PERMANENT SOVEREIGNTY OVER NATURAL RESOURCES UNDER INTERNATIONAL LAW: AN ANALYSIS

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ABSTRACT

Nations hold complete authority over their natural assets and may choose to develop or conserve them. Under international law, countries enjoy lasting control over resources situated inside their borders. Any resource found within a state's territory belongs to its citizens collectively. This idea gained renewed focus during decolonisation. The concept of unbreakable national control over such assets has been clarified and reaffirmed in many actions by global bodies. Most provisions on lasting sovereignty appear in United Nations General Assembly resolutions, with some also present in treaties.

A core principle in international law allows formerly colonised countries to exercise full authority over resources inside their frontiers. Although early UN General Assembly resolutions on the subject were passed in the post-colonial period, growing opinion holds that this right should expand to let non-state groups and local populations determine ownership and usage of resources within a country. International law now recognises several concrete and methodical entitlements for aboriginal communities, comprising property rights over resources, participation in decisions plus FPIC for extraction projects, and shared benefits from commercial exploitation on their lands. This article contends that lasting national control over resources complements the claim of peoples to self direction and imposes clear limits on how property claims in resources are distributed. By granting indigenous groups substantive and procedural powers to manage resources, states have transferred part of their authority to non-state entities, thereby challenging the view that lasting sovereignty belongs solely to the state.

Keywords: Lasting control over natural resources; International law; Global agreements; Human rights; Indigenous communities; Self-determination.

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1. Introduction

The connection between humans and natural resources is a complex matter. On one side people feel a sense of dominance, on the other side they alter the physical and biological systems of the planet in both physical and biological ways. This bond has slowly changed over the years and humans started to wildly reshape the world around them to meet their personal desires and to suit their chosen lifestyle. As a result they created a lasting problem that proves equally harmful to the natural world and to humanity itself. This steady encroachment on the natural surroundings has built up a serious environmental risk in the area of biodiversity. This threat to biodiversity likewise creates a threat to the country's autonomy over its indigenous assets. The freedom to use its natural assets forms a vital human right that also makes up the autonomous right of the nation.[2]

The state is ensured with independence over its native wealth which exists within its territory. So the concept of the lasting dominion concerning its inherent reserves is the inherent privilege of the polity and its inhabitants and they cannot be deprived of it.[3]

The forced blending and stripping away of rights from native peoples in many regions of the globe has been a sorrowful chapter. Although the offspring of European settlers secured political freedom from their colonial masters, the original inhabitants of those former colonies faced ongoing bias and loss of their lands (internal colonialism). Because indigenous groups could not assert ownership in ways accepted by European legal traditions, it became simple to seize their hereditary territories and hand them over to colonial property holders. Tribes were confined to reserves on poor quality soil, yet even the claims of indigenous peoples to these areas have seldom been treated as untouchable, even in modern times.[4]

After independence, colonial-era pacts that countries like India had signed with European powers concerning land were mostly ignored. Until quite recently, the global community showed little interest in the entitlements of indigenous populations compared with those of religious or other minority groups. A 1926 British-American arbitral decision in the Cayuga

[2] Ashish Kaushik, "Permanent Sovereignty over Natural Resources of State under International Law: An Analysis" (2023) 17(3) *World Journal of Advanced Research and Reviews* 678 (2023).
[3] *Ibid.* 678.
[4] Ricardo Pereira and Orla Gough, "Permanent Sovereignty over Natural Resources in the 21st Century: Natural Resource Governance and the Right to Self-Determination of Indigenous Peoples under International Law" 14 *Melbourne Journal of International Law* 1, (2013).

Indians case declared that the Cayuga Nation and its members lacked standing under supranational doctrine.The ascent of universal human-rights standards has upended this position and advocated for an overhaul of traditional global jurisprudence so that persons and groups may likewise benefit from worldwide safeguards.[5]

State authority over tangible assets typically becomes contentious when local populations, including native groups, assert individual or communal claims to those assets. Such claims often clash with the aims of resource-extraction firms. Originally formulated in the post-colonial era to help developing nations secure dominion over their wealth, the doctrine of enduring sovereignty has since acquired wider relevance and can now support demands by non-state entities and communities for control and ownership of resources inside a country. Consequently, enduring sovereignty is not merely a post-colonial state privilege; it also serves as a tool to oppose government choices that permit foreign companies to explore and extract in regions offering scant local benefit. The orthodox Westphalian framework of absolute self-rule appears inadequate to capture the changing character of international law, which is steadily shifting from an exclusive focus on states to acknowledging the role of non-sovereign players in strategic choices and remedy-seeking.[6]

2. Evolution and Legal Foundations

The indigenous assets situated inside a sovereign country's borders are owned by its people as a collective. However, this idea gained fresh attention and careful review starting in the early 1950s, as newly independent nations moved through decolonization. These countries discovered that many colonial era contracts, which let foreign companies extract their minerals and other assets, were unjust, unbalanced, and harmful to the citizens who truly held title to those riches. In one of its first statements on the matter, the General Assembly avowed that the freedom to make use of a nation's wealth and resources is a basic part of its independence. The rule of lasting state control over such assets has been shaped and restated in several key General Assembly resolutions, the last of which is widely seen as a turning point.[7]

The process culminated in the formal enshrinement of enduring self-rule concerning native reserves in Clause 2 of the Declaration on Economic Prerogatives and Obligations of Nations,

[5] *Ibid.* 2-3.
[6] *Ibid.* 3-4.
[7] *Supra* note 1.

ratified by the Global Forum. In the wake of the decree establishing the Revamped Global Economic Framework (NIEO), the Council for Economic and Social Affairs (ECOSOC) and the Panel on Inherent Riches have tracked advancements in enduring jurisdiction.[8] Analysis of the foregoing resolution suggests that the historical trajectory of enduring sovereignty over resources may be divided into four phases.

The opening stage extended from 1952 through to the endorsement of 1962 resolution 1803 (XVII) and emphasized the populace's prerogative to utilize and cultivate their indigenous reserves as a fundamental facet of state autonomy. The second phase (1962–1973) witnessed the passage of the landmark resolution 1803 (XVII) and numerous supportive texts. The final epoch aligns with the sixth ad-hoc session's declaration from May 1974, giving rise to proclamation 3281 (XXIX) on 12 December 1974.[9] This provoked discussion about the rights articulated in resolution 1803 versus those in the later text. The fourth phase, beginning in 1974, saw important practical advances in the exercise of enduring sovereignty, particularly through the many investment treaties concluded in that period, all requiring careful examination.

Enduring autonomy over natural reserves has emerged as a cornerstone of global law, empowering post-colonial polities to exert full authority over assets within their territories. Although the first UN General Assembly resolutions on the matter date from the post-colonial era, there is increasing agreement that the right should extend further and could legitimize claims by Third-sector alliances and ethnic enclaves to tenurial liberties and exploitation permissions over domestic bounties inside a commonwealth.[10]

Protocols passed by the World Labor Agency and the Global Conclave recognize that autochthonous groups possess special foundational liberties, including proprietary powers regarding land and local bounties; still, no major ensuing supranational or regional charters explicitly name original inhabitants: the Cosmopolitan Proclamation of Human Worth, the bilateral human-dignity conventions(1966), the Global Treaty on Abolishing Discrimination, or the Continental European and Hemispheric American rights tools, among them the American

[8] International Covenant on Economic, Social and Cultural Rights, art 1; International Covenant on Civil and Political Rights, art 2.
[9] Introductory Note, Permanent Sovereignty over Natural Resources, United Nations, available at: https://legal.un.org/avl/ha/ga_1803/ga_1803.html(last visited visied 25/10/2025)
[10] *Ibid.*

Covenant on Civil.[11]

3. Interpretation and the Right to Dispose of Natural Assets

Almost all provisions on PSNR appear in UN General Assembly resolutions, with some also found in treaties. A common thread running through nearly all such clauses is their vulnerability to varied and sometimes conflicting readings. Given the ambiguity and lack of precision that often mark international statements on PSNR, a fair treatment of the topic demands a careful and precise construction of the drafters' intent.[12]

Several interpretive rules for treaties have been developed. The best-known is the Vienna Accord on Treaty Jurisprudence, broadly acknowledged as encapsulating conventional transnational norms on pact elucidation across most facets. The Vienna Accord gives primacy to textual meaning, the rationale being that recovering the original intent of drafters who can no longer be questioned is ordinarily impossible.[13]

Recourse may be had to preparatory works and drafters' intent to resolve ambiguity, to avoid absurdity arising from Literal analysis, or to validate a literal construction. Some authorities argue that ambiguity discovered only after examining preparatory materials is not a prerequisite under the Vienna Convention; rather, "the travaux préparatoires is examined simultaneously with the text and other materials." Regardless, it constitutes a settled custom in global jurisprudence "to resolve potentially troublesome questions of textual interpretation by reference to a treaty's 'object and purpose.'"[14]

Alternative constructional approaches resemble the Vienna framework. Mark Villiger lists at least five pre-Vienna processes that the International Law Commission considered when drafting Articles 31 and 32: textual (focusing on the treaty as a whole); subjective (relying on external evidence); contextual (placing the treaty in its setting); teleological (looking above the text to the treaty's aims); and sound (employing legal reasoning and abstraction). Treaty interpretation must also account for the wider setting of customary global regime.

[11] Economic and Social Council, Commission On Human Rights Report Of The Tenth Session (United Nations, 1954)
[12] *Ibid.*
[13] N. Schrijver, Sovereignty Over Natural Resources: Balancing Rights and Duties (1997).
[14] Vienna Convention on the Law of Treaties, art 31-33,May 23,1969, 1155 U.N.T.S. at 340, art. 31.

Also the right cases should interpret the text of the treaty and also treat the treaty and the end and design of the treaty. The interpretation of treaties must be conducted on the basis of the text of the treaty and in the proper cases the focus must be given to the aim and intent of the treaty.[15]

The entitlement of a polity or people to manage its wealth and resources within its jurisdiction ranks among the central tenets of enduring sovereignty. This appears in nearly every resolution related to the principle.[16]

In accord jurisprudence, the prerogative is most explicitly articulated in Article 1 of the 1966 ICCPR and Article 21 of the African Charter on Human and Peoples' Rights(1981). The 1992 Biodiversity Convention proclaims that polities hold autonomous entitlements over their biological assets and that jurisdiction to regulate access to genetic materials resides with national administrations, contingent upon local statutes.[17]

This doctrine appears across multiple further pacts. The 1994 Energy Charter Accord affirms states' self-rule and supreme claims regarding energy endowments, noting that each country may select which territorial segments are accessible for energy exploration and maturation. The Pact on Economic Prerogatives and Obligations of Nations declares that each realm holds absolute and timeless jurisdiction over its patrimony, territorial treasures, and commercial endeavors; the Proclamation Establishing a Revamped Global Economic Framework endorses the autonomous liberty to exploit, safeguard, and oversee local bounties; the Global Covenant on Economic, Social and Cultural Liberties features parallel phrasing.[18]

Arbitral tribunals have also upheld the freedom to manage resources. For instance, in the 1977 Texaco case concerning Libya's nationalisation of oil assets, the award stated: Area supremacy vests in the commonwealth absolute command to organise its territory and implement desired reforms. The autonomy to decide and establish an economic and social order is a privilege of sovereignty on which the state's constitutional authority depends. Global jurisprudence acknowledges a nation's entitlement to select its governance structure and constitutional

[15] *Ibid.*
[16] *Ibid.*
[17] Article 1 of 1966, ICCPR.
[18] Nico Schrijver, *Sovereignty over Natural Resources* 375, (Cambridge University Press, Cambridge, 1997)

blueprint freely.[19]

The Texaco ruling illustrates that the right to manage resources encompasses the authority to enter in binding global commitments with other polities, intergovernmental organisations or private foreign entities, provided the state acts freely and without coercion.[20]

Toward this objective, the individual umpire Dupuy posited a demarcation between the notions of enjoying and enacting supremacy: in his estimation, the precept of immutable independence can be perfectly harmonized with a state's negotiation of accords that place within its frontiers the activities of the fellow contracting party. It would be preferable not to judge contrarily, and to deem any pact to which the realm and a non-domestic private corporation are parties as inconsistent with the rule of jus cogens whenever it fears the exploitation of territorial treasures.

Sole arbitrator Dupuy distinguished between possessing sovereignty and exercising it: the principle of enduring sovereignty is fully compatible with a state concluding agreements that allow another party to operate within its borders. It would be untenable to hold that any contract Amid a commonwealth and an alien private undertaking for resource exploitation violates jus cogens.[21]

Parallel viewpoints manifested in the 1977 Liamco case, as sole arbiter Mahmassani pointed out that pronouncement 1803 (XVII) upheld commonwealths' supreme authority to govern their endowments and local bounties. The 1982 Aminoil award noted that state ownership of natural resources is a common constitutional feature.[22]

Jimenez de Arechaga explained that enduring sovereignty means the No territorial realm can ever surrender its statutory power to revise the allocation or mode of development regarding its local bounties, regardless of antecedent agreements.[23]

4. Perpetual Dominion regarding Native Reserves, Self-Rule, and Aboriginal Populations' Liberties

[19] *Texaco v. Libyan Arab Republic*, 17 ILM (1978).
[20] *Ibid.*
[21] *Ibid.*
[22] *Limaco v. Libya*, 20 ILM (1981).
[23] *Ibid.*

Global law has come to acknowledge additional material and procedural entitlements for aboriginal peoples, among them proprietary of resources, participation in policy making plus FPIC for projects affecting their areas, and benefit-sharing from resource exploitation.[24]

This article maintains that enduring national control over resources reinforces the claim of peoples to self direction under global law and sets meaningful boundaries on the allocation of asset property claims. By recognising material and procedural powers that enable traditional peoples to exercise control over resources, states have delegated sovereign authority to non-state actors, thereby undermining the idea that enduring sovereignty is exclusively a state prerogative.[25]

FPIC together with participation in policy making constitute key procedural safeguards. ILO Convention 169 wants governments to consult affected aboriginal communities before undertaking programmes that may impact them, such as resource extraction. The Declaration of United Nations on the Rights of Aboriginal Peoples mandates that FPIC be obtained before approving any project affecting indigenous lands or resources.[26]

International and regional forums provide avenues for indigenous claims to land and resources, encompassing the International Court of Justice, human-rights treaty bodies, the ILO supervisory mechanism, and district human-claims courts such as the Inter-American Court of Human Rights.[27]

Conclusion

The doctrine of enduring autonomy over natural assets strengthens the claim of peoples to self-determination in the international arena by establishing clear limits on the distribution of resource property rights. By creating material and procedural mechanisms that permits traditional peoples to assert ownership and control over resources, states have devolved portions of their sovereign authority to non-state entities, thus challenging the traditional view that enduring sovereignty resides solely with the state.

[24]Federico Lenzerini, ‘‘Sovereignty Revisited: International Law and Parallel Sovereignty of Indigenous Peoples’’ 42 *Texas International Law Journal* 155 (2006).
[25] *Ibid.*
[26] Kimberly Ann Elliott, ‘‘The ILO and Enforcement of Core Labor Standards’’ (International Economics Policy Brief No 00-6, Peterson Institute for International Economics (July 2000).
[27] *Ibid.*