



Title	Promoting the Rights and Reducing Poverty of Indigenous and Tribal Peoples
Reference No.	INT/08/57/DAN
Countries covered	Global
Donors	Danida
Implementing unit	ILO – International Labour Standards Department, PRO 169 & IPLED
Type of evaluation	Mid-term external independent evaluation
Evaluation team	Joseph Ole Simel, Shimreichon Luithui, Mirna Cunningham
Date of evaluation	15 August – 15 September 2009

List of acronyms

ACHPR	African Commission on Human and Peoples Rights
AECID	Agencia Española de Cooperación Internacional para el Desarrollo
CBD	Convention on Biological Diversity
CTA	Chief Technical Advisor
C.169	Convention No. 169
DW	Decent Work
DWCP	Decent Work Country Programme
FPIC	Free and Prior Informed Consent
EC	European Commission
EU	European Union
HQ	Headquarters
ILO	International Labour Organization
ILS	International Labour Standards
IP	Indigenous and Tribal Peoples
IPEC	International Programme on the Elimination of Child Labour
IPLED	Indigenous Peoples and Local Economic Development Programme
ITC-ILO	International Training Centre of the ILO, Turin, Italy
I-WEB	Improve Your Work Environment and Business
KAB	Know About Your Business
LDC	Least Developed countries
LED	Local Economic Development
MDG	Millennium Development Goal
ME	Micro Enterprise
M&E	Monitoring & Evaluation
NGO	Non-Governmental Organization
OHCHR	Office of the High Commissioner for Human Rights
PFII	Permanent Forum on Indigenous Issues
PRSP	Poverty Reduction Strategy Papers
SIYB	Start and Improve Your Business
SME	Small- and Medium-scaled Enterprises
UNDAF	United Nations Development Assistance Framework
UNDP	United Nations Development Programme
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNHCR	United Nations High Commissioner for Refugees
WIPO	World Intellectual Property Organization
WEDGE	Women's Entrepreneurship Development and Gender Equality

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Executive Summary

The external evaluation of the Programme “Promoting the Rights and Reducing Poverty of Indigenous and Tribal Peoples” (INT/08/57M/DAN) - that is being implemented by the International Labour Standards Department of the ILO - was carried out between 15 August and 15 September 2009. Three indigenous experts, based in Africa, Asia and Latin America, respectively, comprised the evaluation team. A representative from the technical advisory services of the Danish Ministry of Foreign Affairs participated for 2 days in the team’s discussion in Geneva with ILO staff, and had the opportunity to participate in the team’s discussion regarding the preliminary findings.

The programme is based on ILO Convention No. 169, although along the process of promoting indigenous peoples’ rights, it has provided opportunity to link them with other ILO Conventions such as Conventions Nos. 111, 107 and others. It builds on the ILO’s unique mandate and long-term experience with regards to promoting and implementing indigenous peoples’ right. The programme is a continuation of the previous partnership between the government of Denmark and the ILO. The programme takes a multi-disciplinary and rights-based approach and operates with two complementary components: the Programme to Promote ILO Convention No. 169 (PRO 169) and the Indigenous Peoples and Local Economic Development (IP/LED).

The programme is characterized by a strong thematic focus, combined with global exchange of experiences and lessons learned and multi-level interventions - including at the regional and country levels where the programme is engaging in long-term processes. The expected direct outcomes are that governments improve their implementation of the principles of ILO Convention No.169 and other international labour standards of key importance for indigenous and tribal peoples.

The programme operates through 6 main areas of work:

1. Contribution to international processes.

The team values that the areas selected for coordination with and contribution to international processes were very strategic, given that they addressed areas through which there could be promotion of the implementation of ILO Convention No. 169 along with the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). The coordination with other UN Agencies, through the Inter-Agency Support Group (IASG) provided the opportunity to work on Guidelines and monitoring efforts for the broader UN system. Interaction between ILO, through PRO 169, the Special Rapporteur, the UNPFII and the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) has been very beneficial because they complement each others work and mandates. ¹ In this regard, the team has observed institutional strengths of the ILO for the implementation of the recommendations of the UNPFII for follow-up to inter-agency commitments. The establishment of the ILO Advisory Group on indigenous issues is also good step in this direction.

2. Contribution to ILO technical cooperation policies and programmes (mainstreaming)

¹ILO standards and the UN Declaration on the rights of Indigenous Peoples. Information note for ILO staff and partners. Paper prepared by the Equality team of the International Labour Standards Department.

Three countries ratified ILO Convention No. 169 during the period evaluated: Spain (15/02/2007), Nepal (14/09/2007) and Chile (15/09/2008). Indigenous organizations have multiplied the use of the mechanisms of supervision established by ILO to monitor its implementation, especially in cases of exploration and exploitation of natural resources on lands traditionally occupied by indigenous peoples.

The ILO supervisory bodies (in particular the Committee on the Application of Ratified Conventions and Recommendations – CEACR) have expressed concerns over the need to establish adequate mechanisms for consultation and participation, and they have also underlined the right of indigenous peoples to decide their own priorities and to participate in the formulation, implementation and evaluation of plans and programmes for national and regional development.

The Committee has repeatedly urged ratifying countries to take the necessary measures to bring national law and practice into line with Convention No. 169. This poses a challenge for ILO staff in country offices, as the need for assistance is evident in most countries that have ratified the Convention and has to apply it. However, this is also the case in countries that are discussing constitutional reforms or considering the possibilities of ratification of Convention No. 169. The team observes that the ILO supervisory mechanisms increasingly address issues related to Convention No. 169 and country staff will need to increase their capacity to be able to provide technical assistance to policy makers, governments, trade unions and employers at that level. The programme is faced with the challenge to define the countries in which to focus and respond to strategic needs and opportunities without spreading resources too thinly. Because of the limited resources available, the programme could have lost some opportunities.

There is also an increased use of ILO mechanisms to address discrimination faced by indigenous peoples under other Conventions, such as Convention No. 111. The complaints are related to discrimination based on the prevalence of strong negative stereotypes and discrimination of indigenous peoples' traditional livelihoods, cultures, languages etc. from other sectors of the population.

The work related to Conventions Nos. 107 and 111 proves the validity of the program to apply multiple entry points to address the theme of indigenous peoples in Africa, Asia and countries in Latin America that have not ratified ILO Convention No. 169.

An aspect worth emphasizing is the fact that PRO 169 and the Equality Team (undertaking the supervision of ILO Conventions Nos. 107, 111 and 169) have developed a series of activities, seminars, and publications which, together, clearly illustrate the complementarity of the supervision and technical cooperation. One of the areas in which the program has made substantial contribution has been the production of education materials on the application of ILO standards and the rights of indigenous peoples.

The symbiosis between the technical assistance provided by PRO 169 and the standard setting role and supervisory mechanisms of the ILO has proved to be the key element in the ILO's strategy for addressing indigenous peoples' rights.

3. Dissemination of information about ILO activities on indigenous peoples

The team values the combination of information dissemination, skills development and the use of various entry points to address indigenous peoples' issues used by PRO 169.

The information resources about ILO standards and activities on indigenous and tribal peoples in terms of packaging and dissemination have been very strategic and useful because they can be replicated and adapted in different contexts and translated into different languages. In the same way, the program has produced a series of materials applicable to the different regions and has promoted regional workshops to document and disseminate lessons and experiences.

4. Capacity-building for indigenous, government and social partners

As regards the capacity building for indigenous, government and social partners, the team values the internship programme, using the strategy of mentoring the interns and giving them responsibilities. It has been very encouraging and helpful for the development of indigenous youth as well as the indigenous organizations. Although it is difficult to see the long-term impact of regional trainings, such occasions open up for dialogue and better understanding between the government and the civil society. Although we see the value of the training programme in Turin: (a) bringing together policy makers and indigenous leaders as an opportunity for dialogue on indigenous peoples' issues; (b) inter-regional experience exchange; and, (c) it make the ILO staff have better understanding on indigenous issues and Convention 169; we consider the need to revisit that strategy to analyze cost efficiency, accessibility and monitoring of results on the ground.

The team values that when trainings are skills-oriented, regional and national, and long term they produce better results. Consequently, there should be more efforts in this aspect.

5. Support to regional initiatives (South Asia, Africa)

The team values the strategic collaboration and engagement of the ILO in regional processes (such as the collaboration with the African Commission on Human and Peoples' Rights) because they set the base for long-term strategies. The Programme also opens opportunity for South - South relationships, building upon lessons learned. The coherent, multifaceted and multi-level strategy creates strong synergies between the various activities and ensures that international instruments and processes are translated into concrete actions at the national and local levels.

PRO 169 is in the process of strengthening its presence in Latin America through a new regional programme, coordinated from Lima and Guatemala.

6. National level efforts to promote the rights and improve the socio-economic situation of indigenous peoples

During the period under evaluation, the ILO offered technical assistance services especially in countries that have ratified Convention 169. The programme also implements national projects that allow for long-term involvement and building of partnerships in the following countries: Bangladesh, Cambodia, Cameroon, India, Indonesia, Kenya, Namibia and Nepal. Funds under the Danish partnership have served as "seed funds" to initiate project activities but the programme has been successful in achieving complementary donor support.

Implementation strategy.

One challenge is that the programme is working on sensitive issues such as rights to land and resources and political representation and participation, often in politically unstable

and difficult contexts. However, the programme strategy is designed to overcome these difficulties by following a flexible implementation strategy with a wide variety of entry points and implementing partners, both from government and indigenous people's side. The programme has developed strong partnerships with indigenous organizations and networks at national and regional levels, which serves to ensure the relevance of the activities for the target groups.

Another challenge has been the incorporation of a gender focus, which respects the visions of women and indigenous peoples. There have been advances in the formulation of a study on indigenous women in the world of work, based on case studies from Bangladesh, Nepal and Latin America.

The biggest challenge is that the implementation strategy is very demanding on the human resources available for the programme. This is due to the large number of differentiated and small-scale activities that together constitute the programme - as well as the considerable increase in activities. Staff cost is thus a relatively big amount of the overall budget as the Danida framework is crucial as core funding for key international staff. The experts funded under such framework agreement provide crucial technical advice and supervision of all ILO activities regarding indigenous peoples and mainstreaming of these issues in the ILO. The importance of articulating technical assistance with supervision in the implementation of ILO Convention 169 is obvious and the main comparative advantage of the ILO. This has also played an important role in the mobilization of additional funding. At the end of the period, the overall funding portfolio of the programme is close to US\$ 10 million globally. We can conclude that the program has a high capacity to mobilize resources and a high level of accomplishment of intended results in relation to other programs.

Important lessons learned

1. ILO has contributed to strengthening the promotion and implementation of indigenous peoples' rights through PRO 169 at global, regional and national levels. It has procedures for supervising the compliance of Conventions ratified by countries, and it has led the programme to bring together indigenous peoples, trade unions and governments.
2. The ILO has a comparative advantage as an institution that has the opportunity to facilitate dialogue for better understanding of indigenous peoples' rights and peaceful resolution of conflicts. The process of promoting the ratification of ILO Convention 169 and the technical assistance for formulating plans for its implementation in countries contributes to the processes of negotiation and constructive agreement.
3. The programme's engagement with the Inter-Agency Support Group, the UNPFII and other bodies has produced unique contributions to the dialogue among UN agencies; strengthening the implementation of standards and instruments on indigenous peoples' rights, discussion of indicators and new partnerships. The PRO 169 has been very instrumental in using new opportunities in international processes and fora.
5. The programme has a close working relationship with a large number of ILO units

and field offices, particularly the Equality Team, the Gender Bureau, the International Training Centre in Turin and labour standards specialists in Africa, Asia and Latin America, and is increasingly seeing effects in terms of in-house mainstreaming (e.g. focus on indigenous peoples in the ILO programmes to combat child labour and forced labour). The programme provides a common framework for the various global, regional and national efforts and initiatives of the ILO on indigenous peoples and has a strong focus on knowledge sharing, documentation of good practices and exchange of experiences, both within the ILO and with partners. The programme has become a model of how technical assistance can complement the supervisory role of the ILO with regards to ratified conventions and has inspired the ILOs strategy on how to integrate international labour standards in technical cooperation.

6. The approach to Local Economic Development (LED) needs to be revisited, capacities should be developed, and the work should be coordinated better with country staff and other areas at ILO HQ. The initiatives in the countries demonstrate that this is one of the aspects that require greater efforts on the part of the ILO, to address the specificities of indigenous peoples and their particular needs, rights and concerns with regards to economic development.

7. There are constant violations of the rights of indigenous peoples in key areas such as land, resources, consultation, participation and others. If the programme could put in place an alert mechanism to respond to human rights abuses by using Convention No. 169, UNDRIP and other mechanisms, it would give more credibility to ILO.

8. Within the ILO, the promotion of Convention No. 169 seems to depend on external cooperation which is short term, and that may undermine efficiency and sustainability. We have not seen a long-term strategy to internalize and institutionalize the accomplishments of PRO 169 in the ILO. The challenges identified will need to be dealt with as part of a long-term strategy. There is a need for institutional core funding.

9. Through the facilitation of PRO 169, indigenous communities have worked with UN specialized institutions like WIPO and now there is possibility of having an international indigenous Trade Mark. This is very strategic in protecting indigenous peoples' knowledge and socio-economic development. It will be an alternative for employment creation and reduction of poverty.

10. The strategy of multiple entry points has proved to be very valuable and has created opportunity for making connections among the UN, regional human rights processes, universities and indigenous peoples.

11. The current ILO programme funded by Danida responds to challenges faced by indigenous peoples all over the world and therefore it has raised a lot of expectations that require long term ILO commitment.

12. Although we recognize there is an effort to include indigenous women in ILO activities and *A Guide to Gender Equality and Non-Discrimination for Indigenous and Tribal Women* is in the process of being produced, we consider that there are opportunities to do more at HQ, in the regions and countries, in cooperation with indigenous women, including capacity building.

13. The Supervisory Bodies have continuously recommended harmonization of ratifying countries' legislation with Convention No. 169 and there is a growing demand for technical assistance on the rights of indigenous peoples in each region, where the programme has a presence. This will require ILO staff in the countries to have greater level of preparation on the issue.

Recommendations

1. We recommend the ILO to specifically mention where activities related to indigenous peoples' rights and ILO Convention No. 169 will be included under the 19 outcomes in the overall ILO 2010-11 Programme and Budget, including specific benchmarks and indicators to measure the progress in ILOs continued work on Convention No. 169.

2. In line with Article 42 of the UNDRIP, ILO should institutionalize indigenous peoples' rights and define the ILO strategy for strengthening the implementation of these rights in order to strengthen the work of the country and regional offices in this regard.

3. Donors should be ready to support efforts needed to make the results achieved over the last 20 years sustainable, i.e. insist on a clear focus from the ILO on promoting Convention No. 169 in the context of future funding agreements.

4. We recommend that funds saved due to vacancies be utilized for short-term expertise (before December 2009) to support activities on indigenous peoples' issues at country level as well as regional initiatives.

5. We recommend the ILO to continue efforts to mobilize additional funding and expand its activities on indigenous peoples.

6. There should be an enforcement mechanism, established with monitoring mechanisms to ensure that indigenous peoples' rights are included in all the departments of ILO.

7. Given the prejudices and discriminatory attitude towards indigenous cultures and traditions, in order to raise public awareness of indigenous peoples' rights and situation, support should be given to training to indigenous journalists, media campaigns and education materials at the national level.

Presentation

The external evaluation of the Programme “Promoting the Rights and Reducing Poverty of Indigenous and Tribal Peoples” – PRO 169 & IPLED (INT/08/57M/DAN) that is being implemented by the International Labour Standards Department (NORMES) of the ILO, was carried out between 15 August and 15 September 2009. This document presents the results of the evaluation.

The evaluation team expresses their appreciation for the support they received from the staff in NORMES, PRO 169 and other offices at ILO Headquarters that facilitated their work. We also thank the indigenous peoples’ leaders and country staff that gave us important information for the evaluation.

1. Methodology

The external evaluation was carried out between 15 August and 15 September 2009. Three indigenous experts, based in Africa, Asia and Latin America, respectively, comprised the evaluation team. A representative from the technical advisory services of the Danish Ministry of Foreign Affairs participated for 3 days in the team’s discussion in Geneva with ILO staff, and had the opportunity to participate in the team’s discussion regarding the preliminary findings. The findings and statements in this report reflect the views of the core team members, and not necessarily those of Danida.

The evaluation was carried out by means of a desk review of literature, websites and videos, combined with interviews with programme staff as well as in-house and external partners, conducted either in Geneva or through phone and/or email exchange. The experts reviewed programme documentation concerning their region. They also made interviews with PRO 169 country staff and indigenous as well as other leaders based in the regions that are actively involved in the indigenous peoples’ rights issues, some of whom have also been involved in PRO 169 activities.

In Geneva, the team undertook interviews and jointly drafted the report. The interviews were conducted applying a methodology based on a question guide, written questionnaire that were e-mailed and applied a conversational technique. The experts had an internal division of themes. The mission to Geneva took place between the 24 – 28th of August 2009. At the end of the week the experts presented the preliminary findings.

2. Project background

The development objective of the programme is that “*Indigenous and tribal peoples’ rights are promoted and their socio-economic situation improved, in compliance with the principles of ILO Convention No. 169*”.

The programme is based on ILO Convention No. 169, although along the process of promoting indigenous peoples’ rights it has provided opportunities to link them with other ILO Conventions such as Nos. 111, 107 and others. It builds on the ILO’s unique mandate and long-term experience with regards to promoting and implementing indigenous peoples’ rights.

The programme is a continuation of the previous partnership between the government of Denmark and the ILO. Denmark ratified ILO Convention No. 169 in 1996 and established in its strategy to support indigenous peoples that they will continue to support

the ILO's work for indigenous peoples.² The programme was originally designed as an inter-sectoral collaboration between the Standards Department in Sector I and the Job Creation and Enterprise Development Department in Sector II, but for practical management purposes, it is currently managed from the Standards Department, with technical input to specific project components from Sector II. The programme takes a multi-disciplinary and rights-based approach and operates with two complementary components: the Programme for the Promotion of ILO Convention No. 169 (PRO 169) and the Indigenous Peoples and Local Economic Development (IP-LED).

The expected direct outcomes are that governments improve their implementation of the principles of ILO Convention No. 169 and other international labour standards of key importance for indigenous and tribal peoples, such as Convention No. 111 on discrimination in occupation and employment, and that an increased number of indigenous women and men will have increased access to economic opportunities.

The PRO169/IPLED programme is operating in six strategic areas of work:

- 1) Coordination with and contribution to international processes
- 2) Contribution to ILO technical cooperation policies and programmes (mainstreaming)
- 3) Dissemination of information about ILO activities on indigenous peoples
- 4) Capacity-building for indigenous, government and social partners
- 5) Support to regional initiatives (South Asia, Africa)
- 6) National level efforts to promote the rights and improve the socio-economic situation of indigenous peoples (Argentina, Bangladesh, Bolivia, Cambodia, Cameroon, Guatemala, Honduras, Indonesia, Kenya, Namibia, Panama, Peru)

The programme is in the process of launching national programmes in South Africa and Namibia, and a regional programme started recently in Latin America with coordinators in Lima and Guatemala.

The programme is characterized by a strong thematic focus, combined with global exchange of experiences and lessons learned and multi-level interventions - including at the country-level where the programme is engaging in long-term processes. The area that presented major challenges was related to poverty reduction through specific local economic development initiatives.

3. Present situation of indigenous peoples: opportunities, challenges, trends and weaknesses

To be able to assess the relevance of the programme and its ability to seize opportunities and respond to challenges, the experts analyzed the current context situation of indigenous peoples in the regions, and identified the areas where the programme is contributing to changes.

a) One of the first strength is that indigenous peoples' movements, at the national, regional and global levels, have become ever stronger and more vibrant. The phenomenal

² Danish Ministry of Foreign Affairs. Support to Indigenous Peoples. Strategy for Danish support to Indigenous peoples. 2004. Page. 17.

growth of the indigenous peoples' movements, from the local to the global level is unprecedented and constitutes a key influence in reshaping governments, the UN system and society at large. There is an increasing networking of indigenous peoples at the national, regional, and global levels, including networks of indigenous women.

We find in indigenous peoples' territories a persistence of traditional livelihoods and the revitalization of indigenous knowledge systems as well as cultural revival and strengthened assertion of identity and right to self-determination.

b) On 13 September 2007, after almost twenty-four years of intense lobbying and negotiations, the United Nations General Assembly finally adopted the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). The UNDRIP represents the minimum standards that should be observed internationally in relation to indigenous peoples. Even before the UNDRIP was adopted, as well as after its adoption, the way indigenous peoples have used it and the way governments have reacted to its use has lent credence to the claim that specific provisions of the UNDRIP are fast becoming customary international law.

c) Active involvement and lobbying of indigenous peoples within the UN system has resulted in the creation of several bodies that address indigenous peoples' issues, such as:

- The UN Permanent Forum on Indigenous Issues (UNPFII), addressing key development issues of indigenous peoples such as lands, territories, natural resources, free prior informed consent (FPIC), climate change, etc.
- The UN Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples
- The Expert Mechanism on the Rights of Indigenous Peoples of UN Human Rights Council
- Increasing use of UN Treaty Bodies (Committee on the Elimination of Discrimination, Human Rights Committee, etc.) to raise complaints against States.
- Engagement with bodies dealing with protection of traditional knowledge such as the CBD and WIPO, traditional cultural expressions, cultural heritage, etc.

d) Although the ILO has a tripartite mechanism to supervise the implementation of its Convention, with no direct involvement of indigenous peoples' organizations, these have been able to present their demands to the ILO and there is an increased use of the ILO Convention No. 169 and other Conventions, through the establishment of alliances and lobbying with trade unions. ILO Convention No. 169 was ratified during the period in question by Spain, Nepal and Chile.

e) Multilateral bodies, such as the World Bank, Inter-American Development Bank, and Asian Development Bank, as well as the UN Development Programme (UNDP) and the UN Development Group (UNDG), have developed policies, strategies and guidelines on indigenous peoples. There are some limited experiences of regional and national mechanisms of indigenous peoples' participation in such processes.

f) Regional organizations linked to human rights are assuming greater involvement and commitment to the rights of indigenous peoples, as in the case of:

- The African Commission on Human and Peoples Rights and its Working Group

on Indigenous Populations.

- Both the Inter-American Commission on Human Rights and the Court in the region of the Americas.

g) Lobbying and advocacy at the national level has likewise resulted in important developments for indigenous peoples, such as:

- The enactments of constitutional provisions and national laws recognizing indigenous peoples' rights. In recent years, constitutional reforms have been concluded in countries such as Bolivia, Ecuador and the Philippines or are under discussion as in the case of Nepal and Kenya.
- Indigenous peoples gaining political power, such as the cases of Bolivia, Nicaragua, Nepal, etc.
- Indigenous autonomous regional governments (Nicaragua, Panama, Sami Parliaments, Nunavut, Greenland Self-Government, etc.)
- Gaining better control over lands, territories and resources (ancestral land demarcation, assertion of FPIC, etc.)
- Revival of strong cultural movements and assertion of identities of indigenous peoples.
- Establishment of indigenous universities, bilingual and intercultural education programs.
- Development of indicators of indigenous peoples' well-being and sustainable development.

The common challenges that indigenous peoples continues to face are some of the following:

a) Access and control over land and natural resources (accelerated loss of lands and ensuing conflicts, increased pressure on lands leading to breakdown of once viable resources.

b) Urbanization and outmigration.

c) Lack of formal recognition and marginalization. In most countries in Asia and Africa, prejudices and discriminatory attitudes towards indigenous communities and their cultures continue to persist. There is low understanding of indigenous issues and they are considered politically sensitive. The most common problems to all indigenous peoples are the loss of lands, forests and the ability to determine their socio- economic development and access to political decision-making process because of the successive state policies, which discriminated against them.

d) Human rights violation and abuses (social, cultural, economical, environmental, other). Denial of rights to indigenous peoples has been the cause of conflicts or conflict situations in many countries. One of the most recent experiences was the case of Peru, where the mechanism of supervision of ILO Convention No. 169 of the ILO was used to address the issues with the government of Peru.

e) Lack of participation in decision-making at all levels.

f) Limited institutional capacity. This is equally true in relation to strengthening indigenous peoples' own institutions as in the coordination, negotiation and participation in new forms of relating with states, the business community and agencies of international cooperation.

g) Extreme poverty. The majority of indigenous people's belong to the most marginalized and discriminated communities of the society, and the basic reason is that their livelihood has been destroyed.

h) Women and indigenous youth are the most affected groups.

i) Climate change. Indigenous peoples have the smallest ecological footprint but are expected to carry the heavier burden of adjustment. As a result, indigenous peoples' capacity to adapt is highly compromised because of the magnitude of the problem. They suffer not only from impacts of climate change but also from mitigation measures. Any change in the ecosystem adversely impacts their traditional livelihoods, their knowledge and their control over lands, territories and resources. This is especially true for indigenous peoples living in the Arctic, small-island states and low-lying areas, arid and semi-arid areas, high mountain areas, as well as the sub-tropics and tropics. Indigenous peoples have been adapting to climate change for thousands of years. Their continuing existence at present is a proof of this resilience. Despite this, the recognition of this resilience and their adaptation capacities as well as their contributions to mitigation has not been recognized by the UN Framework Convention on Climate Change (UNFCCC) or by the international community. They also have not benefited from adaptation and mitigation funds.

4. Main findings and conclusions

In the following, we present the main findings based on the objectives of the program and some additional relevant aspects. At the end of the chapter, the principal conclusions are presented.

4.1 Coordination with and contribution to international processes

We value that the areas which the programme selected for coordination with and contribution to international processes were very strategic, given that they addressed areas through which the implementation of ILO Convention No. 169 was promoted along with the UNDRIP.

4.1.1 The programme has consistently contributed to the work of the UN Permanent Forum on Indigenous Issues (UNPFII) and participated in its Sessions.

Coordination with the UNPFII permitted strengthened articulation of the mandate of the ILO with indigenous peoples' issues. This is, for example, the case with regards to forced labour, where the ILO contributed to the visit of members of the UNPFII to Bolivia and Paraguay in April-May 2009. The members were able to observe the problem in zones affected by forced labour and child labour practices and produce recommendations. In the recommendations, emphasis was given to the acquired rights of indigenous peoples and the Governments of Paraguay and Bolivia were urged to cooperate and share

promising practices with regard to the elimination of forced labour of indigenous peoples in the Chaco regions of each country. The recommendations also indicate that a program of exchange between the two countries must be established in compliance with section VII of ILO Convention No. 169, which addresses contacts and co-operation across borders and, in particular, with Article 32, that calls on Governments to take appropriate measures, including by means of international agreements, to facilitate contacts and co-operation between indigenous and tribal peoples across borders.

Collaboration with the UNPFII has permitted the ILO to advance in the implementation of Article 42 of UNDRIP as it has also signalled internally through an Information Note to staff and partners.³ In this regard, the team has observed institutional strengths of the ILO for the implementation of the recommendations of the UNPFII for follow-up to inter-agency commitments. The establishment of the ILO Advisory Group on indigenous issues is a good step in this direction. An equally good step is the active participation of the representatives of the ILO in the sessions of the UNPFII and Inter Agency Support Group (IASG).

One area of work that has enjoyed continuity has been the efforts to analyse the strategies of poverty reduction and the inclusion (or non-inclusions) of indigenous peoples in such strategies. The programme has linked this to the discussions of the UNPFI regarding the monitoring of MDGs and the discussion on development with identity. This effort is linked to other activities in which the programme has contributed, such as the process of discussion on cultural indicators and well-being that have been promoted by the UNPFII. At the end of this process, the ILO has been asked to formulate an indicator on traditional occupations, which is a fundamental theme for the protection of traditional knowledge of indigenous peoples.⁴ Both processes will be relevant for 2010 where the UNPFII will be discussing the theme of cultural development with identity. In that context, in 2009 the UNPFII recommended the following:

The Permanent Forum recommends that the International Labour Organization (ILO) continue to work with the Forum, United Nations agencies, financial institutions, bilateral donors and other interested parties to further the inclusion of indigenous peoples' rights in high-level development policies and poverty reduction strategy papers, such as by raising indigenous peoples' issues with the Organization for Economic Cooperation and Development and its related Development Assistance Committee. (Para 70, Seventh session UNPFII)

4.1.2 The collaboration with other UN Agencies, through the Inter-Agency Support Group (IASG), has provided opportunities to work on issues regarding coordination, mainstreaming and monitoring efforts as well as elaboration of Guidelines for the broader UN system. The IASG was established to support and promote the mandate of the UN Permanent Forum on Indigenous Issues within the United Nations system. Its mandate was later expanded to include support to indigenous related mandates throughout the inter-governmental system. It allows the UN system and other intergovernmental organizations to analyze recommendations made by the Forum with a view to facilitating comprehensive and coordinated responses to the UNPFII. Acknowledging the general

³ILO standards and the UN Declaration on the rights of Indigenous Peoples. Information note for ILO staff and partners. Paper prepared by the Equality team of the International Labour Standards Department.

⁴ International expert seminar on indicators and IP's. Baguio City, Phillipines. November, 2008.

implementation gap with regards to indigenous peoples' rights, there is still a need to strengthen the efforts to implement UNDRIP (Art. 42), particularly to expanding these efforts to regional and country levels.

The IASG meets twice a year, once during the annual Session of the UNPFII and once hosted by the organisation that holds the rotating chairperson-ship of the IASG. The coordination of the meetings of the IASG with the sessions of the UNPFII contributes to improving the coordination. Also, it is very encouraging that the next meeting will take place in Nairobi (28-30 September 2009) and there will be a panel discussion on the situation of indigenous peoples' rights in Africa.

Another theme to which the program is currently contributing is a study on employment of indigenous men and women in UN agencies. This result of this study will be key to identify the ways the agencies have confronted the theme but also to determine the needs for further developing capacity and opening opportunities for indigenous men and women.

4.1.3 The interaction between ILO, through PRO 169, with the Special Rapporteur on the human rights and fundamental freedoms of indigenous peoples and the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) has been very beneficial because the various instances complement their respective work and mandates. The Special Rapporteur, on his visits and in his recommendations, has reaffirmed ILO Convention No. 169 of the ILO as the suitable normative framework for the respect for the right to consultation and non-discrimination, among others.

4.2 Contribution to ILO technical cooperation policies and programmes

The mandate of the ILO includes adopting international labour standards and promoting their ratification and application in its member States as well as supervision of this application. In order to monitor the progress of its member States in the application, the ILO has institutionalised supervisory mechanisms, which are unique at the international level. During the period of assessment we were able to observe important advances.

Three countries ratified ILO Convention No. 169 during the period in question: Spain (15/02/2007), Nepal (14/09/2007) and Chile (15/09/2008). Although there is no indigenous population in Spain, Spain's ratification holds much relevance for the increased cooperation with countries with indigenous peoples and the application of an indigenous focus on their agenda of cooperation for development as well as the lessons that can be derived from.⁵ In the case of Nepal, the ratification of ILO Convention No. 169 demonstrated once again, the role the discussion of such human rights instrument plays in the processes of peace and conflict resolution.⁶ In Chile, the ratification of ILO Convention No. 169 has generated much expectation among diverse sectors of defenders of the rights of indigenous peoples and the indigenous organizations, in a context of

⁵ Berraondo Lopez, Mikel. La ratificación del Convenio No. 169 por España- Reflexiones en torno a sus implicaciones. Ministerio de Asuntos Exteriores y de cooperación. AECID. 2009.

⁶ In the case of Guatemala peace accords the ratification of 169 ILO Convention also played an important role.

polarization.⁷ In all the cases, there is a demonstrated need to expand the awareness of the content of the Convention as well as the capacity for implementation.

The majority of countries that have ratified ILO Convention No. 169 are in Latin America and the indigenous organizations have multiplied the use of the mechanisms of supervision established to monitor its implementation, especially in cases of exploration and exploitation of natural resources on lands traditionally occupied by indigenous peoples. The symbiosis between the technical assistance provided by PRO 169 and the standard setting role and supervisory mechanisms of the ILO has proved to be the key element in the ILO's strategy for addressing indigenous peoples' rights.

The ILO Committee on the Application of Ratified Conventions and Recommendations (CEACR), in its comments to States that have ratified Convention No. 169, has expressed concerns over the need to establish adequate mechanisms for consultation and participation, the right of indigenous peoples to decide their own priorities and to participate in the formulation, implementation and evaluation of plans and programmes for national and regional development. The Committee also urges governments to take the necessary measures to bring national law and practice into line with the Convention.

In the case of Peru in 2009, the Committee welcomed the government's request for technical assistance, but the need for such assistance is evident in most countries that have ratified the Convention and has to apply it. This need for technical assistance also goes for countries that are discussing constitutional reforms and other countries that are considering the possibilities of ratification of Convention No. 169.

In its seventh session (21 April-2 May 2008), the UNPFII recommended that the ILO, in accordance with the UNDRIP, establishes a mechanism for the participation of indigenous experts and representatives in the monitoring of ILO Conventions No. 169 and No. 107, regarding both State reports and indigenous peoples' claims.⁸ For the first time in 2009, a member of the UNPFII addressed the ILO Conference during the discussion on Peru's application of Convention No. 169.

We observe that the ILO Supervisory mechanisms are increasingly addressing issues under ILO Convention No. 169, and the reasons are the increased number of ratifications; the high level of conflicts and violations of Convention No. 169 in ratifying countries as well as the increased capacity of indigenous organisations to approach the ILO and have their issues addressed through the supervisory bodies. Although the recent Peruvian case highlights the need for considering an alert mechanism in cases of violation of indigenous peoples' rights within ILO procedures, such as the special procedure for complaints related to freedom of association that can serve to avoid the deepening of conflicts.

In addition, this implies an increasing number of demands from governments and indigenous organisations for technical assistance to address implementation gaps and build capacity. These developments pose a challenge to the programme – and to the ILO as such. Generally, country staff will need to increase their capacity to be able to provide technical assistance to governments, policy makers, trade unions and employers

⁷ Entrevista Alejandro Herrera. Instituto de estudios sobre pueblos indígenas. Universidad de la Frontera. Temuco. Chile

⁸ Párrafo 71, Sevent Session of UNPFII. 2008.

regarding Convention No. 169 at that level. The programme is faced with the challenge to define the countries in which to focus and respond to strategic needs and opportunities without spreading resources too thinly. Because of the limited resources available, the programme could have lost some opportunities.

There is also an increased use of ILO mechanisms to address discrimination faced by indigenous peoples under other Conventions, such as Convention No. 111. The complaints are related to discrimination, inter alia based on structural discrimination with regards to access to education and lands as well as the prevalence of strong negative stereotypes and racial harassments that indigenous peoples face from other sectors of the population. The CEACR recommendations are related to improving legislation to eliminate any type of discrimination, asking governments to indicate the steps taken to ensure equality and insisting that indigenous groups should enjoy their right to engage in their traditional occupations and livelihood without discrimination. A Recommendation that the Committee reiterates is the need for disaggregated data by sex and ethnic origin.

Since Convention No. 107 continues to be valid in 18 countries, it is important that the programme still uses this Convention as a means of engaging governments of ratifying countries in dialogue. For example, the programme has recently published a comparative legal review of the national legislation in Bangladesh, related to Convention No. 107. Convention No. 107 has also been mentioned by the Special Rapporteur in his observation on Panama.⁹

The work related to Conventions Nos. 107 and 111 proves the validity of the program to apply multiple entry points to address the theme of indigenous peoples in Africa, Asia and countries in Latin America that have not ratified ILO Convention No. 169.

An aspect worth emphasizing is the fact that the program and the Equality Team have developed a series of activities, seminars, and publications which, together clearly illustrate the complementarity of the supervision and technical cooperation.

4.3 Dissemination of information about ILO activities on indigenous peoples.

One of the areas in which the program has made substantial contribution has been the production of education and training materials on the application of the norms of the ILO and the rights of indigenous peoples.

We value the combination of information dissemination, skills development and the use of various entry points to address indigenous peoples' issues used by PRO 169. The dissemination of information about ILO activities on indigenous and tribal peoples in terms of packaging and dissemination has been very strategic and useful because it can be replicated and adapted to different contexts and translated into different languages.

⁹ Observaciones sobre la situación de la Comunidad Charco la Pava y otras comunidades afectadas por el Proyecto Hidroeléctrico Chan 75 (Panamá). 12 de mayo de 2009

Among the materials produced, we give emphasis to the production of: *Indigenous & Tribal Peoples' rights in Practice - A guide to ILO Convention No. 169 (2009)*, given that it presents examples referencing the themes most crucial to indigenous peoples from all over the world. Also, we emphasize the ILO Training Tool Box on Indigenous Peoples' Rights, which facilitates the application and use.

In the same way, the program has produced a series of materials applicable to the different regions and has promoted regional workshops to document and disseminate lessons learned and experiences. For Latin America, the documentation of the application of Convention No. 169 of the ILO is very valuable for national and international tribunals in the region (*Application of ILO Convention No. 169 by national and international tribunals in Latin America, 2009*).

4.4 Capacity building for indigenous, government and social partners

The capacity building component of PRO 169 is organized in different levels:

a) An international training course was organized with the ILO Training Centre in Turin in English and Spanish in October 2008, which convened participants from all over the world. The course focused on indigenous peoples' rights and development and was, in the second part, merged with an international Conference on strategies for Local Economic Development. A similar course is being organized in Turin in 2009.

b) Regional training programmes in Africa, Asia and Latin America to enhance the capacity to promote and implement indigenous peoples' rights of key decision-makers, from government and indigenous partners, and also representatives of workers and employers organizations.

The Asia Regional Seminar on Experience and Lessons Learned concerning the Implementation of Indigenous Peoples' Rights, co-organized by Asia Indigenous Peoples Pact (AIPP), ILO, and Nepal Foundation for the Development of Indigenous Nationalities (NEFDIN) and the UNDP Regional Programme on the Rights of Indigenous Peoples (UNDP-RIPP) in Nepal in April 2009 was very strategic and useful. It provided the opportunity for the governments, including representatives from National Human Rights Commissions, Office of the High Commissioner for Human Rights (OHCHR), Asia Development Bank (ADB) and indigenous representatives to interact, share and exchange experiences. Although it is difficult to see the long-term impact, such occasion opens up for dialogue and better understanding between the government and the civil society. The draft PRO 169 *Indigenous & Tribal Peoples' rights in Practice- A guide to ILO Convention No. 169 (2009)* was presented at the event and provided the basis for making the sharing richer. In addition, the case presentations were also useful for both gathering more inputs to the PRO 169 Practice Guide as well as for the delegates to learn first hand from the indigenous participants.¹⁰

Here are some comments of indigenous leaders interviewed:

¹⁰ Interview with indigenous leaders from Asia.

We appreciate the PRO 169 for the latest publication Indigenous and Tribal Peoples' Rights in Practice: A Guide to ILO Convention 169. The book highlighted the positive aspects of good practices on indigenous peoples' rights from all parts of the world, providing wider overview of how common the issues are. It is very substantial and useful; it can be adapted to different contexts. It is presented in a very reader friendly format. In addition, it has referred to and cited other international instruments especially the UN Declaration on the Rights of Indigenous Peoples, which are compatible, and mutually reinforcing to Convention 169.

Besides the UN languages (English, French, Russian, Spanish) the PRO 169 practice Guide is being translated in Nepali and Tagalog. For wider access and use of the book, it will be good to at least translate it in main languages of the countries.

In general, research and publications are found to be very useful. PRO 169 is seen, as one of the few programmes that focus on research for policy change and information dissemination therefore publications in local languages is very strategic.

c) A minimum of 10 indigenous representatives have enhanced their capacity to promote and implement Convention No. 169 by undertaking an internship with the ILO, in ILO Headquarters, Cambodia, India and Kathmandu. The programme also collaborates with the OHCHR with its fellowship program.

d) A specific training website has been developed in three languages, comprising all necessary materials for a one week course on indigenous peoples' rights and development, including video-interviews with ILO officials and partners, power point presentations, background documents and longer documentaries.

With regards to capacity building for indigenous, government and social partners, the team values the internship programme, using the strategy of mentoring and giving the interns responsibilities. It has been very encouraging and helpful for the development of indigenous youth as well as the indigenous organizations.

Although we see the value of the training programme in Turin: (a) bringing together policy makers and indigenous leaders as an opportunity for dialogue on indigenous peoples' issues; (b) inter-regional experience exchange; and, (c) it make the ILO staff have better understanding on indigenous issues and Convention 169; we consider the need to revisit that strategy to analyze cost efficiency, accessibility and monitoring of results on the ground.

We value that when training is skills oriented, undertaken at regional and national and long term, it produces better results. So there should be more efforts in this aspect.

4.5 Support to regional initiatives

We value the strategic involvement of ILO in regional processes because they set the base for long-term strategies. The Programme also opens opportunity for South - South relationships, building upon lessons learned. The coherent, multifaceted and multi-level

strategy creates strong synergies between the various activities and ensures that international instruments and processes are translated into concrete actions at the national and local levels.

Following the report of the *Working Group on the Rights of Indigenous population/communities* of the African Commission on Human & Peoples Rights (ACHPR) in 2005, the Working Group approached PRO 169 to enter into a partnership agreement with ACHPR and the University of Pretoria to do a research on the situations of indigenous peoples and communities in Africa. That included a comprehensive review of constitutional, legislative and administrative provisions concerning indigenous peoples in all countries with indigenous population. This is a very important point in the process of defining further measures to ensure indigenous peoples' rights and it expresses the Commission's commitment to the issue.

The research found that with a few exceptions, African States have not formally accepted the existence of indigenous peoples; however there are many legal systems and provisions that can be used as entry points for the protection of indigenous peoples' rights. The research identified good practices that can be adapted to address the concerns of indigenous peoples and identified the need to educate government officials, indigenous peoples and the public at large. The ACHPR considers the partnership a starting point of a process that includes the responsibility to disseminate the findings of the research, use it as an advocacy tool and continue studying the other countries. The experience has been so positive that there is interest to replicate it in Asia.

Some perceptions of PRO 169 partners at regional in Asia are as follows:

a) The ILO PRO 169 has grown. It has linked up the standard to real life and work and brought it down on the ground and has adapted to indigenous peoples' needs. It has moved forward not only with standards but has wider reach beyond the countries which have ratified the Convention 169, and beyond being legalistic.

b) The ILO Convention 169 besides being a very important source for developing the UNDRIP and other instruments and mechanisms for promoting the rights of indigenous peoples, at regional level, it provides the statement of coverage of who are the Indigenous and Tribal Peoples. It has been the source of conceptual thinking for understanding. Human rights instruments and others have used it for interpreting the rights and added dimension in the promotion of indigenous peoples' issues.

c) In the support to regional and national initiatives we recognize the strong points of PRO 169 working in partnership with the indigenous organizations both at the regional, national and local levels. It enables it to know what needs to be done and work directly with the indigenous communities. As such it has gained a lot of credibility as well as expectations from the indigenous peoples.

d) Asia has a great cultural diversity and has the most number of indigenous peoples in the world – approximately 200 million of the estimated 350 million global population. The PRO 169 has tailored its programme to fit in with the country specifics, which has advantages of adapting to the political situation. This can be seen in Cambodia, Nepal, and Bangladesh.

e) The PRO 169 support to indigenous peoples to participate in the UN, international, regional meetings/conferences has been very strategic. It has strengthened and enhanced indigenous peoples' capacity. It has also provided opportunities for indigenous peoples to network with each other and share their common issues and situations, get inspired and learn from each other's experience. Another positive aspect of the programme is the internship programme in Geneva. Seeing the success in developing the capacity of the indigenous youth, it will prove to be very useful to have similar programme for the indigenous youth in all the country offices.

It is encouraging to know that PRO 169 is in the process of strengthening its presence in Latin America through a new regional programme, coordinated from Lima and Guatemala. During the period under evaluation, the ILO offered technical assistance services especially in countries that have ratified Convention 169. The indigenous organizations have improved their coordination with labour unions and, increasingly, are using ILO procedures to present complaints. There is greater control over forced and child labour in areas where there are more campaigns addressing those issues. The need for technical assistance is linked to legal reforms and conflicts related to rights to territories and natural resources, such as the cases in Peru, Chile, and Guatemala. In this region there is also a challenge for the ILO to develop the capacities of its personnel in the national offices to address the rights of indigenous peoples.

4.6 National level efforts to promote the rights and improve the socio economic situation of indigenous peoples

The programme works on national initiatives in several countries in Asia, Africa and Latin America. Due to the limited human and financial resources, it had to prioritize using some criteria, such as: a) countries with possibilities of ratification of Convention No. 169, such as Nepal; b) countries where indigenous peoples are facing severe problems but have an opportunity to be legally recognized, such as Cambodia. Because of the priorities defined they may have missed some opportunities.

The programme implements national projects that allow for long-term involvement and building of partnerships in the following countries: Bangladesh, Cambodia, Cameroon, India, Indonesia, Kenya, Namibia and Nepal. Funds under the Danish partnership has served as "seed funds" to initiate project activities but the programme has been successful in achieving complementary donor support, which has allowed for the scaling-up of activities in Bangladesh, Cameroon, Namibia and Nepal.

One challenge is that the programme is working on sensitive issues such as rights to land and resources and political representation and participation, often in politically unstable and difficult contexts. However, the programme strategy is designed to overcome these difficulties by following a flexible implementation strategy with a wide variety of entry points and implementing partners, both from government and indigenous peoples' side.

Another challenge has been the incorporation of a gender focus, which respects the visions of women and indigenous peoples. There have been advances in the formulation of a study on indigenous women in the world of work based on case studies from Bangladesh, Nepal and Latin America.

Nepal.

In Nepal, campaigns for ratification of ILO Convention No. 169 have led to advancing indigenous peoples' rights and have been used as a tool for peace processes providing the space for dialogue and cooperation, and shared commitment. This has eventually led to the ratification of the Convention. Though implementation pace is slow, the government has taken various steps for proper implementation of the Convention. It has commissioned an inter-ministerial task force and produced a national action plan for the implementation process, which was facilitated by ILO. The PRO 169 has been providing support and technical assistance to the implementing partners consisting of various government ministries such as Ministry of Local Development, and an autonomous government institution – the National Foundation for Development of Indigenous Nationalities (NFDIN) - and the apex indigenous organizations.

After ratification of the ILO Convention No. 169, Nepal has continued to benefit from the assistance received from the ILO for capacity building, for consultative processes on key issues such as natural resources, governance structure, education, cultural rights etc and for inclusion of indigenous peoples' rights into the constitutional reform process. Nepal is currently going through a radical political transformation as the country has changed from monarchy to a federal republic system. The interim constitution has all-inclusive provisions set for everyone including women, marginalized peoples and indigenous peoples (janajatis). While the new constitution is being written, multiple aspirations are at work, sometimes leading to contestations in marking out political autonomy for each of the communities. It is more crucial than ever that ILO make long term commitment to support Nepal in the search for workable formula and keep the on-going peace process on track and prevent any violent outbreaks.

It is recommended to generate more information about Nepal – the success story of ratification. It may provide incentive for other countries to ratify the Convention 169.

Cambodia.

In Cambodia, Danida is directly supporting ILO, which supports the indigenous communities to register as legal entities, apply for communal land titles and initiate community development processes. The activities are being implemented in partnerships with local NGOs. The current project builds on the previous support to the Ministry of Interior for a pilot registration of indigenous communities in which registration took place in three provinces; Ratnakiri, Mondolkiri and Preah Vihar.

Although one of the objectives of the project is for the government institutions and officials to have understanding and capacity to develop legal and administrative provisions for the community registration, the government seemed to be least interested in titling indigenous peoples' land. The ILO country office as well as the local partners face many obstacles and constraints in the implementation of the project because of the attitude of the personnel in the concerned Ministries – Ministry of Interior (MoI), Department of Local Administration and the government in general.

In the meantime, more than 133 indigenous communities have been identified for legal entity registration by the project, selected in the areas most affected by land alienation. To make the by-laws formats for legal entity registration less complicated, the ILO country office has developed a very simple format and guidebook for the registration [at the time of interview, they were awaiting the approval from the MoI]. Once approved, the

materials will be easily accessible to the villagers and they could develop the by-laws by themselves.

The challenge is that alienation of indigenous peoples' land continues unabated. The land law provides interim security for indigenous communities without registration for titling. However the land law is not implemented. The civil society groups in Cambodia believe that donor technical and financial support so far has been overly focused on piloting and supporting the registration procedures. However there is little to indicate that government is interested in titling indigenous land apart from the token communities. The new sub-decree on procedures for registration on land, issued by the Prime Minister, does not provide land security. It is not even in line with the Land Law 2001. Therefore they would like the donors to give equal emphasis placed on safeguarding these lands in the interim period.

Since the human rights situation in general and indigenous peoples' land situation in particular are changing fast, there is a need to review frequently what the ILO is doing. There needs to be flexibility in the programme. In the meantime, ILO could mobilize the UN Agencies for advocacy, for example by way of issuing statements against land being taken and eviction of indigenous peoples from their land. Since Cambodia rely heavily on donors' money, such actions could pressure the government into implementing the land laws and work towards better governance system.

Bangladesh.

In Bangladesh, the new government is more open toward the indigenous. For the first time in the Bangladesh history, its Prime Minister gave a statement on the Indigenous Peoples' Day. Some Ministers also attended the Indigenous Peoples Day celebration in Dhaka. The PRO 169 has done well to put in place a Country Coordinator, thus giving more visibility and strengthening the implementation capacity of the programme. There is now an opening for promoting indigenous peoples' rights on the basis of ILO Convention No. 107, which has been ratified by Bangladesh, and at the same time push for ratification of Convention No. 169. Much ground work needs to be done for awareness raising and capacity building.

Kenya.

The initiative in the Laikipia Maasai area in Kenya is defined as a project of documentation and protection of the cultural heritage of the Laikipia Maasaia, through local economic empowerment. It is based on a partnership between the Maasai Cultural Heritage Foundation, the ILO and WIPO. Some of the problems the project addresses are that the Maasaia culture is being traded and commercialized without consent. Trading companies and individuals are using the Maasaia identity without any benefits to the members of the community. There are potential resources that exist in the community that can be used to improve their local economic development and traditional knowledge and cultural expressions are potential resources that can enhance community development.

The target group are women and the youth and they are expected to improve the quality of bead work through product design, training in business development and marketing, certification of origin, awareness creation and livestock marketing and eco-tourism. The programme coordinated with WIPO and as a result, members of the community have

been trained to document traditional knowledge. A member of the community spent some time as an intern at ILO and WIPO headquarters and has elaborated a draft of an Intellectual Property Handbook. This is a challenging experience, which is addressing an important issue for indigenous peoples.

Some of the challenges the project faced was that a market assessment carried out in 2007 was expected to identify opportunities and spot potentialities for the Laikipia Maasai products in the market, while protecting their cultural heritage and property rights. The assessment process that was followed did not involve the members of the community properly and the result was not accepted. The community members value that the recommendations did not address priorities and aspirations of the people of the area. The project was reoriented to a credit system tailored for the target area and end-users. The core of the micro finance system is peer group pressure. However, there are still challenges that need to be addressed, particularly regarding marketing and product development.

5. Organizational arrangements for the implementation of the Project

The programme operates with a core team at the ILO Headquarters and coordinators in Bangladesh, Cambodia, Cameroon, Guatemala, Namibia, India, Nepal and Peru who are fully or partly funded by the Danish partnership agreement. In addition, the programme has 6-8 indigenous interns a year, mainly recruited from partner organizations. The programme was originally designed as an inter-sectoral collaboration between the Standards Department in Sector I and the Job Creation and Enterprise Development Department in Sector II, but for practical management purposes, it is currently managed from the Standards Department, with technical input and backstopping of specific project components from colleagues in Sector II.

The biggest challenge is that the implementation strategy is very demanding on the human resources available for the programme. This is due to the large number of differentiated and small-scale activities that together constitute the programme - as well as the considerable increase in activities. Another of the limitations is the form in which financial disbursements are made and the model of annual contracting of staff, which also hinders regular and timely recruitment processes when positions become vacant. Greater staff motivation is required and that means staff needs a longer perspective.

6. Contribution and role of ILO, partners and other stakeholders

To the extent possible, the programme implements its activities through government and indigenous partners, thereby strengthening the mandate and capacity of these institutions. The programme has developed strong partnerships with indigenous organizations and networks at national and regional levels, which serves to ensure the relevance of the activities for the target groups.

7. Funding arrangements

The support through the Danish partnership is crucial for the programme, as it provides core funding for the global team and for the initiation of “seed” activities at the country-level, which has gradually allowed the ILO to mobilize additional resources and increase the level and scope of activities. Although the programme has also received substantial funds from the ILO regular budget, the Danish funds will come to an end in December 2009 and the only perspective for the future is institutionalisation of the programme.

The programme budget is US\$ 2,745,000 over 20 months. The staff cost is a relatively big amount of the overall budget. The Danida framework is crucial as core funding for key international staff. The experts funded under such framework agreement provide crucial technical advice and supervision of all ILO activities regarding indigenous peoples and mainstreaming of these issues in the ILO. The importance of articulating technical assistance with supervision in the implementation of ILO Convention 169 is obvious and the main comparative advantage of the ILO. This has also played an important role in the mobilization of additional funding. At the end of the period the overall funding portfolio of the programme is close to US\$ 10 million globally.

During the period in question, the programme has further consolidated and expanded its activities with additional funds received from the European Commission (EC), the Spanish Agency for International Development, the Norwegian Embassy in Nepal and the Danish Embassies in Nepal, Cambodia and Bangladesh.

Due to the budgeting system used by the ILO, it was not possible to do a breakdown of expenses that would allow a cost to benefit analysis. Nevertheless, through interviews and the data presented by staff, we can conclude that the program has a high capacity to mobilize resources and a high level of accomplishment of intended results in relation to other programs. At the end of 2008, additional funds were transferred to the programme from other programs in the ILO, which had less capacity to use those resources and which were also financed by Danida.

8. Important lessons learned

1. ILO has contributed to strengthen indigenous peoples’ processes through PRO 169 at global, regional and national levels. The ILO has procedures for supervising the compliance of ratified Conventions, including Convention No. 169, and in combination with technical assistance, this has led the programme to bring together indigenous peoples, trade unions and governments.

2. The ILO has a comparative advantage as an institution that has the opportunity to facilitate dialogue for better understanding of indigenous peoples’ rights and peaceful resolution of conflict. The process of promoting the ratification of ILO Convention No. 169 and the technical assistance for formulating plans for its implementation in-country contributes to the processes of negotiation and constructive agreement.

3. PRO 169 programme’s engagement with the UNPFII has produced unique opportunity for dialogue among UN agencies, strengthening standards, discussion of indicators, new partnerships and implementation of instruments on IPs rights. The PRO 169 has been very instrumental in using new opportunities in international processes and fora.

4. In the programme project proposal, there were intentions to reach out to many partners. However because the programme was under staffed, they could not achieve their target. Although we value that they have prioritized activities we consider they may have lost some opportunities.

5. The programme has a close working relationship with a large number of ILO units and field offices, particularly the Equality Team, the Gender Bureau, the International Training Centre in Turin and labour standards specialists in Africa, Asia and Latin America, and is increasingly seeing effects in terms of in-house mainstreaming (e.g. focus on indigenous peoples in the ILOs programme to combat child labour and forced labour). The programme provides a common framework for the various global, regional and national efforts and initiatives of the ILO on indigenous peoples and has a strong focus on knowledge sharing, documentation of good practices and exchange of experiences, both within the ILO and with partners. The programme has become a model of how technical assistance can complement the supervisory role of the ILO with regards to ratified convention and has inspired the ILOs strategy on how to integrate international labour standards in technical cooperation.

6. The aspect related to LED needs to be revisited, develop capacity, and coordinated better with country staff and other areas at ILO HQ. The initiatives in the countries demonstrate that this is one of the aspects that require greater effort on the part of the ILO.

7. There is an increase of violations of the rights of indigenous peoples in key areas of land, resources, employment and others. If the programme could put in place an alert mechanism to respond to human rights abuses by using Convention 169, UNDRIP and other mechanism, it will give more credibility to ILO.

8. We have not seen a long term strategy to internalize and institutionalize PRO 169 accomplishments in ILO. The challenges identified will need to be dealt with as part of a long-term strategy. The promotion of 169 Convention seems to depend on external cooperation which are short term, and that may undermine the efficiency. There is a need of institutional core funding.

9. Through the facilitation of PRO 169 indigenous communities have worked with a UN specialized institutions like WIPO and now there is possibility of having an international indigenous Trade Mark. This is very strategic in protecting IPs' knowledge and IPs' socio-economic development. It will be an alternative for employment creation and reduction of poverty.

10. The strategy of multi point entry has proved to be very valuable and has created opportunity for making connections among the UN, regional human rights processes, universities and IPs.

11. The current ILO programme funded by Danida is related with challenges faced by IPs all over the world therefore it has raised a lot of expectations that require long term ILO commitment.

12. Although we recognize there is effort to include indigenous women in ILO activities and *A Guide to Gender Equality and Non-Discrimination for Indigenous and Tribal Women* is in the process of being produced, we consider that there are opportunities to do

more at HQ, in the regions and countries, in cooperation with IP women, as well as capacity building.

13. The Supervisory Body has recommended harmonization of country's legislation with 169 for the implementation of their recommendations and there is a growing demand for technical assistance on the rights of indigenous peoples in each region where the programme has a presence. This will require staff in the countries to have greater level of preparation on the issue.

9. Recommendations

1. We recommend to ILO to specifically mention where IPR / 169 will be included under the 19 outcomes in the "Decent Work Programme", including specific benchmarks and indicators to measure the progress in ILOs continued work on C169.

2. In line with UNDRIP Art 42, ILO should institutionalize IPR and define the ILO mandate for IPR, in order to strengthen the country and regional offices.

3. Donors should be ready to support efforts needed to make results (achieved over the last 20 years) sustainable, i.e. insist on clear progress from the ILO on promoting 169 in the future agreements.

4. We recommend that funds saved due to vacancies be utilized for short-term expertise to support IP issues at country level as well as regional initiatives.

5. Continue to mobilize additional funding.

6. There should be an enforcement mechanism established with monitoring instrument to ensure that IPs' rights are included in all the departments of ILO, or standard setting department

7. Mandate should not be an excuse – in line with article 42 together with C 169, we recommend ILO to institutionalize PRO 169

8. Given the prejudices and discriminatory attitude towards indigenous cultures and traditions –for raising public awareness of IPs' rights and situation, supporting training to indigenous journalists, media campaigns and education materials at the national level will contribute to the advocacy for IPs' rights.

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Annex 1

Names of Persons interviewed

Cambodia:

Sek Sophorn, National Project Coordinator, ILO PRO 169
Mane Yun, Programme Coordinator, IP /LED, ILO PRO 169
Ek. Yothin, Freelancer
Graeme Brown, Advisor ICSSO
Long Serey, NTFP

Nepal:

Shankar Subba Limbu, LAHURNIP, sent answer by mail
Pasang Dolma Sherpa, Project Coordinator, REDD, NEFIN

Bangladesh:

Abhilash Tripura, National Project Coordinator, ILO PRO 169
Mrinal Kanti, TRINAMUL

Others:

Chandra Roy, Regional Programme Coordinator, UNDP-RIPP
Joan Carling, Secretary General, AIPP
John Henriksen, Lawyer
Binota Dhamai, AIPP
Jannie Lasimbang, AIPP
Timothy Whyte, Freelancer

Latin America

Mateo Martínez, Secretario Técnico – Fondo para el Desarrollo de los Pueblos Indígenas
Darío Mejía- Organización Nacional Indígena de Colombia
Juan Reategui- Asesor de AIDSESEP, Miembro de mesa de negociación con el gobierno peruano
Alejandro Herrera- Director Instituto de Asuntos Indígenas- Universidad de la Frontera, Temuco, Chile

Annex 2

Agenda of the evaluation team in Geneva 24- 28 of August, 2009

Date/ hour	Subject	Participants
Monday 24 th		
9:30- 10:30	Welcome and introduction of team and proposed agenda	PRO 169 team
11-11:30	Evaluators internal meeting: methodology, organization of work, etc.	Evaluation team
14:00- 17:00	Initial overall briefing about the PRO 169 Programme Welcome by Ms. Karen Curtis	PRO 169 team
Tuesday 25 th .		
8:30- 9:30	Evaluation internal meeting	Evaluation team
9:30- 13:00	Training and capacity building	PRO 169: Morse Flores, Karmen Boscan, Chachuizinmayo Luithui, Birgitte Feiring
14:00- 16:00	Collaboration with Equality team, supervision and Joint activities, publications	PRO 169: Birgitte Feiring, Stefania Errico, Mr. Martin Oelz, Equality team
16:00- 17:00	Meeting ILO Evaluation Department	
Wednesday, 26 th		
9:00-10:00	Collaboration with the Maasai Cultural Heritage Foundation	PRO 169: Birgitte Feiring, Morse Flores
10:00-12:00	Collaboration with WIPO on Maasai Cultural Heritage	Wend Wendland
12:00-13:00	Updating of Ms. Elsebeth Tarp, DANIDA and Ms. Aino Askgaard, Permanent Mission of Denmark, Geneva	
14:00- 16:00	Collaboration with the African Commission on Human and peoples' right.	PRO 169 Birgitte Feiring, Stefania Errico Phone call: Commissioner
16:00- 17:00	Collaboration with the GENDER Unit	Mr. Geir Tonstol
Thursday 27 th		
9:30-10:30	National Project Cambodia	Stefania Errico, Birgitte Feiring
10:30- 11:30	Contribution to IASG- UNPFII, work on PRSP, employment of IP's in UN	Birgitte Feiring
11:30- 13:00	The example of Nepal	Birgitte Feiring Phone call: Mukta Lahma
14:00- 15:30	Management, Budget, Communications, staff situation	Mangeye Terumalai, Brigitte Feiring Codev: Pawel Gmyrek
	Evaluation team internal meeting	
Friday 28 th		
	Evaluation team internal meeting	
14:00- 16:00	Presentation of preliminary report and feed- back	Ms Karen Curtis, Mr Martin Oelz, Mr. Pawel Gmyrek, Ms Aino Askgaard

Annex 3

Questions guide used during the evaluation

For email and telephone interviews in Asia and Latin America

1. After the ratification of C169 in Nepal/ Chile, what kind of activities have been undertaken to implement it? Is it going in the right direction?
2. Are you happy with the technical assistance or any kind of support provided by the PRO 169/ IPLED program? Capacity building, trainings, info dissemination, etc. for the IP's, indigenous women and for the government.
3. What can be done better?
4. What can we learn from the Nepal experience? Based on your experience in Nepal/ Chile what would you recommend to the PRO 169 programme- similar strategy in other countries where negotiations are going on for the ratification of C 169?
5. Do you know about the IPLED programme? What's your experience strength, weakness? What has been done about the women? Has the National Women Federation been a partner of the project?
6. In general do you think the PRO 169 / IPLED is really addressing the needs and priorities of the IPs in the region? Has it addressed women's needs properly? What should be done differently?
7. What do you think of the Asia regional seminar on good practices in Kathmandu in April this year? And the Guide (book) to implement indigenous peoples rights in practice?
8. How would you assess ILO's inputs to global efforts for promoting IP's rights through its support to international policies and regional initiatives?

General questions used during the evaluation

Theme	Questions
Relevance and strategic fit of the programme	<p>To what extent the objectives, outputs and activities are consistent with and responding to indigenous and tribal peoples' needs and priorities?</p> <p>What are the processes, struggles and challenges supported by PRO 169?</p> <p>Does the programme adequately take into account regional and/or country-specific needs and priorities?</p> <p>How does the programme complement and provides substantial input to global efforts for promoting the rights of indigenous and tribal peoples?</p> <p>Through what kind of partnership with other actors?</p>

	How does the programme use the ILOs comparative advantage in the field of indigenous and tribal peoples?
Programme progress and effectiveness	Which foreseen activities, outputs and immediate objectives have been achieved? Have the ender-specific concerns been systematically addressed? What are the barriers and weaknesses encountered in achieving the foreseen activities, outputs and objectives? Identification of factors and lessons learned concerning the achieved results.
Efficiency of resource	What is the cost-efficiency of the various activities, related to results? Cost-efficiency of staff and management arrangements?
Impact and sustainability	How does the programme contribute to broader long-term objectives of indigenous and tribal peoples? Does indigenous, government and other development partners take ownership of programme outputs? Can the outcomes approaches be replicated, upscaled or mainstreamed?

Annex 4

Terms of reference Independent external evaluation

Title:	Promoting the Rights and Reducing Poverty of Indigenous and Tribal Peoples
Reference No. for the project	INT/08/57M/DAN
Countries covered	Global
Donors	Danida
Implementing unit	ILO – International Labour Standards Department, PRO 169 & IPLED
Type of evaluation	Intermediate
Date of evaluation	4 August – 4 September 2009

1. Introduction and rationale for the evaluation

The Government of Denmark (Danida) has been supporting ILOs work on indigenous and tribal peoples since 1996 and the programme under evaluation is thus a continuation of previous partnership agreements in this area.

The development objective of the programme is that

- Indigenous and tribal peoples' rights are promoted and their socio-economic situation improved, in compliance with the principles of ILO Convention No. 169.

The 2008-9 partnership comprises two interlinked components; the Programme for the Promotion of ILO Convention No. 169 (PRO 169) and the Indigenous Peoples and Local Economic Development (IPLLED) component. The programme was originally designed as an inter-sectoral collaboration between the Standards Department in Sector I and the Job Creation and Enterprise Development Department in Sector II, but for practical management purposes, it is currently managed from the Standards Department, with technical input and backstopping of specific project components from colleagues in Sector II.

The Programme has undergone an external evaluation and a review undertaken by Danida, in 2001 and 2007, respectively. In addition, the Programme has regularly conducted self-evaluations and annual reviews, which has formed the basis of the annual progress reports. However, in accordance with ILO policy on project evaluations, all projects with a budget above 500,000 USD must undergo an independent evaluation once during the project cycle.

The current programme has an effective timeframe of 21 months, starting May 2008 and ending December 2009. Discussions about possible future support from the Government of Denmark to the ILO's work on indigenous and tribal peoples will be undertaken in September-October 2009, and the evaluation should thus be undertaken in August, as an "interim" evaluation prior to conclusion, in order to feed in to the discussions.

2. Purpose and scope of evaluation

While Danida was previously the sole funder of the programme, the programme has considerably expanded its scope during recent years and now counts with additional funding from the Spanish Agency for International Development Cooperation, the European Commission as well as the Norwegian Embassy in Nepal and the Danish Embassies in Nepal, Cambodia and Bangladesh (agreement still to be signed). The Programme has been operating for a number of years under similar funding arrangements and with a high degree of continuity in staff resources. In this regard, the Danish partnership is providing core and seed funding, which has allowed the expansion of activities. While the main focus of the evaluation is the 2008-9 Danida partnership agreement, the evaluation will also necessarily have to take into account activities that are co-funded with other donors and/or build on activities initiated under the previous Danida partnership agreement (2006-7).

The Programme is a multi-level and multifaceted undertaking, with activities concentrated in 5 main outputs:

Output 1: Coordination with and contribution to international processes

Output 2: Contribution to ILO technical cooperation policies and programmes (mainstreaming)

Output 3: Dissemination of information about ILO activities on indigenous and tribal peoples

Output 4: Capacity-building for indigenous, government and social partners

Output 5: Support to regional initiatives

Output 6: National level efforts to promote the rights and improve the socio-economic situation of indigenous peoples

Geographically, the programme is global in scope but regional and country-specific activities are concentrated in Africa, Asia and – to a minor extent – Latin America. The evaluation will consider all five main outputs of the programme, with a particular focus on activities in Africa and Asia under output 5.

The main audience of the evaluation will be

- Management and staff (including field specialists) of the international Labour Standards Department and the global PRO 169 and IPLED team
- The Danish Agency for International Development Assistance (DANIDA)
- Partners of the PRO 169 and IPLED programme.

3. Key evaluation questions.

The evaluation will provide findings, conclusions and recommendations, related to the following key evaluation questions:

- 1. Relevance and strategic fit of the programme, including:**
 - The extent to which the objectives, outputs and activities are consistent with and responding to indigenous and tribal peoples' needs and priorities.
 - The extent to which the programme adequately takes into account regional and/or country-specific needs and priorities
 - The extent to which the programme is complementary and provides substantial input to global efforts for promoting the rights of indigenous and tribal peoples, including through partnership with other actors.
 - The extent to which the programme uses the ILO's comparative advantage in the field of indigenous and tribal peoples.

- 2. Programme progress and effectiveness, including:**
 - The extent to which the foreseen activities, outputs and immediate objectives have been achieved.

- The extent to which gender-specific concerns have been systematically addressed.
 - An assessment of the barriers and weaknesses encountered in achieving the foreseen activities, outputs and objectives.
 - An assessment of the conducive factors and lessons learned concerning the achieved results.
- 3. Efficiency of resource use, including:**
- An assessment of the cost-efficiency of the various activities, related to results.
 - An assessment of the cost-efficiency of staff and management arrangements.
- 4. Impact and sustainability, including:**
- The extent to which the programme contributes to broader long-term objectives of indigenous and tribal peoples
 - The extent to which indigenous, government and other development partners take ownership of programme outputs
 - The potential of the outcomes approaches to be replicated, upscaled or mainstreamed?

5. Evaluation methodology

The following is a proposed evaluation methodology, however, the evaluation team may introduce changes that are consistent with the scope of the evaluation and agreed by ILO.

The evaluation will be carried out using a desk review of literature, websites, videos etc. (totalling 5 working days), combined with interviews of programme staff as well as in-house and external partners, conducted either in Geneva or through phone and/or email exchange.

The evaluation team will comprise three indigenous experts, based in Africa, Asia and Latin America, respectively. Danida is invited to also include an expert in the team.

The experts will review programme documentation concerning their region prior to travelling to Geneva, where the team will undertake interviews and jointly draft the report (totalling 5 working days).

The mission to Geneva is planned for 10-14th August 2009, during which period the evaluation team will have the opportunity of interviewing programme partners who are attending the EMRIP¹¹ Session under the Human Rights Council.

Following the mission in Geneva, the two experts will have 3 additional working days and the team leader five working days to finalise the report.

¹¹ Expert Mechanism on the Rights of Indigenous Peoples

6. Team composition

- 1) External specialist in indigenous peoples' rights and development internationally and in the Latin American context, with extensive evaluation experience. This person shall act as Team Leader.
- 2) External specialist in indigenous peoples' rights and development internationally and in the African context.
- 3) External specialist in indigenous peoples' rights and development internationally and in the Asian context.
- 4) A member from Danida, if timing is manageable.

7. Management arrangements

The main output will be a final report with operable recommendations, no longer than 20 pages.

The evaluation will be managed by an evaluation manager appointed by the International Labour Standards, under the supervision of the ILO's Evaluation Unit (EVAL). A staff member of the PRO 169 & IPLED team will facilitate the work of the team by making relevant documentation available, organising interviews and meetings etc.

8. Timetable

The total duration of the evaluation process including submission of the final report should be one month from the beginning of the desk review.

It is expected that desk reviews will take place in the beginning of August and the full report will be available by beginning of September 2009.

The evaluation experts will be engaged for 15 working days of which 7 days will be undertaken in Geneva (5 working days plus travel), from 9 August (arrival in Geneva) to 15 August (departure from Geneva). The team will conduct a debriefing session with key programme staff and partners on 14 August, to present preliminary findings, conclusions and recommendations.

The team will submit the draft report to the ILO for comments no later than 24th August 2009. The ILO will provide comments to report no later than 31st August and the final report will be submitted to the ILO no later than 4th September 2009.