**Indigenous Rights & Climate-Forced Displacement**

The Unitarian Universalist Service Committee (UUSC) and our partners provide feedback below to inform the Special Rapporteur on the promotion and protection of human rights in the context of climate change’s report on addressing the human rights implications of climate change displacement including legal protection of people displaced across international borders to be presented to the 53rd Session of the Human Rights Council in 2023. In particular, our response pertains to the Special Rapporteur’s question about special and particular considerations for indigenous peoples with respect to climate change displacement:

***“Should separate and particular considerations be given to indigenous peoples with respect to climate change displacement? What are these particular considerations?”***

Background

“We are a spiritual people with ancestral knowledge. We are the stewards of the land. We have inherent rights. We are inclusive and empowered and we are the first peoples of the world.” John Pingayaq, Chevak, Alaska

UUSC works with indigenous peoples and frontline communities around the world to advance their right to self-determination in addressing the climate crisis. In 2018, UUSC co-hosted a convening of indigenous peoples from Alaska, Louisiana, Washington State, Fiji, Samoa, Tuvalu, Kiribati, Palau, Papua New Guinea, Solomon Islands, Marshall Islands and Bangladesh to discuss the impacts of climate-forced displacement on their communities and regions. This [report](https://www.uusc.org/wp-content/uploads/2019/04/UUSC_Report_ALASKA_web_2april.pdf) provides an account of the deliberations and includes a declaration relating to the protection of their rights as indigenous peoples in the face of climate-forced displacement. Under Article 2 of the [declaration](https://www.uusc.org/wp-content/uploads/2018/09/Declaration.pdf), the indigenous Tribes gathered called on State Governments to:

* Respect, uphold, and protect our rights as Indigenous Peoples as well as the rights we hold as individual members of society, including, but not limited to, the rights of women; rights of the child; rights of persons living with disabilities; economic, social and cultural rights; and civil and political rights.
* Uphold their responsibility to protect the rights of climate-displaced peoples within their jurisdictions.
* Develop and formulate rights-centered laws, policies, and strategies that address the spectrum of risks associated with climate displacement, including our right to remain and build protections in place.
* Actively engage our communities in decision-making processes, particularly as they relate to adaptation and relocation.

These communities face various challenges and stumbling blocks during decades of work on environmental justice, climate change mitigation, adaptation, and community resettlement projects needed to ensure their communities’ survival. These communities, who face layers of threats to their right to self-determination, are often not consulted, or are ignored, by government agencies considering climate adaptation, resettlement and migration policies that will impact them, including the consideration of their unique rights and identities as indigenous peoples. States’ failure in adhering to existing obligations relating to people displaced by the climate crisis and indigenous peoples is paired with a dearth of funding to implement their solutions.

The impacts of the climate crisis are much deeper than ruined infrastructure, frightening storms, struggling industries, or even lost homes for indigenous peoples. The changes taking place in indigenous communities are altering—and in some cases threatening to destroy the unique cultural and sustainable practices that define the very identity of indigenous peoples. In addition, despite the critical role that indigenous peoples play to protect our ecosystems and that they contributed nothing to the climate crisis, they are the most directly impacted. As one of our partners puts it:

*“We are being forcibly displaced from our homes for reasons that we did not create, so it is the obligation of developed nations who are destroying our homes to respect, recognize and protect our unique rights as indigenous peoples in migration and resettlement policies. This is climate justice.” Ursula Rakova, Carteret Islands, Papua New Guinea.*

*Given this injustice, the inherent rights of indigenous peoples and the unique human rights implications of climate change displacement on indigenous peoples, we advocate for separate and complementary considerations for Indigenous Peoples with respect to climate change displacement within legal frameworks that provide rights-protections for people displaced by climate change.*

Indigenous Rights & Climate-Forced Displacement

Indigenous Peoples possess distinct collective rights under international law and many domestic legal frameworks. Central treaties upholding these rights include the Indigenous and Tribal Peoples Convention (International Labor Organization Convention 169, ILO 169) and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Many states also recognize the sovereign rights of indigenous peoples. In the United States, federally recognized tribes often hold sovereignty over land, and their right to self-determination means that the federal government must consult directly with tribal governments before taking actions that might impact them. Under international law, other indigenous peoples, including unrecognized tribes, also maintain the right to self-determination, which scholars note is tied to “internal, cultural, and community-based” sovereignty that is a part of Indigenous Peoples’ identity.

Climate-forced displacement directly threatens some of the key rights recognized by ILO 169 and UNDRIP. It challenges indigenous communities’ very right to self-determination (“the freely expressed will of peoples”) because climate change threatens to force people from their homelands—which are connected to their traditional, cultural, and livelihood practices. Climate-forced displacement also threatens the survival of indigenous cultures as it presents grave risks on the lives and livelihoods of young indigenous children.

*“Our past, present and future are intricately connected to the lands we are born in. To be forcefully removed from the islands is no different than having an umbilical cord between a mother and a fetus forcibly removed. Climate-forced displacement is harming future generations of indigenous children.” Atina Schulz, The Marshall Islands.*

Indigenous communities’ collective rights must be acknowledged and protected in the face of climate change. This means that climate relocation or migration planning that is predicated on individual or family-level concepts of land ownership may not suit the needs of Indigenous communities or regions where land is held in common. Further, UNDRIP recognizes that the right to maintain indigenous culture is linked to the rights to land and resources. When people are forced from their lands (or seas), they risk losing traditional cultural practices along with their heritage sites.

Indigenous communities and individuals at risk of climate-forced displacement face threats to a wide range of rights, from their right to health, water, and housing to their rights to move freely and maintain and practice one’s culture. States have an obligation to respect, protect and fulfill the enjoyment of human rights, and by virtue of these principles, are obligated to respect indigenous rights and protect indigenous peoples, not interfere with the enjoyment of their rights, and take actions that facilitate the enjoyment of human rights. Therefore, legal frameworks must clearly uphold States’ duty in addressing the forced displacement of indigenous peoples due to the impacts of the climate crisis.

It is also important to note that many indigenous communities have experienced histories of colonization and forced removals from their homes. Climate displacement is a repeating of rights violations at the hands of settlers and colonizers. For instance, a 2021 study conducted by the Yale School of the Environment revealed that Indigenous peoples across the US have lost 98.9% of their ancestral lands. Forty-two percent of historical tribes now hold land that is not acknowledged by the US government. Tribes that have recognized land only hold an average of 2.6% of the size of their historical lands.[[1]](#footnote-1) This vast dispossession has left them disproportionately vulnerable to longer periods of extreme heat, wildfires, and other climate hazards associated with climate change. Particular consideration must be given to indigenous communities in this context to uphold their rights under UNDRIP.

Because there is no durable legal framework protecting the rights of those displaced by climate change, there are glaring gaps in rights protections for climate-displaced people, especially for the right to life, self-determination, access to food, housing, and standard of living, right to work, and cultural and physical heritage.[[2]](#footnote-2) Indigenous communities that remain in place and attempt to adapt to slow-onset climate events also face myriad threats to their human rights, especially rights to food, water, sanitation, work, standard of living, property, education, sustainable development, free prior informed consent, self-determination, health, housing, culture/ heritage, collective rights, sovereignty, and even life.[[3]](#footnote-3)

A paradigm shift in the current state-led climate frameworks toward one founded on the acknowledgment of Indigenous Peoples as stewards of the land and holders of the solutions to today’s climate crisis is needed. A variety of international treaties and principles offer guidance on these issues, including the UN Guiding Principles on Internal Displacement and the Nansen Initiative and we note that few representatives of Indigenous Peoples participated in the development of these guidance, and the pace of government action on climate change is far too slow to mitigate the threats of displacement for communities.

Ten years after the adoption of UNDRIP the report of the expert mechanism on the Rights of Indigenous Peoples noted with alarm the persistent failure of states and development agencies to recognize these rights, seek informed consent, or protect the rights of Indigenous Peoples to their lands, resources, and cultural practices. Indeed, the report noted that Indigenous Peoples are routinely killed for trying to protect their lands and rights from exploitation. The failure to consult and include Indigenous Peoples in planning is replicated in top-down state-led approaches to climate adaptation and planning for potential climate displacement.

In order to fully protect the rights of Indigenous Peoples, States must create legal frameworks and policies that center communities, and First and Indigenous Peoples in particular, at the center of policy planning. In the context of climate-forced displacement:

* States must seek free, prior and informed consent of indigenous peoples in developing safe and regular pathways and in relocation or resettlement of climate-displaced indigenous peoples.
* Community members should be actively engaged and supported to monitor climate-change impacts, such as sea-level rise and erosion that impact them, and they should be empowered to lead planning efforts.
* States must allow Indigenous communities to decide for themselves whether and when they relocate or migrate. Most of the communities that UUSC engages intend to remain in their traditional lands, and states must support their right to remain and build protections for their homes, infrastructure, subsistence lands and waters, and cultural heritage sites.
* States must take precautionary measures in preventing, minimizing and preventing the causes of climate change, and address the adverse impacts of climate change on indigenous communities.
* States must seriously consider the traditional knowledge and cultural wisdom of indigenous peoples in developing migration and adaptation strategies and policies.
* Indigenous communities need access to funding and other technical resources to plan for adaptation in place and relocation or migration. This includes resources to protect known cultural sites and to explore unknown cultural sites for research and historical archives.
* States must create dedicated funding to support indigenous communities to relocate or migrate and streamline burdensome funding processes to ensure equitable access.
* In the case of involuntary migration, border control offices should be trained about the rights of indigenous peoples and non-discrimination training on the basis of language and skin color.
* In some contexts, communities are unable to return to their homes due to the ongoing threats of climate change. However, indigenous peoples’ connection to their ancestral lands does not diminish or break after displacement, migration or relocation. We have heard stories from internally displaced indigenous communities in Fiji about elders returning to their original homes to visit gravesites and their traditional lands, despite their homes being inundated with rising waters. Another case in Fiji relates to a Tribe’s refusal to relocate because of their traditional obligations to their paramount chief to keep watch on their ancestral lands. This traditional obligation can only be severed traditionally by the chief and community, and states must respect these rights and facilitate these discussions and strategies.
* When migration has occurred, indigenous tribes need to be able to practice their own tribal sovereignties, which means that States must allow communities to move and resettle as a community to allow them to continue their cultural practices and protocols.
* Indigenous youth and children, indigenous women and indigenous people with disabilities must be included and consulted in policy discussions relating to relocation and migration policies that center youths, women and gender and people with disabilities as they are often excluded.
* Secure and reliable financial resources to migrate and relocate must be provided to indigenous communities who often do not have enough capital to allow them to do so.
* Migration and relocation policies must be provided to indigenous peoples in the languages they speak and understand. This includes interpretation services provided by local governments and at border control offices.

UUSC and our partners provide the above recommendations and look forward to working with your office in developing special and particular protections for indigenous peoples facing climate-forced displacement.

1. Justin Farrell, et al., *Effects of land dispossession and forced migration on Indigenous peoples in North America*, 374 SCIENCE 6567 (2021), available at https://www.science.org/doi/10.1126/science.abe4943. [↑](#footnote-ref-1)
2. [*https://www.uusc.org/wp-content/uploads/2020/01/Complaint.pdf*](https://www.uusc.org/wp-content/uploads/2020/01/Complaint.pdf) [↑](#footnote-ref-2)
3. [*https://www.youtube.com/watch?v=gHLNlp\_sa3M&t=2114s*](https://www.youtube.com/watch?v=gHLNlp_sa3M&t=2114s) [↑](#footnote-ref-3)