

**INTER-AGENCY
SUPPORT GROUP
ON INDIGENOUS
PEOPLES' ISSUES**

**THEMATIC PAPER towards
the preparation of the
2014 World Conference on
Indigenous Peoples**

**RIGHTS OF INDIGENOUS
PEOPLES/PERSONS WITH
DISABILITIES**

Thematic Paper on the Rights of Indigenous Peoples/Persons with Disabilities

The United Nations Inter-Agency Support Group (IASG) on Indigenous Issues aims to strengthen cooperation and coordination among UN agencies, funds, entities and programmes on indigenous peoples' issues and to support the UN Permanent Forum on Indigenous Issues. It also seeks to promote the effective participation of indigenous peoples in relevant international processes.

At its annual meeting held in October 2013, the IASG decided to develop a set of collaborative thematic papers to serve as background information and analysis on key issues to contribute to the process and preparations for the World Conference on Indigenous Peoples.

The preparation of each paper was led by one or more agencies with inputs from other IASG members. The papers do not present or represent formal, official UN policy positions. Rather, they reflect the collective efforts of the Inter-Agency Support Group to highlight selected key issues and to provide substantive materials to inform the Conference, with a view to contributing to the realization of the rights of indigenous peoples.

**The chair of the IASG rotates annually amongst the participating agencies. The Support Group has been chaired by the United Nations Children's Fund (UNICEF) until the end of the 13th session of the Permanent Forum on Indigenous Issues in May 2014. The Office of the High Commissioner for Human Rights (OHCHR) is currently holding the chair of the Group. The Secretariat of the Permanent Forum on Indigenous Issues acts as co-chair of the Support Group.*

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Background and Analysis

Over 1 billion people, or approximately 15 percent of the world's population, are persons with disabilities.¹ While no global data exists regarding indigenous peoples/ persons with disabilities, available statistics show that indigenous peoples/persons are often disproportionately likely to experience disability in comparison to the general population.² Factors that make indigenous peoples more likely to experience disability include: high level of poverty, increased exposure to environmental degradation, the impact of large projects such as dams or mining activities and the higher risk of being victims of violence.³

Indigenous peoples/persons with disabilities often experience multiple forms of discrimination and face barriers to the full enjoyment of their rights, based on both their indigenous identity and disability status. This has been recognized in the preamble of the Convention on the Rights of Persons with Disabilities, which stresses that persons with disabilities “are subject to multiple or aggravated forms of discrimination on the basis of race, colour, sex, language, religion, political or other opinion, national, ethnic, indigenous or social origin, property, birth, age or other status.”⁴

Both the international indigenous and the international disability rights movements have achieved great advances in recent years. Notably, in 2006, the General Assembly of the United Nations adopted the Convention on the Rights of Persons with Disabilities (CRPD) and in 2007, the UN Declaration on the Rights of Indigenous Peoples (UNDRIP).

Although both the UNDRIP and the CRPD protect and promote the rights of indigenous peoples/persons with disabilities, both movements need to strengthen their engagement with the rights of indigenous peoples/persons with disabilities.

Recent advocacy efforts of an emerging international movement of indigenous peoples/persons with disabilities,⁵ resulted in a growing interest in addressing the needs and rights of indigenous peoples/persons with disabilities by UN entities with mandates focused specifically on the situation of persons with disabilities or indigenous peoples.⁶

¹ World Health Organization and the World Bank, *World Report on Disability* (2011).

² For example, in 1991 over 20 percent of Canada's indigenous population aged between 25 and 34 reported a disability, the rate going even up to 30 percent concerning the people aged between 34 and 45 (See www.statcan.ca/english/studies/82-003/archive/1996/hrar1996008001s0a02.pdf). In the United States 20,7 percent of all Native Americans and/or Alaska Natives aged 16 to 64 reported a disability in 2007 (See: <http://www.ilr.cornell.edu/edi/disabilitystatistics/acs.cfm>), while in 2002 over one third of Australia's Aboriginal and Torres Strait Islander people aged 15 years or older reported a disability or long term health problem, spread relatively evenly over remote and non-remote areas. (See <http://www.healthinfonet.ecu.edu.au/health-facts/overviews/disability>).

³ Permanent Forum on Indigenous Issues. *Study on the situation of indigenous persons with disabilities, with a particular focus on challenges faced with regard to the full enjoyment of human rights and inclusion in development*. E/C.19/2013/6 of 6 February 2013. par. 7.

⁴ Convention on the Rights of Persons with Disabilities. UNTS, vol. 2515, p.3. See preamble paragraph (p).

⁵ For example, a caucus of indigenous persons with disabilities was formed at the 12th session of the UNPFII.

⁶ For example, the Committee on the Rights of Persons with Disabilities, which has held just 10 sessions to date, has already, in some of the reports it has examined (including Argentina, Peru, Paraguay) taken the opportunity to comment on the situation of indigenous persons with disabilities. The Permanent Forum on Indigenous Issues included a number of recommendations specifically focused on disability in the reports of its 11th and 12th sessions. Permanent Forum members also prepared a “Study on the situation of indigenous persons with disabilities, with a particular focus on challenges faced with regard to the full enjoyment of human rights and inclusion in development”, which was presented at its 12th session. The Expert Mechanism on the Rights of Indigenous Peoples addressed the situation of indigenous persons with disabilities in its recent study on “Access to justice in the promotion and protection of the rights of indigenous peoples,” as well as relevant recommendations in its advice No. 5(2013) and the same theme. The Global Indigenous Preparatory Conference for the World Conference on Indigenous Peoples, held in Alta,

For example, in the outcome document of the General Assembly's High-level Meeting on Disability and Development (New York, 23 September 2013), Member States also included a call for all development policies and their decision-making processes to take into account the needs of and benefit all persons with disabilities, including those of indigenous peoples.⁷

The World Conference on Indigenous Peoples (2014) presents a new and historic opportunity for Member States and indigenous peoples to commit to the inclusion of the voices and concerns of indigenous peoples/persons with disabilities in all efforts towards the realization of the rights of indigenous peoples and the objectives of the UNDRIP, altogether with the rights of even more vulnerable sectors of both populations, such as women and children.

Summary of key human rights and development issues

In its "Study on the situation of indigenous persons with disabilities, with a particular focus on challenges faced with regard to the full enjoyment of human rights and inclusion in development"⁸, the Permanent Forum on Indigenous Issues (PFII), emphasizing the lack of relevant available and reliable data, presented key considerations in relation to indigenous peoples/persons with disabilities, including the following:

- ❖ Indigenous peoples/persons with disabilities face **discrimination and exclusion** in all areas of life, preventing realization of their rights and resulting in extreme inequalities. Exclusion may be compounded by multiple dimensions of discrimination, for example, in situations where education or other services are neither culturally appropriate nor accessible. Circumstances such as sex, age, location and ethnicity can aggravate such forms of exclusion.
- ❖ The right to **self-determination** is a central right for indigenous peoples and includes rights to autonomy or self-government⁹ and also to participate and be actively involved in external decision-making processes. The right to self-determination should be respected by all external stakeholders, and while supporting elaboration and implementation of all laws, policies and programmes, the needs and rights of indigenous peoples/persons with disabilities should be taken into account. Specific disability rights legislation, policies and programmes aimed for the whole population, should also be respectful of the right of self-determination.
- ❖ The right to **participate in decision-making processes** is reaffirmed by both the UNDRIP and the CRPD. This right should be respected in relation to relevant decision making processes by all governments. Similarly, consultation processes taking place in indigenous communities should include the participation of persons with disabilities. The

Norway in June 2013, included numerous references to indigenous persons with disabilities in the meeting's outcome document (available at: http://www.un.org/esa/socdev/unpfii/documents/wc/AdoptedAlta_outcomedoc_EN.pdf).

⁷ A/68/L.1, para. 4(b).

⁸ See E/C.129/2013/6, section IV. Key Issues for Persons with Disabilities.

⁹ See Article 4 of the United Nations Declaration on the Rights of Indigenous Peoples.

right of indigenous peoples to determine their political or organizational systems should be exercised with the full participation of those members with disabilities, taking into account the cultural barriers that women tend to face in such processes.

- ❖ Many indigenous peoples/persons with disabilities are excluded from participating in and benefiting from culturally and otherwise appropriate **development**. Many live in **poverty** and lack equal access to appropriate **quality education; health services; work and employment; social protection, sanitation; assistive devices including mobility aids and health and rehabilitation services; as well as to food and clothing**, among others. Existing services may lack adequately trained providers, as well as physical or other accessibility, and may be located at great distances from those living on indigenous lands, or in rural or remote areas. Lack of appropriate services can also contribute to higher rates of institutionalization of indigenous peoples/persons with disabilities, removing them from family, culture, traditions, community and society.
- ❖ Indigenous peoples/persons with disabilities face a broad range of challenges in relation to **access to the justice system**, including physical inaccessibility to police stations, domestic or traditional courts and inaccessibility of proceedings where not conducted in relevant languages or where appropriate assistive devices or technology are not made available. Access to information and appropriate services, including forensic services, appropriately trained law enforcement and medical services in instances of criminal cases, to support access to justice are often lacking.¹⁰ While data is scarce, that available suggests that indigenous peoples/persons with disabilities also experience disproportionately high rates of incarceration.¹¹
- ❖ Lack of support and services for **families with indigenous children with disabilities** has led to the displacement of families from their communities and often to the separation of children from their families and communities. In many societies in which indigenous peoples suffer intergenerational trauma caused by, among other things, forced assimilation and the removal of children from their families, indigenous children with disabilities continue to be at a high risk of being separated from their families.
- ❖ Available evidence shows that **girls and women with disabilities** are at higher risk of violence than girls and women without disabilities¹² and that indigenous women are often disproportionately victims of sexual violence.¹³ In terms of realization of their rights, as well as access to redress and remedies for human rights abuses, indigenous women with disabilities often face a complex set of barriers relating to gender, indigenous identity and disability.
- ❖ According to a 2013 survey conducted by the UN Office for Disaster Risk Reduction and partners, a high proportion of persons with disabilities die or suffer injuries during **disasters** because they are rarely consulted about their needs and Governments lack adequate measures to address them.¹⁴ The risk of exposure of indigenous

¹⁰ For further information, see A/HRC/EMRIP/2013/2.

¹¹ See A/HRC/24/50.

¹² Office of the High Commissioner for Human Rights. *Thematic study on the issue of violence against women and girls and disability*. A/HRC/20/5 of 30 March 2012. p. 5.

¹³ UNICEF, UNFPA, UN WOMEN, ILO and the SRSG on Violence against Children. *Breaking the silence on violence against indigenous girls, adolescents and young women*. May 2013. pp. 5-6.

¹⁴ For further information, see UNISDR, UN global survey explains why so many people living with disabilities die in disasters, <http://www.unisdr.org/archive/35032>.

peoples/persons with disabilities to disasters and emergencies may be elevated because indigenous peoples often live in areas of particular risk relating to climate change, the environment, militarization and armed conflict and because of the impact of extractive industries.

- ❖ Indigenous peoples/persons with disabilities have the right to **full and effective participation in all aspects of life**. Realization of this right requires **accessibility** in terms of physical environments, transportation, information and communications, and access to other facilities and services open or provided to the public, both in urban and in rural areas.

The way forward

The urgent human rights and development concerns of indigenous peoples/persons with disabilities merit inclusion in all preparatory processes towards the World Conference on Indigenous Peoples and its outcome. The following recommendations are proposed as key for the World Conference.

Member States, United Nations, Indigenous Peoples and other stakeholders

- ❖ All aspects of the World Conference on Indigenous Peoples, including its preparatory process and outcome document, should be inclusive of and accessible to indigenous peoples/persons with disabilities and take place with their full and effective participation. Preparatory materials and information about the World Conference should be made available in accessible material and virtual formats.
- ❖ The outcome document of the World Conference on Indigenous Peoples should call for the inclusion of indigenous peoples/persons with disabilities in the post-2015 development agenda. Similarly, all aspects of the preparation, implementation and monitoring of the post-2015 sustainable development agenda should include the participation, the needs and perspectives of indigenous peoples/persons with disabilities, and address their human rights, as should all major international development conferences and forums, including the upcoming Conferences on Small Island Development, Disaster Reduction and UN Habitat III.
- ❖ Member States, in cooperation and consultation with indigenous peoples, should strengthen efforts to gather data regarding the situation of indigenous peoples/persons with disabilities in their multiple circumstances by sex, age, location and ethnicity.
- ❖ Member States are encouraged to include indigenous peoples/persons with disabilities in their delegations to the World Conference and in all efforts to implement the UNDRIP and the CRPD, as well as in the implementation of the outcome document of the World Conference on Indigenous Peoples.

- ❖ Member States should, in consultation with indigenous peoples/persons with disabilities, take measures to guaranty that indigenous peoples/persons with disabilities enjoy their human rights on an equal basis with others and have equal and adequate access to culturally appropriate services, including those regarding poverty eradication, education; health services; employment; sanitation; assistive devices including mobility aids and health and rehabilitation services; as well as to food and clothing.
- ❖ Member States should ensure that indigenous peoples/persons with disabilities are taken into account in legislation, policies and programmes regarding both indigenous peoples/persons with disabilities, adopting a cross-cutting approach, mindful of the multiple forms of discrimination they can be subject to on the account of both disability and indigenous origin and intersectional combinations thereof.
- ❖ Relevant United Nations entities and bodies should take action to include indigenous peoples/persons with disabilities in their respective areas of work and should support the creation, strengthening and capacity development of organizations of indigenous peoples/persons with disabilities.
- ❖ UN mechanisms, entities or groups with specific mandates relating to indigenous peoples or persons with disabilities, such as the Special Rapporteur on the Rights of Indigenous Peoples, the Special Envoy on Disability and Accessibility, the Inter-Agency Support Groups on Indigenous Issues and on the CRPD should explore synergies and opportunities to advance their work in relation to indigenous peoples/persons with disabilities, including through the use of the United Nations Development Group Guidelines on Indigenous Peoples' Issues¹⁵ and guidance note on Including the Rights of Persons with Disabilities in United Nations Programming at the Country Level.¹⁶
- ❖ The Committee on the Rights of Persons with Disabilities shall continue to consider the situation on indigenous peoples/persons with disabilities in its dialogues with State parties to the CRPD and maintain and expand its recommendations related to indigenous peoples/persons with disabilities in its Concluding Observations.
- ❖ Moreover, relevant United Nations mechanisms and funds, including the United Nations Partnership to Promote the Rights of Persons with Disabilities and the multi-donor trust fund of the United Nations-Indigenous Peoples' Partnership should include indigenous peoples/persons with disabilities in projects at the country level, in cooperation with indigenous peoples/persons with disabilities and their representative organizations.
- ❖ Civil society actors should include indigenous peoples/persons with disabilities in their respective areas of work in a cross-cutting and coordinated manner, ensuring space for meaningful participation of indigenous peoples/persons with disabilities both when issues related to persons with disabilities and indigenous peoples are discussed.

¹⁵UNDG Guidelines on Indigenous Peoples' Issues.

[http://www.undg.org/content/programming_reference_guide_\(undaf\)/thematic_policies_and_guidelines/indigenous_peoples](http://www.undg.org/content/programming_reference_guide_(undaf)/thematic_policies_and_guidelines/indigenous_peoples)

¹⁶ UNDG Including the Rights of Persons with Disabilities in United Nations Programming at the Country Level. http://www.un.org/disabilities/documents/iasg/undg_guidance_note.pdf