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## **Guess who's coming to dinner? The Definitional Dilemma of 'Indigenous Peoples' in the International Sphere**

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### **Abstract**

Indigenous peoples occupy an increasingly important place in the international political agenda, but precisely who are indigenous peoples is poorly defined. If we can not adequately answer the question of what makes indigenous peoples distinct from other minorities or ethnic groups, it will be impossible to continue the dialogue on issues such as land rights and political autonomy. This paper looks at the ways in which the indigenous identity is defined in the modern international discourse, and examines the various elements that make up these definitions. Three key components of 'indigenesness' are described: original occupancy, distinct culture, and colonial marginalization. It becomes clear by examining each of these elements in turn, that they are riddled with ambiguity and inconsistently applied. We are left with the understanding that the term indigenous does not describe any inherent quality of a people, but is, in fact, a modernist construction resulting from the processes of colonization and recent political mobilization. The lack of a clear understanding of who is indigenous and who is not threatens the gains by the indigenous peoples movement for land, rights, recognition, and political power, as casts doubt on its legitimacy.

### **Introduction**

Indigenous peoples occupy an increasingly important place in the international political agenda, but precisely who are indigenous peoples is poorly defined. If we can not adequately answer the question of what makes indigenous peoples distinct from other minorities or ethnic groups, it will be impossible to continue the dialogue on issues such as land rights and political autonomy. The question is important in international law, as governments will not agree to a set of rights without knowing precisely to whom those rights will be applied. It is important that political strength of indigenous peoples and their movement is not undermined by questions of legitimacy in their membership. Finally, it is important to the scholars that examine these processes and questions that there is common understanding of who occupies this categorical space.

The category of indigenous peoples as a distinct type of society – and as distinct kind of political unit – holds a more privileged place than if they were *merely* an ethnic group or minority. The claim to being the first occupants of a territory, as well as related assertions of having particular cultural traits, and of having been victimized by colonization, provide an added political advantage to being considered an indigenous people. Moral suasion over governments, legal claims to hereditary occupied lands, entrenched national legal status, media exposure, sympathy and support from international NGOs, and internationally

recognized collective rights are among the potential assets associated with the indigenous category. Indigenous peoples also garner greater attention from academics, being perhaps more interesting subjects of study than dominant cultures or other kinds of minorities.

Through an examination of various definitions of indigenous peoples as they are used in the areas of international law, the social sciences, and among the indigenous peoples movement itself, this article will present a blueprint for achieving greater clarity in the term through a bottom-up process. An analysis of the main elements common to these definitions will highlight the current ambiguity, and underscore the difficulty in basing a definition on such shaky ground. This examination will also demonstrate exactly what is at stake if this definitional ambiguity continues. To date disputes over claims of who is an indigenous people and who is not have been minimal, but so have the advantages of such a designation. At the World Council of Indigenous Peoples meeting in 1974, a delegation from the Boer Nation presented itself as an indigenous people from South Africa. Without greater definitional clarity will we begin to see more groups challenge our assumptions of who is, and who is not, indigenous? As the stakes increase – the current Draft Declaration on Indigenous Rights is one indicator – the value of being indigenous, rather than simply a minority ethnic group, may prompt others to begin applying the term to themselves. One might well ask, *'guess who's coming to dinner?'*

In conclusion, I will demonstrate that there is no natural or ideal definition for indigenous peoples. Every element of existing definitions is problematic. Rather that it is a concept that is growing and evolving in a process of articulation, or *negotiation*, at both local and global levels, amidst a variety of influencing factors. The arenas of international law and the social sciences must use rigour in their use of the term, but allow time and space for a clear definition to emerge from the international community of peoples that legitimately call themselves indigenous today, rather than imposing a prescriptive definition from above.

### ***Fields of Analysis***

This article is interested in the meaning of indigenous in a number contexts, but all at the international level. As mentioned, the term is not as problematic when used in specific local situations, but it is the movement to establish an international community of indigenous peoples that raises the most interesting questions—and problems. Three different areas in which the international dimension of indigenesness are covered in this examination: its use within the field of social science; its specific use as a concept in international law; and as a defining feature of the social movement among the world's indigenous peoples themselves. As a scholar of international relations, I place the primary focus primarily on the first category.

The use of the term 'indigenous peoples' has been most extensively explored in international law has been well explored elsewhere (particularly Bowen, Lâm, Barsh, Kingsbury, Anaya, etc.). The nature of the law and the higher stakes attached to ascribing specific rights based on a criteria of indigenesness require greater precision in defining the term (although international law, being based on norms rather than codified legislation, allows for more flexibility than would national jurisdictions). The debate on this issue within international law is nevertheless highly informative to the terms use elsewhere in the scholarship and beyond.

Current thinking in international law is that the concept of 'indigenous peoples' is too broad, imprecise, and inconsistent to be used to assign a set of specific rights for indigenous peoples under international law. That does not necessarily invalidate the term as a useful in other fields, but the same qualities that make it problematic in international law persist, albeit with less 'real-world' significance. By borrowing from the current debate in international law, as well as anthropological, political science/international relations, and other sources, I will explore the definitional dilemma of indigeneness at the international level to see if the concept is useful and valuable, and what can be done to improve its understanding or redeem it.

While the search for greater clarity in defining indigenous peoples has occurred in international law, the concept is no less important in anthropology, international politics, and other social sciences, and as it is used by indigenous peoples themselves in their campaign for international recognition of their rights at the UN and elsewhere.

Anthropologists, whose discipline is practically founded on the study of indigenous peoples, have struggled to retain a secure grip on the meaning of indigenous as definitions based on cultural uniqueness have come under criticism as implying a judgement of 'backwards' or 'uncivilized.' Like anthropologists, political scientists who have examined the struggle of indigenous peoples for political rights have been on safe ground when the movement emerged in Canada, Australia, or even Norway, but have failed to satisfactorily justify the category of indigenous peoples as a universal concept internationally. Scholars in these and other fields of political science must have a much greater awareness of what they mean by the term indigenous instead of using it as if it were a fundamental or natural unit of analysis. Too many scholars employ the term, and call attention to the plight of the world's '300 million indigenous people' without a solid understanding of exactly to whom they are referring, or how they differ from other ethnic minorities.

Another important reason why we must engage in an examination of the meaning of indigenous, is because the term has tremendous political importance to the peoples who identify themselves as such. We must accept that usage of the term within the international movement to secure rights and recognition for indigenous peoples can have a different meaning and rationale than as it is used within international law and academia. Contacts and cooperation between different indigenous peoples over the past three decades in taking what they saw as common issues between themselves and the states to the international arena has created an international community of indigenous peoples. Within this community and this movement, the concept of indigeneness is a symbolic touchstone that forms the unifying force of solidarity. It is the common bond that brings these peoples together, and the fuel that drives them forward.

Does the term 'indigenous' actually hinder the progress of indigenous rights, because of the perception that the real issue is about who was here first, rather than the substantive issues of colonization that infringed on these peoples' very right to exist. Does the process of generalizing the concept, or worse, making a square peg try to fit a round hole, limit the ability to resolve issues which arise from local realities. In short, is it useful to even try to arrive at a universal definition of what constitutes an indigenous people. What then are the implications for the international indigenous movement, which has been successful in bringing attention to the survival of cultures threatened by extinction, but thus far proven

unable to achieve agreement around the principle of an international Declaration on the Rights of Indigenous Peoples. Should the indigenous peoples' movement abandon this enterprise in favour of more practical assistance that the leaders of the movement ('First World' indigenous peoples, who more easily fit accepted definitions of indigenous) can provide to their brothers and sisters in other parts of the world. The UN may prove a useful platform to garner public attention and political support, but impractical for pursuing an agenda based on securing political rights under international law.

Clearly there is a relationship between these meanings, as the indigenous rights movement cannot ignore how they are seen by governments and scholars. While the international community of indigenous peoples can claim to have the right to decide for itself how it expresses the concept of indigenesness, it too must articulate this identity in terms that the states will accept. No government will bind themselves to a set of rights for indigenous peoples without the confidence of knowing the criteria by which membership in that category is determined. Likewise, the indigenous peoples must be careful that the legitimacy of their movement is not undermined by lack of clarity over who is indigenous. The political gains made to date by those who first articulated the concept of indigenous peoples as distinct cultures within state systems by others who may adopt the term opportunistically as a means of gaining attention or political power. Without that clarity, there is no telling just who is coming to dinner.

I am not attempting here to define indigenous, but rather to identify concepts that are used in different definitions and uses of 'indigenous' and to examine the fluidity with which the term is applied, mixing and matching as needed the various characteristics below, while portraying some sort of a universal definition of indigenesness (sometimes referred to as indigeneity by some authors). Nor does this discussion attempt to cover the equally problematic ground of defining indigenous identity at an individual level. While some of the issues are similar when indigenesness is examined on an individual, rather than group scale, there are far more delicate questions of personal identity that could not be covered at the international level (for a discussion of the individual level, see Hilary N. Weaver's "Indigenous Identity," *American Indian Quarterly*, Spring 2001, Vol. 25 Issue 2, pp240-256).

Before beginning our examination of the main definitional characteristics of indigenous, it would first be helpful to briefly review some other terms related to indigenous peoples. The terms tribal peoples and Fourth World are occasionally used either interchangeably or as overlapping concepts to indigenous. Like indigenous, they have been employed at the international level to try to describe a particular set of peoples. There is no greater definitional clarity over these terms than there is over indigenous, and they are generally falling into disuse. This should serve as a warning, for if its definitional ambiguity continues, the term indigenous could also broaden to the point of meaninglessness.

### ***Tribal***

Describing a people as tribal rather than indigenous avoids the sticky question of who was first, and instead defines groups based on cultural and lifestyle characteristics. The International Labour Organization's Convention 169 (ILO 169) states that it applies to both tribal and indigenous peoples. For the purpose of ILO 169, tribal peoples are peoples "whose social, cultural and economic conditions distinguish them from other sections of the national

community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations.” (ILO 169, <http://193.194.138.190/html/menu3/b/62.htm> get proper citation).

While it is not stated explicitly, the meaning here is that tribal peoples are distinct because they practice forms of culture and livelihood that are non-modern, unlike the rest of the dominant culture in the countries where they live. As is discussed below, concepts of distinct culture and livelihood are just as problematic as the idea of original occupancy. Definitions which are based on this kind of cultural niche tend to disenfranchise individuals that, for whatever reason, choose a different way of life.

Survival International, a non-governmental organization that supports tribal peoples, specifically uses the term tribal instead of indigenous. It distinguishes tribal peoples from indigenous peoples. Their differentiation is that tribal peoples continue to live in traditional tribal settings: “They usually provide for themselves, living off the land by hunting, fishing, gathering or growing vegetables or keeping their own animals. They usually also have an extremely strong cultural, emotional and spiritual attachment to their land.” (Survival International, “About Survival – frequently asked questions”, <http://www.survival-international.org/pdf/Survival%20faqs.pdf>).

Within the United Nations system, tribal and indigenous are considered synonymous, while others would see tribal as a subset of indigenous (Lâm, p4). The concept of tribal could have useful for describing a particular set of groups that continued to practice nomadic, or hunting and gathering lifestyles, as it relates more specifically to the traits of a people rather than the mere fact that they occupied a particular territory first. The problem becomes that once the category is used to provide special rights for their protection, it boxes those groups into a particular set of cultural expression or economic practice that limits their ability to adapt and determine their own future. In this way it proved no more useful than indigenous, and has merged with it into a general concept of indigeness that reflects the original aspects of both.

### **Fourth World**

Originally used at the origins of the international indigenous movement by Canadian first nations leader George Manuel (Fourth World: An Indian Reality by George Manuel and Michael Posluns, 1974), the term Fourth World never quite established itself as a general concept to describe the community of the world’s indigenous peoples. The concept of Fourth World has declined in use as it has expanded from its original meaning of only indigenous peoples by many who use the term to refer to ‘all nations without a state.’ The term has also declined in use as reaction against the hierarchical values implied in dividing the world into First, Second, and Third worlds gave rise to the alternative nomenclature of developed and developing states.

The Centre for World Indigenous Studies (CWIS), defines this usage of Fourth World as “nations forcefully incorporated into states which maintain a distinct political culture but are internationally unrecognized” (<http://www.cwis.org/fwdp/International/fourthw.txt>). The CWIS specifically broadens Fourth World from its original meaning of indigenous because of its excluded many groups other than “New World Indians” (*ibid*). Thus the term is

applied to the Catalans, Basques, or Kurds, discarding the characteristics of original occupancy and traditional culture and livelihoods that are usually inherent in indigenous.

The breadth of the term is useful to an understanding of the world's political system as being composed of nations as well as states. The distinguishing features of a Fourth World nation and a minority are small. The limited use of the term is not only a result of this definitional broadening and the 'developed/developing' categories, but because the movement that Manuel started continued to identify themselves as indigenous. The international indigenous movement saw themselves as distinct from other minorities, or nations, and did not wish to pursue recognition and rights that would apply to such a broad collectivity.

## Definitional Elements

Within the array of definitions used both within international law and the social sciences, three main elements can be discerned that are used in nearly every case, to a greater or lesser degree. The exact language differs, but as this examination will show, the nature of indigenousness in the international sphere is not something that lends itself to precision. Nevertheless, nearly all of the definitions examined include some reference to what I will call original occupancy, traditional culture and livelihood, and colonial marginalization. The first, original occupancy, lies closest to the original meaning of indigenous. That is, the people in question occupied the territory before later waves of human settlement. The second element, distinct culture, brings in a variety of attempts to differentiate indigenous cultures from those of the dominant, or *modern*, societies that surround them. The third element, colonial marginalization, encompasses both the process and product of the historical process that saw the indigenous people come to be subjugated through force and the instruments of the state.

These three elements will each be explored in turn, highlighting the many difficulties inherent in applying such definitions at a general level. Following this analysis, the final section, Alternatives, will address various processes that may move us towards an internationally accepted definition of indigenous peoples. In this section, I will discuss yet another element that is occasionally found in definitions of indigenous – self-identification. As this is more of a criterion for inclusion than a definitional element, I have chosen to address this separately, in the context of the dialogue among indigenous peoples, the international legal system, and scholars that is propelling the current discussion on defining indigenousness.

## 1. Original Occupancy

*Truism #1: Humans Always Move*

Ask most people what indigenous means, and the answer given will usually be some reference to original occupancy, that is that indigenous people lived in a particular area before anyone else. Commonly found definitions of indigenous peoples also make reference to this concept using phrases such as 'since time immemorial', continuous residency, primacy, *etc.* Essentially, these all come down to a claim by a group that 'we were here first' that provides both the moral high-ground and legal basis for land tenure against all later arrivals.

Most understandings of indigenous do not derive from a claim that the people in question were always there, but were there 'first.' The problems that arise in trying to apply this part of the definition all relate to the difficulty of deciding just what 'first' really means. The history of human settlement and civilization is not a static picture, and it is impossible to find a group that has not undergone considerable migration, cultural mixture and transformation. Determining who was where first requires a certain amount of arbitrariness in determining both time, and place.

Precisely where one sets the geographic scale can shift perceptions of indigenesness, as many of the world's indigenous peoples were themselves migrating even after the arrival of outsiders. The scale of time is also a factor, as most definitions of indigenous arise from the particular historical period of European empire building. Why is it this slice of time, rather than any of the other conquests and migrations that have occurred throughout history, forever determined who is indigenous and who is not? Together, the selection of time and space in determining indigenous shows that it has been a particular experience of colonialism—that of North America and Australia/New Zealand—that has been used as the basis of indigenous throughout the world. As we will see, this model is not well suited in places where the coincidences of time and place that differentiate indigenous and colonizer are not so clear cut.

### ***Generalization of Place***

At first blush it would seem fairly straightforward to say that one group lived in a territory before another. But just what territory is it that we are talking about? If, for example, two unrelated groups arrived at more-or-less the same time on opposite sides of the same large island, is each group indigenous to only the small part of the island that they occupy or the whole island? The archipelago? The whole continent?

While one can make some educated assumptions about what constitutes a particular group's territory based on the land they physically occupied and used as a resource base, the geographic scale used to determine indigenesness is more frequently the unit of the conquering people- the borders of the state.

Lest one think that the above example is mere fantasy, consider the example of Greenland. Anthropological records point to the migration of Inuit into northwest Greenland at about 1000 A.D., while the Norse sagas indicate Eric the Red arrived from Iceland and founded a settlement in eastern Greenland in 982A.D. Yet today it is the Inuit who are considered the indigenous people of all of Greenland (the whole island), while the Danes of the Norse culture are the colonizers. Indeed the Inuit likely played a strong role in both the disappearance of the pre-ice age Dorset culture in Greenland as well as the loss of both the western and eastern Norse settlements.

### ***Time Freeze***

The concept of original occupancy as a defining characteristic of indigenesness is ahistorical, as it takes its meaning from a specific period in history—that is the period of colonization of the Americas, Africa, and Asia-Pacific by Europeans. Richard Mulligan uses the term 'freezing time' to describe how the term indigenous traces its meaning from the age of European exploration and settlement in the New World (Peang-Meth, pp.107-108). In

effect, this has created a situation where anything preceding that point in time is indigenous, and anything introduced later is foreign or colonial. This belies the fact that human civilizations have been fluid and mobile for our entire history, and have continued to be so – even more so – since the period of colonization. Moreover, the so-called indigenous peoples themselves also came to their lands at that point through processes of migration and cultural mixture that were by no means static. Nor were Europeans the only empires to subjugate other peoples, yet as we will see later the concept of indigenous arises largely in opposition to European.

Many definitions of indigenous peoples make reference to a single period or instance of conquest as if it were only possible to be conquered once, or that the conquered could not one day become the conqueror (or vice versa). ILO 169 is one such example, stating that indigenous peoples are those "...who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonisation or the establishment of present state boundaries..." (ILO169)

*Sakha example?*

The term colonialism is used to refer only to more recent waves of empire building by Europeans. Previous expansion, invasions, conquests, etc, and those within the cultures of Asia and Africa, for example, did not create indigenous peoples. Hence indigenous peoples are, though it would seem quite the contrary, a thoroughly modern phenomenon. As the discussion of the third element of indigenous will show, indigenous peoples are created through an external process of colonization, not by right of their innate connection with the land they occupy, or due to their continuing tribal culture or livelihood.

### ***Who's On First?: Different Histories of Time and Place***

The particular selections of time and place that provide our understanding of original occupation within current definitions of indigenous are themselves historical artefacts of the development of the international indigenous peoples movement. When the leaders of Canadian first nations met their Maori and Aborigine counterparts in New Zealand and Australia, the generalized concept of an indigenous people was created out of the idea of original occupation as it existed in the colonial experiences of those peoples. The particular scales of place (the so-called discovery of a new continent) and time (the European age of discovery and empire) were taken as general principles rather than particular historic factors.

The 'ideal model' of Columbus sailing to America, bringing a 'pure' indigenous society under the yoke of a 'pure' Western empire in a clear colonial fashion, within the record of written, i.e., Western, history, occurs infrequently in human history. The term 'indigenous' may describe well the situation of the original inhabitants of North America, Australia, New Zealand, and to a lesser extent central and South America, but has been stretched to fit others outside these regions whose condition/situation is similar in terms of the struggle for the preservation and distinct cultural traditions, and unequal power relationships, but whose history of how they arrived at that situation varies markedly. For these groups, particularly in Africa and Asia, the concept of 'indigenous' in the meaning of original occupation is a loose fit at best, as it may often encompass the entire population of a country.

Just exactly what is meant by indigenous seems to shift considerably depending on what part of the world one is talking about. In the United States, Canada, Australia and New Zealand – all British settler countries and prosperous industrial nations, original occupation alone is enough to differentiate indigenous peoples from the majority populations that arrived in subsequent waves of settlement and immigration. In other areas South America what Wilmer refers to as “second wave colonization which did not result in European numerical dominance, other kinds of definitional elements were needed to cover peoples who seemed to share similar situations of colonial marginalization, but where claims of original occupancy were less relevant.

## 2. Distinct Culture

*Truism #2: Humans Always Change*

When the ideal model of an ‘indigenous people’ begins to break down as one leaves the safe shores of North America or Australia, additional justifications are needed to finesse the definition of indigenous. Some cultural marker is usually key to broadening the understanding of indigenous peoples to Africa and Asia, where it is impossible to clearly differentiate between an original people and an external colonizer. Thus, most definitions also include some reference to culture or livelihood that is distinct from that of the dominant (read colonial) culture in the country. Frequently, these cultural characteristics are described as traditional, tribal, pastoral, or nomadic. Or, as Lâm describes, indigenous peoples, “cling to cultural practices which mark them as different from, and relatively unassimilated into, surrounding mainstream societies” (Lâm, pp.12-13).

It is no easier to establish what constitutes a distinct or traditional culture, however, than to establish who came first. In fact, it is likely more difficult. For just as the concept of original occupation forces us to believe in a simplified model of human settlement across time and space, the idea that some cultures are traditional, while others are not, denies the ever-changing and adaptable nature of human culture. This forces us to make crude distinctions, and opens the door to preconceived notions- be they racist or romantic. Ultimately, this does not serve to understand the reality of indigenous people, and at worst, may lock them into an externally prescribed model that denies their own self-determination.

### ***Mixed race and Assimilated Peoples***

The assumption that indigenous peoples form distinct cultures from that of the dominant society is problematic for no other reason than it ignores the dynamics of cultural exchange and transformation that are inherent in any place where two groups share territory, regardless of whether it is a colonial relationship. This can perhaps be most clearly seen in the intermixture of cultures through intermarriage. Is it only groups that maintain some kind of pure form, free from outside taint either genetically or culturally, that can be called indigenous? Must they resist the natural forces of cultural change? Throw out the baby with the cultural bathwater in order to stay true to some pre-contact concept of their cultural identity?

How to define groups of mixed indigenous and European ancestry, whose genetic and cultural product is something neither indigenous or European? In many cases, particularly in Latin America, these mixed race groups have formed the dominant cultures in the

country. The South America mixture of Europeans, native Indians, and the descendants of slaves brought from Africa form the dominant societies and largely led the process of decolonisation. While in North America, particularly with the Métis of Canada, the development of mixed indigenous-European populations and cultures have oriented towards self-identification as indigenous. While many Métis have maintained cultural ties to the indigenous population, many more have been assimilated into the majority non-indigenous population, but still assert indigenous identity on an individual level based on hereditary links to the pre-colonization population. Denying indigenous identity according to some definition of cultural or genetic purity can be just as damaging at the group level as it is for the individual told that he's not a "full-blooded Indian" (Weaver).

While the concept of indigenous people in the First World also extends to the descendants of the original pre-colonial populations, this extension cannot be applied where the differentiation is based on culture rather than heredity. Thus, those that have become assimilated into the dominant culture, or at least can no longer be said to live within the indigenous culture, lose the status of indigenous.

### ***Value bias of 'backwards/uncivilized'***

Characteristics related to distinct or traditional culture are also rather difficult to employ without slipping into dangerous concepts that ascribe some sort of qualitative hierarchy to culture, harkening back to the colonial perceptions of 'backwards' versus 'civilized' peoples. Even when one can assess a discernable marker here that separates certain societies that are part of the economic and political institutions of the state from those who practice more land-based forms of livelihood, largely outside the structures of the dominant society, one must question whether it is wise to do so.

By drawing definitional boundaries around these cultural practices, indigenous peoples are locked into those forms of cultural expression, relationship to the land, or economic activity. In the same way that Swedish law prescribed not only that only Sami could be reindeer herders, but that only reindeer herders could be Sami, such definitions could disenfranchise many peoples with legitimate rights claims to land or resources because they stopped acting like what someone thought indigenous people should act like.

### ***Exoticism/Romantic 'noble savage'***

Describing in specific terms and criteria what constitutes an indigenous people proves surprisingly difficult, considering the confidence with which many intelligent and learned individuals use the term. There is a sense that most people instinctively know what indigenous people are, it is just hard to put into words. The hidden value, or *discursive meaning*, that lies behind much of this innate understanding of indigenesness is the amorphous notion of the *exotic*. Indigenous peoples are 'others' outside the norms of the modern and the western. It is this notion, the associated cultural baggage that is carried along subtextually with the term indigenous, that gives it much of its value and power. Using the term indigenous conjures up a whole range of cultural associations related to images and stereotypes of indigenous people as 'exotic others' that come down through their long depiction in art, literature, film, etc. The brightly coloured clothes and reindeer herding of the Sami, the elaborate body decoration and hunting by bow and arrow of the *guinea people* mark them as distinct, outside our Western cultural imagination.

We must accept the power that the superficial trappings of culture – costume, art, ceremony, the *idiomatic* song and dance, are what is really being referred to when terms like ‘distinct cultural traditions’ are employed in definitions of indigenous. In one example the Lauje of Indonesia, who quite closely fit other common features of indigenous peoples, “are considered rather dull folk, lacking the paint and feathers expected of true primitives” by the administrators in Jakarta (Li, p. 162). Indigenous peoples are commonly and instinctively recognized as such not because of original occupancy or colonial history, but from such ‘paint and feathers’ stereotypes. Groups which lack some of these more colourful features often fall outside outsiders’ understanding of what constitutes an indigenous people.

At the same time as they fight against misperceptions of the cultures by outsiders, indigenous peoples themselves make use of this stereotype for political gain, consciously employing their language, costumes, and traditions as a means of generating public and political support for their causes, though this is rarely stated explicitly.

### 3. Colonial Marginalization

*Truism #3: Humans Always Conquer*

Increasingly, the quality that seems to most strongly unite the international community of peoples that identify themselves as indigenous is not one that is intrinsic, but relative to another group. Several definitions of indigenous peoples use a criterion of exclusion from power. That is, indigenous peoples cannot be a politically dominant group. The 1974 WCIP working definition includes peoples who, “...do not as a group control the national government of the countries in which they live.” Similarly, the 1982 working definition of the UN Working Group on Indigenous Populations refers to peoples that have been reduced to a “non-dominant or colonial situation” within “...a State structure which incorporates mainly the national, social and cultural characteristics of other segments of the population which are predominant” (Wilmer, p.216). The same Working Group’s 1986 working definition still refers to “non-dominant sectors of society” (Cobo, 1986).

This characteristic is different than the condition of being a numeric minority. Like blacks under Apartheid, the Indians of Guatemala form the majority of the population, but not the politically dominant group (Wilmer, pp.13-14). For this reason, we cannot even take indigenous peoples as a distinct subset of minorities.

Most current definitions reflect the language of the 1982 working definition, referring to processes of conquest or, more often, colonialism, that have resulted in the current marginalization of indigenous peoples from power. Just what constitutes colonialism, rather than some other form of subjugation by another group, is largely left open. However, as this discussion will show, the term colonialism is often used as a short-hand for conquest by Europeans, and the political control that follows (whether by European settlers or another local group).

#### ***Arbitrary Whims of Fate***

Among the problems of this definitional element is that it opens the door to fallacies of circular reasoning in analyzing the state of the world’s indigenous peoples. The fact that indigenous peoples are marginalized within states is presented as a failure of the international system that must be redressed—a gross injustice against human rights

perpetrated by European colonizers which the indigenous peoples are now mobilizing to rectify. Since indigenous peoples are *by definition* marginalized (“they do not control the political institutions of any state”), how can this also be used as an argument for their cause?

Given the problems already addressed with the definitional elements of original occupancy and traditional culture, the shared experience of colonial marginalization is carrying an increasing share of the burden of proof in determining indigenesness. The problem becomes that the term indigenous is stretched so far beyond its original meaning that it becomes more confusing than descriptive. It also begins to smack of arbitrariness. The justification of for which groups belong to the international community of indigenous peoples, particularly in Africa and Asia, usually comes down to nothing more than which of the local ethnic groups achieved dominance, either in numbers, power, or both.

Moreover, marginalized peoples exist in many parts of the world and face similar threats to their languages, cultures, lands and livelihoods as do indigenous peoples, regardless of whether they can establish their presence in the area prior to colonial contact. The Aceh region of Indonesia is one such example, where the local peoples have a great deal of commonality with the world’s indigenous peoples. So much so that they are often considered indigenous, despite the reality of their name, Aceh, being a local acronym reflecting the region’s multicultural mixture of Arab, Chinese, European, and Hindu migrants.

The case of Fiji demonstrates other potential pitfalls of this manner of categorization. In the local context of decolonisation in Fiji, the dominant Fijian people carry the indigenous mantle despite being the dominant society. The native Fijians have used this status of being indigenous, by right of their colonization by Britain, to maintain their political power in the face of an increasing Indian immigrant population. The Fijians seek to assert their rights as the original people of the island not against the a dominant colonial settler society, but a later immigrant population (Peang Meth, ppX).

### ***Present Condition or Historical Process?***

What defines indigenous today is a people’s present condition more than the historical circumstances that brought them there, or some innate characteristic of their culture. Indigenous peoples derive a significant portion of their meaning in opposition to the power and recognition of the state. The condition of being indigenous does not exist without the state and the experience of colonialism—or at least some form of oppression and marginalization by the institutions of the state. It is this common *condition* of being an oppressed or marginalized people rather than any past or innate quality that gives indigenous peoples of the world their greatest commonality (see Lâm, p.12).

The fact that the native peoples of the Americas do not control the states where they have resided since colonization determines their indigenous status as much as the fact that they lived there prior to European contact. Presumably, had the Iroquois formed their own country, they would cease to be indigenous by current definitions. Conversely, other pre-European populations who, through whatever circumstances, formed controlling societies in decolonised areas are not considered indigenous despite the fact that they can make equal claims to original occupancy, or traditional culture.

In the case in many African and Asian countries, it is not inconceivable that a shift in power would see a former 'indigenous' people and the 'dominant society' switch roles. By these definitions, it is not only the fact of having lived in a particular area the longest, or even the process of having been colonized that makes a people indigenous, but rather the *present condition* of non-dominance. Should an original people have survived the colonial process and succeeded in the project of self-determination which indigenous peoples now undertake, they would cease to be indigenous.

### ***Euro-centrism***

In the discussion of original occupation, we saw how the particular historical period of European empire building has been used as the frame of reference for defining who is, and who is not, indigenous. Related to this is that the indigenous and the colonizers are frequently divided equated with non-European and European. This is another way in which the North American (and Australian/New Zealand) experience of colonization has been generalized to a universal concept of indigenusness.

The concept of indigenous peoples exists only in opposition to European colonizers. Indeed, indigenous peoples are frequently referred to in definitions within the social sciences as non-European or non-Western (Wilmer, p.10). The Sami, Europe's own indigenous people, must either be forgotten in this particular vision of colonial history, or conveniently non-European for the purpose. The very modernity of the concept of indigenous is can be seen by projecting backwards 500 years. In this period there is nothing that inherently differentiates indigenous and non-indigenous, likewise there is no common bond that exists between the assortment of peoples who now identify themselves as indigenous. The Finns and the Sami were but two peoples that shared a common piece of territory. The process of colonization *created* indigenous peoples. As the definition of indigenous originates from a particular historical period and a particular cultural division it is indeed both modern and Euro-centric.

European colonizing/conquering nations in the age of empire, while certainly the most ruthlessly efficient in the efforts to bring other populations under their domination, were by no means the first societies to exercise force to dominate others through warfare genocide, and political assimilation and settlement (and tragically not the last). So-called pre-contact civilizations went through waves of integration, mixture, conflict, acculturation, etc. before the arrival of European colonizers.

As (Daes) (*UN Rapporteur on Indigenous Issues...*) reminds us, "Nearly every people has its legacy of oppression and injustice... European peoples dominated one another long before they developed the power to dominate peoples in other regions of the world. For this reason, I do not think it is particularly useful to divide all modern humanity into the oppressed and the oppressors." (Daes p. 4, "The Experience of Colonization Around the World" in *Reclaiming Indigenous Voice and Vision*. Ed. Marie Battiste, pp.3-8)

While it does not excuse this pattern of colonialism the misdeeds of earlier conflicts, and the dynamics of previous social movements are 'frozen in time' at the point of European colonization. Redress injustices committed before the imposition of European colonialism are either forgotten, or resolved on a more fundamental/local level than appealing to the international community to recognize collective rights. This is somewhat understandable since the international community is a representative body of the state system that

committed the misdeeds in the first place, and the wrongdoers of previous periods have either themselves disappeared or subjugated by a later wave of domination.

## **Alternatives**

The problems with current definitions of indigenous peoples at the international level need not invalidate the use of the elements discussed above. Nearly every author who makes use of these definitions in their text points out the difficulty in prescribing a definition of indigenous, and this analysis is not a criticism of their attempts to develop a working concept of the category. Likewise, the practitioners of international law in the UN system and elsewhere have eschewed prescribing official definitions of indigenous in favour of working definitions that allow the progress on issues of rights to continue. Indeed, one should ask at this stage, do we even need a definition of indigenous peoples? Or, could we do as some indigenous leaders have suggested and allow the indigenous peoples themselves to determine what it means to be indigenous?

### ***Self-Identification***

The criteria of self-identification that predominates at the individual level, could also be employed for groups. At the individual level, the development of an indigenous identity is normally a two step-process by which a person identifies his or herself as an indigenous person (through membership in a particular community), and that community recognizes that person as one of their own (Weaver, ppX). This same model could be applied as a means of ascribing indigenous identity of peoples, rather than individuals, at the international level. This process avoids the chicken-and-egg phenomenon of needing to know who is indigenous for them to be able to decide who is indigenous. As Li points out (p159 and elsewhere), just because a people might fit some kind of universally developed criteria for indigenous people does not necessarily mean that they will wish to articulate an indigenous identity. The reverse is also true. *Case of Lauje and Lindu in Indonesia*. (pp. 162-163).

The international community of peoples that currently identify themselves as indigenous is of sufficient size and legitimacy to establish its own rules of membership. Just as at the individual level, this process might be fraught with misunderstanding and bitter division. It should be noted however, that despite the many theoretical problems with defining indigenous peoples, there is currently very little disagreement over claims to indigenous status at the international level. When indigenous status confers particular rights and privileges, those on the inside may wish to act as gatekeepers while others may see new value in asserting an indigenous identity. This is just as true at the international level as it is at the individual level. As there is not yet agreement on the International Declaration of Indigenous Rights, the issue of determining which groups are indigenous has not been overly significant. In fact, precise definition was consciously avoided as it was thought that squabbling over criteria and definitions would put the whole process of campaigning for rights and recognition at risk (Lâm, pp.6-7).

### ***From Universal to Local***

The risks involved in developing a single set of collective rights for indigenous peoples at the international level have led some analysts of international law to suggest decoupling the search for collective rights from a universal concept of indigenesness (Bowen). Is it

appropriate or desirable to conceive a international collection of rights for all indigenous peoples, when:

- A) there is really no accepted universal definition of what constitutes an indigenous people, but instead varies by region due to differences in colonial histories,
- B) and involves varying sets of rights issues relevant to local circumstances, legal frameworks and power relationships.
- C) Is unlikely to be ratified by the countries where it would make the most difference, as those countries where the concept of indigenous is clear are already pursuing solutions at the national level, and countries where the definition is problematic will not sign on to a set of promises that would cause serious political upheaval at home since they are inappropriate to local circumstances

The difficulty involved in trying to establish an international standard of what constitutes is seen when examining the complexities in trying to establish just a national understanding of who is indigenous. Factors of class and geography overlap and intersect cultural and linguistic groups in Latin America, obscuring ideas of Indian and indigenous. Peoples at the periphery of countries like Mexico maintain an Indian identity, while the central Nahua are instead considered an element of the mainstream society by mixing with the Spanish conquerors to create a 'mestizo' dominant culture (Mallon, p. 292).

Given the need to take such local dialectics into account, one might propose an alternative to imposing a universal of indigenous to allowing each country to determine its own definitions of indigenous. Should the only legitimate indigenous peoples as international actors be those that have been 'validated' within the appropriate contexts of their local situation? Who though is doing the validating? It would be anathema to the very idea of the international indigenous campaign for *self-determination* to place the power of identification and recognition in the hands of the oppressor states.

As the discourse on indigenous rights now rests increasingly in the domain of the United Nations and other international bodies, the value and meaning of indigenous in this context plays an important role in the process of articulating indigenousness. The indigenous peoples of the First World first brought the issues of indigenous rights to the international arena, and therefore carried with them an understanding of indigenous from their local history and experience. As the movement gained strength and attention, peoples in other parts of the world also came to identify themselves as indigenous—mostly through its international meaning rather than transferring an already existing indigenous identity that had been previously determined in national, regional, and/or local settings.

### ***Combing Levels: Negotiation/Articulation***

As discussed above, the meaning of being indigenous is a very modern concept, only arising in the past few decades, and derives its meaning in opposition to the majority society and the institutions of the state (*Niezen*). Likewise indigenous peoples have found a new voice in international politics and have used that arena effectively to open a dialogue on their identity as peoples, and their aspirations and demands (who they are, and what they want). The current reality is that indigenousness is not something that is 'innate' that some cultures have and others do not. Nor is it something that can be determined solely by either the state

(including the world system of states) or even by indigenous peoples themselves (either as individual groups or as an international community). Indigenousness comes about through a process of articulation, or what I will call 'negotiation' between indigenous and state actors, within both local and international contexts.

Li borrows the model of Stuart Hall in describing the process of 'articulation' and uses it to demonstrate how minorities in Indonesia articulate their indigenousness both in relation to local structures and international discourse: "Activists draw upon the arguments, idioms, and images supplied by the international rights movement...[especially the claim that indigenous people derive ecologically sound livelihoods from their ancestral lands and possess forms of knowledge and wisdom which are unique and valuable.] But the discourse on indigenous people has not simply been imported. It has, rather, been infected and reworked as it has traveled."

So the idea that it would even be possible to leave the messy question of who is and who is not indigenous to the local level, and conveniently dodge the question in the international sphere, it is obvious from Li's example that the two levels are rather permeable. There is a constant process moving back and forth between the local level and the international level that is moving forward the concept of what it means to be an indigenous people.

I would like to suggest the term negotiation, instead of articulation, to describe this multi-faceted process by which groups begin to assert an indigenous identity, and how it can change the very meaning of indigenous. Articulation is too one-sided a term, which does not adequately describe the bilateral dialoguing nature by which groups develop their identities as indigenous. It will be obvious from the discussion above that indigenousness does not develop in a vacuum. The process is definitely one of defining an identity 'in opposition to' certain external forces or factors, as well as being positively shaped by other conditions. Negotiation is not meant to imply that these groups choose the indigenous label opportunistically, or even consciously. The term does however connote a back-and-forth process that moves towards mutual acceptance, agreement, and understanding between two (or more) actors, in a context of constraining factors, limitations, etc.

While original meaning of indigenous may have arisen in the North American context and found common ground in Australia and New Zealand, it has grown and adapted as it has been applied internationally over the previous decades. As more groups came to identify with the *spirit* of their cause and shared a sense of a parallel victimization by a dominant group, the meaning began to widen and shift to accommodate new groups and histories. Each brought with them from their local scene, different experiences of colonization and subjugation, different sets of key issues, and different conceptions of the meaning of indigenous based on their understanding of it in the context of the ethnic mix back home. As the indigenous rights movements began to move to the point where the rights would be codified in the International Declaration of Indigenous Rights, it became increasingly important to find a meaning that could fit all those for whom it was intended, but not open the door to all comers. It was at this point that the process stumbled, and where we continue to remain stalled. Today peoples in countries where the discourse of indigenousness has not yet emerged nationally are borrowing the meaning from its international usage and applying it to local circumstances. The cycle continues as the results of that articulation of

indigenusness at home carries back to the international level, when another indigenous nation arrives on the scene, perhaps challenging the accepted model.

## Conclusion

It is an oversimplification, which is not useful to the discipline of international relations (or other social sciences) or to the understanding of the issues involved at the local level to conceive of the world's indigenous peoples as a set of like units. While there is a great variety in the character of states in the world system, one can still make a strong case that all fit the basic nature of a state, possessing a people, a territory, and sovereignty. The desire of social scientists to organize the messy realities of human social organization, as well as the desire of indigenous groups to relate to states as a parallel set of like units, has resulted in a broadening and weakening of the meaning of indigenous to the point where its very usefulness as a concept becomes questionable. The risk in making the term 'indigenous people' such a broad concept is that it ceases to have any meaningful descriptive value, much like the muddying of concepts like 'security' and 'rights' within theories of international relations. Put simply, the application of a New World concept of indigenous to the rest of the world entails a broadening akin to enlarging the round hole to make it fit the square peg (and much else besides).

Nevertheless, the concept still has important value for the international community of indigenous peoples for which it provides a bond of solidarity and a legitimate platform to express both their aspirations and grievances. The actors involved indeed have much to share with, and learn from, one another, and there is enough commonality in the issues involved to provide a forum for mutual support. But just like any other exercise in comparative analysis, there are limits to how far the comparisons will stretch when the conceptual models being used are not an accurate reflection of the reality on the ground. The international indigenous movement must be wary that while the notion of indigenous peoples demands flexibility as to include groups where the concept of original occupation is impractical, ignoring the definitional dilemma will only open the door to opportunistic rights-seekers, and undermine the campaign for legitimate indigenous rights.

Even if we leave the definitional ambiguity open for the purposes of international dialogue between indigenous peoples, we still face the likelihood of disputes over legitimacy and representation. The real danger is that those marginalized peoples for whom the world's attention to indigenous issues was designed to help may be usurped by claims of indigenusness by other ethnic groups much closer to the core of mainstream and dominant societies within their countries. The more dominant groups, while presumably facing some questions to their legitimacy, may nevertheless be able to make use of their dominant position and greater resources to secure rights and recognition to the exclusion of a marginalized minority. If this seems like some fantasy, one only has to look at the claims by the Boers of South Africa and the case of the Lauje and the Lindu of Indonesia as described by Li (Li, p.150).

Within the scholarship, however, this level of analysis *should* be employed, rather than relying on gross simplifications at the international level. In doing so, the term indigenous should not be applied as if it were a kind of objective truth, as it so often is. Rather, authors

should pay attention to the combination of elements that come into play in how group indigenous identity comes to be formed- at both the local and international levels.

We must also be open to different textures of meaning between the local and international level. The factors influencing the identification of a people as indigenous at the international level are very different from that at those in the local context. It is not inconceivable that a particular group might find see themselves as indigenous in a local setting, but do not equate that with the issues at stake in the international indigenous movement. We must be prepared for the unexpected guest who arrives to dinner.