



**POLICY PAPER ON THE MATTER OF “LOCAL COMMUNITIES”
INUIT CIRCUMPOLAR COUNCIL
OCTOBER 12, 2020**

About Inuit Circumpolar Council

Inuit Circumpolar Council (ICC) is a non-governmental organization that works to advance the shared priorities of Inuit living throughout Inuit Nunaat through research, advocacy, and representation. Inuit Nunaat is the Inuit homeland encompassing Inuit communities in Chukotka, Alaska, Canada, and Greenland.

ICC’s mandate is determined by delegates to the organization’s quadrennial General Assembly. General Assembly delegates develop the organization’s mandate and appoint a Chair that serves a four-year term. To date, the Chairpersonship rotates between Alaska, Canada, and Greenland. Implementation of ICC’s mandate is led by the Chair, whose activities are supported by the organization’s offices in Anadyr, Anchorage, Ottawa, and Nuuk. ICC is governed by the present Executive Council, which is composed of the following members:

- Dalee Sambo Dorough, *ICC CHAIR*
- James Stotts, President, ICC Alaska, and *ICC VICE CHAIR*
- Vera Metcalf, Executive Council Member [Alaska]
- Monica Ell-Kanayuk, President, ICC Canada, and *ICC VICE CHAIR*
- Lisa Koperqualuk, Vice President, International Affairs for ICC Canada, and Executive Council Member [Canada]
- Hjalmar Dahl, President, ICC Greenland, and *ICC VICE CHAIR*
- Nuka Kleeman, Executive Council Member [Greenland]
- Liubov Taian, President, ICC Chukotka, and *ICC VICE CHAIR*
- Elena Kaminskaya, Executive Council Member [Chukotka]

Four separate boards of directors are responsible for the national or domestic activities of ICC Chukotka, ICC Alaska, ICC Canada, and ICC Greenland.

Introduction

Inuit and other Indigenous peoples have been grouped and conflated with “local communities” by States and intergovernmental organizations within multiple international conventions and other multilateral agreements. This trend is alarming due to the uncertain legal status of local communities as well as the unclear meaning of this term. Language advanced by States and intergovernmental organizations has tended to suggest a false equivalency of rights between Indigenous peoples and local communities, potentially undermining advances made by Inuit and other Indigenous peoples to secure recognition of our distinct status, rights, jurisdiction, and roles vis-à-vis all others.

In contrast to Inuit and other Indigenous peoples who are politically organized in the struggle to secure recognition of our distinct rights and status by the international community, local communities do not appear to be a self-organized constituency within any intergovernmental organization. Although State and intergovernmental organization motives for grouping and conflating Indigenous peoples with local communities is unclear, doing so diminishes the distinct rights and status of Inuit and other Indigenous peoples and may undermine the full and effective participation of Inuit in intergovernmental organizations and fora. The undermining of Inuit and other Indigenous rights by States and intergovernmental organizations is unacceptable, particularly at a time of surging international interest and activity in Inuit Nunaat that is unfolding against the backdrop of a global climate crisis and pandemic.

This position paper provides background information about the term “local communities” and its usage in international conventions and multilateral agreements. It provides the rationale for Inuit opposition to being grouped and conflated with local communities, and advances recommendations that States and intergovernmental organizations should implement to prevent further erosion of the interrelated, interdependent and indivisible rights of Inuit and other Indigenous peoples.

About Inuit

Inuit are one people whose territory, Inuit Nunaat, encompasses areas of Chukotka (Russian Far East), Arctic Alaska, Inuit Nunangat (Arctic Canada, including the Inuvialuit Settlement Region, Nunavut, Nunavik, and Nunatsiavut), and Kalaallit Nunaat (Greenland). Inuit Nunaat predates the Russian Federation, U.S., Canada, and Kingdom of Denmark and is a distinct geographic, cultural, and political region that includes major marine areas, inland waters and Arctic and offshore areas, as well as ice-covered lands and waters.

Inuit are an Indigenous people. Our language, culture, and way of life are tied to the lands, waters, and ice of Inuit Nunaat and the harvesting activities that sustain our people and communities. Inuit have entered into a variety of governance arrangements with states and sub-national governments throughout Inuit Nunaat that are premised on State recognition of our collective rights, including constitutional recognition, Inuit land claims agreements, self-government arrangements, and Inuit-specific policy initiatives advanced in partnership with States and sub-national governments. Areas of Inuit jurisdiction continue to evolve throughout Inuit Nunaat.

Background

ICC has worked to secure recognition and implementation of Indigenous peoples’ rights by States, sub-national governments, as well as by intergovernmental organizations. ICC was founded in 1977 to

strengthen collective Inuit advocacy, secure affirmation of Inuit rights, and advance Inuit priorities and self-determination. In order to more effectively advance Inuit priorities, ICC has worked in partnership with other Indigenous peoples and their representative organizations through a variety of domestic and international fora, as well as through intergovernmental organizations such as the U.N. Convention on Biodiversity (CBD), U.N. Framework Convention on Climate Change (UNFCCC), and U.N. Permanent Forum on Indigenous Issues. For example, ICC was pivotal in the development of the *UN Declaration on the Rights of Indigenous Peoples* as well as in securing participation by Inuit and other Indigenous peoples in the Arctic Council.

ICC leadership was engaged in the UN Conference on Environment and Development, where this language first appeared largely within the context of international environmental law. The element of grassroots participation is central to environmental law, often resulting in the pitting of Indigenous peoples' rights and claims to land and decision-making in favor of "local" groups including farmers, environmentalists, etc. Similar to other attempts to lump Indigenous peoples into other collective terms is problematic because the term "local" does not account for Indigenous peoples who have been removed from their lands and discounts the particular circumstances of Inuit. Among numerous examples, the creation of major national parks in Alaska without accommodating Inuit use, occupancy, status, rights, and role is a dramatic one in the context of millions of acres of land.

Another overarching dynamic was the standard-setting exercise to draft a Declaration on the Rights of Indigenous Peoples, where the use of the term "Indigenous peoples" had not been resolved. Subsequently, the term "local communities" has then seeped out into related areas such as the World Heritage Convention. Significantly, this time frame aligns with the finalization of the draft Declaration by the UN Working Group on Indigenous *Populations* [WGIP].

However, Inuit and other Indigenous peoples continue to face resistance from States as well as intergovernmental organizations that overlook Indigenous peoples or actively work to diminish the distinct rights and status of Indigenous peoples, as well as our full and effective participation in conventions and intergovernmental fora whose activities impact our rights and way of life. Since 1992, Indigenous peoples have been grouped and conflated with "local communities" by States and intergovernmental organizations within multiple international conventions and other multilateral agreements.

The grouping and conflating of Indigenous peoples with "local communities" in conventions and multilateral agreements has resulted in the slow and incremental erosion of the interrelated, interdependent and indivisible rights of Indigenous peoples, and diminishes the effectiveness and impacts of Inuit advocacy and representation, as well as the effectiveness and impacts of the conventions and agreements that employ such language. These actions are part of an alarming trend in the behaviour of States to diminish the standards in the U.N. Declaration, including actions to devalue Indigenous peoples' status, rights and participation rather than upholding their responsibilities and uplifting the status, rights and participation of Indigenous peoples.¹

¹ Edward John and Dalee Sambo Dorrough, "Note by the Secretariat: Study on how States exploit weak procedural rules in international organizations to devalue the United Nations Declaration on the Rights of Indigenous Peoples and other international human rights law, United Nations Economic and Social Council, 19 February 2016, E/C.19/2016/4, p. 2.

Indigenous peoples were grouped with “local communities” for the first time in three documents developed for the 1992 U.N. Conference on Environment and Development. Indigenous peoples are grouped with local communities in the *Rio Declaration on Environment and Development, Agenda 21*, and the Convention on Biological Diversity (CBD). Principle 22 of the *Rio Declaration* conflates Indigenous peoples with local communities, and suggests that Indigenous communities are a variety of local community:

Indigenous people and their communities and other local communities have a vital role in environmental management and development because of their knowledge and traditional practices. States should recognize and duly support their identity, culture and interests and enable their effective participation in the achievement of sustainable development.²

Agenda 21 similarly references “indigenous groups and local communities,” “indigenous people and local communities,” as well as “indigenous people and their communities and other local communities”.³

The preamble of the CBD recognizes the “close and traditional dependence of many indigenous and local communities embodying traditional lifestyles on biological resources.” Article 8(j) of the treaty enjoins each member State,

Subject to its national legislation, respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices⁴

The grouping of Indigenous peoples with local communities in these documents created a precedent that has plagued Indigenous peoples for nearly three decades, with similar language being advanced by States for inclusion in subsequent multilateral agreements. The phrasing cited above suggests that Indigenous peoples and local communities are either the same, or that local communities share the distinct rights and status of Indigenous peoples.

Indigenous peoples and local communities have been grouped together and conflated in subsequent multilateral agreements. The 2015 *Paris Agreement* conflates Indigenous peoples and local communities within the Agreement as well as in Decision 1/CP.21, the resolution enabling the adoption of the Agreement. The Agreement’s preamble calls on States to agree to uphold and promote cooperation by all Parties and non-Party stakeholders, including “local communities and indigenous peoples”. Article 7(5) of the Agreement calls on parties to advance climate adaptation measures by taking into account the best available science and, “as appropriate, traditional knowledge, knowledge of indigenous peoples

² *Report of the United Nations Conference on Environment and Development*, United Nations General Assembly, 12 August 1992, A/CONF.151/26 (Vol. I).

³ *Agenda 21*, United Nations Sustainable Development, United Nations Conference on Environment & Development, 3 to 14 June 1992.

⁴ *Convention on Biological Diversity*, United Nations, 1992.

and local knowledge systems, with a view to integrating adaptation into relevant socioeconomic and environmental policies and actions, where appropriate.”⁵

Section 135 of Decision 1/CP.21 recognizes the need to strengthen knowledge, technologies, practices and efforts of local communities and Indigenous peoples related to addressing and responding to climate change, and establishes a platform for the exchange of relevant experiences and sharing of best practices.⁶ The Local Communities and Indigenous Peoples Platform was operationalized in 2019. ICC worked in partnership with other Indigenous peoples to define the Platform’s governance structure, objectives, and functions in order to help ensure its effectiveness in advancing Inuit priorities within the UNFCCC.

Indigenous peoples have been grouped with local communities in other multilateral agreements. Indigenous peoples and local communities are conflated in the 2018 *Agreement to Prevent Unregulated High Seas Fisheries in the Central Arctic Ocean*. Article 4 of the Agreement commits parties to establishing a Joint Program of Scientific Research and Monitoring. Article 4(4) commits parties to ensuring that the Joint Program “takes into account the work of relevant scientific and technical organizations, bodies and programs, as well as indigenous and local knowledge.”⁷

The challenges and confusion that arise from being grouped and conflated with local communities have caused Indigenous peoples to negotiate language clarifying our distinct rights and status. For example, ICC worked with other members of the Facilitative Working Group of the Local Communities and Indigenous Peoples Platform to negotiate language in relation to the scope of the working group’s activities around Indigenous knowledge, and to clarify that such activities can only encompass Indigenous knowledge until such time that representatives of local communities join the working group.

International organizations’ outdated rules of procedure contribute to the inclusion of such language in multilateral agreements, the marginalization of Indigenous peoples, and the inclusion of views in multilateral agreements that are inconsistent with the U.N. Charter, the *UN Declaration on the Rights of Indigenous Peoples*, and other international conventions. For example, the UNFCCC employs strict rules of procedure to ensure a “party-driven process” that marginalizes Indigenous peoples, despite the disproportionate impacts of climate change on Indigenous peoples. Such a process severely limits opportunities for interaction between parties and Indigenous peoples because Indigenous peoples do not have the right to speak during formal text-based negotiations and may not even observe them. The marginalization of Indigenous peoples within the UNFCCC in particular contributes to States proposing and agreeing to discriminatory or other substandard provisions. As a consequence, Paris Agreement negotiations included debate about use of the term “peoples” as well as the collective rights of peoples, despite the practice for more than 35 years of addressing Indigenous peoples’ collective rights within

⁵ *Paris Agreement*, United Nations, 2015.

⁶ *Report of the Conference of the Parties on its twenty-first session, held in Paris from 30 November to 13 December 2015*, United Nations Framework Convention on Climate Change, 29 January 2016, sec. 135, p. 19, FCCC/CP/2015/10/Add.1.

⁷ *Agreement to Prevent Unregulated High Seas Fisheries in the Central Arctic Ocean*, 2018.

the international human rights system.⁸ The Paris Agreement ultimately included language in its preamble framing States' human rights obligations as discretionary.⁹

It is unacceptable that States and intergovernmental organizations continue to group and conflate Indigenous peoples, rights, knowledge, and communities with local communities, even as the legal status of local communities and the meaning of this term remain uncertain. Local communities are not a self-organized constituency, yet they could become even further entrenched within international organizations. Contrary to the experiences of Inuit and other Indigenous peoples who have struggled to secure recognition and implementation of our distinct and inherent human rights by States and U.N. agencies, States and U.N. agencies themselves, rather than a self-organized constituency of local communities, appear to evoke the rights of local communities.

Indigenous peoples should not be grouped or conflated with "local communities" for four main reasons:

1. **Grouping Indigenous peoples with local communities diminishes the distinct rights and status of Indigenous peoples:** The legal status of Indigenous peoples is premised on our collective right to self-determination as peoples. Indigenous peoples are therefore distinct from minority populations or other civil society stakeholders. Inuit have worked alongside other Indigenous peoples to secure recognition of our distinct rights and legal status from States and inter-governmental organizations as a means of addressing the specific circumstances facing Inuit. Grouping and conflating Inuit and other Indigenous peoples with local communities suggests a false equivalency of rights between Indigenous peoples and local communities.
2. **Grouping Indigenous peoples with local communities is incongruous with the recognition of Inuit rights in domestic law and policy:** With the exception of the 2018 *UN Declaration on the Rights of Peasants and Other People Working in Rural Areas* in 2018, "local communities" while still undefined, have been specifically referred in the context of "peasants and other people working in rural areas, including small-scale fishers and fish workers, pastoralists, foresters and other local communities". However, States have recognized the distinct rights and status of Inuit in domestic law and policy, including through constitutional recognition of Inuit rights, national and sub-national legislation, and Inuit land claims agreements. Local communities by contrast are neither a recognized minority population nor stakeholder group in the jurisdictions where Inuit live. And, the grouping of Indigenous peoples with local communities remains

⁸ Edward John and Dalee Sambo Dorrough, "Note by the Secretariat: Study on how States exploit weak procedural rules in international organizations to devalue the United Nations Declaration on the Rights of Indigenous Peoples and other international human rights law, United Nations Economic and Social Council, 19 February 2016, E/C.19/2016/4, p. 14.

⁹ Paragraph 11 of the preamble reads as follows with emphasis added: "*Acknowledging* that climate change is a common concern of humankind, Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity,"

incongruous with the extensive domestic or national law, policy, and jurisprudence on the distinct status, rights, and role of Inuit [and other Indigenous peoples].

3. **The legal status of local communities and the meaning of this term is uncertain:** The term “local communities” has not been defined by States or inter-governmental organizations, and local communities are not a self-organized constituency within any intergovernmental organization. The opaqueness of the term suggests that it may encompass any or all individuals or groups of stakeholders, irrespective of their legal, political, or cultural orientation vis-à-vis Indigenous peoples. Grouping Indigenous peoples with local communities therefore has the potential to undermine the effectiveness and impact of Inuit advocacy, the advancement of our priorities, as well as the equitable participation of Inuit in intergovernmental fora and organizations where our rights are implicated.
4. **Local communities are likely already represented by States:** The distinct rights and status of Indigenous peoples is premised on our inherent and collective rights to our lands, territories, and resources, as well as our right to self-determination as peoples, which is the prerequisite to the exercise and enjoyment of all our rights. Indeed, Inuit have insisted on participating in the development of international conventions and multilateral agreements based on our right to self-determination as a people, rather than as civil society stakeholders. The collective nature of Indigenous peoples’ human rights is among the fundamental differences between Indigenous peoples and various other stakeholders that are already represented by States. Grouping Indigenous peoples and local communities therefore likely provides a platform to a constituency that is already represented by States.

Recommendations

In order to remedy the challenges created by grouping and conflating Indigenous peoples with local communities, as well as to recognize, respect, and promote the rights of Indigenous peoples, States and intergovernmental organizations should implement the following recommendations:

States and intergovernmental organizations and agencies should recognize the distinct rights and status of Inuit and other Indigenous peoples: Inuit and other Indigenous peoples are rights-holders not stakeholders or “minorities”. Though we may be numerical minorities, the rights of Indigenous peoples go far beyond that of “minorities”. Therefore, States and intergovernmental organizations should consistently recognize the distinct rights and status of Indigenous peoples wherever our rights are implicated, consistent with the *UN Declaration on the Rights of Indigenous Peoples*, as well as other international conventions and norms.

Special agencies of the United Nations and other international organizations should reform procedural rules with the full and effective participation of Inuit and other Indigenous peoples: Outdated rules of procedure invite abuses against Indigenous peoples and offer no checks and balances within such rules, enabling States to propose and agree to discriminatory and other substandard provisions. Procedural rules within international organizations should therefore be reformed consistent with articles 41 and 42 of the U.N. Declaration to safeguard the rights of Indigenous peoples, the international human rights system, and the rule of law. This should be undertaken by special agencies of the U.N. and other international organizations with the full and effective participation of Indigenous peoples, in a spirit of partnership and mutual respect consistent with the U.N. Declaration. Special

agencies of the U.N. and other international organizations should report annually on measures to reform their procedural rules consistent with international human rights law.

Adopt and implement a distinctions-based policy: States and intergovernmental organizations should adopt and implement distinctions-based policies that recognize Inuit and Inuit Nunaat wherever our specific rights and territory are implicated. States and intergovernmental organizations should recognize Inuit and other Indigenous peoples as distinct and separate from stakeholder or minority populations wherever the rights of many Indigenous peoples are implicated. Furthermore, States and intergovernmental organizations should engage directly and bilaterally with representatives of Inuit as a distinct and separate constituency from civil society stakeholders or minority populations.

Utilize distinctions-based language in the development of documentation and agreements that reference Inuit and other Indigenous peoples: States and intergovernmental organizations should utilize distinctions-based language developed in partnership with Inuit and other Indigenous peoples in the development of any documentation or agreement that may impact the rights or status of Inuit specifically, or other Indigenous peoples. The objective of distinctions-based language should be to recognize the distinct status of Inuit and other Indigenous peoples using language that clearly delineates Indigenous peoples as rights holders, and that respects and supports our right to self-determination.

States, special U.N. agencies, and international organizations should use the U.N. Declaration as a standard and framework in the development of any documentation or agreement implicating the rights and status of Indigenous peoples: States, special U.N. agencies and international organizations should discontinue drawing from language in documentation, policies, conventions, or multilateral agreements that predate the U.N. Declaration in the development of agreements, policies, or initiatives that may impact the rights and status of Inuit or other Indigenous peoples. Instead, States and intergovernmental organizations should engage Inuit and other Indigenous peoples directly and bilaterally in the development of such language.

Conclusion

Inuit are rights holders and we seek full and effective participation in all conventions, multilateral agreements, and international fora where our rights, culture, and way of life are impacted. This can only be achieved if States and intergovernmental organizations cease grouping and conflating Indigenous peoples with “local communities,” reform outdated procedural rules that marginalize Inuit and other Indigenous peoples, and utilize the *UN Declaration on the Rights of Indigenous Peoples* as a framework for uplifting the status, rights and participation of Indigenous peoples.