

# **Custodians of the Land: Indigenous Peoples, Human Rights and the Right to Cultural Integrity**

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# Why a Right to Cultural Integrity?

- Indigenous Peoples as Custodians of the Land
  1. The Property Rights Approach
  2. The 'Cultural Way of Life Approach'
  3. The 'Cultural Heritage Approach'
- Daes Study (1993-2000)
  - 'categorisation' of elements such as songs, stories, sciences or sacred sites, and this would imply giving different levels of protection to different elements of heritage.
  - Recognising the holistic cultural approach to land rights, the study raises issues regarding the inadequacy of the watertight legal regime of protection for cultural heritage.

# A Right to Cultural Integrity?

- Does not appear in any treaty (as such)
- Specific to indigenous peoples
- Slow jurisprudential emergence

# The IACHR Approach

- Awas Tingni: property rights covers 'social integrity' of community
- Saramaka: 'integrity of the land'
- A bundle of rights: right to property, the right to life, and right to health.

# The African Commission approach

- Endorois community claimed that access to their ancestral territory “in addition to securing subsistence and livelihood, is seen as sacred, being inextricably linked to the *cultural integrity* of the community and its traditional way of life.”
- Legally, the Endorois claimed that their eviction meant a violation of their right to practice their own religion (**Article 8**), their right to culture (**Article 17**) and their right to access natural resources (**Article 21**).
- Commission concluded on a violation to the right to cultural integrity

# Importance?

- Capture a missing international standard, a bridge between several rights
- Reflects a holistic approach to cultural rights
- So far: property rights, cultural rights, right to health, right to religious freedom, next step language rights?

# Related Issues

- Private sector?
  - FPIC implies conducting consultations/negotiations in indigenous languages
- Remedies/Reparations: cf. Saramaka implementation order
- Indigenous Languages in demarcation and mapping of lands