

CHAPTER VII



EMERGING ISSUES

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The designation by the United Nations General Assembly of a First and Second International Decade of the World's Indigenous People and the adoption of the United Nations Declaration on the Rights of Indigenous Peoples are major demonstrations of the progress that has been achieved in terms of raising awareness in the global arena about indigenous peoples' issues, and promoting the rights of indigenous peoples. The creation of the Permanent Forum on Indigenous Issues (UNPFII) and the designation of a Special Rapporteur on the human rights and fundamental freedoms of indigenous people are also significant milestones in integrating indigenous issues and advocacy within the United Nations system. These accomplishments, however, have also revealed inadequacies within the United Nations system, which need to be addressed if the goal of mainstreaming indigenous issues within the system and its programmes is to be achieved in the future.

This chapter presents a brief overview of emerging indigenous issues that need to be dealt with in the near future. These issues relate to:

- ◆ Policies and disaggregated data in order to address indigenous peoples' issues and protect their rights;
- ◆ Resolution of conflicts involving indigenous peoples, States, the United Nations system and civil society;
- ◆ Displacement of indigenous peoples, including issues of violence and militarization, conservation refugees and globalization;
- ◆ Migration and urbanization of indigenous peoples;
- ◆ Indigenous peoples living in voluntary isolation.

The critical need for policies and disaggregated data

The mandate of the Permanent Forum and its programme of work require that the Forum provide advice and make recommendations to the United Nations Economic and Social Council (ECOSOC) on indigenous issues in the areas of economic and social development, culture, education, the environment, health and human rights. The Forum is also tasked with the gathering and dissemination of information on indigenous peoples, awareness raising and the promotion of their integration and coordination within the United Nations system.

In order for the Forum to adequately assess the situation of indigenous peoples and pursue its mandate, it must have access reliable data on indigenous peoples. The gathering and disaggregation of data by the United Nations system and States is undertaken pursuant to the policies adopted by them relating to indigenous peoples. On the one hand, the failure of many United Nations agencies, funds and programmes and States to adopt policies and guidelines relating to indigenous peoples means that there is also insufficient reliable data available to the Forum in critical areas. On the other, the lack of data represents a considerable obstacle to the development and implementation of sound policies.

Because of this gap in terms of policies and disaggregated data, it has been difficult for the Forum to monitor and assess in detail the many issues within its mandate. This also negatively impacts on the ability of the Forum and ECOSOC to evaluate progress made towards integrating indigenous peoples into broader United Nations goals and programmes such as the Millennium Development Goals (MDGs). The annual reviews of MDG Country Reports produced by the Secretariat of the Permanent Forum on Indigenous Issues (SPFII) have found that, with few notable exceptions, indigenous peoples' issues are not being addressed in these reports. Only 20-30 per cent of the reports analysed over three years included references to indigenous peoples. Furthermore, the desk reviews have found that indigenous peoples are largely not participating in MDG processes at country level.¹ A similar review conducted by the Office of the High Commissioner for Human Rights' Independent Expert on minority issues in 2007 found that indigenous peoples were mentioned in only 10 of 50 reports assessed.² In the few instances where States have collected and disaggregated data on indigenous peoples, the statistics verify that indigenous peoples face a significantly wider gap than others in society in the eight areas identified as MDG priorities.

Understanding these ethnic and cultural inequities has facilitated the ability of some States to implement poverty reduction strategies that positively impact on these problems. Mexico and the Philippines are good examples of States using disaggregated data to address MDG priorities. In the Philippines, projects have been adopted to prioritize education in under-served indigenous communities (Goal 2) and literacy programmes for indigenous women and girls have been initiated (Goal 3). In Mexico, where disaggregated data indicated that indigenous women had the highest national rates of maternal mortality and that indigenous child mortality was 300 per cent higher than the national average (Goal 4), the government is undertaking specific actions to overcome the high incidence of preventable diseases (Goal 6) suffered by indigenous peoples in order to have an impact on infant and maternal mortality rates.³

With regard to policies, the lack of United Nations system-wide standards, policies and guidelines regarding indigenous peoples has diminished the ability of the Forum to effectively coordinate activities relating to indigenous peoples between agencies and specialized bodies, since some agencies have policies and guidelines which require their "active engagement" with indigenous peoples and others do not.

At present five United Nations system and other intergovernmental agencies have policies on indigenous peoples. They are: the United Nations Development Programme (UNDP), the International Fund for Agricultural Development (IFAD) the World Bank, the Inter-American Development Bank and the Asian

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¹ SPFII's annual MDG Desk Reviews are available at: <http://www.un.org/esa/socdev/unpfii/en/mdgs.html>

² McDougall (2007).

³ McDougall (2007), paras. 30-34.



Development Bank. Some are working towards adopting guidelines and some include indigenous issues in their medium-term plans. One example is the United Nations Development Group (UNDG), which comprises all the United Nations system entities dealing with development. In February 2008, it adopted the UNDG Guidelines on Indigenous Peoples' Issues,⁴ a document that will operationalize the UN normative framework on indigenous peoples, particularly at the level of United Nations country offices. The adoption of these Guidelines is a significant step in the right direction, and a great deal will depend on their implementation.

The UNESCO example

It is interesting to examine the work of UNESCO and the General Assembly of States that are party to the UNESCO Conventions for the Safeguarding of Intangible Cultural Heritage (2003) and the Protection and Promotion of the Diversity of Cultural Expressions (2005). These Conventions were developed and came into force in the First International Decade of the World's Indigenous People and early in the Second Decade respectively. UNESCO did not include indigenous peoples in the drafting of the Conventions nor was any effort made to engage indigenous peoples in a meaningful or comprehensive process of consultations before the Conventions came into force. Neither Convention adequately acknowledges the fact that a large part of the "cultural heritage" and "cultural expressions" referred to in the Conventions are the heritage of indigenous peoples and cultures. Rather, the Conventions present these cultural properties as the "heritage of humanity" subject to the rules of international cooperation.

Indigenous peoples have criticized the UNESCO Conventions because they authorize and legitimize the expropriation of indigenous cultural property, which is part of their heritage. In her study on the Protection of the Heritage of Indigenous Peoples,⁵ Erica Irene Daes, Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, notes that "heritage is ordinarily a communal right and is associated with a family, clan, tribe or other kinship group". Daes also recognizes that "only the group as a whole can consent to the sharing of heritage" and that consent is always "temporary and revocable; heritage can never be alienated, surrendered or sold, except for conditional use". Daes further notes that the individual and collective rights of indigenous peoples to cultural property are protected under Article 27.2 of the Universal Declaration on Human Rights, Article 15.1 of the International Covenant on Economic, Social and Cultural Rights and Article 5(d) of the International Convention on the Elimination of All Forms of Racial Discrimination.

UNESCO should consider adopting a policy on indigenous peoples that provides for their meaningful participation in UNESCO's undertakings, in accordance with UNESCO's Declaration on the Principles of International Cultural Co-operation, which affirms that each culture has a dignity and value that must be protected and preserved and that "every people has the right and duty to develop its culture".⁶

Issues relating to the peaceful resolution of conflicts

Indigenous peoples often find themselves involved in conflict with the dominant society, mostly relating to the loss of their lands, territories and resources or to the deprivation of their civil, political, cultural, social and economic rights. The rapid pace of globalization has accelerated such conflicts and indigenous peoples, like all other peoples, need access to mechanisms for peaceful conflict resolution.

⁴ UNDG (2008).

⁵ Daes (1995).

⁶ Article 1 of the UNESCO Declaration on the Principles of International Cultural Co-operation (1996).

The United Nations system does not provide specific juridical mechanisms for the resolution of conflicts to which indigenous peoples are a party or which result in the victimization of indigenous peoples.

The International Court of Justice (ICJ) does not provide legal standing to indigenous individuals or collectives to pursue litigation against States and others. The human rights treaty bodies and the regional international courts, such as the Inter-American Court, have been accessed by indigenous peoples to a limited extent, i.e., in cases where a State party has agreed to optional protocols, or where a State party has reporting obligations under a treaty. It should be noted, however, that the decisions of these human rights treaty bodies are not binding or enforceable and are often ignored by offending States. Thus, indigenous efforts in these fora have not had significant results in the resolution of conflicts.

The indigenous problématique and United Nations intervention in cases of conflict

In his “Study of treaties, agreements and other constructive arrangements between States and indigenous populations”, Special Rapporteur Miguel Alfonso Martínez discussed inherent problems relating to domestic and international juridical fora as venues for the resolution of conflicts between States and indigenous peoples. He notes:

In practically all cases, both in Latin America and in other regions mentioned above, the legal establishment can be seen serving as an effective tool in [the] process of domination. Jurists (with their conceptual elaborations), domestic laws (with their imperativeness both in the metropolis and in the colonies), the judiciary (subject to the ‘rule of [non-indigenous] law’), one-side international law (its enforcement assured by military means) and international tribunals (on the basis of existing international law) were all present to “validate” juridically the organized plunder at the various stages of the colonial enterprise.⁷

Noting that the indigenous problématique “cannot be approached exclusively on the basis of juridical reasoning” because the problems confronted are essentially political in nature, he concludes that:

Juridical discussions and argumentation simply take too long, require copious resources (which the indigenous side almost always lacks or has only in limited amounts), and in many cases are prejudiced by centuries of sedimented rationale. In addition, the urgency of the existing problems simply leaves no

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⁷ Martínez (1999), para. 196.



*room to engage, at the threshold of the twenty-first century, in the type of juridico-philosophical debates ... pursued in the sixteenth century.*⁸

International legal expert Augusto Willemsen Díaz also dismisses the idea that domestic legal fora would be an alternative. In his opinion,

*Judicial adjudication in specific disputes or conflicts by a court of law forming part of the State or of an intergovernmental organization is more clearly questionable, since it would entail surrendering fully the deciding powers of the Community to those outside entities.*⁹

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Díaz proposes that the United Nations itself might utilize processes including facilitation, moderation, conciliation, mediation and arbitration, provided that the indigenous communities themselves freely and formally request such United Nations intervention.

The Manila Declaration

In December 2000, the Tebtebba Foundation, an indigenous organization based in the Philippines, convened an International Conference on Conflict Resolution, Peacebuilding, Sustainable Development and Indigenous Peoples. The outcome document, referred to as the Manila Declaration, affirmed the right of indigenous peoples:

*...to create new systems and institutions of peace-making that are sourced in indigenous values and that co-exist with existing bodies such as the International Court of Justice and similar regional bodies. Such institutions could include independent indigenous peoples' tribunals; commissions of inquiry that are recognized as legitimate organs in any process of conflict resolution.*¹⁰

The Conference agreed that an "independent International Commission of Indigenous Peoples for Mediation and Conflict Resolution be organized not later than the year 2002. The mission of this body will be to promote and defend the rights of indigenous peoples, and to expose and denounce aggression and abuses of the rights of indigenous peoples in different parts of the world."¹¹

The Manila Declaration contains detailed recommendations for peacebuilding, technical assistance, training in mediation and other approaches to conflict

⁸ Martínez (1999), para. 254.

⁹ Willemsen Díaz (2004), 543.

¹⁰ Manila Declaration (2000), Preamble.

¹¹ Willemsen Díaz (2004), 547-552.

resolution. It also recognizes the critical role that women play in peacebuilding in their communities. To date, the recommendations of the Manila Conference have not been implemented and there continues to be a need for conflict resolution mechanisms in the United Nations and at the national level.

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Emerging issues relating to the displacement of indigenous peoples

In the years that have elapsed since the Permanent Forum's creation, the significant participation of indigenous representatives in the Forum's work has greatly enhanced the United Nations system's understanding of the pressing issues faced by indigenous communities. This has allowed the Forum experts to clarify and further assess the nature of the problems facing indigenous peoples globally.

While there is a great diversity of problems confronting indigenous peoples today, it is clear that one of the most significant threats faced by indigenous peoples arises from their displacement, eviction and separation from their lands, territories and resources. These issues are expanding and represent significant challenges to the security, health and survival of indigenous peoples and their cultures.

The issues that the Forum will monitor and further assess in future years as it addresses the specific themes identified on its mandate include violence and militarism, conservation refugees and globalization.

Violence and militarism

In nearly every region of the world, indigenous peoples are being displaced and severely impacted by violence and militarism. Militarism in indigenous territories presents a direct threat to the lifestyle and survival of indigenous peoples and has significant effects on indigenous communities. These adverse effects include: the pollution of ancestral and sacred lands, forests and waters as well as the destruction of wildlife in impacted areas; the dumping of toxic, including nuclear, waste, which renders indigenous lands unproductive, and the use of explosives and landmines, which contaminate the land and cause injuries, mutilations and death among the civilian indigenous population.¹²

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¹² WGIP (2006), paras. 11, 12 and 13.



Militarism includes not only armed conflict but rape and sexual violence, which are often employed by armed forces as a strategy to target women. These acts of violence may result in the victim being ostracized because of cultural norms or stigmatized, particularly if pregnancy results. In some instances, armed forces have forced indigenous women to engage in prostitution or used them as sex slaves.¹³

Indigenous women and militarism

The general pattern that holds for indigenous women worldwide is their vulnerability to sexual violence. In areas of conflict, indigenous women often fall victims to abuse by members of the military and are subject to sexual enslavement, forced pregnancy, gang-rapes, sexual mutilation and killing. Historically, violence against women was used as a weapon in colonial conquests of indigenous lands, but as recently as the 1980s and 1990s, 1,400 indigenous Samburu women of Kenya were raped by British soldiers stationed on their lands. In the 1980s, indigenous women were targeted for rape as a weapon of war in Guatemala. In the 1990s, indigenous women in Chiapas, Mexico were subject to compulsory servitude in paramilitary camps.

In times of crises, indigenous women are often forced to leave their communities and search for shelters and jobs elsewhere, which results in cultural and spiritual isolation as well as their exposure to sexual trafficking and prostitution as well as exploitation as domestic workers.

Source: International Indigenous Women's Forum (2006), 48.

Another tactic employed by armed forces occupying indigenous territories is the destruction of the social fabric of the indigenous community by assassinating its traditional authorities. This deprives the community of leadership and leaves it vulnerable to manipulation. As conventional roles held by women and men are destroyed, indigenous communities are unable to maintain their traditional social structure. This often leads to the loss of gender-differentiated roles and authority and may impact on critical community pursuits such as planting and food security. In addition, the occupation of indigenous territories by armed forces often results in the military restricting movement of members of the community engaged in hunting, fishing or the gathering of plants for traditional medicines.¹⁴

Displacement is often the result of intensified military activities in indigenous territories. Displaced communities are left without food, shelter or protection and are often forced to migrate to cities or other areas.

One recurring issue raised by indigenous peoples in United Nations fora has been the use of militarism as a pretext to gain control over natural resources, including land, minerals and oil, without restitution or compensation.¹⁵

¹³ Rights and Democracy (2007), Section 9.

¹⁴ Rights and Democracy (2007), Section 9.

¹⁵ WGIP (2006), para. 13.

Violence in Colombia

Colombia is home to eighty-four distinct indigenous peoples who live in all areas of the country. There is great demographic and cultural diversity among these peoples, some of whom are nomadic while others live in rural communities. In addition, there is a growing indigenous urban population.

Since the 1980s, the indigenous regions in Colombia have become host to a number of armed groups involved in drug cultivation and trafficking. State military activity is also rampant in these areas and indigenous peoples are often caught in the crossfire. Armed groups make no distinction between combatants and non-combatants and the indigenous civilian population is sometimes forced to work for one side or another thus exposing themselves to reprisals.

In 2003, more than 100 indigenous peoples and leaders were murdered and the indigenous community in Sierra Nevada de Santa Maria was forcibly displaced. In the last 15 years, as political violence has escalated, more than 2,660 cases of human rights violations have been reported. Reports confirm that indigenous peoples have been the victims of several massacres perpetrated by paramilitaries, the guerrillas and other armed groups. State-sponsored military activities have included aerial bombing of rural and indigenous communities. Thousands of indigenous peoples have been displaced, resulting in increasing populations of refugees in the neighbouring countries of Brazil, Ecuador, Panama, Peru and Venezuela. Refugees have also fled to urban areas within Colombia where malnutrition and deaths due to hunger have been reported. Throughout the country, forced disappearances of indigenous leaders and representatives have been documented, as have reports of mass arbitrary detentions carried out by the military.

Source: Stavenhagen (2004).

Conservation refugees

In recent years, big international non-governmental organizations (NGOs) have worked with States to create Protected Areas for conservation purposes. These organizations include Conservation International, the Nature Conservancy, the World Wide Fund for Nature and the Wildlife Conservation Society. Funded by the World Bank, the Global Environmental Fund (GEF), States and transnational corporations, these organizations work with States through financial incentives such as debt-for-nature swaps to obtain huge areas of land for conservation purposes. These protected areas are often the traditional lands of indigenous peoples, which remain rich in biodiversity.

The expansion of protected areas has grown phenomenally. In 1962 there were 1,000 official protected areas worldwide; in 2003, there were 102,102 protected areas in the world,¹⁶ covering 12 per cent (or 18.8 million square kilometres) of the Earth's surface, an area larger than the continent of Africa and equal to half of the world's cultivated land.¹⁷

¹⁶ According to UN list on Protected Areas (2003). See webpage of UNEP-World Conservation Monitoring Centre at http://www.unep-wcmc.org/protected_areas/UN_list/index.htm

¹⁷ Dowie (2006); See also Huertas Castillo (2004), 164-165.



Protected areas in Kenya and their impact

Kenya is widely admired in the world for its national parks and game reserves, which have become a major tourist attraction and therefore important for the national economy. It is estimated that direct and indirect revenues from wildlife conservationist policies amount to 10 per cent of GDP. Protected Areas cover over 3.5 million hectares, or 6 per cent of Kenya's total land area. The conservation of wildlife and the preservation of natural parks are considered high priority for the country, and this has involved separating indigenous peoples from the wildlife and the forests. Many families were evicted by the creation of protected areas, most of which were originally inhabited by pastoralists and hunter-gatherers.

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On the mistaken assumption, held since colonial times, that subsistence hunting by indigenous communities is decimating wildlife. The Wildlife conservation Act prohibits game hunting inside and outside the protected areas. Those who persist are often arrested and prosecuted as poachers and in some areas "eco-guards" have been armed and have actually killed poachers to prevent illegal hunting. Despite centuries of coexistence with wildlife, nomadic pastoralists are not allowed to herd their cattle in the reserves, even in game reserves which are managed by the local authorities on behalf of the local communities. In the context of rising human population and escalating poverty, the restrictions imposed on the utilization of national parks and game reserves by pastoralists have severely affected their livelihood and their chances for survival.

The growth of the tourist industry in connection with the establishment of protected natural areas has created additional problems for these communities. In the Maasai Mara area, the construction of a private tourist resort has involved fencing off an area traditionally belonging to the Sekenani village, leading to the loss of access to one of the only three sources of water for everyday human and cattle consumption. Local Endorois communities similarly claim that the privately owned Laikipia Natural Conservancy Trust severely curtails their livestock grazing, and access to water sources in the area is only allowed once a week.

Local indigenous communities do not participate in the management of the parks and reserves and do not benefit from the revenue, which either accrues to the Kenya Wildlife Service in the case of national parks, or to the local districts in the case of national reserves. An exception in this regard is the Maasai Mara Game Reserve, where 19 per cent of the revenue is said to be invested in favour of the local Maasai communities. However, local Villagers claim that they do not see the benefit, and 60 per cent of the district remains in poverty.

The revision of the Kenyan Wildlife Policy in 2003 was halted under pressure from indigenous communities and its adoption is still pending. A better practice, from a human rights and ecological perspectives, would be to involve the pastoralist and forest communities in the management and benefits of a conservationist strategy. Thus, wildlife and parks would be preserved, tourist dollars would be obtained and the livelihood of the local populations would be protected and strengthened. Throughout Kenya's recent history, it would appear that wild animals are protected, while peoples are not.

Source: Stavenhagen (2007b).

Globalization

There is mounting evidence that the phenomenon of globalization has been devastating to indigenous peoples and their communities, lands and resources. Globalization has become a primary cause of conflict between indigenous peoples and others, including transnational corporations (TNCs), the World Bank (WB), International Monetary Fund (IMF) and the Overseas Development Agencies (ODAs).

Current manifestations of globalization are based on the premise that the best way to achieve universal economic prosperity is through a single worldwide system of trade and financial rules that promotes corporate large scale export-oriented commercial production such as commercial mining and industrial monoculture agriculture.

Trade and financial rules are mandated by international treaties and also include the rules governing member States of the World Trade Organization (WTO) and the conditionalities and requirements for aid set by the IMF/WB system. These trade and financial rules regulate the global market. The integration of national economies into the global market is achieved by the imposition of structural adjustment programmes (SAPs), which favour foreign investment and shift economic control away from States to TNCs through privatization. The impact of SAPs on indigenous peoples, the environment and developing States has been tragic and, in some cases, irreversible.

Financial and investment liberalization policies often require that States abandon controls on currency speculation and amend mining and forestry laws to allow for foreign ownership of resources. TNCs are also permitted to increase their equity to 100 per cent and to export profits rather than reinvest in the local economy. This drives out local control and transfers control of entire sections of the national economy to foreign TNCs.

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resources and destroyed indigenous subsistence economies, replacing them with monoculture cash crops for export.

SAPs require that States curtail expenditure on national health, education and social services in favour of higher and more rapid repayment of the national debt to the IMF/WB. The impact on indigenous peoples and the poor can be seen in less access to education and social services and higher rates of illiteracy.

Trade and import liberalization policies require that countries abrogate tariffs and other measures intended to protect locally-produced food and commodities needed for domestic consumption in favour of increased incentives for corporate agribusiness producing exports for the foreign market. This not only undermines food security but results in environmental degradation and the over-exploitation of forest and subsurface mineral resources.

The hallmark of globalization is the privatization of government services and assets, which are replaced by corporate monopolies in many sectors of the economy that are crucial to national security. These sectors include food production, water allocation and health care delivery. Under the globalized model of development, these critical services are transferred to TNCs and G7¹⁸ countries, which have reaped a huge windfall while indigenous peoples have been displaced from their traditional territories and livelihoods.

For an example of how globalization impacts negatively on indigenous peoples, their environment, lands, territories and resources.

The impact of globalization in the Pacific

In 2001, the World Council of Churches (WCC) undertook an inquiry into the impact of globalization in the Pacific region and an assessment of alternatives to economic globalization. The outcome of this effort was published by the WCC in a document entitled: "Island of Hope: A Pacific Alternative to Economic Globalization" (2001). The Council of Churches, in assessing the impact of globalization in the Pacific, examined impacts in several areas including social, political, ecological and economic impacts. The following are a few of the findings made by the Council and the Pacific churches:

Social impacts: The Pacific churches found a marked increase in the number of families living below the poverty line, largely linked to the liberal policies adopted by national governments, as well as worsening wages and working conditions. As the study points out, "national economic policies aim for greater liberalization and competition in the economy, ignoring their social and economic ramifications." Economic globalization has exacerbated social problems in the Pacific, including substance and drug abuse and the spread of HIV/AIDS. The Pacific has also experienced an increased erosion of traditional lifestyles and values.

Ecological impacts: The report describes an "intensive exploitation, rather than sustainable management of the Pacific's natural resources", with calls for sustainable exploitation of resources from regional

¹⁸ The G-7 Countries are the world's major financial nations: Britain, Canada, France, Germany, Italy, Japan and the United States.

environmental NGOs largely being ignored. Much of this exploitation is carried out by transnational corporations, with resource owners getting a very small share of the profits.

Climate change: The very existence of small Pacific islands is threatened by climate change. According to the report, “six countries in the Pacific are faced with the threat of seeing islands disappear as a result of rising sea levels as a direct consequence of global warming”. Livelihoods are being directly affected by climate change. In Tarawa, Kiribati, for example, salt water intrusion into the water table is causing the death of breadfruit trees, affecting an essential component of the local diet.

Economic impacts: Governments in the Pacific have been pursuing economic policies that are out of tune with the characteristics and realities of the economies of these small-island developing States. Pacific economies are largely reliant on agriculture and fishing, with large proportions of the population living in rural areas. Despite this fact, governments have pursued free trade policies that favour foreign investment. These policies “encourage foreign control of island economies and create increased dependency on externally devised economic initiatives, rather than promoting and supporting local initiatives”.

Political impacts: The Pacific region has been affected by a series of political crises, notably in Fiji and the Solomon Islands, fuelled by disparities, land issues and a lack of confidence in Governments. Many of these sources of social discontent can be traced to the mixed impact of liberal policies.

Source: WCC (2001).

Migration and urbanization

For the first time in human history, the majority of humanity lives in urban areas. Although available data indicates that the majority of the world's indigenous peoples still live in rural areas, there is increasing evidence that indigenous peoples are part of a global trend towards urbanization, that this trend is irreversible and occurring in both developed and undeveloped regions.¹⁹ For example, in Latin America, a multi-ethnic and pluricultural region with 671 state-recognized indigenous peoples, the majority of indigenous peoples in some countries (Bolivia, Brazil and Chile) reside in urban areas.²⁰ Likewise, in New Zealand, the Maori are highly urbanized, with over 80 per cent now living in major urban centres.²¹ In some instances, urban migration is voluntary. It may be spurred by the prospect of better economic opportunities and the need to ensure survival of the traditional way of life in their territories through urban-rural remittances or a desire to be in closer proximity to social services and facilities for education or health.²² New circumstances associated with globalization have led to an increase in migratory flows and mobility.²³

In other cases, urban migration is involuntary. It may be the result of environmental degradation that has destroyed traditional livelihoods, dispossession, displacement, military conflict or natural disaster.²⁴ Common factors that

¹⁹ Message from Ann Tibaijuka, Executive Director of UN-Habitat to the Expert Group Meeting on Urban Indigenous Peoples and Migration, Santiago de Chile, 27-29 March 2007. UNPFII (2007), 32.

²⁰ Statement by José Luis Machinea, Executive Secretary of the United Nations Economic Commission for Latin America and the Caribbean to the Expert Group Meeting on Urban Indigenous Peoples and Migration, Santiago de Chile, 27-29 March 2007. UNPFII (2007), 26.

²¹ Statistics New Zealand (2007) 3.

²² UNPFII (2007), 11 and 13.

²³ Statement by José Luis Machinea. UNPFII (2007), 27.

²⁴ Message from Ann Tibaijuka. UNPFII (2007), 32.



lead to involuntary or forced migration include poverty, conflict and inadequate legal protection of lands and resources, as well as environmental toxicity.²⁵

Regardless of the factors prompting the migration, indigenous peoples in urban areas encounter substantial difficulties, including lack of employment and income, racism, limited access to services and severe housing needs. Indigenous youth are particularly vulnerable. The common denominator in these cases is structural discrimination, which is reflected in marginalization, exclusion and poverty.²⁶

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UN-Habitat has found that indigenous peoples who move to urban areas are often disadvantaged when it comes to employment opportunities and face numerous obstacles in accessing credit to start business or income-generating activities. Indigenous migrants have frequently become the slum dwellers of the cities. As such, they are more prone to disease, more at risk of HIV/AIDS and suffer as much from hunger and malnutrition as rural indigenous people. In addition, they are more vulnerable to natural and human-made disasters such as fire, flood and land slides and, because of the “illegality” of slums, often cannot access critical resources including clean water, sanitation and energy. Taken together, these factors and the ongoing violation of basic rights and fundamental freedoms of indigenous peoples reveal the underlying causes of persistent poverty and social exclusion among urban indigenous communities.²⁷

One key issue relating to indigenous urban migration is the paucity of data on the migration process for indigenous peoples, which has contributed to a lack of adequate government policies aimed at urbanized indigenous peoples. Because of this problem, experts attending an International Expert Group Meeting, held in Santiago de Chile in March 2007, recommended that research institutions, universities, States and NGOs collect qualitative and quantitative data on urban indigenous communities and that these data be disaggregated by sex and indigenous group and compared with data from non-indigenous populations. The experts also called for the application of appropriate indigenous research methodologies and for the effective participation of the indigenous peoples themselves in data collection and research.²⁸

In addressing forward-looking strategies, it is important that indigenous peoples’ rights be considered in a holistic way, without dividing urban and rural members of indigenous communities. Indigenous peoples migrating to urban centres do not leave their identities behind but maintain strong attachments to their traditional lands and culture.

²⁵ UNPFII (2007), 13.

²⁶ Statement of José Luis Machinea. UNPFII (2007), 26.

²⁷ Message from Ann Tibaijuka. UNPFII (2007), 33.

²⁸ Message from Ann Tibaijuka. UNPFII (2007), 33.

Indigenous peoples living in voluntary isolation

The Programme of Action for the Second International Decade of the World's Indigenous People calls for the establishment of a global mechanism to monitor the situation of indigenous peoples in voluntary isolation and recommends that States adopt special measures to ensure their protection and rights.²⁹ The United Nations Permanent Forum on Indigenous Issues has also prioritized the needs of indigenous peoples in isolation because these peoples and their cultures are facing imminent danger and extinction, and require the implementation of urgent measures to guarantee their survival.³⁰

Although the term “indigenous peoples in isolation” is currently under discussion, there is a general understanding that these indigenous peoples share common characteristics and face recurrent situations and threats regardless of their geographic location or cultural affiliation.

Characteristics and challenges of indigenous peoples in isolation

Indigenous peoples in isolation are population groups that limit their contact to members of their own peoples and, in some cases, to the indigenous communities in the vicinity of their territories, refusing to establish sustained relationships or interactions with indigenous or non-indigenous populations that could endanger their physical and cultural integrity. They may be indigenous peoples in their own right, with their own culture, values and practices, or they may be segments of other peoples that have developed sustained relationships with national society. Indigenous peoples in isolation practice hunting, fishing, gathering and small scale sowing, for which purpose they cover a wide territory. They live exclusively from the resources provided by the forests and rivers, which are essential to their subsistence.^a

Most indigenous peoples in isolation are nomadic. They establish travelling camps in areas where they find the necessary means for survival for a period of time. This production system requires a large area of land and so the invasion of small portions of their land can mean changes in settlement patterns and in their supply of products.^b

Small indigenous communities that shun all contact with modern society and prefer to live in isolation and devote themselves to their traditional

many of these communities are now on the brink of what some describe as genocide, owing to oil exploration, timber extraction, the introduction of vast commercial plantations, infrastructure works, missionary activity, drug trafficking and international tourism

²⁹ See United Nations Organization (2005), paras. 45 and 51.

³⁰ OHCHR (2007) Report of the Regional Seminar on Indigenous Peoples in Isolation and Initial Contact in the Amazon and Gran Chaco Region. See also the reports of the Fourth, Fifth and Sixth Sessions of the UNPFII.



subistence economy are to be found in different parts of the equatorial forests that still exist in the world. Contrary to the image portrayed by some media, these groups are not the original settlers “who have never had contact with civilization”, but population groups that for generations have been avoiding contacts that have been extremely violent and deadly for them, leading them to seek refuge in forests. Many of these communities are now on the brink of what some describe as genocide, owing to oil exploration, timber extraction, the introduction of vast commercial plantations, infrastructure works, missionary activity, drug trafficking and international tourism. The few contacts that may take place can turn violent and the diseases carried by the new settlers continue to wipe out a large number of these population groups.^c

Sources: ^a Huertas Castillo (2004), 176-177; ^b OHCHR (2007); ^c Stavenhagen (2007a), 15.

Of the many factors that contribute to the vulnerability of indigenous peoples in isolation, the pressure to which their lands and territories are being subjected is the most significant. Experts and indigenous leaders attending the Expert Seminar on Indigenous Peoples in Isolation and Initial Contact in the Amazon Region and the Gran Chaco, held in Bolivia in November 2006, agreed that in most cases this pressure is attributable to an influx of private individuals and corporations, who are driving a rapacious effort to access and extract the wealth of natural resources from indigenous territories, resulting in the exploitation, expulsion and, increasingly, extinction of indigenous peoples living in isolation. In many cases, States have authorized and legalized these incursions, facilitating extractive industries (logging, mining, and oil) and tourism, pastoral uses and oil palm production.³¹

The infrastructure development related to globalization that is proceeding in the South American Amazon has had tragic and irreversible consequences for the indigenous peoples living on the remote rainforest frontiers of Peru, Brazil and Ecuador, including indigenous peoples in isolation or in initial contact.

In the oil-producing regions of Ecuador's northern Amazon, thirty years of Texaco oil operations have left a dangerous toxic legacy for indigenous communities. Oil and toxic waste spills and seepages, and toxic air pollution, have caused the deterioration of terrestrial and aquatic ecosystems. Indigenous people who live, fish, bathe and drink from the region's rivers report high incidents of cancer, skin rashes and sores, stomach ailments and respiratory problems.

Recent investigations indicate that cancer rates among indigenous communities living in Ecuador's oil-producing areas of Sucumbíos and Orellana provinces are three times higher than the national average. For certain types of cancer, this figure rises dramatically: the risk of throat cancer is thirty times greater than the national average; kidney and skin cancer is fifteen times greater; and stomach cancer is five times greater.

This story is repeated throughout oil-producing areas of the Amazon. In October 2000, a Pluspetrol oil spill on the Marañon River in the Peruvian Amazon contaminated Peru's largest protected area, the Pacaya Samiria Reserve. The area's twenty thousand inhabitants, many from the Cocamas-Coacamillas people, suffered diarrhoea and skin diseases and saw their food and water supply decimated by toxic pollution. Many medicines provided by Pluspetrol never reached the affected communities, and food provided by the company did not meet their basic needs.

³¹ OHCHR (2007), paras. 19 and 20.

*The health impacts of large projects such as dams can be equally serious. The vast expanse of stagnant water that forms Brazil's Tucuruí Reservoir led to a plague of *Mansonia* mosquitoes and a dramatic increase in malaria among local peoples. Cases of water-borne diseases such as river blindness and schistosomiasis³² also rose. Forced resettlement also had damaging consequences for human health. Formerly dispersed indigenous groups were forced to live in settlements where they were exposed to new diseases, such as intestinal infections and influenza, which thrive in dense populations. Poor levels of official health care and the irregular system of vaccinations, along with unsuitable government-provided medicines led to many needless deaths among the indigenous peoples of the Tucuruí area.*

Throughout the Amazon region, there are many accounts of un-contacted populations being decimated by curable illnesses such as malaria, pneumonia and smallpox. In the Camisea region of Peru, in the mid-1980s, Shell Oil conducted preliminary exploration for oil and gas reserves. The exploratory work led to an influx of loggers who used seismic trails as access. The contact from oil workers and loggers exposed the Nahua to whooping cough, smallpox and influenza. An estimated 50 per cent of the population died. Most of the rest of the group fled the area.³³

Although the Programme of Action for the Second International Decade of the World's Indigenous People refers to a need to establish an international mechanism guaranteeing the protection of indigenous peoples in voluntary isolation and in danger of extinction, and recommends a "special protection framework" for their protection,³⁴ these measures have not been implemented by the United Nations system and States.

Special measures, including legislation, adopted by some States in response to the recommendations made by the Forum and the Second Decade Programme of Action have been piecemeal and, in some cases, counterproductive, as in the situation whereby indigenous land reserves (*Zonas Intangibles*) are also subject to resource authorizations; or where indigenous territories are bisected by the boundaries of States with different legal systems.³⁵

Most countries have not established specific institutions to protect the rights of indigenous peoples in isolation and in initial contact. Some States have

throughout the Amazon region, there are many accounts of un-contacted populations being decimated by curable illnesses such as malaria, pneumonia and smallpox

³² Schistosomiasis is also known as bilharzia, bilharziosis or snail fever.

³³ Lloyd, Soltani and Koeny (2006), 89.

³⁴ United Nations Organization (2005), paras. 45 and 51.

³⁵ OHCHR (2007), para. 30.



insufficient economic resources and few specialized staff able to address the situation of these peoples. In addition, most States have not established specific programmes or adequate action strategies that, based on the principle that the characteristic lifestyles of indigenous peoples in isolation should be maintained, would ensure their right to physical, social and territorial integrity. In some cases, States have even violated this right or allowed it to be violated.

The lack of regulations and oversight institutions has facilitated the arrival of extraction, timber and mining companies; of religious entities that seek to make contact with and to convert groups in initial contact; and of other social actors onto the lands of indigenous peoples in isolation and initial contact, with consequences that threaten their existence, including epidemics and deaths. The difficulty of bringing such cases of human rights violations before the courts has led to a situation of impunity.³⁶

These factors taken together have created a situation of extreme urgency and emergency which has led the Permanent Forum to “urge Governments, the United Nations system, civil society and indigenous peoples’ organizations to cooperate in immediately ensuring effective prohibition against outside encroachment, aggression, forcible assimilation and acts and processes of genocide. Measures of protection should comprise the safeguarding of their natural environment and livelihood and minimally invasive, culturally sensitive mobile health-care services”.³⁷

As the Forum continues its focus in this area, it will seek to implement recommendations from the Expert seminar held in Bolivia in 2006 and to work cooperatively with States and indigenous peoples through a human rights-based approach, recognising that isolation is the result of indigenous peoples’ right to self-determination and, in the majority of cases, a consequence of aggression suffered in the past.

Concluding Remarks

This chapter has highlighted five of the most important emerging issues for indigenous peoples throughout the world. The approval of the United Nations Declaration on the Rights of Indigenous Peoples has given indigenous peoples and the international community the impetus to deal with these issues. The Declaration also provides a framework for the partnerships that are required to adequately address these issues and ensure that the rights of indigenous peoples are respected and protected.

³⁶ Santa Cruz de la Sierra Appeal in OHCHR (2007), 2.

³⁷ UNPFII (2006), para 83

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