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GENERAL ASSEMBLY – THIRD COMMITTEE

BACKGROUND GUIDE

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Table of contents

Committee Overview	2
I. Protecting the Human Rights of Climate Migrants	4
Introduction.....	4
International and Regional Framework	5
Role of the International System.....	6
Climate Migration in the 2030 Agenda for Sustainable Development.....	8
Human Rights of Climate Migrants	9
Evaluating the Impacts of COVID 19 on Climate Migration	11
The Role of Disaster Risk Reduction in Mitigating Displacement.....	12
Conclusion	13
Further Research	14
Bibliography	15
II. Promoting the Human Rights of Indigenous Peoples	22
Introduction.....	22
International and Regional Framework	23
Role of the International System.....	25
The Rights of Indigenous people	28
Conclusion	30
Further Research	30
Bibliography	31



Committee Overview

The General Assembly, which was created alongside the United Nations itself following the end of the Second World War, is one of the six main organs of the organisation. Chapter IV of the *Charter of the United Nations* contains the functions and powers of the General Assembly at Articles 10 to 17¹. Given that the scope of topics under the purview of the General Assembly is so diverse, it was decided that it would be divided in six committees, each dealing with a specific theme². The Third Committee deals with topics related to social, humanitarian, and cultural issues, and as such, has become one of the main organs of the United Nations devoted to human rights³. All 193 Member States of the United Nations can participate in the work of the Third Committee⁴. Sessions take place annually from October to November⁵. It should be noted that in recent years, there has been an increase in efforts to adopt resolutions at the General Assembly by consensus, which illustrates the strength of Member States' decisions in that organ⁶.

Unlike other committees and organs of the United Nations, the Third Committee is not concerned with operative tasks. Its role is rather to “[i]nitiate studies and make recommendations to promote international political cooperation, the development and codification of international law, the realization of human rights and fundamental freedoms, and international collaboration in the economic, social, humanitarian, cultural, educational and health fields”⁷. It does this notably by hearing reports from various entities, such as the Human Rights Council (HRC), which presents its activities to the Third Committee every year⁸. It also hears from and interacts with “special rapporteurs, independent experts, and chairs of working groups as mandated by the Human Rights Council.”⁹ Along with the Economic and Social Council (ECOSOC), it offers policy directives to the United Nations High Commissioner for Refugees (UNHCR), which reports annually to the Third Committee¹⁰. During its sessions, the Third Committee holds a “question time” period and encourages interactive debates and

¹ *Charter of the United Nations*, 1945, Art. 10-17.

² United Nations, *Main Committees of the General Assembly of the United Nations*, <https://www.un.org/en/ga/maincommittees/index.shtml>.

³ United Nations, *UN General Assembly - Third Committee - Social, Humanitarian & Cultural Issues*, <https://www.un.org/en/ga/third/>.

⁴ *Charter of the United Nations*, Art. 9.

⁵ United Nations, *UN General Assembly - Third Committee - Social, Humanitarian & Cultural Issues*, <https://www.un.org/en/ga/third/>.

⁶ United Nations, *Functions and Powers of the General Assembly*, <https://www.un.org/en/ga/about/background.shtml>.

⁷ *Ibid.*

⁸ UN General Assembly, *Review of the Human Rights Council (A/RES/65/281)*, 2011.

⁹ United Nations, *UN General Assembly - Third Committee - Social, Humanitarian & Cultural Issues*, <https://www.un.org/en/ga/third/>.

¹⁰ United Nations High Commissioner for Refugees, *United Nations General Assembly*, <https://www.unhcr.org/united-nations-general-assembly.html>.



the organization of panel discussions “so as to enhance informal, in depth discussions and to bring together experts from various fields without prejudicing the progress of the substantive work”¹¹.

The Third Committee bases most of its work on the human rights framework that is commonly referred to as the *International Bill of Human Rights*, which is comprised of the *Universal Declaration of Human Rights*, the *International Covenant on Economic, Social and Cultural Rights*, and the *International Covenant on Civil and Political Rights* and its two Optional Protocols¹². Additionally, given that most of the goals established in the *2030 Agenda for Sustainable Development* are strongly linked to human rights, the Third Committee plays an important role in their realization¹³. The General Assembly is also involved in the meetings of the High-level Political Forum, which is “is the main United Nations platform on sustainable development and it has a central role in the follow-up and review of the 2030 Agenda for Sustainable Development the Sustainable Development Goals (SDGs) at the global level.”¹⁴

¹¹ UN General Assembly, *Further Measures for the Revitalization of the Work of the General Assembly* (A/RES/58/316), 2004, Annex 3. c) and d).

¹² UN OHCHR, *Fact Sheet No. 2 (Rev.1), The International Bill of Human Rights*, 1966; UN General Assembly, *Universal Declaration of Human Rights* (A/RES/217 A (III)), 1948. UN General Assembly, *International Covenant on Civil and Political Rights* (A/RES/2200 (XXI)), 1966; UN General Assembly, *International Covenant on Economic, Social and Cultural Rights* (A/RES/2200 (XXI)), 1966.

¹³ UN General Assembly, *Transforming Our World: the 2030 Agenda for Sustainable Development* (A/RES/70/1), 2015.

¹⁴ *High-Level Political Forum: Sustainable Development Knowledge Platform*, <https://sustainabledevelopment.un.org/hlpf>.; UN General Assembly, *Format and Organizational Aspects of the High-Level Political Forum on Sustainable Development* (A/RES/67/290), 2013.



I. Protecting the Human Rights of Climate Migrants

Introduction

Climate change remains the major threat facing humanity in the 21st century¹⁵. The scientific consensus on climate change is stronger than ever as natural disasters have become more frequent and intense throughout the world¹⁶. Limited natural resources are causing shortages since crops and livestock fail to thrive in environments where temperatures have been seriously disrupted¹⁷. Owing to the escalation of natural disasters and food scarcity, many in the international community are rapidly and involuntarily being displaced internally and across borders as a consequence of climate change¹⁸. According to the Office of the UNHCR, more than 203.4 million people were displaced between 2008 and 2015 as a result of limited resources and environmental changes¹⁹. UNHCR recognizes that scarce opportunities and environmental disasters drive people out of their homes and promote displacement²⁰. While refugees are defined as those who have crossed an international border due to persecution, conflict, or violence, those displaced due to an environmental disruption lack a formal definition under international law²¹. Given that the UNHCR does not recognize the term “climate refugee”, it is more fitting to refer to “persons displaced in the context of disasters and climate change.”²² The UNHCR programs are primarily destined to assist those displaced internally, referred to as Internally Displaced Persons (IDPs), as a consequence of human rights violations and of natural disasters²³. Nonetheless, international law does not address the circumstances of internally displaced people who are under the protection of their own government²⁴. Many deemed to be refugees or IDPs often live in regions that are particularly vulnerable to the impact of climate change and global warming which may expose them to secondary displacement²⁵. Exceptionally this year, the coronavirus (COVID-19) pandemic also posed a risk to displaced people²⁶. COVID-19 has generated new or intensified challenges for refugees around the world by heightening the vulnerability of people living in areas that are particularly susceptible to the negative impacts of climate change²⁷. In 2019, an estimated 2,000 disasters caused 24.9 million new displacements, which is a significant increase from the 17.2 million displacements

¹⁵ International Federation of Red Cross and Red Crescent Societies, *Aggravating Factors: Climate Change*, 2019

¹⁶ *Ibid.*

¹⁷ *Ibid.*

¹⁸ UNHCR, *UNHCR Viewpoint: ‘Refugee’ or ‘Migrant’ – Which is Right?*, 2016; UNHCR, *Climate Change and Disaster Displacement: An Overview of UNHCR’s Role*, 2017.

¹⁹ UNHCR, *Climate Change and Disaster Displacement: An Overview of UNHCR’s Role*, 2017.

²⁰ UNHCR, *Climate Change and Disaster Displacement*, 2019.

²¹ *Ibid.*

²² *Ibid.*

²³ UNHCR, *Internally Displaced People*.

²⁴ *Ibid.*

²⁵ UNHCR, *Climate Change and Disaster Displacement: An Overview of UNHCR’s Role*, 2017.

²⁶ UNHCR, *Protection challenges and responses to COVID-19 for and by forcibly displaced and stateless people*.

²⁷ *Ibid.*



that took place in 2018²⁸. The task of defending the most vulnerable becomes intensified as a consequence of COVID-19²⁹. In unsafe conditions, individuals unable to escape areas affected by climate disasters due to COVID-19 lockdowns will become the most vulnerable³⁰. In seeking humanitarian security for these communities, UNHCR seeks to offer protection and aid to those affected by climate change and disasters³¹.

International and Regional Framework

The Universal Declaration of Human Rights (UDHR) (1948) is the first recognized international framework for the protection of human rights, emphasizing that Member States must commit to laws and policies that universally observe, secure, and reinforce the rights of their people³².

The New York Declaration for Refugees and Migrants, also known as the New York Declaration, was ratified by the United Nations General Assembly (UNGA) as resolution 71/1, at the United Nations Summit for Refugees and Migrants³³. The declaration reaffirms the United Nations' commitment in fully protecting the human rights of all refugees and migrants regardless of their status, reaffirming the human rights enshrined in the UDHR³⁴. The declaration asserts that the United Nations will engage in the acquisition and storage of accurate information regarding large movements of refugees and migrants to best support the world's refugees³⁵. It acknowledges the importance of international cooperation "to ensure safe, orderly and regular migration" while maintaining the dignity of the refugees and migrants³⁶. The declaration recognizes that climate change, natural disasters and environmental factors create or contribute to large population movements in combination with other factors (conflict, poverty, persecution) and that efforts must be taken to implement the *2030 Agenda for Sustainable Development*. Goal 13: Climate Change aims to "[combat] environmental degradation and [ensure] effective responses to natural disasters and the adverse impacts of climate change."³⁷

The Third Committee (Social, Humanitarian and Cultural) of the UNGA adopted resolution 75/L.48 in 2020, reaffirming the obstacles associated with the effects of climate change to the activities of the Office of the High Commissioner tasked with assisting the most vulnerable individuals across the world, including migrants³⁸. Similarly, UNGA resolution (35/L.32), adopted in 2017, emphasizes the

²⁸ IOM's Global Migration Data Analysis Centre, *Environmental Migration*, 2020; Norwegian Refugee Council Internal Displacement Monitoring Center's Internal Displacement Monitoring Center, *Global Report on Internal Displacement 2019*, 2019.

²⁹ UNHCR, *COVID-19 and the Human Rights of Migrants: Guidance*, 2020.

³⁰ UNHCR, *COVID-19, Displacement and Climate Change*, 2020.

³¹ *Ibid.*

³² UN General Assembly, *Universal Declaration of Human Rights (A/RES/217 A (III))*, 1948.

³³ UN General Assembly, *New York Declaration for Refugees and Migrants (A/RES/71/1)*, 2016.

³⁴ *Ibid.*, par. 5.

³⁵ *Ibid.*, par. 25.

³⁶ *Ibid.* Annex 11, par.5.

³⁷ *Ibid.*, par.1-43.

³⁸ UN General Assembly, *Report of the United Nations High Commissioner for Refugees (A/C.3/75/L.48)*, 2020, par.6.



negative impacts of climate change on the “full enjoyment of all human rights.”³⁹ The resolution stresses the need to continue addressing the negative impacts of climate change for all, and especially for the people “whose situation is most vulnerable to climate change, including migrants and persons displaced across international borders.”⁴⁰ Related to this topic, the Human Rights Council on behalf of the Office of the United Nations High Commissioner for Human Rights (OHCHR) and in collaboration with the Platform on Disaster Displacement (PDD) indicated in a 2018 report the link between the ongoing risks of climate change, human rights and international migration of people⁴¹. The report identified how climate change undermines the rights guaranteed under the *Universal Declaration of Human Rights* resulting from a decrease in access to healthcare facilities, products and services; lack of networks and assets; and challenges in obtaining food and water for sustenance⁴².

The 2010 Cancun Adaptation Framework, based on the *United Nations Framework Convention on Climate Change*, portrays the importance of improving adaptation to climate change⁴³. The framework focuses on global climate change initiatives by improving disaster risk reduction (DRR) strategies and by inviting involved member states to undertake necessary, “measures to enhance understanding, coordination and cooperation with regard to climate change, induced displacement, migration and planned relocation [...] at the national, regional and international levels.”⁴⁴ Significant advancements at the regional level have also taken place. The 2014 Brazil Declaration and Plan of Action recognized the importance of ensuring enhanced “respect, protection and promotion of the human rights of refugees”, including stateless persons, with a particular focus on vulnerable groups⁴⁵. The Declaration mentions the negative effects of climate change on persons in Latin America and the Caribbean and suggests several regional strategies that would strengthen the security of displaced refugees, recognize displacement conditions and encourage regional dialogue to facilitate migration management⁴⁶.

Role of the International System

The Third Committee of the General Assembly is concerned with many issues related to human rights, including the treatment of displaced persons⁴⁷. Each year, the Office of the UNHCR reports its activities to the Third Committee. In its most recent report, UNHCR alerted the General Assembly on the adverse effects of climate change on its operations⁴⁸. UNHCR addresses displacement due to

³⁹ UNHRC, *Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development (A/HRC/35/L.32)*, 2017, par. 1.

⁴⁰ *Ibid.*, par. 2.

⁴¹ *Ibid.*, par. 3.

⁴² *Ibid.*, par. 41

⁴³ COP 16, *The Cancun Adaption: Outcomes of the Work of the Ad hoc Working group on Long-term Cooperative Action under Convention (FCCC/CP/2010/Add.1)*, 2011, p. 4, (c)

⁴⁴ *Ibid.*, p. 5, (e)-(f)

⁴⁵ *A Framework for Cooperation and Regional Solidarity to Strengthen the International Protection of Refugees, Displaced and Stateless Persons in Latin America and the Caribbean*, 2014, p. 2.

⁴⁶ *Ibid.*, p. 4.

⁴⁷ United Nations, *UN General Assembly - Third Committee - Social, Humanitarian & Cultural Issues*, <https://www.un.org/en/ga/third/>.

⁴⁸ UNHCR, *Report of the United Nations High Commissioner for Refugees (A/RES/75/12)*, 2020.



climate change in four ways: by providing legal advice and guidance, by promoting policy coherence and mainstreaming, by researching to fill gaps in knowledge, and by organizing field-based activities⁴⁹. UNHCR, which has dealt with the issue of climate migration for many years, appointed a Special Advisor on climate action in 2019⁵⁰, thus recognizing that climate change is playing an increasingly important role in migratory movements across the world⁵¹. The five core directions of UNHCR, detailed in *UNHCR's Strategic Directions 2017-2021*, include the responsibility to protect, respond, include, empower, and solve⁵². UNHCR's first core direction, to protect, acknowledges "the acute humanitarian needs associated with displacement" due to climate change and natural disasters and "its relationship with conflict and instability"⁵³.

The International Organization for Migration (IOM) is also heavily involved with the issue of climate migration. The IOM, which is an intergovernmental organization established in 1951, joined the United Nations system in 2016, having previously been an observer, and then a cooperator of the United Nations⁵⁴. It is a related organization to the UNGA⁵⁵. IOM views migration management in four broad areas: migration and development, facilitating migration, regulating migration, and addressing forced migration⁵⁶. A Migration, Environment and Climate Change (MECC) Division was created within IOM in 2015 to address the specific challenges raised by these issues⁵⁷. IOM's objectives regarding environmental migration are to prevent forced migration that results from environmental factors, to provide assistance and protection to affected populations, and to facilitate migration as a climate change adaptation strategy⁵⁸.

IOM played a key role in the adoption, by the General Assembly, of the *Global Compact for Safe, Orderly and Regular Migration*⁵⁹. This document highlights the objectives and commitments that Member States can adopt to provide safe migration for all, including Objective 2: "Minimize the adverse drivers and structural factors that compel people to leave their country of origin", which contains several paragraphs related to natural disasters, the adverse effects of climate change, and environmental degradation⁶⁰. Objective 7: "Address and reduce vulnerabilities in migration" recognizes that all migrants, regardless of the cause of their migration, experience vulnerability, and that Member States must therefore assist them and protect their human rights⁶¹. The *Global Compact for Refugees*, which was adopted in 2018 by the General Assembly, "emanates from fundamental

⁴⁹ UNHCR, *Climate Change and Disaster Displacement*, <https://www.unhcr.org/climate-change-and-disasters.html>.

⁵⁰ UNHCR, *Report of the United Nations High Commissioner for Refugees (A/RES/75/12)*, par. 19.

⁵¹ Executive Committee of the High Commissioner's Program, *Note on International Protection (a/Ac.96/1200)*, 2020.

⁵² UNHCR, *UNHCR's Strategic Directions 2017-2021*, January 16, 2017, p. 15.

⁵³ *Ibid.*, p. 18.

⁵⁴ IOM, *About Us | International Organization for Migration*, <https://unofficeny.iom.int/about-us>.

⁵⁵ *Ibid.*

⁵⁶ *Ibid.*

⁵⁷ IOM, *Migration, Environment and Climate Change (MECC) Division*, January 14, 2015, <https://www.iom.int/migration-and-climate-change>.

⁵⁸ IOM, *IOM's Engagement in Migration, Environment and Climate Change*, 2018, 2, https://publications.iom.int/system/files/pdf/mecc_infosheet_2018_1.pdf.

⁵⁹ UN General Assembly, *Global Compact for Safe, Orderly and Regular Migration (A/RES/73/195)*, 2018.

⁶⁰ *Ibid.*, par. 18 (h) to (l).

⁶¹ *Ibid.*, par. 23.



principles of humanity and international solidarity, and seeks to operationalize the principles of burden- and responsibility-sharing to better protect and assist refugees and support host countries and communities.”⁶² While it does not specifically address environmental migration, given that displacement due to climate change is not included in the UN’s definition of a refugee, it does acknowledge that climate change increasingly affects the root causes of global refugee movements⁶³.

The Nansen Initiative, which is a State-led consultative process⁶⁴, is one of the many projects that have been developed in recent years to address disaster-induced cross-border displacement⁶⁵. It ended in 2015 with the publication of the *Nansen Initiative Global Consultation Conference Report*⁶⁶, a report that contains the *Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change*, which “enhance[s] understanding, provide[s] a conceptual framework, and identif[ies] effective practices for strengthening the protection of cross-border disaster-displaced persons.”⁶⁷ Together, IOM and UNHCR, along with the HRC and other partners, have collaborated on the Platform on Disaster Displacement (PDD), which was created following the end of the Nansen Initiative. The PDD is also a State-led initiative and it seeks to offer “better protection for people displaced across borders in the context of disasters and climate change.”⁶⁸ It does so by promoting measures to help people stay in their homes, move out of harm’s way or protect those who are forced to leave their homes⁶⁹; by bringing together partners such as States, international and regional organizations, academia, and NGOs⁷⁰; by framing and feeding key messages into relevant global policy processes⁷¹; and by facilitating regional efforts to share best practices and knowledge⁷², among other things.

Climate Migration in the 2030 Agenda for Sustainable Development

The *2030 Agenda for Sustainable Development*, which was adopted in 2015, states in its introduction that Member States “pledge that no one will be left behind”⁷³. It also recognizes, in its 23rd paragraph,

⁶² UN General Assembly, *Global Compact on Refugees (A/RES/73/12)*, 2018, par. 5.

⁶³ *Ibid.*, par. 8.

⁶⁴ IOM, *The Nansen Initiative | Environmental Migration Portal*, <https://environmentalmigration.iom.int/projects/nansen-initiative>.

⁶⁵ The Nansen Initiative, *About Us*, <https://www.nanseninitiative.org/secretariat/>.

⁶⁶ The Nansen Initiative, *The Nansen Initiative Global Consultation Conference Report* (Geneva, October 2015), <https://www.nanseninitiative.org/wp-content/uploads/2015/02/GLOBAL-CONSULTATION-REPORT.pdf>.

⁶⁷ The Nansen Initiative, *Global Consultation*, <https://www.nanseninitiative.org/global-consultations/>.

⁶⁸ PDD, *What We Do – Disaster Displacement*, <https://disasterdisplacement.org/what-we-do>.

⁶⁹ PDD, *We Promote Measures – Disaster Displacement*, <https://disasterdisplacement.org/we-promote-measures>.

⁷⁰ PDD, *We Bring Together Partners – Disaster Displacement*, <https://disasterdisplacement.org/we-bring-together-partners>.

⁷¹ PDD, *We Frame and Feed Key Messages – Disaster Displacement*, <https://disasterdisplacement.org/we-frame-and-feed-key-messages>.

⁷² PDD, *We Facilitate Regional Efforts – Disaster Displacement*, <https://disasterdisplacement.org/we-facilitate-regional-efforts>.

⁷³ UN General Assembly, *Transforming our world: the 2030 Agenda for Sustainable Development (A/RES/70/1)*, 2015, par. 4.



that migrants and refugees are among the most vulnerable people, and that they must be empowered⁷⁴. While Goal 10: “Reduce inequality within and among countries”, with its Target 10.7: “Facilitate orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies”, seems the most obvious SDG concerning migration, IOM, as well as UNHCR, point out that practically every single SDG relates, in one way or another, to the situation of migrants and refugees⁷⁵. For example, Goal 3: “Ensure healthy lives and promote well-being for all at all ages” can be used to highlight the fact that many migrants do not have access to healthcare⁷⁶. Goal 5: “Achieve gender equality and empower all women and girls” is important in the issue of migration considering that women and girls are especially vulnerable to human trafficking and gender-based violence⁷⁷. This is also reflected in the targets 8.7 and 8.8 of Goal 8: “Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all”. Achieving Goal 13: “Take urgent action to combat climate change and its impacts” is surely a way to ensure that migrants, whatever the cause of their migration, are not too harshly affected by climate-related factors⁷⁸. UNHCR also committed itself to build on the *2030 Agenda for Sustainable Development* “to promote the inclusion of refugees, the internally displaced and stateless people in National Development Frameworks”⁷⁹.

Human Rights of Climate Migrants

There are several environmental factors linked to migration. While natural disasters, or sudden onset events, are often cited as causes for displacement, whether it be internal or cross-border, slow onset events, which are more difficult to observe given their gradual aspect, “often lead to permanent migration or displacement due to longer lasting or potentially irreversible effects to the environment.”⁸⁰ For example, some migrants may be forced, in the next few years, to leave their home due to rising sea levels⁸¹. Others may be affected by land degradation, salinization, or desertification, which causes a lack of food security⁸², as highlighted by a 2008 report of the Special Rapporteur on the right to food, who estimated that even then, “50 per cent of the world’s 854 million hungry people live in marginal,

⁷⁴ *Ibid.*, par. 23.

⁷⁵ IOM, *2030 Agenda for Sustainable Development / International Organization for Migration*, <https://unofficeny.iom.int/2030-agenda-sustainable-development>; UNHCR, *UNHCR Engagement with the Sustainable Development Goals - Updated Guidance Note 2019*, 2019, p. 8, <https://www.unhcr.org/5ef33d3f4/unhcr-engagement-sustainable-development-goals-updated-guidance-note-2019>.

⁷⁶ IOM, *The Sustainable Development Goals Seen Through the Lens of Migration*, https://www.iom.int/sites/default/files/our_work/ICP/MProcesses/IOM-and-SDGs-brochure.pdf.

⁷⁷ *Ibid.*

⁷⁸ *Ibid.*

⁷⁹ UNHCR, *UNHCR’s Strategic Directions 2017-2021*, January 16, 2017, p. 23.

⁸⁰ UN Human Rights Council, *The Slow Onset Effects of Climate Change and Human Rights Protection for Cross-Border Migrants (A/HRC/37/CRP.4)*, 2018, par. 17.

⁸¹ UNHCR, *Pacific Islanders Face the Reality of Climate Change . . . and of Relocation*, <https://www.unhcr.org/news/latest/2009/12/4b264c836/pacific-islanders-face-reality-climate-change-relocation.html>.

⁸² UN Human Rights Council, *The Slow Onset Effects of Climate Change and Human Rights Protection for Cross-Border Migrants*, par. 37.

dry and degraded lands”⁸³. Water resources, which are already scarce in some regions, are increasingly affected by climate change⁸⁴.

As HRC highlighted in its 2018 report, several human rights are at risk for migrants that are displaced due to climate change⁸⁵. In an intersessional panel discussion on human rights, climate change, migrants and persons displaced across international borders, representatives of various States, NGOs, and other stakeholders shared their concern that migration due to climate change was often not a choice, but a necessity, born “out of the need to escape conditions that could not provide for even the most fundamental of their rights”⁸⁶. They identified the right to life, safety, and health, among others, as falling under the responsibility of States⁸⁷. They also contended that the right to food, water, shelter, and education were particularly important for migrants throughout their journey, as well as the rights to protection from gender-based and other forms of violence⁸⁸. It should be noted that since climate change is not recognized as a factor to qualify as a refugee, climate migrants cannot claim the rights guaranteed by the 1951 *Convention Relating to the Status of Refugees* and its 1967 *Protocol Relating to the Status of Refugees*⁸⁹, which protects persons with a “well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion”⁹⁰. HRC has stated in a 2018 study that “the lack of a general right of admission for those who seek to cross borders can result in more precarious journeys and dangerous entry attempts”⁹¹ and that “States should guarantee that all migrants who require protection [...] are not left in a legal limbo, and should ensure that they are granted a legal status.”⁹² While there is currently a gap in international law concerning the rights of migrants who are forced to leave their home because of environmental factors, international cooperation and assistance are essential in ensuring that actions are taken to better protect them⁹³.

⁸³ UN Human Rights Council, *Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development: Report of the Special Rapporteur on the Right to Food, Jean Ziegler (A/HRC/7/5)*, 2008, par. 51.

⁸⁴ UN Human Rights Council, *Report of the Office of the United Nations High Commissioner for Human Rights on the Relationship Between Climate Change and Human Rights (A/HRC/10/61)*, 2009, par. 29.

⁸⁵ UN Human Rights Council, *Addressing Human Rights Protection Gaps in the Context of Migration and Displacement of Persons Across International Borders Resulting from the Adverse Effects of Climate Change and Supporting the Adaptation and Mitigation Plans of Developing Countries to Bridge the Protection Gaps (A/HRC/38/21)*, 2018.

⁸⁶ UN Human Rights Council, *Summary of the Panel Discussion on Human Rights, Climate Change, Migrants and Persons Displaced Across International Borders (A/HRC/37/35)*, 2017, par. 7.

⁸⁷ *Ibid.*, par. 16.

⁸⁸ *Ibid.*, par. 17.

⁸⁹ UN General Assembly, *Convention Relating to the Status of Refugees*, 28 July 1951, United Nations, Treaty Series, vol. 189, p. 137; UN General Assembly, *Protocol Relating to the Status of Refugees*, 31 January 1967, United Nations, Treaty Series, vol. 606, p. 267.

⁹⁰ UN General Assembly, *Convention Relating to the Status of Refugees*, art. 1.

⁹¹ UN Human Rights Council, *The Slow Onset Effects of Climate Change and Human Rights Protection for Cross-Border Migrants*, par. 66.

⁹² *Ibid.*, par. 61.

⁹³ *Ibid.*, par. 65.

Evaluating the Impacts of COVID 19 on Climate Migration

According to the World Health Organization (WHO), COVID-19 is the infectious disease caused by the most recently discovered coronavirus⁹⁴. WHO first identified this new virus on December 31 2019, following a report of an outbreak of cases of ‘viral pneumonia’ in Wuhan, People’s Republic of China⁹⁵. While 80 % of people who experience complications recover from the infection without requiring medical care, approximately 15% get seriously ill and require oxygen, and 5% get critically ill and need intensive care⁹⁶. Nonetheless, people of any age with COVID-19 can suffer by becoming severely ill or, in some cases, by passing away⁹⁷. In order to protect others and ourselves, WHO recommends that all citizens take precautions “such as physical distancing (1-metre distance between yourself and others) , wearing a mask (especially when distancing cannot be maintained) keeping rooms well ventilated, avoiding crowds and close contact, regularly cleaning your hands, and coughing into a bent elbow or tissue.”⁹⁸ The ongoing public health epidemic triggered by COVID-19 is overwhelmingly impacting individuals and populations who are already in disadvantaged and marginalized circumstances⁹⁹. COVID-19 has brought forth new or exacerbated problems for refugees, internally displaced and stateless people around the world, notably by intensifying the pre-pandemic vulnerabilities of individuals with particular needs for security¹⁰⁰. In other words, WHO’s precautions may help alleviate the situation, they are extremely difficult to implement for migrants¹⁰¹. Nonetheless, innovative methods have been introduced to ensure the continued operation of refugee programs and the security of displaced and stateless communities as a consequence of climate change¹⁰².

One major restrictive policy is large-scale physical distancing measures and mobility controls, also referred to as “lockdowns”¹⁰³. Such policy has proven to slow down the transmission of COVID 19 by restricting contact between individuals ¹⁰⁴. However, policies such as lockdowns have a disproportionate effect on vulnerable populations, particularly, migrants, internally displaced persons and refugees, who most frequently live in overcrowded and under-resourced environments¹⁰⁵. In this context, many refugees are expected to be deprived of their right to health facilities and to social protection for an uncertain period of time due to the unpredictability of COVID-19¹⁰⁶. In addition, COVID-19 is spreading – though not exclusively – to regions that are highly exposed to the effects of climate change but also to regions with high rates of conflict, high rates of poverty, high rates of forced

⁹⁴ WHO, *Coronavirus disease (COVID-19)*, 2020.

⁹⁵ *Ibid.*

⁹⁶ *Ibid.*

⁹⁷ *Ibid.*

⁹⁸ *Ibid.*

⁹⁹ UNHCR, *COVID-19 and the Human Rights of Migrants: Guidance*, 2020.

¹⁰⁰ UNHCR, *Protection challenges and responses to COVID-19 for and by forcibly displaced and stateless people*.

¹⁰¹ *Ibid.*

¹⁰² *Ibid.*

¹⁰³ WHO, *Coronavirus disease (COVID-19)*, 2020.

¹⁰⁴ *Ibid.*

¹⁰⁵ IOM, Environmental Migration Portal, *COVID-19, Climate Change and Migration: Constructing Crises, Reinforcing Borders*, 2020.

¹⁰⁶ UNHCR, *COVID-19 and the Human Rights of Migrants: Guidance*, 2020; UN’s COVID-19 Response, *General FAQs*.



migration, and fragile health services¹⁰⁷. Consequently, COVID-19 increases the vulnerability of people displaced in the context of climate change with cross-cutting factors, and choices between upholding social distancing directives and protecting people against environmental disasters must be made “as both can be mutually exclusive”¹⁰⁸. This may have striking implications on migration habits, as many will be forced to migrate in search for preferred conditions once lockdowns and mobility limitations are lifted¹⁰⁹. Already displaced individuals might engage in secondary displacement when the pressure of these various vulnerabilities becomes too much to bear¹¹⁰. As a consequence, the virus becomes at risk of spreading faster¹¹¹. Furthermore, many United Nations and State-funded programs can be affected in the longer term, since there remains the possibility of decelerating or the full cancellation of immigration and asylum programmes¹¹². The IOM stresses the need to ensure that disadvantaged mobile communities are not further oppressed if such circumstances occur¹¹³. These changes to the overall migration management structures would have a significant effect on both countries and people “who need to make sense of a new reality” that overturns all usual processes and has the capacity to generate new or aggravate current vulnerabilities of migrants and lead to violations of the rights of migrants, including those that have previously relocated as a consequence of climate change¹¹⁴.

The IOM has proposed in a statement published in March 2020 “strategic response [that] focuses on reaching the vulnerable and building operational capacities to address the mobility dimensions of this pandemic.”¹¹⁵ In all IOM’s operations, “mainstreaming protection concerns” are prioritized within the COVID-19 response to ensure that the organization’s actions are equitable and do not infringe upon the communities’ human rights¹¹⁶.

The Role of Disaster Risk Reduction in Mitigating Displacement

DRR is an important aspect of climate migration. The Nansen Initiative’s *Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change* establishes that “climate change adaptation, disaster risk reduction and other development strategies can [...] help avoid displacement by building up the resilience of people living in areas facing natural hazards, environmental degradation and the adverse effects of climate change”¹¹⁷, which is why it is essential

¹⁰⁷ IOM, Environmental Migration Portal, *More than a health crisis? Assessing the impacts of COVID-19 on climate migration*, 2020.

¹⁰⁸ *Ibid.*

¹⁰⁹ *Ibid.*

¹¹⁰ *Ibid.*

¹¹¹ *Ibid.*

¹¹² *Ibid.*

¹¹³ *Ibid.*

¹¹⁴ *Ibid.*

¹¹⁵ IOM, *IOM Statement on COVID-19 and Mobility*, 2020.

¹¹⁶ *Ibid.* p3

¹¹⁷ The Nansen Initiative, *Agenda for the Protection of Cross-border Displaced Persons in the Context of Disasters and Climate Change: Volume I*, 2015, p. 47.



that States consider DRR when adopting policy related to climate change adaptation. The *Sendai Declaration and Framework for Disaster Risk Reduction 2015-2030*¹¹⁸ asserts that “[d]isaster risk reduction practices need to be multi-hazard and multisectoral, inclusive and accessible in order to be efficient and effective.”¹¹⁹ In order to strengthen disaster risk governance and disaster risk management, the *Sendai Framework* recommends that local authorities work with migrants, among other stakeholders¹²⁰. It also recognizes that migrants “contribute to the resilience of communities and societies, and their knowledge, skills and capacities can be useful in the design and implementation of disaster risk reduction”¹²¹.

A 2017 publication by IOM and the Council of Europe contends that DRR efforts work best when they engage all community members, including migrants¹²². The positive effects of including migrants when making decisions on DRR range from “enhanc[ing] their ability to prepare for and respond to disasters” to “contribut[ing] to transforming deeply rooted political, economic and social factors that define migrants’ day-to-day well-being and security — which are the profound causes of their vulnerability to everyday hazards as well as to more intense disasters.”¹²³ As disasters are expected to increase both in frequency and in intensity over the next few years, vulnerability to these events, unless they are addressed through effective DRR strategies, is also expected to increase¹²⁴. Displacement, which is one of the many consequences of the vulnerability of people to natural disasters, can only be mitigated through expanded collaboration with all levels of society, better data collection, and innovative approaches to DRR¹²⁵.

Conclusion

While the issue of climate migration is nothing new, the right to life of climate migrants was recently referred to in an important decision of the Human Rights Committee on an alleged violation of the *International Covenant on Civil and Political Rights*¹²⁶. In this decision, which ruled against the alleged victim, the Committee nevertheless stated that “given that the risk of an entire country becoming submerged under water is such an extreme risk, the conditions of life in such a country may become incompatible with the right to life with dignity before the risk is realized.”¹²⁷ In effect, this

¹¹⁸ UN General Assembly, *Sendai Declaration and Framework for Disaster Risk Reduction 2015-2030* (A/RES/69/283), 2015.

¹¹⁹ *Ibid.*, p. 10.

¹²⁰ *Ibid.*, p. 18.

¹²¹ *Ibid.*, p. 23.

¹²² IOM and Council of Europe, *Migrants in Disaster Risk Reduction: Practices for Inclusion*, 2017, p. 10, https://publications.iom.int/system/files/pdf/migrants_in_drr.pdf.

¹²³ *Ibid.*, p. 12.

¹²⁴ IOM, *IOM and the Sendai Framework: A Global Review of IOM’s Contributions to Strengthening Disaster Resilience* (Geneva, 2020), p. 33, <https://publications.iom.int/system/files/pdf/drr-2019-ar.pdf>.

¹²⁵ *Ibid.*, p. 33.

¹²⁶ UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171.

¹²⁷ UN Human Rights Committee, *Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2728/2016 (CCPR/C/127/D/2728/2016)*, 2019, par. 9.11.



decision opened the door to an eventual inclusion of persons displaced due to climate change, under certain circumstances, as refugees, thereby potentially extending the protections granted by the *Convention Relating to the Status of Refugees* and its *Protocol*. Although not under the purview of the Third Committee, the Human Rights Committee's views reflected a growing concern from various United Nations agencies for the issue of climate migration, as illustrated by UNHCR's *Strategic Directions 2017–2021*¹²⁸. Displacement due to climate change is expected to increase drastically as the environmental conditions of our planet deteriorate, and Member States must adopt strategies to mitigate its effects. The ongoing public health crisis has exacerbated the living conditions of already vulnerable migrants, who now face increased stigma and discrimination, as was mentioned in an op-ed published in the summer of 2020 by IOM and many other United Nations bodies¹²⁹, and it is essential to ensure the protection of their human rights.

Further Research

When researching this topic, delegates should consider questions such as: How can Member States mitigate and avoid displacement due to climate change? What policies can be developed to better protect displaced persons? What role can Member States play when they are not themselves affected by displacement due to climate change? How can Member States prevent discrimination towards migrants? How can Member States improve their resilience to sudden and slow onset events? How does climate change affect other migratory movements? How can the Third Committee use the SDGs to frame the issue of climate migration? What can Member States learn from the COVID-19 pandemic and its effect on vulnerable populations such as persons displaced due to climate change?

¹²⁸ UNHCR, *UNHCR's Strategic Directions 2017-2021*, January 16, 2017.

¹²⁹ IOM, ILO, UNICEF, UN Women, UNODC, *End Stigma and Discrimination Against Migrant Workers and Their Children During Covid-19 Pandemic*, June 5, 2020, <https://www.unicef.org/eap/press-releases/end-stigma-and-discrimination-against-migrant-workers-and-their-children-during>.



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II. Promoting the Human Rights of Indigenous Peoples

Introduction

The respect of Indigenous Peoples' rights is an issue of the utmost importance that affects 370 million Indigenous people spread across 70 countries¹³⁰. While they are separated by borders and have cultural specificities, Indigenous Peoples share the struggle of having their "identities, way of life and their right to traditional lands, territories and natural resources" recognized and respected, and they are "among the most disadvantaged and vulnerable groups of people in the world"¹³¹. This struggle is now recognized by the international community and it is acknowledged that "special measures are required to protect their rights and maintain their distinct cultures and way of life"¹³².

In recent years, the United Nations has increased its engagement toward Indigenous Peoples in multiple ways. While Indigenous rights had previously been relegated to a lesser role in the general human rights discourse, they are now distinctly addressed and advocated for thanks to consultations in various communities ascertaining their needs. Many SDGs are relevant to the rights of Indigenous Peoples, but they are directly referred to six times: "three times in the political declaration [of the *2030 Agenda for Sustainable Development*]; twice under Goal 2 on Zero Hunger (target 2.3) and Goal 4 on education (target 4.5) – and once in the section on follow ups and reviews that calls for indigenous peoples' participation"¹³³.

To further promote the rights of Indigenous Peoples, the United Nations periodically organizes punctual events, forums, and campaigns such as the 2014 World Conference on Indigenous Peoples. Following this high-level plenary, the document A/69/150 was ratified to reiterate the General Assembly's engagement to effectively increase its cooperation with, and consultation of, Indigenous Peoples. It aimed to promote their cultures and rights in appropriate ways as well as increasing the data collection by "utilizing holistic indicators of Indigenous Peoples' well-being to address the situation and needs of indigenous peoples and individuals, in particular older persons, women, youth, children and persons with disabilities"¹³⁴. From 1995 to 2004, and again from 2005 to 2015, the United Nations launched the "Decade of the World's Indigenous Peoples"¹³⁵. The first campaign's main objective was

¹³⁰ United Nations Permanent Forum on Indigenous Issues (2006). "Who are indigenous peoples?". Permanent Forum, Fifth Session (online). URL: https://www.un.org/esa/socdev/unpfii/documents/5session_factsheet1.pdf.

¹³¹ United Nations Department of Economic and Social Affairs Indigenous Peoples. (2020). "Indigenous Peoples at the United Nations". Department of Economic and Social Affairs Indigenous Peoples (online). URL: <https://www.un.org/development/desa/indigenouspeoples/about-us.html>.

¹³² *Ibid.*

¹³³ United Nations Department of Economic and Social Affairs Indigenous Peoples. (2020). "Indigenous Peoples and the 2030 Agenda". Department of Economic and Social Affairs Indigenous Peoples (online). URL: <https://www.un.org/development/desa/indigenouspeoples/focus-areas/post-2015-agenda/the-sustainable-development-goals-sdgs-and-indigenous.html>.

¹³⁴ United Nations General Assembly. (2014). "Sixty-ninth session Item 66 of the provisional agenda - Rights of indigenous peoples Draft resolution submitted by the President of the General Assembly". United Nations General Assembly (online). URL: https://www.un.org/en/ga/search/view_doc.asp?symbol=A/69/L.1.

¹³⁵ Office of the United Nations High Commissioner for Human Rights (OHCHR). (2004). "International Decades of the World's Indigenous People". Office of the United Nations High Commissioner for Human Rights (OHCHR) (online). URL: <https://www.ohchr.org/EN/Issues/IPeoples/Pages/InternationalDecade.aspx>.



to strengthen “international cooperation for the solution of problems faced by indigenous people in such areas as human rights, the environment, development, education and health” and had as a theme “Indigenous people: partnership in action”¹³⁶. To pursue this partnership, the second decade focused on reinforcing accountability, transparency, cultural sensitivity, and establishing concrete benchmarks for policies, rights and programs dedicated to Indigenous Peoples¹³⁷.

International and Regional Framework

Universal Declaration of Human Rights

The UDHR was adopted in Paris on December 10, 1948, at the newly established UNGA¹³⁸. The collaboration between world leaders following World War II resulted in the very first documented agreement between States that addressed the need for freedoms and rights to be universally protected “in order for every individual to live their lives freely, equ--ally and in dignity”¹³⁹. The UDHR outlines 30 rights and freedoms that are considered the foundation for freedom, justice and peace¹⁴⁰. Although Indigenous Peoples are not mentioned specifically, their rights are still protected by the declaration, which is a guiding principle for further conventions.

International Covenant on Economic, Social and Cultural Rights (ICESCR) and International Covenant on Civil and Political Rights (ICCPR)

These documents were adopted and entered into force the within a year (1966 and 1976 respectively¹⁴¹). They were originally planned as one covenant that was later divided thematically with the objective of completing the UDHR¹⁴². They are ratified as a commitment to apply the UDHR, thus forming with it the International Bill of Human Rights¹⁴³. While both covenants focus on different rights, the

¹³⁶ *Ibid.*

¹³⁷ United Nations Department of Economic and Social Affairs Indigenous Peoples. (2020). “Second International Decade of the World’s Indigenous People” Department of Economic and Social Affairs Indigenous Peoples (online). URL: <https://www.un.org/development/desa/indigenouspeoples/second-international-decade-of-the-worlds-indigenous-people.html>.

¹³⁸ United Nations. (1948). “Universal Declaration of Human Rights”. United Nations (online). URL: <https://www.un.org/en/universal-declaration-human-rights/>.

¹³⁹ Amnesty International. (2017). “What is The Universal Declaration of Human Rights and Why was it Created?”. Amnesty International (online). URL: <https://www.amnesty.org/en/what-we-do/universal-declaration-of-human-rights/>.

¹⁴⁰ *Ibid.*

¹⁴¹ United Nations Human Rights Office of the High Commissioner. (1976). “International Covenant on Civil and Political Rights”. United Nations Human Rights Office of the High Commissioner (online). URL: <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

¹⁴² United Nations General Assembly. (1952). “General Assembly – Sixth Session.” United Nations General Assembly (online). URL: <https://uvallsc.s3.amazonaws.com/travaux/s3fs-public/A-RES-543%28VI%29.pdf?null>.

¹⁴³ Office of the United Nations High Commissioner for Human Rights (OHCHR). (1948). “Fact Sheet No.2 (Rev.1), The International Bill of Human Rights”. Office of the United Nations High Commissioner for Human Rights (OHCHR)(online). URL: <https://web.archive.org/web/20080313093428/http://www.unhchr.ch/html/menu6/2/fs2.htm>.



ICESCR¹⁴⁴ and the ICCPR¹⁴⁵ both include an article related to the right to self-determination (Article 1.1 in both). The difference between these documents and the UDHR is that the former contains binding commitments while the latter is a general declaration on principles of human rights.

United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)

Following the adoption of the UDHR, many realized the UDHR was not adapted to the specific situation of Indigenous Peoples, their recognition, and their collective rights within States with a history of colonialism. To remedy the situation, on September 13, 2007, UNDRIP was adopted following over 20 years of negotiation between Member States and Indigenous groups¹⁴⁶. The General Assembly adopted the 46 articles of UNDRIP with resolution 61/295 and, much like the UDHR, this declaration is non-binding¹⁴⁷.

The Indigenous and Tribal Populations Convention

The Indigenous and Tribal Peoples Conventions from 1957 (Convention 107) and 1989 (Convention 169) are “to date the only international treaties dealing exclusively with the rights of indigenous and tribal peoples”¹⁴⁸. The conventions are presented by the International Labor Organisation (ILO) and the 1989 version “provides for consultation and participation of indigenous and tribal peoples with regard to policies and programs that may affect them for enjoyment of fundamental rights and establishes general policies regarding indigenous and tribal peoples” with respect to their culture and way of life¹⁴⁹. As of today, only 23 countries have ratified the 1989 Convention¹⁵⁰.

¹⁴⁴ Office of the United Nations High Commissioner for Human Rights (OHCHR). (1976). “International Covenant on Economic, Social and Cultural Rights”. Office of the United Nations High Commissioner for Human Rights (OHCHR)(online). URL: <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>.

¹⁴⁵ Office of the United Nations High Commissioner for Human Rights (OHCHR). (1976). “International Covenant on Economic, Social and Cultural Rights. Part 1. Article 1.”. Office of the United Nations High Commissioner for Human Rights (OHCHR)(online). URL: <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx#:~:text=1.,economic%2C%20social%20and%20cultural%20development>.

¹⁴⁶ HANSON, E. (2010). “UN Declaration on the Rights of Indigenous Peoples” Indigenous Foundations - First Nations and Indigenous Studies – University of British Columbia (online), URL: https://indigenousfoundations.arts.ubc.ca/un_declaration_on_the_rights_of_indigenous_peoples/.

¹⁴⁷ Office of the United Nations High Commissioner for Human Rights (OHCHR). (2020). “Declaration on the rights of indigenous peoples”. Office of the United Nations High Commissioner for Human Rights (OHCHR)(online). URL: <https://www.ohchr.org/en/issues/ipeoples/pages/declaration.aspx>.

¹⁴⁸ International Labour Organization. (2020). “International Labour Standards on Indigenous and tribal peoples”. International Labour Organisation – International Labour Standards (online). URL: <https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/indigenous-and-tribal-peoples/lang--en/index.htm>.

¹⁴⁹ *Ibid.*

¹⁵⁰ SWARTZ, Chris. (2019). “After 30 Years, Only 23 Countries Have Ratified Indigenous and Tribal Peoples Convention ILO 169”. Cultural Survival (online). URL: <https://www.culturalsurvival.org/news/after-30-years-only-23-countries-have-ratified-indigenous-and-tribal-peoples-convention-ilo>.



Role of the International System

While the United Nations is concerned with different aspects of Indigenous Peoples' rights, the main organs in charge of implementing concrete changes, promoting Indigenous rights and educating nations about the distinct situation of Indigenous Peoples across the globe are ECOSOC and OHCHR.

Department of Economic and Social Affairs

ECOSOC works within the Department of Economic and Social Affairs and has a multitude of advisory bodies such as the United Nations Permanent Forum on Indigenous Issues (UNPFII), which was created in July 2000¹⁵¹. This high-level advisory body has the mandate to “deal with indigenous issues related to economic and social development, culture, the environment, education, health, human rights” and to promote respect for UNDRIP, while monitoring its application and effectiveness¹⁵². UNPFII was one of the “important objectives of the programme of activities for the [first] International Decade of the World’s Indigenous People¹⁵³” starting in 1994 to 2005, and following the 1993 International Year of the World’s Indigenous People¹⁵⁴. This International Year was the result of Indigenous Peoples’ advocacy for a better relationship between them, the States, and the international community in order to “secure their cultural integrity and rights into the twenty-first century”¹⁵⁵. Following the programs and activities of the year, the Secretary-General produced the report entitled *Review of the Existing Mechanisms, Procedures, and Programs within the United Nations*, which highlighted the “striking absence of a mechanism to ensure coordination and regular exchange of information among interested parties — Governments, the United Nations and indigenous people — on an ongoing basis”¹⁵⁶ and reported a general lack of attention and answers given to issues raised by Indigenous people resulting in a lack of trust toward the organization¹⁵⁷.

In order to fulfill its mandate properly, the UNPFII requested at its first session in 2002 the production of “a report on the state of the world’s indigenous peoples¹⁵⁸” (SOWIP). The report, published in 2009, focused on the ECOSOC spheres of action: poverty and well-being; culture; environment; contemporary education; health; human rights and emerging issues¹⁵⁹. This first publication and the “alarming statistics” in the report promoted “awareness of indigenous peoples’ issues within the United

¹⁵¹ United Nations Permanent Forum on Indigenous Issues. (2020). “Permanent Forum”. United Nations Permanent Forum on Indigenous Issues (online). URL: <https://www.un.org/development/desa/indigenouspeoples/unpfii-sessions-2.html>.

¹⁵² *Ibid.*

¹⁵³ United Nations Department of Economic and Social Affairs Indigenous Peoples. (2020). “Establishment of a UN Permanent Forum on Indigenous Issues”. Department of Economic and Social Affairs Indigenous Peoples (online). URL: <https://www.un.org/development/desa/indigenouspeoples/about-us/resolution-e200022.html>.

¹⁵⁴ United Nations Department of Economic and Social Affairs Indigenous Peoples. (2020). “Indigenous Peoples at the United Nations”. *Op. cit.*

¹⁵⁵ *Ibid.*

¹⁵⁶ United Nations Department of Economic and Social Affairs Indigenous Peoples. (2020). “Establishment of a UN Permanent Forum on Indigenous Issues”. *Op. cit.*

¹⁵⁷ United Nations General Assembly. (1996). “Fifty-first session, Agenda item 107, Program of activities of the International decade of the World’s indigenous people”. United Nations General Assembly (online). URL: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N96/277/01/PDF/N9627701.pdf?OpenElement>.

¹⁵⁸ United Nations Department of Economic and Social Affairs Indigenous Peoples. (2020). “State of the World’s Indigenous Peoples (SOWIP)”. Department of Economic and Social Affairs Indigenous Peoples (online). URL: <https://www.un.org/development/desa/indigenouspeoples/publications/state-of-the-worlds-indigenous-peoples.html>.

¹⁵⁹ *Ibid.*

Nations system, with States, academia and the broader public”¹⁶⁰. These publications are essential to attain the objective of the UNPFII to prepare and disseminate information on Indigenous issues¹⁶¹. During its yearly 10-day meeting, the Permanent Forum addresses a specific issue related to each of the 6 previously mentioned areas, plus other topics of major significance to Indigenous Peoples: gender and Indigenous women; children and youth; Indigenous Peoples and the *2030 Agenda*; and data and indicators¹⁶². The 2020 session that was supposed to take place at the UN Headquarters from April 13 to 24 with the theme “Peace, justice and strong institutions: the role of indigenous peoples in implementing Sustainable Development Goal 16” was postponed until further notice¹⁶³.

Funds for the Permanent Forum comes from the regular budget of the United Nations to ensure the mission can be carried effectively, and through voluntary contributions¹⁶⁴. The principle of consensus is applied by the sixteen members of the UNPFII. Half the members are nominated by Governments and elected by ECOSOC, and the other half is appointed by “the President of the ECOSOC following formal consultations with the bureau and regional groups through the coordinators, on a basis of broad consultations with indigenous organizations taking into account the diversity and geographic distribution of indigenous peoples of the world, as well as principles of transparency, representativeness, and equal opportunity for all indigenous peoples, including internal processes, when appropriate, and local indigenous consultation processes”¹⁶⁵. These members are not United Nations staff members and serve in their personal capacities. For instance, they do not receive a salary nor are they based in the United Nations offices and only their expenses related to the annual meeting are covered.¹⁶⁶

Office of the High Commissioner for Human rights

Since 2001, the HRC, working under the OHCHR, demands that the Special Rapporteur presents an annual report containing the activities carried out that year to achieve their mandate and to discuss about “specific themes or issues of particular relevance for the rights of indigenous peoples”¹⁶⁷. As such, the Special Rapporteur on the rights of Indigenous Peoples, who is currently Francisco Cali Tzay, a Mayan Cakchiquel from Guatemala, is expected to write special reports, extensive observations on specific cases, and country reports, evaluating the situation of Indigenous Peoples’ rights in a specific country¹⁶⁸. Following HRC resolution 42/20, the Special Rapporteur is expected to collaborate with other UN organs to promote UNDRIP and to:

¹⁶⁰ *Ibid.*

¹⁶¹ United Nations Permanent Forum on Indigenous Issues. (2020). “Permanent Forum”. *Op. cit.*

¹⁶² *Ibid.*

¹⁶³ *Ibid.*

¹⁶⁴ United Nations Department of Economic and Social Affairs Indigenous Peoples. (2020). “Establishment of a UN Permanent Forum on Indigenous Issues”. *Op. cit.*

¹⁶⁵ *Ibid.*

¹⁶⁶ *Ibid.*

¹⁶⁷ United Nations Department of Economic and Social Affairs Indigenous Peoples. (2020). “Reports by the Special Rapporteur on the Rights of Indigenous Peoples.” Department of Economic and Social Affairs Indigenous Peoples (online). URL: <https://www.un.org/development/desa/indigenouspeoples/reports-by-the-special-rapporteur-on-the-rights-of-indigenous-peoples.html>.

¹⁶⁸ Office of the United Nations High Commissioner for Human Rights (OHCHR). (2019). “Special Rapporteur on the rights of indigenous peoples”. Office of the United Nations High Commissioner for Human Rights (OHCHR) (online). URL: <https://www.ohchr.org/EN/Issues/IPeoples/SRIIndigenousPeoples/Pages/SRIPeoplesIndex.aspx>.



“examine ways and means of overcoming existing obstacles to the full and effective protection of the rights of indigenous peoples (...) and to identify, exchange and promote best practices”

“gather, request, receive and exchange information and communications from all relevant sources, including Governments, indigenous peoples and their communities and organizations, on alleged violations of the rights of indigenous peoples”

“formulate recommendations and proposals on appropriate measures and activities to prevent and remedy violations of the rights of indigenous peoples”¹⁶⁹

In the 2019 renewal of the mandate, the Special Rapporteur was asked to give particular attention to the situation of Indigenous children and women as they are more vulnerable to human rights violations, to “participate in relevant international dialogues and policy forums on the consequences that climate change has on indigenous peoples”, and to cooperate with different actors to develop effective and sustainable practices ¹⁷⁰.

Also, under the OHCHR guidance, the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) was implemented in December of 2007¹⁷¹ after the dissolution of the Working Group on Indigenous Populations (WGIP), created in 1982¹⁷². The change followed the restructuring needed after the creation of the Permanent Forum to avoid repetition in their work¹⁷³. This new Expert Mechanism consists of five independent experts, and invites the Special Rapporteur as well as a member of the Permanent Forum to its annual meeting¹⁷⁴. The five experts’ work focuses “mainly on studies and research-based advice¹⁷⁵” to present to the Human Rights Council with advice and expertise on the rights of indigenous peoples. They also provide assistance to Member States for the implementation of the UNDRIP and its goals.¹⁷⁶

EMRIP’s mandate was amended in September 2016 following the adoption of HRC resolution 33/25 to focus more on supporting various actors (States, NGOs, Indigenous rights groups, other UN committees) in achieving the objectives of the UNDRIP by facilitating dialogue between parties and

¹⁶⁹ *Ibid.*

¹⁷⁰ Office of the United Nations High Commissioner for Human Rights (OHCHR). (2019). “About the mandate of the Special Rapporteur for indigenous peoples”. OHCHR.

¹⁷¹ Office of the United Nations High Commissioner for Human Rights (OHCHR). (2020). “Expert Mechanism on the Rights of Indigenous Peoples (EMRIP): About the Mandate”. Office of the United Nations High Commissioner for Human Rights (OHCHR) (online). URL: <https://www.ohchr.org/EN/Issues/IPeoples/EMRIP/Pages/EMRIPIndex.aspx#:~:text=About%20the%20mandate,Rights%20Council%20resolution%2033%2F25>.

¹⁷² United Nations Department of Economic and Social Affairs Indigenous Peoples. (2020). “Indigenous Peoples at the United Nations”. *Op. cit.*

¹⁷³ *Ibid.*

¹⁷⁴ United Nations Human Rights Council. (2007). “Resolution 6/36. Expert mechanism on the rights of indigenous peoples.” United Nations Human Rights Council (online). URL: https://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_6_36.pdf.

¹⁷⁵ *Ibid.*

¹⁷⁶ Office of the United Nations High Commissioner for Human Rights (OHCHR). (2020). “Expert Mechanism on the Rights of Indigenous Peoples (EMRIP): About the Mandate”. *Op. cit.*

assisting in the development of legislation and policies¹⁷⁷. The Expert Mechanism is now comprised of seven experts (one per indigenous sociocultural region defined by the UN) that have staggered terms in order to ensure a sustainable implementation¹⁷⁸. The experts, selected for their competency and experience in the field of Indigenous rights, with a sensitivity regarding their indigenous status and gender parity (new criteria in the 2016 amendment), are now encouraged to increase the frequency of its informal meetings and communications to arrive to meetings having already exchanged ideas¹⁷⁹. While EMRIP has been given increased powers to obtain relevant information in order to produce its annual study on the status of the rights of indigenous peoples worldwide, it is still unable to adopt resolutions or to make decisions¹⁸⁰.

The Rights of Indigenous people

Environmental rights

A considerable number of indigenous communities share a cultural link to nature and principles of intergenerational equity in resource allocation¹⁸¹. The exploitation of natural resources has a great impact on the environment of indigenous communities around the world. It is possible to find a direct link between the environment and human rights. The UNDRIP and the ITPC elaborate the founding principles in terms of property rights. The Special Report 27/52 by the Expert Mechanism under the HRC indicates that the exploitation of natural resources is the primary cause of human rights violations for indigenous communities.¹⁸² In order to promote the voluntary conservation of indigenous areas and provide information to indigenous communities to participate in its process, the United Nations Environmental Programme (UNEP) included Indigenous and Community Conserved Areas (ICCA) in the World Database on Protected Areas (WDPA)¹⁸³.

Although the *American Convention on Human Rights* (ACHR) doesn't offer specific protections to indigenous people, the Inter-American Commission on Human Rights (IACHR) and its judicial body, the Inter-American Court of Human Rights, both take direct action on the infringement of indigenous rights, especially when caused by the work of extractive industries. In 2019, the IACHR published the report: *Situation of Human Rights of the Indigenous and Tribal People of the Pan-Amazon Region*¹⁸⁴.

¹⁷⁷ United Nations General Assembly. (2016). "Thirty-third session, Agenda item 5, Resolution adopted by the Human Rights Council on 30 September 2016". United Nations General Assembly (online). URL: <https://undocs.org/A/HRC/RES/33/25>.

¹⁷⁸ *Ibid.*

¹⁷⁹ *Ibid.*

¹⁸⁰ *Ibid.*

¹⁸¹ Kirk Talbott, Sera Song et Janis Alcorn, « Edith Brown Weiss as a Pathfinder: Strengthening Property Rights and Community-Based Resource Governance for Indigenous Peoples Worldwide » (2020) 32:3 Geo Intl Envtl L Rev 533, p 536.

¹⁸² Anaya, « The right of indigenous peoples to self-determination »; Mattias Åhrén, Indigenous Peoples' Status in the International Legal System (Oxford, Oxford University Press, 2016); Sheryl Lightfoot, Global Indigenous Politics: A Subtle Revolution, « International Law Association interim report ».

¹⁸³ United Nations Environmental Program, World Conservation Monitoring Centre, Indigenous and Community Conserved Areas (ICCAs).

¹⁸⁴ OÉA, Inter-American Commission on Human Rights, *Situation of Human Rights of the Indigenous and Tribal People of the Pan-Amazon Region*, Doc off OEA/Ser.L/V/II/Doc.176 (2019), par 71-76 et 87-92.



The Commission mentions that the activities of mining and oil companies have devastating consequences on indigenous people through deforestation, water contamination and solid waste mismanagement.

Political Rights of Indigenous Peoples

The right to self-determination is a collective right recognized by article 4 of the UNDRIP, as well as the ICCPR and the ICESCR. It is a fundamental guarantee that a people may govern itself and choose the way of governing while having the means to implement such endeavors¹⁸⁵. Beyond financial needs, the right to self-determination should also include the right to preserve traditional institutions to allow more comprehensive political and administrative decisions, especially regarding the allocation and exploitation of natural resources¹⁸⁶. The Special Report 27/52 by Special Rapporteur Victoria Tauli-Corpuz notes that ensuring the right to self-determination will limit human rights violations, allow democratic and inclusive societies to flourish with enforced legitimacy, and reduce discrimination and inequality¹⁸⁷.

Cultural Rights

Cultural rights of indigenous peoples try to preserve their cultural heritage which includes objects, territories, sites, traditions, cultural expressions, and knowledge¹⁸⁸. Cultural heritage is considered to be a fundamental part of a person's identity, which is inseparable from territorial and property rights, considering the connection between people and their land¹⁸⁹. Internationally, the preservation of cultural integrity is the strongest of indigenous rights and is often used to protect other human rights mentioned earlier¹⁹⁰. Measures have been implemented by the United Nations Educational, Scientific, and Cultural Organization (UNESCO) in order to preserve culture and language, such as the *Convention for the Safeguarding of Intangible Cultural Heritage* (2003)¹⁹¹ and the *Convention on the Protection and Promotion of the Diversity of Cultural Expressions* (2005)¹⁹². The work of the UNPFII led to many recommendations regarding the language aspect of cultural rights, such as the International Year of Indigenous Languages that was proclaimed as 2019 by the General Assembly resolution 71/178¹⁹³. Other recommendations to Member States included ensuring a quality education in

¹⁸⁵ Report of the *Expert mechanism on the rights of indigenous peoples*, Doc off SOCHUM C3 NU, 74^e sess, point 69a), Doc NU A/74/149 (2019) p 7.

¹⁸⁶ Office of the United Nations High Commissioner for Human Rights (OHCHR). (2013). "Fact Sheet No.9 (Rev.2), *Indigenous peoples and the United Nations Human Rights System*". Office of the United Nations High Commissioner for Human Rights (online), URL: <https://www.ohchr.org/documents/publications/fs9rev.2.pdf>

¹⁸⁷ Report of the *Expert mechanism on the rights of indigenous peoples*, *Op.cit.*

¹⁸⁸ Dinah Shelton, « The Inter-American Human Rights Law of Indigenous Peoples » (2013) 35:2 U Haw L Rev 937, p. 976.

¹⁸⁹ Danielle M Conway, « Indigenizing Intellectual Property Law: Customary Law, Legal Pluralism, and the Protection of Indigenous Peoples' Rights, Identity, and Resources » (2009) 15:2 Tex Wesleyan L Rev 207, p. 207.

¹⁹⁰ Susann Funderud Skogvang, « Legal Questions regarding Mineral Exploration and Exploitation in Indigenous Areas » (2013) 22:1 MSU-DCL J Intl L & Prac 321, p. 333.

¹⁹¹ United Nations Educational, Scientific and Cultural Organization, *Convention for the Safeguarding of Intangible Cultural Heritage*, 2003.

¹⁹² United Nations Educational, Scientific and Cultural Organization, *Convention on the Protection and Promotion of the Diversity of Cultural Expressions*, 2005.

¹⁹³ UNPFII, *Recommendations related to languages adopted by the Permanent Forum on Indigenous Issue*, 2016.



indigenous languages, implementing inclusive policies, and using those languages in public administration¹⁹⁴.

Conclusion

Since the *2030 Agenda for Sustainable Development* focuses on reducing inequalities, it has become of paramount importance for the international community to take action and to be accountable to make this decade the one where relations between countries, institutions, international organizations and Indigenous Peoples reach a point of mutual trust, understanding and respect¹⁹⁵. It is primordial considering the current sanitary condition not to neglect or invalidate the rights of Indigenous Peoples under the pretence of the common good. There is a concern that the coronavirus “has both highlighted and exacerbated current and ongoing human rights situations”¹⁹⁶.

As observed in the October 2020 Special Rapporteur report about the “impact of the coronavirus disease on the individual and collective rights of Indigenous Peoples”, emergency measures such as confinement, lockdowns, and quarantine have an “adverse and disproportionate impact” on Indigenous Peoples¹⁹⁷. The concern comes from their over-representation in lower socioeconomic classes and their “higher rates of malnutrition, combined with impacts of environmental contamination and in many cases, lack of access to adequate health care services”¹⁹⁸. Consequently, their immune system is affected, rendering them more susceptible to have respiratory conditions and other health issues, thus increasing their vulnerability to the disease¹⁹⁹.

Further Research

To further their research, delegates can look into concrete ways to achieve 2030 SDGs and promote Indigenous Peoples’ rights at a time where forced social isolation affects the ability to organize as a community around issues and gather for events of great cultural importance. Are there patterns of Indigenous rights violations during, or following exceptional events such as war, pandemics, environmental catastrophes, famine? What are the possible solutions to prevent these violations in the future? How do they affect the right to self-determination? How does the exploitation of natural resources affect Indigenous people’s rights and way of life?

¹⁹⁴ *Ibid.*

¹⁹⁵ United Nations Department of Economic and Social Affairs Indigenous Peoples. (2020). “Indigenous Peoples and the 2030 Agenda”. *Op. cit.*

¹⁹⁶ Office of the United Nations High Commissioner for Human Rights (OHCHR). (2019). “Report on the impact of COVID-19 on the rights of indigenous peoples”. Office of the United Nations High Commissioner for Human Rights (OHCHR) (online). URL:

https://www.ohchr.org/EN/Issues/IPeoples/SRIndigenousPeoples/Pages/Callforinput_COVID19.aspx

¹⁹⁷ Office of the United Nations High Commissioner for Human Rights (OHCHR). (2019). “Special Rapporteur on the rights of indigenous peoples”. *Op. cit.*

¹⁹⁸ Office of the United Nations High Commissioner for Human Rights (OHCHR). (2019). “Report on the impact of COVID-19 on the rights of indigenous peoples”. *Op. cit.*

¹⁹⁹ *Ibid.*



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