

OPEN PEER REVIEW

From Expropriation to Compensation: Legal Remedies for Indigenous Land Grievances

Daniel Tremblay¹, Robert Martinez^{2*}, Mariana Oliveira³

¹ Department of Political Science, University of Toronto, Toronto, Canada

² Department of Law, Yale University, New Haven, USA

³ Department of Political Science, University of São Paulo, São Paulo, Brazil

* Corresponding author email address: robert.martinez@yale.edu

Received: 2024-10-09

Revised: 2025-11-27

Accepted: 2024-12-06

Published: 2025-01-01

EDITOR:

Tahereh Ebrahimifar

Head of Sociology Department, Faculty of Arts, Helwan University, Cairo, Egypt.

Email: Tah.Ebrahimifar@iauctb.ac.ir

REVIEWER 1:

Mehmet Çevik

Department of Social Sciences, Ankara University, Türkiye. Email: mehmetcevik@asbu.edu.tr

REVIEWER 2:

Jingjing Wang

Law School, Peking University (PKU), Peking, China

jingwang@vip.sina.com

1. Round 1

1.1. Reviewer 1

Reviewer:

The sentence "These actions were not merely political maneuvers but formed the legal and institutional foundations for the marginalization of Indigenous peoples." would benefit from specific legal citations or examples to strengthen the claim. Consider elaborating on a key doctrine or policy from one of the mentioned regions (e.g., Canada or Australia).

The phrase "ongoing connection to the land in accordance with traditional laws and customs" should be operationalized. What legal or anthropological criteria are typically used to assess "ongoing connection," and how do courts interpret this requirement?

The line "...failing to restore the cultural and spiritual relationships Indigenous communities maintain with their land" could benefit from a brief discussion of how non-material loss is treated in transitional justice frameworks. A reference to reparative justice theory would strengthen this section.

The article asserts that "international advocacy... emerged as procedural avenues," but stops short of discussing their long-term impact. Have any procedural rulings led to sustained land reform or policy change?

Authors revised the manuscript and uploaded the document.

1.2. Reviewer 2

Reviewer:

The research questions are presented clearly, but it would enhance scientific rigor to specify whether these questions are exploratory or evaluative in nature. Consider rephrasing to clarify the intended analytical depth (e.g., critical, comparative, historical).

The sentence "Despite international recognition, national legal frameworks remain uneven..." requires more precise language. What specific aspects of national frameworks are being referenced—land demarcation, compensation laws, or enforcement capacity?

The reference to legal pluralism is important but underdeveloped. Consider integrating a brief definition or theoretical framing of legal pluralism to guide the reader unfamiliar with this concept.

The article states that recognition "offers security of tenure," but this is contested in the literature. Please address critiques suggesting that formalization can increase vulnerability to state control or extractive pressures.

The discussion of Indonesia is insightful, but it lacks nuance regarding the role of mapping technologies. Consider including how participatory mapping has been used by Indigenous communities as a form of resistance or agency.

The example of the Ogiek ruling is compelling. However, the reasons for implementation delays are generalized. Could you specify which institutions or bureaucratic mechanisms are responsible for the obstruction?

Authors revised the manuscript and uploaded the document.

2. Revised

Editor's decision: Accepted.

Editor in Chief's decision: Accepted.