

Empowering Indigenous Peoples through their Rights in Large Development Projects Provided by International Organizations

Dr. Zahid H. Channa

Assistant Professor, Department of Economics, Shaheed Benazir Bhutto University,
Shaheed Benazirabad.

Email: zahid.channa@sbbusba.edu.pk

Dr. Mehweish Bhutto

Assistant Professor, Department of Economics, University of Sindh, Jamshoro.

Dr. Nosheen Abdul Raheem Abro

Lecturer, Sindh Development Studies Centre, University of Sindh, Jamshoro.

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Abstract

This paper aims to explore the characteristics of Indigenous Peoples, their specific rights according to the United Nations and other international financial organizations related to development that cause displacement. The international organizations are provided the safeguard policies to the people who were forcibly dislocated in the development of the large development projects such as, water reservoirs, natural resources extraction, freeways, urban development projects etc. According to UN reports that the five thousand communities are from indigenous peoples. These communities endowed with rich natural resources but always at high risk to relocation from their ancestral land and this type of displacement is named communities displaced for the larger interest of the country. It is reported that under the umbrella of United Nation's organizations and other international financial lending agencies created safeguard policies for the indigenous communities. However, most of the developed countries implemented these safeguard policies and rehabilitate economic and social losses of the indigenous peoples whereas the third world countries did not mitigate or rehabilitate the losses of these indigenous communities.

Keywords: Communities, Diversity, Excluded groups, Indigenous rights, Natural Resources, Reconstruct, Self- Identification

Introduction

Indigenous peoples form an important part of humanity's cultural heritage with varied communal, financial, ecological, and divine systems. They have been counted among the world's most disadvantaged and vulnerable populations, with around 370 million individuals

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self-identifying as indigenous and inhabiting more than 90 countries worldwide. Asia, in particular, is household to the majority of the world's indigenous population, with approximately 70% of the global total residing here. Additionally, approximately 15% of Pakistan's population consists of individuals with indigenous characteristics. Despite their diversity, indigenous peoples across the world have been subjected to marginalization and exclusion. It is essential, therefore, to ensure that these peoples' opinions are heard, their rights are respected, and their well-being is improved. (CS, 2016; ILO, 2016).

Indigenous peoples possess significant, varied and distinctive knowledge related to the natural resources of the planet. On the most part, their homeland and territories encompass the majority (80%) of the world's biodiversity rendering them incredibly pivotal in the preservation and organization of natural assets. Unfortunately, the price that indigenous peoples have to pay for their dissimilarity is outrageous. Through the periods, they take been deprived of their lands, lands and possessions, thereby losing all control over their lives and lifestyles.

The privileges of Native peoples are a form of collective social rights, which are patented and protected by international human rights mechanisms. Not only do these laws promise the protection of individuals' rights, but global law also upholds specific rights to assurance the continuation of indigenous peoples as a group. In recent times, many Indigenous people's movements have pressured states, multinational entities, international community and commercial organizations to recognize their rights.

Research Methodology

This study is associated with Document analysis. It is a method of examining and reading the documents both hard and soft form (printed, computer based, and material obtained through internet). (Bowen, 2009), The relevant information extracted through different techniques and methods to assess textual/ visual documents. (Rapley, 2007), (Corbin & Strauss, 2012). The implementation of the approach consisted of documents collection through different sources. Firstly, collecting documents from the UNDRIP, UNHCR and other financial organizations of the world such as "World Bank, ADB, AfDB, IFC, IDB and OECD". Secondly, Extracting certain information from the documents established criteria. Finally, extracted information was analyzed, interpreted, and making conclusions and recommendations based on the findings of the study.

Study Limitation

The Indigenous peoples' rights in the occurrence of Mega projects have been studied extensively, with the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) providing the framework for collective rights in 2013. Furthermore, international financial organizations such as the World Bank, ADB, AfDB, IFC, IDB, and OECD have created policies to protect those in the Indigenous community.

Discussion

Indigenous peoples' rights are documented and protected by different international organizations specifically (UNDRIP). It develops a comprehensive framework for joint rights that addresses these four specific issues 1) the self-determination, 2) land rights, 3) cultural

preservation, and 4) political participation (Champagne, 2013). Some of the specific points UNDRIP-2013 are as below.

1. Self-determination: “Indigenous peoples have the right to choose how to develop frugally, communally, and socially, and to express and preserve their individual identities politically”.
2. Land and Resource Rights: “Indigenous peoples have the right to own, manage, make use of, cultivate, and access their lands and resources.”.
3. Cultural Rights: “Indigenous communities have the right to carry on, restore, and communicate their manifold cultural legacy, such as tongues, habits, and native traditional intellect”.
4. Free, Prior and Informed Consent: “Indigenous peoples have the right to accept or decline any decisions that are related to projects which may influence their territories, or their communities”.
5. Equality Indigenous people must be respected with fairness and considered with dignity, with no prejudice on their self-identification. They should possess the same opportunities to make use of their essential liberties.

The UNDRIP of 2013 has led to the rapid reordering of rights for Indigenous Peoples. Various international entities, from financing agencies to banks and national laws, have sought to protect the rights of Indigenous Peoples through a multitude of treaties, standards, declarations, and conditions. Furthermore, the right of Free, Prior and Informed Consent (FPIC) has been officially recognized by a number of humanitarian organizations, obligating states to abide by the rights of Indigenous Peoples.

The United Nations, international humanitarian organisations and international finance agencies have taken specific initiatives to protect indigenous groups from economic and social losses through the adoption of resettlement guidelines in large development projects. One of the key principles underpinning the active engagement of Indigenous Peoples in the process is the right of Free, Prior and Informed Consent (FPIC). This basic right, derived from international law, allows Indigenous Peoples to express their sovereignty over their natural resources and protect their lands. This ensures that violations of indigenous rights are redressed and that valid Treaties and Agreements can be concluded and implemented (ICMM, 2010).

Box 1: Defines Right of Free, Prior and Informed Consent

Right of Free Adequate negotiation requires the lack of any external coercion or incentives, which are only allowed in the event of a settlement. It also involves no forms of threats or retribution based on the outcome of the decision, whether it is a “yes” or a “no”. In other words, “divide and conquer” strategies should be avoided.

Right of Prior Having enough time to gather information, communicate and discuss a plan comprehensively, including the translation of it into any native languages, is essential before initiating any project. This process should take place without any time limitations. It is also imperative that any project does not begin until all stakeholders have come to a consensus in regards to the plan.

Right of Informed The right to be informed grants people access to all pertinent information, presented with different perspectives, from elders, spiritual guides, subsistence users, and

those who contain traditional knowledge. Time and resources are given to fairly evaluate potential risks and advantages related to each choice

Right of Consent Right to Consent involves obtaining the express and unambiguous assent of Indigenous Peoples, aligned with their own decision-making process -- be it traditional consensus structures or something else. It is essential that authorized leaders, representatives, and other decision-making institutions, as decided by the Indigenous Peoples themselves, be allowed to express their opinion on the matter and to be present and participating in the conversation

Source: ICMM (2010:3) Good Practice Guide: Indigenous People and Mining, Published by International Council on Mining and Metal.

The following table (01) reports the legal rights of Indigenous people provided by various international organizations/ funding agencies.

Table 1: Provides International Regulations and Policies about Indigenous People

S#	Title of the policy	Issued by	Year	Summaries
1.	The ILO Convention on Indigenous and Tribal Peoples (No.169)	International Labor Organization- ILO	1989	The Declaration on the Rights of Indigenous and Tribal "Peoples affirms their right to be consulted and meaningfully involved in decision-making processes that affect their lives. The Convention covers a range of important topics, such as land rights, access to natural resources, health, education, vocational training and employment standards. It recognizes Indigenous and Tribal Peoples' right to preserve and practice their own culture, language and beliefs". All parties need to ensure that Indigenous and Tribal Peoples' rights are respected and protected.
2.	Guiding Principles on Internal Displacement	United Nation's Office for the Coordination of Humanitarian Affairs. UN-OCHA	1998	Ensuring that displacement, if and when lawfully mandated, is carried out with the consent of and active participation of those affected is an obligation of the authorities. Compensation and relocation, if needed, must be provided and the right to an effective remedy ensured. To protect vulnerable communities, such as Indigenous peoples, minorities, peasants, and pastoralists, it is essential that land tenure is secured and regular

				consultation with local communities is conducted. Advocacy initiatives at the local and global level are also highly important in ensuring these communities are not forced from their ancestral lands.
3.	The World Bank Operation Directives (OD) 4.20 on Indigenous Peoples	The World Bank	1991	This policy sets forth the World Bank's requirements for public sector projects that receive support, including public-private partnerships, from the institution. It replaces the prior version of the policy entitled OD 4.20 Indigenous People and relates to social security for such projects. In order to ensure the safety and security of those who may be affected by the projects, all public sector initiatives must abide by this policy.
	The World Bank Operation Directives (OD) 4.10 on Indigenous Peoples	The World Bank	2005	Since 1st July 2005, Project Concept Reviews have been subject to Policy 4.10, which requires that borrowers should interact with Indigenous Peoples in a respectful, culturally sensitive and equitable manner. This policy also obligates borrowers to take measures to avoid and/or mitigate any potential adverse impacts.
4.	The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)	United Nation-Department of Economic and Social Affairs Indigenous Peoples	2007	The International Labour Organization (ILO) Convention No. 169 centers around the fundamental right of Indigenous Peoples for Free, Prior and Informed Consent (FPIC). This set of conventions outlines that Indigenous Peoples must be adequately engaged in decision-making, with approval required for any proposed legislative or administrative measures that may affect them.
5.	Performance Standard No. 7 on Indigenous People,	The International Financial Corporation	2012	Furthermore, consent must be secured prior to hazardous material being stored or disposed of on their lands and before projects impacting their land, particularly related to the development, utilization or exploitation of minerals,

				water and other resources, are approved.
6.	Performance Requirement #7	The European Bank for Reconstruction and Development (EBRD),	2008	The Environmental and Social Policy (PR7) of 2008 follows closely the requirements of the International Finance Corporation's (IFC) Standard PS7, with a unique advance - consent must be given in a freely-given, prior, and correctly informed manner (EBRD, 2008). This policy ensures respect for the rights and wellbeing of impacted people and communities, fostering sustainable economic development.
7.	Safeguard Policy Statement	The Asian Development Bank	2009	The Board of Governors of the Asian Development Bank (ADB) has issued a Safeguard Policy Statement (SPS) to limit possible unfavorable environmental and social influences from any development projects the Bank supports financially. This statement requires borrowers and clients to consider preventive actions, minimize or compensate for these impacts. Additionally, it efforts to enhance the safeguard measures of the Bank's borrowers and clients through the use of comparable environmental and social criteria as that of the ADB.
8.	Operational Policy on Indigenous Peoples (2006)	The Inter-American Development Bank,	2006	The World Bank has established a proactive policy towards Indigenous Peoples, in order to incorporate their needs into the Bank's projects and operations. The policy seeks to ensure that these populations are taken into account during all planning and implementation processes, and that protective measures are in place to mitigate any adverse effects the Bank's operations may have. This includes appropriate safeguards to identify, assess, and manage any potential risks and impacts, while also making sure that those affected are given the

				freedom and information needed to grant their consent to any projects that involve them.
9.	The Equator Principles	The International Financial Corporation	2020	The Equator Principles Financial Framework (EPFF) is a risk management tool designed to mitigate social and environmental risks associated with project financing. It has been adopted by more than 130 banks and financial institutions, and seeks to protect workers, affected communities, and the environment. The Framework covers potential impacts depending on the scale and nature of the proposed project, as well as offering strategies to minimize, mitigate, or offset any residual effects.

4.1 Process of Reconstruction of the Economic and Social Losses.

The successful execution of mega projects requires a comprehensive reflective process that entails the participation of key stakeholders, including/such as affected communities, government entities, NGOs, members of religious orders, civil society members, academicians, and other commercial entities (IFC, 2012). The objective of this consultative process lies in facilitating decision-making among the stakeholders, while simultaneously helping to bring to the fore the advantages and drawbacks of the project. Furthermore, those members of the affected public who experience loss of land, income-generating possibilities, homes, communal services and property, and/or cultural aspects, need to be included and their voices heard.

5. Conclusion

Indigenous communities often experience psychological stress due to the loss of ancestral land, culture, and history. As a means of alleviating this distress, international financial institutions, such as the World Bank, UNDRIP, ADB, AfDB, IFC, IDB and OECD, have offered compensation in development projects. However, such projects have frequently limited the options for Indigenous peoples to participate in the design process or gain redress for economic and social losses. Thus, it is imperative that the consultation process provide them with adequate opportunities to calculate these losses and receive redress.

6. Recommendation

In the case of Displacement, the indigenous peoples have two types of losses, Economic and Social losses. Firstly, the Economic losses are included loss of land, home, income generating opportunities. Secondly, the social losses are consisted of loss of social gathering, social breakup, loss of ancestral land, graveyards, religious places etc. In addition, the economic losses possibility reconstructed whereas social losses are impossible to rehabilitated. The

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study recommended that some losses not addressed but it would be possible to significantly mitigated the social losses which are massive at the scale of social losses.

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