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**Indigenous Human Rights-Progress Made and the Journey Ahead**

“All human beings are born free and equal in dignity and rights. Everyone is entitled to all the rights and freedoms set forth in the Universal Declaration of Human Rights, without distinction of any kind, such as race, creed, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Everyone has the right to life, liberty and security of person” (Quotes on Human Rights). This quote, taken from Principle 1 of the International Conference on Population and Development summarizes what international organizations such as the UN, Council of Europe, Commission, Council, and the Permanent Forum on Indigenous Issues believe should be universally upheld regarding the unalienable rights of individuals. Although Indigenous are human beings who should fall under the guidelines for human rights protection, in the past their rights have been trampled over and denied. From the time of Bartholome de las Casas and colonialism to the Louisiana Purchase and Manifest Destiny, Indigenous have been pushed aside and exploited for the sake of other countries and their personal advancements. As a result of these injustices, Indigenous have not been free to develop their societies and territories according to their own guidelines and wishes (United Nations Declaration on the Rights of Indigenous Peoples 2). Today in 2008, numerous achievements have been made such as the inclusion of Indigenous to be representatives in organizations, such as the United Nations, and the collaboration of organizations and Indigenous in creating human rights guidelines and declarations to spread awareness. Organizations and groups such as the UN Permanent Forum on Indigenous Issues, the UN Working Group on

Indigenous Populations, and the UN Special Rapporteur on the Situation of the Human Rights and Fundamental Freedoms of Indigenous Peoples have given Indigenous a voice that was previously not present and have served to unite them in their cause (Study Guide: the Rights of Indigenous Peoples 7). Despite all these achievements, there is still a long road ahead to make Indigenous human rights equal to that of others, especially since the rights currently granted to Indigenous took many years to achieve and have only been a recent victory. Many issues have to be addressed that currently leave Indigenous at a disadvantage in their communities and against the world. Such issues include: infringement of land rights, exploitation of resources, curbing of Indigenous resources, climate change and migration, poverty, the status of Indigenous women, underdevelopment and lack of education, issues of self-determination, among others (United Nations: Indigenous Peoples Face Growing Crisis as Climate Change, Unchecked Economic Growth, Unfavourable Domestic Laws Force Them from Lands, Forum Told).

Human rights are the basic freedoms that a person is entitled to for just being a human being. These human rights are meant to be non-discriminatory, universal, and guaranteed by law (Messer 222). Although it may seem straight-forward in nature, many violations occur due to cultural relativism, politics, or a feeling that the person, group of people, or country is not affected by what is going on and does not need to act (Messer 224). The UN, who is at the forefront of human rights and advocacy, created the Universal Declaration of Human Rights on December 10, 1948 after World War II. This document has been the groundwork for all human rights laws. For the first time, it established the idea of universal rights and the “inherent dignity and equality of all human beings” (The Universal Declaration of Human Rights: 1948-2008). The European Union also has bodies and documents that deal with human rights and legislation to protect these rights in addition to the guidelines provided by the UN Declaration, such as the

Council of Europe, the Commissioner for Human Rights, the Charter of Fundamental Rights of the European Union, and the European Court of Human Rights (Council of Europe). Although, as specified in the UN Universal Declaration, if human rights are supposed to be universal and applicable to all, then why do Indigenous suffer from a lack of rights and in several instances, a lack of mention in many human rights documents?

First, it is necessary to actually define what is meant by the word Indigenous. Indigenous Peoples are, "...people who inhabited a land before it was conquered by colonial societies and who consider themselves distinct from the societies currently governing those territories" (Study Guide: the Rights of Indigenous Peoples 1). Indigenous Peoples are not native to only a certain region of the world, but are global in nature. They are from places as varied as the United States to Ecuador and the Arctic, and play a key role in the environment. "Indigenous Peoples worldwide number between 300-500 million, embody and nurture 80% of the world's cultural and biological diversity, and occupy 20% of the world's land surface" (Study Guide: the Rights of Indigenous Peoples 1). Thus they are a huge part of the global population and natural resources. They are extremely connected to the land and the resources given to them by the land, all of which are considered to be sacred. Thus, when land is taken away from them this is considered a violation of their rights.

First, in light of the importance of land and natural resources to the Indigenous, land rights are a central issue and a human right that is still trampled upon. Although the UN Declaration on the Rights of Indigenous Peoples states in Article 26, "Indigenous peoples have the right to the lands, territories, and resources which they have traditionally owned, occupied or otherwise used or acquired. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership...States

shall give legal recognition and protection to these lands, territories and resources” (United Nations Declaration on the Rights of Indigenous Peoples 10). As the Annex to this Declaration points out, “...control by indigenous peoples over developments affecting them and their lands, territories and resources will enable them to maintain and strengthen their institutions, cultures and traditions, and to promote their development in accordance with their aspirations and needs” (United Nations Declaration on the Rights of Indigenous Peoples 2). Although this is recognized in the international community, land rights and resources remain a huge issue and an infringement of their human rights. One example of land exploitation took place recently on August 2, 2007. On this day, Russia basically claimed an area of the North Pole that “extend[ed] outward from Russia” (Searching for the Indigenous Voice in a New Arctic Scramble: Berlin Conference Part II or a New Global Politics). This action by Russia was not preceded by a conversation or agreement with the Indigenous groups in the region such as the Saami or Inuit. Rather, it was a blatant take-over of land that was not theirs. So what did the international community and the Indigenous themselves do in response? Because, as mentioned previously, there is a lack of specific Indigenous policy, Indigenous groups and organizations each responded individually. This resulted in a lack of coordination and a loss of common rights for the Arctic regions. If there was a common policy, then Indigenous could join together to form a durable coalition that would have more say in decisions and would be more respected since there would be one common idea and not several conflicting ones. Due to Indigenous weakness, other countries such as Denmark and the UK responded in-turn by staking out their claims to Indigenous lands (Searching for the Indigenous Voice in a New Arctic Scramble: Berlin Conference Part II or a New Global Politics). In an interview with Kris Molle from Polar Conservation Organisation on Indigenous land rights she stated, “Indigenous Peoples face

constant environmental threats as their livelihood is limited more and more due to ‘outside’ interferences and regulations” (Molle). Agreeing with Ms. Molle, Stewart Arnold, assistant to Diana Wallis, MEP and Vice President of the European Parliament, he commented:

One of many issues facing Indigenous is the need for a common policy to organize their thoughts and combine their actions. Without this, everyone will take and has taken a stake on Indigenous lands, resources, and ultimately, their rights. The European Union has finally realized the need to step in and do something and the European Parliament has passed a resolution on the 9<sup>th</sup> of October, 2008 on Arctic governance. Although specifically focusing on the Arctic, this document applies to all Indigenous and the need to respect Indigenous and their rights, and respond to climate and environmental issues. I think we all realize it is about time that Indigenous and areas such as the Arctic were paid more attention to (Arnold).

Second, in addition to exploiting lands, natural resources such as gas and oil have been exploited as well by large corporations. In the Journal of Indigenous Peoples Rights, Rune S. Fjellheim and John B. Henriksen provide in-depth information on the current status and process of corporate resource exploitation. One main point fleshed-out in the article is that decisions to take natural resources are solely made by the corporations themselves with total lack of concern or consultation with local governmental structures or people (Fjellheim and Henriksen 11). Furthermore, the concept of “free, prior and informed consent” is completely ignored. Areas such as the Arctic are environmentally fragile and cannot physically hold a large population or many large projects. When projects do occur there is an initial influx and extreme use of resources that leads to an eventual decrease in population due to migration, a tapping out of

resources, a lack of respect for Indigenous societies and their structures, and a lack of benefits or compensation for Indigenous. Rather, Indigenous are left with an insufficient amount of resources, a significant decrease in population, and weaker social structures (Fjellheim and Henriksen 12-13). An example of a dramatic change in population can be seen in Chukota from 1926-2003. After the Soviet Union had no personal interest in Chukota and no need to give money to the region due to completion of the project, the population drastically reduced. At the height of the project in about 1988, the population of the Chukota region was 148, 031. By 2003 this number plummeted to 18, 300. This drastic cycle of extreme influxes of people and resources followed by a rapid loss of said resources is not beneficial to the areas exploited or to their peoples. This eventually results in rapid migrations due to the lack of resources, inability to live on such exploited lands, and eventual poverty (Fjellheim and Henriksen 13). A concept advocated by Indigenous that would stop this process of exploitation is Corporate Social Responsibility. Although companies such as Shell and Sibneft have written policies to cooperate and respect Indigenous and their rights, often they are ignored, or are applied on a case-by-case basis. CSR policies also take a while to implement (10-15 years in some cases) and may not always be upheld (Fjellheim and Henriksen 18).

In addition to the misuse of natural resources, many organizations have attempted to limit Indigenous use of their own resources for environmental reasons, further reducing their available assets, their livelihood, and their economy. Member of Parliament, Peter Šťastný, mentioned this specifically in relation to the clubbing of seals. A point he made was that Indigenous use animals for food, goods, and to survive. They do not waste resources and the use of such animals is essential to their day- to-day living. According to him, human rights trump animal rights in terms of ultimate survival. Govert de Groot, the director and coordinator of Arctic

People's Alert, Arctic Explorer and the organizer of the Willem Barentsz Festival, further explained this unfair situation and its causes in an interview in the Hague. According to Mr. de Groot, "Rights are protected but when it comes to a point, it doesn't apply because the situation is different. When it comes to Indigenous and seals, the public likes to protect seals over people because seals are cute. However, statistically there are only 150,000 Inuit and 500,000 seals, which isn't logical" (de Groot). Another example, according to Kris Molle from Polar Conservation Organisation is the International Whaling Commission which, "only allows them a minimum quota of whales although it is extremely important for their continued existence and traditions, which severely impedes them" (Molle).

A third pressing, unresolved issue is climate change, its effects, and the lack of discussion with Indigenous on policy formation. Climate change and global warming are directly responsible for the following: the melting of the icebergs in the Polar Regions, soil erosion, the loss of the previous subsistence economy, the inability of the flora and fauna to adapt to the environment, the increased accessibility leading to the vulnerability of the people in the region, mass migration as resources are depleted or unable to be used, and the further increase in poverty as resources are lost (Fjellheim and Henriksen 9). As the land around them is rapidly transforming, people of the areas are faced with a lack of knowledge in how to live in their new environment and a loss of jobs. The Continental Women of the South Organization discussed the effects of climate change in a UN Conference, where they argued:

...throughout their history, indigenous peoples have been able to develop resources that fostered great biodiversity and that promoted the lives of indigenous peoples. But today, that ability [is] being threatened. The loss of biodiversity due to climate change [has] affected indigenous peoples, particularly

women and children, who depend on the environment. In many places, climate change [has forced] indigenous to move from rural to urban areas. There, migrants face very different lifestyles and Government and social policies [are] often unable to help them adjust to their new circumstances (United Nations: Indigenous Peoples Face Growing Crisis as Climate Change, Unchecked Economic Growth, Unfavourable Domestic Laws Force Them from Lands, Forum Told 2).

Despite the very real impact of climate change on Indigenous, they are never consulted in addressing the problems at hand or coming up with solutions since they have a closer relationship with the land, use its resources more wisely than others, and are the first victims of climate change.

Fourth, closely related to climate change and the unapproved use of natural resources, poverty and its results are still a current human rights issue. According to Xenia Von Lilien-Waldau of the International Fund for Agricultural Development, "...indigenous people account for 5 per cent of the global population, but represent 15 per cent of the world's poor...Poverty [is] about more than just low income levels—it [is] about historical processes of dispossession and discrimination; a lack of respect for political, cultural and economic rights; and the use of natural resources without free, prior and informed consent" (United Nations: Part 2; Third Committee Speakers Highlight Policy Successes On Indigenous Issues, But Say Indigenous Peoples Continue To Face Exclusion, Exploitation, Poverty 5). Contributing to poverty already facing the population, Native Americans have the highest unemployment rates in the United States due to migration. To compound issues, Native American women, who often work more than men, face a significant pay gap which results in a vicious cycle of poverty (United Nations:

Indigenous Peoples Face Growing Crisis as Climate Change, Unchecked Economic Growth, Unfavourable Domestic Laws Force Them from Lands, Forum Told 2-3). Women, in addition to wage differences, are also victims of gender violence such as sterilization, rape, and abuse (United Nations: Part 2; Third Committee Speakers Highlight Policy Successes On Indigenous Issues, But Say Indigenous Peoples Continue To Face Exclusion, Exploitation, Poverty 4). They are often single mothers and are burdened with making ends meet as their former spouses or partners are either unemployed, serving in the military, or abuse drugs or alcohol. According to Tonya Gonnella Fricher, a former professor of Indigenous Human Rights at Manhattanville College and the North American Representative to the United Nations Permanent Forum on Indigenous Issues:

The plight of Indigenous People is a vicious cycle of poverty that is never-ending. Due to the historical abuse of Native Americans and their resources, our people have been forced to move, give up our land, our culture, and our way of life. Our sacred sites have been desacralized and with it, our pride and sense of being. In the face of such tremendous loss of spirit, of being, and of valuable resources, many of our people have turned instead to drugs and alcohol as an escape of reality. This has made the poverty even worse and the role of women and their burden even bigger. The only way out that I see for us is education for adults and children and job placement. This is visible proof that our human rights are far from equal to that of others (Frighner).

Despite the fact that the goal to eradicate poverty is one of the Millennium Development Goals, little progress has been made to deal with Indigenous poverty, which composes a significant part of world poverty (Goal 1: Eradicate Extreme Poverty & Hunger). In fact, the UN Permanent

Forum on Indigenous Issues reported a gap in the data collected on Indigenous and the progress made on the MDG's. They have found "...with very few exceptions, indigenous peoples' input has not been included in national MDG monitoring and reporting...Another gap identified in the desk reviews is the lack of mechanism through which to ensure the input and participation of indigenous peoples themselves in the design, implementation and monitoring of policies designed to achieve the MDGs (Indigenous Peoples and the Millennium Development Goals).

As Tonya Gonnella Frichner mentioned, education, another fundamental human right, is also another issue that is lacking development. Indigenous youth are at a disadvantage because they come from poor families that are just trying to make it by. Thus, education is not often a priority, especially secondary education. According to Kris Molle of Polar Conservation Organisation, "Indigenous have a lower chance of succeeding in the world as often they do not get the same educational opportunities as others and many have not learned to read or write" (Molle). And even when students are in school, they often are encouraged to "lose" their culture. This is especially true for women, according to Renilda Martinez of the Red de Mujeres Indigenas Wayuu de Venezuela. "Indigenous women were exposed to education systems that caused the loss of ancestral languages and cultures...the provision of multicultural education, emphasizing the importance of retaining language and culture [is a necessity]. To meet that goal, indigenous peoples must have the opportunity to disseminate and implement the full scope of the Declaration of indigenous peoples" (United Nations: Indigenous Peoples Face Growing Crisis as Climate Change, Unchecked Economic Growth, Unfavourable Domestic Laws Force Them from Lands, Forum Told 5). This all occurs despite the provision in the Declaration on the Rights of Indigenous Peoples that, "Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner

appropriate to their cultural methods of teaching and learning. Indigenous individuals...have the right to all levels and forms of education of the State without discrimination” (United Nations Declaration on the Rights of Indigenous Peoples Article 14, 7). Furthermore, UNESCO stresses the significance of the right to education, yet focuses their approach on a regional level, which means Indigenous are not specifically mentioned since they encompass several regional areas (Regional Frameworks).

Lastly, self-determination is a crucial issue to Indigenous peoples that sums up all the other rights previously mentioned. With self-determination, Indigenous should be able to determine their own systems of governance, education, political organization, economy, religion, borders, land use, and cultural expression. Others should not be able to have a say in how they live their lives. Also, Indigenous should be involved in anything that directly affects them, their families, their future, or their lands and resources (Lutz 1).

Where does the European Union fit in regarding the lack of protection of Indigenous rights? First of all, although the EU has a document entitled “Human Rights in the World 2007 and the EU’s Policy on the Matter,” which was passed on the 8<sup>th</sup> of May, 2008, Indigenous are not mentioned in the document. In the Summary, point 2, it mentions that the EU’s foreign and security policy should be strengthened because its main goal is often that of the member states, which leaves out Indigenous since they are not from one common member state (European Parliament 4). Second, although institutions such as the Council of Europe exist to protect human rights, Indigenous are not specifically mentioned in any documents. For example, two main documents, the European Charter for Regional or Minority Languages and the Framework Convention for the Protection of National Minorities are the most relevant documents related to Indigenous issues and fail to specifically mention Indigenous at all (Council of Europe).

Despite the strong evidence above that Indigenous human rights are far from equal to that of others; some argue that a lot of progress has been made. From a European level, there is a Council of Europe that does function to protect human rights, despite Indigenous not being specifically mentioned. In addition, Council and the Commission in the past have both passed resolutions or documents on Indigenous. In November 30, 2008 the Council passed a resolution entitled “Indigenous Peoples within the Framework of the Development Cooperation of the Community and the Member States” which recognized the history of Indigenous and their grievances and their needs (Council). In May 1998 the Commission created a working document called “On Support for Indigenous Peoples in the Development Co-operation of the Community and Member States” which recognized their role in biodiversity, land protection and the EU’s mentioning of Indigenous in the Budget (lines B7-310, B7-8110, B7-7020, B7-6200, and B7-6000). Also, an action plan for dealing with Indigenous was created as well as the need to learn more about them. However, although this was created in 1998 there is a scarcity of documents dealing on such issues, especially on the organizations’ websites (Commission). There is also a European Union Human Rights and Democratization Policy for Indigenous Peoples but it mainly focuses on regions, which is difficult since Indigenous are not solely from the regions listed (Capacity Building for Indigenous Peoples at the United Nations through Logistical Support, Information, Documentation and Transfer of Knowledge).

From an international and organizational perspective, many organizations were created to deal with Indigenous issues or to include them as participants, especially in the 1990s and 2000. A huge milestone for Indigenous Peoples was the final adoption of the UN Declaration on the Rights of Indigenous Peoples on the 13<sup>th</sup> of September, 2007. This document was a draft declaration since 1985 by the Working Group on Indigenous Populations and was finally

adopted. This illustrates the lack of urgency in approving documents concerning Indigenous, especially human rights. The Working Group and the Permanent Forum on Indigenous Issues are both important because they are composed of Indigenous peoples and organizations where they get to state their concerns, lack of rights, and organize together. In fact, the Permanent Forum was created by the Economic and Social Council of the UN to focus on Indigenous Issues. “The Forum, which includes eight Indigenous experts, is the first and only international body in the United Nations that has Indigenous Persons as members” (Study Guide: the Rights of Indigenous Peoples 7). Also, in April 2001 Indigenous gained a Special Rapporteur specifically for Indigenous human rights and freedoms, Rodolfo Stavenhagen (Study Guide: the Rights of Indigenous Peoples 7). To increase awareness, the UN has also founded and supported the First and Second International Decades of the World’s Indigenous People (Second International Decade for the World's Indigenous People). Organizations such as the Economic and Social Council of the UN, the World Intellectual Property Organization, and the Human Rights Council have also been helpful in working with Indigenous (Perkins 5, 10). Thus, the new formation of international organizations and the recognition of Indigenous in organizations already dedicated to human rights and freedoms are one of the ways that Indigenous have made progress.

The second form of progress is the increased level of involvement and initiative taken by Indigenous themselves to form their own organizations and become involved in self-determination. Indigenous have formed over time through their Indigenous Nations, governance bodies that serve very much like institutions, which many do not know exist. Some include: the Assembly of First Nations, Inuit Circumpolar Conference, the Arctic Council, Metis Nation of Ontario, Navajo, Hopi and Black Mesa, Navajo Nation, Sami News, Sami Parliament, San of South Africa, Haudenosaunee, Union of British Columbia Indian Chiefs, all with information

available online (Study Guide: the Rights of Indigenous Peoples 9). Other resources they have created include websites to increase awareness about Indigenous issues such as: the Arctic Council, Arctic People's Alert, Center for the World's Indigenous Peoples, Native Web, Cultural Survival, Scott Polar Research Institute, the Indigenous and Tribal Peoples Centre, Indian Law Resource Center, American Indian Law Alliance, and Survival International (Study Guide: the Rights of Indigenous Peoples 8). Thus, Indigenous have taken it upon themselves to spread awareness even via the internet.

Another form of progress is that Indigenous have become actors in decisions affecting their own lives and self-determination. One such example is through the INDIPO project which aims to, "study the dynamics of interactions between states, international organizations, and indigenous peoples" (Tennberg). Indigenous in this project are determined to have a say in this international dialogue to ensure their voices are heard. According to Monica Tennberg of the Arctic Center in the University of Lapland, Finland, "Indigenous peoples have emerged as active participants in international relations. They claim the right to participation and to consultation in international political decision-making and to represent their interests based on principles of self-determination" (Tennberg). More specifically, Indigenous in the Arctic have been on the forefront in terms of leadership and representation. They have been the mavericks! In summary, Indigenous have made progress in spreading awareness of their cause, organizing themselves toward a common goal, and also engaging in international dialogue on issues directly affecting them. In essence, Indigenous have begun to gain a voice that was previously not present.

What are the "prescriptions for the problem," one might ask? From an international perspective, it is necessary for the Council of Europe to either include Indigenous specifically in

their human rights documents, or to have separate documents or an area of their website that does this, one that does not just simply categorize them by region, but that understands that Indigenous encompass more than just a couple of regions, but the world. Second, although there is a Council of Europe, there should be other such Indigenous organizations worldwide dedicated to the furthering of the Indigenous cause. With such a framework in action, collaboration and understanding will be so much easier since each country will be educated in current issues and will not have to wait until the UN Permanent Forum meets once every year to be informed (Simmermaker 7). Third, declarations such as the Universal Declaration of Human Rights are not legally binding. This leaves room for interpretation which could lead to future human rights infractions. Somehow there should be a mechanism for more than just agreement on the Universal Declaration of Human Rights but an actual way for this to be enforced to insure cooperation or if not, punishment. Fourth, education is key in raising global awareness. Without the population knowing what is going on, they cannot pressure political leaders to do something. Also, without education of Indigenous, especially youth, they cannot make a better life for themselves and their families. Fifth, since climate issues and the environment have such a great affect on Indigenous, they should be representatives and decision makers on any legislation or discussion on climate change. They have lived in the environment and hold it sacred, so they know more than others how to care for it. Without their say in such matters, the world will again be telling Indigenous how to live and then forcing them to live in it.

In summary, notable progress has been made regarding Indigenous human rights through the increasing level of involvement of Indigenous, the formation of Indigenous organizations, the passing of the UN Declaration on the Rights of Indigenous Peoples, the Working Group, the Permanent Forum on Indigenous Issues, and the First and Second Decades of the World's

Indigenous People. Although legal documents such as the Universal Declaration of Human Rights set forth a guideline for human rights and have been recognized, these promises need to be transformed into action rather than remain on paper. Also, all the achievements made to date have taken an extremely long time to be deliberated, especially the UN Declaration on the Rights of Indigenous Peoples, which can limit future progress. As previously mentioned, Indigenous face many issues that place them at a disadvantage. Until Indigenous are understood and listened to and issues such as: land rights, natural resource exploitation, forced migration, the limiting of the use of resources by quotas, climate change and its detrimental impacts, extreme poverty, lack of education and inclusion of cultural aspects, and self-determination are paid attention to individually, then Indigenous will always suffer from infringements on their human rights. Furthermore, not only will Indigenous suffer, but the world's population will as well. As Chief Oren Lyons of the Onandaga Nation once said, "Although we are in different boats you in your boat and we in our canoe we share the same river of life" (Welker).

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