

“Indigenous practices of mobility and reasonings on the Mexico-US and Canada-US borders: interrogating mobility, territory, and sovereignty through issues of Indigeneity”

### Research question

Historical approaches to mobility have contributed to essentialising Indigeneity as being necessarily immobile, in contrast to the mobile figures of the colonial settler (Ballantyne and Burton, 2009, 5), of the forcibly displaced, or of diasporic communities. The conflation of Indigeneity with imageries of rootedness have certainly played a role in anchoring indigenous peoples in one locality. Their physical mobilities continue to be rendered invisible or uncommon in political discourses and research on borders and migration, as is evidenced, for example, by their exclusive consideration through forced displacement in international migration governance (e.g., Trujano, 2008), by indigenous peoples’ conceptual differentiation from diasporas (e.g., Clifford, 1994), or by their lesser association to transnationalism.

Moreover, like all social sciences, migration studies have emerged and evolved as a discipline in relation to processes of nation-state building. Consequently, ‘methodological nationalism’ has shaped their theoretical questions and approaches — that is, a specific form of structuralism that Wimmer and Glick-Schiller describe as “the naturalization of the global regime of nation-states by the social sciences” (2003, 576). In particular, the development of the global regime of state mobility control has imposed “the ‘point of view of the native’” (by which is meant ‘National-Natives’, not indigenous natives)<sup>1</sup> as a framework for problematising migration (Mezzadra et. al., in De Genova et. al., 2014, 8). Aiming to think beyond state-centric concerns such as integration and national identity, transnational approaches in migration studies have focused on migrant agencies and border struggles (e.g., Glick Schiller, Basch and Szanton Blanc, 1995) — the latter by which is implied any material or symbolic contestation against “the role of borders and boundaries in the production of subjectivity” (Mezzadra and Neilson, 2013, 265).

However, indigenous mobilities and perspectives of land and belonging have yet to be thoroughly included in research on national territoriality, bordering processes, and philosophies of exclusion (although the work of the University of British Columbia’s Migration-Indigeneity Group notably aims at addressing such gaps). In the subfield of political theory, normative discussions on the right to migrate and nation-states’ right to exclude — propelled by the new transnational approaches to migration and citizenship of the 1990s — have seldom, if at all, considered the issue in light of the specificities of Indigeneity and its relation to the state. Rather, they have been approached through the obligations that states have towards non-citizens, migrants, or individuals in their most abstract sense, and through the claims that these categories of people may oppose to states. Indigenous peoples’ perspectives remain rarely included in such endeavours despite their

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<sup>1</sup> The term ‘National-Native’ is borrowed from Nandita Sharma’s work (2020), and refers to those who claim an autochthonous belonging to the national territory in contrast to those perceived and depicted as being allochtones (migrants), thereby justifying the deployment of state regimes of mobility control designed to exclude specific peoples from entering the nation’s territory and becoming part of the national community.

unique history, identity and inclusion in international law, and their position regarding nation-states, territorial sovereignty, and conceptions of ‘nativeness’, the latter which is nevertheless a central theme of state-centric justifications for border controls and national bordering processes.

This research project thus aims to bridge the gap between discussions on Indigeneity and social justice and those on mobility and transnationalism by considering indigenous peoples as both mobile groups with potentially distinctive mobility patterns and cultures, and as political groups whose participation in matters of territory and migration imply specific stakes, especially when such issues are dominated by conceptions, frameworks and practices of nation-state sovereignty. As Bauder and Breen point out, states’ monopoly over the right to exclude from national territory is a manner of depriving indigenous peoples of their decision over who they may welcome onto their land (2022, 8). Hiller even considers that such absence of indigenous perspectives on immigration policymaking is a form of continuous symbolic and material displacement of indigenous peoples (in *ibid.*, 6). Given that the capacity to selectively include mobile populations into citizenship, labour, and welfare is at the core of the functioning of sovereignty today (Papadopoulos and Tsianos, 2013), this project proposes to discuss the contemporary mobility-sovereignty nexus in relation to the border struggles and transnational mobilities and mobilisations of indigenous peoples whose traditional territories are divided by the Mexico-US and Canada-US borders.

## **Methodology**

It does so by linking the critical current of anthropology and sociology in migration and border studies with political theory inquiries on sovereignty, territoriality and bordering processes. As such, it will draw on comparative ethnographic fieldwork and interviews among indigenous organisations and tribes living and working at and across the Mexico-US and Canada-US borders. By focusing on indigenous border struggles in North America, this research aims at understanding how issues of borders and mobility may be framed differently yet similarly by multiple indigenous nations and communities with differing border histories and jurisdictions, geopolitical contexts, as well as environmental and justice concerns. Such a comparative analysis will serve as material to discuss in relation to a wider intellectual genealogy on borders and sovereignty, the right to migrate, and the right to exclude, especially as they may interact with indigenous territorial, cultural, and human rights struggles and contradicting notions of Indigeneity and ‘nativeness’. In practice, the fieldwork will thus centre the political agency of transnational indigenous actors, especially looking at how they mobilise forms of public reasoning in a practical way within a wider discursive space of politics of mobility — that is, embedded in overlapping moral economies and in various political instances, social movements, as well as in day-to-day contexts. As such, this research will mobilise the anthropologist John Bowen’s concept of ‘public reasoning,’ which differs from John Rawls’ ‘public reason’: it contends that the political organisation of justice is not founded on shared basic principles, but is rather a continuous, deliberative and often contentious process of norm-setting, especially in contexts of cultural pluralism (2003). Adopting such a processual understanding of justice justifies examining indigenous agencies in the politics of mobility and in national bordering processes, and importantly, discussing

them in dialogue with other perspectives and norm-setting traditions on these issues. Furthermore, this research is inspired by the ‘autonomy of migration’ approach in migration studies, which strives to understand migration’s function in relation to capitalism and sovereignty by regarding migrant mobility, self-organisation, and freedom as a constituent force of social, economic, and political organisation, rather than merely a response to it. As such, it will focus on the internal logics, dynamics and tools of indigenous self-organisation with regard to borders and mobility.

The research will comparatively focus on indigenous nations whose traditional territory is divided by the national borders at the US-Mexico and US-Canada borderlands (hence the term ‘transnational indigenous peoples’). The reasons for this choice reside both in issues of language (the aspiring researcher can master the lingua franca of both areas), and in the historical, political and legal relevance of these borders for the project. Indeed, innumerable indigenous peoples’ traditional territories are divided by these borders (e.g., the Haudenosaunee, the Sinixt, or the Mohawk nations at the Canada-US border, and the Yaqui, the Kikapú, or the Tohono O’odham nations at the Mexico-US border). The territorial division produced by the US-Canada border has notably been the source of a historical border-crossing treaty (the Jay Treaty in 1794), but also continues to have relevance today, as attested by the recent court rulings on indigenous rights to use land across borders (e.g., *R. v. Desautel* at Canada’s Supreme Court in 2021). Moreover, the US-Mexico border has been the object of major political attention and is politically extremely salient for a multiplicity of actors: for migrants (it remains both the most crossed and securitised border in the world); for ‘National-natives’ (e.g., the importance of borders in national identity framing during Trump’s presidency, among others); as well as among indigenous peoples, as is evidenced for example by the recent border-related litigations, or the existence of Indigenous Alliance Without Borders (*Alianza Indígena Sin Fronteras*), a transnational indigenous organisation across Mexico and the US. It seems particularly relevant to take the US-Canada and US-Mexico borderlands as the sites of a comparative fieldwork on indigenous border struggles, especially to discuss alternative moral and practical framings of borders in differential political and legal landscapes and in varying contexts of state-dominated territoriality and forms of belonging, which imply different national as well as local politics of mobility. The following empirical questions will be some major comparative topics of inquiry during the fieldwork:

- Whether border-related issues at the Canada-US and Mexico-US borderlands are framed by indigenous peoples in terms of migration and/or justice;
- What kinds of bordering processes (such as racialisation or administrative, legal, and political forms of exclusion) might transnational indigenous peoples experience, and how these relate with or concern national territoriality and state mobility control;
- Through what logics, practices, and tools are such bordering processes coped with or challenged by indigenous political movements.

This research will rely on qualitative data collection, and notably on: ethnographic observations at key borderland locations; in-depth semi-directive interviews with key indigenous leaders, activists and representatives; non-participant observations of norm-producing instances (courtrooms, indigenous decision-making instances at local governance level, negotiation instances between states and indigenous political organisations,

including within the framework of the United Nations...); an archival study of key legal documents<sup>2</sup> (concerning indigenous and border-crossing rights in international law, bilateral agreements, national legislation and customary law), and of political documents relevant to border-crossing, such as reports and media contributions produced by indigenous peoples; and finally, an extensive literature review of historical, geographical, and ethnographic sources on US-Mexico and US-Canada indigenous mobilities in and across state bordering processes.

Linda Tuhiwai Smith notes that indigenous peoples often have the feeling of being “the most researched people in the world,” and she adds, “the truth of such a comment is unimportant, what does need to be taken seriously is the sense of weight and cynicism about research that the message conveys” (2021, 3). And indeed, research done by a non-indigenous person on indigenous peoples carries a heavy colonial legacy that to this day requires a commitment to deconstructive and reflexive processes throughout all steps of the project. This research intends to carry out such a process, beginning with its very conception: the intention and object of the research, its methodology, and ways in which it may benefit participating people should be discussed with the indigenous peoples’ concerned leaders and representational boards to ensure that they have full understanding of its frame and scope, and thus full capacity to consent to it<sup>3</sup>. Notably, special attention will be given to indigenous women and minority voices, especially because anthropological fieldwork among indigenous and local groups has had a historical tendency to take ‘peoples’ knowledge’ as is, without questioning the ways in which it is “itself constructed in the context of planning and reflects the social relationships that planning systems entail” (Mosse, 2001, 17). The embeddedness of the fieldwork in both national and indigenous political and social organisations begs for such a critical review of the conditions of participation of different groups. Furthermore, one kind of contribution or collaboration that this research could propose to the concerned indigenous groups and individuals could come under the form of an adapted sociological intervention.

At last, the empirical nature of the fieldwork and the comparative and multidisciplinary scope of the research will require further financing for travel expenses, as well as collaborative partnerships with other scholars and universities based at the locations of the fieldwork. Applications for funding will be sent to offers within ICM, EHESS, Paris 1, Sciences Po and Paris-Cité (e.g., exchange and mobility fellowships) as well as to other opportunities like the Fullbright scholarship scheme. Moreover, contact will be established with the University of British Columbia’s Migration-Indigeneity Group, which strives to engage with issues of Indigeneity as they relate to issues of migration; this may open up other opportunities for funding or collaboration. Finally, opportunities will be taken to get in contact with various academics whose works on Indigeneity and native-settler relations will be of central importance in the mobilised literature (e.g., Christina Leza, a Yaqui-Chicana anthropologist who closely works with Indigenous Alliance Without Borders, and has

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<sup>2</sup> A starting list may be elaborated based on Jérémie Gilbert’s (2014) unprecedented legal work exploring the interface between nomadic peoples and human rights, in which indigenous rights figure in the foreground.

<sup>3</sup> Such a process is inspired by the principle of free, prior and informed consent (FPIC) of indigenous peoples that has been outlined notably in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) to ensure indigenous participation and consultation in matters affecting them.

produced recent writing on indigenous activism and border struggles at the US-Mexico border).

### **Theoretical context and objectives**

This research project is located at the intersection of three areas of theoretical inquiry that will constitute the main body of literature discussed in relation to the empirical findings from the fieldwork:

- The ‘mobility turn’ and ‘transnational turn’ of migration studies that notably aim at overcoming the biases of methodological nationalism;
- The political theory literature on the right to migrate;
- The political theory literature on social justice and identity politics, specifically in relation to indigenous peoples.

#### *‘Indigenising’ the ‘politics of mobility’ in migration studies*

One of the methods theorised to study migration beyond statist conceptions has been the ‘new mobilities paradigm’, that is, an approach that deconstructs what is enacted as migration by regarding all mobilities irrespective of their relation to national borders. In contrast to classical transport and migration studies, the cultural turn of the mobility studies in the 1990s propelled new research that discussed mobility in relation to power and representation. By observing how physical movement is allowed or hindered, experienced, and discussed, this new research intended to bring a more nuanced and processual understanding of what constitutes mobility itself (e.g., Cresswell, 2001). For Birgitta Frello, ‘mobility’ does not even necessarily refer to actual physical movement, but is rather an ‘object of knowledge’ in the foucauldian sense — that is, it is discursively recognised, produced, and valorised as an object by a number of rules legitimised by dominant power structures (2008). In other words, perceptions and understandings of migration are produced through a ‘politics of mobility’: a set of discursive, administrative, and meaning-making practices that differentially embed peoples’ presence and activities in “a field of vision which is ‘tuned in’ to observing ‘movement’” (ibid., 27).

Scheel and Tazzioli critique the new mobilities approach’s capacity to overcome methodological nationalism because they esteem that it fails to take into account the relevance of national bordering processes in shaping peoples’ differential experiences of and access to mobility (2022, 7). That is why they rather focus on what they call the ‘making of migration’, or bordering processes through which people are enacted and governed as migrants. According to their definition, those who qualify as ‘migrants’ are those whose “presence in or right to move to a desired place is denied or called into question because they are considered ‘as the others of National-Natives’” (ibid., 9). The latter are only by design reminiscent of indigenous peoples who, according to generic and analytical definitions: have a historical continuity with pre-colonial societies and experience of colonisation; self-identify as distinct from the dominant population of a given country or region; and have a desire for their “continued existence as a people, in accordance with their own cultural patterns, social institutions and legal systems,” notably through the preservation of their ancestral territories and ethnic identity (Cobo, 1987, 29).

In contrast to Scheel and Tazzioli's proposal to observe forms of 'migrantisation' of mobility, this research contends that processes through which certain patterns of mobility are disregarded as 'migration' are also forms of bordering that may be indicative of mechanisms of state-dominated mobility and territorial control. Indeed, the physical control of populations was prominent in the emergence and reinforcement of the state, but in colonial contexts, mobile indigenous bodies were especially seen as needing to be surveilled (Ballantyne, 2014). Thus, while some practices such as the westward expansion of American settlers were framed as manifestations of an inherent power (Turner, 1894), nomadism was equated with backwardness and under-development (Salazar, 2010, 60), and consequently made the object of relentless forms of invisibilisation, denigration, and assimilation. Taking transnational indigenous peoples' practices and reasonings as a starting point, this project 'indigenises' migration studies all the while continuing to centre national borders and bordering effects.

*A new empirical framework for exploring the right to migrate*

In political theory, the phenomena of migration and transnationalism have shed light on one major theoretical limit within the discipline: despite a conceptual commitment to the moral equality of persons (political liberalism), many works that touch on social justice fail to address the primary exclusion upon which is based political membership, of which national belonging. Indeed, starting with John Rawls and his famous *A Theory of Justice*, the delimitation of the political body is simply assumed to satisfy liberal conditions. Subsequent discussions on justice are thus framed within the territorial and administrative scope of the nation-state. Yet, as Philip Cole puts it, "[i]f the question of membership is made explicit, it becomes clear that there is an irresolvable contradiction between liberal theory's apparent universalism and its concealed particularism" (2000, 2). A non-arbitrary philosophy of exclusion is indeed far from evident. The literature on the right to migrate addresses precisely this issue, as it discusses the legitimate conditions and justifications for setting the boundaries of political belonging: do nation-states have a fundamental right to exclude non-citizens, physically and administratively? If so, in what contexts, and on what basis? And what do they owe to those individuals located on the other side of the border?

Much of the literature undertakes to resolve these questions by looking at the obligations that states have towards non-citizens, migrants, or individuals in their most abstract sense, or through the claims that these categories of people may oppose to states. In other words, they are the 'types' of people that are considered as formulating and participating in justice claims regarding mobility and borders. Their idiosyncrasies (such as the individual nature of their rights, or their allochthony in the case of migrants), orient the particular logics and reasonings that justify or oppose a right to migrate in such theoretical discussions. But seldom, if any works approach the subject through claims that are based on Indigeneity and indigenous rights, the latter which are generally collective in nature.

Indigenous peoples and migrants have traditionally been thought of on distinct theoretical planes because of a perceived essential boundary between the two. Notably, in establishing a typology of groups that are subjects of diversity policies, Will Kymlicka systematically differentiates indigenous peoples and immigrant groups in a way that justifies different rights claims and relations to the state (e.g. Kymlicka, 2001). There are evident

historical and analytical reasons for differentiating these groups regarding matters of justice and politics. Yet it is precisely this differentiation that may render Indigeneity a potentially productive political and legal category with which to think of such issues as territorial sovereignty, mobility control, and logics of exclusion. For example, as part of a refutation of a fundamental right to migrate,<sup>4</sup> David Miller nevertheless envisions an exception for nomadic peoples, including some that are indigenous (in Fine and Ypi, 2016, 14, 18-19). His justifications for border controls rely on culturalist conditions for membership in the political community. But in fact, nomadic indigenous peoples by definition are a self-identifying political and cultural nation to which mobility has an intrinsic value: their right to self-determination undermines the state-centric legitimacy for territorial delimitation and mobility control that Miller defends. Hence the interest of including the perspectives and border struggles of indigenous peoples in such theoretical discussions on the right to migrate, which this project aims to carry out.

*The politics of indigenous mobility as a (transnational) space of social justice*

Problematising border-crossing as a right is not only a way of questioning the ‘what’ in matters of justice (i.e., what can legitimately constitute a justice claim), but is also a way of questioning the ‘who’, that is, who even is and can be considered a legitimate participant in justice claims in the first place. In line with the ‘transnational turn’ of the 1990s, the theoretical literature on social justice has increasingly questioned the scale at which matters of recognition and distribution must be examined and resolved. Nancy Fraser has significantly contributed to this by conceptualising a third, political dimension of social justice that concerns issues of membership and procedure, and enables to engage in a critical review of political boundaries at two levels: the representational boundaries set within the political community that determine the entitlement, terms and processes of different groups’ participation in justice claims; and the boundaries (or framing) of the political community itself, that exclude some groups from being considered as entitled to make justice claims in the first place, thus putting some relevant aspects of justice out of their reach (2010, 17-18). Indigenous peoples often face representational inequalities, but transnational indigenous peoples may rightfully question the issue of framing as well, as their claims may span national territoriality. (Mis)framing establishes the framework within which struggles over distribution (the economic dimension of justice) and recognition (its cultural dimension) are played out: as such, its stake is one of ‘meta-injustice’; it is foundational to all other dimensions of injustice (idem.). It is precisely a problem of misframing that Annamari Vitikainen (2019) identifies as a limit to the cross-border protection of minorities spread out across territories. Although there exists an international human rights framework, the responsibility of its application rests on individual states within their respective territories. Yet, cross-border minorities pose specific problems that cannot be fully addressed in such a state-centric system. This research project aims to identify exactly what kinds of specificities and problems may arise in terms of justice for transnational indigenous peoples, and what

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<sup>4</sup> Such a right is conceived of as a universal right binding states not to prevent a person from voluntarily settling in their territory, while respecting their basic human rights once they are inside (Miller in Fine and Ypi, 2016, 14).

these suggest as to alternative transnational institutional arrangements. By doing this, it anchors the research in a wider academic questioning of the adequate scale of justice and political participation in an ever-more transnational world.

### **Hypotheses and envisioned contributions**

Based on previous research at a master level that explored the same issues and questions with regard to the Sámi, a transnational indigenous nation of which the traditional territory of Sápmi spreads across the northern parts of Norway, Sweden and Finland, and a part of Russia's Kola Peninsula, the following specific contributions (both of an empirical and theoretical nature) can be envisioned:

- A collection of historicised and personal narratives on how borders have and continue to affect indigenous traditional livelihoods and cultural and political association across the US-Mexico and US-Canada borders; indigenous peoples' strategies and struggles to counter these effects, through a transnational approach focusing on practices, tools, and discourses.
- A practical and contextualised understanding of what roles the making of internal frontiers (to borrow Balibar's term, 1994, 337) and the erection of physical external borders play in the performance and enforcement of national sovereignty, and how they interact with one another across time. In relation to this, a specific reflection on both the similarities and differences in functions of such bordering processes in relation to migrants and indigenous peoples.
- A theoretical contribution to:
  - Transnational theory by reflecting on the implications of its application and relation to issues of Indigeneity;
  - The autonomy of migration approach by including indigenous-specific systems of organisation and narratives of freedom. Notably, this may imply important links to issues of environmental justice and indigenous ecological discourses, thereby enabling to reflect on the right to migrate and environmental migration in a broader way than just through the issues of displacement and the right to asylum.
- A reflexive contribution on the implications of a decolonisation of migration studies.

### **Provisional research calendar**

#### *First year (2022-2023)*

- Task 1: consultation for collaboration with partners including academics and research clusters, but also key indigenous leaders and organisations to discuss the research project, its intent, scope, terms and methodology of the data collection and possible beneficial outcomes, ensuring that there is consent and interest.
- Task 2: fieldwork planning and funding
  - Research and apply for potential grants or academic collaborations in the respective countries where fieldwork will be conducted as well as in France.
  - Follow necessary procedures for acquiring visas.
  - Plan and organise fieldwork in close cooperation with contacts on the field.

- Task 3: literature review
  - Key authors on the right to migrate (David Miller, Rainer Bauböck, Joseph Carens, Christopher Wellman, David Owen, Kieran Oberman, Philip Cole, Léa Ypi...);
  - Key authors on social justice theory (Nancy Fraser, Axel Honneth, Will Kymlicka, Étienne Balibar...);
  - Key authors on Indigeneity and indigenous rights (Christina Leza, Joanne Barker, Irène Bellier... with further effort to include works by indigenous academics);
  - Border ethnographies, historical and geographical literature on state bordering processes and indigenous mobilities and forcible displacements;
  - Key readings on the UBC Migration-Indigeneity Group's reading list.
- Task 4: begin archival research
 

Objective: establish a first list of relevant normative or strategic documents (legal, political, mediatic) relative to the concerned indigenous nations, and begin analysis.

#### *Second year (2023-2024)*

- Task 5: continue literature review and archival research.
- Task 6: logistical and administrative planning of fieldwork at the second border.
- Task 7: fieldwork at the first border over a period of 5 months.
- Task 8: analysis of elements collected during the first field trip, transcriptions, archival review, etc.
- Task 9: fieldwork at the second border over a period of 5 months.
- Task 10: analysis of elements collected during the second field trip, etc.

#### *Third year (2024-2025)*

- Task 11: complementary literature review.
- Task 12: finalise comparative analysis of collected data and sketch out the main elements of the theoretical discussion.
- Task 13: writing of thesis
- Task 14: thesis defence

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