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The expulsion of indigenous peoples from their home countries and instances of international breach of human rights have led to shortcomings in the level of protection that is considered desirable at national and international level

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ABSTRACT

Indigenous rights are broadly represented by the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) which was adopted on the 13th of September 2007. Despite this, there are seemingly no specific rights that look solely at the rights from expulsions and as such indigenous populations will often find themselves piecing together a range of provisions and cases to determine the extent of their rights (Assembly, 2007).

The aim of this research is to look specifically at the rights of indigenous populations who have faced expulsion from their home countries since such rights have not been coherently and completely covered in the UNDRIP declaration, thus leaving those peoples affected having to effectively find their way through the myriad of rules on a case by case basis.

The primary aim of this research is to suggest a framework of protections and approaches that should be considered best practice when dealing with such cases in an attempt to protect those peoples from such human rights violations. In order to achieve this primary and underlying aim, the paper will have several objectives.

Firstly three specific areas where issues have arisen will be considered, the Chagos Islands in the Indian Ocean, African countries (notably Kenya) and Latin America. By looking at the way in which disputes have arisen following attempts to expel indigenous peoples from their region and the ensuing cases including how they were, or were not, protected will provide a clear understanding of the backdrop to the issues that are being faced.

From this position of understanding, an analysis of the legal principles that parties are seeking to rely upon will be looked at which is likely to not only include the UNDRIP but also regional protections and comments that have been made by the United Nations in order to seek to deal with violations and the findings of the ICJ as well as other courts seeking to deal with matters on a regional basis (Beyani, 1995).

Thirdly the research will look towards potential solutions and developing frameworks that are supportive of the current structures but aim to deal with the weaknesses that have been identified at point one above. This latter objective is critical as this is the area that is novel and original to the research and adds to existing understanding in this complex area.

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