



Review of ILO activities within the framework of the International Decade for the World's Indigenous People

I Overview

The ILO's approach to indigenous and tribal peoples' rights falls within two major areas: (i) supervision of the two Conventions relating to indigenous and tribal peoples, and (ii) technical assistance.

During the International Decade for the World's Indigenous People, the ILO has contributed significantly to advance the debate on the rights of indigenous and tribal peoples at both national and international levels. Through its supervision of ILO Conventions of relevance to these peoples, and through its technical co-operation programmes, the influence of ILO Convention No. 169 on national, regional and international policies and legal instruments concerning indigenous and tribal peoples is clear. However, the debate remains less advanced in some regions than others, and considerable challenges still remain. These are outlined at the end of this document.

In its 1999 annual report, the ILO's Committee of Experts observed that Convention No. 169 is the most comprehensive instrument of international law for the protection in law and in practice of the right of indigenous and tribal peoples to preserve their own laws and customs within the national societies in which they live.

At the national level, ratification of the Convention has prompted the establishment, reform, or reinforcement of a number of government agencies responsible for co-ordinating policies relevant to indigenous and tribal peoples, and for monitoring projects and programmes pertaining to these peoples. Examples of such agencies include the National Indian Foundation in Brazil, the National Indian Institute in Mexico, and the General Directorate for Indigenous Affairs in Colombia. It has also been one of the factors behind the revision of national constitutions in several ratifying states, namely in Bolivia, Mexico and Peru.

Convention No. 169 also provides guiding principles for national policies and laws on indigenous peoples, and indigenous peoples' policies of international financial institutions such as the World Bank, and United Nations Specialised Agencies and UN Programmes such as UNDP. Convention No. 169 has guided a number of Supreme Court decisions in the Americas (especially in Colombia), illustrating the potential of the Convention to influence the positive law of these countries and ameliorate the relationship of power in the dialogues between national governments and indigenous and tribal peoples.

The ratification of Convention No. 169 has also been cited as a contributing factor to the settlement of the internal conflict in Guatemala, which, as stated in the preamble of the 1996 Peace Agreement, brought to an end more than three decades of armed confrontation in Guatemala. In its 1999 observation, the Committee of Experts noted the continuing role the ILO is playing in the implementation of this Agreement.

The influence of Convention No. 169 is also evident in a number of States that have not ratified it but have used it as a basis for examining their national situations as regards

indigenous and tribal peoples. Convention No. 169 has also served as a background instrument informing the deliberations of a number of United Nations treaty bodies. For example, in its consideration of State reports under the International Convention on the Elimination of Racial Discrimination, the Committee on the Elimination of Racial Discrimination has recently paid particular attention to Convention No. 169, highlighting issues of consultation and participation of indigenous peoples in Argentina, and welcoming its ratification of the Convention. The Committee has also encouraged Japan and the United States to use Convention No. 169 as guidance regarding the rights of indigenous peoples, and in respect of securing their informed consent in decision-making processes that affect them.

II Summary of principal activities and challenges

2.1 Standards and policies

A primary aim of Convention No. 169 is to enhance dialogue between governments and indigenous and tribal peoples, and increase the capacity of those peoples to participate and take responsibility for development processes directly affecting them. It excludes the ‘top-down’ approach of the 1950s to 1970s, and relying instead on a determination of what indigenous peoples themselves indicate that they need.

During the last decade 11 (out of a total of 17 ratifications for the Convention) States have ratified Convention No. 169.

Argentina	3.7.2000
Brazil	25.7.2002
Denmark	22.2.1996
Dominica	25.6.2002
Ecuador	15.5.1998
Fiji	3.3.1998
Guatemala	5.6.1996
Honduras	28.3.1995
Netherlands	2.2.1998
Peru	2.2.1994
Venezuela	22.5.2002

In both its regular and extraordinary supervisory procedures, the ILO has issued critical comments and recommendations on the application in law and in practise of the Convention by the ratifying countries¹. The main topics addressed by the supervisory bodies are related to land and natural resources rights; and to the consultation and participation of indigenous and tribal peoples in the adoption of policies, legislation and administrative measures which may have an impact on their lives. During recent years many governments have made significant improvements in the adoption of legislation specifically for indigenous and tribal matters. On the other hand, a greater effort has to be done to achieve the same progress in the application of these measures in practice.

¹ These comments can be found on <http://www.ilo.org/public/english/indigenous>

2.1.1. Land

As examples, the 1991 Constitution of Colombia was one of the first in the world to articulate the concept of territorial rights for indigenous peoples and to specify the nature of indigenous rights to self-government and to the management of their natural resources. In 2002 the CEACR asked Costa Rica's Government to report on the extent of the indigenous territories still in non-indigenous possession and on the procedures that currently exist within the national legal system so that indigenous peoples can claim land that they have lost, or of which the ownership has not yet been determined.

2.1.2. Natural resources

Under Convention No. 169 indigenous and tribal peoples have the right to be consulted before mineral or other resources on their lands are explored or exploited. Experience shows that conflicts have arisen between indigenous and tribal communities that occupy lands that had been leased or sold for prospecting or exploration activities, and the companies operating in those areas. Although indigenous and tribal peoples do not have the right under the Convention to veto exploitation, they can use their rights in negotiations to persuade companies or the government to adapt their techniques to minimize environmental damage, and to restore the environment afterwards. In this connection an ILO tripartite committee set up to examine a complaint against the Bolivian government concluded that indigenous communities should be promptly and adequately consulted on the extent and implications of exploration and exploitation activities, whether these are mining, oil or forestry activities. The same principle was recommended to the Colombian Government in relation to the U'wa indigenous people, and to the Government of Costa Rica, and has entered into the ILO supervisory bodies' regular dialogue with all ratifying States.

2.1.3. Administration of Justice

During the last decade the ILO has remarked the following positive trends:

- ❖ The new Constitution of Bolivia recognizes that the authorities of indigenous peoples may exercise administrative functions in alternative procedures for the settlement of disputes.
- ❖ In Colombia the Penal and Penal Procedure Codes have adopted special conditions respecting the treatment, penalties, detention and rehabilitation of indigenous persons.
- ❖ In Costa Rica some of the Constitutional Court judgements confirm the possibility of invoking indigenous peoples' customs and customary laws. It legal provisions also exist in this country establishing the safeguards of legal advice and interpreters for indigenous persons in legal proceedings.
- ❖ In Mexico a programme for the promotion and access to justice has been adopted, under the responsibility of the National Indian Institute (INI). The CEACR has requested the Government to provide information on the manner in which the Programme secures the participation of indigenous people.
- ❖ The Penal Code of Paraguay allows that a legal representative of a community of the ethnic group of the convicted person may submit to the

judge an alternative to the execution of the penalty, when a sentence involves a period of detention of not more than two years

As has been already explained, the legislative recognition of the principles of the Convention, in most cases, is not enforced in practice. Thus the ILO is continuously providing recommendations, guidance, and assistance to improve capacity building; to launch awareness raising campaigns; and to influence governments to give priority in the elaboration of policies related to the development and protection of indigenous and tribal rights, with their consultation and participation.

2.1.4. Other relevant ILO Conventions

Convention No. 111 on discrimination (employment and occupation), 1958, is also relevant to the situation on indigenous and tribal people. Most of the comments of the CEACR refer to the particularly vulnerable situation of the members of these groups in the labour market. This precarious situation starts from their very first stage of their life: high mortality rate, deficient educational services – if any - and lack of professional training among other shortcomings. The consequences of these deficiencies are more critical due to the widespread prejudice of the non-indigenous population in respect of the social, cultural, religious and spiritual values and practises of indigenous and tribal peoples, as well as their social, economic and cultural institutions and traditions. The ILO supervisory bodies give particular attention of the application of Convention No. 111 to indigenous and tribal peoples in those countries that have not ratified Convention No. 169.

Indigenous children also constitute a typical example of “children at special risk” of worst forms of child labour, which the ILO’s Worst Forms of Child Labour Convention, 1999 (No. 182) obliges governments to identify and reach out to (Article 7(2)(c)). Other ILO Standards that are of particular relevance to indigenous and tribal peoples are: The Forced Labour Convention, 1930 (No. 29)²; and the ILO Declaration on Fundamental Principles and Rights at Work.

2.2 Programmes, projects and technical assistance

2.2.1. General technical assistance

Technical assistance benefiting indigenous and tribal peoples has assumed an increasingly recognized part of the ILO’s activities in all parts of the world. In the earlier part of the Decade, this remained concentrated in Central and South America, including in Costa Rica, Guatemala, Mexico, Honduras and Panama. This has included legal training and advice, gender awareness and training activities, and capacity-building at national and community levels. Many of these activities have focussed on issues brought up within the context of the supervision of these Conventions by the ILO’s Committee of Experts. It has gradually become an integral part of ILO’s technical co-operation around the world, with growing awareness that indigenous and tribal peoples are the poorest and most excluded part of virtually every nation in which they are found.

² In the supervision of this Convention, the Committee of Experts has referred to the forced labour situation of indigenous peoples in a number of countries, and some of these comments can be cross-references with comments under Convention No. 169.

2.2.2. Technical co-operation projects focusing specifically on indigenous and tribal peoples

The increasing international emphasis on ILO Convention No. 169, following its adoption in 1989, led to an increasing number of requests to the ILO for further information regarding the Convention, as well as a need for additional technical assistance in the ILO's work in the area of indigenous and tribal peoples. These constituted the main reasons for the establishment of the two main technical co-operation projects in the ILO that focus specifically on these peoples: The Project to Promote ILO Policy on Indigenous and Tribal Peoples (the C169 Project) and the INDISCO Programme (Support to Self-Reliance of Indigenous and Tribal Peoples through Co-operatives and other Self-help Organizations). The first of these projects – the C169 Project - has taken place specifically within the framework of the International Decade for the World's Indigenous People, and was initiated in 1996. The INDISCO Programme was already operational at the start of the Decade, having begun in 1993. Both these projects are ongoing, following the accumulation of considerable momentum in Project activities, particularly in the understanding and awareness of the need for comprehensive policies and programmes, aimed at improving the living and working conditions of indigenous and tribal peoples worldwide.

There are a number of other technical co-operation projects and programmes that address indigenous peoples, in the context of ILO regular programmes of assistance.

A The C169 Project

This project works at the policy level, and its approaches to project design, development and implementation vary according to the specific circumstances of a given project country as well as the cultural specificities of the indigenous peoples and communities with which it works. The main objectives of this project are as follows:

- The development, adoption and implementation of policies that integrate the rights, as conveyed in the Indigenous and Tribal Peoples Convention, 1989 (No. 169), as well as the needs and priorities of indigenous and tribal peoples in the countries assisted by the project.
- The contents and principles of Convention No. 169, and where applicable Convention No. 107, will be better known and used, in particular in the countries in which the Project works;
- The capacity of indigenous and tribal peoples to participate in development processes and programmes, and to defend their own interests, will be strengthened.

Since 1996, this project has focused on Africa and Asia, and has worked in Argentina, Bangladesh, Cambodia, Cameroon, Democratic Republic of Congo, India, Kenya, Laos, Malaysia, Morocco, Philippines, South Africa, Thailand and Vietnam. It has also implemented a number of international level activities, including an indigenous and tribal peoples fellowship programme, which was initiated in 2003. The project works through research, capacity-building, training, policy and legislative advice, awareness-raising, and the facilitation of dialogue and establishment or support of sustainable mechanisms to ensure consultation and participation of indigenous peoples in the processes that affect them.

The Project has noted an increasing level of networking and awareness of Convention No. 169 among indigenous peoples' organizations in most regions in which it has worked, in

particular the Central and East African regions, and South-East Asia, where many indigenous organizations have developed their own training programmes on the Convention. The Project has also received an increased number of requests for advice and assistance from all regions, and from Africa in particular, where there was previously very little discussion of Convention No. 169 or of indigenous peoples' rights. The Project has also noted an increasing interest in indigenous issues among governments in the countries and regions in which it has worked over the past 8 years. Since the Project began operations in 1996, it has directly influenced the development of new policies concerning indigenous peoples in several countries in Asia, as well as serving as a catalyst for discussions on indigenous issues in countries where previously the subject had not been approached.

Project activities in Cambodia, Kenya, the Philippines and Central Africa, although at different stages, are examples of ways in which the working methodologies of the project have begun to challenge the prevailing paradigm of development, encouraging some key players to change the way in which they approach questions pertaining to indigenous peoples, and most importantly, promoting the consultation and participation of indigenous and tribal peoples in the processes that affect them, so that they are respectful of their cultures and ways of life. It is hoped that the methodologies employed by the project will help to lend legitimacy to the aspirations of these peoples with key players in the policy process, and facilitate effective and constructive dialogue between indigenous peoples and governments.

B *The ILO-INDISCO Programme*

The objective of the INDISCO Programme is to strengthen the capacities of indigenous and tribal peoples, and to help them to design and implement their own development plans and initiatives - and to ensure that their traditional values and culture are safeguarded in accordance with their own aspirations. During the entire Decade, INDISCO has implemented more than 20 projects in 10 countries in Asia, Africa and Central America. These projects have been funded by DANIDA and other donors, including The Netherlands, CIDA, AGFUND, UNDP, UNV, WFP, Rabobank, the Philippine International Association, AUSAID, INWENT and GTZ.

The development objective of the first phase of the programme was to contribute to the improvement of the socio-economic conditions of indigenous and tribal peoples through demonstrative pilot projects and dissemination of best practices for policy improvement. Thus, it has demonstrated viable models of participatory development through selected pilot projects. Pilot projects have demonstrated tangible and viable examples of practical partnerships in the field of sustainable development. The second, and current, phase of the programme is primarily aimed at linking grassroots experiences, as developed mainly during the first phase, to policy improvement thereby supporting a more favourable policy environment for indigenous and tribal peoples. INDISCO and the Convention No. 169 Project complement each other in this field.

The INDISCO approach is based on a flexible country-specific methodology, meaning that projects are planned and carried out to suit local and national conditions. This is also the reason why the *participatory* aspect is crucial to all INDISCO activities. Both indigenous peoples themselves, local partner NGOs and government agencies are involved in the formulation and implementation of projects. This gives the ILO a mediating and facilitating role among the various involved stakeholders.

Most project activities address some of the core immediate needs as expressed by the communities themselves, and they often provide direct support to literacy training, cooperative management, skills and training in income generating activities. Critical issues dealt with during the INDISCO pilot projects have been: threatened subsistence economies, displacement, environmental deterioration, indigenous women, institution building and cooperatives. In most cases there has been a particular emphasis on the empowerment of indigenous women. Here are a few examples of how these issues have been addressed in different countries:

- Five pilot projects implemented in four States in **India** have helped tribal communities establish their own self-help organizations and develop new income generation activities on the basis of sustainable natural resource management. Indigenous children have received basic literacy training and non-formal education and micro credit schemes have been established by the community members themselves. Surveys and case studies have been carried out to assess tribal peoples' natural disaster mitigation methodologies, and tribal cooperatives. In addition, guidelines on integrating indigenous knowledge in project planning and implementation have been tested in India. A recent study looks into the situation and challenges of the Bondo Highlanders in Orissa.
- In the **Philippines**, a total of 12 pilot projects have been implemented during the Decade. Main activities have been concentrated on supporting indigenous communities to improve their socio-economic conditions and supporting government agencies to improve the policy environment. Some of the issues addressed have been: preservation and promotion of indigenous knowledge systems and practices, ancestral domain management, employment and income generation, sustainable natural resource management and environmental protection. Recently, support has been given to the National Commission on Indigenous Peoples (NCIP) for its implementation of the Indigenous Peoples' Rights Act (IPRA). Consequently, a medium-term development plan has been developed in light of the linkages established between grassroots level experiences of community-driven participatory development and policy improvement.
- Culture-specific local curricula have been developed in **Thailand** together with the ethnic minority communities. The curricula have been taken over by the Ministry of Education for finalization and replication in primary schools in tribal areas. Other issues, such as HIV/AIDS, have also been addressed in this context.
- A pilot project on sustainable development of ethnic minorities in **Viet Nam** was implemented in 1998-2000 with the objective of increasing the income and living standards of the ethnic minorities through the introduction of suitable agricultural development and employment generating activities. Through participatory methods, the capacities of the ethnic minorities to create basic social and economic activities for sustained development were strengthened through the establishment of cooperatives, community-based credit and savings institutions and other self-help groups. The project assisted four communes in two provinces in establishing 40 self-managed groups, representing 1,200 households, which in turn created 30 small enterprises and 6 cooperatives employing more than 250 workers.

- Local consultancy has been provided to Maasai communities in Northern Tanzania to establish their own multipurpose cooperative and revive their traditional livelihoods.
- In **Cameroon**, the Baka communities have been supported by INDISCO to establish their own self-help organization with the objective of strengthening their traditional livelihoods, reducing out-migration and eliminating discrimination in national employment policies.

C UNFIP Project

The United Nations Fund for International Partnerships (UNFIP) *Legal Empowerment of Indigenous Peoples in Central America* project was an ILO project, funded by UNFIP, and executed by the ILO (launched in June 1999). It had a sub-regional focus with originally a geographical coverage including Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama. The objective of the Project was to strengthen the capacity of indigenous peoples and their organizations to secure and defend their legitimate rights within the framework of national legal systems. The project has supported successful litigation cases, negotiations to defend land and resource rights of indigenous peoples, and through training of legal teams, several court cases have been filed. Further information can be found at www.oit.or.cr/unfip. The project has recently been completed.

D REDTURS: Network for sustainable tourism development with indigenous and rural communities in Latin America

As a result of the new trends in global tourism, indigenous and rural communities in Latin America are facing pressures on their natural, cultural and social resources. The aim of REDTURS is to introduce the concept of sustainable development into the tourism sector, linking the objective of economic efficiency with social equity, respect for local cultures, community participation and natural resource preservation.

REDTURS has just completed its first phase, under which it has undertaken 19 case studies in Bolivia, Ecuador and Peru, and a working paper on the relevance of grassroots initiatives in tourism to new opportunities and benefits for the rural poor. The project has also implemented three national workshops and an international seminar to share knowledge and experiences. For its *second phase*, REDTURS' strategy is to expand/ speed-up the provision of innovative business development strategies to rural communities, and plans to implement a training programme to improve technical and managerial skills of micro, small and community operators. Cuba, Guatemala and Nicaragua will be the first countries to benefit from technical advice to help communities to establish and operate micro and small enterprises.

E International Programme for the Elimination of Child Labour (IPEC)

In many cases, working children belong to the strata of society most discriminated against in terms of ethnicity and culture. Indigenous children thus constitute a typical example of "children at special risk" of worst forms of child labour, which ILO Convention No. 182 obliges governments to identify and reach out to (Article 7(2)(c)). Given the importance of free and good quality education in the elimination of child labour, many of the technical cooperation projects supported by the ILO International Programme on the Elimination of Child Labour (IPEC) touch upon the child labour situations of indigenous children and their education as measures of either prevention or reintegration. Even where the projects do not

aim exclusively at indigenous children, many of them on specific issues such as child trafficking, or child domestic labour, as well as statistical surveys and researches on child labour, and especially its worst forms, do cover indigenous children, who are one of the most vulnerable groups of all. IPEC has recently begun to focus specifically on indigenous children in a number of countries including: Chile and Bolivia (teacher training among indigenous communities); China (Preventing and combating the trafficking of ethnic minority girls through education in Yunnan Province); and Kenya (combating child labour among Maasai communities in Kajiado district through education).

F *In-Focus Programme to Promote the Declaration on Fundamental Principles and Rights at Work*

During the Decade, a series of Global Reports have been prepared under the Declaration, on the subjects of Forced Labour, Child Labour, and the Elimination of Discrimination in Employment and Occupation. Within the context of these reports, and in particular with regard to the issues of racial discrimination and poverty, indigenous and tribal peoples constitute an integral component.

G *Other activities*

More specific activities have been undertaken, within the context of the Decade and under the impulse of Convention No. 169. Examples include recent work to clarify the situation of Dalits in India and Nepal. Many other such activities are also undertaken – for instance, consultations with Swedish and Swiss parliamentarians and government officials about the implications of ratifying Convention No. 169. This is a constant and necessary activity in the ILO's work programme.

2.3 Institutional changes including mechanisms for indigenous participation

2.3.1. The ILO's supervisory system

The ILO has a tripartite structure consisting of governments, and employers' and workers' organizations. Every country at the International Labour Conference is represented by four delegates: two government representatives, and one each from its employers' and workers' organizations. Indigenous and tribal peoples do not have a formal position within the ILO's tripartite structure. However, they can participate in ILO meetings and other activities either as representatives of governments, or of workers' or employers' organizations, or as representatives of NGOs on the ILO's Special List of NGOs. They can also send information directly to the ILO, either through workers' or employers' organizations, or they can send information themselves.

Article 22 of the ILO Constitution requires that member States report regularly to the International Labour Office on the measures they have taken to give effect to the provisions of a Convention to which they are party. Reports are requested every two years on a group of 12 high-priority Conventions, and every five years on other ILO Conventions, which includes Conventions Nos. 107 and 169. These reports must be sent to the most representative workers' and employers' organizations in the country for their comments, according to article 23 of the ILO Constitution. In the Report Form for Convention No. 169, there is a suggestion that in drafting their periodic reports, governments consult with indigenous and tribal peoples. Reports submitted by Member States are reviewed by the Committee of Experts on the

Application of Conventions and Recommendations, which is made up of 20 independent experts and meets every year. This mechanism for the examination of reports constitutes an ongoing dialogue between the ILO and its member States.

Representations under article 24 of the ILO Constitution may be made by employers' and workers' organizations who claim that a State has failed to observe a ratified Convention. A tripartite committee of the Governing Body is set up to examine the matter, and its conclusions are adopted by the Governing Body. Complaints under article 26 of the ILO Constitution may be filed by: a) one member State against another, regarding the way in which a Convention is being applied; b) by a delegate to the International Labour Conference on the observance of a ratified Convention by a State; and c) by the Governing Body on its own initiative. No complaints have been filed in respect of Conventions Nos. 107 or 169, but a number of representations have in recent years.

2.3.2. Indigenous participation and consultation under ILO Convention No. 169

Convention No. 169 provides the guidelines for ILO projects concerning indigenous and tribal peoples. The central themes of Convention No. 169 are **consultation** and **participation**. The spirit of consultation and participation constitutes the cornerstone of Convention No. 169 on which all its provisions are based. The Convention requires that indigenous and tribal peoples be consulted on issues that affect them. It also requires that indigenous and tribal peoples be able to engage in **free and informed** participation in policy and development processes that affect them.

Article 6 of the Convention reads as follows (emphasis added):

1. In applying the provisions of this Convention, governments shall:
 - (a) consult the peoples concerned, through **appropriate procedures** and in particular through their **representative institutions**, whenever consideration is being given to legislative or administrative measures which may affect them directly;
 - (b) establish means by which these peoples can **freely participate**, to at least the same extent as other sectors of the population, at all levels of decision-making in elective institutions and administrative and other bodies responsible for policies and programmes which concern them;
 - (c) establish means for the full development of these peoples' own institutions and initiatives, and in appropriate cases provide the resources necessary for this purpose.
2. The consultations carried out in application of this Convention shall be undertaken, in **good faith** and in a **form appropriate to the circumstances**, with the **objective of achieving agreement or consent** to the proposed measures.

Another important component of the concept of consultation is that of **representativity**. Whilst acknowledging that it is difficult in many circumstances to determine who represents any given community, if an appropriate consultation process is not developed with the indigenous and tribal institutions or organizations that are truly representative of the peoples

in question, then the resulting consultations would not comply with the requirements of the Convention³.

The obligation to consult should be read in the light of another fundamental principle of the Convention (Article 7.1):

*“The peoples concerned 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, and to exercise control, to the extent possible, over their own economic, social and cultural development. In addition, they shall participate in the formulation, implementation of plans and programmes for national and regional development which may affect them directly.”*

The second fundamental principle of the Convention is that of **participation**. This includes free participation at all levels of decision-making in elective, administrative and other bodies responsible for policies and programmes that concern indigenous and tribal peoples, and participation in the formulation, implementation and evaluation of plans and programmes for national and regional development. In order to facilitate this participation, the Convention also requires the establishment of means for the development of indigenous and tribal peoples’ own institutions and initiatives.

The statement of this principle does not mean, however, that a lack of consent will be sufficient grounds under the Convention to block a development programme or project. The Convention requires that procedures be in place whereby indigenous and tribal peoples have a realistic chance of affecting the outcome.

2.3.3. Establishment of co-ordinating committee, increasing awareness and in-house engagement on indigenous issues

Based on experiences in project implementation over the past 10 years, both DANIDA-funded projects in the ILO have developed a new common framework for co-ordinated action. This new framework aims to integrate policy work with grassroots empowerment, creating linkages between indigenous concerns at the grassroots level, at discussions on policy and legislation at the national level.

To this end, an inter-sectoral co-ordinating committee has been established, which will not only guide the work of the DANIDA-funded indigenous projects, but also seek to integrate indigenous concerns into ongoing ILO projects and programmes. This has, to some extent been achieved in respect of IPEC and DECLARATION activities, but this work is by no means complete, and work will continue not only at Headquarters but also with the ILO’s field offices to promote integration of indigenous issues into the ongoing work of the ILO. As regards field work, a recent consultation at the ILO’s regional office in Bangkok constituted the first step towards this in the Asian region. The co-ordinating committee will continue the work that the Task Force on Indigenous Issues began in 1999.

³ Report of the Tripartite Committee established to examine the Representation alleging non-observance by Ecuador of the Indigenous and Tribal Peoples Convention, 1989 (No. 169), made under article 24 of the ILO Constitution by the Confederación Ecuatoriana de Organizaciones Sindicales Libres (CEOSL), at para.44.

2.3.4. *Indigenous participation under projects and other activities*

A *The C169 Project*

Project countries are identified according to a number of considerations: the legislative and policy framework for the protection of the rights of indigenous and tribal peoples; requests from governments for assistance; requests from indigenous and tribal peoples for assistance; and the general situation of indigenous and tribal peoples in specific countries. In all cases, an initial assessment of the policy framework for the protection of the rights of indigenous and tribal peoples is undertaken as an initial step. The Project endeavours to ensure that indigenous and tribal peoples are informed about projects prior to their initiation, and to ensure their direct involvement in project design, implementation and monitoring. To this end, it is essential that the indigenous/tribal persons with whom the project works with are truly representative of their peoples or communities. Two examples of the process of project development are as follows:

- In Kenya, the Project was approached by indigenous and tribal peoples' organizations for assistance concerning their participation in the Constitution review. An initial consultation workshop was held in November 2001 with representatives from the main indigenous communities in Kenya. This workshop served a dual purpose: to train the participants on national legislation and international human rights standards of relevance to them; and to gather the views of participants on their own priorities for a new Constitution. The workshop served to establish a consultative group of indigenous peoples' representatives (the Pastoralists and Hunter-gatherers network), that has since served as the focal point for ongoing engagement with the Constitution review process. The project is ongoing, with technical and financial support from the ILO. A current aim of this network is to enter into a fruitful dialogue with their government, ensuring that they are consulted on matters of concern to them.
- In Cameroon, in August 2003, the Project initiated a study on the legislative framework for the protection of the rights of indigenous and tribal peoples in Cameroon and the impact of legislation at the grassroots level. This will form the basis for further activities. The study comprises regional consultations with indigenous and tribal peoples from the main indigenous/tribal peoples in Cameroon. The consultations serve a dual purpose: to inform indigenous and tribal representatives about current legislation that affects them, and to facilitate information exchange in order to gauge the impact of legislative provisions concerning them. Translation into indigenous languages is provided so that they can fully participate in the discussions and have an input to the study. Once the study is finalized, a workshop will be held in order to facilitate dialogue between the Government and indigenous and tribal peoples, and to develop joint recommendations for the ILO for project activities.

B *The ILO-INDISCO Programme*

This programme works primarily at the grassroots level, and aims to *strengthen the capacities of indigenous and tribal peoples, helping them design and implement their own development plans and initiatives through their own organizations while safeguarding their traditional and cultural values*. The development objective of the first phase was to contribute to the improvement of socio-economic conditions of indigenous and tribal peoples through demonstrative pilot projects and the dissemination of best practices for policy improvement. Thus, it was aimed at demonstrating viable models of indigenous peoples' participatory

development through selected pilot projects. Pilot projects have demonstrated tangible and viable examples of practical partnerships in the field of sustainable development. In the second phase, activities have been concentrated on linking grassroots level experiences with the policy environment. Good practices of community-driven participatory projects run by the indigenous peoples themselves have been disseminated and used to influence the policy environment, and to strengthen national policies and programmes aimed at protecting the rights and reducing poverty of indigenous and tribal peoples.

The methodology of the INDISCO Programme is based on a community-driven participatory approach to project design and implementation in which the participation and consultation of the indigenous and tribal peoples is a core principle. The design, development and implementation of project activities are undertaken by the indigenous peoples themselves, facilitated by local partner NGOs and associated with policy development at the government level. This gives the ILO a mediating and facilitating role between the various involved stakeholders.

Most projects address core immediate needs as expressed by the communities themselves, and the projects often provide direct support to literacy training, cooperative management, skills and training in income generating activities. In the various project countries, indigenous and tribal communities have been supported in establishing and managing legally recognized cooperatives or cooperative-like self-help organizations in order to strengthen their ability to address their problems, to access existing government structures (e.g. such as loans and credit, health and education) and to strengthen their ability to control their own development. The concept is based on full participation and control by the communities themselves. INDISCO experiences from India, the Philippines, Tanzania, Thailand and Vietnam in particular show that strengthening indigenous and tribal peoples' own organizations has increased their ability to engage in a more informed and participatory dialogue with their respective governments, both at the local and national levels.

2.4 Funding facilities

Regular supervision of ILO Conventions and much technical assistance is funded by the ILO's regular budget. In addition to this, a number of projects and programmes that address indigenous and tribal peoples are funded through external funding. DANIDA is the main donor of ILO activities that specifically focus on these peoples, and other ILO projects and programmes that affect indigenous and tribal peoples are funded by various donors.

There is a remaining need for increased integration of indigenous issues into the ongoing work of the ILO, and into its fundraising efforts.

2.5 Other relevant information

The Decade has seen an unprecedented level of inter-agency involvement in indigenous issues, most recently with the establishment of the Inter-Agency Support Group to the Permanent Forum on Indigenous Issues, in which the ILO has played a key role. Prior to this, the ILO and the OHCHR were the two main UN bodies to facilitate UN co-ordination at the international level through inter-agency meetings on an annual basis. At the national level, inter-agency co-ordination and collaboration varies, and could be improved in many places.

III Outstanding challenges for the future from the ILO perspective

Implementation of established standards and policies

There are a considerable number of ILO, UN, regional and national human rights treaties, other legal instruments and development policies that are of direct relevance to indigenous peoples. Notwithstanding the ongoing development of new standards in the field of indigenous rights, further efforts need to be made to ensure the application of existing standards in a more systematic and co-ordinated way. If the decision is taken to launch a new Decade, it should aim to examine the weaknesses and challenges for the implementation of existing standards that have emerged during the current Decade, and seek to develop ways to address these challenges in an effective manner.

Consultation and Participation

Experience in the supervision of Convention No. 169 and in the implementation of technical co-operation projects addressing indigenous peoples, has demonstrated that effective consultations with indigenous and tribal peoples are key to the effective functioning of any plans, programmes, policies or legislation that concerns them. In many countries, however, there is still no systematic effort to ensure consultation and participation of these peoples. This is a key question for a new Decade to address.

Indigenous and tribal peoples and development

Development activities and strategies need to take into account the cultural specificities of indigenous and tribal peoples. Even today, with the growing international consciousness of the need to address these peoples in a culturally appropriate way, many development models (in particular so-called replicable models), and development policies and projects still do not sufficiently take into account their specific needs and world-views. The imposition of alien structures on indigenous communities is most often detrimental to their cultures. Alternative development models, based on the needs of these peoples, as expressed by them, and implemented in consultation with them are more effective. The ILO has several examples of best practices in this respect, and will continue to build on these in its future work.

Data collection and disaggregation

Some work has been recently undertaken in the ILO to identify to what extent the data it already has in the fields of child labour and other relevant fields is disaggregated in a way that enables more precise identification of the extent and level at which indigenous and tribal peoples are represented in data on various social indicators. This preliminary work, whilst revealing that a great deal of ILO work that is not specifically aimed at indigenous and tribal peoples actually concerns these peoples (either directly or indirectly), also revealed an overall lack of systematic data that is sufficiently disaggregated to work with, and considerable discrepancies by region in the level of disaggregation of data by ethnicity, sex and other indicators. It is highly likely that if such disaggregation is undertaken, indigenous peoples will be at the bottom of most social indicators in the vast majority, of not all the countries in which they live.

The lack of disaggregated data is a question that the ILO Project has sought to raise not only within the UN system in general, but also within the ILO itself, in the context of ILO projects

on child and forced labour, crisis situations, and discrimination in employment and occupation, among others. The ILO has also made significant contributions to the recent work of the Permanent Forum on Indigenous Issues in this respect, but more needs to be done in order to work towards identification of the specific problems facing indigenous peoples. The challenge for a new Decade would be to ensure that the theoretical discussions that have recently taken place concerning the need for disaggregated data are put into practice at the micro, meso and macro levels.