PACMUN Human Rights Committee Research Report

<u>Topic</u>: MEASURES TO STRENGTHEN THE RIGHTS OF THE INDIGENOUS PEOPLE

<u>Introduction of Topic:</u> As per article 1 of the Universal Declaration of Human Rights (UDHR), "all human beings are born free and equal in dignity and rights". This fundamental right is often ignored in the case of indigenous people. Indigenous peoples in the 21st century face a variety of challenges and are often denied many of the basic human rights. The rights of the indigenous peoples are also vital to the success of the Sustainable Development Goals (SDGs), seeing as indigenous peoples are mentioned in both SDG 2 (Zero Hunger) and SDG 4 (Education).

<u>Definition of Key Terms:</u>

- Indigenous People Considering the diversity of indigenous peoples, many attempts have been made to describe indigenous peoples. As such, there are no general agreements on the definition. However, the most common of the "working definition" is as follows: "Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing 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."

- Human Rights The United Nations defines human rights as follows: "Human rights are rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status. These rights include the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, the right to work and education, and many more". Everyone is entitled to these rights, without discrimination.

<u>Major Countries and Organisations Involved</u>

United Nations Permanent Forum on Indigenous Issues (UNPFII or PFII)
The UNPFII is the UN's central coordinating body for matters relating to the rights and concerns of indigenous peoples. The forum is an advisory board to the Economic and Social Council

(ECOSOC), to whom it submits recommendations and expert advice. It also submits these to various other programmes, funds and agencies of the UN System. It discusses issues related to social development, culture, environment, education, health and human rights. In addition, it raises awareness and promotes the integration and coordination of activities related to indigenous issues within the UN system, and prepares and makes available information on these issues.

Expert Mechanism on the Rights of Indigenous Peoples (EMRIP)

EMRIP was established by the Human Rights Council in 2007. It currently "provides the Human Rights Council with expertise and advice on the rights of indigenous peoples as set out in the United Nations Declaration on the Rights of Indigenous Peoples, and assists Member States, upon request, in achieving the ends of the Declaration through the promotion, protection and fulfillment of the rights of indigenous peoples"

International Labor Organization (ILO)
The ILO is a specialized UN agency that deals with labor problems, particularly international labor standards, social protection, and work opportunities for all. The ILO's Decent Work Agenda "serves as a framework for indigenous and tribal peoples' empowerment", promoting the message that "access to decent work enables indigenous women and men to harness their potential as change agents in poverty reduction, sustainable development and climate change action."

World Bank

The World Bank is an international financial institution that provides loans to countries for capital projects. Its stated goal is the reduction of poverty. With regards to indigenous peoples, the World Bank seeks to "deepen its understanding of Indigenous Peoples' priorities, needs, and issues through direct dialogue with indigenous peoples' organizations at global, regional, and national levels, through analytical studies, and the implementation of projects and programs that involve participation of indigenous peoples."

United States of America

As one of the four countries that voted against the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), the United States' indigenous population accounts for approximately 1.01% of its population, with the distribution of native Americans spread out unevenly between the 50 states.

Australia

As one of the four countries that voted against UNDRIP, Australia's indigenous population accounts for approximately 2.8% of its total population, with the highest concentration of indigenous people in the Northern territory. Indigenous Australians face a variety of challenges in contemporary society, from lower life expectancy, reduced educational opportunities, and a higher chance of developing substance abuse.

New Zealand

As one of the four countries that voted against UNDRIP, New Zealand's indigenous population accounts for approximately 14.9% of its total population, the highest amongst the member states that voted against UNDRIP. Like indigenous Australians, Māori people in New Zealand face various socioeconomic challenges, including higher suicide rates and higher unemployment rates.

Canada

As one of the four countries that voted against UNDRIP, Canada's indigenous population accounts for approximately 4.9% percent of its total population. Throughout history, indigenous Canadians faced forced assimilation, and today indigenous Canadians still face problems such as a lower quality of education, inadequate housing and living conditions, and a higher death rate amongst children as a result of unintentional injury. In May 2016, Canada officially removed its objector status to UNDRIP, making it the only country to do so.

Asia

In addition to the four countries that voted against UNDRIP, there are other regions of the world that have a large population of indigenous people. Asia, for example, contains 70% of the world's indigenous population according to figures from the International Work Group for Indigenous Affairs (IWGIA). The most substantial populations of indigenous populations exist in India. These tribes constitute about 200 million people. Moreover, large numbers of indigenous people live in Southeast Asia, with over 50 million indigenous people living in Indonesia alone.

South America

Indigenous peoples in South America number approximately 32 million.

(I decided to omit the timeline of events, as it felt it didn't add much to the understanding of the issue as a whole)

Relevant UN Treaties and Events

 Indigenous and Tribal Peoples Convention, Geneva, 1985 September 19 (See Appendix I)

International Year of the World's Indigenous People, 1993, 14 December 1992, (A/RES/47/75) (See Appendix II)

World Conference on Human Rights, Vienna, 14-25 June 1993 (See Appendix III)

Establishment of a Permanent Forum on Indigenous Issues, 28 July 2000, (ECOSOC Resolution 2000/22 - E/2000/23 (See Appendix VI)

United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), 13 September 2007 (A/RES/61/295) (See Appendix V)

World Conference on Indigenous Peoples (WCIP), New York, 22 September 2014

Main Issue

Land Eviction

One of the largest issues facing indigenous peoples is the forced removal from their ancestral lands by governments. Defined as, a forced eviction is "the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection". Reasons for forced evictions vary, ranging from urban and rural development projects, conservation efforts, to a desire by the government to extract the natural resources from a particular area. The consequences of such evictions are a loss of language, a reduction in family values, sense of identity and belonging, a loss of traditional knowledge and an increase in alcoholism, substance abuse and violence. In the context of the eviction of indigenous peoples, the circumstances under which indigenous peoples are evicted almost always constitute a violation of international humanitarian law.

Land Exploitation

Another issue that indigenous people face is the exploitation of their land for commercial, agricultural or other purposes, such as mining for natural resources. The problem is aggravated by the fact that indigenous people may not have a legally binding title to their land, preventing them from fighting for their land in court. Land exploitation is particularly damaging to indigenous people since they rely heavily on their land and surrounding environment for their livelihood. In addition, their land provides them with the connection to their cultural heritage. Therefore, when their land is taken, or used for other purposes, they lose part of their cultural

heritage and identity. Another consequence of land exploitation is the destruction of sacred sites and a change the ecological balance present in these lands.

Discrimination from state

Discrimination by governments towards indigenous peoples is another problem that indigenous people are faced with. Discrimination towards indigenous peoples can take many forms, and can have severe consequences that contribute to other issues. Some of the many ways in which indigenous peoples are discriminated against include: withholding citizenship, declaring indigenous practices illegal and punishable by law, lack of political representation, lack of ability to defend themselves against legislation that negatively impacts them, lack of enforcement of existing laws to protect indigenous peoples, a disproportionately small percentage of government funding directed towards the betterment of indigenous society. All of these different types of discrimination add up to often strip indigenous peoples of their right to make decisions regarding their status and other issues concerning them. Because of this, their concerns and opinions may not be equally heard or addressed, and they are further excluded from society and future decision-making processes.

Social Issues In addition to the many issues that indigenous peoples face collectively, there are also many issues that indigenous individuals face on a day-to-day basis. It is important to note that these issues are not independent of one another or of any of the other issues mentioned in this section. These issues are interrelated.

Healthcare: According to estimates by the World Health Organisation (WHO), 80% of the indigenous population in developing countries rely on traditional healing systems as their primary source of care. Part of this is due to many indigenous groups' belief in traditional medicinal practices as opposed to modern advancements in medical technology, but a large contributor to this reliance on traditional healing systems may be their lack of access to basic healthcare services. This can be seen in the child mortality rates of Indigenous communities compared to the overall population, child mortality rates in indigenous communities are significantly higher than in overall population.

Education: Indigenous peoples also generally receive a lower level of education, if any at all, than their non indigenous counterparts. Given that mainstream education is often of a higher quality than the education available in indigenous communities, indigenous families face a dilemma: send their children to below-average schools where they may find indigenous teachers who teach their language, culture, history, and traditions, or send their children to better schools which will provide them the means to advance their social and economic status, but which may not respect or teach their culture, traditions, and history. Mainstream education, that does not allow for learning in one's own language and that is not inclusive of one's social,

cultural, and economic values is not empowering; it is disempowering. As such, sending indigenous youth to mainstream educational is almost no better than sending them to underfunded indigenous educational systems. All of these factors contribute to indigenous youth suffering from a lack of quality education, this being a major contributor to many of the other issues in this section.

Housing Indigenous people generally live in below-average living conditions. Houses are often overcrowded, easily damaged by adverse weather, not easily accessible by seniors and people with disabilities, remote and isolated from other communities, and often do not have basic infrastructure such as water, electricity, and sanitation. In addition, obtaining insurance may also be a difficult task, meaning that many indigenous people may face difficulty rebuilding their homes after a natural disaster.

Other Aside from the social issues listed above, in comparison with non-indigenous people, indigenous people in certain countries have a lower average income, a higher rate of unemployment, a drastically lower life expectancy, a higher suicide rate, higher rate of alcoholism and substance abuse, and make up a disproportionate percentage of the prison population.

Previous Attempts to solve the Issue

International Year and International Decades of the World's Indigenous People

As discussed previously, the UN General Assembly established 1993 as the International Year of the World's Indigenous People and 1995-2004 and 2005-2014 as the first and second International Decades of the World's Indigenous People, respectively. Through this, greater attention was brought to the issues that face Indigenous people and more was done to combat those issues. Moreover, specialized UN agencies worked with indigenous people worldwide to promote and protect their rights, as well as to implement projects on health, education, housing, employment, development, and the environment, all to promote the protection of indigenous peoples and their traditional customs, values and practices.

UNPFII

As mentioned previously, the UNPFII was established in 2000 and seeks to advance the cause of indigenous rights. Since then, the forum has held 17 sessions, and since 2008, has adopted a method through which one year focuses on a specific theme related to indigenous issues, and the next year focuses on reviewing the implementation of the recommendations set out in the previous year.

UNDRIP

In addition, UNDRIP was adopted by the General Assembly in 2007, reflecting the international community's commitment to the protection of indigenous people's rights both as individuals and as groups. The main themes of the article can be broken down into four main groups: the right to self-determination, the right to be recognized as distinct peoples, the right to free, prior, and informed consent, and the right to be free of discrimination. It was created and adopted based on the recommendations of the VDPA, as well as in response to violence and abuse of indigenous peoples, and sets out aspirations for how the UN wants indigenous peoples to be treated. Since the document is a resolution, it is not legally binding but the large support it received at the time of voting reflects the power it has to bring about change for indigenous peoples and the changing opinions of governments worldwide towards indigenous peoples.

Possible Solution

Combatting Land Eviction and Exploitation

In order to combat land eviction and exploitation of indigenous populations, the first step would be for governments to formally recognize indigenous peoples as legitimate groups if they do not already do so. After this, communication lines between indigenous peoples and authorities would need to be set up in order to allow both sides to express their views and opinions on issues pertaining to indigenous peoples. Through this, an agreement can be reached that is accepted by both indigenous peoples as well as the government.

Reducing Discrimination

As is the case with land eviction and exploitation, it is necessary to open a forum where indigenous people can express their concerns to the government, ideally a specific branch of the government created to address indigenous issues and promote the betterment of indigenous people. The most important steps in combating discrimination would be to recognize indigenous peoples as legitimate groups and to grant them equal status in all aspects of society.

Addressing Social Issues

In order to address issues surrounding healthcare, education and housing, government funding of these programs would need to be increased to provide indigenous peoples with these basic rights. For more complicated issues such as income inequality and higher unemployment rates, long term programs that seek to provide jobs to indigenous peoples would need to be set up, which would reduce unemployment rates amongst indigenous peoples and increase overall incomes. Regarding substance abuse and a disproportionate prison population, social welfare programs

would need to be set up in order to reduce the number of indigenous people who are forced to turn to illegal activities due to either circumstance or necessity

Strengthening Educational Systems

Although educational systems do in fact fall under social issues, it is important to consider the profound impact that education can have on one's social and economic status. A quality education is absolutely essential to not just the individual's success, but the success of the community as a whole. As such, it is imperative that governments direct more funding and resources towards improving education.

Strengthening the UNPFII

As the UNPFII currently stands, it is an advisory board to ECOSOC, and submits recommendations to it, as well as to other relevant UN agencies and programs. Moreover, it prepares and spreads information pertaining to indigenous people to various UN agencies, and holds discussions on indigenous issues. Given that close to 4.9% of the world's population is indigenous, it is in the UN's best interests to strengthen the UNPFII and give it the power to not just submit recommendations to ECOSOC, but instead have the ability to influence change in the policies of member nations. It should have the same status as other UN committees.

Gaining greater visibility and awareness

 Moreover, it is important to bring indigenous issues to the attention of the general population. Through this, progress made towards granting indigenous rights will be expedited due to pressure on both governments as well as the UN and its agencies to act. This can be done in a variety of ways. Public awareness campaigns can bring local issues to the attention of non-indigenous peoples, and UN action can bring attention on a global scale to indigenous peoples as a whole.

Appendix or Appendices

I. C169 - Indigenous and Tribal Peoples Convention, 1989 (No. 169)
<http://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_INSTRUMENT_ID,P12100_LANG_CODE:312314,en:NO>

II. International Year of the World's Indigenous People, 1993
<http://www.un.org/documents/ga/res/47/a47r075.htm>

III. Vienna Declaration and Program of Action
 < https://www.ohchr.org/Documents/ProfessionalInterest/vienna.pdf>

IV. Resolutions and decisions adopted by the Economic and Social Council at its substantive session of 2000
< http://www.un.org/documents/ecosoc/dec/2000/edec2000-inf2-add2.pdf>

V. United Nations Declaration on the Rights of Indigenous Peoples
< https://undocs.org/en/A/RES/61/295>