



Indigenous' Peoples Rights for Inclusion

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ABSTRACT

The Indigenous Peoples of the world are very diverse. Despite such extensive diversity in Indigenous communities throughout the world, all Indigenous Peoples have one thing in common - they all share a history of injustice. As a result, the United Nations Human Rights Council adopted the U.N. Draft Declaration on the Rights of Indigenous Peoples. It emphasizes the right of indigenous peoples to maintain and strengthen their own institutions, cultures and traditions and to pursue their development in accordance with their aspirations and needs. On the other hand this adoption of the declaration also will help the indigenous people in their effort against discrimination, racism, oppression, marginalization and exploitation.

Keywords : Indigenous People, United Nations, Draft Declaration, Rights of Indigenous Peoples, Substantive Rights, Specific Rights

INTRODUCTION

Indigenous populations are communities or ethnic groups that live within, or are attached to, geographically distinct traditional habitats or ancestral territories, and who identify themselves as being part of a distinct cultural group, descended from groups present in the area before modern states were created and current borders defined. They generally maintain cultural and social identities, and social, economic, cultural and political institutions, separate from the mainstream or dominant society or culture. This term became a political term in the late twentieth century to refer to ethnic groups have historical ties to groups that existed in a territory prior to colonization or formation of a nation state, and which normally preserve a degree of cultural and political separation from the mainstream culture and political system of the nation state within the border of which the indigenous group is located.

CONDITIONS OF THE INDIGENOUS PEOPLE

Worldwide around 370 million Indigenous People, embody and nurture 80% of the world's cultural and biological diversity, and occupy 20% of the world's land surface. The Indigenous Peoples of the world are very diverse. They live in nearly all the countries on all the continents of the world and form a spectrum of humanity, ranging from traditional hunter-gatherers and subsistence farmers to legal scholars. In some countries, Indigenous peoples form the majority of the population; others comprise small minorities. Indigenous Peoples are concerned with preserving land, protecting language and promoting culture. Some Indigenous Peoples strive to preserve traditional ways of life, while others seek greater participation in the current state structures. Like all cultures and civilizations, Indigenous peoples are always adjusting and adapting to changes in the world. Indigenous peoples recognize their common plight and work for their Self-determination; based on their respect for the earth.

RIGHTS OF INDIGENOUS PEOPLE

This is the most comprehensive statement of the rights of indigenous peoples to date; establishing collective rights to a greater extent than any other document in International Human rights Law. It emphasizes the right of indigenous peoples to maintain and strengthen their own institutions, cultures and traditions and to pursue their development in accordance with their aspirations and needs. On the other hand this adoption of the declaration also will help the indigenous people in their effort against discrimination, racism, oppression, marginalization and exploitation. The draft declaration divided into nine parts. They are Fundamental Rights, Life and security,

Culture, Religion, and Language Law, Education Media and Employment, Participation and Development, Land and Resources, Self Government& Indigenous, Implementation and Minimum Standard.

SPECIFIC RIGHTS OF INDIGENOUS PEOPLE

1. Right against Racial Discrimination

Right against Racial Discrimination is the first specific right of the indigenous people. Racial discrimination is often used to describe discrimination on an ethnic or cultural basis, independent of their somatic (i.e."racial") differences. Albeit the racial discrimination is common phenomena, it is virulent in its form anent the indigenous people are concerned. Especially indigenous people are been inflicted to various harmful activities such as extremism, hatred, xenophobia, exploitation, separatism, racial supremacy, mass murder and vigilantism upon being an indigenous. Therefore, so as to protect the interested of the indigenous people, they are bestowed with the right against the pernicious practices of racial discrimination.

2. Self-Determination

Self-determination refers to the right to choose their sovereignty and the political status without external interference. The United Nations International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights state that all peoples have the right of self-determination by virtue of which they "freely determine their political status and freely pursue their economic, social and cultural development." So, the Indigenous peoples are also not an exception for the right to self-determination. By virtue of this right indigenous people can freely determine their political status and freely pursue their economic, social and cultural development

3. Forced Assimilation

Forced assimilation is a process of forced cultural assimilation of religious or ethnic minority groups, into an established and generally larger community. This presumes a loss of many characteristics which make the minority different. The indigenous people who are known for minority by status and culture are given right to be an independent cultural group. Forcing them to assimilate with the larger cultural groups is a total violation of the human rights meant for them. Forcing in any form may cause a danger to the existence of the indigenous people's culture and their identity. So States shall provide effective mechanisms for prevention, and redress such forced assimilation of the indigenous people

4. Forced Relocation

Indigenous People should not be forced to move away from their lands or territories either upon the state policy or international authority or on the basis of ethnicity or religion. Banishment or exile of Indigenous People also can be attributed to the similar process. In other words Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No discrimination of any kind may arise from the exercise of such a right. Forceful transfer or relocation of Indigenous People may not suit to their way of life and cause the substantial harm to them. In addition they will lose all their moveable and immovable property. Hence the indigenous people should not be forced to relocate to any areas that are unfamiliar to them without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.

5. Cultural Heritage;

Cultural heritage is often unique and irreplaceable, which places the responsibility of preservation of it on the current generation. Indigenous peoples have the right to practise and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as tangible culture (such as buildings, monuments, landscapes, books, works of art, and artefacts), intangible culture (such as folklore, traditions, language, and knowledge), and natural heritage (including culturally-significant landscapes, and biodiversity). States shall take effective measures to ensure that this right is protected and also to ensure that indigenous peoples can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means.

6. Freedom of Religion

The religion of indigenous people is a mixer of Animism and Theism. Just because the indigenous people's religion is out of the ordinary by its nature, there should not any movement to prevent them by not practising their religious practices. Indigenous people have the right to manifest, practise, develop and teach their religious and spiritual traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains. As the freedom of religion is considered by many people and nations as a fundamental human right, the believers in other faiths should not be persecuted.

7. Cultural Diversity

Cultural diversity of the indigenous people is to be respected by others. The many separate societies that emerged around the globe differed markedly from each other, and many of these differences persist even to this day. The more obvious cultural differences that exist between people are language, dress and traditions. There are also significant variations in the way societies organize themselves, in their shared conception of morality, and in the ways they interact with their environment. So, the indigenous people also given right to the dignity and diversity of their cultures, traditions, histories and aspirations which shall be appropriately reflected in education and public information. The States shall take effective measures, in consultation and cooperation with the indigenous peoples concerned, to combat prejudice and eliminate discrimination and to promote tolerance, understanding and good relations among indigenous peoples and all other segments of society

8. Indigenous Land Rights

Indigenous people have the right over the land that they are cultivating or for using inhabitation either owned by them individually or collectively. Land and resource-related rights are of fundamental importance to indigenous peoples for a range of reasons, including: the religious significance of the land, self-determination, identity, and economic factors.

The claim by the Indigenous people over the land has been addressed, with varying degrees of success on the national and international level. Such claims may be based upon the principles of international law, treaties, common law or domestic constitution or legislation. The foundational documents for indigenous land rights in international law include indigenous and Tribal people's convention, 1989 and the declaration on the rights of the Indigenous people and the International covenant on civil and political Rights.

9. Traditional knowledge and indigenous knowledge

The traditional knowledge typically distinguishes one community from another. Traditional Environmental Knowledge and Local Knowledge generally refer to the long-standing traditions and practices of certain regional, indigenous, or local communities. Traditional knowledge also encompasses the wisdom, knowledge, and teachings of these communities. In many cases, traditional knowledge has been orally passed for generations from person to person. Some forms of traditional knowledge are expressed through stories, legends, folklores, rituals, songs, and even laws. Other forms of traditional knowledge are expressed through different means. Some communities depend on their traditional knowledge even for survival. So, the indigenous people should be allowed to preserve and practice the traditional knowledge and indigenous knowledge they have possessed with themselves.

10. Intellectual Property Rights

Indigenous people initially have shown concern over the territorial rights and traditional resource rights of their communities. Then they showed concern for the misappropriation and misuse of their "intangible" knowledge and cultural heritage. Indigenous peoples and local communities have resisted, among other things: the use of traditional symbols and designs as mascots, derivative arts and crafts; the use or modification of traditional songs; the patenting of traditional uses of medicinal plants; and the copyrighting and distribution of traditional stories. Thus, the Indigenous peoples and local communities have sought to prevent the patenting of their traditional knowledge and resources where they have not given express consent.

11. An Indigenous Language

The indigenous people have the right to protect and develop their language as it is from a linguistically distinct community that has been settled in the area for many generations. An indigenous language or autochthonous language is a language that is native to a region and spoken by indigenous people but has been reduced to the status of a minority language or may have fallen out of use caused by colonisation, where the original language is replaced by that of the colonists. So instead of forcing the indigenous people to speak some other language which is alien to them, they should be allowed to use their own language.

RIGHTS AT STAKE

In spite of international recognition and acceptance of the Universal Declaration of Human Rights, which guarantees the fundamental rights of all human beings, in practical terms, Indigenous Peoples' human rights remain without specifically designated safeguards. Indigenous Peoples continue to face serious threats to their basic existence due to systematic government policies and there on sought recognition of their identities. In many countries, Indigenous Peoples are in the most disadvantageous and vulnerable conditions and continue to face sheer discrimination in every walks of their life schools and are exploited in the workplace. In many countries, they are not even allowed to study their own languages in schools. Sacred lands and objects are plundered from them through unjust treaties. National governments continue to deny Indigenous Peoples the right to live in and manage their traditional lands; often implementing policies to exploit the lands that have sustained them for centuries. In some cases, governments have even enforced policies of forced assimilation in efforts to eradicate Indigenous Peoples, cultures, and traditions. Over and over, governments around the world have displayed an utter lack of respect for Indigenous

values, tradition and human rights and failed to protect the group rights of the indigenous people

CONCLUSION

Indigenous Peoples are a significant and important portion of humanity. Their heritage, their ways of life, their stewardship of this planet, and their cosmological insights are an invaluable treasure house for us. They are like any other human being living in the civilized world. But they are put into untold

sufferings .Dispossession from the land or restriction of access to natural resources, therefore, brings not only economic impoverishment but also the loss of identity and threatens their cultural survival. So it is realized that an equal platform can be provided to indigenous people, if proper implementation is given to these rights. The government also should help them to overwhelm their grievous and atrocious situation by giving proper education to them.

REFERENCES

- Bijoy, C.R. and Raman, K.R., 2003, "The Real Story: Adivasi Movements to Recover Land" in EPW, Vol. 38, No. 20 (May 17-23). | Dietrich, G., 2000, "Dams and People: Adivasi Land Rights" in EPW, Vol. 35 No. 38 (September 16-22). | Ekka, A., 2000-01, "Jharkhand Tribal's: Are They Really a Minority?" in EPW, Vol. 35. No. 52/53 (December 30, 2000- January 5, 2001). | Griggs, R.R.A., 1993, Role of World Nations: Washington: Centre for World Indigenous Peoples. | Hardiman, D., 1987, The Coming of the Devi: Adivasi Assertion in Western India: Delhi: OUP. | Kosambi, D.D., 1956, An Introduction to the Study of Indian History, Bombay: Popular Prakashan. | Kumar, S., 2001, "Adivasis of South Orissa: Enduring Poverty" in EPW, Vol. 36, No. 43 (October 27-November 2). | Massey, J., 1994, "Indigenous People: Dalits: Dalit Issues in Today's Theological Debate". | Pati, B., 2001, "Identity, Hegemony, Resistance: Conversions in Orissa" in EPW, Vol. 36, No. 44 (November 3-9). | Prasad, A., 2003, Against Ecological Romanticism: Verier Elwin and the Making of an Anti-Modern Tribal Identity, New Delhi: Three Essays Collective. | Rahul, 1998, "Bhil Women of Nimad: Growing Assertion" in EPW, Vol. 33, No. 9 (February 28-March 6). | Raman, K.R., 2002, "Breaking New Ground: Adivasi Land Struggle in Kerala" in EPW, Vol. 37, No. 10 (March 9-15). | Viswanath, C.K., 1997, "Adivasis: Protesting Land Alienation" in EPW, Vol. 32, No. 32 (August 9-15).