



UNITED NATIONS PERMANENT FORUM ON INDIGENOUS ISSUES BACKGROUND GUIDE 2013

Written By: Doug Arseneault, Juliane Bade



NATIONAL MODEL UNITED NATIONS

nmun.org



17 - 21 March - Conference A
24 - 28 March - Conference B

POSITION PAPER INSTRUCTIONS

Two copies of each position paper should be sent via e-mail by 1 MARCH 2013

1. TO COMMITTEE STAFF

A file of the position paper (.doc or .pdf) for each assigned committee should be sent to the committee e-mail address listed here. Mail papers by 1 March to the e-mail address listed for your particular venue. Delegates should carbon copy (cc:) themselves as confirmation of receipt. Please use the committee name, your assignment, Conference A or B, and delegation/school name in both the e-mail subject line and in the filename (example: GA1st_Cuba_ConfA_MarsCollege).

2. TO DIRECTOR-GENERAL

- Each delegation should send one set of all position papers for each assignment to the e-mail designated for their venue: positionpapers.nya@nmun.org or positionpapers.nyb@nmun.org. This set (held by each Director-General) will serve as a back-up copy in case individual committee directors cannot open attachments.
Note: This e-mail should only be used as a repository for position papers.
- The head delegate or faculty member sending this message should cc: him/herself as confirmation of receipt. (Free programs like Adobe Acrobat or WinZip may need to be used to compress files if they are not plain text.)
- Because of the potential volume of e-mail, only one e-mail from the Head Delegate or Faculty Advisor containing all attached position papers will be accepted.

Please use the committee name, your assignment, Conference A or B, and delegation/school name in both the e-mail subject line and in the filename (example: GA1st_Cuba_Conf A_Mars College).

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Commission on the Status of Women	csw.nya@nmun.org
Commission on Crime Prevention and Criminal Justice	ccpcj.nya@nmun.org
Economic Commission for Africa	eca.nya@nmun.org
Economic and Social Commission for Western Asia	escwa.nya@nmun.org
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United Nations Development Programme	undp.nya@nmun.org
United Nations Settlements Programme	unhabitat.nya@nmun.org
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Human Rights Council	hrc.nya@nmun.org
United Nations Population Fund	unfpa.nya@nmun.org
UN Permanent Forum on Indigenous Issues	unpfii.nya@nmun.org
Committee on the Exercise of the Inalienable Rights of the Palestinian People	ceirpp.nya@nmun.org
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International Atomic Energy Agency	iaea.nyb@nmun.org
Special Committee on Peacekeeping Operations	c34.nyb@nmun.org

OTHER USEFUL CONTACTS

Entire Set of Delegation Position Papers	positionpapers.nya@nmun.org
(send only to e-mail for your assigned venue)	positionpapers.nyb@nmun.org
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Dear Delegates,

Welcome to the 2013 National Model United Nations (NMUN). As part of the volunteer staff for the United Nations Permanent Forum on Indigenous Issues (UNPFII), we will do our best to make this an educational experience that will assist in your personal and academic growth. Your Directors for this committee will be Doug Arseneault during Conference A and Juliane Bade during Conference B.

Doug studied Political Science and Western Religions at Chapman University in Orange, California. He currently serves as Legislative Affairs Manager for the Valley Industry and Commerce Association and is active with the California Young Democrats. This is his third year on staff. Juliane graduated from the University of Bonn, Germany, where she studied Political Science, Economics, and International Law. She now works in the German Federal Parliament in Berlin and is specialized in the field of European Affairs. This is her fourth year on staff.

This year's topics under discussion for the UNPFII are:

1. Improving Access to Education for Indigenous Children
2. Protecting the Rights of Indigenous Peoples in Situations of Armed Conflict
3. Reconciling Indigenous Rights with Land Governance

The UNPFII is the principal agency within the United Nations system to deal with the rights and concerns of indigenous peoples. As an advisory body to the Economic and Social Council (ECOSOC), it aims at representing the interests of the world's indigenous peoples and supports the idea of equality and respect towards all cultures. Your work as delegates will be reflected in a report that will be compiled within this committee during the conference.

This background guide will help you to get a better understanding of the committee and the topics you will discuss at the conference. It should be used as an introduction to your research. However, we encourage you to advance the ideas given in the guide and further deepen your knowledge on the topics, especially regarding the positions of the Member State or organization that you will represent. The bibliography can be helpful as a starting point, but please consult other scholarly materials, the UN website and international newspapers and journals for a fuller understanding of indigenous issues. Please also be sure to familiarize yourself with the UNPFII and its work.

All delegations must submit a position paper. Please take note of the NMUN policies on the [website](#) and in the [delegate preparation guide](#) regarding [plagiarism](#), [codes of conduct/dress code/sexual harassment](#), [awards philosophy/evaluation method](#), etc. Adherence to these guidelines is mandatory. We look forward to innovative ideas and progressive approaches in your position papers before the conference, as well as throughout your work during the conference.

If you have any questions regarding preparation, please feel free to contact us or the Under-Secretaries-General for the Department of Human Rights and Humanitarian Affairs, Roger Tseng (Conference A) and Sasha Sleiman (Conference B). We wish you good luck with your preparations for the conference and look forward to seeing you in New York!

Sincerely,

Conference A
Doug Arseneault
Director

Conference B
Juliane Bade
Director



Message from the Directors-General Regarding Position Papers for the 2013 NMUN Conference

For NMUN-New York 2013, each delegation submits one position paper for each assigned committee. A delegate's role as a Member State, Observer State, Non-Governmental Organization, etc. should affect the way a position paper is written. To understand these differences, please refer to the [Delegate Preparation Guide](#).

Position papers should review each delegation's policy regarding the topics of the committee. International and regional conventions, treaties, declarations, resolutions, and programs of action of relevance to the policy of your State should be identified and addressed. Making recommendations for action by your committee should also be considered. Position papers also serve as a blueprint for individual delegates to remember their country's position throughout the course of the Conference. NGO position papers should be constructed in the same fashion as position papers of countries. Each topic should be addressed briefly in a succinct policy statement representing the relevant views of your assigned NGO. You should also include recommendations for action to be taken by your committee. It will be judged using the same criteria as all country position papers, and is held to the same standard of timeliness.

Please be forewarned, delegates must turn in entirely original material. *The NMUN Conference will not tolerate the occurrence of plagiarism.* In this regard, the NMUN Secretariat would like to take this opportunity to remind delegates that although United Nations documentation is considered within the public domain, the Conference does not allow the verbatim re-creation of these documents. This plagiarism policy also extends to the written work of the Secretariat contained within the Committee Background Guides. Violation of this policy will be immediately reported and may result in dismissal from Conference participation. Delegates should report any incident of plagiarism to the Secretariat as soon as possible.

Delegation's position papers may be given an award as recognition of outstanding pre-Conference preparation. In order to be considered for a Position Paper Award, however, delegations must have met the formal requirements listed below and be of high substantive standard, using adequate language and showing in-depth research. While we encourage innovative proposals, we would like to remind delegates to stay within the mandate of their respective committee and keep a neutral and respectful tone. Similarly to the minus point-policy implemented at the conference to discourage disruptive behavior, position papers that use offensive language may entail negative grading when being considered for awards. Please refer to the sample paper following this message for a visual example of what your work should look like at its completion. The following format specifications are **required** for all papers:

- All papers must be typed and formatted according to the example in the Background Guides
- Length must **not** exceed two single-sided pages (one double-sided paper, if printed)
- Font must be Times New Roman sized between 10 pt. and 12 pt.
- Margins must be set at one inch for the whole paper
- Country/NGO name, school name and committee name must be clearly labeled on the first page,
- National symbols (headers, flags, etc.) are deemed inappropriate for NMUN position papers
- Agenda topics must be clearly labeled in separate sections

To be considered timely for awards, please read and follow these directions:

1. **A file of the position paper** (.doc or .pdf format required) **for each assigned committee** should be sent to the committee email address listed in the Background Guide. These e-mail addresses will be active after November 15, 2012. Delegates should carbon copy (cc:) themselves as confirmation of receipt.
2. Each delegation should also send **one set of all position papers** to the e-mail designated for their venue, Conference A: positionpapers.nya@nmun.org or Conference B: positionpapers.nyb@nmun.org. This set will serve as a back-up copy in case individual committee directors cannot open attachments. These copies will also be made available in Home Government during the week of the NMUN Conference.

Each of the above listed tasks needs to be completed no later than **March 1, 2013 (GMT-5)**.

Please use the committee name, your assignment, Conference A or B, and delegation/school name in both the e-mail subject line and in the filename (example: GA1st_Cuba_ConfA_Mars College).

A matrix of received papers will be posted online for delegations to check prior to the Conference. If you need to make other arrangements for submission, please contact Hannah Birkenkötter, Director-General (Conference A), or Nicholas Warino, Director-General (Conference B), at dirgen@nmun.org. There is an option for delegations to submit physical copies via regular mail if needed.

Once the formal requirements outlined above are met, Conference staff use the following criteria to evaluate Position Papers:

- Overall quality of writing, proper style, grammar, etc.
- Citation of relevant resolutions/documents
- General consistency with bloc/geopolitical constraints
- Consistency with the constraints of the United Nations
- Analysis of issues, rather than reiteration of the Committee Background Guide
- Outline of (official) policy aims within the committee's mandate

Each delegation can submit a copy of their position paper to the permanent mission of the country being represented, along with an explanation of the Conference. Those delegations representing NGOs do not have to send their position paper to their NGO headquarters, although it is encouraged. This will assist them in preparation for the mission briefing in New York.

Finally, please consider that over 2,000 papers will be handled and read by the Secretariat for the Conference. Your patience and cooperation in strictly adhering to the above guidelines will make this process more efficient and it is greatly appreciated. Should you have any questions please feel free to contact the Conference staff, though as we do not operate out of a central office or location, your consideration for time zone differences is appreciated.

Sincerely,

Conference A
Hannah Birkenkötter
Director-General
hannah@nmun.org

Conference B
Nicholas Warino
Director-General
nick@nmun.org

**Delegation from
The United Mexican States**

**Represented by
(Name of College)**

Position Paper for the General Assembly Plenary

The issues before the General Assembly Plenary are: The Use of Economic Sanctions for Political and Economic Compulsion; Democracy and Human Rights in Post-Conflict Regions; as well as The Promotion of Durable Peace and Sustainable Development in Africa. The Mexican Delegation first would like to convey its gratitude being elected and pride to serve as vice-president of the current General Assembly Plenary session.

I. The Use of Economic Sanctions for Political and Economic Compulsion

The principles of equal sovereignty of states and non-interference, as laid down in the Charter of the United Nations, have always been cornerstones of Mexican foreign policy. The legitimate right to interfere by the use of coercive measures, such as economic sanctions, is laid down in Article 41 of the UN-charter and reserves the right to the Security Council.

Concerning the violation of this principle by the application of unilateral measures outside the framework of the United Nations, H.E. Ambassador to the United Nations Enrique Berruga Filloy underlined in 2005 that the Mexico strongly rejects “the application of unilateral laws and measures of economic blockade against any State, as well as the implementation of coercive measures without the authorization enshrined in the Charter of the United Nations.” That is the reason, why the United Mexican States supported – for the 14th consecutive time – Resolution (A/RES/60/12) of 2006 regarding the *Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba*.

In the 1990s, comprehensive economic sanctions found several applications with very mixed results, which made a critical reassessment indispensable. The United Mexican States fully supported and actively participated in the “Stockholm Process” that focused on increasing the effectiveness in the implementation of targeted sanctions. As sanctions and especially economic sanctions, pose a tool for action “between words and war” they must be regarded as a mean of last resort before war and fulfill highest requirements for their legitimate use. The United Mexican States and their partners of the “Group of Friends of the U.N. Reform” have already addressed and formulated recommendations for that take former criticism into account. Regarding the design of economic sanctions it is indispensable for the success to have the constant support by all member states and public opinion, which is to a large degree dependent on the humanitarian effects of economic sanctions. Sanctions must be tailor-made, designed to effectively target the government, while sparing to the largest degree possible the civil population. Sanction regimes must be constantly monitored and evaluated to enable the world-community to adjust their actions to the needs of the unforeseeably changing situation. Additionally, the United Mexican States propose to increase communication between the existing sanction committees and thus their effectiveness by convening regular meetings of the chairs of the sanction committees on questions of common interest.

II. Democracy and Human Rights in Post-Conflict Regions

As a founding member of the United Nations, Mexico is highly engaged in the Promotion of Democracy and Human Rights all over the world, as laid down in the *Universal Declaration on Human Rights (UDHR)* in 1948. Especially since the democratic transition of Mexico in 2000 it is one of the most urgent topics to stand for Democratization and Human Rights, and Mexico implements this vision on many different fronts.

In the Convoking Group of the intergovernmental Community of Democracies (GC), the United Mexican States uphold an approach that fosters international cooperation to promote democratic values and institution-building at the national and international level. To emphasize the strong interrelation between human rights and the building of democracy and to fortify democratic developments are further challenges Mexico deals with in this committee. A key-factor for the sustainable development of a post-conflict-region is to hold free and fair election and thus creating a democratic system. Being aware of the need of post-conflict countries for support in the preparation of democratic elections, the United Mexican States contribute since 2001 to the work of the International Institute for Democracy and Electoral Assistance (IDEA), an intergovernmental organization operating at international, regional and national level in partnership with a range of institutions. Mexico’s foreign policy regarding human rights is substantially

based on cooperation with international organizations. The Inter American Commission of Human Rights is one of the bodies, Mexico is participating, working on the promotion of Human Rights in the Americas. Furthermore, the Inter-American Court of Human Rights is the regional judicial institution for the application and interpretation of the *American Convention of Human Rights*.

The objectives Mexico pursues are to improve human rights in the country through structural changes and to fortify the legal and institutional frame for the protection of human rights on the international level. Underlining the connection between democracy, development and Human Rights, stresses the importance of cooperation with and the role of the High Commissioner on Human Rights and the reform of the Human Rights Commission to a Human rights Council.

Having in mind the diversity of challenges in enforcing democracy and Human Rights, Mexico considers regional and national approaches vital for their endorsement, as Mexico exemplifies with its *National Program for Human Rights* or the *Plan Puebla Panama*. On the global level, Mexico is encouraged in working on a greater coordination and interoperability among the United Nations and regional organizations, as well as the development of common strategies and operational policies and the sharing of best practices in civilian crisis management should be encouraged, including clear frameworks for joint operations, when applicable.

III. The Promotion of Durable Peace and Sustainable Development in Africa

The United Mexican States welcome the leadership role the African Union has taken regarding the security problems of the continent. Our delegation is furthermore convinced that The New Partnership for Africa's Development (NEPAD) can become the foundation for Africa's economic, social and democratic development as the basis for sustainable peace. Therefore it deserves the full support of the international community.

The development of the United Mexican States in the last two decades is characterized by the transition to a full democracy, the national and regional promotion of human rights and sustainable, economic growth. Mexico's development is characterized by free trade and its regional integration in the North American Free Trade Agreement. Having in mind that sustainable development is based not only on economic, but as well on social and environmental development, President Vicente Fox has made sustainable development a guiding principle in the Mexican Development Plan that includes sustainability targets for all major policy areas.

The United Nations Security Council has established not less than seven peace-keeping missions on the African continent, underlining the need for full support by the international community. In post-conflict situations, we regard national reconciliation as a precondition for a peaceful development, which is the reason why Mexico supported such committees, i.e. in the case of Sierra Leone. The United Mexican States are convinced that an other to enhance durable peace in Africa is the institutional reform of the United Nations. We therefore want to reaffirm our full support to both the establishment of the peace-building commission and the Human Rights Council. Both topics are highly interrelated and, having in mind that the breach of peace is most often linked with severest human rights' abuses, thus need to be seen as two sides of one problem and be approached in this understanding.

As most conflicts have their roots in conflicts about economic resources and development chances, human development and the eradication of poverty must be at the heart of a successful, preventive approach. Lifting people out of poverty must be seen as a precondition not only for peace, but for social development and environmental sustainability.

The United Mexican States want to express their esteem for the decision taken by the G-8 countries for a complete debt-relief for many African Highly-Indebted-Poor-Countries. Nevertheless, many commitments made by the international community that are crucial for Africa's sustainable development are unfulfilled. The developed countries agreed in the *Monterrey Consensus of the International Conference on Financing for Development* (A/CONF.198/11) to increase their Official Development Aid (ODA) "towards the target of 0,7 per cent of gross national product (GNP) as ODA to developing countries and 0,15 to 0,20 per cent of GNP of developed countries to least developed countries". Furthermore, the United Mexican States are disappointed by the result of the Hong Kong Ministerial conference of the World Trade Organization, which once more failed to meet the needs of those, to whom the round was devoted: developing countries and especially African countries, who today, more than ever, are cut off from global trade and prosperity by protectionism.

Committee History

*“For far too long, indigenous peoples were justified in saying that their voices were smothered by the darkness of intolerance and neglect. From now on, this Forum will be there to bring their concerns to light.”*¹

Introduction

Indigenous peoples are at the center of struggles around the world, over control of traditional lands, protection of the environment, and domestic and international socio-economic movements.² Indigenous peoples number more than 370 million, consisting of 5,000 to 7,000 unique societies and cultures.³ They live in almost every United Nations (UN) Member State, with significant populations in at least 70 Member States.⁴

Indigenous Issues within the United Nations System

During the early history of international organizations, indigenous issues were regarded as a marginal issue in the broader development context.⁵ The path toward full recognition of indigenous peoples at the international level was underway by 1982.⁶ José R. Martínez Cobo, in his capacity as the UN Special Rapporteur on the Study of Racial Discrimination in the Political, Economic, Social and Cultural Spheres, included a chapter on indigenous peoples in his annual report to the UN Commission on Human Rights.⁷ His report prompted the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities to establish a Working Group on Indigenous Populations.⁸

During the first session of the Working Group on Indigenous Populations, the indigenous community called for an international document that recognized their rights based on their perspective, rather from an external approach.⁹ This desire prompted the Working Group in 1985 to begin discussing a declaration on the rights of indigenous peoples.¹⁰ The drafting process would continue for another 25 years through the working group, the Commission on Human Rights, its successor the Human Rights Council, and a second working group consisting of Member State government representatives.¹¹

The International Labour Organization (ILO) acted more immediately with the adoption of *Convention 169*, or the *Convention concerning Indigenous and Tribal Peoples in Independent Countries*, in 1989, which replaced the previous Convention on the protection of indigenous peoples, *Convention 107*.¹² *Convention 169* calls for Member States to establish legal protections for indigenous peoples to live and develop as distinct communities, and recognizes the rights of indigenous peoples to land, resources, culture, and non-discrimination in social welfare spheres.¹³ Though legally binding, *Convention 169* has been ratified by only 22 Member States, and none of the permanent Security Council Member States have signed the treaty.¹⁴

By 1992, the indigenous community had achieved enough international political will through the Working Group that the UN General Assembly declared 1993 as the International Year of the World's Indigenous Peoples.¹⁵ At the Second World Conference on Human Rights that year, the parties of the conference issued their *Vienna Declaration*,

¹ Frechette, *Address to the First Session of the Permanent Forum on Indigenous Issues*, 2002.

² Coates, *A Global History of Indigenous Peoples: Struggle and Survival*, 2002, p. 22.

³ Henningfield, *Global Viewpoints: Indigenous Peoples*, 2009, p. 14.

⁴ Henningfield, *Global Viewpoints: Indigenous Peoples*, 2009, p. 14.

⁵ United Nations Permanent Forum on Indigenous Peoples, *History of indigenous peoples and the international system*, 2012.

⁶ United Nations Permanent Forum on Indigenous Peoples, *History of indigenous peoples and the international system*, 2012.

⁷ Martínez Cobo, *Study of the Problem of Discrimination Against Indigenous Populations*, 1982.

⁸ Weissner, *United Nations Declaration on the Rights of Indigenous Peoples*, 2008.

⁹ United Nations Permanent Forum on Indigenous Peoples, *History of indigenous peoples and the international system*, 2012.

¹⁰ Weissner, *United Nations Declaration on the Rights of Indigenous Peoples*, 2008.

¹¹ United Nations Permanent Forum on Indigenous Peoples, *History of indigenous peoples and the international system*, 2012.

¹² International Labor Organization, *C169 - Indigenous and Tribal Peoples Convention*, 1989.

¹³ International Labor Organization, *Convention No. 169*, 2012.

¹⁴ International Labor Organization, *Convention No. 169*, 2012.

¹⁵ Weissner, *United Nations Declaration on the Rights of Indigenous Peoples*, 2008; United Nations General Assembly, *International Year of the World's Indigenous People*, 1993 (A/RES/47/75), 1992.

which called for the establishment of a permanent UN body on indigenous issues.¹⁶ The *Vienna Declaration* also called for 1995 to 2004 to be the International Decade of the World's Indigenous People, which the General Assembly launched in 1994.¹⁷

The UN Commission on Human Rights held two organizational seminars in 1995 and 1997 to discuss the scope of a UN body for issues facing indigenous peoples, and the UN Working Group on a Permanent Forum for Indigenous People was organized in 1998 to complete a final proposal for creation of the United Nations Permanent Forum on Indigenous Issues.¹⁸ With United Nations Economic and Social Council (ECOSOC) resolution 2000/22, the Permanent Forum on Indigenous Issues (UNPFII) was officially formed, and preparations were made for its first session in 2002.¹⁹ The Permanent Forum became the first UN body in which state and non-state representatives were given equal status and was to report directly to a body established by the UN Charter: ECOSOC.²⁰

Along with the UNPFII, a Special Rapporteur on the Rights of Indigenous Peoples was created in 2001, and is responsible for undertaking efforts to follow up on the recommendations of the UNPFII and the UN Human Rights Council's Expert Mechanism on the Rights of Indigenous Peoples.²¹ The Expert Mechanism, successor to the Working Group on Indigenous Populations, provides guidance on indigenous human rights issues to the Human Rights Council.²²

Structure and Process of the Permanent Forum on Indigenous Issues (UNPFII)

The UNPFII is an advisory body to ECOSOC with a mandate to discuss indigenous issues related to economic and social development, culture, the environment, education, health, and human rights.²³

Sixteen independent experts are appointed for three-year terms; eight experts are nominated by Member States and eight by indigenous organizations.²⁴ The government representatives are elected by ECOSOC based on the representation of each of the UN regions: Africa; Asia; Eastern Europe; Latin America and the Caribbean; and Western Europe and Other States.²⁵ Those nominated by indigenous organizations are appointed by the President of ECOSOC to represent seven sociocultural regions: Africa; Asia; Central and South America and the Caribbean; the Arctic; Eastern Europe, the Russian Federation, Central Asia and Transcaucasia; North America; and the Pacific.²⁶

Please note: For the NMUN simulation, all 16 members of the UNPFII will be represented by their Member State governments.

The forum meets annually for two-week sessions in May of each year in New York.²⁷ Discussions must cover six main areas: economic and social development; culture; environment; education; health; and human rights.²⁸ The outcome of the annual session of the Permanent Forum is the issuance of a report containing recommendations to ECOSOC on the use of programs, funds, and agencies of the United Nations, as well as requests of Member State governments, indigenous and other organizations, civil society, the media and the private sector.²⁹ In accordance with ECOSOC resolution 2000/22, the Permanent Forum must adopt its recommendations by consensus.³⁰

¹⁶ United Nations General Assembly, *Vienna Declaration and Programme of Action (A/CONF.157/23)*, 1993.

¹⁷ United Nations General Assembly, *Vienna Declaration and Programme of Action (A/CONF.157/23)*, 1993; United Nations General Assembly, *International Decade of the World's Indigenous People*, 1993 (A/RES/48/163), 1994.

¹⁸ United Nations Permanent Forum on Indigenous Peoples, *History of indigenous peoples and the international system*, 2012.

¹⁹ United Nations Economic and Social Council, *Establishment of a Permanent Forum on Indigenous Issues (E/2000/22)*, 2000.

²⁰ United Nations Permanent Forum on Indigenous Peoples, *History of indigenous peoples and the international system*, 2012.

²¹ Office of the High Commissioner for Human Rights, *Special Rapporteur on the rights of indigenous peoples*, 2012.

²² Office of the High Commissioner for Human Rights, *The Expert Mechanism on the Rights of Indigenous Peoples*, 2012.

²³ Secretariat of the United Nations Permanent Forum on Indigenous Issues, *Handbook for Participants*, 2007, p. 7.

²⁴ United Nations Permanent Forum on Indigenous Peoples, *Membership of the Permanent Forum on Indigenous Issues*, 2012.

²⁵ United Nations Permanent Forum on Indigenous Peoples, *Membership of the Permanent Forum on Indigenous Issues*, 2012.

²⁶ United Nations Permanent Forum on Indigenous Peoples, *Membership of the Permanent Forum on Indigenous Issues*, 2012.

²⁷ Secretariat of the United Nations Permanent Forum on Indigenous Issues, *Handbook for Participants*, 2007, p. 12.

²⁸ Secretariat of the United Nations Permanent Forum on Indigenous Issues, *Handbook for Participants*, 2007, p. 7.

²⁹ Secretariat of the United Nations Permanent Forum on Indigenous Issues, *Handbook for Participants*, 2007, p. 19.

³⁰ Secretariat of the United Nations Permanent Forum on Indigenous Issues, *Handbook for Participants*, 2007, p. 19.

The Special Rapporteur on the Rights of Indigenous Peoples and a representative from the Expert Mechanism on the Rights of Indigenous Peoples (successor body to the Working Group on Indigenous Populations) attend the annual session of the UNPFII and provide input on cooperative initiatives, in order to enhance coordination between all UN bodies addressing indigenous issues.³¹

United Nations Declaration on the Rights of Indigenous Peoples

The *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) of 2007 represents 25 years of advocacy and negotiations.³² The rights established in the UNDRIP can be traced back to the *Universal Declaration of Human Rights* (UDHR).³³ However, the UNDRIP stresses group rights, while the UDHR stresses individual rights; this is an important distinction for many indigenous peoples whose primary focus is on protection of community rather than personhood.³⁴

Articles 1 to 40 address the lasting social, cultural and political repercussions of colonialism; the right to self-determination outside the state structure; collective right to land ownership, including free, informed and prior consent; maintaining and developing own political, religious, cultural and educational institutions and models; and protection of cultural and intellectual property, including traditional knowledge.³⁵ Articles 41 and 42 specify the role of the United Nations in the protection of indigenous peoples' rights.³⁶ Articles 43 to 45 indicate that the rights in the declaration apply without distinction to indigenous men and women, and that the rights in the UNDRIP are "the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world," and do not in any way limit greater rights.³⁷ Article 46 discusses the UNDRIP's consistency with other internationally agreed goals, and the framework for interpreting the rights declared within it.³⁸

Conclusion

The 12th session of the UNPFII will be held from May 20 to 31, 2013.³⁹ This session will be a review year, focusing on fulfillment of past recommendations of the UNPFII.⁴⁰ The session will also feature an expanded discussion on the African region, and preparation for the first World Conference on Indigenous Peoples in 2014.⁴¹ During this meeting, as well as through the daily work of the UNPFII Secretariat and Special Rapporteur on the Rights of Indigenous Peoples, the indigenous community will continue to confront long-term challenges that remain unaddressed and arising challenges shaped by Member State governments, multinational corporations, well-intentioned NGOs, and the United Nations itself.⁴²

³¹ Office of the High Commissioner for Human Rights, *The Expert Mechanism on the Rights of Indigenous Peoples*, 2012.

³² Henningfield, *Global Viewpoints: Indigenous Peoples*, 2009, p. 68.

³³ Hughes, *The No-Nonsense Guide to Indigenous Peoples*, 2003, p. 24.

³⁴ Hughes, *The No-Nonsense Guide to Indigenous Peoples*, 2003, p. 24.

³⁵ United Nations General Assembly, *Declaration on the Rights of Indigenous Peoples*, 2007.

³⁶ United Nations General Assembly, *Declaration on the Rights of Indigenous Peoples*, 2007.

³⁷ United Nations General Assembly, *Declaration on the Rights of Indigenous Peoples*, 2007.

³⁸ United Nations General Assembly, *Declaration on the Rights of Indigenous Peoples*, 2007.

³⁹ United Nations Permanent Forum on Indigenous Peoples, *Report of the eleventh session*, 2012, p. 1.

⁴⁰ United Nations Permanent Forum on Indigenous Peoples, *Report of the eleventh session*, 2012, p. 1.

⁴¹ United Nations Permanent Forum on Indigenous Peoples, *Report of the eleventh session*, 2012, p. 1.

⁴² International Work Group on Indigenous Affairs, *Indigenous World 2011*, p. 13-14.

Annotated Bibliography

International Work Group on International Peoples. (2012). *The Indigenous World 2012*. Copenhagen, Denmark. International Work Group on Indigenous Peoples.

Published by the first well-regarded non-governmental organization to address indigenous issues, this overview outlines international efforts throughout 2011 and the ongoing challenges facing indigenous groups. This volume includes case studies throughout each continent of indigenous peoples facing infringement on their rights and the work done by indigenous leaders, the United Nations, IWGIP and other non-governmental organizations to further the goals of the United Nations Declaration on the Rights of Indigenous Peoples. Delegates should use this guide to evaluate the issues facing indigenous peoples in their region.

Hughes, L. (2003). *The No-Nonsense Guide to Indigenous Peoples*. Oxford, United Kingdom. New Internationalist Publications Ltd.

Though marketed for general knowledge, this publication provides an in-depth look at the formation of the Permanent Forum and the ongoing questions facing indigenous peoples. This volume does not espouse to provide answers to these issues, but rather to present the questions to consider when addressing the place of indigenous people in national government and transnational organizations. Delegates should pay particular attention to the chapters on "Colonialism and Conquest" and the final chapter on "Development, justice and future challenges."

Nakata, M. (ed.). (2001). *Indigenous Peoples, Racism and the United Nations*. Sydney, Australia. Common Ground Publishing Pty Ltd.

The result of the Indigenous Peoples and Racism Conference held in Sydney in preparation for the 2001 United Nations World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, this collection includes the writings of leading experts and advocates for indigenous issues. Part One of the book includes a brief history of indigenous affairs leading up to the formation of the Permanent Forum, as well as the issues that faced the world community in drafting the Declaration on the Rights of Indigenous Peoples. Delegates should pay particular attention to the passage by Duane Champagne on "Native Issues in the 21st Century, as well as Dalee Sambo Dorrough's "International Law, the United Nations and the Human Rights of Indigenous Peoples" included in Part Three.

United Nations General Assembly. (2007, October 2). *United Nations Declaration on the Rights of Indigenous Peoples (A/RES/61/295)*. Retrieved on September 9, 2012, from:

<http://www.un.org/Docs/asp/ws.asp?m=A/RES/61/295>

This Declaration represents two decades of work by the international community, within and outside of the United Nations structure, to properly represent the needs of indigenous peoples. Of note, the Declaration was far from unanimous, passing with 143 states in favor, four opposed and 11 abstaining. Delegates should research their member state's vote on the UNDRIP, the policies that led to that position, and any policy changes since their vote in 2007.

United Nations Permanent Forum on Indigenous Issues. (2012). *About Us/Members*. Retrieved September 9, 2012, from <http://social.un.org/index/IndigenousPeoples/AboutUsMembers.aspx>

Research of the United Nations' work on indigenous issues must start with this Web site maintained by the Secretariat of the Permanent Forum. This section of the official United Nations website includes the background on formation of the Permanent Forum, links to foundational documents, and its basic structure and membership. Delegates should use this page to access additional information on the Permanent Forum's work over the past decade and its relationship with other UN organs, including the Economic and Social Council, the International Labor Organization and the Special Rapporteur on the Rights of Indigenous Peoples James Anaya.

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Office of the High Commissioner for Human Rights. (2012). *Special Rapporteur on the rights of indigenous peoples*. Retrieved on September 9, 2012 from: <http://www.ohchr.org/EN/Issues/IPeoples/SRIndigenousPeoples/Pages/SRIPeoplesIndex.aspx>

Office of the High Commissioner for Human Rights. (2012). *The Expert Mechanism on the Rights of Indigenous Peoples*. Retrieved on September 9, 2012 from: <http://www.ohchr.org/EN/Issues/IPeoples/EMRIP/Pages/EMRIPIndex.aspx>

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I. Improving Access to Education for Indigenous Children

“Education is the greatest single weapon to overcome disadvantage and the impact of this denial of education affects me and other indigenous people to this day.”⁴³

Introduction

Article 26 of the *Universal Declaration of Human Rights* marks education as a fundamental right for all people.⁴⁴ Education further leads to the achievement of other human rights and empowers people to be part of the economic and social fabric of their communities.⁴⁵ However, for indigenous people, access to education is often limited or denied, even though it is crucial in the fight against poverty and to counter discrimination.⁴⁶

There are about 370 million indigenous people in the world, or 5% of the world population.⁴⁷ They live in more than 70 countries worldwide.⁴⁸ Indigenous people usually have a higher birth rate than non-indigenous people, which leads to their population being generally younger and having a larger proportion of children.⁴⁹ This highlights the importance for quality education. Experience shows, however, that indigenous children have lower school enrollment rates, higher dropout rates and poorer educational outcomes than the general population.⁵⁰ Only a small number of indigenous students ever complete primary school and about 65% of indigenous teenagers between the ages of 12 and 15 do not have access to education, compared to 39% of the general population.⁵¹ This illustrates not only how dire the situation is for indigenous children, but also how big the gap is between indigenous and non-indigenous people in this matter.⁵² Often facing a life of exclusion in various fields, it is especially important for indigenous children to receive quality education to end the vicious cycle and to succeed in life.⁵³ However, indigenous people continue to face severe discrimination when it comes to access to basic social services, such as health care or education.⁵⁴

International Documents

The United Nations (UN) has demonstrated its commitment to the integration of indigenous peoples in various documents and at many conferences. The *Declaration of the Rights of Indigenous People*, which was drafted in 2007 and explicitly protects the right of indigenous peoples to education in its Article 14, is one of the major steps in this direction.⁵⁵ Article 14 of the *Declaration of the Rights of Indigenous People* does not only provide for the right to access education without discrimination, but also to receive an education that is in accordance with tradition and cultural practice.⁵⁶ Next to this declaration, there are many other conventions and resolutions that strive for more equality in this field, such as the *Universal Declaration of Human Rights* or the *International Covenant on Economic, Social and Cultural Rights*.⁵⁷ Another important document for indigenous people is the *Convention No. 169* by the International Labour Organization (ILO).⁵⁸ For indigenous children, the *Convention on the Rights of the Child* of 1989 is especially important as it was not only the first binding instrument to address the rights of children,

⁴³ Butler, Yvonne (Aboriginal Woman), Creative spirits, *Education*.

⁴⁴ United Nations General Assembly, *Universal Declaration of Human Rights*, 1948, article 26.

⁴⁵ United Nations Office of the Special Adviser on Gender Issues and Advancement of Women, *Briefing Note No. 3, Gender and Indigenous Peoples' Education*, 2010, p. 1.

⁴⁶ United Nations Office of the Special Adviser on Gender Issues and Advancement of Women, *Briefing Note No. 3, Gender and Indigenous Peoples' Education*, 2010, p. 1.

⁴⁷ United Nations Educational, Scientific and Cultural Organization, *Conference: "Indigenous Education in a Changing World" 19-21 June 2012, Windhoek Country Club Resort, Windhoek*, 2012.

⁴⁸ UNICEF Innocenti Research Centre, *Ensuring the rights of indigenous children*, 2003, p. 7.

⁴⁹ UNICEF Innocenti Research Centre, *Ensuring the rights of indigenous children*, 2003, p. 8.

⁵⁰ Champagne, *Contemporary education*, 2010, p. 130.

⁵¹ Anaya, *Child Rights Information Network*, 2010.

⁵² Champagne, *Contemporary education*, 2010, p. 130.

⁵³ United Nations Economic and Social Council, *Press Release. HR/5060*, 2011.

⁵⁴ United Nations Educational, Scientific and Cultural Organization, *Conference: "Indigenous Education in a Changing World" 19-21 June 2012, Windhoek Country Club Resort, Windhoek*, 2012.

⁵⁵ United Nations General Assembly, *United Nations Declaration on the Rights of Indigenous Peoples*, 2007.

⁵⁶ United Nations General Assembly, *United Nations Declaration on the Rights of Indigenous Peoples*, 2007.

⁵⁷ United Nations General Assembly, *Universal Declaration of Human Rights*, 1948; United Nations General Assembly, *International Covenant on Economic, Social and Cultural Rights*, 1966.

⁵⁸ International Labour Organization, *Indigenous and Tribal Peoples Convention (No. 169)*, 1989.

but it was also the first international human rights treaty to deal explicitly with indigenous children and their situation in its Article 30.⁵⁹

Challenges for Indigenous People

Even though several international documents deal with the equality of indigenous and non-indigenous people, there still remains a large gap between the two when it comes to educational outcomes, school enrollment, literacy rates, and dropout numbers.⁶⁰ For example, among the H'mong, one of the most marginalized indigenous groups of Viet Nam, 97% of the women and 83% of the men are illiterate.⁶¹ In Venezuela, the illiteracy rate of indigenous people is five times higher than the number of non-indigenous people.⁶² Most indigenous societies appreciate a proper education and regard it as essential for the improvement of their living situations.⁶³ However, there are numerous challenges for indigenous children to attend school as a result of poverty, discrimination, geographic remoteness, or cultural barriers.⁶⁴

Poverty

Indigenous families are often very poor, and subsequently they cannot afford school supplies for their children such as pens, books, or sometimes even proper clothing.⁶⁵ Thus, indigenous children are more likely to arrive in school hungrier, more ill, or more fatigued than non-indigenous children.⁶⁶ A lack of public funding and high costs for parents who wish to send their children to school contribute to the poor educational outcomes of the indigenous population.⁶⁷ In many indigenous families, it is normal, if not necessary, that the whole family works at certain times of the year, meaning that children have to contribute and cannot attend school during these times.⁶⁸ Severe poverty can lead to multi-generational trauma, which again often leads to an environment of crime, suicide, alcoholism, or other social problems; these problems particularly affect school attendance or performance.⁶⁹ This is a vicious cycle, as a poor education will lead to poverty, which again often contributes to poor education, bad study environments, and insufficient study equipment.⁷⁰

Discrimination

High dropout rates among indigenous students are often the result of severe discrimination and a hostile education environment.⁷¹ Indigenous students can be victims of bullying and social exclusion, and thus they feel unconfident and unwelcomed in school.⁷² They also often do not get adequate support from their teachers.⁷³ Even though governments and civil society continue to raise awareness for indigenous cultures and history, indigenous students still have to face deep-rooted discrimination and prejudices.⁷⁴ Some national curricula even portray indigenous people in negative lights by calling them undeveloped or uncivilized and thus support the existing stereotypes and prejudices against them.⁷⁵ Beyond that, indigenous students can be victims of abuse and violence by teachers or fellow students.⁷⁶ This hostility is unwarranted, as any education environment should be aimed at countering discrimination by informing students and teaching them about different cultures and traditions, such as those of the indigenous peoples.⁷⁷ Therefore, it is crucial that the education system gives non-indigenous children a better

⁵⁹ UNICEF Innocenti Research Centre, *Ensuring the rights of indigenous children*, 2003, p. 3.

⁶⁰ Champagne, *Contemporary education*, 2010, p. 130.

⁶¹ Champagne, *Contemporary education*, 2010, p. 132.

⁶² Champagne, *Contemporary education*, 2010, p. 132.

⁶³ Champagne, *Contemporary education*, 2010, p. 141.

⁶⁴ United Nations Permanent Forum on Indigenous Issues. *Education*.

⁶⁵ Anaya, *Child Rights Information Network*, 2010.

⁶⁶ United Nations Permanent Forum on Indigenous Issues. *Education*.

⁶⁷ Champagne, *Contemporary education*, 2010, p. 141-142.

⁶⁸ Champagne, *Contemporary education*, 2010, p. 142.

⁶⁹ Champagne, *Contemporary education*, 2010, p. 148.

⁷⁰ Champagne, *Contemporary education*, 2010, p. 148.

⁷¹ Champagne, *Contemporary education*, 2010, p. 140.

⁷² United Nations Office of the Special Adviser on Gender Issues and Advancement of Women, *Briefing Note No. 3, Gender and Indigenous Peoples' Education*, 2010, p. 2-3.

⁷³ Champagne, *Contemporary education*, 2010, p. 141-142.

⁷⁴ Champagne, *Contemporary education*, 2010, p. 142.

⁷⁵ Champagne, *Contemporary education*, 2010, p. 139.

⁷⁶ Champagne, *Contemporary education*, 2010, p. 142.

⁷⁷ United Nations Development Group, *Guidelines on Indigenous Peoples' Issues*, 2008, p. 20.

understanding of the differences and special customs of their indigenous classmates.⁷⁸ Governments also have to counter discrimination of indigenous students by fighting stereotypes and avoiding negative terminologies, for example in school textbooks.⁷⁹

Geographic Remoteness

While some achievements have been gained toward improving the educational situation for indigenous people in urban areas, those living in rural areas still face major challenges.⁸⁰ They often live far away from the nearest school and have to travel long distances in order to get access to education.⁸¹ Rural areas also do not always have stable and fully developed infrastructure, which makes it even more difficult for children to reach the far away located schools.⁸² Furthermore, schools in areas where many indigenous people live can be underfunded and more likely to cancel classes or hire less-qualified teachers.⁸³ A reason for this is that it is very difficult to find qualified teachers willing to go to rural areas, where the salary usually is lower than average and the working conditions are worse.⁸⁴ These disadvantages lead to less school enrollment and higher dropout rates.⁸⁵

In addition, it is common for only primary school to be available locally, resulting in children needing to go to boarding schools for their secondary education.⁸⁶ In some cases, indigenous children have to leave home at the age of 11 in order to live in a boarding facility in an urban area, which leads to larger dropout rates as many children have problems adjusting to the new situation or their parents cannot afford to send them there in the first place.⁸⁷ The idea of separating children from their families is an unfamiliar concept for indigenous people.⁸⁸ Boarding schools used to be aimed at assimilating indigenous people into a country's dominant culture and disconnecting children from their cultural heritage and background, leaving them as outsiders in both worlds.⁸⁹ Thus, if schools are not within a reasonable reach for children, it is necessary to find other ways to provide students with education, such as through technological means or innovative ideas.⁹⁰ In Thailand, for example, the government faced the problem of geographical remoteness by sending "mobile teachers" on motorcycles or horses to rural areas.⁹¹

Cultural Barriers

As mentioned, Article 14 of the *Declaration of the Rights of Indigenous People* states, "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."⁹² Despite the Declaration and right to control educational system, educational materials are often not available in indigenous languages and do not deal with indigenous cultures or traditions in appropriate ways.⁹³ Sometimes indigenous children are not allowed to express their indigenous cultures at school, such as by wearing traditional clothing or performing certain traditional rituals.⁹⁴ As the curricula and school calendars in most cases ignore the indigenous calendar, the education system also does not pay attention to seasonal activities of indigenous peoples, such as hunting or gathering, even though families often rely on each family member to participate.⁹⁵

⁷⁸ United Nations Office of the Special Adviser on Gender Issues and Advancement of Women, *Briefing Note No. 3, Gender and Indigenous Peoples' Education*, 2010, p. 3.

⁷⁹ United Nations General Assembly, *Report of the Expert Mechanism on the Rights of Indigenous Peoples*, 2006, paragraph 92.

⁸⁰ Education International. *Indigenous Peoples*.

⁸¹ United Nations Office of the Special Adviser on Gender Issues and Advancement of Women, *Briefing Note No. 3, Gender and Indigenous Peoples' Education*, 2010, p. 2.

⁸² Champagne, *Contemporary education*, 2010, p. 142.

⁸³ Champagne, *Contemporary education*, 2010, p. 140.

⁸⁴ UNICEF Innocenti Research Centre, *Ensuring the rights of indigenous children*, 2003, p. 11.

⁸⁵ Australian Human Rights Commission, *Social Justice Report 2008*, 2009, p. 299.

⁸⁶ Champagne, *Contemporary education*, 2010, p. 140.

⁸⁷ UNICEF Innocenti Research Centre, *Ensuring the rights of indigenous children*, 2003, p. 11.

⁸⁸ Champagne, *Contemporary education*, 2010, p. 140-141.

⁸⁹ Champagne, *Contemporary education*, 2010, p. 140-141.

⁹⁰ United Nations General Assembly, *Report of the Expert Mechanism on the Rights of Indigenous Peoples*, 2006, paragraph 23.

⁹¹ Champagne, *Contemporary education*, 2010, p. 147.

⁹² United Nations General Assembly, *United Nations Declaration on the Rights of Indigenous Peoples*, 2007, article 14.

⁹³ United Nations Office of the Special Adviser on Gender Issues and Advancement of Women, *Briefing Note No. 3, Gender and Indigenous Peoples' Education*, 2010, p. 2-3.

⁹⁴ UNICEF Innocenti Research Centre, *Ensuring the rights of indigenous children*, 2003, p. 11.

⁹⁵ Champagne, *Contemporary education*, 2010, p. 140-142.

This leads to a lower self-esteem of indigenous students, because they feel disconnected from their roots.⁹⁶ In order to strengthen their self-esteem and confidence, it is important to better integrate the parents into educational decision-making, which would also show respect for their cultures and contribute to more balanced curricula.⁹⁷ Many indigenous people would like for their children to be taught in their own indigenous languages and thus welcome bilingual education.⁹⁸ Statistics demonstrate that bilingual students usually also receive better results than monolingual indigenous students.⁹⁹ Thus, implementing corresponding education programmes would be a first step towards the improvement of the educational situation for indigenous people and could contribute to close the gap that still exists in this field.¹⁰⁰

The Educational Situation for Indigenous Girls

In terms of promoting the future success and empowerment of indigenous girls, it is particularly important to foster access to formal education and to bridge the education gap between boys and girls.¹⁰¹ In order for women to fully participate in the socioeconomic and political aspects of their societies, they need to be educated.¹⁰² In today's indigenous society, girls are still more disadvantaged than boys.¹⁰³ In Guatemala, 71% of the indigenous boys attend school, while only 54% of the girls have the same chance.¹⁰⁴ In Panama, 93% of all non-indigenous people between 15 and 19 completed primary school, even more women (95%) than men (92%).¹⁰⁵ On the contrary among the indigenous community, 56% of all students completed primary education, far more boys (61%) than girls (50%).¹⁰⁶ This shows the big differences that still exist in the gender issue.

In certain communities girls are prevented from attending school because of social norms that require girls to devote most of their times to supporting a household.¹⁰⁷ Even if enrolled in school, girls often face discrimination and disadvantages. In the Great Lake region of Africa, Batwa women suffer from verbal abuse and sexual harassment at school at the hands of male teachers or students.¹⁰⁸ In order to encourage girls to attend school, it is important to have more female teachers that can create an environment of security and help indigenous girls to continue their education.¹⁰⁹

Recent Developments in the International Community

The United Nations Permanent Forum on Indigenous Issues (UNPFII), in its fourth session, dealt explicitly with the topic of education.¹¹⁰ A special theme was achieving Millennium Development Goal (MDG) 2, namely to "[a]chieve universal primary education."¹¹¹ In this regard, the Forum expressed its conviction that states provide measures to ensure equal access to education for indigenous children, especially girls, as it has a large impact on

⁹⁶ United Nations Permanent Forum on Indigenous Issues. *Education*.

⁹⁷ Champagne, *Contemporary education*, 2010, p. 130.

⁹⁸ Champagne, *Contemporary education*, 2010, p. 142-143.

⁹⁹ Champagne, *Contemporary education*, 2010, p. 142-143.

¹⁰⁰ United Nations Permanent Forum on Indigenous Issues, *Press release. HR/4842*, 2005.

¹⁰¹ United Nations Office of the Special Adviser on Gender Issues and Advancement of Women, *Briefing Note No. 3, Gender and Indigenous Peoples' Education*, 2010, p. 1.

¹⁰² United Nations Office of the Special Adviser on Gender Issues and Advancement of Women, *Briefing Note No. 3, Gender and Indigenous Peoples' Education*, 2010, p. 1.

¹⁰³ Champagne, *Contemporary education*, 2010, p. 133.

¹⁰⁴ United Nations Office of the Special Adviser on Gender Issues and Advancement of Women, *Briefing Note No. 3, Gender and Indigenous Peoples' Education*, 2010, p. 1.

¹⁰⁵ Champagne, *Contemporary education*, 2010, p. 137.

¹⁰⁶ Champagne, *Contemporary education*, 2010, p. 137.

¹⁰⁷ United Nations Office of the Special Adviser on Gender Issues and Advancement of Women, *Briefing Note No. 3, Gender and Indigenous Peoples' Education*, 2010, p. 2.

¹⁰⁸ United Nations Office of the Special Adviser on Gender Issues and Advancement of Women, *Briefing Note No. 3, Gender and Indigenous Peoples' Education*, 2010, p. 2.

¹⁰⁹ United Nations Office of the Special Adviser on Gender Issues and Advancement of Women, *Briefing Note No. 3, Gender and Indigenous Peoples' Education*, 2010, p. 2.

¹¹⁰ United Nations Economic and Social Council, *United Nations Permanent Forum on Indigenous Issues. Fourth Session. Provisional Agenda*, 2005.

¹¹¹ United Nations Permanent Forum on Indigenous Issues, *Report on the fourth session*, 2005.

their lives.¹¹² Even though improving the access to education for indigenous children is a worthy goal on its own, it can also help to reduce poverty in the world and to counter discrimination.¹¹³ However, further financial resources are necessary to support education programs.¹¹⁴ In 2005, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people also published a report dealing with education systems and the right of indigenous peoples to education.¹¹⁵ Recommendations here included demanding national governments to put more emphasis on the topic and raise awareness in the public view.¹¹⁶

Since then, the UNPFII and other relevant UN bodies and agencies issued recommendations for improving access to education for indigenous people in several reports and documents. Among the actors in this field is also the United Nations Children Fund (UNICEF), who supports promising projects that could help to improve the access to education for indigenous people by showing more respect to their cultures and adapting to their needs.¹¹⁷ One example is the establishment of ORA schools, which is an initiative jointly operated by UNICEF and local organizations. These schools adjust to the needs of the indigenous communities, while also supporting indigenous languages and traditions.¹¹⁸

Another UN institution that deals with the topic is the United Nations Educational, Scientific and Cultural Organization (UNESCO); UNESCO is particularly active in southern Africa, where the situation for the San community is especially difficult. They have a very low educational achievement and less than 1% of the San actually obtain a completion certificate.¹¹⁹ Therefore, in 2012 the Working Group on Indigenous Minorities in Southern Africa (WIMSA) and UNESCO organized a conference in Namibia dealing with the topic “indigenous education in a changing world” in order to discuss efforts and measures that will help to improve the educational situation of San communities.¹²⁰

The International Labor Organization (ILO) also supports various projects under the umbrella of “Education for work, employment and rights of the indigenous peoples” (ETEDPI).¹²¹ The ILO Sub Regional Office in Costa Rica implements respective projects with focus on literacy or the rescue of historic memory in other Latin American countries such as Nicaragua or Guatemala in order to promote their Convention no. 169.¹²²

Case study: Australia

In Australia about 79% of the general population completes secondary school at Year 12, while among the indigenous population in Australia only 47% achieve the same level.¹²³ Indigenous Australians still have poorer outcomes in education than non-indigenous Australians and are more likely to face unemployment in their adult lives.¹²⁴ Although there has been some progress made in the educational situation of Australian indigenous children, such as the increase in the completion rate of Year 12, they are still half as likely to complete secondary education than non-indigenous children.¹²⁵

¹¹² United Nations Permanent Forum on Indigenous Issues, *Report on the fourth session*, 2005, paragraph 44.

¹¹³ United Nations General Assembly, *Report of the Special Rapporteur on the right to education*, Kingshore Singh, 2011, paragraph 17.

¹¹⁴ United Nations Office of the Special Adviser on Gender Issues and Advancement of Women, Briefing Note No. 3, Gender and Indigenous Peoples’ Education, 2010, p. 5.

¹¹⁵ United Nations Economic and Social Council, Report of the Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People. Indigenous Issues, 2005.

¹¹⁶ United Nations Economic and Social Council, Report of the Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People. Indigenous Issues, 2005, p. 21.

¹¹⁷ Anaya, *Child Rights Information Network*, 2010.

¹¹⁸ Anaya, *Child Rights Information Network*, 2010.

¹¹⁹ United Nations Educational, Scientific and Cultural Organization, *Conference: “Indigenous Education in a Changing World” 19-21 June 2012, Windhoek Country Club Resort, Windhoek*, 2012.

¹²⁰ United Nations Educational, Scientific and Cultural Organization, *Conference: “Indigenous Education in a Changing World” 19-21 June 2012, Windhoek Country Club Resort, Windhoek*, 2012.

¹²¹ International Labour Organization, Newsletter. The ILO and Indigenous and Tribal Peoples 2006, p. 17.

¹²² International Labour Organization, Newsletter. The ILO and Indigenous and Tribal Peoples 2006, p. 17-18.

¹²³ Australian Indigenous Education Foundation, *About AIEF*, 2012.

¹²⁴ Doyle, *Our children, our future – achieving improved primary and secondary education outcomes for indigenous students*, 2007, p. 15.

¹²⁵ Australian Human Rights Commission, *Social Justice Report 2008*, 2009, p. 299.

Some of the projects and initiatives that the Australian federal government has initiated in order to improve the situation can be models for other countries. One of such major initiatives was the apology to the indigenous people in 2008, which showed the will of Australian authorities to respect and honor the indigenous culture.¹²⁶ With the formal apology as an impetus, the Council of Australian Governments (COAG), consisting of state and territory governments, worked with indigenous peoples and developed a strategy called “Closing the Gap,” which is meant to improve the situation of indigenous peoples in various fields, including education.¹²⁷ In this action plan, the Council set specific timeframes for achieving certain goals, such as the access to early childhood education for all indigenous four-year olds in remote communities within the next five years, the reduction by half of the gap in reading, writing and numeracy achievements of indigenous students within a decade or the reduction by 50% of indigenous retention through Year 12 until 2020.¹²⁸ In general they also want to include a cross-cultural perspective in their national curricula in order to better integrate indigenous culture in school education.¹²⁹

The Australian federal government contributed to improving the situation of indigenous schooling and access to quality education by investing large amounts of money in schooling projects.¹³⁰ The Aboriginal and Torres Strait Islander Education Action Plan 2010-2014, launched in 2011 by the Ministerial Council for Education, Early Childhood Development and Youth Affairs, brings together various reforms and actions that are specifically supportive of indigenous education.¹³¹ Within this Action Plan, 900 Focus Schools responsible for 40,000 indigenous primary school students and 10,000 indigenous secondary school students were chosen for programmes.¹³² Projects include supporting and rewarding teachers that work in remote areas, hiring more indigenous teachers, and improving the teaching by sharing best practice guidelines.¹³³

Conclusion

In countries like Canada, Australia, New Zealand, and the United States, numerous actions have been taken in order to close the education gap between indigenous and non-indigenous peoples leading to some improvements in the field.¹³⁴ However, indigenous students still face severe challenges. Furthermore, many national governments prioritize access to primary education over access to secondary and postsecondary education.¹³⁵ In Canada and Australia, the rates of indigenous students graduating from high school is close to the number of non-indigenous students, but the representation in universities is still much lower.¹³⁶

Nonetheless, awareness for this situation on the international stage is continuously growing, which provides additional leverage for indigenous people in their fight for their rights and in the healing process.¹³⁷ It is important to further improve access for all children in order to give them the chance to change their lives and living situations. States and the international community have to continue to work together with indigenous peoples to find solutions to the problems.¹³⁸ Delegates should ask themselves what problems their respective countries are facing and what has been done so far in order to change the situation. Are there projects or initiatives that were successful and could be role models for other countries? How is the government dealing with indigenous peoples and their rights? What are the main challenges for indigenous children in the country that keep them from attending school?

¹²⁶ Act Government. Education and Training, Performance in Indigenous Education. *Annual Report 2009*, 2009, p. 7.

¹²⁷ Australian Government, *Closing the Gap. Prime Minister's Report 2012*, 2012, p. 1.

¹²⁸ United Nations General Assembly, *Report by the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples*, James Anaya, 2010, paragraph 35.

¹²⁹ United Nations General Assembly, *Report by the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples*, James Anaya, 2010, paragraph 95.

¹³⁰ Australian Government, *Closing the Gap. Prime Minister's Report 2012*, 2012, p. 56.

¹³¹ Australian Government, *Closing the Gap. Prime Minister's Report 2012*, 2012, p. 56.

¹³² Australian Government, *Closing the Gap. Prime Minister's Report 2012*, 2012, p. 56.

¹³³ Australian Government, *Closing the Gap. Prime Minister's Report 2012*, 2012, p. 57.

¹³⁴ Champagne, *Contemporary education*, 2010, p. 134.

¹³⁵ Champagne, *Contemporary education*, 2010, p. 137.

¹³⁶ Champagne, *Contemporary education*, 2010, p. 137.

¹³⁷ Champagne, *Contemporary education*, 2010, p. 149.

¹³⁸ Champagne, *Contemporary education*, 2010, p. 144.

Annotated Bibliography

Anaya, J. (2010). *Child Rights Information Network*. Retrieved August 4, 2012 from <http://www.crin.org/resources/infoDetail.asp?ID=28384>

This source gives a good overview of the problems indigenous children often have to face when it comes to access to education. It gives facts about the situation and points out reasons for the lack of access. Furthermore, it offers a first outline of possible solutions by giving examples of successful programmes. For delegates this can be helpful to get a better idea of the topic.

Australian Government. (February 2012). *Closing the Gap. Prime Minister's Report 2012*. Retrieved August 24, 2012 from http://www.fahcsia.gov.au/sites/default/files/documents/05_2012/closing_the_gap_2012.pdf

This report is an excellent source to give delegates a better understanding of the situation of indigenous people in Australia and will show them examples of possible projects and initiatives. It describes approaches by the national government to the challenges ahead and can be taken as a source for ideas and best practices.

Champagne, Duane. (2010). Contemporary education. In: UNPFII. *State of the World's Indigenous People*. (p.129-154).

This source gives detailed and thorough information on the topic. It will help delegates to get an insight into the various aspects of the subject. Furthermore, it includes important data and case studies, which will be of tremendous help for the delegate's research. It points out challenges as well as possible solutions and shows a very comprehensive approach to the matter of indigenous education.

UNICEF Innocenti Research Centre. (October 2003). Ensuring the rights of indigenous children. *Innocenti Digest*, 11.

This source will help delegates to get a better overview of the topic by explaining background information, giving facts and numbers about indigenous people and also describing important international documents and resolutions that protect the rights of indigenous people. Furthermore, the situation of indigenous education is highlighted and problems in this field are pointed out in detail.

United Nations General Assembly. (2011, July 11). *Report of the Special Rapporteur on the rights of indigenous peoples, James Anaya. A/HRC/18/35*. Retrieved August 4, 2012 from http://www.ohchr.org/Documents/Issues/IPeoples/SR/A-HRC-18-35_en.pdf

This report is the fourth annual report on indigenous issues by the rapporteur on the rights of indigenous people. It shows the importance the topic has for the international community and summarizes the activities that have been brought forward by international actors. This will show delegates what has been achieved so far and what further recommendations there are.

United Nations General Assembly. (2006, June 26). *Report of the Expert Mechanism on the Rights of Indigenous Peoples. Study on lessons learned and challenges to achieve the implementation of the right of indigenous peoples to education. A/HRC/EMRIP/2009/2*. Retrieved August 24, 2012 from http://www2.ohchr.org/english/issues/indigenous/ExpertMechanism/2nd/docs/A_HRC_EMRIP_2009_2.pdf

This is an analysis of the educational situation of indigenous people and will help delegates to better understand the circumstances and problems linked to the topic. It describes the education system as well as lessons learned and challenges that remain. The recommendations given here can be helpful for delegates in order to find approaches to address the topic effectively.

United Nations Permanent Forum on Indigenous Issues. (2005, May 16-24). *Report on the fourth session. E/2005/43*. Retrieved August 4, 2012 from <http://www.un.org/Docs/journal/asp/ws.asp?m=E/2005/43>

This report deals with the important fourth session of the UNPFII, where education was a major topic. Thus, it gives an excellent overview of the situation in this field and points out recommendations to national states, the international community and indigenous peoples. It is important for delegates in order to see and understand the work of the body and get a better idea for its goals in this subject.

United Nations General Assembly. (2007, September 13). *United Nations Declaration on the Rights of Indigenous Peoples*. A/61/L.67. Retrieved August 4, 2012 from http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf
This is the key document of the UN regarding the rights of indigenous peoples. It is crucial for delegates to be familiar with this in order to understand the situation of indigenous education. It is the foundation for understanding the topic and thus one of the most important sources for delegates.

United Nations Office of the Special Adviser on Gender Issues and Advancement of Women and the Secretariat of the United Nations Permanent Forum on Indigenous Issues (February 2010), *Briefing Note No. 3, Gender and Indigenous Peoples' Education*. Retrieved August 4, 2012 from http://www.un.org/esa/socdev/unpfii/documents/BriefingNote3_GREY.pdf
This source gives delegates a good orientation of the topic and focuses explicitly on the gender questions. It is ideal to get a better understanding of the problems and challenges indigenous children have to face and shows the impact on girls in particular. Furthermore, there are some recommendations that will help delegates to develop strategies for an improvement of the situation.

United Nations Permanent Forum on Indigenous Issues. *Education*. Retrieved August 5, 2012 from <http://social.un.org/index/IndigenousPeoples/ThematicIssues/Education.aspx>
This source offers an excellent overview of the topic. It gives background information on the problems indigenous students have to face and explains the various reasons for the situation. It touches a variety of subtopics very shortly so that it is easy to read and ideal for the preparation.

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II. Protecting the Rights of Indigenous Peoples in Situations of Armed Conflict

*“Our ancestors and we have resisted and continue to resist these moves which undermine our dignity and rights as indigenous peoples.”*¹³⁹

Introduction

Since the Second World War, more than 200 indigenous groups have organized themselves to defend their collective interests against national governments, transnational corporations, and other groups.¹⁴⁰ At least 80 of these groups have been party to or victims of armed conflict.¹⁴¹

Often indigenous communities are caught in “buffer zones” between parties to international conflicts and civil wars, because they occupy land with valuable natural resources, both of which can be forcibly taken, and used or sold for warfare material.¹⁴² Additionally, the remoteness of indigenous territories may offer the secrecy and autonomy desired by parties to base their operations.¹⁴³ Deliberate attacks are also conducted against indigenous peoples.¹⁴⁴ In other cases, state governments ruled by dominant societies and ethnicities employ violence rather than conciliation to address indigenous grievances and admit flaws in their political and social frameworks.¹⁴⁵ Indigenous peoples are then forced to arm themselves to defend their right for self-determination against oppressive governments.¹⁴⁶

As tensions escalate to violence in indigenous-prevalent areas of East and Central Africa, Southeast Asia, and in Central and South America, it is in the interest of the United Nations Permanent Forum on Indigenous Issues (UNPFII) to consider the effects of armed conflict on indigenous peoples.¹⁴⁷

Issues Leading to Violations of Indigenous Peoples’ Rights

While violence against indigenous peoples began centuries before the European conquests of the 14th through 19th centuries, European colonization established the primary setting that created and perpetuated conflicts between indigenous peoples, state governments, and the international community.¹⁴⁸ Western colonizers regarded indigenous peoples as sub-human or barbarian, and many modern governments have perpetuated this perspective.¹⁴⁹ Instead of coexisting in peace, governments exploit cultural differences and create a conflict over identity; this then leads to institutionalized racism and discrimination against indigenous minorities.¹⁵⁰ At its most extreme, such a conflict over identity results in violence and human rights violations, including murder, rape, enslavement, forced disappearances, ethnic cleansing, and genocide.¹⁵¹

Indigenous peoples and states also face conflict over control of indigenous land.¹⁵² Many indigenous peoples are primarily focused on recovering their ancestral lands lost during colonization and the creation of the national state following decolonization.¹⁵³ This struggle for land rights is complicated by globalization, as national governments and international financial institutions promote national growth by harvesting resources on indigenous peoples’ lands directly or through contracts with multinational corporations.¹⁵⁴ These activities force indigenous peoples to flee their ancestral land, making them refugees either within their state of origin or in neighboring states.¹⁵⁵

¹³⁹ Tebtebba Foundation, *Manila Declaration*, 2000.

¹⁴⁰ Tebtebba Foundation, *Manila Declaration*, 2000.

¹⁴¹ Tebtebba Foundation, *Manila Declaration*, 2000.

¹⁴² Hughes, *The No-Nonsense Guide to Indigenous Peoples*, 2003, p. 66.

¹⁴³ Hughes, *The No-Nonsense Guide to Indigenous Peoples*, 2003, p. 60.

¹⁴⁴ Tauli-Corpuz, *Self-determination and Sustainable Development: Two Sides of the Same Coin*, 2009, p. 22.

¹⁴⁵ Tauli-Corpuz, *Self-determination and Sustainable Development: Two Sides of the Same Coin*, 2009, p. 22.

¹⁴⁶ Tauli-Corpuz, *Self-determination and Sustainable Development: Two Sides of the Same Coin*, 2009, p. 22.

¹⁴⁷ Trask, *Emerging Issues*, 2009, p. 222.

¹⁴⁸ Maybury-Lewis, *Indigenous Peoples, Ethnic Groups and the State*, 2002, p. 6

¹⁴⁹ Tauli-Corpuz, *Self-determination and Sustainable Development: Two Sides of the Same Coin*, 2009, p. 58.

¹⁵⁰ Hilhorst, *Indigenous Identity, Conflict & Conflict Resolution*, 2004, p. 83.

¹⁵¹ UN Permanent Forum on Indigenous Issues, *Human Rights*, 2012.

¹⁵² Hughes, *The No-Nonsense Guide to Indigenous Peoples*, 2003, p. 62-66.

¹⁵³ Tauli-Corpuz, *Self-determination and Sustainable Development: Two Sides of the Same Coin*, 2009, p. 16-19.

¹⁵⁴ Sawyer, *Transnational Governmentality and Resource Extraction*, 2008, p. 8

¹⁵⁵ Tauli-Corpuz, *Self-determination and Sustainable Development: Two Sides of the Same Coin*, 2009, p. 23.

Indigenous refugees face significant health and economic impacts in urban areas or shantytowns, including lack of clean drinking water, electricity, or adequate sewerage.¹⁵⁶ They lose access to sacred sites and community networks, denying them important aspects of their identity.¹⁵⁷

International Law

Two Secretaries-General and several international and regional legal bodies have applied the foundational human rights doctrines, including the *UN Charter* (1945), the *Universal Declaration on Human Rights* (1948), the *International Covenant on Civil and Political Rights* (1966), and the *International Covenant on Economic, Social and Cultural Rights* (1966), to indigenous peoples.¹⁵⁸ The *International Labour Organization (ILO) Convention 169* (1989) and the *Declaration on the Rights of Indigenous Peoples* (2007) further define indigenous peoples' human rights protections.¹⁵⁹ While the core provisions of these international human rights law instruments are applicable both in peacetime and wartime, several provisions of these human rights instruments are subject to suspension by a state under threat. The presence of armed conflict, therefore, triggers a related but distinct set of rules: international humanitarian law.¹⁶⁰

The foundation of international humanitarian law is contained in the Geneva Conventions.¹⁶¹ The *First* and *Second Geneva Conventions* exclusively concern combatants, while the *Fourth Geneva Convention* establishes the rights of civilians during armed conflict.¹⁶² The first and second *Additional Protocols to the Geneva Conventions* define international and non-international armed conflict. According to the *First Additional Protocol*, international conflict is defined as "armed conflicts in which peoples are fighting against colonial domination and alien occupation and against racist regimes."¹⁶³ The *Second Additional Protocol* classifies non-international armed conflicts as those which take place within a state's territory "between its armed forces and dissident armed forces or other organized armed groups which, under responsible command, exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operations."¹⁶⁴ The Second Protocol specifically excludes "situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence" as armed conflict.¹⁶⁵ These additional protocols establish that the humanitarian law protections of the Geneva Conventions apply to both international and non-international armed conflicts.¹⁶⁶

Common Article Three of the Geneva Conventions establishes the basic rights to security of person.¹⁶⁷ These rights include protection against "violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture," as well as "outrages upon personal dignity."¹⁶⁸ Articles 31, 51, and 55 of the Fourth Geneva Convention extend these rights, which prohibit torture, forced transcription, and theft of natural resources.¹⁶⁹ The rights of children and women are specifically highlighted in Articles 24 and 27.¹⁷⁰ Of particular importance to indigenous peoples, Article 49 deals with the most frequent transgression against them: individual or mass forcible

¹⁵⁶ United Nations Children's Fund, *Ensuring the Rights of Indigenous Children*, 2004, p. 13.

¹⁵⁷ United Nations Children's Fund, *Ensuring the Rights of Indigenous Children*, 2004, p. 8.

¹⁵⁸ Kane, *Protecting the rights of minorities in Africa*, 2008, p. 23; OHCHR, *International Legal Protection of Human Rights in Armed Conflict*, 2011, p. 100-101.

¹⁵⁹ United Nations Office of the High Commissioner for Human Rights, *International Law*.

¹⁶⁰ United Nations Office of the High Commissioner for Human Rights, *International Legal Protection of Human Rights in Armed Conflict*, 2011, p. 39.

¹⁶¹ United Nations Office of the High Commissioner for Human Rights, *International Legal Protection of Human Rights in Armed Conflict*, 2011, p. 23.

¹⁶² United Nations Office of the High Commissioner for Human Rights, *International Legal Protection of Human Rights in Armed Conflict*, 2011, p. 23.

¹⁶³ *Protocol Additional to the Geneva Conventions of 12 August 1949 (Protocol I)*, 8 June 1977, Art. 3.

¹⁶⁴ *Protocol Additional to the Geneva Conventions of 12 August 1949 (Protocol II)*, 8 June 1977, Art. 1.

¹⁶⁵ *Protocol Additional to the Geneva Conventions of 12 August 1949 (Protocol II)*, 8 June 1977, Art. 1.

¹⁶⁶ United Nations Office of the High Commissioner for Human Rights, *International Legal Protection of Human Rights in Armed Conflict*, 2011, p. 23.

¹⁶⁷ *Geneva Convention relative to the Protection of Civilian Persons in Time of War (2nd part)*, 12 August 1949, Art. 3.

¹⁶⁸ *Geneva Convention relative to the Protection of Civilian Persons in Time of War (2nd part)*, 12 August 1949, Art. 3.

¹⁶⁹ *Geneva Convention relative to the Protection of Civilian Persons in Time of War (2nd part)*, 12 August 1949, Art. 31, 51, 55.

¹⁷⁰ *Geneva Convention relative to the Protection of Civilian Persons in Time of War (2nd part)*, 12 August 1949, Art. 24, 27.

transfers.¹⁷¹ This provision also explicitly outlaws any attempt to alter the demographic or cultural balance of a territory under occupation.¹⁷²

International Community Efforts

Often unable to find redress on the domestic level against human rights violations and violations of international humanitarian law, indigenous peoples have increasingly called for action by the United Nations and its specialized agencies.¹⁷³ This action led to the creation of the UNPFII and the expansion of expertise, methodology and practice of addressing human rights violations by the UN structure.¹⁷⁴

Activities of the Permanent Forum for Indigenous Issues

As an advisory body to the UN Economic and Social Council (ECOSOC), the UNPFII has no judicial functions and does not have the authority to investigate rights violations or the power to compel countries to comply with international law related to indigenous peoples.¹⁷⁵ However, within this limited scope, the Permanent Forum requests members of the UN Secretariat to report on the status of indigenous peoples, including in situations of armed conflict and can make recommendations to the ECOSOC.¹⁷⁶

In March 2004, the first substantial step was taken by the Secretariat of the Permanent Forum to address armed conflict.¹⁷⁷ The Secretariat hosted a panel composed of UN, state, and non-governments experts on the inclusion of indigenous women in conflict prevention, conflict resolution, and post-conflict peace-building.¹⁷⁸ During the Permanent Forum's third annual session in May of that same year, the members called for implementation of the panel's recommendations, including data gathering by UN field operations on indigenous women in conflict areas; incorporation of indigenous women in UN post-conflict reconstruction and development programs; and priority assistance for indigenous refugees from the Office of the UN High Commissioner for Human Rights.¹⁷⁹ The Permanent Forum also made its first specific recommendation to the Special Rapporteur on the human rights and fundamental freedoms of indigenous peoples to monitor the effects of armed conflict on indigenous peoples.¹⁸⁰ The next set of Permanent Forum recommendations on armed conflict was during the fifth session's half-day discussion on Africa. The Permanent Forum called on African states to work with UN peacekeeping forces to protect indigenous peoples from the effects of armed conflicts within their borders.¹⁸¹ The Member States of the Great Lakes, Niger Delta, and Sahara regions, as well as the Sudan, were specifically encouraged to invite indigenous peoples' representatives to participate in roundtable dialogues on resolving their conflicts.¹⁸²

During the ninth session, the Permanent Forum again addressed armed conflict by calling on the UN Development Programme to include indigenous peoples in its democratic governance initiatives.¹⁸³ Within this recommendation, the Permanent Forum expressed the goal of strengthening indigenous institutions in order to encourage Member States to use indigenous conflict resolution methods to prevent political conflicts from becoming violent.¹⁸⁴ The Permanent Forum also noted the successful implementation by the UN Division for Social Policy and Development, a division of the UN Secretariat's Department of Economic and Social Affairs, of the Permanent Forum's third session recommendations regarding indigenous women's roles in conflict resolution.¹⁸⁵

¹⁷¹ *Geneva Convention relative to the Protection of Civilian Persons in Time of War (2nd part)*, 12 August 1949, Art. 47.

¹⁷² *Geneva Convention relative to the Protection of Civilian Persons in Time of War (2nd part)*, 12 August 1949, Art. 47.

¹⁷³ Tauli-Corpus, *Self-determination and Sustainable Development: Two Sides of the Same Coin*, 2009, p. 22-26.

¹⁷⁴ OHCHR, *International Legal Protection of Human Rights in Armed Conflict*, 2011, p. 93.

¹⁷⁵ Sawyer, *Transnational Governmentality and Resource Extraction*, 2008, p. 10.

¹⁷⁶ United Nations Economic and Social Council. *Establishment of a Permanent Forum on Indigenous Issues (ECOSOC/2000/22)*, 2000.

¹⁷⁷ Secretariat of the UN Permanent Forum on Indigenous Issues, *Note by the Secretariat on the Panel on the Participation of indigenous women in conflict prevention, conflict resolution and post-conflict peace-building*, 2004.

¹⁷⁸ Secretariat of the UN Permanent Forum on Indigenous Issues, *Note by the Secretariat on the Panel on the Participation of indigenous women in conflict prevention, conflict resolution and post-conflict peace-building*, 2004.

¹⁷⁹ UN Permanent Forum on Indigenous Issues, *Report on the third session (E/2004/43)*, 2004, p. 6-7.

¹⁸⁰ UN Permanent Forum on Indigenous Issues, *Report on the third session (E/2004/43)*, 2004, p. 16.

¹⁸¹ UN Permanent Forum on Indigenous Issues, *Report on the fifth session (E/2006/43)*, 2006, p. 20.

¹⁸² UN Permanent Forum on Indigenous Issues, *Report on the fifth session (E/2006/43)*, 2006, p. 20.

¹⁸³ UN Permanent Forum on Indigenous Issues, *Report on the ninth session (E/2010/43)*, 2010, p. 5.

¹⁸⁴ UN Permanent Forum on Indigenous Issues, *Report on the ninth session (E/2010/43)*, 2010, p. 5.

¹⁸⁵ UN Permanent Forum on Indigenous Issues, *Report on the ninth session (E/2010/43)*, 2010, p. 44.

During the first, second, fourth, fifth, and seventh sessions of the Permanent Forum, armed conflict was only vaguely addressed as it only marginally related to these session's respective discussions on access to food, protection of children, the Millennium Development Goals, land rights, climate change, and refugees.¹⁸⁶ The eighth and tenth sessions were review years.¹⁸⁷ Though these review sessions did not include extensive discussion of armed conflict, the Permanent Forum reiterated their previous recommendations.¹⁸⁸

The Role of Other UN Organs

Over the last decade, the Security Council has passed resolutions demanding forces in indigenous-populous Sierra Leone, the Democratic Republic of Congo, Afghanistan, Somalia, and Sudan to respect human rights and abide by applicable rules of international humanitarian law.¹⁸⁹ The Security Council has also called on the Secretary-General to develop effective and efficient ways to pursue threats to civilian populations.¹⁹⁰

The Office of the High Commissioner on Human Rights addresses human rights abuses in specific situations.¹⁹¹ Within this duty, the High Commissioner engages non-state actors, including indigenous peoples.¹⁹² The High Commissioner also issues periodic reports on violations of international human rights and humanitarian law by parties to ongoing conflicts, and works with governments to resolve recurring abuses, including recent action in states with significant indigenous populations such as Nepal, the Sudan, Colombia, and the occupied Palestinian territory.¹⁹³

At the regional level, the African Commission on Human and Peoples' Rights, the Inter-American Court of Human Rights, and the Inter-American Commission on Human Rights carry out regional investigations of human rights abuses against indigenous peoples in times of armed conflict.¹⁹⁴

Case Studies: Colombia and Bangladesh

As the struggles of indigenous peoples are as diverse as their cultures, this guide provides two distinct case studies: the Paez, Awa; and Embera of Colombia stuck in the buffer zones of one of the longest ongoing non-international armed conflicts worldwide; and the Jawwa of the Chattanooga Hill Tracts in Bangladesh struggling for autonomy after a 30-year civil war.¹⁹⁵ While the study of Colombia focuses on indigenous peoples victimized by an armed conflict that they do not actively participate in, the Bangladesh study provides an example of the struggles that indigenous peoples face after engaging in armed conflict with state governments.¹⁹⁶

Colombia

Colombia is home to 87 indigenous peoples, which consist of 1.4 million persons living in 334 reserves.¹⁹⁷ According to Colombia's Constitutional Court, nearly one-third of the country's indigenous peoples are at risk of extinction.¹⁹⁸ Since 2002, more than 1,400 of the Colombian indigenous population have been murdered as a result

¹⁸⁶ UN Permanent Forum on Indigenous Issues, *Report on the first session (E/2002/43/Rev. 1)*, 2002, p. 7; UN Permanent Forum on Indigenous Issues, *Report on the second session (E/2003/43)*, 2003, p. 6; UN Permanent Forum on Indigenous Issues, *Report on the fourth session (E/2005/43)*, 2005; UN Permanent Forum on Indigenous Issues, *Report on the sixth session (E/2007/43)*, 2007, p. 3, 5; UN Permanent Forum on Indigenous Issues, *Report on the seventh session (E/2008/43)*, 2008.

¹⁸⁷ UN Permanent Forum on Indigenous Issues, *Report on the eighth session (E/2009/43)*, 2009; UN Permanent Forum on Indigenous Issues, *Report on the tenth session (E/2011/43)*, 2011.

¹⁸⁸ UN Permanent Forum on Indigenous Issues, *Report on the eighth session (E/2009/43)*, 2009, p. 6; UN Permanent Forum on Indigenous Issues, *Report on the tenth session (E/2011/43)*, 2011, p. 9, 19.

¹⁸⁹ OHCHR, *International Legal Protection of Human Rights in Armed Conflict*, 2011, p. 96-97.

¹⁹⁰ OHCHR, *International Legal Protection of Human Rights in Armed Conflict*, 2011, p. 98-99.

¹⁹¹ OHCHR, *International Legal Protection of Human Rights in Armed Conflict*, 2011, p. 104-105.

¹⁹² OHCHR, *International Legal Protection of Human Rights in Armed Conflict*, 2011, p. 105.

¹⁹³ OHCHR, *International Legal Protection of Human Rights in Armed Conflict*, 2011, p. 105-107.

¹⁹⁴ Sawyer, *Transnational Governmentality and Resource Extraction*, 2008, p. 10.

¹⁹⁵ Tauli-Corpuz, *Self-determination and Sustainable Development: Two Sides of the Same Coin*, 2009, p. 17.

¹⁹⁶ Tauli-Corpuz, *Self-determination and Sustainable Development: Two Sides of the Same Coin*, 2009, p. 17.

¹⁹⁷ International Work Group on Indigenous Affairs, *The Indigenous World 2012*, 2012, p. 120.

¹⁹⁸ International Work Group on Indigenous Affairs, *The Indigenous World 2012*, 2012, p. 120.

of the ongoing armed conflict between the government, paramilitary groups, and illicit drug traders.¹⁹⁹ Approximately 176 have forcibly disappeared, and indigenous peoples make up around 7% of the displaced population.²⁰⁰

Oil corporations, mining companies, banana and palm oil growers, and illicit coca producers infringe on their reservations regularly, because boundaries of these reservations overlap with non-indigenous landowners.²⁰¹ Drug traffickers supported by paramilitary forces expel or arrest indigenous peoples under claims of trespassing on private lands.²⁰² The government forces accuse indigenous peoples, particularly indigenous youth, of collaborating with anti-government guerilla groups, and make no distinction between combatants and non-combatants.²⁰³ The government uses the guise of protecting the safety of indigenous peoples to expand militarization of their reservations.²⁰⁴

For 15 years, under the presidency of Alvaro Uribe Velez, thousands of indigenous peoples were displaced, resulting in increasing populations of refugees in the neighboring countries of Brazil, Ecuador, Panama, Peru and Venezuela.²⁰⁵ Refugees have also fled to urban areas within Colombia where prevalent malnutrition and deaths due to hunger are reported.²⁰⁶

A major achievement for indigenous rights was made in 2009 with Constitutional Court Ruling 004.²⁰⁷ This judicial decision required the Colombian government to protect the fundamental rights of those indigenous peoples threatened by armed conflict and to involve indigenous leaders in the political negotiation for resolution of the ongoing armed conflict.²⁰⁸ Soon afterward, Juan Manuel Santos assumed the Colombian presidency and began taking steps to recognize and involve indigenous peoples in his government.²⁰⁹ He declared, in an address to the indigenous Embera population in October 2010, that his government would have the clear aim of safeguarding indigenous peoples.²¹⁰ In May 2011, the government adopted the Law on the Reparation for Victims of the Armed Conflict, which allows for victims of the armed conflict to claim reparations for acts committed after 1985, including the indigenous population.²¹¹

However, Santos has not retracted Uribe's Decree 441 of 2010, which declared the non-existence of indigenous reserves of colonial origin.²¹² He has also failed to address the issue of whether indigenous peoples would be involved in the political negotiation of armed conflict, as required by Ruling 004.²¹³ As of July 2012, Ruling 004 remains unimplemented.²¹⁴ Furthermore, the National Indigenous Organization of Colombia estimates that 117 indigenous people were assassinated in 2011.²¹⁵

Bangladesh

The Bangladeshi government has stated that there are "no Indigenous Peoples in Bangladesh," yet 2.5 million indigenous peoples live in Bangladesh consisting of 45 ethnic groups.²¹⁶ These indigenous peoples, known collectively as the Jummas, are concentrated in the southeast portion of the country known as the Chittagong Hill Tracts (CHT).²¹⁷

¹⁹⁹ International Work Group on Indigenous Affairs, *The Indigenous World 2012*, 2012, p. 121.

²⁰⁰ International Work Group on Indigenous Affairs, *The Indigenous World 2012*, 2012, p. 121.

²⁰¹ ABColumbia, *Caught in the Conflict – Colombia's indigenous peoples*, 2010, p. 4.

²⁰² International Work Group on Indigenous Affairs, *The Indigenous World 2012*, 2012, p. 121.

²⁰³ Trask, *Emerging Issues*, 2009, p. 227.

²⁰⁴ ABColumbia, *Caught in the Conflict – Colombia's indigenous peoples*, 2010, p. 4.

²⁰⁵ Trask, *Emerging Issues*, 2009, p. 227.

²⁰⁶ Trask, *Emerging Issues*, 2009, p. 227.

²⁰⁷ ABColumbia, *Caught in the Conflict – Colombia's indigenous peoples*, 2010, p. 10.

²⁰⁸ International Work Group on Indigenous Affairs, *The Indigenous World 2012*, 2012, p. 121.

²⁰⁹ International Work Group on Indigenous Affairs, *The Indigenous World 2011*, 2011, p. 122.

²¹⁰ International Work Group on Indigenous Affairs, *The Indigenous World 2011*, 2011, p. 127.

²¹¹ International Work Group on Indigenous Affairs, *The Indigenous World 2012*, 2012, p. 121.

²¹² International Work Group on Indigenous Affairs, *The Indigenous World 2011*, 2011, p. 128.

²¹³ International Work Group on Indigenous Affairs, *The Indigenous World 2011*, 2011, p. 129.

²¹⁴ International Work Group on Indigenous Affairs, *The Indigenous World 2012*, 2012, p. 124.

²¹⁵ International Work Group on Indigenous Affairs, *The Indigenous World 2012*, 2012, p. 126.

²¹⁶ International Work Group on Indigenous Affairs, *The Indigenous World 2012*, 2012, p. 330.

²¹⁷ International Work Group on Indigenous Affairs, *The Indigenous World 2012*, 2012, p. 330.

For 30 years since 1972, the government and the Jummas engaged in a full-scale civil war caused and perpetuated by the government's attempts to resettle the area with Bengali people.²¹⁸ The war ended in December 1997 with the signing of the *CHT Peace Accord*.²¹⁹ The treaty recognizes the CHT as a "tribal inhabited" region with a traditional government of chiefdoms, establishing limited indigenous autonomy.²²⁰ 15 years later, little progress has been made toward implementation of the Jummas' stipulations in the *CHT Peace Accord*.²²¹ The Regional Council continues to be ill-equipped in terms of budget, technical resources, human resources and governing powers.²²² Rehabilitation of indigenous combatants and return of refugees has been slow, and the CHT remains heavily militarized by government forces.²²³

On April 13, 2010, the High Court of Bangladesh declared the *CHT Regional Council Act of 1998* to be unconstitutional and in violation of "the sanctity of the unitary state."²²⁴ The High Court also declared several major provisions of the *Hill District Council Acts of 1998* to be unconstitutional.²²⁵ In July of that year, the Prime Minister unofficially established a Strategic Management Forum through the Armed Forces Division.²²⁶ The Forum allows an influx of military and intelligence officials into the CHT and bypasses indigenous input.²²⁷

At the tenth session of the UNPFII, an appointed Special Rapporteur presented a study on the status of implementation of the *CHT Peace Accord*.²²⁸ The study concluded that the 1997 *CHT Peace Accord* remained unimplemented and provided recommendations for implementation.²²⁹ The government of Bangladesh reacted strongly to the study, stating that it was "a 'lopsided' opinion on a 'non-indigenous' issue."²³⁰ In November 2011, the international CHT Commission discontinued its assessment of the human rights situation in the area, because the district civil administration and intelligence agencies blocked them from continuing their work.²³¹

Conclusion

Indigenous peoples are continuously negotiating with state governments, transnational corporations and non-state actors to protect their peace and security.²³² While the prevalent armed conflicts of the past decade have begun to settle, violence persists arising from poverty, hunger and marginalization in post-conflict zones.²³³ Yet, as indigenous peoples take a more active role in the future of the international community through the UNPFII, the potential for mutual respect and lasting peace between indigenous peoples and external actors has become possible.²³⁴

²¹⁸ International Work Group on Indigenous Affairs, *The Indigenous World 2012*, 2012, p. 330.

²¹⁹ International Work Group on Indigenous Affairs, *The Indigenous World 2012*, 2012, p. 330.

²²⁰ International Work Group on Indigenous Affairs, *The Indigenous World 2012*, 2012, p. 336.

²²¹ Tauli-Corpuz, *Self-determination and Sustainable Development: Two Sides of the Same Coin*, 2009, p. 41.

²²² Tauli-Corpuz, *Self-determination and Sustainable Development: Two Sides of the Same Coin*, 2009, p. 41.

²²³ Medrana, *Indigenous Peoples and Peace Accords*, 2004, p. 104.

²²⁴ International Work Group on Indigenous Affairs, *The Indigenous World 2011*, 2011, p. 332.

²²⁵ International Work Group on Indigenous Affairs, *The Indigenous World 2011*, 2011, p. 332.

²²⁶ International Work Group on Indigenous Affairs, *The Indigenous World 2011*, 2011, p. 332.

²²⁷ International Work Group on Indigenous Affairs, *The Indigenous World 2011*, 2011, p. 332.

²²⁸ UN Permanent Forum on Indigenous Issues, *Study on the status of implementation of the Chittagong Hill Tracts Accord of 1997 (E/C.19/2011/6)*, 2011.

²²⁹ UN Permanent Forum on Indigenous Issues, *Study on the status of implementation of the Chittagong Hill Tracts Accord of 1997 (E/C.19/2011/6)*, 2011, p. 15-17.

²³⁰ International Work Group on Indigenous Affairs, *The Indigenous World 2012*, 2012, p. 336.

²³¹ International Work Group on Indigenous Affairs, *The Indigenous World 2012*, 2012, p. 336.

²³² Tauli-Corpuz, *Self-determination and Sustainable Development: Two Sides of the Same Coin*, 2009, p. 58.

²³³ Hughes, *The No-Nonsense Guide to Indigenous Peoples*, 2003, p. 60-67.

²³⁴ Tauli-Corpuz, *Self-determination and Sustainable Development: Two Sides of the Same Coin*, 2009, p. 62.

Annotated Bibliography

II. Protecting the Rights of Indigenous Peoples in Armed Conflict

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http://www.abcolombia.org.uk/downloads/Caught_in_the_Crossfire.pdf

Published by a coalition of British and Irish non-governmental organizations working in Colombia, this report provides further detail of the human rights abuses in Colombia against the indigenous Awas. A history of the conflict and its modern implications is included, as well as a series of recommendations to the United Nations Secretariat, the Permanent Forum on Indigenous Issues, the Colombian government and other non-government agencies operating in Colombia. Delegates should pay particular attention to the discussion of the economic impacts of the conflict on the Awa and their hunter-gatherer traditions. This report is a necessary supplement to the brief case study included in this section of the background guide.

Office of the High Commissioner on Human Rights (n.d.). Geneva Convention relative to the Protection of Civilian Persons in Time of War. Retrieved on September 11, 2012, from:

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

The Geneva Conventions of 1949 form the foundation of human rights laws concerning armed conflict. The Fourth Convention pertains to civilian persons, of which indigenous peoples are typically included. Delegates should read the Fourth Geneva Convention articles discussed under the International Law section of this background guide, as well as study the broader relationship between combatants and civilians established by the Geneva Conventions by reading the First and Second Conventions.

Hymowitz, S., I. Dikkers, and A. Anderson (2003). Study Guide: The Rights of Indigenous Peoples. Retrieved on September 13, 2012 from: <http://www1.umn.edu/humanrts/edumat/studyguides/indigenous.html>

A general overview of indigenous issues, this website from the University of Minnesota Human Rights Center provides links to the various UN organs, NGOs and documents concerning indigenous rights, with a particular focus on rights during armed conflict. Delegates should utilize the section on International Instruments for the Protection of Indigenous Peoples' Human Rights to guide their research on international law not discussed in this background guide, but that have great significance to indigenous rights, including the Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Rights of the Child and the Durban Declaration and Program of Action. The website also features links to major research centers that report on human rights violations in armed conflict.

International Work Group on International Peoples. (2012). Militarization in the Chittagong Hill Tracts, Bangladesh –The Slow Demise of the Region's Indigenous Peoples. Copenhagen, Denmark. International Work Group on Indigenous Peoples. Retrieved September 13, 2012, from:

http://www.iwgia.org/iwgia_files_publications_files/0577_Igia_report_14_optimized.pdf

Published by well-regarded non-government organization The International Work Group on Indigenous Peoples, this report includes further analysis of the situation facing the indigenous peoples of the Chittagong Hill Tracts, including the multiple breaches of the Chittagong Hill Tracts Agreement with the Government of Bangladesh. This analysis provides an expanded background section and focuses on the local approaches by the indigenous peoples to prevent infringement on their territory. Delegates should study Section Seven, focusing on United Nations efforts to maintain peace and complications associated with peacekeepers moving into the region.

Kane, I. (2010). Protecting the rights of minorities in Africa: A guide for human rights activists and civil society organizations. United Kingdom: Minority Rights Group International. Retrieved on September 13, 2012, from: <http://www.minorityrights.org/7544/guides/protecting-the-rights-of-minorities-in-africa-a-guide-for-human-rights-activists-and-civil-society-organizations.html>

This guide deals with the African Union's efforts to address indigenous peoples and other minorities, and features a particularly thorough section on the relationship with United Nations initiatives and regional bodies. Due to the prevalence of indigenous peoples in sub-Saharan

Africa, analysis of the activities of regional bodies and NGOs in Africa provides a strong base for understanding the global discussion of indigenous issues and conflict resolution models. Delegates should play particular attention to the overview of international standards concerning minorities over the past two decades in Part One, as well as Chapter Four focusing on regional efforts to strengthen combatant accountability.

Office of the High Commissioner for Human Rights. (2011). *International Legal Protection of Human Rights in Armed Conflict*. New York and Geneva: United Nations. Retrieved on September 13, 2012, from:

http://www.ohchr.org/Documents/Publications/HR_in_armed_conflict.pdf

A comprehensive guide to human rights law, this report by the Office of the High Commissioner for Human Rights provides a history of international human rights and humanitarian law, as well as the gaps that result in human rights violations against indigenous peoples not being addressed. Section Three concerning the rights of victims is particularly important to establishing accountability mechanisms. Delegates should study Section Four which addresses the roles of United Nations agencies, including the General Assembly, Secretary-General and the High Commissioner for Human Rights, as well as limitations on their powers and activities.

Sawyer, S. and E.T. Gomez. (2008). *Transnational Governmentality and Resource Extraction: Indigenous Peoples, Multinational Corporations, Multilateral Institutions and the State. Identities, Conflict and Cohesion Programme Paper No. 13*. Geneva, Switzerland: United Nations Research Institute for Social Development. Retrieved on September 13, 2012, from:

<http://www.un.org/esa/socdev/unpfii/documents/TransnationalGovernmentalityandResourceExtraction.pdf>

This United Nations Research Institute paper deals with the complex relationship between multinational corporations, states, and indigenous peoples resulting from globalization. The paper includes a section on corporate-indigenous relations, as well as the identity crisis facing indigenous peoples threatened by powerful alliances between state governments and corporations. Delegates should play particular attention to the discussion of multilateral organizations and their role in protecting indigenous peoples' rights as well as threatening the livelihood of indigenous peoples through the furthering of neo-liberal ideologies.

Secretariat of the Permanent Forum on Indigenous Issues. (2009). *State of the World's Indigenous Peoples*. New York. United Nations. Retrieved on September 13, 2012, from:

http://www.un.org/esa/socdev/unpfii/documents/SOWIP_web.pdf

This collection of analyses features in-depth studies of the major issue areas facing the Permanent Forum: poverty; health; education; the environment, culture and human rights. In contrast to the Tebtebba Foundation's Reclaiming Balance (discussed below), this book provides a favorable analysis of the activities of the Permanent Forum, while recognizing that challenges remain. Delegates should pay particular attention to the final chapter on "Emerging Issues," which deals predominately with armed conflict and international efforts to confront human rights violations during armed conflict. The section on human rights should also be studied, as it provides the perspective of the Permanent Forum secretariat and discusses their work toward the goals of the Permanent Forum.

Tauli-Corpuz, V. and J. Carino. (2004). *Reclaiming Balance: Indigenous Peoples, Conflict Resolution and Sustainable Development*. The Philippines. Tebtebba Foundation.

Published in follow-up to the International Conference on Conflict Resolution, Peace Building, Sustainable Development and Indigenous Peoples held by the UN-recognized NGO, the Tebtebba Foundation, this book features a thematic study of indigenous issues related to armed conflict and indigenous approaches to conflict resolution. The four thematic analyses focus on land rights, identity, gender issues and peace accords between indigenous peoples and state governments. A series of case studies follows, including studies from each region of the world. Delegates should study the final chapter on the role of the United Nations, particularly as it includes a unique critical perspective on multilateral organizations. This book should provide particularly useful for delegations with tenuous relations between their indigenous peoples and state governments.

United Nations Children's Fund. (2004). Ensuring the Rights of Indigenous Children. Florence, Italy: United Nations Children's Fund Innocenti Research Centre. Retrieved on September 13, 2012, from: <http://www.unicef-irc.org/publications/356>

This report by the United Nations Children's Fund discusses the critical challenges in shaping the next generation of indigenous leaders. The format of the report allows for extensive information, including various case studies and prominent issues not featured in the main text. In addition to its primary focus on children, it addresses the unique challenges facing refugees and internally displaced persons particularly in urban settings. Delegates should focus on the health and education concerns that are addressed, as the guide provides significant details not included in this guide due to space limitations.

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III. Reconciling Indigenous Rights with Land Governance

„[I]ndigenous peoples (...) have an intimate connection to the land; the rationale for talking about who they are is tied to the land.“²³⁵

Introduction

Indigenous people have a very special and profound relationship to land and territory.²³⁶ They often feel spiritually connected and responsible for the land they live on, its plants, and the animals.²³⁷ Usually, their ancestors were buried on the same grounds, making these places especially sacred to them.²³⁸ However, indigenous people have often lost their land, on which generations of them have lived, to colonizers or other groups of people that arrived after them.²³⁹ In many cases, they regard the loss and destruction of the natural environment as the death of an indigenous people with its own identity.²⁴⁰ Displacement from their land often results in an uprooting and destruction of indigenous peoples' cultural identity or indigenous languages.²⁴¹ Indigenous peoples also see a connection between the loss of their land and the discrimination and underdevelopment of their communities.²⁴² Thus, for the survival of the different indigenous cultures, it is essential to respect and support their rights to land.²⁴³ Not having access to their ancestral lands leads to many problems in indigenous societies as their livelihood systems often depend on the use of their land.²⁴⁴ Several non-governmental organizations (NGOs) have found that the displacement of indigenous people from their lands has an overall negative impact on their cultures and social structures.²⁴⁵ Therefore it is important for the international community to address this crucial topic and support indigenous rights in this matter.

Challenges

For indigenous peoples, the debate on rights to land and territories is one of the most essential topics to discuss with the international community.²⁴⁶ Since colonization, indigenous peoples have been removed from their lands or live in fear of displacement.²⁴⁷ In Africa, environmental preservation plays an important role in the forced relocation of indigenous peoples.²⁴⁸ The Maasai, Tuareg, and San communities have been forced to leave their lands in order for the government to create environmental reserves for the preservation of ecosystems or tourism.²⁴⁹ Even though the preservation of the environment should be a major concern of governments, it still cannot be the justification of the displacement of indigenous peoples.²⁵⁰ The 1992 *Rio Declaration on Environment and Development* even explicitly emphasizes the importance of including indigenous peoples in thoughts of environmental preservation as they have a profound understanding of their territories and can contribute with their knowledge.²⁵¹

For many indigenous families and communities, the loss of their ancestral lands and the failure of enforcing their rights directly also result in poverty.²⁵² Therefore, it is even more important for states to resolve indigenous peoples'

²³⁵ Tamang, Stella (indigenous leader from Nepal), United Nations Permanent Forum on Indigenous Issues, *Indigenous Peoples – Lands, Territories and Natural Resources*, p.1.

²³⁶ Kipuri, Naomi, *Culture*, 2010, p. 53.

²³⁷ Kipuri, Naomi, *Culture*, 2010, p. 53.

²³⁸ Kipuri, Naomi, *Culture*, 2010, p. 53.

²³⁹ Kipuri, Naomi, *Culture*, 2010, p. 54.

²⁴⁰ United Nations Economic and Social Council, *Discussion papers submitted by major groups. Contribution by indigenous peoples*, 2010, paragraph 15.

²⁴¹ Larsen, P., *Indigenous and Tribal Children: Assessing child labour and education challenges*, 2003, p. 20.

²⁴² United Nations Permanent Forum on Indigenous Issues, *Indigenous Peoples – Lands, Territories and Natural Resources*, p. 2.

²⁴³ Kipuri, Naomi, *Culture*, 2010, p. 54.

²⁴⁴ Larsen, P., *Indigenous and Tribal Children: Assessing child labour and education challenges*, 2003, p. 20.

²⁴⁵ United Nations General Assembly, Report of the Special Rapporteur on the rights of indigenous peoples, James Anaya. Extractive industries operating within or near indigenous territories, 2011, paragraph 35.

²⁴⁶ Kipuri, Naomi, *Culture*, 2010, p. 54.

²⁴⁷ Kipuri, Naomi, *Culture*, 2010, p. 54.

²⁴⁸ Angeles, C., IOM, *Indigenous Routes: A Framework for Understanding Indigenous Migration*, 2008, p. 32.

²⁴⁹ Angeles, C., IOM, *Indigenous Routes: A Framework for Understanding Indigenous Migration*, 2008, p. 32.

²⁵⁰ Angeles, C., IOM, *Indigenous Routes: A Framework for Understanding Indigenous Migration*, 2008, p. 32.

²⁵¹ United Nations General Assembly, *Rio Declaration on Environment and Development*, 1992, principle 22.

²⁵² Organization of American States, *Indigenous and Tribal Peoples' Rights over their Ancestral Lands and Natural Resources*, 2009, p. 63.

land claims in an appropriate way.²⁵³ While much progress has been made when it comes to legal policies or reforms in this field, in practice the threat of dispossession is still present.²⁵⁴

Fighting for land rights often is linked with other challenges for indigenous people.²⁵⁵ There are immense costs in bringing a case to court, as well as related travel costs due to distance if they have to appear in court.²⁵⁶ Furthermore, indigenous people often lack the necessary information regarding their rights or do not speak the national language well enough to understand legal terms, and their trust in the legal system is shaky at best.²⁵⁷ Additionally, they often fear to make their cases public, because they are afraid of prejudices and discrimination.²⁵⁸ The situation is especially difficult when the rights of settlers in some areas conflict the rights of indigenous peoples, because in most cases the state then extinguishes the rights of indigenous peoples in favor of the settlers, which was the case for example in Queensland, Australia.²⁵⁹

In addition, obstacles for indigenous peoples and their land rights are often connected to racism, discrimination, inappropriate policies or a lack of legal recognition.²⁶⁰ In many cases, there are economic interests, which prevent indigenous peoples from getting access to their land, for example forestry, oil and gas, mining or dam building.²⁶¹ Sometimes even their lives are threatened, as for example in Colombia, where there have been cases of indigenous leaders that demanded extensions of their reserves and got assassinated.²⁶² Legal frameworks in several countries contain contradictory or ambiguous regulations that often put pressure on indigenous peoples and limit their rights.²⁶³ Furthermore, economic interests can lead to a natural resources legislation that disregards the rights of indigenous peoples.²⁶⁴ Administrative procedures for example for ownership registrations continue to be very slow and there are not enough employers responsible for this field.²⁶⁵ Beyond this, there often seems to be a lack of political will to implement human rights standards set out in various international documents.²⁶⁶

Approach of the International Community

The *UN Declaration on the Rights of Indigenous Peoples* addresses the issue of land rights; as mentioned in Article 10, “[i]ndigenous peoples shall not be forcibly removed from their lands or territories”.²⁶⁷ In Article 26 the right to land is further expressed; “[i]ndigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired”.²⁶⁸ The right to access their ancestral lands is also closely linked to other human rights, such as the right to adequate standard of living or the right to housing pointed out in various international resolutions and treaties; these documents include the *International Covenant on Civil and Political Rights* and the *International Covenant on Economic, Social and Cultural Rights*.²⁶⁹

²⁵³ Organization of American States, *Indigenous and Tribal Peoples’ Rights over their Ancestral Lands and Natural Resources*, 2009, p. 70.

²⁵⁴ Kipuri, Naomi, *Culture*, 2010, p. 54.

²⁵⁵ Skjævestad, A., *The Mapuche People’s Battle for Indigenous Land. Litigation as a Strategy to Defend Indigenous Land Rights*, 2008, p. 2.

²⁵⁶ Skjævestad, A., *The Mapuche People’s Battle for Indigenous Land. Litigation as a Strategy to Defend Indigenous Land Rights*, 2008, p. 2.

²⁵⁷ Skjævestad, A., *The Mapuche People’s Battle for Indigenous Land. Litigation as a Strategy to Defend Indigenous Land Rights*, 2008, p. 3.

²⁵⁸ Skjævestad, A., *The Mapuche People’s Battle for Indigenous Land. Litigation as a Strategy to Defend Indigenous Land Rights*, 2008, p. 3.

²⁵⁹ Duff, A., *Indigenous Peoples’ Land Rights: Developing a Sui Generis Approach to Ownership and Restitution*, 2008, p. 518-519.

²⁶⁰ Colchester, M., et al., *Indigenous land tenure: Challenges and possibilities*, 2004, p. 10.

²⁶¹ Colchester, M., et al., *Indigenous land tenure: Challenges and possibilities*, 2004, p. 10.

²⁶² Colchester, M., et al., *Indigenous land tenure: Challenges and possibilities*, 2004, p. 12.

²⁶³ Colchester, M., et al., *Indigenous land tenure: Challenges and possibilities*, 2004, p. 13.

²⁶⁴ Colchester, M., et al., *Indigenous land tenure: Challenges and possibilities*, 2004, p. 13.

²⁶⁵ Colchester, M., et al., *Indigenous land tenure: Challenges and possibilities*, 2004, p. 14.

²⁶⁶ Colchester, M., et al., *Indigenous land tenure: Challenges and possibilities*, 2004, p. 15.

²⁶⁷ United Nations General Assembly, *United Nations Declaration on the Rights of Indigenous Peoples*, 2007, article 10.

²⁶⁸ United Nations General Assembly, *United Nations Declaration on the Rights of Indigenous Peoples*, 2007, article 26.

²⁶⁹ United Nations General Assembly, *International Covenant on Civil and Political Rights*, 1966; United Nations General Assembly, *International Covenant on Economic, Social and Cultural Rights*, 1966.

In its sixth session, the United Nations Permanent Forum on Indigenous Issues (UNPFII) discussed the topic of territories, land and natural resources.²⁷⁰ UNPFII has recognized the importance this subject has for indigenous people and thus implores states to find a way to cooperate with indigenous peoples in finding out what land belongs to them and protecting their rights in this matter.²⁷¹ One of the most important documents in this field is the *Convention No. 169* by the International Labour Organization (ILO), also known as the *Indigenous and Tribal Peoples Convention*, which covers the topic in a whole chapter and supports the rights of indigenous people to their lands.²⁷² Article 14 of the *Convention No. 169* posits that “[g]overnments shall take steps as necessary to identify the lands which the peoples concerned traditionally occupy, and to guarantee effective protection of their rights of ownership and possession.”²⁷³

At the regional level, the Organization of American States (OAS) has recognized the special relationship between indigenous peoples and their lands and supports their rights to land access.²⁷⁴ The OAS has dealt intensely with the subject in various reports and documents.²⁷⁵ Furthermore, the right to land is indirectly protected through Article 21 of the *American Convention on Human Rights*.²⁷⁶

Successes and Failures

There continues to be a large gap between the laws and regulations that have been adopted and the situation in indigenous peoples’ realities.²⁷⁷ For example, there is often a general problem with monitoring the implementation and enforcement of laws and additionally, national bureaucracy can be slow or inefficient.²⁷⁸

Nonetheless, at the national level, there have been some promising achievements.²⁷⁹ In Canada, the federal government created the Nunavut Territory to give the Inuit title to around 350,000 square kilometers of land.²⁸⁰ Also in Australia and New Zealand, the rights of indigenous people to land have been recognized.²⁸¹ In some parts of India, indigenous lands are protected by the constitution; in South Africa and Botswana, some peoples succeeded in having their land claims recognized.²⁸² Many court decisions have been made in favor of indigenous peoples and thus have led to changes in legislation or the reorganization of subnational entities.²⁸³

However, one of the problems with new developments in various countries is the lack of participation of indigenous peoples in the process.²⁸⁴ Even if they are involved, it usually is only at the end of the reform process, when they can hardly influence anything and thus have no real chance of influencing the process or the outcome.²⁸⁵ With this in mind, the National Indigenous Commission in Peru demanded the government to bring forward reforms in the field of land rights with full collaboration with indigenous people.²⁸⁶ Nonetheless, governments often do not set their priorities on enforcing indigenous land rights, and courts have dealt with such cases and set precedents by granting indigenous peoples their rights.²⁸⁷

²⁷⁰ United Nations Permanent Forum on Indigenous Issues, *Sixth Session of UNPFII*.

²⁷¹ United Nations Permanent Forum on Indigenous Issues, *Report on the sixth session, 2007*, paragraphs 5-9.

²⁷² International Labour Organization, *Indigenous and Tribal Peoples Convention (No. 169)*, 1989.

²⁷³ International Labour Organization, *Indigenous and Tribal Peoples Convention (No. 169)*, 1989, article 14.

²⁷⁴ Organization of American States, *Indigenous and Tribal Peoples’ Rights over their Ancestral Lands and Natural Resources*, 2009, p. 21.

²⁷⁵ Organization of American States, *Indigenous and Tribal Peoples’ Rights over their Ancestral Lands and Natural Resources*, 2009, p.1.

²⁷⁶ Organization of American States, *Indigenous and Tribal Peoples’ Rights over their Ancestral Lands and Natural Resources*, 2009, p. 22.

²⁷⁷ Kipuri, Naomi, *Culture*, 2010, p. 54.

²⁷⁸ Kipuri, Naomi, *Culture*, 2010, p. 54.

²⁷⁹ Kipuri, Naomi, *Culture*, 2010, p. 55.

²⁸⁰ Kipuri, Naomi, *Culture*, 2010, p. 55.

²⁸¹ Kipuri, Naomi, *Culture*, 2010, p. 55.

²⁸² Kipuri, Naomi, *Culture*, 2010, p. 55.

²⁸³ Kipuri, Naomi, *Culture*, 2010, p. 55.

²⁸⁴ Colchester, M., et al., *Indigenous land tenure: Challenges and possibilities*, 2004, p. 12-13.

²⁸⁵ Colchester, M., et al., *Indigenous land tenure: Challenges and possibilities*, 2004, p. 13.

²⁸⁶ Colchester, M., et al., *Indigenous land tenure: Challenges and possibilities*, 2004, p. 13.

²⁸⁷ Colchester, M., et al., *Indigenous land tenure: Challenges and possibilities*, 2004, p. 15.

The Situation for Indigenous Women

There are many countries where female indigenous persons face even worse discrimination than their male counterparts as they often only have access to land through male relatives.²⁸⁸ This illustrates how women are likely to suffer from double discrimination as indigenous people and women.²⁸⁹

Traditionally, indigenous men and women had equal access to land, which was beneficial as a collective group, but after the assimilation efforts by governments, indigenous people in general and women in particular have fewer possibilities of access to their land.²⁹⁰ Women are often unable to apply for land within state programs as the land is usually only registered under the men's names.²⁹¹ In other fields, women's disadvantages in land rights are also linked to other problems, such as unfair inheritance patterns, gender-based violence, and unemployment or underemployment.²⁹² Furthermore, women are often excluded from the decision-making process of new reforms or laws.²⁹³ In Africa, women in general have less secure access to land and resources than men and often suffer from severe pressure and market changes.²⁹⁴ Another example that demonstrates gender inequality are mixed marriages; in some countries, when indigenous men marry non-indigenous women, they keep their legal entitlements, while when it is the other way around, women do not retain their claims.²⁹⁵

For widows in rural areas, the situation is especially critical as the relatives of the deceased husband often take away everything from them, beginning with the land, as evidenced in Kenya.²⁹⁶ As many indigenous people are farmers, taking away their land means also taking away their livelihoods.²⁹⁷ Additionally, rural widows are often expected to undergo "wife inheritance," which means they have to marry another member of their husbands family in order to keep their land and thus often this seems to be the only chance for them.²⁹⁸

If indigenous women choose to leave an abusive partner, it often requires them to leave the entire community, which again leads to a life in urban areas.²⁹⁹ There, they are often seen as outsiders and face severe discrimination.³⁰⁰ In fact, indigenous women living in cities have a very alarmingly low level of security of tenure and tenure systems are often inaccessible to them.³⁰¹

Case Study: Chile

The Mapuche are an indigenous people in Chile. Starting from 1883, they have had difficulties with their land rights due to the establishment of national borders and neocolonialism.³⁰² They could only live in clearly marked and controlled areas, whereas the rest of their territories fell into the hands of non-indigenous people, who had built up infrastructure.³⁰³ This was a seminal time for the Mapuche people as they were in constant fear of another wave of displacement and still wanted to continue their way of life in their old territories.³⁰⁴ Furthermore, military police controlled the mountain routes in order to prevent the Mapuche from returning and a ban of movement of

²⁸⁸ Action Aid International Discussion Paper, *Women's land rights*, 2006, p. 5.

²⁸⁹ International Work Group for Indigenous Affairs. *Gender and Indigenous Women*.

²⁹⁰ United Nations Office of the Special Adviser on Gender Issues and Advancement of Women, *Briefing Note No. 5, Gender and Indigenous Peoples' Environment* 2010, p. 23.

²⁹¹ Action Aid International Discussion Paper, *Women's land rights*, 2006, p. 5.

²⁹² International Network for Economic, Social and Cultural Rights, *Resource Page on Women's Housing and Land Rights*, 2012.

²⁹³ United Nations Office of the Special Adviser on Gender Issues and Advancement of Women, *Briefing Note No. 5, Gender and Indigenous Peoples' Environment* 2010, p. 26.

²⁹⁴ Colchester, M., et al., *Indigenous land tenure: Challenges and possibilities*, 2004, p. 16.

²⁹⁵ Colchester, M., et al., *Indigenous land tenure: Challenges and possibilities*, 2004, p. 16.

²⁹⁶ Human Rights Watch, *Double Standards: Women's Property Rights Violations in Kenya*, 2003, p. 16.

²⁹⁷ Human Rights Watch, *Double Standards: Women's Property Rights Violations in Kenya*, 2003, p. 16.

²⁹⁸ Human Rights Watch, *Double Standards: Women's Property Rights Violations in Kenya*, 2003, p. 16.

²⁹⁹ United Nations Human Settlements Programme (UN HABITAT), *Secure Land Rights for Indigenous Peoples in Cities*, 2011, p. 4.

³⁰⁰ United Nations Human Settlements Programme (UN HABITAT), *Secure Land Rights for Indigenous Peoples in Cities*, 2011, p. 4.

³⁰¹ United Nations Human Settlements Programme (UN HABITAT), *Secure Land Rights for Indigenous Peoples in Cities*, 2011, p. 5.

³⁰² Bello M., Alvaro, *Indigenous Migration in Chile: Trends and Processes*, 2007, p. 10.

³⁰³ Bello M., Alvaro, *Indigenous Migration in Chile: Trends and Processes*, 2007, p. 10-11.

³⁰⁴ Bello M., Alvaro, *Indigenous Migration in Chile: Trends and Processes*, 2007, p. 11.

indigenous owned cattle was declared, which in the end led to the destruction of the Mapuche economy and forced many people to move to Argentina or Chile.³⁰⁵ Most of the Mapuche people live in extreme poverty, with 38.4% of them below the poverty line.³⁰⁶ There are various reasons for this, one of them being the lack of resources as a result of their displacement.³⁰⁷ Further reasons include the changes in the economy that led to a price drop in agricultural products, and the expansion of the forestry industry, which led to inhospitable environments for agriculture.³⁰⁸

To improve the situation in Chile, the National Corporation for Indigenous Development (CONADI) established the Programme of Promotion and Information on Indigenous Rights (PIDI), which aims at raising awareness of the situation by organizing activities and workshops; themes that CONADI tackled included the participation of indigenous people in civil society and the gender issue.³⁰⁹ The situation of the Mapuche has improved due to international attention through the United Nations and non-governmental organization such as Amnesty International or Human Rights Watch.³¹⁰

Under Chilean legislation Law No. 19.253, also called the Indigenous Law, the protection of indigenous life in Chile is guaranteed.³¹¹ The law recognizes lands that were traditionally owned by the indigenous people and contains certain norms that shall prevent a transfer to non-indigenous persons.³¹² While these are welcoming changes, there are still many challenges for the Mapuche in Chile.³¹³ Legal protection has often proved to be inefficient and could not prevent indigenous communities from being disenfranchised from their lands; an example of this is the construction of the Ralco Dam.³¹⁴ Furthermore, the Indigenous Law does not define the Mapuche as an indigenous people.³¹⁵ The law is based on ethnicity, not self-identified people, even though the recognition as a people is very important in order to secure collective rights and guarantee self-determination.³¹⁶

One of the major problems for indigenous people in Chile is the use of anti-terror laws against them.³¹⁷ These laws regard all illegal land occupations as acts of terrorism.³¹⁸ As the Mapuche people have never been fully recognized by the state and their land claims are often not accepted, they sometimes choose drastic measures, such as occupying their ancestral territories.³¹⁹ However, the application of anti-terrorism legislation to Mapuche people is discriminatory, which is why the Inter-American Commission of Human Rights filed a case concerning this matter.³²⁰ Furthermore, some prisoners joined a hunger strike against this injustice, which resulted in the government's acknowledgement of the need to reform the anti-terrorism laws.³²¹

³⁰⁵ Bello M., Alvaro, *Indigenous Migration in Chile: Trends and Processes*, 2007, p. 11-12.

³⁰⁶ Skjævestad, A., *The Mapuche People's Battle for Indigenous Land. Litigation as a Strategy to Defend Indigenous Land Rights*, 2008, p. 1.

³⁰⁷ Skjævestad, A., *The Mapuche People's Battle for Indigenous Land. Litigation as a Strategy to Defend Indigenous Land Rights*, 2008, p. 2.

³⁰⁸ Skjævestad, A., *The Mapuche People's Battle for Indigenous Land. Litigation as a Strategy to Defend Indigenous Land Rights*, 2008, p. 2.

³⁰⁹ Skjævestad, A., *The Mapuche People's Battle for Indigenous Land. Litigation as a Strategy to Defend Indigenous Land Rights*, 2008, p. 5.

³¹⁰ Skjævestad, A., *The Mapuche People's Battle for Indigenous Land. Litigation as a Strategy to Defend Indigenous Land Rights*, 2008, p. 6.

³¹¹ Skjævestad, A., *The Mapuche People's Battle for Indigenous Land. Litigation as a Strategy to Defend Indigenous Land Rights*, 2008, p. 11.

³¹² Skjævestad, A., *The Mapuche People's Battle for Indigenous Land. Litigation as a Strategy to Defend Indigenous Land Rights*, 2008, p. 11-12.

³¹³ Skjævestad, A., *The Mapuche People's Battle for Indigenous Land. Litigation as a Strategy to Defend Indigenous Land Rights*, 2008, p. 12.

³¹⁴ Skjævestad, A., *The Mapuche People's Battle for Indigenous Land. Litigation as a Strategy to Defend Indigenous Land Rights*, 2008, p. 12.

³¹⁵ Skjævestad, A., *The Mapuche People's Battle for Indigenous Land. Litigation as a Strategy to Defend Indigenous Land Rights*, 2008, p. 12.

³¹⁶ Skjævestad, A., *The Mapuche People's Battle for Indigenous Land. Litigation as a Strategy to Defend Indigenous Land Rights*, 2008, p. 12.

³¹⁷ Amnesty International, *Amnesty international report 2012. The state of the world's human rights*, 2012, p. 106.

³¹⁸ Minority Rights Group International, *Chile must repeal anti-terror laws affecting Mapuche Indians*, 2010.

³¹⁹ Minority Rights Group International, *Chile must repeal anti-terror laws affecting Mapuche Indians*, 2010.

³²⁰ Amnesty International, *Amnesty international report 2012. The state of the world's human rights*, 2012, p. 106.

³²¹ Minority Rights Group International, *Chile must repeal anti-terror laws affecting Mapuche Indians*, 2010.

Conclusion

Indigenous people have a deep spiritual connection to their land and it is important for their cultural and social development to have access to their ancestral lands. Furthermore, it is often crucial for their survival to use natural resources as they have always lived this way. Therefore, it is important for states to recognize this and enact measures to protect the rights of indigenous peoples to land.³²² Delegates should think about the measures that their respective governments have taken so far in order to better protect indigenous land rights. Could these actions serve as role models for other countries? How are indigenous peoples rights anchored in laws and regulations? Are indigenous men and women treated equally? How can the situation in practice be improved while still meeting economic needs? What changes can be made in the legal system in order to guarantee indigenous people affordable access to a fair trial? Are indigenous people sufficiently involved in the decision-making processes?

Annotated Bibliography

Colchester, Marcus/Griffiths, Tom/MacKay, Fergus/Nelson, John. (2004). Indigenous land tenure: Challenges and possibilities. *Food and Agriculture Organization. Land Reform. Land Settlement and Cooperatives*. 2004/1: 9-26.

This source gives a very good overview of the topic by explaining the challenges for indigenous people. It will help delegates to understand the legal, political and economic aspects of the problem. Besides, there are some interesting examples that could be useful for delegates. Furthermore, the article offers a great variety of recommendations that delegates should think about in order to prepare for the conference.

Committee on World Food Security. (2012). *Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security*. Retrieved August 5, 2012 from:

<http://www.fao.org/docrep/016/i2801e/i2801e.pdf>

These guidelines deal with the rights of indigenous people as well as the responsibilities they have regarding land. Furthermore the paper explains the legal frameworks that exist and establishes general principles that shall help to find solutions for the challenges ahead. Delegates can use this source as an orientation to prepare their approaches.

Human Rights Watch. (March 2003). *Double Standards: Women's Property Rights Violations in Kenya*. Retrieved September 2, 2012 from <http://www.hrw.org/sites/default/files/reports/kenya0303.pdf>

This is an excellent example on how indigenous women's rights are violated and what impacts this has on indigenous society. Even though the report is specifically on the situation in Kenya it can be applied to many countries. The stories and eyewitness accounts of several African women will give delegates a better understanding of the shocking circumstances in many indigenous communities and highlights the gender aspect.

International Labor Organization. (1989, June 27). *Indigenous and Tribal Peoples Convention (No. 169)*. Retrieved August 5, 2012 from

http://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_INSTRUMENT_ID:312314

This source is essential for delegates as it is one of the major documents defining indigenous land rights. It includes a whole chapter on the subject "land" and emphasizes not only the right of indigenous people to land but furthermore urges states to exercise measures in order to guarantee these rights. It certainly is one of the most important documents for the topic and offers a good basis for further thoughts.

Kipuri, Naomi (2010). Culture. In: UNPFII. *State of the World's Indigenous People*. (p.51-81).

This source will help delegates to better understand the meaning of the topic for indigenous people. It defines the term „land“ and how it is part of indigenous culture. Thus, it gives a very good insight into the cultural aspect of the problem. Besides, it offers notes on important international documents regarding the topic, as well as cases that have been fought by countries over questions of land.

³²² Committee on World Food Security, *Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security*, 2012, p. 15.

Krehbiel, R. (2008). *The changing legal landscape for Aboriginal land use planning in Canada*. In: Plan (p.1-4). Retrieved August 5, 2012 from http://www.cip-icu.ca/CMS/Files/PC48_2_sup1.pdf

This source can help delegates to better understand the topic by examining a case study. It gives an example of how governments can deal with the situation and describes Canada's approach in this matter. Furthermore, it summarizes the history of national acts that dealt with indigenous rights regarding land governance.

Larsen, P. (2006). *Reconciling indigenous peoples and protected areas: rights, governance and equitable cost and benefit sharing*. Discussion paper. Gland: The World Conservation Union.

This paper gives a good explanation of the rights indigenous people have and how this affects the land situation. It points out the different aspects of the situation by highlighting all forms of rights. Furthermore, it offers delegates ideas for possible solutions and ways for governments to deal with the issue. Thus it will be helpful for finding approaches to the topic.

National Centre for First Nations Governance. *The people the land laws and jurisdiction institutions resources. The five pillars of effective governance*. Retrieved August 5, 2012 from http://fngovernance.org/publication_docs/Five_Pillars_EN_web.pdf

This source is very important for delegates as it offers an excellent overview of the situation and the jurisdiction of governments in this matter. It also highlights the importance of respecting the country while also using it economically and thus shows the different challenges delegates will have to consider when approaching the subject.

Organization of American States. (2009, December 30). *Indigenous and Tribal Peoples' Rights over their Ancestral Lands and Natural Resources. Norms and Jurisprudence of the Inter-American Human Rights System*. Retrieved September 2, 2012 from <http://www.oas.org/en/iachr/indigenous/docs/pdf/AncestralLands.pdf>

This document is a very detailed report on indigenous land rights, which gives informative background information and deals especially with the situation in the Americas. It offers definitions of important terms within the context of the topic and presents the most important documents that deal with the issue. Beyond that, it gives a good overview of the problems connected to the loss of land and offers recommendations to improve the situation.

Skjævestad, Anne. (2008). *The Mapuche People's Battle for Indigenous Land. Litigation as a Strategy to Defend Indigenous Land Rights*. CMI Working Paper 2008:3.

This paper gives delegates an excellent overview of the challenges indigenous people have to overcome in order to fight for their land rights. The focus is on the situation of the Mapuche people in Chile and gives great background information on this specific case. Furthermore, the source discusses general problems and highlights several strategies that can be applied to different cases as well.

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Rules of Procedure

United Nations Permanent Forum on Indigenous Issues

Introduction

1. These rules shall be the only rules, which apply to the United Nations Permanent Forum on Indigenous Issues (hereinafter referred to as “the Permanent Forum”) and shall be considered adopted by the Permanent Forum prior to its first meeting.
2. For purposes of these rules, the Director, the Assistant Director(s), the Under-Secretaries-General, and the Assistant Secretaries-General, are designates and agents of the Secretary-General and Director-General, and are collectively referred to as the “Secretariat.”
3. Interpretation of the rules shall be reserved exclusively to the Director-General or her or his designate. Such interpretation shall be in accordance with the philosophy and principles of the National Model United Nations and in furtherance of the educational mission of that organization.
4. For the purposes of these rules, “President” shall refer to the chairperson or acting chairperson of the Permanent Forum.
5. All substantive decisions taken by the Permanent Forum shall be communicated to the Economic and Social Council Plenary Session for review.

Please note that for the purpose of our simulation, all delegates to the UNPFII will be considered state representatives. This does not, however, impact the role of the UNPFII as an advisory body on indigenous issues.

I. SESSIONS

Rule 1 - Dates of convening and adjournment

The Permanent Forum shall meet in regular session, commencing and closing on the dates designated by the Secretary-General.

Rule 2 - Place of sessions

The Permanent Forum shall meet at a location designated by the Secretary-General.

II. AGENDA

Rule 3 - Provisional agenda

The provisional agenda shall be drawn up by the Director-General and communicated to the Members of the Permanent Forum at least sixty days before the opening of the session.

Rule 4 - Adoption of the agenda

The agenda provided by the Director-General shall be considered adopted as of the beginning of the session. The order of the agenda items shall be determined by a majority vote of those present and voting.

The vote described in this rule is a procedural vote and, as such, every member is required to vote. For purposes of this rule, those present and voting means those Member States and observers, in attendance at the meeting during which this motion comes to a vote. Should the Permanent Forum not reach a decision by conclusion of the first night's meeting, the agenda will be automatically set in the order in which it was first communicated.

Rule 5 - Revision of the agenda

During a session, the Permanent Forum may revise the agenda by adding, deleting, deferring or amending items. Only important and urgent items shall be added to the agenda during a session. Debate on the inclusion of an item in the agenda shall be limited to three speakers in favor of, and three against, the inclusion. Additional items of an important and urgent character, proposed for inclusion in the agenda less than thirty days before the opening of a session, may be placed on the agenda if the Permanent Forum so decides by a two-thirds majority of the members present and voting. No additional item may, unless the Permanent Forum decides otherwise by a two-thirds majority of the members present and voting, be considered until a committee has reported on the question concerned.

For purposes of this rule, the determination of an item of an important and urgent character is subject to the

discretion of the Director-General, or his or her designate, and any such determination is final. If an item is determined to be of such a character, then it requires a two-thirds vote of the Permanent Forum to be placed on the agenda. The votes described in this rule are substantive votes, and, as such, observers are not permitted to cast a vote. For purposes of this rule, the members present and voting means members (not including observers) in attendance at the session during which this motion comes to vote.

Rule 6 - Explanatory memorandum

Any item proposed for inclusion in the agenda shall be accompanied by an explanatory memorandum and, if possible, by basic documents.

III. SECRETARIAT

Rule 7 - Duties of the Secretary-General

1. The Secretary-General or her/his designate shall act in this capacity in all meetings of the Permanent Forum.
2. The Secretary-General, in cooperation with the Director-General, shall provide and direct the staff required by the Permanent Forum and be responsible for all the arrangements that may be necessary for its meetings.

Rule 8 - Duties of the Secretariat

The Secretariat shall receive, print, and distribute documents, reports, and other decisions of the Permanent Forum, and shall distribute documents of the Permanent Forum to the Members, and generally perform all other work which the Permanent Forum may require.

Rule 9 - Statements by the Secretariat

The Secretary-General, or her/his representative, may make oral as well as written statements to the Permanent Forum concerning any question under consideration.

Rule 10 - Selection of the President

The Secretary-General or her/his designate shall appoint, from applications received by the Secretariat, a President who shall hold office and, *inter alia*, chair the Permanent Forum for the duration of the session, unless otherwise decided by the Secretary-General.

Rule 11 - Replacement of the President

If the President is unable to perform her/his functions, a new President shall be appointed for the unexpired term at the discretion of the Secretary-General.

IV. LANGUAGE

Rule 12 - Official and working language

English shall be the official and working language of the Permanent Forum.

Rule 13 - Interpretation (oral) or translation (written)

Any representative wishing to address any body or submit a document in a language other than English shall provide interpretation or translation into English.

This rule does not affect the total speaking time allotted to those representatives wishing to address the body in a language other than English. As such, both the speech and the interpretation must be within the set time limit.

V. CONDUCT OF BUSINESS

Rule 14 - Quorum

The President may declare a meeting open and permit debate to proceed when representatives of at least one third of the members of the Permanent Forum are present. The presence of representatives of a majority of the members of

the Permanent Forum shall be required for any decision to be taken.

For purposes of this rule, members of the Permanent Forum means the total number of members (not including observers) in attendance at the first night's meeting.

Rule 15 - General powers of the President

In addition to exercising the powers conferred upon him or her elsewhere by these rules, the President shall declare the opening and closing of each meeting of the Permanent Forum, direct the discussions, ensure observance of these rules, accord the right to speak, put questions to the vote and announce decisions. The President, subject to these rules, shall have complete control of the proceedings of the Permanent Forum and over the maintenance of order at its meetings. He or she shall rule on points of order. He or she may propose to the Permanent Forum the closure of the list of speakers, a limitation on the time to be allowed to speakers and on the number of times the representative of each member may speak on an item, the adjournment or closure of the debate, and the suspension or adjournment of a meeting.

Included in these enumerated powers is the President's power to assign speaking times for all speeches incidental to motions and amendment. Further, the President is to use her/his discretion, upon the advice and at the consent of the Secretariat, to determine whether to entertain a particular motion based on the philosophy and principles of the NMUN. Such discretion should be used on a limited basis and only under circumstances where it is necessary to advance the educational mission of the Conference and is limited to entertaining motions.

Rule 16 – Authority of the Permanent Forum

The President, in the exercise of her or his functions, remains under the authority of the Permanent Forum.

Rule 17 – Voting rights on procedural matters

Unless otherwise stated, all votes pertaining to the conduct of business shall require a majority of the members present and voting in order to pass.

For purposes of this rule, the members present and voting mean those members (including observers) in attendance at the meeting during which this rule is applied. There is no possibility to abstain on procedural votes.

Rule 18 - Points of order

During the discussion of any matter, a representative may rise to a point of order, and the point of order shall be immediately decided by the President in accordance with the rules of procedure. A representative may appeal against the ruling of the President. The appeal shall be immediately put to the vote, and the President's ruling shall stand unless overruled by a majority of the members present and voting. A representative rising to a point of order may not speak on the substance of the matter under discussion.

Such points of order should not under any circumstances interrupt the speech of a fellow representative. They should be used exclusively to correct an error in procedure. Any questions on order arising during a speech made by a representative should be raised at the conclusion of the speech, or can be addressed by the President, sua sponte, during the speech. For purposes of this rule, the members present and voting mean those members (including observers) in attendance at the meeting during which this motion comes to vote.

Rule 19 - Speeches

No representative may address the Permanent Forum without having previously obtained the permission of the President. The President shall call upon speakers in the order in which they signify their desire to speak. The President may call a speaker to order if his remarks are not relevant to the subject under discussion.

In line with the philosophy and principles of the NMUN, in furtherance of its educational mission, and for the purpose of facilitating debate, the Secretariat will set a time limit for all speeches which may be amended by the President at his/her discretion. Consequently, motions to alter the speaker's time will not be entertained by the President.

Rule 20 - Closing of list of speakers

Members may only be on the list of speakers once but may be added again after having spoken. During the course of

a debate, the President may announce the list of speakers and, with the consent of the Permanent Forum, declare the list closed. When there are no more speakers, the President shall declare the debate closed. Such closure shall have the same effect as closure by decision of the Permanent Forum.

The decision to announce the list of speakers is within the discretion of the President and should not be the subject of a motion by the Permanent Forum. A motion to close the speakers list is within the purview of the Permanent Forum and the President should not act on her/his own motion.

Rule 21 - Right of reply

If a remark impugns the integrity of a representative's State, the President may permit that representative to exercise her/his right of reply following the conclusion of the controversial speech, and shall determine an appropriate time limit for the reply. No ruling on this question shall be subject to appeal.

For purposes of this rule, a remark that impugns the integrity of a representative's State is one directed at the governing authority of that State and/or one that puts into question that State's sovereignty or a portion thereof. All interventions in the exercise of the right of reply shall be addressed in writing to the Secretariat and shall not be raised as a point of order or motion. The reply shall be read to the Permanent Forum by the representative only upon approval of the Secretariat, and in no case after voting has concluded on all matters relating to the agenda topic, during the discussion of which, the right arose.

Rule 22 - Suspension of the meeting

During the discussion of any matter, a representative may move the suspension of the meeting, specifying a time for reconvening. Such motions shall not be debated but shall be put to a vote immediately, requiring the support of a majority of the members present and voting to pass.

Rule 23 - Adjournment of the meeting

During the discussion of any matter, a representative may move to the adjournment of the meeting. Such motions shall not be debated but shall be put to the vote immediately, requiring the support of a majority of the members present and voting to pass. After adjournment, the Permanent Forum shall reconvene at its next regularly scheduled meeting time.

As this motion, if successful, would end the meeting until the Permanent Forum's next regularly scheduled session the following year, and in accordance with the philosophy and principles of the NMUN and in furtherance of its educational mission, the President will not entertain such a motion until the end of the last meeting of the Permanent Forum.

Rule 24 - Adjournment of debate

During the discussion of any matter, a representative may move the adjournment of the debate on the item under discussion. Two representatives may speak in favor of, and two against, the motion, after which the motion shall be immediately put to the vote. The President may limit the time to be allowed to speakers under this rule.

Rule 25 - Closure of debate

A representative may at any time move the closure of debate on the item under discussion, whether or not any other representative has signified her/his wish to speak. Permission to speak on the motion shall be accorded only to two representatives opposing the closure, after which the motion shall be put to the vote immediately. Closure of debate shall require a two-thirds majority of the members present and voting. If the Permanent Forum favors the closure of debate, the Permanent Forum shall immediately move to vote on all proposals introduced under that agenda item.

Rule 26 - Order of motions

Subject to rule 18, the motions indicated below shall have precedence in the following order over all proposals or other motions before the meeting:

- a) To suspend the meeting;
- b) To adjourn the meeting;
- c) To adjourn the debate on the item under discussion;
- d) To close the debate on the item under discussion.

Rule 27 - Proposals and amendments

Proposals and amendments shall normally be submitted in writing to the Secretariat. Any proposal or amendment that relates to the substance of any matter under discussion shall require the signature of twenty percent of the members of the Permanent Forum [sponsors]. The Secretariat may, at its discretion, approve the proposal or amendment for circulation among the delegations. As a general rule, no proposal shall be put to the vote at any meeting of the Permanent Forum unless copies of it have been circulated to all delegations. The President may, however, permit the discussion and consideration of amendments or of motions as to procedure, even though such amendments and motions have not been circulated. If the sponsors agree to the adoption of a proposed amendment, the proposal shall be modified accordingly and no vote shall be taken on the proposed amendment. A document modified in this manner shall be considered as the proposal pending before the Permanent Forum for all purposes, including subsequent amendments.

For purposes of this rule, all proposals shall be in the form of working papers prior to their approval by the Secretariat. Working papers will not be copied, or in any other way distributed, to the Permanent Forum by the Secretariat. The distribution of such working papers is solely the responsibility of the sponsors of the working papers. Along these lines, and in furtherance of the philosophy and principles of the NMUN and for the purpose of advancing its educational mission, representatives should not directly refer to the substance of a working paper that has not yet been accepted as a draft report segment during formal speeches. After approval of a working paper, the proposal becomes a draft report segment and will be copied by the Secretariat for distribution to the Permanent Forum. These draft report segments are the collective property of the Permanent Forum and, as such, the names of the original sponsors will be removed. The copying and distribution of amendments is at the discretion of the Secretariat, but the substance of all such amendments will be made available to all representatives in some form.

Rule 28 - Withdrawal of motions

A motion may be withdrawn by its proposer at any time before voting has commenced, provided that the motion has not been amended. A motion thus withdrawn may be reintroduced by any member.

Rule 29 - Reconsideration of a topic

When a topic has been adjourned, it may not be reconsidered at the same session unless the Permanent Forum, by a two-thirds majority of those present and voting, so decides. Reconsideration can only be moved by a representative who voted on the prevailing side of the original motion to adjourn. Permission to speak on a motion to reconsider shall be accorded only to two speakers opposing the motion, after which it shall be put to the vote immediately.

VI. VOTING

Rule 30 - Voting rights

Each member of the Permanent Forum shall have one vote.

This rule applies to substantive voting on amendments and portions of draft reports divided out by motion. As such, all references to member(s) do not include observers, who are not permitted to cast votes on substantive matters.

Rule 31 - Request for a vote

A proposal or motion before the Permanent Forum for decision shall be voted upon if any member so requests. Where no member requests a vote, the Permanent Forum may adopt proposals or motions without a vote.

For purposes of this rule, proposal means any draft report, an amendment thereto, or a portion of a draft report divided out by motion. Just prior to a vote on a particular proposal or motion, the President may ask if there are any objections to passing the proposal or motion by acclamation, or a member may move to accept the proposal or motion by acclamation. If there are no objections to the proposal or motion, then it is adopted without a vote. Please note that adoption with a vote is still subject to Rule 31, which requires consensus for any substantive decision to pass.

Rule 31 - Consensus

The Permanent Forum shall adopt any recommendation by consensus. Consensus is achieved if no member present and voting casts a negative vote on the proposal in question.

This rule applies to final draft report segments as well as substantive votes on clauses that are divided by motion and amendments. Delegates are encouraged to keep in mind the collaborative nature of the Permanent Forum's work as an advisory body and are encouraged to make restrictive use of formal voting.

Rule 33 - Method of voting

1. The Permanent Forum shall normally vote by a show of placards, except that a representative may request a roll call, which shall be taken in the English alphabetical order of the names of the members, beginning with the member whose name is randomly selected by the President. The name of each member shall be called in any roll call, and one of its representatives shall reply "yes," "no," "abstention," or "pass."

Only those members who designate themselves as present or present and voting during the attendance roll call, or in some other manner communicate their attendance to the President and/or Secretariat, are permitted to vote and, as such, no others will be called during a roll-call vote. Any representatives replying pass must, on the second time through, respond with either a yes or no vote. A pass cannot be followed by a second pass for the same proposal or amendment, nor can it be followed by an abstention on that same proposal or amendment.

2. When the Permanent Forum votes by mechanical means, a non-recorded vote shall replace a vote by show of placards and a recorded vote shall replace a roll-call vote. A representative may request a recorded vote. In the case of a recorded vote, the Permanent Forum shall dispense with the procedure of calling out the names of the members.
3. The vote of each member participating in a roll call or a recorded vote shall be inserted in the record.

Rule 34 - Explanations of vote

Representatives may make brief statements consisting solely of explanation of their votes after the voting has been completed. The representatives of a member sponsoring a proposal or motion shall not speak in explanation of vote thereon, except if it has been amended, and the member has voted against the proposal or motion.

All explanations of vote must be submitted to the President in writing before debate on the topic is closed, except where the representative is of a member sponsoring the proposal, as described in the second clause, in which case the explanation of vote must be submitted to the President in writing immediately after voting on the topic ends.

Rule 35 - Conduct during voting

After the President has announced the commencement of voting, no representatives shall interrupt the voting except on a point of order in connection with the actual process of voting.

For purposes of this rule, there shall be no communication amongst delegates, and if any delegate leaves the Permanent Forum room during voting procedure, they will not be allowed back into the room until the Permanent Forum has convened voting procedure.

Rule 36 - Division of proposals and amendments

Immediately before a proposal or amendment comes to a vote, a representative may move that parts of a proposal or of an amendment should be voted on separately. If there are calls for multiple divisions, those shall be voted upon in an order to be set by the President where the most radical division will be voted upon first. If objection is made to the motion for division, the request for division shall be voted upon, requiring the support of a majority of those present and voting to pass. Permission to speak on the motion for division shall be given only to two speakers in favor and two speakers against. If the motion for division is carried, those parts of the proposal or of the amendment which are approved shall then be put to a vote. If all operative parts of the proposal or of the amendment have been rejected, the proposal or the amendment shall be considered to have been rejected as a whole.

For purposes of this rule, most radical division means the division that will remove the greatest substance from the draft report segment, but not necessarily the one that will remove the most words or clauses. The determination of which division is most radical is subject to the discretion of the Secretariat, and any such determination is final. Please note that the substantive vote requires consensus to pass; the procedural vote requires a simple majority.

Rule 37 - Amendments

An amendment is a proposal that does no more than add to, delete from, or revise part of another proposal.

An amendment can add, amend, or delete parts of the part relating to conclusions and recommendations of any draft report segment, but cannot in any manner add, amend, delete, or otherwise affect the introduction.

Rule 38 - Voting on amendments

When an amendment is moved to a proposal, the amendment shall be voted on first. When two or more amendments are moved to a proposal, the amendment furthest removed in substance from the original proposal shall be voted on first and then the amendment next furthest removed there from, and so on until all the amendments have been put to the vote. Where, however, the adoption of one amendment necessarily implies the rejection of another amendment, the latter shall not be put to the vote. If one or more amendments are adopted, the amended proposal shall then be voted on.

For purposes of this rule, furthest removed in substance means the amendment that will have the most significant impact on the draft report segment. The determination of which amendment is furthest removed in substance is subject to the discretion of the Secretariat, and any such determination is final. If an amendment is voted upon, it requires consensus to pass.

Rule 39 - Order of voting on proposals

If two or more proposals, other than amendments, relate to the same question, they shall, unless the Permanent Forum decides otherwise, be voted on in the order in which they were submitted.

Rule 40 - The President shall not vote

The President shall not vote but may designate another member of her/his delegation to vote in her/his place.

VII. CREDENTIALS

Rule 41 - Credentials

The credentials of representatives and the names of members of a delegation shall be submitted to the Secretary-General prior to the opening of a session.

Rule 42 – Authority of the General Assembly

The Permanent Forum shall be bound by the actions of the General Assembly in all credentials matters and shall take no action regarding the credentials of any member.

VIII. PARTICIPATION OF NON-MEMBERS OF THE PERMANENT FORUM

Rule 43 - Participation of non-Member States

Any State member of the United Nations who is not a member of the Permanent Forum may attend the Forum's meetings and may participate in its deliberations without the right to vote. The Permanent Forum may invite, when it considers it appropriate, representatives of the United Nations Secretariat, specialized agencies, the International Atomic Energy Agency, and any other organizations of the United Nations system to participate in the deliberations, in particular for questions that relate to their activities or those involving coordination questions.

If the Permanent Forum considers that the presence of a Member invited according to this rule is no longer necessary, it may withdraw the invitation. Delegates invited to the Permanent Forum according to this rule should also keep in mind their role and obligations in the Permanent Forum that they were originally assigned to. For educational purposes of the NMUN Conference, the Secretariat may thus ask a delegate to return to his or her Permanent Forum when his or her presence in the Permanent Forum is no longer required.

Rule 44 - Participation of non-governmental organization and intergovernmental organizations

The Permanent Forum may invite, when it considers it appropriate, intergovernmental organizations and non-governmental organizations in consultative status with the Economic and Social Council to participate in its deliberations for questions that relate to their activities.