

# Resource Kit

on **INDIGENOUS  
PEOPLES' ISSUES**



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PEOPLES' ISSUES**

Prepared by the Secretariat  
of the United Nations Permanent  
Forum on Indigenous Issues/DSPD/DESA  
in cooperation with the International  
Labour Organization, the United Nations  
Children's Fund, the United Nations  
Development Programme, the United Nations  
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of the Convention on Biological Diversity



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## DESA

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### Note

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The term “country” as used in the text of this publication also refers, as appropriate, to territories or areas.

The designations “developed” and “developing” countries or areas and “more developed”, “less developed” and “least developed” regions are intended for statistical convenience and do not necessarily express a judgement about the stage reached by a particular country or area in the development process.

# Table of contents

	<i>Page</i>
Acknowledgement . . . . .	v
List of acronyms . . . . .	vii
<b>Introduction: background and objectives of the Resource Kit</b>	
Background . . . . .	1
UNPFII initiatives . . . . .	2
Why a Resource Kit for UN country teams? . . . . .	4
The objectives of the Resource Kit . . . . .	4
How to use this Resource Kit? . . . . .	5
<b>Identifying indigenous peoples</b>	
Who are indigenous peoples? . . . . .	7
How to identify indigenous peoples . . . . .	9
Indigenous peoples and the development context . . . . .	10
<b>Key elements regarding indigenous peoples and development</b>	
Indigenous peoples' lands, territories and natural resources . . . . .	13
Participation and free, prior and informed consent . . . . .	16
Participation . . . . .	17
Free, prior and informed consent . . . . .	17
Disaggregated data and relevant indicators . . . . .	18
Data collection and disaggregation . . . . .	18
Relevant indicators . . . . .	20
<b>Making the millennium development goals relevant to indigenous peoples</b>	
International responses to indigenous peoples' challenges . . . . .	23
Regional processes in addressing indigenous issues . . . . .	26
Implications of engaging indigenous peoples at the country level . . . . .	28
Ensuring participation and inclusion . . . . .	29
Ensuring organizational representation and partnership . . . . .	29
Enhancing the capacity of indigenous peoples . . . . .	31
Developing a strategy for the participation of indigenous peoples in MDG processes . . . . .	31
Mainstreaming indigenous issues at the country level . . . . .	34
<b>Conclusion</b> . . . . .	39
<b>More information</b>	
International agreements and legal framework . . . . .	41
Human rights treaty bodies . . . . .	41
International declarations . . . . .	42
Other global legal frameworks (ILO, UNESCO and CBD) . . . . .	43

	<i>Page</i>
International Labour Organization (ILO).....	43
United Nations Educational, Scientific and Cultural Organization (UNESCO) conventions .....	43
Convention on Biological Diversity (CBD) (1992) .....	44
UN conferences and summits .....	44
International mechanisms specifically targeting indigenous peoples .....	46
United Nations Permanent Forum on Indigenous Issues .....	46
Working Group on Indigenous Populations (WGIP).....	46
Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people .....	47
Expert mechanism on the rights of indigenous peoples .....	48
Second International Decade of the World's Indigenous People.....	48
Regional bodies and indigenous rights .....	48
Organization of American States (OAS).....	48
The African Commission on Human and Peoples' Rights (ACHPR) .....	49
Donor policies and experiences .....	49
Special issues .....	50
Identifying indigenous peoples .....	50
Land and natural resources .....	51
Environment .....	51
Poverty .....	52
Women and children .....	52
Health .....	53
Education, sciences and culture .....	53
MDGs .....	54
Data and indicators .....	55
Manuals and guidelines.....	55
List of references .....	57

## Acknowledgement

This Resource Kit is based on a re-adaptation of the *Tool Kit: Best Practices for Including Indigenous Peoples in Sector Programme Support*<sup>1</sup> prepared by Danida (Danish Development Assistance Agency), and draws inspiration from the *Resource Guide for Gender Theme Groups*<sup>2</sup> developed by the Task Force on Gender Mainstreaming of the Inter-Agency Network on Women and Gender Equality (IANWGE). The Danida document analyses and explores the limitations of, and opportunities for, promoting indigenous rights through sector programmes, while the *Resource Guide* focuses on the mainstreaming of gender equality and women's rights in the CCA/UNDAF exercises.<sup>3</sup>

With the permission of Danida, and in cooperation with the ILO (International Labour Organization); SCBD (Secretariat of the Convention on Biological Diversity); UNDP (United Nations Development Programme), in particular UNDP Regional Indigenous Peoples' Programme in Asia; UNICEF (United Nations Children's Fund); members of the IASG (Inter-Agency Support Group on Indigenous Issues), this Resource Kit has been re-tailored for use by the UNCTs (United Nations Country Teams). In addition, the UNCT Philippines provided valuable feedback during the workshop held in Manila in March 2007 to test the draft Resource Kit.

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- 1 Danish Ministry of Foreign Affairs—Danida (2005). *Tool Kit: Best Practices for Including Indigenous Peoples in Sector Programme Support*. Copenhagen: Danish Ministry of Foreign Affairs—Danida. <http://danida.tboghandel.dk/publ.asp?page=publ&objno=250002845>.
- 2 IANWGE (2003). Resource Guide for Gender Theme Groups. Can be downloaded from: <http://www.un.org/womenwatch/ianwge/taskforces/tfccundat2005.htm>.
- 3 Common Country Assessment (CCA) and United Nations Development Assistance Framework (UNDAF).



## List of acronyms

ACHPR	African Commission on Human and Peoples' Rights
ADB	Asian Development Bank
AIPP	Asia Indigenous Peoples Pact
BP	Bank Procedures
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CBD	Convention on Biological Diversity
CCA	Common Country Assessment
CEACR	Committee of Experts on the Application of Conventions and Recommendations (ILO)
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CERD	Committee on the Elimination of Racial Discrimination
CESCR	Committee on Economic, Social and Cultural Rights
CHR	Commission on Human Rights
CMW	Committee on Migrant Workers
COP	Conference of the Parties
CRC	Convention on the Rights of the Child
Danida	Danish Development Assistance Agency
ECLAC	Economic Commission for Latin America and the Caribbean
ECOSOC	UN Economic and Social Council
EFA	Education for All
FPIC	Free, prior and informed consent
GTZ	Deutsche Gesellschaft für Technische Zusammenarbeit (German federal agency for international cooperation)
IANWGE	Inter-Agency Network on Women and Gender Equality
IASG	Inter-Agency Support Group on Indigenous Issues
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICPD	International Conference on Population and Development
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
IDB	Inter-American Development Bank
IFAD	International Fund for Agricultural Development
IIFB	International Indigenous Forum on Biodiversity
ILO	International Labour Organization
IMF	International Monetary Fund
INDISCO	Inter-Regional Programme to Support Self-Reliance of Indigenous and Tribal Communities through Co-operatives and Self-Help
IPEC	International Programme on the Elimination of Child Labour



IUCN	International Union for the Conservation of Nature (World Conservation Union)
IWGIA	International Work Group for Indigenous Affairs
LINKS	Local and Indigenous Knowledge System in a Global Society
MDG	Millennium Development Goal
NGO	Non-governmental organization
NORAD	Norwegian Agency for Development Cooperation
OAS	Organization of American States
OHCHR	Office of the High Commissioner for Human Rights
OM	Operational manual
OP	Operational policy
PRO 169	Project to Promote ILO Policy on Indigenous and Tribal Peoples
PRSP	Poverty Reduction Strategy Paper
SCBD	Secretariat of the Convention on Biological Diversity
SPFII	Secretariat of the UN Permanent Forum on Indigenous Issues
TFIW	UN Task Force on Indigenous Women
UN	United Nations
UNCED	United Nations Conference on Environment and Development
UNCT	United Nations Country Team
UNDAF	United Nations Development Assistance Framework
UNDG	United Nations Development Group
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHRP	The United Nations Housing Rights Programme
UNICEF	United Nations Children's Fund
UNPFII	United Nations Permanent Forum on Indigenous Issues
WB	World Bank
WGIP	Working Group on Indigenous Populations
WGRI	Working Group on the Review of Implementation (CBD)
WHO	World Health Organization
WIPO	World Intellectual Property Organization
WSIS	The World Summit on the Information Society
WSSD	World Summit on Sustainable Development

# Introduction: background and objectives of the Resource Kit

This Kit focuses on development and indigenous peoples, with emphasis on their full and effective participation in all development processes and the need for a genuine partnership in—and ownership with them—of these processes. More specifically, it is designed to provide UNCTs (United Nations Country Teams) with guidance as to how to engage indigenous peoples and include their perspectives in development processes, including monitoring and reporting processes related to the CCA/UNDAF, Poverty Reduction Strategy Papers (PRSP), UNDP’s *Human Development Reports* and Millennium Development Goals (MDGs).

## Background

The Resource Kit should be seen as one of many contributions to the wide-ranging reform programme initiated in 1997 by Secretary-General Kofi Annan and aimed at making the United Nations a more effective institution in terms of facing the challenges of the twenty-first century.

This reform programme, which included the UN system’s development agenda in general and the MDG and PRSP processes in particular, stressed the need to strengthen the inter-linkages between peace and security, poverty reduction and sustainable human development and promotion of and respect for human rights. In response to the Secretary-General’s call to articulate a coherent vision and strategy for united approaches towards internationally agreed development goals and the Millennium Development Goals at the national level, the United Nations Development Group (UNDG) was formed in 1997 and the CCA (Country Common Assessment) and UNDAF (United Nations Development Assistance Framework) framework was adopted as a strategy planning tool for the UN system. Together, these initiatives were designed to enhance the United Nations’ collective analysis and programming in support of national goals and priorities in various development processes.

At the same time, a growing awareness and recognition among Governments, the UN system and other development actors of the importance of engaging indigenous peoples in a human rights–based approach to development led to a resolution by the Economic and Social Council in 2000 to establish the United Nations Permanent Forum on Indigenous Issues (UNPFII).<sup>4</sup> The mandate of the UNPFII includes, inter alia, “discuss[ing] indigenous issues within the ECOSOC’s mandate, including economic and social development, culture, environment, education, health and human rights; [and providing] expert advice and recommendations to the Council and to programmes, funds and agencies of the UN”. In 2002, an inter-agency mechanism—the IASG (Inter-Agency Support Group)<sup>5</sup>—was established to support and promote the mandate of the UN Permanent Forum on Indigenous Issues within the United Nations system.

<sup>4</sup> ECOSOC resolution 2000/22 on the establishment of a Permanent Forum on Indigenous Issues.

<sup>5</sup> The IASG is composed of 32 UN entities and other institutions including the Inter-American Development Bank, the European Commission, the Fondo Indígena and the Commonwealth Secretariat. Its chair rotates among agencies annually, it meets formally in an annual session and the chairing organization takes the initiative, in consultation with the members, to select a theme.

### The United Nations Permanent Forum on Indigenous Issues (UNPFII)

The UNPFII is an advisory body established by Economic and Social Council (ECOSOC) resolution 2000/22 and reporting to ECOSOC. The mandate of the Forum is:

- To discuss indigenous issues within ECOSOC's mandate, including economic and social development, culture, environment, education, health and human rights, and make recommendations to the UN system;
- To raise awareness about indigenous issues;
- To integrate and coordinate activities on indigenous issues in the UN system; and,
- To produce materials on indigenous issues.

The Forum is composed of 16 members, eight (8) nominated by Governments and eight (8) by indigenous peoples. It holds its annual 10-day session in May, which is attended by governments, indigenous representatives, UN agencies, funds, programmes and other inter-governmental organizations. A number of side events also take place during the session. For further information on the UNPFII, please visit: <http://www.un.org/esa/socdev/unpfii/>

## UNPFII initiatives

In its efforts to address development challenges specific to indigenous peoples, the UNPFII—seconded by the IASG—has taken a number of initiatives. These initiatives have been aimed at promoting the integration of indigenous perspectives into the MDG and PRSP processes, as well as including indigenous peoples in the guidelines used by the UN agencies. Over the years, the UNPFII has made substantive recommendations to Governments, the UN system and indigenous peoples concerning the MDGs within its mandated areas of culture, education, health, environment, human rights and social and economic development. In the area “Indigenous women and gender”, the third session (2004) of the UNPFII focused on indigenous women. One of the outcomes of this session was the establishment of the Task Force of Indigenous Women (TFIW).<sup>6</sup> The TFIW was formed with the purpose to integrate and strengthen gender mainstreaming as regards indigenous women's roles and the special concerns of indigenous women as an emerging key issue in the work of the United Nations system.

In 2005 and 2006, the Forum chose the special theme of “the Millennium Development Goals and indigenous peoples: redefining the Goals” for its fourth and fifth sessions. It also held various expert group meetings on the MDGs and, in 2005, the IASG prepared a technical paper for the fourth UNPFII session.<sup>7</sup>

<sup>6</sup> See: <http://www.un.org/womenwatch/ianwge/taskforces/tfiIndigenousWomen2005>.

<sup>7</sup> IASG (2005). Technical paper on the MDGs. UN Doc E/C.19/2005/2.

### The IASG technical paper on MDGs (2005)

The IASG technical paper points out that:

“... indigenous peoples were not formally involved in the formulation of the Goals and until now they have been largely absent from developing MDG strategies and indicators as well as from the monitoring and reporting process”.

“... this omission may lead to the exclusion of indigenous peoples from sharing the benefits of the MDGs and may in fact adversely impact their communities by deepening the discrimination faced by indigenous peoples and accelerating the exploitative use of their land and resources in the name of progress and economic development.”

In an effort to assist the UNPFII in assessing the current situation with regard to including indigenous perspectives in the development and achievement of the MDGs, four reviews have been conducted for the Secretariat of the Permanent Forum (SPFII) in addition to others separately undertaken by the ILO and the Office of the High Commissioner for Human Rights (OHCHR).<sup>8</sup> The findings of these reviews indicated that indigenous issues were not being adequately addressed or taken into account in the MDG and CCA/UNDAF processes. These reviews also pointed out gaps in the implementation of relevant UNPFII recommendations, institutional policies and the UNDG Guidelines with regard to including indigenous perspectives in the United Nations system's development work at the country level. In addition, UNDP's 2004 *Human Development Report* indicated that public spending on basic social services in many countries "systematically discriminates against minorities and indigenous peoples".<sup>9</sup>

As regards the Poverty Reduction Strategy Paper (PRSP)<sup>10</sup> processes, although they are intended to be participatory and inclusive of all major national stakeholders, and their guidelines stress the need to include the perspectives of all marginalized groups, there is no specific mention of, or reference to, involving indigenous peoples.

The UNPFII and IASG have also taken initiatives with regard to including indigenous peoples in the guidelines used within the UN system. In 2004, indigenous issues were among the UNDG's priorities and, as a result, the IASG proposed a number of revisions to be incorporated into the July 2004 update of the CCA/UNDAF Guidelines.<sup>11</sup> These revisions have also been incorporated into the revised February 2007 version of the Guidelines.<sup>12</sup>

### Common Country Assessment/UN Development Assistance Framework (CCA/ UNDAF)

The Common Country Assessment (CCA) is one of the country-based analytical processes, among three options suggested by the 2007 Revised CCA/UNDAF Guidelines. It is meant to be developed in partnership with other development partners—UN system organizations, Government, donors and civil society—in order to reflect upon, review and analyze a country's national development situation. The goal of country analysis is to obtain a common understanding of the major development challenges faced by a given country and to identify key issues and priorities for the elaboration of the UNDAF (United Nations Development Assistance Framework). The over-reaching goal is to facilitate a broad-based discussion with all development partners in order to better support national Governments in addressing development priorities.

Country-based analysis, whether CCA or other options, is thus a critical first step in the elaboration of the UNDAF, which is a framework for coordinating a UN response to specific national development challenges that envisages common programming in a number of chosen and agreed areas. The UNDAF seeks to define clearly specified areas in which the UN system can make significant and strategic differences for the country in question. Although the UNDAF envisages common or coordinated programming in certain key areas or priorities, UN system organizations still maintain individual programmes. The UNDAF serves as an important reference point for each organization in the elaboration of its own individual programme for the year covered by the UNDAF and beyond. Inputs from Government, NGOs and civil society, along with other development partners, are paramount for UNDAF to be able to respond accurately to national development priorities.

In 2006, the UNDG asked the Inter-Agency Support Group on Indigenous Issues for support and guidance on mainstreaming and integrating indigenous issues into UN operational activities. The UNDG Task Team on Indigenous Issues, com-

<sup>8</sup> *Human Rights-based Approach to Development: Good Practices and Lessons Learned from the 2003 CCAs and UNDAFs*, OHCHR, December 2004; *Indigenous and Tribal Peoples and Poverty Reduction Strategy Papers (PRSPs): An Ethnic Audit of Selected PRSPs*, Manuela Tomei, ILO, May 2005; *MDG Reports and Indigenous Peoples, Desk Review*, prepared by Kelly Laird for the SPFII, January 2006; *Integration of Indigenous Peoples' Perspective in Country Development Processes: Review of Selected CCAs and UNDAFs*, by Prasenjit Chakma for the SPFII, April 2006; *Desk Reviews of Selected CCA/ UNDAFs*, prepared by Mariana López for the SPFII, April 2006 (available in English and Spanish); *Desk Reviews of Selected MDG Country Reports*, prepared by SPFII, February 2007; *Desk Reviews of Selected Resident Coordinator Reports*, prepared by SPFII, January 2007 (to view all the Desk Reviews prepared for and by the SPFII, see: <http://www.un.org/esa/socdev/unpfii/en/publications.html>).

<sup>9</sup> UNDP (2004). *Human Development Report*.

<sup>10</sup> The PRSP process was initiated by the World Bank and the International Monetary Fund (IMF) in 1999. A PRSP describes the macroeconomic, structural and social policies and programmes that a country will pursue over several years to promote broad-based growth and reduce poverty, as well as its external financing needs and associated sources of financing.

<sup>11</sup> See: [http://www.undg.org/archive\\_docs/4874-2004\\_CCA\\_\\_UNDAF\\_Guidelines\\_-\\_Guidelines\\_CCA\\_\\_UNDAF.doc](http://www.undg.org/archive_docs/4874-2004_CCA__UNDAF_Guidelines_-_Guidelines_CCA__UNDAF.doc).

<sup>12</sup> See: [http://www.undg.org/documents/5877-UNDAF\\_Annual\\_Review\\_Guidelines\\_-\\_English.doc](http://www.undg.org/documents/5877-UNDAF_Annual_Review_Guidelines_-_English.doc).

posed of IASG members, was mandated to develop guidelines for mainstreaming and integrating indigenous issues into the mechanisms and processes of the UN system at the country level, as well as to develop a programme of action for implementation of the guidelines. The UNDG adopted the *Guidelines on Indigenous Peoples' Issues* for UNCTs in January 2008.

## Why a Resource Kit for UN country teams?

The CCA/UNDAF 2004 Guidelines, which clearly refer to the inclusion of indigenous peoples, are an example of promoting the principle of full and effective participation of indigenous peoples in all matters affecting them. The recent publication *Frequently Asked Questions on a Human Rights–Based Approach to Development Cooperation*<sup>13</sup> clearly reiterates the same principle as a primary condition of protecting, promoting and fulfilling human rights for all when achieving the MDGs.

<sup>13</sup> OHCHR (2006). *Frequently Asked Questions on a Human Rights–Based Approach to Development Cooperation*. Can be downloaded from: <http://www.ohchr.org/Documents/Publications/FAQen.pdf>.

However, seven years after the adoption of the Millennium Declaration and the definition of the eight MDGs, little progress has been made with regard to indigenous peoples' full and effective participation in MDG processes. Further, these processes have not been used effectively to engage indigenous peoples in development-related work at the country level in order to reverse their marginalization.

Implementing the CCA/UNDAF Guidelines by moving from policy to practice at the country level therefore remains a challenge that must be addressed if the CCA/UNDAF Guidelines are to be applied at programming and operational levels. This will, inter alia, imply looking at the indicators and tools used for analysing and improving the situation of indigenous peoples. For indigenous peoples, marginalization has been reflected not only in inequality and injustices in income, education, health and access to other public services but also, more significantly, in political representation and full and effective participation in decision-making processes on matters affecting them directly or indirectly. Very often, however, there is no adequate data available and the indicators and tools used for analysing the root causes of indigenous marginalization and measuring poverty reduction have not necessarily reflected the indigenous reality or indigenous peoples' own concepts and views on development, nor have they demonstrated the link between poverty and the loss of land and natural resources. As the above-mentioned IASG technical paper also stressed, indigenous peoples have specific perceptions of indicators of poverty and well-being, in addition to their own strategies for poverty reduction and development.

The SPFII therefore believes that the current CCA/UNDAF processes in which all UNCTs have been involved provide an important entry point from which to integrate more comprehensive and coherent indigenous perspectives into the UN work at national level. The collection of disaggregated data and the identification of relevant indicators will be important elements in capacity-building initiatives for UNCTs.

## The objectives of the Resource Kit

One of the objectives of this Kit is to provide elements to help the UNCTs understand the language specific to indigenous peoples in the CCA/UNDAF Guidelines, thereby facilitating their implementation. An additional purpose is to support UNCTs in the "roll-out" of the UNDG *Guidelines on Indigenous Peoples' Issues*. Finally, this Resource Kit also supports the efforts of the Permanent Forum in promoting the implementation of its mandate at the country level.

### The main objectives of the Resource Kit are to:

- Provide an understanding of indigenous issues through practical examples and guidance to UNCTs on how to engage indigenous peoples effectively in development processes, including CCA/UNDAF, MDG monitoring, PRSP and others;
- Help UNCTs implement the UNDG Guidelines on Indigenous Issues adopted in early 2008;
- Help UNCTs implement recommendations of the UN Permanent Forum on Indigenous Issues;
- Serve as a tool to enhance and strengthen the role of UNCTs in integrating indigenous issues into the UN system's work at the country level and to advocate for the inclusion of indigenous issues in all development processes that relate to indigenous peoples and supportive mechanisms at national level.

## How to use this Resource Kit?

This Resource Kit can be used by UNCTs' staff as a starting point prior to the preparation of CCA/UNDAF or other development programme-related documents in order to gain a basic understanding of indigenous issues. It can also serve as a "checklist" when preparing an analysis of national situations in relation to development.

The Resource Kit is also intended for use as an advocacy tool for including indigenous issues in national development priorities, MDG monitoring mechanisms and human development reports. The references and documents in the last section may form an additional source of information.

A CD-Rom will be prepared to include a more comprehensive list of references and documents for training purposes. The film "Indigenous People and the United Nations, vol. 1", an awareness-raising film produced by the Secretariat of the UNPFII,<sup>14</sup> also provides information on how the UN system deals with indigenous issues at the global level and how this has become a priority for the UN system. Compilations of good practices also complement this Resource Kit.<sup>15</sup> Separate brochures on specific topics relevant to indigenous peoples such as indigenous peoples in conflict situations and indigenous peoples and the private sector may be developed by the Secretariat later, as additional components of a training package.

<sup>14</sup> This film can be downloaded from the UNPFII web site: <http://www.un.org/esa/socdev/unpfii/>.

<sup>15</sup> The Secretariat of the UNPFII has coordinated the preparation of studies on IFAD's work, see IFAD's *Work in Support of Indigenous and Tribal Peoples—Challenges and Ways Forward*, edited by Victoria Tauli-Corpuz, 2006. Available at: <http://www.un.org/esa/socdev/unpfii/en/workshop IPPMDG.html>. See also *Indigenous Women and the United Nations System: Good Practices and Lessons Learned*, compiled by SPFII for the Task Force on Indigenous Women/Inter-Agency Network on Women and Gender Equality, 2007. Can be downloaded from <http://www.un.org/esa/socdev/unpfii/en/publications.html>.



# Identifying indigenous peoples

The term “indigenous peoples”<sup>16</sup> has become a general denominator for distinct peoples who, through historical processes, have been pursuing their own concept and way of human development in a given socio-economic, political and historical context. Throughout history, these distinct groups of peoples have tried to maintain their group identity, languages, traditional beliefs, worldviews and way of life and, most importantly, the control and management of their lands, territories and natural resources, which allow and sustain them to live as peoples.

## Who are indigenous peoples?

The international community has not adopted a common definition of indigenous peoples and the prevailing view today is that no formal universal definition is necessary for the recognition and protection of their rights. However, there have been attempts to outline the characteristic of indigenous peoples.

The ILO’s Indigenous and Tribal Peoples Convention, 1989 (No. 169) applies to:

- Tribal peoples whose social, cultural and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations.
- Peoples who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonization or the establishment of present state boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions.<sup>17</sup>
- The Convention also states that self-identification as indigenous or tribal shall be regarded as a fundamental criterion for determining the groups to which the provisions of this Convention apply.<sup>18</sup>

The *Study on the Problem of Discrimination against Indigenous Populations* (the “Martínez Cobo Study”) offers the following “working definition”:

“Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing in those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal systems.”<sup>19</sup>

<sup>16</sup> In almost all indigenous languages, the name of a group simply refers to “people”, “man” or “us”. In many cases, the group name also includes the name of the place with which the group identifies (people of X, Y places) or adjectives such as “free”, “stand up”, or “black”, “red” and so forth. In any event, it is clear that the term “indigenous” has been adopted by many “indigenous” peoples as an instrument mostly used at the international level to advance their rights and improve their situation.

<sup>17</sup> ILO Convention No. 169, article 1, subsection 1.

<sup>18</sup> ILO Convention No. 169, article 1, subsection 2.

<sup>19</sup> José Martínez Cobo (1986/7). *Study of the Problem of Discrimination Against Indigenous Populations*. UN Doc E/CN.4/Sub.2/1986/7.



The *Working Paper on the Concept of "Indigenous People"* prepared by the Working Group on Indigenous Populations lists the following factors that have been considered relevant to the understanding of the concept of "indigenous" by international organizations and legal experts:

- Priority in time, with respect to the occupation and use of a specific territory;
- The voluntary perpetuation of cultural distinctiveness, which may include the aspects of language, social organization, religion and spiritual values, modes of production, laws and institutions;
- Self-identification, as well as recognition by other groups, or by State authorities, as a distinct collectivity; and
- An experience of subjugation, marginalization, dispossession, exclusion or discrimination, whether or not these conditions persist.<sup>20</sup>

Self-identification as indigenous or tribal is considered a fundamental criterion and this is the practice followed in the United Nations and its specialized agencies, as well as in certain regional intergovernmental organizations.<sup>21</sup> Article 33 of the UN Declaration on the Rights of Indigenous Peoples refers to the rights of indigenous peoples to decide their own identities and membership procedures.

<sup>20</sup> Erica-Irene A. Daes (1996). *Working Paper on the Concept of "Indigenous People"*, prepared for the Working Group on Indigenous Populations. UN Doc E/CN.4/Sub.2/AC.4/1996/2.

<sup>21</sup> There are two additional resources that are particularly relevant in the specific context of Africa: the definition included in the *Report of the African Commission on Human and Peoples' Rights Working Group on Indigenous Populations/Communities*, adopted by the African Commission at its 28th session (available from <http://www.iwgia.org/sw2186.asp>) and the *Response Note to the "Draft Aide-mémoire of the African States on the UN Declaration on the Rights of Indigenous Peoples"*, prepared by the African Group of Experts (available from: <http://www.iwgia.org/sw21505.asp>).

#### Understanding who indigenous peoples are

- They identify themselves as indigenous peoples and are, at the individual level, accepted as members by their community;
- They have historical continuity or association with a given region or part of a given region prior to colonization or annexation;
- They have strong links to territories and surrounding natural resources;
- They maintain, at least in part, distinct social, economic and political systems;
- They maintain, at least in part, distinct languages, cultures, beliefs and knowledge systems;
- They are resolved to maintain and further develop their identity and distinct social, economic, cultural and political institutions as distinct peoples and communities;
- They form non-dominant sectors of society.

In some countries, it is controversial to use the term "indigenous". There may be local terms (such as tribal, first people, ethnic minorities) or occupational and geographical labels (hunter-gatherers, pastoralists, nomadic or semi-nomadic, hill people, etc.) that, for all practical purposes, can be used to refer to "indigenous peoples". In some cases, however, the notion of being indigenous has pejorative connotations and people may choose to refuse or redefine their indigenous origin. Such choices must be respected, while at the same time any discrimination based on indigenous peoples' cultures and identity must be rejected. This different language use is also reflected in international law. The UN Declaration on the Rights of Indigenous Peoples, adopted in 2007, uses the term "indigenous" in a widely inclusive manner, while the only international Conventions on the subject—the ILO Convention on Indigenous and Tribal Peoples, 1989 (No. 169) and its 1957 predecessor (Convention No. 107) use the terminology "indigenous and tribal". While these are considered to have similar coverage at the international level, not all Governments agree.

## How to identify indigenous peoples

The most fruitful approach is to identify, rather than attempt to define, indigenous peoples in a specific context. Indigenous peoples' representatives themselves have taken the position that no global definition is either possible or desirable. Identification is a more constructive and pragmatic process, based on the fundamental criterion of self-identification. The identification of indigenous peoples must thus be undertaken with the full participation of the peoples concerned. The purpose of the exercise is to gain a better understanding of the specific situations of exclusion, discrimination and poverty faced by particular groups of peoples so that public policies can address these issues by developing targeted programmes and inclusive processes.

Below is a list of some practical questions suggested for consideration when working on matters involving indigenous peoples in the preparation of development frameworks. Local indigenous organizations and leaders, and academic constituencies in addition to government, may be well placed to help answer these questions. The list is neither exhaustive nor mandatory, but provides elements for consideration and reflection as part of any preparatory work.

### Identifying indigenous peoples

- Are there peoples identifying themselves as indigenous?
- Are there local terms that identify indigenous peoples?
- If so, are they recognized in legislation (the Constitution or other laws, for example)?
- What term is used in the national policy discourse and mainstream media with regard to these groups of peoples to distinguish them from the dominant societal group?
- Are there provisions in relevant laws regarding these groups' collective rights as peoples/communities or any other specific group rights?
- Who are these groups and what are these provisions?
- What is their general situation compared to the mainstream dominant society?
- Has a census been conducted in recent years in the country?
- If so, are these peoples reflected in the census?
- If so, how are they identified as a specific group of people? By self-identification or other criteria?
- Is any other disaggregated data on these specific groups of people available or can it be generated?

Indigenous peoples often have much in common with other marginalized segments of society, i.e., lack of or very poor political representation and participation, lack of access to social services, and exclusion from decision-making processes on matters affecting them directly or indirectly. However, the situation of indigenous peoples is different because of their history and their intimate relationship with their lands, territories and resources which, in many cases, not only provide them with the economic means for living but, more importantly, sustain them as peoples. As distinct peoples, indigenous peoples claim the right to self-determination, including the right to control their own political, social, economic and cultural development as enshrined in the United Nations Declaration on the Rights of Indigenous Peoples,<sup>22</sup> ILO Convention No. 169, and other human rights instruments. Furthermore, many indigenous peoples have a profound spiritual relationship with their land and natural resources. Indigenous peoples' rights to manage their traditional lands, territories and relevant resources are

<sup>22</sup> The Declaration can be accessed at: <http://www.un.org/esa/socdev/unpfi/en/declaration.html>.

fundamental for their physical and spiritual survival. However, all too often, indigenous communities have been displaced and dislocated from their ancestral lands in the name of development, by oil and gas or other natural resource exploitation projects, the construction of dams, conservation parks, roads or other national development priorities, which have been designed without the free, prior and informed consent of indigenous peoples—and indeed, often without any form of consultation with them at all.

## Indigenous peoples and the development context

During the early history of the United Nations' development assistance work, there was a tendency to regard indigenous rights as a “marginal” issue in the broader development context. However, it is estimated that indigenous peoples constitute some 370 million individuals, representing more than 5,000 distinct peoples living in more than 70 countries. The vast majority of indigenous peoples live in the developing world. In both developing and developed countries, indigenous peoples are generally excluded from political participation; they are economically and socially marginalized and disproportionately represented among the victims of human rights abuses and conflicts. Very often, indigenous peoples have not been recognized as peoples in the Constitution or other national legislation, and they may not even have the right to identity papers in their own country.

Among the many challenges faced by indigenous peoples is usually a denial of their right to control their own development, even though they hold their own diverse concepts of development, based on their own different values, visions, needs and priorities. Equally, their perception and interpretation of well-being may not be the same as that of the dominant society in which they live, as it often reflects their own worldview and values. In some countries, despite their contribution to the nation-building process, their loyalty to the country has been questioned because their view of development does not correspond to that of the dominant society.

Although representing 5 per cent of the world's population, studies have indicated that indigenous peoples represent 15 per cent of the world's poorest people. Inequality in income, education, access to basic public services (e.g., clean water, food, shelter and health) and political representation affect almost all indigenous peoples. The achievement of the Millennium Development Goals (MDGs)—as well as of the Poverty Reduction Strategy Papers (PRSPs)—is therefore particularly challenging for indigenous peoples in many aspects, in both developed and developing countries.

The UNPFII has consistently raised issues of crucial importance, such as the inclusion of indigenous peoples in development processes; the need for a human rights-based approach to development; and for indigenous peoples to be included in the monitoring mechanisms for the MDGs and PRSPs. Moreover, the UNPFII has reiterated that general indicators used to define and measure poverty do not necessarily reflect the reality of indigenous peoples' situations, nor do they correspond to the world views of indigenous peoples. It has been stated that one of the root causes of poverty and marginalization for indigenous peoples is the loss of control over their traditional lands, territories and natural resources. Denying them the right to live on their lands and territories and to manage natural resources in a sustainable manner has resulted in further marginalization and exclusion. At the same time, attempts to achieve the MDGs may drive governments and others to accelerate the expropriation of indigenous peoples' lands, territories and natural resources.<sup>23</sup>

<sup>23</sup> “Making the MDGs relevant for Indigenous Peoples”, Statement by Victoria Tauli-Corpuz, Chairperson of the UNPFII, at Roundtable 1: Eradication of Poverty and Hunger, ECOSOC High Level Segment, March 2005.

**For further reading on a working definition of indigenous peoples**

- José Martínez Cobo (1986 and 1987). *Study of the Problem of Discrimination Against Indigenous Populations*, prepared for the UN Commission on Human Rights, Sub-Commission on Prevention of Discrimination and Protection of Minorities. UN Doc E/CN.4/Sub.2/1986/87. The Study has been posted on the web site of the Secretariat of the United Nations Permanent Forum on Indigenous Issues: [www.un.org/esa/socdev/unpfi](http://www.un.org/esa/socdev/unpfi).
- Erica-Irene A. Daes (1996). *Working Paper on the Concept of "Indigenous People"*, prepared for the UN Commission on Human Rights, Subcommission on Prevention of Discrimination and Protection of Minorities, Working Group on Indigenous Populations. UN Doc E/CN.4/Sub.2/AC.4/1996/2. The study can be downloaded from: <http://documents.un.org/simple.asp>.
- International Labour Organization (1989). *The ILO Convention on Indigenous and Tribal Peoples, 1989 (No. 169)*. Can be downloaded from <http://www.ilo.org>.
- Asian Development Bank (1998). *Policy on Indigenous Peoples*. Can be downloaded from [http://www.adb.org/Documents/Policies/Indigenous\\_Peoples/ippp-001.asp](http://www.adb.org/Documents/Policies/Indigenous_Peoples/ippp-001.asp).
- Asian Development Bank (2006). *Operations Manual F3*. <http://www.adb.org/Documents/Manuals/Operations/OMF03-25Sep06.pdf>.
- African Commission on Human and Peoples' Rights (2005). *Report Submitted in Accordance with the "Resolution on the Rights of Indigenous Populations/Communities in Africa"*, 28th Session, 2003. <http://www.achpr.org>.
- UN General Assembly (2007). *The United Nations Declaration on the Rights of Indigenous Peoples*, UN Doc A/RES 61/295. Can be downloaded from <http://www.ohchr.org> and <http://www.un.org/esa/socdev/unpfi>.
- Organization of American States (1997). *The Draft American Declaration on the Rights of Indigenous Peoples*, OEA/Ser/L/V/II.95, 1997. <http://www.oas.org>.



## Key elements regarding indigenous peoples and development

As a conceptual framework based on international human rights standards, a human rights–based approach to development aims to promote and protect human rights through operational processes. It seeks to analyse root causes of inequalities and redress discriminatory practices and unjust distributions of power, which impede development. Within this framework, policies, plans and processes for development and human rights share a common preoccupation with the necessary outcomes for improving peoples’ daily lives.

When addressing the specific situation of indigenous peoples, recognition of their collective rights<sup>24</sup> can provide the framework for adopting a human rights–based and culturally sensitive approach. Such an approach should also take several key elements into consideration. These elements are: the significance of lands, territories and natural resources; respect for the principles of participation and free, prior and informed consent; and the need for disaggregated data and culturally sensitive indicators.

### Indigenous peoples’ lands, territories and natural resources

Land rights, access to land and control over it and its resources are central to indigenous peoples throughout the world. Territories and land have material, cultural and spiritual dimensions for indigenous communities and, through their deep understanding of and connection with the land, they have managed their environments sustainability for generations. In order to survive as distinct peoples, indigenous peoples and their communities need to be able to own, conserve and manage their territories, lands and resources<sup>25</sup> on the basis of their collective rights. This is why protection of their collective right to lands, territories and natural resources has always been a key demand of the international indigenous peoples’ movement and of indigenous peoples and organizations everywhere—and this is why it is an issue that must be given priority when dealing with indigenous people.

Today, several international instruments recognize the strong ties that exist between indigenous peoples and their ancestral lands. The UN Declaration on the Rights of Indigenous Peoples (articles 25 and 26) and ILO Convention No. 169 (article 14) recognize the right of indigenous peoples to own and control their lands and, to differing degrees, their right to own, use and manage the natural resources on those lands. Several other articles within the Declaration<sup>26</sup> also recognize a number of related rights, including the right to free and informed consent prior to approval of interventions affecting their lands.

<sup>24</sup> Rights related to indigenous peoples seek to protect not only their individual rights but also their collective rights. Recognition of collective rights is necessary to ensure the continuing existence, development and well-being of indigenous peoples as distinct collectivities (UNDG Draft Guidelines on Indigenous Peoples’ Issues, 2007:6).

<sup>25</sup> See: UNPFII (2007). Report of the sixth session. UN Doc E/2007/43-E/C.19/2007/12.

<sup>26</sup> See, for instance, articles 10, 27, 28, 29, 30, 31, and 32 of the Declaration.

### Text of the Declaration

#### Article 25

Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources...

#### Article 26

1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.
2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.
3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

<sup>27</sup> Relevant articles of the Convention on Biological Diversity are: article 8 (*j*) on traditional knowledge; article 10 on customary sustainable use, article 15 on access and sharing of the benefits arising out of the utilization of genetic resources; and article 17 on exchange of information. The entire Convention can be downloaded from: <http://www.cbd.int/convention/>.

<sup>28</sup> These reforms have also included recognition of other rights such as the right to their languages, cultures and identities; their laws and institutions; their forms of government, etc.

<sup>29</sup> These countries are: Argentina, Bolivia, Brazil, Colombia, Guatemala, Mexico, Nicaragua, Panama, Paraguay, Peru, Ecuador and Venezuela.

<sup>30</sup> SPFII (2006). *Background on Indigenous Peoples—Lands, Territories and Resources*, prepared for the sixth Session (2006). [http://www.un.org/esa/socdev/unpfii/documents/6\\_session\\_factsheet1.pdf](http://www.un.org/esa/socdev/unpfii/documents/6_session_factsheet1.pdf).

<sup>31</sup> *Ibid.*

<sup>32</sup> Victoria Tauli-Corpuz (2005). "Indigenous Peoples and the Millennium Development Goals", *Indigenous Perspectives*, vol. VII, No. 1.

The Convention on Biological Diversity (negotiated in 1992 and ratified by 190 State parties) is another important international instrument that acknowledges the close and traditional dependence of many indigenous and local communities on biological resources, and the contribution that traditional knowledge can make to both the conservation and the sustainable use of biological diversity, two fundamental objectives of the Convention.<sup>27</sup>

At the national level, many countries have in recent decades reformed their constitutional and legal systems in response to calls from indigenous movements for legal recognition of their right to protection and control of their lands, territories and natural resources.<sup>28</sup> Latin America has led the way with such constitutional reforms taking place in most countries,<sup>29</sup> a number of which go as far as to acknowledge the collective nature of indigenous peoples (an essential element of land rights).<sup>30</sup> In Asia, the Philippines has a Constitution (1987) that "recognizes and promotes the rights of indigenous cultural communities within the framework of national unity and development" and a law—the 1997 Indigenous Peoples' Rights Act—that recognizes the right of indigenous peoples to their ancestral domains and lands.

Despite these important advances, indigenous peoples worldwide continue to suffer from policies and actions that undermine and discriminate against their customary land tenure and resource management systems, expropriate their lands, extract their resources without their consent and result in displacement from and dispossession of their territories. In his March 2007 report, the UN Special Rapporteur on the situation of the human rights and fundamental freedoms of indigenous people stated: "Although in recent years many countries have adopted laws recognizing the indigenous communities' collective and inalienable right to ownership of their lands, land-titling procedures have been slow and complex and, in many cases, the titles awarded to the communities are not respected in practice".<sup>31</sup>

Indigenous peoples' land rights are also threatened by development processes. As pointed out by Ms. Victoria Tauli-Corpuz, the chair of the UNPFII, "The term 'development' has acquired a negative connotation for indigenous peoples even if this is called 'sustainable', because their histories are replete with traumatic experiences with development projects, policies and programmes. In fact, mainstream development is regarded as one of the root causes of their problems."<sup>32</sup> Such mainstream development includes, inter alia, the creation of protected areas and natural parks, infrastructural

construction works (roads, dams, etc.) and all types of extractive activities (mining, logging, agri-business, etc.). The UNDG *Guidelines* note: “Indigenous peoples’ lands have been disproportionately affected by national development activities because they often contain valuable natural resources including timber, minerals, biodiversity resources, water and oil, among others”.<sup>33</sup> Access to and ownership and development of these resources remains a contentious issue, and concern has been expressed by the IASG<sup>34</sup> that the effort to meet the targets laid down for the MDGs could in fact have harmful effects on indigenous and tribal peoples, such as an accelerated loss of lands and natural resources or displacement from those lands. The MDGs have also often been criticized by indigenous peoples for not reflecting their relationship with the land.

Indigenous peoples see a clear relationship between loss of their lands and their communities’ situations of marginalization, discrimination and underdevelopment. According to Erica-Irene Daes, a UN Special Rapporteur in 2001, “The gradual deterioration of indigenous societies can be traced to the non-recognition of the profound relation that indigenous peoples have to their lands, territories and resources.”<sup>35</sup> Income inequalities and social heterogeneity are often the result of land alienation. Indigenous peoples are also acutely aware of the relationship between the environmental impacts of various types of development on their lands and the environmental and subsequent health impacts on their peoples. Indigenous well-being is therefore often seen as inextricably linked with their relationship to lands and traditional practices.<sup>36</sup>

The Permanent Forum has, over the years, issued a number of recommendations regarding indigenous rights to lands, territories and natural resources, and this subject was the focus of its sixth session (2007).<sup>37</sup> On that occasion, the Forum stressed the fundamental importance of indigenous peoples’ security of land use and access, as well as the importance of land rights for broader processes of poverty reduction, good governance and conflict prevention. One recommendation was therefore to urge States to take measures to halt land alienation in indigenous territories through, for example, a moratorium on the sale and registration of land—including the granting of land and other concessions—in areas occupied by indigenous peoples; and further to support indigenous peoples in preparing their claims for collective title. As Ms. Victoria Tauli-Corpuz observed: “One of the key reasons why indigenous peoples are being disenfranchised from their lands and territories is the existence of discriminatory laws, policies and programmes that do not recognize indigenous peoples’ land tenure systems and give more priority to claims being put by corporations—both state and private”.<sup>38</sup>

The Permanent Forum further recommended that: “Governments, bilateral and multilateral donor and development agencies and other development partners responsible for, or assisting in the implementation of sectoral strategies or other programmes affecting lands owned, occupied or otherwise used by indigenous peoples, review the consistency of such strategies and programmes with internationally recognized standards for the protection of the rights of indigenous peoples and the impact of such strategies and programmes on indigenous communities”. This recommendation should be seen in the light of the fact that, although the United Nations agencies, the World Bank and the regional development banks (ADB, IDB) all acknowledge indigenous peoples’ special ties to their lands, territories and resources, their operational policies and guidelines do not have a clear commitment to protect the ancestral lands of indigenous peoples. Instead, they recommend “special considerations”<sup>39</sup> or “specific safeguards”<sup>40</sup> to be taken if operations directly or indirectly affect lands, territories or natural resources traditionally occupied or used by indigenous peoples. In its annual report<sup>41</sup> presented during the Forum meeting, the IASG noted, however, that “development activities, including those carried out by multilateral and bilateral agencies, can

<sup>33</sup> UNDG, *Guidelines on Indigenous Peoples’ Issues*, 2008.

<sup>34</sup> IASG (2004). Statement of the Inter-Agency Support group on Indigenous Issues regarding Indigenous Peoples and the Millennium Development Goals. See: <http://www.un.org/esa/socdev/unpfii/en/iasg.html#statement>.

<sup>35</sup> Erica-Irene Daes (2001). *Indigenous Peoples and Their Relationship to Land*. Final Working Paper. UN Doc E/CN.4/SUB.2/2001/21.

<sup>36</sup> SPFII: *Report of the Meeting on Indigenous Peoples and Indicators of Well-being*, Canada, March 2006. UN Doc E/C.19/2006/CRP.3.

<sup>37</sup> The full report, as well as documents submitted at the sixth session of the UNPFII, can be downloaded from UNPFII’s website: [http://www.un.org/esa/socdev/unpfii/en/session\\_sixth.html](http://www.un.org/esa/socdev/unpfii/en/session_sixth.html).

<sup>38</sup> *Ibid.*

<sup>39</sup> World Bank, OP.4.10 (para.16).

<sup>40</sup> IDB, OP-765 (para. 4.4 (b)).

<sup>41</sup> Report of the IASG annual session to the sixth session of the UNPFII, 2007. UN Doc E/C.19/2007/2.



sometimes unwittingly dispossess indigenous peoples from their lands and territories” and suggested therefore that members take up this issue with their country teams.

The Forum finally reaffirmed the central role of indigenous peoples in decision-making with regard to their lands and resources by referring to the United Nations Declaration on the Rights of Indigenous Peoples, which states that land and resource-related projects “shall not be implemented without the free, prior and informed consent of indigenous peoples” (article 32).

The UNDG *Guidelines* include a number of guiding principles related to land, territories and natural resources, as can be seen in the following box.

#### Some guiding principles related to land, territories and natural resources

- Indigenous peoples’ lands and territories should be largely recognized, demarcated and protected from outside pressures;
- All efforts should be made to ensure that indigenous peoples determine the activities that take place on their lands and in particular that impacts on the environment and sacred and cultural sites are avoided;
- Indigenous peoples’ rights to resources that are necessary for their subsistence and development should be respected;
- In the case of state owned sub-surface resources on indigenous peoples’ lands, indigenous peoples still have the right to free, prior and informed consent for the exploration and exploitation of those resources, and have a right to any benefit-sharing arrangements.

Source: UNDG, *Guidelines on Indigenous Peoples’ Issues*, 2008.

## Participation and free, prior and informed consent

Articles 18 and 19 of the UN Declaration on the Rights of Indigenous Peoples emphasize the principles of participation and free, prior and informed consent.

#### The UN Declaration on the Rights of Indigenous Peoples

##### *Article 18*

Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

##### *Article 19*

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

Article 6 of ILO Convention No. 169 speaks of “consultation with the peoples concerned” to be “carried out in good faith and in a form appropriate to the circumstances ... with the objective of achieving agreement and consent to the proposed measures”.

## Participation

The rights to participation and to free, prior and informed consent are an integral part of a human rights–based approach. For indigenous peoples, as for all rights-holders, being part of people-centered processes is fundamental to meeting development challenges—in particular, the achievement of the MDGs. The MDGs and human rights are interdependent and mutually reinforcing and should be seen as part of a broader integrated framework of international human rights entitlements and obligations. Participation is therefore key to this process, as only mechanisms that enable the full and effective participation of indigenous peoples in all stages of development, from design, implementation, monitoring and evaluation to benefit-sharing, can make the implementation and operationalization of these concepts work.

Participation should be seen as a “chief strategy through which to progress towards equity for indigenous peoples”.<sup>42</sup> It implies going further than mere consultation and should lead to the concrete ownership of projects on the part of indigenous peoples. The IASG annual report presented during the sixth UNPFII session<sup>43</sup> strongly recommended that mechanisms be developed at the country level to give indigenous peoples a greater sense of ownership of intergovernmental organizations and their activities, and to enable their full participation in activities affecting them. Such mechanisms would also facilitate dialogue and the participation of indigenous peoples in the United Nations system, international financial institutions and the decision-making bodies of other multilateral institutions and in the formulation, implementation and evaluation of programmes and projects affecting them. It would also permit indigenous peoples to contribute to the formulation of common country assessments and the United Nations Development Assistance Framework, to the implementation of poverty reduction strategy papers, Millennium Development Goal initiatives and the Programme of Action for the Second International Decade of the World’s Indigenous People.

<sup>42</sup> SPFII: *Report of the International Expert Workshop on Methodologies Regarding Free Prior and Informed Consent*, 2005. UN Doc E/C.19/2005/3, para. 56: 15.

<sup>43</sup> Report of the IASG annual session to the sixth session of the UNPFII, 2007. UN Doc E/C.19/2007/2.

## Free, prior and informed consent

Participation is closely linked to the principle of the free, prior and informed consent of the communities or groups concerned. This principle should be respected and used as a methodology when designing programmes and projects that directly or indirectly affect indigenous peoples, as defined in the context of a human rights–based approach. The International Workshop on Methodologies Regarding Free, Prior and Informed Consent organized by the Permanent Forum in January 2005 clarified various aspects of free, prior and informed consent and suggested a number of elements for a common understanding.

The UNPFII workshop recommended that FPIC should be sought sufficiently in advance of commencement or authorization of activities, taking into account indigenous peoples’ own decision-making processes in all phases of a project. Information should be accurate and in a form that is accessible and understandable, including in a language that the indigenous peoples will fully understand. The format in which information is distributed should take into account the oral traditions of indigenous peoples and their languages. Consent to any agreement should be interpreted as implying that indigenous peoples have reasonably understood it.

Indigenous peoples should also specify which representative institutions are entitled to express consent on behalf of the affected peoples or communities. In FPIC processes, indigenous peoples, UN agencies and Governments should ensure a gender balance and take into account the views of children and youth as relevant.

### Free, prior and informed consent: some basic elements

- *Free* should imply no coercion, intimidation or manipulation;
- *Prior* should imply consent has been sought sufficiently in advance of any authorization or commencement of activities and respects time requirements of indigenous consultation/consensus processes;
- *Informed* should imply that information is provided that covers (at least) the following aspects:
  - The nature, size, pace, reversibility and scope of any proposed project or activity;
  - The reason/s or purpose of the project and/or activity;
  - The duration of the above;
  - The locality of areas that will be affected;
  - A preliminary assessment of the likely economic, social, cultural and environmental impact, including potential risks and fair and equitable benefit sharing in a context that respects the precautionary principle;
  - Personnel likely to be involved in the execution of the proposed project (including indigenous peoples, private-sector staff, research institutions, government employees and others);
  - Procedures that the project may entail.

- *Consent*: Consultation and participation are crucial components of a consent process. Consultation should be undertaken in good faith. The parties should establish a dialogue allowing them to find appropriate solutions in an atmosphere of mutual respect in good faith, and full and equitable participation.

Consultation requires time and an effective system for communicating among interest holders. Indigenous peoples should be able to participate through their own freely chosen representatives and customary or other institutions. The inclusion of a gender perspective and the participation of indigenous women are essential, as well as participation of children and youth, as appropriate.

**Source:** Excerpts from the *Report of the International Workshop on Methodologies Regarding Free Prior and Informed Consent*, UN Doc E/C.19/2005/3, endorsed by the UNPFII at its fourth session in 2005.

It should be noted that the FPIC process may include the option of withholding consent. It should also be noted that, in most countries, neither indigenous peoples nor any other population group actually have the right to veto development projects that affect them. The concept of free, prior and informed consent is therefore a goal to be pursued, and a principle to be respected to the greatest degree possible in development planning and implementation.

## Disaggregated data and relevant indicators

Disaggregated data based on culturally appropriate indicators that reflect indigenous perspectives are crucial for targeting, designing, monitoring and evaluating programmes and projects with indigenous peoples.

### Data collection and disaggregation

Data collection and disaggregation have been identified as a major methodological issue with regard to indigenous peoples and public policies and programmes.<sup>44</sup> The creation of disaggregated data, by gender and by ethnicity, is important in order to

<sup>44</sup> SPFII: *Report of the International Expert Workshop on Data Collection and Disaggregation for Indigenous Peoples*, January 2004. UN Doc E/C.19/2004/2. See: [http://www.un.org/esa/socdev/unpfii/documents/workshop\\_data\\_ohchr\\_en.doc](http://www.un.org/esa/socdev/unpfii/documents/workshop_data_ohchr_en.doc).

gain an accurate understanding of indigenous peoples' situations, to design policies and develop and adequately monitor the impact of programmes. The disaggregated data can be used, for instance, to measure progress in poverty reduction or the economic situation, literacy rate or health situation of the target groups, depending on the objectives of the intervention.

In most countries, however, there is no available disaggregated data that can give an accurate description of indigenous peoples' situation in comparison with that of other population groups or which could be used to design policies and monitor the impact of programmes. It is often necessary to combine or correlate different sets of data (e.g., economic statistics correlated with geographical criteria) to obtain an approximation of the situation of indigenous peoples. The absence of disaggregated data is reproduced in large-scale reporting procedures from the national to the international level, e.g., with regard to progress towards the MDGs. In order to monitor progress effectively, it is acknowledged that reports need to go beyond national averages, which can be misleading, signal false progress or mask disparities related to ethnicity.<sup>45</sup>

The UNDG *Guidelines on Indigenous Peoples' Issues* therefore recommend that the UNCTs "should support the disaggregation of data by indigenous origin and language as well as promote alternative methodologies on data collection ... UNCTs should ensure that this data properly feeds into programme design and implementation and that it is widely disseminated. Data disaggregation by gender is also essential to assess the situation of women and men within their communities..."<sup>46</sup>

The CCA/UNDAF Guidelines also recommend that data on gender and ethnic groups be disaggregated in order to address issues in public policy and remedy discrimination. Disaggregated data is, for instance, necessary for formulating policies that will allow special corrective measures to be designed and implemented. International human rights standards suggest that such measures may be necessary to address discrimination in order to reverse historical injustices and inequality. These corrective measures may be targeted programmes, special arrangements such as affirmative action or other kinds of measures; they are not privileges but a way of remedying discrimination and moving towards equality.

Data disaggregation should therefore be an integral element of strengthening national capacities, and the UNDG Guidelines recommend the following: "Should relevant data not exist or remain insufficient, the UNDAF matrix should clearly address the need for the production and analysis of such information as an expected output."<sup>47</sup> Methodologically, relevant data collection must be undertaken with the full participation of indigenous peoples, in indigenous languages where possible, and employing indigenous facilitators. In all relevant data collection exercises, questions on indigenous identity that show full respect for the *principle of self-identification* have to be included. It is important to develop multiple criteria with local indigenous peoples' active and effective participation in order to capture identity accurately and socio-economic conditions. Data collection should follow the *principle of free, prior and informed consent* at all levels and respect the human rights of indigenous peoples. For indigenous peoples living in voluntary isolation, data collection exercises should not be used as a pretext for establishing forced contact.<sup>48</sup>

In some countries, national censuses do not include relevant data on ethnicity or other elements that would enable the counting of indigenous populations. In other cases, indigenous peoples, due to historical injustice and discrimination, do not wish to reflect their ethnicity in any statistics. In either case, the principle of free, prior and informed consent should be respected when developing questionnaires for censuses and this should be done with the full and effective participation of indigenous peo-

<sup>45</sup> Matias Busso, Martin Cicowiez and Leonardo Gasparini (2005). *Ethnicity and the Millennium Development Goals*. Washington, D.C: UNDP, ECLAC, Inter-American Development Bank and the World Bank.

<sup>46</sup> UNDG, *Guidelines on Indigenous Peoples' Issues*, 2008.

<sup>47</sup> Ibid.

<sup>48</sup> *Report of the International Expert Workshop on Data Collection and Disaggregation for Indigenous Peoples*, January 2004. UN Doc E/C.19/2004/2. See: [http://www.un.org/esa/socdev/unpfii/documents/workshop\\_data\\_ohchr\\_en.doc](http://www.un.org/esa/socdev/unpfii/documents/workshop_data_ohchr_en.doc).

49 Pre-sessional paper prepared by the Office of the High Commissioner for Human Rights for the Workshop on Data Collection and Disaggregation for Indigenous Peoples, January 2004. UN Doc PFII/2004/WS.1/7. See: [http://www.un.org/esa/socdev/unpfii/documents/workshop\\_data\\_ohchr\\_en.doc](http://www.un.org/esa/socdev/unpfii/documents/workshop_data_ohchr_en.doc).

50 *Report of the International Expert Workshop on Data Collection and Disaggregation for Indigenous Peoples*, January 2004. UN Doc E/C.19/2004/2, para. 23. Can be downloaded from: [http://www.un.org/esa/socdev/unpfii/documents/workshop\\_data\\_ohchr\\_en.doc](http://www.un.org/esa/socdev/unpfii/documents/workshop_data_ohchr_en.doc).

ples. Additional awareness-raising efforts should be undertaken with national or local bureaux of statistics.

## Relevant indicators

In order to produce relevant data, it is necessary to elaborate indicators that measure dimensions of importance to indigenous peoples and which can quantify and qualify a rights-based development process.<sup>49</sup>

In January 2004, participants at an International Workshop on Data Collection and Disaggregation for Indigenous Peoples, organized at the request of the Permanent Forum on Indigenous Issues, “stressed the need for developing a conceptual framework for rights-based indicators to ensure that the data collected would be relevant to indigenous peoples ... and allow for the measurement of issues crucial for indigenous peoples’ development and rights, such as control over land and resources, equal participation in decision-making and control over their own development processes”.<sup>50</sup> These indicators should reflect indigenous perspectives and realities and therefore help to assess their situations better. From an indigenous perspective, poverty can refer to deprivation not only in terms of income but also in terms of land rights or cultural rights. Such

### Some examples of core themes identified by the regional workshops

#### North American–Pacific–Russian Workshop

*Identity, Land and Ways of Living*; including aspects related to traditional knowledge and culture, indigenous languages, permanent sovereignty of lands, territories, natural resources, health of communities and of ecosystems.

*Indigenous Rights to, and Perspectives on, Development*; including indigenous governance and management systems; FPIC, participation and self-determination as well as the degree of implementation/compliance with international standards and agreements relating to indigenous peoples’ rights and Government funding for indigenous peoples’ programmes and services.

#### Latin American and Caribbean workshop

*Recognition of collective rights* including aspects referring to identity, access to natural resources and distribution of benefits.

*Exercise of collective rights* including the degree of exercise of the rights of indigenous peoples and the socio-cultural, linguistic and economic reality of indigenous peoples.

#### Asian regional workshop

- Right to traditional knowledge
- Right to express ideas and speak indigenous languages
- Right to land ownership (IP and communities)
- Right to access natural resources
- Right to participate in decision-making processes
- Right to access infrastructure and basic services

#### African regional workshop

- Right to participation and self-determination
- Access to and control over indigenous lands and forests
- Right to practice traditional resource management, including pastoralism
- Access to free, good and culturally appropriate education
- Access to health services (human and livestock)
- Right to cultural identity

indicators should also reflect the differentiated concepts of men and women and their respective roles in different societies. They should be disaggregated from mainstream indicators at national and international level in order to draw comparisons with other population groups and monitor progress vis-à-vis internationally established development targets such as the MDGs.

The development of relevant indicators must be undertaken with the full participation of the indigenous peoples concerned, following the same principles as when collecting disaggregated data, and involving extensive dialogue with indigenous peoples and communities.

As part of the UN reform, the international system is moving towards outcomes-based programming. In an effort to measure outcomes and improve people's lives, the UN system's work can have an impact by developing indicators as a concrete way of setting benchmarks and measuring outcomes. This has not been an easy task, given the lack of statistics and data disaggregation concerning indigenous peoples. However, indigenous peoples have been involved in the international effort to develop appropriate indicators and ensure that they are culturally appropriate, to measure exclusion, capture indigenous realities and reflect the aspirations of indigenous peoples. This has happened in areas such as traditional knowledge, food security, the 2010 biodiversity target, well-being, poverty, health and the MDGs. Since several UN-system organizations have been undertaking work around developing indicators related to the situation of indigenous peoples, the IASG—through its informal networks on indicators—has strengthened the sharing of information and models of good practice so that various indicators can better portray indigenous peoples' realities.

At the same time, following recommendations of the UNPFII on indicators, the Secretariat of the Permanent Forum has been coordinating a project executed by indigenous organizations in which regional workshops have been held with the participation of indigenous experts.<sup>51</sup> The purpose of these workshops has been, among other things, to identify gaps in existing indicators at the global, regional and national levels, to propose the formulation of core global and regional indicators that address the specific concerns and situations of indigenous peoples and to draw up their own models of indicators.<sup>52</sup> These indicators will be compared with those developed by UN-system organizations, and the outcome of the exercise will be the development of culturally appropriate tools.

<sup>51</sup> The four regional workshops were held from March to November 2006 in Canada (participants from Canada, New Zealand, Australia, the USA and the Russian Federation); Nicaragua (participants from Brazil, Ecuador, Peru, Panama, Guatemala, Belize, Mexico and Nicaragua), the Philippines (participants from Bangladesh, Bhutan, Cambodia, India, Laos, Malaysia, Myanmar, Thailand, Viet Nam and the Philippines); and Kenya (participants from East Africa, the Horn, West Africa, Central Africa and Southern Africa). Reports are available from the SPFII website: <http://www.un.org/esa/socdev/unpfii>.

<sup>52</sup> *Report of the Meeting on Indigenous Peoples and Indicators of Well-being*, Canada, March 2006. UN Doc E/C.19/2006/CPR.3.



## Making the Millennium Development Goals relevant to indigenous peoples

Since its inception, the UNPFII has called for the full and effective participation of indigenous peoples in development processes. It has called upon States and various UN agencies to provide adequate funding, technical and institutional support and training to enable indigenous peoples to achieve the MDGs and for indigenous peoples to participate effectively in the planning, design, implementation, monitoring and evaluation of policies, programmes and projects.<sup>53</sup>

The MDGs do not refer specifically to indigenous peoples. The compartmentalized approach of the eight specific Millennium Development Goals is also often not in accordance with indigenous peoples' more holistic view of development and does not capture their priorities, for example, with regard to rights to lands, territories and resources. This concern was clearly expressed from the very beginning by indigenous organizations and, at the May 2005 session of the UNPFII, it was once again noted that indigenous issues are not only absent from the Millennium Development Goals but also from poverty reduction processes and from MDG country reports and poverty reduction strategy papers (PRSPs).

The MDGs can be met more effectively by including the human rights and needs of indigenous peoples.<sup>54</sup> But to make the MDGs relevant to indigenous peoples means promoting the existing international responses to indigenous peoples' challenges, furthering the regional processes in terms of addressing indigenous issues and taking the particular situation of indigenous peoples into account at the country level.

### International responses to indigenous peoples' challenges

The strongest and most recent international response has been the adoption in September 2007 of the UN Declaration on the Rights of Indigenous Peoples by the General Assembly—a major achievement after more than 20 years of debate in the United Nations human rights bodies and, in the words of the Secretary-General: “a triumph for indigenous peoples around the world”.<sup>55</sup> In her statement to the UN General Assembly, the chairperson of the UNPFII, Ms. Victoria Tauli-Corpuz, called the adoption of the Declaration “a historical milestone in [the United Nations] long history of developing and establishing international human rights standards...” and a “major victory for Indigenous Peoples, who actively took part in crafting this Declaration. This day will be forever etched in our history and memories as a significant gain in our long struggle for our rights as distinct peoples and cultures...” She characterized the Declaration as “a strong Declaration which embodies the most important rights we and our ancestors have long fought for; our right of self-determination, our right to own and control our lands, territories and resources, our right to free, prior and informed consent,

<sup>53</sup> SPFII: Background Note for the International Expert Group Meeting on the Millennium Development Goals, Indigenous Participation and Good Governance, New York, 11-13 January 2006. PFII/2006/WS.3/7. See: [http://www.un.org/esa/socdev/unpfii/documents/workshop\\_MDG\\_background.pdf](http://www.un.org/esa/socdev/unpfii/documents/workshop_MDG_background.pdf).

<sup>54</sup> Ibid.

<sup>55</sup> Statement attributable to the Spokesperson for the Secretary-General on the adoption of the Declaration on the Rights of Indigenous Peoples, New York, 13 September 2007. <http://www.un.org/esa/socdev/unpfii>.



- 56 Statement of Victoria Tauli-Corpuz, chair of the UNPFII, on the occasion of the adoption of the Declaration on the Rights of Indigenous Peoples, New York, 13 September 2007. <http://www.un.org/esa/socdev/unpfi>.
- 57 *Study of the Problem of Discrimination Against Indigenous Populations*. Final report submitted by the Special Rapporteur, Mr. José Martínez Cobo (1986/87). Available in electronic format at UNPFII website: <http://www.un.org/esa/socdev/unpfi/en/spdaip.html>.
- 58 The Special Rapporteur has been mandated by the Commission on Human Rights (later to become the Human Rights Council), inter alia, to gather, request, receive and exchange information and communications from all relevant sources, including Governments, indigenous people themselves and their communities and organizations, on violations of their human rights and fundamental freedoms; formulate recommendations and proposals on appropriate measures and activities to prevent and remedy violations of the human rights and fundamental freedoms of indigenous people; and to work in close cooperation with the Permanent Forum on Indigenous Issues.
- 59 Art. 8 (j) of the Convention on Biological Diversity and related provisions addresses specifically the respect, preservation and maintenance of knowledge, innovation and practices of indigenous and local communities.
- 60 Voluntary Funds have also been established under the Convention on Biological Diversity (2002) and by the World Intellectual Property Organization (WIPO, 2005) to assist indigenous representation at their respective meetings.

among others”, and added: “It is a key instrument and tool for raising awareness on and monitoring progress of indigenous peoples’ situations and the protection, respect and fulfilment of indigenous peoples’ rights. It will further en flesh and facilitate the operationalization of the human rights–based approach to development as it applies to Indigenous Peoples. It will be the guide for States, the UN System, Indigenous Peoples and civil society in making the theme of the Second Decade of the World’s Indigenous Peoples ‘Partnership for Action and Dignity’ a reality.”<sup>56</sup>

But indigenous issues are not new to the United Nations system. In 1957, the ILO adopted Convention No. 107 concerning Indigenous and Tribal Populations, with the participation of other parts of the UN system. The concern of the United Nations itself with this issue stems from the early 1970s and was born out of an anti-discrimination agenda, under the wider umbrella of human rights. The anti-colonial movements, the civil rights movement and indigenous rights movement, as well as an increased openness of the United Nations to civil society, brought to the table the realities of gross and systematic violations of human rights against indigenous peoples and communities. This led to the launch, in 1972, of a study—later to be known as the “Martínez Cobo study”—by the Sub-Commission on Prevention of Discrimination and Protection of Minorities.<sup>57</sup> In 1982, as the Study was nearing completion, the United Nations established the Working Group on Indigenous Populations with a mandate to review recent developments regarding indigenous peoples and to develop international standards on indigenous rights. The Working Group set the important precedent of allowing indigenous representatives to participate in its meetings, thus bringing indigenous voices directly to the United Nations. In 1989, the ILO revised Convention No. 107, which had come to be widely considered as assimilationist, and adopted Convention No. 169 concerning Indigenous and Tribal Peoples in Independent States.

An International Year of the World’s Indigenous People was proclaimed in 1993 and an International Decade a year later (1995-2004). In 2000, a Special Rapporteur<sup>58</sup> was appointed by the Commission on Human Rights to monitor the situation of human rights and fundamental freedoms of indigenous people.

During the 1990s, indigenous peoples were also becoming more active throughout the United Nations system. The Rio de Janeiro Earth Summit in 1992, for instance, was attended by hundreds of indigenous people. It was here that the Convention on Biological Diversity and other environmental programmes—Climate Change, Forest Principles and Agenda 21—were adopted, so indigenous people were involved in this process from the beginning. The Convention on Biological Diversity<sup>59</sup> and other international processes regarding the environment, climate change, cultural diversity and the protection of traditional knowledge were targeted by indigenous peoples, who sought to increase their involvement in these areas of crucial importance to them. In turn, the responsible agencies began opening up to indigenous peoples in tandem with the broader United Nations agenda of increasing the involvement of civil society. During this period, several Voluntary Funds were established within the UN system: in 1985 to support the travel of indigenous representatives to the above-mentioned Working Group meetings (and, since 2001, also to the sessions of the Permanent Forum on Indigenous Issues); in 1994 to fund small projects during the first Decade; in 2003 to support the Permanent Forum; and in 2004 to fund small grants during the Second Decade.<sup>60</sup>

The turning point for indigenous issues at the United Nations came in the year 2000, when, as a result of a recommendation made by the World Conference

### Overview of main international responses

- 1957 ILO Convention 107 on Indigenous and Tribal Populations is adopted (<http://www.ilo.org/ilolex/english/convdisp1.htm>)
- 1972 The Study of the Problem of Discrimination against Indigenous Populations (also known as the Martínez Cobo study)—is launched
- 1982 The Working Group on Indigenous Populations is established by the UN (<http://www.ohchr.org/english/issues/indigenous/groups/groups-01.htm>)
- 1984 The Martínez Cobo Study is submitted to the UN (adopted in 1986/87)
- 1985 The Voluntary Fund for Indigenous Populations is created
- 1989 ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent States (<http://www.ilo.org/ilolex/english/convdisp1.htm>) is adopted
- 1992 The Rio Earth Summit adopts the Convention on Biological Diversity (<http://www.biodiv.org/convention/default.shtml>)
- 1993 The World Conference on Human Rights recommends the establishment of a Permanent Forum on Indigenous Issues
- 1993 International Year of the World's Indigenous People
- 1994 The first International Decade for Indigenous People is launched (1994-2004)
- 1994 The Voluntary Fund to support small-scale projects during the Decade is created
- 1998 First Roundtable on Intellectual Property and Indigenous Peoples organized by the World Intellectual Property Organization—WIPO (<http://www.wipo.int>)
- 2000 Establishment of the United Nations Permanent Forum on Indigenous Issues (UNPFII) (<http://www.un.org/esa/socdev/unpfii/index>)
- 2000 The mechanism of a Special Rapporteur on the Human Rights and Fundamental Freedoms of Indigenous People is established by the Commission on Human Rights (<http://www.ohchr.org/english/issues/indigenous/rapporteur/>)
- 2002 A Voluntary Fund for Indigenous and Local Communities is established by the CBD (<http://www.cbd.int>)
- 2003 A Voluntary Fund is established by the UN to support the Permanent Forum
- 2005 The Second International Decade for Indigenous People is launched (2005-2015), including a fund to support small-scale projects
- 2005 A Voluntary Fund for Indigenous and Local Communities is created by WIPO
- 2007 The UN Declaration on the Rights of Indigenous Peoples is adopted by the UN General Assembly (<http://www.un.org/esa/socdev/unpfii/en/declaration.html>)

on Human Rights in 1993,<sup>61</sup> the United Nations Permanent Forum on Indigenous Issues (UNPFII) was established as an advisory body to ECOSOC. This broke new ground, as it formally integrated indigenous peoples into the UN and, for the first time in history, indigenous peoples were on an equal footing with members nominated by the States in a permanent UN body. The Second International Decade of the World's Indigenous People (2005-2015), with the theme Partnership for Action and Dignity, was proclaimed by the General Assembly in December 2004 and presents another opportunity for common action by the UN system. While the UNDG has recently included the Programme of Action for the Second Decade of the World's Indigenous People in its work agenda, it is timely that concrete programmes and targeted projects be implemented at the country level to improve the daily lives of indigenous peoples. In this, the Programme of Action could form a benchmark by which to measure the achievement of MDGs for indigenous peoples. It should also be noted that the 2005 World Summit on the implementation of the Millennium Declaration reaffirmed its

<sup>61</sup> The Vienna Declaration and Programme of Action—UN Doc A/Conf.157/23 of 12 July 1993: Part II, B, 2, para. 32.

### The Programme of Action for the Second International Decade of the World's Indigenous People (A/60/270)

The five objectives for the Decade are as follows:

- (i) Promoting non-discrimination and inclusion of indigenous peoples in the design, implementation and evaluation of international, regional and national processes regarding laws, policies, resources, programmes and projects;
- (ii) Promoting full and effective participation of indigenous peoples in decisions which directly or indirectly affect their lifestyles, traditional lands and territories, their cultural integrity as indigenous peoples with collective rights or any other aspect of their lives, considering the principle of free, prior and informed consent;
- (iii) Redefining development policies that depart from a vision of equity and that are culturally appropriate, including respect for the cultural and linguistic diversity of indigenous peoples;
- (iv) Adopting targeted policies, programmes, projects and budgets for the development of indigenous peoples, including concrete benchmarks, and particular emphasis on indigenous women, children and youth;
- (v) Developing strong monitoring mechanisms and enhancing accountability at the international, regional and particularly the national levels, regarding the implementation of legal policy and operational frameworks for the protection of indigenous peoples and the improvement of their lives.

commitment to continue making progress in the advancement of the human rights of the world's indigenous peoples at the local, national, regional and international levels, including through consultation and collaboration with them...<sup>62</sup>

<sup>62</sup> Paragraph 127 of the resolution adopted by the World Summit 2005. <http://unpan1.un.org/intradoc/groups/public/documents/UN/UNPAN021752.pdf>.

## Regional processes in addressing indigenous issues

It should be noted that regional intergovernmental organizations and institutions and development banks have strengthened their work on indigenous peoples and development by producing policies and operational guidelines. Within the framework of the UN Declaration on the Rights of Indigenous Peoples and the Programme of Action for the Second Decade of the World's Indigenous People, regional processes have an important role to play in promoting indigenous issues and supporting national Governments in implementing these international instruments. For indigenous peoples, participation in these processes is also an effective way of empowering their communities through building and enhancing their capacity in the global context.

In Africa and Asia, the concept of "indigenous peoples" is not necessarily related to outside colonization, although awareness of the problem began during colonial times. Uncertainty about the criteria for definition has been perceived as a barrier to addressing indigenous rights in development policies and programmes in both these regions. In Africa, the question of identification has been discussed at the African Commission on Human and Peoples' Rights (ACHPR). The discussion of the term "indigenous peoples" is relatively new. Hence, the current discussions are about achieving an understanding of the term and its implications. The argument often heard is that, taking the word "indigenous" in its literal sense, everybody of African origin can be considered indigenous to Africa. In 2003, the ACHPR adopted the *Report of the African Commission's Working Group on Indigenous Populations/communities*.<sup>63</sup> By adopting the report, the ACHPR sent a clear signal that it recognizes the existence of indigenous peoples in

<sup>63</sup> *Report of the African Commission's Working Group of Experts on Indigenous Populations/Communities*, ACHPR and IWGIA, 2005. Can be downloaded from ACHPR website: [http://www.achpr.org/english/\\_info/index\\_WGIP\\_Under\\_ent.htm](http://www.achpr.org/english/_info/index_WGIP_Under_ent.htm).

Africa, that they suffer from gross human rights violations, that the African Charter should be used to protect and promote their human rights and that the ACHPR will continue to work actively on the issue. A Working Group of Experts under the ACHPR has been given a mandate to gather information, undertake country visits, formulate recommendations and submit reports on the human rights situation of indigenous peoples in Africa. The ACHPR report emphasizes the following characteristics in its identification of African indigenous peoples:

- Their cultures and ways of life differ considerably from the dominant society;
- The survival of their particular way of life depends on access and rights to their traditional land and resources;
- Their cultures are under threat, in some cases on the verge of extinction, often as a result of land alienation and dispossession;
- They suffer from negative stereotyping and discrimination;
- They often live in inaccessible, geographically isolated regions, with poor or no infrastructure;
- They suffer from political and social marginalization and are subject to domination and exploitation within national political and economic structures.<sup>64</sup>

In Asia, where most of the world's indigenous population is to be found, the term indigenous remains controversial in most countries.<sup>65</sup> Since Asia has no overarching human rights structure yet, the process towards identifying and recognizing Asian indigenous peoples may well be somewhat different from the African one. However, the first steps were recently taken at a workshop held in Thailand, in March 2006. Here, indigenous experts from 14 different Asian countries worked towards establishing a common and clearer understanding of the concept of "indigenous peoples" in Asia. The workshop also prepared them for discussions when Asian Governments raise the issue in connection with the adoption of the Declaration on the Rights of Indigenous Peoples or in other international forums, as well as for addressing questions in their respective countries. The workshop should be seen as an important contribution to the struggle of Asian indigenous peoples to obtain their recognition as distinct peoples with the right to control their lives, lands and destiny.<sup>66</sup>

The Organization of American States (OAS) is in the process of revising the text of its draft American Declaration on the Rights of Indigenous Peoples and working toward a broad declaration that will promote and protect the fundamental rights of indigenous peoples. This process has support from the highest level, as indicated in the Declaration of Mar del Plata adopted in November 2005 at the Fourth Summit of the Americas, in which the region's Heads of State and Governments called for an intensification of the pace of negotiations on this critical document affirming the rights of the region's indigenous peoples. The draft American Declaration on the Rights of Indigenous Peoples covers a wide range of matters affecting the daily lives of the hemisphere's native indigenous peoples: family, spirituality, work, culture, health, the environment, and systems of knowledge, language and communication, to name but a few. More than 30 articles are being negotiated that seek to consolidate and affirm the rights and aspirations of indigenous peoples, recognizing the "multiethnic and multicultural" character of the region. Negotiation of the text is being organized by a Working Group of the OAS Permanent Council created in 1999. This Working Group originally based its work on a draft Declaration presented by the OAS Inter-American Commission on Human Rights.<sup>67</sup> This document was under review until November 2003 when it became the starting point of what is considered the final stage of negotiations. The adoption of the OAS Declaration on the Rights of Indigenous Peoples will

<sup>64</sup> Ibid.

<sup>65</sup> An exception being the Philippines—see section III 1 (this document)—and Nepal that ratified ILO Convention No. 169 in September 2007.

<sup>66</sup> The Workshop was jointly organized by the Asia Indigenous Peoples Pact (AIPP) Foundation, the Tebtebba Foundation and the International Work Group for Indigenous Affairs (IWGIA), with funding from the Danish Foreign Ministry. The indigenous experts hailed from Nepal, India/Northeast India, Bangladesh, Burma, Thailand, Laos, Cambodia, Viet Nam, Malaysia, Indonesia, the Philippines, China, Taiwan Province of China and Japan. Key results from the workshop will be included in a forthcoming publication *The Concept of Indigenous Peoples—A Resource Book* by AIPP and IWGIA.

<sup>67</sup> The draft Declaration can be consulted at: <http://www.cidh.org/>.

be extremely significant for the Americas, where indigenous peoples have long been struggling for recognition of their rights.

<sup>68</sup> The World Bank: *Revised Operational Policy on Indigenous Peoples* (OP.4.10) and *Revised Bank Procedure on Indigenous Peoples* (BP.4.10), 2005. The Inter-American Development Bank: *Operational Policy on Indigenous Peoples* (OP-765) and *Strategy for Indigenous Development, 2006*; and *Operational Guidelines* (CP-3246-1), 2006. The Asian Development Bank: *Policy on Indigenous Peoples*, 1998, and *Operations Manual Bank Policy related to Indigenous Peoples* (OM F3/BP), 2006.

The international financial institutions have also enhanced their work on indigenous peoples, mainly by developing operational policies and guidelines. The World Bank, the IDB (Inter-American Development Bank) and the ADB (Asian Development Bank) have adopted or recently revised their policy documents on indigenous peoples.<sup>68</sup> Despite slight differences in terms or language used and processes of elaboration between these documents, the overall message aims to promote the inclusion of indigenous issues in the banks' policies and operations and to support development that meets indigenous peoples' aspirations with regard to reducing poverty. The international instruments on indigenous peoples' rights are explicitly mentioned in the documents as guiding principles and references when developing policies that will impact on indigenous communities, given the wide scope of the banks' supported operations and programmes in the development agenda. The IDB has also established a database on indigenous legislation classified by country and by theme for all countries of Latin America.

The Asian Development Bank (ADB) is unfortunately the only institution in Asia to have adopted a policy on indigenous peoples at the regional level. One of the largest areas of the ADB's development cooperation with Governments is the Great Mekong Subregion Programme, covering five countries of South-east Asia and one province in China. Around 300 million people live in this subregion, with more than 100 indigenous groups living along the Mekong River. Diverse terms are used to identify these peoples in the different country contexts—e.g., ethnic minorities, hill tribes, ethnic groups and so on. These peoples share, however, the same Mekong River and the lands along the river are their only source of survival and development. The vast majority of these people live in rural areas where they depend on subsistence or semi-subsistence agriculture, including the practice of shifting agriculture. The ADB's 2004 *Operational Manual* has specific provisions and detailed processes to address, avoid or remedy possible adverse impacts on indigenous peoples. In relation to indigenous peoples, the document states that “the impact will be considered significant if the programmes affect access to land and natural resources” of indigenous peoples.

## Implications of engaging indigenous peoples at the country level

In 2006, the Fifth Session of the Permanent Forum on Indigenous Issues addressed the special theme of the Millennium Development Goals and Indigenous Peoples:

### Recommendation 30 of the Fifth Session of the UNPFII

“As a means of redefining approaches, countries with indigenous peoples are urged to incorporate the issues and challenges specifically faced by indigenous peoples directly into the Millennium Development Goal report by: (a) including indigenous peoples within the context of overall reports; (b) including indigenous peoples in the context of meeting each specific goal; (c) including indigenous peoples in the planning of the overall report and each individual goal; and (d) including indigenous peoples' effective participation in the planning process of future interventions, and in the implementation, monitoring and evaluation of programmes and projects that will directly or indirectly affect them.”

Report of the Fifth Session of the Permanent Forum, UN Doc E.C.19/2006/11

Redefining the Goals. While it was appreciated that it might not be possible to redefine the goals, it was also recognized that there was a clear need to redefine approaches to implementation of the Goals in order to include the perspectives, concerns, experiences and worldviews of indigenous peoples.<sup>69</sup>

Participatory and inclusive approaches, as recommended by the UNPFII, call for a number of measures to be taken in order to ensure that indigenous peoples and their representative organizations fully participate in the development processes that are relevant to them.

## Ensuring participation and inclusion

Participation and inclusion are among the human rights principles that guide the UN's work at all levels. These principles include full and effective participation in, contribution to and enjoyment of civil, economic, social, cultural and political development, in which human rights and fundamental freedoms can be realized.<sup>70</sup>

Despite numerous methodologies and concepts of engaged governance, indigenous peoples and their organizations often find themselves excluded from policymaking, budget discussions, design, implementation and evaluation processes. Many indigenous communities are, in fact, adversely affected by policies, projects and programmes since their distinct visions of development, their concerns and ways of life are all too often ignored by national or local-level policymakers or administrators.<sup>71</sup>

When undertaking an analysis of national situations to identify the development challenges of a given country, such as the CCA/UNDAF processes, it is therefore necessary to ask a number of practical questions in order to assess the effective participation and inclusion of indigenous peoples in the national context. These questions can be considered part of the preparatory work. They are as follows:

- Are indigenous peoples adequately mentioned/included in the country analysis and strategies for poverty reduction and in the MDG Report?
- Are indigenous rights included in the general discussion on human rights issues?
- Has the country ratified any human rights treaties of specific relevance to indigenous peoples? If so, which ones?
- If so, are indigenous peoples included in the reporting processes and in the implementation of human rights treaty bodies' recommendations?
- If not, are they involved in other human rights monitoring mechanisms (e.g., visits of Special Rapporteurs of the Human Rights Council)?
- Are there any NGOs/institutions with a track record for facilitating indigenous peoples' participation and development?

## Ensuring organizational representation and partnership

In practice, indigenous peoples present a diverse spectrum of organizational forms based on their traditional social and political structures and ways of life. Some have retained traditional legal, administrative and governance systems, while others have adopted other organizational forms such as unions or coalitions based on group or linguistic affiliation, and still others have organized on the basis of territorial origin. Other structures have been put in place by Governments, which sometimes inhibit or compete with self-generated indigenous structures or organizations. This diversity also reflects the processes of change and the multifaceted challenges facing indigenous

<sup>69</sup> Report of the Fifth Session of the UNPFII, 2006. Can be accessed at: [http://www.un.org/esa/socdev/unpfii/en/session\\_fifth.html](http://www.un.org/esa/socdev/unpfii/en/session_fifth.html).

<sup>70</sup> UNDG (2003). *The Human Rights Based Approach to Development Cooperation: Towards a Common Understanding among UN Agencies*.

<sup>71</sup> SPFII: Background paper prepared for the UN Workshop on Engaging the Marginalized: Partnerships between Indigenous Peoples, governments and civil society, Brisbane, Australia, 2005.

peoples, e.g., the general tendency of massive emigration from indigenous communities, the disruption of traditional systems which means they can no longer provide the environment for youth to learn indigenous languages, traditional knowledge, skills, etc. In many cases, it is also a fact that different indigenous organizations coexist or even compete for representative legitimacy in order to access the limited available resources. Very often, the different situations illustrate the complex and myriad learning processes imposed on indigenous communities who now have to obtain new skills in order to communicate and negotiate with Governments, while at the same time having to refute paternalistic policies.

There has been a tendency for external actors to regard indigenous societies as static or “undeveloped”, implying that if they changed or adopted new organizational forms or new ways of life, they would become less “indigenous”. This is not only a misrepresentation of the dynamics of many cultures but can also lead to the failure of development programmes, if these are designed to address a false perception of a static and homogenous society instead of a multifaceted and dynamic society. These diverse organizational representations of indigenous peoples call for an inclusive approach, involving all the different sections of a given society. This approach avoids inappropriately establishing indigenous identity in a way that ignores the changes taking place in indigenous societies. Existing indigenous structures and institutions can be validated and strengthened—instead of setting up new and potentially conflictive organizations that are structured according to the requirements of development agencies and Governments.

Partnership arrangements should include careful and inclusive identification of indigenous partners, as well as an assessment of their capacity, local acceptance, participation of both men and women, elders and youth, and accountability towards their constituencies. Indigenous societies, like all other societies, may face dilemmas or sometimes conflicts between traditional socio-political structures and those established and recognized by the State, and a fine balance needs to be found when dealing with these two kinds of social structures. The report of the UNPFII's Workshop of the Permanent Forum on Indigenous Issues on Partnership Visions for the Second International Decade of the World's Indigenous People<sup>72</sup> identified some crucial elements of good, effective and efficient partnerships, spelled out as follows:

- Mutual respect and consent, transparency and accountability among partners;
- Convergence and common understanding of substantial objectives, strategies, activities, outputs and expected impacts between and among the partners rather than separate institutional objectives;
- Focus on strengthening indigenous peoples' participation and influence in policy and decision-making processes that affect their lives and which involve a diversity of actors that influence such processes;
- Focus on capacity-development, its conceptualization and design as a long-term process with clear progression and benchmarks; capacity-building is most effective when it involves all sides—indigenous peoples, UN system, government officials, other relevant actors and public in general;
- Joint planning, implementation and evaluation with partners: understand partnerships as shared learning processes, document the experiences and lessons learned and share with other partners, across countries and regions;
- Partners to be involved in international processes, as these often constitute sources of inspiration for sharing experiences.

<sup>72</sup> SPFII: Report of Workshop on Partnership Visions: UN Doc E/C.19/2006/4/Add.2. See: <http://www.un.org/esa/socdev/unpfii/en/workshops.html>.

## Enhancing the capacity of indigenous peoples

Like all human societies, indigenous communities have their own processes and dynamics in adapting to the changing world. Indigenous peoples have developed very comprehensive and diverse social and political systems and capacity in addressing all kinds of challenges throughout history, despite genocide, colonialism, dictatorship, poverty and discrimination, to name but a few. This has allowed them to survive as peoples while asserting their identity.

Development does not necessarily imply the denial or diminishing of identity and traditions. On the contrary, indigenous ways of sustainable development inspire and provide examples of wisdom in dealing with contemporary issues. In instances where some practices are not considered to conform to universal human rights standards, however, approaches to addressing these issues must be culturally sensitive and appropriate. The same approach also applies to development-related work. Valuing the cultural capacities of indigenous communities in terms of collective and participatory decision-making processes or conflict negotiations relating to water and other resource uses, for example, is an important step in assisting communities to develop new capacities to adapt to changes and challenges.

There is great need to support the capacity-building of indigenous peoples so that the partnership between them and the United Nations system becomes a reality at both national and international levels. It very often appears to be complicated and difficult for indigenous peoples to gain access to the UN system and its processes. Information must therefore be made accessible to indigenous people, as this is an important step in partnership building. Another key step to building and strengthening the partnership is identifying indigenous peoples' needs in terms of capacity-building. Capacity-building for indigenous peoples will contribute to building an inclusive society in which all groups of society fully and effectively participate in any matters affecting them directly or indirectly, as citizens.

The UNCTs' support to build and strengthen the capacity of indigenous organizations, that are not always familiar with UN processes and working methodologies or may lack capacity for implementing programmes or projects, can be of benefit to their own work. UNDP, among other UN agencies, has been developing a number of pilot projects in countries where tripartite mechanisms are established comprising indigenous representatives, UNCT and governmental focal points, in order to work closely with UNCT on indigenous issues.

## Developing a strategy for the participation of indigenous peoples in MDG processes

The UNPFII has emphasized in various forums that many countries will probably meet the MDGs and targets by 2015 as a matter of national average. At the same time, it has also emphasized that by ignoring indigenous peoples, or meeting the targets at the expense of further loss of their lands, territories and natural resources, the poverty of indigenous peoples will be further aggravated.

The current indicators available to measure achievement of the MDGs do not reflect the situation of indigenous peoples. Even in some developed countries in which the national average indicators on maternal health and child mortality are above the MDG targets, the same indicators—when considered within specific indigenous areas—are very close to, or at the same level as, those found in the least developed



countries. The UNPFII has also in the past noted that indigenous issues are often absent from the MDGs.

**Table 1. MDGs: issues and challenges from an indigenous rights perspective**

MDGs	Issues and challenges from the perspective of indigenous peoples' rights
<p><b>1. Eradicate extreme poverty and hunger</b></p>	<ul style="list-style-type: none"> <li>• Indigenous peoples live in greater poverty than the general population (5 per cent of the world's population but 15 per cent of the world's poor);</li> <li>• Indigenous peoples' right to define their own development priorities is often ignored;</li> <li>• Indigenous peoples suffer accelerated loss of their land and natural resources in the name of national mainstream development.</li> </ul> <p>Disaggregated data should be developed in order to assess the situations of indigenous peoples;</p> <p>Development-related indicators should be revised based on indigenous peoples' own perceptions and aspirations;</p> <p>Indigenous rights to territories and resources should be recognized;</p> <p>Indigenous peoples' own institutions and judicial system should be respected;</p> <p>Indigenous peoples' own perceptions of poverty and well-being, as well as their own poverty reduction strategies, should be taken into account;</p> <p>Indigenous peoples should participate fully in the development process, including national and local planning exercises and decision-making.</p>
<p><b>2. Achieve universal primary education</b></p>	<ul style="list-style-type: none"> <li>• High drop-out rate in primary schools due to linguistic barriers and culturally inappropriate teaching methodologies or curricula;</li> <li>• Indigenous parents reluctant to send children to school because education perceived as an assimilatory process or because they themselves have had bad experiences at school;</li> <li>• Lack of indigenous and bilingual teachers;</li> <li>• Lack of adequate infrastructure.</li> </ul> <p>Need to link educational quality with attention to indigenous language, culture and traditional knowledge;</p> <p>Need to incorporate indigenous community-based education systems into the education curricula;</p> <p>Role of elders and women in transmission of indigenous languages and cultures to be taken into consideration.</p>
<p><b>3. Promote gender equality and empower women</b></p>	<ul style="list-style-type: none"> <li>• Indigenous women often disadvantaged and discriminated with regard to access to inheritance, land tenure and traditional governance structures (with exception of matriarchal societies);</li> <li>• The situation of indigenous women often compounded by additional gender-based marginalization, discrimination and violence (domestic and/or due to armed conflicts).</li> </ul> <p>The lack of rights and opportunities affects men and women differently and requires differentiated responses, ensuring the voices and participation of both;</p> <p>Natural gender balance must be reinstated in culturally appropriate ways, within indigenous societies;</p> <p>The primary role of women in transmitting knowledge and world views to future generations not fully acknowledged, so women are excluded from the process of designing literacy programmes (linked to MDG2).</p>
<p><b>4. Reduce child mortality</b></p> <p><b>5. Improve maternal health</b></p> <p><b>6. Combat HIV/AIDS, malaria and other diseases</b></p>	<ul style="list-style-type: none"> <li>• Specific diseases found among indigenous communities are often due to environment-related problems (e.g., toxic dumping on their territories, overcrowded housing);</li> <li>• Data often does not exist on indigenous communities' health situation, their access to health services or the level of care received;</li> <li>• Communities have traditional beliefs in interpreting the concept of health- and blood-related illness (e.g., HIV/AIDS).</li> </ul>

MDGs	Issues and challenges from the perspective of indigenous peoples' rights
<p>4. <b>Reduce child mortality</b></p> <p>5. <b>Improve maternal health</b></p> <p>6. <b>Combat HIV/AIDS, malaria and other diseases</b></p> <p><i>(continued)</i></p>	<p>Information on reproductive issues needs to be culturally appropriate when addressing indigenous women;</p> <p>All health-related information should be provided in a language that can be understood by everyone;</p> <p>Indigenous health perspectives and systems, including the use of traditional health practitioners and medicine, should be taken into account and understood by health workers;</p> <p>Qualified indigenous people should participate in designing, administering and managing their own health-care programmes.</p>
<p>7. <b>Ensure environmental sustainability</b></p>	<ul style="list-style-type: none"> <li>• Indigenous peoples' traditional knowledge and skills are not recognized;</li> <li>• Indigenous communities face a number of environmental challenges, including climate change (Arctic region, tropical rainforest, arid and semi-arid regions), forest clearing, conservation projects and threats to traditional livelihood, e.g., shifting culture.</li> </ul> <p>Balance some conservation projects by respecting the right of indigenous peoples to live in their traditional territories;</p> <p>Protect traditional knowledge and promote benefit-sharing agreements.</p>
<p>8. <b>Develop a global partnership for development</b></p>	<ul style="list-style-type: none"> <li>• The interaction between indigenous and non-indigenous societies is often complex and conflict-ridden;</li> <li>• Indigenous peoples are challenged by multiple changes imposed by modernization, globalization and trade policies that may be further disempowering and marginalizing.</li> </ul> <p>Indigenous peoples' own governance systems and territorial integrity should be recognized;</p> <p>Targeted programmes, budget allocations and benchmarks should be provided for indigenous peoples;</p> <p>Indigenous perspectives should be integrated not only in MDGs but also in bilateral cooperation;</p> <p>Indigenous peoples should increasingly participate in the processes of international financial institutions with a view of influencing their policies on issues affecting indigenous peoples.</p>

Further, unless the particular situation of indigenous peoples is adequately taken into account, some MDG processes may accelerate the loss of their means of subsistence.

To reverse the situation, the UNPFII has made a number of substantive recommendations aimed at strengthening the development monitoring mechanisms whereby indigenous peoples can set up their own development priorities and benchmarks to assess and monitor the development process and measure their progress. Some elements for consideration when formulating targeted programmes and projects for indigenous peoples can be found in the table above.

In short, the challenge for the UN system in providing development assistance for indigenous peoples is twofold:

- Indigenous peoples have the same rights to development, resources and services as all other peoples and their effective access to these rights must be ensured;
- It should be recognized that indigenous peoples' aspirations for development, resources and services may be fundamentally different among indigenous groups themselves as well as different from those of other peoples, even within the same country, and therefore require fundamentally different approaches by the UN system.

Development strategies must therefore be designed to overcome the marginalization of indigenous peoples and, at the same time, protect and promote their

### Indigenous peoples in voluntary isolation: alternative way of development

The Permanent Forum has made several recommendations regarding indigenous peoples in voluntary isolation.

In 2005, at its fourth session, the Forum recommended that special attention be paid to their situation by States and by the Special Rapporteur on the human rights and fundamental freedoms of indigenous people. It also suggested that their situation be the subject of a special international meeting during the Second International Decade of the World's Indigenous People.

In 2007, at its sixth session, the Forum welcomed the initiative taken by indigenous peoples' organizations, States, non-governmental organizations and OHCHR to improve the visibility of the situations faced by indigenous peoples in voluntary isolation and recent efforts to respect and protect their rights. Highlighting, in particular, the Santa Cruz de la Sierra Appeal ("Llamamiento de Santa Cruz de la Sierra"), which was the outcome of the regional seminar on indigenous peoples in voluntary isolation and in initial contact of the Amazon Basin and El Chaco held from 20 to 22 November 2006, in Santa Cruz de la Sierra, Bolivia. The Forum recommended a replication and follow-up of similar initiatives in order to achieve and consolidate sustained long-term policies, mechanisms and procedures that can assure the security and self-determined livelihoods of these peoples, including the guarantee of the inviolability of their territories and natural resources. It also recommended the formulation of guidelines directed at all actors, both governmental and non-governmental, dealing with the respect and protection of the rights of indigenous peoples in voluntary isolation and initial contact. Directed at the relevant international agencies, the Forum also recommended implementing appropriate expert health-care actions to prevent disastrous disease problems and considering the adoption of rapid-effect emergency procedures in situations where the health situation is critical.

Sources: UN Doc E/C.19/2005/9 and UN Doc E/C.19/2007/12.

rights. Moreover, national development goals should not be achieved at the expense of indigenous peoples, such as the accelerated loss of their land and natural resources and assimilation. National MDGs can only be achieved with the full and effective participation and consent of indigenous peoples. Indigenous peoples should be given the opportunity to plan and initiate their own development agendas, and should be supported in this endeavour by the UN system and by their own Governments. The same principle of self-determination should also apply to indigenous peoples in voluntary isolation, who live in remote areas of e.g., South America, India and Malaysia with little or no contact with the surrounding societies.

## Mainstreaming indigenous issues at the country level

At the 2005 annual meeting hosted by the UNICEF Regional Office for Latin America and the Caribbean, the IASG focused on strengthening country-level implementation of the recommendations made by the UNPFII. The group recommended the following:

- That United Nations country teams create inter-agency thematic groups on indigenous issues led by a United Nations agency, with clear terms of reference to be determined by the group, and that the Resident Coordinator be responsible for reporting on its activities;
- That in addition to its regular meetings the group meet at least once a year to analyse the recommendations of the Permanent Forum and other mechanisms and coordinate actions for follow-up;

- That the Permanent Forum identify in each country a focal point that could serve as a resource for the United Nations country team on indigenous issues and promote the Permanent Forum’s recommendations;
- That regional directors advise country teams to create inter-agency thematic groups;
- That country teams offer a space for dialogue on indigenous issues with other partners and among indigenous peoples;
- That country teams ensure the meaningful participation of indigenous peoples in Common Country Assessment and United Nations Development Assistance Framework processes as recommended in the 2004 Guidelines;
- That country teams use the programme of action of the Second International Decade of the World’s Indigenous People as a framework for common strategies and advocacy;

**Table 2. Mainstreaming indigenous issues in Common Country Assessments (CCA)**

Suggested steps in national analysis	Opportunities for mainstreaming indigenous issues
<p><b>a. Preparing the first draft of the CCA or other analytical process</b></p>	<ul style="list-style-type: none"> <li>• Gather information and assessments in relation to indigenous peoples;</li> <li>• Identify, provide and advocate inclusion of disaggregated data on indigenous peoples’ situations in the document;</li> <li>• Suggest names of indigenous experts/representatives/academics and advocate their inclusion in the Steering Committee, thematic groups, drafting groups, stakeholders’ meetings and other relevant mechanisms of CCA/UNDAF;</li> <li>• Ensure the analysis reflects the different perceptions of indigenous peoples on poverty, inequality, marginalization, exclusion and conflict situations, where relevant;</li> <li>• Use the recommendations of the UNPFII to identify indigenous priorities;</li> <li>• Use updated information from human rights treaty bodies, ILO supervision and relevant Special Rapporteurs’ recommendations relevant to indigenous peoples;</li> <li>• Use the periodic human rights treaties’ reporting process to engage indigenous peoples’ representatives/organizations to provide inputs;</li> <li>• Invite indigenous and human rights experts to read, draft and provide feedback;</li> <li>• Foresee budgetary provisions, where possible, to support the participation of indigenous experts in the process.</li> </ul>
<p><b>b. Ensuring quality check of the analysis</b></p>	<ul style="list-style-type: none"> <li>• Check to ensure that individuals among the readers group are experienced and are sensitive to indigenous issues. (Ideally, ensure that an indigenous expert/representative/community leader is included in the readers group);</li> <li>• Check that indigenous peoples or organizations who have been involved in human rights treaties’ reporting work and the UNPFII are among the readers group;</li> <li>• Use the recommendations of the UNPFII as a reference source,</li> <li>• If not, advocate their inclusion in each case.</li> </ul>
<p><b>c. Finalizing the document</b></p>	<ul style="list-style-type: none"> <li>• When organizing consultations with Governments for finalizing the document, ensure that indigenous peoples and relevant experts are part of the consultations. If a focal point on indigenous issues or targeted projects on indigenous peoples exists in specialized agencies present in the country, hold consultations with relevant individuals or offices;</li> <li>• Seek advice/inputs/contributions from the IASG through their country offices or focal points, during the preparation of the analytical process.</li> </ul>

<sup>73</sup> Report of the IASG annual session to the fifth session of the UNPFII, 2006. UN Doc E/C.19/2006/3.

<sup>74</sup> The Desk Reviews can be consulted at <http://www.un.org/esa/socdev/unpfii/en/publications.html>.

- That country teams use “Action 2” activities to promote indigenous peoples’ rights.<sup>73</sup>

Desk Reviews of MDG country reports and CCA/UNDAFs conducted by the Secretariat of the UNPFII since 2005 show inadequate participation of indigenous peoples in these processes and inadequate integration of indigenous peoples’ issues.<sup>74</sup> The preparation of CCA/UNDAF provides an entry point for indigenous peoples to engage in UNCTs’ work since country specific analysis, including CCA, will identify the main challenges to development and country priorities in terms of meeting the MDGs. It is crucial that indigenous peoples take part in the process from the outset in order to contribute to and identify any challenges, as outlined in this document.

**Table 3. Including specific indigenous challenges in the UN Development Assistance Framework (UNDAF)**

UNDAF steps	Actions for the inclusion of specific challenges facing indigenous peoples
a. Agree on priorities	<ul style="list-style-type: none"> <li>• Advocate identified indigenous peoples’ priorities as important areas of cooperation and outcome for UNDAF matrix;</li> <li>• If indigenous-related area is not selected in agreed priority, provide support to ensure that it is integrated/mainstreamed into existing outcomes, in line with the analysis.</li> </ul>
b. Preparing the first draft of UNDAF	<ul style="list-style-type: none"> <li>• Deploy those working on indigenous issues involved in CCA or other analytical document to participate in the key working groups tasked for preparing UNDAF, and provide accurate and reliable data and expertise to make sure that indigenous-related issues are fully taken into account;</li> <li>• Ensure that results matrix includes indigenous-sensitive indicators, base-lines to generate indigenous-related disaggregated data and concrete ways of tracking the extent to which indigenous concerns are taken into account in the preparation of UNDAF.</li> </ul>
c. Ensuring quality check of the UNDAF by independent readers group	<ul style="list-style-type: none"> <li>• Ensure that indigenous experts/representatives are in the readers group;</li> <li>• Ensure that indigenous organizations and NGOs working with indigenous peoples are also among members of the readers group;</li> <li>• Share the documents with IASG focal points for indigenous inclusion and content.</li> </ul>
d. Finalizing UNDAF	<ul style="list-style-type: none"> <li>• Bring multiple stakeholders together to review the final draft and provide feedback to UNCT on the UNDAF’s responses to indigenous-related priorities/issues identified in CCA and to offer concrete ideas on how to integrate/strengthen indigenous perspectives in UNDAF.</li> </ul>
e. Tracking and monitoring mechanisms	<ul style="list-style-type: none"> <li>• Track and support performance and efforts of the UNCT to work with indigenous peoples;</li> <li>• Design a monitoring mechanism, with the support of UNCT, to assess the extent to which and how indigenous issues have been addressed/integrated in the overall responses to UNDAF for an annual presentation to the UNPFII;</li> <li>• Share good practices and lessons learned with the IASG focal points and seek their support/expertise to further indigenous perspectives in the broad development agendas through MDG Reports, <i>Human Development Reports</i>, etc.</li> </ul>

**Excerpts from a Study of UNDP and Indigenous Peoples, Lessons Learned<sup>75</sup>**

<sup>75</sup> [http://www.undp.org/oslocentre/docs06/Max\\_Ooft.pdf](http://www.undp.org/oslocentre/docs06/Max_Ooft.pdf).

<p><b>At the programme level</b></p>	<ul style="list-style-type: none"> <li>• Very few Country Offices have an indigenous programme as such. Most of the ones that do have established it as part of the specific Hurist initiative, a cooperation programme between UNDP and the Office of the UN High Commissioner on Human Rights (HCHR) on the potential of mainstreaming or operationalizing human rights in key UNDP’s programming areas: pro-poor human development policies; HIV/AIDS;</li> <li>• Environment management and energy use; inclusive decentralized governance and governing institutions, and indigenous peoples (41).</li> <li>• The UNDP/GEF Small Grants Programme (SGP) has many examples of partnerships with indigenous organizations and authorities, including their participation in the National Steering Committees (NSCs). The indigenous presence in a multi-stakeholder group without any stakeholder being over-represented and chaired by a UN official was repeatedly mentioned as a good example of achieving meaningful and direct indigenous participation in decision-taking at the programme level.</li> <li>• UNDP’s focus should be broadened to require the establishment of institutional processes that secure indigenous peoples’ involvement in decision-making systems.</li> </ul>
<p><b>At the programme level</b></p>	<ul style="list-style-type: none"> <li>• However, it is vital to ensure that the right of indigenous self-determination espoused in legal statutes is not interpreted as a freedom to engage in unsustainable uses of the environment and does not supersede commitments under international law to guarantee women’s equal rights.</li> <li>• Indigenous authorities may play a lead role in the area of women’s empowerment; however special attention may often need to be directed to sensitizing traditional authorities in regard to the latter, as many are male-dominated without providing a role for women.</li> </ul>
<p><b>At the practical/project level</b></p>	<ul style="list-style-type: none"> <li>• A number of respondents said that the focus on indigenous peoples was more or less “disguised” in the project because of the context-sensitivities. Projects were thus focused on specific geographic regions (which are known to be indigenous regions) or on “marginalized” and “vulnerable” groups, or IPs were mentioned in one breath with women and children, or the projects were generally called “rural development” projects.</li> <li>• One respondent mentioned that it is important to put any project in a wider context. The project should hopefully lead to policy changes and, more particularly, to further recognition of IPs’ rights, otherwise the project may be successful by itself but have no real sustainable impact.</li> <li>• Another issue highlighted was that projects should arise from the priority of IPs themselves and as a supporting organization UNDP should not shy away from the sensitivities. For example, if land rights are the big issue then the project should focus on land rights and not on other peripheral issues.</li> <li>• Another respondent indicated the same in different words, but added that UNDP should also not be too ambitious in achieving fast results. It is sometimes better to start low and go slow but steady, e.g., facilitating a process of bringing stakeholders together rather than start with hiring legislative drafters.</li> </ul>



## Conclusion

The UNPFII, in accordance with its mandate, the United Nations Declaration on the Rights of Indigenous Peoples and the Programme of Action for the Second International Decade of the World's Indigenous People, continues to advocate indigenous peoples' participation and partnership in all areas relevant to them. Materials produced by the SPFII aim to assist UNCTs in their work.

It is also important that UNCT colleagues share the good practices and lessons learned from their experiences of using this Resource Kit in order to keep an active living process alive, updated and relevant. To do so, users are encouraged to do any of the following:

- Share and analyse experiences with specific inter-agency processes, the CCA/UNDAF cycle, PRSPs, MDGs monitoring and reporting, *Human Development Reports*—in informal updates and/or by forwarding formal and regular reports to the SPFII or the focal point for indigenous issues in your agency;
- Send any feedback and comments on experiences relating to the content of this Resource Kit so that the information in this Kit can be revised and updated accordingly and shared with the IASG;
- Provide updates of core documents for the sets of examples—new or revised national legislation relevant to indigenous peoples, good practices and lessons learned in engaging indigenous communities in the analysis, strategy planning and programming of the UNCT's work.





# More information

## International agreements and legal framework

### Human rights treaty bodies

There are nine core international human rights treaties—of which seven are in force.<sup>76</sup> They are all relevant to indigenous peoples. They may be accessed at: <http://www2.ohchr.org/english/law/>.

Each of these treaties has established a committee of experts to monitor implementation of the treaty provisions by its States parties. General comments, concluding observations and recommendations emanating from these Committees can be found at: <http://www.unhcr.ch/tbs/doc.nsf/>. A compilation of all general comments and recommendations until 2005 (HRI/GEN/1/Rev.7/Add.1) is available from the same site.

The following list gives some basic information about the conventions, including reference to the most relevant articles, their status of ratification, their websites, and, in some cases, examples of relevant comments and observations made by their monitoring bodies.

#### **International Covenant on Civil and Political Rights—ICCPR (1966)**

Articles 1 and 27. Ratified by 160 countries<sup>77</sup>

<http://www2.ohchr.org/english/law/ccpr.htm>

**Monitoring body:** CHR (Human Rights Committee)

<http://www2.ohchr.org/english/bodies/hrc/index.htm>

See, for example:

General comment 23 on the rights of minorities (article 27), 1994, (CCPR/C/21/Rev.1/Add.5)

#### **International Covenant on Economic, Social and Cultural Rights—ICESCR (1966)**

Article 1. Ratified by 157 countries

<http://www2.ohchr.org/english/law/cescr.htm>

**Monitoring body:** CESCR (Committee on ESCR)

<http://www2.ohchr.org/english/bodies/cescr/index.htm>

See, for example:

Concluding observations of the Committee on Economic, Social and Cultural Rights: Ecuador (E/C.12/1/Add.100 of 7 July 2004)

Concluding observations of the Committee on Economic, Social and Cultural Rights: Colombia (E/C.12/1/Add.74 of 30 November 2001)

#### **International Convention on the Elimination of All Forms of Racial Discrimination—ICERD (1965)**

Article 5. Ratified by 173 countries

<http://www2.ohchr.org/english/law/cerd.htm>

**Monitoring body:** CERD

<http://www2.ohchr.org/english/bodies/cerd/index.htm>

See, for instance:

<sup>76</sup> The two Conventions not yet in force are the International Convention for the Protection of all Persons from Enforced Disappearance and the Convention on the Rights of Persons with Disabilities.

<sup>77</sup> The United Nations has 192 Member States (2006).

General Recommendation 21 on the right to self-determination (Gen. Rec. No. 21, A/51/18, annex V of 23 August 1996)

General Recommendation 23 on the rights of indigenous peoples (Gen. Rec. No. 23, A/52/18, annex V of 18 August 1997)

**Convention on the Elimination of All Forms of Discrimination against Women—CEDAW (1979)**

Ratified by 185 countries

<http://www.un.org/womenwatch/daw/cedaw>

**Monitoring body:** CEDAW

<http://www.un.org/womenwatch/daw/cedaw/committee.htm>

**Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment—CAT (1984)**

Ratified by 145 countries

<http://www2.ohchr.org/english/law/cat.htm>

**Monitoring body:** CAT

<http://www2.ohchr.org/english/bodies/cat/index.htm>

**Convention on the Rights of the Child—CRC (1989)**

Articles 2.1 and 2; 5; 7.1 and 2.; 8.1. and 2.; 9.2; 12.1; 13; 28.1; 29.1; 30; 32.1. and 2.(a), (b). Ratified by 193 countries

<http://www2.ohchr.org/english/law/crc.htm>

**Monitoring body:** CRC

<http://www2.ohchr.org/english/bodies/crc/index.htm>

**International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families—ICRMW (1990)**

Ratified by 37 countries

<http://www2.ohchr.org/english/law/cmw.htm>

**Monitoring body:** CMW

<http://www2.ohchr.org/english/bodies/cmw/index.htm>

## International declarations

**UN Declaration on the Rights of Indigenous Peoples (2007)**

UN Doc A/RES/61/295

<http://www.un.org/esa/socdev/unpfii/en/declaration.html>

**UN Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities (1992)**

UN Doc A/47/135

<http://www2.ohchr.org/english/law/minorities.htm>

**ILO Declaration on Fundamental Principles and Rights at Work (1998)**

<http://www.ilo.org/ilolex/english/index.htm>

**UNESCO Universal Declaration on Cultural Diversity (2001)**

Article 4

[http://portal.unesco.org/en/ev.php-URL\\_ID=12025&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=-471.html](http://portal.unesco.org/en/ev.php-URL_ID=12025&URL_DO=DO_TOPIC&URL_SECTION=-471.html)

## Other global legal frameworks (ILO, UNESCO and CBD)

### *International Labour Organization (ILO)*

All the following conventions and related documents can be downloaded from: <http://www.ilo.org/ilolex/english/index.htm>.

#### **ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries (1989)**

As per 2007 ratified by 19 countries

For full text: <http://www.ilo.org/ilolex/english/convdisp2.htm>

**Monitoring body:** CEACR (Committee of Experts on the Application of Conventions and Recommendations) reviews the reports sent by Governments and employers' and workers' organizations and can make "Individual Observations" concerning the Indigenous and Tribal Peoples Convention, 1989 (No. 169)

<http://www.ilo.org/ilolex/english/newcountryframeE.htm>

**Complaints procedure:** a **Tripartite Conference Committee** examines representations alleging non-observance of the Indigenous and Tribal Peoples Convention, 1989 (No. 169), made under article 24 of the ILO Constitution. Its recommendations are sent on to CEACR for follow-up.

As of 2006, 14 representations had been made concerning the following State parties: Argentina (2006); Guatemala (2005); Mexico (2 in 2002 and 2 in 2001); Ecuador (2000); Denmark (2000); Colombia (2 in 1999); Bolivia (1998); Mexico (1998); Peru (1997); and Mexico (1996).

#### **ILO Convention No. 107 concerning the Indigenous and Tribal Populations (1957)** (still in force in 18 countries).

**Other ILO conventions** relevant to the situation of indigenous and tribal peoples include, but are not limited to, the following conventions concerning:

- **Forced or Compulsory Labour (C. No. 29), 1930.** Ratified by 172 countries
- **Discrimination (Employment and Occupation) (C. No. 111), 1958.** Ratified by 166 countries
- **Worst Forms of Child Labour (C. No. 182), 1999.** Ratified by 165 countries
- Two conventions on migration are also relevant to the situation of many indigenous peoples:
  - **Migration for Employment (Revised) (C. No. 97), 1947**  
Ratified by 47 countries
  - **Migrant Workers (Supplementary Provisions) (C. No. 143), 1975**  
Ratified by 23 countries

### *United Nations Educational, Scientific and Cultural Organization (UNESCO) conventions*

The conventions and other relevant texts and information regarding UNESCO standard-setting instruments can be consulted at: [http://portal.unesco.org/en/ev.php-URL\\_ID=12025&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=-471.html](http://portal.unesco.org/en/ev.php-URL_ID=12025&URL_DO=DO_TOPIC&URL_SECTION=-471.html).

#### **Convention concerning the Protection of the World Cultural and Natural Heritage (1972)**

Articles 1, 2, 4 and 5. Ratified by 185 countries.

**Monitoring body:** Intergovernmental Committee for the Protection of the World Cultural and Natural Heritage

**Convention for the Safeguarding of the Intangible Cultural Heritage (2003)**

See Preamble and Articles 1, 2, and 15. Ratified by 87 countries

**Monitoring body:** Intergovernmental Committee for the Safeguarding of the Intangible Cultural Heritage

**Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005)**

See Preamble (paras. 8 and 15), and Articles 2.3 and 7. Ratified by 76 countries

**Monitoring body:** Intergovernmental Committee on the Protection and Promotion of the Diversity of Cultural Expressions

*Convention on Biological Diversity (CBD) (1992)*

The Convention (<http://www.cbd.int>) was adopted by the UN Conference on Environment and Development (UNCED) in Rio de Janeiro, 1992, and ratified by 190 State parties. Articles 8(j) on in situ conservation and traditional knowledge, 10 on customary sustainable use and 15 on access to, and sharing of the benefits from, genetic resources and free, prior consent. For the full text: <http://www.biodiv.org/convention/articles.asp>.

**Monitoring body:** Working Group on the Review of Implementation (WGRI) <http://www.cbd.int/wgri/>

Other relevant bodies under the CBD:

- **COP**—Conference of the Parties—is the governing body of the Convention. COP7 (Malaysia, 2004) is of special interest for indigenous peoples. One of its main achievements was the adoption of the **Akwe: Kon Voluntary Guidelines** for the Conduct of Cultural, Environmental and Social Impact Assessment regarding Developments Proposed to Take Place on, or which are Likely to Impact on, Sacred Sites and on Lands and Waters Traditionally Occupied or Used by Indigenous and Local Communities. For the full text: <http://www.cbd.int/programmes/socio-eco/traditional/akwe.aspx>. For other documents and decisions from the COPs, consult: <http://www.cbd.int/convention/cops.shtml>
- **Working Group on article 8 (j)**: <http://www.cbd.int/convention/wg8j.shtml>
- **Working Group on Access and Benefit Sharing Regime**: <http://www.cbd.int/convention/wgabs.shtml>
- **Ad Hoc Open-Ended Working Group on Protected Areas**: <http://www.cbd.int/convention/wgpa.shtml>

## UN conferences and summits

A number of political declarations and action plans adopted by UN conferences and summits are relevant for indigenous peoples.

**UN Conference on Environment and Development—UNCED (Rio de Janeiro, 1992).** Besides the already mentioned Convention on Biological Diversity, UNCED also adopted **Agenda 21**. Of particular relevance is Section 3, chapter 26 of the Agenda 21: “Recognizing and strengthening the role of indigenous people and their communities”. For the full text: <http://www.un.org/esa/sustdev/documents/agenda21/english/agenda21chapter26.htm>

**World Conference on Human Rights (Vienna, 1993).** Vienna Declaration and Plan of Action: See Part I, para. 20; Part II, B 2 Indigenous Peoples—paras. 28, 31 (full and free participation) and 32 (recommending an international decade of the world's indigenous people and the establishment of a permanent forum for indigenous people in the UN system. For the full text: [http://www.unhchr.ch/huridocda/huridoca.nsf/\(Symbol\)/A.CONF.157.23.En](http://www.unhchr.ch/huridocda/huridoca.nsf/(Symbol)/A.CONF.157.23.En)

**International Conference on Population and Development—ICPD (Cairo, 1994).** The Programme of Action: see chapter 6, D on Indigenous People (paras. 6.21 to 6.27). For the full text: <http://www.un.org/popin/icpd/conference/offeng/poa.html>

**Fourth World Conference on Women (Beijing, 1995).** Platform of action: Articles 32, 34, and 46. For the full text: <http://www.un.org/womenwatch/daw/beijing/platform/index.html>

**World Summit for Social Development (Copenhagen, 1995).** Agreements of the World Summit: see Introduction, Part C, Commitments 4 (*f*) on identity and culture; 5 (*b*) on empowerment of indigenous women and 6 (*g*) rights to education and health. Programme of Action: chapter 1, para. 10 (*i*); chapter 2, B, paras. 32 (*f*) on traditional rights to land and other resources, and 32 (*h*) on indigenous traditional knowledge systems; C, para. 35 (*e*) on access to social services; D, para. 39 (*g*) on special needs of indigenous children; chapter 3, D, para. 61 on access to employment; chapter 4, C, para. 74 (*h*) on basic education rights and D, para. 75 (*g*) on promoting and protecting indigenous peoples' rights. For the full text: <http://www.un.org/esa/socdev/wssd/agreements/decparti.htm>

**World Education Forum (Dakar, Senegal, 2000).** Dakar Framework for Action—EFA 2015. See: [http://www.unesco.org/education/efa/ed\\_for\\_all/dakfram\\_eng.shtml](http://www.unesco.org/education/efa/ed_for_all/dakfram_eng.shtml).

**World Millennium Summit (New York, 2000).** Millennium Declaration (MDGs). See: <http://www.unmillenniumproject.org/goals/index.htm>.

**World Conference on Racism, Racial Discrimination, Xenophobia and Related Intolerance (Durban, 2001).** Durban Declaration, see: paras. 22, 23, 24, 39, 40, 41, 43 (recognizes relationship with and ownership of the land), 73 (language rights). For the full text: <http://www.unhchr.ch/pdf/Durban.pdf>.

**World Summit on Sustainable Development—WSSD—Rio + 5 (Johannesburg, 2002).** The Johannesburg Plan of Implementation (JPOI) (A/Conf.199/20), see: paras. 7 (*e*) and (*b*), 20 (*g*), 37 (*f*), 38 (*i*), 40 (*d*), (*h*), °, 42 (*e*), 43 (*b*), 44 (*j*), (*k*), (*l*), 45 and 45 (*b*), 46 (*b*), 53, 54 (*h*), 59 (*b*), 63, 64 (*d*), 70 (*c*), and 109 (*a*). For the full text: [http://www.un.org/esa/sustdev/documents/docs\\_key\\_conferences.htm](http://www.un.org/esa/sustdev/documents/docs_key_conferences.htm).

**The World Summit on the Information Society—WSIS (Geneva 2003 and Tunis 2005).** Plan of Action: Section II, C1. para. 8 (*f*); C4. para. 11 (*i*); C8. para. 23 (*d*), (*e*), (*k*) on right to cultural diversity and identity. For the full text: <http://www.itu.int/wsis/docs/geneva/official/poa.html>.

**The 2005 Millennium Summit—MDGs + 5 (New York, 2005).** Summit outcome: paras 46, 56 (*d*) on sustainable development and (*e*) on indigenous knowledge, 127 on commitment to the human rights of indigenous peoples. For

the full text: <http://daccessdds.un.org/doc/UNDOC/GEN/N05/487/60/PDF/N0548760.pdf?OpenElement>.

## International mechanisms specifically targeting indigenous peoples

### United Nations Permanent Forum on Indigenous Issues

The UNPFII Web site (<http://www.un.org/esa/socdev/unpfii/index.html>) has a wealth of information on topics relevant for the situation of indigenous peoples (MDGs, women, children and youth, etc.). Some of these topics have been the theme of an annual session, and the background documents, together with the final report of the session, are all available. The special themes have included *Indigenous Children and Youth* (2003), *Indigenous Women* (2004), *Millennium Development Goals and Indigenous Peoples with a focus on Goal 1 to Eradicate Poverty and Extreme Hunger, and Goal 2 to Achieve Universal Primary Education* (2005), *The Millennium Development Goals and Indigenous Peoples: Re-defining the Millennium Development Goals* (2006), and *Territories, Lands and Natural Resources* (2007). The special theme for the 2008 session will be: *Climate Change, Bio-cultural Diversity and Livelihoods: the Stewardship Role of Indigenous Peoples and New Challenges*.

UNPFII and its secretariat also organize meetings, seminars and conferences to discuss specific issues in depth with indigenous and non-indigenous experts. Reports from these gatherings are also available from the UNPFII website. Some of the more recent are listed here:

- Report of International Expert Workshop on Data Collection and Disaggregation for Indigenous Peoples (January 2004). UN Doc E/C.19/2004/2.
- Report of International Expert Workshop on Methodologies regarding Free Prior and Informed Consent and Indigenous Peoples (2005). UN Doc E/C.19/2005/3.
- Report of International Expert Group Meeting on the Millennium Development Goals, Indigenous Participation and Good Governance (January 2006). UN Doc E/C.19/2006/9.
- Report of Workshop on Partnership Visions for the Second Decade of the World's Indigenous People (2006). UN Doc E/C.19/2006/Add.4
- Reports of a Meeting on Indigenous Peoples and Indicators of Well-being. UN Docs E/C.19/2006/CRP.3, E/C.19/2007/CRP.2, CRP.3 and CRP.10, available at [www.un.org/esa/socdev/unpfii](http://www.un.org/esa/socdev/unpfii).

### Working Group on Indigenous Populations (WGIP)

The Working Group was established in 1982 as a subsidiary organ to the Sub-Commission on the Promotion and Protection of Human Rights of the Commission on Human Rights. One of the most accessible charter-based UN bodies for indigenous peoples, the Working Group on Indigenous Populations for many years provided an opportunity for indigenous peoples to share their experiences and raise their concerns at the UN. The Working Group received and analysed oral and written information on human rights abuses and violations presented to it by indigenous organizations, Governments, specialized agencies and other UN organs. It also gave particular attention to changes in international standards relating to the human rights of indigenous

peoples. It produced some important studies, e.g., the “Study on Indigenous Peoples and their Relationship to Land”, but the most important achievement has been the formulation and adoption of the Draft Declaration on the Rights of Indigenous Peoples.

All documents related to the WGIP can be accessed at: <http://www2.ohchr.org/english/issues/indigenous/documents.htm>.

The Working Group has recently been replaced by an Expert Mechanism of the Human Rights Council (see 6.3.4 below).

## Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people

The Special Rapporteur mechanism for indigenous people was established by the Commission on Human Rights (now Human Rights Council) in 2001 (Res/2001/57). Since his appointment, the Special Rapporteur has concentrated on three main areas of work: thematic research on issues that have an impact on the human rights situation and the fundamental freedoms of indigenous peoples; country visits; and communications with Governments concerning allegations of violations of human rights and fundamental freedoms of indigenous peoples worldwide. For more detailed information on the Special Rapporteur and his work: <http://www2.ohchr.org/english/issues/indigenous/rapporteur/>

The **thematic reports** have until now focused on: *the impact of large-scale development projects on human rights and fundamental freedoms of indigenous peoples and communities* (UN Doc E/CN.4/2003/90); *the question of access to the administration of justice by indigenous peoples and indigenous customary law* (UN Doc E/CN.4/2004/80); *hindrances and inequalities that indigenous peoples face in relation to the access to and the quality of education systems* (UN Doc E/CN.4/2005/88); and *the question of constitutional reforms, legislation and implementation of laws regarding the promotion and protection of rights of indigenous people and the effectiveness of their application, as well as on the implementation of international norms and decisions of bodies in charge of overseeing the respect of relevant international treaties and conventions* (UN Doc E/CN.4/2006/78).

In 2007, the Special Rapporteur presented a study *regarding best practices carried out to implement the recommendations contained in the annual reports of the Special Rapporteur* (UN Doc A/HRC/4/32/Add.4). He also presented a report on the various trends that have affected the situation of the human rights of indigenous peoples during the past 6 years.

The **country reports** have dealt with: Guatemala (UN Doc E/CN.4/2003/90/Add.2) and the Philippines (UN Doc E/CN.4/2003/90/Add.3) in 2002; Mexico (UN Doc E/CN.4/2004/80/Add.2) and Chile (UN Doc E/CN.4/2004/80/Add.3) in 2003; Colombia (UN Doc E/CN.4/2005/88/Add.2) and Canada (UN Doc E/CN.4/2005/88/Add.3) in 2004; South Africa (UN Doc E/CN.4/2006/78/Add.2) and New Zealand (UN Doc E/CN.4/2006/78/Add.3) in 2005; and Ecuador (UN Doc A/HRC/4/32/Add.2) and Kenya (UN Doc A/HRC/4/32/Add.3) in 2006. In 2007, the Rapporteur issued a Report on the situation of human rights and fundamental freedoms of Indigenous Peoples in Asia (UN Doc A/HRC/6/15/Add.3).

The Special Rapporteur’s reports can be downloaded from: [http://ap.ohchr.org/documents/sdpage\\_e.aspx?m=73&t=9](http://ap.ohchr.org/documents/sdpage_e.aspx?m=73&t=9)



## Expert mechanism on the rights of indigenous peoples

This mechanism was established in December 2007 by the Human Rights Council. Its mandate is to provide the Council with thematic expertise on the human rights of indigenous peoples.

## Second International Decade of the World's Indigenous People

The Second International Decade was launched in 2005 (General Assembly resolution A/RES/59/174) and its Programme of Action (UN Doc A/60/270) can be downloaded from: <http://www.un.org/esa/socdev/unpfii/en/second.html>

## Regional bodies and indigenous rights

### Organization of American States (OAS)

The web site is: <http://www.oas.org/main/english/>

The **Working Group of the OAS Permanent Council** is responsible for negotiating the **Draft American Declaration on the Rights of Indigenous Peoples**. The Draft Declaration can be downloaded from: <http://www.oas.org/consejo/CAJP/Indigenous.asp>.

The **Inter-American system** includes the following bodies:

- The **Inter-American Commission on Human Rights** promotes human rights compliance and protection through research, reports and mainly through recommendations to member States. It may also forward cases to the Inter-American Court of Human Rights. The Commission elaborated the first draft of the Draft Declaration in 1999. (<http://www.cidh.oas.org/defaulte.htm>)
- The **Inter-American Court of Human Rights** is an autonomous judicial institution whose purpose is the application and interpretation of the American Convention on Human Rights. (<http://www.corteidh.or.cr/>) The Court receives many complaints from indigenous communities about alleged violations of human rights. The Court's decisions are binding upon states. On human rights matters, the Court is effectively the highest court of the Americas to which indigenous peoples can seek redress of their grievances. The Court's Decisions can be accessed at: <http://www.corteidh.or.cr/casos.cfm>.

In 2000, the Court issued its first judgment in favour of the rights of indigenous peoples to their ancestral land, and two more were issued in 2006:

*The Mayagna (Sumo) Awas Tingni Community v. Nicaragua, 2000.*

*The Yakye Axa Community v. Paraguay, 2006.*

*The Sawhoyamaxa Community v. Paraguay, 2006.*

- The **Inter-American Special Rapporteurship** (on Migrant workers; Freedom of Expression; and Rights of Women). The reports and other documents produced by the Rapporteurs can be found at: <http://www.cidh.oas.org/relatorias.eng.htm>

## The African Commission on Human and Peoples' Rights (ACHPR)

The African Commission on Human and Peoples' Rights (<http://www.achpr.org>) adopted at its 28th ordinary session (2000) a "Resolution on the Rights of Indigenous Populations/communities in Africa". This resolution provided for the establishment of a **Working Group of Experts on Indigenous Populations/communities**. In 2003 the Working Group submitted in 2003 a report in accordance with the resolution. The Report of the African Commission's Working Group of Experts on Indigenous Populations/communities can be downloaded from:

[http://www.achpr.org/english/\\_info/index\\_WGIP\\_Under\\_ent.htm](http://www.achpr.org/english/_info/index_WGIP_Under_ent.htm)

<http://www.iwgia.org/sw249.asp>

The **mandate** of the Working Group is similar to that of a Special Rapporteur and it has developed a comprehensive work programme including country visits, sensitization seminars, information activities and research. For more background information: <http://www.iwgia.org/sw2073.asp>. For country reports and other relevant documentation, go to: [http://www.achpr.org/english/\\_info/reports\\_en.html](http://www.achpr.org/english/_info/reports_en.html); <http://www.iwgia.org/sw8776.asp>

## Donor policies and experiences

Many multi- and bilateral donor agencies have institutional policies and related websites on indigenous issues. Here are some examples of websites, followed by some documents that are accessible on the web:

- **Asian Development Bank** (1998). *The Bank's Policy on Indigenous Peoples*. [http://www.adb.org/Documents/Policies/Indigenous\\_Peoples/ippp-007.asp](http://www.adb.org/Documents/Policies/Indigenous_Peoples/ippp-007.asp)  
 \_\_\_\_\_ (2006). *Operations Manual Related to Indigenous Peoples (OM/F3)* <http://www.adb.org/Documents/Manuals/Operations/OMF03-25Sep06.pdf>  
 \_\_\_\_\_ (2007). *Sharing Development with Indigenous Peoples*. <http://www.adb.org/IndigenousPeoples/default.asp>
- **Danish Ministry of Foreign Affairs**—Danida (2004). *Strategy for Danish Support to Indigenous Peoples*. <http://amg.um.dk/en/menu/policiesandstrategies/indigenouspeoples>
- **European Union** (1998). Council Resolution on Support to Indigenous Peoples within the Framework of the Development Cooperation of the EU and Member States. [http://www.europa.eu.int/comm/external\\_relations/human-rights/ip/ip](http://www.europa.eu.int/comm/external_relations/human-rights/ip/ip)
- **Forum for Development Cooperation with Indigenous Peoples**. <http://www.sami.uit.no/forum/indexen.html>
- **GTZ** (German Federal Agency for International Cooperation): <http://www.gtz.de/indigenas/>
- **IFAD** (International Fund for Agricultural Development) (2006). IFAD's Engagement with Indigenous Peoples: <http://www.ifad.org/gbdocs/eb/88/e/EB-2006-88-R-34.pdf>. See also: <http://www.ifad.org/english/indigenous/index.htm>
- **Inter-American Development Bank** (2006). *Operational Policy on Indigenous Peoples (OP 765) Strategy for Indigenous Development*. [http://www.iadb.org/sds/IND/site\\_401\\_e.htm](http://www.iadb.org/sds/IND/site_401_e.htm)  
 \_\_\_\_\_ Database on indigenous legislation, which permits thematic search. <http://www.iadb.org/sds/IND/ley/leyn/datamap.cfm?lang=EN>

- NORAD (Norwegian Agency for Development): [http://norad.no/default.asp?V\\_ITEM\\_ID=1632](http://norad.no/default.asp?V_ITEM_ID=1632)
  - Spanish Agency for International Cooperation: Indigenous Programme: [http://www.aeci.es/03coop/4program\\_coop/indigena/00index.htm](http://www.aeci.es/03coop/4program_coop/indigena/00index.htm)
  - UNDP. See: <http://www.undp.org/partners/cso/indigenous.shtml>
  - World Bank: On Indigenous Peoples in general, consult: <http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTSOCIALDEVELOPMENT/EXTINDPEOPLE/0,,menuPK:407808~pagePK:149018~piPK:149093~theSitePK:407802,00.html>  
*Operational Policy 4.10 and Bank Procedures 4.10* (2005). <http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/EXTPOLICIES/EXTOPMANUAL/0,,contentMDK:20553653~pagePK:64141683~piPK:64141620~theSitePK:502184,00.html>
- Chakma, Prasenjit (2006). *Integration of Indigenous Peoples' Perspective in Country Development Processes: Review of selected CCAs and UNDAFs*. SPFII, April 2006. <http://www.un.org/esa/socdev/unpfii/en/publications.html>
- López, Mariana (2006). *Desk Reviews of Selected CCA/UNDAFs*. SPFII, April 2006 (available in English and Spanish). <http://www.un.org/esa/socdev/unpfii/en/publications.html>
- OHCHR (2004). *Human Rights-based Approach to Development: Good Practices and Lessons Learned from the 2003 CCAs and UNDAFs*. <http://www.undg.org/?P=221>
- SPFII (2007). *Desk Reviews of Selected Resident Coordinator Reports*. <http://www.un.org/esa/socdev/unpfii/en/publications.html>
- \_\_\_\_\_ *Desk Reviews of MDG Country Reports*. <http://www.un.org/esa/socdev/unpfii>

## Special issues

Here are a few suggestions for further information and documentation. The list is far from being exhaustive and can easily be supplemented by, e.g., consulting the various Web sites mentioned in this document.

## Identifying indigenous peoples

- African Commission on Human and Peoples' Rights (2005). Report of the African Commission's Working Group of Experts on Indigenous Populations/communities, submitted in accordance with the "Resolution on the Rights of Indigenous Populations/communities in Africa" adopted by the African Commission on Human and Peoples' Rights at its 28th ordinary session, 2003. ACHPR and IWGIA. Can be downloaded from: [http://www.achpr.org/english/\\_info/index\\_WGIP\\_Under\\_ent.htm](http://www.achpr.org/english/_info/index_WGIP_Under_ent.htm), and <http://www.iwgia.org/sw249.asp>
- Asian Development Bank (1998). *The Bank's Policy on Indigenous Peoples—Definition of Indigenous Peoples*. [http://www.adb.org/Documents/Policies/Indigenous\\_Peoples/ipp-002.asp](http://www.adb.org/Documents/Policies/Indigenous_Peoples/ipp-002.asp)
- Daes, Erica-Irene A. (1996). *Working Paper on the Concept of "Indigenous People"*. Prepared by Chair-Person Rapporteur to the Working Group on Indigenous Populations. UN Doc E/CN.4/Sub.2/AC.4/1996/2.

ILO Convention No. 169 (1989). Can be accessed at: <http://www.ilo.org/ilolex/english/convdisp2.htm>

Inter-American Development Bank (2006). *Operational Policy on Indigenous Peoples (OP 765) Strategy for Indigenous Development*. See: [http://www.iadb.org/sds/IND/site\\_401\\_e.htm](http://www.iadb.org/sds/IND/site_401_e.htm)

Martínez-Cobo, José (1986/87). *Study of the Problem of Discrimination against Indigenous Populations*. Prepared by Special Rapporteur to the Subcommission on Prevention of Discrimination and Protection of Minorities. UN DOC E/CN.4/Sub.2/1986/7; see <http://www.un.org/esa/socdev/unpfi>

Organization of American States. The Draft American Declaration on the Rights of Indigenous Peoples: <http://www.oas.org/consejo/CAJP/Indigenous.asp>

## Land and natural resources

Daes, Erica-Irene A. (2001). *Indigenous Peoples and their Relationship to Land*. Final working paper prepared by Special Rapporteur. UN Doc E/CN.4/Sub.2/2001/21.

\_\_\_\_\_. (2004). *Indigenous Peoples' Permanent Sovereignty over Natural Resources*. Final report of the Special Rapporteur. UN Doc E/CN.4/Sub.2/2004/30.

Huertas Castillo, Beatriz (2004). *Indigenous Peoples in Isolation in the Peruvian Amazon*. Copenhagen: IWGIA. (Also available in Spanish).

Pueblos Indígenas en Aislamiento Voluntario y en Contacto Inicial en la Amazonia y el Gran Chaco (2007). Proceedings from the Regional Seminar on Indigenous Peoples in Voluntary Isolation and Initial Contact of the Amazon Basin and El Chaco, held in Santa Cruz de la Sierra, Bolivia, in November 2006. Copenhagen: IWGIA. (Also available in Portuguese).

SPFII (2006). *Backgrounder on Indigenous Peoples—Lands, Territories and Resources* prepared for the sixth UNPFII session (2006). [http://www.un.org/esa/socdev/unpfi/documents/6\\_session\\_factsheet1.pdf](http://www.un.org/esa/socdev/unpfi/documents/6_session_factsheet1.pdf)

\_\_\_\_\_. (2007). Report and documents from the UNPFII's sixth session on "indigenous peoples' lands, territories and resources". UN Doc E/CN.4/Sub.2/2004/30 and Add.1, UN Doc E/CN.4/Sub.2/AC.4/2006/3, UN Doc E/CN.4/Sub.2/2001/21 and UN Doc E/CN.4/Sub.2/AC.4/1996/6 and Add.1—all available from: <http://www.un.org/esa/socdev/unpfi/index.html>

## Environment

The Kari-Oca Declaration (1992). Adopted at the World Conference of Indigenous Peoples on Territory, Environment and Development (Brazil). Can be downloaded from: <http://www.ipcb.org/resolutions/htmls/karioca.html>

IFAD (2004). *Indigenous Peoples and Sustainable Development*. Discussion paper. Is available from: <http://www.ifad.org/gbdocs/gc/26/e/ip.pdf>

Indigenous Peoples' Plan of Implementation on Sustainable Development, Johannesburg, South Africa. (2002). Can be downloaded from: <http://www.iwgia.org/graphics/Synkron-library/Documents/WSSD/WSSDIPPlanofImplem.doc>

Kimberley Declaration (2002). Adopted by the International Indigenous Peoples Summit on Sustainable Development. Khoi-San Territory, Kimberley (South Africa). Can be downloaded from: <http://www.iwgia.org/sw217.asp>

- International Indigenous Forum on Biodiversity (IIFB): The IIFB coordinates indigenous strategies at Convention on Biodiversity and other important international environmental meetings. <http://www.iifb.net/>
- IUCN V World Parks Congress (2003). Recommendations, the Durban Accord and the Durban Action Plan. See recommendation V.1, 1 (viii); V.2., 1 (c) (d), 2 (a); V.3, 12. For the full text: <http://www.iucn.org/themes/wcpa/wpc2003/pdfs/english/Proceedings/recommendation.pdf>
- SPFII (2007). Report of the International Expert Group Meeting on the Convention on Biological Diversity's International Regime on Access and Benefit-Sharing and Indigenous Peoples' Human Rights. UN Doc E/C.19/2007/8.

## Poverty

- Asian Development Bank/Roger Plant (2002). *Indigenous Peoples, Ethnic Minorities and Poverty Reduction—Regional Report*. [www.adb.org/Documents/Reports/Indigenous\\_Peoples](http://www.adb.org/Documents/Reports/Indigenous_Peoples)
- Davis, Shelton H. (2002). *Indigenous Peoples, Poverty and Participatory Development: The experience of the World Bank in Latin America*. <http://www.georgetown.edu/sfs/programs/clas/Pubs/entre2003/indigenous.html>
- Declaration of Atitlán, Guatemala (2002). Adopted at the Indigenous peoples' Consultation on the Right to Food. For text, see: [http://www.treatycouncil.org/new\\_page\\_5241224.htm](http://www.treatycouncil.org/new_page_5241224.htm)
- ILO/PRO 169: Series of case studies on PRSP (Cambodia, Nepal, Cameroon). Can be downloaded from: <http://www.ilo.org/indigenous>
- Minority Rights Group (2003). *Indigenous Peoples and Poverty*. Can be downloaded from: [www.minorityrights.org](http://www.minorityrights.org)
- Tauli-Corpuz, Victoria (2005). Statement UNPFII chairperson ECOSOC preparatory roundtable on eradication of poverty and hunger: [http://www.un.org/esa/socdev/unpfi/news/MDGs/Corpuz\\_ECOSOC\\_MDGs.doc](http://www.un.org/esa/socdev/unpfi/news/MDGs/Corpuz_ECOSOC_MDGs.doc)
- Tomei, Manuela (2005). *Indigenous and Tribal Peoples and Poverty Reduction Strategy Papers (PRSPs): An Ethnic Audit of Selected PRSPs*. Geneva: ILO.
- The United Housing Rights Programme (UNHRP) (2005). Indigenous peoples' right to adequate housing: A global overview. A joint initiative by UN-Habitat and OHCHR, recommended in its report (2005) at <http://www.unhabitat.org>
- UN Habitat (2007). Report of the International Expert Group Meeting on Urban Indigenous Peoples and Migration. Can be accessed at: <http://www.unhabitat.org/content.asp?cid=4694&catid=282&typeid=6&subMenuId=0>
- World Bank (2004). *Indigenous Peoples, Poverty and Human Development in Latin America: 1994-2004*. Washington, D.C.: World Bank.

## Women and children

- Beijing Declaration of Indigenous Women (1995). Can be downloaded from the web site of the Tebtebba Foundation: [http://www.tebtebba.org/tebtebba\\_files/gender/beijing.html](http://www.tebtebba.org/tebtebba_files/gender/beijing.html)

- Larsen, Peter Bille (2003). Assessing child labour and education challenges among indigenous and tribal children. Working Paper IPEC and INDISCO. Geneva: ILO.
- IFAD (2004). *Enhancing the Role of Indigenous Women in Sustainable Development*. Rome/New York: IFAD.
- International Labour Organization (2006). *Handbook on Combating Child Labour among Indigenous and Tribal Peoples*. <http://www.ilo.org/indigenous>
- International Indigenous Women's Forum: <http://www.indigenouswomensforum.org/index.html>
- SPEAK UP—a brochure on Indigenous Children, Youth and the Permanent Forum can be downloaded from: <http://www.un.org/esa/socdev/unpfii/en/children.html>
- SPFII (2007). *Indigenous Women and the UN System: Good Practices and Lessons Learned*. New York: TFIW and SPFII. See: <http://www.un.org/esa/socdev/unpfii/en/publications.html>
- Task Force on Indigenous Women—TFIW (2004). See website: <http://www.un.org/womenwatch/ianwge/taskforces/tfIndigenousWomen2005.htm>
- UNPFII second session (2003) focused on indigenous children and youth. See report and documents at: [http://www.un.org/esa/socdev/unpfii/en/session\\_second.html](http://www.un.org/esa/socdev/unpfii/en/session_second.html)
- UNPFII third session (2004) focused on women. See report and documents at: <http://www.un.org/esa/socdev/unpfii/en/women.html#3>
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