

Study Guide

World Conference on Indigenous Peoples

Protection of Indigenous Peoples from Extractive Industries

WCIP

Nella Cachay & Diego Encinas



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Dear Delegates,

Welcome to the World Conference on Indigenous Peoples of CarMUN 2019!

My name is Diego Encinas Yagui and it is my pleasure to be in charge of directing this committee during this great conference. Alongside Nella, Sebastián and Alessia, the committee co-director and assistant directors respectively, we would be looking forward to find a solution towards this topic that is affecting almost 5% of the international population by making negotiations and intense debating, but always taking into consideration diplomacy and innovative solutions. We are more than enthusiastic to see how you manage this topic that hasn't been addressed by the UN for many decades, taking advice about the role of industry in our technological generation.

I am currently 18 years old and at the time I am studying International Business at Universidad del Pacífico. I graduated last year from Carmelitas, having a large experience participating in Model United Nations but also having such the opportunity to be Secretary-General at Carmelitas Model United Nations 2018, last year's conference. Since 2016 I have been walking in the MUN path that until now has not ended. A path in which the existence of opportunities, knowledges, and anecdotes never stops appearing. The fact to exchange ideas, meet other delegates, and the most important: keep experiences that will last for your entire life, is basically the main perspective I have for MUN. I have participated in several national and international MUN conferences, in which I have learned a lot about the academic, but mostly about the cultures and traditions involved in the real situation that the world faces nowadays. Along the years, I have believed that teamwork is the key to achieve success and under that mentality we will manage this incredible committee in which I'm sure delegates will exceed our expectations.

We hope this study guide helps all of you during your preparation and research for this committee, but we encourage every single delegate to search about more information which could be helpful as the committee goes on. We have also added some useful links and bibliography at the end of the study guide in case it makes you difficult finding information about the topic. We expect you propose viable and amazing solutions always respecting each country's policies and sovereignty! If you have any question about the flow of debate or the topic do not doubt about sending us an email!

The best of lucks for the committee! See you at the conference!

Diego Encinas Yagui
WCIP Director
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Dear delegates,

It is my pleasure to welcome you to CarMUN 2019. My name is Nella Cachay and I, alongside Diego Encinas, will be your director during this conference. I graduated in 2017 from Carmelitas and I am currently studying Economics at Universidad del Pacífico. My MUN experience started in 2016 and I have taken part of several conferences including HMUN 2017 and the past editions of CARMUN. Also, I have had the opportunity to be assistant director and director of CARMUN's past editions. Some of my hobbies are dancing and playing basketball. The last one has taught me a lot about discipline, responsibility and teamwork, which are only some of the skills I hope you practice during this conference.

I really support the idea that MUN is the perfect experience where you can combine 3 things. First, the development of writing, speaking and negotiation skills which are very important tools for academic and professional development, as well as for daily life. Second, the power of being up to date of world wide issues, which provides you with a critical and assertive point of view by becoming aware of what is happening in the world and the reason why. And last, but not least, the opportunity of interacting with people, making important contacts for the future that may have different points of view, but are looking forward to the same cause, which is making of this a better place to live.

It is a pleasure for me and Diego to be your directors and to spend this weekend together with Sebastián and Alessia that will be the assistant directors. I hope you come ready to debate and inform ourselves, in order to bring up new, creative, efficient and viable solutions for the topic. Besides, we are really looking forward for applicable and well-studied solutions, remember that what society has built can hardly be changed so it requires a lot of effort and planification to make real and positive changes. Finally, I encourage you to make your country be heard and not to be shy to speak your mind. As I said before this is a very good experience that will open you a world full of possibilities.

Looking forward to know you,

Nella Lucía Cachay López
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WORLD CONFERENCE ON INDIGENOUS PEOPLE

Protection of Indigenous Peoples from Extracting Industries

“Mining is like a search-and-destroy mission...” - Stewart Udall

As time and humanity has been evolving, several industries have continually worked to colonize and expand their boundaries throughout the centuries. As new companies start to dominate the area, mostly with hard actions, the original inhabitants of the land, or the indigenous populations, are at risk of losing their unique heritage.



Figure 1:

First World Conference on Indigenous Peoples: Governments pledge action to advance indigenous rights. Retrieved from: UN News

There are more than 370 million indigenous people around the world according to the UN Permanent Forum on Indigenous Issues all over the world. Our generation, as it has been considered as one of the most ambitious, has brought several problems to this group of people affecting not only their lifestyles and environment, but their future. Extractive industries are increasing all around the world. In fact, that is a great point for the economic development of a country, but in the other hand it has threatened a large number of communities and homes of indigenous populations. Moreover, these activities have increased deforestation and made climate change affect many indigenous groups who

rely on the climate for food production and survival.

Indigenous populations all around the world are often socially discriminated against or perceived as less than human by the rest of the civilians because of their unique cultural traditions. But, this international issue has to stop. This is why the United Nations have been working with nations to look for a solution due to this problem that affect a lot of people. As a result of racism and the language barrier, often times indigenous groups are denied job opportunities, and medical care, which means they are not able to have a good quality of life.



Figure 2:

PRIVATE SECTOR STANDARDS AND SAFEGUARDS.

Retrieved from: ICCAa

Radiation of minerals, timber, farmland, oil and other highly desired natural resources are just some of the consequences that these indigenous peoples receive from these extractive industries without being able to do anything. Many times, the national government allows industries to develop an area, without taking into consideration indigenous groups living on it. The lack of political representation is apparent as some governments refuse to recognize the laws or codes of conduct of an indigenous group.



Figure 3:
First World Conference on Indigenous Peoples opens at UN headquarters. Retrieved from: Department of Economic and Social Affairs

I. HISTORY OF THE COMMITTEE:

It was December 21th, 2010 when the General Assembly decided to organize a high-level plenary meeting of the General Assembly, to be known as the World Conference on Indigenous Peoples by its Resolution 65/198. This committee was created to share and exchange perspectives about the realization of the rights of indigenous peoples, including pursuing the objectives of the United Nations Declaration on the Rights of Indigenous Peoples.

In Resolution 66/296, the General Assembly further decided that the World Conference on Indigenous Peoples would be held on 22 September 2014 and in the afternoon of 23 September 2014 in New York, and this happened successfully having a large variety of points of view, taking into consideration traditions and cultures of every single country.

To provide valuable input into the preparatory process for the World Conference, the President of the General Assembly organized on 17 and 18 June 2014 an informal interactive hearing with representatives of indigenous peoples and representatives of entities of the United Nations system, academic institutions, national human rights

institutions, parliamentarians, civil society and non-governmental organizations, in accordance with the relevant provisions of the present resolution.

This process of indigenous peoples' (IP's) participation in the World Conference on Indigenous Peoples was organized into seven regional caucuses, a women's caucus, and a youth caucus (nine total), with their respective representatives organized as the Global Coordinating Committee (GCG). Altogether, these groups represented a wide swath of IP's, all with similar though nonetheless diverse concerns and circumstances. The focus of my analysis will by default reflect a perspective as an English-speaking woman of North American indigenous descent.

The World Conference resulted in a concise, action-oriented outcome document prepared on the basis of inclusive and open informal consultations with Member States and indigenous peoples.¹



Figure 4:
Anglican Communion Office at the United Nations Newsletter. Retrieved from: United Nations Newsletter

II. HISTORY OF THE TOPIC:

Since the adoption of the UN Declaration on the Rights of Indigenous Peoples more than 10 years ago, the United Nations and Member States have made significant efforts to acknowledge and protect

¹ <https://undocs.org/en/A/69/L.1>

the rights of Indigenous Peoples. Notwithstanding their efforts, we see alarming trends that work against the principles of the Declaration.

All through history, as industries have been emerging, the people who live in these industries' lands have been constantly and increasingly affected. In recent decades, international extractive industry corporations have expanded their business in the southern hemisphere, with significant investments now being made in low and middle-income countries. Consequently, exploration and exploitation activities are advancing into remote and resource-rich lands, often inhabited by indigenous people. However, managing relationships with indigenous communities has been a new and challenging experience for both governments and extractive corporations.

Indigenous people possess a rich diversity of non-Western cultures and many have been involuntarily incorporated into nation state systems. Consequently, the relationship between indigenous people, national societies and development processes is highly complex. In many cases, post-colonial independence processes in Latin America, Africa and Asia have divided societies over ethnic lines, leaving indigenous communities in vulnerable social situations. Even today, many indigenous people are still excluded from the wider national society, such as in Argentina and Chile, where indigenous groups' territories are not yet fully recognized by the government.¹ Therefore, developing extractive projects on indigenous land is especially challenging in social terms, and frequently triggers social unrest.

Other examples of persistent conflicts over extractive industry projects include clashes in Nigeria between Shell Oil and the

Ogoni people, in Ecuador between the Shuar people and Exxon/Mobil, and in Brazil between Vale do Rio Doce and the Tucuma indigenous communities. A common challenge for governments is not only how to manage these conflicts, but more generally, how to integrate indigenous people into decision making processes as rightful stakeholders in historically conflictive situations. This Brief provides some examples of how government policy and private sector practices in Latin America have responded to this challenge with strategies to facilitate sustainable extractive projects on indigenous territory.



*Figure 5:
World Conference on Indigenous Peoples. Retrieved
from: Indian Law*

III. CURRENT SITUATION:

Environmental defenders, particularly indigenous peoples, are key supporters and allies of the 2030 Agenda and the environmental cause. Supporting their work is important, and violence against them is not only a human rights issue, but it diminishes the potential for achieving the Sustainable Development Goals.

In recent decades, indigenous people have begun to be recognized as full citizens in many Latin American countries. This gradual process has paved the way for more equitable relationships between the government, indigenous people and private companies

interested in undertaking extraction activities in indigenous territories. It is a tense process, but one which is laying the foundation for the development of more socially inclusive and sustainable extractive projects on indigenous land.

In particular, there are three policy packages – granting cultural, territorial and consultation rights respectively - that have successively strengthened recognition of indigenous rights in Latin America, thereby reducing social conflict over extractive activities.

A. Granting Cultural Rights:



Figure 6:

At UN, St. Vincent and Grenadines' Prime Minister eschews 'illiberal intolerance,' calls for global cooperation; multilateralism. Retrieved from: UN News

During the 1990s, several liberal governments granted cultural rights to indigenous people living within their national territories. In some cases, it was the first time that the government had officially acknowledged the existence of different cultures living side-by-side within national borders. This marked a change in the 'one nation, one culture' model that had been dominant throughout Latin America since political independence from colonial rule. In many Latin American countries, indigenous populations are now able to practice their cultures, languages and traditions openly and without fear of repression. As a result,

indigenous populations have become more visible within national societies, and possess full citizenship rights.

Governments have also ratified ILO Convention No. 169, an international law guaranteeing indigenous peoples' right to maintain their cultural and political integrity and to act according to their cultural practices. Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Honduras, Guatemala, Mexico, Paraguay and Peru have all ratified the Convention. However, indigenous people are not necessarily equipped to use the convention as a valid tool in defense of their rights. Recognizing this, the ILO implemented its Project to Promote ILO Policy on Indigenous and Tribal Peoples (PRO169), an initiative to promote awareness of the Convention and its effective application.

Finally, governments have promoted private extractive industry initiatives by facilitating a direct relationship between indigenous populations and corporations. In response, first multilateral agencies, and then large private corporations, began developing policies and specific protocols aimed at incorporating indigenous populations as rightful counterparts in global extractive business

B. Granting Land and Territorial Rights:

Granting cultural rights is an important first step, but in most cases, it has not been sufficient to ensure indigenous participation in decision making regarding extractive industry development, nor to prevent conflict. In general, indigenous people demand not only legal recognition, but also rights over what they consider to be their ancestral land. Accordingly, some Latin American governments have gradually begun to grant territorial rights to indigenous populations, acknowledging the existence of pre-nation

cultures that deserve to control their ancient territories.



Figure 7:

Nouvelles. Retrieved from: Assemblée des Premières Nations

Recognized indigenous territories are given different names in different countries. In each case, governments negotiated the legal package of rights that accompanied territorial recognition directly with indigenous people and advocacy groups. In general, granting territorial rights also involves the government conceding some degree of autonomous administrative, political and economic rule over indigenous land. Once rights are granted, indigenous people acquire a powerful tool with which to negotiate access to their territory directly with corporations and governments.

C. Indigenous Consultation Rights:

Indigenous people across the world are making demands to national governments and civil society to exercise their right to be consulted about extractive industry projects that will affect them.

Pressure from local indigenous groups has been complemented by changes to legal frameworks regarding consultation. ILO Convention 169 makes recommendations for government implementation and regulation of consultation processes. The right to prior consultation is enshrined in the Constitutions

of Argentina, Brazil, Colombia, Ecuador, Mexico, Peru, Panama and Venezuela. Peru has even enacted a law which requires the prior consultation of indigenous people for any planned extractive industry activity on their land. A similar law is also being debated in Bolivia's Congress.



Figure 8:

Andrés Manuel López Obrador
intrônisé président du Mexique. Retrieved
from: Le Monde

IV. PAST INTERNATIONAL ACTIONS:

In recent years, various international legal bodies have recognized the content of the rights of indigenous peoples. Some entities have developed standards to give content to and define the contours of these rights, particularly the right to collective ownership of indigenous lands and territories. It is each delegate's duty to investigate about which entities of their country have contributed towards finding a solution to this problem.

For instance, when indigenous peoples' rights "compete" with the interests of members of the extractive industry – such as when the right to own or use a piece of land and its resources is disputed between an indigenous people and a mining concession – legal rights on paper do not always translate into actual rights in practice.

Believe it or not, the issue of the rights of indigenous people dates back to the existence of the League of Nations. In Article 22 of the Covenant of the League of Nations the members accepted the duty of promoting

the well-being and development of the indigenous population. The League used the term “indigenous” to distinguish between colonial powers and people living under colonial domination. It is evident that times have changed, and our society is not the same as in that century, but: after the League of Nations dissolved, the United Nations continued to address the rights of indigenous people.



Figure 9:

'Indigenous Peoples Lives and Their Rights Increasingly at Risk'. Retrieved from: HUMAN WRONGS WATCH

When the United Nations was founded in 1945, the Charter of the United Nations included a “Declaration Regarding Non-Self-Governing Territories” which called upon member states to protect the culture of people living in these territories and help them develop self-governance. The people living in these territories included indigenous people totally, from the ones living in a first, second or third world countries. Some years passed and in 1981, the United Nations created the Working Group on Indigenous Populations of the Sub commission on Prevention of Discrimination and Protection of Minorities. This mentioned group allowed representatives of indigenous peoples to participate in drafting the declaration on the rights of indigenous peoples. This became a polemical decision so started an international debate.



Figure 10:

5 Ways To Celebrate Indigenous People's Day 2017.

Retrieved from: Bustle

After more than two decades of debate, exactly on September 13th, 2007, the United Nations General Assembly adopted the United Nations Declaration on the Rights of Indigenous Peoples, which is still used till nowadays. This UN Declaration emphasizes the “rights of indigenous peoples to maintain and strengthen their own institutions, cultures and traditions and to pursue their development in keeping with their own needs and aspirations. Although the Declaration is not a mandatory document, it aims to encourage countries to cooperate with indigenous peoples to solve issues such as decentralization and multicultural democratization.

In the Economic and Social Council Resolution 2000/22, the member states proposed creating an advisory body to the Economic and Social Council about the topic of indigenous populations due to the fact that many of this people were not having a good quality of life in spite of the document made before. It was exactly on July 28th, 2000 when The Permanent Forum on the Indigenous Issues was created to advise the UN and raise awareness of the issues of indigenous peoples.

The Commission on Human Rights decided to appoint a Special Rapporteur on the Rights of Indigenous Peoples in 2001. The Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of

Indigenous People has a mandate to have detailed information about these groups that are not receiving their rights as they should do. Moreover, there has been several NGOs wishing to help this indigenous groups: such as Native Planet, Cultural Survival, or Survival International which are trying to preserve world ethnic cultures.

V. POSSIBLE SOLUTIONS:

The United Nations wishes to find solutions as soon as possible to this issue. One of our main goal as a committee focused in indigenous people is improving their status so that they are equal to all other peoples in terms of political and social status, and after all: start being treated as human beings that they are.

In order to achieve such equality and protection from extractive industries, this committee should focus on addressing several topics.

For example, increasing social tolerance. By social media campaigns or proper education brought internationally by NGOs or the government, civilians may be aware about the necessities of indigenous populations and the reality of what they are living and dealing with these extractive industries. This idea could be implemented to teach civilians about the unique cultures of the indigenous population. By increasing awareness, the international community is able to bridge the gap between the dominant culture and indigenous culture in an area, city or a whole country.

Another possible solution in order for this populations to stop suffering because of the industry-mind of the ones in charge of these extractive activities could be having a political representation. Many indigenous groups are not allowed to exercise its own customs or codes of conducts within the

distinguished government. The international community must figure out how to allow these indigenous groups to have political representation, while at the same time respecting a nation's sovereignty and all the civilians.

And last, but not least, defining the term "indigenous". There's a huge debate within the definition of this term since every single country define them as a different group. Many countries argue over the definitive definition since because of the vague definition of "indigenous", there has not been programs that go direct to the ones that need help from the government and the United Nations. Indigenous people do not have a formal distinct definition, but there are several factors that qualify a group of people as indigenous. Such characteristics include a distinct language, culture and belief and historical continuity with pre-colonial times, as well as their traditions that they will never forget. There's a huge list of indigenous peoples living nowadays in our planet, and each delegate should look for the ones mostly affected and the ones living on the country they are representing.

We are talking about a group that represents about 5% of the global population, which means 5% of our planet is suffering and is not receiving enough help from governments.

VI. QARMAS:

For a Resolution to be accepted, it should discuss, at its minimum, the following issues:

1. How can the international community ask governments to accommodate the needs of indigenous peoples, without infringing on national sovereignty?
2. How can the term "indigenous" be defined for the international community? Would this help to develop certain programs just for this group of people?

3. Is it beneficial to have indigenous peoples speaking and giving their opinion within the United Nations? Why is it or not beneficial for the development of the international community?
4. How can indigenous peoples may benefit from partnerships with responsible, experienced and well-financed non-indigenous companies to develop and manage their own extractive enterprises?
5. How can governments “control” that measures taken by extractive industries are safe and does not affect directly to indigenous populations?
6. What international actions can be done to incorporate and respect indigenous communities if extractive industries are important for country's development?

VII. CONFERENCE PREPARATION:

A. Suggestions for further research:

Dear delegates, remember that as the committee goes on, it will be useful for all of you to have enough information in order to transmit the country's point of view and the viable solutions due to the issue. Here we attach some information about some topics that would be useful for all of you along further research. Best luck!

- Official United Nations Declaration on the Rights of Indigenous Peoples: http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/61/295
- Office of the UN High Commissioner for Human Rights: www.ohchr.org
- State of The World's Indigenous Peoples: http://www.un.org/esa/socdev/unpfii/documents/SOWIP_web.pdf

B. Position Papers:

Each delegation must turn in a position paper before the start of the conference to dencinasy@gmail.com. The purpose of a position paper is to give each delegation the chance to summarize its understanding of the issue at hand, to delineate a nation's stance on the issue, and to propose possible solutions that could be debated in committee. When writing your position papers, there is a simple format that you should stick to; it will make it easier for you to write and for us to read:

Header: This section should outline the delegate's or delegates' committee, topic, country, name and school.

First paragraph: Discussion of the problem at hand and of national policies towards the issue. Delegates should include a substantial amount of information and analysis on the problem at hand, its causes, implications and consequences at the global and, more importantly, the national level. This section should answer questions like what has your country done towards this issue? Have they implemented any laws, national initiatives, measures? Where they effective? How? It is important to show statistics because they show the reality of your country.

Second paragraph: Discussion of international past actions. This section should include the most relevant past actions taken by the UN, international organizations or other countries regarding the issue and whether their nation has supported them. Delegates should also analyze their successes and shortcomings. This section should answer questions like which resolutions have my country supported? How have they been crucial in the matter to be discussed?

Third paragraph: Discussion of solutions. This is the most critical part of the position paper and should be the lengthiest and most detailed. Delegates should focus on the most impactful solutions they will propose in committee and detail how they will be implemented and

funded. Delegates could also suggest how they would plan to build support for their solutions in committee. In this part, questions to be answered could be what should we propose? When and where? How is it going to work? Who will oversee the results?

When writing, make sure to use the third person if representing a nation, and aim to search for substantial amount of new information instead of repeating what is outlined in the background guide. Please note that delegates should reference all sources used in their position papers and that plagiarism will not be tolerated. All position papers should be written in Times New Roman 11-point font, single-spaced, and no more than one page in length.

VIII. BIBLIOGRAPHY:

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9. Indigenous Peoples' Rights and the Extractive Industry: Jurisprudence from the Inter-American System of Human Rights: http://www.gojil.eu/issues/51/51_article_alanis.pdf
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