

UNDERSTANDING INDIGENOUS PEOPLES DECLARATIONS*

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1. Definition of Indigenous People

Indigenous Peoples (IPs) are defined by the Special Rapporteur of the UN Economic and Social Council Sub-Commission on Prevention of Discrimination and Protection of Minorities in the following manner:

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

systems. (UN ECOSOC 1986)

The International Labor Organization (ILO) Convention 169 'Concerning Indigenous Peoples in Independent Countries' (1989), identifies IPs as:

(a) tribal peoples in countries whose social cultural and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations, and

Peoples in countries who are regarded by themselves or others as indigenous on account of their descent from the populations that inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonization or the establishment of present state boundaries and who, irrespective of their legal status, retain, some or all of their own social, economic, spiritual cultural and political characteristics and institutions.

2. Challenges faced by Indigenous People

IPs are being increasingly threatened by the 'modern' world. This is happening in many subtle and blatant ways. Of the latter, the first is related to extinction of whole groups of IPs, amounting to genocide.

Genocide on indigenous groups mostly happens to hunter-gatherers, slash-and-burn agriculturists and horticulturists and is often committed - directly or indirectly - by the government of the nation state. The reason might be that the state wants to exploit the territory in a more

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profitable way. In the Americas it started some five hundred years ago. Other examples include those against the Yanomami of northern Brazil and southern Venezuela, the Guayaki Indians in Paraguay in 1974, and the tribes in the Chittagong Hill Tracts in Bangladesh during the 1980s.^{1 2 3} This is, of course, the worst possible violation of groups of people and individuals.

Another concern is related to indigenous groups' rights to live in accordance with their own traditions, their rights of access to land which their ancestors used, and the right to use their own language. This is a threat to the peoples' cosmologies and cultures.

A third threat is also from the dominant western society and is directed against nature, and the natural environment used by indigenous groups. This threat is often defined as 'merely' loss of biodiversity. This might happen through the activities of large-scale capital and national corporations in the traditional territories of IPs with a high potential economic value for governments and for national and international stakeholders. These activities include oil exploitation, mining, dam building, logging, and mono-agriculture of cash crops, cattle ranches, the establishment of national parks, nature reservations and tourism. Such exploitative interactions between one party with power and one without happen all the time, all over the world.

The challenges faced by IPs fall into following broad categories and it is in these areas that they have most vociferously articulated their demands.

- Self-determination: This category includes the right of self-definition, self-government, to make laws and maintain economic, cultural and social relations across political borders.
- Territory: This group contains a range of demands all relating to land and resource rights.
- Prior informed consent: In this section the demands are related to respect for Indigenous knowledge, protection of medicinal plants etc. and the right to determine standards for development.
- Human rights: There are several related demands in this area, including freedom from discrimination and oppression, rule of law, and the right to life and liberty.

- Cultural rights: These cover the right to have and express distinct culture, the right to language, access to sacred sites, and the right to practice religion freely.
- Treaties. There are only three demands in this category all relating to treaties made between colonial rulers and IPs. In addition to two calls for the recognition of extant treaties there was a demand for the re-determination of treaties.

3. 'Population', 'people' and 'peoples'

The "S" on Indigenous peoples is very significant, because it implies collective rights as ethnic nations.⁴ These rights are subsumed under the right to self-determination that includes rights to land, territory, and resources. For IPs the use of term 'Indigenous peoples' is important. This is because while 'peoples' have the right to self-determination under international law, 'people' and 'communities' do not. The 's' distinction symbolises land, territorial and collective rights subsumed under the right to self-determination, in addition to the basic human rights to which all individuals are entitled. In contrast, terms like 'people', 'populations', 'communities' and 'minorities' implicitly deny territorial rights.

4. Inappropriateness of the definition of Indigenous People

Some anthropologists hold the view that IPs as defined by the Special Rapporteur of the UN Economic and Social Council Sub-Commission on Prevention of Discrimination and Protection of Minorities reflects the historical context of the New World (North and South America and Australia). In fact, all the three ingredients of the definition are derived from that historical situation. For example, first, it is in the New World that the "Indigenous communities, peoples and nations are those" which had a "historical continuity with pre-invasion and pre-colonial societies that developed in their territories". Secondly, it was in the New World, again, that the indigenous people "consider themselves distinct from other sectors of societies now prevailing in those territories or parts of them". Thirdly, here the IPs 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 people in accordance with their own cultural patterns, social institutions and legal system".

1 Jackson, J.E. (1984) The Impact of the Small-Scale Societies. *Studies in Comparative International Development* 19:2:3-32

2 Van, C. and Lee, D. (1996) 'Prospects of Self-Determination of Indigenous peoples in Latin America: Questions of Law and Practice'. *Global Governance* 2(1): 43-64.

3 Zerner, C. (1990) "Legal options for the Indonesian forestry sector". *FAO Forestry Studies UTF/INS/105*, April.

4 Posey, D. (2000) 'Mind the Gaps: Identifying Commonalities and Divergencies between Indigenous Peoples and Farmers Groups'. The Programme for Traditional Resource Rights, Oxford Centre for the Environment, Ethics & Society, Mansfield College, University of Oxford

These three ingredients in the definition of the IPs are not in consonance with the historical situations in the Old World, of India and other parts of Asia or even Africa which have a colonial past. The colonial encounter in Asia affected not only tribal but also non-tribal societies. This colonial and pre-invasion experience appears to be critical to the definition of IPs.

5. Adivasis in India ^{5 6}

India has a constitutionally recognized category of 'scheduled tribes' (listed tribal communities or STs), which since independence has been linked to a comprehensive programme of affirmative action. About eight percent of the Indian population belongs to a ST community, roughly 80 million people from some 450 communities. These include small groups of hunter-gatherers and pastoralists to agricultural communities of several million. This means, though there is a widespread sense of a shared history of exploitation and marginalization, and thus of common identity, the tribal predicament is not uniform. This is perhaps most strongly expressed in the term adivasi, a Sanskrit derivation meaning 'original inhabitants', coined in the struggle against the colonial state as well as land grabbers and moneylenders from the plains. Being adivasi, to assert such a collective identity, is thus political. Adivasi is commonly used as synonymous to 'tribal', which during the last decade has increasingly become equated to 'IPs'. Even if these terms are often used interchangeably, it is important to note that they have come into usage at different points of time and for different reasons. The perhaps most controversial aspect of this terminological homology is that those designated as tribals (STs) would then become India's indigenous peoples, a status denoting internationally recognised rights to ancestral lands and resources and, crucially, the right to self determination. The Indian government has consistently objected to this, as have several prominent Indian intellectuals and social scientists. In case of South Asia in general and India in particular, a valid point is that the term indigenous people is not one of generalization. India has been a melting pot of races and ethnic groups from the earliest periods of recorded history. The application of term indigenous people to the situation in India would be inaccurate because the entire population of India has been living on its lands for the past several millennia. All these people are indigenous to the country and any attempt to make distinction between indigenous and non-indigenous would be artificial.

In India although customary laws of Adivasi (tribal) people are to a large extent protected by the Constitution of India

the implementation of these rights is far from satisfactory. Special rights of Adivasis include the Scheduled Areas, according to which tribal land cannot be sold to non-tribals and only tribals can be agents of development. The Affirmative Action policy, guaranteed constitutionally, ensures reservations in education, employment and political representation by reserving political constituencies. A third protection is by Special Provisions (as in the case of Nagaland) where tribal dominated states have been given constitutionally guaranteed rights, (Article 371). Apart from land ownership, these rights include rights over natural resources including forests. Lamentably, commercial interests often collide with government departments to abort these rights. In the year 2000, three new states, Jharkhand, Chattisgarh and to some extent Uttaranchal have been created in order to fulfil the long standing aspirations of tribal populations to have their own states, under their governance and control.

Two destructive "developmental" processes common to most habitats of IP are displacement and deforestation. The processes in both the cases are similar. The difference is that the former pushes tribal and IPs out of their community without any preparation and without any resources. The latter deprives them of their livelihood but some resources, i.e. forests, remain. In the latter case, moneylenders and merchants accompany the industrial agents. Many tribal and indigenous communities have generally lived in the informal economy and are thus unprepared for sudden encounters with the agents of the formal economy. Consequently, tribal and IPs have fallen into the hands of the moneylenders and often lost what little land they had; many have become bonded labor. To survive, others have cut trees for sale as fuel or turned to wage labor under timber contractors or wildlife smugglers. Women suffer the most. Women have to walk the extra distance to ensure the regular supply of fuel wood, fodder, food and other daily requirements – all of which are increasingly scarce. This has implications for women's health and the nutrition of their families. There are various estimates of people displaced by dams in India. According to some estimates displacement due to dams and other development projects are to the tune of 40 million. Some other studies put the figure at 33 million, most of which was not resettled.

Relocation and rehabilitation packages are seldom delivered as promised. Some of the major movements in the country (and elsewhere) were the result of the inadequacy of the packages and it's poor implementation. The problems frequently confronted in delivering the compensation packages can be summarized as:

5 Karlsson, B. G. (2004) 'Beyond Integration: indigenous assertion in India'. IIAS Newsletter, Issue35. [Online] <http://www.ias.nl/ias/show/id=43239>

6 Sahai, S. (2000) 'The Challenge to Indigenous People and Indigenous Culture: An Asian Perspective'. Minority Rights Groups, London.

- **Eligibility:** There is the problem of defining the eligible families or individuals for providing the rehabilitation packages. Some genuinely deserving families or individuals get left out. It seriously hampers in making an economic assessment of the project besides resulting in a lot of anguish among those left out. Often complaints of corruption and arbitrariness are also reported in applying the selection criteria.
- **Process of displacement:** There are a lot of complaints about not giving prior information and notice of impoundment. Many complaints have been made about not being informed of the process of relocation and rehabilitation.
- **Quantity and quality of land:** The most frequently raised complaint about the displacement process is the quality and quantity of land given for rehabilitation, in those few cases where it is given. The allocated areas often have poor soils without irrigation facilities and are in rocky terrain.
- **Availability and adequacy of other inputs:** Besides land, the dam/ project authorities also promise to deliver other essential inputs for starting out in the new locality, which hardly come in to reality. When they do, these inputs are generally inadequate. There are complaints that the cash compensations are often delayed or not delivered without the exchange of bribes. Sometimes these compensations are inadequate for the purpose, for example for constructing a new house or buying adequate land for agriculture.
- **Availability and quality of services:** Essential services like health, education, electricity, drinking water etc. are frequently non-existent, delayed or inadequate. In the earlier habitat the communities had their own systems for these services which are not found in the new, relocated areas.
- **Follow up and grievance redressal:** Once the displacement process is started, no system of monitoring or redressing the grievances of the displaced populations is found in most of the projects.

6. Declarations of Indigenous Peoples

The declarations bring forth IPs demand for respect of their human rights including non-discrimination, right to life, their right to consent to projects in their areas, etc. Such demand can be well comprehended when it is understood that lives of IPs are inextricably related to their immediate environment. Another important demand is their right of self-determination under which they recognize their right to freely determine their political, economic, social, religious and cultural development. Self-determination also means to them

effective enjoyment of the economic rights. The declarations of indigenous people are demands on international community to recognize their rights and also to provide opportunity to exercise those rights effectively. The subject matter of rights range from political rights to right to religion and belief, rights of natural resources, territories and indigenous knowledge to right over territories and right to maintain their laws, institutions and language.

These declarations of IP must be heeded by the international society. Keeping alive and dynamic all forms of cultures in all probability increases the resource and knowledge of mankind. Moreover the cultures of indigenous people have so much to give to the modern society in terms of knowledge, conservation and sustainable development. Above all the case of indigenous people and their culture is to be judged on the ground of human rights and equity in today's society of the world.

7. Right to Self Determination

The Manukan Declaration of the Indigenous Women's Biodiversity Network

Paragraph 5 of the preamble, mentions that indigenous women stand firmly upon the rights to self-determination.

Right to self-determination is fundamental to the freedom to carry out the responsibilities in accordance with cultural values and customary laws.

Wendake Action Plan from Indigenous People's Forest Forum

Under the heading 'most important action items' in the action plan, it is mentioned that the United Nations and its bodies and specialized agencies, nation states, international and regional inter-governmental organizations and international multi-lateral agencies recognise and guarantee IPs right to self-determination. It encompasses the right to govern the use of natural resources and maintain the integrity of indigenous people's cultures and ecosystems in accordance with IP's respective worldviews.

The Inter. Cancun Declaration of Indigenous Peoples

Recognise and protect the right to self determination which is to freely determine the political status and pursue own economic, social and cultural development

The Indigenous Peoples' Declaration to the World Parks Congress

In the point number 1 of the declaration inherent right of self-determination of indigenous people is asserted.

Point number 3 of the declaration states that ancestral and customary rights of IPs to their lands, territories, and natural resources must be recognized, respected and protected.

Chronology of the declarations			
Title of Declaration	Month and Year	Venue	Comment
The Manukan Declaration of the Indigenous Women's Biodiversity Network ⁷	Feb 2004	Manukan, Sabah, Malaysia	Released prior to CBD COP 7
Wendake Action Plan from Indigenous People's Forest Forum ⁸	Sept 2003	Huron -Wendat Territory, Province of Quebec, Canada	Released at XII World Forestry Congress
The International Cancun Declaration of Indigenous Peoples ⁹	Sept 2003	Cancun, Mexico	Released at 5th WTO Ministerial Conference
The Indigenous Peoples' Declaration to the World Parks Congress ¹⁰	Sept 2003	Durban, South Africa	Released at IPs Preparatory Conference to the World Parks Congress
The Kimberley Declaration ¹¹	Aug 2002	Kimberley, South Africa	Released at International IPs Summit on Sustainable Development convened at the time of WSSD
Indigenous Peoples' Seattle declaration ¹²	Dec 1999	Seattle, USA	Released on the occasion of the Third Ministerial Meeting of the World Trade Organization
Indigenous Peoples' Caucus Statement ¹³	Nov 1999	Geneva, Switzerland	Presented at Round table on Intellectual Property and Traditional Knowledge, World Intellectual Property Rights Organization
Indigenous/tribal people's recommendations at the UNESCO workshop - cultural challenges of the international decade of the world's indigenous people ¹⁴	Oct 1999	Paris, France	Presented at the UNESCO workshop - cultural challenges of the international decade of the world's indigenous people
Declaration on protection of traditional knowledge and expression of indigenous cultures in Pacific Islands ¹⁵	Feb 1999	Noumea, The Pacific Islands	Endorsed at UNESCO symposium on protection of traditional knowledge and expression of indigenous cultures in Pacific Islands
Latin American declaration on transgenic organisms ¹⁶	Jan 1999	Quito, Ecuador	Released at UN fourth world conference on women
Beijing declaration of indigenous women ¹⁹	Sep 1995	Beijing, China	Released at UNDP South Pacific regional consultation on IPs Knowledge and Intellectual Property Rights

Chronology of the declarations			
UNDP Consultation on Indigenous Peoples Knowledge and Intellectual Property Rights ²⁰	Apr 1995	Suva, Fiji	International Consultation on Intellectual Property Rights and Biodiversity organized Coordinating Body of the IPs of the Amazon Basin (COICA)
The Statement issued at International Consultation on Intellectual Property Rights and Biodiversity ²¹	Sept 1994	Santa Cruz de la Sierra, Bolivia	Voices of the Earth Congress: IPs, New Partners, the Right to Self-Determination in Practice
Recommendations from Voices of Earth Congress ²²	Nov 1993	Amsterdam, The Netherlands	Released at First International Conference on the Cultural and Intellectual Property Rights of IPs convened in the international year of world's Indigenous People
The Mattatua Declaration on Cultural and Intellectual Property Rights of Indigenous Peoples ²³	Jun 1993	Whakatane, New Zealand	Released at the World Conference of IPs on Territory, Environment and Development
Kari - Oca declaration and the indigenous people's earth charter ²⁴	Jul 1990	Kari - Oca, Brazil	Released at First Continental Conference of IPs on 500 Years of Resistance
Charter of Indigenous tribal peoples of the tropical forests ²⁵ Resolutions of the Women's Commission	Sept 1984	Penang, Malaysia Quito, Ecuador Panama	Ratified by the IV General Assembly of the World Council of IPs
Declaration of Principles of the World Council of Indigenous Peoples			

7 <http://www.ipcb.org/resolutions/htmls/manukan.html>

8 <http://www.nafaforestry.org/docs/WendakeActionPlanEnglish.pdf>

9 http://www.tebtebba.org/tebtebba_files/finance/cancunipdec.rtf.

10 http://www.treatycouncil.org/section_211812142.htm

11 <http://www.treatycouncil.org/The%20Kimberley%20Declaration%20International%20Indigenous%20Peoples%20Summit%20on%20Sustainable%20Development.pdf>.

12 <http://www.ldb.org/indi99.htm>

13 <http://www.ienearth.org>

14 http://portal.unesco.org/culture/en/file_download.php/3650681371ca1bd46dfcb8b36e4ac80fNoumea1999.pdf.

15 http://www.unesco.org/culture/copyright/folklore/html_eng/declaration.shtml

16 <http://www.gene.ch/info4action/1999/Feb/msg00031.html>

17 http://www.ipcb.org/resolutions/htmls/dec_beijing.html

18 http://web.idrc.ca/en/ev-30150-201-1-DO_TOPIC.html

19 <http://users.ox.ac.uk/~wgtrr/coica.htm>

20 http://web.idrc.ca/en/ev-30143-201-1-DO_TOPIC.html

21 <http://users.ox.ac.uk/~wgtrr/mataatua.htm>

22 <http://www.dialoguebetweenations.com/IR/english/KariOcaKimberley/KODeclaration.html>

23 http://web.idrc.ca/en/ev-30141-201-1-DO_TOPIC.html

24 <http://www.mtnforum.org/resources/library/fccip90a.htm>

25 <http://www.cwis.org/fwdp/Resolutions/WCIP/wcip.txt>

The Kimberley Declaration

Reaffirmation of right of self-determination which is the right to determine and establish priorities and strategies for self-development and for the use of the lands, territories and other resources

Indigenous Peoples' Seattle declaration

Paragraph 2 states that most of the WTO statements have undermined inherent right to self-determination along with sovereignty as nations and treaties and other constructive agreements which indigenous nations and peoples have negotiated with other nation-states,

Indigenous Peoples' Caucus Statement

No direct mention of the right of self-determination.

Indigenous/tribal people's recommendations at the UNESCO workshop - cultural challenges of the international decade of the world's indigenous people

No direct mention of the right of self-determination.

Declaration on protection of traditional knowledge and expression of indigenous cultures in Pacific Islands

No direct mention of the right of self-determination.

Latin American declaration on transgenic organisms

No direct mention of the right of self-determination.

Beijing declaration of indigenous women

Point number 18 of the declaration mentions 'all governments and international non-governmental and governmental organizations recognize the right of IPs to self-determination and enshrine the historical, political, social, cultural, economic, and religious rights of the IPs in their constitutions and legal systems'.

Point number 22 states, "the international community and governments recognize and respect our rights to our territories. This includes our right to decide what to do with our lands and territories and to develop in an integrated, sustainable way, according to our own Cosmo vision".

UNDP Consultation on Indigenous Peoples Knowledge and Intellectual Property Rights

Point number 3 of the preamble states "right of IPs of the Pacific to self-governance and independence and ownership of the lands, territories, and resources is the basis for the preservation of IPs knowledge".

Point 2.2 of the declaration asserts that in situ conservation by IPs is the best method to conserve and protect biological diversity and indigenous knowledge, and encourage its implementation by indigenous communities and all relevant bodies.

The Statement issued at International Consultation on Intellectual Property Rights and Biodiversity

Point number 3 in the introductory paragraph titled basic points of the agreement links the concept of IPR with the right of self-determination. It states "all aspects of the issue of intellectual property (determination of access to national resources, control of the knowledge or cultural heritage of peoples, control of the use of their resources, and regulation of the terms of exploitation) are aspects of self-determination. For IPs accordingly, the ultimate decision on this issue is dependent on self-determination".

Recommendations from Voices of Earth Congress

The recommendations are divided under four headings dealing with political rights, economic rights, and cultural, scientific & intellectual property and right to self-development. The recommendation mentions following,

- The effective enjoyment of the economic rights of IPs depends on recognition of their right to self-determination.
- Effective enjoyment of IPs right to self-development depends on the recognition of the right of IPs to self-determination.

The Mattatua Declaration on Cultural and Intellectual Property Rights of Indigenous Peoples

The preamble declares that IPs of the world have the right to self determination, and in exercising that right, they must be recognised as the exclusive owners of their cultural and intellectual property;

Point 4 of the preamble mentions that IPs are capable of managing their traditional knowledge themselves.

Point 1.1 of the declaration mentions that IPs will define for themselves their own intellectual and cultural property.

Point 2.1 recognizes that IPs are the guardians of their customary knowledge and have the right to protect and control dissemination of that knowledge.

Point 2.2 recognizes that IPs also have the right to create new knowledge based on cultural traditions.

Point 2.7 states that commercialization of any traditional plants and medicines of IP must be managed by the IPs who have inherited such knowledge.

Kari – Oca declaration and the indigenous people's earth charter

The whole declaration is all about IP's right of self-determination.

Explicitly it states that IPs maintain the inherent rights to self-determination. They have always had the right to decide own forms of government, to use own laws, to raise and educate their children, to their own cultural identity without interference.

Charter of Indigenous tribal peoples of the tropical forests

Article 2 declares that IPs are the original peoples, the rightful owners, and the cultures that defend the tropical forests of the world.

Article 6 asks for respect for human, political, social, economic, and cultural rights of IPs, respect for right to self-determination, and to pursue own ways of life.

Article 7 calls for respect for IPs autonomous forms of self-government, as differentiated political systems at the community, regional, and other levels. This includes their right to control all economic activities in their territories.

Article 23 deals with PIC. It asks for the right to be informed, consulted, and, above all, to participate in the making of decisions on legislation or policies, and in the formulation, implementation or evaluation of any development project, be it at local, national or international levels, whether private or of the state, that may affect futures directly or indirectly.

Article 42 says that the best guarantee of the conservation of biodiversity is that those who promote it should uphold IPs rights to the use, administration, management, and control of their territories.

Resolutions of the Women's Commission

Unlike other declarations, here resolutions are addressed to Indigenous women themselves. Para 4 of article 2 has a mention of self-determination. It is mentioned that to realize the right of self-determination it is necessary to revitalize values of indigenouness.

Declaration of Principles of the World Council of Indigenous Peoples

Point 2 of the declaration states that all IPs have the right to self-determination. By virtue of this right they can freely determine their political, economic, social, religious, and cultural development.

8. Right to control and own land, territory and the natural resources

The Manukan Declaration of the Indigenous Women's Biodiversity Network

Point 1 under heading indigenous women and biodiversity asserts that indigenous knowledge systems and the diversity

of life within the territories are collective resources of indigenous people and need to be under their direct control and administration.

Wendake Action Plan from Indigenous People's Forest Forum

Following the lines of earlier declarations, paragraph 2 of the action plan reasserts the right over land, territory and natural resources therein.

Paragraph 4 mentions that IPs have looked after their land, territory and the natural resources since time immemorial. Therefore it is IPs inherent right to own them and international community should respect this right of IPs.

Under the heading most important actions it is mentioned that the United Nations and its bodies and specialized agencies, Nation States, international and regional inter-governmental organizations and international multi-lateral agencies recognise and guarantee IPs right to self-determination, including the right to govern the use of natural resources.

The International Cancun Declaration of Indigenous Peoples

In the introduction (paragraph 2) it is stated that with the creation of the World Trade Organization (WTO) and with the continuing imposition of the structural adjustment policies of the World Bank and International Monetary Fund, multinational corporations are given more rights and privileges at the expense of IPs rights. IPs right to self-determination, which is to freely determine the political status and pursue own economic, social and cultural development, and rights to the territories and resources, to the indigenous knowledge, cultures and identities are grossly violated.

Point 1 of the declaration calls for recognizing and protecting IP's territorial and resource rights.

Point 2 of the declaration is regarding retaining rights to have control over the seeds, medicinal plants and indigenous knowledge.

In the context of General Agreement on Trade and Services (GATs), Point 5 states that the liberalization and privatisation of services in environmental services (e.g. parks and landscape services), the commercialisation of indigenous cultures and the increasing monopoly control of the tourism industry in the hands of international and national travel and tour agencies should be stopped. IP must be allowed to be the managers of protected areas, parks, forests and waters found in their territories. They should be able to continue practicing their own indigenous natural management practices in forests, water, and biodiversity and ecosystem management.

The Indigenous Peoples' Declaration to the World Parks Congress

The declaration to World Parks Congress strongly condemns the concept of PA. Because, often the establishment and management of PA are associated with the discrimination, exclusion and/or expulsion of IPs from their territories and their impoverishment.

Paragraph 2 of the preamble reaffirms IPs vision of a respectful relationship by all peoples towards Mother Earth and the commitment to practice this respect in their terrestrial, coastal/marine and freshwater domains. It further states that the respect for nature must not be limited to protected areas, but must encompass the earth.

Point number 4 in the declaration reiterates IPs right on their land, territory and the natural resources therein. It states that 'the ancestral and customary rights of IPs to their lands, territories, and natural resources must be recognized, respected and protected'.

Point number 10 is related to tourism in IP territory. It states that neither IP, nor their lands and territories are objects of tourism development. If tourism is to benefit them it must be under their full control.

The Kimberley Declaration

Paragraph 4 of the declaration reaffirms right to own, control and manage the ancestral lands and territories, waters and other resources. It explains that lands and territories are at the core of IPs existence – IPs are the land and the land is IPs. They have a distinct spiritual and material relationship with the lands and territories and they are inextricably linked to IPs survival and to the preservation and further development of IPs knowledge systems and cultures, conservation and sustainable use of biodiversity and ecosystem management.

Paragraph 5 mentions that IPs have the right to determine and establish priorities and strategies for the self-development and for the use of their lands, territories and other resources

In the context of tourism activities in IP territory, Paragraph 10 says that IPs, their lands and territories are not objects of tourism development. They have rights and responsibilities towards the lands and territories. They are responsible to defend the lands, territories and IPs against tourism exploitation by governments, development agencies, private enterprises, NGOs, and individuals.

Indigenous Peoples' Seattle declaration

With reference to WTO Agreement on Agriculture (AOA), it is proposed that it should ensure the recognition and protection of rights of IP to their territories and their

resources, as well as their rights to continue practicing their indigenous sustainable agriculture and resource management practices and traditional livelihoods.

With reference to the liberalization of services and investments, it is recommended that unsustainable mining, commercial planting of monocrops, dam construction, oil exploration, land conversion to golf clubs, logging, and other activities which destroy IPs lands and violate the rights of IPs to their territories and resources must stop.

Indigenous Peoples' Caucus Statement

Point number 7 of the statement sheds light on Articles 24, 25, 26, and 29 of UN Draft Declaration on the Rights of IPs. It states that these articles clearly establish that IPs rights to the indigenous knowledge, innovations, and practices, which are referred to, as intellectual and cultural heritage cannot be discussed in isolation from IP's rights to their indigenous territories and resources.

Indigenous/tribal people's recommendations at the UNESCO workshop - cultural challenges of the international decade of the world's indigenous people

No direct mention of right to land, territory and the natural resources

Declaration on protection of traditional knowledge and expression of indigenous cultures in Pacific Islands

No direct mention of right to land, territory and the natural resources

Latin American declaration on transgenic organisms

Point number 9 of the declaration states that introduction of transgenic organisms subverts the survival of cultural and technological practices by farmers, peasants, and indigenous, black and local communities. This violates the millenary rights of these communities, which have been recognised by the International Undertaking on Plant Genetic Resources at the UN Food and Agriculture Organisation and Article 8(j) of the Convention on Biological Diversity.

Beijing declaration of indigenous women

Point 5 of the declaration says that indigenous women, the women of original peoples have struggled against colonialism for not less than 500 years and have defended the rights to self-determination and to their territories. The indigenous women have been and are continuing to suffer from multiple oppressions. In spite of this, they are persisting in the struggles for self-determination and for the rights to their territories.

Point 12 affirms that indigenous women's dispossession from their territorial land and water base, upon which their

existence and identity depends, must be addressed as a key problem.

Point number 15 addresses the concern that armed conflicts world over are taking place on IPs territory. It puts blame on the aggressive policies of multinational corporations and governments for these armed conflicts and the vagaries IPs face due to them. It further states that resolution of the armed conflicts lies in the in the recognition of IPs rights to self-determination and to their lands and water. The point concludes that the phrase “internally displaced” is in fact the reality for many IPs all over the world.

In the point number 22 it is demanded that the international community and governments recognize and respect IPs rights to their territories.

In the point number 23 it is urged to the governments who are opening up IPs territories to foreign investors especially to mining corporations, to respect IPs rights over the territory.

Point number 43 of the declaration is covered under the sub heading ‘Recognize And Respect Our Rights To Our Intellectual And Cultural Heritage; Our Rights To Control The Biological Diversity In Our Territories’ along with five other points. It asserts that indigenous women will continue to freely use the biodiversity for meeting their local needs, while ensuring that the biodiversity base of the local economies is not eroded. It is also mentioned that they will revitalize and rejuvenate the biological and cultural heritage and continue to be the guardians and custodians of the knowledge and biodiversity.

UNDP Consultation on Indigenous Peoples Knowledge and Intellectual Property Rights

Point number 3 of the introduction declares the right of IPs of the Pacific to self-governance and independence and ownership of the lands, territories, and resources as the basis for the preservation of IPs knowledge.

Through Point 2.2 it is asserted that in situ conservation by IPs is the best method to conserve and protect biological diversity and indigenous knowledge, and encourage its implementation by indigenous communities and all relevant bodies.

The Statement issued at International Consultation on Intellectual Property Rights and Biodiversity

Point 6 under the heading basic points of the agreement states that biodiversity and the culture and intellectual property of people are concepts that mean indigenous territoriality. Issues relating to access to resources have to be viewed from this standpoint.

Point 7 under the same heading states that ‘for members of IPs, knowledge, and determination of the use of resources are collective and intergenerational. No indigenous population, whether of individuals or communities, nor the government, can sell or transfer ownership of resources which are the property of the people and which each generation has an obligation to safeguard for the next’.

Point 16 asks for appropriate mechanisms for maintaining and ensuring rights of indigenous people to deny indiscriminate access to the resources of the communities or peoples and making it possible to contest patents or other exclusive rights to what is essentially indigenous.

Point 18 states that discussions regarding intellectual property should take place without distracting from priorities such as the struggle for the right to territories and self-determination, bearing in mind that the indigenous population and the land form an indivisible unity.

Recommendations from Voices of Earth Congress

Point number 1 under the heading economic rights it states “IPs rights to their territories, meaning full ownership of their lands and natural resources above and below the earth and waters, must be fully recognized”.

Point 2 under the same heading states that IPs rights to control the use of resources in their territories must be fully recognized.

The Mattatua Declaration on Cultural and Intellectual Property Rights of Indigenous Peoples

Point 2.6 while referring to nation states, national and international agencies states that indigenous flora and fauna are inextricably bound to the territories of indigenous communities and any property right claims must recognize their traditional guardianship.

Point 2.10 states that prioritise settlement of any outstanding land and natural resources claims of IPs for the purpose of promoting customary, agricultural, and marine production.

Kari – Oca declaration and the indigenous people’s earth charter

The declaration mentions that IPs maintain their inalienable rights to their lands and territories, to all their resources — above and below — and to their waters. They assert their ongoing responsibility to pass these onto the future generations.

It also states that IPs cannot be removed from their lands. The IPs are connected by the circle of life to the lands and environments.

Charter of Indigenous tribal peoples of the tropical forests

Article 3 of the charter states “our territories and forests are to us more than an economic resource. For us, they are life itself and have an integral and spiritual value for our communities. They are fundamental to our social, cultural, spiritual, economic, and political survival as distinct people”.

Article 4 mentions “The unity of people and territory is vital and must be recognized”.

Articles 13 to 19 are all about territory. It is stated that IPs have right to the exclusive use and ownership of the territories that they occupy. Also they have the right to demarcate the territories themselves and that these areas be officially recognized and documented. Culture, traditions and customs of IPs are linked to their territory.

Article 41 mentions “Conservation programs must respect our rights to the use and ownership of the territories we depend on. No programs to conserve biodiversity should be promoted on our territories without our free and informed consent as expressed through our representative organizations”.

Resolutions of the Women’s Commission

There is no explicit mention of rights over territory and land. The first of the series of resolutions states that indigenous women recognize that the Earth is life and they must defend it.

Declaration of Principles of the World Council of Peoples

Point number 3 states “Every nation-state within which IPs live shall recognize the population, territory, and institutions belonging to said peoples”.

Point number 10 is “IPs have inalienable rights over their traditional lands and over the use of their natural resources which have been usurped, or taken away without the free and knowledgeable consent of Indian peoples, shall be restored to them”.

Point number 11 mentions that the rights of the IPs to their lands include: the soil, the subsoil, coastal territorial waters in the interior; and coastal economic zones all within the limits specified by international legislation.

Point number 10 clarifies that all IPs have the right to freely use their natural wealth and resources in order to satisfy their needs.

Point number 13 says that no action or process shall be implemented which directly and/or indirectly would result in the destruction of land, air, water, glaciers, animal life,

environment, or natural resources, without the free and well-informed consent of the affected IPs.

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