

Conserving the rights of Indigenous People

There are 370 million Indigenous people around the world and spread across more than 90 countries. They belong to more than 5,000 different Indigenous peoples and speak more than 4,000 languages. Indigenous people represent about 5% of the world's population. The vast majority of them – 70% – live in Asia.

Indigenous people hold a crucial place in their knowledge and conservation of nature. These stakeholders of nature are of utmost importance to maintain the ecosystem but their rights over the lands upon which they have been living for years have been compromised and still unrecognized. As the world celebrates International Day of the World's Indigenous Peoples on August 9 almost 15% of Indigenous people will come under the category of 'extreme poor'. The conservationists are themselves in danger.

The Evil Quartet - Colonization, Modernisation, Loss of land, Habitat Fragmentation

Colonization and modernization prompted the natives to squeeze in remote places and die of loss of their habitat and resources. Thousands of people get displaced without any compensation or reimbursement of the ancestral land snatched away from them. The Narmada River Dam Conspiracy is a witness to this fact. Indigenous peoples are often marginalized and face discrimination in countries' legal systems, leaving them even more vulnerable to violence and abuse. Indigenous human rights defenders who speak out face intimidation and violence, often supported by the state. In addition, individuals may be physically attacked and killed just for belonging to an Indigenous people.

Since the creation of the first State-designated protected area, Yellowstone Park, in the United States of America in 1872 and the subsequent Yosemite National Park in 1890 whereby the US government violently expelled Native Americans living in or dependent on the resources in the areas, conservation interventions around the world have far too often resulted in gross violations of the rights of indigenous peoples, in particular to their rights to land and resources. This includes forced displacement and evictions from their territories; criminalization and destruction of livelihoods; loss of rights to lands, waters and resources and sacred sites; violence and extrajudicial killings of environmental defenders. Many of indigenous persons have been dispossessed and displaced due to the exclusionary approach of protected-area management built on the premise that human activities are incompatible with conservation. Accurate statistics about just how many people have been displaced to make way for protected areas in Asia are also lacking. One estimate suggests that as many as 600,000 tribal people have been displaced by protected areas in India alone (PRIA 1993). The statistics in Latin America are equally unavailable. Sources suggest that as many as 85 percent of the protected areas in Latin America are in fact inhabited (Amend and Amend 1992).

International law and Indigenous people

The creation of protected areas has been a central element in conservation policy since its beginnings in the 19th century. From their inception, protected areas were conceived as areas of land alienated to the state and managed for the benefit of future generations but to the exclusion of residents. National parks, pioneered in the United States, denied indigenous peoples' rights, evicted them from their homelands, and provoked long-term social conflict. This model of conservation became central to conservation policy worldwide. But the emergence of indigenous peoples as a social movement and as a category in international human rights law has contributed to conservation agencies rethinking their approach to conservation. A new model of conservation can now be

discerned based on a respect for the rights of indigenous peoples and other bearers of “traditional knowledge.”

Conservation policies emerged at a time of fierce prejudice against indigenous peoples and led to the worldwide acceptance of a model of “colonial conservation” which has caused, and continues to cause, widespread human suffering and resentment. Advances in human rights and in the thinking of conservationists have led to an acceptance that conservation can and must be achieved in collaboration with indigenous peoples and based on respect for their internationally recognized rights. However, on the ground, protected areas continue to be imposed according to the colonial model, calling into question the extent to which there is a real commitment to giving conservation a human face.

Summarizing the recent history of conservation, the former chairman of the World Commission on Protected Areas has noted, “The opinions and rights of indigenous peoples were of little concern to any government before about 1970; they were not organized as a political force as they are now in many countries” (Phillips 2003).

Since 1975, the World Conservation Union (IUCN) and World Parks Congress (WPC) have been making important statements implying recognition of the rights of indigenous peoples and the need to accommodate these rights in protected areas.

There is a growing body of legal standards and jurisprudence at national and international levels and the policies of conservation organizations to guarantee the rights of indigenous peoples in the context of conservation. Indigenous Peoples’ rights are laid out in the **UN Declaration on the Rights of Indigenous Peoples**, adopted in 2007. The United Nations Permanent Forum on Indigenous Issues (UNPFII) is the central body within the UN system which deals with Indigenous issues related to **economic and social development, culture, the environment, education, health and human rights**. The Forum was established in 2000.

The 2007 UN Declaration on the Rights of Indigenous Peoples (UNDRIP) specifically provides that indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources and that States shall establish and implement assistance programmes for indigenous peoples for such conservations and protection, without discrimination (art. 29).

Human Rights treaty bodies have affirmed the rights of indigenous peoples to land and self-determination through their General Comments on the International Covenant on Civil and Political Rights (ICCPR) and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), and Human Rights Committee’s jurisprudence of article 27 of ICCPR. The Indigenous and Tribal Peoples Convention (No. 169) of the International Labour Organization also provides for land rights of indigenous peoples. Decisions from regional human rights systems have also established key jurisprudence on the rights of indigenous peoples to their lands with reference to conservation.

Australia holds 26 May as the ‘National Sorry Day’ as an apology for the children ‘lost’ from the 1820s to the 1970s. This was in response to the agonizing history of children of mixed blood (native European) being forcibly captured and separated from their native relatives. In an attempt to create a ‘White Australia’ the natives from whom the lands were taken away were considered ‘uncivilized’ and the separation of ‘colored’ from the ‘whites’ seemed necessary.

References

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