

Selected Resources

Indigenous Peoples and Human Rights

Human rights and the rights of indigenous peoples in German development policy

BMZ Strategy and Guidelines on human rights in German development policy

The cross-sectoral strategy affirms the central role of human rights in German development policy and contains binding requirements for the implementing agencies; the Guidelines provide guidance on the incorporation of human rights standards and principles, including gender, in programme proposals.

- BMZ Strategy (2011), describing indigenous peoples as a group of persons in need of special attention and entitled to specific rights (section 4.4):
http://www.bmz.de/en/publications/type_of_publication/strategies/Strategiepapier305_04_2011.pdf
- BMZ Guidelines (2013), see in particular „Risk area: interference with participation rights“ (p. 3) and Annex:
http://www.bmz.de/en/zentrales_downloadarchiv/themen_und_schwerpunkte/menschenrechte/Leitfaden_PV_2013_en.pdf

BMZ (2010), Human rights in practice – Fact sheets on a human rights-based approach in development cooperation

Collection of 2-page fact sheets that explain what the human rights-based approach in development cooperation means in general and for all priority sectors of German development cooperation.

- http://www.bmz.de/en/publications/topics/human_rights/BMZ_Information_Brochure_7_2010e.pdf

BMZ (2006), Development cooperation with indigenous peoples in Latin America and the Caribbean

In 2006, BMZ updated its policy on cooperation with indigenous peoples, explicitly referring to the rights of indigenous peoples under international law.

- http://www.bmz.de/en/publications/type_of_publication/strategies/konzept141.pdf

Legal reference documents and UN mandates on indigenous peoples and human rights

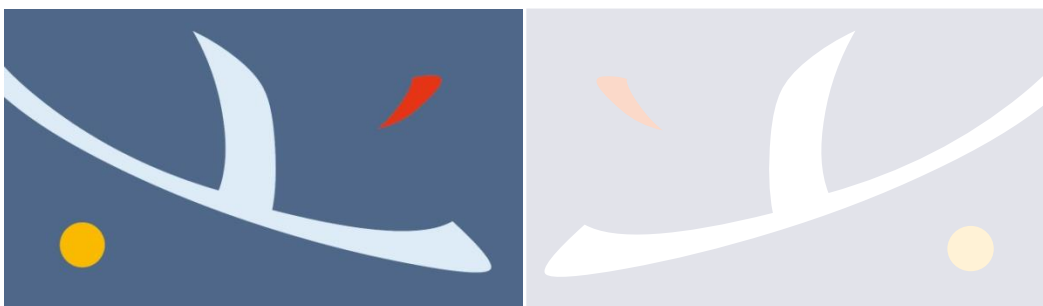
UN Declaration on the Rights of Indigenous Peoples (UNDRIP)

UNDRIP is currently the most comprehensive document elaborating human rights standards with regard to indigenous peoples. As a declaration, it is not legally binding, but 144 states voted in favour which makes it highly authoritative. In the context of development cooperation, it can serve as guidance for situation analyses, policy dialogue and programme design.

- http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf

Relevant UN human rights treaties

- **International Covenant on Economic, Social and Cultural Rights (ICESCR)**, especially Art. 1, the right of all peoples to self-determination and to freely dispose of their natural wealth and resources, and Art. 2, the principle of non-discrimination:



<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>

- **International Covenant on Civil and Political Rights (ICCPR)**, esp. Art. 1, the right of all peoples to self-determination and to freely dispose of their natural wealth and resources, Art. 2, the principle of non-discrimination, and Art. 27, the right of minorities to enjoy their own culture, to profess and practise their own religion, and to use their own language:
<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>
- **International Convention of the Elimination of All Forms of Racial Discrimination (ICERD)**:
<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx>
- **Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)**:
<http://www.ohchr.org/Documents/ProfessionalInterest/cedaw.pdf>
- **Convention on the Rights of the Child (CRC)**:
<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>

UN treaty bodies' interpretation of specific rights enshrined in the UN human rights treaties

The treaty bodies, committees of independent experts established under the UN human rights treaties, issue "General Recommendations" or "General Comments", authoritative interpretations of the provisions of the treaty.

- UN Committee on the Elimination of Racial Discrimination (CERD), General Recommendation No. 23 on indigenous peoples:
http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCERD%2fGEC%2f7495&Lang=en
- UN Committee on the Rights of the Child (CRC), General Comment No. 11 on indigenous children and their rights under the Convention:
http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f11&Lang=en
- UN Human Rights Committee, General Comments No. 12 on the right to self-determination, No. 18 on non-discrimination, and No. 23 on the rights of minorities:
http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=8&DocTypeID=11
- UN Committee on Economic, Social and Cultural Rights, General Comments No. 7 on forced evictions (the right to adequate housing), and No. 21 on the right to take part in cultural life:
http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=9&DocTypeID=11

ILO Convention No. 169 on indigenous and tribal peoples

Convention 169 of the International Labour Organization is the only legally binding instrument specifically dedicated to the rights of indigenous peoples at the global level. It calls for special measures to be adopted by the states parties in order to safeguard indigenous peoples' rights. The cornerstone of the Convention is the right to consultation and participation (Arts. 6, 15, 22, 27 and 28), stipulating the obligation to consult indigenous peoples on issues affecting their lives, such as industrial extractive activities on their land. According to Article 16, the free, prior and informed consent (FPIC) of indigenous peoples is required regarding their (exceptional) relocation to other territories.

- http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C169

ILO Indigenous & tribal peoples' rights in practice – A guide to ILO Convention No. 169 (2009) gives examples from many countries regarding the implementation of the Convention.

- http://pro169.org/res/materials/en/general_resources/IPsRightsInPractice-singlepages.pdf

ILO, Application of Convention No. 169 by domestic and international courts in Latin America – a casebook (2009), a compilation of recent landmark cases in Latin America.

- http://pro169.org/res/materials/en/general_resources/Application%20of%20convention%20no.%20169%20-%20Casebook.pdf

UN Special Rapporteur on the rights of indigenous peoples

The Special Rapporteur – currently held by Victoria Tauli Corpuz (since 2014) – gathers information on the human rights situation of indigenous peoples, issues recommendations to states and other relevant actors, and delivers annual as well as country specific reports.

- Website: <http://www.ohchr.org/en/issues/ipeoples/srindigenouspeoples/pages/sripeoplesindex.aspx>
- Annual reports: <http://www.ohchr.org/EN/Issues/IPeoples/SRIndigenousPeoples/Pages/AnnualReports.aspx>
- Annual report on extractive industries and indigenous peoples (A/HRC/24/41, 2013): http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session24/Documents/A-HRC-24-41_en.pdf

UN Permanent Forum on Indigenous Issues (UNPFII)

UNPFII was established in 2002 as an advisory body by the UN Economic and Social Council (ECOSOC). It is mandated to provide expert advice and recommendations on indigenous issues.

- Website: <http://undesadspd.org/IndigenousPeoples.aspx>
- Training module on indigenous peoples' issues – facilitator's handbook (2010): http://www.un.org/esa/socdev/unpfii/documents/training_module_en.pdf
- Gender and indigenous peoples (2010): <http://www.un.org/esa/socdev/unpfii/documents/Briefing%20Notes%20Gender%20and%20Indigenous%20Women.pdf>

UN expert mechanism on the rights of indigenous peoples (EMRIP)

EMRIP was established in 2007 as a subsidiary body to the UN Human Rights Council.

- Website: <http://www.ohchr.org/EN/Issues/IPeoples/EMRIP/Pages/EMRIPIndex.aspx>
- EMRIP studies and reports, amongst them a study on the right of indigenous peoples to participate in decision-making (A/HRC/EMRIP/2011/2, 2011), on the right to participate with a focus on extractive industries (A/HRC/21/55, 2012) and on indigenous rights and disaster risk reduction, prevention and preparedness (A/HRC/27/66, 2014): <http://www.ohchr.org/EN/Issues/IPeoples/EMRIP/Pages/ExpertMechanismDocumentation.aspx>

More on human rights and indigenous peoples

Indigenous peoples' information center for documentation, research and information (DOCIP)

- DOCIP compiles regular updates on all processes and events relevant to indigenous peoples: <http://www.docip.org/Documentation.7+M54c4c8b7fb6.0.html>

Indigenous Bar Association Canada

- Understanding and implementing the UN Declaration on the Rights of Indigenous Peoples – an introductory handbook (2011): http://quakerservice.ca/wp-content/uploads/2011/10/UNDRIP_Handbook_IBA.pdf

German Institute for Human Rights (DIMR)/ GIZ

- Info tool “Indigenous peoples and human rights” (2013): http://www.institut-fuer-menschenrechte.de/uploads/tx_commerce/e-info-tool_indigenous_peoples_and_human_rights.pdf

- Promising practices on the human rights-based approach in German development cooperation. Education: PACE – a rights-based vision among education officials in Guatemala (2012): http://www.institut-fuer-menschenrechte.de/uploads/tx_commerce/promising_practices_rights-based_vision_among_edu_officials_guatemala.pdf

DANIDA

- Best practices for including indigenous peoples in sector programme support – Tool kit (2004), a guide for development practitioners: http://pro169.org/res/materials/en/general_resources/Danida%20toolkit,%20including%20IPs%20in%20sector%20programming.pdf

FAO

- The right to food guidelines and indigenous peoples – an operational guide (2009), aiming to assist indigenous peoples in making use of the “Right to food Guidelines”: <ftp://ftp.fao.org/docrep/fao/011/i0839e/i0839e00.pdf>

International Council on Human Rights Policy

- When legal worlds overlap human rights, state and non-state law (2009), addressing the issue of legal pluralism: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1551229

UN practitioners' portal on HRBA to programming – Resources on indigenous peoples

An extensive collection of resources on the application of the human rights-based approach with regard to indigenous peoples.

- <http://hrbaportal.org/?topics%5B%5D=indigenous-peoples-2>

Regional legal reference documents and specialised institutions on the rights of indigenous peoples

Americas

The Inter-American human rights system developed by the Organization of American States is comparatively advanced in terms of specialised institutions and case law relevant to the rights of indigenous peoples.

- American Convention on Human Rights (Pact of San José), Article 21, the right to property (including land and resource rights): http://www.oas.org/dil/treaties_B-32_American_Convention_on_Human_Rights.pdf

- Special Rapporteur on the rights of indigenous peoples: <http://www.oas.org/en/iachr/indigenous/mandate/composition.asp>
- Inter-American Commission on Human Rights (2010), Indigenous and tribal peoples' rights over their ancestral lands and natural resources: <http://cidh.org/countryrep/Indigenous-Lands09/Ancestral-Lands.ENG.pdf>

The major indigenous umbrella organisations in Latin America are organised in three sub-regions:

- The Coordination of Indigenous Organizations of the Amazon Basin (COICA): <http://www.coica.org.ec/>
- The Andean Coordination of Indigenous Organizations (CA-OI): <http://www.coordinadoracoi.org/web/>
- The Indigenous Council of Central America (CICA): <http://consejocica.org/>

Africa

Africa has developed a similarly complex human rights system under the umbrella of the African Union (AU), based on the African Charter on Human and Peoples' Rights (Banjul Charter).

- The African Commission on Human and Peoples' Rights in 2001 established a Working Group on the Rights of Indigenous Populations/Communities, which in 2005 issued an important report developing the concept of indigenous peoples for Africa: <http://pro169.org/res/materials/en/identification/ACHPR%20Report%20on%20indigenous%20populations-communities.pdf>
- The AU Declaration on Land Issues and Challenges in Africa provides for equitable access to land: http://www.uneca.org/sites/default/files/images/au_declaration_on_land_issues_eng.pdf

Indigenous Peoples of Africa Coordinating Committee (IPACC)

- <http://www.ipacc.org.za/eng/default.asp>

Asia

Asia is the continent where, for various reasons, region-wide or even sub-regional human rights systems have been slow in developing. However, the Asian Development Bank has utilised "Indigenous peoples safeguards" since 1998 (updated in 2009) "to ensure that the design and implementation of projects foster full respect for Indigenous Peoples' identity, dignity, human rights, livelihood systems, and cultural uniqueness as defined by Indigenous Peoples themselves [...]"

- <http://www.adb.org/site/safeguards/indigenous-peoples>

Major indigenous umbrella organisations in Asia:

- Asia Indigenous Peoples' Pact (AIPP): <http://www.aippnet.org/>

- Tebtebba – Indigenous Peoples' International Centre for Policy Research and Education: <http://www.tebtebba.org/>

Specialised global NGOs and academic institutions

Minority Rights Group International (MRG)

- Website: <http://www.minorityrights.org/>
- Annual "State of the world's minorities and indigenous peoples" reports: <http://www.minorityrights.org/13061/attachments/MRG-state-of-the-worlds-minorities-2015-FULL-TEXT.pdf>
- Annual "Peoples under threat" survey: <http://www.minorityrights.org/13054/peoples-under-threat/peoples-under-threat-2015.html>

International Work Group for Indigenous Affairs (IWGIA)

- Website: <http://www.iwgia.org/>
- Annual "The indigenous world" reports: http://www.iwgia.org/iwgia_files_publications_files/0716_THE_INDIGENOUS_ORLD_2015_eb.pdf
- IWGIA & AIPP (2008), The concept of indigenous peoples in Asia – A resource book: http://www.iwgia.org/publications/search-pubs?publication_id=26

Forest Peoples Programme

- Website: <http://www.forestpeoples.org/>
- Country-specific information: <http://www.forestpeoples.org/location>
- Toolkit on indigenous women's rights in Africa (2015): <http://www.forestpeoples.org/topics/african-human-rights-system/publication/2011/toolkit-indigenous-women-s-rights-africa>

Survival International

- Website: <http://www.survivalinternational.org/>

Gesellschaft für bedrohte Völker (GfbV)

- Website: <http://www.gfbv.de/>

University of Minnesota (2003), Human rights library, Study guide: the rights of indigenous peoples

- This guide provides a useful and quick overview of indigenous peoples' rights and related topics: <http://www1.umn.edu/humanrts/edumat/studyguides/indigenous.html>

Juliane Osterhaus
juliane.osterhaus@giz.de

Indigenous peoples and intellectual property rights

UN Convention on Biological Diversity (CBD), Preamble, recognising the dependence of many indigenous peoples on biological diversity, and Article 8(j), promoting the wider application of certain practices and knowledge of indigenous peoples and calling for the equitable sharing of the benefits arising thereof

Intellectual property rights – usually protected by private law – can also be considered human rights, based on Article 27 of the Universal Declaration of Human Rights (right to participate in cultural life). Indigenous (and other “traditional” or “local”) knowledge systems and practices with regard to nature, land use, health care etc. are increasingly being explored by outsiders for commercial purposes and need an appropriate protection system. Therefore, it has been argued that restrictions of private or corporate intellectual property rights are necessary to avoid both undue restrictions to vital medication and unrewarded exploitation of “traditional” knowledge through patents.

- <https://www.cbd.int/doc/legal/cbd-en.pdf>

Published by	Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH	In cooperation with	German Institute for Human Rights Zimmerstraße 26/27 10969 Berlin, Germany
	Registered offices Bonn and Eschborn, Germany	On behalf of	Federal Ministry for Economic Cooperation and Development (BMZ)
	Cross sectoral programme 'Realising Human Rights in Development Cooperation' Dag-Hammarskjöld-Weg 1-5 65760 Eschborn, Germany T +49 6196 79-0 F +49 6196 79-800 sv-menschenrechte@giz.de www.giz.de	Division	Human rights; freedom of religion; gender equality; culture and development
Layout	Ira Olaleye	Addresses of the BMZ offices	BMZ Bonn Dahlmannstraße 4 53113 Bonn, Germany T +49 (0)228 99 535-0 F +49 (0)228 99 535-3500
As at	March 2015		BMZ Berlin Stresemannstraße 94 10963 Berlin, Germany T +49 (0)30 18 535-0 F +49 (0)30 18 535-2501
			poststelle@bmz.bund.de www.bmz.de