

Crossborder indigenous mobility in the context of the Venezuelan migration flow in Brazil. A Human Rights-Based Approach to the Pemon case

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Abstract—Clashes between native communities and Venezuela’s Army on the border with Brazil have caused a displacement of pemon in Brazilian indigenous territories where they share ethnic and family ties. The solutions so far put forward by the institutions have not been sufficient to prevent the development of human rights violations, and, on the contrary, have often been a source of internal destabilization. As of today, an alternative to the case of indigenous peoples divided by national borders is needed, as it is the duty of governments to respect their territorial autonomy and to foster the development of a safe and prosperous environment. However, legislation affecting Cross-border indigenous groups is still unclear today. A human rights-based approach can be a starting point but it is of paramount importance for indigenous people to be empowered to coordinate a dialogue between themselves, international bodies and national governments. — *Non-Governmental organizations, Indigenous peoples, Borders, Migrants, Human rights.*

Abstract—Gli scontri tra alcune comunità indigene e l’esercito del Venezuela al confine con il Brasile hanno causato lo spostamento dei Pemon nei territori indigeni brasiliani, dove condividono legami etnici e familiari. Le soluzioni proposte finora dalle istituzioni non sono state sufficienti a prevenire lo sviluppo di violazioni dei diritti umani e, al contrario, spesso sono state una fonte di destabilizzazione interna. Ad oggi, è necessaria un’alternativa per il caso delle popolazioni indigene divise dalle frontiere nazionali, poiché è dovere dei governi rispettare la loro autonomia territoriale e promuovere lo sviluppo di un ambiente sicuro e prospero. Tuttavia, la legislazione che riguarda i gruppi indigeni transfrontalieri è ancora oggi poco chiara. Un approccio basato sui diritti umani può essere un punto di partenza, ma è di fondamentale importanza che i popoli indigeni siano in grado di coordinare un dialogo tra di loro, le organizzazioni internazionali e i governi nazionali. — *Organizzazioni non-governative, Popoli indigeni, Frontiere, Migranti, Diritti umani.*

INTRODUCTION

The last five years of the Venezuelan migration crisis have put Brazil to the test. Despite this, the Brazilian government has been able to take efficient measures towards the migrant population as evidenced by the logistical support of the army and the improvement of re-

ception strategies, such as the interiorization of migrants and refugees, which allows for an organized and faster documentation process; however, national institutions and non-governmental organizations are still far from building lasting solutions to integration.

This article will discuss the specific situation of a

cross-border indigenous group, the indigenous Pemon people whose territories are divided by Brazil, the Bolivarian Republic of Venezuela and Guyana (even though for the purpose of the article Guyana will be excluded from the discussion). According to the international treaties, indigenous people living divided by political borders are protected by three sets of norms: Universal rights, Migrant rights and Indigenous rights. Whether migration is caused by conflict or not, Pemon move from one indigenous community to another according to their cultural patterns (Andrello 1993; Thomas 1982; Rivière 1984; Butt Colson 1985), regardless of whether this leads them to cross the Venezuelan or the Brazilian border. One of the main challenges faced by Brazilian institutions in recent years has been assisting the unexpected mass migration of Pemon from Venezuela, where they have been victims of violent conflicts in their indigenous territories, thus abandoning the communities in Venezuela for longer times.

Forced to settle with their families within the limits of Brazil, the sudden increase in population caused conflicts over lack of resources. In light of this, Brazilian institutions, national indigenous organizations and otherwise, consider these groups of people as migrants, even though they still live on their indigenous territory. The lack of legal recognition of the status of transfrontier indigenous people and circular migration are the main challenges for indigenous lands and peoples who live divided by borders (Giraldo 2011; Giraldo 2016; Mondardo 2021; Gardner and Warren 2023). If not properly addressed this could generate conflicts and inequalities.

The migration crisis in northern Brazil has led the government and humanitarian organizations to work together to respond efficiently and in a coordinated manner to the humanitarian crisis that has led millions of Venezuelans to leave their country. Seeking possible solutions to integration, the protection of human rights is the common goal.

The migration of cross-border indigenous people brought to attention the need to discuss their situation after a major crisis affected them in their territory in Venezuela and has pushed them to move to Brazil in the same indigenous territory but on a different national soil.

First, I will explain who they are and what defines indigenous transboundaries groups. Secondly, I will discuss some examples of humanitarian assistance to the Pemon population and to what extent the Brazilian government and the United Nations are trying to address the indigenous migration. Based on my experience in the field, legal obstacles could lead to possible human rights

threats with regard to the Pemon. Although some help has been provided, the institutions have not yet managed to overcome several issues, therefore many challenges are yet to be addressed. Ultimately, I will suggest a way for institutions to work together in an orderly way within a common ground to ensure a safe and prosperous environment.

FIELDWORK AND METHODOLOGICAL APPROACHES

This paper stems from fieldwork conducted in the extreme north of Roraima, precisely in the São Marcos Indigenous territory at the frontier with Venezuela and the Pacaraima Mountains. Between September 2021 and June 2022, I spent time living with indigenous Taurepang communities, especially Sorocaima and Tarau Paru, following through prior consultations with the community chiefs. I also made visits to Sakao Mota and Bananal in Brazil and Maurak across the border into Venezuela. While all these communities share ethnic and kinship ties, some individuals in the Brazilian villages are displaced from the communities in Venezuela and have acquired refugee status. As I later came to understand, the Taurepang/Pemon Territories extends over and through the frontier, meaning that the ancestral land is divided by colonial and now national borders.

Ethnography was employed as a field technique to provide an in-depth, qualitative description of the observations made through participation in everyday life, including both sedentary activities and traveling between communities. Although I interviewed people who claimed to be native of one community over the other, narrating the travels of their common ancestor as the myth of their specific attachment to that community or the other, I also participated in travels both by car and on foot with some people who were born outside and are now considered part of that community after the acceptance of their relatives, friends, or even individuals with whom they share distant kin relations. From these two perspectives, I observed mainly two important issues:

-First, the “Natives” of a community recount the history of their common blood kin, emphasizing the travel of the first person who came to stabilize in that specific piece of land and built a new village, while the “outsiders” privilege the mobile character as a cultural dimension to explain their mobility.

-Second, these two perspectives can be seen as the result of a diplomatic encounter between two or more people from different communities who are trying to find a common ground to establish their cultural and kin ties over

and despite the national borders.

The result of these observations lead me to establish that for the Pemon the borders are not just and only places of disciplinary practices and violence but also as what Gardner and Warren (2023) recalls: “spaces of creative production. . . leading to a new constellation of practices, alliances and knowledges”. This, in turn:

Reveal the complex processes cross-border Indigenous communities engage in or are subjected to. These include both trans-border solidarity as well as fragmentation, pushing forth a rethinking of the nation-state. This points to the challenges anyone faces when attempting to define Indigenous people by traits, such as their historic mobility across borders or their urban or rural locations of residence. These traits have been used by nation-states, in an ethno-normative disposition, to define, contain and manage ‘their’ Indigenous populations (Gardner and Warren 2023).

For example, Before seeking refuge in Sorocaima, F. sporadically visited his father, but frequent reciprocal visits between the two communities (Kumarakapay in Venezuela and Sorocaima in Brazil) were made to strengthen relationships beyond borders. Religious visits or even work periods connected the two settlements: “Formerly, they visited between villages to not forget indigenous culture,” or “We have never been migrants; my grandparents came here.” These phrases are often repeated by people who recently settled in Brazil following the conflict. Even Sorocaima residents tell stories of journeys on foot to San Francisco de Yuruani and Parai-tepui.

Relationships between settlements mainly occur through kinship logics, contributing to and determining the Taurepang’s pathways as well as the logic of the settlements (their proximity). The circulation of families across borders is not a new phenomenon: “Despite the emergency context in which these moves took place, the Taurepang on the Brazilian side’s acceptance of the Pemon continues along the lines of kinship memories and religion” (Moreira and Torelly 2020: 59). The emergency that arose was partially absorbed through kinship relations in the communities where they were welcomed; however, internal divisions resulting from new forms of coexistence have contributed to suspicions, accusations, and conflicts. Migration and migratory circulation are vital processes for the Taurepang, challenging forms of integration and assimilation into national society.

During a subsequent phase, I delved into legal research, opting for a human rights-based approach to address the issue at hand. Consequently, I scrutinized both

the national and international legal frameworks pertaining to indigenous peoples, with a particular focus on the migration of indigenous groups. The upcoming chapters will elucidate the criteria delineating indigenous cross-border people under international laws. This stands in stark contrast to the anthropological perspective.

THE HARBINGERS OF THE VENEZUELAN MIGRATION CRISIS

The Venezuelan crisis can be and has been described as a multidimensional one (Bull and Rosales 2020). While scholars and analysts exhibit some divergence regarding the root causes, primarily debating between the disruptive influence of external actors and the mismanagement by the autocratic government, the predominant perspectives consistently emphasize the economic and political factors that precipitated the nation’s collapse.

Politically, the unraveling of Venezuela commenced with a gradual shift from democracy to a hybrid regime under Chávez in the early 2000s. This transition culminated in a full-fledged autocracy following the 2013 presidential election of Maduro after Chávez’s death (Bull and Rosales 2020). Both leaders, affiliated with the PSUV party¹, incrementally centralized power, exerting control over vital institutions such as the Judiciary, Electoral bodies, and the Supreme Court, eroding checks and balances systems in the process.

On a different front, Venezuela grapples with an “inflammable economy” (Morillo Ramos and Roekel 2022). This term encapsulates the nation’s heavy reliance on oil production and exports, rendering it highly susceptible to global price fluctuations. Shortly after Maduro’s election, a collapse in global oil prices triggered a recession in the country², leading to widespread inflation and food shortages – a predicament that had been oscillating since Chávez era.

Despite the prevalent mismanagement and corruption in the country, approximately “half the Venezuelan economy’s contraction since 2012 can be attributed to US.-led sanctions” (Rodríguez 2023). This economic coercion strategy reached its zenith during the Trump administration, which curtailed Venezuela’s access to oil markets and shifted control of the government’s foreign assets to the opposition in 2019 (Rodríguez 2023). These sanctions hindered the country’s full participation in the oil market, exacerbating the humanitarian crisis in

1 Partido Socialista Unido de Venezuela (The United Socialist Party of Venezuela). Left-wing political party created by Chávez in 2007.

2 See Vanessa Buschschlüter, Venezuela Crisis in brief, 4 January 2023. <https://www.bbc.com/news/world-latin-america-48121148>

Venezuela and prompting a massive migration of its population. This migration, fueled by diseases, high crime rates, starvation, and inflation, saw nearly 8 million people leaving Venezuela for other Latin American countries. Among these, Brazil welcomed 477.000³ Venezuelans, offering them refugee status, asylum, or authorization for residence.

BRAZILIAN RECEPTION OF MIGRANTS

In 2018, the Brazilian Federal Government launched an organized humanitarian response to the Venezuelan migration crisis known as “Operação Acolhida”⁴. Involving the participation of several agencies – among them the UNHCR and the IOM – this gigantic operation developed several actions to shelter vulnerable Venezuelan population in emergency facilities and quicken documentation processes. But the most effective action was undertaken through the interiorization strategy⁵, whereby Brazilian Federal Government coordinated the humanitarian response, evidencing the effectiveness of an organized dialogue between municipalities and the States of the Union. The center of this operation was Pacaraima, a frontier city on indigenous land (not recognized as such) where Venezuelan migrants were crossing the border.

According to the UNHCR seven hundred thousand people entered Brazil from Venezuela, and half of them are still on the Brazilian soil⁶. With the implementation of the Brazilian migration law⁷, which follows the CONARE regulation⁸, this vast intergovernmental operation allows Venezuelan migrants to obtain temporary permits and apply for asylum and refugee status⁹. All this measures are internationally recognized as an example of an effective interagency and human-rights oriented coordination; in fact Brazilian approach to migration “represents a great advance in relation to the recognition and treatment of migration and the framework of public

policies which the State should provide to fulfill its role in the guarantee of Human Rights” (Almeida Medeiros and Belarmino 2022), thus making a long-term solution to contemporary migration possible. An aspect which profoundly differentiates the policies of the South American country from others in Europe or Africa. The former due to a lack of political coordination and a securitarian approach, the latter due to weak State structures.

Migration patterns

Venezuela is today recognized as one of the most affected countries by emigration due to its socio-economic crisis that peaked after the collapse of the petrol-State economy and the sanctions imposed by the United States of America (Rodríguez 2023). Approximately a third of the Venezuelan population is outside the country and among them there are indigenous people, mainly Warao, Eñepa and Pemon¹⁰. The latter, whose territories are splitted by national borders, have always been on the move between the countries, like several other indigenous groups in Latin America and Venezuela (Giraldo 2011; Giraldo 2016).

Pemon natives, also called Taurepang in Brazil, have been equally affected by the crisis in Venezuela, so they have moved to Brazil and settled there in the communities belonging to their ethnic group and families. Some of them suffered a confront with the Venezuelan Army in february 2019, during which State forces entered indigenous communities in Venezuela by shooting and preventing international aid coming from the nearby Brazil¹¹. In fact, Pemon leaders welcomed humanitarian aid by claiming their right to do so advancing their territorial rights (Ramírez 2019). This triggered a humanitarian and political crisis that resonated internationally due to geopolitical causes involved, but also because it brought attention to their status as transfrontier indigenous migrants.

The Pemon communities in Southern Venezuela find themselves deeply ensnared in the intricate web of the political and economic crisis. Their territories and livelihoods are not only impacted by the overarching national crisis but are also subject to exploitation by companies seeking to capitalize on the mineral wealth in the region.

3 See Country Analysis Brazil (<http://tinyurl.com/y4hdvth>).

4 “Shelter operation” is the Humanitarian response coordinated by the Brazilian Federal Government, still active today.

5 The Interiorization strategy is an effective operation of reallocation of people to other municipalities of Brazil through local socioeconomic integration. This successful operation served first to empty emergency shelters for other people while integrate the ones who were reallocated to other states throughout Brazil. See ACNUR Brasil, Antes e depois da operação acolhida: uma análise à luz do deslocamento forçado no Brasil (2017-2022), 2022.

6 Following UNHCR reports, the number of venezuelan migrants are stable today, after a sudden increase during the COVID-19 pandemic.

7 Lei Nº 13.445, de 24 de maio de 2017.

8 Comitê Nacional para os Refugiados – CONARE.

9 Through the Technical Note n. 3/2019/CONARE, Conare decided to grant all venezuelans refugee status, thus simplifying the procedure.

10 According to the UNHCR Warao constitute roughly 70% of the indigenous migrants in Brazil, while the Pemon are the 24% and the Eñepa 3%.

11 Residing along the Brazilian border, these communities became entangled in a national conflict pitting the government against the opposition led by Juan Guaido. The latter pledged to deliver essential supplies such as food and medicine, responding to the severe hyperinflation plaguing the Venezuelan population.

This exploitation, sanctioned by the Maduro government, is facilitated by both state-owned enterprises and illicit mining operations. In essence:

In 2016, as the oil industry declined and he scrambled to boost state income, Venezuela's President Nicolás Maduro created the Orinoco Mining Arc, dedicating an area larger than Cuba for industrial-scale mining. In Venezuela's Gran Sabana region. Like many other mines on Indigenous lands, it existed prior to the creation of the mining arc but has expanded in recent years due to rising gold prices, lack of opportunity elsewhere in the country and limited law enforcement¹².

The confront between the Pemon communities in the Gran Sabana Region with the military forces can be seen in fact as the culmination of their disagreement with the government over land resources, management and authority.

Furthermore, to reignite tensions, a referendum orchestrated by Nicolas Maduro's government summoned the population to the polls at the outset of December 2023. Demonstrating an enduring commitment to exploring new areas for oil and mineral wealth, Maduro's referendum delved into an age-old conflict over land with Guyana. This time, it invoked claims of sovereignty over two-thirds of the border country, specifically a vast, densely forested region rich in resources known as Essequibo. The socialist party contends that this area rightfully belongs to Venezuela since the colonial division of the Caribbean Coast, arguing that it was erroneously ceded to British Guyana in 1899.

While the referendum has been a success for Maduro's claim of sovereignty over the disputed land, the International Court of Justice has already ruled in favor of Guyana (Van den Berg and Sequera 2023).

However, the unsettling prospect of annexation has ignited fresh concerns among bordering nations and the communities residing in those territories. For instance, the Pemon people, situated at the triple frontier, now face increased vulnerability to the potential threat of armed conflict between the two countries and the unsettling possibility of once again being displaced from their ancestral lands¹³.

Definition of Cross-border Indigenous Groups

Although not fully binding the UN Declaration on Indigenous Peoples Rights has been a reference for Brazil as well as for other former colonies. As stated by this international document:

Indigenous peoples, in particular those divided by international borders, have the right to maintain and develop contacts, relations and cooperation, including activities for spiritual, cultural, political, economic and social purposes, with their own members as well as other peoples across borders¹⁴.

Thus, Pemon are entitled to cross the border between Venezuela and Brazil.

"We've never been migrants", a woman from an indigenous Pemon community in Brazil declared me; in fact, Pemon have always moved along indigenous paths from ancient routes that runs across frontiers¹⁵. They often move to visit relatives, for religious reasons or just to find fertile lands where they can cultivate and harvest manioc (cassava) and banana (Andrello 1993; Thomas 1982). The landscape that crosses the countries is perceived by indigenous people in close relation to genealogical ties, so much that territoriality and space are structured through kin patterns and therefore acquire social and historical significance (Gow 1995). To this extent their migration is of a circular type, this means that they would often leave their place of birth to travel and work elsewhere but only to go back and forth from these places across Brazil and Venezuela. Therefore, what really matters is not the local place of birth but the entire territory in which they move. In this sense we could also say that instead of a genealogical tree, as is commonly figured in Western explanation of kinship, they would have a rhizomatic figure used as a metaphor for kinship¹⁶. Circular migration thus means a condition of continuous mobility understood not as migration but as movement, which is at the heart of the cultural dimension of the native people who perceive the territory not only as a physical resource, but rather as a social landscape, called *Upa'ta* in the language of these groups.

Once this view is integrated – at least partially – in legal understanding, legislative measures were taken to

14 Article 36, UN Declaration on indigenous peoples' rights.

15 These indigenous paths are often used as "trechos" by non-indigenous to cross the border illegally. For the Pemon these routes bear historical and cultural significance as they tie more or less distant communities by kinship. The amount of all this net of paths it's what they call *Upa'ta* (Pemon word for world/home).

16 The rhizome is often useful to think about indigenous peoples, especially those who move constantly on a territory, as it extends and expands itself instead of evolving from a root.

12 See Hoejris Dahl, Brazilian gold miners get free rein in Venezuela's Indigenous lands, 11 April, 2023. <https://n9.cl/f5g0v>.

13 Brazil has been watching with concern the recent developments of the situation thus decided to strengthen its military presence sending a warning to the countries. See: <https://n9.cl/yhk85u>

ensure that they could reproduce their cultural ways of life. This is regulated by the ILO Convention n.169, which legally binds Brazil, who has incorporated this international instrument into its domestic law:

Governments shall take appropriate measures, including by means of international agreements, to facilitate contacts and co-operation between indigenous and tribal peoples across borders, including activities in the economic, social, cultural, spiritual and environmental fields¹⁷.

Although there are definitions of indigenous people divided by borders on international and national legislations, they seem to be rather blurred. In Brazil, the Pemon are allowed to freely traverse their territories, yet there is a lack of commitment to empowering indigenous communities to effectively communicate and respond to significant crises when their lands are impacted.

There are similar examples in anthropological literature. The Wayúu, for instance, move between different nations, in this case, between Colombia and Venezuela, dealing with a force that crosses their territory. However, “the Wayúu’s view of territorial mobility surpasses the limits of the border” (Giraldo 2011: 61), questioning the perspective of State administrations and reinventing themselves by creating networks and relationships beyond physical and social distances. Similarly, when we talk about indigenous people and borders in Latin America, perhaps one of the most well-known cases of indigenous people living between the borders of two or more countries is the Mapuche case. Like the Taurepang I lived with who speak of “Upa’ta”, the Mapuche use the term “Wallmapu” to identify a territory beyond the Chilean and Argentinean borders (Giraldo 2011).

On the other hand, the Warao of Venezuela are indigenous groups whose pendularity between neighboring countries has developed recently. Therefore, kinship relations, even when occurring between separate social actors in different nations, are still fragile and not widely recognized, as they involve generations born in the countries of origin. However, the network of individuals that has dispersed in Brazilian territories in recent years maintains relationships with group members still in Venezuela, validating Article 32 of ILO Convention No. 169, ensuring the Warao’s right to maintain their relationships that refers to groups of people residing near border areas, divided into different national territories but united by kinship relations. From a practical perspective, the Warao face critical conditions when crossing the border

into Brazil because they lack legally recognized settlements and available land to build their houses. They are typically placed in facilities designed to accommodate the migrating indigenous population.

INSTITUTIONAL RESPONSE TO THE PEMON CRISIS

Between February and March 2019, approximately 1200 Pemon crossed the border into Brazil’s indigenous communities due to the conflict in Venezuela (Burks 2019); almost all of them went into Tarau Paru in search of refuge¹⁸. However, the situation had put Tarau Paru in a difficult situation as resources began to run out due to demographic expansion, while internal conflicts increased. Thus, the “interiorization” strategy for indigenous people was implemented reallocating them into neighbouring indigenous communities. The empowerment of local communities to assist relatives and people of the same ethnic group was the goal of such operation, though national indigenous institutions had a weak response to the crisis.

Governmental aid

While the Shelter Operation led to the resettlement of the indigenous Pemon migrants, the national indigenous institutions were still far from providing them with assistance. As indigenous people, they turned to national indigenous institutions, such as FUNAI, responsible for basic civil documentation for indigenous people and access to social assistance. Through the documentation, the indigenous people would have access to the national indigenous health system provided by the SESAI, but were not recognised as indigenous citizens; in fact, Funai original purpose was to register indigenous people coming from the Bolivarian Republic of Venezuela, but halted the process before the documents were issued¹⁹.

With regard to migrants, the Brazilian government has put in place documentation processes that issue residence permits or refugee status, as in the case of other citizens, according to the act regulating internal migration legislation. Although for the emergency, the procedures for indigenous migrants include the granting of “Humanitarian migrant” status to ease bureaucratic hurdles; but

18 Due to its geographical proximity to the bolivarian republic of Venezuela and no customs at all since it is indigenous territory it was easy for migrants to reach out Tarau Paru.

19 See The UN Migration Agency, Legal Aspects of assisting Venezuelan migrants in Brazil.

17 Indigenous and Tribal Peoples Convention, art.32, 1989.

that is yet to be discussed²⁰. However, this process was carried out with the endorsement of local indigenous authorities, who were often left alone to register undocumented persons and decide whether someone was more or less eligible.

Non-governmental and Interagency aid

The IOM, ACNUR, ADRA and USAID brought into communities resources and assistance. A first analysis was carried out to meet the basic needs and provide migrants with food, blankets and materials of daily use. Others have already started working with local authorities to find long-term solutions. We could divide the assistance into two different types: short-term, dedicated to sudden emergencies; long-term for the empowerment of locals and the integration of people. The significant demographic expansion experienced by the local communities led OIM, with PRM funding (The Bureau of Population, Refugees and Migration) to initiate another type of assistance through long-term needs-based solutions. The aim was to help local communities who received migrants to strengthen the socio-economic integration of the communities as a whole:

After rounds of conversations, alignments, pre-existing knowledge of community members, IOM began planning for socioeconomic integration. Over the course of a year, conversations were held with indigenous leaders to understand the communities' main demands for inclusion in the job market²¹.

In Sorocaima, one of the main pemon communities in Brazil, by 2021, with agricultural technics consults, they had already started to generate income through an agricultural plan that involved the construction of chicken coops, vegetable gardens and fish tanks. In order to follow sustainable development every agricultural project had to follow familiar management.

Principal challenges for transnational indigenous migrants

First, registration and documentation processes have begun to divide natives into residents and migrants. Access to the national indigenous health system would be a problem without documents, and it goes without saying that documents would allow better access to State's resources, as well as tracking and monitoring people, especially

20 See The UN Migration Agency, *Legal Aspects of assisting Venezuelan migrants in Brazil*.

21 OIM, *Indígenas em Pacaraima geram renda e ampliam sua integração socioeconômica com apoio da OIM*, December 21, 2021.

those in vulnerable situations. Before the crisis they travelled across the border without the need for documents, but due to the conflict they asked to settle in a safer environment and have access to basic resources and this was only possible in their indigenous land in Brazil, where they share genealogical ties. The registration was carried through local indigenous authorities of the community where they were settling, and this had given chiefs power to decide whether somebody is more or less eligible to access State's resources without any structure proposed to capacitating them to do that as well as for the procedure to be controlled by external and neutral institutions; kin relationships and religion were the only criteria. This allowed conflicts to arise, the foundation of which was built in the name of pressures for land and natural resources, which is common when different families come together to divide and manage lands.

NGOs were doing the work of the state, providing assistance to indigenous migrants and empowering them. But sustainable projects were also causing internal conflicts. In fact, the sudden interest of various institutions in providing humanitarian assistance to migrants triggered the anger of the locals, who had been abandoned or left with assistentialistic politics until then, and who were helping now to receive migrants from the same ethnic group. The lack of cultural knowledge made difficult to manage registration processes and resources. For instance, the Pemón were always organized at the nuclear level, i.e. at family level. The sustainable projects were designed to help the whole community and they suddenly had to divide the work between families to achieve collective results. The result was mismanagement, because it was not their way of socially organized work.

Another challenge to mention for the locals is the lack of financial capacitation. They were left alone with sources of income without any knowledge of how to channel or invest them. How can these problems be addressed and overcome, and to what extent have national and international institutions been responsible?

INTERNATIONAL INSTRUCTIONS AND NATIONAL BODIES DUTIES

Brazil worked towards inclusive policies respecting Human rights and UN legal instructions, among those there are binding treaties such as the Universal Declaration on Human Rights, the UN and OAS Declarations on Indigenous People Rights and the International Covenant on

Civil and Political Rights²². But the situation of Pemon evidenced the need to clarify their transnational status which does not threaten sovereignty of national territories (Moreira and Torelly 2020: 89). In 2016 OAS approved the American Declaration on Indigenous Peoples rights which in turn was followed by Brazilian government. This international instrument applies to indigenous migrants as well but not to cross-border indigenous people even though in some respect States are obliged to ensure and respect ties on indigenous lands divided by borders while creating suitable policies in regards their self-determination²³.

The Brazilian Constitution of 1988 integrated an inclusive vision on indigenous rights²⁴, recognizing their right to self-determination and the development of their own institutions but always in conformity with national and international legal framework (Fernandez Liesa 2018: 23–30). Like other Latin American States, Brazil ratified the ILO Convention that integrates the multiethnic character of its national configuration, but has not admitted different legal system within its territorial boundaries (RangelGonzález 2018: 48–59). However, governments are obliged to fully respect ethnic ties of peoples divided by borders as well as to foster the coordination between them. In addition to the blurred legislations, the lack of access to basic documentation is a major obstacle when it comes to their status. Nevertheless, issuing second citizenship to all those Venezuelan Pemon would lead to conflict of interests among families and legal violations, since they could enjoy State's benefits while staying on a territory belonging to another country. This situation escape contemporary legal knowledge. How, then, to recognize transnational citizenship while respecting human rights? There may be another way.

Human Rights-Based Approach to Indigenous transnational groups

Crossborder natives are neither migrants nor stateless. They Are citizens of one nation or another, sometimes of more than one nation. But neither are they what we might call binationals. They are first and foremost citizens of autonomous indigenous institutions that cross borders, but subject to national frameworks in which they have the right to be national citizen. So how should this puzzled situation be handled, promoting human rights of

indigenous crossborder peoples and at the same time respecting national sovereignty? The situation of Pemon peoples highlighted the need to think about long-term solution and better inter-agencies coordination when it comes to understand transnational indigenous identities. According to my fieldnotes, the Pemon migrate circularly through a large territory who is recognised of their pertinance, but whose boundaries are demarcated by Venezuela, Brazil and Guyana. In the case of Brazil and Venezuela there are more kinship ties between communities, in fact if we mapped the territory we could trace a long and intricate system of relationships between settled communities. States are obliged to find a way to implement human rights-based approach, as it is their duty to respect and facilitate coordination across borders and the right of natives to maintain their kinship relations. In that case:

human rights law obliges governments (principally) and other duty-bearers to do certain things and prevents them from doing others. to refrain from any action that may serve to discriminate against a group of individuals in the exercise of their rights on grounds of race, colour, sex, language, political or other opinion, national or social origin, property, birth or other status²⁵.

Pemon circular mobility isn't recognised as such by national bodies; nevertheless as latin american countries are shaping their policies towards the integration of indigenous institutions and respect for human rights not only on the basis of western concepts of universal fundamental rights, but on a community-rooted vision, attention is called for other concept of living, such as the Pemon circular movements, which is their socially organized way of living.

It is crucial to focus not merely on the Pemon people's mobility, but rather on their perception of the territory as an existential dimension. Their understanding goes beyond a superficial consideration of the land based on its usage and travels across villages. The Pemon view the land in alignment with kinship patterns, and this social cartography imparts profound significance to the landscape. In essence, they don't merely inhabit the land; they are the land (De la Cadena 2010). This concept diverges from the definitions of territory as identified in national Constitutions: namely, a space divided into areas,

22 See The UN Migration Agency, Legal Aspects of assisting Venezuelan migrants in Brazil, (Yamada and Torelly 2019: 84–89).

23 See The UN Migration Agency, Legal aspects of assisting venezuelan indigenous migrants in Brazil, (: 84–89).

24 Art. n. 231 of the Federal Constitution, 1988.

25 See Gender, Human Rights and Culture Branch of the UNFPA Technical Division (GHRCB) and the Program on International Health and Human Rights, Harvard School of Public, United Nations Population Fund A Human Rights–Based Approach to Programming Practical Implementation Manual and Training Materials, (Public Health, Gender, and UNFPA Technical Division. 2010: 35).

fragmented into lands assigned to a community of individuals who possess the right of use. In contrast to this fragmentation and separation, the Upa'ta is a fluid, moving world where boundaries do not exist. De la Cadena (2015) observes that the customary distinctions between humans and nature define a group inhabiting a territory – a place – to which they are connected through ritual, economic, and political relations. The concept, drawn from an Amerindian collaborator, Justo Oxa, aims to deconstruct the idea that a place is “inhabited,” replacing it with the notion that the entities forming it are like threads in a fabric. In other words, they are interconnected because one cannot exist without the other; they emerge as a relation and can come to life only through this relational dimension, “persons are not from a place; they are the place that relationally emerges through them” (: 101–102), a transcendent dimension that imparts meaning to our existence.

TOWARDS TRANSNATIONAL REGULAMENTATIONS FOR CROSSBORDER INDIGENOUS PEOPLE

Brazil is one of the most culturally diverse countries in Latin America, yet different cultural ways of living are respected but not integrated on a legal pluralism level. The relationship between indigenous societies and the legislation of the countries is discussed every year by an important body of the ECOSOC (The United Nation Economic and Social Council), the United Nations Permanent Forum on Indigenous Issues (UNPFII), where the full implementation and promotion of indigenous peoples' rights is constantly examined. An in-depth discussion on indigenous transnational identities should be highlighted with examples to better coordinate and promote cultural revitalization of those territorial identities and to articulate relationships across borders. The network of indigenous peoples crossing borders is a flow of people constantly moving for cultural reasons, embedded in their existential and relational dimensions. The Pemon, like other indigenous groups in Latin America (Giraldo 2011; Giraldo 2016) have the right to maintain their relations without respecting the borders. However, if two neighboring countries do not cooperate for their well-being, some groups may find themselves in a hostile situation and be prevented from exercising their rights. In the Pemon case, Venezuelan indigenous groups that crossed the border had to be registered for integration, but the process, as already pointed out, wasn't entirely clear and fair.

Since they share transnational ties, a supranational organization composed of an indigenous council of cross-border people should create the condition for a fair process, “the term transnational movement organizations suggests a collective actor that is present in more than one country” (Fox 2005: 179). The creation of such an institutionally recognized network would develop a neutral discussion of the situation and better articulate relations between all stakeholders, preventing internal conflicts while mediating relations.

The importance of indigenous crossborder movements and organizations at the crossroads of different paths for economic and social struggles lies in their transnational capacity to raise issues, such as the Pemon struggle for their recognition, whose case would help shape the international and national legal framework towards inclusive cosmopolitan views (Rodrigues-Garavito and Arenas 2005: 243) while strengthening local indigenous institutions through democratic participation and coordination between agencies and other authorities.

CONCLUSION

The challenges brought by the sudden crisis and the large migration of Pemon communities have highlighted the legal obstacles that prevent institutions from following and respecting human rights guidelines. Their situation evidenced the need to think of a new framework for indigenous living on the border of two or more nations, especially when these States are political antagonists. A starting point could be the ability of the local inhabitants to build a dialogue between institutions at municipal, national and federal levels. But such a figure, who would take charge and represent Indigenous rights, must be a transnational, community-based institution whose neutrality would serve to level distinctions and internal conflicts as well as to coordinate relations between indigenous communities divided by national frontiers. It would be a transnational organization of cross-border indigenous people, recognized by international institutions in the Permanent Forum on Indigenous People, dealing with the relations between the local authorities of the communities, structuring dialogue within them and the national institutions and eventually the legal framework of their concern.

The official narrative pertaining to the indigenous Pemon territory as a legal and political entity has normalized a specific sense of place, thereby shaping the legal framework applicable to indigenous communities transcending borders. Consequently, it is unsurprising that prevailing policies and laws predominantly address

the concept of cross-border indigenous groups through a colonial lens. This perspective, inherently limited in its scope, lacks the comprehensive approach integral to anthropological considerations, rendering it incapable of effectively addressing human-rights violations. Recognizing the kinship connections among communities across the borders and understanding their “ontology of mobility” entails obtaining the tools to construct a community-driven solution within a legal framework. This involves reshaping policies by adopting an approach rooted in a human-rights framework and comprehending the relational dimensions with the land that arise from this mobility.

TABLE OF ABBREVIATIONS

- a. ACNUR: Alto Comissariado das Nações Unidas para Refugiados
- b. ADRA: Adventist Development and Relief Agency
- c. CONARE: Comitê Nacional para os Refugiados
- d. ECOSOC: Economic and Social Council
- e. FUNAI: Fundação Nacional do Índio
- f. ILO: International Labour Organization
- g. NGO: Non Governmental Organization
- h. IOM: International Organization for Migration
- i. OAS: Organization of American States
- j. PRM: Bureau of Population, Refugees, and Migration
- k. SESAI: Secretaria Especial de Saúde Indígena
- l. SUS: Sistema Único de Saúde
- m. UN: United Nations
- n. UNPFII: United Nations Permanent Forum on Indigenous Issues
- o. UNHCR: United Nations High Commissioner For Refugees
- p. USAID: United States Agency for International Development

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