

Mandates of the Special Rapporteur on the rights of Indigenous Peoples; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on freedom of religion or belief

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(Please use this reference in your reply)

2 April 2026

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the rights of Indigenous Peoples; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on freedom of religion or belief, pursuant to Human Rights Council resolutions 60/4, 52/9 and 58/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **imminent actions that may cause irreversible harm to the ability of the Indigenous Western Apache Peoples, in particular the San Carlos Apache Tribe, to freely practice their religion at Chi'chil Bildagoteel (Oak Flat), a sacred site of profound religious, cultural and ceremonial significance. Oak Flat is indispensable to Apache religious life, including the Sunrise Ceremony (Na'ii'ees), a coming-of-age ceremony central to the religious and cultural identity of Apache girls. The United States' recent transfer of the land to mining interests has created an immediate and ongoing risk of irreversible interference with the freedom of religion or belief of the Western Apache Peoples.**

According to the information received:

Chi'chil Bildagoteel, or Oak Flat, is a sacred site located in the state of Arizona, within the ancestral territories of the Western Apache Peoples, including the San Carlos Apache Tribe (the Tribe). Western Apache Peoples have engaged with Oak Flat since time immemorial for religious ceremonies, spiritual practices and cultural activities that are central to their identity, belief systems and intergenerational continuity. The site is revered as a place where prayers are offered, sacred medicines are gathered and spiritual balance is restored in accordance with Apache religious traditions.

Oak Flat is also indispensable to the practice of the Sunrise Ceremony (Na'ii'ees), a coming-of-age-ceremony that marks the transition of Apache girls into womanhood. The ceremony is land-based and cannot be relocated or replicated elsewhere, as it depends on the specific physical, spiritual and ecological characteristics of Chi'chil Bildagoteel.

In December 2014, the United States Congress adopted section 3003 of the National Defense Authorization Act (NDAA), which mandated the transfer of Oak Flat from federal ownership to Resolution Copper Mining, LLC (Resolution Copper), in exchange for non-federal lands. Information received indicates that the legislation was adopted without the free, prior and informed

consent of the Indigenous Peoples whose religion and belief practices are directly tied to the site.

Section 3003 required the United States Department of Agriculture to complete an environmental review prior to executing the 2,422-acre land transfer. In January 2021, the Department published an Environmental Impact Statement assessing the mining project. That assessment concluded that the planned mining method would result in surface collapse and the permanent destruction of Oak Flat. The Department subsequently withdrew the Environmental Impact Statement.

In addition to completing the Environmental Impact Statement, the NDAA required the United States Government to engage in consultations with “affected Indian tribes” to find mutually acceptable measures to address their concerns and minimize adverse effects. Information received indicates that representatives from the U.S. Government met informally with the Tribe; however, neither the Government nor the Tribe considered these exchanges to constitute the requisite consultations to obtain free, prior and informed consent. The Government and the Tribe never reached a mutually acceptable agreement concerning the protection of Indigenous religious practices at Oak Flat. The Tribe has consistently and publicly opposed the land transfer, a position shared by at least 18 other federally recognized tribal governments in the state of Arizona, as well as the Inter-Tribal Council of Arizona and the National Congress of American Indians.

Resolution Copper, the entity designated to receive ownership of Oak Flat, is a joint venture of multinational mining companies Rio Tinto and BHP. Rio Tinto has previously acknowledged responsibility for the destruction of the Juukan Gorge Aboriginal heritage site in Australia and has publicly committed to preventing similar harm to Indigenous sacred sites in global operations. Following the adoption of section 3003, Western Apache Peoples pursued multiple legal challenges seeking to prevent the land transfer and protect their ability to practice their religion at Oak Flat. In May 2025, the Supreme Court of the United States declined to review challenges brought by Apache Stronghold, a non-profit organization representing Western Apache religious practitioners, concerning the destruction of Chi’chil Biłdagoteel, leaving lower court decisions undisturbed. On 13 March 2026, the United States Court of Appeals for the Ninth Circuit subsequently issued a decision allowing the land transfer to proceed. The Tribe has since announced its intention to seek en banc review of that decision. The United States Forest Service issued a Record of Decision on 16 March 2026, thereby completing the environmental review process required under section 3003 of the National Defense Authorization Act. Western Apache representatives filed an emergency application for injunction with the U.S. Supreme Court to block the land transfer, but the Court did not immediately respond. Following the issuance of the Record of Decision, the United States Department of Agriculture completed the transfer of Chi’chil Biłdagoteel to Resolution Copper on 16 March 2026, placing the sacred site in private ownership. Resolution Copper has been authorized to commence exploration and drilling activities at Chi’chil Biłdagoteel, marking the beginning of physical disturbance to the sacred site.

Without prejudging the veracity of the facts set out above, we wish to express our serious concern regarding a potential violation of the right of the Western Apache Peoples, particularly the San Carlos Apache Tribe, to manifest and practice their religion and belief freely, as protected under international human rights law. The situation concerning Chi'chil Bıldagoteel was previously raised before the Committee on the Elimination of Racial Discrimination, which transmitted an early warning and urgent action communication to the United States on 23 August 2024.

The transfer of U.S. public lands to Resolution Copper threatens to destroy Chi'chil Bıldagoteel (Oak Flat), a site that is indispensable to Apache religious practices. International human rights standards recognize that, for many Indigenous Peoples, the ability to manifest religion depends on continued access to specific lands, territories and sites of spiritual significance. Impeding or prohibiting access to unique sites of worship denies Indigenous Peoples the ability to practice their religion. We are therefore concerned that the transfer and development of Chi'chil Bıldagoteel and the loss of access to this sacred site may violate the Western Apache Peoples' human right to freedom of religion.

We are further concerned that the reported impacts of the land transfer and mining project would disproportionately affect Indigenous women and girls. The loss of access to Chi'chil Bıldagoteel would uniquely burden Apache girls by denying them participation in the religious rite of passage that marks their entry into womanhood.

We also wish to express our concern regarding the apparent failure to obtain the free, prior and informed consent of the Indigenous Peoples affected, before authorizing actions that may result in the destruction of, or denial of access to, a sacred religious site. International standards require that the State consult and cooperate in good faith with Indigenous Peoples, in order to obtain their free, prior and informed consent, particularly in cases involving development projects with profound spiritual, cultural and religious consequences.

Access to information is a right, enshrined under article 19 ICCPR that comprises the right to seek, access and receive information of all kinds, and it is also a fundamental pillar for peace, democracy, development and the enjoyment of other rights. States parties to the ICCPR should make every effort to ensure easy, rapid, effective, and practical access to information, notably including communities whose informed consent needs to be obtained (A/68/362, paras. 18, 19, 20, and 89).

We are further concerned that the apparent absence of effective domestic remedies capable of preventing irreversible harm to Chi'chil Bıldagoteel may result in the permanent impairment of the rights at issue without meaningful recourse. In circumstances where irreversible harm to Indigenous religious practice is imminent, international human rights standards require preventative and protective measures to ensure that rights are not rendered illusory by the passage of time or completion of the harmful act.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information on the measures being taken to ensure the continued ability of Western Apache Peoples, and the San Carlos Apache Tribe, to freely practice their religion at Chi'chil Bıldagoteel (Oak Flat).
3. Please provide information on how the Government intends to prevent or mitigate irreversible harm to Chi'chil Bıldagoteel pending the exhaustion of available domestic and international review processes.
4. Please explain how the legislative and decision-making processes authorizing the transfer of Oak Flat complied with requirements to consult and cooperate in good faith with Indigenous Peoples, consistent with the standard of free, prior and informed consent.
5. Please provide information on the steps taken to address the distinct and disproportionate impacts of the proposed land transfer on Indigenous women and girls, including measures to ensure protection against discrimination in the enjoyment of religious and cultural rights.
6. Please provide information on the steps taken to address the significant impacts on the parents and families of Apache girls regarding their interests in directing the religious education and upbringing of their children without undue interference by the Government.
7. Please provide information on the mechanisms in place to ensure that private entities involved in the Oak Flat land transfer and permitted by the Government to engage in mining activities operate in a manner consistent with the Government's international human rights obligations regarding Indigenous Peoples' religious and cultural rights.
8. Please provide information on any legislative, administrative, or other measures under consideration to resolve the situation at Oak Flat in a manner consistent with international human rights standards concerning the rights of Indigenous Peoples.

This communication, and any response received from your Excellency's Government, will be made public via the communications reporting [website](#) at the 60 days mark. Should Your Excellency's Government respond within 60 days, both the communication and the response, may be published before the 60 days mark. The communications and responses will also be made available in the subsequent periodic report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Please accept, Excellency, the assurances of our highest consideration.

Albert K. Barume
Special Rapporteur on the rights of Indigenous Peoples

Irene Khan
Special Rapporteur on the promotion and protection of the right to freedom of opinion
and expression

Nazila Ghanea
Special Rapporteur on freedom of religion or belief

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, I draw the attention of your Excellency's Government to the following international treaties and other instruments relevant to the rights of Indigenous Peoples.

The International Covenant on Civil and Political Rights protects the right to freedom of thought, conscience, and religion, including the freedom to manifest religion or belief in worship, observance, practice and teaching (article 18) and the right to freedom of opinion and expression (article 19). It further provides that persons belonging to ethnic or religious minorities shall not be denied the right, in community with other members of their group, to practice their own religion (article 27). The Covenant requires States Parties to ensure the rights recognized therein without discrimination and to provide effective remedies for where violations occur (article 2).

Article 19 of the ICCPR guarantees the right to hold opinions without interference and the right to freedom of expression, which includes the right "to seek, receive and impart information and ideas of all kinds, either orally, in writing or in print, in the form of art, or through any other media". This right applies online as well as offline and includes not only the exchange of information that is favourable, but also that which may criticize, shock, or offend. In its [general comment No. 34](#), the Human Rights Committee stated that States parties to the ICCPR are required to guarantee the right to freedom of expression, including "political discourse, commentary on one's own and on public affairs, canvassing, discussion of human rights, journalism, cultural and artistic expression, teaching, and religious discourse" (CCPR/C/GC/34, para. 11).

The Committee further asserts that there is a duty of States to put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression (para. 23). Recognizing how journalists and persons who engage in the gathering and analysis of information on the human rights situation and who publish human rights-related reports, including judges and lawyers, are frequently subjected to threats, intimidation and attacks because of their activities, the Committee stresses that "all such attacks should be vigorously investigated in a timely fashion, and the perpetrators prosecuted, and the victims, or, in the case of killings, their representatives, be in receipt of appropriate forms of redress" (para. 23).

Any restriction on the right to freedom of expression must be compatible with the requirements set out in article 19(3) ICCPR. Under these requirements, restrictions must (i) be provided by law; (ii) pursue one of the legitimate aims for restriction, which are the respect of the rights or reputations of others and the protection of national security or of public order (*ordre public*), or of public health or morals; and (iii) be necessary and proportionate for those objectives. The State has the burden of proof to demonstrate that any such restrictions are compatible with the Covenant, and restrictions must always be "the least intrusive instrument among those which might achieve their protective function" ([CCPR/C/GC/34, para. 34](#)).

As provided for in article 19 of the ICCPR, the right to freedom of opinion and expression includes the right to seek, access and receive information of all kinds.

Freedom of expression, including the right to access information, “is a necessary condition for the realization of the principles of transparency and accountability, which are in turn essential for the promotion and protection of human rights” (CCPR/C/GC/34, paragraph 3). “Article 19 sets forth a right of access to information held by public bodies” and, consequently, “in order to give effect to the right of access to information, States parties should actively pursue the incorporation into the public domain of government information that is of public interest. States parties should make every effort to ensure easy, rapid, effective, and practical access to such information” (paragraphs 18 and 19).

The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has repeatedly emphasized the importance of access to information and transparency as fundamental pillars for peace, democracy, and development, as well as the fundamental role that these right plays in the enjoyment of other rights (A/68/362, paras. 18, 19, 20, and 89; E/CN.4/1998/40, para. 12; E/CN.4/1995/32, para. 135). Along these lines, the Special Rapporteur has recommended and encouraged States to review their regulatory and institutional frameworks, mechanisms, and tools to guarantee and promote the right to access information and transparency in the most comprehensive and full manner possible.

The Special Rapporteur has also highlighted that “the right to receive information advances several principles that underlie and animate human rights as it advances the individual’s ability to seek out information of all kinds, allowing the development of opinions protected against interference under article 19 (1) of the Covenant and it encourages participation in public affairs, which is independently protected by article 25 of the Covenant. It encourages accountability, increasing the costs for those who might engage in wrongdoing” (A/70/361, §5).

The International Convention on the Elimination of All Forms of Racial Discrimination guarantees equality before the law in the enjoyment of fundamental rights, including freedom of religion and participation in cultural life, without distinction as to race, national or ethnic origin (article 5). In its general recommendation No. 23, the Committee on the Elimination of Racial Discrimination affirms that no decisions directly relating to the rights and interests of Indigenous Peoples should be taken without their informed consent and emphasizes the requirement of effective participation in decision making processes affecting them.

The Universal Declaration of Human Rights provides that everyone has the right to freedom of thought, conscience and religion, including the freedom to manifest religion or belief in practice and observance (article 18).

The United Nations Declaration on the Rights of Indigenous Peoples affirms the right of Indigenous Peoples to manifest, practice, develop and teach their spiritual and religious traditions, customs, and ceremonies, including the right to maintain, protect and access sites of religious and cultural significance (article 12). It further affirms the right of Indigenous Peoples to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and other resources, and to uphold their responsibilities to future generations in this regard (article 25). The Declaration requires States to consult and cooperate in good faith with Indigenous Peoples, through their own representative

institutions, in order to obtain their free, prior and informed consent before adopting or implementing legislative or administrative measures that may affect them (article 19). It also provides that particular attention shall be paid to the rights and special needs of Indigenous women and girls and requires States to take measures to ensure that Indigenous women and girls enjoy full protection against all forms of discrimination (article 22).

The Special Rapporteur on the rights of Indigenous Peoples and the Special Rapporteur on freedom of religion or belief have consistently emphasized that, for Indigenous Peoples, the exercise of religious freedom is often inseparable from access to specific lands and sites of spiritual significance, and that the loss or destruction of such sites may result in irreparable harm to cultural and religious identity including as reflected in the Special Rapporteur on freedom of religion or belief's 2022 report on Indigenous peoples and the right to freedom of religion or belief (A/77/514).