

VICTORIA SHANGHAI ACADEMY MODEL UNITED NATIONS



15-16th April 2023

Human Rights Council Chair Report

Topic 2: Addressing the use of reparations as a means
of reconciliation for indigenous communities

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Message from the Chairs

Greetings delegates,

Welcome to the Human Rights Council! We are Juliette Deiss (Y11 from FIS) and Jasper Wong (Y11 from CDNIS), and we are delighted to be serving as your chairs in the 12th iteration of VSAMUN.

The Human Rights Council was founded in 2006, replacing the former United Nations Commission on Human Rights. Today, its role consists of strengthening the protection of human rights across the globe through responding to emergencies, improving education and addressing human rights violations and making recommendations on them.

We would like to remind delegates that this chair report merely serves as a starting point for you to conduct extensive research on your country's stance as well as other issues that may have not been discussed through this guide.

The Human Rights Council is largely considered a beginner committee in the MUN circuit, accommodating delegates who are new to MUN. Considering this, feel free to contact either of us with any questions you may have regarding topics, procedure and more.

Good luck with preparations and we look forward to seeing you all in April!

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Background Information

Indigenous communities have long been the victims of oppression and marginalisation. Ranging from genocides and massacres, to cultural suppression and microaggressions, indigenous people are widely regarded to have been subject to mass injustice. Beginning from the onset of colonialism, European settlers displaced, oppressed, and killed swathes of indigenous communities, taking their land and plundering their possessions. Throughout history, their culture has been subjected to constant whitewashing and forced assimilation to European society, and the systematic barriers denying them of opportunity are largely still in place today. These can manifest in policies such as denial to land rights, forced labour, and even blatant human rights abuses.

According to an Amnesty International report, there are upwards of 476 million Indigenous people around the world, spread across 90 countries. They represent 5% of the world's population. Despite this, they make up 15% of the world's extreme poor, as well as facing higher rates of landlessness and malnutrition than other groups. The causes for this can often be traced to their lack of formal recognition and identity, leading to lower access to public investment and social welfare. The constant displacement of these peoples and acquisition of their land has shaped them more and more into a minority group, subject to the whim of the majority in the nation. This further distances them from full participation in society, including in the economy, in legal proceedings, and politics as a whole. Thus, domestic change is almost guaranteed to fail given the lack of access to political capital that these communities have.

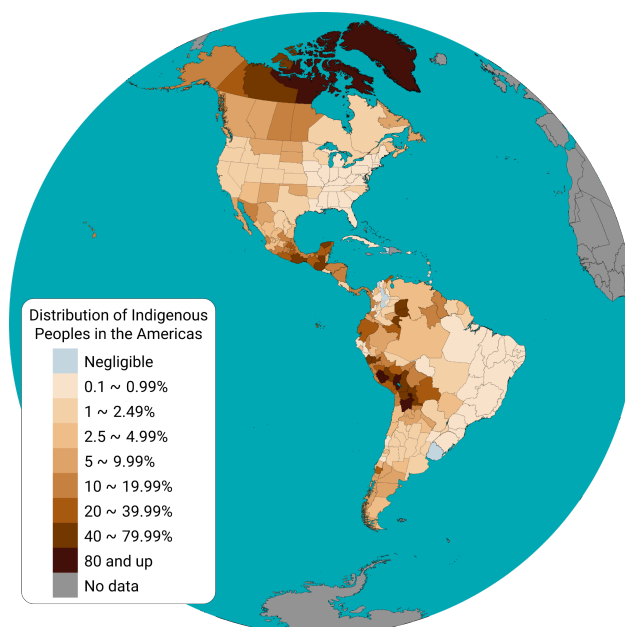


Figure 1: The distribution of Indigenous People in the Americas. Legend on the left refers to the percentage share of indigenous people within the population of the region.



Education and social mobility is at the forefront of indigenous activism. According to the World Bank, Indigenous peoples lack basic education, with the average indigenous adult male in Canada only being schooled to a Grade 5 level of proficiency. Given this, it is extremely unlikely for indigenous people to achieve any meaningful level of social mobility considering their educational level. As they are unable to pursue higher education, they are often relegated to remedial jobs, unable to fill higher level positions required to create change. Then, living off low wages afforded to them, they are unlikely to have large amounts of income to spend on their child's education, furthering the cycle of poverty and disabling them from creating societal change.

Indigenous people have also often suffered traumatic human rights abuses throughout history. As an example, Indigenous people in Canada suffered through the Residential School System, a network of government-funded schools and colleges aimed at the eradication of indigenous culture and practices. Indigenous people are also often subject to attacks and assaults in the modern day, where one indigenous person would be murdered in Columbia every four days in 2021, according to the National Commission on Indigenous Territories. Additionally, four in ten indigenous children under 15 years old were sexually abused by an adult. Generational trauma stemming from constant assaults, systemic oppression, and microaggressions persist to this day and remain a key issue to be discussed.



Key Terms

Key Term	Definition
Colony	A country or area under the full or partial political control of another country and occupied by settlers from that country.
Indigenous Peoples	Indigenous peoples are the earliest known inhabitants of an area, especially one that has been colonised by a now-dominant group. Amnesty International defines them under the following criteria: <ol style="list-style-type: none">1. They self-identify as Indigenous peoples2. There is a historical link with those who inhabited a country or region at the time when people of different cultures or ethnic origins arrived3. They have a strong link to territories and surrounding natural resources4. They have distinct social, economic or political systems5. They have a distinct language, culture and beliefs6. They are marginalised and discriminated against by the state7. They maintain and develop their ancestral environments and systems as distinct peoples
Discrimination	The unjust or prejudicial treatment of different categories of people, especially on the grounds of ethnicity, age, sex, or disability.
Marginalised Community	A community who have been historically excluded from involvement in cities, as well as those continuing to face other barriers to civic participation
Microaggressions	Commonplace daily verbal, behavioural or environmental slights, whether intentional or unintentional, that communicate hostile, derogatory, or negative attitudes toward stigmatised or culturally marginalised groups.
Reconciliation	The restoration of friendly relations.
Reparations	The action of making amends for a wrong has been done, by providing payment or other assistance to those who have been wronged.
Ethnic Cleansing	Ethnic cleansing is the systematic forced removal of



	ethnic, racial, and religious groups from a given area, with the intent of making a region ethnically homogeneous
Genocide	<p>The fulfilment of any or all of the conditions below:</p> <ol style="list-style-type: none">1. A mental element: the "intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such"; and2. A physical element, which includes the following five acts, enumerated exhaustively:3. Killing members of the group4. Causing serious bodily or mental harm to members of the group5. Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part6. Imposing measures intended to prevent births within the group7. Forcibly transferring children of the group to another group



Key Clashes

Poverty Traps and Systemic Barriers blocking Social Mobility

Despite decades of change and reform, it is still clear that systemic barriers do exist to raise the bar of entry towards indigenous peoples. Whether it be lower access to healthcare, education, social welfare, infrastructure, or other state apparatus', indigenous people generally receive less social security than other groups. According to estimates, indigenous people make less than 50 cents per dollar made by average men in the US. Their educational level is on average at Grade 5, severely handicapping their ability to gain meaningful employment and social mobility. The systemic barriers in place far supersede basic monetary amounts. Furthermore, such barriers are often entrenched in society, including in employment legislation, infrastructure investment mechanisms, educational systems, and more. Thus, the tackling of these issues is widely controversial.

Historical Reconciliation for Wrongs taken place

Another centrepiece of debate regarding indigenous rights would be the recompense for actions taken against them in the past. While it is generally accepted that a moral debt is owed to indigenous people, it is widely contested as to the extent to which this duty exists in a modern era. On one hand, some nations have accepted full responsibility for wrongs committed against indigenous peoples and made adequate restitution to affected parties, while others simply retain the denial of indigenous claims. The contention towards this issue lies in the distinction and connection between historical events and modern policy. The responsibility modern governments have for historical policies remains heavily disputed.

Mode of Compensations

Even in societies where the discrimination of Indigenous people is recognised, clashes still exist as to their resolution and recompensation. Proportionality is a key clash in this regard, where harms committed against a group should be compensated with an equivalent amount of benefit. Therein lies the contention of “what is equivalent to generational trauma?” Monetary compensation, the most straightforward method, is an often used method to reconcile for harms done by putting a monetary value on harm committed. However, it is often considered largely inadequate given the systemic barriers of entry indigenous people face. Others propose systemic change in favour of equity towards indigenous people, which has also equally been criticised for being an overreaction and disproportionate, even harmful to society.

Recognition and Statehood

The legal status of indigenous people is also often disputed. These people, despite being long-time inhabitants of ancestral lands, have been denied citizenship in multiple countries such as Panama and Costa Rica, while nations such as the US and Canada designate indigenous people under certain statuses, indicating their identity difference with the majority of the country. As such, another key contention is whether to integrate indigenous people under regular status, subject to equal treatment, or the preservation of special statuses,



sacrificing equality for equity, and being able to target initiatives towards the indigenous community.



Key Actors

Canada

One of the major case studies of indigenous oppression, Canada has a sizable indigenous population and a long history of denial of indigenous rights. With almost two million indigenous people, accounting for 5% of the total population, tribes such as the Inuit and Metis have long been residents of Canada, being estimated to have lived there for over 14,000 years.

Following the British colonisation of Canada, indigenous people were then subjected to a whole range of oppressive policies. Stemming from the Indian Act, passed by Canadian Parliament in 1876, generalised all indigenous people, including First Nations, Inuit, and Metis under an “Indian Status”, and barred their right to pursue education, participate in politics, or work in professional industries. Then, in the late 1870s, Canada pursued an aggressive strategy of the establishment of Residential Schools for Indigenous children, aimed at suppressing indigenous people and eradicating their culture. Attendance at Residential Schools was compulsory, and Indigenous people had no choice but to send their children to such institutes. As then-Prime Minister John Macdonald stated, its express objective was to “Kill the Indian in the Child”. Acts of violence and abuse were commonplace in this system, and students were prohibited from practising their cultural traditions or speaking their native languages. The Residential School System would continue until 1990’s.

Following calls to reform by Indigenous Activists, the Canadian government established the Royal Commission on Aboriginal People in 1991, responsible for investigating the relationship between Indigenous peoples and the Canadian government. In 1996, they published a 4000 page report detailing the abuses committed within residential schools. Following this report, the Canadian Government established the Indian Residential Schools Settlement Agreement, a compensation scheme for victims of residential schools. As of 2019, upwards of \$3 billion CAD has been compensated to ~30,000 victims for their abuses. In 2008, then-Prime Minister Steven Harper issued a formal apology to the Indigenous Community, apologising for the complicity of the Canadian government in abuses taken place. Also in 2008, the Truth and Reconciliation Commission of Canada was established, with the objective of documenting the harms of Residential Schools of Canada. When their final report was published in 2015, they stated the Residential School System was akin to a cultural genocide, and outlined 94 calls to action to reconcile for the indigenous community. Their calls to action will be further discussed under the Potential Solutions section of this Chair Report. Most notably, however, the Indian Act has not been repealed as of yet.



United States of America

The United States, like Canada, also possesses a significant Indigenous population. 3.7 Million indigenous people reside in the United States, constituting 1% of the US's population. Stemming from their Declaration of Independence of 1776, Native Americans were characterised as "merciless Indian savages", with white superiority entrenched in the early days of the USA. Throughout the American Westward Expansion, Native Americans were slaughtered in brutal atrocities for their land. Multiple wars between US soldiers and Native Tribes occurred throughout this period, such as the 1811 Tippecanoe War and the 1813 Creek War. In 1814, the US government decreed a \$50-100 USD bounty on all Indian Skulls surrendered, and \$5 for all Indian Scalps. Massacres continued until the Wounded Knee Creek Massacre of 1890. From 1930-1976, the US government pursued a sterilisation programme for Indigenous women, sterilising around 42% of Native American Women, or ~700,000 people. Often, these medical procedures were performed without the women's knowledge. In total, Settler violence and genocide caused the deaths of over 56 million Indigenous People from 1776-1876, according to estimates by the UCL. Furthermore, the Indian Removal Act of 1820 deprived the fundamental freedoms of Native Americans, expelling millions of Native Americans from their land, forcing them to walk several hundred miles to designated "Indian Reserves". Through the Indian Claims Commission, over 2 billion USD was paid in restitution to Native American Tribes, amounting to around 1,000 USD per individual. Despite this, the Westward Expansion was glorified by the American Government, celebrating it as a feat of economic development without mentioning the lives it cost to the Native population.

Now, America still possesses systematic problems with regard to indigenous people. In the US, Native Americans live on average 5.5 years less than the national average, have a 40% high school graduation rate, have an 85% poverty rate, and only have 66% of the native population registered as voters. To this day, the US has not admitted that the numerous atrocities amounted to genocide, and no official apology has been made.

United Kingdom and the former British Empire

The United Kingdom has long been criticised for their Indigenous Rights Abuses under the British Empire. Comprising almost 60 colonies in all corners of the globe, the British Empire had committed some level of abuse in almost all of these colonies. The Residential School Systems in Canada and the American-Indian Wars were both inspired under the British Colonial Rule, and colonists and British settlers were heavily involved in the massacres occurring in the Americas. The principle of "Kill the Indian, Save the Man" that the American government subscribed to was also first coined by British colonials. Furthermore, British administration of America and Canada before their respective independence also possessed extreme violence, including the desecrating of ancestral land, plunder of Indigenous property and land, as well as mass murders and rapes of Indigenous Americans.

In the case of India, the British Empire pursued a strategy of dividing up alliances and treaties between Indigenous Indian and Pakistani tribes, and sought to sow distrust between the two. This ultimately led to the Indo-Pakistani Split, where British colonists forcibly



divided India into two separate countries under religious administration, inciting heavy sectarian violence and expelling hundreds of indigenous tribes from their ancestral lands. Additionally, in the case of Australia, another former British Colony, British settlers and colonial authorities committed mass atrocities to the Australian Aboriginal Population, causing the death of upwards of 140,000 Aboriginal people. This was committed with the complicity or direct compliance of the colonial government of Australia under the British Crown. To this day, the United Kingdom has not apologised for any atrocities or abuses to indigenous people committed under the British Empire.

Brazil

A more contemporary case of indigenous oppression, former Brazil's policies in the Amazon Rainforest constituted significant harm to the indigenous population of Brazil. As an example, the Yanomami people populate the Amazon rainforest regions of northern Brazil. In the 1970's tin ore was found in ancestral Yanomami land, prompting a surge of miners in the region. While technically classified as "illegal", the Brazilian government turned a blind eye to mining operations in the region, for it brought economic benefit to Brazil. These miners brought infectious diseases to the region, causing more than 20% of the Yanomami population to die off from 1987-1993. In 1993, miners killed 16 members of the Yanomami tribe in Haximu, which would be later known as the Haximu Massacre. Later, the Supreme Court of Brazil would rule the Haximu Massacre as a genocide. As of 2018, a Brazilian court ordered Vale, a mining company operating in Yanomami, to pay restitution damages to the Yanomami tribe. Since then, Vale has apologised to the tribe and has paid 2.8 million USD in damages. Under incumbent President Lula, the Brazilian government has taken a proactive stance at driving illegal miners out of Yanomami, but an apology for government involvement during the 1980 gold rush has not been made.

Catholic Church

One of the most prominent actors against indigenous rights from the onset of colonialism, the Roman Catholic Church has been well-documented in participating in atrocities and genocides against indigenous people. Through the colonisation of the Americas, European colonists often included bishops and missionaries from the Catholic Church to convert indigenous members to Catholicism. The "Doctrine of Discovery" was a term coined by the Catholic Church, detailing the superiority of white Europeans to Indigenous peoples, and therefore justifying the "taming of savage beasts" during colonisation. Referring back to the situation of Residential Schools in Canada, it was the Catholic Church who operated these schools, and it was priests and nuns that would commit horrifying abuses to indigenous children under this system. While the Pope has apologised on multiple occasions for atrocities taken place in Catholic Residential Schools, he has stopped short of recognising it as a "genocide", nor having the Roman Catholic Church as a whole take responsibility instead of local churches and bishops.



Timeline

Time	Event
1776	America declares Independence from the British Empire. Native Americans are characterised as “savage beasts” under this declaration
1820	The United States passes the Indian Removal Act, expelling all Native Americans from their Ancestral Lands and compels them to live in designated “reserves” west of the Mississippi River
1862	The United States passed the Homestead Act, allowing American settlers to claim pieces of land in the West. This resulted in thousands of Native Americans having their land effectively stolen by settlers.
1876	Canada passes the Indian Act. All indigenous Canadians have to register for “Indian Status” and are prohibited to hold public office, qualify for professional degrees, or gain higher education.
1880s	Canada establishes the Residential School System, aimed at systematically eradicating Indigenous Culture.
1907	Abuses of children in Canadian Residential Schools are first documented by Canadian Physicist P.H. Bryce, detailing horrid sanitary conditions and a 25% death rate.
1947	The British Empire partitions India and Pakistan. Hindu and Muslim Indigenous tribes are uprooted from their ancestral lands, and are forced to move to the “right” side of the border
1960s	Canada turns away from the Residential School System, instead placing Indigenous Children in the Foster Care System
1970s	Iron Ore is found in Yanomami Land in Brazil, prompting a rush of miners in the area. The original Yanomami residents are then displaced as a result of mining operations on their land
1982	The UN established its first body on Indigenous People, the United Nations Working Group on Indigenous Populations (WGIP).
1991	The Royal Commission on Aboriginal People is established in Canada, the first investigatory committee on indigenous people.
1996	The RCAP publishes its final report, detailing abuses committed inside residential schools. As such, the Indian Residential Schools Settlement Agreement is established to compensate victims of Residential Schools
2001	The United Nations Special Rapporteur on the Rights of Indigenous People is created



2007	The United Nations affirms the Declaration on the Rights of Indigenous Peoples
2008	Then-Prime Minister of Canada, Steven Harper, apologises for the role Residential Schools played in the oppression of indigenous people. The Truth and Reconciliation Commission is created to further investigate Residential Schools.
2015	The final TRC Report is published. It defines the Residential School System as a cultural genocide and proposes 94 calls to action for reconciliation.



Past Actions by the Council

United Nations Working Group on Indigenous Populations

Established in 1982, this was the first UN body with the express objective of investigating Indigenous Peoples. It aimed to provide an opportunity for Indigenous Peoples to share their experiences and raise concerns about their status with the United Nations and international community. It was established as a sub-subsidiary commission, under the Economic and Social Council and Commission for Human Rights. Its culminating act was a resolution titled “Expert Mechanism on the Rights of Indigenous Peoples ”, which defined terms and principles related to Indigenous People, as well as set up an expert authority to examine issues related to Indigenous People. It did not, however, possess any legal binding effect, nor did it produce direct calls to action directed to specific situations. This working group was dissolved in 2007, following the publication of the EMRIP.

Special Rapporteur on the Rights of Indigenous Peoples

Established in 2001, this UN body was designed with the objective of making specific examinations into the situation of Indigenous Peoples around the world. It is an independent office of the United Nations, only under the jurisdiction of the Human Rights Council. It is also one of many Special Rapporteurs responsible for examining particular areas of Human Rights across the globe. The Special Rapporteur on the Rights of Indigenous Peoples proposes good practices, including laws, regarding the treatment of Indigenous Peoples, as well as addressing any cases of human rights abuses of Indigenous People. It provides regular reports to the HRC on the state of Indigenous People around the world to this day.

United Nations Declaration on the Rights of Indigenous People

Ratified in 2007, the UNDRIP is widely considered to be the culmination of the rights of Indigenous peoples around the world. Voted on in the UN General Assembly, the UNDRIP passed with 144 votes for and 4 votes against, namely Australia, Canada, New Zealand and the United States. This declaration outlines the baselines of the respect of Indigenous peoples and cultures, and protects their cultural integrity, self determination, and preservation of ancestral land. It, however, is not legally binding and can only be considered an authoritative statement, similar to the Universal Declaration of Human Rights.



Possible Solutions

Monetary Reparations

The monetary recompensation of Indigenous peoples entails the payment of victims of past abuses. This has been seen in a wide variety of contexts, including the Canadian Indian Residential Schools Settlement Agreement, where victims of residential schools would get paid according to the abuses they suffered, in Australia, where the Compensation for Detriment caused by Defective Administration Scheme compensates Aboriginal people who have suffered harms as a result of poor or discriminatory policy. However, critics argue at its inability to tackle systemic barriers while creating a false image of change and justice.

Domestic Legislative Reforms to status of Indigenous People

One of the Calls To Action by the Canadian TRC, many activists have called for reforms in legal codes that contribute to the repression of Indigenous People. As an example, the Indian Act in Canada still exists to this day, and its complement of discriminatory provisions are technically still law in Canada. Provisions such as those limiting Indigenous people from owning land, or those limiting the transfer of Indian Status are still in force and have been called into question. Furthermore, the very issue of equality versus equity is amongst this debate, where some argue that Indian Status, or other legal statuses segregating indigenous people from others, are necessary in achieving equitable measures towards indigenous people such as tax breaks or extended hunting seasons, while others argue the very segregation of the two is inherently discriminatory and must be repealed.

Enforcement of International Treaties on Indigenous People

Referring back to the UNDRIP, its largest criticism remains to be its lack of enforceability. Changing this norm remains a plausible solution to this issue. The implementation of operative clauses to the UNDRIP or other resolutions, affirming the rights of Indigenous people and compelling states to comply would provide a somewhat universal provision and protection of indigenous rights, as well as the total negation of individual state non-compliance. However, criticisms still stand as to the balance between the universal preservation of human rights versus the self-determination and sovereign jurisdiction over such issues, raising concerns about an overreaching United Nations.



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