THIRTY YEARS OF INDIGENOUS PEOPLES’ LOBBYING AND ADVOCACY IN THE INTERNATIONAL ARENA

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INTRODUCTION

Lobbying and advocacy work within international intergovernmental bodies, like the United Nations, has become a significant area of work for many indigenous peoples within a period of almost thirty years. The earliest account of indigenous peoples going to the UN or its precursor, the League of Nations, was in the 1920s. Deskaheh, the speaker of the Council of the Iroquois Confederacy, brought into the League of Nations their long-standing dispute with the Canadian Government. Unfortunately, the League’s position is that this dispute is a domestic concern of Canada, hence it is outside its competence. Almost half a century passed before indigenous peoples’ ventured again into the United Nations.

Generally, indigenous peoples could not find redress to the injustices and oppression they suffer as distinct collectivities and even as individuals in the countries they belong to. Thus, it became an imperative to seek for spaces where they can air their issues, aspirations, and demands.

The increasing strength of the indigenous peoples’ movements brought into the world the horrible picture of discrimination, oppression, and marginalization faced by them. The roles played by colonial and post-colonial governments, transnational and domestic corporations, and even financial institutions like the World Bank, in perpetuating this situation were highlighted. Indigenous activists began to engage states, non-government organizations, academics, and human rights organizations, in dialogues around these concerns.

The challenge that the international indigenous movement posed to the normative foundations of the present world order and the discourse on human rights, environment and development could not be underestimated. This challenge comes amidst the threats of displacement due to the global expansion of capitalism and assimilation due to the expansion of the nation-state. Indigenous peoples are using existing and emerging international laws to seek redress and to project their concerns. At the same time, they are also influencing the further development of international law and the reconfiguration of international bodies.

While the United Nations Charter and Universal Declaration on Human Rights (UDHR) are already existing and several human rights treaties were ratified, these did not address specifically the particular situation of indigenous peoples. The liberal framework of human rights instruments which is focused on the protection of the rights of the individual and the state-centric nature of the UN limited its capacity to address indigenous peoples’ situations. The collective rights of indigenous peoples fell between the cracks. The emerging indigenous lobby which started to gather strength in the early 1970s saw this inadequacy and challenged the UN and other multi-lateral organizations to look beyond rights of states and individuals.

Since then, the efforts of indigenous peoples in these international bodies revolved around opening up more spaces where indigenous issues, values, aspirations, and
perspectives can be raised. It involved questioning the concepts and practices of national and international law. Discourses on issues like self-determination, collective rights, land rights, among others, become animated and dynamic in meetings and conferences where indigenous peoples are present.

Indigenous diplomacy has reached a level of sophistication such that government diplomats sometimes find difficulty dealing with indigenous peoples. This is because they, themselves, exhibit discriminatory or patronizing attitudes towards indigenous peoples. Then suddenly they are forced to deal with these peoples who have other ways of interpreting the world and human made laws.

The international arena also provided the opportunities for networking and building solidarity relations with each other. This gave birth to new international formations of indigenous peoples.

With this long period of time spent in international lobbying and advocacy there are a lot of questions which can be asked. For sure, those who have been involved in this work asked themselves these same questions and have been asked these questions by their organizations, tribes or communities. Personally, these are questions which I asked myself and which I have been asked. The first set of questions revolve around the usefulness of lobbying and advocacy in the international arena. The second set deals more on questions on the conduct and effectivity of indigenous peoples’ strategies for lobbying and advocacy.

Is it worth our while spending human and financial resources and time in international work? Aren’t we just being distracted from what we should be doing like strengthening our own movements, communities, and organizations at the local level? Are we not being coopted to work within the system which has help create our problems in the first place? Considering that the UN is an organization of nation-states and it is virtually controlled by the industrialized countries can it help bring about the justice and redress we are asking for?

What are our gains and setbacks in our international lobbying work? What are the contentious issues between the UN member-states and indigenous peoples and how are these being resolved? Have there been significant shifts in the international political, economic, and social context which require adjustments by indigenous peoples in their international advocacy and lobbying work? Where do we go from here?

If international lobbying work remains a valid area of work, which among these various inter-governmental bodies should be prioritized and what parameters can be used to determine these? Should we just concentrate on key UN bodies instead of spreading ourselves thinly in our desire to cover as much area as we could? What mechanisms should we propose to international bodies to ensure that our concerns are being addressed and our active and direct participation is ensured?

This article is an attempt to grapple with these questions but it will not necessarily provide the answers. It is left to each indigenous person, tribe, nation, community, organization, network, or movement to assess the extent of participation or non-participation and to discern where their priorities lie. What it will try to do is to look at the trends in international lobbying by indigenous peoples and identify some general gains and setbacks.
AREAS OF INDIGENOUS LOBBYING AND ADVOCACY

The main bulk of lobbying efforts of indigenous peoples has initially been focused on UN Human Rights bodies, particularly the United Nations Working Group on Indigenous Populations (UN-WGIP). Others went beyond the WGIP to the Subcommission on Prevention of Discrimination and Protection of Minorities (Sub-Commission), the Commission on Human Rights (CHR). Others got involved with the International Labour Organization (ILO). A few made use of the complaints procedure of the International Covenant on Civil and Political Rights (ICCPR), the Convention Against All Forms of Racial Discrimination, and the ILO Conventions Nos. 107 and 169.

The series of UN international conferences in the early 1990s saw varied levels of participation from indigenous peoples. The 1992 UN Conference on Environment and Development (UNCED) including its preparatory meetings was the one which got a significant participation from indigenous peoples. This conference was a nodal point in terms of the participation of indigenous peoples in UN bodies addressing the issues of environment and development. A few indigenous peoples sustained their participation in the sessions of the UN Commission on Sustainable Development, the body set up to monitor the implementation of Agenda 21, the main UNCED document.

Others followed up the Convention on Biological Diversity (CBD), the Global Environmental Facility (GEF), and the Inter-governmental Panel on Forests (IPF). A few are monitoring among others, the UN Framework Convention on Climate Change, the UN Convention on the Law of the Sea, the Basel Convention on the Control of Transboundary Movements of Hazardous Waste and Their Disposal, and the Convention on International Trade on Endangered Species of Wild Fauna and Flora (CITES).

The World Conference on Human Rights held Vienna in 1993 was well attended by indigenous peoples. It was in this gathering where the idea of a Permanent Forum for indigenous peoples in the UN was proposed. The 1993 World Summit on Social Development in Copenhagen, and the International Conference on Population and Development (1994) in Cairo, were also graced by indigenous peoples who worked for the inclusion of texts referring to them in the programs of action. A good number of indigenous women took part in the Fourth World Conference on Women of 1995 held in Beijing. An indigenous women’s caucus was organized and this came up with the Beijing Declaration of Indigenous Women which critiqued the official Platform of Action and highlighted indigenous women’s issues and recommendations.

There are a few who are tracking down the World Bank (WB), regional multilateral banks like the Asian Development Bank (ADB), and trade organizations like the World Trade Organization (WTO). Others are lobbying the Organization of American States (OAS), the European Commission and European Union and the European Parliament. For trade bodies like the World Trade Organization (WTO), the participation of indigenous peoples is very minimal. Others are more active in regional trade bodies like the NAFTA (North American Free Trade Association) and the APEC (Asia-Pacific Economic Council).
The World Intellectual Property Rights Organization (WIPO) and the UN Education, Scientific, and Cultural Organization (UNESCO) also caught the interest of indigenous peoples because of the continuing appropriation of their intellectual and cultural heritage. The list presented is not the exhaustive list of the various intergovernmental bodies where indigenous peoples can be found lobbying. Even from this list, however, it can be seen that indigenous peoples have diversified significantly their lobbying areas especially in the 1990s. Efforts are divided between the general areas of human rights, environment, development, and trade. While the overwhelming majority are still found in the UN Human Rights bodies more are taking part in the other arenas.

THE EARLY BEGINNINGS

The push for the international community to look into the situation of indigenous peoples came from the indigenous peoples, themselves. The period of the 70s saw the upsurge of indigenous peoples’ struggles all over the world, both in the north and the south. Issues raised ranged from discriminatory and assimilationist laws and policies, expropriation of ancestral territories and exploitation of resources found therein, by governments and corporations, destructive projects like dams, mining, logging, to militarization of indigenous peoples’ communities. These problems had their roots during colonization. However, these developed further in the era of decolonization when newly-independent nation-states in the Third World focused on political centralization and national integration.

Local elites who took over the rule of colonizers were driven by “nation-building” and ignored the reality that most nation-states are pluriethnic and pluricultural and in some cases multi-national in character. At the same time, these states did not totally get rid of their colonial ties. Neo-colonial relationships between so-called independent states and their former colonizers persisted to the further detriment of indigenous peoples. Some indigenous peoples and nations carried the struggles on their own, while others linked up with other movements like those of the peasants and workers and even with movements for national liberation.

The outcry, lobbying, and activism of indigenous peoples pushed the UN Economic and Social Council (ECOSOC) to take the first giant step. It authorized the Sub-Commission on Prevention of Discrimination and Protection of Minorities in May 1971 to undertake a study on indigenous peoples and come up with recommendations. Jose Martinez Cobo was appointed to lead the study. This activity is a watershed in the history of indigenous peoples’ relations with the UN. The study, which is entitled “The Study of the Problem Against Indigenous Populations,” began in 1971 and the final consolidated report was released in 1986. Extensive field information gathering was done which resulted in a tremendous wealth of data on indigenous peoples. Based on the findings, recommendations were made.

While the study was going on indigenous peoples took part in some international conferences which were organized by NGOs or human rights organs of the UN or other multilateral bodies. One of the first conferences was held in 1977 in Geneva. This was the “International Non-Governmental Organization Conference on Discrimination against Indigenous Populations in the Americas.” More than 100 indigenous peoples from the Americas, 50 NGO representatives and 38 governments took part. The forging of significant solidarity links between indigenous peoples coming from various countries began.
The conference came up with the “Draft Declaration of Principles for the Defense of the Indigenous Nations and Peoples of the Western Hemisphere”. Out the various recommendations it came up with the most important one is the creation of a UN Working Group on Indigenous Populations as part of the Sub-Commission on the Prevention of Discrimination and Protection of Minorities.

After this conference the number and quality of indigenous participation in UN human rights bodies started to grow. Several indigenous NGOs managed to acquire official consultative status with the UN ECOSOC thereby giving them access to attend meetings of the Sub-Commission and the Commission. Some also got access to the Organization of American States, particularly the Inter-American Commission on Human Rights.

THE WORKING GROUP ON INDIGENOUS POPULATIONS

The WGIP is the UN body which has seen the most active and dynamic participation of indigenous peoples. The first session was held in Geneva in August 1982. This was attended by indigenous peoples from the Americas, Australia, Europe, Japan and the Philippines. Since then, the sessions were held every year, except in 1986, and each year more and more indigenous peoples attend. The rules of procedure of the UN were made flexible in the WGIP to allow all interested persons to present interventions and submit information. In the beginning, many of those presenting interventions were non-government organizations advocating for indigenous peoples. However, through the years more representatives of indigenous peoples formations took the floor.

The WGIP is located at the lowest level of the UN Human Rights heirarchy. Its recommendations have to pass through the Sub-Commission, the Commission on Human Rights(CHR) and the ECOSOC before it gets to the UN General Assembly(UN-GA). This body meets during the months of July or August. Initially the sessions lasted for two weeks but this was cut to one week because of cost-cutting measures in the UN.

In spite of it being low in the UN heirarchy, the WGIP gained much prominence because it has a big constituency of indigenous peoples participating. They are actively lobbying at every session, making interventions, and holding caucuses for planning strategies and organizing parallel events like panel discussions on specific issues.

It has become a good venue for networking among indigenous peoples, themselves, and between them and NGOs and funding agencies, scholars and academics advocating for indigenous peoples’ rights. Around 500 to 700 persons attend the yearly sessions making it one of the largest UN forums in the human rights arena. Out of these numbers around half are representatives of indigenous nations, peoples, organizations and communities.

The limitations of this body lies in its being the last link in the long bureaucratic chain of UN organizations. It is not a court of law, so every year the Chairperson has to start the session by saying that the WGIP is not a grievance forum and does not have the mandate of hearing complaints. Therefore it cannot act on grievances or complaints. Proposals emanating from this body go all the way to the General Assembly. These limitations have become a source of concern for indigenous peoples. The need to locate indigenous peoples’ concerns at a higher level within the UN is very much felt and this is where the recommendation for a permanent forum comes in.
None the less, the WGIP is still the UN body which opened up a lot of possibilities for indigenous peoples. Mick Dodson, the Social Justice Commissioner of the Aboriginal and Torres Strait Islander Commission, presented a very important assessment on the significance of the WGIP:

...[S]ome people say that the Working Group operates at such a peripheral level of the UN that it has no status in the UN system, and that its work will simply be undone by governments who must ultimately endorse any UN declaration of our rights. While the WGIP may not have any independent status at the UN system, it cannot be so easily dismissed. It has already had a tremendous impact, not just on indigenous peoples, ourselves. It is no exaggeration to say that the WGIP has been a small revolution in the UN system. A lot of people forget that before 1970, as far as the UN is concerned, indigenous peoples were virtually invisible...

...The Working Group has come to play a far more extensive role than its mandate would suggest. It is a fine example of how we can use existing structures and transform them to meet our needs and aspirations. As the meeting place between the world’s indigenous peoples and key international organizations, the Working Group has provided many of us with a unique opportunity to interact with a world that would be otherwise impenetrable. We have made sure that it has functioned as a highly visible platform where we can draw attention to our grievances. ...

...In a sense the Working Group is all about what international law and the UN have neglected. It is about bringing Indigenous peoples into the UN system where we have been marginalized and unnoticed. It is about forcing the UN system to face its responsibility as the body charged with protecting the rights of all peoples.

MAJOR DEVELOPMENTS IN INDIGENOUS LOBBYING

Undoubtedly, the lobbying and advocacy work within the WGIP has laid down the basis for the subsequent gains achieved in other arenas. The concentrated focus on the formulation of human rights standards for indigenous peoples, in the form of the Draft Declaration on the Rights of Indigenous Peoples, has paid off. In the first half of the ’90s when various UN world conferences were convened indigenous peoples who took part in these used the Draft as the main framework of reference. For example, at the UN Conference on Environment and Development (UNCED), a major recommendation of the indigenous peoples whether in the official meetings or parallel NGO meetings, is the endorsement from the UNCED that the Draft be adopted by the UN General Assembly. This recommendation is echoed in all the subsequent international conferences.

After the release of the final draft of the Declaration on the Eleventh Session of the WGIP in 1993, there has been a shift in the lobbying work of indigenous peoples. While many are still actively participating in the WGIP, there are those who gave greater attention to the Sub-Commission and the Commission on Human Rights sessions to push for the adoption of the Draft. The creation of the Working Group of the CHR has allowed the participation of a combination of seasoned and new indigenous activists and lobbyists.

Additional indigenous activists took part in the environment and development bodies,
starting from UNCED to the Commission on Sustainable Development and the Convention on Biological Diversity. The participation of indigenous peoples in the WGIP, Sub-commission, Commission and various UN bodies and conferences has led to the evolution of the idea of a Permanent Forum for Indigenous Peoples within the UN.

There is almost a consensus among the indigenous peoples lobbying, that the mandate of the forum should be sufficiently broad to cover all issues affecting indigenous peoples. It should go beyond human rights and cover areas such as cultural, civil, political, social, economic, and human rights, health, development, education and environment.

It was also forwarded that this body “could contribute to the resolution of conflicts, oversee and coordinate UN activities relating to indigenous peoples, mobilize expertise on indigenous issues, carry out impact assessments of UN activities and policies relating to indigenous peoples, disseminate information on the conditions and the needs of indigenous peoples and on the implementation and realization of international standards relating to indigenous peoples’ human rights, as well as hear complaints.”\(^5\)

Furthermore, the permanent forum is envisioned to assist in following up the programmes of action of the high-level UN conferences like Agenda 21, Beijing Platform of Action, etc., as well as other decisions and resolutions on indigenous issues adopted by the United Nations. It is also hoped that the forum should provide formal mechanisms for the lodging of grievances and complaints and have the mandate to bring urgent matters to the immediate attention of the relevant UN bodies.

The Danish government and the Greenland Home Rule Government, in close consultation with indigenous peoples worked for a resolution which will push further the gains in this area. At the Fifty Fourth Session of the Commission on Human Rights a resolution sponsored by 29 Governments was passed on 9 April 1998.\(^6\) The resolution says, among others, that the CHR is:\(^7\)

4. ..[t]o establish an open-ended inter-sessional ad hoc working group, from within existing United Nations resources, to elaborate and consider further proposals for the possible establishment of a permanent forum for indigenous people within the United Nations system;

At the Conference of Parties of the Convention on Biological Diversity, the indigenous peoples focused their lobbying on Article 8j. This article basically obligates the Contracting Parties to;

*respect, preserve, and maintain knowledge, innovations, and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biodiversity.

*promote the wider application with the approval and involvement of the holders of such knowledge, innovations and practices.

*encourage the equitable sharing of the benefits arising from the use of such knowledge, innovations, and practices.

The intensive lobbying by indigenous peoples ended up with the a decision at the
Fourth Conference of Parties - Decision 1V/9 Implementation of Article 8j and Related Provisions. This Decision basically calls for the creation of;

1. An ad-hoc open-ended intersessional working group be established to address the implementation of Article 8j and related provisions of the Convention.

The gains achieved so far by indigenous peoples in their lobbying for Article 8j are substantial as seen by the comprehensive coverage of the decision reached at COP 4. The implications of this are also tremendous for indigenous peoples. This means that indigenous peoples should be able to organize themselves more effectively so they will be able to cover the whole range of activities and concerns which will be addressed by the working group. And this means monitoring and lobbying not only on the international level, but more importantly on the national level.

CONCLUSION

This global scenario does not look very encouraging for the indigenous peoples. The concerted efforts of multilateral trading bodies (WTO, APEC, NAFTA, etc.) and the international financial institutions like the World Bank and the IMF to perpetuate the dominance of the global capitalist market economy heavily influence what is taking place at the UN. The gains achieved by indigenous peoples in lobbying the UN bodies such as the Draft Declaration, the working group to talk about the permanent forum for indigenous peoples, the working group within the CBD to implement Article 8j, etc. could be derailed if indigenous peoples will not be ever watchful and vigilant.

Even the gains achieved in the national levels in terms of indigenous peoples being able to put into place national laws which recognize their fundamental rights defined in the Draft Declaration, having their movements strengthened, gaining control over their ancestral territories, being able to be self-governing, etc. are constantly under threat of being withdrawn. The transnational corporations and the industrialized countries are working very hard to put their global agenda in place in the UN, WTO, WB, IMF and in the Conventions. The economic growth development paradigm still remains as the dominant framework for development in most countries both in the North and South.

Sustainable development which has become the catchword for governments, environmentalists, human rights activists, indigenous peoples, and also of industry has not effectively challenged this economic growth paradigm. In fact, Agenda 21 still promotes trade liberalization as one way of bringing about sustainable development.

In this context the assertion of indigenous peoples of their basic rights could still be seen as a major obstacle in achieving the global agenda of the powerful nations and corporations. There will be some accommodation of these rights for as long as it leads to the alienation of territories, resources and even indigenous knowledge and cultures. For example, the programs for ancestral land delineation would get the support of the World Bank because this process can facilitate the alienation of these lands by indigenous individuals, clans or tribes who now have the ancestral land titles or claims over the lands. Ecotourism which has a strong potential to commercialize and vulgarize indigenous peoples cultures will be promoted.
because this will increase the business of travel and tour agencies, hotels, etc.

This is not to say that the lobbying and advocacy work done by indigenous peoples in the international level is of not much use because of this situation. The situation could even be much worse if indigenous peoples did not participate in these processes because it would be very convenient for governments and even NGOs to ignore indigenous peoples issues and perspectives. The gains achieved cannot be easily swept aside by governments and intergovernmental bodies.

If governments choose to surrender their right to regulate the operations and behaviour of transnational corporations and foreign investors, indigenous peoples will have to do their part to ensure that their territories and resources will not be squandered once more. Most of these resources are non-renewable so indigenous peoples should build up their capacities in the national and international levels to protest and stop the developments which will violate their rights.

The more effective way of pre-empting the devious schemes of corporations and even governments to appropriate indigenous territories and resources is to strengthen the struggles of indigenous peoples at the local level. However, the complementary role of doing advocacy in the international level should not be underestimated. Indigenous peoples should be able to use the instruments, whether legally binding or not, which have something to say in favor of indigenous peoples. Thus, it is important that the information contained in these negotiated instruments like the Draft Declaration, Article 8j and related articles, ILO Convention No. 169, etc. should be disseminated as widely as possible.

The creation of alliances and networks between indigenous peoples and between them and NGOs are also gains achieved in international work. Most of the transnational corporations operating in specific lines of industry, like mining, agri-business, pharmaceuticals, etc. are found in more than one indigenous territory. The value of linking up peoples who are affected by the operations of the same transnational corporation should not be underestimated. The reason why it is not so easy for mining companies to deceive indigenous peoples anymore is because there are existing networks and information exchanges where the track records of these corporations can be counter-checked.

Indigenous peoples have come a long way in terms of projecting and articulating their issues, views, and perspectives. The influence they have in changing the nature of the debates and even the questions being asked are very important. The assertion of the right to continue exercising their own indigenous economic and resource management systems, indigenous forms of government, customary laws and practices in developing and protecting indigenous knowledge, etc. are the first steps in ensuring that these sustainable practices will not disappear in oblivion.

In this era where the dominant economic paradigm is now seen as a main reason for the continuing environmental and social crisis, the search for alternatives is crucial. Many alternatives are still being practiced by indigenous peoples and for those who are unable to do so because they are dislocated from their ancestral territories the memories are still with them. Indigenous peoples are in a moral high ground to critique the prevailing dominant economic and political dispensation. More importantly they possess the worldviews and practices of maintaining distinctive spiritual and material relationship with lands, territories, oceans, as well as the ethics of upholding responsibilities for the future generations.
Indigenous peoples, therefore, should be given support from governments, intergovernmental organizations and processes, and by the NGOs and the society at large to have their rights recognized and respected. This is not being done not only because of the imperative to correct the historical injustice committed against them but also because the crucial help which is needed to bring about a sustainable and humane world will be come from them. Only then will “Building Partnerships” which is the theme of the World’s Decade for Indigenous Peoples (1994-2004) will become a reality.

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1. The full report is issued as UN Doc. E/CN 4/Sub.2/1986/7 and Add. 1 to 3. This study became the basic reference on the issue of indigenous peoples within the UN.

2. This Declaration is reprinted in UN Doc. E/CN 4/Sub.2/476/Add.5, Annex 4 (1981). see this also in the Appendix of Anaya, S. James, “*Indigenous Peoples in International Law*”, 1996


6. The countries which sponsored Resolution 1998/20 are; Argentina, Andorra, Bangladesh, Belgium, Bolivia, Canada, Chile, Colombia, Costa Rica, Cyprus, Denmark, Estonia, Finland, Greece, Guatemala, Honduras, Iceland, Latvia, Lithuania, Mexico, Nepal, Netherlands, Norway, Portugal, Russian Federation, Spain, Sweden, Switzerland, and Ukraine