



*Waves of Change*  
*CalsMUN 2024*

**Research Report**

**Forum:** Human Rights Council

**Issue:** Addressing the Challenges  
Faced by Indigenous Communities in  
Accessing and Protecting Their Water Rights

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## Introduction

On the 28<sup>th</sup> of July 2010, the United Nations (UN) General Assembly officially adopted resolution A/RES/64/292 which stated that a person's right to water and their access to it was a pre-requisite for many other human rights outlined by the Universal Declaration of Human Rights (UDHR). Some of these rights include the right to life, health, food, and adequate standard of living. This resolution officially recognised the human right to water and sanitation. Therefore, the name of the resolution is 'The Human Right to Water and Sanitation'. The Human right to water became further stressed when, on the 25<sup>th</sup> of September 2015, the United Nations official adopted "the 2030 agenda for sustainable development" in which Sustainable Development Goal (SDG) 6 was dedicated to people's access to "Clean Water and Sanitation".

Whilst these official recognitions of people and group's rights to clean and healthy water does enforce the rights of the people or groups, they offer limited protection to indigenous groups' right and ability to control and protect their water which is what the upcoming HRC debate hopes to resolve. The goal of this research report is to inform the delegates about the key information of this issue so that the debate at the Cals MUN 2024 conference within the forum of the HRC can be fruitful and provide a valid and mutually beneficial solution to this issue for all stakeholders.

## Definition of Key Terms

### Indigenous communities

Indigenous communities are original inhabitants of a region with distinct cultures, languages, and ties to their ancestral lands. They share a collective identity, possess unique traditional practices and knowledge, and often face historical challenges such as colonization. The term encompasses diverse groups worldwide, each with its own specific cultural identity and historical context.

### Colonialism

Colonialism is the dominance of one group or nation over another through territorial conquest, economic exploitation, cultural imposition, political control, and the establishment of social hierarchies. It involves the subjugation of a colonized people by a colonizing power, often resulting in lasting socio-economic, political, and cultural impacts.

### Water rights

Water rights are legal permissions defining who can use how much water for what purpose. They establish allocation priorities, operate within a legal framework, and aim to balance sustainability with users' needs, sometimes incorporating customary or indigenous rights.



## Water source

A water source is a location or natural feature, such as a river, lake, well, or aquifer, from which water can be extracted or obtained for various purposes, including drinking, agriculture, industry, cultural traditions, and other human activities.

## Land treaty

A land treaty is a formal agreement between sovereign entities or governments that outlines terms and conditions related to the use, ownership, or governance of a specific piece of land. These treaties can involve the transfer of land rights, delineation of boundaries, and establishment of conditions for coexistence or resource management. Land treaties are often used to address historical grievances, resolve conflicts, and define the rights and responsibilities of the parties involved.

## General Overview

The first wave of colonialism is generally considered to have begun in the 15<sup>th</sup> century with European colonialism of parts of the Americas. After which colonial expansion (almost entirely from European nations) spread globally to major regions of interest such as Asia and most famously Africa. Due to the oppressive nature of colonialism, the majority of Indigenous communities had the rights to their own water sources stripped from them and placed in the hands of the colonial governments. These indigenous communities often then never saw their rights returned to them from the governments even after the colonial rules ended during the period of mass decolonisation in the latter half of the 20<sup>th</sup> century.

An example where this has occurred was in the incident where the Māori (the major indigenous community of New Zealand) had the rights to the Waiwhetu Aquifer and the Hutt River taken from them in the 19<sup>th</sup> century so that the colonial government could establish agricultural and urban developments. This damaged the Māori groups in 3 main ways. Firstly, it took away many of the Māori's ability to simply access their traditional water sources, meaning they had to either find new, lower quality, ones or relocate themselves. Secondly, destructive practices practiced by the colonial government, such as deforestation and urbanisation, had adverse effects on the water quality and cleanliness, meaning that the Māori groups had find new water sources. Lastly, both the Hutt River and Waiwhetu Aquifer had major cultural significance to the Māori, having major, broad implications on the Māori society as a whole. Over time, the Māori groups resisted against the stripping of their water rights in multiple ways, most usually in unsuccessful land wars. However, the most successful example was the treaty of Waitangi which was signed to try and help protect the water rights of indigenous groups.



## Lasting Issue

Whilst the challenges faced by indigenous communities in accessing and protecting their water rights originated from the mass colonialism of the world in the 15<sup>th</sup>-20<sup>th</sup> centuries; it is still a lasting issue in many ex-colony nations where indigenous once, and in some cases still are, oppressed by the government.

One example of how this is a lasting issue was the construction of the Dakota access pipeline which was finished in 2016. The construction of the pipeline was heavily criticised and protested by the Standing Rock Sioux tribe as well as members of the public. This was because the pipeline greatly threatened the Standing Rock Sioux tribe. One of the major threats it posed, not only to the Standing Rock Sioux tribe but also all indigenous groups in America, was that the construction of the pipeline had gone against not only the ancient right held by the tribe; but also, the treaty rights that the tribe owned. However, the pipeline began construction without any communication at all to the tribe despite them rightfully owning the land in every regard. This greatly threatened all indigenous communities as it showed how the current treaties held little to no power. Another way that it damaged the Standing Rock Sioux tribe specifically was that it risked the quality of their main water source due to the fact that one oil spill could have irreversibly damaged the entire water source for the tribe.

## Major Parties Involved

### Indigenous communities

Indigenous communities, such as the Māori or Standing Rock Sioux tribe, hold the greatest stakes in this issue. This is because there is currently a complete lack of official legal protection that can properly help them protect and access their water rights. As such, the majority of debate time will be spent debating the impact that each individual clause will have on the Indigenous communities. It is also important that the resolution has a heavy focus on impacting the indigenous communities.

### Governments

Governments are the second largest stakeholders when debating this issue. This is because the governments could use this water land taken from the indigenous communities for their own economic benefit. This is especially crucial in ex-colony countries as they are commonly Less economically Developed Countries (LEDCs) / Lower Income Countries (LICs). Therefore, a sizable amount of debate time will be spent balancing between helping the indigenous communities and helping the development of these LEDCs/LICs.



## Timeline of Key Events

### 15th Century

Colonisation begins in the Americas.

### 15th-20th Century

Indigenous communities are oppressed, and their water rights are taken from them.

### 19th century

Incident with the Hutt River and Waiwhetu Aquifer.

### Late 20th Century

A mass wave of decolonisation begins, and many nations gain independence. However, the water rights generally pass on to the new governments, not back to the indigenous communities.

### 2016

Construction of the Dakota Access Pipeline shows that Indigenous communities still face major challenges when it comes to protecting and accessing their water rights.

## Previous Attempts to Resolve the Issue

### Independent treaties

Many indigenous communities signed treaties with either the colonial governments, or the ex-colony governments which gave away many concessions but allowed for some retentions and protection of their water rights. However, not many of these treaties were made in the first place and even less were honoured. Also, the treaties were often riddled with loopholes to be exploited by the governments and the indigenous communities had to make concessions.

## Possible Solutions

### United Nations organisation

For almost any solution to work, an organisation run and funded by the UN is necessary. This is because otherwise there is no way for the change to be monitored, altered, or enforced after a resolution is passed. Therefore it is imperative that a UN-run organisation is set up in a clause so that the resolution can be enacted in an effective and efficient manner.



## Protection

Delegates may wish to set up a way to protect the rights of indigenous communities through the UN (perhaps with the organisation mentioned previously). This can be done through taking people or parties that infringe upon the indigenous group's rights to court so that they may be criminally charged; or simply fine them.

## Return of rights

Delegates may also wish to return the rights to water sources that many indigenous communities lost during colonisation. Again this can be done through the UN, or individually by the nations themselves.

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