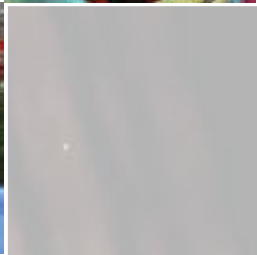
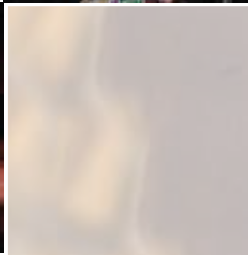
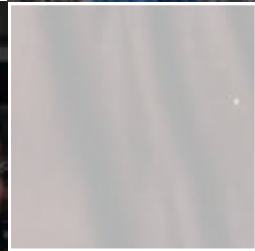
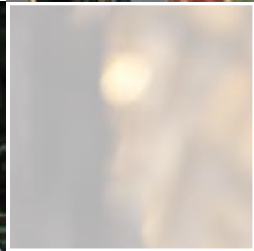




Millennium Development Goals and Indigenous Peoples



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Cover photos: Colin Nicholas, Devasish Roy, Endy, Martin Hardiono,
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Abbreviations

ADB	Asian Development Bank
CBD	Convention on Biological Diversity
CERD	Committee on the Elimination of Racial Discrimination
CEDAW	Committee on the Elimination of Discrimination against Women
CRC	Convention on the Rights of the Child
DESA	Department of Economic and Social Affairs (UN)
EBRD	European Bank for Reconstruction and Development
FPIC	Free, Prior and Informed Consent
IADB	Inter-American Development Bank
IASG	Inter-Agency Support Group on Indigenous Issues
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICERD	International Covenant on the Elimination of All forms of Racial Discrimination
ICEDAW	International Covenant on the Elimination of Discrimination Against Women
IFAD	International Fund for Agricultural Development
IFI	International Financial Institutions
ILO	International Labour Organisation
MDGs	Millennium Development Goals
OP	Operational Policy
PRSPs	Poverty Reduction Strategy Papers
SPFII	Secretariat of the UN Permanent Forum on Indigenous Issues
SPS	Safeguard Policy Statement (ADB)
UDHR	Universal Declaration on Human Rights
UNPFII	United Nations Permanent Forum on Indigenous Issues
UN	United Nations
UNAIDS	Joint Programme on HIV/AIDS
UNDP	United Nations Development Programme
UNDRIPs	UN Declaration on the Rights of Indigenous Peoples
UNGA	United Nations General Assembly
UNMC	United Nations Millennium Campaign
WB	World Bank
WGIP	UN Working Group on Indigenous Populations
WHO	World Health Organisation

Foreword

With five years remaining until the deadline of 2015, there is a heightened sense of urgency to gear up our efforts in pursuit of the Millennium Development Goals. The year 2010 is a critical milestone in the countdown to 2015, and at the UN MDG Review Summit which took place in September, heads of nations reaffirmed their commitment to accelerate the progress towards achieving the MDGs by consolidating the lessons learned through the past 10 years of development experience.

The Regional Initiative on Indigenous Peoples' Rights and Development of the Asia Pacific Regional Centre, United Nations Development Programme and the United Nations Millennium Campaign jointly produced this publication *Millennium Development Goals and Indigenous Peoples* to contribute to MDGs achievement taking into account indigenous peoples' rights and development priorities. Our special thanks go to Rajat Khosla for drafting this publication.

Approximately 370 million indigenous peoples around the world are characterised by a stark disparity from majority populations in levels of financial income, access to and enrolment in culturally pluralistic education, clean water, basic medical services, and political representation. Further, it is indigenous peoples who are at the frontlines of environmental degradation and climate change.

Millennium Development Goals and Indigenous Peoples cautions that this segment of the population will not be among the fifty per cent lifted out of extreme poverty unless and until immediate measures are taken to rectify the impacts of past development approaches that have increased marginalisation and dispossession. In order to prevent uneven and inequitable MDG attainment, development must be formulated and implemented with full and effective participation of indigenous peoples.

This publication provides substantive basis for taking this bold step by placing human rights, equity and justice firmly at the centre of development. It is premised on the recognition that they have the right to be part of such processes and claim their MDG entitlements, and that a comprehensive review of good practices and lessons learned, challenges and opportunities will lead to concrete strategies for action to accelerate the progress of the MDGs.

We hope this publication can effectively support advocacy efforts around the world to bring indigenous peoples' perspectives into the discussions, planning and implementation of development strategies to accelerate the MDG achievement by 2015. And that it will serve to remind us that the principles of freedom, equality, and solidarity outlined in the Millennium Declaration should define how the MDGs are to be achieved vis-a-vis indigenous peoples.



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1. Background and Context

The Millennium Development Goals (MDGs) constitute the unprecedented commitment of world leaders to address key development priorities through a set of specific goals and targets to eradicate extreme poverty and hunger, ensure all boys and girls complete primary school, promote gender equality, improve the health of mothers and children, reverse the spread of HIV/AIDS, protect the environment, and create a global partnership for development. In many developing countries, the MDG framework has brought different social groups to work towards the common development agenda. In this regard, UNDP and the UN Millennium Campaign continue to work with a wide range of constituencies to accelerate the achievement of the MDGs with particular attention to the vulnerable and marginalised population, including the indigenous peoples.

There are over 370 million indigenous peoples in some 90 countries, living in all regions of the world. While they constitute 5 per cent of the world's population, indigenous peoples account for 15 per cent of the world's poor. Most indicators of well-being show that indigenous peoples suffer disproportionately compared to non-indigenous peoples. Indigenous peoples face systemic discrimination and exclusion from political and economic power; they continue to be over-represented among the poorest, the illiterate, the destitute; they are displaced by wars and environmental disaster; dispossessed of their ancestral lands and deprived of their resources for survival, both physical and cultural; they are even robbed of their very right to life.¹ Their levels of access to adequate health and education services are well below national averages, and they are also especially vulnerable to the consequences of environmental degradation.²

Indigenous peoples aspire to maintain and strengthen their institutions, cultures and traditions, and to promote their development in accordance with their aspirations and needs. Indigenous peoples have the right to self-determination, and by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

The dominant development discourse does not adequately respond to these aspirations and needs of indigenous peoples. Major development projects often do not take into account fundamental interests of indigenous peoples and result in violations of their human rights. Full, meaningful and effective participation of indigenous peoples in development is generally not being considered.³ It is this interpretation of development that many argue is responsible for worsening the state of indigenous peoples' poverty and pushing them into further marginalisation.⁴

Indigenous peoples have distinct and unique cultures and world views, and their development needs and aspirations may differ from the mainstream population. The indigenous peoples approach to development is based on the principles of respect for and preservation of land, natural resources and all elements of the natural environment; consensus in decision-making; mutual respect for peoples' values and ideology, including sovereignty over land, resources and

1 UN Department of Economic and Social Affairs (DESA), Division for Social Policy and Development, Secretariat of the Permanent Forum on Indigenous Issues: *State of the World's Indigenous Peoples* (2010).

2 UNPFII: "Indigenous Peoples and the MDGs", UN Chronicle, No.4, 2007.

3 Report of the Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous Peoples, UN Doc. E.CN.4/2003/90, 2003, para 29.

4 Keynote Address by Victoria Tauli-Corpuz, UN Permanent Forum on Indigenous Issues at World Bank, Conference on Poverty and Indigenous Peoples, 2006, p.5.

Box 1: Who are Indigenous Peoples?

The UN Declaration on the Rights of Indigenous Peoples, the most relevant and current international normative framework on indigenous peoples was adopted without a definition of 'indigenous peoples' and recognises self-identification as a fundamental criterion.

Many terms are used to identify indigenous peoples including "indigenous peoples," "ethnic minorities," "tribes," "indigenous communities," "hill peoples," "highland peoples," "tribal groups" etc. These groups share similar characteristics, and maintain a specific identity that is distinct from dominant groups in society. United Nations bodies apply four criteria to identify indigenous peoples:

- they live within or maintain close attachments to geographically distinct ancestral territories;
- they tend to maintain distinct social, economic, and political institutions within their territories;
- they aspire to remain distinct culturally, geographically and institutionally rather than assimilate fully into national society; and
- they self-identify as indigenous or tribal.⁵

Despite such common characteristics, there is no single definition of indigenous peoples that can fully capture their diversity. Indigenous peoples themselves do not believe a definition is necessary, and fear that this may result in exclusion of some groups.

Self-identification as indigenous or tribal is recognised as fundamental—specified in ILO Convention No. 169—often in combination with other variables such as "language spoken," and "geographic location or concentration."⁶ This concept is increasingly accepted as fundamental.

the environment under natural law.⁷ The emphasis is on recognition as distinct peoples, and development has to encompass the social, cultural, political and institutional dimensions of their identity and rights. This is not based on economic or monetary value, but on a holistic approach that incorporates the collective, spiritual and cultural values, and is shaped and informed by indigenous priorities for development. Equal worth and dignity of indigenous peoples can only be assured by recognition and protection of their individual and collective rights.

The United Nations Development Programme (UNDP) emphasizes the need to adopt an integrated approach, which incorporates the close connections among issues of livelihood security, the environment, hunger and sustainable resource management. It also recognises the need to raise awareness of the MDGs and the impact on indigenous peoples to promote their participation in the process of monitoring achievement of the MDGs, such as the official MDG progress reports. The UN Millennium Campaign provides support to individuals and organisations

⁵ UNDP, 2001. *UNDP and Indigenous Peoples: A Policy of Engagement*, p. 2.

⁶ "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." Report of the Special Rapporteur for the UN Sub-Commission, José Martínez Cobo on the Problem of Discrimination against Indigenous Populations, (1986).

⁷ Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples, UN Doc. E/CN.4/2003/90, 2003, para 29.

to hold their governments accountable to the achievement of the MDGs with particular attention to the marginalised and disadvantaged populations, including the indigenous peoples. The Campaign goes beyond the aggregated data and focuses on policy and practice change at the national and sub-national levels.

UNDP Asia Pacific Regional Centre's Regional Indigenous Peoples' Programme (RIPP) and the UN Millennium Campaign have jointly developed this publication on the MDGs and the UN Declaration on the Rights of Indigenous Peoples (UNDRIPs) as a practical advocacy tool. *Millennium Development Goals and Indigenous Peoples* is aimed at a global audience, and provides illustrative examples of direct experiences of indigenous peoples related to the MDGs across the world with particular focus on the Asia-Pacific region. The aim of this publication is to clarify the linkages between the rights of indigenous peoples and attainment of the Millennium Development Goals (MDGs). Its primary purpose is to outline a framework of analysis, identifying entry points to strengthen indigenous rights at the policy, programming and advocacy levels.

The publication draws out key connections between each MDG goal and the UN Declaration on the Rights of Indigenous Peoples, and provides key recommendations for policy and practice change to promote the rights of indigenous peoples and accelerate the achievement of the MDGs.

2. The Millennium Declaration and the MDGs

In September 2000, 189 world leaders adopted the Millennium Declaration. The Declaration sets out within a single framework the key challenges facing humanity at the threshold of the new millennium, outlines a response to the challenges, and establishes concrete measures for judging performance through a set of inter-related commitments, goals and targets on development, governance, peace, security and human rights. *"We will spare no effort to promote democracy and strengthen the rule of law, as well as respect for all internationally recognised human rights and fundamental freedoms, including the right to development. We will spare no effort to free our fellow men, women and children from the abject and dehumanizing conditions of extreme poverty, to which more than a billion of them are currently subjected... We are committed to making the right to development a reality for everyone and to freeing the entire human race from want."*⁸

In recognition of the need to translate this commitment into action, the international community agreed to the Millennium Development Goals (MDGs) which consist of eight goals to be achieved between 1990 and 2015. The MDGs are the world's time-bound and quantified targets for addressing extreme poverty in its many dimensions—income poverty, hunger, disease, lack of adequate shelter, and exclusion—while promoting gender equality, education, and environmental sustainability.⁹ Goals 1 to 7 relate to poverty and hunger, child education, empowering women, reducing child mortality, improving maternal health, combating HIV/AIDS, malaria, and other diseases, and ensuring environmental sustainability. Goal 8 is focused on promoting global partnership especially in the areas of technological transfer, enhanced aid quantity and quality, debt relief, etc. and acknowledges that the other seven Goals can only be achieved through international cooperation. Goals 1-7 are therefore responsibilities of developing and developed countries, whereas Goal 8 puts forward the developed countries' responsibilities.

8 UN General Assembly, Resolution 55/2 UN Millennium Declaration, part V.

9 See <http://www.undg.org> for more details on the Millennium Declaration and the MDGs.

The MDGs are derived from the Millennium Summit commitments, and focus on human development.¹⁰ Since their adoption in 2001, the MDGs have dominated the development agenda and have provided much needed impetus to meet the needs of the world's poorest. Countries have to report on progress—to the United Nations and the public—on their efforts to implement the MDGs. There are 21 targets and over 60 indicators to measure progress. To spur on these efforts, at the 2005 United Nations World Summit, poor countries agreed to produce medium term national development plans focused on MDGs. These action plans will provide clear guidelines towards MDG attainment, including identifying gaps and challenges, as well as successes.

Box 2: The Millennium Development Goals (MDGs)

-  **Goal 1** Eradicate extreme poverty and hunger
-  **Goal 2** Achieve universal primary education
-  **Goal 3** Promote gender equality and empower women
-  **Goal 4** Reduce child mortality
-  **Goal 5** Improve maternal health
-  **Goal 6** Combat HIV/AIDS, malaria and other diseases
-  **Goal 7** Ensure environmental sustainability
-  **Goal 8** Develop a global partnership for development

2.1 MDGs and Indigenous Peoples

The Millennium Declaration describes key values and principles such as freedom, equality, and solidarity, which defines how the MDGs are to be achieved. Implementation of the MDGs in connection with indigenous peoples must therefore be understood within the broader context of the Millennium Declaration. Paying attention to needs and rights of indigenous peoples can improve strategies for achieving the MDGs, and reduce any potential for tensions.¹¹ Globally, indigenous peoples—in particular indigenous women and children—are severely affected by poverty and hunger, illiteracy, malnutrition and ill health, HIV/AIDS, malaria and other diseases, environmental degradation and development assistance, yet, they are not accorded sufficient attention of involvement in MDG-related processes.

Along with all other segments of the population, indigenous peoples also have the right to benefit from the MDGs and fulfil the aspirations contained in the UN Millennium Declaration. In a majority of countries where indigenous peoples live, they lag behind other parts of the population in the achievement of these goals.¹² The United Nations Permanent Forum on Indigenous Issues (UNPFII) recently observed that “indigenous issues are often absent from the Millennium Development Goals and poverty reduction processes and from the Millennium Development Goals reports and poverty reduction strategy papers.”

¹⁰ UNDP, *Human Rights and Human Development*, 2005

¹¹ World Summit Outcome, A/RES/60/1, 2005, para 127.

¹² Report on the fourth session of the UN Permanent Forum on Indigenous Issues, UN Doc. E/C.19/2005/9, 2005, para 4.

“... 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.”

(UN Inter-Agency Support Group's technical report to the Permanent Forum on Indigenous Issues, 2005)

The Permanent Forum emphasised that “unless the particular situation of indigenous peoples are adequately taken into account, some Millennium Development Goals processes may lead to accelerated loss of lands and natural resources for indigenous peoples, and thus their means of subsistence and their displacement, as well as to accelerated assimilation and erosion of their culture.”¹³

Achieving gender equality and the empowerment of women, including indigenous women, is an important part of achieving the MDGs. Owing to the cross-cutting nature of gender equality, it is also critical that gender perspectives be fully integrated into the implementation and monitoring of all the other objectives associated with the Millennium Declaration and the MDGs.

There is a need to support the efforts of indigenous peoples to build, articulate and implement their visions of and strategies for development. The challenge is therefore to redefine approaches to the implementation of the MDGs so as to include the perspectives, concerns, experiences and world views of indigenous peoples.¹⁴

3. The United Nations Declaration on the Rights of Indigenous Peoples (2007)

On 13 September 2007, the Declaration on the Rights of Indigenous Peoples was adopted by an overwhelming majority of the UN General Assembly.¹⁵ The Declaration is the most recent and comprehensive instrument addressing the rights of indigenous peoples, and was shaped through an intensive and inclusive process that covered over twenty years from the initial draft prepared by the UN Working Group on Indigenous Populations (WGIP) before being adopted by the General Assembly in 2007. It is the only international human rights instrument that was adopted with the substantive participation, and consent, of indigenous peoples from all continents of the globe. As described by Professor Erica Irene Daes, former chairperson-rapporteur of the WGIP:

“The UN Declaration on the Rights of Indigenous Peoples (the Declaration) constitutes the most important development concerning the recognition and protection of the basic rights and fundamental freedoms of the world's indigenous peoples. It is the product of many years of work by many people, including in particular, many hundreds of indigenous people from all parts of the world. It reflects an

¹³ *Ibid.*, para 5.

¹⁴ Report on the fifth session UN Permanent Forum on Indigenous Issues, UN Doc. E/C.19/2006/11, 2006, para 4.

¹⁵ 144 states in favour, 4 votes against (Australia, Canada, New Zealand and the United States) and 11 abstentions (Azerbaijan, Bangladesh, Bhutan, Burundi, Colombia, Georgia, Kenya, Nigeria, Russian Federation, Samoa and Ukraine). Australia and Colombia have since endorsed the Declaration.

extraordinary liberal, transparent and democratic procedure...no other UN human rights instrument has ever been elaborated with so much direct involvement and active participation on the part of its intended beneficiaries.¹⁶

HE Sheikha Haya Rashed Al Khalifa, President of the UNGA

“We should not however, cast indigenous peoples as victims, but rather as critical assets to the diversity of our global humanity. Today, by adopting the Declaration on the Rights of Indigenous Peoples we are making further progress to improve the situation of indigenous peoples around the world.”

Ban Ki-Moon, UN Secretary-General

“This marks a historic moment when UN member states and indigenous peoples have reconciled with their painful histories and are resolved to move forward together on the path of human rights, justice and development for all.”

Victoria Tauli-Corpuz, Chairperson, UN Permanent Forum on Indigenous Issues

“Effective implementation of the Declaration will be the test of commitment of States and the whole international community to protect, respect and fulfill indigenous peoples collective and individual human rights. I call on governments, the UN system, Indigenous Peoples and civil society at large to rise to the historic task before us and make the UN Declaration on the Rights of Indigenous Peoples a living document for the common future of humanity.”

(At the adoption of the UN Declaration on the Rights of Indigenous Peoples by the UN General Assembly, September 2007)

The Declaration recognises the rights of indigenous peoples to live in dignity, to maintain and strengthen their own institutions, cultures, laws and traditions and to pursue their self-determined development, in keeping with their own needs and aspirations.¹⁷ It does not accord any new rights to indigenous peoples; it reiterates and reaffirms internationally recognised rights and places them in the context and reality of indigenous peoples. It was adopted to address the historic injustices and centuries of colonisation and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests.¹⁸

The right of indigenous peoples to exist as distinct peoples has been reiterated in the Declaration. The Declaration provides guidance to States in the development of a cooperative relationship with the indigenous peoples living within their boundaries, to promote and protect their human rights, including their right to a distinct identity as peoples.

16 Prof. Erica Irene Daes: *The Contribution of the Working Group on Indigenous Populations to the Genesis and Evolution of the UN Declaration on the Rights of Indigenous Peoples* in Making the Declaration Work: The UN Declaration on the Rights of Indigenous Peoples, Rodolfo Stavenhagen and Claire Charters (eds), IWGIA 2009, Copenhagen (Document No. 127) at p. 73-74.

17 UN Declaration on the Rights of Indigenous Peoples, UN Doc. A/Res/61/295, 2007.

18 *Ibid.*, preamble.

Article 1 of the Declaration specifies that indigenous peoples have the right to full enjoyment, as a collective and as individuals, of all human rights under international human rights law. It prohibits discrimination against indigenous peoples and promotes their full and effective participation in all matters that concern them. Article 3 recognises the right to self-determination of indigenous peoples, and their right to freely pursue their political status and freely pursue their economic, social and cultural development.

Les Malezer, Chair of the Global Indigenous Peoples' Caucus

"We emphasise once again that the Declaration on the Rights of Indigenous Peoples contains no new provisions of human rights. It affirms many rights already contained in international human rights treaties, but rights which have been denied to the Indigenous Peoples. As Indigenous Peoples we now see a guarantee that our rights to self determination, to our lands and territories, to our cultural identities, to our own representation and to our values and beliefs will be respected at the international level.

The Declaration does not represent solely the viewpoint of the United Nations, nor does it represent solely the viewpoint of the Indigenous Peoples. It is a Declaration which combines our views and interests and which sets the framework for the future. It is a tool for peace and justice, based upon mutual recognition and mutual respect."

(At the adoption of the UN Declaration on the Rights of Indigenous Peoples by the UN General Assembly, September 2007)

Box 3: Rights in the UNDRIP

The UN Declaration on the Rights of Indigenous Peoples reaffirms indigenous peoples' right to fully enjoy as a collective and as individuals, all human rights and fundamental freedoms as recognised in the Charter of the United Nations, the Universal Declaration of Human Rights, and other international instruments.¹⁹ The Declaration addresses, among others:

- Individual and collective rights
- Right to self-determination
- Right to culture and identity
- Right to land, territories and resources
- Safeguards against relocation
- Rights to education, health, employment and language
- Right to determine development priorities
- Right to free, prior and informed consent

¹⁹ UNPFII, *Frequently Asked Questions: Declaration on the Rights of Indigenous Peoples*, 2007.

Box 4: Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous Peoples

The Special Rapporteur, Prof. James Anaya, emphasizes that the UN Declaration on the Rights of Indigenous Peoples provides the normative framework and is grounded on human rights principles. It synthesizes and builds upon preexisting norms and affirms these rights in the context of indigenous peoples' realities. The Declaration affirms core principles, such as the right to exist, rights to land, to equality, non-discrimination based on the essential idea that indigenous peoples have the right to exist as peoples and as communities with their own distinct cultures.

Traditionally, the focus was on individual rights, the Declaration is a shift away from this thinking and recognises collective rights, including the right to self-determination. Indigenous peoples, through their international mobilisation efforts, have helped shape a new understanding of human rights. The UNDRIP posits a new model whereby indigenous peoples can coexist with other peoples, and are protagonists moving to change the system and bring in new innovations, new institutions and the increasing acceptance of multi-culturalism.²⁰

A unique feature of the Declaration is that its implementation is clearly mentioned in the Declaration itself. Articles 41 and 42 place responsibility on States, UN organs and specialized agencies, including at the country level, and the Permanent Forum on Indigenous Issues to promote respect for and full realisation of the provisions of the Declaration.

UNDRIPs **Article 41**

The organs and specialized agencies of the United Nations system and other intergovernmental organisations shall contribute to the full realisation of the provisions of this Declaration through the mobilisation, inter alia, of financial cooperation and technical assistance. Ways and means of ensuring participation of indigenous peoples on issues affecting them shall be established.

Article 42

The United Nations, its bodies, including the Permanent Forum on Indigenous Issues, and specialized agencies, including at the country level, and States shall promote respect for and full application of the provisions of this Declaration and follow up the effectiveness of this Declaration.

The Declaration is a landmark legislation that signifies a shift in attitudes and understanding on indigenous issues, and provides a remarkable tool to ensure greater recognition of the rights of indigenous peoples to determine their own priorities for development, and the MDGs are specific indicators that can move this process forward.

To achieve full realisation of the rights contained in the Declaration, participatory approaches to indigenous issues, based on effective consultations and partnerships with indigenous peoples are essential. 'The Declaration, although far from being perfect, represents the world community's commitment towards redressing the historic injustices faced by indigenous peoples.

20 2nd Interactive Regional Dialogue on the UN Declaration on the Rights of Indigenous Peoples and the UN Mechanisms on the Promotion and Protection of the Rights of Indigenous Peoples, Bangkok, December 2009, organized by UNDP-RIPP and OHCHR.

The next battle for the world's indigenous peoples will be to secure full and effective implementation of these universal minimum standards for indigenous peoples' rights.²¹

The international community increasingly recognises that special attention needs to be paid to the rights of indigenous peoples. This is due largely to the mobilisation and demands of indigenous peoples themselves. A number of international instruments address indigenous peoples' rights or include provisions relevant for them. The list of other relevant human rights norms and instruments, such as the Universal Declaration of Human Rights, ILO Conventions concerning indigenous peoples, UN Conventions and Declarations, and Safeguard Policies of major international financial institutions (IFIs) concerning indigenous peoples, can be found in the Annex 2.

4. The Human Rights Based Approach to Development and Indigenous Peoples

The human rights-based approach to development is firmly based on human rights standards and principles. It recognises that structural inequalities exist within society and uses a human rights framework to empower people to claim their rights and hold duty-bearers accountable. It promotes the active and meaningful participation of rights-holders throughout the development process and advocates for non-discrimination with particular emphasis on inclusion of marginalised and disadvantaged groups. Drawing on this framework, indigenous peoples have demanded respect for their right to participate equally in development processes and lobbied to ensure that development programmes being pursued that affect their lives and livelihoods follow a human rights-based approach.

Indigenous peoples around the world are characterized by inequality in income, education, access to basic public services (e.g., clean water, food, shelter and health) and political representation. The achievement of the MDGs, particularly through their clear incorporation into the mid-term national development plan, as well as of the Poverty Reduction Strategy Papers (PRSPs), is therefore particularly important for indigenous peoples.²² Indigenous peoples' economic, social and cultural rights as well as civil and political rights are recognised by the international human rights framework and in particular have been specifically articulated in the Declaration on the Rights of Indigenous Peoples to ensure that the historical inequalities faced by indigenous peoples are addressed and their priorities reflected including in national development plans.

The need to operationalise a human rights-based approach to development has been emphasized by indigenous groups at international conferences and forums, and is also reflected in the reports of the Special Rapporteur.²³ This approach is premised on the understanding that development should enable people to live in dignity and attain highest standards of humanity guaranteed by international human rights law. A human rights-based approach is a conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promotion and protection of human rights.²⁴

21 John B. Henriksen: *The UN Declaration on the Rights of Indigenous Peoples: Some Key Issues and Events in the Process in Making the Declaration Work* (IWGIA 2009) at p. 83.

22 The UN Permanent Forum on Indigenous Issues (PFII) has consistently raised the issue of 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.

23 For example see, Reports of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples, UN Doc. E/CN.4/2003/90; A/HRC/6/15; E/CN.4/2002/97.

24 UNOHCHR, *Frequently Asked Questions on a Human Rights-Based Approach to Development Cooperation*, 2006, p. 15.

Kemal Dervis, Former UNDP Administrator

“This International Day of the World’s Indigenous Peoples provides an excellent opportunity to join with others in honouring indigenous peoples and to recognise their efforts to maintain their distinctive cultures, socio-political systems and identities. It also provides an opportunity for UNDP to restate its commitment to support those efforts within the context of the human development agenda, with its focus on allowing people to develop their full potential and lead productive, creative lives in dignity and in accordance with their needs and interests.

Despite their rich cultures and identities, indigenous peoples are often among the most marginalised populations in society, deprived of access to health care, education and participation in processes that affect their future. They also face dispossession of their traditional lands and livelihoods and destruction of their belief systems and language. Indigenous peoples are also disproportionately represented among those at risk of not achieving the Millennium Development Goals.

As an organisation that supports a human rights-based approach to development, UNDP is committed to involving indigenous peoples in achieving the MDGs and in promoting their basic rights to lands and resources, culture and identity, and self-determination.”

(Message on Indigenous Peoples’ Day, August 9, 2008)

United Nations Agencies agreed on the UN Common Understanding on the human rights-based approach in 2003. A number of essential attributes of a human rights-based approach to development that includes the following elements:

- As development policies and programmes are formulated, the main objective should be to fulfill human rights.
- A human rights-based approach identifies rights-holders and their entitlements and corresponding duty-bearers and their obligations, and works towards strengthening the capacities of rights-holders to make their claims and of duty-bearers to meet their obligations.
- Principles and Standards derived from international human rights treaties should guide all development cooperation and programming in all sectors and in all phases of the programming process.²⁵

The human rights-based approach highlights that the process of development is as important as the outcomes, and seeks to ensure that people who are affected by development interventions have a say in decisions which affect them and their communities. The human rights-based approach to development requires that development processes seeking to expand the choices and freedoms of people also adopt principles of equality and non-discrimination with particular attention to disadvantaged groups, participation and inclusion, and accountability and rule of law.




Indigenous peoples have supported the human rights-based approach to development because it recognises the power imbalances and hierarchies that exist in societies and seeks to ensure that marginalised groups are able to actively participate in development processes. For example, the principle of Free, Prior and Informed Consent (FPIC) is very much grounded in the human rights-

²⁵ *Ibid.*, p. 15-16.





based approach principles of participation, accountability and transparency. Free, active and meaningful participation is necessary for all development interventions so that communities can take a lead in defining their own priorities. In light of the human rights-based approach principles of participation and accountability as well as the principle of FPIC, development programmes proposed within indigenous territories must fully inform the community about the positive and negative impacts of the interventions so that indigenous communities can make an informed decision as to whether to consent to the projects or not.²⁶


5. Identifying Synergies between the MDGs and UNDRIPs

There are wide-ranging and deep linkages between MDGs and rights of indigenous peoples as seen in the table below.

 Goal 1 Eradicate extreme poverty and hunger		
Target 1.A: Reduce by half the proportion of people living on less than a dollar a day	Right of indigenous peoples to enjoy all human rights and fundamental freedoms; to enjoy full all rights established under international and domestic labour laws and to improve their economic and social conditions	UNDRIPs: Article 1, 17 and 22
Target 1.B: Achieve full and productive employment and decent work for all, including women and young people		ILO C 169: Article 3, 7(2), 20 and 24 ICESCR: Articles 6, 9 and 11
Target 1.C: Reduce by half the proportion of people who suffer from hunger		
 Goal 2 Achieve Universal Primary Education		
Target 2.A: Ensure that all boys and girls complete a full course of primary schooling	Right of indigenous children to all levels and forms of education without discrimination	UNDRIPs: Article 14 (2) ILO C.169: Article 26 ICESCR: Articles 13 and 14 CRC: Article 28(1)(a) CEDAW: Article 10 ICERD: Article 5(e)
 Goal 3 Promote gender equality and empower women		
Target 3.A: Eliminate gender disparity in primary and secondary education preferably by 2005, and at all levels by 2015	Right of indigenous women to equality	UNDRIPs: Article 22 ILO C. 169: Article 3 ICESCR: Articles 13 and 14 CRC: Article 28(1)(a) CEDAW: Article 10 ICERD: Article 5(e)

²⁶ UNDP, Applying the Human Rights-Based Approach to Development for Indigenous Peoples' Issues: Regional Training Manual, 2009.

 Goal 4 Reduce child mortality		
Target 4.A: Reduce by two thirds the mortality rate among children under five	Right of indigenous peoples to life and health	UNDRIPs: Article 7(1), 21 (2), 24 ILO C. 169: Article 25 ICESCR: Article 12(2)(a) CRC: Articles 6, 24(2)(a)
 Goal 5 Improve maternal health		
Target 5.A: Reduce by three quarters the maternal mortality ratio	Right of indigenous peoples to the enjoyment of the highest attainable standard of health	UNDRIPs: Article 21 and 24 (2) ILO C. 169: Article 25 ICESCR: Article 12 CRC: Article 24 CEDAW: Article 12 ICERD: Article 5(e)(iv)
Target 5.B: Achieve, by 2015, universal access to reproductive health		
 Goal 6 Combat HIV/AIDS, malaria and other diseases		
Target 6.A: Halt and begin to reverse the spread of HIV/AIDS	Right of indigenous peoples to the enjoyment of the highest attainable standard of health	UNDRIPs: Article 21 and 24 (2) ILO C. 169: Article 25 ICESCR: Article 12 CRC: Article 24 CEDAW: Article 12 ICERD: Article 5(e)(iv)
Target 6.B: Achieve, by 2010, universal access to treatment for HIV/AIDS for all those who need it		
Target 6.C: Halt and begin to reverse the incidence of malaria and other major diseases		
 Goal 7 Ensure environmental sustainability		
Target 7.A: Integrate the principles of sustainable development into country policies and programmes; reverse loss of environmental resources	Right of indigenous peoples to conservation and protection of environment	UNDRIPs: Article 29 ILO C. 169: Article 7(3), (4) and 15(1) ICESCR: Article 12 CRC: Article 24
Target 7.B: Reduce biodiversity loss, achieving, by 2010, a significant reduction in the rate of loss		
Target 7.C: Reduce by half the proportion of people without sustainable access to safe drinking water and basic sanitation	Right of indigenous peoples to improve their economic and social conditions	UNDRIPs: Article 21 (1) ILO C. 169: Article 7(2) ICESCR: Articles 12 and 11(1) CRC: Article 24 ICERD: Article 5(e)(iii)
Target 7.D: Achieve significant improvement in lives of at least 100 million slum dwellers, by 2020		

 Goal 8 Develop a global partnership for development		
Target 8.A: Develop further an open, rule-based, predictable, non-discriminatory trading and financial system	Right of indigenous peoples to determine and develop priorities and strategies for exercising their right to development and right to have access to financial and technical assistance from States through international cooperation	UNDRIPs: Article 23 and 39
Target 8.B: Address the special needs of the least developed countries		ILO C. 169: Article 7 and 32 UN Charter: Articles 1(3), 55 and 56
Target 8.C: Address the special needs of landlocked developing countries and small island developing States		ICESCR: Articles 2(1), 11(1), 15(4), 22 and 23 CRC: Articles 4, 24(4) and 28(3)
Target 8.D: Deal comprehensively with the debt problems of developing countries through national and international measures in order to make debt sustainable in the long term		
Target 8.E: In cooperation with pharmaceutical companies, provide access to affordable essential drugs in developing countries	Right of indigenous peoples to the enjoyment of the highest attainable standard of health	UNDRIPs: Article 24(2) ILO C. 169: Article 25 ICESCR: Articles 2(1) and 12 CRC: Articles 4 and 24
Target 8.F: In cooperation with the private sector, make available the benefits of new technologies, especially information and communications	Right of indigenous peoples to have access to financial and technical assistance from States through international cooperation	UNDRIPs: Article 39 ILO C. 169: Article 7(2) ICESCR

5.1. Rights of Indigenous Peoples and MDGs

UNDRIPs Article 23

Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.

Development according to indigenous peoples has a more holistic connotation, which includes rights to lands, territories and resources, often these rights and aspirations are not integrated in policies and programmes aimed at achieving the MDGs.²⁷ Unless the particular situation of indigenous peoples is adequately taken into account, some MDG processes may further marginalize them. The UNPFII has 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.²⁸

²⁷ UN Department of Economic and Social Affairs, *Resource Kit on Indigenous Peoples' Issues*, 2008, p. 23.

²⁸ *Ibid.*, p. 31.

The MDGs can be met more effectively by including the human rights and needs of indigenous peoples.²⁹ The 2005 World Summit on the implementation of the Millennium Declaration reaffirmed its 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.³⁰

“...the main challenge is to interpret and qualify the Millennium Development Goals as related to rights and priorities of indigenous peoples in a way that is relevant and attributes to indigenous peoples a sense of ownership in the process, and to articulate the Millennium Development Goals within the framework of international human rights standards.”²⁹

(Inter-Agency Support Group Statement on Indigenous Peoples and MDGs, 2004)

5.1.1. Poverty, Hunger and Indigenous Peoples (Goal 1)

There are more than 370 million people in the world who are indigenous—belonging to more than 5,000 indigenous groups in some 90 countries.³¹ It is estimated that whereas indigenous peoples represent 5 per cent of the world's population, they represent 15 per cent of the world's poorest people.³² Despite being among the poorest, indigenous peoples in many countries may not be included in the one-half of the people lifted from extreme poverty by 2015.³³

“Indigenous women throughout the world are among the most marginalised groups, suffering discrimination not only on the basis of gender, but also on the basis of race, culture and class as well [...]. Top down and paternalistic approaches to development have provided a social and economic environment whereby indigenous women have suffered from the effects of poverty, the breakdown of traditional social mechanisms and institutions, violence and militarization, dislocation and migration, and the depletion of their natural environment and resources”.

(UNFPII 3rd Session 2006)

Indigenous poverty is multi-dimensional, highlighting the process of impoverishment caused by dispossession of indigenous peoples from their ancestral lands, loss of control over their natural resources and indigenous knowledge, and their forced assimilation into the mainstream society and integration in the market economy.³⁴ Conventional economic indicators used to measure poverty do not always reflect true extent of indigenous poverty.³⁵ There is a need to incorporate indigenous peoples' own definitions and indicators of poverty in the PRSPs. Further, lack of up-to-date, disaggregated data on indigenous peoples is increasingly recognised as a major obstacle in addressing their poverty. There is therefore a need to develop in partnership with indigenous

29 Background Note for the International Expert Group Meeting on the Millennium Development Goals, Indigenous Participation and Good Governance, New York, 11-13 January 2006, UNPFI/2006/WS.3/7.

30 UN General Assembly, Outcome Document of the High level Meeting of the General Assembly, 2005, para 127.

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

32 UN Department of Economic and Social Affairs, *Resource Kit on Indigenous Peoples' Issues*, 2008, p. 10.

33 MRG, *Minority and Indigenous Peoples Rights in the Millennium Development Goals*, 2003.

34 Joji Carino, “Indigenous Peoples, Human Rights and Poverty”, *Indigenous Perspectives*, vol 7 No.1, p. 37.

35 World Bank, *Conference on Poverty and Indigenous Peoples*, 2006, p. 3.

peoples culturally sensitive indicators. In recent years UNPFII has promoted the development of indicators of well-being, poverty and sustainability of indigenous peoples. As a result, in the last four years a project was undertaken by SPFII and other UN agencies—IFAD, CBD—together with indigenous peoples' organisations to establish such indicators, through participatory processes. A global synthesis report on those efforts was presented at the seventh session of the UNPFII and efforts to test and further these indicators continue.³⁶

Article 1 of the UNDRIPs emphasizes that “Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognised in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law.” ILO Convention 169 and common article 1 of ICCPR and ICESCR, declares that “no people shall be deprived of its own means of subsistence.” The recognition of indigenous peoples as distinct peoples and the respect for their individual and collective human rights, rights to lands and territories and sustainable use of natural resources are crucial for reducing poverty among indigenous peoples. Participation of indigenous peoples in designing and formulation of PRSPs as well as in the implementation and monitoring processes therefore should be ensured.³⁷

Some indigenous groups face greater vulnerability because of threatened access to ancestral lands.³⁸ This denial of access to lands because of large development projects, migration, climate change and war has resulted in dwindling of natural resources, leading to malnutrition and food insecurity. The traditional practices, customs and traditions of indigenous peoples are tied to their lands, territories and resources, an integral part of their distinctive culture. The Inuit whose food and livelihood depends on hunting and fishing, the Saami and their reindeer herding, the pastoralists of East Africa—for whom cattle ranging is an integral custom and a source of food and income, the Karen and the Jummas with their rotational agriculture, are a few examples of this.³⁹ The importance of the control of peoples over natural resources is included in many instruments including the ICESCR and the ICCPR, while specific reference to the rights of indigenous peoples in relation to natural resources pertaining to their lands is found in the UNDRIPs and in ILO Convention 169. Further, the Declaration of Atitlán, adopted at the first Indigenous Peoples' Global Consultation in 2001, on the right to food and food security, has also articulated the cultural aspect of food, water and means of subsistence.

Many studies confirm that poverty and extreme poverty among indigenous communities can be traced back to colonisation and the continued and systematic discrimination and denial of recognition of individual and collective rights of indigenous peoples.⁴⁰ Internal colonisation perpetuated by states aimed at assimilating indigenous groups undermined their autonomy and local sovereignty and further perpetuated poverty among these groups.⁴¹ Legislations such as those relating to land and natural resource management have ignored indigenous peoples' systems and practices and have contributed to the chronic poverty among indigenous peoples.⁴²

36 Note on SPFII's work on Indicators Regarding Indigenous Peoples' Well-Being, Poverty and Sustainability, 22/9/2009, (on file with author).

37 Report on the fourth session of the UN Permanent Forum on Indigenous Issues, UN Doc. E/C.19/2005/9, 2005, p. 6.

38 Pooja Ahluwalia, “The right to food and to water”, in Margot Salomon ed., *Economic, Social and Cultural Rights: A Guide for Minorities and Indigenous Peoples*, MRG 2005, p. 18.

39 *Ibid.*, p.19.

40 Joji Carino, “Indigenous Peoples, Human Rights and Poverty”, *Indigenous Perspectives*, vol 7 No.1, p. 37.

41 Victoria Tauli-Corpuz, *Indigenous Peoples and the Millennium Development Goals*, Civil Society Perspectives on MDGs, Tebtebba, 2005, p.64. See also, MDGs Reports and Indigenous Peoples: A Desk Review, 2006-2008, available at <http://www.un.org/esa/socdev/unpfii/en/publications.html>

42 *Ibid.*, p. 65.

Further, the debt burden is also a major factor exacerbating indigenous peoples' poverty. Many governments exploit indigenous areas by bringing in extractive industries (such as mineral, oil, gas) in an attempt to raise revenue to pay off debt. Such enterprises further push indigenous peoples into a vicious cycle of poverty.

Box 6: Land and Resource Rights in the Orissa Tribal Development Project

In India one of the first projects which dealt with securing land and resources rights was the Orissa Tribal Development Project. It had a component for land surveying which regularized tilling of lands with slopes above 10 degrees. Land settlement schemes led to the distribution of 17,175 dongar (hill) lands to the 6837 tribals. Titles were provided to the spouses and these were registered in the names of wife and husband. Their collective rights over community and forest land were also recognised. This was done even before passage of Panchayat Raj Act in 1996. This Act gives the rights of ownership of minor forest products to the respective Gram Sabhas and is inclusive of all the reserved forest areas since it is applicable to all scheduled areas.

(Source: Victoria Tauli-Corpus, Good Practices on Indigenous Peoples' Development, 2006, p.48)

Box 7: Indigenous Peoples in Botswana

The San (Basarwa) are hunters and gatherers who travel in small family bands within defined territories. They hunt antelope, but their daily diet consists more of the fruits, nuts and roots which they seek out in the desert, and water from underground water sources. Hunting is a crucial part of their cultural heritage. When the Central Kalahari Game Reserve (CKGR) was created in 1961 one of its objectives was to protect the food supplies of the existing San population in the area.

The government of Botswana relocated the San to permanent settlements within the reserve, where services like water, education and health care were promised. Later, it terminated essential services, to get them to move to settlements outside the reserve. The former CKGR residents were unable to adapt to the new surroundings; they were no longer able to use their traditional knowledge and were exposed to changes in their diet and way of life which led to malnutrition. The water quality deteriorated, resulting in higher incidence of diarrhea in children.

The San and other indigenous peoples responded by mobilizing, demonstrating and establishing their own advocacy groups (First People of Kalahari—FPK and Working Group for Indigenous Minorities in Southern Africa—WIMSA). They formed a negotiating team comprising representatives of the San people in CKGR as well as the FPK, WIMSA and the Botswana Centre for Human Rights (DITSHWANELO) to facilitate a dialogue with the government. In August 2002, DITSHWANELO presented a shadow report at the 61st session of the Committee on the Elimination of Racial Discrimination (CERD); and many statements have been presented at repeated sessions of the African Commission on Human and Peoples' Rights.

(Source: Pooja Ahluwalia, p. 24-25 MRG booklet)

5.1.2. Achieve Universal Primary Education (Goal 2)

UNDRIPs Article 14

1. Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.
2. Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.
3. States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.

The rate of illiteracy among indigenous peoples is usually higher than other groups.⁴³ Accessing good quality education is particularly difficult for indigenous children. There are several interrelated obstacles such as distance to schools, differences in lifestyles, nomadic and semi-nomadic communities, discrimination, violence, extreme poverty and exclusion.⁴⁴ Further, isolation is a major obstacle that prevents indigenous peoples from enjoying their right to education.⁴⁵ According to UNPFII any efforts to achieve the MDG 2 are likely to fail if impartial and effective implementation of culturally sensitive educational programmes and curricula addressing the needs of indigenous peoples are not undertaken.⁴⁶

“Education is an effective means leading to equality, freedom and quality of life. Education principles must ensure non-discrimination (on the basis of race, ethnicity, culture, sex, age, disability or religion). Education can also be an effective means to protect the cultural traditions of Indigenous Peoples. Education, when it is culturally appropriate, promotes mother tongue learning and includes knowledge in the curriculum, can help defend against the negative impacts of cultural globalization. Education is a crucial right for indigenous women and girls”.

(UNPFII 3rd session, 2004)

UDHR, ICERD, ICESCR, CRC, UNESCO Convention on Elimination of Discrimination in Education, and ILO Conventions reiterate the MDG 2 goal, “Achieve universal primary education: ensure all boys and girls complete primary school”, especially indigenous children. Education is one of the most important tools for combating prejudice and discrimination. National curricula however frequently ignore the cultures, treaties, spiritual values of indigenous peoples and reinforce stereotypes.

Seventeen Latin American countries recognise the indigenous peoples’ right to intercultural, bilingual education. Educational outcomes of pupils in indigenous schools however, tends to be inferior to pupils in other institutions. This is a result of lack of required institutional, technical, academic and financial support to the bilingual intercultural education.⁴⁷

43 *Ibid.*, p. 62.

44 Report on the fourth session of the UN Permanent Forum on Indigenous Issues, UN Doc. E/C.19/2005/9, 2005, para 47.

45 *Ibid.*, para 48(j).

46 *Ibid.*, para 47(d).

47 Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, UN Doc. A/HRC/4/32, 2007, para 63.

Although historically the formal education system has been used as a means for forced assimilation, the system has an important role to play. Indigenous peoples have fewer years of schooling and less access to education and vocational training than the majority population. Further, their own educational systems are often not recognised at the same level as the mainstream system. Indigenous educational systems have generally been disregarded by the mainstream system. To remedy this, indigenous peoples are seeking to have their cultures and histories accurately portrayed in curricula, improve access to education provide teaching in their own languages and develop their own schools and universities.⁴⁸

“The education of indigenous children contributes both to their individual and community development as well as to their participation in the wider society. Quality education enables indigenous children to exercise and enjoy economic, social and cultural rights for their personal benefit as well as for the benefit of their community. Furthermore, it strengthens children’s ability to exercise their civil rights in order to influence political policy processes for improved protection of human rights. Thus, the implementation of the right to education of indigenous children is an essential means of achieving individual empowerment and self-determination of indigenous peoples.”

(Committee on the Rights of Child, General Comment 11, individual and collective aspects of right to education)

Indigenous world views, perspectives and history are invisible from text books and school curricula.⁴⁹ Bilingual education, in the mother-tongue, is considered indispensable for effective learning of indigenous children and for reduction of dropouts.⁵⁰ Specialists agree that early schooling in both native mother tongue and the official language of state is of great benefit to indigenous children, who may become proficient in the vehicular language of the wider society without losing their own indigenous language.⁵¹ In many countries, however, school administrations are not set up to handle indigenous bilingual education effectively. The indigenous peoples’ right to education in their own languages is therefore not being adequately implemented and requires greater attention for the realisation of the MDG 2. To tackle this issue, the UNPFII in its fourth session (2005) recommends that States: “Establish effective arrangements for the participation of indigenous parents and community members in decisions regarding the planning, delivery and evaluation of education services for their children, including in the designing and implementation of their own education at all levels, including developing appropriate teaching materials and methods.”

There is a need to endorse inter-cultural education as a priority to ensure equal access for indigenous children to quality and culturally appropriate primary education as stipulated in the CRC. There is also a need to increase substantially state budgetary allocation to meet the MDG 2 for indigenous children. States should therefore establish effective arrangements for effective participation of indigenous parents and community members in decision regarding the planning, delivery and evaluation of education services for their children, including in designing and implementation of their own education at all levels, including developing appropriate teaching materials and methods.⁵²

48 UNDG, *United Nations Development Group Guidelines on Indigenous Peoples’ Issues*, 2008, p. 19.

49 Victoria Tauli-Corpuz, *Indigenous Peoples and the Millennium Development Goals*, Civil Society Perspectives on MDGs, Tebtebba, 2005, p. 63.

50 Report on the fourth session of the UN Permanent Forum on Indigenous Issues, UN Doc. E/C.19/2005/9, 2005, para 47(c).

51 Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, UN Doc. E/CN.4/2002/97, 2002, para 64.

52 Report on the fourth session of the UN Permanent Forum on Indigenous Issues, UN Doc. E/C.19/2005/9, 2005, para 48 (a), (b) and (e).

Box 8: Study on Lessons Learned and Challenges to Achieve the Implementation of the Right of Indigenous Peoples to Education

Creating national laws and policies

Important existing legal provisions include those giving recognition to pluralistic systems of education, equal importance to traditional ways of teaching and learning, indigenous peoples' control over their own curricula and learning institutions, and adequate financial and infrastructure support for the implementation of these initiatives.⁵³ Such legislations have led to the establishment of indigenous learning centres that have benefited communities and allowed indigenous organisations to secure financial support from their respective Governments or interested donors.

Examples of important existing education legislations include those recognizing the integration of indigenous perspectives and languages into mainstream education, culturally appropriate curricula, mother-tongue-based bilingual education, intercultural education and the effective participation of indigenous peoples in designing education programmes.⁵⁴ Policies of complementary education for indigenous peoples permit the implementation of intercultural education in all schools and colleges with the aim of moving towards multiculturalism and the recognition of the diversity of peoples.

(Source: UN Expert Mechanism on the Rights of Indigenous Peoples 2nd Session 2009, A/HRC/EMRIP/2009/2, 26 June 2009, para 55-56)

Box 9: Ticuna Educational Project, Brazil

Ticuna is an indigenous tribe that occupies the vast frontier region of the Amazon shared by Brazil, Peru and Columbia. The Ticuna educational project is, the methodology selected for achieving the strategic objective of keeping alive and fortifying educational programme that, despite a centralized, universal system of education, shall still favour the Ticuna language; and recovers, values and spreads traditional knowledge and the indigenous peoples cultural heritage. It is also intended to reinforce indigenous organisations, encourage participation, promote self esteem, autonomy and equity.

The Ticuna educational project is also known as the Ticuna bi-lingual teachers training—immediately setting the parameters of the innovative educational system. The languages were to be Ticuna and Portuguese—thus, ensuring a bi-lingual and inter-cultural education for Ticuna. 1993 Amazon Indigenous Peoples Organisation (PRAIA), co-financed the building of the Ticuna Educational Centre in Filadelfia village with OGPT, IFAD and CAF. Training activities take place there since. In 1997, the first 212 Ticuna teachers completed fundamental training. Since then, another 24 concluded the fundamental training. 204 completed their mid-study between 2001-02. University study teachers started in 2005. Today there are 504 teachers participating in different training modalities.

(Source: Victoria Tauli-Corpuz, Good Practices on Indigenous Peoples' Development, 2006, p. 23-24.)

53 Examples from submissions received include the Basic Education Act 2001 and Executive Order No. 356 of 2004 (Philippines), First Nations Jurisdiction over Education Act 2006 and First Nations Education Act 2007 (Canada), the Education Act of Norway, the National Education Act (Argentina) and the Constitutions of Mexico, Bolivia (Plurinational State of), Colombia and Ecuador.

54 The General Law on Education and General Law on Linguistic Rights of Indigenous Peoples (Mexico); the Policy on complementary education for indigenous peoples (Colombia); section 6 (2) of the Constitution of South Africa; and the bilingual education policy of Australia.

5.1.3. Promote Gender Equality and Women Empowerment (Goal 3)

UNDRIPs Article 22

1. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities in the implementation of this Declaration.
2. States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.

Indigenous women face multiple forms of discrimination, based on gender and race/ethnicity and poverty.⁵⁵ Violent conflicts and militarization further affect the lives of indigenous women and their families and communities, causing violations of their human rights and displacement from their ancestral lands.⁵⁶ Indigenous women are one of the most marginalised groups in many countries, being victims of serious acts of discrimination and flagrant violations of their fundamental rights.⁵⁷

In certain communities, indigenous women have often been kept in a situation of dependency. They have been marginalised, refused access to land or subjected to other forms of discrimination. For instance, in patriarchal society, a woman has to leave her natal home after marriage and work for her husband and his family. Consequently, parents are reluctant to send their daughters to school or to pursue higher education because this is not considered beneficial or productive. Each time that these situations are reproduced gender disparity in educational attainment of indigenous men and women increases.⁵⁸

In indigenous communities, women have taken on the great responsibility of transmitting traditional knowledge, skills, and intangible heritage from one generation to the next, however when foreign values are introduced, this conception is severely affected or even destroyed. As a result, there is a negative impact on the relationship between men and women, as well as on women's role within their communities. Whereas there has been some improvement in the ratio of girls to boys in primary schools among indigenous peoples, the rate of dropouts and repetitions remain higher among girls. At the secondary school level, there are widespread disparities, whereby families prioritize the education of boys over girls.⁵⁹ While indigenous women and girls are important as traditional knowledge holders, they have at the same time been particularly disadvantaged in formal education systems.⁶⁰

The UNDRIPs and the Beijing Declaration stress the need to address the vulnerable situation of indigenous women. Indigenous women, while sharing many of the concerns in the areas of poverty, human rights, and economic and social development with other women throughout the world, also offer a distinct and important perspective on these issues, which should be a central premise for the design of policies and programmes for implementation of the MDG 3.

55 IANGWE, *Indigenous Women and United Nations: Good practices and lessons learned*, 2006.

56 Report on the third session of the UN Permanent Forum on Indigenous Issues, UN Doc. E/C.19/2004/23, 2004, para 13.

57 *Ibid.*, para 41.

58 SPFII Briefing Note, Gender and Indigenous Peoples Education.

59 Diana Vinding, *Perspectives from Communities in Bolivia, Cambodia, Cameroon, Guatemala and Nepal*, ILO, 2006.

60 UNDG, *United Nations Development Group Guidelines on Indigenous Peoples' Issues*, 2008, p. 19.

Box 10: Indigenous Women in Bangladesh

Indigenous women of Bangladesh are traditionally regarded as occupying a lower social standing than men, the status is low in terms of the right to inheritance, legal and political rights, decision-making powers and in other spheres. One of the most acute problems faced by indigenous women is the denial of their access to customary owned land. This is added to the gender-based discrimination faced by them in many ways. Land scarcity among indigenous communities generally affects women more adversely than indigenous men. The inheritance laws of most indigenous peoples, including the most numerous groups such as Chakma and Santhal, tend to be discriminatory against women. The notable exceptions are in the case of Khasi in greater Sylhet and the Mandi or Garo in the plains, and to a lesser extent, the Marma in the southern Chittagong Hill Tracts. The denial of indigenous women's substantive participation in the political spheres further reinforces their low status in the society and they remain substantively invisible in the eyes of the policy makers.

(Source: UNDP-RIPP *Bridging the Gap*, 2007, p. 30)

The MDGs provide a strategic framework for achieving gender equality and the empowerment of women, including indigenous women.⁶¹ It is also important to fully integrate gender perspectives into the implementation and monitoring of objectives associated with the Millennium Declaration and the MDGs.⁶²

“Redefining the Millennium Development Goals provides an opportunity to incorporate into the Goals the concerns of Indigenous Peoples, particularly indigenous women. The Goals offer a strategic framework within which to fully integrate the goals of the Beijing Platform for Action, which provides an important human rights-based approach to the development agenda for achieving gender equality and the empowerment of women, including indigenous women”.

(UNPFII 5th session, 2006)

5.1.4. Reduce Child Mortality, Improve Maternal Health, and Combat HIV/AIDS, Malaria and other Diseases (Goals 4, 5, 6)

“Children born into indigenous families often live in remote areas where governments do not invest in basic social services. Consequently, indigenous youth and children have limited or no access to health care, quality education, justice and participation. They are at particular risk of not being registered at birth and of being denied identity documents.”

(UNPFII 4th session, 2005)

61 Report on the fifth session UN Permanent Forum on Indigenous Issues, UN Doc. E/C.19/2006/11, 2006, para 45.

62 *Ibid.*, para 46.

There are significant disparities between the health of indigenous peoples and that of the non-indigenous population in many countries around the world.⁶³ Indigenous peoples tend to die younger and generally live in poorer health than other population groups. In some jurisdictions, they are more likely to have chronic disorders such as diabetes, high blood pressure or arthritis, and are more prone to substance abuse, depression and other mental disorders. HIV/AIDS and other sexually transmitted diseases are spreading rapidly in indigenous communities, a trend fuelled by factors including social and economic exploitation of indigenous women, as well as a lack of access to health-related information. Infant, child and maternal mortality rates in many indigenous communities are significantly higher than among non-indigenous groups.⁶⁴

Indigenous peoples' wellbeing cannot be measured using health indicators, such as disease and treatment, for indigenous peoples wellbeing is distinct and also include physical, emotional, mental, and spiritual health. The social determinants therefore play a crucial role in determining indigenous health. These determinants include cultural factors, such as loss of language, loss of connectivity to the land, and other factors primarily linked to indigenous identity.⁶⁵

Box 11: Global Snapshots on Health of Indigenous Peoples

Diabetes: Worldwide, more than 50 per cent of indigenous adults suffer from Type 2 diabetes—a number predicted to rise. In some regions of Australia, the Aboriginal and Torres Strait Islanders have a diabetes prevalence rate as high as 26 per cent, which is six-times higher than in the general population.

Tuberculosis: In the United States, a Native American is 600 times more likely to contract tuberculosis.

Living conditions: In Rwandan Twa households, the prevalence of poor sanitation and lack of safe, potable water were respectively seven-times and two-times higher than for the national population.

Reproductive health: For indigenous peoples in Viet Nam, more than 60 per cent of childbirths take place without prenatal care compared to 30 per cent for the Kinh population, Viet Nam's ethnic majority.

Suicide: Among Inuit youths in Canada, suicide rates are among the highest in the world, at eleven-times the national average. In the United States, a Native American is 62 per cent more likely to commit suicide than the general population.

Infant mortality: Average infant mortality among indigenous children in Panama is over three-times higher than that of the overall population (60-85 deaths per 1000 live births versus the national average of 17.6).

Life expectancy: In Australia, indigenous children can expect to die 20 years earlier than non-indigenous children. The life expectancy gap is also 20 years in Nepal, while in Guatemala it is 13 years and in New Zealand it is 11.

(Source: *State of the World's Indigenous Peoples 2010* & WHO Factsheet 326)

63 Report on the International Decade of the World's Indigenous People to the Fifty-fourth World Health Assembly (WHO document A54/33).

64 Report of the Special Rapporteur on the right to the highest attainable standard of health, UN Doc. A/59/422, 2004.

65 M King et al., "Indigenous health part 2: the underlying causes of the health gap", *Lancet* vol 374 Issue 9683, p. 76-85.

Some governments have adopted policies with the aim of “closing the gap” with respect to disparities in human development indicators between indigenous and non-indigenous peoples. The impact of these initiatives so far has been low. 40 per cent of indigenous population in Latin America lacks access to basic health services, and the huge differences in health status between the indigenous and non-indigenous population persist. Indigenous children continue to display extraordinarily high malnutrition rates.⁶⁶

Health of indigenous peoples is affected by multiple factors such as low income levels, and by low availability of safe water, food, sanitation and access to health services. One of the main threats to their health is the destruction of their habitat, which also provides them with spiritual and material sustenance. According to WHO acculturation and the loss of cultural cohesion also have deleterious impact on their health.⁶⁷ Discrimination, as well as costs, may also prevent them from seeking basic health care, which is especially problematic in the context of the HIV/AIDS crisis. In some cases, indigenous peoples have purposely isolated themselves to try to maintain their traditional cultures and practices.⁶⁸

There is a lack of reliable data with respect to the true level of HIV infection among indigenous peoples. Relationship to land, poverty, geographical isolation, marginalisation, different demographics, different understanding of health and medicine and low levels of participation in political and policymaking processes, are considered by UNAIDS as key factors affecting the impact of HIV epidemic on indigenous populations. The absence of reliable data about HIV infection in indigenous populations has sometimes made it more difficult for concerns about the impact of the HIV epidemic on indigenous peoples to be given priority in national and international policy agendas.

ILO Convention No. 169 stresses that health services should be community-based, and planned and administered in cooperation with the peoples concerned, taking into account their traditional preventive care healing practices and medicines. The UN Special Rapporteur on the Right to Health has specifically called for the governments and other actors to ensure participation in the formulation, implementation and monitoring of health policies and programmes. UNDRIPs Article 23 explicitly connects health to self-determination. Participation of indigenous peoples in decisions affecting their own health entails greater respect for the use of traditional medicines and healing practices on the part of formal health systems, training of indigenous health workers, the use of indigenous languages in transmitting health information, and creating accountability towards indigenous communities for policy and programmes that affect their health, including displacement of communities from their land.⁶⁹

Indigenous women around the world suffer from serious deterioration of health conditions within their communities. The rate of maternal mortality is alarmingly high among indigenous women. Health needs of indigenous women are particular to their ethnicity and gender, and therefore they may be different from the ones of other women and male members of indigenous communities.⁷⁰ Inadequate and limited access to health services, lack of culturally appropriate approaches to

66 Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, UN Doc. A/HRC/4/32, 2007, para 62.

67 Ethel Alderete, *The Health of Indigenous Peoples*, WHO, 1999, p. 13.

68 Vital Bambazne, “Dimensions of Poverty and Well-Being among Indigenous Peoples in Africa”, World Bank Conference on Poverty and Indigenous Peoples, 2006, p. 9.

69 Alicia Ely Yamin, “Health Rights” in Margot Salomon ed., *Economic, Social and Cultural Rights: A Guide for Minorities and Indigenous Peoples*, MRG 2005, p. 42.

70 UNDG, *United Nations Development Group Guidelines on Indigenous Peoples’ Issues*, 2008, p. 22.

health care, lack of outreach clinics in remote areas, deteriorating quality of air, water and land due to unchecked industrial development are just a few of the factors contributing to this downward trend. Changes in the traditional social, cultural and political institutions have led to an erosion or loss of practices and culturally appropriate health rules and codes of behaviour which have been instrumental in ensuring gender-sensitive approaches to health.⁷¹

The full participation of indigenous peoples in the management of health services in their communities, better access to modern diagnostic processes and treatment, use of traditional healing and culturally appropriate reproductive health services are considered steps to improving the health of indigenous peoples. Reproductive health services for indigenous peoples also have to be improved in terms of coverage and quality, including information, pre and post natal care, and emergency obstetric care.⁷²

Box 12: Indigenous Peoples in Paraguay: Yakye Axa and Sawhoyamaxa

Yakye Axa and Sawhoyamaxa communities do not have access to a health clinic or transport to take people to the nearest medical facilities. In a recent judgment the Inter-American Court held that the authorities were responsible for the deaths of 18 Sawhoyamaxa children because of their failure to provide preventive medical care. The Court called on the authorities to provide regular medical care and appropriate medicines. Despite this, preventable deaths among the Yakye Axa and Sawhoyamaxa continue; more than 27 deaths have been reported since the judgements were issued in 2005 and 2006.

An agreement has now been reached with the authorities for health care to be provided locally, so that members of the indigenous communities do not have to travel over 200 km to the capital for health services. Access to emergency services and free medicines remains inadequate and local volunteer health promoters lack adequate training and materials.

(Source: 'We are only asking for what is ours': Amnesty International 2009)

Many indigenous peoples have a rich and sophisticated health care system that is based on traditional cultures and environment, perfected over many centuries of practice, trial and error. Some of these practices are gaining recognition as carrying tremendous benefits, of not carrying adverse side effects, and being environmentally sound. In addition, many indigenous communities are reluctant to trust more modern health practices, and prefer to rely on traditional health carers.

According to UNDRIPs and international human rights law, indigenous peoples have the right to specific measures to improve their access to health services and care as well as the underlying determinants of health. These services should be culturally appropriate, taking into account traditional preventive care, healing practices and medicines.⁷³

71 Report on the third session of the UN Permanent Forum on Indigenous Issues, UN Doc. E/C.19/2004/23, 2004, para 87-88.

72 UNDG, *United Nations Development Group Guidelines on Indigenous Peoples' Issues*, 2008, p. 19.

73 Report of the Special Rapporteur on the right to the highest attainable standard of health, UN Doc. A/59/422, 2004. Para 58.

Box 13: Indigenous Health in Australia

The 2005 *Social Justice Report* considers progress in achieving improvements in the health status of Aboriginal and Torres Strait Islander peoples. According to the report both chronic and communicable diseases are recorded at much higher rates in Aboriginal and Torres Strait Islander communities than in non-indigenous communities. Chronic conditions include heart disease, diabetes and cancers. The causes of chronic conditions are believed to include: poor fetal and child health; poor diet throughout the lifecycle; smoking and alcohol misuse; a lack of access to primary health care—which is important in the detection and early prevention of chronic conditions—and social stress. Communicable diseases, such as trachoma and tuberculosis, are linked to overcrowding and poor sanitation in living conditions.

The report points out that a major and underlying cause of health inequality is that Aboriginal and Torres Strait Islander peoples do not have an equal opportunity to be as healthy as non-indigenous Australians in two key areas: namely primary health care and health infrastructure. They do not enjoy equal access to primary health care and health infrastructure, which includes: safe drinking water, supplies of healthy food, effective sewerage systems, rubbish collection services and healthy housing. Without effectively addressing these underlying causes of health inequality, disease or condition-focused programmes are not likely to result in sustainable changes.

The report makes key recommendations for achieving Aboriginal and Torres Strait Islander health equality within a generation. Importantly they require the governments of Australia to commit themselves towards achieving equality of health status and life expectancy between Aboriginal and Torres Strait Islander and non-Indigenous people within 25 years.

(Source: *Social Justice Report*, 2005)

5.1.5. Ensure Environment Sustainability (Goal 7)

Land rights, access to land and control over it and its resources are central to indigenous peoples throughout the world, making the MDG 7 crucial for their survival. The 1992 UN Conference on Environment and Development identified indigenous peoples as one of the major stakeholders in Agenda 21. However, indigenous peoples' rights regarding the environment and natural resources have frequently been overridden by governments, transnational corporations or multilateral agencies. Projects and programmes, having a serious impact on the indigenous lands and resources, have been implemented, without the Free Prior and Informed Consent of indigenous peoples. These projects and programmes include commercial agriculture such as mono-cropping, tree plantations, oil palm plantations and others; development and operation of large scale mining; construction and operation of large dams, and water privatization policies.⁷⁴

74 International Work Group for Indigenous Affairs, Goal 7: Ensure Environmental Sustainability, available at <http://www.iwgia.org/sw16048.asp>

“Indigenous women have a fundamental role in environmental conservation and preservation throughout the history of our Peoples. We are the guardians of Indigenous knowledge and it is our main responsibility to protect and perpetuate this knowledge. Our weavings, music, songs, costumes, and our knowledge of agriculture, hunting or fishing are all examples of some of our contributions to the world. We are daughters of Mother Earth and to her we are obliged. Our ceremonies recognise her and we return to her the placentas of our children. She also safeguards the remains of our ancestors.”

(Malukan Declaration, 2004)

Box 14: Indigenous Peoples in Peru

In May 2009, Peru witnessed violent clashes between indigenous peoples and the government, because of a legislation approved by the government allowing mining, logging, and large scale farming in the rainforest. The Peruvian rainforest is the biggest stretch of the Amazon outside Brazil. As the Earth's largest tropical rainforest, the Amazon plays a critical role in safeguarding global climate. This crucial global ecosystem has been threatened in recent decades by the industrial activity in the region. It is feared that this will have devastating effects on Peruvian rainforest and its people, and will also have repercussions for the global climate. The legislation has been declared unconstitutional and is being debated again in the Peruvian Congress.

(Source: www.ens-newsservice.com/en)

Land has material, cultural and spiritual dimensions for indigenous peoples and, through their profound understanding they have managed their territories 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 on the basis of their collective rights, therefore protection of their collective right to lands, territories and natural resources must be given a priority.⁷⁵ Indigenous women and men both offer unique perspectives which takes into account traditional knowledge and awareness of the environment. Indigenous peoples' societies generally view gender as complimentary and egalitarian, where each role is defined but complimentary to each other. For instance, indigenous men may focus on cultivation and indigenous women may plant and gather the food, so both roles are necessary and complimentary in the holistic relationship of the family/community. Traditionally, both indigenous women and men had equal access to lands, animals and resource use, which was more beneficial to the collective. However, since the integration and assimilation into dominant cultures and introduction of the idea of individual ownership, indigenous peoples, in particular women, experience fewer opportunities to access their natural resource and lands. Gender relations within indigenous communities have been changing alongside the transformation that their own environment has undergone, especially in the face of colonisation.⁷⁶

Indigenous peoples have been at the frontline of the climate change crisis. The Inuit people for instance have been affected by large-scale melting in their traditional Arctic territories which was also the subject of a recent petition lodged by the Inuit Circumpolar Conference with the

⁷⁵ UN Department of Economic and Social Affairs, *Resource Kit on Indigenous Peoples' Issues*, 2008, p. 14-16.

⁷⁶ UNFPII Briefing note Gender and Indigenous Peoples Environment, available at <http://www.un.org/esa/socdev/unpfii/en/women.html>

Inter-American Commission on Human Rights against the United States of America.⁷⁷ Indigenous peoples have also been affected by the reduction of water reserves throughout the world, threatening their survival.⁷⁸

“Climate change-related impacts have a range of implications, both direct and indirect, for the effective enjoyment of human rights inter alia, the right to life, the right to adequate food, the right to the highest attainable standard of health, the right to adequate housing, the right to self-determination and human rights obligations related to access to safe drinking water and sanitation. Recalling that in no case may a people be deprived of its own means of subsistence, the Council recognises that the effects of climate change will be felt most acutely by those segments of the population who are already in vulnerable situations owing to factors such as geography, poverty, gender, age, indigenous or minority status and disability.”

(Preamble of the UN Human Rights Council Resolution No. 10/4, 25 March 2009)

Box 15: Climate Change Impact in the Arctic

Evidence of climate change is being seen right now in indigenous communities in the Arctic. Some people outside of the Arctic assume that climate change would be a good thing for Arctic peoples, if it means that the weather will get warmer. Unfortunately, that is unlikely to be the case. Arctic peoples are well adapted to their environment, and to using the plants and animals that are adapted to the cold northern weather. As the weather gets warmer, people, plants and animals are becoming stressed.

Saami are seeing their reindeer grazing pastures change, Inuit are watching polar bears waste away because of a lack of sea ice, and peoples across the Arctic are reporting new species, particularly insects. Some communities are having to sand-bag their shorelines to try to slow down an increase in coastal erosion, while in others, buildings, pipes, and roads are slumping because the permafrost is thawing. Vital travel routes linking communities to each other and to harvesting sites are becoming dangerously unpredictable. Routes across the ice become dangerous when the ice thins, or thaws at times different from the past, and water routes can also become dangerous as water flows change.

(Source: IPS – Indigenous Peoples at the Arctic Council, <http://www.arcticpeoples.org>)

The UNDRIPs (articles 25 and 26) and ILO Convention No. 169 (article 14) recognise 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 also recognise a number of related rights, including the right to free and informed consent prior to approval of interventions affecting their lands.

⁷⁷ Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, UN Doc. A/HRC/4/32, 2007, para 50.

⁷⁸ *Ibid*, para 51.

However, this recognition has not been translated into an improvement of conditions for indigenous peoples. In the name of development or free trade, mining, oil and gas developments, plantations and the like, encroach on indigenous peoples' lands and territories and make their life and survival increasingly difficult.⁷⁹ The *UNDG Guidelines on Indigenous Peoples* (February 2008) states: "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". It is feared by many that unless efforts are made to integrate indigenous peoples' perspectives, the programmes and policies aimed at meeting the targets laid down for the MDGs could in fact have harmful effects on indigenous peoples.⁸⁰

Box 16: Sinking Islands in the Pacific

Many island states in the Pacific region are affected by rising sea levels due to climate change. The threats of climate change have severely affected the ability of island ecosystems to maintain a healthy environment for the enjoyment of indigenous peoples. The effects of climate change include high tides which flood causeways linking villages, forcing cars, buses and trucks to drive through seawater. This has been particularly noticeable in Kiribati and a number of other small Pacific island nations that according to experts could drown during this century. High tides and stormy seas have also caused problems recently in the Marshall Islands, Cook Island, Tuvalu and low-lying islands of Papua New Guinea (PNG).

Migration according to reports will become a major issue as flooding (due to rise in sea level) forces families to move from their homes. For example, the people living in PNG's Bougainville's atoll island of Cartaret have asked to be moved to higher ground on the mainland. Also the people of Sikaiana Atoll in the Solomon Islands have been migrating away from their atoll, primarily to Honiara, the capital.

Further, warmer temperatures have led to the bleaching of the Pacific Island's main source of survival—the coral reefs. Bleaching occurs when reef-building corals, reacting to stress such as warmer waters, loosen the algae that help feed them. Because the algae give them colour, the starved corals look pale, thus the term "bleaching". Continued bleaching ultimately kills corals. Reef-building corals provide most of the primary productivity of coral reefs and an important shelter for the coral reef organisms. Reduction of abundance and diversity of reef-building corals is thus very likely to have a major influence on the surrounding biodiversity. Agriculture in the Pacific region, especially in small island states, is becoming increasingly vulnerable due to heat stress on plants and salt water incursions. Hence, food security is of great concern to the region.

(Source: SPFI, *Climate Change an Overview*, 2007)

5.1.6. Global Partnership for Development (Goal 8)

MDG 8 focuses on addressing some of the structural causes of poverty, and emphasizes that fulfillment of other goals depends on the success in creating global partnerships for development. Indigenous peoples are growingly impacted by external factors such as national development

⁷⁹ International Workgroup on Indigenous Affairs, *sustainable development and Indigenous Peoples*, 2007.

⁸⁰ UN Department of Economic and Social Affairs, *Resource Kit on Indigenous Peoples' Issues*, 2008, p. 16.

plans, international trade agreements, market dynamics etc.⁸¹ The impact of trade agreements and debt burdens on indigenous peoples is often overlooked. For example, trade agreements and investment in natural resources may displace indigenous peoples from their traditional lands and territories. The specialized livelihoods of some indigenous peoples may be adversely affected by trade liberalization. Good governance, a key commitment under Goal 8, means respect for and participation of indigenous peoples.⁸²

Box 17: Ogoni Land Case in Nigeria

In *Social and Economic Rights Action Center and Center for Economic and Social Rights v. Nigeria*, members of the Ogoni community in Nigeria alleged that the military Government had violated their rights to health and a clean environment, as well as several other human rights, by facilitating the operations of oil companies in Ogoni Land. The applicants alleged that the operations of an oil consortium, comprising the Nigerian National Petroleum Company and Shell Petroleum Development Corporation, had contaminated the environment, leading to serious and widespread health problems among the Ogoni people. The African Commission on Human and Peoples' Rights held that the Ogoni had suffered violations of a number of their human rights, including their rights to health and a clean environment, as a result of the Government's failure to prevent pollution and ecological degradation. It found that the Government had failed to adequately regulate and monitor the oil consortium. The Commission issued a number of orders, for example, environmental and social impact assessments should be prepared in the future and health and environmental information should be made available.

(Source: Communication No. 155/96, 2001, African Commission on Human and Peoples' Rights)

Large infrastructure, extractive and even conservation projects have been harmful for indigenous peoples.⁸³ Further, in addition to the direct negative impacts of large development projects, the debt burden is another major factor for the exacerbation of indigenous peoples' poverty. To generate foreign exchange for payment of the foreign debt, governments often extract natural resources for export, resulting in unsustainable exploitation of indigenous peoples' territories and resources.

It is crucial to ensure that, indigenous peoples are protected from adverse effects of aid programmes. Development partners, through their aid programmes and through dialogue with governments, could play an important role in protecting rights and interests of indigenous peoples. The development co-operation should aim towards strengthening the right and capacity of indigenous peoples to "self-development". This implies integrating the concern for indigenous peoples as a cross-cutting aspect at all levels of development co-operation.⁸⁴

81 Diana Vinding, *Perspectives from Communities in Bolivia, Cambodia, Cameroon, Guatemala and Nepal*, ILO, 2006.

82 MRG, *Minority and Indigenous Peoples Rights in the Millennium Development Goals*, 2003.

83 Joji Carino, "Indigenous Peoples, Human Rights and Poverty", *Indigenous Perspectives*, vol 7 No.1.

84 ILO, *Indigenous and Tribal Peoples' Rights in Practice*, 2009, p. 119.

5.2. Mutual Benefits

While the MDGs represent high-level political commitments, rights of indigenous peoples as recognised under the UNDRIPs are entitlements with corresponding obligations upon States. The different nature of two sets of standards can be a source of strength.

Box 18: Multi-Agency Development Initiative in China

In China, eight UN agencies are implementing a multi-agency MDG project on culture-based development for ethnic minorities under the UN-China Culture and Development Partnership Framework (CDPF) funded by the Spanish MDG Achievement Fund that acknowledges the importance of culture as a cross-cutting theme and utilizes culture as a driving force in the field of development. The CDPF recognises the need to reach China's ethnic minorities in culturally sensitive and appropriate ways, where cultural diversity is acknowledged as part of the "common heritage of humanity ...as necessary for humankind as biodiversity is for nature".⁸⁵ Cultural rights of all ethnic minorities were recognised in the Law on Regional National Autonomy (2001) and in the eleventh five-year plan on the development of public affairs for ethnic minorities, which forms part of China's eleventh five-year plan (2007).

5.2.1. How can MDGs Reinforce the Realisation of UNDRIPs

Raise awareness: The MDGs represent high-level political commitments which can be used to further strengthening the rights of indigenous peoples provided under UNDRIPs. The MDGs therefore provide an opportunity to raise awareness regarding the rights of indigenous peoples.

Monitoring: MDG benchmarks can also be used for measuring the realisation of rights of indigenous peoples. MDG targets can provide the basis for assessing States' compliance with the rights protected under UNDRIPs. On the other hand it will also ensure that national level programming with respect to the MDGs is respectful of the rights of indigenous peoples.

Political commitment: Given the international and growing national mobilisation behind the MDGs, they can provide a political process based on political commitments made at the highest level, through which rights of indigenous peoples can be claimed.

Resources: The national and international efforts around the MDGs have led to mobilisation of resources that can be applied to implementation of the rights protected under UNDRIPs.⁸⁶

5.2.2. How can UNDRIPs Reinforce the Realisation of the MDGs

Focus on excluded and marginalised: The MDGs aim at achieving poverty reduction and human development over a period of time. However, some of the MDG targets are not sufficiently focused on the poorest groups in the society such as indigenous peoples. An approach based on the rights of indigenous peoples focuses on the realisation of the rights for all including the indigenous peoples.

Holistic approach: Achieving MDG targets is not possible without addressing root causes of poverty such as discrimination and powerlessness. Programming based on the rights of indigenous peoples takes a holistic approach by considering the social, political and legal framework that underpins the rights and duty holders.⁸⁷

⁸⁵ 2002 UNESCO Universal Declaration on Cultural Diversity, p. 3.

⁸⁶ UNMC, *The Millennium Development Goals and Human Rights*, 2008, p. 9-10.

⁸⁷ UNOHCHR, *Frequently Asked Questions on a Human Rights-Based Approach to Development Cooperation*, 2006, p. 16.

Participation: While the MDGs focus on results, an approach based on the rights of indigenous peoples reminds policy makers that processes are equally important. In particular a human rights-based approach seeks both to assist in the participatory formulation of the needed policy and legislative framework, and to ensure that participatory and democratic processes are institutionalized locally and nationally.⁸⁸

Accountability: Accountability mechanisms for the MDGs are weak. A human rights-based approach sensitive to rights of indigenous peoples supports the monitoring of State commitments, through independent and public assessment of State performance, and holds those who have a duty to act accountable, ensuring effective remedies where rights are violated.⁸⁹ The adoption of the Optional Protocol to the ICESCR which provides for individual and collective complaints procedure further strengthens accountability with respect to rights of indigenous peoples.

Box 19: The Case of Awas Tingni v. Nicaragua: A New Step in the International Law of Indigenous Peoples

(S. James Anaya & Claudio Grossman)

The people of Awas Tingni did not set about to forge an international legal precedent with implications for indigenous peoples throughout the world, yet that is what they have done. Awas Tingni is one of numerous Mayagna, or Sumo, indigenous communities in the isolated Atlantic Coast region of Nicaragua. The Community has sought simply, but doggedly, to be secure in the peaceful possession of traditional lands. It has achieved a major step toward that end, and more. The Community's identity in the minds of outsiders is now merged with that of a landmark case, *The Case of the Mayagna (Sumo) Awas Tingni Community v. Nicaragua*, decided by the Inter-American Court of Human Rights on August 31, 2001.

In this case the Court held that the international human right to enjoy the benefits of property, particularly as affirmed in the American Convention on Human Rights, includes the right of indigenous peoples to the protection of their customary land and resource tenure. The Court held that the State of Nicaragua violated the property rights of the Awas Tingni Community by granting to a foreign company a concession to log within the Community's traditional lands and by failing to otherwise provide adequate recognition and protection of the Community's customary tenure. It was not enough that the Nicaraguan constitution and laws recognise in general terms the rights of indigenous peoples to the lands they traditionally use and occupy. The Court admonished that Nicaragua must secure the effective enjoyment of those rights, which it had not done for Awas Tingni nor for the vast majority of indigenous communities of the Atlantic Coast region of Nicaragua... The Court ordered Nicaragua to demarcate and title Awas Tingni's traditional lands in accordance with its customary land and resource tenure patterns, to refrain from any action that might undermine the Community's interests in those lands, and to establish an adequate mechanism to secure the land rights of all indigenous communities of the country.

This is the first legally binding decision by an international tribunal to uphold the collective land and resource rights of indigenous peoples in the face of a state's failure to do so. It strengthens a contemporary trend in the processes of international law that helps to empower indigenous peoples as they press their demands for self-determination as distinct groups with secure territorial rights.

(Source: Arizona Journal of International and Comparative Law Vol. 19, No. 1 2002)

⁸⁸ *Ibid.*, p. 17.

⁸⁹ UNMC, *The Millennium Development Goals and Human Rights*, 2008, p. 11.

6. Implementation of the MDGs and Rights of Indigenous Peoples

For implementation of the MDGs whereby indigenous peoples' own vision, perspectives and strategies of self-determining development within a framework of human rights, State parties should:

6.1. Recognise Indigenous Peoples and Their Rights

6.1.1. Recognise Indigenous Peoples

UNDRIPs

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.

Indigenous peoples are invisible in the MDGs.⁹⁰ The recognition of indigenous peoples as distinct peoples and the respect for their individual and collective human rights, rights to lands and territories and sustainable use of natural resources are crucial for reducing widespread poverty amongst them.⁹¹

Over the last few years several countries have introduced constitutional reforms and adopted legislations recognising distinct indigenous identities. However, in most cases, those reforms have not been able to eliminate discrimination against indigenous peoples. In some cases the very existence of indigenous peoples is not recognised in constitutions and laws and they are even denied citizenship.⁹²

Non-recognition of indigenous peoples and their customary land rights resulted in loss of control over land and natural resources for indigenous peoples. Ambiguities in the legal situation of

90 MDGs Reports and Indigenous Peoples: A Desk Review, 2006-2008, available at <http://www.un.org/esa/socdev/unpfii/en/publications.html>

91 Report on the fourth session of the UN Permanent Forum on Indigenous Issues, UN Doc. E/C.19/2005/9, 2005, para 14.

92 UNDG, *United Nations Development Group Guidelines on Indigenous Peoples' Issues*, 2008.

indigenous peoples and communities are of concern to indigenous peoples around the world.⁹³ In Africa, for instance, the Amazigh people, who inhabit several countries of North Africa, demand legal recognition and the respect of their cultural and social rights as an indigenous people. Within the framework of constitutional review, the Ogiek, a hunter-gatherer people of Kenya, are claiming recognition as a distinct indigenous minority. The Maasai pastoralists are considered to be an indigenous minority in several East African countries, and their legal recognition varies in the different States.

The Special Rapporteur on situation of indigenous peoples emphasised that women and children are particularly affected by the lack of citizenship documents, because they become more vulnerable to exploitation. Indigenous women suffer terribly from the violence that occurs in many indigenous lands.⁹⁴ The challenge, therefore, is to bring about development with a strong social and cultural dimension, which promotes respect for the basic human rights of indigenous peoples and which integrates their views on development visions. Recognition of indigenous peoples' identity is considered as the first step in that regard.

6.1.2. Explicitly Recognise and Integrate Rights of Indigenous Peoples in Policies and Programmes for Implementation of the MDGs

Indigenous peoples are entitled to the full range of rights established under international law, such as non-discrimination, participation in public life, and right to maintain their distinctive identities, cultures, languages and ways of life. The right of indigenous peoples to self-determination is increasingly expressed through self-governing or autonomous arrangements. Both ILO's Convention No. 169 and the UNDRIPs recognise indigenous peoples' right to own and control their lands and, to differing degrees, recognise their rights to own, use and manage the natural resources on those lands. According to the Declaration, States should establish mechanisms to guarantee these rights.

Box 20: UNDP Philippines Integrated Programme on Indigenous Peoples

UNDP Philippines conducted a series of multi-stakeholder consultations that facilitated the formulation and launching of an integrated programme on indigenous peoples. It focuses on three major themes: ancestral domains and resources, indigenous governance and justice, and peace-building. The new programme is guided by the rich lessons learned and experiences from previous indigenous peoples projects assisted by the UN Country Office for more than a decade. As part of the programme, UNDP will also support the conduct of the first ever population census on indigenous peoples in the Philippines since 1916 using ethnicity variables.

The work of UNDP is also complemented by the creation of the UN Technical Working Group on Indigenous Peoples, composed of all Philippine-based UN agencies with indigenous peoples' projects in the Philippines.

(Source: UNDP Philippines)

93 Communications addressed directly to the Special Rapporteur between July and October 2001.

94 Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, UN Doc. E/CN.4/2002/97, 2002, p. 30-31.

The right to development is understood in this context to imply the right of indigenous peoples to decide the kind of development that takes place on their lands and territories in accordance with their own priorities and cultures.⁹⁵ The UNDRIPs calls upon States to consult with indigenous peoples to obtain their free, prior and informed consent prior to approval of any project affecting their lands and resources.⁹⁶ ILO Convention No. 169 underlines the right of indigenous peoples to be consulted in relation to developments that may affect them.⁹⁷

6.1.3. Disaggregated Data

Disaggregated data on the conditions of indigenous peoples is limited and it is therefore difficult to develop and implement policies to address discrimination. The UNPFIs and several UN agencies have recommended that data be disaggregated specifically for indigenous peoples. Data provide a key tool for the planning and execution of programmes and projects and the monitoring and evaluation of the achievement of the MDGs. However, there are several inconsistencies that inhibit data with respect to indigenous peoples. There is no standard or agreed upon definition of “who are indigenous peoples” and “who are not considered as indigenous peoples”. Data and information are often not sufficiently disaggregated. Furthermore, development indicators do not always reflect indigenous peoples’ experiences and perspectives, but are based on systems created by mainstream societies, which are not always relevant for assessing indigenous peoples particular context and experiences. Indigenous peoples are often not consulted in the decision-making process related to the collection and disaggregation of data that directly concerns them.⁹⁸

Box 21: Indigenous Peoples Rights Act, Philippines (1997)

In the Philippines free, prior and informed consent of indigenous peoples is required by law for the following activities:

- exploration, development and use of natural resources;
- research and bio prospecting;
- displacement and relocation;
- archaeological explorations;
- policies affecting indigenous peoples like Executive Order 263 (Community-based Forest Management); and
- entry of military.

The definition of prior informed consent in the Indigenous People’s Rights Act of the Philippines provides that:

- All members of the community affected consent to the decision;
- Consent is determined in accordance with customary laws and practices;
- Freedom from external manipulation, interference or coercion;
- Full disclosure of the intent and scope of the activity;
- Decision is made in language understandable to the community; and
- Decision is made in process understandable to the community.

⁹⁵ UNDRIPs Article 23.

⁹⁶ UNDRIPs Article 32.

⁹⁷ UNDG, *United Nations Development Group Guidelines on Indigenous Peoples’ Issues*, 2008.

⁹⁸ Edilberto Loazia, “Data and Indicators for Indigenous Issues”, World Bank Conference on Poverty and Indigenous Peoples, 2006, p. 10.

There is therefore a need to adapt and disaggregate MDG targets to ensure the rights of indigenous peoples are given sufficient attention in practice. There is also a need to add complementary indicators to measure existing targets, where needed to ensure rights of indigenous peoples are adequately highlighted.

6.2. Promote Greater Equality

According to international human rights standards, indigenous peoples, as all human beings, are entitled to enjoy all human rights and fundamental freedoms including both civil and political rights and economic, social and cultural rights. They have the right to equal treatment and to benefit, as any other citizen of the State in which they live, from economic development and other progress. These rights apply to all indigenous peoples, i.e. men and women, children and adults alike.

In practice, however, indigenous peoples have often not been treated equally and face social exclusion.⁹⁹ Dominant sections of the society consider them inferior, and often deny them equal opportunities with respect to livelihood and education. Further, indigenous women continue to suffer from multiple forms of discrimination, both as women and as indigenous individuals. They are subjected to extreme poverty, trafficking, illiteracy, lack of access to ancestral lands, non-existent or poor health care and to violence in the private and the public sphere. This violence is exacerbated when indigenous communities find themselves in the midst of conflict and women become the target of violence with political motives, when going about their daily work, fetching wood or water for the family. The situation of the indigenous girl child is even more acute in such situations. Furthermore, there are increasing reports of young indigenous girls coerced into the sex industry, and subjected to situations that amount to slavery.

Indigenous women often suffer discrimination from both in and outside of their communities. There are also cultural practices that are discriminatory related to inheritance rights and status, although there are some indigenous communities that are matriarchal and thus it is the women who inherit e.g. the Khasis in Northeast India and Bangladesh. It is important that indigenous peoples' culture and traditions are protected and strengthened, while at the same time providing the enabling space for these communities to explore and define new ways to protect the rights of indigenous women. Any innovations and changes have to come from within the community in order to be sustainable and appropriate, as externally driven interventions are seldom long lasting.

6.2.1. Respect for Individual and Collective Rights of Indigenous Peoples

Various international treaties protect individual and collective rights of indigenous peoples. These rights are indispensable for their existence, well-being and holistic development as peoples. Policies and programmes designed for implementation of the MDGs could result in violation of rights of indigenous peoples. There is therefore a need to respect the rights of indigenous peoples while designing development programmes and policies.

The collective rights of indigenous peoples include recognition of their distinctive histories, languages, identities and cultures and the collective right to lands, territories and natural resources

⁹⁹ Vital Bambazne, "Dimensions of Poverty and Well-Being among Indigenous Peoples in Africa", World Bank Conference on Poverty and Indigenous Peoples, 2006, p. 9.

they have traditionally occupied and used, as well as the right to their collectively held traditional knowledge. In establishing and fulfilling collective rights for indigenous peoples, the international community has affirmed that such rights should not conflict with existing international human rights norms but complement them, i.e., the implementation of collective human rights should not adversely affect the implementation of individual rights.

ILO Convention 169
Article 7

1. The peoples concerned shall have the right to decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy or otherwise use, and to exercise control, to the extent possible, over their own economic, social and cultural development. In addition, they shall participate in the formulation, implementation and evaluation of plans and programmes for national and regional development which may affect them directly.
- ...
3. Governments shall ensure that, whenever appropriate, studies are carried out, in cooperation with the peoples concerned, to assess the social, spiritual, cultural and environmental impact on them of planned development activities. The results of these studies shall be considered as fundamental criteria for the implementation of these activities.
4. Governments shall take measures, in cooperation with the peoples concerned, to protect and preserve the environment of the territories they inhabit.

6.2.2. Allocate Adequate Resources

Mobilisation of resources for achieving the MDGs should not result in sacrificing the funds available for indigenous peoples. There is a need for an equitable distribution of resources aimed at safeguarding the rights and interests of indigenous peoples. Indigenous peoples are subjected to discrimination and inequality with respect to allocation of resources and they remain economically and socially depressed. According to *Human Development Report 2004*, public spending in basic social services systematically discriminates against indigenous peoples and minorities.¹⁰⁰

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. There is therefore a need for 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.¹⁰¹ It should be recognised that indigenous peoples' aspirations for development, resources and services may be fundamentally different among indigenous groups

¹⁰⁰ UNDP, *Human Development Report 2004*, 2004.

¹⁰¹ Second International Decade of the World's Indigenous Peoples, 2004, main objectives available at <http://www.un.org/esa/socdev/unpfi/en/second.html>

themselves as well as different from those of other peoples, even within the same country.¹⁰² Development strategies must therefore be designed to overcome the marginalisation of indigenous peoples and, at the same time, protect and promote their 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.

New tools and techniques such as budget analysis can be used to understand and advocate for better resource allocation for indigenous peoples. Such analysis can also help in assessing needs and establishing benchmarks in sectoral areas of concern for indigenous peoples, as well as directly linking these to the MDGs. The efforts and experiences of the UN system and other development actors in mainstreaming gender budgets can serve as a useful tool for indigenous related budgeting. Best practices in participatory budgeting can be used to enhance indigenous peoples' participation.¹⁰³

6.3. Participation and Representation

UNDRIPs	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 18	
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.

Indigenous peoples are often not able to participate fully in public life and are rarely present in decision-making bodies of the State. In order to address this situation and promote social inclusion and political participation, Governments are increasingly revising laws and introducing special measures to combat prevailing discrimination and improve opportunities for indigenous peoples. These measures include targeted programming, special grants for education, consultative mechanisms and reserved seats in decision-making bodies, including national parliaments.

The Second International Decade of World's Indigenous People called for 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.¹⁰⁴ The rights to participation and to free, prior and informed consent are an integral part of a human rights-based approach. The principle of free, prior and informed consent of indigenous peoples to development projects and plans affecting them, is emerging as a

¹⁰² UN Department of Economic and Social Affairs, *Resource Kit on Indigenous Peoples' Issues*, 2008, p. 33-34.

¹⁰³ Victoria Tauli-Corpuz, "A Framework for Advocacy in Support of Indigenous Peoples' Visions, Perspectives and Strategies for Self-Determining Development", in UNDP, *Indigenous Peoples and the Human Rights-Based Approach to development: Engaging in Dialogue*, 2007, p. 106.

¹⁰⁴ The Second International Decade of World's Indigenous People, 2004, main objective, available at <http://www.un.org/esa/socdev/unpfi/en/second.html>

standard to be applied for promoting and protecting their rights in the development process.¹⁰⁵ This principle should be respected and used as a methodology whenever designing programmes and projects that directly or indirectly affect indigenous peoples, as defined in the context of a human rights-based approach. According to UNPFII, free, prior and informed consent 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.¹⁰⁶

For indigenous peoples, being part of the decision-making process is fundamental to meeting development challenges—in particular, the achievement of the MDGs. Participation and free, prior and informed consent are therefore key to the realisation of the rights of indigenous peoples and the MDGs.¹⁰⁷ Articles 18 and 19 of the UNDRIPs emphasize the principles of participation and free, prior and informed consent. 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”. Para 1 of OP 4.10 of the World Bank provides that for the Bank-financing that impacts indigenous peoples, the borrower must engage in FPIC with indigenous peoples.

Further, the UNPFII has called for increased and improved participation by indigenous women in activities related to a broad range of themes, including the following: (a) Legal processes, including through the creation of mechanisms to enable indigenous women to take advantage of available juridical instruments and by encouraging the appointment of qualified indigenous women to decision-making positions; (b) Governance and decision-making structures at all levels by ensuring equal access of indigenous women to decision-making and governmental bodies; (c) Economic and social development, including the development processes such as the common country assessment, the United Nations Development Assistance Framework, and poverty reduction strategy papers; (d) Human rights processes such as reporting to the Committee on the Elimination of Discrimination against Women and other relevant human rights bodies; (e) Dialogue on climate change; and (f) Health education programmes for indigenous women and men.¹⁰⁸

While mechanisms for participation can vary, participation should not be confined to mere consultation. Indigenous peoples' representatives should be involved, for instance, with other sectors of civil society and in meetings with government officials. Specific and culturally appropriate consultation mechanisms can also be established through the creation of consultative groups of indigenous leaders to advise governments at all stages of the programming process, or through consultations at local level.¹⁰⁹ The idea as explained by the Inter-Agency Support Group should be to develop mechanisms at the country level to give indigenous peoples a greater sense of ownership of intergovernmental organisations and their activities, and to enable their full participation in activities affecting them.¹¹⁰

¹⁰⁵ *Ibid.*, p. 98.

¹⁰⁶ UN Department of Economic and Social Affairs, *Resource Kit on Indigenous Peoples' Issues*, 2008, p. 17.

¹⁰⁷ *Ibid.*

¹⁰⁸ UNPFII, Analysis prepared by the secretariat of the Permanent Forum on Indigenous Issues: indigenous women, E/C.19/2009/8, 2009.

¹⁰⁹ UNDG, *United Nations Development Group Guidelines on Indigenous Peoples' Issues*, 2008.

¹¹⁰ UN Department of Economic and Social Affairs, *Resource Kit on Indigenous Peoples' Issues*, 2008, p. 17.

Box 22: The Sámediggi (Sámi Parliament)

Sámis are indigenous people of northern Scandinavia, live in the polar region extending from Norway, Sweden and Finland to the Kola Peninsula in the Russian Federation. The population is estimated at 70,000-100,000.

The Sámediggi of Norway is elected through general elections by and among the Sámis in the country. It is an independent political organ and is the highest representative body of the Sámis in Norway. The legal basis for establishing the Sámediggi is found in section 12 of the Sámi Act, which states that the Sámis shall have their own national Sámi Parliament elected by and amongst the Sámis in Norway. The establishment of the Sámediggi is a central element in the fulfilment of Section 110a of the Norwegian Constitution, which was adopted by the Storting (the National Parliament of Norway) on 21 April 1988. Section 110a of the Constitution states that it is the obligation of the State authorities to create the conditions necessary for the Sámis to protect and develop their language, their culture and their society."

The political mandate of the Sámediggi includes all issues that the Parliament considers affect Sámi interests. The Sámediggi has 43 representatives (increased in 2005 from 39) elected by and amongst Sámis on the basis of a Sámi census. The country is divided into 13 constituencies. Elections to the Sámediggi are held every fourth year simultaneously with the elections to the Storting. The plenary of the Sámediggi is the Parliament's highest body and it is sovereign in the execution of its duties within the framework of the Sámi Act. The plenary sessions are held four times a year. In the interim, between the plenary sessions, the Sámediggi's Executive Council, under the leadership of the President of the Sámediggi, is responsible for executing the roles and responsibilities of the Sámediggi. The members of the Executive Council, including the President, are elected by and amongst the Sámediggi's representatives. Moreover, the Sámediggi has a number of thematic committees mandated to address specific substantive issues.

(Source: www.galdu.org)

Box 23: Basic Elements of Free, Prior and Informed Consent

- a) **Free** should imply no coercion, intimidation or manipulation;
- b) **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;
- c) **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.
- d) **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: 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.)

6.4. International Development Cooperation and Indigenous Peoples

Ensuring that indigenous peoples have equal opportunities requires States to take special or positive measures to compensate for historic injustices and disadvantages. The purpose of special positive measures is to bring the living conditions of indigenous peoples to the same level as those of others in society. The objective should be to aim for development which reflects indigenous peoples' own vision, perspectives and strategies of self-determining development within the framework of respect of their basic human rights and fundamental freedoms.¹¹¹

While principal responsibility for the realisation of the right to development and human rights rests with each State, rich countries have some responsibilities towards the realisation of human rights in poor countries within the context of international cooperation. These responsibilities arise, inter alia, from the provisions relating to international assistance and cooperation in international human rights law. Importantly, international assistance and cooperation should not be understood as only financial and technical assistance: it also includes the responsibility of rich States to work actively towards an international order that is conducive to the elimination of poverty and the realisation of human rights.

The parameters of international assistance and cooperation are not yet clearly defined. However, in principle, international assistance and cooperation require that all those in a position to assist should, first, refrain from acts that make it more difficult for the indigenous peoples to realize their human rights and, second, take measures to remove obstacles that impede the indigenous peoples' realisation of their human rights.

Both governments and international development agencies have responsibilities for including indigenous peoples in development processes. Numerous policies have been adopted over the years by the World Bank, the Asian Development Bank, the United Nations Development Programme, and a number of bilateral donors for the inclusion of rights and interests of indigenous peoples in development programmes. These policies and strategies reflect positive steps which have helped placing indigenous peoples on the international development agenda.¹¹²

Nevertheless, there are challenges with regard to the implementation of these strategies, including lack of mechanisms for securing the participation of indigenous peoples, paucity of specific statistics or data available on the situation of indigenous peoples and the lack of knowledge of indigenous issues among staff of development institutions and governments. For indigenous organisations, it remains a challenge to push for further participation in development processes, particularly as this becomes more centralized at the national level through the Aid Effectiveness Agenda.¹¹³

111 Victoria Tauli-Corpuz, "A Framework for Advocacy in Support of Indigenous Peoples' Visions, Perspectives and Strategies for Self-Determining Development", in UNDP, *Indigenous Peoples and the Human Rights-Based Approach to development: Engaging in Dialogue*, 2007, p. 96.

112 ILO, *Indigenous and Tribal Peoples' Rights in Practice*, 2009, p. 119.

113 *Ibid.*

Box 24: Indigenous Peoples Rights in the Aid Effectiveness Framework

Research carried out by the ILO indicates that the approach and principles adopted under the Paris Declaration carries some inherent risks which might result in further exclusion of indigenous peoples if specific safeguards are not developed.¹¹⁴ The following summarizes such implications on indigenous peoples.

Ownership

- Indigenous peoples, particularly in Africa and Asia, have lack of participation in government structures and national decision-making process and therefore risk not being taken into account in policies and plans.
- Donors may hesitate to engage in policy dialogue on indigenous peoples' issues.
- Most development agencies face difficulties in ensuring the capacity to address indigenous peoples' issues in their decentralised structures.

Alignment

- Lack of participation by indigenous peoples in decision-making often implies that their needs and priorities are not reflected in national policies, strategies and programmes and they do not benefit from poverty reduction efforts.
- If the partner country is reluctant, donors may not find ways to comply with their own institutional policies on supporting indigenous peoples.

Harmonization

- The lack of an overall strategy on support to indigenous peoples (in the context of the commitments stipulated by the Rome and Paris Declarations) may eventually undermine the value of individual donor policies on support to indigenous peoples.

Managing of results

- Most indigenous peoples do not have the institutional capacity or political leverage to ensure that their needs and priorities are reflected in MTEFs or budgets.
- In most countries, adequate data on indigenous peoples are not available and national statistical bureau do not have the capacity to provide disaggregated data.

Mutual accountability

- The agenda set by the Rome and Paris Declarations focuses on the effectiveness rather than the quality and relevance of aid. Consequently, none of the 12 monitoring indicators is related to governance, human rights, participation, quality or inclusiveness of development. In other words, the reformed aid architecture in itself provides no safeguards to ensure that "effectiveness" does not jeopardise the rights-based approach.
- In many countries, marginalisation with regards to access to education and information excludes indigenous peoples from participating in monitoring and holding governments accountable.

¹¹⁴ *Ibid.*, p. 119-120

6.5. Effective Accountability

International human rights empower individuals and communities by granting them entitlements and placing legal obligations on others. Critically, rights and obligations demand accountability: unless supported by a system of accountability they can become no more than window-dressing. Accordingly, a human rights approach emphasizes obligations and requires that all duty-holders be held to account for their conduct.

States and other duty-bearers are answerable for the observance of human rights and they have to comply with the legal norms and standards enshrined in human rights instruments. When they fail to do so, aggrieved rights-holders are entitled to institute proceedings for appropriate redress before a competent court or other adjudicators in accordance with the rules and procedures provided by law.¹¹⁵

Accountability mechanisms related to the MDGs are weak. One possible vehicle for accountability is the country-level Millennium Development Goals progress report. Several such reports have been published over the years.¹¹⁶ These Reports are emerging as one of the most important instruments for tracking and monitoring progress at the national level. They are, however, primarily intended for “awareness advocacy”, rather than policy formulation or accountability. These reports can be used to hold governments to account with respect to their MDG commitments with respect to indigenous peoples.

Human rights, including the rights of indigenous peoples, can strengthen the weak accountability mechanisms presently associated with all MDGs. Provided they are adequately briefed and resourced, existing human rights accountability mechanisms can consider the adequacy of what States are doing to realise the MDGs in context of indigenous peoples. For example, the examination by a human rights treaty body of a State’s periodic report could consider those goals falling within the treaty body’s mandate. On country missions, special rapporteurs could explore those which fall within their mandates. At the country level, a national human rights institution could establish a MDGs and Indigenous Peoples monitoring and accountability unit.¹¹⁷

It is the responsibility of the international community and other actors to identify appropriate, effective, transparent and accessible accountability mechanisms with respect to indigenous peoples and the MDGs. If it does not, the chances of achieving them will be seriously diminished.

115 Victoria Tauli-Corpuz, “A Framework for Advocacy in Support of Indigenous Peoples’ Visions, Perspectives and Strategies for Self-Determining Development”, in UNDP, *Indigenous Peoples and the Human Rights-Based Approach to development: Engaging in Dialogue*, 2007, p. 99.

116 MDG Reports and Indigenous Peoples: A Desk Review, 2006-2008, available at <http://www.un.org/esa/socdev/unpfii/en/publications.html>

117 Report of the Special Rapporteur on the right to the highest attainable standard of health, UN Doc. A/59/422, 2004, para 40.

7. Working Together for Realizing the Rights of Indigenous Peoples and Achieving the MDGs

Policies and strategies that integrate the rights and aspirations of indigenous peoples are more likely to be effective, equitable, robust, participatory and meaningful to indigenous populations around the world. These policies and strategies should be culturally appropriate, taking into account the right of indigenous peoples to exist as distinct peoples. States should adopt national processes to implement the MDGs with the full and effective participation of indigenous peoples.¹¹⁸

In particular, the Governments and other actors should make every effort to ensure:

- a) The disaggregation of data by ethnicity, gender, socio-economic status, cultural or indigenous affiliation and language;
- b) The active and informed participation of indigenous people in the formulation, implementation and monitoring of MDGs policies and programmes;
- c) Devise a methodology to monitor MDG achievement among indigenous peoples that takes full account of their specific situation and characteristics;
- d) As far as possible, the availability of programmes and projects, and MDGs-related information, in languages spoken by indigenous peoples;
- e) The strengthening of MDG programmes in indigenous communities, including adequate budget allocation and outreach services to indigenous communities;
- f) Training of government officials and others to ensure that they are aware of, and sensitive to, issues of ethnicity and indigenous culture;
- g) The establishment of monitoring and accountability mechanisms in indigenous communities in relation to MDGs, more specifically concerning the abuses and neglect in the health system; and
- h) The inclusion of representatives of indigenous communities in all the national platforms, coalitions and campaigns related to MDGs must be ensured.

The attainment of the MDGs for indigenous peoples will be a true yardstick of the success of the MDGs as the global development agenda in the remaining years, because indigenous peoples are among the most marginalised groups of people and their MDG realisation is the most challenging. For no other group of people does the attainment of MDGs matter more than for the indigenous peoples. MDGs offer a powerful tool for to convert the rights and aspirations of indigenous peoples into reality.

Annex 1: Official List of MDG Indicators after the 2007 Revision

(Effective 15 January 2008)

Millennium Development Goals (MDGs)	
Goals and Targets (from the Millennium Declaration)	Indicators for monitoring progress
 Goal 1 Eradicate extreme poverty and hunger	
Target 1.A: Halve, between 1990 and 2015, the proportion of people whose income is less than one dollar a day	1.1 Proportion of population below \$1 (PPP) per day (i) 1.2 Poverty gap ratio 1.3 Share of poorest quintile in national consumption
Target 1.B: Achieve full and productive employment and decent work for all, including women and young people	1.4 Growth rate of GDP per person employed 1.5 Employment-to-population ratio 1.6 Proportion of employed people living below \$1 (PPP) per day 1.7 Proportion of own-account and contributing family workers in total employment
Target 1.C: Halve, between 1990 and 2015, the proportion of people who suffer from hunger	1.8 Prevalence of underweight children under-five years of age 1.9 Proportion of population below minimum level of dietary energy consumption
 Goal 2 Achieve universal primary education	
Target 2.A: Ensure that, by 2015, children everywhere, boys and girls alike, will be able to complete a full course of primary schooling	2.1 Net enrolment ratio in primary education 2.2 Proportion of pupils starting grade 1 who reach last grade of primary 2.3 Literacy rate of 15-24 year-olds, women and men
 Goal 3 Promote gender equality and empower women	
Target 3.A: Eliminate gender disparity in primary and secondary education, preferably by 2005, and in all levels of education no later than 2015	3.4 Ratios of girls to boys in primary, secondary and tertiary education 3.5 Share of women in wage employment in the non-agricultural sector 3.6 Proportion of seats held by women in national parliament
 Goal 4 Reduce child mortality	
Target 4.A: Reduce by two-thirds, between 1990 and 2015, the under-five mortality rate	4.7 Under-five mortality rate 4.8 Infant mortality rate 4.9 Proportion of 1 year-old children immunised against measles
 Goal 5 Improve maternal health	
Target 5.A: Reduce by three quarters, between 1990 and 2015, the maternal mortality ratio	5.1 Maternal mortality ratio 5.2 Proportion of births attended by skilled health personnel
Target 5.B: Achieve, by 2015, universal access to reproductive health	5.3 Contraceptive prevalence rate 5.4 Adolescent birth rate 5.5 Antenatal care coverage (at least one visit and at least four visits) 5.6 Unmet need for family planning

Goal 6 Combat HIV/AIDS, malaria and other diseases

Target 6.A: Have halted by 2015 and begun to reverse the spread of HIV/AIDS	6.1 HIV prevalence among population aged 15-24 years 6.2 Condom use at last high-risk sex 6.3 Proportion of population aged 15-24 years with comprehensive correct knowledge of HIV/AIDS 6.4 Ratio of school attendance of orphans to school attendance of non-orphans aged 10-14 years
Target 6.B: Achieve, by 2010, universal access to treatment for HIV/AIDS for all those who need it	6.5 Proportion of population with advanced HIV infection with access to antiretroviral drugs
Target 6.C: Have halted by 2015 and begun to reverse the incidence of malaria and other major diseases	6.6 Incidence and death rates associated with malaria 6.7 Proportion of children under 5 sleeping under insecticide-treated bednets and Proportion of children under 5 with fever who are treated with appropriate anti-malarial drugs 6.8 Incidence, prevalence and death rates associated with tuberculosis 6.9 Proportion of tuberculosis cases detected and cured under directly observed treatment short course

Goal 7 Ensure environmental sustainability

Target 7.A: Integrate the principles of sustainable development into country policies and programmes and reverse the loss of environmental resources	7.1 Proportion of land area covered by forest 7.2 CO ₂ emissions, total, per capita and per \$1 GDP (PPP), and consumption of ozone-depleting substances 7.3 Proportion of fish stocks within safe biological limits 7.4 Proportion of total water resources used
Target 7.B: Reduce biodiversity loss, achieving, by 2010, a significant reduction in the rate of loss	7.5 Proportion of terrestrial and marine areas protected 7.6 Proportion of species threatened with extinction
Target 7.C: Halve, by 2015, the proportion of people without sustainable access to safe drinking water and basic sanitation	7.7 Proportion of population using an improved drinking water source 7.8 Proportion of population using an improved sanitation facility
Target 7.D: By 2020, to have achieved a significant improvement in the lives of at least 100 million slum dwellers	7.9 Proportion of urban population living in slums (ii)



Goal 8 Develop a global partnership for development

Target 8.A: Develop further an open, rule-based, predictable, non-discriminatory trading and financial system

Includes a commitment to good governance, development and poverty reduction—both nationally and internationally

Target 8.B: Address the special needs of the least developed countries

Includes: tariff and quota free access for the least developed countries' exports; enhanced programme of debt relief for heavily indebted poor countries (HIPC) and cancellation of official bilateral debt; and more generous ODA for countries committed to poverty reduction

Target 8.C: Address the special needs of landlocked developing countries and small island developing States (through the Programme of Action for the Sustainable Development of Small Island Developing States and the outcome of the twenty-second special session of the General Assembly)

Target 8.D: Deal comprehensively with the debt problems of developing countries through national and international measures in order to make debt sustainable in the long term

Some of the indicators listed below are monitored separately for the least developed countries (LDCs), Africa, landlocked developing countries and small island developing States.

Official development assistance (ODA)

- 8.1 Net ODA, total and to the least developed countries, as percentage of OECD/DAC donors' gross national income
- 8.2 Proportion of total bilateral, sector-allocable ODA of OECD/DAC donors to basic social services (basic education, primary health care, nutrition, safe water and sanitation)
- 8.3 Proportion of bilateral official development assistance of OECD/DAC donors that is untied
- 8.4 ODA received in landlocked developing countries as a proportion of their gross national incomes
- 8.5 ODA received in small island developing States as a proportion of their gross national incomes

Market access

- 8.6 Proportion of total developed country imports (by value and excluding arms) from developing countries and least developed countries, admitted free of duty
- 8.7 Average tariffs imposed by developed countries on agricultural products and textiles and clothing from developing countries
- 8.8 Agricultural support estimate for OECD countries as a percentage of their gross domestic product
- 8.9 Proportion of ODA provided to help build trade capacity

Debt sustainability

- 8.10 Total number of countries that have reached their HIPC decision points and number that have reached their HIPC completion points (cumulative)
- 8.11 Debt relief committed under HIPC and MDRI Initiatives
- 8.12 Debt service as a percentage of exports of goods and services

Target 8.E: In cooperation with pharmaceutical companies, provide access to affordable essential drugs in developing countries

- 8.13 Proportion of population with access to affordable essential drugs on a sustainable basis

Target 8.F: In cooperation with the private sector, make available the benefits of new technologies, especially information and communications

- 8.14 Telephone lines per 100 population
- 8.15 Cellular subscribers per 100 population
- 8.16 Internet users per 100 population

All indicators should be disaggregated by sex and urban/rural as far as possible.

Annex 2: Other Relevant International Human Rights Norms and Standards

This list is indicative and not exhaustive.

Universal Declaration of Human Rights (1948)

The Universal Declaration of Human Rights is groundbreaking. Adopted in the aftermath of the World War II, it is the first international document that states that all human beings are “equal in dignity and rights.” (Article 1). And that everybody is entitled to the rights in the Declaration, “without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” (Article 2). The UDHR is universally recognised globally and is the cornerstone of human rights to this day.

ILO Conventions concerning Indigenous Peoples

ILO Convention on Indigenous and Tribal Populations, 1957 (No. 107)

Convention No. 107 addresses the right of indigenous peoples to pursue material well-being and spiritual development. It was the first international instrument specific to indigenous peoples, and emerged as a result of the ILO’s pioneering efforts with indigenous workers. Convention No. 107 contains specific provisions on land rights, health, education etc. It remains binding for 18 countries that have ratified it, and have not yet ratified the more recent Convention No. 169.

ILO Convention on Indigenous and Tribal Peoples, 1989 (No. 169)

Convention No. 169 was adopted in 1989 and revises the earlier Convention No. 107. This was to address certain weaknesses in Convention No. 107, ‘particularly its underlying assumption that the only possible future for indigenous peoples was integration into the larger society, and that others should make decisions on their development.’¹¹⁹

Convention No. 169 states their right to enjoy the full measure of human rights and fundamental freedoms, and calls for the adoption of special measures to safeguard the persons, institutions, lands and territories, customs, labour, cultures and environment of these peoples.¹²⁰ It also outlines the responsibilities of governments to respect the specific right of indigenous peoples to remain distinct, and is underpinned by the recognition of consultation and participation as essential prerequisites for activities on indigenous lands and territories and resources. It provides the legal context for self-identification as a right, also recognised in the UN Declaration on the Rights of Indigenous peoples. ‘The Convention has inspired governments and indigenous peoples far beyond the ratifying countries, in their work to promote and protect indigenous peoples’ rights.’¹²¹

¹¹⁹ ILO 2009: *Indigenous and Tribal Peoples’ Rights in Practice: A Guide to ILO Convention No. 169*, Programme to Promote ILO Convention No. 169 (PRO 169), International Labour Standards Department at p. 173.

¹²⁰ For further details on the ILO’s work with indigenous peoples, see www.ilo.org/indigenous; www.pro169.org.

¹²¹ ILO 2009: *Indigenous and Tribal Peoples’ Rights in Practice: A Guide to ILO Convention No. 169* at p. 5.

UN Conventions and Declarations concerning Indigenous Peoples

International Covenant on Civil and Political Rights (1966)

The Human Rights Committee, responsible for monitoring the implementation of ICCPR, has applied provisions of the Covenant to the specific context of indigenous peoples, including the right to self-determination (article 1), and in the context of article 27 which applies to the rights of national, ethnic, and linguistic minorities.

International Covenant on Economic, Social and Cultural Rights (1966)

Several provisions of the ICESCR are applicable in the specific context of indigenous peoples, including the right to adequate housing; the right to food; the right to education; the right to health, the right to water, and intellectual property and other cultural rights.

Convention on the Elimination of All Forms of Racial Discrimination (1966)

“Racial discrimination” is defined as “any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.” (Article 1). The Committee on the Elimination of Racial Discrimination (CERD), responsible for the supervision of the Convention, has increasingly given attention to the rights of indigenous peoples in its consideration of state reports.

General Recommendation No. 23 on Indigenous Peoples (18/08/97)

The Committee especially calls upon States parties to recognise and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources and, where they have been deprived of their lands and territories traditionally owned or otherwise inhabited or used without their free and informed consent, to take steps to return those lands and territories. Only when this is for factual reasons not possible, the right to restitution should be substituted by the right to just, fair and prompt compensation. Such compensation should as far as possible take the form of lands and territories.

Convention on the Elimination of all Forms of Discrimination against Women (1979)

Committee on the Elimination of Discrimination against Women (CEDAW) has paid a special attention to the situation of indigenous women as particularly vulnerable and disadvantaged groups. E.g., General Recommendation No. 24 (Women and health).

Convention on the Rights of the Child (1990)

Several provisions of the CRC are relevant to indigenous peoples, including non-discrimination of children (Article 2), the broadcasting of information by the mass media in minority languages (Article 17), the right to education, including education on human rights, its own cultural identity, language and values. Article 30 is of specific relevance, and states that children of minorities or indigenous origin shall not be denied the right to their own culture, religion or language.

Committee on the Rights of the Child

General Comment No. 11 on Indigenous Children and their Rights under the Convention (2009)

34. The Committee notes with concern that disproportionately high numbers of indigenous children live in extreme poverty, a condition which has a negative impact on their survival and development. The Committee is furthermore concerned over the high infant and child mortality rates as well as malnutrition and diseases among indigenous children. Article 4 obliges States parties to address economic, social and cultural rights to the maximum extent of their available resources and where needed with international cooperation. Articles 6 and 27 provide the right of children to survival and development as well as an adequate standard of living. States should assist parents and others responsible for the indigenous child to implement this right by providing culturally appropriate material assistance and support programmes, particularly with regard to nutrition, clothing and housing. The Committee stresses the need for States parties to take special measures to ensure that indigenous children enjoy the right to an adequate standard of living and that these, together with progress indicators, be developed in partnership with indigenous peoples, including children.
35. The Committee reiterates its understanding of development of the child as set out in its general comment No. 5, as a “holistic concept embracing the child’s physical, mental, spiritual, moral, psychological and social development”. 15 The Preamble of the Convention stresses the importance of the traditions and cultural values of each person, particularly with reference to the protection and harmonious development of the child. In the case of indigenous children whose communities retain a traditional lifestyle, the use of traditional land is of significant importance to their development and enjoyment of culture. 16 States parties should closely consider the cultural significance of traditional land and the quality of the natural environment while ensuring the children’s right to life, survival and development to the maximum extent possible.
36. The Committee reaffirms the importance of the Millennium Development Goals (MDGs) and calls on States to engage with indigenous peoples, including children, to ensure the full realisation of the MDGs with respect to indigenous children.

In its General Observation (2009), the CRC Committee reiterates the close linkage between article 30 of the Convention on the Rights of the Child and article 27 of the International Covenant on Civil and Political Rights: ‘Both articles specifically provide for the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion or to use his or her own language. The right established is conceived as being both individual and collective and is an important recognition of the collective traditions and values in indigenous cultures. The Committee notes that the right to exercise cultural rights among indigenous peoples may be closely associated with the use of traditional territory and the use of its resources.’

Convention on Biological Diversity (1992)

Article 8(j) of the Convention affirms the rights of “indigenous and local communities” over their “knowledge, innovations and practices...embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity” and to be involved in their wider application and to participate in the equitable sharing arising from them.

Vienna Declaration and Programme of Action (1993)

The Vienna Declaration is the closing declaration of the 1993 World Conference on Human Rights held in Austria. It “recognises the inherent dignity and the unique contribution of Indigenous People [sic] to the development and plurality of society and strongly reaffirms the commitment of the international community to their economic, social and cultural well-being.” (I.20) Indigenous peoples actively mobilized for recognition of their rights in the Declaration and Programmed of Action.

Vienna Declaration and Programme of Action (1993)

World Conference on Human Rights

20. The World Conference on Human Rights recognises the inherent dignity and the unique contribution of indigenous people to the development and plurality of society and strongly reaffirms the commitment of the international community to their economic, social and cultural well-being and their enjoyment of the fruits of sustainable development. States should ensure the full and free participation of indigenous people in all aspects of society, in particular in matters of concern to them. Considering the importance of the promotion and protection of the rights of indigenous people, and the contribution of such promotion and protection to the political and social stability of the States in which such people live, States should, in accordance with international law, take concerted positive steps to ensure respect for all human rights and fundamental freedoms of indigenous people, on the basis of equality and non-discrimination, and recognise the value and diversity of their distinct identities, cultures and social organisation.

Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (2008)

On 10 December 2008, on the 60th Anniversary of the Universal Declaration of Human Rights, the United Nations General Assembly adopted the Optional Protocol to the ICESCR bringing the possibility of international justice one step closer for millions of excluded people, groups, communities, and peoples worldwide. The Optional Protocol will provide victims of ESC rights violations who are not able to get an effective remedy in their domestic legal system with an avenue to seek remedies at the international level. The Protocol provides options for individual and collective complaints, important for safeguarding the rights of indigenous peoples.

UNESCO Universal Declaration on Cultural Diversity (2001)

Adopted on 2 November 2001 the Declaration affirms the respect for the diversity of cultures, tolerance, dialogue and cooperation, in a climate of mutual trust and understanding are among the best guarantees of international peace and security. The Declaration proclaims that the defence of cultural diversity is an ethical imperative, inseparable from respect for human dignity. It implies a commitment to human rights and fundamental freedoms, in particular the rights of persons belonging to minorities and those of indigenous peoples.

International Financial Institutions and Indigenous Peoples

Asian Development Bank policy on IPs (2009)

The Safeguard Policy Statement/SPS of June 2009 updates and consolidates into one policy statement three policies: the Involuntary Resettlement Policy (1995), the Policy on Indigenous Peoples (1998), and the Environment Policy (2002).

ADB Safeguard Policy (2009)

High population densities and rising demand for land for urban development and infrastructure have increased the risks associated with involuntary resettlement of people and the adverse impacts on such vulnerable groups as the poor and indigenous peoples. Of the 250 million indigenous peoples in the world, some 70 per cent are in Asia and the Pacific. Some 120 languages have become either endangered or extinct, demonstrating the threats to the culture and integrity of indigenous peoples. The challenge of preventing further impoverishment resulting from environmental degradation and involuntary resettlement, acknowledging the special needs and respecting the rights of indigenous peoples and other vulnerable groups, and improving the policies and building the capacity of DMCs [developing member countries] to manage these impacts is acute.

...Experience with policy implementation has been mixed and key challenges remain, including the following: (i) recognition of indigenous peoples' cultural identity and rights to their ancestral lands and resources, (ii) fair sharing of development benefits among affected indigenous peoples communities and the rest of society, and (iii) meaningful and culturally appropriate consultation with indigenous peoples communities in planning and implementing projects that are likely to affect their lives.

The SPS requires ADB to design and implement projects in a way that fosters full respect for indigenous peoples' identity, dignity, human rights, livelihood systems, and cultural uniqueness as defined by the indigenous peoples themselves so that they (i) receive culturally appropriate social and economic benefits, (ii) do not suffer adverse impacts as a result of projects, and (iii) can participate actively in projects that affect them.¹²²

World Bank OP/BP 4.10 (2005)

The revised policy on indigenous peoples was approved by the Executive Board in 2005. The updated policy OP/BP4.10 replaces the earlier policy (OD 4.20). The revised policy has retained the policy requirements of OD 4.20 that Bank-financed projects are designed not only to avoid adverse impacts but equally importantly to provide culturally appropriate benefits. For all projects that are proposed for Bank financing and affect indigenous peoples, the Bank requires the borrower to engage in a process of free, prior, and informed consultation.¹²³

The 2005 Policy further requires that Bank-financed projects should include measures to (a) avoid potentially adverse effects on the indigenous peoples' communities; or (b) when avoidance is not feasible, minimize, mitigate, or compensate for such effects. Bank-financed projects are also designed to ensure that the indigenous peoples receive social and economic benefits that are culturally appropriate and gender and inter-generationally inclusive.¹²⁴

¹²² For more details, see <http://www.adb.org/Documents/Policies/Safeguards/Safeguard-Policy-Statement-June2009.pdf>

¹²³ World Bank, Operational Policy 4.10: Indigenous Peoples, 2005, para 10.

¹²⁴ *Ibid.*, para 1.

IADB Operational Policy on Indigenous Peoples (OP-765) and Strategy for Indigenous Development (2006)

In 2006 the IADB adopted the OP with the objective of (a) Support the development with identity of indigenous peoples, including strengthening their capacities for governance. (b) Safeguard indigenous peoples and their rights against adverse impacts and exclusion in Bank funded development projects. The policy applies to the Inter-American Development Bank and the Multilateral Investment Fund.

EBRD Environment and Social Policy (2008)

The Environmental and Social Policy 2008 requires European Bank for Reconstruction and development/EBRD clients to meet key social provisions such as specific labor standards, and also include social and cultural impacts in their due diligence procedures. The new policy extends performance requirements to financial intermediaries, and it strengthens consultation procedures as well as project disclosure procedures. The policy also requires ensuring free, prior and informed consent (FPIC) of indigenous peoples any time an EBRD project affects their interests. The policy recognises the 2007 UN Declaration on the Rights of Indigenous Peoples and includes special measures to safeguard the rights of these communities.

IFAD Engagement with Indigenous Peoples Policy (2009)

The Policy on Engagement with Indigenous Peoples aims to enhance IFAD's development effectiveness in its engagement with indigenous peoples in rural areas. It sets out the principles of engagement IFAD will adhere to in its work with indigenous peoples, and the instruments, procedures and resources IFAD will deploy to implement them. The MDGs do not focus on certain issues of particular importance to indigenous peoples, such as land tenure or cultural rights, nor do the specific goals refer to indigenous peoples. There is an increasing concern that in the pursuit of aggregated country targets for poverty reduction and other MDGs, indigenous peoples are being left behind or, worse, impacted negatively.



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