



International
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Indigenous Peoples in the World of Work in Asia and the Pacific

A Status Report

Rishabh Kumar Dhir



Gender,
Equality
and Diversity
Branch

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Preface

The World Bank has estimated that indigenous peoples constitute some 5 per cent of the world's population, while accounting for 15 per cent of its poor. Even where economic growth has resulted in overall decreasing income inequality, indigenous and tribal peoples tend not to benefit from such progress; poverty among them is often increasing. This is also the case in Asia, where the majority of the world's indigenous peoples live.

Concerns for indigenous peoples' rights and well-being are an integral part of the 2030 Agenda for Sustainable Development, which seeks to tackle poverty and inequality by empowering groups experiencing socioeconomic vulnerability. Indeed, the 2030 Agenda forcefully calls for measures to ensure that no one is left behind.

The ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169), the United Nations Declaration on the Rights of Indigenous Peoples, and the outcome document of the 2014 World Conference on Indigenous Peoples set out comprehensive guidance for transforming the new Sustainable Development Goals into effective national strategies, policies and action plans to bring about development that takes into account the rights, priorities and needs of indigenous peoples.

In this context, it is now essential to increase the knowledge base on the working and living conditions of indigenous and tribal peoples, as a starting point for strengthening and establishing appropriate legal and policy frameworks for rights-based and inclusive development. The present report compiles, systematizes and analyses information available from a range of sources on indigenous peoples in the world of work in 14 countries in Asia and the Pacific.¹ It is intended as a tool for ILO constituents and development practitioners seeking initial information on these issues. The report was prepared by Rishabh Kumar Dhir and has benefitted from the contributions and guidance of Martin Oelz, Senior Specialist on Equality and Non-discrimination in the Gender, Equality, and Diversity Branch. We would also like to acknowledge the excellent editing work of Mary and Christopher English.

The report shows that indigenous women and men are active participants in the world of work and that appropriate measures are needed to ensure protection of their rights to land, access to education, including vocational training, decent work and social protection. In order to achieve and monitor progress, it will be necessary to track the situation of indigenous peoples in the world of work over time, as far as possible on the basis of disaggregated statistical data, as called for by the 2030 Agenda.

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¹ A summary of the present report has been issued as an information brief, available at: http://www.ilo.org/gender/Informationresources/Publications/WCMS_389366/lang--en/index.htm



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Abbreviations

AIPP	Asia Indigenous Peoples Pact
AMAN	Aliansi Masyarakat Adat Nusantara (Indigenous People’s Alliance – Indonesia)
BPDM	Local-level Village Community Empowerment Agency (Indonesia)
BPS	Badan Pusat Statistik (Central Statistics Agency – Indonesia)
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CERD	Committee on the Elimination of Racial Discrimination
CHT	Chittagong Hill Tracts (Bangladesh)
COAC	Centre for Orang Asli Concerns (Malaysia)
DWCP	Decent Work Country Programme
ERT	Equal Rights Trust
FAO	Food and Agriculture Organization of the United Nations
FATA	Federally Administered Tribal Areas (Pakistan)
IASG	Inter-Agency Support Group
IFAD	International Fund for Agricultural Development
ILO	International Labour Organization
IPEC	International Programme on the Elimination of Child Labour
IPU	Inter-Parliamentary Union
IRIN	Integrated Regional Information Network
IWGIA	International Work Group for Indigenous Affairs
JICA	Japan International Cooperation Agency
MGNREGA	Mahatma Gandhi National Rural Employment Guarantee Act (India)
NEET	“Not in employment, education or training” (New Zealand)
NTSFDC	National Scheduled Tribes Finance and Development Corporation (India)
REDD	Reducing Emissions from Deforestation and Forest Degradation in Developing Countries
RNIP	Regional Network for Indigenous Peoples (Philippines)
SDPI	Sustainable Development Policy Institute (Pakistan)
SUHAKAM	Suruhanjaya Hak Asasi Manusia (Human Rights Commission of Malaysia)
TRIFED	Tribal Cooperative Marketing Development Federation (India)

UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNFPA	United Nations Population Fund
UNICEF	United Nations Children's Fund
VUFO	Vietnam Union of Friendship Organizations



Introduction

I. Situating indigenous and tribal peoples in Asia

“Emerging Asia” is a term frequently used to convey the economic success or the growth story of many Asian countries. Over the last two decades, growth in most Asian economies has indeed been robust and higher than those in other emerging regions¹ and this has resulted in significant reductions in poverty. The past two decades have witnessed a rate of poverty reduction in Asia that is faster than in any other region in the world and at any other time in history.²

That said, however, Asia also remains the region which is home to the largest number of the world’s poor and one which is experiencing rising inequality. While inequality in Asia has historically been lower than in other developing regions, the past two decades have seen widespread increases in income inequality at the national level, and in both urban and rural areas.³ An Asian Development Bank report,⁴ taking into account numerous factors and vulnerabilities, estimates that, in 2010, 1,750 million Asians or 49.5 per cent of the continent’s population could be considered to be living in extreme poverty, despite all the economic growth of recent years. The report also stresses that poverty in Asia must remain a priority in development work over the coming decades.

Indigenous peoples, as a World Bank policy brief⁵ has observed, are “still among the poorest of the poor”. It is estimated that, although indigenous peoples constitute some 5 per cent of the world’s population, they account for 15 per cent of the world’s poor.⁶ These observations are of particular significance in the context of Asia as the majority of indigenous peoples are located in that continent. Of the estimated 370 million indigenous peoples in some 70 countries across the world,⁷ an estimated 70–80 per cent⁸ are concentrated in Asia and the Pacific. Although these figures are estimates and data on indigenous peoples in Asia are limited, they still draw attention to the extensive social and economic hardships to which indigenous and tribal peoples are exposed. Furthermore, the International Work Group for Indigenous Affairs has noted that many indigenous peoples in Asia face an array of problems such as loss of control over land and natural resources, discrimination and marginalization, assimilation

¹ Balakrishnan, Ravi, Chad Steinberg, and Murtaza Syed. *The Elusive Quest for Inclusive Growth: Growth, Poverty, and Inequality in Asia*. IMF Working Paper. International Monetary Fund, June 2013.

² Zhuang, Juzhong, Ravi Kanbur, and Changyong Rhee. *Rising Inequality in Asia and Policy Implications*. ADBI Working Paper 463. Asian Development Bank Institute, February 2014.

³ *Inequality Matters: Report of the World Social Situation 2013*. Department of Economic and Social Affairs, United Nations, 2013.

⁴ *Key Indicators for Asia and Pacific 2014, 45th Edition, Special Chapter, Poverty in Asia: A Deeper Look*. Asian Development Bank, 2014.

⁵ *Still among the Poorest of the Poor*. Indigenous Peoples Policy Brief. World Bank, 2011.

⁶ *Implementation of Operational Directive 4.20 on Indigenous Peoples: An Independent Desk Review*. OEDCR, World Bank, 10 January 2003.

⁷ “Indigenous Peoples.” *IFAD*, http://www.ifad.org/english/indigenous/index_full.htm.

⁸ 70 per cent is the figure provided by IFAD and 80 per cent is the figure provided by the World Bank

pressures and violent repression.⁹ It is therefore critical that focus should be placed on the indigenous peoples of “emerging Asia” on two fronts that essentially complement each other: first, that the human rights of the vast population of indigenous and tribal peoples located in Asia should be respected and, second, that their social and economic hardships and their potential exclusion, in particular as a consequence of poverty, should be addressed.

II. Who are the indigenous and tribal peoples of Asia?

There is no single universal definition of indigenous and tribal peoples, but the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169) provides a set of objective and subjective criteria that can be applied to identify such peoples in a given country.¹⁰ The Convention offers a practical and inclusive approach for the identification of the peoples concerned, while also emphasizing self-identification as one of the criteria. It uses the terms “indigenous” peoples and “tribal” peoples, giving both groups the same array of rights.

The ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169) sets out criteria for identifying the peoples concerned, as defined in the following table:

	Subjective criteria	Objective criteria
Indigenous peoples	Self-identification as belonging to an indigenous people.	Descent from populations who inhabited the country or geographical region at the time of conquest, colonization or establishment of present State boundaries. They retain some or all of their own social, economic, cultural and political institutions, irrespective of their legal status.
Tribal peoples	Self-identification as belonging to a tribal people.	Their social, cultural and economic conditions distinguish them from other sections of the national community. Their status is regulated wholly or partially by their own customs or traditions or by special laws or regulations.

Source: *Understanding the Indigenous and Tribal Peoples Convention, 1989 (No. 169). Handbook for ILO Tripartite Constituents*. International Labour Organization, 2013.

⁹ “Asia.” IWGIA, <http://www.iwgia.org/regions/asia>.

¹⁰ For more details: *Understanding the Indigenous and Tribal Peoples Convention, 1989 (No. 169). Handbook for ILO Tripartite Constituents*. ILO, 2013.

The present study primarily uses the term “indigenous peoples”, which is now the most commonly used term. This is also the case with regard to other international instruments, such as the United Nations Declaration on the Rights of Indigenous Peoples, adopted in 2007. Similar to the ILO Convention No. 169, the Declaration does not provide a single universal definition of the term “indigenous peoples” and underlines the significance of self-identification.¹¹

In the context of Asia, the Special Rapporteur on the rights of indigenous peoples has noted that, while the vast majority of the people in the countries of the Asian region may be considered, in a literal sense, indigenous to the region, there are particular groups that distinguish themselves from the broader populations and fall within the scope of the notion of indigenous peoples as it has developed throughout the United Nations system and, as such, are subjects of international concern.¹² Such groups include those referred to as “tribal peoples”, “hill tribes”, “scheduled tribes”, “Adivasis” or “Janajatis”, among others. The characteristics, relative size compared to the national population, and situation of these groups vary greatly. They also share certain characteristics, however, such as their reliance on land and natural resources for their livelihoods or the practice of traditional livelihood activities and occupations that form an integral part of their distinct cultures.

III. Focusing on indigenous peoples in the world of work

The World Bank has noted that, barring some exceptions in Asia, Millennium Development Goal-like indicators for indigenous peoples are worse than the population averages.¹³ An ILO study has also highlighted the strong correlation between being indigenous and being extremely poor, and the fact that indigenous peoples are more likely to have lower incomes, poorer physical living conditions, restricted access to health-care, education and other services, limited access to labour, land, capital and markets, worse returns from their work, in addition to weaker political representation and insecurity.¹⁴

Added to which, as a United Nations study has observed, new threats to indigenous peoples have emerged from globalization with the intensification of pressures on resources.¹⁵ This is primarily due to the disproportionate costs that indigenous peoples bear from resource-intensive and resource-extractive industries, activities such as mining, oil and gas extraction, the construction of large dams, infrastructure projects, logging and plantations, and industrial fishing and farming. Despite efforts over the past four decades to improve the well-being of indigenous peoples and increase their recognition, in many Asian countries their rights are yet to be comprehensively incorporated and given full expression.

¹¹ See Article 33 of the UN Declaration on the Rights of Indigenous Peoples.

¹² *Report of the Special Rapporteur on the Rights of Indigenous Peoples, James Anaya, Consultation on the Situation of Indigenous Peoples in Asia*. United Nations, Human Rights Council, 31 July 2013.

¹³ *Still among the Poorest of the Poor*. Indigenous Peoples Policy Brief. World Bank, 2011.

¹⁴ Tomei, Manuela. *Indigenous and Tribal Peoples: An Ethnic Audit of Selected Poverty Reduction Strategy Papers*. ILO, 2005.

¹⁵ *The State of the World's Indigenous Peoples*. Department of Economic and Social Affairs, United Nations, 2009.

Poverty and exclusion, coupled with weak frameworks for the protection of human rights, lie at the heart of the threats and socioeconomic hardships that indigenous peoples continue to face in today's world. The problem is particularly acute for indigenous peoples in the world of work, where discrimination, the loss of traditional livelihoods, poor access to opportunities, low productivity and dependence on earnings from the informal economy, among other issues, pose severe challenges to poverty reduction and threaten to increase their social and economic exclusion. The ILO Decent Work Agenda, which is aimed at promoting jobs, guaranteeing rights at work, extending social protection and promoting social dialogue, has repeatedly been recognized as key to the eradication of poverty and the attainment of inclusive, sustainable and equitable economic growth.¹⁶ It has been highlighted that decent work is closely linked to empowerment and pro-poor growth, as decent work empowers men and women by giving them rights, a voice, enhanced opportunities and security, while also upholding their dignity.¹⁷

The Decent Work Agenda is thus a fundamental means of addressing poverty, exclusion and the denial of rights, and consequently the social and economic hardships faced by indigenous peoples. Although ILO Convention No. 169 has thus far been ratified only by Fiji and Nepal in the larger Asia-Pacific region, it still provides detailed guidance and suggests approaches that can enable policymakers to deal with the rights and needs of indigenous peoples in the world of work. Furthermore, an earlier ILO instrument on this topic, the Indigenous and Tribal Populations Convention, 1957 (No. 107), remains in force for a number of countries in the region (see the Annex to the present report) and continues to be of significance.

In addition, a range of other ILO instruments are of particular relevance in addressing the situation of indigenous peoples. These include the fundamental Conventions regarding freedom of association and the right to collective bargaining (Convention Nos. 87 and 98), equality of opportunity and treatment in employment and occupation (Conventions Nos. 100 and 111), and the elimination of forced labour and child labour (Conventions Nos. 29, 105, 138 and 182). The recently adopted Social Protection Floors Recommendation, 2012 (No. 202) and the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204) further serve as sources of timely and indispensable guidance.

In the context of the larger international community, the World Conference on Indigenous Peoples, held in 2014 at the United Nations, highlighted the need to promote the livelihoods, economic activities and employment of indigenous women and men.¹⁸ A thematic background paper by the Inter-Agency Support Group on Indigenous Peoples' Issues (IASG) prepared for the World Conference also highlights the issues of indigenous peoples' access to decent work and social protection.¹⁹ It stresses the

¹⁶ *Decent Work in the Post-2015 Development Agenda*. Governing Body, ILO, 4 October 2012.

¹⁷ Ernst, Christoph, Krzysztof Hagemeyer, Philippe Marcadent, and Martin Oelz. "Decent Work and Empowerment for pro-Poor Growth." In *Poverty Reduction and Pro-Poor Growth The Role of Empowerment*. OECD, 2012.

¹⁸ *Resolution Adopted by the General Assembly on 22 September 2014, Outcome Document of the High-Level Plenary Meeting of the General Assembly Known as the World Conference on Indigenous Peoples*. General Assembly, United Nations, 25 September 2014.

¹⁹ *Indigenous Peoples' Access to Decent Work and Social Protection*. Inter-Agency Support Group on Indigenous Peoples' Issues, June 2014.

need for better data and a stronger focus on the rural economy, to build capacity for economic empowerment and to capitalize on traditional occupations in overcoming discrimination, exclusion and poverty.

IV. Purpose and scope of the study

As the 2030 Agenda for Sustainable Development is committed to tackling inequality and achieving inclusive and sustainable development for all, the issue of indigenous peoples in the world of work is of heightened relevance. In this particular regard, in her report to the General Assembly, the current United Nations Special Rapporteur on the rights of indigenous peoples has underlined the importance of enhancing a focus on the economic, social and cultural rights of indigenous peoples.²⁰ As observed in the IASG paper on indigenous peoples' access to decent work and social protection,²¹ numerous challenges persist in relation to traditional occupations, migration for work, the informal economy, rights at work and inadequate data. While decent work policies have increasingly started to include disadvantaged groups of workers, there is an overall paucity of knowledge and research on indigenous peoples in the world of work. This is also the case for Asia, in particular owing to limited recognition of indigenous peoples and the lack of attention to their plight. Accordingly, the primary purpose of the present study is to explore the situations of a select number of countries in the region with regard to indigenous peoples in the world of work, in order to contribute to the discussion on future action in this field.

Twelve countries in South and South-East Asia have been identified for the study, covering a large population and diverse groups of indigenous and tribal peoples in the region. Furthermore, to ensure a better overview that cuts across high-income, middle-income and low-income countries, Australia and New Zealand have also been included in the study, thereby expanding its ambit to the larger Asia-Pacific region.

The study is divided on a country-by-country basis, with 14 different country profiles. Each country profile considers four fundamental issues that are of particular relevance to indigenous peoples in the world of work:

- *To what extent is there a focus on indigenous peoples within the country's policy environment?* This includes constitutional, legislative, institutional and policy frameworks that have a strong impact on indigenous peoples in the world of work. Moreover, engagement with the policy environment builds on earlier work by the ILO that audits poverty reduction strategy papers,²² as the present study also reviews national development plans and strategies, along with ILO Decent Work Country Programmes (where available) for each country. This review, like the audit, is also aimed at understanding where indigenous peoples' issues stand with regard to planning priorities.

²⁰ *Rights of Indigenous Peoples, Including Their Economic, Social and Cultural Rights in the Post - 2015 Development Framework*. United Nations, General Assembly, 6 August 2014.

²¹ *Indigenous Peoples' Access to Decent Work and Social Protection*. Inter-Agency Support Group on Indigenous Peoples' Issues, June 2014.

²² Tomei, Manuela. *Indigenous and Tribal Peoples: An Ethnic Audit of Selected Poverty Reduction Strategy Papers*. ILO, 2005.

- *What is the employment situation of indigenous peoples in the country?* This involves exploring a range of livelihood and employment-related information, together with statistics on indigenous peoples at the country level. This is a particularly important aspect of the study, as it endeavours to move beyond anecdotal evidence regarding indigenous peoples in the world of work and provide information on an issue that continues to be marked by a severe dearth of knowledge.
- *What are the specific challenges relating to employment and livelihood issues associated with indigenous peoples?* Any study of indigenous peoples in the world of work requires a closer look at issues and challenges relating to employment and livelihoods, including land issues, as these are important factors in determining the living and working conditions of indigenous workers and communities.
- *What are the gaps in data availability?* Examination of the above issues will shed light on some existing data gaps concerning indigenous peoples in the world of work; remaining gaps will be identified in the concluding section of each country profile.

V. Methodology

The study brings together information from 14 countries collected through a desk review and research exercise. It should be noted that the desk review does not cover all aspects affecting indigenous peoples for each country but focuses instead on a select number of themes that are of strategic relevance to world-of-work issues. The desk review draws on numerous reports and documents from governmental, non-governmental, intergovernmental and also academic sources that are concerned with these strategic issues.

Using these diverse sources, the study locates indigenous groups and communities within the context of each country to provide an overview. With its focus on the policy environment, the study identifies and documents constitutional, legislative and institutional developments that are of relevance to indigenous peoples. This is complemented by an audit or review of national development plans and strategies, and also of the ILO Decent Work Country Programmes, in respect of which the study analyses the relevant policy documents, such as five-year development plans and other Decent Work Country Programme documents wherever available. In doing so, in addition to providing an understanding of the policy environment, the study attempts to collate often dispersed and inaccessible policy-related information and legal aspects relevant to indigenous peoples for each country.

In addition, the study extracts relevant information and statistics from government sources, in particular labour force statistics, and from other non-governmental and intergovernmental sources to illustrate the employment situation of indigenous peoples in each country. In particular for countries where disaggregated data on indigenous peoples are limited or unavailable, the study seeks an understanding of the employment situation by looking at the rural economy. While discussing the employment situation of indigenous peoples, the study takes particular care to focus on gender as an important element, and hence, wherever possible, disaggregated information on men and women is presented.

Furthermore, the study also seeks to highlight aspects of child labour among indigenous communities and groups. For this purpose, although the data are often limited,



the study attempts to indicate key details or statistics that bring this issue to the fore. The information provided in this study on the employment situation of indigenous peoples is not intended to be exhaustive, but is rather an attempt to provide glimpses into the situation at the country level that would point the way to more detailed research and discussion.

As a final exercise in highlighting specific concerns regarding indigenous peoples in the world of work, the study outlines challenges at the country level that are of strategic relevance. In doing so, it goes beyond formal employment and emphasizes issues pertinent to the closely connected aspects of land and livelihoods, by exploring both informal and traditional activities. This also incorporates elements relevant to participation and consent, discrimination, the dearth of skills and training, and changing livelihood activities in the context of changing social and economic conditions. Lastly, the study also identifies key knowledge gaps in respect of each country that are of significance in an endeavour to ensure a more thorough consideration of the situation of indigenous peoples in the world of work.

The study covers considerable ground of strategic relevance at the country level but is nevertheless limited by the constraints of a desk review. It hopes, nevertheless, to provide useful information and insights into indigenous peoples in the world of work in Asia to spur further discussion, research and interventions. It builds not only on current work by the ILO on indigenous and tribal peoples but also on that of other organizations that are attempting to enhance knowledge on indigenous peoples' issues with a view to tackling problems associated with poverty, inequality and empowerment.

COUNTRY PROFILES



Australia

I. Overview

The Aboriginal and Torres Strait Islander peoples are the indigenous peoples of Australia. Based on the 2011 census, the population of the country's indigenous peoples was estimated at 669,900, or 3 per cent of its total population. The largest concentrations of indigenous Australians are found in New South Wales (208,500 people) and Queensland (189,900 people), and the highest proportion of their population in any state or territory is in the Northern Territory, where they constitute 30 per cent of the population. In the 2011 census, 90 per cent of the Aboriginal and Torres Strait Islander population identified themselves as of Aboriginal origin, 6 per cent of Torres Strait Islander origin and 4 per cent of both Aboriginal and Torres Strait Islander origin. In addition, the census showed that 34.8 per cent of the country's indigenous population lived in major urban areas; 22 per cent in inner regional Australia; 21.8 per cent in outer regional Australia; 7.7 per cent live in remote Australia; and 13.7 per cent in very remote Australia.¹

The Special Rapporteur on the rights of indigenous peoples² has observed that historical processes of discrimination have resulted in an enduring position of disadvantage for Aboriginal and Torres Strait Islander peoples, compared to non-indigenous peoples. The Government has put in place a number of programmes and policies aimed at benefiting the indigenous peoples of the country. In particular, the "Closing the Gap" campaign, designed to reduce their disadvantages in the social and economic domains, is worthy of mention. It should be noted, however, that the Australian Constitution currently makes no mention of the Aboriginal and Torres Strait Islander peoples.³

A recent official report entitled "Overcoming Indigenous Disadvantage"⁴ has highlighted that, notwithstanding certain improvements in the well-being of indigenous peoples, considerable gaps remain between indigenous and non-indigenous peoples. For instance, the gap in life expectancy narrowed from 11.4 to 10.6 years for males and from 9.6 to 9.5 years for females over the period from 2005 to 2012; the relatively high rates of family and community violence were unchanged between 2002 and 2008; the proportion of adults reporting high and very high levels of psychological distress increased from 27 per cent in 2004–05 to 30 per cent in the years 2011–13; and the adult imprisonment rate increased by 57 per cent between 2000 and 2013.

¹ For more details: "Estimates of Aboriginal and Torres Strait Islander Australians, June 2011." *Australian Bureau of Statistics*, 30 August 2013. <http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/3238.0.55.001Main+Features1June+per+cent202011?OpenDocument#>.

² *Report of the Special Rapporteur on the Rights of Indigenous Peoples, James Anaya. The Situation of Indigenous Peoples in Australia*. Human Rights Council, 1 June 2010.

³ "About Constitutional Recognition." *Australian Human Rights Commission*, <https://www.humanrights.gov.au/publications/about-constitutional-recognition>.

⁴ For more details: *Overcoming Indigenous Disadvantage: Key Indicators 2014*. Steering Committee for the Review of Government Service Provision, Commonwealth of Australia, 2014.

II. Policy environment

In recent years, significantly more attention has been given to the indigenous peoples of Australia at the country's legislative and policymaking levels.

A. Constitutional and legislative provisions

As noted above, the constitution of Australia – the Commonwealth of Australia Constitution Act – does not mention Aboriginal and Torres Strait Islander peoples, nor does it specifically recognize their rights. There are two sections in the constitution that contain discriminatory provisions. Section 25 enables the State to ban people from voting based on race and section 51 (xxvi) gives the parliament the power to pass laws that discriminate against people based on race. In recent times, a former Prime Minister of Australia, Tony Abbot, pledged to keep constitutional recognition of indigenous peoples on the agenda.⁵

There are a range of laws in Australia that apply to or are of specific relevance to Aboriginal and Torres Strait Islander peoples both nationally and at the state or territory levels.⁶ A key piece of legislation, entitled the Commonwealth Racial Discrimination Act, was enacted in 1975 to make discrimination on the basis of race, colour, descent or national or ethnic origin illegal, but this was overridden by the Government in 2007 when introducing the Northern Territory National Emergency Response Act, also referred to as the “Intervention”. Important laws, especially with regard to land, include the 1976 Aboriginal Land Rights Act, which provides for land ownership based on traditional connections in the Northern Territory; the 1993 Native Title Act, which sets out the process for determining native title rights and dealings on native title lands; and the 1998 Native Titles Amendment Act, which places restrictions on native title claims and has been criticized by the Committee on the Elimination of Racial Discrimination.⁷

Some other laws of general relevance include:

- *Aboriginal and Torres Strait Islander Peoples Recognition Act of 2013*:⁸ this act recognizes that Australia was first occupied by Aboriginal and Torres Strait Islander peoples; acknowledges the continuing relationship of Aboriginal and Torres Strait Islander peoples with their traditional lands and waters; and acknowledges and respects the continuing cultures, languages and heritage of Aboriginal and Torres Strait Islander peoples.
- *Stolen Generations of Aboriginal Children Act of 2006 (Tasmania)*:⁹ this act established a \$A 5 million fund to enable the Tasmanian Government to make ex gratia

⁵ Medhora, Shalailah. “Australia Day: Tony Abbott Promises Not to Neglect Indigenous Recognition.” *The Guardian*, January 25, 2015. <http://www.theguardian.com/australia-news/2015/jan/26/tony-abbott-promises-indigenous-recognition-agenda>.

⁶ To access all laws: “ComLaw.” *Australian Government, ComLaw*, <http://www.comlaw.gov.au/>.

⁷ For more details: *Report of the Special Rapporteur on the Rights of Indigenous Peoples, James Anaya. The Situation of Indigenous Peoples in Australia*. Human Rights Council, 1 June 2010.

⁸ For more details: “Aboriginal and Torres Strait Islander Peoples Recognition Act 2013.” *Australian Government, ComLaw*, http://www.comlaw.gov.au/Details/C2015C00140/Html/Text#_Toc416257721.

⁹ For more details: *Report of the Stolen Generations Assessor: Stolen Generations of Aboriginal Children Act 2006*. Department of Premier and Cabinet, Tasmania, February 2008.

payments to members of stolen generations, children who were forcibly removed from their families and communities.

- *Aboriginal and Torres Strait Islander Heritage Protection Act of 1984*.¹⁰ This act is designed to preserve and protect areas and objects of particular significance to Aboriginals in accordance with Aboriginal traditions.

B. Institutional mechanisms

Australia has an elaborate institutional set-up to deal with the issues faced by Aboriginal and Torres Strait Islander peoples. The Federal Government has established the following key bodies to administer indigenous affairs:¹¹

- *Ministerial Task Force on Indigenous Affairs*: this comprises government ministers, who guide the Federal Government's approach to indigenous affairs.
- *Secretaries Group on Indigenous Affairs*: this comprises heads of federal government departments and reports to the Ministerial Task Force.
- *National Indigenous Council*: a government-appointed board of indigenous people, to advise the Government.
- *Office of Indigenous Policy Coordination*: located in the Department of Immigration, Multiculturalism and Indigenous Affairs, this body coordinates Federal Government activity on indigenous affairs.
- *Indigenous coordination centres*: these are 27 regionally based offices which deal with indigenous communities at the local level in coordinating the delivery of government services.

Other portfolio bodies and statutory office-holders specifically concerned with the interests of indigenous peoples include:¹² Aboriginal Hostels Limited; Indigenous Business Australia; Indigenous Land Corporation; Outback Stores Pty Ltd; Torres Strait Regional Authority; Wreck Bay Aboriginal Community Council; Northern Territory Land Councils; Aboriginal Land Commissioner; Executive Director of Township Leasing; and Registrar of Indigenous Corporations.

C. National Integrated Strategy for Closing the Gap in Indigenous Disadvantage¹³

This strategy document notes that, in 2007–08, the Council of Australian Governments agreed to a number of ambitious targets with a view to closing the gap between indigenous and non-indigenous Australians in terms of their relative advantages and disadvantages in the areas of life expectancy, health, education and employment. The document recognizes that, to achieve these outcomes, an unprecedented level of

¹⁰ "Aboriginal and Torres Strait Islander Heritage Protection Act 1984." *Australian Government, ComLaw*, http://www.comlaw.gov.au/Details/C2015C00091/Html/Text#_Toc413418024.

¹¹ For more details: "Questions and Answers about Aboriginal & Torres Strait Islander Peoples." *Australian Human Rights Commission*, <https://www.humanrights.gov.au/publications/questions-and-answers-about-aboriginal-torres-strait-islander-peoples#q6>.

¹² For more details: "Portfolio Bodies and Statutory Office Holders." *Minister for Indigenous Affairs*, <http://minister.indigenous.gov.au/portfolio-bodies-and-statutory-office-holders>.

¹³ *National Integrated Strategy for Closing the Gap in Indigenous Disadvantage*. Council of Australian Governments.

cooperation and coordination is required between the governments at different levels – Commonwealth, State and Territory. In this context, the strategy document emphasizes the importance of the National Indigenous Reform Agreement, agreed upon by the Council of Australian Governments in 2008, which stipulates the objectives, outcomes, outputs, performance measures and benchmarks to which all governments have committed themselves in pursuit of the “Closing the Gap” targets.

The strategy document clarifies that the “Closing the Gap” agenda is national in its scope and is underpinned by an effective engagement with indigenous Australians and close cooperation with the corporate and the not-for-profit sectors. Particular stress is placed on a sustained multi-sectoral effort, in which all parts of the Australian community will be involved in efforts to achieve the “Closing the Gap” targets.

The strategy document affirms that government reforms aimed at “Closing the Gap” in indigenous disadvantage are consistent with a clear policy framework, at the core of which are six targets. These include: first, closing the gap in life expectancy within a generation; second, halving the gap in mortality rates for indigenous children under five within a decade; third, ensuring that all indigenous four-year-olds in remote communities have access to early childhood education within five years; fourth, halving the gap for indigenous students in reading, writing and numeracy within a decade; fifth, halving the gap in the attainment or equivalent rates for indigenous students in year 12 by 2020; and, sixth, halving the gap in employment outcomes between indigenous and non-indigenous Australians within a decade.

The so-called “Building Blocks” approach, which is identified in the Strategy document as of crucial importance, entails improving outcomes for indigenous peoples through multifaceted efforts directed across a series of “building blocks”. These blocks include: early childhood; schooling; health; healthy homes; safe communities; economic participation; and governance and leadership.

The strategy document identifies certain issues as being of particular importance in efforts to achieve the targets. These include: recognizing the importance of culture; engagement and partnership with indigenous Australians; the need for a coordinated and sustained approach; and the appointment of a Coordinator-General who will have the authority to work across agencies. Other areas of focus include: indigenous economic development; data quality improvements; remote service delivery; universal services; food security; welfare reform; strengthening indigenous governance and leadership; community safety; involvement of the corporate, local government and not-for-profit sectors; and further engagement with the broader Australian community.

Emphasis in the strategy document is also placed on accountability and performance reporting as a means of measuring progress towards the targets. In this context, a number of specific indigenous indicators are identified in the National Indigenous Reform Agreement, which will be used to evaluate progress.

The strategy document records significant pledges by the Council of Australian Governments relating to expenditure on initiatives for indigenous peoples, amounting to \$A 4.6 billion across the sectors of early childhood, health, remote housing, economic participation and remote service delivery. The document stresses, however, that beyond increases in expenditure, new ways of working in partnership and doing

business with indigenous peoples will be instrumental in attaining targets and ensuring better outcomes in the realm of health, education and life opportunities.

III. Employment situation

A. Employment and livelihood situation of the indigenous population in general

The Australian Bureau of Statistics provides a detailed description of the gap in labour market outcomes for Aboriginal and Torres Strait Islander peoples.¹⁴ Key points highlighted in this respect include:

- In 2011, Aboriginal and Torres Strait Islander Australians aged between 15 and 64 were less likely to be participating in the labour force than non-indigenous people by a margin of 20.5 percentage points: participation of Aboriginal and Torres Strait Islander Australians measured 55.9 per cent, compared with 76.4 per cent for non-indigenous Australians. In both population groups women were less likely than men to participate in the labour force.
- 2011 figures show that Aboriginal and Torres Strait Islander Australians were more than three times as likely as non-indigenous peoples to be unemployed: only 17.2 per cent of the former group were in the labour force compared with 5.5 per cent of the latter, a gap of 11.7 percentage points. In addition, Aboriginal and Torres Strait Islander men were more likely to be unemployed (18.2 per cent) than Aboriginal and Torres Strait Islander women (16.1 per cent), while the rates for non-indigenous men and women were the same (5.5 per cent for both).

A key report by the Steering Committee for the Review of Government Service Provisions, entitled *Overcoming Indigenous Disadvantage*,¹⁵ reviews a wide range of social and economic indicators relating to the indigenous peoples of Australia. In the context of their employment situation, the report notes that, in 2012–13, almost two thirds of employed Aboriginal and Torres Strait Islander peoples were in full-time employment (65 per cent), an increase from 54.5 per cent in 2002, and less than 5 percentage points lower than the proportion for non-indigenous Australians (69.6 per cent).

Where employment by sector and occupation is concerned, based on 2011 data, 76.8 per cent of employed Aboriginal and Torres Strait Islander Australians aged between 15 and 64 worked in the private sector, while 23.2 per cent worked in the public sector. For non-indigenous Australians, the corresponding figures were 84.3 per cent for the private sector and 15.7 per cent for the public sector. Furthermore, of the employed Aboriginal and Torres Strait Islander peoples whose occupation was known, 6.3 per cent were managers (as against 12.7 per cent for non-indigenous Australians); 13 per cent were professionals (21.5 per cent for non-indigenous Australians); 12.9 per cent were technicians and trade workers (14.3 per cent for non-indigenous Australians); 16.6 per cent were community and personal service workers (9.7 per

¹⁴ For more details: "Australian Social Trends, 2014: Exploring the Gap in Labour Market Outcomes for Aboriginal and Torres Strait Islander Peoples." *Australian Bureau of Statistics*, 27 August 2014. <http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/4102.0main+features72014#PARTICIPATION>.

¹⁵ For more details: *Overcoming Indigenous Disadvantage: Key Indicators 2014*. Steering Committee for the Review of Government Service Provision, Commonwealth of Australia, 2014.

cent for non-indigenous Australians); 13.1 per cent were clerical and administrative workers (14.8 per cent for non-indigenous Australians); 7.5 per cent were sales workers (9.5 per cent for non-indigenous Australians); 9.2 per cent were machine operators and drivers (6.5 per cent for non-indigenous Australians); and 17.5 per cent were labourers (9.2 per cent for non-indigenous Australians).

Disaggregated by gender, based on 2011 data, of the employed Aboriginal and Torres Strait Islander Australians aged between 15–64 whose occupation was known, 6.7 per cent of the males and 5.9 per cent of the females were managers (as against 15.3 per cent and 9.6 per cent for non-indigenous Australians); 9.6 per cent of males and 16.7 per cent of females were professionals (18.5 per cent and 24.9 per cent for non-indigenous Australians); 21.2 per cent of males and 4 per cent of females were technicians and trade workers (23 per cent and 4.6 per cent for non-indigenous Australians); 9.6 per cent of males and 24.2 per cent of females were community and personal service workers (5.6 per cent and 14.3 per cent for non-indigenous Australians); 5.3 per cent of males and 21.5 per cent of females were clerical and administrative workers (6.5 per cent and 24.2 per cent for non-indigenous Australians); 4.1 per cent of males and 11.1 per cent of females were sales workers (6.7 per cent and 12.6 per cent for non-indigenous Australians); 16 per cent of males and 1.8 per cent of females were machine operators and drivers (11 per cent and 1.4 per cent for non-indigenous Australians); and 23.2 per cent of males and 11.4 per cent of females were labourers (11.2 per cent and 7 per cent for non-indigenous Australians).

Figures from the 2012–13 survey disaggregated by industry reveal the following about employed indigenous peoples: 14.4 per cent were in health care and social assistance (6.6 per cent of males and 24.2 per cent of females); 12.9 per cent were in public administration and safety (12.1 per cent of males and 13.8 per cent of females); 8.3 per cent were in administrative and support services and other services (8.8 per cent of males and 7.7 per cent of females); 8.3 per cent were in education and training (4.9 per cent of males and 12.7 per cent of females); 7.2 per cent were in retail trade (5.1 per cent of males and 9.8 per cent of females); 6.4 per cent were in manufacturing (9.6 per cent of males and 2.3 per cent of females); and 31 per cent were in other industries (34.7 per cent of males and 26.3 per cent of females).

Where self-employment and indigenous owned businesses are concerned, based on 2013 figures, 49 of the 95 respondent companies (51.5 per cent) reported that they had knowingly used an indigenous business in their supply chain. The 2011 figures show that 5.9 per cent of indigenous peoples were self-employed (7.6 per cent of males and 4 per cent of females), while 14.5 per cent of non-indigenous peoples were self-employed (18.5 per cent of males and 10 per cent of females).

B. Child labour and indigenous peoples

Information on child labour or child employment in Australia is limited and there is a particular paucity of data relating to Aboriginal and Torres Strait Islander peoples. That said, however, a 2006 report by the Bureau of Statistics on Child Employment¹⁶ records a figure of 175,100 children or 6.6 per cent of all children aged between 5 and 14 who had worked at some time during the 12 months before June 2006. Of these,

¹⁶ *Child Employment*. Australian Bureau of Statistics, June 2006.



54 per cent had worked for an employer, 33 per cent had worked in a family business or farm and 16 per cent had worked for themselves.

Although these figures are not indicative of child labour and are restricted to child employment, disaggregated data on this issue in the context of indigenous peoples can shed further light on the situation of working children in Australia. This is of particular importance as child poverty has been identified as a major concern with 17.7 per cent of all children in Australia living in poverty.¹⁷ Furthermore, with 19.3 per cent Aboriginal and Torres Strait Islander peoples living below the poverty line (as per 2011 data), the relationship between child labour, indigenous peoples and poverty in Australia requires further exploration.

IV. Challenges

With a strong policy focus on indigenous peoples, Australia has made some progress in its “Closing the Gap” campaign; many Aboriginal and Torres Strait Islander Australians remain highly disadvantaged, however, when compared to non-indigenous Australians, with employment-related issues representing a major area of concern.¹⁸

The loss of control over traditional lands and natural resources is a crucial aspect of the discrimination suffered over the years by the indigenous peoples of Australia. They were progressively alienated from their lands largely without compensation, and this in turn had severe repercussions on their traditional livelihoods. A 2014 official report on measures to overcome indigenous disadvantage stresses that land ownership can lead to greater autonomy, economic independence and increased political influence, in addition to delivering such commercial benefits as increased income, employment and profits.¹⁹

At the same time, the Special Rapporteur on the rights of indigenous peoples has observed that the current legal framework has limitations for protecting native title rights of the Aboriginal and Torres Strait Islander peoples, while the mechanism for facilitating indigenous representation in the native title process is under-supported. The Special Rapporteur also notes that secrecy, time constraints and inadequate legal representation on agreements by indigenous representative bodies or land councils with regard to mining and other natural resource exploitation on land subject to native title claims can undermine the rights of indigenous populations. In addition, concern has been raised by the loss of decision-making control over the lands of indigenous peoples, mainly resulting from government regulations promulgated in the context of economic development activities.²⁰ While increasing attention is being given in Australia to access to and control of land and natural resources by indigenous peoples, these issues remain problematic.

¹⁷ For more details: *Poverty in Australia 2014*. Australian Council of Social Service, 2014.

¹⁸ For more details: *Overcoming Indigenous Disadvantage: Key Indicators 2014*. Steering Committee for the Review of Government Service Provision, Commonwealth of Australia, 2014.

¹⁹ *Ibid.*

²⁰ *Report of the Special Rapporteur on the Rights of Indigenous Peoples, James Anaya. The Situation of Indigenous Peoples in Australia*. Human Rights Council, 1 June 2010.

An important target set for the “Closing the Gap” campaign is to halve the gap in employment outcomes between indigenous and non-indigenous Australians within a decade (by 2018). The Prime Minister’s 2015 report²¹ on the issue concedes, however, that no progress has been made towards the target. The proportion of Aboriginal and Torres Strait Islander peoples aged between 15 and 64 who were employed fell from 53.8 per cent in 2008 to 47.5 per cent in 2012–13, while the proportion of non-indigenous Australians who are employed rose from 75 per cent to 75.6 per cent. The report also notes that, between 2008 and 2013, the employment gap between indigenous and non-indigenous working age people grew by 6.9 percentage points. The failure of efforts to close such gaps, in particular in employment, is one of the most important challenges faced in Australia in respect of the welfare of its indigenous peoples.

Where efforts to close the gap in employment are concerned, the Prime Minister’s 2015 report²² stressed the crucial importance of boosting the participation of Aboriginal and Torres Strait Islander peoples in training and education; increasing the number of indigenous professionals and tradespeople who serve as role models; getting more indigenous adults into work backed by good education and vocational training; and investing in local enterprises especially in remote areas. Accordingly, the report stresses that success in tackling skill shortages and credit services will be crucial in resolving the larger problems of employment faced by the indigenous peoples of Australia.

Discrimination posed another challenge with severe implications for the employment and livelihood of the indigenous peoples of Australia. Analysts have estimated that job-seekers with indigenous-sounding names need to submit 35 per cent more applications to get the same call-back rate as applicants with Anglo Saxon names. Furthermore, indigenous employees have significantly lower rates of job-retention than non-indigenous employees. Discrimination by employers and those making employment decisions is another factor contributing to the lower levels of employment of indigenous Australians.²³ In this context, finding an adequate response to the various types of discrimination faced by the indigenous peoples of Australia remains a daunting task.

Studies show that indigenous Australians are less likely to live in major cities and much more likely to live in remote areas than non-indigenous Australians, another factor influencing their employment prospects and livelihoods. Remote areas have far fewer job opportunities, and those jobs which are available are more likely to be filled by non-indigenous employees.²⁴ The issue of providing fair opportunities to indigenous peoples in remote areas is another important hurdle to be surmounted in Australia.

V. Data gaps

Data on the Aboriginal and Torres Strait Islander peoples are meticulously collected and described in a wide range of statistical publications in Australia. The disaggre-

²¹ *Closing the Gap: Prime Minister’s Report 2015*. Australian Government, 2015.

²² *Ibid.*

²³ For more details: Gray, Matthew, Byod Hunter, and Shaun Lohoar. *Closing the Gap: Increasing Indigenous Employment Rates*. Issues paper No. 3. Australian Government, March 2012.

²⁴ For more details: *Economic Benefits of Closing the Gap in Indigenous Employment Outcomes*. Deloitte Access Economics, January 2014.

gated data are extremely useful in illuminating the diverse issues faced by the indigenous peoples of the country and the extent to which policies, programmes and laws are making a positive impact. Data on child labour or child employment among the indigenous peoples are limited, however, and could shed further light on the general employment situation of these peoples. Moreover, an official paper has observed that, while considerable data are available on indigenous peoples in Australia, there is no single data set that meets all the needs of the Government, academics and researchers, indigenous communities, other organizations, and the wider Australian community.²⁵

²⁵ Biddle, Nicholas. *Closing the Gap: Data about and for Aboriginal and Torres Strait Islander Australians*. Issues paper No. 10. Australian Government, July 2014.



Bangladesh

I. Overview

The indigenous peoples of Bangladesh comprise over 54 ethnic communities, although only 27 are recognized as small ethnic groups through the Small Ethnic Groups Cultural Institutes Act of 2010. Based on this identification and the figures in the 2011 census, the total population of indigenous peoples in the country was 1,586,141, representing 1.1 per cent of the total population of the country. Other sources, however, often claim that their population exceeds 3 million. The highest concentration of indigenous peoples is in the Chittagong Hill Tracts, while many communities are also located in other areas that include the north-west (Rajshahi–Dinajpur), central north (Mymensingh–Tangail), north-east (Greater Sylhet), south-west (Patuakhali–Barguna–Barishal) and south-east (Chittagong–Cox’s Bazaar).¹

A report from the International Fund for Agricultural Development² has observed that, while there is no agreement about numbers and names of different indigenous groups, about 11 distinct indigenous peoples are settled in the Chittagong Hill Tracts and those in the plains or regions outside the Chittagong Hill Tracts comprise 21 different groups. Those living in the Chittagong Hill Tracts are generally referred to as “Pahari” (meaning “hill people”) or “Jumma” (based on the shared historical tradition of shifting, or swidden, cultivation known locally as jhum) and those residing in the plains are often called “Adivasi” (literally: “indigenous people”) by Bangla speakers. Some of the groups that live in the plains include the Santal, Garo, Hajong, Koch, Manipuri, Kasi and Rakhain, among others, and some of those living in the Chittagong Hill Tracts include the Chakma, Marma, Tripura, Tanchangya, Mro and Lushai, among others.³

In 1972, soon after independence from Pakistan, Bangladesh ratified the ILO Indigenous and Tribal Populations Convention, 1957 (No. 107). Legislation concerning indigenous peoples uses several terms. The Small Ethnic Groups Cultural Institutes Act of 2010 uses the term “Khudro Nrigoshtthi” (small ethnic groups), while a 2011 amendment to the Constitution uses the terms “tribes”, “minor races” and “ethnic sects and communities”.⁴ It should be noted that, after this amendment, the term “Adivasi” has been replaced with “Khudro Nritattik Jonogoshti” (ethnic minorities) or “Upajati” (tribes) in all governmental documents.⁵

¹ For more details: *Human Rights Report 2012 on Indigenous Peoples in Bangladesh*. Kapaeeng Foundation, 10 January 2013.

² For more details: Roy, Raja Devasish. *Country Technical Note on Indigenous Peoples’ Issues: People’s Republic of Bangladesh*. IFAD, November 2012.

³ Hossain, Dewan Mahboob. “Socio-Economic Situation of the Indigenous People in the Chittagong Hill Tracts (CHT) of Bangladesh.” *Middle East Journal of Business* 8, No. 2 (April 2013).

⁴ *The Indigenous World*. Copenhagen: IWGIA, 2014.

⁵ For more details: “Chittagong Hill Tracts: The term ‘Adivasi’ removed from all governmental documents.” *Unrepresented Nations and Peoples Organization*, 22 August 2011. <http://unpo.org/article/13066>.

The armed conflict in the Chittagong Hill Tracts, which began in 1976, ended with a peace accord in 1997 recognizing the Chittagong Hill Tracts as a tribal inhabited region.⁶ A social and economic baseline survey of the Chittagong Hill Tracts has stressed, however, that the region remains one of the most disadvantaged and vulnerable areas of the country in terms of almost all major development indicators, with the percentages of absolute poor and hard-core poor among indigenous peoples as high as 65 and 44 per cent respectively.⁷ With regard to the plains, it has been noted that 60 per cent of plainland Adivasis are absolute poor, versus 39.5 per cent people in rural Bangladesh, and 24.6 per cent are hard-core poor, which is 7 percentage points higher than the hard-core poverty in rural Bangladesh.⁸

II. Policy environment

There is some focus on the indigenous peoples within the legal and policy frameworks of the country. The Chittagong Hill Tracts, in particular, enjoy numerous special provisions within the legal framework.

A. Constitutional and legislative provisions

The Constitution of Bangladesh does not use the term “indigenous peoples” but instead identifies “tribes, minor races, ethnic sects and communities” in Article 23A, and obliges the State to protect and develop their unique local culture and traditions. In Article 6.2 on citizenship, however, the Constitution identifies all the people of Bangladesh as “Bangalees”. Nevertheless, the Constitution also identifies particularly disadvantaged sections of the population – those referred to as “backward sections” – for special provisions that include protection from all forms of exploitation (Article 14); outlawing of discrimination on grounds of religion, race, caste, sex or place of birth (Article 28); and equality of opportunity in public employment, while enabling the State to make special provisions to ensure adequate representation of these sections of the population (Article 29).⁹

An Indigenous Peoples’ Rights Bill was drawn up by the parliamentary caucus on indigenous affairs, with the aim of ensuring the recognition of indigenous peoples as indigenous peoples (“Adivasi”) and protecting their rights. The Bill has not yet, however, been taken up by the Parliament for consideration.¹⁰ Nevertheless, the Small Ethnic Groups Cultural Institutes Act of 2010 recognizes 27 ethnic groups (although the parliamentary caucus on indigenous affairs had come up with a figure of 75 ethnic groups¹¹), besides establishing cultural institutions.

⁶ *The Indigenous World*. Copenhagen: IWGIA, 2014.

⁷ For more details: Barkat, Abul, Sadeka Halim, Avijit Poddar, Md Badiuzzaman, Asmar Osman, Md. Shahnewaz Khan, Matiur Rahman, et al. *Socio-Economic Baseline Survey of Chittagong Hill Tracts*. Human Development Research Centre, 8 April 2009.

⁸ Barkat, Abul, Mozammel Hoque, Sadeka Halim, and Asmar Osman. *Study on The Land Dispossession and Alienation of Adivashis in the Plain Districts of Bangladesh*. Human Development Research Centre, 15 July 2008.

⁹ For more details: *Bangladesh’s Constitution of 1972, Reinstated in 1986, with Amendments through 2014*. constituteproject.org.

¹⁰ *The Indigenous World*. Copenhagen: IWGIA, 2014.

¹¹ For more details: Sathi, Muktasree Chakama. “Over 40 Ethnic Groups Not Individually Recognised for Census.” AIPP, 28 February 2011. <http://www.aippnet.org/index.php/daily-sharing/400-over-40-ethnic-groups-not-individually-recognised-for-census>.

A number of laws relevant to the indigenous peoples geographically define their scope of application, in other words they are applicable to the plains or the Chittagong Hill Tracts. In the case of the plains, one of the most important laws is the East Bengal State Acquisition and Tenancy Act, 1950 (Act XXVIII of 1950), which restricts the transfer of land of “aboriginal castes and tribes” to non-aboriginals. Other laws that have implications for indigenous peoples in the plains include the Drugs and Alcoholic Substances Control Act, 1990 (Act XX of 1990); the Vested and Non-resident Property (Administration) Act, 1974 (Act XLVI of 1974); the Forest Act of 1927 (Act XVI of 1927); and the Social Forestry Rules of 2004.¹²

With regard to the Chittagong Hill Tracts, five major acts address crucial aspects of indigenous peoples’ rights:

- *Chittagong Hill Tracts Regulation, 1990*, which provides a unique administrative, legal and judicial system;
- *Chittagong Hill Tracts Development Board Ordinance, 1976 (Ordinance XX of 1976)*, which provides for a statutory development authority with local and indigenous participation;
- *Hill Districts Council Acts of 1989 (Acts XIX, XX and XXI of 1989)*, which confer partial autonomy regarding administrative, land and development functions on indigenous majority district level councils headed by indigenous chairs;
- *Chittagong Hill Tracts Regional Council Act, 1998 (Act XII of 1998)*, which provides for a regional council with a two-thirds indigenous majority and indigenous chairperson;
- *Chittagong Hill Tracts Land Disputes Resolution Commission Act, 2001 (Act XX of 2001)*, which establishes a body with the authority of a civil court, including indigenous leaders, to resolve land-related disputes.¹³

Another important law in the context of the indigenous peoples in Bangladesh came into force in 2011 and is called the Vested Property (Return) Act, 2011. This Act enables the return of land and property seized from both the Hindu minority and indigenous peoples over the last four decades.¹⁴

B. Institutional mechanisms

With regard to the indigenous peoples of the plains, there is no dedicated institutional set-up within the Government that focuses on their needs. The Prime Minister’s Office, however, has a project entitled “Development Assistance for Special Areas (except CHT)” that promotes development and provides special services to small ethnic groups living in the plains.¹⁵

¹² For more details: Roy, Raja Devasish. *The ILO Convention on Indigenous and Tribal Populations, 1957 (No. 107) and the Laws of Bangladesh: A Comparative Review*. ILO, 2009.

¹³ For more details: Roy, Raja Devasish. *Country Technical Note on Indigenous Peoples’ Issues: People’s Republic of Bangladesh*. IFAD, November 2012.

¹⁴ For more details: *Human Rights Report 2012 on Indigenous Peoples in Bangladesh*. Kapaeeng Foundation, 10 January 2013.

¹⁵ For more details: “Development Assistance for Special Area (except CHT).” *The Prime Minister’s Office, Government of the People’s Republic of Bangladesh*, <http://www.pmo.gov.bd/site/page/0c0d429d-1c42-4a82-905b-aaccf429d192>.

In the context of the Chittagong Hill Tracts, the Ministry of Chittagong Hill Tracts Affairs¹⁶ is the leading institutional body that covers numerous functions, including development, administration, monitoring and advisory among others, with a focus on both tribal and non-tribal populations of the region. It has six affiliated institutions:

- Chittagong Hill Tracts Regional Council
- Chittagong Hill Tracts Development Board
- Refugee Rehabilitation Task Force
- Rangamati Hill Tracts District Council
- Bandarban Hill Tracts District Council
- Khagrachhari Hill Tracts District Council

There are several tribal cultural institutes that aim to promote and preserve traditional tribal culture. These institutes are responsible for carrying out research about tribal people, their ways of life and their customs and practices. They also organize tribal language courses for officers and staff of the Government, besides organizing seminars, festivals and cultural exchange programmes.¹⁷

C. National plan: Sixth Five Year Plan (2011–15): Accelerating Growth and Reducing Poverty

1. Part One: Strategic directions and policy frameworks¹⁸

The plan, at the very outset, recognizes that Bangladesh remains a low income country characterized by substantial poverty, inequality and privation. It notes that a significant proportion of the estimated 47 million people living below the poverty line reside in households which are female-headed, located in remote areas, and consisting of socially excluded and other vulnerable people. In this context, the plan's fundamental goal is to accelerate growth and reduce poverty. Its major guiding principle is to ensure a balance between providing incentives for the growth of the private sector on the one hand, and, on the other, instituting regulatory policies and public spending in core areas for safeguarding public interests.

The plan specifically notes that, even taking into account higher growth, better jobs and better access to essential services, a part of the underprivileged population, including people from ethnic groups, are likely to be left out. The plan thus aims to strengthen social protection programmes and review existing programmes with a view to the more effective targeting of underprivileged groups, including the tribal population. It emphasizes that, in addition to focusing on poverty, social protection programmes are aimed at addressing the special needs of the socially excluded population in tribal areas, among other groupings.

¹⁶ For more details: "Background." *The Prime Minister's Office, Government of the People's Republic of Bangladesh*, <http://www.mochta.gov.bd/site/page/e26cc3a5-8f9e-427a-9cbd-9e614de0c052>.

¹⁷ For more details: "Khudra Nrigostir Cultural Institute." *Rangamati Hill District Council*, <http://www.rhdcbd.org/td.php?id=13>.

¹⁸ *Sixth Five Year Plan (FY2011-FY2015), Accelerating Growth and Reducing Poverty, Part - 1, Strategic Directions and Policy Framework*. General Economics Division, Planning Commission, Ministry of Planning, Government of the People's Republic of Bangladesh.

With regard to land issues, the plan acknowledges that the ethnic people of the Chittagong Hill Tracts and other areas are losing their common property rights. In this context, the plan stresses that the customary common property rights of the ethnic people will be protected, and laws and policies will be framed for the proper management of land in the Chittagong Hill Tracts.

Regarding education and training, the plan observes that major challenges persist in the context of educational attainment among children living in remote locations and ethnic minorities, among other groups. To address this, the plan outlines numerous overarching strategies to increase the rate of children going to school. It also categorically identifies the collection of disaggregated data on, for example, the participation of girls from ethnic minority groups, with a view to locating pockets of disparity and adjusting policies and strategies accordingly.

In the context of improving economic, political and social inclusion, and the empowerment of women, the plan has a dedicated policy for addressing the issues faced by ethnic women. It is noted that special programmes for ethnic women, including the poor, destitute and elderly, will be undertaken to address their needs, along with productivity and diversification activities to enhance their capacities.

The plan pays considerable attention to the category of ethnic communities. It acknowledges that Bangladesh has around 45 different small ethnic communities comprising 2 million people, with some of the hard-core poor of the country being among them. The plan establishes a vision for ethnic people, which entails upholding their social, political and economic rights; ensuring security and fundamental rights; preserving their social and cultural identity; guaranteeing access to education, health care, food and nutrition, and employment; and protecting rights to land and other resources. With a specific focus on the Chittagong Hill Tracts, the plan notes that the crucial provisions of the 1997 peace accord have been mostly implemented and those still to be implemented would be considered by the Government for action. It stresses in particular that the Land Commission will be reconstituted and the land survey carried out.

Specific areas of future action in the context of ethnic communities are identified in the plan. These include:

- *United Nations Declaration*: implementing the United Nations Declaration on the Rights of Indigenous Peoples and ratifying the ILO Indigenous and Tribal Peoples Convention, No. 169 (No. 169) would be considered.
- *Rights on land*: an appropriate land policy will be formulated to resolve land disputes, a secure land tenure system will be introduced in the Chittagong Hill Tracts and representatives from ethnic communities will be included in the undertaking of development projects.
- *Empowering ethnic communities*: the participation of local governments will be incorporated in the management of natural resources and the traditional knowledge of ethnic communities will be recognized. There will also be community involvement in the adoption of technologies, without prejudice to traditional food systems.
- *Human development programmes*: existing human development programmes will address specific needs; monitoring and supervision will be strengthened so that education, health, maternal and child welfare services, nutrition and housing facilities reach ethnic communities.

- *Language and access to education:* to safeguard the languages of ethnic peoples, a national language policy will be formulated, and an action plan implemented to mainstream education of their children.
- *Electrification and telecommunications:* the national power grid and distribution system will be expanded to supply electricity in the hill districts of Upazilas, and the feasibility of raising the generation capacity of Kaptai Hydroelectric Power Station, together with setting up a grid substation in the hill districts, will be considered.
- *Preferential access to social protection programmes:* social protection assistance will be provided in hill districts to strengthen capacities to cope with a sudden decrease of income because of damage to *jhum* crops caused by floods and droughts.
- *Rural development and non-farm economic activities:* income-generation activities through small and cottage industries, trading, and poultry and livestock rearing will be expanded in the hill districts, and incomes will be enhanced through social forestry in hilly areas and the cultivation of fruits and medicinal plants. Support will also be provided to the “one district one product” initiative, under which textiles have been designated for Rangamati, pineapples for Khagrachri and rubber for Bandarban.
- *Expansion of microcredit:* microcredit activities and vocational training for the poor will be expanded, and the development of rural roads, hats and bazaars will continue. Action will also be taken to reduce barriers to enable easy access of agricultural and local products to national and international markets.
- *Development of tourism:* private investment will be encouraged, to develop sustainable tourist facilities in Rangamati, Bandarban, Cox’s Bazaar, Sylhet and Kuakata.

2. Part Two: Sectoral strategies, programmes and policies¹⁹

The “Areas for Future Action”, identified as general priorities in the first part of the plan, are reiterated almost verbatim in the second part, with application to ethnic communities.

In addition to reasserting the aspects noted in the first part, the plan adds other objectives that are likely to be achieved in education. In this context, it affirms in particular that, at the primary level, ethnic minority populations will be given the opportunity to study in their mother tongue and ethnic minority teachers will be given priority in areas with concentrations of ethnic minorities.

With regard to health sector strategies and policies, hard-to-reach populations and the disadvantaged are given particular attention. The plan notes that there are an estimated 2.5 million people in Bangladesh who are members of ethnic minority populations, with 42 per cent of them living in three districts of the Chittagong Hill Tracts and the rest scattered in northern hilly regions and coastal districts. It is stressed that these communities are poorly served by health facilities; their remoteness makes it difficult to attract health workers, and their specific needs in their cultural settings require special measures and adjustments to delivery mechanisms. For this, the plan identifies

¹⁹ *Sixth Five Year Plan (FY2011-FY2015), Accelerating Growth and Reducing Poverty, Part 2, Sectoral Strategies, Programmes and Policies.* General Economics Division, Planning Commission, Ministry of Planning, Government of the People’s Republic of Bangladesh.

the need to strengthen collaboration with the Ministry of Chittagong Hill Tracts Affairs and the Chittagong Hill Tracts Board, in partnership with non-governmental organizations, to increase support for the health sector.

As an environmental management objective, the plan specifies as one of its goals the active participation of the poor, in particular women, and ethnic communities in environment management activities at all levels.

Under the heading “Culture”, the plan highlights that there are seven tribal cultural centres, which are also playing a vital role in promoting tribal cultural activities. One of the goals of the plan for promoting the cultural sector involves creating opportunities to improve knowledge of the Bangla language and also the languages of the tribal communities. An associated objective identified in the plan is the need to preserve and promote the arts and culture of tribal areas within the framework of national unity by means of a variety of programmes.

D. ILO Decent Work Country Programme (2012–15)²⁰

Outcome 6 of the ILO Decent Work Country Programme for the period 2012–15 for Bangladesh specifically focuses on strengthening indigenous and tribal peoples’ rights and access to services. The programme notes that, based on the principles of ILO Convention Nos. 107, 169 and 111, the ILO promotes the rights of indigenous and tribal peoples in Bangladesh through its project, “Building Capacities on Indigenous and Tribal Peoples’ Issues in Bangladesh: Rights and Good Practices”. The project works in close cooperation with the Ministry of Chittagong Hill Tracts Affairs, which takes a lead in coordinating and mobilizing the relevant ministries and authorities to engage constructively with aspects of indigenous rights discourse, through training, awareness raising and dialogue.

III. Employment situation

A. Employment and livelihoods among the indigenous population in general

Owing to the absence of disaggregated data and lack of recognition, the 2010 government labour force survey²¹ sheds no light on the employment situation of the indigenous peoples of the country. Two studies detailed below provide some glimpses, however, into the employment situation while specifically focusing on indigenous peoples in the plains and the Chittagong Hill Tracts.

A study²² on the plain-land Adivasis prepared by the Human Development Research Centre noted the following with regard to their employment situation:

- More than 30 per cent of the plains Adivasis reported agriculture related activities (farming and farm labour) as their primary occupation.

²⁰ *Bangladesh: Decent Work Country Programme 2012–2015*. ILO, November 2012.

²¹ *Report on Labour Force Survey 2010*. Bangladesh Bureau of Statistics, Statistics Division, Ministry of Planning, August 2011.

²² Barkat, Abul, Mozammel Hoque, Sadeka Halim, and Asmar Osman. *Study on The Land Dispossession and Alienation of Adivashis in the Plain Districts of Bangladesh*. Human Development Research Centre, 15 July 2008.

- Around half of the household income of the plains Adivasis came from agriculture-related activities, followed by livestock.
- Only a negligible portion of the income of the plains Adivasis came from salaried jobs or businesses.
- Both males and females work as daily wage labourers, and, reportedly, there is discrimination against them compared to the Bengali workers in Adivasi localities. In addition, there is a huge difference in the daily wages of male and female wage labourers, with females earning much less than males.

A socioeconomic baseline survey of the Chittagong Hill Tracts,²³ also carried out by the Human Development Research Centre, notes the following relating to the employment situation of indigenous peoples in the area:

- 1.3 per cent of the total population were unemployed, with 1.4 per cent of indigenous peoples and 1.2 per cent of Bengalis reporting as being unemployed.
- With regard to the nature of employment in the rural Chittagong Hill Tracts, 10.7 per cent of indigenous peoples and 19.9 per cent of Bengalis were employed by others; 63.9 per cent of indigenous peoples and 67.5 per cent of Bengalis were self-employed; and 25.4 per cent of indigenous peoples and 12.6 per cent of Bengalis were doing both types of jobs.
- Figures on income-earning status in the rural Chittagong Hill Tracts show that, among indigenous income earners, 53 per cent were male and 47 per cent female, while among Bengali income earners, 70 per cent were male and 30 per cent were female.

Figures also reveal the following distribution of activities:

Activity		Percentage (%) reported by population type in CHT		
		Total population	Indigenous peoples	Bengalis
Agriculture (either in the form of plough or <i>jhum</i> (swidden) cultivation)	Primary occupation	18	27	7
	Secondary occupation	12	16.4	7.1
Agricultural labour	Primary occupation	3	2.6	3.6
	Secondary occupation	4.1	5.4	2.6
Non-agricultural labour	Primary occupation	6.1	4.3	8.2
	Secondary occupation	6	7.1	4.6

²³ For more details: Barkat, Abul, Sadeka Halim, Avijit Poddar, Md Badiuzzaman, Asmar Osman, Md. Shahnewaz Khan, Matiur Rahman, et al. *Socio-Economic Baseline Survey of Chittagong Hill Tracts*. Human Development Research Centre, 8 April 2009.

Activity		Percentage (%) reported by population type in CHT		
		Total population	Indigenous peoples	Bengalis
Salaried jobs	Primary occupation	3.5	2.4	4.7
	Secondary occupation	0.4	0.3	0.5
Business	Primary occupation	2.8	1.4	4.5
	Secondary occupation	1.6	1.7	1.6

With specific regard to jobs within the public sector, the Bangladesh Government has since 1985 been maintaining a 5 per cent quota in government jobs for indigenous candidates, along with admission quotas in educational institutions for indigenous students. It has been noted, however, that the quota for tribal candidates is not entirely clear. In accordance with the available data on recruitment of professional staff to various branches of the Bangladeshi civil service, only some 1–2 per cent of tribal quotas have actually been met and the remaining vacancies in the civil service have been filled instead by non-tribal candidates.²⁴

B. Child labour and indigenous peoples

A multiple indicator cluster survey²⁵ from 2006 has observed that one in every eight children in Bangladesh is engaged in child labour. Nationally, the prevalence of child labour was measured at 12.8 per cent, with the highest rates found in slum and tribal areas, at 19.1 per cent and 17.6 per cent respectively. In this context, a report entitled “Understanding children’s work in Bangladesh”²⁶ has specifically noted that indigenous communities, traditional communities and marginalized geographical communities benefit less from government interventions, and the issue of expanding social protection coverage is of particular significance.

IV. Challenges

Focus on indigenous peoples’ issues has strengthened considerably in Bangladesh over the past few years. They remain, however, in a position of severe vulnerability with

²⁴ For more details: Kapaeeng Foundation. “Bangladesh Gov Recruits Only around 1% against 5% Quota in Government Jobs for Indigenous Peoples.” *CHT News Update*, 25 December 2011. <http://chtnewsupdate.blogspot.ch/2011/12/bangladesh-gov-recruits-only-around-1.html>.

²⁵ *Multiple Indicator Cluster Survey 2006, Vol 1: Technical Report*. Bangladesh Bureau of Statistics, Statistics Division, Ministry of Planning and UNICEF, October 2007.

²⁶ *Understanding Children’s Work in Bangladesh*. Country report. Understanding Children’s Work Programme, July 2011.

land dispossession, poor access to services and discrimination being some of the key problems affecting them.²⁷

Land alienation or dispossession has strong implications on the livelihoods of the indigenous peoples of Bangladesh who are predominantly engaged in agriculture. Often, land is taken away without the consent of the people who do not possess proper documentation. Land alienation has occurred in connection with developmental and environmental projects such as hydropower generation, forest reserves and the creation of military bases.²⁸ It has further been noted that land grabbing has sometimes occurred through discriminatory use of existing laws, and many instances of land grabbing have been accompanied by false law-cases against the dispossessed or by providing nominal compensation.²⁹ In addition, the lack of access to land and land insecurity, especially in the Chittagong Hill Tracts, is leading to reduced opportunities among indigenous women to harvest traditional crops and medicinal plants. Many indigenous women are also changing their occupations and working as day labourers in agricultural farms where wage discrimination is common.³⁰ The furthering of livelihood problems because of loss of land is an issue yet to be adequately addressed in Bangladesh.

Another issue closely related to land and livelihoods is the increasing pressure on land and natural resources, particularly in the Chittagong Hill Tracts, owing to increasing in-migration. It has been stressed that Bengali in-migration continues in the region with the state's overt or covert support.³¹ In addition, it has been reported that hundreds of acres of land belonging to indigenous peoples are being occupied by Bengali settlers and businesses coming from outside.³² An analysis in the social and economic baseline survey of Chittagong Hill Tracts has revealed that about 11 per cent of all rural households in the area have been dispossessed as the Bengalis, mostly settlers operating in connivance with the administration, engulfed their lands.³³

The loss of lands in both the Chittagong Hill Tracts and the plains has severe consequences for the livelihoods pursued by the indigenous peoples of Bangladesh. In this context, issues of implementation and institutional provisions are particularly important as, without these, indigenous lands are less protected. It has thus been stressed, with regard to land alienation, that the setting up of a land commission for the plains, and the implementation of the relevant laws and the Chittagong Hill Tracts Accord are crucial.³⁴ The non-settlement of disputes over lands and traditional rights over forest areas has made it possible for the process of forcible seizing of land to continue.

²⁷ See, e.g., Hossain, Dewan Mahboob. "Socio-Economic Situation of the Indigenous People in the Chittagong Hill Tracts (CHT) of Bangladesh." *Middle East Journal of Business* 8, No. 2 (April 2013).

²⁸ *Ibid.*

²⁹ Roy, Raja Devasish. *Country Technical Note on Indigenous Peoples' Issues: People's Republic of Bangladesh*. IFAD, November 2012.

³⁰ *A Submission on Jumma Indigenous Rural Women in CHT, Bangladesh, Regarding General Discussion on Rural Women, under Article 14 of CEDAW, to the UN Committee on the Elimination of Discrimination Against Women*. International Council for the Indigenous Peoples of CHT, 31 October 2013.

³¹ *Ibid.*

³² *Human Rights Report 2012 on Indigenous Peoples in Bangladesh*. Kapaeeng Foundation, 10 January 2013.

³³ Barkat, Abul, Sadeka Halim, Avijit Poddar, Md Badiuzzaman, Asmar Osman, Md. Shahnewaz Khan, Matiur Rahman, et al. *Socio-Economic Baseline Survey of Chittagong Hill Tracts*. Human Development Research Centre, 8 April 2009.

³⁴ *Human Rights Report 2012 on Indigenous Peoples in Bangladesh*. Kapaeeng Foundation, January 10, 2013.

Another key issue that has implications for the livelihoods and employment of the indigenous peoples of Bangladesh is access to social safety nets. An Extreme Poverty Research Group study³⁵ has noted three key problems leading to exclusion: first, exclusion from information on social safety nets; second, indigenous peoples not being considered politically important; and, third, a cultural labelling of indigenous peoples as “undeserving poor”. Addressing these aspects for the greater inclusion of indigenous peoples in social safety nets is an important challenge in the context of Bangladesh.

The joint Bangladesh Government and United Nations Development Programme project on the promotion of development and confidence-building in the Chittagong Hill Tracts had identified sector-wide activities for generating employment and enhancing markets, together with private sector investment, in particular in the areas of tourism, horticulture and agro-based industries as instrumental for development in the region.³⁶ The growth of such non-farm activities that require the development of skills and entrepreneurship together with greater access to credit and markets remain crucial for addressing the livelihood challenges facing the indigenous peoples of Bangladesh.

V. Data gaps

Information on the social and economic situation of the indigenous peoples of Bangladesh is essentially present in studies other than those dealing with the mainstream statistical details of the country. Disaggregated data on the numerous indigenous groups are limited in scope in the census. This is because only 27 of over 54 ethnic communities are recognized as “small ethnic groups”. Disaggregated data are also absent from the Government’s report on the labour force survey. A detailed understating of their employment situation is hence difficult to achieve. The lack of disaggregated data impose severe limitations on efforts to assess existing laws and policies, or to design new ones that adequately address the needs of the indigenous peoples of the country.

³⁵ Hossain, Zakir. *Extreme Poor Adivasis and the Problem of Accessing Social Safety Nets*. Working Paper Number 4. Extreme Poverty Research Group (EPRG), October 2011.

³⁶ For more details: Barkat, Abul, Sadeka Halim, Avijit Poddar, Md Badiuzzaman, Asmar Osman, Md. Shahnewaz Khan, Matiur Rahman, et al. *Socio-Economic Baseline Survey of Chittagong Hill Tracts*. Human Development Research Centre, 8 April 2009.



Cambodia

I. Overview

Cambodia is sometimes considered to be one of the region's most ethnically homogeneous countries,¹ although it is in fact a multi-ethnic society that is majority Khmer but also includes people of Vietnamese, Cham and Chinese origin, and also indigenous peoples.² Rather than using the term “indigenous peoples” reference is often made in Cambodia to “ethnic minorities” or “indigenous ethnic minorities”,³ and sometimes also to “hill tribes”, “highlanders”, “highland people” or “Khmer Leu”.⁴

Of the total population of 13.5 million, as per 2008 population census figures, 1.34 per cent or about 179,000 people, reported having an indigenous language as a mother tongue.⁵ This figure is expected to be greater in reality as many indigenous people are not comfortable calling themselves indigenous, or are no longer able to speak their people's language. A 2006 study of the indigenous population by the Ministry of Rural Development, the National Statistics Institute and the Commune Database found that there are indigenous groups living in ten provinces of Cambodia: (1) Mondulakiri – Bunong, Kreung, Jarai, Kaol, Steang, Thmoon, Kuoy, Tumpuon; (2) Ratanakiri – Bunong, Kreung, Jarai, Tumuon, Brao, Kavet, Kachak, Lun, Radaer; (3) Kratie – Bunong, Kraol, Steang, Thmoon, Kuoy, Mil, Khnong; (4) Stung Treng – Bunong, Kreung, Jarai, Kuoy, Tumpuon; (5) Preah Vihear – Kuoy; (6) Kampong Thom – Kuoy; (7) Koh Kong – Por; (8) Pursat – Por; (9) Kampong Speu – Suoy; and (10) Sihanoukville – Saoch. Other sources report, however, that they are located in five more provinces, namely Battambang, Banteay Meanchey, Oddar Meanchey, Kampong Cham and Siem Reap.

The Government's National Policy on the Development of Indigenous Peoples of 2009 identified 24 different indigenous groups. Two thirds of the indigenous population in Cambodia is found in the north-eastern provinces of Mondulakiri and Ratanakiri.⁶ In these two provinces, the “ethnic minority” in fact constitutes the majority of the population.⁷ With little data available that is specifically on the indigenous peoples in Cambodia, it is difficult to gain a clear idea of the poverty levels within this population. A World Bank report notes, however, that poverty remains the highest in rural areas and

¹ Palmieri, Sonia. *The Hidden Minorities: Representing Ethnic Minorities and Indigenous Peoples in Cambodia*. Inter-Parliamentary Union and UNDP, 2010.

² Phath, Moul, and Seng Sovathana. *Country Technical Note on Indigenous Peoples' Issues: Kingdom of Cambodia*. IFAD, November 2012.

³ *The Indigenous World*. Copenhagen: IWGIA, 2014.

⁴ *Indigenous Peoples/Ethnic Minorities and Poverty Reduction Cambodia*. Asian Development Bank, 2002.

⁵ This paragraph is based on: *Ibid*.

⁶ *Final Assessment and Report on 2012 Commune Council Elections*. The Committee for Free and Fair Elections in Cambodia, 2012.

⁷ *Indigenous Peoples/Ethnic Minorities and Poverty Reduction Cambodia*. Asian Development Bank, 2002.

that households headed by an individual of non-Khmer origin have a higher probability of being poor.⁸

II. Environment policy

There has been limited focus on indigenous peoples within the legal and policy frameworks of Cambodia. There have, however, been some important initiatives in recent years that aim to address the concerns of this section of the population.

A. Constitutional and legislative provisions

The Cambodian Constitution of 1993 does not include any specific provisions regarding indigenous peoples. Nevertheless, Article 31 commits the country to respect internationally accepted human rights standards, stating that the Kingdom of Cambodia shall recognize and respect human rights as defined in the United Nations Charter, the Universal Declaration of Human Rights and all treaties and conventions concerning human rights, women's rights and children's rights.⁹

The status of ethnic minorities was largely unresolved during the drafting of the Constitution. The definition of "Khmer citizens" was discussed in the National Assembly in a debate on the Constitution, in which it was agreed that the term would include some ethnic minorities like the hill-tribe people and the Cham, or Islamic Khmer. The Cambodian Constitution is thus of particular significance, where it states that Khmer citizens shall be equal before the law and shall enjoy the same rights, freedom and duties, regardless of their race, colour, sex, language, beliefs, religions, political tendencies, birth origin, social status, resources and any other consideration.¹⁰

With regard to legislation, there are some laws that have moved in the direction of securing certain rights for the indigenous peoples of the country. These include:

- *Land Law, 2001*: this law is of particular significance to indigenous peoples in Cambodia as it forms the legal basis for the recognition by the State of collective land rights of indigenous communities. According to the 2002 interim strategy for a land policy framework, this law enshrines the government policy that indigenous communities shall be granted collective ownership rights to their land. The law also recognizes the practice of shifting cultivation as part of a traditional land management system.
- *Forestry Law, 2002*: this law contains provisions for recognizing and guaranteeing community forestry. Furthermore, provisions within the 2001 Land Law include certain forest areas in the collective immovable property of indigenous communities, thereby granting particular rights to such communities in certain areas.
- *Protected Area Law, 2008*: this law defines the framework of management, conservation and development of protected areas to ensure the conservation of biodiversity

⁸ *Where Have All The Poor Gone? Cambodia Poverty Assessment 2013*. A World Bank Country Study. The World Bank, April 2014.

⁹ Phath, Moul, and Seng Sovathana. *Country Technical Note on Indigenous Peoples' Issues: Kingdom of Cambodia*. IFAD, November 2012.

¹⁰ *Indigenous Peoples/Ethnic Minorities and Poverty Reduction Cambodia*. Asian Development Bank, 2002.

and the sustainable use of natural resources. It specifically notes that the management of protected areas must guarantee the rights of indigenous ethnic minorities to take part in decision-making on the sustainable management and conservation of biodiversity. It grants access to the traditional uses of natural resources and customary practices only within the so-called “sustainable use zone” and “conservation zone” that are determined by the Ministry of Environment.

- *Law on the Common Statute of Civil Servants, 1994*: in the context of the recruitment of civil servants, there is a provision in this law which states that candidates belonging to ethnic minorities, those coming from remote regions, and also women may benefit from certain advantages or prioritized measures of recruitment.

In addition to the above legislation, there are numerous sub-decrees in Cambodia that are relevant to the development of indigenous peoples.¹¹ These include:

- Sub-decree on Community Forestry, 2003
- Sub-decree on the Procedure, Establishment, Classification and Registration of Permanent Forest Estate, 2005
- Sub-decree on State Land Management, 2005
- Sub-decree on the Procedure of Commune Land Use Planning Process, 2009
- Sub-decree for Indigenous Peoples’ Registration of Collective Land Rights, 2009

B. Institutional mechanisms

In 1994, an Inter-Ministerial Committee for Highland Peoples’ Development was formed for the effective coordination of development activities related to highland peoples.¹² The Inter-Ministerial Committee was later discontinued and the Ministry of Rural Development has been assigned full responsibility in this domain.¹³ The Council of Ministers, in 1999, established the Department for Ethnic Minority Development¹⁴ within the Ministry of Rural Development. In accordance with Sub-decree 51 of 21 June 2001, the Department is mandated to deal with matters concerning all indigenous peoples in Cambodia. Its roles and responsibilities include:

- preparing short, medium and long-term development plans for indigenous communities;
- studying and researching indigenous peoples living in the highland areas;
- identifying their traditions, cultures, and customs;
- preparing and implementing projects and programmes for the development of indigenous peoples in the highland area;

¹¹ For more details: Phath, Moul, and Seng Sovathana. *Country Technical Note on Indigenous Peoples’ Issues: Kingdom of Cambodia*. IFAD, November 2012.

¹² For more details: Narong, Seng, and Moul Phat. *Inter-Ministerial Committee for Ethnic Minorities Development: The Three Training Workshops on Highland Development Management in Cambodia*. ILO, 2000.

¹³ Tomei, Manuela. *Indigenous and Tribal Peoples: An Ethnic Audit of Selected Poverty Reduction Strategy Papers*. ILO, 2005.

¹⁴ For more details: *Project Launch Workshop – Rights-based Approach to Indigenous Peoples Development in Cambodia*. ILO, 2005.

- coordinating development activities concerning indigenous peoples in the highland areas in Cambodia;
- monitoring, evaluating and reporting all activities implemented in the framework of programmes and projects for the development of indigenous peoples;
- creating criteria for the establishment of indigenous communities;
- establishing and managing an information centre on the development affairs of the highland area by cooperating with relevant institutions, international organizations, non-governmental organizations and neighbouring countries;
- preparing and improving the policy for the development of the highland areas in order to submit it to the Royal Government of Cambodia for its consideration and approval;
- providing training on indigenous development for members of the civil service at every level;
- seeking assistance from donors, and from international and non-governmental organizations.

C. National Policy on the Development of Indigenous Peoples

The National Policy on the Development of Indigenous Peoples was approved by the Government in April 2009 with the aim of improving the standard of living of indigenous peoples and safeguarding their culture, customs, traditions and beliefs. It was developed under the umbrella of the Ministry of Rural Development with cooperation from relevant ministries. It provided the Ministry of Rural Development with a mandate for the identification of indigenous communities in collaboration with relevant stakeholders and the Ministry of Interior. The specific goals of the national policy are:¹⁵

- Indigenous peoples shall enjoy a standard of living above that of starvation and poverty.
- Indigenous peoples shall be provided with at least nine years of fundamental education and appropriate vocational skill training courses according to their needs and based on the geographical areas in which they live.
- Indigenous peoples will be provided with good health-care services.
- The cultures of indigenous peoples will be carefully protected and safeguarded.

D. National plan: National Strategic Development Plan 2014–18¹⁶

The plan, while reviewing the previous National Strategic Development Plan from 2009–13 and highlighting challenges, acknowledges that there is particular concern over the higher poverty rates areas in the areas with concentrations of indigenous communities, namely, the north-eastern provinces. It stresses that these provinces are predominantly rural and have become excluded from national mainstream processes.

¹⁵ For more details: *National Policy on the Development of Indigenous Peoples*. Ministry of Rural Development, Kingdom of Cambodia, 24 April 2009.

¹⁶ *National Strategic Development Plan 2014–18*. Kingdom of Cambodia, 2014.

The issue of land reform was an important facet of the 2009–13 National Strategic Development Plan, that focused on measures to strengthen land management, land distribution and land use to ensure the security of land ownership, particularly with regard to the reduction of rural poverty. In this context, the plan stresses that significant progress has been made in registering the community lands of indigenous people; thus, in Mondul Kiri, the land titles of six indigenous communities have been issued and in Rattanak Kiri, those of two indigenous communities have been issued.

The National Strategic Development Plan notes that the 2009–13 plan had identified, as one of the country's needs, reaching out-of-school children, and to that end the current plan identifies specific measures with a focus on children from indigenous communities.

In its discussion of poverty issues, the plan emphasizes its concern that poverty rates are higher in the areas with concentrations of indigenous communities: the north-eastern provinces. As a response, to investigate the reasons behind the persistence of higher poverty rates, the plan underlines the need for a more detailed analysis that should be part of a future research agenda.

On issues related to land, the plan notes that during the fifth legislature, the government will intensify land reforms. In particular, priority will be placed on accelerating land registration and issuing land titles for State, private and indigenous community lands. Among the indicators additional to those for core monitoring, the plan sets a target of 58 titles for indigenous land communities for 2018.

With regard to forestry reform, one of the strategic priorities of the National Forest Programme is to continue formalizing titles for indigenous peoples and to allow them access to non-timber forest products.

On matters of education, the plan stresses that efforts will be accelerated to reduce the number of out-of-school children, with a specific focus on indigenous children.

It is particularly striking that, although there are some references to indigenous peoples in the plan, there is a complete absence of any discussion in the National Policy on the Development of Indigenous Peoples or in the Department for Ethnic Minority Development with regard to the planning process for 2014–18. Furthermore, there is no specific section dedicated to indigenous peoples' issues in this planning period. This indicates that the National Strategic Development Plan for 2014–18 has been framed in such a manner that it only partially engages with the concerns of indigenous peoples in Cambodia.

E. ILO Decent Work Country Programme 2011–15¹⁷

The ILO Decent Work Country Programme places particular emphasis on the limitations faced by indigenous persons in the labour market, many of which are linked to shrinking land ownership, discrimination and deficits in access to education and training. The ILO, with a focus on labour governance and rights, has been working with the Cambodian Government through technical cooperation to adopt and implement

¹⁷ *Decent Work Country Programme 2011–2015*. ILO.

policies that improve and protect the rights of indigenous peoples. The ILO country strategy aims to promote Convention No. 169.

The ILO promotes equality and rights for discriminated and vulnerable groups of workers, with a focus on indigenous peoples. Even in the domain of enterprise development, special support would be extended to communities of indigenous persons to expand their economic opportunities through greater land tenure security, more appropriate and accessible business development services, and the establishment of viable producer groups. There is also a specific focus on green jobs, with potential for including forestry among them, especially for indigenous groups. Compared to the 2014–18 National Strategic Development Plan, the Decent Work Country Programme has a stronger and clearer focus on indigenous communities, especially with regard to tackling issues of livelihood, poverty and discrimination.

II. Employment situation

A. Employment and livelihoods situation of the indigenous population in general

Traditional livelihoods of indigenous peoples are predominantly based on agricultural production. They include shifting cultivation, the cultivation of wetland rice, raising pigs and chickens, hunting and gathering from forests, and fishing. While some indigenous peoples started lowland rice farming in the 1960s, they still engage in shifting cultivation, in which, besides rice, they also farm crops including vegetables, root crops, gourds and fruit, together with non-food crops like tobacco and cotton. The forest has played an important role in their livelihood strategies, as a source of fruit, wildlife, fish and traditional medicine, in addition to serving as a crucial source of food at times of poor harvests.¹⁸

An ILO study¹⁹ has found that women and men have traditionally had complementary roles in indigenous communities, which can be seen in the gender-based division of labour. Tasks are divided between the sexes in agriculture and other productive work like collection from forests. Highland women and girls are responsible for household-related activities and contribute extensively to care work. The study also notes that the distribution of traditional skills between males and females is largely equal and complementary. Thus, in traditional crop farming, women have an important role in seed selection, whereas with cash crops, men make the selection as they are the ones engaging with the middlemen who share information regarding the needs of the markets. Among the study's findings are the difficulties that female-headed households face in making a living owing to their lack of access to male labour, particularly in the context of benefiting from natural resources.

It is difficult to provide a more detailed description of the employment situation of indigenous peoples in Cambodia, primarily because of the absence of disaggregated data on indigenous peoples. An indication of the employment situation of indigenous communities can be gleaned from looking at the available data regarding specific geo-

¹⁸ For more details: Chimm, Kristina. *Indigenous and Tribal Peoples' Perceptions of Poverty and Poverty Reduction Strategies in Cambodia*. ILO, 2005.

¹⁹ *Ibid.*

graphical areas or the agricultural sector. The following is a summary of the relevant data extracted from a socioeconomic survey of Cambodia conducted in 2013:²⁰

- Agriculture is the predominant source of income, in particular in the rural areas. Data show that Cambodian agricultural incomes decreased by 15 per cent over the course of 2013, while non-agricultural incomes increased by 48 per cent in the same period. This figure is a matter of concern as indigenous people are heavily dependent on agriculture.
- In addition to overall data on Cambodia, the socioeconomic survey also provides data disaggregated by geographical area, for the designated areas “Phnom Penh”, “other urban” and “other rural”. The “other rural” category is of particular relevance as indigenous peoples in Cambodia mainly live in such rural areas. In this regard, figures from rural areas indicate that total household incomes increased by 14 per cent over the period 2012–13, although household incomes from agriculture dropped by 14 per cent.
- The labour force participation rate is higher in rural areas, at 86 per cent, while in Phnom Penh it is 74 per cent and some 77 per cent in other urban areas. Within rural areas the labour force participation rate is higher for men, at nearly 91 per cent, and for women some 80 per cent.
- The employment rate is highest in rural areas, at about 85 per cent, while in other urban areas it is 77 per cent and, in Phnom Penh, 74 per cent. Within rural areas the employment rate for men is about 90 per cent while for women it is about 80 per cent.
- Measured against international standards, the unemployment rate in Cambodia is very low and stands at about 0.3 per cent. Viewed by geographical area, the rate is 0.1 per cent in Phnom Penh, 0.4 per cent in other urban areas and 0.3 per cent in rural areas.
- Data on employment status reveals that the percentage of paid employees in rural areas increased from 26.4 per cent in 2011 to 36.6 per cent in 2013, the percentage of own-account and self-employed workers also increased from 57.2 per cent to 58.6 per cent, while the percentage of unpaid family workers decreased from 16.3 per cent to 4.8 per cent.
- Where employment by industry (the main occupation) is concerned, figures reflect that this is highest in the primary sector at about 48 per cent, while for the secondary and tertiary sectors, levels are about 19 and 31 per cent respectively. For rural areas, the share of employment in the primary sector is the highest at about 60 per cent, compared to 19 per cent for secondary and about 20 per cent for tertiary sectors.

B. Child labour and indigenous peoples

There are no disaggregated data available to identify the work in which indigenous children are engaged. The 2012 labour force and child labour survey²¹ does reveal, however, that some 86 per cent of economically active children resided in rural areas while the rest were in urban areas. It notes that more than five out of every ten economically

²⁰ *Cambodia Socio Economic Survey 2013*. National Institute of Statistics, Ministry of Planning, Cambodia, 2014.

²¹ *Cambodia Labour Force and Child Labour Survey 2012: Child Labour Report*. National Institute of Statistics, Ministry of Planning, Cambodia and ILO, 2013.

active children between the ages of 5 and 17 were engaged in the agriculture, forestry and fishing sectors. With regard to the background of child labourers, the survey shows that the largest proportion of child labourers lived in a household in which the head was working in the agriculture, forestry and fishing sectors.

There is evidently a strong connection between rural areas and livelihoods, and child labour in Cambodia. While disaggregated data on indigenous peoples in this regard is not as yet available, further research is required into the issue of child labour among the indigenous peoples, who predominantly live in rural areas.

III. Challenges

Over the past few years, Cambodia has taken some steps to provide legal protection for the rights of indigenous peoples, in particular in the context of land, and has also framed a national policy in this area. Owing, however, to the inadequate application and enforcement of the laws designed to protect their rights, indigenous peoples remain vulnerable to the adverse effects of commercial and State interests.²²

Land alienation, even after the passing of affirmative laws, remains a key issue faced by the indigenous peoples of Cambodia. Land is crucial to the lives of indigenous communities as it provides the social, economic and cultural basis for their livelihoods and survival.²³ Illegal land grabbing poses a grave threat to numerous indigenous communities.²⁴ The protection of biodiversity through the conservation of forest areas can limit the access of indigenous peoples to resources in forests on traditional lands and also lead to the alienation of their land.²⁵ Furthermore, schemes to develop areas inhabited by indigenous communities for commercial purposes, such as logging, farming, livestock grazing and tourism, are in potential conflict with the way of life of these communities.²⁶

Land concessions risk exacerbating the problem of land alienation. These concessions are related to numerous facets of economic development that put indigenous peoples under pressure and restrict their access to natural resources. They further undermine their rights to collective ownership of land and are effected entirely without public consultation or assessment of their social impact.²⁷ The Indigenous People NGO Network²⁸ and the NGO Forum on Cambodia²⁹ have laid particular emphasis on the following issues with regard to concessions:

- The exploration of land for the purpose of mining mineral resources leads to conflicts of interest with the indigenous peoples who live on that land. Mining conces-

²² Simbolon, Indira. "Chapter 3: Law Reforms and Recognition of Indigenous Peoples' Communal Rights in Cambodia." In *Land and Cultural Survival: The Communal Land Rights of Indigenous Peoples in Asia*, by Jayantha Perera. ADB, 2009.

²³ Feiring, Birgitte. *Including Indigenous Peoples in Poverty Reduction Strategies: A Practice Guide Based on Experiences from Cambodia, Cameroon and Nepal*. ILO, 2008.

²⁴ For more details: *Facing Crisis – Indigenous People of Cambodia*. Submission by indigenous people of Cambodia to the Asia Preparatory Meeting for United Nation Permanent Forum on Indigenous Issues, 2009.

²⁵ *The Rights of Indigenous Peoples in Cambodia – Submitted to UN-CERD*. IPNN, 2010.

²⁶ *Minorities in Cambodia*. Minority Rights Group and International Centre for Ethnic Studies, 1995.

²⁷ *The Rights of Indigenous Peoples in Cambodia – Submitted to UN-CERD*. IPNN, 2010.

²⁸ *Ibid.*

²⁹ *Indigenous Peoples in Cambodia*. NGO Forum on Cambodia, 2006.

sions have led to the displacement of indigenous peoples and pose a particular threat to those individuals without legal titles.

- Concessions for the purposes of tourism and the large swathes of land and resources required for hotels, golf courses and other tourism-related activities, developed without the involvement of indigenous communities, are expected to have adverse effects on those communities.
- In 2002, the Cambodian Government imposed a moratorium on logging in forest concessions, and yet logging continues under the umbrella of land concessions without adequate consultation with indigenous communities. The issue of access to forests, together with their preservation, is particularly important as these are a source of livelihood for many indigenous peoples.

Displacement and the loss of livelihood (owing to the construction of hydro-electric dams in areas where indigenous communities are located) represent another key challenge. The construction of such dams, as explained in a report drawn up by the indigenous peoples of Cambodia,³⁰ takes place without a clear process of participation, and leads to relocation, the flooding of farm lands and the destruction of forests. In turn, this leads to increased instances of poverty and disrupts the traditional occupations of indigenous peoples.

Indigenous peoples are also subject to continuing social and economic changes in Cambodia that are placing limitations on their traditional livelihood strategies. In this regard, one key remaining challenge is the need to maintain or improve their cultivation and subsistence activities, with a view to enhancing productivity and introducing new activities that will help sustain their livelihoods.³¹

V. Data gap

The socioeconomic situation of the indigenous peoples in Cambodia is not described per se in the wide range of statistics prepared on the country. This primarily stems from a lack of disaggregated data specifically focused on indigenous peoples. The indigenous peoples are not identified in the population census and are completely absent from the socioeconomic survey of the country. This inhibits a detailed description not only of their poverty, but also of their employment situation. The lack of disaggregated data on indigenous peoples also places severe limitations on both the development of sound policies, and the assessment of existing policies and laws and their implementation.

³⁰ *Facing Crisis - Indigenous People of Cambodia*. Submission by indigenous people of Cambodia to the Asia Preparatory Meeting for United Nation Permanent Forum on Indigenous Issues, 2009.

³¹ Chimm, Kristina. *Indigenous and Tribal Peoples' Perceptions of Poverty and Poverty Reduction Strategies in Cambodia*. ILO, 2005.



India

I. Overview

India ratified the ILO Indigenous and Tribal Populations Convention, 1957 (No. 107) in 1958. The term “indigenous peoples” is not officially recognized or used in India. The position of the Government of India with regard to the usage of the term as understood in the United Nations is that all Indians are indigenous to India.¹ For practical purposes, however, those sections of people declared as falling within the administrative category of “scheduled tribes” are often considered to be indigenous people.² It is nevertheless important to note that, although scheduled tribes are also popularly referred to as “Adivasi” (literally meaning “indigenous people”), the category of scheduled tribes is complex and does not incorporate many other ethnic groups.³ The situation of some communities within the category of “denotified, nomadic and semi-nomadic tribes” is a case in point: thus, even after being classified as “tribes”, certain groups have not been incorporated within the scheduled tribes category.⁴

In the case of India, the administrative umbrella of “scheduled tribe” is extremely useful in understanding both the policy environment and the employment situation of indigenous peoples in the country. This category is of particular importance, as it forms the basis for a targeted institutional framework that ensures specific privileges, protection and benefits. The primary motive behind the creation of the category of “scheduled tribes” has been to uplift hitherto marginalized and deprived sections of the population through governmental protection and intervention measures.⁵

Scheduled tribes are recognized in 30 states and union territories of India and a total of 705 individual ethnic groups are designated as scheduled tribes.⁶ As different tribal groups are viewed by the Government as being at different stages of social, economic and educational development, 75 groups within the scheduled tribes category have further been categorized as “particularly vulnerable tribal groups”. The total population of those falling within the scheduled tribe category, as per the 2011 census, is 104.3 million, constituting 8.6 per cent of the total population of the country. Between 2001 and 2011, the scheduled tribe population grew by 23.66 per cent, as compared to 17.69 per cent for population as a whole. Figures also indicate that 89.97 per cent of scheduled tribes live in rural areas and 10.03 per cent in urban areas. Tribal communities are spread across various ecological and geo-climatic zones that include

¹ Bijoy, C.R., and Tiplut Nongbri. *Country Technical Note on Indigenous Peoples' Issues: Republic of India*. IFAD, January 2013.

² Bijoy, C.R., Shankar Gopalakrishnan, and Shomona Khanna. *India and the Rights of Indigenous Peoples*. AIPP, 2010.

³ *The Indigenous World*. Copenhagen: IWGIA, 2014.

⁴ National Commission for Denotified, Nomadic and Semi-nomadic Tribes. *National Commission For Denotified, Nomadic and Semi-Nomadic Tribes*. Ministry of Social Justice and Empowerment, Government of India, 2008.

⁵ Bijoy, C.R., Shankar Gopalakrishnan, and Shomona Khanna. *India and the Rights of Indigenous Peoples*. AIPP, 2010.

⁶ Figures in this paragraph based on *Statistical Profile of Scheduled Tribes in India*. Ministry of Tribal Affairs, Statistics Division, Government of India, 2013.

plains, hills and forests, some of which are inaccessible. The scheduled tribes are concentrated in two distinct areas of the country, central India and the north-eastern area, with Madhya Pradesh in central India having the largest number of scheduled tribe members (constituting 14.69 per cent of India's scheduled tribe population) and Mizoram in the north-east the highest proportion of scheduled tribe members (constituting 94.43 per cent of the state's total population).

II. Policy environment

There are numerous constitutional and legislative safeguards that are specifically directed at the scheduled tribes in India. In addition, there is a strong focus on scheduled tribes in the national plan, along with many institutional mechanisms and schemes specifically targeted at this group.

A. Constitutional and legislative provisions

There are numerous provisions in the Constitution of India designed to protect the country's scheduled tribes. These include:⁷ Articles 342 and 366, which specify, notify and define scheduled tribes; Article 15, which prohibits discrimination on the grounds of religion, race, caste, sex or place of birth; Article 16, which guarantees equality of opportunity in matters of public employment; Article 46, which promotes the educational and economic interests of scheduled castes, scheduled tribes and other weaker sections; Article 335, which guarantees that the claims of scheduled castes and tribes are taken into consideration in appointments to government services and posts; Article 330, which provides for the reservation of seats for scheduled tribes in the Lok Sabha, or House of the People – the lower house of the country's bicameral parliament; Article 332, which provides for the reservation of seats for scheduled tribes in the legislative assemblies of the states; Article 243D, which provides for the reservation of seats for scheduled tribes in the Panchayats;⁸ Article 243T, which provides for the reservation of seats for scheduled tribes in the municipalities; and Article 338A, which sets up a National Commission for Scheduled Tribes.

In addition, the Indian Constitution has special provisions for scheduled and tribal areas. These include:⁹ Article 244 regarding the administration of scheduled and tribal areas; and Article 339 regarding control of the Union over the administration of scheduled areas and the welfare of scheduled tribes. The Fifth Schedule¹⁰ is an important instrument for the administration and control of scheduled areas and tribes, as it guarantees tribal rights over land through a Tribal Advisory Council in each state and grants the governor of the state special powers to protect scheduled tribes. The Sixth Schedule¹¹ is another important instrument for the administration of tribal areas spe-

⁷ For more details: *Provisions Relating to STs*. Ministry of Tribal Affairs, <http://www.tribal.nic.in/WriteReadData/userfiles/file/cp/Provisions%20relating%20to%20STs874968748.pdf>.

⁸ Institution for village level self-governance

⁹ For more details: *Some General Provisions*. Ministry of Tribal Affairs, <http://www.tribal.nic.in/WriteReadData/userfiles/file/cp/Provisions%20relating%20to%20STs874968748.pdf>.

¹⁰ For more details: *Fifth Schedule*. <http://tribal.nic.in/WriteReadData/userfiles/file/cp/Fifth%20Schedule7615085295.pdf>.

¹¹ For more details: *Sixth Schedule*. <http://lawmin.nic.in/olwing/coi/coi-english/Const.Pock%20Pg.Rom8Fsss%2834%29.pdf>.

cifically in the States of Assam, Meghalaya, Tripura and Mizoram, which grants numerous legislative, judicial and executive powers to autonomous regional councils and district councils with the approval of the governor. There are also state-specific political provisions in the north-east that include: Article 371A, according special status to the State of Nagaland; Article 371B, setting out special provisions for the State of Assam; Article 371C, setting out special provisions for the State of Manipur; Article 371F, setting out special provisions for the State of Sikkim; Article 371G, setting out special provisions for the State of Mizoram; and Article 371H, setting out special provisions for the State of Arunachal Pradesh.

Besides constitutional provisions, there are numerous laws with a focus on tribal groups and peoples. These include, at the national level:

- Protection of Civil Rights Act, 1955,¹² prescribing punishment for the propagation and exercise of the practice known as “untouchability”
- Andaman and Nicobar Islands (Protection of Aboriginal Tribes) Regulation, 1956,¹³ vesting power in the Government to reserve areas inhabited by aboriginal tribes, restrict the entry of outsiders and transfer reserve lands to non-members of tribes in the Andaman and Nicobar Islands
- Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989,¹⁴ suppressing instances of atrocities against scheduled tribes and castes
- Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996,¹⁵ providing for an extension of local self-governance within scheduled areas under special provisions
- Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Rights) Act, 2006,¹⁶ upholding the rights of scheduled tribes and other forest dwellers to land and resources
- Right to Fair Compensation, Resettlement, Rehabilitation and Transparency in Land Acquisition Act, 2013,¹⁷ regulating land acquisition through the formulation of rules regarding compensation, rehabilitation and resettlement of affected persons

In addition, complementing these legislative provisions enacted at the central government level, numerous safeguards have been introduced at the state level. Abundant legislation has been adopted with regard to issues of land and territory, as land issues

¹² For more details: *The Protection of Civil Rights Act, 1955*. <http://www.tribal.nic.in/WriteReadData/CMS/Documents/201303130459014648437201211290239404882812pcrrule1977E6472375520.pdf>.

¹³ For more details: *The Andaman and Nicobar Islands (Protection of Aboriginal Tribes) Regulation, 1956*. <http://www.tribal.gov.in/WriteReadData/userfiles/file/AN1%283061956%29.pdf>.

¹⁴ For more details: *The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989*. <http://www.tribal.nic.in/WriteReadData/CMS/Documents/201303131039493105468poaact989E4227472861.pdf>.

¹⁵ For more details: *The Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996*. <http://www.tribal.nic.in/WriteReadData/CMS/Documents/201211290242170976562pesa6636533023.pdf>.

¹⁶ For more details: *The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Rights) Act, 2006*. <http://www.tribal.nic.in/WriteReadData/CMS/Documents/201211290332077861328File1033.pdf>.

¹⁷ For more details: *The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013*. <http://indiacode.nic.in/acts-in-pdf/302013.pdf>.

fall under State authority. This legislation has focused on protecting scheduled tribes from land alienation and on restoring illegally alienated land.¹⁸

B. Institutional mechanisms

There is a complex and elaborate institutional set-up in India designed to protect scheduled tribes. Key programmes, agencies and schemes include:

- *Tribal Sub-Plan*: This has been in force since 1974, to ensure the adequate flow of budgetary resources for the development of scheduled tribes. The Tribal Sub-Plan includes only those schemes that ensure direct benefit to individuals or families belonging to scheduled tribes.¹⁹ The revised guidelines of the Planning Commission for States underline that the focus of the schemes should be on the following: education, income generation, improving access to irrigated land, entrepreneurship, employment and skills development projects and access to basic amenities.²⁰ The approach to tribal development within the strategy set out in the Tribal Sub-Plan involves the following:²¹ integrated tribal development projects and agencies; pockets identified for the modified area development approach; clusters; and primitive tribal groups. Special assistance from the central government²² is also provided to state governments in addition to any assistance received under the Tribal Sub-Plan. This primarily takes the form of family-oriented income-generating schemes in the sectors of agriculture, horticulture, sericulture and animal husbandry.
- *Ministry of Tribal Affairs*:²³ This is a central government ministry, set up in 1999 with the objective of providing a focused approach to the integrated social and economic development of scheduled tribes. The ministry also covers numerous schemes and programmes that focus on scheduled tribes. Areas covered by these schemes and programmes include:²⁴
 - vocational training in tribal areas
 - strengthening of education among scheduled tribe girls in low literacy districts
 - development of particularly vulnerable tribal groups
 - Rajiv Gandhi National Fellowship Scheme for students from scheduled tribes
 - support for the Tribal Cooperative Marketing Development Federation of India
 - grants-in-aid to state tribal development cooperative corporations and other such initiatives for minor forest produce operations
 - support for the National Scheduled Tribes Finance and Development Corporation

¹⁸ List of State level legislation available in: Bijoy, C.R., and Tiplut Nongbri. *Country Technical Note on Indigenous Peoples' Issues: Republic of India*. IFAD, January 2013.

¹⁹ *Task Force to Review Guidelines on Scheduled Castes Sub-Plan and Tribal Sub-Plan*. Planning Commission (Government of India), 2010.

²⁰ *Revised Guidelines for Implementation of Tribal Sub-Plan (TSP) by the States/UTs*. Planning Commission (Government of India), 2013.

²¹ For more details: "Integrated Tribal Development Projects/Agencies (ITDPs/ITDAs)," <http://tribal.nic.in/Content/Integrated-TribalDevelopmentITDPsITDA.aspx>.

²² For more details: "Special Central Assistance to Tribal Sub Plan," <http://tribal.nic.in/Content/SpecialCentralAssistanceToTribalSubPlan.aspx>.

²³ "Ministry of Tribal Affairs," <http://www.tribal.nic.in/Content/index.aspx>.

²⁴ For more details: *Outcome Budget 2012–13*. Ministry of Tribal Affairs, <http://tribal.nic.in/WriteReadData/CMS/Documents/201305040224089623246bug.pdf>.

- top class education for scheduled tribes students
 - national overseas scholarship scheme for students from scheduled tribes
 - post-matriculation scholarships, book banks and educational support measures
 - pre-matriculation scholarship scheme
 - girls' and boys' hostels for scheduled tribes
 - Ashram schools (residential schools) in tribal Sub-Plan areas
 - research, information and mass education, tribal festivals and other initiatives
 - grants accorded under the first proviso to clause (1) of Article 275 of the Constitution of India, to promote the welfare of scheduled tribes in a given state or raise the level of administration of the scheduled areas
 - special assistance from the central government to the Tribal Sub-Plan, including the development of forest villages
- *National Commission for Scheduled Tribes:*²⁵ Created by a constitutional amendment in 2004 with the role of monitoring welfare, safeguarding rights, investigating atrocities committed against tribal people, and advising on the planning process, among other measures, in matters relating to tribes
 - *National Scheduled Tribes Finance and Development Corporation (NSTFDC):*²⁶ This is an apex organization under the Ministry of Tribal Affairs, set up with the aim of providing financial assistance for the economic development of scheduled tribes, in the form of schemes to support income-generating and marketing activities
 - *Tribal Cooperative Marketing Development Federation of India (TRIFED):* This is a multi-state cooperative society set up in 1987 with the prime objective of providing marketing assistance and remunerative prices to scheduled tribes for their minor forest produce and surplus agricultural produce. Its objective has also been to wean scheduled tribes away from exploitative private traders and intermediaries, and to help its member societies dispose of the stocks procured from tribe members
 - *Committee on the Welfare of Scheduled Castes and Scheduled Tribes:*²⁷ This is a joint parliamentary committee with 20 members elected from the Lok Sabha and 10 nominated by the Rajya Sabha (the upper house) from among their members. Established in 1968, the Committee examines and reports on a range of administrative measures and protection and welfare-related activities.

In addition, there are numerous schemes undertaken by various ministries of the central government which also include specific provisions for the benefit of scheduled tribes. Among this multitude of schemes, those administered by the Ministry of Rural Development are of particular relevance to employment and livelihoods. They include:²⁸

- *National Rural Livelihoods Mission:* This is a major self-employment programme implemented throughout the country, principally through self-help groups. The

²⁵ For more details: "Functions of the Commission," <http://www.ncst.nic.in/index2.asp?slid=424&sublinkid=247&langid=1>.

²⁶ For more details: "NSTFDC," <http://nstfdc.nic.in/index1.php>.

²⁷ For more details: *Committee on the Welfare of Scheduled Castes and Scheduled Tribes*. Lok Sabha Secretariat, 2004. <http://parliamentofindia.nic.in/ls/intro/14.pdf>.

²⁸ For more details: *Annual Report 2013–14*. Ministry of Rural Development, http://rural.nic.in/netrural/rural/sites/downloads/annual-report/Annual_Report_2013_14_English.pdf.

programme's guidelines stipulate that at least 50 per cent of the beneficiaries shall be members of scheduled tribes, or of other disadvantaged groups. A social management framework has also been prepared for the mission, which covers such areas as social inclusion, social accountability and social safeguards, focusing in particular on marginalized groups such as the scheduled tribes. In addition, the mission also incorporates the Aajeevika Skills scheme, under which 50 per cent of the central programme's funds will be earmarked for development of the skills of scheduled tribes, among other groups. As part of this undertaking, a targeted approach will be taken to skills development among tribal youth in 27 districts designated as "left-wing extremism-affected". A key feature of this targeted approach is that the skills development programme will be residential-based courses and at least 40 per cent of the candidates covered will be women

- *Mahatma Gandhi National Rural Employment Guarantee Act, 2005*: This instrument, under an arrangement known as the MGNREGA scheme, guarantees 100 days of employment in a given financial year to any rural household whose adult members are willing to do unskilled manual work. Numerous scheduled tribe households also benefit from this scheme. In addition, in 2014, the Ministry of Rural Development decided to increase central funding for the provision of up to 50 additional days of wage employment over and above the stipulated 100 days per scheduled tribe household living in the forest areas, provided that the households concerned had no other private property except for land rights provided under the Forest Rights Act, 2006.²⁹
- *Institutional frameworks within state governments*:³⁰ States with a substantial population of scheduled tribes have departments or ministries that serve as nodal institutions for the welfare and all-round development of groups such as scheduled tribes. The Scheduled Tribe and Scheduled Caste Development and Minorities and Backward Classes Welfare Department of Orissa³¹ is an example of a nodal institution that formulates and coordinates policies, programmes, laws, regulations and other provisions for the economic, educational and social development of these communities. States with scheduled areas have tribal advisory councils (as prescribed by the Fifth Schedule) that advise on welfare matters and work closely with the governors of the state in question. Furthermore, some states have also set up government-coordinated cooperatives and marketing federations that are intended to address livelihood issues. The Tribal Development Cooperative Corporation of Orissa³² is one such body, which looks after the marketing of minor forest produce and surplus agricultural produce with a view to ensuring remunerative prices for the primary producers and collectors.

²⁹ *Additional 50 Days of Wage Employment. Ministry of Rural Development, 2014.* http://nrega.nic.in/Netnrega/WriteReaddata/Circulars/Additional_50_days_wage_employment_Scheduled_Tribes_MGNREGA_worker_households_living_forest_areas.pdf.

³⁰ For more details: Bijoy, C.R., Shankar Gopalakrishnan, and Shomona Khanna. *India and the Rights of Indigenous Peoples*. AIPP, 2010.

³¹ *Annual Report 2010–11*. The Scheduled Tribe and Scheduled Caste Development and Minorities and Backward Classes Welfare Department (Government of Orissa), http://www.stscodisha.gov.in/pdf/STSC_AnnualReport_201011.pdf.

³² For more details: "Tribal Development Co-Operative Corporation of Odisha Ltd," <http://tdccorissa.org/>.

C. National plan: Twelfth Five-Year Plan (2012–17)

1. *Volume 1: Faster, More Inclusive and Sustainable Growth*³³

At the very outset, the plan stresses that growth must not only be rapid but also inclusive and sustainable; it must reach disadvantaged groups like the scheduled tribes. The plan relies on an extensive range of government programmes that cover a wide variety of sectors, including special programmes for historically disadvantaged sections such as the scheduled tribes. It refers to “inclusiveness as group equality” as a concept in which the growth process is seen to be “fair” by different socioeconomic groups, while giving due importance to scheduled tribes as one of many distinct “identity groups”. By looking at inclusiveness from a group perspective, the plan goes beyond the mere scope of poverty reduction and includes considerations regarding the status of the group as a whole relative to the general population.

The plan acknowledges that, in the recent past, the scheduled tribes have faced numerous challenges due to the drive to acquire land for development. In this regard, the plan notes the importance of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Rights) Act, 2006, as a response to both historical injustices and recent challenges. In addition, it draws attention to the Right to Fair Compensation, Resettlement, Rehabilitation and Transparency in Land Acquisition Bill, which was passed in 2013 and later amended in 2014.

As one of the new initiatives for the Twelfth Plan, relating to environment, forestry and wildlife, the National Forestry Information System also focuses on issues of ownership and rights under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Rights) Act, 2006.

With regard to strengthening local institutions, the plan notes that only strong Panchayati Raj institutions can ensure effective implementation of the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996, and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Rights) Act, 2006. Accordingly, under the Twelfth Plan, a sum of 64.37 billion rupees is allocated for the strengthening of Panchayati Raj institutions, a considerable increase over the 6.36 billion allocated under the Eleventh Plan.

The plan identifies specific intra-district inequalities and stresses that poorer blocks in a district sometimes tend to be populated by a greater percentage of scheduled tribe members. It also notes the apparent high correlation between tribal members, rainfed areas and incidence of high poverty. These patterns are viewed as matters of serious concern. Furthermore, the Plan stresses that, when spatial inequalities align with differences in group identity, a serious threat is posed to national unity and peace, and this can also be a contributory factor to Maoist violence.

³³ *Twelfth Five Year Plan (2012–2017)—Faster, More Inclusive and Sustainable Growth – Volume 1*. Planning Commission (Government of India), 2013.

2. *Volume 2: Economic Sectors*³⁴

On the issue of drinking water and sanitation in rural areas, the plan acknowledges the reported social exclusion of scheduled tribes, among other groups, and promotes the use of an integrated management information system and geographical information system in the planning process to prevent such social exclusion.

The plan identifies such sectors as weaving (with the use of handlooms) and other handicrafts as the economic lifeline of the most vulnerable sections of the population, while noting that a significant proportion of weavers and artisans are constituted by members of scheduled tribes. It notes that, according to the handloom census of 2009–10, 18.12 per cent of the 3.6 million adult handloom weavers and ancillary workers are from scheduled tribes, and that, according to available estimates, 7.5 per cent of the 6.9 million craftspersons similarly belong to scheduled tribes. In the case of handlooms, the plan's vision is to develop a strong, competitive and vibrant sector, providing sustainable employment to the weavers and ancillary workers. For handicrafts, its vision is to create an equitable and enabling environment, which is competitive on a global scale, and to provide sustainable livelihood opportunities to the artisans through innovative product designs, improvement in product quality, the introduction of appropriate technology, including modern technology, wherever required, and the preservation of traditions.

3. *Volume 3: Social Sectors*³⁵

Under the heading of “Inclusive Agenda for Health”, the plan notes that scheduled tribes, among other marginalized groups, must be given special attention through such measures as the planning, establishment and renovation of primary healthcare centres and child-care and mother-care centres – known as Anganwadis.

With reference to education, the plan notes a significant reduction in socioeconomic inequality in access to education and a narrowing of the gap between scheduled tribes and other social groups. It also acknowledges, however, that numerous challenges remain, such as the higher dropout rates registered by children from scheduled tribes. The plan's overarching goal is to ensure the enrolment of out-of-school children, to reduce the number of dropouts and to improve learning outcomes across elementary school years. It notes in particular the need to give special attention to out-of-school children from scheduled tribes, and to remedy the social and gender gaps in the enrolment of children from such backgrounds.

Measures have been undertaken to develop residential school complexes for tribal children and to strengthen and expand the Kasturba Gandhi Balika Vidyalaya scheme, directed towards providing residential schools at the elementary level for girls from disadvantaged groups, including scheduled tribes. The plan also envisages the expansion of the Mid-Day Meal Scheme to cover pre-primary schooling, in particular in areas with a high concentration of scheduled tribes and other disadvantaged groups.

Where secondary level education is concerned, the plan notes that the gross enrolment ratio remains significantly low for children from scheduled tribes. Low transition rates

³⁴ *Twelfth Five Year Plan (2012–2017) – Economic Sectors – Volume 2*. Planning Commission (Government of India), 2013.

³⁵ *Twelfth Five Year Plan (2012–2017) – Social Sectors – Volume 3*. Planning Commission (Government of India), 2013.

from the elementary level, along with access-related problems in disadvantaged locations, and the aggravated effect of these problems on girls, are the reasons adduced by the plan for this shortcoming.

With regard to higher education, the plan notes that the admission rate of students from scheduled tribes is significantly lower than the national average. In consequence, special attention is given to scheduled tribes, along with other disadvantaged groups. This takes the form of a targeted approach focusing on areas where there is a predominance of such population groups, involving a range of affirmative measures to address the educational needs of such groups.

The scheduled tribes are categorized by the plan as forming part of the “weaker social groups”, facing severe obstacles in the labour market. It emphasizes the need to promote employment opportunities for vulnerable groups, such as the scheduled tribes, and to meet their employment-oriented educational needs. The plan stresses the need to set up training institutes in areas with concentrations of scheduled tribes, so as to facilitate their participation in skills development programmes designed to enhance their employment prospects.

The plan pays special attention to the needs of women from vulnerable groups such as the scheduled tribes. It places a closer focus on raising awareness among tribal women of policies, programmes, schemes and legislation designed for them, through the use of a range of print and electronic media. It aims, for example, to boost the representation of tribal women on committees set up to establish minimum support prices for minor forest produce. It places particular stress on the need for special schemes to assist women from particularly vulnerable tribal groups.

Among other things, the plan calls for multisectoral action for children and women. In this context, the Ministry of Women and Child Development, the Ministry of Health and Welfare, the Ministry of Human Resource Development and the Ministry of Tribal Affairs are to undertake specific indicative actions, directed towards scheduled tribes, in addition to other groups.

A large section of the plan is dedicated to the issue of social inclusion, and the situation of scheduled tribes in this regard is explored in great detail. The plan reviews numerous measures and prevailing conditions focusing on scheduled tribes in such areas as education, economic empowerment, social justice and protection, and the implementation and extension of the Panchayati Raj system. It further addresses the situation of tribal peoples in connection with the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, and discusses issues such as individual titles, community rights, displacement, the conditions of tribal women, excise policy in tribal areas (relating in particular to alcoholism), intellectual property rights, unrest in tribal areas and left-wing extremism. The plan stresses that the perpetuation of socioeconomic backwardness among the scheduled tribes, despite the efforts made thus far, poses a formidable challenge to the Twelfth Plan, and calls for effective and results-oriented steps in every development sector.

To this end, the plan details an elaborate strategy with a focus on scheduled tribes and covering a range of areas, including education development, health, the MGNREGA scheme, entrepreneurship, land, atrocities against members of scheduled tribes, geographical exclusion, human resource management, protection of tribal women,

research, information and mass education. With particular reference to the livelihoods of scheduled tribes, the plan emphasizes the need for extensive implementation and expansion of the rural employment scheme, building tribal entrepreneurship and protecting tribal lands while increasing their productivity.

The plan acknowledges that, despite various constitutional directives and a number of legislative and executive measures, large gaps remain between the living conditions of scheduled tribes and the general population. In this regard, the plan accords particular importance to the Tribal Sub-Plan and proposes measures to strengthen its planning process that include a robust mechanism for the monitoring and evaluation of outcomes.

D. ILO Decent Work Country Programme 2013–17³⁶

Unlike the Twelfth Five-Year Plan, the ILO document detailing the Decent Work Country Programme for India makes only one fleeting mention of scheduled tribes. The programme is principally of relevance to scheduled tribes in the context of their higher rate of poverty and their engagement in casual labour, even though they tend to have higher labour force participation rates. Besides this single reference, within the section on labour market trends, there is no reference to scheduled tribes, tribal communities in general or indigenous peoples.

III. Employment situation

A. Employment and livelihood situation in general

Disaggregated data relating to the scheduled tribes and their employment situation are collated and presented by the Ministry of Tribal Affairs in considerable detail. The following paragraphs present a summary of the data made available by the Ministry in 2013.³⁷

Traditionally, the economic activities of the scheduled tribes have involved hunting and gathering, in addition to subsistence agriculture. A large proportion of tribal communities in India are still dependent on forests, as well as agriculture, for their livelihoods. Across the country, based on the agriculture census of 2010–11, over the period between 2005 and 2011, there was an 8.06 per cent increase in scheduled tribe land holdings. It should be noted, however, where the distribution in percentage terms of the types of operational holdings by scheduled tribes are concerned, marginal land holdings during this period increased from 49.48 per cent to 53.9 per cent while small land holdings decreased from 25.62 per cent to 23.99 per cent, semi-medium holdings decreased from 16.44 per cent to 14.82 per cent, medium holdings decreased from 7.38 per cent to 6.32 per cent and large holdings decreased from 1.08 per cent to 0.96 per cent. Figures for the percentage distribution of areas under operational

³⁶ India – Decent Work Country Programme 2013–17. ILO.

³⁷ For more details: *Statistical Profile of Scheduled Tribes in India*. Ministry of Tribal Affairs, Statistics Division, Government of India, 2013.

holdings by scheduled tribes³⁸ for the same period show increases from 14.58 per cent to 17.26 per cent for marginal holdings and from 21.81 per cent to 22.6 per cent for small holdings, a marginal decrease from 26.83 per cent to 26.27 per cent for semi-medium holdings, and decreases from 25.97 per cent to 23.76 per cent for medium holdings and from 10.81 per cent to 10.11 per cent for large holdings.

Figures from the 2011 census provide the following picture of the distribution of occupations and worker participation rate for scheduled tribes: 58 per cent of the scheduled tribe population were in the category “Total workers”, compared to 46.1 per cent for the population as a whole. Of those in the “Total workers” category, 59.8 per cent of scheduled tribe members were from rural areas and 42.6 per cent from urban areas. 42 per cent of scheduled tribe members were in the “Non-workers” category, showing an improvement from the 50.9 per cent registered in 2001 and also better than the figure for the population as a whole, of 53.3 per cent. 37.6 per cent of scheduled tribe members were categorized as “Main workers”, as against 34.6 per cent of the population as a whole. Of the total workers belonging to scheduled tribes, 34.5 per cent were cultivators, a drop from the 44.7 per cent registered in 2001; 44.5 per cent were in agricultural labour, an increase from the 36.9 per cent of 2001; 1.8 per cent were involved in household industry; and 19.2 per cent were categorized among “Other workers.”

Worker participation rates further reveal that, among the members of scheduled tribes in the “Total workers” category, 55.59 per cent were males and 44.41 per cent females. Among those in the “Main workers” category, 63.94 per cent were males and 36.06 per cent females, and in the “Marginal workers” category, 59.77 per cent were females and 40.23 per cent males.

According to figures from the 2009–10 National Sample Survey, the labour force participation rate (considering both the principal and the subsidiary statuses) for scheduled tribes is 46 per cent, with 56.5 per cent for males and 34.9 per cent for females; as compared to 40 per cent for all social groups, with 55.7 per cent for males and 23.3 per cent for females.

The worker population ratio (considering both the principal and the subsidiary statuses) for the scheduled tribes, based once again on figures from the 2009–10 National Sample Survey, is 45.2 per cent, with 55.5 per cent for males and 34.5 per cent for females; as compared to 39.2 per cent for all social groups, with 54.6 per cent for males and 22.8 per cent for females.

Figures from the 2009–10 National Sample Survey indicate that the usual status of employment among rural scheduled tribe members was as follows: 50.7 per cent were self-employed; 5.2 per cent were in regular wage or salaried employment; and 44.1 per cent were in casual labour. Among urban scheduled tribe members the proportion of self-employed was 29.1 per cent, those in regular wage or salaried employment 40.4 per cent and those in casual labour 30.4 per cent.

Figures from the same source present the following distribution of workers from the scheduled tribes in the “Broad industry of work” category as their usual status: 79.7 per cent in the primary sector, 13.2 per cent in the secondary sector and 7.1 per

³⁸ The percentage distribution of areas operated by operational holdings in the context of scheduled tribes is useful for understanding patterns of land being used as per the size of the land holding. The figures show that there is a decrease in the operation of medium and large holdings by the scheduled tribes.

cent in the tertiary sector. Among urban scheduled tribe members, the proportion in the primary sector was 15 per cent, in the secondary sector 33.4 per cent and in the tertiary sector 51.7 per cent.

The 2009–10 survey shows that the unemployment rate for scheduled tribe males in rural areas increased from 1.1 per cent in 2004–05 to nearly 1.7 per cent in 2009–10. For scheduled tribe females in rural areas, the rate increased from 0.4 per cent in 2004–05 to nearly 0.9 per cent in 2009–10. For scheduled tribe males in urban areas, the rate increased from 2.9 per cent in 2004–05 to 4.4 per cent in 2009–10. For scheduled tribe females in urban areas, it increased from 3.4 per cent in 2004–05 to 4.3 per cent in 2009–10. The unemployment rate for all other social groups, however, has generally remained at the same level or declined over this period.

Where migration is concerned, a comparison between National Sample Survey figures from January–June 1993 and 2007–08 reveals that the number of migrant households³⁹ among scheduled tribes decreased from 27 to 19 per 1,000 households in rural areas but increased from 29 to 62 (per 1,000 households) in urban areas. In addition, a comparison between survey figures from 1999–2000 and 2007–08 reveals that the migration rate of scheduled tribe males in rural areas has decreased from 56 to 47 per 1,000 persons, while that of females has increased from 357 to 440 per 1,000 persons. The migration rate in urban areas, however, increased both for males (from 282 to 288) and for females (from 411 to 430) per 1,000 persons. In rural areas, female migration was nine times that of males and, in urban areas, nearly double that of males.

National Sample Survey figures from 2009–10 show the number of scheduled tribe households in receipt of MGNREGA job cards as 541 per 1,000 households, compared to 347 for all social groups. For every 1,000 households, 398 scheduled tribe households obtained work under the MGNREGA scheme, 197 sought such work but did not get it and 363 did not seek it. The corresponding figures for all social groups were 242, 193 and 538 respectively. Another government report notes that the worker participation rate for scheduled tribe members has been decreasing since 2006: the person-days of employment generated for scheduled tribes in 2006–07 was 36 per cent but dropped to 17.9 per cent in 2013–14, despite the issuance of more job cards.⁴⁰

The Ministry of Tribal Affairs has also presented data relating to women's empowerment, with a specific focus on tribal women, which elucidate their access to money and credit. Data from the 2005–06 national family health survey reveal that 38.2 per cent of scheduled tribe women have their own money and are able to decide how to use it, but only 9 per cent have the use of a bank or savings account. In addition, while

³⁹ As per the National Sample Survey Office, Government of India: "If the entire household, as was being enumerated had moved to the place of enumeration during the last 365 days preceding the date of survey, it was considered as a migrant household. If one member of the household had moved ahead of other members to the present household and others had joined later (but all of them during the reference year) such households were also considered as migrant households. Where some members of the household were born or married into households which had moved, during the last 365 days, the entire household was treated as migrated to the place of enumeration." See *Migration in India 2007–2008, NSS 64th Round, July 2007–June 2008*. National Sample Survey Office, Ministry of Statistics and Programme Implementation, Government of India, June 2010.

⁴⁰ *Report of the High-Level Committee on Socio-Economic, Health and Educational Status of the Tribals of India*. Government of India, May 2014.

30.1 per cent of scheduled tribe women were aware of microcredit programmes, only 3.1 per cent had actually taken a loan from any such programme.

B. Scheduled tribes and public sector employment

A system of reservations, quotas or affirmative action for members of scheduled tribes for employment in the public service and public enterprises has been in place in India since 1950. Observers have noted that this system has made significant achievements, even if they fall short of targets, particularly with regard to securing proportionate representation in professional and managerial posts.⁴¹

The Asian Centre for Human Rights has carried out a study on the reservations system in India and sheds more light on the employment of members of scheduled tribes in the public sector.⁴² Detailed figures provided in the Lok Sabha by the Government of India reveal that, as of 1 January 2011, the representation of scheduled tribes in Group A posts measured 4.8 per cent, in Group B posts 6 per cent, in Group C posts 7.7 per cent, and in Group D posts 6.8 per cent. Representation in Group A, comprising professional and managerial posts, rose from 0.27 per cent in 1965 to 5.34 per cent in 2011. While representation has steadily increased, however, it should be noted that, as of May 2013, members of scheduled tribes accounted for the maximum numbers of backlog vacancies, with 12,195 posts.

C. Scheduled tribes and child labour

In a report on children in India,⁴³ based on data from the third national family health survey, in 2005–06, the Ministry of Statistics and Programme Implementation has highlighted that 16.6 per cent of children (aged between 5 and 14) from households headed by a scheduled tribe member are engaged in work. This percentage is considerably higher than that of other social groups. A draft report available at the National Commission for Protection of Children⁴⁴ also states that, based on figures from the same survey, children from scheduled tribes are twice as likely to be engaged in gainful economic activities than those from the higher castes.

IV. Challenges

India has a robust policy environment relating to scheduled tribes in India. At the same time, notwithstanding the numerous relevant provisions, a recent report of the High-level Committee on Socio-Economic, Health and Educational Status of Tribal Communities

⁴¹ Harish C. Jain, and C.S. Venkata Ratnam. "Affirmative Action in Employment for the Scheduled Castes and the Scheduled Tribes in India." *International Journal of Manpower* 15, No. 7 (October 1, 1994): 6–25.

⁴² For more details on the figures presented in this paragraph: *India's Unfinished Agenda for Inclusion: A Study on Denial of Reservation to the Tribals in the Government Services and Posts*. Asian Centre for Human Rights, 2013.

⁴³ *Children in India 2012 – A Statistical Appraisal*. Ministry of Statistics and Programme Implementation, http://mospi.nic.in/mospi_new/upload/Children_in_India_2012.pdf.

⁴⁴ *Magnitude of Child Labour in India An Analysis of Official Sources of Data (Draft)*. National Commission for Protection of Children, n.d. http://ncpcr.gov.in/view_file.php?fid=87.

of India⁴⁵, constituted by the Prime Minister's Office in August 2014, has noted that tribes are among the poorest and most marginalized sections of Indian society; they disproportionately represent the population living below the poverty line, are illiterate and suffer from extremely poor physical health. In this context, the High-level Committee report lays great stress on the need to give much greater attention to the problem of ineffective implementation of government mechanisms.

The India Exclusion Report 2013–14⁴⁶ notes that land under ownership by tribal communities is often informally occupied by non-members of scheduled tribes and is generally of lower quality. This has led to the disintegration of the traditional non-monetized and self-sufficient economy of the tribal communities. Along with issues related to settled agriculture that include linkages to credit, inputs and markets, tribal communities have become increasingly dependent on money-lenders, in consequence of which many have been driven to seek jobs in urban areas or are trapped in forced labour arrangements. The High-level Committee report also identifies land and agriculture as important issues, in particular with regard to enhancing productivity, water management, and credit and marketing services.

The issues of land alienation, displacement and forced migration remain serious cause for concern, as also emphasized by the High-level Committee report. This includes the alienation of land as a consequence of development projects, environmental protection measures and the activities of companies. The loss of access to forest areas due to such developments, along with processes of ecological degradation, is also exacerbating land alienation for many tribal communities. Coupled with poverty, land alienation is an important factor behind migration, in particular to urban areas. The High-level Committee report notes that major driving forces of migration among tribal communities include family and social disorganization, harsh and unhygienic living conditions, and physical and sexual violence, in particular against female domestic workers. The 2013–14 India Exclusion Report notes further that tribal communities tend to be the most marginalized and destitute and those which undertake the hardest work while receiving the lowest wages.

In a process closely connected with issues of land and migration, the population of scheduled tribe cultivators has decreased, while that of agricultural labourers has increased, which the High-level Committee report identifies as a sign of increasing landlessness. In this context, the High-level Committee report notes that, between 2001 and 2011, an estimated 3.5 million scheduled tribe members are turning away from agriculture and agriculture-related activities and entering the informal labour market.

Given these developments, the issue of skills development is of particular importance. The High-level Committee stresses in its report that the wage rates for tribal migrants are very low; they often migrate from their villages after completing seasonal agricultural work only to do casual and low skilled work. As they have little or no education, along with low marketable skills for both rural and urban settings, they have little bargaining power and are restricted to the informal sector.

⁴⁵ *Report of the High-Level Committee on Socio-Economic, Health and Educational Status of the Tribals of India*. Government of India, May 2014.

⁴⁶ *India Exclusion Report 2013–14*. Books for Change, 2014.

MGNREGA can play a particularly important role in addressing the livelihood issues of tribal communities and providing decent work. As noted in the High-level Committee report, however, there is a disturbing trend whereby the participation of scheduled tribes in the programme has been decreasing since 2006.

V. Data gaps

While a considerable amount of disaggregated data are available on the scheduled tribes, the High-level Committee report has noted a lack of data on development parameters relating to the scheduled tribes for the purposes of policy planning and implementation. In addition, another key challenge remains with regard to the frequency of data collection, in particular relating to the employment situation of the scheduled tribes.

Besides the scheduled tribes, the denotified, nomadic and semi-nomadic tribes constitute another important category that needs to be explored so that their situation is better understood. As many of these groups are not included in the scheduled tribe category, little information is available on their socioeconomic situation. A commission⁴⁷ set up to address the issues faced by denotified, nomadic and semi-nomadic tribes has noted that the estimated population of these tribes is more than 100 million, even though they have not been enumerated in the census. Disaggregated data on denotified, nomadic and semi-nomadic tribes, including on their employment situation, represent a major knowledge gap where India is concerned.

⁴⁷ National Commission for Denotified, Nomadic and Semi-Nomadic Tribes. *National Commission For Denotified, Nomadic and Semi-Nomadic Tribes*. Ministry of Social Justice and Empowerment, Government of India, 2008.



Indonesia

I. Overview

Indonesia is a diverse country which, across its thousands of islands, is home to more than 240 million people from hundreds of ethnic groups, speaking more than 800 languages. Aliansi Masyarakat Adat Nusantara (AMAN), a national indigenous peoples' organization, notes that, although there is a dearth of census data on the indigenous peoples of Indonesia, their population is estimated to be around 50–70 million, while other estimates place the number as high as 120 million. They are spread across Indonesia and have historically relied on the environment for their continued survival. They live in forests, mountains and by the coast throughout the country, with some communities being nomadic and others sedentary.¹

The Indonesian Government recognizes 1,128 ethnic groups in the country, and in addition the Ministry of Social Affairs identifies certain indigenous communities as “Komunitas Adat Terpencil”, which means “geographically isolated indigenous communities”. There is no single piece of legislation that defines, acknowledges and protects the indigenous peoples of Indonesia. After an amendment in 2000 to the Constitution of Indonesia, however, some of the rights of indigenous peoples were recognized. In more recent laws, there is an implicit recognition of some of the rights of the indigenous peoples, who are referred to as “Masyarakat Adat” or “Masyarakat Hukum Adat”.² The term “Adat communities” is widely used to refer to the country's indigenous peoples.

An Asian Development Bank report has stressed, however, that the different provisions dispersed through various parts of the Constitution, sectoral acts and regulations are general in nature and open to multiple interpretations, and, where indigenous communities are concerned, are designed to integrate indigenous communities into mainstream society, based on a centralizing agenda, while according only limited recognition to the existence of Adat communities.³ A bill on the recognition and protection of rights of indigenous peoples has been pending in the Parliament of Indonesia since 2011 and, although a special committee was formed in 2013, its progress has been unclear.⁴ Nevertheless, building on a recent ruling of the Constitutional Court that recognized the unconstitutionality of elements of the forestry law impinging on indigenous peoples' rights, nine main Indonesian government agencies concerned with land and forests declared their support for the rights of indigenous peoples in September 2014.⁵

¹ For more details: “Indigenous Peoples.” *Aliansi Masyarakat Adat Nusantara*, <http://www.aman.or.id/en/indigenous-peoples/>.

² *The Indigenous World*. Copenhagen: IWGIA, 2014.

³ *Indigenous Peoples/Ethnic Minorities and Poverty Reduction: Indonesia*. Asian Development Bank, 2002.

⁴ “Current Major Issues.” *Aliansi Masyarakat Adat Nusantara*, <http://www.aman.or.id/en/current-major-issues-2/>.

⁵ “Indonesia: Nine Government Agencies Have Declared Support for the Recognition and Protection of Indigenous Peoples' Rights in Efforts to Reduce Deforestation.” *Forest Peoples Programme*, 2 September 2014. <http://www.forest-peoples.org/topics/redd-and-related-initiatives/news/2014/09/indonesia-nine-government-agencies-have-declared-su>.

The indigenous peoples of Indonesia remain among the most marginalized groups in the country; the extent of their poverty is, however, unclear, owing to the lack of accurate data. It has been observed that poverty is most severe in the remote eastern islands of the country, which are also home to many Adat or indigenous communities. Poverty is also concentrated in rural areas where 70 per cent of the population lives. The coastal areas have been environmentally degraded and the upland villages are among the most disadvantaged.⁶ This gives a sketchy indication of the poverty faced by the indigenous peoples of Indonesia, who primarily live in rural areas.

II. Policy environment

Limited attention has been paid to indigenous peoples within the country's legal and policy frameworks. In some instances, however, certain indigenous peoples' rights have been recognized.

A. Constitutional and legislative provisions⁷

The second amendment in 2000 to the 1945 Indonesian Constitution, in particular Chapter VI, Article 18, recognizes customary law societies with their traditional rights as long as they are "in accordance with the societal development". The Constitution also ensures respect for the cultural identity and traditional community rights "in accordance with the development of times and civilizations" through provisions in Chapter XA, Article 28.

While there is no law concerning the rights of the indigenous peoples of Indonesia, numerous laws have provisions regarding indigenous peoples' rights. These include:

- Act No. 27, 2007, on coastal and small islands management, which recognizes the knowledge of indigenous peoples and their rights to manage coastal and small islands.
- People's Consultative Assembly Decree No. 9, 2001, on agrarian reform and natural resource management, which recognizes and protects the rights of the customary law societies with regard to agrarian and natural resources
- Act No. 39, 1999, on human rights, which provides an explicit formulation of the recognition and protection of indigenous peoples and their cultural identity, and is also relevant to land rights of indigenous peoples
- Act No. 22, 1999, on local government, which provides authority to local communities to manage and take care of local community interests based on their origins and customs
- Act No. 5, 1960, on basic regulations on agrarian principles (a law that has never fully been implemented but also never repealed), which sets out general principles with regard to indigenous communities and land rights

⁶ "Rural Poverty in Indonesia." *Rural Poverty Portal, Powered by IFAD*, <http://www.ruralpovertyportal.org/country/home/tags/indonesia>.

⁷ For more details: AMAN. *Country Technical Note on Indigenous Peoples' Issues: Republic of Indonesia*. IFAD, November 2012.

Another important piece of legislation relating to indigenous peoples is the Indonesian Forestry Act No. 41, 1999, that defines Adat or customary forests as State forests located in indigenous peoples' territories. In a 2013 ruling, however, the Constitutional Court of Indonesia declared that the Forestry Act should simply read, "customary forests are forests located in indigenous peoples' territories".⁸

B. Institutional mechanisms⁹

The Directorate for the Empowerment of Isolated Indigenous Communities, under the Department of Social Welfare, has resources earmarked for vulnerable indigenous groups. The Directorate has operational units at provincial and district levels and works with local government agencies throughout the country. A key part of its work entails identifying and assessing communities for inclusion within the Department of Social Welfare's empowerment programmes. The Internal Affairs Department and the Ministry of Justice and Human Rights also play an important role by engaging with other government bodies on issues relating to indigenous peoples' rights. Sectoral and regulatory agencies such as the Local-level Planning Agency (Bappeda), the Local-level Village Community Empowerment Agency (BPDM), and other organizations involved in forestry, land and minerals are also concerned with indigenous peoples' issues.

C. National plan: Medium-Term Development Plan 2010–14¹⁰

The plan sets out, as its fundamental goal, the attainment of public welfare through economic and equitable development that is of benefit to all the Indonesian people. It stresses that inclusive growth requires government interventions which specifically benefit marginalized groups. To achieve this, emphasis is placed on adequate capacity and access to economic opportunities for all community groups.

Ensuring social welfare by according greater attention to the less fortunate groups, including those living in isolated areas, is considered to be crucial. The strengthening of social security institutions is identified as a means of enhancing social welfare. The plan specifically undertakes to implement its social security provisions in a manner that takes due account of the culture and institutions already in place in local communities. The provision of integrated social assistance, including direct cash transfers, is highlighted as a core component of the action programme on poverty reduction, particularly among marginalized groups.

The plan outlines numerous regional development policies for the Kalimantan, Sulawesi, Nusa Tenggara, Maluku, and Papua regions, designed to accelerate development, while maintaining momentum in the Java, Bali and Sumatra regions. It stresses that the key aims of such accelerated regional development are to reduce development gaps, to promote the welfare and to enhance the quality of human resources.

⁸ For more details: "Current Major Issues." *Aliansi Masyarakat Adat Nusantara*, <http://www.aman.or.id/en/current-major-issues-2/>.

⁹ For more details: AMAN. *Country Technical Note on Indigenous Peoples' Issues: Republic of Indonesia*. IFAD, November 2012.

¹⁰ *Appendices, Regulation of the President of the Republic of Indonesia No. 5 of 2010 Regarding the National Medium-Term Development Plan (RPJMN) 2010-2014, Book 1, National Priorities*. Ministry of National Development Planning/ National Development Planning Agency, 2010.

The plan notes that there are numerous problems associated with the inclusive development of all social groups and communities located in remote and isolated areas. In this context, it highlights a wide range of remedial measures, including: enhancing the effectiveness of policies and programmes to reduce poverty; implementing policies and programmes that focus on women and children; developing rural infrastructure; and involving all stakeholders in the process of formulating and implementing policies.

The plan identifies a broad category of poor communities that are to benefit from the national health insurance, the Mandiri National Community Empowerment Programme, and other programmes designed to meet their basic needs and services.

Overall, Indonesia's 2010–14 medium-term development plan paid considerable attention to inclusion, poverty reduction and empowerment. There is some measure of focus on the broad categories of poor communities and marginal groups. Beyond these general categories, however, the indigenous peoples of Indonesia are absent from the plan. This may entail a risk of maintaining or enhancing the social and economic hardships of the numerous indigenous groups, as the plan does not adequately address their problems.

D. ILO Decent Work Country Programme 2012–15¹¹

The ILO Decent Work Country Programme for Indonesia focuses generally on the broad category of vulnerable and marginalized communities, particularly in the context of social and economic inclusion. For instance, it notes that the ILO will support the realization of equal opportunities and social protection for all in Indonesia, and in particular marginalized groups including women, children, people living with HIV and AIDS, indigenous peoples and people with disabilities. There is no specific mention of indigenous peoples, however, in the programme's priorities and outcomes.

III. Employment situation

A. Employment and livelihood situation in general

The indigenous peoples of Indonesia are engaged in gathering, rotational farming, agroforestry, fishing, small-scale plantations and mining for their subsistence needs. Land and nature play a crucial part in their subsistence activities and they rely on their own knowledge to manage these resources, for example, land is often divided into forbidden land, graveyard land, cultivated land or grounds for hunting.¹² An Asian Development Bank report, based on numerous case studies, observes that indigenous peoples participate in animal husbandry, rice farming and the cultivation of corn, cassava, peanuts, and fruit trees.¹³ It also notes, however, that many work as part-time labourers in the fields and some depend on earnings from the non-agricultural sector, in particular the informal sector in the cities.

¹¹ *Indonesia Decent Work Country Programme 2012–2015*. ILO.

¹² AMAN. *Country Technical Note on Indigenous Peoples' Issues: Republic of Indonesia*. IFAD, November 2012.

¹³ For more details: *Indigenous Peoples/Ethnic Minorities and Poverty Reduction: Indonesia*. Asian Development Bank, 2002.

In addition, government policy has been opposed to shifting agricultural practices and has attempted to reorient villages from shifting to permanent farming through the construction of wet rice fields or tree cropping.¹⁴ This is primarily because the Government regards shifting cultivation as a threat to forests and protected areas.¹⁵

In the past few years oil palm plantations have expanded rapidly in Indonesia and have incorporated forest areas and smallholder agricultural land without official land titles. In many instances, these plantations have encroached on the customary territories of indigenous peoples. While some members of indigenous communities have been enlisted in work on the palm oil plantations, others have resorted to off-farm activities and temporary or permanent migration.

It has also been observed that indigenous women are increasingly working outside their villages, and some have become involved in prostitution, serving workers from the plantations, mills and mines.¹⁶ In addition, women – who traditionally gathered food from the forest – now have difficulty obtaining food and also have to spend more time collecting firewood owing to the expansion of commercial forestry. Women’s participation in agricultural production, however, in particular that of rice, remains high, and they account for the larger share of farm labour.¹⁷

Efforts to gain a more detailed understanding of the employment situation of the indigenous peoples of Indonesia are impeded by the absence of disaggregated data. A cursory understanding can be derived, however, from the available data, disaggregated by provinces. In this context, the provinces of Papua Barat (West Papua) and Papua are of particular importance, as they have been identified as having largely indigenous and ethnic populations.¹⁸ The following are key highlights based on the information presented by the national statistics office, Badan Pusat Statistik (BPS) Indonesia:¹⁹

- The labour force participation rate for Indonesia in August 2013 was 66.9 per cent, while for Papua Barat it was 66.41 per cent and for Papua 78.01 per cent.
- The percentage of the economically active population in Indonesia actually engaged in work in 2013 was 93.75 per cent, while for Papua Barat it was 95.38 per cent and for Papua 96.77 per cent.
- The unemployment rate for Indonesia in August 2013 was 6.25 per cent, while for Papua Barat it was 4.62 per cent and for Papua 3.23 per cent.

¹⁴ Potter, Lesley Marianne. “Agricultural Intensification in Indonesia: Outside Pressures and Indigenous Strategies.” *Asia Pacific Viewpoint* 42, No. 2/3 (2001): 305–24.

¹⁵ Persoon, Gerard. “Isolated Groups or Indigenous Peoples; Indonesia and the International Discourse.” *Bijdragen Tot de Taal-, Land- en Volkenkunde / Journal of the Humanities and Social Sciences of Southeast Asia* 154, No. 2 (1998): 281–304.

¹⁶ For more details: Sirait, Martua T. *Indigenous Peoples and Oil Palm Plantation Expansion in West Kalimantan, Indonesia*. University of Amsterdam; Cordaid, May 2009.

¹⁷ *Fact Sheet Indonesia: Women in Agriculture, Environment and Rural Production*. FAO.

¹⁸ *Enabling Poor Rural People to Overcome Poverty in Indonesia*. IFAD.

¹⁹ “Employment.” *Statistics Indonesia*, <http://www.bps.go.id/Subjek/view/id/6#subjekViewTab3laccordion-daftar-subjek1>.

BPS Indonesia also presents figures from the 2010 census regarding employment. Those relevant to indigenous peoples include the following:²⁰

Region and sex	Percentage of population over the age of 15					
	Self-employed	Self-employed assisted by unpaid temporary employees	Employers assisted by paid permanent employees	Employees	Casual workers	Unpaid family workers
Indonesia	23.03	13.54	3.4	33.12	12.12	14.72
Male	24.39	17.14	4.31	34.3	14.12	5.65
Female	20.65	7.22	1.81	31.04	8.61	30.59
Papua Barat	24.17	14.19	2.87	32.41	4.56	21.05
Male	27.41	18.04	3.77	35.82	6.04	8.07
Female	17.64	6.45	1.06	25.53	1.6	47.16
Papua	21.45	19.21	1.2	14.57	2.17	40.23
Male	26.15	28.84	1.77	18.76	2.89	20.54
Female	15.06	6.15	0.43	8.89	1.19	66.96

B. Child labour and indigenous peoples

There are no data available for Indonesia specifically on indigenous children and work. Nevertheless, a 2009 report on working children in Indonesia²¹ reveals numerous findings of significance relating to indigenous peoples. Of the total number of children aged 5–17, about 6.9 per cent were considered to be working children, of whom 43.3 per cent were child labourers. About two thirds of the working children aged 10–17 in rural areas were engaged as agricultural workers. In addition, 57 per cent of children aged 5–17 were employed in agriculture, including forestry, hunting and fishery; furthermore, 66 per cent of all working boys and 44.6 per cent of all working girls were employed in this sector. As agricultural activities dominate the livelihoods of indigenous peoples in Indonesia, who primarily reside in rural areas, more careful research should be conducted to understand the extent of child labour prevalent among indigenous children.

²⁰ "Sensus Penduduk 2010, Indonesia – Labour Force." *Badan Pusat Statistik*, <http://sp2010.bps.go.id/index.php/site/to pik?kid=7&kategori=Ketenagakerjaan>.

²¹ *Working Children in Indonesia 2009*. Statistics Indonesia and ILO.

IV. Challenges

Access to land and natural resources is of fundamental importance to the livelihoods of the indigenous peoples in Indonesia. A report by the International Fund for Agricultural Development (IFAD)²² notes that, owing to a lack of recognition and protection of indigenous peoples' access to land and natural resources, many have been dispossessed. Both environmental conservation and allocation of land for economic purposes have played a significant role in this process. There have been instances of land being taken to create buffer zones for national parks. In addition, large tracts of land have been lost as a consequence of allocation for logging concessions, mining and plantations. This process has been compounded by the increasing pollution and degradation caused by development activities, logging, mining and plantations. The decline of access to land and natural resources has severe consequences on the livelihood activities of indigenous peoples.

The growth of palm oil plantations has also had a major impact on rural areas in Indonesia, and in particular on the livelihoods of indigenous peoples. It has been observed that palm oil expansion entails, among other consequences, the reallocation of land and resources, dramatic changes to vegetation and local ecosystems, and wide-scale movements of people and settlements.²³ While palm oil cultivation has considerable potential to generate wealth and employment for local communities, it can also lead to land alienation, loss of livelihoods, exploitative labour practices and degraded ecosystems. It has been reported that palm-oil projects tend to be carried out without prior consultation with the communities concerned and without their participation.²⁴

The pursuit by the indigenous peoples of Indonesia of any livelihoods beyond their traditional activities is hampered by their lack of skills and the discrimination that they experience. In Papua province, it is reported that members of indigenous communities are unable to compete with migrants, who tend to be better skilled, and indigenous people are therefore more likely to be unemployed or underemployed.²⁵ Business owners in this province, who are mostly non-indigenous, often stereotype indigenous peoples as lazy and incompetent, thereby considerably reducing their chances of securing employment. Even within the agricultural sector, indigenous peoples are primarily dependent on subsistence farming, with limited access to markets and knowledge to enhance their productivity. In sum, the livelihood options of the indigenous peoples of Indonesia are severely limited by a number of factors, ranging from discrimination, shortage of skills and capacity, lack of access to markets and credit, to the absence of alternative employment options.

²² For more details: AMAN. *Country Technical Note on Indigenous Peoples' Issues: Republic of Indonesia*. IFAD, November 2012.

²³ For more details: Colchester, Marcus, Norman Jiwan, Martua Sirait, Asep Yunan Firdaus, A Surambo, and Herbert Pane. *Promised Land, Palm Oil and Land Acquisition in Indonesia: Implications for Local Communities and Indigenous Peoples*. Forest Peoples Programme, Perkumpulan Sawit Watch, HuMA and the World Agroforestry Centre, 2006.

²⁴ *The Indigenous World*. Copenhagen: IWGIA, 2014.

²⁵ For more details: "Tackling Indigenous Unemployment in Indonesia's Papua." *IRIN Humanitarian News and Analysis*, 4 December 2013. <http://www.irinnews.org/report/99267/tackling-indigenous-unemployment-in-indonesia-s-papua>.

V. Data gaps

There is no acknowledgement of the indigenous peoples of Indonesia in any of the extensive social and economic analyses of the country. Disaggregated data are not available on their employment situation, poverty status or population. This absence of information severely impedes efforts to understand the full extent of the problems that they face and the impact on them of existing policies and laws. Disaggregated data are of critical importance in designing and improving policies and programmes that can adequately address their needs.



Lao People's Democratic Republic

I. Overview

The Lao People's Democratic Republic is home to numerous ethnic groups that, over the course of generations, have maintained separate cultures and languages because of the limited contact between them.¹ The 2005 census identified 49 ethnic groups with at least 240 subgroups in the country. An ethno-linguistic classification is used by the country's Ministry of Information and Culture to distinguish various groups, according to which the major ethno-linguistic groups include the Lao-Tai, Mon-Khmer, Chinese-Tibetan and Hmong-Mien. Among these, the Lao-Tai dominate the country politically, economically and culturally, and predominantly inhabit the river plains along the Mekong river. The majority of the other ethnic groups are spread across the mountain territory that covers about 79 per cent of the country and would be considered to be indigenous peoples, as customarily defined by international organizations.²

While about one third of the population of the Lao People's Democratic Republic could be considered to be indigenous, with pockets in the country where their numbers exceed that of the Lao, the concept of "indigenous peoples" is not officially recognized. While official policies consider all ethnic groups on the same footing, the indigenous peoples are considered to be unequivocally the most vulnerable group, constituting 93 per cent of the country's poor.³ It has been stressed that poverty is concentrated among ethnic minority groups in the country, largely stemming from unequal access to resources.⁴

It has further been observed that policies and programmes in the Lao People's Democratic Republic, in particular in the areas of education, forest land and resettlement, have sought to homogenize different ethnic groups by associating progress with such attributes as the ability to speak the Lao language, farming paddy rice on irrigated fields and living in sedentary villages with institutions following models from lowland areas of the country.⁵ Indigenous livelihood practices, in particular shifting cultivation, have been viewed as causing deforestation and erosion, due to which the government has followed a policy of resettling highland people to the lowlands.⁶ The indigenous peoples of the Lao People's Democratic Republic have thus been facing territorial, economic, cultural and political pressures, while at the same time experiencing severe hardships with regard to their livelihood. At the same time, there is no specific legislation or policy designed to address the issues of the country's indigenous peoples. Use

¹ Ireson, Carol J, and W. Randall Ireson. "Ethnicity and Development in Laos." *Asian Survey* XXXI, No. 10 (October 1991).

² See, for example: *Country Technical Note on Indigenous Peoples' Issues: Federal Democratic Republic of Nepal*. IFAD, November 2012.

³ *The Indigenous World*. Copenhagen: IWGIA, 2013.

⁴ Engvall, Andres. *Ethnic Minorities and Rural Poverty in Lao PDR*. Stockholm School of Economics, April 2006.

⁵ Ireson, Carol J, and W. Randall . "Ethnicity and Development in Laos." *Asian Survey* XXXI, No. 10 (October 1991).

⁶ Cohen, Paul T. "Resettlement, Opium and Labour Dependence: Akha-Tai Relations in Northern Laos." *Development and Change* 31 (2000): 179–200.

of the term “indigenous peoples”, in either the Lao or the English language, is not allowed in published documents.⁷

II. Policy environment

Indigenous peoples in the Lao People’s Democratic Republic have received scant attention in the country’s legislative and policy framework.

A. Constitutional and legislative provisions

The 1991 Constitution of the Lao People’s Democratic Republic does not specifically recognize indigenous peoples. The Constitution defined the Lao People’s Democratic Republic as a multi-ethnic State, however, and Article 8 provides for equality among all ethnic groups; prohibits all acts creating division and discrimination among ethnic groups; and guarantees the right to protect, preserve and promote their customs and cultures. Article 8 also obliges the State to implement every measure necessary for the gradual development and socioeconomic upgrading of all ethnic groups. While ethnic minorities or indigenous peoples are not identified in the Constitution, the country’s multi-ethnic nature is repeatedly acknowledged in numerous articles. Thus, Article 1 states that the Lao People’s Democratic Republic is a unified country belonging to all multi-ethnic people; Article 2 reads, “All powers belong to the people, by the people and for the interests of the multi-ethnic people of all social strata with the workers, farmers and intelligentsia as key components”; and Article 3 guarantees the rights of the multi-ethnic people to be the masters of the country.⁸

There are no specific laws for the ethnic minorities or indigenous peoples of the Lao People’s Democratic Republic. In 1975, however, the Central Committee for Ethnic Minorities was set up with the mandate to develop a policy on ethnicity. The Committee’s main aim was to continue strengthening solidarity and conciliation among all ethnic groups, and its priority was to conduct research on the different aspects of these groups.

In addition, in 1981, the Political Bureau adopted a resolution on the affairs of ethnic groups, although this was primarily directed at the Hmong people with the aim of strengthening their political opportunities and improving their livelihood. In 1992, the Party Central Committee issued a resolution on ethnic affairs in what is termed the country’s “New Era”. It evaluated the 1981 policy and noted that the problems of ethnic groups had not been given sufficient attention. The resolution set out principles for the broader social and economic development of ethnic groups, particularly with regard to livelihood, education, training of civil servants, political awareness, research and coordination among different government agencies. A key policy integral to this

⁷ *The Indigenous World*. Copenhagen: IWGIA, 2013.

⁸ For more details: *Lao People’s Democratic Republic’s Constitution of 1991 with Amendments through 2003*. constituteproject.org.



process was directed at halting the practice of shifting cultivation and permanently settling the affected communities.⁹

Furthermore, extensive legislation was drafted in 2013 on matters of natural resources and access to and control over land and forests. The draft National Land Policy is believed to provide direction for a revision of the existing land and forest laws. Although the revisions under discussion will not give specific rights to indigenous peoples, they will nevertheless strongly affect them. The National Land Policy includes recommendations relating to: the right of villages to refuse land concessions based on internal decisions; the full recognition of communal land and communal titling; and customary recognition of land tenure rights.¹⁰

B. Institutional mechanisms¹¹

There are three principle agencies that are working with the ethnic minorities of the country:

- The Lao Front for National Construction is mandated to promote a sense of solidarity and equality among the broader population. Currently it is also in charge of the planning and implementation of ethnic minority programmes, and coordinates with the political parties, the ministries and relevant committees.
- The Ethnic Minorities Committee of the National Assembly is principally responsible for such legal issues as drafting laws and regulations, besides covering budgetary and supervisory issues.
- Within the Ministry of Information and Culture, the Institute for Cultural Research and the Institute for Linguistic Research are responsible for conducting research on anthropological and linguistic issues, respectively, with regard to ethnic minorities.

C. Seventh National Socioeconomic Development Plan (2011–15)¹²

The country's Seventh National Socioeconomic Development Plan, for the period 2011–15, continues the strategy known as “boukthalu” (“breakthrough”) and comprises four dynamic sets of objectives, namely: promoting a healthy mindset among the population; developing human resources; enhancing administrative rules and regulations; and reducing poverty by mobilizing resources, implementing special policies and creating a basic strategic framework.

The current Plan reviews the achievements of its predecessor, the Sixth Plan, and observes that the living conditions of ethnic minorities have improved through job creation, labour migration, cross-border trade, rural electrification and other processes. Tourism has experienced a rapid growth and is creating a wide range of benefits for

⁹ For more details: *Lao People's Democratic Republic: Northern Region Sustainable Livelihoods Development Project*. Indigenous Peoples Development Planning Document. Prepared by the Government of Lao People's Democratic Republic for the Asian Development Bank, August 2006.

¹⁰ *The Indigenous World*. Copenhagen: IWGIA, 2014.

¹¹ Yokoyama, S. “The Situation of Ethnic Minorities in Laos.” In *Lao Health Master Planning Study, Progress Report I*, edited by Ministry of Health and JICA Study Team. Ministry of Health, 2001.

¹² *The Seventh Five-Year National Socio-Economic Development Plan (2011–2015)*. Ministry of Planning and Investment, 2011.

these minorities; the development of basic infrastructure has created opportunities for them to engage in production activities, receive education and health-care services and gain access to markets. In the area of justice, work has been completed on research into and compilation of the traditions of 49 ethnic minorities, and in certain provinces laws have been disseminated in minority languages to increase awareness among the members of such minorities.

A key lesson learned from the Sixth Plan is that mobilization of internal resources must run parallel to human resource development, which should include persons from all ethnic communities.

In the context of education and human resource development, the new Plan stresses that reforms in the national education system must continue so as to widen access to opportunities, particularly for ethnic minorities, women and other deprived groups. The Plan aims to mobilize funds and expand education into remote areas and to create appropriate conditions for deprived children, especially those from ethnic minorities and other vulnerable groups.

With a focus on information and culture, the Plan provides support for traditional and ethnic art, in addition to the surveying, exploration and maintenance of the prominent cultural sites of ethnic minorities. It provides for the production of radio programmes in certain minority languages, to ensure that minorities acknowledge and appreciate the work of the Party, in fulfilment of the government's policy on the conservation and reconstruction of the nation. In addition, the Plan promotes cultural exchanges among minorities and supports the conservation of their culture with a view to building a diverse national culture in the country.

In the area of population policy, emphasis is placed on improving the quality of life of a multi-ethnic population, reducing poverty, ensuring a balance between population growth and distribution, ensuring justice in society, and promoting Lao culture.

The Plan notes that the overall development of women from ethnic minorities is central to the country's development agenda, to the protection of gender equality and to the promotion of women's advancement. In this context, there is a focus on educating Lao women, including those from ethnic minorities, in the field of politics; on disseminating information to ethnic minority women to raise awareness of the role of women in Lao society; on widening the participation of ethnic minority women in poverty alleviation; and on building solidarity among Lao women, including those from ethnic minorities, through periodic workshops on political thought, the Constitution and law.

The Plan also sets out the broader aim of enhancing harmony between ethnic minorities, economic groups, sexes and religions, and moving towards greater solidarity among the population as a whole.

The Plan specifically states that, as a means of tackling the problem of narcotics, agricultural land will be allocated to ethnic minorities and measures taken to provide them with permanent jobs as a substitute for the income that they currently earn from opium production.

Particular focus is placed on the development of mountainous and remote areas, by promoting tourism based on nature, ethnic history and culture. In addition, a programme has been formulated for the development of target areas in different provinces that aims to allocate permanent jobs, build the necessary infrastructure and improve



living conditions. In this context, the Plan affirms that the cultural heritage of the locals and ethnic minorities will be promoted and safeguarded.

The Plan does not include any specific measures directed at “ethnic minorities”, and does not define exactly who is included in these groups. While a certain amount of attention is given to these groups within the broader development framework, the lack of a targeted approach to tackling the issues faced by the indigenous peoples of the Lao People's Democratic Republic poses the risk that their vulnerability will continue or even be exacerbated.

D. ILO Decent Work Country Programme¹³

The ILO Decent Work Country Programme for the Lao People's Democratic Republic (2011–15) acknowledges that the country's seventh National Socioeconomic Development Plan aims for the greater inclusion of vulnerable and geographically remote groups. The Decent Work Country Programme does not, however, address the situation of ethnic minorities or indigenous peoples, except inasmuch as indigenous peoples form part of vulnerable groups, whose concerns are covered under a more general approach .

III. Employment situation

A. Livelihoods and employment of indigenous populations in general

The traditional livelihood followed by indigenous peoples is rotational or shifting cultivation, also known as “swidden agriculture”, primarily practised for the growing of rice and corn. Some also supplement their incomes through non-timber forest products, selling livestock or engaging in non-farming and off-farm activities.¹⁴ Groups like the Kmhmu also hunt various forest animals for food, and produce baskets and other household items made from bamboo and wood.¹⁵

In addition, some indigenous peoples of the Lao People's Democratic Republic have been associated with the cultivation of opium. Women commonly work in the fields and have generally been responsible for most phases of poppy cultivation and opium production.¹⁶ The government has been endeavouring to end the practice of shifting cultivation, however, by resettling highland people in or near the lowlands and steering them towards other forms of livelihood.¹⁷

The report on employment and livelihoods,¹⁸ issued by the Ministry of Planning and Investment in conjunction with the United Nations Development Programme (UNDP),

¹³ *Decent Work Country Programme Lao PDR (2011–2015)*. ILO.

¹⁴ *Country Technical Note on Indigenous Peoples' Issues: Federal Democratic Republic of Nepal*. IFAD, November 2012.

¹⁵ Simana, S, and P Elisabeth. “Kmhmu' Music and Musical Instruments.” In *Laos and Ethnic Minority Cultures: Promoting Heritage*, edited by Yves Goudineau. UNESCO Publishing, 2003.

¹⁶ Ireson, Carol J, and W. Randall Ireson. “Ethnicity and Development in Laos.” *Asian Survey* XXXI, No. 10 (October 1991).

¹⁷ Cohen, Paul T. “Resettlement, Opium and Labour Dependence: Akha-Tai Relations in Northern Laos.” *Development and Change* 31 (2000): 179–200.

¹⁸ *Employment and Livelihoods, Lao PDR, 2009, The 4th National Human Development Report*. Ministry of Planning and Investment, and UNDP, 2009.

makes some important observations regarding various ethnic groups in the Lao People's Democratic Republic, although the terms "ethnic minorities" and "indigenous peoples" are not specifically identified. These include:

- Among those who joined the workforce during 1995–2005, fewer than half diversified into non-farm jobs.
- Workers in the interior provinces have had fewer non-farm jobs; even fewer members of the ethnic minorities have occupations outside agriculture.
- Unemployment is higher among the poor, the landless and small farmers, ethnic minorities and the internally relocated.

Figures from 2005 regarding sectoral distribution by percentage of workers, for each ethno-linguistic group and gender (aged 10 years and above), reveal that, among males, 67.5 per cent of Lao are engaged in agricultural activities and 32.5 per cent in non-agricultural activities; 84.5 per cent of Lao-Tai (other than Lao) are engaged in agricultural activities and 15.5 per cent in non-agricultural activities; 91.1 per cent of Mon-Khmer are engaged in agricultural activities and 8.9 per cent in non-agricultural activities; 90.7 per cent of Sino-Tibetan are engaged in agricultural activities and 9.3 per cent in non-agricultural activities; and 88.2 of Hmong-Mien are engaged in agricultural activities and 11.8 per cent in non-agricultural activities. Among females, the corresponding figures are: for Lao, 73.3 per cent in agricultural activities and 26.7 per cent in non-agricultural activities; for Lao-Tai (other than Lao), 87.5 per cent in agricultural activities and 12.5 per cent in non-agricultural activities; for Mon-Khmer, 95.8 per cent in agricultural activities and 4.2 per cent in non-agricultural activities; for Sino-Tibetan, 95.8 per cent in agricultural activities and 7.2 per cent in non-agricultural activities; and, for Hmong-Mien, 90.9 per cent in agricultural activities and 9.1 per cent in non-agricultural activities.

Observations from the field and discussions with employers indicate that most jobs in the non-farm economic enterprises sector require fluency in Lao and, in some cases, other foreign languages. Many members of small ethnic minorities, even those with some schooling, are fluent in neither Lao nor any foreign language.

Owing to the lack of disaggregated data in the labour force survey, it is difficult to attempt a more detailed description of the employment situation of the country's indigenous peoples. Some light may be shed on the question, however, by figures focusing on rural areas, as that is where the majority of indigenous peoples reside in the country. Relevant highlights from the 2010 Labour Force Survey are summarized below.¹⁹

The labour force participation rate for urban areas is 72.27 per cent; for rural areas with roads it is 82.01 per cent, and for rural areas without roads – 86.35 per cent. Among males, the labour force participation rate for urban areas is 74.9 per cent; for rural areas with roads, it is 83.1 per cent, and for rural areas without roads – 86.1 per cent. Among females, the labour force participation rate for urban areas is 69.8 per cent; for rural areas with roads it is 80.9 per cent, and for rural areas without roads – 86.6 per cent.

¹⁹ *Labour Force Survey, 2010*. Lao Statistics Bureau <http://www.nsc.gov.la/en/PDF/up%20date%20labour%20ENG%20Edited.pdf>.

Figures on the percentage distribution of the population's main economic activity show that, in rural areas without roads, 96.05 per cent of all inhabitants (94.85 per cent of males and 97.24 per cent of females) are engaged in agriculture, forestry and fishing. In rural areas with roads, 84.64 per cent (82.54 per cent of males and 86.76 per cent of females) are engaged in agriculture, forestry and fishing. In urban areas, however, 34.91 per cent (32.66 per cent of males and 37.19 per cent of females) are engaged in agriculture, forestry and fishing.

The current unemployment rate for urban areas is 3.2 per cent; for rural areas with roads, it is 1.4 per cent, and for rural areas without roads – 0.7 per cent. Among males, the unemployment rate for urban areas is 3.0 per cent; for rural areas with roads, it is 1.4 per cent, and for rural areas without roads – 0.8 per cent. Among females, the unemployment rate for urban areas is 3.5 per cent; for rural areas with roads, it is 1.5 per cent; and for rural areas without roads – 0.7 per cent.

B. Child labour and indigenous peoples

There are no detailed and disaggregated data on indigenous children and work in the report on the 2010 National Child Labour Survey in the Lao People's Democratic Republic.²⁰ The report does indicate, however, that, of the surveyed child population between 5 and 17 years of age, 15 per cent are engaged in economic activities, of whom more than 10 per cent are engaged in child labour, including 7.4 per cent in hazardous child labour. In urban areas, 6.9 per cent, in rural areas with roads, 16.9 per cent, and in rural areas without roads, 21.7 per cent of the children surveyed are engaged in economic activities. Slightly more than 9 out of every 10 child workers aged between 5 and 17 years are engaged in agriculture, forestry and fishing, among whom 55 per cent are female.

The strong nexus between the rural areas and child labour in the Lao People's Democratic Republic is of particular relevance in illuminating the issue of child labour among indigenous children. As indigenous peoples primarily live in the country's rural areas, further examination should be made of the issue of indigenous children and work.

IV. Challenges

The indigenous peoples have received scant attention from those shaping and administering the country's policy and legal frameworks. They remain among the poorest and most marginalized sections of society. Moreover, unresolved problems relating to the lack of employment, resettlement and the furthering of productivity serve to maintain the country's different ethnic groups in their vulnerable situation.

The loss of traditional lands among indigenous peoples, particularly due to the government's policy of resettlement, designed to curb swidden agriculture, has had a profound impact on their livelihoods.²¹ Many have been encouraged to move from the highlands and settle in the lowlands or their peripheries. While resettlement is

²⁰ *Report on the National Child Labour Survey 2010 of Lao PDR*. International Labour Organization, Lao Statistics Bureau, August 2012.

²¹ Ireson, Carol J, and W. Randall Ireson. "Ethnicity and Development in Laos." *Asian Survey* XXXI, No. 10 (October 1991).

perceived as a strategy that would secure livelihoods, the above-cited report on employment and livelihoods²² issued by the Ministry of Planning and Investment and UNDP specifically points out that relocation disempowers rural people, as they are moved into unfamiliar working and living environments. In particular, it is noted that relocation entails problems such as shifts in livelihood activity, increased deforestation and the transition from a subsistence to a market economy, all of which can have a strong impact on labour and time allocation patterns. The full impact on livelihoods caused by relocation has yet to be properly addressed, in terms both of protecting traditional lands and the livelihoods associated with those lands, and of generating livelihoods for relocated populations.

Reduced access to land and natural resources has had a severe impact on the livelihoods of indigenous communities in the Lao People's Democratic Republic. In addition to the government's policy to limit shifting agriculture, their access to land and resources is also increasingly affected by the granting of land concessions for hydro-power, mining, forestry and plantations. This process is playing an important role in the involuntary resettlement of people affected by such projects. The consequent loss of livelihoods among the ethnic minorities in the upland areas is particularly severe, as they have fewer opportunities to adapt to the demands of the modern market economy.²³ In the broader context of land, livelihoods and resettlement, mechanisms of consultation and participation are of particular importance, but have not yet received commensurate attention from the country's authorities.

Access to forests is crucial for the livelihoods of many indigenous peoples, especially in upland areas. The over-exploitation of forests, however, together with their gradual degradation, is creating severe threats for the livelihoods of many.²⁴ This also has a pronounced effect in the form of the loss of resources to development projects and environmental conservation. Non-timber forest products, which many ethnic groups rely on for cash incomes, have also received limited attention, while mechanisms for sustainable production, processing and marketing remain weak.²⁵ In this context, participation in the management of forests and the development of mechanisms for their sustainable use pose a crucial challenge.

Over and above confronting the problems caused by the loss of their traditional livelihoods, the indigenous peoples of the Lao People's Democratic Republic have been unable fully to integrate themselves in the modern market economy. This stems primarily from a lack of skills development, training, opportunities and access to credit. In a context of growing poverty and a decline in their skills, large numbers of people from the country's indigenous populations are migrating in search of economic opportunities. Thus, many members of Lao ethnic minorities migrate to Thailand, where they find themselves at risk of being trafficked. In this context, the employment and liveli-

²² *Employment and Livelihoods, Lao PDR, 2009, The 4th National Human Development Report*. Ministry of Planning and Investment, and UNDP, 2009.

²³ For more details: Cavallo, Ernesto, Shannon Lawrence, and Aviva Imhof. "Poverty Reduction in Laos: An Alternative Approach." In *Power Surge: The Impacts of Rapid Dam Development in Laos*, edited by Shannon Lawrence. Berkeley, CA: International Rivers, 2008.

²⁴ Rigg, J. D. "Forests, Marketization, Livelihoods and the Poor in the Lao PDR." *Land Degradation & Development* 17, No. 2 (2006): 123–33.

²⁵ Phounvisouk, Latsamy, and Zuo Ting. "Economics of NTFPs for the Ethnic Minority Livelihood: The Case of 'Peuak Meuak' in Northern Laos." *International Journal of Agricultural Sciences and Natural Resources* 1, No. 1 (2014): 1–6.

hoods report²⁶ by the Ministry of Planning and Investment and UNDP underlines the vital need to tackle the problems of low productivity in agriculture, lack of investment in social and physical infrastructure, low human capital endowment and the dearth of diversified income sources, in particular in the case of ethnic groups.

V. Data gaps

There is a general lack of disaggregated data on indigenous peoples in the Lao People's Democratic Republic and, where these exist, they are not clearly identified. There are data, derived in particular from the national census, on broad ethno-linguistic groups, but there is no clear demarcation of indigenous peoples or ethnic minorities. This is all the more true of the 2010 Labour Force Survey, which lacks any disaggregated data based on ethnic groups. Disaggregated data on the various indigenous groups of the Lao People's Democratic Republic would be an essential basis for any undertaking to tackle the multiple problems faced by the country's indigenous peoples and to examine the successes and failures of the current policy and legal frameworks.

²⁶ *Employment and Livelihoods, Lao PDR, 2009, The 4th National Human Development Report*. Ministry of Planning and Investment, and UNDP, 2009.



Malaysia

I. Overview

The indigenous peoples of Malaysia are collectively called Orang Asal and constitute some 12 per cent of the country's population of 28.6 million. In Peninsular Malaysia, the indigenous peoples are the Orang Asli, who comprise 18 subgroups categorized into Negrito (Semang), Senoi and Aboriginal Malay. They are 180,000 in number and constitute 0.6 per cent of the national population. The indigenous peoples in Sarawak are collectively called Orang Ulu and Dayak. They constitute 48.3 per cent of Sarawak's population and include the Iban, Bidayuh, Kenyah, Kayan, Kedayan, Murut, Punan, Bisayah, Kelabit, Berawan and Penan. In Sabah, there are 39 different indigenous groups, which are referred to as Anak Negeri. They make up about 55.1 per cent of Sabah's population and include Dusun, Murut, Paitan and Bajau. It is believed that the census data for Sabah and Sarawak may not fully reflect the actual ethnic composition of the population, as some indigenous peoples may not identify themselves as such.¹

The Human Rights Commission of Malaysia has noted that in Malaysia, based on the criteria of Convention No. 169 and other relevant international documents, indigenous peoples would include the aborigines of Peninsular Malaysia and the natives of Sabah and Sarawak, who are also recognized as such by the Federal Constitution and relevant State laws. There is also an ongoing debate, however, about the category of "Bumiputera", used to identify people who are indigenous in the broader sense and therefore entitled to "special rights", which may include both the Malays and the indigenous peoples of Malaysia.² Furthermore, laws introduced under the British rule to protect customary land rights and laws of the indigenous peoples in Sarawak and Sabah are still in place.³ Under Malaysia's Constitution the indigenous peoples are both protected and granted special privileges, yet they have continued to be vulnerable and face discrimination in the economic, social, cultural, civil and political spheres.⁴

The rapid economic development in Malaysia appears to have by-passed the indigenous peoples of the country, as many continue to grapple with poverty. A UNDP report observed that Sabah, which accounts for some one tenth of the Malaysian population (of which about 55 per cent are indigenous peoples) has the highest poverty rate at 8.1 per cent, with the Murut having the highest incidence of hard-core poverty, at 56.1 per cent in Sabah. In the case of Sarawak the incidence of hard-core poverty is highest among the Penans. The Orang Asli also have a high incidence of poverty, at 76.9 per cent, with 35.2 per cent falling in the hardcore poverty category.

¹ For more details: *The Indigenous World*. Copenhagen: IWGIA, 2014.

² *Report of the National Inquiry into the Land Rights of Indigenous Peoples*. Human Rights Commission of Malaysia (SUHAKAM), 2013.

³ *The Indigenous World*. Copenhagen: IWGIA, 2013.

⁴ *Washing the Tigers – Addressing Discrimination and Inequality in Malaysia*. ERT Country Report Series 2. The Equal Rights Trust, November 2012.

This is in stark contrast to the concurrent 5.6 per cent poverty rate at the national level. Although these figures are treated as indicative rather than conclusive, they nevertheless reflect the reality that the ethnic minorities or the indigenous peoples of Malaysia have a much higher incidence of poverty than the national average and are vulnerable to economic shocks.⁵ At the same time, Sarawak and Sabah are regions where large-scale economic development projects are common, including extraction of natural resources and plantations.

II. Policy environment

Considerable attention is given to the indigenous peoples of Malaysia within the country's legal and policy frameworks.

A. Constitutional and legislative provisions

Article 151A (6) (b) of the Federal Constitution of Malaysia and the Sabah Interpretation (Definition of Native) Ordinances (2) (1), 7 define the basis on which a person is considered a “native” of Sabah. Similarly, Article 161A (7) of the Federal Constitution of Malaysia and Section 3 of the Sarawak Interpretation Ordinance identify several groups that constitute the indigenous peoples of Sarawak.⁶ In addition, Part XIIA provides for additional protection to the states of Sabah and Sarawak, while Article 153 of the Federal Constitution accords special rights to the “natives” of Sabah and Sarawak along with Malays, in the form of quotas in the public service, scholarships and other educational benefits.⁷

The Orang Asli, who are referred to as the aboriginal peoples of the Malay Peninsula in the Federal Constitution, are not included under the above-mentioned provisions. Instead, they are covered under Article 8 (5) (c), which authorizes legislation in favour of Orang Asli by way of provisions in the law for their protection, well-being and advancement, including the reservation of land.⁸ A range of laws concern the Orang Asli, including: the Aboriginal Peoples Act, 1954 (revised 1974); the Aborigines Administration Policy, 1961; the National Land Code, 1965; the Land Conservation Act, 1960; the Protection of Wildlife Act, 1972; and the National Parks Act, 1980.⁹

The colonial Aboriginal Peoples Act is of particular importance as it is the only piece of legislation directed towards a particular ethnic community – the Orang Asli – that guarantees the community the right to follow their own way of life, in addition to setting out other provisions, such as on the establishment of Orang Asli areas and reserves. At the same time, however, the Act also grants the State authority the right to order any Orang Asli community to leave and stay out of an area without any obligation to pay compensation or allocate another site.¹⁰

⁵ For more details: *Malaysia Human Development Report 2013 – Redesigning an Inclusive Future*. UNDP, 2014.

⁶ *Ibid.*

⁷ *Malaysia's Constitution of 1957 with Amendments through 2007*. constituteproject.org.

⁸ Nicholas, Colin. “Orang Asli and the Constitution: protecting customary lands and cultural rights.” *Centre for Orang Asli Concerns*, 31 October 2007. http://www.coac.org.my/main.php?section=articles&article_id=7.

⁹ *Malaysia Human Development Report 2013 – Redesigning an Inclusive Future*. UNDP, 2014.

¹⁰ Nicholas, Colin. “A Brief Introduction: The Orang Asli of Peninsular Malaysia.” *Centre for Orang Asli Concerns*, 20 August 2012. http://www.coac.org.my/main.php?section=about&page=about_index.

B. Institutional mechanisms

In the 1950s, the Department of Aborigines was established by the Colonial Government. With the enactment of the Aboriginal Peoples Act, the department was known as the Department of Orang Asli Affairs and has been the only government department that caters to a particular ethnic group.¹¹ Renamed in 2011 Jabatan Kemajuan Orang Asli – or the Department of Orang Asli Affairs – the main purpose of the department is to protect the aboriginal populations and their way of life and to provide facilities and assistance in education, health and socioeconomic development.¹²

In the case of the indigenous peoples of Sabah and Sarawak, however, there is no separate department or specific institutional mechanism designed to address their particular concerns. Instead, most programmes in these two states have been designed to develop the broader society with an assumption that, in the process, the ethnic minorities would also benefit. Thus, in Sabah, there are programmes and projects with a focus on the following areas: aquaculture; infrastructure; handicraft training; and legal training – specifically, building of training institutes for the so-called “native courts”. In the case of Sarawak, there are programmes which focus on the following: improving the quality of life; income generation; improving the institutional capacity of the native courts; and improving the quality of life of the Penans.¹³

C. National plan: Tenth Malaysia Plan 2011–15¹⁴

The Plan notes that the incidence of poverty has been drastically reduced but pockets of poverty remain in specific areas and communities. In this context, the Government is committed to providing assistance and welfare, and will launch programmes to tackle poverty, in particular through so-called “agropolitan projects”, to create income-generating opportunities.

Considerable attention has been given to inclusive social and economic development in the Plan. Within its ambit, there is a focus on raising the livelihood level of the bottom 40 per cent households. The specific needs of the ethnic minorities in Sabah and Sarawak and also of the Orang Asli are acknowledged, and the plan specified the provision of support and resources for them. It is also undertakes to implement tailored programmes for such target groups.

In the area of health care, the plan aims to expand mobile clinics and flying doctor services for groups with lower accessibility, such as the Orang Asli and ethnic minorities in remote parts of Sabah and Sarawak.

To meet the specific needs of ethnic minorities in Sabah and Sarawak and of the Orang Asli, the plan undertakes to implement integrated development programmes and provide specific enhancement assistance. For the Orang Asli, these measures include: a land development and ownership programme to enable them to become land owners and active farmers; and the development of Orang Asli reserve land for agricultural use that they will be able to cultivate and of which they will obtain ownership upon

¹¹ *Ibid.*

¹² “Introduction JAKOA.” *Jabatan Kemajuan Orang Asli*, <http://jakoadev.com/pengenalan-jakoa/>.

¹³ *Malaysia Human Development Report 2013 – Redesigning an Inclusive Future*. UNDP, 2014.

¹⁴ *Tenth Malaysia Plan 2011–2015*. The Economic Planning Unit, Prime Minister’s Department, 2010.

maturity of the estate, whereby each eligible household will be given the right to farm and eventually own between two and six acres, with an additional half acre allotted to them to build a house.

The plan affirms that the possibility of implementing similar programmes for the ethnic minorities in Sabah and Sarawak will be explored. More specifically, however, it includes an undertaking to provide assistance to ethnic minorities, including the Orang Asli, to establish businesses such as home stay and ecotourism services, besides providing entrepreneurship training and funding and also strengthening linkages with established businesses in identified sectors. The plan also details initiatives to reduce the dependence of ethnic minorities, including the Orang Asli, on intermediaries to market their handicraft products. This includes the establishing of cooperatives to market products effectively, whereby the cooperative will initially appoint professional management teams and, through knowledge transfer, will eventually take control of the management themselves.

With regard to ensuring the equitable and sustainable use of resources, the plan aims to introduce an access and benefit-sharing framework. It observes that the indigenous people and local communities possess traditional knowledge with potential value for development into medicinal, pharmaceutical, nutraceutical and bio-technological products. To that end, the Plan notes that the Government will establish a legal framework supported by an institutional arrangement to enhance awareness and disseminate information, in order to ensure that the resulting benefits are distributed fairly and equitably.

The plan has a considerable focus on the ethnic minorities of Sabah and Sarawak and also on the Orang Asli. In addition, besides taking a targeted approach to tackling the issues of the indigenous peoples of Malaysia, the plan also tackles the concerns of the larger vulnerable and poor population, complementing its targeted approach to the country's indigenous peoples.

The legal and policy frameworks of Malaysia have taken on board a wide range of issues faced by the indigenous peoples of the country. Inadequate implementation of the existing mechanisms means, however, that the indigenous peoples of Malaysia remain in a marginalized and disadvantaged position. It has been noted that there is a high degree of frustration and anger among indigenous communities regarding the inadequate response to their concerns and violations of their rights.¹⁵

III. Employment situation

A. General situation

The indigenous peoples of Malaysia primarily live in rural areas and are dependent on subsistence farming, along with certain other activities. Many rely on forests for food and livelihoods while some engage in hunting and fishing. In addition, some indigenous peoples have traditionally been participating in exchanges of forest produce and agricultural surplus at regional markets for valued items. To a very large degree, the

¹⁵ *Report of the National Inquiry into the Land Rights of Indigenous Peoples*. Human Rights Commission of Malaysia (SUHAKAM), 2013.

indigenous peoples of Malaysia have traditionally been dependent on the lands around them for livelihood-related activities.¹⁶ Women have played a crucial role in such livelihood activities as they participate in unpaid agricultural work, collecting forest produce and materials for handicrafts, in addition to engaging in the daily chores of the household.¹⁷

The Malaysia Human Development Report¹⁸ observes that the indigenous peoples of Malaysia have a low level of involvement in modern urban sectors. Instead, they are concentrated in economic sectors that require low skills and provide low economic returns. Nevertheless, as observed by the report, indigenous young people, who are badly affected by social problems, lack of education and high unemployment in their home communities, are increasingly being forced to move to the cities to benefit from both education and employment opportunities.¹⁹

The indigenous peoples of Malaysia are not clearly identified in statistical compilations associated with employment. Implicitly, however, the category of “Bumiputera”, which includes “Malay” and “other Bumiputera” – covering all indigenous ethnic groups apart from the Malays – can shed considerable light on the employment situation of the indigenous peoples of Malaysia. Some key figures from the 2013 labour force survey report are provided below.²⁰

The labour force participation rate for Malaysian citizens is 65.1 per cent, while for the Malay this figure is 64.3 per cent and for other Bumiputera 66.8 per cent. Disaggregated by sex, for males, the labour force participation rate for Malaysian citizens is 78.4 per cent, while for the Malay it is 77.2 per cent and for the other Bumiputera 82.8 per cent. For females, the labour force participation rate for Malaysian citizens is 51.6 per cent, while for the Malay it is 51.3 per cent and for the other Bumiputera 50.5 per cent.

The employment to population ratio for Malaysian citizens is 63 per cent, while for the Malay it is 62.3 per cent and for the other Bumiputera 63.1 per cent. In the case of males, the ratio for Malaysian citizens is 75.9 per cent, while for the Malay it is 75 per cent and for the other Bumiputera 78.3 per cent. In the case of females, the ratio for Malaysian citizens is 49.7 per cent, while for the Malay it is 49.6 per cent and for the other Bumiputera 47.6 per cent.

Employment figures disaggregated by industry and ethnic group reflect the following: 32.4 per cent of employed other Bumiputera are engaged in agriculture, forestry and fishing, considerably higher than the 11.4 per cent for all Malaysian citizens. Furthermore, 13.6 per cent of other Bumiputera are engaged in the wholesale and retail trade, including repair of motor vehicles and motorcycles; 8.6 per cent in public administration, defence and social service; 8.2 per cent in construction; 7.9 per cent in manufacturing; 5.7 per cent in education; 5 per cent in transport and storage; 4.6 per cent in accommodation and food and beverage services; and the rest in other activities.

¹⁶ *Securing Indigenous Peoples' Rights in Conservation, Reviewing and Promoting Progress in Sabah, Malaysia*. FPP Series on Forest Peoples and Protected Areas. Partners of Community Organization, September 2008.

¹⁷ *Washing the Tigers – Addressing Discrimination and Inequality in Malaysia*. ERT Country Report Series 2. The Equal Rights Trust, November 2012.

¹⁸ *Malaysia Human Development Report 2013 – Redesigning an Inclusive Future*. UNDP, 2014.

¹⁹ “Foreword.” In *Malaysian Indigenous Youth in the City*. COAC and IWGIA, 2013.

²⁰ *Labour Force Survey Report 2013*. Department of Statistics, Malaysia, June 2014.

These figures further disaggregated by sex show that 33.4 per cent of male other Bumiputera and 30.8 per cent of female other Bumiputera are engaged in agriculture, forestry and fishing. This industry accounts for the highest employment percentage for both sexes.

Employment figures disaggregated by status of employment show that, among other Bumiputera, 1.2 per cent are employers, 60.4 per cent employees, 25.8 per cent own-account workers and 12.6 unpaid family workers. Disaggregated by sex, the figures for male other Bumiputera are as follows: 1.4 per cent are employers, 62.7 per cent are employees, 27.9 per cent are own-account workers and 8 per cent are unpaid family workers, and for female other Bumiputera, 0.8 per cent are employers, 56.6 per cent are employees, 22.3 per cent are own-account workers and 20.2 per cent are unpaid family workers.

The unemployment rate for Malaysian citizens is 3.4 per cent, while for the Malay it is 3.1 per cent and for the other Bumiputera 5.5 per cent. Disaggregated by sex, for males, the rate for Malaysian citizens is 3.2 per cent, while for the Malay it is 2.9 per cent and for the other Bumiputera 5.4 per cent. For females, the rate for Malaysian citizens is 3.6 per cent, while for the Malay it is 3.4 per cent and for the other Bumiputera 5.7 per cent.

The report of the 2013 informal sector workforce survey²¹ provides further insights into the employment situation of the indigenous peoples of Malaysia through the category of Bumiputera, including Malay and other Bumiputera. Relevant figures from the survey are set out below.

Among those employed in the informal sector, 90 per cent are Malaysian citizens while, of the population groups, the highest percentage is that of the Bumiputera at 67.3 per cent.

Disaggregated by sex, the survey shows that, among males employed in the informal sector, 63.9 per cent are Bumiputera while, in the case of females, 70.8 per cent are Bumiputera, both constituting the highest percentage among all ethnic groups.

B. Child labour and indigenous peoples

Disaggregated data on indigenous children and work are not available for Malaysia. A joint UNICEF and Economic Planning Unit report notes, however, that disparities have increased significantly among different ethnic groups, with 25.6 per cent of so-called “indigenous children” (Bumiputera) and 33.3 per cent of “other children” (primarily non-Malaysian citizens) living in poverty in 2007, and that children from these groups tend to enter the labour force earlier than other children.²² Reportedly, children from poor villages have been recruited by palm oil companies to work in Malaysian plantations for little pay.²³ In addition, there are reports of child trafficking and sexual exploitation of children for commercial purposes, in particular in the country’s rural

²¹ *Informal Sector Workforce Survey Report Malaysia 2013*. Department of Statistics, Malaysia, August 2014.

²² *Profile of Children in Malaysia – Implementation of Children’s Rights with Equity*. UNICEF and Economic Planning Unit, Prime Minister’s Department, 2013.

²³ *Forced, Child and Trafficked Labour in the Palm Oil Industry*. World Vision, 2012.

regions.²⁴ Given this trend, the vulnerability of indigenous children, who predominantly inhabit the rural areas of Malaysia, requires further examination.

IV. Challenges

Indigenous peoples in Malaysia have traditionally had a close relationship to their land, territories and resources, in particular in the context of livelihoods. An inquiry into the land rights of indigenous peoples²⁵ has stressed, however, that successive amendments to land laws have eroded their customary rights to land and their entitlement to land ownership and management has not been recognized. This has influenced administrative decisions on claims regarding land, while priority has been given to allocating land for large-scale development projects rather than for indigenous subsistence economy. The absence of land tenure security, the non-recognition of land rights, the displacement of communities through encroachment by both the Government and private companies, sometimes through underhand machinations, are all cause for major concern. Urgent attention must be given to the issue of land alienation and its consequences on the livelihoods of the indigenous peoples of Malaysia.

Another issue related to the legal recognition of indigenous lands and livelihoods is the impact of the gazetting of protected areas and deforestation on those dependent on forests. There are many indigenous communities that continue to live in Malaysia's national parks and to pursue traditional ways of life that are in direct conflict with existing laws. In the case of Sabah and Sarawak, customary rights introduced under colonial rule are recognized. At the same time, however, there are severe shortcomings in implementation and laws are often simply ignored. With regard to the Orang Asli, it is claimed that the administration accords almost no recognition to their customary land or law.²⁶ Furthermore, Malaysia is also witnessing one of the highest rates of deforestation in the world, as land is cleared by logging activities, for palm oil and for rubber plantations.²⁷ This is severely threatening the livelihoods of indigenous peoples and, coupled with limited legal recognition of their right to have access to forests for resources, is exacerbating the vulnerability of Malaysia's indigenous peoples.

As reported by the Human Rights Commission of Malaysia, the lack of effective consultation designed to reach agreement or obtain consent, and of broader participation by indigenous peoples and dialogue between them and the State authorities, has been as a major challenge, with economic development projects reportedly going ahead without indigenous peoples having a say. In some cases, there have also been instances where consultation has not been inclusive and has been limited to leaders of communities or organizations claiming leadership positions. Inadequate consultation processes have led to a loss of trust between the community members and the Department of Orang Asli.²⁸

²⁴ "Children of Malaysia." *Humanium – Help the Children*, <http://www.humanium.org/en/malaysia/>.

²⁵ *Ibid.*

²⁶ *Securing Indigenous Peoples' Rights in Conservation, Reviewing and Promoting Progress in Sabah, Malaysia*. FPP Series on Forest Peoples and Protected Areas. Partners of Community Organization, September 2008.

²⁷ Blakkarly, Jarni. "Malaysia's Indigenous Hit Hard by Deforestation." *Al Jazeera*, April 2, 2015. <http://www.aljazeera.com/indepth/features/2015/03/malaysia-indigenous-hit-hard-deforestation-150329101349832.html>.

²⁸ For more details: *Report of the National Inquiry into the Land Rights of Indigenous Peoples*. Human Rights Commission of Malaysia (SUHAKAM), 2013.

Besides facing threats to their livelihoods associated directly with land, the indigenous peoples of Malaysia have also faced discrimination in other avenues of employment. It has been noted that, while there has been some increase in the overall number of Bumiputera minority recruits to the civil service, imbalances at the management and professional levels need to be addressed to avoid racial polarization. Furthermore, indigenous peoples are prevented by their low level of skills and education from participating in the modern urban sectors and this aggravates their marginal status.²⁹ In this context, efforts still need to be made to overcome the problem of ensuring the broader development of human resources among indigenous peoples in a manner that remedies their skills shortages.

V. Data gaps

Disaggregated data are available for the categories of “Bumiputera” and “other Bumiputera” and, to some extent, these cover the situation of the indigenous peoples of Malaysia. There are insufficient disaggregated data, however, on the informal sector and child labour. Moreover, disaggregated data should clearly identify the indigenous peoples of Malaysia with a view to presenting a detailed picture of their broader social and economic situation. This is instrumental to the tasks of designing future policies, assessing current ones and addressing the specific conditions of the indigenous peoples of the country.

²⁹ For more details: *Malaysia Human Development Report 2013 – Redesigning an Inclusive Future*. UNDP, 2014.



Nepal

I. Overview

Nepal is home to numerous and diverse indigenous groups.¹ According to the 2011 census, the indigenous nationalities, also referred to as “Adivasi” or “Janajati”, of Nepal constitute 35.81 per cent of the total population of over 26 million. Indigenous peoples’ organizations claim, however, that the figure is more than 50 per cent larger. While Nepal recognizes 59 indigenous nationalities under the National Foundation for Development of Indigenous Nationalities Act of 2002, the 2011 census reportedly removed 12 of the 59 indigenous peoples from its list. The Nepal Federation of Indigenous Nationalities had thus rejected the findings of the 2011 census, according to which the population of the indigenous peoples had dropped from 37.21 to 35.81 per cent of the total population in 2001.²

The indigenous peoples recognized by the Government of Nepal have been categorized according to four geographical regions: the Himalayan, Hilly, Terai and Inner Terai regions.³ In addition, the population of nearly all indigenous peoples is concentrated in their own ancestral lands. While in the mountain regions like Mustang, Manag and Rasuwa, indigenous peoples constitute 75–95 per cent of the population, those in the Hills and the Terai are outnumbered by the migrant non-indigenous populations and constitute less than 50 per cent of the population. Besides the geographical classification, the indigenous peoples of Nepal are also categorized into groups according to their different developmental stages, described as endangered, highly marginalized, marginalized, disadvantaged and advanced.⁴

It is important to recall that, throughout the history of Nepal, the indigenous peoples have been marginalized by the dominant groups in terms of land, territories, resources, language, culture and customary laws, together with political and economic opportunities. Many indigenous peoples in Nepal continue to grapple with extreme poverty; groups like the Newars who are highly urbanized and the Thakalis, known for their entrepreneurial qualities, rank high, however, in the human development index. The poverty incidence among Hill and Tarai Janajatis is 28.3 and 25.9 per cent respectively. In addition, one in every four poor persons in Nepal is a Hill Janajati.⁵

¹ The terms indigenous peoples or nationalities have been in use since 1997 while prior to that reference was made to “tribal” or “ethnic” groups.

² For more details: *The Indigenous World*. Copenhagen: IWGIA, 2013.

³ “Geographical Categorization.” *NEFIN*. <http://www.nefin.org.np/list/Geographical-Classification/5/0/21>.

⁴ Bhattachan, Krishna B. *Country Technical Note on Indigenous Peoples’ Issues: Federal Democratic Republic of Nepal*. IFAD, November 2012.

⁵ *Nepal Human Development Report 2014 Beyond Geography, Unlocking Human Potential*. Government of Nepal, National Planning Commission and UNDP, 2014.

II. Policy environment

Since 1997, a number of measures have been developed and adopted to address the issues faced by indigenous nationalities.⁶ In 2007, Nepal became the first nation in South Asia to ratify ILO Convention No. 169 in order to ensure meaningful participation of Adivasi Janajati in the state-level decision-making process, ensure their rights, bring them into the national mainstream, realize the goals of the rights-based development process, consolidate and make peace more sustainable and also to embrace the concept of inclusive development practices.⁷ In this context, the implementation of ILO Convention No. 169 is a continuing process.

A. Constitutional and legislative provisions⁸

While special policy initiatives relating to indigenous peoples began in the 1990s, the National Foundation for Development of Indigenous Nationalities Act, 2002, was the first comprehensive framework in the context of indigenous peoples. It created the National Foundation for Development of Indigenous Nationalities as a successor to the National Committee for the Development of Nationalities of Nepal as the country's focal point for indigenous policy.

Replacing the previous interim Constitution, the President of Nepal promulgated on 20 September 2015 the country's first Constitution establishing a federal republic. Article 3 also refers to the "Nation" as "having multi-ethnic, multi-lingual, multi-religious, multi-cultural characteristics with common aspirations of people living in diverse geographical regions". Article 18 provides for equality of all citizens before the law while stating that nothing shall be deemed to bar the making of special provisions by law for the protection, empowerment or advancement of disadvantaged groups, including indigenous peoples. The Constitution contains some provisions setting out affirmative action in favour of historically marginalized or disadvantaged groups, including indigenous peoples. This includes provisions for the inclusion of indigenous representatives in legislative bodies at the provincial and federal level, and the establishment of an Adivasi Janajati Commission.

Other pieces of legislation that address the issues of indigenous peoples include the Local Self-Government Act, 1999, and the 2007 amendments to the Civil Service Act, which include provisions on reservations for indigenous peoples.⁹

⁶ Tomei, Manuela. *Indigenous and Tribal Peoples: An Ethnic Audit of Selected Poverty Reduction Strategy Papers*. ILO, 2005.

⁷ *Frequently Asked Questions on Indigenous and Tribal Peoples' Convention, 1989 (No. 169) in Nepal*. Government of Nepal, Ministry of Federal and Local Development, 2014.

⁸ For more details: *Report on the Situation of Indigenous Peoples in Nepal. Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development. Report by the Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms on Indigenous People, Addendum*. Human Rights Council, 20 July 2009.

⁹ "Interim Constitution Response to Indigenous Issues." *Nepal Federation of Indigenous Nationalities*. <http://www.nefin.org.np/list/Interim-Constitution-Response-to-Indigenous-issues---/4/102/13>.

B. Institutional mechanisms

The National Foundation for Development of Indigenous Nationalities¹⁰ was established in 2002 as an autonomous governmental body mandated to develop and empower indigenous nationalities. It has district-based units that monitor programmes related to indigenous peoples in 75 districts. The foundation has the following objectives:

- to promote the overall development of indigenous nationalities by formulating and implementing programmes;
- to preserve and promote indigenous languages, script, culture, literature, arts, and history;
- to preserve and promote traditional indigenous knowledge, skills, and technology;
- to promote the participation of indigenous nationalities in overall national development by maintaining good relations, goodwill, and harmony among different indigenous nationalities, castes, tribes and communities.

Another key organization is the National Federation of Indigenous Nationalities. It is an umbrella organization bringing together civil society institutions throughout Nepal. The federation is autonomous and politically non-partisan and consists of 54 indigenous member organizations distributed throughout the country. It is the only legally recognized representative organization of Nepal's indigenous nationalities and plays an important role in the institutional mechanisms related to indigenous peoples as it elects the vice-chair of the National Foundation for Development of Indigenous Nationalities.¹¹

C. National plan: an approach paper to the Thirteenth Plan (FY 2013/14–2015/16)¹²

The paper stresses that the goal of the Thirteenth Plan is to upgrade Nepal from its current status as a least developed country to that of a developing country. Beyond this upgrade, the paper details that the objective is also to attain the Millennium Development Goals and the development goals of the South Asian Association for Regional Cooperation; to promote sustainable development, human rights and adaptation to climate change; to alleviate poverty by promoting a green economy; and to meet regional and international commitments.

With a focus on economic growth, the paper notes that the State will involve underdeveloped geographical regions and indigenous communities, among other vulnerable groups, in the development process and ensure that they benefit from its results. Special emphasis will also be placed on programmes and policies that boost economic activities and meet the needs of local people, which will be managed and owned by local communities.

¹⁰ *Rights of Indigenous Peoples*. Nepal Participatory Constitution Building Booklet Series. Centre for Constitutional Dialogue, 2009.

¹¹ Tomei, Manuela. *Indigenous and Tribal Peoples: An Ethnic Audit of Selected Poverty Reduction Strategy Papers*. ILO, 2005.

¹² *An Approach Paper To The Thirteenth Plan FY 2013/14–2015/16 (Unofficial Translation)*. Government of Nepal, National Planning Commission, July 2013.

In the context of forest and soil conservation, the paper highlights that programmes promoting capacity-building, empowerment and green employment will be initiated to improve the living standards of indigenous communities, among others, that rely on forests. The paper identifies indigenous communities, among others, for alternative programmes, reservations and scholarships so as to ensure access to education at all levels.

Where labour and employment are concerned, the paper stresses that foreign employment will be made pro-poor and inclusive by ensuring access by indigenous peoples, together with other disadvantaged groups, to foreign employment training.

The paper gives special attention to inclusion and identifies the need to promote the economic, social and cultural uplifting of indigenous communities, among others, by protecting and upholding their political, economic, social, human, cultural and linguistic rights. In this context, the paper specifically points out that, to counter the negative effects of climate change on public life, ethnic and indigenous peoples will be targeted through awareness-raising programmes.

Besides the above-mentioned references to indigenous communities, the paper does not include any other interventions specifically directed at indigenous peoples. The paper does, however, place a significant focus on the broader concerns of disadvantaged groups, which by implication include indigenous groups. Nevertheless, only limited attention is given to specific aspects of the issues faced by indigenous communities and this relative lack of attention risks furthering their position of vulnerability.

D. ILO Decent Work Country Programme 2013–17¹³

The ILO Decent Work Country Programme for Nepal notes the relevance of ILO Convention No. 169 and the need to implement it in the context of the rights of indigenous peoples. The programme specifically mentions indigenous peoples with regard to strengthening the capacity of constituents to achieve better industrial relations and to improve capacity, so as to address implementation gaps relating to Convention No. 169. It stresses the concerns regarding shortcomings in raising awareness of the Convention, and notes that misinterpretation of the Convention may even increase the potential for conflict. In order to address the potential problems, the programme notes that the ILO, along with a range of government and indigenous civil partners, will facilitate and support the implementation of a national action plan of Convention No. 169 by building the capacity of stakeholders at the local, district and central levels for the implementation of the rights of indigenous peoples in Nepal.

III. Employment situation

A. Employment and livelihood situation of the indigenous people in general

The livelihood strategies of the numerous indigenous groups in Nepal vary considerably. Besides groups like the Newars and Thakalis, however, who participate in advanced commercial and industrial activities, the livelihood of the indigenous peoples is dominated by subsistence agricultural activities. Numerous groups participate in horticultural

¹³ *Decent Work Country Programme 2013–2017 Nepal*. ILO, 2013.

ture, foraging and pastoralism. In addition, groups like the Rautes are nomadic and have been dependent on forests, although they are facing considerable hardships due to their loss of access to these areas, from which they derive their livelihood.¹⁴

The indigenous peoples of Nepal are primarily concentrated in rural areas where they practise subsistence farming. Land ownership in Nepal has been dominated, however, by non-indigenous elites after the lands of indigenous peoples were appropriated by the State. Owing to this, they face limitations in their access to natural resources and have been suffering from landlessness, which in turn has had a strong impact on their livelihood activities and has increased instances of poverty. The high proportion of indigenous recruits in the armed forces reflects how indigenous people are diversifying their livelihood strategies to break the cycle of poverty. Amidst poverty and threatened livelihoods, the indigenous peoples of Nepal have been migrating and there have been reports of exploitation through bonded labour and trafficking.¹⁵ Indigenous women are facing greater difficulties as they have low levels of employment and are resorting to unskilled jobs in the informal sector. In addition, amidst low levels of literacy and skills, indigenous women find it difficult to secure formal positions in the public or the private sectors, while instances of trafficking of women and girls are believed to be widespread.¹⁶

A more detailed description of the employment situation of the indigenous peoples of Nepal is fraught with difficulties owing to the lack of disaggregated data presented in the 2008 labour force survey report. The Tanka Prasad Acharya Memorial Foundation has provided an analysis based on 2001 data¹⁷ that can shed some light on the issue. The key highlights are the following:

- The percentage of households operating small-scale non-agricultural enterprises among the total Janajati population is 20.1 per cent for all sectors, while 75.6 per cent own agricultural land and 71.5 per cent own livestock assets.
- In the Janajati population as a whole, the percentage of the population aged over 10 and economically active for more than six months in the year is 53.1 per cent.
- Disaggregated by employment status, the percentages within this group are as follows: 3.4 per cent are employers, 26.6 per cent are employees, 66.4 per cent are self-employed, and 3.6 per cent are unpaid.
- Where the economically active population is concerned, the labour force is distributed by occupation as follows: 60.2 per cent are farm or fishing workers, 23.6 per cent are production workers, 8.6 per cent are sales and service workers, 4.6 per cent are professional and technical workers, 2.2 per cent are clerical workers and 0.6 per cent are administrative workers.

¹⁴ Bhattachan, Krishna B. *Country Technical Note on Indigenous Peoples' Issues: Federal Democratic Republic of Nepal*. IFAD, November 2012.

¹⁵ Bhattachan, Krishna B, and Sara Webster. *Indigenous Peoples, Poverty Reduction and Conflict in Nepal*. ILO, 2005.

¹⁶ *Report on the Situation of Indigenous Peoples in Nepal. Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development. Report by the Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms on Indigenous People, Addendum*. Human Rights Council, 20 July 2009.

¹⁷ For more details: Bajracharya, Bhuban B. "Access to Employment for Indigenous Nationalities." In *ILO Convention 169 and Peace Building in Nepal*, edited by Sara Webster and Om Gurung. Nepal Federation of Indigenous Nationalities, ILO Office in Nepal, 2005.

Although the 2008 labour force survey report¹⁸ does not contain disaggregated data on the indigenous peoples of Nepal, it does provide data on rural areas, different ecological belts and the agricultural sector. A cursory understanding of their employment situation can be further derived from this as most indigenous peoples of Nepal are predominantly based in rural areas or in different ecological belts of the country or engaged in agriculture. The relevant findings in this context are the following:

- The labour force participation rate (aged 15 and over) for Nepal is 83.4 per cent. Divided into different ecological belts, the figure for the mountain belt is 90.1 per cent; for the hill belt, 83.4 per cent; for the Terai belt, 82.5 per cent; and for the rural category, 86.8 per cent.
- The unemployment rate (aged 15 and over) for Nepal is 2.1 per cent. Divided into different ecological belts, the figure for the mountain belt is 1.2 per cent; for the hill belt, 1.9 per cent; and for the Terai belt, 2.4 per cent. The figure for the rural category is 1.2 per cent.
- The labour force participation rates (aged 15 and over) for males and females in Nepal are 87.5 and 80.1 per cent respectively. Divided into different ecological belts, the figures for the mountain belt are 91.3 and 89.2 per cent; for the hill belt, 86.4 and 80.9 per cent; and for the Terai, 88 and 78.1 per cent respectively. In addition, for the rural category the figures are 90 and 84.2 per cent respectively.
- The unemployment rates (aged 15 and over) for males and females in Nepal are 2.2 and 2 per cent respectively. Divided into different ecological belts, the figures for the mountain belt are 0.6 per cent and 1.6 per cent; for the hill belt, 2 per cent and 1.9 per cent; and for the Terai belt, 2.7 and 2.1 per cent respectively. In addition, the figures for the rural category are 1.4 and 1.1 per cent respectively.
- The percentage of those informally engaged (aged 15 and over) in agriculture and forestry is 99.7 per cent, while for fishing it is 97.8 per cent. In the case of males, the figures are 99.5 and 97.1 per cent respectively. In the case of females, the figures are 99.8 and 100 per cent respectively.

According to migration estimates, 76.6 per cent of males (all ages) currently located in urban areas are from rural Nepal, while 76.5 per cent of females (all ages) currently located in urban areas are from rural Nepal. A total of 74.2 per cent of males (all ages) currently located in rural areas are from other rural areas of Nepal, while 83.8 per cent of females currently located in rural areas are from other rural areas of Nepal.

B. Child labour and indigenous peoples¹⁹

The Nepal Child Labour Report reveals that about 40 per cent of the child population in the 5–17 age bracket may be classified as working children. Among these, it is further estimated that about 51 per cent of all working children fall into the category of child labour. When divided into ethnic groups, the report highlights that the Janajati, or the indigenous population, has the highest proportion of working children (47.7 per

¹⁸ *Report on the Nepal Labour Force Survey 2008*. Central Bureau of Statistics, National Planning Commission Secretariat, Government of Nepal, July 2009.

¹⁹ *Nepal Child Labour Report 2008*. ILO and Central Bureau of Statistics of Nepal, January 2011.

cent). The Janajati is also the group with the highest proportions both of child labour (38.5 per cent) and of hazardous child labour (37.7 per cent).

IV. Challenges

Indigenous peoples are increasingly receiving more attention in Nepal. However, the hardships faced by indigenous groups remain high, in their situation of poverty and marginalization. The factors underlying their vulnerability as a population group are a combination of structural issues that are predominantly related to land and livelihoods, together with issues related to the rights of indigenous peoples per se.

Land and livelihoods are intrinsically connected for a majority of indigenous peoples in Nepal as most are dependent on subsistence agriculture or forests. In this regard, dispossession of land, forests and other natural resources, along with the non-recognition of traditional land-use patterns, has a severe impact on the livelihoods of indigenous communities in the country.²⁰ Land alienation has been a constant threat to the indigenous peoples of Nepal. Starting with the territorial unification of the country and the years following that event, indigenous peoples have been displaced from the lands that they have traditionally occupied, controlled and relied on. Prevailing Nepalese laws have not recognized or protected the traditional lands of indigenous peoples, some of whom have even lost their lands as a result of fraud or deceit.²¹

A key aspect that cuts across the issue of land and livelihoods is access to natural resources by indigenous communities in Nepal, especially those that are dependent on forests. The legal framework in Nepal, however, prohibits the use of national parks by indigenous peoples for livelihood purposes. In addition, the clearing of land for cultivation in community forests can entail severe penalties, while many peoples who have traditionally occupied and used lands have been displaced from those lands by the establishment of community forests.

A similar situation may be observed with pasturelands, resulting in the loss by many indigenous peoples of their traditional livelihoods.²² It has also been argued that restrictions on community forest lands in Nepal have served to heighten instances of poverty and that, instead, the unrestricted use of community forests for agroforestry has the potential to significantly meet local income and employment requirements.²³ For this to happen, a strong focus will be needed on achieving a balance between the livelihood needs of indigenous peoples and protecting the environment: to date such a focus is lacking in Nepal.

Issues of land and livelihoods faced by the indigenous peoples of Nepal are also closely linked to shortcomings in the processes of consultation and participation. While some steps have been taken to develop mechanisms for consultation through the National

²⁰ Bhattachan, Krishna B, and Sara Webster. *Indigenous Peoples, Poverty Reduction and Conflict in Nepal*. ILO, 2005.

²¹ Limbu, Shankar. "Comparative Study of Prevailing National Laws Concerning Indigenous Nationalities in Nepal and ILO Convention No.169 on Indigenous and Tribal Peoples." In *ILO Convention 169 and Peace Building in Nepal*, edited by Sara Webster and Om Gurung. Nepal Federation of Indigenous Nationalities, ILO Office in Nepal, 2005.

²² *Ibid.*

²³ "The Link Between Community Forestry Policies and Poverty and Unemployment in Rural Nepal." *Mountain Research and Development* 27, No. 1 (February 2007): 32–39.

Foundation for the Development of Indigenous Nations where matters of natural resources and land, including national parks, development projects and dams are concerned, these mechanisms have been weak.²⁴ This has had strong repercussions on land tenure and collective rights over forests for the indigenous peoples. The issue of consultation and participation is particularly challenging and is crucial for them to sustain their access to lands and their traditional livelihoods.

Other key issues that affect the livelihoods and employment situation of the indigenous peoples of Nepal include low productivity, and the lack of skills and entrepreneurship. These also serve to heighten instances of informality. On the one hand, indigenous peoples are being displaced from their traditional occupations, while, on the other, they are unable to access new employment opportunities owing to a lack of skills and knowledge. Subsistence-oriented livelihoods mean that skills are merely transferred from one generation to another and productivity remains at the same low level, perpetuating a vicious cycle that is denying the indigenous peoples of Nepal entry into new markets.²⁵ It has also been noted that agriculture in Nepal has been in a state of severe crisis and the mere intensification of agricultural productivity might lead to dislocations and environmental degradation.²⁶ Accordingly, a key challenge is to improve productivity, develop skills and create new opportunities for these indigenous peoples while giving due importance to sustainability concerns.

V. Data gaps

Nepal has made considerable progress in gathering and releasing disaggregated data on the country's various indigenous peoples. This makes possible a better understanding of their demographic position and socioeconomic problems. While disaggregated data are clearly presented on issues like poverty, the report on the Nepal labour force survey 2008 ignores the specific situation of indigenous peoples as it presents no relevant disaggregated data. Owing to this shortcoming, a deeper understanding of their employment situation is difficult to obtain. The presentation of disaggregated data detailing the employment situation of the indigenous peoples of Nepal is of considerable importance to any efforts to address their livelihood concerns, to design appropriate intervention programmes and to assess shortcomings.

²⁴ *Report on the Situation of Indigenous Peoples in Nepal. Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development. Report by the Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms on Indigenous People, Addendum.* Human Rights Council, 20 July 2009.

²⁵ Bajracharya, Bhuban B. "Access to Employment for Indigenous Nationalities." In *ILO Convention 169 and Peace Building in Nepal*, edited by Sara Webster and Om Gurung. Nepal Federation of Indigenous Nationalities, ILO Office in Nepal, 2005.

²⁶ Schroeder, Robert F. "Himalayan Subsistence Systems: Indigenous Agriculture in Rural Nepal." *Mountain Research and Development* 5, No. 1 (February 1985).



New Zealand

I. Overview

The Maori are the indigenous people of New Zealand – or Aotearoa, as the country is known in the Maori language. As per the 2013 census, one in seven people (598,605 or 14.9 per cent of the population) living in New Zealand belong to the Maori ethnic group. The largest “iwi” (nation or tribe) of people of Maori descent is the Ngāpuhi, with 125,601 people, and the second largest is the Ngāti Porou, with 71,049 people. The majority of Maori (86 per cent) live in North Island, and just under one quarter (23.8 per cent) in Auckland. The areas with the highest percentage of Maori after Auckland include Waikate region (14 per cent), Bay of Plenty region (11.5 per cent) and Wellington region (9.7 per cent).¹

The Treaty of Waitangi, signed between the British and the Maori in 1840, guides the relationship between the New Zealand Government and the Maori, and is considered to be one of the country’s founding instruments. Although significant protections of Maori rights are enshrined in the provisions and principles of the Treaty, series of acts and omissions during most of the nineteenth and part of the twentieth century by British colonial and New Zealand governments have resulted in the loss of lands that were held by Maori at the time of the signing of the Treaty. Furthermore, the constitutional status of the Treaty is subject to constant debate in New Zealand and there have been persistent calls by Maori for constitutional change to ensure that the Treaty and Maori rights are fully upheld.²

Even though in recent years New Zealand has made significant strides in advancing the rights of Maori people and has a strong welfare system, a 2014 study³ has observed that many of the inequality indicators between Europeans and Maori remain high. According to data on perceived group discrimination gathered by the Human Rights Commission in 2011, some 12 per cent of the respondents believed that Maori are discriminated against in New Zealand “a great deal” and 46 per cent that they are discriminated against “some of the time”.⁴ Other statistics on the Maori indicate that they are over-represented in prisons, making up 51 per cent of the country’s total prison population in 2012;⁵ their unemployment rate was the highest of any ethnic group between 1995 and 2008; the ratio of Maori to European median hourly earnings was

¹ For more details: *2013 Census QuickStats about Māori*. Statistics New Zealand, 2013. www.stats.govt.nz.

² *Report of the Special Rapporteur on the Rights of Indigenous Peoples, James Anaya. The Situation of Maori People in New Zealand*. Human Rights Council, May 31, 2011.

³ Lisa Marriott, Dalice Sim. *Indicators of Inequality for Māori and Pacific People*. Working Papers in Public Finance. Victoria Business School (VUW), August 2014.

⁴ For more details: *Perceived Group Discrimination*. Human Rights Commission – Discrimination and Harassment Survey, conducted by UMR Research, November 2011. [http://www.stats.govt.nz/browse_for_stats/snapshots-of-nz/nz-social-indicators/Home/Perceived per cent20discrimination/grp-discrim.aspx](http://www.stats.govt.nz/browse_for_stats/snapshots-of-nz/nz-social-indicators/Home/Perceived%20discrimination/grp-discrim.aspx).

⁵ *New Zealand’s Prison Population*. Department of Corrections and Statistics New Zealand, http://www.stats.govt.nz/browse_for_stats/snapshots-of-nz/yearbook/society/crime/corrections.aspx.

88 per cent in 2009; and Maori are around half as likely as adults in general to have tertiary qualifications at degree level.⁶

II. Policy environment

There is a strong policy and legal focus on the indigenous peoples of New Zealand in the country.

A. Constitutional and legislative provisions

The constitution of New Zealand is not set out in a single document and instead comprises various crucial pieces of legislation, several legal documents, common law derived from court decisions and established constitutional practices known as conventions. As stated by the Governor-General's office, New Zealand's constitution increasingly reflects the Treaty of Waitangi as a founding document of the government in the country.⁷

The Treaty of Waitangi is an agreement, written in both English and Maori, between the British Crown and Maori chiefs in 1840, that enabled the British to establish a government in New Zealand and confirmed the right of the Maori to continue to exercise their *rangatiratanga* (sovereignty or self-determination). Although the Treaty is legally interpreted in both languages, the Maori version carries more weight where issues of misinterpretation arise. The Treaty is among the factors taken into account when Parliament makes laws or when courts interpret laws that refer to the Treaty, and also influences public decision-making when there is a specific reference to the Treaty in legislation. It has been observed, however, that the Treaty is “half in and half out” of the legal system, and the term “principles of the Treaty of Waitangi” is sometimes used in legislation, although the principles themselves have not been defined.⁸

New Zealand launched a process termed “the Constitutional Conversation” in February 2013 with a focus on the country's constitutional arrangements. In that context, the report of the Constitutional Advisory Panel affirmed the importance of the Treaty of Waitangi as a foundational document, besides inviting and supporting the people of the country to continue the conversation about the place of the Treaty in the constitution.⁹

In addition, there are numerous laws in New Zealand covering a range of issues that are of relevance to Maori and that have a focus on the country's indigenous peoples.¹⁰ In 2011 alone, four new acts related to Maori affairs were enacted that dealt with aspects of land, fisheries, administration and accountability.¹¹ Select pieces of legislation that are of particular significance with regard to participation and land include:

⁶ *The Social Report 2010*. Ministry of Social Development, October 2010.

⁷ “New Zealand's Constitution.” *The Governor-General*, <https://gg.govt.nz/role/constofnz.htm>.

⁸ *The Constitutional Conversation: Treaty of Waitangi*. Constitutional Advisory Panel.

⁹ *New Zealand's Constitution: A Report on a Conversation*. Constitutional Advisory Panel, November 2013.

¹⁰ To access all laws: “New Zealand Legislation.” *New Zealand Parliamentary Counsel Office*, <http://www.legislation.govt.nz/>.

¹¹ For more details: *The Maori Purposes Bill 2011: Four New Maori Affairs Acts*. Ministry of Maori Development, September 2011.

- *Electoral Act 1993*:¹² ensures Maori representation through reserved positions in the House of Representatives by dividing New Zealand into Maori electoral districts;
- *Local Electoral Act 2001*:¹³ provides councils with an opportunity to create Maori wards, guaranteeing that Maori perspectives are incorporated in the work of local government;
- *Local Government Act 2002*:¹⁴ sets out principles and requirements for local authorities to facilitate participation by Maori in local authority decision-making processes;
- *Maori Land Act 1993*:¹⁵ facilitates and promotes the retention, use, development and control of Maori land as taonga tuku iho (“cultural heritage”) by Maori owners, their whanau (“kinship community”), their hapu (“kinship subgroup, clan”) and their descendants, and that protects wahi tapu (“sacred sites”).

B. Institutional mechanisms

New Zealand has an elaborate institutional setup that deals with a wide range of issues relevant to the Maori people. Key institutions include:

- *Te Puni Kōkiri or Ministry of Maori Development*:¹⁶ established in 1992 under the Ministry of Maori Development Act, the Ministry leads public policy on Maori issues, advises on policy affecting Maori well-being, serves as the principle advisor on Government-Maori relationships, and monitors policy and legislation. It has five priority areas, namely: Crown-Maori relations; State-sector effectiveness for providing service to the Maori; supporting and promoting the cultural wealth of the Maori; increasing Maori skills and learning; and creating economic wealth to achieve a thriving Maori economy.
- *Waitangi Tribunal*:¹⁷ established in 1975 under the Treaty of Waitangi Act, the Tribunal examines claims by Maori individuals or groups who may have been prejudiced by laws and regulations, acts, omissions, policies or practices of the Crown since 1840 that are inconsistent with the Treaty of Waitangi.
- *Maori Land Court*:¹⁸ the Land Court is a business unit in the Special Jurisdictions group of the Ministry of Justice that plays an important role in the administration of Maori land in accordance with the provisions of the Te Ture Whenua Maori (the Maori Land Act). The Court’s jurisdiction allows it to hear cases on all matters

¹² For more details: “Electoral Act 1993.” *New Zealand Legislation Provided by New Zealand Parliamentary Counsel Office*, <http://www.legislation.govt.nz/>.

¹³ For more details: “Local Electoral Act 2001.” *New Zealand Legislation Provided by New Zealand Parliamentary Counsel Office*, <http://www.legislation.govt.nz/>.

¹⁴ For more details: “Local Government Act 2002.” *New Zealand Legislation Provided by New Zealand Parliamentary Counsel Office*, <http://www.legislation.govt.nz/>.

¹⁵ For more details: “Maori Land Act 1993.” *New Zealand Legislation Provided by New Zealand Parliamentary Counsel Office*, <http://www.legislation.govt.nz/>.

¹⁶ For more details: “Our Work and Priorities for Māori” *Te Puni Kōkiri*, <http://www.tpk.govt.nz/en/a-matou-kaupapa/>.

¹⁷ For more details: “Frequently Asked Questions.” *Waitangi Tribunal*, <http://www.justice.govt.nz/tribunals/waitangi-tribunal/about/frequently-asked-questions#4>.

¹⁸ For more details: “About the Maori Land Court.” *Maori Land Court*, <http://www.justice.govt.nz/courts/maori-land-court/about-us>.

related to Maori land. Its core services include preparation and processing of applicants to the Maori Land Court and Maori Appellate Court; providing information and advice from the Maori Land Court record; and provision of proactive advisory services and initiatives.

- *New Zealand Maori Council*:¹⁹ The Council is a statutory body established under the Maori Community Development Act 1962 which leads Maori policy development at the national level and community development at the local level. The New Zealand Maori Council advises and consults Maori district councils and Maori executive and other committees on matters referred to it by them, or those that are necessary for the social and economic development of the Maori.

C. Ministry of Maori Development: Strategic Intentions 2014–2018²⁰

The document *Strategic Intentions 2014–2018* sets out the plans and objectives of the Ministry of Maori Development and stresses that its purpose is to work within the public sector and with Maori communities to support Maori collective achievements at home and throughout the world. To achieve this, the substantive roles for the Ministry include: first, the provision of strategic leadership and guidance to ministers and the state sector on the Crown’s evolving partnerships and relationships with Maori *iwi*, *hapu* and *whanau*; second, the provision of advice to ministers and agencies on achieving better results for Maori *whanau*; and, third, the development and implementation of innovative trials and investments to test policy and programme models that promote better results for the Maori.

Strategic Intentions 2014–2018 outlines three broad areas with specific outcomes and priorities: partnership with one outcome; protection with two outcomes; and participation with two outcomes.

Where partnership is concerned, the outcome identified is that Maori have genuine engagement and productive relationships with the Crown. The priority area on which the Ministry aims to focus to this end is: “Stronger connectivity and understanding between Maori and the Crown”.

For protection, the first outcome identified is that Maori aspirations are supported by an effective State sector. The priority area on which the Ministry aims to focus to this end is: “Aligning the State sector’s service design and delivery, including resources and evidence to better achieve this”. The second outcome identified is that Maori are secure, confident and expert in their own language and culture, and the priority area on which the Ministry aims to focus to this end is: “More people speaking the Reo Maori and enabling *whanau*, *hapu* and *iwi* to identify and pursue their cultural development priorities”.

In the case of participation, the first outcome identified is that Maori are skilled, learned and innovative. The priority area on which the Ministry aims to focus to this end is: “Increasing Maori achievement of higher level qualifications”. The second outcome identified is that the Maori economy is thriving through high-performing people, assets and enterprises, and the priority area on which the Ministry aims to focus to this end is: “Stimulating Maori innovation to realize asset utilization and enterprise growth”.

¹⁹ For more details: “Our Purpose.” *New Zealand Maori Council*, <http://www.maoricouncil.com/2013/01/30/our-purpose/>.

²⁰ *Strategic Intentions 2014–2018*. Ministry of Maori Development, 2014.

D. Maori Economic Development Panel: Strategy to 2040²¹

At the very outset, the strategy document prepared by the Maori Economic Panel, *Strategy to 2040: The Crown-Maori Economic Growth Partnership*, observes that the growth of a more productive, innovative and internationally connected Maori economic sector will deliver prosperity to the Maori people, and both resilience and growth to the national economy. This, the document stresses, will be achieved by raising per capita income and improving export performance, which will boost the Maori contribution to the economy of New Zealand, while simultaneously improving the quality of life for the Maori and all New Zealanders.

The vision for Maori economic development is identified as “he kai kei aku ringa” (literally: “to provide the food you need with your own hands”; in other words, to be responsible for the resources and capability that you need to grow and develop). The aim is to achieve a situation where, with enabling support from the government, Maori *whanau*, *hapu*, *iwi* and enterprises actively seek out opportunities to sustainably develop their own resources, both human and natural, in order to improve Maori economic performance.

The strategy document highlights that “he kai kei aku ringa” will be achieved through the transformation by the Maori of their economic performance and their socioeconomic outcomes and when New Zealand itself implements a transformational shift in the development of its national economic development.

To achieve “he kai kei aku ringa”, six goals are identified: first, greater educational participation and performance; second, a skilled and successful workforce; third, increased financial literacy and savings; fourth, measures by the government, in partnership with the Maori themselves, to enable such growth; fifth, active discussions about the development of natural resources; and, sixth, the creation of Maori corporations as the driving force behind economic growth.

For each goal, the strategic document formulates a series of specific and practical recommendations for *whanau*, Maori, the private sector and the government. These consist of continuous improvement of existing activities, refining and reorienting to improve delivery of services to the Maori, and other bolder recommendations requiring significant change in the areas of education and natural resources and on the need for the Maori to work together to drive growth. Specific recommendations include: the government and the Maori people should work together to consider new models of compulsory schooling that better meet Maori needs; the government and the Maori should accelerate discussions on the development of natural resources; and efforts should be made to build relationships and manage logistics in export markets, especially China.

To implement the vision, the document stresses the need for an action plan that is updated every year. The Action Plan 2012–2017²² is designed to meet these needs, setting specific targets for each of the six goals, identifying the action required and the agents responsible for execution, and outlining short-to-medium-term outputs, along with long-term impacts. This five-year action plan follows an intensive and targeted

²¹ *Strategy to 2040: The Crown-Maori Economic Growth Partnership*. Maori Economic Development Panel, November 2012.

²² For more details: *Action Plan 2012–2017: The Crown-Maori Economic Growth Partnership*. Maori Economic Development Panel, November 2012.

approach, with the stress on improving employment opportunities and engagement in the labour force, so as to achieve economic prosperity and general well-being.

III. Employment situation

A. Maori in the labour market

An official report on Maori in the labour market,²³ published in March 2015, provides a detailed description of the employment situation of the Maori. The following are some of the key points highlighted in the report:

- The manufacturing, wholesale and retail, utilities and construction sectors are the biggest employers of Maori, with 12.9 per cent of the Maori workforce employed in manufacturing; 12.2 per cent in wholesale and retail; and 11.2 per cent in utilities and construction (as per September 2014 data).
- In the year to September 2014, Maori employment growth was higher than the total for all ethnic groups. The relative figures for the different sectors were: for utilities and construction, 19 per cent vs. 15.2 per cent; for education and training, 8.9 per cent vs. 2.5 per cent; for public administration and safety, 14.1 per cent vs. 2.7 per cent; and for agriculture, forestry, fishing and mining, 5 per cent vs. 0.8 per cent.
- The biggest increases in Maori employment over the five years to September 2014 were in utilities and construction (24.2 per cent); public administration and safety (26.3 per cent); and business services (21.5 per cent).
- Between 2011 and 2014, there was a 9.1 per cent increase in the number of Maori workers in skilled occupations such as managers, professionals, technicians and trade workers. Of the total number of Maori employed in September 2014, 39 per cent were in skilled occupations; 41.1 per cent in semi-skilled occupations; and 19 per cent in low-skilled occupations.
- Proportionately more Maori (19 per cent) were employed as labourers than the total of all ethnic groups (11 per cent) in September 2014.
- Employment for Maori increased between 2009 and 2014 by 5 per cent and more Maori were active in the labour market in September 2014, up by 1.9 percentage points from September 2013.
- Employment among Maori females increased by 4.6 per cent between September 2013 and 2014. The employment rate for Maori, male and female, in September 2014 was 64.6 per cent and 53.3 per cent respectively, while the total for all ethnic groups, male and female, was 71 per cent and 59.4 per cent respectively. Over the five years to September 2014, the female Maori unemployment rate was also generally higher than that for males. Furthermore, in September 2014, the so-called “NEET” (“Not in employment, education or training”) rate for female Maori was 25.8 per cent and for male Maori 15 per cent.

²³ For more details: *Maori in the Labour Market*. Ministry of Business, Innovation and Employment, March 2015.

Labour Market statistics²⁴ comparing Maori and New Zealand Europeans reveal the following:

- The employment rate for Maori in 2014 was 59 per cent and for New Zealand Europeans 67.3 per cent.
- The labour force participation rate for Maori in 2014 was 67.2 per cent and for New Zealand Europeans 70.4 per cent.
- The median hourly earnings from wage and salary jobs for Maori in the June 2014 quarter were \$19.5 and for New Zealand Europeans \$23.01.
- The unemployment rate for Maori in 2014 was 12.1 per cent and for New Zealand Europeans 4.4 per cent.
- With regard to satisfaction with work-life balance, 2014 figures reveal that 40 per cent of Maori were “satisfied” and 15 per cent were “very satisfied”; for New Zealand Europeans, the corresponding figures were 46 per cent and 16 per cent.
- The incidence rate of work-related injury claims for Maori in 2013 was 93 per 1,000 full time equivalent employees, and for New Zealand Europeans was 88 per 1,000 full time equivalent employees.

Figures on youth (15–24 years) employment and education status,²⁵ based on 2011 statistics, highlight the following:

- 11.9 per cent of Maori and 24.6 per cent of Europeans were in the category: “Employed, in education”.
- 27.8 per cent of Maori and 31.1 per cent of Europeans were in the category: “Employed, not in education”.
- 4.6 per cent of Maori and 4.4 per cent of Europeans were in the category: “Unemployed, in education”.
- 33.4 per cent of Maori and 30.2 per cent of Europeans were in the category “Not in the labour force, in education”.
- 9.1 per cent of Maori and 4.1 per cent of Europeans were “Unemployed, not in education”.
- 6.9 per cent of Maori and 2.4 per cent of Europeans were “Not in the labour force, not in education – caregiving”.
- 6.1 per cent of Maori and 3.1 per cent of Europeans were in the category “Not in the labour force, not in education – not caregiving”.
- The NEET rate was highest for Maori, at 22.2 per cent, while for Europeans it was 9.6 per cent.

²⁴ “Labour Market.” *Statistics New Zealand*, http://www.stats.govt.nz/browse_for_stats/snapshots-of-nz/nz-social-indicators/Home/Labour%20market.aspx.

²⁵ “Youth Not in Employment, Education, or Training: September 2011 Quarter (Revised 9 February 2012).” *Statistics New Zealand*, http://www.stats.govt.nz/browse_for_stats/income-and-work/employment_and_unemployment/NEET-paper.aspx.

Discrimination at work is another important aspect of the employment situation of Maori. An official report²⁶ discussing racial discrimination in New Zealand has noted the following:

- An estimated 77,700 or 2.3 per cent of the respondents reported experiencing racial discrimination in employment situations.
- Statistical modelling shows that Maori, Pacific and Asian peoples are more likely to report experiencing racial discrimination at the workplace than the majority group (Europeans).

B. Child labour and indigenous peoples

Non-governmental organizations have noted instances of children being forced to work to support their families, often for very low wages and at times in dangerous and illegal settings in New Zealand.²⁷ The dearth of data, however, in particular disaggregated data, renders it difficult to gain a full understanding of child labour among the Maori. Nevertheless, child poverty can be used as an indicator of heightened risks. In this context, a study by the Expert Advisory Group on Solutions to Child Poverty²⁸ has stressed that Maori children are over-represented in child poverty statistics, with 13 per cent of Maori children living in severe poverty in 2004–05, compared to 5 per cent of non-Maori children.

IV. Challenges

New Zealand has an extensive policy and legislative framework that focuses on the issues faced by the indigenous peoples of the country. The Maori remain disproportionately poor, however, and even though there have been some improvements, unemployment and other social indicators highlight the persistence of inequality.²⁹

Although the sectors of manufacturing, wholesale and retail, and utilities and construction are the biggest employers for the Maori population, agriculture, fishing and owner-occupied dwellings combined accounted for 75 per cent of the output of the Maori economy in 2007. Agriculture was estimated at \$700 million and Maori controlled around 37 per cent of New Zealand's fishing quota, which generated \$299 million in fishing revenue.³⁰ In this context, access to land and resources remains crucial for livelihoods among the Maori. It has been observed by the Special Rapporteur on the rights of indigenous peoples that, since the settlement process was developed in the 1990s to address historical grievances, as of July 2010, 27 iwi had reached partial or full settlement, while 35 had yet to attain that outcome. The pending settlements include

²⁶ *Working Together: Racial Discrimination in New Zealand*. Statistics New Zealand, 2012.

²⁷ For more details: Anderson, Danae, Felicity Lamm, Erling Rasmussen, Peter Shuttleworth, and Judith McMorland. "Child Labour: What Is Happening in New Zealand?" *Labour, Employment and Work in New Zealand*, 2008.

²⁸ *Reducing Child Poverty in Maori Whanau*. Working Paper No. 14. Expert Advisory Group on Solutions to Child Poverty, August 2012.

²⁹ Lisa Marriott, Dalice Sim. *Indicators of Inequality for Māori and Pacific People*. Working Papers in Public Finance. Victoria Business School (VUW), August 2014.

³⁰ For more details: "Māori Economy in the Early 2000s." *The Encyclopaedia of New Zealand*, <http://www.teara.govt.nz/en/te-maori-i-te-ohanga-maori-in-the-economy/page-8>.

negotiations over the co-management of the Whanganui River, return of ownership of land within Te Urewera National Park, and property rights related to Maori knowledge and indigenous flora and fauna. These pending cases pose serious challenges to settlement and are yet to be resolved.³¹

The Maori economy has been diversifying, with improvements in skills and a growth in representation in such sectors as manufacturing, utilities and construction, public administration and safety, and business services. Moreover, a study³² on indigenous entrepreneurship has observed that Maori are accumulating capital in the form of human and physical resources in businesses focused on land and coastal development, fisheries, tourism and mineral deposits, and are also aware that they must move from commodity-based production to value-adding, with greater orientation towards enhancing profits and building business capacity. Limitations remain, however, in bridging the technological divide, especially among elders, who are facing great difficulty in playing a leadership role in a modern economic setting, thereby enhancing resentment among Maori youth about wasted opportunities in business environments where their disadvantaged situation is further compounded by discrimination. The need to build capacities and to create an enabling environment conducive to entrepreneurial progress among the Maori hence poses a major challenge in New Zealand.

An important issue that has strong implications both for employment and for the livelihood of Maori is their significantly lower job security. A study³³ addressing the fact that Maori are more likely than other workers to move from employment to unemployment stresses how important it is for employers to provide training. While the report acknowledges that job loss among the Maori is not exclusively due to training-related issues but may also be attributed to other social causes, job training is still viewed as a key element in reducing the risk of involuntary job loss. In this context, it is vital that the problems of high unemployment among the Maori and their lower job security should be tackled from the dual standpoint of overcoming discrimination on the one hand, and remedying shortcomings in both training and capacity on the other.

A study³⁴ of Maori youth employment has noted that the greatest percentage of Maori youth included in the sample surveyed for the study were working as labourers and machine operators or in the agriculture and fishing sector, while a much smaller percentage were employed as managers or in professional positions. A comparison with the situation of non-Maori employees showed a disparity of 10 percentage points between Maori, who predominantly worked as labourers or machine operators, and non-Maori, who held management and professional positions. This disparity among the youth of the country is primarily attributable to their lower qualifications, and lack of training and capacity, and the study notes also that, among young people without any sort of qualification, the relative proportion of Maori is double that of non-Maori. Addressing

³¹ For more details: *Report of the Special Rapporteur on the Rights of Indigenous Peoples, James Anaya. The Situation of Maori People in New Zealand.* Human Rights Council, 31 May 2011.

³² Frederick, Howard H., and Dennis Foley. "Indigenous Populations as Disadvantaged Entrepreneurs in Australia and New Zealand." *The International Indigenous Journal of Entrepreneurship, Advancement, Strategy and Education*, 2006.

³³ Gibson, John, and Carolyn Watane. "Why Is Job Security Lower for Maori and Pacific Island Workers? The Role of Employer-provided Training." *New Zealand Economic Papers* 35, No. 1 (1 June 2001): 1–24.

³⁴ Staniland, Nimbus. *Maori Youth Employment.* Nga Pae o te Maramatanga, 2012.

such disparities remains a challenging endeavour and one that has serious long-term implications for the indigenous people of New Zealand.

V. Data gaps

The indigenous people of New Zealand, the Maori, are carefully identified in the wide range of statistical surveys of the country. The disaggregated data on Maori are highly revealing and provide a clear picture of their employment situation and of their socio-economic status within New Zealand. That said, the further disaggregation and presentation of data based on gender, with regard to the Maori, will be of great benefit in tackling a wide range of issues in a manner that takes due account of the specific vulnerabilities of different groups. In addition, the collection and analysis of data on child labour among the Maori are also important, as this issue remains a blind spot. New Zealand is already vigorously tackling numerous issues faced by the Maori and, with the greater clarity that would be provided by further data on gender and children, policies could be further improved and shortcomings identified.



Pakistan

I. Overview

Pakistan is home to large tribal groups, including the Pashtun and Baloch, together with smaller groups that include the Kihals, the Mors, the peoples of the Indus, the Buzdar from the Suleiman Mountains and the Kailasha people in Chitral. Many of the smaller groups are semi-nomadic boat people or pastoralists.¹ While the census does not concern itself with the country's ethnic diversity, figures from the 1998 census reflecting the percentage distribution of households by language usually spoken indicate that, of the total population, 7.6 per cent speak Urdu, 44.1 per cent speak Punjabi, 14.1 per cent speak Sindhi, 15.4 per cent speak Pushto, 3.6 per cent speak Balochi, 10.5 per cent speak Saraiki and 4.7 per cent speak other languages.² It can be seen from these figures that a few groups, such as the Pashtun and Baloch, constitute a substantial proportion of the population of Pakistan, while other indigenous groups are bundled together in the category of "Others" or are not accounted for at all if they speak the dominant language of the region. In its reports on the application of ILO Convention No. 107, ratified by Pakistan, the Government indicated that the size of the indigenous population is approximately 4,016,000 persons.³

The province of Balochistan is populated primarily by Baloch tribes, and also by Pashtun tribes. There are some 18 major Baloch tribes, principal among which are the Bugtic and the Marris.⁴ Khyber Pakhtunkhwa, which was formerly known as the North-West Frontier Province, is populated by a large number of tribes, sub-tribes and clans, collectively known as Pushtun, Pakhtun or Pathan.⁵ The regions known as the Federally Administered Tribal Areas are characterized by a strong tribal structure and is home to some one dozen major tribes, with several smaller tribes and sub-tribes.⁶ Besides these, many tribal groups are also found in the provinces of Punjab, Sindh and Gilgit-Baltistan, and include, among numerous others, the tribal fishing peoples of the Indus Basin, the pastoral groups of the Middle Indus Valley, coastal fisher folk, the Haris of Sindh, and the Wakhi, Borogil, Kho and Burusha tribes of Gilgit.⁷

¹ "Pakistan." *ILO*, <http://www.ilo.org/indigenous/Activitiesbyregion/Asia/SouthAsia/Pakistan/lang--en/index.htm>.

² *Percentage Distribution of Households by Language Usually Spoken and Region/province 1998-Census*. Population Census Organization, <http://www.pbs.gov.pk/sites/default/files/other/yearbook2011/Population/16-20.pdf>.

³ ILO Committee on the Application of Conventions and Recommendations, *Indigenous and Tribal Peoples Convention, 1957 (No. 107)*, Direct request adopted in 2013, available at http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:3143625,103166,Pakistan,2013

⁴ "Culture and Heritage." *Government of Balochistan*, http://www.balochistan.gov.pk/index.php?option=com_content&view=article&id=39&Itemid=785.

⁵ "People and Tribes." *Khyber Pakhtunkhwa – Official Gateway to Government*, <http://www.khyberpakhtunkhwa.gov.pk/aboutus/People-Tribes.php>.

⁶ "Tribal and Ethnic Diversity." *Federally Administered Tribal Areas (FATA)*, <http://fata.gov.pk/Global.php?iild=32&fid=2&pId=28&mId=13>.

⁷ Wagma, Wasim. *Country Technical Note on Indigenous Peoples' Issues: Islamic Republic of Pakistan*. IFAD, November 2012.

Some commentators maintain that the Pakistani Government has been running the affairs of some tribal areas through regulations and laws enacted during British rule, essentially through special arrangements such as the Federally Administered Tribal Areas or the Provincially Administered Tribal Areas.⁸ Tribal areas face high levels of extreme poverty, privation, unemployment and gender inequality, in addition to conflict and an absence of law and order, which have severely impeded their social and economic development. Poverty, coupled with a lack of economic and political empowerment, is widely cited as one of the principal reasons behind extremism and radicalization in the tribal areas of Pakistan.⁹

II. Policy environment

Only limited attention is paid to the indigenous peoples of Pakistan in the country's legal and policy frameworks.

A. Constitutional and legislative provisions

Part II, chapter 2, paragraph 33 of the Constitution of the Islamic Republic of Pakistan¹⁰ specifically affirms: "The State shall discourage parochial, racial, tribal sectarian and provincial prejudices among the citizens." Besides this, the Constitution outlines the Federally Administered Tribal Areas and the Provincially Administered Tribal Areas, which are given special provisions. Key among these are: extension of the executive authority of the Federation over the Federally Administered Tribal Areas and of the province over the Provincially Administered Tribal Areas; non-applicability of laws framed by the National Assembly in the Federally Administered Tribal Areas unless ordered by the President, and non-applicability of laws framed by the National Assembly or the Provincial Assembly in the Provincially Administered Tribal Areas unless directed by the Governor with the approval of the President; and powers that allow for the issuance of regulations by the President for peace and good government of both the Federally and Provincially Administered Tribal Areas. The provincial Governor can also issue regulations for the Provincially Administered Tribal Areas with the prior approval of the President. These arrangements notwithstanding, it has been noted that, at the legislative and constitutional level, there is reluctance to acknowledge Pakistan's ethnic diversity.¹¹

The Federally Administered Tribal Areas continue to be administered by the Frontier Crime Regulation of 1901, which set in place a system of indirect rule, encouraged consensus-based decision-making through tribal Jirgas (traditional assembly of leaders), allowed for collective punishment and provided extraordinary executive powers to the central government. This system has come under criticism for violating fun-

⁸ *Ibid.*

⁹ News Desk. "Poverty Breeding Extremism in Tribal Areas." *The Express Tribune*, 18 July 2012. <http://tribune.com.pk/story/409639/poverty-breeding-extremism-in-tribal-areas/>.

¹⁰ For more details: *Pakistan's Constitution of 1973, Reinstated in 2002, with Amendments through 2012*. constituteproject.org.

¹¹ For more details: Ali, Shaheen Sardar, and Javaid Rehman. *Indigenous Peoples and Ethnic Minorities of Pakistan: Constitutional and Legislative Perspectives*. Curzon Press, 2001.

damental principles of political and human rights. Certain structural changes have since taken place, with the establishment of the Federally Administered Tribal Areas Secretariat in 2006, the extension of the Political Parties Act in 2011, permitting candidates to contest elections on a party basis, along with some minor revisions to the Frontier Crime Regulation. It is important to note, however, that at the same time the Government issued the regressive 2011 Action in Aid of Civil Powers Regulation, which gave sweeping powers to security forces operating in the region.¹²

B. Institutional mechanisms

Institutional arrangements have been set in place for areas with tribal populations. A case in point is the above-mentioned Federally Administered Tribal Areas Secretariat, which was set up in 2006. It has an Additional Chief Secretary, four Secretaries and more than ten directorates with decision-making functions related to the development planning of tribal areas. In 2012, the Secretariat was restructured with the addition of a Production and Livelihood Department and a Social Sectors Department. The Secretariat's line directorates provide services in the areas of health, education, forestry, fisheries, irrigation, livestock and dairy development, minerals and technical education, agriculture, sports, social welfare, roads and other infrastructure development.¹³

Similarly, to deal with issues at a provincial level, in 2009, the Pakistani Government undertook to deliver a national "apology" to the Baloch people for the discrimination that they had suffered under previous Pakistani administrations.¹⁴ With this, a package was also announced of constitutional, economic and administrative measures for the rights of the Baloch people, entitled the "Aghaz-e-Haqooq-e-Balochistan" package. By 2011, however, the process had encountered numerous problems and, of the 61 reforms aimed at redressing Baloch grievances regarding the affairs of their province, only 15 were actually implemented.¹⁵

C. National plan: Tenth Five Year Plan 2010–15 "Investing in People"¹⁶

The plan, at the very onset, stresses that progress in human and social indicators has been disappointing and poverty remains high, while income and regional inequalities have widened in recent years. This situation has been compounded by a lack of job opportunities that meet the expectations of the citizens. In this context, the plan notes that it will play a pivotal role in changing the development paradigm where ordinary people, in particular those in less developed provinces and regions, will be at the centre of and have ownership over the development process. It therefore stresses that resources will be redirected to accelerate growth in Balochistan, Khyber Pakhtunkhwa, the Federally Administered Tribal Areas, Gilgit Baltistan (all of which have tribal

¹² For more details: White, Joshua T, and Shuja Ali Malik. *Governance Reforms in Pakistan's Tribal Areas: The Long Road to Nowhere?* Policy Brief 135. United States Institute of Peace, 15 October 2012.

¹³ "About FATA Secretariat." *Federally Administered Tribal Areas (FATA)*. <http://fata.gov.pk/Global.php?ild=98&fld=2&pld=81&mlid=15>.

¹⁴ Wagma, Wasim. *Country Technical Note on Indigenous Peoples' Issues: Islamic Republic of Pakistan*. IFAD, November 2012.

¹⁵ Gishkori, Zahid. "Aghaz-E-Haqooq-E-Balochistan: Reform Package Stopped in Its Tracks." *The Express Tribune*, 7 March 2011.

¹⁶ *The Tenth Five Year Plan 2010–15 "Investing in People"* (Working Draft). Planning Commission, Government of Pakistan, 31 May 2010.

populations, although this fact is not noted in the plan), and less developed areas of other provinces.

The plan does not include any specific provisions for indigenous or tribal peoples but approaches tribal issues from a regional standpoint. The tribal communities of Pakistan are mentioned occasionally in the plan, however. In the context of gender mainstreaming, it notes that male dominance is stronger in rural and tribal contexts. The plan also notes that the conservative nature of tribal society, with its strong resistance to change in some quarters, hinders social and economic development.

The plan has a strong focus on accelerating development in less developed regions in Pakistan. Numerous districts of the Federally Administered Tribal Areas, Khyber Pakhtunkhwa, Balochistan and other provinces are placed within this category. The strategic framework for accelerating development aims to achieve the following: developing a nested hierarchy of growth centres, developing transport infrastructure, enhancing rural productivity and creating social safety nets.

The plan also has a detailed approach to the development of special areas, comprising the Federally Administrated Tribal Areas, Azad Jammu and Kashmir and Gilgit Baltistan. It acknowledges that the socioeconomic indicators are substantially lower in these areas than at the national level. To remedy this shortcoming, the plan includes the following strategic focuses: development, improvement and the upgrading of economic infrastructure; natural resource management through a participatory approach; according high priority to education, health sectors and expansion through computer literacy programmes; substantially increasing allocations for productive sectors to achieve self-reliance and enhance their revenue; self-sufficiency through the exploitation of hydro-power generation; tourism development; minerals development; provision of clean drinking water and sanitation facilities for all; capacity-building and skills enhancement; gender mainstreaming and women's empowerment; upkeep and maintenance of State assets; and exploring the possibility of public-private partnership programmes. For the development of special areas, the plan provides an amount of 243 billion Pakistan rupees.

In line with the country's focus on regional development, Balochistan and Khyber Pakhtunkhwa or the North-West Frontier Province (provinces with large tribal populations although not acknowledged as such by the plan), along with other regions, have repeatedly been singled out for broader poverty reduction strategies, ranging from infrastructure development to private sector investment. Beyond this regional or provincial focus, however, there is no specific focus on tribal communities or indigenous peoples where social policy is concerned. By not specifically identifying the tribal peoples of Pakistan, the plan effectively lumps them all together within the broader issue of poverty and development, rather than acknowledging and addressing their distinct issues.

D. ILO Decent Work Country Programme 2010–15¹⁷

The ILO Decent Work Country Programme for Pakistan does not specifically mention indigenous peoples. Instead, the programme's focus is placed on vulnerable and marginalized groups in general, in particular in the context of access to employment and

¹⁷ *Decent Work Country Programme 2010–2015*. ILO Country Office for Pakistan.

social protection. The programme is closely aligned with the National Development Plan, with a strong element of social justice, although without acknowledging the particular hardships faced by the country's diverse tribal population.

III. Employment situation

A. Employment and livelihood situation in general

The indigenous peoples in Pakistan pursue a wide array of traditional activities. While the majority of the tribal groups participate in agriculture or agriculture-related activities, smaller groups are also involved in such activities as fishing, weaving baskets and bird-cages, pastoral activities, making toys and household items, livestock-raising and subsistence livelihoods based on forest produce.¹⁸ Information on the employment and livelihood situation of tribal groups in Pakistan is limited; details on regions where the majority of these groups are found provide some insights, however. Agriculture in the province of Khyber Pakhtunkhwa or the North-West Frontier Province is largely a smallholding activity, with productivity severely limited by the size of the smallholdings, the difficult terrain and the unpredictable weather conditions.¹⁹ As a consequence, while many farmers cultivate small parcels of land, the yield is hardly ever sufficient to sustain even their own households. This situation is exacerbated by a rugged terrain that is very difficult to cultivate, the loss of forest cover, upon which many depend, and poor infrastructure facilities.²⁰

The economy of the province of Balochistan is primarily based on livestock, agriculture and fisheries, in addition to natural gas, coal and minerals. For many, farming and fishing along the Arabian coast line are crucial for their income and subsistence.²¹ In the Federally Administered Tribal Areas, however, there are few livelihood opportunities. The economy is chiefly pastoral and agricultural, with most households engaged in subsistence agriculture and livestock-raising or small-scale business conducted locally. Some are also involved in trade within the tribal belt or in the markets of nearby towns and cities. It has been observed that women in these areas take part in agricultural activities; in particular, collecting fuel wood and water, besides being involved in household work.²² Commentators point out, however, that the rigid tribal culture severely restricts the mobility of women, who are excluded and have limited access to or control and ownership over natural capital, in particular land.

Besides agriculture-related activities, non-farm related employment, in the form of informal casual wage jobs or less rewarding petty trade, is also an important source of

¹⁸ For more details: Wagha, Wasim. *Country Technical Note on Indigenous Peoples' Issues: Islamic Republic of Pakistan*. IFAD, November 2012.

¹⁹ Shahbaz, Babar, Qasim Ali Shah, Abid Q Suleri, Steve Commins, and Akbar Ali Malik. *Livelihoods, Basic Services and Social Protection in North-Western Pakistan*. Working Paper 5. Secure Livelihoods Research Consortium, August 2012.

²⁰ Steimann, Bernd. *Livelihood Strategies in North-West Pakistan*. IP6 Working Paper No. 5. Swiss National Centre of Competence in Research (NCCR) North-South, June 2005.

²¹ "Balochistan Profile." *Provincial Disaster Management Authority Balochistan*, 11 April 2012. <http://www.pdma.gov.pk/?p=39>.

²² "About FATA: Economy and Livelihood." *Federally Administered Tribal Areas (FATA)*, <http://fata.gov.pk/Global.php?ild=33&fld=2&pld=29&ml=13>.

livelihood in the broader north-west Pakistan region.²³ Many Pakistanis in the Federally Administered Tribal Areas seek employment as unskilled short-term labourers or enlist in local security and paramilitary forces. In addition, many also migrate to cities across Pakistan and further afield, such as the Middle East, in search of work.

The lack of disaggregated data renders it difficult to provide a more detailed description of the employment situation of the indigenous peoples of Pakistan. A limited understanding may, however, be derived from the data that are available on the different regions of Pakistan that are home to the numerous tribal groups. In this regard, the regions of Khyber Pakhtunkhwa, the North-West Frontier Province, Balochistan and the Federally Administered Tribal Areas serve as important points of departure. Data on the Federally Administered Tribal Areas are particularly scarce as these areas were not included in the 2012–13 labour force survey. Some key highlights relevant to the employment situation of the indigenous peoples of Pakistan are outlined below:²⁴

- The labour force participation rate (for those aged 10 and over), based on 2012–13 figures for Pakistan was 45.70 per cent. For Khyber Pakhtunkhwa, it was 36.85 per cent and for Balochistan it was 42.34 per cent.
- The unemployment rate (for those aged 10 and over), based on 2012–13 figures for Pakistan was 6.24 per cent. For Khyber Pakhtunkhwa, it was 8.57 per cent and for Balochistan it was 3.93 per cent.

The figures from 2012–13 detailing migration indicate that, for 14.35 per cent of all migrants, their previous residence was rural Khyber Pakhtunkhwa, for 0.99 per cent, rural Balochistan and for 5.45 per cent, rural Federally Administered Tribal Areas. Disaggregated by sex, for 7.48 per cent of women migrants, their previous residence was rural Khyber Pakhtunkhwa, for 0.56 per cent, rural Balochistan and for 2.83 per cent rural Federally Administered Tribal Areas. In all three categories of migration from rural areas, the percentage for women is consistently higher.

The figures from 2012–13 detailing the percentage distribution of employed persons (for those aged 10 and over) indicate that, for Khyber Pakhtunkhwa, 36.79 per cent are employed in the agricultural sector while 48.38 per cent work in the informal sector (non-agricultural). For Balochistan, the corresponding figures are 52.31 per cent and 31.49 per cent, respectively, while for Pakistan as a whole, the figures are 43.71 per cent and 41.45 per cent, respectively.

There are no labour statistics available for the Federally Administered Tribal Areas. To some extent, however, land-use data can be indicative of the situation in the region. Based on 2008–09 figures, 8 per cent of the total geographical area of the Federally Administered Tribal Areas is cultivated, while more than 86 per cent of the land is not available for cultivation. As a consequence, there is immense pressure on the available farmland since, on average, it supports 18 persons per cultivated hectare and more than 40 persons per irrigated hectare.²⁵

²³ Khan, Mohammad Asif. "Livelihood Strategies and Employment Structure in Northwest Pakistan." Faculty of Agricultural Sciences, Georg-August-University Göttingen, Germany, 2008.

²⁴ Primarily based on: *Labour Force Survey 2012–13 (Annual Report)*. Government of Pakistan, Statistics Division, Pakistan Bureau of Statistics, November 2013. <http://www.pbs.gov.pk/content/labour-force-survey-2012-13-annual-report>.

²⁵ "Land Use Indicators." *Federally Administered Tribal Areas (FATA)*, <http://fata.gov.pk/Global.php?ild=31&fld=2&pld=27&mld=13>.

B. Child labour and indigenous peoples

In the case of Pakistan, there are no disaggregated data available that detail the situation of indigenous children and work. Available data on child labour from the 2012–13 national labour force survey indicate, however, that the majority of child workers reside in rural areas. In terms of sectors, the majority of child labour in Pakistan is found in agriculture. Added to which, children, in particular girls, are employed as domestic servants and may be subjected to extreme abuse. There are also instances of girls being sold into forced marriages who are trafficked internationally for the purpose of sexual exploitation. In addition, some children are used by non-State groups and recruited for the purpose of spying, fighting and dying in suicide attacks.²⁶ This is of particular relevance to the Federally Administered Tribal Areas where there is a continuing and long-standing conflict. One study has also noted that many aspects of society, such as traditionalism, normative social structure, poverty, family conflicts, joint family systems and household sizes, are further contributing to child labour in the Federally Administered Tribal Areas.²⁷ The absence of disaggregated data renders it difficult, however, to reach a clear understanding of child labour among the indigenous peoples of Pakistan.

IV. Challenges

Rather than addressing indigenous peoples' issues through broader policies at the national level, the issues faced by the tribal population of Pakistan are primarily addressed through an administrative or regional approach whereby certain regions are taken into account for framing developmental interventions.

For many tribal groups and indigenous peoples of Pakistan, land alienation, be it agricultural land or forest land, has had a profound impact on their livelihoods. This is more pronounced for those groups that are dependent on subsistence-based activities. Land alienation has partly been a consequence of a lack of protection or acknowledgement of the rights of indigenous peoples and of an absence of mechanisms that allow for participation and consultation in the processes of development. It has been observed that commercial logging, construction of big dams, corporate agricultural farming and water resource development projects have had adverse social, environmental and livelihood impacts. In light of these developments, the smaller indigenous groups like the Khilals, the Mors, and the boat people, among others, have lost their customary rights over natural resources and are threatened with extinction. Fundamentally, such groups are voiceless while their rights are neither recognized nor protected; as a result, it is of crucial importance that they be fully involved in decision-making processes.²⁸

In the Federally Administered Tribal Areas, environmental trends resulting in a steady decline in rainfall and persistent drought conditions have severely exacerbated the

²⁶ *Pakistan: 2013 Findings on the Worst Forms of Child Labor*. United States Department of Labour, 2013. <http://www.dol.gov/ilab/reports/child-labor/pakistan.htm>.

²⁷ Naz, Arab, and Waseem Khan. "An Analysis of the Sociological Causes of Child Labour in FATA: A Case Study of Bajaur Agency, Pakistan." *TIGAH: A Journal of Peace and Development* V (June 2014).

²⁸ Manchanda, Rita. "Indigenous Peoples." In *The No Nonsense Guide to Minority Rights in South Asia*. Sage Publication India, 2009.

already vulnerable situation of tribal groups, in particular where their livelihoods are concerned.²⁹ The decline in agricultural yields, dwindling livestock numbers and the reduced availability of drinking water have a strong impact on the livelihood strategies prevalent in the region. This has been compounded by a decline in forest cover, which is depriving inhabitants of their income from forest produce and making it increasingly difficult to find fuelwood, fodder, wild fruits and vegetables.

In addition, the combined effects of drought and deforestation are leading to shrinking employment opportunities, as livestock numbers fall and land remains uncultivated. This is of particular concern as the area is one where non-agricultural employment is extremely limited. In this context, the issue of creating employment outside the agricultural sector while at the same time making the agricultural sector more productive and responsive to changing climatic conditions has yet to be properly tackled.

For the larger north-west region of Pakistan, the top-down non-participatory management of forests is seen as a primary reason behind the depletion of the country's forest cover. The State is increasingly in competition with local peoples for natural resources.³⁰ In turn, this is placing severe constraints on the livelihood activities of many tribal peoples, who are sometimes forced to resort to illegal actions just to gain access to the forests. Another direct consequence of dwindling livelihoods is the increased migration to cities, along with heightened food insecurity. In this regard, participatory forest management and increasing the forest cover are major challenges faced by this region.³¹

Another key issue that affects tribal groups in Pakistan is their low agricultural productivity, due to the small size of their holdings and lack of infrastructure. As a consequence, crop production for small farmers is sometimes below subsistence levels. Even in the case of Balochistan, the population lives in sparsely populated areas with inhospitable terrain, while remaining dependent on livestock, and crop and livestock productivity and skills development constitute major concerns.³² Many tribal regions of Pakistan are thus witnessing an outmigration to cities and abroad in search of employment and people are increasingly working as wage labourers in the informal sector.

This situation is further exacerbated by the population's lack of access to finance. Women are in a particularly vulnerable situation and exposed to exploitation as their access to opportunities, financial assets and livelihoods is even more limited than that of men.³³ The need to increase productivity, develop skills, create physical assets and improve access to financial mechanisms is particularly acute where the indigenous peoples of Pakistan are concerned.

Armed conflict has affected numerous areas where the indigenous peoples of the country live. The Baloch in Balochistan have fought two major guerrilla campaigns against

²⁹ *Pakistan Participatory Poverty Assessment Federally Administered Tribal Areas (FATA) Report*. Federally Administered Tribal Areas, September 2003.

³⁰ Shahbaz, Babar. *Risk, Vulnerability and Sustainable Livelihoods: Insights from Northwest*. Project Report Series # 13. Sustainable Development Policy Institute (SDPI), May 2008.

³¹ Ali, Tanvir, Munir Ahmad, Babar Shahbaz, and Abid Suleri. "Impact of Participatory Forest Management on Financial Assets of Rural Communities in Northwest Pakistan." *Elsevier, Ecological Economics*, 63, No. 2–3 (2007): 588–93.

³² "Area Development Programme in Balochistan." UNDP, http://www.pk.undp.org/content/pakistan/en/home/operations/projects/poverty_reduction/project_sample.html.

³³ Shahbaz, Babar, Qasim Ali Shah, Abid Q Suleri, Steve Commins, and Akbar Ali Malik. *Livelihoods, Basic Services and Social Protection in North-Western Pakistan*. Working Paper 5. Secure Livelihoods Research Consortium, August 2012.



the Pakistani State, seeking independence, the first from 1973 and 1977 and the second from 2005 to the present day. These have involved brutal violence, with many killings and disappearances. A key aspect of this conflict is the struggle for rights and control over natural resources in the area.³⁴ Observers have also noted that the conflicts raging in areas of the Federally Administered Tribal Areas and Khyber Pakhtunkhwa are a consequence of inherent structural and historical discrimination that are feeding into armed agitation.³⁵

V. Data gaps

Disaggregated data on the indigenous peoples of Pakistan are simply not available in the numerous statistical records prepared in the country. As a consequence, a more coherent understanding of the situation of the numerous tribal peoples of Pakistan is difficult to obtain. In turn, the lack of data limits the process of analysing existing policies and legal frameworks and of designing policies and frameworks. This is of particular importance as sound laws, policies and programmes are vital to successfully resolving the rights and livelihoods issues faced by indigenous and tribal peoples, which, in turn, is crucial for tackling the root causes of conflict and division.

³⁴ Hashim, Asad. "Pakistan's Unending Battle over Balochistan." *Al Jazeera*, 16 April 2013. <http://www.aljazeera.com/indepth/features/2013/04/2013415113250391656.html>.

³⁵ *Redressing a History of Neglect: Discrimination of Ethnic Groups and Indigenous Peoples of Pakistan (Shadow NGO Report to the UN Committee on the Elimination of Racial Discrimination (CERD) for the Examination of the 15th–20th Periodic Reports of Pakistan at the 74th CERD Session in February 2009)*. Minority Rights Group International, February 2009.



Philippines

I. Overview

The Philippines is home to a diverse population of indigenous peoples. It is estimated that the country has 14–17 million indigenous peoples belonging to 110 ethno-linguistic groups, who are mainly concentrated in Northern Luzon (Cordillera Administrative Region, 33 per cent), Mindano (61 per cent), with some smaller groups in the Visayas area.¹ The indigenous groups in the northern mountains of Luzon (Cordillera) are collectively known as Igorot and those on the southern island of Mindano are collectively called Lumad, while smaller groups in the central islands and other scattered groups on Luzon are collectively known as Mangyan.² Accurate figures on their population are not available, owing to a lack of any formal census, and their actual numbers may be higher, although a rough estimate indicates that indigenous peoples constitute 10–15 per cent of the total population of the Philippines.³

Indigenous peoples are officially recognized by the Constitution of the Philippines and the Indigenous Peoples Rights Act (Republic Act 8371) of 1997. There are continuing debates, however, as to who exactly the indigenous peoples of the Philippines are.⁴ Nevertheless, it has been noted that indigenous peoples are clearly distinguishable from the other segments of the population in the Philippines as they have retained much of their traditional pre-colonial culture, social institutions and livelihood practices.⁵

The indigenous peoples of the Philippines are among the most marginalized and poorest sections of society. They have had a long history of discrimination and were never fully integrated into mainstream development and the social and economic or political spheres. It is difficult to gain a clear idea of the poverty levels of indigenous peoples in the Philippines. It can be observed, however, that they are largely present in rural areas and the hinterland where about 70 per cent of the poor also reside.⁶ It has also been noted that the regions with the highest concentration of indigenous peoples received the smallest budget allocations in 2008, thereby exacerbating the generally poor living conditions and increasing the instances of poverty in those regions.⁷ An Asian Development Bank report⁸ has stressed that, while there may be severe limitations in existing data regarding the poverty of indigenous peoples in the Philippines,

¹ *Fast Facts: Indigenous Peoples in the Philippines*. UNDP, 2010.

² *The Indigenous World*. Copenhagen: IWGIA, 2014.

³ Carino, Jacqueline. *Country Technical Note on Indigenous Peoples' Issues: Republic of the Philippines*. IFAD, 2012.

⁴ Plant, Robert, and Jane Austria-Young. *Technical Assistance Consultant's Report: Targeted Capacity Building for Mainstreaming Indigenous Peoples' Concerns in Development*. Asian Development Bank, 2011.

⁵ *The Indigenous World*. Copenhagen: IWGIA, 2014.

⁶ Gust, Gert A. "Indigenous Filipinos in the World of Work: Towards Equality and Non-Discrimination in Employment and Livelihood." In *The Road to Empowerment: Strengthening the Indigenous Peoples Rights Act*, edited by Yasmin Arquiza. ILO, 2007.

⁷ Carino, Jacqueline. *Country Technical Note on Indigenous Peoples' Issues: Republic of the Philippines*. IFAD, 2012.

⁸ *Indigenous Peoples/Ethnic Minorities and Poverty Reduction Philippines*. Asian Development Bank, 2002.

findings reveal that in indigenous peoples' regions, which registered a high incidence of poverty, the poverty gap ratio, especially in rural areas, also remains high. Even in regions that registered respectable growth rates, the inherent benefits have not reached the poorest, thereby limiting access by indigenous groups to economic opportunities amid marked inequalities.

II. Policy environment

An increasing focus has been placed on indigenous peoples in the country's legal and policy frameworks. In recent years, some important initiatives have been mounted to meet the concerns of this section of the population.

A. Constitutional and legislative provisions

The 1987 Philippines Constitution⁹ explicitly recognizes the rights of "indigenous cultural communities" and contains the following provisions in different sections:

- *Section 22, Article II:* "The State recognizes and promotes the rights of indigenous cultural communities within the framework of national unity and development."
- *Section 5, Article XII:* "The State, subject to provisions of this Constitution and national development policies and programs, shall protect the rights of the indigenous cultural communities to their ancestral lands to ensure their economic, social and cultural well-being. The Congress may provide for the applicability of customary laws governing property rights or relations in determining the ownership and extent of ancestral domain."
- *Section 6, Article XIII:* "The State shall apply the principles of agrarian reform or stewardship, whenever applicable in accordance with law, in the disposition or utilization of other natural resources, including lands of the public domain under lease or concession suitable to agriculture, subject to prior rights, homestead rights of small settlers, and the rights of indigenous communities to their ancestral lands."
- *Section 17, Article XIV:* "The State shall recognize, respect, and protect the rights of indigenous cultural communities to preserve and develop their cultures, traditions, and institutions. It shall consider these rights in the formulation of national plans and policies."

Where legislation is concerned, the Indigenous Peoples' Rights Act, 1997 (Republic Act, No. 8371) is viewed as landmark piece. It embodies the Government's formal recognition of the rights of the country's indigenous peoples and indigenous cultural communities, foremost of which is to hold titles to their ancestral territories and domains.¹⁰ A key feature of this legislation is the provision for free, prior and informed consent in

⁹ For more details: *The 1987 Constitution of the Republic of the Philippines*. Official Gazette, <http://www.gov.ph/constitutions/the-1987-constitution-of-the-republic-of-the-philippines/>.

¹⁰ *Philippine Indigenous Peoples and Protected Areas: Review of Policy and Implementation*. Forest Peoples Programme, 2008.

relation to activities that have an impact on indigenous peoples. The Act bundles the rights into the following categories:¹¹

- Rights to ancestral domains
- Rights to self-governance and empowerment
- Social justice and human rights
- Cultural integrity.

B. Institutional mechanisms

The Indigenous Peoples' Rights Act created the National Commission on Indigenous Peoples as the primary government agency that formulates and implements policies, plans and programmes for the recognition, promotion and protection of the rights and well-being of indigenous peoples with due regard to their ancestral domains and lands, self-governance and empowerment, social justice and human rights, and cultural integrity.¹² The Commission falls under the Office of the President and is composed of seven commissioners appointed by the President, one for each ethnographic region. It exercises administrative, quasi-legislative and quasi-judicial functions and powers. Its major programmes and their areas of interest include:¹³

- *enforcement and enhancement of human rights of the indigenous peoples:*
 - education awareness-raising campaign on the Indigenous Peoples' Rights Act
 - settlement of conflicts between and among indigenous peoples by themselves using their own customary laws and practices
 - adjudication of conflicts which could not be resolved at the community level
 - provision of legal assistance
 - enforcement of the free, prior and informed consent of concerned indigenous peoples or indigenous people communities whenever necessary
- *land tenure security:*
 - cultural mapping of all indigenous people communities
 - survey and delineation of ancestral domains or lands
 - issuance of Certificate of Ancestral Domain Titles or Certificate of Ancestral Land Titles
- *establishment of model indigenous people communities:*
 - development of ancestral domains through the Ancestral Domain Sustainable Development and Protection Plan
 - development of people and communities through the delivery of basic services, in particular livelihood support, educational assistance, health care,

¹¹ For more details: *Republic Act No. 8371*. Official Gazette, 1997. <http://www.gov.ph/1997/10/29/republic-act-no-8371/>.

¹² For more details: "The National Commission on Indigenous Peoples – Mission/Vision/Mandate," <http://ncipro67.com.ph/ncip/about-us/>.

¹³ For more details: "The National Commission on Indigenous Peoples – Programs," <http://ncipro67.com.ph/projects/>.

- shelter and quick response in addressing critical situations, securing government inter-agency services and support from international agencies
- protection and enhancement of the cultural heritage of the indigenous peoples.

C. Indigenous peoples master plan 2012–16¹⁴

The Indigenous Peoples' Rights Act mandates the National Commission of Indigenous Peoples to formulate a master plan that focuses on the four bundles of rights of indigenous peoples enshrined in the Act. Through the numerous projects and programmes proposed in the plan, the target output for 2012–16 involves achieving the following:

- ancestral lands and domains recognized, titled and registered
- self-determined development and governance of indigenous cultural communities or indigenous peoples strengthened
- social justice and human rights of indigenous cultural communities or indigenous peoples recognized, protected and strengthened
- culture, tradition and institutions recognized, preserved, and protected.

In order to achieve the target output, the plan identifies the following key strategies for the betterment of indigenous peoples and indigenous cultural communities:

- promoting an overall development framework based on decent work principles which encompass the promotion of their fundamental rights, income and employment generation, social protection and social dialogue
- strengthening multi-stakeholder partnership and convergence in their development
- focusing and converging social and economic programmes, projects and services in line with adopted or approved ancestral domain sustainable development and protection plans
- encouraging public and private activities in agroforestry, ecotourism, renewable energy, and natural resources management
- ensuring environmental protection and the conservation of community-driven and participatory development projects such as rainforest rehabilitation, reforestation, biodiversity conservation, watershed management, river-basin management, and coast and lake protection
- strengthening self-governance mechanisms through meaningful and transparent participatory development processes
- institutional strengthening of the National Commission and mounting of an advocacy campaign for the empowerment of indigenous peoples
- strengthening of their self-governance mechanisms through recognition of their governance systems and organizations
- strengthening of their self-determination mechanisms through community-driven participatory development processes.

¹⁴ For more details: *Indigenous Peoples Master Plan 2012–2016*. National Commission on Indigenous Peoples.

The plan clearly identifies the challenges associated with the four bundles of rights, and notes specific priority areas of action. These include, among others, the credibility of free, prior and informed consent; the mandatory representation of indigenous peoples; efforts to deal with issues relating to ancestral domain; and the establishment of a database.

D. National plan: Philippines Development Plan 2011–16¹⁵

The plan, which is entitled “In Pursuit of Inclusive Growth”, states that inclusive growth is something of great importance to the country’s large population, with its geographical differences and social complexities. In this regard, indigenous peoples receive special mention in the country’s social policy. It is stressed that indigenous peoples are among the groups most vulnerable and marginalized, and most subject to discrimination, with the result that provinces with large concentrations of indigenous peoples are also those with the highest instances of poverty. The plan acknowledges that indigenous peoples are victims of armed conflicts and human rights abuses while their lack of power and exclusion from decision making contribute to their impoverishment.

Detailed attention is given to the issue of ancestral domains and lands in the country’s social policy. Thus, as of July 2010, 156 out of 286 Certificates of Ancestral Domain Titles applications have been approved by the National Commission, which also approved the granting of 258 Certificates of Ancestral Land Titles to 8,609 rights holders.

The plan highlights the Ancestral Domain Sustainable Development and Protection Plan and identifies programmes and projects that strengthen self-governance within ancestral domains of indigenous cultural communities or indigenous peoples. The National Commission has already assisted 87 of these communities or peoples the formulation of such projects and programmes, but there is still a need for further technical and financial assistance in this regard.

With a focus on free, prior and informed consent, the plan observes that the National Commission has issued a total of 296 Certificates of Compliance and 1368 Certificates without Overlap related to such consent. It also acknowledges, however, that concerns remain over the consent process, the internal conflicts within the indigenous cultural committees, the use of royalties and the non-implementation by companies operating within ancestral domains.

In considering the National Commission’s mandate to provide legal assistance to enforce the right of indigenous peoples to resolve conflicts in accordance with their customary laws, the plan highlights that, since 2004, the Commission has provided legal assistance to 8,767 cultural communities before judicial and quasi-judicial bodies. There are still 265 cases pending, however, before the Commission’s regional hearing officers.

On the issue of the provision of basic social and economic services within ancestral domains, it is stressed that the delivery of these services was based on indigenous knowledge systems and practices and on the principles of human rights, cultural sensitivity, gender equality, people empowerment and sustainable development. Nevertheless, the plan clarifies and acknowledges that most indigenous cultural communities and peoples still lack adequate access to social protection and basic services.

¹⁵ *Philippine Development Plan 2011-2016*. National Economic and Development Authority, 2011.

The plan observes that these communities and peoples need negotiation skills and technical knowhow in the area of risk and impact assessment, so as to ensure equitable access to benefit-sharing agreements and necessary funds for the management and protection of their ancestral domains.

It is specifically noted that the representation of indigenous peoples in various legislative bodies and the convening and sustainability of their multilevel consultative bodies are priorities that need to be fully addressed.

The issue of disaggregated data on indigenous peoples is mentioned in the plan, which stresses the need for updated and disaggregated data to serve as the basis for the formulation of more appropriate, targeted and updated policies.

With a view to dealing with all the above issues, the plan outlines numerous strategies. These include:

- stepping up information activities, conducting an education and communication drive on the Indigenous Peoples' Rights Act and the delineation and titling programme of the National Commission on Indigenous Peoples;
- fast-tracking the identification, delineation, titling and registration of ancestral domain claims;
- coordinating activities by government agencies on land and tenure conflicts and overlapping claims involving ancestral domains;
- reviewing and simplifying the Commission's policies and circulars, for example, including the guidelines on free, prior and informed consent, taking care not to compromise the welfare and concerns of indigenous peoples while ensuring their inclusive and full participation in the process;
- improving and facilitating access to justice and traditional decision-making processes; considering the Act's provisions in discussions regarding the process of reducing emissions from deforestation and forest degradation (REDD) and other carbon-related forest engagements;
- encouraging ecotourism as a source of alternative income, subject to community protocols on the protection of indigenous knowledge systems and practices;
- ensuring that indigenous peoples' data and statistics are up to date;
- strengthening partnerships, building capacity and training in entrepreneurial skills enhancement, business management, book-keeping, communication, product development, training and marketing.

While discussing internal security challenges, the plan notes the marginalization of indigenous cultural communities and the lack of respect and recognition of ancestral domain and indigenous peoples' rights as being among key causes of armed conflict. In this regard, the plan accords significance to the need to support the indigenous peoples' agenda, which includes: professionalizing the service bureaucracy; reviewing the issuance of Certificate of Ancestral Domain Titles; delivering basic services; implementing the Indigenous Peoples Master Plan 2011–16 with a particular focus on the human rights protection of indigenous peoples; implementing the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention of the Rights of the Child; and advocating the ratification of ILO Convention No. 169.

In the context of natural resources, many mining projects are alleged to have caused environmental degradation, the physical displacement of indigenous peoples and cultural dislocations. The plan notes that, in the context of mining between 2007 and 2009, at least 330 million Philippine pesos were paid to indigenous peoples as royalties. Nevertheless, it stresses that challenges remain in mining regarding corporate accountability, voluntary compliance and according due recognition to indigenous peoples' rights.

As for environmental governance, the plan clearly states that the security of tenure in both upland and coastal areas and the recognition of indigenous peoples' rights to their ancestral domain will be part of a cross-cutting strategy.

The mid-term update of the Philippine development plan for 2011–16¹⁶ retains its strong focus on indigenous peoples. It further outlines strategies for promoting value-adding in the agriculture and fishery sectors, with particular attention to indigenous peoples. The mid-term update reaffirms the Government's support for the indigenous peoples' agenda through numerous measures, including ratification of ILO Convention No. 169.

III. Employment situation

A. Employment and livelihood situation of indigenous peoples in general

The majority of indigenous peoples in the Philippines depend on traditional slash-and-burn agriculture, practised in upland areas.¹⁷ A study undertaken by the International Fund for Agricultural Development further notes that, besides shifting cultivation on the slopes, indigenous peoples are also engaged in the sedentary agriculture of rice, corn and vegetables, hunting and gathering in forests, livestock raising, fishing along coastal areas and rivers, and also producing and trading local handicrafts. While there are some indigenous groups that have maintained their nomadic way of life and largely participate in shifting agricultural practices and hunting and gathering, others now also engage in non-farm activities like small-scale mining, construction, services and other occasional or seasonal labour.¹⁸ The Philippine Partners Task Force of the European Endowment for Democracy has observed that a small proportion of indigenous peoples is also dependent on regular employment in government or private institutions, together with remittances from family members employed in urban areas or abroad.¹⁹

It is difficult to provide a more detailed description of the employment situation of indigenous peoples in the Philippines, primarily because the Government does not make available any disaggregated data on indigenous peoples. An indication of their employment situation can be obtained from the limited data on geographical specificities and the agricultural sector, in which the majority of indigenous peoples are

¹⁶ *Philippine Development Plan 2011–2016 Mid Term Update*. National Economic and Development Authority, 2014.

¹⁷ De Vera, David E. *Indigenous Peoples in the Philippines: A Country Case Study*. Presented at the RNIP Regional Assembly, 2007.

¹⁸ Carino, Jacqueline. *Country Technical Note on Indigenous Peoples' Issues: Republic of the Philippines*. IFAD, 2012.

¹⁹ *Our Harvest in Peril: A Sourcebook on Indigenous Peoples' Food Security*. EED Philippine Partners Task Force for Indigenous Peoples Rights, 2004.

engaged. Some insights from the available data that are relevant to indigenous peoples are set out below.

A 2002 report by the Asian Development Bank²⁰ observed that, of all the country's regions, the Cordillera Administrative Region has the highest proportion of indigenous peoples, while Region XI has the highest overall population of indigenous peoples. Both these regions can thus serve as important geographical points of reference in providing at least a sketchy understanding of the employment situation of indigenous peoples.

Based on four quarterly rounds of the labour force survey, in 2013 and 2014,²¹ the labour force participation rate increased from 63.9 to 64.4 per cent for the Philippines between 2013 and 2014. For the Cordillera Administrative Region, it remained the same at 67.1 per cent for both years. For Region XI, it increased slightly from 64.2 to 65.4 per cent.

Between 2013 and 2014, the employment rate for the Philippines rose from 92.8 to 93.2 per cent. For the Cordillera Administrative Region, this rate dropped from 95.4 to 94.5 per cent, while for Region XI, it increased from 93.1 to 94.2 per cent.

Between 2013 and 2014, the country's unemployment rate declined from 7.2 to 6.8 per cent. For the Cordillera Administrative Region, it increased from 4.6 to 5.5 per cent, while for Region XI, it decreased from 6.9 to 5.8 per cent.

Disaggregated by industry, the distribution of employed persons²² for the Philippines based on four quarterly rounds of the labour force survey, for 2014, shows 53.9 per cent employed in services, 16 per cent in industry and 30 per cent in agriculture, of whom 26.6 per cent are employed in agriculture, forestry and hunting and 3.4 per cent in fisheries.

Within the agriculture sector, data from the 2002 agriculture and fisheries census show that, of the 4.8 million agricultural operators, 89 per cent are male and 11 per cent female. The census also shows that the majority (63 per cent) of those engaged in agricultural activities in their own holdings were female, while men dominated the figures (55 per cent) of those hired to work in the holdings of others.²³ Similarly, results from the October 2013 labour force survey reveal that six in ten female unpaid family workers were in the agricultural sector.²⁴

B. Child labour and indigenous peoples

Disaggregated data regarding indigenous children and work are not available for the Philippines. Preliminary results from the National Statistics Office of the Philippines and ILO International Programme on the Elimination of Child Labour (IPEC) survey²⁵ on children from 2011, however, shed some light on the issue. The percentage of working children between 5 to 17 years old in the Philippines is 18.9 per cent, while in the Cordillera Administrative Region and Region XI, it is 19 per cent and 20.6 per cent

²⁰ *Indigenous Peoples/Ethnic Minorities and Poverty Reduction Philippines*. Asian Development Bank, 2002.

²¹ *Annual Labor and Employment Estimates for 2013 and 2014*. Philippine Statistics Authority.

²² *Annual Labor and Employment Estimates for 2014*. Philippine Statistics Authority.

²³ *Gender Factsheet – Women in Agriculture*. National Statistics Office, 2009.

²⁴ *Gender Factsheet – Four in Seven Unpaid Family Workers Are Women*. Philippine Statistics Authority, 2014.

²⁵ *Survey on Children (SOC) – Preliminary Results*. NSO & ILO-IPEC, 2011.

respectively. In addition, the percentage distribution of children in hazardous labour by broad industry group shows that 62.4 per cent are in agriculture as against 7.6 per cent in industry and 30.1 per cent in services. Disaggregated by sex, 67.9 per cent of boys and 51.2 per cent of girls are engaged in agriculture. As disaggregated data regarding child labour among indigenous peoples, who are primarily engaged in agricultural activities, are lacking, a clearer understanding on this issue is difficult to achieve.

IV. Challenges

The Philippines has developed a comprehensive legal and policy framework to safeguard the rights of indigenous peoples. Implementation problems rooted in conflicting priorities, capacity gaps and the frequent challenges to the commitment to empower indigenous peoples combine to keep indigenous peoples in a vulnerable situation, especially in the context of extractive industries.²⁶

An ILO paper²⁷ has noted that questions of equality and non-discrimination remain highly relevant to ancestral lands, particularly for those indigenous communities that are dependent on them for their livelihoods. The lack of security of tenure over land and natural resources translates into limited access to opportunities, in particular self-employment and income. The paper further highlights that the issue of land is of even greater importance, given that the majority of indigenous peoples are farmers and unable to seek formal employment, for which they lack the necessary qualifications. In addition, paid employment tends to be beyond the reach of indigenous farmers in both rural and urban areas. The report stresses that, even though loss of, or limited access to, traditional lands and livelihoods pushes indigenous peoples to migrate to urban areas, they are unable to find paid employment because of perceived notions about their qualifications and capabilities as regular workers.

For the indigenous peoples of the Philippines, the right to claim ancestral domain and lands is intrinsically linked to livelihoods. A United Nations report²⁸ has observed that the legal recognition of ancestral domains and land titling has been a slow and cumbersome process. Many communities, largely in consequence of the lack of information, have not been able to make claims. There have been instances where no consultation has taken place or agreement been reached on the issuance of certificates and, therefore, some indigenous groups perceive the certificates as a land-grabbing tool exploited by powerful individuals who possess access to information, legal assistance and logistical and political support. Another study,²⁹ in an assessment of the free, prior and informed consent implementation, draws attention to a substantial number of cases

²⁶ De Vera, David E. *Indigenous Peoples in the Philippines: A Country Case Study*. Presented at the RNIP Regional Assembly, 2007.

²⁷ Gust, Gert A. *Equality at Work: Philippines*. Working Paper 12. ILO Subregional Office for South-East Asia and the Pacific, 2006.

²⁸ *Report of the Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People, Mr. Rodolfo Stavenhagen, Submitted in Accordance with Commission on Human Rights Resolution 2002/65*. United Nations Economic and Social Council, 2003.

²⁹ *An Assessment of the Implementation of the Free and Prior Informed Consent (FPIC) in the Philippines, Volume I: Main Report*. Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH, 2013.

where free, prior and informed consent guidelines issued by the National Commission on Indigenous Populations were not followed.

Closely connected to land rights, consent issues, and the loss of livelihoods is the issue of land alienation due to the activities of extractive industries and development projects. In particular, mining and logging have far-reaching consequences for the livelihoods of indigenous communities dependent on land. In this context, conflicting laws present a challenge as the Indigenous Peoples' Rights Act is not in harmony with other laws that have an impact on indigenous peoples, such as the Mining Act or the National Museum Act, among others.³⁰

Another issue that has a direct impact on the lands and livelihoods of indigenous peoples in the Philippines is the management and protection of ancestral domains. In this regard, key challenges remain in capacity-building and the integration of indigenous perspectives of development. The participation of indigenous peoples at all levels and phases of development inevitably plays a crucial role in determining the trajectory of the development, management and protection of ancestral domains.³¹

Environmental concerns about such processes as declining forest cover, combined with increasing competition for arable lands, further exacerbate threats to the lands and livelihoods of indigenous peoples in the Philippines. It has been noted that the Philippines has one of the highest rates of decline of forest cover worldwide.³² Coupled with the influx of migrants into traditional territories and the rapid exploitation of natural resources, greater stress is increasingly being placed on lands that provide sustenance to numerous indigenous communities.

Besides subsistence economies, many indigenous groups are engaging in trade with outsiders, working as day labourers in towns and commercial agriculture and seeking out other market opportunities.³³ At the same time, instances of discrimination and a lack of education and opportunity are rampant and perpetuate a vicious cycle of poverty. In this regard, key challenges remain in addressing discrimination and enhancing access to training, skills development, entrepreneurship and credit.³⁴

V. Data gaps

The social and economic situation of indigenous peoples in the Philippines cannot be assessed from the extensive statistical information available about the country. This primarily stems from a complete absence of disaggregated data focusing specifically

³⁰ *Philippines The Indigenous Peoples Rights Act: Legal and Institutional Frameworks, Implementation and Challenges*. World Bank Group, 2007.

³¹ *Indigenous Peoples/Ethnic Minorities and Poverty Reduction Philippines*. Asian Development Bank, 2002.

³² De Vera, David E. *Indigenous Peoples in the Philippines: A Country Case Study*. Presented at the RNIP Regional Assembly, 2007.

³³ Plant, Robert, and Jane Austria-Young. *Technical Assistance Consultant's Report: Targeted Capacity Building for Mainstreaming Indigenous Peoples' Concerns in Development*. Asian Development Bank, 2011.

³⁴ Gust, Gert A. "Indigenous Filipinos in the World of Work: Towards Equality and Non-Discrimination in Employment and Livelihood." In *The Road to Empowerment: Strengthening the Indigenous Peoples Rights Act*, edited by Yasmin Arquiza. ILO, 2007.



on indigenous peoples. The Philippine development plan for 2011–16³⁵ has also identified this shortcoming and has drawn attention to the need for more updated and disaggregated data on indigenous peoples on the basis of which targeted and relevant policies and programmes can be elaborated. Without such data, severe limitations are also imposed on fully understanding the indigenous people's poverty and employment situation.

³⁵ *Philippine Development Plan 2011–2016*. National Economic and Development Authority, 2011.



Sri Lanka

I. Overview

Sri Lanka is home to indigenous peoples called Veddas (meaning “hunters”) or Wanniyala-Aetto (meaning “forest dwellers”).¹ They predominantly live in the Uva Province of Sri Lanka’s dry zone bordering the Eastern Province, where the Sinhalese-Tamil civil war raged for many years. The Wanniyala-Aetto, who are customarily referred to by outsiders as Veddas, are considered to be a distinctive group because of their culture, which is interwoven with the tropical forest environment. They are very small in numbers, constituting less than 1 per cent of the population of Sri Lanka (of about 20 million, 74 per cent of whom are Sinhalese, 18 per cent Tamil and 7 per cent Moors) that includes descendants of Malays, Burghers (a people of Eurasian origin) and indigenous peoples.² The precise population of the indigenous peoples of Sri Lanka is not known, as they have not been distinguished as a separate ethnic group in the country’s census exercises.³

The Wanniyala-Aetto are divided into three regional groups, the Bintenne Veddas, the Anuradhapura Veddas and the Coast Veddas. The members of these groups have little or no contact with each other but acknowledge a remote kinship. Their interaction with the majority Sinhalese and Tamils, however, is one of marked social marginality. They have largely survived on the peripheries of Sinhalese and Tamil polities, by both of which they tend to be viewed as uncivilized elements of society.⁴

Scholars have also warned that the Wanniyala-Aetto are on the verge of extinction, as their means of livelihood are steadily being eroded.⁵ They suffer from extreme poverty as a consequence of colonial and post-colonial interventions in the form of forced resettlement and conservation policies that do not take into account their traditional way of life.⁶ The vulnerable position of the Wanniyala-Aetto can be attributed to their lack of secure land tenure and their exclusion from decision-making processes.⁷

The indigenous peoples of Sri Lanka are not legally recognized. Yet, there is clear evidence that they have faced severe hardship since the second half of the twentieth century, as they were at the receiving end of forced resettlement, assimilation for the

¹ Tomei, Manuela. *Indigenous and Tribal Peoples: An Ethnic Audit of Selected Poverty Reduction Strategy Papers*. ILO, 2005.

² “The Disappearing Wanniyala-Aetto (‘Veddahs’) of Sri Lanka: A Case Study.” *Nomadic Peoples* 8, No. 1 (June 2004).

³ *The Indigenous World*. Copenhagen: IWGIA, 2008.

⁴ Brow, James, and Michael Woost. “Vedda.” *Encyclopedia of World Cultures*, 1996. <http://www.encyclopedia.com/topic/Vedda.aspx>.

⁵ “Veddahs on Verge of Extinction as Their Livelihoods Alter: Prof Malkanthi Chandrasekera.” *The Sunday Times*, July 26, 2014, Education Times edition.

⁶ *The Indigenous World*. Copenhagen: IWGIA, 2008.

⁷ *Sri Lanka’s Indigenous Wanniya-Laeto: A Case History, Report to Sri Lanka’s National Committee for the International Decade of the World’s Indigenous People*. Cultural Survival of Sri Lanka, 1994. <http://vedda.org/wanniyalaeto.htm>.

purpose of hypothetical “development”, and also alienated from their way of life by environmental conservation and industrialization processes.⁸

II. Policy environment

The indigenous peoples of Sri Lanka are largely overlooked by the country’s legal and policy frameworks.

A. Constitutional and legislative provisions

There are no specific or directed constitutional or legislative provisions in Sri Lanka to protect the rights of indigenous peoples. At the same time, a report by the Ministry of Local Government and Provincial Councils⁹ notes that, while the Constitution of Sri Lanka provides that all citizens are equal before law, such activities of indigenous peoples as hunting in the forest are not penalized in what are referred to as their “traditional areas”, even though other citizens are punished through the courts for such activities. No clear definition, however, is provided of what “traditional areas” represent. Furthermore, it has also been argued that the Government’s approach to safeguarding the rights of indigenous peoples is primarily issue-based and that it adapts its resolutions as and when issues related to indigenous peoples arise.

This last development is of particular importance, as the Wanniyala-Aetto, who primarily depend on forests, have been severely affected by national park regulations that criminalize hunting, picking flowers, collecting honey, lighting camp fires or exercising livelihood activities in any park. These regulations have transformed an ancient way of life into a criminal activity in the eyes of the law, converting traditional hunters into poachers.¹⁰ In this context, a memorandum of understanding signed between the Wanniyala-Aetto Custodians, drawn from a segment of the Dambana community, and the Department of Wildlife Conservation is of particular significance. It aims to provide assistance for livelihoods and use of forest resources in protected areas, excluding hunting, and issues permits to Wanniyala-Aetto youth for the use of forest resources and fishing in selected water bodies.¹¹

The report by the Ministry of Local Government and Provincial Councils¹² also notes that, while there are no specific laws to safeguard the rights of indigenous peoples, from time to time parliamentary statements and regulations have been issued by the Government recognizing the culture of indigenous communities and their rights of access to natural resources. These include, among other provisions, ensuring that their traditional way of life is not obstructed and that the Government holds consultations with indigenous peoples.

⁸ Stegeborn, Wiveca. “Sri Lanka’s Forests: Conservation of Nature versus People.” *Voices from the Commons*, No. 20.1 (1996). <http://www.culturalsurvival.org/publications/cultural-survival-quarterly/sri-lanka/sri-lankas-forests-conservation-nature-versus-peo>.

⁹ *Indigenous Peoples Planning Framework, SRI: Local Government Enhancement Project*. Prepared by the Ministry of Local Government and Provincial Councils and for the Asian Development Bank, 2011.

¹⁰ “The Disappearing Wanniyala-Aetto (‘Veddahs’) of Sri Lanka: A Case Study.” *Nomadic Peoples* 8, No. 1 (June 2004).

¹¹ *Update 2011 – Sri Lanka*. IWGIA, <http://www.iwgia.org/regions/asia/sri-lanka/895-update-2011-sri-lanka>.

¹² *Indigenous Peoples Planning Framework, SRI: Local Government Enhancement Project*. Prepared by the Ministry of Local Government and Provincial Councils and for the Asian Development Bank, 2011.

B. Institutional mechanisms

There are no institutional mechanisms in Sri Lanka dedicated to indigenous peoples. In the early 1950s a Veddha Welfare Committee was established as part of the Backward Communities Welfare Board. The committee considered that the disappearance of indigenous and tribal peoples as a distinct society was an irreversible and desirable process for the purpose of development.¹³ It thus attempted to transform the nomadic and hunting-gathering lifestyles of indigenous peoples through what it understood as “development” and also mounted so-called “development programmes” in traditional areas. It faced resistance from the indigenous peoples themselves, however, as they felt threatened by these development programmes.

Currently, the Ministry of National Heritage is running a project to conserve the Veddas as a feature of world heritage through the construction of a museum and a village where the people’s homes, livelihood and ritual habits can be seen in real life.¹⁴ In coordination with this undertaking, the Ministry of Culture and the Arts is running a project for the conservation of the culture and lifestyle of indigenous people. The project aims to establish a model village and construct houses for community members. Its main objective is to preserve the folk culture of the indigenous peoples and, to that end, a bill is being tabled to safeguard their existence and rights.¹⁵

C. National plan: Development Policy Framework 2011–16¹⁶

The indigenous peoples of Sri Lanka are not mentioned in the country’s current development framework. There is a broad understanding of the notion of “unity in diversity”, in pursuit of which the framework focuses on harmony between different ethnic groups and respect for the cultural heritage of each ethnic, social and religious group. In particular, it includes a detailed discussion of the future of the education system. There are plans under the framework to create an education system where all children complete primary and secondary education, regardless of their social and economic background, gender or ethnicity and any resulting vulnerability. Besides such broad concepts of ethnicity, no specific attention is given to indigenous peoples in Sri Lanka’s development policy framework.

D. ILO Decent Work Country Programme 2013–17¹⁷

The ILO Decent Work Country Programme for Sri Lanka discusses the issue of integrating marginalized groups into the economy and stresses the need for a long-lasting solution to ethnic problems and to address the grievances of minority communities. There is some attention to disadvantaged and vulnerable groups, in particular in con-

¹³ “Post-Independence Developments,” <http://vedda.org/5-50s.htm>.

¹⁴ “‘Veddas’ to Be Conserved as a World Heritage.” *Ministry of National Heritage*, http://www.heritagemin.gov.lk/web/index.php?option=com_content&view=article&id=64_per_cent3Aveddas-to-be-conserved-as-a-world-heritage&catid=43_per_cent3Aprojects&Itemid=64&lang=en.

¹⁵ “Conservation of Culture and Life Style of Indigenous People.” *State Ministry of Cultural Affairs*, http://www.cultural.gov.lk/web/index.php?option=com_content&view=article&id=55&Itemid=50&lang=en.

¹⁶ *Sri Lanka, The Emerging Wonder of Asia, Mahinda Chintana – Vision for the Future, The Development Policy Framework*. The Department of National Planning, 2010.

¹⁷ *Decent Work Country Programme Sri Lanka 2013–2017*. ILO Country Office for Sri Lanka and the Maldives, 2013.

flict-affected and economically lagging regions. Besides this fairly broad approach, however, there is no specific mention in the country programme of indigenous peoples or the Wanniyala-Aetto of Sri Lanka.

III. Employment situation

A. Employment and livelihood situation of indigenous peoples in general

Traditionally, the Wanniyala-Aetto have primarily been hunters and gatherers, and were also engaged in shifting cultivation. The Coast Veddas have engaged to a greater degree in fishing along with shifting cultivation and, less frequently, paddy cultivation. The Bintenne Veddas have also traditionally participated in what is sometimes referred to as a “silent trade” with the Sinhalese, governed principally by rules of reciprocity.¹⁸

A recent study supported by the Ministry of Culture and Arts¹⁹ has observed, however, that current economic transformations are driving the Veddas towards a range of other activities. They are increasingly providing labour in the agricultural sector and in the construction industries. Veddas are also being engaged as coastal fishing labourers by larger businesses in the fishing industry. The study notes that the environment in which the Veddas live and work is less and less that of the wilderness and increasingly that of the modern world, with a corresponding transition in their economic activities. In this context, the study identifies as the main occupations of the Veddas the following: paddy cultivation (37 per cent), shifting cultivation (22 per cent), manual labour (19 per cent), and work in the police or the army (5 per cent).

The study also observes that large numbers of Vedda villagers are migrating to other villages or different areas of the country in search of employment, primarily because of the lack of opportunities and incentives in their own home areas. Most of these migrants are young people, and among them males work as labourers in the construction industry and women in the garment industry.

The study notes the significant differences between the economic activities of men and women. More males engage in paddy farming than females, but the opposite is the case for shifting cultivation. More women make their primary livelihood by providing manual labour and women are also more extensively engaged in the informal sector. Women also tend to participate more than men in business activities, such as managing shops, and more of them are self-employed. For their part, men tend to confine themselves to more traditional economic activities while women are increasingly embracing the diversification of economic activities that comes with modernization.

As a consequence of economic difficulties, in addition to entrenched poverty and deprivation, some women have also become victims of both the organized and the unorganized sex trade. The study notes the trend for women and children to become sex workers, both locally and in other areas. Women and children are also employed

¹⁸ For more details: Brow, James, and Michael Woost. “Vedda.” *Encyclopedia of World Cultures*, 1996. <http://www.encyclopedia.com/topic/Vedda.aspx>.

¹⁹ De Silva, Premakumara, and Asitha G. Punchihewa. *Socio- Anthropological Research Project on Vedda Community in Sri Lanka*. Department of Sociology University of Colombo, Ministry of Culture and the Arts Government of Sri Lanka, 2011.



as domestic workers and there are instances of women and children being coerced, procured and trafficked for the purposes of domestic work.

A more detailed understanding of the employment situation of the indigenous peoples of Sri Lanka is difficult to obtain owing to the lack of disaggregated data. An indication of that situation, however, can be derived from the limited data available on Uva and Eastern provinces, which are home to the majority of Wanniyala-Aetto. The following paragraphs present some key highlights from that source.²⁰

Data on the distribution of employed population by major industry groups at the provincial level show that, within Sri Lanka, the contribution made by the total employed population to the agricultural sector is the highest in Uva Province, at 57.8 per cent, while in Eastern Province it is 32.7 per cent. These figures are considerably higher than the comparable figure for the share of agriculture in overall employment for the country as a whole, which is 29.8 per cent.

The 2013 unemployment rate for Sri Lanka was 4.4 per cent, while for Uva Province it was 3.2 per cent and for the Eastern Province 4.3 per cent.

Where the category of employment status is concerned, Uva Province, which is predominantly an agricultural area, has high percentages of own account workers and contributing family workers, with 39.5 per cent and 19.5 per cent respectively. For Eastern Province, the corresponding figures are 35.4 per cent and 4.7, respectively. For the country as a whole, however, the figures are 32.2 per cent and 9.1 per cent, respectively.

B. Child labour and indigenous peoples

In the case of Sri Lanka, there are no disaggregated data available on indigenous children and work. The agricultural sector can be used, however, to get a rough idea of the situation. In this regard, data from the 2008–09 child activity survey²¹ reveal that, among the major industrial groups of child labour, the engagement rate in agriculture is 23.8 per cent, while in the category of hazardous forms of child labour, the engagement rate in agriculture is 22.2 per cent. Where child labour in agriculture-related occupations (agriculture, fishery and related workers) is concerned, the rate for elementary occupations is higher than that for other occupations, with a proportion of 52.8 per cent. In addition, there are recorded instances of Wanniyala-Aetto children being forced into the sex trade and domestic work.²² As noted, however, the lack of data preclude a cleared understanding of child labour among the indigenous peoples of Sri Lanka.

IV. Challenges

The Wanniyala-Aetto or the indigenous peoples of Sri Lanka pass largely without mention in the country's policy and legal frameworks. They have lost their lands and have been at the receiving end of forced evacuation from their homes. In turn, their

²⁰ Sri Lanka, *Labour Force Survey, Annual Report – 2013*. Department of Census and Statistics, Ministry of Finance and Planning, 2014.

²¹ *Child Activity Survey 2008/09*. Department of Census and Statistics, Ministry of Finance and Planning, 2011.

²² De Silva, Premakumara, and Asitha G. Punchihewa. *Socio- Anthropological Research Project on Vedda Community in Sri Lanka*. Department of Sociology University of Colombo, Ministry of Culture and the Arts Government of Sri Lanka, 2011.

traditional livelihoods and their distinct way of life continue to suffer while their culture remains under threat.²³

Land alienation has had a profound impact on the livelihood of the Wanniyala-Aetto. Post-independence, schemes for land redistribution and clearance have reduced the country's forest coverage, while gigantic development schemes like the Gal Oya and Mahaweli projects have led to land being taken over by the Government. Furthermore, the gazetting of forests as nature reserve has served to limit the access of indigenous peoples and corresponding laws have banned their livelihood activities, in effect criminalizing their entry into the forests.²⁴ As part of this process, they have been relocated and resettled in government villages, and have faced numerous hardships in the transition to a new life.²⁵ In 1983, the last of their lands was declared a national park. Even though four Sri Lankan presidents have made promises in writing to the Wanniyala-Aetto that they would be allowed to return to their traditional forest lands,²⁶ access to land remains an elusive hope for the indigenous peoples of Sri Lanka.

Closely connected with the issues of land alienation and livelihoods has been the absence of any consultation by the Sri Lankan Government with the indigenous peoples regarding their development or any participation by them in decision-making on that matter. During the ethnic conflicts that have riven the country, groups like the Wanniyala-Aetto were subjected to dominant ideas of development that sought to homogenize the nation.²⁷ As a consequence, it has been argued that the Wanniyala-Aetto are "development migrants" whose sense of place and belonging and whose ancestral lands have been and continue to be negatively affected.²⁸ Fostering an understanding of development that recognizes the Wanniyala-Aetto and their livelihoods remains an important task to be undertaken.

Besides traditional activities, the Wanniyala-Aetto are increasingly migrating for informal employment activities under the impetus of extreme poverty and privation. In addition instances of forced domestic work and sex work are not uncommon, especially among women and children. The lack of employment and opportunities at the local level has played an important part in this. The situation has been exacerbated by indebtedness: many Veddas retain small plots of land which they try to operate while working as agricultural labourers on the lands of others and getting sucked into a vicious cycle of indebtedness by local informal lenders.²⁹ To combat this problem, a combination of measures to integrate the indigenous peoples of Sri Lanka into the

²³ Sriyananda, Shanika. "Global Press Journal." April 16, 2013. <http://www.globalpressjournal.com/asia/sri-lanka/environmental-conservation-sri-lanka-hurts>.

²⁴ *Sri Lanka: Implementation of the International Covenant on Economic, Social and Cultural Rights*. Civil Society Report, 2010.

²⁵ "Wanniyala-Aetto," <http://www.survivalinternational.org/tribes/wanniyala>.

²⁶ Barclay, Barry. "From Free to Owned." In *Mana Tuturu: Maori Treasures and Intellectual Property Rights*. University of Hawai'i Press, 2005.

²⁷ Brow, James. "The Incorporation of a Marginal Community within the Sinhalese Nation." *Anthropological Quarterly*, Tendentious Revisions of the Past in the Construction of Community, 63, No. 1 (January 1990): 7–17.

²⁸ Lund, Ragnhild. "Geographies of Eviction, Expulsion and Marginalization: Stories and Coping Capacities of the Ved-dhas, Sri Lanka." *Norsk Geografisk Tidsskrift – Norwegian Journal of Geography* 53, No. 3 (2010): 102–9.

²⁹ De Silva, Premakumara, and Asitha G. Punchihewa. *Socio- Anthropological Research Project on Vedda Community in Sri Lanka*. Department of Sociology University of Colombo, Ministry of Culture and the Arts Government of Sri Lanka, 2011.



country's formal banking and credit systems, and to furnish them with the skills, productivity and entrepreneurship that they need for their development is indispensable.

V. Data gaps

The social and economic situation of the indigenous peoples in Sri Lanka is largely invisible in the wide-ranging statistical records prepared on the country. This is primarily due to the complete absence of disaggregated data focusing specifically on the Wanniyala-Aetto. They are not identified as a specific minority in the census or other socioeconomic surveys. The absence of disaggregated data on the indigenous peoples of Sri Lanka inhibits any attempt to understand their employment situation and renders it very difficult to develop sound policies, laws and programmes that could remedy their state of vulnerability.



Thailand

I. Overview

The indigenous peoples of Thailand are commonly referred to as “hill tribes” or “ethnic minorities”. There are 10 officially recognized groups, which are called “chao khao”, meaning “hill people” or “highlanders”. These include the following groups in the north and west of the country: the Akha, Hmong, H’tin, Karen, Khmu, Lahu, Lisu, Lua, Mien and Mlabri. Besides these, however, there are several other smaller groups in the north, the so-called local Tai groups (Tai Lue, Tai Khuen and Tai Yong), the Kachin and the Shan.¹

In addition to these indigenous groups in the north and the north-west, there are also indigenous fisher communities (the Chaoley) and a small population of hunter-gatherers (the Mani) in the south, along with small groups on the Korat plateau of the north-east and eastern Thailand, in particular along the border with the Lao People’s Democratic Republic and Cambodia. Added to which, with the drawing of national boundaries in South-East Asia during the colonial era and later during the de-colonization process, numerous indigenous groups living in remote highlands and forests were divided: as a result, there are no indigenous peoples whose entire populations are to be found only in Thailand.²

Widely quoted figures for the population of the indigenous peoples in Thailand are those issued by the Department of Welfare and Social Development, according to which there are 3,429 hill tribe villages with a total population of 923,257. There are no comprehensive official census data, however, on the indigenous peoples of the country, and the hill tribe figures cited above do not incorporate those living in the south and the north-east.³

The Government of Thailand does not use the term “indigenous peoples” and affirms that these groups are as Thai as all other Thai citizens, that they enjoy the same fundamental rights and that they are protected by the laws of the Kingdom.⁴ Yet the highland minorities remain among the poorest sectors within Thailand’s population; many of them do not have proper documentation regarding their status, so they cannot vote, seek civil service jobs or travel freely to other parts of the country. The lack of citizenship status for highland women has also been cited as a factor in their vulnerability to trafficking and exploitation for sexual and labour purposes.⁵ In addition, a widespread misconception about indigenous peoples, in particular those living in highland areas, is that they are drug producers and a threat both to national security and to the environment. According to some observers, this has shaped government policies on indigenous peoples in the

¹ *Report on the Situation of Human Rights and Fundamental Rights of Indigenous Peoples in Thailand, Submitted to Prof. James Anaya, UN Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous Peoples.* Network of Indigenous Peoples in Thailand in collaboration with AIPP and IWGIA, 19 January 2010.

² *The Indigenous World.* Copenhagen: IWGIA, 2014.

³ *Ibid.*

⁴ For more details: *Shadow Report on Eliminating Racial Discrimination: Thailand, Submission to the CERD Committee.* Coalition on Racial Discrimination Watch, 2012.

⁵ “Highland Ethnic Groups.” *World Directory of Minorities and Indigenous Peoples*, <http://www.minorityrights.org/5608/thailand/highland-ethnic-groups.html>.

northern and western parts of the country, some of which have raised concerns regarding rights, including in the context of natural resource management and environmental conservation.⁶

II. Policy environment

Little attention has been paid to the specific issues faced by indigenous peoples in Thailand by the country's policy makers, and they remain largely ignored by national laws and policies.

A. Constitutional and legislative provisions⁷

Thailand has no laws which recognize or protect its indigenous peoples. The 2007 Constitution did not explicitly recognize their identity. Similarly, the 2014 interim Constitution of Thailand has no specific provisions relating to them.⁸ Under the Citizenship Act of 1965, Thai citizenship is granted to indigenous persons who were born in Thailand provided that their parents were Thai nationals. Many indigenous people are denied Thai citizenship, however, as they do not possess birth registration or other proofs of identity.

Other laws and resolutions that affect the situation of indigenous peoples include:

- Forest Act, 1941
- National Forests Reserve Act, 1964
- Wildlife Sanctuary Act, 1964
- National Park Act, 1961
- Cabinet Resolution, 30 June 1998
- Community Forest Act, 2007
- Cabinet Resolution, 29 April 2008
- National Security Act, 2007.

B. Institutional mechanisms

Over the years, the development of hill tribes has been the subject of certain government initiatives, starting in 1951 with the aim of providing general welfare services. In 1959, the National Committee for Hill Tribes was established to formulate policy for hill-tribe development. Government policy on hill tribes has been predominantly shaped, however, by a Cabinet decision of 6 July 1976, which declares the Government's intention to integrate hill-tribe people into the Thai State, and scant attention has been given to the promotion of indigenous values and cultures.

⁶ *The Indigenous World*. Copenhagen: IWGIA, 2014.

⁷ *Report on the Situation of Human Rights and Fundamental Rights of Indigenous Peoples in Thailand, Submitted to Prof. James Anaya, UN Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous Peoples*. Network of Indigenous Peoples in Thailand in collaboration with AIPP and IWGIA, 19 January 2010.

⁸ *Thailand's Constitution of 2014*. constituteproject.org.

In 2002, there were 11 government ministries concerned with hill-area development. These included the ministries of internal affairs, defence, public health, education, university affairs, agriculture and cooperatives, science, technology and energy, finance, communication, and industry, and the Prime Minister's Office. In addition, pursuant to a Cabinet resolution of 7 February 1989, master plans were developed on community development, environment and narcotic crop control in highland areas. They focused on the following issues:

- Political and administrative undertakings, such as the surveying and registration of hill tribes as Thai citizens, promoting their permanent settlement, preparing tribal communities to merge into the current administrative system, enforcing the law in tribal areas and preventing in-country and border area migration;
- Social and economic development activities, such as income generation through employment creation, improvement of the quality of life through the provision of basic infrastructure, in particular in health and education, and control of narcotic crop cultivation by reducing the areas under such crops and the quantities produced;
- Natural resource and environmental conservation through the development of conservation-based land-use systems and plans.⁹

The Department of Social Development and Welfare in the Ministry of Social Development and Human Security has paid particular attention to tribal issues. In 2011, the Ethnic Affairs Institute under the Department took the initiative to develop a specific strategic development plan for ethnic groups and indigenous peoples, which is yet to be tabled for consideration and approval by the Cabinet.¹⁰ The key objectives outlined by the Department of Social Development and Welfare where tribal communities are concerned include:¹¹

- To provide housing and promote the notion of permanent residence
- To promote both agricultural and non-agricultural occupations
- To promote the provision by the Government of health-care and other services
- To provide social development and welfare by involving communities, strengthening their capacity to benefit from and manage natural resources and the environment, to coordinate the provision of social welfare, and to promote and support the culture of the tribal peoples
- To provide relief assistance to victims of social problems
- To promote the implementation of projects for the development of the area, to create stability in highland communities along the border, to develop professional communities in the area, to attend to the needs of AIDS patients, to provide family assistance to poor children, and to enable the expression of grievances in an emergency.

⁹ For more details: *Case Study on Education Opportunities for Hill Tribes in Northern Thailand - Implications for Sustainable Rural Development*. RAP Publication. FAO, 2002.

¹⁰ *The Indigenous World*. Copenhagen: IWGIA, 2014.

¹¹ "Service Department – Tribal." *The Department of Social Development and Welfare*, http://61.19.238.229/dsdw2011/module.php?module=service&pg=servicedetail&ser_id=9.

C. National plan: eleventh National Economic and Social Development Plan for the period 2012–16¹²

The plan continues to build upon the sufficiency economy as a principle that remains firmly people-centred while pursuing a balanced development. Strong emphasis is placed on the human and social development of a well-ordered society, based on social equality and access to life-long learning opportunities. The plan aims to alleviate poverty, and the local community is identified as a mechanism for management and participation in efforts to foster a good quality of life; in other words, the growth of self-reliant communities that would mitigate local economic, social, natural resource and environmental problems.

The plan repeatedly refers to local communities in the broader context of development. Specifically, it affirms that the sustainable management of natural resources and the environment will be achieved through a shift in the development paradigm and the participation of local communities. To improve public management and enhance both food and energy security, participation by local communities in development planning is encouraged. Local communities are also specifically identified as the focus of efforts to build capacity for climate change and natural disasters. It acknowledges that local communities, in particular the poor living in or relying on forests, have far less access to resources while the privileged are easily able to exploit them. To make resources available to local communities, measures to improve the fairness of property rights management are identified as a development priority. Local communities are further identified in the context of grass-roots finance, localized administration, learning and knowledge sharing, local energy consumption, agricultural development, partnerships involving small and medium enterprises, and capacity-building to ensure their greater engagement in development projects.

The plan notes that socio-geographical conditions need to be considered in development undertakings, with due consideration of their diversity and the differences between rural and urban areas, and between regions. It further stresses that these differences should be borne in mind when taking account of natural resources, culture and ways of life. In this context, a key development target is to reduce the income gap between various groups and geographical areas. The plan hence observes that the budget allocation process should be adjusted to reflect the special needs of different geographical areas and target groups.

The plan has a strong focus on good governance, sustainability and poverty alleviation and highlights inequality issues. That said, however, it does not specifically mention the hill tribes or any other group that would fall under the ambit of indigenous peoples. Considerable attention is given to the broad categories of local communities or geographical areas, while reference to the indigenous peoples of Thailand per se is completely absent from the plan. While, under the larger umbrella of sustainable and participatory development, some of the needs of indigenous peoples might be addressed, the absence of any recognition of their specific situation poses the risk that their vulnerability may be further increased.

¹² *The Eleventh National Economic and Social Development Plan (2012–16)*. National Economic and Social Development Board, Office of the Prime Minister.

III. Employment situation

A. Employment and livelihoods of indigenous peoples in general

Indigenous peoples participate in a variety of livelihood activities. Smaller groups in the south of Thailand have been engaged in fishing, and some also in hunting and gathering.¹³ Among the hill tribes, agriculture is the predominant activity and slash-and-burn farming practices are widespread among them. This is often regarded as responsible for the destruction of valuable timber reserves.¹⁴ In addition to agriculture, handmade goods and unskilled wage employment are secondary sources of income, while an increasing number of hill tribe people are also migrating to urban areas.¹⁵ Along with shifting cultivation and watershed forest destruction, the hill tribes in the past have been associated with opium cultivation.¹⁶ It must be noted, however, that Thailand has given a firm commitment to combat opium production and the country's hill tribes are increasingly living in permanent settlements and growing legitimate cash crops, thereby shifting to more permanent field agriculture.¹⁷ At the same time, the crackdown on opium growing is also viewed by some as having exacerbated the vulnerability of these communities, as many members of hill tribes have been forced to drift down to lowland areas in search of work, with many participating in poorly paid or illegal jobs and some even engaged in human trafficking. This has had a severe impact on women; many minority girls are coerced into prostitution and they are disproportionately represented in the country's sex trade.¹⁸

The lack of properly disaggregated data makes it difficult to provide a detailed description of the employment situation of the indigenous peoples of Thailand. A glimpse into this may, however, be derived from the limited data available, which outline the regional variations, for example, between the Northern Region where the hill tribes reside and other parts of the country, and also consider other indicators such as participation in agricultural activities. The following are some relevant highlights from the labour force survey conducted in the period October–December 2014:¹⁹

- The labour force participation rate in the country as a whole was 70.2 per cent; disaggregated by sex, for males this was 79.1 per cent and for females 61.9 per cent. In the Northern Region, the overall rate was 69.1 per cent; for males it was 77.5 per cent and for females 61.2 per cent.

¹³ *The Indigenous World*. Copenhagen: IWGIA, 2014.

¹⁴ Guntoro, Budi, Weerapon Thongma, Jumnongruk Udomsade, and Noppawan Tanakanjana. *Local Community and Sustainable Tourism: The Experience of Tribal Community in Thailand*. School of Tourism Development, Maejo University Thailand, and Asian Tourism Management Association, 2010.

¹⁵ Park, Joy K, John E Tanagho, and Mary E. Weicher Gaudette. "A Global Crisis Writ Large: The Effects of Being 'Stateless in Thailand' on Hill-Tribe Children." *San Diego International Law Journal* 10, No. 2 (2009): 495.

¹⁶ *Case Study on Education Opportunities for Hill Tribes in Northern Thailand - Implications for Sustainable Rural Development*. RAP Publication. FAO, 2002.

¹⁷ Crooker, Richard A. "Life after Opium in the Hills of Thailand." *Mountain Research and Development* 25, No. 3 (2005): 289–92.

¹⁸ "The Situation of Hill Tribe Minorities in Thailand." *HumanTrafficking.org*, 29 May 2006. <http://www.humantrafficking.org/updates/351>.

¹⁹ *The Labor Force Survey, Whole Kingdom, Quarter 4: October-December 2014*. National Statistical Office, Ministry of Information and Communication Technology, 2014.

- Figures detailing the percentage of employed persons by industry show that, in the Northern Region, 48.6 per cent were engaged in agricultural activities and 51.4 per cent in non-agricultural activities.
- Figures detailing the percentage of employed persons by work status show that, in the Northern Region, 2.1 per cent were employers, 9.4 per cent government employees, 25.6 per cent private employees, 37.9 per cent own-account holders and 25 per cent unpaid family workers.
- The unemployment rate for the country as a whole was 0.6 per cent; disaggregated by sex, for males this was 0.7 per cent and for females 0.5 per cent. In the Northern Region, the overall rate was 0.6 per cent; for males it was 0.7 per cent and for females 0.5 per cent.

Applying a similar approach, the following highlights may be gleaned from 2012 statistics relating to informal employment:²⁰

- In the country as a whole, 37.4 per cent were engaged in formal employment, while 62.6 per cent in informal employment. In the Northern Region, the corresponding figures were 27 per cent for formal employment and 73 per cent for informal employment.
- Disaggregated by gender, the figures for the country as a whole show that informal employment comprised 54 per cent males and 46 per cent females. In the Northern Region, the corresponding figures were 53.5 per cent males and 46.5 per cent females.
- Disaggregated by industry, the figures for informal employment in the country as a whole showed the majority in agriculture (62.5 per cent) and the smallest proportion in manufacturing (4.8 per cent).

B. Child labour and indigenous peoples

Disaggregated data regarding indigenous children and work are not available for Thailand. Nevertheless, a limited understanding can be derived from the fact that child labour in the country is most prevalent in the agricultural sector, while many children are also engaged in the worst forms of child labour, notably in commercial sexual exploitation. It has been observed that ethnic minority, stateless and migrant children are the most at risk of engaging in the worst forms of child labour, in particular in the informal sector.²¹ An ILO report highlights the plight of hill tribe children, many of whom are trafficked to urban areas for prostitution.²² In this regard, disaggregated data on indigenous children and work in Thailand will be crucial to efforts to tackle these continuing problems.

²⁰ "Informal Employed Persons, Year 2012." *National Statistical Office*, <http://web.nso.go.th/en/survey/lfs/imp/imp09.htm>.

²¹ "Thailand: 2013 Findings on the Worst Forms of Child Labor." *United States Department of Labor*, http://www.dol.gov/ilab/reports/child-labor/thailand.htm#ENREF_5.

²² Wille, Christina. *Investigating the Worst Forms of Child Labour No. 1, Thailand-Lao People's Democratic Republic and Thailand-Myanmar Border Areas, Trafficking in Children into the Worst Forms of Child Labour: A Rapid Assessment*. ILO, International Programme on the Elimination of Child Labour (IPEC), November 2001.

IV. Challenges

The indigenous peoples of Thailand have received limited attention within the legal and policy frameworks of the country. Many are yet to be accepted as citizens while, simultaneously, their lands and livelihoods have been under threat. So long as the rights and needs of the indigenous peoples of the country are ignored, they will remain in a position of vulnerability.

A considerable population of the hill tribes that are yet to be recognized as citizens are essentially stateless. Their lack of citizenship has direct implications for land ownership and securing livelihoods among the hill tribe people, in addition to preventing them from joining labour unions or voting in political elections.²³ Furthermore, without citizenship, many hill tribe people are not able to travel freely throughout the country and therefore require travel passes. Even if some are able to travel outside their village, jobs are difficult to obtain without citizenship ID cards, and, when they do, wage discrimination is commonly practised against them. Their stateless condition has severe consequences on their livelihoods, and the lack of citizenship is a strong risk factor underlying the increasing trend for hill tribe women and children, in particular, to become victims of trafficking.²⁴ Accordingly, addressing the status of many hill tribe people remains a vital challenge, even in the context of livelihoods.

Another major issue faced by indigenous peoples is the fear of land alienation, particularly in the context of environmental conservation. Many areas inhabited by indigenous peoples have been classified as lying within reserved forests, protected watersheds, national parks or wildlife sanctuaries through laws to establish State control over forests and natural resources.²⁵ This limits the access of indigenous communities to both land and resources, while at the same time making those who have traditionally lived and used such lands violators of laws. Moreover, a fear of relocation and of being arrested also has strong repercussions on the livelihood activities of the indigenous peoples. In this context, it is vital that efforts should be made to strike a balance between environmental conservation and the rights of the indigenous peoples, particularly through processes of participation and consultation.

Land alienation through the exploitation of natural resources also has implications for traditional livelihoods as practised by the indigenous peoples of Thailand. Commentators have noted that centralized State policies controlling natural resources, alongside activities by private companies, have forced many indigenous peoples to leave their traditional lands. Many have been relocated to places where they are not permitted to pursue their traditional occupations, leading to an increase in migration, in particular to urban areas.²⁶

The mainstream social and economic setting has also been conducive to changes in the economic activities of indigenous people, moving them beyond traditional live-

²³ Park, Joy K, John E Tanagho, and Mary E. Weicher Gaudette. "A Global Crisis Writ Large: The Effects of Being 'Stateless in Thailand' on Hill-Tribe Children." *San Diego International Law Journal* 10, No. 2 (2009): 495.

²⁴ *Stateless and Vulnerable to Human Trafficking in Thailand*. Vital Voices Global Partnership, June 2007.

²⁵ *Report on the Situation of Human Rights and Fundamental Rights of Indigenous Peoples in Thailand, Submitted to Prof. James Anaya, UN Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous Peoples*. Network of Indigenous Peoples in Thailand in collaboration with AIPP and IWGIA, 19 January 2010.

²⁶ *Ibid.*

lihoods.²⁷ In this context, it is vital that issues relating to employment generation, skills development, vocational training and access to credit should be resolved so that the indigenous peoples, especially the young, have access to more opportunities. Alternative forms of employment and livelihoods become all the more relevant, given future problems that will be caused by the shortage of new agricultural land to absorb the growing population of the hill tribes.²⁸

V. Data gaps

The socioeconomic situation of the indigenous peoples of Thailand is largely invisible in the extensive range of statistics available about the country, as there is a complete lack of disaggregated data. For that reason, it is difficult to provide a detailed description of their employment situation. The lack of disaggregated data on the indigenous peoples of the country places extensive limitations on any assessment of existing policies and efforts to design new policies capable of remedying the vulnerability of these populations.

²⁷ *Case Study on Education Opportunities for Hill Tribes in Northern Thailand - Implications for Sustainable Rural Development*. RAP Publication. FAO, 2002.

²⁸ Crooker, Richard A. "Life after Opium in the Hills of Thailand." *Mountain Research and Development* 25, No. 3 (2005): 289–92.



Viet Nam

I. Overview

Viet Nam is a multi-ethnic society, in which the Kinh represent nearly 87 per cent of the country's population and constitute one of the 54 officially recognized ethnic groups. The remaining 53 are the country's ethnic minority groups with a combined population of 13 million or some 14 per cent of the total population of 90 million. Viet Nam has a rich cultural diversity and each ethnic group has distinct cultures and traditions. Although these ethnic minority groups are scattered throughout the country, their concentration is highest in the northern mountains and the central highlands of the south. It is the ethnic minorities living in the mountainous areas that are referred to as Viet Nam's indigenous peoples, even though the Vietnamese government does not use the term "indigenous peoples". Groups like the Thai, Tay, Nung, Hmong and Dao are large, with populations ranging between half a million and 1.2 million, while around 650,000 people belonging to several ethnic minorities live on the plateau of the central highlands in the south, besides other smaller groups with populations in the hundreds.¹

Viet Nam has been increasingly credited with impressive economic achievements in recent years. A World Bank report has also noted, however, that the income gap has been growing between urban and rural areas, lowlands and highlands, and between the Kinh majority and the ethnic minorities. It further observes that ethnic minority groups are concentrated in regions that are doing the worst economically; even within these regions, the Kinh have experienced greater rates of poverty reduction than the ethnic minorities; and, while poverty rates have drastically reduced in rural Viet Nam, minority communities experience higher than average poverty rates, with the poverty rate for ethnic minorities measuring more than five times that of the Kinh and the Chinese in 2006, up from 1.6 times in 1993.²

This ethnic gap in rural Viet Nam has been attributed not just to the remoteness of the numerous ethnic minorities but also to the lower returns that ethnic minorities obtain from their endowments.³ Furthermore, the widening inequality is believed also to stem from the exclusion of indigenous peoples from decision-making processes, the undermining of their traditional livelihoods, and discrimination against them.⁴

The vulnerabilities of the indigenous peoples of Viet Nam have persisted even though the Government has a large number of policies and programmes specifically designed

¹ For more details: *The Indigenous World*. Copenhagen: IWGIA, 2014.

² *Country Social Analysis: Ethnicity and Development in Vietnam*. The World Bank, 2009.

³ Baulch, Bob, Hung T. Pham, and Barry Reilly. "Decomposing the Ethnic Gap in Rural Vietnam, 1993–2004." *Oxford Development Studies* 40, No. 1 (15 February 2012): 87–117.

⁴ Tomei, Manuela. *Indigenous and Tribal Peoples: An Ethnic Audit of Selected Poverty Reduction Strategy Papers*. ILO, 2005.

to promote the development of ethnic minorities.⁵ In 2013, 14 policies were issued concerning ethnic minorities and, although – as noted above – indigenous peoples are not officially recognized in Viet Nam, the 2013 revised Constitution treats all ethnic groups as equal and prohibits any discrimination on the grounds of ethnic origin.⁶ These developments demonstrate that the poverty and marginalization of ethnic minorities in Viet Nam remain a major concern, in particular for the Government.

II. Policy environment

Considerable attention has been given to the indigenous peoples or ethnic minorities of Viet Nam in the policy frameworks of the country, even though numerous limitations remain within the legal sphere.

A. Constitutional and legislative provisions

The revised Constitution, which was launched on 8 December 2013, does not recognize specific indigenous peoples. Article 5, however, affirms Viet Nam as a nation of all ethnic groups living within the country; provides equal rights to all ethnic groups; prohibits ethnic discrimination and division, identifies Vietnamese as the national language but also gives ethnic groups the right to use their own language and script, to preserve their ethnic identity, and to promote their customs, practices, traditions and cultures; and mandates the State to implement policies of comprehensive development and to support minorities in promoting their internal strengths for the purpose of development. Articles 42, 58 and 61 enshrine the right of ethnic minorities to determine their ethnicity, use their mother tongue and choose their language of communication, and prioritize the development of health care, education and employment in mountainous and ethnic minority areas.⁷

No dedicated law on ethnic minorities has been enacted in Viet Nam, although a number of laws include specific articles relevant to ethnic minorities. Thus, the education act gives priority to ethnic minorities in gaining access to educational facilities. In addition, there are many policies and programmes to promote the development of ethnic minorities. Key among those are the following:

- Programmes 135 and 134 for poor and mountainous areas;
- Resolution 30A (2008), which includes a support programme for rapid and sustainable poverty reduction for 61 of the poorest districts;
- Decision 1592 (2009), which relates to the cultivation of land, housing and water required to support ethnic minority households;
- Decision 70 (2009), which focuses on the capacity-building and rotation of key local leaders in the poorest districts, and encourages young intellectuals to work at the commune level.⁸

⁵ Oanh, Luang Thu. *Country Technical Note on Indigenous Peoples' Issues: Socialist Republic of Viet Nam*. IFAD, November 2012.

⁶ *The Indigenous World*. Copenhagen: IWGIA, 2014.

⁷ For more details: *Ibid*.

⁸ For more details: Palmiere, Sonia. *Representation from the Top: Ethnic Minorities in the National Assembly of Viet Nam*. IPU and UNDP, 2010.

In addition, since the late 1980s and the inception of “Doi Moi” (“Renewal”) – the economic reform programme – more than 90 decrees and other official instruments relevant to ethnic minorities have been issued and enacted by the Government. While land and forest policies have not been designed with ethnic minorities in mind, policies such as “sedentarization” have more specifically targeted the country’s indigenous ethnic minorities. Such policies have been designed with the aim of changing certain traditional practices considered as backward, environmentally unsound and restrictive in respect of modern agricultural development. This applies in particular to Programme 135 on the socioeconomic development of the most vulnerable communes in ethnic minority and mountainous areas in Viet Nam. Another key initiative designed to reduce poverty, especially among ethnic minorities, is the Hunger Eradication and Poverty Reduction Programme launched in 1998 with a focus on infrastructure, subsidies for disadvantaged ethnic minorities, sedentarization, credit for poor people and other measures to tackle poverty.⁹

B. Institutional mechanisms

A wide range of institutional arrangements in Viet Nam are designed to tackle the larger issues of poverty and development through various departments, which are also of significance to ethnic minorities, for example the Department of Education for Ethnic Minorities, within the Ministry of Education and Training.¹⁰ In addition, some key agencies have a dedicated focus in that area, including:

- *Ethnic Council of the National Assembly*,¹¹ comprising a Chair, Deputy Chair and several members, studies and recommends action on ethnic issues to the National Assembly. It is also mandated to examine bills, legislative initiatives and other legal documents pertaining to ethnic minorities, beside participating in the policy-making process and supervising implementation of policies.
- *Committee for Ethnic Minority Affairs*,¹² a ministerial-level agency under the Government, is primarily responsible for the management of ethnic minority affairs throughout the country. It covers nearly all facets related to ethnic minorities, from recommending policies to implementation and research work. The agency incorporates a number of different departments, a training school and information centre, and its organizational structure reaches all the way down to the district level.

⁹ For more details: *Indigenous Peoples/Ethnic Minorities and Poverty Reduction Viet Nam*. Asian Development Bank, 2002.

¹⁰ “Key Agencies Working on Ethnic Minority Issues.” *VUFO-NGO Resource Centre Vietnam*, <http://www.ngocentre.org.vn/node/7263>.

¹¹ “Ethnic Council.” *The National Assembly of the Socialist Republic of Vietnam*, 19 September 2013. <http://www.na.gov.vn/htx/English/C1377/default.asp?Newid=67654#lcPaQvf9yxOS>.

¹² “About.” *Committee for Ethnic Minority Affairs Web Portal*, 2 May 2013. http://www.cema.gov.vn/wps/portal/cema/about/detail.!ut/p/c5/04_SB8K8xLLM9MSSzPy8xBz9CP0os3hnd0cPE3MfAwN3iyAXA89AozCXIFdXQ3cDA6B8JE55Azd-DArrDQfYhqfD3CzU08Az29_d1d3M2NgCqAMsb4ACOBmj6sdhPwAVo8v6OrgaeZgYGIX7eXoYGwUb6fh75uan6BbkRB-pmeWSYAQjzGA!!/dl3/d3/L2dJQSEvUUt3QS9ZQnZ3LzZfQ0dBSDQ3TDAwRzBQNzBJRjZRUEZPVTFHRJm!/?WCM_GLOBAL_CONTEXT=/wps/wcm/connect/ubdt/cema/ubdt/en/Functions+Responsibilities/.

C. National plan: Socioeconomic Development Plan for the Period 2011–15 (strategic details)¹³

In the section entitled “Overall objectives of the country’s socioeconomic development plan, setting out the strategic details of the plan, an undertaking is made to develop the economy in a rapid and sustainable manner, while ensuring social welfare and social security to improve the material and spiritual life of the people.

Among the social targets outlined in the plan is the reduction of poor households in a rapid and sustainable manner. In addition, in the section entitled “Orientations on tasks and solutions for 2011–15 socioeconomic development”, the plan identifies eight such orientations. Key among these is the need to execute policies and measures to spur economic development in a comprehensive manner with regard to social advancement and justice. The plan also stresses the need to ensure social security, provide health care, create jobs, increase incomes, eliminate hunger, reduce poverty, and narrow the gaps between the rich and the poor.

The plan undertakes to attend to matters raised by the people relating to land clearance, reclamation and compensation, and to remedy shortcomings in health, education and training. In addition, a particular focus is placed on the situation of those living in remote, mountainous areas and islands and in ethnic minority areas, with regard to mobilizing resources for poverty reduction work. This is complemented by the emphasis placed in the plan on the need for effective planning work to ensure security of residence for the populations in these areas.

Besides the specific focus on ethnic minorities, the plan affirms that expenditure on health care will be increased, in particular to support poor and near-poor households, and those working in the agriculture, forestry, fishery and salt-making sectors.

On 8 November 2011, the National Assembly approved resolution 10/2011/QH13 approving the socioeconomic development plan for the period 2011–15. Responsibility for monitoring implementation of the resolution has been assigned to the Standing Committee, the Ethnic Council and other committees of the National Assembly, and also the deputies and deputy delegations of the National Assembly.

The document setting out the strategic details of the socioeconomic development plan is concise in its scope, focusing on the key targets and orientations, and therefore provides only a limited understanding of the detailed mechanisms by which the Government intends to tackle the problems faced by the country’s ethnic minorities. Those limitations notwithstanding, the attention which the document draws to ethnic minorities demonstrates that ethnic minority issues are unquestionably one of the Government’s priorities.

D. ILO Decent Work Country Programme 2012–16¹⁴

Detailing the country context of Viet Nam, the ILO Decent Work Country Programme acknowledges that nearly half of its ethnic minority households were still living below the poverty line in 2008. Considerable focus in the programme is placed on the larger

¹³ “Socio-Economic Development Plan (Strategic Details) 2011–2015.” *Socialist Republic of Viet Nam Government Portal*, <http://www.chinhphu.vn/portal/page/portal/English/strategies/strategiesdetails?categoryId=30&articleId=10052505>.

¹⁴ ILO- Viet Nam Decent Work Country Programme 2012–2016. ILO.

category of “vulnerable and disadvantaged groups”, particularly with regard to gender equality, persons with disability, persons living with HIV/AIDS, child labour, migrant workers and others, such as domestic workers, internal migrants, and farmers who have lost their lands. Unlike the strategic details of the national plan, however, the programme places no specific focus on indigenous peoples or ethnic minorities.

III. Employment situation

A. Employment situation for ethnic minorities in general

An ILO report¹⁵ has observed that the ethnic minorities of Viet Nam are mostly self-employed in subsistence agriculture or dependent on the informal economy for their livelihoods, in particular because of their location in remote and mountainous areas. In the valleys, wet rice cultivation is common, while corn and other dry crops are grown on terraced fields. Perennial trees with commercial value, such as cinnamon and anise, are also being planted. There has been a revival of traditional crafts, such as weaving, which are being increasingly marketed and these, along with tourism, have created new livelihoods in recent years. Furthermore, access to forests continues to be crucial for the livelihood strategies of many ethnic minorities, while shifting – or swidden – cultivation is increasingly being abandoned for more settled forms of agriculture under pressure from the Government, which is pushing for the sedentarization of nomadic peoples and the preservation of forests.

Data from 2007 indicate that, in rural areas, ethnic minorities are about two and a half times less likely than the Kinh to be wage workers. Minorities are less likely to have written contracts of employment, receive pay slips or have social security benefits, and their income levels are also lower than those of the Kinh.¹⁶ In addition, a World Bank study¹⁷ has highlighted that ethnic minorities in the north have migrated in significant numbers to the central highlands in search of larger and more productive agricultural lands. It also appears that, unlike in other countries, the ethnic minority populations have not formed a distinct underclass of urban migrant workers, even though they constitute a significantly poorer population group. A small number of ethnic minority Vietnamese are recruited for labour export overseas, however, including women as maids to Malaysia and the Chinese Province of Taiwan, and men as unskilled factory labour to Malaysia. Where ethnic minority women are concerned, the study notes that, in many communities, they are kept in a subordinate position by cultural norms, while at the same time remaining unable to benefit more actively from the economic opportunities afforded by the market, in particular because of linguistic barriers.

The ethnic groups of Viet Nam are identified in numerous surveys, such as the 2013 government labour force survey,¹⁸ which included ethnic details in its questionnaire. The survey report, however, does not include any disaggregated data on ethnic groups.

¹⁵ Hien, Nguyen Xuan, Vu Thi Thanh Thuy, Pham Thi Thanh Hang, and Tran Thu Hang. *Employment Creation Potential of the Ethnic Minority Cooperatives in Viet Nam*. Working Paper Series No. 4. ILO Viet Nam, 2004.

¹⁶ Baluch, Bob, Hoa Thi Minh Nguyen, Phuong Thu Thi Phuong, and Hung Thai Pham. *Ethnic Minority Poverty in Viet Nam*. Working Paper No. 169. Chronic Poverty Research Centre, 2010.

¹⁷ *Country Social Analysis: Ethnicity and Development in Vietnam*. The World Bank, 2009.

¹⁸ *Report on Labour Force Survey, 2013*. Ministry of Planning and Investment, General Statistics Office, 2014.

This renders it more difficult to gain a full understanding of the employment situation of the indigenous peoples of Viet Nam. Nevertheless, in addition to the labour force survey, there are some reports that provide insights into the employment situation of ethnic groups. For example, findings in the 2012 survey of household living standards¹⁹ indicate the following:

- In 2012, among the Kinh and Hoa population aged 15 and over, as their main form of employment in the past 12 months, 35.6 per cent were engaged in agriculture, 0.5 per cent in forestry, 3.1 per cent in fisheries, 18.1 per cent in industry, 7.8 per cent in construction, 13.6 per cent in trade and 21.4 per cent in services. Among the other ethnic groups, 78.3 per cent were engaged in agriculture, 1.8 per cent in forestry, 0.8 per cent in fisheries, 8 per cent in industry, 2.7 per cent in construction, 2.3 per cent in trade and 6.1 per cent in services.

A study by the Chronic Poverty Research Centre,²⁰ using data from the 2007 labour force survey, has observed the following key points:

- In rural areas, the percentage of wage workers among the Kinh was 25.8 per cent, among the Hoa 17.7 per cent and among the other minorities 10.3 per cent.
- In rural and urban areas, labour income (in millions of dong) among the Kinh was 1.108, among the Hoa 1.795 and among the other minorities 0.699.

Based on data from the 2009 population and housing census, a report by the United Nations Population Fund (UNFPA)²¹ highlights the following:

- The percentage of economically active population within the country as a whole was 76.7 per cent. For the six most populous ethnic groups, the corresponding percentages were as follows: for the Kinh, 75.3 per cent; for the Tay, 84.3 per cent; for the Thai, 88.2 per cent; for the Muong, 87.5 per cent; for the Khmer, 81.5 per cent; and for the Mong, 93.2 per cent.
- Disaggregated by sex, these figures, for males, were as follows: for the country as a whole, 82.2 per cent; for the Kinh, 81.1 per cent; for the Tay, 86.3 per cent; for the Thai, 89.6 per cent; for the Muong, 89.9 per cent; for the Khmer, 90.4 per cent; and for the Mong, 92.5 per cent. For females, the corresponding figures were: for the country as a whole, 71.6 per cent; for the Kinh, 69.9 per cent; for the Tay, 82.5 per cent; for the Thai, 86.9 per cent; for the Muong, 85.4 per cent; for the Khmer, 73.2 per cent; and for the Mong, 93.9 per cent.
- The percentage of the working population that was classified as self-employed for the country as a whole was 3.1 per cent. For the Kinh, this was 3.5 per cent; for the Tay, 0.6 per cent; for the Thai, 0.4 per cent; for the Muong, 0.5 per cent; for the Khmer, 3.8 per cent; and for the Mong, 0.2 per cent.

¹⁹ "Data Results of the Viet Nam Household Living Standards Survey 2012." *General Statistics Office of Viet Nam*, http://www.gso.gov.vn/default_en.aspx?tabid=515&idmid=5&ItemID=13971.

²⁰ Baluch, Bob, Hoa Thi Minh Nguyen, Phuong Thu Thi Phuong, and Hung Thai Pham. *Ethnic Minority Poverty in Viet Nam*. Working Paper No. 169. Chronic Poverty Research Centre, 2010.

²¹ *Ethnic Groups in Viet Nam: An Analysis of Key Indicators from the 2009 Viet Nam Population and Housing Census*. UNFPA, 2011.

- The percentage of the working population that was classified as household enterprises for the country as a whole was 77 per cent. For the Kinh, this was 74.6 per cent; for the Tay, 87 per cent; for the Thai, 93.9 per cent; for the Muong, 90.7 per cent; for the Khmer, 85.8 per cent; and for the Mong, 98.5 per cent.
- The unemployment rate for the country as a whole was 3.1 per cent. For the Kinh, this was 3.3 per cent; for the Tay, 1.6 per cent; for the Thai, 1.1 per cent; for the Muong, 1.1 per cent; for the Khmer, 5 per cent; and for the Mong, 0.4 per cent.
- Disaggregated by sex, these figures, for males, were: for the entire country, 3 per cent; for the Kinh, 3.3 per cent; for the Tay, 1.6 per cent; for the Thai, 0.9 per cent; for the Muong, 1 per cent; for the Khmer, 4.4 per cent; and for the Mong, 0.2 per cent.
- The corresponding figures for females were: for the entire country, 2.8 per cent; for the Kinh, 2.9 per cent; for the Tay, 1.4 per cent; for the Thai, 0.9 per cent; for the Muong, 1.1 per cent; for the Khmer, 4.9 per cent; and for the Mong, 0.3 per cent.

B. Child labour and indigenous peoples

Data pertaining to ethnic minorities in the 2011 Multiple Indicator Cluster Survey²² for Viet Nam shed considerable light on the child labour situation of the country's indigenous children. The survey demonstrates that socioeconomic status affects children's involvement in child labour: thus, in the 5–14 age group, the percentage of child labourers is three times higher among ethnic minority children than among Kinh-Hoa children. The survey notes further that even children who attend school are roughly three times more likely to become child labourers if they live in an ethnic minority household. The overall percentage of children involved in child labour was 7.1 per cent for the Kinh-Hoa and 23.5 per cent for the ethnic minorities. The percentage of children attending school who are involved in child labour was 6.2 per cent for the Kinh-Hoa and 20.9 per cent for the ethnic minorities.

IV. Challenges regarding land and livelihoods

Even though there are limitations relating to the legal frameworks in Viet Nam for indigenous peoples, many policy responses have been adopted in the country to address the vulnerable situation of its minorities. These responses notwithstanding, a World Bank report²³ has observed that ethnic minorities do not benefit as extensively as other groups from government poverty reduction programmes. A variety of issues, ranging from access to land and resources to shortcomings in implementation and capacity, have been instrumental in keeping the indigenous peoples of Viet Nam in their state of vulnerability.

Land remains crucial to the livelihood of the ethnic minorities. At the same time, landlessness is increasing in minority areas. Access to land, including forest land, has been considerably restricted by laws and policies that give control over land and resources to the Government. Even in areas where few other livelihood opportunities exist besides

²² Viet Nam Multiple Indicator Cluster Survey 2011: Final Report. General Statistics Office, UNICEF, UNFPA, December 2011.

²³ Country Social Analysis: Ethnicity and Development in Vietnam. The World Bank, 2009.

access to forest resources, forestry planning has largely ignored the precarious situation of the indigenous peoples of Viet Nam. Land alienation through the loss by ethnic minorities of their ancestral farmlands, which have instead been allocated to the ethnic Kinh, has exacerbated their livelihood insecurity.

Other pressures are being placed on the lands and livelihoods of ethnic minorities, in particular in the central highlands, by the in-migration of the Kinh, the use of fertile lands for industrial crops, and land-grab stratagems, whereby farmers are persuaded to switch from traditional migratory agricultural practices to sedentary farming, thereby making land available for migrant Kinh. In addition, resettlement induced by economic development initiatives, such as hydropower projects carried out without any consultation processes, also have serious repercussions for the livelihoods of ethnic minorities.²⁴ One consequence of land alienation has been the growing recourse by ethnic minorities to poorly paid wage labour. In this context, the need to secure and protect land for the indigenous people of Viet Nam, and measures to enhance their participation in the management of natural resources remain a critical challenge.

An issue closely intertwined with land alienation, particularly where the displacement of ethnic minorities and migration of ethnic Kinh are concerned, is the disparity in wages that has emerged between the ethnic minorities and the majority, and its implications for poverty. Alongside their loss of land and livelihoods, and increasing dependence on wage labour, ethnic minorities, even those with similar assets to the Kinh, receive poorer returns and lower wages, are less likely to receive written contracts or access to credit, and are at the receiving end of discrimination, especially on the grounds of language, in their efforts to find work.²⁵ Moreover, ethnic minorities also have more limited access to wage jobs to begin with, as a consequence of their lack of education and skills, their inability to benefit from urban networks and their lack of transport, limiting their mobility to different areas.²⁶

A World Bank study²⁷ finds that, beyond traditional subsistence activities, much of the market sector remains seriously undervalued in the minority areas, which lack value-chain linkages among producers, traders and consumers, and sources of support for high value commodity products. It also notes that, while markets have created many opportunities arising from the growing commercialization in upland areas, the vulnerability of local populations has been exacerbated by their reliance on the market for inputs and outputs for commercial farming, leading, in particular, to their heavy indebtedness. Added to which, diversification in income streams, especially through off-farm employment, is weaker among the ethnic minorities, with business and trading activities in minority areas being dominated by the Kinh.

²⁴ For more details: McDougall, Gay. *Report of the Independent Expert on Minority Issues*. Human Rights Council, 24 January 2011.

²⁵ For more details: *Alternative Report on the Implementation of the UN International Convention on the Elimination of All Forms of Racial Discrimination (ICERD): Violations of the Rights of Ethnic and Religious Minorities In the Socialist Republic of Vietnam*. Vietnam Committee on Human Rights, January 2012.

²⁶ Baluch, Bob, Nguyen Thi Minh Hoa, Nguyen Thi Thu Phuong, and Pham Thai Hung. "Ethnic Minority Poverty in Vietnam." In *Poverty, Vulnerability and Social Protection in Vietnam: Selected Issues*, edited by Nguyen Thang. Hanoi: Vietnam Academy of Social Sciences, The GIOI Publishers, 2011.

²⁷ For more details: *Country Social Analysis: Ethnicity and Development in Vietnam*. The World Bank, 2009.



Another World Bank study,²⁸ which focuses on the central highlands, identifies significant problems faced by the ethnic minorities in the labour market of the region. It notes that the ethnic minorities are unable to take full advantage of economic development opportunities within a general framework of information asymmetries, lack of education and training, financial and technical difficulties, and ineffectiveness of existing policies and programmes. In this context, capacity-building, improved access to information and resources, and the better implementation of support programmes are among the key challenges.

V. Data gaps

A growing volume of disaggregated data is being collected on the ethnic minorities or the indigenous peoples of Viet Nam. A key shortcoming in this process, however, remains the presentation of these data, as some government reports do not give specific details of these groups. The 2013 labour force survey report²⁹ is a case in point: the survey questionnaires inquire about ethnic origin, yet the report itself does not present any disaggregated data. A concerted effort by the relevant government departments to illuminate the different social and economic aspects of the ethnic minorities is crucial not only to an understanding of the successes and failures of existing programmes, but also to the development of policies that adequately respond to the vulnerable situation of the indigenous peoples of Viet Nam.

²⁸ *Poverty Reduction in the Central Highlands: Analysis of Ethnic Minority Labor-Related Issues*. The World Bank, 2012.

²⁹ *Report on Labour Force Survey, 2013*. Ministry of Planning and Investment, General Statistics Office, 2014.



Concluding remarks

I. Key issues

The profiles of the different countries have highlighted that indigenous peoples in Asia continue to face an array of problems and challenges when it comes to work. While the situations at the country level are often distinct, certain key issues and trends emerge that are of particular significance and cut across national boundaries. These issues include the non-recognition of indigenous peoples and their rights; policy limitations and gaps in implementation where policies exist; the lack of consultation and participation processes; restrictions on access to land and natural resources; the limited reach of conventional measures for labour protection when it comes to indigenous peoples; low productivity and a skills deficit; increasing instances of informality, migration and hazardous work; the heightened vulnerability of indigenous women; and invisibility and knowledge gaps. Where future discussions, research and interventions are concerned, tackling these issues will be instrumental in combating social and economic exclusion, poverty and inequality, and empowering the indigenous peoples of the region.

A. Struggle for recognition and rights

Many countries in Asia have yet to formally identify or recognize indigenous and tribal peoples, or to provide specific legal protection of their rights in line with international standards. While in some countries indigenous groups enjoy special protection through domestic legal provisions, the implementation and enforcement of such provisions often remain weak. The combination of the lack of recognition of indigenous peoples and the failure to protect their rights has led to the persistence of structural issues that perpetuate social and economic exclusion and marginalization. The world of work, which is strongly influenced by the social and economic environment and, at the same time, contributes to its formation, is inevitably affected by this situation, in which the rights of indigenous peoples are not respected.

B. Policy limitations and failures in implementation

All the Asian countries detailed in this present study have a strong policy focus on combating poverty. The development plans of these countries reflect their shared aspiration to achieve inclusive and sustainable growth that tackles aspects not only of poverty but also of inequality. In the context of indigenous peoples, however, two different facets are apparent. First, as many countries do not recognize indigenous peoples, their policy priorities do not have a specific focus on the particular hardships that indigenous peoples face. Second, in those countries which do have a targeted focus on tribal or ethnic minority groups in their policy frameworks, implementation of policies directed towards indigenous groups is weak.

As a consequence, poverty reduction and empowerment policies in many Asian countries have had a limited reach or benefit for indigenous peoples, despite the consid-

erable efforts made by some countries towards incorporating indigenous groups in their development plans and poverty reduction schemes and programmes. Against the backdrop of a limited policy focus on indigenous peoples and wide implementation gaps, in most countries the issues which they face in the world of work have not been adequately addressed or have even been altogether ignored.

C. Consultation and participation

Closely connected to the non-recognition of the rights of indigenous peoples and limitations in relevant policy and implementation is the crucial aspect of their participation and consultation in decision-making on issues that may affect their lives. The majority of the Asian countries covered in the present study do not have clear policies providing for consultation with and participation of indigenous peoples. In some countries such provisions exist on paper, but because of weak implementation they do not reach their full potential to empower indigenous peoples. In addition, without proper processes and channels to facilitate participation, the development priorities of indigenous peoples are overlooked. This, in turn, has severe consequences on indigenous peoples in the world of work, as not only are their traditional forms of livelihoods threatened, but they are also unable to articulate or determine their priorities and needs regarding future employment and livelihood activities.

D. Access to land and natural resources

Land and natural resources are among the most important sources of livelihood for indigenous peoples across Asia. The access of indigenous peoples to land and natural resources, especially to pursue a range of different traditional occupations, is a fundamental component of their world of work, even though it might not fall within the scope of formal labour market activities.

In this regard, land alienation and increasing restrictions on access to natural resources are among the most worrying trends observed in Asian countries. This trend stems from pressures for resource extraction in a globalized economy; for development-related activities like the creation of economic zones and hydroelectric dams that tend to overlook indigenous peoples' needs and concerns; and for environmental conservation that limits the access of indigenous peoples to their traditional lands and forests. Indigenous peoples are often displaced from their traditional lands owing to such activities without proper compensation and sometimes under the threat of violence.

The situation is compounded by a legal and policy setting dominated by limited recognition of rights, weak policies, poor implementation and a lack of processes enabling participation. One of the most significant consequences of the loss of land and access to natural resources among indigenous peoples is a loss of livelihoods, leading to higher vulnerability in the form of exclusion, poverty and marginalization.

E. Limitations of available labour protection

In many of the countries of Asia, indigenous peoples are not engaged exclusively in traditional occupations, because of a multitude of factors such as the loss of their traditional livelihoods, insufficient income from traditional activities and widening opportunities in the modernizing labour markets of emerging Asian economies. It is a

situation that is marked by considerable changes in economic activity, causing many indigenous peoples to move out of their traditional occupations.

Indigenous peoples are often at the receiving end of discrimination and face numerous barriers in gaining access to market opportunities. This has significant consequences on their pursuit of both employment and entrepreneurial activities. They find it difficult to start a business or get employed, are paid lower wages, have poorer job security and face discrimination at work. This has resulted either in their exclusion from the formal labour market, or at least a highly insecure position in that market, thereby making it difficult for them to exit from cycles of poverty.

F. Low productivity and skills deficit

Problems associated with low productivity, poor income generation and skills cut across both traditional occupations and rapidly modernizing market needs in Asia. Such traditional activities as farming, hunting, fishing and craft production, for an array of reasons ranging from shrinking land and natural resource bases to poor integration into markets, are increasingly becoming insufficient to meet the income demands of many indigenous groups. Enhancing their skills and productivity, improving the relevant infrastructure and access to credit, and facilitating their better integration into markets are some crucial interventions that have been largely absent where indigenous peoples engaged in traditional occupations are concerned.

Beyond traditional activities, a lack of education and skills, together with non-recognition of their traditional skills, creates formidable obstacles to the participation by indigenous peoples in the formal economy and blocks their access to many opportunities. In Asian countries and also in Australia and New Zealand, the skills deficit that is widespread among indigenous peoples poses severe challenges with regard to the world of work, as it sets limitations on their participation as both employees and entrepreneurs.

G. Increasing instances of informality, migration and hazardous work

Facing a multitude of hardships in the sphere of work, such as loss of their livelihoods, meagre incomes from traditional activities, limited access to markets and formal employment, and low skills, among others, many of the indigenous peoples in Asia are increasingly engaging in informal work, migrating in search of livelihoods and resorting to hazardous jobs for income. In most Asian countries, the informal economy serves to supplement income from traditional activities or provide the entire household income for many indigenous workers. The informal economy is a source of income in the form of wages earned in both rural and urban areas, from work on farms, plantations, mines, construction sites and informal enterprises.

From domestic work to street vending, the indigenous peoples in Asia have become increasingly dependent on the informal economy to make ends meet, which in turn leaves them more vulnerable to exploitation. Migration and hazardous work are closely connected to this issue, as indigenous people are driven to migrate to both urban and rural areas in search of income-generating activities. Migration often leads to employment within the informal economy, where it is common for indigenous migrants to work as wage labourers, day labourers or casual labourers. In addition, many indigenous workers, in particular in the informal economy, find themselves doing hazardous jobs

where child labour is also used and which expose them to exploitation, forced labour, and poor health and safety conditions in the absence of adequate labour relations, social protection and public awareness.

H. Additional vulnerability of indigenous women

Indigenous women face discrimination from both within and outside their communities and are particularly vulnerable in the sphere of work. In Asia, they tend to be unpaid, as they work in traditional activities and within the household. The declining access of indigenous peoples to land and natural resources has created added burdens for indigenous women. These are primarily due to mounting financial pressures and new difficulties in gathering household-related goods, like firewood and food items, which many indigenous groups normally source from their traditional lands.

In addition, many indigenous women are migrating and participating in the informal economy in search of income, and this too exposes them to specific hardships. Indigenous women are often paid less than men and exploited by their employers, a situation that applies in particular to domestic workers in many countries in Asia. Similarly, with few opportunities in the formal economy, it is not uncommon in Asian countries for indigenous women to be victims of human trafficking and sexual exploitation. As most countries in Asia do not even recognize indigenous peoples, the added difficulties faced by indigenous women in the world of work are largely overlooked.

I. Invisibility and data gaps

With few exceptions, indigenous peoples do not feature in the statistical details published by most countries in Asia. Disaggregated data on indigenous peoples, whether in the census or in studies of social and economic issues, including employment, are extremely limited. This lack of statistics is even more pronounced for indigenous women and children. The dearth of disaggregated data on indigenous peoples severely constrains any efforts to accurately determine the extent of the problems that they face and to remedy these problems through sound interventions. The lack of data also perpetuates the invisibility of indigenous peoples in the social and economic processes of many Asian countries, where their rights are ignored and specific problems and needs overlooked. That said, however, with the growing realization of the severe poverty and marginalization affecting indigenous peoples in Asia, disaggregated data will be crucial in addressing their vulnerability, and in tackling the larger issues of poverty and inequality.

II. Future engagements with indigenous peoples in the world of work

In September 2015, the international community embarked on an ambitious set of sustainable development goals under the new 2030 Agenda for Sustainable Development. With the eradication of poverty and inequality at its centre, this new global framework for development reflects a commitment to achieving a world that is just, equitable, tolerant and inclusive. The goals have specifically identified vulnerable sections of the population; accordingly, it is vital that they address the needs of indigenous peoples. Similarly, the 2014 outcome document of the World Conference on Indigenous



Peoples³⁰ is testimony to the international commitment to respecting, promoting and advancing the rights of indigenous peoples while addressing the numerous issues that they face, ranging from violence and discrimination to barriers that limit political, social, economic and cultural participation. In addition to these more recent developments, the guiding principles on business and human rights adopted by the United Nations in 2011³¹ also recognize the specific hardships faced by indigenous peoples in relation to corporate responsibility to protect human rights.

Such developments demonstrate that, as the international community enters a new phase, momentum is building on many fronts for a concerted effort to address the challenges faced by indigenous peoples. This incorporates tackling the larger concern of poverty and inequality and the specific problem of the undermining of the rights of such people.

While this momentum gathers pace, effective measures to surmount the challenges associated with indigenous peoples in the world of work are of fundamental importance for any meaningful intervention that endeavours to eradicate poverty and inequality while guaranteeing human rights. Asia emerges as an important region in this regard, because of the sheer scale and scope of the problem. In most countries in Asia, which has nearly 80 per cent of the world's indigenous peoples, Millennium Development Goal-like indicators for indigenous peoples are worse than the population averages.³² Hence, at a time when the international community is aspiring to end extreme poverty, the importance of addressing their specific problems and needs cannot be overstated. The issue of indigenous peoples in the world of work is, therefore, a crucial entry point for efforts to tackle both broader and specific issues faced by one of the most vulnerable sections of the population in Asia.

In this context, the role of ILO and the Decent Work Agenda have particular prominence. The ILO has historically been spearheading the promotion and protection of the rights of indigenous peoples through the Indigenous and Tribal Populations Convention, 1957 (No. 107) and later through the Indigenous and Tribal Peoples Convention, 1989 (No. 169). The ILO fundamental conventions, in particular Convention No. 111, concerning discrimination in respect of employment and occupation, also form a fundamental part of guaranteeing social justice and ensuring equality for indigenous peoples in the world of work. This is complemented by the ILO push for social protection floors that ensure the basic social security necessary to prevent and diminish poverty, vulnerability and social exclusion. The international labour standards of the ILO are an essential step towards creating a policy environment that recognizes the specific needs of indigenous peoples, is conducive to their empowerment and protects their rights.

As the present study has highlighted, however, indigenous peoples in the world of work in Asia continue to be afflicted by a multitude of problems, such as informality, migration, hazardous work and land alienation. The historic engagement of the ILO with indigenous peoples' rights, along with its expertise on larger issues in the world of work, equips it to make a considerable contribution to the task of arresting these emerging trends. The tri-

³⁰ General Assembly resolution of 22 September 2014, adopting the outcome document of the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples. General Assembly, United Nations, 25 September 2014.

³¹ *Guiding Principles on Business and Human Rights*. United Nations, 2011.

³² *Still among the Poorest of the Poor*. Indigenous Peoples Policy Brief. The World Bank, 2011.

partite structure of the ILO, comprising governments, workers' and employers' organizations, enables it to take a diverse set of constituents on board in order to tackle difficult challenges. This will entail not only promoting and protecting the rights of indigenous peoples in all countries of concern, but also engaging with all stakeholders, including indigenous peoples, on a range of fronts, including capacity-building, social dialogue, law and policy development, together with employment creation and training for ensuring livelihood security. More specifically, interventions relating to the rural economy and the agricultural sector will be crucial in empowering indigenous peoples, while minimizing the risks of migration, informality and hazardous work.

Similarly, enabling indigenous peoples, through consultative and participatory processes, to benefit from the opportunities that the modern market economy provides without being excluded, exploited and discriminated, will be another vital aspect of empowerment. An approach that incorporates gender and addresses the specific vulnerabilities of indigenous women will also be essential to achieving a development process that is truly inclusive. The unique historical position and leadership of the ILO, along with the Decent Work Agenda, are hence of crucial significance to both the distinct needs of indigenous peoples and the larger challenge of tackling poverty, inequality and injustice.

The present study, building upon earlier work of the ILO and other organizations, such as the International Fund for Agricultural Development, has attempted to highlight the situation of indigenous peoples in the world of work at the country level. While the constraints of a desk review preclude it from being exhaustive in nature, it has nevertheless endeavoured to highlight an important aspect of social and economic exclusion that is grossly under-researched. This has also given rise to concerns about the enormous knowledge gap regarding indigenous peoples that transcends the ILO and requires a concerted effort from governments, intergovernmental or non-governmental organizations alike.

Future engagements, whether they relate to issues of advocacy or strategic policy interventions, will considerably benefit from better data and research that are not anecdotal in essence. The absence of indigenous peoples from statistics, and in particular the lack of disaggregated data regarding their employment situation, must be addressed. These disaggregated data would need to incorporate elements such as gender, age and disability, so as to ensure a proper assessment of and response to the different forms of hardships faced by indigenous peoples. Statistical visibility is a precursor to the in-depth research that is urgently needed if the problems faced by indigenous peoples in the world of work are to be better understood and resolved.

The intention of the present study is therefore not only to further knowledge on the issue but also to build momentum for the creation of a larger body of research that is deeper in its inquiry and more extensive in its scope. The issues faced by indigenous peoples in the world of work have significant repercussions for the international endeavour to eradicate poverty and inequality; a thorough and nuanced engagement is hence a crucial first step towards tackling these issues.



Annex

International conventions on indigenous peoples and non-discrimination (status of ratification)

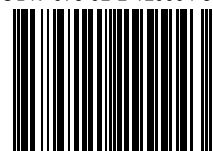
Countries	ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169)	ILO Indigenous and Tribal Populations Convention, 1957 (No. 107)	ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111)	International Convention on the Elimination of All Forms of Racial Discrimination	Convention on the Elimination of All Forms of Discrimination against Women
Australia	No	No	Yes	Yes	Yes
Bangladesh	No	Yes	Yes	Yes	Yes
Cambodia	No	No	Yes	Yes	Yes
India	No	Yes	Yes	Yes	Yes
Indonesia	No	No	Yes	Yes	Yes
Lao PDR	No	No	Yes	Yes	Yes
Malaysia	No	No	No	No	Yes
Nepal	Yes	No	Yes	Yes	Yes
New Zealand	No	No	Yes	Yes	Yes
Pakistan	No	Yes	Yes	Yes	Yes
Philippines	No	No	Yes	Yes	Yes
Sri Lanka	No	No	Yes	Yes	Yes
Thailand	No	No	No	Yes	Yes
Viet Nam	No	No	Yes	Yes	Yes

Source: Official websites of the ILO and the OHCHR (<http://www.ilo.org> and <http://www.ohchr.org>)

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