

Expert Mechanism on the Rights of Indigenous Peoples
Sixteenth Session, 17 - 21 July 2023, Wednesday, 19 July 2023
Item 12: Future work of the Expert Mechanism, including thematic studies

Joint Statement of the Coalition for the Human Rights of Indigenous Peoples (Canada): Grand Council of the Crees (Eeyou Istchee) Cree Nation Government; Amnistie Internationale Canada Francophone; British Columbia Treaty Commission; Canadian Friends Service Committee (Quakers); KAIROS (Canada); First Nations Summit; Métis National Council; Union of British Columbia Indian Chiefs; Upper Nicola Band, Chief Daniel Manuel; Cheryl Knockwood, Chair, Nova Scotia Human Rights Commission; Ellen Gabriel, Kanehsatake Land Defender; Hup-Wil-Lax-A, Kirby Muldoe, Grassroots Human Rights Defender; Lea Nicholas-MacKenzie; Dr. Willie Littlechild, KC, IPC (International Chief for Treaties 6,7and 8)

We are pleased to present the following Joint Statement on behalf of a number of Indigenous Nations and organizations, as well as human rights organizations in Canada. This statement addresses EMRIP's future work, and we would kindly like to request a thematic study concerning Indigenous Peoples' land rights, including the effects of the growing climate crisis, and redress and restitution for Indigenous Peoples' lands, territories, and resources.

Globally, Indigenous Peoples are on the front lines of the climate crisis, experiencing catastrophic fires, flooding, erosion, drought, biodiversity loss, and other climate-related impacts. We also know that Indigenous Peoples have been – and continue to be – dispossessed of, and displaced from, their lands, territories and resources without their free, prior and informed consent. As highlighted in the sixth preambular paragraph of the *United Nations Declaration on the Rights of Indigenous Peoples*, States recognize that Indigenous Peoples have suffered from “historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests.” The growing climate crisis is exacerbating these historic injustices with serious consequences for Indigenous Peoples' and individuals' ability to freely and fully exercise their rights.

As the United Nations has highlighted in 2020:

Climate change is the defining crisis of our time and it is happening even more quickly than we feared. But we are far from powerless in the face of this global threat. As Secretary-General António Guterres pointed out in September, “the climate emergency is a race we are losing, but it is a race we can win”.

No corner of the globe is immune from the devastating consequences of climate change. Rising temperatures are fuelling environmental degradation, natural disasters, weather extremes, food and water insecurity, economic disruption, conflict, and terrorism. Sea levels are rising, the Arctic is melting, coral reefs are dying, oceans are acidifying, and forests are burning. It is clear that business as usual is not good enough. As the infinite cost of climate change reaches irreversible highs, now is the time for bold collective action.¹

The *UN Declaration* offers a promise of protection in light of the impacts of the climate crisis, notably through Indigenous Peoples' right to redress to their lands and territories, as affirmed throughout the *UN*

¹ United Nations, “The Climate Crisis – A Race We Can Win”, 2020, https://www.un.org/sites/un2.un.org/files/2020/01/un75_climate_crisis.pdf

Declaration, including in Articles 8, 27, 28, and 32. Both Indigenous Peoples and individuals have the right to security – and both have the right not to be subjected to forced assimilation or destruction of culture (Articles 7 and 8).

In this whole context, Indigenous Peoples' right to self-determination must be actively encouraged and respected by States and others – and not dismissed, devalued or ignored. Yet dispossession of their lands, territories and resources continue to be at the core of Indigenous Peoples' struggle for their human rights. For example, a recent report from Canada states, "These losses [of lands, territories and resources] are the result of false, racist premises such as *terra nullius* and the doctrines of discovery and denial which provided colonial governments justification for appropriating valuable land for which they had no legal or moral right."²

On top of these historic injustices, there are very few, if any, effective mechanisms for land redress and restitution. Some mechanisms provide ineffective redress in the form of monetary compensation only, instead of restoring lands, territories and resources. Other mechanisms that purport to offer the return of lands, territories and resources are generally frustrated by delays, lack of resourcing, and the privileging of third-party interests. In addition, there are very few, if any, mechanisms that address the issue of redress or restitution related to lands, territories or resources impacted by environmental change.

And yet, we also know that Indigenous Peoples' renewed stewardship and care for their lands, territories and resources are at the heart of solutions to the expanding climate emergency that affects us all.³ We know that Indigenous-led solutions offer hope in the face of the environmental challenges we are facing today.

In Canada, recent years have demonstrated that the climate catastrophe is not some far-off concern. Rather, it is urgent for Indigenous Peoples – whose lands are drastically impacted by erosion, fires, and floods – to have climate justice. Instead, Indigenous Peoples continue to be evacuated from their homes due to unprecedented wildfires and floods related to the growing climate crisis.

However, we know that some of these impacts can be mitigated by Indigenous Peoples' own stewardship of their lands, territories and resources through the exercise of Indigenous Peoples' own laws and systems of governance. This is demonstrated, for example, in the work of the Local Communities and Indigenous Peoples Platform of the UN Framework Convention on Climate Change.⁴

We welcome and encourage a thematic study from EMRIP on the matter of the increasing climate crisis and the urgent need for redress and restitution for Indigenous Peoples' lands, territories, and resources. We know that Indigenous Peoples' lands and territories are at the heart of their survival, especially in the face of climate catastrophe and we urge EMRIP to take this matter under careful consideration.

What is needed is climate justice, which looks at the climate crisis through a human rights lens and on the belief that by working together we can create a better future for present and future generations.⁵

² See, Union of BC Indian Chiefs, "Severed Connections: The Unacknowledged Costs of Specific Claims", 2023. Available in print only.

³ See, World Conference on Indigenous Peoples Outcome Document paragraph 35 (in relation to sustainable management) and 36 (Indigenous knowledge in mitigation and adaptation)

⁴ United Nation Framework Convention on Climate Change (Subsidiary Body for Scientific and Technological Advice), Decision 2/CP.24, *Local Communities and Indigenous Peoples Platform*, FCCC/CP/2018/10/Add.1 (30 December 2018).

⁵ See, "Climate Justice", <https://www.un.org/sustainabledevelopment/blog/2019/05/climate-justice/>.