

"Indigenous Peoples, Climate Justice and Action Research in the Americas: Exchanging Knowledges and Building Alliances for Territories of Life"

Co-organized by the Centre for Indigenous Conservation and Development Alternatives (CICADA) at McGill University, the International Development Research Centre of Canada and the Mohawk Council of Kahnawá:ke.

Monday October 2, 2023, 9-11:30 am, Montreal

20-25 min (2900 words)

(Provide key reflections and directions for Canadian policy makers, the international community, and for Indigenous Peoples in the Americas and their allies, regarding political, legal and other strategies towards climate justice grounded in Indigenous perspectives, including strategies for direct finances, key messages to donors and Canada, the role of Canadian companies and big conservation and Canada's efforts at reconciliation)

It is a great honor and privilege to join you today and share remarks for this workshop. I would like to thank McGill University, the International Development Research Centre of Canada and the Mohawk Council of Kahnawá:ke (pronounced Ganawageh) for organizing this event and raising awareness about the fundamental role that Indigenous peoples play in climate justice and action.

Last week I presented to the Human Rights Council, my report on my official visit to Canada conducted in March of this year. I have been asked to say a few words on my findings before discussing Indigenous Peoples role in advancing climate action and justice.

Canada has made progress towards the promotion and protection of the rights of Indigenous Peoples by advancing domestic implementation of the United Nations Declaration on the Rights of Indigenous Peoples with passage of federal legislation in 2021. The United Nations Declaration on the Rights of Indigenous Peoples Act requires Canada to harmonize its legislation with the rights set out in the UN Declaration, to table an action plan and to issue annual progress reports. The Action Plan sets out 181 measures for implementing the legislation and the

Declaration more generally, including a measure to develop guidance on free, prior and informed consent regarding natural resource projects and an Indigenous rights monitoring, oversight, recourse or remedy mechanism.

Canada is also at the forefront of Indigenous-led conservation efforts through its Indigenous Guardianship Program and other initiatives. Prime Minister Trudeau recently announced federal funding for a number of large scale Indigenous-led conservation projects.

It is laudable that Canada has taken many important steps to advance Indigenous Peoples' rights. However, it is regrettable that significant achievements are often acquired through court decisions or case settlements rather than implementation of governmental policies, and these advances are ultimately the result of Indigenous Peoples' strong determination and unabated courage to defend their rights.

Impacts of climate change Indigenous Peoples

As we all know, Indigenous Peoples have contributed the least to the current climate crisis but suffer the greatest consequences. Indigenous Peoples generally inhabit territories most vulnerable to weather phenomena brought about by climate change, including islands, high altitudes, tropical rainforests, coastal regions, deserts and polar areas.

While floods, droughts, forest fires, and extreme temperatures are affecting everyone in different ways, the consequences are greater for Indigenous Peoples who directly depend on their lands, territories and resources for their survival. Examples include the impacts of the melting glaciers on the Inuit of the Arctic; the disappearance of the Pacific islands inhabited by Indigenous Peoples; the relocation of the Kuna people in Panama because of sea level rise and the scarcity of water in the highlands of Bolivia.

As I discuss in the report on my country visit to Canada, the impacts of climate change alongside hydroelectric power projects and clear-cutting of forests on the Innu territory of Passamit in Québec has negatively reshaped subsistence lifestyles, leading to the loss of culturally significant species, such as caribou. The Passamit are fighting to maintain their cultural and Indigenous knowledge and ask Quebec to engage in meaningful consultations to provide restitution of land and

compensation for the loss of resources. First Nations, Metis and Inuit Peoples, particularly in the north, are increasingly experiencing the negative effects of climate change that threaten community health and safety, leading to evacuations and additional risks to community members who experience housing insecurity.

Special attention should be paid to Indigenous women and girls, who are disproportionately affected by loss of lands, territories and resources due to climate change. Climate change worsens pre-existing conditions of poverty and discrimination, reducing access to natural resources and making women's living conditions in their territories more difficult. The effects of climate change have forced many indigenous men to migrate to the cities, which increases the workload of their partners in agricultural work and childcare. Likewise, when indigenous women migrate to cities, many of them are forced to work in informal sectors of the economy, increasing their risk of labor and sexual exploitation and poverty. In addition, they lose the leadership roles they had in their communities as bearers of scientific and technical knowledge, when they leave the lands where they practice and develop their knowledge.

Indigenous women are also disproportionately impacted by the effects of extractive industries on their lands. Their knowledge is devalued when the natural resources they steward are exploited without their free, prior and informed consent. Loss of access to and ownership of lands disempowers Indigenous women. Moreover, climate change gives new urgency to the recovery and preservation of indigenous women's scientific knowledge. With women often leading the efforts to protect their lands and resources from external threats the criminalization of indigenous environmental defenders has been well documented. For example, in Guatemala, a Mayan spiritual leader and a defender of Indigenous Peoples' rights was harassed, kidnapped, and accused of witchcraft, after she opposed a mining project that contaminated the waters of Lake Izabal.

Newly developed policies must recognize and implement gender-based approaches that address the unique impacts of the climate crisis on Indigenous women and girls. Measures must be adopted to eliminate systemic, institutional racial discrimination and implicit bias that Indigenous women and girls faces in accessing emergency response.

Particular attention should also be given to Indigenous elders, who are generally the holders and transmitters of indigenous knowledge, culture and language, and require special attention due to their greater vulnerability to the health impacts of climate change.

Challenges to the recognition of IPs as stakeholders and subjects of rights

Despite their important contributions to protecting biodiversity, and agents of transformation in the face of the challenges posed by climate change, Indigenous Peoples are often excluded from the design and implementation of environmental programs and continue to be dispossessed of their lands for conservation areas, climate change programs, national parks, and game reserves, as I outlined in my 2022 report to the UN General Assembly on Protected Areas. I indicated that increasing protected areas alone will not address climate change unless other substantive measures are taken: First, that the real drivers of climate change be addressed and that those causing the climate crisis change their consumption patterns and reduce carbon emissions. Second, that Indigenous Peoples are included as stakeholders and rights holders, recognizing their knowledge and capacities for managing and stewardship the world's biodiverse regions.

My 2019 report to the Human Rights Council on COVID-19 recovery emphasized Indigenous peoples' resilience, strength, and hope for the future. If the pandemic has shown us anything, it is that we need to change our relationship with our planet. It is scientifically proven that there is a correlation between deforestation and zoonotic diseases. In this regard, Indigenous peoples have played a paramount role in the protection of nature and ecosystems.

Indigenous-led conservation and climate action: opportunities for Indigenous Peoples to shape adaptation and climate policy frameworks

Indigenous Peoples' scientific knowledge, collective land tenure systems, and sustainable management of resources have preserved and conserved our planet for centuries, proving that respect for our rights is a fundamental step to achieving sustainable and effective conservation goals. Indigenous peoples make

up just five percent of the global population but are protecting 80 percent of the world's remaining biodiversity.¹

Historically, the knowledge of Indigenous Peoples has enabled us to cope with different climatic challenges and to ensure food security. For example, in the Andes, the Inca people developed scientific knowledge about crop diversification, genetic diversity, bed cultivation, agroforestry, climate forecasting and water harvesting that is still used in agriculture today. In Kenya, the knowledge of agro-pastoralist peoples about fauna, flora, the moon, winds, among others, allows them to predict droughts.

Indigenous peoples are able to document their knowledge, monitor the climate, develop response and early warning systems to face disasters, apply their traditional agricultural techniques, protect and restore forests, manage coastal marine areas, and preserve their ways of life. Their knowledge is critical to managing the risks and impacts of climate change, protecting biodiversity, achieving sustainable development and building resilience in the face of pandemics and other extreme events.

In 2021, during the 26th meeting of the UN Climate Change Conference, the parties recognized the important role of Indigenous Peoples and their scientific knowledge in mitigating climate change and biodiversity loss. The Intergovernmental Panel on Climate Change stated that recognizing Indigenous Peoples' self-determination and other rights and supporting adaptation measures based on Indigenous Peoples' knowledge is fundamental to reducing climate change risks and achieving effective adaptation. Although international conferences on climate change have begun to recognize the important role that Indigenous Peoples can play in addressing climate change, the measures that have been taken so far are insufficient.

I would like to emphasize that Indigenous knowledge is contemporary and dynamic, not static and fixed in time. It is a sophisticated set of understandings of no less value than other kinds of knowledge. To recognize this, I have adopted the terminology of “scientific and technical knowledge” in place of “traditional” or “customary” knowledge.

¹ According to a 2021 State of the Environment report from Australia:
<https://www.statista.com/chart/27805/indigenous-communities-protect-biodiversity/>

Indigenous women have a leadership role in climate change adaptation and mitigation that must be empowered. Last year, my report to the Human Rights Council focused on “Indigenous women and the development, application, preservation, and transmission of scientific and technical knowledge”. In this report, I highlight the importance of recognizing the role that Indigenous women’s knowledge can play in mitigating and adapting to the devastating consequences of climate change. I explained that Indigenous women are often the custodians of a collective accumulation of scientific knowledge and technical skills related to food and agriculture, natural resource management, and weather patterns.

For example, in Kenya, Ogiek and Sengwer women practice beekeeping, harvesting honey for food and medicinal purposes as an important element of forest conservation in support of biodiversity. Women of the Kimberley region of Australia, who are guardians of the Fitzroy River, are speaking up to protect the interests of their communal, life-sustaining resource, preserving its health for present and future generations. In Northern Thailand, the Shan, Lua and Akha indigenous women use rotational methods of sharing seeds within the community to ensure food security and limit any possible risk of extinction. Indigenous women in Asia are the primary agricultural producers in their communities but changing climate patterns causing droughts, floods and hurricanes disrupt agricultural production forcing them to find work in urban areas.

In Canada, the, the Kaska Dene are just one of many First Nations that are leading their own conservation initiatives by establishing Indigenous Protected and Conserved Areas governed through Indigenous law and knowledge systems. Notably, Indigenous women are leading two-thirds of the 23 proposed IPCAs of the Indigenous Leadership Initiative and nearly half the Indigenous Land Guardian programs that manage, restore and monitor protected areas.

The role of international conservation organizations and corporations

A transition to Indigenous-led conservation and climate change action is necessary to end the practice of fortress conservation. Many large conservation organizations continue to engage in this exclusionary approach to protecting biodiversity which has led to violent evictions, militarized violence and the dispossession of the lands of indigenous peoples, who are the best stewards of nature. The eviction of indigenous peoples from protected areas to the loss of

irreplaceable lands, sacred places and resources and of the transmission of knowledge systems, culture, language, identity and livelihoods. Such violations are all compounded by the threat of climate change.

Incorporating indigenous lands into protected areas in this manner takes management and control away from indigenous peoples, and allows States to define the rules, administration and use of those lands, often under the influence of financially powerful international conservation organizations. Indigenous peoples have expressed the concern that Western conceptions of land management are devoid of any meaningful human connections with the land. In many parts of the world, indigenous peoples view the creation of protected areas as a form of colonization and seek to “decolonize conservation”. Meanwhile, in some countries with greater recognition of indigenous land rights, indigenous peoples are using protected areas status to defend their territories against extractive activities.

The extractive industry is not only responsible for half of global greenhouse gas emissions and 90% of biodiversity loss, but it is also at the cause of conflicts created by the criminalization of Indigenous peoples defending their lands and resources from companies, and governments who support their projects.

On several occasions, this mandate has expressed concern regarding human rights abuses against Indigenous Peoples committed by Canadian companies operating abroad. The UN treaty monitoring bodies have called on Canada to adopt a regulatory framework to hold these transnational corporations accountable for human rights violations. According to the information received, Canada is home to almost half of the world’s publicly listed mining and mineral exploration companies and 200 Canadian companies are present in 97 foreign countries.

In 2022, Canada launched the Responsible Business Conduct (RBC) strategy to promote good practices of businesses operating abroad in accordance with the UN Guiding Principles on Business and Human Rights through prevention, legislation and non-judicial dispute resolution mechanisms. Canada has two dispute resolution mechanisms competent to consider allegations of human rights abuses committed by Canadian corporations abroad: the Canadian National

Contact Point (NCP), established further to the OECD Guidelines for Multinational Enterprises, and the Canadian Ombudsperson for Responsible Enterprises (CORE).

The responsibility to respect human rights is a global standard of expected conduct for all businesses wherever they operate, and the State has extraterritorial obligations to take steps to prevent and redress infringements of these rights committed abroad by business entities over which it exercises control.

Criminalization of Land Defenders

In Canada, Indigenous Peoples are taking up the fight for climate justice by opposing the construction of TC Energy's Coastal GasLink and the federal government-run Trans Mountain pipeline, projects approved without the consent of all impacted Indigenous Peoples. TC Energy signed benefit agreements with band councils along the pipeline route but did not obtain the consent of hereditary chiefs who assert jurisdiction off reserve. The use of injunctions and exclusion zones around worksites have led to the criminalization of Indigenous opposition to the pipeline. Despite the UN Committee on the Elimination of Racial Discrimination urging Canada to cease forced evictions of Wet'suwet'en people from their lands, the federal police conducted a series of raids using tactical officers, helicopters, assault rifles and police dogs to arrest 74 Wet'suwet'en people. Land defenders have also been arrested and charged after blockading the Trans Mountain pipeline route.

Direct financing to indigenous peoples to invest in biodiversity and carbon stewardship

In my report this year on "Green Finance", I discuss the international funding of projects, programs and initiatives that promote sustainable development and climate change action, and its impact on Indigenous Peoples rights. To date, climate financing has not allocated sufficient funds to support Indigenous Peoples-led initiatives, advance the recognition of their collective land rights, preserve their ways of life, or protect against violence by third parties.

In 2022, both the Conference of Parties to the Climate Convention and the Convention on Biological Diversity made commitments to advance the protection of Indigenous Peoples' rights over their territories. At COP 26, governments and philanthropic organizations pledged 1.7 billion USD to advance the recognition of

Indigenous Peoples' rights over their territories and the protection of tropical rainforests.²⁰ However, the lack of transparency and reporting and monitoring mechanisms makes evaluating compliance with these commitments difficult. Following the \$1.7 billion pledge and the finding that international funding does not effectively reach Indigenous Peoples and their own projects, studies emerged to provide donors and investors with principles, standards and mechanisms to make their green investments sustainable by providing financial support to Indigenous Peoples to secure their tenure rights and forest guardianship.

Several factors have prevented the direct financing of Indigenous Peoples' projects. My mandate has previously observed how national Governments may impose onerous reporting requirements on Indigenous Peoples who are seeking funding for management of their resources and sometimes involve non-Indigenous third parties in the management of the funding. Indigenous governance institutions applying for funds are expected to respond within relatively short time frames to government-issued notices; the onus is placed on them to carry out studies and develop evidence identifying and supporting their concerns.

Funding practices and grant design need to be modified to enable Indigenous Peoples to access, manage and benefit from funds more easily and quickly. Funding must be channeled in ways that are relevant and appropriate for Indigenous Peoples, funding engagements should as far as possible be led by Indigenous Peoples, be flexible, long-term, gender-inclusive, timely and accessible, and ensure accountability. Transformative changes need to occur in the practices and infrastructure of climate and conservation funders, including international NGOs, private foundations and philanthropic bodies, and government agencies to accommodate the world view and realities of Indigenous Peoples and support Indigenous self-determination.

Access to capital alone may be insufficient; capacity support to help Indigenous Peoples hire external legal, financial and technical experts and gain experience through deal-making is likewise important. As part of the transition to direct financing, Indigenous Peoples should be supported to build their own technical units within their organizations so that they can meet the minimal requirements of donors and other funders.

As called for by Indigenous Peoples at COP-27 there should be an independent Indigenous-led global green funding mechanism to support coordination, solidarity, experience and knowledge sharing, and lobbying and advocacy work for Indigenous Peoples from the seven sociocultural regions.

I will end by emphasizing that securing the collective land rights and self-determination of Indigenous Peoples over their territories, is a necessary component of green financing and instrumental for the conservation of biodiversity and climate change adaptation.

Thank you for your attention,