

TOPIC: THE RIGHTS OF INDIGENOUS PEOPLES

INTRODUCTION

Throughout history, civilizations have expanded their borders and extended their influence to new regions of the globe. Over the course of several hundred years, nations have also established colonies on other continents, seeking new land and new resources in order to increase their wealth. By the end of World War II, the United Nations became fully engaged in “decolonization”—ensuring that areas once governed by foreign powers can establish their own governments. But in each case where a foreign power has entered a distant land, the original inhabitants of that land are at risk of losing their unique heritage.

“Indigenous or aboriginal peoples are so-called because they were living on their lands before settlers came from elsewhere; they are the descendants—according to one definition—of those who inhabited a country or a geographical region at the time when people of different cultures or ethnic origins arrived, the new arrivals later becoming dominant through conquest, occupation, settlement or other means.

Source: *Fact Sheet No. 9 (Rev.1), The Rights of Indigenous Peoples*, Office of the UN High Commission for Human Rights, www.ohchr.org.

Indigenous groups are often marginalized by governments—they lack economic, political and social power in society. In addition, their human rights are sometimes violated, while their own forms of local governance and social values are ignored.

During the decolonization period, many indigenous groups asserted their right to maintain their own laws, customs and government, even though new independent nations were rising up around them. While newly formed, independent governments attempted to assimilate (or bring in) indigenous groups, indigenous groups often resisted and chose to preserve their own cultures. The United Nations has tried to preserve the heritage of indigenous groups, but this becomes difficult when indigenous customs or social structures differ from the rest of a country. Today, many indigenous groups still lack formal recognition and are even the target of discrimination and prejudice.

BACKGROUND

Indigenous peoples have distinct cultural and social identities, as well as their own political and economic institutions. But these identities and institutions are constantly in danger of being forgotten or eliminated.

According to the UN Educational Scientific and Cultural Organization (UNESCO), half of the world’s 6,000 different languages are in danger of dying out and 10 languages disappear every year.⁶ These languages may be practiced by small communities of indigenous peoples, but are important nonetheless. Other forms of cultural knowledge are also in danger of extinction around the world.



As nations develop politically, economically and socially, indigenous groups are often left behind. In many cases of decolonization, governments, businesses or other groups have taken land from indigenous inhabitants. At times, indigenous people do not understand the legal codes or language used in negotiations. As a result, they agree to terms that they would otherwise reject. Other times, these groups do not even have a choice. Their rights may simply be taken from them.

In some nations, indigenous groups are not provided with the same educational and professional opportunities as other citizens. As a result, it is difficult for them to earn a living. And around the world, indigenous groups are still targets of racism.

Today, there are approximately 300 million indigenous people in the world, representing almost 5,000 distinct cultures.⁷ So while specific indigenous groups may be small, the number of cultures these groups represent is vast. But as indigenous people are forced to give up their beliefs or practices in favor of ones that are accepted by society, rich cultures are being lost. Similarly, the UN has recognized the importance indigenous groups play in sustainable development. Many of these groups have lived off the land for centuries, practicing environmentally sound living techniques that others today can learn from.

Even though indigenous groups represent only five percent of the world's population, they represent 80 percent of the world's cultural diversity. In addition, these groups occupy about 20 percent of the land on Earth, but this land accounts for up to 80 percent of the world's biodiversity.

Source: "Addendum No. 3 – Dialogue Paper by Indigenous People," from Multi-Stake Holder Dialogue Segment of the Second Preparatory Session – Note by the Secretary-General, UN Economic and Social Council, 2002,

www.iohannesburesummit.org/html/maior_groups/indigenouspeoplefinal.doc.

In many cases, governments do not intentionally ignore or persecute indigenous groups. But as the world modernizes, it is sometimes more difficult for these groups to rely on traditional ways of life. While governments should respect all citizens and cultures, they cannot usually hold back economic, technological or social advances that are not aligned with indigenous cultures.

Similarly, it may be difficult for governments to make up for past harms done to indigenous groups. Land ownership has become a very controversial issue, since many indigenous groups claim that their land was stolen years ago by officials or other inhabitants. Today though, this land may be legally owned by others according to government records, and may even be fully developed. Simply returning land to its original owners may not solve the problem, since others that use it now lose out on their investments.

Nonetheless, it is important for governments to seek all possible ways to return land rightfully claimed by indigenous groups, or to provide adequate compensation if this is not possible.⁸ In some cases, governments have also failed to protect indigenous lands from being exploited by businesses and industries that use up natural resources.

Origins of the Problem—Colonialism

The European colonial period lasted hundreds of years and resulted in the redistribution of ethnicities and cultures across the globe. The vast fleets of the European empires traveled from the Americas to the East Indies, conquering and colonizing large territories that include modern-day Canada, Australia, New Zealand, the United States, Latin America, North, South and Central Africa, and Southern Asia.

European settlers often became the leading political and economic powers in these areas, at times enslaving the native populations after taking control of their land. Today, former colonies have, for the most part, gained their independence. But indigenous groups are often left out of the political process. Even though they have become citizens of a new nation, indigenous people may never have had the opportunity to participate in the creation or operation of their new government.

While some indigenous groups have seen new countries formed on their territories, others are nomadic, roaming from one area to another. As a result they lack a claim on any single nation or territory. For example, the Saami of Northern Europe and the Roma (commonly known as “gypsies”) of Central and Eastern Europe do not make territorial claims or sometimes have overlapping claims on several regions. The problem that governments and the United Nations now face is of providing the proper acknowledgement and rights for a group of people that does not associate itself with a particular nation. Ultimately though, no group should be forced to reject its past and cultural history.

At the first-ever meeting of the Permanent Forum on Indigenous Issues, UN Secretary-General Kofi Annan said to all the world's indigenous peoples: “You have a home at the United Nations.” Indigenous peoples, he said, had hopes, rights and aspirations that could and must be addressed by the Organization, as well as knowledge and skills that could help the international community in its goals of development and peace.

Source: “Permanent Forum on Indigenous Issues Concludes Historic First Session,” United Nations, 24 May 2002, www.un.org/rights/indigenous/hr4602.doc.htm.

Political Discrimination

Indigenous peoples suffer from varying degrees of political discrimination. The most common issue is the lack of self-determination, or a group's right to control its own territory, culture and social norms. According to the *International Covenant on Civil and Political Rights*, all people have the right to “determine their political status and freely pursue their economic, social and cultural development.”⁹ But many governments do not consider the rights of indigenous people a priority and fail to let them voice their own concerns or develop their own political or social institutions.

Governments also discriminate on the basis of recognition. If an indigenous group has its own set of laws and codes of conduct, they are rarely recognized by the state, even within the borders of

traditionally owned territory. Furthermore, some governments refuse to recognize indigenous peoples as even being citizens of the state. This is often used to justify mistreatment or abuse. If indigenous peoples are not citizens, they have no standing under the law and lack legal defense.

The lack of self-determination and legal recognition is closely linked to disenfranchisement. When a group becomes disenfranchised, it loses its independence. Disenfranchised people lack the privileges afforded to citizens, such as political representation. Non-citizens are unable to vote in elections and have no way of affecting or reacting to the actions of their government. Even in countries where indigenous peoples are given citizenship and the right to vote, they tend to lack the voting muscle to put a representative in office. Districting laws, or those that draw the boundaries for voting areas, can also discriminate against them. For indigenous peoples that live in rural areas, it can even be impossible to reach a voting center or to receive news about upcoming elections.

Finally, many indigenous peoples do not speak the languages of the dominant population, making it difficult for them to make informed decisions based on media sources. Even just reading a voting ballot itself can be difficult. Therefore, indigenous groups face significant challenges in participating in the political system and convincing governments to acknowledge their interests.

Social Discrimination

In addition to political discrimination, indigenous groups also face social discrimination. In some cases, native populations have faced the threat of genocide at the hands of their own governments. In other cases, citizens of a nation see indigenous groups as backward or uneducated, since they have not accepted modern ways of life. In situations such as these, racism can quickly be directed at indigenous groups.

As a result of racism, indigenous groups can be denied access to proper medical care and remedies. At the same time, without these services, these people are not able to overcome disease. As a result, the dominant society may continue to look down on them.

In searching for work also, indigenous people must often overcome language barriers and employers' skepticism that they are capable of working outside their community. But as more indigenous people are denied work, society may see the entire group as lazy or incapable of finding jobs.

Although indigenous peoples possess culturally rich traditions and distinct social, economic and political institutions, they and their beliefs are in danger of being eliminated. In order to defend their own rights, indigenous groups must be able to participate in mainstream political systems and have national governments acknowledge their interests.

INTERNATIONAL ACTION

International Labour Organization

The International Labour Organization (ILO) was the first international body to defend the rights of indigenous peoples.¹⁰ Although the UN had adopted the *Universal Declaration of Human Rights* by 1948, it was not until the early 1950s that the ILO published the first international report on indigenous peoples and the pressures that they face.

Today, the ILO has assistance programs to help indigenous peoples participate in sustainable development. It also provides policy advice, training workshops and seminars explaining legislative information through publications and other media, and offers an indigenous-to-indigenous exchange program. The program promotes greater communication between indigenous groups from different parts of the world through networking and information sharing.¹¹

The ILO also set labor standards through the *Indigenous and Tribal Populations Convention* (No.107) of 1957. The convention established standards with respect to the civil, political, social and economic rights of indigenous peoples. But the convention mentioned only the assimilation of indigenous groups—it did not recognize the right of these groups to self-determination. As a result, it was revised through Convention 169 in 1989, which specifies that indigenous peoples are able to maintain their lands, traditions and languages, and receive their human rights without discrimination. However, only 17 countries have ratified ILO Convention 169.¹²

Working Group on Indigenous Populations

On May 7, 1982, in Resolution 1982/34, the Economic and Social Council (ECOSOC) authorized the establishment of a Working Group on Indigenous Populations (WGIP). The WGIP reviews developments pertaining to the promotion and protection of human rights of indigenous populations. The WGIP also plays an important role in encouraging indigenous communities to participate in the formation of international policies. Representatives of indigenous peoples are given the right to speak at the Working Group's annual sessions, thereby giving them a voice in decisions concerning their status worldwide.

At its August 2003 session, the Working Group addressed several issues. First, it concluded that while several nations have moved ahead with providing indigenous groups legal and political recognition, this has not always been carried out practically.¹³ Indigenous groups in, among other places, Australia, Canada, Guatemala, Cameroon, the Philippines and the United States of America reported violations of their rights, including arbitrary arrests, confiscation of land and even the use of violence. The Working Group also debated the need for proper education for indigenous children, so that they may learn about their own group's history and culture while learning the skills necessary to participate in modern life.



International Decade of the World's Indigenous People

On December 18, 1990, the General Assembly declared that 1993 would be the International Year of the World's Indigenous People.¹⁴ The goals for that year were to increase international efforts in eliminating the problems indigenous communities face regarding human rights, the environment, development, education and health.

By 1994, the General Assembly determined that more than one year was needed to bring recognition to the plight of indigenous peoples worldwide. So, in Resolution 48/163, the G.A. proclaimed December 10, 1994 as the start of an International Decade of the World's Indigenous People. The Decade's objectives were to continue pursuing the goals set forth in the International Year of the World's Indigenous People.

One of the Decade's achievements was the establishment of the Permanent Forum on Indigenous Issues. Formed on July 28, 2000, the Forum's purpose is to provide the Economic and Social Council with advice and information on indigenous issues concerning economic and social development, culture, the environment, education, health and human rights.¹⁵ The Forum also collaborates with the Economic and Social Council by raising awareness of this issue within the UN, holding annual meetings and submitting an annual report to the Council on its activities and offering recommendations to improve international efforts related to indigenous people.

As part of the International Decade of the World's Indigenous People, the UN General Assembly established a Voluntary Fund, which is designed to contribute money in each region toward the decade's projects. Below is an account of monies allocated for each region in 2002:

Region	# of project grants	Amount in US \$
Africa	15	134,500
Americas	15	120,455
Asia	10	100,197
Europe	3	35,000
Total	43	390,152

Source: "The United Nations Voluntary Fund for the International Decade of the World's Indigenous People," www.unhchr.ch/html/menu6/2/indigenous.htm.

Other Actions

In 1965, the UN adopted the *International Convention on the Elimination of All Forms of Racial Discrimination*. It was the first legal instrument that bound states parties to protecting their citizens against racism. The convention is monitored by the Committee on the Elimination of Racial Discrimination (CERD), which carries out periodic meetings and receives reports from Member States. Today, 128 Member States have ratified the convention, though instances of racism continue to occur worldwide.

In 1994, the UN Sub-Commission on the Prevention of Discrimination and Protection of Minorities adopted the *Draft Declaration on the Rights of Indigenous Peoples*. The declaration laid out explicit clauses relating to the rights that all indigenous peoples should receive. It states that all indigenous peoples have the right to self-determination and the right to practice their traditional customs as they see fit. The draft declaration also stated that indigenous children should receive any essential education. However, the declaration does not state how these goals are to be accomplished, and to date, it has not been adopted by the UN General Assembly.

RECOMMENDATIONS FOR FORMULATING A RESOLUTION

Delegates should address the following when creating draft resolutions:

- Ensuring that indigenous groups can participate in society without giving up their cultures or beliefs;
- Recommending ways to increase tolerance for indigenous cultures;
- Recommending ways to safely incorporate indigenous peoples into mainstream society; and
- Outlining ways to incorporate indigenous peoples views into global decision-making.

QUESTIONS TO CONSIDER

1. Does your country have an indigenous population? If so, what is it?
2. Has your country ever had conflict with indigenous populations?
3. According to your country, what can indigenous populations contribute to society?
4. Has your country ratified ILO Convention 169 or the *Convention on the Elimination of All Forms of Racial Discrimination*? Why or why not?
5. What actions has your country taken to incorporate and respect indigenous communities?
6. What else can the international community do to respect indigenous rights while promoting development?

SOURCES FOR RESEARCH

Office of the UN High Commissioner for Human Rights www.ohchr.org

Amnesty International www.amnesty.org

International Committee of the Red Cross www.icrc.org

UN Human Rights Treaties www.bayefsky.com



REFERENCES

- ¹ “Taking a New Look at Commodity Issues,” UNCTAD, www.unctad.org
- ² “Diversification,” UNCTAD, www.unctad.org
- ³ “Taking a New Look at Commodity Issues,” UNCTAD, www.unctad.org
- ⁴ “Making the Doha development agenda a reality - steps needed,” UNCTAD, www.unctad.org
- ⁵ INFOCOMM www.unctad.org/infocomm
- ⁶ “Linguistic Diversity: 3,000 Languages in Danger,” UNESCO press release no. 2002-07, www.unesco.org/bpi/eng/unescopress/2002/02-07e.shtml.
- ⁷ Janet Chernela, “The Rights of Indigenous Peoples: International Instruments,” *American Anthropological Association*, November 11, 2003, www.aaanet.org/committees/cfhr/chronology.htm.
- ⁸ “General Comments and Recommendations regarding Indigenous Treaty Rights,” *Treaty Justice*, as quoted in www.bayefsky.com, “CERD General Recommendation XXIII (Fifty-first session, 1997): On the Rights of Indigenous Peoples, A/52/18 (1997).”
- ⁹ *International Covenant on Civil and Political Rights*, accessed via www.bayefsky.com/treaties/ccpr.php.
- ¹⁰ Janet Chernela.
- ¹¹ “The ILO and Indigenous and Tribal Peoples,” *United Nations Guide for Indigenous Peoples*, Office of the United Nations High Commissioner for Human Rights, www.unhchr.ch/html/racism/indileaflet8.doc.
- ¹² “Convention 169: Convention concerning Indigenous and Tribal Peoples in Independent Countries,” ILO, ILOLEX, www.ilo.org.
- ¹³ “Prevention of Discrimination and Protection of Indigenous People: Report of the Working Group on Indigenous Populations on its Twenty-first Session,” Office of the UN High Commission for Human Rights, August 11, 2003.
- ¹⁴ *Charter of the United Nations*, United Nations, www.un.org/aboutun/charter/index.html.
- ¹⁵ “Establishment of a Permanent Forum on Indigenous Issues,” *Office of the United Nations High Commissioner for Human Rights*, [www.unhchr.ch/huridocda/huridoca.nsf/\(Symbol\)/E.RES.2000.22.En?Opendocument](http://www.unhchr.ch/huridocda/huridoca.nsf/(Symbol)/E.RES.2000.22.En?Opendocument).