CHAPTER 12

Walking the Talk? Including Indigenous Peoples' Issues in Intergovernmental Organizations

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The world of international intergovernmental organizations (IGOs), global or regional, can be seen as its own "universe", complex, seemingly out of reach to the non-governmental world, "the man and woman in the street", often cumbersome and bureaucratic, at times ignorant about and even hostile to indigenous peoples' issues and their voices. It can be also seen as "too political", meaning that it is about politics among states or regions and about strong international economic interests. Looked at from the outside, the intergovernmental system may appear to follow the economic and political waves of our globalized world, begging the questions "what does this all have to do with me?", "Isn't everything too predictable, how states and IGOs will behave?", and provoking a cynical attitude.

These were my thoughts until I joined the UN in 1979. During my studies, the chapter on international organizations was full of difficult-to-remember acronyms, and, while the mandates of the organizations we learned about made it clear to work there, the whole enterprise appeared like a far away, unreachable world. It took me about three years of working in the human rights area of the UN to start to change these perceptions. After joining the Division on Human Rights, as the precursor to the Office of the High Commissioner for Human Rights (OHCHR) was called in 1980, I could gradually see the impact that non-governmental organizations (NGOs) had on the UN's human rights work—such that the way the UN human rights system developed and is still developing would be unimaginable without that input, struggle, diplomacy and engagement. Theories of institutions' 1 and observation of the power structures of the UN made me wonder and imagine what people with some power could do under the UN Charter. There is a lot of politics in the UN, but is this not to be expected in any interstate institution? And there is good politics one can push for in any case. The possibility for human ingenuity and initiative within the bureaucracy became obvious. More than anything else, the contradictions in the UN also became obvious. As in any human enterprise, there are various tendencies, forces and actions that come into play such that the result can almost never be predicted in exact terms, which means that there is always room and possibility for people to try out options. Moreover, there is an International normative framework that surrounds the UN. The point is how to promote the implementation of the Charter, the human rights instruments, peace and development and all that the UN stands for, despite the obstacles that some state politics may pose among states and created synergies for their institutional establishment. The non-governmental world pioneered a number of human rights instruments. The adoption of the very first UN human rights treaty, the Convention on the Prevention and Punishment of the Crime of Genocide, was a powerful example of "one man's struggle", that of Raphel Lemkin. 2 Other major NGO initiatives range from the creation of the human rights complaints procedures, the preparation of the Convention against Torture and Other Degrading Treatment and Punishment, the Convention on the Rights of the Child and its optional protocols, the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol, the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms to the UN Convention for the Protection of All Persons from Enforced Disappearances and the UN Declaration on the Rights of Indigenous Peoples (UN-DRIP). There has hardly been any more empowering experience than to see society's lucid attempt to alter its own institutions. In his book The Imaginary Institution of Society, published in 1975, he demonstrates that the world and its Institutions is not articulated once and for all but is constantly subjected to human creativity (English translation 1996, the MIT Press, Cambridge, Massachusetts).

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1 Cornelius Castriota, pointed out that, as the conscious questioning of society's instituted representations, philosophy develops hand in hand with politics, which Castriota described as

through the dynamic interface between the increasingly powerful indigenous peoples' movement and the UN system.3

One afternoon in 1981, soon after I had joined the Division of Human Rights of the UN in Geneva, the office quiet was interrupted by the sound of drums coming from the yard surrounded by the buildings of the Palais des Nations. I leaned out the window and saw a procession of Indians, dressed in traditional clothes, marching ceremonially through the yard. I noticed that at the very front of the procession were old people leading the ceremony, walking slowly and with some difficulty due to their age. The procession and the drumming lasted for some time. It was an extraordinary sight and many UN staff came to their windows or went down to the yard to watch. Impressed and intrigued, I decided to find out who these people were, why they were at the UN and whom they would meet - only to discover, to my delight, that they were in fact visiting the Division of Human Rights. In a few hours I had found the colleague who was the focal point for this, it was Augusto Willemsen Díaz, a Guatemalan political refugee, the first UN staff member to deal with indigenous peoples' rights and someone who became my mentor in indigenous affairs.

While these early UN experiences were formative for me as a person and as a professional, I could hardly imagine that, in the mature days of my work with the UN, I would be dealing directly with this: the reshaping of international agencies so they would include indigenous peoples' issues, which is a major challenge for the UN Permanent Forum on Indigenous Issues that I serviced. It was the greatest privilege of my life to be part of the beginning of the UN's relation with the indigenous peoples' movement, to walk together over the years and see the results, including the adoption of UNDRIP, the establishment of the Special Rapporteur on the rights of indigenous peoples, the UN Permanent Forum on Indigenous Issues (UNPFII) and the Expert Mechanism on Indigenous Peoples' Rights, two International Decades of the World's Indigenous Peoples, an International Year of the World's Indigenous Peoples and other policy breakthroughs. I do not wish to abuse the reader's patience or the editors' generosity with the personal anecdotes of a former civil servant. Some experiences are presented here as part of

4 Since the late 1990s, the UN Secretary-General has established four Executive Committees, i.e. Internal bodies to coordinate specific issues: one on peace, one on humanitarian affairs, one on economic and social affairs and one on development (the latter called the UN Development Group, UNDG). The Secretary-General, in consultation with the High Commissioner for Human Rights, decided that, instead of establishing a separate committee on human rights, human rights would be mainstreamed into the work of all the other committees. As part of the New York Office of the High Commissioner, I was closely involved in those processes and later focused more on mainstreaming human rights within development, which eventually resulted, in 2002, in the adoption of the human rights-based approach to development by UNDG.

5 To show the current ideas, ideologies and interests that surface in mainstreaming debates, let me mention that, while in the 1990s the concept of "decentralization" was used to measure democracy, by 2008, OECD, the Organization for Economic Cooperation and Development, had pushed "harmonization" as the ideal, which was essentially advocating, albeit indirectly, for centralization. It was no surprise that the launch of "harmonization" coincided with most of the European Union and other Western countries, except the Nordics, implicitly abandoning their advocacy of the human rights-based approach to development (which is strong on participation and decentralization) and their political engagement with social policies.

"a young person's opening her eyes to the world"-type of story, remote to me by now over time and possibly relevant to younger generations of UN workers.

As is well known, mainstreaming an issue that has been long neglected and rendered invisible is no easy task: it involves changing public policies, laws and resource allocations. More than anything, it involves a change of hearts and minds, a change of institutional culture on a specific public interest issue. Mainstreaming is also about public officials, international and national, gaining an in-depth understanding of the issue that is to be mainstreamed. The United Nations system has had these experiences with human rights4 and with gender, originally. Later the strategy of mainstreaming became popular for many topics. The word "mainstreaming" has sometimes been used to indicate the need to be multidisciplinary in public policy analysis and methodologies. Although mainstreaming processes at the international level might seem esoteric and bureaucratic—and they sometimes are—there is a lot at stake behind them for the public good. They represent a site to debate and mold ideas that will then be launched into the world; they are the tip of the iceberg, an important indicator of where major currents of public policy are headed, and those currents eventually do have an impact on human beings and communities.5 Mainstreaming processes therefore deserve attention, input and critique.

This essay is about the story of the uphill battle to mainstream indigenous peoples' rights in the work of intergovernmental agencies, the lessons that can be
drawn and what is at stake for the future. It is presented in two parts. The first part is about the institutional foundations, conceptual issues and evolution of the mainstreaming of indigenous issues in the intergovernmental system. It also discusses some highlights in this process and underscores the significance of the adoption of the UN Declaration on the Rights of Indigenous Peoples. The second part attempts a systematization of the practice of mainstreaming indigenous issues, identifies facilitating factors as well as challenges and opportunities for the future.

The discussion of the topic is far from exhaustive. It is a general overview and focuses more on perspectives learned through UNPFII and does not cover in any detail interesting experiences within a number of agencies. In addition, this essay does not include how indigenous peoples themselves view and evaluate these mainstreaming processes. Such a survey still remains to be done and should be done. What matters most in the last analysis is what effect the mainstreaming of indigenous issues in intergovernmental processes will have on indigenous peoples' rights and in improving their lives.

Institutional foundations for the integration of indigenous peoples' issues in intergovernmental organizations

From the 1960s to the early 2000s, indigenous issues were dealt with mainly by the International Labour Organization (ILO) and OHCHR (previously called the Center for Human Rights and Division of Human Rights). After the establishment of the Working Group on Indigenous Populations (WIGIP) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities in 1982, the ILO was the only organization to attend the meetings and interact with indigenous participants and experts of the Working Group on Indigenous Populations for a number of years. This had beneficial effects on the ILO's work on indigenous peoples' rights. Indigenous peoples had the opportunity to voice their critique of ILO Convention 107 on Indigenous and Tribal Populations as assimilationist, in light of the higher human rights standards that were in the making through the drafting of the UNDRIP by the Working Group. In the long-run, the participation of ILO in this global dialogue with indigenous peoples at WIGIP paved the way for the adoption by the ILO of the much stronger ILO Convention No. 169 on Indigenous and Tribal Peoples in Independent Countries.6

Starting in the later part of the 1980s, some UN agency representatives would arrange informal meetings among themselves to discuss indigenous peoples' issues. In addition to the Centre for Human Rights - precursor to the Office of the High Commissioner for Human Rights - and the ILO, representatives of the UN Development Programme (UNDP), the UN Educational, Scientific and Cultural Organization (UNESCO) and the World Health Organization (WHO) would also start joining. These meetings were mostly the result of the initiative of staff with commitment and engagement on indigenous peoples' rights, rather than part of any institutional arrangements.

The first International Decade of the World's Indigenous Peoples, proclaimed by the UN General Assembly in 1993, had the goal of strengthening international cooperation to solve the problems faced by indigenous people in such areas as human rights, the environment, development, education and health. Yet, in the reports on the first Decade by the Office of the High Commissioner for Human Rights,7 it was found that in spite of important advances during the first Decade in the area of inter-agency cooperation, various activities connected with the Decade and institutional developments, the indigenous peoples in many countries continued to be among the poorest and most marginalized. States expected a mobilization of international agencies around the goal of the first Decade. With a few exceptions, based on committed individuals' initiatives, the UN agencies were unable to engage in an adequate way, although the Decade managed to increase awareness of indigenous peoples' issues. It is of course known that UN Decades constitute "soft" mandates for UN agencies, they are unfunded by any regular budget allocations and rely heavily on the goodwill and initiative of UN agency actors and government donors.

In 2000, the Economic and Social Council established the UNPFII,8 with the central mandate of integrating indigenous issues in the UN system. According to the enabling resolution, the Permanent Forum is to serve as an advisory body to the Economic and Social Council "with a mandate to discuss indigenous issues...".


8 Economic and Social Council resolution 2000/22.
within the mandate of the Council relating to economic and social development, culture, the environment, education, health and human rights; in so doing thePermanent Forum shall: (a) Provide expert advice and recommendations on indigenous issues to the Council, as well as to programmes, funds and agencies of the United Nations, through the Council; (b) Raise awareness and promote the integration and coordination of activities relating to indigenous issues within the United Nations system; (c) Prepare and disseminate information on indigenous issues..." [emphasis added]

The Permanent Forum has a number of unique elements. It is composed of state-nominated and indigenous-nominated members and it has a major focus on the UN system. Taking the mandate literally, one might think that UNPFII’s main goal is to do what previous UN actions have failed to do: i.e. integrate indigenous issues into the UN system. While this seemingly more inward-looking language, i.e. within the UN, and the mandate of the Permanent Forum, may appear narrow, I hope to show the potential that the process of mainstreaming unleashes through a dialectic approach and the impact it can have beyond the UN system, in countries and at grassroots level. In other words, if one sees the UN system as the entry point that needs to be influenced in order to integrate indigenous issues, there can be a compounded, spiral effect on public policy much beyond the originally-targeted agencies. This makes the mainstreaming effort worthwhile.9

A number of questions arose very soon after the establishment of the Permanent Forum—given the very complexity of intergovernmental organizations. Does their mandate fit indigenous peoples’ issues? What leeway do IGOs have to interpret their mandate? What is the limit of action by the secretariats, the civil servants, of these agencies? Do states not have the ultimate power of decision-making in IGOs through the established governing bodies of each agency? What about political obstacles that could be placed by such governing bodies on the integration of Indigenous issues in specific agencies?

A colleague from an agency asked me once, with a grave sense of doubt, how I expected the agencies to implement free, prior and informed consent (FPIC) for indigenous peoples, since states have the upper hand and ultimate power and they are generally reticent to accept the principle. His question suggested that agency bureaucracies would be overruled by their governing bodies if they moved outside of prescribed political boundaries and limits. I responded that, in my view, within the parameters of their action in their practical work, agencies have a responsibility to follow UN principles and standards and that, in this case, that meant following the UNDRIP, which clearly recognizes free, prior and informed consent.

Linked to this type of question were other, more practical, obstacles to mainstreaming. How should agencies be approached that had never dealt with indigenous issues, i.e. agencies that had no information, knowledge or expertise? How could they be convinced to overcome their formal position of “our agency has no mandate on indigenous issues” to understanding that they actually do, that it is a matter of interpretation, of making Indigenous peoples visible in their work, after they - the agencies themselves - see and recognize Indigenous peoples and their issues as part of the society the agencies are supporting, so that the agencies can then relate to indigenous peoples as subjects, with their own voices and representative institutions and requiring respect as individual human beings and as collectivities.

Let me pause here for some brief theoretical reflections in order to underline what I referred to earlier as the contradictions of the UN, a phrase I use in a positive way. Any student of international relations will know that the UN as an organization is not just the sum of its constituent parts, i.e. the states that comprise it, but something beyond that sum, brought together under common goals, as stated in the UN Charter. On the other hand, the UN is an organization of states, that presumably only look after their own limited interests, as understood by the governments in power, and who want to avoid criticism of their behavior internationally. At the same time, those very states, however, acting under the principles of the UN Charter, have adopted international human rights treaties by voting at the UN General Assembly and have subsequently ratified them, thus subjecting themselves to the scrutiny of the UN human rights treaty bodies. Far from a simplistic approach, learning to see, then, that the UN system is not a monolithic entity and focusing on the potential it offers through the numerous actors at play is crucial for any mainstreaming effort of indigenous issues.

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9 In this essay I use “agencies” in a broad manner, to include UN agencies, funds and programmes, offices and departments, but also other inter-governmental organizations, such as the European Union (EU), the Commonwealth and a number of international financial institutions (IFIs) which, although not part of the UN system like the World Bank and IFAD, have shown an interest in the work of the UNPFII, attended its sessions and joined the Inter-Agency Support Group on Indigenous Peoples’ Issues. Sometimes the term “intergovernmental organizations” (IGO) is used to encompass all the above.
Borrowing liberally from the concept of relative autonomy in political theory, we can also see that the various institutions within the UN system have relative autonomy. For example, the Secretariat of the UN is one of the organs of the UN under the Charter and, as such, it not only carries out the orders of the political bodies of the UN, such as the Human Rights Council or the General Assembly, but has the possibility to act in ways that are relatively independent—thus Article 101 proclaims the Independence of the International civil service. This means that agency officials have the capacity, within some parameters, to act with a certain autonomy.

When the UNPFII was ready to hold its first session in 2002, the UN High Commissioner for Human Rights, whose Office was servicing the Forum at its first session, established the Inter-Agency Support Group (IASG) on Indigenous Issues. Its mandate was to support and promote the mandate of the UNPFII within the United Nations system. This mandate was later expanded to include support for indigenous-related mandates throughout the intergovernmental system. The IASG Chairmanship rotates annually so as to strengthen the engagement of each agency on indigenous issues. In a gesture of solidarity and advocacy, the IASG later changed its name to the Inter-Agency Support Group on Indigenous Peoples’ Issues. Originally composed of nine agencies, the IASG had become, by 2012, a group composed of 35 UN and other intergovernmental entities, including International Financial Institutions (IFIs).

The formalization of the IASG from 2002 onwards strengthened its capacity to act alongside the focal points within each agency. The UN Permanent Forum on Indigenous Issues and the Inter-Agency Support Group on Indigenous Peo-

10 According to the Oxford Dictionary of Politics, relative autonomy is the theory that any social totality has four separate and distinct sets of practices—economic, political, ideological, and theoretical—which act in combination, but each of which has its own relative autonomy according to the limits set by its place in the totality.

11 There is considerable literature on International Organization (IO) theory and Organization Theory (OT), which both study the phenomena of organizations. Authors also explore the anthropology and psychology of organizations. A discussion of these is beyond the scope of this essay. An interesting article of Sungchon Cho, "Toward an Identity Theory of International Organizations" was published in the American Society of International Law Proceedings 101 (2007). He points out that the paradigm shift in perceiving an international organization from a passive, inorganic tool to an autonomous, organic entity provides us with a theoretical foundation under which we can delve into a unique and case-specific institutional development of an international organization.

the Forum retains within its mandate and intention the capacity to raise a moral voice in cases of egregious violations of indigenous peoples' rights.

Most of the Forum's recommendations are thus addressed to the UN system and other intergovernmental organizations, in general or by name. This work of the Forum and its long-term impact should not be underestimated in terms of changing state attitudes. UN agencies, especially those operating on the ground, can set good examples and create paradigm shifts in government policy and action.13

After the IASG was established, the UNPFII and agencies started developing synergies to strengthen each other. The IASG also became a support group of professionals who could give each other tips and strategize on how to raise awareness, overcome obstacles and promote the mainstreaming of indigenous issues within their organizations. IASG membership started to spread and its annual meetings became the focus of specific indigenous issues of inter-agency cooperation.

It was a memorable moment when the IASG was hosted by UNDP in 2004 to prepare for the special theme of the fourth session of the Forum, the Millennium Development Goals (MDGs) and Indigenous Peoples. The IASG, a group of independent civil servants, took the initiative and responsibility to make a critical review of the MDGs,14 the highest-profile topic on the international agenda at that time. A large part of the IASG's breakthrough statement was repeated later by the Forum in its own recommendations. Excerpts appear below:

"...The Inter-Agency Support Group on Indigenous Issues considers that indigenous and tribal peoples have the right to benefit from the Millennium Development Goals, and from other goals and aspirations contained in the Millennium Declaration, to the same extent as all others. However, as the 2005 review of the implementation of the MDGs nears, it appears from the available evidence that indigenous and tribal peoples are lagging behind other parts of the population in the achievement of the goals in most, if not all, the countries in which they live, and indigenous and tribal women commonly face additional gender-based disadvantages and discrimination.

Detailed information and statistics describing their situation are often lacking... Lack of adequate disaggregated data is a problem for the achievement of the MDGs. Nevertheless, the information available - both statistics that do exist and experience acquired in the course of our work - indicates that these peoples rank at the bottom of the social indicators in virtually every respect.

Concern has also been expressed that the effort to meet the targets laid down for the achievement of the MDGs could in fact have harmful effects on indigenous and tribal peoples, such as the acceleration of the loss of the lands and natural resources on which indigenous peoples' livelihoods have traditionally depended or the displacement of indigenous peoples from those lands. Because the situation of indigenous and tribal peoples is often not reflected in statistics or is hidden by national averages, there is a concern that efforts to achieve the MDGs could in some cases have a negative impact on indigenous and tribal peoples, while national indicators apparently improve.

While the MDGs carry a potential for assessing the major problems faced by indigenous peoples, the MDGs and the indicators for their achievement do not necessarily capture the specificities of indigenous and tribal peoples and their visions. Efforts are needed at the national, regional and international levels to achieve the MDGs with the full participation of indigenous communities - women and men - and without interfering with their development paths and holistic understanding of their needs. Such efforts must take into account the multiple levels and sources of discrimination and exclusion that indigenous peoples face."

The IASG also made a number of recommendations addressed to the UN system and to states. It pledged to support the UNPFII’s efforts to analyze and comment on the ongoing review of the implementation of the MDGs by the International
system. The IASG also requested that the concerns expressed in its statement, and the situation of indigenous peoples in relation to development and the achievement of the Millennium Declaration and the MDGs, should be brought to the attention of the Secretary-General and the Chief Executives Board (CEB).\textsuperscript{15} In this and other pronouncements made that year, the IASG took a strong position, critiquing the system "from within". It is also of great strategic significance that the IASG was supported by the Permanent Forum in this work, including members of the Forum that always participate in its annual meetings.

The adoption of a solid statement on the MDGs by the IASG and its endorsement by the Forum proved that the agency focal points on indigenous peoples' issues could have a voice and an impact. Moreover, it gave UN officials the moral courage to continue the uphill battle of integrating indigenous issues into their organizations.

Significance of Articles 41 and 42 of UNDRIP

The adoption of the UNDRIP in 2007 signaled a new era for UN agencies' work on indigenous peoples' rights, by explicitly referring to UN agencies in two articles:

\textbf{Article 41}

The organs and specialized agencies of the United Nations system and other intergovernmental organizations shall contribute to the full realization of the provisions of this Declaration through the mobilization, inter alia, of financial cooperation and technical assistance. Ways and means of ensuring participation of indigenous peoples on issues affecting them shall be established.

\textbf{Article 42}

The United Nations, its bodies, including the Permanent Forum on Indigenous Issues, and specialized agencies, including at the country level, and States shall promote respect for and full application of the provisions of this Declaration and follow up the effectiveness of this Declaration.

The IASG held an extraordinary meeting in 2008, before the seventh session of the UNPFII, to discuss the impact of the adoption of the Declaration on the work of the agencies. The ILO and OHCHR hosted this meeting in Geneva. Each agency was invited to prepare a paper with reflections on the implications of the adoption of the Declaration on its work.

In its report to the Permanent Forum\textsuperscript{16} that year, the IASG included another strong statement and critique, this time on the topic of integrating the Declaration and ILO Convention No. 169 into UN system operational programmes. Some paragraphs are quoted below:

"...Recent research has shown that the inclusion of indigenous peoples' rights into CCA/UNDAF's, PRSP's as well as the strategies to reach the MDGs remains weak. Broader development policies on aid efficiency (harmonization and alignment) as determined by OECD-DAC\textsuperscript{17} have not yet addressed indigenous peoples' issues. The differentiated mandates and institutional arrangements, for example with regard to field presence and/or presence of specialized staff or earmarked resources to indigenous issues provide for differentiated opportunities and limitations within the agencies. However, in the context of UN reform, the role of the UNCTs\textsuperscript{18} as well as the Resident Coordinators has become crucial.

A number of common operational and institutional challenges were identified. These include conflicting priorities within agencies; competition over limited resources; limited low capacity of staff; absence of indigenous staff; lack of institutionalized mechanisms for dialogue with indigenous peoples and for coordination among agencies at national or regional levels; absence of screening and tracking systems and; limited reflection in strategic plans and budgets.

\textsuperscript{15} CEB: a body established by the UN Secretary-General, composed of all the UN agency heads and Under-Secretaries General and chaired by him.

\textsuperscript{16} EC.19/2008/CRP.7, see website of the SFFII, www.un.org/indigenous, under the documents for the seventh session.

\textsuperscript{17} CCA stands for Common Country Assessment, UNDAF stands for UN Development Assistance Framework (both UN-system related), PRSPs stand for Poverty Reduction Strategy Papers (World Bank-related) and OECD-DAC stands for Organization for Economic Cooperation and Development-Development Assistance Committee ("venue and voice" of the world's major donor countries, including the IMF and World Bank).

\textsuperscript{18} UNCT stands for UN Country Team (composed of agencies represented in a specific country).
On the positive side, a number of achievements and opportunities were also identified, most prominently the momentum created by the adoption of the Declaration and the UNDG Guidelines, which have already created tangible results. In addition, the establishment of the database on indigenous professionals; ongoing policy developments and commitments of donors; and the existence of an increasingly solid knowledge base and experiences on indigenous issues constitute good practices and achievements upon which agencies can build on.

In line with the provisions of the Declaration and ILO Convention No. 169, agencies will need to find ways and means of ensuring the participation of indigenous peoples. Some agencies have experiences with the establishment of institutionalised mechanisms for participation of indigenous peoples which can serve to inspire more comprehensive efforts in the future.

"The participants recommended that:... senior management to support, at the level of United Nations System Chief Executives Board for Coordination (CEB) the mainstreaming of indigenous people’s rights in the UN system;... the IASG along with the UNPFII seek to engage in a dialogue with the OECD-DAC for inclusion of the Declaration and Convention No. 169 into broader development policies; IASG members include indigenous issues explicitly in their strategic management plans and budgets; IASG members make use of specialised programmes and staff to promote mainstreaming of indigenous issues and to develop operational guidelines and tools to assist field staff in adequately implementing institutional policies; IASG explore ways and means of establishing institutionalised mechanisms for indigenous peoples’ participation in the planning, implementation and evaluation of UN country programmes affecting them, e.g. through national consultative bodies;... IASG establish regional resource groups and organizes joint staff training for UNCTs and Resident Coordinators at country, sub-regional or regional levels...; IASG members prioritise training and capacity-building for meaningful participation of indigenous peoples in decision-making at the national level; IASG members include the concern for indigenous peoples in human resources policies and provide internships and other opportunities for indigenous representatives;... IASG members continue to translate internal guidelines and policies relating to indigenous peoples and make them available to indigenous peoples in order to enhance accountability...."

The above statement of the IASG demonstrates the boost that the adoption of UNDRIP and the synergies with the Permanent Forum gave to the mainstreaming of Indigenous Issues. Even though not all ideas materialized in the short-term, they captured trends in actions that agencies expressed the will to follow in the mid- to long-term.

The adoption of the UNDRIP brought new dynamism into the relationship between the IASG and the UNPFII and between individual agencies and the UNPFII as well. In 2009, at its discussion of Article 42 of the UNDRIP and the question of how the Forum would approach its new mandate under this article, the Forum adopted general comments on the legal validity of the Declaration and its own mandate under Article 42.19 After asserting that the purpose of the Declaration was to constitute the legal basis for all activities in the area of indigenous issues, meaning the activities of agencies also, the Forum pointed out that the task of the Permanent Forum on Indigenous Issues in the years to come would be to act within its capacity to transform the Declaration in its entirety into living law. Implementation as living law would be fulfilled when the indigenous peoples had achieved practical results on the ground. The Forum stated that the Declaration formed a part of universal human rights law and that the basic principles of the Declaration were identical to those of the main human rights covenants and that the Declaration was a general instrument of human rights.

Following this new responsibility under Article 42, the Permanent Forum has made it a standard practice to ask UN agencies, in a questionnaire circulated annually and in the public dialogues it holds with them during the Forum’s sessions, what they are doing to carry out their obligations under Articles 41 and 42. The Forum has made it clear that the Declaration is the basis and measure of all action by IGOs on indigenous peoples’ issues. In public dialogues that the Forum started with states in 2009 under the Declaration, the Forum, in addition to states and indigenous peoples, also invites UN Resident Coordinators to participate, thus signaling a partnership with governments, indigenous peoples and the UN to catalyze action on the ground.


20 In 2010, at the eighth session of the UNPFII, Bolivia and Paraguay submitted reports (E/C.19/2010/12/Add.1 and E/C.19/2010/12/Add.2 respectively) and held a public dialogue with the Forum. A mission of the Forum to Bolivia and Paraguay had taken place in 2009 regarding the slavery-like situation of the Guaraní and other indigenous peoples in the Chaco region.
Another strategy that clearly emerged from the Forum early on was that the Forum would intervene and promote the integration of indigenous issues at every major international debate of relevance taking place in the UN system, such as the Millennium Development Goals, the information society, climate change or women. The substantive rationale of this position is that indigenous issues are indeed multiglompronged and require attention in most if not all areas of international concern. The strategic basis of this position has to do with political timing, namely that no opportunity should be lost to bring indigenous peoples’ issues to the fore when the whole international community’s attention is focused on a topic. In addition to providing substantive policy input on topics on the global agenda, this strategy also helps raise awareness of indigenous issues among intergovernmenntal organizations and states. This approach by the Forum does not mean that the Forum’s whole attention is absorbed by the overall international agenda. Instead, the Forum has at the same time pursued an integration into the UN agencies’ work of other topics that constitute core concerns of indigenous peoples, including free, prior and informed consent, lands, territories and resources, indigenous traditional knowledge, indigenous languages, indicators of well-being, development with culture and identity, self-determination, data collection and disaggregation, among others.

Systematization of practice, challenges and opportunities for the future

Having discussed some theoretical issues, major strategies and some highlights in the efforts to mainstream indigenous issues in the UN system, this part will attempt to systematize this practice and reveal some facilitating factors as well as gaps, challenges and opportunities for the future.

The integration of indigenous peoples’ issues into intergovernmental work can be viewed from a multilateral perspective, i.e. initiatives targeting all or most agencies, and from a bilateral perspective, i.e. efforts targeted at specific agencies.

At the multilateral level, as mentioned earlier, the Inter-Agency Support Group on Indigenous Peoples’ issues was established in 2002. Its membership has continued to expand within the UN system and outside it. The Permanent Forum has repeatedly recommended that all agencies appoint focal points on indigenous issues, with a work plan and resources, so that agency staff formalize their functions and raise the profile of indigenous issues. Thirty-five UN entities were part of the IASG as of 2012,21 albeit with different levels of engagement, and many of them have formally appointed focal points on indigenous issues, although not all on a full-time basis. It is interesting to note that non-UN-related agencies have gradually started joining the IASG, even as observers. Among them, the Commonwealth Secretariat and the European Commission’s External Action Service. IFIs have also joined, including the World Bank, the Inter-American Development Bank and the International Fund for Agricultural Development (IFAD). Annual meetings under a rotating chairing agency are used to discuss in-depth issues, such as the upcoming theme of the Permanent Forum, to prepare a common inter-agency paper for submission to the Forum and to discuss ways of strengthening inter-agency cooperation. IASG papers, which also contain recommendations, have often created an important basis for the Forum itself to draw on in its own recommendations, such as on the Millennium Development Goals, on free, prior and informed consent and other matters. The annual meetings also serve to raise awareness and the profile of indigenous issues at all levels of the hosting organization. Some members of the Forum are present at these sessions, signaling the synergy between the IASG and Permanent Forum. In addition, the IASG holds closed meetings with the UNPFII during the Forum’s annual sessions to discuss and strategize on issues of common interest and on how to improve processes of cooperation. The result of this relationship between the UNPFII and the IASG has been one of mutual reinforcement.

21 Commonwealth Secretariat, Department of Economic and Social Affairs (DESA), Department of Political Affairs (DPA), Department of Public Information (DPI), Economic Commission for Latin America and the Caribbean (ECLAC), the European Commission’s External Action Service, Food and Agriculture Organization (FAO), Fondo Indigena, Inter-American Development Bank (ADB), International Fund for Agricultural Development (IFAD), International Labour Organization (ILO), International Land Coalition, International Organization on Migration (IOM), Office of the Coordinator for Humanitarian Affairs (OCHA), Office of the High Commissioner for Human Rights (OHCHR), Secretariat of the Convention for Biological Diversity (SCBD), UNAIDS, UN Conference on Trade and Development (UNCTAD), UN Development Program (UNDP), UN Environment Program (UNEP), UN Education, Science and Culture Organization (UNESCO), Secretariat of the UN Framework Convention on Climate Change (UNFCCC), UN Forum on Forests (UNFF), UN Population Fund (UNFPA), UN-HABITAT, UN Children’s Fund (UNICEF), UN Industrial Development Organization (UNIDO), UN-Women, UN Institute for Training and Research (UNITAR), UN Staff College, UN University Institute for Advanced Studies (UNU-IAS), World Food Program (WFP), World Health Organization (WHO), World Bank.
These IASG processes have had a number of spin-off effects that have promoted the integration of indigenous issues in the agencies' work. The most notable was the cooperation among IASG members around the adoption of the UNDG (UN Development Group) Guidelines on Indigenous Peoples' Issues in 2008. Given the complexity and high profile of the UNDG, it was a major achievement that IASG was approved to draft these guidelines and that the UNDG subsequently adopted and formally disseminated them to all UN country teams. The Guidelines, which reflect and operationalize the UNDRIP and highlight the elements of a development with culture and identity, have since become the subject of training for the UN country teams spearheaded by the Secretariat of the UNPFII, with funding from IFAD. Another side result of the IASG has been the creation of a regional Indigenous Consultative Group composed of indigenous leaders for the UN system in Latin America. Originally launched by UNICEF, it has now become a group that advises all UN agencies. From a national perspective, an interesting experience with respect to national UN programs has been developed in Nicaragua, where a program advisory committee has been set up between the UN system and indigenous peoples' representatives, constituting a strategic space for the fulfillment of the provisions of the UNDRIP regarding self-determination, inclusion, and consultation. National advisory committees have also been established in both Kenya and Bolivia; however, at present neither of these committees is functional.

The existence of the IASG, which includes three IFIs, as mentioned above, has also given the Forum the impetus to pursue a "diplomatic offensive" with other

22 The UNDG is one of the four thematic Executive Committees established by the UN Secretary-General in the 1990s (see footnote 4 above). The UNDG brings together all the UN agencies, funds, and programs as well as departments of the UN Secretariat that deal with development, more specifically at operational level. The UNDG, at Principals level, adopts policy directives addressed to UN country teams around the world, promotes training and offers a global supervision of the UN's development work on the ground. UNDG processes are cumbersome and political, with considerable push and pull from various agencies and, implicitly, states, and require a lot of time and skill investment to get results.


24 Programme committee established jointly by OHCHR and UNDP.


users in order to sensitize them to indigenous peoples' issues. Visits and meetings with IFIs and Permanent Forum members have taken place on various occasions with IFAD and the European Investment Bank, as well as a meeting with a group of some 20 IFIs, facilitated by the World Bank.

Another multilateral, multi-agency initiative sprang out of the dynamism of indigenous women's issues and indigenous women themselves at the Permanent Forum. Indigenous Women became the special theme of the Forum's third session and has been a perennial topic at the Forum ever since. 2005 marked a significant turn, when 60 indigenous women leaders from all regions traveled to New York in connection with the 10-year review of the Beijing Conference on Women and achieved the adoption of the first ever resolution on indigenous women at the Commission on the Status of Women. In 2004, a group of agencies took the initiative to form a Task Force on Indigenous Women under the Inter-Agency Network on Women and Gender Equality (IANGWE). The Group worked for three years and completed a survey of how indigenous women's issues are addressed by the UN system and also issued a collection of good practices and lessons learned in the work of UN agencies with indigenous women.

Bilateral relations to promote the integration of indigenous peoples' issues have been pursued by the Permanent Forum and agencies in a number of ways. Permanent Forum members distribute portfolios among themselves on the topics of its mandate, as well as other topics of interest that have emerged, such as indigenous women, indigenous children, data collection, indicators, urban issues, traditional knowledge and other areas. Portfolios also include being focal points for specific agencies. This means that each Forum member undertakes to develop relations with a specific agency, to consult with the agency regarding recommendations and also to visit the agency when an official visit is scheduled. Such official Forum visits, i.e. 2 or 3 members, take place periodically and are another method by which the Forum pursues the engagement of agencies, including at a high level, with indigenous issues.

The adoption of specific policies on indigenous peoples' issues has been a standard and perennial recommendation of the Permanent Forum since its early
sessions. As a result, a considerable number of agencies have adopted or revised such policies, among them UNDP (its policy predates the establishment of the Permanent Forum and is due for revision in 2013); IFAD, EBRD, and World Bank Agency reports to the Permanent Forum have been an important way for agencies to engage with indigenous issues. Such reports are submitted annually, detailing activities on indigenous issues and the follow-up given to the Forum's recommendations. However, a more targeted and focused system was inaugurated in 2009 when the Forum introduced the practice of holding public dialogues with UN agencies. It was a memorable moment at the eighth session of the Forum in 2009 when six UN agencies submitted reports and sent high-level delegations for a public dialogue with the Forum in the presence of states and indigenous peoples. After examining agency reports, the Forum then adopts conclusions and recommendations regarding each agency.28 Resembling something like the periodic dialogue between human rights treaty bodies and states, this new method of work has the potential to become a strong tool for the integration of indigenous issues into agency work, especially if indigenous peoples and governments also participate more actively. This practice also gives agencies the opportunity of stating how they are implementing their obligations under Articles 41 and 42 of the UNDRIP as well as the Forum's recommendations. It is also obvious that when the agencies report to the Permanent Forum, states not only demonstrate political interest by participating as observers in the UNPFII's sessions but may also enrich their policy know-how for integrating indigenous issues in national policies.

In addition to the public dialogues with the Forum, monitoring of how the agencies implement the Permanent Forum's recommendations is also done through an analytical database of recommendations updated annually by the Secretariat of the UNPFII and placed on its website.29 Reports by the Secretariat of the Permanent Forum periodically indicate the percentage of Permanent Forum recommendations that have been implemented, are in the process of implementation or recommendations where implementation has not been reported or started.30

28 For the recommendations on the first six agencies that held a public dialogue with the Forum, see E/2010/43, Annex.
30 Such reports are prepared every two years, the 2011 report can be found in document E/C.19/2011/13.

Over the years, the Secretariat of the Permanent Forum has also analyzed MDG country reports, programming papers of select UN country teams, papers of the Common Country Assessment and UN Development Assistance Framework, as well as UN Resident Coordinator reports and human development reports in order to ascertain whether these are integrating indigenous peoples' issues or including indigenous peoples' participation. The analysis has demonstrated that, with very few exceptions, indigenous peoples' issues are not part of these development processes. This has led to the realization that, at this point, training of many UNCTs is urgently required, i.e. up-scaling of the training that is offered at the moment, which has been limited to a small number of UNCTs. Such training, together with the momentum of the UNDRIP and the UNDG Guidelines on Indigenous Peoples' Issues, should strengthen action for the integration of indigenous issues where it matters most, i.e. at national and local level.

On a more political level, the Permanent Forum has pursued formal representation at meetings of intergovernmental bodies and conferences, such as for example the World Trade Organization (WTO), the Commission on Sustainable Development, UNESCO, the Commission on the Status of Women, the Governing Council of IFAD, WIPO and others. Negotiating such representation has not always been easy and at times has not been achieved, such as for example in the first two bodies mentioned above, either due to procedural difficulties or the political reticence of states.

Facilitating factors in the integration of indigenous peoples' issues into the UN and other intergovernmental agencies

A number of modest achievements have been made in mainstreaming indigenous peoples’ issues within intergovernmental agencies and the most important ones have been captured above. Much more remains to be done and it is crucial to keep in mind that, as in any political process, achievements are not permanent unless supported continuously. In other words, it is possible to slip backwards as well.

The most important facilitating factors in mainstreaming have been the UN Permanent Forum on Indigenous Issues and the UN Declaration on the Rights of Indigenous Peoples. As analyzed before, the Permanent Forum carries the integration of indigenous issues within its core mandate and has developed strategies and methods of work to engage the agencies actively, especially under Arti-
cles 41 and 42 of UNDRIP. The strength of the Forum, however, lies not just in its 16 member experts but also stems from the presence of numerous indigenous peoples’ representatives and many states that annually attend its sessions and follow its work in various ways throughout the year. And the strength of such participation also has an impact on agencies.

The UN system’s previous experiences of mainstreaming human rights since the late 1990s have facilitated the effort to mainstream indigenous issues. The adoption of the Common Understanding for a Human Rights-based Approach to Development by the UNDG in 2002 created a model for the adoption of the UNDG Guidelines on Indigenous Peoples’ Issues in 2008. Inter-agency and intra-agency processes contributed and can thus be targeted in a more informed way so as to pursue a faster inclusion of indigenous issues.

The IASG has played a positive role in mainstreaming, creating a spirit of “strength in unity” and spearheading catalytic initiatives, such as the adoption of the UNDG Guidelines on Indigenous Peoples’ Issues. The existence of an increasingly solid knowledge base and experience on indigenous issues constitutes good practices upon which agencies can build. The experiences of some agencies in establishing institutionalized mechanisms for the participation of indigenous peoples can facilitate more comprehensive efforts in the future. The expanding awareness of indigenous issues within the agencies is yet another facilitating factor, and the training efforts on indigenous issues, launched by the Secretariat of the Permanent Forum, can play a positive role.

The interest, advocacy, pressure and engagement of indigenous peoples themselves with the agencies plays an irreplaceable role and underscores the moral prerogative for the agencies to carry out their obligations under the Declaration and to be relevant to groups in society, i.e. indigenous peoples, who need and are entitled to their support. The continuing commitment of states as policy facilitators and catalysts, and as donors, is a major facilitating factor for the integration of indigenous issues. Lastly, since international organizations are “living things” in which people can make a difference, one should not underestimate the facilitation that committed individuals, including indigenous persons who work in agencies, can offer in taking risks and “piercing” bureaucracies.


Gaps, challenges and opportunities for the future
The effort to integrate indigenous issues, or any other subject, into an intergovernmental agency is complex. Those who pursue the integration - for example the UN Permanent Forum on Indigenous Issues, Its Secretariat, indigenous peoples themselves - must have good knowledge of the agency they are trying to integrate the issue within, in order to see the potential and obstacles and develop networks and strategies. This requires time and staff resources, but also persistence, collegially, strength and long-term vision, so as not to lose steam from attitudes that are negative, ignorant, dismissive or simply come from overworked people.

Lack of awareness and knowledge of indigenous issues among UN officials and the reluctance of agencies to accept recommendations of the Permanent Forum are challenges. Particularly challenging is the occasional reluctance that stems from high-level agency officials, due to the politicization of indigenous issues. It is also true that agency governing bodies may be reticent on indigenous issues and some states may try to put pressure on agency secretariats and that this may limit agency action or progress in indigenous affairs. Although awareness and knowledge have improved, the combination of a high rotation of UN agency officials and the slow pace of training compared to the need on the ground has resulted in an inability, until now, to adequately respond to this challenge.

Reluctance on the part of some agencies to accept the Forum’s recommendations is gradually being faced through an understanding that long-term processes of realization are required, as well as through improved monitoring of the agencies’ work on indigenous issues, as explained above.

UN programming processes at headquarters and at country level lack adequate inclusion of indigenous peoples’ own voices, despite some good examples. This difficulty is coupled with insufficient human and financial resources for...
indigenous issues in the UN system. MDG-related actions lack adequate inclusion of indigenous peoples and their issues.

The situation of indigenous peoples in countries in armed conflict and post-conflict situations needs more attention. Indigenous issues have still largely been integrated into the work of the UN in the area of peace and humanitarian work and this represents a significant gap.34

Engaging a number of intergovernmental agencies in the Permanent Forum’s work and thus achieving the integration of indigenous issues in their work is still a challenge. This includes the WTO, the International Tourism Organization, the African Development Bank, the International Monetary Fund and other IFIs.

Changing agencies’ operational culture to “see” those who have been marginalized by the states remains a major challenge. Agencies must take many steps to change their ways of working and to recognize indigenous peoples as groups and subjects of human rights, both individual and collective, to recognize indigenous peoples’ governance structures and to include them as interlocutors around the table.35

The Human Rights-Based Approach to Development (HRBA) in the UN system has been a facilitating factor for indigenous issues on the ground for some time, as it advocates strongly for empowerment, non-discrimination, attention to the most vulnerable, participation and accountability. Unfortunately, the weakening of the HRBA in the UN in the last five years, due to states’ interventions, including donors, has also taken away this facilitating factor for the inclusion of indigenous issues. In the 2012 Global: Global Evaluation of the Application of a Human Rights-Based Approach to UNICEF Programming (HRBAP) it becomes clear that the HRBA is being considerably weakened in an agency that used to be at the forefront of the efforts in this area.

Despite the benefits of institutionalizing indigenous issues so that they are an integral part of agencies’ attention and action, it is imperative to recognize the danger of over-institutionalization and bureaucratization and the need to avoid being boxed into a “normality” that leads to the loss of the topic’s particularities. People working on indigenous issues in agencies should not be lulled into seeing them as routine. There is, in most cases, an urgency about indigenous peoples’ issues, given the adverse situations into which they have been forced as a result of systemic discrimination, marginalization, loss of culture and livelihood and other effects of settler colonialism over the centuries. It is a moral imperative for agencies therefore to have an active and dynamic attitude towards the integration of indigenous peoples’ issues, keeping an open avenue of communication with indigenous peoples themselves. Integrating advice from UN bodies and secretariats will become stale unless agencies also develop the sensibility that makes them want to be relevant to the people they are meant to support, i.e. the indigenous peoples.

This essay has been focused on the dynamics, efforts, practice and gaps and challenges of integrating indigenous peoples’ issues into the UN system and other intergovernmental organizations. There is one big question that the essay does not cover, as mentioned earlier: how do indigenous peoples themselves view all the above? A study on this very topic is certainly timely and it could be done, for example, on the occasion of the end of the Second International Decade of the World’s Indigenous Peoples or the World Conference on Indigenous Peoples.

At the sessions of the Permanent Forum and outside, in their countries, indigenous peoples engage with the agencies. Agencies’ programs and projects have sometimes had results that indigenous peoples have been involved in and welcomed. IFAD has made considerable efforts to establish good practices with indigenous peoples’ own participation.36 Indigenous peoples have also used the sessions of the Permanent Forum to develop relations with UN agencies, to promote global or national indigenous issues, and to seek the intervention of the

34 Notable exceptions were the statement of the UNPFII after the disastrous tsunami in Indonesia on 31 January 2005 and the efforts of the Permanent Forum to engage with the UN Department of Peacekeeping Operations (DPKO) through the adoption of recommendations and meetings, albeit with poor results. The Forum was asking DPKO to develop a system of screening for UN peacekeepers involved in crimes against indigenous people in their home countries, so that they would be prevented from serving as UN troops.

35 Involvement with some operational projects in the UN regarding indigenous peoples made me realize that one of the most difficult points to convince UN officials about is that the indigenous peoples themselves should be asked what should be the content of the project and that free, prior and informed consent should be respected. Instead of assuming somehow that UN staff would know better and should act accordingly.


37 Some of these good practices were documented in a study done under the aegis of the Secretariat of the UNPFII and Tebtebba Foundation, Victoria Taul- Corpus ed., Good Practices on Indigenous Peoples’ Development, Baguio City, Philippines, 2006. See also IFAD’s Policy of Engagement with Indigenous Peoples, http://www.ifad.org/english/indigenous/documents/ip_policy_e.pdf
Forum in order to change some agency policies and practices. No agency likes to be critiqued by indigenous peoples publicly and this offers room for diplomacy. There is, however, untapped potential for indigenous leaders to weigh in and present critical, albeit constructive, evaluations of agencies in the public space of the Forum and to achieve results.

Conclusion

Including indigenous peoples' issues within intergovernmental organizations is a worthwhile enterprise, given the role that can be played by international public institutions in this era of globalization.

The result of such efforts is far from predictable because of the interface, conflict or synergy of various actors with political power, namely states, indigenous peoples, UN bodies, such as the Permanent Forum on Indigenous Issues, and agencies themselves. Since international organizations have relative autonomy within this equation, there is room for initiative and creativity on their part. The contradictions that emerge in organizations are also an ingredient of "the possible".

The strategy of integrating indigenous issues into intergovernmental public policies and, eventually, government public policies that will halt the marginalization of indigenous peoples will therefore need to be multipronged. The interaction between the indigenous movement and the UN over the past four decades and the adoption of the UN Declaration on the Rights of Indigenous Peoples places the United Nations at the forefront of helping to reverse historical injustice and move from guilt for the past to responsibility for the future.

One example in 2003 was the critique by indigenous leaders from the Chittagong Hill Tracts of Bangladesh regarding a UNDP program that had not respected free, prior and informed consent (FPIC) of the indigenous peoples, a principle established in UNDP's policy on indigenous peoples (the UNDRIP had not yet been adopted at the time). The indigenous leadership appealed in writing for the Forum's intervention to stop the program until FPIC could be achieved. The diplomatic intervention of the Forum's Chairperson, Ole Henrik Magga, resulted in an evaluation mission and a subsequent postponement of the UNDP program for about a year.