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PRESENTATION

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It is a great pleasure for us to present the 12 issue of the Sur Journal. As previously announced, this edition is the beginning of our collaboration with **Carlos Chagas Foundation (FCC)** that will support the Sur Journal in 2010 and 2011. We would like to thank FCC for this support, which has guaranteed the maintenance of the printed version of the Journal.

This issue of Sur Journal is edited in collaboration with Amnesty International.* On the occasion of the UN High-level Summit on the Millennium Development Goals (MDGs) in September 2010, this issue of Sur Journal focuses on the MDGs framework in relation to human rights standards. We are thankful to Salil Shetty, Amnesty International Secretary General, who prepared an introduction to this discussion. The first article of the dossier, also by Amnesty International, **Combating Exclusion: Why Human Rights Are Essential for the MDGs**, stresses the importance of ensuring that all efforts towards fulfilling all the MDGs are fully consistent with human rights standards, and that non-discrimination, gender equality, participation and accountability must be at the heart of all efforts to meet the MDGs.

Reflections on the Role of the United Nations Permanent Forum on Indigenous Issues in Relation to the Millennium Development Goals, by Victoria Tauli-Corpuz, examines the relationship of the MDGs with the protection, respect and fulfillment of indigenous peoples' rights as contained in the UN Declaration on the Rights of Indigenous Peoples.

Alicia Ely Yamin, in **Toward Transformative Accountability: Applying a Rights--based Approach to Fulfill Maternal Health Obligations**, examines how accountability for fulfilling the right to maternal health should be understood if we seek to transform the discourse of rights into practical health policy and programming.

Still addressing the issue of MDGs, Sarah Zaidi, in **Millennium Development Goal 6 and the Right to Health: Conflictual or Complementary?**, explores how MDGs fit within an international law framework, and how MDG 6 on combating HIV/AIDS, malaria, and tuberculosis can be integrated with the right to health.

This issue also features an article by Marcos A. Orellana on the relationship between climate change and the MDGs, looking into linkages between climate change, the right to development and international cooperation, in **Climate Change and The Millennium Development Goals: The Right to Development, International Cooperation and the Clean Development Mechanism.**

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* ***Disclaimer.*** With the exception of the foreword and 'Combating exclusion: Why human rights are essential for the MDGs', the opinions expressed in this collection of articles are those of the authors and do not necessarily reflect Amnesty International policy.

We hope that this issue of the Sur Journal will call the attention of human rights activists, civil society organisations and academics to the relevance of the MDGs for the human rights agenda. The articles included in this edition of the Sur Journal show not only a critique of the MDGs from a human rights perspective, but also several positive proposals on how to integrate human rights into the MDGs.

Two articles discuss the impact of corporations on human rights. The first, by Lindiwe Knutson (**Aliens, Apartheid and US courts: Is the Right of Apartheid Victims to Claim Reparations from Multinational Corporations at last Recognized?**), analyses several cases brought before U.S. courts that have alleged that major multinational corporations were complicit in and benefited from human rights violations committed by agents of foreign governments. The article examines the most recent decision of *In re South African Apartheid Litigation* (commonly referred to as the *Khulumani* case) in the Southern District Court of New York.

The second article, by David Bilchitz (**The Ruggie Framework: An Adequate Rubric for Corporate Human Rights Obligations?**), seeks to analyze the John Ruggie framework in light of international human rights law and argues that Ruggie's conception of the nature of corporate obligations is mistaken: corporations should not only be required to avoid harm to fundamental rights; they must also be required to contribute actively to the realization of such rights.

There are two more articles in this issue. The article by Fernando Basch, Leonardo Filippini, Ana Laya, Mariano Nino, Felicitas Rossi and Bárbara Schreiber, examines the functioning of the Inter-American System of Human Rights Protection in, **The Effectiveness of the Inter-American System of Human Rights Protection: A Quantitative Approach to its Functioning and Compliance with its Decisions.** The article presents the results of a quantitative study focused on the degree of compliance with decisions adopted within the framework of the system of petitions of the American Convention on Human Rights (ACHR).

Finally, Richard Bourne's paper, **The Commonwealth of Nations: Intergovernmental and Nongovernmental Strategies for the Protection of Human Rights in a Post-colonial Association**, discusses how membership rules for the Commonwealth became crucial in defining it as an association of democracies and, more cautiously, as committed to human rights guarantees for citizens.

We would like to thank Amnesty International´s team for its contribution. Their timely input in the selection and edition of articles has been vital.

The editors.

FOREWORD

■ ■ ■

Amnesty International's recently released report, Insecurity and indignity: Women's experiences in the slums of Nairobi, Kenya (July 2010) documents how women and girls living in informal settlements are particularly affected by lack of adequate access to sanitation facilities for toilets and bathing. Many of the women told Amnesty International that they have experienced different forms of physical, sexual and psychological violence, and live under the ever-present threat of violence. The lack of effective policing and due diligence by the government to prevent, investigate or punish gender- based violence and provide an effective remedy to women and girls results in a situation where violence goes largely unpunished.

We also recorded testimonies from a high number of women and girls who have experienced rape and other forms of violence directly as a result of their attempt to find or walk to a toilet or latrine some distance away from their houses. Women's experiences show that lack of adequate access to sanitation facilities and the lack of public security services significantly contribute to the incidence and persistence of gender-based violence.

Yet, Kenya has committed to the international Millennium Development Goal (MDG) target on sanitation to reduce by half, between 1990 and 2015, the proportion of people without sustainable access to basic sanitation. The country adopted water and sanitation policies that aim to fulfill MDG targets and also the rights to water and sanitation. These policies do reflect many human rights principles. But our research shows that there are still key gaps between Kenya's MDG policies and ensuring consistency with Kenya's international human rights obligations. It also starkly illustrates how the MDG policies of governments cannot ignore gender-based violence or the specific barriers faced by women and girls living in informal settlements in accessing even basic levels of sanitation.

This is why the discussion in this issue of Sur - International Journal on Human Rights is so important and timely. These concerns are not unique to Kenya and around the world there are examples

illustrating how MDG efforts are most effective when they address underlying human rights issues and are truly targeted at groups facing discrimination and marginalization.

In September 2010, UN Member States will meet to agree an action plan to ensure the realization of the MDGs by 2015. With only five years left to go, it is more important now than ever that human rights are put at the centre of this action plan, in order to make the MDG framework effective for the billions striving to free themselves from poverty and to claim their rights.

The articles in this issue focus on a range of issues related to the MDGs. They illustrate the gap between the current MDG targets and existing requirements under international human rights law. They also briefly outline some of the essential elements that must be incorporated into any revised or new global framework to address poverty after 2015. I hope it will contribute to discussions on the relationship between human rights and the MDGs and be a useful resource for human rights practitioners and others who are concerned with these issues.

Another great challenge facing governments across the world is human rights abuses committed by or in complicity with corporations. Two articles in this issue address some of the challenges as well as opportunities related to human rights in the context of corporate activities.

The issue also includes two general articles, which examine the role of the Inter-American System of Human Rights and the Commonwealth of Nations in the promotion and protection of human rights.

I had the privilege of speaking at the International Human Rights Colloquium, organized by Conectas, in 2004 and of contributing to the second issue of the SUR journal. I am extremely pleased to have the chance to collaborate again with Conectas and that they agreed to produce this edition of SUR jointly with Amnesty International.

We would like to thank them for giving us this opportunity and also thank all the authors who have contributed to this issue.

I hope you enjoy reading it.

Salil Shetty
Amnesty International
Secretary General

VICTORIA TAULI-CORPUZ

Victoria Tauli-Corpuz is an indigenous activist and writer from the Cordillera Region in the Philippines. She belongs to the Kankan-ey Igorot people. She finished a nursing course in the University of the Philippines in 1976. While in the university she became actively involved with the movement against the Marcos Dictatorship. She spent most of her post-university life in helping set up indigenous peoples organizations and institutions. She established community-based health programs in various indigenous communities. From being a leader of the indigenous peoples' movement in her country she moved on to do regional and international work. She organized the Asian Indigenous Women's Network in 1993 and became the convenor. One of her involvements at the global level was in helping draft and negotiate the United Nations Declaration on the Rights of Indigenous Peoples until this got adopted in 2007 by the UN General Assembly. She was the Chairperson of the United Nations Permanent Forum on Indigenous Issues from 2005 to 2010 April. She prepared reports for the Forum on the MDGs and other development and human rights issues of indigenous peoples. Her articles have been published in several journals and books on indigenous peoples' rights, indigenous women, globalization, biodiversity, climate change, among others.

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ABSTRACT

Indigenous peoples are one of the strongest critics of the dominant paradigm of development because of how this has facilitated the violation of their basic human rights, which includes their rights to their lands, territories and resources, their cultures and identities. So-called "development" also has led to the erosion and denigration of their indigenous economic, social and governance systems. Ten years after the MDGs came into being, it is about time to see whether these have taken indigenous peoples into account and whether the implementation of these have led to changes in the way development work is done. This paper examines the relationship of the Millenium Development Goals to the protection, respect and fulfillment of indigenous peoples' rights as contained in the UN Declaration on the Rights of Indigenous Peoples. It analyzes whether the MDGs as constructed and implemented have the potential to contribute towards a more dignified life for indigenous peoples. It looked into some of the efforts of various actors, such as indigenous peoples, part of the UN system, including the UN Permanent Forum on Indigenous Issues, and NGOs have done in relation to the MDGs. The Permanent Forum is the highest body in the UN addressing indigenous peoples and which is mandated to look into human rights, economic and social development, education, culture, health and environment. Some recommendations which emerged from this study include the need to use the human-rights based approach to development in implementing the MDGs and the need to set up culturally-sensitive social services.

Original in English.

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KEYWORDS

Indigenous peoples – Human rights – Development – Discrimination – Participation

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REFLECTIONS ON THE ROLE OF THE UNITED NATIONS PERMANENT FORUM ON INDIGENOUS ISSUES IN RELATION TO THE MILLENNIUM DEVELOPMENT GOALS

Victoria Tauli-Corpuz

1 Introduction

The UN High Level Summit in September 2010 to review the implementation of the Millennium Development Goals should be used as an opportunity to look more deeply into whether indigenous peoples have been reached by the MDGs. One of the distinct features of the MDGs is that these are time-bound with established targets and indicators, except for Goal 8. Ten years have elapsed and it is almost a foregone conclusion that most of the MDGs will not be met. Some of the reasons which are cited for the failure to meet the targets are the recent global financial crisis and even climate change. But the fact that the MDGs were constructed without linking these with the need to address the structural roots of the problems was precisely one of the criticisms of the MDGs by human rights experts and activists. Unless the MDGs are seen within the broader socio-economic, political and cultural context and addressed from human rights perspective, gains can only be transient and, therefore, not sustainable.

To fill up this gap, efforts were exerted by some human rights bodies and UN programmes, funds and agencies as well as human rights experts and indigenous peoples to converge the MDGs with the human rights framework. They tried to link the goals with the realization of specific rights contained in International Human Rights Law and standards. For indigenous peoples, this was the most relevant approach because it can happen that goals are achieved but that there will be sectors of society which will be missed out or even further marginalized. The adoption of the UN Declaration on the Rights of Indigenous Peoples by the UN General Assembly in 2007 was significant in this effort to make the MDGs more linked with human rights. The High Level Summit and

the processes leading to it should therefore be used as an opportunity to assess whether the implementation of the MDGs has made a dent in changing the situation of indigenous peoples and whether this contributed in promoting, respecting and fulfilling indigenous peoples' rights.

This paper will examine how the implementation of the MDGs took indigenous peoples into account and it will identify the positive and negative impacts of the MDGs on them. It will present some of the efforts done by indigenous peoples, the UN Permanent Forum on Indigenous Issues and other parts of the UN system to link human rights and the MDGs. A few recommendations will be made on how to address the challenges ahead.

2 Human rights as the holistic framework for development

The rights contained in the United Nations Declaration which was adopted by the UN General Assembly in 2007 "...constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world" (Article 43, UNDRIP). Thus, the UNDRIP should serve as the framework in assessing existing development policies and operations, such as the Millennium Development Goals, on indigenous peoples. As Robert Archer, a human rights expert, expressed at a symposium on human rights and MDGs:

> *"... human rights are the most holistic framework for addressing development issues, including new aid modalities: the legal authority, objectivity and political legitimacy of the international human rights system means that its principles and standards provide powerful criteria for assessing development priorities, processes and outcomes. The core human rights principles of equality and accountability could also provide innovative guides for development action." (ARCHER, 2005).*

Since colonization up to the present, the implementation of the dominant development model has contributed to many violations of indigenous peoples' human rights, especially the right to self-determination, right to their lands, territories and resources, to traditional livelihoods, cultural rights, among others. We called this phenomenon "development aggression". The indigenous activists who came to the United Nations in increasing numbers since the late 1970s were those whose communities were affected by so-called development projects such as mega-hydroelectric dams, logging, mining, among others. Since they cannot find redress within the national borders the United Nations became the space where they brought their complaints on how their rights are being violated in the name of development. This is one of the main reasons why we pushed for the UN Declaration on the Rights of Indigenous Peoples.

Since the MDGs are development goals agreed upon by States in 2000, it is important to ensure that their implementation does not result in the violation of indigenous peoples' rights. The poverty situation of indigenous peoples is dismal, as it is, and it will be tragic if global goals to address poverty lead to even further impoverishment of others. The UN has established that indigenous

peoples which compose around 5 percent of the total world population, make up 15% of the world's poor and represent one-third of the world's extremely poor rural people (UNITED NATIONS, 2009a). An MDG report of the Economic Commission in Latin America and the Caribbean (ECLAC, 2005) further added that indigenous peoples face huge disparities in terms of access to and quality of education and health. In Guatemala, for example, 53.5% of indigenous young people aged 15-19 have not completed primary education, as compared to 32.2% of non-indigenous youth. In Bolivia, the infant mortality rate among the indigenous population is close to 75/1000, as compared to 50/1000 for the non-indigenous population."

3 The UN Permanent Forum on Indigenous Issues and MDGs

During the fourth (2005) and fifth (2006) sessions of the UN Permanent Forum on Indigenous Issues, MDGs were adopted as the special theme. This author, who was the Chair of these sessions, prepared a report on MDGs and indigenous peoples (TAULI-CORPUZ, 2005) to assess how Goals 1 and 2 are being implemented for indigenous peoples. In this report I examined at how development and nation-state building resulted in further exclusion and discrimination of indigenous peoples which has led to situations of impoverishment that prevail up to the present. The situation of poverty amongst indigenous peoples as documented in reports released by the World Bank, the Inter-American Development Bank and the Asia Development Bank was highlighted. The common thread in these reports is that in countries where indigenous peoples live, poverty amongst them is pervasive and severe and the poverty map coincides with indigenous peoples' territories. Indigenous peoples are disproportionately represented among the world's poor and extreme poor. The following were some statistics cited in relation to the poverty of indigenous peoples in Latin America.

A report on Mexico says that the indigenous peoples live in "alarming conditions of extreme poverty and marginality". This study observed that being poor and being indigenous are synonymous. Virtually all of the indigenous people living in municipalities with 90 per cent or more indigenous people are catalogued as extremely poor. Statistics in Guatemala show that 50 to 60 per cent of a total population of 11 million persons belong to 23 indigenous peoples. 54.3 per cent of them are poor and 22.8 per cent extremely poor. Sixty per cent of households do not have the capacity to earn half of the cost of their minimum food needs despite spending a greater part of their earnings on it. In Ecuador's rural population, of which 90 per cent are indigenous, almost all are living in extreme poverty. Eight out of every ten indigenous children in this country live in poverty. In terms of how indigenous poverty compares with the non-indigenous populations, the UNICEF Latin America and Caribbean office shows that in Guatemala, 87 per cent of the indigenous population is poor, as compared to 54 per cent of the non- indigenous population; in Mexico, that ratio is 80 per cent vs. 18 per cent; in Peru, 79 per cent of the indigenous population is classified

as poor, compared to 50 per cent of the non-indigenous population; while in Bolivia, the ratio is 64 per cent vs. 48 per cent.

This data on the region is further reinforced by the IADB (Inter-American Development Bank) report which was highlighted in The State of the World's Indigenous Peoples' Report. This cited a study in the Latin American region by the Inter-American Development Bank which concluded "the difference between the indigenous and non-indigenous is often striking, where, for example in Paraguay, poverty is 7.9 times higher among indigenous peoples, compared to the rest of the population. In Panama, poverty rates are 5.9 times higher, in Mexico 3.3 times higher, and in Guatemala, indigenous peoples' poverty rates are 2.8 times higher than the rest of the population." (UNITED NATIONS, 2009b).

In addition, there was also a report done by the Inter-Agency Support Group on Indigenous Issues (UNITED NATIONS, 2005). This body is the cluster of more than thirty UN agencies, programmes and funds which banded together to support the work of the Permanent Forum and includes the UN Development Programme (UNDP), the International Labor Organization (ILO), FAO, World Bank, among others. It also includes other multilateral institutions like the European Commission, the International Organization of Migration, etc. The IASG held a meeting in 2004 to look into how indigenous peoples were included in the MDG related processes and reports and it also came up with recommendations for better MDG implementation. The coordinator of the Millennium Campaign and some UNDP personnel assigned to work on MDGs were present in this meeting.

A conclusion reached by the participants is that "...the general absence of indigenous peoples from much of the work being undertaken on the Millennium Development Goals. The Millennium Campaign has not yet targeted indigenous peoples; the United Nations Millennium Project pilot countries do not focus on particular marginalized groups or on issues of concern to indigenous peoples, such as land and natural resource management and culture and human rights; and the national progress reports, except for a few, have not actively included indigenous peoples' organizations in the consultation process and/or addressed indigenous peoples in their data-collection exercises" (UNITED NATIONS, 2005). This IASG report and my paper both expressed our concern that the effort to meet the targets laid down in the Millennium Development Goals can have harmful effects on indigenous 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.

Another point raised is the fact that since the situation of indigenous peoples is often not reflected in statistics or is hidden by national averages, the efforts to achieve the Millennium Development Goals could, in some cases, have a negative impact on indigenous peoples even if national indicators are improving. Thus, we called on the need to disaggregate data so that the differential impacts of MDG implementation on those who are invisible can be made more visible. When the first session of the Permanent Forum was convened in 2002 one of the priority actions recommended by the participants if for States and UN agencies to disaggregate data. This led

the Forum to organize an International Expert Workshop on Data Collection and Disaggregation for Indigenous Peoples which was held from 19 to 21 January 2004. One recommendation from this workshop reiterated that.

Indigenous peoples should *fully participate* as equal partners, in all stages of data collection, including planning, implementation, analysis and dissemination, access and return, with appropriate resourcing and capacity-building to do so. Data collection must respond to the priorities and aims of the indigenous communities themselves. Participation of indigenous communities in the conceptualization, implementation, reporting, analysis and dissemination of data collected is crucial, at both the country and international levels. Indigenous peoples should be trained and employed by data-collection institutions at the national and international levels (UNITED NATIONS, 2004).

The Secretariat of the Permanent Forum also regularly analyzed several National MDG reports in countries where there are indigenous peoples to see how indigenous peoples and their issues were dealt with. The questions they ask in interrogating these reports are the following (UNITED NATIONS, 2006a): 1) Are indigenous peoples mentioned in the context of the overall MDGR report? If so to what extent are they discussed? 2) Are indigenous peoples addressed sectorally, meaning has each goal specific guidelines and/or benchmarks for addressing indigenous peoples within the framework of the goal? 3) Are there discussions of indigenous peoples in the process of develop next interventions and action plans to meet the goals? If so, how does the MDG report indicate that they are involved? 4) Are any proposals being made to address indigenous peoples while implementing the MDGs in each country? If so, what are the proposals listed?

The main observation which emerged from each of these yearly analyses is that the situation of indigenous peoples is not reflected in any adequate manner, at best, and not even referred to, at worst. What is even more disheartening is that, generally, indigenous peoples were not even consulted or included in the processes of designing, implementing, evaluating MDGs and in developing the MDG reports. The 2005 MDG report of the Philippines, for instance, did not even refer to indigenous peoples in spite of the fact that there exists an Indigenous Peoples' Rights' Act which recognizes the identity and rights of indigenous peoples. There is also a government agency, the National Commission on Indigenous Peoples (NCIP) which is the body in charge of ensuring the implementation of the law. The National Agency doing the report probably did not even consult the NCIP. Indigenous peoples did not participate in any significant way in the implementation and monitoring of the national MDG reports.

The 2006 and 2007 Desk Reviews of more than 30 national MDG reports recommended that "countries with indigenous peoples should incorporate the issues and challenges specifically faced by indigenous peoples directly into the framework of the MDGR by: (a) including indigenous peoples into the context of the overall report; (b) including indigenous peoples in the context of meeting each specific goal; (c) including indigenous peoples in the planning process of the overall report and each individual goal; (d) including indigenous peoples' effective participation in the planning process of proposing future interventions that will

directly affect them." (UNITED NATIONS, 2006a). These recommendations were reiterated in the 2008 Desk Reviews.

The observations from the 2007 report which covered 11 countries in Latin America showed that (UNITED NATIONS, 2007):

> *"...approximately 27% of the MDGRs reviewed sufficiently include indigenous peoples (3 out of 11: Ecuador, Panama, Mexico). Another 55% address indigenous issues to varying degrees (Argentina, Chile, Costa Rica, Honduras, Peru, Venezuela), while the remaining 18% do not mention indigenous peoples at all (El Salvador, Paraguay)."*

This report also concluded that with few exceptions, the reports which were produced by the UN System and governments did not indicate if they got inputs from indigenous peoples' organizations. An exception is Peru, where a leading indigenous peoples' network, AIDESEP, participated in working groups for the report. In Mexico, the Comisión Nacional para el Desarrollo de los Pueblos Indígenas (a government body) was listed as a contributing agency. The need for disaggregation of data was underscored in this 2007 report. It stressed that "improved disaggregation of data is indispensable to properly monitor progress towards MDG achievement in countries with indigenous populations, and should be a key priority for Governments and the UN System." (UNITED NATIONS, 2007).

The Permanent Forum also held an Expert Group Meeting on "MDGs, Indigenous Peoples and Governance" in 2006. Criticisms were raised by the participants on the fact that the MDGs and their related indicators do not reflect the specific needs and concerns of indigenous peoples nor do they allow for specific monitoring of progress as related to indigenous peoples. The MDG targets and indicators were seen as inadequate as they give prominence to monetary income over the indigenous traditional economies and livelihoods which have and continue to provide many of the basic needs of indigenous peoples for food, shelter and water, without necessarily generating monetary income.

As presently defined, the Millennium Development Goals do not take into account alternative ways of life and their importance to indigenous peoples, not only in the economic sense, but also as the underpinnings for social solidarity and cultural identity. Achieving the MDGs entails the risk of bringing indigenous peoples to join the army of surplus labour and become part of the global market economy to increase the numbers of the population earning more than 1 dollar a day. They have no control or say over how the globalized market economy is run but this has induced them to abandon their traditional territories to search for elusive jobs in the cities and urban centres.

4 Non-discrimination, equality, equity and the MDGs

The basic principles which underpin human rights law are non-discrimination and equality. It is worthwhile analysing if the implementation of the MDGs promotes these principles. Halving poverty means that there will be another

half which will not enjoy the achievement of the goal. Who will be these people who will not benefit? In some countries, these are the indigenous peoples. This reinforces the historical and continuing discrimination against them. In the first place, the impoverishment of indigenous peoples is without any doubt a result of discrimination embedded in colonial and national development policies and programmes. The efforts to modernize the new post-colonial nation-states resulted into the systematic marginalization and destruction of indigenous peoples' economic, social, cultural and political systems. These do not fit within the model of the feudal agricultural systems controlled by the big landlords and politicians and the modernization efforts developed under the modern market economy.

While indigenous peoples' territories possess great wealth in terms of natural resources, they remain as the most impoverished sections in most countries. Resources are extracted by the State and by non-state entities given licenses by the State to log, mine or set up agriculture and forest plantations. A picture of the Atlantic Coast of Nicaragua can be the picture of many indigenous peoples' territories all over the world (TAULI-CORPUZ, 2005):

> *"As a region the Atlantic Coast is exceptionally rich in terms of natural resources. The coasts are teeming with fish, shrimp and lobster; the forests in the RAAN (Regional Autonomous in the Atlantic Coast) have extensive stands of pine and, to a lesser extent, mahogany and other hardwoods; and there are extensive deposits of minerals (gold, silver, copper and lead), especially along the headwaters of the rivers in the RAAN. Historically, however, extraction of these resources has been capitalized and directed by interests based outside the region, most of whom have had little interest in the long-term development of the Atlantic Coast. The indigenous peoples of the region have consequently had little opportunity to share in the commercial exploitation of this wealth, and gained little in terms of the development of a rationally planned and maintained infrastructure".*

Indigenous peoples have countless stories to tell about how they were displaced from their communities or are prevented from continuing their traditional livelihoods which are based on the sustainable use of natural resources in their territories. These are clear cases of discrimination against indigenous peoples' systems and cultures. In fact, cultures of indigenous peoples have been regarded by States and corporations as obstacles to modern development and nation-building. Indigenous peoples' cultures and identities are linked with their lands, territories and resources. Thus, their displacement from their territories and sacred places and the destruction of the ecosystems in their lands and waters have far-reaching adverse impacts on their diverse cultures and knowledge systems.

Assimilation into the dominant cultures, economic system and religions are highly discriminatory as this starts from the assumption that their cultures are backward and inferior and therefore the need to make them more modern. Furthermore, the ilusion that there should be one nation, one state, one culture, one language within a country does not correspond at all with the realities of most countries which are multi-national, multi-lingual, multi-cultural including multiple economic systems, legal and governance systems and diverse religions.

Equality is another fundamental principle of international human rights law. Inequality and inequity are often used interchangeably but the distinction made is that "inequity is an unfair and avoidable inequality, and its definition is embedded in the value system of the society that is defining it" (ODI, 2005). The high levels of inequities based on economic status, gender, rural-urban locations and ethnicity is evidence which shows the non-fulfilment of basic social, economic and cultural rights. Since MDGs are not designed within the human rights framework, addressing inequities is incidental and not central in their implementation.

MDGs are measured at the aggregate level which makes invisible the inequalities which persist at the national and sub-national levels. Evidence has shown that the exclusion of social sectors from the benefits of the development processes leads to the unsustainability of economic, social and political gains and jeopardizes the security and sustainability of society as a whole. Thus, sustained progress on the MDGs depends on how the gap between the haves and have-nots will be addressed. It is not surprising, therefore, to see that in some countries where the general poverty goal has been achieved the poverty situation for indigenous peoples has worsened. The section that follows shows how interlinked the economies of the different countries are and why poverty reduction in some areas may mean poverty increase for others.

5 Globalization and development

The example of coffee production demonstrates the problems of indigenous peoples with the mainstream development model and with the globalization of the market economy. The following section describing how the globalization of coffee production and trade affected indigenous peoples worldwide came from the report I prepared for the Permanent Forum (TAULI-CORPUZ, 2005).

Coffee production for export has been taking place in indigenous communities in Guatemala since the late nineteenth century. Seasonal migration of indigenous peoples to work in coffee farms has been one of their survival strategies. Some indigenous peoples opted to permanently migrate, such as the Q'eqchi and the Poqomchi. This is also the case in Mexico. The profits from coffee are dependent on the exploitation of cheap labour of indigenous peoples, who live in bunkhouses, without privacy or clean water and toilets.

When Viet Nam opened up its economy to the world market it built irrigation canals and provided subsidies for farmers to migrate to the central highlands and other upland areas in the 1980s and 1990s. In 1990 it only produced 1.5 million bags of coffee. This increased to a phenomenal 15 million bags in 2000, making Viet Nam the second largest coffee producer in the world. Large tracts of land, including well-preserved forests in the territories of the indigenous peoples/ethnic minorities, were converted to coffee plantations. Most of these are now owned by rich lowlanders based in Saigon.

Massive deforestation and environmental devastation resulted from this economic project. The indigenous peoples of Viet Nam, who are called ethnic

minorities, were displaced from their lands, owing to the migration of tens of thousands of lowlanders into their communities to engage in coffee production. The overproduction of coffee worldwide brought the prices tumbling down.

Among those who suffered the most are indigenous peoples, not only from Viet Nam, but from various parts of the world. Coffee prices dropped from $1,500/ton in 1998 to less than $700/ton in 2000, largely owing to the flooding of Vietnamese coffee onto the world market. This has made it less economical to grow the "black gold" and has slowed the immigration somewhat, yet the problem of land tenure remains.

In Mexico, coffee cultivation has been an important source of income for the indigenous communities of Chiapas and Oaxaca. Nationwide, over 70 per cent of coffee farmers have plots of less than two hectares. And in Chiapas, Mexico's most important state for coffee production, 91 per cent of producers have less than five hectares. These coffee farmers now find themselves in extreme poverty, as the cost of the coffee beans they are exporting is much more expensive than the cheap coffere beans from Vietnam which are now much more in demand. Their access to the global market has significantly dropped. The World Bank says that in Central America 400,000 temporary coffee workers and 200,000 permanent workers lost their jobs after the collapse of the coffee prices.

Viet Nam is one of the few countries on track to achieve the Millennium Development Goals. This was achieved, however, at the expense of the indigenous peoples in that country. Pamela McElwee, an anthropologist from Yale University, who presented a paper on Viet Nam in a globalization conference held in December 2004, concluded that

> *"Although the opening of Viet Nam's economy to market forces in the 1980s and 1990s has reduced poverty levels and increased personal freedoms for much of the population, minorities continue to face many hardships... Most upland ethnic minorities have little benefited from these changes. They suffer from disease, lack clean water, and have low literacy rates and low incomes, despite many government efforts at upland development."*

When the Secretariat of the Forum reviewed the 2008 Fourth Viet Nam National MDG Report, it found out that there were references to the ethnic minorities:

> *"The poverty rate for the ethnic groups was three times higher than for the Kinh. The section provides disaggregation of the poverty target by ethnic group and by region, demonstrating that indigenous peoples or ethnic minorities in the remote and mountainous regions are disproportionately among the poorest in Vietnam. The report notes that despite the significant disparities between ethnic minorities and the Kinh majority, and its efforts to address this in its policy framework, the poverty incidence for the ethnic minority groups remained the highest and the pace of poverty reduction was the slowest".*

There was not much explanation from the Viet Nam report on why this was so.

6 Poverty and Social Situations of Indigenous Peoples in Developed Countries

It is bad enough that poverty and health situations of indigenous peoples in developing countries are disproportionately high compared to the general populations. What is even worse is that indigenous peoples in the richest countries of the world, the so-called developed countries have similar situations. The recently released "State of the World's Indigenous Peoples Report" revealed the realities of poverty amongst indigenous peoples in these rich countries. Another report called "Rethinking Poverty: Report on the World Social Situation 2010" further confirmed these findings (UNITED NATIONS, 2009a, 2009b).

Australian Aborigines are expected to die 20 years earlier than the non-indigenous populations. The underemployment rate among indigenous peoples in the Canadian provinces of Manitoba, British Columbia, Alberta and Sasketchwan is as high as 13.6 percent compared to only 5.3 percent among the non-indigenous populations. This even increased further due to the 2008 global financial and economic crisis because tens of thousands of aboriginal persons working in the timber industry were laid off.

Almost a quarter of Native Americans and Alaska Natives live under the poverty line in the United States, compared to about 12.5 percent of the total population. Native American life expectancy is on average 2.4 years lower than that of the general population. "They suffer poverty at a rate three times higher than that of non-Hispanic white populations." (UNITED NATIONS, 2009b). Moreover, Native Americans and Alaska Natives have higher death rates than other Americans from tuberculosis (600 per cent higher), alcoholism (510 per cent higher), motor vehicle crashes (229 per cent higher), diabetes (189 per cent higher), unintentional injuries (152 per cent higher), homicide (61 per cent higher) and suicide (62 per cent higher).

Disproportionately high rates of incarceration of aboriginals are also common in Australia, Canada, United States and New Zealand. In Canada where indigenous peoples represent only 4.4 percent of the total population they are 19 percent of those in prison. Even worse, in New Zealand the Maori who are 15 percent of the total population represent 40 percent of the convictions in court and 50 percent of the prison population.

7 Goal 8 and its Implications for Indigenous Peoples

One of the major weaknesses of the MDGs is the fact that there is no target date for the achievement of Goal No. 8 which is the need to develop a Global Partnership for Development. This is a very broad goal that relates to increasing and improving official development assistance (ODA), ensuring fairer trade and achieving substantial debt relief for borrower countries. Yet, it has been agreed that the MDGs cannot be achieved without an enabling environment which means

the adherence of donor countries to meeting the goal of providing 0.7 percent of the their total national budget for official development assistance (ODA) to developing countries. This was reiterated in Goal 8.

Target 12 under MDG 8 calls for the further development of an open, rule-based, predictable, non-discriminatory trading and financial system and a commitment to good governance, development and poverty reduction – both nationally and internationally. Most indigenous peoples' territories have and continue to serve as resource bases for the extraction of natural resources for export to other countries. These include oil, gas, minerals and metals, as well as logs and other biological resources including genetic resources. Unfortunately, indigenous peoples do not enjoy any substantial benefits from these extractivist activities and much worse, their free, prior and informed consent is not obtained when such activities are carried out in their territories. What is left over are devastated ecosystems which they are left on their own to rehabilitate and restore. The export of these raw materials are also meant to increase foreign earnings which will be used to pay for the debts incurred by the States and private corporations from foreign and multilateral banks.

The Permanent Forum deems it crucial to ensure that there are opportunities for genuine partnerships that reaffirm indigenous peoples' fundamental human rights and effective participation of indigenous peoples in the implementation of this goal. There is a need to undertake more studies on impacts of ODA, the debt problem and trade and finance agreements on indigenous peoples and appropriate recommendations be made to address adverse impacts and replicate good practices.

8 Challenges Ahead

Admittedly this report cannot represent the width and breadth of what is happening to indigenous peoples in relation to the MDGs. More research work needs to be done to be able to do this. With the information available, however, it is safe to say that in the majority of countries where there are indigenous peoples adequate consultations with participation of indigenous peoples in the MDG processes have not been done. Even in the few countries where the majority of the population are indigenous peoples, e.g. Bolivia and Guatemala, the reviews done by the Permanent Forum Secretariat observed that the participation of the indigenous peoples was still very inadequate.

Clearly, discrimination and the unequal treatment of indigenous peoples are the key factors to explain why in spite of the persistent recommendation of the Permanent Forum that they should be included in the implementation and monitoring of the MDGs, the situation remains largely unchanged. Including indigenous peoples in decision making processes or at least, consulting them when development programmes such as the MDGs are designed and implemented, should always be the first step. Excluding them is one form of discrimination and this is in violation of Article 2 of the UN Declaration on the Rights of Indigenous Peoples which states: "Indigenous peoples and

individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.". The right to participate is a basic human right which is taken for granted by States and other actors most of the time. Social inclusion is mentioned as one of the principles for the MDGs but this is not seen in the way the MDGs have been implemented and reported, so far.

In light of the weaknesses in linking MDGs with the rights of indigenous peoples, the UN Permanent Forum has identified several recommendations on how the MDGs can be implemented to benefit indigenous peoples (UNITED NATIONS, 2006b). These include the following:

a. The human rights-based approach to development should be operationalized by states, the UN system and other intergovernmental organizations. The recognition of indigenous peoples as distinct peoples and the respect for their individual and collective human rights is crucial for achieving a just and sustainable solution to the widespread poverty that affects them.

b. Policies must be put in place to ensure that indigenous peoples have universal access to quality, culturally-sensitive social services. Some areas of particular concern are inter-cultural/bilingual education and culturally sensitive maternal and child healthcare.

c. MDG-related programmes and policies should be culturally sensitive and include the active participation and free, prior and informed consent of indigenous peoples so as to avoid loss of land and natural resources for indigenous peoples and the accelerated assimilation and erosion of their cultures.

d. States, the UN System and other intergovernmental organizations must make greater efforts to include indigenous peoples in MDG monitoring and reporting, including the production of national MDG reports, as well as in the implementation, monitoring and evaluation of MDG-related programmes and policies that will directly or indirectly affect them. The basic principles and values of democratic governance such as participation, equity, non-discrimination, inclusiveness, transparency, accountability and responsiveness should underpin the design, implementation and monitoring of the MDGs.

e. Improved disaggregation of data is indispensable to properly monitor progress towards MDG achievement in countries with indigenous populations, and should be a key priority for Governments and the UN System.

9 Conclusion

This cursory review of how the MDGs are implemented in indigenous peoples' territories shows that indigenous peoples, generally, are still excluded from the MDG processes of implementation, evaluation and reporting. As well, since the human rights based approach to development is not central to the design and implementation of the MDGs (even if this framework is alluded to in the Millennium Declaration), the specific situations of indigenous peoples both in the developing and developed countries remain largely invisible and therefore not addressed in any satisfactory manner.

This is a glaring gap not only for the MDG processes in Latin America but in the whole world. While there is much more progress in Latin America in terms of disaggregation of data on indigenous peoples, much more remains to be done. The poverty situation in the Latin American and Caribbean region of indigenous peoples is still disproportionately high compared to the non-indigenous populations. Discrimination and racism which are still very much embedded in the dominant structures of society remain as the major root causes of the problem.

Unless, the MDG processes are restructured significantly to address the structural roots of poverty, hunger, environmental destruction, dismal health and education indices among indigenous peoples, in particular, and within society, in general, it is difficult to see real and long-term progress in meeting the goals. With the continuing global economic and financial crisis which hit not only the rich countries but affected the economic, social, cultural and political situations in developing countries and the global ecological crisis, it is time to call for a major paradigm shift in development thinking and practice. The world cannot continue with business as usual. Indigenous peoples' worldviews, practices and values of reciprocity, equilibrium, solidarity, collectivity, sustainability and harmony with nature or Mother Earth, can contribute in reshaping the ways towards achieving the MDGs. It is crucial, therefore, to include indigenous peoples in redesigning development of which the human rights based approach and the ecosystem approach will be some of the major frameworks which should underpin the new sustainable development models.

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RESUMO

Os povos indígenas estão entre os críticos mais contundentes do paradigma dominante de desenvolvimento, uma vez que este facilitou a violação de seus direitos humanos básicos, dentre os quais se incluem o direito a suas terras, territórios e recursos, sua cultura e identidade. Aquilo que se convencionou chamar "desenvolvimento" também levou à erosão e difamação dos sistemas econômicos, sociais e de governança indígenas. Dez anos após a elaboração dos Objetivos de Desenvolvimento do Milênio (ODMs), é hora de se verificar se estes levaram os povos indígenas em conta e se sua implementação conduziu a mudanças no modo como o trabalho para o desenvolvimento é realizado. Este artigo analisa a relação entre os ODMs e a proteção, o respeito e a concretização dos direitos dos povos indígenas, tal como concebidos pela Declaração das Nações Unidas sobre os Direitos dos Povos Indígenas. Analisa-se se os ODMs, tal como construídos e implementados, têm o potencial de contribuir para uma vida mais digna dos povos indígenas. Foram examinados os esforços de vários atores, como os povos indígenas, parte do sistema das Nações Unidas, incluindo o Fórum Permanente das Nações Unidas para Questões Indígenas, e organizações não governamentais, para a consecução dos ODMs. O Fórum Permanente é o órgão mais elevado das Nações Unidas a tratar de povos indígenas e recebeu mandato para examinar direitos humanos, desenvolvimento econômico e social, educação, cultura, saúde e meio ambiente. Algumas recomendações que resultam deste estudo incluem a necessidade de utilizar uma abordagem baseada em direitos humanos para o desenvolvimento na implementação dos ODMs e a necessidade de se oferecer serviços sociais culturalmente adaptáveis.

PALAVRAS-CHAVE

Povos indígenas – Direitos humanos – Desenvolvimento – Discriminação – Participação

RESUMEN

Los pueblos indígenas se cuentan entre los más fuertes críticos del paradigma dominante del desarrollo debido a cómo éste ha facilitado la violación de sus derechos humanos fundamentales, que incluyen sus derechos a la tierra, territorios y recursos, a la cultura y a la identidad. El así llamado "desarrollo" también condujo a la erosión y denigración de los sistemas económicos, sociales y de gobierno de los pueblos indígenas. Pasados diez años del establecimiento de los ODM, es hora de examinar si estos objetivos han tenido en cuenta a los pueblos indígenas y si su implementación produjo cambios en la forma en que se lleva a cabo el trabajo de desarrollo. El presente artículo analiza la relación de los Objetivos de Desarrollo del Milenio con la protección, respeto y cumplimiento de los derechos de los pueblos indígenas establecidos en la Declaración de las Naciones Unidas sobre los Derechos de los Pueblos Indígenas. Se analiza si los ODM, tal como están diseñados e implementados, tienen el potencial de contribuir hacia una vida más digna para los pueblos indígenas. Se examinan algunos de los esfuerzos realizados en relación con los ODM por diversos actores, como los pueblos indígenas, parte del sistema de Naciones Unidas, incluso el Foro Permanente para las Cuestiones Indígenas de Naciones Unidas, y algunas ONG. El Foro Permanente es el órgano de mayor jerarquía de las Naciones Unidas que atiende a las cuestiones indígenas y tiene el mandato de investigar cuestiones relativas a los derechos humanos, el desarrollo económico y social, la educación, la cultura, la salud y el medio ambiente. Algunas recomendaciones surgidas del presente estudio incluyen la necesidad de implementar los ODM con un enfoque de desarrollo basado en los derechos humanos y la necesidad de establecer servicios sociales sensibles a la cultura.

PALABRAS CLAVE

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