



REDESCA

Special Rapporteur for Economic,
Social, Cultural and Environmental Rights

Inter-American
Commission on
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CONCLUDING OBSERVATIONS AND RECOMMENDATIONS FROM REDESCA AFTER ITS VISIT TO LOUISIANA AND ALASKA: CLIMATE INDUCED DISPLACEMENT OF INDIGENOUS COMMUNITIES

AUGUST OF 2023

I. Introduction: Climate change impacts in in Indigenous populations of the United States

1. The climate emergency in the United States is currently experiencing one of the highest peaks of activity since it has been registered. In this sense, the most recent published report of the National Climate Assessment of the United States in 2018, stated that “More frequent and intense extreme weather and climate-related events, as well as changes in average climate conditions, are expected to continue to damage infrastructure, ecosystems, and social systems that provide essential benefits to communities”¹. As such, people who are already vulnerable, including lower-income and other marginalized communities, have lower capacity to prepare for and cope with extreme weather and climate-related events and are expected to experience greater impacts².
2. The climate crisis is displacing Indigenous communities in two very different geographic regions in the United States: Louisiana and Alaska. Regarding these, in 2020 the Government Accountability Office (GAO), concluded that the U.S. needed a federal mitigation program considering the dangers of climate change, coastal erosion and wetlands loss. Besides, according to the 14-agency United States Global Change Research Program, relocation due to climate change will be unavoidable in some coastal areas in all but the very lowest sea level rise projections. One way to reduce the risks to these communities is to improve their climate resilience by planning and preparing for potential hazards related to climate change such as sea level rise. Another way is climate migration—the preemptive movement of people and property away from areas experiencing severe impacts—³.
3. The latest report by the Intergovernmental Panel for Climate Change (IPCC) has stipulated with high confidence that climate and weather extremes are increasingly driving displacement in North America⁴. In this sense, REDESCA notes with concern that according to the GAO, millions of people who live in coastal areas in the United States, are threatened by sea level rise, and in all but the very lowest sea level rise

¹ USGCRP, [2018: Impacts, Risks, and Adaptation in the United States: Fourth National Climate Assessment](#), Volume II: Report-in-Brief [Reidmiller, D.R., C.W. Avery, D.R. Easterling, K.E. Kunkel, K.L.M. Lewis, T.K. Maycock, and B.C. Stewart (eds.)]. U.S. Global Change Research Program, Washington, DC, USA, pg. 20

² Idem

³ United States Government Accountability Office, [Climate Change: A climate migration pilot program could enhance the nation-s resilience and reduce federal fiscal exposure](#), July 2020

⁴ IPCC, [2023: Summary for Policymakers. In: Climate Change 2023: Synthesis Report](#). Contribution of Working Groups I, II and III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Core Writing Team, H. Lee and J. Romero (eds.)]. IPCC, Geneva, Switzerland, pg. 6



REDESCA

Special Rapporteur for Economic,
Social, Cultural and Environmental Rights

Inter-American
Commission on
Human Rights **IACHR**

- projections, the retreat or relocation of people will become an unavoidable option in some areas along the U.S. coastline⁵.
4. The United States Department of Agriculture, in 2016, pointed out that climate change was already impacting Indigenous communities in the country. Although these impacts differ by region, there are commonalities in how climate change is experienced by Indigenous communities across the United States. For tribes in coastal areas, erosion and sea-level rise threaten vital community infrastructure and are leading to forced displacement and relocation⁶. For example, in Alaska, permafrost melting is making it more difficult for hunters to access traditional hunting grounds and is changing the migration patterns of certain species.
 5. REDESCA notes that climate change adaptation refers to preparing for, responding to, and coping with the effects of climate change. Although adaptation is not a new experience for Indigenous peoples, climate change may threaten what is called “collective continuance” or a “community’s capacity to be adaptive in ways sufficient for the livelihoods of its members to flourish into the future.”⁷ Indigenous peoples experience social and political inequalities that may severely limit adaptive capacity. Many Indigenous communities in the United States face extreme poverty, as well as inadequate housing, infrastructure, health and educational services, and other socioeconomic factors that will compound the impacts of climate change.
 6. According to the [International Working Group on Indigenous Affairs](#), is estimated that between 3.1 and 8.7 million of Indigenous people live in the United States, of which around 20% live in American Indian areas or Alaska Native villages. While socioeconomic indicators vary widely across different regions, the poverty rate for those who identify as Native American or Alaska Native alone is around 18%⁸. Conversely, updated [US Census Bureau data on poverty for 2019 and 2020](#) does not show Native Americans or Alaska Natives as a specific category. However, even though civil society organizations and other stakeholders do not know the full extent of their situation, based on previous data, Native Americans have the highest rate of poverty in the nation.
 7. Depending on their legal and political status, Indigenous communities have different access and authority to implement adaptation strategies at meaningful scales—both locally and nationally-. The impacts of climate change occur within a web of historical and contemporary oppressions, diverse political and legal statuses, and limited economic resources. Indigenous vulnerability and resilience to climate change cannot be detached from the context of colonialism, which created both the economic conditions for anthropogenic climate change and the social conditions that limit Indigenous resistance and resilience capacity. In this sense, REDESCA observes with

⁵USGCRP, [2018: Impacts, Risks, and Adaptation in the United States: Fourth National Climate Assessment](#), Volume II: Report-in-Brief [Reidmiller, D.R., C.W. Avery, D.R. Easterling, K.E. Kunkel, K.L.M. Lewis, T.K. Maycock, and B.C. Stewart (eds.)]. U.S. Global Change Research Program, Washington, DC, USA, Pg. 55

⁶ Norton-Smith K et al., [Climate Change and Indigenous Peoples: A Synthesis of Current Impacts and Experiences](#), United States Department of Agriculture Forest Service-Pacific Northwest Research Station, General Technical Report: PNW-GTR-944, October 2016, pg. 2

⁷ Id

⁸ International Working Group on Indigenous Affairs, *Indigenous Peoples in the United States*, 2023



REDESCA

Special Rapporteur for Economic,
Social, Cultural and Environmental Rights

Inter-American
Commission on
Human Rights **IACHR**

- concern that the U.S. federal government only interacts with federally recognized tribes as sovereign nations through treaties, policies, and statutes⁹.
8. In contrast, for those that are not federally recognized, tribal participation is ascribed mainly to the state government -although there are native communities that cannot even have it because they are not recognized by their State either-. In this line, lacking federal recognition, state-recognized and unrecognized tribes often lack the political power and governmental support to address climate-change impacts, leaving them as some of the most vulnerable to climate change¹⁰. In this context, potential need for millions of people and billions of dollars of coastal infrastructure to be relocated in the future creates challenging legal, financial, and equity issues that have not yet been addressed¹¹.
 9. Regarding the rights of Indigenous peoples in the country, it is important to highlight that, on August 2022 and in the framework of its concluding observations, the Committee on the Elimination of Racial Discrimination (CERD) expressed its concern for the obstacles to the recognition of Indigenous peoples, including the high costs and burdensome procedures, as well as the restrictive interpretation of the principle of free, prior, and informed consent. This being worsened due to the disproportionate impact of extractive industry and infrastructure projects on Indigenous communities. In this line, REDESCA endorses the call of the Committee to eliminate undue obstacles for their recognition and to take measures to effectively protect their rights from any adverse impact of extractive industries and infrastructure projects.

II. Government programs and response

10. As stated earlier, the United States government has a complex institutionality that is involved in Indigenous affairs. The federal government's responsibility to protect tribal nations is understood as the federal trust responsibility. This general, moral trust responsibility includes a fiduciary obligation to protect treaty rights, lands, assets, and resources. In turn, this duty is administered by the Bureau of Indian Affairs, but other agencies that control federal land and other natural resources must protect any applicable tribal rights, including water, fish, wildlife, and cultural resources. The legal and political status of the federally recognized tribes requires that U.S. government agencies consult directly with tribal governments before taking actions that may affect tribal trust resources, cultural practices, or access to traditional areas of cultural or religious importance on federally managed lands¹².
11. Also, REDESCA notes that the current administration issued a Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships, which makes priority

⁹ Norton-Smith K et al., [Climate Change and Indigenous Peoples: A Synthesis of Current Impacts and Experiences](#), United States Department of Agriculture Forest Service-Pacific Northwest Research Station, General Technical Report: PNW-GTR-944, October 2016, pg. 5

¹⁰ Norton-Smith K et al., [Climate Change and Indigenous Peoples: A Synthesis of Current Impacts and Experiences](#), United States Department of Agriculture Forest Service-Pacific Northwest Research Station, General Technical Report: PNW-GTR-944, October 2016, pg.6

¹¹ United States Government Accountability Office, [Climate Change: A climate migration pilot program could enhance the nation-s resilience and reduce federal fiscal exposure](#), July 2020

¹² Norton-Smith K et al., [Climate Change and Indigenous Peoples: A Synthesis of Current Impacts and Experiences](#), United States Department of Agriculture Forest Service-Pacific Northwest Research Station, General Technical Report: PNW-GTR-944, October 2016, pg. 5



REDESCA

Special Rapporteur for Economic,
Social, Cultural and Environmental Rights

Inter-American
Commission on
Human Rights **IACHR**

- of the federal government to ensure respect for Tribal sovereignty and self-governance, commitment to fulfilling Federal trust and treaty responsibilities to Tribal Nations, and regular, meaningful, and robust consultation with Tribal Nations cornerstones of Federal Indian policy. Mainly, the memorandum is envisioned to reaffirm what was stated in Executive Order 13175 of November 6, 2000 (Consultation and Coordination with Indian Tribal Governments), which charges all executive departments and agencies with engaging in regular, meaningful, and robust consultation with Tribal officials in the development of Federal policies that have Tribal implications¹³.
12. Furthermore, the Department of Interior, through Secretarial order 3289 § 5 states that: As the Department has the primary trust responsibility for the federal government for American Indians, Alaska Natives, and tribal lands and resources, the Department will ensure consistent and in-depth government-to-government consultation with tribes and Alaska Natives on the Department's climate change initiatives. Tribal values are critical to determining what is to be protected, why, and how to protect the interests of their communities. The Department will support the use of the best available science, including traditional ecological knowledge, in formulating policy pertaining to climate change. The Department will also support substantive participation by tribes in deliberations on climate-related mechanisms, agreements, rules, and regulations¹⁴.
 13. The federal government informed that there are mechanisms in place for the engagement and involvement of both state recognized tribes and non-recognized tribes in federal government decision-making processes, programs, and activities. In addition to various other federal policy directives and initiatives, one particular mechanism to note is the federal government's efforts to advance environmental justice. Originally established as federal government-wide policy in 1994, through Executive Order (EO) 12898, on April 21, 2023, a new EO, EO 14096 - Revitalizing Our Nation's Commitment to Environmental Justice for All¹⁵, has expanded this work, and notes the intention of including the full range of Indigenous peoples in the efforts to provide environmental and human health protection for all.
 14. Additionally, EPA has had a policy in place since 2014 to advance environmental and human health protection for both federally recognized tribes and all other Indigenous peoples – EPA Policy on Environmental Justice for Working with Federally Recognized Tribes and Indigenous Peoples¹⁶. This Policy has resulted in both financial and technical resources being made available to federally recognized tribes and all other Indigenous peoples (broadly defined in the Policy) to work towards addressing their priority environmental and human health priority concerns. The State informed that these programs have been substantially expanded this year, and more resources will become available soon as well¹⁷.

¹³ The White House, [Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships](#), 26th of January of 2021

¹⁴ United States Department of Interior, Secretarial Order 3289 § 5, 2009

¹⁵ <https://www.federalregister.gov/documents/2023/04/26/2023-08955/revitalizing-our-nations-commitment-to-environmental-justice-for-all>

¹⁶ <https://www.epa.gov/sites/default/files/2017-10/documents/ej-Indigenous-policy.pdf>.

¹⁷ <https://www.epa.gov/environmentaljustice/environmental-justice-grants-funding-and-technical-assistance>



REDESCA

Special Rapporteur for Economic,
Social, Cultural and Environmental Rights

Inter-American
Commission on
Human Rights **IACHR**

15. As such, in the context of the hearing held in 2022 before the IACHR¹⁸, the United States has affirmed its commitment to enhancing interagency coordination and collaboration to protect Tribal treaty and reserved rights and to fully implement the Federal government's treaty obligations. Representatives of the Department of Interior stated that it is policy of that agency to seek consensus of impacted tribes when implementing its climate projects. In that sense, the State recognized that they are at a critical juncture that requires the commitment of an all-government approach. The United States is actively supporting collaborative relocation financing, infrastructure investments and replacement, expanding access to clean water, and other forms of assistance. Furthermore, the Federal government indicated that through the bipartisan Inflation Reduction Act (IRA), the US government is providing 466 million dollars to Indigenous peoples, from which 216 million are allocated for climate resilience programs and 250 million dollars for water and health infrastructure. This also includes 2.5 billion dollars to help fulfill the settlement of Indian water rights claims.
16. REDESCA also acknowledges that the State has established a community driven relocation working group, to address tribal relocation and manage retreat assistance. The purpose of this plan is to create a blueprint for relocation that other communities can use for their relocation purposes. The State stated that for this to be successful it needs a community driven process, in which they will lead the efforts to develop plans to meet their own needs. As such the US recognizes that the introduction of Indigenous ecological knowledge is vital, therefore it is considered within national efforts to strengthen tribal coastal stewardship of public land and waters. Parallely, the EPA recognized that Indigenous tribes are amongst the first affected and with the most severe impacts. As such, EPA has engaged in partnership with the Isle de Jean Charles tribe regarding their relocation efforts. The agency, through its Helping Places for Healthy People Program, helped the tribe to visualize an environmentally sustainable community design that will prioritize access to healthy food and healthcare¹⁹.
17. Additionally, on October 7th of 2022, the federal government issued a renewed national strategy to the arctic region. This strategy addresses the climate crisis with greater urgency and directs new investments in responsible economic development to improve livelihoods for Arctic residents, while conserving the environment²⁰. REDESCA notes that through the independent Denali Commission, the federal government has provided critical utilities, infrastructure, and economic support throughout Alaska. Further, REDESCA observes that the state government has issued a sustainability report on 2023, called The Alaska Standard, whereby the state government is pointing out its main actions to foster environmentally responsible extraction of natural resources, as well by including native communities form the decision-making processes to the distribution of economic gains²¹. Also, the report indicates that the strategy is aligned with the Sustainable Development Goals. In this sense, the report states that "The State of Alaska is committed to bringing affordable energy and safe water to every Alaskan, and we will continue this work through

¹⁸ IACHR, [Enforced displacement of Indigenous people in the context of climate change in the United States](#), Public Thematic Hearing, 185th Period of Sessions, November 4th of 2022.

¹⁹ Id

²⁰ The White House, [National Strategy for the Arctic Region](#), October 2022

²¹ Government of the State of Alaska, [The Alaska Standard: Inaugural Sustainability Report](#), 2023



- appropriately regulated and sustainable resource development that has become our hallmark”²².
18. Considering the above, REDESCA takes note of specific actions taken by the authorities on two cases that were brought to this office’s attention. First, REDESCA notes that the GAO reported that through December 2019, the Newtok relocation effort received around \$64 million in funds from federal agencies, the state of Alaska, and other organizations, according to the relocation project manager. Infrastructure and housing construction continue at Mertarvik, and 135 people have moved over their full time²³. However, the June 2019 Master Implementation Plan for relocation and Denali Commission officials estimated that the project would need around \$115 million to develop the new site, provide sufficient infrastructure, and perform cleanup of the Newtok site²⁴. According to federal and state officials and stakeholders in Alaska, Newtok residents face increased disaster risks because the relocation to Mertarvik will not be complete before coastal erosion and flooding make Newtok uninhabitable²⁵.
 19. On the second case, the Department of Housing and Urban Development (HUD) awarded the state of Louisiana \$48.3 million in Community Development Block Grant funds in 2016 to resettle Isle de Jean Charles, as part of the state’s application to the 2014 National Disaster Resilience Competition. As of June 2020, the state had completed its site selection and master planning activities, purchased 515 acres of land at a new site on the mainland, and started the development and construction phase²⁶.
 20. The actions mentioned are specific to the situations being addressed by the petitioners of the visit. However, REDESCA would like to note that it is aware of other policies, norms or programs that may be implemented either by the federal, state or local government at different levels. In this regard, the Special Rapporteur will follow up with all levels of government on the implementation of different programs in this area, in which the conclusions of this visit should be taken into special consideration.

III. Climate displacement impacts on the rights and dignity of the visited Indigenous populations.

21. As it has been noted, the impacts of the climate crisis on the current situation of Indigenous populations are noticeable. In this sense, climate change is affecting the culture, sovereignty, health, economies, and lifeways of Indigenous peoples in the

²² Id

²³ United States Government Accountability Office, [Climate Change: A climate migration pilot program could enhance the nation-s resilience and reduce federal fiscal exposure](#), July 2020, pg. 16

²⁴ Id

²⁵ United States Government Accountability Office, [Climate Change: A climate migration pilot program could enhance the nation-s resilience and reduce federal fiscal exposure](#), July 2020, pg. 17

²⁶ United States Government Accountability Office, [Climate Change: A climate migration pilot program could enhance the nation-s resilience and reduce federal fiscal exposure](#), July 2020, pg. 19



REDESCA

Special Rapporteur for Economic,
Social, Cultural and Environmental Rights

Inter-American
Commission on
Human Rights **IACHR**

United States and affiliated territories²⁷, and above all, their right to a dignified life and their survival. REDESCA notes that the Special Rapporteur on Indigenous Rights of the United Nations has highlighted the correlation between secure Indigenous land tenure and effective conservation²⁸. The Special Rapporteur noted that within the context of climate actions, Indigenous peoples fear a new wave of green investments without recognition of their land tenure and knowledge. Therefore, there is a legitimate concern that within this context, the real drivers of biodiversity decline, such as industrialization, overconsumption, and climate change, will not be addressed.

22. The overlapping consequences of high vulnerability to climate impacts, exacerbation of poverty, and the industrialization of the territories impact the guarantee and enjoyment of the human rights of Indigenous peoples. In this sense, REDESCA observed with caution that the current conditions in which most of the communities are currently living do not amount to a dignified life, which infringes on their right to life and to integrity. In the following sections, the Special Rapporteur will highlight its main findings from direct testimonies received from tribal leaders and members; as well from the site visit conducted by REDESCA.

A. Louisiana Indigenous Tribes

23. Regarding the situation of Louisiana tribes, REDESCA visited the Grand Caillou Dulac band of Biloxi Chitimacha Choctaw, Point-au-Chien Indian tribe, Atakapa-Ishak-Chawasha of the Grand Bayou Village, and the Jean-Charles Choctaw Nation located in Isle de Jean Charles. All the mentioned tribes (apart from the Atakapa-Ishak-Chawasha) are only statewide recognized. Additionally, REDESCA also met with representatives of the United Houma Nation, who are part of the Inter-Tribal Council of Louisiana. Federal recognized tribes of the state sit on the council, which is a workforce development organization designed to develop the academic and occupational needs of American Indian people living in Louisiana²⁹. Unfortunately, REDESCA was not able to receive input from federally recognized tribes in the State during its visit despite their attempts to meet them. Nevertheless, the office is at the disposal for receiving information and coordinating further encounters around this issue.
24. As stated earlier, the issues of recognition and non-recognition, from the federal government bring their own challenges to the access for relief funds and other important infrastructure projects, critical for the wellbeing of communities. In this sense, it is important to note that federal recognition is a legal term of art, given that institutionalizes the federal relationship with the US government. Consequently, during the visit, the Office of the Special Rapporteur listened to various testimonies from tribal leaders and members of the various hurdles that they have faced regarding the access to federal funds, grants, and other federal assistance designed for Indigenous

²⁷ Norton-Smith K et al., [Climate Change and Indigenous Peoples: A Synthesis of Current Impacts and Experiences](#), United States Department of Agriculture Forest Service-Pacific Northwest Research Station, General Technical Report: PNW-GTR-944, October 2016, pg. 1

²⁸ United Nations General Assembly, 3rd Committee on Social, Humanitarian, and Cultural Affairs, [Briefing by the Special Rapporteur of Indigenous Peoples of the United Nations](#), 12 October of 2022

²⁹ See Tunica-Biloxi Tribe of Louisiana, [ITC of Louisiana open to tribal members looking for workforce opportunities](#), 23 of August, 2022



- communities. In one of those testimonies, tribal members indicated that one of their requests was denied by a public official because the document requested was not uploaded to the government website in a PDF format³⁰.
25. In this sense, REDESCA will like to note that the current observations will not dive into the intricacies of the federal recognition process and whether those processes are in line with inter-American standards. However, it reminds the United States that the United Nations Declaration of the Rights of Indigenous Peoples and the American Declaration of Indigenous Peoples recognizes the right to self-determination, to autonomy, and self-government of Indigenous peoples.
26. Therefore, given the observed impacts of this situation on the rights of the visited communities and without prejudice of further review of this matter by the Inter American Commission, REDESCA encourages the United States to review dispositions within their legal framework that could infringe on the fulfillment of the rights of self-determination of Indigenous tribes in the country. In this regard, it is crucial to note that, according to the Inter-American standards, self-identification is the main criterion for the recognition of a human group as a people, understanding that recognition as Indigenous and tribal peoples by third parties is not a condition for their existence, nor is it a prerequisite for the exercise of their rights³¹.
27. However, in practice, this recognition by the State facilitates the effective attainment of their autonomy. In this line, in accordance with the right to self-determination, it is clearly established in international human rights law that they have the right to be recognized as a distinct people and to act legally under the denomination that they determine³².
28. Considering the aforementioned situation, the impacts of possible disenfranchisement and the hurdles to assure their self-determination have different dimensions to the guarantee of the life and dignity of the non-federally recognized tribes in the State. In this sense, the following sections will put forward the main findings from REDESCA's visit to the communities' territories.
- i. **Grand Caillou Dulac band of Biloxi Chitimacha Choctaw & Pointe-au-Chien Indian tribe**
29. REDESCA visited first the Grand Caillou Dulac Band and the Pointe-au-Chien tribes, which are both located in the southeast Louisiana, approximately 2 hours from the city of Houma. In both communities, REDESCA received testimonies on the impact that the rising sea levels has had on their territory, affecting the landscape and their way of life. In sum, tribal leaders and members of the community have pointed out that the current exacerbation of climate events, especially hurricanes, are putting their whole survival in high risk.

³⁰ REDESCA, Testimony from the Chief of the Grand Caillou Dulac/Band of Biloxi Chitimacha Choctaw, 23rd May 2023

³¹ IACHR, [Right to Self-Determination of Indigenous and Tribal Peoples: Executive Summary](#), 2021

³² IACHR, [Right to Self-Determination of Indigenous and Tribal Peoples: Executive Summary](#), 2021



REDESCA

Special Rapporteur for Economic,
Social, Cultural and Environmental Rights

Inter-American
Commission on
Human Rights **IACHR**

30. In this sense, REDESCA witnessed the vast impact that Hurricane Ida in 2021 had on the communities. According to testimonies that were received during the visit, hundreds of homes were affected by the hurricane. During a tour that REDESCA team held in the channels close to Pointe-au-Chien, the Special Rapporteur was able to witness dozens of homes that have not been repaired or destroyed. In most cases, the Office of the Special Rapporteur saw several homes with elevators equipped for the transportation of people with disabilities who also had structural damage. Additionally, in most cases, tribal members informed REDESCA that many of the houses remain uninhabitable given that they are not able to access funds for repair their homes or given the extensive damage are effectively condemned.
31. Consequently, most of the people have either built smaller shacks, cabins, or have rented trailers where they could live until they can afford repairs. However, even if the trailers are provided by federal agencies, like Federal Emergency Management Agency (FEMA), the cost for upkeep or rent is expensive for their means. Community elders pointed out that the situation has led to only 12 houses in the tribe to be habitable to this day.
32. As such, the lack of a stable housing situation has put tribal members' health at risk, especially for older people and people with disabilities. In this case, representatives from the Pointe-au-Chien Indian tribe, mentioned that this is a clear example on how the lack of recognition can hinder on their capabilities to properly generate frameworks to adapt to climate change occurrences. Coupled with this situation, the general wellbeing of tribal members in the area is at risk too, due to the lack of access to nutritious food supply and preventive health services.
33. The Chief of the Grand Caillou Dulac band of Biloxi Chitimacha Choctaw, stated that the poverty rate for Natives in the area is 30%, while it is only 12% for white people. In this sense, he indicated that this high poverty rate is the systemic barring from resources and education. In his testimony, the chief explained that: "My community was forced into Indian boarding schools where they were physically reprimanded for speaking their language, indoctrinated into western religion, and were not allowed to get an education past the 8th grade sometimes 7th, which is when you are around 11 - 13 years old".
34. Consequently, as it was also presented during the hearing, the historical and systemic discrimination in the access to rights, is part of the reasons that forces tribal members to flee from their traditional land. Thus, putting at risk the preservation of their traditions and customs. Both representatives from the Grand Caillou Dulac and Pointe-au-Chien mentioned that there is not a school open in the nearby vicinity for tribal children to attend. In this matter, REDESCA notes with concern that since most of their schools and other educational facilities have also been hindered by hurricanes and rapid erosion, the accessibility to educational and cultural services is limited. Adding to the loss of cultural sites such as ceremonial mounds and traditional fishing and hunting grounds. This was evidenced by the Special Rapporteur during her visit, in which most of these sites had been destroyed and were still unrepaired despite the passing of time. Grand Caillou Dulac tribal members recently were able to secure the title over a building that serves as a cultural center, which is also located in a high-risk area.



REDESCA

Special Rapporteur for Economic,
Social, Cultural and Environmental Rights

Inter-American
Commission on
Human Rights **IACHR**

35. Within this context, REDESCA observes that coastal reparation and reconstruction efforts are also limited from the community standpoint. The Pointe-Au-Chien tribe has begun a process of coastal preservation in various parts of their shores, using traditional knowledge and western scientific research financed with philanthropic means with the Coalition to Restore Coastal Louisiana. Since 2019, they've built 2,400-foot reefs from about 400 tons of oyster shells collected from restaurants in the vicinity. According to tribal leaders, their application to include their project within the Coastal Master Plan of Louisiana³³ was rejected, because it did not support a cost-benefit analysis.
- ii. **Isles de Jean Charles Choctaw Nation and Atakapa-Ishak-Chawasha of the Grand Bayou**
36. As to the situation of the Isles de Jean Charles Choctaw Nation, the Office of the Special Rapporteur noted the State of Louisiana's Office of Community Development is managing the resettlement process, because the Community Development Block Grant (awarded to the State) funding requirements restricted eligibility to states with qualified disasters and entities of general local government who received funding from HUD for disasters occurring in 2011 through 2013³⁴. The Isle de Jean Charles community worked with the state and other stakeholders to develop the resettlement proposal that was included in the second phase of the state's application for the 2014 National Disaster Resilience Competition. After the state's outreach with island residents, the state submitted amended resettlement plans, which HUD approved in August 2019, according to state documents³⁵.
37. REDESCA visited both the community who are still in the island, and the resettlement project located north of the city of Houma, known as the Evergreen Site Plan. However, REDESCA received information from tribal members that due in part to federal funding requirements, the resettlement process has been more complex than originally expected, and tribal leaders have expressed concern that the process does not meet the unique needs of tribal residents. Some tribal residents have chosen not to relocate, now 18 tribal citizens remain in the islands while the rest have relocated to nearby communities. As it was noted earlier, by June 2020, the state had completed its site selection and master planning activities, purchased 515 acres of land at a new site on the mainland, and started the development and construction phase.
38. In this vein, when visiting the relocation site with tribal leaders, REDESCA noted that not all the houses are occupied. As well, it also received testimonies from tribal members that even if the site was being occupied, there was a chance that the person there was not even a tribal member. As such, REDESCA is concerned with this

³³ The Plan is being implemented by the Louisiana Coastal Protection and Restoration Authority and has an ample project portfolio for coastal protection in the State. In this sense, REDESCA acknowledges that for the Terrebonne Basin (where both communities are located), the CPRA has invested in 17 projects for an amount of around 4 billion US dollars over 50 years of implementation. See Coastal Protection and Restoration Authority of Louisiana. [2023. Louisiana's Comprehensive Master Plan for a Sustainable Coast](#). Coastal Protection and Restoration Authority of Louisiana. Baton Rouge, LA, p. 123-133

³⁴ United States Government Accountability Office, [Climate Change: A climate migration pilot program could enhance the nation-s resilience and reduce federal fiscal exposure](#), July 2020, pg. 18

³⁵ United States Government Accountability Office, [Climate Change: A climate migration pilot program could enhance the nation-s resilience and reduce federal fiscal exposure](#), July 2020, pg. 19



- situation, given that according to testimonies received during the visit, the process to even qualify for one of those houses was burdensome. Community members indicated that there was a general sense of mistrust to sign the hand over documents due to the lack of certainty over the completion of repairs due in the buildings. Tribal elders pointed out that the lack of cultural sensitivity at the closing as reflective of the state's entire handling of the project³⁶.
39. In reference to the Grand Bayou Village of the Atakapa-Ishak Chawasha, REDESCA noted the lasting impacts of hurricane Ida from 2021. As in the case of Pointe-au-Chien, there was visible destruction of homes in the community. The latter is especially worrisome, given that this community is one of the few left in the state who are completely only accessible by boat. In this case, the lack of accessible ways to enter the community has made it more difficult for the community to access food, education, and health services. Particularly, in what is related to the access to health services, community elders pointed out that the land loss has left them with practically no access to traditional medicine or hunting grounds. The latter is worrisome considering that according to tribal members, the community is not protected by any levee or flood protection system.
 40. Louisiana's Coastal Master Plan does include a series of projects that are in the Barataria region of the state including the Plaquemines parish were this community sits. 13 projects are currently being implemented there, which includes several marsh creation projects as well as land bridge and ridge restoration projects that are expected to build and maintain land. Structural risk reduction projects in the upper basin reduce the impact of storm surge-based flooding for communities in this area³⁷.
 41. Of those projects, elders from the Grand Bayou village expressed their concern on the lack of public participation and information of the Mid Barataria Sediment Diversion project³⁸. As such, REDESCA notes that the environmental impact statement (EIS), presented by the United States Army Corp of Engineers (federal entity in charge of the development of the project), signaled that: "Disproportionately high and adverse impact could occur on low-income and minority populations within the communities of Myrtle Grove, Hermitage, Grand Bayou, and Happy Jack, to the extent that affected populations lack resources to avoid or otherwise respond to the impacts."³⁹
 42. Additionally, the EIS also mentions that there are possible impacts on the abundance of species that are traditionally harvested by the communities. In this sense, community members voiced their concern that the current solutions presented are not

³⁶ DeSmog, [Isle de Jean Charles Community Members Moved into the First Federally Funded Resettlement Project in Louisiana Despite Visible Engineering Issues](#), September 8 2022

³⁷ Coastal Protection and Restoration Authority of Louisiana. [2023. Louisiana's Comprehensive Master Plan for a Sustainable Coast](#). Coastal Protection and Restoration Authority of Louisiana. Baton Rouge, LA, p.141-142

³⁸ This is a project that has been promoted by the federal government since 1984 and finally included in the Coastal Master Plan of the State in 2017. For 2023, the Coastal Master Plan inferred that the project will be executed for the following years, however, is not included in the executed projects. See Coastal Protection and Restoration Authority of Louisiana. [2023. Louisiana's Comprehensive Master Plan for a Sustainable Coast](#). Coastal Protection and Restoration Authority of Louisiana. Baton Rouge, LA, p.141

³⁹United States Army Corps of Engineers, [Mid-Barataria Sediment Diversion Project: Final Environmental Impact Statement, Executive Summary](#), Plaquemines Parish, LA, September 2022, Pg. 16



REDESCA

Special Rapporteur for Economic,
Social, Cultural and Environmental Rights

Inter-American
Commission on
Human Rights **IACHR**

community sensible and are not thought to offer them a chance to remain in their land⁴⁰.

B. Alaska Native Villages

43. Regarding the human rights situation of Alaskan native villages, REDESCA visited the native villages of Kwigillingok, Kivalina, Newtok and Nunapitchuk. Despite these communities are federally recognized and although there is federal investment of up to 110 million dollars, according to the testimonies received it was pointed out that the federal government would not be fulfilling its trust responsibility and ensuring the effective participation of the communities on addressing the impacts of climate change. In the meantime, communities are experiencing devastating impacts, which have subjected them to undignified living conditions. Thus, climate-induced and human-driven ecological change is threatening the rights of tribal citizens as individuals, but also collectively as Tribal Nations.
44. It is crucial to highlight that the four communities that REDESCA visited offer a comprehensive view of the widespread situation affecting the human rights of multiple native villages in Alaska. In fact, according to the Denali Commission Statewide Threat Assessment, in 2019 there were approximately 144 native communities (43% of all the communities in the state) likely to face some degree of infrastructure damage from erosion, flooding, and/or permafrost thaw⁴¹. Similarly, in 2003, the GAO reported most of Alaska's more than 200 Native villages were affected to some degree by flooding and erosion, while in 2009 identified 31 villages facing imminent existential threats from coastline erosion, flooding, and rising temperatures⁴².
45. Within this context, REDESCA takes note of the Newtok relocation effort and some programs in the Bering Sea Climate Resilience Area, including the Alaska Native Villages and Rural Communities Water Grant Program and the General Assistance Program Act⁴³, as well as the funding provided by federal agencies of about \$391 million in obligations in fiscal years 2016 through 2020 to repair damaged infrastructure in Alaska Native villages and build their resilience to environmental threats⁴⁴.
46. Despite these efforts, the office observes that, according to the GAO, more than one-third of highly threatened native villages did not receive such federal assistance during these five years and significant work remains to protect these communities⁴⁵. This being of special concern given the Arctic region is warming at an accelerated and unprecedented rate, resulting in warmer oceans, decreased seasonal sea ice extent, and thawing permafrost⁴⁶, with Alaska's temperatures rising above the global average.

⁴⁰ REDESCA, Notes from site visit to Grand Bayou Village, 23th May 2023 See also Rolling Stone, [Louisiana's Coastline Is Crumbling. These Tribes Know How to Save it](#), April 6, 2023

⁴¹ [Alaska's Environmentally Threatened Communities](#), February 2021

⁴² United States Government Accountability Office, [Alaska Native Villages](#), GAO-09-551, June 2009

⁴³ EPA Programs, Authorities, and Priorities in the Bering Sea Climate Resilience Area, March 2023

⁴⁴ United States Government Accountability Office, [Alaska Native Issues: Federal Agencies Could Enhance Support for Native Village Efforts to Address Environmental Threats](#), May 2022

⁴⁵ Id.

⁴⁶ IACHR, [Enforced displacement of Indigenous people in the context of climate change in the United States](#), Public Thematic Hearing, 185th Period of Sessions, November 4th of 2022.



REDESCA

Special Rapporteur for Economic,
Social, Cultural and Environmental Rights

Inter-American
Commission on
Human Rights **IACHR**

47. Given the urgency of this situation and that it has been known for a long time, the Office of the Special Rapporteur taking into account the investments made by the federal government in the territory, it observes with concern that no effective and comprehensive measures have been taken based on a human rights approach and with the due participation of the communities. In relation to the latter, the tribal communities emphasized that their knowledge has not been taken into account in the relocation plans (when applicable) or in the adaptation and mitigation measures. Meanwhile, the GAO in 2022 stated that there are more opportunities for federal agencies to better support Alaska Native village efforts to build resilience to environmental threats by improving coordination among federal, state, and tribal entities⁴⁷. Taking this into account, the following are the most pressing issues in the communities visited by the office:
- i. Kwigillingok**
48. This village, located in the Yukon-Kuskokwim Delta, is experiencing floods, which have become more severe and recurrent with the passing of time, with non-storm flooding intensifying. This being specially concerning because inundation is mixed with ocean water, which further accelerates permafrost thaw. Since this has damaged most of the infrastructure, the whole community is endangered and at least five homes (27 people – including 9 children-) are in immediate need of relocation. Although the tribe is trying to move vulnerable homes as soon as possible, it lacks the proper funding and equipment to do so.
49. Meanwhile, given the imminent risk for all, the community has identified their need to relocate the entire village to a new location within the community's traditional homelands to maintain the community's culture, spiritual and historical connections. However, as they do not count on sufficient resources, neither comprehensive environmental data for climate adaptation planning or informed identification and selection of a new village site, this has not been possible.
50. In this worrisome scenario, REDESCA observed that this situation represents several obstacles to the guarantee of the rights to housing, health, education, water and sanitation, food, culture, among others. In this line, homes and infrastructure were seriously compromised by permafrost thaw and flooding, exposing residents in a daily basis to high risk, which is aggravated due to power lines within centimeters of human traffic and boardwalks -as the main and often only form of transit- floating in flood water. Furthermore, members of the community expressed how accessing their traditional food is becoming increasingly difficult, since the traditional food preservation infrastructure is being impacted by water inundation and the ground has subsided and is now dominated by grass rather than tundra shrubs, which provide food and traditional medicine.
- ii. Kivalina**
51. REDESCA observes that the Native Village of Kivalina, located on a barrier reef island now sinking into the sea, is in a very vulnerable situation in which its rights such as

⁴⁷ United States Government Accountability Office, [Alaska Native Issues: Federal Agencies Could Enhance Support for Native Village Efforts to Address Environmental Threats](#), May 2022



REDESCA

Special Rapporteur for Economic,
Social, Cultural and Environmental Rights

Inter-American
Commission on
Human Rights **IACHR**

- life, health, food, water and sanitation, and culture are being seriously affected. In the meantime, there are serious obstacles to move forward with the tribal government's relocation plans, while the community struggles with the increasingly evident effects of climate change, which have prevented them, among other things, from accessing secure housing and infrastructure, health, traditional food, and the continuation of some of their traditions. It is worthy to note that in 2003 the GAO included Kivalina as one of the 31 villages under "imminent threats".
52. In the framework of the hearing on enforced displacement of Indigenous people in the context of climate change in the United States⁴⁸, the IACHR and REDESCA received information on how extreme weather events, rising sea-levels and flooding damage or destroy infrastructure, including rainwater storage tanks, water treatment plants and sanitation systems, causing the latter to leak human waste and contaminate the groundwater. In the same vein, REDESCA observed in its visit that, due to the decreasing amount of livable space, Kivalina is severely overcrowded with multiple families living in small houses without water and sewer installed, which also represents a serious threat to health.
 53. Along with living under these undignified conditions, families must also choose between feeding their families or paying for electricity and fuel during the winter months. While their traditional food disappear – including caribous and belugas- and is becoming more and more difficult to adapt and preserve traditions on this matter, the community refuse the option of changing their diet and feed their families with "western food", which, as some of them indicated, is full of sugar and chemicals affecting their health. In this line, one member of the community stated that in some way she was being forced to drink soda and artificial beverages due to the deprivation of safe water. For REDESCA it is of great concern that, despite the impossibility of accessing safe drinking water and sanitation, funding would not be available to improve sanitation and water because of the community's decision to relocate.
 54. The Special Rapporteur also received testimonies on how the community does not have access to health facilities and qualified personnel – with just one health aide- and how, in case of emergencies, people need to be evacuated by plane (to Kotzebue, where the nearest hospital is), although this is very expensive and may entail risks due to the time involved. In fact, one of the tribal leaders shared with REDESCA that one of her relatives passed away since she could not be evacuated due to a storm. In this sense, she expressed how "they need doctors like anybody else". The Office takes note of the anxiety and mental toll that this situation is causing in the community, but also in children, who are in constant fear of a new flood or a new climate related event.
 55. In this worrisome scenario, REDESCA observes that community participation in all climate adaptation and mitigation process, particularly their relocation, has not been guaranteed in spite of its vast knowledge on these issues, its federal recognition, and constant statements since the very first years of their permanent settlement indicating that this was not a safe place. In this line, community leaders shared that the people of Kivalina noted in the very first years of the permanent settlement that this was not a safe place (as early as 1910, reports from the school committee documented that

⁴⁸ IACHR, [Enforced displacement of Indigenous people in the context of climate change in the United States](#), Public Thematic Hearing, 185th Period of Sessions, November 4th of 2022.



REDESCA

Special Rapporteur for Economic,
Social, Cultural and Environmental Rights

Inter-American
Commission on
Human Rights **IACHR**

residents wished to move because of the risks of erosion), but they had to resettle since authorities at the time built a school on the island and informed people in the region that they “had to bring children to school or face imprisonment”⁴⁹.

56. In view of the above, REDESCA notes with utmost alarm that the community is in a great paradox, in which resources and sufficient support are not provided to have a dignified life while relocation plans are being advanced due to a cost-benefit analysis, but when the plan is progressing, they do not have an effective participation. Yet despite almost two decades of identifying that the community was at imminent risk, the community has yet to be relocated.

iii. **Nunapitchuk**

57. In the Native Village of Nunapitchuk, located on the Yukon-Kuskokwim Delta on the banks of the Johnson River, REDESCA first observed that most houses and infrastructure are very much in peril due to the permafrost thawing, representing an imminent and existential threat to the safety and wellbeing of the community and to their rights to life, health, water and sanitation, food, education, among others. In this sense, many of the houses are tilted or are at high risk of subsiding due to the lack of stable soil.
58. The washeteria is one of the most affected by this situation, with the community’s water system near a breaking point. Powerlines and the tank farm – which supplies fuel for transportation and heating- are also exposed by thawing permafrost, increasing the dangers for the residents. In addition, mobility in the community is quite difficult because the terrain is so fragile that it does not allow anyone to walk on it, so to move around within the area, they have had to build boardwalks. The last repair was done no more than 5 years ago, and now there are sections of the boardwalk covered by water or sitting in very fragile land, making transportation less reliable and hazardous.
59. This situation is particularly worrisome, given that the soil erosion and thawing also impacts the human waste cabins, also known as “dog houses”. Biological waste is accumulated in these makeshift shafts outside of villager’s homes, which is then collected by a vacuum and then poured into a lagoon within the community’s territory. At the moment, there are two waste lagoons in Nunapitchuk, one for the general use of the community and the other only for the utilization of the local school.
60. REDESCA received testimonies from tribal members who pointed out that the lack of proper sanitation and flash flooding produce that human waste from the lagoon flow into the community. The office of the Special Rapporteur observes that this situation can cause a public health crisis for all the community. Native villagers commented that the repair and improvement of the water and sanitation system are not currently prioritized in the assistance funds they have acquired. Information received by REDESCA highlights that the situation was foreseen and reported to the Alaska Village Safe Water program which inspected the building and implemented stop-gap measures to prevent further leakage of human waste.

⁴⁹ IACHR, [Enforced displacement of Indigenous people in the context of climate change in the United States](#), Public Thematic Hearing, 185th Period of Sessions, November 4th of 2022.



REDESCA

Special Rapporteur for Economic,
Social, Cultural and Environmental Rights

Inter-American
Commission on
Human Rights **IACHR**

61. The latter generates difficulties in terms of governance, since Nunapitchuk also has a city government which holds certain jurisdiction over certain matters. This impacts the capacity the village has to secure funding for all the repairs needed for homes, waste cabins, and the water and sanitation system in general. Considering this situation and the fact that houses are mostly subsiding; it is urgent to take action and provide resources to enable this community to stay within their traditional homelands. Testimonies provided by community members state that every year repairs are done by technicians, but do not satisfy their needs.
62. The above-mentioned situation is being aggravated in the most inclement winter seasons. For instance, one woman indicated to REDESCA how every winter she needed to choose if it was better to eat or to keep her house warm, since food and fuel were very expensive, and she could not afford both. She mentioned that all her house has various leaks that have not been addressed and part of her house is not habitable, even though she personally applied numerous times for relief funds. She decided to give up on applications due to the lack of response.

iv. Newtok

63. REDESCA notes with concern that, like the other communities -and to Kivalina in particular-, Newtok is experiencing existential threats due to the lack of sufficient aid and infrastructure damage. In the meantime, an ongoing relocation plan has not included adequate consultation, while the community is split in two (with close to 200 people in Newtok with deteriorating living conditions). In this context, structures threaten to topple over due to permafrost thaw and riverine erosion, leaving the community at imminent risk with their rights to life, health, food, culture, education, self-determination, among others, seriously threatened.
64. With the vital structures irreparably damaged and the lack of a solid waste service since 2012, the residents of Newtok are also facing an extreme health and environmental crisis given the exposed human and solid waste. On this regard, REDESCA received information indicating that, since the community does not have a designated honey bucket sewage lagoon, they must dump them directly into a dried-up riverbed or onto the ground. Although there is a honey bucket sewage lagoon connected to the school, the lagoon does not have capacity for the community's sewage and is eroding into the slough. This being compounded by the fact that Newtok Traditional Council does not count with Indian General Assistance Program (IGAP) department.
65. In addition to the fact that the life, health and integrity of this community is seriously compromised, children have unacceptable learning conditions after the school's generator caught fire in January and they are forced to attend school in an old church with a leaking roof and lacking running water and restrooms. In this context, families are deeply worried about the future educational outcomes and conditions of the learning environment while there is no formal plan for the reparation of the school.
66. Although the office takes note of the relocation plan and the funding to this end, it expresses its concern regarding community claims indicating that the new site in Mertavik lacks enough housing for all – needing at least 49 homes more – and critical infrastructure to fully house and meet the basic needs of the community. In this



REDESCA

Special Rapporteur for Economic,
Social, Cultural and Environmental Rights

Inter-American
Commission on
Human Rights **IACHR**

framework, the office is deeply concerned about the inhumane conditions experienced by residents of Newtok, which deprive them of their most basic needs and the right to a dignified life.

67. Although the relocation plan has been underway for several years, it is inconceivable that people must live in this situation while the work is being completed. In addition, REDESCA notes that with the school closed, the community has also been left without space for their social gatherings. A particularly important issue to review is the governance of the village, considering that when the office wanted to meet with some of the members of the Newtok traditional council in the National Guard Army building -under the Newtok Traditional Council but currently used by the Newtok village Council-, REDESCA and the members of the community were asked to leave, indicating that these members were not recognized⁵⁰.

IV. Business and Human Rights

68. REDESCA observed that industries from the fossil fuel sector have enjoyed significant economic benefits from exploiting coastal resources for profit, particularly through the oil and gas industry⁵¹. However, these resources have not directly benefited the communities, being the economic growth not reflected in the wellbeing of the communities. While the current administration has recognized that federal land leases contribute to a “profound climate crisis,”⁵² the U.S. government continues to grant leases to corporations for oil and gas extraction⁵³. Approximately 25% of U.S. greenhouse gas emissions come from fossil fuel extraction on public lands⁵⁴. The IRA expressly incentivizes oil and gas leasing on federal lands and offshore drilling, which contributes to climate change⁵⁵. Civil society and Indigenous organizations have indicated that the legislation will create even more sacrifice zones that will disproportionately impact the lands and water of Indigenous and Black communities⁵⁶. Oil, gas, and mining development has already led to grave impacts in Alaska Native communities and Louisiana Tribal communities and will continue to do so if there are enablers for it.
69. In Alaska, the Red Dog Zinc Mine discharges effluents into the Wulik River, affecting the Native Village of Kivalina’s main source of fresh water and surrounding hunting and fishing grounds. The Alaska government is also currently auctioning off millions of

⁵⁰ REDESCA notes that there is a current ruling by the United States Court of Appeals for the 9th Circuit, where it indicates that it does not have jurisdiction to judge on this matter, given that this was a conflict arising between two tribal governments, where the US judicial system does not have jurisdiction. Additionally, the complaint did not rise from a relevant federal question. The Court remanded the case to the District Court for dismissal without prejudice. See *Newtok Village Council v. Andy T Patrick et al*, No. 21-35230, (9th Cir. 2021)

⁵¹ Louisiana Department of Natural Resources, [Technology Assessment Division - Louisiana Energy Facts and Figures](#)

⁵² Government of the United States, Preamble, [E.O. 14008](#), 27th January, 2021

⁵³ Bureau of Land Management (BLM), [About the BLM Oil and Gas Program](#)

⁵⁴ United States Department of Interior, [Interior Department Outlines Next Steps in Fossil Fuels Program Review](#), March 9, 2021

⁵⁵ NDN Collective, [NDN Collective Urges Biden, Schumer And Pelosi To Decouple Fossil Fuels From Renewable Energy Expansion And To Strengthen Racial Equity In The Ira](#), 5th August 2022

⁵⁶ High Country News, [What the Inflation Reduction Act means for Indian Country](#) (Sept. 7, 2022).



- acres of Alaska state land and waters for oil and gas development⁵⁷. In this sense, REDESCA notes with concern that the sale of these Alaska land leases could lead to a massive expansion of fossil fuel activity in a part of the U.S. that is warming four times faster than other parts of the country⁵⁸.
70. Pertaining to Louisiana, REDESCA observes that the continuous presence of oil and gas companies in the sector is what is driving certain infrastructure projects to be executed. According to testimonies from Louisiana's Tribal communities received during the visit, they have experienced staggering damage due to sea level rise and industry-caused coastal erosion. Over the past century, the oil and gas industry cut man-made canals across Louisiana's coast. These canals have caused and rapidly accelerate coastal erosion, land loss and ecosystem impacts⁵⁹. In Grand Bayou village, most of the new mitigation projects that are currently being developed or in construction in the canals, were implemented or executed once companies have issued their concerns on sea level rise.
 71. In this sense, most elders from different villages and tribes pointed out that oil and gas exploration has cut canals through the bayou, and levee systems around the Mississippi River that have stopped sediment build-up and led to subsidence⁶⁰. The canals cause saltwater intrusion, which kills the flora and destroys tree roots, all of which leads to erosion, subsidence, rapid land loss, and which has made it impossible for tribes to carry out traditional gardening and farming and has destroyed coastal marshes, which are a necessary and natural barrier to hurricanes⁶¹. One of the elders mentioned that "In many parts of our community, you cannot grow a garden because of saltwater intrusion and the risk of frequent storm flooding"⁶².
 72. Further, REDESCA notes that communities stressed the damage to natural coastal wetland habitats from the canals which eventually destroy breeding grounds and habitats suitable for aquatic life. Tribal members typically eat seafood sources several times a week; and without sufficient catches, this traditional lifestyle becomes impossible to oyster beds and oyster harvests, fish, shrimp, crab, and crawfish catches. Dwindling catches affect many community members who fish for economic gain as well as subsistence. Industry barge operators navigate their vessels across shallow oyster catch sites, damaging the oyster beds while attempting to plug abandoned wells⁶³. One of the tribal elders mentioned that: "Even though government policy requires companies to backfill its canals, there is no enforcement, and instead our region has seen a century of damage to the ecosystem without mitigation."⁶⁴
 73. Consequently, REDESCA noted that cultural resources such as medicinal plants are disappearing; waterways, lands, and important locations like burial mounds are

⁵⁷ Bobby Magill, [Alaska Auctions Taiwan-Sized Area of Arctic for Oil Drilling](#), BLOOMBERG LAW, 20th October 2022,

⁵⁸ *Id.*

⁵⁹ R. Eugene Turner & Giovanna McClenachan, [Reversing Wetland death from 35,000 cuts: Opportunities to restore Louisiana's dredged canals](#), PLOS ONE 1, DECEMBER 14 2018, PG. 7-8

⁶⁰ REDESCA, Testimony from Point-Au-Chien elder, 22nd May 2023

⁶¹ REDESCA, Testimony from elder from Grand Caillou Dulac and Grand Bayou Indian Village, 22nd and 23rd May 2023

⁶² REDESCA, Testimony from Point-Au-Chien elder, 22nd May 2023

⁶³ *Alexis v. Hilcorp Energy Company*, 493 F. Supp. 3d 497, 508 (E.D. La. 2020).

⁶⁴ REDESCA, Testimony from Chief from the Grand Caillou Dulac, 22nd May 2023



eroding; traditional lifestyles, like subsistence fishing and first-boat rituals are declining. In this line, the Office listened how “Traditional medicine that was once abundant cannot grow in salt water. While some plants are still available on our sacred mounds, these are at risk from erosion and sea level rise”.⁶⁵

74. REDESCA notes that these communities are still experiencing the prolonged consequences of the British Petroleum (BP) Deepwater Horizon Oil Disaster in 2010, tribal members have stated that they experienced smaller shrimp yields⁶⁶. Oil reached the waters and wetlands that communities use to catch shrimp and crab and caused drastic decreases in catch. For the communities, this spill was just another example in a long line of oil disasters dating from the oil boom in Louisiana. Tribal members indicated that they have periodically observed oil spills that they are never formally notified about, although the spills are on traditional lands and impact their means of life⁶⁷.

V. Findings and Recommendations

75. The situation of tribal and native communities in the United States is worrisome given the systemic and historical racial discrimination they have experienced. Even today that there is actual federal action being implemented, REDESCA expresses its concern that the efforts are not benefitting the target populations, especially those with a higher vulnerability and risks. These communities in western Alaska and from low-lying coastal areas in Louisiana, are respectively experiencing the most severe impacts because of climate change effects such as thawing permafrost, erosion, sea level rise, nuisance flooding, and storm surge. These in turn are being exacerbated by the situation of poverty and extreme poverty that most communities are experiencing, as well as by their lack of participation –where their knowledge is disregarded-, and in the case of Louisiana, by their lack of recognition as Native communities.
76. Another important issue emerging from climate migration is that institutional barriers to adaptation disproportionately affect the most vulnerable populations. For example, the ability to move is related to an individual or community’s financial, human, and social capital or relationships. Therefore, low-income individuals and communities are at greater risk because they are more vulnerable to extreme events and have less ability to relocate out of harm’s way⁶⁸. In the case of tribal and native communities, this also includes the possibility of losing their traditions and cultural heritage, which is very much linked to their territory.
77. In this line, REDESCA observes that because federal programs are not designed to support climate resilience efforts in general or climate migration efforts specifically, the federal government provides limited support to communities’ climate migration efforts. As the GAO pointed out, individual federal agencies have provided ad hoc funding through existing federal programs for projects that may convey some climate resilience benefits. Current federal climate resilience investments primarily address agencies’

⁶⁵ REDESCA, Testimony from Point-Au-Chien elder, 22nd May 2023

⁶⁶ REDESCA, Testimony from Elder from the Grand Caillou Dulac, 22nd May 2023

⁶⁷ REDESCA, Testimony from Point-Au-Chien elder, 22nd May 2023

⁶⁸ United States Government Accountability Office, [Climate Change: A climate migration pilot program could enhance the nation-s resilience and reduce federal fiscal exposure](#), July 2020, p. 28-29



REDESCA

Special Rapporteur for Economic,
Social, Cultural and Environmental Rights

Inter-American
Commission on
Human Rights **IACHR**

- own mission areas in the context of authorized activities and investment guidelines put forth by the Office of Management and Budget (OMB)⁶⁹.
78. In this sense, REDESCA shares the concern from the GAO, whereas federal programs that provide assistance to communities for infrastructure, housing, or disaster recovery are not designed to address projects with the scope and complexity of climate migration. In addition, there is little clarity on how the federal government could best assist communities with climate migration⁷⁰. In this vein, REDESCA is deeply worried that sanitary conditions, especially in Alaska native villages, are not being tended to with the urgency needed. This could effectively worsen the health crisis which Indigenous populations are currently experiencing.
 79. Accordingly, REDESCA urges that any federal efforts can (1) promote coordination across agency missions and sectors, (2) help decision makers identify and combine available funding streams, and (3) help leverage the expertise of nonfederal partners and synthesize disaster risk information across agencies, governments, and sectors. For example, federal efforts can improve disaster resilience by facilitating the combination of funding streams, which may be particularly important for smaller, low-income, and historically disadvantaged communities or jurisdictions⁷¹. This is particularly important for non-federally recognized tribes, which must rely in local assistance to access federal grants or apply through other means not designed exclusively for Indigenous tribes.
 80. Although climate change is affecting Indigenous cultures and ways of life, Indigenous communities are extremely resilient. Even though resilience does not eliminate the consequences of colonialism or climate-change impacts, it does demonstrate the ability of Indigenous populations to examine impacts and develop strategies for addressing and adapting to climate change. This resilience is embedded in traditional knowledges, diverse livelihoods, cultural values, and social networks that contribute to Indigenous adaptive capacity⁷².
 81. Climate migration changes a community's complex socio-economic, cultural, and political connections to their geographic region, making it particularly challenging for decision makers and communities to consider it as a resilience strategy. Consequently, partial, or full community migration efforts should be community-driven, with agreement across all the relevant levels of government⁷³.
 82. As such, the IACHR and REDESCA have pointed out in Resolution 3/2021 on the climate emergency and human rights, that States must adopt measures to ensure that the climate crisis does not affect or jeopardize the effective protection of the human

⁶⁹ United States Government Accountability Office, [Climate Change: A climate migration pilot program could enhance the nation-s resilience and reduce federal fiscal exposure](#), July 2020, pg. 30

⁷⁰ United States Government Accountability Office, [Climate Change: A climate migration pilot program could enhance the nation-s resilience and reduce federal fiscal exposure](#), July 2020, pg. 44

⁷¹ United States Government Accountability Office, [Climate Change: A climate migration pilot program could enhance the nation-s resilience and reduce federal fiscal exposure](#), July 2020, pg. 3

⁷² Norton-Smith K et al., [Climate Change and Indigenous Peoples: A Synthesis of Current Impacts and Experiences](#), United States Department of Agriculture Forest Service-Pacific Northwest Research Station, General Technical Report: PNW-GTR-944, October 2016, pg. 4

⁷³ United States Government Accountability Office, [Climate Change: A climate migration pilot program could enhance the nation-s resilience and reduce federal fiscal exposure](#), July 2020, pg. 44



REDESCA

Special Rapporteur for Economic,
Social, Cultural and Environmental Rights

Inter-American
Commission on
Human Rights **IACHR**

- rights of Indigenous peoples, such as life, personal integrity, freedom of expression, protection of family life, water, food, the healthy environment, or communal property, among others.
83. Additionally, States have the obligation to guarantee meaningful participation in any climate action that is being proposed. In this sense, the participation should take into account an intercultural approach and adequately incorporate traditional and local knowledge on mitigation and adaptation and respect the duty of accommodation in the final decision.
84. Within this context, REDESCA considers that a well-designed federal climate migration program based on best practices and that considers key factors could improve the federal institutional capability to assist states and communities with climate migration and limit federal fiscal exposure. Key factors to consider include the importance of community-led planning and increasing the technical and financial capacity of some communities. For example, the GAO noted that although the Denali Commission has played a significant role in helping Newtok relocate, the commission does not have explicit statutory authority to lead and coordinate federal assistance to other at-risk Alaska Native villages and, according to commission officials, has recently refocused its efforts on other priorities⁷⁴.
85. In this sense, REDESCA acting in its capacity as a special office of the IACHR, by the authority of article 18 of the Statute of the Commission, issues the following recommendations to the United States regarding this visit, to protect the rights of Indigenous peoples displaced by climate change by:
- I. Adopting urgent measures at all levels of government - federal, state and local - to guarantee the life, housing, health, food security, water and sanitation, education, self-determination and culture of the native communities in Alaska and Louisiana, with particular attention to the communities of Pointe-au-Chien, Gran Caillou/Dulac Band of the Biloxi-Chitimacha-Choctaw, Atakapa-Ishak-Chawasha of the Grand Bayou Village, Jean-Charles Choctaw Nation of Louisiana, and from the native villages of Kivalina, Nunapitchuk, Newtok and Kwigillingok of Alaska. Within this framework, it is crucial that a human rights approach prevails and not a cost-benefit one, which exposes communities to situations of extreme vulnerability while climate actions are being fully implemented. These processes must guarantee the effective participation of the communities.
 - II. Guaranteeing the effective participation and inclusion of community members in the decision-making process for climate adaptation projects and programs, by ensuring that their inputs, traditions, and ecological knowledge are recognized in the final outcomes of those processes. In this line and in relation to Louisiana, REDESCA recommends that traditional knowledge perspectives are included or further recognized in the Louisiana Coastal Protection Master Plan or other state-wide strategies.

⁷⁴ United States Government Accountability Office, [Climate Change: A climate migration pilot program could enhance the nation-s resilience and reduce federal fiscal exposure](#), July 2020, pg. 38



REDESCA

Special Rapporteur for Economic,
Social, Cultural and Environmental Rights

Inter-American
Commission on
Human Rights **IACHR**

- III. Guarantee, in law and in practice, the principle of free, prior, and informed consent consistent with the United Nations Declaration on the Rights of Indigenous Peoples and other relevant international standards and regional standards such as the American Declaration, and the right of Indigenous peoples to be consulted on any legislative or administrative measure that may affect their rights.
- IV. Reviewing the current legal framework for tribal recognition which will assure full access to funds for relief and other emergencies related to the climate crisis. In this sense, additional legal reforms should take place that will enable funding for erosion and flooding damage prevention and response for tribal communities. Changes should be made to cost-benefit analysis procedures to account for the unique challenges of climate change (long-term progressive harms, small, marginalized communities impacted), and of rural communities with very high costs of construction and the low appraised value of infrastructure.
- V. Adopting national legislation that amends the Stafford Act which currently does not adequately take into consideration slow, ongoing climate-induced environmental changes, such as sea-level rise and permafrost thaw, as major disasters, which is forcing many frontline communities to consider relocation or effectively do so.
- VI. Adapting national and state level climate relocation policies and programs that uphold the norms referenced in Resolution 3/2021 of the IACHR and REDESCA. Such norms should include guaranteeing the rights of Indigenous peoples; rights of land and nature defenders; rights to seek, receive, and impart information, public participation, ; and ensuring the accountability of companies that contribute to and exacerbate the climate crisis. Regarding the ability to access to information, it is crucial to support the collection, retention, and analysis of comprehensive environmental data to make informed decisions about the future of the communities.
- VII. Developing a federal relocation institutional framework, through a pilot climate migration program, that has a human rights approach to adequately respond to the threats facing Tribal Nations, including the rapid provision of resources for adaptation efforts that protect the right to life, enjoyment of the highest attainable standard of physical and mental health, including nutrition, safe drinking water and sanitation, take part in cultural life, and adequate housing. The framework should also take into consideration the [peninsula principles](#) for climate migration.
- VIII. Adopting measures to effectively protect the rights of Indigenous peoples from any adverse impact of extractive industries and infrastructure projects, and specifically address the situations presented here by REDESCA in the Louisiana coastline.
- IX. Developing federal legislation which enforces the prohibition of environmental pollution at the state and local levels; clean up remaining radioactive and toxic waste, paying particular attention to areas inhabited by racial and ethnic minorities and Indigenous peoples who have been neglected to date; and undertake prompt, independent and thorough investigations into all cases of environmentally polluting activities affecting the rights of members of racial and ethnic minority groups and Indigenous peoples, bring those responsible to account and provide effective remedies for the victims.



REDESCA

Special Rapporteur for Economic,
Social, Cultural and Environmental Rights

Inter-American
Commission on
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- X. Adopting moratoriums on the authorization of new heavy industry facilities and the expansion of existing ones, such as petrochemical plants. It further recommends that the State protect historical sites of cultural significance for these communities from harm by extractive industries.
- XI. To the United States government, companies and local borrowing entities, to implement the standards and recommendations contained in the report [Business and Human Rights: Inter-American Standards](#) in relation to the business activities related to the situations addressed during the visit.
- XII. Ratifying the American Convention on Human Rights, the Optional Protocol of the American Convention on Economic, Social, and Cultural Rights (Protocol of San Salvador), the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities, the Inter-American Convention Against All Forms of Discrimination and Intolerance, the International Covenant on Economic, Social, and Cultural Rights, and the implementation of article 3 of the Convention against Racial Discrimination in all its forms. As well the acceptance of the American Declaration on Indigenous People.

REDESCA is at the disposal of the United States to provide technical assistance for the implementation of these recommendations.