

Committee: Special Political and Decolonization Committee (GA4)

Issue: The Question of Indigenous Land Rights and Resource Exploitation

Student Officer: Lahiri Paolella

Position: Co-Chair

PERSONAL INTRODUCTION

Dear Delegates,

My name is Lahiri Paolella, and I am an 11th grader at Pinewood American International School of Thessaloniki. For the 6th annual DSTMUN, I have the utmost honor of serving as a Co-chair in the Special Political and Decolonization Committee (GA4). First and foremost, I would like to welcome you all to the 6th annual DSTMUN Conference and applaud your choice in selecting this committee.

During the debate session, the committee will focus on two pressing issues, one of them being the Question of Indigenous Land Rights and Resource Exploitation. The aim of this study guide is to present the essential information on the topic, enabling you to form draft resolutions and be active delegates throughout the duration of the debate. However, it is heavily encouraged that delegates conduct their own research in order to fully comprehend their respective countries' policies and gain a thorough understanding of the topic. The bibliography in this document's final pages can serve as a starting point for independent research.

I am eager to meet all of you this November, and I am sure that this committee will conduct a fruitful and engaging debate on the topics at hand. Finally, I would like to highlight the fundamental role that MUN has in our modern world: if we start solving pressing global issues now, who knows what we will be able to accomplish in the future?

If there are any further questions you may have regarding your country's policy, the topic as a whole, or your resolutions, do not hesitate to contact me through my email address (lpaolella@pinewood-school.gr).

Best regards,

Lahiri Paolella

TOPIC INTRODUCTION

Once the majority of modern nations gained independence and colonialism gradually loosened its grip on overseas territories, indigenous populations around the globe began to proclaim their status and demanded that nations respect their fundamental rights to land.

Nowadays, the global indigenous population is over 467 million belonging to 5,000 distinct groups living across approximately 80 different nations.¹ These indigenous groups hold formal legal ownership of 10 percent of the world's land, and an additional 50 percent of the global land area informally or de facto.² However, these groups have faced constant discrimination, marginalization, and exploitation throughout history.

Despite the fact that indigenous populations compose such an extensive percentage of both the world's population and its land mass, their rights over territory and identity are often overlooked. The lands that indigenous people hold claims over are of ancestral origin and have been in indigenous possession for countless generations. Instances of these lands being stripped away from indigenous populations are not a rare sight and often involve threats and ruthless violence. These unlawfully seized lands were likely taken solely due to their richness in various precious resources or merely for a greater amount of farming and grazing land. These actions strip indigenous people of their rightful resources, making it impossible for indigenous populations to provide for themselves, leading to poverty, hunger, and disparity. While the majority of countries have adopted laws that serve to protect indigenous lands from exploitation and unjust seizing, many fail to implement them properly. Essentially, the presence of laws and constitutional clauses aimed at protecting indigenous land rights does not preserve ancestral lands' safety from exploitation.

Indigenous people serve as the modern world's access to nature and are humanity's key to sustainably unlocking the ultimate potential of the world's land and resources, and their rights ought to be protected from any source of exploitation. Numerous attempts have been made to do so, and many nations have made decisive moves toward strengthening indigenous land rights. However, the issue of resource exploitation on indigenous lands still persists today and a pivotal

¹ "Indigenous Peoples." *United Nations*, www.un.org/en/fight-racism/vulnerable-groups/indigenous-peoples#:~:text=There%20are%20over%20476%20million.more%20than%205%2C000%20distinct%20groups.

² Veit, Peter, and Katie Reytar. "By the Numbers: Indigenous and Community Land Rights." *World Resources Institute*, 20 Mar. 2017, www.wri.org/insights/numbers-indigenous-and-community-land-rights#:~:text=Indigenous%20Peoples%20hold%20an%20estimated,largest%20area%20located%20in%20Africa.

resolution is urgently needed to maintain the health and prosperity of indigenous populations across the globe.

DEFINITION OF KEY TERMS

Ancestral Lands

“Ancestral land refers to lands belonging to an indigenous cultural people or community. This includes the continuous and open possession and occupation of the said indigenous people or community and its members whose right to such lands shall be protected to ensure non-encroachment.”³

Indigenous Peoples

“Indigenous Peoples are distinct social and cultural groups that share collective ancestral ties to the lands and natural resources where they live, occupy or from which they have been displaced.”⁴

Self-determination

“Self-determination, the process by which a group of people, usually possessing a certain degree of national consciousness, form their own state and choose their own government.”⁵

Free, Prior, and Informed Consent (FPIC)

“Free, prior and informed consent (or FPIC) centers on obtaining consent from Indigenous Peoples (IPs) for any activities undertaken on their land. At the basic level, governments cannot implement a policy or program on or concerning Indigenous Peoples’ lands unless there is prior consultation and consent from the Indigenous community.”⁶

Extractive Industries

“The people, companies, and activities involved in removing oil, metals, coal, stone, etc. from the ground”⁷

Exploitation

³ “What Is Ancestral Lands.” *IGI Global*, www.igi-global.com/dictionary/ancestral-lands/44925.

⁴ “Indigenous Peoples.” *World Bank*, www.worldbank.org/en/topic/indigenouspeoples.

⁵ “Self-Determination.” *Encyclopædia Britannica*, Encyclopædia Britannica, Inc., 4 July 2023, www.britannica.com/topic/self-determination.

⁶ “What Is Free, Prior and Informed Consent (FPIC)?” *Institute for Human Rights and Business*, 13 Dec. 2022, www.ihrb.org/explainers/what-is-free-prior-and-informed-consent-fpic.

⁷ “Extractive Industry.” *Cambridge Dictionary*, dictionary.cambridge.org/dictionary/english/extractive-industry.

“The use of something in order to get an advantage from it”⁸

Appropriation

“The act of taking or using something, especially in a way that is illegal, unfair, etc.”⁹

BACKGROUND INFORMATION

Initial Recognition of Indigenous Land Rights¹⁰

Once Christopher Columbus set foot on the American continent on the 12th of October 1492, reality for indigenous populations around the world changed forevermore. Their rights were at first fully neglected, and their resources and land were exploited without limit, as they were virtually defenseless in front of the technologically superior colonial powers. Yet as independent nations began to form from colonies, nations, and international organizations gradually began to recognize and respect the rights of indigenous populations, including their fundamental rights to retain ownership of their ancestral lands. One of the first modes of recognition came in 1840 through the Treaty of Waitangi, between the British Crown and over 500 Maori leaders.¹¹ The treaty stands as one of the founding documents of New Zealand, as is pivotal in the recognition of indigenous rights. The content of the treaty focuses on bilateralism between indigenous populations and the British



Figure 1: The English Version of the Treaty of Waitangi

government, essentially, the treaty ceded the sovereignty of New Zealand from the

⁸ “Exploitation”, Cambridge, <https://dictionary.cambridge.org/dictionary/english/exploitation>

⁹ “Appropriation.” *Encyclopædia Britannica*, Encyclopædia Britannica, Inc., www.britannica.com/dictionary/appropriation.

¹⁰ “Read the Treaty.” *New Zealand History | NZHistory*, *New Zealand History Online*, nzhistory.govt.nz/politics/treaty/read-the-treaty/english-text.

¹¹ “The Treaty in Brief.” RSS, Ministry for Culture and Heritage, 17 May 2017, nzhistory.govt.nz/politics/treaty/the-treaty-in-brief.

Maori to the British yet allowed for the Maori to retain ownership over their land with the British being allowed to purchase any land that the Maori were willing to sell. The treaty stands as one of the first pieces of national legislation on the issue of indigenous land rights and caused numerous other legislations to be introduced worldwide, and one of the major types of recognition present in its era.

Abuses of Indigenous Land Rights and Resources

Despite the introduction of a variety of direct and focused international treaties and the presence of constitutional law regarding indigenous land rights and resource exploitation, countless breaches of indigenous land rights can be observed worldwide. Indigenous land rights are often disregarded in favor of resources and monetary gain.

For example, one nation prone to such events is Brazil, where only in 2021 305 cases of exploitation and appropriation of private indigenous property were reported.¹² The culprits behind these illegal actions are mainly miners, loggers, land grabbers, and fishermen, who wish to gain greater access to the resources they can then exploit and financial gain from. Land exploitations such as these often include violent actions in order to fully expropriate the indigenous peoples from their lands. However, the responsibility for committing such crimes does not lie entirely on the shoulders of miners and loggers, but on the government, which fails to appropriately punish such actions. In fact, the Indigenous Missionary Council (CIMI), a Brazilian non-profit organization dedicated to the recognition of Indigenous peoples right to self-determination, stated that “This government favors the exploitation and private appropriation of Indigenous territories”¹³ referring to the Brazilian government at the time led by right-wing Jair Bolsonaro. However, Brazil is only one of the numerous examples where the aforementioned events have occurred or are occurring.

Coastal GasLink Construction

At times, local businesses are not the only ones to strip lands away from indigenous peoples, as large corporations also prominently participate in activities that appropriate lands from indigenous populations. For example, plans to construct a gas pipeline cutting through approximately 190 kilometers of land under the property of the Wet’suwet’en indigenous population raised a large number of protests in early October of 2022. The proposal for the pipeline called the Coastal

¹² Reverdosa, Marcia, et al. “Invasions and Illegal Exploitation of Indigenous Lands in Brazil Tripled under Bolsonaro, Says Advocacy Group.” *CNN*, Cable News Network, 28 Aug. 2022, edition.cnn.com/2022/08/28/americas/brazil-land-invasions-bolsonaro-latam-intl/index.html.

¹³ Miotto, Tiago. “Invasions in Indigenous Lands Increased in 2021, in a Context of Violence and Attack against Constitutional Rights: CIMI.” *Conselho Indigenista Missionário*, 17 Aug. 2022, cimi.org.br/2022/08/cimi-violence-against-indigenous-peoples-report-2021/.

GasLink, blatantly passed through Wet'suwet'en ancestral lands in western Canada, and gravely endangered them. The plan for the construction of the pipeline was not approved by the traditional authorities of the country nor by the Canadian supreme court, and the Wet'suwet'en rights to Self-determination and FPIC were wholly neglected, regardless of the fact that Canada has officially stated its endorsements of indigenous self-determination as part of its reconciliation program. As protesters representing the interests of the Wet'suwet'en peacefully gathered on the drill site of the pipeline, the Canadian police effectuated three armed raids in order to rid the area of protesters, arresting 19 individuals in total.¹⁴ Fully ignoring both the government and the public protests, the Coastal GasLink pipeline underwent



Figure 2: Protesters Gathered in Toronto

construction, and as of June 28, 2023, the company TC Energy, officially announced that over 90 percent of the construction for the Coastal GasLink pipeline is completed.¹⁵ Examples such as these highlight the constant abuse that the land and resources of indigenous populations receive on behalf of corporations and businesses. These breaches of land rights also pose a serious threat to the stability and health of indigenous populations worldwide.

Harmful Impact on Indigenous Communities

The stripping and exploitation of resources produce an array of grave issues and harm among Indigenous populations. Indigenous populations solely rely on their land for sustenance, as it is a source of food, commerce, and shelter. If said land is stripped away, its resource exploited, or the environment altered, the community

¹⁴ "Construction of Pipeline on Indigenous Territory in Canada Endangers Land Defenders." *Amnesty International*, 3 Oct. 2022, www.amnesty.org/en/latest/news/2022/10/canada-pipeline-indigenous-territory-endangers-land-defenders/.

¹⁵ "What's New." *Coastal GasLink*, 28 June 2023, www.coastalgaslink.com/whats-new/#::~:~:text=Coastal%20GasLink%20continues%20to%20make,to%20where%20we%20are%20today.

that will most harshly suffer from such actions are the indigenous populations. Grave humanitarian issues are likely to arise from situations where indigenous populations lose their land.

Detrimental Harm Caused to Guarani-Kaiowa

One extreme example of the humanitarian repercussions that come from the illicit use of indigenous land can be viewed in the Brazilian indigenous group Guarani-Kaiowa, which is the largest in Brazil and amounts to approximately 27,000 people. Throughout the end of the 20th century and the beginning of the 21st, the Guarani people faced virtually constant invasions from local ranchers. Some of the Guarani succumbed to forced labor, while others attempted to remain in their lands, but saw that deforestation caused by the invading ranchers led to a drastic food shortage.¹⁶ The invasions of land led to a dramatic drop in living conditions, and as the loss of land increased many Guarani saw only one route to escape the despair, suicide. Throughout the span of only 4 years, from 1987 to 1991, 60 suicides were officially recorded, and 120 more were reported during the following 3 years after 1994. In fact, as of 2014, the Guarani held the highest suicide rate in the world, at 232 per 100,000 people.¹⁷ This needless loss of life is directly caused by the breach of indigenous land rights and the exploitation of natural resources. However, the cause of non-natural death among the Guarani is not strictly suicide, as there have been countless occasions of Guarani leaders being murdered in cold blood. In November of 2011, the Guarani Kaiowa leader, Nisio Gomes was shot and killed by 40 gunmen in front of his community.¹⁸ Gomes was the chief of a Guarani group that attempted to return to its ancestral lands, from which they were illegally evicted earlier that month by ranchers. Two other Guarani were taken captive, and their whereabouts remain unknown. Violent instances such as these are numerous among the Guarani and contribute to other prominent issues such as the extreme rate of suicides. Losses of ancestral lands around the world cause for indigenous living standards to harrowingly drop, thus creating a vast amount of critical humanitarian issues.

Environmental Repercussions Caused by Resource Exploitation

Resource exploitation on indigenous lands mainly causes harm to the indigenous people themselves, however, the damage caused to the environment by

¹⁶ Lawrence, K
www.cultural

¹⁷ Internation
Survival Intern

¹⁸ "Brazil Indig
www.bbc.com



in Tribe.”

extractive industries is not to be underestimated and poses a serious ecological threat.

The South American Lithium Triangle

Lithium, being a major component in the batteries that power: mobile phones, computers, electric cars, and renewable power plants, is a highly sought-after material and can reap vast amounts of profit for companies. The Lithium Triangle is a triangle-shaped area in South America where a large amount of the world's lithium is extracted, the Lithium Triangle spans through the territories of Argentina, Bolivia, and Chile, and holds over 50 percent of the world's total Lithium reserves.¹⁹ A great number of indigenous people are present in the confines of the Lithium Triangle, and the majority of them are heavily burdened by the high degree of lithium mining present in their ancestral lands. In Chile, home to the Salar de Atacama, one of the largest salt deposits in the region, indigenous communities have expressed their outrage at the mining through protests and clashes. Lithium mining consumed over 65 percent of the already dry region's water, causing water shortages to occur. Local communities also stated that lithium mining is rendering the water in the region contaminated and of a peculiar blue color, and the landscape blemished by waste and salt heaps.²⁰ In 2022, The president of the indigenous Colla community



Figure 4: A Map of the Triangle of Lithium

¹⁹ "A Battle for Supremacy in the Lithium Triangle." *The Economist*, The Economist Newspaper, 15 June 2017, www.economist.com/the-americas/2017/06/15/a-battle-for-supremacy-in-the-lithium-triangle.

²⁰ Katwala, Amit. "The Spiralling Environmental Cost of Our Lithium Battery Addiction." *WIRED UK*, Wired, 5 Aug. 2018, www.wired.co.uk/article/lithium-batteries-environment-impact.

describes the dire situation: “We used to have a river before that now doesn’t exist. There isn’t a drop of water... and not only here in Copiapó but in all of Chile, there are rivers and lakes that have disappeared—all because a company has a lot more right to water than we do as human beings or citizens of Chile.”²¹ Another of the indigenous populations ravaged by the extractive mining of lithium are the Atacamas, who reside in the Jujuy province in Argentina. The ancestral lands of the Atacamas are home to lithium reserves that can amount to billions of dollars, thus attracting a notable degree of attention from mining companies. One such mining company is the Chilean-Canadian Miner Exar, which is conducting mining operations in the area that produce approximately 250 million dollars’ worth of lithium per year.²² However, none of the money is going to the Atacama, despite the fact that the land they deem sacred is being exploited without their direct consent. This is due to the fact that the miner rights that would allow for the Atacamas to profit from the activities are owned by the Argentinian province they reside in, meaning that the province is the only entity profiting from the mining. Furthermore, the indigenous populations in Argentina also lack a formal process for negotiations between mining companies and indigenous people, leading to indigenous people lacking an official say on the mining activities that are executed on their land.²³ Events such as those in the Triangle of Lithium region depict the grave environmental repercussions caused by resource exploitation on indigenous land, and highlight the need for FPIC, in order to secure the safety of both indigenous populations and our planet as a whole.

Principles of Self-Determination and FPIC

The idea of FPIC was first utilized in national legislation in the 1997 IPRA (Republic Act No. 8371) of the Philippines.²⁴ Since then, the concept of FPIC has been at the basis of all negotiations with indigenous groups. FPIC is fundamental to the issue at hand as it is the appropriate mode through which indigenous populations can control how their land and resources are used. The use of FPIC in negotiations has proven to be effective, however, the lack of FPIC has proven to be equally as damaging. One example of the importance of FPIC can be viewed in the Sarakayu vs Ecuador case of 2012 regarding the encroachment of an oil company on Kichwa ancestral lands during the 1990s. The case of resource exploitation was brought to

²¹ Greenfield, Nicole. “Lithium Mining Is Leaving Chile’s Indigenous Communities High and Dry (Literally).” *Be a Force for the Future*, NRDC, 26 Apr. 2022,

www.nrdc.org/stories/lithium-mining-leaving-chiles-indigenous-communities-high-and-dry-literally.

²² Frankel, Todd C., and Peter Whoriskey. “Companies Are Making Billions in Lithium Mining. but These Indigenous People Are Being Left Out.” *The Washington Post*, WP Company, 19 Dec. 2016, www.washingtonpost.com/graphics/business/batteries/tossed-aside-in-the-lithium-rush/.

²³ Kaufmann, Daniel, et al. “Uncommon Ground: The Impact of Natural Resource Corruption on Indigenous Peoples.” *Brookings*, 15 June 2023, www.brookings.edu/articles/uncommon-ground-the-impact-of-natural-resource-corruption-on-indigenous-peoples/.

²⁴ Collins, Nina. “Lessons from Implementing Free Prior and Informed Consent (FPIC) in the Philippines.” Centre for Social Responsibility in Mining, July 2016.

the attention of the Inter-American Court of Human Rights, which after reviewing the case ruled in favor of the indigenous settlement of Sarakayu.²⁵ This ruling can be seen as a victory for the standards of FPIC, and how not upholding the standards of FPIC can have serious repercussions. Both self-determination and FPIC have been focal points of indigenous rights activists and should continue to remain the primary goal for reaching stability and multilateralism between indigenous populations and governments.

MAJOR COUNTRIES AND ORGANIZATIONS INVOLVED

Australia

Australian indigenous populations amounted to a total of 881 thousand people in 2021, divided across two major ethnicities, Aboriginal and Torres Strait Islander.²⁶ Australia, having such a distinct and numerous indigenous population, is known to be an indigenous rights advocate and is on the path to reconciliation with its indigenous population. During the 20th century, some constitutional decisions on indigenous rights could have been seen as dubious and oppressive. However, the passing of the Native Title Act in late 1993 granted for indigenous populations to receive compensation for past or future acts on their land.²⁷ Overall, Australia can be seen as a modern promoter of indigenous rights.

Brazil

Brazil is home to an indigenous population of 900,000, spread across 305 different ethnic groups.²⁸ The majority of the indigenous people who inhabit Brazil are located in the vast Amazon rainforest. Brazil has long recognized the presence of indigenous groups in their country, but the degree of respect the government holds over said populations can be at times murky. Brazil is a country that heavily relies on extractive industries such as mining and mineral extraction, sectors of the economy that add up to form nearly 5 percent of the country's domestic gross product.²⁹ This reliance on extractive industries by part of Brazil opens up a variety of opportunities

²⁵ "Confirming Rights: Inter-American Court Ruling Marks Key Victory for Sarayaku People in Ecuador." *Cultural Survival*, 17 Aug. 2012,

www.culturalsurvival.org/publications/cultural-survival-quarterly/confirming-rights-inter-american-court-ruling-marks-key.

²⁶ "Profile of Indigenous Australians." *Australian Institute of Health and Welfare*, 16 Sept. 2021, www.aihw.gov.au/reports/australias-welfare/profile-of-indigenous-australians.

²⁷ "Native Title." *Western Australian Government*, 6 May 2022, www.wa.gov.au/organisation/department-of-the-premier-and-cabinet/native-title#:~:text=The%20Native%20Title%20Act%20also,revived%20except%20in%20limited%20circumstances.

²⁸ "Unadapted Living: Karara Contact and Death on the Jatapu River." *IWGIA*, International Work Group for Indigenous Affairs, www.iwgia.org/en/brazil.html.

²⁹ Garside, M. "Brazil: Mining and Metallurgy Share of GDP." *Statista*, 25 Jan. 2023, www.statista.com/statistics/1133315/mining-sector-share-gdp-brazil-segment/.

for illegal mining and logging, rendering indigenous lands and resources vulnerable to exploitation.

Canada

The total indigenous population of Canada is 1.8 million, divided into over 600 groups, according to a 2021 census.³⁰ Canada recognizes the presence of these indigenous populations through the Constitution Act. The majority of Canadian indigenous populations belong to communities called the First Nations, which are essentially recognized as administrative groups by the Canadian government. Despite the fact that Canada is on a path of reconciliation with indigenous peoples, it has encountered a sufficient amount of controversy over its dealings with certain indigenous groups. Events such as the construction of the Coastal GasLink pipeline and interest in mining on indigenous territory are both examples of the controversy that Canada has faced. However, they remain one of the world's leading indigenous land rights advocates and are on track to continue to recognize and respect indigenous populations that inhabit the country.

United Nations Permanent Forum on Indigenous Issues (UNPFII)

The UNPFII was founded in 2000 as an advisory body to the Economic and Social Council. The forum holds the responsibility of discussing indigenous issues that relate to economic and social development, culture, the environment, education, health, and human rights.³¹ The UNPFII has often debated indigenous land rights and the degree of resource exploitation worldwide. The fact that the majority of members of the forum are indigenous people themselves renders the UNPFII's outlook on land rights of great importance. This renders the UNPFII a serious asset in any formal discussion or decision on indigenous land rights and resource exploitation.

International Work Group for Indigenous Affairs (IWGIA)

Founded in 1968 by a group of Latin American anthropologists, the IWGIA has retained the sole focus of protecting the rights of indigenous populations worldwide.³² The IWGIA provides research and consultation for indigenous groups and raises awareness about any breaches of rights. IWGIA promotes diplomatic dialogues between indigenous populations and their respective governments, in order to create a stable environment for indigenous peoples. IWGIA also participates

³⁰ Government of Canada, Statistics Canada. "Indigenous Population Continues to Grow and Is Much Younger than the Non-Indigenous Population, Although the Pace of Growth Has Slowed." *The Daily* - , 21 Sept. 2022, www150.statcan.gc.ca/n1/daily-quotidien/220921/dq220921a-eng.htm

³¹ "Permanent Forum on Indigenous Issues for Indigenous Peoples." *United Nations*, www.un.org/development/desa/indigenouspeoples/about-us/permanent-forum-on-indigenous-issues.html.

³² "Organisation." *IWGIA*, www.iwgia.org/en/about/organisation.html.

in monitoring the application of UN documents, such as the UNDRIP, and its capability for research and advocacy renders it a significant asset that can be applied to resolving the issue of indigenous land rights and resource exploitation.

BLOCS EXPECTED

Bloc A

The first bloc consists of countries whose economies are largely dependent on extractive industries, like the United States and Brazil. Members of this bloc are less attentive to the recognition of land rights but more focused on rendering it possible for extractive industries to continue functioning in certain areas that may be under indigenous ownership. This does not mean that this bloc fully neglects the importance of indigenous land rights, however, they prioritize the needs of businesses over principles such as FPIC and self-determination.

Bloc B

The second bloc is composed of countries that align themselves as indigenous rights advocates like Australia and Canada. This bloc should focus on finding solutions that prioritize the needs of indigenous populations and strengthens their right to self-determination and FPIC. Nations that are part of this bloc should be introducing work together to produce resolutions on how indigenous land rights should be respected and how resource exploitation should be reduced.

TIMELINE OF EVENTS

Date	Description of event
12 October 1492	First contact between Europeans and an Indigenous Population.
21 May 1840	The Treaty of Waitangi is signed between the British Crown and the Maori indigenous group.
10 December 1948	The Universal Declaration of Human Rights is adopted, granting equal rights for all, and outlawing discrimination against indigenous people.
26 June 1957	The Indigenous and Tribal Populations Convention (N.107) of the ILO takes place, aimed at protecting indigenous peoples from discrimination and oppression.
27 June 1987	The Indigenous and Tribal Peoples Convention (N.169) of the ILO is held,

	where indigenous peoples' right to Self-determination and a land base are described (5).
January 1987- December 1991	Instances of mass suicide can be seen among the Guarani-Kaiowa indigenous people of Brazil due to the loss of their ancestral land, with losses of 60 people in just 4 years.
27 October 1997	The IPRA (Republic Act No. 8371) is passed in the Philippines, marking the first use of FPIC in national legislation.
13 September 2007	The United Nations Declaration on the Rights of Indigenous People is implemented.
November 2011	Guarani-Kaiowa leader Nisio Gomes is shot dead by 40 gunmen over a Guarani attempt to reclaim stolen territory from ranchers.
27 June 2012	The Inter-American Court of Human Rights rules in favor of the Kichwa indigenous people and the settlement of Sarayuka in the court case against Ecuador over the exploitation of Oil located in ancestral territory without the use of FPIC.
October 2022	Protest in Canada occur due to an incursion on indigenous territory by TC Energy, a company that began drilling on indigenous land to construct a gas pipeline.

RELEVANT RESOLUTIONS, TREATIES AND EVENTS

United Nations Declaration on the Rights of Indigenous People (UNDRIP)

The UNDRIP stands as the most influential and pivotal treaty tackling indigenous land rights. Signed in 2010, the Declaration is composed of over 40 articles, many of them focused on indigenous land rights specifically. The resolution repeatedly states the importance of respecting indigenous land rights and advocates against the exploitation of land or resources owned by indigenous groups. The UNDRIP also mentions the principle of self-determination and states that said principle should be the basis of dialogue between indigenous groups and any other third party.

Universal Declaration of Human Rights (UDHR)

As one of the first documents recognizing the importance of equality among all human beings, the UDHR stands as a milestone for the question of indigenous land rights. The UDHR states that all humans should possess an equal right to land, including indigenous peoples. The UDHR also advocates against racial discrimination, exploitation, and marginalization, three major fundamental ideals of indigenous rights. The UDHR as a whole serves as a reference point for all dealings with the indigenous inhabitants of the earth, as it highlights the significance of equality, be it in regard to resources, land rights, or any other pressing issue. The UDHR's foundational principles of equality and anti-discrimination align with indigenous land rights. It establishes a universal framework for addressing these issues, yet challenges in implementation persist, requiring continued commitment to meaningful change.

Indigenous and Tribal Peoples Convention, 1989 (N.169)

The convention formed by a branch of the International Labor Organization (ILO) was one of the first internationally recognized events discussing the fundamental rights of indigenous peoples. The discussions highlighted the importance of a land base to indigenous populations and suggested that said the confines of said land base should be fully respected. During the duration of the convention, one of the first uses of the concept of self-determination can be observed. The Indigenous and Tribal Peoples Convention marked a pivotal step in acknowledging indigenous rights globally, focusing on land and self-determination. Implementation challenges, however, underscore the need for continued efforts to ensure its meaningful impact.

Indigenous and Tribal Peoples Convention, 1957 (N.107)

A predecessor of the ILO (N.169), the convention was adopted in order to protect indigenous populations from rising threats of oppression and discrimination. The convention is legally binding among the signatory countries, despite the fact that many have opted for the more recent ILO 1989 (N.169). The ILO convention was the first international tool that specifically tackled the issue of indigenous rights, rendering it a monumentally significant document on the matter. In total 27 nations ratified the convention at the time of its first introduction, and 18 currently still employ it.³³ Overall, the convention stands as one of the pioneering documents on the question of indigenous land rights, and indigenous rights as a whole. The Indigenous and Tribal Peoples Convention marked a significant step in acknowledging Indigenous rights globally, though the more comprehensive 1989 convention has

³³"ILOConvention107." [Indigenousfoundations,indigenousfoundations.arts.ubc.ca/ilo_convention_107](https://indigenousfoundations.arts.ubc.ca/ilo_convention_107)

overshadowed its impact. It remains a historic milestone in advocating for indigenous populations and their land rights.

PREVIOUS ATTEMPTS TO SOLVE THE ISSUE

Creation of the United Nations Permanent Forum on Indigenous Issues

The UN Economic and Social Council established the United Nations Permanent Forum on Indigenous Issues (UNPFII) in 2000 as a special forum for indigenous peoples to interact with other nations and international organizations. It allows indigenous representatives to discuss topics like land rights, resource extraction, and cultural preservation from their point of view. The UNPFII facilitates debates on the degrading effects of resource extraction on indigenous people during its annual meeting at the UN headquarters. The forum takes place annually and entertains speeches and discussions among indigenous people and UN officials from across the globe. Its establishment represents a pivotal step towards recognizing indigenous rights and promoting dialogue on the topic of indigenous rights.

Establishment of Indigenous Parliaments

Several nations around the world have established 'indigenous parliaments', in order to provide indigenous people a direct voice to their government. The most notable parliaments can be found in the Nordic nations of Norway, Finland, and Sweden, with all three founding Sami Parliaments.³⁴ The Sami parliaments serve as an opportunity for the Sami indigenous populations to converse with their respective governments on matters that affect their land and people. The Sami parliaments do not possess autonomy, yet serve as consultary bodies to the government and a medium through which the government and indigenous populations can diplomatically discuss matters. The representatives in the parliaments are democratically voted by the Sami people themselves, thus representing the interests of their people. The Sami parliaments in these Nordic countries can serve as an example for all countries looking to form a similar type of indigenous representation. While these parliaments may not resolve all issues regarding indigenous land rights and resource exploitation, they can serve as a strong message of self-determination and indigenous recognition.

Monitoring and Patrolling by Indigenous Populations

Due to the lack of government support, some indigenous populations have commenced their own system of patrolling their lands and ridding them of illegal activities. One example of self-monitoring can be seen in the state of Maranhao in northern Brazil, where the indigenous populations of Guajajara and Kua'apor began

³⁴ "Sami Parliaments." *The Nordic Policy Centre*, 22 Jan. 2021, www.nordicpolicycentre.org.au/sami_parliaments.

conducting their own patrols in their land, which is notorious for illegal logging activities. In 2014, these joint patrolling activities led to several captures of illegal loggers, seizing their chainsaws and trucks.³⁵ The state of Maranhao applauded the results and promised to provide the indigenous communities with equipment to continue their activities.

POSSIBLE SOLUTIONS

Implementing Free, Prior, and Informed Consent and Self-Determination

The vast majority of resource extraction or construction processes that take place in indigenous lands occur without the formal consent of the indigenous peoples themselves. Since indigenous populations hold the irrevocable right to self-determination, it is fundamental for them to decide how their lands and resources are utilized. Involving indigenous groups in decision-making is an essentially effortless solution to disagreements in regard to land and resources. FPIC taking place before any decision relating to indigenous lands can remove the need for any illegalities to take place, as the indigenous population has the potential to allow for the desired activity to take place. In the case that the indigenous populations deny the proposal offered, it is imperative for all parties to respect the principle of FPIC. Self-determination and FPIC are the keys to unlocking a symbiotic relationship between indigenous peoples, their resources, and businesses looking to gain profit.

Ensuring that national laws on indigenous land rights are properly applied

Many nations worldwide possess laws specific to halting resource exploitation and fully respecting indigenous land rights. However, these laws are often purposefully neglected by entities wishing to limitlessly profit from indigenous land and resources. In order for these laws to be appropriately applied, several solutions can be introduced, such as the establishment of monitoring and reporting programs, strengthening the judicial system through modernization and training, and incentivizing the role of public participation and civil societies. Implementing such measures can lead to less misunderstanding on the implications of national laws, and avoid a vast amount of illegal appropriation of indigenous land and resources.

Securing Indigenous Ownership of Resources

³⁵ Veit, Peter. "5 Ways Indigenous Groups Are Fighting Back against Land Seizures." *World Resources Institute*, 20 June 2018, www.wri.org/insights/5-ways-indigenous-groups-are-fighting-back-against-land-seizures.

While steps have been made towards securing land rights, for indigenous people, the resources that are located on said land have received scarce attention in official documents. A large portion of these valuable resources lie underground such as gas, oil, and metals. However, major documents such as the UNDRIP do not cover that sub-surface resources can be used for economically independent ownership and use by indigenous people. This lack of framework leads to more lenient laws, and in turn higher degrees of resource exploitation. The introduction of a strict framework specifically tackling sub-surface resources may lead to a decrease in exploitation, as more blunt laws can be passed. In order to avoid exploitation, both the resources and the land have to be appropriately protected and safeguarded.

Accurate Mapping of Indigenous Lands

A large amount of the world's indigenous lands are not appropriately mapped, or at times not mapped at all. In fact, many governments lack official maps of indigenous ancestral lands. This lack of mapping has led to disputes over resource exploitation and can pose a serious threat to the well-being of indigenous lands. In order to create accurate maps of their lands, governments can cooperate with indigenous populations, and with the use of modern technology such as drones³⁶ and scanning, accurate and trustworthy maps of indigenous lands can be created. The presence of correct maps can lead to more transparent discussions between indigenous populations and companies, and can further impose legal repercussions if said lands are appropriated or exploited.

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³⁶ Greenwood, Faine. "How Drones Can Help Indigenous People Protect Their Land." *Slate Magazine*, 2 June 2015, www.slate.com/articles/technology/future_tense/2015/06/community_drones_helps_indonesia_s_d_ayaks_protect_their_land.html.

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