

Report to EMRIP Study on Indigenous Peoples' Rights in the Context of Borders,  
Migration and Displacement, February 1, 2019

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Indigenous Peoples alive today have demonstrated exemplary success in surviving large waves of migration with our spiritual, economic, political, and social integrity intact. UN Members and System would benefit from negotiating with and thus learning from Indigenous Peoples' governments instead of presuming to own us. Indigenous Peoples see that keeping families intact and empowering women reduces violence in the face of overwhelming migration and immigration. Families generate hope and commitment to long-term solutions. Strong women can lead families and communities to dialogue and away from violence. Development-related aggression and related migrations encroaching on Indigenous Peoples are more likely to be survived when the migrants are managed by Indigenous Peoples' governments, laws, and customary practices. Indigenous Peoples are already hosts to migrants and we can more effectively fulfill the responsibilities for hosts when our governments are not discriminated against by UN Members.

- A. Reasons and factors behind the movement:
- a. Traditional migratory patterns may be seasonal to generational or may be traditional responses to irregular climate and weather changes. Traditional migration may include animals and may involve protecting plants, fisheries, or hunting areas Indigenous Peoples leave unattended to grow until we return. Acceleration of infectious disease sharing may occur on all migrations as a result of climate change impacts. Empowerment of Indigenous Peoples' governments is needed to reduce risks and optimize overall benefits of migration.
  - b. Climate Changes of persistent drought, concentrated pollution impacts on dwindling freshwater, increased seismic or volcanic activity, increased storm impacts, erosion and submersion reducing fisheries and productive hunting lands, changing rain patterns, wildfires, coastal erosion and sea level rise, disease, violence and socio-political turmoil related to climate change contribute to Indigenous Peoples' migration.
  - c. Economic impacts of unsustainable development and development-related aggression rendering traditional economic engines (including local ecosystems and macrosystems) dysfunctional.

The primary economic systems are those that directly give food. Waters are life sources and economic institutions that enable aquaculture, spiritual and physical health supports, education, transportation, irrigation for agriculture and social

life that propels economy. The economic institution of water strengthens the functionality of ecosystems that feed Indigenous Peoples. Financial markets are secondary economic systems that exist to support healthy ecosystems that feed humans. When our primary economic systems are made dysfunctional by unsustainable development we may have to participate in the financial organized economy during involuntary migration.

- i. Military, paramilitary, security activities are often undertaken to achieve development objectives.

The primary impacts of the actual military activities of occupation or attack cause migration. The secondary impacts of military activities injure water and water's dependents, impairing the functionality of ecosystems and driving survivors of military activities to flee the direct physical violence and the environmental violence that causes poverty and starvation. Sometimes the military objective is simply transportation of persons or goods. This transportation itself can drive migration by taking away resources and bringing in humans to displace Indigenous Peoples.

- ii. Energy projects: dams, nuclear/coal/gas/oil/biomass plants, wind and solar farms, refineries, factories and transport serving energy industry

Energy projects can directly displace Indigenous Peoples with violence or harassment to take land for the project area itself as well as with impacts from the project such as flooding, geoengineering, toxic and radioactive pollution, killing or weakening of flora or fauna that Indigenous Peoples eat for food or medicine, poisoning and taking of water Indigenous Peoples drink, diseases coming from contaminants, changes in local weather, intensification of global climate impacts, political/social turmoil and conflict.

- iii. Megaprojects for export foods: Mono-cropping, mono-husbandry of animals, mono-industries

Megaprojects using Indigenous Peoples' environs for life sources that will be exported physically displaces Indigenous Peoples and impacts ecosystems that cause neighboring Indigenous Peoples to flee even further from these megaprojects. Monocropping, mono-husbandry, and mono-industries concentrate impacts to one locale that previously have been distributed across thousands of miles. This concentrates contaminants and organic byproducts of the flora or fauna concentrated in the area. Corn, soy, wheat, rice, coffee, tea, and other monocrops may not be naturally occurring where the monocrops farms are and they are not natural in that quantity by themselves. Concentrations of one animal such as cows, pigs, chickens, fish in mono-husbandry, also impacts Indigenous Peoples' lands, winds, and waters with concentrations of feces and industrial chemicals. This can cause

anthropogenic land changes such as aquifer desiccation/salinization/contamination, erosion, landslides, increased wind impacts, land sinking, drought, and flooding. It can cause changes to the other species in the area, insects that bite Indigenous Peoples and our food sources. The concentration of chemicals changes the DNA of the ecosystem and neighboring ecosystems. This causes health impacts, including hunger and thirst, causing survivors to flee.

- iv. Extraction: minerals, gases, liquids (including oil, water) people (cultural resources, labor, trafficking)

Extraction of iron, copper, lead, zinc, nickel, coal, uranium, gold, silver, water, sand, limestone, salt, potash, gypsum, biomass, oil, gas, and myriad other minerals, liquids, and gases cause impacts to Indigenous Peoples similar to those of military activities: there is the primary earth-shattering physical displacement and related violence followed by pollution that can transform the atmosphere into a gas chamber and water into poison. Trafficking of humans, drugs, weapons, minerals, and money are migration drivers often associated with extractive projects. Cultural resources of languages, traditional knowledge, traditional cultural expressions, genetic resources, and traditional ways of knowing may also be mined in relation to physical extractions.

Extractive actions are often accompanied by violence, unrest, political and social turmoil that can render secondary economic systems, including financial systems, dysfunctional. Indigenous Peoples can be forced to labor in extractive industries and also can be attacked by incoming extractive workers, contributing to migration drivers. Some Indigenous Peoples send promising citizens to urban centers to get education to return and serve their Indigenous Peoples' governments in combating drivers of climate change and migration.

- B. Current challenges and developments in law, policy and practice regarding trans-border movement of indigenous peoples:

Corruption causes violence and is a security threat. Corruption leads some states to promote selective enforcement of national immigration laws targeting those of apparent indigenous ancestry for harassment, intimidation, arrest, torture, and murder.

Corruption may also lead to militarization of reception of migrants. For example, the US targets those with apparent ancestry indigenous to the Americas by profiling, preventing cross-border travel and communication, torture, imprisonment, criminalization, and prevention of asylum-seekers' migration because they are perceived as being criminal. Further, the US targets those of apparent African ancestry as being from 's\*\*\*\*\*' countries and unable to 'assimilate' or contribute to the US economy. The US banned travel completely from certain countries based on

prejudices<sup>1</sup>, negatively impacting Indigenous Peoples. As the US denies<sup>2</sup> climate change impacts, it has no plan to address climate change<sup>3</sup> and does not recognize the rights of Indigenous Peoples displaced by climate change and the US' own national policies. Corruption allows policies based in prejudice to hurt displaced Indigenous Peoples because it does not treat all equitably before the law, making exceptions for those, in this example, of European descent, while criminalizing and imprisoning those descended from Indigenous Peoples of the Americas or Africa.

- C. Current challenges and developments in law, policy and practice regarding internal movement:
- a. Corruption causes UN Member state agencies to not regulate unsustainable development and GHG emissions. Corruption causes agencies, courts, legislatures, and executives to ignore illegal development and violent human rights violations committed to further unsustainable development. Transnational Corporations and Transnational Crime Organizations appropriate access and control of life sources for unsustainable development, paying off agencies that are supposed to regulate interaction with our ecosystems to protect humans for now and future generations.
  - b. Indigenous Peoples' original title and right to govern human interaction with our ecosystems is not recognized by UN Members or UN System because of racism. Indigenous Peoples' governments are considered inherently inferior because our traditions are from this land and not from the culture of the dominant group. This causes internal displacement as development aggression and climate change pushes away from our ancestral lands. Indigenous Peoples approach of responsibility-based governance is despised while the rights of corporations to displace us is enshrined in UN Member laws without regard to DRIP.
- D. Focus on Indigenous persons in vulnerable situations:
- i. Women, children, disabled, and those of vocation or orientations culturally despised by the UN Member controlling group are at greater risk for trafficking and poor health that shortens lives. Military and extractive actions as well as mono-industries can result in trafficking of women and children as these drivers of migration also tend to concentrate men without families to guide them.

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<sup>1</sup> DHS Implementation of Executive Order #13769 "Protecting the Nation From Foreign Terrorist Entry Into the United States" (January 27, 2017). <https://www.oig.dhs.gov/sites/default/files/assets/2018-01/OIG-18-37-Jan18.pdf>

<sup>2</sup> BBC News. (2018). *Trump on climate change report: 'I don't believe it'*. London: BBC News. <https://www.bbc.com/news/world-us-canada-46351940>

<sup>3</sup> Climate Change Response. US Government Accountability Office. (2019). [https://www.gao.gov/key\\_issues/climate\\_change\\_response/issue\\_summary#t=0](https://www.gao.gov/key_issues/climate_change_response/issue_summary#t=0)

- b. There is a rush similar to historical gold rushes on Indigenous Peoples with gifts that will help survive climate change. Indigenous Peoples with sought-after gifts such as water, energy fuel, access to transportation or natural barriers from climate change impacts are particularly vulnerable to displacement and involuntary migration and then more vulnerable during displacement because they still have rights that developers may terrorize them into signing away.
- E. Remedies and Recommendations
  - a. Ratify and implement United Nations Convention against Transnational Organized Crime (UNTOC) and Protocol against the Smuggling of Migrants by Land, Sea and Air among UN Members and promote coordination with The Global Compact for Safe, Orderly and Regular Migration (GCM), targeting traffickers in accordance with plans shared by Indigenous Peoples' governments.
  - b. Increase ability for displaced or migrating Indigenous Peoples to report and remedy corruption through their own Indigenous Peoples' governments and UN Member governments.
  - c. Operationalize Convention on the Elimination of All Forms of Racial Discrimination, especially Articles 2, 5, 14, 15, 17 with budget line items to reduce inequality and support legislation and local implementation from Member States and interagency UN support to GCM to mitigate the drivers of involuntary migration and support voluntary migration of Indigenous Peoples. Support migration with our traditional food sources, (pastoralism), rights to cultivate and protect food sources that we leave unattended and return to, and other needs as we adapt to climate change on the move.
  - d. Realize the promise of the International Trusteeship System to promote equitable and peaceful political, economic, social, and educational advancement for vulnerable territories developing self-government. Reduce development-related aggression and empower Indigenous Peoples to implement our decisions to reduce GHGs and climate changing acts. Wars of aggression against Indigenous Peoples should be stopped by UN and multilateral action upholding trusteeship of Indigenous Peoples' territories. We must also consider that climate change will impact the political map. Indigenous Peoples are not property of a country. Indigenous Peoples belong with their territory. Return to their ancestral territory may mean returning to a different country after political turmoil is resolved. The UN must face the reality that Indigenous Peoples and our representative institutions pre-existed UN Members and should post-exist UN Members. The UN Charter says that the UN will protect Peoples. So if the land or state disappears or changes drastically, the UN must be prepared to work with Peoples' governments and not discriminate against Indigenous Peoples' governments. The UN Charter provides a trusteeship system that can enable

Indigenous Peoples' governments to participate in GCM as responsibility-holding governments enabling a cooperative approach to Indigenous Peoples' migration. Peoples can agree to disagree while planning to survive climate change. Governments can disagree about title, jurisdiction, the legal status of migrants/refugees/immigrants and still plan together safe human communities with ecosystems that will afford access to water and food for the next generations of Peoples in special situations living with disputed land. Enable Indigenous Peoples' governments to more effectively coordinate with UN Member State governments regarding migration and displacement, despite disputes over territories.

- e. Promote respect for Indigenous Peoples' original title to territories and waters, despite submersion of original territories. Enable Indigenous Peoples to return to original territories, even if submerged, and promote adaptation to living with submerged territories. Require that all UN financial system projects producing any GHGs to provide funds that for all estimated climate change migrants and their security and livelihood for generations into the future, in accordance with data from Indigenous Peoples' governments.
- f. Ratify and implement Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) and Convention on the Rights of the Child (CRC) for migration management with oversight from women surviving trafficking. Promote paid employment of indigenous women in indigenous education, especially with Indigenous Peoples' languages. Implement human rights instruments to reduce violence that propels migration and that in turn promotes unsustainable development and climate change. Migration remedies to the drivers of trafficking should empower women to design and implement travelling and camping solutions, considering isolation as well as long-term remedies to the drivers of their displacement with the goal of return or multi-generational relocation planning, with the trafficking survivors determining this through their Indigenous Peoples' governments.
- g. Support migration caused by poverty, lack of opportunity, and economic employment, all of which relate to lack of water. Strengthen international cooperation in development and technology transfer through DRIP implementation.
- h. Review The International Labour Organization's (ILO) Convention concerning Indigenous and Tribal Peoples (No. 169) defining Indigenous Peoples to consider that the People fulfilled this definition either prior to or after climate change impacts. Ensure protections of Indigenous Peoples forced to work as employees of the dominant group when they have to involuntarily migrate or when customary voluntary migration leads to the realization that their traditional food sources have disappeared.

- i. With voluntary leadership from Indigenous Peoples' governments and with respect for UN Member governments, develop implementations of Convention on Biological Diversity (CBD) and Durban Declaration and Programme of Action in conjunction with ILO Conventions (especially 97, 100, 111, 156, 143, 169, 183) and CERD to reduce involuntary migration drivers of climate change, military activities, extractive and energy industries and food megaprojects.
- j. Implementation of SDG target 2.3 and the 2030 Agenda in general, which is imposed on Indigenous Peoples, should be monitored to ensure that it does not displace Indigenous Peoples. FAO and IFAD should work directly with Indigenous Peoples' governments considering the 2012 FAO Voluntary Guidelines on the Responsible Governance of Tenure, especially parts 4 and 6 and DRIP Articles 3, 7, and 10. Empowering Indigenous Peoples' governments to share coherent equitable plans to deal with past, current, or future development-related aggression can replace apparent TNC plans for Indigenous Peoples: exploitation
- k. Initiate actions at all levels of government to implement Article 2 of the Convention on the Prevention and Punishment of the Crime of Genocide (1951) in consideration of UN Members exterminating Indigenous Peoples by not fulfilling regional or international agreements to mitigate, adapt to, or survive climate change impacts living within the planetary limitations of Earth.
- l. Establish procedures and processes to manage disputes regarding drivers of migration. Dispute examples: 1. when Indigenous Peoples say the water is not safe to drink or the flora and fauna providing food for the people related to this injured water is not safe to consume and the corporation or other agency of the UN Member says it is safe. When the corporation or other agency of the UN Member says their activities are not accelerating climate change and Indigenous Peoples say that it is, we need an expedited and objective way without conflict of interest to manage this international dispute so we can stay where our ancestors have lived since time immemorial.
- m. Work with Indigenous Peoples governments to develop crop, husbandry, and industry standards that promote diversity and interdependent agriculture, aquaculture, husbandry, and industries. Empower Indigenous Peoples to develop plans that will reduce risk for violence, pollution, and unsustainable development caused by migration.
- n. Encourage UN Member governments and UN agencies to directly dialogue with and accept Indigenous Peoples' data and knowledge for consideration in regulating energy, extraction, agriculture, aquaculture, husbandry, and other industries to reduce drivers of involuntary migration. Support Indigenous Peoples' data collection with UN system and Member states ending discriminating against data collected according to Indigenous Peoples' methodology. UN Members should educate participants in their legal systems

about human rights obligations under UN instruments, including DRIP, to reduce human rights violations related to migration. UN Member national legal systems should require participants to demonstrate competency in human rights laws, including the DRIP.

- o. Empower Indigenous Peoples' governments to help UN Member governments achieve SDG target 10.7 . Create enabling environments for the continuation of Indigenous Peoples' economic, social, spiritual, and political systems with respect for self-determination while travelling. Strong regional mechanisms for accountability of UN Members to reduce the root causes of involuntary migration should be developed in conjunction with Indigenous Peoples' governments.