Indigenous Routes:

A Framework for

Understanding

Indigenous Migration

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IOM is committed to the principle that humane and orderly migration benefits migrants and society. As an intergovernmental organization, IOM acts with its partners in the international community to: assist in meeting the operational challenges of migration; advance understanding of migration issues; encourage social and economic development through migration; and uphold the human dignity and well-being of migrants.

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Acknowledgements

The journey started in 2001, when I got a call from my liaison in northern Maine, USA, informing me of the presence of some very "different" Mexicans on one of the farms. Soon after, I was sitting in a barn talking to Fernando and four of his relatives. In the background the Filipino migrants slaughter a pig and the Jamaican and Dominican workers listen to *reggaeton* in their dormitories. This was one of the four camps in Aroostook County that I regularly visited as part of my rounds to inspect worksites housing Mexican migrants.

This particular camp employed 65 Mexican nationals for the harvest of broccoli, most of them were long-time residents of California working seasonally and only returning to Mexico during the Christmas break. I had seen groups like this many times, composed mostly of males and a few women employed to prepare food and perform other household activities, no children were admitted in the camp and employers provided shelter in dormitories and a simple kitchen. The remarkable difference of this group was the presence of five males from the Zapotec indigenous group of Mexico. They were the "different" Mexicans my liaison had mentioned and I found their presence and relationship with non-indigenous Mexicans fascinating.

After a long night talking, I learned of the journey Fernando and his four companions had taken from Oaxaca to find work in the US. They had first migrated to California and found work in restaurants with the help of other Zapotec immigrants in the area. Then, a *mestizo* Mexican recruited them for agricultural seasonal work. Their first trip was to Georgia to harvest onions and then to Maine for the broccoli season, to end in the apple orchards of Washington State, before returning to California. I learned about their other stops through contacts with Mexican Community Affairs Coordinators in other Mexican consulates. However, despite Fernando's account of this migratory pattern and that it had been going on for long time, no policy had been put in place to specifically address their different needs.

From Fernando, the most fluent in Spanish, I learned of the discrimination they faced from non-indigenous Mexicans, the lower pay they received from the foreman, and the jokes they endured for not speaking "proper" Spanish. I then talked to the *capataz* and asked about the difference in

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Summary

International migration has not commonly been considered as part of the indigenous experience. A widespread view of indigenous communities freezes them in time and space, as static groups, deeply rooted in their territories and customs, and reluctant to accommodate change. Increasingly, however, indigenous individuals, families and groups are leaving their long-held territories as part of the phenomenon of global migration. These migrations go beyond the customary seasonal and cultural movements of particular groups. Modern migration of indigenous peoples is characterized by its complexity in response to new conditions of industrialized and globalized lives. Migrant indigenous peoples include individuals moving to more economically developed centres to seek opportunities, displaced communities and groups removed by force.

Discourse on the migration of indigenous peoples has usually focused on their displacement or removal from their ancestral lands. The recently adopted United Nations Declaration on the Rights of Indigenous Peoples acknowledges this common occurrence and recognizes indigenous peoples' right to "own, use, develop, and control" their lands and territories as well as the right to redress when their lands have been confiscated.[1] One might rationally infer that a lack of these rights may act as a push factor in the migration of indigenous peoples.

It is, however, necessary to recognize that the migration of indigenous peoples cannot only be limited to discussions on the dispossession of their lands. International debate on migration at the United Nations[2] and in national initiatives[3] has turned its focus on migration's potential development impacts.

The United Nations Permanent Forum on Indigenous Issues (PFII) has acknowledged the growing urbanization of indigenous peoples as well as other migratory patterns. The sixth session of the PFII in May 2007 included a much-needed discussion on urban indigenous peoples and

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[1] United Nations Declaration on the Rights of Indigenous Peoples, UN Doc. A/RES/61/295, 13 September 2007.

[2] Such as the one conducted at the United Nations High-Level Dialogue on International Migration and Development, from 14-15 September 2006.

[3] The Global Forum on Migration and Development held in Brussels, Belgium, on 9-11 July 2007, was a renewed effort to include migration in the global development agenda.

migration, resulting from an expert group meeting on this topic in March 2007 held in Santiago, Chile. UN and non-UN organizations associated with the PFII are convening to discuss areas of collaboration on this topic and to strategize on ways forward. Because of this increasing trend and the specific impacts of urbanization on indigenous peoples, the topic will remain an ongoing priority of the PFII in sessions to come. The preceding events acknowledge the importance of migration, and of indigenous peoples' migration in particular; yet this nexus has not received sufficient attention from policymakers and researchers.

It is significant that the phenomenon of indigenous migration is as diverse as the individual communities involved. The broad scope of indigenous peoples migration also raises new questions and pushes the analytic boundaries of current migration theory. In order to accommodate the indigenous-specific experience, readers will find an unfamiliar category introduced: *transborder indigenous migration*. Migration theories are largely based on the current modern understanding of state boundaries. From a historical perspective preceding the formation, of modern states, indigenous identities may coincide to varying degrees of approximation to these bounded state entities. However, sometimes communities' territories were drawn outside of internationally recognized boundaries. The special relationship of indigenous peoples to states calls for the delineation of this new category.

This paper seeks to establish that indigenous peoples are a dynamic element of modern and centuries-old movements of peoples, raising questions for policymakers, indigenous activists and researchers alike. Why is indigenous migration important? How is indigenous migration changing indigenous cultures? Do they lose their identities as indigenous peoples when they leave their traditional lands? And how can we analyse indigenous migration according to existing categories of migration?

An emerging literature on the migration of indigenous peoples has begun to supply some answers. Anthropologists, historians and economists have published an increasing number of articles and books over the past 15 years, using diverse questions and methods. However, official data on the migration of indigenous peoples as well as policies to aid indigenous migrant communities remain limited. Social scientists have concentrated on questions of identity, lifestyle changes and impacts on group dynamics; economists have looked into solving disputes over ownership of natural resources and courses of economic development. Recently, human rights lawyers and advocates have begun to research into indigenous peoples' rights in places of origin, transit and destination. Concentrating on

individual cases, there is a great deal of depth in much of this research, but no roadmap that would give migration policy experts a broad overview.

Here, the principal aim will be to provide a framework of the migratory experiences of indigenous peoples, as the terrain on this topic remains uneven. In some instances, there are well documented cases in academic research. Other areas lack information on specific indigenous experiences. At present, disaggregated data on indigenous peoples' migration are not widely collected in a form that would allow researchers and policymakers to analyse the real spectrum of indigenous migration around the world. Some will argue that this lack of official data reflects that this is a small-scale phenomenon and one not necessary to research. However, its considerable scope can be glimpsed through ethnographic investigation, as well as gleaned through survey and census information not designed to detect data on indigenous migration. It is important to pursue policies on the collection of disaggregated data to gain a greater understanding of indigenous migration and to allow countries of origin and destination to engage in joint efforts to promote orderly migration. Collecting indigenous migrant specific data, will further aid governments to enrich academic research and propose specific policies to better serve indigenous communities. Furthermore, states would benefit from better informed development schemes as well as through improvements in the lives of resident individuals and communities. Certainly, disaggregated data on indigenous peoples would help inform policies that affect them, and this would not be limited to their migration, but also on other issues such as their attainment of the Millennium Development Goals (MDGs).[4]

This paper reviews the major causes and circumstances of indigenous peoples' migration. It identifies some patterns reflected in the research and gives examples from most regions of the world. The main identified patterns are: 1) urbanization of indigenous individuals and communities; 2) transborder indigenous migration; and 3) international migration of indigenous individuals. They are analysed from the perspective of the migrant indigenous communities.

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[4] The desk reviews carried out by the Secretariat of the PFII in 2006 and 2007 found that indigenous peoples were often left out of national MDG monitoring. For more information on this topic see http://www.un.org/esa/socdev/unpfii/en/mdgs.html (last visited on: 22 January 2008)

Abbreviations

ABS	Access and Benefit Sharing
CBD	Convention on Biological Diversity
ECLAC	Economic Commission for Latin America and the Caribbean
FARC	Fuerzas Armadas Revolucionarias de Colombia
FIOB	Frente Indígena de Organizaciones Binacionales
HIV	Human Immunodeficiency Virus
HRC	Human Rights Committee
IACtHR	Inter-American Court of Human Rights
ICJ	International Court of Justice
IDP	Internally Displaced Persons
IFAD	International Fund for Agricultural Development
ILO	International Labour Organization
IOM	International Organization for Migration
IWGIA	International Work Group for Indigenous Affairs
MDG	Millennium Development Goals
OHCHR	Office of the High Commissioner for Human Rights
ONIC	Organizacion Nacional Indigena de Colombia.
UN-HABITAT	The United Nations Human Settlements Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNPFII	U.N. Permanent Forum for Indigenous Issues
WIPO	World Intellectual Property Organization

Introduction

The bulk of available research on indigenous peoples' migration is primarily concentrated on two types of movements: internal migration to cities and international migration. However, the relative scarcity of research on other movements should not be construed as a lack of other forms of indigenous peoples' migration; rather, this gap of academic research reflects insufficient specific inquiry into other occurring situations.

Most of the information on the migration of indigenous peoples emerges as a subsection in the study of major migration trends from countries in the global south. Research on the urbanization of indigenous communities is for the most part found in the review of urban strategies to alleviate poverty. Yet, another set of information comes from the analysis of international migratory flows to countries of destination.

Studies into the migration of indigenous peoples to Canada, the United States, and Western Europe are analysed from the point of view of receiving countries. The study of these migrations is mostly concerned with the regulation of immigration influxes from foreign communities. To date, the migration patterns of indigenous peoples to industrialized countries have received the greatest attention from researchers, the international media and NGOs. Only recently has south-south migration of indigenous peoples begun to emerge as a topic of interest at international forums.

Another characteristic of the current state of research is the very limited participation of indigenous scholars on the effects of migration in their communities. For the most part, indigenous scholars have remained interested in issues of treaties and laws, official recognition and identity, or economics and development. Some indigenous activist groups, however, are organizing to ensure equal representation of their interests in all state affairs and have paid greater attention to the benefits of migration. Still, their access to official negotiations remains sporadic and their policy demands are for the most part limited to those matters directly affecting their survival as distinct groups.

In order to analyse indigenous peoples' migration, it is necessary to clarify two key terms: (a) Indigenous Peoples and (b) Migration. These are explained below, as they will be used throughout this work.

Indigenous Peoples

A definition of the term Indigenous Peoples has not been adopted at the international level. The most commonly used working definition is:

Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing in those territories. They form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal systems.[5]

This working definition is generally applicable to the research presented here. However, a word of caution is necessary. The connection to "territoriality" should be approached with due care. While land rights are a central demand of most indigenous peoples around the world, the *possession* of an indigenous territory should not be a requirement for a community to be recognized as indigenous. Such a requirement could disqualify communities that have no recognized territory, were evicted from their lands or have migrated. Conversely, a revision of this working definition should not be perceived as an attempt to deny the existence of any indigenous peoples or their right to self-determination.

Other definitions exist at national levels, but the term varies from country to country, reflecting situations on the ground. The diverse range attests to the difficulty of adopting a formal international definition. It should indeed be cautioned against adopting such a definition as any delineation or qualification could lead to the disenfranchisement of individuals and groups who have adapted to modern circumstances or no longer reside in their territories, but are determined to otherwise preserve, develop and transmit their indigenous identity and cultural heritage.

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[5] Jose Martinez Cobo, Study of the Problems of Discrimination against Indigenous Populations, UN Doc. E/CN.4/Sub.2/1986/7 and Add. 1-4, 1972.

Migration

The second key term in need of explanation is "Migration". In this case, the definition by the International Organization for Migration (IOM) is the most helpful:

A process of moving, either across an international border or within a State. It is a population movement, encompassing any kind of movement of people, whatever its length, composition and causes; it includes migration of refugees, displaced persons, uprooted people, and economic migrants.[6]

This definition includes both internal and international movements and does not favour any one type of migration over another, be it induced economically, environmentally or through conflicts, or personally chosen. In the case of indigenous peoples' migration, this broad definition proves useful to refer to the many types of movements indigenous communities are involved in. Such migration patterns include the internal rural-rural migration and international rural-urban movements previously mentioned. Some other types of migration patterns also include internal rural-urban and return migration; displacement through environmental degradation, armed conflict, or government policy; transborder indigenous migration into neighbouring countries, and international rural-rural migration. Detailed explanations of some of these types of migration can be found in the Glossary on Migration published by IOM,[7] and examples are here provided of indigenous migrations

The term *transborder indigenous migration* is introduced in this work to refer to the movement of individuals or families from the same indigenous group within its ancestral territory that straddle international borders. The establishment of national borders following decolonization and the creation of modern nation-states divided many indigenous peoples and their lands. These borders now separate single, contiguous indigenous communities, dividing them between the administrative rules of different countries. Some of these separated communities still move within their territory, now straddling an international border. These movements are considered international migration, even when the communities have not stepped outside their own ancestral territories.

An example of this type of migration is the seasonal movement of the Maya community from Guatemala to the southern Mexican state of Chiapas to

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[6]   Perruchoud, Richard (Ed.), Glossary on Migration, IOM, 2004.

[7]   *Ibid*.

labour in the coffee plantations of that region. Other communities exist around the world and some of the countries encompassing them have entered into bilateral agreements with neighbouring states to allow the free movement of indigenous groups within their ancestral territories. For instance, arrangements exist in the three North American states for the transborder migration of some indigenous peoples.[8] Elsewhere, similar arrangements exist for ethnic and religious minorities, such as allowances for the free movement and naturalization of ethnic Hungarians from Romania and Slovakia in Hungary.[9] These movements have been studied as transnational ethnic migrations. In contrast to indigenous peoples, these ethnicity-centred migrations are typically promoted by one state that has the interest to protect its ethnic co-nationals who form a minority in a foreign country. Transborder indigenous peoples, however, do not constitute the ruling majority in any modern state. Therefore, agreements between countries for transborder movement of these indigenous peoples are specifically crafted to protect minorities of both states. The implications of this situation and examples of communities are presented in section three of this work.

Indigenous peoples' migration raises specific issues from a human rights perspective which recognizes indigenous peoples as rights holders with an active role in decisions that affect them.

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[8] In 1974, a treaty was signed between the United States and Great Britain, which recognized some passage rights for indigenous peoples on the border of the US and Canada. The Treaty of Amity, Commerce and Navigation, Nov. 19, 1794, United States-Great Britain, 8 Stat. 116, T.S. No. 105, most commonly know as the Jay Treaty, contains some provisions for North American tribes. For a complete discussion of the treaty, subsequent agreements and implementation, see Sharon O'Brien, "The Medicine Line: A Border Dividing Tribal Sovereignty, Economies and Families", 53 Fordham Law Review (1984-1985): 315-350. Specifically on this topic, see pp. 316-321. Provisions also exist for one indigenous community on the United States-Mexico border. For an analysis of those arrangements, see Megan S. Austin, "A Culture divided by the United States-Mexico Border: The Tohono O'odham claim for border crossing rights", 8 Arizona Journal of International and Comparative Law (1992): 97-116. Specifically on this topic see pp. 107-109. These examples are further explained in this work in section three, focusing on the migration of transborder indigenous peoples.

[9] William Underhill, A place to call home: Should all ethnic Hungarians be granted citizenship? Newsweek, Vol. CXLIV, (Nov. 29, 2004), p. 29.

Section 1 – Migration and Indigenous Peoples

This section reviews issues related to the indigeneity of individuals, community movements and how these concepts can shape a general understanding of the migration of indigenous peoples for policymakers.

As previously noted, there is no formally adopted term defining *indigenous peoples*. At the international level, this term is used primarily to represent the entirety of native, tribal[10] and aboriginal communities, first nations, and *peuples autochtones*[11] from all regions of the world. This umbrella term is employed by various groups to advance the recognition of their rights, including the right to self-determination, at the international level.

At the local level, however, those same communities are defined by their membership in a specific community. For instance, it should be understood that when we talk about *indigenous peoples from Africa*, we are in fact referring to Maasai, San, or Tuareg communities, among hundreds of others in that continent. At the international level, they may be treated as one group in order to better advocate for their rights in international political organs such as the United Nations General Assembly. Nevertheless, it is vital to keep in mind that these communities are as varied as the recognized nation states and their experiences cannot be homogenized through a blanket terminology.

Indigenous individuals are not members of a single group, but are connected with three main groups: 1) their community of origin; 2) a country and its society; and 3) the international indigenous movement. The strongest alliance an indigenous individual has is most often to his or her indigenous community. Self-identification as members of a community and the reciprocal recognition by that community gives indigenous individuals their first link to a specific group. In broad terms, this is how membership of an indigenous community is established. Mutually recognized group identity is then the key to a person's indigeneity (Lawrence, 2004: 21).

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[10] This term has fallen into disuse as it has negative connotations relating to the colonial era and the categories created under colonial regimes.

[11] Term commonly used in French to describe indigenous peoples (PRO169 Team, 2006: 24). [Copy available with author]

The second link is to a country and its society, a connection established by citizenship. A person acquires a particular citizenship by birth within the territory of a state – *jus soli* –, by blood lineage – *jus sanguinis* –or through naturalization. Citizenship is considered among the most important individual human rights because it allows individuals to benefit from the diplomatic protection of the country of citizenship in reciprocity for loyalty to that country (ICJ, Liechtenstein v. Guatemala [Nottebohm case], 1955).

The third link is to the international indigenous movement. At present, this link does not carry any specific responsibilities or benefits for indigenous individuals or communities. Nevertheless, coalitions created by indigenous groups are responsible for bringing to light many issues of disenfranchised communities around the world and for the highlighted attention by the international community to their situation (Anaya, 2006: 111). Examples of this include the Working Group on Indigenous Populations, which helped draft the UN Declaration on the Rights of Indigenous Peoples, and the Permanent Forum on Indigenous Issues whose 16 indigenous members are mandated to raise awareness of indigenous issues throughout the UN system.

Indigenous peoples' ability to navigate these three groups remains the most important tool in their continuous survival as distinct communities around the world. However, the pressure to assimilate to a non-indigenous society grows stronger as globalization becomes a reality at all levels of social organization. Among the most pressing issues in the assimilation of indigenous peoples is their migration. Individuals who have left their territories face greater pressure to assimilate because of the limited positive reinforcement of their culture, normally provided by their communities within their own territories.

For this reason, important issues of identity and integration of indigenous communities relate to their migration. It has been suggested that indigenous communities that are no longer present in their territories, or who have changed their traditions to accommodate their new realities, should no longer be considered indigenous and no specific or special treatment should be afforded to them based on those claims. In other words, it is often held that indigenous identity is lost when a community appears to have assimilated, when it is no longer present in its ancestral territories or if it has embraced non-indigenous behaviour (Roney, 2003). The adoption of a new language or religion is among the most common reasons advanced to argue that an indigenous community has lost its claim to indigeneity. However, such claims often only serve to limit rights for indigenous peoples. To avoid reactionary discourse that could disqualify indigenous peoples from being

able to advance their rights, it is important to address these arguments by looking at the various experiences of indigenous migrants, as well as to existing law and international conventions created for their protection.

Indigenous experiences will be analysed in the following sections within the framework provided in the introduction, while the legal arguments will be included in this section.

At the international level, the two binding documents on indigenous peoples' rights are the ILO Conventions Nos. 107[12] and 169.[13] These instruments combined have been ratified by 35 states and grant rights to indigenous peoples under international law. ILO Convention No. 169 replaced Convention No. 107 in 1989 to reframe the relationship between indigenous peoples and the state. The parameters previously set in ILO Convention No. 107 were seen as being too limited. The subsequent convention recognized the desire of indigenous peoples to remain distinct and to determine their development on their own terms. With this recognition, indigenous peoples, who migrate, change their lifestyles, or join the non-indigenous society are able to preserve their identities and claim specific rights for their communities.

It is now agreed that the most important qualification to claim indigeneity is the self-identification of communities as indigenous peoples. This self-identification prevents authorities from defining indigeneity based on a set of parameters defined by the non-indigenous society, while allowing indigenous peoples to preserve, develop and transmit their indigenous identity and cultural heritage. The principle of self-identification is also the most appropriate in relation to migrant indigenous communities, focusing on membership of the individual in an indigenous community rather than stressing territoriality of groups, allowing communities to seek their self-determination regardless of location or migratory status.

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[12] Convention concerning the Protection and Integration of Indigenous and Other Tribal and Semi-Tribal Populations in Independent Countries, adopted on 26 June 1957, in force since 2 June 1959. ILO C. 107.

[13] Convention concerning Indigenous and Tribal Peoples in Independent Countries, adopted on 27 June 1989, in force since 5 September 1991. ILO C. 169.

Section 2 – Internal and International Migration of Indigenous Peoples

The internal and international migration of indigenous peoples has many facets including: (a) rural-rural migration; (b) rural-urban migration and urbanization; (c) displacement; (d) forced removal; and (e) return migration. Two circumstances specific to international migration are elaborated further: international protection for refugees and trafficking and smuggling of indigenous persons.

The literature first records cases of modern international indigenous migration at the beginning of the 1940s. International migrations previous to the decolonization period are not considered here, as the working definition on indigenous peoples sets this historical era as the starting point to commence consideration of "indigenous" issues.

Those first accounts are of P'urepecha peoples migrating to northern Mexico and the southern United States from the Mexican state of Michoacan. The *Bracero* Programme encouraged these first movements in North America. Impoverished communities from the southern Mexican states travelled in search of employment opportunities to the agricultural areas on the West Coast of the United States, mostly in California. Indigenous peoples took part in this programme, but their experience has not been specifically documented, and for the most part they were categorized without further differentiation from other peasants (Rivera Salgado, 2004: 7).

Although the types of international movements presented here generally resemble the corresponding categories in internal migration, two main differences exist. First, all types of migration reviewed in this section involve a movement across internationally recognized borders; therefore, different jurisdictions apply to migrants. Generally speaking, the rights of migrants are not as well protected in countries of destination as those of citizens. Secondly, in many cases indigenous peoples represent an even smaller numerical minority in countries of destination, making their communities even more vulnerable. While fear of disappearance of indigenous cultures is present in countries of origin, incentives to remain and assimilate

into the host societies in countries of destination and barriers for return migration constitute challenges to the ability to maintain an indigenous identity abroad. In some cases, however, indigenous international migrant communities have organized in their places of destination to reclaim and maintain their unique identities. Examples like the *Frente Indígena de Organizaciones Binacionales* (*FIOB*) or the *Grupo Maya* in the United States have helped indigenous migrants maintain their indigenous identities abroad (Fox and Rivera Salgado (eds.), 2004: 154-155; 384).

Next is a review of the types of migration that indigenous peoples are involved in either in their countries of origin or internationally.

Rural-rural Migration

Internal rural-rural migration is the movement of peoples from one rural area to another within the same country.[14] In the case of indigenous peoples, this migration involves groups of two distinct types: settled and nomadic.

Migration of indigenous peoples from settled communities that reside in rural areas can be voluntary or forced, depending on the conditions present at the places of origin. Examples of voluntary migrations are seasonal movements during harvesting periods of workers participating in the cash economy. Some of those communities migrate to jobs in the agricultural, forestry or fishing industries. Forced rural-rural migration of indigenous peoples is reviewed in the section below explaining factors in the internal displacement of indigenous communities.

The second type of internal rural-rural migration is the movement of nomadic communities in rural areas in keeping with social, economic or cultural traditions. Nomadic migration is considered neither voluntary nor forced, as it exists independently of the relationship between indigenous peoples and countries. In many cases, these migratory patterns have existed for hundreds of years, preceding the creation of nation states, taking advantage of different climates, harvesting periods and allowing communities to perform cultural rites and participate in social interactions with other groups. In modern times, nomadic lifestyles have come under pressure by the depletion of natural resources, the introduction of government land policies, and economic strain. These situations make

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[14] Rural areas may include small fishing and coastal areas, towns concentrated in the production of raw materials (i.e. mining, timber, etc…), or communities directly related to the agricultural and ranching industries.

nomadic peoples more vulnerable to constant pressures from authorities to settle and adopt sedentary lifestyles.

Peoples like the Maasai of Tanzania and Kenya, or the Bushmen from Southern Africa are perhaps the most familiar nomadic communities, but other indigenous groups exist around the world. The Fulbe pastoralist from Mali and the Sami reindeer herders from Scandinavia are further examples of communities who have retained their semi-nomadic lifestyle (de Bruijn and van Dijk, 2003; Lie, 2003).

For international migrations, the Mixtec and Zapotec migrants in the United States and the Maya in Mexico exemplify the widespread incidence of international migration to rural areas in countries of destination. As the majority of indigenous peoples' skills and knowledge find little recognition outside of their particular communities, they are considered "low skilled workers" when they join the industrial economy and their skills are most often employed in the agricultural, fishing, and forestry industries.

Perhaps the most common form of rural-rural international migration is the movement across international borders into neighbouring countries. As might be expected, border communities move more easily to countries within the same region for reasons of cultural and spatial proximity. An example of this type of migration is the current seasonal movement of the Ngäbes[15] of Panama into rural areas of Costa Rica for the coffee harvest, for which IOM has initiated a literacy programme to aid the migrant Ngäbes in Costa Rica.

Rural-rural migration, at least internally, appears to cause the least disruption to indigenous peoples' lives, as it tends to be seasonal and short-term with only minor impacts on lifestyles. However, studies on the full effects of rural-rural migration of indigenous peoples are still needed to help countries guarantee the necessary safeguards to ensure the rights of their native populations. In the case of nomadic communities, rights of passage through areas without harassment and the preservation of their cultural sites will help to strengthen their communities and traditions. Governments should ensure that migrant communities retain their rights to

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[15] The Ngäbes and Buglés are collectively known as Guaymí. The Guaymí were a semi-nomadic community that has now settled in Panama and Costa Rica. In this instance, this community is not considered as a transborder indigenous peoples group because the movement documented here is outside the territories of the Ngäbes in Costa Rica. However, some sources point to an agreement between the leaders of this indigenous group and the governments of Panama and Costa Rica to allow the free passage of people between the two countries, information found in UN Doc. A/47/18 para. 107. The existence of such agreements could not be independently confirmed.

land, governance and autonomy even when they are not physically present on their lands. Without such assurances, encroachment upon indigenous peoples' lands and resources is inevitable, especially in cases where much of the community is compelled to migrate for economic reasons.

Rural-urban Migration and Urbanization

Urbanization and internal rural to urban migration are two distinct phenomena. However, they are included here under the same heading to collectively address three trends leading to the increased presence of indigenous peoples in cities. Those trends are: (a) the movement of indigenous peoples from their places of origin to cities; (b) the process of absorption of indigenous peoples into city life; and (c) the transformation of indigenous territories into urban centres within their country of origin.[16] Although only the first is considered as a migration process by a community, the other two trends highlight the complexity of indigenous peoples' realities. The increasing numbers of indigenous peoples present in cities is the direct result of either one, two or all three trends. In addition, there are indigenous peoples who have resided in cities for generations and are not new migrants.

Rural-urban internal migration is perhaps one of the most pressing issues affecting indigenous peoples around the world today. Many indigenous communities have started to migrate to cities in their countries of origin in the hope of economic development in urban centres. However, this move can prove extremely difficult for indigenous communities who have to adapt their cultural practices, lifestyles, and economic expectations to fit in with their new urban locations.

Indigenous peoples who have migrated to cities have commonly found themselves at the fringes of society. Among the many reasons are discrimination, lack of marketable skills for city living, lack of formal education, and language differences. The hardships faced by indigenous peoples in cities are directly related to their weakened economic and social conditions. Some of the most pressing situations they face are insufficient

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[16] The transformation of indigenous territories into urban centers could take two directions. One is the historical development of indigenous urban centers into colonial cities, such as the case of *Tenochtitlan*, which is the present site of Mexico City. The other is the more modern phenomenon where cities expand into neighbouring areas, which may include indigenous territories. An example of this process has been the described as *favelização* of the *Guarapiranga* and *Jaragua* indigenous territories absorbed by the city of Sao Paulo in Brazil. Mr. Pereira Dias of VIVAT International mentioned this situation during a NGO presentation at the 51st Session of the Commission on the Status of Women at the United Nations in New York on 1 March 2007.

or lacking access to healthcare, education and housing. These issues will be further reviewed in section four.

Until recently, the study of indigenous peoples' urbanization has been subsumed under research on migratory movements of peasants from rural places to cities, without acknowledging the distinct differences between these communities. Now, advocacy for poor migrants in cities has included demands to recognize the special circumstances of indigenous peoples. Their central demands include culturally pertinent education, respect for their types of organization and promotion of their traditions.

An indigenous presence in urban areas exists in most countries with a native indigenous population. The experiences of two communities highlight the potential for greater study on the urbanization of indigenous peoples. The Maori in New Zealand and the Mapuche in Chile are among the most highly urbanized communities around the world. According to one study, over 83 per cent of the Maori community now live in or around urban centres in New Zealand (IWGIA, Gover, 2002: 61). The rural-urban internal migration of the Maori peoples is historically described as the fastest urbanization of any national indigenous or non-indigenous group in any country (Pool, 1991). After the Second World War, the Maori peoples started to migrate in greater numbers than ever before. Now, 70 per cent of Maori individuals reside outside their traditional lands (IWGIA, Gover, 2002: 61).

The second most heavily urbanized indigenous community are the Mapuche in Chile. Official figures show that in Chile over 60 per cent of indigenous individuals now live in an urban setting (Toledo Llancaqueo, 2007:3). One of the most significant changes for the Mapuche is the urbanized indigenous individuals' increased economic participation in communal ceremonies and activities. Bello mentions that Mapuche migrants residing in cities provide most of the resources utilized to organize the *nguillatun*[17] ceremony (IWGIA, 2002: 44). Sponsorship of ceremonies by urbanized indigenous peoples has encouraged rural indigenous migration to cities, as urban migrants are seen as being better equipped with resources to maintain the indigenous identity of the community, creating what has been termed "cultures in Diaspora" (Shields, 2004). In the case of the Mapuche, this has not heralded the dissolution of their indigenous culture, but rather a reframing of indigenous peoples' lives.

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[17] The *nguillatun* is a Mapuche ceremony to ask their gods for climate or harvests and to stop diseases (Ríos Montero). Explanation available online in Spanish at the University of Chile's - Museo de Arte Popular Americano website. Available at: http://www.mapa.uchile.cl/artesamapuche/historia.htm (last visited on: 22 January 2008).

Other indigenous peoples currently migrating internally from rural to urban centres are the Maasai in Tanzania, the Embera in Colombia, and the Inuit in Canada (IWGIA, 2002). Researchers around the world are looking into the impacts of the urbanization of indigenous peoples[18] and greater awareness of their living conditions in cities is being promoted.

While rural-urban international migration is apparently less common, increasing numbers of Maya, Mixe, and Saraguro peoples work in the service industries in the United States, Canada and Spain. The experiences of indigenous peoples migrating to cities in other countries are not yet well documented. This would change if appropriate questions were to be included in the 2010 round of international censuses, which could produce hard evidence to shed light on the situation of international indigenous migration to urban centres abroad.

In 2000, the Brazilian census produced the numbers of foreign indigenous peoples settling in the cities of Sao Paulo and Rio de Janeiro. According to the figures presented by ECLAC, during the 2007 Expert Group Meeting on Urban Indigenous Peoples and Migration, indigenous peoples accounted for 0.1 per cent of foreign migrants moving into Brazilian cities (Rodriguez, 2007: 13). Researchers have also presented examples in different fora on the international migration of indigenous peoples, including the Cañaris and Otavaleños from Ecuador migrating to Andalusia in Spain (Cruz Zúñiga, 2005).

Still, specific data on indigenous peoples' migration is only sporadically collected. Theoretical work has been done, but large-scale studies and demographic testing have not. Gathering disaggregated data would ultimately help to better inform policies and thus indigenous communities. The collection of such data would benefit both national authorities and indigenous peoples and help to include indigenous organizations and communities when designing surveys and censuses to ensure that indigenous individuals and communities are accurately accounted for.

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[18] For more information on ongoing cases and ways to address the different situations of indigenous peoples in urban settings, refer to the conclusions and recommendations from the Expert Group Meeting on Urban Indigenous Peoples and Migration, 27-29 March 2007, ECLAC, Santiago, Chile.

Displacement

Rural-rural and rural-urban internal movements can also result from forced internal displacement prompted by changes in the security of indigenous peoples in their places of origin. The causes of forced migration are divided into natural phenomena and those prompted by human activities. Forced migrations recorded under natural phenomena include any movement due to natural disasters or progressive environmental degradation. In the past, the displacement of indigenous peoples through human activities has resulted from development projects, industrial environmental destruction, armed conflict, and governmental policies. Environmental degradation affecting indigenous peoples can involve changes to the environment such as erosion, deforestation, drought, or the extinction of certain plants and animals. For communities that rely heavily on seasonal crops, fishing and hunting seasons and the resources from their bio-diverse territories, destruction of ecology and livelihoods has forced communities to migrate and seek refuge for their survival.

Indigenous peoples are among the most vulnerable groups when natural disasters occur. The reasons include a greater dependence on natural resources, the remoteness of some of their territories, disenfranchisement of some of the groups from the rest of society, and difficult access to aid and rescue missions. As with other rural and remote communities, some indigenous peoples are at a disadvantage because they lack the necessary expertise or technology to mitigate the effects of natural disasters on their communities. For this reason, local and national authorities must take special care to include indigenous peoples when drafting contingency measures. Risk assessments should be conducted with indigenous peoples as full participants to ensure that their priorities are taken into account to reduce displacement. Following the suggestion of the Commission on Human Rights of 2004, the principle of "free, prior and informed consent" must be applied in all interactions with indigenous peoples where their livelihoods and future survival are at stake.[19]

Two recent displacements of indigenous communities from their territories due to natural factors were the earthquake and the subsequent tsunami that hit the Indian Ocean region on 26 December 2004, and the volcanic

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[19] The principle of "Free, prior and informed consent recognizes indigenous peoples' inherent and prior rights to their lands and resources and respects their legitimate authority to require that third parties enter into an equal and respectful relationship with them, based on the principle of informed consent" (Commission on Human Rights, Sub-Commission on the Promotion and Protection of Human Rights, Working Group on Indigenous Populations, 22nd session, 19-13 July 2004: 5).

eruption of the *Nevado de Huila* in Belalcázar, Colombia (ONIC, 2007). The actual numbers of indigenous peoples affected by the Indian Ocean tsunami are not yet available; however, several sources cite indigenous communities in Indonesia, India and Sri Lanka that were displaced or scattered by this natural disaster (UNPFII, 2004; Parker, 2004).

Displaced indigenous peoples face many of the same problems as non-indigenous internally displaced persons (IDPs),[20] but their vulnerabilities are heightened by the discrimination against their ethnicity. Although there are guiding principles for the treatment and protection of IDPs, there is no enforceable regime for their protection; the set of standards is not binding and enforcement mechanisms are absent. The only set of enforceable standards to protect fleeing individuals is provided in the 1951 Refugee Convention.[21] However, even if refugee protection were available for internally displaced persons, they would not address the needs of environmentally displaced communities, as they do not meet the criteria for protection set out in the Refugee Convention.

The displacement of indigenous peoples due to armed conflict is also of growing concern, as it has its roots in the vulnerability and victimization of these communities. Displacement from their territories mostly affects the security and future recognition of their land rights over territories lost during conflict. Furthermore, indigenous youth are particularly vulnerable to recruitment into illegal armed groups. Armed groups particularly target indigenous male youth for their ability to fight, as has been the case in Colombia with the threat against individuals in indigenous communities. The responsible organizations for the protection of these groups have responded with successful policies. Currently, the policies aimed at mitigating the threats against the indigenous youth of the Arhuaco and Los Pastos indigenous communities in Colombia and their recruitment into illegal armed groups, include economic development opportunities, food security programmes and social inclusion along with the restoration of rights of ex-combatant indigenous children.[22]

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[20] IDPs are defined as: "persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of, or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or man-made disasters, and who have not crossed an internationally recognized State border." Guiding Principles on Internal Displacement, UN Doc. E/CN.4/1998/53/Add.2., 1998.

[21] Convention Relating to the Status of Refugees, signed 28 July 1951, in force since 22 April 1954, 189 UNTS 150.

[22] IOM Report to the Sixth Session of the PFII, May 2007, Available at: http://daccessdds.un.org/doc/ UNDOC/GEN/N07/251/85/PDF/N0725185.pdf (last visited on: 22 January 2008).

A historical example of widespread displacement by armed conflict is provided by the case of Guatemala, where members of the indigenous communities were forcefully displaced from their territories during the civil war in that country (1960-1996). An important element of the Final Peace Agreements of 29 December 1996 was the inclusion of the Agreement on the Identity and Rights of Indigenous Peoples of 1995 and the Agreement for the Resettlement of Populations Uprooted by the Conflict, which recognized the rights of the Maya, Garifuna and Xinca peoples by the national authorities. After the signing of the peace settlement, IOM assisted in the implementation of the peace accords by facilitating the return and reintegration of uprooted indigenous peoples into their communities. This is an example of the engagement that international organizations, governments and civil society can provide to address conflict-induced displacement of indigenous peoples that could prove permanent and disruptive for their cultures if left ignored.

Institutional discrimination through government policies that disproportionately target indigenous peoples and their lands is another cause of the displacement of indigenous communities. In the case of *Mayagna (Sumo) Awas Tingni Community v. Nicaragua*, the indigenous group presented grievances over state actions which threatened to push them from their lands. Those actions included granting logging permits without their consent and not providing adequate compensation to communities for the use of indigenous lands. In this instance, the community obtained recourse from the court but the issue of displacement was never specifically addressed in the ruling. According to the statements made by the Government of Nicaragua, the lack of legal title to the community's lands did not generate displacement of the indigenous community (IACtHR, 2001: para. 160. a.iv). However, the evolutionary and contextual interpretation by the Inter-American Court of Human Rights of the right to property recognized the link between indigenous peoples and their lands (NTNU, Bailliet, 2003) and therefore any action limiting their full enjoyment of their indigenous lands, including displacement, forced removal, or inadequate compensation constituted an infringement on their human rights under international law.

Another situation existed in the Papua Barat[23] province of Indonesia. During the late 1980s and early 1990s, the government set up programmes to allow Indonesian nationals to move from the island of Java to Papua Barat. Non-indigenous migrants began settling on indigenous lands. The government

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[23] Formally known as the West Irian Jaya region, it is located at the western end of the island of New Guinea.

also granted logging permits to foreign companies to exploit the resources of the indigenous communities, affecting the Mee, Topo, Taja, and Moi tribes (McBeth, 1994). In this case, government policies not only negatively affected the environment and livelihoods of the indigenous communities, but also constituted both push and pull factors for their members to settle in new urban developments and to find an economic activity not directly linked to their lands.

Finally, forced displacement instigated by non-state actors deserves special consideration because it is becoming more prevalent around the world. Non-state actors are individuals or groups, who, while having no evident affiliation to the countries' ruling authorities, enjoy a high degree of power and influence in society. Examples of non-state actors are businesses, particularly multinational corporations, and NGOs. For the most part, such organizations are regulated by the state and therefore their actions receive tacit approval by the national authorities. Their actions can affect indigenous peoples and, in extreme cases, these actions may be the sole cause of displacement of an indigenous community. Such outcomes are especially threatening when extractive corporations are involved in logging, mining, fishing and ranching businesses, and when lucrative land use is in conflict with indigenous territorial claims. While NGOs and civil society exist primarily to promote human rights standards, some pro-environmental organizations increasingly find themselves at odds between protecting wildlife and recognizing indigenous right to self-determination (Dowie, 2005). When environmental preservation clashes with indigenous peoples' right to self-determination, a process of free, prior and informed consent must be sought, and a fair settlement should be secured in determining control over indigenous territories.

As with internal displacement, the causes of international displacement are many and their effects on indigenous peoples' survival are severe. Many communities that have been displaced from their lands have chosen to travel outside the borders of their countries of origin. Such is the case of 80,000 Jumma, who were displaced from their territories in Bangladesh[24] to India and Myanmar. It has been reported that while most families have returned to Bangladesh, they still face difficulties recovering their lands held prior to their displacement (Dhamai, 2006: 3). Displacement of indigenous peoples may also arise from predatory actions of governments, businesses and warlords looking to seize lands rich in mineral and oil deposits. Other

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[24] The indigenous territories of the Jumma peoples are located in present day Bangladesh, formerly East Pakistan. The mentioned displacement took place during the 1960s, when Bangladesh was still part of the Islamic Republic of Pakistan. The People's Republic of Bangladesh gained its independence in 1971.

communities flee from their places of residence fearing the escalations of an armed conflict. A recent example of this was the movement of some members of the Twa/Batwa community[25] of Burundi into Rwanda during the most recent conflicts in that country.[26]

Indigenous peoples have also sought asylum in countries of destination in response to threats to their lives at home. Such was the case in 2002 when 905 Montagnard individuals from Viet Nam were granted refugee status in the United States. In such situations of fleeing from their territories, the fear of a recurrence of their previous experiences may prevent them from ever returning home. To demonstrate and ensure a persistent peace, it is important to enact credible processes of justice and reconciliation, punish perpetrators, and assist returning indigenous refugees.

On the other hand, economic pressures are the most evident cause of the displacement of indigenous peoples. Almost all migratory movements analysed here are in some way linked to the economic difficulties faced by indigenous peoples. Their displacement is perhaps not much different from that faced by rural "unskilled workers, landless peasants and small agricultural landowners seeking better opportunities in the city (or pushed out of their rural area of origin)" (Rodriguez, 2007: 3). Nevertheless, the discrimination faced by indigenous peoples is compounded[27] because it can constitute a double discrimination based on their migratory status as well as their indigenous background.

Forced Removal, Trafficking, and Smuggling

Because of its devastating effects, forced removal deserves special attention to highlight deleterious methods employed to relocate indigenous peoples. Although the above-mentioned cases in the displacement section could

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[25] Commonly referred as Pygmies, this group can be found in Rwanda, Burundi, Uganda and the Democratic Republic of Congo. The group can also include other indigenous communities in Central Africa, and even Asia. The term was used during the colonial era and recently its use has been discontinued as it carries negative stereotypes about individual's height and race.

[26] Official statement by Ron Redmond, UNHCR spokesperson, during a press briefing on 11 March 2005. Text available at http://www.unhcr.org/news/NEWS/42317d4a4.html (last visited on: 22 January 2008).

[27] Pablo Yañes in his contribution to the Expert Group Meeting on Urban Indigenous Peoples and Migration at Santiago de Chile, Chile, 27-29 March 2007, quoted the results from an illustrative poll conducted in 2005 in Mexico, where nine out of ten indigenous individuals questioned responded that there is discrimination against them. Two out of every three believe they have little or no chance of improving their current situation of poverty, that 45 per cent believe that their rights have not been enforced due to their distinct ethnicity, and that one out of every three declares having been discriminated against in the past year on account of belonging to an indigenous group (2007: 2).

certainly not be considered voluntary migrations, they do not involve actions specifically aimed to physically remove individuals and communities from their territories. The most commonly utilized methods for forced removal include presidential or legislative decrees, deployment of national armed forces, actions by criminal organizations, or even widespread ethnic cleansing in the most extreme situations.

Actions taken by national authorities and legislatures may be motivated by politics, economic development, or environmental preservation. The building of dams, parcelling of lands, and construction of roads are among the economic decisions taken by governments in the name of a common good which, in practice, may translate into the forced removal of indigenous peoples from their territories. In the name of development, many indigenous lands have been lost and their owners relocated elsewhere. In some cases, reparation for lost lands and livelihoods has not been granted to indigenous peoples. In those cases in the Americas, the IACtHR has ruled on the side of indigenous peoples for the resettlement, payment and repair of the damage to indigenous lands and peoples (Toledo Llancaqueo, 2007).

Environmental preservation plays an important role in the forced removal of indigenous peoples on the African continent. Maasai, Tuareg and San communities are examples of indigenous communities forcibly evicted from their territories in order to create environmental reserves for the preservation of ecosystems or tourist parks (Dowie, 2005). While preservation of biodiversity should remain of concern to the international community, this does not necessitate the forced removal of indigenous peoples. In fact, Principle 22 of the Rio Declaration highlights international community agreement that indigenous peoples should be consulted on matters relating to the preservation of the environment because of their deeper understanding of territories and the balance between human activities and nature.[28]

Criminal groups, including drug cartels and trafficking gangs, also engage in activities that can play a determining role in forced displacement and removal of communities. Armed groups terrorize and destroy communities to seize indigenous lands, kidnap indigenous leaders, or recruit individuals

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[28] Principle 22: [i]ndigenous people and their communities and other local communities have a vital role in environmental management and development because of their knowledge and traditional practices. States should recognize and duly support their identity, culture and interests and enable their effective participation in the achievement of sustainable development. Rio Declaration on Environment and Development (adopted 14 June 1992) UN Doc. A/CONF.151/5/Rev.1.

into their ranks, including children;[29] some of these actions were carried out by the *Fuerzas Armadas Revolucionarias de Colombia* (FARC) in 2004 (Amnesty International, 2004). Drug cartels in Colombia have forced indigenous peoples from their territories to use them for plantations or passages to smuggle illicit drugs or arms. Their actions often target indigenous peoples in remote locations, where rare and sporadic government access leaves communities vulnerable. States bear the responsibility to ensure that indigenous communities under their rule are protected and their rights guaranteed.

The forced removal of indigenous peoples has a long history. At its most extreme, forced removal can be a policy of ethnic cleansing. The removal and displacement of indigenous peoples do not necessarily have to reach the point of genocide[30] to threaten a community's survival. However, specific actions relating to ethnic cleansing also include scare tactics to maintain a population permanently displaced from its territory, and policies to replace indigenous communities with non-indigenous groups. Massive removals of peoples from their lands were documented during the deportation of Crimean Tatars from their ancestral lands in the Crimea to parts of Central Asia of the former Soviet Union in 1944 (Fazylov, 2007). Following the dissolution of the Soviet Union, this indigenous community has been allowed to repatriate but still faces many political, economic, cultural, and social challenges on their return.

Forced removals to foreign destinations occur in situations that are very different from those where the removal or displacement occurs within the country of origin. Instead of actions taken by governments or criminal groups to evict indigenous peoples from their lands, forced removals to destinations abroad primarily take the form of deportations and expulsions. Most commonly, deportations happen en masse with no plan for safe return or reintegration of indigenous individuals to their societies in the countries of origin. There is limited specific data gathered on the ethnic affiliation of deported individuals, a gap that conceals the extent of the problem indigenous peoples face upon return. In deportation procedures,

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[29] According to the 2006 Report of the Secretary General of the United Nations on Children and Armed Conflict (A/61/529 – S/2006/826: para. 81).

[30] Article 2: In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: (a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to prevent births within the group; (e) Forcibly transferring children of the group to another group. Convention on the Prevention and Punishment of the Crime of Genocide, adopted 9 December 1948, entered into force 12 January 1951, 78 UNTS 277.

indigenous peoples are often removed to non-indigenous territories in their countries of citizenship or may even be relocated to a wrong country of origin based on presumptions of nationality. Some have endured long periods of incarceration prior to repatriation due to a lack of sufficient consular and legal services, translators and available seats on return flights.[31]

The final category of actions by non-state actors affecting indigenous peoples is trafficking and smuggling in persons. Internal trafficking[32] of indigenous peoples is increasingly a concern to countries around the world because of their vulnerable social position. Examples of trafficking in indigenous women, girls and boys have been reported inside countries of origin. Examples exist of women forced to enter the sex trade in cities, and of children sought for their organs, or to be "adopted" outside the legal channels in place for international adoption. Indigenous men have also been lured to leave their places of origin with the promise of employment only to find themselves enmeshed in criminal organizations or in conditions of forced labour. International trafficking, on the other hand, takes individuals into third countries without the proper authorizations to enter, work and/or settle. Although the numbers of trafficked indigenous peoples are not yet collected, existing documentation suggests that indigenous victims of trafficking exist in at least the same relative proportions as non-indigenous peoples.[33] The link between trafficking and social marginalization means indigenous peoples – particularly women and children – are most at risk of being trafficked.

The smuggling of indigenous peoples is of equal concern. Of the growing number of migrants without the proper authorization to enter, work and/or settle in a foreign country, indigenous peoples are perhaps the most vulnerable. They suffer discrimination by non-indigenous compatriots and smugglers, in addition to the stigma of illegality among host societies. For individuals who only speak their indigenous languages, the lack of services in their native language further complicates their experience in host countries. This same lack of services for speakers of indigenous languages

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[31] Information based on the author's previous work with undocumented migrants from Mexico and Central America to the United States.

[32] Trafficking in persons "can occur regardless of whether victims are taken to another country or only moved from one place to another within the same country" (UN Office on Drugs and Crime). See also Glossary on Migration and the UN Protocol to Prevent, Suppress and Punish trafficking in Persons, Especially Women and Children, Supplementing the UN Convention Against Organized Crime, 2000 (Palermo Protocol).

[33] According to the International Fund for Agricultural Development (IFAD), "The majority of females trafficked across state borders in south-east Asia are from indigenous communities." Statistics and key facts about indigenous peoples are available online at http://www.ruralpovertyportal.org/english/topics/indigenous/statistics.htm (last visited on 22 January 2008).

in their own countries of origin already limits any access they might have had to pertinent information concerning viable livelihoods at home or, alternatively, that could have allowed them to make a more informed decision concerning legal means to migrate, rather than having to rely on smuggling gangs.

The examples cited above highlight the specific vulnerabilities of indigenous peoples to both criminal organizations and national policies and are a call for governments to reaffirm their commitment to uphold Article 7 of the Declaration on the Rights of Indigenous Peoples, citing the rights of indigenous peoples to "life, physical and mental integrity, liberty, and security of person".[34]

Return Migration

Generally, return migration is the long-term or permanent relocation of indigenous peoples to their places of origin. As with other forms of migration, it can be voluntary or involuntary. Indigenous migrants who go back and forth between places of origin and their communities of destination are not considered return migrants, but rather *circular migrants*. This applies equally to both internal and international migrants.

Indigenous peoples who have travelled either internally or internationally and return to their places of origin may do so for a number of reasons. Most powerfully may be their wish to return to ancestral lands. Others return after facing difficulties adapting to life in host societies. Still others may have either achieved their economic goals or, conversely, failed to acquire the skills and capital that would allow them to improve their lifestyles upon their return. Forced return migration is less common. However, inequality, discrimination and insecurity faced by some individuals in places of destination push indigenous peoples to return to their original communities. While such push factors do not necessary imply the suppression of all personal discretion in the decision to return, they do exert significant pressure on indigenous migrants return.

Voluntary return migration is most common among indigenous peoples when conditions in their territories have started to improve. Examples from Canada are perhaps the most illustrative, as data on return migration to reserves are available from the 2001 Canadian census. According to the published figures for the period 1996 to 2001, 10,995 aboriginal migrants

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[34] *Supra* n. 1

had resettled in reserves (Clatworthy and Norris, 2007: 11). However, this number does not only concern individuals returning to their places of origin, as it does not differentiate between actual returnees and individuals who are new to the reserves, including newborns and individuals who have not previously lived on reserves. Other examples are also found in the Americas. According to some census figures, indigenous peoples in Chile, Guatemala and Paraguay were recorded as returning to their places of origin (Rodriguez, 2007: 24). While in both cases the reasons for return may vary from difficulties faced in the host community to a desire to return home, detailed research on the reasons for return migrations could aid indigenous peoples as well as governments to promote return migration in situations where conditions at the place of origin are adequate. Such research could also highlight the many challenges faced by indigenous peoples in host communities that can act as push factors for return, including discrimination, lack of access to health services, legal services, job opportunities, education and adequate housing.

Because of the strong sense of community and attachment to the land that most indigenous individuals show, new parents, adults with ill family members, and retirees have chosen to go back to their places of origin. Among some communities, socio-cultural education of children is a primary concern of parents and thus prompts their return to their own society to ensure their children's development and upbringing in the community's culture. Some communities request that migrants return for short periods of time to fulfil duties within the community. Performance of these duties confirms their membership in the group. The *tequio* system of the Triqui and Zapoteca peoples from Mexico is an example of this practice that requires adult members of the community to take on unpaid work for the group or to participate in decision-making institutions. Failure to undertake such tasks excludes indigenous individuals from enjoying benefits of the community, such as the use of communal lands (Rivera Salgado, 2004: 15).

Fear of losing their rights over their traditional territories has also been cited as a reason for the return of indigenous peoples to their places of origin. In New Zealand, the media reported in 2002 that such fears explained the return of increasing numbers of Maori to their native lands (Joseph, Lidgard, and Bedford, 2004: 20). However, it was also suggested that more favourable prices for kiwi-fruits also constituted pull factors for the return to rural areas, while at the same time the difficulties in cities were push factors for the Maori community to leave urban centres and return to their communities (Joseph, Lidgard, and Bedford: 15).

Finally, the most encouraging reason for the return migration of indigenous peoples is increasing recognition of their right to self-determination. In some countries, this has taken the form of autonomy and devolution of power to indigenous territories and leaders. The Inuit, Greenlanders and Sami peoples have begun to enjoy various degrees of self-government. In other regions of the world where indigenous peoples have achieved a minimum standard of representation but not full internal self-determination, the economic push and pull factors continue to play a significant role in the decision of peoples to return to places of origin.

The return movements to cities or non-indigenous regions in countries of origin may also be termed return migration, but should better be categorized as a co-product of internal migration, as communities *have not yet* returned to their native territories. Empowerment of indigenous peoples could increase the potential for their full circular return. Policymakers and scholars would benefit from a greater and more sensitive understanding of these dynamics, as there are positive potential impacts to be gained for indigenous communities. New skills, experiences and capital acquired abroad could prove to be important capabilities to improve the lives of communities.

Return migration is neither an all-inclusive solution nor necessarily the most desired outcome. Indigenous peoples may not be any more inclined to return than non-indigenous migrants (Rodriguez, 2007: 24). Person-specific issues relating to the return migration of indigenous peoples include time of migration, age, gender, level of education, and particular community characteristics. Causes that prevent indigenous migrants from returning to their places of origin include lack of services and jobs, insecurity and alleged loss of indigenous identity. Indigenous migrants who either cannot or may not be interested to return are not "deserters" on account of their decision to remain at the place of destination or integrate into the host society. Rather, their decisions are based on their specific situations; the indigenous community has the ultimate decision on membership, not the state authorities (HRC, Sandra Lovelace v. Canada, 1981: 166). It should be the goal of indigenous peoples, governments and civil society to address those issues in order to allow communities to decide their own future.

Section 3 – Transborder Indigenous Migration

The previous discussion of various categories drew on the accepted terminology of migration studies and positioned the indigenous experience within these. However, the special indigenous relationship to state entities now requires the discussion of a new category, exclusive to indigenous peoples' migration. *Transborder indigenous peoples* are communities whose territories were transected with the establishment of modern states and the drawing of international borders, particularly during the decolonization period in the Americas, Asia and Africa, cutting across lands and communities dividing groups of the same indigenous community between opposite sides of a border.[35] *Transborder indigenous migration* is the movement of those peoples from the same indigenous group within their ancestral territory, across international borders.

These communities face increasingly restrictive policies limiting their free passage across international borders, in addition to the formal division of their lands. Restrictions prevent communities from fully enjoying the benefits of their territories and they face threats to the sustainability of their livelihoods, limitations to their lifestyles and the separation of their members through external constraints imposed upon them. Sovereignty and citizenship of constituted states are among the most important parameters affecting transborder indigenous peoples today, for this reason they are reviewed here.

Sovereignty

State sovereignty and international borders have severely curtailed and eroded the rights of transborder indigenous peoples to free passage within their lands.

Border controls are becoming increasingly harsh for transborder indigenous peoples. Heightened border security to stop the entry/smuggling of undocumented migrants, and the trafficking in human beings, arms and

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[35] These actions were based on the principle of *Uti possidetis* applied by newly established governments to prevent armed conflict at the initial efforts of state formation.

drugs, as well as to prevent the possible infiltration of terrorist organizations has further curtailed the legitimate interests of indigenous peoples to cross borders freely to move within their ancestral lands. In addition, some states perceive the cross-border migration of transborder indigenous peoples as a threat to their territorial integrity. Governments argue that control of the national borders is the sovereign right of the state, and as such does not suffer exceptions for indigenous peoples, unless regulated by formal border agreements to that effect. Sovereignty over its territory and the people living within it allows a government to invoke total control of the affairs of the state and deny the entry of transborder indigenous migrants onto its territory, and to determine who qualifies as a citizen of the state.

Citizenship

Formal citizenship of an internationally recognized country has limited transborder indigenous peoples' claims to participate fully in the life of their own community in a "foreign" country, and this process has had the effect of diminishing the importance of membership in an indigenous group and the indigeneity of individuals (Lawrence, 2004: 27).

The question of citizenship precludes indigenous transborder migrants from the same rights and benefits reserved to nationals of the countries of destination, this is especially problematic for transborder indigenous peoples when they are migrating within their traditional territory but lack the necessary authorization to remain or even enjoy the benefits of their lands. The citizenship of transborder indigenous peoples bestows certain rights and benefits on them as well as certain obligations to the state of their citizenship. Problems arise when indigenous peoples cross international borders to join the rest of their community. Countries of destination may recognize the membership of transborder migrants in national indigenous communities, but this does not confer rights akin to those of nationals or persons legally resident in that country. In practice, this would mean that members of the same community are subject to two different jurisdictions and two distinct regimes (O'Brien, 1984-1985: 321).

For example, a Peruvian Quechua has Peruvian citizenship and the concomitant rights and obligations; but, upon crossing the border into Bolivia, and despite the appurtenance to the Quechua community established on both sides of the border, in Bolivia the Peruvian Quechua is considered as a foreigner.

 The cutting across indigenous communities by international borders raises important questions of identity, recognition and membership that are vital to indigenous individuals and the survival of their communities and identity, and which are often incompatible with national policies and fundamental tenets of national sovereignty. Given the legal impediments and spatial separations together with the gradual diminishing of communal traditions and identity straddling international borders, this has even prompted some indigenous communities to exclude their own members on the grounds of foreign citizenship (Lawrence, 2004: 27).

The additional imposed restrictions on transborder communities and special issues of transborder indigenous migration are illustrated in examples of the Haudenosaunee of Canada and the United States, the Tohono O'odham of the United States and Mexico, and the Maya of Guatemala and Mexico. These three transborder indigenous communities are by no means the only examples around the world, but they best characterize the uneven protection and disjointed treatment of rights of transborder indigenous peoples. Examples of other transborder communities exist in Central America, South America, Scandinavia, Africa, and Asia.[36] The situations in North America are also notable as they are the most thoroughly analysed in academic and political literature as the result of the increased advocacy of indigenous peoples in that region of the world.

The transborder experience of the Haudenosaunee[37] has been reviewed and addressed on many occasions by the governments of the United States and Canada. Their passage rights were secured under the Jay[38] and Ghent[39] treaties during the late 1700s and early 1800s. However, legislation, legal cases and socio-political and economic developments have diminished the rights of these indigenous communities to circulate freely within

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[36] Specific examples are the Guayami of Panama and Costa Rica; the Aymara and Quechua of Bolivia, Ecuador, and Peru; the Maasai of Kenya and Tanzania or the San of southern Africa; the Semang/Mani of Malasya and Thailand; of which considerable information can be found in anthropological literature. Historically, the Sami peoples of Scandinavia were also considered transborder indigenous peoples, because they inhabit territories that extend across Sweden, Norway, Finland, and Russia. However, their migrations have been regulated since 1826 when the Norwegian/Finnish/Russian border was closed and in 1940 when the Swedish/Norwegian border was closed due to Germany's occupation of Norway. This stop of their movement excluded them from transboder migration and has differentiated communities now strictly associated with the countries they reside in.

[37] Commonly referred as the Iroquois Confederacy, include the Mohawk, Oneida, Onondaga, Cayuga, Seneca, and Tuscarora indigenous communities. Their territories extend from the United States to Canada, mostly in the American state of New York; and the Canadian provinces of Ontario and Quebec.

[38] *Supra* n. 8.

[39] Treaty of Peace and Amity, 24 December 1814, United States – Great Britain, 8 Stat. 218, T.S. No. 109. For a detail explanation of the provisions included in this treaty see O'Brien at *supra* n. 8.

their territories transected by the US-Canadian border (O'Brien, 1984-85; Austin, 1991).

The free passage of these communities continues to be an issue to this day. Though the transborder movements of indigenous peoples tend to be temporary, this case should not be regarded as insignificant. According to the literature, most crossings are by groups to participate in religious and cultural ceremonies or social gatherings taking place on the other side of the border. The most pressing issue for this community is their right to self-determination, which should include the right to freely move within their territories, to hold communal title to their lands, to enjoy the resources from those lands, and to freely administer the territories in their traditional ways. Although some rights have been secured in the above-mentioned treaties, the situation of the Haudenosaunee remains unresolved for the governments of Canada and the United States.

On the other hand, the right to self-determination of the Tohono O'odham has not been addressed by any treaty or legislation, nor has their right of freedom of movement within their lands been secured (Luna-Firebaugh, 2002: 164). The US-Mexico border divides their territory[40] and national legislation in both Mexico and the United States impedes their benefiting from their lands and resources, or enjoying cultural rights of access and management (Austin, 1991: 110). Anxiety over border security issues between Mexico and the United States further fuels the conspicuous difference in treatment of the Tohono O'odham on either side of the border. While the discrimination towards indigenous peoples in both countries may be equally damaging, the distrust by the American immigration authorities of the authentic or actual membership of Tohono Mexican nationals in this native group further diminishes their ancestral rights (Luna-Firebaugh, 2002: 159). Immigration patterns of this transborder community thus converge with the wider issue of Mexican migration to the United States. In this context, the treatment of transborder indigenous peoples is founded solely on their citizenship (Luna-Firebaugh, 2002: 164), and disregards their membership in an indigenous community. Recognizing identity based only on citizenship and not on indigenous community-status threatens the cohesion of communities on both sides of border.

The situation faced by Tohono O'odham is not dissimilar from that of many other transborder indigenous peoples around the world. Authorities scrutinize their border crossings, citing the fear that traffickers, smugglers and criminal organizations may use the border area to carry out illegal

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[40] Their territories are located on the Mexican state of Sonora and the American state of Arizona.

actions. Nevertheless, the legitimate concerns of countries should not be used to override the rights of indigenous communities. A viable solution should involve consultation with the Tohono community and others alike around the world to ensure their engagement as full participants in the decision-making processes. A precedent already exists concerning arrangements for the free passage of transborder communities at the Mexico-US border for the Kickapoo peoples.[41] A detailed review of the conditions may be considered as model for all communities facing a similar situation.

The final case addressed here is that of the Maya transborder community of Guatemala and Mexico. It has been chosen because recent developments have created similarities with the other two cases referred to above. Until recently, the border crossings of this transborder community were generally free. Now, outside factors have prompted greater enforcement of the integrity of the Mexico-Guatemala border. Control of undocumented labour migration (Castillo, 2006), as well as arms and drug trafficking, and terrorism are cited as threats to the Mexican state (Urrutia, 2004), which have in turn been used to justify greater control of the flows of people across the borders.[42] The transborder Maya community has been caught in the middle. For decades, they had moved freely across the border without concern for the political division created by the states. Some members even found refuge on the Mexican side of their territories from the armed conflict in Guatemala (Nolin Hanlon, 1997: 3); others have for decades seasonally moved from Guatemala seeking employment in the coffee plantations in the Mexican state of Chiapas. Proposed changes in immigration legislation in Mexico[43] to control the flow of migrant workers seeking employment in Mexico or travelling through the country to reach the United States will negatively affect the Maya transborder community if their interests are not explicitly taken into consideration in the policymaking process. The group is especially vulnerable because Mexico and Guatemala lack a specific official agreement on the protection of rights of the transborder

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[41] The legislation passed by the US congress to grant border-crossing rights to the Kickapoo Band sets an example of concrete actions to ensure the survival of indigenous communities. For a review of this legislation, refer to section four of Austin's article, *supra* n. 8, pages 107-109.

[42] The security measures at the borders of Mexico, the United States and Canada were further strengthened after the terrorist attacks in the US on 11 September 2001. In 2005, the three countries launched the Security and Prosperity Partnership of North America heralding a new approach to outside threats.

[43] President Felipe Calderon Hinojosa of Mexico presented the *Plan de Reordenamiento de la Frontera Sur*, which is aimed at curbing undocumented immigration from Central America to Mexico (La Jornada, Herrera Beltran, 2006).

Maya community.[44] Without safeguards, the community could be divided permanently, blocking access to some members to religious and cultural sites on the other side of the border.

International borders have also diminished the autonomy of indigenous communities, further obliging them to incorporate or assimilate into the societies in their country of habitual residence. The absence of recognition of indigenous peoples' right to self-determination has led to their lands being transected, parcelled and separated. This has threatened their survival and limited their ability to "preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal systems" (Martinez Cobo, 1972).

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[44] Arrangements exist between these two countries for the movements of temporary labour migration from Guatemala into Mexico, but no specific agreement exist for the indigenous community. Such agreement should not just allow individuals to benefit from their work, but to recognize their rights as indigenous peoples with equal enjoyment of the benefits of their territories.

Section 4 – The Effects of Migration on Indigenous Peoples

This section deals with specific differences and challenges faced by indigenous peoples prior to, during and after their internal and international migration. While the earlier sections presented migration as an essential issue in the lives of indigenous peoples, this section seeks to show that discussions of employment, health, education and housing should also specifically consider indigenous issues. Furthermore, the issues of indigeneity of indigenous migrants are also reviewed in this section.

This discussion is not intended to equalize indigenous peoples' experiences, but to discuss the most pressing issues affecting a majority of these communities. Beyond their status as indigenous peoples, these communities are for the most part economically disenfranchised, facing issues of unemployment, malnutrition and substandard housing and living conditions. For this reason, a theoretical outline is here provided. This could be improved and expanded through the full participation of indigenous communities at the local level to study the impact of internal and international migration on specific groups.

Employment

Diminishing opportunities for economic survival and development in their places of origin are among the most pressing factors pushing indigenous peoples to migrate. However, on arrival in places of destination, indigenous peoples face even greater challenges to obtain employment. Indigenous peoples suffer from discrimination on account of their distinct ethnicities and stereotyping of their communities in rural and urban areas. Low formal education, language barriers, limited marketable skills for urban employment and inadequate labour laws prevent their economic advancement. Indigenous empowerment requires addressing discrimination, education and training, as well as labour rights.

Indigenous peoples are not under-skilled communities. Many possess complex abilities suited to maintaining their lifestyles and cultural practices, which, in some cases have persisted for centuries. Most skills of rural indigenous individuals are specific to their lifestyles in farming, fishing or herding. For this reason, it is easier for indigenous migrants to find employment in the agriculture, fishing, ranching and forestry industries. However, even if qualified for manual labour, they still face disproportionate discrimination by non-indigenous employers and co-workers. In some cases, they are taken advantage of for their lack of formal education and language differences. Weak labour laws and their uneven enforcement may leave indigenous workers subject to exploitation, including poor pay and unsafe working conditions.

Beyond ethnic discrimination, rural indigenous peoples who migrate to cities may also face challenges in adapting their skills for urban employment. In almost all cases, indigenous peoples are offered only low-paying unskilled work. Men typically take jobs in the construction and service industries; women are more often employed in the service industry or in the informal economy, that is typically unregulated under national labour laws (Yanes, 2007). The cases of Maasai men working as security guards in cities in Tanzania are well documented (IWGIA, Kaunga, 2002: 8), as are the cases of Oraon, Kharia, and Munda women working as domestic workers in New Delhi, India (IWGIA, Bosu Mullick, 2002: 18). Urban indigenous residents have some advantages over their rural counterparts, as they are accustomed to working in cities and may be able to acquire skills sought by urban employers. National laws in most countries forbid discrimination in employment.

On the international level, the right of indigenous peoples to non-discrimination in employment is embodied in Article 20.2 of the ILO Convention No. 169. However, these standards apply only to indigenous peoples migrating within their own country of citizenship. The silence of ILO Convention No. 169 regarding the protection of foreign indigenous peoples, together with the low ratification of the Convention limits the ability of migrant indigenous peoples to seek redress in cases of infringement of their rights in non-ratifying countries of destination. Enforcement of employment rights of international indigenous migrants is especially complicated for undocumented individuals. However, indigenous peoples who have migrated outside their countries of origin could also be protected under the rights ensured to all migrant workers by the United Nations

Migrant Workers Convention,[45] regardless of their immigration status in countries of destination, parties to this Convention.

Inadequate protection of the rights of indigenous migrant workers has increased the pressure for assimilation of indigenous peoples. Such pressures are an existential threat to the cultural survival of indigenous peoples, and are felt to be tantamount to displacement, forced removals and dispossession of ancestral territories. .

Social Services and Housing

Apart from the difficulties relating to the formal employment of indigenous peoples, other issues they face include insufficient are lack of access to health care, education and training, as well as adequate housing. Such deficiencies are not only present in places of destination, but are also among the most serious push factors driving indigenous peoples from their places of origin. The actual or supposed availability of such services in places of destination often acts as a pull factor for communities to migrate to locations where such access to social services is available. Such issues underline the difficulties experienced by indigenous peoples and their low socio-economic status in their countries of origin.

Among the health issues faced by indigenous peoples are deficient nutrition, lack of access to affordable medical services and health care, lack of culturally appropriate and sensitive health programmes, insufficient or deficient vaccinations campaigns, and higher incidence of preventable diseases. Health-related push/pull factors are most evident in the internal migration of indigenous peoples. However, studies of health-related issues in the context of the international migration of indigenous peoples are few. According to Luna-Firebaugh, some older members of the Tohono O'Oldham tribe, who live on the communities' territories on the Mexican side of the border, have been denied passage to the health clinic located on community territory on the American side of the border (Luna-Firebaugh, 2002: 159). For many communities, it is the duty of women to ensure access to health services, the healthy development of children, and care of the elderly (Janovicek, 2003). Women thus establish a first link between their communities and non-indigenous health providers (Menjivar, 2002). This crucial role of indigenous women can play an important part in the

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[45] International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, adopted 18 December 1990, entered into force 1 July 2003. G.A. Res. 45/158 (hereinafter: Migrant Workers Convention).

decision to migrate (Lindstrom and Herrera Hernandez, 2006). Cultural insensitivity to childbirth practices, traditional medical or religious beliefs on the one hand, and coercive medical practices such as forced sterilization on the other, do not only have an immediate effect on those directly exposed to such experiences, but through the intermediaries of indigenous women lead to the alienation of whole communities from accessing medical and health rights (Nazar, Salvatierra & Zapata, 2007).

Displacement and subsequent migration to cities has a negative influence on the nutritional health of indigenous communities. Surveys have shown an increase in sugar intake, higher cholesterol levels and higher blood pressure among urbanized indigenous peoples (Hollenberg et al., 1997). Extreme changes in their diets brought about by lack of access to their traditional foods are part of the lifestyle factors that put indigenous migrants at risk of preventable diseases. Another emerging health issue among indigenous migrants is the increasing number of individuals infected with HIV. According to one study carried out in Latin America, all migrants are at a higher risk of infection during their residence outside their places of origin (IOM, Bronfman, 1998: 619). Insufficient education on this issue in indigenous communities has lead to a deterioration of their health. Equally damaging, the lack of information available in indigenous languages and culturally appropriate programmes prevents health information from reaching indigenous migrants. Given their heightened risk, individuals should be encouraged to be tested and treated. They should also be trained and educated in a culturally appropriate manner to prevent infected individuals from spreading sexually transmitted diseases upon return to their partners back home. Education of indigenous peoples on the risks of unprotected sex is the responsibility of indigenous communities and leaders, who must openly address these issues within the group to prevent further spread of diseases among their communities.

The destruction of the biodiversity of the environment and the criminalization of practices used in traditional medicine are directly linked to problems of access to traditional medicines. The devastation of environments where most medicinal plants, animals or marine resources exist acts as a push factor in the displacements of indigenous peoples from their places of origin. In some countries, the cultivation and consumption of plants for medicinal purposes has been banned and even criminalized, which both alienates and stigmatizes indigenous communities and their cultures. Balanced policies should allow indigenous peoples to cultivate, harvest and use medicinal plants, while preventing their commercialization as raw materials for the production of illicit drugs. Understanding

traditional knowledge of indigenous peoples[46] and its medicinal qualities and applications is becoming increasingly vital as such knowledge is diluted through displacement, prejudice and general lack of understanding. Indifference to the benefits of indigenous knowledge only promotes further displacement from their territories. At the international level, the International Regime on Access and Benefit-Sharing (ABS), created under the Convention on Biological Diversity (CBD), has been developed to promote the full participation of indigenous peoples in ensuring fair commercialization of their resources.[47] This work would help to recognize indigenous peoples as the holders and guarantors of traditional knowledge concerning the qualities and use of species found on their territories, including those that may be used for medicinal purposes.

Educational services available in national or state capitals and mayor urban centres, along with greater work opportunities act as strong incentives to move into cities (Sema, 2007: 5). However, once there, indigenous migrants face serious challenges to complete their education from discrimination, which prevents migrants from enrolling children and young people in basic education programmes, and keeps adults from continuing or remedial education. In addition, most cities lack educational services in indigenous languages and culturally appropriate programmes. In the case of circular migrants who travel with their children, it is necessary to find alternative strategies for the education of girls, boys and young persons. These efforts can be similar to those provided for non-indigenous migrants[48] as long as programmes are adapted to the particular needs of indigenous peoples, including linguistic and cultural requirements.

Throughout this paper, language difference has been characterized as an issue that exacerbates discrimination against indigenous peoples. Respect and recognition of indigenous languages are crucial to improve the migration

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[46] For more information on the protection of the Traditional Knowledge of indigenous peoples, refer to the World Intellectual Property Organization (WIPO) Report on Fact-finding Missions on Intellectual Property and Traditional Knowledge (1998-1999). Available online at: http://www.wipo.int/tk/en/tk/ffm/report/index.html (last visited on: 22 January 2008).

[47] For a complete explanation of the International regime on ABS, refer to the recommendation of the International Expert Group Meeting on the Convention on Biological Diversity's International Regime on Access and Benefit-Sharing and Indigenous Peoples' Human Rights, held at the United Nations in January 2007, UN Doc. E/C.19/2007/1.

[48] The "Programa Binacional de Educación Migrante" and the "Documento de Transferencia del Estudiante Migrante Binacional México-EUA" were created for children of Mexican migrant workers to allow students to continue their education back in their places of origin. This example is illustrative of the type of actions that can be taken by governments to help migrants to benefit from their international movements. For more information on this programme see http://www.ime.gob.mx/programas_educativos/probem.htm and on the transfer document see http://www.ime.gob.mx/programas_educativos/documento_transferencia.htm (last visited on: 22 January 2008).

process. Accessible state services in different languages would help to both educate and symbolically reinforce the official use of indigenous languages. The greater recognition and ability to use indigenous languages would greatly ease the transition for communities and individuals from their places of origin to their destinations. Calls for assimilation and the need for proficiency in the dominant language have created a situation where many indigenous languages are threatened, many of which have been listed in the UNESCO Red Book of Endangered Languages.[49] Migration of indigenous peoples should not become a de facto cause for the loss of indigenous languages.

The main factors affecting indigenous peoples' right to adequate housing[50] are the dispossession of their lands and the threat of eviction from their territories. Displacement of indigenous peoples from traditional lands can result in extreme poverty and heightened vulnerability of communities in places of destination. Displacement could also lead to an increase of rural-urban migrations, further straining services available in cities. It also causes the concentration of families in inadequate housing, where health and security issues can grow intolerable.[51] Crowded housing conditions in places of destination have proven detrimental to indigenous peoples' cultures. Because of lack of proper housing in host cities, indigenous peoples may become slum dwellers which causes great harm to their health with no adequate course of redress or access to proper health and social services. In Mexico City, officials have responded by funding adequate housing programmes for indigenous migrants. Indigenous groups participated in building a culturally sensitive project that reinforced the model of their community. In the project *Guanajuato 125* in Mexico City, a group of 47 families pressed city and federal authorities to recognize their rights to title of a plot of land. In this location, "*El Primer Caracol de la Roma*" housing complex was inaugurated in 2003 (Yanes, 2007; *La Unidad-e*, Chavez, 2006).

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[49] For a complete list of the endangered languages, see http://www.tooyoo.l.u-tokyo.ac.jp/Redbook/index.html hosted by the Department of Asian and Pacific Linguistics at Tokyo University (last visited on: 22 January 2008).

[50] Article 11 (1): The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing- and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international cooperation based on free consent. International Covenant on Economic, Social and Cultural Rights, adopted 16 December 1966, entered into force 3 January 1976, G.A. Res. 2200A (XXI), UN Doc. A/6316 (1966), 993 UNTS 3.

[51] For a complete review of the issues relation to the housing of indigenous peoples refer to the Report No. 7, prepared by the United Nations Housing Programme, coordinated by UN Habitat and the OHCHR (2005).

Identity

Some governments question the legitimacy of the indigenous identity of migrants. Self-identification of indigenous migrants underscores that they do not give up their identities upon departure from places of origin or during temporary separation from their native communities, including circumstances where lands have been lost or entire communities destroyed. On the contrary, forced migration and displacement appear to strengthen the indigenous identity of individuals (Fox and Rivera Salgado (Eds.), 2004: 167, 435).

One cause of loss of indigenous identity has been correlated to oppressive government policies that rigidly define indigeneity through closed standards (Lawrence, 2004: 222). Definitions of "status Indians", "mix-bloods", "band members", and "*índios emergentes*"[52] prevent individuals from accessing state benefits granted only to those who are recognized as natives. Policies based on the blood quantum, *mestizaje* or *aculturação*[53] have sought to exclude indigenous peoples from their own cultures and assimilate them to national societies. These strategies effectively induce indigenous individuals to identify as members of communities created for them by the state (Luna-Firebaugh, 2002: 162). In transborder indigenous communities, state-defined affiliation is more pervasive. Single communities begin to separate and conceive of themselves as different from members of their own group on the other side of the transecting border.

In the case of internal migrants, movements from rural to urban areas and forced migrations have affected indigenous identity as well. However, these effects are by no means the same for all indigenous peoples, or among all individuals of the same group. Some indigenous peoples decide to deny, lose or change their identity, adopt a new language, or disassociate themselves from their community of origin upon settlement in places of destination (Manzanilla, 2002). Others strengthen ties with their communities, reinforce their religious and cultural heritage, and demand protection of their indigenous identity from their new migrant position.

The dispersed and unsystematic nature of investigation of international migration of indigenous peoples makes it impossible to provide an overall evaluation of indigenous attitudes to identity, but specific cases point to a

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[52] *Infra* n. 52.

[53] Professor Pacheco de Oliveira gives this explanation of Professors Eduardo Galvão's studies in João Pacheco de Oliveira, "Uma Etnologia dos 'Índios Misturados'? Situação Colonial, Territorialização e Fluxos Culturais." 4(1) MANA (1998): 47-77.

profusion of experiences. While the examples of indigenous communities from Mexico in the United States appear to maintain indigenous identity, in Spain and Italy, work with indigenous communities from Ecuador suggests at least a partial lost of self-identification of indigenous migrants with their original communities. Some indigenous migrants in Spain and Italy report that in order to avoid discrimination at the hands of the host society, they have adopted "Western style" dress, identify solely with their formal citizenship, and do not use their native language to communicate in public to avoid being identified as indigenous.[54] Indigenous migrants to the United States, on the other hand,, have organized around shared indigeneity across ethnic and community lines, even including citizens of different countries. In San Francisco, California, Maya individuals from Mexico and Guatemala have organized together (Fox and Rivera Salgado (Eds.), 2004: 384). These organizations help redefine their contact with the host community, their countries of origin as well as with their fellow non-indigenous countrymen and women.

Another example that deserves more attention is the movement of Greenlanders from rural places of origin to larger towns in Greenland. As explained by Maliina Abelsen during her participation at the Expert Meeting on Urban Indigenous Peoples and Migration, Greenlander migrants remain in an indigenous environment throughout the migratory experience (2007: 3). This rural-urban internal migration within an indigenous territory could serve as an example to study the effects of urbanization and migration on indigenous individuals who are allowed to maintain their unique identities in places of destination.

A deeper understanding of the Greenlander example could provide other indigenous peoples around the world with strategies to adapt their cultures to urban life without risking the loss of their identity. At the same time, countries could benefit from a model of urbanization of indigenous peoples in their full capacity for participation in all decisions of society and government. Yet, for some other communities, internal and international migrations are seen as having damaging effects on cultures, while others have leveraged the benefits of their higher economic mobility to ensure that their indigenous identity remains despite their new location (Vacacela, 2002). The discourse has begun to turn away from an oversimplified critique of migration as an existential threat to survival.

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[54] The case of migrants in Spain is explained in Sisapacari Bacacela, "La migracion en los Saraguros: Aspectos negativos y positivos," 5 (48) Boletin ICCI-ARY Rimay (March, 2003): 1-6. In addition, while researching this paper, the author conducted several interviews with indigenous migrants from Ecuador in Italy, from where these conclusions have been drawn.

Section 5 – Indigenous Migrants' Lives

The following examples of indigenous participation in society recognize the increased interactions of indigenous peoples with other segments of society in their countries of origin and destination. This interaction, at times problematic, has helped to raise awareness of the predicament of many indigenous communities that had previously been ignored. It has also broadened cultural appreciation of the rich heritage and the deep impact indigenous communities have to offer in plural societies.

Civic Organization and Political Participation

Many indigenous peoples have traditional forms of organization that vary from complex organized chiefdoms to simple community assemblies. These leadership institutions and positions carry different responsibilities and serve different purposes within their communities. Anthropologists, sociologists and political scientists have long researched such organizations in places of origin, but are only now turning their attention to the relationship between community organization and migration. Some of the most important indigenous institutions outside places of origin are trade associations. It is common to find associations of bakers, builders and domestic workers, such as those of the Mapuche peoples in urban centres in Chile. In addition to such professional associations, some urbanized communities also organize around their cultural practices, places of origin (i.e. hometown associations), gender, or age (IWGIA, Bello M., 2002: 42).

In countries of origin, authoritative governments have targeted many organizations to discourage indigenous peoples from taking an active part in internal affairs, thus depriving them of their civil and political rights. Indigenous organizations in countries of destination face different challenges, including the threat of deportation of indigenous migrants and lack of recognition of migrant workers organizations. In addition, activities of expatriate and diaspora communities are not always welcome in countries of origin. In other instances, some indigenous organizations may enjoy even greater freedom of action in countries of destination than in their countries of origin. Expertise, funding and resources may be

more widely available in countries of destination for indigenous peoples, allowing them to organize more effectively and build alliances with other groups to advance their agenda.

One organization that deserves greater attention because of the complexity of its mission is the *Frente Indígena de Organizaciones Binacionales* (FIOB). This organization represents a collectivity of six distinct indigenous communities[55] from the state of Oaxaca, Mexico, now residing in the Mexican state of Baja California and the American state of California. They maintain three offices in California that coordinate a programme to provide interpretation services in indigenous languages, health clinics and community services. The FIOB is a not-for-profit organization, allowing them to receive donations and support from foundations.[56] In recent times, the migration of the six communities represented in the FIOB to the United States has been systematically researched and major works prepared by authors focusing on the changing realities of indigenous peoples in countries of destination.[57]

The political participation of indigenous peoples is important particularly in respect of the recent victory of President Evo Morales in Bolivia, demonstrating the feasibility of indigenous individuals to become major political actors in their countries of origin. Equally notable is the election of indigenous peoples as mayors of their cities and towns in Latin America, and the election of indigenous representatives to congresses and parliaments. The elections of these individuals signal a nascent movement towards political participation by indigenous communities in countries of origin. However, political participation by indigenous migrants in countries of destination is still developing.

A parallel phenomenon is the right of returning indigenous migrants to stand for election in their countries of origin. This phenomenon is common among rural migrants; especially those who have succeed economically and are in a position to return with resources previously not available to them (Cano, 2001). Examples of indigenous elected officials include the Congressman Victor Montejo, who returned to his Maya community and

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[55] Those represented are communities of Chatino, Chinanteco, Mixteco, Mixe, Triqui, and Zapoteca peoples.

[56] As per information available in their website at http://www.fiob.org (last visited on: 22 January 2008).

[57] Michael Kearney, Jonathan Fox, and Gaspar Rivera Salgado are among the most published scholars. See bibliography for a list of books and articles.

was elected to Congress in Guatemala.[58] The case of Mustafa Qırımoğlu, a leader of the Crimean Tatar National Movement and Chairman of the Mejlis of the Crimean Tatar people, and who was elected as a member of the Ukrainian Parliament is another telling example.

Remittances and Transnational Activities

Indigenous peoples' migration has often been characterized as negative experiences portraying them as victims of the migration process and, unfortunately, in many cases this is actually so. However, there are examples of indigenous communities who have used migration to their benefit through their culture and unique way of life. The buoyancy of indigenous peoples to survive many centuries should not be disregarded and rather seen as an advantage in their migration. Indigenous experts have acknowledged that life in their territories based only on subsistence agriculture is unfortunately no longer possible, and indeed migration becomes a real opportunity for their survival.

Economic challenges remain pressing issues for indigenous peoples around the world, as poverty levels among them can be double that of non-indigenous communities in some countries (UNPFII, 2007). Many respond to these pressures by migrating to economically more developed regions from which they then periodically send money back to their families. Some indigenous peoples migrate consciously to ensure the survival of their traditional way of life in their territories through the remittances they send home. Media reports have noted that in some communities the remittances sent by family members residing abroad are the sole income of many families; such, for instance, is the case of the Tulancingo in the Mexican state of Puebla (Najar, 2003).

National and local governments, as well as indigenous leaders, have sought to assist migrants who send remittances with a view to address lack of services offered by the government and to promote development in indigenous communities in places of origin. Such initiatives have already been pursued for some time on behalf of non-indigenous migrants, creating programmes which provide matching funds from different levels of government to the monies sent by migrants.

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[58] Congressman Montejo talked about his experience as a migrant indigenous person during the IOM's International Dialogue on Migration in July 2006. Available at: http://www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/microsites/IDM/workshops/Migrants_and_Host_Society_12130706/seminar%20docs/montejo.pdf (last visited on: 22 January 2008)

Juntos por los Andes is a programme that helps migrants residing in Italy to send remittances that aid communities in Ecuador (Orozco and Lindley (Eds.), 2007). According to information by the Ministry of Foreign Affairs of Ecuador, one of the organizations included in this programme is the *Associazione Tawantinsuyo*, which was established by indigenous migrants in Naples.[59]

In some countries international migrant remittances now ranks as the first and second sources of foreign funds entering their home economies. However, no publicly available statistics are collected on the amounts sent specifically by indigenous migrants. Filling this research gap on the participation of indigenous peoples in the migration phenomenon should be considered as a pressing issue for experts on both migration and indigenous issues. Internal or international migrants' contributions to the economies of their communities of origin should be analysed in order to appreciate the role indigenous migration plays in the survival of native communities.

Apart from remittances, indigenous migrants contribute also in other ways to the development of their communities. Some indigenous peoples who have migrated and found employment are becoming increasingly active participants in their places of origin from a distance as they pay for festivals and rites, sponsor children's education or invest in small businesses.

In their host communities indigenous migrants have established the commercialization of indigenous arts, crafts, dances, and medicines as income-generating activities to ensure their survival, thus still being able to benefit from the natural wealth of their ancestral lands. These contributions have helped to counteract the neglect by local, state and national authorities (Melo Farrera, 2002). In return, some indigenous communities have started to accommodate the special circumstances of their migrants. In the case of some indigenous communities from Mexico, it is now possible for migrants to appoint another member of the community to fulfil their duties during their absence (Rivera Salgado, 2004: 15). This allows indigenous migrants to remain and work in their host countries and still maintain their status as members of their indigenous community. This special accommodation indicates a change in attitude among some indigenous peoples towards migration and the place of migrants in traditional cultures.

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[59] For a copy of the initiative and the list of participating organizations see the project available online at: http://www.vivecuador.it/aldia58.asp (last visited on: 22 January 2008).

Institutional social networks and cultural exchanges between international indigenous migrant communities and their places of origin are still in their early stages with only the most settled communities seeking to establish links beyond the customary connections between members of the community. Among examples found are programmes co-sponsored by governments and foundations to promote the cultural exchange between communities of origin and host societies. Promising examples of this are the cultural programmes sponsored by the Rockefeller Foundation between indigenous communities in Mexico and the United States, coordinated by the University of California at Berkeley.[60]

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[60] For more information on specific projects, consult the Rockefeller Foundation's grants website. Available at: http://www.rockfound.org/grants/GrantSearch.aspx?keywords=migration&allDates=1 &monthFrom=1&yearFrom=2004&monthTo=12&yearTo=2006 (last visited on: 22 January 2008).

Conclusion

Distinct examples of indigenous peoples' migration and the peculiarities involved were highlighted throughout this work, and show that more research and data on this topic are necessary to better inform policies on migration and other phenomena that impact on indigenous peoples lives. Ideally, the direct input by indigenous peoples should be sought and included in the data and policy guidance so as to provide a sound basis for further policy actions in their regard.

This paper has sought to establish a framework of categories, possibilities and promising directions, a catalogue waiting to be completed by specific academic research and practical surveys. The intention of this exercise has been to inspire investigation into specific experiences and examples. A comprehensive social understanding of the phenomenon of indigenous migration will help indigenous leaders to communicate their messages and to better manage cultural change. Migration analysts and policymakers could craft more accurate and nuanced analyses of the current migration. Governments would benefit from precise figures to plan and encourage appropriate policies of cultural protection for indigenous persons. For too long, indigenous peoples have been depicted as static and unchanging communities. This mistake has arisen from studies that treat indigenous people separately and as distinct from questions of the "modern" world. It is time that this blind spot be corrected.

A specific focus on indigenous peoples is needed in order to conduct the migration and development debate comprehensively. Although there are 370 million indigenous peoples globally, they and the specific challenges and opportunities they face through migration have only received very scant attention, if at all. The challenges of indigenous peoples' migration are evident in this paper, while the opportunities that migration can bring were only briefly highlighted. Specific research is needed to inform how indigenous migrant communities interact with their communities of origin and their host societies. To reach beyond the limited reporting of individual experiences and to establish the wider importance of these issues, the combined work of international agencies, governments and communities is required. The conscientious and full inclusion of indigenous peoples and their concerns in research activities is of great importance to ensure that such research is a true reflection of and a vehicle to highlight and advance the unique indigenous migrant experience.

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As migration has not commonly been considered as part of the indigenous experience, the prevalent view of indigenous communities tends to portray them as static groups, deeply rooted in their territories and customs. Increasingly, however, indigenous peoples are leaving their long-held territories as part of the phenomenon of global migration beyond the customary seasonal and cultural movements of particular groups.

Diverse examples of indigenous peoples' migration, its distinctive features and commonalities are highlighted throughout this report, and show that more research and data on this topic are necessary to better inform policies on migration and other phenomena that impact on indigenous peoples' lives.

IOM International Organization for Migration