

The Displacement of Tibetan Nomads, International Law and the Loss of Global Indigenous Culture

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Abstract

This paper seeks to highlight the historical and existing problems associated with the protection of indigenous people's culture within the parameters of international law. Specifically, it concentrates on the resettlement policies of the People's Republic of China and their impact on the livelihoods and culture of Tibetan nomads. Additionally, it seeks to link this contemporary story of development-based loss within the wider global narrative of cultural and biological loss of all traditional peoples, particularly nomadic peoples. It goes on to emphasize one vital aspect of global Indigenous culture, indigenous Knowledge (IK), and calls for its urgent protection under international law. Finally, the paper calls for global policy makers to strengthen international law relating to indigenous issues, and in the process, compelling China, and all the central global actors, to live up to their pledges and commitments within the international human rights framework.

Policy Implications

- National governments and global financial governance institutions, such as the World Bank, WTO, Asian Development Bank, should consider 'Nomadic and Indigenous rights proofing' development programs and policies. For example, implementing specifically designed Human Rights Impact Assessments to gauge the effects of development in terms of the indigenous values of collective rights and biodiversity conservation.
- Bilateral trade and investment liberalisation agreements, involving state and non-state actors, should also be human rights proofed at both the formulation and implementation phases of policy to determine the potential impacts on traditional Peoples' lands, livelihoods and cultures.
- The International human rights framework must work towards a specific multilateral instrument protecting the rights of nomads under international law, adding to and augmenting the 2007 declaration on indigenous peoples mentioned within the text. Historically, nomadic peoples have been ruthlessly discriminated against, often with the aid of the law. A convention or treaty enshrining nomadic rights would go some way to offset this historical tendency.
- Global corporate actors, in particular the extractive sector, must show willingness to collaborate with traditional peoples transparently, within the parameters of national and international law. Consultation and dialogue should be premised on respect for treaties for the rights of indigenous peoples under both domestic and international law.

In May 2007, after almost 25 years of advocacy and legal fine-tuning, the Declaration on the Rights of Indigenous Peoples was adopted by the United Nations General Assembly in New York¹. The declaration's intent is to consolidate the hard won cultural, social and economic rights and entitlements of the world's 370 million indigenous peoples – [a struggle which is far from over](#). Given their comparable histories of colonial expansionism, [New Zealand, Canada, Australia and the United States voted against the declaration](#), an unsurprising outcome given their collective apprehension in regard to indigenous peoples' claims for historical retribution². [China, along with other countries with significant indigenous populations, such as Mexico and India, voted in favour](#). The declaration joins a catalogue of conventions, protocols and declarations on Indigenous issues. Collective issues that link urgent and multiple areas of concern for traditional Peoples are as follows: bio-piracy, development-based displacement, loss of language and social cohesion, and concomitantly, loss of biological diversity (Harmon: 2002).

¹ See, <http://www.iwgia.org/human-rights/international-human-rights-instruments/undeclaration-on-the-rights-of-indigenous-peoples>. The International Work Groups for Indigenous Affairs (IWGIA), an international human rights organisation advocating for indigenous rights states, 'The text recognises the wide range of basic human rights and fundamental freedoms of indigenous peoples. Among these are the right to unrestricted self-determination, an inalienable collective right to the ownership, use and control of lands, territories and other natural resources, their rights in terms of maintaining and developing their own political, religious, cultural and educational institutions along with the protection of their cultural and intellectual property. The Declaration highlights the requirement for prior and informed consultation, participation and consent in activities of any kind that impact on indigenous peoples, their property or territories. It also establishes the requirement for fair and adequate compensation for violation of the rights recognised in the Declaration and establishes guarantees against ethnocide and genocide'.

² Australia, Canada, the U.S. and New Zealand have since reversed their stance and endorsed the treaty, although with important caveats. In the case of the United States, President Obama adopted the non-binding declaration in December 2010. Critics of the treaty in the U.S. and Canada however argued that the manifesto could be used to argue for massive land transfers back to the continent's first nations. Canada for instance stated it would endorse the treaty only, "in a manner fully consistent with Canada's Constitution and laws". Leaving, many of the country's indigenous spokespeople to believe, that the government has created the possibility of a legal loophole to be exploited in order to escape the obligations of the treaty for the future. See also, <http://www.mcgilldaily.com/2012/11/the-alberta-tar-sands-and-first-nations-health/>

Historically, international and domestic law has been employed as a penal and self-serving instrument by colonial authorities against traditional and indigenous peoples (Rehman: 2003, Richardson et al: 2009). In fact, the labels 'traditional' and 'indigenous' are legal constructs imposed as cultural and racial identifiers, [categorisations, serving a racial ideology which have had dire effects for those labelled](#) (Manus; 2005). This tendency of perceiving indigenous peoples, Tibetan nomads included, as racially inferior is well illustrated by the doctrine of terra nullius, first proclaimed in Australia in 1835. British colonial authorities declared that before the settlers arrived, Aboriginal land belonged to no one (Frost: 1981). This doctrine, and the spirit of this law, was followed assiduously in the ensuing decades by colonial powers intent on resource extraction and expansion³

With this global indigenous narrative in mind, this paper seeks to ask two questions in relation to global policies affecting traditional peoples: first, how can international human rights law positively affect indigenous issues, and not just be an abstract theory divorced from the hard economic realities and realpolitik of international affairs? Second, can it in any substantive way make the lives and cultures of oppressed indigenous peoples any better?

This paper aims to answer these questions by relating to a particularly exigent account of socio-cultural loss happening at the moment. That is, the compulsory sedentarisation and assimilation of Tibet's pastoral nomads in the Tibetan Autonomous Region (TAR) and in the historically Tibetan

³ In a similar approach to the doctrine of terra nullius, European expansionist powers also utilised an archaic theological doctrine associated with medieval Christendom, the Doctrine of Discovery, when they first landed in the 'New World'. The Papal Bull 'Inter Caetera' issued in 1493 by Pope Alexander VI granted authorisation to explorers such as Christopher Columbus to claim new lands for European Christian monarchs, and the land's resources thereafter. The edict also asserted that the 'heathens' they found there must be converted, by force if necessary, often meaning death or slavery, so that their souls might be saved for the Christian European conception of heaven. Moreover, many of the precepts of this doctrine have found their way into the constitutions of countries such as Australia and the U.S. See, for example, <http://www.oup.com/us/catalog/general/subject/Law/LegalHistory/?view=usa&ci=9780195314892> Supreme Court case *Johnson v. McIntosh* (1823). See also, <http://www.un.org/News/Press/docs/2012/hr5089.doc.htm>

populated areas of Sichuan and Qinghai provinces in Western China.

Manufacturing the Nomadic Problem

Tibetan nomads make up approximately one-third of the ethnic Tibetan population of Western China, over two million people. However, many of them are now nomadic or, in reality, semi-nomadic in name only. In October 2008, the Xinhua news agency, the official press agency of the Chinese state, [confirmed plans for the resettlement of almost 500,000 herder families in Sichuan province](#) under the pretext of ecological protection. The program is one of many such sedentary programs being implemented by the central state in the provinces of Sichuan, Qinghai (Amdo and Kham in Tibetan) and in the Tibetan Autonomous Region (Robin: 2009, Bauer: 2010). Many pastoralist families have been forcibly relocated and housed into concrete ghettos dubbed '[Socialist New Villages](#)' under a controversial resettlement scheme enacted by the Chinese government in 2003 ([Ecological migration](#)). Once self-sufficient and self-sustaining, settled nomads are now being methodically reduced to marginal poverty, a fate shared with other sedentarised nomads⁴. As a

⁴ See Robin, Françoise (2009) *The "Socialist New Villages" in the Tibetan Autonomous Region: Reshaping the rural landscape and controlling its inhabitants*. Publisher: French Centre for Research on Contemporary China. [online] available from: <http://chinaperspectives.revues.org>. In discussing the forced sedentarisation of Tibetan nomads, Robin observes that settled nomads do not have the social or educational capacity to make the transition to an urban market economy. At best, they eke out a living in the informal economy; at worst, they suffer serious socio-economic marginalisation and deprivation. Consequently, newly settled nomads, used to a rural free-style life, now face marginalisation in semi-urban and peri-urban environments. Notably, Robin illustrates a comparison with the 'villagisation' program of pastoralist nomads by the Tanzanian government in the 1970s. In this case, he states, similar policies of settling nomadic pastoralists ended in abject failure because of high social and human costs, and the rapid disruptions of the traditional way of life. A similar process of compulsory 'villagisation' of pastoralists continues today in Ethiopia. HRW (2012: p.3), reporting on compulsory resettlement in October and November 2011, give an account of how it is being implemented: *'The first round of forced relocations occurred at the worst possible time of year in October and November, just as villagers were preparing to harvest their maize crops. The land in the new villages is also often dry and of poor quality. Despite government pledges, the land near the new villages still needs to be cleared while food and agricultural assistance—seeds, fertilizers, tools, and training—are not provided. As such, some of the relocated populations have faced hunger and even starvation. Residents may walk back to their old villages where there is*

result, the customs, social institutions, spiritual traditions, farming systems, and livelihoods of Tibet's pastoralists—the entire "cultural universe"—is now under serious threat. This threat is shared with many of the world's nomadic and indigenous peoples.

In their 2007 report on the forcible relocation of Tibetan herders, Human Rights Watch quoted Du Ping, director of the Western Development Program, stating that 700,000 nomads had been resettled since 2000. The report 'No One Has The Liberty To Refuse',⁵ citing official media accounts, gives a specific example stating that ecological migration policies in the three rivers area of Qinghai have been responsible for resettling 28,000 nomads.

It is difficult to fully convey the extent of the threat being posed by the Chinese government's intensive modernisation plans for Tibetan nomads and their lands. China is actively constructing a discourse of exclusion of the nomads as being outside the acceptable norm in its discourse of industrial modernisation. [The government alleges that nomads are destroying the grasslands by livestock overgrazing, and they consequently have been labelled as a 'deviant' group damaging the grassland eco-system](#). The People's Republic of China's controversial 'ecological migration' scheme is well under way⁶. Foggin (2007) asserts that the

still access to water and food, though returning to their old fields they have found crops destroyed by baboons and rats'. See 'Waiting Here for Death': Displacement and 'Villagisation' in Ethiopia's Gambella Region. www.hrw.org/sites/default/files/.../ethiopia0112webwcover_0.pdf

⁵ HRW's 2007 report documents the Chinese government's human rights violations of Tibetan nomads, drawing on interviews conducted between July 2004 and December 2006 with some 150 Tibetans from the areas directly affected. See, <http://www.hrw.org/reports/2007/06/10/no-one-has-liberty-refuse>

⁶ See, Yeh, Emily T. 2003. *Tibetan range wars: Spatial politics and authority on the grasslands of Amdo*. *Development and Change* 34 (3), Institute of Social Studies, Blackwell Publishing, Oxford, UK and USA, <http://www.case.edu/affil/tibet/booksAndPapers/yeh.tibetan.range.wars.pdf>. The significance of The Ecological Migration Program (EMP) as state policy in settling the nomads cannot be underestimated. The program has been the most contentious of all the environmental policies launched by Beijing to mitigate the effects of environmental degradation and thus alleviate desertification on China's vast grassland ecosystems. Approximately 2.64 million square kilometres of land in China has already been consumed by desertification, nearly one-third of its landmass.

policy of ecological migration (Ch., *shengtai yimin*) seeks to resettle nomads into newly built socialist villages, [causing major social consequences for a historically mobile people](#). China is now attempting to engineer an entire rangeland ecosystem (the Tibetan rangeland covers 1.65 million km, one quarter of China's total area) just as it tries to engineer an entire economy by central command. The vast Tibetan plateau, home to the nomadic population for thousands of years, is undergoing rapid infrastructural development or "[scientific socialism](#)," potentially resulting in environmental destruction.

The nomadic way of life is being consciously and deliberately eroded by state policies. The 2003 implementation of the 'Restore Rangeland to Grassland' policy (Ch., *tuimu huancao*) and the ecological migration program is forcing tens of thousands of nomads to sedentarise and assimilate further into settled society ([uncsd2012.org](#), Bauer: 2010, Foggin: 2007, Foggin: 2008 Miller: 2008). The consequences of the PRC's compulsory sedentary and assimilationist policies for the Nomads are sadly predictable: dislocation, loss of identity and community, alcoholism, unemployment and more.

There is also a uniquely tragic element to Tibetan nomadic compulsory resettlement. Since 2009, [at least one hundred Tibetans \(predominately in rural Amdo and Kham\)](#) have burned themselves to death as a form of socio-political protest against religious and cultural repression. Although difficult to verify accurately due to reporting restrictions and sensitive security issues within Tibetan regions, many seem to come from a nomadic background

The Chinese government blames the herders in the Tibetan regions for over-grazing on the pastures. Nomadic herders in Inner Mongolia and Xinjiang have also been held responsible for the phenomenon (the 'tragedy of the commons' argument has been used to blame pastoralists for 'irrational' herding practices). The government claims the phenomenon is primarily responsible for desertification of the country's grasslands. Critics, however, regard the program as a top-down incremental instrument to justify the settling of nomads. Yeh, drawing upon field work conducted when the program was initiated in 2003, argues that there is a 'pervasive discourse', propagated by government officials and state media, blaming the 'selfish' and 'irrational' herding practices of the nomads exclusively for grassland degradation. Yeh concludes that the rationale for the EMP was explicitly promulgated by state institutions: essentially, for the environmental future of the grasslands, the nomads must be settled.

(as evidenced [here and here](#)). How much dispossession and resettlement play in these wider protests against Chinese rule is difficult to fully discern for the above reasons, but at the very least a tentative causal link can be advanced between both socio-political phenomena. Religion, culture and identity are inextricably linked in both settled and nomadic Tibetan society; the motives for self-immolation as an extreme individual protest against perceived injustice are no less entangled. However, physical dispossession of land and loss of nomadic cultural identity may well feed into the decision to burn one's body as a form of political dissent. In the context of nomadic Buddhist culture, the act is not just an individual political protest against repression, but ultimately enacted as self-sacrifice for all the community. Understood in these terms, it is not a passive act of desperation but rather an act of non-violent and proactive solidarity in opposition to oppressive state policies.

Rigid lines of demarcation between the individual and the community, or indeed between the body and the soul do not exist in the Tibetan Buddhist cosmos. Likewise, these ways of thinking about and understanding the world are diametrically opposed to the processes of economic and social modernity sweeping over the Tibetan plateau. Traditional societies are under threat worldwide. Indigenous culture, a rich source of knowledge and cultural diversity, is threatened by encroaching economic globalization in the form of state intervention, cultural homogenisation, and increasing pressure from big business interests. Land, rivers, forests, and jungles are being expropriated by a rapacious economic system bent on acquisition and domination (Harvey: 2002, Chomsky: 2012). Chomsky sums it up succinctly in his discussion the treatment of traditional peoples in the Americas: '[The] treatment of the indigenous people-all those massacres and the oppression of the indigenous peoples that began in 1492 and continues to this day. All one needs to do is look at what is taking place in Guatemala, or in the reservations of [the] Western United States, or throughout the hemisphere to realize that persecution and repression continues under our noses' (Chomsky: 1999).

Linkages between state sponsored development and private investment capital causing the destruction of traditional lands is not new. Broken promises made to America's native peoples are a testimony to this historical reality. The Indian removal act of May 1830 explicitly authorised the U.S. president of the period, Andrew Jackson (1829-1837) to negotiate treaties that would resettle, by force if necessary, thousands of

Cherokees to largely unclaimed territories west of the Mississippi River (Ehle: 1988). The act was a pretext for land grabbing by white settlers and signalled expansionist intent by the government.

The act argued that "no state could achieve proper culture, civilization, and progress, as long as Indians remained within its boundaries." (Marchand: 2010). The act, and other punitive acts subsequently passed, has had egregious ongoing consequences for Native Americans. The social, cultural and health costs for the descendants of indigenous peoples are still evident today (Seale et al: 2002).

A further contemporary illustration concerns the proposed removal of approximately 30,000 nomadic Bedouins from the Negev desert in southern Israel. Gordon (2012) contends that the forcible removal of the Bedouin 'ultimately [will] result in an end to their rural way of life and would ultimately deprive them of their livelihood and land rights'. The dispossession of the Negev Bedouin is the act of a government clearly determined to rid itself of its 'problematic' nomadic population. Yet again, a mobile people do not conform to normative notions of progress and development. Effectively, [Gordon argues that the bulldozing of the Bedouin's villages is tantamount to ethnic cleansing](#). Both examples are wholly consistent with the exercising of disciplinary and coercive state policies toward traditional peoples, and indicative of the troubled relationship between the two. Both examples, and many others, unfortunately demonstrate the use of the law as a disciplinary, and often vindictive, force.

As Foucault observed, each society has its regimes of truth—the normative and prescriptive power of the law. To back up its discourse of progress and development, it uses technologies of surveillance and control and, if ultimately necessary, violent coercive action (see Briggs: 2002, Graaf: 2006).

The relationship of states towards their 'recalcitrant' nomad populations is one of conflicting and asymmetrical values. For example, common property regimes of pasturelands by nomadic peoples are based on thousands of years adaptive risk management against statist policies imposing a neo-liberal model of individualism (Isom: 2009, Dienes: 1975). Nomadic populations have been characterised as unproductive and, therefore, standing in the way of industrial advancement.

Daes (2004) succinctly identifies the indigenous worldview in relation to economic globalisation: "In many ways, indigenous peoples challenge the fundamental assumptions of globalisation. They do not accept the assumption that humanity will

benefit from the construction of a world culture of consumerism." Perhaps Daes' observations contain an overarching assumption regarding the aspirations and value systems of the world's 370 million indigenous people. Yet, given what is widely known and understood about indigenous cultural and spiritual worldviews, it is largely correct.

Consequently, it is unsurprising that traditional peoples have been historically ambivalent in regard to their 'citizenship' of the state, citizenship which is often second class at best. As a third example of this historic trend, consider the Chinese government's dismissal of the Tibetan Nomadic pastoralists as "wanderers in the wilderness" or, even worse, as parasites mismanaging the environment and impeding socioeconomic progress and development (Lafitte 2009a: 21-40, Foggin: 2008). As Hu Jintao, the current Chinese Prime Minister, asserted: [development is the foundation of resolving Tibet's problems](#).

Therefore, the salient question is, and always has been: whose development? And ultimately whose problems, and ambitions, are being addressed by development?

Xibu da Kaifa: "Open up the West" Development Program

Nomads are human beings -- they also want to maximize their interest," said Tanzen Lhundup of the Beijing-based China Tibetology Research Center. "It's impossible for them to protect the environment voluntarily. So they need guidance and control. In my opinion, the first step is control (Maureen Fan Washington Post: 2008)

Stability and Development are the key tropes used by the Chinese communist party in its efforts to transform the western area of the country. Xibu Da Kaifa (OECD: 2002) is an economic development strategy, launched in 1999, that aims to transform the Tibetan plateau. According to World Bank figures (Yao, p.231: 2009), approximately 220,000 kilometres of roads were built between 2000 and 2005 alone, of which almost 7,000 kilometres are major highways. Over 5,000 kilometres of railways were built during the same period and ten airports were, or are in the process of being, constructed.

For such rapid economic expansion to occur in a relatively short space of time, Tibet's nomads had to be corralled, managed, and ultimately controlled. There is a historical precedence to this as previously mentioned: Native Americans in the 19th century were also viewed as impediments to economic progress. Consequently, much of their culture and "way of being on the land" was lost and

destroyed forever. To add an unfortunate parallel with the Tibetan pastoralists' compelling narrative of today, it was the railway system, the ultimate symbol of progressive modernity at the time, which finally broke Native American resistance and autonomy. [In 2006, Hu Jintao opened the highest railway in the world from Qinghai to Lhasa. In its wake, tens of thousands of Han Chinese migrants have arrived in search of opportunities.](#)

The effects of such accelerated development are manifold. For instance, nomads have used bartering as a form of economic exchange for thousands of years. The Chinese authorities have been actively discouraging the practice and imposed a paper money system to regularise the economy. Tibetan nomads, lacking formal education and skills, are subsequently at a disadvantage as they are compelled to discard their traditions and compete with others in a [constructed capitalist economy](#).

In what can only be described as a tragic ironic twist, Tibetan nomads have been blamed by Chinese scientists for the desertification of the region's mountain grasslands (Lafitte 2009b: 21-40, [Watts, J. The Guardian: 2010](#)). Grassland is being eroded, according to the authorities, by overgrazing and other traditional nomadic practices. Under the pretext of ecological preservation, Beijing's resettlement scheme of Tibetan Nomads is an attempt to "restore and revitalize" the local ecology, and thus improve living standards (Lafitte: 2011).

However, according to the Tibetan government-in-exile, the real motive of the scheme is not environmental restoration (Tibet.net: 2012), but rather to clear the land for mineral extraction—mainly zinc and lead—and forcibly move nomads into purpose-built housing where they can be more easily monitored and controlled by local authorities (Bauer: 2005, Bauer: 2010, Lafitte: 2011).

Nomads, stewards and protectors of the land for thousands of years, are now, according to Beijing, the primary problem.

International Human Rights and the Problem of Institutional Enforcement

Tibetan pastoral nomads, like many traditional peoples, have been somewhat invisible to the gaze and control of the state, mostly for geographical and linguistic reasons. In many ways, this has served them well. In an increasingly globalised world, however, where technological advances in communications and surveillance are increasingly being utilised by powerful states, this relative invisibility is no longer possible. The PRC's unique

hybrid of [state capitalism and socialist modernization](#), with all its complex ideological undertones, is reaching even the most isolated regions in the west of the country.

International human rights instruments' attempts to safeguard the rights and livelihoods of traditional peoples include the ILO's 1989 convention on Indigenous and Tribal Peoples, and the 2007 UN Declaration on the Rights of Indigenous Peoples. At their core, human rights instruments are a set of prescriptive rules that seek to regulate state conduct – in the Tibetan case, the conduct of the Chinese state towards a vulnerable nomadic minority. China has not ratified the ILO convention, but it has voted in favour of the 2007 convention (un.org: 2007). China has also ratified other human rights treaties related to the protection of indigenous issues: namely, the 1992 convention on Biological Diversity and the 2001 declaration on Cultural Diversity. All of these conventions have codified protection mechanisms and provisions for indigenous groups.

Moreover, Article Four of China's Constitution states: "All nationalities in the People's Republic of China are equal"... [and] "The people of all nationalities have the freedom to use and develop their own spoken and written languages, and to preserve or reform their own ways and customs" (english.people.com.cn).

[China also ratified](#) the International Covenant on Economic, Social and Cultural rights in 2001 (ICESCR: 1966). By ratifying and becoming a 'state party' to the convention, the PRC voluntarily agreed to the conventions' [overarching obligation of 'progressively realizing' ESC rights](#). The articles of the convention are based on the universal principles of non-discrimination and equality.

Article 5.1 expressly states that: "Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights or freedoms recognized herein".

In its ratification of the treaty, China has accepted the obligation, at a very minimum, to develop and implement policies that do not negatively impact the enjoyment of those rights protected in the convention. In their 2007 report on the forcible relocation of Tibetan nomads, Human Rights Watch asserted that China has not consulted sufficiently with pastoral nomads in the process of resettlement and relocation, nor has there been any effective participation in the resettlement

process, access to legal remedies or adequate compensation (hrw.org: 2007).

The evidence garnered by Human Rights Watch confirms that China has violated numerous ICESCR obligations. The 2007 UN Declaration on the Rights of Indigenous Peoples, which China voted in favour of, provides even stronger evidence for multiple human rights violations in Tibet.

Article 8.1 of the UN Indigenous Peoples declaration states: 'Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture'. In addition, 8.2 states, 'States shall provide effective mechanisms for prevention of, and redress for: (b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources; and (c) Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights'.

The United Nation's Permanent Forum on Indigenous Issues has attempted to establish and propagate customary legal norms. However, as a UN institution, the permanent forum works within a particular framework of constraints and inherent institutional limitations. [China, with its growing commercial, economic, diplomatic, and political power and influence, is most definitely a powerful influence.](#)

Furthermore, the global frameworks and mechanisms for decision-making, implementation and enforcement of human rights norms, in relation to indigenous peoples—for example the right to development, right to due process, and the right not to be arbitrarily displaced—are generally not legally binding; they are normative obligations (Marks: 2004, Salomon & Sengupta: 2003).

They do, however, posit certain principles premised on international legal norms: non-discrimination, participation, state accountability and equality. The PRC must be made to comply if international law and human rights is to mean anything. This will only occur if the 'noise level' is high enough about what they are inflicting upon Tibetan nomad's livelihoods and culture. More importantly, the complying-inducing mechanisms put in place by the international community must be robust enough for powerful states to take notice (Franck: 1988).

There are other actors who have a role to play in developing global policy in order to mitigate the myriad challenges facing traditional peoples, and to produce more substantive outcomes. Namely, global civil society, international and domestic

NGO's, the IMF and the World Bank, business interests ([the international extractive industry](#) is one of the more obvious examples). Crucially, empowered indigenous groups themselves must play an active role. On a positive note, much of this is already happening: the 2007 Indigenous Peoples declaration is a testimony to this.

However, there are still urgent questions of justiciability and institutional enforcement in reference to the development process (Rehman: 2003). This is particularly significant, for the traditional homelands and livelihoods of the world's indigenous as they resist the 'inevitability' of state sponsored economic development and the juggernaut of globalisation. Development-based displacement is a key area of concern for Tibetan pastoralists as this article argues.

Moreover, in regards to the relative powerlessness of the Tibetan herder's story, the PRC's authoritarian model of development has a powerful [ideological function](#): it sets the agenda, justifies policies, and normalises a specific form of top-down neo-liberal socio-economic progress.

[More globally, as pointed out by Doyle & Gilbert \(2011\), the current neo-liberal paradigm of 'aggressive' development utterly fails to respect the indigenous cultural worldview:](#) 'This interpretation of development is premised on the idea that traditional economies and ways of life, such as nomadic hunter-gathering or subsistence farming, are outdated forms of development, which should give way to more 'advanced' industrialised approaches to development'.

Yet despite being denigrated for centuries as backward and peripheral, indigenous cultural and social practices have much to offer in richness and vitality. In 1995, economist and Nobel laureate Joseph Stiglitz proposed that there are at least five predominant global goods, one of which is Knowledge. A prime example is global indigenous knowledge. Global indigenous knowledge is a unique public good with irreplaceable attributes. It is by definition, holistic, dynamic and adaptive, and culture-and context-specific.

Indigenous Knowledge (IK) encompasses not only cultural diversity such as language—in China alone there are 135 languages—but also biological diversity, and much of IK's base is rooted in plants, grasslands and forests. IK intrinsically links these diversities in ways we are only beginning to understand. Malfi's (2005) theoretical conception of interlinked diversities and Harmon's (2002) notion of geographical overlap-connecting cultural, biological and linguistic diversity are both attempts

to understand promote the concept of indigenous global knowledge within a mutually inclusive global commons theory.

[Global commons theory](#) proposes a notion of material commons—for example, minerals and the stratosphere; genetic and natural commons; oceans and pastures—and a social and cultural commons, comprising of indigenous knowledge, the internet and education.

Indigenous knowledge is in and of itself a collective global public good and the mechanisms to enable it to flourish exist already, albeit lacking in enforcement and influence. Global intellectual property rights (patents, copyrights, trademarks) and questions of "[ownership](#)" of [indigenous knowledge](#) exemplify this.

IK urgently needs the full and transparent protection of international law if it is to continue as a unique component of a shared global heritage. Sen (1998) asserts that globalisation is not a new phenomenon, citing the spread of Indian Buddhism into other parts of Asia, and European imperialism in the 18th and 19th century as earlier de facto forms of cultural and economic globalisation. Sen has long propagated a rights-based approach to development, where human rights are at the centre of the process, not on the margins. In a similar vein, international human rights law must be at the core of intellectual property rights in respect to indigenous knowledge. On one hand is the assertion that International law is a function of the political and corporate power of the West (binding laws on trade and investment, for instance, are opaque, biased and largely unaccountable)⁷. On the other hand, lawyers and politicians alike claim that international law, which incorporates within it international human rights law, provides the framework upon which international development, and international relations can and should rest. If the latter assertion is correct, then the full weight of international law needs to be brought to bear. Global market relations must work positively in

⁷ See generally Philippe Sands, *Lawless world* (2005). Sands argues that the body of law covering overseas investment and trade has been deliberately constructed by the West since the 1950s and 1960s, during the period of decolonisation, as a neo-colonial mechanism of control. The newly emergent states in Africa and Asia had little power to influence the process then and arguably even less now. Trade and investment law is largely biased in favour of Western states and multinationals, the nature in which those laws are devised and implemented are secretive in nature and more often than not hidden in a labyrinth of impenetrable legalese. Biotechnology companies for example take full advantage in regards to IK. Biogenetic resources once open to all, within the spiritual and philosophical indigenous universe, have now been appropriated and commoditised, particularly since the advent of globalisation in the 1990s.

favour of IK for the benefit of traditional peoples. International law, rather than being skewed in favour of multinational companies, [must show itself to be a protector of ancient knowledge and the systems that nourish it, and not just an enabling mechanism of corporate profit.](#)

[Cultural Survival](#), an organization dedicated to defending the human rights of traditional peoples, states that everyday an indigenous homeland, similar to the Tibetan nomad's homeland, will be strip-mined, clear-cut, or flooded by a dam. Caruso et al (2003) argue that resource exploitation from mining, gas and oil companies is one of the greatest threats facing indigenous people's territories and lands. Citing the Inter American commission on Human Rights 2001 report on Paraguay, the report stated: '[t]he environment is being destroyed by ranching, farming, and logging concerns, who reduce [indigenous peoples] traditional capacities and strategies for food and economic activity'. Likewise, Bebbington (2012) further illustrates the exploitation of indigenous homelands in Bolivia, where the Guarani have staged a battle for their ancestral lands with international extractive companies, the local press and the central state. The cash-strapped Bolivian government, aware of the potential wealth of gas exploration in a huge gas field (the Campo Margarita situated in the Chaco forest), have now identified the indigenous land as a 'national public interest,' paving the way for potential industrial development. Both accounts resonate strongly with the contemporary narrative of displacement and decline of Tibetan nomads.

Furthermore, in reference to the European colonial powers attitude regarding indigenous peoples in the early and mid-parts of the 20th century, Doyle & Gilbert affirm that: 'The term 'civilization' has been replaced by 'development' as justification for appropriating their lands and resources with devastating impacts to their cultures' (p. 226, 2011). Fast forward to today, and consider the PRC's sedentary and enclosure policies imposed on the pastoralist herders of the Tibetan plateau and the other cases discussed here, it would seem not much has changed. Finally, to illustrate a further irony, the People's Republic of China, a communist regime since 1949, is actively promoting the disintegration of a mobile people who have practiced a unique form of primitive communism for centuries, and in the process, ending thousands of years of unique social and cultural practices.

[All of the above discussion is of particular relevance to pastoral nomadism on the Tibetan plateau. Pastoralism is a complex rangeland](#)

[production system that has adapted to its wider ecological environment. In the Tibetan context, it is a system of subsistence agriculture that has adapted to survive on the Tibetan grasslands for at least four thousand years.](#) Not unlike other traditional and Indigenous peoples, fully aware of their dependence on the land for nourishment and survival, Tibetan nomads realised through experience that they had no option but to learn sustainable methods that would not diminish valuable resources; the stark choice being adapt or perish. This framework of sustainability and respect for the land is typical of the worldview of traditional peoples. The Raramuri of Mexico, for instance, have sustained themselves for generations using 350 different local plant species as medicines and food, albeit with a relatively small population base. Nevertheless the principle of mutual respect and survival still holds between the resource base and the people (Pilgrim: 2006).

The environmental benefit of the practice of seasonal migration of livestock on pastures in Tibet has been well documented. Mobile herd management strategies, for instance, have managed to sustain the resource base for thousands of years (Goldstein: 1990, Miller: 1998, Foggin: 2008). The socio-ecological model of moving herds back and forward between summer, spring and winter pastures helps to sustain grasslands for the future by allowing for periods of prolonged regeneration. Sustaining the grasslands, the above authors argue, is an intrinsic part of nomadic culture woven into their pastoral, spiritual, and social systems of self-governance. Regrettably, China's top-down, prescriptive and authoritarian development policies do not recognise these dynamic and ecologically adaptive systems, preferring instead to implement often reactive and contradictory environmental policies⁸. Miller (1998) emphasises this point, noting that Tibetan nomads have been left out of the development process by Chinese policy makers. Consequently, their animal husbandry skills and ecological knowledge have

⁸ Lafitte (2009) argues that the agricultural development strategies of the Great Leap Forward, and the even harsher communisation policies emanating from the 1966-1976 Cultural Revolution, have resulted in the destruction of grasslands and forests on the Tibetan plateau. Nomads were forced to shift from subsistence pastoralism on the grasslands to building irrigation systems and converting to unsuitable crop production. The term used by the Chinese for the conversion of pasture to farmland was 'reclamation', suggesting, Lafitte contends, that grasslands have been misunderstood as a self-contained eco-system best suited to modes of pastoral production and that they have been wasted by 'lazy' and 'unproductive' nomadic pastoralists in the eyes of Chinese development experts.

largely been ignored, to the detriment of the region's fragile ecosystems. Shen et al. (2012) argue that Tibetan nomads have much to offer in terms of environmental conservation by way of the alternative practices and knowledge mentioned above. In addition, they also point out that the cultural values of Buddhist nomads do not just see the rangelands as a commodity to be exploited; furthermore, the region's wildlife has been conserved for millennia by these values. This holistic worldview, they argue, should be incorporated into environmental programs of scientific conservation initiated by the Chinese state. Likewise, Tibetan nomads, rather than being resettled and hence marginalised by huge state programs, such as the compulsory migration programs of recent years, should work with scientists and policy makers in both developing and implementing ecologically sound programs.

On a global scale, incorporating traditional peoples' knowledge and practices into environmental and social policy has begun, albeit tentatively. For example, new evidence suggests that mobile pastoralism in parts of Africa, long since thought to be in crisis and decline, [is finding not only new ways to access markets and thrive due to progressive development programs by government policy makers and aid agencies.](#) Also, in an innovative move in 2008, Ecuador⁹ enshrined in its constitution the protection of nature itself: 'Pachamama', the rights of nature. The ecosystem—animals, rivers, trees—now have legal rights in the biologically diverse nation. In essence, rather than being property under law, nature, and all the life forms within it, has the '*right to exist, persist, maintain and regenerate its vital cycles*'. The rights of Tibetan nomads and the Tibetan ecosystem to be treated similarly may seem idealistic, but, given time, perhaps not impossible.

Conclusions

Unfortunately, the Tibetan pastoralist's plight and its characteristics are being replicated worldwide; amongst, for instance, the Indigenous and traditional peoples of the [Amazon](#), Malaysia, Cambodia, Guatemala and Botswana and many more. The Tibetan pastoral nomads' plight encapsulates the pressing issues faced by traditional mobile peoples in the 21st century: compulsory sedentarisation, development without consent, assimilation, theft of collective knowledge, and enclosure of traditional grazing grounds. The displacement and resettlement of Tibet's nomads acts as an example for all indigenous peoples. It is an urgent and compelling narrative of loss of cultural and biological diversity. In effect, one set of

⁹ Approximately 90% of Ecuadorians are of full or part indigenous descent.

losses is intrinsically connected to the other. Unless global policymakers act by strengthening the mechanisms of state compliance in international law, then the trend of decline will surely continue for traditional peoples.

International human rights law is in danger of becoming ineffective and hollow, not least to the perceptions of displaced traditional peoples. For Tibetan nomads, the implications of China not complying with or acknowledging international agreements will signal an end to their culture. They must also challenge the power and influence of the extractive multinationals in international trade talks in deciding preferential and advantageous outcomes for themselves, to the detriment of the planet's 350 million indigenous peoples. Displacement and land dispossession of traditional peoples is almost always a pretext for industrial development and resource exploitation. Rarely are traditional peoples consulted in development projects, even rarer are their interests considered over that of corporate interests.

Finally, global civil society must value and cherish the 'other ways' of indigenous peoples that bring rich diversity to an increasingly homogenised world. IK is a unique public good with global dimensions. However, its long term survival can only be guaranteed by protection within a fortified global human rights framework, and only if the mechanisms of protection are seriously strengthened, and henceforth respected by all global actors.

China's policies of resettlement, sedentarisation and assimilation are flagrant violations of Tibetan nomads' human rights, rights which are enshrined in the international instruments that China has ratified, namely: the ICESCR, the 1992 UN Convention on Biodiversity, and the Indigenous Peoples Declaration of 2007. Non-compliance by powerful states, not only China, is inexorably leading to indigenous decline. If the current decline continues, the loss of cultural and biological diversity—language, medicine, plant life, agricultural and livestock management, spiritual traditions and much more—is almost incalculable.

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