

Indigenous Rights and Empowerment in Natural Resource Management and Decision Making as a Driver of Change in U.S. Forestry

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Abstract: Indigenous peoples have been fighting for recognition of their rights to land and resources for generations. They have also voiced clear opposition to activities that degrade natural resources, the environment, and tribal sovereignty. Over the past several decades, Indigenous empowerment and influence over natural resource management has increased to the point where they have the potential to influence major environmental issues like climate change, fossil fuel extraction and transport, timber harvesting, and water management. This paper explores these and several other key areas where Indigenous rights are being recognized and exercised in ways that could have important implications for natural resource management. Additionally, three scenarios are presented to represent possible futures with regard to natural resource management: increased collaboration and comanagement, increased litigation, and increased violence. A fourth scenario is also presented where all three scenarios occur simultaneously in different places and times throughout the world. Indigenous empowerment has the potential to become a major driver of change for natural resource management and policy.

KEY WORDS: Indigenous peoples, Indigenous rights, Indigenous empowerment, tribal sovereignty, comanagement

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Introduction

Since colonization, Indigenous and American Indian people have been increasingly exercising their sovereign rights to manage land and resources (Fenelon and Hall 2008, Jorgensen 2007, Mander and Tauli-Corpuz 2006, Wilkinson 2005). Indigenous sovereignty comes from its original control over lands, cultures, and communities and is not something that is given to Indigenous people by settler governments (Barker 2005, Bruyneel 2007). In the United States, tribal sovereignty is inherent and predates the U.S. Constitution (Wilkins and Lomawaima 2001). While Indigenous sovereignty is complicated by the history of colonialism, simply put, Indigenous communities had their own sovereign governments before European contact and they never relinquished their rights to govern themselves and their lands. Indigenous empowerment is the increasing political, economic, social, legal, environmental, and cultural standing of Indigenous communities across the globe. Indigenous empowerment is fostered by an increased recognition of tribal sovereignty and Indigenous cultures by national governments, court systems, and broader society. The roots of Indigenous empowerment are the Indigenous people, communities, and tribes reclaiming their sovereignty and exercising self-determination for their own goals and values.

Treaties are agreements signed between sovereign governments and support the concept of tribal sovereignty. American Indian treaties often ceded tribal lands to the U.S. Government but often reserved the rights to use that land in traditional ways for things like hunting, fishing, and gathering (Wilkins and Lomawaima 2001). While Indigenous treaties do not apply to every government, Indigenous rights to cultural values, land, resources, and customary use, as well as input into development projects, were officially

recognized by most of the countries in the world in the 2007 United Nations General Assembly's Declaration on the Rights of Indigenous Peoples (United Nations 2007). The United States voted "no" on the 2007 declaration but in 2010 affirmed its support (Echo-Hawk 2016). Since long before the United Nations declaration, American Indian tribes have fought for their rights to land, resources, and self-government. This paper will outline some of the current trends in Indigenous rights and demands, and how they may impact potential futures of forests and forest management.

Current Trends and Impacts

Indigenous empowerment is growing internationally around human rights, environmental protection, land tenure, and natural resource management. Several countries have recognized the "Rights of Mother Earth" and the importance of Indigenous perspectives on environmental protection. In 2010 Bolivia held an alternative climate change summit titled, "The World People's Summit on Climate Change and the Rights of Mother Earth" in response to perceived inaction on climate change at the United Nations (Postero 2013). The conference called upon the United Nations to develop, among other things, a declaration on the "Rights of Mother Earth" and to fully recognize the rights of Indigenous peoples. Indigenous Maori people in New Zealand successfully fought to have a river be recognized as having the same rights as people (Roy 2017). In a case that cited the New Zealand precedent, the Ganges River and a tributary were granted similar rights by courts in India (Safi 2017). It is unclear how these trends will continue.

Indigenous protests are also growing internationally. Indigenous groups have staged protests around environmental issues like energy extraction and timber harvesting. The

United Nations has reported that Indigenous peoples have the right to oppose energy extraction in their territories (Anaya 2015) and there are examples from throughout the world of this opposition including in South America (Vásquez 2014), Canada (Barker and Ross 2017), Africa (Watts 2016), and Russia and the Arctic, to name a few (Nuttall 2005). Sometimes, these protests turn violent and activists and states clash, as was the case in Bagua, Peru (Shepard 2009), Brazil, (Hanna et al. 2016) and other locations around the globe where Indigenous people resist losing control of their territories to mining, petroleum, and timber interests (Clark 2010, Downey et al. 2016, United Nations 2018). Indigenous protests often express opposition not just to immediate environmental degradation but also to long-term changes due to climate change and loss. Indigenous protests are often more complex than other environmental protests because they seek to strengthen cultures, strengthen Indigenous sovereignty, and ensure the rights of their future generations.

Like energy extraction, timber harvest is often a site of Indigenous activism and protest. In Canada, Anishinaabe people staged blockades to stop timber harvests they viewed as impacting their lands, cultures, and communities (Barker and Ross 2017, Willow 2012). In Bolivia, Indigenous communities waged a 600-km protest march to combat unsustainable logging and reclaim territorial control, which led to the enacting of one of the most progressive tropical forestry laws in the world (Dockry and Langston 2018). There is a growing recognition by the international community, scholars, and development practitioners that Indigenous peoples are the key to protecting tropical forests and biodiversity (Stevens 2014).

Another trend is the growing partnerships with Indigenous peoples around natural resource management. In the United States, Indigenous people are increasingly regarded by Federal and state forest managers as setting good

examples of how to manage forest lands for complex ecological and social change (Dockry and Hoagland 2017, Ross et al. 2016, Sessions et al. 2017). State and Federal managers are forming partnerships with Indigenous tribes to maintain forest products industries (Corrao and Andringa 2017), improve forest resilience and fire use (Lake et al. 2017), manage for culturally important species and landscapes (Garibaldi and Turner 2004, Ross et al. 2016), and engage in collaborative research (Johnson and Larsen 2013). Additionally, traditional ecological knowledge is viewed as important to understand ecological change across North America and beyond (Berkes 2012, Kimmerer 2013, Parlee and Caine 2018, Pierotti and Wildcat 2000).

Another area of growing Indigenous empowerment is through litigation and the courts. Tribes have been exerting their treaty-protected rights, water rights, rights to natural resources, rights to be consulted on state and Federal decisions, and rights to co-manage natural resources. Indigenous peoples in the United States have won major court cases that have recognized their rights to hunt, fish, and gather (among other things) in land they ceded by treaty. These cases have established Indigenous natural resource management institutions that work with Federal, state, and tribal governments to ensure treaty-protected resources are available for tribal members. There are multiple treaty groups in the Midwest, including the Great Lakes Indian Fish and Wildlife Commission (<https://www.glifwc.org/>), the 1854 Treaty Authority (<https://www.1854treatyauthority.org/>), and the Chippewa Ottawa Treaty Authority (<https://www.1836cora.org/>). There are also treaty authorities in the Pacific Northwest, such as the Northwest Indian Fisheries Commission (<https://nwifc.org/>) and the Columbia River Intertribal Fish Commission (<https://www.critfc.org/>). Litigation is ongoing around snowmaking on sacred peaks in Arizona (Bauer 2007), water rights (Krol 2017), co-management

agreements and public lands (Tanner 2017), and youth litigating for actions to combat climate change for future generations (<https://www.earthguardians.org/>).

Outside of court-mandated treaty rights protection, Federal agencies are beginning to form partnerships with Indigenous tribes to manage natural resources and landscapes that are important for tribal communities through government-to-government consultation and management of adjacent lands (see, for example, Lucero and Tamez 2017). In 2009, the U.S. President signed an executive order that compelled each Federal agency to develop a tribal consultation plan to work with Federally recognized tribes (Routel and Holth 2012). The USDA Forest Service, for example, has a coordinated tribal relations program that works at all levels of the agency to support tribal sovereignty, build partnerships for mutual benefit, ensure tribal treaty resources are available on National Forest System lands, and support government-to-government consultation (Catton 2016, USDA Forest Service 2009).

The American Indian and Indigenous protest movement in the United States has been growing stronger as tribes gain political, social, and economic power. Recent protests against the Dakota Access Pipeline gained international attention and brought together representatives from hundreds of Indigenous peoples to support the Standing Rock Sioux Tribe and the Oceti Sakowin's sovereignty, protect water resources, and take a stand against climate change (Dhillon and Estes 2016). Similar protests are beginning to form around another pipeline in Michigan (Kaufman and Allen 2018) and across the country (Nicholson 2018). At the same time, cities across the country are recognizing the power and rights of Indigenous people by, for example, changing Columbus Day to Indigenous Peoples Day. Tribes are taking their sovereignty further by working toward control of their own data (<https://usIndigenousdata.arizona.edu/>), resisting the genetic modification of traditional foods like wild rice (Anishinaabe

[Chippewa/Ojibwe] Nations of Minnesota 2011), and strengthening their communities through youth leadership programming. Tribal colleges and universities play a significant role in fostering Indigenous empowerment and building tribal nations by preparing future leaders, managers, entrepreneurs, health care professionals, teachers, and scientists (see <https://www.aihec.org/>).

A Look 20 Years Ahead

Over the next 20 years, it is likely that Indigenous rights will continue to influence natural resource management and government decisions. This could play out in several different ways. One scenario for Indigenous rights would be increased collaboration and comanagement to achieve mutual goals. While Federal and state relations with American Indian tribes are not always amicable (Catton 2016), this scenario would represent an expansion of current comanagement arrangements like the Anchor Forest program in the Pacific Northwest. The Anchor Forest program develops regional multijurisdictional (tribal, Federal, state, and private) agreements to manage forests for sustainable timber and biomass production while developing the processing infrastructure and capacity of the region (Corrao and Andringa 2017). Under this possible future scenario, increased comanagement would help support landscape-level natural resource management and strengthen ecological resilience to disturbance, climate change, and invasive species. Additionally, the effects of decreasing Federal and state budgets for natural resource management would be mitigated under this scenario because management would be a truly shared and collaborative endeavor. This collaborative management would have the strength of more staff and resources for sustainable management, but it would also bring Indigenous knowledge and western science together to solve landscape-level ecological problems.

Another possible future scenario that could result from Indigenous empowerment in natural resource management is the potential for increased litigation. Indigenous people have been fighting for their rights, land, cultures, and environmental protection for centuries. In the late 20th century, tribes began to gain political and economic power while continuing to fight for their rights—particularly their reserved treaty rights. These fights ultimately led to court cases that were, for the most part, upheld by tribal reserved treaty rights in places like the Great Lakes region and the Pacific Northwest (Wilkinson 2005). Currently there are several high-profile Indigenous protests and legal cases surrounding Indigenous treaty rights, water rights, and pipelines. Under this scenario, American Indian tribes begin to escalate their litigation to include most Federal natural resource decisions on issues such as transportation, oil and gas extraction, timber harvest, grazing, river management including dams, water, air, plants, and wildlife. The litigation could expand to state-level and private party litigation. The litigation will be costly for all parties and could paralyze natural resource management, create animosity, and inhibit collaborative management.

A very negative scenario could be the increase in violence associated with Indigenous protests, responses by states, and counterprotests. If Indigenous people observe a lack of respect for their rights and values in natural resource management decisions, protests could grow across the country, leading to more confrontations between protesters and state and Federal law enforcement officers. For example, issues such as transportation, oil and gas, the protests over the Dakota Access Pipeline in North Dakota attracted Indigenous people and their allies from throughout the country and world. While the protesters employed prayer, ceremony, and nonviolent civil disobedience, the backlash against them was often violent. Violence originating from Indigenous people could also begin to occur under this scenario.

Some Indigenous anarchists have argued that more aggressive and violent tactics are needed to ensure their voices are heard. These anarchists attribute the success of Mi'kmaq resistance to hydraulic fracturing (fracking) in the Canadian province of New Brunswick in 2013 to these tactics: militant action, sabotage, and roadblocks (CrimethInc.com 2017). Because Indigenous people see some of the current environmental trends—such as nonsustainable resource extraction, climate change, and pollution—as ultimate threats to their people, future generations, and lifeways, protests have the potential to continue to escalate violence from all sides. Additionally, these protests could become more widespread and eventually happen in urban areas and at multiple sites across the country and world.

Finally, there is also the possibility that the future will entail a combination of the three scenarios: collaboration and comanagement, increased litigation, and increased violence all happening at different places and times. This scenario in many ways is what is currently happening. There are excellent examples of collaborative resource management across the United States, Indigenous litigation is happening more and more frequently, and there are pockets of violence (most often violence toward Indigenous people) happening at protest sites. In this scenario, all of these things continue to increase, but they balance each other out to the point where none of the three scenarios dominates.

Implications for Forestry and the Forest Sector

Implications for forestry and the forest sector mirror the scenarios. There is a real opportunity for increased collaboration and partnership-building with Indigenous peoples. These partnerships could enhance landscape-level conservation, natural resource management, and Indigenous empowerment

if partnerships develop ethically, support Indigenous sovereignty, and engage Indigenous communities as equal partners. This may require continued structuring of natural resource institutions to work effectively with tribes through resources, staff, training, and consultation processes. It is possible that potential increases in litigation could decrease management options, delay projects, and degrade the collaborative relationships. Litigation could also diminish the ability to develop solutions to things like climate change, cross-boundary management, and landscape-level conservation. However, decreasing budgets for natural resource management institutions and the complex landscape-level issues like climate change, invasive species, and water management could foster increased partnerships and comanagement. Currently, wildland fire fighting is an example of collaborative management between Federal agencies, tribes, and states. Collaborative fire management could serve as a model for other areas of natural resource conservation, such as collaborative forest restoration, habitat improvement, riparian restoration, timber harvesting, and forest products.

Conclusions

Indigenous empowerment is growing in the United States and throughout the world. Indigenous sovereignty is the foundation for Indigenous empowerment. Indigenous people are demanding recognition of their sovereignty in natural resource management; control over their people, cultures, and territories; and a voice in major environmental issues like timber harvesting, energy development, mining, and climate change. Indigenous protest, litigation, and collaborative partnerships will continue to shape their relationships with national governments and natural resource management. Indigenous peoples are and will continue to be important drivers of change in forests and forestry in the United States and globally.

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