

INDIGENOUS POLICY

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*Indigenous Policy (IPJ)* publishes articles, commentary, reviews, news, and announcements concerning Native American and international Indigenous affairs, issues, events, nations, groups and media. We invite commentary and dialogue in and between issues.  
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### ***IPJ* IS SEEKING TO BUILD AN EDITORIAL COMMITTEE TO WORK WITH THE NEW EDITOR IN RUNNING THE ARTICLE REFEREEING PROCESS**

***IPJ* is seeking volunteers to join the Editorial Committee to collaborate with Rick Wheelock, our new Editor in coordinating the refereeing process for submitted articles, sending submissions round to advisory committee members for review, and making final decisions on articles based on reviewers' advice. If you are interested in on the Editorial Committee, please contact Rick Wheelock, [WHEELOCK\\_R@fortlewis.edu](mailto:WHEELOCK_R@fortlewis.edu) until April 2018. After April 2018 contact incoming Co-Editors: Eileen Luna-Firebaugh, [eluna@email.arizona.edu](mailto:eluna@email.arizona.edu), or Anne Luna-Gordinier, Assistant Professor, California State University, Sacramento, (916)278-7961, [luna-gordinier@csus.edu](mailto:luna-gordinier@csus.edu).**

***IPJ* INVITES VOLUNTEERS TO SERVE ON ITS ADVISORY COUNCIL, REFEREEING SUBMITTED ARTICLES.** If you are interested in being a reviewer of submitted articles in the *IPJ* refereeing process, please contact Rick Wheelock, [WHEELOCK\\_R@fortlewis.edu](mailto:WHEELOCK_R@fortlewis.edu) until April 2018. After April 2018 contact incoming Co-Editors: Eileen Luna-Firebaugh, [eluna@email.arizona.edu](mailto:eluna@email.arizona.edu), or Anne Luna-Gordinier, Assistant Professor, California State University, Sacramento, (916)278-7961, [luna-gordinier@csus.edu](mailto:luna-gordinier@csus.edu).

### **Book Review Committee:**

***IPJ* has a book review committee. People wishing to review books, often receiving a free copy to review, and those wishing to have a book review should send a copy, to David Weiden, Assistant Professor of Political Science and Native American Studies, Metropolitan State University of Denver, King Center 494, Campus Box 43, P.O. Box 173362, Denver, CO 80217-**

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DEADLINE FOR SUBMISSIONS FOR THE NEXT ISSUE IS June 8
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**INDIGENOUS POLICY PLANS FOR 2017-18 - WE INVITE YOUR HELP AND INPUT**

We wish you a fine New Year. *Indigenous Policy* journal is available on the web with e-mail notification of new issues at no charge. *Indigenous Policy* puts out two regular issues a year (Summer and Winter), and since summer 2006, what is now a fall issue serving as the *Proceedings of the Western Social Science Association Meeting American Indian Studies Section*. We are seeking additional editors, columnists and commentators for regular issues, and editors or editorial groups for special issues, and short articles for each issue. We have via our web site, **a regularly updated and searchable data base of Ph.D. Dissertations from Universities Around the World on Topics Relating to Indians in the Americas**, compiled by Jonathon Erlen and Jay Toth from *Dissertation Abstracts*, with recent dissertations also listed separately in each of our regular Summer and Winter issues. ***IPJ* is on facebook**, including some important updates since the last issue, at: <https://www.facebook.com/indigenouspolicyjournal>.

As *IPJ* is a refereed journal, articles may be posted on a different schedule from the rest of the journal. New articles may go up either at the same time as regular issues, or be added to already posted issues, and may or may not remain up when issues change, until replaced by new articles. Notices go out to our list serve when new issues are posted, and when new articles are posted. **To be added to the list to receive e-mail notice of new postings of issues, and new postings of articles, send an e-mail to Steve Sachs: [ssachs@earthlink.net](mailto:ssachs@earthlink.net).**

*IPJ* has been publishing special issues from time to time since winter 2002 and will continue to do so. These are usually on specific issues. In addition, the Fall issues of *IPJ* are devoted to carrying the Proceedings of the American Indian Studies Section of the Western Social Science Association Meeting held the preceding April. **We invite articles, reports, announcements and reviews of meetings, and media, programs and events, and short reports of news, commentary and exchange of views, as well as willingness to put together special issues.**

**Send us your thoughts and queries about issues and interests and replies can be printed in the next issue** and/or made by e-mail. In addition, we will carry Indigenous Studies Network (ISN) news and business so that these pages can be a source of ISN communication and dialoguing in addition to circular letters and annual meetings at APSA. In addition to being the newsletter/journal of the Indigenous Studies Network, we collaborate with the Native American Studies Section of the Western Social Science Association (WSSA) and provide a dialoguing vehicle for all our readers. This is your publication. Please let us know if you would like to see more, additional, different, or less coverage of certain topics, or a different approach or format.

***IPJ* is a refereed journal. Submissions of articles should go to Rick Wheelock, [WHEELOCK\\_R@fortlewis.edu](mailto:WHEELOCK_R@fortlewis.edu) until April 2018. After April 2018 contact incoming Co-Editors: Eileen Luna-Firebaugh, [eluna@email.arizona.edu](mailto:eluna@email.arizona.edu), or Anne Luna-Gordinier, Assistant Professor, California State University, Sacramento, (916)278-7961, [luna-gordinier@csus.edu](mailto:luna-gordinier@csus.edu), who will send them out for review. Our process is for non-article submissions to go to Steve Sachs, who drafts each regular issue. Unsigned items are by Steve. Other editors then make editing suggestions to Steve. Thomas Brasdefer posts this Journal on the **IPJ web site: <http://www.indigenouspolicy.org>.****

## ***Indigenous Policy Journal* Standards and Philosophy of Publication of Scholarly Articles**

## GUIDE TO SUBMITTING WRITINGS TO *IPJ*

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**ISN PROGRAM AT APSA 2018 in Boston, MA, August 30 - September 2, 2017**

**In addition, there are usually a large number of other Indigenous panels, papers and posers at APSA.**

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## WSSA 2018 AMERICAN INDIAN STUDIES SECTION PROGRAM, April 4-7, 2018

**The American Indian Studies Section of the Western Social Science Association**, at its 60<sup>th</sup> meeting, expects to again have a full program of panels at the association's meeting at the 2018 conference in **San Antonio, TX**, at the Hyatt Regency, April 4-7, 2018. Paper/panel proposals for the American Indian Studies Section can either be submitted on line by going to: <http://www.wssaweb.com>, or by sending them (preferably by E-mail) to AIS section coordinator: Veronica Hirsch, [vrhirsch@email.arizona.edu](mailto:vrhirsch@email.arizona.edu). **Deadline for proposals, including abstracts, may be December 1, 2017.** Information, which will eventually include the preliminary program, can be accessed on line at: <http://www.wssaweb.com>.

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A list of Indigenous Language **Conferences** is kept at the **Teaching Indigenous Languages web site at Northern Arizona University**: <http://www2.nau.edu> and among a large number of **linguistic conferences** of all types at: <http://linguistlist.org/callconf/browse-current.cfm?type=Conf>, and for **bilingual education** in the U.S. (and some beyond) at Dual Language Education of New Mexico: <http://www.dlenm.org>.

The D'Arcy McNickle Center for American Indian and Indigenous Studies at the Newberry Library, in Chicago, has an **on-going Newberry Library Seminar in American Indian Studies** on Wednesdays from 5:30 - 7:30 pm at the Newberry, 60 West Walton Street, Chicago, Illinois with a meal included. "We will pre-circulate papers to those planning to attend. If you cannot attend and want to read a paper, please contact the author directly. To receive a copy of a paper, email mcnickle@newberry.org or call (312) 255-3552. Papers are available for request two weeks prior to the seminar date. Please include your email address in all correspondence." There are other occasional events. E-mail: mcnickle@newberry.org or call (312)255-3564 to receive a copy of the paper via E-mail. For more on this and other events at the Newberry Library go to: <http://www.newberry.org/mcnickle/AISSeminar.html>.

National Center for Great Lakes Native American Culture, Inc. P O Box 1063 Portland, IN 47371 Home: 4950 North 750 East Attica, IN 47918 765-426-3022, www.ncglnac.org, kay.neumayr@ncglnac.com, holds events throughout the year, including: 2018 **NCGLNAC Academic Conference: Great Principal Peacetime Chiefs**, April 21, 2018, in the Bulp Building, Jay County Fairgrounds, Portland, Indiana.

The University of North Carolina Pembroke, Pembroke, NC runs an ongoing Native American Speakers Series, usually announced shortly ahead of time, and often at the Museum of the Southeast American Indian, University of North Carolina Pembroke, Pembroke, NC. For more information, email ais@uncp.edu, or call 910.521.6266. Admission to the series is free, and it is open to the public.

The **9th Annual Earth Care Summit** may be in January 2018. For details visit: <http://www.psr.org/news-events/events/>.

Society for the Study of Indigenous Languages of the Americas: SSILA annual winter meeting will be held jointly with the annual meeting of the Linguistic Society of America in Salt Lake City, Utah, at the Grand America in Salt Lake City, January 4-7, 2018. For details visit: <http://www.ssila.org/>.

Fourteenth International Conference on Environmental, Cultural, Economic & Social Sustainability": 2018 Special Focus: Forging Solidarity—Collective Sustainability Solutions in a Fragmenting World is January 17-19, 2018 at the Cairns Institute, James Cook University, Cairns,

Australia. The On Sustainability knowledge community is brought together by a common concern for sustainability in a holistic perspective, where environmental, cultural, economic, and social concerns intersect. For details visit: <http://onsustainability.com/>.

Tribal Transportation Unity Caucus [TTUC] Tribal Leaders and Transportation Officials Meeting is January 17-18, 2018 at the Crowne Plaza Hotel, Phoenix, AZ. For information go to: <http://www.ncai.org/conferences-events/national-events>.

Affiliated Tribes of Northwest Indians Winter Convention is January 22-25, 2018, at Portland, Oregon. For information go to: <http://www.ncai.org/conferences-events/national-events>.

Legislative Strategy and Informational Session for Native American Advocates on acting on issues before the New Mexico state legislature is at the Canyon Room of the Hotel Santa Fe, Paseo de Peralta, Santa Fe, NM, January 23, 2017. For information, call: (505)246-1819.

Tribal Self-Governance First Quarterly Meeting is January 23-25, 2018 Washington, DC . For information go to: <http://www.ncai.org/conferences-events/national-events>.

Intercultural Competence and Mobility: Virtual and Physical: Sixth International Conference on the Development and Assessment of Intercultural Competence is January 25-28, 2018 in Tucson, Arizona. http://cerell.arizona.edu/development/conferences/2018_icc.

350.org, announced January 10, 2017, https://actionnetwork.org/event_campaigns/fossil-free-fast/, the then coming, " **Fossil Free Fast: The Climate Resistance,**" saying, " **On January 31st, the day after Trump's first State of the Union, our movement will come together for Fossil Free Fast: The Climate Resistance.**"

Movement leaders including Senator Bernie Sanders, Varshini Prakash of the Sunrise Movement, Rev. Yearwood of the Hip Hop Caucus, Jessica Lorena Rangel of Houston Eyes of a Dreamer, Bill McKibben, co-founder of 350.org, and many more will deliver the state of our climate movement. They will share stories on the urgency of the current political and climate crises, and light our path ahead: resist the Trump Administration's ongoing attacks on our climate, build power towards the 2018 and 2020 elections, and secure the lasting change we need through local action.

Together, we will end the use of fossil fuels and usher in the fast and just transition to 100% renewable energy for all
This inspiring event will be livestreamed at 8:00 PM ET -- and thousands across the country will watch with their friends and family."

For more information go to: https://actionnetwork.org/event_campaigns/fossil-free-fast/.

Colorado Association for Bilingual Education (CABE) Professional Development Conference is February 1-2, 2018. for details visit: <http://www.cocabe.org>.

United South and Eastern Tribes (USET) Impact Week is February 5-8, 2018 at Crystal Gateway Marriott, Arlington, VA. For information go to: <http://www.usetinc.org/meetings-events/uset-annual-expo/2018-2/>.

The Native American-Indigenous Section of the Southwest Popular/American Culture Association 39th Annual Conference is as usual in Albuquerque, NM, February 7-10, 2018. For details go to: <http://southwestpca.org/conference/call-for-papers/>.

2018 National Indigenous Men's Health Conference is 8th - 10th February 2018 at Pullman Cairns International Hotel, Cairn, Australia. For details visit: <https://adminics.wixsite.com/indigenousconference/2018-indigenous-mens-conference>.

2018 NATIONAL INDIGENOUS WOMEN'S WELLBEING CONFERENCE is 8th - 10th February 2018 at Pullman Cairns International Hotel, Cairn, Australia. For details visit: <https://adminics.wixsite.com/indigenousconference/2018-indigenous-womens-conference>.

Affiliated Tribes of Northwest Indians (ATNI) Winter Convention 2018 is February 12-15, 2018. For details go to: <http://www.atntribes.org>.

NAAAS & Affiliates (including the National Association of Native American Studies) 2018 Joint National Conference is February 12-17, 2018 in Dallas, TX. For details visit: <https://www.naaas.org>.

NCAI 2018 Executive Council Winter Session is February 12-15, 2018, in Washington, DC. For details visit: <http://www.ncai.org/conferences-events/ncai-events>.

American Indian Higher Education Consortium (AIHEC) 2018 Winter Meeting is February 12-15, 2018 at Holiday Inn Capitol, Washington, D.C. For details go to: <http://www.aihec.org/who-we-are/calendar.htm>.

American Indian Higher Education Consortium (AIHEC) 2018 Winter Board Meeting is February 12-15, 2018 in Washington, DC. For information go to: <http://www.aihec.org/who-we-are/calendar.cfm>.

World Sustainable Development Summit 2018: Partnerships for a Resilient Planet is February 15-17, 2018, at India Habitat Centre, Lodhi Road, New Delhi, India. For details visit: <http://wsds.teriin.org>.

Third International Conference on Heritage/Community Languages is February 16-17, 2018 at Covell Commons, UCLA, Los Angeles, CA. For details visit: <http://international.ucla.edu/nhlrc>.

swcolt (conference on language teaching) is February 22-24, 2018 in Santa FE, NM. for information go to: <http://www.swcolt.org/>.

30th Far West PCA/ACA (Popular and American Culture associations), which likely has at least one American Indian section, is February 23-25, 2018, at the Los Vegas, NV Palace Station Hotel. For information go to: <http://www.fwpca.org/>.

National Association for Bilingual Education Annual Conference is at the Albuquerque Convention Center, Albuquerque, NM, USA, March 1-3, 2018. For details go to: <http://www.nabe-conference.com/index.html>.

National RES Las Vegas is March 5-8, 2018, in Las Vegas, NV. For details visit: <http://www.ncai.org/conferences-events/ncai-events>.

The National Association for Ethnic Studies (NAES) 46th Annual Conference: The Ongoing Struggle, is March 8-10, 2018 at Virginia Commonwealth University | Richmond, VA. For details contact National Association for Ethnic Studies (NAES), Department of Ethnic Studies, Colorado State University, 1790 Campus Delivery, Fort Collins, CO 80523-179, www.ethnicstudies.org.

American Indian Higher Education Consortium (AIHEC) 2018 Spring Board Meeting is March 9-10, 2018 in Rapid City, SD. For information go to: <http://www.aihec.org/who-we-are/calendar.cfm>.

American Indian Higher Education Consortium (AIHEC) 2018 Student Conference is March 11-14, 2018 in Rapid City, SD. For information go to: <http://www.aihec.org/who-we-are/calendar.cfm>.

The 41st Annual California Conference on American Indian Education is March 12-14, 2018. For more information, contact: Achel McBride: (530)895-4212 x 110, Irma Amaro: (707)464-3512, or Judy Delgado at 916-319-0506, judelgado@cde.ca.gov, or go to: <http://www.ccaie.org/>.

Tribal Interior Budget Council, March 20 - 22, 2018 is March 20-22, 2018, in Washington, DC. For details visit: <http://www.ncai.org/conferences-events/ncai-events>.

Washington Association of Bilingual Education: Annual Conference is March 22-24, 2018 in Tacoma, WA. For details go to: <http://wabewa.org/>.

Tribal Self-Governance Second Quarterly Meeting is March 27-29, 2018, at Embassy Suites, DC-Convention Center, Washington, DC. For details visit: <http://www.ncai.org/conferences-events/ncai-events>.

5th INDIGENOUS STOP DOMESTIC AND FAMILY VIOLENCE NATIONAL CONFERENCE is 28-29 MARCH 2018, at the MARRIOTT HOTEL, BRISBANE, Australia. For details visit: <https://adminics.wixsite.com/indigenousconference/2018-indigenous-domestic-violence-c>.

American Indian Cultures and Literatures area of the PCA/ACA (Popular Culture Association/American Culture Association) National Conference 2018 is March 28-31, 2018, in Indianapolis, IN. For details Visit: <http://www.pcaaca.org/conference/national.php>.

The Western Political Science Association (WPSA) 2017, March 29-31, 2018, is at the Hyatt Regency Embarcadero, San Francisco, CA, and will likely include one or more Race, Ethnicity and Politics panels that could include Indigenous issues. For details go to: <http://wpsa.research.pdx.edu/>

Federal Bar Association's Indian Law Conference is April 5-6, 2018, at Talking Stick Resort, 9800 E. Indian Bend Road, Scottsdale, AZ 85256. <http://www.ncai.org/conferences-events/ncai-events>.

Fourteenth Annual Southeast Indian Studies Conference is being held on campus at the University of North Carolina, Pembroke, NC, at the University Center Annex, April 12-13, 2018. Conference details will be posted to the American Indian Studies <http://www.uncp.edu/ais/> and Southeast American Indian Studies <http://www.uncp.edu/sais/> websites as they become available.

Alaska Native Studies Conference 2018 is April 13-18, 2018 at the University of Alaska Fairbanks campus. For information go to: <http://alaskanativestudies.org>.

The 12th Giving the Gift of Language: A Teacher Training Workshop for Native Language Instruction and Acquisition, SILC: Strengthening Indigenous Languages and Cultures: A Teacher Training Workshop for Native Language Instruction and Acquisition is April 14-16, 2016, at Missoula, MT. For information visit: <http://www.nsilc.org/index.htm>.

NICWA Annual Conference is April 15-18, 2018 in Anchorage, AK. For details visit: <http://www.ncai.org/conferences-events/ncai-events>.

46th Annual Symposium on the American Indian is at Northeastern State University, University Center, Tahlequah, OK, is April 18-21, 2018. For details visit: <http://www.cts.nsuok.edu/NSUSymposium.aspx>.

NAFOA - 36th Annual Conference is April 23-24, 2018, at The Roosevelt, New Orleans, LA. For details visit: <http://www.ncai.org/conferences-events/ncai-events>.

United Nations Permanent Forum on Indigenous Issues (UNPFII)
<https://www.un.org/development/desa/indigenouspeoples/unpfii-sessions-2/sessions.html> 17th Session will be held at the United Nations Headquarters in New York from April 16-27, 2018. For information visit: <https://www.un.org/development/desa/indigenouspeoples/unpfii-sessions-2/sessions.html>.

The **10th International Conference on Climate: Impacts and Responses** is April 20–21 April 2018 at University of California at Berkeley, Berkeley, CA. The Climate Change Conference is for any person with an interest in, and concern for, scientific, policy and strategic perspectives in climate change. It will address a range of critically important themes relating to the vexing question of climate change. Plenary speakers will include some of the world's leading thinkers in the fields of climatology and environmental science, as well as numerous paper, workshop and colloquium presentations by researchers and practitioners. For details go to: <http://on-climate.com/the-conference>.

National Center for Great Lakes Native American Culture, 2018 NCGLNAC Academic Conference: *Great Principal Peacetme Chiefs*, is April 21, 2018, in the Bubp Building, Jay County Fairgrounds, Portland, Indiana. For details visit: www.ncglnac.org.

The University of Valladolid, in Valladolid, Spain will host the **4th International Conference on Multilingual Language Theories and Practices (MLTP2018)**, April 25-27, 2018. For more information go to: <https://mltp18.wordpress.com>.

The 13th Annual Conference on Endangered Languages and Cultures of the Americas may be in May 2018. For details go to: <http://www.cail.utah.edu>, or contact Jennifer Mitchell: cail.utah@gmail.com.

22nd Navajo Studies Conference may be at Northern Arizona University, Flagstaff, Arizona, may be in May 2018. For details go to: <http://www.navajostudies.org>.

Affiliated Tribes of Northwest Indians (ATNI) Mid Year Convention 2018 may be in May 2018. For details go to: <http://www.atntribes.org>.

Annual Vine Deloria, Jr. Indigenous Studies Symposium may be in May 2018 at Northwest Indian College, Bellingham, WA., (360)392-4307, www.nwic.edu.

The 8th Native American and Indigenous Studies Association Annual Conference may be in May, 2018, in Tucson, AZ. For more information go to: <http://naisa.ais.arizona.edu/>.

20th Annual Workshop on American Indigenous Languages (WAIL2016) may be in May 2018, at UCSB Department of Linguistics. For information visit: <http://www.linguistics.ucsb.edu> or <http://osl.sa.ucsb.edu/org/nail/WAIL>.

CCERBAL 2018 Conference: Translanguaging: Opportunities and Challenges in a Global World is at Canadian Centre for Studies and Research on Bilingualism and Language Planning (CCERBAL),

Official Languages and Bilingualism Institute (OLBI), University of Ottawa, May 3-4, 2018. For details visit: <http://www.aila.info/en/>.

Tribal Interior Budget Council is May 22- 24, 2018 in Washington, DC. For details visit: <http://www.ncai.org/conferences-events/ncai-events>.

The (Australian) National Indigenous Domestic and Family Violence Conference (STOP) is May 23-25, 2018 at Seaworld International Resort, Gold Coast, QLD, Australia. For details visit: <https://www.indigenousconferences.com/national-indigenous-domestic-violen>.

Breath of Life / Workshop for California Indian Languages may be in June 2018, For details visit: <http://www.aicls.org>.

24th Annual Stabilizing Indigenous Languages Symposium may be at the University of Hawaii at Hilo, in June 2018. Information will become available at www.uhh.hawaii.edu.

The Native American Student Advocacy Institute may be in June 2018. For details visit: <http://nasai.collegeboard.org/>.

25th Stabilizing Indigenous Languages Symposium may be in June 2018. For information visit: <http://sils2018.com>.

Fostering Indigenous Business and Entrepreneurship in the Americas Conference: FIBEA 2018 may be in June 2018. For information and to make submissions contact fibea@mgt.unm.edu, or visit <http://conferences.mgt.unm.edu/fibea/> or <http://fibeamanaus.mgt.unm.edu/defaultENG.asp>.

4th Annual Stabilizing Indigenous Languages Conference and 6th Western Symposium on Language Issues (WeSLI) may be in June 2018. For details go to: <http://jan.ucc.nau.edu/~jar/AIE/conf.html>.

6th Annual Indigenous Peoples' Rights Course & Field Visit in Costa Rica by Human Rights Education Associates (HREA) and University for Peace (UPEACE), Costa Rica: E-Learning Course Indigenous Peoples' Rights: may be June - July, 2018; Field Visit: Amburi, Talamanca, Costa Rica: August, 2017. For details go to: http://www.hrea.org/index.php?base_id=1457&language_id=1

The Society of American Indian Government Employees (SAIGE) is a national non-profit organization that advocates for American Indian and Alaska Native federal employees. **SAIGE 15th Annual National Training Program** may be in June 2018. Information is available from the Society of American Indian Government Employees, P.O. Box 7715, Washington, D.C. 20044, www.saige.org.

UCLA American Indian Studies Center Summer in Montana may be in June 2018. For details see: www.aisc.ucla.edu/news/.../Summer%20in%20Montana%20flyer.pdf.

Dene Languages Conference may be in June 2017, and will likely be held in the Southwest, in Apache country. For information go to: <http://www.uaf.edu/alc/>.

SYLAP 2018 (Shoshonian language summer program) may be in June and July 2018 on the campus of the University of Utah. For details go to: <http://shoshoniproject.utah.edu/2015/12/sylap-2017-application/>.

The Northwest Indian Language Institute Summer 2018 may be in June 2018, at the University of Oregon, Eugene, OR. For details go to: <http://pages.uoregon.edu/nwili/>.

8th International Conference on Bantu may be in June 2018. For details go to: <http://linguistlist.org/callconf/browse-conf-action.cfm?ConfID=190196>.

The **Breath of Life Language Restoration Workshop for California Languages** may be in June 2018. For details visit, <http://www.aicls.org>.

The **2018 Institute on Collaborative Language Research (CoLang)** may be in June and July 2018. For information about SSILA go to: www.ssila.org.

2018 International Stolen Generations Conference, may be in June 2018, in Sidney, Australia. For details go to: <http://www.indigenousconferences.com>.

2018 Dene / Athabaskan Language Conference & Workshop may be in June or July 2018. For details go to: <https://2017denelanguageconference.weebly.com>

13th Lancaster Postgraduate Conference in Linguistics and Language Teaching (LAEDG 2018) may be in June or July 2018. For details go to: <http://www.lancaster.ac.uk/fass/events/laelpgconference/index.htm>.

SYLAP 2018 (Shoshonian language summer program) may be in June and July 2018 on the campus of the University of Utah. For details go to: <http://shoshoniproject.utah.edu/>.

NCAI 2018 Mid Year Conference & Marketplace is June 3 - 6, 2018, in Kansas City, MO. For details visit: <http://www.ncai.org/conferences-events/ncai-events>.

5th Annual American Indian Higher Education Consortium (AIHEC) Behavioral Health Institute is June 18-21, 2018. For details visit: <http://www.aihec.org/who-we-are/calendar.htm>.

9th Austronesian and Papuan Languages and Linguistics Conference is June 21-23, 2018, in Paris, France. For information go to: http://lacito.vjf.cnrs.fr/colloque/apll9/index_en.htm or <http://www.soas.ac.uk/linguistics/events/apll8-conference/>.

9th American Indian and Indigenous Education Conference is June 22-23, 2018 at Northern Arizona University's College of Education at Northern Arizona University, Flagstaff, AZ, in June 2018. To get updated information on this conference visit: <http://nau.edu/AIE>.

CARLA - Center for Advanced Research and Language Acquisition - run a series of summer institutes for language and immersion teachers in July 2018." For details, go to: <http://carla.umn.edu/>.

9th International 3L Summer School: Endangered Languages: From Documentation to Revitalization may be in July 2018. For details visit: <http://www.ddl.ish-lyon.cnrs.fr/>.

NCAIS Graduate Student Conference at the Newberry Library in Chicago may be in July 2018. "The Consortium offers graduate students from NCAIS member institutions an opportunity to present papers in any academic field relating to American Indian Studies at the Graduate Student Conference. We encourage the submission of proposals for papers that examine a wide variety of subjects relating to American Indian and Indigenous history and culture broadly conceived. For details go to <http://www.newberry.org/>.

NCAIS Summer Institute, may be in July and August 2018. For more information go to: www.newberry.org/mcnickle.

9th Cambridge Conference on Language Endangerment: 'Language Endangerment: Language Contact and Language Change', may be in July 2018, at the University of Cambridge, Cambridge, UK. For information go to: <http://www.mml.cam.ac.uk/>.

2018 UNITY National Conference may be in July 2018. For details go to: <http://unityinc.org/events/>.

CARLA: The Center for Advanced Research in Language Acquisition has a series of Summer Institutes of different lengths on a variety of topics beginning in July 2018. The schedule will be available at: <http://carla.umn.edu/institutes/2017/schedule.html>.

Duel Language Education of New Mexico: Bueno Center 2018 Summer Institute, Two-day summer institute about the education of culturally and linguistically diverse learners, May be in July 2018. For information go to: <http://www.dlenm.org/>.

New Mexico Language Education of New Mexico: Paridad - Oaxaca (Language Arts Education) may be in July and August 2018. For details go to: <http://www.dlenm.org/index.php/resources/calendar/21-paridad-oaxaca-language-arts-education>.

New Mexico Language Education of New Mexico: Paridad - Oaxaca (Language Arts Education) may be in July and August 2018. For details go to: <http://www.dlenm.org/index.php/resources/calendar/21-paridad-oaxaca-language-arts-education>.

2018 CHRONIC DISEASE CONFERENCE is at PULLMANS CAIRNS INTERNATIONAL Hotel, Cairns, Australia, 3-5 JULY 2018. For details go to: <https://adminics.wixsite.com/indigenousconference/2018-international-chronic-disease>.

2018 National Indigenous Employment Conference is July 5 - 6, 2018 Canberra, Australia at Rex Hotel. For details visit: <https://www.icsconferences.org/2017-national-indigenous-employment>.

The Black Thunder: Power Of Black Voices Towards 2020 Conference is July 5 - 6 , 2018 Canberra, Australia at Rex Hotel. For details visit: <https://www.icsconferences.org/2017-national-indigenous-employment>.

CFP: Norm and standardization in indigenous languages of the Americas, at the 56th International Congress of Americanists: Universality and Particularism in the Americas University of Salamanca, July 15–20. For information go to: <http://ica2018.es/linguistica-y-literatura/>

Tribal Self-Governance Third Quarterly Meeting is July 17- 19, 2018, at Embassy Suites DC-Convention Center, Washington, DC. For information go to: <http://www.ncai.org/conferences-events/national-events>.

The 2018 annual meeting of the Linguistic Association of Canada and the United States, the 45th LACUS Forum is July 23-27, 2018, at Boston College in Boston, Massachusetts, in conjunction with the 2018 International Systemic Functional Congress. For details visit: <http://lacus.weebly.com>.

The 2018 annual meeting of the Linguistic Association of Canada and the United States, the 45th LACUS Forum is July 23-27, 2018, at Boston College in Boston, Massachusetts, in conjunction with the 2018 International Systemic Functional Congress. For details visit: <http://lacus.weebly.com>.

TCU Summer Meeting) is July 30-August 2, 2018 at Salish Kootenai College, Pabo, MT. For information go to: <http://www.aihec.org/who-we-are/calendar.htm>.

NAAAS (including The National Association of Native American Studies) International Research Forum may be in August 2018. For details visit: <https://www.naaas.org/view-calendar/>.

Syntax of the World's Languages VIII (SWL VIII) may be in August 2018. For details visit: <http://swl-7.weebly.com/>.

3rd Indigenous People's International Gathering to Honor, Defend, and Protect the Salomon may be in August 2018. For information contact: Chicaloon Native Village (907)745-0749.

53rd International Conference on Salish and Neighboring Languages may be in August 2018. More information is available at: <http://icsnl.org> or <http://linguistlist.org/callconf/browse-conf-action.cfm?ConfID=208896>, or http://cdn5.iitc.org/wp-content/uploads/Flyer-for-Salmon-Conference_web.pdf.

35th Summer School and Conference of Applied Language Studies may be in August, 2018. For details go to: <http://www.aila.info>.

NAAAS (including The National Association of Native American Studies) International Research Forum may be in August 2018. For details visit: <https://www.naaas.org/view-calendar/>.

Syntax of the World's Languages VIII (SWL VIII) may be in August 2018. For details visit: <http://swl-7.weebly.com/>.

3rd Indigenous People's International Gathering to Honor, Defend, and Protect the Salomon may be in August 2018. For information contact: Chicaloon Native Village (907)745-0749.

XVII International Conference on Minority Languages may be in August 2018. For details go to: <http://linguistlist.org/>.

53rd International Conference on Salish and Neighboring Languages may be in August 2018. More information is available at: <http://icsnl.org> or <http://linguistlist.org/callconf/browse-conf-action.cfm?ConfID=208896>, or http://cdn5.iitc.org/wp-content/uploads/Flyer-for-Salmon-Conference_web.pdf.

35th Summer School and Conference of Applied Language Studies may be in August, 2018. For details go to: <http://www.aila.info>.

2018 [Indigenous] Chronic Disease Conference Pullmans is at Pullman Cairns International, 1st - 3rd August 2018. For details go to: <https://www.icsconferences.org/2018-international-chronic-disease>.

2017 WINHEC Annual Meeting is August 20-24, 2018, at Sarni allaskuvla (Sami University of Applied Sciences) Gvovdageaidu, Norway. For information visit: <http://winhec.org>.

American Indian Higher Education Consortium (AIHEC) Summer Board Meeting is August 26-28, at Iḷisaġvik College, Barrow, AK. Iḷisaġvik College. For details visit: <http://www.aihec.org>.

13th Biannual Advocates for Indigenous California Language Survival may be in September 2018. For details visit: <http://www.aicls.org>.

4th Language and Language Teaching Conference (LLTC) 2018 may be in September 2018. For details visit: <https://sites.google.com/site/usdlltc/>.

47th Annual Meeting of the Linguistic Association of the Southwest may be in fall 2018. For details go to: <http://clas.ucdenver.edu/lasso/index.html>.

The 7th World Sustainability Forum may be in September 2018. The conference will cover areas like the globe, extreme poverty and hunger have been reduced, and infant, child, and maternal mortality have decreased. For details, visit: <https://10times.com/world-sustainability-forum>.

ATNI Fall Annual Convention 2018, Hosted by The Colville Confederated Tribes, may be in September, 2018. For details go to: <http://www.atntribes.org>.

20th Annual American Indian Tourism Conference may be in September 2018. For details go to: <http://clas.ucdenver.edu/lasso/index.html>.

Tribal Self-Governance Strategy Session is September 5-6, 2018 Mohegan Sun Resort, Uncasville, CT. For details visit: <http://www.ncai.org/conferences-events/ncai-events>.

National Indigenous Youth And Juvenile Justice Conference: Justice Without Bars is September 17-18, 2018 at Marriott Brisbane, in Brisbane, Australia. For details go to: <https://www.icsconferences.org/2018-juvenile-justice-conference>.

10th Annual Tusweca Tiospaye 2016 Lakota Dakota Nakota Language Summit and FirstNations Education Summit" may be in October 2018. For details visit: <http://tuswecatiospaye.org/>.

The **50th Algonquian Conference** may be in October 2018. For information visit: <http://uwm.edu/eqi/wp-content/uploads/sites/130/2016/06/48th-Algonquian-CFP.pdf>, <https://www.eventbrite.com/> or <http://www.ssila.org>.

8th International Conference on Language Immersion Education may be in October 2018. For details visit: <http://www.carla.umn.edu/conferences/LTE2015/>.

USET SPF Annual, hosted by Eastern Band of Cherokee Indians, may be in October 2018. For details go to: <http://www.usetinc.org>.

NAAS 2018 International Research Conference may be in October 2018. For details visit: <https://www.naaas.org>.

15th Annual ALAS Education Summit may be in October 2018. For details go to: <http://www.dlenm.org/index.php/resources/calendar/23-alas-education-summit>.

Puliima National Indigenous Language and Technology Forum 2018 may be in October 2018 ,at Pullman Cairns International, 17 Abbott Street, Cairns, Queensland, 4870. For information go to: <http://www.puliima.com>.

The Indigenous Studies Area of the Midwest Popular Culture Association at the annual Midwest Popular Culture Association/American Culture Association conference may be in October 2018. For information about the conference please visit the conference website at www.mpcaaca.org/conference.

Communities in Control: Learning tools and strategies for multilingual endangered language communities: Mercator-SOAS-CIDLeS & FEL Conference may be in October 2018. For details go to: <http://mpcaaca.org>

14th Language is Life Biennial Conference may be in October 2018. For details, visit: <http://www.aicls.org/>.

The **annual Friends of Uto-Aztecan Conference (FUAC)** may be in October 2018. For details visit: <http://www.ssila.org>.

Community-Based Heritage Language Schools meeting may be in October 2018. For information go to: <http://www.international.ucla.edu/institute/event/12505>.

Annual, Sunrise Gathering on Alcatraz Island: Day of Solidarity with Indigenous People may be in October 2018. For details go to: <http://www.iitc.org/conferences-events/community-events/>.

The 14th International MEDCOAST Congress on Coastal and Marine Sciences, Engineering, Management & Conservation may be October or November 2018. For details go to: conference.medcoast.net, or medcoast@medcoast.net, <http://www.medcoast.net/>.

NAFOA 2018 Fall Finance & Tribal Economies Conference is Oct 1, 2018 - Oct 2, 2018 at the Hyatt Regency Tamaya Resort and Spa, Santa Ana Pueblo, NM. For details visit: <http://www.ncai.org/conferences-events/ncai-events>.

American Indigenous Research Association Meeting is October 6-8, 2018. For details go to: <http://www.americanindigenousresearchassociation.org/annual-meeting/>

2017 World Indigenous Business Forum is October 9-11, 2018 in Rotorua, New Zealand. For details go to: <http://wibf.ca/>.

The 2018 International Conference of Indigenous Archives, Libraries, and Museums (ATALM) is: Summits, tours and workshops - October 8-9, Conference - October 10-11, 2018 at Mystic Lake Casino Hotel, Prior Lake, MN. For information, visit: <http://www.atalm.org>. Please direct questions to atalminfo@gmail.com.

American Indian Higher Education Consortium (AIHEC) 2018 Fall Board Meeting is October 9-10, 2018 in Hartford, CT. For information go to: <http://www.aihec.org/who-we-are/calendar.cfm>.

NIEA National Convention is in Hartford, CT, October 10-14, 2018. For details visit: <http://www.ncai.org/conferences-events/ncai-events>.

NCAI 75th Annual Convention & Marketplace is October 21-26, 2018 in Denver, CO. For details visit: <http://www.ncai.org/conferences-events/ncai-events>.

Tribal Self-Governance Fourth Quarterly Meeting is October 23-25, 2018 in Washington, DC. For details visit: <http://www.ncai.org/conferences-events/ncai-events>.

7th International Conference on Language, Education and Diversity (LED 2018) may be in November 2018. For details visit: <https://led.education.auckland.ac.nz>.

2018 La Cosecha Dual Language Conference may be in Albuquerque, NM, in November 2018. For details visit: <http://www.cvent.com/events/2017-la-cosecha-dual-language-conference/event-summary-73f727d1df4f45ecae45d203a1128931.aspx>.

The 10th Annual Honoring Native Foodways may be in November 2018 in the University Center Annex, University of North Carolina, Pembroke. For information go to: <https://uncpphoto.smugmug.com/Events/2015/Native-Foodways/>.

2018 Collins Lecture, on environmental issues may be in November 2018, at Trinity Episcopal Cathedral, 147 NW 19th Ave, Portland. For details go to: http://www.emoregon.org/2017_collins_lecture.php.

Keres Children's Learning Center (KCLC), Native Language Symposium: A Cross-Generational Model of Indigenous Education— Reclaiming the Education of Our Children: may be in November 2018, at the Indian Pueblo Cultural Center, Albuquerque, New Mexico. There will be presentations and discussions surrounding various models of education, with the hope of connecting participants, providing resources, and furthering the movement toward educational sovereignty by redefining achievement within Indian Education. For questions or more information, please contact tracordero@gmail.com or trisha@kclcmontessori.org, or go to: <http://www.dlenm.org/index.php/homepage/news>.

The 7th National Closing the Gap Indigenous Health Conference may be held at the Pullman Cairns International Hotel, Cairns, Australia, in November or December 2018. For details visit: <https://adminics.wixsite.com/indigenousconference/our-products>.

The 2018 National Indigenous Mental Health & Wellbeing: Out of the Shadows may be held at the Pullman Cairns International Hotel, Cairns, Australia, in November or December 2018. For details visit: <https://adminics.wixsite.com/indigenousconference/2017-indigenous-mental-health-conference>.

USHRN Bi-annual Human Rights Conference may be in December 2018. See more at: <http://www.ushrnetwork.org/>. For more information and registration: <http://www.ushrnetwork.org/>.

5th Annual International Conference on Poverty and Sustainable Development may be in December 2018. For information go to: <http://povertyconferences.com>.

The 2018 National Indigenous Employment Conference may be held in Canberra, Australia, in December 2018. For details visit: <https://adminics.wixsite.com/indigenousconference/2017-national-indigenous-employment>.

FALCON Annual Conference is November 3-6, 2018, in Arlington, VA. For information go to: <http://falcon.aihec.org/Pages/FALCONHome.aspx>

TribalNet 19th Annual Conference and Tradeshow is November 5-8, 2018, in Las Vegas, NV. For details visit: <http://www.ncai.org/conferences-events/ncai-events>.

Tribal Interior Budget Council is November 14-16, 2018, in Washington, DC. For details visit: <http://www.ncai.org/conferences-events/ncai-event>.

The National Association for Multicultural Education: **NAME 2018 Annual International Conference:** #NAME2017 is in Memphis, TN, November 27-30, 2018. For details visit: <http://www.nameorg.org/>.

First Nations Language Keepers Conference may be in December 2018 at the Saskatoon Inn and Conference Centre in Saskatoon, Saskatchewan, Canada. Details are available at: <http://www.sicc.sk.ca/>.

First [Australian] National Indigenous NDIS Conference is December 11-13, 2018, at the Marriott Brisbane, Brisbane, Australia. For information go to: <https://www.icsconferences.org>.

Seventh International Conference on Immersion and Dual Language Education is February 6–9, 2019 in Charlotte, North Carolina. For details visit: <http://carla.umn.edu/conferences/index.html>.

NCAI 2019 Executive Council Winter Session is February 10-14, 2019, in Washington, DC. For details visit: <http://www.ncai.org/conferences-events/ncai-event>.

ICLDC 6: Connecting Communities, Languages, and Technology is February 28 - March 3, 2019 at International Conference Center, Honolulu, HI. For details visit: <http://icldc-hawaii.org>

AIHEC 2019 Winter Board Meeting is February 11-14, 2019 at Holiday Inn Capitol (tentative), at Washington, D.C. For details visit: <http://www.aihec.org/who-we-are/calendar.htm>.

AIHEC 2019 Spring Board Meeting is March 14-16, in Billings, MT. For details visit: <http://www.aihec.org/who-we-are/calendar.htm>.

AsiaLex 2019 may be in June 2018. For information go to: <http://www.adelaide.edu.au/australex/>.

2019 Mid-Year Conference & Marketplace is June 23-26, 2019, in Reno, NV (Contracts pending). For details visit: <http://www.ncai.org/conferences-events/ncai-events>.

TCU Summer Meeting at SKC is July 22-26, 2019, at Salish Kootenai College, Pablo, MT. For details visit: <http://www.aihec.org/who-we-are/calendar.htm>.

Austral Conference 2019 is August 28-29, 2019. For information visit: <http://www.adelaide.edu.au/australex/>.

AIHEC 2019 Fall Board Meeting is October 7-9, 2019, in Minneapolis, MN. For details visit: <http://www.aihec.org/who-we-are/calendar.htm>.

50th Annual NIEA Convention and Trade Show is October 9-12, 2019, in Minneapolis, MN. For details visit: <http://www.aihec.org/who-we-are/calendar.htm>.

2019 Annual Convention & Marketplace is October 20, 2019 - Oct 25, 2019, in Albuquerque, NM. For details visit: <http://www.ncai.org/conferences-events/ncai-events>.

AIHEC 2020 WINTER Meeting is February 10-13, 2020 at the Holiday Inn Capitol, Washington, DC. For details visit: <http://www.aihec.org/who-we-are/calendar.htm>.

AIHEC 2020 Spring Student Conference is spring 2020. AIHEC 2020 Spring Student Conference. For details visit: <http://www.aihec.org/who-we-are/calendar.htm>.

2020 Mid Year Conference & Marketplace is June 7, 2020 - Jun 11, 2020, in Anchorage, AK

(Contracts pending). For details visit: <http://www.ncai.org/conferences-events/ncai-events>.

AILA (Association Internationale de Linguistique Appliquee) World Congress will take August 9-14, 2020, at The University of Groningen, in Groningen, The Netherlands. Visit the Congress website aila2017.com.br for more detailed information about the venue and the conference, or go to: <http://www.aila.info>.

2020 Annual Convention & Marketplace is Oct 25, 2020 - Oct 30, 2020, in Sacramento, CA (Contracts pending). For details visit: <http://www.ncai.org/conferences-events/ncai-events>.

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ONGOING ACTIVITIES

Steve Sachs

Environmental Activities

"COP 23: Survival calls for stronger tribal voice at global climate conference," Survival International, November 3, 2017, <https://www.survivalinternational.org/news/11858>, reported, **"Survival International is calling for greater recognition from world leaders for tribal peoples' crucial role in protecting the environment, ahead of the COP 23 conference in Bonn, Germany."**

The conference, which takes place between November 6 and November 17, is a follow up to the groundbreaking Paris climate talks in 2015, and brings together government representatives and activists from around the world, including some indigenous people, to discuss environmental issues.

Survival has been leading the global call for a conservation model that respects tribal peoples' rights. This has been increasingly acknowledged by key international figures, including the United Nations Special Rapporteur for Indigenous Peoples, Victoria Tauli-Corpuz.

Davi Kopenawa, a Yanomami shaman known as the Dalai Lama of the rainforest, said: "The rains come late. The sun behaves in a strange way. The world is ill. The lungs of the sky are polluted. We know it is happening. You cannot go on destroying nature."

Evidence proves that tribal territories are the best barrier to deforestation. Robust land protection measures and recognition of tribal land rights protect vast areas of forest, aiding biodiversity and reducing global CO2 levels.

But despite this, some of the big conservation organizations are partnering with industry and tourism and destroying the environment's best allies. The World Wildlife Fund (WWF) and The Wildlife Conservation Society (WCS) have both partnered with logging companies in the Congo Basin, none of which is logging at sustainable rates, and both have contributed to gross violations of the rights of tribal peoples like the Baka and Bayaka.

Although some indigenous activists like Sonia Guajajara from Brazil will be present at the talks, tribal peoples' voices will not be at the center of the conference. This is despite the fact that tribal peoples are the best conservationists and guardians of the natural world, and should be at the forefront of the environmental movement.

Survival's Director Stephen Corry said: **"It's dangerous to sideline tribal people in discussions on how best to protect our planet. They have far greater insight into how to look after the environment than anyone and we ignore their knowledge at our peril."** For decades, industrialized society has ravaged the planet and destroyed indigenous peoples along the way. It's time we started listening to them before it's too late."

Climate Truth.org reported, July 27, 2017, concerning a petition campaign, **"The Trump Administration just found a new low in its attacks on science! Last week, the top climate policy official at the Department of the Interior, Joel Clement, went public with a whistleblower complaint after he was demoted to an accounting office."**

Now his career is on the line, and the integrity of one of our nation's most critical defenses against climate disruption is at stake. Clement filed a formal whistleblower complaint on Wednesday, and Senators on both sides of the aisle are now pushing for an investigation.

His story is quickly gaining media attention, but with so much noise in the national conversation, we can help ensure that attention stays focused on Clement and the more than 50 others forced from their jobs at the Department."

"This was no routine shuffle. After consulting with the White House on the need for climate adaptation policy, Clement was pulled from his work with Native Alaskan communities displaced by rising seas. He was then reassigned to — get this — collecting royalty payments from fossil fuel extraction on public lands. A more insulting push out the door is hard to imagine.

Clement is just one of 50 employees at Interior who were given just two weeks' notice that they would be re-assigned — an unprecedented shakeup that some say was politically motivated. 'Let's be honest: The Trump administration didn't think my years of science and policy experience were better suited to accounts receivable. 'Clement wrote in the Washington Post on Wednesday, 'It sidelined me in the hope that I would be quiet or quit.'"

"Senators Maria Cantwell (D-WA) and Lisa Murkowski (R-AK) have both requested more information from the Department of Interior about the decision to relocate Clement and his colleagues. Supporting their requests now puts Zinke in a tough spot — he'll have to either cave to pressure, or reveal the dubious motives behind his attacks on climate science within the Department.

This malfeasance at Interior is just the latest in an ongoing string of attacks on science — especially climate science — from the Trump Administration. The attacks will surely keep coming, and we'll keep on fighting back with all we've got.

Truthfully Yours,

Brant, Amanda, Emily and the rest of the ClimateTruth.org Action team"

350.org main focus at the end of August 2017 was, "Stop Fossil Fuels. Build 100% Renewables. We are standing up to the fossil fuel industry to stop all new coal, oil and gas projects and build clean energy for all."

Featured projects were: **"#SolarXL: we're launching a campaign to stop Keystone XL and build clean energy directly in its path;" "UNESCO: Protect culture, not coal: With coal plants built in civilization heritage sites, even our past is at stake. Tell @UNESCO to #saveheritage sites;" and "Support the Paris Agreement and Climate Action" We're all-in on action, no matter what Trump says."**

For details go to: <http://act.350.org/>.

Kendall Mackey - 350.org [mailto:350@350.org, wrote, November 4, 2017, "e been fighting Keystone XL with renewable energy s"o""Friends,

The latest installation of solar panels directly in the path of the Keystone XL pipeline are going up in Nebraska this month. If TransCanada wants to build its dirty tar sands pipeline, they'll have to tear down clean, renewable energy.

Solar XL not only provides clean energy, it tells an inspiring story about the people and places who are standing up to resist Trump's agenda and TransCanada's dirty tar sands pipeline.

This pipeline is not a done deal. In order to build it, TransCanada needs one final permit from Nebraska's Public Service Commission (PSC), which will vote to approve or deny the permit this month.

In August, we delivered nearly 500,000 public comments and marched through Nebraska's state capital with our partners to urge the PSC to reject the permit, but that's not all. The climate movement — including Indigenous leaders, farmers, ranchers, and activists like you — has been fighting for several years to keep dirty tar sands in the ground and stop this and every destructive project like it.

This movement is growing and only getting stronger. We're ready to take bold action to protect our water and climate if Keystone XL gets approved. Stay tuned for an announcement before the end of November."

Watch this inspiring new film that shares the stories of the people and vision behind

#SolarXL - then help build the momentum by sharing it far and wide at: https://350.org/solar-xl/?akid=28721.602582.c3XztI&rd=1&t=5&utm_medium=email&utm_source=actionkit#film.

This 8-minute film takes you to the Cheyenne River Sioux Reservation in South Dakota where the pipeline would run less than a mile outside its border. It brings you along the river that the Tribe depends on for drinking water that would be contaminated when the pipeline leaks.

It also features Jim Carlson and his farm in Nebraska where the first solar installation went up in his family's corn fields. We learn what this pipeline would mean for his health, family, and well-being and why he's been fighting this project for seven years."

EquatorBankAct announced, October 14, 2017, https://petitions.signforgood.com/EquatorBanksAct/?code=198m&link_id=4&can_id=2304a48b2891e77b9b6c14d1ce535f4f&source=email-big-news-big-french-bank-defunds-pipelines-2&email_referrer=email_248034&email_subject=big-news-big-french-bank-defunds-pipelines, "French Bank BNP Paribas took a step in the right direction. 90 more banks to go: French Mega-bank BNP Paribas announced this that it's cutting its funding for extreme oil and fracked gas projects in the US and Canada. While we (and our friends in France) will need to monitor the implementation and details, the news is REALLY GOOD."

Specifically: BNP Paribas will not fund new exploration, production, transportation and export projects related to Tar sands, fracked gas and the Arctic, nor the companies involved; The announcement includes a ban on funding Keystone XL and TransCanada, Line 3 and Enbridge, a Texas fracked gas export facility and any future gas export terminals in the Gulf; and more!:"

"Joint Statement on the US Army Corps of Engineers' Approval of the Bayou Bridge Pipeline: Stop Energy Transfer Partners' Coalition vows to continue opposing ETP's proposed crude oil pipeline through southern Louisiana, Indigenous Environmental Network, December 15, 2017, <https://www.mynewsletterbuilder.com/email/newsletter/1413268300>, stated, " Yesterday, the U.S. Army Corps of Engineers granted permits to Bayou Bridge, LLC, a subsidiary of Energy Transfer Partners, to construct a 162.5-mile crude oil pipeline from Lake Charles to St. James, Louisiana. The Army Corps of Engineers refused to conduct a full Environmental Impact Statement for the project, despite pleas for such a study from communities directly impacted by the pipeline.

In response to the Bayou Bridge permit approvals, leaders of organizations in the Stop Energy Transfer Partners Coalition released the following statements:

Cherri Foytlin, Bold Louisiana: 'To be honest, my hopes were never with the state and federal agencies who have consistently proven their lack of vision and scarcity of protection for the people and waters of this great state. The idea that this company, Energy Transfer Partners, who has destroyed land and water all over the United States, who carry the designation of "worst spill record," who has created and maintained space for human rights abuses upon peaceful people - that they would be allowed to endanger over 700 of our waterways for their own profit is not only inconceivable, but proof of a moral bankruptcy within our systems of environmental protections. Yet, this is where we are. And while I am saddened by the news, I am equally sure that we will stand together as the mothers, fathers, sisters, and brothers, to peacefully endeavor to right the wrong of these misguided and foolish permittings.'

Monique Verdin, United Houma Nation Tribal Councilmember: 'It's heartbreaking, but not surprising, that the Army Corps of Engineers would approve ANOTHER pipeline to be rammed through our already over exploited and fragile south Louisiana land and waters. 80,000 plus miles of pipelines crisscross our state and all those promises of jobs and progress, over the decades, have created places we call Cancer Alley and a state with some of the highest poverty in the nation. The Houma Nation and all those south of the proposed Bayou Bridge pipeline route deserve the right to clean water for drinking, for bathing, for fishing, for life. We know the risks and Energy Transfer Partners has got the track record for us to know the gamble is not worth it.'

Anne Rolfes, Louisiana Bucket Brigade: 'We've opposed this project because Energy Transfer Partners has a terrible track record. This company has already polluted drinking water around the country, and is now a threat to our drinking water and our Atchafalaya Basin. The pipeline will ram

through St. James Parish, a place already burdened by too much pollution. Why would we allow a company like ETP to come to Louisiana? We can do better than this. Our resistance will be peaceful. We will meet this pipeline with prayer. We are nonviolent. We are mothers, grandmothers, teachers and artists. We should be treated as the peaceful people that we are as this goes forward. ETP also has a track record of violence, and we don't need it in Louisiana.'

Alicia Cooke, 350 New Orleans: "As a regulatory agency, if you look at ETP's safety record, you have absolutely no cover to assert that this pipeline does not pose a threat to environmental quality in Louisiana. The state has an obligation to explore better economic opportunities for Louisianans that don't put our drinking water at risk or destroy our wetlands. The regulators of the state of Louisiana had a chance here to make substantive change to "business as usual", to put citizens over corporations - instead, they failed us. But ETP has not yet won, nor will they win. Together we are powerful, and together we will continue our peaceful, prayerful resistance.'

Dallas Goldtooth, Indigenous Environmental Network: "If Energy Transfer Partners wants to provoke a giant, then that's what they will get. Landowners, impacted communities, indigenous peoples and environmental groups have made their stance clear; for the benefit of the water, the land and Gulf Coast communities this dirty Bayou Bridge pipeline cannot be built. As we stood against DAPL and demand to keep fossil fuels in the ground, we stand against Bayou Bridge.'

Kelly Martin, Sierra Club: 'The Trump Administration is once again operating with reckless abandonment in its pursuit to put corporate polluters' profits above all else. In their attempt to force this pipeline on the people of Louisiana, communities and families will face further threats of polluted air and water, the threat of explosions, and spills. But the people are not finished fighting this project. We will continue to explore every avenue possible to stop this project from moving forward.'

Ethan Buckner, Earthworks: 'From North Dakota to Pennsylvania, Texas to Louisiana, Energy Transfer Partners has remained steadfast in its commitment to steamroll communities living, working and praying along the path of their proposed pipelines. Yesterday's permit approval isn't a surprise, but it is a disappointment. ETP has failed to adequately address the concerns of those whose livelihoods it stands to destroy. The Army Corps may grant a permit, but our communities will not grant permission.'

Brant Olson, Oil Change International: 'Plowing forward blindly to build this risky pipeline without even examining its environmental or climate impacts shows that this project isn't for Louisiana - it's for Wall Street. Unscrupulous investors and banks stand to make millions while our most under-resourced communities and the global climate pay the price. Responsible lenders should follow the lead of those already backing away from ETP and its reckless pipelines.'

Karen Feridun, Berks Gas Truth: 'Energy Transfer Partners has laid waste to community after community in Pennsylvania and Ohio. A month ago, we learned that the company had violated its permit by using horizontal directional drilling in my county where it was not permitted. When the drilling caused yet another spill, the company didn't report it. How long are regulators going to enable bad actors? The Army Corps should reverse its decision. We will fight until they do.'

Diana Best, Greenpeace USA: 'Greenpeace is proud to stand in solidarity with communities and local leadership opposing Energy Transfer Partners' proposed Bayou Bridge Pipeline. We collectively know that these pipelines leak, they spill, they explode, and they put drinking water, our climate, and the health and safety of communities at risk. They undermine Indigenous sovereignty and threaten human rights. This company has thrown everything they've got at trying to silence opposition to their controversial projects with intimidation tactics, including hiring unethical private security firms like TigerSwan, filing dubious lawsuits, and encouraging violent and dehumanizing treatment of indigenous communities and their allies. But we know that this movement will not be silenced. Our response: We will only grow louder!'

Kendall Mackey, 350.org: 'The Army Corps and Energy Transfer Partners should expect resistance. Bayou Bridge is another dangerous pipeline from a company that's shown complete disregard for Indigenous rights, the land and water, and our climate. Louisianans are already living on the frontlines of the climate crisis and the fence-lines of the fossil fuel industry's destruction. A thorough environmental impact statement would've proved what we already know -- that Bayou Bridge goes against everything we should be doing to protect our future.'

Hugh MacMillan, Food & Water Watch: "For ETP and Phillips 66 Partners, Bayou Bridge is the

icing on the cake. By providing access to the sprawling St. James oil trading hub, the pipeline would allow these companies to cash in on exporting fracked oil from North Dakota, transported to the Gulf Coast via another joint venture of theirs, the Dakota Access pipeline. Louisiana water protectors are bold and right in standing against this shortsighted pipeline. The companies and their financiers will be held to account.'

Learn MORE:

The **Bayou Bridge Pipeline is connected to the Dakota Access Pipeline** system via the Phillips 66 Partners terminal in Beaumont: <http://www.ogj.com/articles/print/volume-115/issue-3/transportation/us-gulf-coast-crude-terminals-expanding-to-meet-permian-growth.html>

Since 2006, **Energy Transfer Partners' projects** have experienced at least 329 **dangerous incidents** that resulted in a release, spill, injury or death to a person, emergency shutdown, explosion, fire, and/or property damage across the United States: <http://stopetp.org/wp-content/uploads/2017/12/ETP-Violation-History-12-15-17.pdf>

In May 2017, U.S. Congressman Cedric Richmond (LA-02) wrote a letter to the U.S. Army Corps of Engineers requesting a full Environmental Impact Study for the Bayou Bridge Pipeline. Email ebuckner@earthworksaction.org for a copy of that letter.

In November 2017, U.S. Congressman Raúl Grijalva (AZ-03), Ranking Member of the House Committee on Natural Resources, wrote a letter to the U.S. Army Corps of Engineers requesting a full Environmental Impact Study for the Bayou Bridge Pipeline: [http://democrats-naturalresources.house.gov/imo/media/doc/2017-11-](http://democrats-naturalresources.house.gov/imo/media/doc/2017-11-21%20RG%20to%20Army%20Corps%20on%20Bayou%20Bridge%20EIS.pdf)

[21%20RG%20to%20Army%20Corps%20on%20Bayou%20Bridge%20EIS.pdf](http://democrats-naturalresources.house.gov/imo/media/doc/2017-11-21%20RG%20to%20Army%20Corps%20on%20Bayou%20Bridge%20EIS.pdf)

In May 2017, several environmental groups and residents of St. James, Louisiana, filed a lawsuit alleging that the Louisiana Department of Natural Resources failed to adequately consider the impacts of accidents and spills associated with Bayou Bridge on St. James: http://www.nola.com/environment/index.ssf/2017/06/st_james_residents_enviros_cha.html

For several months, Louisiana communities have rallied at the Louisiana Department of Environmental Quality to demand a full Environmental Impact Statement for Bayou Bridge, and protection of Louisiana's pristine ecology and communities. See here for info on one of the recent rallies: <http://stopetp.org/2017/11/03/pr-ldeq-march/>

Earlier this year, Dutch bank ING and Norwegian bank DNB both announced that they would exit their financial relationships with ETP: <https://af.reuters.com/article/africaTech/idAFL5N1H310T>.

Lorraine Chow, Study: Fracking Chemicals Harm Kids' Brains," Eco Watch, October 25, 2017, <https://www.ecowatch.com/study-fracking-chemicals-harm-kids-brains-2501275054.html>, reported, "A **new study from the Center for Environmental Health adds to the growing body of evidence that unconventional oil and gas (UOG), which includes fracking, is harmful to human health and especially hazardous to vulnerable populations, including newborns and children.**

During the fracking process, a mixture of water, sand and chemicals is directed at high pressures into shale beds to release petroleum resources. This slurry involves the use of nearly 700 chemicals, the U.S. Environmental Protection Agency found.

The new research, published Wednesday in Reviews on Environmental Health, **examined five particular air and water pollutants that are widely used in or byproducts of UOG development and operations—heavy metals, particulate matter, polycyclic aromatic hydrocarbons, BTEX (benzene, toluene, ethylbenzene, xylenes), and endocrine disrupting compounds.**

"Every stage of the UOG lifecycle, from well construction to extraction, operations, transportation and distribution can lead to air and water contamination," the paper notes.

Dauntingly, the **researchers found that early life exposure to these substances has been linked to potentially permanent learning and neuropsychological deficits, neurodevelopmental disorders and neurological birth defects...**"

350.org, "Fossil Free House Parties," November 1, 2017, https://actionnetwork.org/event_campaigns/fossil-free-house-parties?utm_medium=email&utm_source=actionkit, stated, "

Join us **November 11th through November 19th at a #FossilFree house party** near you. Meet others in your community who want to organize to build local power and take climate action.

At the house parties, we will get to work on building a just and equitable Fossil Free world by passing local resolutions calling for 100% renewable energy for all and an immediate halt of all new fossil fuel projects.

Together, we can create a resounding upswell of public support for the ambitious climate solutions we need."

At least 40 FossilFree house parties were planned as of November 1.

The Indigenous Environmental Network, http://www.ienearth.org/?utm_medium=email&utm_source=MyNewsletterBuilder&utm_content=368682913&utm_campaign=Sept%209%20Join%20an%20Action%20Near%20YOU%201413142620&utm_term=The%20Indigenous%20Environmental%20Network, announced September 7, 2017, **"#StopETP is a growing coalition of communities and organizations that care deeply about our rights to clean water, clean air, a stable climate, and a democratic society. We believe that landowners and indigenous tribes have the right to determine what happens to their land. But Energy Transfer Partners (ETP), a giant oil company based in Texas, has been consistently violating those rights in their drive to build new oil and gas pipelines. And along the way, communities have suffered.**

Organizations Involved:

350.org, 350 DC, 350 Louisiana, Alamosa Riverkeeper, Appalachia Resist!, Bates Environmental Coalition, Bold Iowa, Bold Louisiana, Blair County Coalition for Public Safety, Cahaba Riverkeeper, Climate March, Coastal Carolina Riverwatch, Crystal Coast Waterkeeper, Earthworks, Els Verds – Alternativa Verda, Environmental Stewardship, Food & Water Watch, Friends for Environmental Justice, Foundation for Economic Democracy, Goshen United for Public Safety, Hurricane Creekkeeper, **Indigenous Environmental Network**, Lakota People's Law Project, Milwaukee Riverkeeper, Native Organizers Alliance, NoDAPL Global Solidarity, North Louisiana for Earth & Water Justice, Ohio River Citizens Alliance, Oil Change International, Rainforest Action Network, Rising Hearts Coalition, Romero Institute, San Francisco Baykeeper, Sierra Club, Seeding Sovereignty, Stand.earth, Stolen Nation, Waccamaw Riverkeeper, Waterkeeper Alliance, Waterkeepers Chesapeake, Winyah Rivers Foundation... and many more."

"On September 7th, 8th and 9th we're taking action across the country to #StopETP and defend Indigenous rights and our water, land, air, and climate." Locations include: Live Oak, FL, Dallas, TX, St. James, LA, Chicago, IL, Des Moines, IA, Earlham, IA, Cleveland, OH, TX, Columbus, OH, Marietta, OH, Marcus Hook, PA, Duncansville, PA, Huntingdon, PA, Applegate, OR, Corvallis, OR, Joshua Tree, CA, and Concord, CA."

For more information go to: <http://stopetp.org>.

Numerous Indigenous peoples, organizations, and people, including the International Treaty Council were present and expressing their views on the need for extensive rapid action on climate change, at the 23rd session of the Conference of the Parties (COP 23) to the UN Convention on Climate Change (UNFCCC) which took place at the headquarters of the UNFCCC Secretariat in Bonn, Germany, in November 2017 (<https://www.iitc.org/news-updates-2/>).

Carbonfund.org, stated in September 2017, "Labor Day has come and gone, and kids are back in school, except those in Florida, the Caribbean, and southeast Texas, where Hurricanes Harvey and Irma have caused such devastation. These horrible events, and the earthquakes in Oaxaca and Chiapas, Mexico, have caused hundreds to lose their lives and thousands to face devastating rebuilding and billions in rebuilding costs. We send our best wishes for speedy recovery for all, and for greater attention to be placed upon the critical issues of climate change and the impact on increased and more extreme natural disasters.

Part of our mission at Carbonfund.org is to make it simple and affordable for individuals and businesses of all sizes to make a difference in environmental sustainability. This month, and through

the end of this year, **we are offering a "Bring a Partner" discount program to our current Carbonfree® Business Partners.** Simply refer your suppliers, customers, neighbors and friends who own and run businesses to join our **Carbonfree® Business Partnership program** for 2018, and we will discount current partnership renewals by \$60 for each new **Carbonfree® Business Partner.**

Two of our long-term Carbonfree® Business Partners, Arbor Teas and Earth Science Naturals, are among three dozen businesses celebrating their tenth anniversary with Carbonfund.org this year. Please read about their meaningful sustainability initiatives and commitments, and consider the same for your organization.

If you've traveled this summer, you can offset the carbon footprint of your trip as well:

Plant				Trees
- Offset	your	personal	daily	emissions
- Offset	summer		vacation	travel
- Join our Carbonfree® Business Partnership Program"				

Physicians for Social Responsibility, stated in a campaign, July 25, 2017, <http://secure.psr.org/ea-action/action?ea.client.id=1898&ea.campaign.id=74640&ea.url.id=990867>, **"President Trump and some in Congress are advancing a federal budget that threatens our health, slashing funding for programs that keep our air and water clean and passing ideological policy riders that gut public health protections.**

For example, the House's version of the energy and water appropriation bill would cut funding for EPA clean energy programs by \$1 billion – that's almost half!

Besides attacks on EPA's budget, certain member of Congress are including unnecessary riders (amendments not centrally related to the bill) intended to further weaken environmental protections at the behest of industry. Dangerous riders include:

allowing the EPA to withdraw the Clear Water Rule without accepting any public input;

delaying EPA's latest health standards for ground-level ozone smog pollution for ten years."

The **NRDC Action Fund** stated by E=mail, September 30, 2017, **"The Trump administration is secretly taking the dangerous first steps toward opening our pristine Arctic National Wildlife Refuge in Alaska to risky oil drilling.**

This is the worst assault on the Arctic Refuge in decades — and it's for no other reason than to bolster fossil fuel industry profits. We need your help to stop it at all costs.

Here's the thing: The administration can't open the refuge to drilling without the go-ahead from Congress.

Please urge your senators and representative to do everything in their power to stop Trump's despicable drilling plans!

Often called "America's Serengeti", the Arctic Refuge's 1.5 million-acre coastal plain is its biological heart: Our nation's largest denning site for pregnant polar bears ... the last home of 350 shaggy muskoxen ... the birthing ground for the 197,000-member Porcupine caribou herd ... and vital to the culture and survival of the region's Gwich'in people.

The Trump administration's short-sighted drilling scheme throws all of that into jeopardy. Its proposal would open the door to drilling by allowing massive seismic testing — which has been outlawed for 35 years because of the obvious threats that it poses to imperiled wildlife and their habitat.

But still, President Trump and anti-wildlife members of Congress want to ram this short-sighted plan through as quickly as possible — **so they're hard at work pushing pro-drilling legislation and using a backdoor budget process to allow drilling on the refuge's coastal plain.**

Trump and his allies in Congress are already proposing massive funding cuts to the EPA and other critical agencies that protect our environment, our climate, and our health. We can't let them add the Arctic Refuge to the chopping block."

CREDO, "Tell banks: Do not fund the Trans Mountain pipeline," August 6, 2018, <https://act.credoaction.com/sign/transmountain?t=2&akid=24400%2E1313914%2Esys5n->, stated,

"Most Americans have never heard of Canada's Trans Mountain pipeline. But starting next month, Kinder Morgan – the largest oil pipeline company in North America – plans to nearly triple the pipeline's capacity to transport tar sands oil. In fact, the Trans Mountain pipeline could soon transport far more tar sands oil than either the Dakota Access pipeline or the Keystone XL pipelines.¹

Pipeline projects are incredibly expensive, and 26 banks have poured billions of dollars into this financing this one.^{2,3} With enough pressure on these 26 banks, we can make Kinder Morgan a toxic investment – but we have to act fast before construction is slated to start next month.

Tell banks to stop financing the Trans Mountain pipeline and all tar sands oil projects.

Expanding the Trans Mountain pipeline would be a disaster for Indigenous rights, our climate and the natural environment along its route. **The existing Trans Mountain pipeline has already logged 82 leak incidents, including four major oil spills.⁴** More than 120 First Nations and Tribes oppose the pipeline expansion, including all of the First Nations in the lower mainland of British Columbia.⁵ Several First Nations have filed legal challenges.⁶

The pipeline would increase extraction of tar sands – one of the dirtiest and most climate-destructive forms of oil – at a time when any new fossil fuel production puts the goals of the Paris climate agreement out of reach.

The banks funding the Trans Mountain pipeline include many names well known in the United States, including HSBC, Bank of America and SunTrust. By offering credit to Kinder Morgan's Trans Mountain pipeline, these 26 banks failed a clear test of their commitment to stopping climate change and respecting Indigenous rights.

Tell banks to stop financing Kinder Morgan's oil pipeline and all tar sands projects.

The good news is that we know this kind of activism works. **In July, the largest association of credit unions in North America froze its funding for the pipeline.** The group, Desjardins, said it plans to pull its \$145 million from the project because of environmental concerns.⁷

A well-known investment research firm recently encouraged investors to sell their shares in Kinder Morgan, reporting that Kinder Morgan shares have lost value over the past three months and citing the opposition from indigenous and environmental groups as one reason why.⁸

As the Trump administration blocks and reverses climate policies, the movement to stop fossil fuel projects by stopping their funding is picking up steam. In June, Sweden's largest national pension fund, AP7, sold investments in six companies, including ExxonMobil and TransCanada, because their activities breach the Paris climate agreement.⁹ As investing in pipelines becomes more toxic, banks and eventually energy companies themselves will start looking for safer alternatives.

Trans Mountain is just as dangerous as more well-known pipelines, but too few people know that this expansion is planned – or that we have a chance to stop it.

Tell the CEOs of these banks to stop financing Kinder Morgan's oil pipeline and all tar sands projects.

Photo: fdevalera/Getty Images

References:

Ayşe Gürsöz, "5 Things You Need to Know About Kinder Morgan's Trans Mountain Pipeline," Rainforest Action Network, June 6, 2017.

Tucker McLachlan and Chris Hatch, "Who's banking on Kinder Morgan's Trans Mountain Pipeline?" National Observer, July 21, 2017.

Toronto-Dominion Bank, Royal Bank of Canada, Canadian Imperial Bank of Commerce, Scotiabank, CIBC, Bank of Montreal, National Bank of Canada, JPMorgan Chase, Bank of America, Mizuho Financial Group, Bank of Tokyo-Mitsubishi, Barclays Bank, China Construction Bank, SunTrust, Sumitomo Mitsui Financial Group, HSBC, ATB Financial, FIPPGV/PX, Desjardins, Bank of China, United Overseas Bank, United Overseas Bank, Siemens Financial, Deutsche Bank, Credit Suisse, Societe Generale, Canadian Western Bank, Industrial & Commercial Bank of China.

Trans Mountain, "Spill history," April 1, 2017.

Treaty Alliance Against Tar Sands Expansion, "Treaty alliance against tar sands expansion," accessed Aug. 1, 2017.

Karin Larsen, "'It is our Standing Rock:' First Nations announce legal actions against feds, Kinder

Morgan," CBC, Jan. 19, 2017.

CBC News, "What Desjardins' investment freeze could mean for Kinder Morgan's pipe dreams," July 10, 2017.

Zacks Equity Research, "Kinder Morgan's Trans Mountain Pipeline Financing at Risk," NASDAQ, July 11, 2017.

Ibid."

Food & Water Action, stated October 11, 2017, in an E-mail, that it **"is endorsing and campaigning for candidates in Pennsylvania who have pledged to fight the extremely dangerous Mariner East 2 pipeline.** We can stop the pipeline by winning local elections in key municipalities along the pipeline route.

Mariner East 2 is a dangerous pipeline being built by Energy Transfer Partners that would transport extremely explosive materials known as Highly Volatile Liquids through countless communities, endangering hundreds of thousands of people in its path. These materials are derived from fracking, and the pipeline would be used to export them to Scotland to make plastic. ¹ Construction has already started, but we still have a chance to stop it."

198 Methods, Amazon Watch, BankTrack, Beyond Extreme Energy, Climate Hawks Vote, Daily Kos, DivestInvest Individual, Earth Guardians, Friends of the Earth Action, Green America, Honor the Earth, Indigenous Environmental Network, Mazaska Talks, New Economy Coalition, People's Action, SierraRise, Stand.earth and Watchdog.net were **engaged in a campaign**, in October 2017,

https://petitions.signforgood.com/EquatorBanksAct/?code=DK&redirect=https://secure.actblue.com/contribute/page/kos2017?refcode=20170927swEquatorBanks&link_id=11&can_id=2304a48b2891e77b9b6c14d1ce535f4f&source=email-trumps-unpopularity-has-been-massively-underplayed-in-the-media&email_referrer=email_249319&email_subject=trumps-unpopularity-has-been-massively-underplayed-in-the-media, **"Tell big banks: Stop financing climate disasters and respect Indigenous rights,"** stating, "This October, more than 90 of the world's largest banks will meet in Brazil to recommit to the Equator Principles, a set of rules guiding which big infrastructure projects they will and won't finance.

Now is the time for them to act on their supposed principles. They must stop financing climate change and respect Indigenous peoples' rights. Sign now to demand that they make commitments to change.

These "Equator banks" have all promised to avoid or minimize the social, environmental and climate impacts of such projects, and to respect the rights and interests of Indigenous communities affected by them.

However...

These Principles for banks to follow sound good – but they're not working.

The Principles as they are written now are not stopping banks from financing disaster projects that are destroying our climate. Nor are these Principles stopping banks from trampling on the rights of Indigenous peoples, fully recognized in international law, to reject projects they do not want in their territories.'

The U.S. Dakota Access Pipeline, fiercely opposed by the Standing Rock and Cheyenne River Lakota Tribes, and the Honduran Agua Zarca hydro project, where Indigenous leader Berta Cáceres was murdered for leading the Lenca people's opposition to the project, are but two examples of projects financed by banks under the Equator Principles.

Sign here to demand that the Equator Banks act decisively when they meet October 24 in São Paulo, Brazil, and commit to stop financing climate disasters and respect Indigenous peoples' rights and land.

We call on the Equator Principles Association to agree in Brazil to a full revision process for the Principles, so that they reflect at minimum two solid commitments:

Stop financing climate disasters:

Include a full commitment to the Paris Agreement goal of limiting global temperature rise to below 2 degrees, aiming for 1.5 degrees;

Include stringent and binding criteria that all projects to be financed under the Equator framework be fully aligned with reaching the Paris Agreement goals; and for this reason: Explicitly exclude all new fossil fuel extraction, transportation and power projects from financing under the Equator Principles.

Respect Indigenous peoples' rights and territories:

Include an explicit commitment to uphold the right of Indigenous peoples to give or deny free, prior, and informed consent for projects situated on territories they traditionally use and occupy;

Commit to not financing projects, neither directly or indirectly, that did not obtain such consent;

Strengthen due diligence and consultation processes to ensure that Indigenous peoples' rights are fully respected;

Ensure that Indigenous peoples and other project-affected communities have full access to grievance channels with project sponsors and financing banks when their rights and interests are violated."

Chase Iron Eyes of the Lakota People's Law Project e-mailed, November 9, 2017, "**Standing Rock raised the stakes for the global environmental and indigenous rights movements. Now, another victory. A North Dakota judge has ruled that my legal team is entitled to substantially more evidence from the North Dakota State Prosecutor's office than has been forthcoming in other water protector cases. We will be able to take sworn testimony and demand documents from Energy Transfer Partners and their private, militarized security firm, TigerSwan.**

The timing on this ruling is important for all environmental protectors. **84 members of Congress—nearly all Republicans—recently sent a letter to Attorney General Jeff Sessions encouraging him to invoke the domestic terrorism statute to prosecute fossil fuel protesters. These attacks on our fundamental constitutional rights, spearheaded by Donald Trump and parroted by congressional shells of Big Oil, should deeply concern all citizens who value our right to speak freely and demonstrate.**

Our team has produced a new video [available at: <https://www.lakotalaw.org/our-actions/on-trial>] that explains how I was singled out and targeted—and the justification for our bold legal strategy to expose the illegal and immoral wedding of the fossil fuel industry, law enforcement, and militarized private security forces. You'll see why I took action on behalf of my people, millions of others downstream, and Unci Maka—Grandmother Earth."

A group of archaeologists and other researchers issued a report, in September 2017, calling for increased protection from drilling in an expansive area around Chaco Culture National Historic Park, in New Mexico, because previously indiscernible ancient roads leading to Chaco had been discovered (Susan Montoya Bryan, "Researchers want Chaco Shielded from drilling," *Albuquerque Journal*, September 23, 2017).

Carbon Fund reported on its work, December 28, 2017, Carbonfund.org, "25 Billion Pounds of CO₂! 179 Carbon reduction projects; 40 US states: 23 Countries.

As an environmentalist and donor, you want to know your donations are making a difference. With your generous support, Carbonfund.org has been able to support projects all over the world reducing billions of pounds of CO₂ and supporting new technologies and more efficient ways of doing things."

Nuclear Information and Resource Service, September 14, 2017, commented in an E-mail, **"Irma and Harvey mark the first time on record that two category 4 or higher hurricanes have struck the U.S. mainland in the same year, both in states that have nuclear reactors. The potential danger is overwhelmingly apparent. At the rate at which we're experiencing extreme natural disasters, how can we be certain the next one won't trigger a Fukushima-like nuclear meltdown?**

It's ludicrous that the Trump administration would propose nuclear bailouts for this dying, dirty, and dangerous energy source. We have to stop Trump's \$100+ Billion nuclear bailout!

The combined estimated damage from Irma and Harvey is about \$290 billion. Where the feds will get the money for those repairs is a mystery to most of us. But the idea that Trump wants to give \$100+ billion in bailouts to coal and nuclear power in the face of these dirty-energy-fueled disasters is unconscionable – it must be stopped.

Now imagine the Turkey Point reactors, 25 miles from Miami, which were in line for a possible direct hit from Irma, had been struck. The financial cost would nearly double. *Fukushima costs are still rising, currently sitting somewhere around \$188 billion.* Which does not include the cost in human lives, trauma, health, and quality of life.

We cannot afford to let the Trump administration bail out the nuclear industry.

The stakes are too high. Our rapidly changing climate has triggered extreme and uncertain weather patterns. We can't allow this danger to be exacerbated by an avoidable catastrophic nuclear meltdown."

The Nuclear Information Service wrote, October 13, 2017, <https://dirtyenergytrump.causevox.com>, **"Two weeks ago, Department of Energy Secretary, Rick Perry, proposed a massive bailout for nuclear and coal power plants far worse than anyone expected. The proposal is so extreme that industry commentators and reporters thought it would be rejected! No such luck. Rogue Trump appointees heading FERC (the Federal Energy Regulatory Commission) are rushing to approve the nuclear-coal bailout as fast as possible.**

We must take action now to stop this BAD policy!

On Wednesday, NIRS submitted more than 10,000 comments for the record at FERC in opposition to the Trump Administration's plans for the Commission to enact these massive bailouts. We have to keep up and build this pressure as much as possible over the next three weeks, to mobilize thousands more petitions and make Congress hold FERC accountable.

This is a fight for America's clean energy future.

If adopted, **the proposal would bail out expensive and uneconomical nuclear and coal power plants that can no longer compete with renewable energy, and saddle ratepayers with higher costs, all the while posing obstacles to the integration of cleaner and less risky energy sources such as solar and wind.**

Survey after survey shows that Americans want more clean and safe renewable energy! To artificially prop up these dirty energy industries and then to force consumers to pay the bill to enrich these already astonishingly profitable companies ranks as one of the most anti-environment and anti-consumer steps of the last 50 years."

The League of Conservation voters (LCV), stated, September 18, 2017, https://secure3.convio.net/lcv/site/SPageNavigator/LCV_ms_donation_20340.html?jsessionid=00000000.0.app315b?autologin=true&NONCE_TOKEN=B15ACBF496FCFA8BE542785A05E85140, **"LCV learned — late last night — that Interior Secretary Zinke is recommending shrinking or modifying ten national monuments. This includes shrinking the boundaries of Utah's Bears Ears and Grand Staircase-Escalante, Nevada's Gold Butte, and Oregon's Cascade-Siskiyou.**

The Interior report — that the Trump Administration refused to release — **would open up vast swaths of protected areas — land and water that are part of our national monuments — to Big Polluters and other special interests. This report constitutes an unprecedented attack on protected lands and waters in the United States.**

But removing existing safeguards for our public lands and waters at this scale is beyond unprecedented — it exceeds Trump's statutory and constitutional authority. We can't let Trump get away with this.

Food and Water Watch, "We just beat Nestlé!" November 9, 2017, announced via E-mail, "For nine years, **we've worked with the community in Hood River County and people across Oregon to stop Nestlé's plan to grab their water and build a water bottling plant.**

The community never gave up the fight against Nestlé's attempt to take their water — and they won.

After years of building opposition locally, the issue was finally put on the ballot last year. **Voters in Hood River County overwhelmingly voted to ban water bottling in the area and keep Nestlé out.** But the state still tried to move forward with a deal that would give Nestlé access to the area's water. After more pressure from the community, **Oregon Governor Kate Brown directed her Department of Fish and Wildlife to stop the deal!**

No Back 40 Mine, <http://www.noback40.org/Default.aspx>, stated, **"The Back Forty Mine project is a proposed open pit metallic sulfide mine located on the banks of the Menominee River in Lake Township, Michigan. Aquila Resources Inc. (TSX: AQA) ("Aquila"), a Canadian development stage company, is actively seeking the necessary approvals to mine and process gold, zinc, copper, silver and other minerals at the site.**

To date the Michigan Department of Environmental Quality (MDEQ) has approved three of the four required permits for the project. The Nonferrous Metallic Mineral Mining Permit and the Michigan Air Use Permit to Install for the project were approved by the MDEQ on December 28, 2016. The National Pollutant Discharge Elimination System (NPDES) permit was approved on April 5th, 2017. The permit for wetland impacts is currently under consideration before the MDEQ.

The Menominee Nation and many allies including local citizens, local governments, environmental organizations, and grassroots organizations are opposed to the mine, committed to stopping the project and are organized in efforts to bring about public awareness about the harmful impacts the mining operation would have if approved."

The Menominee Nation is steadfast in its opposition to the proposed mine and its commitment to preserving the Menominee River. We ask you to stand in solidarity with us as we continue our fight to protect our place of origin, our sacred sites, the wildlife, water and environment for future generations."

"Environment:

Aquila's Back Forty "open pit mine" would be constructed ~150 feet from the Menominee River. Because this is a METALLIC SULFIDE MINE, the mine's proximity raises serious flooding and inundation risks.

Any mine-related water contamination would threaten the health of the Menominee's fish populations and recreational fishing, especially Lake Sturgeon. Millions of dollars have been invested in the recovery of sturgeon in the Menominee River, where they are threatened but "stable" after years of collaborative sturgeon habitat restoration efforts by Michigan and Wisconsin Department of Natural Resources, with assistance from federal agencies, fishing clubs and nonprofit environmental groups such as the River Alliance of Wisconsin.

The Back Forty mine targets a section of the Menominee River considered a world class smallmouth bass fishery – one of the best in North America! Fishing clubs are deeply concerned about the future of Smallmouth Bass Fishing on the Menominee River, as are the small businesses, including river guiding companies, that depend on the health of the river. The proposed mine threatens natural resources of the Menominee River, an interstate waterway jointly managed by Wisconsin and Michigan. The Menominee River is the state boundary line, and is the largest watershed in the Upper Peninsula of Michigan. The Wisconsin Resources Protection Council is actively opposed to this sulfide mine proposal.

The Center for Science in Public Participation conducted a red-flag review of Aquila Resources mining application and found multiple issues of concern, serious omissions and miscalculations, including specific recommendations and technical actions regarding Aquila's plans for Water Management, Tailings & Waste Rock Management Facilities, Pit Backfill Metal Leaching, Water Treatment Post Closure, Financial Assurance, and other topics. According to their report:

'Monitoring wells need to be placed to ensure the tailings facility embankment is not contributing acid or metal leaching to groundwater.'

'Given the potential for antimony, selenium, and arsenic to mobilize under neutral conditions, monitoring will need to occur at the TWRMF (tailings waste rock management facility) leachate sumps and at monitoring wells on and around the backfilled pit until hydrology and chemistry have stabilized.'

'The TWRMF cap is designed to reduce infiltration, but given the extremely acidic nature of the material that will be enclosed, the cost of a WTP (water treatment plant) should be included in financial assurance for at least the 20 year post closure monitoring period.'

'When reviewing the indirect and direct cost estimates for the Back Forty financial assurance, it is obvious that it has been significantly underestimated, especially with regard to the indirect cost calculations(...) the direct costs should be reviewed by a qualified party to correct assumptions that underestimate the cost of reclamation that would need to be conducted by a regulatory agency. "The entire planned Back Forty open pit mine and Tailings Waste Rock Management Facility basins (TWRMF) hinge on a single underlying assumption: that the State of Michigan will agree to a proposed LAND SWAP with Aquila Resources. The proposed land exchange threatens critical habitat, including threatened and endangered species. The mining proposal's open pit mine, contingent upon the land swap, would disturb or destroy tribal archaeological resources, treaty protected natural resources, and Menominee River fisheries. Shakey Lakes: The Escanaba State Forest's Shakey Lakes Oak-Pine Barrens Ecological Reference Area (ERA) and a proposed Biodiversity Stewardship Area (BSA) are adjacent to the proposed mine site. A mine next to this ecological reference area will degrade the ERA, endangering rare habitat, and jeopardize the state's Forest Stewardship Council (FSC) certification for sustainably-harvested timber.'

Aquila has made fraudulent 'Life of Mine' statements! When reviewing any mine proposal, one basic question must be answered: 'what is the proposed Life of Mine (LOM)?' In order to correctly calculate a mine's risks, benefits and cumulative environmental impacts, an accurate LOM estimate is essential. According to Aquila's permit application, 'The (Back Forty) Project will be an open pit mining operation' and the 'Life of Mine (LOM) operation is planned to be approximately 7 years.' This is misleading. Elsewhere, Aquila describes the Back Forty project as having a '16 year life of mine (LOM), of which 12.5 million tonnes is open-pit and 3.6 million tonnes is underground.' Back Forty is described as a 16 year mine in Aquila's press releases, in communications with the Menominee Indian Tribe, and in letters to investors and local community leaders. According to their Project Fact Sheet: "we support a transparent process(...) visit our website at aquilaresources.com/projects/back-forty-project for more information." Visitors to Aquila's website find a 16 year mine described.

The design of the Back Forty Project (an open pit sulfide mine on a river) is described as comparable to Wisconsin's Flambeau Mine (another open pit sulfide mine on a river). Does the Flambeau Mine prove that riverside sulfide mining can be done safely? Absolutely not — get the facts: https://deertailpress.files.wordpress.com/2016/06/flambeau-mine_gauger_jun2016__final_1.pdf

Because the Back Forty would be a sulfide mine, it threatens to leach sulfuric acid, which is extremely hazardous to freshwater rivers, lakes, streams and groundwater. Again, the Center for Science in Public Participation warns that the mine's 'ARD (Acid Rock Drainage) risk is very high. Most material contains sulfides... (...) All tailings are expected to generate acid, with the exception of tailings produced in year 3 of mining. Additionally, over 75% of the waste rock is expected to generate acid.' Sulfide mining could pollute groundwater or devastate the Menominee River, which drains into Lake Michigan."

Wilderness Watch stated, July 20, 2017, https://wildernesswatch.salsalabs.org/bwcaw_watershed_mineral_withdrawal/index.html?eType=EmailBlastContent&eId=e612d4fd-76e1-49fb-9d31-267751e30ab4, "TAKE ACTION: Tell the U.S. Forest Service to permanently protect the watershed of the Boundary Waters Canoe Area Wilderness from sulfide mining!"

"The U.S. Forest Service is seeking public comments on a proposal to end the practice of leasing federally-owned mineral rights to mining corporations in the watershed of the Boundary Waters Canoe Area Wilderness in northern Minnesota.

Please join us in urging the Forest Service to protect the Boundary Waters watershed from sulfide mining, one of the most toxic forms of mining. In fact, sulfide mining has caused environmental problems all over the world.

The Boundary Waters Canoe Area Wilderness is America's most visited Wilderness. It is 1.1 million acres with more than 1,000 pristine lakes and 1,200 miles of rivers and streams. The lakes, rivers, and streams of the Boundary Waters watershed are among the cleanest waters in the U.S., and are especially sensitive to the acids and heavy-metals in copper mine pollution.

Priceless and irreplaceable, the Boundary Waters Wilderness must not be put at risk of perpetual pollution from the most toxic industry in America. Your comments are due by August 11, 2017."

Massive protests in Australia and abroad were reported in October 2017 **to the government of Australia considering allowing development of what would become one of the world's largest coal mines in the remote area of the Halilee Basin.** The main objection is to the global warming impact of burning more coal (Jacqueline Williams, "QuwariorhRoiling Australia: Does the Planet Need More Coal?" *The New York Times*, October 15, 2017).

The **Havasupai Tribe**, living in the Grand Canyon in Arizona, in June 2017, was **objecting to the mining and transporting of uranium near the Grand Canyon as a threat to their only water supply** (Krista Allen, "Havasupai concerned about uranium mine, transport," *Navajo Times*, June 29, 2017).

WildEarth Guardians joined with Waterkeeper Alliance, in October 2017, to form the Rio Grande Waterkeeper "to protect and restore the iconic Rio Grande"

(https://secure3.convio.net/wg/site/Donation2.jsessionid=00000000.app303b?idb=873760735&df_id=8782&8782.donation=form1&mfc_pref=T&NONCE_TOKEN=CC23E31A676F05A166D2B4207379AB4E&autologin=true&idb=0#.WdaCNUzMxm8).

The Nuclear Information Resource Service stated, August 1, 2017, http://org2.salsalabs.com/o/5502/p/dia/action4/common/public/?action_KEY=25187, **"The Canadian Nuclear Safety Commission (CNSC) is about to amend the licenses for TWELVE Canadian nuclear power reactors on Lake Ontario to allow them to export their nuclear waste to the United States and other countries.** Send your comments to the Canadian Nuclear Safety Commission by August 3rd to oppose Canadian nuclear power license amendments that allow radioactive waste import and export between Canada and the U.S.!

Canada has already been sending some nuclear waste to the U.S. for "processing," but the amendments would open the door to unlimited amounts especially as the reactors are generating more waste. There are numerous nuclear waste 'processors,' licensed by state nuclear agencies including TN, IL, PA and WA, that burn, shred, melt, acid-etch, and launder radioactive materials. There are a **few facilities that deliberately release radioactive waste to regular garbage dumps and commercial recycling streams--materials that are used to make everyday household items--without public notice!**

Most processors opened without public knowledge or input. These facilities are violating the public interest by releasing radioactivity into the environment, solid waste landfills, incinerators, and recycling streams.

Tell the CNSC to reject the license amendments that allow international nuclear waste trafficking.

The U.S. Nuclear Regulatory Commission used to require licenses to allow nuclear waste to be imported from and exported to other countries. When concerned organizations challenged the licenses, the NRC changed the rules to allow "wastes" to come into the U.S. without a specific license if they were called "materials," despite their radioactivity and contamination with plutonium, cesium, strontium, iodine, tritium and more.

Now Canada is ensuring continued and accelerated import to the U.S. of its waste —er— "materials" by adding amendments to the nuclear power licenses for export and import.

Help us stop the unnecessary transport and release of radioactive metals, plastics, concrete, and more into our zippers, baby toys, belt-buckles, cars, and other everyday items."

Oceana stated, July 21, 2017, https://act.oceana.org/page/11964/petition/1?ea.tracking.id=email&utm_medium=email&utm_source=en&utm_campaign=driftgillnets&utm_content=NAT+-+20170721+-+WC+DGN+Petition+-+SL+Winner&ea.url.id=988737, "The Trump Administration recently withdrew a proposed rule that would have protected some of the world's most endangered species caught and killed in the drift gillnet fishery targeting swordfish off California."

This illegal action is a tremendous setback following years of effort and tens of thousands of Oceana Wavemakers like you voicing their support for the proposed rule and other measures to protect at-risk species.

But we won't sit back and stop now – Not when dolphins, pilot whales and endangered leatherback sea turtles are left to die in mile-long swordfish drift gillnets off our coast. Last week, **Oceana filed a lawsuit challenging the Administration's decision.**"

Eric Lipton and Barry Meier, "Under Trump, Coal Mining Gets NewLife on U.S. Lands: A business-friendly secretary of the interior has moved to invigorate a struggling industry, reversing Obama-era restrictions to help create 'wealth and jobs.'" *The New York Times*, August 6, 2017, https://www.nytimes.com/2017/08/06/us/politics/under-trump-coal-mining-gets-new-life-on-us-lands.html?ref=todayspaper&_r=0. reported, "The Trump administration is wading into one of the oldest and most contentious debates in the West by encouraging more coal mining on lands owned by the federal government. It is part of an aggressive push to both invigorate the struggling American coal industry and more broadly exploit commercial opportunities on public lands."

The intervention has roiled conservationists and many Democrats, exposing deep divisions about how best to manage the 643 million acres of federally owned land — most of which is in the West — an area more than six times the size of California. Not since the so-called Sagebrush Rebellion during the Reagan administration have companies and individuals with economic interests in the lands, mining companies among them, held such a strong upper hand.

Clouds of dust blew across the horizon one recent summer evening as a crane taller than the Statue of Liberty ripped apart walls of a canyon dug deep into the public lands here in the Powder River Basin, the nation's most productive coal mining region. **The mine pushes right up against a reservoir, exposing the kind of conflicts and concerns the new approach has sparked.**

"If we don't have good water, we can't do anything," said Art Hayes, a cattle rancher who worries that more mining would foul a supply that generations of ranchers have relied upon."

Bree LaCasse, City Council candidate (Portland, ME sent out an Email via [moveon.org](mailto:noreply@list.moveon.org), noreply@list.moveon.org, July 30, 2017, "**Trump's EPA administrator, Scott Pruitt, just rejected the advice of his own agency's scientists and overturned an Obama-era ban on Dow Chemical's bee-killing pesticide chlorpyrifos.**

Now, with bees dying by the million and Trump in the White House, it's up to local governments to protect the bees--and more and more local mayors and city councils are stepping up.

Will you sign my petition urging local governments to take action to protect their communities from synthetic and bee-killing pesticides? (<https://actionnetwork.org/petitions/save-the-bees-4>)

We rely on bees, butterflies, and other pollinators for more than 70 percent of the world's food crops. That's what's at stake in this fight: without bees and other natural pollinators, we simply won't have enough food to feed the world.

And the global bee die-off has been happening so fast that scientists are still scrambling to detect all the impacts. And now, a new study also finds that neonic pesticides are killing warblers, swallows,

starlings and thrushes nearly as fast as the bees -- at current rates, 35 percent of the bird population will disappear in just 10 years in the areas studied.

As a candidate for city council, I will vote support a local ordinance banning bee-killing pesticides that can be a model for other cities. By signing and sharing this petition, you can help local candidates like me demonstrate the widespread support for local action to ban bee-killing pesticides."

"More information: <https://www.nytimes.com/2017/03/29/us/politics/epa-insecticide-chlorpyrifos.html>:

http://www.theecologist.org/News/news_round_up/2987387/chlorpyrifos_may_threaten_survival_of_forager_bees.html.

International Indian Treaty Council, "Tribes call for US Implementation of UN Mercury Convention," stated, "On October 20th, **2017 Tribal Leaders participating in the Annual Conference of the National Congress of American Indians (NCAI) adopted a resolution calling for United States (US) government to uphold its international obligations under the United Nation Minamata Convention on Mercury by reducing mercury contamination impacting the health and environment of Tribal Nations.** The resolution was submitted by Pit River Tribe of California and was strongly supported by the International Indian Treaty Council (IITC).

The resolution specifically encourages the United States to implement the newly established Minamata Convention on Mercury, is a global internationally-binding treaty calling on State Parties including the US to protect human health and the environment from the harmful effects of mercury. Mercury is linked to serious health problems, including heart disease and neurological problems in infants and children. Mercury enters the environment and human body through contamination emissions from coal-fired power plants, mercury-based dental fillings and gold mining including abandoned waste sites.

Exposure to mercury continues to be a matter of urgency for American Indian and Alaskan Native Tribal Nations because it severely impacts their subsistence rights and traditional diets, in particular through consumption of contaminated fish by women of childbearing age and pregnant women. The most serious impacts are on the developing nervous systems of unborn and nursing babies and young children.

The Minamata Convention, which the US signed on to in 2013, provides guidance on the identification and remediation of contaminated sites, calls for a ban on new mercury mines and the phase-out of existing ones. It commits States to phase out and phase down mercury use in a number of products and medical/dental procedures, control emissions into air, land and water, and regulate small-scale gold mining. The Convention also addresses interim storage of mercury and its disposal once it becomes waste such as medical and e-waste.

In the resolution, NCAI and its members 'request the United States take meaningful steps to ensure the full and effective implementation of the Minamata Convention on Mercury and take meaningful steps towards implementing it, in accordance with its Federal Trust and Treaty Responsibilities to Tribal Nations"; and "encourage Tribes to assess sources of mercury contamination on their lands and will work to reduce exposure to their Tribal communities and commit to work actively with local, state and federal governments to identify and remedy mercury contaminated sites'.

Tribal Nations in California, Alaska, Nevada and South Dakota and other regions where gold mining was carried out extensively prior to 1950 are particularly impacted by ongoing exposure due to abandoned gold and mercury mine sites which were never adequately cleaned up. Mickey Gemmill, Chairman of Pit River Tribe in Northern California, advocated for the adoption of the resolution at NCAI, stating "the ongoing impacts of mercury have affected our people and our lands since the time of the Gold Rush, and it's time to hold the government accountable for their attacks on our lands and people."

Rochelle Diver, an IITC delegate attending the NCAI Annual Conference, commended the adoption of the resolution [MKE-17-022]. She stated that "it's important that Tribes work together to utilize UN Conventions that can assist in the protection of our lands, territories, health and livelihoods as well as our children and unborn generations. This is an area where greater participation by Tribes

could make a significant impact in ensuring that the US is held accountable to its Treaty, Trust and Human Rights obligations to Indigenous Nations”.

For more information regarding Indigenous Peoples and the UN Minamata Convention on Mercury, log on to <https://www.iitc.org/program-areas/environmental-health/mercury/> or contact IITC’s San Francisco Office at 415.641.4482 or Rochelle Diver at rochelle@treatycouncil.org."

Ocean River Institute stated, September 23, 2017, https://www.classy.org/campaign/seamount-guardians-and-deep-sea-canyon-rangers/c123422?utm_source=Deep%20Sea%20Canyon%20Rangers%20Defend%20the%20King%20Scallops%20of%20Wester%20Ros&utm_medium=email&utm_campaign=A%20Wealth%20of%20Right%20Whales, **"The Secretary of the Interior has recommended opening the NE Canyons and Seamounts Marine National Monument to commercial fishing.**

Today, more than ever before, deep sea canyon rangers and seamount guardians are needed to make sure critical marine life feeding patterns are not disrupted, that forage fish like squid are not removed to the detriment of whales, tuna, and seabirds, and that whales are not entangled in fishing gear.

Only you can stop government from opening up the Northeast Canyons and Seamounts Marine National Monument to oil and gas drilling and mineral mining. Act to protect sperm whales of the canyons, tripod fish of the seamounts and cold water corals throughout the national park area.

Ocean River Institute was also campaigning in September 2017, [https://secure.avaaz.org/en/petition/Nicola_Sturgeon_First_Minister_Scottish_Government_Stop_scallop_dredging_destroying_Scotlands_inshore_sealife/?fhllsrgb&pv=1&utm_source=sharetools&utm_medium=facebook&utm_campaign=petition-421255-](https://secure.avaaz.org/en/petition/Nicola_Sturgeon_First_Minister_Scottish_Government_Stop_scallop_dredging_destroying_Scotlands_inshore_sealife/?fhllsrgb&pv=1&utm_source=sharetools&utm_medium=facebook&utm_campaign=petition-421255-Nicola_Sturgeon_First_Minister_Scottish_Government_Stop_scallop_dredging_destroying_Scotlands_inshore_sealife&utm_term=hllsrgb%2Ben&utm_source=Deep+Sea+Canyon+Rangers+Defend+the+King+Scallops+of+Wester+Ros&utm_campaign=A+Wealth+of+Right+Whales&utm_medium=email)

[Nicola_Sturgeon_First_Minister_Scottish_Government_Stop_scallop_dredging_destroying_Scotlands_inshore_sealife&utm_term=hllsrgb%2Ben&utm_source=Deep+Sea+Canyon+Rangers+Defend+the+King+Scallops+of+Wester+Ros&utm_campaign=A+Wealth+of+Right+Whales&utm_medium=email](https://secure.avaaz.org/en/petition/Nicola_Sturgeon_First_Minister_Scottish_Government_Stop_scallop_dredging_destroying_Scotlands_inshore_sealife&utm_term=hllsrgb%2Ben&utm_source=Deep+Sea+Canyon+Rangers+Defend+the+King+Scallops+of+Wester+Ros&utm_campaign=A+Wealth+of+Right+Whales&utm_medium=email), **"Defend the King Scallops of Wester Ros, Scotland, "Tell Scotland's First Minister to stop inshore scallop dredging from destroying sealife.**

Dredging close to shore, scallop dredgers have dragged over rocky bottoms and gravel beds where cod, haddock, Pollock and hake breed. They have destroyed maerl beds. Scallop dredging must be restricted to sandy floors where the scallops reside. These places tend to be in the middle of lochs and bays, furthest from the shore. Here scallops are fished sustainably and the catch is the most lucrative for fishermen. Once these areas are dragged, scallop dredgers should not be permitted to stray away on to other ocean floors.

When a Scottish breeze blows and scallop dredgers would rather not go out three miles, they should stay safe in port to fathom a pub instead of destroying essential habitats for fish and prawn.

The Ocean River Institute supports the coalition of Scottish groups that have come together exposing the chronic mismanagement of Scotland's inshore fisheries. Our work is only possible thanks to support from individuals like you."

News by Forest Stewardship Council Canada, Transmitted by Cision on September 19, 2017, "Canada to host meeting of global forestry leaders to plan future of responsible forest development, General Assembly of Forest Stewardship Council (FSC) in Vancouver to discuss crucial topics for sustainable forest practices around the world, First-ever global meeting of FSC in Canada to be held October 8-13. " reported, **"The world's leading forest certification organization, the Forest Stewardship Council (FSC), will hold its triennial global General Assembly in Canada for the first time from October 8-13, 2017, in Vancouver. 800 people from more than 80 countries, including leaders in global forestry, will be attending to focus on how to enhance responsible forestry worldwide.**

As FSC's highest decision making body, the General Assembly (GA) sets the direction for the organization for the coming years, with several important areas of responsible forest management, conservation and sustainability on the agenda. These include, among others, the protection of High Conservation Value areas such as Intact Forest Landscapes, ensuring the rights and participation of

Indigenous Peoples in forest development, and the future directions for forest restoration and conservation, all while permitting forests to continue to supply the vital products the world depends on for many purposes.

"This is a essential time in the development of FSC and forest certification as we address the issues that are key to the success not just of FSC but the future of the world's forests," said Kim Carstensen, Director General of FSC, which is headquartered in Bonn, Germany. "We made a lot of progress at our last General Assembly in 2014 with the launch of several new initiatives. In Vancouver we will review how we have progressed and chart a clear path forward to continue our work."

High Level Forum and side events

One of the highlights of the General Assembly is the High Level Forum and side events. During three days, high-profile speakers from some of the most representative businesses, social and environmental advocacy groups will explore the role that FSC can play as a voluntary certification scheme for responsible forest management and how to incentivize consumer demand for sustainably sourced forest products.

The first High Level Forum will be dedicated to *The True Value of Forests*, where participants will discuss the extent of the contribution of forests to society. The Forum's second day will be on *Solid Wood*, which will include discussions on identifying the market drivers for certified solid wood products regionally and internationally and the increasing importance of green building. The final High Level Forum debate, *FSC in our Daily Lives*, will explore how companies are leading the way in promoting sustainable consumer trends.

Among the speakers participating in the High Level Forum are: Michael Green, a Vancouver based architect who is leading the use of wood in construction; Peter Lantin, President of the Haida Nation; and Sarah Chandler, Director of Operations, Product Development and Environmental Initiatives at Apple Inc.

Other confirmed speakers at the General Assembly are Doug Donaldson, British Columbia Minister of Forests, Lands, Natural Resources Operations and Rural Development; Luc Blanchette, Quebec Minister of Forests, Wildlife and Parks; and Glenn Mason, Assistant Deputy Minister, Canadian Forest Services of Natural Resources Canada.

Numerous side events at the General Assembly will also offer engaging debates on the current issues that directly touch upon world forestry. Canada's Boreal forest will be a highlight of these where participants will be able to understand the importance this biome has for Canada's forestry industry and the global environment.

"We look forward to hosting delegates from around the world at the General Assembly in Vancouver and collaborating on vital decisions that will affect how our forest certification process will meet the requirement for responsible forestry in the 21st century," said François Dufresne, President, FSC Canada. "The collaborative process of FSC in addressing these issues with all stakeholders present is the key to our success."

SIG, Green Sponsor of the 2017 General Assembly

SIG, one of the world's leading solution providers for the food and beverage industry within the field of carton packs and filling technology, is the 2017 General Assembly's Green sponsor.

Since 2009, SIG has led the industry in providing FSC-certified carton packs that can be traced back to source and in 2016, the company secured a sufficient supply of FSC-certified liquid packaging board to guarantee its customers the choice of including the FSC label on any of its carton packs. More than 60 billion SIG packs have now been sold with the FSC label, demonstrating the company's commitment to responsible sourcing.

The generous support of SIG will facilitate the attendance of FSC members who otherwise may not have the resources required to attend the assembly and exercise their membership rights.

Additional support for the FSC General Assembly is provided by: Kingfisher, Fibria, IKEA, CMPC, TetraPak, International Paper, Kimberly-Clark, Precious Woods, Mondi, Lenzing, Klabin, Sappi, Arauco, Greenberg Traurig, Tembec, Arkhangelsk Pulp and Paper Mill, Air Canada, WWF, Sveaskog, National Wildlife Federation, Mercer and BWI.

Full details about the General Assembly are available at www.ga2017.fsc.org.

About FSC and the FSC General Assembly

The Forest Stewardship Council (FSC) is a global not-for-profit organization dedicated to promoting environmentally sound, socially beneficial and economically prosperous management of the world's forests. FSC was created in 1993 to help consumers and businesses identify products from well-managed forests and sets standards by which forests are certified, offering credible verification to people who are buying wood and wood products. Currently almost 200 million hectares and 33,000 companies worldwide are certified to FSC standards. For more information visit www.fsc.org.

At the GA, members decide through a governance structure that is unique to FSC where delegates from three chambers – environmental, social and economic – vote on motions that have previously been submitted by the members in a balanced system that allows for equal representation to all. This maintains the balance of voting power among different interests, ensuring effective, consensus-based solutions for forest management and the trade of forest products. For information about the GA, including participants, speakers, motions, and background about FSC, please visit: <https://ga2017.fsc.org/>

About FSC Canada

FSC Canada is a vital element of FSC globally as the country with the largest area of certified forests, including more than 28% of global FSC-certified forests, a total of 55 million hectares (550,000 km²), equaling in size about half that of Ontario. 15.4% of Canada's forests are FSC-certified through 67 forest management certificates and 759 chain of custody certificates, representing more than a third (34%) of Canada's certified forests. FSC-certified forests are in every one of Canada's distinct forest regions, but almost half (45%) of the total area certified is located in Quebec. FSC Canada offices and personnel are located across Canada. <https://ca.fsc.org/en-ca>

SOURCE Forest Stewardship Council Canada

For further information: Monika Patel, Director of Programs and Communications, FSC Canada, Phone: 416-778-5568 x26, Email: m.patel@ca.fsc.org; Marc-André Dufresne, Capital-Image, Tél : 514-358-5560, Courriel : madufresne@capital-image.com."

U.S. Activities

American Indian Higher Education Consortium, "AIHEC STATEMENT ON FY 2018 TRUMP ADMINISTRATION BUDGET RECOMMENDATIONS," MAY 25, 2017, http://www.aihec.org/what-we-do/docs/PR/PR18/AIHEC-Statement_FY2018-TrumpBudget_5-2017.pdf, **"The American Indian Higher Education Consortium (AIHEC) is extremely concerned that the Trump Administration's Fiscal Year (FY) 2018 Budget includes inexplicable cuts to programs integral to the work and future of the nation's Tribal Colleges and Universities (TCUs).**

The vast majority of TCUs in the United States are founded and chartered by their respective American Indian tribes, which hold a special legal relationship with the federal government, actualized by more than 400 treaties, several Supreme Court decisions, prior Congressional action, and the ceding of more than one billion acres of land to the federal government. The FY 2018 Budget released this week indicates a troubling unawareness or worse, disregard for the political status of American Indians with the federal government.

The budget proposes cuts to a number of TCU programs that are already underfunded despite the significant results they yield. For example:

- Cuts to the basic institutional operating budgets of the nation's only tribally chartered postsecondary career and technical institutions (Navajo Technical University in Crownpoint, NM and United Tribes Technical College in Bismarck, ND), as well as the Department of the Interior - Bureau of Indian Education's postsecondary institutions (Haskell Indian Nations University in Lawrence, KS and the Southwestern Indian Polytechnic Institute in Albuquerque, NM); and

- Complete elimination of two small but vitally important grant programs: TCU Essential Community Facilities grant program in USDA-Rural Development (which would be consolidated with a larger rural community facilities program) and the NASA-TCU Program, which would presumably be eliminated if NASA's education program is eliminated. These programs help the TCUs to offer safe

and modern campus/community facilities and vitally-needed STEM education, internships, and career development for their students.

Additionally, several other higher education programs are targeted for substantial cuts that would greatly impact the TCUs, including of deep cuts to TRIO programs, GEAR UP, Federal Work-Study, and the elimination of Supplemental Educational Opportunity Grants (SEOG).

AIHEC cannot understate the devastating domino effect such cuts will have on low-income students and underserved rural communities, including TCUs and reservation communities. Conversely, we must underscore the exponential impact that retaining the relatively small federal investment in our institutions returns in terms economic growth in our communities and reduced demand for social service programs.

Thankfully, Congress holds 'the power of the purse.' During the final negotiations of the FY 2017 appropriations cycle, the legislative branch signaled their support for the TCUs by rejecting some of the equally damaging proposals championed by the new Trump Administration. We will continue to work with Congress to reaffirm those efforts and maintain and grow the federal investment in the nation's Tribal Colleges and Universities, an investment that is proven to be a sound and moral one."

The National Congress of American Indians (NCAI), at its mid-year meeting in Connecticut, **adopted a resolution encouraging American Indian and Alaska Native families who had children who never returned from boarding school to provide information about that to present to the United Nations, asking that body to call on the U.S. government to provide a full accounting of what happened to those children.** Attempts to find this information under the Freedom of Information act by NABS, NARF and IITC have been unsuccessful(https://www.iitc.org/wp-content/uploads/Tribes-Calling-for-Testimony-for-Boarding-School-Violations-to-Take-to-UN_6-28-17-Press-Release.pdf).

"NCAI Opposes Executive Action on the Reduction of National Monuments," Published on December 4, 2017, <http://www.ncai.org/news/articles/2017/12/04/ncai-opposes-executive-action-on-the-reduction-of-national-monuments>, commented, **"NCAI opposes President Trump's efforts to reduce two monuments that hold tribal sacred places.** Today, President Trump issued Presidential Proclamations reducing the size of the Bears Ears and Grand Staircase national monuments in Utah. These monuments were initially designated as monuments to ensure that tribal and American citizens would have use of these significant landscapes for generations to come. The National Congress of American Indians stands by the efforts of all effected Tribal Governments and local communities who are determined to protect these sacred places in their entirety.

The Bears Ears National Monument was decreased by 85% removing protections from 1,148,000 acres. Grand Staircase Escalante National Monument was reduced by 47% removing protections from 896,000 acres. With the two Presidential Proclamations signed today, National Monument protections were removed from over 2 million acres of land.

"The original intent of the Antiquities Act was to protect our tribal sacred sites and the cultural objects in those sites. The history of our indigenous ancestors lives in these sacred places. Today's action to reduce Bears Ears and Grand Staircase-Escalante endangers our freedom of religion, our histories and our communities," stated Jefferson Keel, President of NCAI. "We stand with the Tribes of the Bears Ears Inter-Tribal Coalition as well as the Tribes impacted by other Monument designations."

Bears Ears and Grand Staircase-Escalante were both designated under the original intent of the Antiquities Act. The Antiquities Act granted power to the President to create national monuments to protect Tribal sacred sites and cultural objects. The Act does not grant the President the authority to reduce and revoke the boundaries of national monuments as was done today.

NCAI's membership is steadfast in its full support of all Tribes to protect their ancient objects and histories by National Monument protections. As the Administration continues the review process of national monuments, NCAI remains working to ensure all sacred sites remain protected.

View NCAI resolutions in support of National Monument designations EC-15-002, MOH-17-006 and MKE-17-057 and NCAI's comments submitted to the Department of the Interior at:

[http://www.ncai.org/attachments/PolicyPaper_LrsQDYDeBqAydLrGSJZWZGhhsivGqhnFsmQFCHQrdDfnriqmFoh_NCAI_Comments_for_DOI-2017-0002-0001%20\(1\).pdf](http://www.ncai.org/attachments/PolicyPaper_LrsQDYDeBqAydLrGSJZWZGhhsivGqhnFsmQFCHQrdDfnriqmFoh_NCAI_Comments_for_DOI-2017-0002-0001%20(1).pdf)."

"The National Congress of American Indians and the Native American Finance Officers Association Oppose the Tax Cuts and Jobs Act in the House and the Senate," NCAI, Published on November 16, 2017, <http://www.ncai.org/news/articles/2017/11/16/the-national-congress-of-american-indians-and-the-native-american-finance-officers-association-oppose-the-tax-cuts-and-jobs-act-in-the-house-and-the-senate>, commented, **"The National Congress of American Indians (NCAI) and the Native American Finance Officers Association (NAFOA) oppose the Tax Cuts and Jobs Act—both the House bill and the Senate Finance Committee bill.**

Indian Country has pressed for more than a quarter century for Congress to address tax code provisions that treat tribes inequitably and hinder economic growth in Indian Country. Tax reform can be a once in a generation opportunity to uphold the federal trust obligation by helping tribes build stronger economies, create jobs, and deploy critical infrastructure. NCAI and NAFOA have worked tirelessly in recent years to educate Congress on tribal tax provisions which would help stimulate tribal economic growth, but these provisions are not present in either version of the Tax Cuts and Jobs Act.

NCAI and NAFOA view it as deeply regrettable that neither the House nor the Senate bill takes seriously Indian Country's priorities for tax reform. With respect to tribal nations, unless tribal provisions are included, the current tax reform legislation amounts to little more than a \$1.5 trillion increase in the federal deficit over the next ten years. This deficit increase will inevitably create pressure to cut federal programs and services that are extremely important to tribal communities. Deficit-financed tax cuts that lead to austerity budget cuts would affect all Americans, but would disproportionately impact American Indians and Alaska Natives who rely on federal funding of the trust responsibility as well as social programs.

Accordingly, NCAI and NAFOA oppose the House and Senate versions of the Tax Cuts and Jobs Act. NCAI and NAFOA call on tribal governments to oppose these bills as well and contact their Congressional delegations to urge them to vote NO on the Tax Cuts and Jobs Act."

"Safety & Victim Service Passes in the House Appropriations Committee," NCAI, Published on July 13, 2017, <http://www.ncai.org/news/articles/2017/07/13/the-mccollum-cole-amendment-on-tribal-public-safety-victim-service-passes-in-the-house-appropriations-committee>, commented, **"Today, the House Appropriations Committee adopted an amendment offered by Representatives Betty McCollum (D—MN) and Tom Cole (R—OK) that would support tribal public safety and victim services programs. The amendment was adopted by voice vote with overwhelming bi-partisan support.**

'The McCollum-Cole Amendment comes as great news to tribal nations across the country,' said NCAI President Brian Cladoosby. 'We are so pleased that the Appropriations Committee recognized the appalling unmet need in tribal communities and took an important step toward ensuring that crime victims in tribal communities have access to the justice and services they deserve.'

Despite federal and tribal government attempts to reduce violence on Indian lands, reservations continue to face staggering rates of violent crime and victimization. A recent DOJ study found that more than four in five American Indian and Alaska Native adults have experienced some form of violence in their lifetime. Among American Indian and Alaska Native women, 55.5 percent have experienced physical violence by intimate partners in their lifetime, and more than half (56.1 percent) have experienced sexual violence. DOJ also found that Native victims are more likely to be injured as a result of their violent victimization, more likely to need services, and are significantly less likely to have access to services compared to their non-Native counterparts.

The McCollum-Cole Amendment is an amendment to the FY18 Commerce, Justice, Science Appropriations (CJS) bill. Without this amendment, the bill would have resulted in cuts of 43% to Department of Justice (DOJ) tribal justice system funding over FY16 levels. This would have had

a devastating impact on DOJ programs that support tribal police departments, courts, juvenile justice, detention center construction, and other important public safety programs in Indian Country. The Amendment also created a 5% tribal funding stream from the Crime Victims Fund, the primary federal source for crime victim services, which currently includes formula funding for state and territorial governments, but not tribal governments. The House bill includes \$4.6 billion in outlays from the Crime Victims Fund, and the amendment adopted today directs 5% of that funding to tribal governments.

With its adoption by the House Appropriations Committee today, NCAI hopes that similar language will be included in the Senate bill, thereby strengthening the future of Indian Country by addressing crime on tribal lands through restoration of tribal access to safety and justice and improvements in tribal public safety funding, strategy, and planning."

"National Congress of American Indians (NCAI) President Jefferson Keel Issues Statement on the White House Ceremony Honoring Native American Code Talkers,' Published on November 27, 2017, <http://www.ncai.org/news/articles/2017/11/27/national-congress-of-american-indians-ncai-president-jefferson-keel-issues-statement-on-the-white-house-ceremony-honoring-native-american-code-talkers>, commented, "On November 27, 2017, the National Congress of American Indians President Jefferson Keel issued the following statement:

'We regret that the President's use of the name Pocahontas as a slur to insult a political adversary is overshadowing the true purpose of today's White House ceremony,' stated NCAI President Jefferson Keel, a decorated U.S. Army officer and Vietnam War combat veteran. **'Today was about recognizing the remarkable courage and invaluable contributions of our Native code talkers. That's who we honor today and every day – the three code talkers present at the White House representing the 10 other elderly living code talkers who were unable to join them, and the hundreds of other code talkers from the Cherokee, Choctaw, Comanche, Lakota, Meskwaki, Mohawk, Navajo, Tlingit, and other tribes who served during World Wars I and II. We also honor the service and bravery of all of our veterans and those currently serving from Indian Country.** Native people serve in the Armed Forces at a higher rate than any other group in the country, and have served in every war in this nation's history.

And we honor the contributions of Pocahontas, a hero to her people, the Pamunkey Indian Tribe in Virginia, who reached across uncertain boundaries and brought people together. Once again, we call upon the President to refrain from using her name in a way that denigrates her legacy.'

Please see NCAI's statement issued on May 3, 2017 on President Trump's use of the name Pocahontas at: <http://www.ncai.org/news/articles/2017/05/03/ncai-condemns-president-trump-derogatory-use-of-pocahontas-name-in-political-attack>."

"Top Civil Rights Organizations Urge Media Not to Use Washington NFL Team's R-word Name on Thanksgiving," NCAI, Published on November 21, 2017, <http://www.ncai.org/news/articles/2017/11/21/top-civil-rights-organizations-urge-media-not-to-use-washington-nfl-team-s-r-word-name-on-thanksgiving>, commented, **"A coalition of the country's most prominent advocacy and civil rights organizations today called on media organizations to refrain from using the offensive R-word name of the Washington NFL team during their Thanksgiving Day coverage.** The Washington franchise will take on the New York Giants in a high-profile, nationally broadcast game on Thursday.

Endorsees of the just-released letter include: NAACP, National Urban League, Advancement Project, Asian and Pacific Islander American Health Forum, Demos, PICO National Network, Race Forward, UnidosUS, National Congress of American Indians, Oneida Indian Nation and Change the Mascot.

"Thanksgiving is often the only major American holiday that brings Native people and their history into the national conversation. Using the holiday to promote the Washington team's derogatory name will further marginalize Native Americans who have already experienced histories of oppression and violence," the letter states. "Media organizations can do their jobs by reporting on the team, but also refrain from using the slur and denigrating Native people."

The letter goes on to highlight the substantial and tangible destruction caused by the use of the R-word. It points to social science research proving that such mascots and slurs lower self-esteem and mood among Native American youth, and also increase negative attitudes towards Native Americans among other races.

'In light of all of the evidence of destruction caused by the R-word's use, we are hopeful that you will pledge to honor this modest request,' the letter continues. "At a time when our political debate is so polarized, media organizations should be able to agree to not explicitly promote a racial slur."

Today's plea to media organizations is part of Change the Mascot's grassroots movement to educate the public about the damaging effects on Native Americans arising from the continued use of the R-word. This civil and human rights movement has helped reshape the debate surrounding the Washington team's name and brought the issue to the forefront of social consciousness.

Since its launch, the campaign has continually garnered support from a diverse coalition of prominent advocates including elected officials from both parties, Native American tribes, sports icons, leading journalists and news publications, civil and human rights organizations and religious leaders. A full list of Change the Mascot supporters can be found at: <http://www.changethemascot.org/supporters-of-change/>.

The full text of today's letter to media organizations can be found at: <http://www.changethemascot.org/wp-content/uploads/2017/11/CHANGE-THE-MASCOT-Broadcaster-Letter-Nov-21-2017.pdf>."

"National Congress of American Indians (NCAI) Joins Assembly of First Nations (AFN) in Calling for the Development of a North American Free Trade Agreement (NAFTA) Indigenous Chapter," NCAI, Published on October 18, 2017, <http://www.ncai.org/news/articles/2017/10/18/national-congress-of-american-indians-ncai-joins-assembly-of-first-nations-afn-in-calling-for-the-development-of-a-north-american-free-trade-agreement-nafta-indigenous-chapter>, Commented, "On Tuesday, October 18, 2017, **the National Congress of American Indians (NCAI) membership overwhelmingly moved to support Assembly of First Nations (AFN) National Chief Perry Bellegarde's request that NCAI join AFN in working to establish an Indigenous Chapter in the North American Free Trade Agreement (NAFTA).**

National Chief Bellegarde was addressing NCAI at the NCAI 74th Annual Convention & Marketplace in Milwaukee, WI.

'I thank the National Congress of American Indians for passing a unanimous motion supporting in principle an Indigenous Peoples Chapter in a renegotiated NAFTA and supporting our work to protect Indigenous rights,' said Bellegarde. "This is a strong show of solidarity by the First Peoples of Turtle Island and a strong message to the nation-states involved in the negotiations. Our inherent rights, Treaty rights and international rights in the UN Declaration on the Rights of Indigenous Peoples must be respected in the negotiations and in any final agreement.'

AFN National Chief Bellegarde spoke passionately to the crowd of tribal leaders during the NCAI Second General Assembly about working across the borders that were created by others and separated our peoples.

'It is an honor to work with our brothers and sisters in Canada to ensure Indigenous voices are a part of the NAFTA negotiations,' said NCAI President Brian Cladoosby. 'NCAI member tribes see our collaborative work for inclusion of an Indigenous Peoples Chapter in NAFTA as a necessity to protect the rights of American Indian Tribes, Canadian First Nations, and the Indigenous peoples of Mexico.'

NCAI members will vote to approve a resolution entitled 'Supporting the Inclusion of an Indigenous Chapter in any Renegotiated North American Free Trade Agreement (MKE-17-053)' on Friday, October 20, 2017 during the Sixth General Assembly.

WDC and Partner Groups Demand US and Canada Act to Save North Atlantic Right Whales," October 20, 2017, <http://wdc-nawhaleanddolphinsconservationnorthamerica.cmail19.com/t/ViewEmail/j/2AC8D972064426EA2540EF23F30FEDED/A01551233679361B9A8E73400EDACAB4>, *****Two and a half weeks after WDC**

and its conservation partners issued a Notice of Intent to Sue the National Marine Fisheries Service (NMFS) for failing to adequately protect right whales, NMFS released a *revised species review report* with proposed recommended actions to prevent the extinction of NA right whales. WDC and its partners are currently reviewing the report and the associated recommendations to ensure they address the urgency of the current right whale crisis.

~Regina Asmutis-Silvia, Executive Director-North America

Read about the original intent to sue below:

WDC and its conservation and animal-protection partners sought action by the United States and Canada to prevent painful, deadly entanglements in fishing gear that threaten the critically endangered North Atlantic right whale. **In letters to Canadian officials and the U.S. National Marine Fisheries Service, the groups demanded action to reduce risks to these imperiled whales. North Atlantic right whales, one of the world's most endangered mammals with fewer than 500 individuals remaining on Earth, lost nearly 3 percent of their population this year.**

'Right whales risk spiraling toward extinction if we don't protect them from deadly fishing gear,' said Kristen Monsell, a senior attorney at the Center for Biological Diversity. 'This has been a tragic year for a species already teetering on the brink. U.S. and Canadian officials need to do everything they can to prevent gear entanglements and the slow, painful deaths they can cause.'

The groups say the **Fisheries Service must fulfill its obligations under the Endangered Species Act and Marine Mammal Protection Act to review protective measures for the species and adopt additional protective measures to prevent further entanglements.** The demands were made in a legal notice that gives the agency at least 60 days to correct the violations before the groups can file a lawsuit."

"CANADA: TSILHQOT'IN NATION FILES FOR INJUNCTION TO HALT DRILLING BY MINE, Cultural Survival, August 08, 2017, <https://www.culturalsurvival.org/news/canada-tsilhqotin-nation-files-injunction-halt-drilling-mine>, reported, **"Our people are understandably angry, and cannot believe that BC would approve more destruction in an area of such spiritual and cultural importance for us, and in Xeni Gwet'in's trapline, an area with one of Canada's only Court Declarations of Aboriginal Rights. We are confident that the BC Supreme Court will hear our concerns and grant an injunction against any drilling activity by Taseko. The BC NDP have inherited this mess from the previous government, and we hope they will act to make things right."** -Chief Roger William, Chief of the Xeni Gwet'in First Nations Government and Vice-Chair of the Tsilhqot'in National Government

On July 31st, 2017, **the Tsilhqot'in Nation went to the BC Supreme Court to challenge the drilling permits that were recently issued to Taseko Mines Limited, a Canadian mining company who has been pushing for a copper mine in the area.** The Tsilhqot'in National Government (TNG) filed a petition to rescind the permit due to its neglect of the responsibility to consult and accommodate the Tsilhqot'in Nation before approval. Additionally, TNG filed a Notice of Civil Claim against the permits, noting that it infringes upon the Tsilhqot'in Nation's right to the land for hunting, trapping and fishing. Finally, TNG asked the BC Supreme Court for an injunction to halt the work that Taseko is attempting to do at the site. The decision on the injunction is expected on August 14th, and, until then, Taseko has agreed to halt drilling.

This battle between the Tsilhqot'in Nation and Taseko Mines Limited has been ongoing for two decades. The company has been attempting to construct a mine that would produce 70,000 tons of ore per day for 20 years. However, this plan has been rejected by the BC government twice before, in 2012 and 2014, as a result of the opposition and strong organization by the Tsilhqot'in Nation and the general public. In 2014, the government upheld that the area in question is Tsilhqot'in lands, and that any economic development that would take place on these lands must have the consent of the First Nation.

Regardless of this federal decision, on July 14th, 2017, a permit was issued to Taseko Mines, authorizing Taseko to clear lands, excavate test pits, drill 122 holes, and construct roads. The permit was sanctioned while the Indigenous Peoples of the Tsilhqot'in Nation were evacuating their homes due to wildfires raging across their lands.

Taseko is looking engage in extensive, destructive exploratory work in the area. This includes 76 km of road and trail, 122 drill holes, 367 test pits (dug by an excavator), and 20 km of seismic lines in an area of profound cultural importance to the Tsilhqot'in Nation. On Friday, July 28th, the Canadian Environmental Assessment Agency wrote Taseko Mines Ltd., declaring that the drilling program is illegal under the Canadian Environmental Assessment Act, 2012. But whether the provincial government and Taseko will respect these laws is to be seen. Sustained community organizing and public opposition to the project is essential to implement court decisions.

Indeed, public opposition to the project, in solidarity with the Tsilhqot'in, has been very strong: the government decision in 2014 to recognize the Tsilhqot'in Nation's title to their lands was influenced significantly by the public objection to the New Prosperity Mine project. This type of public action has grown over the past few years and has had a direct effect on the ways in which the BC government has acknowledged the rights of the Tsilhqot'in Nation.

Now, the Tsilhqot'in are again asking for public support against the mine.

The Tsilhqot'in Nation in British Columbia, Canada, issued an urgent request for people around the world to join them in the fight to protect their home, lands, and sacred waters from a gold and copper mine that would turn the sacred Teztan Biny or 'Fish Lake' in the heart of Tsilhqot'in territory, into a tailings pond for toxic waste.

The lake is home to 85,000 rainbow trout, and provides clean water for drinking, irrigation, and millions of salmon which supports a thriving ecosystem and economy for the region. Tsilhqot'in Elder Sonny Lulua explained 'There is so much at stake for us...It hurts our culture when it changes like this or when we can't go in there. It is a threat to our survival. [That area] was made for us to live off of, for hunting and trapping and medicines'. (from affidavit, Lulua Affidavit, Ex. "A", para. 11)

The Tsilhqot'in National Government has asked people around the world to hold up a feather to demonstrate your solidarity with the fight to #SaveFishLake.

'The eagle feather is for the truth, it's for protection, it's for guidance, it's for courage. So we pray to the creator through this eagle feather. We ask everyone to come together with the strength of the eagle feather, in unity, to protect our lands and resources.' - Chief Charlene Belleau"

"CULTURAL SURVIVAL CONDEMNS TRUMP'S DECISION TO REVERSE BEARS EARS NATIONAL MONUMENT," Cultural Survival, December 6, 2017, <https://www.culturalsurvival.org/news/cultural-survival-condemns-trumps-decision-reverse-bears-ears-national-monument>, commented, **"President Trump illegal decision to shrink the Bears Ears Monument on December 5, 2017, reversing the Obama administration's designation of Bears Ears as a National Monument in Utah, is an attack on Tribal sovereignty and self-determination and a measure that is continuing the Trump administration's discriminatory treatment of Native Peoples in the United States.** Trump's recent decisions include issuing permits to the Dakota Access and Keystone XL pipelines, the revoking the executive order to protect the Bering Sea, and the recent opening of the Arctic National Wildlife Refuge for oil and gas leases, demonstrate the blatant disregard for Native Peoples' rights.

Bears Ears has been home to Native Peoples since time immemorial and is a place of cultural and spiritual significance for the Navajo, Hopi, Ute, Ute Mountain Ute, and Zuni Peoples. The five Tribal governments, in unity, worked hard with the Obama administration to secure formal protections under US law for the creation of a National Monument, protecting the 100,000 plus structures, sites, and objects found on the land and barring extractive industries from operating in the area. The Obama administration also guaranteed hunting, fishing, gathering and grazing rights of Native People with the creation of the National Monument.

Trump's executive order to shrink the monument by 1.1 million acres, more than 85 percent, degrades the agreement reached between the Tribes and the federal government. Under the US Antiquities Act, the president may create national monuments, not modify or revoke existing monuments. Only Congress has this power. No president has ever revoked and replaced a national monument before.

The Trump administration failed to meaningfully consult Tribal governments and has violated

international standards like the United Nations Declaration on the Rights of Indigenous Peoples which the Obama administration endorsed in 2010, guaranteeing Indigenous Peoples the right to free, prior and informed consent in matters concerning them. We are encouraged by the actions taken by the five Tribes to sue the President and Interior Secretary Ryan Zinke, and hold faith for justice to prevail on this matter.

We stand in solidarity.

Suzanne Benally (Santa Clara Tewa), Cultural Survival Executive Director."

The International Treaty Council (IITC) hosted the 2017 Thanksgiving Sunrise Gathering to Celebrate Survival and Share Truth in History on Alcatraz Island, CA, November 23, 2017. Participants came from many parts of the world (<https://www.iitc.org/press-release-international-indian-treaty-council-hosts-2017-indigenous-peoples-thanksgiving-sunrise-gathering-celebrate-survival-share-truth-history/>),

IITC Sponsored the 2017 Southwest Indigenous Foodways Gathering and AZ Small-Scale Producers Forum, December 6-9, in Ajo, AZ (<https://www.iitc.org/iitc-event-2017-southwest-indigenous-foodways-gathering-az-small-scale-producers-forum/>).

IITC with the Alaska Community Action on Toxics and Chickaloon Traditional Village Council held an Event: Stories, Struggles and Songs: Environmental Reproductive Health And Justice: A Call To Action By Indigenous Women, on August 3, 2017, at the First United Methodist Church, 725 W 9th Ave, Anchorage AK. (<https://www.iitc.org/iitc-event-call-action-indigenous-women-anchorage-ak/>).

American Indians and allies protested in Santa Fe, NM, September 8, 2017, against an annual pageant celebrating the return of the Spanish conquistador Don Diego de Vargas to New Mexico, in 1692, after the Spanish had been thrown out by the Pueblo Revolt of 1680 (Morgan Lee, "Santa Fe protestors stand ground against trespassing charge," NFIC, September 2017).

On Thanksgiving day, 2017, American Indians from around New England gathered in Plymouth, MA, where the Pilgrims landed in 1620, for a National Day of Mourning ("Native Americans mark holiday with mourning in New England," *Albuquerque Journal*, November 24, 2017).

Remember the Removal is an annual 950-mile bike ride commemorating the hardships of removal in the Cherokee Trail of Tears along the northern route that Cherokees were forced to take from Georgia to Oklahoma. It was first organized in 1984, and has been an annual event since 2009 (Melanie D.G. Kaplan, "In Their Footsteps," *National Parks*, winter 2018).

Hawai'i People's Fund reported in its Kauwela 2017 newsletter that among the grants it had recently awarded were to **Mounakea Education & Awareness** that works to raise the awareness of communities in Hawai'i and beyond to the spiritual, historical, cultural, environmental and political significance of Maunakea and all sacred places.

In Albuquerque, NM, the **Assembly of Native American Voices (ANAV)** was formed by urban Indian people from all walks of life representing a wide spectrum of social and economic sectors. ANAV emerged from the January 2016 Urban Indian Summit, in Albuquerque, co-hosted by the American Indian Voters Alliance, Americans for Indian Opportunity and Native American Community Academy. ANAV works as a community based organization to meet the cultural, policy and resource needs of the urban Indian community. Its vision is "to build a healthy, vibrant urban Indian community that is valued for its resilience and contribution to the community." For information go to: www.assemblynativevoices.com.

In New Mexico, the Native American Voters Alliance has been active on political issues. It has planned a **Legislative Strategy and Informational Session for Native American Advocates on**

acting on issues before the New Mexico state legislature on January 23, 2017. For information, call: (505)246-1819.

The **Alliance of Indigenous Social Work Students** "promotes unity among students and supports the cultural, social and academic needs of Indigenous Social Work Students at the NMHU Albuquerque and Rio Rancho Centers." For information contact: Natalie Nicotine, President: Natalie.nicotine@gmail.com or Diane Tsoodle-Nelson, Vice President: dtsoodlenels@live.mhu.edu.

Among the so called "conservative" groups that have taken stands against tribal interests, the **Goldwater Institute, of Phoenix, AZ, has been calling for the repeal of the Indian Child Welfare Act (ICWA)** (Rebecca Claren, "Our Children Have a Bounty on Their Heads," *The Nation*, April 24-May 1, 2017).

International Activities

"New report exposes widespread abuse funded by big conservation organizations," Survival International, September 25, 2017, <https://www.survivalinternational.org/news/11828>, reported, **"A new Survival International report details widespread and systematic human rights abuses in the Congo Basin, by wildlife guards funded by the World Wildlife Fund (WWF) and other big conservation organizations."**

The report documents serious instances of abuse between 1989 and the present day in Cameroon, the Republic of Congo, and the Central African Republic (CAR) by guards funded and equipped by WWF and the Wildlife Conservation Society (WCS), the parent organization of New York's Bronx zoo.

It lists more than 200 instances of abuse since 1989, including pouring hot wax onto exposed skin, beating, and maiming with red-hot machetes. These incidents are likely just a tiny fraction of the full picture of systematic and ongoing violence, beatings, torture and even death.

As well as these especially cruel incidents, the report also documents the forms of harassment that have become part of everyday life for many people, including threats, and the destruction of food, tools and personal belongings.

Read the full report at: <https://assets.survivalinternational.org/documents/1683/how-will-we-survive.pdf>.

As well as Survival, over the past three decades, **numerous independent experts and NGOs have raised concerns about these abuses.** These have included NGOs like Greenpeace, Oxfam, UNICEF, Global Witness, Forest Peoples Programme, and research specialists from University College London, the University of Oxford, Durham University, and Kent University.

WWF and WCS have even partnered with several logging companies, despite evidence that their activities are unsustainable, and have not had the consent of tribal peoples as required by international law and their own stated policies.

One Bayaka man said: 'A wildlife guard asked me to kneel down. I said: 'Never, I could never do that.' He said: 'If you don't get down on your knees I'm going to beat you.'

A Baka woman said: 'They took me to the middle of the road and tied my hands with rubber cord. They forced my hands behind my back and cut me with their machete.'

'They started kicking me all over my body... I had my baby with me. The child had just been born three days before.'

Tribal peoples have been dependent on and managed their environments for millennia. Their lands are not wilderness. Evidence proves that tribal peoples are better at looking after their environment than anyone else.

But big conservation organizations like WWF are partnering with industry and tourism and destroying the environment's best allies. Now tribal people are accused of 'poaching' because they hunt to feed their families. And they face arrest and beatings, torture and death, while big game trophy hunters are encouraged.

Survival's Director Stephen Corry said: "This shocking report lays out, in detail, the abuse and

persecution that “conservation” has brought the indigenous and tribal peoples of the Congo Basin. These are just the cases that have been documented, it’s impossible to imagine there aren’t a lot more which remain hidden.

'The big conservation organizations should admit that their activities in the region have been catastrophic, both for the environment and for the tribal peoples who guarded these forests for so long.

'WWF and WCS supporters might ask these organizations how they could have let this situation carry on for so long – and what they’re going to do now to make sure it stops.'

'Pygmy' is an umbrella term commonly used to refer to the hunter-gatherer peoples of the Congo Basin and elsewhere in Central Africa. The word is considered pejorative and avoided by some tribespeople, but used by others as a convenient and easily recognized way of describing themselves.'

"Survival–WWF OECD talks break down over tribal consent," Survival International, September 5, 2017, <https://www.survivalinternational.org/news/11800>, reported, **"The landmark mediation talks between Survival and the World Wildlife Fund (WWF) over breaches of OECD guidelines for multinational corporations have broken down over the issue of tribal peoples’ consent.**

Survival had asked WWF to agree to secure the Baka 'Pygmies' consent for how the conservation zones on their lands in Cameroon were managed in the future, in line with the organization’s own indigenous peoples policy.

WWF refused, at which point Survival decided there was no purpose continuing the talks.

Survival lodged the complaint in 2016, citing the creation of conservation zones on Baka land without their consent, and WWF’s repeated failure to take action over serious human rights abuses by wildlife guards it trains and equips.

It is the first time a conservation organization has been the subject of a complaint under the OECD guidelines. The resulting mediation was held in Switzerland, where WWF is headquartered.

WWF has been instrumental in the creation of several national parks and other protected areas in Cameroon on the land of the Baka and other rainforest tribes. Its own policy states that any such projects must have the free, prior and informed consent of those affected.

A Baka man told Survival in 2016: “[The anti-poaching squad] beat the children as well as an elderly woman with machetes. My daughter is still unwell. They made her crouch down and they beat her everywhere – on her back, on her bottom, everywhere, with a machete.”

Another man said: “They told me to carry my father on my back. I walked, they beat me, they beat my father. For three hours. Every time I cried they would beat me, until I fainted and fell to the ground.”

Background briefing

- Survival first raised its concerns about WWF’s projects on Baka land in 1991. Since then, Baka and other local people have repeatedly testified to arrest and beatings, torture and even death at the hands of WWF-funded wildlife guards.

- The OECD is the Organization for Economic Co-Operation and Development. It publishes guidelines on corporate responsibility for multinationals, and provides a complaint mechanism where the guidelines have been violated.

- The complaint was lodged with the Swiss national contact point for the OECD, as WWF has its international headquarters in Switzerland. Talks took place in the Swiss capital, Bern, between representatives of WWF and Survival.

- The principle of Free, Prior and Informed Consent (FPIC) is the bedrock of international law on indigenous peoples’ rights. It has significant implications for big conservation organizations, which often operate on tribal peoples’ land without having secured their consent.

Tribal peoples like the Baka have been dependent on and managed their environments for millennia. Contrary to popular belief, their lands are not wilderness. Evidence proves that tribal peoples are better at looking after their environment than anyone else. Despite this, WWF has alienated them from its conservation efforts in the Congo Basin.

The Baka, like many tribal peoples across Africa, are accused of “poaching” because they hunt

to feed their families. They are denied access to large parts of their ancestral land for hunting, gathering, and sacred rituals. Many are forced to live in makeshift encampments on roadsides where health standards are very poor and alcoholism is rife.

Meanwhile, **WWF has partnered with logging corporations such as Rougier, although these companies do not have the Baka's consent to log the forest, and the logging is unsustainable.**

Survival's Director Stephen Corry said: 'The outcome of these talks is dismaying but not really surprising. Conservation organizations are supposed to ensure that the 'free, prior and informed consent' of those whose lands they want to control has been obtained. It's been WWF's official policy for the last twenty years.

"But such consent is never obtained in practice, and WWF would not commit to securing it for their work in the future.

"It's now clear that WWF has no intention of seeking, leave alone securing, the proper consent of those whose lands it colludes with governments in stealing. We'll have to try other ways to get WWF to abide by the law, and its own policy."

"Defenders of the Land & Idle No More Condemn Government of Canada's 10 Principles," Defenders of the Land & Idle No More Network, August 25, 2017, stated, **"When the Government of Canada's released its Principles Respecting the Government of Canada's Relationship with Indigenous Peoples last month, they said they would *"form a foundation for transforming how the federal government partners with and supports Indigenous peoples and governments."* But the analysis by Indigenous representatives from Defenders of the Land and Idle No More suggest that the federal governments "10 Principles" are a continuation of settler attempts to eliminate Aboriginal Title and the pre-existing right of sovereignty and self-determination; as well as, a fair and just, interpretation of historic Treaties.**

In a detailed 12-page Condemnation of Canada's "10 Principles" Undermining International Minimum Standards Regarding the Rights of Indigenous Peoples, Defenders of the Land and Idle No More show how the government document contains familiar government double-speak, where they acknowledge "*self-determination*" on one hand but then put it squarely under the umbrella of "*European assertion of sovereignty*" on the other. Regarding the implementation of the **UN Declaration of the Rights of Indigenous Peoples**, the government says it will only implement a Canadian version. This 12 page analysis contends that if the government does not implement **UNDRIP** as it stands, it is in violation of international human rights laws.

According to the Indigenous analysis, the *"Trudeau government is advancing a racist, colonial position, which is inconsistent with the minimum human rights standards contained in the Articles of UNDRIP."* The government's aim, they say, *"is to domesticate Indigenous Peoples and international law, both in violation of international legal standards.*

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Defenders of the Land & Idle No More Networks stated, September 12, 2017, **"10th ANNIVERSARY OF THE UN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES - NO REASON FOR CANADA TO CELEBRATE!"**, "September 13th 2017 marks the 10th anniversary of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), a universal legal framework, which acknowledges the inherent collective human rights of the approximately 370 million Indigenous Peoples worldwide. Whilst a few celebrations of this anniversary are taking place in Canada organized together with establishment organizations who do not represent the grassroots Indigenous Peoples who are the proper title and rights holders, it is questionable, if the country has anything to celebrate about. **According to the latest periodic report of the UN Committee on the Elimination of all Forms of Racial Discrimination (UN CERD), Indigenous Peoples in Canada are still facing systematic racial discrimination in the enjoyment of their inherent rights.**

Thirty years after Indigenous representatives first came to the United Nations in 1977, the General Assembly finally adopted the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) on September 13th, 2007. Indigenous Peoples around the world celebrated this event as a milestone of their continuous efforts to have their rights acknowledged on an international level.

The UNDRIP is the first UN document which entitles Indigenous Peoples not only to general human rights but also specific collective rights as Peoples, particularly concerning their right to self-determination, identity, culture as well as their Indigenous lands and resources.

Today Indigenous Peoples are an ever-growing presence at the international level and 10 years after its adoption, some countries have incorporated the declaration into their national law to set minimum standards for their relationship with Indigenous Peoples.

Regrettably so far, Canada has not appropriately implemented its obligations and duties towards Indigenous Peoples as laid down in the UNDRIP, which has already been criticized by many UN bodies and Committees, most recently by the UN CERD in August 2017.

In fact, Canada was one of only four countries that actually voted against the UNDRIP at the General Assembly in 2007. Only after immense international political pressure did the Canadian government endorse the declaration in 2010, but with severe reservations.

In May 2016, **Canadian federal Minister of Indian Affairs and Northern Development, Carolyn Bennett, announced the full support of the Declaration “without qualification” at the UN Permanent Forum on Indigenous Issues. However, she immediately contradicted this in her next sentence by stating that the government intends to “adopt and implement the declaration in accordance with the Canadian Constitution.”** She therefore tried to subjugate international law to lesser national standards. This is in clear violation of any understanding of international law, according to which national laws and policies should only be passed if they conform with international law and not *vice versa*.

The recent periodic report from the *United Nations Committee on the Elimination of Racial Discrimination* (CERD), condemned racism and rights violations encountered by Aboriginal Peoples in Canada, echoing Indigenous Nations who made submissions to the committee on their experiences of racial discrimination since the past 150 years of colonial policy and law.

The UN CERD committee is “*deeply concerned*” by Canada’s continuous violations of the land rights of Indigenous Peoples “*in particular environmentally destructive decisions for resource development which affect their lives and territories continue to be undertaken without the free, prior and informed consent of the Indigenous Peoples, resulting in breaches of treaty obligations and international human rights law.*”

Collective land rights of Indigenous Peoples present a cornerstone of the UNDRIP, according to which Indigenous Peoples enjoy the right to own, use, develop and control their **traditional lands, territories and resources as key aspect of their culture and identity.**

The CERD report criticizes that for Indigenous Peoples in Canada “*costly, time consuming and ineffective litigation is often the only remedy in place of seeking free, prior and informed consent*” and is highly concerned that “*permits have been issued and construction has commenced at the Site C dam, despite vigorous opposition of Indigenous Peoples affected by this project*”. The Committee urges Canada to “*immediately suspend all permits and approvals for the construction of the Site C dam*” in British Colombia and to “*incorporate the free, prior and informed consent principle in the Canadian regulatory system*”.

Additionally, the Committee is alarmed at the continued high rates of violence against Indigenous women and girls, urging Canada to take immediate action. The report also found that despite its previous recommendations and multiple decisions by the Canadian Human Rights Tribunal, “*less money is reportedly provided for child and family services to Indigenous children than in other communities, and that this gap continues to grow*”. According to the UNDRIP, states must “*take measures, in conjunction with Indigenous Peoples, to ensure that Indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.*” However, systematic discrimination of Indigenous women and children remains and Canada has failed so far in addressing root causes of this ongoing violation.

As part of Montréal's 375th anniversary, a three-day event is organized in collaboration with the Montreal city government to celebrate the 10th anniversary of the UNDRIP, Indigenous cultures and diversities in collaboration with establishment organizations which do not represent grassroots Indigenous Peoples who are the proper title and rights holders. While Indigenous Peoples, their rights, cultures and artists should be promoted and celebrated, cocktail receptions, acknowledging talks and free concerts are by far not enough. The UN CERD report clearly shows that Canada needs to do much more to address its long history of racial discrimination against Indigenous Peoples and to acknowledge their inherent, internationally recognized rights as Peoples.

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"Cultural Survival Stands in Solidarity with the Citizens of Guatemala," Cultural Survival, August 29, 2017. <https://www.culturalsurvival.org/news/cultural-survival-stands-solidarity-citizens-guatemala>, commented, **Cultural Survival stands in solidarity with the citizens of Guatemala and requests that Iván Velásquez is not removed from the International Commission Against Impunity/Comisión Internacional contra la Impunidad en Guatemala (CICIG).**

Cultural Survival is an organization that promotes Indigenous Peoples' rights around the world. In light of the recent situation created by the worrisome decision of the President of Guatemala to declare Commissioner Iván Velásquez, head of the CICIG, to be a persona non grata, Cultural Survival stands in solidarity with the citizens of Guatemala. We make known:

1st. Our full support and recognition of the work of esteemed Commissioner Iván Velásquez who has fulfilled, with the highest level of capacity, impartiality, and good will, his functions to carry out the commitments of the CICIG. Commissioner Iván Velásquez set important precedents in investigations and in the application of justice in cases of corruption and impunity, which resulted in the resignation of the previous president of Guatemala and his vice-president. Commissioner Velásquez also contributed to the dismantling of criminal structures in various public institutions. We also recognize and value the important work of the Attorney General, Thelma Aldana, who leads the Public Ministry/Ministerio Público, and has in every case supported and facilitated the work of the CICIG.

2nd. We express our concern about the arbitrary application of the law and the apparent looting of the resources of the State. We are concerned that the government is using legal structures to protect those who perpetrate corruption and impunity.

3rd. We call on President Jimmy Morales to reconsider and revoke his removal of Commissioner Iván Velásquez from the CICIG, complying with the provisional protection guaranteed by the Constitutional Court.

4th. We stand in solidarity with and urge the Maya, Garifuna, Xinca and Ladino communities to continue to defend their rights to live in a country free from corruption, where human rights are respected, especially the right to freedom of expression of mass media as well as alternative media. Now, vigilance and unity of the diverse social sectors is needed to secure justice, transparency, and good governance--the bases of real democracy in the country.

5th. We call on the international community to be vigilant and stay informed about this situation, supporting the efforts in process to guarantee a stable institutional framework that strengthens the rule of law. We reiterate our commitment to the promotion and defense of human rights in Guatemala, especially for Indigenous Peoples, through our work to advance the right of freedom of expression."

Lorena Medina Patzán, "INDIGENOUS WOMEN OF GUATEMALA PREPARE TO REPORT TO CEDAW," Cultural Survival, August 08, 2017, <https://www.culturalsurvival.org/news/indigenous-women-guatemala-prepare-report-cedaw>, **"Several Indigenous women's organizations from the Maya, Garífuna and Xinca peoples working with the Tzununijá Movement, have developed a multi-year consultation and collective construction process that has included meetings, conferences and workshops in an effort to produce the Second Shadow Specific Report on Indigenous Women of Guatemala for submission to the**

Committee on the Elimination of all Forms of Discrimination Against Women.

The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) was adopted by the United Nations in 1979 and ratified by the State of Guatemala on August 12, 1982.

Despite this, **almost 35 years after the State had committed itself to eliminate all forms of discrimination against women, the situation of Indigenous women in the country continues to be marked by various forms of discrimination, racism, and violence.**

The State of Guatemala has submitted various reports on compliance with this important international convention. In 2003, the Committee made several recommendations following the presentation of the State's sixth report. Among the most relevant are recommendations 34 and 35 which express the Committee's concern about the situation of Indigenous women in the country:

'34: Noting that the majority of Guatemalans are Indigenous, the Committee expresses its concern about the situation of Indigenous women, who do not enjoy their human rights and are vulnerable to multiple forms of discrimination. It is also concerned at the lack of statistical information on the situation of Indigenous women.'

'35: The Committee encourages the State party to take specific concrete steps to accelerate the improvement of the conditions of Indigenous women in all spheres of life.'

Based on these clear recommendations issued by the Committee, the Tzununijá Movement promoted a broad participation process from Indigenous women, who have historically been set aside and invisible in all areas, especially in the reports prepared by the Guatemalan State, as well as in other reports from the women's and feminist movement that have little on the agenda of the voices, situations and demands of Indigenous women. What is sought with the elaboration and presentation of specific reports, is to show that the socio-political and cultural contexts in which Indigenous women develop, face specific challenges due to marginalization, inequality, poverty, racism, etc. that have different impacts, which need to be taken into account by the State with a higher priority that it has been given to it so far, in order to ensure respect and compliance with the individual and collective rights of Indigenous women.

In some cases, it is considered that they have been relegated to the concept of 'rural women,' which also has a bias, since Indigenous women are in all sectors of society, they are migrants, professionals, living in cities, they hold positions as decision makers and in some cases, leadership positions, which is contrasting when the situation of Indigenous women is analyzed only as rural women.

The report prepared in 2009 by the Tzununijá Women's Movement to the CEDAW Committee was the first of its kind, presented specifically by Indigenous women, at the global level. The richness of both reports is that they have been the product of regional meetings and processes that have emerged from the communities that have given voice and spaces of expression to Indigenous women, from a local to a national level. It is considered that this alternative report is a space to clearly show the reality of the multiple oppressions and discrimination under which Indigenous women live, due to gender and ethnicity, which are also accentuated by the poverty and extreme poverty of predominantly Indigenous areas. This situation is exacerbated by the lack of State investment in the human development of Indigenous Peoples and the lack of implementation of human rights commitments.

Garífuna and Xinca women have been fully involved in supporting this process, with a leading role and a lot of hope, considering that there are many gaps in the reports submitted by the State, which almost lack reliable and sufficient data.

In a recent meeting to strengthen and validate the report to be presented this year, several women participants expressed that the reality of women in their communities in daily life is characterized by lack of access to education, scarce resources to provide coverage to the most remote Indigenous communities; lack of cultural relevance of implemented programs, poor health services, little or no access to justice in cases of violence, etc.

In the regions with the highest concentration of Indigenous populations, there are high rates of maternal and infant mortality, due to various causes. Likewise, chronic child malnutrition is also more pronounced in Indigenous-majority departments.

Indigenous women suffer very strongly discrimination and exclusion in access to education, access and treatment in health services, the devaluation of our work and the poverty levels in which our

families live. There is also criminalization towards our leaders both men and women. The midwives are still not valued, they suffer discrimination and their mission is not understood by the official health system. It is worrying that pregnancies in girls and adolescents between 10 and 17 years of age will be in 2014 a total of 39,501 and that they focus on departments with Indigenous majority.' These are some of the conclusions from the 2017 report review workshop, to which more than 40 women from different villages contributed.

The 2017 report to the Committee reflects several aspects that concern and affect the exercise of Indigenous Women's rights, especially in the following topics: political participation, education, health, violence against women and access to justice, criminalization, and employment.

Regarding political participation, the women participants named discrimination, lack of access to decision-making spaces, polarization, and the fact political parties do not reflect the cultural diversity of the country, as significant obstacles.

During the workshop an increase in the criminalization of women human rights defenders, resulting in criminal prosecution, harassment, evictions from their ancestral territories, threats and in some cases femicides was also reported. The protection of land is a key element for Indigenous women and their communities, as there is an intrinsic relationship between land, subsistence and cultural resistance, food sovereignty and the survival of Indigenous Peoples. However, the leaders face repressive acts by raising their voice in defense of land and territory, before the repression of the State and armed groups linked to business projects, which are imposed with no consultation in communities to divest them of their territories and exploit their resources.

The 2017 report will be presented to the CEDAW Committee in the Fall, so voices and visions of Indigenous women can be taken into account. The women participants highly value this space for exercising their right to denounce abuses at a national and global level, to make their recommendations known to the State of Guatemala, and to advance the respect for and guarantee of their human rights, both individual and collective."

Witness for Peace stated July 28, 2017, https://actionnetwork.org/fundraising/support-the-wfp-urgent-response-fund?link_id=0&can_id=2304a48b2891e77b9b6c14d1ce535f4f&source=email-rapid-response-is-crucial-to-our-work&email_referrer=rapid-response-is-crucial-to-our-work&email_subject=we-need-your-support-rapid-response-is-crucial-to-our-work, **"Witness for Peace has been working in Colombia since 2000, when the U.S.' devastating Plan Colombia began, and in Honduras since the U.S.-backed coup in 2009, and we need your help to be able to continue responding rapidly and strategically when our partners call.**

During the 14 years of Plan Colombia, which cost U.S. taxpayers nearly 10 billion dollars at least 4 million Colombians were internally displaced, at least 4,300 civilians extrajudicially executed, and 400 human rights defenders killed.

The 2009 coup in Honduras unleashed a human rights crisis, as the country's elites heavily aided by their allies in the U.S. political, military, and economic establishment, have repressed social movements in order to preserve the country's status as a 'neoliberal paradise.' As our Honduran partner organization COPINH observes, 'The U.S. funding and training of repressive armed forces in Honduras has meant a rise in assassinations, threats, insecurity and terror. Its role hasn't been to protect the people, but instead to protect private business interests and the powerful elite.'

WFP has been responding to these urgent crises, mobilizing our full-time teams in both countries to accompany and document the situation, coordinating Congressional and grassroots support, and sending regular delegations to stand in solidarity. In Colombia, we immediately mobilized in response to the repression by police and riot squads using U.S.-made munitions against the May 2017 civic strike in the marginalized, majority Afro-Colombian city of Buenaventura. Our Colombia Team provided emergency accompaniment, followed by a WFP National Board member. We sent two urgent actions to our grassroots base, and quickly organized a delegation with Black Lives Matter to coordinate and strategize about Black liberation movements and state violence.

Help us continue this critical work.

In Honduras, we mobilized quickly after the March 2016 assassination of Indigenous leader Berta Cáceres: providing accompaniment by our full time team and supplementing with national board members and staff from other countries, sending multiple delegations, documenting events, and playing a crucial role in the grassroots organizing around the Berta Cáceres Human Rights in Honduras Act (HR 1299 in its 2017 iteration). We recently had two back-to-back delegations in the country, connecting U.S. organizers, movement leaders, and solidarity activists with our Honduran partners, and we're working to finalize two fall speaking tours with Honduran social leaders.

And with the Trump administration doubling down on the Obama administration's imposition of the failed Plan Colombia model on Honduras, the connections between our work in the two countries are more important than ever."

"Indigenous South Americans condemn failure to protect uncontacted tribes as "genocide," Survival International, July 13, 2017, <https://www.survivalinternational.org/news/11746>, reported, **"29 indigenous organizations from across South America have come together in Brazil to slam governments for failing to protect the lives and lands of uncontacted tribes – a situation they say is tantamount to genocide.**

Representatives from tribes in Brazil, Peru, Colombia, Paraguay, and Venezuela, attended the large conference hosted by the Brazilian organization CTI in June 2017.

The conference condemned the 'exponential increase' in violence against indigenous people across the continent and described failures to properly protect the territory of uncontacted tribal peoples as genocide.

Brazil has recently been under fire for cuts to its indigenous affairs agency, FUNAI. These cuts, especially those affecting teams of agents who protect uncontacted tribal territories, leave uncontacted peoples dangerously exposed to violence from outsiders, and diseases like flu and measles to which they have no resistance.

The country is unusual in having had two genocide convictions in its courts: both for crimes against indigenous peoples. The UN genocide convention was signed 69 years ago in December 1948.

A Brazilian senator is proposing a new bill in Brazil's congress which would designate all unauthorized entry into uncontacted tribes' lands as a breach of the country's 'genocide law.' However, campaigners fear that the current government's close ties to the corrupt agribusiness lobby could hinder efforts to create more robust protections.

The senator, Jorge Viana, is from Acre state, which is home to many uncontacted tribes, and also people like the Sapanawa, who were forced to make first contact in 2014.

All uncontacted tribal peoples face catastrophe unless their land is protected. Survival International is committed to securing their land for them, and giving them the chance to determine their own futures."

"INDIGENOUS COMMUNITY EVENTS SEEK TO CORRECT HISTORICAL INJUSTICES OF SLAVERY," Cultural Survival, December 4, 2017, <https://www.culturalsurvival.org/news/indigenous-community-events-seek-correct-historical-injustices-slavery>, reported, **"In South Africa, painful legacies of European colonization and the enslavement of Indigenous Africans are still having repercussions today. In an effort to acknowledge this history and heal lasting traumas, members of the Khoi San community in the Southern Cape of South Africa will gather on the 1st of December of this year to visit what is assumed to be the burial site of more than 600 enslaved Indigenous South Africans, and will hold a remembrance walk to commemorate their lives. Hear the details of this event in our newest radio program, "Indigenous South Africans Honor the End of Slavery". Also, learn more about slavery in South Africa with a program about Sarah Baartman, and check out an interview with Nancy Bordeaux for her perspective on healing intergenerational trauma, both included below.**

This example of Indigenous organizing is just one way that communities are joining together to rectify historical injustices enacted on them by colonizers and conquerors. What efforts in your community are working towards undoing historical trauma? Use our radio content to start a conversation with family, friends, and neighbors about pathways towards healing.

As always, the programs included below are free to download, broadcast, and share!



1. Indigenous South Africans Honor the End of Slavery

Indigenous South Africans gather in George on the Western Cape to commemorate the anniversary of the day slavery was ended. Shaldon Ferris (Khoi San) interviews one of the organizers of the remembrance ceremonies, Kierie Khoi (Khoi San) to discuss how the events will seek to heal trauma inflicted by the forced migration, coerced labor, and extrajudicial killings of Indigenous South Africans during the era of colonization and slavery.



2. Ending Violence Against Women: Remembering Sarah Baartman

Sarah Baartman was a Khoikhoi woman from South Africa who, under Dutch colonization of her homeland, was taken captive and coerced to participate in public shows and medical examinations which relied on a falsified science of racial difference. We honor her life as a testament to the urgent necessity of ending violence against women, especially Indigenous women and women of color.



3. Nancy Bordeaux on Historical Trauma

Nancy Bordeaux (Sicangu Lakota) from South Dakota shares her work in domestic violence and sexual assault and gives advice on how to make a change. She speaks about historical trauma and its effects on Native American peoples today. Nancy works with women who are victims of domestic violence and human trafficking and hopes to lessen the economic and mental health disparities in Indigenous women."

"Uganda: Batwa 'Pygmy' imprisoned for hunting now released," Survival International, November 6, 2017, <https://www.survivalinternational.org/news/11863>, reported, **"A Batwa ‘Pygmy’ man has been released from prison, after spending over seven months behind bars for killing a small antelope inside a protected area from which his people were illegally evicted.**

Kafukuzi Valence, who has no birth certificate but reports his age as 72, claims the animal strayed from Uganda's Bwindi Impenetrable National Park into a neighboring field.

'They imprisoned me because I caught an animal from the forest and ate it,' Mr. Kafukuzi told

Survival.

'I was so ill and helpless, and I had no medical care,' said Mr. Kafukuzi, describing his time in prison. 'I had such bad pain in my chest and my legs, and there were so many bedbugs biting me.'

'Even now I am very weak. I have nothing to eat, I just sit here. That is my life now.'

Mr. Kafukuzi alleges that rangers from the Uganda Wildlife Authority also stole possessions from his house at the time of his arrest.

Bwindi Impenetrable National Park was established on the ancestral homelands of the Batwa hunter-gatherers in 1991, with the support of the World Wildlife Fund (WWF) and without the Batwa's consent. Now the Batwa are accused of 'poaching' when they hunt to feed their families.

'The wildlife rangers announced in the region that everyone should leave the forest, but we stayed,' recounted Mr. Kafukuzi. 'They came to hunt us down and shoot at us.'

But targeting tribal hunters diverts action away from tackling the true poachers – criminals conspiring with corrupt officials. Last week it was reported that a Uganda Wildlife Authority ranger was caught trafficking hippo teeth.

Survival is campaigning to stop the violation of tribal peoples' rights in the name of conservation."

"Amazon Guardians travel to city for landmark protest," Survival International, August 31, 2017, <https://www.survivalinternational.org/news/11798>, reported, **"A group of Brazilian Indians hailed as heroes for patrolling the Amazon and evicting illegal loggers have occupied government offices, to demand protection for their lands.**

It is the first protest of its kind by the Indians, known as the Guajajara Guardians. Their people face an emergency, as much of their forest has been razed to the ground.

The Guardians work to protect their forest in the north-eastern Brazilian Amazon. They share the area, known as the Arariboia indigenous territory, with uncontacted Awá Indians.

The Indians' forest is an island of green amid a sea of deforestation. Heavily armed illegal loggers are now penetrating this last refuge, and the government is doing little to stop them.

Tainaky Guajajara, one of the Guardians' leaders, said at the protest in the city of Imperatriz: "We're occupying FUNAI [government indigenous affairs department] to demand our rights to the land, and protection for the environment. We need help, urgently. Our land is being invaded as we speak. The Brazilian government has forgotten us – it's as if we don't exist. So we've reached the limit. We will no longer put up with the way they treat us."

The Guajajara Guardians have taken matters into their own hands to save their land from destruction, and to prevent the genocide of the Awá. They patrol the forest, detect logging hotspots and crack down on invasions.

Kaw Guajajara, the Guardians' Coordinator, said: 'The uncontacted Awá can't live without their forest. Our work has stopped many of the invaders... As long as we live, we will fight for the uncontacted Indians, for all of us, and for nature.'www.youtube.com/watch?v=XiGchFA4exM**"**

target="_blank">Try watching this video on www. ></div
Their work is dangerous – the Guardians constantly receive death threats from the powerful logging mafia, and three Guardians were killed in 2016. But they continue courageously and they know that the Awá, like all uncontacted peoples, face catastrophe unless their land is protected.

Their operations have succeeded in drastically reducing the logging, but they urgently need help from the Brazilian authorities: Resources and equipment for their expeditions, and support from government agents who can arrest the loggers and keep them out.

The Guardians are also demanding that the government implement an agreement drawn up by FUNAI, the military police force and the State's security forces to build base camps to protect the territory, and to carry out joint operations to police the area.

Survival International's Director, Stephen Corry, said: "The Guardians are protecting one of the last patches of Amazon rainforest in the region. Their determination to keep their forest intact is more important than ever as President Temer's administration is trying to slash indigenous land protection

throughout Brazil. The Guajajara Guardians are unique and an inspiration to all who care for human rights and the environment. The government's constitutional duty is to help them protect the forest. Its destruction could wipe out the uncontacted Awá. This is another humanitarian crisis in Brazil's treatment of its tribal peoples."

"Pygmy' man pleads with Bronx Zoo organization after son is killed for conservation," Survival International, October 12, 2017, <https://www.survivalinternational.org/news/11823>, reported, **"A Batwa ‘Pygmy’ man has issued a desperate plea to the organization which runs New York’s Bronx zoo, after his 17-year-old son was shot dead by a park guard.**

The boy was gathering medicinal plants with his father, Mobutu Nakulire Munganga, in Kahuzi-Biega National Park in the Democratic Republic of Congo (DRC) on August 26. An anti-poaching squad opened fire on them.

Mr. Nakulire was wounded but managed to escape, while his son, Mbone Christian, was killed at the scene. Mr. Nakulire has spent weeks in the regional hospital recovering.

The guards receive logistical support, funding and training from the Wildlife Conservation Society (WCS), a big conservation body which is the parent organization of New York’s Bronx zoo. WCS was co-founded by notorious eugenicist Madison Grant.

WCS has been funding the management of Kahuzi-Biega for over 20 years. **According to international law and WCS’s own human rights policy, indigenous peoples’ consent is required for conservation projects on their land.**

Between the 1960s and 1980s, authorities violently and illegally evicted up to 6,000 Batwa from the park. 'The Batwa of today are not healthy like our grandparents were,' writes Mr. Nakulire, who was himself evicted as a child, in his complaint. “We struggle to find enough to eat and are forced to cope with new diseases and the loss of many forest medicines...

'Yet no one has ever come to seek our consent for the Kahuzi-Biega National Park,' the complaint reads. 'Why then does WCS continue to fund and support it?

'Nothing will ever make up for the loss of my son, but I am making this complaint so that you can help me and my people find justice and return to our land,' ends Mr. Nakulire. 'WCS must honor its human rights policy and help end our suffering.'

In September Survival released a detailed report on how WCS and other big conservation organizations are funding grave human rights abuses in the Congo Basin, including the Republic of Congo which borders the DRC.

Survival’s Director Stephen Corry said: 'This tragedy is the latest chapter in a long and shameful story. First Mr. Nakulire’s people were violently and illegally evicted, now they face death if they try to return. WCS must keep its promises about respecting the Batwa’s rights. If they don’t have the Batwa’s consent for what they’re doing, they simply shouldn’t be there.'

Background briefing

- Mr. Nakulire’s complaint can be read at: <https://assets.survivalinternational.org/documents/1678/lettre-wcs.pdf>.

- The World Wildlife Fund has also funded and equipped park guards in Kahuzi-Biega.

- Tribal peoples like the Batwa have been dependent on and managed their environments for centuries. Their lands are not wilderness. Evidence proves that tribal peoples are better at looking after their environment than anyone else. They are the best conservationists and guardians of the natural world. They should be at the forefront of the environmental movement.

- But tribal peoples are being illegally evicted from their ancestral homelands in the name of conservation. The big conservation organizations are guilty of supporting this. They never speak out against evictions.

- Survival International is leading the global fight against abuse in the name of conservation.

'Pygmy' is an umbrella term commonly used to refer to the hunter-gatherer peoples of the Congo Basin and elsewhere in Central Africa. The word is considered pejorative and avoided by some tribespeople, but used by others as a convenient and easily recognized way of describing themselves."

"Kalahari Bushmen appeal to Dalai Lama," Survival International, August 11, 2017,

<https://www.survivalinternational.org/news/11772>, reported, **"The Bushmen of Botswana's Central Kalahari Game Reserve (CKGR) have written a moving appeal to the Dalai Lama, who is scheduled to visit Botswana this month, criticizing their country's government for its brutal policies and urging him to speak out.**

In the letter, Bushman spokesman Jumanda Gakelebone said: "We still cannot live on our lands freely. The government makes it so that children must apply for permits to visit their parents when they become adults. We worry what the government will do when those parents pass away.

"The government still forbids us from hunting and has introduced a shoot-on-sight policy against poachers. Last year a group of Bushmen out hunting were shot at from a police helicopter. Some of them were stripped naked and beaten.

"People praise President Khama [Botswana's President] as a conservation hero when he ignores our struggle and our country's own courts. Yet his government is happy for mining to take place on our ancestral land.

'We are the first people of the Kalahari. We are the ones who have protected this land and the animals that live there. Why has 'conservation' brought us so much suffering?'

Hundreds of Bushmen families were illegally evicted from their ancestral homelands in the name of conservation and moved into government eviction camps between 1997 and 2002, following the discovery of diamonds in the Kalahari.

Although the Bushmen won the right to return to the reserve in a historic court case in 2006, the country still has not respected its own high court's ruling. Most Bushmen are denied access to their land by a brutal permit scheme.

They are also accused of "poaching" because they hunt to feed their families, facing arrest and beatings, torture and death under a nationwide hunting ban.

Survival International led the global campaign for Bushmen rights and is urging the Botswana government to allow them to determine their own futures.

Survival's Director Stephen Corry said: 'Botswana's President has been violating his country's High Court ruling and trampling on Bushmen rights for over a decade now. No independent observer believes the Bushmen pose any kind of risk to the country's wildlife, but they're still prevented from hunting, and still being forced to get permits just to see their relatives. It's a terrible stain on the country's reputation that won't be erased until they're treated humanely, and with respect.'

Rina Chandran, "Boycott India's tiger reserves until tribal rights protected, rights group says," Survival International, NOVEMBER 27, 2017, [HTTPS://WWW.REUTERS.COM/ARTICLE/US-INDIA-LANDRIGHTS-WILDLIFE/BOYCOTT-INDIAS-TIGER-RESERVES-UNTIL-TRIBAL-RIGHTS-PROTECTED-RIGHTS-GROUP-SAYS-IDUSKBN1DR1GN](https://www.reuters.com/article/us-india-landrights-wildlife/boycott-indias-tiger-reserves-until-tribal-rights-protected-rights-group-says-idUSKBN1DR1GN), REPORTED, **Advocacy group Survival International has asked tourists to boycott India's tiger reserves until the rights of indigenous people living in them are respected, drawing attention to growing tensions over land as the holiday season kicks off.**

India's National Tiger Conservation Authority earlier this year ordered 17 states to suspend granting of rights to indigenous people and other forest dwellers under the Forest Rights Act (FRA) in critical tiger habitats.

The 2006 law aimed to improve the lives of impoverished tribes by recognizing their right to inhabit and live off forests where their forefathers settled.

'Tens of thousands of Indian tribal people have been illegally evicted from villages inside tiger reserves, and forced into lives of poverty and misery on the fringes of mainstream society,' Survival International said Monday.

'The authorities need to realize that only by complying with the law and recognizing tribes' rights can the tiger be saved,' director Stephen Corry said in a statement.

An official at the National Tiger Conservation Authority (NTCA) said there were no forced evictions from the reserves.

In India and across the globe, efforts to protect wildlife and their habitats are pitting conservationists, trying to save endangered species, against tribal people, unable to secure rights to land they have depended on for centuries.

Wildlife tourism is a growing money spinner for India, and activists have warned that moves to protect habitats of tigers, elephants and rhinoceros are hurting vulnerable communities and will also endanger wildlife.

India has about half the world's estimated 3,200 tigers in dozens of reserves established since the 1970s, and has extensively promoted tiger safaris as a highlight for tourists.

The tiger conservation authority has guidelines for the 'voluntary relocation' of people who live within critical tiger habitats, although activists say forced evictions are common.

'We are only relocating those people from core tiger habitats who are willing to move; there are no evictions,' said Debabrata Swain, an additional director general at the NTCA.

'We care about the wildlife, but we also care about the tribals,' he told the Thomson Reuters Foundation.

The FRA was expected to benefit more than a fifth of India's 1.2 billion population, covering vast areas of forest land roughly the size of Germany. But implementation has been slow, with rights to only about 3 percent of land recorded so far.

The conservation order has been challenged by the National Commission for Scheduled Tribes, which oversees protection of rights of tribal people, saying it is not in line with the 2006 forest law.

'Tribal people living within wildlife reserves help protect and conserve wildlife, including tigers,' said S.K. Ratho, joint secretary of the commission.

In the first reserve in southern India where tribal people won the right to stay, tiger numbers almost doubled between 2010 and 2014, according to Survival International."

"Face of evicted tribal woman projected onto Indian embassy in Berlin – as Modi arrives for G20," Survival International, July 6, 2017, <https://www.survivalinternational.org/news/11739>. reported, **"Survival International campaigners have projected the face of an Indian tribal woman who was illegally evicted from her ancestral land onto the Indian embassy in Berlin. This is to send a message to the Indian government about the eviction of tribal peoples from tiger reserves in the name of conservation.**

Indian Prime Minister Narendra Modi is due to arrive in Germany today, ahead of the G20 summit this week. Protestors are highlighting the plight of tens of thousands of Indian tribal people, who have been illegally evicted from villages inside tiger reserves, and forced into lives of poverty and misery on the fringes of mainstream society.

The National Tiger Conservation Authority (NTCA) has recently issued an order stating that tribal peoples' rights should not be recognized in critical tiger habitats. The NTCA has no legal authority to issue this order, which is a gross violation of the Forest Rights Act.

The Act guarantees tribal people the right to live on their ancestral land.

The woman whose face has been projected onto the embassy is from the Baiga people in central India. Thousands of Baiga have been illegally evicted from their forests.

In the past, some were moved into inadequate government resettlement sites, but more recently those evicted received no land or help in establishing their lives outside. Many families report that they have received only a fraction of the compensation they were promised.

Many more communities are facing similar evictions across the country. While tribal people are being evicted, fee-paying tourists are welcomed in. In one tiger reserve, uranium exploration has just been approved.

Survival's Director Stephen Corry said: **'Modi's government has continued the inhumane and illegal practice of evicting tribal people from tiger reserves. It's now planning to ignore tribal peoples' rights and push ahead with mining and other so-called 'development' projects on lands that tribal peoples have been looking after for generations. It's a con. It's time the Indian government stopped attacking its own citizens and started abiding by its own laws.'**"

http://mailchi.mp/fortifyrights/united_nations_act_now_to_end_and_remedy_crimes_against_humanity_in_myanmar?e=24e6ca1455 **"United Nations: Act Now to End and Remedy Crimes Against Humanity in Myanmar:**

U.N. Secretary General to brief Security Council today, 88 organizations call for arms embargo, sanctions on Myanmar, "The United Nations Security Council and U.N. member states should act urgently to impose an arms embargo on the Myanmar military and targeted sanctions on individuals responsible for atrocity crimes against Rohingya Muslims and others in Rakhine State, Fortify Rights said today. U.N. Secretary General António Guterres will today publicly brief the U.N. Security Council on the human rights situation in Rakhine State.

"No more excuses, the international community must act now," said Kate Vigneswaran, Legal Director at Fortify Rights. "Condemnations from the international community are important, but concrete action is urgently needed to end and remedy atrocities against Rohingya and others."

Fortify Rights, Human Rights Watch, Amnesty International, and 85 other civil society organizations from around the world called today for U.N. Security Council action as well as a U.N. General Assembly Resolution to demand an immediate end to crimes against humanity against Rohingya. The organizations call on the Government of Myanmar to provide humanitarian aid agencies with "immediate and unhindered access to populations in need," and for the authorities to provide unfettered access to a U.N. Fact-Finding Mission established by the U.N. Human Rights Council in March. The organizations also urged "member states and the Security Council to explore possible avenues to bring perpetrators of crimes under international law to justice."

Fortify Rights has documented killings, rape and gang-rape, mass graves, and other crimes, including the razing of entire villages, by state security forces against Rohingya civilians during two waves of Myanmar Army-led "clearance operations" beginning in October 2016 and continuing in August and September 2017. These attacks are ongoing and have forcibly displaced more than half a million Rohingya since the October violence.

'These are crimes against humanity, and they are being committed with complete impunity,' said Kate Vigneswaran. "The Security Council needs to act to ensure the attacks stop and the perpetrators are brought to justice.'

Article 7 of the Rome Statute defines 'crimes against humanity' as an act "committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack.'

Fortify Rights has collected a significant body of evidence in Rakhine State and on the Bangladesh-Myanmar border since October 2016 indicating that soldiers and police intentionally carried out prohibited acts within the context of a widespread and systematic attack against Rohingya with knowledge of the broader context into which these crimes were perpetrated and in full awareness that their actions contributed to the attack. This evidence indicates that Myanmar Army soldiers and members of the Myanmar Police Force committed crimes against humanity.

The Myanmar Army-led attacks against Rohingya were in response to attacks on state security forces by the Arakan Rohingya Salvation Army (ARSA), known locally as al-Yaqin. On October 9, 2016, ARSA killed nine police officers during a surprise attack on three police outposts in Maungdaw and Rathedaung townships. On August 25, 2017, ARSA killed another 12 state security officials in attacks on 30 police outposts and an army base in Maungdaw, Buthidaung, and Rathedaung townships.

Fortify Rights also documented killings of Rohingya civilians by ARSA and called on the Myanmar government to hold perpetrators accountable.

In recent days, the Myanmar government announced the discovery of 45 "Hindus" in a mass grave near Kha Maung Seik village in northern Maungdaw Township, alleging ARSA killed them on August 25. The government continues to deny the U.N. Fact Finding Mission access to Rakhine State.

The U.N. Fact Finding Mission should be given immediate and unfettered access to Rakhine State and other parts of the country, including Kachin and Shan states, to urgently investigate atrocity crimes, Fortify Rights said.

"We've already seen what ongoing impunity for international crimes has done for Myanmar," said Kate Vigneswaran. "It's been destructive for the country and for the region and can't continue to be an option for the international community."

For more information, please contact: Kate Vigneswaran, Legal Director, Fortify Rights, +66.94.940.8057 (Thailand), kate.vigneswaran@fortifyrights.org; Twitter: @KateVigneswaran, @FortifyRights, Matthew Smith, Chief Executive Officer, +1.202.503.8032 (U.S.), matthew.smith@fortifyrights.org; Twitter: @matthewfsmith, @fortifyrights.

JOINT STATEMENT

UN member states should act to pressure Myanmar to end crimes against humanity Myanmar.'

We, a global coalition of 88 civil society organizations, urgently call upon UN member states to take immediate steps to address the human rights abuses and humanitarian catastrophe engulfing Myanmar's ethnic Rohingya population. UN Secretary-General Antonio Guterres and UN High Commissioner for Human Rights Zeid Ra'ad al Hussein have described the Myanmar security forces' ongoing campaign against the Rohingya in northern Rakhine State as ethnic cleansing. As more evidence emerges, it is clear that the atrocities committed by Myanmar state security forces amount to crimes against humanity. The United Nations and its member states need to take urgent action.

We urge UN delegations, especially those from the 114 countries committed to the Accountability, Coherence and Transparency (ACT) Code of Conduct, who made a pledge to support "timely and decisive action" to prevent or end the commission of genocide, crimes against humanity, and war crimes, to immediately undertake efforts to adopt a resolution in the UN General Assembly addressing the situation, and call upon the UN Security Council to consider measures to be imposed on the Myanmar government.

Over 400,000 Rohingya have fled across the border into Bangladesh since August 25, when Myanmar security forces launched operations in response to coordinated attacks by the Arakan Rohingya Salvation Army (ARSA) in Rakhine State. These operations, involving widespread killing, laying of landmines, looting, and arson targeting the Rohingya, have resulted in the mass destruction of more than 200 villages, according to satellite imagery and eyewitness testimony. Tens of thousands of people from other ethnic minorities have also been displaced as a result of the violence.

Strong condemnations by the UN and world leaders have not brought an end to Myanmar's atrocities. In his opening statement to the Human Rights Council on September 11, al Hussein noted that in 2016 he "warned that the pattern of gross violations of the human rights of the Rohingya suggested a widespread or systematic attack against the community, possibly amounting to crimes against humanity." Civil society organizations have warned that the campaign of Myanmar's security forces against the Rohingya since August 25 amounts to crimes against humanity. It is crucial for UN members to take concrete action and place direct pressure on Myanmar's military and civilian leaders.

The European Union, until recently, was the chief sponsor of an annual resolution on human rights in Myanmar at the General Assembly. Last year, the EU decided to stop the effort even in the midst of government violence against the Rohingya beginning in October 2016. Now, we urge members of the EU to work with the Organization of Islamic Cooperation, and the Association of Southeast Asian Nations, as well as other concerned states to jointly revive this resolution as a means of pursuing decisive action by the General Assembly in response to the gravity of the ongoing situation in Rakhine State and the evolving human rights and humanitarian crisis.

A General Assembly resolution should demand an immediate end to the abuses, that humanitarian aid agencies have immediate and unhindered access to populations in need, and for the UN Fact-Finding Mission authorized by the Human Rights Council in Geneva to be allowed unfettered access into and within Myanmar to investigate alleged human rights abuses across the country. It should also demand that the Myanmar authorities commit to ensuring that all Rohingya and other refugees and displaced people are able to return to their places of origin safely, voluntarily, and with dignity, and to dismantling the institutional discrimination and segregation of Rohingya and other Muslims in Rakhine State that forms the backdrop to the current crisis. The resolution should also urge member states and the Security Council to explore possible avenues to bring perpetrators of crimes under international law to justice.

We also urge members of the Security Council to add to the pressure on Myanmar authorities by seriously considering options such as an arms embargo against the military and targeted financial sanctions against individuals responsible for crimes and serious abuses.

All concerned UN member states should also consider bilateral, multilateral, and regional actions they can take to place added pressure on the Myanmar government. In particular, we

call on all states to immediately suspend military assistance and cooperation with Myanmar.

If governments, UN officials and diplomats simply hold meetings and make speeches as atrocities continue in Myanmar, they bear the risk of failing to use every diplomatic tool at their disposal to stop the ethnic cleansing campaign and further crimes against humanity. In the face of mass destruction, killings and hundreds of thousands displaced, inaction should not be an option.

Signatories:

AFL-CIO
American Jewish World Service
Amnesty International
ASEAN Parliamentarians for Human Rights (APHR)
Asia Pacific Refugee Rights Network
Asociación Pro Derechos Humano - Peru (APRODEH)
Asylum Access
Avaaz
Burma Campaign UK
Burma Human Rights Network (BHRN)
Burma Task Force
Burmese Rohingya Organisation UK
Canadian Centre for the Responsibility to Protect
Center for Civilians in Conflict
Center for Development of International Law
Christian Solidarity Worldwide
Coalition for Justice and Accountability (COJA)
Coalition for the Rights of Refugees and Stateless Persons (CRSP)
Council for Humanitarian Networking of Sheikul Islam Office
CREDO Action
Cross Cultural Foundation (CRCF)
Development and Justice Initiative, India
Equal Rights Trust
Fortify Rights
Foundation for Rural Development (FRD)
Front Mahasiswa
Genocide Watch
Global Centre for the Responsibility to Protect (GCR2P)
Global Progressive Hub
Human Rights and Development Foundation (HRDF)
Human Rights Now
Human Rights Watch
Indonesia Legal Aid Foundation (YLBHI)
Institute for Asian Democracy
Institute on Statelessness and Inclusion
International Campaign for the Rohingya
International Coalition for the Responsibility to Protect
International Detention Coalition
International Federation for Human Rights (FIDH)
International Justice Project
International Organization for Victim Assistance
International State Crime Initiative
Islamic Society of North America (ISNA)
Jewish Alliance of Concern Over Burma
Jewish Council for Public Affairs
Jiyan Foundation for Human Rights

Justice Centre Hong Kong
 Maryknoll Office for Global Concerns
 Migrant 88
 Migrant Working Group (MWG)
 Minority Rights Group International
 Montreal Institute for Genocide and Human Rights Studies
 National Council of Churches
 National Religious Campaign Against Torture
 Odhikar
 Pan African Lawyers Union's (PALU)
 Partners Relief & Development
 Pemuda Anti Kekerasan Aceh
 Persatuan Darul Fitrah Terengganu
 Persatuan Ulama Kedah
 Physicians for Human Rights
 Presbyterian Church (USA)
 Progressive Voice Myanmar
 PROHAM (Society for the Promotion of Human Rights Malaysia)
 Refugees International
 Religious Action Center of Reform Judaism
 Restless Beings
 SANRIM
 SHARP-Pakistan
 Society for Rights of Indigenous People of Sarawak
 Society for Threatened Peoples-Germany
 STAND Canada
 STAND: The Student-Led Movement to End Mass Atrocities
 Suaka Indonesia
 Swedish Burma Committee
 The Arakan Project
 The Episcopal Church
 The Jacob Blaustein Institute for the Advancement of Human Rights
 The Stanley Foundation
 Ummatee
 Union for Reform Judaism
 Unitarian Universalist Service Committee
 United Nations Association – UK
 US Campaign for Burma
 Win Without War
 World Federalist Movement - Canada
 World Federalist Movement-Institute for Global Policy
 Yateem TV"

Damien Cave, "4,000 Kilometers, 10 Months: One Australian's March for Indigenous Rights," The New York Times, August 7, 2017, <https://www.nytimes.com/2017/08/07/world/australia/clinton-pryor-aboriginal-walk.html?ref=todayspaper>, reported, "Clinton Pryor had already walked 4,780 kilometers, or nearly 3,000 miles, by the time I met up with him Thursday morning on a country road between Sydney and Melbourne."

Mr. Pryor, an Aboriginal activist from Australia's west coast, was starting his 310th day on foot to protest the treatment of Indigenous Australians."

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INDIAN AND INDIGENOUS DEVELOPMENTS

Steve Sachs

Environmental Developments

Tatiana Schlossberg, "Era of 'Biological Annihilation' Is Underway, Scientists Warn," *The New York Times*, July 11, <https://www.nytimes.com/2017/07/11/climate/mass-extinction-animal-species.html?ref=todayspaper>, reported, **"From the common barn swallow to the exotic giraffe, thousands of animal species are in precipitous decline, a sign that an irreversible era of mass extinction is underway, new research finds."**

The study, published Monday in the Proceedings of the National Academy of Sciences, calls the current decline in animal populations a 'global epidemic' and part of the 'ongoing sixth mass extinction' caused in large measure by human destruction of animal habitats. The previous five extinctions were caused by natural phenomena."

Lisa Friedman, "Climate-Altering Gases Spiked in 2016, Federal Scientists Report," *The New York Times*, July 13, 2017, <https://www.nytimes.com/2017/07/13/climate/greenhouse-gases-spike-noaa-global-warming.html?ref=todayspaper>, reported, **"Annual greenhouse gas emissions rose more quickly last year than they have in nearly three decades, an increase scientists attributed in part to a strong El Niño weather pattern,** the National Oceanic and Atmospheric Administration reported this week.

The Annual Greenhouse Gas Index also shows that **global emissions of greenhouse gases that lead to warming, primarily driven by the burning of fossil fuels and other human activity, increased 40 percent between 1990 and 2016,** a significant measure of man's influence on the climate."

"Scientists noted that emissions tend to rise more quickly during an El Niño weather pattern. The El Niño phenomenon, which was unusually strong in 2015-16, warms the Pacific Ocean, bringing heavy rains and droughts to different parts of the world. Scientists say the increase in sea surface temperatures that occurs during an El Niño causes less carbon dioxide to be dissolved in the oceans and, as a result, more accumulates in the atmosphere." The warmer water, or any liquid, the less gas it can dissolve or suspend. This means that **warming oceans cause more greenhouse gasses to be in the air. In addition to causing more CO₂ to enter the atmosphere, at some point in ocean warming, very large amounts of very atmospheric warming methane will begin to be released from the oceans."**

A new study indicates that at present rates of release of greenhouse gasses the Earth will experience massive species extinction by 2100. Daniel H. Rothman, "Thresholds of catastrophe in the Earth system," *Science Advances* 20 Sep 2017:

Vol. 3, no. 9, e1700906, DOI: 10.1126/sciadv.1700906, <http://advances.sciencemag.org/content/3/9/e1700906.full>,

Abstract

The history of the Earth system is a story of change. Some changes are gradual and benign, but others, especially those associated with catastrophic mass extinction, are relatively abrupt and destructive. What sets one group apart from the other? Here, I **hypothesize that perturbations of Earth's carbon cycle lead to mass extinction if they exceed either a critical rate at long time scales or a critical size at short time scales.** By analyzing 31 carbon isotopic events during the past 542 million years, I identify the critical rate with a limit imposed by mass conservation. Identification of the crossover time scale separating fast from slow events then yields the critical size. **The modern critical size for the marine carbon cycle is roughly similar to the mass of carbon that human activities will likely have added to the oceans by the year 2100."**

Justin Gillis, "Carbon in Atmosphere Is Rising, Even as Emissions Stabilize," *The New York Times*, June 26, 2017, <https://www.nytimes.com/2017/06/26/climate/carbon-in-atmosphere-is-rising->

even-as-emissions-

stabilize.html?action=click&contentCollection=Climate&module=RelatedCoverage®ion=EndOfArticle&pgtype=article, reported, **"The excess carbon dioxide scorching the planet rose at the highest rate on record in 2015 and 2016. A slightly slower but still unusual rate of increase has continued into 2017.**

Scientists are concerned about the cause of the rapid rises because, in one of the most hopeful signs since the global climate crisis became widely understood in the 1980s, the amount of carbon dioxide that people are pumping into the air seems to have stabilized in recent years, at least judging from the data that countries compile on their own emissions."

"Scientists have spent decades measuring what was happening to all of the carbon dioxide that was produced when people burned coal, oil and natural gas. They established that less than half of the gas was remaining in the atmosphere and warming the planet. The rest was being absorbed by the ocean and the land surface, in roughly equal amounts.

In essence, these natural sponges were doing humanity a huge service by disposing of much of its gaseous waste. But as emissions have risen higher and higher, it has been unclear how much longer the natural sponges will be able to keep up."

Julia Conley, **"Giant Leap Backwards' as Global Carbon Emissions in 2017 Soaring to All-Time High: 'The urgency for reducing emissions means they should really be already decreasing now',"** *Common Dreams*, November 13, 2017, https://www.commondreams.org/news/2017/11/13/giant-leap-backwards-global-carbon-emissions-2017-soaring-all-time-high?utm_term=%27Giant%20Leap%20Backwards%27%20as%20Global%20Carbon%20Emissions%20in%202017%20Soaring%20to%20All-Time%20High&utm_campaign=News%20%2526%20Views%20%7C%20%20Over%2015%2C000%20Scientists%20Just%20Issued%20a%20%27Second%20Notice%27%20to%20Humanity&utm_content=email&utm_source=Act-On+Software&utm_medium=email&cm_mmc=Act-On%20Software-_-email-_-News%20%2526%20Views%20%7C%20%20Over%2015%2C000%20Scientists%20Just%20Issued%20a%20%27Second%20Notice%27%20to%20Humanity-_-%27Giant%20Leap%20Backwards%27%20as%20Global%20Carbon%20Emissions%20in%202017%20Soaring%20to%20All-Time%20High, reported, **"Warning of a 'giant leap backwards for humankind,' the Global Carbon Project said in a report (pdf) released Monday that carbon emissions are expected to hit a record high in 2017, following three years of stable CO2 levels.**

The level of carbon dioxide in the atmosphere has risen about two percent in 2017 according to climate scientists, dashing hopes that the world had already seen the highest emission levels from the coal, oil, and gas industries.

The findings carry urgent implications for the next three years. A report released earlier this year by scientists at Carbon Tracker, the Potsdam Institute for Climate Impact Research, and Yale University showed that global emissions must begin falling quickly after 2020 in order to keep the global temperature from rising more than 2 degrees Celsius above pre-industrial levels.

Professor Corinne Le Quéré of the University of East Anglia, who led the Global Carbon Project's study, called the findings 'very disappointing.'

'The urgency for reducing emissions means they should really be already decreasing now,' she said in an interview with the *Associated Press*.

Much of the rise in carbon emissions this year was attributed to China in the report, which was presented at COP23 in Bonn, Germany. But China has invested hundreds of billions of dollars in developing its renewable energy sector while President Donald Trump has made clear his intention of aiding and abetting the fossil fuel industry's climate denialism and polluting activities.

Trump has announced plans to shield the oil, gas, and coal companies from Obama-era regulations including the Clean Power Plan, meant to rein in carbon emissions. In June he withdrew the United States from the 2015 Paris climate agreement, under which every other nation in the world has

now agreed to limit climate change-causing pollution.

Carbon emissions in the U.S. declined 0.4 percent in 2017 according to the Global Carbon Project—less than in previous years.

'What happens after 2017 is very open and depends on how much effort countries are going to make,' said Le Quéré. 'It is time to take really seriously the implementation of the Paris agreement.'

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Andrea Germanos, **"Over 15,000 Scientists Just Issued a 'Second Notice' to Humanity. Can We Listen Now?":** Reassessing warning issued 25 years ago, the "second notice" to humanity warns of "widespread misery and catastrophic biodiversity loss" unless business-as-usual is upended," *Common Dreams*, November 13, 2017, https://www.commondreams.org/news/2017/11/13/over-15000-scientists-just-issued-second-notice-humanity-can-we-listen-now?utm_term=Over%2015%2C000%20Scientists%20Just%20Issued%20a%20%27Second%20Notice%27%20to%20Humanity.%20Can%20We%20Listen%20Now&utm_campaign=News%20%2526%20Views%20%7C%20%20Over%2015%2C000%20Scientists%20Just%20Issued%20a%20%27Second%20Notice%27%20to%20Humanity&utm_content=email&utm_source=Act-On+Software&utm_medium=email&cm_mmc=Act-On%20Software-_-email-_-News%20%2526%20Views%20%7C%20%20Over%2015%2C000%20Scientists%20Just%20Issued%20a%20%27Second%20Notice%27%20to%20Humanity-_-Over%2015%2C000%20Scientists%20Just%20Issued%20a%20%27Second%20Notice%27%20to%20Humanity.%20Can%20We%20Listen%20Now, reported, "Yikes.

Over 15,000 scientists hailing from more than 180 countries just issued a dire warning to humanity:

'Time is running out' to stop business as usual, as threats from rising greenhouse gases to biodiversity loss are pushing the biosphere to the brink.

The new warning was published Monday in the international journal *BioScience*, and marks an update to the 'World Scientists' Warning to Humanity' issued by nearly 1,700 leading scientists 25 years ago.

The 1992 plea, which said Earth was on track to be "irretrievably mutilated" baring 'fundamental change,' however, was largely unheeded.

'Some people might be tempted to dismiss this evidence and think we are just being alarmist,' said William Ripple, distinguished professor in the College of Forestry at Oregon State University, and lead author of the new warning. 'Scientists are in the business of analyzing data and looking at the long-term consequences. Those who signed this second warning aren't just raising a false alarm. They are acknowledging the obvious signs that we are heading down an unsustainable path.'

The new statement—a 'Second Notice' to humanity—does acknowledge that there have been some positive steps forward, such as the drop in ozone depleters and advancements in reducing hunger since the 1992 warning. But, by and large, humanity has done a horrible job of making progress. In fact, key environmental threats that demanded urgent attention a quarter of a century ago are even worse now.

Among the 'especially troubling' trends, they write, are rising greenhouse gas emissions, deforestation, agricultural production, and the sixth mass extinction event underway.

Taking a numerical look at how some of the threats have grown since 1992, the scientists note that there's been a 26.1 percent loss in fresh water available per capita; a 75.3 percent increase in the number of "dead zones"; a 62.1 percent increase in CO2 emissions per year; and 35.5 percent rise in the human population.

'By failing to adequately limit population growth, reassess the role of an economy rooted in growth, reduce greenhouse gases, incentivize renewable energy, protect habitat, restore ecosystems, curb pollution, halt defaunation, and constrain invasive alien species, humanity is not taking the urgent steps needed to safeguard our imperiled biosphere,' they write.

Among the steps that could be taken to prevent catastrophe are promoting plant-based diets; reducing wealth inequality, stopping conversions of forests and grasslands; government interventions to rein in biodiversity loss via poaching and illicit trade; and "massively adopting renewable energy

sources" while phasing out fossil fuel subsidies.

Taking such actions, they conclude, are necessary to avert 'widespread misery and catastrophic biodiversity loss.'

'Soon it will be too late to shift course away from our failing trajectory, and time is running out.'

The goal of the paper, said Ripple, is to "ignite a wide-spread public debate about the global environment and climate."

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Julie Conley, **"Lancet Study Warns of Global Health Crisis and 1 Billion Climate Refugees by 2050:** 'We are only just beginning to feel the impacts of climate change,'" *Common Dreams*, October 31, 2017, https://www.commondreams.org/news/2017/10/31/lancet-study-warns-global-health-crisis-and-1-billion-climate-refugees-2050?utm_term=Lancet%20Study%20Warns%20of%20Global%20Health%20Crisis%20and%201%20Billion%20Climate%20Refugees%20by%202050&utm_campaign=News%20%2526%20Views%20%207C%20%20Fears%20of%20Radiation%20Leak%20Soar%20After%20North%20Korea%20Nuclear%20Site%20Collapse%20Kills%20200&utm_content=email&utm_source=Act-On+Software&utm_medium=email&cm_mmc=Act-On%20Software-_-email-_-News%20%2526%20Views%20%207C%20%20Fears%20of%20Radiation%20Leak%20Soar%20After%20North%20Korea%20Nuclear%20Site%20Collapse%20Kills%20200-_-Lancet%20Study%20Warns%20of%20Global%20Health%20Crisis%20and%201%20Billion%20Climate%20Refugees%20by%202050, reported, **"Climate change could force a billion people from their homes by 2050, potentially triggering major health crises around the world, according to a new study.**

The *Lancet's* annual Countdown report calls on governments to act quickly to fight pollution and other factors that have exacerbated climate change, leading to public health issues.

'We are only just beginning to feel the impacts of climate change,' said Professor Hugh Montgomery, co-chair of the *Lancet* Countdown, in an interview with the *Independent*. **'Any small amount of resilience we may take for granted today will be stretched to breaking point sooner than we may imagine.'**

The report found that **'migration driven by climate change has potentially severe impacts on mental and physical health, both directly and by disrupting essential health and social services.'**

The research also found that **more humans are being exposed to extreme heatwaves and air pollution and are more commonly at risk for mosquito-borne illnesses than in past decades, due to climate change.**

More than one hundred million adults over the age of 65 have been exposed to dangerously hot conditions since the turn of the 21st century, while 71 percent of cities tracked by the World Health Organization have dangerous levels of air pollution.

Dengue fever has become nearly 10 percent more prevalent around the world since 1950, due to warm conditions that allow mosquitoes to thrive for much of the year.

Already, says the report, at least 4400 people have been forced to migrate with climate change being the sole reason for fleeing their homes.

Refugees who have already been forced from their homes due to climate change include 1200 residents of the Carteret Islands in Papua New Guinea who fled because of rising sea levels, 3500 Alaskans who escaped coastal erosion due to melting ice, and at least 25 people who left southern Louisiana, also because of a disintegrating coastline.

The study also notes that the impacts of global warming, including drought and other conditions that can negatively affect agriculture and people's livelihoods, can set in motion a chain of events that make regions ripe for violent conflicts.

'For example, in Syria,' the study reads, **"many attribute the initial and continued conflict to the rural to urban migration that resulted from a climate change-induced drought.'**

While the issues leading to wars are complex, the *Lancet* continues, **'climate change, as a threat multiplier and an accelerant of instability, is often thought of as important in exacerbating**

the likelihood of conflict.'

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Jugal K. Patal, "In Antarctica, Two Crucial Glaciers Accelerate Toward the Sea," *The New York Times*, OCT. 26, 2017, In Antarctica, <https://www.fxncc.com/in-antarctica-two-crucial-glaciers-acc-reports>, **"Two of the frozen continent's fastest-moving glaciers are shedding an increasing amount of ice into the Amundsen Sea each year."**

The Pine Island and Thwaites glaciers are among the most critical in the world. They are currently holding back ice that, if melted, would raise the world's oceans by nearly four feet over centuries, an amount that would put many coastal cities underwater.

The Pine Island's flow is accelerating rapidly. Its ice shelf, an expanse of ice that floats on water where the glacier meets the sea, has increased its speed by 75 percent from 1973 to 2010."

During the 1980s, the Pine Island Glacier was relatively stable, gaining about as much ice each year as it lost. With warmer waters in front of it, that glacier is increasingly flowing into the sea. Thwaites Glacier has undergone similar changes to that of Pine Island since the late '80s, but is not losing as much ice. If, and, as things are now developing, when, the two glaciers melt completely they would raise ocean levels almost four feet. At the current rate of increase, that would take centuries. But the rate of increase is itself increasing!

Richard Walker, "A new study by the American Geophysical Union documents the importance of glaciers in recharging aquifers and keeping rivers flowing," Indian Country Today Media Network (ICTMN) August 13, 2017, <https://indiancountrymedianetwork.com/news/environment/record-lows-quinault-river-due-loss-glaciers/>,

Anderson Glacier in the Olympic Mountains is gone, and the lack of glacial meltwater has caused the Quinault River to reach new lows.

Montana's Glacier National Park had 150 glaciers in 1850; today there are 25.

Greenland's Helheim Glacier is retreating 110 feet per day.

Bolivia's Chacaltaya Glacier, at one time one of the highest-altitude ski resorts on earth, no longer exists, threatening water and power supplies in the Andean region.

Glacial retreat has accelerated since the 1980s in the Alps, which contain 40 percent of Europe's fresh water supply.

Eighty-two percent of the glaciers in the greater Himalayas, a source of drinking and irrigation water for more than one-sixth of the world's population, shrank between 1950 and 2000.

A study published in Geophysical Research Letters, a journal of the American Geophysical Union, documents the importance of glaciers in recharging aquifers and keeping rivers flowing – and succinctly explains how glaciers do it. The study also illustrates what's at stake as our glaciers disappear."

The melting of ice on the ocean and streams and lakes has cut off the Inuit village of Rigolet Labrador, Canada, as there are no roads leading to it. Villagers rely on snowmobile and sled traveling over ice to go for supplies and to go to hunting and fishing locations. Life may no longer be viable in Rigolet (Livia Albeck-Ripka, "Why Lost Ice Means Lost Hope for Inuit Village," *The New York Times*, November 27, 2017).

Lisa Friedman, "Scientists Fear Trump Will Dismiss Blunt Climate Report," *The New York Times*, August 7, 2017, https://www.nytimes.com/2017/08/07/climate/climate-change-drastic-warming-trump.html?ref=todayspaper&_r=0, reported, **"The average temperature in the United States has risen rapidly and drastically since 1980, and recent decades have been the warmest of the past 1,500 years, according to a sweeping federal climate change report awaiting approval by the Trump administration."**

The draft report by scientists from 13 federal agencies, which has not yet been made public, concludes that Americans are feeling the effects of climate change right now. It directly

contradicts claims by President Trump and members of his cabinet who say that the human contribution to climate change is uncertain, and that the ability to predict the effects is limited.

'Evidence for a changing climate abounds, from the top of the atmosphere to the depths of the oceans,' a draft of the report states. A copy of it was obtained by *The New York Times*.

The authors note that thousands of studies, conducted by tens of thousands of scientists, have documented climate changes on land and in the air. "Many lines of evidence demonstrate that human activities, especially emissions of greenhouse (heat-trapping) gases, are primarily responsible for recent observed climate change," they wrote.

Valerie Volcovici, "U.S. Government Report: U.S. Should Manage Climate Risks as Costs Soar," *Portside*, October 23, 2017, reported that the **GAO (Government Accountability Office) reported that up to that point in 2017 global warming induced weather changes, in the forms of increased wildfires and more frequent and larger hurricanes, have cost the U.S. over \$300 Billion, and costs to the government may rise to \$35 billion annually by mid-century.**

Jon Queally, "US Climate Assessment Exposes 'Simply Terrifying' Recklessness of Trump: 'Even as this report sounds the alarm, Trump's team of climate deniers are twisting themselves into pretzels to justify blocking national and international climate action,'" *Common Dreams*, November 03, 2017, https://www.commondreams.org/news/2017/11/03/us-climate-assessment-exposes-simply-terrifying-recklessness-trump?utm_term=US%20Climate%20Assessment%20Exposes%20%27Simply%20Terrifying%27%20Recklessness%20of%20Trump&utm_campaign=News%20%2526%20Views%20%7C%20Ellison%20Says%20DNC%20%27Rigging%27%20of%20Primary%20%27Cannot%20Be%20Dismissed%27&utm_content=email&utm_source=Act-On+Software&utm_medium=email&cm_mmc=Act-On%20Software-_-email-_-News%20%2526%20Views%20%7C%20Ellison%20Says%20DNC%20%27Rigging%27%20of%20Primary%20%27Cannot%20Be%20Dismissed%27-_-US%20Climate%20Assessment%20Exposes%20%27Simply%20Terrifying%27%20Recklessness%20of%20Trump, reported, "With the release of its **National Climate Assessment on Friday, the U.S. government has released a report—which states the current period is "now the warmest in the history of modern civilization"—that critics say directly and irrefutably undermines the climate denialism and inaction of President Donald Trump and his administration.**

Mandated by law and released every four years, the Fourth National Climate Assessment (or NCA4)—which **states that recent years have seen 'record-breaking, climate-related weather extremes, and the last three years have been the warmest years on record for the globe'**—concludes (with emphasis in the original) that **'based on extensive evidence, that it is extremely likely that human activities, especially emissions of greenhouse gases, are the dominant cause of the observed warming since the mid-20th century.** For the warming over the last century, there is no convincing alternative explanation supported by the extent of the observational evidence.'

Despite that being the declared consensus from the global scientific community for years, the Trump administration has done nearly everything in its power to cast doubt by embracing the denialism pushed by the fossil fuel industry. Instead of offering solutions to the crisis, the administration has been hard at work doing the bidding of the oil and gas industries while rolling back efforts—both domestically and internationally—meant to combat the threat of human-caused global warming.

As Friends of the Earth declared in a tweet, the assessment 'sharply contradicts' the Trump administrations own policies by 'affirming humans are climate change driver.'

Shaye Wolf, climate science director at the Center for Biological Diversity, made a similar point.

'The contrast between this stark scientific warning and Trump's reckless support for dirty fossil fuels is simply terrifying,' Wolf said. 'Even as this report sounds the alarm, Trump's team of climate deniers are twisting themselves into pretzels to justify blocking national and international climate action. If America's leaders don't start listening to scientists, the whole world is going to pay a truly terrible price.'

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As the *Washington Post* reports, the Trump administration did not try to block the publication of the report even though 'its findings sharply contradict the administration's policies.' According to the *Post*:

The report's release underscores the extent to which the machinery of the federal scientific establishment, operating in multiple agencies across the government, continues to grind on even as top administration officials have minimized or disparaged its findings. Federal scientists have continued to author papers and issue reports on climate change, for example, even as political appointees have altered the wording of news releases or blocked civil servants from speaking about their conclusions in public forums. The climate assessment process is dictated by a 1990 law that Democratic and Republican administrations have followed.

The good news about the new assessment, according to Wolf, is that it shows 'scientists can beat Trump's climate censorship if they speak out bravely.'

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Sam Ross-Brown, "GOP Plug on Renewable Energy," Portside, December 1, 2017, <http://portside.org/2017-12-02/gop-tax-plan-pulls-plug-renewable-energy>, reported, **"The GOP tax reform plan barreling toward a vote in the Senate could deal a devastating blow to the renewable energy industry. Unlike the more draconian House version, the Senate bill does not slash renewable tax credits directly, but it does impose steep taxes on the companies that help finance renewable development. Leaders in the wind and solar sector warn that such hikes would undercut the industry's most important financing tools."** The Senate passed its version of tax reform December 1, and efforts at reconciliation with the House were then begun. Either the House or Senate version of the bill would quickly have a devastating effect on the growth of the solar industry.

Mitch Smith, "4 Takeaways From a Gathering of Mayors on Climate Change," *The New York Times*, December 5, 2017, <https://www.nytimes.com/2017/12/05/us/climate-change-mayors-chicago.html?ref=todayspaper>, **"Mayors came here by the dozens on Tuesday to voice their support for the international Paris climate accord and their displeasure with President Trump's plan to withdraw the United States from that agreement. Their solution? They announced their own climate agreement."**

The gathering, in which more than 45 American mayors committed their cities to uphold the emissions standards laid out in the Paris agreement, was the latest display of hostility by some of the nation's Democratic mayors toward Mr. Trump's policies."

"Many of the cities that signed on, including New York City, San Francisco and Portland, Ore., had previously laid out plans to uphold their part of the Paris agreement, and city leaders have been outspoken about the issue for months.

In June, the United States Conference of Mayors called on the administration to recommit to the Paris standards. Another group, Climate Mayors, which claims 385 members, has rallied in defense of the Paris agreement. And a coalition of states, local governments and businesses announced plans this summer to try to uphold America's Paris commitments despite the federal withdrawal."

Permafrost in Alaska is melting rapidly, releasing large quantities of very atmospheric warming methane. By 2050, most of the permafrost is likely to be gone. The huge amounts of methane being released from melting permafrost are one of the major positive feedback loops greatly accelerating global warming and climate change beyond previous expectations by scientists. A study of permafrost melting by scientists from Woods Hole Research Center was reported in: Henry Fountain, "Alaska's Permafrost Is Thawing: The loss of frozen ground in Arctic regions is a striking result of climate change. And it is also a cause of more warming to come," *The New York Times*, August 23, 2017, https://www.nytimes.com/interactive/2017/08/23/climate/alaska-permafrost-thawing.html?ref=todayspaper&_r=0.

Recent studies also show that melting Tundra in Alaska - and by implication everywhere

else - will also shift to increasing CO₂ in the atmosphere. Henry Fountain, "Tundra May Be Shifting Alaska to Put Out More Carbon Than It Stores, Study Says," *The New York Times*, May 8, 2017, <https://www.nytimes.com/2017/05/08/climate/alaska-carbon-dioxide-co2-tundra.html>, "A new study suggests that Alaska, with its huge stretches of tundra and forest, may be shifting from a net sink, or storehouse, of carbon to a net source. The study focused on one possible cause: warmer temperatures that keep the Arctic tundra from freezing until later in the fall, allowing plant respiration and microbial decomposition — processes that release carbon dioxide — to continue longer."

The crack in the ice sheet has become a break. Fen Montaigne, "Warnings From Antarctica," *The New York Times*, July 12, 2017, <https://www.nytimes.com/2017/07/12/opinion/antarctica-larsen-ice-shelf.html>, reported, "As the Trump administration dismantles the federal government's efforts to respond to global warming, the natural world has come calling with a reminder: **An iceberg the size of Delaware broke off Antarctica's Larsen C ice shelf in recent days, yet another indication of the rapid change now occurring on the world's iciest continent.**

This is the third floating ice shelf in recent years in Antarctica's Weddell Sea to fully or partly break up, the first two subverted by warming ocean waters and air temperatures. The Larsen A broke up in 1995. Seven years later, after months of unusually warm temperatures, the Rhode Island-size Larsen B shelf became riddled with meltwater ponds, then fell apart virtually overnight, shattering into millions of pieces. **Now a 120-mile-long chunk of the Larsen C has calved, forming one of the largest icebergs ever observed.**"

"Now a region that not long ago saw only snow and ice is experiencing — at least in its northern reaches — rain in summer."

"Last year the Arctic experienced exceptionally warm weather that has continued into 2017, as sea ice shrinks to near-record lows. Temperatures last fall were as much as 36 degrees Fahrenheit above normal over parts of the Arctic. Both the extent and thickness of Arctic summer sea ice have decreased sharply since satellite remote sensing began in 1979."

Jessica Corbett, "'Alarm Bells Ringing': Global CO₂ Levels at Highest in 3 Million Years: Ahead of UN climate talks, report warns of 'severe ecological and economic disruptions' without more drastic moves to cut emissions," *Common Dreams*, October 30, 2017, [https://www.commondreams.org/news/2017/10/30/alarm-bells-ringing-global-co2-levels-highest-3-million-](https://www.commondreams.org/news/2017/10/30/alarm-bells-ringing-global-co2-levels-highest-3-million-years)

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[s-_-](https://www.commondreams.org/news/2017/10/30/alarm-bells-ringing-global-co2-levels-highest-3-million-years?utm_term=%27Alarm%20Bells%20Ringing%27%3A%20Global%20CO2%20Levels%20at%20Highest%20in%203%20Million%20Years) %27Alarm%20Bells%20Ringing%27%3A%20Global%20CO₂%20Levels%20at%20Highest%20in%203%20Million%20Years, reported, "Ahead of the COP23 climate negotiations in Bonn, Germany next week, an annual bulletin released on Monday revealed **that last year, the average global concentration of carbon dioxide surged at a record-breaking pace to the highest level in approximately 3 million years, renewing scientists' concerns that more action is needed to reduce greenhouse gas emissions.**

"There's still time to steer these emissions down and so keep some control, but if we wait too long humankind will become a passenger on a one-way street to dangerous climate change."
— Dave Reay, University of Edinburgh

"This should set alarm bells ringing in the corridors of power," Dave Reay, a professor of carbon management at the University of Edinburgh who was not involved with the research, told the *Guardian*. "We know that, as **climate change intensifies, the ability of the land and oceans to**

mop up our carbon emissions will weaken.'

'There's still time to steer these emissions down and so keep some control,'" Reay added, 'but if we wait too long humankind will become a passenger on a one-way street to dangerous climate change.'

The Greenhouse Gas Bulletin (pdf), published by the United Nations World Meteorological Organization's (WMO) Global Atmosphere Watch program, found that **globally averaged CO2 concentrations increased from 400 parts per million (ppm) in 2015 to 403.3 ppm last year.**

Scientists have reliable data on carbon dioxide concentration spanning approximately 800,000 years, and researchers estimate the last time the planet had a comparable concentration of carbon dioxide was 3 to 5 million years ago, during the Pliocene epoch, when the global temperature was up to 3°C warmer and due to melting ice sheets, sea level was about 66 feet higher than it is today.

The bulletin attributes the increase in CO2 levels to the El Niño event and greenhouse gas emissions from human activities, including "growing population, intensified agricultural practices, increases in land use and deforestation, industrialization, and associated energy use from fossil fuel sources" since the "industrial era, beginning in 1750.'

While emissions represent the full amount of carbon dioxide released into the atmosphere, the measured concentrations focus on what remains in the atmosphere 'after the complex system of interactions between the atmosphere, biosphere, cryosphere, and the oceans.' As carbon sinks, the oceans and biosphere each take up about a quarter of total CO2 emissions [but now are increasingly less able to do so].

The bulletin warns that today's global CO2 concentrations, which are now 145 percent of levels before 1750, will likely have a notable impact on global climate systems and cause 'severe ecological and economic disruptions.'

'CO2 remains in the atmosphere for hundreds of years and in the oceans for even longer. The laws of physics mean that we face a much hotter, more extreme climate in the future,' said WMO secretary-general Petteri Taalas.

'Without rapid cuts in CO2 and other greenhouse gas emissions, we will be heading for dangerous temperature increases by the end of this century, well above the target set by the Paris climate change agreement,' Taalas added. 'Future generations will inherit a much more inhospitable planet.'

'The longer we wait to implement the Paris Agreement, the greater the commitment and the more drastic (and expensive) the required future emission reductions will need to be to keep climate change within critical limits.'" —Greenhouse Gas Bulletin

'The longer we wait to implement the Paris Agreement, the greater the commitment and the more drastic (and expensive) the required future emission reductions will need to be to keep climate change within critical limits,' the bulletin notes, echoing growing concerns about the economic costs of climate change, which were the focus of a Government Accountability Office report released last week.

The bulletin comes ahead of a separate U.N. Environment Emissions Gap Report, which will be released Tuesday and analyzes the projected effectiveness of various nations' policies to reduce greenhouse gas emissions through 2030. The two reports will serve as 'a scientific base for decision-making' at the COP23 climate talks, according to WMO.

'The numbers don't lie,' said Erik Solheim, head of U.N. Environment. 'We are still emitting far too much and this needs to be reversed. The last few years have seen enormous uptake of renewable energy, but we must now redouble our efforts to ensure these new low-carbon technologies are able to thrive.'

'We have many of the solutions already to address this challenge,' Solheim concluded. 'What we need now is global political will and a new sense of urgency.'

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Brad Plumer, "At Bonn Climate Talks, Stakes Get Higher in Gamble on Planet's Future," *The New York Times*, November 18, 2017, <https://www.nytimes.com/2017/11/18/climate/un-bonn-climate->

talks.html?em_pos=small&emc=edit_clim_20171122&nl=&nl_art=0&nlid=52235981&ref=headline&te=1&r=2, reported, "Perhaps the most revealing moment at this year's United Nations climate talks came on Wednesday, when Chancellor Angela Merkel of Germany addressed the nearly 200 nations gathered here.

After declaring that "climate change is an issue determining our destiny as mankind," **Ms. Merkel acknowledged that Germany was likely to miss the goals it had set itself for cutting greenhouse gas emissions by 2020 because of its continued reliance on coal power. While vowing to grapple with the issue, she said that phasing out coal use would require 'tough discussions' with German policymakers in the weeks ahead.**

On one level, it was a stark reminder that the real action on global warming does not unfold in international venues. The problem will largely be addressed by governments back home trying to adopt policies to shift away from fossil fuels, by businesses perfecting and deploying clean energy technologies, by city planners reworking their local transportation systems."

Scientists have found that around 20% of the water produced by melting of the Greenland ice sheet does not run off into the ocean, as previously thought, but remains within the ice sheet. This means that melting is raising oceans 20% more slowly from this one ice sheet melting than previously thought. If the entire ice sheet melts it would raise oceans by about 24 feet (more in some places than others) (Henry Fountain and Derek Watkins, "As Greenland Melts, Where's the Water Going," *The New York Times*, December 13, 2017).

In the desert area of Viru Peru, a nearby rapidly melting mountain glacier has been providing water for farming where it was not possible previously. But the glacier will soon sufficiently disappear that the farming will become impossible (Nicholas Casey, "Living off a glacier while it lasts," *The New York Times*, November 26, 2017).

Climate Change is having expensive impacts on many of the world's airports. Among the effects that are increasingly occurring in more places: airports on low lying land are more often being hit by storm surges; hotter temperatures may cause tarmac to melt, restrict take of weights, or cause heavier aircraft to takeoff during cooler parts of the day (Mike Ives, "Climate Change Lands at the Airport," *The New York Times*, October 1, 2017).

Bryan Farrell, Waging Nonviolence, "Meet the Activists With a Plan to Make Climate Change Matter in Elections," *Truthout*, July 02, 2017, reported, **"Since Donald Trump declared that he was withdrawing the United States from the Paris Agreement, elected officials around the country have been engaged in something they usually try to avoid: serious conversation about climate change. In fact, the leaders of 300-plus U.S. cities and 22 states have now pledged to uphold the goals of the global climate deal."**

Syria has signed on to the Paris Climate Agreement. leaving only the United States in opposition to it (Lisa Friedman, "Syria Joins Paris Climate Accord, Leaving Only the U.S. Opposed," *The New York Times*, November 8, 2017).

Lisa Friedman and Brad Plumer, "E.P.A. Announces Repeal of Major Obama-Era Carbon Emissions Rule," *The New York Times*, October 9, 2017, <https://www.nytimes.com/2017/10/09/climate/clean-power-plan.html?ref=todayspaper&r=0>, reported, **"The Environmental Protection Agency announced on Tuesday that Scott Pruitt, the chief of the agency, had signed a measure to repeal President Barack Obama's signature policy to curb greenhouse gas emissions from power plants, setting up a bitter fight over the future of America's efforts to tackle global warming.**

Mr. Pruitt, who had signaled the move at an event with coal miners in eastern Kentucky on Monday, said in a news release that his predecessors had departed from regulatory norms in writing **the Clean Power Plan**, which was finalized in 2015 and would have pushed states to move away from coal

in favor of sources of electricity that produce fewer carbon emissions."

Lisa Friedman, "E.P.A. Scrubs a Climate Website of 'Climate Change'," *The New York Times*, October 20, 2017, <https://www.nytimes.com/2017/10/20/climate/epa-climate-change.html?ref=todayspaper>, reported, **"The Environmental Protection Agency has removed dozens of online resources dedicated to helping local governments address climate change, part of an apparent effort by the agency to play down the threat of global warming."**

A new analysis made public on Friday found that an E.P.A. website has been scrubbed of scores of links to materials to help local officials prepare for a world of rising temperatures and more severe storms."

Steven Mufson and Chris Mooney "Energy Secretary Perry proposes new moves to support coal and nuclear plants," *The Washington Post*, September 29, 2017, reported, **"Energy Secretary Rick Perry took sweeping steps on Friday to buttress a pair of financially-strapped nuclear plants under construction and redefine how coal and nuclear plants are compensated for the electricity that they provide - a move that, if agreed to by independent federal energy regulators, could tilt some of the nation's complex power markets away from renewables and natural gas."**

Perry announced that the Energy Department would provide \$3.7 billion in loan guarantees to three Georgia utilities struggling to complete a pair of nuclear reactors at the Alvin W. Vogtle generating plant. These loan guarantees come on top of \$8.3 billion in loans the department has already given to the project, but they still might fall short of what will be required to complete the costly reactors.

The nuclear project has been running far over-budget and behind schedule, and the utilities have been scrambling to come up with financing after the main engineering company, Westinghouse, declared bankruptcy earlier this year."

"Perry also moved Friday to help nuclear and coal plants competing in regional electricity markets. Citing his department's recent, contested study about the workings of the electric grid, Perry asked the independent Federal Energy Regulatory Commission, or FERC, to adopt new regulations that would ensure that coal and nuclear plants that add to the grid's reliability can "[recover] fully allocated costs and thereby continue to provide the energy security on which our nation relies."

Georgia Power asked Georgia state regulators, at the end of August 2017, to approve plans to construct two additional nuclear electric generating reactors at its Alvin W. Vogel generating station near Augusta (Brad Plumer, "Bucking Trend, Georgia Ponders a Nuclear Future, *The New York Times*, September 1, 2017).

Choe Sang-Hun, "South Korea Will Resume Reactor Work, Defying Nuclear Opponents," *The New York Times*, October 20, 2017, https://www.nytimes.com/2017/10/20/world/asia/south-korea-nuclear-plants.html?ref=todayspaper&_r=0, reported, **"South Korea decided Friday to resume construction of two nuclear plants**, reversing a campaign promise by the new president and frustrating supporters who want the country to phase out nuclear power.

In the months before his election, President Moon Jae-in had vowed not to allow any new reactors. When he made that pledge, five nuclear power plants were under construction, three of them near completion. Mr. Moon said that he would scrap the other two, which were both in the early stages."

Lisa Friedman, "Pruitt Bars Some Scientists From Advising E.P.A.," *The New York Times*, October 31, 2017, https://www.nytimes.com/2017/10/31/nyregion/police-shooting-lower-manchattan.html?ref=todayspaper&_r=0, **"Scott Pruitt, the head of the Environmental Protection Agency, stripped a half-dozen scientists and academics of advisory positions Tuesday and issued new rules barring anyone who receives E.P.A. grant money from serving on panels that counsel the agency on scientific decisions."**

The move will effectively bar a large number of academic researchers, many of them experts in

fields ranging from toxicology to epidemiology, from advising the E.P.A. on scientific matters, since the agency is one of the largest funders of environmental research.

Mr. Pruitt was expected to appoint several industry representatives to the panels. He did not impose any new restrictions to prevent them from offering advice on environmental regulations that may affect their businesses."

In New Mexico, while methane released into the air by the oil and gas industry from leaks and equipment problems were not measured, the New Mexico Secretary of Minerals and Natural Resources reported, in November, that methane releases by venting and flaring in natural gas production fell by about 50% in 2017 with improved technology and changes in the way wells are drilled (Susan Montoya Bryan, "NM methane emissions fall over 50% during past year," *Albuquerque Journal*, November 4, 2017).

Exon announced a plan, in September 2017, to reduce methane leaks by replacing equipment and monitoring for leaks (Clifford Krauss, "Exon Tries to Cut Methane Leaks, a Culprit in Warming," *The New York Times*, September 26, 2017).

After 16 years of trying to build a huge windfarm off Cape Cod, continuing opposition and court fights have caused the key investor to give up the project (Katharine Q. Seely, "After 16 Years, Hopes for Cape Cod Wind Farm Float Away," *The New York Times*, December 19, 2017, <https://www.nytimes.com/2017/12/19/us/offshore-cape-wind-farm.html?ref=todayspaper>).

"Industrial Strength: How the U.S. Government Hid Fracking's Risks to Drinking Water: A pivotal EPA study provided the rationale for exemptions that helped unleash the fracking boom. The science was suppressed to protect industry interests," Inside Climate News, November 16, 2017 (This story was co-published with WHYY and West Virginia Public Broadcasting. Audio story by Susan Phillips of WHYY), <https://insideclimatenews.org/news/16112017/fracking-chemicals-safety-epa-health-risks-water-bush-cheney>, reported in part, "Concerns about the study emerged from the outset, including a 2004 whistleblower complaint that called it 'scientifically unsound.' Now, InsideClimate News has learned that the scientists who wrote the report disagreed with the conclusion imposed by the Bush EPA, saying there was not enough evidence to support it. The authors, who worked for a government contractor, went so far as to have their company's name and their own removed from the final document.

At EPA, 'there was a preconceived conclusion that there's no risk associated with hydraulic fracturing into coalbed methane. That finding made its way into the Energy Policy Act, but with broader implications,' said Chi Ho Sham, the group manager of a team of scientists and engineers for The Cadmus Group, the Massachusetts firm hired to do the report. 'What we would have said in the conclusion is that there is some form of risk from hydraulic fracturing to groundwater. How you quantify it would require further analyses, but, in general, there is some risk.'

The fracking provision, widely known as the Halliburton loophole, after the oilfield services company once run by Bush's vice president, Dick Cheney, is among a host of exemptions to federal pollution rules that Congress and successive administrations have given oil and gas companies over the last 40 years."

"The Cadmus study was not the first EPA report to have its science thwarted, and under President Donald Trump, it likely won't be the last. Current EPA Administrator Pruitt is a staunch ally of fossil fuels, and his agency is moving on several fronts to quash science that documents the oil industry's contributions to climate change and other forms of pollution, the first step to rolling back regulations, critics said."

"Global Demand for Meat Amounts to 'Appetite for Destruction,' Says New Study: Report points to massive need for land to grow feed crops as an overlooked cost of industrial farming," *Common Dreams*, October 05, 2017, <https://www.commondreams.org/news/2017/10/05/global-demand-meat-amounts-appetite-destruction-says-new-study>, reported, "In a study titled 'Appetite for Destruction,' the World Wildlife Fund (WWF) revealed on Thursday that humans' consumption

of meat is having a devastating impact on global biodiversity in a way that's too often considered.

In addition to causing greenhouse gas emissions and using up huge quantities of water and land, industrial farming requires massive amounts of crop-based feed for animals, which puts 'an enormous strain on our natural resources and is a driving force behind wide-scale biodiversity loss.'

If the global appetite for meat grows as expected, says the report, 'it's estimated that soy production would need to increase by nearly 80% to feed all the animals destined for our plates.'

The industrial farming sector is also having a negative impact on humans' health, as a reliance on feeding animals crops like corn and soy has been linked to a lack of healthy omega-3 content in the meat people eat.

'You'd have to eat six intensively reared chickens today to obtain the same amount of the healthy omega-3 fatty acid found in just one chicken in the 1970,' says the study. The majority of calories from chicken come from fat as opposed to protein.

The study points to a number of vulnerable parts of the earth, including the Amazon, the Yangtze and Mekong river basins, and the Himalayas as already suffering from major strain as food producers look for places to grow feed crops, while being inadequately protected by conservation efforts. Thousands of species living in these regions would be at risk if more manufacturers were to look to them for crop production.

The study stresses that while there is plenty of food to feed the human population, more efficient and fair systems of distributing food are needed to ensure that these areas are not overrun by feed crop producers.

'We already produce enough to feed the world,' reads the report. 'But over-consumption, inequality, waste, and inadequate production and distribution systems stand in the way of enough food for everyone and space for wildlife.'

The WWF says that simple portion control would go a long way in reducing animal farming's impact on the earth:

If everyone reduced the amount of animal products that they ate to meet their nutritional requirements, the total agricultural land required would decline by 13 percent...An area 1.5 times the size of the European Union — would be saved from agricultural production.

As a potential innovation that could save much of the earth's biodiversity, the study also points to alternative feed options that don't need the vast areas of land required by crops like soy beans and corn.

'We believe it's possible, and essential, to change food production systems and consumption patterns to secure enough nutritionally complete and environmentally sustainable food for everyone on Earth,' says the report."

(This work is licensed under a Creative Commons Attribution-Share Alike 3.0 License).

Brad Plumer, **"How Fast Will Oceans Rise,"** *The New York Times*, "Climate Fwd," December 20, 2017, reported. **"One of the most important effects of global warming this century will be sea-level rise. As the ice sheets atop Greenland and Antarctica melt, ocean levels will creep upward, flooding coastal cities around the world.**

But there's a maddening complication: **No one's exactly sure how high oceans will rise.** Scientists may not be able to settle on a precise answer for decades to come, making the jobs of coastal planners that much harder.

That's the upshot of a new study in the journal *Earth's Future*, which estimates that if humanity zeros out its emissions by midcentury, sea levels will most likely rise 1 foot to 3 feet by 2100. But if emissions keep rising unchecked, we're staring at 4 to 7 feet."

Climate Scientists analyzing 27 extreme weather events in 2016 have found that global warming induced climate change was a significant factor in causing 21 of them, including record temperatures around the world, coral bleaching in the Great Barrier Reef, draught in Africa, wildfires in North America, and the "warm blob" in the Pacific - an immensely warm water off the coast of Alaska bringing with it poisonous toxic algae blooms,

killing sea birds and forcing local fisheries to close (Brad plume and Nadia Popovich, "Drought, Wildfires and an Ocean 'Blob.' Linked to Warming," *The New York Times*, December 15, 2017).

Jessica Corbett, **"Subsidizing Earth's Demise: US Taxpayers Forced to Prop Up Dirty Energy Industry:** New reports reveal that without billions of dollars in subsidies, American gas, oil, and coal companies would crash and burn," *Common Dreams*, October 03, 2017, <https://www.commondreams.org/news/2017/10/03/subsidizing-earths-demise-us-taxpayers-forced-prop-dirty-energy-industry>, reported, "In the midst of a hurricane season that shows just how expensive inaction on climate change can be, **two new reports highlight how massive taxpayer-funded subsidies for fossil fuel companies are propping up an industry that refuses to take responsibility for the destructive and costly chaos it has played an enormous role in creating.**

'Every dollar spent subsidizing this industry takes us further away from achieving internationally agreed emissions goals, and maintaining a stable climate.' —Oil Change International

A recent analysis found **that damage from extreme weather intensified by climate change and the health impacts from using gas, oil, and coal have cost the U.S. economy an annual average of \$240 billion in the past decade. Between now and 2028, that figure is expected to rise to \$360 billion annually—more than half of the economy's growth—and that doesn't even account for the cost of industry subsidies.**

On top of the financial burden from burning fossil fuels, a report (pdf) published Tuesday by Oil Change International (OCI) found that **industry subsidies cost U.S. taxpayers more than \$20 billion each year, \$14.7 billion at the federal level and \$5.8 billion at the state level.** These subsidies take several forms—including financial handouts, flexible liability policies, and tax breaks—and, researchers argue, "waste billions of dollars propping up an industry incompatible with safe climate limits."

A separate study by Stockholm Environment Institute (SEI), published Monday in the journal *Nature*, examined the impact of subsidies on U.S. crude oil production, and concluded that **subsidies to oil companies encourage them to drill oil fields that would otherwise be unprofitable.**

Over the next few decades, SEI researchers estimate, **'tax preferences and other subsidies push nearly half of new, yet-to-be-developed oil investments into profitability, potentially increasing U.S. oil production by 17 billion barrels' that, once burned, will release about 6 billion tonnes of carbon dioxide, or CO₂, into the atmosphere.**

'This is oil we don't need and it takes the U.S. further away from its climate goals of reducing CO₂ emissions,' report co-author Peter Erickson, a senior scientist at SEI's U.S. center, told *Motherboard*. The U.S. currently ranks second, behind only China, in global CO₂ emissions. Similarly, the OCI report concludes that 'every dollar spent subsidizing this industry takes us further away from achieving internationally agreed emissions goals, and maintaining a stable climate.' It also notes that **without a rapid reduction in U.S. fossil fuel reliance, the world will likely fail the meet goals outlined in the 2015 Paris climate accord, in which nearly every nation on Earth agreed to reduce greenhouse gas emissions in hopes of limiting global average temperature rise to below 2°C, while aiming for below 1.5°C.**

Eliminating industry subsidies, however, faces strong political resistance in the U.S. Subsidies, the OCI report notes, 'have been defended by a Congress influenced by \$350 million in campaign contributions and lobbying expenditures by the fossil fuel industry,' which researchers estimate 'equates to an 8,200 percent return on investment.'

'For members of Congress who consider themselves climate champions, eliminating the subsidies that drive fossil fuel expansion and climate pollution is a critical starting point,' said Janet Redman, OCI's U.S. policy director and principal author of the report.

Congress, though, is not the only political barrier to curbing U.S. emissions. President Donald Trump, in June, vowed to withdraw from the Paris climate agreement, and since then the U.S. has sidelined itself in discussions about reducing emissions globally.

'While the rest of the world moves toward a renewable energy future, dirty energy defenders in

the Trump administration are using our taxpayer dollars to promote dangerous new fossil fuel development,' Redman added. 'Until we separate oil and state, the dirty energy money cycle of fossil fuel contributions going into Congress and oil, gas, and coal subsidies coming out will stymie our chances at revolutionizing the energy sector and staving off worsening climate disasters.'

To achieve that, Tim McDonnell argued in a *Washington Post* analysis published Monday, **'forget the Paris agreement. The real solution to climate change is in the U.S. tax code.'** Noting that fossil fuel industry lobbyists are celebrating the new Republican tax plan, released last week, as 'a win,' McDonnell concludes 'tax reform can help fight climate change—just not the kind of tax reform Trump and Republicans are proposing.'" (This work is licensed under a Creative Commons Attribution-Share Alike 3.0 License).

Brian Wang, "Rice University adds a bit of asphalt to speed lithium metal battery charging by 20 times," *The NextBIGFuture*, October 3, 2017, <https://www.nextbigfuture.com/2017/10/rice-university-adds-a-bit-of-asphalt-to-speed-lithium-metal-battery-charging-by-20-times.html>, reported, **"A touch of asphalt may be the secret to high-capacity lithium metal batteries that charge 10 to 20 times faster than commercial lithium-ion batteries,** according to Rice University scientists.

The Rice lab of chemist James Tour developed anodes comprising porous carbon made from asphalt that showed exceptional stability after more than 500 charge-discharge cycles. A high-current density of 20 milliamps per square centimeter demonstrated the material's promise for use in rapid charge and discharge devices that require high-power density."

"The capacity of these batteries is enormous, but what is equally remarkable is that we can bring them from zero charge to full charge in five minutes, rather than the typical two hours or more needed with other batteries,' Tour said."

If these batteries turn out to be as practical as they seem, they will be particularly important in making electric vehicles far more practical, as well as making solar and wind generated electricity more effective in other ways.

The State of South Australia has powered up the world's largest battery, for storing solar or wind energy for use at night or when the wind is not blowing, capable of powering 30,000 homes (Adam Baidawi, "For Musk, an Energy Feat the Size of a Football Field," *The New York Times*, November 30, 2017, <https://www.nytimes.com/2017/11/30/world/australia/elon-musk-south-australia-battery.html>).

entirely fluffy, "Electric Cars Emit 50 Percent Less Greenhouse Gas Than Diesel, Study Finds," Slashdot, October 25, 2017, <https://hardware.slashdot.org/story/17/10/25/2020228/electric-cars-emit-50-percent-less-greenhouse-gas-than-diesel-study-finds>, reports, **"Electric cars emit significantly less greenhouse gases over their lifetimes than diesel engines even when they are powered by the most carbon intensive energy,"** according to a study by VUB University in Belgium. **In Poland, where coal is used to produce most electricity, electric vehicles produced a quarter less emissions than diesels when put through a full lifecycle modeling study. In Sweden, which has the least CO₂ producing electric generation in Europe, electric cars produced 85% less greenhouse gasses than diesel through their life time.** In countries, such as the UK, electric cars produced about 50% less greenhouse gasses than diesel. The VUB study went on to say that for massive use of electric cars requiring huge numbers of batteries, the supply of critical metals including lithium, cobalt, nickel and graphite and rare earths used in batteries would have to be closely monitored and diversified. But that should not limit switching en masse to electric vehicles. Moreover, it was **projected that continuing improvements in battery technology combined with increasing electric generation by renewables would likely reduce greenhouse gas emissions in battery production by 65%.**

Damian Carrington, "Electric cars already cheaper to own and run than petrol or diesel – study," *The Guardian*, December 1, 2017, reported, **"Exclusive: Pure electric cars cost less over four years than petrol or diesel cars in the UK, US and Japan, researchers say, but China is set to lead the market/**

Electric cars are already cheaper to own and run than petrol or diesel cars in the UK, US and

Japan, new research shows.

The lower cost is a key factor driving the rapid rise in electric car sales now underway, say the researchers. At the moment the cost is partly because of government support, but electric cars are expected to become the cheapest option without subsidies in a few years.

The researchers analyzed the total cost of ownership of cars over four years, including the purchase price and depreciation, fuel, insurance, taxation and maintenance. They were surprised to find that pure electric cars came out cheapest in all the markets they examined: UK, Japan, Texas and California.

Pure electric cars have much lower fuel costs – electricity is cheaper than petrol or diesel – and maintenance costs, as the engines are simpler and help brake the car, saving on brake pads. In the UK, the annual cost was about 10% lower than for petrol or diesel cars in 2015, the latest year analyzed.

Hybrid cars which cannot be plugged in and attract lower subsidies, were usually a little more expensive than petrol or diesel cars. Plug-in hybrids were found to be significantly more expensive – buyers are effectively paying for two engines in one car, the researchers said. The exception in this case was Japan, where plug-in hybrids receive higher subsidies."

Fred Lambert, "Elon Musk says Tesla could rebuild Puerto Rico's power grid with batteries and solar," *electrek*, October 5, 2017, <https://electrek.co/2017/10/05/elon-musk-tesla-rebuild-puerto-ricos-power-grid-batteries-solar/>, reported, **"After Puerto Rico was hit by two hurricanes back to back in just a few weeks, along with other islands in the Caribbean, most of their power grid was completely destroyed. Tesla quickly started quietly shipping Powerwalls there to try to get power back on to some houses with solar arrays.**

Now CEO Elon Musk says that Tesla could rebuild Puerto Rico's power grid with batteries and solar on a bigger scale.

Puerto Rico's electricity rates were already quite high at around \$0.20 per kWh and reliant on fossil fuels.

After it was pointed out that Puerto Rico's destroyed grid is an opportunity to build a better one, Musk wrote on Twitter:

"The Tesla team has done this for many smaller islands around the world, but there is no scalability limit so it can be done for Puerto Rico too. Such a decision would be in the hands of the Puerto Rico government, PUC (Public Utilities Commission), any commercial stakeholders and, most importantly, the people of Puerto Rico."

Michael J. Coren, "The US Government Keeps Spectacularly Underestimating Solar Energy Installation," *Slashdot*, October 21, 2017, <https://yro.slashdot.org/story/17/10/20/2116200/the-us-government-keeps-spectacularly-underestimating-solar-energy-installation>, reported **that the Energy Information Administration (EIA) over at least the last decade, "regularly underestimates the growth in renewables but overestimates U.S. fossil-fuel consumption, which some critics see as an attempt to boost the oil and gas industry."**

Studies indicate that developing regenerative agriculture, which includes probiotic farming, has the potential to very greatly increase the ability of soil to act as a carbon sink - pulling CO2 out of the air - while very greatly reducing the need for chemical fertilizer and insecticide. [Studies of probiotic farming also indicate that much less water is needed than in conventional farming. In one very dry New Mexico experiment previously reported in these pages, probiotic farming - putting the appropriate bacteria into the soil - produced twice the normal crop yields, requiring half the water, without use of fertilizer or pesticides]. The key to regenerative farming is putting the appropriate bacteria into the soil for the local conditions, so that the bacteria have a strong fertilizing impact making for much healthier more efficient plants. The new studies indicate that doing this properly can also greatly increase the soil's ability to pull carbon out of the air (Jacques Leslie, "Soil Power! The Dirty Way to a Green Planet," *The New York Times*, December 2, 2017, [78](https://www.nytimes.com/2017/12/02/opinion/sunday/soil-power-</p></div><div data-bbox=)

the-dirty-way-to-a-green-planet.html?mtrref=query.nytimes.com&gwh=A24327DC7F8E5E2FAECE358794ED5E64&gwt=pay&assetType=opinion).

Bill Vlasic and Beal E. Boudette, "G.M. and Ford Lay Out Plans to Expand Electric Models," *The New York Times*, October 2, 2017, <https://www.nytimes.com/2017/10/02/business/general-motors-electric-cars.html?ref=todayspaper>, reported, **"China has said it will eventually ban gasoline-powered cars. California may be moving in the same direction. That pressure has set off a scramble by the world's car companies to embrace electric vehicles."**

On Monday, General Motors, America's largest automaker, staked its claim to leadership. Outlining a fundamental shift in its vision of the industry, it announced plans for 20 new all-electric models by 2023, including two within the next 18 months."

Keith Bradsher, "China Hastens the World Toward an Electric-Car Future," *The New York Times*, October 9, 2017, <https://www.nytimes.com/2017/10/09/business/china-hastens-the-world-toward-an-electric-car-future.html?ref=todayspaper>, reported, "Propelled by vast amounts of government money and visions of dominating next-generation technologies, **China has become the world's biggest supporter of electric cars. That is forcing automakers from Detroit to Yokohama and Seoul to Stuttgart to pick up the pace of transformation or risk being left behind in the world's largest car market.**

Beijing has already called for one out of every five cars sold in China to run on alternative fuel by 2025. Last month, China issued new rules that would require the world's carmakers to sell more alternative-energy cars here if they wanted to continue selling regular ones. A Chinese official recently said the country would eventually do away with the internal combustion engine in new cars."

The European Commission proposed new auto emission regulations, in November 2017, that would require a 30 percent reduction in auto carbon emissions by 2030, compared to 2021 levels. Environmentalists criticized the Commission for not also setting quotas for zero emission vehicles (Jack Ewing, "Europe Sets Deep Car Emission Cuts That Critics Say Don't Go Far Enough," *The New York Times*, November 9, 2017).

World Wide sales of electric motor powered bicycles, or e-bikes, were projected to be 1.5 million sold world wide by the end of 2017. Especially in countries like the Netherlands and Germany, most e-bikes are replacing cars (John R. Quain, "E-Bikes Aren't Here to Replace Your Bicycle, But Your Car," *The New York Times*, November 24, 2017).

Zoya Teirstein, Grist, "St. Louis Just Became the Biggest Midwestern City to Commit to Clean Energy, *Reader Supported News (RSN)*, October 30, 17, <http://readersupportednews.org/news-section2/318-66/46579-st-louis-just-became-the-biggest-midwestern-city-to-commit-to-clean-energy>, reported, **"On Friday, Missouri's most populous city voted to obtain 100 percent of its energy from renewable sources by 2035. The unanimous decision makes St. Louis the 47th city in the United States to commit to a 100 percent clean energy goal."**

A great deal of movement toward green energy has been occurring in Latin America, which is the least carbon dioxide producing content in terms of energy generation. That is partly because of construction of dams, which has created other serious environmental and human rights - often Indigenous rights - issues, but does help reduce global warming. Chile has been developing geothermal energy, along with wind and solar panels. Currently 45 percent of its electricity is from renewable sources as the country moves toward 90 percent renewable by 2050. Mexico, now at 21 percent renewable, is working to be 50 percent renewable by 2050. Argentina, which may have the least renewable energy in Latin America now, with 2 percent, has declared 2017 the year of renewables, as it moves toward reaching 20 percent renewable by 2025

(Ernesto Londono, "Chile's Energy Transformation Is Powered by Wind, Sun and Volcanoes," *The New York Times*, August 12, 2017, https://www.nytimes.com/2017/08/12/world/americas/chile-green-energy-geothermal.html?ref=todayspaper&_r=0).

Iceland was heavily forested when the Vikings arrived, but they quickly cut them down. Now Iceland is working to regrow those forests, with implications for agriculture, soil erosion and climate change (Henry Fountain, "Vikings Razed the Forests. Can Iceland Regrow them?" *The New York Times*, October 20, 2017, https://www.nytimes.com/interactive/2017/10/20/climate/iceland-trees-reforestation.html?hp&action=click&pgtype=Homepage&clickSource=story-heading&module=photo-spot-region®ion=top-news&WT.nav=top-news&_r=0).

An analysis of the projected economic impact of global warming on different parts of the U.S. was published in Brad Plumer, "Assessing the Economic Bite From Rising Temperature," *The New York Times*, June 30, 2017, reporting on findings in a June issue of *Science*. **Over all, by 2080 the overall annual cost for the U.S. was seen as 0.7% of GNP for every 1 degree Fahrenheit rise in temperature [But that may not take into account the more common and more fierce storms, and might underestimate the impact of rising oceans], with the greatest cost in the south, particularly in Florida, followed by areas in the Midwest and West, with some areas gaining, including in Maine with lighter winters. [But this may underestimate the impact of lighter winters on increased insect activity, including by tree killing bark beetles, as well as other not yet known effects, positive as well as negative, of the resulting climate change].**

Daniel Mesec, "Salmon Victory: Lelu Island LNG Project Scrapped: B.C. indigenous groups celebrate cancelation of massive LNG facility on Lelu Island," ICTMN, July 28, 2017. <https://indiancountrymedianetwork.com/news/first-nations/salmon-victory-lelu-island-lng-project-scrapped/>, **"Indigenous groups are celebrating after Petronas, a Malaysian state-owned oil and gas giant, announced this week it would be scrapping its proposed Pacific Northwest LNG project along British Columbia's North Coast.**

The \$36 billion (Canadian) liquefied natural gas mega-project proposed for Lelu Island in the estuary of the Skeena River—the second-largest salmon-bearing river in Canada, and the traditional territory of the Gitwilyoots Tribe—was approved by Prime Minister Justin Trudeau's Liberal government last fall, but has since run up against several judicial reviews and legal challenges still pending in Canadian courts. The sudden announcement was welcome news for members of the Gitwilyoots Tribe who have been camped on Lelu Island in protest of the project for almost two years."

Phil McKenna, "Keystone XL: Low Oil Prices, Tar Sands Pullout Could Kill Pipeline Plan," *Inside Climate News*, August 6, 2017, <https://insideclimatenews.org/news/04082017/keystone-xl-pipeline-tar-sands-oil-competition-hearing-future>, reported, **"It will be close to three years, at least, before oil could possibly be moving through the controversial Keystone XL pipeline—if the pipeline is completed at all. Company officials now concede that after battling protests and regulatory hurdles for nearly a decade, market forces could scuttle the project.**

Canadian pipeline giant TransCanada first proposed the 1,700-mile project in 2008 to ship tar sands oil from Alberta to the Gulf Coast. The half-built project was halted by President Obama in 2015 only to be revived through an executive order signed by President Trump soon after he took office. The company has spent \$3 billion on the project, mostly for pipe but also for land rights and other costs of lobbying for its proposal.

During the prolonged dispute, the price of oil fell from more than \$130 a barrel to roughly \$45 a barrel today, undercutting the prospects for production growth in the Canadian tar sands, which were used to justify the Keystone XL project at its outset.

Along with changing market conditions, the emergence of competing pipelines scattered TransCanada's customer base. Now it's uncertain whether the company can sign enough new

commitments from Alberta's beleaguered oil patch to move forward.

The company recently embarked on an 'open season' for Keystone XL, inviting commitments from companies to ship tar sands crude (or, alternatively, lighter oil from the U.S. Bakken fields, in North Dakota and Montana).

At the same time, regulators in Nebraska are weighing the concerns of landowners, environmental organizations and indigenous groups who oppose the pipeline. The state's Public Service Commission will hold a week-long hearing starting Aug. 7 on whether or not to approve the pipeline's proposed route through Nebraska.

How much opponents will be allowed to tell the commission, however, was significantly limited this week by a retired judge who is overseeing that hearing.

In answering objections from TransCanada about testimony planned during the hearing, the retired judge wrote that testimony could not discuss safety issues, such as risks from potential oil leaks, or discuss whether there is any actual need for the pipeline. For those rulings, she cited limitations of the state's Major Oil Pipeline Citing Act, passed in 2011. She also prohibited testimony, at TransCanada's request, about how landowners have been treated by the pipeline company in recent months. Landowners will still be allowed to raise concerns about damage to their land during construction and discuss the value of the land, despite TransCanada's objections.

The commission is expected to announce its decision by Nov. 28. If the proposal is denied, the company could appeal the ruling or submit a new proposal with a modified route.

Company officials say they will wait for both developments before deciding whether to move forward with the pipeline project.

'We'll make an assessment of the commercial support and the regulatory approvals at that time,' TransCanada Executive Vice President Paul Miller said during the company's second-quarter earnings call with financial analysts on July 28. 'In the event that we do decide to proceed with the project, we still need probably six months to nine months to start doing some of the staging of the construction crews, et cetera, and that would be followed by about a two-year construction period.'

The combined staging and construction time means that it would be close to three years before the project could possibly be completed. Miller's statements suggest far more uncertainty than when President Trump came into office and decreed that the pipeline could be built.

Reassessing Need for the Pipeline

Pipeline opponents say **the company's difficulty in finding new subscribers may spell the end of Keystone XL.**

'We're not surprised that TransCanada is having these issues, and we think they are a legitimate threat to the project ever being built,' said Josh Axelrod, a policy analyst with Natural Resources Defense Council.

A company spokeswoman offered a more optimistic view.

'TransCanada maintains shipper support for the project and remains committed to Keystone XL,' said Jacquelyn Benson, a spokeswoman for the company. 'We are confident that we will have the support we need to move this project forward as we seek additional shipper commitments through the open season.'

Miller, the executive vice president, said the company would only be seeking commitments from third parties to ship oil through the pipeline—not trying to fill it up with oil to be sold by TransCanada's own marketing arm. 'Our business model has us going out to the marketplace producers, refiners to assess their market needs,' he said in answer to a question from a financial analyst.

Low Oil Prices, More Competition

The low price of oil, however, has stymied the development of additional tar sands oil production.

The only tar sands projects currently under construction were approved and started before the 2014 oil price crash, according to a recent analysis by environmental advocacy groups Oil Change International and Bold Alliance. Financing for future projects is expected to drop to zero by 2020 due to low oil prices, the report predicted.

In the past year, some of the world's biggest oil companies have retreated from Alberta's tar

sands, selling off \$24 billion in development rights in one five-month period.

As Keystone XL stalled, two other pipeline projects advanced. An expansion of an existing Enbridge pipeline that runs from Alberta to Wisconsin will likely be completed by 2019. Kinder Morgan's expansion of the Trans Mountain Pipeline from Alberta to British Columbia is slated for completion in late 2019. These developments leave Keystone XL in third place in a race to add pipeline capacity where none may be needed.

'There is a strong suggestion that we are reaching peak production, and they haven't even run out of capacity yet on pipelines that exist,' Axelrod said.

Nebraska Landowners Push Back

In Nebraska, pipeline opponents have been gearing up to fight the pipeline. For Brian Jorde, an attorney who has represented Nebraska landowners opposed to the project for the past seven years, next week's hearing is the latest turn in a drawn-out legal battle that could continue for years.

"This PSC proceeding is about the fifth inning in this saga, because there will be multiple appeals that will last for 18 to 24 months, potentially more," he said.

"I find it unlikely that this pipeline will ever be built," he said, "regardless of what happens at the PSC."

Nebraska regulators approved the Keystone Pipeline construction in their state, in late November 2017, **but with the requirement of changes in the route**. The impact of the alterations in the route on the proposed project was not clear (Mitch Smith, "Pipeline Is Approved, But with a Caveat." *The New York Times*, November 21, 2017).

John Paul Tasker, "First Nations will protest, but Trans Mountain pipeline a done deal, Liberals say: 'Nothing that's happened has changed our mind that this is a good decision,' resources minister says," *CBC News* Posted: September 7, 2017, reported, **"While some Indigenous activists gear up to fight expansion of the Kinder Morgan Trans Mountain pipeline on the streets and in court, federal Liberal cabinet ministers say there's no going back on their decision to approve the \$7.4-billion project.**

Inspired by some of the tactics used by protesters at **Standing Rock** in North Dakota, the Secwepemc Nation, situated along the Trans Mountain route, said Wednesday it was preparing to build '10 tiny houses' in the path of the project's construction as a protest and with the hope of forcing a delay."

Jake Johnson, "Huge 'People Over Pipeline' Victory as TransCanada Forced to Kill Energy East: 'This is an important day in the fight against climate change in Canada. Energy East was a disaster waiting to happen,'" *Common Dreams*, October 05, 2017, <https://www.commondreams.org/news/2017/10/05/huge-people-over-pipeline-victory-transcanada-forced-kill-energy-east>, reported, **"In what environmentalists are calling a major victory for pipeline opponents and the planet, TransCanada announced Thursday that it is abandoning its Energy East pipeline project, which would have carried over a million barrels of crude oil across Canada per day.**

Oil Change International (OCI) estimated in an analysis earlier this year that Energy East would produce an additional 236 million tons of carbon pollution each year. For this reason and many others, OCI applauded TransCanada's decision to nix the project, which was first proposed in 2013.

'This is an important day in the fight against climate change in Canada,' Adam Scott, senior advisor at OCI, said in a statement on Thursday. 'Energy East was a disaster waiting to happen. The pipeline and tanker proposal scheme was utterly incompatible with a world where we avoid the worst impacts of climate change.'

Aurore Fauret, Tar Sands Campaign coordinator at 350.org, echoed Scott's celebration and highlighted the grassroots mobilization that brought the pipeline into public view and ultimately helped ensure its defeat.

'We witnessed a People's Intervention that forced the climate costs of Energy East to the forefront of the pipeline review,' Fauret said. 'Over 100,000 messages were sent to the National Energy Board (NEB) demanding it consider all the emissions the project would generate. Close to 2,000 people applied as intervenors, citing climate change as one of their reasons. Two years later, after the NEB accepted to review the climate costs of the pipeline, TransCanada is calling it quits.'

TransCanada also announced Thursday that it is ditching the Eastern Mainline pipeline project in the face of critical scrutiny from Canadian energy regulators.

Both projects from their inception faced fierce opposition from Indigenous groups and climate activists, who often referred to Energy East as a "ticking time bomb" that posed a tremendous threat to sacred lands and the water supply.

'The end of Energy East shows that extreme energy projects are part of our past not our future.' —Maude Barlow, Council of Canadians

'It simply is not worth the risk,' Maude Barlow, honorary chairperson with the Council of Canadians, concluded in 2014.

But while the downfall of both Energy East and Eastern Mainline was welcomed by those who worked tirelessly for years to guarantee their defeat, activists issued an urgent reminder that the fight against pipelines in both Canada and the United States has only just begun.

'The end of Energy East shows that extreme energy projects are part of our past not our future,' Barlow said in a statement on Thursday. 'For all of our sakes, Kinder Morgan, Line 3, Line 10, and Keystone XL must face the same fate.'

Grand Chief Serge Simon of the Mohawk Council of Kanesatake agreed, arguing Thursday that 'it will be a hollow victory' if any of the many other pipelines under consideration 'are allowed to steamroll over Indigenous opposition and serve as an outlet for even more climate-killing tar sands production.'"(This work is licensed under a Creative Commons Attribution-Share Alike 3.0 License).

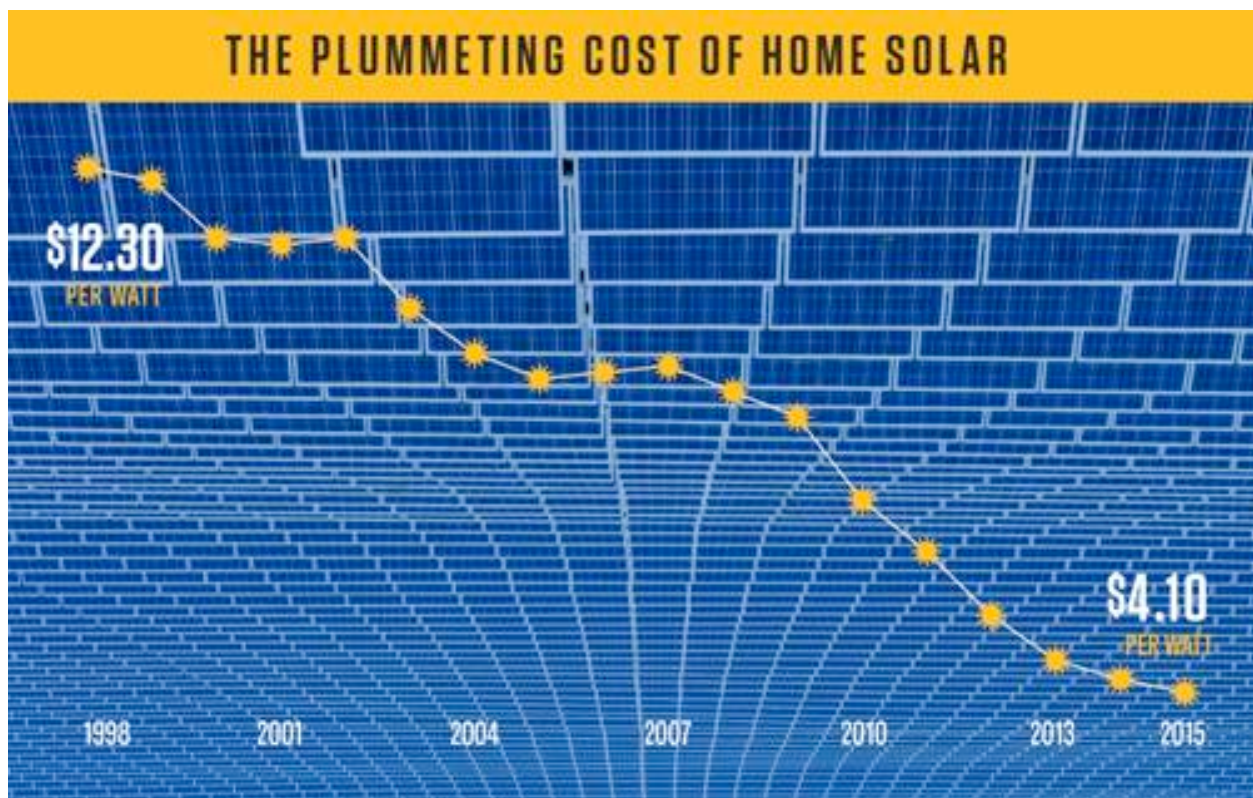
Greg Palast. "The Pig That Burst The Keystone Pipeline," *Greg Palast: Journalism and Film*, November 17, 2017, <http://www.gregpalast.com/pig-burst-keystone-pipeline/>, reported in part, **"Yesterday, the Keystone pipeline cracked and dumped 210,000 gallons of oil onto the South Dakota prairie.**

Here's the reason the pipeline burst: the PIG didn't squeal. The PIG, the Pipeline Inspection Gauge, is sent through the Keystone to check for evidence of any leak, failure, or corrosion that will cause it to burst. But the PIG didn't squeal a warning. Why not?

Because, as disclosed in my investigation for Britain's investigative TV series *Dispatches* in 2010, **the PIG has been silenced, its software jacked and hacked by a company that provides PIGS. The software is deliberately set to reduce the warning signals and thereby cut costs of replacement and repair by billions of dollars on the Keystone and other pipes."**

Scientists have confirmed that sea levels along the southeast coast of the U.S. have risen six times the average ocean rise, pointing out that various atmospheric conditions affect the extent of ocean rise. Initial findings seem to indicate that the extensive rise in the U.S. southeast is due to the convergence of warmer than previously normal Pacific Ocean waters (likely a result of global warming) in the the El Niño cycle and the North Atlantic Oscillation (Justin Gillis, "The Sea Level Did, in Fact, Rise Faster in the Southeast U.S.," *The New York Times*, August 9, 2017, <http://m.mlb.com/nyy/news/>).

Bill McKibben, "The Unimaginable Is Now Possible: 100% Renewable Energy. We Can't Settle for Less," *In These Times*, August 24, 2017, reported that **it is now possible, and practical for the U.S., to become 100% renewable energy, in large part because the price of renewable electricity has fallen lower than other forms of energy, by 2015, it had already dropped to \$4.10 per watt for home solar, and less for mass production.**



Adam Nagourney, "California Extends Climate Bill, Handing Gov. Jerry Brown a Victory," *The New York Times*, July 17, 2017, <https://www.nytimes.com/2017/07/17/climate/california-cap-and-trade-approved-jerry-brown.html?ref=todayspaper>, reported, "**California lawmakers voted Monday to extend a cap-and-trade program until 2030**, ending a legislative standoff that had threatened a critical component of the state's pioneering efforts to reduce climate-altering emissions."

Angela Chen, "Court rules that imported solar panels are bad for US manufacturing: This paves the way for a tariff on Chinese solar panels," *The Verge*, September 22, 2017, <https://www.theverge.com/2017/9/22/16351562/solar-energy-international-trade-commission-foreign-trade-lawsuit-suniva-tariff>, reported, "**The International Trade Commission has ruled that American companies are being hurt by cheap solar panels from overseas, providing an opportunity for President Donald Trump to tax imports from countries like China.**"

The decision has big implications for America's \$29 billion solar industry, which has grown tremendously in the past decade. Solar power is much cheaper now, and there were 10 times as many large-scale solar projects in 2014 as there were in 2004. **But companies fear that if cheap foreign imports are banned, solar energy will become more expensive, and that could hurt both existing and future projects.** Some businesses had even begun hoarding panels in case they became more expensive."

It remains to be seen what action President Trump will take.

The Lawrence Berkeley National Laboratory reported, in July 2017, that **the combination of making refrigeration more efficient and replacing fluorinated gasses with non-greenhouse (or ozone layer destroying) coolants worldwide, could reduce global warming by 1 degree Celsius (perhaps by 20%) by 2100** (Lisa Friedman, "Fixing a Major Piece of the Puzzle," *The New York Times*, July 14, 2017).

Peter J. Usher, Frances Abele, "Strengthening environmental reviews of major projects: Major project reviews require expertise, public dialogue and common sense – organized by rules and procedures that sustain a balance among these factors," *Policy Options Politique*, November 14, 2017, <http://policyoptions.irpp.org/magazines/november-2017/strengthening-environmental-reviews-of-major-projects/>, reported in part, "**Early in its mandate, the Liberal government committed to make**

substantial improvements to Canada's system of environmental assessment, in order to regain public trust in how major projects are considered and approved. Specifically, it undertook to restore robust oversight and thorough environmental assessments; ensure that decisions are based on science, facts and evidence, and serve the public's interest; and provide ways for Canadians to express their views and opportunities for experts to meaningfully participate."

"Inextricably entwined with these issues is the Trudeau government's commitment to implementing the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), which among other commitments affirms Indigenous peoples' right to free, prior and informed consent. As the **October 19, 2017 withdrawal of Assembly of First Nations regional chiefs from talks on the new environmental assessment regime** illustrates, it is far from clear how this can be achieved across the many fields of interaction with Canadian governments. The regional chiefs objected to an apparent contradiction in the federal position: alongside the government's overall commitment to partnership and dialogue, federal officials sought to retain control of decision-making about how dialogue would take place."

A heat wave across the Southwest in mid-June 2016, brought **record 120 degree Fahrenheit temperature to Phoenix, AZ, June 19. Smaller airplanes were unable to take off in Phoenix, because the less dense, very hot, air did not provide sufficient lift, leading to cancelation of many flights.** American Airlines, alone, cancelled more than 40 flights (Jonah Engel Bromwich, "Extreme Heat Scorches Southern Arizona," *The New York Times*, July 26, 2017; Zach Wichter, "Too Hot to Takeoff: Air Travel Buffeted by Capricious Climate," *The New York Times*, July 21, 2017).

Climate change has clearly arrives in many U.S. southern states in summer. It has become dangerous to work out of doors on many days. There are already numerous cases of heat exhaustion occurring among workers used of laboring outside in summer, and the heating is increasing (Yamiche Alcindor, "In Sweltering South, Climate Change Is Now a Workplace Hazard: Workers laboring outdoors in southern states are wrestling with the personal and political consequences of a worsening environment," *The New York Times*, August 3, 2017, <https://www.nytimes.com/2017/08/03/us/politics/climate-change-trump-working-poor-activists.html?ref=todayspaper>).

Alan Blinder, "As the Northwest Boils, an Aversion to Air-Conditioners Wilts environment," *The New York Times*, August 3, 2017, <https://www.nytimes.com/2017/08/03/us/as-the-northwest-boils-an-aversion-to-air-conditioners-wilts.html?ref=todayspaper>, reported, "Before the first batch of Nutella and sea salt doughnuts was sold on Fremont Street on Wednesday morning, Brianna Gneckow posed a question to her co-workers at Pip's Original Doughnuts: 'Does everybody have water?' But by lunch, hours **before Portland endured a daily record high of 103 degrees**, the staff had switched off the fryer and locked the doors.

Portland, of all places, was just too hot. As the Pacific Northwest sweated and wilted this week in the grip of one of the fiercest heat waves ever recorded in this region, Portland reached 105 degrees on Thursday but again fell short of the all-time mark of 107. A 78-year-old record in Salem, the Oregon capital, fell on Wednesday, when the city hit 106 degrees. Thermometers in Seattle, a three-hour drive from Portland, showed temperatures in the 90s on Wednesday and Thursday, setting daily records.

Here in Oregon's largest city, it was sometimes hard to tell what was more startling: the record-setting heat or the fact that, on a planet getting used to higher temperatures, Portland was not entirely unprepared for it. In a region known for its enviously mild, low-humidity summers, people have increasingly and quietly embraced air-conditioning. Federal data suggests that about 70 percent of the Portland area's occupied homes and apartments have at least some air-conditioning, up from 44 percent in 2002."

As drought has made wild fires fairly common in some areas of Europe, Aurelien Breeden and Benoit Morenne, "Wildfires Force Thousands to Evacuate in Southern France," *The New York Times*, July 26, 2017, <https://www.nytimes.com/2017/07/26/world/europe/france-fires->

evacuation.html?ref=todayspaper&_r=0, reported, **"Thousands of people were evacuated from homes and vacation sites in southeastern France on Wednesday as strong winds fueled wildfires that had been raging across the region for days.**

At least 10,000 people, including 3,000 campers, were evacuated overnight — some to beaches nearby — after a forest fire started near Bormes-les-Mimosas, a town on the Mediterranean coast, where the population surges with vacationers during the summer.

At least two homes were gutted and a firefighter sustained an injury battling the blaze, but so far there have been no reports of fatalities, officials said. The prefecture of Var, the region that includes Bormes-les-Mimosas, said in a statement that nearly 2,000 acres of a forest near the town had burned and that more than 500 firefighters had been deployed."

Earlier, in mid-June, **Wildfires in Portugal had killed 61 people** (Raphael Minder, "Forest Fires in Portugal Kill 61, Including Motorists Trapped in Their Cars," *The New York Times*, July 26, 2017).

The drought also caused other problems, including water shortages, even in usually well supplied Rome (Jason Horowitz, "City of Ancient Aqueducts May Face Water Rationing," *The New York Times*, July 28, 2017).

Europe continued to suffer from unusual heat and drought, in August 2017. "Europe Swelters Under a Heat Wave Called 'Lucifer'," *The New York Times*, August 6, 2017, <http://www.nytimes.com/pages/todayspaper/index.html>, reported, **"A crowded tram in Bucharest, Romania, on Friday. Meteorologists issued a heat warning for western parts of the country and placed 12 counties under a 'red code' alert.**

The meteorologists agree: The long hot spell gripping parts of Europe this past week is uncommon.

People looking for relief from the heat in countries like France, Spain and Italy grappled for just the right name for the phenomenon — and settled on "Lucifer."

The waves of heat sent temperatures soaring to record highs for several days, caused at least two deaths, kindled wildfires and drove tempers through the roof.

In France, people congregated around fountains to bask in the meager sprays, or simply to dive in.

Locals and tourists refreshed themselves in the Water Mirror fountain in the center of Bordeaux, France, on Friday.

In Romania, the police banned heavy traffic on major roads, and trains slowed to a relative crawl.

Animal rights groups in Serbia's capital, Belgrade, urged citizens to place bowls of water outside their buildings and in parks for stray dogs.

High temperatures this summer have brought punishing heat to regions in the United States like the Pacific Northwest — where generations had shunned air-conditioning — reaching as high as 104 in Seattle and 107 in Portland, Ore. In parts of Asia, like Pakistan, a blast of scorching weather this year also had people there reaching for comparisons to hell on earth as records fell.

Experts say it's all part of a broader trend: Summers are, indeed, getting hotter."

"Sun-kissed Italy has become sun-cursed. With temperatures in recent days regularly rising north of 100 degrees, a nationwide drought leaving rivers and mouths dry and countryside kindling and arsonists combining to ignite the landscape, Italians are, well, boiling.

Farmers are lamenting more than \$1 billion in revenue lost to drought and singed fields. Firefighters are busy. Packs of gum are melting in their wrappers."

"About half of Spain was placed under an emergency alert over the weekend because of the heat wave, as forecasts predicted temperatures of up to 111 degrees Fahrenheit (44 degrees Celsius).

In the southern city of Córdoba, the temperature reached almost 113 degrees on Friday afternoon. However, no major incident was reported, and the continuing high temperatures are slightly milder than that experienced in mid-July in Spain, when the temperature reached a record of almost 117 degrees in Córdoba."

"The heat wave that hit southeastern France throughout the week increased pollution levels. The authorities also issued safety warnings on proper hydration as thousands of incoming and departing vacationers clogged roads across the region.

Corsica was hit especially hard. Nighttime offered no respite to inhabitants of Marignana, a village on the island where the temperature stayed at nearly 87 degrees Fahrenheit on Monday night into Tuesday.

On Wednesday, France's national electricity provider announced that energy consumption on the island had reached a record high the previous night.

The French Riviera was not spared either, especially inland. In Puget-Théniers, a village about 25 miles northwest of Nice **in the Alpes-Maritimes Department, the national weather forecaster registered a record high of 104 degrees Fahrenheit on Tuesday."**

"Summer means the start of a dangerous dry season for many parts of Europe. In Portugal, a raging forest fire in June killed scores of people, some of whom were trapped in their cars, and forced many to flee their homes. And last month, fires forced the evacuation of over 20,000 in southern France.

Wildfires revisited parts of France this week, burning for days near the town of Palneca, and torching more than 400 acres of forest.

On Friday morning, a wildfire in the southern Greek island of Kythira, southwest of Athens, led to the evacuation of a village and power cuts."

In Poland, " Scorching temperatures also caused dramatic weather breakdowns, including strong storms that brought a whirlwind, as well as hail the size of tennis balls, injuring dozens of people across the country."

Wildfires were also a serious problem in western Canada in 2017. From the beginning of Fire season in early April until the very first days of August, alone, a total of 1,460,393 acres, or 2,282 square miles, scorched by nearly 900 wildfires in just British Columbia. Numerous first nation communities were impacted ("British Columbia Wildfires: Grass as Dry as 'Crunchy Snow': Wildfires continue to threaten First Nations in central British Columbia," ICMN, August 8, 2017, <https://indiancountrymedianetwork.com/news/environment/b-c-wildfire-grass-dry/>).

Jason Horowitz, "In Italy's Drought-Hit Vineyards, the Harvest of a Changing Climate," *The New York Times*, August 22, 2017, <https://www.nytimes.com/2017/08/22/world/europe/barolo-italy-wine-climate-change.html?ref=todayspaper>, reported, "

"In vino veritas. The warming temperatures, shortening of the seasons and unseasonal storms brought on by global climate change are hastening the harvest of perhaps the most venerable crop of Western civilization.

"A 2016 study by NASA and Harvard of grape harvest dates going back to the 1600s found that climate change pushed harvests forward drastically in France and Switzerland in the second half of the 20th century.

Other studies have suggested that traditional wine-growing regions in Europe and around the world will become too hot for the berries traditionally linked to their earth and climate, or terroir, and will be forced to adopt varieties built for heat."

Somini Sengupta, "How Climate Change Is Playing Havoc With Olive Oil (and Farmers)" *The New York Times*, October 24, 2017, https://www.nytimes.com/2017/10/24/climate/olive-oil.html?ref=todayspaper&_r=0, reported, **"It was in June, the time of year when the first olives normally burst from their blossoms in the mild warmth of early summer, when Irene Guidobaldi walked through her groves in blistering heat and watched in horror as the flowers on her trees began to wither and fall.**

The only way to save her family's precious orchard in the hills of Umbria was to buy the most precious thing of all in this summer of drought: water. Lots and lots of water."

"The heat wave that swept across southern Europe this summer, which scientists say bore the fingerprints of human-induced climate change, is only the latest bout of strange weather to befall the makers of olive oil."

A major factor in the spread of the desert in Northern China has been record drought in the region, causing water shortages and wilting crops (Edward Wong, "Drought Is Ravaging a Region in China," *The New York Times*, May 5, 2017).

Environmental Defense Fund (EDF) reported via E-mail, July 14, 2017, "Yesterday, we cheered the news of two major environmental victories in Washington, D.C.

Earlier this month, **the D.C. Circuit Court had blocked Pruitt's attempt to delay implementation of the limits by 90 days, calling his action 'unlawful,' "arbitrary," and "capricious."** Pruitt then asked the court again for more time—52 days or longer—to carry out the court's decision.

Yesterday the court said no, pointing out that it would grant Pruitt, 'in all practical effect, the very delay' they already rejected. The court ordered that its ruling take full effect in 14 days.

While we were still celebrating, the U.S. House of Representatives affirmed that climate change poses a direct threat to our national security.

A previous bipartisan vote in the House Armed Services Committee had included the following language in the National Defense Authorization Act: **'[C]limate change is a direct threat to the national security of the United States** and is impacting stability in areas of the world both where the United States Armed Forces are operating today, and where strategic implications for future conflict exist."

The provision also requires a report to Congress on 'vulnerabilities to military installations and combatant commander requirements resulting from climate change over the next 20 years.'

Rep. Scott Perry (R-PA) offered an amendment to scrub those provisions, but it failed by a wide margin of 185 to 234—including 46 Republicans joining nearly all House Democrats in voting no.

These victories are why we fight. Despite an all-out assault on climate action waged by the Trump administration, we stand on the side of science, common sense—and most importantly, what is right.

Climate change is happening, whether or not President Trump and Administrator Pruitt are willing to admit it or do anything about it. And the climate victories we won under President Obama are strongly grounded in both law and legal precedent."

Lisa Friedman, **Trump Takes a First Step Toward Scrapping Obama's Global Warming Policy**," *The New York Times*, October 4, 2017, <https://www.nytimes.com/2017/10/04/climate/trump-climate-change.html?ref=todayspaper&mtref=www.nytimes.com>, reported, **"The Trump administration will repeal the Clean Power Plan, the centerpiece of President Barack Obama's effort to fight climate change, and will ask the public to recommend ways it could be replaced, according to an internal Environmental Protection Agency document.**

The draft proposal represents the administration's first substantive step toward rolling back the plan, which was designed to curb greenhouse gas emissions from the power sector, after months of presidential tweets and condemnations of Mr. Obama's efforts to reduce climate-warming pollution.

But it also lays the groundwork for new, presumably weaker, regulations by asking for the public and industry to offer ideas for a replacement."

Lisa Friedman, **"E.P.A. Reverses Course on Ozone Rule**," *The New York Times*, August 3, 2017, <https://www.nytimes.com/2017/08/03/climate/epa-reverses-course-on-ozone-rule.html?ref=todayspaper>, reported, **"The Trump administration said late Wednesday that it would not delay an Obama-era regulation on smog-forming pollutants from smokestacks and tailpipes, a move that environmental groups hailed as a victory.**

The Environmental Protection Agency decision came a day after 16 state attorneys general, all Democrats, filed a lawsuit challenging the delay with the United States Court of Appeals for the

District of Columbia. It reversed a decision that Scott Pruitt, the E.P.A. administrator, made in June to put off an Oct. 1 deadline for designating which areas of the country met new ozone standards."

Alexandra Witze, "Ageing Satellites Put Crucial Sea Ice Climate Record at Risk: Scientists scramble to avert disruption to dataset that has tracked polar ice since the late 1970s,"

Scientific American, October 27, 2017, <https://www.scientificamerican.com/article/ageing-satellites-put-crucial-sea-ice-climate-record-at-risk/>, reported in part, **"One of the most important continuous records of climate change—nearly four decades of satellite measurements of Arctic and Antarctic sea ice—might soon be interrupted."**

Scientists all over the world rely on the sea-ice record compiled by the US National Snow and Ice Data Center (NSIDC) in Boulder, Colorado. But the US military satellites that collect the data, by measuring ice extent using microwave sensors, are approaching the end of their lives. Three are still working but ageing, and their intended successor started experiencing glitches in 2016, before conking out for good this month. The next possible replacement won't launch until at least the early 2020s."

The league of Conservation Voters stated, July 27, 2017, https://secure3.convio.net/lcv/site/SPageNavigator/LCV_ms_donation_20276.html?jsessionid=00000000.app367b?autologin=true&NONCE_TOKEN=067615C9A181EDE442080F3B71D4DBB2, "As the media focuses all attention on the Senate healthcare debate, **GOP leadership in the House is rapidly tacking on extreme anti-environment riders to a critical spending bill.**

Rep. Gosar (R-AZ) is pushing a disastrous rider that codifies climate denial. Rep. McKinley (R-WV) is actually fighting to INCREASE oil and gas handouts. And this bill guts drinking water protections for 117 million people while stripping them of their ability to have a say in the matter.

As Congress prepares to return home for the August recess we have to do more — and fast. This spending bill is likely to PASS the House, so blocking it in the Senate is our only shot at averting a catastrophe."

"Polluter allies have the presidency — and majorities in the House and Senate — but there still is a narrow path to victory here. GOP leadership is in disarray, with the conservative and moderate wings of their party fighting with each other. **If we put the right amount of pressure in the right places, we can still derail this awful bill.**"

Adam Nagourney, "California Extends Climate Bill, Handing Gov. Jerry Brown a Victory," *The New York Times*, July 17, 2017, <https://www.nytimes.com/2017/07/17/climate/california-cap-and-trade-approved-jerry-brown.html?ref=todayspaper>, reported, **"California lawmakers voted Monday to extend a cap-and-trade program until 2030**, ending a legislative standoff that had threatened a critical component of the state's pioneering efforts to reduce climate-altering emissions."

Climate change has been largely responsible for the town of Churchill Manitoba on the edge of Hudson Bay becoming isolated. It's rail line was closed following a pair of unusually large blizzards, bringing record flooding, which is now expected to happen regularly. With supplies for the 900 residents having to be brought in by plane, already high prices have soared (Catherine Porter, "Canadian Town, Isolated After Losing Rail Link, 'Feels Held Hostage'," *The New York Times*, August 30, 2017, <https://www.nytimes.com/2017/08/30/world/canada/canada-climate-change-arctic.html?ref=todayspaper>).

Jefferey Gettleman, "Loss of Fertile Land Fuels, 'Looming Crisis' Across Africa: Climate change, soil degradation and rising wealth are shrinking the amount of usable land in Africa. But the number of people who need it is rising fast," *The New York Times*, July 30, 2017, https://www.nytimes.com/2017/07/29/world/africa/africa-climate-change-kenya-land-disputes.html?ref=todayspaper&_r=0, reported, **"Kenya has a land problem. Africa itself has a land problem. The continent seems so vast and the land so open.** The awesome sense of space is an inextricable part of the beauty here — the unadulterated vistas, the endless land. But in a way, that is an illusion.

Population swells, climate change, soil degradation, erosion, poaching, global food prices and even the benefits of affluence are exerting incredible pressure on African land. They are fueling conflicts across the continent, from Nigeria in the west to Kenya in the east — including here in Laikipia, a wildlife haven and one of Kenya's most beautiful areas.

Large groups of people are on the move, desperate for usable land. Data from NASA satellites reveals an overwhelming degradation of agricultural land throughout Africa, with one recent study showing that more than 40 million Africans are trying to survive off land whose agricultural potential is declining.

At the same time, high birthrates and lengthening life spans mean that by the end of this century, there could be as many as four billion people on the continent, about 10 times the population 40 years ago.

It is a two-headed problem, scientists and activists say, and it could be one of the gravest challenges Africa faces: The quality of farmland in many areas is getting worse, and the number of people squeezed onto that land is rising fast."

"More than in any other region of the world, people in Africa live off the land. There are relatively few industrial or service jobs here. Seventy percent of Africa's population makes a living through agriculture, higher than on any other continent, the World Bank says.

But as the population rises, with more siblings competing for their share of the family farm, the slices are getting thinner. In many parts of Africa, average farm size is just an acre or two, and after repeated divisions of the same property, some people are left trying to subsist on a sliver of a farm that is not much bigger than a tennis court.

A changing climate makes things even harder. Scientists say large stretches of Africa are drying up, and they predict more desertification, more drought and more hunger. In a bad year, maybe one country in Africa will be hit by famine. This year, famine is stalking three, pushing more than 10 million people in Somalia, Nigeria and South Sudan to the brink of starvation.

But much of Africa's farmland is in danger for another, perhaps simpler, reason: overuse. Fast-growing populations mean that many African families can't afford to let land sit fallow and replenish. They have to take every inch of their land and farm or graze it constantly. This steadily lowers the levels of organic matter in the soil, making it difficult to grow crops.

In many areas, the soil is so dried out and exhausted that there is little solace even when the prayed-for rains finally come."

Bill Vlasic, "In Pivotal Moment, Tesla Unveils Its First Mass-Market Sedan," *The New York Times*, July 29, 2017, <https://www.nytimes.com/2017/07/29/business/tesla-model-3-elon-musk.html?ref=todayspaper>, reported, **"After a meteoric rise that made it, at least briefly, the most valuable car company in America, Tesla arrived at a moment of truth on Friday night as it delivered the first of its mass-market sedans to their new owners.**

For a decade, the company has been a manufacturer of high-end electric cars in small numbers. But now, Tesla is aiming at much loftier goals. It wants not only to become a large-scale producer in the suddenly crowded field of battery-powered vehicles but also to lure consumers away from mainstream, gasoline-powered automobiles."

Volvo announced, in July 2017, that beginning in 2017 all new models it introduces will either be hybrids or all electric vehicles (Jack Ewing, "Going Electric, Volvo Declares Gas is the Past," *The New York Times*, July 6, 2017).

Great Britain announced, in July 2017, that beginning in 2040 it will ban the sale of all new diesel and gas powered automobiles, in order to reduce pollution (Stephen Castle, "To Fight Pollution, Britain Will Ban Sale of New Diesel and Gas Cars by 2040," *The New York Times*, July 27, 2017).

The economically fairly poor island of Samso, Denmark, has become a model of green energy, selling its surplus of solar and wind power to the Danish mainland, as described in Tom A. Peter, "An Island of Green," *Christian Science Monitor Weekly*, April 17, 2017.

Greenbelt, MD is one of a number of towns in the U.S. reducing its methane emissions by having its food businesses send their food scraps to a county run composting facility, rather than throwing them away to end up in a land fill (Ajowa Nzinga Ifateyo, "Greenbelt Earns Its Cooperative Stripes," *In These Times*, August 2017),

Diane Cardwell, "Utility Helps Wean Vermonters From the Electric Grid: Green Mountain Power is trying to turn homes, neighborhoods and towns into virtual power plants, driven by economics as well as environmental goals," *The New York Times*, July 29, 2017, <https://www.nytimes.com/2017/07/29/business/energy-environment/vermont-green-mountain-power-grid.html?ref=todayspaper>, reported, **"And throughout Vermont, customers are signing up for a new program that will allow them to power their homes while entirely disconnected from the grid."**

The projects are part of a bold experiment aimed at turning homes, neighborhoods and towns into virtual power plants, able to reduce the amount of energy they draw from the central electric system. But behind them are not green energy advocates or proponents of living off the land. Instead, it's the local electric company, Green Mountain Power."

Jonah Engel Bromwich, "Flash Floods in Arizona Kill at Least 9," *The New York Times*, July 16, 2017, <https://www.nytimes.com/2017/07/16/us/arizona-flash-floods-kills.html?ref=todayspaper>, reported on heavy rains, **"At least nine people were killed and one person was still missing on Sunday night after flash flooding interrupted a family gathering in central Arizona over the weekend."**

Hurricane Harvey has been called "unprecedented" by the U.S. Weather Service. Harvey is one of the worst natural disasters in U.S. history, a strong force 4, but unusually large storm, struck virtually the entire length of the Texas Gulf coastline, August 26. With global warming having increased the temperature of the water in the Gulf of Mexico, the storm sat over the coastal area for several days, dumping perhaps up to a record 50 inches of rain extending well inland. The result was first tremendous wind damage along a wide spread area of the coast, followed by wide spread record flooding. Reservoirs, by August 29, for the first time ever, reached the point of overflowing if water was not released, bringing yet more flooding, including to downtown Houston. Five waterways reached their highest record ever, adding to the second round of flooding. More than 30,000 people were evacuated or rescued, and in the first 24 hours there were already five known deaths, expanded to 21 by August 30. Hospitals and emergency facilities in Houston also suffered from flooding. Very heavy rains extended into Louisiana.

By August 30, Harvey had gone back to the coast, and then turned inland at the Louisiana-Texas Boarder as a weaker tropical storm, but again dropping massive rains, causing yet more devastating flooding. Many areas were impossible for rescuers to get to by land or boat, and helicopters were being employed. *The New York Times* Weather report, August 31, predicted the storm would next move northeast with lesser, but sill very heavy rains causing flooding toward Southern Illinois, Indiana and Ohio.

The economic damage is in the multiple billions of dollars, with the projection that it will take years to rebuild. FEMA estimated, August 28, that 450,000 people would need disaster assistance. About one-sixth of U.S. oil refining capacity shut down in the face of the storm, immediately raising gas prices at the pump by several cents in the U.S., while the price of crude oil dropped from the temporary drop in demand from reduced capacity to refine it. Initial indications were that there would be no significant long term damage to oil facilities. **But** very soon a number of releases of oil and toxic liquids and gasses were reported. **The reported damage may well increase with later reviews.** With the likelihood of future huge storms, the Gulf oil and gas industry is now faced with the extremely

expensive choice of repairing and hardening facilities and infrastructure in place, or moving to safer areas (Manny Hernandez, Alan Blinder and Simon Romero, "Hurricane Harvey Strikes a Powerful Blow to Texas, and Lingers," *The New York Times*, August 26, 2017, <https://www.nytimes.com/2017/08/26/us/hurricane-harvey-strikes-a-powerful-blow-to-texas-and-lingers.html?ref=todayspaper>; Hurricane News, "The Weather Channel," accessed August 29, 2017, 4:50 pm MDT, <https://weather.com/storms/hurricane/news/harvey-houston-texas-flooding-evacuations>; Sheri Fink and Alan Blinder, "Houston's Hospitals Treat Storm Victims and Become Victims Themselves," *The New York Times*, August 28, 2017, <https://www.nytimes.com/2017/08/28/us/hurricane-harvey-houston-hospitals-rescue.html?ref=todayspaper>; Alan Blinder and Jack Healey, "Coffee and Cots as Houston Houses Thousands in a Convention Center," *The New York Times*, August 28, 2017, <https://www.nytimes.com/2017/08/28/us/harvey-and-jack-healey-deluged-texas-braces-for-more-rain-and-years-of-recovery>; Julie Turkewitz, Richard Perez-Pena and Jack Healey, "Deluged Texas Braces for More Rain, and Years of Recovery," *The New York Times*, August 28, 2017, <https://www.nytimes.com/2017/08/28/us/houston-flooding-harvey.html?ref=todayspaper>; Lisa Friedman and John Schwartz, "How Hurricane Harvey Became So Destructive," *The New York Times*, August 28, 2017, <https://www.nytimes.com/2017/08/28/us/houston-flooding-harvey.html?ref=todayspaper>; Clifford Kraus and Hiroko Tabuchi, "Harvey's Toll on Energy Industry Shows a Texas Vulnerability," *The New York Times*, August 29, 2017, www.nytimes.com/2017/08/29/business/energy-environment/harvey-energy-industry-texas.html?ref=todayspaper; Campbell Robertson, Rick Rojas and Sheila Dewan, "As Houston Looks to Recover, Small Towns Now Bear the Brunt," *The New York Times*, August 30, 2017, https://www.nytimes.com/2017/08/30/us/small-towns-harvey.html?ref=todayspaper&_r=0).

With global warming increasing, the monsoons in South Asia have been especially torrential and deadly, with serious flooding, in the summer of 2017. More than 1000 people were known dead near the end of August, and it was feared the death toll would rise as continuing heavier than normal rain would increase the flooding. The UN reported that more than 41 million people had been directly impacted in India, Bangladesh and Nepal by flooding and landslides. Many thousands of homes and other structures have been destroyed in the most severe flooding since 2005. Hospitals, colleges and schools in many areas have been flooded and many closed. Transportation has been greatly disrupted. In Bangladesh, about one-third of the country has been underwater. There, the Red Cross says the flooding is the worst in 40 years, with 700,000 homes destroyed or damaged (Jeffrey Gettleman, "More Than 1,000 Died in South Asia Floods This Summer," *The New York Times*, August 29, 2017, https://www.nytimes.com/2017/08/29/world/asia/floods-south-asia-india-bangladesh-nepal-houston.html?ref=todayspaper&_r=0).

By August 31, more environmental and other damage began to be evident in the wake of Hurricane Harvey. Julie Turkewitz, Henry Fountain and Hiroko Tabuchi, "New Hazard in Storm Zone: Chemical Blasts and 'Noxious' Smoke," *The New York Times*, August 31, 2017, <https://www.nytimes.com/2017/08/31/us/texas-chemical-plant-explosion-arkema.html?ref=todayspaper>, reported, **"A series of explosions at a flood-damaged chemical plant outside Houston on Thursday drew sharp focus on hazards to public health and safety from the city's vast petrochemical complex as the region begins a painstaking recovery from Hurricane Harvey."**

The blasts at the plant, owned by the French chemical company Arkema, came after its main electrical system and backups failed, cutting off refrigeration systems that kept volatile chemicals stable. While nearby residents had been evacuated, **15 public safety officers were treated at a hospital after inhaling smoke from chemical fires that followed the explosions.** The Arkema plant has been identified as one of the most hazardous in the state. Its failure followed releases of contaminants from several other area petrochemical plants and systemic breakdowns of water and sewer systems in Houston and elsewhere in the storm-struck region.

The explosions — more are expected, the company said — will bring fresh scrutiny on whether these plants are adequately regulated and monitored by state and federal safety officials. The chemical plant accident came as devastation from Harvey, now a tropical depression moving into the Mississippi Valley, continued to spread across the region. **The known death toll from the storm**

and flooding remained at 39, the authorities said.

Record-breaking floods swept through Beaumont, Tex., 100 miles east of Houston, damaging the water system and leaving the city's 120,000 residents without clean water."

The **Union of Concerned Scientists (UCS)**, carried August 31, 2017, Brenda Ekwurtzwl, "What's the Connection Between Climate Change and Hurricane Harvey?" http://blog.ucsusa.org/brenda-ekwurtzwl/whats-the-connection-between-climate-change-and-hurricane-harvey?_ga=2.3217909.471368280.1504476284-2133135183.1504476284, commented, "First responders, neighbors, volunteers, city, county, state, national and international institutions, businesses, and people around the world are heeding the call to help save lives and provide resources for keeping people safe throughout the onslaught of Hurricane Harvey and aftermath. Even as the storm slipped back offshore of Texas and then like a pinwheel spun back over to Louisiana and is now moving further inland on a northeast trajectory, questions are already being asked:

Is this storm unprecedented?

Are there telltale signs of climate change?

Before jumping into noteworthy aspects of Hurricane Harvey, an analogy I heard from NPR science reporter Christopher Joyce comes to mind.

'A scientist once told me about climate and weather, said it's kind of like playing baseball with a bat with lead in it. You know, you're going to go out there, and you're going to hit foul balls, and you're going to hit grounders, and you're going to strike out. But every once in a while, you hit that sweet spot with [sic] that leaded bat, and it's not just going to knock the ball into the stands. It's going to *knock it out of the park.*'

The analogy gets to the 'fat tail' aspect of extreme events. **A scorching heat wave or torrential rain are more likely now than before after the average background conditions shift a little** (see Fig 1-08).

Hot air and rain intensity

Scientists know that warmer air holds more moisture. That moisture can be taken up by storms resulting in extreme rainfall events. We saw evidence of this in the increase in volume of water dumped during the most intense downpours of a year in the Continental US.

Hot oceans and storm power

This heavy precipitation can be further fueled as climate change warms oceans. Hurricane models that compare the past three decades with further climate change (RCP 4.5) toward the end of the century show an increase of average hurricane intensity, precipitation rates and the number and occurrence of days with intense category 4 and 5 storms.

How does it work? If a tropical depression forms, and conditions prove favorable to grow into a Hurricane, warmer seas can increase the power of a storm primarily through evaporation of the hot seawater and other processes. When conditions get too hot in the tropics, the ocean tends to shed that excess heat away from the tropical surface ocean as fast as possible. It is as if the tropical ocean 'sweats' in the summer and tropical depressions, storms or hurricanes, are dramatic ways to transfer that excess heat away from the tropics. We saw a similar scenario with Hurricane Harvey, which quickly gained intensity—moving from a tropical depression to a category 4 hurricane—as it passed over the unusually warm Gulf waters in the days before it made landfall.

Sea level rise increasing damages

Local sea level can influence flooding in several ways. **Tropical storms and hurricanes can blow so hard that they literally pile water up onto the shore. Storm surges today are more hazardous in low-lying coastal regions compared to the same storm surge a century ago. Due in large part to climate change, seas are on average 8 inches higher since 1880.** Galveston, Texas experienced around a foot of sea level rise in just the last 50 years due to the combination of climate change and sinking coastal land from groundwater pumping, oil and gas extraction and natural causes.

In addition to storm surge, intense hurricane precipitation can swell the rivers that are draining into higher seas during a storm, which can back up and cause a dangerous situation as rivers and reservoirs overtop their banks and flood adjoining land, something we observed during Hurricane Harvey.

Hurricane Harvey: an epic event

All these factors were in play in Hurricane Harvey:

Hurricane Harvey shattered the storm total rainfall record for the continental U.S. at over 51 inches at a rain station near Cedar Bayou Texas.

While the Gulf of Mexico normally has hot seas in August, they were unusually warm when the storm hit. The average sea surface temperature over August 1-23, 2017 in the majority of the Gulf of Mexico was greater than 30 degrees Celsius (86 degrees Fahrenheit). Not too surprising since the Gulf of Mexico sea surface temperatures were breaking records the prior winter. **This allowed Hurricane Harvey to jump from a tropical storm to a category 4 Hurricane while passing over the Gulf, which had sea surface temperatures 1.5 to 4 degrees Celsius above normal.**

Designed for storms in the 1940s, two of Houston's reservoirs are overflowing and at least one levee breached under the tremendous pressure from flooding that resulted from the trillions of gallons of precipitation dumped by Hurricane Harvey. Additionally, the storm surge in Galveston Bay slowed the drainage rate and much of the spongy soils underneath the acres of impervious surfaces were unable to help, making it a stranded natural asset in this storm.

Data are being collected for investigators to tease apart the relative contributions of various factors likely to have influenced Hurricane Harvey. Typically, extreme weather scientists investigate the weather and climate change factors for hazards. If better data are available on the infrastructure, land use decisions, historic inequities, etc. that influence exposure and vulnerability to a weather hazard, these can be incorporated into more comprehensive investigations of impacts risk (see AR5 WG2 figSMP-1).

As we move into recovery and rebuilding, it will be important to understand all the major factors so Houston can rebuild in a way that better protects lives and property."

For more information visit: www.ucsusa.org.

Eric Whalen (EricWhalen@comingcleaninc.org, (971) 998-8786), August 31, 2017, "Texas Environmental Justice Health Alliance (EJHA), A Toxic Storm: Hazardous Facilities, Failed Chemical Safety Policies, and Extreme Weather Leave Houston Residents Swimming in Toxic Soup," **"In response to the devastation and suffering created by Tropical Storm Harvey, and the toxic hazards posed to health and the environment by dozens of hazardous industrial and commercial facilities concentrated in the Houston area,** Michele Roberts, Co-Coordinator of the Environmental Justice Health Alliance (EJHA), issued the following statement:

'Our thoughts and prayers are with the victims, their families, and all those suffering in Houston and along the Gulf Coast from the impacts of Tropical Storm Harvey. EJHA and our partner, Coming Clean, work closely with affiliates and communities in Houston and throughout the Gulf Coast who have been impacted by this storm, and concern for their health and safety is foremost in our minds.

Victims of this storm are now facing an unacceptable confluence of environmental injustices—and if past is prologue, they will continue to face overlapping hardships for years to come. Tropical Storm Harvey is now understood to be the most extreme rain event ever recorded in United States history. Undoubtedly, Harvey was made worse by rising sea levels and the increasing prevalence of extreme weather events fueled by global warming pollution. **Refineries and petrochemical operations in Houston, almost too numerous to count, have been venting a toxic mix of hazardous air pollutants those trapped by rising floodwaters are forced to breathe. The long-term health consequences of this toxic air pollution are unknown.** Adding insult to injury, the Trump Administration's failure to adequately protect communities from hazardous industrial facilities which, under the stress of Harvey, pose an acute risk of explosion or poison gas release. This forces impacted communities to worry about dozens of 'ticking time bomb' facilities in their neighborhoods which might cause a catastrophic accident on top of catastrophic flooding. **When the waters eventually recede, people will face the challenge of rebuilding, but also the hazards created by flooded toxic waste sites, damaged and leaking chemical storage tanks, and waste escaping from petrochemical manufacturing plants—polluting the water and soil our communities depend on. The concentration of only minimally regulated chemical, oil, and gas facilities in low-lying areas, disproportionately composed of communities of color and low-income communities, combined**

with increasing extreme weather events due to climate change and an uncaring Administration rolling back chemical safety protections and climate action—is a recipe for health and environmental disaster.

Sadly, we have seen this situation before, yet we failed to prevent it from happening again. The impacts of Tropical Storm Harvey draw obvious comparison to Hurricane Katrina and its aftermath. Ironically, some ‘internally displaced people’ (climate refugees from within our own borders) who were forced from their homes by Katrina are now facing double jeopardy from Harvey. People of color and the poor, who are more likely to suffer the worst impacts of tropical storms and floods, are now dealing with overlapping damages and losses from a combination of flooding, displacement, air pollution, water and ground contamination, and even exposure to toxic chemicals from building materials used in their homes.

These dynamics aren’t new to many folks on the ground. Historically, people in these communities have already been dealing with higher rates of exposure to air and water pollution, a higher likelihood of living near hazardous industrial facilities or legacy toxic waste sites, and higher rates of health problems linked to environmental contamination. Unfortunately, no effort or program we are aware of has sought to effectively heal the injuries resulting from the synergistic nature of these multiple impacts, but as we rebuild in the wake of this tragedy, EJHA and Coming Clean will be calling for a just recovery from Harvey.

We believe, in the months and years to come, that communities who have been impacted by Tropical Storm Harvey have the ‘right to recover’. To this end, we’ll be working for stronger oversight of fossil-fuel and petrochemical companies, chemical storage tanks, and dangerous chemical facilities to reduce the health impacts and risks those most vulnerable among us experience—both before, during and after the storm. We’ll be asking for those responsible for injuries related to their industries to bear their fair share of the burden of recovery—and not simply pass it along to vulnerable members of our society or the general public. We’ll be advocating for national attention to be placed where it’s needed the most—on the most disproportionately impacted communities suffering from this storm. Moving forward, we’ll be pushing for a more just, sustainable, and equitable rebuilding of Houston and the entire Gulf Coast’

Statements from community members impacted by Tropical Storm Harvey:

Bryan Parras, Organizer with Texas Environmental Justice Advocacy Services (t.e.j.a.s.), said, ‘In New Orleans, after Katrina, there was a very, very big lesson learned that the issues of injustice intersected so many different ways. These catastrophes and disasters are not just environmental disasters. They are housing disasters. They are access to services disasters. They are immigration issues of injustice. And so many worker injustices—wage theft—I could go on and on. And so we’re trying to keep an eye on all of these very important issues that impact vulnerable and often unheard communities that are exploited in these disasters.

So Friday night, we were out checking on some of these facilities and many of them were flaring. Later that night, for hours, really, really strong chemical odors were in the air from East Houston all the way to the downtown area. This flaring is a dirty burn, so you can see the black smoke and this adds thousands of pounds of cancer-causing chemicals to the air. There’s a very well-known Superfund site, the San Jacinto Waste Pits, underwater with dioxin. And there was this old legacy pollutants from a paper mill that has sort of just left their toxins in the ground. Eventually, it was flooded—and there it remains. Each time we have a rain event, this contamination is being spread into communities, homes, neighborhoods, and further exposing more and more people.

We have elevated levels of cancers all along these areas. There have been many reports to show increased rates of childhood leukemia if you live within 2 miles of the Houston Ship Channel, for example. We know that these chemicals are causing cancers and other life-debilitating ailments to the people who live adjacent to them.’

Christine and Delma Bennett, Organizers with Mossville Environmental Action Now (MEAN) in Louisiana, said, ‘We’ve seen this before. We faced very similar problems when we were impacted by Hurricane Rita. **The flooding has clearly overrun refineries and the sewage system in Mossville and along the Gulf Coast. The high water appears to have caused chemical waste—often toxic**

and persistent substances—to get into the sewage system. This then flows into our rivers, lakes and streams, and in this case sometimes even into our backyards. More focus needs to be put on preventing these toxic chemical disasters because, just like you can't put the toothpaste back in the tube, once their chemicals have polluted our soil we end up dealing with it for years to come.'

##

Make a contribution to support #AjustHarveyRecovery here: <https://anothergulf.com/a-just-harvey-recovery/>

For more information on toxic hazards in the Houston area, see: <http://tejasbarrios.org/>.

EJHA is a network of environmental justice organizations in 13 states building movement towards safe chemicals and clean energy that leaves no community or worker behind."

Circulated by the Sierra Club at the beginning of September, 2017, compiled from scientific sources (click the dates to go to the source), "**Extreme Weather and Hurricane Harvey,**"

"Extreme weather caused by man-made climate change is already impacting the United States. Extreme weather, including hurricanes and flooding, are predicted to become more intense while already costing billions in damages. Not including Hurricane Harvey, extreme weather has cost the United States over \$16 billion in 2017.

Man Made Climate Change Likely Causing Increase in Extreme Hurricanes. The National Oceanic and Atmospheric Administration Geophysical Fluid Dynamics Laboratory suggested that man-made climate change may have already made changes to Atlantic hurricanes. Increased hurricane activity is linked to higher surface temperatures caused by carbon emissions; this warmer water in turn provides more fuel for intense hurricanes. According to the Geophysical Fluid Dynamics Laboratory, "Anthropogenic warming by the end of the 21st century will likely cause tropical cyclones globally to be more intense on average (by 2 to 11% according to model projections for an IPCC A1B scenario). This change would imply an even larger percentage increase in the destructive potential per storm, assuming no reduction in storm size."

Climate Change Likely To Increase Flooding. The National Climate Assessment found that sea-level rise due to climate change would increase coastal flooding. According to NOAA, "Anthropogenic warming by the end of the 21st century will likely cause tropical cyclones to have substantially higher rainfall rates than present-day ones, with a model-projected increase of about 10-15% for rainfall rates averaged within about 100 km of the storm center."

Hurricane Harvey Likely More Severe Due To Climate Change. The severity of Hurricane Harvey can be attributed, at least in part, to man-made climate change. Kevin Trenberth, senior scientist at the U.S. National Center for Atmospheric Research, claimed the human contribution could be as high as 30 percent of total rainfall. A New York Times op-ed noted, "The severity of Harvey, in other words, is almost certainly related to climate change."

Extreme Weather Costing U.S. Billions. Extreme weather has already cost the United States billions of dollars. The National Climate Assessment predicted an uptick in storms causing large financial loss. In 2017, not including Hurricane Harvey, the U.S. recorded nine weather events with losses exceeding \$1 billion.

MAN MADE CLIMATE CHANGE LIKELY CAUSING INCREASE IN EXTREME HURRICANES

NOAA: Human Activities May Have Already Made Changes To Atlantic Hurricanes. According to the Geophysical Fluid Dynamics Laboratory, "It is premature to conclude that human activities—and particularly greenhouse gas emissions that cause global warming—have already had a detectable impact on Atlantic hurricane or global tropical cyclone activity. That said, human activities may have already caused changes that are not yet detectable due to the small magnitude of the changes or observational limitations, or are not yet confidently modeled (e.g., aerosol effects on regional climate)." [NOAA, Geophysical Fluid Dynamics Laboratory, accessed 8/29/17]

Anthropogenic Warming Likely To Increase Intensity Of Hurricanes By As Much As 11%. According to the Geophysical Fluid Dynamics Laboratory, "Anthropogenic warming by the end of the 21st century will likely cause tropical cyclones globally to be more intense on average (by 2 to 11% according to model projections for an IPCC A1B scenario). This change would imply an even

larger percentage increase in the destructive potential per storm, assuming no reduction in storm size.” [NOAA, Geophysical Fluid Dynamics Laboratory, accessed [8/29/17](#)]

Increased Hurricane Activity Linked To Higher Surface Temperatures Caused By Man Made Carbon Emissions. According to the National Climate Assessment, “The recent increases in activity are linked, in part, to higher sea surface temperatures in the region that Atlantic hurricanes form in and move through. Numerous factors have been shown to influence these local sea surface temperatures, including natural variability, human-induced emissions of heat-trapping gases, and particulate pollution. Quantifying the relative contributions of natural and human-caused factors is an active focus of research.” [National Climate Assessment, Extreme Weather, 2014]

Warming Water Would Provide Fuel For More Intense Hurricanes. According to NASA, “The one way in which global warming could impact hurricanes is by making them more intense. More heat and water in the atmosphere and warmer sea surface temperatures could provide more fuel to increase the wind speeds of tropical storms.” [NASA, Earth Observatory, accessed [8/28/17](#)]

NOAA: 'Better Than Even Odds That Anthropogenic Warming Over The Next Century Will Lead To An Increase In The Occurrence Of Very Intense Tropical Cyclones.' According to the Geophysical Fluid Dynamics Laboratory, “There are better than even odds that anthropogenic warming over the next century will lead to an increase in the occurrence of very intense tropical cyclone in some basins—an increase that would be substantially larger in percentage terms than the 2-11% increase in the average storm intensity. This increase in intense storm occurrence is projected despite a likely decrease (or little change) in the global numbers of all tropical cyclones.” [NOAA, Geophysical Fluid Dynamics Laboratory, accessed [8/29/17](#)]

Warming Climate Could Increase The Intensity Of Storms. According to NASA, “But even as a warming climate might decrease the overall number of storms that form, it could increase the number of intense storms. As temperatures continue to rise, more and more water vapor could evaporate into the atmosphere, and water vapor is the fuel for storms. ‘If we are creating an atmosphere more loaded with humidity, any storm that does develop has greater potential to develop into an intense storm,’ says [George Tselioudis, a research scientist at NASA Goddard Institute for Space Studies (GISS) and Columbia University].” [NASA, Earth Observatory, accessed [8/28/17](#)]

Likely to Increase Flooding

Climate Change Would Impact Coastal Flooding Due To Sea Level Rise And Increases In Heavy Rainfall. According to the National Climate Assessment, “Coastal flooding is predominantly caused by storm surges that accompany hurricanes and other storms that push large seawater domes toward the shore. Storm surge can cause deaths, widespread infrastructure damage, and severe beach erosion. Storm-related rainfall can also cause inland flooding and is responsible for more than half of the deaths associated with tropical storms. Climate change affects coastal flooding through sea level rise and storm surge, and increases in heavy rainfall during storms.” [National Climate Assessment, Extreme Weather, 2014]

Flooding Is Predicted To Intensify In US; Including Regions That See Decline In Precipitation. According to the National Climate Assessment, “Flooding may intensify in many U.S. regions, even in areas where total precipitation is projected to decline. A flood is defined as any high flow, overflow, or inundation by water that causes or threatens damage. Floods are caused or amplified by both weather- and human-related factors. Major weather factors include heavy or prolonged precipitation, snowmelt, thunderstorms, storm surges from hurricanes, and ice or debris jams. Human factors include structural failures of dams and levees, altered drainage, and land-cover alterations (such as pavement).” [National Climate Assessment, Extreme Weather, 2014]

NASA: “Melting Glaciers And Ice Caps Will Likely Cause Sea Levels To Rise, Which Would Make Coastal Flooding More Severe When A Storm Comes Ashore.” According to NASA, “Even if tropical storms don’t change significantly, other environmental changes brought on by global warming could make the storms more deadly. Melting glaciers and ice caps will likely cause sea levels to rise, which would make coastal flooding more severe when a storm comes ashore. In their 2001 report, the Intergovernmental Panel on Climate Change stated that global warming should cause sea levels to rise 0.11 to 0.77 meters (0.36 to 2.5 feet) by 2100.” [NASA, Earth Observatory, accessed [8/28/17](#)]

Anthropogenic Warming Would Likely Cause 15% Increase In Rainfall. According to the Geophysical Fluid Dynamics Laboratory, “Anthropogenic warming by the end of the 21st century will likely cause tropical cyclones to have substantially higher rainfall rates than present-day ones, with a model-projected increase of about 10-15% for rainfall rates averaged within about 100 km of the storm center.” [NOAA, Geophysical Fluid Dynamics Laboratory, accessed [8/29/17](#)]

HURRICANE HARVEY

NYT Op-Ed: “The Severity Of Harvey, In Other Words, Is Almost Certainly Related To Climate Change.” According to an op-ed in the New York Times, “The severity of Harvey, in other words, is almost certainly related to climate change. Yes, I know the sober warning that’s issued whenever an extreme weather disaster occurs: No individual storm can be definitively blamed on climate change. It’s true, too. Some version of Harvey probably would have happened without climate change, and we’ll never know the hypothetical truth.” [New York Times, [8/29/17](#)]

- **“Add Up The Evidence, And It Overwhelmingly Suggests That Human Activity Has Helped Create The Ferocity Of Harvey.”** According to an op-ed in the New York Times, “Add up the evidence, and it overwhelmingly suggests that human activity has helped create the ferocity of Harvey. That message may be hard to hear — harder to hear, certainly, than stories of human kindness that is now mitigating the storm’s toll. But it’s the truth.” [New York Times, [8/29/17](#)]

Politico: “Harvey Is What Climate Change Looks Like In A World That Has Decided, Over And Over, That It Doesn’t Want To Take Climate Change Seriously.” According to Politico, “But there’s an uncomfortable point that, so far, everyone is skating around: We knew this would happen, decades ago. We knew this would happen, and we didn’t care. Now is the time to say it as loudly as possible: Harvey is what climate change looks like. More specifically, Harvey is what climate change looks like in a world that has decided, over and over, that it doesn’t want to take climate change seriously.” [Politico, [2/28/17](#)]

- **“If We Don’t Talk About The Climate Context Of Harvey, We Won’t Be Able To Prevent Future Disasters And Get To Work On That Better Future.”** According to Politico, “If we don’t talk about the climate context of Harvey, we won’t be able to prevent future disasters and get to work on that better future. Those of us who know this need to say it loudly. As long as our leaders, in words, and the rest of us, in actions, are OK with incremental solutions to a civilization-defining, global-scale problem, we will continue to stumble toward future catastrophes. Climate change requires us to rethink old systems that we’ve assumed will last forever. Putting off radical change—what futurist Alex Steffen calls “predatory delay”—just adds inevitable risk to the system. It’s up to the rest of us to identify this behavior and make it morally repugnant.” [Politico, [2/28/17](#)]

Human Contribution Responsible For Up To 30% Of Rainfall From Hurricane Harvey. According to the Atlantic, “But [Kevin Trenberth, a senior scientist at the U.S. National Center for Atmospheric Research] says that the extra heat could make the storm more costly and more powerful, overpowering and eventually breaking local drainage systems. ‘The human contribution can be up to 30 percent or so of the total rainfall coming out of the storm,’ he said. ‘It may have been a strong storm, and it may have caused a lot of problems anyway—but [human-caused climate change] amplifies the damage considerably.’” [Atlantic, [8/27/17](#)]

EXTREME WEATHER COSTING U.S. BILLIONS

National Climate Assessment: “The Heat And Drought Depleted Water Resources And Contributed To More Than \$10 Billion In Direct Losses To Agriculture Alone.” According to the National Climate Assessment, “An example of recent drought occurred in 2011, when many locations in Texas and Oklahoma experienced more than 100 days over 100°F. Both states set new records for the hottest summer since record keeping began in 1895. Rates of water loss, due in part to evaporation, were double the long-term average. The heat and drought depleted water resources and contributed to more than \$10 billion in direct losses to agriculture alone.” [National Climate Assessment, Extreme Weather, [2014](#)]

Sizeable Uptrend In Number Of Storms Causing Large Financial Loss. According to the National Climate Assessment, “Other trends in severe storms, including the intensity and frequency of

tornadoes, hail, and damaging thunderstorm winds, are uncertain and are being studied intensively. There has been a sizable upward trend in the number of storms causing large financial and other losses. However, there are societal contributions to this trend, such as increases in population and wealth.” [National Climate Assessment, Extreme Weather, 2014]

2017: Nine Weather Events With Losses Exceeding \$1 Billion. According to NOAA, “In 2017 (as of July 7), there have been 9 weather and climate disaster events with losses exceeding \$1 billion each across the United States. These events included 2 flooding events, 1 freeze event, and 6 severe storm events. Overall, these events resulted in the deaths of 57 people and had significant economic effects on the areas impacted.” [NOAA, accessed 8/29/17]

Note: this amount does not include expected losses from Hurricane Harvey.

Nine Weather Events Cost An Estimated \$16 Billion In Damages. [NOAA, accessed 8/29/17]

CLIMATE CHANGE WOULD IMPACT OTHER FORMS OF EXTREME WEATHER

NASA: Climate Change Likely To Impact Future Weather Catastrophes. According to NASA, “Climate change may not be responsible for the recent skyrocketing cost of natural disasters, but it is very likely that it will impact future catastrophes.” [NASA, Earth Observatory, accessed 8/28/17]

Climate Change Increased Probability Of Heat Waves. According to the National Climate Assessment, “Heat waves are periods of abnormally hot weather lasting days to weeks. The number of heat waves has been increasing in recent years. This trend has continued in 2011 and 2012, with the number of intense heat waves being almost triple the long-term average. The recent heat waves and droughts in Texas (2011) and the Midwest (2012) set records for highest monthly average temperatures. Analyses show that human-induced climate change has generally increased the probability of heat waves., And prolonged (multi-month) extreme heat has been unprecedented since the start of reliable instrumental records in 1895.” [National Climate Assessment, Extreme Weather, 2014]

Winter Storms Have Increased In Frequency And Intensity Since 1950. According to the National Climate Assessment, “Winter storms have increased in frequency and intensity since the 1950s, and their tracks have shifted northward over the United States.” [National Climate Assessment, Extreme Weather, 2014]

Kristi Eaton, "Muscogee, Cherokee and Quapaw Send Teams to Help With Hurricane Harvey: More than 20 members, vehicles and other equipment from the tribes will aide in relief efforts," ICTMN, August 30, 2017, <https://indiancountrymedianetwork.com/news/environment/muscogee-choerokee-quapaw-send-teams-help-hurricane-harvey/>, reported, "At least three American Indian tribes in Oklahoma have sent representatives to the Houston area to help with Hurricane Harvey relief efforts."

A very wide – wider than Florida - but then reduced to a category 2, Hurricane Irma, September 9,2017, roared into South Florida and on up the state’s west coast causing heavy damage from wind, rain and tidal surge. In Jacksonville the storm created record tidal surge, contributing to the highest recorded level of the Jacksonville river. Power was out for millions across Florida, and might well take weeks to fully restore. Flooding was wide spread across the state. Most of south Florida's citrus crop was destroyed, and a great many of the citus trees were killed (Francis Robles, Lizette Alvarez and Vivian Yee, “Irma Roars In, and All of Florida Shakes and Shudders,” *The New York Times*, September 10, 2017, <https://www.nytimes.com/2017/09/10/us/irma-florida-keys-gulf-coast.html?ref=todayspaper>).

Azam Ahmed and Kirk Semple, “Desperation Mounts in Caribbean Islands: ‘All the Food Is Gone’,” *The New York Times*, September 10, 2017, <https://www.nytimes.com/2017/09/10/world/americas/irma-caribbean-st-martin.html?ref=todayspaper>, reported, “At dawn, people began to gather, quietly planning for survival after Hurricane Irma.

They started with the grocery stores, scavenging what they needed for sustenance: water, crackers, fruit.

But by nightfall on Thursday, what had been a search for food took a more menacing turn, as groups of people, some of them armed, swooped in and took whatever of value was left: electronics, appliances and vehicles.”

“In the few, long days since Irma pummeled the northeast Caribbean, killing more than two dozen people and leveling 90 percent of the buildings on some islands, the social fabric has begun to fray in some of the hardest-hit communities.”

CNN on September 12 reported that in Southern Florida Keys FEMA estimated 25% houses destroyed, 60% damaged. Saint Martins English side reported 25% destroyed, French side 65% destroyed. With storm moving north through Georgia and beyond, in U.S. SE 15 million people were without power. In Charleston, SC tidal surge plus rain brought flooding to places that had not had it before. At least 36 people were dead from the storm in the Caribbean. This is the **first state wide storm**. Puerto Rico brushed by Irma, 1 million people briefly without power, some destruction and damage on North Coast. Cuba took significant damage.

For the Virgin Islands, Irma has been the most devastating hurricane ever, in breadth and extent of damage. Louis Ferre-Sadurni, “Paradise Lost: Devastation on the U.S. Virgin Islands,” *The New York Times*, September

“The United States Virgin Islands no longer has the air of paradise.

From above, the islands resemble conflict zones. The grassy hillsides are now brown. Leafless tree trunks jut out like burnt toothpicks. Sailboats are stranded on the rocky coasts.

On the ground, it is worse.”

Many are homeless. Days after the storm helicopters were still brining in food. There was some isolated cell phone coverage and no electric power. Damage to buildings was extensive and spread across the islands.

“Cars congested the winding roads, with fallen electricity poles visible across the landscape. When the curfew lifts, residents head to food pantries and supermarkets before they open to beat the hours-long line for water, ready-to-eat meals and tarps to cover roofs.”

What was stated by some meteorologists to be the most powerful Atlantic hurricane ever was sweeping across the Caribbean Sea, September 6-7, 2017. Hurricane Irma, one of the most powerful storms in recorded in history, roared through the northeast Caribbean, September 6, 2017, with rain carried by winds of up to 185 miles per hour, leaving a trail of chaos, wreckage and flooding from Barbuda to Puerto Rico. It was then headed toward islands farther west and, beyond them, Florida. The National Hurricane Center warned the storm was “potentially catastrophic.” Frances Robles Kirk Semple and Richard Perez, "Hurricane Irma, One of the Most Powerful in History, Roars Across Caribbean," *The New York Times*, September 6, 2017, https://www.nytimes.com/2017/09/06/us/hurricane-irma-caribbean.html?ref=todayspaper&_r=0, reported, **"The storm made direct hits on Barbuda, St. Barthélemy, St. Martin, Anguilla and the British Virgin Islands, and raked the United States Virgin Islands and Puerto Rico with hurricane-force wind and torrential rain. Gaston Browne, prime minister of Antigua and Barbuda, said Irma had destroyed 95 percent of the structures on Barbuda, an island with about 1,600 people.**

The death toll was at least seven on Thursday morning, and the authorities warned that the number could rise as communications improved. Prime Minister Édouard Philippe of France said that four people were confirmed dead on the St. Martin."

"Across the islands that were hit on Wednesday, people posted videos and photos online of the hurricane's fury: debris flying sideways in near-zero visibility, roofs ripped off structures, waves surging into buildings, downed trees and utility poles, and streets that had turned into raging currents carrying away cars and trucks."

On St. Martins, the French interior minister reported that the four sturdiest buildings on the island had been destroyed, which suggested that all other buildings may also have suffered partial or total destruction.

Within days some of the Caribbean Islands were hit again by Hurricane Maria, force 5 at its most powerful, and other islands previously missed were now. The Virgin Islands were raked

again, and Puerto Rico, grazed by Irma, took a direct hit from Maria. Days later power was out for the whole of Puerto Rico and likely would take months to restore. Most of the Island had no running water. Communications was still out to many places, with no phone or power, and roads blocked by downed trees and debris and many places flooded. For days, mud slides and smashed infrastructure and other broken infrastructure kept many areas isolated. Puerto Rico's agriculture was totally destroyed, not only current crops, but trees and bushes that bear fruit annually. (Luis Ferre-Sasurni, Lizzette Alvarez and Francis Robles, "Puerto Rico Faces Mountain of Obstacles on the Road to Recovery," *The New York Times*, September 21, 2017, <https://www.nytimes.com/2017/09/21/us/hurricane-maria-puerto-rico-recovery.html?ref=todayspaper>; and NPR news September 21 and 22, 2017; and Frances Robles and Luis Sadurni. "Puerto Rico's Agriculture and Farmers Decimated by Maria," *The New York Times*, September 24, 2017, <https://www.nytimes.com/2017/09/24/us/puerto-rico-hurricane-maria-agriculture.html?ref=todayspaper>; "After Hurricane Maria: One Day in the Life of Battered Puerto Rico," *The New York Times*, September 30, 2017, https://www.nytimes.com/interactive/2017/09/30/us/24-hours-in-puerto-rico-after-hurricane-maria.html?ref=todayspaper&_r=0).

Katie Thomas and Sheila Kaplan, "Hurricane Damage in Puerto Rico Leads to Fears of Drug Shortages Nationwide," *The New York Times*, October 4, 2017, <https://www.nytimes.com/2017/10/04/health/puerto-rico-hurricane-maria-pharmaceutical-manufacturers.html?ref=todayspaper>, reported, **"Federal officials and major drug makers are scrambling to prevent national shortages of critical drugs for treating cancer, diabetes and heart disease, as well as medical devices and supplies, that are manufactured at 80 plants in hurricane-ravaged Puerto Rico."**

Pharmaceuticals and medical devices are the island's leading exports, and **Puerto Rico has become one of the world's biggest centers for pharmaceutical manufacturing. Its factories make 13 of the world's top-selling brand-name drugs**, from Humira, the rheumatoid arthritis treatment, to Xarelto, a blood thinner used to prevent stroke, according to a report released last year."

The three major September-October Atlantic Hurricanes hitting U.S. territory have done very extensive damage to state and national parks and monuments. In Puerto Rico: Luis Ferre-Sadurni, "Another Victim of Hurricane Maria: Puerto Rico's Treasured Rainforest," *The New York Times*, October 11, 2017, <https://www.nytimes.com/2017/10/11/us/another-victim-of-hurricane-maria-puerto-ricos-treasured-rainforest.html?ref=todayspaper>, reported, **"When you looked up, you could once see nothing but the lush, emerald canopy of tabonuco and sierra palm trees covering El Yunque National Forest."**

That was before Hurricane Maria obliterated the only tropical rain forest in the United States forest system. Left behind was a scene so bare that on a recent visit, it was possible to see the concrete skyline of San Juan about 30 miles west — a previously unimaginable sight."

The serious impacts of Hurricane Maria were continuing in Puerto Rico at the end of October, 2017. Power remained four to six months away from being fully restored, and wide spread problems with mold after flooding were adding to growing health problems. Pakalolo, "Mold is blanketing Puerto Rico making it difficult for many to breathe," *Daily Kos*, Tuesday October 31, 2017, <https://www.dailykos.com/stories/2017/10/31/1711254/-Mold-exposure-is-blanketing-Puerto-Rico-making-it-difficult-for-many-to-breathe?detail=emaildkre>, reported, **"The unfolding humanitarian crisis in Puerto Rico after Hurricane Maria barreled over the island is only getting worse. Alarm bells are being rung from humanitarian organizations on the ground that the deteriorating conditions are seriously impacting human health and survival."** Among the problems are bridges out in rural areas, and with no power elevators not working in high rise building, many people have great difficulty obtaining food and other necessities, and in some instances, have not been able to do so at all.

Unofficial reports, in early January, indicated that around 1000 people died as a result of Maria in Puerto Rico.

A fourth hurricane, Nate, followed closely on the heels of the devastating trio, October 7,

2017, but being smaller, and moving unusually faster, caused relatively minor damage along the Mississippi and Louisiana Gulf Coast, and was predicted to produce some flooding from heavy rains as the storm, reduced to a tropical depression, zoomed across the inland Northeastern states, October 9 (Jeff Bidgood, "In a Season of Monsters, Gulf Coast Feels Lucky All It Got Was Nate," *The New York Times*, October 8, 2017, <https://www.nytimes.com/2017/10/08/us/hurricane-nate-biloxi-storm.html?ref=todayspaper>).

Maggie Astor, "10 Hurricanes in 10 Weeks: With Ophelia, a 124-Year-Old Record is Matched," *The New York Times*, October 11, 2017, <https://www.nytimes.com/2017/10/11/climate/hurricane-ophelia.html?ref=todayspaper>, reported, **"With Tropical Storm Ophelia's transition to Hurricane Ophelia on Wednesday, 2017 became the first year in more than a century — and only the fourth on record — in which 10 Atlantic storms in a row reached hurricane strength."**

Joe Romm, "Warm waters juiced Ophelia into the most powerful eastern Atlantic hurricane ever seen: Record-smashing Ophelia slams into Ireland with 119 mph gusts," *Think Progress*, October 16, 2017, https://thinkprogress.org/unprecedented-ophelia-ireland-e78f345e55ef/?utm_source=newsletter&utm_medium=email&utm_campaign=tp-letters, reported, **"Ex-hurricane Ophelia smashed into Ireland Monday morning with record-breaking gusts of up to 119 mph. The powerful extra-tropical storm — which has already killed two people and blacked-out some 360,000 Irish homes and businesses — is what's left of the most powerful Eastern Atlantic hurricane ever seen."**

At least one additional person was killed in Ireland, where there was extensive damage. This is the first hurricane ever to hit Ireland in historical times. The warmed waters in the Atlantic made it possible for the storm to form so far northeast, and to remain so powerful when it reached Ireland."

With climate change continuing to heat and dry the west, in the summer of 2017 there were again serious wild fires across the region. On June 27, the large wildfires included two huge ones in Utah - the Head Fire, 10% contained, already having burned 43,000 acres and causing the evacuation of 1,500 people, and California, where the 850 acre Santa Clarita Fire was beginning to come under control, after closing the 14 Freeway North of Los Angeles. As of July 10, there were 14 large wildfires burning in California, one having devoured 43 square miles, and another had caused 4000 people to evacuate. On that date, there were more than 14 active fires in Nevada, some of which were contained. One North of Farley had burned 153 square miles. Arizona had more than 20 active fires on July 10, with one near Black Canyon City that was only 5% contained having charred 54 square miles. There were at least seven major fires in Washington and Oregon at that time, at least one in Montana and numerous wildfires in British Columbia with up to 10,000 people evacuated at that time. In the dry-hot weather more serious fires were expected. (Christine Hauser, "Where Wildfires Smolder, a Forecast for More," *The New York Times*, July 11, 2017 " Fire Fighters Battle Wildfires in California and Utah," *The New York Times*, June 27, 2017). As of the beginning of September, InciWeb, <https://inciweb.nwcg.gov>, continued to report numerous serious fires in the west.

Jacey Fortin, "Montana Battles Wildfires Amid a Severe Drought," *The New York Times*, September 7, 2017, <https://www.nytimes.com/2017/09/07/us/montana-wildfire-drought.html?ref=todayspaper>, reported, **"Montana has been burning for months, and there is still no end in sight."**

This summer, thousands of firefighters and hundreds of Montana National Guard members have been battling the flames of dozens of large and small wildfires across the state. Thousands of people have been affected by evacuations, and two firefighters have lost their lives.

Montana is one of several states experiencing severe fires this year. Blazes flared up and down California, from Los Angeles — where a state of emergency was declared just this week — to well north of Sacramento. Wildfires in Idaho, Utah, Oregon, Washington and other Western states have smothered parts of the West in smoky, ashy air.

Gov. Steve Bullock of Montana declared the wildfires a disaster last week, calling this 'one of

the worst fire seasons' in the state's history. On Thursday, the National Interagency Fire Center reported, Montana had 21 active, large fires covering about 438,000 acres.

It is not uncommon for wildfires to spring up in Montana during mid-to-late summer months, but **2017 has been different. The state is facing a severe drought, hotter and drier than any in recent memory."**

A terrible fire season was continuing in the U.S. west in October, especially bad in California. Thomas Fuller, Jonah Engel Bromwich and Maggie Astor, "California Fires Kill at Least 10 and Destroy 1,500 Buildings," *The New York Times*, **October 9, 2017**, <https://www.nytimes.com/2017/10/09/us/california-fires-evacuations.html?ref=todayspaper>, reported, **"Fast-moving wildfires raged across Northern California on Monday, killing at least 10 people, sending well over 100 to hospitals, forcing up to 20,000 to evacuate and destroying more than 1,500 buildings in one of the most destructive fire emergencies in the state's history.**

Firefighters were battling blazes in eight counties, officials said."

The Northern California fire situation continued to worsen in the following days. The usually wet wine growing Napa Valley are not far from the Pacific Coast, hit by unprecedented drought, continued to burn, destroying wineries and other business and thousands of homes. By October 11, the known death toll had reached 29, with many missing, with 21 major fires in California, mostly in the North. There, the dry winds were spreading them so fast the goal was to direct the fires away from populated areas, as stopping their spread was impossible, even with a large ground and air force. The eight major fires in Napa and Sonoma counties, which began October 8, had expanded from 54,000 acres on October 10, to 191,000 acres on October 12. Over 20,000 people had been evacuated in that area. In Santa Rosa alone, some 1800 buildings had been destroyed (Thomas Fuller and Richard Perez Pena, "California Wildfires Death Toll Rises to 29 as Vast Region Is Scorched," *The New York Times*, **October 11, 2017**, https://www.nytimes.com/2017/10/11/us/california-wildfires-firefighters.html?ref=todayspaper&_r=0).

The fires were continuing to spread October 12, with the known deaths up to a record 31 and hundreds still missing, as the flames moved into the wine growing country along the Russian River. The fires had by then consumed 221,754 acres. The smoke, which cannot be filtered out by surgery masks and some other filters, was causing health problems over much of northern California, the smoke visible even in Fresno, 200 miles away (Thomas Fuller, Denise Grady and Richard Perez, "California Fires Leave 31 Dead, a Vast Landscape Charred, and a Sky Full of Soot," *The New York Times*, **October 12, 2017, <https://www.nytimes.com/2017/10/12/us/california-wildfire-deaths-napa-sonoma.html?ref=todayspaper>).**

The aftermath of global warming enhanced disasters multiplies their original devastating effects. In Puerto Rico, after three weeks power remained out in most places, communications and travel were still cut in wide areas, food and other supplies were insufficient and hard to get to in isolated locations. In the populated areas burned in northern California - while the fires continue - Kirk Johnson, Cleanup From California Fires Poses Environmental and Health Risks, *The New York Times*, **October 16, 2017, https://www.nytimes.com/2017/10/16/us/california-fires-cleanup.html?ref=todayspaper&_r=0, reported, "And as the chief public health officer in Napa County, one of the hardest-hit places, she has used her office as a bully pulpit to urge them to stop [searching through the rubble of their homes unprotected], immediately.**

'Just think of all the hazardous materials in your house,' she said in an interview. 'Your chemicals, your pesticides, propane, gasoline, plastic and paint — it all burns down into the ash. It concentrates in the ash, and it's toxic,' said Dr. Relucio, who declared a public emergency over the hazardous waste from the fires, as have at least two other counties.

California's fires are far from out. They have killed at least 41 people and burned about 5,700 structures and over 213,000 acres since they exploded in force on Oct. 8 and 9 — record totals for a state that is used to wildfires. Thousands of firefighters are still at work fighting blazes and tens of thousands of people remain under mandatory evacuation from their homes, though fire officials have expressed cautious optimism about bringing the fires into containment.

But even as the smell of smoke still wafts through this area north of San Francisco, public health officials and environmental cleanup experts are starting to think about the next chapter of the disaster: the huge amount of debris and ash that will be left behind.

In whole neighborhoods here, a thick layer of ash paints the landscape a ghastly white. Wind can whip the ash into the air; rain, when it comes, could wash it into watersheds and streams or onto nearby properties that were not ravaged by fire.

And the process of cleaning it all up, which has not even begun, is very likely to bring its own thorny set of issues, in the costs, timetables and liability questions — all compounded by scale, in the thousands of properties that must be repaired and restored."

The after effects of these disasters include damage to economic activity. In the October fires in Napa and neighboring counties, the grape crop was largely untouched. But the destruction of buildings in an area already short of housing faces the grape and wine industry with far less than the required housing for its migrant workers (Miriam Jordan, "Fires Move On, Wine Country Wonders Whether Immigrants Will, Too," *The New York Times*, October 17, 2017, https://www.nytimes.com/2017/10/17/us/california-fires-immigrants.html?ref=todayspaper&_r=0).

Michael Price, "Fire on the Mountain: 2 Forests Offer Clues to Yellowstone's Fate in a Warming World," *The New York Times*, September 13, 2017, <https://www.nytimes.com/2017/09/13/climate/yellowstone-western-fires-in-two-forests.html?ref=todayspaper>, noted that two fires in Montana give indication of how climate change might change forests in and near Yellowstone National Park. Historically, have rarely burned the same areas for **"For the past 10,000 years, these woods have burned approximately every 100 to 300 years, meaning fires typically scorched old trees. But as climate change leads to longer and hotter dry seasons, younger forests throughout the Yellowstone region may start burning more frequently. (The jury is still out on how climate change will affect wildfires in other Western conifer forests.)"**

'If that becomes the norm, where there's no time for these forests to take a break, to grow for 150 years or so without burning, you could see some widespread changes to the forests,' said Richard Hutto, an ecologist at the University of Montana.

These changes could play out in a couple of ways.

First, **short-interval fires could overwhelm an evolutionary adaptation that in the past allowed burned lodgepole forests to regrow just as thickly as before.** Many of the lodgepoles here are serotinous, meaning they grow pine cones sealed with a sappy resin that protects their seeds from flames. During a fire, the cones open and the seeds are released. Only mature lodgepoles produce these resinous cones, while younger ones yield unprotected cones that release their seeds as soon as they're finished growing.

When fires are infrequent, the forest has time to mature and build up a stock of serotinous cones that will restart the next generation: hence Densetown. But when part of the young forest burned again just sixteen years into its regrowth, creating Stumptown, it had not yet produced many serotinous cones. Its seed stock was obliterated.

Second, the fires could burn up larger sections of forest. Small islands of forest often survive even within otherwise burned areas, said Brian Harvey, an ecologist at the University of Washington, and seeds from these preserved areas often blow into the surrounding burned forests or are carried there by animals. This reseeded method is especially important at higher altitudes where lodgepoles don't produce serotinous cones.

'But what we're seeing now is more homogeneous burning throughout the forests, with fewer islands of unburned areas,' Dr. Harvey said. **'When that happens, there are fewer seed sources to replace the stands.'**

An indication of the possible impact of more frequent more thoroughly burning fires, is that in thoroughly burned over areas that previously were recently burned have about 400 trees per acre. This contrasts with the some 32,000 trees per acre in areas only partially burned, where there was no previous fire for at least 100 years. Moreover, the recently reburned and more thoroughly consumed forest is diversifying, with Aspens entering the forest alongside the lodgepole pines, that previously almost totally dominated.

One of California's worst fire seasons was continuing in December 2017. Jennifer Medina, Liam Stack and Jonah Engel Bromwich, "Tens of Thousands Evacuate as Southern California Fires Spread," *The New York Times*, December 5, 2017, <https://www.nytimes.com/2017/12/05/us/california-fire.html?ref=todayspaper>, reported, **"Four wildfires roared through Southern California on Tuesday, forcing the evacuation of tens of thousands of people and destroying hundreds of homes and other buildings** in the latest chapter of what has been one of the state's worst fire seasons.

The **first fire, in Ventura County**, started Monday evening and was still "out of control" on Tuesday night, the authorities said. Named the **Thomas Fire, it began north of Santa Paula, Calif., and spread rapidly overnight on Monday to envelop at least 50,000 acres, destroying hundreds of structures and prompting 27,000 people to evacuate, including some from the city of Ventura.**

Three more fires began on Tuesday. One in Los Angeles County quickly grew to encompass more than 11,000 acres and destroyed more than 30 structures. Another, in San Bernardino County, injured three people as it burned 100 acres of vegetation. And a fourth, near Santa Clarita, tore through at least 5,000 acres, forcing the evacuation of a trailer park and several schools."

By late on December 16, the Thomas fire was still expanding, moving faster than it could be contained, continuing to threaten populated areas and destroy structures. At that time the fire had consumed least 267,500 acres and was 40 percent contained (Mirim Jordan and Thomas Fuller, "Thomas Fire Spreads Rapidly to Santa Barbara County," *The New York Times*, December 16, 2017, <https://www.nytimes.com/2017/12/16/us/thomas-fire-santa-barbara.html?ref=todayspaper>).

In late July, **Arizona experienced several days of record 120-degree F. weather in La Paz, Maricopa and Mohave Counties. With that much heat, smaller aircraft were unable to take off, as the heated air provided less lift for planes. The result was the cancelling of numerous flights, in addition to illness and increased wildfires** (Jonah Engel Bromwich, "Extreme Heat Scorches Southern Arizona," *The New York Times*, July 26, 2017).

And the **extreme weather continued into winter:** Kara Murphy and Jack Healy, "Even Sharks Are Freezing to Death: Winter Rages and the Nation Reels," *The New York Times*, December 28, 2017, <https://www.nytimes.com/2017/12/28/us/winter-weather-erie-cold.html?ref=todayspaper>, reported, "Shivering, snowbound cities are scrapping their outdoor New Year's Eve countdowns. Polar-bear plunges are being canceled because of fears of frostbite and hypothermia. **Winter-hardened towns are gaping at their new lows: 32 degrees below zero in Watertown, N.Y. Minus 36 in International Falls, Minn.**

Record-breaking snowfalls have stranded older and disabled residents inside their homes for days. Cars are buried under mountains of snow, and lethally low temperatures are forcing cities across the Northeast and Midwest to open emergency 'warming centers' for homeless residents and people whose furnaces are no match for the cold.

A mass of Arctic air now has much of the north half of the country wrapped in an icy bear hug, and meteorologists expect the single-digit temperatures to stick around for at least another week."

(Meanwhile TV and Radio reports in **Albuquerque show that the Southwest U.S. has been experiencing unusually, not quit record, high temperatures and consecutive days without rain).**

Suhasini Raj and Jeffrey Gettleman, "They Thought the Monsoons Were Calm. Then Came the Deadly Floods," *The New York Times*, September 7, 2017, <https://www.nytimes.com/2017/09/07/world/asia/bihar-india-monsoon-floods.html?ref=todayspaper>, reported on the Monsoons in India in late summer 2017, **"Northern India, one of the country's poorest regions, has been ravaged by some of the worst monsoon storms in recent years. Local officials pointed to a highway overpass about 15 feet above the ground and said that for the first time in living memory the water had risen above the bridge."**

Russell Goldman, "On Heels of Typhoon Nesat, a Second Storm Hits Taiwan," *The New York*

Times, July 31, 2017, <https://www.nytimes.com/2017/07/31/world/asia/taiwan-typhoon-nesat.html?ref=todayspaper>, reported, "Taiwan was battered Monday by the second large storm in days, in the wake of a typhoon that flooded streets, injured scores of people and forced more than 10,000 to flee their homes.

Tropical Storm Haitang struck Monday on the heels of Typhoon Nesat, which made landfall on Taiwan's northeastern coast on Saturday. With gusts over **100 miles per hour, Nesat sent trees crashing into cars, toppled motorbikes and kicked up broken glass and other debris that caused injuries**, the authorities said.

No deaths had been reported as of Monday, which the authorities attributed to early warnings and evacuations that began on Friday. But the government said more than 100 people were injured by Nesat, many of them rescue workers who were struck by debris. One man in Yilan County, on the northeastern coast, was injured when a utility truck flipped.

By Monday, more than 100 people remained trapped by floodwaters, mostly in the country's southern counties, according to the government's Central Weather Bureau."

Jaime Yaya Barry, "All We See Is Dead Bodies': Sierra Leone Floods and Mudslides Ravage Freetown," *The New York Times*, August 14, 2017, <https://www.nytimes.com/2017/08/14/world/africa/sierra-leone-floods-freetown.html?ref=todayspaper>, reported, **"Torrents of water rushed through the streets of the Sierra Leone capital of Freetown on Monday, causing mudslides that killed hundreds and trapped hundreds more in their homes and vehicles**, officials said.

As many as 200 people were killed after heavy rains overnight deluged the city's poor drainage system and created one of the most devastating floods Freetown has experienced."

Laura Paskus, "Rapidly warming Southwest faces water challenges, choices," **New Mexico Political Report**, accessed November 14, 2017, http://nmpoliticalreport.com/752067/rapidly-warming-southwest-faces-water-challenges-choices-en/?mc_cid=962c78eaad&mc_eid=cde7993ced, reported in part, **"Warming in the American Southwest is occurring at about double the global rate—and that local warming will have a profound impact on water resources in the Interior West. Those changes in water supply will occur regardless of changes in precipitation."**

"Since the U.S. Bureau of Reclamation completed the [Elephant Butte] reservoir in 1916 to supply farmers in southern New Mexico and Texas with water, the reservoir's levels have fluctuated—from highs in the 1940s to lows in the 1950s, '60s, and 70s. Many New Mexicans are familiar with the wet period that lasted from 1984 through 1993; between 1980 and 2006, the state's population increased by 50 percent. But then the region was hit with drier conditions—and increasing temperatures. **Areas of the Southwest have suffered from drought since 1999 and, unlike earlier droughts, it's driven not just by a lack of precipitation, but a rise in temperature.**

Even with good snowpack in southern Colorado and northern New Mexico the past few years, there simply isn't enough water to boost the reservoir's levels again, said Gutzler, who is also one of the lead authors of the Intergovernmental Panel on Climate Change's 2013 Assessment Report. The [Elephant Butte] reservoir is currently at just 15 percent capacity."

Emily Benson, High Country News, "It's not only trees — wildfires imperil water too," **New Mexico Political Report**, December 21, 2017, http://nmpoliticalreport.com/787515/its-not-only-trees-wildfires-imperil-water-too/?mc_cid=9e3276f90c&mc_eid=cde7993ced, reported in part, **"The Fourmile Canyon Fire, sparked by a backyard burn west of Boulder, Colorado, in 2010, caused \$220 million in damage and destroyed 168 homes. It also scorched nearly a quarter of a watershed that supplies water to the nearby community of Pine Brook Hills. The problems didn't end there: Long after the blaze was put out, intense rainstorms periodically washed sediment and other particles downstream, disrupting water treatment and forcing the local water district to stop pulling water from Fourmile Creek, leaving it reliant upon water already collected in its reservoir.**

"The water coming down Fourmile Creek would get so dirty that we simply would shut

down moving any water (from the creek),' for days or even weeks, says district manager Robert de Haas. 'If we hadn't built the reservoir' — in 2006 — 'we'd have been in big trouble.'

This story first appeared at High Country News.

Now, new research suggests that such water-quality problems might become more frequent across the West. Climate change is already causing a surge in wildfire activity. As a result, scientists expect to see a rise in erosion in most of the region's watersheds in the coming decades. Sediment and ash running off burned hillsides into streams can clog reservoirs, smother fish and disrupt municipal water supplies.

In many places, however, water managers and other officials are already taking steps to prepare for both wildfire and its long-term aftereffects. For communities that rely on forested drainages for their water, "It is a key aspect of water supply and watershed protection to plan for a wildfire," says Kate Dunlap, who works on source water protection for the city of Boulder."

Mehreen Zahra-Malik, "In Lahore, Pakistan, Smog Has Become a 'Fifth Season'," *The New York Times*, November 10, 2017, <https://www.nytimes.com/2017/11/10/world/asia/lahore-smog-pakistan.html?ref=todayspaper>,

reported, "For nearly two weeks, Lahore, Pakistan's second-largest city, has been like one huge airport smokers' lounge. But Abid Omar's jaw still dropped on Wednesday, when he checked the air-quality monitor he had installed to track the city's appalling pollution.

It said that levels of the dangerous particulates known as PM2.5, small enough to penetrate deep into the lungs and enter the bloodstream, had reached 1,077 micrograms per cubic meter — more than 30 times what Pakistan's government considers the safe limit."

No Back 40 Mine, <http://www.noback40.org/Default.aspx>, stated, **"The Back Forty Mine project is a proposed open pit metallic sulfide mine located on the banks of the Menominee River in Lake Township, Michigan. Aquila Resources Inc. (TSX: AQA) ("Aquila"), a Canadian development stage company, is actively seeking the necessary approvals to mine and process gold, zinc, copper, silver and other minerals at the site.**

To date the Michigan Department of Environmental Quality (MDEQ) has approved three of the four required permits for the project. The Nonferrous Metallic Mineral Mining Permit and the Michigan Air Use Permit to Install for the project were approved by the MDEQ on December 28, 2016. The National Pollutant Discharge Elimination System (NPDES) permit was approved on April 5th, 2017. The permit for wetland impacts is currently under consideration before the MDEQ.

The Menominee Nation and many allies including local citizens, local governments, environmental organizations, and grassroots organizations are opposed to the mine, committed to stopping the project and are organized in efforts to bring about public awareness about the harmful impacts the mining operation would have if approved."

The Menominee Nation is steadfast in its opposition to the proposed mine and its commitment to preserving the Menominee River. We ask you to stand in solidarity with us as we continue our fight to protect our place of origin, our sacred sites, the wildlife, water and environment for future generations."

"Environment:

Aquila's Back Forty "open pit mine" would be constructed ~150 feet from the Menominee River. Because this is a METALLIC SULFIDE MINE, the mine's proximity raises serious flooding and inundation risks.

Any mine-related water contamination would threaten the health of the Menominee's fish populations and recreational fishing, especially Lake Sturgeon. Millions of dollars have been invested in the recovery of sturgeon in the Menominee River, where they are threatened but "stable" after years of collaborative sturgeon habitat restoration efforts by Michigan and Wisconsin Department of Natural Resources, with assistance from federal agencies, fishing clubs and nonprofit environmental groups such as the River Alliance of Wisconsin.

The Back Forty mine targets a section of the Menominee River considered a world class smallmouth bass fishery – one of the best in North America! Fishing clubs are deeply concerned about the future of Smallmouth Bass Fishing on the Menominee River, as are the small

businesses, including river guiding companies, that depend on the health of the river. The proposed mine threatens natural resources of the Menominee River, an interstate waterway jointly managed by Wisconsin and Michigan. The Menominee River is the state boundary line, and is the largest watershed in the Upper Peninsula of Michigan. The Wisconsin Resources Protection Council is actively opposed to this sulfide mine proposal.

The Center for Science in Public Participation conducted a red-flag review of Aquila Resources mining application and found multiple issues of concern, serious omissions and miscalculations, including specific recommendations and technical actions regarding Aquila's plans for Water Management, Tailings & Waste Rock Management Facilities, Pit Backfill Metal Leaching, Water Treatment Post Closure, Financial Assurance, and other topics. According to their report:

'Monitoring wells need to be placed to ensure the tailings facility embankment is not contributing acid or metal leaching to groundwater.'

'Given the potential for antimony, selenium, and arsenic to mobilize under neutral conditions, monitoring will need to occur at the TWRMF (tailings waste rock management facility) leachate sumps and at monitoring wells on and around the backfilled pit until hydrology and chemistry have stabilized.'

'The TWRMF cap is designed to reduce infiltration, but given the extremely acidic nature of the material that will be enclosed, the cost of a WTP (water treatment plant) should be included in financial assurance for at least the 20 year post closure monitoring period.'

'When reviewing the indirect and direct cost estimates for the Back Forty financial assurance, it is obvious that it has been significantly underestimated, especially with regard to the indirect cost calculations(...) the direct costs should be reviewed by a qualified party to correct assumptions that underestimate the cost of reclamation that would need to be conducted by a regulatory agency.' "The entire planned Back Forty open pit mine and Tailings Waste Rock Management Facility basins (TWRMF) hinge on a single underlying assumption: that the State of Michigan will agree to a proposed LAND SWAP with Aquila Resources. The proposed land exchange threatens critical habitat, including threatened and endangered species. The mining proposal's open pit mine, contingent upon the land swap, would disturb or destroy tribal archaeological resources, treaty protected natural resources, and Menominee River fisheries. Shakey Lakes: The Escanaba State Forest's Shakey Lakes Oak-Pine Barrens Ecological Reference Area (ERA) and a proposed Biodiversity Stewardship Area (BSA) are adjacent to the proposed mine site. A mine next to this ecological reference area will degrade the ERA, endangering rare habitat, and jeopardize the state's Forest Stewardship Council (FSC) certification for sustainably-harvested timber.

Aquila has made fraudulent 'Life of Mine' statements! When reviewing any mine proposal, one basic question must be answered: 'what is the proposed Life of Mine (LOM)?' In order to correctly calculate a mine's risks, benefits and cumulative environmental impacts, an accurate LOM estimate is essential. According to Aquila's permit application, 'The (Back Forty) Project will be an open pit mining operation' and the 'Life of Mine (LOM) operation is planned to be approximately 7 years.' This is misleading. Elsewhere, Aquila describes the Back Forty project as having a '16 year life of mine (LOM), of which 12.5 million tonnes is open-pit and 3.6 million tonnes is underground.' Back Forty is described as a 16 year mine in Aquila's press releases, in communications with the Menominee Indian Tribe, and in letters to investors and local community leaders. According to their Project Fact Sheet: "we support a transparent process(...) visit our website at aquilaresources.com/projects/back-forty-project for more information." Visitors to Aquila's website find a 16 year mine described.

The design of the Back Forty Project (an open pit sulfide mine on a river) is described as comparable to Wisconsin's Flambeau Mine (another open pit sulfide mine on a river). Does the Flambeau Mine prove that riverside sulfide mining can be done safely? Absolutely not — get the facts: https://deertailpress.files.wordpress.com/2016/06/flambeau-mine_gauger_jun2016__final_1.pdf

Because the Back Forty would be a sulfide mine, it threatens to leach sulfuric acid, which is extremely hazardous to freshwater rivers, lakes, streams and groundwater. Again, the Center for Science in Public Participation warns that the mine's 'ARD (Acid Rock Drainage) risk is

very high. Most material contains sulfides... (...) All tailings are expected to generate acid, with the exception of tailings produced in year 3 of mining. Additionally, over 75% of the waste rock is expected to generate acid.' Sulfide mining could pollute groundwater or devastate the Menominee River, which drains into Lake Michigan."

Michael Kimmelman, "Jakarta Is Sinking So Fast, It Could End Up Underwater," *The New York Times*, December 21, 2017, https://www.nytimes.com/interactive/2017/12/21/world/asia/jakarta-sinking-climate.html?ref=collection%2Fbyline%2Fmichael-kimmelman&action=click&contentCollection=undefined®ion=stream&module=stream_unit&version=latest&contentPlacement=1&pgtype=collection&_r=0, reported, "There may be no megacity on the planet facing a more dire scenario than Jakarta, the sprawling, smog-infested capital of Indonesia. When historic floods overran much of the city in 2007, some climate experts linked the events to global warming. Temperatures and the Java Sea are both rising, quickly.

But this vast coastal city is sinking faster than any other big city on Earth, so fast that rivers can flow upstream and buildings are being swallowed up. That's because Jakartans are draining the aquifers on which the city rests. The city's water supply hasn't kept up with its explosive growth. The litany of human-made problems starts with runaway development, a near-total lack of planning, few sewers, polluted rivers and canals, a long history of government corruption, conflicts between Islamic extremists and secular Indonesians, Muslims and ethnic Chinese. Climate change multiplies them all.

Hydrologists now say the city has only a decade to heal its self-inflicted wounds and halt the sinking. If it can't, much of Jakarta and its millions of residents will end up underwater."

Wild Earth Guardians "Court Ruling Derails Trump's Fossil Fuel Agenda: We Are Winning," September 15, 2017, http://www.wildearthguardians.org/site/News2?page=NewsArticle&id=13190&news_iv_ctrl=1681#.Wb16tlKZOu4, reported, "In a resounding ruling by our legal team, **the U.S. Court of Appeals for the 10th Circuit rejected the U.S. Bureau of Land Management's attempt to turn its back on climate change and approve massive new coal mining on public lands in the Powder River Basin of northeastern Wyoming.**

Calling the agency "irrational," the court's ruling overturns two billion tons of publicly owned coal leases that were sold to Peabody and Arch Coal.

When burned, this coal stood to unleash more than 3.3 billion metric tons of carbon pollution. That's equal to the amount of climate pollution released by nearly 1,000 coal-fired power plants.

Put another way, this ruling is really big.

Importantly, it's a victory that strikes at the heart of President Trump's agenda of handing over our public lands to the coal industry and forcing us to shoulder the costs of climate change.

To put this into context, this win overturns some of the largest coal leases ever approved by the federal government. These leases were set to expand the two largest coal mines in the world (which incidentally are owned by two of the world's largest privately owned coal companies). What's more, these mines are in the Powder River Basin, the nation's largest coal producing region."

Sheila Kaplan, E.P.A. Delays Bans on Uses of Hazardous Chemicals," *The New York Times*, December 19, 2017, <https://www.nytimes.com/2017/12/19/health/epa-toxic-chemicals.html?ref=todayspaper>, "**The Environmental Protection Agency will indefinitely postpone bans on certain uses of three toxic chemicals found in consumer products, according to an update of the Trump administration's regulatory plans.**

Critics said the reversal demonstrated the agency's increasing reluctance to use enforcement powers granted to it last year by Congress under the Toxic Substances Control Act."

"CANADA TO CREATE OVERSEAS MINING WATCHDOG," Freedom United, December 13, 2017, https://www.freedomunited.org/news/canada-mining-watchdog/?trk_msg=QQT3NET1RM9K9E25NGCJC2CN7G&trk_contact=B6M8ONO3GA0V4UPHDKT7AR6C7G&trk_sid=UHHIVT6G1680E2IFA0N4I3STVS&utm_source=Listrak&utm_medium=em

ail&utm_term=Canada+to+Create+Overseas+Mining+Watchdog&utm_campaign=News+Digest&utm_content=News+Digest_12172017, reported, **"Canada plans to create an overseas mining watchdog early next year, a move welcomed by environmental and human rights activists. Ottawa says it will create an independent office that will specifically look at Canadian oil, mining, and gas companies' activities abroad."**

Reuters reports that this action is significant because the majority of the world's public mining companies are in Canada."

"Copper One Announces the Settlement of Litigation With the Quebec Government Over the Rivière Dore Project," *Market Wired*, November 15, 2017, <http://www.marketwired.com/press-release/copper-one-announces-settlement-litigation-with-quebec-government-over-riviere-dore-2240831.htm>, reported, **Copper One Inc. (TSX VENTURE:CUO) ("Copper One" or the "Company") reports that on November 15, 2017, Copper One and the Québec Government entered into a settlement agreement which facilitates an end to Copper One's participation in the Rivière Doré Project. Pursuant to the settlement agreement, Copper One has agreed to the assignment of all the mining claims comprising the Rivière Doré Project to SOQUEM and the Québec Government has agreed to pay \$8 million in cash to Copper One in consideration for, amongst other things, the amounts invested in exploration works on the project by Copper One. The transaction is expected to be completed by December 15, 2017.**

A map showing world wide how many years people in various places may loose on average because of pollution is in, **Gabriella Canal "This New Map Shows You How Many Years of Life Pollution Has Taken Away From You Based Off Where You Live," Global Citizen, September 12, 2017, https://www.globalcitizen.org/en/content/this-new-map-shows-you-how-many-years-of-life-poll/?utm_source=Iterable&utm_medium=email&utm_campaign=iterable_campaign_US_Sep_15_2017_Fri_content_digest_actives. Listings include losing the following years of life expectancy in some locations in: India: 4.1 years, China: 3.5 years, Democratic Republic of the Congo: 1.84 years, Chile: 1.37 years.**

When economies around the world have expanded, so has the death rate, temporarily, as a result of the increased air pollution produced as a byproduct of increased production (Austin Frakt, <https://www.nytimes.com/by/austin-frakt>"How a Healthy Economy Can Shorten Life Spans," *The New York Times*, October 16, 2017, <https://www.nytimes.com/2017/10/16/upshot/how-a-healthy-economy-can-shorten-life-spans.html?ref=todayspaper>).

Kai Schultz, Hari Kumar and Geffrey Gettleman, In India, Air So Dirty Your Head Hurts," *The New York Times*, November 8, 2017, <https://www.nytimes.com/2017/11/08/world/asia/india-air-pollution.html?ref=todayspaper>, reported, **"A toxic cloud has descended on India's capital, delaying flights and trains, causing coughs, headaches and even highway pileups, and prompting Indian officials on Wednesday to take the unprecedented step of closing 4,000 schools for nearly a week. qDelhi has notoriously noxious air but even by the standards of this city, this week's pollution has been alarming, reaching levels nearly 30 times what the World Health Organization considers safe. On Tuesday, the government decided to close primary schools and on Wednesday the closings were extended to all public and most private schools.**

For those of us living here, the air pollution saps our strength. Many people feel nauseated all day, like from a never-ending case of car sickness. The air tastes smoky and irritates the throat, and in some neighborhoods, it smells like paint."

"The smog is so heavy that drivers often can't see cars slowing down in front of them, causing serious accidents and several highway pileups."

Keith Bradsher, "China's New Antipollution Push Could Cool Its Growth Engine," *The New York Times*, October 23, 2017, <https://www.nytimes.com/2017/10/23/business/china-pollution->

economy.html?ref=todayspaper, reported,

"Through the last four decades, China has achieved breathtaking economic growth at the cost of smoggy skies, fetid streams and lakes of dying fish.

Now China is undertaking one of its most extensive efforts yet to crack down on corporate polluters, an effort that could be felt economically and in world markets.

Cities across China have stepped up sending squads of inspectors to steel mills, coal-fired power plants and other businesses, and ordered offenders to clean up their operations or risk being shut down. On Aug. 21, the environmental authorities ordered more than two dozen cities in northern China, including many main steel production centers, to reduce air pollution by 15 percent this winter.

Even tougher measures will be coming, Li Ganjie, China's minister for environmental protection, said Monday at a news conference held in conjunction with the Communist Party congress, a twice-per-decade event at which the party selects new leaders to tackle its problems."

Ernesto Londono and Shannon Sims, "Brazilian Judge Stymies Plan to Allow Mining in Amazon Region," The New York Times, August, 30, 2017, <https://www.nytimes.com/2017/08/30/world/americas/brazil-amazon-mining-temer-environmentalists-judge.html?ref=todayspaper>, reported. **"A federal judge in Brazil has temporarily halted a plan by President Michel Temer to allow mining in a large area of the Amazon forest, dealing a victory to environmental activists who had denounced the initiative as potentially calamitous.**

In a ruling issued Tuesday, Judge Rolando Valcir Spanholo said the executive branch had exceeded its authority in rescinding the designation of a 17,700-square-mile region known by the Portuguese acronym Renca as a protected area through a presidential decree. The judge said that only Congress could make that change.

The ruling came after the government sought to respond to an international outcry by issuing an updated version of the Renca decree that more broadly outlined steps to mitigate environmental damage, safeguard the rights of indigenous communities and retain protected areas. But opponents say that the plan will hasten development that has encroached on the rain forests and accelerate deforestation and the displacement of native peoples."

In Poland, for two years, the government has been allowing massive cutting of trees in the Bialowieza Forest, a UN World Heritage Site and the last primeval forest in Poland. Environmentalists have been attempting to have the lumbering stopped (Joanna Berendt, "A Battle for Europe's Last Primeval Forest," *The New York Times*, July 12, 2017).

"UN Chemicals Conventions Decisions Perpetuate Environmental Violence, Violate Human Rights, International Treaty Council, July 5, 2017, <http://hosted.verticalresponse.com/1383891/b8601c1861/545554959/aa063f1824/>, commented, "At the Stockholm Convention 8th Conference of the Parties (COP8) which took place from April 24th – May 5th, 2017, State governments bowed to corporate influences in their decisions concerning two highly toxic persistent chemicals which were considered for elimination. The Stockholm Convention, one of 4 UN Conventions addressing toxic chemicals, seeks to reduce and eliminate the use of Persistent Organic Pollutants (POPs) which impact human reproductive and intergenerational health and persist for long periods of time in the environment, food chain and human body. Although the State delegations agreed, after long debate, to list these chemicals for global elimination, they allowed exemptions that will extend their industrial use far into the future. IITC, together with the Indigenous caucus and allies, expressed strong disagreement with the deliberate disregard for human rights in the decision-making process, including for Free Prior and Informed Consent as affirmed in Article 29 of the UN Declaration on the Rights of Indigenous Peoples. We also objected to the increasing restrictions placed on the full and effective participation by Indigenous Peoples within the framework of the UN Chemicals Conventions and the UN Environmental Programme overall.

To Read more about the COP8 outcomes go to: <http://www.iitc.org/un-chemicals-convention-decisions-may-2017/>.

To find out how to get involved or share your concerns about the toxic chemicals that impact the health of your communities, contact **Rochelle Diver** in IITC's San Francisco Office at +1 (415) 641- 4482 or rochelle@treatycouncil.org.

Eric Lipton, "Why Has the E.P.A. Shifted on Toxic Chemicals? An Industry Insider Helps Call the Shots: A scientist who worked for the chemical industry now shapes policy on hazardous chemicals. Within the E.P.A., there is fear that public health is at risk," *The New York Times*, October 21, 2017, https://www.nytimes.com/2017/10/21/us/trump-epa-chemicals-regulations.html?ref=todayspaper&_r=0, reported,

"For years, the Environmental Protection Agency has struggled to prevent an ingredient once used in stain-resistant carpets and nonstick pans from contaminating drinking water.

The chemical, perfluorooctanoic acid, or PFOA, has been linked to kidney cancer, birth defects, immune system disorders and other serious health problems.

So scientists and administrators in the E.P.A.'s Office of Water were alarmed in late May when a top Trump administration appointee insisted upon the rewriting of a rule to make it harder to track the health consequences of the chemical, and therefore regulate it.

The revision was among more than a dozen demanded by the appointee, Nancy B. Beck, after she joined the E.P.A.'s toxic chemical unit in May as a top deputy. **For the previous five years, she had been an executive at the American Chemistry Council,** the chemical industry's main trade association.

The changes directed by Dr. Beck may result in an 'underestimation of the potential risks to human health and the environment' caused by PFOA and other so-called legacy chemicals no longer sold on the market, the Office of Water's top official warned in a confidential internal memo obtained by *The New York Times*."

Brad Plumerm "U.S. Nuclear Comeback Stalls as Two Reactors Are Abandoned," *The New York Times*, July 31, 2017, https://www.nytimes.com/2017/07/31/climate/nuclear-power-project-canceled-in-south-carolina.html?ref=todayspaper&_r=0, reported, **"In a major blow to the future of nuclear power in the United States, two South Carolina utilities said on Monday that they would abandon two unfinished nuclear reactors in the state, putting an end to a project that was once expected to showcase advanced nuclear technology but has since been plagued by delays and cost overruns.**

The two reactors, which have cost the utilities roughly \$9 billion, remain less than 40 percent built. **The cancellation means there are just two new nuclear units being built in the country — both in Georgia — while more than a dozen older nuclear plants are being retired in the face of low natural gas prices."**

"Nuclear weapons contractors repeatedly violate shipping rules for dangerous materials," *New Mexico Political Report*, August 1, 2017, http://nmpoliticalreport.com/358004/nuclear-weapons-contractors-repeatedly-violate-shipping-rules-for-dangerous-materials/?mc_cid=53f2c7df8e&mc_eid=cde7993cedm reported, **"Plutonium capable of being used in a nuclear weapon, conventional explosives, and highly toxic chemicals have been improperly packaged or shipped by nuclear weapons contractors at least 25 times in the past five years, according to government documents.**

While the materials were not ultimately lost, the documents reveal repeated instances in which hazardous substances vital to making nuclear bombs and their components were mislabeled before shipment. That means those transporting and receiving them were not warned of the safety risks and did not take required precautions to protect themselves or the public, the reports say."

Jessica Corbett, "Tainted Honey: Bee-Poisoning Pesticides Found Globally: Lead researcher says there were 'relatively few places where we did not find any' samples contaminated with neonics known to harm bees," *Common Dreams*, October 06, 2017,

<https://www.commondreams.org/news/2017/10/06/tainted-honey-bee-poisoning-pesticides-found-globally>, reported, " **Raising further concerns about the global food production system, a new study found that bees worldwide are being widely exposed to dangerous agricultural chemicals, with 75 percent of honey samples from six continents testing positive for pesticides known to harm pollinators.**

'What this shows is the magnitude of the contamination,' the study's lead author, Edward Mitchell, a biology professor at the University of Neuchatel in Switzerland, told the *Denver Post*. He said there were "relatively few places where we did not find any" contaminated samples.

For the study, published in the journal *Science*, Mitchell's team of researchers examined nearly 200 samples for the five most commonly used neonicotinoid pesticides, or neonics.

They found:

in North America, 86 percent of samples from contained one or more neonicotinoid;

in Asia, 80 percent;

in Europe (where there is a partial ban), 79 percent;

in Africa 73 percent;

in and around Australia, 71 percent;

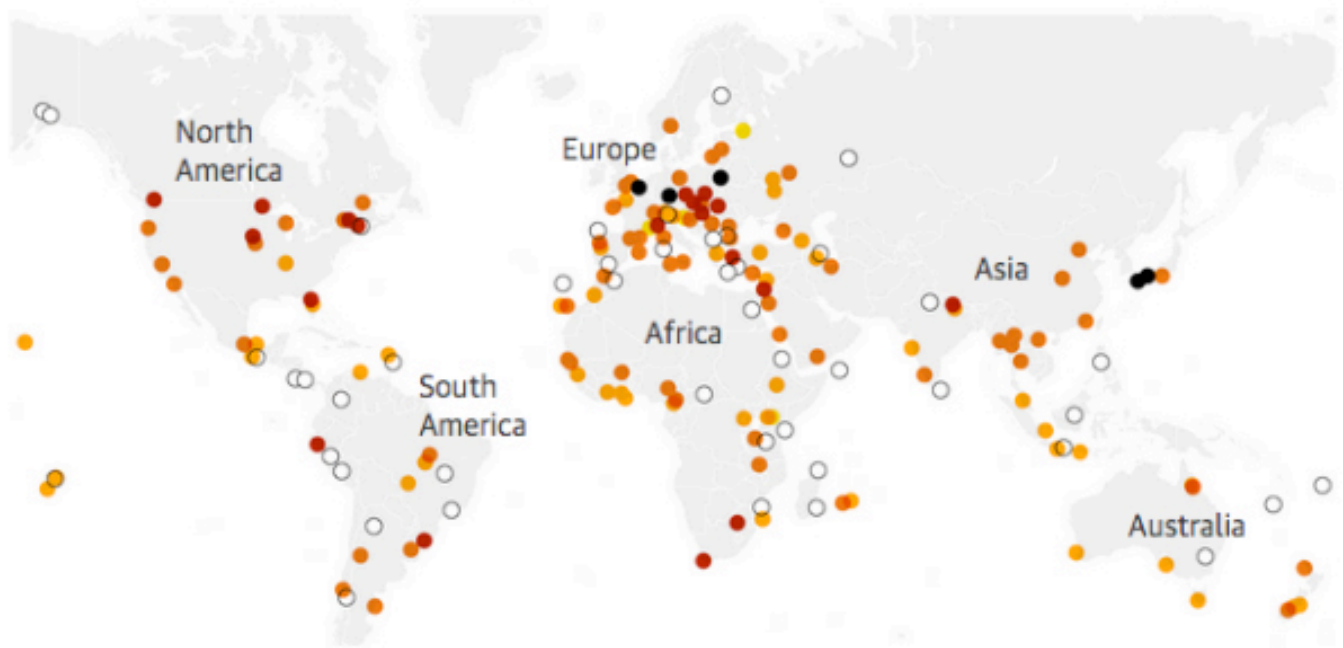
and in South America, 57 percent.

The *Guardian* mapped the global results.

Worldwide distribution of honey contamination

Total neonicotinoid concentration (nanogram/gram)

□ No neonicotinoids detected ■ Detection limit to 0.01 ■ 0.01 - 0.1 ■ 0.1 - 1.0 ■ 1.0 - 10 ■ Over 10



Guardian graphic | Source: Mitchell et al, Science

Although researchers believe the measured concentrations of neonicotinoids in the tested honey samples are not enough to harm humans, they warn that 'a significant detrimental effect on bees is likely for a substantial proportion of the analyzed samples, as adult bees rely on honey for food, including during periods of overwintering or seasons without blossoming flowers.'

Study co-author Alexandre Aebi, also from the University of Neuchatel in Switzerland, told *BBC News* that humans 'would have to eat an awful lot of honey and other contaminated products to see an effect,' but he thinks 'it's a warning and it is a call for a precautionary principle.'

Aebi said that he and the other researchers are especially concerned that **so many samples contained two or more neonicotinoids. Nearly half of all the honey samples showed more than two types of neonics, and 10 percent had four or more. Overall, more than a third of the samples featured pesticides at levels known to harm bees.**

When pollinators such as bees consume pollen and nectar that contains neonicotinoids, they have been shown to experience learning and memory problems, which can interfere with their ability to gather food. The impact can be so severe that it jeopardizes the health of the entire hive.

'The increasingly documented sublethal effects of neonicotinoid pesticides at environmentally relevant concentrations on bees,' the researchers note, **'include growth disorders, reduced efficiency of the immune system, neurological and cognitive disorders, respiratory and reproductive function, queen survival, foraging efficiency,' and decreased homing capacity.**

'It is definitely scary for honeybees and other bees and useful insects,' Aebi said. **'We have up to five molecules in one single sample. From a risk assessment point of view, the evaluation of the risk is made from one single compound in one test organism. So the cocktail is not tested. Mixed effects should be taken seriously.'**

The impact on bees of continuing to use these pesticides is expected to have widespread consequences.

'In 2014, a global assessment of neonicotinoids concluded that their widespread use was putting the global food production system at risk,' the *Guardian* noted on Thursday. **An updated assessment that is slated to appear in the journal *Environmental Science and Pollution Research* found even stronger evidence that the insecticides are harmful, and reportedly concludes: 'The consequences are far reaching and cannot be ignored any longer.'**

(This work is licensed under a Creative Commons Attribution-Share Alike 3.0 License)."

Tom Philpott, "A Clue in the Bee Death Mystery: Insecticides are often blamed, but new signs point to another chemical," *Mother Jones*, November 29, 2017, <http://www.motherjones.com/food/2017/11/a-clue-in-the-bee-death-mystery/>, reported in part, **"Domesticated honeybees get all the buzz, but wild bumble bees are in decline too, both globally and here in the United States.** What gives? It's an important question, because while managed honeybees provide half of the pollination required by US crops, bumble and other wild bees deliver the other half.

Insecticides used in agriculture are one possible trigger—they exist to kill insects, after all, and bumble bees are insects. But a different kind of farm chemical, one designed to kill fungi that harm crops, has emerged as a possible culprit. A new study by a team of researchers led by Cornell University entomologist Scott McArt adds to the growing dossier of studies pinpointing fungicide as a potential bee killer (see <http://www.motherjones.com/food/2017/11/a-clue-in-the-bee-death-mystery/>, <https://www.ncbi.nlm.nih.gov/pubmed/26463198>, and <http://journals.plos.org/plosone/article?id=10.1371/journal.pone.0070182>). "

"Their goal was to see which of these factors was most closely associated with shrinking habitats and *Nosema bombi* infections. Total fungicide applications in a given area emerged as the best predictor of range contraction; and a single widely used fungicide, chlorothalonil, proved to be the clearest indicator of *Nosema bombi* prevalence."

Christopher Pala, "Loss of Federal Protections May Imperil Pacific Reefs, Scientists Warn. Fisheries officials call the marine national monuments unnecessary, and their boundaries are said to be under review by the Trump administration," *The New York Times*, October 30, 2017, <https://www.nytimes.com/2017/10/30/science/trump-zinke-pacific-marine-reserves.html?ref=todayspaper>, reported that **examination of several under water mountains, or seamounts, in the mid-Pacific show that areas that were teeming with sea life are now barren, and some of the coral has been killed by fishing. Evidence of the cause is in masses of parts of fishing and trolling gear.** One of the scientists involved said, **"It was a biological desert,"** he said. **Where normally fish and crabs dart about forests of coral and sponges, "all we could see was a**

parking lot full of nets and lines, with no life at all.” “But the extent of the devastation and the huge amount of gear that was abandoned on the bottom were shocking for both of us.” “Allowing fishing in the few protected seamounts left would be a huge mistake.”

Kim Baca, "The Navajo Nation has a wild horse problem," *New Mexico Political Report*, October 12, 2017, http://nmpoliticalreport.com/606559/the-navajo-nation-has-a-wild-horse-problem/?mc_cid=e7e89143b6&mc_eid=cde7993ced, reported in part, **"up to 40,000 wild horses wander the Navajo Nation**, roaming across 27,000 miles of deep canyons, rugged hills and huge mountains, according to aerial estimates from the Bureau of Indian Affairs. **In just five years, the population is expected to double. Already the feral horses compete with domestic animals, sheep or cattle, and wildlife for water and sparse vegetation.** Yet a Navajo Nation oversight committee recently denied an \$800,000 funding request from the tribe's Fish and Wildlife Department to help reduce the horse population, leaving the nation with few alternatives."

"Feral horses have become a problem not only among the Navajo but also among other tribal officials managing reservation lands throughout the West. The Colville and Yakama tribes in Washington, the Confederated Tribes of Warm Springs in Oregon and the Shoshone-Bannock in Idaho have all been plagued by out-of-control horse populations. The problem presents a unique quandary for tribes: What do you do with a creature that has been an integral part of your culture, but has wreaked havoc on land, water, traditional foods and wildlife?"

The Navajo Nation has long grappled with how best to control feral and domestic horses abandoned by owners unable to care for them. In 2013, then-Navajo President Ben Shelly publicly supported a horse slaughter operation in Roswell, New Mexico. Shelly approved \$1.4 million to allow Chapter Houses, a form of local government on the Navajo Nation, to inspect and process the horses for selling. Horses obtained in tribal roundups since around 2011 have either been sold to buyers for resale, adoption or slaughter in processing plants in Canada or Mexico, which export the meat to consumer markets in Europe and Asia."

"In March, Gloria Tom, Navajo Fish and Wildlife Department director, broached the **idea of a horse hunt**, telling *The Navajo Times* "previous attempts to trap, round up, or allow horses to be adopted had not made a large enough impact." But that proposal was quashed after an outcry from horse enthusiasts and advocacy organizations, who met with the tribal Wildlife Department in May to promote a more humane way of managing herds. The Salt River Wild Horse Management Group and other groups **argued for the use of darts containing a contraceptive called porcine zona pellucida, or PZP. Citing 30 years of research and studies done on urban deer populations, the group says that the feral horses become infertile when PZP is injected yearly for five years.**"

"Some Chapter Houses have held local roundups, borrowing temporary pens and other equipment from the Navajo Agriculture Department to trap horses or unclaimed livestock. They catch the animals at area watering holes and call the department to have them removed. The Tiis Tsoh Sikaad, or Burnham Chapter, in Northwest New Mexico is one local government taking charge by working with the BIA on a fencing project to keep livestock and feral horses from roaming free."

The herds of elephants roaming a wide area of desert in Mali has been suffering so many losses from poachers that if nothing were done, it likely would go out of existence in three years. Mali has now created a mixed force of rangers and military to protect the elephants in a dangerous area crossed by ISIS members and bandits (Mark Rivett-Carnac, "Mali's Desert Elephants, on Edge of Annihilation, Get a Fighting Chance ," *The New York Times*, October 29, 2017, <https://www.nytimes.com/2017/10/29/world/africa/mali-elephants-gourma.html?ref=todayspaper>),

The decline in wild salmon in Norway as the result of an increase of sea lice attacking the fish after flowing out of the countries many salmon fish farms (where the sea lice are also a problem) has brought the Norwegian government to limit the expansion of fish farms. Fish farmers strongly opposes the measure, while conservationists say the measure does not go far enough. A legal and political battle over the regulation has begun (Stephen Castle, "As Wild Salmon

Decline, Norway Pressures Its Giant Fish Farms," *The New York Times*, November 6, 2017, https://www.nytimes.com/2017/11/06/world/europe/salmon-norway-fish-farms.html?ref=todayspaper&_r=0).

Livia Albeck-Ripka, "For an Endangered Animal, a Fire or Hurricane Can Mean the End," *The New York Times*, October 25, 2017, https://www.nytimes.com/2017/10/25/climate/fires-hurricanes-endangered-animals.html?ref=todayspaper&_r=0, reported, **"When a wildfire swept through Arizona, all but 35 rare red squirrels disappeared. After California's fires and Hurricanes Harvey, Maria and Irma, so did other near-extinct animals."**

"The Mount Graham red squirrel is among more than a dozen rare or threatened species that either perished or suffered habitat loss during recent hurricanes and wildfires across the United States."

Among other destruction caused by Hurricane Irma, was the destruction of a large number of sea turtle nests ("Another Storm Victim: Florida Sea Turtle Nests," *The New York Times*, October 10, 2017).

Botanists have discovered a fungus in a Pakistani landfill that breaks down certain kinds of plastics in weeks by exuding an enzyme that breaks down chemical bonds quickly. Experiments are underway to see if it might be used to solve much of the world's huge plastic waste problem (Phineas Rueckert, "This Plastic-Eating Fungus Just Might Save Humanity," *Global Citizen*, October 4, 2017, https://www.globalcitizen.org/en/content/this-fungus-eats-plastic-just-might-save-humanity/?utm_source=Iterable&utm_medium=email&utm_campaign=iterable_campaign_US_Oct_9_2017_Mon_content_digest_actives).

Trust for the Public Land reported, December 4, 2017, http://contacts.tpl.org/site/MessageViewer?dlv_id=73042&em_id=58686.0, **"It's official. President Trump signed away almost two million acres from Bears Ears and Grand Staircase-Escalante National Monuments** today with a disastrous executive proclamation.

This attack amounts to the largest elimination of protected public lands in U.S. history, putting tens of thousands of archeological sites, Native American sacred sites, and recreational lands at risk."

Other public lands were also recommended by the Secretary of the Interior for reduction and/or modification in the Secretary of the Interior's December 2017 memorandum to the President, "Final Report Summarizing Findings of the Review of Designation Under the Antiquities Act," available at: https://www.doi.gov/sites/doi.gov/files/uploads/revised_final_report.pdf. The recommendations sections states:

IV . Recommendations

A. Monument Modifications

I recommend that you exercise your discretion to modify certain existing proclamations and boundaries. In doing so, each proclamation would continue to identify particular objects or sites of historic or scientific interest and recite grounds for the designation thereby comporting with the Act's policies and requirements. However, this can be done in a manner that prioritizes public access, infrastructure, traditional use, tribal cultural use, and hunting and fishing rights. These recommendations have been submitted to you with the concurrence of the Secretary of Agriculture and the Secretary of Commerce. These recommended modifications are intended to ensure that the monuments meet the purposes of the Act, including that the area reserved be limited to the smallest area compatible with protection of the relevant objects.

Bears Ears

The BENM was established by Presidential Proclamation No. 9558, dated December 28, 2016. It consists of 1,353,000 acres of Federal land in San Juan County, Utah, and is jointly managed by BLM (1.063 million acres) and the U.S. Forest Service (USFS) (290,000 acres).

The BENM contains cultural and archeological sites, unique geologic features, and areas important to the practicing of tribal cultural traditions and ceremonies. It also contains many objects that are common or otherwise not of particular scientific or historic interest. In the 114th Congress, legislation was introduced that designates specified Federal lands as wilderness and as components of the National Wilderness Preservation System. The total boundary encompassing these land actions largely tracks with the boundaries of BENM.

Portions of the area are also home to significant recreational opportunities, including hiking, backpacking, canyoneering, mountain biking, and rock climbing.

Within and adjacent to the BENM boundaries, numerous management authorities and plans govern the patchwork of Federal, State of Utah, and private lands. This includes

11 BLM WSAs aggregating approximately 381,000 acres, as well as a 46,353-acre Wilderness on USFS lands.

When accounting for State land and private land within the boundaries of BENM, the total area encompassed is close to 1,500,000 acres.

Recommendations:

- The Proclamation should be amended, through the use of appropriate authority, including lawful exercise of your discretion granted by the Act, to ensure compliance with the provisions and intent of the Act while also prioritizing public access; infrastructure upgrades, repair, and maintenance; traditional use; tribal cultural use; and hunting and fishing rights.
- The boundary should be revised through the use of appropriate authority, including lawful exercise of your discretion granted by the Act, to continue to protect objects and ensure the size of the monument reservation is limited to the smallest area compatible with the protection of the objects identified.
- You should request congressional authority to enable tribal co-management of designated cultural areas within the revised BENM boundaries.
- Congress should make more appropriate conservation designations, such as national recreation areas or national conservation areas, within the current BENM.
- The management plan should be developed to continue to protect objects and prioritize public access; infrastructure upgrades, repair, and maintenance; traditional use; tribal cultural use; and hunting and fishing rights.
- The DOI should work with Congress to secure funding for adequate infrastructure and management needed to protect objects effectively.

Cascade-Siskiyou

- Cascade-Siskiyou National Monument (CSNM) was established by Presidential Proclamation No. 7318 on June 9, 2000, originally consisting of approximately 52,000 acres. It was expanded by almost 48,000 acres through Presidential Proclamation No. 9564 on January 12, 2017.
- The CSNM is located in Jackson and Klamath Counties, Oregon, and Siskiyou County, California, and is managed by the BLM.

- The original 2000 designation was the first monument to protect biodiversity. The expansion purported to create a necessary "buffer" to support the biodiversity objects outlined in the original CSNM.
- In 2015, legislation was introduced that would have protected most of the areas in the monument expansion through conservation and recreation designations.
- The CSNM contains within its borders a 24,707-acre Wilderness Area designated by Congress in the 2009 Omnibus Public Lands Management Act.
- The Wilderness Area was expanded to its current size in 2010 with the acquisition of two privately owned inholdings.
- Encompassed within the exterior boundary of the original CSNM is 19,818 acres of private land (23.2%), and within the boundary of the expansion is 32,677 private acres (38.3%), for a total of approximately 52,485 acres of privately owned lands. This is 30% of the total area within the external boundaries of the CSNM.
- A substantial number of acres within both the original monument and the expansion area are designated as Oregon and California Revested (O&C) Railroad Lands, which are lands statutorily set aside for permanent forest production under the Oregon and California Revested Lands Sustained Yield Management Act of 1937 (O&C Act).
- In light of the direction in the O&C Act, commenters raised concerns about the legal authority to establish a national monument on O&C lands.
- The 2000 CSNM monument designation required a study to assess the compatibility of grazing with the biodiversity of the area and the subsequent study found threats to riparian objects. As a result, grazing has largely diminished in the original CSNM area. Many allotments were bought out as a result of a larger land package deal in the 2009 Omnibus Public Lands Management Act.
- Motorized transportation off of roads was prohibited in the original CSNM designation. The expansion area only allows for motorized transportation off of roads in limited circumstances and only after a transportation-management plan is completed. To date, the plan has not been initiated. Due to poor maintenance, remaining usable roads in CSNM are often unsuitable for use.

Recommendations:

- The Proclamation should be amended, through the use of appropriate authority, including lawful exercise of your discretion granted by the Act, to ensure compliance with the provisions and intent of the Act while also prioritizing public access; infrastructure upgrades, repair, and maintenance; traditional use; tribal cultural use; and hunting and fishing rights.
- The boundary should be revised through the use of appropriate authority, including lawful exercise of your discretion granted by the Act, in order to address impacts on private lands and to address issues concerning the designation and reservation of O&C Lands as part of the monument and the impacts on commercial timber production.
- The monument management plan should be revised to continue to protect objects and prioritize public access; infrastructure upgrades, repair, and maintenance; traditional use; tribal cultural use; and hunting and fishing rights.
- The DOI should work with Congress to secure funding for adequate infrastructure and management needs to protect objects effectively.

Gold Butte

The Gold Butte National Monument (GBNM) was established by Presidential Proclamation No. 9559 on December 28, 2016, and consists of 296,937 acres managed by BLM and the Bureau of Reclamation in Clark County, Nevada.

The resources identified in the Proclamation include the biologic, archaeologic, and areas of spiritual significance to American Indian tribes.

There have been multiple legislative attempts to designate this area under protective land designations, beginning in 2008 and concluding in 2015, which were unsuccessful. Lands within GBNM are managed with some level of a protective designation, either under the existing land-use plan or as designated Wilderness (28,787 acres) or Wilderness Study Areas (28,454 acres). The GBNM is also overlapped by Areas of Critical Environmental Concern designated by BLM. The local water district has historic water rights for six springs and provides water for the

City of Mesquite. Five of the six water district springs are located within the boundaries of GBNM. The GBNM Proclamation inaccurately states that livestock has not been permitted in the GBNM area since 1998 and therefore prevents issuing any new grazing permits or leases. In fact, there are four active grazing allotments administered by the Arizona Strip District, either fully or partially contained within GBNM, which have been authorized since 1998.

Recommendations:

- The Proclamation should be amended, through the use of appropriate authority, including lawful exercise of your discretion granted by the Act, to ensure compliance with the provisions and intent of the Act while also prioritizing public access; infrastructure upgrades, repair, and maintenance; traditional use; tribal cultural use; and hunting and

fishing rights. The proclamation should also be amended to address inaccuracies related to active grazing allotments.

- The boundary should be revised through the use of appropriate authority, including lawful exercise of your discretion granted by the Act, to ensure that the monument reservation is limited to the smallest area compatible with the protection of the objects identified and protect historic water rights.
- You should request congressional authority to enable tribal co-management of designated cultural areas within the revised GBNM boundaries.
- The management plan should be developed to protect objects and prioritize public access; infrastructure upgrades, repair, and maintenance; traditional use; tribal cultural use; and hunting and fishing rights.
- The DOI should work with Congress to secure funding for adequate infrastructure and management needs to protect objects effectively.

Grand Staircase-Escalante

Grand Staircase-Escalante National Monument (GSENM) was established by Presidential Proclamation No. 6920 on September 18, 1996, and was BLM's first national monument. It is located in Kane and Garfield Counties, Utah, and continues to be managed by BLM. It encompasses 1,866,331 acres.

The resources identified in the Proclamation include geologic, paleontological, archaeological, and biological resources. It also contains many objects that are common or otherwise not of particular scientific or historic interest

Almost 47 percent of GSENM lands (881,997 acres) are included in WSAs.

While overall permitted livestock grazing within GSENM is at roughly the same level now as it was at the time of designation, the actual number of cattle runs has decreased due to restrictions on activities that facilitate grazing, including moving water lines, vegetative management, erosion control measures, and maintenance of infrastructure such as fences and roads.

Motorized vehicle use is limited both by the GSENM Proclamation and the Monument Plan. This has created conflict with Kane and Garfield Counties' transportation network and affected access for recreational activities.

Areas encompassed within GSENM contain an estimated several billion tons of coal. Each monument

designation DOI reviewed under EO 13792 had some form of public outreach before designation, with the exception of GSENM.

Recommendations:

- The Proclamation should be amended, through the use of appropriate authority, including lawful exercise of your discretion granted by the Act, to ensure compliance with the

provisions and intent of the Act while also prioritizing public access; infrastructure upgrades, repair, and maintenance; traditional use; tribal cultural use; and hunting and fishing rights.

- The boundary should be revised through the use of appropriate authority, including lawful exercise of your discretion granted by the Act to ensure that the monument reservation is limited to the smallest area compatible with the protection of the objects identified.
- The management plan should be revised to protect objects as well as prioritize public access; infrastructure upgrades, repair, and maintenance; traditional use; tribal cultural use; and hunting and fishing rights.
- The DOI should work with Congress to secure funding for adequate infrastructure and management needs to protect objects effectively.

Katahdin Woods and Waters

- Katahdin Woods and Waters National Monument (KWWNM) was established by Presidential Proclamation No. 9476 on August 24, 2016. The KWWNM consists of just over 87,500 acres in Maine that were donated to the Federal Government for the purpose of inclusion in the National Park System.
- Thirteen parcels were donated and conveyed under separate deeds to the United States and recorded on August 23, the day before KWWNM was designated by the President.
- In the 113th Congress, a draft legislative proposal was circulated to create a national park within the same boundary that encompasses KWWNM. Ultimately, Members of the Maine congressional delegation declined to introduce legislation.
- Timbering has historically occurred on these lands. After purchase from private landowners some traditional uses such as hunting and snowmobiling were permitted as part of the custom of the local area.
- While the land is now public and open for use, there are still concerns that timber harvest and snowmobiling access will not be permitted in all parts of KWWNM.
- Use restrictions imposed by the designation of KWWNM are the result of generally applicable National Park Service (NPS) regulations.
- Commercial timbering is not typically allowed in units of the National Park System, however 54 U.S.C. § 100753 provides limited authority for cutting of timber to "conserve ... historic objects."
- There is a strong historical role of timbering in the region, and the KWWNM Proclamation gives extensive attention to this as part of the narrative for the designation.

Recommendation:

- The Proclamation should be amended, through the use of appropriate authority, including lawful exercise of your discretion granted by the Act, to ensure compliance with the provisions and intent of the Act while also prioritizing promote a healthy forest through active timber management.

- The management plan should be developed to protect objects and prioritize public access; infrastructure upgrades, repair, and maintenance; traditional use; tribal cultural use; and hunting and fishing rights.

Northeast Canyons and Seamounts

- The Northeast Canyons and Seamounts Marine National Monument (NCSMNM) was established by Presidential Proclamation No. 9496 on September 15, 2016.
- The NCSMNM spans 3,144,320 acres and is located approximately 130 miles southeast of Cape Cod, Massachusetts.
- The NCSMNM is managed through the DOI U.S. Fish and Wildlife Service National Wildlife Refuge System and the DOC National Oceanic and Atmospheric Administration.
- The Proclamation stated that NCSNM was established to protect geologic features, natural resources, and species.
- While in some cases specific objects are identified by name, in other instances the Proclamation simply identifies a class of objects contained within the Monument.
- One such class of object are the marine canyons. However, the Proclamation recognizes that marine canyons are common along the East Coast.
- Fishing commercially is prohibited within the Monument, with the exception of red crab and American lobster fisheries; these fisheries can continue for up to 7 years.
- There is no explanation in the Proclamation as to why the objects are threatened by well-regulated commercial fishing.
- Commercial fisheries operate in and around the NCSMNM, predominantly around the landward edges of the canyons. These areas support fisheries for a variety of species of fish and shellfish, providing income and employment throughout the Northeastern United States. In its public comments, the New England Fishery Management Council stated that 1) management in NCSMNM should remain under the Magnuson-Stevens Fishery Conservation and Management Act; and 2) the designation of NCSMNM disrupts the Council's ability to manage species to balance protection with commercial fishing.
- The Council further noted that the pre-designation process was not consistent with the full public consultation process usually conducted under the Magnuson-Stevens Fishery Conservation and Management Act.

Recommendation:

- The Proclamation should be amended, through the use of appropriate authority, including lawful exercise of your discretion granted by the Act, to ensure compliance with the provisions and intent of the Act while also allowing the regional fishery management council to make fishery-management decisions as authorized by the Magnuson-Stevens Fishery Conservation and Management Act.

Organ Mountains-Desert Peaks

- Organ Mountains-Desert Peaks National Monument (OMDPNM) was established by Presidential Proclamation No. 9131 on May 21, 2014. It is a BLM-managed monument consisting of 496,529 acres in Dona Ana County, New Mexico.
- The resources identified in the Proclamation are visual, cultural, geologic, paleontological, and ecological.
- The OMDPNM consists of 4 unconnected areas and contains 176,310 acres of WSAs.
- The OMDPNM is in proximity to strategic national security installations, and one part of

OMDPNM, the Potrillo Mountain Complex, is in close proximity to the U.S.-Mexico border.

- Border security is a concern resulting from the designation, as the Proclamation restricts motorized transportation close to the border.
- The remoteness and topography of the Potrillos Mountain Complex lends itself to a drug smuggling route and needs to be monitored.
- The Potrillos Mountain Complex also encompasses the Mesilla groundwater basin. The basin has an unknown potential to address future water needs, recharge, salinity control, and storage.
- Legislation introduced in the 115th Congress would designate parts of the current boundaries of OMDPNM as wilderness and release other areas from WSA management. The legislation largely utilizes the boundaries of the current OMDPNM.
- A robust ranching community has operated in the area for decades and heavily contributes to the local economy.
- The designation could prevent access to parts of allotments. Further, vegetative management and other maintenance work could be restricted and further degrade the ability for ranchers to run cattle.

Recommendation:

The Proclamation should be amended, through the use of appropriate authority, including lawful exercise of your discretion granted by the Act, to ensure compliance with the provisions and intent of the Act while also prioritizing public access; infrastructure upgrades, repair, and maintenance; traditional use; tribal cultural use; and hunting and fishing rights.

The DOI should work with the Department of Homeland Security to address impediments to national security associated with the Potrillos Mountain Complex.

The DOI should work with the Department of Defense to assess risks to operational readiness of nearby military installations.

You should request congressional authority to enable tribal co-management of designated cultural areas.

The management plan should be developed to protect objects and prioritize public access; infrastructure upgrades, repair, and maintenance; traditional use; tribal cultural use; and hunting and fishing rights.

The DOI should work with Congress to secure funding for adequate infrastructure and management needs to protect objects effectively.

Pacific Remote Islands

- The Pacific Remote Islands Marine National Monument (PRIMNM) was established by Presidential Proclamation No. 8336 on January 6, 2009, and expanded by Presidential Proclamation No. 9173 on September 2014. It spans approximately 313,941,851 acres.

- PRIMNM is managed through the DOI U.S. Fish and Wildlife Service National Wildlife Refuge System and the DOC National Oceanic and Atmospheric Administration.

- The original PRIMNM boundary is comprised of rectangular areas that extend approximately 50 nautical miles (nm) from the mean low water lines of Howland, Baker and Jarvis Islands; Johnston, Wake and Palmyra Atolls; and Kingman Reef. The expansion extends the boundary from the 50 nm boundary to the 200 mile seaward limit of the U.S. Exclusive Economic Zone around Jarvis Island and Johnston and Wake Atolls.
- The primary purpose of the designation was to protect the coral reef and associated species surrounding these islands.
- Commercial fishing is prohibited within PRIMNM.
- Prior to monument designation, there were Hawaiian and American Samoan longliners

and purse seiners vessels operating. Indirect benefits of the purse seine fishery are important to the economy of American Samoa, which is heavily dependent on these vessels. American Samoa is under the jurisdiction of DOI.

Recommendation

- Proclamation No. 9173 should be amended or the expanded boundary be revised, through the use of appropriate authority, including lawful exercise of your discretion granted by the Act, to ensure compliance with the provisions and intent of the Act while also allowing the regional fishery management council to make fishery-management decisions for fishing in the expansion area as authorized by the Magnuson-Stevens Fishery Conservation and Management Act.

Rio Grande Del Norte

- Rio Grande Del Norte National Monument (RGDNNM) was established by Presidential Proclamation No. 8946 on March 25, 2013 and is located in Taos County, New Mexico.
- It consists of 242,710 acres managed by BLM and contains 7,050 acres of WSAs.
- The resources identified in the Proclamation are cultural, historic, and ecological.
- Several legislative proposals have been introduced in the past to establish a National

Conservation Area in the same footprint as RGDNNM, the most recent in 2010. All

legislative attempts were unsuccessful.

- Grazing is a significant traditional use in RGDNNM. However, I heard from local stakeholders that a lack of access to roads due to monument restrictions has left many grazing permittees choosing not to renew permits.

Recommendations

- The Proclamation should be amended, through the use of appropriate authority, including lawful exercise of your discretion granted by the Act, to ensure compliance with the provisions and intent of the Act while also prioritizing public access; infrastructure upgrades, repair, and maintenance; traditional use; tribal cultural use; and hunting and fishing rights.
- You should request congressional authority to enable tribal co-management of designated cultural areas.
- The management plan should be developed to protect objects and also prioritize public access; infrastructure upgrades, repair, and maintenance; traditional use; tribal cultural use; and hunting and fishing rights.
- The DOI should work with Congress to secure funding for adequate infrastructure and management needs to protect objects effectively.

Rose Atoll

- Rose Atoll Marine National Monument (RAMNM) was established on January 6, 2009, by Presidential Proclamation No. 8337.
- The RAMNM extends out approximately 50 nm from the mean low water line of Rose Atoll and encompasses 8,609,045 acres of emergent and submerged lands and waters of and around Rose Atoll.
- The RAMNM was established to protect the reef ecosystem, which is home to diverse terrestrial and marine species.
- Rose Atoll is also designated as a National Wildlife Refuge, established on July 5, 1973, by cooperative agreement between the Government of American Samoa and the U.S. Fish and Wildlife Service.
- Commercial fishing is prohibited in RAMNM.
- Fishing in American Samoa is a mixture of commercial, subsistence, traditional, and sport fishing. American Samoa's economy is heavily dependent on can tuna fish production, and many monument designations have contributed to ongoing threats to the viability of the industry.
- Prior to 2002, the waters that were included in RAMNM and adjoining areas closer to the main islands were important commercial fishing areas.

Recommendation:

- The Proclamation should be amended or the boundary be revised, through the use of appropriate authority, including lawful exercise of your discretion granted by the Act, to ensure compliance with the provisions and intent of the Act while also allowing the regional fishery management council to make fishery-management decisions as authorized by the Magnuson-Stevens Fishery Conservation and Management Act.

Specific monument modification measures will be submitted separately should you concur with the monument modification recommendations in this Final Report."

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## U.S. Developments

Many of the reports in this issue of U.S. government legislation, agency action, and court decisions are informed by electronic flyers from Hobbs, Straus, Dean and Walker, LLP, 2120 L Street NW, Suite 700, Washington, DC 20037, <http://www.hobbsstraus.com>. Reports from Indian Country Today Media Network, from the web, are listed as from *ICTMN*.

## U.S. Government Developments

Anna V. Smith, "Under Trump, tribal land ownership is not a priority: U.S. Bureau of Indian Affairs," *High Country News*, August 5, 2017, [https://twitter.com/intent/tweet?original\\_referer=http%3A%2F%2Fnmpoliticalreport.com%2F358981%2Funder-trump-tribal-land-ownership-is-not-a-priority%2F%3Fmc\\_cid%3D1d8362e9e1%26mc\\_eid%3Dcde7993ced&ref\\_src=twsrc%5Etfw&text=Under%20Trump%2C%20tribal%20land%20ownership%20is%20not%20a%20priority&tw\\_p=tweetbutton&url=http%3A%2F%2Fnmpoliticalreport.com%2F358981%2Funder-trump-tribal-land-ownership-is-not-a-priority%2F&via=nmreport](https://twitter.com/intent/tweet?original_referer=http%3A%2F%2Fnmpoliticalreport.com%2F358981%2Funder-trump-tribal-land-ownership-is-not-a-priority%2F%3Fmc_cid%3D1d8362e9e1%26mc_eid%3Dcde7993ced&ref_src=twsrc%5Etfw&text=Under%20Trump%2C%20tribal%20land%20ownership%20is%20not%20a%20priority&tw_p=tweetbutton&url=http%3A%2F%2Fnmpoliticalreport.com%2F358981%2Funder-trump-tribal-land-ownership-is-not-a-priority%2F&via=nmreport), reported, **"During President Barack Obama's eight-year tenure, tribal sovereignty, the power by which tribes govern themselves, was a prime concern. But under the Trump administration, that may change. There are several indicators of**

**this shift, including proposed budget cuts to the Interior Department's Bureau of Indian Affairs and the de-prioritization of major land initiatives.**

Within the first six months of President Donald Trump's administration, **the Department of Interior has renewed its interest of energy development and tribal land privatization.** That differs starkly from Obama policies, which focused on both acquiring and consolidating land for tribal nations. One of the most ambitious efforts to that end, the Land Buy-Back Program, will not continue under Trump.

**The Land Buy-Back Program** sought to end a process called fractionation, which continually splits land ownership among tribal descendants and makes the land difficult to use for development or agriculture. Using part of the \$1.9 billion for tribes under the so-called Cobell settlement, some 2 million acres of land were returned to tribal governments under Obama. But **with the majority of that money already spent to defray fractionation, the new direction at the Interior Department will not put additional funds towards the program, according to James Cason, the associate deputy secretary for the Bureau of Indian Affairs.**

Further worrying tribal leaders are two recent hearings held by the House Committee on Natural Resources, over both the Cobell settlement and another land policy, called land-to-trust, which dictates the procurement of land by the Interior Department that is then held in trust for tribes by the federal government, effectively creating a new parcel of reservation land not subject to state or local taxes or jurisdiction.

In a hearing on the Land Buy-Back Program in May, the House Subcommittee on Indian, Insular and Alaska Native Affairs questioned Cason on the efficacy of the program. Cason, who worked for the BIA under the George W. Bush administration, which fought hard against the Cobell Settlement, is now in charge of the buy-back program. **Cason told the subcommittee the program was not working to reduce fractionation, and suggested the funds be distributed to fewer tribes, especially those with cheaper land in rural areas."**

Testimony at a July hearing of a subcommittee for tribal affairs of the House Subcommittee on Indian, Insular and Alaska Native Affairs, Republican witnesses stated that **the process of taking land into trust under the Obama Administration for tribes recognized after 1934 was creating a hardship for local communities, though no evidence was supplied to support the claim,** as was pointed out by ranking Democrat Raúl M. Grijalva of Arizona, following the hearing.

In addition, **Interior Secretary Ryan Zinke has suggested that tribes should consider incorporating, which would help privatize tribal lands and reduce land held in trust by the federal government.**

### **Presidential Developments**

"Executive Order on Expediting the Environmental Review Process for Infrastructure Projects: CEQ Publishes Initial List of Actions," Hobbs-Straus, General Memorandum 17-052, October 20th, 2017, <http://www.hobbsstraus.com/general-memorandum-17-052>, reported, "On September 14, 2017, **the Council on Environmental Quality (CEQ) published its 'Initial List of Actions to Enhance and Modernize the Federal Environmental Review and Authorization Process.'** 82 Fed. Reg. 43226. CEQ developed this list in response to Executive Order 13807, captioned 'Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects.' 82 Fed. Reg. 40463 (Aug. 24, 2017). CEQ is not soliciting comments; rather, the notice is apparently for information only. The notice can be found here: <https://www.gpo.gov/fdsys/pkg/FR-2017-09-14/pdf/2017-19425.pdf>

**EO 13807 asserts that 'Inefficiencies in current infrastructure decisions, including management of environmental reviews and permit decisions or authorizations, have delayed infrastructure investments, increased project costs, and blocked the American people from enjoying improved infrastructure,' and concludes "the Federal Government, as a whole, must change the way it processes environmental reviews and authorization decisions." In its statement of policy, section 2 of EO 13807 calls for environmental reviews to be conducted in a**

**"coordinated, consistent, predictable, and timely manner" and sets a "goal of completing all Federal environmental reviews and authorization decisions for major infrastructure projects within 2 years."** EO 13807 can be seen as a more detailed iteration of EO 13766 of January 24, 2017. 82 Fed. Reg. 8657 (Jan. 30, 2017). (See General Memorandum 17-011 of January 27, 2017.)

**Agency Performance Accountability.** Section 4 of EO 13807 says that federal agencies should follow transparent and coordinated processes for conducting environmental reviews and making authorization decisions. These processes must include early and open coordination among Federal, State, tribal, and local agencies and early engagement with the public.' The concepts being promoted – transparency, coordination, early engagement – are not new. Indeed, these concepts have been key features of the federal environmental review process since 1978 when CEQ promulgated the regulations implementing the National Environmental Policy Act (NEPA). How well agencies actually integrate these concepts into their NEPA processes is, of course, subject to debate and varies from agency to agency. As a means of tracking federal agency progress in carrying out the policy set out in section 2, including the 2-year time frame for environmental reviews, section 4 directs the Office of Management and Budget (OMB), in consultation with the Federal Permitting Improvement Steering Council (FPISC), to develop a Cross-Agency Priority (CAP) Goal (pursuant to the Government Performance and Results Act (GPRA) Modernization Act of 2010) on Infrastructure Permitting Modernization. EO 13807 sets a 180-day time frame for OMB to develop this CAP Goal, after which OMB is directed to issue guidance for a performance accountability system for achieving the CAP Goal. All federal agencies are directed to revise their Strategic Plans and Annual Performance Plans to include agency performance goals consistent with the CAP Goal. Each major infrastructure projects, is to be tracked on the Permitting Dashboard: <https://www.permits.performance.gov/>.

**One Federal Decision.** To 'enhance' the environmental review and authorization process, and to achieve the 2-year timeframe, EO 13807 directs agencies to use a mechanism called 'One Federal Decision' for major infrastructure projects. The lead agency and all cooperating and participating agencies would, if practicable, incorporate the decisions of all of the agencies into a single Record of Decision (ROD). If a single ROD does not work, then the standard timeframe for any federal agency decision or authorization not incorporated into the ROD would be no more than 90 days after the ROD is issued. CEQ is directed, in consultation with the FPISC, to develop the framework for implementing One Federal Decision, including guidance for whenever the lead agency is a state, tribal, or local agency 'exercising an assignment or delegation of an agency's NEPA responsibilities.'

**CEQ's Initial List of Actions.** Section 5 of EO 13807 directs CEQ to develop an initial list of actions it plans to take "to enhance and modernize the Federal environmental review and authorization process." The EO sets out four objectives for the actions on the CEQ list:

(A) **ensure optimal interagency coordination** of environmental review and authorization decisions, including by providing for an expanded role and authorities for lead agencies, more clearly defined responsibilities for cooperating and participating agencies, and Government-wide applicability of NEPA decisions and analyses;

(B) **ensure that environmental reviews and authorization decisions involving multiple agencies are conducted in a manner that is concurrent, synchronized, timely, and efficient;**

(C) **provide for agency use, to the maximum extent permitted by law, of environmental studies, analysis, and decisions conducted in support of earlier Federal, State, tribal, or local environmental reviews or authorization decisions;** and

(D) **ensure that agencies apply NEPA in a manner that reduces unnecessary burdens and delays** as much as possible, including by using CEQ's authority to interpret NEPA to simplify and accelerate the NEPA review process.

CEQ's initial list, as published on September 14, includes five existing guidance documents that CEQ plans to review or supplement. CEQ also plans to review its regulations to identify possible changes. A CEQ handbook for infrastructure projects is also planned. Finally, CEQ will convene an interagency EO 13807 Working Group, which will address issues such as integrating requirements of other federal laws into the NEPA process."

## Congressional Developments

"Status of Several Key Items as the 1st Session of the 115th Congress Nears End," Hobbs Straus General Memorandum 17-056, November 20th, 2017, [https://secure.actblue.com/donate/tfp-petition?refcode=fr\\_2017.12.1\\_b1\\_TaxPlan\\_Actives&amount=25.00&recurring=12](https://secure.actblue.com/donate/tfp-petition?refcode=fr_2017.12.1_b1_TaxPlan_Actives&amount=25.00&recurring=12), reported, "In this Memorandum we provide the **status on several key legislative matters that are fighting for attention and floor time as the 1st Session of the 115th Congress ends in mid-late December. Congress is on recess during Thanksgiving week and will return on November 27. Any legislation not enacted in this Session will carry over to the 2nd Session of the 115th Congress which convenes in early January 2018.**

**FY 2018 Appropriations.** Federal agencies are currently receiving FY 2018 funding via a Continuing Resolution (CR), which by and large provides funds at FY 2017 levels and conditions. The CR extends through December 8, 2017, and failure to enact another CR or a regular FY 2018 omnibus appropriations bill by that date would result in a partial government shutdown.

**House Status.** On September 14, the House of Representatives **approved an omnibus FY 2018 appropriations bill (HR 3354)** consisting of all twelve appropriations bills. (See our General Memorandum 17-047 of September 18, 2017.) **There is not any expectation that this bill could pass the Senate.** Among its problems is that it would break the Budget Control Act's cap on defense spending by \$72 billion, contains many controversial legislative riders and would provide \$1.57 billion toward construction a wall on our Nation's southern border – provisions strongly opposed by most Congressional Democrats. Nevertheless, this is the House's position that will be conferenced with whatever the Senate approves. Our General Memoranda 17-039 of July 27, 2017, describes the provisions relating to the Indian Health Service (IHS) and 17-044 of August 25, 2017, describes the provisions relating to Indian Affairs (which includes the Bureau of Indian Affairs and Bureau of Indian Education).

**Senate Status.** The Senate Appropriations Committee has reported out eight of its twelve FY 2018 appropriations bills. Late today, two of the remaining four bills were released as a "Chairman's Mark". Those two bills are **Interior, Environment and Related Agencies and Financial Services**. We understand it is likely that these bills will not be marked up by the Committee but will nevertheless serve as something with which to conference with the House. We understand that a "Chairman's Mark" of the Defense and Homeland Security bills will be released later this week. In subsequent General Memoranda we will report in detail on the IHS and Indian Affairs provisions in the Chairman's Mark of the Interior, Environment and Related Agencies bill.

Time is very short time to reach agreement between the House and Senate on FY 2018 appropriations matters and another CR may be required. In order to make funding available above the current spending caps, the Budget Control Act will have to be amended prior to enactment of the appropriations bills.

**Children's Health Insurance Program (CHIP).** Funding for CHIP expired at the end of September 2017. CHIP provides health coverage to low-income children and pregnant women whose income exceeds Medicaid eligibility criteria and who have no health insurance. The Centers for Medicare and Medicaid has distributed some unallocated funds to selected states to keep their programs operating, but some states are now saying that they are getting close to having to shut down the program.

**House Status.** On November 3, 2017, the House approved, on a nearly party-line vote, a five-year CHIP reauthorization bill (HR 3922). Most House Democrats, while supporting the CHIP program, voted against the bill due to their objection to the funding offsets it contains. HR 3922 also contains extensions of other health programs, notably Special Diabetes Program for Indians (SDPI) and the Community Health Center program (see below).

**Senate Status.** On October 4, 2017, the Senate Finance Committee approved legislation (S 1827) to reauthorize the CHIP program for five years. However, it does not contain extension of other health programs such as SDPI and the community health centers nor does it contain the funding offsets of the House bill to which Democrats objected. The bill has not yet been considered by the full Senate.

**Special Diabetes Program for Indians (SDPI)/Community Health Center Funding.** The SDPI funding was set to expire at the end of September 2017 but Congress provided an additional 3 months of funding as part of the CHIP reauthorization bill (though December 31, 2017). As noted above, the House-approved CHIP bill includes an extension of other health programs. It includes a two-year (FYs 2018 and 2019) extension of SDPI at \$150 million per year (the current funding level) and a two-year extension for the community health centers whose funding expired at the end of September 2017. There is also a standalone House bill to extend SDPI through FY 2019 at the current rate of funding (HR 3917).

Most House Democrats, while supporting these health programs, voted against the bill due to their objection to the funding offsets it contains. On the Senate side, there is not yet a health extenders bill but the Senate Finance Committee circulated a draft bill, which unfortunately does not include SDPI. Standalone bills to extend SDPI through FY 2024 (with adjustments for inflation each year) have been introduced in the House (HR 2545) and Senate (S 747); however, no action has occurred on either bill.

**Veterans Choice Health Program.** The Veterans Choice Program allows veterans, under certain circumstances, to utilize non-Veterans Administration (VA) health care facilities, including tribally- and Indian Health Service (IHS)-operated facilities. Congress provided an infusion of funds for the program in this past summer which is expected to last only through December.

Following a recent period of anticipation that the House and Senate Committees on Veterans Affairs would markup Veterans Choice reform legislation, the effort has bogged down over issues of cost and whether the funding for non-VA provided health care should be mandatory or discretionary.

Given that the Veterans Choice Program is scheduled to run out of funding at the end of the year, an effort was made to add \$2.1 billion to a House veterans' bill dealing with VA facilities and leasing to keep the program afloat through FY 2018. However, the bill was pulled from floor consideration over cost concerns.

**Tax Reform.** Both the House and Senate tax reform efforts give scant consideration to tribal priorities. Further, both bills are projected to increase the federal deficit and could thus erode the amount of federal discretionary funding available to support federal trust and treaty obligations in the future. We understand that it is for these reasons that neither bill has gained the support of the National Congress of American Indians nor the Native American Finance Officers Association. The NCAI and NAFOA joint statement is attached.

**House status.** On November 16, the House approved their tax bill (HR 1) on a nearly party-line vote.

**Senate status.** On November 16, the Senate Finance Committee reported out their yet-to-be-numbered tax bill on a party-line vote. Included in the Committee's bill is a provision that would end the Affordable Care Act's required individual mandate to purchase health insurance. The Administration strongly supported the inclusion of this provision but over the weekend has softened its stance, indicating that the provision could be dropped from the bill if it would enable passage of the tax legislation. Finally, the Senate Energy and Natural Resources Committee has reported out a controversial provision to be wrapped into the Senate tax bill that would open a portion of the Arctic National Wildlife Reserve to oil and gas drilling.

**Infrastructure.** The Trump Administration has not developed a plan for addressing our nation's infrastructure needs even though it was a key part of President Trump's campaign. We do not expect Congress to consider an infrastructure proposal this year although appropriations bills do, as a matter of course, include infrastructure funding.

**Tribal Bills.** While the Senate Committee on Indian Affairs (SCIA) and the House Natural Resources Committee have reported out a number of bills, some tribal-specific and others more broadly applicable to Indian Country, getting floor time for them has proved elusive. The situation is similar for other committees' bills. In the Senate, for instance, considerable floor time now is mainly reserved for matters such as nominations, especially judicial nominations. Taxes, FY 2018 appropriations, disaster aid and the approaching debt ceiling will occupy much of the last month of the session. Nevertheless, it is worthwhile to advocate for the small amount of time it would take for consideration of non-controversial but substantive tribal bills.

We will continue to follow developments on these issues as Congress grapples with these issues during the last month of the session."

"House of Representatives Approves Bill to Expand Benefits to Tribal Veterans Cemeteries," Hobbs-Straus General Memorandum, November 8th, 2017, <http://www.hobbsstraus.com/general-memorandum-17-054>, reported, "On November 6, 2017, **the House of Representatives approved legislation, HR 3657, to extend to tribal Veterans Cemeteries the Veterans Administration benefit of providing, at no cost, head stones and markers for veterans' spouses and dependent children who are interred in tribal Veterans Cemeteries. This benefit is already available for eligible spouses and dependent children interred in state, territorial, and national Veterans Cemeteries.** The bill is sponsored by Representative Poliquin (R-ME) who attributes the Houlton Band of the Maliseet Indians in his Congressional District for bringing this issue to his attention.

Federally recognized tribes were not until relatively recently eligible to apply for the Veterans Cemetery Grants Program which was created in 1978 and provides funds for the development of state and territorial cemeteries. Public law 109-461, signed December 22, 2006, added tribes as eligible applicants for these grants. The process is quite rigorous for grant approval and receiving such a grant is a requirement for Veterans Cemetery status. Grantees must commit to own, operate and maintain a Veterans Cemetery in accordance with the National Cemetery Administration's Guidelines which include some tribal flexibility to reflect cultural issues. The required match is 10 percent of the construction costs associated with the cemetery. The program, currently funded at \$45 million for state, territorial, and tribal grants, is administered by the National Cemetery Administration.

There is considerable tribal interest in the Veterans Cemetery Grants Program. There are approximately ten officially designated and fully operational tribal Veterans Cemeteries, with another ten on a priority list.

**The next step is for Senate consideration of the legislation. At this point there is no Senate equivalent measure** although it is possible the Senate could take up the House-passed bill."

"Native American Energy Bill Approved by House Committee on Natural Resources," Hobbs-Straus General Memorandum 17-051, October 20th, 2017, <https://www.opencenter.org/contact/>, reported, "On October 3, 2017, the **House Committee on Natural Resources** by a vote of 25-15 **approved HR 210, the Native American Energy Act**, sponsored by Representative Young (R-AK). **HR 210 is nearly identical to his version of the legislation from the previous Congress.** That legislation was included in a broader energy bill that was passed by the House but ultimately not enacted due in part to a veto threat from President Obama as well as the House and Senate's inability to reach agreement on the content of a broad energy policy bill (see our General Memoranda 16-041 of June 27, 2016, and 15-068 of September 16, 2015). In the current Congress, the prospects for Representative Young's Native American Energy Act appear to be improved, whether or not there is a larger energy bill to serve as a vehicle to which the bill could be attached. HR 210 is different from S 245, which is Senator Hoeven's (R-ND) Indian energy bill. That bill was approved by the Senate Committee on Indian Affairs earlier this year and is nearly identical to Senator Barrasso's (R-WY) version from the previous Congress (see our General Memorandum 15-035 of May 11, 2015).

Summary. HR 210 is comprised of nine sections, the first of which is the short title "Native American Energy Act." **Section 2 of the bill would add a new section to the Indian Tribal Energy Development and Self-Determination Act of 2005 to reform the process for appraisals of Indian land. An appraisal could be done by the Bureau of Indian Affairs (BIA), the affected tribe, or by a third party pursuant to a contract with the tribe. If done by a tribe or tribe's contractor, after 60 days the appraisal would be deemed approved if not expressly disapproved by BIA. Tribes would also have the option of waiving the appraisal requirement. This section of the bill would apparently not be limited to transactions relating to energy resources but, rather, would apply to any 'transaction involving Indian land or the trust assets of an Indian tribe that requires the approval of the Secretary' of the Interior. Section 3 of the bill would direct the Secretary to ensure that all agencies within the Department of the Interior involved in review, approval, and oversight of oil and gas activities on Indian lands use a uniform system to track oil and gas wells.**



Section 4 of the bill would make a major change in the application of the National Environmental Policy Act (NEPA) to federal decisions regarding Indian land. NEPA is the federal statute that requires the preparation of an environmental impact statement (EIS) for any proposed federal action that would significantly affect the quality of the human environment. (An EIS is not required if an environmental assessment supports a finding of no significant impact, or if the proposed action is covered by a categorical exclusion.) NEPA is triggered by federal agency action; it applies to transactions relating to Indian trust or restricted land if the transaction requires action by the Secretary or another federal agency.

The change in the NEPA process that the bill would bring about is that, for any proposed federal action on Indian lands that does require an EIS, the EIS would only be made available for review and comment by: "(i) Indian tribes in the affected area and individual members of those tribes wherever they reside; (ii) Other individuals who reside in the affected area; and (iii) State and local governments within the affected area." This limitation on the availability of an EIS for review and comment would not apply if the proposed federal action regards an activity 'related to gaming under the Indian Gaming Regulatory Act.' Other than this exception, the limitation appears to apply to any proposed federal action 'regarding an activity on Indian lands.' Thus, despite the title of the bill, 'Native American Energy Act,' this change in the NEPA process is not limited to actions involving energy development. The Council on Environmental Quality would be directed to issue regulations to implement this change, including how to determine the "affected area."

Section 5 of the bill would establish sweeping limits on judicial review of any 'energy related action,' a term defined as a cause of action seeking judicial review of a federal agency action allowing: (1) a person or entity to conduct various kinds of activities relating to energy resources on Indian lands; or (2) an Indian tribe, 'or any organization of two or more entities, at least one of which is an Indian tribe,' to conduct such activities 'regardless of where such activities are undertaken.' The bill would set a 60-day deadline for filing a complaint, from the date of final agency action; require any such action to be filed in federal district court for the District of Columbia, which would be required to resolve the case in no more than 180 days; and allow appellate review only in the D.C. Circuit, which would be required to resolve any appeal in no more than 180 days. If a party challenging an 'energy related action' does not 'ultimately prevail, the court shall award' fees and expenses to any defendant-intervenor (e.g., a tribe), unless the court finds, based on the administrative record, that the plaintiff's position was "substantially justified or that special circumstances make an award unjust."

Section 6 of the bill would authorize a Tribal Biomass Demonstration Project. Section 7 would declare that any activity conducted pursuant to a tribal resource management plan or integrated resource management plan approved by the Secretary of the Interior shall be considered a sustainable management practice for purposes of any federal standard, benefit, or requirement. Section 8 would authorize the Navajo Nation to enter into certain categories of leases, including mineral extraction leases, without approval by the Secretary. Section 9 would prohibit the Department of the Interior from regulating hydraulic fracturing on Indian trust or restricted lands, except with consent of the Indian beneficiary. The bill does not include any provisions dealing with energy efficiency or conservation programs."

"MONTANA'S U.S. CONGRESSIONAL DELEGATION INTRODUCES RESOLUTIONS TO DESIGNATE NATIONAL DAY OF AWARENESS FOR MISSING AND MURDERED NATIVE WOMEN AND GIRLS," Cultural Survival, August 15, 2016, <https://www.culturalsurvival.org/news/montanas-us-congressional-delegation-introduces-resolutions-designate-national-day-awareness>, reported, "Montana U.S. Sens. Jon Tester and Steve Daines, along with Montana U.S. Rep. Ryan Zinke, have co-introduced resolutions in the U.S. Senate and House supporting the designation of May 5, 2017 as the "National Day of Awareness for Missing and Murdered Native Women and Girls." The resolutions honor the lives of missing and murdered American Indian and Alaska Native women and girls whose cases are documented and undocumented in public records and the media, and demonstrate solidarity with families of victims who have suffered the tragedy of losing a loved one through violence.

The resolutions strengthen awareness and education efforts by federal, state and tribal governments as well as agencies, coalitions and nonprofit organizations to end violence against women, and emphasize that little data exists on the number of missing American Indian and Alaska Native women in the United States. Canada's government has launched a national inquiry into First Nations women where nearly 1,200 Indigenous women and girls have been murdered or gone missing over three decades.

Toni Plummer-Alvernaz, executive director of the Montana Native Women's Coalition, said:

*'On behalf of the Montana Native Women's Coalition and the Native women we serve, we acknowledge the Montana Delegation and their staff for recognizing and finally acknowledging the many missing and murdered Native women throughout all of Indian Country. These resolutions in some way validate the hearts and assist in resolving the grief of all the Native families and communities who have Native women that are missing or murdered.'*

#### **What is next for S.Res.514 and H.Res.807?**

On June 28, 2016, **S.Res.514** was introduced and referred to the Senate Committee on the Judiciary. On July 5, 2016, **H.Res.807** was introduced by Rep. Zinke (and 14 congressional sponsors) and was referred to the House Committee on Natural Resources: Subcommittee on Indian, Insular and Alaska Native Affairs. Committee chairs will consider the resolutions and determine whether they will move past the committees to the House and Senate, leading to roll call votes.

The U.S. Department of Justice Office on Violence Against Women (DOJ-OVW), the Tribal Domestic Violence and Sexual Assault Coalition network, Native American nonprofits, advocates, activists and groups are all working to end violence on or near tribal reservations and communities, and in urban communities because of the alarmingly high rates of homicide, domestic and sexual violence, human trafficking, missing, and stalking among American Indian and Alaska Native women.

**First Nations Development Institute** is one of several hundred Department of Justice Office on Violence Against Women (DOJ-OVW) technical assistance providers that work with grantees through 24 OVW grant programs in the U.S. The DOJ-OVW grant programs are designed to develop the nation's capacity to reduce domestic and sexual violence, dating violence, and stalking by increasing victim/survivor safety and offender accountability. Looking ahead, First Nations will be monitoring the progress of the resolutions to share with our supporters.

#### **Call to Action**

**Click on this link to the National Indigenous Women's Resource Center (NIWRC) web page to help create a National Awareness Day for Missing and Murdered Native Women and Girls.**

NIWRC is dedicated to ending violence and increasing safety for American Indian and Alaska Native women and children. It offers resources addressing domestic violence and safety for American Indian and Alaska Native women. Resources are available online at [www.niwrc.org/resources](http://www.niwrc.org/resources)

#### **List of Resources**

The National Institute of Justice published, in May 2016, findings from the *National Intimate Partner and Sexual Violence Survey* (2010) with American Indian and Alaska Native (AI/AN) adult men and women about the prevalence of violence. The purpose of the report was to describe the lifetime and annual prevalence of violence experienced by AI/AN women and men. Data showed 55.5% of AI/AN women had experienced physical violence in their lifetime, and 43.25% of AI/AN men had experienced physical violence in their lifetime.

Statistical data and surveys like this are one step toward finding understanding about intimate partner violence and developing solutions, and they highlight the continued need for services with the goals of creating violence-free American Indian and Alaska Native communities.

To read the National Institute of Justice Research Report, **click here**.

Click on <http://www.niwrc.org/news/call-action-your-support-needed-create-national-day-awareness-missing-and-murdered-native-women> to press sources leading to the resolutions' development. Also, news stories are available here:

**Billings Gazette:** [http://billingsgazette.com/news/crime/montana-delegation-calls-for-awareness-after-crow-woman-s-death/article\\_709dac40-dc7c-5f59-80a9-1347cea9948c.html](http://billingsgazette.com/news/crime/montana-delegation-calls-for-awareness-after-crow-woman-s-death/article_709dac40-dc7c-5f59-80a9-1347cea9948c.html)

**KTVQ:** <http://www.ktvq.com/story/32330249/awareness-for-missing-and-murdered-native-women-and-girls-resolution-to-be-introduced-in-congress>

*A Full Report of the Prevalence, Incidence, and Consequences of Violence Against Women* by Tjaden and Thoennes, U.S. DOJ 2010, can be accessed through: <https://www.ncjrs.gov/pdffiles1/nij/183781.pdf>.

*A Roadmap for Making Native America Safer: A Report to the President & Congress of the United States* by the Indian Law and Order Commission can be found at: [https://firstnations.org/sites/default/files/A\\_Roadmap\\_For\\_Making\\_Native\\_America\\_Safer-Full.pdf](https://firstnations.org/sites/default/files/A_Roadmap_For_Making_Native_America_Safer-Full.pdf).

For a list of DOJ-OVW Grant Programs to End Violence Against Women, click here: <https://www.justice.gov/sites/default/files/ovw/legacy/2014/05/28/ovw-grant-programs-one-pager.pdf>.

A comprehensive list of Tribal Domestic Violence and Sexual Assault Coalitions can be obtained at: <https://firstnations.org/helpdesk/directory>.

To learn more about resolutions or bills affecting American Indian or Alaska Natives, visit: [www.govtrack.us](http://www.govtrack.us) and use the search box to find information on 'Native Americans.'

"NAHASDA Reauthorization Bills Introduced," Hobbs Straus General Memorandum 17-048, October 4th, 2017, <http://www.hobbsstraus.com/general-memorandum-17-048>, reported, "On September 28, 2017, Representative Pearce (R-NM), along with co-sponsors Moore (D-WI), Young (R-AK), Nolan (D-MN), Gabbard (D-HI), Hanabusa (D-HI), Heck (D-WA), Cole (R-OK), and McCollum (D-MN), **introduced HR 3864, legislation to reauthorize the Native American Housing Assistance and Self Determination Act (NAHASDA). A Senate bill, S 1895, a companion bill with nearly identical language, was introduced by Senate Committee on Indian Affairs Vice Chairman Udall (D-NM), along with co-sponsors Tester (D-MT); Franken (D-MN) and Schatz (D-HI).** Representative Pearce's press release is attached.

**Context.** The last NAHASDA reauthorization was in 2008, and that legislation expired in October of 2013. Despite the law's expired authorization, Congress has continued appropriating funding pursuant to it, as well as appropriating funding pursuant to many other expired and unrelated authorizations. In the two subsequent Congresses, the House – through a similar bi-partisan effort – was able to pass a NAHASDA reauthorization bill. However, each time, the reauthorization effort failed in the Senate due to opposition from a small number of Senators who used the Senate's procedural rules to block its consideration.

**HR 3864 and S 1895 are very similar to the NAHASDA bills that the House previously adopted and contain many of the provisions that tribes requested through the draft bill submitted by the National American Indian Housing Council in early 2013, including provisions setting timelines by which the Department of Housing and Urban Development (HUD) must act on certain requests as well as provisions simplifying the environmental review process when projects are built with several funding sources. Below we describe a handful of provisions which have garnered particular interest or may impact the legislation's chances of enactment.**

**Native Hawaiian NAHASDA.** Both bills contain language to continue to authorize funding of the Native Hawaiian NAHASDA provisions and loan guarantees. A small number of Senators consider these provisions to be controversial, and their inclusion in past NAHASDA bills was one of the main reasons that the legislation was not able to move through the Senate during the last two Congresses.

**Cherokee Freedmen issue.** There is no language in this bill regarding the Cherokee Freedmen, as there had been in previous years, since the issue has been resolved through the courts. (See our General Memorandum 17-046 of September 11, 2017.)

**Rep. Pearce's Alternative Privatization Demonstration Project.** This language appears in both the House and Senate bills. It has been included in the two previous House bills, and would establish a demonstration project, modeled on the Military Housing Privatization Initiative (MHPI). The underlying concept is to provide a mechanism to leverage NAHASDA funds to bring substantial private investment into Indian Country for the construction of homes and infrastructure, with the goal of building enough homes to meet all a participating tribe's affordable housing needs in a 24-month period. Participation in the demonstration project would be optional; however it would be an all-or-

nothing proposition: a tribe that opts in would be required to commit all of its Indian Housing Block Grant (IHBG) funding to the project.

**Indian Veterans' Housing Assistance Demonstration Project.** This provision appears in both bills (but with minor differences) and would authorize HUD to take up to 5 percent of the rental assistance amounts appropriated under the 1937 Act to establish an Indian Veteran-specific housing assistance voucher program for the benefit of Indian veterans who are homeless or at-risk of homelessness and who are residing on or near Indian lands. The program would be operated by IHBG recipients. This amendment builds on a demonstration project already under way with certain tribes that involves HUD and the Veterans Administration, termed HUD-VASH. The Senate NAHASDA bill incorporates language from a standalone HUD-VASH bill already marked up by the Senate Committee on Indian Affairs (S 1333) while House's NAHASDA bill contains slightly different HUD-VASH provisions. The most significant difference is that in the House bill, the vouchers could be used for veterans housed in Formula Current Assisted Stock (FCAS) units managed by a tribe or Tribally Designated Housing Entity (TDHE).

**Key Difference: Authorization Levels.** The most marked difference between the pending House and Senate bills is that the House bill would authorize \$650 million for the IHBG for each of the next five fiscal years, while the Senate bill would not set an authorization level. The Senate bill instead reads that Congress shall appropriate "such sums as may be necessary" (which is how NAHASDA currently reads). The practical effect of specifying a certain authorization level is that it would likely serve as a cap but not a floor on future IHBG appropriations. Both the House and Senate bills contain language that would cap the Section 184 loan guarantee program at \$12.2 million for the next five fiscal years.

**Second Senate Bill.** There is one other NAHASDA reauthorization bill: the BUILD Act (S 1275) introduced by Senate Committee on Indian Affairs Chairman Hoeven (R-ND) earlier this year. Like S 1895, the BUILD Act would: reauthorize NAHASDA for the next five fiscal years, avoid setting a cap on IHBG appropriations and cap the Section 184 program at \$12.2 million. The difference is that the BUILD Act contains only a few NAHASDA amendments and avoids any of the controversial provisions that might lead to the bill stalling (such as a continuation of the authorization for the Native Hawaiian NAHASDA provisions).

Mark Fogarty, "**Federal Indian Housing Money Not Going As Far As it Used To:** Members of Congress heard why the stalled bill HR 360, which re-authorizes NAHASDA and passed the House in 2015, should be a priority of lawmakers, ICTMN, August 10, 2017, <https://indiancountrymedianetwork.com/news/politics/federal-indian-housing-money-not-going-far-used/>, reported, "As the Native American Housing Assistance and Self Determination Act continues to languish without reauthorization, Congress got a report card on federal Indian housing programs. It also heard from Indian housing advocates that **the buying power of appropriated money has declined, and that fewer houses are being built in Indian country.**" **In 2017 the buying power of each appropriated dollar is about 30% less than it was in 1997.**

"In written testimony submitted to the panel, Heidi Frechette, deputy assistant secretary for HUD's Office of Native American Programs, detailed dollars appropriated for the HUD 184 and Title VI loan programs, the Indian Community Development Block Grant Program and the Indian Housing Block Grant program. As of June 30 of this year, Frechette reported that as of June 30, 2017, the HUD 184 program had guaranteed, since its inception, 38,585 mortgages to Indians on and off reservation totaling \$6.4 billion loans to individual Indians, tribes, and tribal housing entities. Under Title VI of NAHASDA, has guaranteed 98 loans for \$239 million had been guaranteed since the start of the program. Title VI loans generally are "project" loans for such things as infrastructure and roads. These projects resulted in 3,244 affordable housing units.

The I-CDBG, which in fiscal 2016 was applied to build 13 community buildings and rehab 325 affordable housing units, in the past five years it produced 159 community buildings and nearly 3,800 affordable housing units, while creating 922 jobs. Under Indian Housing Block Grants (IHBG), Frechette reported, "in fiscal year 2016, tribes built or acquired 563 affordable housing units using IHBG funds, and about 5,400 units were substantially rehabilitated. In addition, tribes operated, maintained, and renovated about 43,000 units of housing developed under the U.S. Housing Act of

1937.

Since the program's first year of funding in 1998, through fiscal year 2016, recipients built or acquired more than 38,000 units of affordable housing, and rehabilitated about 85,000 units." IHBG appropriations were also employed for other purposes, she said. "Since 2013, tribes have used IHBG funds to purchase almost 1,300 acres of land to develop affordable housing, and have provided down payment or closing cost assistance to more than 3,200 families."

"Bipartisan Group of Senators Reintroduce Bill to Provide Tribes with Dedicated Set-Aside from Crime Victims Fund," Hobbs-Straus General Memorandum 17-053, November 6th, 2017, <http://www.hobbsstraus.com/general-memorandum-17-053>, reported, "On September 27, 2017, **Senate Committee on Indian Affairs Chairman Hoeven (R-ND) re-introduced as S 1870, the Securing Urgent Resources Vital to Indian Victims Empowerment Act (SURVIVE Act), legislation to establish a dedicated funding stream for tribes from the Crime Victims Fund (CVF).** Joining as original co-sponsors were Senators: McCain (R-AZ); Heitkamp (D-ND); Cortez-Masto (D-NV); Franken (D-MN); Daines (R-MT); Tester (D-MT); and Barrasso (R-WY). This legislation provides a major opportunity for tribes: the provision of direct tribal access to the CVF.

The Victims of Crime Act has two formula grant programs, one focusing on crime victim compensation, the other on victim assistance. The compensation program provides financial assistance and reimbursement to victims for crime-related out-of-pocket expenses, such as health care, counseling, and lost income. The assistance program supports many victim assistance programs nationwide who provide services such as counseling, referrals, shelter and criminal justice support.

**Context.** Direct access has long been a priority for tribes and Indian organizations and it was a recommendation of the 2012 Attorney General's Task Force on Indian and Alaska Native Children Exposed to Violence. The first iteration of the SURVIVE Act was introduced in the previous Congress by then-Senate Committee on Indian Affairs Chairman Barrasso (R-WY) as S 1704, but ultimately not enacted. (See our General Memorandum 15-050 of July 10, 2015). The main difference between S 1870 and the previous iteration of this legislation is that S 1870 would make the Department of Justice Office for Victims of Crime the lead office to administer the tribal grants while previous version would have made the Bureau of Indian Affairs' Office of Justice Support the lead office.

**Current Structure.** The CVF is not funded through federal appropriations, but rather through the collection of fines and penalties via federal courts. Congress, in turn, decides how much of the fund can be allocated each fiscal year, most of which is distributed via formula to states for crime victim services and assistance. For FY 2017, there is \$2.57 billion available from the CVF. Currently, tribes may only access these funds by applying to states, and very little funding ends up going to tribes—usually only 0.7 percent or less per fiscal year—despite federal data indicating a disproportionate rate of need.

**Changes Proposed by the Bill.** The bill would instead allocate five percent of the available CVF funds per fiscal year to the Department of Justice Office for Victims of Crime to be administered in the form of a competitive grant program for tribes. Up to four percent of these funds could be utilized by the Office for Victims of Crime for administrative expenses, the management and administration of grants and training and technical assistance. No tribal match would be required.

**Key Timeframes.** The grant program authorized by S 1870 would be authorized for a ten-year period. Not later than 60 days after the bill's enactment, a notice initiating the Negotiated Rulemaking process would be required to be published in the FEDERAL REGISTER, with the process to be completed not later than 180 days after that publication and final regulations promulgated not later than one year after the bill's enactment. Not later than 60 days after the negotiated rulemaking is complete, a notice soliciting applications for grants would be required to be published in the FEDERAL REGISTER. Grant funds would be required to be disbursed not later than January 31 of each fiscal year. Grantees would have an additional five fiscal years after the fiscal year in which funds were awarded to obligate their awarded funds. At the end of this time period, any unobligated funds would be required to be returned and awarded to other grantees the following fiscal year.

**Growing Support—but Challenges Remain.** The issue of direct tribal access to the CVF continues to gain attention in Congress. Once again, Members of Congress, in addition to supporting stand-alone legislation to amend the Crime Victims Fund, are also working in parallel to include language in FY 2018 Appropriations bills to provide the tribal set-aside. The Senate Appropriations Committee's FY 2018 Commerce-Justice-Science appropriations bill S 1662 contains a five percent tribal set-aside. Prior to a vote on the House floor, the House's FY 2018 Omnibus appropriations bill had contained a five percent tribal set-aside. However, that language was dropped from the bill after House Judiciary Committee Chairman Goodlatte (R-VA) raised a point of order against it. We understand that Chairman Goodlatte argued that specifying a tribal set-aside from the fund would constitute legislating on an appropriations bill and that such a provision should instead be considered under the jurisdiction of his Committee. As of this writing, the federal government is operating under a Continuing Resolution that runs through December 8, 2017. Before that time, Congress will need to work out a deal on the terms and conditions for the remainder of FY 2018 or pass another Continuing Resolution. In FY 2017, tribal provisions had been included in both House and Senate appropriations bills but were somehow removed during the behind the scenes negotiations to craft the FY 2017 Omnibus. It remains to be seen whether this will happen again during FY 2018 negotiations. On October 25, 2017, the Senate Committee on Indian Affairs held a hearing on a trio of tribal justice bills, one of them being S 1870."

"Tribal Social Security Fairness Bills Introduced," Hobbs-Straus, General Memorandum 17-033, June 28th, 2017, <http://www.hobbsstraus.com/general-memorandum-17-033>, reported, "On June 7, 2017, **Senators Cantwell (D-WA) and Thune (R-SD) introduced a long-awaited solution to the inequitable treatment of tribal council members as S 1309 'The Tribal Social Security Fairness Act'.** S 1309 would modify Section 218 of the Social Security Act to permit tribal governments to enter into agreements, in the same way that state and local governments do, to elect to extend Social Security and Medicare benefits to tribal council members. The following day, Representatives Reichert (R-WA), Kilmer (D-WA), DelBene (D-WA) and Cole (R-OK) introduced the companion bill in the House as HR 2860.

The press release for The Tribal Social Security Fairness Act underscored the lack of access to Social Security retirement as particularly poignant: 'Tribal populations are at a significant disadvantage in preparing for retirement.' Sen. Cantwell stated, 'It is an injustice that due to a 60-year-old flawed interpretation of the tax code, [tribal council members] do not have the same access to Social Security as all other Americans.' Sen. Thune elaborated, 'This is a good-government bill that would put tribal governments on a level playing field with their non-tribal counterparts by giving them the option to pay into and receive benefits from the Social Security program, just like nearly every other working American is already able to do.'

The Social Security Act of 1935 and the Federal Insurance Contribution Act (FICA) impose certain taxes (Social Security and Medicare taxes) on employment relationships. These employment taxes apply to governmental employers differently than private employers. The Social Security Act originally exempted state and local governments from FICA tax. The exemption of state and local governments was based upon concerns that the federal government lacked constitutional power to impose the taxes on state and local governments. In 1950, Congress amended the Act to allow states to elect to provide coverage for public employees. Under so-called "Section 218" plans, states could elect FICA coverage for designated categories of employees. Before 1991, state and local government employees who were not covered by a Section 218 plan were excluded from Social Security coverage. After 1991, state and local government employees were included in Social Security unless they were either covered by a Section 218 plan or were members of a qualified public retirement system.

The Internal Revenue Service (IRS) does not treat Indian tribes as governments for purposes of FICA. States were defined by the Act to include "instrumentalities of a State... one or more political subdivisions of a State or... a State and one or more of its political subdivisions." The IRS has successfully argued that FICA applies to tribes, but that in applying FICA to tribes, they cannot be treated as states because FICA does not expressly reference tribes in the definition of a "state." Therefore, because tribes are not treated like states, tribes cannot elect coverage for specific classes of

employees under a Section 218 plan. Tribes likewise cannot decide whether Social Security coverage should apply to tribal workers through adoption of qualified tribal retirement plans.

Similarly, the rules relating to the classification of public or elected officials for employment tax purposes has also been different, and confusing, as between state and local governmental employers and tribal governmental employers. In 1959, the IRS sought to clarify the treatment of tribal elected officials. The IRS ruled that amounts paid to tribal council members for their services are not subject to FICA (Social Security and Medicare) taxes or income tax withholding (although they are includible in taxable income). Rev. Rul. 59-354, 1959-2 C.B. 24. The ruling unfortunately did not clarify employee classification issues and has created a patchwork of uneven and uncertain interpretation of how or whether FICA applies to appointed tribal officials, elected tribal officials, committee or commission members, and so on.

What is clear, however, is that Rev. Rul. 59-354 has made tribal council members ineligible for Social Security benefits with respect to their tribal council service. Because amounts paid to tribal council members are not subject to FICA taxes, they are receiving no credits toward Social Security and Medicare benefits while their state and local counterparts are contributing to, and accessing, Social Security benefits.

Tribes and tribal organizations have been seeking an answer to this problem with Treasury, IRS and the Social Security Administration (SSA) for a number of years. The IRS Indian Tribal Governments division has looked into an administrative resolution over the past several years, including directed interagency meetings between Treasury, IRS and SSA. Unfortunately, the agencies concluded that there was not an administrative resolution and that a legislative fix was necessary. Treasury and IRS, in fact, informed Congressional representatives of the issue and the need for legislative answers. The Tribal Social Security Fairness Act is just such a fix and would remedy decades of inequitable treatment of tribal citizens' access to the Social Security system."

Renae Ditmer, "Native Voices Ignored as House Committee Ponders Changes to Indian Trust Land Policy: 'We should have a higher standard for Native American policy hearings than a panel of non-Native witnesses with axes to grind,' says Rep. Raúl Grijalva (D-AZ)," ICTMN, July 26, 2017, <https://indiancountrymedianetwork.com/news/politics/native-voices-ignored-house-committee-ponders-changes-indian-trust-land-policy/>, reported, "The generally nonpartisan Subcommittee on Indian, Insular and Alaska Native Affairs took a sharp turn to the right at its July 13 oversight hearing, entitled, *Comparing 21st Century Trust Land Acquisition with the intent of the 73rd Congress in Section 5 of the Indian Reorganization Act.*"

**The hearing, at which only one of the four witnesses was an Indian, was supposed to be informational on the committee considering a fix to the problem raised in the Supreme Court decision of *Carciere v. Salazar*. The court had held that the Secretary of the Interior's "exceptionally broad authority to acquire land in trust for Indians" applies only to tribes "recognized and now under federal jurisdiction" as of 1934. While the Obama administration had interpreted "recognized and now under federal jurisdiction" to allow the Secretary to continue to place land into trust for tribes recognized after 1934, and no federal court had acted contrary to that interpretation, many, including some tribes, believed Congress needed formally extend such authority.**

**Subcommittee Chairman Doug LaMalfa (R-CA), took a position opposed to that of the Obama administration on interpreting "recognized and now under federal jurisdiction", asserting that "...the Secretary may no longer use the IRA to acquire trust land for any post-1934 tribe without specific authorization from Congress."**

**Noting LaMalfa's approach, ranking member of the Natural Resources Committee Raúl Grijalva (D-AZ) characterized the hearing instead as an attempt to attack tribal sovereignty and self-determination by questioning the legitimacy of tribes that have received federal recognition since 1934, and by extension, their ability to acquire land to place into trust.**

Grijalva commented, "This hearing isn't even an attempt to seek information – it's a forum for repeating anti-Native talking points," Grijalva said, adding that House Natural Resources] Chairman Rob Bishop (R-UT) 'has a long history of opposing tribal sovereignty and attempting to weaken federal recognition for Native Americans.'"

**The Senate Committee on Indian Affairs held hearings in Santa Fe, NM, in July 2018, considering whether to toughen the penalties and enforcement of the Native American Arts and Crafts Act (ICWA), in response to many Native artists complaints of the sales of fake Indian art using traditional designs** (Megan Bennett, "Senators urge crackdown on fake native art," *Albuquerque Tribune*, July 8, 2017).

### **Federal Agency Developments**

"OMB Issues Clarifications to the Uniform Guidance and Also Requests Comments on 2017 Changes to the Single Audit Act," Hobbs-Straus General Memorandum 17-042, August 15th, 2017. <http://www.hobbsstraus.com/general-memorandum-17-042-0>, reported, "On July 24, 2017, the **Office of Management and Budget (OMB) released an updated listing of the Frequently Asked Questions (FAQ) that accompany the regulations found at 2 CFR Part 200 for the Uniform Guidance (UG)**. These FAQ largely clarify earlier topics covered by the UG. Examples include: clarification of the difference between indirect costs and administrative costs; calculating total direct costs; allowability of certain rental costs; calculating non-federal shares in awards; indirect cost issues with pass through entities; and, documentation for indirect cost rates and de minimis rates, among other topics. OMB is also extending the time period for an additional year for non-federal entities to bring their procurement policies in line with the UG. A link to the updated FAQ can be found at: <http://files.constantcontact.com/eed4cac7201/255cfbae-2b3f-418d-976c-ac9...>

On August 14, 2017, **OMB also published a notice of availability of the 2017 Single Audit Act requirements**. We recommend that you share this Single Audit Act Supplement with your outside auditors, as the standards will impact the fieldwork they conduct as part of the annual audit. Comments can be submitted through October 31, 2017. Of particular note is that the 2017 Supplement is extended to cover grant programs under the "477 Program Cluster" which include a range of Indian education, social service, family assistance, and training grants. A link to this Supplement can be found at: <https://www.federalregister.gov/documents/2017/08/14/2017-17054/uniform-...>

**"Interior Announces Revised Strategy, Policies to More Effectively Reduce Fractionation of Tribal Lands,"** U.S. Department of the Interior, July 31, 2017 Contact: [Interior\\_Press@ios.doi.gov](mailto:Interior_Press@ios.doi.gov), [www.doi.gov](http://www.doi.gov), announced, **"Following extensive analysis and feedback received from tribal leaders and American Indian landowners, the Department of the Interior today announced a revised strategy for the consolidation of fractional land interests through the Land Buy-Back Program for Tribal Nations (Program). The strategy, which will more effectively allocate the remaining Program funds to reduce the maximum amount of fractional interests, includes a revised schedule for implementation, as well as new opportunities for tribal governments to use the Program's tools and systems to facilitate their own land consolidation initiatives.**

The Program implements the land consolidation component of the *Cobell* Settlement, which provided \$1.9 billion to purchase fractional interests in trust or restricted land from willing sellers at fair market value. Interests consolidated through the Program are restored to tribal trust ownership. Since the Program began making offers in December 2013, about \$1.2 billion has been paid to landowners at 45 locations, more than 700,000 fractional interests have been consolidated, and the equivalent of over 2.1 million acres of land has been transferred to tribal governments. As a result, tribal ownership now exceeds 50 percent in almost 14,000 tracts of land, which strengthens tribal sovereignty and self-determination, and allows for investments in tribal infrastructure and community projects.

Under the direction of new Departmental leadership, the Program has undergone a full review to determine how best to allocate the remaining \$540 million to maximize the interests consolidated –



the purpose specifically set forth in the *Cobell* Settlement. That strategic analysis included how to make the most effective use of the Administrative Fund to facilitate the Program, as well as additional measures to address land fractionation.

'The revised strategy announced today maximizes the remaining dollars left for the implementation of the Buy-Back Program and seeks to achieve the greatest reduction of fractional interests, the largest number possible of landowners able to participate, and the most effective use of the Department's resources,' said Associate Deputy Secretary James Cason. 'However, while the Department is doing what it can to improve the Program, it is clear Congress has a role as well. We continue to look to congressional leaders for long-term solutions to address the problem of fractionated lands.'

'As someone who has been involved with this Program since its inception, this significant policy shift announced today is responsive to the tribal feedback we have received over the past several years,' added Acting Assistant Secretary – Indian Affairs Michael S. Black. 'Tribal input and involvement has been a cornerstone of Program implementation. I see that continuing and know that we must work together on many fronts to address the fractionation of tribal lands.'

Fractionation affects nearly 11 million acres of land across Indian Country, preventing beneficial uses of significant resources and creating an overly complicated land tenure status where single tracts of land, like those at Navajo Nation, have more than 1,200 landowners. When tracts have multiple owners, it is difficult to obtain the required approvals for leases or other uses of these lands. As a result, many tracts are unoccupied and unavailable for any purpose.

#### **REVISED IMPLEMENTATION STRATEGY**

Over the past several months, **the Program has undergone a thorough analysis that took into consideration tribal feedback received through the open comment period** announced in the *Federal Register*, during multiple meetings the Department engaged in, and at the Program's 2017 Listening Session (transcript and presentation available online at: <https://www.doi.gov/buybackprogram/about/past-presentations>). **The analysis also reviewed opportunities to leverage government resources and reduce administrative costs in Program implementation, especially as it relates to the management of small fractional interests. This would allow more resources to be used for land consolidation.**

**Based on several key factors, Interior then developed a revised process for determining on which ownership interests to make purchase offers. Those factors included: severity of fractionation; appraisal complexity; degree of ownership overlap between locations or geographic proximity; tribal readiness; past response rate; and cost and efficiency (including land value).**

With these factors in mind, the Department developed a revised schedule to implement the Program at the following locations (in alphabetical order):

|           |           |          |         |              |
|-----------|-----------|----------|---------|--------------|
| Blackfeet |           |          |         | (Montana)    |
| Bois      |           | Forte    |         | (Minnesota)  |
| Cheyenne  | and       |          | Arapaho | (Oklahoma)   |
| Cheyenne  | River     |          | (South  | Dakota)      |
| Crow      |           |          |         | (Montana)    |
| Fond      | du        |          | Lac     | (Minnesota)  |
| Fort      |           | Belknap  |         | (Montana)    |
| Fort      | Berthold  |          | (North  | Dakota)      |
| Fort      |           | Peck     |         | (Montana)    |
| Navajo    | (Arizona, | New      | Mexico, | Utah)        |
| Northern  |           | Cheyenne |         | (Montana)    |
| Pine      | Ridge     |          | (South  | Dakota)      |
| Rosebud   |           | (South   |         | Dakota)      |
| Santee    |           | Sioux    |         | (Nebraska)   |
| Skokomish |           |          |         | (Washington) |
| Spirit    | Lake      |          | (North  | Dakota)      |
| Standing  | Rock      | (North   | and     | South        |
| Umatilla  |           |          |         | Dakota)      |
|           |           |          |         | (Oregon)     |

The Program will continually assess progress and may revise the schedule or add locations as capacity and resources allow, depending on the results achieved. Because effective planning and coordination take many months, the Program will begin the process to educate landowners and build cooperative working relationships with land staff. A Program representative will contact each Tribe at the initial stages of planning for implementation.

#### **LEVERAGING RESOURCES FOR TRIBAL USE**

In addition to the revised schedule, Interior also announced several policies, which reflect the Department's consideration of tribal comments, to better leverage Program resources, facilitate greater efficiencies, and increase opportunities to consolidate fractional interests, including:

**Facilitating tribal and co-owner purchases.** In response to tribal feedback, the Program is evaluating its ability to facilitate tribal and co-owners purchases. This includes working to make certain information, such as mapping and land appraisals, more readily available. This may help tribes direct their own resources to reduce fractionation and manage tribal land. It may also facilitate individual landowner purchases. The Program would look to prioritize some appraisal and other acquisition efforts on tracts where tribes will use tribal funds to make purchase offers on interests, and next on tracts where individual owners will use their funds to make purchase offers on co-owner interests. The Program anticipates announcing more information on these matters in the next few months.

**Maximizing use of appraisals.** Initially, the Program established an appraisal validity period of up to 9 months. Many tribal leaders urged Interior to consider a period of up to 12 months. The Program will now strive to utilize mass and project appraisals for up to 12 months, as long as appropriate market conditions exist when such appraisals are issued and thereafter. This approach seeks to maximize the time available to leverage the appraisals.

**Streamlining agreements with tribes.** The Program revised the cooperative agreement process to clarify the funding parameters for tribes and to ensure that the maximum amount of funding goes to land consolidation. **Revised acquisition approach.** To further maximize the remaining funding, the Program has developed an offer approach focused on acquiring: 1) ownership interests in all Mineral (M) tracts determined to have no current economically viable mineral value; and 2) interests that are less than 25 percent of the ownership in Surface (S) and Both (B) tracts. (Mineral tracts have ownership rights only to minerals or other resources below ground, while Surface tracts have ownership rights only to the land surface of tracts. Category 'Both' tracts have ownership rights to the land surface and minerals below ground.) Resources permitting, the Program will also look to give priority to those tracts or interests where tribes or individuals are committed to using their own funds to acquire fractional interests.

**Extending purchase offer timing.** Previously, purchase offers were valid for 45 calendar days from the date of the offer cover letter. Tribes and landowners requested a longer review period. The Program has extended the due date from 45 days to 60 days to allow landowners more time to make an informed decision about their land.

**RESOURCES FOR LANDOWNERS** All interested landowners are encouraged to call the Trust Beneficiary Call Center (Call Center) at 888-678-6836 to indicate that they are interested in potentially selling their land and/or to update contact information. Registering as a willing seller does not commit a landowner to selling land, nor does it guarantee an offer will be extended; it merely identifies interest to help advance planning as additional locations are added to the schedule.

Landowners can also contact the Call Center or visit their local OST office to ask questions about their land or purchase offers, and learn about financial planning resources. More information and detailed frequently asked questions are available at <https://www.doi.gov/buybackprogram/FAQ> to help individuals make informed decisions about their land.

Office of Public Affairs - Indian Affairs, Office of the Assistant Secretary - Indian Affairs, U.S. Department of the Interior, 1849 C St., N.W., MS-4004-MIB, Washington, D.C. 20240, Main Phone: 202-208-3710, Press Line: 202-219-4152, [as-ia\\_opa@bia.gov](mailto:as-ia_opa@bia.gov).

"Department of Interior Schedules Additional Listening Sessions on the Licensed Indian Traders Regulations," Hobbs-Straus General Memorandum 17-040, August 11th, 2017, <http://www.hobbsstraus.com/general-memorandum-17-040>, reported, "

On July 28, 2017, the **Department of Interior circulated the attached 'Dear Tribal Leader' letter** from Deputy Assistant Secretary for Policy and Economic Development Dr. Gavin Clarkson **seeking further input on 'the need to update the 'Licensed Indian Traders' regulations.'** The letter reports that the Department received comments from 37 tribes and eight tribal organizations in response to the Advanced Notice of Proposed Rulemaking (ANPRM) published in the FEDERAL REGISTER on December 9, 2016. (See our General Memoranda 16-077 of December 22, 2016.) The July 28 letter requests additional comments from tribes on the Indian Trader regulations and sets the following dates and locations for a series of "listening sessions and Tribal consultations":

- August 17 – Albuquerque, NM
- August 22 – Portland, OR
- August 24 – Anchorage, AK
- August 28 – Salamanca, NY (Seneca Allegany)
- August 29 – Green Bay, WI

In particular, the Department seeks further comment and documentation of jurisdictional conflicts that impede tribal business development and economic development. The letter requests tribal comments and information in three areas:

- (1) projects that have been constrained or cannot be carried out due to burdensome regulatory requirements (and that would move forward if there were greater regulatory flexibility);
- (2) economic impact studies showing benefits of tribal economic development on surrounding communities; and
- (3) treaty provisions requiring the United States to protect tribal economic interests.

Comments are due August 30, 2017."

"Native American Title VI Older Americans Act Grants for Medicare Outreach," Hobbs-Straus General Memorandum 17-035, June 28th, 2017, <http://www.hobbsstraus.com/general-memorandum-17-035>, reported, "

**"The Administration for Community Living (ACL) in the Department of Health and Human Services is soliciting grant applications from current grantees of the Older Americans Act Title VI Native American Programs for providing assistance to eligible persons in accessing Medicare programs.** ACL has \$270,000 available for this grant announcement via the Medicare Improvements for Patients and Providers Act. The deadline for applications is August 15, 2017.

The ACL notice was published June 28, 2017, *FEDERAL REGISTER* and can be found here: <https://www.federalregister.gov/documents/2017/06/28/2017-13530/availabi...>

The specific programs about which the grantee is to provide outreach and application assistance are:

- Low Income Subsidy Program
- Medicare Savings Program
- Medicare Part D
- Medicare Prevention and Screenings.

Grantees are to "coordinate at least one community announcement and one community outreach event to inform and assist" eligible persons. Grant amounts will depend on the number of applications received and availability of funds."

**In August, EPA was reconsidering whether to pay farmers and businesses in Colorado, New Mexico and Utah for losses resulting from the Gold King Mine waste spill in Colorado in 2015. But even if EPA does decide to pay damages, it was unclear how much the Republican dominated Congress would appropriate for that purpose (EPA to reconsider mine spill claims," Albuquerque Journal, August 5, 2017).**

"Departments of Commerce and Transportation (Agencies) Seek Comments on Direct Tribal Participation in the 911 Grant Program," Hobbs-Straus General Memorandum 17-050, October 4th, 2017, <http://www.hobbsstraus.com/general-memorandum-17-050>, reported, **"The National Telecommunications and Information Administration and the National Highway Traffic Safety Administration are seeking comments on proposed rulemaking to modernize the 911 grant program pursuant to the Next Generation 911 (NG911) Advancement Act of 2012 (Act). The Act included tribal eligibility for grants but no funding had been available for the program since 2009.** In 2016, \$115 million from the auction of spectrum was made available for the 911 grants. Hence, the Agencies are now updating the regulations for the upcoming round of grants. Any 911 grant funding tribes received in the past would have come through the state.

The deadline for receipt of comments is November 6, 2017. The notice of proposed rulemaking published in the September 21, 2017, FEDERAL REGISTER can be found here: <https://www.gpo.gov/fdsys/pkg/FR-2017-09-21/pdf/2017-19944.pdf>

Under the 911 grant program Public Safety Answering Points (PSAPs) serve as centers to answer emergency calls for police, firefighting and ambulance services. The Agencies note that most state and local jurisdictions are now ready to transition to the NG911 infrastructure as envisioned by the 2012 law referenced above so that "citizens, first responders and 911 call-takers can use IP-based, broadband-enabled technologies to coordinate emergency responses."

The proposed regulations would allow Tribal Organizations to directly apply for 911 grant program funds (if other statutory criteria are met), while retaining the current framework under which states can apply for funding on behalf of all entities within their jurisdiction. The Agencies recognize tribal sovereignty and note that tribes do not currently receive adequate funding to improve their PSAPs and note the difficulties faced by tribes whose jurisdiction crosses state lines. Specifically, the Agencies are seeking feedback on the following matters:

**1. If the 911 grant program were open to Tribal Organizations directly, would tribal PSAPs be able to meet the application requirements provided in proposed 47 CFR 400.4, including statutory requirements such as the matching requirement and non-diversion certifications? What would be the challenges with providing the necessary certifications, if any?**

**2. Tribal Organization applying for a 911 program grant must identify the designated State 911 Coordinator(s) and provide certifications that the Tribal Organization has not diverted designated 911 charges. What would be the challenges associated with providing this information, if any?**

**3. Do the tribal PSAPs collect 911 surcharge fees and/or receive State provided 911 surcharge funds? If so, are Tribal Organizations able to certify that tribal sub-entities are not diverting 911 surcharge fees?**

**4. What other tribal PSAP issues or challenges should the agencies consider when determining how to involve tribal entities in this grant program?**

**Also requested is feedback on whether a formula-based approach for Tribal Organization grants is the most equitable way to distribute grants funds.** Under the proposal the cap on tribal grants would be \$250,000 and it would be based on a ratio of 50 percent population and 50 percent road mileage. This is the same formula used for states whose maximum grant is \$500,000. The Agencies would be authorized to allocate 2 percent of available grant funds to tribal organizations.

**'Tribal Organization' would be defined as provided in the Act:**

Tribal Organization means the recognized governing body of any Indian tribe; any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities; Provided, that in any case where a contract is let or grant made to an organization to perform services benefiting more than one Indian tribe, the approval of each such Indian tribe shall be a prerequisite to the letting or making of such contract or grant."

"Waters of the United States: Army Corps and EPA Publish Proposed Step 1 Rule," Hobbs-Straus General Memorandum 17-041, August 11th, 2017, <http://www.hobbsstraus.com/general-memorandum-17-041>, reported, "On July 27, 2017, the **Army Corps of Engineers (Corps) and the Environmental Protection Agency (EPA) jointly published a proposed rule on the definition of 'Waters of the United States' for purposes of the Clean Water Act (CWA)** (attached). 82 Fed. Reg. 34899. **This proposed rule is the first step in a planned two step rulemaking process as directed by Executive Order 13778, 'Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the 'Waters of the United States' Rule'** (Feb. 28, 2017), 82 Fed. Reg. 12497 (Mar. 3, 2017). **Step 1 would reinstate the regulatory text as it was before having been revised in 2015**, in effect rescinding the final rule promulgated during the Obama Administration. 80 Fed. Reg. 37054 (June 29, 2015). **In Step 2, the agencies will consider making substantive changes in light of court rulings, and they have indicated that they will engage in tribal consultation at that point.** The deadline for filing comments on the Step 1 proposed rule is August 28, 2017.

Significance of 'Waters of the United States.' While the term 'waters of the United States' (often referred to as "WOTUS") is not defined in the statutory text of the CWA, the term is key in determining the extent of the federal government's regulatory jurisdiction under the CWA. **The CWA prohibits the discharge of any pollutants, including any dredged or fill material, into 'navigable waters,' unless the discharge is authorized pursuant to the Act.** 33 U.S.C. §§ 1311(a), 1362(12). The term 'navigable waters' is defined in the statute as 'waters of the United States, including the territorial seas.' Id. § 1362(7). The term 'navigable waters' has long been understood to include many kinds of waters that are not navigable in fact. As discussed in the preamble of the proposed Step 1 rule, much of the regulatory framework has been in place since 1977. **The proposed Step 2 rule would result in a reduction in the scope of CWA regulatory jurisdiction, especially with respect to wetlands.**

The **definition of 'waters of the United States' affects the implementation of CWA programs on tribal lands and lands upstream of tribal waters, including section 303, which calls for states and tribes treated like states to adopt water quality standards (WQS); section 401 certification of compliance with WQS, under which tribes can seek accommodation for environmental and cultural values within a federal permit; section 402 National Pollutant Discharge Elimination System permits, which regulate discharges of pollutants that may directly or indirectly reach jurisdictional waters; section 404 permits, which regulate the discharge of dredged or fill material into waters, including wetlands; and section 311, which requires oil spill response and prevention plans.**

EPA has the lead role in administering most provisions of the CWA. The Corps, however, is charged with the lead role in administering the section 404 permit program, although EPA has authority to prohibit discharges at certain sites to avoid unacceptable effects. States have major roles in the CWA, and tribes can become authorized by EPA to be treated like states.

Supreme Court Opinions. In a 1985 decision, the Supreme Court deferred to the judgment of the Corps and upheld the inclusion of adjacent wetlands in the regulatory definition of WOTUS. *United States v. Riverside Bayview Homes*, 474 U.S. 121 (1985). Two subsequent Supreme Court decisions, however, ruled that there are some limits to the scope of federal jurisdiction over waters. In *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers*, 531 U.S. 159 (2001) (SWANCC), the Court held that isolated intrastate ponds were not subject to CWA jurisdiction. In determining the scope of CWA jurisdiction over waters that are not in fact navigable, the majority opinion introduced the concept of "significant nexus" to waters that are navigable in fact.

The next Supreme Court decision was *Rapanos v. United States*, 547 U.S. 715 (2006), a decision without a majority opinion. Justice Scalia authored a plurality opinion (joined by three others) and announced the judgment of the Court. Justice Kennedy provided the decisive fifth vote and wrote an opinion concurring in the result. For Justice Kennedy, the test for the reach of federal jurisdiction under the CWA, as the Court held in SWANCC, is that "a water or wetland must possess a 'significant nexus' to waters that are or were navigable in fact or that could reasonably be so made." Id. at 759. The Scalia opinion did not apply this test. Rather, as summarized in the preamble to the Step 1 proposed rule, the plurality interpreted WOTUS as "covering 'relatively permanent, standing or continuously

flowing bodies of water' that are connected to traditional navigable waters, as well as wetlands with a 'continuous surface connection' to such water bodies." 82 Fed. Reg. at 34900.

*Post-Rapanos* Developments. The agencies issued a guidance document in 2008, and then conducted a rulemaking process, which culminated in the 2015 final rule. Numerous lawsuits followed. In one case, the Sixth Circuit Court of Appeals issued a nationwide stay of the 2015 rule pending the outcome of judicial review. The issue of whether the Court of Appeals has original jurisdiction is currently pending before the U.S. Supreme Court.

*The Step 2 Rule.* Executive Order 13778 directs the agencies, through rulemaking, to "consider" defining the term "navigable waters" in a manner consistent with Justice Scalia's opinion in *Rapanos*. The agencies plan to do that in the Step 2 proposed rule. They say that they "will appropriately consult with tribal officials during the development of a subsequent rulemaking that makes changes to the longstanding definition of 'waters of the United States.'"

In the Step 1 proposed rule, the agencies are not seeking comment on any substantive issues. Rather, they are only seeking comments on their plan to re-codify the pre-2015 regulatory text."

"FHWA Soliciting Grant Applications for Tribal Transportation Safety Funds," Hobbs-Straus General Memorandum 17-049, October 4th, 2017, <http://www.hobbsstrauss.com/general-memorandum-17-049>, reported, **"The Federal Highway Administration (FHWA) at the Department of Transportation (DOT) has published a notice in the *FEDERAL REGISTER* soliciting grant applications from tribes for FY 2017 and FY 2018 Tribal Transportation Safety Funds (TTSF).** The most recent transportation reauthorization, the Fixing America's Surface Transportation (FAST) Act, established the TTSF as a set-aside of not more than two percent of the funds made available each fiscal year under the Tribal Transportation Program (TTP). The intent of the TTSF is to prevent and reduce deaths or serious injuries in transportation-related crashes on tribal lands. Since the TTSF grant cycle is nearing a one-year lag in application and funding, FHWA has made the decision to combine the FY 2017 and FY 2018 grant years in one application cycle, essentially creating twice the funding for this year's cycle. The deadline to submit applications is December 11, 2017.

**The FAST Act established a list of eligible projects, of which there are three categories: (1) safety plans; (2) data assessment, improvement, and analysis activities; and (3) infrastructure improvements.** A full list of eligible projects can be found in the FEDERAL REGISTER notice: <https://www.gpo.gov/fdsys/pkg/FR-2017-09-21/pdf/2017-20111.pdf>

Federally recognized tribes are the only entities eligible to apply for the TTSF. This restriction, however, does not preclude a tribe from partnering with a non-tribal entity to submit an application. Although no cost sharing or match is required, if the total amount of funding requested for "highly qualified" or "qualified" applications exceeds the amount of available funding, FHWA will give priority consideration to those projects that can show that other funding sources will be committed to complement the TTSF funding request. Further information on this grant opportunity, including a link to the application, can be found in the FEDERAL REGISTER notice."

"IRS Issues Interim HEARTH Act Guidance for 'Direct-Pay' Leases," Hobbs-Straus General Memorandum 17-034, June 28th, 2017, <http://www.hobbsstrauss.com/general-memorandum-17-034>, reported, "On June 8, 2017, the **Internal Revenue Service (IRS) issued interim guidance to clarify that a per capita distribution of trust income earned by an Indian tribe from a 'direct-pay' lease (such as those executed pursuant to tribal regulations under the HEARTH Act) is not taxable to the tribal member receiving the distribution.** Attached is a copy of the IRS' interim guidance memorandum from IRS' Indian Tribal Governments Director Christie Jacobs.

As the Department of Interior describes, the Helping Expedite and Advance Responsible Tribal Home Ownership Act of 2012 (the HEARTH Act), 'creates a voluntary, alternative land leasing process available to tribes by amending the Indian Long-Term Leasing Act of 1955, 25 U.S.C. Sec. 415. Under the Act, once their governing tribal leasing regulations have been submitted to, and approved by, the Secretary of the Interior, tribes are authorized to negotiate and enter into leases without further approvals by the Secretary.'

The interim guidance relies upon IRS Notice 2015-67, which clarified that per capita distributions made to tribes from funds held by the Secretary of the Interior as part of a tribal trust account are excluded from the gross income of tribal members. In 2016, the IRS issued 'Interim Guidance on the Direct Pay of Tribal Lease Funds', to clarify that the tax exemption for per capita distributions of trust income also applies when the source of the per capita distribution is income received by a tribe pursuant to a Bureau of Indian Affairs-approved direct payment from the lessee. The 2016 guidance did not, however, expressly extend the guidance to direct income earned from leases executed under the HEARTH Act.

Tribal representatives urged clarification extending IRS Notice 2015-67 to HEARTH Act lease income. The IRS and Treasury Department held a listening sessions with tribal representatives on this issue in December 2016. The interim guidance achieves the thrust of the requested clarification and treats the per capita distribution of direct-pay HEARTH Act lease income in accordance with IRS Notice 2015-67."

"Upcoming Deadline for Tribes to Register for the Local Update of Census Addresses," Hobbs-Straus General Memorandum 17-055, November 17th, 2017, <http://www.hobbsstraus.com/general-memorandum-17-055>, reported, **"The Local Update of Census Addresses (LUCA) program is a geographic partnership program that provides governments, including tribal governments, the opportunity to review the Census Bureau's address list for their communities and to provide updates to those addresses prior to the 2020 Census. LUCA is a once a decade opportunity for tribal governments to fix outdated data that could lead to undercounting or other errors by the Census Bureau and American Community Survey.** The deadline for tribal governments to register to participate is December 15, 2017.

LUCA is a voluntary program, but it helps the Census Bureau get a clearer view of where people live so the agency can get a more accurate count. The LUCA program is authorized by the Census Address List Improvement Act of 1994 (Public Law 103-430), which provides an opportunity for designated representatives of tribal, state, and local governments to review the Census Address List. Geography is the base upon which the Census Bureau's data are built. When a household or business answers a Census Bureau survey, the questionnaire response is attached to the household or business location address. The Census Bureau locates this address within established geographic areas, such as a reservation. The Census Bureau then tabulates data for all of the households and/or businesses located within each geographic area. Because the Census Bureau tabulates data by geographic area, it is important for the Census Bureau to have an accurate address list and quality geographic boundaries. The physical location of the household is also essential in the event that the household does not respond to the Census questionnaire. It enables the Census Bureau to send an enumerator directly to the household to attempt to collect a response, making the count more accurate.

Letters were sent out to tribal and other government leaders over the summer to ask them to have their tribes and communities participate in LUCA, and then recently reminder letters and postcards went out to those governments that the Census Bureau has not yet heard from.

If your tribal government would like to participate, please visit <https://www.census.gov/geo/partnerships/luca.html>, which includes instructions and application materials to participate prior to the December 15 deadline. As of this writing, we understand that relatively few tribes have signed up."

"CFPB Publishes Payday Lending Rule but Future of Rule is Unclear," Hobbs-Straus General Memorandum 17-057, December 1st, 2017, <http://www.hobbsstraus.com/general-memorandum-17-057>, reported,

**The Consumer Financial Protection Bureau (CFPB) published the Payday Lending Rule in the *FEDERAL REGISTER* on November 17, 2017. The extensive set of regulations is the culmination of years of work by the CFPB. The hallmark of the rule is the requirement that lenders make a reasonable determination that a borrower has the ability to repay a loan while also meeting basic living expenses, prior to issuing a consumer loan with a repayment term of 45 days or less and longer term consumer loans with a balloon payment. The CFPB has stated that the rule applies to**

**Indian tribes and tribally-chartered companies that lend money. The rule takes effect 21 months after publication and the CFPB expects all lenders who regularly extend credit to comply with the new requirements. The new rule would have significant implications for the tribal short-term lending industry by likely curtailing the amount, number, and frequency of loans extended to customers.**

**The CFPB rejected calls for the creation of an exemption for Indian tribes:**

"Finally, and more narrowly, some Tribal and industry commenters have averred that the Bureau lacks authority to adopt regulations pursuant to section 1031 of the Dodd-Frank Act that apply to Indian tribes or to any of the entities to which they have delegated Tribal authority. These arguments raised on behalf of Tribal lenders have also been raised in Tribal consultations that the Bureau has held with federally recognized Indian Tribes, as discussed in part III, and in various court cases to date. They rest on what the Bureau believes is a misreading of the Act and of Federal law and precedents governing the scope of Tribal immunity, positions that the Bureau has briefed extensively to the Federal courts in some key cases testing these issues." Citing CFPB v. Great Plains Lending, 846 F.3d 1049 (9th Cir. 2017), reh'g denied (Apr. 5, 2017) cert. pending; and Otoe-Missouria Tribe of Indians v. New York State Dep't of Fin. Servs., 769 F.3d 105, 107 (2d Cir. 2014).

We note that since the publication of the final rule, the CFPB Director Richard Cordray resigned and attempted to appoint his deputy, Leandra English, as the acting Director pursuant to apparent authority granted in the 2010 Dodd-Frank Act. That provision, however, appears to conflict with the authority granted to the President to make acting agency head appointments under the 1998 Federal Vacancies Reform Act. President Trump instead picked Office of Management and Budget Director Mick Mulvaney as the new CFPB acting Director. On November 26, English filed a motion in the United States District Court for the District of Columbia for an emergency temporary restraining order to block Mulvaney's appointment. On November 28, the district court denied English's motion. We report this because Mulvaney is widely expected to attempt to block or greatly pare back the Payday Lending Rule."

The National Indian Gaming Commission: "NIGC Orders Immediate Closure of Nooksack Indian Tribe Casino: Investigation finds multiple violations of IGRA, NIGC regulations and Nooksack Tribal Gaming Ordinance," ICMN Staff • June 16, 2017, <https://indiancountrymedianetwork.com/news/native-news/nigc-orders-immediate-closure-nooksack-indian-tribe-casino/>, reported, **"The Nooksack Indian Tribe has been ordered to close the Northwood Casino in Deming, Washington by the National Indian Gaming Commission.**

On June 15, Jonodev O. Chaudhuri, **NIGC chairman, issued a Notice of Violation (NOV) and immediate Closure Order against the tribe as a result of a thorough and multi-faceted investigation by the NIGC "that identified numerous violations of the Indian Gaming Regulatory Act (IGRA), NIGC regulations and the Nooksack Tribal Gaming Ordinance."**

In a June 15 release from NIGC, the NOV details the violations as:

- The tribe failed to maintain its sole proprietary interest and responsibility for the conduct of any gaming activity.
- The tribe failed to submit the required attestation certifying that the construction and maintenance of the gaming facility adequately protects the environment and public health and safety.
- The tribe failed to maintain and operate the gaming facility in a manner that adequately protects the environment and public health and safety, which is evident in orders issued by the Environmental Protection Agency (EPA) detailing significant deficiencies of the Safe Drinking Water Act that have occurred at six water systems, including the Northwood Casino Water System.
- The tribe failed to perform required licensing actions for members of the Nooksack Business Corporation II (NBCII) who are primary management officials of the Northwood Casino."

**The Nooksack Tribe can correct the ongoing violations by complying with all licensing requirements, submit the required construction and maintenance attestation, and address the**



**EPA violations the release states. If the tribe does not seek to correct the violations it could face civil penalty violations in the amount of \$50,276 for each violation per day of occurrence."**

For other actions by the National Indian Gaming Commission (NIGC) go to: <https://www.nigc.gov>.

### **Federal Indian Budgets**

**See Hobbs-Straus report on Congressional budget activity as of beginning of December 2017**, under "Congressional Developments", above.

"President Signs Three-Month Continuing Resolution; Congress Continues Work on FY 2018," Hobbs Straus General Memorandum 17-045, September 11th, 2017, <http://www.hobbsstraus.com/general-memorandum-17-045>, reported, "On September 8, 2017, **President Trump signed HR 601, a continuing resolution (CR) to temporarily continue FY 2017 terms and conditions through December 8, 2017. Provisions packaged with the CR include a three-month continuation of the suspension of the Nation's debt ceiling as well as a continuation of emergency firefighting funds for the Departments of Agriculture and Interior and an initial package of funding to aid hurricane-impacted communities.** A Public Law number has yet to assigned. Enactment of this law frees up Congress to continue consideration of detailed FY 2018 spending bills.

#### **What This Means**

**During the term of the CR, federal agencies are to operate under the funding levels and instructions provided by PL 115-31, the FY 2017 Consolidated Appropriations Act (Omnibus). Given the statutory spending caps in place, tribal-specific programs by and large fared well in FY 2017.** For detailed reporting on FY 2017 funding levels and instructions for the Indian Health Service and for Indian Affairs (which includes the Bureaus of Indian Affairs and Indian Education), see our General Memoranda 17-030 and 17-032, respectively.

#### **What Comes Next?**

While the House and Senate worked quickly to put these temporary measures in place, they are moving forward at a more deliberate pace to each develop their own detailed FY 2018 appropriations bills.

So far, the House has passed four of their twelve FY 2018 appropriations bills and is working this week to pass a group of the other eight FY 2018 appropriations bills packaged together as separate, additional divisions to HR 3554 (the House Appropriations Committee's Interior, Environment and Related Agencies Appropriations bill). The Senate, on the other hand, is considering each FY 2018 appropriations bill individually. Further, not all Senate appropriations bills have been made public yet, including the bill that would provide proposed instructions and funding levels for the IHS and Indian Affairs. The House and Senate may be taking different approaches to moving their FY 2018 appropriations bills forward but by and large, in the bills that have been made public, both bodies have rejected the substantial cuts proposed by the Trump Administration for Indian programs. We understand that the most likely scenario between now and December 8, 2017, is for the House and Senate to each move their versions of appropriations bills forward and then negotiate together to create a detailed FY 2018 Omnibus appropriations bill to fund the entire federal government for the remainder of the fiscal year. If they do not reach an agreement on an Omnibus or on individual appropriations bills, they will need to pass another temporary CR to avert a federal government shut-down. For detailed reporting on FY 2018 funding levels and instructions proposed by the House Appropriations Committee for the Indian Health Service and for Indian Affairs see our General Memoranda 17-039 and 17-044, respectively.

**Currently, federal agencies are being funded via a Continuing Resolution (PL 115-56) at FY 2017 levels through December 8, 2017. (See our General Memorandum 17-045)."**

"House Approves FY 2018 Omnibus Appropriations Bill; Senate Unlikely to Act on It," Hobbs-Straus General Memorandum 17-047, September 18th, 2017, <http://www.hobbsstraus.com/general-memorandum-17-047>, reported, "On September 14, 2017, **the House of Representatives approved on a nearly party line vote legislation, HR 3354, which combined all 12 House FY 2018 appropriations bills. The bill, titled the Make America Secure and Prosperous Appropriations Act for FY 2018, would extend funding through the end of the fiscal year. Originally HR 3354 consisted of only Interior, Environment and Related Agencies appropriations but it became the vehicle to which the other bills were attached. The Senate is not expected to take up HR 3354 as approved by the House, but rather intends to finish marking up its own FY 2018 appropriations bills in the coming months and then negotiate with the House. A major issue is whether Congress will raise the cap on defense spending and the cap non-defense spending before enactment of final appropriations.**

HR 3354 contains many controversial legislative riders and would provide \$1.57 billion toward construction a wall on our Nation's southern border – provisions strongly opposed by most Congressional Democrats.

**HR 3354, if enacted, would exceed the legal spending cap for defense spending by \$72 billion and would trigger a significant sequestration of defense program funding.** In order to avoid a defense program sequestration, the Budget Control Act would need to be amended to raise the cap. There is sentiment in Congress for raising the spending cap for non-defense and the spending cap for defense programs but it remains to be seen if that will happen. Clearly, raising the caps would directly affect the FY 2018 appropriations process.

The omnibus bill passed by the House on September 14 is nearly the same as the Indian Health Service (IHS) and Indian Affairs (BIA/BIE) provisions approved earlier in the year by the House Appropriations Committee (HR 3354; H. Rept. 115-238). One difference is that the House approved an amendment offered by Representative O'Halleran (D-AZ) which would move \$10 million from the Department of Interior Office of the Secretary to BIA Construction.

**Taking into account the O'Halleran amendment, the measure would provide for Indian Affairs \$20 million more than FY 2017 and \$393 million more than the Administration's request. For the IHS it would provide \$97 million more than FY 2017 and \$398 million more than the Administration's request.** For detailed information on these funding recommendations see our General Memoranda 17-039 (IHS) and 17-044 (BIA/BIE)."

#### **President's Indian Affairs FY 2018 Request**

Hobbs-Straus GENERAL MEMORANDUM 17-038, July 21st, 2017

<http://www.hobbsstraus.com/general-memorandum-17-038>

"In this Memorandum, we report on the Trump Administration's FY 2018 proposed budget for Indian Affairs (which includes the Bureau of Indian Affairs (BIA) and Bureau of Indian Education (BIE)), as well as a few other selected programs. The proposed federal budget was released quite late (but not unexpectedly so) for the first year of a new Administration. Because the Congress was itself late passing final appropriations bills for FY 2017, the Administration in its budget request compares the FY 2018 request to the FY 2017 Continuing Resolution spending level annualized for the full fiscal year (essentially FY 2016 spending levels) rather than using the FY 2017 enacted amount. For accuracy in this Memorandum, we have individually calculated the differences between the FY 2017 enacted amounts and the Administration's FY 2018 request.

The Administration proposes large cuts in many programs. Thus far the Appropriations Committees are, by and large, rejecting the Administration's proposed reductions, including the proposed cuts for Indian Affairs and the Indian Health Service.

Congressional Progress and Outlook for FY 2018. On May 16 and 17, 2017, the House Appropriations Subcommittee on Interior, Environment and Related Agencies continued its recent tradition and held two days of hearings for public witnesses on Indian programs under its jurisdiction. Federal agency

witnesses have also testified on the proposed budget. Of note, Congress has yet to adopt a budget resolution setting topline spending numbers for FY 2018 discretionary spending. Despite the lack of certainty for FY 2018, the House has set the topline amount for each Appropriations Subcommittee and has moved aggressively to begin marking up Appropriations bills. These topline Subcommittee allocation numbers may well need to be revisited should Congress adopt a Budget Resolution. Our next Memorandum will compare the House Appropriations Committee's FY 2018 bill with the Administration's FY 2018 request. The Senate Appropriations Committee has not yet set a markup date for its Interior Appropriations bill although it, too, is moving quickly on marking up bills.

## INDIAN AFFAIRS (IA) OVERVIEW

For FY 2018, the Administration is requesting \$2.4 billion for Indian Affairs. This is \$371.1 million less than the FY 2017 enacted amount. The proposed cuts are generally reflected as a 5 percent cut to nearly every single sub-activity and program element, with some singled out for greater cuts or for de-funding altogether. As it would be exhaustive to detail each and every proposed across the board cut, we describe in detail the proposed changes which would: dramatically alter the mission or capabilities funded by a particular sub-activity or program element; are described as a "priority" by the Administration and thus are shielded from larger proposed cuts; or are (rare) proposed increases. In a conference call held after the release of the FY 2018 Budget in Brief summary, Administration officials explained that when crafting the proposed budget, the Department looked to which programs and activities were "getting the most bang for the buck" as well as priorities identified by the Tribal Interior Budget Council (TBIC).

Recent funding priorities such as the day to day operations at BIE schools, replacement school construction and the Tiwahe Initiative are slated for some of the largest cuts. Of note, the Administration includes in its request language which would continue Contract Support Costs as an "indefinite appropriation" with "such sums as may be necessary" and prioritizes funding for Tribal Grant Support Costs which are essentially the Contract Support Costs of tribally-controlled schools.

Request for Indian Reorganization Act – Carcieri Fix Not Included. Each fiscal year from FY 2011 to FY 2017, the Obama Administration requested and Congress continued to not provide language which would reverse the U.S. Supreme Court's 2009 decision that the Secretary of the Interior does not have authority to take land into trust for tribes under federal jurisdiction after 1934. The Trump Administration did not request this Carcieri Fix language.

## OPERATION OF INDIAN PROGRAMS

|                                        |      |         |                 |
|----------------------------------------|------|---------|-----------------|
| FY                                     | 2016 | Enacted | \$2,267,924,000 |
| FY                                     | 2017 | Enacted | \$2,339,346,000 |
| FY 2018 Admin. Request \$2,082,506,000 |      |         |                 |

Operation of Indian Programs (OIP) budget includes the Bureau of Indian Affairs (BIA) and the Bureau of Indian Education (BIE).

Fixed Costs and Transfers. From within this total, the Administration requests \$17.1 million for fixed cost increases as well as a number of transfers between accounts.

## BUREAU OF INDIAN AFFAIRS

|                                        |      |         |                 |
|----------------------------------------|------|---------|-----------------|
| FY                                     | 2016 | Enacted | \$1,415,557,000 |
| FY                                     | 2017 | Enacted | \$1,447,833,000 |
| FY 2018 Admin. Request \$1,296,134,000 |      |         |                 |

Activities within the Bureau of Indian Affairs are: Tribal Government; Human Services; Trust-Natural Resources Management; Trust-Real Estate Services; Public Safety and Justice; Community and Economic Development; and Executive Direction and Administrative Services.

## TRIBAL GOVERNMENT

|                                      |      |         |               |
|--------------------------------------|------|---------|---------------|
| FY                                   | 2016 | Enacted | \$301,517,000 |
| FY                                   | 2017 | Enacted | \$308,815,000 |
| FY 2018 Admin. Request \$290,307,000 |      |         |               |

The Tribal Government sub-activities are: Aid to Tribal Government; Consolidated Tribal Government Program; Self-Governance Compacts; New Tribes; Small and Needy Tribes; Road Maintenance; and Tribal Government Program Oversight.

**New Tribes.** This sub-activity provides \$160,000 in Tribal Priority Allocation (TPA) base funding per tribe to support newly federally-recognized tribes. Once a tribe has been acknowledged, it remains in this category for three fiscal years. The Administration proposes \$160,000 (level funding) to assist the newly-recognized Pamunkey Tribe.

**Small and Needy Tribes.** This sub-activity is designed to provide small tribes with a minimum Tribal Priority Allocation (TPA) base funding by which they can support their tribal governments. The Administration proposes to zero it out.

**Road Maintenance.** The Administration requests \$28.1 million for this sub-activity and describes it as a \$1.1 million "increase" above the FY 2017 Continuing Resolution level, however, compared with the actual FY 2017 enacted amount, it would really be a \$2.1 million cut. The Administration describes this proposed amount as consistent with efforts to prioritize infrastructure improvement. The Administration states that "At the requested funding level, the program is expected to provide sufficient maintenance to classify 13 percent of BIA-owned roads in acceptable condition." (FY 2018 Indian Affairs Budget Justification, p. IA-TG-6)

## HUMAN SERVICES

|                                      |      |         |               |
|--------------------------------------|------|---------|---------------|
| FY                                   | 2016 | Enacted | \$147,004,000 |
| FY                                   | 2017 | Enacted | \$159,161,000 |
| FY 2018 Admin. Request \$123,949,000 |      |         |               |

The Human Services sub-activities are: Social Services; Welfare Assistance; Indian Child Welfare Act (ICWA); Housing Improvement Program (HIP); Human Services Tribal Design; and Human Services Program Oversight.

**Tiwahe Initiative.** In addition to proposing cuts for all of the Human Services sub-activities which help support the broader Tiwahe Initiative, the Administration proposes to zero out the funding for those tribes participating in the Tiwahe Initiative demonstration project.

**Housing Improvement Program.** This sub-activity is designed to help address sub-standard housing and homelessness by providing funding for repairs, renovations, modest construction of replacement homes and or portions of housing down payments to use in conjunction with other federal programs. The Administration proposes to zero it out.

## TRUST-NATURAL RESOURCES MANAGEMENT

|                                      |      |         |               |
|--------------------------------------|------|---------|---------------|
| FY                                   | 2016 | Enacted | \$191,846,000 |
| FY                                   | 2017 | Enacted | \$200,992,000 |
| FY 2018 Admin. Request \$165,462,000 |      |         |               |

The Trust–Natural Resources Management sub-activities are: Natural Resources, general; Irrigation Operation and Maintenance; Rights Protection Implementation; Tribal Management/Development Programs; Endangered Species; Tribal Climate Resilience/Cooperative Landscape Conservation; Integrated Resource Information; Agriculture and Range; Forestry; Water Resources; Fish/Wildlife & Parks; and Resource Management Oversight.

Irrigation Operation and Maintenance. This sub-activity is designed to help manage water resources on Indian lands by provides funding to operate, maintain and rehabilitate irrigation infrastructure. For FY 2018, the Administration proposes a \$1.1 million increase, directed towards the Operations and Maintenance for the Gallegos Pumping Plant. In FY 2016, the responsibility for the plant was transferred from the Bureau of Reclamation to the BIA without any accompanying funds.

Endangered Species. This sub-activity is designed to help tribes offset the cost of achieving endangered species compliance when developing their trust resources for economic benefit. The Administration proposes a 50 percent cut.

Tribal Climate Resilience/Cooperative Landscape Conservation. This sub-activity provides grants to tribal governments to assist with climate adaptation and preparedness, particularly to address concerns about availability of subsistence food resources, water and other necessities. The Administration proposes to zero it out.

#### TRUST–REAL ESTATE SERVICES

|                                      |      |         |               |
|--------------------------------------|------|---------|---------------|
| FY                                   | 2016 | Enacted | \$127,486,000 |
| FY                                   | 2017 | Enacted | \$123,092,000 |
| FY 2018 Admin. Request \$112,046,000 |      |         |               |

The Trust–Real Estate Services sub-activities are: Trust Services; Navajo-Hopi Settlement Program; Land Title and Records Offices; Real Estate Services; Land Records Improvement; Environmental Quality; Alaskan Native Programs; Rights Protection; and Trust-Real Estate Services Oversight. Navajo-Hopi Settlement Program. This sub-activity works to implement the Navajo-Hopi Settlement of 1974 and to further the BIA's mission by providing for the management, protection, and preservation of agricultural and rangeland resources on the Navajo and Hopi Partitioned Lands. This is the one Trust–Real Estate Services sub-activity for which cuts are NOT proposed.

Alaska Native Programs. This sub-activity funds activities related to the Alaska National Interest Lands Conservation Act (subsistence studies and projects); Alaska Native Allotments (archeology and protection of cultural resources); and the Alaska Native Claims Settlement Act (interviews, photographs and recordings of oral history from Native elders). The Administration proposes to zero it out.

Litigation Support/Attorney Fees. This program element is found under the Rights Protection sub-activity and provides assistance to eligible tribes to procure legal services to assist them in establishing or defending tribal rights or protecting tribal trust resources that are guaranteed through treaty, executive order, statute, court decision, or other legal authority. The Administration proposes to zero it out.

#### PUBLIC SAFETY AND JUSTICE

|                                      |      |         |               |
|--------------------------------------|------|---------|---------------|
| FY                                   | 2016 | Enacted | \$377,423,000 |
| FY                                   | 2017 | Enacted | \$385,735,000 |
| FY 2018 Admin. Request \$349,314,000 |      |         |               |

The Public Safety and Justice sub-activities are: Law Enforcement; Tribal Courts; and Fire Protection.

Tiwahe Initiative. An aspect of the Tiwahe Initiative is identifying and treating the social, behavioral and substance abuse needs of convicted offenders and facilitating their re-entry into communities. Another is strengthening tribal court systems to address issues related to children and family services and as well as finding solutions to reducing recidivism. The Administration proposes to eliminate funding for the Tiwahe Initiative-funded pilot programs focused on reducing recidivism in five targeted Indian communities (funded under the Law Enforcement Special Initiatives program element). The Administration explains, "The measurement period for the pilot programs closes in FY 2017. Implementation plans and practices have been documented, along with multiple years of offender data pointing to success. Starting in 2018, all tribal corrections programs will have access to the implementation plan to continue efforts to reduce recidivism through 'alternatives to incarceration' methods." (FY 2018 Indian Affairs Budget Justification, p. IA-PSJ-2) Further, the Administration proposes to cut \$2.4 million from the Detention/Corrections program element (which had been increased in past fiscal years as part of the Tiwahe Initiative to bolster inmate support activities) and cut \$8.8 million from the Tribal Courts sub-activity. Of the \$8.8 million proposed cut to the Tribal Courts sub-activity (which had been increased in past fiscal years to carry out portions of the Tiwahe Initiative pilot program and then to expand it to five additional sites in FY 2017) \$7.4 million of the proposed cut is attributed to discontinuing the pilot program. The remaining \$1.4 million cut is to be absorbed the other BIA-funded tribal courts currently receiving funding under this sub-activity.

Tribal Justice Support and PL 280 States. In FYs 2016 and 2017, due in part to the important sentencing provisions enacted for tribes in the Tribal Law and Order Act of 2010 and the Violence Against Women Act of 2013 as well as the needs of tribal courts in PL 280 states identified by Indian Law and Order Commission's November 2013 report, the Tribal Justice Support program element received important increases. Specifically, in FY 2017, Congress appropriated \$17.2 million for the Tribal Justice Support program element, directing that from that amount, "not less than \$10,000,000 is to address the needs of Tribes affected by Public Law 83-280. ... The Committees expect the Bureau to work with Tribes and Tribal organizations in these States to fund plans that design, promote, sustain, or pilot courts systems subject to jurisdiction under Public Law 83-280." (FY 2017 Explanatory Statement).

In FY 2018, the Administration proposes to cut the Tribal Justice Support program element by that same \$10 million, stating, "The proposed reduction eliminates funding to 'asses needs, consider options, and design, develop, and pilot tribal court systems' for tribes primarily located in jurisdictions subject to Pub. L. 83-280 where states have primary local criminal jurisdiction. ... The funding available in FY 2016 and 2017 allowed the assessment of tribal court needs for some tribes in 280 states, primarily in Alaska and California. The FY 2018 budget request will focus on providing technical assistance to tribes, as well as training to tribal court personnel, including tribal court judges, tribal court prosecutors, tribal public defenders, and tribal court management computer systems." (FY 2018 Indian Affairs Budget Justification, p. IA-PSJ-3)

Cultural Items Unit to Investigate NAGPRA Violations. In FY 2017, Congress specified that from within the \$202 million provided for the Criminal Investigations and Police Services program element, there was a \$1 million program increase for the development of a Cultural Items Unit within the Division of Law Enforcement tasked with investigating violations of the Native American Graves Protection and Repatriation Act (NAGPRA). For FY 2018, the Administration proposes only \$190.8 million for the Criminal Investigations and Police Services program element, a cut which could imperil the development of the new Cultural Items Unit.

## COMMUNITY AND ECONOMIC DEVELOPMENT

|                                     |      |         |              |
|-------------------------------------|------|---------|--------------|
| FY                                  | 2016 | Enacted | \$40,619,000 |
| FY                                  | 2017 | Enacted | \$41,844,000 |
| FY 2018 Admin. Request \$39,464,000 |      |         |              |

The Community and Economic Development sub-activities are: Job Placement and Training; Economic Development; Minerals and Mining; and Community Development Oversight.

Of all of the activities within the OPERATION OF INDIAN PROGRAMS, Community and Economic Development would bear the smallest requested cut from the Administration.

Minerals and Mining including the Indian Energy Service Center. This sub-activity promotes and provides technical assistance for the development of renewable energy, conventional energy, and mineral resources. It also funds the Indian Energy Service Center, which Congress initially funded in FY 2016. The Center is to be tasked with expediting leasing, permitting, and reporting on conventional and renewable energy on Indian lands. For FY 2017, both the House and Senate report language pushed the Department of Interior to get the Energy Service Center up and running, requesting a report on the status of the Center and directing the Department of Interior to submit a budget request for FY 2018 to fund the next phase of the Center. For FY 2018, the Administration proposes to shield the Minerals and Mining sub-activity from the most onerous cuts, specifically protecting the funding for the Indian Energy Service Center.

## EXECUTIVE DIRECTION AND ADMINISTRATIVE SERVICES

|                                      |      |         |               |
|--------------------------------------|------|---------|---------------|
| FY                                   | 2016 | Enacted | \$229,662,000 |
| FY                                   | 2017 | Enacted | \$228,824,000 |
| FY 2018 Admin. Request \$215,592,000 |      |         |               |

The Executive Direction and Administrative Services sub-activities are: Assistant Secretary Support; Executive Direction; Administrative Services; Safety and Risk Management; Information Resources Technology; Human Capital Management; Facilities Management; Intra-Governmental Payments; and Rentals.

73 FTE Reductions. The bulk of the funding cuts proposed for the Executive Direction and Administrative Services activity can be attributed to the proposed elimination of 73 Full Time Equivalent (FTE) positions (some of which are currently vacant, time limited or as the Administration has determined, "no longer needed").

Of this 73 FTE:

- 13 would come from the Assistant Secretary Support sub-activity (from the Office of the Assistant Secretary – Indian Affairs; Office of Public Affairs; Office of Federal Acknowledgment; Office of Indian Energy and Economic Development and Office of Self-Governance);
- 44 would come from the Administrative Services (Central) sub-activity (from the centrally managed administrative positions);
- 11 would come from the Information Resources Technology sub-activity (from the Office of Information Management and Technology); and
- 5 would come from the Human Capital Management sub-activity (from the Office of Human Capital Management).

## BUREAU OF INDIAN EDUCATION

|                                      |      |         |               |
|--------------------------------------|------|---------|---------------|
| FY                                   | 2016 | Enacted | \$852,367,000 |
| FY                                   | 2017 | Enacted | \$891,513,000 |
| FY 2018 Admin. Request \$786,372,000 |      |         |               |

The Bureau of Indian Education (BIE) category displays funds for the BIE-funded elementary and secondary school systems as well as other education programs including higher education and scholarships. The Bureau of Indian Education sub-activities are: Elementary and Secondary Programs (Forward Funded); Elementary and Secondary Programs (Non-Forward Funded); Post Secondary Programs (Forward Funded); Post Secondary Programs (Non-Forward Funded); and Education Management.

The Administration directs the brunt of its proposed cuts to the Bureau of Indian Education—\$105.1 million to be precise – and they would hit both elementary/secondary and higher education programs. The Administration explains that, "With these decreases, BIE will focus resources on direct school operations, including classroom instruction, text books, student transportation, language development programs, gifted and talented programs and school maintenance. In addition, in this this budget request, BIE prioritizes areas that promote educational self-determination for tribal communities. This budget request proposes to reduce or eliminate programs that are more narrowly focused, support activities outside the core BIE mission, or are newer programs." (FY 2018 Indian Affairs Budget Justification, p. IA-BIE-2).

Despite this statement of priorities, the Administration proposes to cut \$23.4 million from ISEP Formula Funds (the core account for K-12 schools); cut \$5.3 million from Student Transportation; cut \$5.9 million from School Facilities Operations; cut \$5.5 million from School Facilities Maintenance; and cut \$5.7 million from Tribal Grant Support Costs. Other program elements fare even worse, facing requested cuts of up to 50 percent or elimination altogether.

Implementation of the BIE Transformation. The Administration describes the status of the BIE transformation as follows: The BIE is currently in the process of reorganizing. Phase I involved the realignment of the internal organization of BIE from a regional basis to a structure based on the types of schools serviced; namely, (1) schools in the Navajo Nation, (2) tribally-controlled schools, and (3) BIE-operated schools. Phase I also replaced the Education Line Offices with Education Resource Centers (ERCs) which will house School Solutions Teams. The BIE began implementing Phase I of the reorganization in early 2016 after Congress issued a "notice of no objection" to the BIE. Phase II, to be implemented in 2017, involves a realignment of support operations within Indian Affairs including, contracting, IT, and facilities functions to BIE and includes an expansion of the School Support Solutions Teams to include school operations staff. (FY 2018 Indian Affairs Budget Justification, p. IA-BIE-10)

Continued Limitations on the Expansion of Grades, Charter Schools, Satellite Locations and BIE-funded Schools in Alaska. The Administration requests the continuation of this language from prior years.

|                                      |     |           |          |          |               |
|--------------------------------------|-----|-----------|----------|----------|---------------|
| Elementary                           | and | Secondary | Programs | (Forward | Funded)       |
| FY                                   |     | 2016      | Enacted  |          | \$553,458,000 |
| FY                                   |     | 2017      | Enacted  |          | \$575,155,000 |
| FY 2018 Admin. Request \$520,044,000 |     |           |          |          |               |

The Elementary and Secondary forward funded sub-activity includes the following program elements: ISEP Formula Funding; ISEP Program Adjustments; Education Program Enhancements; Tribal Education Departments; Student Transportation; Early Childhood Development; and Tribal Grant Support Costs (formerly titled Administrative Cost Grants). Funds appropriated for FY 2018 for these programs will become available for obligation on July 1, 2018, for SY 2018-2017.



ISEP Program Adjustments. In FY 2017, Congress conditioned further increases for BIE upon its successful implementation of Government Accountability Office recommendations addressing health and safety issues. The Administration's FY 2018 budget justification also cites Office of the Inspector General reports highlighting safety and security concerns at BIE schools, noting that many schools used their ISEP Program Adjustment funds to help address unique school safety challenges. The Administration proposes to cut this program element by nearly 50 percent.

Education Program Enhancements. In FY 2017, Congress increased this sub-activity in order to support efforts to revitalize and maintain Native languages and expand the use of language immersion programs. The Administration proposes to cut this program element by nearly 50 percent, noting that the proposed cut will also reduce staffing at the new Education Resource Centers, eliminate the partnership with the National Board Certification Program and eliminate the Sovereignty in Indian Education grant program which facilitates the transfer of management and operation of schools from BIE to tribal and locally-driven school boards.

Tribal Education Departments. This program element helps build the capacity of local, tribal education departments. The Administration proposes a 50 percent cut.

Early Child and Family Development. In FY 2017, Congress provided a \$3 million increase in order to expand the Family and Child Education (FACE) program to additional sites. The FACE program is designed to strengthen family-school-community relations, increase parent participation in education, and support parents in their role as a child's first and most important teacher. The Administration proposes a greater than 50 percent cut. The Administration explains that at this spending level, no new sites would be added to the program.

Tribal Grant Support Costs. Because the FY 2018 budget request was written before the final FY 2017 Omnibus was enacted, the Administration used FY 2016 numbers as the budget baseline to compare with the FY 2018 request. By this accounting, the amount requested for Tribal Grant Support Costs in FY 2018 is described by the Administration as an "increase". This, however, fails to account for the fact that in 2017, more tribes have opted to take over schools from the BIE so Congress, after conferring with the BIE, provided an increase for Tribal Grant Support Costs in order to ensure full funding for all tribally-controlled schools. The Administration's FY 2018 request states "A major goal of BIE is to facilitate tribal sovereignty over education by encouraging the transfer of management and operation functions of schools from BIE to tribes. In order to encourage further participation by tribes, it is important to ensure that the administrative costs, which accompany the management and operation of tribally-controlled schools, are provided by BIE." (FY 2018 Indian Affairs Budget Justification, p. IA-BIE-4) The Administration goes on to note that currently, tribes and tribal organizations manage 130 of the 183 elementary and secondary schools and to date, six BIE-operated schools have indicated they want to transfer to tribally-operated status in FY 2018.

| Elementary and Secondary Programs | (Non-Forward Funded) |
|-----------------------------------|----------------------|
| FY 2016 Enacted                   | \$134,263,000        |
| FY 2017 Enacted                   | \$140,540,000        |
| FY 2018 Admin. Request            | \$123,871,000        |

The Elementary and Secondary non-forward funded sub-activity includes the following program elements: Facilities Operations; Facilities Maintenance; Juvenile Detention Center Grants; and Johnson-O'Malley Assistance Grants.

Facilities Operations & Maintenance (O&M). In FY 2017, Congress provided 78 percent of calculated combined Facilities Operations and Facilities Maintenance need across the BIE-funded schools. The FY 2017 House report also directed the Administration to recalculate the annual estimated need according to industry standards, and report any estimated shortfall in future budget justifications. For

FY 2018, the Administration requests a \$5.9 million cut to Facilities Operations for a total of \$60.2 million (estimated to fund 56.7 percent of calculated need) and a \$5.5 million cut to Facilities Maintenance for a total of \$53.5 million (estimated to fund 117.5 percent of calculated need).

Juvenile Detention Center Grants. In FY 2016, Congress initiated a grant program to meet the education and health related needs of Native youth detained or incarcerated in currently operating BIA-funded juvenile detention centers for an extended period of time. The Administration proposes to zero this out.

Johnson-O'Malley Assistance Grants. Johnson O'Malley (JOM) education grants are provided through tribes and public schools to support Native students who attend public schools. In FY 2017, Congress expressed concern about the accuracy of the JOM student count, requesting a report. For FY 2018, the Administration requested a \$4.8 million cut to the JOM program, noting that the last JOM student count was conducted in 1995.

| Post                                | Secondary | Programs | (Forward | Funded)      |
|-------------------------------------|-----------|----------|----------|--------------|
| FY                                  | 2016      | Enacted  |          | \$74,893,000 |
| FY                                  | 2017      | Enacted  |          | \$77,207,000 |
| FY 2018 Admin. Request \$72,689,000 |           |          |          |              |

This sub-activity includes forward funded Tribal Colleges and Universities and forward funded Tribal Technical Colleges (United Tribes Technical College (UTTC) and Navajo Technical University (NTU)).

Tribal Technical Colleges. The Administration requests an amount that would be \$1 million below FY 2017 enacted level, suggesting that the schools, "close existing programs with limited enrollment, reduce the number of courses offered, reduce staff salaries and/or hold to current student enrollment levels." The other tribal college account is also proposed for a large cut and similar language about limiting enrollment, etc. is utilized as advice for absorbing such a reduction.

| Post                                | Secondary | Programs | (Non-Forward | Funded)      |
|-------------------------------------|-----------|----------|--------------|--------------|
| FY                                  | 2016      | Enacted  |              | \$64,602,000 |
| FY                                  | 2017      | Enacted  |              | \$63,581,000 |
| FY 2018 Admin. Request \$45,721,000 |           |          |              |              |

The two post-secondary schools overseen by the BIE are: Haskell Indian Nations University (Haskell), and the Southwestern Indian Polytechnic Institute (SIPI). The non-forward funded Post Secondary Programs sub-activity also includes: Tribal Colleges and Universities Supplements; Scholarships and Adult Education; Special Higher Education Scholarships; and the Science Post Graduate Scholarship Fund.

Forward Funding Needed for Haskell and SIPI. In FY 2017, Congress "encouraged" the Bureau to forward fund Haskell and SIPI in future budget requests "so that all tribal colleges are on the same funding schedule." For FY 2018, the Administration proposed to cut \$2.7 million from Haskell and SIPI and declined to request the one-time funding needed to put them on a forward funded schedule, like all of the other tribal colleges.

Scholarships and Adult Education. This program element is designed to improve tribal quality of life by boosting the adult workforce and increase education access for eligible students through financial assistance. The Administration proposes a \$9.5 million, (more than 20 percent) cut.

Special Higher Education Scholarships. This program element provides supplemental financial assistance and loans to Native students pursuing professional graduate degrees and funds the Pre-law

Summer Institute, which prepares Native students for entering law school. The Administration proposes to zero this out.

Science Post Graduate Scholarship Fund. This program element was established to increase the number of Native post graduate students pursuing STEM professions. The Administration proposes to zero this out.

|                                     |      |         |              |
|-------------------------------------|------|---------|--------------|
| Education                           |      |         | Management   |
| FY                                  | 2016 | Enacted | \$25,151,000 |
| FY                                  | 2017 | Enacted | \$35,050,000 |
| FY 2018 Admin. Request \$24,047,000 |      |         |              |

The Education Management sub-activity consists of Education Program Management and Information Technology.

## CONTRACT SUPPORT COSTS

|                            |      |         |         |      |      |     |     |                |
|----------------------------|------|---------|---------|------|------|-----|-----|----------------|
| FY                         | 2016 | Enacted | Such    | sums | as   | may | be  | necessary      |
| (Estimated:                |      |         |         |      |      |     |     | \$277,000,000) |
| FY                         | 2017 | Enacted | Such    | sums | as   | may | be  | necessary      |
| (Estimated:                |      |         |         |      |      |     |     | \$278,000,000) |
| FY                         | 2018 | Admin.  | Request | Such | sums | as  | may | be             |
| (Estimated: \$241,600,000) |      |         |         |      |      |     |     | necessary      |

The Administration requests that Contract Support Costs (CSC) continue as a as an indefinite appropriation at "such sums as may be necessary" and that it continue in its own separate account comprised of Contract Support (such sums as as may be necessary, estimated to be: \$236,600,000) and the Indian Self-Determination Fund (\$5,000,000).

The Administration explains that their estimate for Contract Support is based on an analysis of the funding levels in the FY 2018 request. Thus, based on the lower funding levels proposed for FY 2018, the amount estimated to fully fund Contract Support is also lower.

|                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                      |
|---------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------|
| General                                                                         | Provisions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Continued.                                                                                                                                           |
| The Administration requests that the following general provisions be continued: |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                      |
| Contract                                                                        | Support                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Costs,                                                                                                                                               |
| Sec. 404.                                                                       | Sections 405 and 406                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | of division F of the Consolidated and Further Continuing Appropriations Act, 2015 (Public Law 113-235) shall continue in effect in fiscal year 2018. |
| Contract                                                                        | Support                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Costs,                                                                                                                                               |
| Sec. 405.                                                                       | Amounts provided by this Act for fiscal year 2018 under headings "Department of Health and Human Services, Indian Health Service, Contract Support Costs" and "Department of the Interior, Bureau of Indian Affairs and Bureau of Indian Education, Contract Support Costs" are the only amounts available for contract support costs arising out of self-determination or self-governance contracts, grants, compacts, or annual funding agreements for fiscal year 2018 with the Bureau of Indian Affairs or the Indian Health Service: Provided, That such amounts provided by this Act are not available for payment of claims for contract support costs for prior years, or for repayment of payments for settlement or judgments awarding contract support costs for prior years. |                                                                                                                                                      |

## CONSTRUCTION

|                                      |      |         |               |
|--------------------------------------|------|---------|---------------|
| FY                                   | 2016 | Enacted | \$193,973,000 |
| FY                                   | 2017 | Enacted | \$192,017,000 |
| FY 2018 Admin. Request \$143,262,000 |      |         |               |

The Construction budget includes: Education Construction; Public Safety and Justice Construction; Resources Management Construction; and Other Program Construction/ General Administration.

The Administration requests a staggering \$48.7 million reduction to Construction, nearly all of which would come from the Education Construction budget.

## EDUCATION CONSTRUCTION

|                                      |      |         |               |
|--------------------------------------|------|---------|---------------|
| FY                                   | 2016 | Enacted | \$138,245,000 |
| FY                                   | 2017 | Enacted | \$133,257,000 |
| FY 2018 Admin. Request \$ 80,187,000 |      |         |               |

The Education Construction sub-activities are: Replacement School Construction; Replacement Facility Construction; Employee Housing Repair; and Facilities Improvement and Repair.

In FY 2017, Congress provided robust funding for Education Construction and urged the Department of Interior to submit with their FY 2018 budget request: (1) a revised proposal to reconstitute the National Fund for Excellence in American Indian Education, including provisions to facilitate public-private partnership construction projects; and (2) a school replacement list, much like the 2016 list, to determine which schools will be replaced after the 2016 list is completed. Neither the revised proposal nor the new list were included in the Administration's FY 2018 request. In fact, for FY 2018, the Administration proposes to zero out both Replacement School Construction and Replacement Facility Construction.

Replacement School Construction. This sub-activity replaces entire school campuses in poor condition that have been prioritized on a school replacement list. Currently, there are three schools left on the 2004 list in various stages of construction and 10 schools on the replacement list in various stages of planning and design. The Administration proposes to zero it out and states: The 2018 budget proposes to suspend funding for Replacement School Construction projects. Using the funds currently available, BIA will continue construction of the three replacement schools currently in the pipeline and designs for each of the 10 schools on the 2016 BIE Replacement School list. Funding from 2017 may enable the funding of one of the schools on the 2016 school replacement list for construction; however, suspension of project funding will delay the construction schedule for the majority of the schools identified on the 2016 BIE Replacement School list. Under the current schedule, several schools are expected to complete the design process in summer 2018. At that time, BIA will make a determination on construction contract awards based on individual school readiness and the available funding. Suspension in funding would limit the option of utilizing a design-build construction approach, which includes offsite construction to save time and money, but requires 100% funding for a project before design can begin. (FY 2018 Indian Affairs Budget Justification, p. IA-CON-ED-1)

Replacement Facility Construction. This sub-activity is described by the Administration as "an essential component of the comprehensive plan to bring all 183 BIE-funded schools and dormitories into acceptable condition." The Administration proposes to zero it out and states: The 2018 budget proposes to suspend funding for Replacement Facilities Construction. The Replacement Facilities Construction program allows BIA to replace individual education buildings in critically poor condition at schools. The program will continue the facility replacement project at Bug-O-Nay-Ge-Shig High School. The Bug-O-Nay-Ge-Shig High School project is piloting the use of the offsite design-build approach. BIA is validating this cost model for future projects. Funding from 2017 will be used to initiate the next approved facilities replacement project to be determined through the ranking process. (FY 2018 Budget Justification, p. IA-CON-ED-2)

Facilities Improvement and Repair. The Administration notes that there is currently over \$770.4 million in deferred maintenance across BIE-funded school facilities and grounds that need corrective action. The Administration does not propose any cuts in order to 'prioritize' this sub-activity.

#### PUBLIC SAFETY & JUSTICE (PS&J) CONSTRUCTION

|                                     |      |         |              |
|-------------------------------------|------|---------|--------------|
| FY                                  | 2016 | Enacted | \$11,306,000 |
| FY                                  | 2017 | Enacted | \$11,306,000 |
| FY 2018 Admin. Request \$10,416,000 |      |         |              |

The Public Safety & Justice Construction sub-activities are: Facilities Replacement/New Construction; Employee Housing; Facilities Improvement and Repair; Fire Safety Coordination; Fire Protection.

Joint Venture Demonstration Program. In FY 2017, Congress encouraged the Administration to include in its FY 2018 budget request a legislative proposal for a joint venture demonstration program for regional justice centers, 'similar to the Shoshone-Bannock Tribes' Justice Center, and modeled after the joint venture program for Indian health facilities.' The Administration declined to include such a proposal.

Facilities Improvement and Repair. The Administration notes that there is currently over \$39 million in deferred maintenance for public safety facilities. The Administration also proposes a 7 percent reduction for this sub-activity.

#### RESOURCES MANAGEMENT CONSTRUCTION

|                                     |      |         |              |
|-------------------------------------|------|---------|--------------|
| FY                                  | 2016 | Enacted | \$34,488,000 |
| FY                                  | 2017 | Enacted | \$36,513,000 |
| FY 2018 Admin. Request \$40,696,000 |      |         |              |

The Resources Management Construction sub-activities are: Irrigation Project Construction; Engineering and Supervision; Survey and Design; Federal Power and Compliance; and Dam Projects.

Irrigation Project Construction. The Administration proposes a \$1.5 million increase for the Irrigation Projects-Rehabilitation program element to address critical outstanding maintenance issues at the 17 Indian Irrigation Projects and a \$724,000 increase to the Survey and Design program element to fast track the technical modernization studies needed to complete this rehabilitation work.

Dam Projects. The Administration proposes a \$2.4 million increase for the Safety of Dams program element to support award of construction contracts for one or more of the 11 dam safety rehabilitation projects already designed or with expected design completion in FY 2018 and a \$1.8 million increase for the Dam Maintenance program element to prioritize deferred maintenance projects at the 138 BIA dams classified as "high hazard." There is currently an identified deferred maintenance need of \$538 million.

#### OTHER PROGRAM CONSTRUCTION/ GENERAL ADMINISTRATION

|                                     |      |         |    |              |
|-------------------------------------|------|---------|----|--------------|
| FY                                  | 2016 | Enacted | \$ | 9,934,000    |
| FY                                  | 2017 | Enacted |    | \$10,941,000 |
| FY 2018 Admin. Request \$11,963,000 |      |         |    |              |

The Other Program Construction sub-activities are: Telecommunications Improvement and Repair; Facilities/Quarters Improvement and Repair; and Construction Program Management.

Telecommunications Improvement and Repair. The Administration proposes a \$263,000 increase to support the repair and modernization of BIA telecommunication systems across the regions and agencies.

Facilities/Quarters Improvement and Repair. The Administration proposes a \$1.7 million increase to fund deferred maintenance projects at BIA Administration facilities. There is approximately \$253 million of deferred maintenance.

#### INDIAN LAND AND WATER CLAIMS SETTLEMENTS AND MISCELLANEOUS PAYMENTS TO INDIANS

|                                     |      |         |              |
|-------------------------------------|------|---------|--------------|
| FY                                  | 2016 | Enacted | \$49,475,000 |
| FY                                  | 2017 | Enacted | \$45,045,000 |
| FY 2018 Admin. Request \$13,999,000 |      |         |              |

The Administration states, "Funding allocations to enacted settlements in 2018 are contingent on the operating plan developed for FY 2017. The 2017 operating plan was not complete at the time the Budget Justification was written. An updated proposal for 2018 allocations will be provided once the 2017 operating plan is complete." (FY 2018 Indian Affairs Budget Justification, p. IA-SET-3)

#### INDIAN GUARANTEED LOAN PROGRAM

|                                    |      |         |             |
|------------------------------------|------|---------|-------------|
| FY                                 | 2016 | Enacted | \$7,748,000 |
| FY                                 | 2017 | Enacted | \$8,757,000 |
| FY 2018 Admin. Request \$6,692,000 |      |         |             |

In FY 2017, Congress described the Indian Guaranteed Loan Program as "the most effective Federal program tailored, dedicated to, and capable of facilitating greater access to private capital for Indian tribes and Indian-owned economic enterprises." For FY 2018, the Administration proposes a \$2 million cut.

#### OTHER RELATED AGENCIES

##### OFFICE OF NAVAJO-HOPI INDIAN RELOCATION

|                                     |      |         |              |
|-------------------------------------|------|---------|--------------|
| FY                                  | 2016 | Enacted | \$15,000,000 |
| FY                                  | 2017 | Enacted | \$15,431,000 |
| FY 2018 Admin. Request \$14,970,000 |      |         |              |

#### NATIONAL PARK SERVICE

##### TRIBAL HISTORIC PRESERVATION

|                                     |      |         |    |              |
|-------------------------------------|------|---------|----|--------------|
| FY                                  | 2016 | Enacted | \$ | 9,985,000    |
| FY                                  | 2017 | Enacted |    | \$10,485,000 |
| FY 2018 Admin. Request \$ 8,996,000 |      |         |    |              |

The Administration states, "The proposed reduction would impact the tribes' capacity to conduct cultural and historic preservation activities and to participate in required consultation on federally-funded projects that impact tribal land or any historic property to which a tribe attaches religious or cultural significance." (FY 2018 National Park Service Budget Justification, p. 31)"

## House Appropriations Committee FY 2018 Indian Health Service Recommendations

Hobbs Straus General Memorandum 17-039, July 27th, 2017

<http://www.hobbsstraus.com/general-memorandum-17-039>

"In this Memorandum we report on the House Appropriations Committee (Committee) recommendations for FY 2018 funding for the Indian Health Service (IHS). The Interior, Environment, and Related Agencies Subcommittee marked up the bill on July 12 followed by the full Committee on July 18. The report accompanying the bill, HR 3354, is House Rept. 115-238.

The House Committee has marked up all twelve FY 2018 spending bills even though Congress has not yet adopted a Budget Resolution which sets the spending caps for the fiscal year, and hence adjustments may need to be made later in the year. Subcommittee Chairman Calvert (R-CA) stated with regard to a Budget Resolution he hopes we can have a "broader deal" as we move forward and re-visit some of the issues in the bill.

### IHS OVERALL FUNDING

|                                         |      |                |                 |
|-----------------------------------------|------|----------------|-----------------|
| FY                                      | 2017 | Enacted        | \$5,039,886,000 |
| FY                                      | 2018 | Admin. Request | \$4,739,291,000 |
| FY 2018 House Committee \$5,136,873,000 |      |                |                 |

The Committee proposes to reject the reductions from FY 2017 proposed by the Trump Administration and also rejected some of their bill language as well. In addition, the Committee recommended \$130 million for the Indian Health Care Improvement Fund. We reported on the Administration's proposed FY 2018 IHS budget in our General Memorandum 17-031 (June 13, 2017) and on the FY 2017 enacted IHS budget in General Memorandum 17-030 (June 5, 2017).

The Administration's proposed decreases for behavioral health initiatives, accreditation emergencies, prescription drug monitoring, detoxification, small ambulatory construction program, domestic violence, and clinic leases, and the Facilities account would be rejected.

**Pay Costs Increases.** The Committee recommends \$36.7 million for pay costs in the Services Account which compares to a FY 2017 enacted amount of \$13.2 million. For the Facilities Account, the Committee recommended \$3.6 million for pay costs which compares to an FY 2017 enacted amount of \$1.2 million.

**Staffing Packages.** The Committee recommends \$20 million for staffing of two newly constructed Joint Venture projects – the Flandreau Health Center in Flandreau, SD and the Choctaw Nation Regional Medical Center in Durant, OK. Of that amount \$17.9 million is in the Services account and \$2 million is in the Facilities Account. This is the same as the Administration's request.

**Indian Health Care Improvement Act Funding.**—The Committee repeated the language from FY 2017 regarding funding for Indian Health Care Improvement Act (IHCIA) authorizations. In the FY 2018 Budget Justification, IHS noted that 90 days is an insufficient time for such a report and also that the cost of it would be significant. The Committee language is as follows:

It has been over six years since the permanent reauthorization of the Indian Health Care Improvement Act (IHCIA), yet many of the provisions in the law remain unfunded. Tribes have specifically requested that priority areas for funding focus on diabetes treatment and prevention, behavioral health, and health professions. The Committee requests that the Service provide, no later than 90 days after the date of enactment of this Act, a detailed plan with specific dollars identified to fully fund and implement the IHCIA.

Reimbursable Funding.—The Committee also directs the IHS to report on population and service growth over the past 10 years and the funding sources used to address these needs:

The Committee directs the Service to report, within 180 days of enactment of this Act, on patient population and service growth over the past ten years and the funding sources used to provide for these medical services. The IHS is to include a breakdown, by dollar amount and percentage, of funding sources which supplement appropriated dollars to cover the provision of medical services at IHS operated and tribally contracted and compacted facilities. The Committee is interested in detailed information on whether medical services have been able to expand over this time period as a result of increases in the ability to charge medical services to supplementary funding sources. As a point of comparison, and to the extent possible, the Service shall compare these impacts across the twelve IHS areas, with the degree to which patient populations services in the respective states has increased.

Appropriations Structure.—The Committee proposes to continue language that has been in the bill for a number of years that the appropriations structure of the IHS may not be altered without advance notification to the House and Senate Committees on Appropriations. The Administration proposed to delete this provision in order "to maximize operational flexibility."

## CONTRACT SUPPORT COSTS

|                         |      |         |         |      |      |     |     |           |                               |
|-------------------------|------|---------|---------|------|------|-----|-----|-----------|-------------------------------|
| FY                      | 2017 | Enacted | Such    | sums | as   | may | be  | necessary |                               |
| FY                      | 2018 | Admin.  | Request | Such | sums | as  | may | be        | necessary                     |
| FY 2018 House Committee |      |         |         |      |      |     |     |           | Such sums as may be necessary |

The Committee recommendation, consistent with the Administration's request for IHS and the Bureau of Indian Affairs (BIA), does not make any major changes in the structure or amount of CSC appropriations—although the estimated expenditures are lower than predicted in FY 2017. Funding for CSC in each agency remains a separate appropriation account with an indefinite amount—"such sums as may be necessary."

The Committee estimation for CSC spending for IHS is \$717,970,000, the same as in the Administration's budget justification.

The Committee rejected the Administration's proposal to reinstate two provisions of the FY 2016 Appropriations Act that tribes succeeded in having removed from the Consolidated Appropriations Act for FY 2017:

- Carryover clause: The Administration's proposal was to reinstate in the FY 2018 bill the FY 2016 Appropriations act language that could be read to deny the carryover authority granted by the Indian Self-Determination and Education Assistance Act: "amounts obligated but not expended by a tribe or tribal organization for contract support costs for such agreements for the current fiscal year shall be applied to contract support costs otherwise due for such agreements for subsequent fiscal years."
- "Notwithstanding" clause: The Administration's proposal was to also include language that the agency has used as part of the justification to not pay CSC on Substance Abuse and Suicide Prevention (SASP), Domestic Violence Prevention Initiative (DVPI), programs to improve collections public and private insurance, and for accreditation emergencies. The language which the IHS says precludes CSC for these programs is the phrase "Notwithstanding any other law," the funding for these programs "shall be allocated at the discretion of the Director." Congress dropped the "notwithstanding" phrase in the Consolidated Appropriations, FY 2017 Act, which gave tribes a better argument for CSC on these funds.

The FY 2018 budget proposal would continue prior language in the General Provisions section:



## Contract Support Costs, Prior Year Limitation

Sec. 405. Sections 405 and 406 of division F of the Consolidated and Further Continuing Appropriations Act, 2015 (Public Law 113-235) shall continue in effect in fiscal year 2018. Contract Support Costs, Fiscal Year 2018 Limitation

Sec. 406. Amounts provided by this Act for fiscal year 2018 under headings "Department of Health and Human Services, Indian Health Service, Contract Support Costs" and "Department of the Interior, Bureau of Indian Affairs and Bureau of Indian Education, Contract Support Costs" are the only amounts available for contract support costs arising out of self-determination or self-governance contracts, grants, compacts, or annual funding agreements for fiscal year 2018 with the Bureau of Indian Affairs or the Indian Health Service: Provided, That such amounts provided by this Act are not available for payment of claims for contract support costs for prior years, or for repayment of payments for settlement or judgments awarding contract support costs for prior years.

## FUNDING FOR INDIAN HEALTH SERVICES

|                                        |      |                |                 |
|----------------------------------------|------|----------------|-----------------|
| FY                                     | 2017 | Enacted        | \$3,694,462,000 |
| FY                                     | 2018 | Admin. Request | \$3,574,365,000 |
| FY2018 House Committee \$3,867,260,000 |      |                |                 |

## HOSPITALS AND CLINICS

|                                         |      |                |                 |
|-----------------------------------------|------|----------------|-----------------|
| FY                                      | 2017 | Enacted        | \$1,935,178,000 |
| FY                                      | 2018 | Admin. Request | \$1,870,405,000 |
| FY 2018 House Committee \$1,966,714,000 |      |                |                 |

Tribal Clinic Leases. The House Committee would provide \$11 million for tribal clinic leases, the same as FY 2017 enacted. The Administration proposed only \$2 million for this purpose. The House Committee also rejected the Administration's proposal for bill language to amend the law in order to avoid full compensation for section 105(l) Indian Self-Determination and Education Act leases which would be contrary to the decision in *Maniilaq Association v. Burwell*, 170 F. Supp.3d 243 (D.D.C. 2016).

Accreditation Emergencies. The House Committee proposes \$29 million for hospital accreditation emergencies, the same as the FY 2017 level. The Administration proposed only \$2 million for this purpose. The Committee Report states:

Accreditation Emergencies.—The Committee considers the loss or potential loss of a Medicare or Medicaid agreement with the Centers for Medicare and Medicaid Services (CMS) at any facility to be an accreditation emergency. The recommendation includes a total of \$29,000,000 for accreditation emergencies at an alarming number of facilities over the past year. Funds may be used for personnel or other expenses essential for sustaining operations of an affected service unit, including but not to exceed \$4,000,000 for Purchased/Referred Care. These are not intended to be recurring base funds. The Director should reallocate the funds annually as necessary to ensure that agreements with CMS are reinstated, and to restore third-party collection shortfalls. Shortfalls should be calculated relative to a baseline, which should be the average of the collections in each of the two fiscal years preceding the year in which an agreement with CMS was terminated or put on notice of termination.

The following Report language is related to the accreditation crisis and related reform: The accreditation crisis in the Great Plains and the subsequent House provision have highlighted the need for IHS facilities to be significantly more inclusive of Tribes in the decision-making process. The Committees on Appropriations are encouraged by the IHS's own recent initiative to reform its governing boards, but reforms are limited under existing statutes. The Committees are aware that the

authorizing committees of jurisdiction are examining this issue and support these efforts to improve the communication and collaboration between the IHS and Tribes at direct service facilities.

Domestic Violence Prevention Initiative. The Committee recommends \$12.9 million for this program, equal to the FY 2017 enacted level.

Prescription Drug Monitoring. The Committee recommends \$1 million to fund the creation of a multi-state prescription drug monitoring program authorized by Section 196 of the Indian Health Care Improvement Act.

## DENTAL SERVICES

|                                       |      |                |               |
|---------------------------------------|------|----------------|---------------|
| FY                                    | 2017 | Enacted        | \$182,597,000 |
| FY                                    | 2018 | Admin. Request | \$179,751,000 |
| FY 2018 House Committee \$185,920,000 |      |                |               |

Of the total, \$1.46 million is for staffing of Joint Venture facilities (\$1.1 million for the Choctaw Regional Medical Center and \$330,000 for the Flandreau Health Center). The Committee Report states:

The Committee has recognized for many years the dire need to increase oral health care to American Indians/Alaska Natives. Because of funding increases, an additional 263,565 dental services were provided in fiscal year 2016. However, the demand for dental treatment remains overwhelming due to the high incidence of dental caries (cavities) in AI/AN children. Over 80 percent of AI/AN children ages 6–9 and 13–15 years suffer from dental caries, while less than 50 percent of the U.S. population in the same age cohort have experienced tooth decay. The Committee recognizes that more needs to be done to fully address the need for oral health care.

## MENTAL HEALTH

|                                      |      |                |              |
|--------------------------------------|------|----------------|--------------|
| FY                                   | 2017 | Enacted        | \$94,080,000 |
| FY                                   | 2018 | Admin. Request | \$82,654,000 |
| FY 2018 House Committee \$95,450,000 |      |                |              |

Of the total, \$554,000 is for staffing of Joint Venture facilities (\$460,000 for the Choctaw Regional Medical Center and \$94,000 for the Flandreau Health Center). Included in this is funding for a Behavioral Health Integration Initiative and the Zero Suicide Initiative (\$21.4 million and \$3.6 million, respectively, in FY 2017).

## ALCOHOL AND SUBSTANCE ABUSE

|                                       |      |                |               |
|---------------------------------------|------|----------------|---------------|
| FY                                    | 2017 | Enacted        | \$218,353,000 |
| FY                                    | 2018 | Admin. Request | \$205,593,000 |
| FY 2018 House Committee \$220,280,000 |      |                |               |

Of the total, \$288,000 is for staffing of Joint Venture facilities (\$186,000 for the Choctaw Regional Medical Center and \$102,000 for the Flandreau Health Center). IHS states that the request includes \$101.5 million for drug control activities which will maintain the program's progress "in addressing the alcohol and substance abuse needs by improving access to behavioral health services through tele-behavioral health efforts and providing a comprehensive array of preventive, educational and treatment services."

## PURCHASED/REFERRED CARE

|                                       |      |                |               |
|---------------------------------------|------|----------------|---------------|
| FY                                    | 2017 | Enacted        | \$928,830,000 |
| FY                                    | 2018 | Admin. Request | \$914,139,000 |
| FY 2018 House Committee \$928,830,000 |      |                |               |

Of the total, \$53 million is for the Catastrophic Health Emergency Program. The House Committee expresses concern regarding distribution of funds and encourages, in certain circumstances, agreements with non-IHS federal facilities:

The recommendation includes \$928,830,000 for Purchased/Referred Care (PRC), equal to the fiscal year 2017 enacted level. The Committee remains concerned about the inequitable distribution of funds as reported by the Government Accountability Office (GAO– 12–446). The IHS is encouraged to evaluate the feasibility of entering into reimbursable agreements with Federal health facilities outside of the IHS system for patient referrals. Such agreements should be considered only when such referrals save costs and patient travel times relative to referrals to the nearest non-Federal health facilities, and when such referrals do not significantly increase patient wait times at such Federal facilities.

#### INDIAN HEALTH CARE IMPROVEMENT FUND

The Committee recommended \$130 million for the Indian Health Care Improvement Fund. It is listed as its own line item under the Services account. Report language notes it is provided "in order to reduce disparities across the IHS system." Bill language would provide that the Fund "may be used, as needed, to carry out activities typically funded under the Indian Health Facilities Account."

#### PUBLIC HEALTH NURSING

|                                      |      |                |              |
|--------------------------------------|------|----------------|--------------|
| FY                                   | 2017 | Enacted        | \$78,701,000 |
| FY                                   | 2018 | Admin. Request | \$77,498,000 |
| FY 2018 House Committee \$80,372,000 |      |                |              |

Of the total, \$875,000 is for staffing of Joint Venture facilities (\$601,000 for the Choctaw Regional Medical Center and \$274,000 for the Flandreau Health Center).

#### HEALTH EDUCATION

|                                      |      |                |              |
|--------------------------------------|------|----------------|--------------|
| FY                                   | 2017 | Enacted        | \$18,663,000 |
| FY                                   | 2018 | Admin. Request | \$18,313,000 |
| FY 2018 House Committee \$18,896,000 |      |                |              |

Of the total, \$58,000 is for staffing for the Choctaw Regional Medical Center.

#### COMMUNITY HEALTH REPRESENTATIVES

|                                      |      |                |              |
|--------------------------------------|------|----------------|--------------|
| FY                                   | 2017 | Enacted        | \$60,325,000 |
| FY                                   | 2018 | Admin. Request | \$58,906,000 |
| FY 2018 House Committee \$60,825,000 |      |                |              |

#### HEPATITIS B and HAEMOPHILUS IMMUNIZATION (Hib) PROGRAMS IN ALASKA

|                                     |      |                |             |
|-------------------------------------|------|----------------|-------------|
| FY                                  | 2017 | Enacted        | \$2,041,000 |
| FY                                  | 2018 | Admin. Request | \$1,950,000 |
| FY 2018 House Committee \$2,058,000 |      |                |             |

## URBAN INDIAN HEALTH

|                                      |      |                |              |
|--------------------------------------|------|----------------|--------------|
| FY                                   | 2017 | Enacted        | \$47,678,000 |
| FY                                   | 2018 | Admin. Request | \$44,741,000 |
| FY 2018 House Committee \$47,943,000 |      |                |              |

The Committee comments on the need for culturally appropriate services for Native veterans and also notes the provision in the FY 2018 House Veterans Administration appropriations bill requiring a report regarding the cost differential for VA to reimburse IHS for services rather than to provide services directly to urban Indian veterans:

The recommendation includes \$47,943,000 for Urban Indian Health, \$3,202,000 above the budget request. IHS is expected to continue to include current services estimates for Urban Indian Health in future budget requests. Seven out of ten American Indians/Alaska Natives live in urban centers and receive vital culturally appropriate health services from urban Indian health organizations. As such, many Indian veterans obtain their health care services from these organizations. Currently the Veterans' Administration (VA) and the Indian Health Service are operating under a memorandum of understanding (MOU) which is effective through June 30, 2019. Under this agreement, VA reimburses care provided to Indian veterans at IHS facilities and Tribal health programs. The MOU recognizes the importance of a coordinated and cohesive effort on a national scope to meet the needs of individual tribes, villages, islands, and communities, through VA, IHS, Tribal and Urban Indian health programs; however, to date, there has not been equitable reimbursement for the culturally appropriate services provided to Native individuals, including Native veterans. This year, House Report 115–188 accompanying the fiscal year 2018 Military Construction, Veterans' Administration, and Related Agencies Appropriation bill included a directive requiring the VA to prepare a report for the Appropriations Committee examining the impact of Indian veterans receiving health services at urban clinics and the annual estimated cost differential for VA to reimburse IHS rather than provide services directly in these urban areas. The report is also to estimate the capacity of Indian urban clinics to treat increased Indian veteran caseloads and include any data supporting the use of the higher negotiated reimbursement rate in urban settings versus rural areas. The report is due 90 days after enactment of the Act, and the Committee directs IHS to work with the VA to complete this report.

## INDIAN HEALTH PROFESSIONS

|                                      |      |                |              |
|--------------------------------------|------|----------------|--------------|
| FY                                   | 2017 | Enacted        | \$49,345,000 |
| FY                                   | 2018 | Admin. Request | \$43,342,000 |
| FY 2018 House Committee \$49,943,000 |      |                |              |

Programs funded under Indian Health Professions are: Health Professions Preparatory and Pre-Graduate Scholarships; Health Professions Scholarships; Extern Program; Loan Repayment Program; Quentin N. Burdick American Indians Into Nursing Program; Indians Into Medicine Program; and American Indians into Psychology. Bill language includes \$36 million for the loan repayment program and the House Report notes that the American Indians into Psychology Program is continued at not less than \$715,077. The House Committee also comments regarding the loan repayment program:

Loan repayment has proven to be the Service's best recruitment tool for staffing health professionals. The Committee was dismayed to learn that the Service has three thousand vacancies for health professionals. Overall, this is a vacancy rate of 20 percent, with a physician shortage rate of 30 percent and a dentist rate of 18 percent. The Committee has included \$49,363,000 to better enable the Service to recruit and retain health providers. The Service is urged to consider making health administrators a higher priority for loan repayments, in consultation with Tribes.

## TRIBAL MANAGEMENT

|                                    |      |         |             |
|------------------------------------|------|---------|-------------|
| FY                                 | 2017 | Enacted | \$2,465,000 |
| FY                                 | 2018 | Admin.  | Request     |
| FY2018 House Committee \$,2465,000 |      |         |             |

The Tribal Management grant program, authorized in 1975 under the authority of the Indian Self-Determination and Education Assistance Act (ISDEAA), provides competitive grants funding for new and continuation grants for the purpose of evaluating the feasibility of contracting IHS programs, developing tribal management capabilities, and evaluating health services.

## DIRECT OPERATIONS

|                                      |      |         |              |
|--------------------------------------|------|---------|--------------|
| FY                                   | 2017 | Enacted | \$70,420,000 |
| FY                                   | 2018 | Admin.  | Request      |
| FY 2018 House Committee \$72,338,000 |      |         |              |

IHS estimates that 58.7 percent of the Direct Operations budget would go to Headquarters and 41.3 percent to the 12 Area Offices. Tribal Shares funding for Title I contracts and Title V compacts are also included.

## SELF-GOVERNANCE

|                                     |      |         |             |
|-------------------------------------|------|---------|-------------|
| FY                                  | 2017 | Enacted | \$5,786,000 |
| FY                                  | 2018 | Admin.  | Request     |
| FY 2018 House Committee \$5,806,000 |      |         |             |

The Self-Governance budget supports implementation of the IHS Tribal Self-Governance Program including funding required for Tribal Shares; oversight of the IHS Director's Agency Lead Negotiators; technical assistance on tribal consultation activities; analysis of Indian Health Care Improvement Act new authorities; and funding to support the activities of the IHS Director's Tribal Self-Governance Advisory Committee.

The IHS notes in its FY 2018 budget justification that in FY 2016, \$1.9 billion was transferred to tribes to support 89 ISDEAA Title V compacts and 115 funding agreements.

## SPECIAL DIABETES PROGRAM FOR INDIANS

While the entitlement funding for the Special Diabetes Program for Indians (SDPI) is not part of the IHS appropriations process, tribes and tribal organizations routinely include support for this program in their testimony on IHS funding. SDPI is currently funded through FY 2017 at \$150 million annually, and the Administration supports \$150 million for FY 2018. The program needs to be extended this year.

## FUNDING FOR INDIAN HEALTH FACILITIES

|                                       |      |         |               |
|---------------------------------------|------|---------|---------------|
| FY                                    | 2017 | Enacted | \$545,424,000 |
| FY                                    | 2018 | Admin.  | Request       |
| FY 2018 House Committee \$551,643,000 |      |         |               |

The Administration's proposal for the Facilities Account was especially harsh, proposing a \$100 million reduction. The House Committee would restore the funding and add an additional \$6 million.

## MAINTENANCE AND IMPROVEMENT

|                                      |      |                |              |
|--------------------------------------|------|----------------|--------------|
| FY                                   | 2017 | Enacted        | \$75,745,000 |
| FY                                   | 2018 | Admin. Request | \$60,000,000 |
| FY 2018 House Committee \$77,502,000 |      |                |              |

As of October 1, 2016, the Backlog of Essential Maintenance, Alteration, and Repair is \$515.4 million. Maintenance and Improvement (M&I) funds are provided to Area Offices for distribution to projects in their regions.

## FACILITIES AND ENVIRONMENTAL HEALTH SUPPORT

|                                       |      |                |               |
|---------------------------------------|------|----------------|---------------|
| FY                                    | 2017 | Enacted        | \$226,950,000 |
| FY                                    | 2018 | Admin. Request | \$192,022,000 |
| FY 2018 House Committee \$231,412,000 |      |                |               |

Of the total, \$2 million is for staffing of Joint Venture facilities (\$1.56 million for the Choctaw Regional Medical Center and \$466,000 for the Flandreau Health Center).

## MEDICAL EQUIPMENT

|                                      |      |                |              |
|--------------------------------------|------|----------------|--------------|
| FY                                   | 2017 | Enacted        | \$22,966,000 |
| FY                                   | 2018 | Admin. Request | \$19,511,000 |
| FY 2018 House Committee \$22,966,000 |      |                |              |

The House bill language would provide up to \$500,000 for TRANSAM equipment and up to \$2.7 million for purchase of ambulances. The IHS Budget Justification stated that IHS expects to provide \$450,000 to purchase TRANSAM equipment from the Department of Defense and no funding for the purchase of ambulances, but the House would restore those amounts.

## CONSTRUCTION

### Construction of Sanitation Facilities

|                                       |      |                |               |
|---------------------------------------|------|----------------|---------------|
| FY                                    | 2017 | Enacted        | \$101,772,000 |
| FY                                    | 2018 | Admin. Request | \$ 75,423,000 |
| FY 2018 House Committee \$101,772,000 |      |                |               |

The House Committee proposed funding level would reject the cuts the Administration proposed for projects to serve new or like-new housing; existing homes, emergency projects, and studies and training related to sanitation facilities construction projects.

The IHS sanitation facilities construction funds cannot be used to provide sanitation facilities for HUD-built homes.

### Construction of Health Care Facilities

|                                       |      |                |               |
|---------------------------------------|------|----------------|---------------|
| FY                                    | 2017 | Enacted        | \$117,991,000 |
| FY                                    | 2018 | Admin. Request | \$100,000,000 |
| FY 2018 House Committee \$117,991,000 |      |                |               |

The House Report does not specify specific construction projects; while The IHS proposes construction funding for the following specific projects:

- \$45 million to complete construction of the Rapid City Health Center, Rapid City, SD;
- \$50 million to continue construction of the Dikon Alternative Rural Health Center, Dikon, AZ; and
- \$5 million for design/build activities for the Alamo Health Center, Alamo, NM

Small Ambulatory Program/New and Replacement Quarters. The House Report notes that their recommended funding level would restore FY 2017 funding levels which would therefore make available \$5 million for the Small Ambulatory Program and \$8.5 million for new and replacement quarters.

The House Report repeats language from the FY 2017 Explanatory Statement (conference report) addressing the need for a project-level funding distribution plan for healthcare facilities construction, and calls for a gap analysis of the level of healthcare services across the IHS system:

The Committee remains dedicated to providing access to health care for IHS patients across the system. The IHS is expected to aggressively work down the current Health Facilities Construction Priority System list as well as work with the Department and Tribes to examine alternative financing arrangements and meritorious regional demonstration projects authorized under the Indian Health Care Improvement Act that would effectively close the service gap. Within 60 days of enactment of this Act, the Service shall submit a spending plan to the Committees that details the project-level distribution of funds provided for healthcare facilities construction.

The IHS has no defined benefit package and is not designed to be comparable to the private sector health system. IHS does not provide the same health services in each area. Health services provided to a community depend upon the facilities and services available in the local area, the facilities' financial and personnel resources (42 CFR 136.11(c)) and the needs of the service population. In order to determine whether IHS patients across the system have comparable access to healthcare, the IHS is directed to conduct and publish a gap analysis of the locations and capacities of patient health facilities relative to the IHS user population. The analysis should include: facilities within the IHS system, including facilities on the Health Facilities Construction Priority System list and the Joint Venture Construction Program list; and where possible facilities within private or other Federal health systems for which arrangements with IHS exist, or should exist, to see IHS patients.

## CONTINUING BILL LANGUAGE

The proposed bill continues language from previously enacted bills, including the following: IDEA Data Collection Language. The proposed budget would continue the BIA authorization to collect data from the IHS and tribes regarding disabled children in order to assist with the implementation of the Individuals with Disabilities Education Act (IDEA). The provision is:

Provided further, That the Bureau of Indian Affairs may collect from the Indian Health Service and tribes and tribal organizations operating health facilities pursuant to Public Law 93-638 such individually identifiable health information relating to disabled children as may be necessary for the purpose of carrying out its functions under the Individuals with Disabilities Education Act. (20 U.S.C. 1400, et. seq.)

Prohibition on Implementing Eligibility Regulations. The proposed budget would continue the prohibition on the implementation of the eligibility regulations, published September 16, 1987.

Services for Non-Indians. The proposed budget would continue the provision that allows the IHS and tribal facilities to extend health care services to non-Indians, subject to charges. The provision states:

Provided, That in accordance with the provisions of the Indian Health Care Improvement Act, non-Indian patients may be extended health care at all tribally administered or Indian Health Service

facilities, subject to charges, and the proceeds along with funds recovered under the Federal Medical Care Recovery Act (42 U.S.C. 2651-2653) shall be credited to the account of the facility providing the service and shall be available without fiscal year limitation.

Assessments by DHHS. The proposed budget would continue the provision which provides that no IHS funds may be used for any assessments or charges by the Department of Health and Human Services "unless identified in the budget justification and provided in this Act, or approved by the House and Senate Committees on Appropriations through the reprogramming process."

Limitation on No-Bid Contracts. The proposed budget would continue the provision regarding the use of no-bid contracts. The provision specifically exempts Indian Self-Determination agreements:

Sec. 411. None of the funds appropriated or otherwise made available by this Act to executive branch agencies may be used to enter into any Federal contract unless such contract is entered into in accordance with the requirements of Chapter 33 of title 41 United States Code or chapter 137 of title 10, United States Code, and the Federal Acquisition Regulations, unless: (1) Federal law specifically authorizes a contract to be entered into without regard for these requirements, including formula grants for States, or federally recognized Indian tribes; or (2) such contract is authorized by the Indian Self-Determination and Education and Assistance Act (Public Law 93-638, 25 U.S.C. 450 et seq.) or by any other Federal laws that specifically authorize a contract within an Indian tribe as defined in section 4(e) of that Act (25 U.S.C. 450b(e)); or (3) Such contract was awarded prior to the date of enactment of this Act.

Use of Defaulted Funds. The proposed budget would continue the provision that allows funds collected on defaults from the Loan Repayment and Health Professions Scholarship programs to be used to make new awards under the Loan Repayment and Scholarship programs."

## **In the Courts**

### **The U.S. Supreme Court**

"U.S. Supreme Court Upholds Use of Disparaging Trademarks; 'Redskins' Case to End," Hobbs-Straus General Memorandum 17-036, June 30th, 2017, <http://www.hobbsstraus.com/general-memorandum-17-036>, reported, "On June 19, 2017, the **U.S. Supreme Court ruled 8-0 in *Matal v. Tam* that the disparagement clause of the Lanham Act is an unconstitutional burden on free speech and therefore the U.S. Patent and Trademark Office (PTO) cannot refuse to register a disparaging mark.** The Court's ruling dealt a fatal blow to Native Americans in another case – *Pro-Football v. Blackhorse* – seeking to cancel the "Washington Redskins" football team's trademarks. Following the Court's ruling, the football team asked the U.S. Court of Appeals for the Fourth Circuit to reverse the judgment of the district court, vacate the district court's order directing the PTO to cancel the team's trademarks, and remand the case with instructions to grant summary judgment to the team. Both the Blackhorse defendants and the United States as intervenor in the case wrote separate letters to the Fourth Circuit Court of Appeals stating that they agreed that the Tam decision controlled the outcome of the case and that the court should grant the football team's request.

In Tam, the plaintiff, Simon Tam, the leader of an Asian American band called 'The Slants', sought to register the name of his band as a trademark with the PTO. Tam said that the band chose its name to "reclaim" the term and break down its derogatory nature. The PTO, however, refused to register the mark because the name disparages persons of Asian descent. Section 2(a) of the Lanham Act states that the PTO can refuse to register trademarks that disparage persons, living or dead. Tam appealed the PTO's decision to the U.S. Court of Appeals for the Federal Circuit. The court first upheld the PTO's decision but then on en banc review it reached the opposite conclusion and held **that the disparagement clause of the Lanham Act was unconstitutional and that the PTO should have registered the band's name as a trademark.**



The Supreme Court upheld the Federal Circuit's decision. The Court ruled that trademarks are not government speech, which means that they are not afforded the higher level of First Amendment protections given private speech. The Court also firmly rejected Tam's assertion that the Lanham Act's disparagement clause does not apply to racial and ethnic groups. In ruling for the band, the Court wrote that the disparagement clause "offends a bedrock First Amendment principle: Speech may not be banned on the ground that it expresses ideas that offend." Thus, the Court ruled that the PTO should register the band's name as a trademark.

The **Tam decision directly affected the Blackhorse case**. In Blackhorse, five Native Americans, led by Amanda Blackhorse, challenged the 'Washington Redskins' name on disparagement grounds before the PTO. In 2014, the PTO agreed with them and revoked six of the football team's trademarks. The team sued the Native American defendants in district court to overturn the PTO's decision. In 2015, the U.S. District Court for the Eastern District of Virginia upheld the PTO's decision. The team appealed the decision to the U.S. Court of Appeals for the Fourth Circuit which put the case on hold pending the outcome of the Tam case. The Blackhorse case, like the Tam case, turned on the disparagement clause of the Lanham Act. Now that the Supreme Court has deemed that clause unconstitutional, the Native American defendants and the United States have conceded the outcome to the "Washington Redskins" football team."

Anna V. Smith, "NEIL GORSUCH: What Trump's Supreme Court pick holds for Indian Country," *High Country News*, December 14, 2017, [http://nmpoliticalreport.com/785028/what-trumps-supreme-court-pick-holds-for-indian-country/?mc\\_cid=3ecbf08bc2&mc\\_eid=cde7993ced](http://nmpoliticalreport.com/785028/what-trumps-supreme-court-pick-holds-for-indian-country/?mc_cid=3ecbf08bc2&mc_eid=cde7993ced), commented in part, "During the Senate hearings that put Neil Gorsuch on the Supreme Court this year, **Democrats made it clear they were leery of his conservative judicial record**. Gorsuch was confirmed in April [along party lines](#), and no Western Democrat voted in his favor. **But Gorsuch has a strong background in Indian law and a record of recognizing tribal sovereignty and self-determination**, and, those concerns notwithstanding, his nomination may well represent a potential positive development on big cases in Indian Country.

In a court dominated by East Coast justices, Gorsuch is from the West, the source of many Indian law cases."

**"According to the Native American Rights Fund, which supported his nomination, Gorsuch ruled favorably for tribes 57 percent of the time on cases ranging from jurisdiction and religious freedom to tribal sovereignty. His opinions show an appreciation of history and context, important tenets of Indian law,** says John Dossett, general counsel of the National Congress of American Indians, who first met Gorsuch at an NCAI function 10 years ago.

Gorsuch's opinions often read like a primer on the history of the tribe in question and are firmly couched in an understanding that, as he has written, 'ambiguities in the field of trust relations must be construed for, not against, Native Americans.'"

**"Not all have such a positive view. Robert Anderson, law professor at University of Washington, says that many of Gorsuch's past rulings on tribal affairs were 'open and shut' cases. Gorsuch may receive such glowing reviews, Anderson says, because people compare him to Antonin Scalia, the justice he replaced. (According to an analysis by the Native American Rights Fund, Scalia voted against tribes 86 percent of the time.) Anderson points to a case involving the Navajo Nation, in which Gorsuch's written opinion determined that disputed lands were not considered Indian Country. "My assessment is that in the one case where things were really contested, in a matter regarding sovereignty, he went with the anti-tribal view," Anderson says."**

Still, Gorsuch's experiences as a Westerner and his understanding of Indian law and history could prove advantageous for Indian Country."

### Lower Federal Courts

"Tenth Circuit Overturns Indian Defendant's State Murder Conviction Due to Lack of Jurisdiction," Hobbs Straus General Memorandum 17-043, August 25th, 2017, <http://www.hobbsstraus.com/general-memorandum-17-043>, reported, "On August 8, 2017, the **Tenth**

Circuit Court of Appeals overturned the state murder conviction of Patrick Murphy, a member of the Muscogee Creek Nation who was found guilty of murdering another member of the Muscogee Creek Nation, in the case *Murphy v. Royal*. The crime occurred in McIntosh County, Oklahoma, on former allotment lands within the historic reservation boundaries of the Muscogee Creek Nation. Murphy appealed his state court murder conviction, alleging that the crime occurred within the Muscogee Creek Nation, and therefore the State of Oklahoma lacked jurisdiction to prosecute him.

The State of Oklahoma claimed that while the land where the crime occurred was previously an Indian allotment, the land is now owned by non-Indians and was, therefore, within the state's jurisdiction. Murphy appealed, alleging Oklahoma lacked jurisdiction because the Major Crimes Act grants exclusive jurisdiction to the federal government to prosecute murders committed by Indians within Indian Country, and the location of the crime was within the historic boundaries of the Muscogee Creek Nation. Under federal law, 'Indian Country' includes (1) all lands within the limits of any Indian reservation, (2) dependent Indian communities, and (3) Indian allotments. The Tenth Circuit determined that the land's non-Indian ownership was inconsequential because the Supreme Court previously determined that 'reservation status depends on the boundaries Congress draws, not on who owns the land inside the reservation boundaries.' Under this standard, all land within reservation boundaries qualifies as Indian Country, regardless of who holds title to the land.

On appeal, the Tenth Circuit examined whether the location of the crime qualified as Indian Country. The State asserted that the Muscogee Creek Nation's reservation boundaries had been diminished through the allotment process and the establishment of the State of Oklahoma, whereas Murphy argued that Congress had never acted to diminish or disestablish the boundaries of the Muscogee Creek Nation. The Tenth Circuit utilized the Supreme Court's three-part test from the case *Solem v. Bartlett* to determine whether a reservation has been diminished or disestablished. Under *Solem*, courts start with the presumption that a reservation has not been diminished or disestablished. Courts then look at three factors: 1) whether any statutory text includes 'express language of cession,' evidencing an intent to divest the tribe of its lands in exchange for fixed compensation; 2) whether the events surrounding the passage of the statute showed there was 'a widely-held, contemporaneous understanding that the affected reservation would shrink as a result of the proposed legislation,' due to 'the manner in which the transaction was negotiated with the tribes and the tenor of legislative reports presented to Congress'; and 3) whether 'to a lesser extent, events that occurred after the passage of the relevant statute,' including federal treatment of the area and demographic history indicate that the reservation boundaries were diminished or disestablished.

Since Congress treated tribes differently through treaty negotiations and legislation, the *Solem* test requires a thorough examination of a tribe's historical relations with the federal government to determine whether a reservation's boundaries remain intact. Importantly, courts must interpret ambiguities within statutory texts in favor of the Indians. This rule 'is applied to its broadest possible scope in disestablishment and diminishment cases,' requiring courts to find 'substantial and compelling evidence' before they can rule that a reservation's boundaries have, in fact, been diminished or disestablished. As the party attempting to assert jurisdiction and arguing for diminishment, the State of Oklahoma bore the burden to prove the Muscogee Creek Nation's boundaries had been diminished.

Oklahoma presented eight separate statutes to support its position that the boundaries of the Muscogee Creek Nation had been diminished. The state asserted that while there was no explicit statutory text accomplishing disestablishment, the cumulative effects of the statutes divested the Muscogee Creek Nation of its governmental authority over former tribal lands. However, the court found that a tribal government's powers and its reservation boundaries are not the same thing. The specific statutory language recognized the continued existence of the Muscogee Creek Nation's borders and the present governmental authority of the Muscogee Creek Nation. Additionally, within these acts, Congress provided that surplus tribal lands should be used for tribal purposes, including equalizing allotment values, and establishing public buildings such as schools, jails, courthouses, and churches. This fell short of the 'express language of cession' necessary to find disestablishment. For

disestablishment, there must be some "hallmarks of disestablishment," such as language saying reservation lands have been discontinued, vacated, restored to the public domain, ceded, conveyed, transferred, or relinquished.

Applying Step Two of the Solem test, the court **held: 'When the statutory text at step one does not reveal that Congress has disestablished or diminished a reservation, such a finding requires unambiguous evidence that unequivocally reveals congressional intent.'** Previously, the Tenth Circuit found the Osage Nation within Oklahoma had been disestablished with Step Two evidence, because the legislative history and negotiation process between the federal government and the Osage Nation left no doubt that all parties understood the reservation's boundaries would be diminished through allotment. However, **in Murphy, the Tenth Circuit found 'mixed evidence' falling short of the 'unambiguous and unequivocal' standard.** All that existed were statements of individual senators expressing their desires to abolish the Muscogee Creek Nation's government. However, most of the discussion centered on tribal governance and power, not reservation boundaries. 'Isolated statements from a few senators do not show that Congress disestablished a reservation.' While the State's evidence centered on title to land and governance, it did not speak to whether the reservation's boundaries had been disestablished. This fell far short of the 'unambiguous and unequivocal' evidence necessary to find disestablishment when there is no explicit statutory text.

Lastly, **the Tenth Circuit dismissed the State's remaining Step Three arguments that treatment of the land after allotment and the demographics of the area supported state jurisdiction. Without any evidence showing disestablishment in Step One or Step Two of the Solem test, the State had failed to meet its burden of proving disestablishment.**

**The Murphy decision may significantly reshape the boundaries of criminal jurisdiction within Oklahoma.** State prosecutors have exerted jurisdiction over Indians committing crimes within the historical boundaries of tribal nations for the last century, and have convicted numerous individuals without establishing the jurisdiction to do so. Under Murphy, many of those convictions may now be subject to review.

On August 15, 2017, the Tenth Circuit granted the Oklahoma Attorney General's request for additional time to file a petition for rehearing, meaning the final judicial resolution of the issues addressed in the case may not arrive for some time. In the interim, it is unclear whether a legislative resolution to the issues is either likely or advisable."

Tanya H. Lee, "Termination or Extermination for Penobscot Indian Nation? State of Maine Declares Jurisdiction Over Penobscot River; Federal Courts Agree," ICTMN, August 7, 2017, <https://indiancountrymedianetwork.com/news/politics/termination-extermination-penobscot-indian-nation/>, reported, **"On June 30, a federal appeals court upheld a lower court ruling that severs the Penobscot Indian Nation from the waters of the Penobscot River,** a ruling that Penobscot Indian Nation Chief Kirk Francis says is reminiscent of federal termination policy—or worse.

"The river and our relationship to it and the 200 islands [that form the reservation] are the core of our cultural identity. If our ability to protect the river is taken away, we lose a big part of who we are,' Francis told ICMN.

For decades, the tribe has been monitoring the quality of the water in the river and working with state and federal agencies, power companies and conservation groups to stop the industrial and municipal pollution that has led to unacceptably high levels of mercury, dioxin, PCPs and other toxins in the river."

Dawn Neptune Adams said, "Fishing is something that we do as part of our culture; it's been part of our culture for thousands of years. I myself am a single parent... We have treaty-reserved fishing rights, but those fishing rights don't do any good if we can't eat the fish.' Cancer rates on the reservation are two to five times higher than in the rest of the state."

"In 2012 Maine Attorney General William Schneider denied the tribe's right to protect the waters on which it has relied for untold generations."

**"The tribe filed a lawsuit in federal court, alleging the state's position violated its sustenance fishing rights.** MICSA, noted the tribe, provided that members of the tribe "may take fish, within the boundaries of their...Indian reservation, for their individual sustenance." The U.S.

Departments and Justice and Interior intervened on the side of the tribe.

In 2015 the U.S. District Court for the District of Maine ruled that while the tribe did have the right to take fish from the river, the reservation included only the islands, not the water in the river. The tribe appealed and on June 30, two judges for the U.S. Court of Appeals for the First Circuit affirmed the lower court's finding regarding the water and declined to rule on the tribe's fishing rights.

The third appeals court judge, Juan R. Torruella, wrote a strongly-worded dissent, arguing in part that since MICSA granted the tribe the right to fish within the boundaries of its reservation, the reservation must include the waters surrounding the tribal islands; otherwise, fishing would be permitted only on dry land, a clear absurdity."

The U.S 10th Circuit Court of Appeals denied standing to the Gallup McKinley School District in its challenge to Navajo Nation Courts having jurisdiction in cases involving Navajo employees in public schools on the Navajo reservation, holding that as the school district won the case in question in the Navajo Nation Supreme Court, the district suffered no injury or loss from the decision, and thus had no grounds to appeal (Bill Donovan, "U.S. to Gallup McKinley: You can't appeal if you do not lose," *Navajo Times*, June 29, 2017).

Ben Moffat, "Gila River Tribes' Water Win in Court: Appeals court upholds tribes' claim in dispute over Gila River water," ICTMN, June 18, 2017, <https://indiancountrymedianetwork.com/news/environment/gila-river-tribes-water-win-court/>, reported, "A federal appeals court agreed with two tribes who challenged a Freeport Minerals plan to divert water from the Gila River, saying the company had failed to show that its proposal would not affect the tribes.

The June 13 ruling by a three-judge panel of the Ninth U.S. Circuit Court of Appeals in Washington D.C. said the company, now Freeport-McMoRan, did not meet its burden of proving that the plan to reroute water would not have substantial negative effects on those downstream, which included the Gila River Indian Community and the San Carlos Apache Tribe."

"Court Rules Freedmen Have Citizenship Rights in the Cherokee Nation of Oklahoma," Hobbs-Straus General Memorandum 17-046, September 11th, 2017, <http://www.hobbsstraus.com/general-memorandum-17-046>, reported, "On August 30, 2017, the U.S. District Court for the District of Columbia issued a decision in *Cherokee Nation v. Nash*, the case involving the right of the 'Freedmen', former slaves of the Cherokee people, to join the Cherokee Nation of Oklahoma ('Cherokee Nation') as citizens. Judge Thomas Hogan, writing for the court, held that the Freedmen have the right to citizenship under The Treaty of July 19, 1866 with the Cherokee ('1866 Treaty'). Following the decision, the Cherokee Nation's Attorney General said that he will not file an appeal and that his office 'will move forward in a way that best serves the interests of the Cherokee Nation and its citizens, including Freedmen descendants.'

The Cherokee Nation filed suit in 2009 against the Freedmen and the U.S. Interior Department in order to obtain a ruling on whether a 2007 amendment to the Tribe's Constitution to terminate the Freedmen's citizenship was permissible. The 2007 Constitutional amendment followed a 2006 Cherokee Nation Supreme Court ruling that the Freedmen were eligible for tribal citizenship.

In the Cherokee Nation decision, Judge Hogan ruled that 1866 Treaty gave the Freedmen the same rights as 'native' Cherokees. Article 9 of the 1866 Treaty states: 'that all freedmen who have been liberated by voluntary act of their former owners or by law, as well as all free colored persons who were in the country at the commencement of the rebellion, and are now residents therein, or who may return within six months, and their descendants, shall have all the rights of native Cherokees.'

Hogan wrote that the Cherokee Nation was mistaken 'to treat [F]reedmen's right to citizenship as being tethered to the Cherokee Nation Constitution when, in fact, that right is tethered to the rights of native Cherokees. Furthermore, the [F]reedmen's right to citizenship

**does not exist solely under the Cherokee Nation Constitution and therefore cannot be extinguished solely by amending that Constitution.'**

Hogan concluded:

'The Cherokee Nation's sovereign right to determine its membership is no less now, as a result of this decision, than it was after the Nation executed the 1866 Treaty. ... The Cherokee Nation can continue to define itself as it sees fit but must do so equally and evenhandedly with respect to native Cherokees and the descendants of Cherokee [Freedmen].'

**Counsel for the Freedmen have stated that they will work with the Cherokee Nation to secure full citizenship rights in the tribe, including voting rights, the ability to run for office, and access to health care, education and other benefits. In a recent press release, Cherokee Nation announced that it has begun processing membership applications for Freedmen descendants."**

"Tribal Self-funded Member Health Plans Not Subject to ERISA," Hobbs-Straus GENERAL MEMORANDUM 17-037, July 19th, 2017, <http://www.hobbsstraus.com/general-memorandum-17-037>, reported, "In this General Memorandum we report on a recent **decision by the United States District Court for the East District of Michigan in *Saginaw Chippewa Indian Tribe of Michigan v. Blue Cross Blue Shield of Michigan*, No. 1:16-cv-10317-TLL-PTM (E.D. Mich. July 14, 2017).** This decision is of interest to any tribe that has both an employee health insurance plan and a self-insured health plan for its tribal members.

In this case, the Tribe had purchased a fully insured health care benefits plan for its employees from Blue Cross Blue Shield of Michigan (BCBSM). The Tribe paid a premium to BCBSM for coverage and BCBSM in return assumed sole responsibility for paying claims from the plan's participants. The Tribe later decided to provide health insurance coverage for all members of the tribe. Rather than purchasing a fully-insured plan, like the plan for tribal employees, the Tribe chose a self-funded plan under which the Tribe directly paid the cost of health care benefits and paid BCBSM a fee for administering the member plan.

This case is one of many brought against BCBSM alleging that BCBSM breached its fiduciary duties under the Employee Retirement Income Security Act (ERISA) by charging hidden administrative fees to its clients. A Sixth Circuit decision in *Hi-Lex Controls, Inc. v. Blue Cross Blue Shield of Michigan*, 751 F.3d 740 (6th Cir. 2014) conclusively established BCBSM's liability as an ERISA fiduciary for charging hidden fees in administering employee health plans subject to ERISA. The issue in the Saginaw Chippewa case was whether the Tribe's Member Plan was also subject to ERISA. If so, BCBSM would be acting in a fiduciary capacity in administering the Tribe's member plan, and thus subject to liability under ERISA for charging hidden fees in administering the Member Plan.

The court **held that the Tribe's Member Plan was not subject to ERISA because it was not created by the Tribe to provide health care coverage for tribal employees.** The court determined that circumstances surrounding the creation and administration of the Employee Plan and the Member Plan demonstrate that they were not intended to be a single plan, so that the question whether they are subject to ERISA must be conducted separately. The Tribe created its Employee Plan in its capacity as an employer to provide health care coverage for its employees. Thus, the Employee Plan was an ERISA plan. On the other hand, **the Tribe created its Member Plan in its capacity as a sovereign to provide health care coverage for its members unrelated to employment by the Tribe. The fact that some tribal member employees had opted for coverage under the Member Plan did not make the Member Plan subject to ERISA because coverage of those member employees was unrelated to their employment relationship with the Tribe.**

The court also **held that BCBSM did not breach its ERISA fiduciary duty in allocating payments to its physician providers under a Physician Group Incentive Program (PGIP), which allocated a portion of yearly fee increases to physicians in BCBSM's network based on certain performance measures.** The court determined that unlike the hidden access fees at issue in the Hi-Lex decision, BCBSM never received any financial benefit from the PGIP and the Tribe did not establish that it was charged an additional amount because of PGIP."

**A lawsuit was filed in Federal District Court in Denver, CO, in September 2017, by a lawyer and Deep Green Resistance, an environmental group, stating that the Colorado River was the plaintiff, against Colorado Governor John Hickenlooper, asserting that the governor was liable for violating the river's "right to exist, flourish, regenerate, be restored and naturally evolve."** Legal experts say that the suit has a low likelihood of succeeding, but if it did, it would likely change environmental law, giving natural entities legal standing for people to sue on their behalf (Julie Turkewitz, "Plaintiff in Federal Lawsuit Over Violation Rights Is the Colorado River," *The New York Times*, September 27, 2017).

**A number of lawsuits have been filed in Federal District Court by Indian Nations and environmental groups challenging President Trump's shrinking of Bears Ears and Grand Staircase-Escalante national monuments in Utah, asserting that, while the president has legal authority to create new, and expand existing, national monuments, he has no legal authority to shrink them** (Brady McCombs and Michelle L. Price, "Lawsuits by tribes, conservation organizations ask whether president can modify national monuments," NFIC, December 2017),

**The Chilkat Indian Village of Klukwan, AK, and three environmental groups brought suit, December 4, 2017, in Federal District Court against the U.S. government, claiming that the Bureau of Land Management improperly issued a permit to Constantine Resources, Ltd. to undertake exploratory mining upstream of the Chikkat River in Southwest Alaska, without taking necessary consideration of the impact a mine in that area would have on salmon in the river and upon a bald eagle preserve** (Dan Joling, "Critics sue over mine exploration near Alaska eagle preserve," NFIC, December 2017).

**The Navajo Nation has filed a lawsuit in Federal District Court, in Gallup, NM, in December 2017, against Wells Fargo Bank, claiming that the bank had engaged in unlawful and predatory practices that targeted and harmed Navajo people, particularly elderly Navajos** (Bill Donovan, "Lawsuit filed against Wells Fargo," *Navajo Times*, December 14, 2017).

Lenzy Krehbiel-Burton, "Creek File Lawsuit Claiming Concurrent Jurisdiction With Casino in Limbo: Lawsuit comes as the **tribal town continues to a second attempt to launch a casino near one of Oklahoma's largest cities,**" ICTMN, August 28, 2017, <https://indiancountrymedianetwork.com/news/native-news/creek-file-lawsuit-claiming-concurrent-jurisdiction-casino-limbo/>, **"With its would-be casino in limbo, a Creek tribal town has filed a federal lawsuit claiming it and three other tribes are entitled to equal legal authority over 11 eastern Oklahoma counties.**

On August 17, attorneys for the **Kialegee Tribal Town filed litigation with the District of Columbia District Court seeking an injunction against Secretary of Interior Ryan Zinke, acting Assistant Secretary of Indian Affairs Michael Black and National Indian Gaming Commission chairman Jonodev Chaudhuri, a citizen of the Muscogee (Creek) Nation.**

Citing 18th and 19th century Creek treaty rights and the Creeks' pre-removal organization, the Kialegee Tribal Town argues that it, along with the other two traditional Creek tribal towns with federal recognition, has jurisdiction over the Muscogee (Creek) Nation's recently reinstated reservation in eastern Oklahoma."

### **State and Local Courts**

**Montana's 13th Judicial District began operating the fifth Indian Child Welfare Act (ICWA) Court in the U.S., in September 2017, handling ICWA cases in Yellowstone County, MT** (Phoebe Tollefson, "New ICWA court connect Native foster kids with family," NFIC September 2017).

**The Idaho Supreme Court ruled, November 3, 2017, that decisions by Tribal Courts in the state must be abided by and enforced throughout the state.** The case involved a case begun in 2014,

in which the Coer d'Alene Tribal Court fined two non-tribal members residing on the Coer d'Alene reservation \$17,400 in civil penalties for building a dock on the river within the reservation without a permit from the tribe (Kimberlee Kruesi, "State Supreme court rules Coer d'Alene Tribal Court judgement is to be enforced in Idaho," NFIC November 2017).

Gale Courey Toensing, "Schaghticoke Tribal Nation's \$610 Million Lawsuit Against CT Inches Forward: Schaghticoke Tribal Nation sues Connecticut for \$610 million in allegedly unpaid land use fees," ICTMN, September 3, 2017, <https://indiancountrymedianetwork.com/news/politics/schaghticoke-610-million-lawsuit-connecticut/>, reported, **"The first court action in a lawsuit filed a year ago by the Schaghticoke Tribal Nation against the State of Connecticut will take place this month. The complaint claims the State of Connecticut owes the tribe more than \$610 million in mismanaged land use trust funds.** A pretrial evidentiary hearing will be held at Connecticut Superior Court in Hartford on September 14 on the state's motion to dismiss the case.

The lawsuit, which was filed in October 2016, **says the state illegally took most of the Schaghticoke (pronounced Skat' i coke) Tribe's land and then sold it off, rented it or otherwise profited from it without compensating the tribe.** The nonpayment of funds has violated state statutes and resolutions for more than 250 years and will continue to do so every year until the tribe is paid, the lawsuit says.

### Tribal Courts

**Cherokee Nation of Oklahoma is bringing suit in its tribal court against a set of major drug companies over the opioid prescription drug crisis which has been devastating to the Cherokee Nation. The suit asserts that the pharmacy chains Walmart, Walgreens and CVS Health, along with the drug distributors McKesson, Cardinal Health and AmerisourceBergen, violated federal drug-monitoring laws and allowed prescription opioids to flood into the Cherokee territory at some of the highest rates in the country. The drug companies are attempting to move the case to federal court** (Jan Hoffman, "In Opioid Battle, Cherokee Want Their Day in Tribal Court: Decimated by addiction, its heritage at risk, the Cherokee Nation is trying to sue pharmacies and distributors. But it may be blocked from doing so," *The New York Times*, December 17, 2017, [https://www.nytimes.com/2017/12/17/health/choke-oid-addiction-pharmacies.html?ref=todayspaper&\\_r=0](https://www.nytimes.com/2017/12/17/health/choke-oid-addiction-pharmacies.html?ref=todayspaper&_r=0)).

### Tribal Governments and State and Local Government Developments

Stephanie Woodard, "Native Voting Rights—Back to the Drawing Board in South Dakota? 'Everyone should have an equal chance to participate in our democracy', ICTMN, August 11, 2017, <https://indiancountrymedianetwork.com/news/politics/native-voting-rights-back-drawing-board-south-dakota/>, reported, **"Controversy erupted in South Dakota following the state's announcement that voters on the Crow Creek Sioux Reservation would have very restricted ballot-box access for the 2018 national elections. After Crow Creek Chairman Brandon Sazue criticized Buffalo County for offering the reservation 11 days across the primary and general elections, as compared to 94 days in other parts of the state, county commissioners told ICMN they were looking at revising the plan."**

Debra Utacia Krol, "Keeping Hawaiian Lands in Native Hawaiian Hands: Hawaii legislature approves lowering blood quantum for homestead inheritance," ICTMN, August 31, 2017, <https://indiancountrymedianetwork.com/news/politics/keeping-hawaiian-lands-native-hawaiian-hands/>, reported, **"Hawaii is one step closer to realizing a Native Hawaiian prince's vision for providing a place to call home for all people indigenous to the island state. In July, Gov. David Ige signed HB 451, which will change the requirement to inherit Hawaiian homesteads from its current one-fourth to one-thirty-second."**

**A bill has been introduced in the North Dakota state legislature that would allow the tribes in the state to make compacts with the state for the Indian nations to levy state sales taxes and keep a yet to be determined percentage of the collected tax** (James MacPherson, "North Dakota bill would allow tribes to enter into agreements to levy/keep state sales taxes," NFIC, December 2017).

The Alaska Attorney General stated, October 17, 2017, that **while most tribal banishment cases are private civil actions concerning which the state has no authority, but if asked in the few cases involving criminal or constitutional issues, the state would investigate. He stated that the state collaborates with tribes in many ways, including in the enforcement of protective orders by tribal courts. Also, the state's new civil diversion agreement program allows tribes to have jurisdiction over low level crimes, including certain assaults, reckless endangerment and substance abuse offences** (Rachel d'Oro, "Alaska Attorney General Outlines state position on tribal banishment," NFIC, October 2017).

Finding that a **significant number of Navajo tribal members did not have birth certificates**, making it difficult to renew driver's licenses, Tribal member and New Mexico state representative Sharon Clahchischilage **arranged with state agencies to have on reservation pop-up locations in Shiprock and Crown Point, NM, where tribal members born in New Mexico could obtain delayed birth certificates** (Pauly Dennetclaw, "Pop-up service offers delayed birth certificates," Navajo Times, October 5, 2017).

**The Fond du Lac Chippewa of Minnesota and Minnesota Governor Mark Dayton signed a memorandum of understanding, December 8, 2017, on how the state and the nation will work together monitoring fish and wildlife harvesting levels as the tribe and its members exercise their hunting and fishing rights** ("Fond du Lac Chippewa formalize final management agreement on treaty resources," NFIC, December 2017).

"GOVERNOR BAKER PROCLAIMS NOVEMBER NATIVE AMERICAN HERITAGE MONTH IN MASSACHUSETTS," Cultural Survival," November 22, 2017, <https://www.culturalsurvival.org/news/governor-baker-proclaims-november-native-american-heritage-month-massachusetts>, reported, **"For the first time in recent history, Governor Charles Baker proclaimed November Native American Heritage Month in the Commonwealth of Massachusetts."**

Steve Quinn, Alaska Adopts New Law Declaring Indigenous Peoples Day: Inupiat Democrat sponsored the bill; and one of the first to request an apology from fellow Rep. David Eastman for recent racist remarks," ICTMN, June 27, 2017, "<https://indiancountrymedianetwork.com/news/politics/alaska-adopts-new-law-declaring-indigenous-peoples-day/>, reported, **"Alaska Gov. Bill Walker on Saturday, June 24, 2017 signed a bill into law officially designating the second Monday in October as Indigenous Peoples Day."**

**An increasing number of municipalities in the U.S. have been changing Columbus Day into Indigenous People's Day. Acting to do so recently are Moscow, ID, Kalamazoo, MI, Detroit, MI and Stanford, KY. A campaign is in progress in Baltimore, MD to make the change, where a resolution introduced in 2016 in the city council to do that failed to pass** ("Columbus vs Indigenous People's Day - name change gaining support," NFIC, October 2017).

**Nashville, TN has also made the change from Columbus Day to Indigenous People's Day** (Albert Bender, "Nashville Mayor, City Council move to recognize Indigenous Peoples Day in lieu of Columbus Day," NFIC, November 2017).

"Blackjack and Baccarat Through 2030: Seminoles Reach Settlement With Florida: Florida will take "aggressive enforcement action" against player-banked card games at rival tracks," ICMN, July 11, 2017, <https://indiancountrymedianetwork.com/news/business/blackjack-baccarat-2030-seminoles->



reach-settlement-florida/, reported, **"The Seminole Tribe and the State of Florida have agreed to terms that honor the tribe's exclusive statewide rights to operate table games like blackjack and baccarat through 2030, while holding the state accountable for cracking down on player-banked card games at parimutuels."**

**"Under the new terms, the tribe will resume payments to the state through 2030. Florida will receive \$340 million over the next fiscal year, including \$220 million immediately. The money contributed by the tribe totals to more than twice as much as the banked games at parimutuels would have contributed to state coffers. The tribe has shared more than \$1.7 billion with Florida since 2010."**

**The Hopi Tribe became the last in Arizona to sign a gambling compact with the state. The agreement authorizes the nation to operate 900 slot machines.** Finding new sources of tribal income is important, as the **Hopi face losing 85% of their budget when the Kayenta Mine closes in 2019** (Felicia Fonseca, "Hopi last Arizona tribe to sign gambling agreement," ICTMN, December 2017).

"California Tribes Form Cannabis Association: Newly formed California Native American Cannabis Association seeks formal consultations with governor," ICMN, September 3, 2017, <https://indiancountrymedianetwork.com/news/native-news/california-tribes-form-cannabis-association/>, reported, **"The newly formed California Native American Cannabis Association is asking Gov. Jerry Brown to begin government-to-government consultations with tribes to ensure that cannabis regulations include specific language to respect tribal sovereignty and the right to self-regulate.** The law governing California's multibillion-dollar cannabis industry goes into effect on January 1 but currently does not include specific language addressing the sovereign rights of Indian nations.

**To help build tribal support and ensure that tribal sovereignty is protected in the new law, C-NACA is planning a symposium on tribal cannabis issues** from October 29 to November 1 at the Morongo Casino Resort in Cabazon, California."

In September 2017, the **city of Eureka, CA resumed efforts to return remaining portions of Indian Island to the Wiyot people** (Andre Cramblit, "White Privilege Returns to Indian Island: Wealthy Robin Arkley protests Eureka, CA's decision to give Indian Island to the Wiyot Tribe," *ICTMN*, September 2, 2017, <https://indiancountrymedianetwork.com/news/opinions/white-privilege-returns-indian-island/>).

**The Northwest Band of the Shoshone Nation in Utah has asked the city of Westville, UT to stop holding the annual battle reenactment on Labor Day weekend, saying that the "sham battle" is a racially and culturally insensitive portrayal of American Indians. The city's mayor, Thomas Bailey, said he hoped some kind of compromise could be obtained to continue the event in some form.** The **Ute Indian Political Action Committee** was planning a protest demonstration at the September 20, 2017 city council meeting ("Shoshone call in Utah city to end annual battle reenactment," NFIC, September 2017).

Lynn Cordova, "Christopher Columbus Loses a Holiday in Los Angeles, and Loses His Head in New York: Los Angeles will now celebrate Indigenous Peoples Day on the second Monday in October. Meanwhile in New York, someone cut the head off a statue to Columbus," *ICTMN*, September 1, 2017, <https://indiancountrymedianetwork.com/news/native-news/christopher-columbus-loses-holiday-los-angeles-loses-head-new-york/>, reported, **"The L.A. City Council voted 14-1 to dump Columbus Day as a city-recognized holiday for Indigenous Peoples Day which will be celebrated on the second Monday in October, according to reports.** Natives of every stripe – Aztecs, Diné, Lakota, and more – descended upon City Hall on August 30 to speak in favor of the shift they say sheds light on the atrocities Columbus and his men committed upon the indigenous people they encountered in 1492."

A growing number of cities have switched from celebrating ColumbusDay to honoring Indigenous Peoples or Native American day.

## Tribal Developments

*Indian Country Today* (ICTMN) suspended operations in October, 2017, to either find a new owner or a new business model (See **Mark Trahan's commentary on this event in Research Notes, below**). "Oneida Nation to Donate Indian Country Today Media Network Assets to NCAI," ICTMN, October 4, 2017, <https://indiancountrymedianetwork.com/news/native-news/oneida-nation-donate-indian-country-today-media-network-assets-ncai/>, reported, **"The National Congress of American Indians (NCAI) today announced that it is assuming control of the assets of Indian Country Today Media Network (ICTMN), the result of a donation to the organization by the Oneida Indian Nation."** NCAI would move in the coming months to a new ICTMN platform.

Rebecca Clarren, "Righting the Scales," *The Nation*, December 18, 2017, discusses the long history of lack of justice in Native communities in instances of domestic violence, and the significant, but limited, progress that has been made in addressing it more recently. The issue is huge, as in 2016 U.S. Department of Justice study found that four out of five Native women have suffered violence from an intimate partner.

Examples of progress include the innovation and flexibility of the Yurok Tribal Court, in California, that has developed a number of programs that provide alternatives to incarceration, and which has jurisdiction over non-Indians within its geographical jurisdiction. The programs include a state approved wellness program working with people to overcome addictions, and restorative justice program for rehabilitating people who have committed partner or child abuse.

There is evidence emerging that the tribal restorative justice programs can have very high rates of rehabilitation. For example, the Kake Tribe in Alaska reported a 97.5% rate of people in their tribal member peacemaking project fulfilling their court-ordered amends, compared to the 22% rate in the regular state courts. The Leach Lake Band of Ojibwe Wellness Court, allowing tribal members arrested for DWI to receive culturally specific treatment on reservation, experienced a 60% drop in repeat DWI arrests the year following the introduction of the program. A major problem for Indian nations wishing to undertake such programs is a lack of funding. The Bureau of Indian Affairs reported in 2015 that most tribal courts were only receiving about 6% of the funding they need.

Another justice problem for tribes, historically, has been a lack of cooperation by state and local courts with tribal courts. Among the improvements in that area, is that as of late 2017 there were at least 15 tribal-state court forums, in which tribal, state and federal judges meet regularly to facilitate the enforcement of cross jurisdictional court orders and compliance in child welfare cases.

Laura Paskus, "With an eye to the future, the Pueblo of Santa Ana restores lands, wildlife," NM Political Report, September 11, 2017, [http://nmpoliticalreport.com/449309/with-an-eye-to-the-future-the-pueblo-of-santa-ana-undertakes-restoration-wildlife-projects-en/?utm\\_source=The+NM+Political+Report&utm\\_campaign=b555912aa0-EMAIL\\_CAMPAIGN\\_2017\\_07\\_12&utm\\_medium=email&utm\\_term=0\\_192e41dc5e-b555912aa0-138662129&mc\\_cid=b555912aa0&mc\\_eid=cde7993ced](http://nmpoliticalreport.com/449309/with-an-eye-to-the-future-the-pueblo-of-santa-ana-undertakes-restoration-wildlife-projects-en/?utm_source=The+NM+Political+Report&utm_campaign=b555912aa0-EMAIL_CAMPAIGN_2017_07_12&utm_medium=email&utm_term=0_192e41dc5e-b555912aa0-138662129&mc_cid=b555912aa0&mc_eid=cde7993ced), reported, **The Pueblo of Santa Ana has been bringing back pronghorn.** "The species had been extirpated from the area about four decades ago. But over the course of three releases in 2009, 2010 and last winter, the department brought about 100 animals back to the pueblo. Some traveled off the reservation, a few died from the stress of being relocated, and predators killed others. All told, today there are now about 70 living within the pueblo's boundaries, just north of Rio Rancho and Bernalillo.

And the tribe is working on more than just bringing back pronghorn."

"Protecting places like the bosque along the Rio Grande is important to everyone, he says—especially to tribal members, for whom the river is culturally important."

Under the direction of the Pueblo of Santa Ana tribal council, the department is reintroducing wild turkeys, restoring the bosque along the Rio Grande, recovering grasslands impacted by heavy grazing and reintroducing healthy fire to the landscape. They also measure

**rainfall and other conditions, work with tribal ranchers to rotate livestock and install guzzlers and water tanks that wildlife and migrating birds can visit."**

"AMERIND Critical Infrastructure: Broadband Builds Tribal Communities: Press release: AMERIND Critical Infrastructure recently helped New Mexico Pueblos bring broadband to their communities, ICTMN, September 3, 2017, reported, <https://indiancountrymedianetwork.com/news/business/amerind-critical-infrastructure-broadband-builds-tribal-communities/>, **"Two New Mexico Tribal consortium applications were recently awarded a total of almost \$8 million in federal E-rate funds to bring broadband to their schools and libraries. The funding awarded to these two applications—one filed on behalf of the Santa Ana, San Felipe, Santo Domingo and Cochiti Pueblos, and the other filed on behalf of the Jemez and Zia Pueblos—will be used to construct Tribally owned fiber broadband networks. "Tribal schools and libraries have been going at it alone to increase their access to broadband Internet—with limited and varied success. "The new E-rate opportunities allowed the two Tribal consortia in New Mexico to address connectivity issues together by aggregating demand and working with our Tribal neighbors, to create a network that is exponentially faster at a fraction of the cost," Sekaquaptewa said. "These applications show what E-rate can—and up until now has been unable to—accomplish in Tribal communities. They are bringing connectivity to Tribal schools and libraries that, but for E-rate dollars, would never enjoy benefits that 21st Century fiber connectivity provides," Flannery said."**

**Reporting indicates 39 cases of confirmed child sex abuse cases and 35 confirmed sexual assault cases involving adults on the Navajo Nation from July 2016 to June 2017. Victims ranged from 2 to 49 years of age. The identified perpetrators were most often male family members, but in some cases acquaintances or school mates.**

**At Fort Defiance, a regional multidisciplinary team was established after hearing this report. The team has been focusing on why these cases have not been prosecuted, and what needs to be done to get them prosecuted.**

The Navajo Office of Education and Research and Statistics undertook a study of what grant, public and BIA schools serving the reservation were doing in the way of sex abuse education and training, and how they handle reports of sexual abuse. **Many schools provide sex abuse training to teachers, staff and professionals, but only few to students.** The training is not uniform. The schools reported that, depending on the severity of the abuse, they report it to police or social services. **The Chair of the Tribal Council Sexual Assault Prevention Subcommittee recommended that the Department of Dine Education require sexual assault training to students, and stated that requiring the training will be required in the reauthorization of the Dine BIA schools.** The Chair noted that with electronic communication, reporting abuse is easy to do if people know how to do it (Arlissa Becenti, "Study: Sex abusers are usually relatives," *Navajo Times*, October 26, 2017).

**The Navajo Nation Council passed an ordinance making human trafficking a crime, during its summer 2017 session. While no cases of human trafficking had been reported on the reservation, sex trafficking cases were known just off the reservation (Alyssa Becenti, "Council passes bill making human trafficking a crime," *Navajo Times*, 2017).**

**The cost of health insurance is rising for Navajo Nation employees, in many cases by 38% from 2017 to 2018, because claim costs in 2017 had exceeded the budget. In some cases deductibles are increasing while coverage drops (Christopher S. Pineo, "Tribal workers insurance costs going up," *Navajo Times*, December 4, 2017).**

First Nations Development Institute, **"Indian Country Food Price Index," July 2017, found that food prices on reservation are generally higher than the national average. At the food store at Window Rock on the Navajo Reservation, prices for milk and apples were a dollar higher than the national average.** The only thing lower on the reservation than the national average was Cheetos (Christopher S. Pino, "High Prices for Food," *Navajo Times*, August 3, 2017).

**Despite efforts to get Navajo Nation chapters to reduce the amount of money that they do not spend, and is not set aside for special funds, the amount of unspent money by the 110 chapters has continued to increase, reaching \$69.6 million** on June 30, an increase of \$12.1 million in six months (Bill Donovan, "Chapters have \$69.6 million unspent audit says," *Navajo Times*, October 5, 2017).

**DNA People's Legal Services on the Navajo Nation has had to close three of its branches because of reduced funding:** Ship Rock, Crown Point and Monument Valley (Bill Donovan, "DNA closes 3 branches, keeps eye in Congress," *Navajo Times*, September 2, 2017).

**The Southern Ute Tribe has developed a new land assignment code through a two decade process with input from tribal members,** as part of the Tribe's continuing effort to include as much traditional participatory decision making as feasible in its decision making ("Tribal Council approves Land Assignment Code," *Southern Ute Drum*, November 22, 2017).

**In order to provide housing for homeless tribal members, the Leach Lake Ojibwe have decided not to renew 350 leases for waterfront lots to non-tribal members.** 75 of these lots have cabins owned by the renters, who will have to sell them, move them, or leave them behind. The lots will be consolidated to provide homesteading for 80 tribal families. The action is expensive for the tribe, which will lose about \$500,000 in rent each year ("Leach Lake Ojibwe refuse new lease to non Indian, on tribal land to ease tribal homelessness," NFIC, October 2017).

**Kelly Gilbreth, White Earth Ojibwe, as part of her work in the Americans for Indian Opportunity (AIO) Ambassador Program in 2010/11 undertook a community initiative project to create a transitional living home for young Indigenous girls leaving incarceration.** As of July 2017, Gilbreth had secured a location, began the 501(c)3 process and found a fiscal sponsor ("Reciprocity in Action," *AIO Newsletter*, July 2017).

**The Winnebago Nation of Nebraska plans to install 1000 solar panels generating more than 300 KW of electricity, reducing its electric bill by \$40,000 a year** ("Nebraska reservation moves toward solar energy," NFIC, September 2017),

Rena Dittmer, "Choctaw Nation: Tribal Constitutional Convention Seeks Separation of Powers: A group of Choctaw citizens pursues reform, despite mighty challenges, ICTMN, **September 1, 2017, <https://indiancountrymedianetwork.com/news/politics/choctaw-nation-tribal-constitutional-convention-seeks-separation-powers/>, reported, "Viewing the constitution of her beloved Choctaw Nation as out of date, tribal citizen and well-known Democratic tribal activist Kalyn Free is organizing a revolution. She's calling it a new constitutional convention as she seeks what's known as a "Bureau of Indian Affairs Secretarial Election" to bring about the changes she and other Choctaw citizens desire."**

It may take three years for the process to unfold in a tribal election, if the attempt to attain one is successful.

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## **Economic Developments**

**Indian nations have had difficulty convincing banks to open branches on their reservations, while they have been able to open only a few banks and credit unions of their own.** *Indian Country Today* identified **only some three dozen credit unions and banks owned by tribes, tribal entities and individual members in a 2017 search.** In contrast, in recent years there has been a growth in tribally focused community development financial institutions (CDFIs), of which ICTMN found 70. CDFIs are non-profit community based lenders that have no deposit, but make

housing and economic development loans. The one's related to reservations are run by tribal members who usually have extensive knowledge of reservation conditions and needs. Examples include, **Lakota Funds, on the Oglala Lakota reservation in South Dakota, and the Four Bands Fund, on the Cheyenne River Sioux Tribe reservation, in South Dakota. Native CDFIs have their own association.** The **First Nations Oweesta Corp., funds other Native CDFIs.** Its 2016 annual report stated that it **had made \$11 million in loans to Native CDFIs and was launching a capital aggregate loan pool of \$10 million.** The CDFI Fund reported that its **Native Initiatives program has provided \$120 million in financial and technical assistance to Native CDFIs and provided 1,600 hours of training.** (Mark Fogarty, "Are Native CDFIs the Financial Institution of the Future? If Native CDFIs are to continue to grow and become self-sufficient, they need to have sources they can rely on for funding," ICTMN, September 1, 2017, <https://indiancountrymedianetwork.com/news/business/native-cdfis-financial-institution-future/>).

Mark Fogarty, "Northwest Area Foundation: Native CDFIs 'Engines of Change': The new site offers CDFIs to benefit reservations where financial institutions are scarce," ICTMN,

- July 11, 2017, <https://indiancountrymedianetwork.com/news/native-news/northwest-area-foundation-native-cdfis-engines-change/>, reported, "**The Northwest Area Foundation is one of the most prominent philanthropic funders of American Indian projects, targeting 40 percent of its grants to Native efforts. Now, it has started a webpage to benefit Native community development financial institutions (CDFIs), local alternatives to the kinds of financial institutions that are scarce on reservations.**"

In order to make it far easier for Native Americans to obtain mortgages on reservations, where banks and other private lenders most often are reluctant to make housing loans as the property is not available as collateral, a number of U.S. federal agencies have been offering mortgages on reservations since the late 1990s. The leader in providing reservation mortgages has been the Department of Housing and Urban Development's Section 184 loan, which guarantees 100 percent of lender outlays. As of the end of fiscal 2015, the HUD 184 had guaranteed 3,844 mortgages on trust land, using \$460.2 million of finance, averaging about \$120,000 per mortgage. The Department of Veterans Affairs Native veteran mortgage program, has extended \$140 million in finance through more than 1,000 loans for an average of \$140,000 per loan, according to a DVA PowerPoint. The U.S. Department of Agriculture Rural Housing Service section 502 direct mortgages on trust land have only totaled about 350 to date, averaging about \$120,000 per loan, to total around \$42 million in finance. HUD's Title VI loan, a "project" loan often used to finance infrastructure for housing developments, has extended about 100 mortgage loans on trust land over the past 20 years, totaling about \$239 million. The Bureau of Indian Affairs Housing Improvement Program for Indians living within tribal service areas issued 140 HIP grants in fiscal 2015. In addition, the RHS section 504 program provides grants and loans for home improvements and was used in Indian country in fiscal year 2014 to issue 67 RHS 504 loans and grants.

USDA's total mortgages to Indians (on and off reservation) come to 6,796 loans for \$887 million between 2009 and 2015, during which time It invested \$498 million in water and environmental projects. The HUD 184, totals through fiscal 2015 are 630 loans on allotted lands for a total of \$90 million, and 3,214 loans on tribal trust land, for total finance of \$370 million.

HUD officials makes a large number of 184 mortgage loans in areas just adjacent to reservations, while some of the states with the most Native populations do not have reservations. In Alaska, for example, with more than 200 Native Alaskan villages with no trust status, HUD provided only one allotted HUD 184 and one on tribal trust land in fiscal 2015. Oklahoma, which has no reservations but some allotments, had more than 4,000 HUD 184s made in fiscal 2015 but just one on allotted land. (Mark Fogarty, "Government Reservation Mortgages Pass \$600 Million in Finance, 5,000 Loans: The most successful Indian mortgage program to date has been the Department of Housing and Urban Development's Section 184 loan," ICTMN, September 1, 2017, <https://indiancountrymedianetwork.com/news/politics/government-reservation-mortgages-pass-600-million-finance-5000-loans/>).

Mark Fogarty, "Veterans Housing and Mortgages Continue to Rise for Tribes: One hundred tribes have signed MOUs, passing 1,000 loans from the VA's Trust Land Mortgage Program to assist with veteran housing, ICTMN, August 31, 2017, <https://indiancountrymedianetwork.com/news/veterans/veterans-housing-mortgages-continue-rise-tribes/>, reported, **"The Department of Veterans Affairs has passed the 1,000 mark in the number of direct mortgages it has made to American Indian veterans of some 100 tribes.**

As of May of last year the number of loans stood at 1,010, with total financing of \$120 million, according to a VA presentation. That is an average of \$120,000 per loan."

Ray Landry, **"The Thriving Small Businesses of the Navajo Nation:** From fresh coffee to auto repair, the small business community on the Navajo Nation is alive and well, ICTMN, September 1, 2017, <https://indiancountrymedianetwork.com/news/business/thriving-small-businesses-navajo-nation/>, reported, "When you think about enterprise on Indian reservations, chances are you're picturing roadside vendors or towering casinos.

There's plenty of both on the 27,000-square-mile Navajo Nation, which spans portions of three states and has an unemployment rate that tops 50 percent. The Nation's four casinos—all built in the last 10 years—get a lot of attention, alongside some big-name companies in the energy sector.

**The Navajo Nation also operates 12 enterprises, including a utility authority, radio stations, a newspaper, transportation, construction and housing authorities, and 110,600 acres of farmland.** But on the country's largest Indian reservation, sometimes it's the smallest businesses that make the biggest difference.

**The Navajo Division of Economic Development keeps a list of certified, Navajo-owned businesses operating on or near the reservation. As of July 2017, there were 220 such businesses—each with at least 51-percent ownership by tribal members."**

Among these Dine businesses are: Caffeinated Ape, Shiprock, NM, Hozho Total Wellness, Gallup, NM, Arizona Canyon Jeep Tours, Chinle, AZ, TC Automotive; Farmington, NM, and Shima Grill & Catering, and Shima Transport, a non-emergency medical transportation service that employs about 50 drivers in Gallup, NM.

**The Navajo Nation, in July 2017, launched Nataani Development Corporation as a holding company in health, environment, construction and manufacturing. It is to be a private sector vehicle focusing on job creating economic projects, generating revenue for Navajo Nation through dividend sharing. One of its aims is to end the 47 percent unemployment on Navajo Nation, as it diversifies the nation's economy** (Arlyssa Becenti, "Begaye: New tribal corp. could end unemployment in 3 years," *Navajo Times*, July 23, 2017).

Ranching expert Delane Atcity has **told the Navajo Nation that it has sufficient range land so that ranching could be developed into a quite profitable business for the tribe and for individual tribal members** (Cindy Yurth, "Beefing up the nation," *Navajo Times*, October 26, 2017).

Since 2012, **wool and mohair buyers have been coming to a number of places on the Navajo reservation to buy wool. Many Navajo wool producers now have a shorter drive to buyers, than previously when they had to go to trading posts to sell their wool. Moreover, the buyers are offering better prices than the trading posts.** These buyers say they are paying more to help the Navajos, while keeping their prices low enough to still make a reasonable profit (Cindy Yurth, "Wool buyers say they have motives beyond profits," *Navajo Times*, June 15, 2017).

**"2016 Indian Gaming Revenues Increased 4.4%,"** NIGC, July 17, 2017, <https://www.nigc.gov/news/detail/2016-indian-gaming-revenues-increased-4.4>, reported, "Today Chairman Jonodev Osceola Chaudhuri, Vice Chair Kathryn Isom-Clause, and Associate Commissioner Sequoyah Simermeyer of the **National Indian Gaming Commission (NIGC) released the Fiscal Year 2016 Gross Gaming Revenue numbers totaling \$31.2 billion, an overall increase of**

**4.4%.** The success reflected in the 2016 gross gaming revenue is due, at least in part, to the Indian Gaming Regulatory Act's promotion of tribal self-determination principles,' said the Chair of the NIGC, Jonodev O. Chaudhuri.

In the 1970s rural Tribes began gaming, mostly as small bingo facilities, as a means to provide revenue and jobs for their people and to manifest self-determination. The same holds true today as is evident by **57% of gaming revenue being generated by small or moderately sized Indian gaming operations grossing less than \$25 million per year.** For gaming tribes, revenue has become a lifeline to generate economic development and supplement moderate funding received from federal government programs and services.

Revenues are calculated based on 484 independently audited financial statements, comprised of 244 federally recognized Tribes across 28 States. The GGR for an operation is calculated based on (1) the amount wagered minus winnings returned to players and (2) earnings before salaries, tribal-state compacts and operating expenses. Each of the NIGC administrative regions showed growth during

**FY16 with the following increases being reported:**

**Sacramento Region (6.3%)**

**Oklahoma City Region (5.7%)**

**Portland Region (5.1%)**

**Phoenix Region (4.4%)**

**Tulsa Region (4.0%)**

**Washington, DC Region (3.8%)**

**St. Paul Region (1.1%)**

"The stable growth is reflective of a healthy and well regulated industry with a tremendous impact on local and state economies," said Chairman Chaudhuri. "When Congress passed IGRA almost thirty years ago, it expressly cited in its findings and purposes the long standing federal policy goal to promote tribal economic development, tribal self-sufficiency, and strong tribal governments; no other economic driver has been able to do that for Indian country as successfully as gaming,' he said."

**Jack McNeel, "Kalispel Tribe Plans Big Expansions: Diversity is the name of the game, with many of the projects having a May completion date," ICTMN, August 23, 2017, <https://indiancountrymedianetwork.com/news/business/kalispel-tribe-plans-big-expansions/>, reported, "The Kalispel Tribe is going all out to expand and improve its holdings on the West Plains, just west of downtown Spokane, Washington. A huge apartment complex will be built, plus a large RV park which includes cottages, plus improvements to Northern Quest Resort and Casino, plus a theater complex that's state-of-the art.**

Ground breaking recently took place for the casino expansion and the R.V. Park. Phil Haugen, Chief Operating Officer for Kalispel Tribal Economic Authority, explained that the roughly 50,000 square feet expansion of the casino is not for additional gaming machines but to make it more family oriented. It will house Kid Quest with electronic games for youngsters plus Cyber Quest with adult activities like pool games, ping pong tables, and other things of that nature. The majority of the expansion will contain Windfall, the tribe's own retail shop carrying traditional retail items. A portion of that shop will contain tribal made goods including items by local tribal artists."

**The Meskwaki Nation of Iowa is expanding its businesses, building a 30,000 square foot factory-warehouse,** to increase e-cigarettes and tobacco sales as well as other retail business and construction, while continuing to operate its casino and bingo hall. (Meskwaki Nation looks to diversify business profile," NFIC. October 2017).

Community Impact: Blue Lake Rancheria Invests in Clean Energy Self-Sufficiency, NIGC, [HTTPS://WWW.NIGC.GOV/PUBLIC-AFFAIRS/COMMUNITY-IMPACT/BLUE-LAKE-RANCHERIA-INVESTS-IN-CLEAN-ENERGY-SELF-SUFFICIENCY](https://www.nigc.gov/public-affairs/community-impact/blue-lake-rancheria-invests-in-clean-energy-self-sufficiency), reported, **"The success of the Blue Lake Casino and Hotel has created significant economic opportunities for the Blue Lake Rancheria Tribe. Casino revenue has provided investment capital, allowing for diversification and development of the Tribe's economy and contributes to improving the health**

and environment for the region's population. The Tribe has partnered with the State of California, academia, the federal government, and industry to install a community-scale microgrid with solar photovoltaic (PV) power and advanced energy storage as its backbone. For day-to-day activities, the microgrid provides cleaner and far less expensive power -- but in emergencies, the Tribe can disconnect from the larger grid and generate emergency power for as long as needed."

For more information on The Blue Lake Rancheria, visit <http://bit.ly/2ssWWzb>.

Theresa Braine, "Standing Rock Sioux to Spearhead \$1 Million in Renewable Energy Projects: Standing Rock Sioux receives inaugural Henry A. Wallace Prize for courage under DAPL fire, plus \$250,000, from Wallace Global Fund," ICTMN, July 11, 2017, <https://indiancountrymedianetwork.com/news/native-news/standing-rock-sioux-renewable-energy/>, reported, "Throughout much of 2016 and into the winter of 2017, water protectors stood fast against the Dakota Access Pipeline (DAPL), even in the face of severe injury. **The egregiousness of the actions taken against unarmed water protectors caught the attention of the Wallace Global Fund**, founded by Henry A. Wallace, who was Vice President of the United States under Franklin D. Roosevelt. **The progressive fund awarded \$250,000 to the Standing Rock Sioux Tribe and pledged to invest an additional \$1 million in renewable energy initiatives, to be led by the tribe.**"

The **Southern Ute Tribe of Colorado dedicated its new 800 KW solar plant** on July 24, 2017, a major development in its moving into solar energy production, both to power tribal facilities and for sale beyond the reservation (Cloe Seibel, "Finding New Alternatives to Greener Energy," *Southern Ute Drum*, July 21, 2017).

Alysa Landry, "Navajo Generating Station Lease Extended Through 2019: New lease buys 18 months for economic and energy alternatives to be found," ICTMN, July 6, 2017, <https://indiancountrymedianetwork.com/news/environment/navajo-generating-station-lease-2019/>, **"The largest coal-fired power plant in Indian country will continue operating for another 18 months following the Navajo Nation's approval of a lease that promises to keep the Navajo Generating Station open until December 2019.**

**During a ceremony on July 1, Navajo Nation President Russell Begaye signed a \$350 million lease that calls for utility owners to extend operations at the 2,250-megawatt plant near Page, Arizona, through 2019. The lease, a 35-year agreement between the tribe and utility owners, secures \$110 million in continued lease payments to the Navajo Nation through 2054, requires the Nation to receive minimum fuel purchase revenues of \$39 million for 2018 and 2019, and allows owners access to the land for decommissioning activities and long-term environmental monitoring.**

**The lease also allows the tribe to keep existing water infrastructure, transmission lines and railroad lines between the plant and Kayenta Mine, the plant's sole provider of coal. Begaye hopes the infrastructure can be used to deliver solar- or wind-generated energy."**

"Puyallup Tribe's Medicine Creek Analytics Detects What's in Weed Sold in Washington: The tribe hopes Medicine Creek Analytics, its cannabis testing lab, supports holistic medical treatment efforts for cancer patients," ICMN, July 20, 2017, <https://indiancountrymedianetwork.com/news/business/puyallup-tribes-cannabis-lab-medicine-creek-analytics-detects-whats-weed-sold-washington-state/>, reported, **"On the daily, medical and recreational marijuana is tested at Medicine Creek Analytics for its safety and purity. The lab, approved by the Washington State Liquor and Cannabis Board (WSLCB), is a nonprofit corporation owned and operated by the Puyallup Tribe of Indians. It detects exactly what's in the weed sold at dispensaries across the State of Washington—from potency to microbes, moisture, residual solvent and much more.**

The tribe's interest in cannabis quality control stems from its desire to develop natural medicines for treating cancer patients in its community. "The immune-compromised state of cancer patients makes the quality of medicinal marijuana very important," the company states. Medicine Creek's high-tech



equipment can actually discern what chemicals are present at one-billionth per gram of pot. Paying mind to the sensitive needs of cancer patients requiring medical marijuana, Medicine Creek specifically tests for heavy metals, mycotoxins and pesticides."

Kristin Butler, "'Bigger Than Bingo': Seminole Gaming Visionary James Billie to Help Tribes Produce Marijuana: James Billie's MCW firm teams up with Electrum Partners to help tribes build cannabis businesses and navigate the legal landscape," ICTMN, June 28, 2017, <https://indiancountrymedianetwork.com/news/business/bigger-than-bingo-indian-gaming-visionary-james-billie-help-tribes-produce-marijuana/>, reported, "James Billie, a former Seminole Chairman renowned for initiating high-stakes bingo and paving for the way for tribal gaming rights, **aims to help tribes produce marijuana and cannabis products on their lands. 'Wherever it's legal, that's where we're going, where the other Native Americans are,'** Billie told CNNMoney."

**The Las Vegas Paiute Nation has opened a drive-thru window in their Las Vegas, NV recreational marijuana dispensary** ("Paiute open recreational pot dispensary drive-thru," NFIC, November 2017).

**The St. Croix Chippewa of Wisconsin, in November 2017, was preparing to grow hemp, in order to extract the oil for medical purposes** ("St. Croix Chippewa ready to grow hemp," NFIC, November 2017).

"Quapaw Tribe's \$1M Processing Plant Will Aid its Farm-to-Fork Goals and Economic Development: Quapaw Tribe is nearly ready to debut its processing plant to produce USDA-approved bison and cattle meat," ICMN, June 21, 2017, <https://indiancountrymedianetwork.com/news/business/quapaw-tribes-1m-processing-plant-will-aid-farm-fork-goals-economic-development/>, reported, "**Quapaw members, traditionally agricultural people, are embracing a farm-to-fork lifestyle and economic development with their soon-to-open processing plant for bison and cattle meat.**"

Today, bison, goats and about 500 head of cattle roam 1,500 acres of the tribe's Ottawa County plains in northeastern Oklahoma. Gardens and greenhouses grow fresh veggies and herbs, and some 50 beehives produce honey that the tribe hopes to develop for market. The tribe may add poultry to the mix, too."

**"The processing plant will help make healthy and culturally relevant food available to its members and the surrounding community. The \$1 million, 25,000-square-foot facility is slated to open this summer.** The tribe began work on the plant near Miami, Oklahoma in late August 2016.

The plant will additionally serve as a training center for regional educational institutions."

**"Cow Creek Band Launches Takelma Roasting Company, Producing Specialty Grade Coffee:** Takelma Roasting Company brings coffee beans from Guatemala, Nicaragua, Brazil and Sumatra to Oregon & online," ICMN, July 17, 2017, <https://indiancountrymedianetwork.com/news/business/cow-creek-band-launches-takelma-coffee-roasting-company-southwestern-oregon/>, reported, "On July 12, the tribe cut the ribbon to commemorate **the launch of Takelma Roasting Company.** The freshly roasted beans will be brewed and served at the tribe's hotels, truck and travel stop, and other businesses—namely Seven Feathers Casino Resort, which boasts K-Bar Steak House, Cow Creek Restaurant, The Gathering Place Buffet, Stix Sports Bar and Kabi Café. The tribe will additionally distribute its coffee and equipment wholesale to other companies and organizations in Douglas County, Oregon. (Takelma is the largest coffee roasting production company in the county, according to news reports.) Delicious, single-origin coffee and rad Takelma gear, like mugs and t-shirts, are also available to purchase on the Takelma Roasting e-commerce website."

**New Mexico Community Capital, a nonprofit in Albuquerque, NM, is focused on building tribal entrepreneurship and has been providing business support for Indian owned businesses**

(Kevin-Robinson-Avila, "Program helps boost Native entrepreneurship," *Albuquerque Journal*, November 25, 2017).

**The Aboriginal Tourism Association of Canada and the American Indian Alaska Native Tourism Association signed a framework of cooperation**, September 7, 2017 ("Aboriginal Tourism Association of Canada signs an MOU with American Indian Alaska Native Tourism Association," NFIC, September 2017).

### Education and Culture

**"The Storydancer Project (TSP) Rainbow Bridge Initiatives** (October 9, 2017, <http://thestorydancerproject.cmail19.com/t/ViewEmail/d/19D1612C561A8D0A/5919963D2302AF4E44D0DD5392A9C75A>) are a **collaboration with New Mexico Navajo Nation to help meet the needs of children, women, families and community leaders.**

**Rainbowbridge Initiative #1, " What's in a Story School Program currently reaches 1000+ students in over 40 classrooms per semester**

**CHALLENGE:** Lack of exercise and focus in the classroom

**PROGRAM:** "Wisdom" stories, transformative self-care exercises, sign language and Diné-Bizaad (Navajo) vocabulary, fun ways for students to participate and interact

**OUR GOALS:** To train an additional Diné facilitator and an assistant; to partner with two more schools or early childhood centers

**OUR PARTNERS:** San Juan County and McKinley County: Indian Hills, Catherine A Miller, Chee Dodge, Tohatchi, Naschitti, Gallup Headstart, NTU-Childcare Center, Shiprock Career Prep Early Childhood Center, Nizhoni, Eva B Stokely, Mesa, Dream Diné, Farmington Public Library / Boys and Girls Club, Ch'ooshgai, Twin Lakes, Rocky View."

"Our TSP Mission is to inspire positive change in the face of adversity through transformation self-care and movement awareness (MAP) that restore vitality and cultivate joy. TSP programs are based in 'body, heart and mind connection.'"

**Rainbow Bridge Initiative #2: "Strengthening Hearts and Minds" Navajo Mothers' Program** is a bilingual (English/Diné-Bizaad) program offering holistic self-care for Navajo mothers facing depression and trauma, facilitated by 3 unique women specialists in the fields of education, healing and self-care.

**Rainbow Bridge Initiative #3 "Self Care for Community Leaders" reaches educators, human service and health care professionals, domestic violence advocates, counselors and youth leaders.** The program involves Take a Minute™ Movement Awareness Practice (MAP)—simple exercises that refresh, reset and relieve—rejuvenating the human spirit. The goal is to bring exercises of stress relief and self-care to community leaders to share with their community.

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### International Developments

**Phineas Rueckert**, "7 Victories for Indigenous People Around the World You Probably Didn't Hear About in 2017, Beyond Standing Rock, Global Citizen, September 8, 2017, [https://www.globalcitizen.org/en/content/indigenous-victories-you-didnt-hear-about-in-2017/?utm\\_source=Iterable&utm\\_medium=email&utm\\_campaign=iterable\\_campaign\\_US\\_Sep\\_15\\_2017\\_Fri\\_content\\_digest\\_actives](https://www.globalcitizen.org/en/content/indigenous-victories-you-didnt-hear-about-in-2017/?utm_source=Iterable&utm_medium=email&utm_campaign=iterable_campaign_US_Sep_15_2017_Fri_content_digest_actives), reported, in part, on the following:

**"The year 2017 may well be remembered in indigenous rights history for the Standing Rock Sioux protests against the Dakota Access Pipeline — a monumental, headline-grabbing, months-long battle that drew massive attention to native land rights.**

Thousands of 'water warriors' withstood water cannons, concussion grenades, police dogs, and batons in their quest to protect tribe land and water from development, until US President Donald Trump issued an executive order in February to move forward with construction of the gas pipeline, dealing a huge blow to activists.

## **Take Action: Let's Fight Against Climate Change and Future Diseases Together**

Theirs was a crushing defeat, and one that's been shared by other indigenous groups in countries around the world, from Bolivia to Canada.

But for every crushing defeat Indigenous activists have experienced, there have been moments of success, as well. Many of these fights never reached the level of press attention the Dakota Access Pipeline garnered, but nonetheless protected sacred lands and set important environmental precedents.

### **Read More: Fighting for Their Lives, Indigenous People Rise Up Around the World**

The Global Goals for Sustainable Development enshrine climate action as one of 17 requisites for ending extreme poverty, and indigenous groups are often at the front lines of these battles. You can take action here.

Most recently, Indigenous land rights activists secured a major victory in Brazil, after a federal court blocked President Michel Temer's attempt to open the Amazon rainforest to gold mining.

Similar victories have taken place in other countries around the world — from Canada to Kenya.

Global Citizen is bringing you seven monumental land rights cases you may not have heard of this year:

#### **1/ Canada**

**This August, the Canadian province of British Columbia shot down a \$5.5 billion pipeline expansion project that threatened the water supply of 90% of the local First Nations indigenous group in the area.** The province said that developers must 'meaningfully 'consult local indigenous tribes before moving forward with the project, according to Reuters."

#### **"2/ Australia**

In July, a federal court recognized an "exclusive native title claim" for the indigenous **Yindjibarndi people, giving them back an area of land that's been used for heavy mining by the Fortescue Metals Group.** The decision on the case, which was first brought to court in 2003, was called a "landmark" victory for aboriginal rights.

### **Read More: Australia Swears In Its First Indigenous Minister"**

#### **"3/ Kenya**

In May, the African Court on Human and Peoples Rights ruled in favor of an indigenous hunter-gatherer Kenyan tribe called the **Ogiek, saying that the government violated their rights by evicting them from their land dating back to 1911.**

'In this one ruling, the court has both affirmed the Ogiek's right to live freely on their ancestral land, and proved to the continent that regional justice mechanisms work," Amnesty International's Regional Director for East Africa, the Horn and the Great Lakes, said."

#### **"4/ Peru**

**Two international oil companies, one French and one Canadian, were given a slap on the wrist by a Peruvian court this March, when the court ruled they must consult indigenous Awajun and Wampis communities before drilling in indigenous lands.**

The court case, brought before the Inter-American Commission on Human Rights in Washington, was said to be the first to be successfully litigated against an oil company in Peru, but advocates warned the damage was already done, citing polluted streams and rivers that have seeped chemicals into water for drinking, cooking, washing, and bathing."

#### **"5/ Ecuador**

This January, a provincial court in Ecuador ruled 'partially' in favor of an Afro-Ecuadorian indigenous group called the **Canton, saying two oil palm companies — Los Andes and Palesema Oil Palm Companies — were responsible for "social and environmental damages" against the indigenous tribe. It was the world's first civil court case where Nature was considered to be a third-party and 'subject of rights,' along with the tribe.**

#### **"6/ New Zealand**

This March, after a fight by Indigenous Maori tribes lasting more than 140 years, the country of **New Zealand declared the 90-mile Whanganui River — revered by the Maori — to have the same legal rights as a human,** NPR reported. The decision, approved in a parliamentary vote, also earmarked \$30 million to improve the river's health, in a major win for the environment, as well.

**Read More: India's Most Polluted Rivers Are Now Legally Humans."**

**"7/ Indonesia**

Just four days into 2017, the government of Indonesia granted land rights to nine separate Indigenous tribes in accordance with a 2013 court case that put rainforest land rights into the hands of the Indigenous Peoples Alliance of the Archipelago (IPAA). Although the decision took place more than four year ago, the January announcement marked the first official establishment of 'customary forests' to be handed over to the IPAA. "

### **International Organization Developments**

Earth Web Technologies LLC, "Traditional Knowledge and Climate Change, International Indian Treaty Council, October 3rd, 2017, <https://www.iitc.org/traditional-knowledge-climate-change/>, reported, "September 11-12, **Indigenous Peoples from all regions met with States, UN bodies (UNFCCC and UNESCO) in Ottawa Canada to continue discussing the implementation of operative paragraph 135 of the United Nations Paris Agreement. OP 135 recognizes the need to strengthen Indigenous Peoples' "knowledge, practices, innovations and efforts" and also calls for the development of a new Traditional Knowledge Exchange Platform to mitigate Climate Change.**

In this and other dialogues, IITC has continued to call upon States to change the policies and practices that undermine Indigenous Peoples ability to practice and protect their traditional knowledge in their homelands. These include industrial agriculture using GMO's and pesticides, habitat destruction, restrictions on access to traditional lands and water, Treaty violations and continued fossil fuel development, as well as failure to implement Indigenous Peoples' rights to Free Prior and Informed Consent and Cultural Heritage, among others.

IITC also continued to underscore the need to include Indigenous Traditional Knowledge holders, elders and practitioners in the development and implementation of the new Exchange Platform. For example the participants in the 3rd International Indigenous Peoples Corn Conference, March 7 – 9, 2017, Tecpan, Guatemala, affirmed *"that the new Platform for Traditional Knowledge Exchange under the UN Framework Convention on Climate Change (UNFCCC) is developed with the full and equal participation of Indigenous Peoples from all regions and especially our knowledge holders and traditional food producers and in a manner that fully respects our rights, traditional indigenous sciences and the richness of our ancestral knowledge"* (from The Declaration of Tecpán).

The development of the Traditional Knowledge Exchange Platform will be a focus for IITC's and other Indigenous Peoples' participation in the 23<sup>rd</sup> Conference of the Parties of the UN Framework Convention on Climate Change which will take place in Bonn Germany from November 6-17, 2017.

"Success! Repatriation is now included in UNESCO's Draft Policy on Indigenous Peoples," International Treaty Organization, <https://www.iitc.org/success-repatriation-now-included-unescos-draft-policy-indigenous-peoples/>, reported, "on August 9th 2017 **the Executive Board of the United Nations Educational, Scientific and Cultural Organization (UNESCO) adopted a revised draft of their "Policy on Engaging with Indigenous Peoples" which now includes operative paragraph 77 r) on repatriation of Indigenous Peoples' human remains and sacred items as follows:**

**Indigenous peoples have the right to repatriation of their human remains and States should seek to enable access and/or repatriation of ceremonial objects and human remains in states' possession through fair, transparent and effective mechanisms developed in conjunction with the indigenous peoples concerned."**

Earth Web Technologies LLC, "Joint NGO Letter for a General Comment on **Child Rights and the Environment**,14 Sept. 2017," International Treaty Organization, **September 22, 2017**, <https://www.iitc.org/joint-ngo-letter-general-comment-child-rights-environment-14-sept-2017/>, reported, "Terre des Hommes and Human Rights Watch sent a letter calling upon the UN Committee on the Rights of the Child to draft a General Comment on Child Rights and the

**Environment.** The co-signers believe that a General Comment on Child Rights and the Environment would provide much-needed guidance on state obligations and business responsibilities, convey the relevance of the Convention on the Rights of the Child to environmental policy makers, and help strengthen linkages between largely separate fields of child rights and the environment.

The need for such a General Comment was highlighted during the Sept 2016 Day of General Discussion on Child Rights and the Environment, and the June 2017 the Expert Consultation by Special Rapporteur John Knox. International Indian Treaty Council (IITC) is a signatory on the letter." The letter is available at: <https://www.iitc.org/wp-content/uploads/Joint-NGO-Letter-CRC-GC-on-Environment-14-September-2017.pdf>.

"UN expert calls for more protection for uncontacted tribes," Survival International, October 25, 2017, <https://www.survivalinternational.org/news/11844>, reported, **"The UN's top expert on indigenous peoples has highlighted the need for South American states "to redouble efforts to protect the territories" of uncontacted tribes.**

Addressing a meeting of the Latin American Network for Genocide and Mass Atrocity Prevention in New York earlier this month, **Victoria Tauli-Corpuz said that pressure on uncontacted tribes' land has caused "a growing wave of contacts and interactions in the border regions between Peru and Brazil, some initiated by isolated indigenous peoples themselves as a result of the dire circumstances they live in due to incursions on their lands."**

**She stressed the urgent need to address the threats to their land. The reported killing last month of a group of around 10 uncontacted Indians by illegal goldminers in Brazil's Amazon made headlines round the world highlighting how vulnerable these people are when governments fail to protect their lands.**

Drawing attention to the importance of guidelines which uphold uncontacted tribes' right to remain uncontacted as 'an expression of the right to self-determination', she said their situation should be 'part of the action plans and programmes of the highest-level political bodies of the United Nations and Organization of American States.'

**There are more than a hundred uncontacted tribes around the world. They are a vitally important part of humankind's diversity, but they face catastrophe unless their land is protected.** Survival is doing everything it can to secure their land for them, and to let them live. Watch our new film at: <https://www.survivalinternational.org/uncontactedtribes>."

The **October 2017 Convention on the Elimination of Discrimination against Women (CEDAW) on Guatemala** (in Spanish), **Argentina** (also below, in Research Notes), and **Russia** are available from Cultural Survival at: <https://www.culturalsurvival.org/reports>.

**The June to October 2017 (plus others from earlier) UN Universal Periodic Reviews of Mali, Botswana, Bangladesh, Cameroon and Russia** are available from Cultural Survival at: <https://www.culturalsurvival.org/reports>.

**UN Committee on the Elimination of Racial Discrimination (CERD) published findings on Serbia, Algeria, Jordan, Australia, Slovakia and Belarus** are available at: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=1139&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=1139&Lang=en).

CERD's next session will be from 23 April to 11 May 2018 to review Kyrgyzstan, Mauritania, Nepal, Peru, Saudi Arabia and Sweden. More information here: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/SessionDetails1.aspx?](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?)

### **Regional and Country Developments**

**A law suit is proceeding in Canada raises the questions of how binding treaties are. The Na-Cho Nyak Dun First Nation, and other Yukon First Nations agreed, by modern treaty, to**

have a commission, on which they were representative, decide what portions of their land would be open for development and what portion free from it. The commission decided that 80% of the land would be development free. **The Yukon government, however, stated that the commission's decision was only advisory, and moved for considerably more development in the wilderness area, in particular allowing Chevron to mine the estimated 18 billion tons of iron ore beneath the land.** The Na-Cho Nyak Dun First Nation brought suit and has won in two lower court decisions. The case now goes to the Supreme Court. (Dan Levin, "Canada Legal Fight May 'Destroy the Faith' in First Nations Treaties," *The New York Times*, November 5, 2017, <https://www.nytimes.com/2017/11/05/world/canada/yukon-indigenous-treaties.html?ref=todayspaper>).

Ian Austen, "Canada to Pay Millions in Indigenous Lawsuit Over Forced Adoptions," *The New York Times*, October 6, 2017, <https://www.nytimes.com/2017/10/06/world/canada/indigenous-forced-adoption-sixties-scoop.html?ref=todayspaper&r=0>, reported, **"For decades, Canadian social workers forcibly separated indigenous children from their families, putting them up for adoption by nonnative families in Canada and around the world.**

On Friday, the Canadian government took a step to make amends for that adoption program, which began in the 1960s and lasted till the 1980s, by agreeing to pay 750 million Canadian dollars in legal settlements.

**The settlement — affecting as many as 30,000 people —** is part of a broader push across Canada in the last few years to grapple with its legacy of injustices against the country's indigenous populations.

**It includes a similar settlement for indigenous children who were separated from their families and sent to residential schools far from their homes as well as measures like a promise by Prime Minister Justin Trudeau to address a long list of native concerns."**

Catherine Porter, "Canada Wants a New Nafta to Include Gender and Indigenous Rights," August 14, 2017, <https://www.nytimes.com/2017/08/14/world/americas/canada-wants-a-new-nafta-to-include-gender-and-indigenous-rights.html?ref=todayspaper>, reported, **"Canada's idea of a fair trade deal seems very different from President Trump's.**

**Just two days before heading into the first round of negotiations over the North American Free Trade Agreement,** the Liberal government of Prime Minister Justin Trudeau finally laid out its core objectives, and second on the list was to make the 23-year-old pact "more progressive."

By that, **the government meant not only strengthening the existing labor safeguards and environmental provisions, but also adding whole new chapters on both gender and indigenous rights, and addressing climate change."**

**Prime Minister Justin Trudeau announced a major shift in Canada's relationship with its Indigenous peoples, in September 2017. The government dissolved the Indigenous and Northern Affairs department, whose "colonial structures" it described as an impediment to the government's hope of developing a new partnership with First Nations. In their place, two new ministries were created. One is to specialize in delivering services, while the second is responsible for the relationship between the Crown and Indigenous people. Trudeau's intent is to move beyond the Indian Act of 1876, to a new relationship enabling closing socio-economic gaps and advance Indigenous self-government and self-determination.**

In acting, the Liberal government cited the 20-year-old Royal Commission on Aboriginal Peoples, which produced a five-volume report that until now has been mostly ignored. Its recommendations included dividing the department that administered Indigenous affairs, while recognizing Indigenous governments as a third order of government, alongside the federal and provincial or territorial levels.

The question now, is how far this and future Canadian governments will go in recognizing Indigenous sovereignty. The royal commission report proposed that Indigenous governments take control of "all matters relating to the good government and welfare of Aboriginal peoples." This was to encompass everything from control over lands and waters to health, education, justice and social services. If the government moves very far with the nations in doing this, there may be major

developments in how Indigenous governments are organized, and whether, or to what extent, the existing more than 600 First Nations bands would continue as political entities.

The commission envisioned the possibility that some groups would choose a nation model, under which bands with shared identity and close territory would combine to form governments. The report estimated Canada had 60 to 80 Indigenous nations, such as the Mi'kmaq, Anishinaabe, Haida and Inuvialuit. The commission also suggested that Indigenous people living in municipalities could form urban aboriginal governments functioning within municipal boundaries.

With great variation in the size of bands, and in their resources, as well as in their political traditions, a variety of aboriginal forms and processes of governance are possible. There are currently in excess of 20 examples of Indigenous self-government in Canada, in some cases with a degree of local control, particularly in parts of B.C. and Yukon. For example, the Nunavut land-claims settlement led to the formation of a government representing all residents of the territory regardless of heritage, and in northern Quebec, the Cree communities are not subject to the Indian Act and operate their own regional authority. There are also instances of more limited arrangements for at least some aboriginal management of sectors or programs, such as education. An example is the recent agreement between the Anishinabek Nation and Ontario, which provides the nation control over curriculum.

All of this is will be difficult to work out, if the government proceeds very far in following the thrust of the royal commission recommendations. In addition, there are land and resource issues. The commission stated that self-government would not be possible without "fair redistribution of land and resources" to allow the new governments to become self-sustaining. First Nations would also need a say in what happens in Parliament, which the commission said would eventually require a House of First Peoples. How far the current or future governments may move on these issues is an open question.

Russell Diabo, an Indigenous policy analyst, noted that it is still unclear what direction the Liberal government will take. It has made a number of promises, including to implement the United Nations Declaration on the Rights of Indigenous Peoples and the calls to action of the Truth and Reconciliation Commission. Diabo stated, however, that to date the government's actions have not matched its rhetoric (Liam Richards, "Looking to move beyond the Indian Act, can Canada shed its 'colonial structures?'," *The Globe and Mail*, September 1, 2017, <https://beta.theglobeandmail.com/news/national/looking-to-move-beyond-the-indian-act-can-canada-shed-its-colonial-structures/article36154927/>).

Carl Meyer, "Trudeau didn't consult Indigenous leaders on solutions," *National Observer*, November 27th 2017, <https://www.nationalobserver.com/2017/11/27/news/trudeau-didnt-consult-indigenous-leaders-solutions>, reported, **The Trudeau government is being urged to improve relations with Canada's Indigenous peoples after it failed to involve senior leaders in drafting a proposal to do just that.**

The heads of both Canada's national Inuit and First Nations organizations said they weren't involved in the development of 10 principles released this summer by Justice Minister Jody Wilson-Raybould, that would guide the government's Indigenous law and policy review.

The government's justice minister, and its minister in charge of Indigenous relations, both told National Observer that the principles were meant to be government-focused, and consultations will occur later on.

The principles are supposed to steer the government's approach to Indigenous issues such as consent and self-determination, and are based on the Canadian constitution and the UN Declaration on the Rights of Indigenous Peoples, which the government said it will back through an NDP private member's bill."

Shiri Pasternak, "Notes on the 0.2% economy: Mercenary colonialism: Third-party management, *Debt is still a powerful weapon used against First Nations*," *ricochet*, October 25, 2017, <https://ricochet.media/en/1994/mercenary-colonialism-third-party-management>, reported that **most Canadian First Nations have so little money budgeted to them by the Canadian federal government that it is a struggle to barely provide for the band's basic needs. Often, in trying to do so they fall into debt, which they can't pay off on their very limited budgets. If the debt level**

**reaches 8% of the band's annual budget, INAC places their finances under third party financial management. This means that INAC takes over the band finances and hires an accounting firm to do the managing. The firm's accounts almost never come to the reserve they are managing. The \$200,000 to \$500,000 management fee to the accountants is taken out of the band's already less than adequate budget. As of October 2017, 143 bands, almost a quarter of the Canadian bands, were under third party management. Third party management has become big business at the expense of the bands and their members. Some call it "a mercenary act of financial warfare against the poorest of the poor."**

Peter Mazereeuw, "Health Canada could have a big stake in the split, with a huge part of its budget tied to Indigenous health care," *The Hill Times*, September 6, 2017, <https://www.hilltimes.com/2017/09/06/nobody-losing-job-inside-indigenous-affairs-split/117718>, reported, **"It will likely be a year before the government makes good on Prime Minister Justin Trudeau's pledge to split Indigenous and Northern Affairs Canada in two, and 'nobody is losing their job' while the details are worked out,** says a spokesperson for the department's two ministers.

**Minister of Crown-Indigenous Relations Carolyn Bennett (Toronto-St. Paul's, Ont.) will lead a roughly-six month consultation with Indigenous stakeholders to gather feedback on how to split the department and rework the government's approach to Indigenous affairs.** The conclusions drawn from those consultations must then be drafted into legislation to dissolve INAC and introduce the new departments, a process that could take several more months, said James Fitz-Morris, who as of last week was the director of communications to both ministers now working on the Indigenous file."

**"However, over time the government's goal is to reduce the federal staff needed for Indigenous affairs by signing more self-governance agreements with First Nations, which will in turn be responsible for delivering their own services,** he said.

Mr. Trudeau (Papineau, Que.) split up responsibility for Indigenous issues in an Aug. 28 cabinet shuffle, reassigning now-former health minister Jane Philpott (Markham-Stouffville, Ont.) to cover Indigenous services, and Ms. Bennett, who was previously the sole minister responsible for Indigenous and northern affairs, to cover Crown-Indigenous relations and northern affairs."

"Hélène Laurendeau will continue to serve as INAC's lone deputy minister, the top civil servant, while the department plans for the split, said Mr. Fitz-Morris.

"The two departments, once created, will eventually have separate deputy ministers, the prime minister told reporters Aug. 28."

"Decisions about how to re-divide the funding, policies, and employees devoted to Indigenous affairs could have a big impact on Health Canada as well as INAC."

"Health Canada allocated about 73 per cent of its planned budget for 2017-18 (about \$3.1-billion of \$4.3-billion total), and about 23 per cent of its planned staff (2,083 full-time equivalent positions of a total of 9,261) towards health programs, benefits, and infrastructure for First Nations and Inuit people, according to its departmental plan for this year.

Moving the delivery of Indigenous health services under the responsibility of the Indigenous services minister, instead of the health minister, could eventually hive off enough money into the Indigenous Services Department to give it a budget rivalling national defence, which boasts one of the largest in government—with more than \$18-billion planned spending this year—said Harry Swain, who served as deputy minister of what was then the Indian and Northern Affairs Department from 1987 to 1992.

New Health Minister Ginette Petitpas Taylor will oversee a department that currently spends about three-quarters of its budget on Indigenous health programming."

#### **"INAC divisions in 2017-18:**

Programs and internal services  
2017–2018 planned full-time-equivalent positions  
Governance and Institutions of Government  
409  
Rights and Interests of Indigenous Peoples  
254  
Management and Implementation of Agreements and Treaties  
86  
Education  
300  
Social Development



|                                                       |  |
|-------------------------------------------------------|--|
| 159                                                   |  |
| First Nations Individual Affairs                      |  |
| 259                                                   |  |
| Residential Schools Resolution                        |  |
| 260                                                   |  |
| Indigenous Entrepreneurship                           |  |
| 30                                                    |  |
| Community Economic Development                        |  |
| 456                                                   |  |
| Strategic Partnerships                                |  |
| 70                                                    |  |
| Infrastructure and Capacity                           |  |
| 450                                                   |  |
| Urban Indigenous Participation                        |  |
| 13                                                    |  |
| Northern Governance and People                        |  |
| 88                                                    |  |
| Northern Science and Technology                       |  |
| 45                                                    |  |
| Northern Land, Resources and Environmental Management |  |
| 230                                                   |  |
| Subtotal                                              |  |
| 3,109                                                 |  |
| Internal Services                                     |  |
| 1,518                                                 |  |
| Total                                                 |  |
| 4,627                                                 |  |

Source: Indigenous and Northern Affairs Canada's 2017-18 departmental plan."

Jorge Barrera, "Treasury Board President willing to amend access to information bill in response to First Nation concerns: New rules could make getting information more onerous for First Nations," says researchers," *CBC News*, October 19, 2017, <http://www.cbc.ca/news/indigenous/treasury-board-access-information-first-nations-1.4361587>, reported, **"Canada's treasury board president says he is open to amending a proposed bill to modernize federal access to information laws over First Nations' concerns it could be used to block the settling of historic claims."**

James Munson, "The AFN is divided on environmental assessment reform," *i Politics*, October 21st, 2017, <http://ipolitics.ca/2017/10/21/the-afn-is-divided-on-environmental-assessment-reform/>, reported that while **some members of the Assembly of First Nations were in favor of supporting the Canadian Liberal government concerning changes to the *Canadian Environmental Assessment Act, 2012* (CEAA, 2012) and the *National Energy Board Act* (NEB Act), others were opposed, claiming the government's that cabinet secrecy was preventing the government from bringing First Nations more fully into the legislative drafting process.**

"Sir John A. Macdonald on trial," *CBC News*, August 24, 2017, <http://www.cbc.ca/news/canada/ottawa/programs/ontariotoday/sir-john-a-macdonald-on-trial-1.4260748>, reported that **the Elementary teachers' union in Ontario wants to rename schools in Pickering named after this Father of Confederation, calling him an architect of genocide, in the residential schools.** The idea is to have school names reflect foster diversity.

**Canadian Prime Minister Justin Trudeau announced, June 21, 2017, that the Assembly of First Nations would have the use of 100 Wellington St., in Ottawa, a historic building that sits across from Parliament Hill. However, the Algonquin Nation has not given final permission for this use.** The issue raised a number of questions about land rights that First Nations people say have not been resolved (James Munson, "AFN raises flag at 100 Wellington without Algonquin permission,"

September 6th, 2017, <https://ipolitics.ca/2017/09/06/afn-raises-flag-at-100-wellington-without-algonquin-permission/>).

David Tabachnick, "Who has the right to Ontario's Algonquin lands?" NationTalk, November 22, 2017, <http://nationtalk.ca/story/who-has-the-right-to-ontarios-algonquin-lands-tvo>, reported in part, **"There are many unsettled issues related to Indigenous rights and self-government in Canada, but there's broad consensus on one point: Aboriginal rights are collective in nature. They are held by communities, and facilitated by a deep and abiding bond between the people and the land. In turn, the settlement of land claims is of critical importance to Indigenous people so that they can actually practice their rights.**

**Here's the inherent challenge of collective rights, however: Groups often contain smaller groups within them, and the interests of those subgroups do not always align with those of the whole.**

That's the conundrum facing the **Algonquins of Ontario (AOO)**, which represents **approximately 10,000 members**. Since the early 1990s it has been negotiating the transfer of approximately 117,500 acres of Ontario Crown land — running from around Hawkesbury to North Bay — to Algonquin ownership. This is the largest piece of land under treaty negotiation in Ontario.

**Last year, the membership voted overwhelmingly to accept an agreement in principle to settle the claim. Around the same time, members of the Pikwakanagan First Nation, one of the 10 communities represented by the AOO, held a separate vote and cast their ballots decisively against the deal (74% rejected the deal, 26% voted to accept).**

**Soon after, a stalwart group of grandmothers from Pikwakanagan, launched a \$350 million lawsuit to force their band council to withdraw from any further treaty negotiations, arguing that the agreement would negatively transform their reserve — the only one in the entire land claim area — into a "mere municipality" not covered under the Indian Act, a change whose consequences would include the introduction of individual property ownership to the reserve..."**

Julius Melnitzer, "Ontario slowly closing in on the largest land-claims settlement in Canadian history: The treaty negotiations cover 36,000 square kilometres, 86 municipalities and 1.1 million residents in the province," *Financial Post*, November 21, 2017, <http://business.financialpost.com/legal-post/ontario-slowly-closing-in-on-the-largest-land-claims-settlement-in-canadian-history>, reported in part, **"Ontario closes in on a treaty with the Algonquins of Ontario, the first modern-day treaty the province has ever signed. The treaty negotiations, which involve the federal government as well, cover 36,000 square kilometres, 86 municipalities and 1.1 million residents in Ontario.**

"The territory claimed embraces land stretching from Ottawa to Kingston to North Bay. Within its boundaries are the nation's capital, including Parliament Hill, large parts of the Ottawa Valley, and virtually all of Algonquin Provincial Park. Because the claims are not limited to Crown lands, however, and cover a wide range of private property rights and interests, the negotiations are extremely complex."

**The Ktunaxa First Nation of British Columbia lost its appeal against Minister of Forests, Lands and Natural Resource Operations and Glacier Resorts Ltd., in *Ktunaxa Nation v. British Columbia (Forests, Lands and Natural Resource Operations)*, 2017 SCC 54, November 2, 2017, Docket: 36664, <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/16816/index.do>.**

The initial court decision read in part:

**"The Ktunaxa are a First Nation whose traditional territories include an area in British Columbia that they call Qat'muk. Qat'muk is a place of spiritual significance for them because it is home to Grizzly Bear Spirit, a principal spirit within Ktunaxa religious beliefs and cosmology. Glacier Resorts sought government approval to build a year-round ski resort in Qat'muk. The Ktunaxa were consulted and raised concerns about the impact of the project, and as a result, the resort plan was changed to add new protections for Ktunaxa interests. The Ktunaxa remained unsatisfied, but committed themselves to further consultation. Late in the process, the Ktunaxa adopted the position that accommodation was impossible because the project would drive Grizzly Bear Spirit from Qat'muk and**

therefore irrevocably impair their religious beliefs and practices. After efforts to continue consultation failed, the respondent Minister declared that reasonable consultation had occurred and approved the project. **The Ktunaxa brought a petition for judicial review of the approval decision on the grounds that the project would violate their constitutional right to freedom of religion, and that the Minister's decision breached the Crown's duty of consultation and accommodation. The chambers judge dismissed the petition, and the Court of Appeal affirmed that decision.**

Held: The appeal should be dismissed."

Tad Lemieux, "What Comes Next for Clyde River After Supreme Court Victory?: Consultation can't continue to be theatre for predetermined outcomes, economic or otherwise, if Trudeau's insistence that Inuit have the final say on development is to be taken seriously

• August 20, 2017, <https://indiancountrymedianetwork.com/news/first-nations/comes-next-clyde-river-supreme-court-victory/>, reported, "What comes after being heard?"

**After a six-year battle, the Nunavut hamlet of Clyde River has won its bid in the Supreme Court of Canada to end a National Energy Board [NEB] authorization that allowed a Norwegian energy consortium to conduct seismic testing in the waters of Baffin Bay and Davis Strait.**

The Inuit feared it would permanently damage their economies, food sources and traditions.

**The Supreme Court decision clarified the terms of adequate consultation, reaffirmed that regulatory tribunals can perform the duty to consult and stressed the need to consider the impact on indigenous rights rather than the environment."**

Court Rejects Nevsun Bid to Block Forced Labor Lawsuit," Freedom United, November 21, 2017, [https://www.freedomunited.org/news/nevsun-eritrea-forced-labor/?trk\\_msg=T3TTDTPPOQMK73J5N9HGTPKJ94&trk\\_contact=B6M8ONO3GA0V4UPHDKT7AR6C7G&trk\\_sid=5A98T49JGQFOU83PBC0NEBNQDO&utm\\_source=Listrak&utm\\_medium=email&utm\\_term=Court+Rejects+Nevsun+Bid+to+Block+Forced+Labor+Lawsuit&utm\\_campaign=News+Digest&utm\\_content=News+Digest\\_11282017](https://www.freedomunited.org/news/nevsun-eritrea-forced-labor/?trk_msg=T3TTDTPPOQMK73J5N9HGTPKJ94&trk_contact=B6M8ONO3GA0V4UPHDKT7AR6C7G&trk_sid=5A98T49JGQFOU83PBC0NEBNQDO&utm_source=Listrak&utm_medium=email&utm_term=Court+Rejects+Nevsun+Bid+to+Block+Forced+Labor+Lawsuit&utm_campaign=News+Digest&utm_content=News+Digest_11282017), reported, "An appeals court in Canada has rejected Nevsun Resources Ltd.'s bid to throw out a lawsuit against the company in which six Eritreans claim they were subjected to forced labor at the company's mine in East Africa. The men say that they worked at Nevsun's Bisha from 2008 to 2012, where they "endured harsh conditions at the Eritrean gold, copper and zinc mine, including hunger, illness and physical punishment at the hands of military commanders."

Hans Tammemagi, "Pender Island Reconciliation Heals Deep Wounds: Pender Island, B.C., population 2,300, is forging new paths of forgiveness, friendship and cultural understanding," ICTMN, August 31, 2017, <https://indiancountrymedianetwork.com/news/first-nations/pender-island-reconciliation-heals-deep-wounds/>, reported, "It was the **latest in a series of initiatives launched on 2,300-population Pender Island, British Columbia, by Canadians seeking not just reconciliation but also knowledge of Tsawout language, culture and history. The programs' success is an example of how spontaneous, grassroots reconciliation initiatives could sprout throughout North America.**

**"Over the last four years Pender Island and the Tsawout First Nation have been developing a community-to-community relationship built on recognition, respect and trust,"** said Paul Petrie, head of the South Pender Historical Society."

**"Catalyzed by the Truth and Reconciliation Commission's work, several concerned people established the Pender Reconciliation Circle and organized five presentations** in 2013. Each program was followed by a circle in which participants passed an eagle feather around to people who wanted to speak, granting them the floor. One after another, Pender Island residents poured out their heartfelt empathy to residential-school survivors and their children, and voiced distress at the damage Canada's policies have wrought."

Konnie LeMay, "Student Deaths: Thunder Bay Gets Barely Passing Grade: Canada needs to do

more after deaths of seven First Nations youths, families say," ICTMN, September 1, 2017, <https://indiancountrymedianetwork.com/news/first-nations/student-deaths-thunder-bay-gets-barely-passing-grade/>, reported, "Jethro Anderson, 15. Reggie Bushie, 15. Robyn Harper, 18. Kyle Morrisseau, 17. Paul Panacheese, 17. Curran Strang, 18. Jordan Wabasse, 15.

**The families of these seven First Nations youths who died while attending school in Thunder Bay, Ontario, want their names to be remembered. More than that, they want their lives and untimely deaths to be the catalyst for change and future protection of all First Nations children.**

**To that end, the families are planning, through their attorneys, to grade annually the progress on 145 recommendations made by a jury after a nine-month inquiry into those deaths. The first grades are in, and they don't reflect well on the government of Canada. The overall grade for all progress is only modestly better.**

The families' attorneys delivered this year's overall grade plus specific grades, based on what they believe is an objective system, in a report card for nine entities charged with making changes during a press conference on Wednesday August 23 at Lakehead University's Bora Laskin Faculty of Law in Thunder Bay.

'The grade overall (for the full set of recommendations) is a C+; that is a disappointing grade,' said Jonathan Rudin, director of Aboriginal Legal Services, which represents six of the seven youths' families.

The lowest grade, a 'D,' went to the government of Canada. The families graded the governments of Ontario and Thunder Bay (31) and the Nishnawbe Aski Nation as 'C+'; Thunder Bay Police Service earned a "B+"; the Northern Nishnawbe Education Council and the two schools attended by the students—Dennis Franklin Cromarty High School and Matawa Learning Centre—earned 'A-'; while the Keewatinook Okimakanak, Northern Chiefs Council, received an 'A.'

**Progress has been slow or nonexistent on many recommendations, Rudin said.**

**Only 15 percent are completed, and a quarter haven't even been started,'** he said after the press conference. 'The response from the Canadian government is clearly the most disappointing; they barely got a D.'

In addressing the recommendations, the Canadian government entities 'gave the same response—this generic nothingness, just not responsive,' he added.

Elsewhere he saw encouraging points of positive progress, Rudin said. The education providers have increased orientation materials and mentors. (A number of the youths who died were newly arrived to Thunder Bay.) Those groups also offer enhanced education and programs dealing with substance abuse and have partnered with Thunder Bay programs to provide more services. The federal government also has increased the funding available for First Nations students remote northern reserves to visit home more frequently.

'One of the challenges that the education providers have is that many of the things they were asked to do require funding, and this is one of the challenges that we faced in grading this,' Rudin said. 'While the schools, the education providers, have done what they needed to do, it doesn't mean necessarily the recommendations themselves are complete, because funding has to be found. But certainly the three education authorities have done as much as they possibly could.'

One of the biggest areas of pleasant surprise, Rudin admitted, was the response from the Thunder Bay Police Service, which has already completed 40 percent of the 10 recommendations directed at it.

'They've enhanced a program where the police go to the [remote] communities in the summer to meet with the students who will be coming to Grade 9,' Rudin said. 'They've done a safety audit of the river areas in Thunder Bay, and that's a very important step.'

The seven tragedies that generated the inquest occurred between November 2000 and May 2011. These young students traveled from their remote northern Ontario reserves to the metro hub of Thunder Bay for high school. Many reserves do not have upper-grade classes available."

Paulina Villegas, "In a Mexico 'Tired of Violence,' Zapatista Rebels Venture Into Politics," *The New York Times*, August 26, 2017, <https://www.nytimes.com/2017/08/26/world/americas/mexico->

zapatista-subcommander-marcos.html?ref=todayspaper, reported, **"The Zapatistas, the most powerful political rebels in Mexico in nearly 100 years, are renouncing armed revolution, after decades of opposing the government, for a simple reason: Mexico is so riddled with violence, they say, that the country cannot handle any more of it.**

today, analysts say. The rebels have not reached a peace deal with the government, nor won their longstanding push for indigenous rights. But killings in Mexico are rising so quickly that even a movement rooted in armed struggle feels compelled to back away from violence."

**"Instead, they have decided to work within the system they once revolted against, backing a candidate to run for president in next year's elections."**

Max Fisher and Amanda Taub, "The Social Contract Is Broken': Inequality Becomes Deadly in Mexico," *The New York Times*, September 30, 2017, <https://www.nytimes.com/2017/09/30/world/americas/mexico-inequality-violence-security.html?ref=todayspaper>, reported, **"As Mexico descends into its most violent year on record and the state proves incapable of responding, those with resources are taking matters into their own hands. Landowners, businesses and the rich are buying security by means legal and not.**

**Any social compact is built in part on the agreement that security is a public good, shared and maintained by all. As Mexico's rich effectively withdraw, the implicit arrangements that hold society together are breaking down.**

**Though the effects are subtle, they are everywhere. The rise of vigilantism, criminal impunity, police corruption and state weakness can all be traced in part to this growing security inequality."**

ICG, Arturo Matute, Analyst, Guatemala, "Guatemala Stumbles in Central America's Anti-corruption Fight," **Latin America and Caribbean Commentary, September 1, 2017**, [https://www.crisisgroup.org/latin-america-caribbean/central-america/guatemala/guatemala-stumbles-central-americas-anti-corruption-fight?utm\\_source=Sign+Up+to+Crisis+Group%27s+Email+Updates&utm\\_campaign=660df8bce4-EMAIL\\_CAMPAIGN\\_2017\\_09\\_01&utm\\_medium=email&utm\\_term=0\\_1dab8c11ea-660df8bce4-359871089](https://www.crisisgroup.org/latin-america-caribbean/central-america/guatemala/guatemala-stumbles-central-americas-anti-corruption-fight?utm_source=Sign+Up+to+Crisis+Group%27s+Email+Updates&utm_campaign=660df8bce4-EMAIL_CAMPAIGN_2017_09_01&utm_medium=email&utm_term=0_1dab8c11ea-660df8bce4-359871089), commented, **"Guatemala's fight against corruption is in danger after President Morales attempted to expel the head of a uniquely effective UN-backed anti-corruption organization. In this Q&A, Crisis Group's Analyst for Guatemala Arturo Matute says a corrupt elite is waging a battle to maintain its privileged position.**

**What is happening in Guatemala?**

**A remarkable and hopeful two-year interlude in one of Central America's most corrupt countries may now be ending.**

**The key reversal came on Friday 25 August 2017, at a meeting requested by Guatemala's President Jimmy Morales with UN Secretary-General António Guterres in New York. Morales signaled his intent to eject the head of the UN-backed International Commission Against Impunity in Guatemala (CICIG), Iván Velásquez. Morales protested that Velásquez had interfered in Guatemalan politics by calling for constitutional reforms and by exploiting media coverage in legal proceedings. After returning to Guatemala he declared Velásquez *persona non grata* and ordered his expulsion from the country.**

**This represents a setback to the progress made toward rooting corruption out of Guatemala's political system between 2015 and 2017, thanks to a combination of popular protests, a new president, a brave external judge and a groundswell of support for change in the growing educated middle class.**

**Guatemalans are still not ready to go back to the old ways. Two days later, on 27 August, the Constitutional Court – Guatemala's highest court on constitutional issues – temporarily suspended President Morales' order. Some members of the government resigned to protest Morales' move, notably the minister of foreign affairs, the minister of health and most of their vice ministers. Demonstrators in support of Velásquez poured into squares in Guatemala City,**

**while other sets of demonstrators voiced their support for Morales' move against CICIG's Commissioner. On 29 August, the Constitutional Court overturned the expulsion order.**

Exactly **what will happen next is unclear**. In a social media posting on Monday 28 August, Guatemala's president said that he will respect resolutions from judicial bodies. While the fact that he has adopted this position is welcome, it does not mean he will halt his efforts to ensure Velásquez departs the country and to curb CICIG's influence.

#### **Why has President Morales moved against CICIG?**

CICIG – proposed by Guatemalan civil society, in operation since 2007, and acting through the attorney general's office – has been steadfast in its fight against corruption in Guatemala. Central to CICIG's recent success has been Velásquez, a courageous former judge with considerable experience dealing with political corruption in his native Colombia. Velásquez has moved CICIG away from a more general mission of fighting impunity toward a tightly-focused mandate of combating illegal money-producing schemes. It has spearheaded probes into political funding and corruption, resulting in almost two hundred defendants facing investigation and trial this year alone. Most are currently jailed on remand, including former President Otto Pérez Molina and his Vice President Roxana Baldetti.

Corrupt traditional actors who have profited in the past from Guatemala's rigged political system have campaigned relentlessly against CICIG. Morales was swept into office after the country experienced a wave of disgust at revelations of the depth and breadth of a high-level corruption scandal in 2015 that forced the previous incumbent, Pérez Molina, to resign. Since then he has come under considerable pressure from elements of Guatemala's political and business elite to revise his initially supportive attitude toward CICIG's agenda of reform and to oppose the anti-corruption campaign.

Morales had some success in treading a balanced line, but events last week altered his political calculus. On 25 August, the same day that Morales flew to New York, CICIG and the attorney general's office formally presented a request to the Supreme Court to lift Morales' presidential immunity, a necessary step before a final decision is made by Congress. They claimed there are sufficient grounds to investigate Morales for illicit financing of his 2015 presidential campaign, specifically \$900,000 USD in unreported contributions. It was the first time in Morales' presidency that CICIG had targeted the president himself, making clear to Morales that his political survival could be at risk. Rather than abiding by his previously balanced line, the president heeded the counsel from elements of the business and political elites and set out to defend his own endangered mandate by seeking Velásquez's expulsion.

#### **Why does the attempted expulsion of the head of CICIG matter?**

**The future of Guatemala's corruption-fighting commission is closely tied to the country's development as a democratic state. Since the 2015 corruption scandal, CICIG has capitalized on the political fallout from the previous government's collapse. It has sought to bring about lasting change by backing proposals to reform the constitution and bolster the justice system's independence.**

But Guatemala has been ensnared in an ongoing political crisis between two camps. On one hand, there are social, political and business actors supporting CICIG's efforts to strengthen Guatemala's justice institutions. On the other hand, there is a traditional, conservative group of actors who seek to maintain their privileged position. They control ports and customs offices, have links to organized crime and are involved in illicit activities such as people smuggling and drug trafficking. They have wielded significant power and influence over various government institutions for many years.

**CICIG's work also has kindled discord in Guatemala's foremost business elite group, the Coordinating Commission of Agricultural Commercial Industrial and Financial Associations (CACIF). Within the organization, which traditionally has presented a united public face and has been a powerful actor in Guatemala, younger industrialists and tradesmen who support CICIG's anti-corruption agenda are pitted against others who seek to reduce the risk of their own prosecution. President Morales' recent move to weaken the anti-corruption agenda will make it more difficult for the business organization to maintain its unified position.**

CICIG's support to the justice system through technical advice and direct collaboration designed to reveal large corruption schemes has catalyzed previously unthinkable modifications to

Guatemala's legal order. The expulsion of its head would have represented a significant setback to the anti-corruption fight, validating claims that CICIG has exceeded its mandate when in reality it is robustly enforcing it. It might even have served as a stepping stone toward a "conservative restoration" – a return to the more corrupt mores of the past – in the country's political system and damage the country's favorable image in Latin America as a relative success story. Such an outcome would have reassured other regional leaders that they could continue to act with impunity and could fight back any effort to establish a CICIG-like entity in their country. Finally, it would have meant that even the most innovative tool of international cooperation to strengthen the rule of law in the form of CICIG is not strong enough to break a well-established corrupt system.

#### **What are the next steps and potential risks?**

The Constitutional Court's provisional decision to block Velásquez's expulsion is now definitive. The court's final ruling found that the order violated the constitution because it was only signed by the president and not by all of his ministers. While some observers speculate that this merely was a temporary, face-saving measure approved by the UN and Morales to avoid a direct conflict, and that Velásquez will still eventually be removed, for now the president has had to back down.

This is good news. Although there is a risk that Morales might seek to assume more power in light of this crisis, this seems limited given the potential for judicial action against him and significant public opposition to his recent actions. Nor does Guatemala appear likely to experience a resumption of the state-sponsored violence that plagued it in the past. Both the minister of defence, General Williams Mancilla and government Spokesman Heinz Heimann have ruled out the imposition of a state of siege or punitive measures against those who had protested President Morales' decision to expel Velásquez. That the minister of the interior, Francisco Rivas, a trusted former attorney, has remained in place suggests that heavy-handed methods can be avoided. The army, too, has been weakened in recent years and no longer is a decisive political actor.

That said, protests could well grow. For now, widespread turnout remains significantly short of the unprecedented level of mobilization that was witnessed during the 2015 corruption scandal. However, should there be a future attempt to remove Velásquez or curb CICIG, this could trigger wider anger. Most importantly perhaps, it remains to be seen what Morales will now do to resist CICIG's requests to lift his immunity from prosecution for illicit campaign financing.

#### **What can the international community do?**

The U.S. has important interests in Guatemala, frequently referred to by high-level U.S. officials as a significant national security concern. The European Union (EU) also has an interest in Guatemala. It has provided as much financial support to CICIG as the U.S. Both the EU and U.S. have made clear their opposition to Morales' action, the EU through communiqués opposing Morales' decision, the U.S. through the voice of its ambassador to the UN, Nikki Haley, as well as through various members of Congress. They, along with others, should continue to support Velásquez's position but without a heavy-handed approach that would smack of interference. Facing such pressure, Morales may already have realized that he has committed a political error, and will need to devise less provocative strategies to avoid the threat of prosecution and a premature end to his presidency. He also will want to avoid overly alienating the U.S., given the risk of counter-measures from Washington, in particular a halt to its financial aid to the Northern Triangle area.

For the international community, CICIG is a unique case study in international support for the justice sector in a weak democracy. It remains to be seen if CICIG will be strong enough to stand up to the power of a national corrupt system under threat. Whatever happens, measures to clean up Guatemala's system should emanate from Guatemalan institutions, not from obvious direct impositions by outside powers, and the international community should demonstrate its confidence in them and in the country's citizens. Over the past decade, the CICIG has shown the capacity to act effectively, even if it is now threatened by those who stand to lose money and influence or who seek to justify the defence of their interests by denouncing foreign intervention

in a sovereign state. That is an indicator in itself of CICIG's success, which can and should be replicated in other Latin American countries."

Kirk Semple, "A Flawed Asylum System in Mexico, Strained Further by U.S. Changes," *The New York Times*, August 5, 2017, <https://www.nytimes.com/2017/08/05/world/americas/mexico-central-america-migrants-refugees-asylum-comar.html?ref=todayspaper>, reported, "As the Trump administration pushes forward with its plans to harden the southwest border, **Mexico has found itself under pressure to take in an increasing number of asylum seekers making their way north from Central America, many of them fleeing gang violence.**

But immigrants' advocates say Mexico's asylum system and its ability to protect migrants have not kept pace with these demands, impeding access for many migrants to the safety they deserve and the refugee status they may be entitled to.

While the Mexican government has made improvements to its asylum program in recent years and has awarded protection at increasingly higher rates, the system remains deeply flawed, leaving many migrants vulnerable to harm, according to at least seven reports published in recent weeks by American, Mexican, Central American and international groups focused on human rights and migration.

The weaknesses include inadequate staffing in Mexico's refugee agency, leading to months long waits for applicants; uneven training and supervision of immigration agents; and inconsistent adjudication of asylum law, according to the reports.

Many who might qualify for asylum have been unable to begin the process because government officials have not taken the steps needed to allow them to apply, the groups contend.

In some cases, border agents have actively discouraged migrants from applying for asylum, threatening them with long detention in Mexico while their petitions are being considered, advocates say."

Neil MacFarquhar, "Sentencing of Tatar Leader in Crimea Is Called a Sham," *The New York Times*, September 11, 2017, <https://www.nytimes.com/2017/09/11/world/europe/russia-crimea-tatar.html?ref=todayspaper>, reported, "A Russian court in the contested Crimean peninsula sentenced a minority Tatar politician to eight years in prison on Monday, in a trial that his lawyers and human rights organizations called a sham."

Elisabeth Malkin, "Honduran President Declared Winner, but O.A.S. Calls for New Election," *The New York Times*, December 17, 2017, [https://www.nytimes.com/2017/12/17/world/americas/honduran-presidential-election.html?ref=todayspaper&\\_r=0](https://www.nytimes.com/2017/12/17/world/americas/honduran-presidential-election.html?ref=todayspaper&_r=0), reported, ""**The Honduran electoral commission on Sunday declared President Juan Orlando Hernández the victor in a bitterly contested race, but the Organization of American States called for a new election, arguing that the vote was so riddled with irregularities that it was impossible to be sure of a winner.**

The electoral commission, which is controlled by allies of Mr. Hernández, said he had won by about 50,000 votes over the opposition candidate, Salvador Nasralla.

The announcement, and the response from Luis Almagro, the secretary general of the O.A.S., seemed likely to escalate the political crisis that has gripped Honduras since the Nov. 26 vote."

Elisabeth Malkin, "U.S. Leans Toward Incumbent in Honduras, Despite Disputed Result," <https://www.nytimes.com/2017/12/19/world/americas/honduras-hernandez-president-oas.html?ref=todayspaper> 19, 2017, <https://www.nytimes.com/2017/12/19/world/americas/honduras-hernandez-president-oas.html?ref=todayspaper>, "The United States appears to have thrown its weight behind President Juan Orlando Hernández of Honduras, who was declared the winner of last month's disputed election, ignoring a call from the Organization of American States for a repeat of the voting."

Rick Kearns, "More Companies Withdraw From Berta Cáceres Related Honduras Project: German engineering firms Voith Hydro and Siemens, which provide industrial turbines, will no longer supply



components to the DESA Corporation," ICTMN, September 3, 2017, <https://indiancountrymedianetwork.com/news/indigenous-peoples/companies-withdraw-berta-caceres-related-honduras-project/>, reported, **"Two more companies have decided to no longer support the Agua Zarca hydroelectric dam in Honduras, the same project that slain indigenous leader Berta Cáceres had protested before her murder in 2016."**

The international non-profit advocacy organization Oxfam confirmed in mid August that German engineering firms Voith Hydro and Siemens, which provide industrial turbines, will no longer supply components to the DESA Corporation which is in charge of the Agua Zarca hydroelectric dam project."

Laura Hobson Herlihy, "SANDINISTAS SLAUGHTER INDIGENOUS YATAMA PARTY IN NICARAGUAN ELECTIONS," Cultural Survival, November 30, 2017, <https://www.culturalsurvival.org/news/sandinistas-slaughter-indigenous-yatama-party-nicaraguan-elections>, reported, "Yatama should have never broken their alliance with the Sandinistas...the Sandinistas are going to be in power for many more years." Salvador Fermin Chow, a Miskitu elder and religious leader.

**The Sandinistas symbolically massacred the Indigenous Miskitu people along the Caribbean Coast in the Nicaraguan municipal elections. The Nicaraguan state first conquered and incorporated the Caribbean Coast in 1894. Local intellectuals claim the recent elections on November 5, 2017 represent the Nicaraguan state's final conquest and domination of the Miskitu people and their resource-rich, rainforest homeland along the Caribbean Coast.**

The ruling National Liberation Sandinista Front (FSLN) state party was expected to win big throughout Nicaragua in the recent elections, which they did. **The FSLN won 135 of 153 mayoral posts, amidst accusations of unprecedented voter abstention (70-80%), electoral fraud and post-electoral violence. Seven citizens reportedly were killed, dozens jailed, and hundreds injured in the 24 hours following the election.**

Monsignor Silvio José Báez, the Auxiliary Bishop to the Catholic Archdiocese of Managua, had announced prior to the election that he would abstain from voting, due to 'a **flawed electoral system with the well-documented history of electoral fraud and officials that do not provide confidence to the people**. A common expression heard throughout Nicaragua is, 'Why vote when you already know who's going to win?' One week after the 2017 municipal elections in La Cruz de Río Grande (RACCS), the Nicaraguan military killed with impunity six more citizens—mainly young men, two under the age of 18—in an opposition region filled with former Contras, rumored to be re-arming. The Nicaraguan Bishops Episcopal Conference declared that "violence now occurring was the result of a broken electoral system."

The Caribbean Coast was a highly-contested and politically-divided region in the Nicaraguan municipal elections. Here, the FSLN's main opposition party is Yatama (Yapti Tasba Masraka Nanih Aslatakanka/Children of the Mother Earth), the largest and only grassroots Indigenous and Afro-descendant organization on the Caribbean Coast. Founded in 1987, Yatama became a political party in 1990. The majority of Yatama's supporters identify as Miskitu, but Indigenous Mayangna, Ulwa and Rama, Afro-Indigenous Garifuna; Afro-descendant Kriols, and Native mestizos fill out its membership.

### **Politics of the Autonomous Regions**

Many members of Yatama fought as former Contras, or counter-revolutionaries, in the US-backed war within the victorious Sandinista revolution (1979-1990). The Caribbean Contras represented about one-fourth of the total Nicaraguan Contra forces, but were the only successful force. Due mainly to Contra resistance, the Sandinista state passed the Autonomy Law (law 28) in 1987, awarding two autonomous regions to the Indigenous and Afro-descendant peoples. The North and South Caribbean Coast Autonomous Regions (the RACCN and the RACCS) each had their own legislative bodies, becoming a model for pluri-ethnic, politically autonomous regions throughout Latin America.

Academics and activists now concur **that Caribbean Coast autonomy exists on paper only, and that the fatal flaw of the autonomy project was that it provided for the region's continued involvement with national political parties. This meant that invading mestizo land colonists, who illegally settle and cut down rain-forest lands and vote FSLN, would eventually outnumber the**

**Indigenous and allied Afro-descendant peoples; losing elections, then, could mean a de facto loss of political autonomy. This fait accompli was speeded up during the last few electoral processes.**

In the 2014 regional elections, the FSLN national party won, taking control of the RACCN and RACCS governments away from Yatama. The day after elections in Bilwi, the RACCN capital, Yatama women protested election results and occupied the regional government building; street skirmishes broke out between Yatama and FSLN youth gangs. Yatama officials then formally broke their alliance (2006-2014) with the FSLN and accused the FSLN of both electoral fraud and non-completion of saneamiento, a movement to remove colonists and outside industries from Indigenous and Afro-descendant territories, as called for by Nicaraguan Law 445, the communal property law.

Yatama increased its membership after breaking their alliance with the FSLN. New members joined Yatama to protest the invasion of Indigenous and Afro-descendant territories by agricultural and cattle-ranching colonists from the Nicaraguan interior and Pacific; and the Sandinista state's refusal to complete saneamiento. Beginning in 2014, violence erupted in Wangki-Twi Tasba Raya (RACCN) between mestizo colonists and Miskitu resident-activists. Colonists, armed with automatic weapons fought with Miskitu men, wielding machetes, harpoons and shot-guns. Over 100 Miskitu have been killed, kidnapped or injured and in 2015-2016, 3,000 refugees fled to Honduras, with no protection or support from the Nicaraguan government.

**Yatama made new alliances with Creole, Garifuna, Ulwa, and Rama peoples in the RACCS, and gained support in nearby Corn Island, where the Miskitu population is growing. These new activists protest Nicaraguan Law 840, the Canal Law, and the Chinese-backed (HKND) inter-oceanic canal, set to cut through Rama and Kriol lands. Indeed, the Rama-Kriol Indigenous Territorial Government (GTI) in 2014 and again, in 2015 successfully put forth human rights claims against the Nicaragua state to the OAS's Inter-American Commission on Human Rights (IACHR).**

In the 2016 Nicaraguan General Elections, a dramatic election took place on the Caribbean Coast. Brooklyn Rivera, the long-term Miskitu leader and director of Yatama, won back his legislator seat in the National Assembly. The vote showed that his people still supported him after the Sandinista-controlled National Assembly in 2015, had criminalized Rivera and illegally ousted him from the assembly, where he had served as a legislator since 2007.

Following the General Elections, the FSLN-allied Supreme Electoral Council (CSE) delayed in posting results, causing suspicion in the opposition parties. The CSE then announced that the FSLN would control 71 of the 92 legislator seats in the National Assembly; and that, of the five assemblymen seats (diputados) on the Caribbean Coast, the FSLN had won three and that Yatama and the PLC (Constitutionalist Liberal Party) had each won one a-piece—only Rivera was elected for Yatama. Yatama denounced the electoral fraud, arguing that they had won more seats based on the system of proportional representation.

Yatama held a protest march in Bilwi that began peacefully. Protesters then were met by Sandinista youth gangs, Riot Police sent in from Managua and Bilwi's National Police force, who attacked with rocks, tear gas, and rubber bullets. Yatama youth fought back in retaliation, ransacking the regional government buildings and looting local stores.

Given the history of violence that occurred in the last two elections (2014 and 2016), Bilwi residents feared another tumultuous show-down between the FSLN and the Indigenous Yatama party during the 2017 municipal elections. Hundreds of Riot Control Police from Managua militarized Bilwi and other coastal towns prior to election day on Nov. 5th. The FSLN justified the militarization of Bilwi, and other municipal centers, as an attempt to protect its citizens from Yatama's violent protests. Rivera answered, 'Who are the violent ones? They steal lands and elections and kill our people. When we fight back and try to defend ourselves and our rights, they call us violent.'

#### **Election Day Violence**

Yatama's campaign finale march reportedly occupied more than ten city blocks. The march intended to show FSLN supporters that Yatama had an obvious majority and planned to win Bilwi. Yatama leadership anticipated the FSLN would attempt to steal the elections. They prepared their supporters to document and denounce every voter anomaly they witnessed.

Throughout election day in Bilwi, Yatama members posted on social media, pictures and descriptions of electoral anomalies. Voting centers closed at 6:00 pm. Yatama leaders still occupied the Marvin Michel voting precinct, demanding their supporters be allowed to vote, after a reported 800 had been illegally turned away.

Shortly after 10:00 pm, the Sandinistas claimed victory in the municipality of Bilwi and celebrate through the streets. Yatama leaders simultaneously claimed victory on the radio and argued that ballot boxes from their loyal communities in the Sandy Bay district had not yet arrived nor been counted. News of violence in other RAACS and RACCN municipalities is reported, including the murder of a Miskitu Yatama man in Sandy Bay Sirpe (RACCS). It became clear...the FSLN intended to sweep the last four Yatama-held municipalities in the autonomous regions.

The following day, Yatama refused to accept the results reported by the CSE, who claimed the FSLN had won 12, and the PLC had won four of the 16 municipalities in the autonomous regions (RACCN and RACCS). According to the CSE, Yatama did not win any municipalities, despite Yatama officials claiming to have won their formerly controlled municipalities of Bilwi, Waspam, and Prinzapolka in RACCN and Desembocadura de Río Grande in the RACCS.

Yatama officials denounced the FSLN for lack of transparency in the elections, claiming FSLN precinct supervisors alone controlled and had access to the ballots, giving them the opportunity to withhold, replace and destroy ballots. Additionally, Yatama leaders claimed 3,000 of their supporters were not allowed to vote. Yatama defiantly accused the FSLN of electoral fraud and voter suppression and alleged the following voter anomalies:

- withholding voter identification cards to Yatama sympathizers
- intimidation and harassment of Yatama supporters at voting precincts
- the manipulation of voter data (sending voter's names to far-away municipalities)
- using state vehicles to transport FSLN supporters
- multiple voting by FSLN sympathizers (using removable ink on their thumbs)
- the purchasing of votes by the FSLN
- allowing the FSLN-backed land colonists and Riot Police to vote in local elections, although not legal residents
- setting up parallel headquarters and computer systems to tally votes

Yatama held a protest march on the afternoon of November 6. Yatama sympathizers reportedly engaged in violence after being confronted by Sandinista youth gangs, backed by the Riot Police brought in from Managua and the Bilwi Police force. Both Yatama and Sandinista youth gangs, and a-political, rogue neighborhood gangs, caused destruction to personal and public property, such as the looting of the Claro smart-phone distribution center and burning of buildings.

Armed para-military forces arrived at the Yatama house to detain Yatama leaders Brooklyn Rivera and Elizabeth Henríquez, who both escaped after Yatama youth fought their captors. Yatama headquarters, a sacred temple of Indigenous identity, and its community radio station Yapti Tasba Bila Baikra (Voice of Mother Earth), known for broadcasting in the Miskitu language, were set afire and burned. Yatama leaders caught in the fire reported that Riot Police sent from Ortega's central government, accompanied by Sandinista youth and the Bilwi Police, were responsible.

Perhaps most symbolically, the iconic statue of the Indian ("El Indio") was demolished in Bilwi's town center. Yatama leaders accused Sandinista youth, protected by the Police, of committing this racist, hate crime. The statue, erected decades ago, represented the Indigenous struggle and resistance on the coast.

By the morning of November 7, the red and black FSLN flag had been mounted high upon the surviving radio tower, replacing Yatama's forest-green flag. The Bilwi Police then began arresting Yatama members involved in the destruction of property and violence, but turned a blind eye to the destruction caused by Sandinista youth and rogue gang-members. All total, two Miskitu Yatama men were shot dead, forty were injured and over 90 Yatama members were arrested and held in the Bilwi jail.

Yatama not only lost the recent municipal elections to the increasingly authoritarian Sandinista regime, but their members also experienced the following human and Indigenous

rights violations:

- **military occupation**
- **criminalization and detainment of their leaders**
- **arbitrary repression and imprisonment of more than 90 of their sympathizers**
- **the burning of their Indigenous community radio station--Yapta Tasba--that**

**broadcasts in the Miskitu language**

- **the burning of the Yatama meeting house, a sacred Indigenous temple**
- **the destruction of a civic monument, the Indian statue that represented the Indigenous struggle that stood in the town's center for nearly 30 years**
- **the suppression of the Indigenous Yatama flag by the state's FSLN flag**

**On November 7, the Riot Police launched tear-gas into the domestic compound of Brooklyn Rivera, preempting this 65 year-old's second escape in the last 24 hours.** One thing is clear to Rivera, as he remarked by phone on November 8, 'The FSLN state is too strong and strategically smart to overcome...There is no reason for Yatama to continue participating in elections unless the electoral system is reformed. Free elections do not exist in Nicaragua.; **Rivera now fears for his life,** while trying to decide the future of Yatama. Will Yatama remain a political party or return to its pre-1990 roots as an Indigenous organization?

### **The Ortega-Murillo Dynasty, the Nica Act and the OAS**

The Sandinista revolutionaries in 1979 valiantly ousted the US-backed Somoza dynasty (1930-1979), and the FSLN guerilla leader Daniel Ortega served as President from 1984-90. Ortega returned to power in 2006 and has remained President for three consecutive terms. The FSLN-dominated National Assembly changed the Nicaraguan constitution, abolishing presidential term limits in 2014; and used the FSLN-controlled Supreme Court to eradicate Eduardo Montealegre of the Independent Liberal Party (PLI), the only real opposition presidential candidate in the 2016 general elections.

President Ortega, along with his wife and first-time Vice-Presidential running mate, Rosarillo Murillo, won the 2016 general election. Many predict the emerging Ortega-Murillo dynasty will continue for decades to come, as Daniel and Rosario have more than a half-dozen children and the family does not plan to relinquish power. Many of the original Sandinistas of the 1980s perceive the Ortega-Murillo dynasty as high jacking 'Sandinismo' and replacing it with the ideology of 'Danielismo.'

The US House of Representatives unanimously approved The Nica Act (Nicaraguan Investment Conditionality Act), now moving toward the Senate, to restrict loans to Ortega's government by multilateral organizations (such as the Inter-American Development Bank, the IMF, and the World Bank). These actions were taken due to the country's loss of the democratic process and electoral transparency. A new version of the Nica Act called for electoral observation in the 2017 municipal elections, as the US State Department had previously reported human rights violations in the 2016 general election in Nicaragua, and the lack of international electoral observers.

The Organization of American States (OAS) collaborated with the Ortega government to monitor the recent municipal elections but did not engage in negotiations concerning the strengthening of Nicaragua's democratic institutions. Supporters of the Nica Act opposed the OAS presence, accusing the OAS of being complicit in fraudulent elections. As predicted by Nica Act supporters, the OAS publicly stood behind the legitimacy of the Nicaraguan elections, while the Nicaraguan press and human rights organizations in Costa Rica and Nicaragua denounced the FSLN for fraudulent elections, violence and human rights violations throughout Nicaragua.

### **Unanswered Questions**

Ethnic and national identities collide and overlap in Nicaragua. Does being Miskitu mean being Yatama? Does being Nicaraguan mean being Sandinista? What about those who identify as Miskitu-Sandinistas? Muskitia is the poorest region within the second poorest country in the Americas, following Haiti. Miskitu people encounter many more employment opportunities, which they need to feed their families, if they register with the Sandinista regime. As such, many Miskitu-Sandinistas now embrace Managua's modernist discourse of development and economic prosperity, but harbor deep Yatama affinities.

Many Miskitu-Sandinistas, like the rest of the country's citizens, acquiesce to the FSLN for two

main reasons: they see the FSLN dictatorship as an inevitable, irreversible force; and secondly, they want to avoid revolution and war at all cost: they lived through the violent 1980's and still have unhealed wounds. Taking advantage of the coastal people's conflict-avoidance mentality, the FSLN has successfully divided and thus, conquered the coastal peoples. Following the municipal elections, the future of the Yatama political party and perhaps, the larger autonomy process, is at stake.

Increasingly frustrated, and with their backs up against the wall, many Yatama sympathizers dream of returning to their glory days as Contra warriors--they long to re-arm to fight the state. Unlike the 1980s, however, Yatama does not have US or other international backing. As Rivera explained, "We can't fight, we have only rocks and they have automatic weapons." Rivera is well-aware that Nicaragua has the most sophisticated military in Central America; and that United States international politics is now focused far beyond its southern neighbors, on the Middle East and East Asia.

#### **A Statement by Brooklyn Rivera**

'We were projected to win four municipalities and we won these -- Bilwi, Waspam, and Prinzapolka, and Desembocadura de Río Grande. Yatama does not recognize the results reported by the CSE. We accuse the Sandinista state government of stealing the elections.

The National Police continue to persecute leaders and members of the Yatama organization that denounce the electoral fraud that occurred in the municipal elections on the Nicaraguan Caribbean Coast. Protests took place after the elections this past Nov. 5th, and still in jail are 52 activist members of Yatama in Bluefields, Corn Island and Bilwi. And they [the Police] continue capturing more people, inventing crimes of robbery and looting.

On our part, we've been victims of violence and we continue suffering abuses at the hands of the para-military riot police that have been sent from Managua, who are capturing our people, the youth more than any. What is strange is that the FSLN has ordered to burn our offices...our radio station...they've killed two or more of our compañeros and many more are wounded, and none of the other guys are in prison. Only the victims are the ones incarcerated. We will denounce this before the OAS's IACHR and Amnesty International.

**The repression continues of Indigenous activist members of our Yatama organization. We're busy providing humanitarian effort to help the mothers, children, and wives of our activists, who are being intimidated, incarcerated and persecuted by the government of President Ortega."**

John McPhaul, "COSTA RICA'S SUPREME COURT STOPS HYDROELECTRIC PROJECT FOR FAILING TO CONSULT INDIGENOUS PEOPLES," Cultural Survival, January 02, 2017, <https://www.culturalsurvival.org/news/costa-ricas-supreme-court-stops-hydroelectric-project-failing-consult-indigenous-peoples>, reported, "On November 1, 2016, **the Constitutional Chamber of Costa Rica's Supreme Court provided some good news to a Terraba (Teribe) Indigenous territory when it stopped the state-run Costa Rica Electricity Institute (ICE by its Spanish acronym) from going forward with the Diquis hydroelectric project for failing to consult Indigenous communities who would see part of their lands flooded.**

The permit, issued in 2007 under former President Oscar Arias, had declared the dam to be located at the mouth of the General River Valley in the southern Pacific and part of the country of 'national interest.'

The court ruling did not question the 'national interest' part of the permit, but said **ICE had failed to comply with a previous high court order to adequately consult the Indigenous communities. The project has been stalled since 2011 over the Indigenous consultation issue.**

The 650 megawatt hydroelectric project was to be the largest such project in Central America. The project's reservoir would occupy 7363 hectares of land, 830 hectares of which are Indigenous territories, and displace over 1547 people.

The project would also flood 10 percent of the Terraba (also known as Teribe) China Kichá Indigenous territory (104 hectares) and 8 percent of another Terraba communities of Curré and Boruca (726 hectares). Officials estimate that 200 sacred Indigenous sites would be destroyed by the reservoir.

Some see the development as very positive. The \$2.5 billion project would provide employment in the region to 3,500 people. The Diquis project would increase that renewable energy capacity and

also allow Costa Rica to sell energy to neighboring Central American countries. Costa Ricans are proud of their electrical energy system which provides energy mostly from renewable resources. In 2016, the country went most of the year without resorting to using oil-fired thermal generators. But sometimes even renewable energy has high cost, especially when it comes to hydro-electric dams.

The high court ruling referred to Article 8 of the Arias Administration decree which would have allowed ICE to gather materials for the dam, power station, and connected works in locales in the areas of El General, Buenos Aires, Changuena and Cabagra, despite the fact that Indigenous people live in the areas.

According to the Constitutional Chamber's press office, the annulled article was challenged previously in September of 2011, when the court determined that the decree was constitutional just as long as the Indigenous communities were consulted within a period of six months from the notification of the ruling.

However, early the next year, the court ruled that the six months established by the Court had passed and the consultation had not been made. "The Constitutional Chamber has demonstrated that, in fact, in the space of time established in the 2011-12975 ruling, the referred to consultation was not made nor did any party come to this Chamber request an extension of the time limit granted. Therefore, since the condition dictated in ruling 2011-12975 have not been met, the Article 8 of the No. 34312-MP-MINAE executive decree is unconstitutional because the consultation failed to occur," said the press office.

The Terraba say they are not interested in the offers made so far to relocate their communities to other lands and provide them with well-paid jobs. 'We don't believe in the promises of employment for Indigenous Peoples, as up until today it had been demonstrated that all the qualified and best paid personnel have been brought from outside, Indigenous workers are used only to break rocks,' said community leader Jehry Rivera.

For Indigenous people, ICE offers are only opportunism. Indigenous Peoples want better lands and compensation in order to agree for the project to go forward.

**The Court said that the consultation of Indigenous communities under Costa Rican law was necessary since the project is located in areas declared as an Indigenous reserve.** 'In fact, Costa Rica could be in violation of not complying with international conventions in relation to the autonomy of Indigenous Peoples over their territory. Costa Rica is a signatory of the International Labor Organization's Convention on Indigenous and Tribal People.'

Indigenous Peoples are not the only ones opposed to the project. **Environmentalists say that the dam's reservoir would dry up the intensely green Térraba River Valley and would destroy irreplaceable habitats such as the Ramsar wetland and the river delta that drains into the Pacific. The wetlands and delta are the nesting grounds for many species including the endangered hump-back whale."**

Witness for Peace, reported, December 9, 2017, <https://actionnetwork.org/letters/hernan-bedoya-presente-tell-the-us-state-department-and-embassy-to-act-to-protect-colombian-social-leaders>, "Yesterday, on Friday, December 8th, **community leader Hernán Bedoya from the collective territory of Pedeguita and Mancilla was assassinated.** Hernán was both a partner and friend of Witness for Peace, and today our hearts are heavy with his loss.

According to the Comisión Intereclesial de Justicia y Paz Hernán was shot several times while he was on his way home. **Sources suspect he was murdered by paramilitaries from the group Autodefensas Gaitanistas de Colombia."**

**"Hernán is the second community leader assassinated in the Urabá region in 10 days. On November 26th, Mario Manuel Castaño Bravo - a leader from La Larga Tumaradó - was killed. Mario was shot multiple times in front of his family. He, like Hernán, was working to protect collective ancestral territory in the Bajo Atrato region.**

In the midst of these assassinations, **threats against other leaders continue.** On December 6th, Las Camalias community leader María Ligia Chaverra was threatened."

**"All of the above mentioned social leaders were displaced from their ancestral territory in 1996 and 1997 as a result of military and paramilitary operations 'Operation Genesis' and**

**'Operation Black September'. Approximately 15,000 were forcibly uprooted from their homes and livelihoods during these operations.** The Colombian troops who conducted these abuses were commanded by Army General Rito Alejo del Rio. Del Rio was trained at the now infamous School of the Americas and was at one point hailed as a military training 'success story'. In 2008 del Rio was found guilty for the murder of Marino Lopez and was sentenced to 25 years in jail. However, Marino was only one of many murders and human rights violations for which del Rio is responsible.

In 2013, the Inter-American Court of Human Rights found the Colombian state guilty of mass forced displacement in the operations of 1997. However, as can be seen, there have been little advances to date. The ongoing threats and murders of community leaders who are protecting and reclaiming their land is evidence of the ongoing insecurity in the region and State failure to both rectify and provide reparations for its past harms."

Take ACTION now by demanding the following:

- Immediate, effective protection of the families of Hernán Bedoya and Mario Manuel Castaño, communities in the Urabá región, and all social leaders and human rights defenders throughout Colombia.
- A strong condemnation by the US State Department of the on-going threats and assassinations of social leaders and increased pressure to fulfill the ruling of the Inter-American Court of Human Rights.
- Prompt and complete implementation of the peace accord with the FARC (and the forthcoming accord with the National Liberation Army (ELN), when completed), including meaningful inclusion of Afro-descendant and Indigenous peoples. throughout the implementation process.
- Protection of Indigenous and Afro-Colombian peoples' territorial and other collective rights, provided through meaningful inclusion and consultation with Afro-descendant and Indigenous peoples."

"INDIGENOUS LEADER MURDERED IN COLOMBIA," Cultural Survival, November 30, 2017, <https://www.culturalsurvival.org/news/indigenous-leader-murdered-colombia>, reported, "On November 24, 2017, **an Indigenous Inga leader from the Colombian Amazon was found dead alongside a colleague Duber Prieto, in the department of Caquetá, Colombia. His body showed signs of torture.**

**Mario Jacanamijoy was a well known organizer for the rights of the Inga people and the protection of the environment.** 'Mario was a friend, a respected social leader and a prominent member of Tandachiridu Inganokuna, an organization fighting for the rights of the Inga people and the rights of mother earth. Mario was also a spiritual follower of yagé-medicine and one of the founders of the Union of Indigenous Doctors of the Colombian Amazon,' shared his colleagues at UMIYAC in a statement on Twitter.

**Since the signing of the Peace Accords in Colombia one year ago, Indigenous leaders, social activists, and human rights and environmental defenders have been massively targeted by threats and violence.**

**Colombia's Human Rights Ombudsman counted 156 human rights defenders killed between January 2016 and March 2017, in an investigative report on the issue. In their report "Defenders of the Earth" from 2016, NGO Global Witness found that globally, nearly four people were murdered every week in 2016 protecting their land specifically from agribusiness, oil, mining, and logging.** 'They threaten you so you will shut up. I can't shut up. I can't stay silent faced with all that is happening to my people. We are fighting for our lands, for our water, for our lives,' said Jakeline Romero, Colombian land defender, to Global Witness.

Despite the Peace Accords, some areas of Colombia have still not found peace. 'One dissident FARC front refused to go along with the top leadership, and they are found in areas where the proportion of Indigenous to non-Indigenous inhabitants is the highest in the country: in the southeastern plains and forests. In this region, open combat between FARC and former paramilitaries has continued in a fight to secure territory planted in coca, or rich in minerals like tungsten and coltan," explained anthropologist and professor emeritus at MIT, Jean Jackson, after the peace accords were signed in December of last year.

On November 24, the day of Jacanamijoy's assassination, Colombia's President Juan Manuel

Santos insisted during the anniversary celebration of the signing of the peace accords that the extensive number of human rights defenders killed over the past year was not a “systematic” problem.

**But many, including the Organización Nacional Indígena de Colombia (ONIC), which represents all of the countries 106 ethnic groups, and UMIYAC, the organization that Jacanamijoy co-founded, have called for pressure to be put on the Colombian government to take steps to end violence and impunity that has allowed for these murders to continue without justice.**

**On October 31st 2017, Colombian Indigenous people joined the national Minga for Life (Minga por la Vida). Over 100,000 Indigenous people mobilized throughout the country for the right to life, against the systematic violence targeting social and Indigenous leaders and for the implementation of the Havana Peace Accords. In a press release, the coalition stated,**

**'We continue to seek a peace that is holistic, stable, and inclusive. However, we are saddened and worried to see that despite the Peace Accords and the Ceasefire, the violence has not stopped. As Indigenous Peoples, campesinos (farmworkers), Afros, and other grassroots leaders, we continue to be targets of violence and impunity is growing.'**

**'We note that these grave acts of violence are not isolated incidents like the government and some of the media attempt to demonstrate, but rather are part of a systematic strategy of extermination based on socioeconomic interests on our territories, in a fight for power over our lands to control natural resources, illicit economic activities like drug trafficking, as well as mining, logging, ecotourism, and other extractive industries... in the void left on lands exited by the FARC. This generates social and environmental harm, fuels conflict, and does not contribute to the construction of a stable and lasting peace, which clearly violates the Peace Accords of Havana.'**

**"INDIGENOUS FEDERATIONS ENTER INTO NEGOTIATIONS WITH PERU AS PROTESTS PARALYZE OIL EXTRACTION," Cultural Survival, October 25, 2017, <https://www.culturalsurvival.org/news/indigenous-federations-enter-negotiations-peru-protests-paralyze-oil-extraction>, reported, "Since mid-September 2017, Indigenous communities in Northern Peru have maintained a peaceful blockade at 50 oil wells in Peru's largest oil concession, paralyzing 12,000 barrels of oil production per day. The federations are calling for respect of Free, Prior and Informed Consent (FPIC) before a new license is authorized by the Peruvian government. The communities have repeatedly demanded and been promised environmental remediation and health services. Multiple sources have estimated the cost of clean up at \$1 billion USD.**

**At the exclusion of Indigenous communities, PetroPeru, the state oil company, was in talks with Canadian Frontera Energy to extend the petroleum operations for another 30 years on the rusty, leaky infrastructure that has already been extracting and transporting petroleum from Indigenous lands within the Amazon since the 1970s. On October 11th, 2017, PetroPeru announced that conditions were “inadequate” for Frontera to receive an extended license for extraction, and their contract is set to end in 2019.**

**On October 24th, a delegation of Indigenous apus representing 16 communities of Achuar, Quechua, and Kichwa Peoples initiated negotiations with the Ministry of Energy and Mines after the ministry had excluded these Indigenous federations, FEDIQUEP (Federación Indígena Quechua del Pastaza), FECONAT (Federación de Comunidades Nativas del Alto Tigre) and FECONACO (Federación de Comunidades Nativas del Corrientes) from earlier discussions despite a 2011 law that mandates prior consultation.**

**Two UN human rights experts, Baskut Tuncak and Victoria Tauli-Corpuz, requested in July 2017 that the Peruvian government suspend any negotiations on the Lot 192 and observe the rights and opinions of Indigenous Peoples living on the territories that are to be affected by the proposed development. In 2015 the UN Rapporteurs issued a mandate to the Peruvian government expressing their extreme concern about the situation's absence of prior consultation with Indigenous communities in the area.**

**Lot 192 is the largest petroleum concession in the northern Amazon of Peru on the border with Ecuador and covers 290 thousand hectares of land. It is the biggest oil producer in the country,**



contributing 17% of the crude oil production in the country. The Ministry of Energy and Mines estimates that the reserves contain 134 million more barrels, which will last for another 20 years.

'We don't oppose the investment, but the state has to secure our rights. We are more than 30,000 Indigenous people who just want to safeguard our rivers and forests from oil contamination,' FEDIQUEP's president Aurelio Chino Dahua told Peruvian newspaper Peru21.

As early as 1984 the Peruvian government declared the area 'the most environmentally damaged region in the country.' Despite the stricter standards for evaluation of environmental impacts set in the 1990s, multiple environmental emergencies were declared. After years of protests by Indigenous Peoples, the government continues an inadequate response to remediation. "The impacts on the Achuar, Kichwa, Kukama, Quechua and Urarina indigenous peoples living in this region have been appalling: contaminated rivers, streams, lakes, lagoons, soils, gardens, game, fish, and all manner of related health problems, including epidemics, miscarriages, skin diseases, diarrhoea and deaths, according to reports," noted *The Guardian* newspaper.

The Peruvian government continues to ignore the articles of the UN Declaration on the Rights of Indigenous Peoples; in particular, the articles dealing with the control of lands and Indigenous peoples' right to be consulted on any development plans taking place on their territory. The right to Free, Prior and Informed Consent is one of the main principles formulated in the Declaration, and it obligates the government to consult and get permission from Indigenous communities before launching any development project affecting the lands and resources.

Indigenous organizations actively seek to have their voice heard so that the high level officials acknowledge and respect the demands that communities have in connection with the project. Firstly, they expect the right to Free, Prior and Informed Consent to be guaranteed in the negotiations before licenses are granted, falling in line with international law. They also expect to establish effective communication between communities and state representatives in order to ensure that both sides agree on every stage of the project and that all environmental impact is carefully researched and harmful consequences are minimized."

Rick Kearns, "Mayan Communities Able to Identify and Hopefully Protect Territories: 'We have a landmark decision from the highest court of Belize but it is the duty of each Maya village to breathe life into this decision'," ICTMN, September 2, 2017, <https://indiancountrymedianetwork.com/news/indigenous-peoples/mayan-communities-able-identify-hopefully-protect-territories/>, reported, **"Mayan communities in Belize now have a way to officially identify and potentially protect their territorial boundaries."**

On August 9, the International Day of the Worlds Indigenous Peoples, **the Sarstoon Temash Institute for Indigenous Management (SATIIM) in Belize launched the Maya Lands Registry and announced the project they developed for the Crique Sarco community.**

In their press statement, SATIIM noted that the Caribbean Court of Justice (CCJ) had ordered the Belize government in 2015 to "create an effective mechanism" to identify and protect Mayan lands in accordance with their traditional governance.

"Two years later and still no mechanism exists," according to the SATIIM press release. "Given the ongoing uncertainty surrounding the implementation of the court order, Crique Sarco took the matter into their own hands," Froyla Tzalam, SATIIM Executive Director said."

"Brazil: Tribe defy miners – "Our life depends on the life of the earth and the forest," Survival International, October 31, 2017, <https://www.survivalinternational.org/news/11856>, reported, **"The Waiãpi tribe in Brazil have defied a hostile government to defend their land rights."**

**The tribe has circulated a powerful open letter in which they state: 'We're against mining because we want to defend our land and forest. We believe the land is a person'.**

The letter was written in response to the Brazilian government's attempt to open up the Amazon forest around the tribe's land to large-scale mining. Following a global outcry by indigenous peoples and campaigners, the government backed down.

However, given the power of Brazil's notorious agribusiness lobby, the Waiãpi are on the alert. In the letter they vow to defend their territory at all costs against mining interests.

**The tribe say mining will not bring benefits to them. They are concerned about conflict and disease brought by an influx of outsiders, and the opening up of their land to destructive economic interests such as hydro-electric dams, ranching and gold mining.**

This small Amazon tribe knows the devastating impacts of highways and mining. Sporadic contacts with outsiders hunting wild cats for their pelts and groups of gold prospectors in the latter part of last century introduced fatal diseases like measles to which the isolated Waiãpi had no resistance. Many died as a result.

In 1973 FUNAI, the government's indigenous affairs department decided to contact the Waiãpi because the country's military dictatorship wanted to build a highway through their land.

At the time of contact, the Waiãpi numbered a mere 150 individuals and seemed on the brink of extinction. However, they have proved extraordinarily resilient and today number over 1,200 people.

**They have set up their own organizations, expelled the gold miners working illegally on their land, and trained their own health agents and teachers who work in the communities.**

**Some members of the tribe have made innovative films documenting their campaign for land rights. Some toured abroad for international support, and their communities physically mapped out their land, which was finally recognized by the government in 1996. Since then, they have occupied all the regions within the territory to protect it from invasion.**

The letter underlines their strong sense of cohesion: 'We Wajãpi have a very strong culture, which we continue to value and transmit to our future generations'.

Important events in the natural calendar such as fish spawning and honey gathering are celebrated with ceremonies where all generations join in the dancing, accompanied by flute music and the consumption of caxiri, a drink made from fermented manioc. Like most tribal peoples, their botanical knowledge is immense – they cultivate over 15 types of wild manioc and 5 types of corn.

In 2008 UNESCO recognized the Waiãpi's graphic art, which they call kusiwa, as the "Intangible Cultural Heritage of Humanity". It is based on the use of natural paints from plants, like the red anatto paste, which is used to paint intricate designs on the body and to decorate objects like baskets

**However national and international pressure is fundamental to support the Waiãpi in their continuing struggle to assert their rights as they face increasing threats to their land, a hostile congress and a government intent on weakening indigenous rights in Brazil.**

Their letter ends with a call to all who are concerned about the destruction of the Amazon to support them. Readers can take action by participating in Survival's campaign at: <https://www.survivalinternational.org/petitions/stop-dangerous-laws>.

"Brazil: Uncontacted people threatened by forest fire in Amazon," Survival International, October 26, 2017, <https://www.survivalinternational.org/news/11850>, reported, **"Forest fires are raging in an indigenous territory on the edge of the Brazilian Amazon, threatening to wipe out uncontacted members of the Awá tribe.**

**Neighboring Guajajara Indians are attempting to contain the blaze and demanding greater support from government.**

**Campaigners are concerned that the current wave of fires could wipe out the uncontacted Awá and are calling for urgent action.**

**The Awá are already under great pressure as illegal loggers are devastating their territory, which is an island of green amid a sea of deforestation.**

Uncontacted tribes are the most vulnerable peoples the planet. Tribes like the Awá are being wiped out by violence from outsiders, and by diseases like flu and measles to which they have no resistance. Unless their land is protected, they face catastrophe.

**Among those fighting the fires are indigenous fire-fighters of the Environment Ministry's fire prevention scheme "Prevfogo," and members of the "Guajajara Guardians," who live in and frequently patrol the area in an attempt to crack down on illegal logging, and protect their uncontacted neighbors who are living on the run.**

Kaw Guajajara, one of their leaders, said: 'Our uncontacted relatives can't survive without their forest... As long as we live we will fight for our forest and the uncontacted Indians.'

The Guardians' role in protecting their forest highlights the vital role tribal peoples play in conservation, ahead of the COP23 conference in Bonn, Germany next month.

Tribal peoples like the Guajajara and Awá have been dependent on and managed their environments for millennia. Evidence proves that tribal peoples are better at looking after their environment than anyone else. They are the best conservationists and guardians of the natural world.

Survival International, the global movement for tribal peoples' rights, is lobbying the Brazilian government to ensure the Arariboia fires are extinguished as a matter of urgency, and that all invaders are evicted from the territory."

"Renowned indigenous leaders call for end to uncontacted 'genocide', Survival International, October 9, 2017, <https://www.survivalinternational.org/news/11833>, reported, **"Three of Brazil's most prominent Indian leaders have denounced their government's concerted attack on indigenous rights as 'genocidal'.**

Davi Kopenawa Yanomami, a shaman and leader from the Yanomami people of the northern Amazon, Raoni Metuktire, leader of the Kayapó people, and Sonia Bone Guajajara, a Guajajara leader and activist, have released an open letter.

It was released to mark International Indigenous Peoples' Day/ Columbus Day.

In the letter they say: 'A genocide is unfolding in our country, Brazil...

'Our government is destroying us indigenous peoples, our country's first people. In the name of profit and power, our land is being stolen, our forests burned, our rivers polluted and our communities devastated. Our uncontacted relatives, who live deep in the forest, are being attacked and killed.

But we won't be silenced. We do not want the riches of our land to be stolen and sold. For as long as we can remember, we have looked after our lands. We protect our forest, as it gives us life.

'We indigenous brothers and sisters of more than 200 different tribes are coming together in protest. From the heart of the Amazon rainforest, we are crying out to you. At this time of emergency, we need you. Please tell our government that our land is not for stealing.'

**The letter was written in response to growing concerns about the close ties between the Temer government, installed after the impeachment of Dilma Rousseff last year, and the country's powerful and notoriously anti-indigenous agribusiness lobby.**

**Campaigners have described the current administration's attitude towards tribal peoples as "the worst for two generations." Uncontacted tribes are the most vulnerable peoples on the planet, but where their land rights are respected, they continue to thrive.**

**FUNAI, the country's indigenous affairs department, whose agents patrol and protect tribal territories, has had its budget significantly cut. This has left many tribes fatally exposed to violence from outsiders and diseases like flu and measles to which they have no resistance.**

**There has also been a serious spike in anti-indigenous violence by people trying to steal tribal lands and resources. In August, around 10 uncontacted Indians were reportedly massacred in the Javari Valley. Earlier this year, ranchers attacked a group of Gamela Indians with machetes, horrifically mutilating several of them.**

Uncontacted tribes are not backward and primitive relics of a remote past. They are our contemporaries and a vitally important part of humankind's diversity. Where their rights are respected, they continue to thrive.

Survival's Director Stephen Corry said: 'Brazil's government is determined to undermine indigenous rights throughout the country. It's deliberately leaving uncontacted tribes' territories open to invasion in the full knowledge of the deaths and suffering which will inevitably result. What's happening in Brazil is an urgent and horrific humanitarian crisis, and the international community should throw its weight behind indigenous leaders and others in Brazil calling for an end to the persecution.'

"Mining threat to uncontacted Indians in Brazil," Survival International, August 30, 2017, <https://www.survivalinternational.org/news/11790>, reported, **"In another blow to indigenous rights and the environment, Brazil's President Temer has abolished a protected area in the Amazon known as the Renca reserve.**

**Renca lies within a mosaic of protected areas in northern Amazonia which includes two indigenous territories. It is believed that a group of uncontacted Indians also lives in the region.**

**With the reserve abolished, an area of rainforest the size of Denmark could be opened up to large-scale mining by multinationals. It is likely that wildcat miners will invade the area, polluting the rivers with mercury, as the Yanomami have witnessed to devastating effect.**

Should this happen, the consequences will be catastrophic for the vulnerable uncontacted Indians who will be exposed to deadly diseases in encounters with outsiders, and will see their lands invaded and stolen.

In response to an outcry in Brazil and abroad, the government has just announced that it will publish a decree outlining how it will protect indigenous territories and conservation areas in the area.

**The Brazilian authorities have not consulted with indigenous peoples about their plans.**

The Waiāpi Indians, who live to the east of Renca, were only contacted in 1973 and are also likely to suffer from the impacts of mining. They depend entirely on the forest and rivers for their livelihood, and like all tribal peoples they have a deep spiritual connection to their land.

Jawaruwa, a Waiāpi spokesman said: 'This won't bring development for us. It will only bring catastrophe for the Amazon rainforest in Brazil.'

There is ample evidence of the serious negative impacts of large-scale mining on indigenous peoples south of this region, where the massive Carajás mine and related projects operate.

The mine, its roads and railways introduced thousands of colonists and loggers, who have had a devastating impact on uncontacted Awá Indians.

Survival is protesting to the Brazilian authorities against the abolition of the reserve, highlighting in particular the danger to the area's uncontacted Indians."

"Brazil: campaigners welcome court rulings in favor of indigenous land rights, Survival International, August 17, 2017, <https://www.survivalinternational.org/news/11777>, reported, "activists and human rights campaigners around the world yesterday **celebrated Brazil's Supreme Court ruling unanimously in favor of indigenous land rights.**

**In two land rights cases, all eight of the judges present voted for indigenous land rights and against the government of Mato Grosso state, in the Amazon, which was demanding compensation for lands mapped out as indigenous territories decades ago.**

Although ruling on one further case was postponed, this outcome has been seen as a significant victory for indigenous land rights in the country.

**An international campaign was launched earlier this month after President Temer attempted to have a controversial legal opinion on tribal land recognition adopted as policy.**

**The proposal stated that indigenous peoples who were not occupying their ancestral lands on October 5, 1988, when the country's current constitution came into force, would no longer have the right to live there. This new proposal was referred to as the 'marco temporal' or 'time frame' by activists and legal experts.**

**If the judges had accepted this, it would have set indigenous rights in the country back decades, and risked destroying dozens of tribes.** The theft of tribal land destroys self-sufficient peoples and their diverse ways of life. It causes disease, destitution and suicide.

In response to the ruling, Luiz Henrique Eloy, a Terena Indian lawyer, said: 'This is an important victory for the indigenous peoples of these territories. The Supreme Court recognized their original [land] rights and this has national repercussions, because the Supreme Court indicated that it was against the concept of the time frame.'

**APIB, Brazil's pan-indigenous organization, led a protest movement, under the slogan 'our history didn't start in 1988.'**

**The measure is being opposed by Indians across Brazil.** Eliseu Guarani from the Guarani Kaiowá people in the southwest of the country said: 'If the time frame is enforced, there will be no more legal recognition of indigenous territories... there is violence, we all face it, attacks by paramilitaries, criminalization, racism.'

Survival International led an international outcry against the proposal, calling on supporters around the globe to petition Brazil's leaders and high court to reject the opinion. Over 4,000 emails

were sent directly to senior judicial figures and other key targets.

While **the ruling does not end the possibility of further attacks on tribal land rights in Brazil**, it is a significant victory against the country's notorious agribusiness lobby, who have very close ties to the Temer government.

Survival's Director Stephen Corry said: 'If the judges had accepted this proposal it would have set back indigenous rights in the country by decades. Brazil's indigenous peoples are already battling a comprehensive assault on their lands and identity – a continuation of the invasion and genocide which characterized the European colonization of the Americas. We're hugely grateful for the energy and enthusiasm of our supporters in helping the Indians fight back against this disastrous proposal.'

"Landmark talks on uncontacted tribe fail to stop logging," Survival International, August 24, 2017, <https://www.survivalinternational.org/news/11784>, reported, **"Landmark talks between the Paraguayan government and a recently contacted tribe have yet to reach an agreement, allowing rampant deforestation to continue. Some members of the tribe are uncontacted, and live in a rapidly shrinking island of forest."**

**The talks began six months ago after a petition from the Ayoreo tribe to the Inter-American Commission on Human Rights, an influential body which holds governments in the Americas to account on human rights issues. The Ayoreo have been claiming the right to their ancestral land since 1993.**

Halfway through the year-long process, however, and little concrete action has been taken, leading to fears for the tribe's long-term survival. A technical study is due to be carried out to assess the feasibility of securing the land.

**The government has also failed to stop the rapid logging of land owned by the Ayoreo**, despite a 2016 emergency order from the Inter-American Commission to protect the uncontacted Indians and halt deforestation.

#### ***Background briefing***

– The Ayoreo live in the Chaco, which is the largest forest in South America outside the Amazon and has recently been recorded as having the highest rate of deforestation in the world. Experts estimate that the forest lost almost 10 million trees in January 2017.

– This poses a deadly threat to the Ayoreo, who face catastrophe unless their land is protected.

– Many members of the Ayoreo tribe were forcibly contacted by missionaries between 1969 and 1986. Continual land invasions forced them to abandon their homes. Many have since suffered from disease, including a TB-like illness, poverty, and exploitation on the fringes of mainstream Paraguayan society.

– Recently contacted members of the tribe spent years fleeing from bulldozers, which they called "beasts with metal skin." The machines are used by loggers to clear paths for cutting trees.

– The petition which finally brought the Paraguayan government to the negotiating table is called Petition 850-15. It features a claim for the restitution of Ayoreo land.

- In February 2016, the Inter-American Commission issued an emergency order (MC 54-13) calling for the protection of uncontacted Ayoreo and their forests. Although this was in response to a separate petition submitted by the Ayoreo, the orders are to also be discussed during the talks.

– The local support group GAT, and indigenous organization OPIT, have played an important role in lobbying the government, and after months of warning, finally pressed them to investigate the logging in July 2017. It remains to be seen whether the deforestation will be stopped and the perpetrators brought to justice.

Survival International is calling for a complete halt to logging on Ayoreo land, and for the return of all lands which have been titled to ranching companies.

Uncontacted tribes are not backward and primitive relics of a remote past. They are our contemporaries and a vitally important part of humankind's diversity. Where their rights are respected, they continue to thrive.

They are the best guardians of their environment. And evidence proves that tribal territories are the best barrier to deforestation.

Survival's Director Stephen Corry said: **'The Ayoreo have already been waiting more than**

twenty years for their lands to be protected. All this time they've seen their forests destroyed about them. They hoped the Inter-American Commission's intervention would finally push the government to act, but that hope too has proved an illusion. Tragically, it seems that Paraguay's government is so firmly tied to the ranchers and landowners who control the levers of power that nothing short of massive public pressure will move them to act."

Neil MacFarquhar, "In Crimea, Russian Land Grab Feeds Cries of 'Carpetbaggers!'," *The New York Times*, September 30, 2017, <https://www.nytimes.com/2017/09/30/world/europe/crimea-annexation-russia-ukraine.html?ref=todayspaper>, reported, **"More than three years after Russia snatched Crimea from Ukraine, the peninsula is suffering through an extended season of discontent."**

**Shady, Kremlin-appointed bureaucrats are proving to be just as corrupt and inept as their Ukrainian predecessors. International sanctions, shrugged off in the heady days after the Russian annexation, have jacked up food prices while endlessly complicating ordinary aspects of life, like banking and travel.**

**Perhaps most galling to Crimeans, the government is hauling thousands of residents into court to confiscate small land holdings distributed free as a campaign ploy in 2010 when Ukraine controlled the Black Sea peninsula."**

The United Nations issued a report this week accusing Russian security agencies of committing 'grave' human rights abuses since the annexation. Many of those abuses occurred right after the annexation against those who resisted the takeover. Russia dismissed the report as "absurd" inventions spread by its opponents.

Locals largely focus on different complaints. They invariably denigrate the new bureaucrats as carpetbaggers, using the word "varyagi" in Russian, an old word for Viking outsiders, especially when it comes to land confiscation."

International Crisis Group (ICG,) "Double-edged Sword: Vigilantes in African Counter-insurgencies," Africa report 251, September 7, 2017, [https://www.crisisgroup.org/africa/west-africa/sierra-leone/251-double-edged-sword-vigilantes-african-counter-insurgencies?utm\\_source=Sign+Up+to+Crisis+Group%27s+Email+Updates&utm\\_campaign=911de134a5-EMAIL\\_CAMPAIGN\\_2017\\_09\\_04&utm\\_medium=email&utm\\_term=0\\_1dab8c11ea-911de134a5-359871089](https://www.crisisgroup.org/africa/west-africa/sierra-leone/251-double-edged-sword-vigilantes-african-counter-insurgencies?utm_source=Sign+Up+to+Crisis+Group%27s+Email+Updates&utm_campaign=911de134a5-EMAIL_CAMPAIGN_2017_09_04&utm_medium=email&utm_term=0_1dab8c11ea-911de134a5-359871089), commented, **"Vigilante groups have been successful in providing local security. But subcontracting security functions to vigilante groups for counter-insurgency purposes is a dangerous option for fragile African states. African leaders should set clear objectives and mandates when enlisting vigilantes and invest in disarmament, demobilization and reintegration programs."**

#### **Executive Summary**

As weak African states face growing insurgencies, they do what weak states tend to do: subcontract certain security functions to non-state actors or vigilante groups, many of which had taken up arms to protect their communities. This approach at times is viewed as a necessity, but is often dangerous, particularly in politically fluid and fractious states. The more fragile the state, the more it is dependent on vigilantes, but also the less able it is to police them or prevent abuse of power. The more successful the vigilante group against insurgents, the harder it is to demobilize, and the more likely it will become entrenched. As a result of ethnic rivalries and allegiances, community defence groups can morph into predatory, quasi-criminal organisations or enemies of the central state. Yet even when risks outweigh benefits, African leaders may not have the luxury of choice. At a minimum, African governments and their international backers should learn from the past, try to prevent abuses, guard against vigilantes' mission creep and plan how to manage them once the conflict dies down.

By their very nature, vigilante groups carry inherent risk. Typically recruited from local communities, their members likely share the same ethnic or political identity, collective interests and threat perceptions, raising the odds that they will act as local militias – potentially more powerful than state authorities – and pursue narrow ethnic agendas; a short-term necessary evil that could pave the way for longer-term conflict. A solution for states in dire need of backing, vigilantes too often take

advantage of their newfound capacity – and compensate for inadequate support and resources – by seeking to maximize their power and wealth through extortion, kidnapping, and other violent abuses.

But there are positive lessons to be learned too. Vigilante groups can be far more effective than state actors in providing local security. They generally enjoy greater legitimacy by virtue of community roots, and can be more efficient in identifying, tracking and combating insurgents thanks to their familiarity with local languages, geography and culture. Successfully managed by state authorities – and international actors – they can enable national leaders to forge lasting political pacts with provincial elites and bolster state legitimacy among local communities. In short, and while African and international policymakers rightfully may be concerned that empowering non-state forces will undermine the state, vigilantes also can serve as valuable intermediaries between local communities and central authorities.

Drawing on four illustrative cases – Sierra Leone, Uganda’s Teso region, South Sudan’s former Western Equatoria State and Nigeria’s north east – this report seeks to shed light on factors that determine vigilantes’ evolution and impact on security and stability with the objective of helping governments and their international partners navigate this dilemma.

Among these factors: regime neglect of, or hostility toward such groups (as in South Sudan) can give rise to new rebels, while unbridled state support (as in Sierra Leone) can empower armed groups controlled by strongmen and motivated in part by narrow self-interest. The clearer vigilantes’ objectives and mandate are set in advance, and the greater the oversight by national and local leaders, the state military and local communities, the more effective the group can be and the less likely it will veer away from community defence and counter-insurgency goals. This is more likely to occur in instances where the political interests of the central state and local leaders are roughly aligned (as in Uganda). By contrast, a less defined mandate – one that allows vigilantes to step into local governance roles – can be a recipe for trouble, prolonging the existence of vigilante groups and enlarging their scope, enabling them to consolidate their power and creating greater economic incentives for them to hold on to it. In the longer term, investing in sufficiently generous demobilization and reintegration programs is key to offering vigilante members viable alternative livelihoods and due recognition. Transitioning selected members to community policing units also could help prevent their reactivation in more hostile guises.

**Several broad lessons, each to be applied with due care for local conditions, emerge from the case studies. In particular, African leaders that enlist vigilante groups for counter-insurgency purposes should:**

**Engage local leaders with influence over vigilantes** with the aim of settling on finite, mutually acceptable objectives within an overarching counter-insurgency strategy, and ensuring they provide political oversight over rank-and-file members;

**Be clear upfront with vigilante leaders and foot soldiers** as to what they should expect as reward for their efforts and compensation for any losses;

**Provide vigilantes with adequate political and material support**, including weapons when necessary, with the goal of ensuring they are able to pursue their objectives, thereby reducing the risk of extortion of resources from civilians;

**Where possible, provide military oversight of, and ensure accountability for vigilantes’ abusive actions;**

**Put in place upfront a gender-sensitive plan to demobilize vigilantes** once the insurgent threat has receded and to help them find work in locally-relevant sectors.

International donors and partners face a similar conundrum. They too should benefit from relatively strong state authorities enjoying a monopoly over the use of violence. But when the state is too weak to confront an insurgency alone, or when the insurgent group doubles up as a terrorist organization threatening outside interests, the temptation will be great for international actors to support a militia or vigilante group – with or at times without the state’s consent. Those international actors’ interests would be best served by working in concert with state authorities, helping them manage relations with vigilante groups, cautioning against the pitfalls of unfettered support or counterproductive repression. To the extent international players interact with vigilante groups, they should avoid providing direct support, lest they weaken national authorities’ bargaining position.

Instead, they should be willing to assist states with resources to better control vigilantes and more effectively demobilize and reintegrate them.

Reliance on vigilante groups often is a *faute de mieux* solution for states facing a threat they cannot address alone. But as the cases in this report illustrate, there are better and worse ways of doing so, and of ensuring that a short-term expedient not turn into a long-term headache.”

Minority Rights Group International," AFRICAN COURT DELIVERS LANDMARK JUDGMENT ON OGIEK LAND RIGHTS CASE AGAINST KENYAN GOVERNMENT  
June 1, 2017, <https://www.culturalsurvival.org/news/african-court-delivers-landmark-judgment-ogiek-land-rights-case-against-kenyan-government>, reported, “On May 26, 2017, **the African Court on Human and Peoples’ Rights (the “African Court”)** delivered a long-awaited judgment on a case brought before it by Ogiek Peoples against the Kenyan government for consistent violations and denial of their land rights.

**The Court set a major precedent for Indigenous Peoples’ land rights by ruling in favor of the Ogiek community of Kenya.** Putting an end to an eight-year legal battle of a land rights case that dates back to colonial times, **the Kenyan government was found in violation of seven separate articles of the African Charter.**

**‘Crucially, the Court has recognized that the Ogiek—and therefore many other Indigenous Peoples in Africa—have a leading role to play as guardians of local ecosystems and in conserving and protecting land and natural resources, including the Mau Forest,’** says Lucy Claridge, Minority Rights Group International’s legal director, who argued the case.

‘For the Ogiek, this is history in the making. The issue of Ogiek land rights has finally been heard and the case has empowered them to feel relevant. I know that the case also gives hope to other Indigenous Peoples, [as] it has made the issues seem real,’ says Daniel Kobei, executive director of Ogiek Peoples’ Development Program (OPDP).

The Ogiek, 35,000 of whom are the victims in this landmark case, live in the Mau Forest Complex in the Rift Valley of Kenya. They are one of the few remaining forest-dwelling communities and among the most marginalized Indigenous Peoples in Kenya. Since time immemorial, the Ogiek have lived in the Mau Forest in the forested areas around Mount Elgon, relying on these territories for food, shelter, identity, rights violations.

Even prior to Kenya’s independence from colonial rule, the Ogiek have been routinely subjected to arbitrary forced evictions from their ancestral land by their government, without consultation or compensation. This has had a detrimental impact on the Ogiek’s pursuit of their traditional lifeways, access to natural resources on their land, and access to education, health services, and justice. Ogiek have a spiritual, emotional, and economic attachment to the forest.

**This is the first time the African Court, in operation since 2006, has ruled on an Indigenous Peoples’ rights case.** It is by far the largest ever case brought before the Court. Originally lodged with the African Commission on Human and Peoples’ Rights (the “African Commission”), it was referred to the Court on the basis that it evinces serious and mass human

Minority Rights Group International, Ogiek Peoples’ Development Program, and Centre for Minority Rights Development (CEMIRIDE) were the three original Complainants before the African Commission. This is also one of the first cases brought originally by NGOs to have been referred to the African Court by the African Commission, and is the first case to have reached hearing stage. It sets important procedural as well as legal precedents.

In 2009, a case was lodged by OPDP and CEMIRIDE on behalf of the Ogiek before the African Commission against the government of Kenya. Minority Rights Group International became involved in April 2010 and, after an extensive fact finding mission and community consultations, drafted and filed admissibility submissions before the African Commission in August of that year.

In 2012, the African Commission decided to refer the case to the African Court on Human and Peoples’ Rights, as it demonstrated serious and mass human rights violations. On March 15, 2013, the African Court issued a provisional measures order requiring the Kenyan government to (i) immediately reinstate the restrictions it had imposed on land transactions in the Mau Forest Complex,



and (ii) refrain from any act/thing that would/might irreparably prejudice the main application, until the African Court gives its final decision in the case. The order was issued as the African Court considered that “there is a situation of extreme gravity and urgency, as well as a risk of irreparable harm to the [rights of the] Ogiek of the Mau Forest.”

In late November 2014, the African Court heard arguments from the African Commission legal team as well as two Ogiek witnesses, an expert witness, and an intervention by Minority Rights Group on behalf of the original complainants. Twenty-five Ogiek community members were able to attend the hearing, and an additional 40 were able to view the hearing in Kenya via livestream.

**While awaiting judgement, there have been continuing violations of the provisional measures order, including a violent eviction of approximately 1,000 Ogiek and police intimidation. In May 2017, the Committee on the Elimination of All Forms of Racial Discrimination (CERD) noted its concern in response to reports of ongoing forced evictions, and urged the Kenyan government to ensure legal acknowledgement of the collective rights of Indigenous Peoples and to prevent, punish, and sanction acts threatening their security and property. The Kenyan government has also announced plans for the Mau Forest Complex, which will soon become government land and its inhabitants forcibly relocated.**

'By ruling that through a persistent denial of Ogiek land rights, their religious and associated cultural and hunter-gatherer practices were also violated, the Court has sent a crystal clear message to the Kenyan and other African governments that they must respect Indigenous Peoples' land rights in order to secure their livelihoods and cultures,' Claridge says.

Ogiek rights over ancestral land are already recognized in both the Kenyan Constitution and the recently enacted Community Land Law, and in light of the upcoming elections and history of lax implementation of the 2010 African Commission Endorois judgment that declared the expulsion of Endorois people from their ancestral lands illegal, the Kenyan government is obligated to fully respect the Court's judgment and take immediate steps to remedy the violations experienced by Ogiek over decades.

'This case is of fundamental importance for Indigenous Peoples in Africa, and particularly in the context of the continent-wide conflicts we are seeing between communities, sparked by pressures over land and resources,' says Claridge. 'Ultimately the Court [ruled] on the crucial role of Indigenous Peoples in the conservation of land and natural resources, and consequently, the mitigation of climate change in a region currently ravaged by drought and famine..''

ICG, Murithi Mutiga, Senior Analyst, Horn of Africa, "Violence, Land, and the Upcoming Vote in Kenya's Laikipia Region," Africa Commentary, July 25, 2017, [https://www.crisisgroup.org/africa/horn-africa/kenya/violence-land-and-upcoming-vote-kenyas-laikipia-region?utm\\_source=Sign+Up+to+Crisis+Group%27s+Email+Updates&utm\\_campaign=5758c2b089-EMAIL\\_CAMPAIGN\\_2017\\_07\\_24&utm\\_medium=email&utm\\_term=0\\_1dab8c11ea-5758c2b089-359871089](https://www.crisisgroup.org/africa/horn-africa/kenya/violence-land-and-upcoming-vote-kenyas-laikipia-region?utm_source=Sign+Up+to+Crisis+Group%27s+Email+Updates&utm_campaign=5758c2b089-EMAIL_CAMPAIGN_2017_07_24&utm_medium=email&utm_term=0_1dab8c11ea-5758c2b089-359871089), comments, **"Crisis Group's Senior Analyst Murithi Mutiga has just returned from a weeklong tour of the troubled central Kenyan county of Laikipia, where violence between indigenous nomadic pastoralists and ranchers is escalating in the run-up to elections scheduled for 8 August.**

**Clashes between pastoralists, farmers and conservationists in the central Kenyan county of Laikipia – triggered initially by drought but worsened by political tensions linked to local elections scheduled for August – could escalate into a wider, even more damaging conflict unless authorities act quickly to defuse tensions.**

**Laikipia has long been contested land. It sits at the foot of Mount Kenya, Africa's second highest mountain. In recent decades, its sweeping Savanna vistas have made it one of the country's most important tourist destinations while its ample fertile land has attracted commercial agriculture. For centuries before this, however, the region's permanent springs, basalt hills and open grassland supported the semi-nomadic lifestyles of local pastoralist communities.**

**Local communities have long fought for control of Laikipia's lush pasturelands. Now some**

**local politicians have been accused of using these traditional grievances to incite communities and gain advantage ahead of the vote.**

**As the elections approach, observer missions should deploy in significant numbers in counties such as Laikipia to boost trust in the process and deter irresponsible political actors seeking to subvert the polling or displace voters.**

### **A Troubled History**

When British settlers arrived at the end of the nineteenth century, some of the land they coveted most in Kenya was occupied by the Maasai, a storied warrior community that had acquired the best real estate in the country through conquest. The British displaced the Maasai from the central Rift Valley, forcing them into two reserves set up in Laikipia and southern Kenya near the border with Tanzania. They promised clan elders that the community could hold the land 'so long as the Maasai shall exist as a race'.

The British broke their word in 1911, pushing the Maasai out of Laikipia to open the way for large ranches and farms. This betrayal still rankles the Maasai and others in the region. The lopsided land ownership that resulted from the expulsion of these pastoralists more than one hundred years ago helps explain local grievances today.

Laikipia borders the semi-arid counties of Isiolo, Baringo and Samburu. In recent years, regular droughts have battered these counties, adding to the stress already caused by rising populations and an increase in livestock herds. The latest drought, which has affected most of East Africa, forced pastoralists in search of well-watered pasture to move tens of thousands of cattle into the Laikipia farmlands and conservation areas.

### **Political Incitement**

Such migrations have occurred periodically during previous droughts. What makes this year different is the level of armed violence. About 25 people, including ten policemen, have been killed and dozens of civilians injured as the herders forcibly occupy farms, community-owned ranches and sprawling conservancies – many owned by third-generation Kenyans of British origin. The 23 April shooting of the prominent author and conservationist Kuki Gallmann attracted widespread attention.

Some media reports have portrayed the victims as mainly Kenyans of European extraction who own conservancies, but that is not wholly accurate. Herders from the Samburu and Pokot ethnic groups have also displaced many indigenous Kenyan farmers. Even several Maasai-owned ranches have been occupied in what appears to be an effort to stake a lasting claim to Laikipia land.

Many believe that politicians are deliberately inciting violence prior to the elections on 8 August. Under Kenya's 2010 constitution, substantial resources are now managed at the local level by elected officials. Although this devolution of power is popular, it also has made local campaigns increasingly intense and violent, especially in ethnically-mixed areas.

'You have politicians whose whole platform revolves around whipping up ethnic emotions and inciting pastoralists to forcibly occupy land in an effort to win votes', Ndiritu Muriithi, a former government minister and candidate for the position of Laikipia county governor – the most powerful elected post in the county – told Crisis Group.

In repeated interviews, local farmers and ranchers pointed an accusing finger at Matthew Lempurkel, a firebrand local MP from the Samburu community. In November 2016, the Director of Public Prosecutions charged Lempurkel with incitement to violence. The case remains in court and no judgment has been issued yet.

Lempurkel strenuously denied claims he had stirred up the agitation in an interview with Crisis Group. 'That is propaganda spread by my opponents. It is not true. Most of the pastoralists have no voters' cards or ID [national identification] cards. Their illiteracy levels are high. What would I stand to gain by inciting them? This problem was caused by the long, persistent drought'.

Lempurkel, however, said it was unfair that "a few ranchers own tens of thousands of acres" while many locals were landless. Lempurkel was re-arrested on 22 July and charged with fresh counts of incitement. He was released after posting bail two days later.

Joseph Shuel, a Maasai community leader and human rights activist, accused Samburu leaders of harboring an expansionist agenda and of engaging in "ill-informed incitement." He said the community with a legitimate historic claim to Laikipia was the Maasai but Samburu and Pokot

warriors had forcibly taken over numerous Maasai-owned ranches. Shuel said the various parties should strike a middle ground that allows indigenes to co-exist with the large land owners but also offers help to pastoralists to cope with the tough conditions created by changing weather patterns and shrinking resources.

### **Ranchers**

In many ways, Martin Evans typifies the ranchers and large-scale farmers whose holdings have been besieged by pastoralists. His great grandmother arrived in the central Kenya town of Nyeri from Britain in 1902 and was one of Kenya's pioneer coffee farmers.

Evans' father bought the Ol Maisor ranch in Laikipia, where the family has grown wheat and kept livestock since 1968. He speaks fluent Kiswahili, the Kenyan national language, and considers Laikipia home.

Evans told Crisis Group the latest confrontation with pastoralists was the worst he could remember. 'This is totally the result of political instigation', he said. Two workers were killed on his ranch when Pokot herders drove tens of thousands of cattle into the farm. The herders remain on the ranch in a tense standoff with army troops brought in to protect the family and farm workers.

He noted that devolution had brought power closer to the people but also created 'ethnic mini-nations', some of whose leaders were inciting their followers to take over land to advance their political ambitions.

### **Conservancies and Pastoralists**

**Laikipia could serve as a model for resolving tensions between agriculturalists and herders. Because of its stunning biodiversity, it has the resources to help pastoralists transition to more sustainable cattle keeping.**

Over the last few years, many donors, most prominently the U.S. government, have poured tens of millions of dollars to support NGO-managed conservancies in the area. These help protect wildlife by sharing the income generated by tourism with communities that have surrendered large tracks of land for conservation.

However, as Modesai Ogada, a prominent environmentalist notes, 'under the current system, pastoralists have been left on the periphery. Many traditional dry season grazing areas are out of bounds and fenced off as conservancies. If even a small percentage of the funds being sent to these NGOs went to helping the pastoralists, you wouldn't be witnessing a crisis of such severity'.

It is a fair point. Donors that support conservation efforts in Laikipia and elsewhere should offer funding and technical support to regenerate the devastated grasslands in neighboring counties. This would help remove the need for herders to leave their home ranges in large-scale migrations that inevitably trigger conflict.

**The greater challenge falls to the Kenyan government, which needs to formulate a policy for helping pastoral communities adjust to changing conditions, especially climate stresses that undermine the traditional semi-nomadic pastoralism that has been practiced for centuries.**

**The Kenyan government has historically neglected the cattle-keeping sector, instead promoting commercial crops such as coffee and tea that are big foreign exchange earners. This neglect helps explain the low levels of development and high rates of illiteracy among pastoral communities in Laikipia and much of northern Kenya.**

**The national and county governments should invest resources in helping pastoralists by improving extension services, establishing breeder farms and offering funding for research to help locals improve the quality of cattle, thus allowing them to raise smaller, more productive herds.**

**The government should lead the effort, working with donors and local grassroots organisations, to rehabilitate rangelands devastated by drought and overgrazing in Samburu, Isiolo, Baringo and elsewhere. Greater investment in education is also essential. Pastoralists should learn to engage in sustainable cattle keeping or empowered to pursue alternative means of earning a livelihood.**

**The county government should establish migratory corridors for cattle herds and restore access to dry season grazing lands appropriated, some locals say, by powerful government officials.**

**Many in Laikipia told Crisis Group that they expected the government to launch a major**

security operation after the election to push back the pastoralists from land they have occupied. Onesmus Musyoki, the County Commissioner in overall charge of security forces in Laikipia, told Crisis Group the government was determined to restore the rule of law.

But the government should act with restraint to avoid inflaming tensions again. Underlying these repeated and escalating cycles of violence is a long history of betrayal and economic neglect."

ICG, Murithi Mutiga, Senior Analyst, Horn of Africa, "August Election Tensions Rise in Storied Kenyan County," Africa Commentary, June 14, 2017, [https://www.crisisgroup.org/africa/horn-africa/kenya/august-election-tensions-rise-storied-kenyan-](https://www.crisisgroup.org/africa/horn-africa/kenya/august-election-tensions-rise-storied-kenyan-county?utm_source=Sign+Up+to+Crisis+Group%27s+Email+Updates&utm_campaign=6fe770dcb0-EMAIL_CAMPAIGN_2017_06_12&utm_medium=email&utm_term=0_1dab8c11ea-6fe770dcb0-359871089)

[county?utm\\_source=Sign+Up+to+Crisis+Group%27s+Email+Updates&utm\\_campaign=6fe770dcb0-EMAIL\\_CAMPAIGN\\_2017\\_06\\_12&utm\\_medium=email&utm\\_term=0\\_1dab8c11ea-6fe770dcb0-359871089](https://www.crisisgroup.org/africa/horn-africa/kenya/august-election-tensions-rise-storied-kenyan-county?utm_source=Sign+Up+to+Crisis+Group%27s+Email+Updates&utm_campaign=6fe770dcb0-EMAIL_CAMPAIGN_2017_06_12&utm_medium=email&utm_term=0_1dab8c11ea-6fe770dcb0-359871089) , commented, "The stakes are high in contests for local power in Kenya's August 2017 elections. There is still time for the government and international donors to help avert a replay of past electoral violence, notably by renewing support for local peace committees.

The county of Narok is one of Kenya's most economically important regions, home to wildlife sanctuaries like the world-famous Maasai Mara reserve, vast agricultural plantations, and highways linking the East African coast to the interior.

Narok is also one of a number of Kenyan counties expected to witness heavily contested, potentially violent, local elections due in August under a system of devolved government that confers considerable power and resources to elected county-level administrators.

While a cut-throat competition for the presidency is garnering most attention, the subnational vote will be hotly contested and deserves more focus from the government and international partners. As a new Crisis Group report notes, significant violence could result from the political use of violence to influence county-level voting and acrimonious fallout from the winner-take-all polling for county governor position.

#### **Devolution and Ethnic Contest**

Kenya adopted a new constitution in 2010 as one response to the weeks of violence that followed the 2007 disputed presidential election. The fighting killed more than 1,000 people and displaced hundreds of thousands. The new constitution sought to substantially remodel the government and reduce the concentration of power and resources in the presidency. The aim was to distribute the patronage power presidents enjoy more evenly, and by that means end the all-or-nothing battles for national leadership that contributed to violent elections in the past.

The new constitution created and endowed 47 new counties as primary centres of devolved power run by elected governors and county assemblies. County administrations now receive at least 15 per cent of all national government revenue to run local affairs. The county chiefs appoint cabinets that are in charge of services, including basic education, healthcare, agriculture and local infrastructure maintenance. They control a budget of millions of dollars with wide remit to decide where to channel the funds.

Perhaps because Kenyan elites have now witnessed the considerable influence and patronage resources counties command, the 2017 polls are expected to be more hotly contested than in 2013. Many national figures, including former presidential candidates and at least half a dozen senators, are running to lead these governorates. With many counties divided along religious, ethnic and sub-ethnic lines, there are concerns that candidates will play the communal card and exacerbate tensions and political violence.

#### **Warning Signs**

The storm clouds gathering over Narok are partly national. The county is a key battleground in the contest between the ruling Jubilee Party and the opposition National Super Alliance (Nasa). Both are investing heavily in the presidential and governorship races.

But the problem is also local. Kenya's National Cohesion and Integration Commission (NCIC), a government agency promoting social harmony, has listed Narok as one of the counties vulnerable to an outbreak of electoral violence. A June 2015 commission communiqué cited "inequitable

distribution of county resources, competition (for) scarce resources, cattle rustling and incitement by politicians” as destabilizing factors here and in several other multi-ethnic counties in the Rift Valley and northern Kenya.

Numerous interviewees report political players are mobilizing young people. A youth leader from the large Purko clan of the Maasai tribe told Crisis Group a victory for the incumbent would be “absolutely unacceptable”. Surrounded by other young men from the clan at a restaurant in Narok, he said, without elaborating, that the youth were working on an “alternative remedy” if they feel the election outcome does not restore leadership to their group.

### **Intra-Maasai Divisions**

For decades, Narok had been dominated by members of the Purko Maasai clan. But in 2013, three Purko candidates split the clan vote. That allowed Governor Samuel Tunai, a political newcomer, former civil servant and member of the minority Siria Maasai clan, to win on the ticket of the United Republican Party headed by Deputy President William Ruto. The result was viewed as a disaster by many local elites and described in apocalyptic terms as an “earthquake” and “tsunami” in national media.

Although many Kenyans think of Narok as a Maasai county, it is in fact multicultural with a complex history.

The Purko are a storied branch of the Maasai community renowned for battlefield victories over rival ethnic groups and clans in the pre-colonial period. But they were settled in Narok after having become victims of mass displacement when British settlers seized their landholdings during the colonial period. Other Maasai clans were moved into districts in south-west Kenya. Since then, Narok has attracted substantial numbers of non-Maasai because of its ample land, large wheat and maize plantations, and location on key transport routes between the Indian Sea coast and Uganda, Rwanda and eastern DR Congo.

This diversity drives Narok’s county politics. The biggest non-Maasai group is the Kipsigis, a branch of the Kalenjin, Kenya’s third largest ethnic group. There are substantial numbers of Kikuyu, Kenya’s largest ethnic group, as well as Kisii, Luo, Luhya and other communities. It was an alliance of the Kipsigis and Kikuyu, working with smaller Maasai clans, that pooled the numbers to get Tunai over the line in 2013.

Losing power in the county triggered months of protests by Purko leaders. The agitation against the governor came to a head with a 25 January 2015 march seeking Tunai’s ouster. Running battles between the police and protesters resulted in two deaths and significant property damage in Narok town.

### **Anger Over Lost Power**

Three major issues dominate local criticism of Governor Tunai’s administration.

A key point of Purko contention is the sharing of local resources. The renowned Maasai Mara game reserve has long been controlled by local Purko elites. The Kenya Wildlife Service runs most game parks in the country, but the Mara is operated by the county, reflecting the fact that much of the park’s land was donated by far-sighted Maasai elders in 1961.

The Tunai administration has sidelined many of the Purko youth who previously worked in the park, local leaders say. “Before this administration came in, the Maasai Mara was entirely a local employment space”, said Kimaren Riamit, executive director of the Indigenous Livelihoods Enhancement Partners, a civil society group. “It’s true that there was some graft in management of the funds but at least the money circulated locally”.

Conservation politics are another source of grievance. Narok is home to the Maasai Mau “water tower”, the largest closed-canopy forest in Kenya and a vital source of rivers that feed the county. During the administration of President Daniel Arap Moi (1978-2002), thousands of farmers, many from Moi’s Kalenjin community, were settled illegally in the area. Deforestation diminished the Maasai Mau’s ability to absorb seasonal rains and then feed rivers for the rest of the year.

The Tunai administration has been accused of not pushing aggressively enough to oust beneficiaries of irregular land allocations, many of them from the Kipsigis community that helped him get elected. The Maasai have long bitterly protested these settlements, complaining about the long-term negative effects on the environment that threaten their economic lifeline as semi-nomadic

pastoralists. “Maasais have preserved these forests for hundreds of years,” Joseph Siameto Pareyio, a Maasai elder, told Crisis Group. “There is a lot of bitterness about the destruction of this heritage to reward illegal political settlers”.

The third and most pronounced complaint is the dominance of “outsiders” (that is, non-Maasai) in local county administration positions. The governor cultivated his electoral coalition by handing many county jobs to members of other communities. A 2015 audit by the NCIC cohesion agency found Narok to be one of the three most inclusive counties due to the high number of individuals from different communities employed by the county administration.

However, many Purko see the governor’s strategy as marginalizing them. “Devolution was designed to be a form of affirmative action that brings resources closer to the people”, Riamit said. “Locals feel short-changed. They are being sidelined while the minorities are happy. Jobs here are shared [evenly] between the communities. But why aren’t Maasais given the same jobs in the other counties where these minority groups hail from and where the dominant groups take 90-95 per cent of the jobs?”

Together with this complaint comes the question of electoral representation. A consistent issue that came up in interviews is the growing role of non-local communities in determining election outcomes by pooling their numbers to defeat Purko candidates, whose votes are often split among multiple Purko candidates.

### **Political Battle-lines**

The race for governor is expected to be a three-way affair. Tunai, will seek to defend his seat. He will be backed by the Jubilee party leaders, President Uhuru Kenyatta and Deputy President William Ruto. He will face two Purko contenders, despite the best efforts of elders to unite the clan behind one of their own.

Musuni ole Tiampati, who was endorsed at a gathering of Purko elders at the end of 2015 as the community standard bearer, will fly the flag of the Orange Democratic Movement and will receive strong support from opposition Nasa heavyweights, led by its presidential candidate, Raila Odinga. The Narok West MP Patrick ole Ntutu, also Purko, will run on the ticket of the Chama Cha Mashinani party that is headed by Bomet Governor Isaac Ruto, a challenger for the leadership of the Kalenjin to Deputy President Ruto (no relation).

The race for the Senate is attracting attention too, with media reports indicating a youthful Kipsigis candidate, Albert Kimingin, could benefit from divisions among several Purko candidates. A victory for him undoubtedly would deepen local grievances and heighten the danger of violent protests and inter-communal fighting.

### **What to Do?**

Understandably, competition for the presidency has attracted the bulk of attention. But with a reformed constitutional order having raised the stakes at the local level, steps also need to be taken to help avert poll-related violence in Narok and Kenya’s many other ethnically divided counties.

First, to minimize the risk of election-related violence, state agencies working on peaceful co-existence such as the NCIC, together with their international partners, should step up peacebuilding and reconciliation efforts in Narok. In particular, the NCIC should continue efforts to record all political rallies to monitor politicians engaging in hate speech. In the same spirit, the agency should work more closely with the office of the Director of Public Prosecutions to compile strong cases for possible prosecution for incitement, a development that would serve as a deterrent to others. Donors should enhance technical assistance to the agency to improve its capacity on this score.

Second, the government and donors should revive support for the substantial grassroots peacebuilding infrastructure that was established following the 2007-2008 post-election crisis and which largely has been neglected since the relatively peaceful 2013 elections. Informal institutions including peace committees – district gatherings of elders and local civil society groups that engage in traditional mediation – can play an important role in fostering reconciliation at the subnational level.

Interviews in Narok with members of these groups suggests that backing from the Office of the President for these entities, now known as County Peace Committees, largely has dried up. Members no longer receive honoraria or support to travel to and hold meetings. Even important non-monetary recognition, such as awards for outstanding peace builders, are not extended in the same way they

were while memories of the 2007-2008 post-election violence were fresh. This is a mistake. Local level peace committees, particularly in northern Kenya, typically have played a vital role in maintaining harmony at the grassroots and exploring non-violent dispute resolution.

Third, formal governmental structures such as the County Security Committee – a body that brings together security officials, including police chiefs and provincial administrators – should take the lead in ensuring a peaceful election. They should recommend beefing up police presence in the county before, during and after voting day, even as attention is paid to ensuring that police and paramilitary units act in a neutral and professional manner and that they liaise more effectively with the informal elders' caucuses and peace committees to promote peaceful dispute resolution. In particular, security officials should encourage regular dialogue between community elders who still retain considerable sway with potential militants.

Fourth, religious leaders, donors and the business community should lean on candidates for office both at the local and national levels to sign a pre-election code of conduct, whose content can be agreed upon by religious leaders and candidates, signaling a commitment to a peaceful election. They should also agree to channel any disputes to the court system.

Once the election is over, it will be time for the government to try to address persistent land issues, including by resolving boundary disputes at the root of tension in several parts of Narok, and halt the destruction of forests so vital for the county's water supplies."

"The peace builders of Northern Kenya; Successful research led model spreads to other African nations," Shalom Centre for Conflict Resolution and Reconciliation (*Founded in aftermath of 2007-08's national post-election violence, Kenya's Shalom Centre pioneers successful, research-led formula for preventing conflict between rival groups*), July 7, 2017, posted on EurekAlert!, [https://eurekalert.org/pub\\_releases/2017-07/tca-tpb062617.php](https://eurekalert.org/pub_releases/2017-07/tca-tpb062617.php), reported, **"An innovative research-led model for building peace has been pioneered by an Irish Catholic priest and his Shalom Centre colleagues working in areas of Northern Kenya where assault rifles are as common in households as cooking pots.**

Lawlessness is prevalent in the isolated areas of Kenya bordering Uganda, South Sudan, Ethiopia and Somalia, and family possessions include, on average, 1.6 AK-47s, the weapon of choice also of organized cattle-rustling gangs.

Weak institutions, porous borders and climate change, meanwhile, combine to make conditions harsher, nurturing historic, sometimes violent competition over scarce resources between the 11 ethnic communities of Northern Kenya with which the Centre works.

More recently, conflicts over official positions and new administrative boundaries driven by politics have become commonplace. Of immediate concern to the peace makers: the Aug. 8 Kenya general elections. In 2007-08, post-election violence nationwide, fueled by political infighting, retaliation and power struggles, left roughly 1,300 Kenyans dead, 60,000 maimed and 600,000 displaced.

The Shalom Center for Conflict Resolution and Reconciliation, founded by Fr. Patrick Devine in 2009, which works as well in the slums of Nairobi, has cultivated a unique approach to conflict resolution, its success recognized and celebrated with a host of international awards.

And the model is expanding into other parts of Africa, starting with Côte d'Ivoire, Tanzania and the Central African Republic, with further plans to establish centres as well in Ethiopia, South Sudan, Nigeria and the Democratic Republic of Congo.

The model's success is founded on extensive research into areas of complaint and issues that drive conflict then working with key community opinion-shapers -- elders, women, youth and influential chiefs -- to reach a common understanding of both the history and current definition of a conflict's source, while building trust and co-operation to reach solutions.

Through workshops, Shalom is creating a legacy of conflict resolution, training to date more than 9,600 community leaders as peacemakers.

Strategies also include sustainable human development in conflicted communities through projects. Lasting results include the building of solar-powered inter-ethnic and inter-religious schools, medical centres and water projects.

**The philosophy of Fr. Devine, a 29-year veteran of African ministry: Conflicts are created by unmet human needs and the inability of weak institutions to help people actualize their potential. Shalom's peaceful coexistence goal is simple: 'To help the people become the architects of their own future.'**

**Shalom's grassroots-based methodology, he says, embraces prevention and transformation -- 'delving deep into the social, economic, historical, cultural and religious factors that contribute to extremist behaviors that cause significant destruction and trauma to individuals and communities. Conjecture and speculation are no basis for policy making.'**

**Conflict in the region can be linked to several primary causes: scarcity and mismanagement of core environmental resources, infrastructure insecurity, weak institutions and the political economy of governance, historic tribal land and cultural conflict, all contributing to an unhelpful proliferation of illegal small arms.**

**'Every conflict has a memory,' says Fr. Devine, honored in 2013 with the International Caring Award, and recently nominated for Ireland's prestigious Tipperary International Peace Prize. 'When the causes of conflict are not only identified, but also agreed upon by those involved, peace-building techniques create a way to look forward to a constructive future.'**

**Nairobi-based Shalom Centre's international research and field staff are expert in conflict management theory and practice. All have at least a masters' level education. 'And I have never met a group with the persistence, commitment and consistency of Shalom staff,' says Fr. Devine.**

**The goal is not what he calls 'negative peace,' or just an end to fighting but rather 'positive peace,' where both sides in a conflict see the benefits of protecting the others' security and wellbeing.**

**'There's more than enough in the environment for everyone's need,' he says, 'but not enough for everyone's greed.'**

**Fr. Devine explains why he founded Shalom: 'I didn't want to spend another 25 years just dealing with the symptoms of conflict and poverty, nor just putting money through a sieve without substantial enduring results.'**

**'Our center helps people in this region emerge from patterns of ongoing conflict, an environment in which people are persistently killed, maimed and displaced, preventing social and religious values, such as truth, justice, peace, mercy and reconciliation, from taking deep root. Nor can development be sustained if schools, hospitals, programs, and religious centres are regularly made inoperable due to conflict.'**

**Fr. Devine underlines the non-sectarian nature of the center's work. 'Shalom should not be owned by any one religious tradition,' he says. 'If we can bring about peace in the world, we can all find our path to God.'**

**At a May EU meeting in Brussels to address the humanitarian situation in Africa, Yemen and Syria, Joe McHugh, Ireland's Minister of State for the Diaspora and Overseas Development, noted the impossibility of sustainable development without peace.**

**He singled out Shalom's 'great work' and lauded the center for making inroads in 'interethnic conflict reconciliation where, for the first time in a particular region even with drought and massive challenges, the peace is holding.'**

**'If there are examples working we should look to them and support them.'**

**Dr. Laura Basell, a professor at Queen's University, Belfast, and an archaeologist in Africa for 20 years, praises Shalom's diverse, highly qualified international team.**

**'What particularly impresses me is Shalom's theoretical underpinning focused on education, empowerment, and transcending ethnic and religious boundaries in order to address the root causes of conflict,' she says.**

**'Rev. Dr. Devine has demonstrated that Shalom is an institution that speaks not only through the verbal articulation of its guiding principles but predominantly through its deeds. While much remains to be done, their work is clearly making a difference from individuals to entire communities - a wonderful achievement.'**

**Says Dr. Michael Comerford, a South Sudan-based board director of Shalom:**



'From the beginning, I was struck by the Shalom Centre's methodology to resolve conflict and promote peace, which avoided quick fixes to problems that had existed for years, if not generations. There was something about 'taking time to work with people' that struck me as new. The approach involved working directly with local communities and their leaders, taking time to build relationships between communities, taking time to build peace.'

The Shalom Centre for Conflict Resolution and Reconciliation is supported by partner organizations and a network of visionary donors, primarily from the United States, United Kingdom and Ireland.

With a budget of less than \$1M US per year and low (7%) overhead costs, Shalom leverages the donations of its supporters to maximize its work on the ground in tribal areas, particularly in the semi-arid terrains, and in the largest slum settlements in urban centres of Eastern Africa.

**The Center focuses on the root cause of violence in the tribal lands of eastern Africa.** It was created in 2009 in the wake of persistent widespread violence and dislocation across Northern Kenya, and in the aftermath of the disputed Kenyan elections. Shalom has made a major impact on peace initiatives in this vital strategic area of Africa.

The Centre's work is strictly non-sectarian and closely aligned with civil society organisations. Fr. Patrick Devine serves as the organization's executive director, leading an international team of conflict resolution experts from various religious backgrounds and disciplines who are based in Kenya and neighboring countries.

**Shalom's approach to peace-building:**

**Deliver quality conflict management training consistently to local communities.**

**Conduct research among local communities into the causes of violence.**

**Work with local leaders and influential opinion shapers to ensure they are part of the long-term solution to preventing conflict; engaging them in problem-solving workshops.**

**Promote the construction and development of projects that benefit multiple groups in a community, including those on opposite sides of a conflict.**

**Conduct peace education in primary and secondary schools and with groups of influential opinion shapers in conflict environments, aimed at delegitimizing the use of force in solving conflicts.**

**Shalom benefits from Memoranda of Understanding with the governments of eastern Africa that comprise the Intergovernmental Authority on Development (IGAD). The Centre also partners with international and regional colleges and universities on peace-building courses, as well as religious association and councils in Africa.**

**Shalom makes its findings available to partners, relevant governments, ethnic representatives and United Nation and regional organizations.**

High-profile speaking engagements help raise awareness of this successful peace-development model so it can be implemented in other conflict environments. Last year, Fr. Patrick lectured at Harvard Law School, and in January gave a presentation to a group of Washington D.C. diplomats, academics and peace practitioners on preventing radicalization and extremism."

ICG, "Herders against Farmers: Nigeria's Expanding Deadly Conflict," Africa Report 252, September 19, 2017, <https://www.crisisgroup.org/africa/west-africa/nigeria/252-herders-against-farmers-nigerias-expanding-deadly-conflict>, commented, **"Propelled by desertification, insecurity and the loss of grazing land to expanding settlements, the southward migration of Nigeria's herders is causing violent competition over land with local farmers. To prevent the crisis from escalating, the government should strengthen security for herders and farmers, implement conflict resolution mechanisms and establish grazing reserves.**

**Executive Summary**

Violent conflicts between nomadic herders from northern Nigeria and sedentary agrarian communities in the central and southern zones have escalated in recent years and are spreading southward, threatening the country's security and stability. With an estimated death toll of approximately 2,500 people in 2016, these clashes are becoming as potentially dangerous as the Boko Haram insurgency in the north east. Yet to date, response to the crisis at both the federal and state

levels has been poor. President Muhammadu Buhari's administration and affected state governments need to work together, taking immediate steps to shore up security for herders and farmers, strengthening conflict-resolution mechanisms and initiating longer-term efforts to reform livestock management practices, address negative environmental trends and curb cross-border movements of both cattle rustlers and armed herders.

Familiar problems – relating to land and water use, obstruction of traditional migration routes, livestock theft and crop damage – tend to trigger these disputes. But their roots run deeper. Drought and desertification have degraded pastures, dried up many natural water sources across Nigeria's far-northern Sahelian belt and forced large numbers of herders to migrate south in search of grassland and water for their herds. Insecurity in many northern states (a consequence of the Boko Haram insurgency in the north east and of less-well-reported rural banditry and cattle rustling in the north-west and north-central zones) also prompts increasing numbers of herdsman to migrate south. The growth of human settlements, expansion of public infrastructure and acquisition of land by large-scale farmers and other private commercial interests, have deprived herders of grazing reserves designated by the post-independence government of the former Northern region (now split into nineteen states).

Herders migrating into the savannah and rain forests of the central and southern states are moving into regions where high population growth over the last four decades has heightened pressure on farmland, increasing the frequency of disputes over crop damage, water pollution and cattle theft. In the absence of mutually accepted mediation mechanisms, these disagreement increasingly turn violent.

The spread of conflict into southern states is aggravating already fragile relations among the country's major regional, ethnic and religious groups. The south's majority Christian communities resent the influx of predominantly Muslim herders, portrayed in some narratives as an "Islamisation force". Herders are mostly Fulani, lending an ethnic dimension to strife. Insofar as the Fulani spread across many West and Central African countries, any major confrontation between them and other Nigerian groups could have regional repercussions, drawing in fighters from neighboring countries.

As these conflicts increase in frequency, intensity and geographical scope, so does their humanitarian and economic toll. The increasing availability of illicit firearms, both locally-produced and smuggled in from outside, worsens the bloodshed. Over the past five years, thousands have been killed; precise tallies are unavailable, but a survey of open source reports suggests fatalities may have reached an annual average of more than 2,000 from 2011 to 2016, for some years exceeding the toll from the Boko Haram insurgency. Tens of thousands have been forcibly displaced, with properties, crops and livestock worth billions of naira destroyed, at great cost to local and state economies.

**The reaction from Nigeria's federal and state authorities, so far, has been wanting.** Aside from the recent push against Boko Haram and military operations against cattle rustling, they have done little else to address rural insecurity in the north. Federal security and law enforcement agencies have established neither early-warning nor rapid response mechanisms; they have not arrested and prosecuted perpetrators of violence or offered redress to victims. Until recently, officials have paid little if any attention to improving livestock management practices to minimize friction with agrarian communities. State governments' responses overall have been short-sighted; most have failed to encourage community-level dialogue. As a result, both herders and farmers are taking matters into their own hands, further aggravating conflicts.

President Buhari's government, which is increasingly viewed with misgivings by many in central and southern states, should make it a priority to take firm and transparent steps to ensure better protection for both herders and farmers. Affected state governments also should better coordinate with federal authorities to reduce risks of violence. The federal government's failure to define a clear and coherent political approach to resolving the crisis, or even acknowledge its scope, is putting Nigerian citizens at risk. **Federal and state authorities should implement five steps. In the short term, these include:**

**Strengthen security arrangements for herders and farming communities especially in the north-central zone:** this will require that governments and security agencies sustain campaigns against cattle rustling and rural banditry; improve early-warning systems; maintain operational readiness of rural-based police and other security units; encourage communication and collaboration with local authorities; and tighten control of production, circulation and possession of illicit firearms and

ammunition, especially automatic rifles, including by strengthening cross-border cooperation with neighboring countries' security forces;

**Establish or strengthen conflict mediation, resolution, reconciliation and peacebuilding mechanisms:** this should be done at state and local government levels, and also within rural communities particularly in areas that have been most affected by conflict;

**Establish grazing reserves in consenting states and improve livestock production and management in order to minimize contacts and friction between herders and farmers:** this will entail developing grazing reserves in the ten northern states where governments have already earmarked lands for this purpose; formulating and implementing the ten-year National Ranch Development Plan proposed by a stakeholders forum facilitated by the UN Food and Agriculture Organization (FAO) in April 2017; and encouraging livestock producers' buy-in through easier access to credit from financial institutions.

In the longer term, federal and state governments should consider the following:

**Address environmental factors that are driving herders' migration to the south:** this will require stepping up implementation of programs under the Great Green Wall Initiative for the Sahara and the Sahel, a trans-African project designed to restore drought-and-desert degraded environments and livelihoods including in Nigeria's far northern belt; and developing strategies for mitigating climate change impact in the far northern states;

**Coordinate with neighbors to stem cross-border movement of non-Nigerian armed herders:** Nigeria should work with Cameroon, Chad and Niger (the Lake Chad basin countries) to regulate movements across borders, particularly of cattle rustlers, armed herders and others that have been identified as aggravating internal tension and insecurity in Nigeria.

Although some of the proposed steps will not yield immediate results, Nigeria's federal and state authorities, as well as other relevant actors, need to take remedial actions with a greater sense of urgency. Failure to respond, decisively and effectively, would allow Nigeria to continue sliding into increasingly deadly conflict."

Julius Gale, "Experts call for new approach to S. Sudan's peace process," Xinhuanet, August 28, 2017, [http://news.xinhuanet.com/english/2017-06/28/c\\_136401612.htm](http://news.xinhuanet.com/english/2017-06/28/c_136401612.htm), reported, "**Experts have called on the international community to change their mediation strategy in war-torn South Sudan and adapt a new approach that accommodates all armed groups and aggrieved local communities instead of just dealing with two warring factions.**

Speaking during a forum for peace and dialogue in Juba on Wednesday, the experts said the South Sudan conflict have evolved into ethnic divisions and inter-communal violence characterized by emergence of new rebel groups, as such demands a multi-stakeholder peacemaking strategy.

William Ongoro, specialist in conflict resolution and mediation, said **the 2015 peace agreement and a national dialogue initiative announced by the country's leader late last year may not necessarily solve South Sudan's problems if grassroots grievances and conflicts are left unresolved.**"

**The conflict is no longer one primarily between two sides, but amongst numerous ethnic and local groups not directly represented by the national elites. " Ongoro said all peace building initiatives should focus on constructive engagement with rural communities to address issues such as land wrangles, inter-communal conflicts and power struggle.**

He added that **without strengthening peace building, social justice, institutional reforms and accountability, the war-torn country may find it hard to end the ongoing political, social and economic crisis.**" (See also Rene Wadlow, "As South Sudan Disintegrates, People Move" in Research Notes, below).

ICJ, "Niger Clash Kills U.S. and Nigerien Troops," Africa Commentary, October 5, 2017, [https://www.crisisgroup.org/africa/west-africa/niger/niger-clash-kills-us-and-nigerien-troops?utm\\_source=Sign+Up+to+Crisis+Group%27s+Email+Updates&utm\\_campaign=8bdc11a92b-EMAIL\\_CAMPAIGN\\_2017\\_10\\_05&utm\\_medium=email&utm\\_term=0\\_1dab8c11ea-8bdc11a92b-359871089](https://www.crisisgroup.org/africa/west-africa/niger/niger-clash-kills-us-and-nigerien-troops?utm_source=Sign+Up+to+Crisis+Group%27s+Email+Updates&utm_campaign=8bdc11a92b-EMAIL_CAMPAIGN_2017_10_05&utm_medium=email&utm_term=0_1dab8c11ea-8bdc11a92b-359871089), commented, "**A deadly ambush near the Niger-Mali border on 4 October marked the**

**unprecedented killing of American and Nigerien forces in the region. In this Q&A, Deputy West Africa Project Director Jean-Hervé Jezequel and Research Assistant Hamza Cherbib say that jihadist violence cannot be divorced from deeper inter-communal tensions related to local competition over resources and illicit economic activity.**

**What happened and where?**

According to U.S. and Nigerien security sources, on 4 October 2017 a mixed patrol of U.S. and Nigerien special forces was ambushed near Tongo Tongo, a village located in the Tillabery region (about 120km north of the capital, Niamey), a few kilometres from the border with Mali. The precise death toll is still uncertain but at least five Nigerien and three U.S. soldiers were killed. Several others are wounded or missing, **and Nigerien sources say the patrol's vehicles were looted or destroyed.**

**The patrol may have been attacked by jihadists operating in the region, but there was no early claim of responsibility and what happened may only become clear over time. U.S. troops are supporting Nigerien armed forces fighting jihadists in at least two locations in the country, Aguelal and Diffa. The U.S. also is present elsewhere in Niger (and the region): it is establishing a drone and airbase near Agadez (northern Niger) and its forces are present at Niamey airport where they share space with French and Nigerien forces.**

**This is not the first attack against security forces in the area. Indeed, Nigerien forces have suffered repeated attacks there since early 2017, including against the special counter-terrorism unit whose men are trained by the U.S. But this is the first attack to have claimed the lives of U.S. soldiers.**

**What is known about jihadist groups in the area?**

In recent months, several attacks targeting security forces near the Mali-Niger border have been claimed by the Islamic State in the Greater Sahara (ISGS), the Islamic State's local branch led by Abou Walid Al Sahraoui. This includes a raid on the Koutoukale prison in October 2016 that was fended off by Nigerien security forces.

Another recent attack was claimed by the Jamaat Nosrat al-Islam wal-Mouslimin (JNIM, the "Group for the support of Islam and the Muslims"), a jihadist coalition of militant groups with a history of cooperation that was established in March 2017. JNIM's leader, Iyad Ag Ghali, a Malian Tuareg, declared his allegiance to al-Qaeda and other top leaders of the group have well established al-Qaeda ties.

**What might be behind these attacks?**

**While international attention focuses on jihadists and sees their ideology as the source of the problem, there are other important dimensions. Indeed, attacks against military personnel represent only a small part of the problem as armed violence exacts a heavy albeit underreported death toll among civilians in the regions of Tillabery and Tahoua, especially among isolated nomadic communities.**

**In July 2017, alone, local representatives of the Fulani community – one of the largest ethnic group in West Africa comprised mostly of herders – claimed that militias of rival ethnic groups, the Tuareg and Doosaak (a nomadic group close to and often confused with the Tuaregs but with a distinct language) killed some 46 civilians, purportedly as part of counter-terrorism operations. Conversely, Tuareg representatives repeatedly accuse local Fulanis of murdering members of their communities with jihadist support.**

**In reality, jihadist violence often intertwines with local intercommunal tensions related to competition over natural resources and trafficking, making it difficult to distinguish the real nature and motives of many incidents.**

**Is this a home-grown problem to Niger or one that is spilling over from nearby states of the Sahel?**

Nigerien officials often claim that perpetrators of these attacks hail from neighboring Mali and especially from the Menaka region where jihadist groups are entrenched. (Crisis Group commentary, "Forced Out of Towns in the Sahel, Africa's Jihadists Go Rural", 11 January 2017). But there is far more to this than spillover from the Malian crisis. In addition to the intercommunal tensions just noted, and which reflect local Nigerien dynamics, most sources agree that jihadist groups have

taken root in the northern Tillabery region, especially but not exclusively among young Fulanis looking for ways to counter their ethnic rivals or protect their businesses or communities.

Ethnic and counter-jihadist agendas mix, at times to highly damaging effect. Authorities suspect Fulani communities in particular of having ties with jihadist groups. In turn, the Nigerien government reportedly authorized Malian Tuareg Imghad and Doosaak armed groups to hunt jihadist elements; under that pretext, those groups are said to repeatedly have targeted Fulanis from the Tahoua and Tillabery regions. Fulani representatives told Crisis Group they suspect that France – through its operation Barkhane, a military mission centered on fighting jihadist groups in the Sahel and with troops deployed in Chad, Niger, Burkina Faso and Mali – also provided support to these groups. In July 2017, Malian armed groups reportedly killed dozens of Fulani herders.

**But does the Fulani community in fact have close ties to jihadist groups?**

Jihadist groups do tend to recruit among Fulani youth, part of a strategy that aims to capitalize on intercommunal conflicts, local grievances and frustration with the state about bad governance, lack of services, unemployment and corruption. Crisis Group examined this dynamic in a previous report (Central Mali: an uprising in the making?, 6 July 2016). However, the notion of a “Fulani jihad” is dangerously misleading. It distracts from the reality that Fulani often are drawn to jihadist groups because of underlying communal tensions, not out of ideological affinity.

A similar situation exists in other West African countries (Herders against Farmers: Nigeria’s expanding deadly conflict, 19 September 2017). A central problem is that this overall dynamic paves the way for Sahelian states such as Niger, whose security apparatus already is overstretched due to threats emanating from the north (Libya) and south east (Boko Haram), to enlist ethnic-based militias as proxy counter-terrorism forces. This in turn risks aggravating intercommunal tensions and thus, in a vicious cycle, encouraging more young Fulani to seek protection from jihadist groups. Such groups adapt accordingly, forging relations with local rural and semi nomadic communities based on matrimony, business ties or the provision of protection and dispute resolution mechanisms to marginalized communities.

**Do you think this attack will lead the U.S. or other powers to change their policy toward Niger and the greater Sahel region?**

As noted, the attack against U.S. soldiers was a first for this region. It is likely to lead to increased military operations against the Islamic State in the Greater Sahara, the JNIM and other associated groups, with both French and U.S. support. Whether it will persuade the U.S. to switch its position on the G-5 Sahel, a French-backed regional military operation comprising forces from Mauritania, Mali, Niger, Burkina Faso and Chad is unclear. That force is intended to fight terrorism as well as trafficking in humans, weapons and drugs in the Sahel and expected to be deployed later this year. However, it faces a substantial funding shortfall. The French have sought funding through the UN, but thus far Washington has resisted such efforts, preferring to channel any support to the countries involved bilaterally.

**Deployment of a regional counter-terrorism force in the Sahel could be a welcome first step toward ensuring African states take responsibility for their security. But myriad questions surround the G5’s putative role and mandate, particularly its relationships with the UN Multidimensional Integrated Stabilization Mission in Mali (MINUSMA) and the French Barkhane operation already deployed in the region. Nor is the enemy well defined: many armed groups in the Sahel – and certainly not only jihadists – are involved in trafficking. Failure to clarify its mandate, which armed groups it will fight and its relationship with other forces risks stirring up further instability and could lead to a security traffic jam in the region.**

**What can the Niger government and Western partners do?**

There will be a natural temptation to up the tempo of military operations. Clearly for Niger and its Western partners, such operations are a critical component of their response to militant groups that attack security forces and whose violence and intolerance threaten state and society alike.

**Focusing only on military action would be shortsighted, however. Instead, what is urgently needed is to end the cycle of violence that is harming civilians far more than Western or Nigerien soldiers and is creating propitious conditions for the spread of jihadist groups. That entails above**

all addressing problems related to the management and sharing of natural resources and providing dispute resolution mechanisms and security for all communities.

Opening channels of communications with armed groups is another necessity. Earlier this year, the government of Niger reportedly established contacts but nascent discussions were challenging because of mutual distrust and ultimately were aborted after militant attacks on its security forces. Officials told Crisis Group that no serious negotiation could begin with these groups at this point and that the only option was military.

This too is likely to be self-defeating. Rather, the goal ought to be to try to disentangle hardcore militants from others who join these groups out of despair or for lack of viable alternative options. The government should priorities efforts to rebuild relations with nomadic communities in the northern Tillabery area, especially with the Tolebbe (a Fulani subgroup), one of the few remaining Nigerien communities that lack a district chief (“chef de canton”) recognized by the state."

"Outrage as tour operators sell “human safaris” to Andaman Islands," survival International, October 17, 2017, <https://www.survivalinternational.org/news/11839>, reported, **"Tour operators in India’s Andaman Islands are selling 'human safaris' to the reserve of a recently-contacted tribe, despite government promises to ban the practice.**

Tourists travel along a road through the Jarawa’s forest, treating tribespeople like animals in a safari park. In 2013, the Andaman government promised to open a sea route to the Islands’ most popular tourist destinations, which would stop tourists needing to drive through the Jarawa’s reserve. The sea route has recently become operational.

But despite the authorities’ commitment to ensuring all tourists would have to use the sea route, very few currently do, and the market in human safaris along the road is flourishing.

One tour company, Tropical Andamans, states that: 'The Famous Jarawa creek is a lonely planet in itself. It is the dwelling place of the oldest tribes found in these islands. The tribes known as Jarawas, are aloof from the civilized world. They are the wonder of the modern world, for they feed on raw pigs, fruits, and vegetables. They don’t speak any language known to general public. Their pitch black skin and red eyes will leave you dazzled in case you happen to meet them.'

A tourist website, Flywidus, offers a glimpse of 'primitive tribals' to tourists driving through the Jarawa reserve, and another, Holidify, describe the Jarawa as a 'major attraction' and claims that the Jarawa 'love the high of specific drugs, one of it being tobacco.'

**In 2002 India’s Supreme Court ordered the road closed, but it has remained open continuously despite pressure from human rights campaigners.**

Survival International led a global campaign against the human safaris, calling for a boycott of the Andaman tourist industry until they came to an end. Nearly 17,000 people from around the world pledged not to holiday in the islands in protest.

In a recent statement, the Andaman government said that the road: '...shall remain open for the use of both islanders and the tourists as no decision has been taken by this Administration for closing it down for the tourists. However, the tourists have been advised to avail boat service.'

– The road brings a daily invasion of hundreds of tourists into the heart of the Jarawa reserve. The promotion by tour operators of sightings of the Jarawa is illegal in the islands, but this is not being enforced.

– The UN, India’s Minister for Tribal Affairs and members of the European Parliament have all condemned the practice.

– One tourist described his trip: “The journey through tribal reserve was like a safari ride as we were going amidst dense tropical rainforest and looking for wild animals, Jarawa tribals to be specific.”

– The Jarawa, like all recently contacted peoples, face catastrophe unless their land is protected.

– The human safaris are also dangerous – one Jarawa boy lost his arm after tourists threw food at him from a moving vehicle. They sparked global outcry in 2012 after footage emerged of a tourist forcing several Jarawa girls to dance.

– Tribal peoples’ land rights have been part of international law for generations. The key to their survival and prosperity is to ensure their land remains under their control.

– All uncontacted and recently contacted tribal peoples face catastrophe unless their land is protected. Survival International is leading the global fight to secure their land for them, and to give them the chance to determine their own futures.

Survival's Director Stephen Corry said: "The new sea ferry was supposed to stop tour buses driving through Jarawa land, and so put an end to these dangerous and disgusting human safaris. But the government wants it to be optional which defeats the purpose entirely. Tourist companies are still selling the safaris and profiting from the exploitation of tribal people. Ethical tourists should boycott the islands until this is stopped."

"Serial poacher's arrest exposes failure to protect world's most isolated tribe," Survival International, August 3, 2017, <https://www.survivalinternational.org/news/11764>, **"A man has been arrested for the ninth time for poaching sea turtles and illegally entering a tribal reserve in India's Andaman Islands. The islands are home to uncontacted and recently contacted tribes, who could be wiped out if the authorities fail to protect them."**

The man, named by Andaman police as Narayan Roy, and an accomplice, were found with a bag containing a dead sea turtle. Local press has reported that he had previously been released on bail nine times for "entering the Jarawa Tribal Reserve, poaching and exploitation of the tribe."

The reserve is home to the Jarawa, who have only had contact with the settlers who have lived near their reserve since 1998. They are extremely vulnerable to violence and sexual exploitation from outsiders, diseases to which they have no resistance, and the loss of animals which they hunt to feed their families.

**Although poaching in the reserve carries the penalty of mandatory imprisonment and a fine, Mr. Roy has been repeatedly released.** Campaigners are concerned that this shows that the Andaman authorities lack the political will to provide the protection which the Jarawa need.

Survival International, which has been campaigning for the rights of the tribes in the Andamans for decades, has written to the Andaman authorities urging them to implement their own policies and clamp down on poaching in the tribal reserves.

As well as the Jarawa, the Andaman Islands are home to the uncontacted Sentinelese tribe, the most isolated tribe in the world. If poaching is allowed to continue similarly unchecked in other parts of the Andamans the very survival of the Sentinelese is also at risk.

**The arrest follows alarming reports suggesting that poachers and illegal fishermen have been getting extremely close to the Sentinelese, who live on nearby North Sentinel Island.**

Officially, India has a "hands-off, eyes-on" policy – protecting the Sentinelese from forced contact but monitoring them, from a distance, to check for problems. However, recent comments from the tribal affairs ministry in New Delhi have raised concerns that a more active approach might be adopted.

Minister Jural Oram reportedly said: "Today it is not yet clear how many of them are alive. We need to do something otherwise they will become extinct one day... making contact with the Sentinelese still remains a challenge."

Uncontacted tribes like the Sentinelese are the most vulnerable people on the planet. They are at risk of being wiped out by violence from outsiders who steal their land and resources, and diseases like flu and measles to which they have no resistance.

Although the Jarawa have had limited contact with settlers living near their forest for almost twenty years, they remain extremely vulnerable. In 1999 and 2006, the tribe suffered from outbreaks of measles, a disease which has wiped out many tribes worldwide following contact with outsiders.

**There is concern that unless more is done to protect the boundaries of the Jarawa reserve and the seas around North Sentinel Island, and to prosecute those who steal their food, the tribes could face further disasters. These tribes rely entirely on the foods they can hunt and gather from the sea and the forest in order to continue their self-sufficient ways of life.**

Survival is leading the global fight for uncontacted tribes' rights. The organization launched a film in May 2017 starring actors Sir Mark Rylance and Gillian Anderson, with the aim of spreading the message that uncontacted tribes face catastrophe unless their land is protected.

Survival's Director Stephen Corry said: "The Indian government is responsible for ensuring that the Jarawa, Sentinelese and other Andaman tribes can determine their own futures, unmolested by outsiders. They should learn from the dreadful experiences of forced contact that took place under British colonial rule, when whole tribes were wiped out. The Jarawa and Sentinelese must have their land protected, or they face annihilation."

"Guard's arrest backs up tribals' claim that many Kaziranga "poachers" were innocent," Survival International, August 10, 2017, <https://www.survivalinternational.org/news/11737>, **"A forest guard in India's notorious "shoot on sight" Kaziranga National Park has been arrested, after an incident that local people say proves their longstanding claim that many people shot as 'poachers' are innocent local people.**

**Three villagers, one from the local Mising tribe, have been tortured and beaten by Kaziranga forest officials after selling cattle at a market. They report that officials took their money, beat them, and threatened to shoot them and claim they were poachers caught in the act.**

**One of the villagers managed to escape and get help. Subal Bawri, a tribal man, tried to intervene and was also badly beaten. The victims believe that had other villagers not arrived they would have been killed.**

The men have made a formal police complaint against their treatment, and protests have been held by local people. **They claim that this is an abuse of the legal immunity guards have been granted, supposedly to help them protect wildlife. One forest guard has been arrested.**

Subal Bawri said: 'I saw the beat officer [forest guard] and two battalion men [from the Assam Forest Protection Force]. The battalion men were holding both the hands of Arshad Ali and the beat officer had a stack of money in one of his hands and a broken bottle in the other and I very distinctly heard him say, 'I will murder you with this bottle, take you by the river and shoot you.' Hearing this I got very angry and asked them if they are Gundas [villains]. I also said that the government is giving you this uniform and also spending so much money for you to do your duty in Kaziranga, have you come here to murder? So this is how you have been framing innocent people as poachers and you are protecting the real ones.' He was subsequently grabbed by the throat and beaten by two officers.

**Witnesses report hearing the guards specifically threaten to shoot two of the men and claim they were poachers.**

**Kaziranga guards have effective immunity from prosecution and are instructed to shoot poaching suspects on sight. 106 people were reportedly killed there in a twenty year period, including a severely disabled tribal man who had wandered over the park's unmarked boundaries.**

The park was the subject of a BBC report, 'Killing for conservation,' after Survival International led a global outcry over the "shoot on sight" policy, and over the shooting of a seven-year-old tribal boy in July 2016. The boy, Akash Orang, is now maimed for life.

**Several Kaziranga park officials have been arrested for involvement in the illegal wildlife trade,** despite being employed to protect the endangered one-horned rhinos and tigers which live in the park.

Survival International is leading the global campaign against abuses in the name of conservation, and in favor of a conservation model that respects tribal peoples' rights.

Tribal peoples have been dependent on and managed their environments for millennia. They are the best conservationists and guardians of the natural world. In one tiger reserve in southern India where tribal people won the right to stay, tiger numbers have increased at dramatically above the Indian national average.

Despite this, tribal people face arrest and beating, torture and even death, in the name of conservation.

Survival's Director Stephen Corry said: **'Incidents like this show the true face of conservation as practiced in places like Kaziranga: horrendous violence and corruption among officials, with tribal people then blamed for harming the environment. It's a con. And it's harming conservation. When will people wake up to the fact that the current conservation model is killing tribal peoples? This sort of horror is not going to protect the rhino or the tiger.'**



"India: Tribal leader dies in police custody – as tribe denounce harassment campaign," Survival International, June 28, 2017, <https://www.survivalinternational.org/news/11724>, reported, "**A leader of a tribe in India, which made headlines around the world when it won a David and Goliath battle against a British mining corporation, has died in police custody – following a violent police campaign of harassment and intimidation against activists.**"

**Bari Pidikaka of the Dongria Kondh tribe was arrested and detained on his way back from a protest in October 2015, and died this week.**

The Dongria from central India report systematic 'intimidation, abduction and wrongful incarceration' of their leaders by state police, who they claim are acting to "further the interests" of Vedanta Resources, a British-based mining company.

Local police also arrested Kuni Sikaka, a 20-year-old Dongria activist and relative of the two most prominent Dongria leaders. She was dragged out of her house at midnight, despite the fact that police had no warrant.

**She was then paraded in front of officials and local media as a "surrendered Maoist [member of an armed resistance group]" despite there being no evidence to support this.**

**Other members of the tribe have also faced brutal harassment.** Activist Dasuru Kadraka has been detained without trial for over 12 months. Dongria have been beaten, and tortured with electric wires to force them to stop campaigning for their rights.

With the support of local officials, Vedanta has previously attempted to pressure the tribe into allowing bauxite mining on their ancestral land in the Niyamgiri Hills. In a historic referendum in 2013, the tribe unanimously rejected the proposal.

But the Dongria fear that, as long as Vedanta operates its refinery at the foot of the hills, the threat of mining remains. Those detained claim that police demanded that they stop protesting against the mine.

**In an open letter to the President of India, over 100 independent Indian organizations said: 'In the last 2-3 years, several Dongria Kondh youth and elders have been arrested, harassed, and killed, and one has committed suicide after repeated harassment and alleged torture by security forces. In none of these cases have [officials] been able to produce evidence linking them to so-called Maoists.'**

Dasuru Kadraka said: 'I was arrested and taken to the superintendent of police's office. There I was tortured with my hands tied and electric wires attached to my ears and electric shock given to me, to force me to surrender... and to make me leave the Save Niyamgiri movement. But I refused... The movement is my life, I will never stop protecting the Niyamgiri hills and forests.'

The Dongria Kondh's right to their ancestral land has been recognized in Indian and international law. Survival International led the global campaign to protect their land, and will continue to fight for the Dongria to be allowed to determine their own futures without harassment.

Survival's Director Stephen Corry said: **'It's now clear that there's a brutal campaign to harass, intimidate and even murder the Dongria Kondh, to weaken their resistance to the exploitation of their land. But the Dongria are absolutely determined to protect the Hills, which not only provide them with food, housing and clothing, but are also the foundation of their identity and sense of belonging.'**

Angelica Rao, "THE NEW VOICES OF NEPAL COMMUNITY RADIO," Cultural Survival, September 2017, <https://www.culturalsurvival.org/publications/cultural-survival-quarterly/new-voices-nepal-community-radio>. **"Deep in the center of the bustling city of Kathmandu, where life continues amidst the rubble of the 2015 earthquake that shook Nepal to its core, 30 women from 11 different Indigenous communities convened for a radio journalism training this past June led by Cultural Survival, Radio Namobuddha, and Indigenous Media Foundation. In Nepal, a country with 125 caste and ethnic groups, 59 of whom are officially recognized Indigenous groups and 123 spoken languages, Indigenous community radio is the main source of news, education, and information for many Indigenous Peoples.**

**However, women's presence in radio has been limited.** Workshop participant Sampoda

Yangyun, explains: 'The idea is that men are the ones with the knowledge. They read the newspaper, sit in cafes, and have careers. Women are the ones who raise the families and stay at home. It's hard to prove that you are worthy of having your voice heard.'

Nevertheless, **young women are committed to paving the way for Indigenous women in Nepal, who are determined to have their voices heard, and to bring women's issues to the public realm and advocate on behalf of their rights often against the status quo.** Over the course of the five-day workshop, participants learned about a vast array of topics ranging from basic journalism and the role of community radio to field reporting, news gathering and news writing, Indigenous women's history in Nepal and the current tragedy of human trafficking, to technical skills such as program formatting, editing, and mixing.

Sangeeta Lama, an Indigenous woman journalist with more than 25 years' experience in the field, motivated participants with her story of overcoming adversity and rising to the top of the journalism field in Nepal. "People don't get involved in radio because they are pressured to . . . it is a passion, it comes from within," she said. For Indigenous women, there are many barriers to overcome. In Indigenous communities in Nepal, a woman's reputation is placed under fierce scrutiny; something as minor as sitting in a coffee shop to conduct an interview with a male figure can have grave consequences for a woman and her family's reputation.

**In addition to cultural constraints, there are also security concerns for women journalists. Commuting to and from the radio station early in the morning and late at night, conducting interviews with men, and travelling to unsavory places to conduct interviews can be dangerous for women in the field.** For Palpal Moktan Tamang, participant from Radio Kairan, these two barriers are often compounded. "It is a very long and potentially dangerous walk to and from the radio [station], so walking with a male colleague is necessary, but it isn't acceptable for women to walk alongside men in public. I try to use the radio to open the minds of the villagers to these realities, but it is difficult," she said. Lama asserts that this career choice is not for the weak willed. "It will take plenty of hard work, plenty of resistance against the status quo and plenty of perseverance and persistence over a long period," she says.

Luckily there is no lack of will for the women in this group. For many, working in their community stations has been a lifelong aspiration. For Asmita Ghising Tamang, having her own Tamang radio program has been a dream ever since she listened to a local Tamang radio station as a child and was inspired by literature programs in her native language. She was in seventh grade when she first started writing poetry, songs, and stories. "I always knew that I would make a great radio broadcaster, but I just didn't have the skills or the training. Now I know that I can do it. I've already filled out an application at the [station] in my village, and once I'm done here I'll go back and show them my diploma," Tamang said.

Other participants already have their foot in the door at their local community station, but they dream of making an impact for women in their communities. Satisha Suwal, a young woman who has been working for just over a year at Radio Janasanchar in Bhaktepur, 25 kilometers from Kathmandu, explained that she wants to have a program that is focused solely on women's empowerment. She said wants to see more women standing up for their rights and believes that a program would be a good way of inspiring them to do that: "As a woman, it can be scary to fight for your rights for fear of what society or [your husband] might say, but there are examples of women who are making changes in society. Change is gradual and it must happen at the individual level first. To see change, we must first change ourselves."

The participants in the workshop are women bringing about just this type of change. They are women who refuse to be limited to traditional roles and believe in their ability to break barriers, using radio as their tool. However, filling the void of professional women journalists available to work in radio is only half the battle. Another challenge is making radio a space that is inclusive of women, not just in the lowest positions, which they typically inhabit, but as journalists, station managers, and members of the governing bodies that make decisions about station programming and policies.

Although there is a long road to equality for women in community radio in Nepal, four community radio stations funded by Cultural Survival's Community Media Grants Program, took crucial steps to create more inclusive spaces for women in community radio. Radio Kairan, Radio

Sumatlung, Radio Likhu, and Radio Namobuddha took part in a two-day workshop aimed at developing policies for gender equality and social inclusion at their community stations. Through it, the women succeeded in attaining short paid maternity leaves, quotas for women's participation in leadership and broadcasting roles, and responses to security issues, among other victories. Roshani Danuwar of Radio Namobuddha pointed out, "It is important to have things written down because then our rights are not left to the whim of whoever the station manager is at the time."

However, having written policies and women trained in journalism are only the first steps. Sampoda Yangyun, a participant who was accompanied by her 8-year-old son, highlighted how discouraging community radio can be for women. "They said I had a very nice voice, but that as a mother, I don't have the time or the training to do what it takes to be a journalist." She explained that with this training opportunity, she is confident that she will prove that she can do the work, and perhaps the station managers will be willing to give her a shot. Significant changes in gender equality and view on women as journalists need to take place for women to truly succeed, and these women feel confident in their role in playing a key part in this change.

Sachita Singh Tharu, a new mother who is making her way back to community radio, said, "Women need the guts to break the cycle." Tharu plans to develop an awareness-raising program to make girls realize their power, worth, and rights in society and hopes that through this and initiatives like it, her daughter's generation will no longer face the same barriers. "I of course want my daughter to follow in my footsteps and be a radio journalist as well, but my dream is that she holds a leadership position in the radio."

"Suffering of Jumma tribes continues 20 years after peace accord," Durvival International, December 2, 2017, <https://www.survivalinternational.org/news/11873>, reported, **"On the 20th anniversary of the peace accord between the Jumma tribal peoples and the Bangladesh government, campaigners have raised concerns that successive Bangladeshi administrations have failed to implement this vital agreement, or protect the Jumma.**

**The tribe continue to face endemic violence, land-grabbing and intimidation on their ancestral land in the Chittagong Hill Tracts (CHT). Jumma women and girls are frequently subjected to rape and sexual assault.**

**The Bangladesh government has been moving Bengali settlers onto the lands of the Jumma tribal people for more than 60 years. The Jummas have gone from being practically the sole inhabitants of the Hill Tracts to now being outnumbered by settlers.**

**In June this year, at least 250 houses belonging to Jummas were burnt to the ground by Bengali settlers. An elderly woman, Guna Mala Chakma, was trapped in her home and burned to death.**

Eyewitnesses report that army and police personnel stood by and did nothing as settlers set fire to Jumma houses and shops in three different villages.

On 2 December 1997 the government and the Jummas signed a peace accord that committed the government to removing military camps from the region and to ending the theft of Jumma land by settlers and the army.

The accord offered hope, but twenty years on military camps remain in the Hill Tracts and violence and land grabbing continue unabated."

Austin Ramzy, "More Than 70 Killed in Fighting in Western Myanmar," *The New York Times*, August 25, 2017, <https://www.nytimes.com/2017/08/25/world/asia/myanmar-rakhine-killed-kofi-annan.html?ref=todayspaper>, **"More than 70 people were killed on Friday in clashes between militants and security forces in Rakhine State in western Myanmar, which outside observers called a worrying upsurge of violence in the troubled region.**

The dead included at least 12 members of the security forces and at least 59 Rohingya insurgents, according to a statement from the office of Myanmar's de facto leader, Daw Aung San Suu Kyi. Myanmar's armed forces said the militants used knives, small arms and explosives in coordinated early-morning attacks on several police and military posts around Buthidaung and Maungdaw, near Myanmar's border with Bangladesh."

**The late August fighting led to atleast another 18,500 Rohingya fleeing eastern Myanmar into Bangladesh** (Megan Specia, "Violence in Myanmar Pushes at Least 18,500 Rohingya Into Bangladesh," *The New York Times*, August 30, 2017, <https://www.nytimes.com/2017/08/30/world/asia/myanmar-rohingya-flee-bangladesh.html?ref=todayspaper>).

Hannah Beech and Austin Mamzy, "Refugees' Flight and Land Mines Spur Bangladesh Protest to Myanmar," *The New York Times*, September 6, 2017, <https://www.nytimes.com/2017/09/06/world/americas/bangladesh-rohingya-land-mines.html?ref=todayspaper>, reported, **"Bangladesh on Wednesday protested the huge influx of people fleeing violence in Myanmar and raised concerns with Myanmar's government about reports that its military was placing land mines along the countries' shared border."**

**Bangladesh 'demanded immediate measures from Myanmar to de-escalate the ongoing violence,'** according to a statement from the Bangladesh Foreign Ministry."

**Those fleeing are almost all Rohingya, a Muslim minority long persecuted and denied citizenship rights in largely Buddhist Myanmar. Attacks against police stations and a military base, August 25, 2017, by a Rohingya militia group, in response to harsh treatment of the Rohingya living near the Bangladesh border, were met by the military and mobs of ethnic Rakhine torching Rohingya villages shooting at fleeing residents. More than 146,000 Rohingya have fled the current violence, joining some 400,000 who previously fled to Bangladesh.**

**Numerous Muslim nations, as well as human rights groups, have protested the anti-Rohingya actions by the Myanmar military and by some of the country's civilians.**

ICG, *The Rakhine State Danger to Myanmar's Transition*, Asia/Statement, September 8, 2017, <https://www.crisisgroup.org/asia/south-east-asia/myanmar/rakhine-state-danger-myanmars-transition>, commented, **"The violence since 25 August that has driven 270,000 Rohingya civilians over Myanmar's border into Bangladesh is not just causing a humanitarian catastrophe. It is also driving up the risks that the country's five-year-old transition from military rule will stumble, that Rohingya communities will be radicalised, and that regional stability will be weakened.**

Since 2012, the International Crisis Group repeatedly has warned that, if left unresolved, Rakhine State's volatile dynamics pose a major risk to Myanmar's transition. If dealt with primarily through a heavy-handed, indiscriminate security response, rather than in the framework of a political strategy, the dangers were clearly set to become far worse. The events of recent weeks are not just causing enormous suffering to civilians, but bring Myanmar precipitously close to just such an unraveling of much that has been achieved since the end of military rule.

**The 25 August attacks on Myanmar security forces by the militant group Arakan Rohingya Salvation Army (ARSA), also known as Harakah al-Yaqin, which the government has designated a terrorist group, undoubtedly were intended as a provocation. Neither these attacks nor the reported killing of non-Rohingya civilians, at least some of which are undoubtedly the work of the group, are excusable, no matter what political agenda they claim to represent. Any government has the responsibility to defend itself and the people living in the country. At the same time, such government security responses need to be proportionate and not target civilians.**

It is extremely difficult to verify the numerous reports of atrocities amid the confusion and chaos, and very limited access for media and humanitarian agencies. Yet even if specific allegations cannot be proven, the scale of the crisis is clear. **Error! Hyperlink reference not valid.** to the Bangladesh-Myanmar border and across are telling, both in terms of their numbers and the accounts they bring. **The vast majority of these people, mostly women and children, are unlikely to be militants. Along with some 87,500 who fled a previous upsurge in violence in October 2016, nearly half of Myanmar's estimated one million Rohingya may now have been forced from their homes.**

**It may indeed be difficult for the government to distinguish between ARSA members and other Rohingya. The events of last year and recent weeks, particularly the heavy handed military response in the wake of the October 2016 and August 2017 attacks, appear to have promoted a sense among Rohingya that a general uprising is underway. But operationally challenging as this is, it cannot be an excuse for military action against the general population. By doing so, the**

military will not quell the crisis, but rather play straight into the hands of ARSA by increasing the sense of grievance and hopelessness.

It is similarly vital to treat with utmost caution claims that the current crisis is being fueled by militants with transnational jihadist aims. Rohingya communities have not typically been radicalized in this fashion and there are no indications that ARSA has been pursuing goals congruent with those of global jihadist outfits. While there may be domestic political imperatives or gains to be had for politicians in the region to make these claims, doing so is deeply dangerous.

If the Myanmar government chooses to continue a massive military response against the general population, even if parts of this population may be sympathetic to ARSA, or publicly to treat the violence as the work of jihadists, it risks creating conditions for the entrenchment or rise of those very same dynamics. An alienated, desperate and dispossessed population that is shunned by the country it claims as its home and by neighbors is ripe for exploitation by such groups and may believe it has little to lose if it were to turn to violence. The risks to those who live in Myanmar, the country's transition and regional stability are considerable.

There is no military solution to the crisis in Rakhine state. The Myanmar government will find no success, only long term violence and crisis, if it uses the presence of militants and the growth of some sympathy for them, as an excuse to address in an extreme manner the long-standing challenges of Rakhine state. The path to stability lies in dealing head on with the fears, claims and desires of all groups in the state, Rakhine, Rohingya and other minorities. This political path is difficult and will require compromises many may find distasteful. But taking this road is the only way to reduce the risks of serious violence, more displacement and greater human misery."

ICG, "Building Critical Mass for Peace in Myanmar," Asia Reported 287, June 29, 2017, <https://www.crisisgroup.org/asia/south-east-asia/myanmar/287-building-critical-mass-peace-myanmar>, commented, **"Despite important progress at the 24-29 May 2017 round of peace talks, the path toward a negotiated end to Myanmar's conflicts remains fraught with difficulties. All sides must redouble their engagement to broaden armed groups' participation in the talks, and improve the implementation of the Nationwide Ceasefire Agreement.**

#### **Executive Summary**

Myanmar's latest peace conference, held on 24-29 May 2017, made welcome progress. Following a deal brokered by China on the eve of the meeting, more armed groups came to Naypyitaw than expected. On the final day, they agreed on 37 "principles" for a future peace accord, including a key provision that the state will be a federal democracy. Yet despite these steps forward, fundamental questions remain regarding where the peace process is heading and how many armed groups are ready to participate. Without new momentum and broader participation, a negotiated end to the conflict will remain elusive.

Until just days before the conference, the dynamics appeared much bleaker. The event had been delayed by three months as the government struggled to convince more armed groups to sign the Nationwide Ceasefire Agreement (NCA). Only a few of the planned subnational preparatory dialogues had been held, and others – involving the Shan and Rakhine armed groups – had been blocked by the authorities, adding to frustration. In a further setback, in April the powerful United Wa State Party (UWSP) convened a summit of seven north-east-based armed groups. They issued a statement rejecting the current National Ceasefire Agreement text – an accord signed in 2015 by eight armed groups and the government that paved the way for political talks – and announcing a new alliance, the Federal Political Negotiation and Consultative Committee (FPNCC, "Wa alliance"). A deadlock appeared inevitable since the government and military continued to insist that only by signing the existing ceasefire agreement could armed groups join the peace process.

What would have been a high-profile failure of Aung San Suu Kyi's signature initiative was only avoided through Beijing's last-minute shuttle diplomacy. After obtaining concessions from the Myanmar government and military, a Chinese envoy convinced representatives of the seven north-eastern armed groups to attend the conference. As a result, fifteen of 21 armed groups were present for the opening – the eight that signed the ceasefire agreement and the seven in the new Wa alliance – a

symbolically important win for the government. Beyond symbolism, this also set an important precedent by allowing three previously-excluded groups – the Kokang, Palaung and Arakan armies – to join negotiations. It also could open up new channels of communication with groups in the Wa alliance.

Yet progress should not be overstated. The Wa alliance groups attended the opening session and dinner but were not permitted to participate in substantive sessions and returned to Kunming two days before the end of the conference. They remain unwilling to sign the current ceasefire agreement and the government remains unwilling to revise it. It is unclear how much appetite there is on all sides for concessions needed to bring these groups into the peace process.

Discussions with the armed groups that signed the ceasefire agreement also were far from smooth. Key 'principles' related to self-determination and the possibility for states to have their own constitutions within a future federal structure could not be agreed as groups opposed the quid pro quo requirement that they reject any possibility of secession. This failure to achieve what should have been an acceptable compromise – state constitutions are a longstanding demand of ethnic communities and no group wishes to secede – highlighted deficiencies in the process and lack of trust. Furthermore, the principles that were agreed were pushed through the plenary without discussion.

With its last-minute intervention, China has assumed a high-profile role in the process. But the extent of its commitment remains unclear and its interests do not necessarily align with those of a robust peace process. If it stays focused only on delivering symbolic wins at critical moments, little may change. But if China is determined to see sustainable peace on its border, it can use its considerable leverage as well as sophisticated diplomacy and mediation to push all sides to compromise."

Nick Cumming-Bruce, "Myanmar's Rohingya Actions May Be Genocide, U.N. Official Says," *The New York Times*, December 5, 2017, [https://www.nytimes.com/2017/12/05/world/asia/myanmar-rohingya-genocide-un.html?ref=todayspaper&\\_r=0](https://www.nytimes.com/2017/12/05/world/asia/myanmar-rohingya-genocide-un.html?ref=todayspaper&_r=0), reported,

**"Myanmar came under renewed international pressure on Tuesday for its treatment of Rohingya Muslims as United Nations officials said it should be investigated for crimes against humanity and possibly genocide by security forces.**

The country's security forces **"deliberately and massively targeted civilians"** in operations that drove more than 626,000 Rohingya, half the population of Rakhine State, into neighboring Bangladesh, Zeid Ra'ad al-Hussein, the United Nations high commissioner for human rights, told a special session of the Human Rights Council that convened in Geneva on Tuesday."

Fortify Rights, "Thailand: Government Officials Convicted of Human Trafficking, Organized Crime: Verdicts delivered in Thailand's largest human trafficking trial," July 20, 2017, [http://www.fortifyrights.org/donate.html?ct=t\(Thailand\\_Senior\\_Officials\\_Convicted\\_of\\_H7\\_20\\_2017\)&mc\\_cid=7c72b51b11&mc\\_eid=24e6ca1455](http://www.fortifyrights.org/donate.html?ct=t(Thailand_Senior_Officials_Convicted_of_H7_20_2017)&mc_cid=7c72b51b11&mc_eid=24e6ca1455), reported, **"Criminal Court in Thailand yesterday sentenced 62 defendants, including senior government officials, to up to 94 years' imprisonment for crimes including trafficking and murdering Rohingya refugees from Myanmar and Bangladeshis in 2015. These verdicts mark a step forward for Thailand's efforts to combat human trafficking, but authorities should reopen the investigation into the trafficking of tens of thousands of Rohingya and Bangladeshis from 2012 to 2015, said Fortify Rights."**

Ruth Aby Gita, "NYC chair urges gov't protect 'peace zones'," *SunStar Manila*, August 15, 2017, <http://www.sunstar.com.ph/manila/local-news/2017/08/15/nyc-chair-urges-govt-protect-peace-zones-558583>, reported, **"The chairperson of the National Youth Commission (NYC) on Tuesday appealed to the military and other groups involved in the conflict in Mindanao to treat schools, including Lumad schools, as zones of peace. 'The youth, along with other vulnerable and marginalized sectors, must be protected. Peace zones, including schools, hospitals, and religious structures must be free from the presence of state or non-state armed groups,' NYC chair Aiza**

Seguerra told reporters in Malacañang. **Seguerra's statement came after President Rodrigo Duterte said last month that he would order the police and the military to bomb the schools of the indigenous peoples**, which have been used to 'hate government and eventually go to war.' In July, Duterte warned of bombing Lumads' 'illegal learning institutions' that continue to operate even without the clearance or permit of the government."

Jacqueline Williams, "Australia to Ban Climbing on Uluru, a Site Sacred to Indigenous People," *The New York Times*, November 1, 2017, <http://www.nytimes.com/pages/todayspaper/index.html>, reported that, "board members of Uluru-Kata Tjuta National Park, which manages the popular site also known as Ayers Rock, a sacred site to the Anangu people who call it Uluru, banned climbing on the site beginning in 2019."

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## DIALOGUING

### IMPORTANT MESSAGE FROM THE KEEPER OF THE SACRED WHITE BUFFALO CALF PIPE

Chief Arvol Looking Horse

Republished from ICTMN, September 7, 2017,  
<https://indiancountrymedianetwork.com/news/opinions/important-message-from-keeper-of-sacred-white-buffalo-calf-pipe/>,

I, Chief Arvol Looking Horse, of the Lakota, Dakota, and Nakota Nations, ask you to understand an Indigenous perspective on what has happened in America, what we call "Turtle Island." My words seek to unite the global community through a message from our sacred ceremonies to unite spiritually, each in our own ways of beliefs in the Creator.

We have been warned from ancient prophecies of these times we live in today, but have also been given a very important message about a solution to turn these terrible times.

To understand the depth of this message you must recognize the importance of Sacred Sites and realize the interconnectedness of what is happening today, in reflection of the continued massacres that are occurring on other lands and our own Americas.

I have been learning about these important issues since the age of 12 when I received the Sacred White Buffalo Calf Pipe Bundle and its teachings. Our people have strived to protect Sacred Sites from the beginning of time. These places have been violated for centuries and have brought us to the predicament that we are in at the global level.

Look around you. Our Mother Earth is very ill from these violations, and we are on the brink of destroying the possibility of a healthy and nurturing survival for generations to come, our children's children.

Our ancestors have been trying to protect our Sacred Site called the Sacred Black Hills in South Dakota, "Heart of Everything That Is," from continued violations. Our ancestors never saw a satellite view of this site, but now that those pictures are available, we see that it is in the shape of a heart and, when fast-forwarded, it looks like a heart pumping.

The Diné have been protecting Big Mountain, calling it the liver of the earth, and we are suffering and going to suffer more from the extraction of the coal there and the poisoning processes

used in doing so.

The Aborigines have warned of the contaminating effects of global warming on the Coral Reefs, which they see as Mother Earth's blood purifier.

The indigenous people of the rainforest say that the rainforests are the lungs of the planet and need protection.

The Gwich'in Nation in Alaska has had to face oil drilling in the Arctic National Wildlife Refuge coastal plain, also known to the Gwich'in as "Where life begins."

The coastal plain is the birthplace of many life forms of the animal nations. The death of these animal nations will destroy indigenous nations in this territory.

As these destructive developments continue all over the world, we will witness many more extinct animal, plant, and human nations, because of mankind's misuse of power and their lack of understanding of the "balance of life."

The Indigenous people warn that these destructive developments will cause havoc globally. There are many, many more indigenous teachings and knowledge about Mother Earth's Sacred Sites, her chakras, and connections to our spirit that will surely affect our future generations.

There needs to be a fast move toward other forms of energy that are safe for all nations upon Mother Earth. We need to understand the types of minds that are continuing to destroy the spirit of our whole global community. Unless we do this, the powers of destruction will overwhelm us.

Our Ancestors foretold that water would someday be for sale. Back then this was hard to believe, since the water was so plentiful, so pure, and so full of energy, nutrition and spirit. Today we have to buy pure water, and even then the nutritional minerals have been taken out; it's just empty liquid. Someday water will be like gold, too expensive to afford.

Not everyone will have the right to drink safe water. We fail to appreciate and honor our Sacred Sites, ripping out the minerals and gifts that lay underneath them as if Mother Earth were simply a resource, instead of the source of life itself.

Attacking nations and using more resources to carry out destruction in the name of peace is not the answer! We need to understand how all these decisions affect the global nation; we will not be immune to its repercussions. Allowing continual contamination of our food and land is affecting the way we think.

A "disease of the mind" has set in world leaders and many members of our global community, with their belief that a solution of retaliation and destruction of peoples will bring peace.

In our prophecies it is told that we are now at the crossroads: Either unite spiritually as a global nation, or be faced with chaos, disasters, diseases, and tears from our relatives' eyes.

We are the only species that is destroying the source of life, meaning Mother Earth, in the name of power, mineral resources, and ownership of land. Using chemicals and methods of warfare that are doing irreversible damage, as Mother Earth is becoming tired and cannot sustain any more impacts of war.

I ask you to join me on this endeavor. Our vision is for the peoples of all continents, regardless of their beliefs in the Creator, to come together as one at their Sacred Sites to pray and



meditate and commune with one another, thus promoting an energy shift to heal our Mother Earth and achieve a universal consciousness toward attaining Peace.

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## **BUSINESS AS USUAL: MINNESOTA GOVERNOR SET TO PICK US SENATOR #NATIVEVOTE18**

Mark Trahant\*

Republished with author's permission from *Trahant Reports*, December 13, 2017, <https://trahantreports.com/2017/12/13/business-as-usual-minnesota-governor-set-to-pick-us-senator-nativevote18/>.

Minnesota Gov. Mark Dayton has scheduled a news conference Wednesday to announce his pick for the U.S. Senate. The StarTribune reports it will be, as expected, his Lt. Gov. Tina Smith.

“In selecting Smith, the governor is choosing one of his most trusted advisers and someone who has worked for years traveling the state and building relationships with influential DFLers (Democrats) and business leaders,” the StarTribune said.

That’s all well and good. It’s business as usual. The safe bet. Then we in Indian Country know what could have been ... and why Peggy Flanagan [White Earth Ojibwe] would have made history. Then, here is the good part, she’s still a candidate for Lt. Gov. in November 2018. And there is reason to think that down the road she could very well be the inside pick for such an office. And so we ought to do all we can to see that Flanagan wins her race. There are six Democrats running in the Minnesota primary for governor. (Flanagan is running with U.S. Rep. Tim Walz and she is the only declared candidate for Lt. Gov.) At least seven Republicans are also seeking election to the Minnesota governor’s office.

Then November already looks to be interesting. There are now eleven Native candidates running for Congress, Governor, and Lt. Gov. There are also new candidates running for state legislatures, county commissions, and to run cities. Give President Donald Trump credit: His actions (or is that his craziness?) encourages people to run for office. We need more of that, not less. (I will post a legislative preview of Native candidates in January.)

Voters in Virginia and Alabama are demonstrating that there is a growing wave; one that could reshape Congress, state houses, and legislatures.

\* Mark Trahant is an independent journalist and a faculty member at the University of North Dakota as the Charles R. Johnson Endowed Professor of Journalism. He was recently elected as a member of the American Academy of Arts and Sciences.

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## **UPDATED #NATIVEVOTE18 MAP FOR NATIVE AMERICAN CANDIDATES RUNNING FOR CONGRESS, GOVERNOR, LT. GOVERNOR**

Mark Trahant\*

Republished with author's permission from *Trahant Reports*, December 9, 2017, <https://trahantreports.com/2017/12/09/updated-nativevote18-map-for-native-american-candidates-running-for-congress-governor-lt-governor/>.

Updated list of candidate for Congress and statewide offices. Working now on the list of

candidates for state legislatures. (Drop me a line if you know of a candidate who ought to be in this database. Thanks. Mark.)

This is a Google fusion table with three tabs. The first is a spreadsheet; second is note cards for each candidate, and tab 3 is the interactive map.



Grid: Yellow pins are Independents; Red, Republicans; Blue, Democrats and Green for Green Party.  
(*Trahant Reports*)

\* Mark Trahant is an independent journalist and a faculty member at the University of North Dakota as the Charles R. Johnson Endowed Professor of Journalism. He was recently elected as a member of the American Academy of Arts and Sciences.

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**PAULETTE JORDAN: WHAT ARE YOU GOING TO DO TO IMPROVE THE WORLD?  
RUN FOR GOVERNOR #NATIVEVOTE18**

Mark Trahant\*

Republished with author's permission from *Trahant Reports*, December 8, 2017,

Paulette Jordan is running for governor of Idaho. This is a big deal in so many ways. First, there have been very few Native Americans who have ever run at that level (Alaska's Byron Mallott, Idaho's Larry EchoHawk, and Peggy Flanagan in Minnesota). Second, she's the first Native woman who has the audacity to ask citizens to run their state. Yay! And third: She already knows how to win over conservative voters.

Two years ago when Democrats were losing across the country, Jordan captured her second term as a state representative, winning by 290 votes. This doesn't sound like a lot, but she won her race during a Republican wave. She was the only Democrat to win any office in North Idaho.

Jordan announced her candidacy Thursday night in Moscow, Idaho. She is a native of Idaho and a citizen of the Coeur d'Alene Tribe of Idaho. (She served on the tribal council from 2009 to 2012.

"I grew up in a farming family and my grandparents showed me that cultivating the land was a continuation of our ancestral traditions of caring for homelands," Jordan said. "Coeur d'Alene peoples have cared for Idaho homelands since time immemorial and Idahoans today practice the same combination of self-sufficiency and cooperation that my grandparents did. This reminds me of how connected we are to one another, it reminds me that Idaho is my family."

Rep. Jordan is currently serving her second term in the Idaho House of Representatives. She is a member of the Idaho House Resources and Conservation Committee, State Affairs Committee, and the Energy, Environment & Technology Committee. She is also an appointed Idaho Representative to the Energy and Environment Committee of the Council of State Governments for the Western Region.

At her announcement, Jordan said, "when asked, what are you going to do next to improve this world? I am going to run for governor."

Idaho once regularly elected Democrats to state office, including former Interior Secretary Cecil Andrus (who won office a record four times). These days it's a super-majority Republican state. But it doesn't have to be that way. Idaho is also state where the legendary National Congress of American Indians President Joe Garry served in the state senate and was a candidate for the U.S. Senate. It's where Jeannie Givens served in the legislature and ran for the U.S. House of Representatives (likely the first Native woman to do so). Both Garry and Givens are also Couer d'Alene tribal members. It's also a state that that sent Larry EchoHawk, a Pawnee, first to the legislature, and later elected Idaho's state's Attorney General. He did lose a bid for governor. But the point is that Jordon has an uphill climb. And she could win.

One telling story about Jordan is that she lost her first race for the legislature in 2012 by less than a hundred-fifty votes. She went back to work — and won two years later. And again four years later.

Jordan said there is even an advantage to being a member of the minority party. "The majority party can be insular and keeps their circle small, because they do not need to cooperate to advance their goals," she said in her announcement news release. "But, members of the minority party must engage colleagues across the aisle, and develop meaningful comprehension of policies and positions held by others, so that the shared work of governing can succeed." Jordan continued, "In my family, our circle can always get bigger, and that's what I see for Idaho. A bigger circle is what achieving justice for all looks like."

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**THREE LESSONS FROM LAST WEEK'S ELECTIONS, TIME TO ADD NAMES, IDEAS  
#NATIVEVOTE18**

Mark Trahant\*

Three lessons from last week's election results.

First: Gerrymandering can be defeated. The election districts in Virginia were designed to support incumbents, and especially Republicans. The Atlantic described the "well-documented" Republican operation to gain "control of the mapmaking process in 2010 (and) saw their share of legislative seats steadily grow, even as their actual vote shares decreased. In other words, these maps helped Republicans retain majorities even when they earned substantially fewer votes."

That changed Tuesday. Voters swamped the supposedly safe districts and Democrats gained significantly. Perhaps even control of the legislature (votes are still be counted and will be recounted in a key race). So turnout beats districts drawn by one side to win. (The definition of gerrymandering.)

Second: Minority parties can win in this election cycle. It's always tough to run as a third or fourth party candidate in the United States. The deck is stacked. The system is rigged to favor the two established parties. However some twenty-plus self-described Democratic Socialists (ala Bernie Sanders) won on Tuesday, including Denise Joy in Billings, Montana. Joy was elected to the city council.

This could be an interesting trend.

Some states, California and Washington, have top-two primaries. That means a candidate can win even without party affiliation. But in most states — unless the rules change — the biggest opportunity for socialists, independents and Green Party candidates is for offices such as school boards and city councils. Another mechanism that makes it easier for third party candidates is ranked choice voting (where you pick your favorite, second favorite, etc.) Several cities, such as St. Paul, Minnesota, now use that approach. Maine also voted to adopt ranked choice, but has not yet implemented it because of opposition from the legislature (and entrenched parties).

In Arizona, Eve Reyes-Aguirre (Calpolli) is running for the U.S. Senate on the Green Party ticket. She is a co-chair of the Global Indigenous Women's Caucus and a co-founding Mother of the newly formed World Indigenous Women's Alliance. She was also a representative at the United Nations Commission on the Status of Women for the American Indian Law Alliance- 2015, 2017. Reyes-Aguirre is also running against the two-party system. Her web site says: "The two-party system has allowed wealth inequality to skyrocket to it's highest point since the 1920's. Eve is committed to developing an economy that promotes a equal sustainable quality of life for more families through the enactment of a living wage, limitations on corporate tax incentives, and a truly progressive tax structure. We must all be treated equal to live equal."

That brings to eight the number of Indigenous candidates running for the U.S. House or Senate so far in 2018 election. Three Republicans — Rep. Tom Cole (Choctaw), Oklahoma; Rep. Markwayne Mullin (Cherokee), Oklahoma, former state Sen. Dino Rossi (Tlingit), Washington — and four Democrats — former state NM state Democratic Party chair Deb Haaland (Laguna), Carol Surveyor (Navajo) in Utah, Tahlequah Mayor Jason Nichols (Cherokee), and J.D. Colbert (Choctaw) in Texas.

Lesson three. This is the "when" to jump and run in 2018 races. So much about politics is timing. Good candidates sometimes, no often, lose because their timing is off. It's not the right cycle. There are too many headwinds. Barack Obama generated turnout that encouraged Native voters and candidates. The chaos of 2016 with Hillary Clinton and Donald J. Trump did just the opposite. Turnout was down, especially in Indian Country. But we know most Native American candidates are already outsiders. So we need a little luck. And good timing.

The 2018 election ought to be that. President Trump and his Republican Party have to defend infighting plus legislative failures from healthcare to possibly taxes. And the president's popularity is only about a 38 percent approval rate. Awful numbers. On top of that, even popular presidents lose midterm elections. Democrats lead in the average of generic polls, 47 percent to 38 percent.

But Indian Country needs more candidates, especially in districts that can be won in this climate.

My top pick: Alaska's at large district. Several Alaska Natives have challenged Rep. Don Young for this seat over the years, including Willie Hensley (Iñupiaq), Georgianna Lincoln (Athabascan), and Diane Benson (Tlingit). And Young seems invincible. He was first elected in 1973 and is the longest serving member of the House. But, if this is a wave election, then no member of the House is invincible. And, even better, there are some really strong potential Alaska Native candidates.

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Alaska will already have an interesting election field that includes Gov. Bill Walker and his running mate Lt. Gov. Byron Mallott (Tlingit).

And in Minnesota another high profile race will feature state Rep. Peggy Flanagan who is running for Lt. Gov. with U.S. Rep. Tim Walz.

At one point during the 2016 election cycle (which we now know was not good timing) there were more than a hundred Native American candidates. We need those kind of numbers again. Especially this time around. There are more than 62 Native Americans serving in state legislatures around the country and many of those will be running for re-election. So that brings me back to rule 3, part A. It's my favorite rule in politics because it's so simple: You gotta run to win.

\*Mark Trahant is the Charles R. Johnson Endowed Professor of Journalism at the University of North Dakota. He is an independent journalist and a member of The Shoshone-Bannock Tribes. On Twitter @TrahanReports

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## **PRESS PERFORMANCE: REPORTING TRUMP, NATIVE CODE TALKERS, AND VIRAL OUTRAGE**

Mark Trahant\*

Republihed with author's permission from *Trahan Reports*, November 28, 2017, <https://trahanreports.com/2017/11/28/press-performance-reporting-trump-native-code-talkers-and-viral-outrage/>,

How does the national press cover Indian Country? That's often an easy question to answer because it's so rare for the media to weigh in on events that matter. And when they do? Damn.

The White House ceremony to honor code talkers turned into a frenzy. As ABC News reported, "MOMENTS AGO: Pres. Trump at White House event honoring Navajo code talkers, makes joke about "Pocahontas" Sen. Elizabeth Warren."

That, of course, became the story. It sells. It's the president disrespecting veterans, history, and Native Americans. It also fits the narrative of the president's incompetence. This story had This Will Go Viral encoded into every frame.

But the telling of the story missed. Hundreds of media outlets from National Public Radio to

The Washington Post reduced the event to one that only honored Navajo code talkers. Headline after headline. (Interesting: Just a week ago the Post advanced the story broadly. “While the contributions of Navajo code talkers have been honored by Congress and featured in films, the role of dozens of other Native American tribes has been overlooked. But on Wednesday,

Congressional Gold Medals, the nation’s highest civilian honor, were awarded honoring the service of hundreds of overlooked code talkers from 33 tribes,” the Post said.)

Perhaps it’s ignorance, right? The news media doesn’t write about these issues often. (And the diversity in the White House press corps is right up there with, say, the Trump cabinet in terms of hearing Native voices.) But here’s the thing: Several media reports quoted the National Congress of American Indians news release. And in paragraph one that says: “Today was about recognizing the remarkable courage and invaluable contributions of our Native code talkers. That’s who we honor today and everyday – the three code talkers present at the White House representing the 10 other elderly living code talkers who were unable to join them, and the hundreds of other code talkers from the Cherokee, Choctaw, Comanche, Lakota, Meskwaki, Mohawk, Navajo, Tlingit, and other tribes who served during World Wars I and II. We also honor the service and bravery of all of our veterans and those currently serving from Indian Country. Native people serve in the Armed Forces at a higher rate than any other group in the country, and have served in every war in this nation’s history.” The information was in front of the reporters. Did they miss nuance? Or facts?

To me this story is disheartening because of what the national media does not cover. There was hardly any reporting about the hiatus of Indian Country Today Media Network (with the exception of one NPR post and Mary Annette Pember’s excellent Columbia Journalism Review piece). But nothing in The New York Times or Washington Post (and therefore nothing on network television).

And there are so many critical stories worth writing about now, such as the tens of thousands of Native children who will lose health insurance soon unless Congress acts. This might sound bureaucratic to reporters, but when the Indian health system runs short of funds many, many patients will be denied medical treatment unless it’s life or limb. That should be an outrage worth the front page.

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## ARTICLES

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## RESEARCH NOTES

### BILL MCKIBBEN: WINNING SLOWLY IS THE SAME AS LOSING

Bill McKibben\*

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The technology exists to combat climate change – what will it take to get our leaders to act?

If we don't win very quickly on climate change, then we will never win. That's the core truth about global warming. It's what makes it different from every other problem our political systems have faced. I wrote the first book for a general audience about climate change in 1989 – back when one had to search for examples to help people understand what the "greenhouse effect" would feel like. We knew it was coming, but not how fast or how hard. And because no one wanted to overestimate – because scientists by their nature are conservative – each of the changes we've observed has taken us somewhat by surprise. The surreal keeps becoming the commonplace: For instance, after Hurricane Harvey set a record for American rainstorms, and Hurricane Irma set a record for sustained wind speeds, and Hurricane Maria knocked Puerto Rico back a quarter-century, something even weirder happened. Hurricane Ophelia formed much farther to the east than any hurricane on record, and proceeded to blow past Southern Europe (whipping up winds that fanned record forest fires in Portugal) before crashing into Ireland. Along the way, it produced an artifact for our age: The warning chart that the National Oceanic and Atmospheric Agency issued shows Ophelia ending in a straight line at 60 degrees north latitude, because the computer program never imagined you'd see a hurricane up there. "When you set up a grid, you define boundaries of that grid," a slightly red-faced NOAA programmer explained. "That's a pretty unusual place to have a tropical cyclone." The agency, he added, might have to "revisit" its mapping software.

In fact, that's the problem with climate change. It won't stand still. Health care is a grave problem in the U.S. right now too, one that Donald Trump seems set on making steadily worse. If his administration manages to defund Obamacare, millions of people will suffer. But if, in three years' time, some new administration takes over with a different resolve, it won't have become exponentially harder to deal with our health care issues. That suffering in the interim wouldn't have changed the fundamental equation. But with global warming, the fundamental equation is precisely what's shifting. And the remarkable changes we've seen so far – the thawed Arctic that makes the Earth look profoundly different from outer space; the planet's seawater turning 30 percent more acidic – are just the beginning. "We're inching ever closer to committing to the melting of the West Antarctic and Greenland ice sheets, which will guarantee 20 feet of sea-level rise," says Penn State's Michael Mann, one of the planet's foremost climatologists. "We don't know where the ice-sheet collapse tipping point is, but we are dangerously close." The latest models show that with very rapid cuts in emissions, Antarctic ice might remain largely intact for centuries; without them, we might see 11 feet of sea-level rise by century's end, enough to wipe cities like Shanghai and Mumbai "off the map."





The warning chart that NOAA issued shows Hurricane Ophelia ending in a straight line at 60 degrees north latitude, because the computer program never anticipated a hurricane so far north.

There are plenty of tipping points like this: The Amazon, for instance, appears to be drying out and starting to burn as temperatures rise and drought deepens, and without a giant rainforest in South America, the world would function very differently. In the North Atlantic, says Mann, "we're ahead of schedule with the slowdown and potential collapse" of the giant conveyor belt that circulates warm water toward the North Pole, keeping Western Europe temperate. It's tipping points like these that make climate change such a distinct problem: If we don't act quickly, and on a global scale, then the problem will literally become insoluble. We'll simply move into a dramatically different climate regime, and on to a planet abruptly and disastrously altered from the one that underwrote the rise of human civilization. "Every bit of additional warming at this point is perilous," says Mann.

Another way of saying this: By 2075 the world will be powered by solar panels and windmills – free energy is a hard business proposition to beat. But on current trajectories, they'll light up a busted planet. The decisions we make in 2075 won't matter; indeed, the decisions we make in 2025 will matter much less than the ones we make in the next few years. The leverage is now.

**Trump, oddly, is not the central problem here**, or at least not the only problem. Yes, he's abrogated the Paris agreements; true, he's doing his best to revive the coal mines of Kentucky; of course it's insane that he thinks climate change is a Chinese hoax.

But we weren't moving fast enough to catch up with physics before Trump. In fact, it's even possible that Trump – by jumping the climate shark so spectacularly – may run some small risk of disrupting the fossil-fuel industry's careful strategy. That strategy, we now know, began in the late



1970s. The oil giants, led by Exxon, knew about climate change before almost anyone else. One of Exxon's chief scientists told senior management in 1978 that the temperature would rise at least four degrees Fahrenheit and that it would be a disaster. Management believed the findings – as the *Los Angeles Times* reported, companies like Exxon and Shell began redesigning drill rigs and pipelines to cope with the sea-level rise and tundra thaw.

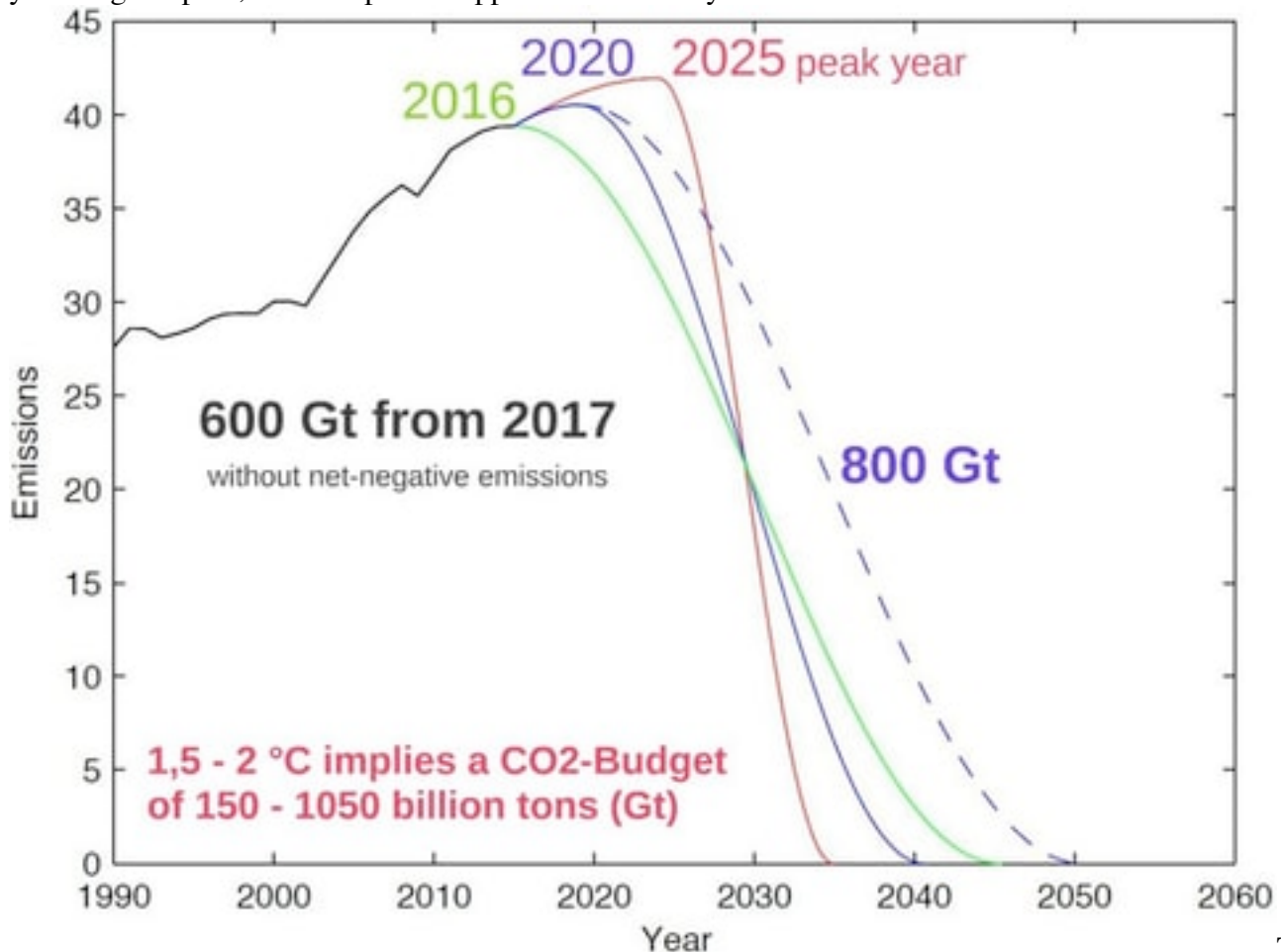
Yet, year after year, the industry used the review process of the Intergovernmental Panel on Climate Change to stress "uncertainty," which became Big Oil's byword. In 1997, just as the Kyoto climate treaty was being negotiated, Exxon CEO Lee Raymond told the World Petroleum Congress meeting in Beijing, "It is highly unlikely that the temperature in the middle of the next century will be significantly affected whether policies are enacted now or 20 years from now." In other words: Delay. Go slowly. Do nothing dramatic. As the company put it in a secret 1998 memo helping establish one of the innumerable front groups that spread climate disinformation, "Victory will be achieved when average citizens 'understand' (recognize) uncertainties in climate science," and when "recognition of uncertainty becomes part of the 'conventional wisdom.'"

And it's not just the oil companies. As America's electric utilities began to understand that solar and wind power could undercut their traditional business, they began engaging in the same kind of behavior. In Arizona, whose sole reason for existence is the sun, the local utility helped rig elections for the state's public-utility commission, which in turn allowed utilities to impose ruinous costs on homeowners who wanted to put solar panels on their roofs. As *The New York Times* reported in July, the booming U.S. market for new residential solar has come to "a shuddering stop" after "a concerted and well-funded lobbying campaign by traditional utilities, which have been working in state capitals across the country to reverse incentives for homeowners to install solar panels." It's not that they think they can keep solar panels at bay forever – every utility website, like every fossil-fuel industry annual report, has pictures of solar panels and spinning windmills. But as industry analyst Nancy LaPlaca says, "Keeping the current business model just another year is always key for utilities that have a monopoly and want to keep that going."

The planetary futurist Alex Steffen calls this tactic "predatory delay, the deliberate slowing of needed change to prolong a profitable but unsustainable status quo that will be paid by other people eventually." It's not confined to the moneybags at the oil companies and the utilities – he's written extensively about the otherwise-liberal urbanites in his home state of California. "A lot of cities are happy to talk about providing their power cleanly, but reducing cars, densifying, spending on bike paths, raising building standards – those things are all so contentious they're not even discussed." Ditto the folks who block windmills out of fear of chopping birds, thus helping lock in the next great mass extinction. Much of the labor movement has grown more outspoken on climate change. They know that a dollar invested in renewable energy generates three times as many jobs as one wasted on fossil fuel, but the union that builds pipelines has fought so tenaciously to avoid change that the AFL-CIO came out for building the Dakota Access Pipeline, even after guards sicced German shepherds on native protesters. In careful language that might have been written by a team at Exxon, the union said it supported new pipelines "as part of a comprehensive energy policy that creates jobs, makes the United States more competitive and addresses the threat of climate change." "Comprehensive," "balanced," "measured" are the high cards in this rhetorical deck. "Realistic" is the ace in the hole.

There's a reason this kind of appeal is so persuasive. In almost every other political fight, a balanced and measured and "realistic" answer makes sense. I think billionaires should be taxed at 90 percent, and you think they contribute so much to society that they should pay no tax at all. We meet somewhere in the middle, and come back each election cycle to argue it again, depending on how the economy is doing or where the deficit lies. Humans and their societies do work best with gradual transitions – it gives everyone some time to adapt. But climate change, sadly, isn't a classic contest between two groups of people. It's a negotiation between people on the one hand and physics on the other. And physics doesn't do compromise. Precisely because we've waited so long to take any

significant action, physics now demands we move much faster than we want to. Political realism and what you might call "reality realism" are in stark opposition. That's our dilemma. You could draw it on a graph. The planet's greenhouse-gas emissions are still rising, though more slowly – let's say we manage to top out by 2020. In that case, to meet the planet's goal of holding temperature increases under two degrees Celsius, we have to cut emissions 4.6 percent annually till they go to zero. If we wait till 2025, we have to cut them seven percent annually. If we wait till 2030 – well, it's not even worth putting on the chart. I have to sometimes restrain myself from pointing out how easy it would have been if we'd acted back in the late 1980s, when I was first writing about this – a gradual half a percent a year. A glide path, not a desperate rappel down a deadly cliff.



The rate at which the world would have to move to zero emissions to keep global temperatures from rising more than two degrees Celsius.

Yes, we've waited too long. But maybe, just maybe, our task is not yet an impossible one. That's because the engineers have been doing their jobs much more vigorously than the politicians. Over the past decade, the price of a solar panel has fallen 80 percent; across most of the U.S., wind is now the least expensive form of power. In early October, an auction in Saudi Arabia for new electric generation was won by a solar farm pledging to deliver electrons for less than three cents a kilowatt hour, the cheapest price ever paid for electricity from any source in any place. Danny Kennedy, a longtime solar pioneer who runs California's Clean Energy Fund, a nonprofit connecting investors and startups, says every day brings some new project: "Just this week I've had entrepreneurs in here doing crowdfunding by Bitcoin to build microgrids in Southern Africa, and someone using lasers to cut silicon wafers to reduce the cost of solar cells by half." He'd just come back from a conference in Shanghai – "You should feel the buzz; the Chinese have really realized their self-interest lies in dominating the disruptive technologies."

That is to say, if we wanted to power the planet on sun and wind and water, we could. It would be extremely hard, at the outer edge of the possible, but it's mathematically achievable. Mark Jacobson,

who heads Stanford's Atmosphere/Energy program, has worked to show precisely how it could happen in all 50 U.S. states and 139 foreign countries – how much wind, how much sun, how much hydro it would take to produce 80 percent of our power renewably by 2030. If we did, he notes, we'd not only dramatically slow global warming, we'd also eliminate most of the air pollution that kills 7 million people a year and sickens hundreds of millions more, almost all of them in the poorest places on the planet (pollution now outweighs tuberculosis, malaria, AIDS, hunger and war as a killer). "There's no way you can be in Houston or Flint or Puerto Rico right now and not feel the urgency," says Elizabeth Yeampierre, one of America's leading climate-justice advocates. "Moving quickly can happen, but only if you uplift the work that's really innovative, that's already happening on the ground."

Even much of the money is in place. For \$50,000 in insulation, panels and appliances, Mosaic, the biggest solar lender in the country, can make a home run on 100 percent clean energy. "And we can make a zero-down loan, where people save money from Day One," says the company's CEO, Billy Parrish. Mosaic raised \$300 million for its last round of bond financing, but it was nearly six times oversubscribed – that is, investors were ready to pony up about \$1.8 billion. But even that amounts to small change: 36,000 homes in a nation of more than a hundred million dwellings. To go to scale, government is going to have to lead: loan guarantees for poor people, taking subsidies away from fossil fuels, making sure that when homeowners feed lowcarbon energy into the grid they get a good price from utilities. Even in California that kind of change comes hard: As Kennedy says, "The state legislature did not pass key legislation on clean energy this year despite a lot of hot air expended on it, and despite the fact that the Dems have a supermajority. I'm told to be patient and 'we'll get it done next year,' but I find it frightening that folks think we have another year to wait."

**And so the only real question is**, how do we suddenly make it happen fast? That's where politics comes in. I said earlier that Trump wasn't the whole problem – in fact, it's just possible that in his know-nothing recklessness, he has upset the ever-so-patient apple cart. You could almost see the oil companies wincing when Trump pulled out of the Paris Agreement – for them, the agreement was a pathway to slow and managed change. The promises it contained didn't keep the planet from overheating – indeed, even if everyone had kept them, the Earth would still have gotten 3.5 degrees Celsius hotter, enough to collapse every ecosystem you'd like to name. The accords did ensure that we'd still be burning significant amounts of hydrocarbons by 2050, and that the Exxons of the world would be able to recover most of the reserves they've so carefully mapped and explored.

But now some of those bets are off. Around the rest of the world, most nations rejected Trump's pullout with diplomatically expressed rage. "To everyone for whom the future of our planet is important, I say let's continue going down this path," said Angela Merkel, the German chancellor. (The exception: petro baron Vladimir Putin, whose official remarks concluded, "Don't worry, be happy.") In this country, the polling showed that almost nothing Trump had done was less popular. Perhaps, if Trump continues to sink, this particular piece of nonsense will sink with him.

And with Washington effectively gridlocked, the fight has moved elsewhere. When Trump pulled out of the climate accords, for instance, he explained that he'd been elected to govern "Pittsburgh, not Paris." The next day the mayor of Pittsburgh said his town was now planning on 100 percent renewable energy, a pledge that's been made by places as diverse as Atlanta, San Diego and Salt Lake City. Next year, representatives of thousands of regions, provinces, cities, parishes, *arrondissements*, districts and counties will descend on San Francisco for a Paris-like gathering of subnational actors, summoned by California Gov. Jerry Brown. According to Brown (who is as sadly compromised as most other leaders – he continues to allow wide-scale fracking and oil production across the state), Trump's decision to leave the path of gradualism "is a stimulus ... In a way, it's a rising of ... awareness."

The pressure has also increased on banks and corporations. In Australia, campaigners have forced the four major banks to refuse financing for what would have been one of the world's biggest

coal mines; BNP Paribas, the world's eighth-largest lender, just announced it was out of the tar-sands and coal business. Several big California cities just announced they were suing the big oil companies for the damages caused by sea-level rise. The attorneys general of New York and Massachusetts have Exxon under investigation for pretending to take climate change seriously. All of that adds up to weaken the spreadsheet and the corporate resolve: "We're trying to persuade a dying industry to get out of the way," says Mark Campanale, the head of the NGO Carbon Tracker.

The best chance of forcing the future, of course, lies with movements – with people gathering in large enough numbers to concentrate the minds of CEOs and presidential candidates. Here, too, Trump seems to be upping the ante – nearly a quarter million Americans marched on D.C. for climate action in April, the largest such demonstration in Washington's history. That activism keeps ramping up: At 350.org, we're rolling out a vast Fossil Free campaign across the globe this winter, joining organizations like the Sierra Club to pressure governments to sign up for 100 percent renewable energy, blocking new pipelines and frack wells as fast as the industry can propose them, and calling out the banks and hedge funds that underwrite the past. It's working – just in the last few weeks Norway's sovereign wealth fund, the largest in the world, announced plans to divest from fossil fuels, and the Nebraska Public Service Commission threw yet more roadblocks in front of the Keystone pipeline.

But the question is, is it working fast enough? Paraphrasing the great abolitionist leader Theodore Parker, Martin Luther King Jr. used to regularly end his speeches with the phrase "the arc of the moral universe is long but it bends toward justice." The line was a favorite of Obama's too, and for all three men it meant the same thing: "This may take a while, but we're going to win." For most political fights, it is the simultaneously frustrating and inspiring truth. But not for climate change. The arc of the physical universe appears to be short, and it bends toward heat. Win soon or suffer the consequences.

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**THE BRUTAL RACIAL POLITICS OF CLIMATE CHANGE AND POLLUTION:  
TRUMP ADMINISTRATION POLICIES ARE SYSTEMATICALLY MAKING  
NATURAL DISASTERS MORE HARMFUL FOR THE POOR  
AND PEOPLE OF COLOR**

Basav Sen\*

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As I watched coverage of Harvey's flood damage in Houston, Irma's wreckage in the Caribbean, the devastating record monsoons in South Asia, and the fresh nightmares of Hurricane Maria, I thought back to another place: Charlottesville, where racists openly rallied to their cause—and were later defended by the president.

To explain why, let me point back to one of the least known—yet most outrageous—of the Trump administration's early policy proposals: the proposed elimination of the Environmental Justice program at the EPA. While the division still exists for now, it has no more grants available for the current fiscal year, and its future is in limbo.

Environmental justice is the principle that people of color and poor people have historically faced greater harm from environmental damage, so special efforts should be made to prioritize their access to clean air and water. The environmental justice program gave small grants to communities struggling with these disparate pollution impacts. Its budget was small—just \$6.7 million out of the

prior year's EPA budget of \$8 billion, or less than one-tenth of 1 percent.

Clearly, the proposed cut wasn't about saving money. Instead, it points to a more sinister agenda—especially when paired with other planks of the administration's environmental platform.

### **Disproportionate Harm**

Take Trump's proposal to deregulate power plant emissions. Air pollution is bad for everyone with lungs, but it disproportionately harms people of color and poor people, who are much likelier to live near coal-burning power plants. People living within three miles of coal-fired power plants have a per capita income 15 percent lower than the national average, and African Americans die of asthma at a 172 percent higher rate than white people. Deregulating toxic polluters is only going to worsen such egregious disparities.

Meanwhile in Alaska, Native villages are literally sinking into the sea and facing the loss of their traditional lifestyle as polar ice melts. Yet the federal government proposes eliminating the already meager assistance they receive, and won't even name the problem they're confronting. Absurdly, the National Oceanic and Atmospheric Administration (NOAA) now refers to Arctic climate change impacts as "Arctic Change."

Similar inequalities show up in the places hardest hit during this catastrophic hurricane season.

Refineries and other petrochemical facilities in Houston have been shut down in the wake of Tropical Storm Harvey.

However, storm damage at the Exxon refinery in Baytown has led to leaks of toxic chemicals, while the Chevron Phillips refinery in Pasadena reported to regulators that it may release known carcinogens like benzene.

Who lives near these facilities? Of the two Census blocks immediately adjoining Exxon's Baytown refinery, one is 87 percent non-white and 76 percent low-income, the other 59 percent non-white and 59 percent low-income.

Outside the Chevron Phillips facility, the same pattern plays out: Residents there are 83 percent non-white and 74 percent low-income.

Living near these facilities—and in the storm zone, generally—is dangerous. But for some people, even trying to get away was dangerous. In a horrifying move, the Border Patrol continued to operate checkpoints on highways being used by people evacuating from the hurricane-affected zone, so undocumented immigrants had to choose between risking their lives or getting deported.

While Texas was still reeling, the Caribbean, and then Florida, was struck by Hurricane Irma. The prime minister of Antigua and Barbuda, a sovereign state that's over 90 percent black, says that 95 percent of the structures on the island of Barbuda have been destroyed.

Americans sometimes forget that the Caribbean includes the U.S. territories of Puerto Rico and the U.S. Virgin Islands. (Though "colonies" would be a more truthful word, since these largely nonwhite islands have no voting representation in Congress.)

More than half the residents of Puerto Rico lost power, and a top utility official has warned that many of them will remain without power for weeks to months. The delay is partly attributable to the poor state of the island's infrastructure, which hasn't been maintained over a decade-long recession—one worsened by Washington-imposed austerity policies that prioritize payments to lenders over the

well being of Puerto Ricans.

People in the U.S. Virgin Islands, meanwhile—over three-quarters of whom are black—are struggling with major storm damage and power outages, with minimal federal assistance and little coverage from the U.S. media. While federal authorities aren't providing meaningful assistance to USVI residents, they've nonetheless mustered the capacity to block desperate evacuees from other harder-hit islands in the region from reaching the islands.

And before Puerto Ricans and Virgin Islanders had a chance to recover, they've been hit by Maria, a second major hurricane, that's knocked out power for the entire island of Puerto Rico and caused severe structural damage to buildings. The mayor of San Juan expects it will take 4 to 6 months to restore electricity.

### **An Unmistakable Pattern**

There's a pattern here.

The proposed elimination of environmental justice funding, assistance for Native Alaskans, and the U.S. contribution to the Green Climate Fund (which assists poor countries with adapting to the effects of climate change and transitioning to clean energy) all appear calculated to pander to the most racist, nationalist elements of Trump's base, who don't want any assistance going to those they consider "undeserving." Yet who could be more deserving?

Black Americans are living with (and dying from) asthma caused by particulate pollution from profit-generating power plants. Native Alaskans are losing their homes and traditional lifestyles due to melting ice caused by climate change. Undocumented people had to risk deportation while fleeing a life-threatening disaster.

Globally, Bangladeshis, Indians, and Nepalis are suffering from catastrophic floods that are exacerbated by other people's greenhouse gas emissions—not least our own, since the U.S. is the largest historical emitter of the carbon now warming the planet. And people in Antigua, Barbuda, the U.S. Virgin Islands, and Puerto Rico just got battered by a powerful hurricane intensified by a warming ocean.

All of these lives are systematically devalued by the powers that be precisely because of entrenched white supremacy—of the implicit kind (evidenced by the decades of foot-dragging by rich countries on the issue of climate change), as well as the brazen kind on display in Charlottesville.

We cannot truly confront the root causes and horrific impacts of climate change without challenging and undoing white supremacy.

\*Basav Sen directs the Climate Justice Project at the Institute for Policy Studies. He's the author of the recent report "How States Can Boost Renewables, With Benefits for All."

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### **HEGEMONY IS A FINE WORD TO DESCRIBE THE TRUMP ERA: GOAL IS TO RANSACK THE EARTH**

Mark Trahan\*

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<https://trahanreports.com/2017/10/19/hegemony-is-a-fine-word-to-describe-the-trump-era-goal-is-to->

## A CORRUPTED WORD, A CORRUPTED GOVERNMENT

Let's play with a word and an idea. "Hegemony" means the dominance of one political group over all others. That, at this moment, is the Republican brand. President Donald J. Trump, a Republican Senate, a Republican House, and a conservative, if not Republican, court system that will judge the law and Constitution for years to come. Hegemony.

But that word has been corrupted. Once the Greek word, "hegemon," meant to lead. But the root word "heg" in English later became to seek, or better, to "sack," as in ransack.

So hegemony is a fine word to describe the Trump era. The goal is to ransack (instead of lead). Ransack the government. Or at least the idea of government.

There is no better example of hegemony than the debate about the climate. The Republican brand from top to bottom is bent on grabbing as much natural resource loot that can be carried away in short period of time.

Except this: Hegemony is an illusion. What seems like absolute power is not.

This should be easily evident from hurricanes, fires, and other growing climate threats. You would think this is the moment for a pause (at the very least). A time out to examine what's going on around the world and then a consideration about what should be done.

But the Republican brand, including the people who manage federal Indian programs, are willfully hostile to facts.

The World Meteorological Organization reports that natural disasters have tripled in number and the damage caused by them have increased five-fold. "Today, there is scientific proof that climate change is largely responsible for the dramatic increase in the intensity and devastation caused by the hurricanes in the Caribbean and by many other phenomena around the world," said United Nations Secretary-General António Guterres after a tour of Dominica. That island, including the Kalinago Indian Territory, was hit with successive category five hurricanes. "I have never seen anywhere else in the world a forest completely decimated without one single leaf on any tree," said Guterres, who flew by helicopter over some of the most affected areas, including Kalinago Territory.

And Puerto Rico still waits for clean water, sanitation, electricity, and basic infrastructure more than a month after its storms. Yet President Trump told reporters Thursday: "I'd say it was a 10" as he described the federal government's response. "I'd say it was probably the most difficult when you talk about relief, when you talk about search, when you talk about all of the different levels, and even when you talk about lives saved. You look at the number. I mean, this was — I think it was worse than Katrina."

The governor of Puerto Rico has a different take. "Recognizing that we're in this together — US citizens in Texas, US citizens in Florida, US citizens in Puerto Rico and the Virgin Islands — we need equal treatment," said Gov.

Ricardo Rossello. "We need all the resources so we can get out of the emergency and of course the resources to rebuild."

We know, yes, know, that climate change will leave parts of the earth uninhabitable (as we have already seen in tribal communities in Alaska, Washington and Louisiana.) How many times can you rebuild when storm after storm wipes out the life you know? How do we as a country, as a species,

decide when we can no longer rebuild or stay? I've been thinking a lot about the Iranian city of Ahvaz where temperatures last summer reached 129 degrees. When will it become too hot, 130? 132? What's the number that we just hit before we leave?

Who will be the next climate refugees?

Already in Puerto Rico that demographic transformation is occurring. "It could potentially be a very large migration to the continental United States," said Maria Cristina Garcia, a Cornell University historian, immigration expert, and author on large-scale population shifts, which includes a forthcoming book on climate refugees in *Scientific American*. "Whether that migration will be permanent or temporary is still anyone's guess. Much depends on the relief package that Congress negotiates."

Puerto Rico has 3.4 million residents. Think of the magnitude of so many people, half a million or more, moving to Florida, Texas or any other state. Only then will the fecklessness of Congress be clear.

So much of the debate now only focuses on the "relocation." But Indian Country (that's had too many experiences with forced relocation) knows that's only the beginning of the governmental and social costs. There will be costs ranging from demands for behavioral health to increased joblessness and poverty. The fact of hundreds of thousands of American refugees should be seen as a dangerous crisis worthy of our immediate attention.

Right now we don't even think of Californians as climate refugees, but we should. At least 100,000 people were evacuated and nearly 6,000 homes and buildings were destroyed. And this number will grow and it ought to raise more questions about where humans can and should live.

"An increasing body of research finds that the hot and dry conditions that created the California drought were brought on in part by human-caused warming," writes Georgina Gustin in *Inside Climate News*. "Higher temperatures pull moisture out of soil and vegetation, leaving parched landscapes that can go up in flames with the slightest spark from a downed utility wire, backfiring car or embers from a campfire."

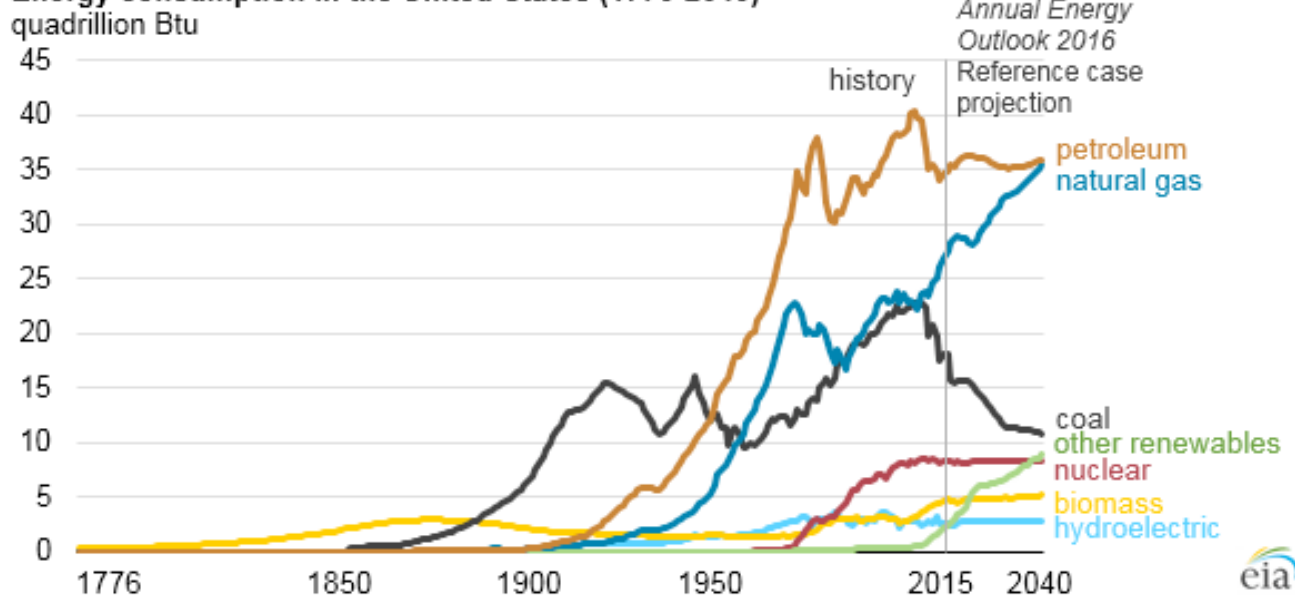
California's average temperature has risen about 2 degrees Fahrenheit during the second half of the 20th century. Altogether this has led to more "fuel aridity" — drier tree canopies, grasses and brush that can burn."

Gustin writes that research from the Pacific Northwest National Labs and Utah State University projects more extreme drought and extreme flooding. "If global carbon emissions continue at a high level, extreme dry periods will double, the study finds—going from about five extreme dry "events" during the decade of the 1930s, to about 10 per decade by the 2070s. Extreme wet periods will increase from about 4 to about 15 over the same periods, roughly tripling."

Again, raising the question of where people can be? Think of the tension about immigration now — and multiply that by a factor of ten or a hundred to get a sense of the scale ahead.



## Energy consumption in the United States (1776-2040)



### THE FAILURE OF COAL

There is another dimension to hegemony — or the lack of that in the federal government. Cities, states, tribes, corporations, and individuals, are ignoring the ransacking of the climate and moving forward with a global community focused on solutions. Markets are exercising power, too.

One example of that is the Trump administration's failure to revive the coal industry. This was one of Donald J. Trump's main campaign promises. The chief executive of a private coal company, Robert Murray, sums up the illogic. Just a week ago he said on the PBS' News Hour: "We do not have a climate change problem" and 4,000 scientists told him that "mankind is not affecting climate change." Murray's former lobbyist has been nominated as the deputy director of the Environmental Protection Administration. Already the EPA has proposed rolling back the Obama Administration's Clean Power Plan. But the new coal regulations (or more likely, non-regulations) will still be challenged through the regulatory process and in court.

And it's the markets for coal that are dictating the terms of surrender. The U.S. Energy Information Administration reports coal consumption picked up after President Trump's election but has started to decline again. "The recent decline in production was a result of weaker demand for steam coal, about half of which is mined in Wyoming and Montana. Production of metallurgical coal, which is used in steel manufacturing and makes up about 8% of total U.S. coal production, increased for the third consecutive quarter," the EIA reported. "Demand for steam coal, which in the first half of 2017 made up more than 90% of U.S. coal production, is driven by coal-fired electricity generation. In recent years, coal has lost part of its electricity generation share to other fuels, but it still accounted for 30% of the U.S. electricity generation mix in the first half of 2017 compared with natural gas and renewables (including hydro) at 31% and 20%, respectively."

And the jobs that were promised? There are now under 60,000 people employed nationwide by the coal industry. And about a thousand jobs, at most, were created since Trump took office. By comparison during that same time frame one of the fastest growing jobs, wind turbine service technician, created 4,800 new jobs at an average salary of \$52,260. But the big numbers are in health care (where we should be growing jobs) an industry that created 384,000 new jobs as home health aides in the last year.

Hegemony? No.

But Congress acts as if it has all the power over nature. The budget the Senate just passed would

open up the Arctic National Wildlife Refuge to oil development. Instead of a pause, and a rethink of climate policies, there is a hurry up and drill mentality. (Even if you love oil: Why now? Why not wait until it's worth something? The answer is because it will never again be that valuable. The era of extraction is over.)

Sen. Lisa Murkowski is in an interesting position. She's fought hard for Medicaid and for the Alaska Native medical system. She deserves credit for that. But the budget she now champions could undo all of that work because the generous tax cuts will have to be eventually paid for by cutting from social programs, especially Medicaid. And what will the new costs be for more development in the Arctic in terms of subsistence hunting and fishing, potential relocation, higher health costs, and increased strain on the environment?

A group of elders from the Bering Sea recently published a report on their Ecosystem and Climate Change. "The cold, rich waters of the northern Bering Sea and Bering Strait form the foundation of culture, food security, and economy for coastal Yupik and Inupiaq peoples, who have relied on the abundant marine resources of this region for thousands of years," the report said. "But this unique ecosystem is vulnerable to ecological transformation and uncertainty due to climate change ... climate warming is leading to change in seasonal ice, altering the abundance, timing, and distribution of important species. The loss of sea ice is in turn causing a dramatic increase in ship traffic through these highly sensitive and important areas."

How do we change course? How do we get a pause? One way is to wait until it's too late.

In Dominica there is a forced rethinking that followed the hurricanes. Roosevelt Skerrit, the country's prime minister, recently put it this way: "Our devastation is so complete that our recovery has to be total. And so we have a unique opportunity to be an example to the world, an example of how an entire nation rebounds from disaster and how an entire nation can be climate resilient for the future. We did not choose this opportunity. We did not wish it. Having had it thrust upon us, we have chosen actively and decisively to be that example to the world."

A shining example, yes, but at a cost that has been extraordinary and painful. The price of hegemony.

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## **'WE LOST ALL WHAT MONEY CAN BUY,' DOMINICA LEADER SAYS; INDIGENOUS TERRITORY TAKES DIRECT HIT FROM THE STORM**

Mark Trahan\*

Republihed with author;s permission from *Trahan Reports*, September 20, 2017, <https://trahanreports.com/2017/09/20/we-lost-all-what-money-can-buy-dominica-leader-says-indigenous-territory-takes-direct-hit-from-the-storm/>.

The Kalinago Territory in Dominica took a direct hit from Hurricane Maria. The indigenous territory (formerly known as the Caribs) is on the remote eastern Atlantic side of the island. There have been no communications from the tribal community.

The Caribbean Disaster Emergency Management Agency said Wednesday that it was using a helicopter to assess damage across the island nation: "Of particular concern for CDEMA was the Kalinago Territory between Castle Bruce and Atkinson where the houses are not particularly resilient."

Dominica's Prime Minister Roosevelt Skerrit posted on his Facebook page: "Initial reports are of widespread devastation. So far we have lost all what money can buy and replace. My greatest fear for the morning is that we will wake to news of serious physical injury and possible deaths as a result of likely landslides triggered by persistent rains.

"So, far the winds have swept away the roofs of almost every person I have spoken to or otherwise made contact with. The roof to my own official residence was among the first to go and this apparently triggered an avalanche of torn away roofs in the city and the countryside ... We will need help, my friend, we will need help of all kinds."

Early relief efforts and supplies have been directed toward the island's cities, mostly coming from Barbados. The International Red Cross reports: "Most of the main roads were impassable and several bridges were blocked or damaged. The provision of essential services (water, electricity) has been disrupted, and landline and mobile phone service is intermittent. The agricultural sector and consequently livelihoods has been significantly impacted due to crop losses. As of 1 September 2015, the National Emergency Operations Centre has confirmed 11 dead and 23 people have been reported missing."

"A band of torrential rain caused by the system resulted in the 6 to 8 inches of rainfall in less than twelve hours and triggered massive flooding and several landslides," according to the Red Cross. "Families have lost their homes to the damage incurred from flooding and landslides, which has also resulted in the loss of lives, personal belongings, and total destruction of subsistence crops."

Good Hope, a community just south of the Kalinago Territory, was "in dire need of water," according to the Red Cross.

The island's capital is on the other side of the mountains from Kalinago Territory. Some 3,000 tribal members live in the territory. The tribe recently returned to its own name, instead of the one set by Spanish explorers, the Caribe.

More than 70,000 people live on the island. Dominica was already recovering from another major storm, Erika, in 2015.

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## **ENVIRONMENTAL DISASTER AND RESILIENCE: THE MARSHALL ISLANDS EXPERIENCE CONTINUES TO UNFOLD**

Barbara Rose Johnston and Brooke Takala\*

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United States nuclear, biochemical, and missile testing in the Marshall Islands has been, from day one, an enterprise of scientific colonialism. Exploiting the relative isolation of these islands and these ocean people, the US managed the environment and health consequences of their militarism through "out of sight, out of mind" and "the solution to pollution is dilution" policies. These strategies worked in the short term for those living in distant corridors of power. However, when toxic, radiogenic, persistent, and bioaccumulative contaminants are generated in mass quantity and dumped

for decades upon end, the ulcerating effects will make themselves known far and wide. Denial is no longer an option when generations of soldiers and residents suffer the same life-altering miseries. But they're not the same...the soldiers went home. The residents, if they were able to return home, returned to changed and poisoned islands.

Between 1946 and 1958, the United States detonated sixty-seven nuclear bombs in the area they termed Pacific Proving Grounds, on, in, and above Bikini and Enewetak Atolls in the Marshall Islands, then a part of the United Nations Pacific Trust Territories. The world's first hydrogen bombs were tested here in a series of detonations in an over Enewetak and Bikini Atolls. The March 1, 1954 Bravo Test, was especially destructive. Visible from 250 miles with a mushroom cloud stretching 60 miles across, Bravo vaporized several small islands, left a mile-wide crater on the atoll, and generated heavy radioactive fallout across a 50,000 square mile area, including 22 populated atolls. It remains, to this day, the largest and 'dirtiest' nuclear weapon the US ever detonated: dwarfing the radioactive releases of Chernobyl and Fukushima, the area of lethal fallout encompassed 27,000 square miles.

Downwind on Rongelap and Ailinginae Atolls, people suffered near fatal exposures to fallout, as did military personnel monitoring Bravo fallout on Rongerik. Some 36 hours after detonation the US military completed its evacuation of 28 servicemen, transporting them by aircraft to Kwajalein military base hospital for treatment and study. Attention to nearby populated atolls did not occur until March 3, when the military arrived on Rongelap and Ailinginae to remove all inhabitants, some 51 hours after the detonation of Bravo. No advance notice of the test had occurred, and in this evacuation all personal belongings were left, by military order, behind. Utrik Atoll was evacuated some 78 hours after detonation, on March 5. The USS Renshaw was sent on March 6-7 to Likeip Atoll, Jemo Island, Ailuk Atoll, and Mejit Island and an amphibian aircraft with the same mission was sent to Wotje, Erikub, Maloelap, Wotho, and Majuro atolls. Dangerous levels of fallout was confirmed and samples of soil, water, vegetation and animals were collected in each place. This was a military expedition to collect scientific data, not a humanitarian mission, a point aptly illustrated by events on Likiep. Navy personnel arrived there on March 6 to take radiation measurements and samples of soil vegetation, and water, photos, and capture, kill and take animals (dogs) for further study. Radiation sickness was evident, but, citing logistical problems of moving such a large population, the US left residents in situ, providing no medical attention, no information on radioactive fallout, and no advice on ways to reduce further exposure.

Admittedly, not a lot was known back then about the hazards of fallout, though what had been learned about the human health hazards and the importance of minimizing exposure was shared amongst troops serving in the Pacific Proving Grounds. Radiation detection and protection equipment, shelters, and other tools were available. When the invisible hazard was present, people were able to detect, report, and receive advice that helped minimize the dangers. Servicemen on Rongerik had Geiger counters, radios, and when they reported off-the-charts radioactivity, they took immediate shelter. Those who sheltered in huts reduced their exposure by 50% from those sheltering in tents. For ri-Majol (Marshallese who had no knowledge, no one giving advice, and no means to take protective action, there was no perceived threat to take shelter from.

Once evacuated, soldiers received treatment and for several months were the subject of study. Island communities received no information on how and why they were injured, nor medical care to relieve pain and suffering. Instead, to understand the health effects of acute exposure to high-levels of radiation they were given human subject numbers, photographed, and began their unwitting service in classified Project 4.1, a human radiation research program that operated under varied names from 1954 to 1992. For four decades US medical science teams traveled to the Marshall Islands to monitor and document degenerative health and conduct varied experiments, all without informed consent. All told, 1156 men, women, and children were enrolled in studies exploring the acute and late effects of radiation. This classified research generated statistically-significant findings: Radiation exposure generates changes in red blood cell production and subsequent anemia; metabolic and related disorders;

musculoskeletal degeneration; cataracts; cancers and leukemia; and, significant impact on reproductive success as evidenced by miscarriages, congenital defects, and infertility. Research also demonstrated that chronic and acute radiogenic exposure compromises immune system response, creating population-wide vulnerability to infectious and non-communicable disease.

### **Struggles to reclaim self-determination**

When the Marshall Islands achieved independent nation status (signing a Compact of Free Association in 1983 that entered into force in 1986), the ability to effectively govern was compromised by its' complete dependency on the US for economic, health, education and other support, a dependency further contorted by systemic underdevelopment. During the US-managed Trust Territory era, education and other social development programs were designed to produce aides and assistants, rather than doctors and scientists. In the face of widespread environmental contamination and associated health consequences, self-determination is hard to achieve when all the experts are imports.

With independence, RMI governance was hampered by lack of technical capacity and lack of information. The US withheld much of the information associated with its military activities, especially their classified documentation on nuclear and biochemical weapons tests, fallout patterns, environmental contamination, and related consequential damages for human and ecosystem health, thus significantly limiting the notion of damage and the related obligation to repair harm to what was already in the public realm. It was not until 1999, for example, when the US delivered to the Republic of the Marshall Islands a declassified document, that the RMI Government and the Nuclear Claims Tribunal established by the US-RMI Compact Agreement were made aware of the fact that fallout from the 1954 Bravo blast had blanketed the entire nation, significantly endangering the health of all 22 populated atolls and islands. A nation-wide medical monitoring and treatment program was warranted, yet, to this day, the US only acknowledges and minimally funds a 177 medical program to monitor and treat the radiation-related disease of people who had lived on four atolls (Rongelap, Utrik, Bikini, Enewetak).

Bilateral agreements between the US and the RMI have resulted in some attention to nuclear wastelands in Rongelap, Utrik, Enewetak and Bikini Atolls. Remediation of radiation hotspots on some of the Atoll southern islands and construction of new homes on Rongelap Island has occurred, though families have yet to trust US assurances that it is safe to move back. Given the immense degree of contamination in the larger terrestrial and marine environment many places are officially off-limits. Without the ability to access all the resources on all the islands in the Atoll, a return to a culturally-vibrant, self-sufficient and healthy way of life seems impossible, a sentiment influenced in part by the experience of the 600 or so people who have returned to Enewetak.

In 1977, the US began cleanup efforts in Enewetak Atoll with a plan to remove radioactive and non-radioactive debris left over from the testing, all highly radioactive hot spots from the soil, and removing or amending some less-tainted soils. Actual removal occurred on a case-by-case basis depending on US assumptions of ultimate land-use. After three years of work, some 73,000 cubic meters of surface soil was moved and dumped together with metal, concrete and other debris into the "Cactus" blast crater on Runit Island. This high-level nuclear waste was then "stabilized" by creating a dome-shaped concrete cap some 18" thick. Concrete was made by blasting and bulldozing coral reefs (also contaminated by fallout) and mixing pulverized coral with salt water (which results in the rapid deterioration of cement). No effort was taken to assess and address the intensely contaminated conditions in the lagoon and marine ecosystem. Only three of the atoll's 40 islands received some measure of remediation and with spiraling costs, cleanup plans to allow resettlement in the northern part of the atoll stalled indefinitely.

In 1980 three of the some 40 islets and islands of Enewetak — Enewetak, Meden, and Japtan Islands in the southern part of the atoll — were declared "clean" and the community was resettled. The

declaration of safe habitation assumed that people would live only on “safe” islands; know of and avoid any hotspots on those islands; avoid contaminated dust; avoid harvesting or drinking water in the heavily contaminated northern islands; avoid harvesting bird eggs, turtles, shellfish and other foods resources on the shoreline or adjacent reefs of highly contaminated islands; be able to grow, harvest and catch traditional foods; restrict dietary consumption of local foods to below 30%; and, generate their own sources of income from the naturally occurring materials in their environment. The declaration of safe habitation also assumed that the nation’s notoriously fragile inter-island transportation system has the functional capacity to regularly deliver imported foods, fuel, and other essential supplies. And, it failed to anticipate the reality of a rapidly changing climate.

Today in Enewetak, with a significant portion of the atoll’s natural resources too hot to handle, residents struggle to survive. Their diet largely consists of USDA food supplements and locally-caught fish. While residents of other outer islands are able to earn modest income from coconut oil, copra, traditional foods, and handicraft production, products from Enewetak are not considered safe and will not be accepted by the national copra processing plant. Thus, many people secure needed cash through loans made against a minimal annual distribution from the Enjebi Trust Fund. To make ends meet, some people travel to the highly contaminated northern islands to mine copper wire and pipe from abandoned military sites and waste dumps. This radioactive copper is exchanged to Chinese shopkeepers for goods at the Enewetak local store and, reportedly, then makes its way to smelters in China. And, as the most isolated of outer islands, the Atoll attracts the occasional actors and activities that proliferate far from the legal eye, as suggested by recent news referencing cocaine bundles destined for China washing ashore and the illegal shark fin industry. Given distance and conditions, disastrous events hit Enewetak and the other Northern Atolls especially hard. Residents often lose access to communication. Winds and storm surges scour the islands and families lose stored supplies of food and water. Extended drought and salt contamination of soil, plants and fresh water wells create immense suffering, as families lose the means to sustain themselves now and in the seasons to come. The hunger for protein-rich foods can be pronounced, especially when lagoon fish depart for cooler water during times of drought.

Fresh water-scarcity makes hygienic conditions impossible; pink eye and skin infections are common, vaginal and urinary tract complaints are also reported. In short, the promise of reclaiming a culturally-vibrant way of life in this heavily polluted context has been difficult to achieve. Daily life is a struggle.

Are Enewetak and other US-remediated atolls truly “safe”? Who defines the meaning of safe? By what basis? How much radiation is in the marine and terrestrial food chain, water, and soil? Are there other contaminants of concern? And, they wonder why they do not have the tools and means to determine definitively for themselves: what is contaminated, and what is safe? For example: the US Department of Energy is responsible for monitoring conditions, and says it is ‘safe’ to sell Enewetak copra, but they don’t provide details nor data to re-Majol to support this assurance. Is this just a measurement of ambient radiation from the coconut husks? Has there been consideration of the exposure risks of harvesting and processing copra, a dusty process in a very, very dry climate? Whole body counters and urine samples record the after-the-fact exposure to certain types of radiation, but where are the proactive tools that let people make their own informed choices about where they walk, sit, swim, plant their food and harvest their food and medicine, burn for fuel, eat or drink? Are there foods or substances that can reduce and remove ingested levels of radiation? Where is the science that reflects the community’s concerns, is conducted with the community’s permission and involvement, and produces outcomes that allow the means to survive and thrive? Where is the citizen involvement in science? Where is the free and prior informed consent that this Indigenous nation deserves?

### **Lessons on capacity building and regaining self-determination**

Questions such as these are drivers of change. Through the assessment, judgments and related

awards made by the Marshall Islands Nuclear Claims Tribunal a number of strategies to reduce risk by fully remediating the environment, grow healthy and safe food, and enhance individual, family and community health were identified and the cost to restore calculated. However, the lack of full funding from the US to implement Tribunal awards has made significant progress in the push to remediate and restore a healthy way of life in the Marshall Islands hugely difficult. As noted in the 2012 Mission Report and Recommendations from UN Special Rapporteur for Environmental Contamination and Toxic Waste and reconfirmed in the 2014 Universal Periodic Review of the Marshall Islands conducted by the UN Human Rights Council, the environment, health and human rights issues associated with nuclear testing and other facets of military colonialism are compounded by the increased needs resulting from the increase in climate change-related disasters. These UN reviews call for the US to fully fund the awards made by the Nuclear Tribunal it established as a reparation mechanism, call upon the international community of nations to recognize their obligations resulting from the many harms the Marshallese historically endured under the United Nations Trusteeship, when governance was entrusted to the United States.

The US has continued to deny any remaining obligation to fund Nuclear Claims Awards issues by the Tribunal they helped to set up. With immense problems confronting a relatively small nation -- some 54,000 people were estimated to be living in the nation in 2014, with another 25,000 in diaspora - the barriers to reclaiming a healthy sustainable way of life are formidable. Nevertheless, evidence of ri-Majol commitment to this ultimate goal is abundant, and action is demonstrating a move from reactive to proactive governance. For example, a national disaster plan has been developed and tested in 2016 with a US funded, International Organization for Migration implemented humanitarian mission to 16 atolls and 32 communities suffering from severe El Niño-induced drought. An independent assessment of disaster conditions by the Marshall Islands Women's Research Initiative (MIWRI) and International Organization for Migration (IOM) helped garner support to include gender concerns in the mission plan, and the opportunity for ri-Majol civil society to assist on this mission. Researchers from MIWRI and Women United Together Marshall Islands (WUTMI) assembled and delivered some 2000 female hygiene and menstrual health kits, and in their journey witnessed first-hand the huge distance between bureaucratic expectations of crisis, anticipated needs, and actual on the ground conditions. The initial humanitarian response strategy failed to fully capture the cumulative impact on outer islands communities of a cascade of disaster, including and especially, the ongoing disaster of hosting nuclear militarism. Documented conditions and lessons learned on this mission may help strengthen RMI government and donor/partners response to future crises.

Recent technical assistance from the US and UN is also encouraging improvements in medical training, diagnostic, monitoring, reporting and public outreach and education systems. Other nationwide surveys have assessed conditions and develop plans to protect marine resources and terrestrial water quality. The University of the South Pacific Marshall Islands campus is expanding with a new facility opening on Majuro in 2017, an initiative that will allow greater ri-Majol participation in graduate school programs. The US Department of Energy has been running a pilot project training two Marshallese college students with a goal of developing internal capacity to monitor environmental radiation and bioaccumulation in foods and the human body. And the number of civil society organizations continues to expand demonstrating robust commitment to tackling cultural revitalization projects, and addressing nuclear, environmental, social justice, education, citizen science, and array of other issues and concerns. Expertise and leadership in civil society and government is enhanced by college-educated, civic-minded ri-Majol.

One of the more exciting examples of a proactive effort to reclaim a healthy way of life is the moi (Pacific threadfin) fish hatchery, fish farming, and feed mill initiative, run by a corporation created by Rongelap local government. Expansion of the project to commercial scale is occurring with a grant from the US AID Pacific American Climate Fund. Originally conceived as a sustainable development project for Hawaii, the initial pilot project demonstrated success yet expansion for market production failed because of high labor costs and environmental regulations. In the Marshall Islands, where

immense lagoons provide a sheltered environment for farmed fish and labor costs are comparatively low, this project has taken off. New hires undergo a six-month scientific training course with pay and benefits that exceed national norms. Five-years in the making, the company is in a rapid expansion mode as the hatchery has grown. The product is tasty and international demand reflects recognition that moi, raised on feed derived from tuna-trawler by-catch, is high-grade sushi-quality product. Currently operating with some 20 employees, a 5-fold expansion in the workforce will occur by the end of 2016 when some 50,000 pounds of moi will be harvested, processed, sold locally and shipped to distant consumers. This economic venture is demonstrating a new way for Rongelap and other youth to live with dignity and pride in the Marshall Islands, as truly ocean people.

Ri-Majol are also participating and effectively asserting their voice on the world stage. In 2014 the Marshall Islands filed applications in the International Court of Justice to hold the nine nuclear-armed states (United States, United Kingdom, France, Russia, China, India, Pakistan, North Korea, and Israel) accountable for violations of international law with respect to their nuclear disarmament obligations under the 1968 Nuclear Non-Proliferation Treaty and customary international law. At the 2015 COP21, RMI's Foreign Minister (and now Ambassador Extraordinary and Plenipotentiary for Climate Change) Tony de Brum organized a "high ambition coalition" of over 100 nations to insure adoption of a climate change treaty that limits global warming to 1.5C.

A single mosquito can project a very loud voice in the dark of the night. The Marshall Islands historical experience and committed actions locally and globally demonstrate their paramount concern: without radical and aggressive change, the world will be facing what the Marshallese have had to endure. There is no struggle more important than this, the continuing struggle to secure the most important human right, the right to exist."

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## **SOCIAL AND CULTURAL IMPACTS OF THE 2013 BOW RIVER FLOOD AT SIKISKA NATION, ALBERTA, CANADA**

Robert (Bob) Patrick\*

### **Abstract**

*The Alberta flood event of 2013 that originated in the southern Canadian Rockies caused loss of human life and resulted in the costliest natural disaster in Canadian history. The path of flood destruction severed the Trans-Canada Highway and numerous railway corridors. Cities and towns suffered significant flood damage, including Calgary, Canada's fourth largest city. This paper examines the social and cultural impacts of the flood event at Siksika Nation, an Indigenous community centred on the main floodway corridor, the Bow River, downstream of Calgary. While the repair and reconstruction of homes and neighbourhoods has long been completed in all affected cities and towns, only a handful of the 134 homes destroyed at Siksika Nation have been replaced despite availability of provincial flood recovery funding. Social and cultural factors from within the community related to building location, building density and clan-ship structure continue to mire reconstruction efforts. Suggested here is a wider breadth of provincial policy considerations that are respectful of, and adaptable to, Indigenous social and cultural tradition.*

**Keywords:** Siksika; Floodplain; Flood recovery; Indigenous; Alberta; Canada



## **Introduction**

Between June 19-22, 2013, an intense rainfall event centred over southern Alberta in the Canadian Rockies delivered record rainfall to the region. More than 200mm, and as much as 350 mm, of rain fell over this 3-day period (Pomeroy et al 2015), an amount normally expected over a period of 12 months (Environment Canada, n.d.). In addition to the torrential rainfall, a late snowpack contributed to a surge in runoff into tributaries of the Bow River, the main catchment basin for the region. During this 3-day storm event, Bow River discharge rates increased more dramatically downstream of Calgary, Alberta, where the Bow is joined by many smaller tributaries. The rate of river discharge increased ten-fold from the pre-rain event to the immediate post-rain event. Floods of a lesser magnitude are well documented for the Bow River in 2005 and 2011 (Shook 2016).

Impacts from the flood even were enormous and included closure of the Trans-Canada Highway due to a debris torrent, washout of the Canadian Pacific Railway mainline, widespread damage in the city of Calgary including flood impacts to thousands of businesses. A ‘State of Emergency’ was declared in over a dozen municipalities including the evacuation of more than 100,000 people (Pomeroy et al 2016). Tragically, the flood resulted in five deaths. The provincial government estimated the flood to be the costliest natural disaster in Canadian history at CDN \$6 billion. While media attention focused on the city of Calgary and the eastern slope communities of Banff, Canmore and High River, a large Indigenous community downstream of Calgary, Siksika Nation, was greatly impacted. Siksika Nation, bisected by the Bow River, was in the immediate, and direct, path of the floodwater surge. For Siksika Nation, the flood event went far beyond material loss and structural damage. Much deeper social and cultural impacts from the flood remain in the community, some four years after the flood event. For Siksika Nation, the flood event of June 2013 was a social and cultural disaster.

## **Siksika Nation**

Siksika Nation is located in Treaty 7 approximately 90 km east of Calgary. The Nation is bisected in its entirety by the Bow River, the historical lifeblood of the Siksika people. The river is represented in the Siksika Nation official Coat of Arms by an outer blue circle symbolizing the timeless duration of Treaty 7 signed by Chief Crowfoot on September 22, 1877. Chief Crowfoot utter the phrase “... *as long as the sun shines, the grass grows, and the water flows*” to express his people’s commitment to treaty-making (Siksika Nation website).

## **Siksika Flood Impacts**

Between June 20 and 23, flood waters that originated in tributaries of the Bow River became concentrated in the main stem of the Bow River. Without warning from the provincial government, flood waters inundated large portions of Siksika Nation on June 21 resulting in evacuation of 1000 people, or one in four residents. By comparison, the evacuation of Calgary residents was one in ten residents. During the flood event, 134 Siksika homes were lost and 771 people became homeless. The community of Little Washington at Siksika was destroyed by flood waters (Aitsiniki 2013a).

On June 21, twelve water wells providing community water supply to Siksika Nation, located close to the Bow River, were destroyed or taken off-line. This resulted in a loss of water supply to the east and west-side water treatment plants terminating potable water supply to 625 homes, or 62 percent of Siksika housing stock. Many private household wells soon became contaminated from flood water inundation. On June 22, 2013 Siksika Nation went on a boil water advisory issued by Health Canada. An additional 307 private homes at the Hidden Valley Golf Resort located on Siksika Nation land were destroyed along with a water treatment plant and the resort community clubhouse.

Other, immediate impacts included the loss of two bridge crossings of the Bow River within Siksika Nation. The loss of these bridges severed the community into two parts greatly increasing road distance and travel time for immediate emergency response. The severed road connection also impacted family and community connection, adding more stress to the community. The sewage lagoon in the Siksika community of Little Washington was destroyed by floodwaters from the Bow River. Four main Siksika communities, North Camp, Little Washington, Little Chicago and South Camp were totally inundated with floodwaters (Aitsiniki 2013b).

Each of these flooded communities house family networks based on clan relationships. These communities are located on low-lying land, occupied for generations for reasons of proximity to river, cattle grazing and farming, hunting and food gathering, trail and ease of road and river access. The form of these communities was based on family, or clan, clusters. The original planning for the housing layout was based not on legal parcel lines but on tradition of clan relations. This traditional housing arrangement would become a significant factor in the flood recovery effort at Siksika after the 2013 flood.

## **Methodology**

This research adopted a qualitative approach using document review in the grey and academic literature. Documents include a range of reports found in newspaper media including the Siksika newspaper, Aitsiniki, as well as media reports from the Calgary Herald newspaper and the Canadian Broadcasting Corporation (CBC). In addition, academic literature was reviewed to provide context of the flood event. Discussion with community members also took place between Jan 2014 and Sept 2016 during two separate site visits into the community. Prior to the flood event the author facilitated a source water protection plan with a working committee made up of membership from the community. The 2013 flood occurred only months after completion of that plan.

## **Siksika Strong**

Emergency response during and immediately after the flood peak was rapid as supplies of food and water made their way from the larger centres of Strathmore and Calgary, Alberta, to Siksika Nation. An emergency response centre was located at the Deerfoot Sportsplex at Siksika which became known locally as the 2013 Flood Reception Centre. Volunteer help from both inside and outside the community provided assistance in the weeks and months following the flood event. Canadian Red Cross provided personnel as well as over 300 volunteers from another international volunteer group, Samaritan's Purse. Volunteers provided debris clearing, household cleaning, and local food distribution support. In September a concert was held at the Bassano Centennial Arena with country entertainers Corb Lund and Ian Tyson headlining the event (Aitsiniki 2013b). Local artists contributed to the event. Funds raised went directly to the flood recovery program. The post-flood expression "Siksika Strong" has become a common slogan defining community resilience at Siksika (Aitsiniki 2013b).

To help address the immediate housing shortage, ATCO trailers 'relief shelters' were established by end of August 2013 at Siksika in three locations. While the relief shelters were warm and dry, they were also reported to be overcrowded and failed to resemble the homes and communities that were lost. The shelters provided sleeping quarters, dining room, playgrounds, furnishings, water and bathrooms but offered no cooking facilities. The relief shelters were a daily reminder of the flood event, the loss of a home, the absence of community. Chief and Council hosted information meetings with the community soon after the flood event. As early as July 2013 many of the evacuees began to express signs of frustration and uncertainty as rumours began in the community that homes destroyed by the flood would not be rebuilt on their original footprint.

The Premier of Alberta, Alison Redford, remarked that funding from Government would not be available for those choosing to rebuild in previously flooded areas. These remarks, and those

circulating in the community, raised concern among those wanting to rebuild on, or close to, the same footprint where they had lived for generations. For many, the site of their original house was much more than a location, but a place that defined their home.

One year after the flood, and after life had returned to normal for those in the upstream communities such as Canmore and Calgary, over 100 Siksika members were still living in hotel rooms in the city of Strathmore, Alberta, approximately 50 kilometers to the west. The reason was not a lack of funding to replace homes destroyed in the flood, but rather, the unwillingness of many Siksika members to be relocated away from traditional places of household occupation. This condition illustrates the increased complexity of flood disaster response when social and cultural factors are taken into consideration, or more appropriately, when they are not taken into consideration. For many in the community, the promise of a replacement house in a new location was not going to replace a home in a familiar location.

In 2014 a second wave of temporary housing in mobile homes replaced the temporary ATCO 'relief shelters'. This temporary housing consists of 144 trailers in new temporary neighbourhoods (NTNs). The housing in the NTNs provided over 600 people with a temporary trailer as they waited on a new, permanent home. The NTN housing represents much more than a new building, but a new living arrangement. The NTNs were quickly erected on higher ground outside traditional places of settlement and unsympathetic to family clan organization. The result was immediate dissatisfaction not only with household overcrowding and building placement but also with the blending of family clan structure within the NTNs. The NTNs for Siksika Nation are located at East Crowfoot School and at the West Siksika Health and Wellness Centre.

The long term plan for permanent housing will continue this practice in new subdivisions above the Bow River floodplain. This new living arrangement will be distant from traditional places of settlement and unsympathetic to family clan structure. The new, permanent homes are proposed to be two, three, and four bedroom modular houses. As of June 2016 only 13 new permanent homes have been built while more than 600 people are still living with family, friends, temporarily repaired houses, or in one of the 144 NTN trailers.

The construction of new permanent houses has been very slow and the subject of peaceful protest in the community. A lead protester, Ben Crow Chief, with a core of community support, established a 300-plus day blockade of a new permanent housing subdivision near an existing NTN (Aitsiniki 2016). The protest is over the lack of options given to those wanting to relocate on traditional clan lands, albeit in low, flood prone areas. In the words of one band member:

*"When you create these big subdivisions with people living on top of each other, that's when you have all the social problems. This is not how we traditionally live."*  
(Aitsiniki 2015).

To add further complexity, the Alberta provincial government has allocated CDN \$345 million for the new community development including housing and related infrastructure but with a deadline for completion of March 31, 2018. In the face of a financial timeline and serious housing shortage decisions must be made. Siksika Nation administration has responsibility to provide housing to membership while maintaining cooperative relations with provincial government authorities. At the same time, Siksika membership is conflicted over the planning for new housing development and the abandonment of the traditional, clan-living arrangement.

The ramification of the 2013 flood event continues to impact Siksika. These impacts reach far beyond material loss brought on by the initial flood and have driven a social and cultural wedge within the community. Some members even expressed consideration of moving to higher ground overlooking their previous homes and traditional lands:

*“We wanted to be on the hill overlooking our old homes — none of us wanted this location.”*

Aitsiniki 2015

Flooding of the Bow River at this location has occurred many times in the past (Pomeroy et al 2016; Shook 2016) and yet, Siksika Nation have managed to remain in place for millennia. Adaptation to these repeated flood events has been occurring over a very long time period. Elsewhere in Canada, flood loss claims regularly look to provincial assistance to repair and replace lost home. In fact, wealthy neighbourhoods in Calgary and Canmore were rebuilt soon after the 2013 flood with the cost of this reconstruction fully compensated by provincial recovery funding. At Siksika, the provincial flood relief program appears to be playing by very different rules. The “move or be moved” attitude of the provincial flood relief program as applied to Siksika Nation exemplifies a colonial position of the State disconnected from the values of place-based Indigenous people. Howitt et al (2013) describe the technical and knowledge-capacity deficit of provincial authorities to apply best practices that would support the re-establishment of homes, and thus clan structures, in traditional areas. Furthermore, the capacity deficit of provincial authorities has resulted in the 2013 flood being cast as a negative event. To the contrary, ecological processes will benefit greatly including the recharge of riparian and upland wetlands (Pomeroy et al 2016). River sediment deposits help to maintain productive areas for grazing and agriculture – a rationale for settling in these areas in the first place.

## **Conclusion**

A disbursed living arrangement supported the family clan structure at Siksika for millennia despite historic flood events that define this floodplain. The 2013 flood caused widespread damage to Siksika Nation and the response of community members illustrated resilience. The response of the provincial flood recovery program has been unsympathetic to the social and cultural living arrangement for many at Siksika. Clearly, the flood water devastation has become amplified across Siksika Nation as the traditional housing arrangement is under real threat of being replaced by the conventional subdivision layout with modern ‘look-a-like’ housing on small parcels of land.

The current blockade, and protest, is an expression of community frustration toward an imposed, inflexible, colonial framework devoid of social and cultural considerations. The proposed construction of new, conventional subdivisions is seen by some in the community as a modern, step forward, but to many others this new housing arrangement is prone to social problems, neglectful of cultural tradition, and a reminder of colonial control.

Flood impacts are normally measured by loss of property, economic impact, and loss of life. In the case of the 2013 Bow River flood at Siksika Nation, a very different impact has been realized. How this First Nation community is re-constructed raises questions and potential trade-offs between traditional living arrangements and more ‘modern’ conventional subdivision design.

In the face of accelerated climate uncertainty across the Prairie region, more frequent floods of similar magnitude are expected (Shook 2016; Pomeroy et al 2016). The initial response at Siksika, symbolized by the ‘Siksika Strong’ moniker, exemplifies resilience and the ability to adapt. At the same time, the response of the provincial government has shown little capacity to support resilience and adaptation. Adaptation to flood events through land alterations such as berms, ditching, dykes and enhanced vegetation cover may lessen flood impacts and reduce the financial, social and cultural burden of community relocation programs. Modification to existing housing should also be considered where existing housing stock holds significant social and cultural value. Flood proof modifications such as mounding, moats, stilt-frame construction, and raised floors over unfinished ground-level grade have been successfully applied in many other floodplain areas around the world (Dewan 2015). Many cities, and communities, have adapted to floodplain environments through a mix of technology and better land use practices. To avoid social and cultural upheaval these practices should be applied at Siksika Nation to avoid community upheaval. Such practices would serve the twin goals of protecting property as well as respecting social and culture norms. The current capacity deficit of this State-led flood recovery program that demand community relocation, conditional timelines for funding, as well as limited vision

for adaptive, flood proof housing is but one reminder of colonization's grip on Indigenous people. Cultural genocide operates on many, often unrecognized, levels.

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## **TAX CUTS? HELL. NO. THOUSANDS OF AMERICAN INDIAN AND ALASKA NATIVE CHILDREN WILL LOSE HEALTH INSURANCE**

Mark Trahant\*

Republished with author's permission from *Trahan Reports*, November 27, 2017, <https://trahantreports.com/2017/11/27/tax-cuts-so-important-while-thousands-of-american-indian-and-alaska-native-children-will-lose-health-insurance/>.

Congress has yet to reenact the Children's Health Insurance Program and states will soon run out of funds to prop up the program. That will mean that thousands of American Indian and Alaska Native children will lose their health insurance. And, the result is the Indian Health Service will have to stretch its already thin dollars to try and cover the budget hole.

The Children's Health Insurance Program expired Sept. 30. This federal program insures young people and pregnant women who make just enough money not to qualify for Medicaid (but can't afford private insurance). The idea is to make sure that every child has the resources to see a doctor when they are ill.

It's hard to break down precise numbers because agencies lump funds from the Children's

Health Insurance Program or CHIP into Medicaid data. But we do know that the law worked really well. We also know there are more than 216,000 children that have health insurance because of Medicaid and the CHIP. Indeed, Native American children rely on Medicaid and CHIP at much higher percentages than other population groups. A study by Georgetown reported that 54 percent of American Indian and Alaska Native children were enrolled in Medicaid or CHIP as compared to 39 percent of all children. “Even though much progress has been made in extending Medicaid coverage to American Indians and Alaska Natives, the uninsured rate for American Indian and Alaska Native children and families remain unacceptably high,” the report said.

| State        | Percent of AI/AN children with Medicaid coverage, 2008 | Percent of AI/AN children with Medicaid coverage, 2015 |
|--------------|--------------------------------------------------------|--------------------------------------------------------|
| Alaska       | 46%                                                    | 66%                                                    |
| Arizona      | 46%                                                    | 56%                                                    |
| California   | 34%                                                    | 52%                                                    |
| Montana      | 45%                                                    | 63%                                                    |
| New Mexico   | 40%                                                    | 72%                                                    |
| North Dakota | 35%                                                    | 54%                                                    |
| Oklahoma     | 34%                                                    | 42%                                                    |
| South Dakota | 55%                                                    | 75%                                                    |
| Washington   | 47%                                                    | 49%                                                    |

Note: Medicaid counts include CHIP enrollees.

Source: Georgetown University Health Policy Institute. Coverage Trends for American Indian and Alaska Native Children and Families.

Overall the uninsured rate among non-elderly American Indians and Alaska Natives fell by 7 percentage points from 24 percent to 17 percent, according to the Kaiser Family Foundation.

This is a big deal and here’s why: The Indian Health Service is a health care delivery operation that works best when insurance (third-party billing in government-speak) pays for the medical costs. Medicaid, CHIP, Medicare, and other third-party billing now accounts for 22 percent of the IHS’ \$6.15 billion budget.

But if Children’s health is no longer funded (because Congress did not reauthorize the legislation) then the Indian Health Service will have to make up the difference. That means taking money away from other patients and programs. It will be a critical problem for clinics because by law dollars from third-party billing (or Medicaid and CHIP) remain local.

Alaska is the state most impacted by Congress’ failure to act because two-thirds of the children in the Native health system are covered by Medicaid or CHIP. Other states where there will be significant hits: Montana, North Dakota, South Dakota, Washington, New Mexico, Oklahoma, North Carolina, and California.

**Appendix Table 1. States with More Than 10,000 AI/AN Children with Medicaid Coverage, 2015**

| State          | Number of AI/AN children with Medicaid coverage, 2015 |
|----------------|-------------------------------------------------------|
| Arizona        | 49,000                                                |
| New Mexico     | 38,300                                                |
| Oklahoma       | 34,300                                                |
| Alaska         | 21,500                                                |
| South Dakota   | 17,900                                                |
| North Carolina | 15,100                                                |
| Montana        | 14,900                                                |
| California     | 14,200                                                |
| Washington     | 11,200                                                |

Notes: Medicaid counts include CHIP enrollees. Estimates are rounded to the nearest hundred.

Source: Georgetown University Health Policy Institute

The House of Representatives passed a CHIP reauthorization in early November. But that bill included a \$6.35 billion budget cut to other health programs, including the Prevention and Public Health Fund, which provides money for vaccines, smoking cessation, and other initiatives to improve public health. The House would also ban lottery winners from being insured by Medicaid, tighten the timetable for people to sign up, and to change other rules.

It's unlikely the Senate will agree. But the Senate is not moving quickly to pass its own legislation. The Senate is too busy working out tax cuts that will benefit large corporations and the very wealthy. (Previous post: What matters? Tax fight is about seven competing values.)

Across the country, some nine million low- and middle-income children rely on CHIP for health coverage. And, according to The Hill newspaper, States have asked the Centers for Medicare and Medicaid Services for funding to hold them over in the interim, and the agency has awarded about \$607 million in redistributed funds to states and U.S. territories. Tribes will also lose hundreds of thousands of dollars in CHIP-related grants.

Last month, Utah Republican Orrin Hatch, who chairs the Senate committee responsible, called CHIP a "top priority" that had bipartisan support. The committee passed the bill October 2. But it's up to Majority Leader Mitch McConnell, R-Kentucky, to bring the legislation to the floor for enactment. Then the House and Senate would have to iron out and agree on their differences before the bill can become law.

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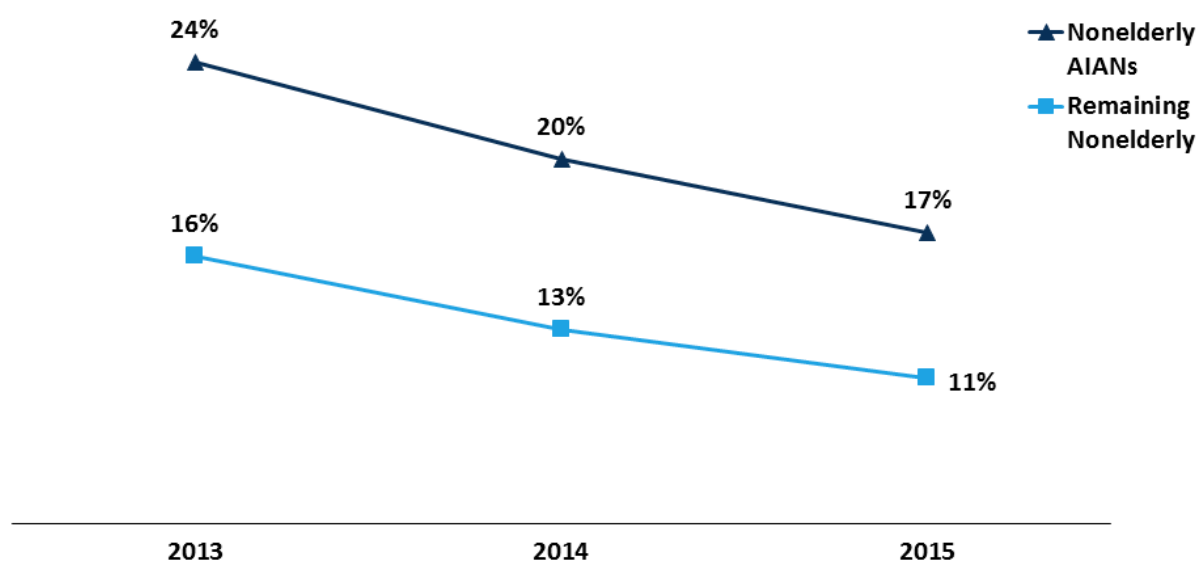
## SERIOUSLY? STATES COMPLAIN TO SENATE ABOUT THE BURDEN OF NATIVE HEALTH CARE #INDIGENOUSNEWSWIRE

Mark Trahant\*

Republished with Author's permission from *Trahant Reports*, September 22, 2017, <https://trahantreports.com/2017/09/22/seriously-states-complain-to-senate-about-the-burden-of-native-health-care-indigenousnewswire/>.

Figure 6

### Uninsured Rate for Nonelderly American Indian Alaska Natives, 2013-2015



NOTES: Includes nonelderly individuals ages 0-64. Includes American Indians and Alaska Natives alone and in combination with another race and those of Hispanic origin.

SOURCE: Kaiser Family Foundation analysis of the 2013-2015 American Community Survey (ACS), 1-Year Estimates.



Medicaid has worked under the Affordable Care Act, reducing the number of uninsured in Indian Country. (Kaiser Family Foundation)

First: A fantasy. Wouldn't it be cool if once, just once, there was a debate in Congress that could only be decided by a vote that benefits Native people? I don't know. Something like, "I won't vote for any bill unless it fulfills the treaty obligations that the United States has promised Native people." It could happen, right?

Well the current Senate debate on health care has a twist on this pipe dream. States are complaining about the burden, that's right, the burden of Native American health care. So here's the deal now: When an eligible Native American gets services through the Indian Health system, the cost is a 100 percent federal obligation. But, if that person or family is on Medicaid they could also get care from any provider. In that case the state would have to pay its share of the cost *as it does for any other citizen*.

As the Kaiser Family Foundation points out: "Just as with other eligible individuals, AIANs who meet state eligibility standards are entitled to Medicaid coverage in the state in which they reside. AIANs may qualify for Medicaid regardless of whether they are a member of a federally-



recognized Tribe, whether they live on or off a reservation, and whether they receive services (or are eligible to receive services) at an IHS- or Tribally-operated hospital or clinic. AIANs with Medicaid can access care through all providers who accept Medicaid for all Medicaid covered benefits. As such, they have access to a broader array of services and providers than those who rely solely on IHS services for care. Moreover, Medicaid has special eligibility rules and provides specific consumer protections to AIANs.”

The Graham-Cassidy plan would change that by making this cost a 100 percent federal obligation. States would be off the hook.

This is where it gets screwy. There are legitimate state concerns — basically it’s a complicated maze to figure out a patient’s path and how the money flows. But it’s still a benefit for states because Native people are citizens and so a full-federal match for most costs is a net gain.

South Dakota (a state that did not expand Medicaid) would gain \$795 million from a block grant, but would still lose a significant share of its health care funding between 2020 and 2026, according to the Kaiser Family Foundation.

But (and I can’t believe I am writing this sentence) Sen. Mike Rounds told South Dakota Public Radio that the state would get a “large chunk of funds would cover 100 percent of the healthcare costs for Native Americans who receive Medicaid. Right now, the Affordable Care Act requires a state match.”

This is a fraction of what the state will lose — so this is a straight-faced claim that Native health care is a burden. (Remember this cost is only for tribal citizens who do not use Indian Health Service, a small slice of the population.)

South Dakota is not alone. A state legislative report in Arizona estimated that the state will lose a third of its Medicaid funding (\$3.8 billion now, \$4.9 billion by 2020). But according to the Capitol Media Services of the Arizona Daily Star, Gov. Doug Ducey dismisses those losses because the numbers are not from an independent review. Yet there is not enough time for the Senate to get a Congressional Budget Office assessment by the September 30 deadline. So this is all being made up on the fly.

“Christina Corieri, the governor’s health policy advisor, said one of those provisions would free the state of its financial obligations to share the cost when Native Americans get care at non-Indian Health Service facilities,” the Arizona Daily Star said. Corieri “could not say what that number would save Arizona other than ‘it’s a very large number.’”  
Seriously?

There are roughly 130,000 Native Americans in Arizona on Medicaid, about 6 percent of the state’s version of Medicaid, the Arizona Health Care Cost Containment System. And of that, we’re talking about a subset, those who choose to go outside of the Indian health system. It’s just not a very large number. Period.

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## HERE WE GO AGAIN: THE CONGRESSIONAL ATTACK ON HEALTH CARE, HIGHER EDUCATION #INDIGENOUSNEWSWIRE

Mark Trahant\*

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Here we go again. The Congress is hell bent on wrecking the Affordable Care Act.

This time the mechanism is the so-called tax reform bill that will be voted in the U.S. Senate. The logic is rich (and, yes, "rich" is absolutely the right word and sentiment) because this tax cut will wreck the individual health insurance market so that the rich will pay less in taxes. But the problem gets at the core of insurance itself. How do you make sure there is a large enough pool to cover high cost patients? The Affordable Care Act did this by requiring everyone to buy health insurance or pay a penalty. Without that provision people who are healthy are free to skip out. But sick people always want coverage. And that creates an imbalance that does not work.

Senate Republicans added the provision because it saves money, some \$338 billion according to the Congressional

Budget Office. It estimates 13 million people will drop health insurance.

"We're optimistic that inserting the individual mandate repeal would be helpful," Senate Majority Leader Mitch McConnell said Tuesday.

The Senate bill is now being shaped into its final form. Wait. That's funny. That's what they say. But both the Senate and the House will change these tax bills all the way up until the final vote (unless it's a sure thing, anyway). One of the reasons the bill will evolve is what's called the Byrd Rule. This Senate is using the reconciliation process, like the Affordable Care Act repeal bills, so only 50 votes are required to pass. But that means the bill has limit of \$1.5 trillion in new debt over 10 years and cannot add more after that. None of the bills, so far, accomplish that.

So the health care fight is back. And the Senate majority is confident this time they have the votes to pass the legislation.

There are other provisions in Senate tax bill that will impact American Indians and Alaska Natives.

One of the key ideas is to increase the size of the standard deduction so that fewer taxpayers will have to itemize. But to pay for that the simplicity the Senate bill is getting rid of some popular deductions, including the ability to deduct state and local taxes from your federal tax return. The bill also gets rid of deductions for dependents. The math works out so that families with fewer than three children will pay about the same. But if your family size is larger, then you will pay more. This is Indian Country. The average American family has 3.2 children, but in Indian Country it's 4.2 children per family.

Update: The Joint Committee on Taxation released its findings on Thursday. Its research shows that taxes will increase for those earning less than \$30,000 per year. And by a wide margin. The calculation is based, in part, on the current subsidy to purchase health insurance.

### Distribution of the Proposal

| INCOME CATEGORY                  | CHANGE IN FEDERAL TAXES (\$ millions) |                   |                   |                   |                 |
|----------------------------------|---------------------------------------|-------------------|-------------------|-------------------|-----------------|
|                                  | 2019                                  | 2021              | 2023              | 2025              | 2027            |
| Less than \$10,000.....          | -\$395                                | -\$97             | \$178             | \$216             | \$341           |
| \$10,000 to \$20,000.....        | -\$1,013                              | \$2,818           | \$3,726           | \$3,732           | \$6,257         |
| \$20,000 to \$30,000.....        | -\$1,861                              | \$2,991           | \$3,165           | \$3,779           | \$7,987         |
| \$30,000 to \$40,000.....        | -\$4,615                              | -\$1,542          | -\$257            | -\$163            | \$4,626         |
| \$40,000 to \$50,000.....        | -\$6,371                              | -\$3,646          | -\$2,700          | -\$2,621          | \$4,070         |
| \$50,000 to \$75,000.....        | -\$22,420                             | -\$19,672         | -\$16,998         | -\$17,327         | \$3,981         |
| \$75,000 to \$100,000.....       | -\$21,482                             | -\$20,923         | -\$17,960         | -\$18,925         | -\$747          |
| \$100,000 to \$200,000.....      | -\$64,130                             | -\$63,181         | -\$51,695         | -\$54,069         | -\$3,918        |
| \$200,000 to \$500,000.....      | -\$59,377                             | -\$59,592         | -\$49,392         | -\$53,805         | -\$4,589        |
| \$500,000 to \$1,000,000.....    | -\$24,753                             | -\$23,884         | -\$18,515         | -\$19,799         | -\$1,817        |
| \$1,000,000 and over.....        | -\$33,670                             | -\$28,134         | -\$12,740         | -\$15,343         | -\$5,580        |
| <b>Total, All Taxpayers.....</b> | <b>-\$240,090</b>                     | <b>-\$214,865</b> | <b>-\$163,155</b> | <b>-\$164,563</b> | <b>\$10,637</b> |

**Source: Joint Committee on Taxation**

And this is where it gets weird. The Senate bill does increase a tax credit, from \$1,000 now to \$1,650 per child. But, and this is huge, the additional \$650 credit is only available to those who owe federal income taxes. It's not refundable. This is important to people who are not rich because so many pay more in payroll taxes (Social Security, Medicare, etc.) than in income taxes.

Add it all up and the Senate bill would increase taxes on 13.8 million moderate income households. But, hey, at least the rich get a break, right?

The House of Representatives passed its version of tax reform Thursday by a vote of 227-205. No Democrats voted for the bill, while 13 Republicans opposed it.

The House bill is similar but takes a different tack on mortgages and the deduction of state and local taxes. The House would also eliminate the ability of families to deduct medical expenses. (Think about that when matched with the Senate's plan to mess up health insurance.)

And the House bill really goes after university graduate students.

Many graduate students earn a small stipend for working on campus, doing research or teaching, and get a break on tuition. The stipend is already taxed. But the House would tax the tuition waiver, thousands of dollars. The average cost of graduate school is \$30,000 a year at a public university and \$40,000 at a private school. The Washington Post explains the problem this way: "Say you're a married graduate student at Princeton. Your spouse has a full-time job and makes \$50,000 a year; you have two school-age children. You're filing a joint tax return. For sake of simplicity, you have no other deductions beyond the standard. According to H&R Block's tax calculator, you would owe about \$5,000 under the current law. Under the proposed Republican plan, you would owe about \$15,000."

The House bill also eliminates the deduction for interest on student loans and it eliminates tax credits for higher education.

This is terrible public policy. The digital age demands more education, not less, and the tax code should be in alignment. The House bill does the opposite. It will make higher education more expensive and less likely for too many people.

And just to make sure that higher education gets the message about what the country values, the House bill also would tax the larger university endowments, such as Harvard, Princeton, and even smaller colleges that have reserves of more than \$250,000 per student.

But both the House and Senate do have one group in mind when writing this new tax code, business. The total “tax cuts” in the bill add up to \$1.4 trillion over the next decade and of that amount, \$1 trillion goes to businesses and corporations. It does this by reducing the corporate tax bracket from to 20 percent.

The other side of this tax debate is that it will reduce the amount of revenue that goes into the federal treasury. That means that soon after one of these measures passes, Congress will be required to look again at cutting spending.

Already the Congressional Budget Office estimates the tax bill will require \$136 billion cuts from Medicare, Medicaid, and other entitlement programs. “Without enacting subsequent legislation to either offset that deficit increase, waive the recordation of the bill’s impact on the scorecard, or otherwise mitigate or eliminate the requirements of the [pay-go] law, OMB would be required to issue a sequestration order within 15 days of the end of the session of Congress to reduce spending in fiscal year 2018 by the resultant total of \$136 billion,” CBO said Tuesday.

The Center for Budget and Policy Priorities pegs these coming budget cuts at \$5.8 trillion. “These include \$1.8 trillion in cuts in Medicaid, Medicare, and other health care entitlement programs and \$800 billion in cuts *below* the already austere sequestration levels in ‘non-defense discretionary’ programs, the budget area that includes education and training, transportation, scientific and medical research, protection of the food and water supply, child care, low-income housing assistance, services for frail elderly people, and much more,” the center reports.

So we are just at the beginning of the debate. The conservative dream is to sharply cut taxes for corporations and the wealthy — and then to shrink government. The House and Senate tax bills do just that.

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## **THIS IS A FIRST: LEGISLATION WOULD FULLY-FUND INDIAN HEALTH SYSTEM, RAISE BILLIONS**

Mark Trahant, "Thie Legislation Would Fully-Fund Indian Health System, Raise Billions"

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Bernie Sanders is expected to introduce his version of health care reform, a plan he calls

“Medicare for all.” At least fifteen Democrats have signed on as co-sponsors to the single-payer plan.

“This is where the country has got to go,” Sanders told The Washington Post. “Right now, if we want to move away from a dysfunctional, wasteful, bureaucratic system into a rational health-care system that guarantees coverage to everyone in a cost-effective way, the only way to do it is Medicare for All.”

Sanders’ bill has no chance in a Republican Congress. Yet the Vermont Independent (who caucuses with the Democrats) is adding to the richness of the debate. He is showing a clear alternative to Republican plans (the latest is one by Sens. Lindsey Graham, R-South Carolina, and Bill Cassidy, R-Louisiana.)

But Indian Country should take note. Sanders bill would fully-fund the Indian health system. Let’s do the math. The current budget for the Indian Health Service is \$6.091 billion dollars. And of that, roughly \$1.2 will come from Medicaid, Medicare and other insurance. This serves about 2.2 million American Indians and Alaska Natives in 39 states.

But if Sanders’ proposal for universal care were enacted every one of those 2.2 million patients would have funding from insurance. The national average for Medicare beneficiary is \$10,986. The total: \$24.191 billion. A four-fold increase (and this does not include appropriations, just insurance dollars). So if you include both, the total is roughly \$30 billion. This sound like an awful lot of money, right? That big number reflects what other health systems already spend. So actually it’s the ideal demonstration of just how underfunded the Indian Health Service is under current law and insurance schemes. This is what a fully-funded Treaty Right looks like.

Of course some of this can be done now, even without Sanders’ bill. Many people in tribal communities are posting on Facebook exactly how to sign up for Medicaid (the government insurance program that so many in Indian Country already qualify for.) They are doing this as an act of defiance, because the Trump administration has recently quit advertising the program and is not actively promoting sign-ups.

But, again, let’s do the math. If every American Indian and Alaska Native was eligible for Medicaid that would net the Indian health system about \$7.211 billion (instead of the \$1.2 billion from third-party billing now). I actually think this is a more realistic number (even under a Sanders’ plan) because it does not include some of the spending by Medicare (and for that matter, Medicaid) on senior citizens. The national average for Medicaid is a modest \$3,278 for an adult and for \$2,577 average for children. The total for IHS would be in the neighborhood of \$15 billion. More than double what is spent now.

Either Medicare or Medicaid: This is what full funding looks like. And a Treaty Right fulfilled. Finally.

Speaking of children, the Senate has reached a bipartisan deal in the Senate to reauthorize the Children’s Health Insurance Plan or CHIP. This insurance plan covers 9 million young people through Medicaid. The program is set to expire at the end of the month unless Congress acts and then President Donald J. Trump signs a new legislation into law.

\*Mark Trahant is the Charles R. Johnson Endowed Professor of Journalism at the University of North Dakota. He is an independent journalist and a member of The Shoshone-Bannock Tribes. On Twitter @TrahanReports.

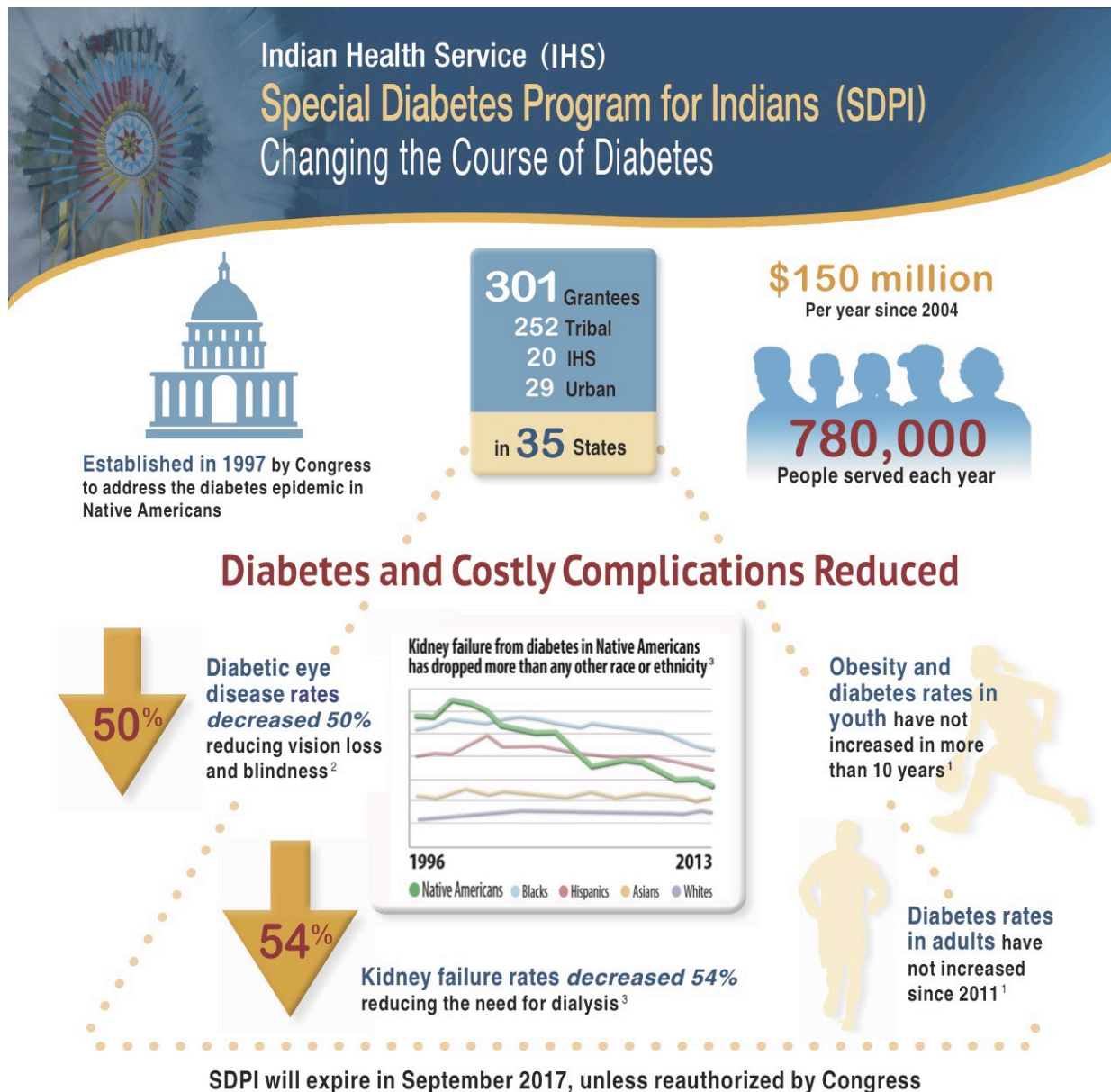
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## OBESITY IN INDIAN COUNTRY IS MOSTLY THE SAME; WHY THAT'S INCREMENTAL PROGRESS

Mark Trahant, "Obesity in Indian Country Is Mostly the Same; That's Why Incremental Progress"

Republished with author's permission from *Trahan Reports*, August 5, 2017, <https://trahantreports.com/2017/08/05/obesity-in-indian-country-is-mostly-the-same-why-thats-incremental-progress/>.



“SDPI is the most effective federal initiative for combating diabetes in our AI/AN communities. Thanks to SDPI, our people are healthier - now and in future generations.”

**Lincoln Bean (Tlingit)**  
Alaska Area Representative  
Tribal Leaders Diabetes Committee



<sup>1</sup>IHS National Data Warehouse | <sup>2</sup>IHS Teleophthalmology Program Data | <sup>3</sup>CDC Vital Signs <https://www.cdc.gov/vitalsigns/ai-an-diabetes/index.html>



U.S. Department of Health and Human Services  
Indian Health Service  
July 2017

IHS Diabetes Fact Sheet, published July 2017.

## A FUNDAMENTAL QUESTION ABOUT GOVERNMENT

Mark Trahant / *Trahan Reports*

The most fundamental question about government is this: Does it work? When does government — tribal, state or federal — actually make a difference in our lives?

There are two ways to answer that question, data and story. Data tells what happens over time, a reference point that ought to provide the proof of self-government. But story is what we tell ourselves about what works, and more often, what does not work. Ideally data and story lead us to the same conclusion.

One problem with data is that it measures incremental progress. That should be a good thing. But when telling a story it's awfully difficult to report that things are kinda, sorta getting better. We humans want clarity, a success story, right? Or even an outright failure.

Yet progress is often measured slowly.

We all know there is an epidemic of diabetes in Native American communities. Yet it's also true that adult diabetes rates for American Indian and Alaska Natives have not increased in recent years, and there has been a significant drop in both vision-related diseases and kidney failures. Incremental progress.

Now a new study, one that is built on a massive amount of data, reports that obesity among Native American youth is mostly the same.

"The prevalence of overweight and obesity among AI/AN children in this population may have stabilized, while remaining higher than prevalence for US children overall," according to a study published last month by the American Journal of Public Health. The study concluded that American Indian and Alaska Native youth still have higher rates of obesity than the total population, but those rates have remained constant for a decade. In other words: The problem is not getting worse. (At least, mostly.) This report is remarkable because it reflects a huge amount of data — reports from at least 184,000 active patients in the Indian health system — from across geographic regions and age groups. Most scientific studies rely on a small sample group, making it difficult to compare regions or even break down the data by gender or age. (So Native Americans who are treated outside of the Indian health system would not be included in this data.)

The results: "In 2015, the prevalence of overweight and obesity in AI/AN children aged 2 to 19 years was 18.5% and 29.7%, respectively. Boys had higher obesity prevalence than girls (31.5% vs 27.9%). Children aged 12 to 19 years had a higher prevalence of overweight and obesity than younger children. The AI/AN children in our study had a higher prevalence of obesity than US children overall in the National Health and Nutrition Examination Survey. Results for 2006 through 2014 were similar."

The findings show that the problem is not getting worse. And that is incremental progress.

To put this report into a policy context, think about the hundreds of programs that are designed to get Native American youth more active. Or the education campaigns to improve diet and to encourage exercise that occur every day across Indian Country.

This is timely data because Congress must soon reauthorize the Special Diabetes Program for Indians. And this report is evidence that \$150 million program works and it's also worth a continued investment by taxpayers. (Remember: Chronic diseases, such as diabetes, are by far the most expensive part of health care. Every dollar spent on prevention saves many, many more down the road.)

The goal of course must be a decline in overweight and obesity statistics, not just stability. (And one warning sign in the report is that there was a slight increase in severe obesity even while the general trend is stable.)

The report, by Ann Bullock, MD, Karen Sheff, MS, Kelly Moore, MD, and Spero Manson, PhD, said there are many reasons for a higher obesity prevalence in American Indian and Alaska Native children but also said this was a “relatively new phenomenon seen only in the past few generations. The explanations range from the rapid transition from a physically active subsistence lifestyle to the wage economy and sedentary lifestyle. Add to that the risk factors of poverty, stress, and trauma.

“Indeed, many AI/ AN people live in social and physical environments that place them at higher risk than many other US persons for exposure to traumatic events,” the study found. “Among children in a National Institute of Child Health and Human Development study, the experience of numerous negative life events in childhood increased risk for overweight by age 15 years. Another contributing factor to obesity in children living in lower-income households is food insecurity, which is the lack of dependable access to sufficient quantities of high-quality foods. Even before birth, stress and inadequate nutrition during pregnancy alter metabolic programming, increasing the risk for later obesity in the offspring.”

Because obesity is a relatively new phenomenon seen only in the past few generations, there is much that can be done to reverse the trend. And that starts with making sure the problem is not getting worse. Then we can get healthier. Kinda, sorta, at least.

\*Mark Trahant is the Charles R. Johnson Endowed Professor of Journalism at the University of North Dakota. He is an independent journalist and a member of The Shoshone-Bannock Tribes. On Twitter @TrahanReports.

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## **WHAT MATTERS? TAX FIGHT IS ABOUT SEVEN COMPETING VALUES #INDIGENOUSNEWswire**

Mark Trahant, "What Matters? Fighe Cut Is About Seven Competing Values"

Republished with author's permission from *Trahan Reports*, November 19, 2017, <https://trahantreports.com/2017/11/19/what-matters-tax-fight-is-about-seven-competing-values-indigenousnewswire/>

## **WHY INDIAN COUNTRY SHOULD HAVE A VOICE IN THIS DEBATE**

There is no better way for any legislature — be it a tribal council, a state assembly, or a Congress — to telegraph what’s most important to a society than through tax policy. How a government collects revenue says what constituent groups are seen to matter. And, conversely, what groups and issues are insignificant. And, that of course, is Indian Country.

As Adrian Sinclair wrote in Cronkite News: “Indian Country once again does not have a seat at the table.” Tribes “aren’t treated the same as state and local governments across the board on a whole series of issues,” John Dossett, general counsel for the National Congress of American Indians, said after the hearing. “Tribes are ... either ignored or they’re an afterthought.” He said there are many cases where state governments have more power than tribal governments, like the federal Adoption Tax Credit, which gives a credit to parents who adopt a child with special needs. But the credit only applies when a state court, not a tribal court, rules that a child has special needs.

So Indian Country is a perfect illustration for my larger point: A country’s tax policy shows



what it values. The key to this idea is simple when a nation wants more of something, then taxes it less. And, other hand, if a nation wants less of something? Tax it more.

All interest on debt was deductible when the first income tax was created in 1894. Why? Because Americans did not like to borrow. It was almost immoral. As a writer for Harper's Weekly warned a man in debt "must smile on those he hates, he must extend his hand where he would strike, he must speak pleasantly with a curse in his throat ... He wears dependence like a yoke."

But Congress made debt a better deal. You could borrow money for that new farm, or especially a home, and the government would subsidize the loan by making it a tax deductible transaction. By the 1920s car loans were the bigger deal. Americans were borrowing, buying and deducting. Congress created a monster with that policy and today debt is one of America's great loves. Then in 1986 Congress switched gears: Today individuals can only deduct mortgage interest. But even that single benefit was generous. You could buy a big house. A bigger house. A ginormous house. And deduct 100 percent of the interest up to the cost up to \$1.1 million of debt. And that tax deal includes second homes.

So as a policy the Congress was telling we the people buy bigger houses. And go ahead, get that second house in the woods or on the lake.

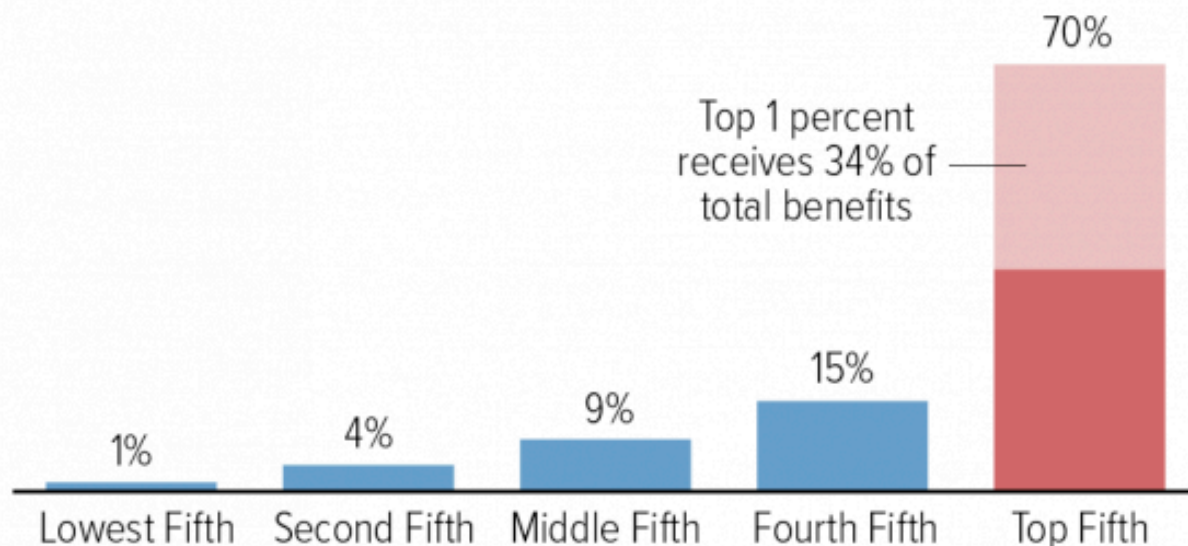
That's what tax reform is, setting parameters for what the elected leaders think important for a national policy. So, if it becomes law, this tax reform will change the way we consumers spend money. Perhaps we'll buy and build smaller houses and rent a cabin on the lake instead of purchasing one. This might be a good outcome for all of us. This is actually a pro-climate policy (please don't tell Congress.)

This same priority process is true for renewable energy. Congress created incentives for wind, solar and other renewable energy. But, now the Republican plan is to reverse course, and reward oil, gas, and especially coal. Tax policy will favor fossil fuel development and renewable energy will therefore cost more. But will companies still invest? Who knows? We do know the calculations will be way more complicated. And, did I mention, renewable energy will cost more.

Let's consider the overarching messages, the narrative, that will form policy in the tax bill before the Senate and the one already passed by the House of Representatives.

## Cutting Corporate Tax Rates Mostly Benefits Those at the Top

Share of benefits by income group, 2017



Source: Tax Policy Center, Table T17-0180

CENTER ON BUDGET AND POLICY PRIORITIES | CBPP.ORG

### ONE: THE BIGGER THE CORPORATION, THE BIGGER THE BREAK

The tax bills paid by corporations are driving the legislation in both the House and the Senate. Republicans argue that if taxes are lower, companies will invest more in the United States (instead of other countries) and hire more people at higher wages. This debate is complicated because the current tax code is full of loopholes (something that Republicans say will be fixed). But the bottom line is that U.S. companies have a higher tax rate than what other countries charge, but, and this is huge, the companies actually pay less in federal taxes than what other other countries charge.

As the Harvard Business Review says: “First and foremost, corporate taxes are important because they help pay for government services. While they don’t account for as much U.S. tax revenue as they once did, they remain one of the central ways the government raises funds. According to the Tax Policy Center, “The corporate income tax is the third largest source of federal revenue, after the individual income tax and payroll taxes.”

The House bill cuts the top rate that large corporations pay from 35 percent to 20 percent. It would be the largest one-time drop in the big-business tax rate ever. And it’s a permanent change (the individual rates expire after a decade) at least until there’s another tax bill.

Companies will also get more deductions for purchasing new equipment. And there is an incentive for companies to move their profits back to the United States from low-tax countries. The Senate bill is evolving. It also rewards big business. But in order to reduce the cost of the entire package, it delays reducing the corporate rate until 2019. (Imagine every business in the country holding off on just about any new activity because the tax laws changed next year.)

The metaphor: Multinational corporations rule.

## TWO: IT'S TOUGH BEING RICH

The New York Times' Nicholas Kristof writes that it's hard being a billionaire these days. "Why, some wealthy folks don't even have a home in the Caribbean and on vacation are stuck brooding in hotel suites: They're practically homeless!"

Fortunately President Trump and the Republicans are coming along with some desperately needed tax relief for billionaires."

One way this works is by reducing the tax when someone inherits a wealthy estate. Both versions start this tax at \$11 million. The House eliminates the so-called "death tax" in 2024 while the Senate keeps the tax but raises the exemption.

A second provision changes what's called the Alternative Minimum Tax. The way that works is that after a tax return is completed, and there's a whole slew of deductions, there is a calculation to see if that taxpayer should still pay something. The idea is to make sure that people earning more than \$130,000 a year still pay an income tax, even if they find deductions in every corner. That goes away.

And there is one more goody for the rich. Charitable contributions can still be deducted.

The metaphor: Wealthy families so need our help. OMG.

## THREE: WHY WORK?

This part of the debate starts with the corporate tax rates. The Trump administration argues that cutting corporate taxes will benefit workers because companies will reward workers with better wages.

Treasury Secretary Steven Mnuchin claims that "many, many economic studies show that more than 70 percent of the burden of corporate taxes are passed on to the workers." However economists are divided. As the Center for Budget and Policy Priorities points out "this claim is misleading ... the evidence indicates that most of the benefits from a corporate rate cut would go to those at the top, with only a small share flowing to low- and moderate-income families. Mainstream estimates conclude that more than one-third of the benefit of corporate rate cuts flows to the top 1 percent of Americans, and 70 percent flows to the top fifth. Corporate rate cuts could even hurt most Americans since they must eventually be paid for with other tax increases or spending cuts."

The bottom line is that the tax bill will not make life easier for people earning under \$75,000 a year. The income tax portion might go down (depending on family size, smaller in this case is better) but costs will go up for education and health care.

And, on top of that, this tax policy will sharply reduce federal spending across the board. Last week the National Congress of American Indians (NCAI) and the Native American Finance Officers Association (NAFOA) came out against both the House bill and the Senate Finance Committee bills in part because of this point. "NCAI and NAFOA view it as deeply regrettable that neither the House nor the Senate bill takes seriously Indian Country's priorities for tax reform," a news release said. "With respect to tribal nations, unless tribal provisions are included, the current tax reform legislation amounts to little more than a \$1.5 trillion increase in the federal deficit over the next ten years. This deficit increase will inevitably create pressure to cut federal programs and services that are extremely important to tribal communities. Deficit-financed tax cuts that lead to austerity budget cuts would affect all Americans, but would disproportionately impact American Indians and Alaska Natives who rely on federal funding of the trust responsibility as well as social programs."

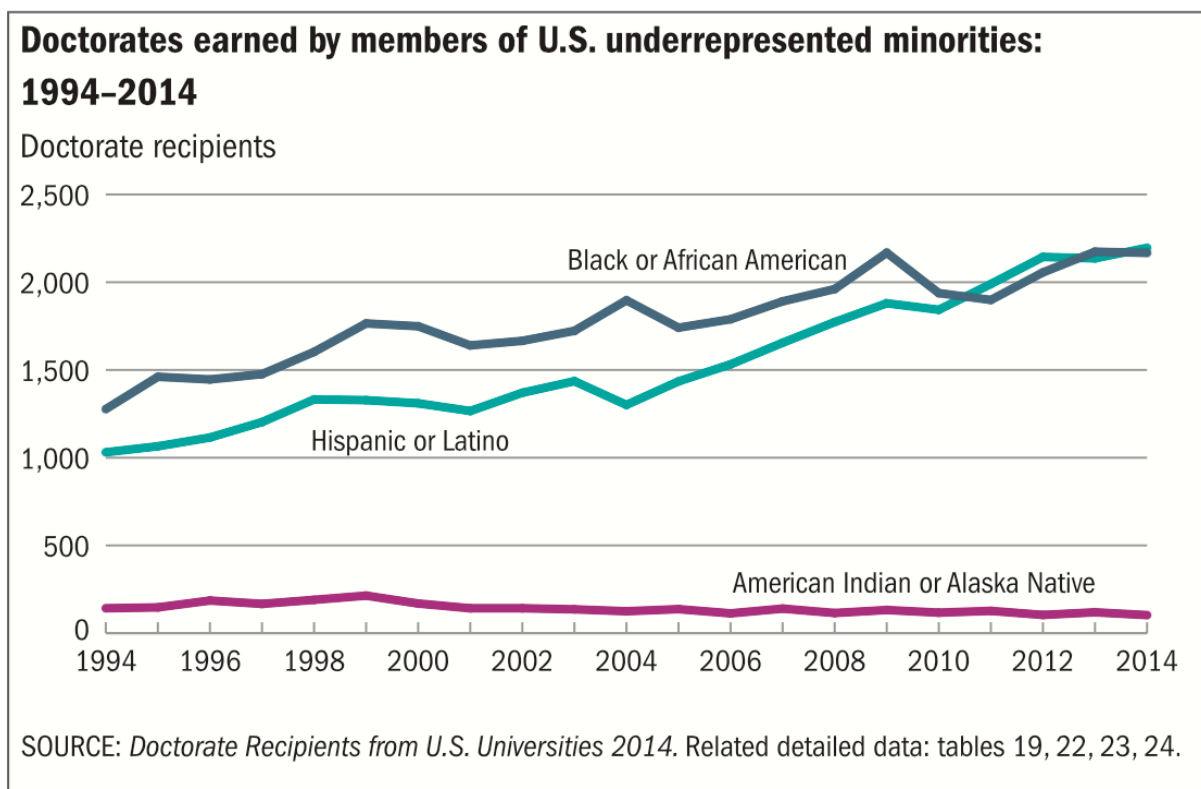
The metaphor: Workers don't matter.

#### FOUR: HELP MOM AND POP SELL STUFF

Most people who own a small business structure their entity as Limited Liability Corporations, S-Corps, or a partnership. This means that the income generated is reflected on the individual's tax return. The House lowers the taxes on profits from 39.6 percent to 25 percent and has a 9 percent increase on the first \$75,000. The Senate goes a different route with a new incentives for small business. This is "pass through income" because of the structure. And this part of reform really does solve a problem. Small business is critical — especially in Indian Country — but does not get the attention (or the breaks) that large corporations do.

Rep. Markwayne Mullin, R-Oklahoma, said last week, "As a former small business owner, I understand firsthand how burdensome the current tax code is on Main Street. The Tax Cuts and Jobs Act delivers relief to mom-and-pop shops in our communities so that they can hire more individuals, grow their business, and invest more in our local economy."

The metaphor: Small business is cool, too.



#### FIVE: ELITE COLLEGES? OR IS IT, COLLEGE ONLY FOR THE ELITE?

The House bill is an all-out attack on higher education. This is nonsense. Especially when the country needs to be competitive in a digital, knowledge-based world.

First up: Tax private universities' endowments with a tax of 1.4 percent on portfolios that exceed \$250,000 per full-time student. Only about a hundred schools would be affected, and it penalize colleges that have resources. Since those university operating costs will not go down, it's not likely that this will result in more financial aid for students. The House also makes it impossible for tax-exempt bonds from private — and some public — institutions. This will make campus construction projects more expensive.

The House bill eliminates the deduction of interest for student loans. Americans now owe more

than \$1.4 trillion on student loans. It already is making it more difficult for young college graduates to buy homes, and transition into the middle class. This provision will be just one more thing. (And student loans are already stacked against the borrower. You can't get rid of them in bankruptcy.) So instead of solving a problem, Congress is making it worse.

The House bill also repeals the Lifetime Learning Credit, eliminates the Coverdell savings accounts, but does expand the American Opportunity Credit.

The House bill would also classify tuition waivers as income (making a graduate student wealthy for tax purposes.) Imagine a "bump" in student's income that is equal to tuition, some \$30,000, \$40,000 or even more.

Laurie Arnold, Colville, director of Native American Studies and an Assistant Professor of History at Gonzaga University, remembers trying to explain this to Congress when she was in graduate school. "Many members of Congress had children enrolled in large/research universities, yet had no idea that graduate students teach the majority of introductory classes at those institutions. In general, the disconnect about this was broad, and many Members fell back on the language that not taxing the stipends was simply another tax break."

Stipends are now taxed. And Congress is keen to add tuition waivers to the tax revenue pool. This will make it more difficult for people to pay for graduate school, and increase the debt levels for those who do. As a national policy this makes no sense. None.

As UCLA neuroscientist Astra Bryant told Wired magazine: "I mentor two underprivileged undergraduate women, and my concern for them is that an increased tax burden would make it financially impossible for them to afford to pursue a PhD."

And for Indian Country? There is already a shortage of graduate students and PhDs. Why should it be made more difficult?

The metaphor: College is stupid.

## SIX: THE GROWING GAP BETWEEN RICH AND POOR

The gap between rich and poor is growing wider. "The wealthier you are, the more likely you are to benefit from the proposed tax changes. The poorer you are, the less likely you are to leave poverty," writes Camille Busette for the Brookings Institute.

"Let me distill that: over one third of American households had trouble putting food on the table, putting a roof over their heads, or getting medical care; blacks and Hispanics are falling further behind whites in net wealth; and 99 percent of Americans hold a diminishing 76 percent share of income in the U.S. These are all alarming trends, but to have one-in-three consumers report that they cannot regularly put food on the table in the U.S., one of the wealthiest countries in the world, is the most deeply disturbing," Busette writes. "Such a miserly budget, in combination with the tax reform plan, could mean the loss of some very important services for low-income and poor Americans."

The tax reform measures will require massive budget cuts. Soon. Tribal governments will be hit hard. We already know how difficult sequestration was for tribes a few years ago. The kinds of cuts that will be needed to pay for these tax cuts will cost significantly more than sequestration.

The Center for Budget and Policy Priorities pegs these coming budget cuts at \$5.8 trillion, \$800 billion in cuts below sequestration levels.

The metaphor: You can't afford to be poor.

## SEVEN: OBAMACARE? REALLY? AGAIN?

A serious question: Which house of Congress hates healthcare more?

The House kept the Affordable Care Act insurance mandates, but eliminates medical deductions. So a family that is dealing with a catastrophic, expensive medical event won't be able to offset any of those costs from their tax bill. Already this provision is limited to higher income taxpayers. It's only open to people who itemize their deductions, an estimated 8.8 million claimed it on their 2015 taxes, according to the IRS. But for those families that need this break, it's a big deal.

Then the best thing Congress could do to help people with medical debt is to legislate another expansion of Medicaid. As Kaiser Health News reported: "A study from the Urban Institute may shed light on why Medicaid eligibility remains a pressing problem: medical debt. While personal debts related to health care are on the decline overall, they remain far higher in states that didn't expand Medicaid. In some cases, struggles with medical debt can be all-consuming."

The Senate is using tax reform to repeal parts of the Affordable Care Act. Again. The Senate would "save" money by ending the requirement to purchase insurance. It saves tax dollars because the government would not have to pay the subsidies for those who sign up under the plan (including those from Indian Country who get no cost plans under the exchanges).

And, repeating myself here, should a form of these bills become law there will be cuts across the board. The Indian Health Service (as well as Medicaid) will need to restructure because it will have so many fewer dollars.

The metaphor: Healthcare is only for those who can afford it.

## A COLD DECEMBER

Congress wants to wrap up this debate before the end of the year and begin the provisions in the new tax year.

One more thing about values. The two tax bills define what's important to a society. Alaska's Sen. Lisa Murkowski was a champion on health care and was a key vote to stop the last Affordable Care Act repeal effort in the Senate. But this time there are competing values. She has also been a longtime supporter of opening the Arctic National Wildlife Refuge to oil and gas development. That's in the bill. It's her provision. So is she willing to give up on health care for more oil? And what about climate change? Murkowski was eloquent at the Alaska Federation of Natives saying that she is witnessing first-hand the impact in northern communities. This tax bill gives fossil fuels a boost — at the expense of the climate.

What's really important? We are about to find out.

\*Mark Trahant is the Charles R. Johnson Endowed Professor of Journalism at the University of North Dakota. He is an independent journalist and a member of The Shoshone-Bannock Tribes. On Twitter @TrahanReports.

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## **THE STORY IS NOT OVER: WHEN THE NATIVE PRESS IS STRONG ... SO IS INDIAN COUNTRY**

Mark Trahant\*

*Trahant Reports*, September 9, 2017, <https://trahantreports.com/2017/09/09/the-story-is-not-over-when-the-native-press-is-strong-so-is-indian-country/>. This is a speech Mark Trahant gave to the Tribal Leaders Summit September 6, 2017, in Bismarck, North Dakota.

*Indian Country Today*, a national voice for Indian Country, went dark while its owners look for a new buyer or a new business model. The “press,” even a “digital press” is the story.

It’s true that most tribal leaders have been annoyed by media, including tribal media, from time to time. It’s the nature of our roles. When we in journalism are at our best, we’re independent. And tribal leaders have a different charge; to govern. That sometimes puts us into conflict — at least a little bit.

But in the long arc of history both roles are crucial. In fact: Some of the best days in Indian Country occurred during periods of a vigorous and independent press. And, at the same time, some of our darkest days took place when there were few national voices.

To be blunt: An independent press is a pain in the ass. Especially for tribal leaders. But the alternative, darkness, is far, far worse.

One such period was the Indian Removal Era.

The Cherokee Nation was one of many tribes that had an independent press in the 1830s as it was facing the challenge of President Andrew Jackson and ultimately the removal from tribal homelands.

The editor of *The Cherokee Phoenix* was often at odds with tribal leaders. In 1832 he resigned as editor because he believed he could not do his job properly. His duty, as he saw it, was to “reflect upon the dangers with which we are surrounded; to view the darkness which seems to lie before our people – our prospects, and the evils with which we are threatened; to talk over all these matters, and, if possible, come to some definite and satisfactory conclusion.”

This is a simple definition of the role of the tribal press, an instigator of discourse. The power of the tribal press, then, should follow once the people have reached a definite and satisfactory conclusion.

The evils faced by the Cherokees during Boudinot’s time were among the darkest, but they were not the only dangers before us.

I am interested in the pattern suggested by Boudinot: the warning of dark clouds, followed by community discourse, and, if possible, a community-based satisfactory conclusion.

The issue Boudinot wanted debated – the federal government’s desire to relocate the Cherokee Nation – was about as dire as can be imagined, but other schemes have, to varying degrees, also threatened the very prospect of Indian survival.

Consider how some fifty years ago many tribes were faced with removal in a political context – termination. There were a few voices of dissent from tribal media, including a newspaper published at Menominee. But the voices were primarily local. In 1952 there was no national Indian newspaper or medium of any kind.

So it wasn't huge news when Congress enacted House Resolution 108 calling for the termination of tribes that were "ready."

And to get ready, various provisions were inserted into routine legislation that required tribal governments to prepare a plan to accept termination. Imagine that. As part of your government's regular funding stream, the tribe would need to prepare documents planning termination.

This would have been a great story; had there been a national Native press.

One of the tribes ordered to prepare a termination plan was the Confederated Tribes of the Colville Reservation in Washington state. A termination plan was required in order as part of legislation that included title to tribal lands. Most tribal members probably didn't think much about termination – at least at first – but in the decade that followed pro-termination supporters gained support of the tribal business council, telling tribal members that termination would mean a sale of all the reservation's assets and a distribution of those assets to tribal members. In other words: folks were promised they would be rich.

Beginning in the early 1960s, U.S. Senator Henry Jackson, a Democrat from Washington, introduced Colville termination bills only to be blocked by the House of Representatives. And, at the same time, a pro-termination tribal business council built up a solid majority.

In October 1966, the tribe asked its members this question:

"Do you favor termination and liquidation of the tribal owned reservation assets at a fair value with the proceeds distributed equally to the members of the tribes?"  
The result was one-sided: More than two-thirds of the membership approved of termination.

The Colville people, then, had gone on record for termination.

Chairman Narcisse Nicolson, Jr. said it was time for the Colville people to end their relationship with Washington, to stop taking money from the BIA, and to terminate the reservation.

He said the case was clear because "with only a relatively few exceptions, the tribal families of today are self-supporting." He added, "Lack of employment, to the degree that it exists, is largely due to character faults which cannot be cured by paternalism."

In Washington, D.C., BIA Commissioner Robert L. Bennett, even though he was personally opposed to termination, said he would "honor and carry out any decisions that are made by the people of the tribe, whether or not this may be in agreement or disagreement with what may happen to be particular policy of the Bureau."

The stars seemed aligned. Think of the players on board: Tribal members, its governing body, and the Bureau of Indian Affairs. Even the Congress was set. Senator Henry Jackson could be counted on to introduce the Colville termination bill again; this time, some thought, it followed by House enactment.

We can only imagine what it must have been like: Every major political force, the state, a powerful senator, the tribal council, and, perhaps, even a majority of tribal members, all wanted termination.

Only someone forgot to explain to Lucy Covington and her allies that it was a done deal.

In 1966 when that membership poll was taken, Covington was a minority member of the tribal



council along with Frank George, Paschal Sherman, and a few others.

There were many voices challenging the wisdom of termination.

One of the tools that she used in this fight: A tribal newspaper. She started “Our Heritage,” a newspaper with the mission of informing tribal members about the issues. She would lead a quiet campaign to quiet what she called “the present fever and fervor for termination.”

And like Standing Rock, there was national call put out for writers, cartoonists, and journalists to come (at their own expense) to chronicle this important moment.

Chuck Trimble once wrote why he went. Covington “enlisted me after I gave a brief talk on the birthing plans of the American Indian Press Association at the 1970 NCAI convention in Anchorage, Alaska. She asked if I would come to Colville and help put together a newspaper. She made no offers of compensation for travel and expenses. The Press Association was not yet established and there were no funds for travel or anything else; so I went at my own expense. And when I arrived in Spokane where she met me, she sat me down in a room at the Indian Center there and told me what she expected of me. She wanted a newspaper that would tell what a tribe means to its people, and its true worth to them in terms of land, natural resources, and most of all their cultural heritage. She wanted the newspaper to be called Our Heritage, and she even described the logo she wanted for the masthead. It would be a pair of hands holding together the shape of the Colville Reservation. The logo would signify that the future of their reservation, indeed their nation, was in the hands of the people, not in the U.S. Government or the State of Washington, or anyone else.

“I was not familiar with what termination of a tribe entailed, and how it was carried out. I thought the U.S. Congress unilaterally determined that a tribe’s unique trust relationship with the Federal government would be severed, and the Bureau of Indian Affairs would execute the congressional order. When I learned that the tribe, through its elected leaders, had to approve the dissolution of their own nation, and that a majority on the existing Colville Council was forcefully behind the measure, I felt disheartened. Gaining an anti-termination majority on the Council meant internecine warfare, and Indian against Indian was always mean and messy.”

But Trimble wrote — and he drew cartoons. And Our Heritage was published.

Our Heritage profiled candidates opposed to termination and reported on the legislative battles in Washington about the advancing termination bills.

The anti-termination side won on May 8, 1971. Nicholson was defeated in his district, Omak. He was replaced by a council member who was opposed to termination, joined by a new majority of like-minded representatives.

Mel Tonasket, then-thirty years old, was the elected by the business council as the chairman. The new business council called for more federal support, closed a reservation lake to outsiders and voted to take back law enforcement powers that had been ceded to the state of Washington.

The new council also went further, claiming the inherent power of a government through an affirmation of tribal sovereignty.

And even a longtime supporters of termination reversed course. Sen. Jackson, a Democrat from Washington, in 1972 introduced a repeal of the termination resolution and recast himself as a champion of tribal governments and Indian people.

The dark clouds of termination almost ended the Colville reservation and that tribe’s unique

relationship with the federal government (something that did occur in dozens of other tribal communities).

But the danger of termination was identified by both the tribe's political leadership and the press. This fit Boudinot's model: A description of the dangers, followed by community discourse, until a satisfactory conclusion was reached.

I recall a tribal politician speaking at the National Congress of American Indians. I am not sure who he was nor where the meeting was but I remember him identifying the tribal news media as "war correspondents." This image stuck with me because it is so telling: Tribal political leaders identified us as soldiers in the defense of Indian country. Our work is important when we serve that war effort, helping to defeat the enemy. But that metaphor suggests that when journalism moves closer to home, when we do stories that aid the enemy, then not so much.

"Our Heritage" fit this notion perfectly. The newspaper had one purpose: stopping termination. And, at the beginning of the termination era there was no national Native press. But at the end, when tribes won, the press was actively helping tribal citizens reach a satisfactory conclusion.

Perhaps one of the reasons why I remember that NCAI speech about "war correspondents" was because of when it was given in the late 1970s. This was a time when most tribal governments truly felt under siege, it was the era the "backlash" era.

And it was a story that most of us working for tribal newspapers tried to fully cover.

"So strong is this threat and so pervasive is its national presence that Indians are referring to it as 'the new Indian war.' Its sources, most observers of the national Indian scene agree, are the results of that very progress; in particular, the long and significant train of court victories in the 1970s upholding tribal rights," wrote Hopi journalist Rose Robinson from Washington, D.C. "Whatever its sources, white backlash is, by every measure, the major concern of people today."

The backlash was promoted by organizations with names that suggested a noble calling: South Dakotans for Civil Liberties; Montanans Opposed to Discrimination and the Interstate Congress for Equal Rights and Responsibilities. These groups defined American Indians as "special citizens" who, because of treaty rights, were getting a better deal than the rest of the nation. A book, "Indian Treaties: America's Nightmare," was sent by the group to members of Congress, the secretary of Interior and other Washington officials. "The liberal treatment of minorities has reached unheard of proportions in denying equal rights to all citizens of our so-called democracy," a brochure for the book said.

"Sportsmens (sic) – organizations – fishermen – hunters – land owners – commercial fishermen and just plain tax paying citizens who have just about had it with Indian take-overs make up the membership of ICERR."

The backlash was a nationwide movement that discounted two centuries of federal-Indian policy. "That the Indians' claims are being given any legitimacy at all is nonsensical," wrote a columnist in the Boston Herald American about the land claims in Maine. "Whatever happened 200 years ago, the culprits were not the current land owners, so there is no justification for punishing them."

"After so many quiet years, what has got into the Indians?" asked a two-page essay in Time. "Probably no other country would take quite so seriously land claims that propose, in effect, the impossible rolling back of history. The inherent absurdity of such a proposition might be clearer, say, in a suggestion that Australia be handed back to the aborigines. ...Congress should be able to be fair without suffering the delusion that the country can really be given back to the Indians. The time for that passed forever with the vanishing of the pioneers who took it from them."

The movement had one goal: abrogate treaties. These efforts were on two legislative tracks: The first was led by a U.S. Rep. Jack Cunningham, R-Washington, who introduced bills directly calling for treaty abrogation; and, the second track was more moderate legislation that was introduced by a U.S. Rep. Lloyd Meeds. Meeds, a Democrat, was also from Washington state and his role was interesting because he had once been a supporter of tribes – even honored by the National Congress of American Indians for his work on the Hill.

The Interstate Congress dismissed Indians as “treaty Americans” or “first-class citizens” and it said it had no objection to “being treaty Americans or full-fledged American citizens, but we do object to them claiming both. “Until they decide what they want to be, treaty Americans or first-class citizens, but not both, they will feel the bite of the backlash, and it will get stronger until a more equitable solution is found.”

*The Indian Country Today* of that era was Wassaja, a San Francisco-based, national newspaper. Wassaja covered the annual convention of the anti-treaty group because it represented, “the first step toward abrogation.”

Wassaja – and most tribal newspapers – devoted lots of space and attention to the backlash movement. Tribal leaders saw the threat and worked to build coalitions to defeat the ideas behind the backlash, as well as their representatives in Congress.

Again, though, the dark clouds were identified and community discourse was disseminated through the native press. Indeed, the leaders of that era agreed with the label of “new Indian wars,” and even promised a literal battle if things proceeded.

Navajo Chairman Peter MacDonald Sr., for example, called for an emergency summit of all tribal leaders to develop a strategy. He said that if the backlash reached its logical conclusion, taking Indian people backwards, then Indians might return to waging war. “I don’t think anyone wants to go back to that situation.”

MacDonald’s rhetoric was harsh, but his position was not unique. He was joined on the effort in groups ranging from the conservative National Tribal Chairman’s Association to the American Indian Movement.

Discourse prevailed. Tribal leaders developed a successful strategy and their voices reached tribal and U.S. citizens. The national Native press was taking notes.

The termination era as well as the backlash era shared a language. Termination supporters wanted to “free the Indians.” The Interstate Congress proclaimed the goal of “equal rights.”

Of course in a large part what drove both of these efforts was competition over scarce natural resources. All of the tribes that were terminated had a resource that someone wanted — often timber. And the so-called equal rights effort of the Interstate Congress were led by hunters and fishers who objected to the “preferential” rights of treaty hunting and fishing.

In both of these examples, too, there were characters willing to advance the ideas. Utah Sen. Arthur Watkins was the champion of termination. And the backlash had Jack Cunningham and Howard Grey (once identified in Wassaja as the “der Fuhrer of ICERR).

That leads me to the next threat: Slade Gorton.

Slade Gorton – who was again from Washington state – took the ideas of an early generation

and led them to new, sophisticated heights.

Some context. It doesn't take a lot of calculating to see that so much of this backlash and termination support came from Washington state. Why Washington? One reason was the intense battle for salmon fishing rights – and the favorable ruling by the federal courts.

Columnist John Mohawk wrote in another national publication, *Native Americas* magazine, that Gorton was “an anti-Indian activist all his political life. He fought against Indian treaty rights when he was attorney general for his home state, and he leads perennial attacks against Indian rights in the Senate.”

But unlike Cunningham, or even Meeds, Gorton developed a more sophisticated attack against tribal interests. He used his power as a Senator – and later as an appropriations committee leader – to limit how federal dollars might be used to support tribal rights.

He occasionally proposed radical rewriting of federal Indian law, advancing his idea that tribes were social clubs and not legitimate governments.

“Over time, Gorton settled into the style of the Senate, where tone trumps content most days of the week,” wrote *Indian Country Today* columnist Suzan Harjo. “He began using the scalpel more than the machete, but was ever-focused on his task: undercutting federal Indian law. He was gaining surgical precision, along with seniority and clout on key committees for energy and natural resources, budget and commerce, science and transportation.

“After the 1996 election, Sen. John McCain, R-Ariz., announced that he would step down as chair of the Senate's select committee on Indian affairs. Gorton was next in line for the job. The sound of alarm from Indian country was loud and effective. Majority Leader Trent Lott, R-Miss., interceded and Gorton withdrew in favor of Sen. Ben Nighthorse Campbell, Republican from Colorado, who became the first Native American to head the Indian panel.”

But Gorton continued his political attacks whenever and when ever he could be effective.

Here is where another difference emerges between Gorton and his predecessors, such as Jack Cunningham or Arthur Watkins. Instead of being a character in a larger drama, Gorton became the lead in the play.

An intertribal coalition built was launched to “Dump Slade.” And when someone said those two very words, nearly everyone in Indian Country knew exactly what was meant. Gorton was a modern-day Custer – and his defeat was essential for Indian Country's survival. Gorton became the issue.

I remember a conversation I had with Joe Delacruz at an Affiliated Tribes of Northwest Indians' meeting. He promised that Slade would be defeated. We're raising money, we're building a coalition, he told me, and we're going to win.

Delacruz was right. The Dump Slade effort worked; Maria Cantwell was elected in his place.

And because Slade was the actor, the issue went away as far as tribal discourse was concerned.

But did Slade really go away? Well, if you think about him as a central character in a drama, then, yes, perhaps.

But what of his ideas? We face many of those same notions today. Even his idea that tribes are more like social organizations than governments was effectively advanced by the Supreme Court in

decision after decision. Starting with the late Chief Justice William Rehnquist the Supreme Court quietly transformed Indian law. And not in a good way.

Another story I'd like to tell is from Alaska. The community of Point Hope had a huge problem in 1962. The United States government had this wacky idea of testing nuclear devices in their homeland. There was a removal plan. The government had decided that Project Chariot made sense and should go forward.

The Arctic Slope Native Association turned to a young Inupiat artist by the name of Howard Rock and asked him to start a newspaper. The Tundra Times was born in October 1962.

"He was the most soft-spoken man," said reporter Tom Richards, who worked at the Tundra Times from 1968 to 1974. "But he had tremendous impact with just a few words." The Tundra Times followed Boudinot's model perfectly. The paper warned about the dangers, the community came together and talked over these matters, and then reached a satisfactory conclusion. The Atomic Energy Commission's Project Chariot was no more.

But Rock did not stop telling the story. He thought Alaska Natives ought to be a stronger, inter-tribal community. The newspaper's masthead reinforced its vision of Native harmony that eventually led to the creation of the Alaska Federation of Natives. As AFN said: Rock, through his newspaper, unified Alaska Natives by "knowing the hearts and minds of the people."

"Perhaps more than anyone else, he (Rock) helped weld together the frontier state's 55,000 Natives for their successful years-long fight to win the largest aboriginal land claims settlement in American history," wrote Stan Patty of the Seattle Times. He added that Rock was their voice; at times about the only calm voice when crescendos of dissent threatened to tear Alaska apart.

And that led — along with the discovery of oil at Prudhoe Bay — and to a modern treaty, the Alaska Native Claims Settlement Act.

Rock's Tundra Times had a national voice. Its correspondent in Washington, Tom Richards, worked alongside other native journalists at the key moment in history. The Tundra Times was no cheerleader. It talked about the good of ANCSA and warned readers about some of the consequences.

"Let's turn it around and look at the real situation," Richards wrote. "The natives are being forced to give up their land under the traditional American principle of manifest destiny and all they're asking is a fair shake."

We lost the Tundra Times in on December 16, 1991. Its announcement said the board voted to "suspend publication" until a March meeting.

Suspensions, rarely result in a re-start. But the financial problems of Tundra Times were well known. The paper had been writing about its own challenges for some two decades. Its readers were familiar with the challenges.

That's not the case with Indian Country Today. It's darkness was a surprise, one that left little time to explore options from a broader civic community. This is a fail.

But that also brings me to Standing Rock.

As we all know, Standing Rock was a social media story. News was instant. Shared, reshared, and liked on Facebook.

It's interesting some of the same elements from Standing Rock were present at Alcatraz or Daybreak Star or Frank's Landing ... but what was different was social media and a viral connection across Indian Country. Technology even played a role: A few months before Standing Rock Idle No More generated the same kinds of stories scattered first across Canada and then worldwide. But one explosive difference in Standing Rock and Idle No More was Facebook live. Someone could turn a camera on and generate an audience of thousands or even hundreds of thousands. We are all related, we are all connected.

Social media — well, Facebook — can even take credit for informing the President of the United States. A year ago tomorrow — imagine that — a year ago President Obama was asked about the Dakota Access Pipeline and the #NoDAPL movement at Young Southeast Asian Leaders Initiative town hall. This social media story popped the presidential bubble. It alerted him to an issue that he could no longer ignore.

A social media story to be sure. And important because we all remember the many, many stories asking, where were the mainstream reporters? Why was Standing Rock not the front page, network TV news story that was required? When a few armed protesters take center stage in Oregon and Nevada and it's a big story; but when thousands of people come to stand with Standing Rock ... it's only occasional news.

So it was a social media story.

But here's the thing. If you go back and look at the many social media stories the ones that were the most shared, the most liked, and most respected, were stories generated by the press, and often that was *Indian Country Today*.

The reason is clear and easy: No one had to explain to editors at *Indian Country Today* why it was a story. As one editor told me: "We knew we had to blow out our budget for this one."

Early on Valerie Taliman was on site working with reporters and letting them know that *Indian Country Today* was going to extraordinary lengths. I have counted more than a dozen bylines on this story, including my own. Jenni Monet was compelled to leave a teaching post and write full time from here. And to this day she faces criminal, legal peril for her reporting — something that should never be allowed in a country with First Amendment protection. "Congress shall make no law ... " yet a prosecutor in Morton County is doing just that, making up a law.

This was a story of a generation — and *Indian Country Today* answered.

But it's also a story without an ending. The newspaper helped tribal citizens across the country consider the darkness before us and the evils with which we are threatened. It helped us talk over these matters. But we still have a lot of work to do before we come to some definite and satisfactory conclusion.

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## AS SOUTH SUDAN DISINTIGRATES, PEOPLE MOVE

Rene Wadlow,\* August 28, 2017

In a 17 August 2017 call for urgent support, the Office of the UN High Commissioner for Refugees (UNHCR) stated "*Over the past 12 months, an average of 1,800 South Sudanese have been arriving in Uganda every day. In addition to the million in Uganda, a million or more South Sudanese are being hosted by Sudan, Ethiopia, Kenya, Democratic Republic of the Congo and Central African Republic. More than 85 per cent of the refugees who have arrived in Uganda are women and children, below age 18 years... Recent arrivals continue to speak of barbaric violence with armed groups reportedly burning down houses with civilians inside, people being killed in front of family members, sexual assaults of women and girls, and kidnapping of boys for forced conscription... Since December 2013, when South Sudan's crisis erupted in Juba, more than two million South Sudanese have fled to neighbouring countries while another two million people are estimated to be internally displaced.*"

With the disappearance of any form of government administration in South Sudan, the country finds itself in what can be called 'anarchy without anarchists'. There are some school buildings without teachers or students, some medical buildings without personnel or medicine; there are some soldiers but who are not paid and so 'live off the land'. There are armed bands more or less organized on a tribal basis, but tribal organization has long been weakened beyond repair. All that is left is hatred of other tribal groups. Different United Nations bodies are active in the country, including a large and costly 'peacekeeping mission' (MINUSS), but the UN has so far refused to create a 'trusteeship' to try to administer the country. Thus there are basically only services of the High Commissioner for Refugees, the World Food Program distributing food but very inadequate to meet the food needs, and UNICEF providing some services to woman and children. There is no UN administration of the country as a whole as there is a fiction that a government continues to exist. The same holds true for any form of 'trusteeship' by the African Union.

South Sudan has always been more anarchy than administration. During the British colonial period, the areas of South Sudan were administered from Uganda rather than from Khartoum as transportation from the North was always difficult. (1) The independence of Sudan and the start of the civil war came at the same time in 1956. There was a ten-year break in the civil, North-South, war 1972-1983, at which time the war took up again from 1983 to 2005. After 2005, a southern regional government was set up with, in theory, an administration which remained very thin or non-existent outside of the capital Juba and a few larger towns. The churches, mostly Protestant but also some Catholic, provided education and medical services.

The bitterness of the civil war period was so great that it was felt by many that a unified Sudan was not possible. In 2011, a referendum was held in South Sudan on its future, and there was a massive vote for independence. The Association of World Citizens was one of the non-governmental organizations invited by the Government of Sudan to monitor the referendum, and we had sent a five-person team. I thought that full independence rather than a form of con-federation was a mistake and that the future would be difficult. However, I did not foresee how difficult it would be.

Now it is difficult to see what can be done. There is only the fiction of a government and no over-all leadership of the armed bands. There are no recognized leaders to carry out negotiations. The churches are the only trans-tribal institutions, though the membership of local churches are usually drawn from a single tribal/ethnic group. There may be times, if one follows Aristotle's cycle of types of government, when anarchy will give rise to demands for strong leadership, but there are no signs of it yet. For the moment, moving to another country seems like the best hope.

End Note

(1) See the two volume history of the administration of Sudan: M.W. Daly. *Empire on the Nile: The Anglo-Egyptian Sudan 1898-1934* (Cambridge: Cambridge University Press, 1986)



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United Nations

CERD/C/CAN/CO/21-23

## **International Convention on the Elimination of All Forms of Racial Discrimination**

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### **Committee on the Elimination of Racial Discrimination**

#### **Concluding observations on the combined twenty-first to twenty-third periodic reports of Canada\***

1. The Committee considered the combined twenty-first to twenty-third periodic reports of Canada (CERD/C/CAN/21-23), submitted in one document, at its 2566th and 2567th meetings (see CERD/C/SR.2566 and 2567), held on 14 and 15 August 2017. At its 2580th, 2581st and 2582nd meetings, held on 23 and 24 August, it adopted the present concluding observations.

#### **A. Introduction**

2. The Committee welcomes the submission of the combined twenty-first to twenty-third periodic reports of the State party, which included responses to the concerns raised by the Committee in its previous concluding observations. The Committee welcomes the open and constructive dialogue with the State party's delegation.

#### **B. Positive aspects**

3. The Committee welcomes the adoption of the following legislative and policy measures:

(a) The establishment in 2016 of the Anti-Racism Directorate in Ontario to address systemic racism and to promote fair practices and policies across Ontario Province;

(b) The House of Commons' condemnation of Islamophobia and all forms of systemic racism and religious discrimination, in March 2017;

(c) The work of the Truth and Reconciliation Commission of Canada, and its final report, released in 2015, entitled *Honouring the Truth, Reconciling for the Future*, which includes 94 calls to action to address historical and ongoing discrimination against indigenous peoples;

(d) The resettlement of 46,000 Syrian refugees in 2016, and the commitment to resettle 25,000 refugees in 2017;

(e) Full restoration of the Interim Federal Health Program to provide limited



temporary health-care coverage to eligible groups, such as refugees, in April 2016.

4. The Committee welcomes the vibrant participation of representatives of the First Nations, Inuit and Métis and civil society organizations in the review of Canada. The Committee also greatly appreciates the contributions of the Canadian Human Rights Commission.

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\* Adopted by the Committee at its ninety-third session (31 July-25 August 2017).

GE.17-15989(E)



## C. Concerns and recommendations

### Statistical data

5. The Committee regrets again that the absence of recent reliable and comprehensive statistical data on the ethnic composition of the population, including disaggregated economic and social indicators for ethnic groups, African-Canadians, indigenous peoples, and non-citizens, and the lack of detailed data and information on the representation of minority groups in public and political life in the State party, prevent it from evaluating the enjoyment of civil, political, economic, social and cultural rights in the State party by these groups. The Committee reiterates its concern about the continued use of the term “visible minority” in the State party to describe minority groups, as it renders invisible the differences in the lived experiences of diverse communities.

**6. Recalling its revised guidelines for reporting under the Convention (see CERD/C/2007/1, paras. 10-12), the Committee recommends that the State party:**

**(a) Provide statistical data in its next periodic report on the demographic composition of the population, disaggregated in the manner specified in article 1 (1) of the Convention, on the basis of self-identification by ethnic groups and indigenous peoples;**

**(b) Systematically collect disaggregated data in all relevant ministries and departments to improve monitoring and evaluation of the implementation and impact of policies to eliminate racial discrimination and inequality;**

**(c) Provide information in its next periodic report on economic and social indicators for ethnic minority groups, indigenous peoples and non-citizens to enable the Committee to better evaluate their enjoyment of economic, social and cultural rights in the State party;**

**(d) Revise its use of the term “visible minority” in the Employment Equity Act, of 1995, and in other legislation, as previously recommended (see CERD/C/CAN/CO/19-20, para. 8).**

### Domestic applicability of the Convention

7. The Committee regrets the lack of comprehensive information on the equal implementation of the Convention in all 10 provinces and 3 territories of the State party (art. 2).

**8. The Committee requests detailed information on the work of the intergovernmental committee on supporting domestic implementation of the Convention and its efforts to ensure the equal application of the Convention at the federal, provincial and territorial levels. The Committee recommends that the State party create an accountability mechanism and ensure equal distribution of resources for the implementation of the Convention at the federal, provincial and territorial levels.**

### National action plan against racism

9. While welcoming Ontario’s first provincial anti-racism strategy, of March 2017, the Committee regrets the absence of a new national action plan against racism, applicable to

the federal, provincial and territorial levels, since the previous plan lapsed in 2010.

**10. The Committee recommends that the State party develop and launch a new national action plan against racism, in compliance with its obligations undertaken at the World Conference Against Racism, through a meaningful consultation process with civil society organizations, including ethnic minorities and indigenous peoples, that includes implementing legislation, dedicated resources, targets, and adequate monitoring and reporting mechanisms, using good practices mentioned in Ontario's anti-racism strategy of 2017. The Committee requests that the State party provide information in its next periodic report on the implementation and impact of Ontario's anti-racism strategy, and other such strategies in the State party.**

## Anti-racism legal framework

11. The Committee is concerned that adequate anti-racism framework legislation meeting all of the requirements of article 4 is not yet in place in all provinces and territories in the State party (art. 4).

**12. Recalling its general recommendations No. 7 (1985) relating to the implementation of article 4 of the Convention, No. 15 (1993) on article 4 of the Convention and No. 35 (2013) on combating racist hate speech, and reiterating its previous recommendation (see CERD/C/CAN/CO/19-20, para. 13), the Committee recommends that the State party enact legislation in compliance with the requirements of article 4 in all provinces and territories.**

## Racist hate crimes

13. The Committee is concerned that racist hate crimes continue to be underreported, and that the lack of updated, systematic and coordinated tracking of racist hate crime data in all provinces and territories of the State party may mean that actual numbers of violations may be much higher. The Committee is concerned about the 61 per cent increase in racist hate crimes reported against Muslims. The Committee is also concerned that although the data provided by the State party on the implementation of anti-discrimination provisions does indicate the number or extent of incidents and complaints submitted, it does not indicate the number of ex officio prosecutions, investigations launched and convictions.

**14. The Committee recommends that the State party:**

**(a) Take steps to prevent racist hate crimes against all ethnic and minority groups, migrants and indigenous peoples in the State party;**

**(b) Facilitate reporting by the victims, and ensure effective investigation of cases of racist hate crimes and prosecute and sanction perpetrators;**

**(c) Systematically track and maintain data on the number of reported racist hate crimes, prosecutions, convictions, sentences and penalties, and compensation for victims, and provide this data to the Committee in its next periodic report;**

**(d) Provide mandatory training on recognition and registration of racist hate crimes and other racially motivated crimes to law enforcement officials and judges in order to ensure proper handling of these complaints, and provide updated, detailed information and statistics in its next periodic report, including the time frame for when these trainings were conducted, how many people were trained, and any measurable impact;**

**(e) Investigate and address the reasons for the 61 per cent increase in racist hate crimes reported against Muslims and the rise of Islamophobia.**

## Racial profiling and disproportionate incarceration

15. The Committee is concerned at reports that racial profiling by the police, security agencies and border agents continues on a daily basis in the State party, with a harmful impact on indigenous peoples, as well as on ethnic minority Muslims, African-Canadians, and other ethnic minority groups. The Committee is also concerned at the reported disproportionately high rate of incarceration of indigenous peoples and persons belonging to minority groups, in particular African-Canadians, due to reasons such as socioeconomic disparity, high incarceration rates of members of minorities who have mental or intellectual impairments, lack of appropriate community services, overpolicing of certain populations, drug policies and racially biased sentencing. The Committee is further concerned at reports that both African-Canadian and indigenous offenders are overrepresented in “segregation” (solitary confinement), that 50 per cent of indigenous inmate women have reportedly been placed in segregation and that indigenous inmates have the longest average stay in segregation.

**16. The Committee recommends that the State party:**

**(a) Ensure that law enforcement and security agencies have programmes to prevent racial profiling, and that these are implemented and compliance monitored, including through independent oversight;**

**(b) Make it mandatory to collect and analyse data at the federal, provincial and territorial levels on random stops by law enforcement officers, including on the ethnicity of the persons stopped, the reason for the stop, and whether the stop resulted in an arrest, prosecution and conviction, and report publicly on this data at regular intervals;**

**(c) Ensure that the staff in law enforcement and security agencies, and border agents, are demographically diverse and include indigenous peoples, African-Canadians and other ethnic minorities. Ensure that all staff are trained in the prevention of racial discrimination, and on policies to prevent racial profiling. Ensure that lawyers and judges are trained on provisions relating to sentencing and alternatives to incarceration for indigenous peoples, such as in the Corrections and Conditional Release Act (sects. 29, 77, 80, 81 and 84) and that these provisions are consistently applied. Provide updated, detailed information and statistics in its next periodic report on such training programmes and on the impact of such trainings;**

**(d) Address the root causes of overrepresentation of African-Canadians and indigenous peoples at all levels of the justice system, from arrest to incarceration, such as by eliminating poverty, providing better social services, re-examining drug policies, preventing racially biased sentencing through training of judges, and providing evidence-based alternatives to incarceration for non-violent drug users, and fully implement the recommendations of the Truth and Reconciliation Commission on this topic, in order to reduce the incarceration of African-Canadians and indigenous peoples;**

**(e) Implement key health and harm reduction measures across all prisons;**

**(f) Systematically collect data and report publicly on the demographic composition of the prison population, including on indigenous peoples, African-Canadians and other ethnic minorities, and on the sentencing of minority offenders;**

**(g) Limit the use of segregation to exceptional circumstances, as a last resort and for as short a time as possible, in line with the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), given its proven deleterious effects on mental health. Implement legislation to provide independent judicial oversight of all decisions related to segregation;**

**(h) Abolish the use of segregation for inmates with mental or intellectual impairments.**

## **Truth and Reconciliation Commission and United Nations Declaration on the Rights of Indigenous Peoples**

17. While welcoming the commitment made to implement all of the Truth and Reconciliation Commission's 94 calls to action, the Committee is concerned at the lack of an action plan and of full implementation. The Committee is also concerned that the United Nations Declaration on the Rights of Indigenous Peoples Action Plan has not yet been adopted, while noting the ministerial working group that was established in 2017 to bring laws into compliance with obligations towards indigenous peoples.

**18. The Committee recommends that the State party:**

**(a) Develop a concrete action plan to implement the Truth and Reconciliation Commission's 94 calls to action, in consultation with indigenous peoples;**

**(b) Implement the United Nations Declaration on the Rights of Indigenous Peoples, and adopt a legislative framework to implement the Convention — including**

a national action plan, reform of national laws, policies and regulations to bring them into compliance with the Declaration, and annual public reporting;

(c) **Ensure that the action plans include regular monitoring, evaluation and annual reporting of the implementation, including the use of statistical data to evaluate progress;**

(d) **Develop and implement training programmes, in consultation with indigenous peoples, for State officials and employees, on the Truth and Reconciliation Commission's calls to action and the United Nations Declaration on the Rights of Indigenous Peoples, to ensure their effective impact;**

(e) **Ensure that the ministerial working group is transparent and inclusive of indigenous peoples.**

## Land rights of indigenous peoples

19. Taking note of the recent release of a set of 10 principles respecting the Government of Canada's relationship with indigenous peoples, in 2017, the Committee is deeply concerned that:

(a) Violations of the land rights of indigenous peoples continue in the State party; in particular, environmentally destructive decisions for resource development which affect their lives and territories continue to be undertaken without the free, prior and informed consent of the indigenous peoples, resulting in breaches of treaty obligations and international human rights law.

(b) Costly, time-consuming and ineffective litigation is often the only remedy, in place of seeking free, prior and informed consent — resulting in the State party continuing to issue permits which allow for damage to lands.

(c) According to information received, permits have been issued and construction has commenced at the Site C dam, despite the vigorous opposition of indigenous peoples affected by this project, which will result in irreversible damage due to flooding of their lands, leading to the elimination of plants, medicines, wildlife, sacred lands and gravesites.

(d) According to information received, the Site C dam project proceeded despite a joint environmental review for the federal and provincial governments, which reportedly concluded that the impact of the dam on indigenous peoples would be permanent, extensive and irreversible.

(e) According to information received, the Mount Polley mine was initially approved without an environmental assessment process, or consultation with or free, prior and informed consent from the indigenous peoples potentially affected, and the mining disaster has resulted in a disproportionate and devastating impact on the water quality, food such as fish, fish habitats, traditional medicines, and the health of indigenous peoples in the area (arts. 5-6).

20. **Recalling its general recommendation No. 23 (1997) on the rights of indigenous peoples and reiterating its previous recommendation (see CERD/C/CAN/CO/19-20, para. 20), the Committee recommends that the State party:**

(a) **Ensure the full implementation of general recommendation No. 23 in a transparent manner with the full involvement of the First Nations, Inuit, Métis and other indigenous peoples and with their free, prior and informed consent on all matters concerning their land rights;**

(b) **Prohibit the environmentally destructive development of the territories of indigenous peoples, and allow indigenous peoples to conduct independent environmental impact studies;**

(c) **End the substitution of costly legal challenges as post facto recourse in place of obtaining meaningful free, prior and informed consent of indigenous peoples;**

**(d) Incorporate the free, prior and informed consent principle in the Canadian regulatory system, and amend decision-making processes around the review and approval of large-scale resource development projects such as the Site C dam;**

**(e) Immediately suspend all permits and approvals for the construction of the Site C dam. Conduct a full review in collaboration with indigenous peoples of the violations of the right to free, prior and informed consent, of treaty obligations and of international human rights law from the building of this dam and identify alternatives to irreversible destruction of indigenous lands and subsistence, which will be caused by this project;**

**(f) Publicly release the results of any government studies of the Mount Polley disaster and the criminal investigation into the disaster, before the statute of limitations for charges under the relevant acts expires;**

**(g) Monitor the impact of the disaster on indigenous peoples affected as a result of the disaster, and take measures to mitigate the impact through the provision of safe water and food, access to health care, and fair remedies and reparations.**

## **Corporations operating abroad**

21. While noting information received about recent judicial decisions allowing litigation before Canadian courts against Canadian corporations operating abroad, and about existing non-judicial mechanisms, the Committee is concerned that victims of alleged actions by transnational corporations registered in Canada, whose activities negatively impact the rights of persons outside Canada, do not have adequate access to justice. The Committee regrets that an independent ombudsman mandated to investigate such complaints has not yet been established (art. 6).

**22. The Committee reiterates its previous recommendation (see CERD/C/CAN/CO/19-20, para. 14) that the State party ensure access to justice through judicial and non-judicial remedies for violations of rights of persons by transnational corporations registered in Canada, operating abroad. The Committee also recommends that the State party swiftly establish an independent ombudsman mandated to receive and investigate human rights complaints against Canadian corporations operating in other countries.**

## **Violence against indigenous women and girls**

23. The Committee is alarmed at the continued high rates of violence against indigenous women and girls in the State party. While welcoming the 2016 launch of the National Inquiry into Missing and Murdered Indigenous Women and Girls, the Committee is concerned at the lack of an independent mechanism to re-examine cases where there is evidence of inadequate or biased investigations, and at the failure to provide regular progress reports and to build transparent and accountable relationships with survivors, families and stakeholders (arts. 2, 5 and 6).

**24. Recalling its general recommendation No. 25 (2000) on gender-related dimensions of racial discrimination, the Committee recommends that the State party:**

**(a) Take immediate action to end violence against indigenous women and girls. Provide support and access to equal services for survivors. Enact a national action plan on violence against women, inclusive of the federal, provincial and territorial jurisdictions, with special provisions to end the high rates of violence against indigenous women and girls;**

**(b) Apply a human rights-based approach to the Inquiry by examining the issues holistically to identify barriers to equality and their root causes and to recommend lasting solutions. Monitor progress to achieve these recommendations, with the participation of affected survivors, families and stakeholders;**

**(c) Establish an independent review mechanism for unsolved cases of missing and murdered indigenous women and girls where there is evidence of bias or error in the investigation;**

**(d) Publicly report on violence against indigenous women and girls, including data on reported cases of violence, murder, and missing indigenous women and girls, and on the numbers of investigations, prosecutions and convictions;**

**(e) Improve communication from the Inquiry and build transparent and accountable relationships with survivors, families and stakeholders.**

## Situation of indigenous persons with disabilities

25. The Committee is concerned about the multiple forms of discrimination faced by indigenous persons with disabilities, who reportedly face additional barriers to health care, education and social services, in particular if they are located in remote communities with inadequate access to quality services. The Committee also regrets the lack of detailed information on meaningful consultations with indigenous peoples and on the outcome of such consultations on the development of accessibility legislation (art.5).

**26. The Committee recommends that the State party conduct meaningful consultations with indigenous peoples during the development of accessibility legislation. The Committee requests information from the State party on provisions included in the accessibility legislation that address the specific situation of members of ethnic minorities and indigenous peoples with disabilities who face multiple and intersecting forms of discrimination. The Committee recommends that the State party create a strategy, in consultation with indigenous peoples, to ensure that indigenous persons with disabilities have equal access to quality services.**

## Discrimination against indigenous children

27. The Committee is alarmed that despite its previous recommendation (see CERD/C/CAN/CO/19-20, para. 19) and multiple decisions by the Canadian Human Rights Tribunal, less money is reportedly provided for child and family services for indigenous children than for children in other communities, and that this gap continues to grow. The Committee is also concerned that the federal Government has adopted an overly narrow definition of Jordan's Principle, as stated in the Canadian Human Rights Tribunal decision *First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada*, in 2016, and has failed to address the root causes of displacement, while tens of thousands of children are needlessly removed from their families, communities and culture and placed in State care (arts. 1-2 and 5-6).

**28. The Committee recommends that the State party:**

**(a) Fully comply with and implement the January 2016 ruling (2016 CHRT 2) and subsequent non-compliance orders (2016 CHRT 10, 2016 CHRT 16 and 2017 CHRT 14) of the Canadian Human Rights Tribunal, and end the underfunding of First Nations, Inuit and Métis child and family services;**

**(b) Ensure that all children, on and off reserve, have access to all services available to other children in Canada, without discrimination;**

**(c) Implement the full scope and meaning of Jordan's Principle so that access to these services is never delayed or denied because of disputes between the federal, provincial and territorial governments over their respective responsibilities;**

**(d) Address the root causes of displacement, such as poverty and poor housing, that disproportionately drive children into foster care.**

## Discrimination in the education system

29. The Committee is concerned at the reported disparity in resource allocation for education and the lack of sufficient funding of mother tongue education programmes, leading to unequal access to quality education, especially for African-Canadian and indigenous children, which contributes to future socioeconomic disparity among these groups. The Committee is also concerned that African-Canadian students are reportedly disciplined more harshly than other students, which forces them out of learning

environments and contributes to the “school-to-prison pipeline” (art.5).



**30. The Committee recommends that the State party:**

**(a) Ensure equal access to quality education for all children in the State party, without racial discrimination and regardless of whether the child lives on or off of a reserve;**

**(b) Address funding inequalities identified in the Parliamentary Budget Officer's 2016 report, and other funding inequalities of schools attended by indigenous, African-Canadian and other ethnic minority children. Work in consultation with affected groups to ensure that schools are adequately resourced and can meet the distinct cultural and linguistic needs of ethnic minority and indigenous students;**

**(c) Create a national education strategy to prevent the low educational attainment and high dropout, suspension and expulsion rates of African-Canadian children. Collect disaggregated data on disciplinary measures in respect of African-Canadian children, in order to monitor and track the impact of measures to reduce discriminatory effects of disciplinary procedures.**

## Employment discrimination

31. The Committee is concerned about reports of discriminatory hiring practices and discrimination in the workplace faced by ethnic minorities, migrants and indigenous peoples, and of high rates of unemployment of educated ethnic minorities. The Committee is concerned that reportedly no province other than Quebec has legislated mandatory employment equity for its public sector bodies, and that changes to the federal employment equity regulation have reduced the labour rights approach conditions of the mandatory contractor compliance mechanism. The Committee notes that there is no mandatory employment equity for private employers at the provincial level, which accounts for approximately 76 per cent of the country's labour force. The Committee welcomes the data received from the Canadian Human Rights Commission and after the dialogue from the State party, however it is concerned about the lack of data on labour inspections in the State party's report.

**32. The Committee recommends that the State party:**

**(a) Ensure the elimination of discriminatory hiring practices and discrimination against ethnic minorities in the workplace, including by providing adequate training to employers and awareness-raising campaigns for employees about their rights and effective recourse for reporting violations;**

**(b) Conduct a comprehensive review of the existing employment equity regime and make necessary changes to increase the representation of ethnic minorities and indigenous peoples in the workforce;**

**(c) Request all public bodies to collect and publish data on the ethnic composition of the public service periodically. That data should include statistics that disaggregate the total number of employees, job categories, and numbers at middle managerial levels and higher levels. All contractors to public service agencies should be requested to do the same;**

**(d) Request private employers to publish similar disaggregated data on their workforce and to take measures to ensure the elimination of discriminatory employment practices against ethnic minorities in hiring, retention and promotion;**

**(e) Improve the mandatory contractor compliance mechanism's labour rights approach conditions in the federal employment equity regulation;**

**(f) Request professional organizations that control the accreditation for professional practice to have their policies reviewed by the State party, with a view to determining whether there are discriminatory barriers to certification of certain ethnic candidates, particularly those who received their academic qualifications in other countries;**

(g) **Take effective measures to ensure that labour inspections and other administrative or legal procedures reach all industries, with a view to detecting labour rights violations, bringing perpetrators to justice and compensating victims;**

(h) **Provide in its next periodic report comprehensive data on the coverage of labour inspections and of other administrative or legal procedures, including statistics on inspection visits, violations detected, sanctions or penalties imposed over the review period and compensation provided to victims, disaggregated, inter alia, by type of violation, industry or occupation, age, sex, national origin and ethnic origin of the victim.**

## **Situation of migrants, refugees and asylum seekers**

33. The Committee is concerned that:

(a) There is no legal time limit on the detention of migrants. Nearly one third of migrants are held in provincial prisons, leading to deaths in some cases;

(b) Migrant children are detained;

(c) There is a lack of data provided to the Committee on persons in immigration detention;

(d) In the context of limitations in the Safe Third Country Agreement, there is reportedly a sharp rise in the numbers of asylum seekers attempting to enter the State party through irregular border crossings, in dangerous or life-threatening conditions;

(e) Although the temporary foreign worker programme conducts inspections, temporary migrant workers are reportedly susceptible to exploitation and abuses, and are sometimes denied basic health-care services, and employment and pension benefits to which they may make contributions;

(f) There is a lack of access to health care for undocumented migrants (art.5).

34. **In light of its general recommendations No. 22 (1996) on article 5 of the Convention on refugees and displaced persons and No. 30 (2004) on discrimination against non-citizens, the Committee recommends that the State party:**

(a) **Undertake planned immigration detention reforms. Ensure that immigration detention is only undertaken as a last resort after fully considering alternative non-custodial measures. Establish a legal time limit on the detention of migrants;**

(b) **Immediately end the practice of detention of minors;**

(c) **Provide statistical data to the Committee, in its next periodic report, on the number of persons detained in immigration detention, and the reasons for and length of detention of migrants, disaggregated by age, gender, nationality and ethnicity;**

(d) **Rescind or at least suspend the Safe Third Country Agreement with the United States of America to ensure that all individuals who attempt to enter the State party through a land border are provided with equal access to asylum proceedings;**

(e) **Reform current policies and measures to ensure protection of temporary migrant workers from exploitation and abuse and grant them access to health services and employment and pension benefits. Implement protective policies for migrant workers. Reconsider the decision not to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Expedite the consideration for adoption of the International Labour Organization (ILO) Domestic Workers Convention, 2011 (No.189);**

(f) **Ensure that all persons have access to health care, regardless of immigration status, without discrimination.**

## **D. Other recommendations**

### **Ratification of other instruments**

35. The Committee recommends that the State party consider ratifying the International Convention for the Protection of All Persons from Enforced Disappearance, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, the Optional Protocol to the Convention on the Rights of Persons with Disabilities, and the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169).

### **Follow-up to the Durban Declaration and Programme of Action**

36. In the light of its general recommendation No. 33 (2009) on the follow-up to the Durban Review Conference, the Committee recommends that, when implementing the Convention in its domestic legal order, the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the outcome document of the Durban Review Conference, held in Geneva in April 2009. The Committee requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

### **International Decade for People of African Descent**

37. In the light of General Assembly resolution 68/237, in which the Assembly proclaimed 2015-2024 the International Decade for People of African Descent, and Assembly resolution 69/16 on the programme of activities for the implementation of the Decade, the Committee recommends that the State party prepare and implement a suitable programme of measures and policies. The Committee requests that the State party include in its next periodic report specific information on the concrete measures adopted in that framework, taking into account its general recommendation No. 34 (2011) on racial discrimination against people of African descent.

### **Consultations with civil society**

38. The Committee recommends that the State party continue consulting and increasing its dialogue with civil society organizations working to combat racial discrimination, in connection with the preparation of the next periodic report and in follow-up to the present concluding observations.

### **Declaration under article 14 of the Convention**

39. The Committee encourages the State party to make the optional declaration provided for in article 14 of the Convention recognizing the competence of the Committee to receive and consider individual communications.

### **Follow-up to the present concluding observations**

40. In accordance with article 9 (1) of the Convention and rule 65 of its rules of procedure, the Committee requests the State party to provide, within one year of the adoption of the present concluding observations, information on its implementation of the recommendations contained in paragraphs 34 (a), (b) and (d) and 20 (e) and (f) above.

### **Paragraphs of particular importance**

**41. The Committee wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 16, 18, 20 (a), (b), (c)**

and (d) and 32 above and requests the State party to provide detailed information in its next periodic report on the concrete measures taken to implement those recommendations.

#### Dissemination of information

42. The Committee recommends that the State party's reports be made readily available and accessible to the public at the time of their submission and that the concluding observations of the Committee with respect to those reports be similarly publicized in the official and other commonly used languages, as appropriate.

#### Preparation of the next periodic report

43. The Committee recommends that the State party submit its combined twenty- fourth and twenty-fifth periodic reports, as a single document, by 15 November 2021, taking into account the reporting guidelines adopted by the Committee during its seventy-first session (CERD/C/2007/1) and addressing all the points raised in the present concluding observations. In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 21,200 words for periodic reports.

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### CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION SHADOW REPORT SUBMISSION: INDIGENOUS WOMEN'S RIGHTS IN ARGENTINA

*Submitted for the session October 2016*

|                                                  |               |          |               |
|--------------------------------------------------|---------------|----------|---------------|
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#### CEDAW Report Submission: Indigenous Women's Rights in Argentina

##### I. Reporting Organization

Cultural Survival is an international Indigenous rights organization with a global Indigenous leadership and consultative status with ECOSOC since 2005. Cultural Survival is located in Cambridge, Massachusetts, and is registered as a 501(c)(3) non-profit organization in the United States. Cultural Survival monitors the protection of Indigenous Peoples' rights in countries throughout the world and publishes its findings in its magazine, the *Cultural Survival Quarterly*; and on its website: [www.cs.org](http://www.cs.org). Cultural Survival also produces and distributes quality radio programs that strengthen and sustain Indigenous languages, cultures, and civil participation.

million, about 955,032 persons, nearly 1 million, have been reported to self-identify as descending from, or belonging to, an Indigenous Peoples. 2.4% of the total population define themselves as Indigenous and out of these 955,032 Indigenous People, 473,958, just under fifty percent, are recorded as being Indigenous women, while the remaining 481,074 as Indigenous men.

A comprehensive report on the status of Indigenous women in Argentina has yet to be published by the state. Reporting on women in Argentina, including the state's National Council for Women, fails to disaggregate data to cast light on the particular challenges faced by Indigenous women. The 2015 State report to CEDAW by Argentina fails to adequately mention Indigenous women and does not report on their situation.

Argentina is reported to be home to at least 35 different Indigenous groups, the largest of these groups being the Mapuche with a population of 205,009, (21.5% of

the total), the Qom with 126,967, and the Guaraní with 105,907. These three peoples jointly account for 45.9% of the entire Indigenous population of Argentina. In addition, 62,642 households reported having one of their members who self-identified as Afro-descendent: 92% of this population was born in Argentina, and 8% abroad.<sup>1</sup>

### **III. Situation analysis- Continuing Rights Violations of Indigenous women**

1 "2016 yearbook article (pdf 98 KB) - iwgia." 2016. 16 Sep. 2016  
<[http://www.iwgia.org/images/stories/sections/regions/latin-america/documents/IW2016/Argentina\\_IW2016\\_web\\_redu.pdf](http://www.iwgia.org/images/stories/sections/regions/latin-america/documents/IW2016/Argentina_IW2016_web_redu.pdf)>

## **II. Background Information**

The total population of Argentina is calculated to be around 43,886,748. Out of these forty three

A major difficulty in assessing and addressing persistent forms of discrimination in Argentina is the lack of adequate and accurate information gathered about the population, particularly the Indigenous community.

In 1985, Argentina ratified the Convention for the Elimination of All Forms of Discrimination against Women (CEDAW). Despite this, women, and particularly Indigenous women, are still subjected to an aggressive machismo attitude, violence, and even death.

There is a long history of Indigenous Peoples' struggle against Argentina's state oppression, exclusion, and discrimination; and these violations have a direct effect on the women and their children.

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### ***A. Violations of Indigenous Women's Constitutional Rights (CEDAW Article 1, 2, 7, 8, 14).***

The rights of Indigenous Peoples were incorporated into Argentina's National Constitution in 1994, as well as in provincial constitutions and other laws that followed the 1985 law on Indigenous Policy and Aboriginal Community Support. Despite these advances, Indigenous Peoples, both male and female, face the lack of implementation of such laws and continue to have a strained relationship with the government.<sup>2</sup> For example, poverty rates are higher than average in areas with large Indigenous populations, Indigenous people have greater than

average rates of illiteracy, chronic disease, and unemployment. Indigenous women face further discrimination based on gender as well as reduced economic status. The lack of trained teachers in Indigenous communities hamper government efforts to offer bilingual education opportunities to Indigenous people. Children are being taught almost exclusively in Spanish which leads to the eradication of their own ancestral languages. Indigenous Peoples' rights as well as women's rights are protected under the Constitution; yet they are still being violated.<sup>3</sup> The constitution recognizes the ethnic and cultural identities of Indigenous People, and states that congress shall protect their right to bilingual education, recognize their communities and the communal ownership of their ancestral lands, and allow for their participation in the management of their natural resources. Indigenous people are not allowed to fully participate in the management of their lands or natural resources however, in part because responsibility for implementing the law is delegated to the 23 provinces, only 11 of which have constitutions recognizing Indigenous rights. As a result, provinces fail to achieve the Free, Prior, Informed Consent of Indigenous Peoples, especially rural Indigenous women, on issues that may affect them, as is stipulated in CEDAW General Recommendation 34.<sup>4</sup>

There are over 30 Indigenous languages still spoken in Argentina today. The Linguistic Society of America (LSA) estimates that 80% of the world's languages may vanish within the next century. The Qom face this danger but there are steps being taken to keep the Indigenous languages alive. Currently, the Toba represent nearly 11.5% of the Indigenous population of Argentina, and statistics from the National Institute of Indigenous Affairs show that around 60% of them can still speak or understand the Qom language.<sup>5</sup> However, with each generation, fewer youths learn to speak the language as their communities are increasingly integrated into the Spanish-speaking world. It is often the woman's role to preserve and continue teaching the culture and languages, which is why Qom women have begun to initiate the Qom Culture Route of Northern Argentina. This is a route built along the newly paved Provincial Route Three,

connecting Presidencia Roca with Villa Rio Bermejito. There are seven cultural sectors along the route dedicated to the preservation of different aspects of Ancient Qom Culture. In a community where culture is of the utmost importance, and government action is lacking, it is crucial that these women are able keep ancient ties with the language and other artistic and

2 "Indigenous rights in Argentina - Canadian Foundation for the Americas." 2011. 21 Sep. 2016 <<http://www.focal.ca/publications/focalpoint/413-march-2011-maria-delia-bueno-en>>

3 "argentina 2013 human rights report - US Department of State." 23 Sep. 2016 <[http://www.iri.edu.ar/publicaciones\\_iri/anuario/cd\\_anuario\\_2014/Amnor/2013%20-%20Huma%20rights%20Report%20Argentina.pdf](http://www.iri.edu.ar/publicaciones_iri/anuario/cd_anuario_2014/Amnor/2013%20-%20Huma%20rights%20Report%20Argentina.pdf)>

4 "argentina 2013 human rights report - US Department of State." 23 Sep. 2016 <[http://www.iri.edu.ar/publicaciones\\_iri/anuario/cd\\_anuario\\_2014/Amnor/2013%20-%20Huma%20rights%20Report%20Argentina.pdf](http://www.iri.edu.ar/publicaciones_iri/anuario/cd_anuario_2014/Amnor/2013%20-%20Huma%20rights%20Report%20Argentina.pdf)>

5 "Qom As You Are: Saving Indigenous Languages in Argentina < The ..." 2012. 3 Oct. 2016 <<http://www.argentinaindependent.com/socialissues/development/qom-as-you-are-saving-Indigenous-languages-in-argentina/>>

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personal cultural activities.<sup>6</sup> Women who are part of the Qom Culture Route have been reported to have an increased level of participation in political activities in their communities, for example in the establishment of intercultural and bilingual education policies and policies related to health services in their communities.<sup>7</sup>

### ***B. Labor, Law and Economic Equality (CEDAW Articles 7, 8, 10, 13, 14):***

In 1992, the law on quotas for elective office was approved.<sup>8</sup> As of December 2007, 38.5

percent of the executive positions within the national government were held by women.

However, According to a Human Rights Report, women still hold significantly fewer executive

positions in the private sector than men and sometimes have less of a voice than their male

counterparts where they are elected. <sup>9</sup> Although it is written that women have equal rights under

the law, including property rights, they continued to face economic discrimination and hold a

disproportionately high number of lower-paying jobs. Although equal payment for equal work is

constitutionally mandated, the 2013 Global Gender Gap Report estimated that women earned approximately 58 percent as much as men for similar or equal work. This difference in income

shows the gender inequality, and in some cases, leaves women to remain dependent on men.<sup>10</sup>

Likewise, there was almost no data on the economic status of Indigenous Women except that



there are no known Indigenous women in the cabinet or on the Supreme Court.

The first Latin American intercultural jury trial took place in 2016 when a Mapuche woman was convicted of throwing a stone at a judicial assistant after resisting eviction which was requested by US oil. The conflict was aggravated by a series of oil spills, and in 2012 the community blocked the way to the company. In April of that year a gang linked to the oil attacked several Mapuche families, even harming a pregnant woman at the time, and threats and harassment against the Mapuche maintained repeatedly until one conflict arose and a stone was thrown by Relmu Ñamku, a Mapuche woman.<sup>11</sup> There was a lawsuit filed for attempted murder and aggravated damage, with a request to a sentence of fifteen years in prison.

into Mapuzungun the language of the Mapuche. It was found that territorial rights of the Mapuche were being violated in this case,

along with the communities' right of consultation, and specified that the national and provincial authorities were responsible because they had consistently failed to implement the law. During the trial, it emerged that they had been legitimately defending the Mapuche territory from a

6 "Indigenous Women in Argentina benefit from road ... - YouTube." 2014. 3 Oct. 2016  
<<https://www.youtube.com/watch?v=spGHLzAspBo>>

7 "Un camino une el presente y el pasado de las ... - World Bank Blogs." 2014. 3 Oct. 2016  
<<http://blogs.worldbank.org/latinamerica/es/mujeres-qom-argentina>>

8 "Women's human rights in Argentina: advances, setbacks and the tasks ..." 2010. 21 Sep. 2016  
<<http://www.thefreelibrary.com/Women's+human+rights+in+Argentina%3A+advances,+setbacks+and+the+tasks...-a0105915332>>

9 "CEDAW/C/ARG/7 - Treaty bodies Download." 16 Sep. 2016  
<[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FARG%2F7&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FARG%2F7&Lang=en)>

10 "argentina 2013 human rights report - US Department of State." 23 Sep. 2016  
<[http://www.iri.edu.ar/publicaciones\\_iri/anuario/cd\\_anuario\\_2014/Amnor/2013%20-%20Huma%20rights%20Report%20Argentina.pdf](http://www.iri.edu.ar/publicaciones_iri/anuario/cd_anuario_2014/Amnor/2013%20-%20Huma%20rights%20Report%20Argentina.pdf)>

11 "Argentina Relmu Ñamqu mujer indígena acusada por resistir un ..." 2015. 5 Oct. 2016  
<<http://www.resumenlatinoamericano.org/2015/10/24/argentina-relmu-namqu-mujer-indigena-acusada-por-resistir-un-desalojo-un-juicio-con-jurado-mapuches/>>

jurors belong to the same social and cultural environment as the accused. This resulted in a

In this situation, the

defense requested that, as established in the Criminal Procedure Code of Neuquen, half of the

historical process unprecedented in Argentina: the creation of an intercultural jury, in which half

the members were Mapuches with a full translation

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systematic action taken against them by the company and state. After deliberation, the jury found the defendant "not guilty" of crimes of serious injury and aggravated damage. For the Mapuche, this is a great victory and a perfect precedent for future trials, however, it is a highly unusual case, and the first of its kind. Pressure is now being put on the judicial system as well as the Indigenous communities to push for more trials such as this one.<sup>12</sup>

It isn't unusual, at this time, for Indigenous people to be ignored and outright refused when requesting a trial as well as many other of their constitutional rights.

In Northern Argentina in the Chaco Province, poverty is a major issue. Guaraní women, although valued at home, have trouble finding work, and their labor is often not appropriately valued. There is a daily struggle to get food on the tables, so Indigenous women often make traditional baskets and jewelry to sell as a means to provide for their families, but are often not paid fair wages for their time and labor, leaving them at an overwhelming disadvantage when it comes to their economic security. Lack of economic security often leaves Indigenous women in poverty and dependent upon their male counterparts, despite the fact that many communities in Argentina are a matrilineal lineage. This doesn't translate into power however, because the men are generally the Spanish-speaker in the family, and therefore make the majority of the economic decisions.<sup>13</sup>

***C. Women's Health (CEDAW Articles 12, 14, 16):***

While discrimination against women is evident in almost all areas of life, it is the regulation of women's sexuality and reproduction that most clearly reveals gender stereotypes and bias. It also brings back archaic ideas about the role women 'should' play in society, and how they are imposed on all women through legislation and highly discriminatory practices. Indigenous women are at the heart of this issue; being discriminated against not only for being women, but also for being an Indigenous minority. Reports have been made by Qom women that going to the doctors is not always recommended because doctors do not treat them well and they do not always receive them as patients.<sup>14</sup> Indigenous communities have limited access to health services. Studies show that 47.4% of Indigenous people in the country have no access to health insurance because of discrimination or poverty.<sup>15</sup>

According to Amnesty International, the Ministry of Health published a new protocol for the implementation of legal abortions in line with a 2012 ruling by the Supreme Court, but the protocol still had not received ministerial endorsement by the end of 2015.<sup>16</sup> More than half of jurisdictions lacked understandable hospital protocols that would guarantee access to legal

- 12 "un jurado intercultural absolvió a la dirigente mapuche Relmu Ñamku." 2015. 5 Oct. 2016 <<http://www.lanacion.com.ar/1842662-neuquen-un-jurado-intercultural-absolvio-a-la-mujer-mapuche-relmu-namku>>
- 13 "Fighting for the Chaco - United Methodist Women." 2015. 3 Oct. 2016 <<http://www.unitedmethodistwomen.org/news/fighting-for-the-chaco>>
- 14 "Argentina: Mujer Originaria. Amanda Asijak relata cómo es resistir y ..." 2015. 3 Oct. 2016 <<http://kaosenlared.net/argentina-mujer-originaria-amanda-asijak-relata-como-es-resistir-y-luchar-por-su-tierra-tan-lejos-de-ella/>>
- 15 "Official PDF , 137 pages - Documents & Reports - World Bank." 3 Oct. 2016 <<http://documentos.bancomundial.org/curated/es/846861468210572315/pdf/813610CPS0REVI0C0disclosed090100140.pdf>>
- 16 "Amnesty International Report 2015/16: The state of the world's human ..." 2016. 21 Sep. 2016 <<https://www.amnesty.org/en/documents/pol10/2552/2016/my/>>

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abortion when a pregnancy was the result of rape or poses a risk to the health or life of the woman or girl as legislation called for by legislation.<sup>17</sup>

Some of the most simple obstacles in health care for Argentinian women

spouse which is contrary to law, financial barriers, and in the case of some Indigenous women,

include long delays in

providing services, unwanted referrals to wrong clinics, demands for permission from the

outright denial of care. As a direct result of these barriers, women and girls in Argentina often

cannot make informed, independent decisions about their own health, or the health of their

children and many face unwanted or unhealthy pregnancies as a result. Forty percent of

pregnancies in Argentina end in abortions, which are often unsafe, and have been the leading

cause of maternal mortality in the country for decades.<sup>18</sup> A lack of education about these

matters as well as a lack of oversight and accountability for implementing existing laws and

policies by government officials has been identified as one of the main problems in the

persistent denial of proper care.

The experience of one woman, Belén, is an illustrative example of what women in Argentina

might have to go through just to receive basic care. Belén was accused of having a self-induced

abortion after seeing a doctor for severe abdominal pain and heavy bleeding. She was sent into

surgery after discovering that she was unknowingly pregnant. She awoke from the surgery surrounded by police officers and has spent the last 2 years in pre-trial detention on charges of abortion that were later changed by the prosecution to charges of aggravated murder. The evidence against her is controversial at the least, and the way Belén has been treated by the medical staff could amount to cruel, inhuman or degrading. Additionally, according to international law and standards, non-consensual disclosures of personal medical information, including to law enforcement officials, is a violation of the right to privacy. Medical professionals have an obligation to protect the confidentiality of the information to which they have access as part of their profession. As of April 2016, the Third Chamber of the Criminal Chamber of Tucumán sentenced Belén to eight years in prison for murder but by August, after receiving over 120,000 petitions from around the world, Belén was up for release.<sup>19</sup>

#### **D. Gender and Homophobia (CEDAW Articles 2, 3, 5):**

According to Amnesty International, in September, a well-known Argentinian LGBTIQI activist, Daiana Sacayán, was

found dead in her apartment. She was the third transgender woman – after Marcela Chocobar

17 "View The Full Report - Document | Amnesty International." 2016. 18 Sep. 2016 <<https://www.amnesty.org/en/documents/pol10/2552/2016/en/>>

18 "Argentina: Guarantee Women's Access to Health Care | Human Rights ..." 2015. 21 Sep. 2016 <<https://www.hrw.org/news/2010/08/10/argentina-guarantee-womens-access-health-care>>

19 "Sentenced to Eight Years in Jail for a Miscarriage - Human Rights Now." 2016. 23 Sep. 2016 <<http://blog.amnestyusa.org/americas/sentenced-to-eight-years-in-jail-for-a-miscarriage/>>

20 "Women's human rights in Argentina: advances, setbacks and the tasks ..." 2010. 19 Sep. 2016 <<http://www.thefreelibrary.com/Women's+human+rights+in+Argentina%3A+advances,+setbacks+and+the+tasks...-a0105915332>>

Discrimination against individuals with non-heterosexual orientations also reveals a violent situation of rights violations. Lesbians are overlooked even in the most progressive public policies. Homophobia, both internal and external, keeps women from being vocal, for fear of harsh discrimination, and often keeps their sexuality hidden from society completely.

Female sexuality continues to be controlled by both the State, through its legal discourse, and social agents, which insist that heterosexuality is a women's only choice. <sup>20</sup> If these unspoken

norms are not accurately followed, violence is often the response.

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and Coty Olmos – to have died in violent circumstances in one month and by the end of 2015, no one was yet to be held accountable or charged for their deaths.<sup>21</sup>

Indigenous LGBTQ people are even further discriminated against and invisible in reporting and services.

### ***E. Violence Against Women (CEDAW Article: 11, 12)***

After the adoption of the Comprehensive Law on the Prevention, Punishment and Elimination of Violence against Women in their Interpersonal Relations, in 2009, there has been no implementing legislation or sufficient allocation of financial resources to implement that law leaving the problem of female violence in Argentina a prevalent issue. <sup>23</sup> One case in Argentina, that sent crowds into a riot in 2014 consisted of a woman who had

During the 1990s, laws began slowly to emerge to deal with domestic violence, empowering

police agencies and provincial judicial authorities to establish preventive measures; but

domestic violence against women in Argentina remains a serious problem. Rape, including

spousal rape, is a crime, but the need for proof, either in the form of clear physical injury or the

testimony of a witness, often presented difficulties in prosecuting such crime<sup>22</sup>

beatings and other abuses during their 13 years of marriage, but she said authorities failed to

half her body badly burned

after her husband doused her with alcohol and set her on fire. She had already reported

intervene. Her husband was only jailed after her case was reported in the press and still legal

action has been limited.

In 2012, the Office of Domestic Violence and the Security Ministry trained members of the

Federal Police, Navy, and Gendarmerie in the city of Buenos Aires on domestic violence

intervention. Statistics on the number trained were not available at the end of the year, which

gives significant proof that the problem is not only an aggressive machismo attitude, but a lack

of authority and organized resistance to the issue.<sup>24</sup> Women who are monetarily dependent

upon an abusive spouse, find themselves cornered, some women reach out only to find that the

authorities won't take any action; these issues require immediate and sustainable action by the

Government of Argentina.

### ***F. Femicide***

In November 2012 Congress passed the Femicide Law, imposing stricter penalties on those who kill their spouses, partners, or children as a consequence of gender violence. According to a Human Rights Report by the US Department of State, lack of police and judicial vigilance often led to a lack of protection for victims.<sup>25</sup> According to the Marisel Zambrano Femicide

#### ***(CEDAW Articles 12):***

21 "View The Full Report - Document | Amnesty International." 2016. 21 Sep. 2016  
<<https://www.amnesty.org/en/documents/pol10/2552/2016/en/>>

22 "Women's human rights in Argentina: advances, setbacks and the tasks ..." 2010. 19 Sep. 2016  
<<http://www.thefreelibrary.com/Women's+human+rights+in+Argentina%3A+advances,+setbacks+and+the+tasks...-a0105915332>>

23 "CEDAW/C/ARG/7 - Treaty bodies Download." 16 Sep. 2016  
<[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FARG%2F7&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FARG%2F7&Lang=en)>

24 "argentina 2013 human rights report - US Department of State." 23 Sep. 2016  
<[http://www.iri.edu.ar/publicaciones\\_iri/anuario/cd\\_anuario\\_2014/Amnor/2013%20-%20Huma%20rights%20Report%20Argentina.pdf](http://www.iri.edu.ar/publicaciones_iri/anuario/cd_anuario_2014/Amnor/2013%20-%20Huma%20rights%20Report%20Argentina.pdf)>

25 "argentina 2013 human rights report - US Department of State." 23 Sep. 2016  
<[http://www.iri.edu.ar/publicaciones\\_iri/anuario/cd\\_anuario\\_2014/Amnor/2013%20-%20Huma%20rights%20Report%20Argentina.pdf](http://www.iri.edu.ar/publicaciones_iri/anuario/cd_anuario_2014/Amnor/2013%20-%20Huma%20rights%20Report%20Argentina.pdf)>

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Observatory from La Casa del Encuentro, 275 cases of femicide have taken place since the first march in June 2015.<sup>26</sup> These statistics are not official, but it is precisely this lack of official government data that perpetuates the problem. It was recorded that, of the 275 victims, 39 had previously reported violence to the police; and 171 of the femicides occurred inside the home, confirming that the private, domestic sphere remains one of the most dangerous places for women. The murders of these women left 216 children without a mother.<sup>27</sup>

In a report by Amnesty International, on June 3, 2016, Argentines began protesting on the streets in a fight against their government demanding an end to femicide and increasing levels of violence against women in the country. Violence against women is compounded by discrimination on the grounds of race, ethnicity, sexual identity, social status, class, and age.

Such multiple forms of discrimination further restrict women's choices, increase their vulnerability to violence, and make it even harder for women to obtain justice.<sup>28</sup>

States have the obligation to prevent, protect against, and punish violence against women whether perpetrated by private or public actors. States have a responsibility to uphold standards of due diligence and take steps to fulfill their responsibility to protect individuals from human rights abuses. Yet, such violence is often ignored and rarely punished. Too often no one is held accountable for these crimes.

### ***G. Trafficking and exploitation of prostitution (CEDAW Articles 6):***

Argentina was placed as a 'Tier 2' Country for human Trafficking in the 2015 Trafficking in Persons Report. The country's tier ranking is based on the government's efforts against trafficking as measured by the Trafficking Victims Protection Act's (TVPA) in the context of its efforts in the preceding years. Being placed in Tier 2 would mean that Argentina's government is not reaching the minimum standards for Trafficking and Exploitation prevention, but they are working on taking steps to do so. Argentina is a source and destination country for men, women, and children subjected to sex trafficking and forced labor.

The 2012 anti- trafficking law required the government to establish a fund for trafficking victims, but this fund was still not yet created by the end of 2014.<sup>31</sup>

26 "5 Things I Learned at Argentina's #NiUnaMenos March against Femicide." 2016. 23 Sep. 2016  
<<http://blog.amnestyusa.org/americas/5-things-i-learned-at-argentinas-niunamenos-march-against-femicide/>>  
27 "argentina 2013 human rights report - US Department of State." 23 Sep. 2016  
<[http://www.iri.edu.ar/publicaciones\\_iri/anuario/cd\\_anuario\\_2014/Amnor/2013%20-%20Huma%20rights%20Report%20Argentina.pdf](http://www.iri.edu.ar/publicaciones_iri/anuario/cd_anuario_2014/Amnor/2013%20-%20Huma%20rights%20Report%20Argentina.pdf)>

28 "5 Things I Learned at Argentina's #NiUnaMenos March against Femicide." 2016. 23 Sep. 2016  
<<http://blog.amnestyusa.org/americas/5-things-i-learned-at-argentinas-niunamenos-march-against-femicide/>>  
29 "2016 Trafficking in Persons Report Country Narrative: Argentina." 2016. 16 Sep. 2016  
<<http://www.state.gov/j/tip/rls/tiprpt/countries/2016/258713.htm>>

30 "What I'm Doing Is Not a Crime: The Human Cost of Criminalizing Sex ..." 16 Sep. 2016  
<<http://www.amnestyusa.org/research/reports/what-i-m-doing-is-not-a-crime-the-human-cost-of-criminalizing-sex-work-in-the-city-of-buenos-aires-a>>  
31 "2015 Trafficking in Persons Report - US Department of State." 2016. 22 Sep. 2016  
<<https://www.state.gov/documents/organization/245365.pdf>>

vulnerable to trafficking.<sup>29</sup> Sex workers operating from private accommodation are often subject

Women and girls who live in

extreme poverty, a violent family environment, or suffer from addiction are among those most

to violent inspections and raids by the police, as well as extortion and bribes. Sex workers also reported challenges accessing health services due to intense discrimination.<sup>30</sup>

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Trafficking-related corruption, mainly amongst government officials at the provincial level, remained a serious concern. Judges have been reported to receive bribes from traffickers or will not adequately investigate signs of official complicity. Some officials, mainly at the provincial level, including police officers and mayors, protect brothels where trafficking occurred. The government has reported police were complicit in 40 percent of sex trafficking cases either as purchasers of commercial sex or as personal contacts of brothel owners; this serves as a blaring disincentive for victims to report exploitation and proves a lack of action even when they do.<sup>32</sup>

#### ***H. Land Rights (CEDAW Articles 14 ):***

There is a long history of violations to land rights throughout Argentina. Although the Constitution recognizes the rights of Indigenous Peoples to their ancestral lands and to participate in the management of natural resources, these rights have been rarely respected

and Indigenous Peoples across Argentina continue to struggle over land rights.<sup>33</sup> Indigenous Peoples are rarely consulted on what happens on their land and there is a number of reports on the Argentinian Government disregarding Indigenous Peoples' specific right to Free, Prior, and Informed Consent (FPIC) on issues that may affect them and particularly regarding extractive industries and agribusiness on Indigenous People's land. Rural Indigenous women in Argentina remain especially disenfranchised, in violation of the newly issued CEDAW General Recommendation 34 on the Rights of Rural Women.<sup>34</sup>

In 2016, over 30 Indigenous communities from the northern Argentine provinces of Jujuy and Salta went to the Inter-American Commission of Human Rights after having exhausted all national legal resources accusing local authorities of failing to respect their right to prior consultation regarding the exploitation of salt mines which potentially cause water scarcity and contamination on their land. The Indigenous groups took their complaint to the country's Supreme Court in 2010, but the court denied their request two years later.<sup>35</sup>

Campo Maripe, in the Argentine province of Neuquen has been subjected to a similar negligence. The community is located on top of the largest unconventional hydrocarbon 'play' outside North America, known as Vaca Muerta (Dead Cow). This area is most affected by



fracking. It is home to many Mapuche communities that have been suffering from the pollution of the conventional oil industry for decades. There is large protest by the Indigenous women of these areas, fighting for the rights of their sacred land. In one incident, there were three Mapuche women who chained themselves to a U.S.-owned machine on Indigenous territory that was seized by the Argentine state despite signed treaties such as the International Labor Organization Convention 169, ratified by Argentina in 2000, and a national law for the survey of aboriginal lands which governments past and present insist on ignoring the results of, and finally, a significant achievement in 2014 –the government of the province legally recognizing Campo Maripe as a Mapuche community. Yet the extraction activity on their land is still taking place. Mapuche woman have the role of the bearers of Mapuche knowledge; specifically, the role of

32 "2015 Trafficking in Persons Report - US Department of State." 2016. 22 Sep. 2016 <<https://www.state.gov/documents/organization/245365.pdf>>

33 "Ley 26.160 - Infoleg." 2016. 20 Sep. 2016 <<http://servicios.infoleg.gob.ar/infolegInternet/anexos/120000-124999/122499/norma.htm>> 34<https://www.culturalsurvival.org/publications/cultural-survival-quarterly/rural-womens-right-free-prior-and-informed-consent>

35 "Argentine Indigenous Accuse Gov't of Violating Their Rights | News ..." 2016. 21 Sep. 2016 <<http://www.telesur.tv/english/news/Argentine-Indigenous-Accuse-Govt-of-Violating-Their-Rights-20160223-0034.html>>

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teaching. After the invasion and imposition of another culture, they fear they are losing their roots. Being expelled from fertile lands throughout decades of dispossession, the communities cannot carry out their life as usual; they cannot exist if they are not on their territory, and if they don't have the autonomy needed to exercise their rights they will be forced out. In this regard, respect for the rights of Indigenous women is not possible either if their collective rights as a community are not respected. Rural Indigenous women face multi-faceted discrimination; being not only women, but also Indigenous and dependant on their land. The pollution, destruction and loss of their land, leaves them with even less ties to their roots, less opportunity for jobs, and less space to call home.<sup>36</sup>

In 2015

the Canadian Barrick Mining Company was responsible for 224,000 liters of cyanide being leaked into a local river from its Veladero gold mine located in the western province of San Juan. Only one year later, now in 2016, the company has continued operations without pause and has allowed yet another cyanide spill in almost the same exact region. Cyanide is used in the processing of gold which they mined in massive quantities, despite opposition from the Indigenous groups who reside there such as the Indigenous Diaguita community on the Argentine/Chilean border. Cyanide has leached into the water supplies of these Indigenous communities and could have potentially lethal consequences for the people that reside there.

The open-pit cyanide leaching mine, one of the largest gold mines in the world, is the target of a petition urging President Mauricio Macri to clamp down on Barrick and close Veladero once and for all, but action has been halted. 37

There are reported accounts of land grabbing as recently as September 2016. Two elderly villagers of San Martin were arrested after a police operation conducted on the 24th of September. Eladio Antonio Dominguez, 63, and his wife Maria Gertrudis Encina, 53, were arrested after resisting corporate occupation of their ancestral territory. Since being arrested, they have received improper treatment due to discrimination as Indigenous Guarani. There is a call to free them and grant the Indigenous groups who live here their lawful rights to the lands. The national Government declared emergency in the territory of the Indigenous communities through law number 26160, this emergency suspends evictions communities. Mirian Sotelo, of the Guaraní Community Jhaveri and representative of the Indigenous communities of the Province, requested the urgent intervention of the National Institute of Indigenous Affairs. 38 The Guaraní, who live in the Iberá wetlands of Northern Argentina, have been struggling to thrive due to the build up of plantations on their ancestral homeland. The owner of these invasive plantations is an investment management company owned by Harvard University of Cambridge, MA, USA. The plantations greatly harm the surrounding environment, reducing the

availability of water for farming or fishing, worsening summer droughts, and creating water shortages in local communities. In a report by Cultural Survival in 2016, it was reported that Harvard has been investing millions into the projects here, causing damage to spiritual land, as well as taking crucial resources for survival from these people. There is a call to stop Harvard from investing into these invasive plantations, but Harvard falsely insists that the program that seeks to ensure that certified timber companies is "environmentally appropriate, socially

36 "Argentina: 6 Indigenous women at Heart of Fracking Resistance ..." 2016. 21 Sep. 2016 <<http://www.telesurtv.net/english/opinion/Argentina-6-Indigenous-Women-at-Heart-of-Fracking-Resistance-20160318-0015.html>>

37 "Canadian Gold Mining Giant Spews Cyanide in Argentina — Again ..." 2016. 22 Sep. 2016 <<http://www.telesurtv.net/english/news/Canadian-Gold-Mining-Giant-Spews-Cyanide-in-Arentina--Again-20160915-0027.html>>

38 "Exigen la liberación de un matrimonio de ancianos ... - Corrientes Hoy." 2016. 3 Oct. 2016 <<http://www.corrienteshoy.com/noticias/view/158234>>

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beneficial and economically viable.” Harvard is in direct violation of the Guaraní’s traditional rights to their lands and waters. The institution has not achieved the Free, Prior and Informed Consent of the Guaraní and Article 26 of the UN Declaration on the Rights of Indigenous Peoples declares that the Guaraní, as Indigenous Peoples, have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, and waters. As one of the leading US educational institutions, it is important that Harvard sets an example in following international law and recognizes Indigenous people and their rights. 39

Broken policies in regards to land demarcation and titling should be dealt with immediately. A law was enacted in 2006 in order to halt evictions related to territorial rights in regard to property and the possession of lands traditionally occupied by Indigenous communities. It was influenced by Convention No. 169 of the International Labour Organization regarding Indigenous and Tribal Peoples in Independent Countries, which was ratified by Argentina with the 1992 law and

recognized in the National Constitution. But instead of providing solutions, the process has prolonged existing conflicts.<sup>40</sup>

### III. CEDAW Concluding Observations

#### In 2010 the Committee noted in Concluding Observations:

14. *The Committee urges the State party to adopt legislative and other measures, including sanctions where appropriate, prohibiting all forms of discrimination against women and promoting equality, as well as to implement measures to create awareness of and adequately disseminate the Convention, its Optional Protocol and the Committee's general recommendations among all stakeholders, including Government ministries, parliamentarians, the judiciary and law enforcement officers, so as to create awareness of women's human rights. The Committee further urges the State party to undertake awareness-raising campaigns targeted at women to enhance women's awareness of their human rights and to ensure that women can avail themselves of procedures and remedies for violations of their rights under the Convention.*

16. *The Committee requests that the State party take all appropriate measures to remove impediments women may face in gaining access to justice and to put in place measures to ensure women's access to justice. It specifically recommends that the State party enhance women's awareness of their rights, inter alia in rural areas and among the most disadvantaged groups, including Indigenous communities, through legal literacy programmes and legal assistance so that they can gain knowledge of available legal remedies for discrimination and abuse and claim all their rights under the Convention. It further urges the State party to ensure that the judiciary, including judges, lawyers, prosecutors and public defenders, is familiar with the rights of women and the obligations of the State party under the Convention. The Committee also encourages the State party to provide training on gender awareness to all members of the justice system, including law enforcement agencies, and to monitor the results of such efforts.*

24. *The Committee urges the State party to speed up the adoption and the implementation, in a consistent manner and in all provinces, of implementing legislation and the provision of financial*

39 "Argentina: Urge Harvard to Be a Responsible Investor | Cultural Survival." 2014. 30 Sep. 2016 <<https://www.culturalsurvival.org/advocacy/argentina>>

40 "Indigenous rights in Argentina - Canadian Foundation for the Americas." 2011. 23 Sep. 2016 <<http://www.focal.ca/publications/focalpoint/413-march-2011-maria-delia-bueno-en>>

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*resources to give full effect to the Comprehensive Law on the Prevention, Punishment and Elimination of Violence against Women in their Interpersonal Relations. This must include the effective implementation of the existing legislation, at the national, provincial and municipal levels, to combat all forms of violence against women, including domestic violence. The Committee encourages the State party to strengthen its system of data collection in regard to all forms of violence against women and to include such information under the Committee's follow-up procedure referred to in paragraph 51 of the present concluding observations. With specific regard to marital rape, the Committee urges the State party to put in place a system to encourage women to report, as well as a set of indicators to assess trends in both the reporting and incidence of this crime.*

30. *The Committee urges the State party to further strengthen its efforts in anti-trafficking activities with a view to addressing fully and comprehensively the complexities of a crime that is international in nature. The Committee also urges the State party to complement Law No. 26,364 of April 2008 by ensuring adequate protection of all*

women, independent of their age, as well as individuals who have been trafficked and who fear being subjected to persecution upon return to their country of origin, in accordance with international standards.

34. *The Committee urges the State party to ensure widespread dissemination of information relating to women's educational opportunities, including in respect of vocational education, with a view to further expanding women's professional choices, including access to higher-paying jobs. The Committee further recommends that gender training be mandatory for teachers at all levels of the educational system throughout the country, in all provinces and municipalities, with a view to eradicating gender stereotypes from both official and unofficial curricula. Specific strategies should be put in place to counter the prevalent patriarchal culture.*

38. *The Committee urges the State party to ensure women's and teenage girls' access to health services, including sexual and reproductive health services, and to see to it that education on sexual and reproductive health is undertaken in all schools at all levels, as relevant. It also urges the State party to adopt all the necessary measures to further reduce the high maternal mortality rate. The Committee further urges the State party to review existing legislation that criminalizes abortion, with serious consequences for the health and lives of women. The State party should ensure that the "Technical guide for the integral attention of non-punishable abortion cases" is applicable in the whole country in a uniform manner so that there is equal and effective access to health services to interrupt pregnancies.*

42. *The Committee urges the State party to continue to pay special attention to the needs of rural women, including older women and Indigenous women, ensuring that they participate in decision-making processes and have full access to education, health services and credit facilities.*

As can be seen from this report many of the concluding observations were not implemented. Indigenous women's situation has not changed much since the last review.

#### **IV. Argentina State Report**

The Argentine State Report appears to be thorough, but upon closer examination, it is lacking in implementation and action on the ground. Indigenous women's issues are not sufficiently covered. The Report highlights major achievements of the Argentinian government, when many of the laws have been proven to have no actual repercussions. For example, laws on the legality of abortion have been passed, but there is still evidence that the laws are not being strictly enforced.

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There is concern that, while women's access to justice is provided for by legislation, their ability in practice to exercise those rights and to bring cases of discrimination before the courts is limited by such factors as lack of information about their rights and language barriers, particularly for Indigenous women, as well as other structural difficulties in accessing the courts.

#### **V. Legal Framework**

*Convention on the Elimination of Discrimination Against Women (CEDAW) Articles 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 16 and General Recommendation No. 19 and No. 34 of the CEDAW Committee*

*UN Declaration on the Rights of Indigenous Peoples*

#### **VI. General Comments**

## **Health**

37. While appreciating the establishment of the National Programme for Sexual Health and Responsible Parenthood and, within its framework, the publication of the “Technical guide for the integral attention of non-punishable abortion cases” aimed at clarifying aspects of article 86 of the Criminal Code, the Committee notes that access to sexual and reproductive health-care services remains a significant problem for Argentinean women. The Committee further expresses its concern about the high pregnancy rate among adolescent girls and about high maternal mortality, one third of which is caused by illegal abortion.

38. The Committee urges the State party to ensure women’s and teenage girls’ access to health services, including sexual and reproductive health services, and to see to it that education on sexual and reproductive health is undertaken in all schools at all levels, as relevant. It also urges the State party to adopt all the necessary measures to further reduce the high maternal mortality rate. The Committee further urges the State party to review existing legislation that criminalizes abortion, with serious consequences for the health and lives of women. The State party should ensure that the “Technical guide for the integral attention of non-punishable abortion cases” is applicable in the whole country in a uniform manner so that there is equal and effective access to health services to interrupt pregnancies.

## **Rural women**

41. While acknowledging efforts aimed at decentralizing and providing training opportunities, relatively extensive health care and substantial credit loans, including to rural families, the Committee remains concerned about the situation of rural women, particularly older women and Indigenous women, in view of their extreme poverty, marginalization and frequent lack of access to health care, education, credit facilities and community services.

42. The Committee urges the State party to continue to pay special attention to the needs of rural women, including older women and Indigenous women, ensuring that they participate in decision-making processes and have full access to education, health services and credit facilities.

## **VII. Other UN Body Recommendations**

### ***International Covenant on Civil and Political Rights (ICCPR)***

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“37. Despite the national and provincial initiatives which have been undertaken to regularize the status of indigenous lands, including Act No. 26.160 of 2006, under which a state of emergency was declared in respect of the possession and ownership of lands occupied by indigenous communities, the Committee finds it regrettable that indigenous lands have not yet been legally recognized and protected. The Committee reiterates its concern, as expressed in its preceding concluding observations (CCPR/C/ARG/CO/4, para. 25), about the fact that indigenous groups continue to be the target of violence and forced evictions in a number of provinces (arts. 2, 6, 7 and 27).

38. The State party should, in consultation with the indigenous peoples concerned, step up its efforts to legally recognize and demarcate the territories over which indigenous peoples have rights. The State party should also provide effective protection for indigenous peoples from any and all acts of violence and see to it that the parties responsible for those acts are brought to justice and duly punished and that the victims are provided with appropriate redress.”

## **Economic and Social Council**

*“9. The Committee is concerned about the persisting threats, displacements and violent evictions of indigenous peoples from their traditional lands in numerous provinces. The Committee also regrets the shortcomings in consultation processes with affected indigenous communities, which in some cases have led to the exploitation of natural resources in the territories traditionally occupied or used by them without their free, prior and informed consent and without just and fair compensation being paid to them, in violation of the Constitution (art. 75) and International Labour Organization (ILO) Convention No. 169 E/C.12/ARG/CO/3 3 concerning Indigenous and Tribal Peoples in Independent Countries. The Committee is particularly concerned by the negative consequences of lithium exploitation in Salinas Grandes (Salta and Jujuy provinces) on the environment, access to water, way of life and subsistence of indigenous communities (arts. 1, 11 and 12).”*

*The Committee recommends that the State party undertake the necessary measures to stop violations of the rights of indigenous peoples and that it hold accountable those responsible for such unlawful acts. It urges the State party to always enter into effective consultations with indigenous communities before granting concessions for the economic exploitation of the lands and territories traditionally occupied or used by them to State-owned companies or third parties, fulfilling the obligation to obtain the free, prior and informed consent of those who are affected by the aforementioned economic activities. The Committee also recommends that the State party guarantee that in no case will such exploitation violate the rights recognized in the Covenant and that just and fair compensation is granted to indigenous communities. The Committee also calls upon the State party to ensure the protection of indigenous communities during the implementation of mining exploration and exploitation projects. With regard to Salinas Grandes, the Committee urges the State party to comply with the decision of the Supreme Court, once it is available. 1 The Committee recalls in this context its statement on the obligations of States parties regarding the corporate sector and economic, social and cultural rights (E/C.12/2011/1).”*

*“12. The Committee is concerned that the data provided for the Covenant rights was not presented on a comparative basis, disaggregated on an annual basis, as requested in the previous concluding observations of the Committee.*

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*The State party is requested to supply, in its next periodic report, disaggregated data for each of the Covenant rights, on an annual basis, taking into account the prohibited grounds of discrimination.”*

### **United Nations General Assembly**

#### *Human Rights Council Working Group on the Universal Periodic Review Fourteenth session*

*“40. CERD was concerned about the failure to prosecute and punish those responsible for the perpetration of violent acts during forced evictions. It recommended that the Government investigate and punish those responsible for deaths and injuries occurring in connection with forced evictions in the provinces.”*

*“59. CESCR reiterated its concern over forced evictions which affected, in particular, migrants and indigenous peoples.”*

*“66. CERD was concerned that indigenous peoples, in particular those living in Chaco Province, remained among the poorest and most marginalized groups.<sup>109</sup> 67. In 2011, the Special Rapporteur on the rights of indigenous peoples stated that one central concern expressed by indigenous representatives during his visit had been the lack of legal security in respect of their rights to their traditional lands, and in particular the various problems and delays they faced in the land surveying process. He added that issues of special concern to the indigenous peoples included the series of evictions of members of indigenous communities from land claimed by them on the basis of their traditional occupancy and the existence of mining projects in or close to indigenous territories without*

*effective prior consultations or participation by the indigenous peoples concerned in decision-making on those projects.<sup>110</sup> The Special Rapporteur on adequate housing,<sup>111</sup> CERD,<sup>112</sup> CESCR,<sup>113</sup> the HR Committee<sup>114</sup> and the ILO Committee of Experts<sup>115</sup> expressed similar concerns.”*

*“68. CESCR recommended that Argentina finalize the processes of land demarcation in all provinces, as foreseen by the law, and that it expedite the granting of communal land title to indigenous communities.<sup>116</sup> CERD recommended that Argentina take the necessary effective steps to ensure that the law prohibiting forced eviction is applied equally throughout the national territory and that, where it is determined that eviction is necessary, Argentina ensure that those evicted from their lands receive adequate compensation.”*

*“79. CESCR was concerned about the negative impact caused by the increased use of chemical pesticides and transgenic soya seeds in regions traditionally inhabited or used by indigenous communities. It also noted the scale of deforestation, which had forced indigenous peoples to leave territories traditionally occupied or used by them.”*

## **VIII. Questions**

1. What steps will the Government of Argentina take to collect information specifically on the situation and rights of Indigenous women?
2. What concrete steps is the government of Argentina taking to respect, protect, and fulfill the rights of Indigenous women at all levels of government — national, provincial and municipal?

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## **IX. Recommendations**

Cultural Survival urges the government of Argentina to:

1. Implement CEDAW General Recommendation No. 34 on the Rights of Rural Women
2. Renewed efforts to promote the rights of Indigenous women should be urgently put in

place, including measures to eliminate all forms of discrimination and violence against them, incorporating active involvement of Indigenous women and their organizations. Such measures should be specifically targeted to the most at risk populations addressing root causes such as eviction from ancestral lands, violence, discrimination, and poverty.

3. Disaggregate data on the Indigenous population, specifically Indigenous women and girls.
4. Respond to requests for a trial by jury, and ensure half of the jurors belong to the same social and cultural environment as the accused.
5. Provide translation services for Indigenous women in the justice and health service spheres.
6. Promote Indigenous women’s leadership in public spheres.
7. Protect and prevent Indigenous women from being murdered, trafficked and exploited.
8. Respect Indigenous Peoples’ right to Free, Prior and Informed Consent.
9. Create a National Action plan on implementing the rights of Indigenous Peoples based

on the World Conference on Indigenous Peoples’ Outcome Document, with a special focus on Indigenous women and girls.

10. Invite Special Rapporteur on the Rights of Indigenous Peoples to visit the country.
11. In partnership with Indigenous Peoples, allow teachers and administrators within the



education system to teach on culturally related curriculum.

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## REVIEWS

### REVIEW OF DAVID GRANN, *KILLERS OF THE FLOWER MOON: THE OSSAGE MURDERS AND THE BIRTH OF THE FBI*

Stephen M. Sachs\*

David Grann, *Killers of the Flower Moon: The Osage Murders and the Birth of the FBI* (New York: Doubleday, 2017, [www.doubleday.com](http://www.doubleday.com)) is an extremely thorough study of the murders of members of the Osage Nation in Oklahoma in the early 20th century by prominent non-Indians, in order to gain control of tribal member wealth from oil. It shows how numerous wealthy tribal members were forced into guardianship so that the legal guardians could steal their money, and how many Osage were murdered to complete and protect the theft. The often deadly perversion of guardianship remains a major problem in the United States, as set forth in M. Larsen, Ed. *Guardianship: How Judges and Lawyers Steal Your Money*.<sup>1</sup>

Grann has made a thorough research of all the available reports that he was able to find relating to the Osage murders, and supplemented them with interviews of Osage tribespeople who remember surviving family members speaking of the deaths of family members during the reign of terror through guardianship that the tribe suffered. As a result, Grann is able to show additional Osage murders that were beyond those discovered by the FBI and prosecuted in federal court. The book is well written, and reads easily as would a good murder novel, only this one is about an all too real set of occurrences.

1. M. Larsen, ed. *GUARDIANSHIP: How Judges and Lawyers Steal Your Money* (Tucson: Janet Pipes, 2016 available at: <http://www.guardianabusecases.com/product/guardianship-how-judges-lawyers-steal-your-money-pdf-format/>). See also, Emily Gurnon, "Guardianship in the U.S.: Protection or Exploitation? More adults will be at risk of abuse as boomers enter 'the danger age'," *nextavenue*, May 23, 2016, <http://www.nextavenue.org/guardianship-u-s-protection-exploitation/>; and Michael Bafajas, "How judges, probate attorneys, and guardianship orgs abuse the vulnerable," *San Antonio Current*, September 24, 2012, <https://www.sacurrent.com/sanantonio/how-judges-probate-attorneys-and-guardianship-orgs-abuse-the-vulnerable/Content?oid=2243812>.

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### REVIEW OF WILL TAEGEL, *WALKING WITH BEARS: ON BRIDGES TO EARTH'S NEW ERA*

Stephen M. Sachs, "Review of Will Taegel, *Walking with Bears: On Bridges to Earth's New Era*"

Will Taegel, *Walking with Bears: On Bridges to Earth's New Era* (Wimberley, TX: 2nd Tier Publishing, 2017) is a discussion of psychologist Taegel's development of consciousness, especially through his interaction with Muscogee elder, Bear Heart: Marcellus Williams. The book is part of Taegel's encouragement to people to return to the original Indigenous consciousness, which includes rediscovering one's intuition, and the ability to exchange information with everything in the environment, as traditional Indigenous holy people have done. This is something that the author, who is of Shawnee heritage, previously pointed out is natural according to cutting edge biology.<sup>1</sup>

*Walking with Bears* arose from Bear Heart's notes for his second book. Having published *The Wind Is My Mother: The Life and Teachings of a Native American Shaman* with Molly Larkin, in 1996,<sup>2</sup> Bear Heart was developing a set of Notes for *The Bear Is My Father* when he walked on. Going over the notes, Bear Heart's wife, Reginah WaterSpirit, found that they contained the same depth of wisdom that he had expressed in *The Wind Is My Mother*, but they were not sufficiently developed that they could easily be edited into a book.<sup>3</sup> WaterSpirit discussed the matter with Bear Heart's long-time friend and student, Will Taegel. They agreed that, in consultation with her, he would imbed the teaching's in Bear Heart's notes into a volume discussing his own development in interaction with Bear Heart as part of the broader project of encouraging people to expand their consciousness appropriately for crossing the bridge into a new era of living harmoniously with the Earth. This requires continual learning for developing inner harmony, a basis for necessary respectful relations with all beings.

*Walking with Bears* contains a good deal of Bear Heart's history, and a great deal of the wisdom he was planning to present in the *Bear is My Father*, building upon his discussion in *The Wind Is My Mother*. To this reviewer it is a very fine volume in several dimensions. First, it unfolds a story of personal development, which is relevant to many of us in furthering our own learnings in a major transitional period. Second, it further unfolds Bear Heart's wisdom, based upon his Muscogee tradition and his life experience. Third, it outlines some important advances in moving toward a more holistic human psychology. Fourth, *Walking with Bears* provides a considerable number of practical insights for developing an appropriate consciousness for living in balance with oneself, each other, and our environment.

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1. Will Taegel, *The Mother Tongue: Intimacy with the Eco-Field* (Wimberley, TX: 2nd Tier Publishing, 2012), particularly in Chapter 7, where Taegel quotes Almo Farina, "The Eco-Field: A New Paradighn for Landscape Ecology," *Ecological Research*, Vol. 19, 2004. pp. 107-110; Almo Farina, *Principles of Landscape Ecology: Toward a Science of Landscape* (Dordrecht, the Netherlands: Springer, 2007); and Almo Farina, *Ecology, Cognition and Landscape: Linking Natural and Social Systems* (Berlin: Springer-Verlag, 2010).

2. Bear Heart, with Molly Larkin, *The Wind Is My Mother: The Life and Teachings of a Native American Shaman* (New York: Berkeley Books, 1996). As Taegel notes in *Walking with Bears*, the subtitle, using the term "shaman", was the publisher's choice, and not Bear Heart's.

3. The history of the developing of Bear Heart's notes into a book is given by Taegel in the Prologue of *Walking with Bears*, and also was told by WaterSpirit to Stephen Sachs.

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## MEDIA NOTES

University of Arizona Press listings include: Marianne O. Nielsen and Karen Jarratt-Snyder, Eds., *Crime and Social Justice in Indian Country* (216 pp. paper \$35 or Ebook); Steve Pavlik, M. Elise Marubbio and Tom Holm, Eds., *Native Apparitions: Critical Perspectives on Hollywood's Indians* (248 pp. for papaer and Ebook); Lloyd L. Lee, Ed, Jennifer Nez Denetdale, Foreword, *Navajo Sovereignty: Understandings and Visions of the Diné People* (216 pp. for 29.95 paper); Leigh J. Kuwanwisiwma, T. J. Ferguson and Chip Colwell, Eds., *Footprints of Hopi History: Hopihiniwtiput Kukveni'at* (288 pp. for \$60.00 or Ebook); Ariel Zatarain Tumbaga, *Yaqui Indigeneity: Epistemology, Diaspora, and the Construction of Yoeme Identity* (232 pp. for \$55 cloth or Ebook); Jenny L. Davi, *Talking Indian: Identity and Language Revitalization in the Chickasaw Renaissance* (184 pp. for \$50 cloth or Ebook); Dorothy R. Parker, *Phoenix Indian School: The Second Half-Century* (112 pp. paper for \$19.95); Manuela Lavinas

Picq, *Vernacular Sovereignities: Indigenous Women Challenging World Politics* (240 pp. for \$55 cloth or Ebook); Frances Negrón-Muntaner Ed., *Sovereign Acts: Contesting Colonialism Across Indigenous Nations and Latinx America* (480 pp. for \$39.95 cloth or Ebook); Margaret M. Bruchac and Melissa Fawcett Tantaquidgeon Zobel; Foreword, *Savage Kin: Indigenous Informants and American Anthropologists* (280 pp. for \$55 cloth or Ebook); **Theresa McCarthy**, *In Divided Unity: Haudenosaunee Reclamation at Grand River* (432 pp. for \$55.00 Paper or Ebook); Paula López Caballero and Ariadna Acevedo-Rodrigo; Paul K. Eiss, Afterword, *Beyond Alterity: Destabilizing the Indigenous Other in Mexico* (320 pp. for \$55. cloth or Ebook); Julie Velásquez Runk, *Crafting Wounaan Landscapes: Identity, Art, and Environmental Governance in Panama's Darién* (336 pp. for \$55 cloth or Ebook); Rachel Corr, *Interwoven: Andean Lives in Colonial Ecuador's Textile Economy* (232 pp. for \$55 cloth or Ebook); Anna M. Babel, *Between the Andes and the Amazon: Language and Social Meaning in Bolivia* (280 pp for \$60 cloth or Ebook); Tevita O. Ka'iili, 'Okusitino Mahina, Foreword, *Marking Indigeneity: The Tongan Art of Sociospatial Relations* (200 pp. for \$50 cloth or Ebook), all from the University of Arizona Press, 355 S. Euclid Ave., Suite 103, Tucson, AZ 85701, phone/fax (800) 426-3797, <http://www.uapress.arizona.edu/>.

Offerings from the University of Hawaii Press include: Editor: Austin-Broos, Diane; Merlan, Francesca, *People and Change in Indigenous Australia* (\$62 cloth); O'Brien, Patricia, *Tautai: Sāmoa, World History, and the Life of Ta'isi O. F. Nelson* (\$72 cloth); Genz, Joseph H., *Breaking the Shell: Voyaging from Nuclear Refugees to People of the Sea in the Marshall Islands* (284 pp. for \$68 cloth); and Editors: Bartleet, Brydie-Leigh; Cain, Melissa; Tolmie, Diana; Power, Anne; Shiobara, Mari *Community Music in Oceania: Many Voices, One Horizon* (384 pp. for \$64 cloth), All, plus \$5 first item, \$1 each additional, shipping, from University of Hawai'i Press, 1840 Kolawalu St., Honolulu, HI 96822 (808)956-8255, [uhpbooks@hawaii.edu](mailto:uhpbooks@hawaii.edu), <http://www.uhpress.hawaii.edu>.

Recent offerings from the University of New Mexico Press include: Amanda J. Zink, *Fictions of Western American Domesticity: Indian, Mexican, and Anglo Women in Print Culture, 1850–1950* (325 pp. for \$75 cloth); Charlotte J. Frisbie; with recipes by Tall Woman & assistance from Augusta Sandoval, *Food Sovereignty the Navajo Way: Cooking with Tall Woman* (384 pp. for \$34.95 paper); Annette Angela Portillo, *Sovereign Stories and Blood Memories: Native American Women's Autobiography* (\$65.00s cloth); Stephen E. Lewis, *Rethinking Mexican Indigenismo: The INI's Coordinating Center in Highland Chiapas and the Fate of a Utopian Project* (352 pp. for \$75 cloth); and Bonnie Effros and Guolong La, eds., *Unmasking Ideology in Imperial and Colonial Archaeology: Vocabulary, Symbols, and Legacy* (400 pp. for \$85 paper), all plus \$5 for the first item and \$1 for each additional, shipping, from the University of New Mexico Press, MSC04 2820, 1 University of New Mexico, Albuquerque NM 87131-0001 (505)272-7777 or (800)249-7737, <http://www.unmpress.com/>.

University of Nebraska Press offerings include: Brandi Denison. *Ute Land Religion in the American West, 1879–2009* (330 pp. for \$55.00 cloth); Katherine Ellinghaus, *Blood Will Tell: Native Americans and Assimilation Policy* (234 pp. for \$40.00 cloth); Edited by Raymond J. DeMallie, Douglas R. Parks, and Robert Vézina, Translated by Mildred Mott Wedel, Raymond J. DeMallie, and Robert Vézina, *A Fur Trader on the Upper Missouri: The Journal and Description of Jean-Baptiste Truteau, 1794–1796* (728 pp. for \$100.00 cloth); Rosalyn R. LaPier, *Invisible Reality: Storytellers, Storytakers, and the Supernatural World of the Blackfeet* (246 pp. for \$50.00 cloth); Edited by Jolynn Amrine Goertz with the Confederated Tribes of the Chehalis Reservation as Shared by Robert Choke, Marion Davis, Peter Heck, Blanche Pete Dawson, and Jonas Secena Collected and Translated by Franz Boas *Chehalis Stories* (368 pages for \$75 cloth); Jun U. Sunseri, *Situational Identities along the Raiding Frontier of Colonial New Mexico* (240 pages for \$55 cloth); Edited and annotated by Christopher D. Haveman, *Bending Their Way Onward: Creek Indian Removal in Documents* (864 pages for \$85 cloth); Helen Addison Howard; New introduction by Nicole Tonkovich; Maps and illustrations by George D. McGrath, *Saga of Chief Joseph, Bison Classic Edition* (408 pages for \$19.95 paper); Robert Woods Sayre, *Modernity and Its Other: The Encounter with North American Indians in the Eighteenth Century* (456 pages for \$35 paper); and Edited by Jacqueline Emery, *Recovering Native American Writings in the Boarding School*

**Press** (366 pages for \$55 cloth), all, plus \$5 for the first item, \$1 for each additional, from University of Nebraska Press, 1111 Lincoln Mall, Lincoln, NE 68588 (800)755-1105, [pressmail@uni.edu](mailto:pressmail@uni.edu), [www.nebraskapress.unl.edu](http://www.nebraskapress.unl.edu).

Offerings from the University of Oklahoma Press include: Kirby Brown, *Stoking the Fire: Nationhood in Cherokee Writing, 1907–1970* (296 pp. for \$39.95 cloth); Richard W. Starbuck, ed., *Records of the Moravians Among the Cherokees: Volume Seven: March to Removal, Part 2, Death in the Land and Mission, 1825–1827* (538 pp/ for \$50 cloth); Devon Abbott Mihesuah, *Ned Christie: The Creation of an Outlaw and Cherokee Hero* (272 pp. for \$29.95 cloth); Emily C. Burns, *Transnational Frontiers: The American West in France* (248 pp. for \$45 cloth); Sylvia S. Kasprzycki, Introduction By Francois Ruegg, *Five Years in America: The Menominee Collection of Antoine Marie Gachet* (96 pp. for \$19.95 cloth); Rani-Henrik Andersson; Foreword By Raymond J. DeMallie, *A Whirlwind Passed through Our Country: Lakota Voices of the Ghost Dance* (432 pp. for \$39.95 cloth); Harvey Markowitz, *Converting the Rosebud: Catholic Mission and the Lakotas, 1886–1916* (320 pp. for \$34.95 cloth); Mark Van De Logt, *Monsters of Contact: Historical Trauma in Caddoan Oral Traditions* (336 pp. for \$65 cloth); Valerie Sherer Mathes and Phil Brigandi, *Reservations, Removal, and Reform: The Mission Indian Agents of Southern California, 1878–1903* (344 pp. for \$38.95); Paul L. Hedren, *After Custer: Loss and Transformation in Sioux Country* (272 pp. for \$21.95 paper, older printing in cloth); Jerome A. Greene, *Beyond Bear's Paw: The Nez Perce Indians in Canada* (284 pp. for \$21.95, older printing in cloth); Robert H. Ruby and John A. Brown, *John Slocum and the Indian Shaker Church* (320 pp. for \$28.95 paper, older printing in cloth); Erika Perez, *Colonia Intimacies: Interethnic Kinship, Sexuality, and Marriage in Southern California, 1769–1885* (408 pp. for \$45 cloth) and Yolanda Castro Apreza, Charlene Woodcock and K'inall Antsetik, A.C., eds.; Foreword By Inés Castro Apreza Translated By: Leíre Gutiérrez, *Weaving Chiapas: Maya Women's Lives in a Changing World* (288 pp. for \$29.95 paper); Patricia Lopes Don, *Bonfires of Culture: Franciscans, Indigenous Leaders, and the Inquisition in Early Mexico, 1524-1540* (280 pp. for \$24.95, older printing in cloth), all, plus \$5 for first item, \$1.50 for each additional, shipping, from the University of Oklahoma Press, Attn: Order Department, 2800 Venture Drive, Norman OK 73069-8218, [www.oupress.com](http://www.oupress.com).

Offerings from the University of Alaska Press include: By Birgitte Sonne, *Worldview of the Greenlanders: An Inuit Arctic Perspective* (1,150 pp. for \$65.00, e-book available); Daniel Lee Henry, *Across the Shaman's River: John Muir, the Tlingit Stronghold, and the Opening of the North* (\$32.95 paper, ebook available); and Ann Fienup-Riordan, Ed., Translated and Transcribed by Alice Rearden, *Qanemcit Amlertut/Many Stories to Tell: Tales of Humans and Animals from Southwest Alaska* (32 pp, for \$39.95 paper), all plus \$6 first item, \$1 each additional, from University of Alaska Press: [www.alaska.edu/uapress](http://www.alaska.edu/uapress), or order through Chicago: [orders@press.uchicago.edu](mailto:orders@press.uchicago.edu).

Books from University of Pennsylvania Press include: Francesca Merlan, *Dynamics of Difference in Australia Indigenous Past and Present in a Settler Country* (336 pages for \$59.95 cloth), all plus \$5 first item, \$2 each additional, from University of Pennsylvania Press, [www.pennpress.org](http://www.pennpress.org).

Books from Fulcrum Publishing Include: David E. Wilkins *Red Prophet: The Punishing Intellectualism of Vine Deloria, Jr.* (350 pp. for \$19.95 paper); and Kathleen Ratteree and Norbert Hill, *The Great Vanishing Act: Blood Quantum and the Future of Indian Nations* (348 pp. for \$21.95 paper, also available as: Mobipocket, Ebook: Epub, Ebook: PDF), all plus shipping from <http://www.fulcrumbooks.com>.

Offerings from the University of Kansas Press include: Tai S. Edwards, *Osage Women and Empire: Gender and Power* (232 pp. for \$24.95 Paper or Ebook, \$44 cloth), all, plus \$5 for first item, \$1 for each additional, shipping, from: [WWW.kansaspress.ku.edu](http://WWW.kansaspress.ku.edu).

Among Clear Light Books publications are: Frances L. O'Neil and Paul W. Wittmer, eds., *Pueblo Indian History and Culture* (146 pp. for \$24.95 paper); and Frances L. O'Neil and Paul W. Wittmer, eds., *Pueblo Indian Land and Religious Traditions* (122 pp. for \$24.95 paper), all plus \$4.00 first item, \$.50 for each additional, from Clear Light Books, <http://www.clearlightbooks.com>.

Arthur Manuel and Grand Chief Ronald M. Derrickson, Foreword by Naomi Klein, *Unsettling Canada: A National Wake-Up Call* is 288 pp. paper from Between the Lines, [btbooks.com](http://btbooks.com).

David Grann, *Killers of the Flower Moon: The Osage Murders and the Birth of the FBI* is 338 pp. for \$28.95 cloth from Doubleday, 2017, [www.doubleday.com](http://www.doubleday.com).

Andrew J. Jolivet, *Indian Blood: HIV and Colonial Trauma in San Francisco's Two-Spirit Community* is 176 pp. for \$25 paper, \$90 cloth from University of Washington Press: <http://www.washington.edu/uwpress/search/books/JOLIND.html>.

Finisia Medrano, *Growing Up in Occupied America* is 152 pp. for \$20 paper from: <http://www.lulu.com/shop/finisia-medrano/growing-up-in-occupied-america/paperback/product-21177762.html>.

Louis Warren, *God's Red Son on the Ghost Dance* is 496 pp. for \$23.99 paper from Basic Books: <https://www.basicbooks.com/titles/louis-s-warren/gods-red-son/9780465098682/>.

Davis Hugh Bunnell, *Good Friday on the Rez* is a memoir of teaching on a South Dakota reservation, 288 pp. for \$26.99 cloth, published by St. Martin's Press, of Macmillan Publishers: <https://us.macmillan.com/publishers/st-martins-press/>.

Chip Colwell, *Plundered Skulls and Stolen Spirits: Inside the Fight to Reclaim Native America's Culture* is 336 pp. for \$30 cloth, \$18 e-book from University of Chicago Press: <http://press.uchicago.edu/ucp/books/book/chicago/P/bo21358784.html>.

The National Congress of American Indians (NCAI) has a free pdf 50 page download, *Tribal Nations and the United States: An Introduction*, available at: <http://www.ncai.org/about-tribes>.

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Ph.D. Dissertations from Universities Around the World on Topics Relating to Indians in the Americas, Compiled from *Dissertation Abstracts*

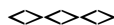
Jonathon Erlen, Ph.D., History of Medicine Librarian, Health Sciences Library System
University of Pittsburgh, erlen@pitt.edu

and

Jay Toth, M.A., Professor of Anthropology, SUNY Fredonia, jtoth@atlanticbb.net

IPJ hosts a regularly updated data base of American Indian related Ph.D. from 2006 – the present. The dissertation coverage includes all languages and is international in scope as far as Dissertation Abstracts covers. This includes most European universities, South African universities, and a few in the Far East. They do not cover all the universities in the world, but do a pretty good job covering first world universities. There is no coverage of Latin American universities' dissertations. The data base is updated in each Winter and Summer issue of *IPJ*, and sometimes between issues. Since ProQuest, the provider of the lists of dissertations from which Jonathan and Jay find Indigenous dissertations, no longer goes by months/years there will be titles from various years added in the updates.

Dissertation abstracts Data Base 2006 – the present: <http://indigenouspolicy.org/index.php/ipj/thesis>



Useful Web Sites

Environmental Web Sites

Indigenous Environmental Network serves as an Indigenous voice on environmental issues, at: <http://www.ienearth.org/>.

UN NGO Climate Change Caucus, with numerous task forces, is at: <http://climatecaucus.net>.

On the Frontlines of Climate Change: A global forum for indigenous peoples, small islands and vulnerable communities can be subscribed to at: <http://www.climatefrontlines.org/lists/?p=subscribe>. See postings on the website at: <http://www.climatefrontlines.org/en-GB/node/148>.

350.org works around the world on climate change related issues, at: www.350.org.

Greenpeace engages on many environmental concerns, at: greenpeace.org/usa/ and greenpeace.org/.

Friends of the Earth is involved world wide in environmental advocacy, at: foei.org.

The **Union of Concerned Scientists (UCS)** works on a variety of environmental, as well as other, issues, at: www.ucsusa.org.

Environmental Action is active on numerous environmental issues, at: environmental-action.org.

Environment America works on environmental issues in the U.S. at: <https://environmentamerica.webaction.org>.

Food and Water Watch is active on a variety of issues relating to water and food, at: <https://www.foodandwaterwatch.org> and <https://secure.foodandwaterwatch.org>.

The Wilderness Society works on environmental issues, particularly concerning preserving "wild places." at: wilderness.org.

Ocean River Institute works on river and other water issues, at: oceanriver.org.

The National Wildlife Federation, at: nwf.org, and **The National Wildlife Federation Action Fund**, at: <https://online.nwf.org/site/SPageNavigator/ActionCenter>, are concerned with environmental issues involving wildlife in the U.S.

The Nuclear Information and Resource Service includes in its work nuclear environmental issues, at: nirs.org.

The National Parks Conservation Association (NPCA) includes in its concerns environmental issues relating to U.S. national parks, at: npca.org and <https://secure.npca.org/>

Earth Policy Institute, dedicated to building a sustainable future as well as providing a plan of how to get from here to there: www.earthpolicy.org.

Wiser Earth lists more than 10,700 environmental and environmental justice organizations at:

<http://www.wiserearth.org/organization/>

Earthwatch, the world's largest environmental volunteer organization, founded in 1971, works globally to help the people of the planet volunteer realize a sustainable environment: <http://www.earthwatch.org/>.

Avaaz.org works internationally on environmental and peace and justice issues: <http://www.avaaz.org>.

The Environmental Defense Fund works on a variety of environmental issues and policy, including global warming induced climate change, primarily in the U.S.: <http://edf.org>.

Earthjustice focuses on environmental issues and action: <http://action.earthjustice.org>.

The Sierra Club works on environmental issues in the United States: <http://action.sierraclub.org>.

SaveOurEnvironemnt.org, a coalition of environmental organizations acting politically in the U.S.: http://ga3.org/campaign/0908_endangered_species/xuninw84p7m8mxxm.

The **National Resources Defense Council** works on a variety of environmental issues in the U.S.: <http://www.nrdonline.org/>

Care 2 is concerned about a variety of issues, including the environment: <http://www.care2.com/>.

Rainmakers Oceania studies possibilities for restoring the natural environment and humanity's rightful place in it, at: <http://rainmakers-oceania.com/0annexanchorc/about-rainmakers.html>.

Green Ships, in fall 2008, was asking Congress to act to speed the development of new energy efficient ships that can take thousands of trucks off Atlantic and Pacific Coast highways, moving freight up and down the costs with far less carbon emissions and more cheaply: <http://www.greenships.org>.

Carbon Fund Blog carries climate change news, links to green blogs, and a green resource list, at: <http://carbonfund.blogspot.com/2008/03/sky-is-falling.html>. Carbon Fund is certifying carbon free products at: <http://www.carbonfund.org/site/pages/businesses/category/CarbonFree>.

Grist carries environmental news and commentary: <http://www.grist.org/news/>,

Green Inc. is a new blog from *The New York Times* devoted to energy and the environment at: greeninc.blogs.nytimes.com.

Planting Peace is, "A Resource Center for news and activities that seek to build a powerful coalition to bring about cooperation and synergy between the peace movement, the climate crisis movement, and the organic community." Their web site includes extensive links to organizations, articles, videos and books that make the connections, at: <http://organicconsumers.org/plantingpeace/index.cfm>, Planting Peace is sponsored by the **Organic Consumers Association**: <http://organicconsumers.org/>.

The Global Climate Change Campaign: <http://www.globalclimatecampaign.org/>.

The **Audubon Society** reports on and works on issues focused on birds, at: audubon.org.

Peace & Security Funding Index: An Analysis of Global Foundation Grantmaking is available at: <http://peaceandsecurityindex.org>.

The center for defense information now carries **regular reports on Global Warming & International Security** at: <http://www.cdi.org>.

American Indian and International Indigenous Web Sites

CELANEN: A Journal of Indigenous Governance is produced by the Indigenous Governance Program at the University of Victoria, at: <http://web.uvic.ca/igov/research/journal/index.htm>. CELANEN (pronounced CHEL-LANG-GEN) is a Saanich word for "our birthright, our ancestry, sovereignty" and sets the tone for this annual publication containing articles, poetry, and commentary.

Native Research Network is now at: www.nativeresearchnetwork.org. Its vision statement is: "A leadership community of American Indian, Alaska Native, Kanaka Maoli, and Canadian Aboriginal persons promoting integrity and excellence in research". Its mission is "To provide a pro-active network of American Indian, Alaska Native, Kanaka Maoli, and Canadian Aboriginal persons to promote and advocate for high quality research that is collaborative, supportive and builds capacity, and to promote an environment for research that operates on the principles of integrity, respect, trust, ethics, cooperation and open communication in multidisciplinary fields". The Native Research Network (NRN) provides networking and mentoring opportunities, a forum to share research expertise, sponsorship of research events, assistance to communities and tribes, and enhanced research communication. The NRN places a special emphasis on ensuring that research with Indigenous people is conducted in a culturally sensitive and respectful manner. Its Member List serve: NRN@lists.apa.org.

The American Journal of Indigenous Studies is a quarterly journal by the American Scholarly Research Association (ASRA), at: www.ASRAresearch.or.

The Enduring Legacies Native Cases Initiative began in 2006 as a partnership between The Evergreen State College, Northwest Indian College, Salish Kootenai College, and Grays Harbor College. Our goal is to develop and widely disseminate culturally relevant curriculum and teaching resources in the form of case studies on key issues in Indian Country: <http://nativecases.evergreen.edu/about.html>.

The National Indian Housing Council offers a number of reports at: <http://www.naihc.indian.com/>.

The American Indian Studies Consortium is at: <http://www.cic.uiuc.edu/programs/AmericanIndianStudiesConsortium/>.

Some news sources that have been useful in putting the issues of Indigenous Policy together are:

For reports of U.S. government legislation, agency action, and court decisions: **Hobbs, Straus, Dean and Walker, LLP**, 2120 L Street NW, Suite 700, Washington, DC 20037, <http://www.hobbsstraus.com>.

Indian Country Today: <http://www.indiancountry.com/index.cfm?key=15>.

News from Indian Country: <http://www.indiancountrynews.com/>.

The Navajo Times: <http://www.navajotimes.com/>.

IndianZ.com: <http://www.indianz.com>.

Pechanga Net: <http://www.pechanga.net/NativeNews.html>

Survival International: <http://www.survival-international.org/>.

Cultural Survival: <http://209.200.101.189/publications/win/>, or <http://www.cs.org/>.

Censored (in Indian Country): <http://bsnorrell.blogspot.com/>.

ArizonaNativeNet is a virtual university outreach and distance learning telecommunications center devoted to the higher educational needs of Native Nations in Arizona, the United States and the world through the utilization of the worldwide web and the knowledge-based and technical resources and expertise of the University of Arizona, providing resources for Native Nations nation-building, at: www.arizonanativenet.com

The Forum for 'friends of Peoples close to Nature' is a movement of groups and individuals, concerned with

the survival of Tribal peoples and their culture, in particular hunter-gatherers: <http://ipwp.org/how.html>. **Tebtebba (Indigenous Peoples' International Centre for Policy Research and Education)**, with lists of projects and publications, and reports of numerous Indigenous meetings: <http://www.tebtebba.org/>. **Andre Cramblit (andrekar@ncidc.org)** has begun a new Native news blog continuing his former Native list serve to provide information pertinent to the American Indian community. The blog contains news of interest to Native Americans, Hawaiian Natives and Alaskan Natives. It is a briefing of items that he comes across that are of broad interest to American Indians. News and action requests are posted as are the occasional humorous entry. The newsletter is designed to inform you, make you think and keep a pipeline of information that is outside the mainstream media. "I try and post to it as often as my schedule permits I scan a wide range of sources on the net to get a different perspective on Native issues and try not to post stuff that is already posted on multiple sources such as websites or other lists". **To subscribe to go to:** <http://andrekaruk.posterous.com/>.

Sacred Places Convention For Indigenous Peoples provides resources for protecting sacred places world wide. Including, news, journals, books and publishing online Weekly News and providing an E-mail list serve, as well as holding conferences. For information go to: <http://www.indigenouspeoplesissues.com>.

Mark Trahant Blog, *Trahant Reports*, is at: http://www.marktrahant.org/marktrahant.org/Mark_Trahant.html

UANativeNet, formerly Arizona NativeNet, is a resource of topics relevant to tribal nations and Indigenous Peoples, particularly on matters of law and governance.

The Harvard Project on American Indian Economic Development offers a number of reports and its "Honoring Indian Nations" at: http://www.ksg.harvard.edu/hpaied/res_main.htm.

The Seventh generation Fund online Media Center: www.7genfund.org

Native Earthworks Preservation, an organization committed to preserving American Indian sacred sites, is at: <http://nativeearthworkspreservation.org/>.

Indianz.Com has posted **Version 2.0 of the Federal Recognition Database**, an online version of the Acknowledgment Decision Compilation (ADC), a record of documents that the Bureau of Indian Affairs has on file for dozens of groups that have made it through the federal recognition process. The ADC contains over 750 MB of documents -- up from over 600MB in version 1.2 -- that were scanned in and cataloged by the agency's Office of Federal Acknowledgment. The new version includes has additional documents and is easier to use. It is available at: <http://www.indianz.com/adc20/adc20.html>.

Tribal Link has an online blog at: <http://triballinknewsonline.blogspot.com>.

The National Indian Education Association: <http://www.niea.org/>.

Climate Frontlines is a global forum for indigenous peoples, small islands and vulnerable communities, running discussions, conferences and field projects: <http://www.climatefrontlines.org/>.

Cry of the Native Refugee web site, <http://cryofthenativererefugee.com>, is dedicated to "The True Native American History."

First Peoples World Wide, focuses "on funding local development projects in Indigenous communities all over the world while creating bridges between our communities and corporations, governments, academics, NGOs and investors in their regions. We facilitate the use of traditional Indigenous knowledge in solving today's challenges, including climate change, food security, medicine, governance and sustainable development:" <http://firstpeoples.org>

The **RaceProject** has a **Facebook Page** that is a forum for the dissemination and discussion of contemporary Race and Politics issues. It includes a continuing archive of news stories, editorial opinion, audio, video and pointed exchanges between academics, graduate students and members of the lay-public. Those interested can visit and sign up to the page at: <http://www.facebook.com/RaceProject>.

Rainmakers Oceania studies possibilities for restoring the natural environment and humanity's rightful place in it, at: <http://rainmakers-ozeania.com/0annexanchorc/about-rainmakers.html>.

Oxfam America's interactive website: <http://adapt.oxfamamerica.org> shows how social vulnerability and climate variability impact each county in the U.S. Southwest region. The methodology exposes how social vulnerability, not science, determines the human risk to climate change.

The International Institute for Indigenous Resource Management is at: <http://tinyurl.com/yaykznz>.

The **Newberry Library** received a grant in August, 2007, from the National Endowment for the Humanities to fund "**Indians of the Midwest and Contemporary Issues.**" The **McNickle Center will construct this multimedia website designed to marry the Library's rich collections on Native American history with state-of-the art interactive web capabilities to reveal the cultural and historical roots of controversial issues involving Native Americans today.** These include conflicts over gaming and casinos, fishing and hunting rights, the disposition of Indian artifacts and archeological sites, and the use of Indian images in the media. In addition to historical collections, the site will also feature interviews with contemporary Native Americans, interactive maps, links to tribal and other websites, and social networking. For more information contact Céline Swicegood, swicegoodc@newberry.org.

The site www.pressdisplay.com has scanned and searchable versions of thousands of newspapers daily from around the world. These are not truncated "online versions". You can view the actual pages of the paper published for that day. There are also 100's of US papers included daily. The service also allows you to set search terms or search particular papers daily. The service will also translate papers into English.

Native Voice Network (NVN: www.NativeVoiceNetwork.org), is a national alliance of Organizations interested in collaborative advocacy on issues impacting Native people locally and nationally.

The Northern California Indian Development Council has a web-based archive of traditional images and sounds at: <http://www.ncidc.org/>.

Resource sites in the Indian Child Welfare Act (ICWA): **National Indian Child Welfare Association:** <http://www.nicwa.org>, offers include publications, a library, information packets, policy information and research. NICWA's Publication Catalog is at: <http://www.nicwa.org/resources/catalog/index.asp>, Information Packets are at: <http://www.nicwa.org/resources/infopackets/index.asp>. Online ICWA Courses are at: <http://www.nicwa.org/services/icwa/index.asp>. *The Indian Child Welfare Act: An Examination of State Compliance*, from the Casey Foundation is at: <http://www.casey.org/Resources/Publications/NICWAComplianceInArizona.htm>. Tribal Court Clearinghouse ICWA Pages, with a brief review of ICWA and links to many valuable resources including Federal agencies and Native organizations. <http://www.tribal-institute.org/lists/icwa.htm>. Other resource sources are: the Indian Law Resource Center: www.indianlaw.org, the National Indian Justice Center: www.nijc.indian.com. Other sites can be found through internet search engines such as Google. Some research web sites for ICWA include: http://www.calindian.org/legalcenter_icwa.htm, <http://www.narf.org/nill/resources/indianchildwelfare.htm>, <http://www.tribal-institute.org/lists/icwa.htm>,

<http://www.nicwa.org/library/library.htm>, <http://www.nationalcasa.org/JudgesPage/Newsletter-4-04.htm>,
http://www.dlncoalition.org/dln_issues/2003_icwaresolution.htm,
<http://www.helpstartshere.org/Default.aspx?PageID=401>,
http://cbexpress.acf.hhs.gov/articles.cfm?section_id=2&issue_id=2001-0, <http://thomas.loc.gov/cgi-bin/query/z?i104:I04296:i104HUGHES.html>, <http://nccrest.edreform.net/resource/13704>,
<http://www.naicja.org>,
<http://www.tribal-institute.org/>.

Tribal College Journal (TCJ) provides to news related to American Indian higher education: tribalcollegejournal.org.

American Indian Graduate Center: <http://www.aigcs.org>.

The Minneapolis American Indian Center's Native Path To Wellness Project of the Golden Eagle Program has developed a publication, *Intergenerational Activities from a Native American Perspective* that has been accepted by Penn State for their Intergenerational Web site: <http://intergenerational.cas.psu.edu/Global.html>.

The *Indigenous Nations and Peoples Law, Legal Scholarship Journal* has recently been created on line by the Social Science Research Network, with sponsorship by the Center for Indigenous Law, Governance & Citizenship at Syracuse University College of Law. Subscription to the journal is free, by clicking on: <http://hq.ssrn.com/>.

The **National Council Of Urban Indian Health** is at: <http://www.ncuih.org/>.

A web site dedicated to tribal finance, www.tribalfinance.org.

Lessons In Tribal Sovereignty, at: <http://sorrel.humboldt.edu/~go1/kellogg/intro.html>, features *Welcome to American Indian Issues: An Introductory and Curricular Guide for Educators*. The contents were made possible by the American Indian Civics Project (AICP), a project initially funded by the W.K. Kellogg Foundation's Native American Higher Education Initiative. The primary goal of the AICP is to provide educators with the tools to educate secondary students - Indian and non-Native alike - about the historical and contemporary political, economic, and social characteristics of sovereign tribal nations throughout the United States.

The Columbia River Inter-Tribal Fish Commission (CRITFC) has a blog as part of its Celilo Legacy project, serving as a clearinghouse for public discourse, information, events, activities, and memorials. The blog is accessible by going to www.critfc.org and clicking on the "Celilo Legacy blog" image, or by simply entering: www.critfc.org/celilo.

The **Coeur d'Alene Tribe** of Idaho has **Rezkast, a Web site of Native affairs and culture** at: www.rezkast.com.

A listing of the different Alaska Native groups' values and other traditional information is on the **Alaska Native Knowledge website** at: www.ankn.uaf.edu.

Red Nation Web Television: www.rednation.com.

A list of Indigenous Language Conferences is kept at the **Teaching Indigenous Languages** web site at Northern Arizona University: <http://www2.nau.edu/jar/Conf.html>.

UNESCO Interactive Atlas of the World's Languages in Danger is at <http://www.unesco.org/culture/ich/index.php?pg=00206>. For a detailed cautionary note about the usefulness of the UNESCO Atlas, see Peter K. Austin's comments. He is the Marit Rausing chair in field linguistics and director of linguistics at SOAS in the UK: http://blogs.usyd.edu.au/elac/2009/02/unescos_atlas_of_the_worlds_la_1.ht

The Council of Elders, the governing authority of the Government Katalla-Chilkat Tlingit (provisional government): Kaliakh Nation (Region XVII) has initiated a **web site in order to expose crimes against humanity committed upon the original inhabitants of Alaska**, at: <http://www.katalla-chilkat-tlingit.com/>.

An interactive website, www.cherokee.org/allotment, **focuses on the Allotment Era in Cherokee History during the period from 1887 to 1934**, when Congress divided American Indian reservation lands into privately owned parcels that could be (and widely were) sold to non Indians, threatening tribal existence.

The **Blue Lake Rancheria** of California launched a web site, Fall 2007, featuring the nation's history, philosophy, economic enterprise, community involvement, and other topics, with many-links. One purpose of the site is to make tribal operations transparent. It is at: www.bluelakerancheria-nsn.gov.

UN Secretariat of the Permanent Forum on Indigenous Issues: www.un.org/indigenous, The newsletter **Message Stick** highlighting the activities of the **United Nations Permanent Forum on Indigenous Issues (UNPFII)** and its Secretariat 05 is available at: http://www.un.org/esa/socdev/unpfii/news/quarterlynewsle_home1.htm.

Indigenous Rights Quarterly can be accessed at: <http://www.aitpn.org/irq.htm>.

NGO Society for Threatened Peoples International, in consultative status to the United Nations ECOSOC, and in participatory status with the Council of Europe, Indigenous Peoples Department, USA: <http://www.gfbv.de>.

The **Unrepresented Nations and Peoples Organization (UNPO)**: <http://www.unpo.org/>.

The **Native Studies Research Network**, UK, University of East Anglia, Norwich is at: <http://www.nsrn-uk.org/>.

The **World Indigenous Higher Education Consortium (WINHEC)** and its Journal are online at: <http://www.win-hec.org/>. (See the Ongoing Activities Section for more on WINHEC). The WINHEC site includes links to other Indigenous organizations and institutions.

A link on Latin American Indigenous Peoples:

<http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/LACEXT/0,,contentMDK:20505834~menuPK:258559~pagePK:146736~piPK:226340~theSitePK:258554,00.html>

The Asian Indigenous and Tribal Peoples Network produces occasional papers and reports at: <http://www.aitpn.org/Issues/II-08-07.htm>.

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ANNOUNCEMENTS

Seeking Authors for: *Handbook on Native American Justice Issues*

Volume Editor: Laurence Armand French

Routledge (Taylor & Francis Group): U.S. Criminal Justice and Criminology Series

Table of Content:

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| Part I: | Indian County (federally-recognized tribal lands) |
| Part II: | Treaty Controversies (water rights, land, IIF, Indian gaming...) |
| Part III: | Tribal Law Enforcement |
| Part IV: | Tribal Courts and Corrections |
| Part V: | Indian Religions, Customs, and Sacred Sites and Artifacts |
| Part VI: | American Indian/Alaska Native Children & Youth Issues |
| Part VII: | Native American Women Issues |
| Part VIII: | Indian Health & Substance Abuse |
| Part IX: | Indian Education |

The primary focus needs to be on current events with tribal-centric and relevant historical antecedents leading up to the present.

Each selection must be an original work (not a reprint of an existing article) and should be between 60 and 80 pages in length (Times New Roman, 12 pitch; double-spaced). Submissions are due August 15, 2018.

Contact information: Laurence Armand French frogwnmu@yahoo.com

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