
The Muckleshoot Experiment

Testing an Indigenous Peoples' Climate Negotiation Scenario

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Indigenous peoples around the world are being adversely affected by changing weather, draughts, floods, melting glaciers, and shifting temperatures resulting in serious health problems, environmental changes, changes in plants and wildlife, food security problems, population growth, and displacement. All of these affects are altering indigenous peoples' cultures, social and political relations; and in many instances forcing indigenous peoples into becoming "climate refugees." Driven from traditional lands by drought, flooding, food scarcity, and violence from other competing peoples more than 15 million indigenous peoples worldwide are being forced out of their lands into lands where competition pressures with other populations are further contributing to growing conflicts and violence as well as strains on the international relief programs. Indigenous peoples are, and have been, dramatically affected by changing climate in ways not fully apparent to people living in urban and suburban areas.

Marginalized and out of sight, indigenous populations have little political influence in sub-regional, regional and international fora where regulatory, mitigation, and adaptation strategies are being discussed and negotiated. Indigenous

peoples are generally recognized as neutral contributors to carbon dioxide, greenhouse gases, and other pollutants known to affect changing climate. Indeed their cultural practices in relation to the environment make indigenous peoples net reducers of pollutants and greenhouse gases. Despite the limited influence indigenous peoples have on the production of gases that change climate they experience the most direct adverse affects of urban generated carbon dioxide and other green house gases that have altered the atmosphere. Where and how might indigenous peoples effect changes in international and state-level policies on climate change while allowing political space for each indigenous nation to develop and implement its own adaptation plan?

That is essentially the question put to ten graduate students enrolled in the Antioch University/Muckleshoot College “Global Pluralism” course in the winter of 2009 working with two faculty and two faculty assistants.

Testing By Simulation-Elevating Indigenous Peoples

The United Nations Framework Convention on Climate Change¹ had convened the 14th Session of the Conference of Parties² in Poznan, Poland (December 2008)—a month before the Global Pluralism course started. The International Indigenous Peoples’ Forum on Climate Change³ (IIPFCC) gathered as an “indigenous peoples caucus” to organize an effort to influence the policy direction of the more than 180 governments meeting to lay the foundations for a new treaty on climate change. The expectation at the meeting was that work done in Poznan would inform and shape the final agreement so that final work could be concluded during 2009 with a capstone meeting of all the parties in Copenhagen, Denmark in December of 2009.

The Muckleshoot Experiment, as the “Global Pluralism” course became known, set up a ten week scenario where Muckleshoot graduate students would play the roles of several states’ governments, several non-governmental organizations, and representatives of several indigenous nations and organizations—roughly proportionally grouped according to

political representation at an actual United Nations conference. The states' government representatives served as the Conference of Parties that would meet to discuss, negotiate and attempt to conclude an agreement on the regulation of carbon dioxide and other human created greenhouse gases.

The non-governmental organizations would represent environmental, labor, business and sectarian interests seeking to function as civil society contributors to the Conference of Parties. Members of the non-governmental organizations met separately and discussed their interests and policies. The indigenous peoples caucus met separately as a body.

The Muckleshoot Graduate Learners were given two weeks to prepare for their roles. They were given the scenario describing the organization and convening of the United Nations sponsored Conference of Parties. Each learner was responsible for conducting independent research to establish a state government's, non-governmental organization's, or indigenous people's position. Having conducted their research, each learner was responsible for playing the part of the assigned role and advancing the policy position held in reality by the state, organization or indigenous group.

Roles established for the Muckleshoot Experiment included:

State Government	Peoples Republic of China
State Government	Republic of Brazil
State Government	Kingdom of Denmark
State Government	Republic of Botswana
State Government	Australia
State Government	United States of America

Indigenous People	Maori
Indigenous People	Cataluña
Indigenous People	Inuit Circumpolar Conference
Non-Governmental Org	Intn'l Chamber of Commerce
Non-Governmental Org	AFL-CIO
Non-Governmental Org	Amnesty International
Non-Governmental Org	Intn'l Union for Conservation
Non-Governmental Org	World Council of Churches

The Muckleshoot Experiment was organized so that participants had access to an online Global Pluralism website that permitted sharing of documentation, publication of news releases, colloquies with the faculty, and discussions with learners. Learners were required to play their roles online and they were also required to participate in three Global Pluralism Residencies where everyone convened for several hours in what would effectively serve as a "Conference Site."

At the first Residency, the "scene" was presented by the Monitor (the author) describing the problem and explaining the "simulation" learners would conduct as a part of the United Nations Framework Convention on Climate Change Conference of Parties. A schedule of events was reviewed, roles were assigned, and questions were answered.

The "simulation" instructions were presented this way:

1. There have been 14 meetings to establish a new Treaty on Climate Change
2. The most recent was the Poznan, Poland meeting of the United Nations Frame Convention on Climate Change called COP14
3. We will simulate a meeting of the Conference of Parties (COP15) that is now planned for December 2009 in Copenhagen, Denmark.
4. We will determine if a consensus can be made on the negotiation of a new Climate Change Treaty that will replace the Kyoto Protocols that will become defunct in 2012.

Participants in the first Residency were then given the following additional information:

Within the next 100 years significant and in many instances catastrophic changes in the earth's climate will dramatically alter life's conditions on the planet. These changes are in part brought on by human produced atmospheric and environmental toxins that have caused the natural cycles to fall out of balance. Green house gases including notably carbon dioxide are creating atmospheric changes, changes in the oceans, forests, deserts and mountain ranges altering plant populations, animal populations and even microscopic phytoplankton in the Ocean. Even if these conditions are not wholly caused by human action, the changes are taking place. Reductions in gas emissions will slow and possibly reverse the dramatic changes.

And further, they were advised:

Human decision-making is the central necessity to make changes. For more than forty years the problems described have been known, but human institutions have not decided to change human behaviors.

Mitigation and Adaptation are two themes for consensus, but none has been reached.

States' governments, Non-governmental organizations and Indigenous Peoples are the actors on this stage between whom a consensus on what to do with the problem of Climate Change must be established. Not everyone agrees that all of these players should make the decisions.

In this Scenario there are twelve entities who will attempt to form a consensus on what to do about the problems of Climate Change.

A decision must be made by December 2012. We have twelve weeks to make a final decision. That is the date a formal treaty must be concluded to meet the urgent demands caused by climate change.

2012

In other words, the participants in this simulation were instructed to carry out a scenario to achieve a decision by December 2012 that was to occur in the third residency (near the end of the class).

The experiment was to determine whether indigenous peoples could elevate their participation in the dialogue and negotiations with state governments and non-governmental organizations. If they achieved a degree of elevation (signaled by acceptance of states' parties of indigenous peoples' participation in the dialogue and/or acceptance of indigenous peoples' policy recommendations) then indigenous peoples can directly

participate in the global dialogue in search of answers to the adverse affects of climate change.

The rules imposed on all participants were as follows:

1. Each Party plays a role and may not deviate from the role except in the CourseRoom Discussions
2. Each Party must maintain a primary relationship with the identified category (State, NGO, Indigenous People), though decisions may require secondary relationships with others.
3. Each Party must conduct communications via the CourseRoom using virtual conference rooms and facilities, chat rooms and document all communications.
4. Each Party has an interest in forming a consensus, but faithfully represent constituent interests, cultural norms or ethos.
5. Each Party must actively understand and present a cultural or ethos perspective to the other parties.

The Second Residency: Preparing for the Treaty

After about two weeks of independent learning and communicating via the online course room, participants were invited to gather for five hours at the Second Residency.

Setting the stage for the hours to unfold, participants now arrayed at separate tables (one each for the state's governments, a cluster of tables for the non-governmental organizations and one table for the indigenous peoples). The scenario was outlined as follows:

- Parties to the UN Framework Convention on Climate change have been invited to attend the 4 February 2009 Agenda Setting Session convened at the Muckleshoot Tribal College beginning at 4:00pm.
- The Parties have just four days in which to propose and agree to an agenda that will serve as the framework for a final Treaty Conference on Climate Change later this month.
- The Treaty will be negotiated between States' governments. NGOs and indigenous organizations are defined as Observers-- part of "civil society" who may influence the process through advocacy.
- Access and influence are partly defined by culture and or ethos. Access to the decision-making process is primarily determined by customary practice

The simulation Monitor set the goal for the Second Residency as follows:

The Goal is to have an agreed upon Agenda established for the final Treaty negotiations that will take place during the final Residency #3 in February.

This must be accomplished within the time allotted during Residency #2.

Once the Monitor presented the initial formalities, a schedule of "conference events" that simulated four separate days of activity was presented to the group.

Throughout the first weeks of the simulation participants engaged in role playing in the online course room, received documents (contemporaneous to the actual events involving the actual parties to negotiations) and they engaged in extensive fact checking and revisions in their positions.

The simulation called for the individual state governments to prepare for and convene a session of the Conference of Parties (COP). Non-governmental organizations (NGOs) were invited to deliver 1-2 minute presentations.

Indigenous peoples were not specifically invited to speak before the Conference of Parties except as a non-governmental organization representative. Since only limited non-governmental interventions were allowed, it was necessary for indigenous peoples to work out scheduling arrangements before

the Conference of Parties with non-governmental organization representatives.

The presentations delivered before the COP by non-governmental organizations represented business, environmental, and human rights views and perfunctory comments for indigenous peoples' rights.

Meanwhile, the states' government parties actively engaged each other in pursuit of a common language on which they could agree—mainly emphasizing allowable emissions of carbon dioxide and greenhouse gas emissions. Little actual agreement was being achieved between the states, owing to the reluctance of China to commit to reduction targets and states' like Botswana (left out of the discussions while experiencing growing dangers from the adverse affects of climate change). Denmark attempted to mediate between disagreeing states, taking-on the role of organizer of the Conference of Parties in Copenhagen in 2010.

The indigenous caucus decided to take its views to the Danish government after feeling deeply frustrated that their message in support of traditional knowledge and tribal sovereignty, and the desperate experiences of indigenous peoples due to climate change was not getting across to the COP through non-governmental organizations representatives. Their appeal to Denmark called for recognition of indigenous peoples' rights in accord with the United Nations Declaration on the Rights of Indigenous Peoples (adopted by the UN General Assembly in September 2007) and the application of these principles within the treaty being negotiated on climate change. Indeed, the Danish representative agreed to give more visibility to the indigenous peoples' position.

Pleased with the response of Denmark, the indigenous caucus decided to call a news conference to announce Denmark's decision to elevate indigenous peoples' concerns in the climate change negotiations.

When the United States and China heard of the news conference they immediately called in the ambassador to Denmark and asked if Denmark had actually made such a commitment. Denmark's representative expressed that government's policy for open negotiations and involvement of

indigenous peoples—reflecting the influence of Greenlandic Inuits governed by Denmark. The United States and China argued that a separate voice could not be given to indigenous peoples outside of the civil society context. If that were done, so the argument went, “indigenous peoples could make a case against the state within which they reside” creating no end of confusion over who represents the views of the state or various groups.” It was further argued, “only the states’ government parties can represent the policies within their sovereign jurisdiction,” and indigenous peoples must not be allowed to speak independently. Denmark was urged to renounce the published claim that they had made an agreement with the indigenous caucus (which they did) and deny that any such event had taken place. Denmark called a news conference a denied that any agreement had been made with the indigenous peoples’ caucus.

This proved to be a crucial point in the negotiations due to the considerable setback the Danish decision caused the indigenous caucus. The disappointment was palpable. Effectively, the indigenous caucus had attempted to secure an opening to elevate their participation in the climate change negotiations. The United States/China cabal pushed the indigenous caucus back into the civil society category. The consequence of this political maneuver applying pressure on Denmark confirmed agreement between the states’ parties that placing indigenous peoples into the category of “civil society participants” would ensure their muted voice and very little influence would be coming from indigenous peoples.

Recognizing that non-governmental organizations may have greater influence on state government policies, the indigenous caucus sought out representatives of non-governmental organizations for support of their position. Indigenous caucus delegates negotiated with several large non-governmental organizations and won their support. Non-governmental organizations went before the Conference of Parties calling for support of indigenous peoples’ policies. The sympathetic support delivered by some non-governmental organizations offered limited visibility but by virtue of their efforts to join forces with NGOs indigenous delegates tended to

reemphasize the “civil society” status of indigenous peoples.

The Second Residency ended without resolution of agreed treaty language between state government parties. Non-governmental organizations (particularly business and environmental organizations) offered their advice and recommendations and many were incorporated in draft language for a treaty. Indigenous peoples became more marginalized than before the session began—reduced to discussing ways to engage in public demonstrations to show their objections to draft treaty language.

The Third Residency: Negotiating an Agreement in Copenhagen

In February 2009, the Muckleshoot Experiment was for the final time called into formal session where participants could deal directly with each other to make a final effort to negotiate a treaty. The notification calling for the meeting read as follows:

Parties to the UN Framework Convention on Climate change are cordially invited to attend the 26 February 2009 Final Treaty Negotiations Session of the United Nations Framework Convention on Climate Change to be convened at the Muckleshoot Tribal College beginning at 4:00pm. The schedule of events during this session is as follows:

Conference of Parties specifically invited to participate in the Final Treaty Negotiations Session on Climate Change at the appointed date include, but are not limited to... the listed government parties.

During the Third Residency, participants were once again informed that they had five hours to achieve the final goal. The goal and rules were presented this way:

The Goal is to have an agreed Treaty established for the final Treaty negotiations that will take place during the final Residency (#3) in February.

1. Opening remarks by Plenipotentiaries in the Opening Session must be limited to 2 minutes.
2. Remarks by Plenipotentiaries are limited to 2 minutes in First and Second Sessions.
3. Closing remarks by Plenipotentiaries will be limited to 1 minute and Closing Remarks by Observers are limited to 1 minute.
4. News releases and news conferences must be conducted at the NEWS DESK either as single sheet news releases (yellow pad) or as verbal announcements that can be no longer than 1 minute.
5. Plenipotentiaries are free to meet with any other Plenipotentiary or Observer at any time during the four-day Negotiating session.
6. Observers must communicate in their conference rooms set aside by the Secretariat for their use.
7. Observers may meet with Plenipotentiaries upon making a request and appointment only.
8. Observers are invited to be as inventive as possible to not only develop appropriate items for the Treaty negotiations, but they are invited to be as inventive as possible to influence the outcome of the Treaty.
9. The Secretariat (Dr. Ryser) shall be the recipient of the final Plenary Session Treaty as agreed by the parties at 8:15pm on the fourth day.

All participants are encouraged to use what they have learned about organizations and other participants to their advantage...and to use whatever documentation one can secure from the Internet, library, or readings to advantage your position.

Negotiations immediately commenced in earnest between the states. A side negotiation was organized between China and the United States operating on the apparent assumption that the largest CO₂ producers and largest economies should make the agreement that others could follow. It was during the side negotiations that a preliminary agreement was reached between the United States and China on the basis that they produced a combined total of more than fifty percent of the world's carbon

dioxide and other greenhouse gases. This agreement was reached without discussions with civil society parties or other states governments. Representatives from the US and China appeared before the Conference of Parties meeting in the simulated year 2012 with a pro-forma agreement that essentially by-passed the broader Conference of Parties.

Meanwhile, without knowing about the US/China agreement, the indigenous caucus approached the government of the United States to determine if they would approve the United Nations Declaration on the Rights of Indigenous Peoples and consequently recognized a voice for indigenous peoples in the climate change negotiations. Indigenous caucus members judged that the United States government was key to both elevating indigenous participation in the climate change discussions and finalizing approval of the United Nations Declaration on the Rights of Indigenous Peoples. Initially the US position flatly turned down the request for such recognition or action to support either the UN Declaration on the Rights of Indigenous Peoples or the role requested by the indigenous peoples. As the discussions continued, the US position began to soften as it became apparent that the idea that indigenous peoples may want to separate from existing states (a view held by the US)—applying Article three of the Declaration⁴—was less likely. The longer discussions continued between the indigenous peoples representative and the United States there was movement toward the indigenous peoples' position. Unfortunately, the indigenous representative gave up and decided not to pursue discussions further because the US government didn't quickly step up to the request made by the caucus. This proved to be a serious error that resulted in the treaty being concluded, but indigenous peoples were left in the margins.

What Did We Learn From the Simulation?

The simulation came surprisingly close to the actual events that unfolded throughout 2009 and into 2010. The 15th session of the Conference of Parties—convened in December 2010—in Copenhagen resulted in a rough stalemate between the states'

governments and indigenous peoples. Indigenous peoples became further marginalized as civil society participants with little or no influence in the process.

The Indigenous Peoples Environmental Network Media Team (the communications arm of the International Indigenous Peoples Forum on Climate Change) released this statement near at the close of the Copenhagen conference:

Copenhagen, Denmark 16 December 2009 – As the United Nations Framework Convention on Climate Change (UNFCCC) winds down, thousands of people marched in the streets today to “reclaim power” from the UN process they say is not good enough. Indigenous Peoples led a march from inside the official venue of the climate negotiations, to stand in solidarity with the rest of civil society in demanding climate justice.⁵

The clear and present dangers of changing climate for indigenous peoples demand major changes in the way states’ governments organize their economies and consume energy. States’ governments were not in the mood to consider such matters. The indigenous caucus that had worked so hard to advocate indigenous peoples’ positions fell very short of their goal as the news release reported:

“Indigenous peoples rights are mentioned once in the form of a recommendation for nation states to consider, but not as a requirement,” explains Alberto Saldamando of the International Indigenous Treaty Council (IITC). “But ensuring basic human rights for the worlds populations who are most affected by climate change should not be voluntary. It is a matter of obligation.”

“It’s a sad situation that world leaders representing industrialized society have lost their understanding of the sacredness of Mother Earth,” adds Tom Goldtooth, Executive Director of the Indigenous Environmental Network (IEN). “Before we can achieve global action, there needs to be

international awareness of why we are really here.”

It was clear in the simulation and in the actual Conference of Parties meeting in Copenhagen indigenous peoples must recognize that their concerns will not be heard by the states. Indeed, the states, non-governmental organizations, and international institutions can't agree on a clear course of action to respond to the adverse affects of climate change. Indigenous peoples are left to develop adaptation strategies for themselves and proactively make changes in their social, economic and political organization while seeking to monitor and sometimes influence the decisions of states, international organizations and corporations. Self-survival is a ruling requirement for the course of action.

Importance of Climate Policy to Tribal Governments

Indian nations from the United States have remained passive and even uninterested in international developments that directly affect their social, economic and political interests. Very few Indian governments have actually attempted to participate in the international dialogue on such matters as the United Nations Declaration on the Rights of Indigenous Peoples, the Convention on Biological Diversity, Convention on Intellectual Property Rights, International Labor organization Convention 169 not to mention decisions being taken by the Organization of American States, or the Organization on Cooperation and Security in Europe. Indian nations from the United States (though a few Alaskan Natives and Hawaiian Natives groups have sporadically participated) have not actively engaged the international debate swirling about for the last forty years.

The irony is that what Indian governments do inside the United States heavily influences relationships between indigenous peoples and states' governments elsewhere in the world. Indian leaders seem oblivious to the interconnectedness between indigenous peoples that has evolved over the last thirty years.

Tribal governments in the United States are implicitly central to setting a US policy that can protect their interests as

well as the interests of indigenous peoples around the world. Until now, US tribal governments have played a very minor role in efforts to influence US legislative and diplomatic strategy. Without an active role of tribal governments, indigenous peoples elsewhere in the world and Indian peoples inside the US will experience efforts to preempt their political authority to control their lands, undermine the use of traditional knowledge, and by-pass Indian peoples in the setting of rules, regulations and standards for carbon dioxide and other green house gas emission standards. Many indigenous peoples around the world are working with extremely limited resources to influence the direction of their state governments as well as the international negotiations...they are largely doing so with the participation of US tribal leaders.

International Treaty Negotiations & the US Central Role

The international treaty negotiations scheduled for last December 2009 in Copenhagen essentially failed to produce a binding agreement. United States President Barak Obama stepped in at the last moment to establish a non-binding understanding between key states' governments (China, India, Brazil among them) to list target carbon dioxide reductions by 2020. The assembly of states' governments meeting as the Conference of Parties "took note" of the understanding, but did not endorse the US promoted plan.

Intergovernmental meetings were scheduled in April, June, July and August preparatory to the next round of negotiations for a Climate Change Treaty in Cancun, Mexico in December 2010.

Holding close to his words stated in June 2009, US Ambassador Todd Stern has promoted what may be called a "Big Carbon States Strategy" to establish agreement on Carbon Emissions in the years to come. This strategy was acted out in the non-binding understanding produced in December 2009. Many low carbon-producing states have objected to the US government's "Big Carbon States Strategy" since it effectively removes the decisions on Carbon Emissions from the United Nations process that has been the framework for more than two decades.

Central to getting agreement at the international levels is the need for the US Congress to agree on a Bill ultimately signed by the President. Ambassador Stern's strategy was being carried out without formal instructions from the US Congress: the House of Representatives adopted a Climate and Energy Bill, but the Senate has failed to follow up. Senators Kerry, Graham and Lieberman have attempted to forge a Senate bill that faces a difficult time before the US Senate in 2010 leading up to the Cancun meeting.

After indigenous peoples' delegations participated in more than eight years of meetings to prepare for the final negotiation of a global Climate Change Treaty, the position occupied by indigenous peoples in relation to the negotiations remains the same: "minimal." During an international conference call involving indigenous peoples' organization policy advisors in early March 2010, participants agreed on this conclusion:

"The current level of participation of indigenous peoples within the COP through the observer organization is best described being at the most minimal of satisfactory levels. This is NOT an assessment of the secretariat or the personalities within the Secretariat. The secretariat's engagement within these limits to the IPO constituency has been very good. However IPs have long said that these limits circumscribed to IPs are not satisfactory and not in line with other conventions or within articles contained within UNDRIP"⁶

Though engaged in prodigious diplomatic efforts to contribute to the global dialogue on treaty provisions for climate change mitigation and adaptation, expending very limited financial resources and offering the perspective of indigenous peoples on climate policy, Indigenous Peoples have remained largely marginalized by states' governments and big international non-governmental organizations (BINGOs).

Conclusion

Indigenous peoples in the simulation and in the actual turn

of events demonstrate that they must move beyond functioning in the role of civil society organizations: a position to which they were relegated due to the structure of international institutions. Indigenous nations must assume the proper role of governing authorities over their territories, prepared to challenge the authority of states' governments. They must demand a seat at the negotiating table based on their ability to deny access to territories and resources. Denial of access is the only authority left to indigenous nations if they truly wish to be respected and they wish to achieve an elevated political level in regions and international negotiations. Denying access points to a corollary: control over territory. Their decision to accept this role will determine the course of human history and perhaps survival of indigenous peoples accepting the responsibility.

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Notes

¹ The United Nations Framework Convention on Climate Change was produced at the United Nations Conference on Environment and Development (UNCED) in Rio de Janeiro from 3 to 14 June 1992. The treaty commits signatories to agree to specific measures for stabilizing greenhouse gas concentrations in the atmosphere. The thirteenth meeting of the parties to this convention decided in September 2008 to negotiate a new treaty that will replace the Kyoto Protocols initially adopted in Japan in 1997 and formally activated in February 2005. High-level talks between NFCCC signing states continue in an effort to establish a new agreement by or before 2012 when the Kyoto Protocol expires.

² The UN Framework Convention on Climate Change "Conference of Parties" met in its 13th session in Bali, Indonesia, and agreed to a "road map" intended to

- lead to the negotiation of a new treaty on climate change. The Conference of Parties meeting in session #14 was the first meeting specifically intended to implement the roadmap.
- ³ The International Indigenous Peoples Forum on Climate Changes is an adhoc body of indigenous peoples attending sessions of the Conference of Parties or other high level meetings on climate change. Members of the IIPFCC include as many as 200 representatives of indigenous peoples or indigenous organizations from around the world.
- ⁴ Article 3: Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development. UN Declaration on the Rights of Indigenous Peoples. 2007.
- ⁵ North American Indigenous Peoples Demand More in Copenhagen, Email release. Indigenous Peoples Environmental Network Media Team. 16 December 2009.
- ⁶ Rubis, Jen. (2010) UNFCCC-NGO Consultation: Comments on Agenda. Unpublished memorandum to the International Indigenous Peoples' Forum on Climate Change.

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