

EXPERT MECHANISM ON THE RIGHTS OF INDIGENOUS PEOPLES

EXPERT MECHANISM ADVICE No. 1 (2009) ON THE RIGHTS OF INDIGENOUS PEOPLES TO EDUCATION¹

1. Education is a universal human right fundamental to the exercise of other human rights; everyone has the right to education pursuant to international human rights law. Education is also an empowerment right, through which economically and socially marginalized individuals can obtain means to participate fully in their communities and economies, and in the society at large.
2. Education is the primary means ensuring indigenous peoples' individual and collective development; it is a precondition for indigenous peoples' ability to realize their right to self-determination, including their right to pursue their own economic, social and cultural development.
3. The right of indigenous peoples to education includes the right to provide and receive education through their traditional methods of teaching and learning, and the right to integrate their own perspectives, cultures, beliefs, values and languages in mainstream education systems and institutions. The right to education for indigenous peoples is a holistic concept incorporating mental, physical, spiritual, cultural and environmental dimensions.
4. The full enjoyment of the right to education as recognized in international human rights law is far from reality for most indigenous peoples. Deprivation of access to quality education is a major factor contributing to social marginalization, poverty and dispossession of indigenous peoples. The content and objective of education to indigenous peoples in some instances contributes to the assimilation of indigenous peoples into mainstream society and the eradication of their cultures, languages and ways of life.
5. The right of everyone to education is enshrined in numerous international human rights instruments, including the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, ILO Convention No. 117 on Social Policy, the UNESCO Convention against Discrimination in Education. It is also reaffirmed in various regional human rights instruments.

¹ The Expert Mechanism Advice No. 1 (2009) on the right of indigenous peoples to education is annexed to the Study on lessons learned and challenges to achieve the implementation of the right of indigenous peoples to education (A/HRC/12/33).

6. The United Nations Declaration on the Rights of Indigenous Peoples, and ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries contain specific provisions on indigenous peoples' right to education. Several treaties between indigenous peoples and States acknowledge the right of indigenous peoples to education and educational services as a treaty right.

7. The Declaration is coherent with and expands upon legally binding human rights instruments and international jurisprudence developed by international supervisory bodies and mechanisms. The Declaration, interpreted in conjunction with other international instruments, provides an authoritative normative framework for the full and effective protection and implementation of the rights of indigenous peoples. In the context of education, the Declaration reaffirms and applies the right to education to the specific historical, cultural, economic and social circumstances of indigenous peoples.

8. Article 14 of the Declaration acknowledges that indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning. This reaffirms existing international human rights law, including article 29 (2) of the Convention on the Rights of the Child and article 27 (3) of ILO Convention No. 169. The right of indigenous peoples to establish and control their education systems and institutions applies to traditional as well as formal education systems and institutions.

9. Numerous other provisions of the Declaration (arts. 1, 2, 3, 4, 8 (1), 8 (2), 12, 13, 14 (2) (3), 17 (2), 31, 44) either reaffirm and apply the essence of already existing human rights treaty obligations on the right to education, or are inseparably linked to provision on the right to education of the Declaration, applicable to both traditional and formal education.

10. In view of the prevailing lack of understanding of and respect for the concepts and principles of traditional education, Governments are urged to attach importance to building understanding and respect for traditional methods of teaching and learning, including by providing adequate funding for initiatives by indigenous peoples and communities to strengthen or establish traditional educational initiatives.

11. The right of indigenous peoples to traditional education may be closely, and in some instances inseparably, associated with the use of their traditional lands, territories and natural resources. States must give legal recognition and protection to such lands, territories and resources with due respect for indigenous peoples' customs, customary law and traditions.

12. States are obliged, collectively and individually, to make quality education available to all indigenous peoples, accessible without any prohibited form of discrimination, acceptable in the light of international human rights standards, and adaptable to the circumstances and in the best interest of indigenous peoples. States should address past wrongs, including by removing stereotypes, inappropriate terminologies and other negative elements referring to indigenous peoples in textbooks and educational materials.

States should promote intercultural education, as well as develop and strictly implement provisions aimed at eliminating discrimination against indigenous peoples in the educational system.

13. Educational programmes and services for indigenous peoples must be developed and implemented in consultation and cooperation with the indigenous peoples concerned in order to address and incorporate their special needs, histories, identities, integrity, values, beliefs, cultures, languages and knowledge, as well as their social, economic and cultural priorities and aspirations. Educational programmes and services for indigenous peoples should be of high quality, culturally safe and appropriate, and must not aim at or result in unwanted assimilation of indigenous peoples.

14. Indigenous peoples, in exercising their right to self-determination, have the right to educational autonomy. States, in consultation and cooperation with the peoples concerned, must ensure the realization of educational autonomy, including the financing of such autonomous arrangements. Indigenous peoples should be regarded as having prepaid present and future financial allocations from the State, including allocations to education, by sharing their lands, territories and resources with others.

15. The right of indigenous peoples to educational autonomy includes the right to decide their own educational priorities and to participate effectively in the formulation, implementation and evaluation of education plans, programmes and services that may affect them, as well as the right to establish and control their own education systems and institutions, if they so choose.

16. States should support the efforts of indigenous peoples to maintain and develop their own political, economic, social, cultural and education systems and institutions. National law and policy frameworks should be enacted or reformed, and budgets allocated to support traditional as well as formal education institutions that are established with the aim of developing and implementing appropriate programmes and activities for and by indigenous peoples.

17. The adoption of national legislation and policies that specifically address and acknowledge indigenous peoples' right to education, pursuant to international human rights law, should be regarded as a matter of priority by States. Constitutional recognition of the existence of indigenous peoples and their rights provides a solid legal basis for the adoption and implementation of legislation on indigenous peoples' rights, including the right to education.

18. The Expert Mechanism recommends that States follow a step-wise policy that could help promote all indigenous languages. Sufficient funding is needed to support the development of teaching methods, literacy materials and orthographies in the pupil's own language.

19. The Expert Mechanism highlights the need for disaggregated educational data, and

recommends that States establish methods and systems for the collection of disaggregated data and develop indicators conforming with international human rights standards in the field of education, for the purpose of identifying barriers preventing indigenous peoples from enjoying fully the right to education and to reform education laws and policies to be more inclusive and sensitive to indigenous values and perspectives.

20. Measures to ensure the provision of education at all levels for indigenous girls and women should be seen as a matter of urgency. The Expert Mechanism is of the view that instruments of dialogue would help to mediate conflicting issues and norms within indigenous societies and to ensure equal access to education for indigenous girls and women.

21. Education for indigenous peoples should be holistic; mainstream education curricula should include human rights, environmental protection, importance of lands and resources for indigenous peoples and physical education.

22. Human rights education is an integral aspect for the promotion and achievement of stable and harmonious relations among communities and for fostering mutual understanding, tolerance and peace. Learning about human rights is the first step towards respecting, promoting and defending the rights of all individuals and peoples.