SOME ASPECTS RELATED TO THE STATUS AND RIGHTS OF INDIGENOUS PEOPLES IN NIGERIA

SILVIA MARIA TABUȘCĂ

PhD, Faculty member, Romanian American University, School of Law, Bucharest, silvia.tabusca@profesor.rau.ro

Abstract:
The present paper, intended to be a book review, critically analyses some aspects related to the status and rights of indigenous peoples in Nigeria as they have been presented by Olugbenga Ademodi in his book, "The Rights and Status of Indigenous Peoples in Nigeria". It examines whether "indigenous peoples" truly exist in this country and whether they are entitled to all of the rights enjoyed by their counterparts all over the world.

The indigenous peoples' demands and the responses by modern nation-states comprise a number of different responses. There are conflicting claims between peoples claiming to be indigenous and the various governments where they reside. There is controversy over whether some groups are indigenous or whether they are simply minorities.

This valuable book bridges the gap between the international protection of indigenous peoples and, specifically, the indigenous peoples of Africa.

Key-words: human rights, indigenous people, minorities, international protection, Africa

The book, well organized resource written by an indigenous peoples study expert, Olugbenga Ademodi, explores the issue of whether Indigenous Peoples exist in Nigeria or not and whether they are entitled to any particular right. The author explores the various definitions propounded, the indigenous peoples’ rights, and the position of African governments, Nigerian social groups, Nigerian laws, as well as the applicability of indigenous rights in Nigeria.

The author did an excellent job of setting out the theme for a work that addressed dearth of research in a specialized area. The text provides an excellent overview of indigenous peoples’ issues on different continents and cited several cases to buttress the points. Historically, the position of African governments is that indigenous peoples do not exist on their territory, but the author through this book made a case to the contrary.

The book has a strong introduction and interesting conclusions without which the research would have look disjointed. The author touches on several questions that are explored more in-depth in the book. A couple of questions posed by the author are whether indigenous peoples exist in Nigeria?, why indigenous peoples definition

---

Contemporary legal institutions

propounded for western world is inapplicable in Africa, particularly Nigeria?, and why
African governments are reluctant to admit that indigenous peoples exists in their
domain? In the conclusion, the author provides all the possible answers to the questions
posed in the introduction.

The author starts with an analysis of international law relating to indigenous
peoples, as it has already arisen, and later applies it to Nigerian domestic law. To the
extent that international law of indigenous peoples exists, it is key to understand what
the term “indigenous peoples” under international law portends. So the author
appropriately, in chapter one, delves into the definition issues that have plagued the
indigenous peoples rights movement since its inception. He starts with Mr. Jose
Martinez Cobo’s, the UN’s first special rapporteur’s definition. The longtime
chairperson of the UN Working Group on Indigenous Populations, Mrs Erica-Irene
Daes’ “open” concept is then subjected to good critical analysis, as is the definition
offered in ILO Convention No. 169. It is helpful to also see the World Bank’s
definition dissected, as well as the efforts by Professor Wiessner and Professor
Kingsbury. Also, the overview of case law in Australia, Canada, South Africa, and
Botswana is particularly well done.

The selected bibliography is very helpful to readers seeking additional materials
on indigenous peoples’ issues discussed in the book. The book gave a detailed
information about Nigerian ethnic groups through a specific study of their identities.
The book later applied the definition propounded for African situation and determined
that indigenous peoples exists in Nigeria. All chapters are heavily noted for readers
looking for information for further research.

The book adds important insights to the international law literature regarding the
legal status of indigenous peoples in the context of Africa and the state of Nigeria. The
author fittingly puts the result of the study in international context. He suggested that
the Nigerian government enact customary international law rights to land and
autonomy of indigenous peoples. The definition for the African context as proposed by
the author is sound. He applies it very carefully to the ethnic group described before
backing up his conclusion that the Ogoni and the Koma constitutes indigenous peoples
in the eyes of his definition tailor-made for the African context.

Readers will learn a lot in this book about the peoples of Nigeria. Given the great
diversity, the stormy political history of Nigeria before colonial times and since
independence, its federal system of government, the form of federalism that it
practices, its experience of a major civil war (Biafra), the continued regional and
religious tensions, the continued wretched poverty of the oil producing regions of the
country, and its explosive (both literally and figuratively) political implications, it has
the ingredients of a very exciting study indeed. It is full of interesting and potentially
useful information.

One of the issues treated relates to the difficulty of defining indigenous peoples.
The second, not unrelated, theme is the fact that many African countries have difficulty
accepting the very concept of indigenous peoples in their midst or that they should be
given some special rights not available to others. Both of these issues are vital. The
latter, in particular, very much confirms one’s observations in the context of promoting
human rights in Africa. One will be puzzled by the fact that even the most militant
human rights NGOs in the DRC seemed to be completely indifferent to the terrible plight of the pygmies in their midst.

The book is rendered more interesting by the addition of sections on “Relations among the Ethnic Groups and the Nigerian State”; “Socioeconomic Relationship among Nigerian Ethnic Groups”; and “Nigeria Ethnic Groups and their Religions”

The author has carried out an impressive research and his work discloses and puts together a huge amount of very important information that is unknown to most people outside Nigeria.

The examination of relevant doctrine is quite good and comprehensive footnoting is certainly satisfactorily and the bibliography used is quite broad. All arguments are dealt with by relying on pertinent sources in an adequate way.

There are however few hitches observed in the book. The author would have done better by covering all existing domestic and international practice that would be pertinent to the subject to the subject matter of the book. Also, the discussion in the book is not as rigorous as it ought to be. In addition, the discussion of indigenous peoples’ rights under customary international law is mostly accurate, but could be tightened, in particular as regards the discussion of self-determination (external/internal) and autonomy.

The author appealed that Indigenous peoples need to be granted certain specific rights in light of their cultural specificity. It is only through exercise of these specific rights that they can be able to preserve their cultural identity and transmit it to future generations. For indigenous peoples to be adequately safeguarded, it is not compulsory that they be treated like the other communities living in the state territories, but they need to be given recognized access to some special rights that cannot be recognized to the other groups composing the society such as the communal possession of their traditional lands which are essential by reason of their cultural specificity. This is an essential need for indigenous peoples to remain as such, irrespective of whether or not they are marginalized or discriminated against.

The issue the author tackles is the “Rights and Status of Indigenous Peoples in Nigeria”.

It drew attention in the context of international law to see the development of not only treaty, but potentially, also customary international law creating a legal status and specific rights for the particular group/collective entity of indigenous peoples. As customary international law is built from the bottom up, i.e. from state practice, it is important to ascertain the laws and practices of countries specifically affected by a purported new rule of customary international law.

Nigeria is of particular interest as it is such a specially affected state, having, arguably, a number of indigenous peoples, autonomously defined under international law, living on its territory. As much as Nigeria is of interest in analyzing the formation of pertinent customary international law, it is also the addressee of international law norms that have already risen.

The lead-up to the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) is well described, even though in the overview of states commenting on their vote after the 2007 adoption of that instrument by the UN General
Assembly the states that voted or abstained received a disproportionately larger play than the states that supported it.

The book also addresses the specific concerns African governments have had regarding the granting of legal status to indigenous peoples in their midst. They have, at times, denied their existence, claiming all African peoples are indigenous, as they all have been subject to colonial subjugation. In contrast, the author points out the existence of the African Charter on Human and Peoples’ Rights and the practice of the African Commission and a specialized working group established thereunder, who developed more narrow concept of indigenous peoples. This chapter also addresses specific examples of such peoples.

In conclusion, the rights and status of indigenous peoples is well organized and provide the reader with a well written look into the plight of indigenous peoples in Africa, particularly in Nigeria. In the final analysis, one is grateful for all this information.

BIBLIOGRAPHY