



STATE of INDIGENOUS PEOPLES LAND,  
TERRITORIES and RESOURCES

# North America

REGIONAL REPORT





## Executive Summary

*“Keep using the lands, waters, foods and medicines that we originally used, so that we can protect these things for our Nations and future generations.”*

*-- Recommendation from the Treaties 1-11 Elders Gathering, August 28<sup>th</sup>, 2017, Taywa Tagamou Nation, Treaty No. 9 Territory, Ontario Canada*

*“They made us many promises, more than I can remember, but they never kept but one; they promised to take our land, and they took it.”*

*-- Chief Red Cloud, Oglala Lakota*

The Colonial Settlers representing the counties of Europe arrived in North America armed with European weapons, religions, new diseases and the Doctrine of Discovery to justify their conquest of the Indigenous Peoples and the appropriation of their lands and resources. They begin to make Treaties with many of the Indigenous Nations, promising to uphold peace and friendship, share or travel the land and respect their status as sovereign governments, which were unilaterally abrogated and broken.

Once the settler governments of Canada and the United States were established, they adopted laws, policies and court decisions that allowed further appropriation of land and water, forced relocations and treaty abrogations. They also curtailed the legal authority of Indigenous Nations to protect their traditional lands, resources, sacred places, eco-systems, and traditional livelihoods. Many Indigenous Nations were relegated to much-diminished land bases known as reserves and reservations while others were left with no legal status or recognized land whatsoever. This bitter history and its ongoing impacts on the health, rights and well-being of Indigenous Peoples of North America are presented in detail in the body of this report. It also presents examples of the revitalized efforts and successful strategies being carried out by Indigenous Peoples of North America to protect, defend, manage and restore their lands, waters, Treaty rights and traditional practices, and to ensure the transmission of their traditional knowledge and practices to new generations. The adoption of the UN Declaration on the Rights of Indigenous Peoples and its eventual endorsement by the governments of the US and Canada is seen as an historic achievement. Its full and effective implementation would provide solutions and remedies to both the causes and impacts addressed in this report. This report concludes by affirming that Indigenous Peoples in North America will continue to suffer from loss of lands, territories and resources until the United States and Canada ensure: (1) Full implementation of the UN Declaration on the Rights of Indigenous Peoples; (2) Full recognition for and implementation of Treaties and Treaty Rights; and (3) Full implementation of the Right to Free, Prior, and Informed Consent (FPIC). It offers the following recommendations:

- 1) That the U.S. and Canada establish Commissions to specifically review and assess the steps taken to implement the recommendations made to each country by Treaty Bodies, Special Rapporteurs and the UPR reviews regarding the rights of Indigenous Peoples and treaty rights to lands, territories, resources, and sacred places; and to take steps, in conjunction with Indigenous Peoples, for the full and effective realization of these rights;

- 2) That the U.S. and Canada develop new legal strategies and procedures to address Treaty violations where the courts or justice systems of the State Treaty party are not the sole arbitrator; implement new, participatory, fair and transparent processes to resolve Treaty disputes and violations in which both Treaty parties decide the solutions as equals; and support regional and/or international oversight and resolution processes to be used when disputes cannot be resolved between the parties as per Article 24 of the American Declaration on the Rights of Indigenous Peoples;
- 3) That the U.S. and Canada respect and support the traditional knowledge and practices of Indigenous Peoples regarding management and protection of their traditionally used and occupied territories and resources, including those recognized in Treaties, and provide support and recognition for Indigenous-controlled and run, resource and ecological management programs;
- 4) That the US and Canada respect the inherent self-determination of Indigenous Peoples and their right to full participation in the development of participatory mechanisms as provided by the UN Declaration Articles 37, 27, 28 and 40;
- 5) That the U.S. and Canada create national-level bodies with full, effective, equal participation of Indigenous Peoples in decision-making based on FPIC, to implement and put into practice the UN Declaration on the Rights of Indigenous Peoples, including processes for ongoing review and evaluation;
- 6) That the U.S. and Canada support full participation of Indigenous peoples in discussions regarding lands, territories and resources and implementation of the 2030 Sustainable Development Goals, including in National implementation plans and commitments; and,
- 7) That the United Nations eliminate discrimination against Indigenous Peoples from and within “Developed” countries regarding access to international and UN funding established to assist Indigenous Peoples.

# State of Indigenous Peoples' Land, Territories and Resources in North America

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➔ Indigenous girls in California, USA gathering Tule for traditional basket-making

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## Profile of Indigenous Peoples in North America



➔ Map of federally recognized land bases for American Indians and Alaska Natives in the United States. High resolution map can be accessed at: <http://i.imgur.com/GnMy5NV.gif?1>

The complex issues regarding status, residency, poverty, education and access to social programs have made Indigenous peoples vulnerable to the domestic policies that facilitate resource exploitation and development that threatens their lands, territories and resources. This section outlines some, but not all, of the key demographic information that define the backdrop of Indigenous Peoples in both countries.

I. United States of America: Indigenous Peoples in the territories encompassed by the United States of America (US) include American Indians, Alaska Natives and Native Hawaiians. According to the 2010 Census, 5.2 million people in the US identified as American Indian and Alaska Native making up approximately 2% of the total population. Out of this total, 2.9 million people identified as American Indian and Alaska Native alone.<sup>1</sup> The National Congress of American Indians (NCAI) reported that 100 million acres is the total land mass under American Indian and Alaskan Native control.<sup>2</sup>

On January 29th, President Trump signed H.R. 984, the Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act of 2017, bringing the total number of tribes that are recognized by the U.S. federal government to 573, with 266 of those tribes residing in Alaska.<sup>3</sup> In addition, there are around 100 US American Indian Tribes that are recognized by processes established under assorted state laws, a majority of which are located in the Eastern U.S. Many legally unrecognized U.S. Tribes are currently seeking federal level recognition for the land rights and the legal protections and services that recognition provides (i.e. housing, education and health care).

The U.S. government administers 16 insular territories through continued colonization, in many cases continuing to circumvent or ignore the United Nations process for decolonization laid out in Article 73 of the United Nations (UN) Charter. Such territories include American Samoa, Guam, Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands, among others. The Indigenous Peoples of these territories are not legally recognized by the US Department of Interior (DOI) which houses the Bureau of Indian Affairs (BIA). In the case of Alaska and Hawaii, these former territories were annexed as US States in 1959. The majority of Alaska Native Tribes are now considered to be federally recognized under the US legal system. Hawaiian Natives are provided some services and included in some laws addressing American Indians and Alaska Natives but are not considered to be federally recognized Tribes with the same standing as American Indian and Alaska Native Tribes. In all, there are 326 federally recognized Indian reservations and rancherias (a designation exclusive to California), excluding Hawaiian home lands. Not all US federally recognized tribes have a reservation—some tribes have more than one reservation, some share reservations, while others have none. In Alaska, there are only two recognized Indian reserves or reservations - Venetie and Metlakatla.

Based on the 2010 US Census, roughly 22 percent of the 5.2 million American Indians live on reservations while approximately seven of 10 American Indians reside in urban areas.<sup>[2]</sup> New York, Los Angeles, Phoenix, Oklahoma City and Anchorage are the cities with the highest concentration of American Indians. The NCAI Policy Research Center identifies Alaska as the state with the highest concentration of American Indians living on tribal lands with 19.56 percent of the population identifying as Indigenous; Oklahoma and New Mexico follow with 12.9 percent and 10.7 percent, respectively. About half of all American Indians living on reservations are concentrated on the ten largest reservations.<sup>[4]</sup> American Indian and Alaskan Natives suffer from the highest poverty rate among any race in the United States at 28.3 percent living below the poverty line compared to the U.S. National average of 15.5 percent. In 2013, the US Census Bureau's American Community Survey (ACS) reported the median income on reservations was \$29,097, compared to the White median income of \$58,270.

For some tribes, the economic situation is even more dire. For example, a U.S. Census Bureau's 2014 study found that more than 52 percent of residents in Oglala Lakota, the largest of Pine Ridge's three counties, lived below the poverty line. In 2010, the poverty threshold for a family of four with two children was \$22,113.<sup>[6]</sup> Some reservations in Washington, California, Wisconsin, Michigan, North Dakota, South Dakota, Arizona, and New Mexico fare worse, with more than 60 percent of residents living in poverty.<sup>[7]</sup> Five of the lowest per capita incomes in the country are found on reservations. Allen, South Dakota, on the Pine Ridge Reservation, had the lowest per capita income in the country at \$1,539 per year.<sup>4</sup>

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<sup>1</sup> Information can be found at: <https://www.census.gov/prod/cen2010/briefs/c2010br-10.pdf>

<sup>2</sup> National Congress of American Indians, *NCAI Tribal Nations Report*. Retrieved from Tribal Nations and the United States: <http://eeredevapps1.nrel.gov/tribalenergy/pdfs/ncai-tribal-nations-report.pdf>

<sup>3</sup> Full Bill and status can be found at: <https://www.congress.gov/bill/115th-congress/house-bill/984>

<sup>4</sup> Chart can be found at: [https://en.wikipedia.org/wiki/Reservation\\_poverty](https://en.wikipedia.org/wiki/Reservation_poverty)



**Table 1: Poverty rates on the ten largest reservations based on the 2010 U.S. Census**

Reservation	Location	Poverty Rate (Families with Children)	Poverty Rate (Individuals)
<a href="#"><u>Navajo Indian Reservation</u></a>	Arizona, New Mexico, and Utah	46.5	42.9
<a href="#"><u>Uintah and Ouray Indian Reservation</u></a>	Utah	54.4	20.2
<a href="#"><u>Tohono O'odham Indian Reservation</u></a>	Arizona	44.3	46.4
<a href="#"><u>Cheyenne River Indian Reservation</u></a>	South Dakota	42.3	38.5
<a href="#"><u>Standing Rock Indian Reservation</u></a>	South Dakota and North Dakota	41.2	40.8
<a href="#"><u>Crow Indian Reservation</u></a>	Montana	31.5	30.5
<a href="#"><u>Wind River Indian Reservation</u></a>	Wyoming	22.6	20.9
<a href="#"><u>Pine Ridge Indian Reservation</u></a>	South Dakota	52.8	53.5
<a href="#"><u>Fort Peck Indian Reservation</u></a>	Montana	58.5	35.3
<a href="#"><u>San Carlos Indian Reservation</u></a>	Arizona	52.6	50.8
National Average		9.2	12.4

II. Indigenous Peoples Demographics - Canada<sup>5</sup> According to the 2011 National Household Survey of Canada there are 1,400,685 Aboriginal people in Canada, making up 4.6% of the population. There are over 600 First Nations/Indian Bands in Canada speaking over 60 languages. Indigenous Peoples of Canada are recognized by section 35 of the Canadian Constitution Act (1982) which also provides constitutional protection for “aboriginal and treaty rights” in Canada. It defined the “Aboriginal Peoples” of Canada as “Indians, Métis and Inuit Peoples”.<sup>6</sup>

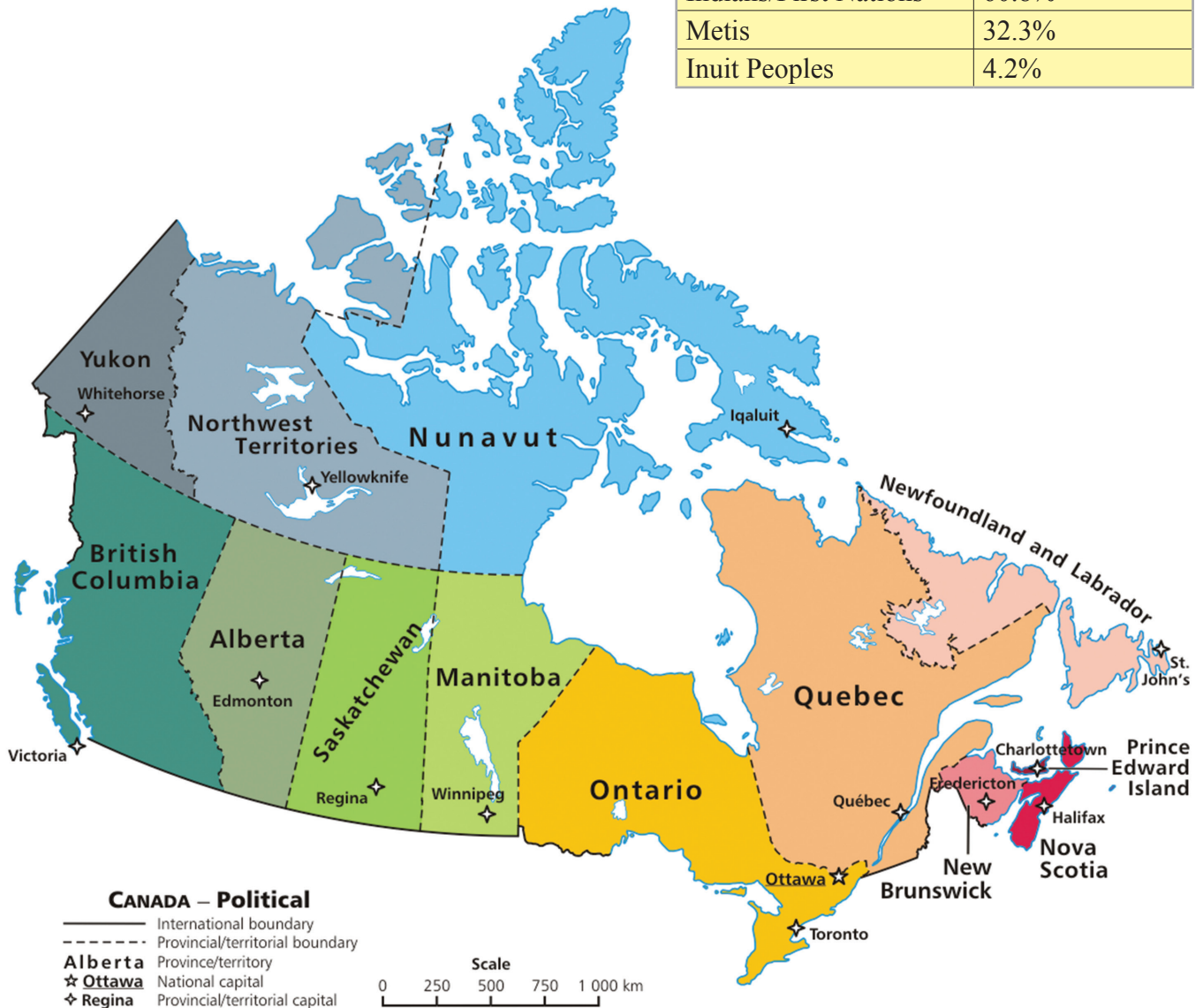
Eighty percent (80%) of the Aboriginal or First Nations populations reside in Ontario and the western provinces of Manitoba, Saskatchewan, Alberta, and British Columbia. However in the Northwest Territories Indigenous peoples make up 51.9% of the residents and in Nunavut they make up 86.3% of the residents. Nearly fifty percent (50%) of those who reported being “Registered Indians” lived on Indian reserves or settlements. There are 863 inhabited reserves in Canada, which are defined by six types of census subdivisions (CSDs) legally affiliated with First Nations or Indian bands. The Inuit Nunavut territory was agreed to in principle in a land claim by Canadian Inuit in 1990, and was formalized as a self-governing territory with the Nunavut Act in 1993. As in the U.S., Indigenous Peoples in Canada remain severely marginalized economically. In 2011, the employment rates of Aboriginal peoples aged 25 to 64 in Canada who did not have a certificate, diploma or degree was 37.3% (First Nations), 52.6% (Métis) and 44.9% (Inuit), while the overall unemployment rate in Canada that year was 7.2%.

<sup>5</sup> Statistics Canada. (2015, 11 30). Aboriginal Peoples: Fact Sheet for Canada. Retrieved from Statistics Canada: <http://bit.ly/2E1pEgg> and Statistics Canada. (2016, 09 15). Aboriginal Peoples in Canada: First Nations People, Métis and Inuit. Retrieved from Statistics Canada: <http://bit.ly/IG4IOA> Map found at: <http://scoinc.mb.ca/wp-content/uploads/2014/04/CrownAboriginalMap.jpg>

<sup>6</sup> Section 35 of the Constitution Act (1982): “(1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed. (2) In this Act, “aboriginal peoples of Canada” includes the Indian, Inuit and Métis peoples of Canada. (3) For greater certainty, in subsection (1) “treaty rights” includes rights that now exist by way of land claims agreements or may be so acquired. (4) Notwithstanding any other provision of this Act, the aboriginal and treaty rights referred to in subsection (1) are guaranteed equally to male and female persons.” Found at: [https://en.wikipedia.org/wiki/Section\\_35\\_of\\_the\\_Constitution\\_Act,\\_1982](https://en.wikipedia.org/wiki/Section_35_of_the_Constitution_Act,_1982)

**Table 2: Aboriginal Peoples of Canada according to the 2011 National Household Survey of Canada**

Total population	1,400,685 people
Breakdown by percentage:	
Indians/First Nations	60.8%
Metis	32.3%
Inuit Peoples	4.2%



➔ *Political Map of Canada found at: <https://en.wikipedia.org/wiki/Canada>*

**Table 2: Median Income of individuals aged 25 to 64 based on 2011 National Household Survey of Canada. (Rounded to nearest \$1,000)**

Indigenous Peoples	First Nations	Metis	Inuit	National Average
No Certificate, diploma or degree	\$14,000	\$20,000	\$20,000	\$72,240
Postsecondary credential	\$32,000	\$40,000	\$43,000	\$80,940





## General Situation and Major Priorities regarding Lands, Territories, and Resources

Although there have been advances made in the International arena to recognize key rights, the Indigenous Peoples of North America remain unjustly disadvantaged by domestic institutions, justice systems, and development policies which foster the privatization of lands and resources, privileging the rights of corporations and carrying out the agendas of the respective governments. As such, North America's Indigenous Peoples' lands, territories, and resources remain under threat from continued exploitation from extractive industries and, in some cases, by environmental movements. For example, parks and other protected and conserved areas have been established on Indigenous Peoples traditional lands and use areas, resulting in forcible removals and lack of access to subsistence resources to make way for "conservation." This section highlights the major issues regarding energy development, access to clean water, and lack of redress for treaty and land rights violations that define the general situation of Indigenous Peoples in North America.

**Energy Development:** The amount of land recognized by the U.S. to be under American Indian and Alaskan Native control is a little over 100 million acres in total, with at least 31 tribal Nations controlling a land base larger than 1.3 million acres.<sup>[2]</sup> This does not include the treaty territories, sacred landscapes, or customarily and traditionally used and occupied lands of Indigenous Peoples, which originally included all the lands and territories of what is now considered to be the U.S.

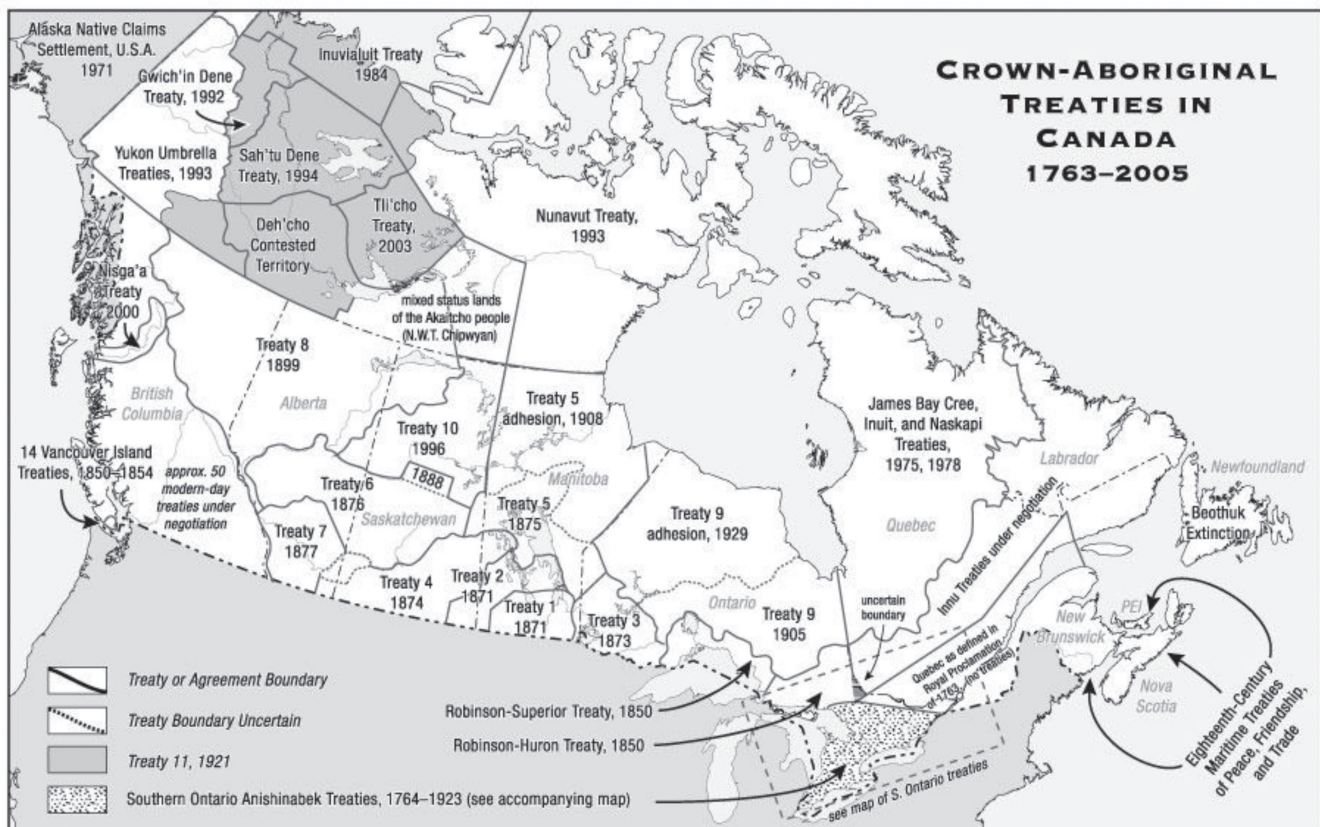
U.S. federally recognized Indigenous lands still contain significant energy and mineral resources despite decades of mass dispossession of their territories through illegal seizure or abrogation of Treaty rights. Mineral Resources, including coal, oil and uranium, are currently the most coveted resources located on the lands of Indigenous Peoples. According to the U.S. Department of Energy (USDOE) 2.1 million acres of tribally-owned land was being developed for its mineral deposits. It is estimated by the USDOE that there are 15 million acres of untapped energy and mineral resources on tribal lands.<sup>7</sup> The breakdown of these energy and mineral reserves consists of "about 30 percent of the coal found west of the Mississippi, up to 50 percent of potential uranium reserves, and as much as 20 percent of known natural gas and oil reserves".<sup>8</sup> In his testimony to Congress Dr. Robert Middleton, former director of the Office of Indian Energy and Economic Development, took these estimates further, stating that "these lands contain over 5 billion barrels of oil, 37 trillion cubic feet of natural gas, and 53 billion tons of coal that are technically recoverable with current technologies".<sup>9</sup>

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<sup>7</sup> Middleton, R. W. (2008, May 01). *Indian Energy Development: Statement of Dr. Robert W. Middleton, 110th Congress, Second Session*. Retrieved from US Senate: <https://www.indian.senate.gov/sites/default/files/upload/files/May12008.pdf>

<sup>8</sup> Maura Grogan, R. M.-R. (2011). *Native American Lands and Natural Resource Development*. Revenue Watch Institute.

<sup>9</sup> Middleton, R. W. (2008, May 01). *Indian Energy Development: Statement of Dr. Robert W. Middleton, 110th Congress, Second Session*. Retrieved from US Senate



➡ First Nation Treaties from 1763-2005. IMAGE SOURCE: SOUTHERN CHIEFS ORGANIZATION

In Canada mineral mining and timber clear cutting has continued unabated for decades in many parts, including Treaty territories. On top of this, the greatest target for resource exploitation in Canada today is the Athabasca Oil Sands (“Tar Sands”), in Treaties No. 6, 7 and 8 territories. This is the second largest such deposit in the world with an estimated 170 billion barrels of crude oil in reserve<sup>10</sup>. Despite Canada’s stated commitment to uphold the UN Declaration on the Rights of Indigenous Peoples, and its obligations as a party to the UN Paris Agreement on Climate Change, it continues to pursue its energy development policy. In 2008, Treaty 6, 7 and 8 First Nations Chiefs representing 44 First Nations communities from Alberta, called for a moratorium on Tar Sands expansion. They requested for watershed and development plans to be approved by the First Nations, and for their concerns over the potential impacts to subsistence and Treaty rights to be resolved. Nevertheless, continued expansion of the Tar Sands operations remains a priority to the Canadian government to the detriment of the cultural, treaty, hunting, fishing and other subsistence rights, environmental health and safety, and economic wellbeing of the First Nations Peoples near the development site and downstream from the source of the contamination.

**Lack of Access to Justice or Redress:** Indigenous Peoples in North America continue to face lack of redress and true access to justice for violation of Treaties and Land Rights. Even when domestic legal systems recognize violations, the legal remedies are usually monetary and far from sufficient for the loss experienced. For example, in 1980 in response to the illegal confiscation of the Treaty Lands in the Black Hills of South Dakota the U.S. Supreme Court stated that “a more ripe and rank case of dishonorable dealing will never, in all probability, be found in the history of our nation” and considered that “President Ulysses S. Grant was guilty of duplicity in breaching the Government’s treaty obligations with the Sioux relative to ... the Nation’s 1868 Fort Laramie Treaty commitments to the Sioux”. The

<sup>10</sup> Rosa, L., Davis, K. F., Rulli, M. C. and D’Odorico, P. (2017), Environmental consequences of oil production from oil sands. *Earth’s Future*, 5: 158–170. doi:10.1002/2016EF000484





➔ **Ft. Chipewyan in the heart of the Tar Sands Development.** Photo courtesy of Eriel Deranger

Court also concluded that the US Government was guilty of “a pattern of duress ... in starving the Sioux to get them to agree to the sale of the Black Hills.”<sup>11</sup> Despite this clear acknowledgement of wrongdoing by the highest court in the US, to this day none of these illegally-confiscated Treaty Lands have been returned, and gold mining continues in the Black Hills. The cash award provided as compensation for the theft of the Black Hills (now amounting to upwards of \$1.3 billion) has been repeatedly rejected by the Lakota Tribes, instead they continue to hold the firm position that “the Black Hills are not for sale”.

**Table 3: Examples of Current Treaty Violations in US and Canada**

Issue	Rights Violated, inter alia
<b>Standing Rock- Dakota Access Pipeline<sup>12</sup></b> <u>Description:</u> Standing Rock Sioux Tribe and other parties to the 1868 Fort Laramie Treaty exercising Federal and Treaty rights to prevent the construction of the Dakota Access oil pipeline underneath Lake Oahe.	<ul style="list-style-type: none"> <li>• Violation of UN Declaration on the Rights of Indigenous Peoples and other International Human Rights Standards, including the right to Free, Prior and Informed Consent</li> <li>• Violations of the International Convention on the Elimination of all forms of Racial Discrimination(ICERD)</li> <li>• Violation of the Treaties of 1851 and 1868</li> <li>• Excessive Force carried out against Human Rights Defenders</li> <li>• Violation of the Human Rights to Water, Culture and Sacred Sites</li> <li>• Lack of Redress and Response using “domestic remedies”</li> </ul>
<b>First Nations Canada- Tar Sands Development and Keystone XL<sup>13</sup></b> <u>Description:</u> No.6, No.7, and No. 8 Treaty stand for the protection of traditional territories, hunting territories, sacred sites, and fragile ecosystems impacted by the Tar Sand development	<ul style="list-style-type: none"> <li>• Violation of UN Declaration on the Rights of Indigenous Peoples and other International Human Rights Standards, including the right to Free, Prior and Informed Consent</li> <li>• Violation of No.6, No.7, and No. 8 Treaty rights including rights to hunt, fish gather and subsist on treaty territory</li> <li>• Violation of the Human Right to Water</li> <li>• Lack of Redress and Response using “domestic remedies”</li> </ul>

<sup>11</sup> *United States v. Sioux Nation*, 207 Ct. Cl. 234 at 241, 518 F.2d 1298 at 1302 (1975), cited in *United States v. Sioux Nation of Indians* 448 U.S. 371 at 388 (1980).

<sup>12</sup> IITC and Standing Rock Tribe Joint Urgent Action Report found at: <http://bit.ly/2IPOZLE>

<sup>13</sup> Assembly of Treaty Chiefs (AoTC). *Treaties 6,7 & 8 Resolution 2008*. Despite the fact that “the Chiefs of Treaty No. 6, Treaty No. 7, and Treaty No. 8 (Alberta) through their All Chiefs Assembly known as the AoTC (Assembly of Treaty Chiefs) have called for a moratorium on any further expansion of this development, the government of Alberta continues to grant leases, licenses and permits to the extraction companies”

The U.S. and Canada have never, to date, established a just, participatory and fair processes to address, adjudicate, and correct, Treaty and land rights violations as called for in Articles 27, 28 and 40 of the UN Declaration on the Rights of Indigenous Peoples.<sup>14</sup> In 2006, the CERD issued a response to the Early Warning/Urgent Action submission by the Western Shoshone, regarding the case of Mary and Carrie Dann vs. the United States, in which the federal government was imposing fees and taxes for the use of 26,000 acres of rangeland the Western Shoshone argued was traditional territory guaranteed them in the 1863 Treaty of Ruby Valley.<sup>15</sup> The CERD found that the U.S. failed to implement due process or “comply with contemporary international human rights norms, principles and standards.”<sup>16</sup> There was no consideration of consent in either the process or the results; the same party that had violated Treaty Rights was also the sole arbitrator of the resulting claims. The U.S. ruled against the claims of the Dann Sisters and the Western Shoshone. Again, during Canada’s periodic report in August 2017, the CERD stated that “[v]iolations of the land rights of Indigenous Peoples continue in the State party, in particular environmentally destructive decisions for resource development which affect their lives and territories continue to be undertaken without the free, prior, and informed consent of the Indigenous Peoples, resulting in breaches of treaty obligations and international human rights law” and that “[c]ostly, time consuming and ineffective litigation is often the only remedy in place of seeking free, prior, and informed consent, resulting in the State party continuing to issue permits which allow for damage to lands.”<sup>17</sup> The following section goes into more detail about the domestic legal institutions and the laws and policies that facilitate the gross violations of treaty and inherent rights of Indigenous Peoples to create the general situation briefly described here.

The conditions that prevent access to land and territories, or protection of vital resources, severely impact the ability of Indigenous Peoples to survive in ways that are culturally and ecologically sustainable. Although each indigenous tribe or nation has unique priorities and issues, the call for food and water security affects the majority of Indigenous Peoples across North America.

“Many of the legally binding Nation to Nation Treaties concluded between the Colonial States, including the British Crown and their successors (Canada and the US) affirm the right of Indigenous Treaty Nations to their means of subsistence (hunting trapping, fishing and gathering) as well as land and water rights, which are essential for the exercise of food sovereignty”<sup>18</sup>

Water: Both the United States and Canada are recorded by the World Bank, through the WHO/UNICEF Joint Monitoring Programme (JMP), to have a 99% and 100% rating (respectively) regarding the percentage of the population with access to an improved water source.<sup>19</sup> Yet many Indigenous communities

<sup>14</sup> Presentation to EMRIP on Indigenous Peoples and the Right to Participate in Decision-Making by North American regional Experts Chief Wilton Littlechild and Andrea Carmen.

<sup>15</sup> Hearn, Deanna. “Historic records document decades-long struggle for native lands by Western Shoshone Tribe”. (Feb. 18, 2015). Nevada Today. Found at: <https://www.unr.edu/nevada-today/news/2015/dann-sisters>. LeDuff, Charlie. “Range War in Nevada Pits U.S. Against Two Shoshone Sisters” (Oct. 31, 2002). New York Times. Found at: <http://www.nytimes.com/2002/10/31/us/range-war-in-nevada-pits-us-against-2-shoshone-sisters.html>

<sup>16</sup> Committee for the Elimination of Racial Discrimination, Sixty- eighth session Geneva, 20 February – 10 March 2006 Early Warning and Urgent Action Procedure, Decision 1 (68). United States of America, UN Doc. CERD/C/USA/DEC/1.Id, “The Committee is concerned by the State party’s position that Western Shoshone peoples’ legal rights to ancestral lands have been extinguished through gradual encroachment, notwithstanding the fact that the Western Shoshone peoples have reportedly continued to use and occupy the lands and their natural resources in accordance with their traditional land tenure patterns. The Committee further notes with concern that the State party’s position is made on the basis of processes before the Indian Claims Commission, “which did not comply with contemporary international human rights norms, principles and standards that govern determination of indigenous property interests”, as stressed by the Inter-American Commission on Human Rights in the case *Mary and Carrie Dann versus United States* (Case 11.140, 27 December 2002).”

<sup>17</sup> Concluding observations on the twenty-first to twenty-third periodic reports of Canada, CERD/C/CAN/CO/21-23, August 25, 2017, para. 19

<sup>18</sup> AoTC. (2008). Treaties 6,7 & 8 Resolution 2008.” the Treaty and Inherent Right to Food”

<sup>19</sup> World Bank Data found at: <https://data.worldbank.org/indicator/SH.H2O.SAFE.ZS>



suffer from water insecurity in both countries. The U.S. Department of Health and Human Services houses the Indian Health Services which has determined that 36% of American Indian and Alaska Native homes lack access to adequate sanitation facilities and 6.5% of those homes lack access to safe drinking water compared to less than 1% of American homes and also found that 46% of systems serving Indigenous populations didn't meet health safety requirements.<sup>20</sup> Canada is a country with abundant water resources, however a study carried out by the Globe and Mail in 2016 reported 160 drinking water advisories warning residents not to consume the water due to contamination in 114 First Nation communities. Other First Nations communities lack any running drinking water at all, relying only on trucks and cisterns. Many First Nations households rely on well water, which is often contaminated.<sup>21</sup> Hauling water from unregulated water sources because of lack of water delivery infrastructure is also common practice in U.S. reservations.

Water rights have become a major catalyst for modern conflicts in an era of Climate Change and growing concern for the unsustainable overuse and ongoing contamination of the world's precious and limited aquifers. In some areas with massive surface water supplies—such as the major rivers, lakes and other waterways in North America—industrial development and resulting toxic wastes has led to the long-term pollution of these systems. All over North America, fragile groundwater systems have come to serve as the primary drinking water source for urban areas, as well as a reliable source for development. Agriculture remains the major consumer of freshwater in the U.S. and in Canada.<sup>22</sup> For the average North American consumer, easy access to water and minimum associated costs have fostered an illusion of abundance amidst general ignorance about how these finite systems are increasingly stressed. Rural communities suffering from prolonged drought are dealing not only with the impacts of unsustainable use and diversion and lack of water infrastructure, but by the lack of precipitation and snowfall increasingly stressing these disappearing systems.

Indigenous Nations in the U.S., due to their considered domestic dependent status, have been left out of important interstate compacts such as the Colorado River Compact (1922) which apportioned water use allocations, divvying up claims to the “life line of the southwest” amongst the states of California, Arizona, Colorado, New Mexico, Nevada, Utah, and Wyoming.<sup>23</sup> As a result, Treaty claims have had to be litigated against states, which have already quantified their rights, as well as any state or private interests that may have acquired their own rights from the states. Sometimes tribes can face up to 30 opposing parties in domestic courts or through negotiation processes controlled by federal and state agents, and run by non-Indigenous lawyers. With water rights negotiations and litigations in the US, this process has disenfranchised Indigenous Peoples from their rightful claims to quantity of water, as well as their priority status to water in times of shortage or droughts. In all cases, it forces the socio-political assimilation of Indigenous Peoples into western values regarding water by imposing a legal framework that treats water as a commodity rather than as a sacred life sustaining element.

In 2014, Beaver Lake Cree Nation launched a lawsuit, still in the Canadian courts, with the province of Alberta Canada and her majesty the Queen, representing the Crown as the Treaty Partner, to halt the Tar Sands development as a threat to their rights to water, culture, health and subsistence rights, based on the provisions of Treaty No. 6 as well as federal and international laws to which Canada is a State party. Such Treaty and ancestral claims tend to be minimized by the State parties involved, who also offer monetary compensation for the development of large-scale projects whose real impacts to water are usually also minimized. Addressing Treaty and Water rights violations after damage has come to

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<sup>20</sup> US EPA. “Providing Safe Drinking Water in America”. 2013 National Public Water Systems Compliance Report. Found at: <https://www.epa.gov/sites/production/files/2015-06/documents/sdwacom2013.pdf>

<sup>21</sup> <https://www.theglobeandmail.com/opinion/why-is-canada-denying-its-indigenous-peoples-clean-water/article31599791/>

<sup>22</sup> USGS: <https://water.usgs.gov/watuse/east-west-2010.html>

<sup>23</sup> Found at: <https://www.usbr.gov/lc/region/g1000/pdfiles/ucbsnact.pdf>

light via the State legal systems, is time consuming and expensive, and does not take into consideration the full breadth of impacts to Indigenous peoples affected by such disasters. At its core, it also violates the principles of equality and partnership affirmed in the UN Declaration as well as in the bi-lateral Treaty relationship. In the report of its 10<sup>th</sup> session the UN Permanent Forum on Indigenous Issues (UNPFII) specifically recognized the Treaty Right to Water: “The Permanent Forum recognizes treaty rights, including associated rights to water, as a key element in the comprehensive discussion of indigenous peoples’ understanding and interpretation of treaties, agreements, and constructive arrangements between indigenous peoples and States”<sup>24</sup>

Because of the inadequacy of domestic institutions and legal processes to address Treaty violations and aboriginal title, these same institutions cannot be expected to litigate Indigenous Peoples water rights in a fair and just manner. As has been demonstrated in Treaty Rights advocacy, Indigenous peoples need to similarly recognize their ability to assume a position of power and collectively advocate for their rights to water, land, territory and resources as defined in the UN Declaration on the Rights of Indigenous Peoples.

Food Sovereignty<sup>25</sup> : Many Nation-to-Nation Treaties specifically affirm the right of Indigenous Treaty Nations to their means of subsistence (hunting, trapping, fishing and gathering) as well as land and water rights, which are essential for the exercise of Food Sovereignty. To cite one of many examples, the 1837 United States Treaty with the Chippewa Nation affirmed that “The Privilege of hunting, fishing, and gathering the wild rice upon the lands, the rivers and the lakes is guaranteed.”<sup>26</sup> This language is not uncommon and forms the basis of many Indigenous-led initiatives and projects geared towards nurturing food security, and seed and food sovereignty. In September 2011, the Treaty 1-11 Chiefs representing over 240 First Nations met in Calgary Canada, Treaty No. 6 Territory, and adopted a resolution on the Treaty and Inherent Right to Food. “On behalf of the Chiefs, Headmen and citizens of the First Nations of Treaties 1-11”, they affirmed and recognized that “Our Right to Food is an Inherent Right affirmed in our Treaties; that Food Sovereignty is an essential aspect of our Sovereignty as Treaty Nations; and our traditional foods are essential to our physical, cultural and spiritual health, identity and survival.”<sup>27</sup> They also recognized that “the Creator placed us on our traditional lands and provided clean food and water for our health and survival and that we have an inherent and Treaty right and responsibility to care for and protect the land, plants, animals and water, and our sacred Mother Earth, from destruction and contamination.”<sup>28</sup> Other nations have replicated these initiatives or developed their own, ever expanding on the interconnections between climate change, food sovereignty, water security and Indigenous Peoples rights.

In Shiprock, New Mexico, the Shiprock Chapter of the Navajo Nation and the International Indian Treaty Council co-hosted a Food Sovereignty and Climate Change Resiliency Gathering focused on protecting, defending, and restoring traditional knowledge, seeds, and practices, and addressing threats to food sovereignty including industrial agriculture, pesticides, GMOs, contamination by extractive industries, and especially loss of land and water rights. The event was attended by 127 participants from the Diné, Yaqui, Opatá, Southern Ute, Taino, Pueblo, Hopi, San Carlos Apache, and other Indigenous Nations. A Declaration was adopted which addressed these threats and affirmed that “as children of the Great Creator and the Earth Mother we demand justice for our human rights to life, food, water, culture, health and clean environment... it is an absolute that to be sovereign and self-determined, we must have food sovereignty”.<sup>29</sup>

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<sup>24</sup> Report of the 10th session on the United Nations Permanent Forum on Indigenous Issues (16-27), May 2012. [E/2011/43-E/C.19/2011/14].

<sup>25</sup> The Treaty Right to Food was addressed in an intervention by the IITC at the 11th session of the United Nations Permanent Forum on Indigenous Issues on May 14th, 2011 in the context of the half-day discussion on Food Sovereignty and the Right to Food. It was a major focus of the presentations made by Indigenous chiefs and other representatives to UN Special Rapporteur on the Right to Food Olivier de Schutter in his recent country visit to Canada, and, in particular, during his site visit to Alexis Nakota Sioux First Nation, Treaty 6 Nation Territory, on May 13th, 2012.

<sup>26</sup> 1837 United States Treaty with the Chippewa Nation.

<sup>27</sup> AoTC. (2008). *Treaties 6, 7 & 8 Resolution 2008*.” the Treaty and Inherent Right to Food”

<sup>28</sup> AoTC. (2008). *Treaties 6, 7 & 8 Resolution 2008*.” the Treaty and Inherent Right to Food”

<sup>29</sup> Shiprock Declaration of Food Sovereignty (August 2016)





## Regional & National Laws and Policies Affecting or Relating to the Lands, Territories and Resources of North American Indigenous Peoples

“Inherent and inalienable Treaty, Aboriginal, or Indigenous title is the basic underpinning of Treaties for Indigenous Peoples, and continues to apply in those areas where Treaties have not been entered into. However there have been many instances whereby the United States and Canada have attempted to extinguish this aboriginal title, including where imposed development is planned. Regardless, Indigenous Peoples throughout the United States, Canada and other regions continue to hold to their ancestral spiritual relationship to their lands, territories, waters and other resources, as affirmed, for many, in the Nation to Nation Treaties”<sup>30</sup>

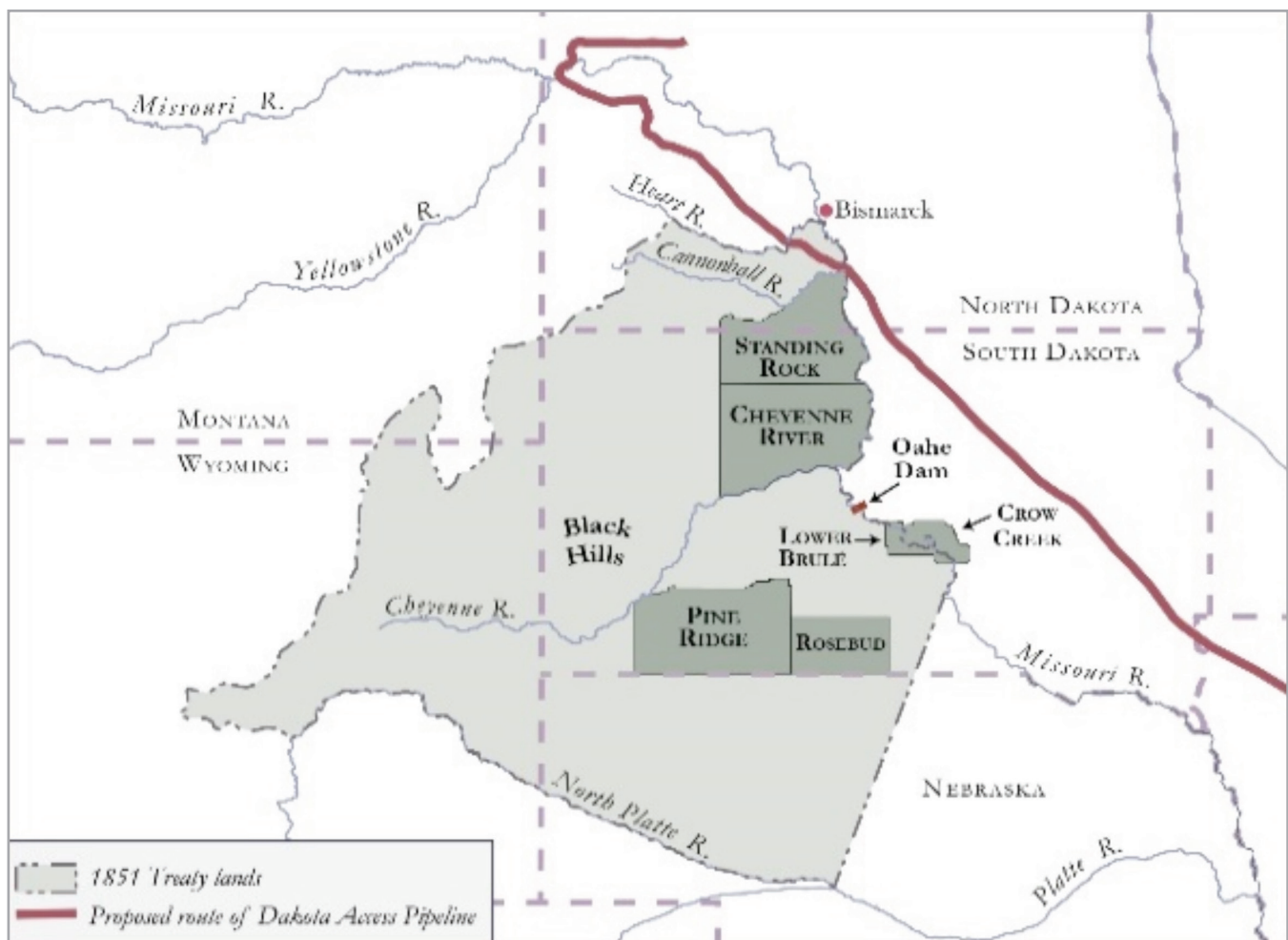
For many Indigenous Peoples in North America, the conclusion of Nation to Nation Treaties are the basis for their ongoing legal and political relationship with the settler and successor governments of the U.S. and Canada. Treaties were predicated on good faith, respect, consent, and the “mutual recognition of government systems, leadership and decision-making structures and processes”.<sup>31</sup> This section highlights some of the main regional and national laws that provide the legal justification for the abrogation of Treaties and Treaty Rights impacting Indigenous Peoples and their right to access, use, and protect lands territories and resources guaranteed to them by treaty.

United States: The U.S. Constitution refers to Treaties as “the supreme law of the land”, yet violations of these sacred agreements began taking place before the U.S. unilaterally ended Treaty making with Indigenous Nations in 1871. The U.S. Congress ratified over 350 Nation to Nation Treaties which recognized the Indigenous Nation Treaty parties as equal sovereign governments. An additional 150 Treaties were negotiated by the U.S. with Indigenous Nations but not ratified. Transformative decisions of the U.S. Supreme Court of John Marshall in the 1830’s defined Indian Nations as occupying a position resembling “wards” of the federal government (*Cherokee Nation v Georgia*, 1831). In 1832 Chief Justice John Marshall issued his decision in the case of *Worcester v. Georgia* maintaining that although Indian tribes in the U.S. had been treated as independent and sovereign nations since Europeans first arrived, they were now “domestic dependent nations” possessing inherent sovereignty predating contact with Europeans. Attributes of this sovereignty extend over their “members and their territory.” [*United States v. Mazurie*, 419 U.S. 544, 557 (1975)]. The Marshall decisions and the complex set

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<sup>30</sup> Andrea Carmen and Chief Wilton Littlechild presentation to the UN High Commissioner for Human Rights. Geneva. July 2012. “*Treaties and original spirit and intent: An historic overview, a new framework and decent advances for conflict resolution, redress of violations and restoration of just and respectful relations*”. (HR/GENEVA//SEM/NGOs/2012/BP.15). The entire report provides a comprehensive analysis of the history of treaty making, the extent and scope of violations, the treaty rights being advocated for at the International Level, and successes gained through International mechanisms and presentations to expert bodies.

<sup>31</sup> *ibid*



➔ Map of the Great Sioux Reservation and other Sioux Lands as defined in the 1868 Treaty (light grey) compared to the 2017 federally recognized tribal lands (dark grey)

of U.S. laws and policies adopted in its aftermath called “Federal Indian Law” were based on the “Doctrine of Discovery” and the legal principle of “plenary powers of Congress” which placed even those Indigenous Nations with ratified Treaties under the jurisdiction of the U.S. government.<sup>32</sup>

The settlement of Indigenous land claims happened in different ways. The first Indian Reservations were created to serve as prisoners of war camps under the U.S. Department of War, which later became the Department of the Interior. For instance, the Pine Ridge Reservation in South Dakota encompasses more than 2.8 million acres, yet it was established in 1889 as Camp 334 for indigenous prisoners of war as White colonists moved across North America. Although some Indian reservations preserved access and residence within small portions of their ancestral territories, many tribes lost significant amounts of ancestral lands. In 1971, the U.S. government implemented the Alaska Native Claims Settlement Act creating 13 regional and over 200 village corporations. Shares of stock were issued to Alaska Natives in exchange for purportedly terminating their land rights. Since its adoption, this Act has created many

<sup>32</sup> Submission to the UN Special Rapporteur on the rights of Indigenous Peoples. Ms. Victoria Tauli-Corpuz. Washington, DC. March 3, 2017. “*Extractive and Energy Production Activities Negatively Impacting Areas of Spiritual and Cultural Significance to Indigenous Peoples in the United States*”. Andrea Carmen and Roberto Borrero.



# INDIAN LAND FOR SALE

GET A HOME

OF  
YOUR OWN



EASY PAYMENTS



PERFECT TITLE



POSSESSION

WITHIN

THIRTY DAYS

## FINE LANDS IN THE WEST

IRRIGATED  
IRRIGABLE

GRAZING

AGRICULTURAL  
DRY FARMING

IN 1910 THE DEPARTMENT OF THE INTERIOR SOLD UNDER SEALED BIDS ALLOTTED INDIAN LAND AS FOLLOWS:

Location	Acres	Average Price per Acre	Location	Acres	Average Price per Acre
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➔ 1911 US Department of Interior poster

problems including conflicting and overlapping jurisdictions impacting the federally recognized tribes of Alaska whose land bases are primarily identified as “villages”. Because of these differences, North American regional Experts Chief Wilton Littlechild and Andrea Carmen submitted a detailed and comprehensive overview of legal frameworks regarding the right of participation in decision making and an analysis of Indigenous Peoples participation in domestic institutions. They stated that the “various laws referred to as the body of Federal Indian law are complex and often unclear and contradictory...These laws create concurrent, conflicting, and/or complementary jurisdictions with a range of impact on Indigenous/tribal Nations’ decision-making.”<sup>33</sup>

One of the most detrimental actions impacting the lands and territories, and overall ways of life of Indigenous Peoples in the U.S., was the Dawes Act adopted in 1887. Its stated intention was to “civilize” American Indians by turning them into farmers and landowners. Its true intent was to provide land to the increasing number of immigrants arriving in the U.S. and to open greater portions of land for western expansion. The Dawes Act provided cooperating families with 160

<sup>33</sup> Presentation to EMRIP on Indigenous Peoples and the Right to Participate in Decision-Making by North American regional Experts Chief Wilton Littlechild and Andrea Carmen

acres of former reservation land for farming or 320 acres for grazing. Under the allotment legislation Native American collective land holdings dropped from 138 million acres down to 48 million acres. During a period of 47 years under the Act, some 60 percent of all Indian lands were considered as having passed to the U.S., and thereby resulted in tremendous boost to the economic growth of the U.S. economy. The remaining or “surplus” Indian land was sold, auctioned or distributed to non-Indigenous settlers by the U.S. Department of Interior including through federally organized “land runs”, for example in Oklahoma, without regard to Treaties still in legal force. As a result many reservations today are “checker board”, and not a contiguous land base, with some of the best parcels for farming and ranching still belonging to non-Indigenous landowners.

To control the governing powers of Indigenous peoples, the Indian Reorganization Act (IRA) adopted by the US Congress in 1934 defined an elective system of Tribal government under constitutions that required approval by the US Department of Interior for “federally recognized tribes”. Although the majority of American Indian and Alaska Native Tribes are currently organized as IRA Tribal governments, others that are federally recognized are organized as Traditional Councils or under a Treaty-based status.

Canada: The first legal and political relations between the British Crown, the predecessor to the government of Canada, and the Indigenous Nations of Canada were established through various peace, friendship, trade and protection Treaties beginning in the early 1700’s. The 11 “Numbered Treaties” concluded with Indigenous Nations, mainly in Western and Northern Canada, were concluded between First Nations and the Crown between 1871 and 1921. Like the Nation-to-Nation Treaties between the U.S. and original Indigenous Nations, these Treaties were based on mutual recognition of equal sovereignty and standing as governments. They provided for peaceful co-existence between the First Nations Treaty Partners and the European settlers through mutual recognition, guarantees for inherent rights such as food/ subsistence and health, and in some cases equitable sharing of land. Several of the numbered Treaties stipulate the requirement for consent of the Indigenous Nations as an underlying Treaty principle. The creation of the Dominion of Canada in 1867 marked a turning point in the Crown’s relationship with Aboriginal peoples of Canada. Section 91(24) of the British North America Act established that the federal government of Canada was now responsible for “Indians and Lands reserved for Indians”.

The Indian Act was introduced in 1876 by the Parliament of Canada under the provisions of Section 91(24) of the Constitution Act (1867), which provided Canada’s federal government exclusive legislative authority in relation to “Indians and Lands Reserved for Indians”. Like the IRA in the U.S., the Indian Act firmly established elected tribal government, decision-making and leadership selection systems for Indigenous Peoples who had previously exercised traditional forms of government according to their own decision-making processes. As mentioned in Section A of this report, Section 35 of the Canadian Constitution Act (1982) provided constitutional protection for “aboriginal and treaty rights” in Canada however these rights continue to be constrained by the provisions of the Indian Act. For example, law making authorities developed by Indigenous Peoples have to be approved by the federal government, and even then, the ability of First Nations to enforce their own laws on reserves are minimal or non-existent.



List of key Federal Law/National Laws as well as relevant International and Regional Standards:

- US: U.S. Constitution signed, recognizing Treaties as the “Supreme Law of the Land”, 1787
- US: Marshall decisions giving rise to the “Trust Relationship” and the concept of “Domestic Dependent Nations”, 1823-1832
- US: Creation of the Indian Reservation system resulting in severely diminished land bases for Tribal Nations, 1851
- US: Congress ends U.S. Treaty Making with Indigenous Nations, 1871
- US: 1872 General Mining Act in the US, an antiquated legal regimes which utterly fails to recognize Indigenous Peoples’ rights and continues to impede legal efforts by Indigenous Peoples to protect sacred areas and resources from destructive mining practices.
- US: The Dawes Act, 1887 breaking up collective lands of Indigenous Peoples into privately held “allotments” and opening the “left over” land for private purchase by non-Indigenous settlers
- US: The Indian Reorganization Act of 1934 which created elected tribal governments
- Canada: Treaties 1 – 11 concluded between the Crown and Indigenous Nations, 1871-1921
- Canada: The Indian Act (1876) which placed Indigenous (Aboriginal) lands and governance structures under the direct control of the Canadian government
- Canada: The Constitution Act (1982), which transferred responsibility for upholding Treaty Rights to Canada
- Both US and Canada vote against the adoption of the UN Declaration on Rights of Indigenous Peoples in the UN General Assembly on September 13, 2007
- Canada expresses qualified support for the UN Declaration on the Rights of Indigenous Peoples on November 12, 2010; the Trudeau government announced its nearly unqualified support in May 2016
- The US expresses qualified support for the UN Declaration on the Rights of Indigenous Peoples December 16, 2010

Regional Standards:

- North American Free Trade Agreement, January 1, 1994 (US, Canada, Mexico). Sparking the Zapatista uprising in Chiapas, Mexico, NAFTA is being renegotiated by the three party states and only Canada has reached out to Indigenous Peoples for their input, which includes adding a proposed chapter on Indigenous Peoples’ Rights. Indigenous Peoples from all three states have called for inclusion in these negotiations which directly impact their lands and resources.<sup>34</sup>
- American Declaration on the Rights of Indigenous Peoples adopted by the Organization of American States on June 15, 2016, which includes support for Indigenous Peoples lands and resource rights, Treaty rights (including international oversight) and to Free, Prior, and Informed Consent<sup>35</sup>

This is not an exhaustive list. In most cases the operating legal framework provides protections to industry to contaminate and desecrate sacred lands and waters and impedes Indigenous Peoples from being informed about potential threats and impacts of proposed development. For example, the “Halliburton Loophole” is a provision in the 2005 U.S. Energy Act that exempts disclosure of hydrofracking fluids from the U.S. Safe Drinking Water Act by claiming the fluids are patented. In Canada, some First Nations have chosen to pursue agreements and other constructive arrangements with the Canadian, provincial and territorial governments while others have found those negotiation processes to be rife with conflict and hopelessly one-sided, and have chosen to express their sovereignty and self-determination over their lands and resources. For example, in 2014 the Atikamekw First Nation in Quebec declared its sovereignty over 80,000 square kilometres of territory and said their Free, Prior and Informed Consent was necessary for any development in that area.<sup>36</sup>

<sup>34</sup> National Congress of American Indians (NCAI) resolution adopted October 20, 2017 supporting the Inclusion of an Indigenous Chapter in any Renegotiated North American Free Trade Agreement [http://www.ncai.org/attachments/Resolution\\_jhMtDEVrnjMKYQdrLXDgaQLoeNFMnkDtJlvjJWOzjbjQtcPvxPG\\_MKE-17-053%20final.pdf](http://www.ncai.org/attachments/Resolution_jhMtDEVrnjMKYQdrLXDgaQLoeNFMnkDtJlvjJWOzjbjQtcPvxPG_MKE-17-053%20final.pdf)

<sup>35</sup> The American Declaration on the Rights of Indigenous Peoples, [http://www.narf.org/wordpress/wp-content/uploads/2015/09/2016\\_oas-declaration-indigenous-people.pdf](http://www.narf.org/wordpress/wp-content/uploads/2015/09/2016_oas-declaration-indigenous-people.pdf)

<sup>36</sup> For more information see: <http://www.cbc.ca/news/indigenous/atikamekw-first-nation-declares-sovereignty-over-its-territory-1.2761105>



## Threats to Lands Territories and Resources of Indigenous Peoples

**“Most Treaty rights violations occurring around the world also involve violations of rights to lands, territories, natural resources and means of subsistence as affirmed in Articles 20, 25, 26, and 32, among others.”<sup>37</sup>**

Many of the cases, policies and issues outlined in this report can be traced back to Treaty violations and misuse of federal, state, provincial or corporate authority to privilege resource extraction at the expense of the ecological, environmental, cultural, spiritual and physical well-being of Indigenous Peoples and their inherent rights to live on and protect their ancestral homelands. Across North America, government policies and laws have facilitated the seizure, development, and/or occupation of Indigenous territories, sacred areas and ancestral lands without the Free, Prior, and Informed consent of impacted Indigenous Peoples.<sup>38</sup> The Pick-Sloan Flood Control Act of 1944 in the United States is an example of this practice. The Act authorized the development of large-scale water infrastructure projects along the Missouri River. Over 350,000 acres of Treaty lands were taken away from Indigenous Peoples and title was summarily transferred by the U.S. government to the US Army Corps of Engineers and the Bureau of Reclamation. This illegal seizure, development, and destruction of Indigenous territories led to the forced relocation of an estimated 1,500 Indigenous persons. Sadly, this is but a single event in a long history of illegal reduction of Lakota Treaty Territory preceding the Dakota Access Pipeline Protests, which came to world attention in 2016 -2017.<sup>39</sup> Like the Standing Rock Sioux Tribe, many Indigenous Nations are on the frontlines of irreversible land loss and ecological collapse that can only be mitigated or adapted to if the inherent rights of Indigenous Peoples to their Land, Territories and Resources are respected.<sup>40</sup>

Indigenous Peoples are using international mechanisms to draw attention to, and address, breach of treaty rights and related Indigenous rights in areas where there are existing international designations. For example, in Canada, the Mikisew people of the Peace-Athabasca Delta, a place largely located within a National Park called Wood Buffalo, have experienced continual, intergenerational interference in their subsistence practices through enforcement activities that have resulted in people being expelled from the park or even jailed for continuing their way of life. Even though there is a Treaty Land Entitlement Agreement in place, which should ensure a role in decision making over their lands, they are instead disempowered and divided over the area. Since the same area has a UNESCO World Heritage designation, the Mikisew who call their lands kitaskino “the land that we belong to and are related to,” took their petition to the World Heritage Committee for help. The Committee conducted their own expert investigation and found that there was a lack of coherent framework for engagement with Indigenous Peoples, and serious governance issues as well as adverse effects from the oil sands and hydro developments. The Committee called on Canada to take remedial actions.<sup>41</sup> This section covers the four biggest modern threats to the Lands, Territories and Resources of Indigenous Peoples.

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<sup>37</sup> *ibid*

<sup>38</sup> The Pick-Sloan Flood Control Act of 1944 (P.L. 78-534). Excerpts found at: <https://www.usbr.gov/power/legislation/fldcntra.pdf>

<sup>39</sup> Estes, Nick. (2016, September 18). Fighting For Our Lives No DAPL In Context. Retrieved from The Red Nation: <http://bit.ly/2giq0UL>: Scholarly analysis that provides a detailed history of the land loss and treaty abrogation's to contextualize the Dakota Access Pipeline protests. Includes link to more detailed map of the Great Sioux reservation land loss.

<sup>40</sup> Examples of ecological land loss and it's impacts will be covered in more detail in sections, G. *State of Biodiversity in Indigenous Territories* and H. *Impacts of Climate Change and Related Solutions*.

<sup>41</sup> For more information see: <http://whc.unesco.org/en/documents/156893>



1. Lack of Access to and/or protection of Sacred sites, Areas and Landscapes: The piecemeal seizure of Indigenous Peoples land and resources—through local, state and federal laws and policies, Treaty violations, as well as court decisions and corporate activities—has detrimentally impacted the ability of Indigenous Peoples to protect sacred places, landscapes, waters, and subsistence foods which they have traditionally used for ceremonial and cultural practices since time immemorial. As discussed earlier, national laws and policies such as the U.S. Doctrine of Discovery, legally and morally justified the appropriation of such culturally and spiritually important places and resources, including sacred items and remains.<sup>42</sup> The loss of access to sacred sites represents a violent disruption of cultural, ceremonial, medicinal and traditional subsistence practices. Many sacred sites are land formations and water ways that contain significant ecosystems and biodiversity and also encompass places of creation, renewal, coming of age, passage and other cultural rites that tie the identity of Indigenous Peoples to their ancestral territories.

The ongoing failure of the US to respect the cultural rights of Indigenous Peoples regarding their sacred places has been addressed consistently over the years in Treaty Body Reviews of the U.S. (CERD, 2008 and 2014, and the UN Human Rights Committee, 2014), country reports by UN Rapporteurs on the Rights of Indigenous Peoples (2012 and 2017) and recommendations to the U.S. in their Universal Periodic Reviews (2011 and 2015). Indigenous Peoples have yet to see a serious attempt by the U.S. to implement these recommendations and new concerns have been raised regarding a worsening of the situation under the current U.S. administration's vehemently pro-development policies.

Examples of Current Cases involving loss and/or destruction of sacred sites	
Campaign	Description
Protect San Francisco Peaks <sup>43</sup>	“San Francisco Peaks” is a mountain located in Flagstaff Arizona, held sacred by 12 different tribes in the southwest. Access for prayer and ceremonial purposes has been disrupted by the development of a commercial ski resort. Further ecological and cultural damage will be caused by the city of Flagstaff’s approval of reclaimed wastewater to produce artificial snow.
Protect Mount Taylor <sup>44</sup>	Mount Taylor is a sacred mountain located in Grants, NM held sacred by the Navajo Nation, Hopi Tribe, and Pueblos of Acoma, Laguna and Zuni. The tribes advocated for a “traditional cultural property” designation as a strategy to protect the mountain from proposed uranium mining and other forms of industrial development under US energy development policies.

<sup>42</sup> Andrea Carmen and Roberto Borrero. “*Extractive and Energy Production Activities Negatively Impacting Areas of Spiritual and Cultural Significance*”: The full report provides an excellent analysis of the evolution of policy and laws resulting from this doctrine first articulated in the “Marshall Trilogy” of cases (1823-1832).

<sup>43</sup> IITC Urgent Action submission to CERD. “RE: Urgent Action/Early Warning Complaint, the United States of America and San Francisco Peaks, Arizona” (August 17, 2011). Found at: <https://www.iitc.org/wp-content/uploads/2014/08/CERD-UA-EA-San-Francisco-Peaks1.pdf>. See also: Jeneda Benally and Jenn Goodman. “Native Americans Fight to Save Sacred Site”. Cultural Survival. December 2005: “Plaintiffs include the Navajo Nation; Hopi, Havasupai, and Hualapai tribes; White Mountain Apache; Yavapai Apache; Diné Medicine Men’s Association; Sierra Club; Flagstaff Activist Network; and the Southwest Center for Biological Diversity”

<sup>44</sup> Indigenous Peoples Consolidated Alternative Submitted to the United Nations Human Rights Committee. 109th session. The fourth periodic review of the United States. October 14- November 1, 2013. “*In recognition and appreciation for all those who have dedicated their lives to protect Indigenous Peoples’ sacred places and ways of life*” found at: <http://bit.ly/2qnVLVF> See also: Staci Matlok. “Court Ruling will help protect Mount Taylor” The New Mexican. Feb 06, 2014. Found at: <http://bit.ly/1bIQDIH>

Campaign	Description
Stand with Mauna Kea <sup>45</sup>	Mauna Kea is Hawaii's tallest mountain held sacred by Indigenous Hawaiians. Construction of a multi-billion-dollar telescope to expand the observatory activities on the summit threatens the ability of Indigenous Hawaiians to access the summit for ceremonial practices and to protect sacred burial grounds.
Save the Salmon	An international movement to protect the salmon from damming, mining, climate change and river contamination by Indigenous Peoples with strong cultural connections to salmon. "We affirm that all birthing places are sacred, including the great rivers, and small streams where the Salmon Spawn, and the oceans where they live and grow" <sup>46</sup>

Criminalization of Land Rights and Human Rights Defenders: Use of Law Enforcement and Excessive Force: To access and take control of Indigenous Peoples lands, territories, resources and sacred sites, the US and Canada often employ the assistance of domestic police forces, military personnel, or private security. These forces have historically carried out the often violent removal of Indigenous Peoples from their homelands. These events have inter-generational impacts on Indigenous Peoples, causing an indescribable disruption in the cultural, spiritual, economic and emotional fabric of their communities and their Nations. In the U.S., the passage of the Navajo-Hopi Land Settlement Act of 1974 (P.L. 93-531), also known as the "Relocation Act", epitomizes this disruption. Carried out from 1974 to the present, it represents the largest forced relocation in recent U.S. history. In all, over 10,000 individuals from the Black Mesa Region of the Navajo Nation and Hopi were forcibly removed to facilitate Peabody Coal's development of coal reserves found atop the regions' most pristine and precious aquifer, the N Aquifer. In 2012 the Navajo Nation Human Rights Commission released a report on the impacts of the Relocation Act, stating that "The legacy of P.L. 93-531 et al. has been a source of profound dislocation, alienation, and trauma for Diné citizens who have been forced to relocate from their homeland... the forced relocation of over ten thousand Navajos is a clear violation of their human rights. The handful of Diné resisters continues to face inhumane conditions."<sup>47</sup>

<sup>45</sup> Roberto Borrero, Press Release "The International Indian Treaty Council and the Nation of Hawaii call for International Support to stop the Desecration of Mauna Kea Sacred Mountain". Found at: [https://www.iitc.org/wp-content/uploads/IITCUrgent-Action-Release-April-13-2015-FINALFIN\\_web.pdf](https://www.iitc.org/wp-content/uploads/IITCUrgent-Action-Release-April-13-2015-FINALFIN_web.pdf)

<sup>46</sup> Luk'ae gha Tsin'aen Nek'eltaeni, Thank You Creator for Salmon Declaration" 2<sup>nd</sup> Indigenous Peoples' International Gathering to Honor, Protect, and Defend the Salmon. Nay'dini'aa Na' Kayax (Chickaloon Native Village). Ahtna Athabascan Nation. (August 5, 2017).

<sup>47</sup> "The Impact of The Navajo Hopi Land Settlement Act of 1974" is a report completed by the Navajo Nation Human Rights Commission July 2012. The report details the collection of information and testimonies about the historical and on-going impacts of "the Relocation Act". The statement continues *"It is with faith and courage that the Navajo Nation Human Rights Commission puts this study, its findings and recommendations, forth and into the arena of the United Nations forum. As Indigenous peoples, if we cannot expect relief for our grievances from the United States, then we must look to the international community for relief and redress"*. Found at: <http://bit.ly/LUevT0> Accessed: November 06, 2017. The "resisters" include the descendants of the Black Mesa matriarchs and others that refused to be relocated. They include families who opened their own modest allotments to "host" individuals who were displaced so they could be closer to their homelands. They are made up of individuals who have "signed" and "not signed" the accommodation agreements which comes with strict oversight of subsistence practices. It also includes the Indigenous grassroots organizations that support them. Collectively these individuals continue to advocate tirelessly, living in homes without running water and electricity, fighting for a more just future for their people. There are many Navajo and Hopi Grassroots groups that continue to take on the act of resistance in these areas, advocating for the restoration of their land, the protection of their water, and the right of their communities to exercise self-determination. Such groups include but are not limited to: Black Mesa Trust, Black Mesa Water Coalition, Black Mesa United, Forgotten Navajo People CDC, To Nizhoni Ani, Hopi Raincatchers, Hopi Tutskwa Permaculture, and others.



In Canada the Mounties and the Canadian armed forces have similarly been used to subjugate Indigenous peoples. In *Rangers, Mounties and the subjugation of Indigenous Peoples, 1870-1885*, Andrew Graybill traces the creation and deployment of Canadian Mounties and Texas Rangers to deal with the problems created from Indigenous Peoples resisting the expansion and spread of the settler colonialist.<sup>48</sup> Mounties and the Canadian Armed forces played vital roles in the illegal seizure and/or development of Indigenous peoples treaty lands for access to valuable resources. This continued practice led to the Oka Crisis, when the 78 day standoff between the Mohawk community of Kanesatake, caught international attention.<sup>49</sup> The issue was around the proposed expansion of a golf course on Mohawk treaty territory which contained an ancient burial ground, and although development was ceased, the dispute over the land has not been fully settled. Like the Navajo-Hopi Relocation Act, the Oka Crisis has its own legacy in the community. In an article from July 17, 2015 covering the 25<sup>th</sup> anniversary since the Oka Crisis, Canadian Press Reporters Giuseppe Valiante and Peter Rakobowchuk captured this legacy in an interview of Grand Chief Serge “Otsi” Simon: “The current grand chief in Kanesatake says that while the Mohawk Warriors might have inspired people around the world, the aftermath of the crisis led to the ‘social disintegration of the community.’ Serge Simon said it has taken a generation for people to overcome the trauma of the crisis and band council politics have only recently started to calm down after years of tension and sometimes violence between community members. Simon said the 25th anniversary of the crisis has forced difficult memories to the surface including what he called human-rights abuses he alleges his people suffered at the hands of the provincial police.”<sup>50</sup>

These acts of violence that have often been carried out with impunity by law enforcement in the U.S. and Canada, were brought to world attention through the use of social media, which spread video, audio and photographic coverage that documented and “livestreamed” the brutality endured by the Water Protectors. This allowed the public to witness first-hand the egregious use of force against peaceful unarmed water protectors—men, women, and children, and the tribal citizens of the Lakota, Nakota and Dakota nations party to the 1868 Ft. Laramie treaty— during the protests against the Dakota Access Pipeline. On November 15, 2016 the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and association, Maina Kiai, condemned the use of excessive force against protestors trying to stop the oil pipeline project which runs through treaty land and sacred sites, as well as underneath the Standing Rock Reservation’s only water supply. Mr. Kiai stated that “[t]his is a troubling response to people who are taking action to protect natural resources and ancestral territory in the face of profit-seeking activity... [t]he excessive use of State security apparatus to suppress protest against corporate activities that are alleged to violate human rights is wrong and contrary to the UN

<sup>48</sup> Graybill, Andrew. “*Rangers, Mounties and the subjugation of Indigenous Peoples, 1870-1885*”. Great Plains Quarterly. Spring 2004. University of Nebraska-Lincoln. Center for Great Plains Study.

<sup>49</sup> **The Oka Crisis**- Several sources detail this important event which served as a turning point in treaty claims to protect Indigenous claims. From the Canadian encyclopedia found at: <http://www.thecanadianencyclopedia.ca/en/article/oka-crisis/>. Lawson, Russell M. *The Encyclopedia of American Indian Issues Today*, Vol 2. (pp 793). Award winning documentary “ Kanehsatake: 270 Years of Resistance” (1993) Directed by Alanis Obomsawin. Found at: <https://www.youtube.com/watch?v=7yP3srFvhKs>.

<sup>50</sup> Giuseppe Valiante and Peter Rakobowchuk. “Oka Crisis Deepened Understanding of Land Claims in Canada”. July 17, 2015. The Canadian Press. Found at: <http://www.cbc.ca/news/indigenous/oka-crisis-deepened-understanding-of-land-claims-in-canada-1.3142239>.



➔ Militarization of Indigenous lands  
by domestic police forces occupying Backwater Bridge,  
Standing Rock Reservation, North Dakota, USA 2016

Guiding Principles on Business and Human Rights.”<sup>51</sup> Mr. Kiai added that some of the 400 people held during demonstrations suffered from “inhuman and degrading treatment” including “[m]arking people with numbers and detaining them in overcrowded cages, on the bare concrete floor, without being provided with medical care.”<sup>52</sup> These reports have been echoed and supported by Grand Chief Edward John, a member of the UN Permanent Forum on Indigenous Issues; Pavel Sulyandziga, the Chair of the UN Working Groups on the issues of human rights and transnational corporations and other business enterprises; Victoria Tauli Corpuz, the Special Rapporteur on indigenous peoples; Karima Bennouna, the Special Rapporteur on cultural rights; John Knox, the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; Michel Forst, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and Leo Heller, the Special Rapporteur on the human rights to safe drinking water and sanitation.<sup>53</sup>

These actions were carried out through a collaboration consisting of domestic police forces, military personnel, and private security forces armed with military grade “less-lethal crowd control weaponry” (CCWs)—including rubber bullets,

<sup>51</sup> Geneva. “Native Americans facing excessive force in North Dakota pipeline protests—UN expert” (15 November 2016). Found at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20868>

<sup>52</sup> Ibid.

<sup>53</sup> Ibid

teargas, mace, compression grenades, water canons in subfreezing temperatures, attack dogs, and bean bag rounds—to suppress peaceful protestors in violation of international law.<sup>54</sup> The 2016 International Network of Civil Liberties Organization (INCLO) and Physicians for Human Rights (PHR) joint study states “the proliferation of CCWs without adequate regulation, training, monitoring and/or accountability, has led to the widespread and routine use or misuse of these weapons, resulting in injury, disability, and death”.<sup>55</sup> Standing Rock became an internationally recognized example of how state legislation, criminal justice systems and the exercise of executive authority are utilized to commit Treaty rights and human rights violations against Indigenous Peoples defending their human rights, land rights, and sacred sites.<sup>56</sup> As explained in section B of this report, this practice has deep roots in the domestic legal and political practices of the U.S. and Canada, requiring independent international bodies to monitor the criminal justice systems of these developed States more closely.

2. The Trump Administration and Prime Minister Trudeau’s energy policies: With its continued denial of the reality of climate change and the stated intention to disengage from international Climate Change processes while promoting fossil fuel development President Donald Trump and his administration represents a significant threat to Indigenous Peoples and to the Planet. While promoting the Dakota Access and Keystone XL pipelines (impacting Indigenous Peoples in Canada directly), reducing culturally-important national monuments such as Bears Ears, and opening the Arctic National Wildlife Refuge for oil development via his tax cut bill signed on December 22<sup>nd</sup>, 2017, President Trump has simultaneously relaxed hard won U.S. environmental protections and regulations while opening up treaty lands, Indigenous lands and sacred sites for development. Trump’s unmitigated support for big business has reverberated throughout his cabinet and administration through appointments of pro-industry executives such as Rex Tillerson, former CEO of Exxon, as Secretary of State. This has led to dangerous proposals such as that voiced by Rep Markwayne Mullin (R-Oklahoma) who suggested that tribes would overwhelmingly support privatization of tribal lands. This is similar to the more recent remarks made by Secretary of the Interior Ryan Zinke at the National Tribal Energy Summit in May 2017, suggesting that tribes become corporations. These remarks demonstrate how out of touch the current administration is when it comes to understanding the history of illegal dispossession and stripping of land and resource rights that have come to create the economic and cultural reality for Indigenous Peoples in the U.S. as described in this report.

Despite the vehement objections of the impacted Indigenous Peoples in both the US and Canada, and his administration’s stated commitment to the rights of Indigenous Peoples, the administration of Prime Minister Justin Trudeau has continued to support the expansion of tar sands oil production. The most recent action has been the approval of the Kinder Morgan Trans Mountain Project which will expand an existing pipeline from Alberta Tar Sands to a tanker port in British Columbia while increasing extraction from 300,000 barrels a day to 890,000 barrels. This will not only negatively impact the First Nations that

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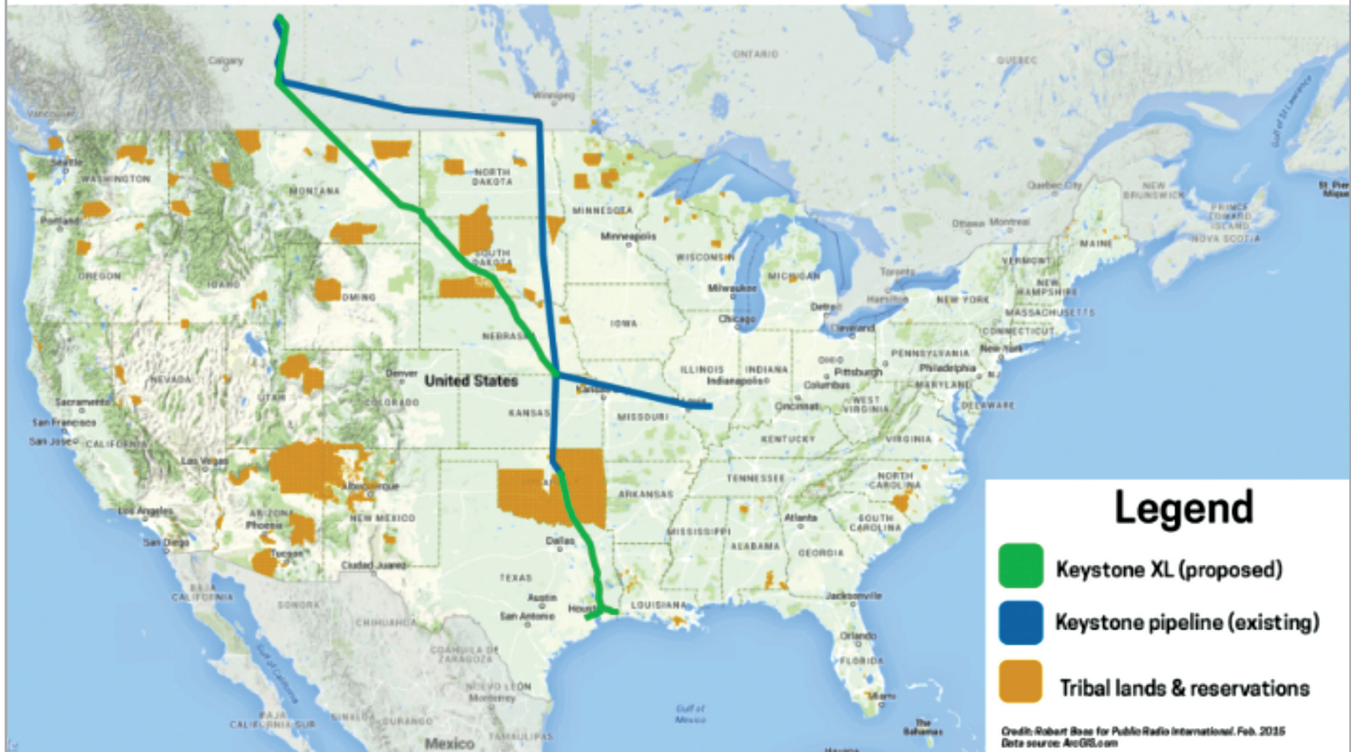
<sup>54</sup> IITC and Standing Rock Tribe Joint Urgent Action Report

<sup>55</sup> The International Network of Civil Liberties Organizations (INCLO) and Physicians for Human Rights (PHR) Report: “Lethal in Disguise: The health consequences of crowd control weapons”. Found at: <https://www.acri.org.il/pdf/Lethal-in-Disguise-INCLO2016.pdf>

<sup>56</sup> Such actions include but are not limited to the use of attack dogs against unarmed resisters by unlicensed security firms hired by the Energy Transfer Partners; the passage of North Dakota state policies which sought to limit the access to legal representation for water protectors; the criminalization and imprisonment of journalist and medics; the blocking off and impairment of a public roadway on illegally ceded treaty territory, preventing medical transport, and access to water, sanitation, and other resources.



## Keystone Pipeline in proximity to tribal lands



➔ Map showing US-based legally recognized tribal territories in proximity to the proposed Keystone XL pipeline does not depict Treaty territories or sacred sites. Prepared by Robert B. for Public Radio International

are located near and downstream from the Tar Sands development area but also all the tribes along the route of the pipeline, including the Tsleil-Waututh Nation located across from the tanker port. His eagerness to expand Canada's tar sands extraction is reflected in the enthusiasm shown by Trudeau in response to Trump's support via Executive Orders and Presidential memoranda in January 2017 for reviving the Keystone XL pipeline project, financed largely by an Alberta based energy company, TransCanada<sup>57</sup>. Alberta's tar sands produce some of the world's dirtiest oil with 3-4 times as much greenhouse gas emissions per barrel than the production of regular crude oil. Due to its size, scale, and location, the tar sands also represents a global threat. According to research by Ecofys commissioned by Greenpeace International, Canada's tar sands ranked fifth of the 14th largest carbon intensive projects in the world.<sup>58</sup>

In the U.S., the Donald Trump administration approved the Keystone XL pipeline the month of January 2017 knowing that the tar sands crude oil it would deliver from Canada is even more polluting than the Obama administration thought when it turned the project down in 2015. Recent government studies of a different tar sands pipeline found that the project's greenhouse gas emissions "may be five to 20 percent higher than previously indicated," the State Department noted on March 23 in its decision approving the Keystone XL permit.<sup>59</sup>

<sup>57</sup> <https://indiancountrymedianetwork.com/news/opinions/international-indian-treaty-council-trumps-executive-orders-violate-treaties/>

<sup>58</sup> <http://www.greenpeace.org/canada/en/campaigns/Energy/tarsands/The-tar-sands-and-climate-change/>

<sup>59</sup> <https://insideclimatenews.org/news/04042017/tar-sands-greenhouse-gas-emissions-climate-change-keystone-xl-pipeline-donald-trump-enbridge>

3. Lack of access to international funding to support sustainable development and climate change mitigation: Indigenous Peoples of Canada and the United States are denied, or only provided limited access to, international support to address these situations and their impacts, or to ensure their participation in UN discussions on issues. North America-based Indigenous Peoples, along with Indigenous Peoples from other “developed” States, do not usually qualify for available UN resources or development assistance funds. These include funds offered by the Food and Agriculture Organization (FAO), the International Fund for Agricultural Development (IFAD), the UN Development Programme or the Green Climate Fund to support sustainable development, food security or climate change mitigation programs in their territories. This even limits participation in relevant international dialogues on these vital issues because of the nature of the voluntary contributions that comprise these funds.



## Consequences of Loss of Lands Territories and Resources

Extractive Industries have long served as a catalyst for forced removal of Indigenous peoples, loss of sacred sites and ancestral territories, loss of customary-use lands and practices, and illegal seizure of Treaty territories. To support domestic energy development in the U.S., huge incentives and concessions and tax breaks are provided by the government to corporations despite the impacts they may have on Indigenous lands, territories, and resources. Concessions include relaxing hard won environmental quality standards meant to keep local communities safe and to protect water, air, soil, and other precious resources. For example, the U.S. government has consistently moved to increase the legal rights of corporations, granting them the ability to sue communities for attempting to stop their operations for “loss of potential profits”. These policies elevate the interests of corporations over the rights, health, safety and well-being of Indigenous Peoples.

I. Case Studies: The following table covers three major case studies where traditional lands containing sacred landscapes are currently under threat in North America. Again, this is not an exhaustive list, but it serves to illustrate the scale of modern day conflicts and the continued consequences of the loss of Land, Territories and Resources which can cause irreparable loss for Indigenous Peoples.

Area	Description of Loss	Consequences
Bears Ears National Monument	On December 4, 2017 President Trump announced the reduction of monument by Executive order from 1.3 million acres to just 220,000 acres	Home to at least 100,000 indigenous archaeological sites including cliff dwellings, rock art, and grave sites, Bears Ears is America’s most significant unprotected cultural landscape”. <sup>60</sup> Loss of protective status opens up lands for energy development, threatening this landscape held sacred by five surrounding tribes.

<sup>60</sup> Utah Dine Bikeyah. “What is the Bears Ears Proposal” found at: <http://utahdinebikeyah.org/overview/>

Area	Description of Loss	Consequences
Arctic National Wildlife Refuge (ANWR)	The “Tax Cuts and Jobs Act” signed into law by President Trump on December 22, 2017 authorizes the sale of oil and gas leases in a section of the ANWR on Alaska’s North Slope, the coastal plain that faces the Arctic Ocean which is also the calving ground of the Porcupine Caribou herd	The Inupiat that live in the North Slope could benefit from the economic development, but also stand to lose their homeland in the event of any spill or natural disaster. The Gwich’in Athabascan Nation (Alaska and Canada) adamantly opposes opening ANWR for oil development and are spiritually and culturally connected to the porcupine caribou, their primary means of subsistence whose calving grounds, called “the place where all life begins” is a sacred site, and would be irreparably disrupted by Arctic drilling. <sup>61</sup>
Chaco Canyon	The Greater Chaco Landscape is a world heritage site threatened by oil and gas development in New Mexico	The vast landscape contains ancient roads, structures, and ceremonial sites important to many tribes in the southwest. Development of this area threatens the fragile ecosystem, the priceless cultural sites, and the quality of life of those living within close proximity of oil and gas operations. <sup>62</sup>



➔ From: Amnesty International. “Out of Sight, Out of Mind: Gender, Indigenous Rights and Energy Development in Northeast B.C., Canada”

Specific Impacts to women, youth/children Extractive industries, and the loss and/or contamination of traditional lands and territories, have cascading impacts on the social, political and cultural fabric of Indigenous communities that weigh most heavily on the rights and quality of life of Indigenous women and children. The full intergenerational impacts are still unknown. With regards to exposure to environmental toxins, there is a growing body of evidence that women’s reproductive health is uniquely impacted. In the case of the Navajo Birth Cohort Study, results show that women exposed to uranium contamination can pass on the exposure to their fetus resulting in children being born with elevated levels of uranium in their bodies.<sup>63</sup> In a 2012 submission to UN Permanent Forum on Indigenous Issues Expert Group Meeting entitled “Indigenous Women and Environmental Violence” authors Andrea Carmen and Viola Waghiyi argue that, “the severe and ongoing harm caused by environmental toxics to Indigenous women, girls, unborn generations and Indigenous Peoples, requires immediate attention. These toxics include pesticides and other Persistent Organic

<sup>61</sup> Robinson Meyer. “The GOP Tax Bill Could Forever Alter Alaska’s Indigenous Tribes”. The Atlantic. December 2, 2017. Found at: <https://www.theatlantic.com/science/archive/2017/12/senate-tax-bill-indigenous-communities/547352/>

<sup>62</sup> For more information visit Coalition to Protect Greater Chaco at: <http://www.protectgreaterchaco.org/>

<sup>63</sup> Navajo Birth Cohort Study is “A Prospective Birth Cohort Study Involving Environmental Uranium Exposure in the Navajo Nation”. It is the first prospective epidemiologic study of pregnancy and neonatal outcomes in a uranium-exposed population. Information can be found at: [https://www.atsdr.cdc.gov/sites/navajo\\_birth\\_cohort\\_study/](https://www.atsdr.cdc.gov/sites/navajo_birth_cohort_study/)



Pollutants, as well as chemicals produced by extractive industries (coal, oil, tar sands etc.), military installations and weapons testing, waste dumping and incineration, industrial processes, all phases of uranium mining, milling and waste storage.”<sup>64</sup>

In addition to the threats from toxic exposure, Indigenous women are disproportionately affected by physical and sexual violence. In Canada, the epidemic has led to a movement for justice for Missing and Murdered Indigenous Women (#MMIW). Sex trafficking of Indigenous women, girls, and children have been shown to rise around energy extraction activities which bring workers from all over to otherwise rural areas, housed in what has been dubbed “man camps”. In *Out of Sight, Out of Mind: Gender and Indigenous Rights and Energy Development in Northeast British Columbia, Canada*, Amnesty International documents how energy development and the accompanying man camps has led to increased costs of living, drug and alcohol use, racism, and violence against indigenous women and girls.<sup>65</sup> In the U.S., most Indigenous Tribes lack the resources and the jurisdiction to prosecute non-Indians for criminal acts including sexual violence and exploitation linked to extractive enterprises despite the reauthorization of the Violence Against Women Act (VAWA) on March 7, 2013 which included a new section, title IX “Safety for Indian Women”.<sup>66</sup> This is because the new prosecutorial authority afforded by the addition of title IX pertains only to federally recognized tribes with a federally recognized land base, and only when the crime is committed within that recognized territory. This has created a breeding ground for a social endemic that has radically transformed the quality of life for Indigenous women and children in impacted Indigenous communities.

Regarding Indigenous children, it is important to highlight the ongoing intergenerational impacts of the Indian Boarding and Residential School policies carried out in the U.S. and Canada in the 19<sup>th</sup> and 20<sup>th</sup> centuries. The stated purpose of these policies, which legally mandated removal of over 200,000 Indigenous children from their families, communities and homelands, was cultural indoctrination and assimilation including alienation from their lands, territories, languages and identities. The intended goal of this policy in the U.S. was described as “Kill the Indian, Save the child” in 1892 by General Pratt. He founded the Carlisle U.S. Training and Industrial School in 1887, the first boarding school in the U.S. that served as a model that would define the boarding school era. Physical, emotional, spiritual, and sexual abuse were endemic, and thousands of children did not survive. A major achievement for Indigenous Peoples in Canada was the establishment, in 2007, of the Truth and Reconciliation Commission (TRC) as the result of a class action lawsuit by a group of survivors. Its purpose was to document and collect testimonies about the abuses suffered by First Nation, Inuit and Metis children and families in Canada and make recommendation to the Canadian government and

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<sup>64</sup> Andrea Carmen and Viola Waghiyi. “Indigenous Women and Environmental Violence”. Submission to the United Nations Permanent Forum on Indigenous Issues Expert Group Meeting. January 18-20, 2012. New York, NY.

<sup>65</sup> Amnesty International (2016). *Out of Sight, Out of Mind: Gender, Indigenous Rights, And Energy Development in Northeast British Columbia, Canada*. Found at: <https://www.amnesty.ca/sites/amnesty/files/Out%20of%20Sight%20Out%20of%20Mind%20ES%20FINAL%20EN%20CDA.pdf>

<sup>66</sup> Tribal Law and Policy Institute. “An Introduction to the Violence Against Women Act” found at: [www.tribal-institute.org/lists/title\\_ix.htm](http://www.tribal-institute.org/lists/title_ix.htm)

Canadian Society about how to address the ongoing pervasive impacts. The TRC's "Calls to Action" were issued in December 2015, preceding a full multi-volume report. It is significant that of the ninety-four "Calls to Action", more than twenty included specific references to land rights, Treaties and implementation of the UN Declaration on the Rights of Indigenous Peoples, underscoring the links between cultural identity and the protection of land and Treaty rights.<sup>67</sup> The U.S. has never formally acknowledged or accepted any responsibility for the ongoing impacts of these policies in the U.S.

As a result of resource colonization in both U.S. and Canada, Indigenous peoples continue to lose their sacred sites, traditional food systems, and biologically diverse ecosystems. The consequences include increased inequality, exposure to environmental toxins, loss of cultural heritage and practices, and loss of identity—with particularly dire impacts on Indigenous youth and young adults. In Canada suicide and self-injury have been identified as the leading causes of death for Indigenous youth and adults up to age 44. The suicide rate for First Nations males aged 15–24 years is 126 per 100,000 compared to 24 per 100,000 for non-Aboriginal males. The First Nations female suicide rate is 35 per 100,000 compared to five per 100,000 for non-Aboriginal females. For Inuit, these numbers are comparable.<sup>68</sup> In 2016, Eliza Racine analyzed comparable data from a 2012 Indian health service study that showed U.S. Native American youth are "three and a half times more likely to commit suicide compared to other groups".<sup>69</sup> In 2015, the Pine Ridge reservation declared a state of emergency when 14 youth took their lives within an 8 month time-frame with many tribes seeing the same epidemic and rise in suicide and self-harm leading to death.<sup>70</sup> Despite this, funding to address this epidemic has been sparse, with only 43 federally recognized tribes able to access funding that has been insufficient for undoing generations of trauma.<sup>71</sup>

The social and cultural fabric of these children's communities have been severely disrupted, leading to the sense of hopelessness that is leading so many young to take their lives. In 2015 Mark Kaplan, a professor at University of California Los Angeles (UCLA), co-authored a study that determined that poverty closely related to suicide rates. On the international level, it is widely accepted that biodiversity loss is linked to conditions of poverty. Indigenous peoples offer solutions that demonstrate how both issues can be tackled simultaneously with investment in nurturing traditional ecological practices and knowledge, or utilizing cultural frameworks to address socio-economic problems. To understand their alternatives, it's important to understand the relationship Indigenous Peoples have to their landscapes and the unique impacts they suffer from with the loss of biodiversity.

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<sup>67</sup> [https://nctr.ca/assets/reports/Calls\\_to\\_Action\\_English2.pdf](https://nctr.ca/assets/reports/Calls_to_Action_English2.pdf)

<sup>68</sup> Creating conditions for Canadian aboriginal health equity: the promise of healthy public policy, Chantelle A. M. Richmond and Catherine Cook, *Public Health Reviews*, 2016

<sup>69</sup> Eliza Racine. The Lakota Law Project. "Native Americans Facing Highest Suicide Rates" (May 5, 2016). Found at: <https://www.lakota-law.org/news/2016-05-12/native-americans-facing-highest-suicide-rates>.

<sup>70</sup> *ibid*

<sup>71</sup> *ibid*



## State of Biodiversity in Indigenous Territories

The Preamble of the Convention on Biological Diversity describes biodiversity as having “ecological, genetic, social, economic, scientific, educational, cultural, recreational and aesthetic values” important for diversity and for maintaining the “life sustaining systems of the biosphere”.<sup>72</sup> Loss of rights to Indigenous territory has led to the loss of cultural knowledge, traditional ecological practices, languages, and lifeways of Indigenous Peoples in North America. Most Indigenous Peoples have articulated the interconnectedness of these experiences with an understanding that the health of the land impacts the health of the people and vice-versa. In Łuk’ae gha Tsin’aen Nek’eltaeni, Thank You Creator for the Salmon Declaration, Indigenous peoples from North America dependent on the Salmon demonstrate this interconnection while also illustrating the ways these losses are uniquely experienced and felt by Indigenous Peoples based on the their own histories, knowledge systems, and subsistence practices:

“The histories of our families and Peoples, what we have suffered and how we have resisted and survived, are intertwined with the history, survival, and life cycles of the salmon and the other traditional foods that make us who we are. We have also experienced their struggles to survive destructive developments including mining, damming, and contamination of their birthing and spawning rivers. We also share the threats they are facing today such as climate change, environmental toxics, actions of governments and corporations that totally disregard ancestral rights, and the continued imposition of extractive industries in our ancestral homelands.”<sup>73</sup>

In addition to the disproportionate impacts to women and children discussed earlier, Amnesty International clearly identified the multi-faceted nature of the destruction and loss caused by energy development in *Out of Sight, Out of Mind* (2016) which analyzed the impacts of tar sands extraction in British Columbia, Canada:

“Oil and gas wells, pipelines, industry roads, and other development have fragmented the landscape, destroyed habitat crucial to culturally important species such as moose and caribou, and contaminated rivers and streams. The energy economy has also led to increased competition for dwindling wildlife from recreational hunters—including industry workers themselves—accessing wilderness though industrial roads. A third major hydro-electric dam now under construction on the Peace River threatens to destroy some of the few remaining, relatively intact, ecosystems that are readily accessible to First Nations.”<sup>74</sup>

In most cases, Indigenous cultural knowledge and oral histories, including about the original spirit and intent of Treaties, provide an important record for understanding ancestral relationships to territories and the changes and threats to biodiversity across Indigenous Territories. There are three major areas of concern, preventing the protection and restoration of biological diverse areas: (1) the lack of redress for protection of Indigenous land rights, human rights, and treaty rights, as briefly covered in this report; (2) the lack of political and economic support for the protection and restoration of traditional ecological knowledges and practices (to be covered in the next section); and, (3) the lack of long-term community controlled data, and understanding among policy makers on all levels, regarding the impacts of development and climate change.

The previous sections of this report have briefly summarized the historic theft of Indigenous Peoples lands, territories and resources, carried out through political and corporate actions which favored forms of unsustainable development and poor land management practices. These practices continue to grow,

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<sup>72</sup> Convention on Biological Diversity. Found at: <https://www.cbd.int/doc/legal/cbd-en.pdf>

<sup>73</sup> “Łuk’ae gha Tsin’aen Nek’eltaeni, Thank you Creator for Salmon” Declaration.

<sup>74</sup> Amnesty International (2016). *Out of Sight, Out of Mind: Gender, Indigenous Rights, And Energy Development in Northeast British Columbia, Canada*



fueled by the Trump and Trudeau administrations' energy development goals, increasing the threat to the biodiversity within Indigenous Peoples ancestral territories and sacred sites across North America, even when the governments' own agencies and programs advise against it for conservation reasons. The Commission for Environmental Cooperation (CEC)—created by the North American Agreement on Environmental Cooperation between the governments of Canada, the U.S., and Mexico—is tasked to study and provide recommendations for the preservation of biological diversity across North America.<sup>75</sup> Ironically, this is a shared priority for the countries party to the problematic North American Free Trade Agreement (NAFTA) despite actively violating the rights of Indigenous Peoples who are tied to the landscapes preserving the world's remaining biodiversity.<sup>76</sup> Yet, as early as 2002 the CEC reported that “over the past few decades, the loss and alteration of habitat has become the main threat to biodiversity...A significant proportion of the plant and animal species of North America is threatened”<sup>77</sup>. The report further goes on to state that there are “at least 235 threatened species of mammals, birds, reptiles and amphibians”, including concerns about the monarch butterfly, warning that such loss is irreversible with immense long-term impacts on “the human condition, on the fabric of the continent's living systems, and on the process of evolution”.<sup>78</sup> The Joint Public Advisory committee to the CEC keeps a roster of experts on Traditional Ecological Knowledge. This is a start but the countries have showed little to no improvement in addressing these losses since meaningful action would require the countries to honor treaty rights and support Indigenous-led solutions that restore and further develop traditional ecological knowledge systems and practices.

Canada has made some small steps forward, recently committing to protect at least 17% of lands by 2020 in accordance with the Aichi Targets under the Convention on Biological Diversity. With only about 10.6% of lands protected currently, Canada has established an initiative called Pathway to Canada Target 1 that has undertaken the responsibility of achieving their target.<sup>79</sup> Within that initiative, there are bodies established to support the work, including a National Steering Committee, a National Advisory Panel, and an Indigenous Circle of Experts. The Report of the Indigenous Circle of Experts is forthcoming in 2018, and proposes the establishment of “Indigenous Protected and Conserved Areas” (IPCAs) which honour the self-determination of Indigenous Peoples over their lands and waters.

There are also examples of Indigenous Peoples using international designations as a method of protection and control over their lands and waters. A great example is that of the Tsá Tué biosphere reserve designation, the first Indigenous-led designation in the history of UNESCO biosphere reserves. Receiving formal recognition by UNESCO in March 2016, the Sahtu Dene First Nation ensured a form of protection of Great Bear Lake against threats of large-scale development using their own Indigenous history, knowledge, and language in the nomination and designation process. The commitment to sustainable development in accordance with UNESCO principles and Sahtuto'ine spirituality is now entrenched in the Tsá Tué Biosphere Reserve Stewardship Council and in the Délı̨nę Got'ı̨nę Government constitution.<sup>80</sup>

**Impacts of Climate Change and Related Solutions:** Climate Change has long been recognized as one of the greatest threats to US national security despite the convictions and policies of the current administration. It is also internationally recognized as one of the greatest threats to global food security.<sup>81</sup>

<sup>75</sup> North America Agreement on Environmental Cooperation. Found at: <http://www.cec.org/about-us/NAAEC>.

<sup>76</sup> Ibid.

<sup>77</sup> Institute for Agriculture and Trade Policy. “Significant Biodiversity Loss Across North America Says CEC”. January 7, 2002. Found at: <https://www.iatp.org/news/significant-biodiversity-loss-across-north-america-says-ce>

<sup>78</sup> Ibid

<sup>79</sup> More information on this initiative can be found at: <http://www.conservation2020canada.ca/home/>

<sup>80</sup> For more information see: <http://unesco.ca/~media/unesco/unesco/20170328RAC-Indigenous-lead-biosphere-reserves.pdf>

<sup>81</sup> The UN Rapporteur on the Right to Food, Olivier de Schutter has authored many reports to the Human Rights Council and other UN bodies detailing the threats to food systems posed by unsustainable industries, large-scale agriculture production, inadequate “green technology” solutions, and Climate Change, advocating for agroecology based practices, and investment in the most vulnerable food producers in the development of the right to food and successful state policies. reports can be found at: <http://www.srfood.org/en/official-reports>

Increasing numbers of forest fires, extreme weather conditions such as droughts and tornados, melting ice and tundra in northern areas, and unpredictable weather patterns are dramatically affecting planting,



➡ *Photo of Salmon with skin lesions caused by warming water temperatures in the Columbia River, Washington State USA, 2015. Indigenous representatives reported at COP 21 in Paris that 80% of the sockeye salmon run in the Columbia River had died that year, causing major cultural and economic harm to their Peoples.*

growing and harvesting, as well as hunting, fishing and gathering subsistence practices. In a general technical report from the Pacific Northwest Research Station entitled, *Climate Change and Indigenous Peoples: a synthesis of current impacts and experiences*, it is stated that the various climate change impacts experienced by Indigenous peoples across the U.S. “threaten traditional knowledges, food security, water availability, historical homelands, and territorial existence, and may undermine indigenous ways of life that have persisted and adapted for thousands of years.”<sup>82</sup> Traditionally important food species that are extremely sensitive to environmental changes such as salmon, are particularly impacted in both the U.S. (California, Washington, Oregon and Alaska) and British Columbia, Canada (see photo).

Meanwhile, the primary cause of Climate Change—fossil fuel production—continues unabated in North America. Indigenous Peoples have long stood on the frontlines of opposing these conflicts with many campaigns against fossil fuel extraction taking place within or adjacent to their territories, treaty lands, and/or sacred sites. In 2015, the International Indian Treaty Council carried out seven Consultations with Indigenous Peoples in the US and Canada with support from the UN Development Programme in preparation for the 21st Conference of the Parties of the UNFCCC in Paris. IITC’s North America Indigenous Peoples Traditional Knowledge and Climate Change “Road to Paris” Questionnaire received 213 responses representing 318,000 individuals. In total, 94% of respondents affirmed that Climate Change was very important or important to their community/Peoples/Tribe/Nation while 98% of said they have seen

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<sup>82</sup> Norton-Smith, Kathryn; Lynn, Kathy; Chief, Karletta; Cozzetto, Karen; Donatuto, Jamie; Hiza Redsteer, Margaret; Kruger, Linda E.; Maldonado, Julie; Viles, Carson; Whyte, Kyle P. 2016. *Climate change and indigenous peoples: a synthesis of current impacts and experiences*. Gen. Tech. Rep. PNW-GTR-944. Portland, OR: U.S. Department of Agriculture, Forest Service, Pacific Northwest Research Station. 136 p. found at: [https://www.fs.fed.us/pnw/pubs/pnw\\_gtr944.pdf](https://www.fs.fed.us/pnw/pubs/pnw_gtr944.pdf). “Tribes across the United States are experiencing reductions in access to culturally important habitats and species. In Alaska, permafrost melting is making it more difficult for hunters to access traditional hunting grounds and is changing the migration patterns of certain species. In the Pacific Northwest, changes in the temperature and flow of water are exacerbating existing stresses on salmon and shellfish populations, which are vital to the economic, spiritual, and cultural health of communities. In the Southwest, the influx of invasive species and prolonged drought are disrupting subsistence practices. These impacts threaten traditional knowledges, food security, water availability, historical homelands, and territorial existence, and may undermine indigenous ways of life that have persisted and adapted for thousands of years” (p2)

impacts of Climate Change on their environment, weather, food systems and/or land base. Significantly, 96% affirmed that their own Peoples' Traditional Knowledge and practices can be useful in addressing or responding to the impacts of climate change.<sup>83</sup>

Quality data, based on both Indigenous and scientific knowledges and innovative methods, is urgently needed to increase our understanding of and ability to adapt to Climate Change. Such data would serve as a foundation to understand resiliency and effective sustainable land management practices. The Intergovernmental Panel on Climate Change (IPCC) 2014 report, *Impacts, Adaptation, and Vulnerability; summary for policy makers*, states that “Indigenous, local, and traditional knowledge systems and practices, including indigenous peoples’ holistic view of community and environment, are a major resource for adapting to climate change, but these have not been used consistently in existing adaptation efforts. Integrating such forms of knowledge with existing practices increases the effectiveness of adaptation” (emphasis added).<sup>84</sup> Recognizing Indigenous Peoples’ traditional knowledge systems and incorporating traditional practices in adaptation planning creates a predicament for state and federal governments; to adopt such practices the governments must not only recognize the Indigenous Peoples who maintain such knowledge systems, but also recognize their ancient relationship and connection to their Lands, Territories, and Resources upon which their knowledge systems are built. A recognition which challenges the legacy of manifest destiny and the ongoing erasure of Indigenous Peoples ties to sacred land and territories targeted for resource development. This is why honoring the treaties and respecting the rights framework championed by Indigenous peoples is a necessary strategy for successful Climate Change action—restoration and protection of traditional ecological practices is an exercise of Indigenous self-determination, autonomy, and tribal sovereignty important for the ongoing resistance to imperialism and resource colonization being carried out on Indigenous Peoples LTRs.

In *Climate Change and Indigenous Peoples*, the group of technical experts that authored the report state that the “vulnerability of some indigenous communities to climate change is based on cultural, social, and economic dependence on local species, habitats, and ecosystems, as well as legal, social, and political contexts of colonialism, institutionalized racism, and forced relocation”(emphasis added).<sup>85</sup> It is with regards to this knowledge and experience that Indigenous-led movements that nurture ecologically just solutions, sustainable economic development, and land restoration initiatives for water security, food sovereignty, and climate change resiliency are at its core, exercises of self-determination.<sup>86</sup> So while international mechanisms and bodies such as the CEC recognize that Traditional Ecological Knowledges and practices offer strong contributions to climate change science and adaptation strategies, domestic institutions continue to violate the Rights of Indigenous Peoples, including their rights to land, resource rights, and the right of Free, Prior, and Informed Consent.<sup>87</sup> This greatly impacts the ability of Indigenous Peoples to protect, restore, and practice culturally appropriate resource management practices, or craft and develop alternative solutions that threaten existing industries and governmental authority.

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<sup>83</sup> International Indian Treaty Council. *North American Indigenous Peoples Climate Change Consultations; Report on the Road to Paris Initiative*. (March 31, 2016). Found at: [http://cdn7.iitc.org/wp-content/uploads/North-American-Indigenous-Peoples-Climate-Change-Consultations-Report-March-31-2016\\_web2.pdf](http://cdn7.iitc.org/wp-content/uploads/North-American-Indigenous-Peoples-Climate-Change-Consultations-Report-March-31-2016_web2.pdf)

<sup>84</sup> The Intergovernmental Panel on Climate Change (IPCC). *Climate Change 2014 report: “Impacts, Adaptation, and Vulnerability; summary for policy makers”*. Found at: [http://www.ipcc.ch/pdf/assessment-report/ar5/wg2/ar5\\_wgII\\_spm\\_en.pdf](http://www.ipcc.ch/pdf/assessment-report/ar5/wg2/ar5_wgII_spm_en.pdf)

<sup>85</sup> Norton-Smith, Kathryn; Lynn, Kathy; Chief, Karletta; Cozzetto, Karen; Donatuto, Jamie; Hiza Redsteer, Margaret; Kruger, Linda E.; Maldonado, Julie; Viles, Carson; Whyte, Kyle P. 2016. *Change and Indigenous Peoples*

<sup>86</sup> A meaningful alliance or partnership, honors the rights of Indigenous Peoples to exercise autonomy and self-determination in implementing and maintaining culturally appropriate forms of decision-making processes, political and social institutions, practices of cultural preservation and development, and nation building. It also means understanding and advocating for Indigenous Peoples right to Free, Prior and Informed Consent.

<sup>87</sup> IITC. “*Traditional Knowledge and Climate Change*” September 10, 2017. “*September 11-12 2017, Indigenous Peoples from all regions met with States, UN bodies (UNFCCC and UNESCO) in Ottawa Canada to continue discussing the implementation of operative paragraph 135 of the United Nations Paris Agreement. OP 135 recognizes the need to strengthen Indigenous Peoples’ “knowledge, practices, innovations and efforts” and also calls for the development of a new Traditional Knowledge Exchange Platform to mitigate Climate Change*” see also: The Declaration of Tecpán (March 9, 2017) found at: <https://www.iitc.org/wp-content/uploads/DeclarationTecpanFINALENGLISHREV2.pdf>





## Sustainable Resource Management and Traditional Livelihoods, Traditional Knowledge and related Indigenous Institutions

Across North America, Indigenous peoples are leading land restoration and sustainable resource management projects based on revitalizing traditional ecological knowledges and practices. Echoed across these groups is the need to heal historical, intergenerational trauma resulting from genocidal and assimilation policies, land loss and resource theft, and loss of biodiversity that directly impacts Indigenous Peoples ability to continue traditional lifeways and cultural practices that are fundamental to their identities. The “Salmon Declaration” captures these sentiments by stating, “we recognize that the rights which support and ensure our Food Sovereignty are inherent and affirmed in Treaties and international standards including the UN Declaration on the Rights of Indigenous Peoples. We also recognize the need for the healing of historical and the inter-generational trauma and impacts of colonization which have undermined our Food Sovereignty and divided our Peoples. We are committed to the healing and restoration of our families, communities, Nations, ecosystem, cultural and food systems which are inter-related and interdependent.”<sup>88</sup>

Various Indigenous Nations, communities and Indigenous-led initiatives recognize the direct correlation between the health of the land and the mental, spiritual, and physical well-being of their Peoples. Faith Gemmill (Gwich'in Nation, Alaska) summarized this recognition in her statement to the UN Working Group on Indigenous Populations in 1994, stating that “[f]rom a traditional perspective, the health of our Peoples cannot be separated from the health of our environment.”<sup>89</sup> As such, the indigenous-led movements for water security, food security, climate change resiliency and adaptation, protection of sacred sites, and development of alternative economies center their actions and goals on healing historical trauma, reviving traditional lifeways and practices, restoring and protecting traditional ecological practices, and affirming the rights of Indigenous peoples to self-determination and protection of their lands, territories and resources. These include practices that range from restoration of traditional agricultural practices; reviving traditional subsistence practices (hunting, fishing, farming, gatherings wild herbs, foods and medicines; restoration and protection of traditional foods and methods (seed saving for heirloom crops and native medicines); promoting renewable energy development; restoring Indigenous trade routes and relations; restoring methods for intergenerational transmission of traditional ecological and food-related knowledge and practices; declaring Indigenous Peoples “Food Sovereignty Zones” free of pesticides, GMOs and extractives; and facilitating small and large-scale watershed management utilizing traditional ecological knowledge. All over North America Indigenous Peoples are working to restore their traditional ways of life, reclaim their traditional lands and territories and re-establish their food sovereignty based on traditional knowledge and food and seed practices.

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<sup>88</sup> “Luk’ae gha Tsin’aen Nek’eltaeni, “Thank you Creator for Salmon Declaration”, 2<sup>nd</sup> Indigenous Peoples’ International Gathering to Honor, Protect, and Defend the Salmon. Nay’dini’aa Na’ Kayax (Chickaloon Native Village). Ahtna Athabascan Nation. (August 5, 2017).

<sup>89</sup> IITC Oral Intervention presented by Faith Gemmill, Gwich'in Nation Alaska United Nations Working Group on Indigenous Populations, Geneva July 31, 1996



➔ An indigenous elder sharing traditional knowledge.

A few Examples include but are not limited to:

Name	Description (as found on associated websites, pages, etc.)	Resources
White Earth Land Recovery Project	“The mission of the White Earth Land Recovery Project is to facilitate the recovery of the original land base of the White Earth Indian Reservation while preserving and restoring traditional practices of sound land stewardship, language fluency, community development, and strengthening our spiritual and cultural heritage.”	<a href="http://welrp.org/">http://welrp.org/</a> <a href="https://en.wikipedia.org/wiki/White_Earth_Land_Recovery_Project">https://en.wikipedia.org/wiki/White_Earth_Land_Recovery_Project</a>
Traditional Native American Farmers Association	The Traditional Native American Farmers Association (TNAFA) was formed in 1992, an outcome of an intertribal meeting of native farmers and elders, representing 72 farming families from 17 different native communities both here in Arizona and New Mexico. Our mission statement is to “revitalize traditional agriculture for spiritual and human need.” Since our inception, TNAFA has been developing educational programs for native farmers to address these needs.	<a href="http://www.tnafa.org/history.html">http://www.tnafa.org/history.html</a> <a href="https://vimeo.com/158677237">https://vimeo.com/158677237</a>



Name	Description (as found on associated websites, pages, etc.)	Resources
Inter-Tribal Buffalo Council (ITBC)	The ITBC was created to reestablish buffalo herds on Indian lands in a manner that promotes cultural enhancement, spiritual revitalization, ecological restoration, and economic development. In 2009 the ITBC re-organized changing its name from Inter-Tribal Bison Cooperative to the Inter Tribal Buffalo Council (ITBC) whose mission is “To Restore Bison to Indian nations in a manner that is compatible with their spiritual and cultural beliefs and practices.” They consist of 63 tribes in 18 states overseeing 55 buffalo herds (20,000 buffalo total). The ITBC helps tribes start their own herds to support self-determination and tribal sovereignty while supporting nutrition and culture.	<a href="http://www.utetribes.com/intertribal-bison-coop.html">http://www.utetribes.com/intertribal-bison-coop.html</a>  <a href="http://www.ncai.org/conferences-events/ncai-events/Land_and_Natural_Resources_Committee_-_Inter_Tribal_Buffalo_Council_Presentation.pdf">http://www.ncai.org/conferences-events/ncai-events/Land_and_Natural_Resources_Committee_-_Inter_Tribal_Buffalo_Council_Presentation.pdf</a>
Little Colorado River Watershed Chapters Association (LCRWCA)	Mission: To create and implement a community-led watershed planning process, exercising self-determination through local governance, to develop a framework for a Navajo Nation Master Plan for Clean Water Security for all Diné communities. To protect future water claims and development guided by the visions, values, and the free, prior, and informed consent of the Diné people to ensure a sustainable and permanent homeland for future generations.	<a href="https://www.facebook.com/LCRWCA/">https://www.facebook.com/LCRWCA/</a>
Native American Food Sovereignty Alliance (NAFSA)	NAFSA is dedicated to restoring, supporting and developing Indigenous food systems through best practices and advocacy that place Indigenous peoples at the center of national, Tribal and local policies and natural resources management to ensure food security and health of all future generations	<a href="https://nativefoodalliance.org/">https://nativefoodalliance.org/</a>  <a href="https://nativefoodalliance.org/indigenous-seedkeepers-network/">https://nativefoodalliance.org/indigenous-seedkeepers-network/</a>
Black Mesa Water Coalition (BMWC)	The Black Mesa Water Coalition (BMWC) is a nonprofit organization formed in 2001 by a group of inter-tribal youth dedicated to addressing issues of water depletion, natural resource management, and public health within Navajo and Hopi communities. BMWC has a vision of building sustainable and healthy communities through empowering young people, installing sustainable energy infrastructure, activism around extractive industry infrastructure, and food sovereignty projects.	<a href="http://blackmesawatercoalition.org/">http://blackmesawatercoalition.org/</a>  <a href="http://uswateralliance.org/content/black-mesa-water-coalition">http://uswateralliance.org/content/black-mesa-water-coalition</a>
Indigenous Food Sovereignty	We are a group of community based activists, scholars and story tellers who work on issues of food sovereignty. We come from diverse regions of Turtle Island and share fundamental beliefs towards the land and all she stands for. We represent fishing, hunting, and gathering peoples and bring an understanding of the impact of colonialism on our regions. Indigenous food systems include all of the land, soil, water, and air, as well as culturally important plant, fungi, and animal species that have sustained Indigenous peoples over thousands of years of participating in the natural world.	<a href="https://foodsecurecanada.org/resources-news/newsletters/1-indigenous-food-sovereignty">https://foodsecurecanada.org/resources-news/newsletters/1-indigenous-food-sovereignty</a>  <a href="https://foodsecurecanada.org/sites/foodsecurecanada.org/files/DPI_Indigenous_Food_Sovereignty.pdf">https://foodsecurecanada.org/sites/foodsecurecanada.org/files/DPI_Indigenous_Food_Sovereignty.pdf</a>
Arctic Athabaskan Council	The Arctic Athabaskan Council (AAC) is an international treaty organization established to defend the rights and further the interests internationally of American and Canadian Athabaskan members First Nation governments in the eight-nation Arctic Council and other international fora. AAC is an authorized “Permanent Participant” in the Arctic Council. In addition, AAC seeks to foster a greater understanding of the shared heritage of Athabaskan peoples of the Arctic North America.	<a href="http://www.arcticathabaskancouncil.com/aac/">http://www.arcticathabaskancouncil.com/aac/</a>



Name	Description (as found on associated websites, pages, etc.)	Resources
Indigenous Climate Action Network	Indigenous Climate Action (ICA) is an Indigenous-led initiative, represented through a coalition of individuals from different organisations, communities & regions. Our goal is to fill the gaps between lived experiences of Indigenous Peoples and policies and strategies being developed to address climate change. Collectively we amplify our Indigenous worldviews into the climate discussion and share Indigenous knowledge towards evolving climate solutions that are sustainable, equitable and effective. We focus our work to obtain true climate justice which guarantees future solutions, honour the past, and ensure that legal and cultural foundations of Indigenous peoples rights will be upheld for generations to come	<a href="https://www.indigenousclimateaction.com/">https://www.indigenousclimateaction.com/</a>
Indigenous Leadership Initiative	The Indigenous Leadership Initiative is dedicated to facilitating the strengthening of Indigenous nationhood for the fulfillment of the Indigenous cultural responsibility to our lands, the emergence of new generations of Indigenous leaders, and helping communities develop the skills and capacity that they will need as they continue to become fully respected and equally treated partners in Canada's system of governance and its economic and social growth.	<a href="https://www.ilinationhood.ca">https://www.ilinationhood.ca</a>
Dine Policy Institute	The Diné Policy Institute (DPI) is a research organization housed in Diné College in the center of the Navajo Nation. Our purpose is to identify important social and political questions facing the Navajo people and provide public research and informed perspectives on these. Report include: Dine Food Sovereignty and Land Reform in the Navajo Nation	<a href="http://www.dinecollege.edu/institutes/DPI/policy.php">http://www.dinecollege.edu/institutes/DPI/policy.php</a>



## Recommendations

Indigenous Peoples in North America will continue to suffer from loss of lands, territories and resources until the United States and Canada take the following actions; (1) Full implementation of the UN Declaration on the Rights of Indigenous Peoples; (2) Full recognition for and implementation of Treaties and Treaty Rights; and (3) Full implementation of the Right to Free, Prior, and Informed Consent (FPIC).

Although the true impacts of these decisions are varied and depend on the unique histories, challenges, lifeways, and realities of the Indigenous peoples affected there are ways to remedy these systemic injustices with broad reformations across both countries. Towards that end we offer the following recommendations:

- 8) That the U.S. and Canada establish Commissions to specifically review and assess the steps taken to implement the recommendations made to each country by Treaty Bodies, Special Rapporteurs and the UPR reviews regarding the rights of Indigenous Peoples and treaty rights to lands, territories, resources, and sacred places; and to take steps, in conjunction with Indigenous Peoples, for the full and effective realization of these rights; and,

- 9) That the U.S. and Canada develop new legal strategies and procedures to address Treaty violations where the courts or justice systems of the State Treaty party are not the sole arbitrator; implement new, participatory, fair and transparent processes to resolve Treaty disputes and violations in which both Treaty parties decide the solutions as equals; and support regional and/or international oversight and resolution processes to be used when disputes cannot be resolved between the parties as per Article 24 of the American Declaration on the Rights of Indigenous Peoples; and,
- 10) That the U.S. and Canada respect and support the traditional knowledge and practices of Indigenous Peoples regarding management and protection of their traditionally used and occupied territories and resources, including those recognized in Treaties, and provide support and recognition for Indigenous-controlled and run, resource and ecological management programs; and,
- 11) That the US and Canada respect the inherent self-determination of Indigenous Peoples and their right to full participation in the development of participatory mechanisms as provided by the UN Declaration Articles 37, 27, 28 and 40<sup>90</sup> and,
- 12) That the U.S. and Canada create national-level bodies with full, effective, equal participation of Indigenous Peoples in decision-making based on FPIC, to implement and put into practice the UN Declaration on the Rights of Indigenous Peoples, including processes for ongoing review and evaluation; and,
- 13) That the U.S. and Canada support full participation of Indigenous peoples in discussions regarding lands, territories and resources and implementation of the 2030 Sustainable Development Goals, including in National implementation plans and commitments; and,
- 14) That the United Nations eliminate discrimination against Indigenous Peoples from and within “Developed” countries regarding access to international and UN funding established to assist Indigenous Peoples.

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<sup>90</sup> *ibid*

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