



INTERNATIONAL LABOUR ORGANIZATION

Permanent Forum on Indigenous Issues 10th Session, May 2011

ILO Contribution

Summary

The ILO's submission to the United Nations Permanent Forum on Indigenous Issues (UNPFII) at its tenth Session (May 2011) addresses the range of Recommendations of the Permanent Forum addressed to the ILO, outlines the main activities of a number of ILO projects addressing indigenous issues during 2010, and highlights the main substantive areas of ongoing ILO work on indigenous issues. This report also brings together information and inputs relevant to indigenous and tribal peoples from different programmes within the ILO.

Note: This report is structured according to the questionnaire provided by the secretariat of the Permanent Forum. In order to avoid duplication under several sections of this report, various issues are cross-referenced.

Part 1: Follow up to recommendations by the Permanent Forum

1.a Economic and Social Development

There are two important components of ILO action concerning the promotion of indigenous peoples' rights to economic and social development. The first component concerns the work of the supervisory bodies of the ILO in monitoring the implementation of indigenous and tribal peoples' rights based on Convention No. 169 and other ILO Conventions, including, where applicable, Convention No. 107. The second component relates to the ILO's technical cooperation programme which promotes the protection and implementation of indigenous and tribal peoples' rights in law and in practice.

Recommendation No. 12: The Permanent Forum recommends that the efforts undertaken to develop the indicators of sustainability and well-being of indigenous peoples should be continued and supported by states, the United Nations system and intergovernmental bodies. This will lead to the establishment of headline indicators to measure and represent the goals and aspirations of indigenous peoples. These initiatives should lead to the creation of an indigenous peoples' development index, which the Human Development Report Office of the United Nations Development Programme (UNDP) would adopt as a project to be included in future issues of the *Human Development Report*.

The ILO, OHCHR and the UNPFII organised a technical Expert Meeting on "Indicators, mechanisms and data for assessing the implementation of indigenous peoples' rights" on 20-21 September 2010 in Geneva. The workshop, the report of which is being presented to the UNPFII at this Session, provided a platform for in-depth discussions and inputs towards the continued process of establishing appropriate indicators for indigenous peoples' well-being. The conclusions of the Expert Meeting together with the findings from studies commissioned to support the Expert Meeting will significantly contribute to the next steps of this process.

Recommendation No. 38: The Permanent Forum reiterates its recommendations that United Nations agencies employ indigenous experts and requests that the International Labour Organization (ILO) provide information on indigenous experts employed within the United Nations system at the tenth session of the Permanent Forum

The ILO continues to employ and collaborate with indigenous experts when possible in its efforts to advocate for indigenous peoples' rights in different parts of the world. At both headquarters and in the field, technical staff of the Programme to Promote ILO Convention No. 169 (PRO 169) include indigenous persons. The ILO has invested time and resources in the preparation of a draft report on indigenous experts employed within the United Nations system, which is in the process of being finalised and will be submitted to a future session of the UNPFII.

Recommendation 44: The Permanent Forum notes that the 2010 annual report of the Committee of Experts on the Application of Conventions and Recommendations devotes increased attention to the implementation by States parties of conventions relevant to the rights of indigenous peoples. The Permanent Forum also notes that 6 of the 12 countries under individual observation on ILO Convention C169 in 2010 must submit a report in 2010, which indicates the serious concern of the Committee about compliance with the Convention by those countries. The Permanent Forum urges the relevant States to present their reports by the deadline established by ILO.

In November 2010, the Committee of Experts on the Application of Conventions and Recommendations examined government reports, as well as comments from trade unions, regarding the application of Convention No. 169. With a view to improving the application of Convention No. 169, in particular as it concerns the right to consultation, the Committee of Experts also adopted a general observation at its November 2010 Session.

Recommendation No. 45: The Permanent Forum recommends that, during its June 2010 session, the Committee on the Application of Standards of the International Labour Conference follow up on the serious situations of violations of the ILO Convention 169 mentioned in the relevant previous observations of the Committee of Experts on the Application of Conventions and Recommendations, as well as its own 2009 conclusions regarding the implementation of the Convention.

The Committee on the Application of Standards of the International Labour Conference remains committed to its mandate to monitor the implementation of all ILO Conventions, including those on indigenous peoples, in the relevant member States. The observations and conclusions previously made by the supervisory bodies of the ILO will continue to be taken into consideration and serve as basis for continued dialogue between the Organization and its constituents. During its 99th session in June 2010, the Committee examined the case of, among others, the application of Convention No. 169 by the Government of Peru.

Recommendation No. 132: The Permanent Forum notes the Progress made by the United Nations Development Programme (UNDP Regional Initiative on Indigenous Peoples' Rights and Development and the International Labour Organization (ILO) Programme to Promote ILO Convention No. 169 (PRO-169) projects in the promotion and protection of the rights of indigenous peoples. The Forum welcomes the decision by UNDP to establish a similar programme in Latin America and calls on UNDP to expand its activities in this manner in Africa.

133. The Permanent Forum recommends that adequate and sustained funding and other support be provided to the aforementioned projects of UNDP and ILO and that they be replicated in different regions of the world.

With the support from the Government of Spain, Denmark, Norway and the European Commission (see Part 2) the ILO sustains its programme of work on indigenous peoples in 22 countries across Africa, Asia and Latin America and Caribbean. The ILO remains committed to indigenous peoples' issues and plans to

scale up its activities in all these regions, provided resources are mobilised (see also comments under Recommendation No. 39 below)

1.b Environment

Recommendation No. 40: The Permanent Forum recommends that UNDP, OHCHR and ILO facilitate dialogue and provide support to indigenous peoples in the areas of crisis prevention and democratic governance as they relate to extractive industries operating in indigenous territories in order to achieve more effective implementation and protection of indigenous peoples' rights.

The ILO continues to believe in and work to promote dialogue between indigenous peoples and relevant actors as a way to prevent conflicts. ILO Convention 169 addresses the issue of natural resources and provides clear guidance on how Governments should interact with indigenous peoples on the issue. The International Labour Office has invested in and will continue to enhance the capacity of various stakeholders, including Governments, employers, workers and indigenous peoples, on the practical implementation of the provisions of Convention 169 regarding natural resources.

1.c Free, prior and informed consent

Recommendation No. 39: The Permanent Forum encourages the Office of the United Nations High Commissioner for Human Rights (OHCHR), ILO and UNDP to strengthen their collaborative framework and partnership for the promotion and implementation of indigenous peoples' rights through joint country programmes aimed at building capacity and establishing mechanisms for consultation, participation and consent in accordance with ILO Convention C169 and the United Nations Declaration on the Right of Indigenous Peoples

The ILO, the OHCHR and UNDP established a joint initiative called United Nations Indigenous Peoples Partnership (UNIPP) in 2010. This inter-agency initiative will focus on joint programmes at the country level, with strategic interventions at regional and international levels. In the spirit of "Delivering as One", UNIPP will be open to other UN Agencies, and UN Resident Coordinators will have a strategic role in providing support, leadership and ensuring coordination within the UN Country Teams as well as inclusion into CCA/UNDAFs. The three initiating agencies have also established a Multi-Donor Trust Fund to mobilise and manage resources, which will be used under the guidance of a Policy Board comprising among others indigenous experts in consultation with the UNPFII, EMRIP and the Special Rapporteur. UNIPP is expected to be fully operational early 2012.

Recommendation No. 136: The Permanent Forum welcomes the convening of the first Latin America Regional Meeting on the Right to Consultation and Free, Prior and Informed Consent, to be held in September 2010 with the participation of ILO, the Expert Mechanism on the Rights of Indigenous Peoples and the Special Rapporteur.

The right to consultation and participation are part of the core provisions of ILO Convention No. 169. The International Labour Office remains committed to raising awareness on the right to consultation among stakeholders in Latin America; and it

looks forward to convening a regional meeting on the issue at the earliest convenient time. A number of regional events on the application of indigenous peoples' rights have been planned for 2011 (see below)

Part 2: ILO policy and tools on indigenous issues

The ILO has a specific normative mandate in the area of indigenous peoples' rights, through its responsibility for Conventions Nos. 107 and 169. A number of other ILO instruments are indirectly related to the protection of the rights of indigenous peoples, including the Discrimination (Employment and Occupation) Convention, 1958 (No. 111); the Forced Labour Convention, 1930 (No. 29); the Abolition of Forced Labour Convention, 1957 (No. 105); the Minimum Age Convention, 1973 (No. 138); and the Worst Forms of Child Labour Convention, 1999 (No. 182). These instruments are among the ILO's fundamental Conventions, and as such they are of relevance to indigenous peoples. Moreover, these Conventions are generally very broadly ratified by the ILO's member States, and therefore can be used by indigenous peoples as tools for the protection of their rights in countries that have not yet ratified Convention No. 169, which is to date ratified by 22 countries following the latest ratifications in August 2010 by Nicaragua and Central African Republic. It should be stressed that the latter constitutes the first ratification of Convention No. 169 in Africa.

The ILO has regular, institutionalized mechanisms to monitor the implementation of all its Conventions – in law and in practice. The body responsible for the regular supervision of ILO Conventions is the Committee of Experts on the Application of Conventions and Recommendations (Committee of Experts). The ILO's Governing Body and the International Labour Conference also play a role in the supervision. Governments' reports under Conventions Nos. 107 and 169 as well as other relevant Conventions were examined by the Committee of Experts at its annual session in November-December 2010. The Committee of Experts issued a series of observations addressed to governments of ratifying States on the application of these Conventions.

The observations of the CEACR are available to the public in the ILOLEX database on the ILO website: <http://www.ilo.org/ilolex/english/index.htm> . The observations of the Committee of Experts are followed-up through technical cooperation of the ILO to the countries concerned, as well as through a broader range of capacity building and other outreach activities undertaken by PRO169.

PRO 169 is a technical cooperation programme directed at promoting and implementing the rights of indigenous and tribal peoples on a global scale as well as at improving their socio-economic situation.

It is currently funded by the European Instrument on Democracy and Human Rights (EIDHR), the Spanish Agency for International Cooperation for Development (AECID) and by the Danish and Norwegian governments. It works in partnership with international, regional and national institutions, including indigenous peoples' organisations. PRO169's current activities cover 22 countries, including 11 in Latin America, six in Asia and five in Africa.

The ILO has continued to provide technical contributions to international processes and mechanisms on indigenous and tribal peoples' rights, through regular and active participation in activities or sessions of the UNPFII, the IASG, EMRIP and the Special Rapporteur. Early this year, the ILO participated in the Experts Group Meeting on Indigenous Peoples and Forests organized by the UNPFII.

PRO169, being the ILO's primary technical cooperation programme concerning indigenous peoples issues, undertakes activities at country-level such as providing technical assistance to governments, and other stakeholders (as detailed below), as well as a series of activities from headquarters, such as training of indigenous fellows and the development of promotional material and publications.

The ILO also continues to carry out activities concerning indigenous peoples at the country-level through a number of our Decent Work Country Programmes, an important tool for assisting the tripartite constituents of the Organization.

The ILO's International Programme to Eliminate Child Labour (IPEC), in collaboration with a large number of international organisations including the UNPFII, EMRIP and UNICEF, continues to engage in activities to combat child labour among indigenous children and youth.

As mentioned, the ILO counts numerous projects in the different regional areas where the Office is currently undertaking activities. The majority of these projects are being carried out through PRO169 in collaboration with different partners such as governments, trade unions, employers' organizations, NGOs and indigenous organizations, and include the following initiatives:

ASIA

Bangladesh

The ILO's national project in Bangladesh aims to build the capacity of key stakeholders including Government officials on indigenous and tribal peoples' issues through training and advocacy initiatives based primarily on the principles of ILO Conventions (C.107, C.169 and C.111) and other instruments relevant to indigenous and tribal peoples, in particular the UNDRIP. Furthermore, the project provides the Government with assistance in developing institutional mechanisms and legal framework for a better protection of indigenous peoples' rights in national programmes.

The project works closely with key stakeholders and actors, such as the Ministry of Chittagong Hill Tract Affairs, the Parliamentary Caucus on Indigenous Peoples and the Parliamentary special committee for the constitutional review.

Cambodia

In Cambodia, the ILO national project on indigenous peoples is primarily aimed at supporting the implementation of legislation and policies relevant to the recognition and protection of indigenous peoples' rights, including the Land Law of 2001 and the Forestry Law of 2002. Special focus is placed upon the implementation of Articles 23 and 24 of the Land Law, which concern the registration of indigenous communities as legal entities before they can make requests for land titles. Such registration of indigenous communities appears to serve as an interim measure of protection of their lands and territories. So far, an estimated 18 indigenous communities have registered as legal entities and are now in a position to get their lands titled.

In addition, the project provides support to the implementation of a National Policy on Indigenous Peoples Development, adopted by the Government and has carried out activities aimed at protecting and strengthening the traditional livelihood of indigenous communities. In this regards, the ILO organised in collaboration with the Kingdom of Cambodia (Ministry of Rural Development - MRD) and other key stakeholders a seminar on "*Indigenous Peoples and Traditional Livelihoods*" to

discuss opportunities and challenges, disseminate experiences and share good practices as well as lessons learned from different Asian countries in addressing indigenous peoples' traditional livelihoods, traditional occupations, land and resources rights.

India

In South Asia and India activities include training, awareness raising and advocacy on international standards on indigenous peoples. The Programme has promoted the exchange of experiences in the region through seminars as well as the production and distribution of studies on relevant subjects, such as traditional occupations and climate change. Recent activities include a South Asia sub-regional Workshop in India on the protection of indigenous peoples' rights in September 2010.

Indonesia

PRO 169 is working with partners and indigenous organizations in the country to promote indigenous peoples' rights, including through the ratification of ILO Convention No. 169. Activities have included awareness-raising and studies.

Nepal

The programme continues to provide technical support and assistance to the Government and undertakes activities such as training and awareness-raising as it follows the ongoing constitutional reform process and the process of identification and recognition of indigenous communities in the country.

AFRICA

The ILO continues to collaborate with the African Commission on Human and Peoples' Rights (ACHPR) and more specifically, the African Commission's Working Group on indigenous populations/communities. *The Overview Report of the Research Project on the Constitutional and Legislative protection of the rights of indigenous peoples in 24 African countries*, one of the major outcomes of the collaborative partnership between the ILO and the ACHPR, was launched in October 2010 in Windhoek in collaboration with the Government of Namibia. This publication will be available in the working languages of the African Union and will contribute to raising awareness on indigenous peoples and their situation on the continent. The ILO and the African Commission are now exploring ways of scaling up their collaboration.

Cameroon

In Cameroon the ILO continues to support the Government's efforts to include indigenous peoples' rights in national policies. The ILO also works on capacity-building of relevant stakeholders and provides support to government initiatives, such as a current study on identification of indigenous communities by the Ministry of Foreign Affairs.

Central African Republic

In Central African Republic, the ILO supported the process of ratification of ILO Convention No. 169 in August 2010. Future activities in this country will focus on

capacity building and technical assistance to the Government with a view to facilitating the implementation of Convention 169. In November 2010, a seminar was held on the international standards relevant to indigenous peoples, including ILO Convention No. 169 and the UNDRIP.

Republic of Congo

The ILO provided support to the process of adoption of a specific law on indigenous peoples by the Republic of Congo in January 2011.

Namibia

In Namibia, the ILO's national project aims to infuse a human rights approach into the development programmes by the Government and other stakeholders on San indigenous peoples. The project is implemented in close collaboration with the Office of the Deputy Prime Minister and covers a wide range of activities including capacity-building, awareness raising and social marketing of San livelihood. Among others areas of support to the Government of Namibia under this project, is a regulatory framework regarding San and other similar communities.

Southern Africa

In the region of Southern Africa efforts are being made to continue the dialogue, exchange experiences and raise awareness on indigenous peoples' rights through activities such as seminars and distribution of materials. A conference on the rights of indigenous peoples was held to this effect in October 2010, in Windhoek, Namibia, convening participants from Governments, indigenous organizations and civil society organizations.

LATIN AMERICA

The ILO's activities on indigenous peoples in Latin America cover 11 countries, namely Paraguay, Chile, Argentine, Peru, Ecuador, Colombia, Bolivia, Panama, Guatemala, Honduras and Nicaragua. The Regional Programme for Latin America works to provide technical assistance to governments as well as providing capacity building for relevant actors in the region, including trade unions and employers' organizations. The programme also aims to promote dialogue on indigenous peoples' rights and their implementation between relevant stakeholders in the different countries.

Since the initiation of the Programme, substantial technical assistance and capacity-building has been provided to governments and other stakeholders, which has included workshops and training events on the promotion and implementation of indigenous peoples' rights and international instruments such as ILO Convention No. 169. A number of legal comparative studies have also been undertaken in several countries with a view to preparing the ground for the implementation and ratification of international instruments pertaining to the rights of indigenous peoples. Recent achievements in Latin America include the ratification of ILO Convention No. 169 by Nicaragua in August 2010. Activities in the pipeline aim to scale up dialogue among all concerned actors and generate tools as a way of strengthening the implementation of Convention No. 169, with a particular focus on consultation and participation of indigenous peoples in national development programmes.

Part 3: ILO capacity-building of staff on indigenous issues

Between June and December 2010, PRO 169 realized three training programmes at ILO headquarters for indigenous fellows in Spanish, English and French, in collaboration with the OHCHR. The training programmes were open to ILO staff and partners.

Capacity-building of staff on indigenous peoples' rights and development has previously been organized with the ILO International Training Centre (ITC) in Turin, convening participants from government, workers, employers and indigenous organizations in addition to staff of the ILO both from field and headquarters. The Organization remains committed to this programme and course activities will be organised in the regions during 2011.

As our field activities include a large component of capacity building and training we aim to reach out to as many stakeholders and actors as possible, this includes the staff of the ILO. All our capacity-building activities in the field are open to our staff and these are activities that are being organized continuously during the year in the different regions where the ILO is active, some of which are mentioned above.

The ILO's website on indigenous and tribal peoples is constantly being updated and expanded to provide access, in three languages, to relevant country and thematic information, training materials and publications (www.ilo.org/indigenous). Moreover, the specific training website on indigenous issues is continuously being updated to provide ILO staff, government officials, social partners and indigenous organizations with relevant materials, including presentations, background information, publications and video material (www.pro169.org).

Part 4: ILO Focal points on indigenous issues

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In addition, an Advisory Group on indigenous issues also exists in the ILO and meets regularly. The ILO Advisory Group supervises the mainstreaming of indigenous issues in key areas in the organizations various work and activities.

Part 5: List of ILO events on indigenous issues in 2010-2011

The ILO will organize a large number of training courses, seminars and events on indigenous issues in 2011. Information will be posted regularly on the ILO's website. Some of the events that already have been planned are:

- Regional seminars on indigenous peoples' rights targeting relevant stakeholders, including Government institutions, Defensorias del Pueblo, indigenous peoples, workers and employers;
- A number of national workshops and training activities at national level in the 11 Latin American countries in which PRO169 is operational to raise awareness and foster dialogue among all concerned actors on indigenous peoples' rights
- Workshop on Indigenous Peoples' Development monitoring Indicators in Nepal, February 2011
- Asia regional workshop on indigenous peoples' issues, June-July 2011
- Workshop on indigenous peoples' rights to natural resources in Nepal, February 2011
- National Convention of the National Coalition of Indigenous Peoples (NCIP) in Bangladesh, January 2011
- Publication of a socio economic study on the situation of San indigenous peoples in Namibia, September 2011
- Training of government officials of Namibia's San Division on Convention No. 169 and relevant international standards pertaining to indigenous peoples' rights
- Southern Africa workshop on indigenous peoples' issues,
- National workshop on the application of indigenous peoples' rights, Cambodia