

BALAYI: Culture, Law and Colonialism – Volume 8

Theme: INDIGENOUS PEOPLES, TRADE AND HUMAN RIGHTS – PART ONE

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Articles:

International Trade, the World Trade Organisation and the Human Rights of Indigenous Peoples

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This paper considers the human rights dimension of this ‘newest assault on the rights of Indigenous peoples’. Part I recalls the lengthy history of Indigenous peoples’ international trade and cogitates upon their unrecognised contribution to the infant industries and economies of settler states. Part II introduces the central arguments of the human rights and trade debate in public international law and provides a brief overview of the human rights issues arising from Indigenous peoples’ interaction with multilateral trade institutions. Part III provides a conspectus of Indigenous concerns about the impact of WTO agreements upon Indigenous communities such as the *Agreement on Trade Related Aspects of Intellectual Property*, *General Agreement on Trade in Services* and the *Agreement on Agriculture*. Part III also examines the use by Canadian aboriginal groups of the *General Agreement on Subsidies and Countervailing Measures*.

Making Molehills out of Mountains: Indigenous Peoples, the World Bank Group and the Extractive Industries Review

Fergus MacKAY – is the Coordinator, Legal and Human Rights Programme, Forest Peoples Programme. MacKay was a member of the Eminent Person’s Advisory Panel which advised on the contents of the Extractive Industries Review Final Report. Section II draws in part from F. MacKay, *Indigenous Peoples’ Right to Free, Prior and Informed Consent and the World Bank’s Extractive Industries Review*, IV (2) Sustainable Dev. Law & Policy 43-66 (2004).

This article focuses on the recently concluded Extractive Industries Review commissioned by the World Bank Group, and the manner in which it addressed Indigenous peoples’ issues. This is followed by an overview of the 2004 response of the WBG to the EIR. While the EIR confirmed many Indigenous peoples’ concerns, the WBG has rejected the majority of its key findings and recommendations or deferred concrete responses to the outcomes of internal processes. Concluding with the current revision of

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the International Finance Corporation's safeguard policies, as they relate to Indigenous peoples, illustrating how the WBG is approaching its future involvement in extractive industries subsequent to the EIR.

Transnational Corporations and Indigenous Rights

Sarah JOSEPH – is the Director, Castan Centre for Human Rights Law, Monash University. This article is part of the outcomes of an ARC Linkage grant on 'Multinational Corporations and Human Rights'.

Indigenous peoples face particular threats to their human rights from the activities of transnational corporations (TNCs). Specifically, the operations of TNCs in the natural resource industries have undermined the enjoyment of traditional lands and associated human rights by Indigenous peoples. Further human rights abuses, including killings and the infliction of grievous bodily harm, have arisen in some instances where Indigenous peoples have organised to protest against such operations. This article will begin by briefly summarising human rights standards of special relevance to Indigenous peoples followed by a critique of the ways in which TNCs are currently held accountable, in both international and municipal law, for abuses of those rights.

United Nations Draft Declaration of the Rights of Indigenous Peoples

This Declaration outlines the rights of Aboriginal people as set out by the United Nations. This includes, but is not limited to, affirming the rights of Indigenous peoples, their contribution to diversity, and denying the validity of racism; concerns regarding the deprivation of human rights and fundamental freedoms for Indigenous peoples; recognising the urgent need to respect and promote the inherent rights and characteristics of indigenous peoples; welcoming the indigenous peoples organisation for enhancement; and recognising that respect for indigenous knowledge, cultures and traditional practices contributes to development and proper management of the environment.

United Nations Draft Declaration on the Rights of Indigenous Peoples:
[http://www.unhcr.ch/huridocda/huridoca.nsf/\(Symbol\)/E.CN.4.SUB.2.RES.1994.45.En?OpenDocument](http://www.unhcr.ch/huridocda/huridoca.nsf/(Symbol)/E.CN.4.SUB.2.RES.1994.45.En?OpenDocument).

Indigenous Peoples' Seattle Declaration

On the occasion of the Third Ministerial meeting of the World Trade Organisation 30 November – 3 December, 1999:

We, the Indigenous Peoples from various regions of the world, have come to Seattle to express our great concern over how the World Trade organisation is destroying Mother Earth and the cultural and biological diversity of which we are a part.

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Indigenous Peoples Seattle Declaration. <<http://www.ldb.org/indi99.htm>>.

Beijing Declaration of Indigenous Women

From the NGO Forum, UN Fourth World Conference on Women Huairou, Beijing, peoples Republic of China.

Beijing Women's Declaration.

<<http://www.un.org/womenwatch/daw/beijing/platform/declar.htm>>.

The International Cancun Declaration of Indigenous Peoples

5th WTO Ministerial Conference – Cancun, Quintana Roo, Mexico, 12 September 2003.

With the creation of the World Trade Organisation (WTO) and with the continuing imposition of the structural adjustment policies of the World Bank and International Monetary Fund, our situation, as Indigenous Peoples, has turned from bad to worse. Corporations are given more rights and privileges at the expense of our rights. Our right to self-determination, which is to freely determine our political status and pursue our own economic, social and cultural development, and our rights to our territories and resources, to our Indigenous knowledge, cultures and identities are grossly violated.

Cancun Indigenous Declaration.

<http://www.austlii.edu.au/au/journals/AUIndigLawRpr/2003/51.html>
