

Forum: SHC committee

Issue: Protection of indigenous peoples and culture

Student Officer: Shruthilaya Jaganathan

Introduction

Indigenous peoples consist of populations who have historically belonged to a particular region, before its colonization or transformation into a nation state, and may retain social, political and cultural characteristics that are often distinct from the dominant societies they currently inhabit. They possess invaluable knowledge of their land – they hold unique beliefs in the sustainable management of natural resources. Indigenous peoples strive for the recognition of their identities and right to their land. All over the world, the population of indigenous peoples is diverse, but they all share common problems related to protection of their rights. Their cultures, languages and way of life continue to be threatened, sometimes even by extinction. The challenges they face, and continue to face have now engaged the international community. The United Nations Declaration on the Rights of Indigenous Peoples was adopted in September 2007 and the Permanent Forum on Indigenous Issues is attended by indigenous peoples, Member States, NGOs, UN agencies and other inter-governmental agencies at the UN Headquarters annually.

Unfortunately, much work needs to be done on implementing these rights.

Indigenous peoples still face many problems – many of them are well below the poverty line, illiterate and lack political representation. They are also often victims of rape and hate crimes and have seen their environmental and cultural knowledge being sold and used without receiving any form of recognition.

Many international laws are applicable to the struggle of the indigenous people – the right to self-determination has been one of the chief focuses on the indigenous movement.

Definition of Key Terms

Indigenous Peoples

Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing on those territories, or parts of them.

They form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal system.¹

Historical continuity

¹ Martinez Cobo (1986/87)

Historical continuity may consist of the continuation, for an extended period reaching into the present of one or more of the following factors:

- a. Occupation of ancestral lands, or at least of part of them
- b. Common ancestry with the original occupants of these lands
- c. Culture in general, or in specific manifestations (such as religion, living under a tribal system, membership of an indigenous community, dress, means of livelihood, lifestyle, etc.)
- d. Language (whether used as the only language, as mother-tongue, as the habitual means of communication at home or in the family, or as the main, preferred, habitual, general or normal language)
- e. Residence in certain parts of the country, or in certain regions of the world
- f. Other relevant factors.²

Rapporteur

An expert entrusted by the UN with a special human rights mandate, acting in his or her personal capacity.

Colonization

An act of colonizing, meaning to establish a body of people living in a new territory but retaining ties with the parent state.

Self-determination

The right of a cohesive national group (“peoples”) living in a territory to choose for themselves a form of political and legal organization for that territory.

Timeline of Events

1957 – The International Labour Organisation (ILO) was prompted to work on Convention no. 107 *concerning the Protection and Integration of Indigenous and Other Tribal and Semi-Tribal Populations in Independent Countries* founded on the assumption that Indigenous and Tribal Populations were temporary societies destined to disappear with “Modernisation”.

1960s – 1970s – Various Indigenous Peoples’ Organisations such as Survival International and Cultural Survival were set up. This general growth in Non-Governmental Organisations was due to issues such as loss of land to discrimination and violations of human rights. It was during this period that the challenges faced by Indigenous Peoples were heard.

1972 - The United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities launched a Study on the problem of discrimination against indigenous populations, later known as “the Martínez Cobo study”

1972 – An international indigenous people’s movement began in the Americas, Australia, New Zealand, Bangladesh and elsewhere

1982 – The establishment of the first United Nations mechanism on indigenous peoples’ issues, named the Working Group on Indigenous Populations of the Sub-Commission

² Martinez Cobo (1986/87)

1983 – The Working Group allowed the participation of indigenous peoples and their organisations

1985 – UN voluntary Fund for Indigenous Populations was established

1989 – International Labour Organisation's Convention no. 169 on *Indigenous and Tribal Peoples in Independent Countries* was established on the belief that Indigenous and Tribal Populations were permanent societies

1993 – International Year of World's Indigenous Peoples

2000 – Establishment of UN Permanent Forum on Indigenous Issues

2007 – The Working Group on indigenous peoples abolished and replaced with Expert Mechanism on the Rights of Indigenous Peoples, a subsidiary body of the Human Rights Council which focuses mainly on study and research based advice

Position of key members

Australia

Although progress has been made, the indigenous populations of Australia still face a great number of challenges to this day. They are half as likely to own their own homes and more likely to live in overcrowded conditions. In rural aboriginal communities, they have poor access to basic infrastructure and do not have access to affordable food and water. The life expectancy of indigenous Australians is 20 years less than the non-indigenous expectancy. Despite the improvements in the school completion among the indigenous population, those aged above 15 are still half as likely to be educated as non-indigenous Australians. The aboriginal population of Australia also face great challenges in proving land ownership in courts as they do not have written records.

The Stolen Generation

Between 1910 and 1970, roughly 100,00 Aboriginal children, mostly under the age of five, were forcibly removed from their families as the government believed they would be far better off if they were raised by white families.

In February 2008, the newly elected Australian government apologised to the Indigenous Australians “for the laws and policies of successive Parliaments and governments that have inflicted profound grief, suffering and loss on these our fellow Australians...For the pain, suffering and hurt of these Stolen Generations, their descendants and for their families left behind, we say sorry. To the mothers and the fathers, the brothers and the sisters, for the breaking up of families and communities, we say sorry. And for the indignity and degradation thus inflicted on a proud people and a proud culture, we say sorry. We the Parliament of Australia respectfully request that this apology be received in the spirit in which it is offered as part of the healing of the nation. For the future we take heart; resolving that this new page in the history of our great continent can now be written. We today take this first step by acknowledging the past and laying claim to a future that embraces all Australians. A future where this Parliament resolves that the injustices of the past must never, never happen again”.

Africa

Populations of 'Pygmies' or Forest Peoples of the Central African rainforests, and their ways of life are in rapid decline. These are the Mbuti (or Bambuti) and Efe of the Ituri Forest in the Democratic Republic of Congo (DRC); the Baka of South-eastern Cameroon and Northwestern Congo Brazzaville; the Aka (or Ba-Aka) of Northern Congo Brazzaville and the Central African Republic; the Batwa in Rwanda, Burundi, Eastern DRC, and South-western Uganda; the Bakola of Southwestern Cameroon and the Basua (numbering only perhaps 65 to 70 people) in Western Uganda. The ongoing marginalization of these groups has particularly been accelerated by the political upheavals and civil war in the region.

The indigenous peoples of Africa are suffering increasing poverty, racial discrimination, violence and cultural collapse. Throughout Central Africa, their traditional way of life is disappearing, and their incomparable knowledge of the forest is being lost.

In these countries, indigenous communities and organisations are working to secure their lands and support NGOs are helping to seek new forms of representation in order to communicate more effectively with outside agencies.

Threats of globalisation have resulted in extinction of several indigenous languages. Loss of language results in loss of invaluable traditional knowledge and cultural diversity.

South America

In the past years, South America has seen advanced legal framework for indigenous land tenure in Bolivia, Brazil, Colombia, Costa Rica, Ecuador, Nicaragua, Panama, Paraguay and Peru. Participation of indigenous peoples in protection and management of lands has increased in some of these countries.

Asia

The Schedule Caste and Schedule Tribes experience a deep level of discrimination in **India**. The Schedule Tribes in particular, experience deep poverty despite their unique constitutional rights. Although many of the people possess lands, they are often of poor quality and low productivity. They are often deprived of formal education and fail to find jobs.

International Labour Organisation (ILO)

Convention no 107 in 1957, followed by convention no 169 in 1989 concerning indigenous peoples was adopted by the ILO.

Previous attempts to solve the issue

Convention No. 107

The Indigenous and Tribal Populations Convention 1956 (Convention no. 107) had been the only binding international instrument on the topic of indigenous peoples for thirty years. It covered the various issues at hand such as health and security, land rights, vocational training, education, rural industries and means of communication.

This Convention took an integrationist approach to the solution. There was an underlying assumption that the only possible future for the indigenous people was integration into the larger society and that the State should make decisions on their development.

Convention No. 169

In 1988 and 1989, Convention No. 107 was revised as experts believed that the integrationist approach did not reflect the modern thinking. It was believed that indigenous and tribal people constitute the permanent society and that they had the right to self-decision for their developmental process. Convention No. 169 is based on the general principle that indigenous people must be consulted and participate in all decision making processes, as it will greatly affect their lives.

Suggested solutions

- Implementation of programs that promote the development and rights of indigenous peoples
- Recognition of the challenges faced by indigenous people today, and understanding the values of their contributions to today's society
- Protection of indigenous peoples from cultural/racial discrimination

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