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Introduction

Philippe Geslin

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The *American Heritage Dictionary of the English Language* defines the word “indigenous” as follows: “Occurring or living naturally in an area; not introduced; native.” The paradigm is vegetal, biotopic, rooty: to be indigenous – if you’re a plant – you need only germinate on the proper piece of soil and stay there.

For humans, however, it turns out that being indigenous requires much much more. Paraphrasing Simone deBeauvoir, we could even say that one is not born native, one becomes it. A careful look at the political-legal notion of “indigenous peoples” demonstrates that the progressive delimitation of a category of persons thought to entertain a primordial relation to a particular territory is fatefully entwined with the changing configurations of the deterritorialized and documented space of international treaties, covenants and institutions. Without a certain form of public – the imagined community mapped out by international law – and a certain kind of technology – written documents and the institutions they require to function properly – there would be no indigenous peoples at all, only Mashpees, Mapuches, Mundugumors, going about their daily dominated business.

The story of the emergence of indigenous peoples is a story of historical contingency, in which misunderstanding plays as great a role as understanding and backsliding is as prominent as progress. The key institutions and their human animators have invented the rules and even the object of the game as they go along. Surprisingly, throughout this process these institutions have chosen or been obliged to leave certain key terms undefined or imprecise – beginning with the term “indigenous” itself. Even more surprisingly, it is this very imprecision that has made it possible to move forward in the construction of a regime of recognition of admirable complexity, relative stability, and occasional if convoluted efficacy...