



**General Assembly**

Distr.  
GENERAL

A/HRC/12/33  
31 August 2009

Original: ENGLISH

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HUMAN RIGHTS COUNCIL  
Twelfth session  
Agenda item 5

**HUMAN RIGHTS BODIES AND MECHANISMS**

**STUDY ON LESSONS LEARNED AND CHALLENGES TO ACHIEVE  
THE IMPLEMENTATION OF THE RIGHT OF INDIGENOUS**

**PEOPLES TO EDUCATION**

**Report of the Expert Mechanism on the Rights of Indigenous Peoples\***

**Summary**

In its resolution 9/7, the Human Rights Council requested the Expert Mechanism to prepare a study on lessons learned and challenges to achieve the implementation of the right of indigenous peoples to education and to conclude by 2009.

The study encompasses (a) a human rights-based analysis of the scope and content of the right to education; (b) indigenous education systems and institutions; (c) lessons learned; (d) challenges and measures to achieve the implementation of the right of indigenous peoples to education; and (e) Expert Mechanism advice No. 1 on the right of indigenous peoples to education.

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\* Late submission.

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## I. INTRODUCTION

1. In resolution 9/7, the Human Rights Council requested the Expert Mechanism to prepare a study on lessons learned and challenges to achieve the implementation of the right of indigenous peoples to education, and to conclude it by 2009.<sup>1</sup>

## II. INTERNATIONAL HUMAN RIGHTS FRAMEWORK

2. Indigenous peoples have historically been among the poorest and most excluded and disadvantaged sector of society. A major factor contributing to the disadvantaged position of indigenous peoples is the lack of quality education - which may be defined as education that is well resourced, culturally sensitive, respectful of heritage and that takes into account history, cultural security and integrity, encompasses human rights, community and individual development, and is designed in a way that is implementable - depriving millions of indigenous children of the basic human right to education.

3. International human rights law recognizes the right to education as a basic human right for everyone. When elaborating on the right to education of indigenous peoples, it is necessary to take into account two categories of human rights provisions: (a) general human rights provisions acknowledging and defining the content of the individual right to education; and (b) international standards specifically recognizing indigenous peoples' rights, including the provisions of the United Nations Declaration on the Rights of Indigenous Peoples.

4. The Declaration reflects the existing international consensus regarding individual and collective rights of indigenous peoples in a way that is coherent with, and expands upon, international human rights standards, including the interpretation of human rights instruments by international bodies and mechanisms. As the most authoritative expression of this consensus, the Declaration provides a framework of action aiming for the full protection and implementation of these rights, including the right to education.

5. Education is recognized as both a human right in itself and an indispensable means of realizing other human rights and fundamental freedoms, the primary vehicle by which economically and socially marginalized peoples can lift themselves out of poverty and obtain the means to participate fully in their communities. Education is increasingly recognized as one of the best long-term financial investments that States can make.

6. Education of indigenous children contributes to both individual and community development, as well as to participation in society in its broadest sense. Education enables indigenous children to exercise and enjoy economic, social and cultural rights, and strengthens their ability to exercise civil rights in order to influence political policy processes for improved protection of human rights. The implementation of indigenous peoples' right to education is an

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<sup>1</sup> In resolution 10/28, the Council requested the Advisory Committee to submit a draft Declaration on Human Rights Education and Training while the Forum on Minority Issues addressed the issue of education at its first session.

essential means of achieving individual empowerment and self-determination.<sup>2</sup> Education is also an important means for the enjoyment, maintenance and respect of indigenous cultures, languages, traditions and traditional knowledge.<sup>3</sup>

7. Important human rights aspects of education include (a) the right of access to quality education; (b) the practice of human rights in and through education; and (c) education as a right that facilitates the fulfilment of other rights.

8. Quality education must recognize the past, be relevant to the present, and have a view to the future. Quality education needs to reflect the dynamic nature of cultures and languages and the value of peoples in a way that promotes equality and fosters a sustainable future.<sup>4</sup>

#### **A. Relevant international human rights instruments**

9. Article 26 of the Universal Declaration of Human Rights states that everyone has the right to education. This right is reaffirmed, contextualized and further elaborated upon in numerous other international instruments, including the International Covenant on Economic, Social and Cultural Rights (arts. 13-14), the International Covenant on Civil and Political Rights (art. 18 (4)), the Convention on the Rights of the Child (arts. 28-31), the International Convention on the Elimination of All Forms of Racial Discrimination (art. 5 (e) (v)), the Convention on the Elimination of All Forms of Discrimination against Women (art. 10), the International Labour Organization (ILO) Convention concerning Discrimination in Respect of Employment and Occupation (Convention No. 111, art. 3), the Convention concerning Basic Aims and Standards of Social Policy (Convention No. 117, arts. 15-16), the Convention against Discrimination in Education, World Declaration on Education for All (UNESCO, 1990), the Vienna Declaration and Programme of Action (part I, para. 33, and part II, para. 80), and the outcome document of the Durban Review Conference (para. 72).<sup>5</sup>

10. The ILO Convention concerning Indigenous and Tribal Peoples (Convention No. 169, arts. 26-31), and the United Nations Declaration on the Rights of Indigenous Peoples (arts. 14-15) contain specific standards concerning the right to education of indigenous peoples. The right is also recognized as a specific right under several treaties concluded between indigenous peoples and States.

11. The right to education is also acknowledged in various regional instruments, including Protocol 1 to the European Convention for the Protection of Human Rights and Fundamental

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<sup>2</sup> Committee on the Rights of the Child, general comment No. 11 (2009) (CRC/C/GC/11).

<sup>3</sup> E/CN.4/2005/88.

<sup>4</sup> *Cross-National Studies of the Quality of Education: Planning their Design and Managing their Impact*, (ed.) Kenneth N. Ross and Iiona Jurgens Genevois, United Nations Educational, Scientific and Cultural Organization, 2006.

<sup>5</sup> Plan of Action for the United Nations Decade for Human Rights Education (1995-2004) (A/51/506/Add.1).

Freedoms (art. 2), Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (art. 13), the African Charter on Human and Peoples' Rights (art. 17) and the African Charter on the Rights and Welfare of the Child (art. 11).

### **B. The aims and objectives of education**

12. All education, whether formal or non-formal, private or public, should be directed towards the aims and objectives of education, as reflected in article 13 (1) of the International Covenant on Economic, Social and Cultural Rights and article 29 (1) of the Convention on the Rights of the Child, including the full development of the human personality, sense of dignity and respect for human rights and fundamental freedoms.

13. Human rights education is an integral aspect for the promotion and achievement of stable and harmonious relations among communities and for fostering mutual understanding, tolerance and peace. Learning about human rights is the first step towards respecting, promoting and defending the rights of all individuals and peoples.<sup>6</sup>

14. The Committee on Economic, Social and Cultural Rights emphasizes that States parties to the International Covenant on Economic, Social and Cultural Rights are required to ensure education conforms to the aims and objectives identified in article 13 (1), as interpreted in the light of other international instruments containing provisions on the right to education. The Committee takes the view that, while these other texts closely correspond to article 13 (1) of the Covenant, they also include elements that are not expressly provided for in article 13 (1), such as specific references to gender equality (article 29 (1) (d) of the Convention on the Rights of the Child) and respect for the natural environment (article 29 (1) (e) of the Convention on the Rights of the Child). These additional elements are implicit in and reflect a contemporary interpretation of article 13 (1) of the International Covenant.<sup>7</sup>

15. Article 29 (1) of the Convention on the Rights of the Child establishes the obligations of States parties to ensure that the aims and objectives of education are fulfilled. Article 29 (1) is indispensably interconnected with a number of other provisions of the Convention, such as, but not limited to, the following rights and freedoms: (a) non-discrimination (art. 2); (b) the best interest of the child (art. 3); (c) the right to life, survival and development (art. 6); (d) freedom of expression (art. 13); (e) freedom of thought (art. 14); (f) right to information (art. 17); (g) rights of children with disabilities (art. 23); (h) right to education for health (art. 24 (2) (e)); (i) right to education (art. 28); (j) linguistic, cultural and religious rights of children belonging to minorities and children of indigenous origin (art. 30); and (k) the right to play (art. 31).

### **C. Access to and content of education**

16. Article 13 (2) of the International Covenant on Economic, Social and Cultural Rights stipulates, while taking into account the conditions prevailing in the State concerned, that in

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<sup>6</sup> World Conference on Human Rights (1993), Vienna Declaration and Programme of Action.

<sup>7</sup> E/C.12/1999/10.

order to achieve the full realization of educational rights, education in all its forms and at all levels should be available to all within the State: primary education should be compulsory and available free to all (art. 13 (2) (a)); secondary education in its different forms should be made generally available and accessible to all by every appropriate means (art. 13 (2) (b)); higher education should be made equally accessible to all, on the basis of capacity, by every appropriate means (art. 13 (2) (c)); fundamental education should be encouraged or intensified as far as possible for persons who have not received or completed primary education (art. 13 (2) (d)); and the development of a system of schools at all levels should be actively pursued (art. 13 (2) (e)). Article 28 of the Convention contains a provision which is normatively similar to article 13 (2) of the International Covenant.

17. The principle of the progressive realization of economic, social and cultural rights, within the limits of available resources,<sup>8</sup> is in some instances invoked by some States in an attempt to legitimize the de facto denial of education to indigenous peoples and other marginalized sectors of national society.

18. The Committee on Economic, Social and Cultural Rights addresses the principle of progressive realization of rights, including the right to education, in its general comment No. 3 (1990). The Committee emphasizes that a State party in which any significant number of individuals is deprived of “the most basic forms of education” is failing to discharge its obligation under the International Covenant on Economic, Social and Cultural Rights. The Committee concluded that, in order for a State to be able to attribute its failure to meet at least its minimum core obligation to a lack of available resources, it must demonstrate that every effort has been made to use all resources that are at its disposition in an effort to satisfy, as a matter of priority, those minimum obligations.

19. Governments are obliged, collectively and individually, to make quality education available to all, accessible without any form of discrimination, acceptable in the light of international human rights standards and adaptable to the circumstances and in the best interest of the child.

20. States are obliged to ensure that functioning educational institutions and programmes are available to indigenous peoples in sufficient quantity within the jurisdiction of the State concerned. What they require to function depends upon numerous factors, including the developmental, social and cultural context within which they operate.

21. States are obliged to ensure that all indigenous school-age children have access to free education, including through indigenous neighbourhood or community-based schools providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning. In order to guarantee cultural safety and culturally appropriate education for indigenous students, curricula must be based on, or sufficiently reflect, indigenous peoples’ cultural values and beliefs. Fiscal allocations sufficiently matching the State’s human rights obligations are also required to ensure the realization of the right to education of indigenous peoples, including specific State-funded programmes for the education and recruitment of indigenous teachers.

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<sup>8</sup> International Covenant on Economic, Social and Cultural Rights, art. 2 (1).

22. States have a duty to ensure that educational institutions and programmes are accessible to all indigenous individuals within the jurisdiction of the State, without discrimination. Consequently, education must be accessible, in law and fact, without discrimination on any of the prohibited grounds. The elimination of discrimination against indigenous peoples, and the elimination of conditions that cause such discrimination, are an important precondition for ensuring that indigenous individuals are not excluded from education. This requires that States take measures to identify existing and potential barriers of discrimination of indigenous individuals in the education system, including legal, political, administrative and fiscal barriers. States should establish a method for the collection of disaggregated data, and develop indicators conforming to international human rights standards, for the purpose of identifying areas of discrimination and other relevant barriers.

23. Education must be within safe physical reach (physical accessibility), either by attendance at some reasonably convenient geographic location or via modern technology, such as access to distance learning. Moreover, education must be affordable to all indigenous individuals (economic accessibility). Primary education should be available free of charge to all. States are required to progressively introduce free secondary and higher education.

24. The indigenous child's right to education is, however, not only a matter of access to and availability of education, but also of the content of education. The form and substance of education, including curricula and teaching methods, have to be culturally appropriate and acceptable to indigenous peoples, that is, relevant, of high quality, culturally safe and appropriate.

25. Acceptability also requires that States ensure that the education system conforms to all human rights standards. In the assessment of whether the education system meets the requirements of international human rights law, general human rights provisions related to the right to education need to be complemented by standards that specifically address the rights of indigenous peoples.

26. States are obliged to ensure that education is flexible and adaptable to the specific needs, cultures, languages and situation of indigenous peoples concerned and responds to their diverse social and cultural settings. For instance, the best interest of an indigenous child might not in all circumstances be identical with the best interest of non-indigenous children owing to their distinct culture, lifestyle and the collective nature of their societies.

#### **D. United Nations Declaration on the Rights of Indigenous Peoples**

27. Numerous provisions of the United Nations Declaration on the Rights of Indigenous Peoples, in particular articles 2, 12 (1), 13, 14, 15, 17 (2) and 44, closely correspond with State obligations under article 13 (1) of the International Covenant on Economic, Social and Cultural Rights and article 29 (1) of the Convention on the Rights of the Child. These provisions reaffirm and apply the essence of Covenant article 13 (1) and Convention article 29 (1) in relation to the specific historical, cultural, economic and social circumstances of indigenous peoples. Interpreted in conjunction with other relevant international human rights standards, they establish the basis for the contemporary understanding of indigenous peoples' right to education.

28. Declaration article 2 reaffirms the existing prohibition of discrimination, as enshrined in numerous other international human rights instruments.<sup>9</sup> Article 2 is also closely linked to article 44 of the Declaration, which establishes that the rights and freedoms recognized therein are equally guaranteed to male and female indigenous individuals. The prohibition of discrimination is subject to neither progressive realization nor the availability of resources, and it applies to all aspects of the right to education of indigenous peoples.

29. Article 12 (1) reaffirms important aspects of article 29 (1) of the Convention on the Rights of the Child, including the obligation of States to ensure that education is directed towards the development of respect for the child's parents, his or her own cultural identity, language and values. Article 12 (1) provides that indigenous peoples have the right to manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies.

30. Article 13 (1) recognizes that indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures.

31. Articles 12 (1) and 13 (1) are both closely linked to the right to education, as they fall largely within the ambit of the right to education as pronounced in other international human rights instruments.

32. Article 14 (1) provides for educational autonomy for indigenous peoples, provided that such arrangements meet minimum standards for education. This provision specifies that 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. Article 14 (1) reaffirms article 29 (2) of the Convention on the Rights of the Child, which provides individuals and bodies with the liberty to establish and direct educational institutions, subject to the observance of certain core principles.

33. Article 14 (2) emphasizes that indigenous individuals have the right to all levels and forms of education of the State without discrimination of any kind. Hence, it reaffirms already existing human rights provisions, such as article 13 (1) of the International Covenant on Economic, Social and Cultural Rights and article 28 of the Convention on the Rights of the Child.

34. Article 14 (3) determines that States shall, in conjunction with indigenous peoples, take effective measures so that indigenous individuals, particularly children, have access, when possible, to an education in their own culture and language. It follows from the provision that indigenous peoples living outside their communities also have the right to have access to an education in their own culture and language, whenever possible.

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<sup>9</sup> Including art. 2 of the International Convention on the Elimination of All Forms of Racial Discrimination, art. 2 (2) of the International Covenant on Economic, Social and Cultural Rights, art. 2 (1) of the International Covenant on Civil and Political Rights and art. 2 (1) of the Convention on the Rights of the Child.

35. Arbitrary administrative or legislative requirements, for example requiring a minimum number of indigenous students in schools outside indigenous communities before such services are provided, are not a sufficient basis for determining whether it is possible to provide education in indigenous cultures and languages for indigenous children living outside their communities. In order for a State to be able to attribute its failure to provide such education services to children living outside their communities, it must demonstrate that every effort has been made to use all resources that are at its disposition in an effort to satisfy, as a matter of priority, this obligation.

36. Article 14 is also implicitly connected to articles 8 and 31 of the Declaration, because it is largely based on an acknowledgement that indigenous cultures, like all other human cultures, possess a mechanism for passing information on to the next generation. Article 8 provides that indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture, and that States should take effective measures for the prevention of and redress for any form of forced assimilation or integration. Culturally appropriate educational systems and institutions are an important element in any effort to ensure that indigenous cultures and languages are maintained and flourish. The rights enunciated in article 31 can only be realized through the intergenerational transfer of knowledge, language and culture.

37. Article 15 largely coincides with the description of the aim and objective of education, as established under article 13 (1) of the International Covenant on Economic, Social and Cultural Rights and article 29 (1) of the Convention on the Rights of the Child. Article 15 is applicable to education provided to both indigenous and non-indigenous individuals. This provision reaffirms that education should be directed at combating prejudice and to the promotion of understanding and tolerance and good relations among segments of society, including the development of respect for the cultural identity, language and values of indigenous peoples. Human rights education is an important tool for the realization of this aim and objective.

38. Article 17 (2) provides that States shall, in consultation and cooperation with indigenous peoples, take specific measures to protect indigenous children from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education or to be harmful to the child's development. The provision emphasizes education as means of empowerment of indigenous children, reaffirming already existing international standards, in particular the standards adopted by ILO, including the Conventions concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (Convention No. 182), the Minimum Age for Admission to Employment (Convention No. 138) and ILO Convention No. 169.

39. The right to education is an indispensable means of realizing indigenous peoples' right to self-determination. Education is a vital precondition for the capacity and ability of indigenous peoples to pursue their own economic, social and cultural development in accordance with article 3 of the United Nations Declaration on the Rights of Indigenous Peoples. Article 3 of the Declaration mirrors other international instruments that uphold the right to self-determination as a collective human right for all peoples, including common article 1 of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and

Cultural Rights. The right of indigenous peoples to establish their own education systems and institutions is an integral part of their right to pursue their own economic, social and cultural development.

40. Article 4 of the Declaration acknowledges that indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions. Article 4 should be interpreted in the light of article 14 of the Declaration, particularly paragraphs 1 and 2, article 27 of ILO Convention No. 169 and article 29 (2) of the Convention on the Rights of the Child. All these provisions call for educational autonomy for indigenous peoples, if the right is invoked by them.

### **III. INDIGENOUS EDUCATION SYSTEMS AND INSTITUTIONS**

41. Indigenous peoples' education systems and institutions can be put into one of two main categories: traditional education or ways of learning and institutions; or integration of indigenous perspectives and language in mainstream education systems and institutions.

42. The right of indigenous peoples to establish and control their education systems and institutions under article 14 (1) of the United Nations Declaration on the Rights of Indigenous Peoples, articles 27 and 29 of ILO Convention No. 169 or article 29 (1) of the Convention on the Rights of the Child should be interpreted as being applicable to both traditional and mainstream education systems and institutions. Consequently, States are expected to equip indigenous communities by integrating their perspectives and languages into mainstream education systems and institutions, and also by respecting, facilitating and protecting indigenous peoples' right to transfer knowledge to future generations by traditional ways of teaching and learning.

#### **A. Traditional education and institutions**

43. Traditional education can be described as a lifelong pedagogical process and an intergenerational transfer of knowledge aimed at maintaining a flourishing and harmonious society or community. Children from a young age receive guidance on various aspects of indigenous development from older members of the community to prepare them for life and their responsibilities towards their community. Intergenerational transfer of knowledge ensures that community members enjoy adequate economic security in an environment of sociocultural and political stability. For this to be realized, States should enable indigenous peoples to maintain and develop their political, economic and social systems and institutions.

44. Traditional education is achieved through the principles of participatory learning, holistic growth, nurturance and mutual trust. Participatory learning requires community members to be fully engaged in the learning process, through exposure, observation, practice or dialogue. Except for certain specialized knowledge and skills, children are exposed from an early age to different types of life-skill activities in the community. Through the examples of adults around them, children learn indigenous ways of life. Children also learn customary laws, expressed through prohibitions and limitations of what one can do in a community.

45. Holistic growth involves education on the community's ideals, knowledge and perspectives in developing its own cultural, social, spiritual, economic, political, juridical, natural resources, health and technological systems. Learning is conducted in a participatory way that encourages nurturance and mutual trust between learners and teachers,<sup>10</sup> with the active giving and sharing of knowledge. As it is based on the concept of lifelong education, there are no barriers such as time frames, grading or age limits.

46. Holistic traditional education includes sustainable use and management of lands, territories and resources. Recognizing traditional education also means acknowledging its important link to indigenous peoples' lands, territories and resources; ensuring access to these resources is a prerequisite for the transfer of fundamental elements of traditional knowledge.

47. Traditional skills and knowledge may be transmitted through apprenticeship, repetitive practice and instruction and direct observation. Transmission of spiritual knowledge may come in other forms, such as dreams or as gifts. In most indigenous societies, learning is mainly conducted through oral tradition, making the maintenance of language a vital part of education.

48. Specific traditional occupations that require a high degree of discipline, technical and spiritual understanding, such as healing, carpentry and ironsmithing, are learned through apprenticeship. The apprentice stays with his or her master until the knowledge has been passed from master to pupil.

49. Repetition and application are central to learning the oral tradition. These techniques are employed in transmitting knowledge related to healing (such as knowledge of plants and animals), cultures (languages, songs, dances, weaving), economic and resource management (such as farming or water management), governance (customary laws and political institutions), and social relationships (kinship, behavioural norms and so on).

50. Direct observation through active involvement in activities encourages reflection; with prompting from elders, children learn what is necessary to prepare them to be an adult and an effective member of the community.

#### **B. Integration of indigenous perspectives into mainstream education systems and institutions**

51. Indigenous peoples have made tremendous efforts to integrate indigenous perspectives and languages into mainstream or formal education. Mainstream education systems usually involve a standard set of curricula provided by education ministries based on government policy. The inclusion of indigenous ways of learning, instructing, teaching and training is important in ensuring students/learners and teachers/instructors in mainstream institutions are able to benefit from education in a culturally sensitive manner that draws upon, utilizes, promotes and enhances awareness of indigenous perspectives and languages.

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<sup>10</sup> In this context, a "teacher" denotes an elder or younger person who holds particular knowledge and who is engaged in transmitting this knowledge to other community members.

52. For indigenous students/learners and teachers/instructors, the inclusion of the above-mentioned methods often enhances educational effectiveness, success and learning outcomes by providing education that adheres to indigenous peoples' own inherent perspectives, experiences and world views. For non-indigenous students and teachers, education using such methods has resulted in greater awareness, respect for and appreciation of other cultural realities.

53. In terms of educational content, indigenous educators, organizations and parents have been working with ministries, institutions and donors to include indigenous perspectives in school curricula and to produce educational materials.

#### **IV. LESSONS LEARNED**

##### **A. Creating national laws and policies**

54. The Expert Mechanism considers the constitutional recognition of indigenous peoples and the adoption of related national laws and policies on education a priority in applying the right of indigenous peoples to education.

55. 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.<sup>11</sup> Such legislations have led to the establishment of indigenous learning centres that have benefited communities and allowed indigenous organizations to secure financial support from their respective Governments or interested donors.

56. 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 and multilingual education, intercultural education and the effective participation of indigenous peoples in designing education programmes.<sup>12</sup> Policies of complementary education for indigenous peoples permit the implementation of intercultural education in schools and colleges with the aim of moving towards multiculturalism and the recognition of the diversity of peoples.

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<sup>11</sup> 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.

<sup>12</sup> 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.

57. The Expert Mechanism urges States to adopt a policy framework for quality education for indigenous peoples, set clear goals, targets and priorities, and develop indicators to measure achievements, together with indigenous peoples,<sup>13</sup> that could include greater participation, improved literacy skills, lower truancy rates and the gaining of meaningful qualifications.<sup>14</sup>

### **B. Financial and infrastructure support**

58. To make policies and laws on the right of indigenous peoples to education effective and implementable, the provision of resources and the attaching of a high priority to the education of indigenous peoples are of utmost importance. Currently, funding allocations by Governments, international non-governmental organizations or United Nations agencies are mainly used to build infrastructure and to provide human resources.

59. The improvement of infrastructure, particularly of education centres in remote villages, is necessary to allow indigenous children equal access and opportunities to obtain quality education. Home schooling, a remote learning model, provides an opportunity for children in remote villages to receive an education without having to attend boarding schools.<sup>15</sup> Funding priorities should include providing quality education to nomadic communities and indigenous peoples in remote areas and to women and girls through mobile school and scholarships.<sup>16</sup>

60. Allocating targeted financial resources for the development of materials, testing proposed culturally appropriate curricula, teaching indigenous languages, providing support for training and incentives for teachers in rural schools and developing education programmes in cooperation with indigenous peoples are also effective initiatives. An equally important consideration for communities located in isolated and sparsely populated areas is that the allocation of funding for infrastructure should not be made based on a school-to-population ratio.

61. Financial support by non-governmental organizations and international donors for indigenous ways of learning, particularly the intergenerational transfer of knowledge and skills on farming, handicrafts, the making of implements, health care and the establishment of indigenous vocational centres contribute to the maintenance of traditional occupations and economically sustained communities. State recognition and support would thus enhance and promote vibrant communities. One example of a government-supported indigenous institution is the Sámi University College.<sup>17</sup>

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<sup>13</sup> In British Columbia, Canada, enhancement agreements between indigenous communities and school districts involve shared decision-making and specific mutually agreed goal-setting to meet the needs of indigenous students.

<sup>14</sup> “Ka Hikitia - managing for success: the Māori education strategy 2008-2012”, submission by the Government of New Zealand.

<sup>15</sup> See [www.bangkokpost.com/education/site2007/cvjl3107.htm](http://www.bangkokpost.com/education/site2007/cvjl3107.htm).

<sup>16</sup> CERD/C/NAM/CO/12.

<sup>17</sup> Submission by Gáldu Resource Centre for the Rights of Indigenous Peoples (Norway).

### **C. International development assistance**

62. Most States subscribe to the Millennium Development Goals of achieving education for all.<sup>18</sup> At the World Education Forum in Dakar in 2000, Governments made additional commitments to ensuring that all children, particularly girls and indigenous peoples, had access to free primary education by 2015.<sup>19</sup>

63. Effective participation of indigenous peoples in the development of education budgets with relevant government departments is critical to ensure that their concerns and needs are included and understood by donors.

### **D. Establishing and controlling traditional education and institutions**

64. Indigenous education institutions have been established primarily to promote indigenous perspectives, innovations and practices in an environment that replicates traditional ways of learning. These institutions complement community efforts, particularly in rural areas, through both traditional and contemporary institutions, to maintain traditional intergenerational education.

65. In some examples, communities have adapted traditional ways of learning to allow community members to systematically learn and teach indigenous cultures and traditions in an everyday setting. The Talaandig School of Living Tradition (Philippines) and the Community Learning Centres (Malaysia) build venues where community members can carry out activities, or discuss and resolve issues collectively. Respected elders and other knowledge-holders in the community make up the institution that guides the activities. Similar initiatives are being implemented in indigenous territories in Colombia, and among the Maasai in Kenya.

66. In another example, from Western Australia, elders develop ways to stop substance misuse, self-harm and suicide, and to promote life skills and sustainable livelihoods in their communities through youth leadership, land management and community development. Confidence-building through culture incorporating back to country trips for youth at risk has been successful in getting youths away from substance abuse and returning to their communities.<sup>20</sup>

### **E. Interfacing between traditional and mainstream education systems and institutions**

67. Valuable lessons can be drawn from examples of the integration of indigenous perspectives into mainstream education curricula to promote an interface between traditional and State education systems.

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<sup>18</sup> Background note of the Secretary-General, entitled “Committing to action: achieving the Millennium Development Goals”.

<sup>19</sup> The Dakar Framework for Action, UNESCO (2000).

<sup>20</sup> Submission by the Australian Human Rights Commission.

68. Non-governmental and other organizations in Asia have found that assistance has to be provided in a holistic way to work successfully with indigenous communities in remote areas. Support may be provided in the form of construction materials to renovate or build schools, assistance to develop curricula, teaching aids and materials, teacher training, capacity-building and poverty alleviation. Culturally appropriate curricula based on a guide incorporating indigenous languages and perspectives and provided by the Government were developed and taught in community schools by teachers selected from the communities themselves. Courses offered range from preschool to tertiary level, including full-time degrees and short-term training courses.<sup>21</sup>

69. The integration of indigenous perspectives into mainstream education programmes assists in the development of vocational and life skills and allows indigenous students to be proud of their own cultures and way of life, and confidently engage and succeed academically.<sup>22</sup>

70. Depending on the level of collaboration and openness of school officials, traditional forms of teaching methods can be employed to help indigenous students attain a greater appreciation of learning. The effective incorporation of traditional forms of teaching includes use of oral traditions, storytelling by elders, and teaching in the school, at home and in the forests or fields.<sup>23</sup> Research by indigenous scholars into traditional knowledge and cultures was also found to contribute to the conservation of indigenous lifestyles.<sup>24</sup> Adult education has also become common in many countries, ranging from formal class-based learning to self-directed learning. Respecting the expertise of indigenous elders and providing them with a significant role in an integrated mainstream education system were also found to be effective ways to revitalize indigenous societies and improve learning among indigenous students.

71. Engaging institutes of higher learning to provide relevant courses for indigenous scholars is another way to integrate traditional and mainstream education, as seen in the experience of Canada and New Zealand.<sup>25</sup>

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<sup>21</sup> Submissions by GAPE (Lao Peoples' Democratic Republic), [www.geocities.com/gapelaos/pathoumphone](http://www.geocities.com/gapelaos/pathoumphone); PACOS Trust (Malaysia); Pamulaan Center for Peoples' Education (Philippines), <http://pamulaan.assisi-foundation.org>; TUGDAAN Mangyan Center for Indigenous People Education (Philippines), <http://tugdaan.assisi-foundation.org>.

<sup>22</sup> *A Case Study: From Poverty to Power*, Oxfam International (2008).

<sup>23</sup> Submission by the Indigenous Knowledge and People Network.

<sup>24</sup> Submission by the Sámi University College.

<sup>25</sup> Submission by the First Nations Education Steering Committee (Canada) and the New Zealand Human Rights Commission.

72. In Latin America, bilingual and intercultural approaches to education are widely promoted and have been found to have a certain degree of success in the preservation of identity and culture and vital in tackling discrimination and the exclusion of indigenous peoples.<sup>26</sup>

73. Joint curriculum development between indigenous peoples and education ministries has had a tremendous impact not only in terms of achieving results but also of relationship-building and commitment to partnership and inclusiveness. Close collaboration with mainstream education authorities is needed to bring about a change in attitude by education officers and State institutions.<sup>27</sup> Such a change, and the seriousness of States in carrying out their responsibilities, will determine the progress of implementing the right to education of indigenous peoples.

#### **F. Teaching of indigenous languages**

74. Mother-tongue-based bilingual and multilingual education has had a positive impact in many countries.<sup>28</sup> Governments and donors now recognize initiatives by indigenous organizations as effective strategies to bridge education for indigenous children in mainstream education institutions; in many countries, they receive financial support from the State.

75. The main concept of mother-tongue-based bilingual and multilingual education is that, once a child learns his or her indigenous language well, learning other languages will be easier. The benefits of mother-tongue-based multilingual education include a better personal and conceptual foundation for learning (if indigenous languages are learnt well and not suppressed); access to more information and opportunities (knowing other languages and other cultures); and more flexible thinking processes, thanks to the ability to process information in two languages.

76. Most indigenous children are disadvantaged when they join primary schools and cannot speak the national language, which is usually the teaching medium. Valuable lessons learned to decrease this disadvantage include using a participatory approach whereby indigenous representatives are involved in decision-making processes, developing books and materials, managing lessons and selecting community members to be trained as language teachers.<sup>29</sup>

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<sup>26</sup> Submissions indicating bilingual and intercultural education were received from Argentina, Bolivia (Plurinational State of), Colombia, Ecuador, Mexico and Nicaragua.

<sup>27</sup> Submission by the British Columbia Ministry of Education and FNEC.

<sup>28</sup> Submissions referring to mother-tongue-based bilingual or multilingual education were received from Argentina, Australia, Bangladesh, Bolivia (Plurinational State of), Cambodia, Canada, Colombia, Ecuador, Finland, Malaysia, Mexico, Namibia, Nepal, New Zealand, Nicaragua, Norway, the Philippines, South Africa and Thailand.

<sup>29</sup> Submissions by Zabarang Kalyan Samiti (Bangladesh); CARE (Cambodia); Sunuwar Welfare Society (Nepal); and ILO (on teacher training in Peru).

77. Experience in Norway and Malaysia<sup>30</sup> reveals that teaching children in their own language during early child (preschool) education establishes a firm foundation and facilitates learning of other languages at a later age. Effective methods include centring language learning on the community, including allowing children to meet native speakers and culture-bearers in natural community settings.<sup>31</sup>

78. Good examples of teaching of indigenous languages at higher levels of education as the mother tongue or as an optional language in universities also exist, such as in Sámi University College in Norway, which delivers education and research within a range of programmes, including the Sámi language. At the College, the Sámi language is both the medium of instruction and the language of administration.<sup>32</sup> Experience shows that information and communication technologies, such as online dictionaries, radio and audio-visuals, enhance language learning. Financial support for these endeavours could benefit isolated and nomadic communities.

79. Enacting laws relating to mother-tongue multilingual education and the setting-up of institutes can ensure compulsory education provided by the State will include indigenous languages, such as in Mexico, under the general law of the linguistic rights of indigenous peoples and the establishment of a national institute of indigenous languages.

80. Some numerically small, disadvantaged indigenous groups are specifically vulnerable to losing their languages and marginalization in the education sector. These groups should be identified and targeted through decisive measures to assist in the preservation of their languages, including by elaborating standard orthographies, grammars, vocabularies and materials.<sup>33</sup>

### **G. Training programmes and certification of teachers and institutions**

81. Teacher training and capacity-building initiatives aimed at allowing communities to manage education projects independently are essential for the successful, long-term implementation of any curriculum. Successful teacher training programmes include strategies for teachers to be competent to teach culturally appropriate curricula and indigenous languages, and to enhance the engagement and academic achievement of indigenous learners. The experience of many schools reflects the need for stricter rules on discrimination against indigenous pupils by teachers. Community involvement contributes to better supervision and monitoring of teachers. Parents, particularly mothers, elder members and indigenous community organizations can be encouraged to play this role.

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<sup>30</sup> Submissions by the Sámi University College and Sámi Parliament in Norway, PACOS Trust, Malaysia.

<sup>31</sup> Submission by Gáldu Resource Centre for the Rights of Indigenous Peoples.

<sup>32</sup> Submission by the Sámi University College.

<sup>33</sup> Submission by ILO.

82. Increasing funding and incentives for teachers to remain in remote areas were found to be successful to a certain degree. The most effective strategy, however, is still the recruitment and special training of teachers from indigenous communities to teach in their localities, which may require flexibility in interpreting formal recruitment criteria.

83. Acceptance of certification of teachers through an internationally recognized institution is one way of maintaining standards. Teacher certificates and the certification of indigenous institutions are issued and monitored by the World Indigenous Higher Education Consortium, and the institutes are assisted with the development of standards and their implementation, to attain global recognition and guidance for teachers.

#### **H. Networking and participation**

84. A former Special Rapporteur recommended the participation of indigenous peoples in all phases of the planning, design, implementation and evaluation of reforming education systems.<sup>34</sup> Shared decision-making and involvement of community leaders and parents is critical to the successful implementation of indigenous peoples' right to education.<sup>35</sup> As such, training of community leaders, especially women, and responding to the needs of the community to support community education initiatives are considered complementary activities.

85. Networking between communities, local groups and organizations at the national and international levels can assist communities in sharing resources, addressing problems and supporting one another. In many countries, community volunteers contribute labour and financial resources for the construction of school facilities and hostels and to supply food to students, or volunteer as teachers. Appreciation for these contributions not only encourages the communities, but will build support in implementing Government education programmes.

#### **V. CHALLENGES AND MEASURES**

86. The Special Rapporteur identified a number of serious concerns raised by indigenous peoples, organizations and civil society organizations related to the right to education. They included (a) the lack of control over education initiatives for indigenous children; (b) the lack of consultation on the development and implementation of educational services provided to indigenous peoples; (c) the failure to consult with indigenous leaders on proposals for legislation on indigenous education; (d) the limited consideration given to autonomy and participation of indigenous peoples in the delivery of educational services, including multicultural and mother-tongue-based bilingual education; (e) the limited opportunities of access to quality mother-tongue-based bilingual education; (f) the failure to develop educational opportunities for

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<sup>34</sup> E/CN.4/2005/88.

<sup>35</sup> Submissions by Zabarang Kalyan Samiti (Bangladesh); CARE (Cambodia); the Sunuwar Welfare Society (Nepal); the PACOS Trust (Malaysia); the First Nations Education Steering Committee (Canada); the Gáldu Resource Centre for the Rights of Indigenous Peoples; the Australian Human Rights Commission; and WIMSA (Namibia).

indigenous peoples that demonstrate respect for their history and culture; (g) the lack of adequate supplies, funding and teachers, and poor quality schools; (h) the general lack of focus on education for indigenous peoples; (i) educational materials that only reflect the culture of dominant groups; (j) insufficiently funded and developed multilingual educational programmes; (k) inadequate teacher training and the lack of scholarships for indigenous students; and (l) the inadequate development of culturally appropriate curricula.<sup>36</sup>

87. The Special Rapporteur concludes that the full enjoyment of the right to education as recognized in international human rights law is not a reality for most indigenous peoples, and that the main impediments to this right are discrimination and lack of equal access to education.

#### **A. Non-recognition of traditional education and institutions**

88. The limited ratification of relevant international human rights instruments by many States is a major obstacle to the recognition of indigenous peoples' rights. As a result, traditional education and institutions in particular do not get the necessary legislative support of international standards.

89. In Asia and Africa, where indigenous peoples' rights are not always recognized or protected under the law, indigenous organizations have pressed their Governments to recognize traditional education and institutions and to respect indigenous values and knowledge systems by using national constitutional provisions prohibiting discrimination on the grounds of ethnic origin, religion or gender. The assimilationist model of education has accelerated the transformation and ultimate disappearance of indigenous cultures and languages.<sup>34</sup>

90. Urgent efforts to revitalize traditional education should be made, particularly among the younger generation. Considering the lack of understanding of and respect for the concepts and principles of traditional education, Governments must attach greater importance to building understanding and to providing adequate funding for initiatives by indigenous organizations to establish traditional education institutions.

#### **B. Discrimination and poor access to education**

91. Indigenous peoples have been subjected to monolithic mainstream education systems that have eroded traditional ways of life and languages, imposed foreign ideologies and belief systems and institutionalized discriminatory attitudes against indigenous peoples, leading to further marginalization and the exacerbation of conflicts, including armed conflicts. Mainstream education systems have been imposed through State institutions, political ideologues, religious groups, non-governmental organizations and business interests.<sup>37</sup> It is the responsibility of States to address and undo past wrongs to reform mainstream education systems.

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<sup>36</sup> Submission by the Special Rapporteur entitled "Comments on challenges to the enjoyment of the right to education".

<sup>37</sup> Asia Indigenous Caucus statement on item 3 of the provisional agenda at the first session of the Expert Mechanism.

92. States can also overcome discrimination and marginalization by helping indigenous peoples to gain the knowledge necessary to participate fully and equally in national society. Removing stereotypes, inappropriate terminologies and other negative elements in school textbooks and materials, developing strict rules against discriminatory attitudes, eradicating poverty and promoting intercultural education are some of the measures that could be taken.

93. Access to education for indigenous peoples can be challenging, as it encompasses many issues, including poverty and gender issues. Measures to overcome these challenges need to be firmly grounded on human rights standards. Furthermore, human rights and gender education should be among the most important subjects taught in school.

94. Small rural or nomadic communities also face numerous difficulties in gaining access to State education institutions, mainly because of their geographical isolation. For this reason, sufficient funding should be given to ensure suitable education at all levels according to situation.<sup>38</sup> Other measures, such as outreach programmes, use of information communication technologies and radios, mobile schools, improved infrastructure, safe transportation and working with communities to establish community schools are also necessary measures.

95. Special temporary measures should be taken also to ensure access to education for internally displaced persons, migrant workers and refugees from indigenous communities.

### **C. Issues affecting women**

96. In certain communities, social norms prevent indigenous girls from attending schools. Families often prefer girls to remain at home to perform domestic chores and care for children and siblings; others prefer their daughters to be married off at a young age.<sup>39</sup> This, coupled with other ongoing exclusion and discrimination of indigenous girls and women, has led to serious consequences for the community and society.<sup>40</sup>

97. Measures to ensure the provision of education at all levels for indigenous girls and women should be seen as a matter of urgency. Instruments of dialogue would help to mediate conflicting issues and norms within indigenous societies and to ensure equal access to education for indigenous girls and women.

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<sup>38</sup> Submission by ILO.

<sup>39</sup> Submission by the Mbororo Social and Cultural Development Association (Cameroon), Association des femmes peuls autochtones du Tchad (Chad) and Association pour la redynamisation d'élevage au Niger (Niger).

<sup>40</sup> Submission by ILO.

#### **D. Aid effectiveness**

98. According to a report by the Secretary-General, multilateral and bilateral assistance can play a significant role in providing a predictable budget for education. Although aid directed to basic education for low-income countries increased from \$1.6 billion in 1999 to \$5 billion in 2006, it is still well below the estimated \$11 billion in aid required annually to reach universal primary education by 2015. Trust funds created to accelerate progress in developing countries with no regular access to bilateral and multilateral funds are supported by very few donors, and resources are too limited to provide reliable budget support. Additional efforts will have to be made to improve aid effectiveness by strengthening the capacity of national education systems.<sup>41</sup> The Expert Mechanism urges increased funding allocation to indigenous peoples' educational needs through international development programmes and initiatives.

99. A challenge is posed, however, by the Paris Declaration on Aid Effectiveness with regard to the five key principles (ownership, alignment, harmonization, managing for results, mutual accountability) of international development cooperation. Support for indigenous peoples can even be omitted if participation in government structures or in decision-making is weak, or if indigenous peoples have little political leverage or are absent in the Government's overall strategy. Measures must be taken to address such deficiencies using a rights-based approach and to include requirements such as governance, inclusiveness, transparency and quality with respect to education.

100. Donors and international agencies should also prioritize the right to education of indigenous peoples within their administered programmes and strengthen the capacity of developing countries to meet the educational needs of indigenous peoples. The Assistance Committee of the Organization for Economic Cooperation and Development is also urged to take steps to include oversight and accountability of development effectiveness for indigenous peoples in their peer reviews, and to disseminate the results.<sup>42</sup>

#### **E. Fiscal allocations**

101. Public spending on indigenous education is generally inadequate and lower than for other sectors of the population, and teachers of indigenous children tend to receive lower pay and incentives than other teachers.<sup>43</sup> In remote areas where many indigenous communities are residing, basic infrastructure, including schools and roads, is still lacking. Financial support for the development of materials, testing of curricula and adequate support and incentives for teachers to teach in rural schools is limited, and, in some countries, unavailable.

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<sup>41</sup> Submission by Gáldu Resource Centre for the Rights of Indigenous Peoples (Norway).

<sup>42</sup> Submission by Amnesty International Australia.

<sup>43</sup> Submission by ILO.

102. As disaggregated data on Government spending in education for indigenous peoples are often limited and difficult to obtain, it can be a challenge to convince States to invest more in this sector. There is a need for States to conduct a study to measure outcomes of Government spending, such as the number of teachers, infrastructure and equipment.

#### **F. Institutionalization of educational services**

103. The institutionalization of education services invariably leads to its standardization. The prescribed concept and definition of schools that do not fit into indigenous cultures and conceptual framework and the standard service delivery and specifications of school buildings are also problematic, especially in remote areas where indigenous peoples seek to obtain recognition for the establishment of learning centres in the absence of State educational services.

104. The diversity of indigenous peoples means that education for indigenous peoples cannot conform to a single model. Education models, such as traditional ways of learning and teaching, distance learning, adult education and curricula adapted to the community's need should be accepted.

105. The Expert Mechanism concurs with the recommendation of the Special Rapporteur that courses on indigenous peoples be broadened at all levels of national education, with an anti-racist, multicultural focus that reflects respect for cultural and ethnic diversity and, in particular, gender equality.<sup>34</sup>

106. The lack of well-trained, culturally competent teachers was identified as a serious problem in several reports and submissions received.<sup>44</sup> Recruitment and deployment of teachers need to be reformed so that an adequate number of teachers from the community can be selected and trained. In this regard, the assistance of teachers' unions and community leaders should be sought.

107. There is also a scarcity of indigenous language experts and documentations, particularly in Africa and Asia, and a lack of effective teaching methods of indigenous knowledge and skills, which are still largely transferred through oral tradition. An effort to harness experiences and skills in traditional education would be an important step in advancing and achieving the implementation of the right of indigenous peoples to education.

#### **G. Governance and creating appropriate curriculum**

108. The lack of participation by indigenous peoples in the planning, programming and implementation of existing curriculum poses a major challenge.<sup>34</sup> Discrimination and prejudice against indigenous peoples can be combated by including indigenous representatives and

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<sup>44</sup> Eighth and ninth meetings of the Joint Expert Group UNESCO (CR)/ECOSOC (CESCR) on the monitoring of the right to education and on the inclusive dimensions of the right to education, UNESCO (2008), and E/CN.4/2005/88.

educators in curriculum development with the aim of reflecting indigenous perspectives in an appropriate and respectful way. Universities and research centres could increase their involvement in the preparation of multidisciplinary curricula.

109. Education is usually centrally controlled by Governments, and, in many countries, educational activities not employing government curriculum are scrutinized. Many national education policies in Asia and Africa do not provide for the inclusion of indigenous perspectives in the national curriculum. Such barriers should be reviewed with a view to reforming education laws and policies, making them more inclusive and sensitive to indigenous values and perspectives. Reforms should also include a decision-making authority for indigenous peoples.

110. The policy and approach to mother-tongue-based multilingual education is also unclear and keeps changing. As a result, indigenous educators and teachers are not able to reach an agreement or to plan teaching indigenous languages systematically, leading to disputes. It is imperative therefore that a step-wise policy to promote all cultures and languages, especially endangered languages, be followed. Sufficient funding is needed to support the development of teaching methods for the pupil's own language and literacy materials and scripts. Discriminatory remuneration for indigenous language teachers should also be removed.

111. Education for indigenous peoples should be holistic. Mainstream education curricula should therefore cover human rights, environmental protection, the importance of lands and resources for indigenous peoples and physical education.

#### **H. Gaps in educational quality and measurement of achievements**

112. Educational services in indigenous areas are more often than not underfunded, of low quality and poorly equipped. Indigenous children often attend the worst schools, with the least educated teachers and the smallest amount of resources. To achieve quality education for indigenous peoples, it is important to ensure consultation with and participation and consent of the target community and to establish good communication between interested parties, given that quality standards may vary from State to State, and between indigenous and non-indigenous children.

113. Most countries do not have disaggregated data that can give an accurate description of the education of indigenous peoples. Nevertheless, where data are available, they suggest that indigenous peoples invariably lag behind the general population with regard to educational quality and achievements. The rates of enrolment and completion of education among indigenous children, in particular girls, remain low.<sup>45</sup>

114. There is therefore a need for ongoing data gathering and monitoring of outcomes. The Education for All framework, which specifies six education goals to meet the learning needs of all children, youth and adults by 2015, could be a useful basis for data gathering. It is of utmost

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<sup>45</sup> *Handbook on Combating Child Labour among Indigenous and Tribal Peoples*, ILO (2006).

importance, however, that Governments, indigenous peoples, donors and civil society organizations work together to ensure that special approaches are devised to coincide with the aspirations of indigenous peoples, within the context of national Education for All strategies.<sup>46</sup>

115. Human rights indicators can also be used as a tool. OHCHR has prepared a structural process outcome methodological framework for human rights indicators. The framework assesses institutional mechanisms for the realization of human rights, such as the ratification and adoption of legal instruments, the evaluation of State policy instruments which can lead directly to the realization of a human right, and capturing individual and collective attainments of human rights in context.

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<sup>46</sup> The six goals, which also form part of the Millennium Development Goals, are (1) to expand early childhood care and education; (2) to provide free and compulsory primary education for all; (3) to promote learning and life skills for young people and adults; (4) to increase adult literacy by 50 per cent; (5) to achieve gender parity by 2005, gender equality by 2015; and (6) to improve the quality of action.

## Annex

### **EXPERT MECHANISM ADVICE No. 1 (2009) ON THE RIGHTS OF INDIGENOUS PEOPLES TO EDUCATION**

1. Education is a universal human right fundamental to the exercise of other human rights; everyone has the right to education pursuant to international human rights law. Education is also an empowerment right, through which economically and socially marginalized individuals can obtain means to participate fully in their communities and economies, and in the society at large.
2. Education is the primary means ensuring indigenous peoples' individual and collective development; it is a precondition for indigenous peoples' ability to realize their right to self-determination, including their right to pursue their own economic, social and cultural development.
3. The right of indigenous peoples to education includes the right to provide and receive education through their traditional methods of teaching and learning, and the right to integrate their own perspectives, cultures, beliefs, values and languages in mainstream education systems and institutions. The right to education for indigenous peoples is a holistic concept incorporating mental, physical, spiritual, cultural and environmental dimensions.
4. The full enjoyment of the right to education as recognized in international human rights law is far from reality for most indigenous peoples. Deprivation of access to quality education is a major factor contributing to social marginalization, poverty and dispossession of indigenous peoples. The content and objective of education to indigenous peoples in some instances contributes to the assimilation of indigenous peoples into mainstream society and the eradication of their cultures, languages and ways of life.
5. The right of everyone to education is enshrined in numerous international human rights instruments, including the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, ILO Convention No. 117 on Social Policy, the UNESCO Convention against Discrimination in Education. It is also reaffirmed in various regional human rights instruments.
6. The United Nations Declaration on the Rights of Indigenous Peoples, and ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries contain specific provisions on indigenous peoples' right to education. Several treaties between indigenous peoples and States acknowledge the right of indigenous peoples to education and educational services as a treaty right.
7. The Declaration is coherent with and expands upon legally binding human rights instruments and international jurisprudence developed by international supervisory bodies and mechanisms. The Declaration, interpreted in conjunction with other international instruments, provides an authoritative normative framework for the full and effective protection and

implementation of the rights of indigenous peoples. In the context of education, the Declaration reaffirms and applies the right to education to the specific historical, cultural, economic and social circumstances of indigenous peoples.

8. Article 14 of the Declaration acknowledges that 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. This reaffirms existing international human rights law, including article 29 (2) of the Convention on the Rights of the Child and article 27 (3) of ILO Convention No. 169. The right of indigenous peoples to establish and control their education systems and institutions applies to traditional as well as formal education systems and institutions.

9. Numerous other provisions of the Declaration (arts. 1, 2, 3, 4, 8 (1), 8 (2), 12, 13, 14 (2) (3), 17 (2), 31, 44) either reaffirm and apply the essence of already existing human rights treaty obligations on the right to education, or are inseparably linked to provision on the right to education of the Declaration, applicable to both traditional and formal education.

10. In view of the prevailing lack of understanding of and respect for the concepts and principles of traditional education, Governments are urged to attach importance to building understanding and respect for traditional methods of teaching and learning, including by providing adequate funding for initiatives by indigenous peoples and communities to strengthen or establish traditional educational initiatives.

11. The right of indigenous peoples to traditional education may be closely, and in some instances inseparably, associated with the use of their traditional lands, territories and natural resources. States must give legal recognition and protection to such lands, territories and resources with due respect for indigenous peoples' customs, customary law and traditions.

12. States are obliged, collectively and individually, to make quality education available to all indigenous peoples, accessible without any prohibited form of discrimination, acceptable in the light of international human rights standards, and adaptable to the circumstances and in the best interest of indigenous peoples. States should address past wrongs, including by removing stereotypes, inappropriate terminologies and other negative elements referring to indigenous peoples in textbooks and educational materials. States should promote intercultural education, as well as develop and strictly implement provisions aimed at eliminating discrimination against indigenous peoples in the educational system.

13. Educational programmes and services for indigenous peoples must be developed and implemented in consultation and cooperation with the indigenous peoples concerned in order to address and incorporate their special needs, histories, identities, integrity, values, beliefs, cultures, languages and knowledge, as well as their social, economic and cultural priorities and aspirations. Educational programmes and services for indigenous peoples should be of high quality, culturally safe and appropriate, and must not aim at or result in unwanted assimilation of indigenous peoples.

14. Indigenous peoples, in exercising their right to self-determination, have the right to educational autonomy. States, in consultation and cooperation with the peoples concerned, must ensure the realization of educational autonomy, including the financing of such autonomous

arrangements. Indigenous peoples should be regarded as having prepaid present and future financial allocations from the State, including allocations to education, by sharing their lands, territories and resources with others.

15. The right of indigenous peoples to educational autonomy includes the right to decide their own educational priorities and to participate effectively in the formulation, implementation and evaluation of education plans, programmes and services that may affect them, as well as the right to establish and control their own education systems and institutions, if they so choose.

16. States should support the efforts of indigenous peoples to maintain and develop their own political, economic, social, cultural and education systems and institutions. National law and policy frameworks should be enacted or reformed, and budgets allocated to support traditional as well as formal education institutions that are established with the aim of developing and implementing appropriate programmes and activities for and by indigenous peoples.

17. The adoption of national legislation and policies that specifically address and acknowledge indigenous peoples' right to education, pursuant to international human rights law, should be regarded as a matter of priority by States. Constitutional recognition of the existence of indigenous peoples and their rights provides a solid legal basis for the adoption and implementation of legislation on indigenous peoples' rights, including the right to education.

18. The Expert Mechanism recommends that States follow a step-wise policy that could help promote all indigenous languages. Sufficient funding is needed to support the development of teaching methods, literacy materials and orthographies in the pupil's own language.

19. The Expert Mechanism highlights the need for disaggregated educational data, and recommends that States establish methods and systems for the collection of disaggregated data and develop indicators conforming with international human rights standards in the field of education, for the purpose of identifying barriers preventing indigenous peoples from enjoying fully the right to education and to reform education laws and policies to be more inclusive and sensitive to indigenous values and perspectives.

20. Measures to ensure the provision of education at all levels for indigenous girls and women should be seen as a matter of urgency. The Expert Mechanism is of the view that instruments of dialogue would help to mediate conflicting issues and norms within indigenous societies and to ensure equal access to education for indigenous girls and women.

21. Education for indigenous peoples should be holistic; mainstream education curricula should include human rights, environmental protection, importance of lands and resources for indigenous peoples and physical education.

22. Human rights education is an integral aspect for the promotion and achievement of stable and harmonious relations among communities and for fostering mutual understanding, tolerance and peace. Learning about human rights is the first step towards respecting, promoting and defending the rights of all individuals and peoples.

23. The Expert Mechanism recommends that States identify specific challenges and possible measures to achieve the implementation of the right of indigenous peoples to education in their respective countries, in consultation and cooperation with indigenous peoples.

24. The Expert Mechanism recommends that States Members of the United Nations pay particular attention to the right to education of indigenous peoples in the universal periodic review process of the Human Rights Council as well as under its special procedures. Similarly, it recommends that all relevant United Nations human rights treaty bodies pay attention to indigenous peoples' right to education in their communication with States parties, in particular in their periodic examination of State party reports.

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Subject:  
Author: hawke  
Keywords: A/HRC/12/33  
Comments: FINAL  
Creation Date: 9/15/2009 3:12:00 PM  
Change Number: 3  
Last Saved On: 9/15/2009 3:13:00 PM  
Last Saved By: Admieng  
Total Editing Time: 2 Minutes  
Last Printed On: 9/15/2009 4:22:00 PM  
As of Last Complete Printing  
Number of Pages: 29  
Number of Words: 11'418 (approx.)  
Number of Characters: 67'942 (approx.)