

BALAYI: Culture, Law and Colonialism – Volume 9

**Theme: INDIGENOUS PEOPLES, TRADE AND HUMAN RIGHTS –
PART TWO**

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Articles:

Impacts of the North American Free Trade Agreement on Indigenous Peoples and their interests

Brenda GUNN - J.D. 2005 University of Toronto, research undertaken as part of an International Human Rights Internship at Jumbunna Indigenous House of Learning with the International Trade law and Human Rights project.

This article argues that while trade liberalisation has the potential to have positive economic effects upon Indigenous peoples, the NAFTA does not adequately take into account and protect Indigenous peoples concerns and interests. While the purpose of international trade regulation is to remove trade barriers and ensure a level playing field, current trade regimes impact on Indigenous peoples' rights and interests. It begins with a brief introduction to NAFTA, includes governments views from when it was first enacted and over subsequent years, followed by a review of Indigenous peoples' responses to the agreement.

Trickle Down or Rights Way up? Development, Human Rights and Indigenous Peoples

Ruth MCCAUSLAND - is a Senior Research Fellow at Jumbunna Indigenous House of Learning, University of Technology, Sydney. She has a Masters in International Social Development.

The Australian Government's Indigenous policy identifies economic development as a key strategic focus, with the aim being to reduce Indigenous peoples' 'dependency' on 'passive welfare' through supporting greater participation in the private sector. However, there is little consideration of the social or cultural elements or impacts of development, or of approaches that move beyond electoral cycles or political ideology. This article considers the history of development and its intersection with the international human rights system, including the debates around the right to development and a human rights approach to development. It then reflects on the particular implications and relevance of these debates for Indigenous peoples in Australia.

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A Light in a Dark Place? Human Rights and International Trade Law

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The relationship between international trade law and international human rights law has received unusual levels of attention in recent times. One stimulus for this has been that some human rights lawyers and others, including the United Nations High Commissioner for Human Rights, have begun to point to instances of World Trade Organisation (WTO) law negatively affecting or potentially affecting, the promotion and protection of human rights. This paper explores the similarities and differences between the human rights concept of non-discrimination and that expressed by the WTO Appellate Body in its report on the *EC - Tariff Preferences* dispute.

Re-Shaping the Role of Developing Countries in the WTO: Analysing the Agreement on Agriculture

Bryan MERCURIO - Faculty of Law, University of New South Wales; Director of the International Trade and Development Project at the Gilbert + Tobin Centre of Public Law and Fellow of the Tim Fischer Centre for Global Trade and Finance (Bond University).

This paper provides a comprehensive analysis of the World Trade Organisation *Agreement on Agriculture* (AOA) and its impact upon developing countries and consequently the millions of Indigenous peoples who reside within those countries. It provides important insights into the hypocrisy of developed countries in maintaining trade distorting subsidies and import restrictions as well as how the AOA has codified some of the unfair competitive advantages developed countries have over developing countries.

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

Indigenous People's Seattle Declaration

Made on the occasion of the third Ministerial meeting of the World Trade Organisation – November 30 - December 3, 1999:

Extract:

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.

Indigenous Peoples Seattle Declaration:

www.ldb.org/indi99.htm

Beijing Declaration of Indigenous Women

NGO Forum, UN Fourth World Conference on Women – Huairou, Beijing, Peoples Republic of China.

Beijing Women's Declaration:

www.un.org/womenwatch/daw/beijing/platform/declar.htm

The International Cancun Declaration of Indigenous Peoples

Fifth World Trade Organisation Ministerial Conference – Cancun, Quintana Roo, Mexico, 12 September 2003.

Extract:

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:

www.ifg.org/programs/indig/CancunDec.html
