

Foreword

It is a pleasure to write the foreword to this thoughtful, well documented and challenging book. It fills a void that needed to be filled. The reluctance of African states to fully endorse the development of indigenous peoples' rights under international law, and their fears of its potential application in Africa, are well known, but the underlying reasons in light of African realities had not been systematically studied or explained, nor have sufficient efforts previously been made to explore consequences and possible alternatives.

The author has penetrated more deeply into these issues than any preceding author. Contributions by non-African authors on issues of indigenoussness in Africa have rarely managed to take into account the particular complexities of the African situations, which are significantly different from the situations in Europe, the Americas and to some extent also in the different regions of Asia. He has also made a major contribution by collecting and systematizing information about the existence of such communities, to a greater extent than any author of which I am familiar.

The author has combined a legal and a discursive analysis. This has required an investigation not only of international legal material, including a thorough examination of the practice of the African Commission on Human and Peoples' Rights, but also an extensive review of contributions by other disciplines and documentation and information from other sources. In light of the complexity of the issue under investigation he has combined these sources in a very fruitful way.

Personally, I have been and still am deeply committed to the cause of the indigenous peoples of this world—I have been so since I initiated and became the first Chairman of the United Nations Working Group on Indigenous Peoples. These peoples are very often severely marginalized, subjected to discrimination, poverty-stricken and often with little or no political influence. Above all, their rights to the land and natural resources by which they have traditionally made their living, has gradually been taken from them by more powerful or dynamic groups in society.

The widespread evolutionary theory of a development from simple to modern societies which for a century had dominated thinking, both Marxist and liberal,

are now increasingly challenged. Famous was the treatise of the American anthropologist Lewis Henry Morgan, entitled *Ancient Society*, which depicted the evolution of development of society from savagery to barbarism and then to civilisation. This line of thought had a profound impact both on Western and Marxist development thinking. Many minorities or indigenous peoples were considered to be 'primitive', in need of 'modernization'. This has sometimes led to enforced assimilation policies with very negative consequences for many of these groups.

The global warming and the greenhouse gas emissions have placed the question of 'modernization' in a new perspective. Deforestation and increased energy consumption based on fossil fuel is harmful to the environment. It is in this broader context that this important book should be read—and the questions raised by the author should be answered. Is the framework of indigenusness, now given a global expression through the adoption in 2007 of the United Nations Declaration on the Rights of Indigenous Peoples, a useful framework for the empowerment of the marginalized ethno-cultural communities that the author describes in this book?

While he endorses the need for empowerment of these communities, the author expresses his doubt about the usefulness of the indigenous framework to the African context, and he presents important arguments based on solid empirical material for his doubts. But he leaves it open to counterarguments, which undoubtedly will come. One does not have to agree with all of his conclusions, but it is in the tradition of good scholarship that those who hold different viewpoints have at least to rethink and refine the grounds on which they build.

Questions that need to be further discussed after studying this book are these: Cannot the indigenous framework serve these peoples, as it has in other parts of the world, provide otherwise powerless individuals an expression of a collective identity, giving them a sense that they are not alone but part of a collectivity, and that they are recognized by the international community to have right to exist as a community? Cannot the focus set out in international law on their right to the land and natural resources, on which they have made their living, protect them against high-handed deprivation of their land by African Governments? Can the framework of indigenous people serve in Africa, as it has served in many other countries including my own country Norway, to challenge the authority of the central government to decide on the use of a territory which these peoples used in the past? From where is the source of the right of the government to decide on the use of the lands used by these peoples, and are the decisions governments make based on the interest of those who live on and depend on that land?

And furthermore, if the use of the indigenous platform is not the best, then what is, more precisely, the best? Who decides what is in their long term interest? The government, where they do not have effective representation? Is it academia, where many different trends can be detected? Non-governmental organizations of various kinds? Or is it the representatives of those communities themselves, provided their representatives are truly representative? That is not always the

case—nor, of course, are governments always representative of all parts of their own people.

This is a book to study and to reflect on, while thinking of available alternatives for communities or peoples who need to be empowered—or better: who need to be given conditions to empower themselves.

Asbjørn Eide