



INDIGENOUS PEOPLES INDIGENOUS VOICES

BACKGROUNDER

Indigenous Peoples - Lands, Territories and Natural Resources

Hundreds of indigenous tribespeople in north-eastern India are rushing to reclaim lands from which they were removed decades ago for the construction of a hydro-electric dam.ⁱ

In a case lasting 11 years, the Australian indigenous Larrakia people were recently denied their claim to native title over the Northern Territory city of Darwin.ⁱⁱ

An indigenous tribe in Malaysian Borneo set fire to a campsite run by loggers in April this year, highlighting their concerns that timber and palm oil industries are encroaching on indigenous territories.ⁱⁱⁱ

The Mapuche from Patagonia in Southern Chile and Argentina are concerned about foreigners buying up land in the region, saying that it results in many natural wonders being off-limits to them and stifles development of resources in a poor region.^{iv}

Around the world, indigenous peoples are fighting for recognition of their right to own, manage and develop their traditional lands, territories and resources. At the international level, their representatives are advocating for the adoption of the Declaration on the Rights of Indigenous Peoples by the UN General Assembly.

The Declaration – the result of more than two decades of negotiation - emphasizes that indigenous peoples' control over their lands, territories and resources will enable them to “maintain and strengthen their institutions, cultures and traditions” and to “promote their development in accordance with their aspirations and needs”.

The sixth session of the UN Permanent Forum on Indigenous Issues, to be held at United Nations Headquarters from 14 to 25 May 2007, will focus on these issues. More than a thousand indigenous participants from all regions of the world will come together with government representatives, UN agencies, academia and civil society at large to state their views, voice their concerns and suggest solutions regarding their lands, territories and natural resources.


A relationship at risk

Indigenous peoples' relationship with their traditional lands and territories is said to form

a core part of their identity and spirituality and to be deeply rooted in their culture and history. Stella Tamang, an indigenous leader from Nepal, summarizes the relationship saying, “[I]ndigenous peoples...have an intimate connection to the land; the rationale for talking about who they are is tied to the land. They have clear symbols in their language that connect them to places on their land...in Nepal, we have groups that only can achieve their spiritual place on the planet by going to a certain location”.^v

“Not being in control of the land, or not being able to protect it or have access to the natural foods and medicines that grow on it, gives us a really shaky future”
Ramona Peters, a Mashpee Wampanoag and indigenous rights activist





Indigenous peoples see a clear relationship between the loss of their lands and situations of marginalization, discrimination and underdevelopment of indigenous communities. According to Erica Irene Daes, a UN Special Rapporteur in 2002, “The gradual deterioration of indigenous societies can be traced to the non-recognition of the profound relation that indigenous peoples have to their lands, territories and resources.”

Indigenous peoples are also acutely aware of the relationship between the environmental impacts of various types of development on their lands, and the environmental and subsequent health impacts on their peoples. Through their deep understanding of and connection with the land, indigenous communities have managed their environments sustainably for generations. In turn, the flora, fauna and other resources available on indigenous lands and territories have provided them with their livelihoods and have nurtured their communities.

As peoples, we reaffirm our rights to self-determination and to own, control and manage our ancestral lands and territories, waters and other resources. Our lands and territories are at the core of our existence – we are the land and the land is us; we have a distinct spiritual and material relationship with our lands and territories and they are inextricably linked to our survival and to the preservation and further development of our knowledge systems and cultures, conservation and sustainable use of biodiversity and ecosystem management.

The Kimberly Declaration. The Voice of Indigenous Peoples, International Indigenous Peoples Summit On Sustainable Development, 20-23 August 2002

However, according to indigenous leaders this relationship is increasingly at risk.

Victoria Tauli-Corpuz, an indigenous Igorot leader from the Philippines and Chairperson of the UN Permanent Forum on Indigenous Issues, has stated that “With the increasing desire of states for more economic growth, senseless exploitation of indigenous peoples’ territories and resources continues unabated.”^{vi}

Threats to indigenous peoples’ ecosystems include such things as mineral extraction, environmental contamination, the use of genetically modified seeds and technology and monoculture cash crop production,.

Rights to lands and territories – Mixed Progress

In recent decades, many countries have reformed their constitutional and legal systems in response to calls from indigenous movements for legal recognition of their right to the protection and control of their lands, territories and natural resources (as well as with respect to their languages, cultures and identities; their laws and institutions; their forms of government and more).

- Latin America has led the way with such constitutional reforms taking place in Argentina, Bolivia, Brazil, Colombia, Guatemala, México, Nicaragua, Panama, Paraguay, Peru, Ecuador and Venezuela, a number of which go so far as to acknowledge the collective nature of indigenous peoples (an essential element of land rights).^{vii}

However, in his March 2007 report, the UN Special Rapporteur on the situation of the human rights and fundamental freedoms of indigenous people, stated that:

“Although in recent years many countries have adopted laws recognizing the indigenous communities’ collective and inalienable right to ownership of their lands, land-titling procedures have been slow and complex and, in many cases, the titles awarded to the communities are not respected in practice”.^{viii}

- For example, by 2005, the indigenous Aymara people in Bolivia - which make up 60 to 80 per cent of the total population - had filed land claims covering 143,000 square miles, but due to the slow, under-funded titling process, only 19,300 miles had been granted by the end of 2006.^{ix}





Privatization

Furthermore, the UN Special Rapporteur also noted that privatization of indigenous lands has been increasing.

- In Cambodia, a land law passed in 2001 recognizes the collective right of indigenous peoples to own their lands, yet over the last decade, some 6.5 million hectares of forest have been expropriated to large timber companies through concessions. A further 3.3 million hectares have been declared as protected land, leaving the indigenous communities with limited access to the forest resources necessary for them to survive.
- In Canada, the federal and provincial governments are negotiating agreements with First Nations peoples of British Columbia which recognize only a small portion of these communities' traditional lands as indigenous reserves, leaving the remainder to be privatized.

According to the Declaration on the Rights of Indigenous Peoples adopted by the Human Rights Council, Indigenous Peoples have the right to determine and establish priorities and strategies for their self-development and for the use of their lands, territories and other resources. Indigenous peoples demand that free, prior and informed consent must be the principle of approving or rejecting any project or activity affecting their lands, territories and other resources.

Natural resources

According to Ms. Tauli-Corpuz, Chairperson of the UN Permanent Forum on Indigenous Issues the majority of the world's remaining natural resources – minerals, freshwater, potential energy sources and more - are found within indigenous peoples' territories. Access to and ownership and development of these resources remains a contentious issue.

- In the Russian Federation, laws adopted in 2001 permit private appropriation of lands yet procedures for access to ownership are so onerous that the majority of indigenous communities have remained excluded from the process. Central Siberia constitutes a vast reserve of petroleum, gas and coal and heavy metals and Russian and foreign companies are now competing for access to these sub-surface resources, presenting problems for the indigenous people in the districts of Turukhansk, Taimyr and Evenk in Krasnoyarsk Territory.^x

The situation of forest resources is particularly acute. According to a recent UN report,^{xi} around 60 million indigenous people around the world depend almost entirely on forests for their survival. Indigenous communities continue to be expelled from their territories under the pretext of the establishment of protected areas or national parks. The report claims that forced displacement of indigenous peoples from their traditional forests as a result of laws that favour the interests of commercial companies is a major factor in the impoverishment of these communities.

- Indonesia is home to 10 per cent of the world's forest resources, which provide a livelihood for approximately 30 million indigenous people. Of the 143 million hectares of indigenous territories that are classified as State forest lands, almost 58 million are in the hands of timber companies, with the remainder in the process of being converted into commercial plantations.
- In eastern Africa and the Congo Basin, the creation of protected forest areas has caused the displacement of tens of thousands of indigenous peoples and threatened their subsistence survival.





Profiting from the knowledge of generations past

In recent years, the related issues of genetic resources and traditional knowledge have gained prominence on the international political agenda, with indigenous communities expressing fears over the expansion of biotechnology and bio-prospecting.

Examples of indigenous traditional knowledge being used for commercial purposes include:

- An element of the Hoodia plant, used by the San people of southern Africa to stave off hunger and thirst during extended hunting expeditions, was patented in 1995 by the South African Council for Scientific and Industrial Research (CSIR). It was later licensed to a multinational pharmaceutical company for use in the development of a slimming pill. After the San people threatened legal action against CSIR, claiming their traditional knowledge had been stolen, the two groups reached an understanding whereby the San would receive a share of future profits from the sale of the drug.^{xii}
- A frog poison which acts as a stronger painkiller than morphine and is used by indigenous communities in Brazil, has been the target of more than 20 patents in Europe and the United States.^{xiii}
- A patent awarded to two Indian scientists at the University of Mississippi for the “use of turmeric in wound healing” was overturned after the Indian Council of Scientific Research argued that the use of turmeric for medicinal purposes had been around for thousands of years and was not “novel”.

Two critical issues at the centre of this debate are:

- The requirement of outside actors to obtain the free, prior and informed consent of indigenous people for the use of their traditional knowledge and/or genetic material; and
- The establishment of arrangements for benefit sharing in the profits that flow from such developments.

The Convention on Biological Diversity – which highlights the need to promote and preserve traditional knowledge – sets out principles governing access to and benefit sharing from genetic resources and traditional knowledge, and efforts are being made to ensure such principles are incorporated into the international intellectual property regime.

For more information on the Sixth Session of the UN Permanent Forum on Indigenous Issues, please see:


http://www.un.org/esa/socdev/unpfii/en/session_sixth.html


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ⁱ BBC News Online, “Land reclaim dispute over drying dam”, 3 April 2007, http://news.bbc.co.uk/2/hi/south_asia/6509771.stm

ⁱⁱ ABC Radio Australia, “Australia's Larrakia vow legal fight”, 5 April 2007, <http://www.radioaustralia.net.au/news/stories/s1891204.htm>

ⁱⁱⁱ International Herald Tribune, “Tribesmen defend torching loggers’ camp in Malaysia’s Borneo”, 24 April 2007, <http://www.iht.com/articles/ap/2007/04/24/asia/AS-GEN-Malaysia-Tribes-vs.-Timber.php>

^{iv} International Herald Tribune, “Billionaires buying up great swaths of one of the last wilderness areas”, 3 April 2007, <http://www.iht.com/articles/2007/04/02/bloomberg/bxland.php>

^v Cultural Survival and the Indigenous Peoples’ Caucus. “Our Land, Our Identity, Our Freedom” *Cultural Survival Voices* Volume 5, Issue 2 (March 2007)

^{vi} <http://www.unpo.org/article.php?id=956>

^{vii} José Alwyn. “Land and Resources” *Cultural Survival Quarterly* Issue 30.4 (December 2006)

^{viii} UN Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples. Report to the Fourth Session of the UN Human Rights Council, 27 February 2007 <http://www.ohchr.org/english/bodies/hrcouncil/4session/reports.htm>

^{ix} Cultural Survival Quarterly

^x UN Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples. Report to the Fourth Session of the UN Human Rights Council, 27 February 2007

^{xi} *ibid*

^{xii} Commission on Intellectual Property Rights. 2002. *Report of the Commission on Intellectual Property Rights : Integrating Intellectual Property Rights and Development Policy*, London.

^{xiii} Carolina Galvani. “Intellectual property rights reach indigenous communities in the Amazon” <http://news.mongabay.com/2007/0321-galvani.html> (March 21, 2007)

