

Chapter 2: Impact at the International Level

When analysing the successes and failures of the Decade, it is important to distinguish between changes at the international level, particularly at the level of the UN system, and those at national level. The impact of the Decade has been far more marked at the international level. Furthermore, the extent to which the Decade is perceived to be successful varies depending on whom the question is directed to. Even at the national level, it is important to not extrapolate the successes of the Decade as perceived by indigenous people who have had a chance to participate in deliberations at the international level, to people at the grassroots. The real effectiveness of the Decade can only be judged against the positive changes on the ground, in this case, for the common indigenous person.

Organisational Impact

The few assessments of the Decade that have been undertaken, including those by the UN system, have largely focused on the changes within the UN system. These findings are summarised in the following in relation to changes at the organisational level (OHCHR 2003).

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United Nations Permanent Forum on Indigenous Issues

The Decade was successful in creating the United Nations Permanent Forum on Indigenous Issues (UNPFII) in 2000 as a subsidiary body of the Economic and Social Council (ECOSOC). The Permanent Forum has a broad mandate covering culture, education, economic and social development, environment, health, and human rights. The Permanent Forum is the first formal space created for indigenous peoples to interact within the UN system and make their needs and concerns known. Various UN agencies and member states attend the sessions of the Permanent Forum, which meets annually, to talk about what they have done and are doing for, and with, indigenous peoples. The Permanent Forum is composed of eight 'indigenous experts' and eight experts selected by ECOSOC. The distribution of the government seats is based on the five United Nations regional groups, with three additional seats rotating among the regions. All indigenous people who attend the Forum make statements to this group of sixteen and, through them, to the world.

The main mandate of the Permanent Forum is to provide expert advice and recommendations on indigenous issues to the United Nations ECOSOC, as well as to programmes, funds, and agencies of the United Nations, and to promote the integration and coordination of activities related to indigenous issues within the UN system (McGuffie 2002).

While the Permanent Forum is seen to be a significant achievement of the Decade, some indigenous activists have contended that the creation of a Forum on Indigenous 'issues' rather than 'peoples' was a compromise born of the continued refusal of states to extend unqualified rights of self-determination to indigenous peoples.

Draft Declaration on the Rights of Indigenous Peoples

One of the tasks that the Working Group on Indigenous Populations (WGIP) had been engaged in since its creation is the drafting of a 'Declaration on the Rights of Indigenous Peoples'. In 1993, the WGIP adopted the text of the Declaration and sent it to its superior body, the Sub-Commission on the Promotion and Protection of Human Rights, which in turn adopted the text in 1994 and sent it to the Commission on Human Rights for consideration. In 1995, the Commission on Human Rights established an Inter-Sessional Working Group with the mandate to consider the text and draw up a draft declaration for consideration and adoption by the UN General Assembly, within the framework of the International Decade of the World's Indigenous People (1995-2004). The adoption of the Declaration by the General Assembly was one of the foremost objectives of the Decade, which saw an intense process of negotiation and lobbying between indigenous peoples' activists and governments from different parts of the world.

The fact that the Draft Declaration was not adopted was seen by indigenous peoples across the world as one of the biggest failures of the Decade. Under discussion for a decade by an Inter-Sessional Working Group that meets annually in Geneva, progress on the adoption of the Draft Declaration was stalled on the issue of states refusing to recognise the collective rights of indigenous peoples, including their ownership of land and resources. In the course of the Decade, only two of the forty-five articles of the Draft Declaration were adopted. Indigenous peoples contend that this is evidence of the long-standing problem of lack of political will on the part of a number of states.

Some of the key issues considered essential by indigenous peoples, but viewed as 'impediments' to the progress of the Draft Declaration, included affirmation of the collective rights of indigenous peoples, the use of the term 'indigenous

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peoples’, affirmation of the rights of indigenous peoples to self-determination under international law, and affirmation of indigenous rights to lands, territories, and resources.³

Despite the fact that the Draft Declaration was not adopted in the course of the Decade, indigenous activists have stated that the human rights standards elaborated over many years and included in the Declaration have assumed a normative value that has influenced organisations and forums at the international level. Although the Draft Declaration was not adopted, the framework of the Draft Declaration remains and is used by international organisations in indigenous peoples’ issues. Further, many have felt that the ongoing dialogue around the Draft Declaration has led to a renewed dialogue with some states.

UN Special Rapporteur

Another significant accomplishment of the Decade was the creation of the post of the UN Special Rapporteur on the ‘Situation of Human Rights and Fundamental Freedoms of Indigenous People’ in 2001. The role of Mr Rodolfo Stavenhagen, who was appointed to this position, has been to:

‘...gather, request, receive and exchange information and communications from all relevant sources, including governments, indigenous people themselves, and their community and organisations, on violations of their human rights and fundamental freedoms; to formulate recommendations and proposals on the appropriate measures and activities to prevent and remedy violations of the human rights and fundamental freedoms of indigenous people and to work in close relation with other special rapporteurs, special representatives, working groups and independent experts of the Commission on Human Rights and the Promotion and Protection of Human Rights.’ (OHCHR 2007)

It may be worth noting that among the countries covered by this assessment, the only one visited by this Special Rapporteur was the Philippines. Furthermore, it was an NGO (Tebtebba), not a state agency, that led and organised this event and was very much responsible for its conduct. A publication on what transpired during the Special Rapporteur’s visit is also available. Dr Stavenhagen’s report on his Mission to the Philippines was presented to the 59th Session of the Commission on Human Rights (for details see Cadiogan 2006).

In the course of the Decade, the Rapporteur presented three annual thematic reports:

- i. Impact of large scale development projects on human rights and fundamental freedoms of indigenous peoples and communities
- ii. The question of access to the administration of justice by indigenous peoples and indigenous customary law



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³ In June 2006, the new United Nations Human Rights Council (HRC) approved the Draft Declaration. The only two countries voting against the Declaration were Russia and Canada. Although the approved Declaration contained some compromise text relating to those provisions upon which consensus had not been reached, this was seen as a major step forward by indigenous peoples. The Declaration failed to obtain sufficient votes at the General Assembly in November 2006, however, it was finally adopted on September 13, 2007 – with 4 countries voting against and 11 abstaining.

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- iii. The hindrances and inequalities that indigenous peoples face in relation to the access to and the quality of education systems

These issues resonate in the problems faced by indigenous peoples in all the countries assessed, as will be seen in the next chapter.

Some of the other activities carried out by the UN system specifically for the Decade were

- creation of a Voluntary Fund for Indigenous Populations, and
- creation of an Indigenous Fellowship Programme.

Voluntary Fund for Indigenous Populations

A United Nations Voluntary Fund (VF) was set up in 1995 to accept and administer voluntary contributions from governments, inter-government and non-government organisations, and other private institutions and individuals to fund projects and programmes during the Decade and to support the activities of the Coordinator of the Decade. The Fund provided small amounts of money directly to indigenous peoples' organisations to implement human rights projects at the community level in addition to promoting human rights awareness. The Fund is administered by the Secretary General and the Coordinator of the Decade.

According to the Secretary General, in his report of 25 June 2004 on the preliminary review by the Coordinator of the Decade on the activities of the UN system in relation to the Decade, the Voluntary Fund supported 176 projects proposed, evaluated, and implemented by indigenous organisations in several countries including Bangladesh, India, Nepal, and the Philippines. The size of grants was generally between US\$ 5,000 and US\$ 10,000. The projects have included human rights training sessions, support for publications, and activities aimed at strengthening indigenous peoples' organisations.

At its Ninth Session in April 2004, the Advisory Group of the United Nations Voluntary Fund for the International Decade of the World's Indigenous Peoples recommended that a technical seminar be held to evaluate the contribution and impact of the United Nations Voluntary Fund for Indigenous Populations and the Voluntary Fund for the Decade in achieving the goals of the Decade. A seminar was held in July 2004. According to the past beneficiaries of these funds participating in the seminar, 'the voluntary funds were considered to be an expression of partnership with indigenous people by involving them in the decision-making processes of the United Nations through the Board of Trustees and the Advisory Group, respectively' (OHCHR 2004b). Furthermore, according to the recommendations of the Advisory Group, knowledge of the existence of the Fund and the possibility of applying to it directly (without any intermediaries, government or non-government) has spread among indigenous communities (OHCHR 2003). However, the success of the Fund must be qualified in light of the finding of this assessment that the awareness of the Decade itself was extremely limited, a point elaborated upon in the next chapter.

Indigenous Fellowship Programme

Established in 1997, the aim of the United Nations Office of the High Commissioner for Human Rights (OHCHR) in the Indigenous Fellowship Programme is to give indigenous women and men the opportunity to gain knowledge in the field of international human rights in general, and about indigenous rights in particular, in order to assist their organisations and communities to protect and promote the human rights of their people. More than 75 indigenous fellows from 37 countries have been accepted by the programme. Most are active in their communities and

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in the United Nations system in promoting the rights of their peoples.

An independent evaluation of the Indigenous Fellowship Programme by the OHCHR in August 2004, as part of the Office's overall assessment of the Decade, concluded that 'the Indigenous Fellowship Programme was greatly appreciated by indigenous



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peoples and organisations'. The Fellowship generated a new indigenous leadership with a sound knowledge of, and background in, human rights and international processes. Although 'the evaluation provided information on cases where fellows had, on their return to their community and organisation, developed activities with the local authorities or other state or public entity to promote institutional changes', interviews with some indigenous activists as part of this assessment found that most had felt constrained by the lack of funds in adequately imparting their knowledge and training to other indigenous individuals and organisations, and in creating awareness about the Decade generally. This is corroborated by the report of the OHCHR itself. In soliciting suggestions from recipients of the Fellowship in the course of the evaluation, the report states that, 'the suggestions focused on ways in which the Office could support activities that the fellows might wish to undertake on their return to their communities as well as initiatives that might be taken by the fellows to strengthen communications both within the United Nations and among each other' (OHCHR 2005). This could be an important point to follow up in the second Decade.

Inter-Agency Support Group on Indigenous Issues

Established in January 2002 at the instigation of the High Commissioner for Human Rights, the Inter-Agency Support Group (IASG) on Indigenous Issues meets twice a year to promote cooperation among UN agencies on indigenous peoples and provide support to the Permanent Forum. However, despite the existence of this group, little evidence of this cooperation can be found at the ground level in different countries.

Activities

International Day of the World's Indigenous People

August 9th was declared the International Day of the World's Indigenous People, a date which marks the first meeting in 1982 of the WGIP. The formal observance of 9 August is well-attended in both Geneva and New York. In New York, the focus has been mainly on providing a forum for United Nations organisations to meet with indigenous representatives to exchange information on activities. In Geneva, indigenous peoples celebrate their own cultures through a morning event of dance, song, story, and music that now attracts good press coverage. The event coincides with the annual sessions of the WGIP.

This day has also been celebrated with enthusiasm in many of the countries covered by this assessment, becoming an important symbolic marker of the struggle and identity of indigenous peoples. The present assessment found that 9 August has been central in creating awareness about the Decade in many places where it has been celebrated.

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Studies and other initiatives of the Sub-Commission on the Promotion and Protection of Human Rights

In the course of the Decade, experts of the Sub-Commission on the Promotion and Protection of Human Rights undertook several studies on indigenous peoples' issues including:

- 'Indigenous people and their relationship to land' and 'Indigenous peoples permanent sovereignty over natural resources', both prepared by Erica-Irene Daes (2001);
- 'Treaties, agreements and other constructive arrangements between states and indigenous populations', prepared by Miguel Alfonso Martinez (1999); and
- 'Draft principles and guidelines on the heritage of indigenous people', prepared by Erica-Irene Daes drawing on her study on the subject submitted to the Sub-Commission in 1993 (Daes 1994).

The report of the ten-year study by Miguel Alfonso Martinez on 'Treaties, agreements and other constructive arrangements between states and indigenous populations', which came out in 1999, has been particularly criticised in the Asian context on the grounds that its findings fail to acknowledge an indigenous presence in either Asia or Africa as the issue was declared too complex (AITPN 1999).

OHCHR Questionnaire to evaluate the Decade

In 2004, the Office of the High Commission for Human Rights developed a questionnaire to evaluate the Decade. The questionnaire (OHCHR 2004a), which received replies from 50 organisations, found that:

- 36 per cent noticed positive changes during the Decade in terms of better access to development projects, improved information on indigenous rights, the strengthening of local indigenous organisations, and an increase in indigenous participation in local authorities;
- 44 per cent felt that there had been no improvement at the community level; and
- a small percentage said that the situation had worsened.

In response to whether there had been any improvements at the national level:

- 52 per cent noted positive changes and referred to the recognition of indigenous identity and other indigenous rights, better indigenous representation in political institutions, the multiplication or strengthening of indigenous organisations, and the creation of national indigenous institutions; and

- 44 per cent felt that few or no changes had occurred at the national level and that indigenous people should be more involved in political decisions; some noted a regression in national policies.

At the international level:

- 68 per cent indicated that the Decade had brought positive changes including better access to diverse international activities, and the exchange of experience and contacts with other indigenous organisations and representatives, and
- 14 per cent stated that they did not know of the Voluntary Fund for the Decade and some complained that there was unequal access to international meetings.

Outcomes

How far did the UN system go?

Although important institutional developments took place at the level of the UN system during the Decade, indigenous peoples in many countries continue to be among the poorest and most marginalised, as acknowledged in the report of the Secretary General on the Preliminary Review of the Decade. This is confirmed by human welfare and poverty indicators. Although the political will of individual states is essential for the recognition of the rights and identity of indigenous peoples, many have contended that the UN system itself did not go far enough in implementing the objectives of the Decade.

In a review presented at the Asian Consultation on Vienna Plus 10 held in Bangkok in 2003, some of the reasons identified for the UN system being unable to accomplish the objectives that the General Assembly committed itself to include the following:

- The UN system was unable to organise itself sufficiently well internally to implement the objectives of the Decade. This is seen, for example, in the fact that, although the Decade was proclaimed in December 1993, the General Assembly only adopted a 'Programme of Activities' two years later, in December 1995. Further, a coordinator for the Decade was identified only in 1997.
- There was a lack of adequate financing. The Voluntary Fund for the Decade did not receive enough financial support. It is reported that the UN records indicate that from January 1995 to October 1999, only US \$1.1 million were received by the Voluntary Fund and that three countries provided 70 per cent of this contribution.
- There is a lack of cohesion within the UN system. Specific attention to indigenous peoples' issues is at different stages of evolution in different UN agencies. In most countries, there is little or no coordination between different UN agencies. Among these, IFAD, ILO, and, in some countries, UNDP and UNESCO have been more active than others in working on indigenous peoples' issues.

Few would deny that the Decade raised considerable awareness of indigenous peoples' issues within the UN system. However, as one indigenous activist put it, '... it is far from weaving those issues into the basic fabric of UN policy and international law on the whole' (Chakma and Yukna 2004).



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