



International
Labour
Office

guidelines for

Combating Child Labour

among indigenous and tribal peoples



A JOINT PRO 169 AND IPEC INITIATIVE



These guidelines have been developed with financial support from the Government of Denmark (Danida), and have been developed in a collaboration between two ILO programmes:

- The International Programme to Eliminate Child Labour (IPEC)
- The Programme to Promote ILO Policy on Indigenous and Tribal Peoples (PRO 169)

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Methodologically, the guidelines are based on reviews of relevant Conventions, policy and programme documents, including IPEC Time Bound Programme manuals, as well as consultations with ILO/IPEC field staff, partners and indigenous organizations.

As a key part of the process, three national workshops were organized in **the Philippines, Kenya and Guatemala**. The workshops brought together ILO staff, partners and indigenous representatives, identifying the country-specific concerns and providing recommendations for IPEC and general child labour programmes.

For more information, including the country-specific reports from Kenya, Guatemala and the Philippines on indigenous peoples and child labour, see: www.ilo.org/indigenous and www.ilo.org/ipec

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INTRODUCTION

The ILO has a double mandate to combat child labour and to promote the recognition of indigenous and tribal¹ peoples' rights, based on the ILO Conventions Nos. 107, 138, 169 and 182. However, the linkages between these two mandates have not yet been systematically explored.

Recent consultations undertaken by the ILO in Kenya, the Philippines and Guatemala have confirmed that:

- ▶ There is little awareness about child labour issues among indigenous peoples;
- ▶ Previous child labour studies and research largely ignore indigenous communities; and
- ▶ Few programmes and projects address indigenous child labour.

It has, however, also become increasingly clear that:

- ▶ **Indigenous children are disproportionately affected by the worst forms of child labour; and**
- ▶ **Specific approaches are needed to effectively combat child labour among indigenous peoples.**

The following guidelines have been elaborated in order to provide practical guidance to ILO staff and partners on how to address the specific needs and rights of indigenous peoples - and thus combat child labour among indigenous children.

The elaboration of the guidelines was undertaken in collaboration between two specialised programmes of the ILO:

- ▶ The International Programme to Eliminate Child Labour (IPEC); and
- ▶ The Programme to Promote ILO Policy on Indigenous and Tribal Peoples (PRO 169)

The guidelines should be seen as a supplement to the very comprehensive guidelines elaborated by IPEC/

Time Bound Programme (TBP), which constitute an important frame of reference and in many cases can be used in the work towards the elimination of indigenous child labour. However, the TBP guidelines address child labour in general and do not take into account the specificities of indigenous peoples and their children. These call for specific considerations, approaches and solutions.

THE GUIDELINES ARE STRUCTURED IN FOUR MAIN PARTS:

PART I: A rights-based approach to indigenous child labour

This section introduces the major arguments for addressing indigenous child labour specifically, emphasising the relevance and principles of a rights-based approach, within the framework of ILO Conventions Nos. 138, 169 and 182.

PART II: Education to combat child labour

This section identifies the existing barriers to education and looks at the specific rights and needs of indigenous children with respect to school education and vocational training.

Part III: Operational challenges, principles and opportunities

This section outlines a number of operational opportunities for ensuring indigenous participation in the programming cycle of child labour initiatives.

Part IV: For more information

This section provides references to additional information resources on key topics.

¹ The ILO Convention No. 169 uses the terminology of "indigenous and tribal peoples". For practical reasons, this is hereafter summarized as "indigenous"..



PART I: A Rights-Based Approach to Indigenous Child Labour

INDIGENOUS CHILDREN SPECIAL RIGHTS AND SPECIAL NEEDS

Indigenous peoples constitute approximately 370 million people worldwide, the vast majority living in developing countries with high incidence of child labour. They constitute more than 5,000 distinct communities, with distinct histories, languages, beliefs and livelihood strategies. They are characterized by retaining some or all of their own social, economic, cultural and political institutions but live under a great diversity of ecological, economic and political conditions.

In general, they are peoples who, through historical processes, have been denied their right to control their own development and who therefore face similar and inter-linked problems:

- ▶ Deprivation of fundamental human rights;
- ▶ Discrimination and non-recognition of their particular life-styles, cultures, languages and traditional knowledge;
- ▶ Lack of recognition of collective rights to lands and natural resources including dispossession of traditional territories;
- ▶ Gender-related discrimination of girls and women;
- ▶ Marginalization in mainstream political and developmental processes, with little influence on their own social and economic development; and
- ▶ Inadequacy of existing social services, in particular education.

The basic challenge when working with indigenous peoples is thus two-fold:

On one hand, they have the right to be fully included in the development process - and to benefit from the global efforts to combat child labour. On the other, their rights to define their own development path and priorities must be respected.

This basically implies that initiatives to combat child labour among indigenous peoples must be culturally appropriate and contribute to strengthening the rights and realizing the potential of these peoples.

Although efforts against child labour in general have increased, indigenous children are not benefiting on an equitable basis. While the share of non-indigenous children working declined steadily from 1995-2004 in Guatemala, the share of indigenous children working changed barely at all (Hall and Patrinos, 2005). Similar trends are found in other regions, including Kenya and the Philippines.

Therefore, unless the specific conditions of indigenous child labour and education are addressed pro-actively, overall child labour elimination efforts are likely to fail. Such specific conditions are intimately linked with the characteristics, collective concerns and rights of indigenous and tribal peoples.

THE EXTENT OF INDIGENOUS CHILD LABOUR

Child labour among indigenous peoples has until recently received little attention from governments and international institutions as well as from indigenous peoples themselves. It therefore largely remains an invisible issue and there exist no comprehensive data on the magnitude of the problem or on the conditions and types of work in which indigenous children are engaged.

However, a series of cases and examples drawn from all over the world indicate that indigenous children are disproportionately affected by high rates of child labour.

Although indigenous child labour takes many forms - including the worst forms such as bonded labour, prostitution, and illicit and hazardous work - and vary from one country or one region to another, a few general trends can be noted.

Indigenous child labour still prevails in rural areas but is also on the increase in urban areas; children of female-headed households and orphans are the most vulnerable; indigenous children work within the formal as well as the informal sector, but tend to be more numerous in the latter where they usually work very long hours and are often paid in kind (food) only. Indigenous children constitute an increasing large percentage of the migrant labour force that works in

plantations and other forms of commercial agriculture. In certain countries, indigenous children are at risk of being recruited and used as soldiers in armed conflicts.

Child labour affects boys and girls differently. Because of widespread gender discrimination including indigenous cultural practices, girls in the rural areas are less likely to go to school and many migrate instead to urban areas to work as domestic servants. This makes them less "visible" and more vulnerable to exploitation, sexual abuses and violence. Some indigenous children combine school with work but the majority of child labourers have little or no schooling



Indigenous child labour around the world

In **Latin America**, it is estimated that indigenous children are twice as likely to work as their non-indigenous peers. A recent ILO/IPEC study in Chile shows that 86% of the interviewed indigenous children worked between four and six hours daily, and 72% did so on a permanent basis (Negrón, 2005). Documented forms of child labour among highland and lowland indigenous communities in **South America** include forced labour, domestic work, migrant work, mining, commercial agriculture, and prostitution.

It is estimated that 32 percent of the indigenous labour force in the agricultural regions in **Northern Mexico** are children and research has shown that migrant child labour in general is substantially higher among indigenous children (54.42%) than mestizo children (38.5%) (Sanchez Muñozhierro 1996).

In **Guatemala**, the ILO consultation showed that exploitative child labour included working in commercial agriculture, firework manufacturing and handicrafts. The interviewed indigenous children said the work was tough and even dangerous but they needed the money because they were poor, had to eat or had to help their parents so they could afford to send them to school

In **Africa**, ILO (2000) estimates that 41% of all children between the ages of 5-14 are involved in some form of economic activity. Although there are no specific data, reports from Kenya, Cameroon and other countries in Central Africa indicate that child labour is a growing phenomenon in indigenous

communities, who increasingly rely economically on their children's work. Among pastoralists and agro-pastoralists as well as hunter-gatherers, forms of child labour include exploitative forms of pastoralism, participation in armed conflicts, domestic work, tourism and prostitution. Urban migration of indigenous children and youth is also raising growing concern among indigenous organizations, which have highlighted the spiral of unemployment delinquency, alcohol and drug addiction, prostitution and AIDS (Martínez 2000).

In **Kenya**, pastoralists and hunter-gatherers emphasized the increase of child labour in commercial herding, domestic work and prostitution. In addition, a diversity of child labour forms were found in different districts linked to localized conflicts in border areas, tourism, commercial resource extraction and commercial agriculture. Child labour was found to be driven by poverty and lack of awareness, in turn aggravated by land loss, pressures on customary livelihoods, lack of basic services, HIV/AIDS, gender discrimination and poor governance.

In **Asia**, ILO estimates that 60% of the children are economically active, and surveys have shown that many of those involved in the worst forms of child labour as, for example, bonded and domestic labour, come from indigenous communities.

A child labour survey from Dharan municipality in western **Nepal** shows that 72.5 % of the child labourers belong to indigenous nationalities. These

constitute 65% of the total population (Ram Krishna Sharma 2001).

Among indigenous communities in **South and Southeast Asia**, forms of child labour include bonded labour, prostitution, participation in armed conflicts, commercial agriculture, domestic work and migrant urban labour.

A recent ILO study on tribal migrants in the cities of Chiang Mai and Chiang Rai in **Thailand** showed that the majority of street children under the age of 15 were from indigenous areas in Thailand and **Burma**. Most were boys who earned a living from selling flowers, begging, or offering sex services (Budaeng et al. 2001).

In the **Philippines**, the indigenous communities are increasingly experiencing that children work in mining, commercial agriculture, or as domestic workers and child soldiers within their ancestral territories. This is aggravated by external resource extraction in these territories, violation of collective rights to land and lack of basic social services. Such factors are also leading to increased out-migration of indigenous children and youth to urban or non-indigenous rural areas, where many become domestic workers, prostitutes, vendors and haulers.

THE CAUSES OF INDIGENOUS CHILD LABOUR

Most indigenous peoples have distinct livelihood strategies, based on access to traditional land and resources. They also have specific perceptions of poverty. For many indigenous peoples poverty means lack of political participation and loss of land, languages, traditional authorities and spiritual values as main elements.

Wherever indigenous rights to land and resources are not respected and recognized, customary livelihoods are disrupted and communities face poverty. As a result, children are pushed into child labour: poverty is the key reason why parents send their children to work. In poor households, working children contribute to the income directly by supplementing household income and indirectly – when they out-migrate - by saving the consumption expenditure.

Studies done by the World Bank and the regional development banks, e.g. the Inter-American Development Bank and the Asian Development Bank show that indigenous peoples are overrepresented among the world's poor. While indigenous peoples make up 5 % of the world population, they represent approximately 15 % of the world's poorest.

Indications are that this trend is worsening. The 2004 Human Development Report concluded that indigenous peoples are more likely to be poor than non-indigenous peoples, and recent World Bank data from Latin America show that where general gains in poverty reduction were made during the Indigenous Peoples' Decade (1994-2004), indigenous people were those that benefited less (Hall and Patrinos, 2005).

The poverty situation that most indigenous peoples experience is rooted in the lack of recognition of their specific rights within national societies. Therefore, indigenous child labour should be seen as the reflection of wider community marginalization and exploitation, inadequate social services, with the consequence that they are no longer able to exercise their collective rights, especially to land and resources but also to identity, culture and language. The deprivation of these rights often entails that indigenous communities are being dispossessed of their lands and relocated somewhere else, leading to their increased impoverishment.

Customary livelihoods and poverty reduction

RECENT NATIONAL CONSULTATIONS WITH INDIGENOUS ORGANIZATIONS REVEALED THAT:

- ▶ In the **Philippines**, strengthening the indigenous management of ancestral territories and providing appropriate education would be critical to preventing the increase of indigenous children labour in commercial resource extraction by outsiders.
- ▶ In **Kenya**, further policy recognition of herding rights and investments in pastoralism could substantially reduce the marginalization and decrease the number of impoverished households, especially female-headed households, which are hiring out children.
- ▶ In **Guatemala**, alternative programmes should address the economic sustainability of indigenous families' access to basic services (education, health, food), ensuring at the same time a pluricultural vision (e.g. pro-

INCLUDING INDIGENOUS PEOPLES IN POVERTY REDUCTION STRATEGIES

Many of the poorest countries are implementing Poverty Reduction Strategy Programmes (PRSPs) or other national strategies to alleviate poverty, but in most cases, indigenous peoples are not involved in the planning, design and implementation of such efforts. Moreover, economic opportunities benefiting other sections of the population often have little or no impact on indigenous children. In fact, where indigenous concepts of poverty are not reflected in national development and poverty reduction efforts these may even intensify the marginalisation and impoverishment of indigenous peoples. This is particularly the case with large-scale trade, poverty and development strategies, which rarely reflect indigenous priorities.

A critical step towards preventing and eliminating child labour is therefore to facilitate the mainstreaming of indigenous priorities and promoting affirmative actions to secure indigenous participation in development strategies and policies. The PRSPs are a case in point, another the efforts related to the fulfillment of the Millennium Development Goals (MDGs).

A further important step is to use a multifaceted development approach based in customary livelihoods and to empower communities and enable them to fight child labour. Some positive experiences in this

direction exist, which should be further promoted. For example, a number of Latin American PRSPs that include indigenous priorities such as the demarcation and titling of traditional lands, bilingual and intercultural education and indigenous self-government (Tomei 2005).

Child labour programmes alone cannot redress the balance. But they can promote alternative development scenarios, which take on board and work through indigenous priorities and address the root causes of child labour. In this process, there are ample opportunities for collaborating and coordinating with a series of actors, which have recognized the importance of addressing the specific concerns of indigenous peoples. These include both UN agencies and multilateral development partners with strong institutional policies on indigenous peoples, such as the World Bank and the EU, as well as a number of bilateral donors.

However, more short-term economic changes in the conditions of families that struggle to survive are also needed if child labour is to be addressed. Many child labour initiatives therefore involve income generation and livelihood activities that can contribute to the short-term reduction of poverty.

Key drivers behind indigenous child labour

Consultations in the **Philippines** highlighted the loss of land, violation of collective rights and commercial extractive industries, which lead to worsening economic conditions and the physical and economic dislocation of indigenous peoples from their ancestral domains, as key drivers behind child labour in certain areas.

In **Kenya**, the livelihood of indigenous peoples (mainly pastoralists and hunter-gatherers) is precarious and their survival options are becoming increasingly limited. National policies and legal frameworks are insensitive to the needs of these communities and only increase their exclusion and marginalization. The increase of child labour in herding is closely linked to the wider disruption of customary land and livelihood practices as well as socio-political marginalization.

In **Guatemala**, consultations with state institutions and NGOs revealed that child labour among indigenous peoples was often being justified with stereotypes and prejudices, like for example, “the indigenous child is mentally inferior” or “work is part of their life”. Indigenous peoples in general were seen as only “made for work” irrespective of their age, and their work was perceived as essential for the national economy. From a different perspective, child labour was seen as the result of several factors:

- ▶ Structural deficiencies, including poverty, the failure of the government to respond to the needs of the indigenous peoples, the aftermath of the

internal conflict, migration, etc.; and

- ▶ The disintegration of families, including lack of responsibility, alcoholism, illiteracy, desertion, etc.;
- ▶ Social disruption related to discrimination, violence, conflicts and lack of local leadership etc.

An extreme reflection of the marginalisation of some indigenous peoples is the **denial of citizenship** of indigenous children, as for instance “Pygmy” children in **Cameroon** who have not been properly registered at birth. Without citizenship, children do not have access to basic human rights and social services such as health care, education, the right to residence and travel, etc., and stand therefore a high risk of becoming child labourers.

Some of the indigenous hill tribes of **Thailand** and **the Yunnan province of China** are not granted citizenship because of their ethnicity, and their children are at particular risk of falling victims to child trafficking, because stateless children are easier to hide and manipulate. Their lack of nationality also hinders their access to educational and employment opportunities. Instead, they become easy prey for those who seek to make a profit by exploiting their vulnerability and recruit them as street beggars, domestic servants in slave-like arrangements, or child soldiers. (Development Gateway, November 12, 2004).

INDIGENOUS EXPERIENCES WITH CHILD LABOUR

The discussion about child labour among indigenous peoples is relatively new and in many indigenous communities the concept is not yet well understood.

This was confirmed during consultations undertaken in 2005 with indigenous representatives in the Philippines, Kenya and Guatemala.

In the Philippines, a significant number of representatives found justification for child labour practices and did not regard child labour as a serious problem. In Kenya, people at community level were little aware of the problems related to child labour and some of the local organizations felt that they would be at loggerheads with their members if they raised the issue. In Guatemala, child labour is related to poverty and therefore seen as a necessary evil since it supplements the family income.

Several indigenous leaders, however, also expressed a growing concern about the consequences of certain types of non-traditional child labour involving e.g. migration and prostitution, which they see as increasingly affecting their communities socially, economically and culturally.

Child labour has the same general negative consequences for indigenous children as for all other children. These include harming their health, putting their safety and life at risk, and impeding their physical and mental development. In addition to this, child labour among indigenous peoples has severe consequences in terms of the continuity, survival and development of these peoples' distinct ways of life, language and culture.

Cultural consequences of child labour

IN RECENT CONSULTATIONS, INDIGENOUS PEOPLES UNDERLINED THE FOLLOWING CONSEQUENCES OF CHILD LABOUR:

In the Philippines, indigenous children provide the continuity of indigenous culture, life and knowledge. This fundamental socio-cultural function is threatened by child labour. Indigenous child labourers have become more vulnerable to losing or denying their indigenous identity and are drawn towards consumerism, individualism and anti-social behaviours and activities. Indigenous children are also more exposed to exploitation, sexual and other forms of abuse, which will further aggravate their vulnerability to losing their dignity and self-respect as indigenous persons. In this sense, child labour, particularly outside the traditional land, was seen as threatening the entire transmission of identity, culture, knowledge and language to future generations.

In Guatemala, being Maya is to have one's own identity, language and religion; to have principles and values; to respect the elders, ones' parents and Mother Nature. All this is part of the Mayan world view and is something the child learns by being with its parents, in its own community. But this learning process is no longer possible when a child migrates and engages in child labour. This child will no longer be socialized in the traditional way and subsequently not be able to transmit his or her Mayan identity and language to the next generation.

In Kenya, due to the decline in pastoralist production, conflicts and poverty, many young children leave their communities at the age of 10-15 when they are expected to start building their identity and livelihood which to a large extent is defined by and related to the possession of livestock. Instead, they end up working as security guards in urban centres, beach boys and dancers in the tourist industry, or as prostitutes. Because they are illiterate, they are exploited by hotel owners and others. Out- migration of indigenous children raises concerns about the entire transmission of identity, culture, knowledge and language to future generations. These children are also exposed to HIV/AIDS, drugs and prostitution which directly endanger their lives.

DISTINGUISHING CHILD LABOUR FROM ACCEPTABLE CHILD WORK

There is generally a need to distinguish between acceptable child work and child labour in indigenous societies. Situations where children are engaged in work without access to formal or customary education or under conditions that severely constrain their learning abilities and healthy development constitute child labour that moreover, undermines their future opportunities to escape from poverty and marginalization.

WHAT IS CHILD LABOUR?	WHAT ISN'T
<div><div>▶ All forms of slavery, or practices similar to slavery, (e.g. bonded labour, sale and trafficking of children) and forced recruitment for use in armed conflict.</div><div>▶ The use, procuring or offering of a child for prostitution.</div><div>▶ The use of children for illicit activities (e.g. trafficking of drugs).</div><div>▶ Work that is likely to harm the health, safety or morals of a child.</div><div>▶ Work that prejudices a child's education and training.</div></div>	<div><div>▶ Light work that is not harmful to the child's health and development.</div><div>▶ Light work that does not prejudice the child's attendance at school, or in vocational and training programmes.</div><div>▶ Work within family and small-scale holdings producing for local consumption (non-commercial).</div><div>▶ Work done in schools for general, vocational or technical education.</div></div> <div>(Based on Conventions Nos. 138 & 182)</div>

In the consultations undertaken in the Philippines, Kenya and Guatemala, the indigenous leaders made a clear distinction between traditional child work adapted to the age and learning needs of the child, and exploitative forms of child labour. While traditional child work was seen as essential for the transmission of knowledge and skills and for ensuring the continuity of their distinct indigenous identity, exploitative child labour was perceived as a symptom of and an aggravating factor in the continuous marginalization of indigenous communities. In Guatemala, indigenous people stressed that exploitative child labour is characterized by being remunerated and therefore reflects a reality and concept that is alien to them and which they identify with what they call Western culture.

Many indigenous peoples consider their children as an invaluable wealth and at the same time treat them as the collective children of the clan and tribe, not just as

children of an individual family. In the Philippines, for instance, children are seen as the connecting thread to the future of the family as well as the clan. Therefore, it is a collective responsibility to protect, nurture and train the children in their traditional knowledge, culture, socio-economic systems and values and ensure the continuation of their distinct indigenous identity.

Most indigenous children have particular working roles reflecting elaborate cultural notions of childhood development distinguished by age-groups, gender, social status and often accompanied by rituals such as those marking adulthood. Furthermore, indigenous communities often have particular child protection strategies, social safety nets and mutual help practices. Becoming a good pastoralist, hunter-gatherer and a well-balanced indigenous individual requires something different from, and complementary to, formal education. Light child work is often part of this.

Traditional child work in Indigenous Communities

In the **Philippines**, as part of their socialization, children are taught and trained through various traditional work tasks, which they gradually take on under the direct supervision of their parents or other members of the clan. The work of the children is differentiated according to gender. Girls normally follow the work of their mothers, take care of younger siblings, pound rice, cook, wash, clean and participate in the weeding, planting, harvesting, and gathering of food. Boys are trained to do the work of their fathers like gathering firewood, hunting, rehabilitation of rice-fields and land preparation for planting.

In **Kenya**, indigenous boys and girls contribute from an early age to their families' livelihood by looking after the livestock and doing domestic chores. Girls have a double work load: they are supposed to fetch water and firewood while herding, and in the evening, after bringing the animals as well as more firewood and water back home, they will help their mothers with taking care of their siblings. This way, indigenous children acquire the skills they and their families need in order to survive, and at the same time they ensure the continuity of their family's identity, culture and position within the larger community.

In **Guatemala**, work within the family is seen as a learning process – a kind of training which throughout generations has allowed the transmission of principles and values, and at the same time established a close relationship with nature. This training starts within the family, assigned roles being transmitted from mother to daughter and from father to son, but it is also seen as a contribution to the community. As members of the community, children hold a certain degree of responsibility. This collective responsibility is understood as a principle of solidarity that materializes itself by collaborating from an early age within the family and for the community.

Adulthood defined through rituals

In **Kenya**, most pastoralist communities have initiation ceremonies to define who is a child and who is an adult. In the Maasai, Samburu and Rendille communities, the circumcision of boys is used to define adulthood, irrespective of age. Once circumcised, boys are usually able to get a national identity card even if they are under 18, and thus start working.

Most of the pastoralist communities also practice female genital mutilation (FGM), although it is illegal. Girls undergo this at an early age and once it has been performed, they qualify as adults. This practice thus becomes a gateway that exposes young girls to early marriages and all forms of work, which violate their rights as children.

The Role of Cultural Practices

During consultations in **Kenya**, the question of cultural practices and their relation to child labour was raised several times. It was stressed that not all cultural practices are harmful but that there is a need to “unpack culture” and identify the negative practices and traditions that contribute to child labour.

In the **Philippines**, local attempts to address the problem of indigenous child labour in the vegetable industry showed that the various stakeholders (indigenous local officials, church workers, government employees and local residents) perceived child labour as part of an important learning process as well as a crucial economic contribution to their families' livelihood. This shows that in order to ensure the participation and commitment of the various stakeholders, it is necessary to start with creating a better understanding of what constitutes child labor as opposed to indigenous traditions for child work.

CULTURAL PERCEPTIONS OF CHILDHOOD AND CHILD LABOUR

Some indigenous communities and parents defend child labour as culturally appropriate. There may even be cases where indigenous perceptions of work and childhood contribute to the high incidence and pervasiveness of child labour. It should also be noted that indigenous conceptions of childhood may differ from the formal definition used by states and international organisations (most often defining a child as a person who is under 18 years old). In indigenous societies, rituals marking adulthood will often take place irrespective of the age of a child.

Article 8 of Convention No. 169 clearly states that collective rights to culture and custom should not infringe upon core human rights. Consequently, “culture” or “tradition”, whether used by governments or communities, does not legitimise child labour, gender discrimination, unequal access to education services or any other violations of individual human rights.

However, understanding community thinking and reasoning behind the defence of child labour remains fundamental. Indigenous child labour is often a coping strategy related to the lack of viable opportunities and marginalization, that most indigenous communities experience. Unjustified labelling of cultural practices as child labour or imposition of top-down policy solutions may lead to community resistance - often with good reason. In contrast, raising awareness about child labour and its factors as well as a firm commitment to support communities in identifying the problems and

appropriate steps from their perspective can generate both community support and relevant responses.

It is therefore critical to firmly situate the analysis of causes and drivers behind child labour in the wider socio-economic context – including local (often discriminatory) perceptions of indigenous peoples - and grasp the key issues as well as the perspectives of indigenous peoples. Solving the child labour challenge involves understanding it as a symptom reflecting wider collective problems and working with communities to identify collective solutions.

Engaging in dialogue with the concerned communities on child labour issues is therefore a necessary startingpoint. Such dialogue must be based on the recognition of the individual as well as collective rights of indigenous children.

A RIGHTS-BASED APPROACH BASED ON ILO CONVENTIONS

The ILO carries a double and complementary mandate to promote the recognition of the rights of indigenous and tribal peoples (Conventions Nos. 107 and 169) and to promote the elimination of child labour (Conventions Nos.138 and 182).

ILO Convention No. 169

The ILO adopted the Convention No. 169 in 1989, modernizing and replacing the earlier Convention No. 107 from 1957.

Facts about ILO Convention No.169

- Convention No.169 is the only international legally-binding instrument for the protection of indigenous peoples' rights and has gained recognition far beyond the countries that have ratified it.
- Convention No.169 is based on the respect for indigenous and tribal peoples' cultures, identities and customary practices. It recognizes that indigenous peoples constitute organized societies and communities in their own right and thus have the right to **determine their own development priorities**. Consequently, any legislative or developmental measures affecting them should apply the **key principles of participation and consultation** with the concerned communities.
- Convention No.169 is a **comprehensive policy standard**, covering general principles on consultation and participation and a series of specific matters, such as land, labour, social security, vocational training and education. The diversity of substantive issues addressed reflects the multi-faceted challenges indigenous peoples face.

To date, 17 countries, mainly in Latin America, have ratified Convention No. 169 while Convention No. 107 is still in force in 18 countries. In these countries, the Conventions constitute the framework for addressing the situation of indigenous peoples.

Beyond these countries, Convention No. 169 forms part of the legal framework guiding the technical cooperation of the ILO whenever indigenous peoples are addressed or affected. In addition, the provisions of the Convention are reflected in a number of institutional policies of multi- and bilateral agencies, because they provide sound principles for improving the situation of indigenous communities and children. Lack of governmental ratification should therefore not prevent the application of the Convention’s principles in the best interest of the indigenous child.

The Convention on the Rights of the Child

ILO Convention No. 169 only refers directly to indigenous children in Articles 28 and 29, which recognize the language and education rights of these children. The other general civil, political, economic, social and cultural rights of children are addressed by the UN Convention on the Rights of the Child (CRC), which has been signed by 140 States.

The CRC implicitly covers all children, including indigenous children, but it also contains specific provisions on indigenous children, particularly

emphasizing the need for addressing the linguistic needs of indigenous children in mass media (Article 17 (d) and for respecting their cultural identity, language and values (Article 29 (c), (d) and Article 30). Furthermore, a number of the Convention’s articles are in line with some of the rights and provisions in Convention No.169.

The Committee on the Rights of the Child

In 2003, the Committee on the Rights of the Child, which is the body that monitors how well States are meeting their obligations under the Convention, organized a General Discussion Day on the rights of indigenous children. The recommendations call for a “broader rights-based approach” to indigenous children, based on the CRC and ILO Convention No. 169.

ILO Conventions No. 138 and No. 182

Child labour is addressed by two ILO conventions: The Minimum Age for Admission to Employment Covention, 1973 (No. 138) and the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour Convention, 1999 (No. 182) with the related Worst Forms of Child Labour Recommendation (No. 190).

Convention No. 182 has had the fastest pace of ratification in the history of the ILO and has been ratified by 158 of ILO’s 178 member States. This

provides evidence of a global consensus that certain forms of child labour cannot be tolerated, regardless of a country’s level of economic and social development.

Convention No. 182 and Recommendation No. 190 call for immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour (WFCL). The term child is defined as applying to all persons under the age of 18, and the Worst Forms of Child Labour (WFCL) include

- (a) All forms of slavery or practices similar to slavery;
- (b) Prostitution and related activities;
- (c) Illicit activities e.g. trafficking of drugs and
- (d) Work that is likely to harm the health, safety or morals of children.

All governments that ratify Convention No. 182 make a commitment to act by taking immediate and effective time-bound measures to eliminate WFCL in their countries, and some ILO member states have chosen to develop and implement a Time-Bound Programme (TBP) to manage the implementation process and fulfill their obligations under Convention No. 182.

Convention No. 182 does not directly address the specific situation and rights of indigenous children but its Art.7 (2) states that “Each Member shall... take effective and time-bound measures to identify and reach out to children at special risk”. The Convention also includes a number of recommendations that are in line with some of the recommendations and specific rights mentioned by Convention No. 169, notably those under Part III on Recruitment and conditions of employment.

OPERATIONALISING A RIGHTS-BASED APPROACH

Taken together, these conventions provide a normative framework and means for addressing the *collective concerns and rights of indigenous peoples* as well as effectively and equitably realizing the *individual children’s rights*.

In short, a rights-based approach to indigenous child labour is based on these individual and collective rights of indigenous children - and operationally directed at achieving these rights.

In practice, realizing the individual right to quality education, for example, relies upon the realization of indigenous collective rights to relevant quality education and participation in the development of education approaches. Addressing individual child poverty among indigenous communities entails addressing their collective rights to land, resources and development concerns. This fits well with the CRC approach not only to protect the individual child – based on the concept that “the best interest of the child ... shall be a primary consideration in all actions concerning children” (Art.3), but also to create conditions under which children can develop their full potential based on the concept of the child’s “evolving capacities”, which recognizes that children require protection and guidance in accordance with their evolving capacities (Art.5).

In the rights-based approach, there are rights-holders as well as duty-bearers; Indigenous children are right-holders rather than just “vulnerable”, while duty-bearers are the institutions, groups or persons responsible for the realization of such rights. Ultimately, the States must have both the political will and the means to ensure the realization of such rights, and they must put in place the necessary legislative, administrative, and institutional mechanisms required to achieve that aim. This requires adequate legislation, policies, institutional mechanisms and administrative procedures and practices as well as mechanisms of redress and accountability that can deliver on entitlements, respond to denial and violations, and ensure accountability. The rights-based approach also calls for the translation of universal standards into locally determined benchmarks for measuring progress and enhancing accountability.

Committee on the Rights of the Child

In the preamble of its recommendations following the Day of General Discussion on the Rights of Indigenous Children, the Committee states:

[A]lthough indigenous children are disproportionately affected by specific challenges such as institutionalization, urbanization, drug and alcohol abuse, trafficking, armed conflict, sexual exploitation and child labour...[they] are not sufficiently taken into consideration in the development and implementation of policies and programmes for children.

In the recommendations, is also stated that the Committee:

[r]eaffirms its commitment to promote and protect the human rights of indigenous children by addressing more systematically the situation of indigenous children under all relevant provisions and principles of the Convention when periodically reviewing State party reports.

TABLE 1. The International Framework of the rights the Indigenous Child

PRINCIPLES	RELEVANT ARTICLES FROM ILO CONVENTIONS NOS. 169, 138 & 182 AND THE CONVENTION ON THE RIGHTS OF THE CHILD (CRC)
Collective rights, collective aspects of rights	<p>* Throughout the ILO Convention No. 169 <i>General references to rights of peoples</i></p> <p>* Article 13.1 of the ILO Convention No. 169 <i>...governments shall respect the special importance for the cultures and spiritual values of the ITPs² of their relationship with the lands or territories... which they occupy or otherwise use, and in particular the collective aspects of this relationship.</i></p> <p>* Preamble, Para. 5 of the CRC <i>... the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can assume its responsibilities within the community.</i></p> <p>* Article 30 of the CRC <i>... a child who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practice his or her own religion or to use his or her own language.</i></p>
General citizenship rights	<p>* Article 4.3. of the ILO Convention No. 169 <i>Enjoyment of the general rights of citizenship, without discrimination, shall not be prejudiced in any way</i></p> <p>* Article 7.1 and 2 of the CRC <i>1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality....</i> <i>2. States Parties shall ensure the implementation of these rights.... In particular where the child would otherwise be stateless.</i></p>
Right to registration at birth and to nationality	<p>* Article 8.1 and 2 of the CRC <i>1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality....</i> <i>2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection with a view to re-establishing....his or her identity.</i></p>
Right to legal identity/ nationality	
Right to cultural and indig-enous identity	<p>* Article 1.2 of ILO Convention No. 169 <i>Self-identification as indigenous or tribal shall be regarded as a fundamental criterion...</i></p> <p>* Article 2.2(b) of ILO Convention No. 169 <i>Government shall have the responsibility promoting the full realisation of the social, economic and cultural rights of ITPs with respect for their social and cultural identity, their customs and traditions and their institutions.</i></p> <p>* Article 13.1 of ILO Convention No. 169 (see above.)</p> <p>* Article 23.1 of ILO Convention No. 169 <i>... subsistence economy and traditional activities of the ITPs such as hunting, fishing, trapping and gathering, shall be recognized as important factors in the maintenance of their cultures, and in their economic self-reliance and development....and whenever appropriate, be strengthened and promoted.</i></p> <p>* Article 30 of CRC (see above.)</p>

PRINCIPLES	RELEVANT ARTICLES FROM ILO CONVENTIONS NOS. 169, 138 & 182 AND THE CONVENTION ON THE RIGHTS OF THE CHILD (CRC)
Protection against discrimination	<p>* Article 3.1 of ILO Convention No. 169 <i>ITPs shall enjoy the full measure of human rights and fundamental freedoms without hindrance or discrimination. The provisions of the Convention shall be applied without discrimination to male and female members of these peoples.</i></p> <p>* Article 4.3 of ILO Convention No. 169 (see above.)</p> <p>* Article 20.2 of ILO Convention No. 169 <i>Governments shall do everything possible to prevent any discrimination between ITP workers and other workers...as regards</i> <i>(a)...employment..., promotion and advancement</i> <i>(b)...remuneration</i> <i>(c) medical and social assistance, occupational safety and health, housing,</i> <i>(d) right of association and freedom for all lawful trade union activities....</i></p> <p>* Article 2.1 and 2 of the CRC <i>1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind...</i> <i>2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination...</i></p>
Systematic protection	<p>* Article 2.1 of ILO Convention No. 169 <i>Government shall have the responsibility for developing, with the participation of ITPs, co-ordinated and systematic action to protect the rights of these peoples and to guarantee respect for their integrity.</i></p> <p>* Article 33.2 of ILO Convention No. 169 <i>These programmes [affecting the ITPs] shall include:</i> <i>(a) the planning, co-ordination, execution and evaluation, in co-operation with the ITPs, of the measures provided for in this Convention;</i> <i>(b) the proposing of legislative and other measures to the competent authorities and supervision of the application of the measures taken, in co-operation with the peoples concerned.</i></p>
Protection from exploitation and child labour	<p>* Article 20.1 and 3 (a), (b), (c), (d) of ILO Convention No. 169 <i>1. Governments shall....ensure the effective protection with regard to recruitment and conditions of employment of ITP workers.....</i> <i>3.... Measures to ensure that ITP workers:</i> <i>(a) ... including seasonal, casual and migrant workers... enjoy the protection afforded by national law...and that they are fully informed of their rights....</i> <i>(b) ...are not subjected to working conditions hazardous to their health....</i> <i>(c) ...are not subjected to coercive recruitment systems, including bonded labour...</i> <i>(d) ...enjoy equal opportunities and equal treatment in employment for men and women, and protection from sexual harassment.</i></p> <p>* Throughout ILO Conventions Nos. 138 and 182</p> <p>* Article 32.1 and 2 (a), (b) of CRC <i>1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.</i></p>

PRINCIPLES	RELEVANT ARTICLES FROM ILO CONVENTIONS NOS. 169, 138 & 182 AND THE CONVENTION ON THE RIGHTS OF THE CHILD (CRC)
Protection from exploitation and child labour (cont'd)	<p>2. States Parties shall take legislative, administrative, social and education measures to ensure the implementation of the present article....States parties shall in particular:</p> <p>(a) Provide for a minimum age for employment</p> <p>(b) Provide for appropriate regulation of the hours and conditions of employment....</p>
Measures for specific groups	<p>* Article 4.1 of ILO Convention No. 169</p> <p>Special measures shall be adopted as appropriate for safeguarding the persons, institutions, property, labour, cultures and environment of ITPs.</p> <p>* Article 7.2(d) of ILO Convention No. 182</p> <p>2. Each Member shall take all necessary measures to....</p> <p>(d) identify and reach out to children at special risk....</p> <p>* Article 30 of CRC (see above.)</p>
Right to consultation	<p>* Article 6.1 (a) of ILO Convention No. 169</p> <p>Governments shall consult the peoples concerned....whenever consideration is being given to legislative or administrative measures affecting ITPs...</p> <p>* Article 15.2 of ILO Convention No. 169</p> <p>In cases in which the State retains the ownership of mineral or sub-surface resources or rights to other resources pertaining to [ITPs'] lands, governments shall establish or maintain procedures through which they shall consult these peoples... before undertaking or permitting any programmes for the exploration or exploitation of such resources.</p> <p>* Article 16.1 and 16.2 of ILO Convention No. 169</p> <p>1. ITPs shall not be removed from the lands which they occupy.</p> <p>2. Where the relocation is considered necessary as an exceptional measure, such relocation shall take place only with their free and informed consent.</p> <p>* Article 6. 2 of ILO Convention No. 182</p> <p>2.... programmes of action [to eliminate... the worst forms of child labour] shall be designed and implemented in consultation with relevant government institutions....taking into consideration the views of other concerned groups....</p>
Participation	<p>* Article 2.1 of ILO Convention No. 169 (see above.)</p> <p>* Article 6.1 (b) of ILO Convention No. 169</p> <p>...establish means by which [ITPs] can freely participate... at all levels of decision-making in elective institutions and administrative and other bodies responsible for policies and programmes which concern them.</p> <p>* Article 7.1 of ILO Convention No. 169</p> <p>The [ITPs] concerned.... shall participate in the formulation, implementation and evaluation of plans and programmes for national and regional development which may affect them directly.</p> <p>* Article 15.1 of ILO Convention No. 169</p> <p>The rights of ITPs to the natural resources pertaining to their lands... include the right... to participate in the use, management and conservation of these resources.</p> <p>* Article 22.2 of ILO Convention No. 169</p> <p>...[in order to] meet the special needs of ITPs, governments shall, with the participation of ITPs ensure the provision of special vocational training programmes and facilities.</p>

PRINCIPLES	RELEVANT ARTICLES FROM ILO CONVENTIONS NOS. 169, 138 & 182 AND THE CONVENTION ON THE RIGHTS OF THE CHILD (CRC)
Participation (cont'd)	<p>* Article 23.1 of ILO Convention No. 169</p> <p>...Governments shall, with the participation of ITPs and whenever appropriate, ensure that [subsistence economy and traditional] activities are strengthened and promoted.</p> <p>* Article 25.2 of ILO Convention No. 169</p> <p>Health services shall ... be community-based... and planned and administered in co-operation with ITPS...</p> <p>* Article 27.1 of ILO Convention No. 169</p> <p>Education programmes and services for ITPs shall be developed and implemented in co-operation with them...</p> <p>* Article 33.2 of ILO Convention No. 169 (see above.)</p> <p>* Article 9.2 of CRC</p> <p>[In cases of separation of the child from his or her parents against their will]... In any [judicial] proceedings all interested parties shall be given an opportunity to participate in the proceedings and make their views known.</p> <p>* Article 12.1 of the CRC</p> <p>States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child....</p> <p>* Article 13 of the CRC</p> <p>The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds...</p>
Rights to lands, territories and natural resources	<p>Part II of ILO Convention No. 169</p>
Respect for customs	<p>* Article 2.2(b) of ILO Convention No. 169 (See above.)</p> <p>* Article 8.1 and 2 of ILO Convention No. 169</p> <p>1. In applying national laws and regulations to the ITPs, due regard shall be had to their customs or customary laws.</p> <p>2. ITPs shall have the right to retain their own customs and institutions where these are not incompatible with fundamental rights defined by the national legal system and with internationally recognized human rights....</p> <p>* Article 9.1 and 2 of ILO Convention No. 169</p> <p>1. To the extent compatible with the national legal system and internationally recognized human rights, the methods customarily practiced by ITPs for dealing with offences committed by their members shall be respected.</p> <p>2. The customs of ITPs in regard to penal matters shall be taken into consideration....</p> <p>* Article 17.3 of ILO Convention No. 169</p> <p>Persons not belonging to ITPs shall be prevented from taking advantage of their customs or of lack of understanding of the laws on the part of their members to secure the ownership, possession or use of land belonging to them.</p> <p>* Article 5 of CRC</p> <p>States Parties shall respect the responsibilities, rights and duties of parents or... community.... to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance ...</p>

PRINCIPLES	RELEVANT ARTICLES FROM ILO CONVENTIONS NOS. 169, 138 & 182 AND THE CONVENTION ON THE RIGHTS OF THE CHILD (CRC)	PRINCIPLES	RELEVANT ARTICLES FROM ILO CONVENTIONS NOS. 169, 138 & 182 AND THE CONVENTION ON THE RIGHTS OF THE CHILD (CRC)
Right to Education	<p>* Article 26 of ILO Convention No. 169</p> <p><i>Measures shall be taken to ensure that ITPs have the opportunity to acquire education at all levels on at least equal footing with the rest of the national community.</i></p> <p>* Article 27.1, 2 and 3 of ILO Convention No. 169</p> <p><i>1. Education programmes and services for ITPs shall be developed and implemented in co-operation with them to address their special needs, and shall incorporate their histories, their knowledge and technologies, their value systems and their further social, economic and cultural aspirations</i></p> <p><i>2. The competent authority shall ensure the training of ITPs and their involvement in the formulation and implementation of education programmes with a view to the progressive transfer of responsibilities...</i></p> <p><i>3...governments shall recognize the right of ITPs to establish their own educational institutions and facilities...</i></p> <p>* Article 28.1, 2 and 3 of ILO Convention No. 169</p> <p><i>1. ITP children shall... be taught to read and write in their own indigenous language....</i></p> <p><i>2. ... measures shall be taken to ensure that ITPs have the opportunity to attain fluency in the national language....</i></p> <p><i>3. Measures shall be taken to preserve and promote the development and practice of the indigenous languages....</i></p> <p>* Article 29 of ILO Convention No. 169</p> <p><i>[The aim of] the imparting of general knowledge and skills [is to] help ITP children to participate fully and on an equal footing in their own community and in the national community.</i></p> <p>* Article 30.1 and 2 of ILO Convention No. 169</p> <p><i>1. Governments shall adopt measures appropriate to the traditions and cultures of the ITPs, to make known to them their rights and duties, especially in regard to labour, economic opportunities, education and health matters, social welfare and their rights deriving from this Convention.</i></p> <p><i>2. If necessary this should be done by means of written translations and through the use of mass communications in the languages of the ITP's.</i></p> <p>* Article 31 of ILO Convention No. 169</p> <p><i>Educational measures shall be taken among all sections of the national community, ..., with the object of eliminating prejudices that they may harbour in respect of ITPs....</i></p> <p>* Article 7 (c) of ILO Convention No. 182</p> <p><i>[Each member] shall ensure access to free basic education..... for all children removed from WFCL.</i></p> <p>* Article 8 of ILO Convention No. 182</p> <p><i>... [give] effect to the provisions of this Convention through, ..., universal education.</i></p> <p>* Article 28.1 of the CRC</p> <p><i>States Parties recognize the right of the child to education... and... they shall</i></p> <p><i>(a) Make primary education compulsory and free for all;</i></p> <p><i>(b) Encourage the development of different forms of secondary education...</i></p> <p><i>(d) Make educational and vocational information and guidance available and accessible to all children;</i></p> <p><i>(e) Take measures to encourage regular attendance and the reduction of drop-out rates.</i></p> <p>* Article 29.1 (c) of the CRC</p> <p><i>... the education of the child shall be directed to....</i></p> <p><i>(c) The development of respect for the child's... own cultural identity, language and values, for the national values of the country in which the child is living...and for civilizations different from his or her own.</i></p>	<p>Right to vocational training</p>	<p>* Article 21 of ILO Convention No. 169</p> <p><i>Members of ITPs shall enjoy opportunities at least equal to those of other citizens in respect of vocational training measures.</i></p> <p>* Article 22.3 of ILO Convention No. 169</p> <p><i>Any special training programmes shall be based on the economic environment, social and cultural conditions and practical needs of the ITPs. Any studies made in this connection shall be carried out in co-operation with ITPs who shall be consulted on the organisation and operation of such programmes.</i></p> <p>* Article 7.2(c) of ILO Convention No. 182</p> <p><i>[Each member shall] ensure access to....whenever possible and appropriate, to vocational training, for all children removed from the WFCL.</i></p> <p>* Article 28.1 (d) of the CRC (See above.)</p>
		<p>Right to determine priorities for development</p>	<p>* Article 7.1 of the ILO Convention No. 169</p> <p><i>ITPs shall have the right to decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy or otherwise use....</i></p>

guiding principles

Ensuring a Rights Based Approach



THE MAIN ELEMENTS OF A RIGHTS-BASED APPROACH INCLUDE:

- Using indigenous children's individual and collective rights as the overall framework for a situation analysis;
- Identifying violations and gaps in the provision of such rights and their causes;
- Strengthening dialogue and interaction between right-holders and duty-bearers;
- Building capacity of both right-holders and duty-bearers to respectively claim rights and implement obligations; and
- Establishing mechanisms for consultation and participation and enhancing accountability of duty-bearers.

OPERATIONALLY, THE RIGHTS OF INDIGENOUS CHILDREN ARE PROMOTED THROUGH:

- Recognizing indigenous peoples' collective rights to land and resources;
- Strengthening of indigenous economies based on customary livelihood strategies;
- Awareness raising and capacity-building on children's rights and child labour among indigenous organisations, communities, parents and children;
- Awareness raising and capacity-building on indigenous peoples' and children's rights among government agencies, civil society organizations, NGOs, international agencies, media etc.; and
- Building alliances with development partners (UN country teams, bi- and multi-lateral donors) to influence large-scale economic policies, processes and programmes.

THE DIALOGUE WITH INDIGENOUS COMMUNITIES SHOULD BE GUIDED BY THE FOLLOWING PRINCIPLES:

- Engage in dialogue with indigenous peoples and their organizations to raise awareness about child labour and policy issues and to identify specific child labour challenges;
- Make clear distinctions between acceptable forms of light work and child labour, which harm the child, including his or her learning capacity and healthy development;
- Avoid stigmatization of educative light forms of work, which serve to transmit and strengthen indigenous culture and identity;
- Promote discussion on traditions and customs to identify negative practices and traditions that contribute to child labour;
- Conduct situation and problem analysis with indigenous children and their communities, including the views of both male and female community members;
- Make sure the differentiated situations, needs and priorities of indigenous girls and boys are addressed;
- Assess indigenous peoples' own perceptions of poverty and its root causes; and
- Work through, support and build on indigenous development priorities and visions and employ community-driven approaches when supporting income-generation and livelihoods.

The Coolangatta Statement

In 1999, the World Indigenous Peoples’ Conference on Education (WIPCE) outlined in the Coolangatta Statement on Indigenous Peoples’ Rights in Education the effects that formal education – often compulsory – has had upon indigenous communities:

“Historically, Indigenous peoples have insisted upon the right of access to education. Invariably the nature, and consequently the outcome, of this education has been constructed through and measured by non-Indigenous standards, values and philosophies. Ultimately the purpose of this education has been to assimilate Indigenous peoples into non-Indigenous cultures and societies. Volumes of studies, research and reports dealing with Indigenous peoples in non-Indigenous educational systems paint a familiar picture of failure and despair. When measured in non-Indigenous terms, the educational outcomes of Indigenous peoples are still far below that of non-Indigenous peoples. This fact exists not because Indigenous peoples are less intelligent, but because educational theories and practices are developed and controlled by non-Indigenous peoples.”

–(Coolangatta Statement 1999, section 1.3.1.)

PART II:
Improving Education to
Combat Child Labour

Barriers to education

Lack of quality education services for indigenous children remains a “discriminatory” root cause behind indigenous child labour.

Most countries do not have disaggregated data that can give an accurate description of indigenous peoples’ education situation. However, where data are available, they suggest that indigenous peoples are lagging behind the general population with regards to educational achievements. The rates of enrolment and completion among indigenous children, in particular girls, remain low.

Even in countries where the general level of schooling has increased, for instance several Latin American countries (Hall and Patrinos 2005) and Canada (Indian and Northern Affairs Canada 2003), the quality gap in schooling persists, resulting in poor education outcomes for indigenous peoples.

The consultations in Kenya and the Philippines confirmed this situation. In Kenya, the majority of pastoralist girls and boys are kept at home to look after livestock and help with household chores and do not attend school. No exact data exist, but the low enrolment rates in pastoralist areas provide evidence that many children are out of school. In the Philippines, where great value is attached to school education and indigenous children are encouraged to go to school, different surveys indicate that their literacy level and completion rates are lower than the national level.

The most prominent reasons for this situation will be explored in further details in the following sections:

- ▶ Deficient school services and poverty
- ▶ Gender- related constraints
- ▶ A discriminatory and irrelevant school system

Deficient school services and poverty

Education services in indigenous areas are as a rule under-funded, of low quality and poorly equipped. Poor and indigenous children therefore often attend the worst schools, are served by the least educated teachers, and have the smallest amount of didactic resources.

Indigenous children are also more likely to arrive at school hungry, ill and tired. In Latin America malnutrition rates among indigenous children continue to be extremely high, and stunting (height/ age), for instance, is about twice as widespread among indigenous children than among non-indigenous. Data also show that the probability of combining work and school rises significantly for indigenous children, and this may in many cases constrain their learning (Hall and Patrinos 2005).

Economic difficulties may also simply rule out the possibility of sending children to school since free public school may entail expenses such as transportation, uniforms, shoes and school supplies, that are often insurmountable.

As a consequence, indigenous children have less opportunity to learn than their better-off peers, have lower attendance rates, and are less likely to be promoted to the next grade level and complete the primary cycle.

Gender-related constraints

In many indigenous societies, the education of the girl child will get low priority compared with that of a boy child. There may be both cultural and economic reasons for this. Girls usually have multiple work tasks within their family and some will never be enrolled or will drop out at an early age, usually to get married. Others will migrate, even at a very young age, to urban centres and engage in domestic work. Specific approaches and strategies therefore have to be developed in order to reach the girl child and convince their parents of her need for an education.

A discriminatory and irrelevant school system

Another major deterrent for indigenous peoples to send their children to school is discrimination, for example related to admission requirements including dress code, language, identity and gender. Many parents also feel that their children are taught things that are irrelevant for their way of life and perceive the school system as trying to alienate their children from their indigenous identity without preparing them to participate fully and on an equal footing in the national community.

IN SUMMARY, THE MAIN PROBLEMS
FACED BY INDIGENOUS CHILDREN IN
THE SCHOOL SYSTEM ARE:

- ▶ Poverty, which prevents parents from sending their children to school;
- ▶ Difficult access to schools, as indigenous peoples often live in geographically marginalised areas with poor infrastructure;
- ▶ Poor educational infrastructure (shortage of class rooms, teachers, books, etc.);
- ▶ Education used as a means of assimilation, resulting in discrimination against expressions of indigenous cultures and inadequate curricula and teaching methodologies;
- ▶ Monolingual education in non-indigenous languages, accelerating the disappearance of indigenous languages and contributing to low levels of school achievement;
- ▶ Cultural, social and economic barriers to the education of girls;
- ▶ Health factors constraining learning outcome; and
- ▶ Conflict situations, which affect indigenous children disproportionately and in which cultural differences are often mobilised and politicised through the public education system.

Key Constraints for School Attendance

POVERTY

The recent ILO consultations all pointed at **poverty** as a major reason for children working instead of going to school. In the **Philippines** a mother explained that “Because of the hard life in the village, I am grateful that my son is earning money from farm work. We cannot afford to support the education of our children so the older ones will need to sacrifice and help us support the education of their younger siblings”. In urban areas, many indigenous child labourers have to pay for their own education. In **Kenya**, workshop participants noted that free universal education in its current form does not encourage enrolment and sustainable results: *“Books alone are not enough. Lunch or a food programme should be included in the free education initiative.”* In **Guatemala**, some of the interviewed children had to take remunerated work and thereby help their parents to send them to school.

GENDER DISCRIMINATION

The **girl child** is most at risk for not getting an education. In **Kenya**, most girls engage in both domestic and herding activities. As the marriage of a girl child is a source of wealth for her family, girls tend to be married as soon as they have been circumcised. In the **Philippines**, young girls from 9 to 15 years old often work as domestic servants. They usually come from remote villages, trying to find work outside their territory to earn some income and help support their

families. Domestic work includes all sorts of tasks in the house - cleaning, laundry, cooking, etc., and even sometimes farm work.

A FAILED EDUCATION SYSTEM

In **Kenya**, a legal framework has been established to provide free and compulsory education for all children. However, there is no comprehensive strategy that ensures that the curriculum and the education system are relevant to the livelihood situation of pastoralists and hunter-gatherers. One of the issues discussed during consultations was therefore how the education system can benefit the pastoral community or as one of the participant put it: *“If I put my child in school, what and when will I reap?”* Another comment was that school educated children often detach themselves from their traditional lifestyle: *“If after finishing school they remain unemployed, they end up belonging to nowhere.”* In the **Philippines**, interviewed persons commented that some educated and rich indigenous people have lost their indigenous values and have become like the “others” with no regard for indigenous values and ways of life. In **Guatemala**, the general agreement was that the education system does not correspond to the reality, the world view and the needs of indigenous peoples, and that this is the reason why the levels of illiteracy, school desertion and truancy in regions with an indigenous population are the highest in the country.

THE RIGHT TO QUALITY EDUCATION

Endeavours to increase school enrolment and completion rates among indigenous children have to address a number of challenges: reducing the economic constraints that make it impossible for indigenous parents to send their children to school; increasing the number of schools in indigenous areas and improving them in terms of class rooms, learning materials and teachers; developing special approaches including awareness raising to increase the enrollment of girl children; and addressing health issues such as malnutrition that impact on the learning process.

But, no less important is to ensure that education services are of good quality and relevant to the particular linguistic and cultural context of the indigenous children. Otherwise, there is a risk that mainstream education will repeat the mistakes of decades of education programmes seeking to “educate” and “civilize” children out of their cultures, leading to high levels of

school drop outs and psychological stress.

Recognising the centrality of education, Convention No. 169 provides elaborate guidance on the rights of indigenous peoples to education.

Within the framework of Convention No. 169, the following main elements of an adequate response to indigenous peoples’ education needs will be explored in more detail in the following sections:

- ▶ Economic incentive programmes
- ▶ Improving education quality and relevance
- ▶ Special education curricula and programmes
- ▶ Non-formal education systems
- ▶ Involving the community and the parents
- ▶ Opportunities within the Education for All (EFA) framework
- ▶ The right to vocational training

Convention No. 169 on education (articles 26-31)

INDIGENOUS CHILDREN:

- ▶ Shall have the opportunity to acquire education on an equal footing;
- ▶ Shall be taught to read and write in their own indigenous languages;
- ▶ Shall have the opportunity to attain fluency in the national languages

EDUCATION PROGRAMMES AND SERVICES:

- ▶ Shall be developed and implemented in cooperation with indigenous peoples;
- ▶ Shall incorporate their histories, knowledge, technologies, value systems and their further social, economic and cultural aspirations
- ▶ Shall impart general knowledge and skills that help indigenous children to participate fully and on an equal footing in their own and in the national community
- ▶ Shall contribute to eliminating prejudices among all sections of the national community

INDIGENOUS PEOPLES:

- ▶ Shall be trained and be involved in the formulation and implementation of education programmes
- ▶ Shall be allowed to establish their own education institutions

Overcoming Barriers to Education

USING ECONOMIC INCENTIVES

Oportunidades is a poverty-targeted programme tied to education enrollment for indigenous communities in **Mexico**. By providing cash stipends to poor families in exchange for ensuring their children's school attendance, the programme has led to significant improvements for both monolingual and bilingual indigenous children. The school attendance rates have increased while dropout and repetition rates have decreased. There is also evidence of reduced child labor, improved health and nutrition situation, and short term poverty reduction (Parker and Skoufias 2001).

In **Guatemala** and **Peru**, major school programmes related to overall poverty reduction have had few results for indigenous peoples: in Guatemala only four of the five major school supplies and school-based nutrition programmes slightly favour indigenous people, though they are vastly over-represented among the poor. One programme even favours the non-indigenous children. In Peru, only one major school programme has higher incidence among indigenous people, the rest favour non-indigenous (Hall and Patrinos 2005).

In the **Philippines**, government-sponsored scholarship programmes for indigenous students have had mixed results because they are highly political and beneficiaries tend not to go back to their communities after finishing their studies. An

NGO-funded scholarship programme requires its scholars to do work in their community after finishing their studies so they can share their knowledge and skills with their own people.

INTRODUCING BILINGUAL EDUCATION

In **Guatemala** the introduction of bilingual schools in indigenous communities increased school attendance: in the 1970s, while most parents in communities targeted for having bilingual primary schools expected their children to leave school after three or four years (less for girls), parents from the same communities believed in the 1990s that their children should remain in school longer, due to the improvements in the educational services provided. Decreasing drop-out rates, increased proficiency in Spanish and academic performance were among the other noteworthy results (Siddiqi and Patrinos 1996).

THE NEED FOR SPECIAL EDUCATION CURRICULA AND PROGRAMMES

The national consultation in the **Philippines** underscored the need to develop an education curriculum and programme that is well-rounded, culturally-sensitive, and innovative, and that is motivational and attractive for indigenous children while maintaining their self-respect, dignity, identity and culture as indigenous

peoples. It was recommended that curriculum development should be done with the direct participation of indigenous leaders, especially the elders and those with rich experience in indigenous education.

In **Kenya**, participants in the national consultation found that the curriculum was in conflict with indigenous peoples' lifestyles. It was stressed that education as a measure to counter child labour needs to be relevant, flexible and affordable as well as appropriate for the specific communities, with exams relevant to them, for example, in the case of pastoralists on animal husbandry.

The Village Schools Project (VSP) in **Namibia** is a unique project that integrates 'traditional' and culturally-appropriate, mother-tongue education with formal education. The Jul'hoansi of Nyae Nyae, unlike most San in the region, still live on part of their ancestral land, and thus have the opportunity to practice their traditional subsistence activities of hunting and gathering. The VSP should be seen as a response to Jul'hoan children's lack of participation in the local government schools. The Village Schools are meant to create a safer, more familiar and more comfortable environment in which the children can learn in their own languages about things relevant to their lives for the first three years of school. Children are taught in the Jul'hoansi language, by members

of their own speech community, making the project one of the only places in southern Africa where San children have access to formal education in their mother tongue (Hays 2004).

USING NON-FORMAL EDUCATION SYSTEMS

In **Kenya** the Shepherd Education Project was launched by a local NGO as a response to the needs of the pastoralists' children who are not in school because their nomadic way of life does not fit with the formal school system. The project provides learning classes in the afternoons and evenings at strategic points of easy access to the shepherds. Classes are also provided on holidays when formal schools are closed and the children attending formal schools can relieve their brothers and sisters of domestic herding work.

In the **Philippines**, an IPEC experience in education showed that the most effective component in areas where discrimination of indigenous peoples is prevalent is the non-formal or alternative learning programmes that raise their competencies through focused intervention.

The importance of language

UNESCO (2001) estimates that close to half of the 6,000 languages spoken in the world are likely to disappear in the foreseeable future. Due to the structural marginalization of indigenous peoples, there is often little institutional support or social acceptance of indigenous languages. Bilingual education is a strong instrument to counter this situation.

Moreover, the right to education in indigenous languages is central to the identity and the socio-cultural and linguistic rights of indigenous peoples - and to the overall empowerment of indigenous children within and outside the school. A child, who is taught and can use his or her mother-tongue in school, particularly during the early years, and gradually transits to national languages will have much better chances of performing well in the education system. Mother-tongue literacy is a means or vehicle to achieve fluency in national languages as bilingual education allows the child to develop more flexible and alert minds on the basis of a greater volume of memory for mastering different language systems.

Economic incentive programmes

Supporting targeted economic incentive programmes for indigenous children and their parents is emerging as an important priority area for stimulating demand and it has been documented that e.g. conditional cash transfer, scholarships and food provisions programmes have resulted in increased school attendance.

However, most of these programmes are time-bound. Therefore, it is important, at the same time, to provide sustainable economic alternatives that in the long term can improve the livelihood of the parents and their communities and thereby allow future children to go to school.

Beyond the primary levels of education, there is also an acute need for improving indigenous access to secondary and higher education not least in order to respond to the lack of indigenous professionals in both private (e.g. business management) and public sectors (e.g. health and education). The access of indigenous students should be encouraged with economic incentives including scholarships, affirmative action programmes and appropriate options for distance education if relevant.

Improving education quality and relevance

In line with the provisions of Convention No. 169, indigenous peoples worldwide demand intercultural and bilingual education for their children.

Intercultural education implies a mutual learning process, accepting those who are different without losing one's own identity. It involves all ethnic groups and uses education as an instrument for promoting

democracy, tolerance, human rights and more inclusive and respectful societies. Intercultural education should thus be offered to all students, indigenous and non indigenous, as a means of combating prejudices and discrimination.

Bilingual education allows the children to develop capacities in their mother tongue and also to fully engage in the national society through the learning of a national language. It allows them to preserve their identity, self-respect and self-esteem while being able to engage on an equal footing in the national society.

Intercultural bilingual education is sometimes perceived as an expensive "luxury" compared to immediate literacy, numeracy and national language needs. In Guatemala, however, it has been estimated that a shift to bilingual schooling would result in considerable cost savings as a result of reduced repetition and drop outs, not to mention the higher scores that bilingual students get (Hall and Patrinos 2005).

Some parents and indigenous representatives question the relevance of bilingual education services, fearing the establishment of second-rate segregated education systems, and in practice, many intercultural bilingual education initiatives still remain small-scale, chronically under-funded, and face considerable limitations in terms of teacher capacity, materials available and wider political support.

However, significant advances are being made in the field of intercultural bilingual education, particularly in Latin American countries that have ratified Convention

No. 169. In these countries, the remaining challenge is to ensure the adequate institutional and technical capacity as well as resources for the implementation. In Africa and Asia the challenge of gaining understanding and acceptance of indigenous peoples' special learning needs generally remains.

Development of special education curricula and programmes

Intercultural and bilingual education requires the development of special education curricula and programmes that respect and reflect the specificities of indigenous peoples and make use of the wealth of knowledge found among them and which is relevant for the further development of their livelihood strategies. Such curricula and programmes should be developed in partnership with indigenous leaders, organizations and communities.

Experience shows that the training of indigenous teachers is a necessary starting point for further development of such relevant education programmes, curricula and methodologies. There is thus a need to focus specifically on national policies, strategies and programmes for indigenous teacher training, recruitment and deployment.

Non-formal education systems

A related demand from indigenous peoples is that specific consideration be given to those peoples whose way of life does not fit with the formal education system.

As brought forward in the ILO consultations, there is a real need for flexible, innovative non-formal education (NFE) systems that take as their point of departure the livelihood situation of the indigenous communities. Given their great variety, there can be no blueprint approach but among the suggestions made were mobile schools for nomadic children, school timetables and term times compatible with local agricultural/pastoral work cycles or schools systems giving specific attention to the situation of the girl child.

The same need applies for urban centres, commercial agricultural zones, mining areas, etc. Here, one of the challenges is to offer NFE systems that are easily adaptable to such times and opportunities as the children may take from work since the survival of

the children and often of their families depends on the income provided by child labour. This involves raising the awareness and sensitivity of the employers so that they let the children go for a few hours per day to attend "classes" (Seabrook 2001).

Involving the community and the parents

An important precondition for improving education quality and relevance is the active involvement of the community including parental participation. Programmes at the local level cannot succeed if the community is indifferent or even hostile to the objective of preventing children from engaging in child labour or do not see the need for education. Improving the quantity and quality of educational service provisions (school infrastructure, teachers, etc.) also presupposes that indigenous peoples can monitor service providers and hold them accountable.

It is therefore important to identify and involve existing structures at community level, such as indigenous organisations, council of elders, school boards, Parents-Teachers Associations, etc. Where such organisations do not exist, their creation should be encouraged. By raising their awareness and building their capacity, they should be motivated to make their demands known to the duty-bearers and monitor any progress made.

Opportunities within the EFA framework

Most countries have developed national Education For All (EFA) strategies in order to achieve the goals set out in the Dakar Framework for Action and subsequently the MDGs (Millennium Development Goals). Considering the remaining challenges for ensuring indigenous children's access to education, it is clear that the MDGs will not be achieved by 2015 - unless indigenous peoples' specific rights and priorities in the education sector are addressed.

The goals of the Dakar Framework include a number of entry points for addressing the concern of indigenous children (sections of special relevance for indigenous peoples are presented in bold):

- Expanding and improving comprehensive early childhood care and education, especially for the most vulnerable and disadvantaged children;

- Ensuring that by 2015 all children, particularly girls, children in difficult circumstances and those belonging to ethnic minorities, have access to and completely free and compulsory primary education of good quality;

The integration of indigenous education priorities in EFA National Strategies, Plans and Programmes, Fast Track & Flagship initiatives, wider implementation efforts and evaluation is thus a main priority that requires the commitment and collaboration of a range of actors, including indigenous and government partners, UN agencies, donors and civil society.

The right to vocational training

The transition from school to Decent Work for indigenous youth continues to present enormous challenges all over the world. The Dakar framework of Action puts a strong emphasis on “equitable access to appropriate learning and life skills programmes”. The ILO also emphasizes vocational and skills training as a means for former child labourers to gain relevant skills for future employment. Convention No. 169 sets specific standards on vocational training.

Convention No. 169, reflects a double challenge for indigenous peoples. On the one hand, vocational and skills training programmes are of critical importance for their communities - for strengthening and further developing their economies and enabling them to compete on an equal footing in a discriminatory labour market. On the other hand, vocational training efforts are at times used by outsiders, to “engineer” alternatives to customary livelihoods that are considered outdated or non-viable, such as shifting cultivation, pastoralism and hunting-gathering. The alternatives proposed are rarely socially, economically or environmentally sustainable,

but often successful in stigmatizing customary livelihoods and disrupting traditional knowledge transfer. Depending on the approaches taken, skills training can contribute to either one of the processes.

It is fundamental that indigenous communities are consulted in order to ensure that programmes do not reinforce discrimination but respond to identified indigenous needs and priorities and contribute to the development of customary livelihoods and indigenous resource management. This may involve strengthening practices based on indigenous knowledge or the introduction of complementary skills such as marketing, quality enhancement, negotiation, computer literacy, self-help organization, enterprise development, commerce, etc.

Vocational training should be provided by trainers that are both technically experienced and culturally able to earn the confidence of indigenous people (they should ideally be indigenous trainers). Training should be primarily practice-oriented and include exchanges, meetings, events, demonstrations, field trips and other hands-on activities.

Vocational training, especially in urban areas, should be integrated or linked with employment opportunities created through local business and government development initiatives. As noted by Seabrook (2001), “many small entrepreneurs employing child labour are as good as vocational training centres and serve to build careers for young people. But some are exploitative and most employers have to be sensitized to the child’s needs: the exploiter must become trainer, see himself as developer of the valuable human resources he has in his charge.” This is a challenge that needs to be addressed.

Convention No. 169 on vocational training

- Equal opportunities and promotion of voluntary participation in general vocational training programmes;
- Provision of special training programmes and facilities whenever existing vocational training do not meet the special needs;
- Special training programmes, based on the economic environment, social and cultural conditions and practical needs of the peoples concerned and progressively transferred to these, if they so decide.

