO S.E. ASIA J. OF PUB. HEALTH 3, ¶ 5 (2013).

¹³⁰ UNPFII, *supra* note 54.

¹³¹ AUSTRALIAN GOV., NATIONAL STRATEGIC FRAMEWORK FOR ABORIGINAL AND TORRES STRAIT ISLANDER PEOPLE’S MENTAL HEALTH AND SOCIAL AND EMOTIONAL WELL BEING (2017-2023).

¹³² UNPFII, *supra* note 54, at ¶ 21.

¹³³ U.N. OFFICE OF THE SPECIAL ADVISER ON GENDER ISSUES AND ADVANCEMENT OF WOMEN AND THE SECRETARIAT OF U.N. PERMANENT FORUM ON INDIGENOUS ISSUES, GENDER AND INDIGENOUS PEOPLE’S CULTURE (BRIEFING NOTE 4) (2010).

¹³⁴ FIONA BATT, ANCIENT INDIGENOUS HUMAN REMAINS AND THE LAW (2021).

¹³⁵ Add Cite

¹³⁶ Tabitha Grier-Reed et al., *From Antiracism to Cultural Health in Higher Education*, 11 EDUC. SCI. 57, 57 (2021).

¹³⁷ [Add Cite](#)

¹³⁸ See, e.g., Jamila E. Reynolds & Melinda A. Gonzalez-Backen, *Ethnic-Racial Socialization and the Mental Health of African Americans: A Critical Review*, 9 J. FAMILY THEORY & REV. 182 (2017); William M. Bannon Jr. et al., *Cultural Pride Reinforcement as a Dimension of Racial Socialization Protective of Urban African American Child Anxiety*, 90 FAM SOC 79, 81 (2009); Tina Marie Woods et al., *A Preliminary Report on the Relationships Between Collective Self-Esteem, Historical Trauma, and Mental Health Among Alaska Native Peoples*, 1 J. OF INDIGENOUS RSCH. 1 (2012).

¹³⁹ *Id.*

¹⁴⁰ [Add Cite](#)

¹⁴¹ U.N. Human Rights Council, *Report of the Special Rapporteur on the Right of Everyone To The Enjoyment of The Highest Attainable Standard of Physical and Mental Health*, ¶ 35, U.N. Doc. A/HRC/35/21 (Mar. 28, 2017).

¹⁴² CESCR, *supra* note 90, ¶ 3.

¹⁴³ Stephanie Russo Carroll et al., *Reclaiming Indigenous Health in the US: Moving beyond the Social Detriments of Health*, 19 INT'L J. ENV'T RESEARCH & PUB. HEALTH 7495, 7496 (2022).

¹⁴⁴ Verbunt, *supra* note 18; UNPFII, *supra* note 54, ¶ 32.

¹⁴⁵ [Add Cite](#)

¹⁴⁶ CESCR, *supra* note 90.

¹⁴⁷ [Add Cite](#)

¹⁴⁸ U.N. High Comm'r for Hum. Rts., *Mental Health and Human Rights*, ¶ 6, U.N. Doc. A/HRC/34/32 (Jan. 31, 2017).

¹⁴⁹ U.N. Hum. Rts. Council, *Report of the Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health*, ¶ 53, U.N. Doc. A/HRC/29/33 (Apr. 2, 2015).

¹⁵⁰ *Id.*

¹⁵¹ [Add Cite](#)

¹⁵² U.N. Permanent F. on Indigenous Issues, *Recommendations of the Permanent Forum*, ¶ 7,

U.N. Doc. E/C.19/2012/L.9 (May 17, 2012).

¹⁵³ Add Cite

¹⁵⁴ UNPFII, *supra* note 54, ¶ 11.

¹⁵⁵ UNPFII, *supra* note 54, ¶ 5.

¹⁵⁶ Add Cite

¹⁵⁷ The WHO is expected to publish a new World Report on Social Determinants of Health Equity, as requested by Member States in resolution 74.16 of the 2021 World Health Assembly. It is not clear, to what extent it will acknowledge culture and cultural rights as being underlying determinants of mental health.

¹⁵⁸ Add Cite

¹⁵⁹ CESCR, *supra* note 68, ¶ 16(e).

¹⁶⁰ CESCR, *supra* note 90, ¶ 12(b).

¹⁶¹ Indigenous Peoples Convention (No. 169), art. XXV, ¶ 2, June 27, 1989, 1650 U.N.T.S. 1.

¹⁶² Lisa M. Vaughn et al., *Cultural Health Attributions, Beliefs, and Practices: Effects on Healthcare and Medical Education*, 2 OPEN MED. J. 64, 70 (2009).

¹⁶³ Add Cite

¹⁶⁴ Katie Hayes et al., *Factors Influencing the Mental Health Consequences of Climate Change in Canada*, 16 INT'L J. ENV'T RESEARCH & PUB. HEALTH 1583, 1591 (2019).

¹⁶⁵ Add Cite

¹⁶⁶ Add Cite

¹⁶⁷ Add Cite

¹⁶⁸ CESCR, *supra* note 90.

¹⁶⁹ While critical of the outsized role of culture in Indigenous rights litigation, Garcia and Lixinski acknowledge its importance for the adjudication of Indigenous rights claims. Beatriz Garcia & Lucas Lixinski, *Beyond Culture: Reimagining the Adjudication of Indigenous Peoples' Rights in International Law*, 15 INTERCULTURAL HUM. RTS. L. REV. 127, 128-29 (2020).

¹⁷⁰ *Id.* at 145.

¹⁷¹ U.N. Hum. Rts. Comm., *CCPR General Comment No. 23: Article 27 (Rights of Minorities)*, ¶ 7, U.N. Doc. CCPR/C/21/Rev.1/Add.5 (Apr. 8, 1994); Chief Bernard Ominayak and the Lubicon Lake Band v. Canada, U.N. Hum. Rts. Comm., U.N. Doc. CCPR/C/38/D/167/1984, (Mar. 26, 1990); Mayagna (Sumo) Awas Tingni Community v. Nicaragua, Merits, Reparations, and Costs, Judgment Inter-Am. Ct. H.R. (ser. C) No. 79 (Aug. 31, 2001); Yakye Axa Indigenous Community v. Paraguay, Merits, Reparations, and Costs, Judgment Inter-Am. Ct. H.R. (ser. C) No. 125 (June 17, 2005); Sawhoyamaya Indigenous Community v. Paraguay, Merits, Reparations, and Costs, Judgment Inter-Am. Ct. H.R. (ser. C) No. 146 (Mar. 29, 2005).

¹⁷² Garcia & Lixinski, *supra* note 170; Johanna Gibson, *Community Rights to Culture: The UN Declaration on the Rights of Indigenous Peoples*, in *REFLECTIONS ON THE UN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES* 433, 434 (Stephen Allen & Alexandra Xanthaki eds., 2011).

¹⁷³ Add Cite

¹⁷⁴ Add Cite

¹⁷⁵ Lynn F. Lavalley & Jennifer M. Poole, *Beyond Recovery: Colonization, Health and Healing for Indigenous People in Canada*, 8 INT'L J. MENTAL HEALTH & ADDICTION 271, 275 (2010).

¹⁷⁶ CESCR, *supra* note 90; The CESCR noted that the way in which rights are implemented, including the right to health, may have an impact on cultural life and cultural diversity. CESCR, *supra* note 67.