



**United
Nations**

**UNPFII
Recommendations Database**

Addressee: Member States, UN systems, intergovernmental organisations and international financial institutions

Paragraph #14 Session #4 (2005)

Full Text

The human rights-based approach to development should be operationalized by States, the United Nations system and other intergovernmental organizations, including the international financial institutions, and should be the framework underpinning the Millennium Development Goals and poverty reduction strategies, programmes and activities. The recognition of indigenous peoples as distinct peoples and the respect for their individual and collective human rights, rights to lands and territories and sustainable use of natural resources are crucial for achieving a just and sustainable solution to the widespread poverty in their midst. Relevant international treaties, such as International Labour Organization (ILO) Convention No. 169, common article 1 of the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights, which declares that "no people shall be deprived of its own means of subsistence", as well as bilateral State-indigenous treaties or accords, should be implemented to ensure compliance and implementation

Comments

The Government of Argentina reports the following in its report (E/C.19/2006/4) to the fifth session:

The 1994 reform of the National constitution signified major normative progress regarding the recognition of the rights of indigenous people by incorporating in the highest law of the land special rights for indigenous peoples. Article 75, paragraph 17 of the National constitution stipulates that it is the responsibility of Congress "To recognize the ethnic and cultural pre-existence of Argentine indigenous peoples.." Based on this constitutional recognition a specific system of rights has been established for indigenous peoples and encompasses an obligation to adjust the framework of the State and its institutions to take into account recognition of ethnic and cultural diversity.

Argentina also ratified ILO Convention 169 in July 2000, and by virtue of article 75, paragraph 22 of the National Constitution, this international instrument takes precedence over national laws.

In order to comply with the wealth of legislation, in particular the constitutional requirement to "recognize community possession and ownership of the lands they traditionally occupy", the National Institute for Indigenous Affairs (INAI) implements land regularization and allocation programs and signs agreements with provincial governments in this regard. To date INAI has signed agreements with the provinces of Rio Negro, Chubut and Jujuy. Please see report for more details.

The Government of Switzerland reports the following in its report (E/C.19/2006/4/Add.1) to the fifth session:

The references to recognition of indigenous peoples as 'distinct peoples', including as peoples under common Article 1 of the ICCPR and ICESCR is more controversial. Recognizing indigenous peoples as such is considered progressive but many States are concerned that linking indigenous peoples rights to common Article 1 means recognizing that such peoples have the right to self-determination. The way indigenous peoples interpret the right to self-determination does not in principle threaten the territorial boundaries of states, but it does have implications for the autonomous use of lands, territories and resources within those territories. In the Swiss Development Cooperation's policy on indigenous peoples from 1998, it is stated that Switzerland endorses the view that indigenous peoples have the right to self-determination but does not expressly recognize this in connection with common article 1. Switzerland has

also been supportive of the right to self-determination during the negotiations of the UN Draft Declaration on the Rights of Indigenous Peoples.

ILO: The Project to Promote ILO Policy on Indigenous and Tribal Peoples (PRO 169) has recently secured funding from the European Commission's Initiative for Democracy and Human Rights (EIDHR) to cover a three-year work plan, which includes three components: 1) The exchange of experiences on the implementation of the principles of ILO Convention No. 169 at a global scale; 2) Promotion of the rights of indigenous populations/communities in Africa through documentation and discussion of relevant legal and constitutional provisions; and 3) Capacity-building for dialogue in South Asia. PRO 169 also organized a training seminar in Turin in September 2005 for key staff from ILO headquarters and field offices, and bilateral and multilateral agencies. PRO 169 is carrying out further activities in Nepal, Cambodia and Cameroon. Micro studies are currently being conducted in Bolivia, Cambodia, Cameroon, Guatemala and Nepal. In each country, research focuses on one indigenous community or village to analyze the micro and macro-scale factors that need to be addressed in order to achieve the MDGs. Along with the Poverty Reduction Strategy Paper studies, these studies contribute to the work of the Permanent Forum in its task to advise the UN system on the implementation of the MDGs for indigenous and tribal peoples. Please see ILO's report to the fifth session, E/C.19/2006/6, for more details.

Area of Work

MDGs, Human Rights