

รายการอ้างอิง

ภาษาไทย:

กระทรวงการต่างประเทศ. สันนิบาตชาติ (The League of Nation): ต้นแบบสหประชาชาติ ,
[ออนไลน์] 2551. แหล่งที่มา <http://www.mfa.go.th/web/41>. [20/6/2251]

กอบกุล رایะนาคร, พันธกรณีระหว่างประเทศด้านสิ่งแวดล้อม (เชียงใหม่: สถาบันวิจัยสังคม
มหาวิทยาลัยเชียงใหม่, 2548), หน้า 46-48.

คริสตอฟ สวินนาร์สกี (เขียน) ศ. ดร.ประสิทธิ์ เอกบุตร (แปล) กฎหมายมนุษยธรรมระหว่าง
ประเทศกับสิทธิมนุษยชน. วารสารนิติศาสตร์ 27, 4 (ธันวาคม 2540).

จรัญ โฆษณานันท์, สิทธิมนุษยชนไร้พรมแดน (กรุงเทพ, สำนักพิมพ์นิติธรรม, 2545), หน้า
380.

จรัญ โฆษณานันท์, สิทธิมนุษยชนไร้พรมแดน ปรัชญา กฎหมาย และความเป็นจริงทาง
สังคม, (กรุงเทพ: สำนักพิมพ์นิติธรรม, 2545).

ธิตี สุวรรณทัต. การต่อสู้ของชนพื้นเมืองดั้งเดิม, [ออนไลน์] แหล่งที่มา:
<http://www.biothai.net/news/view.php?id=1310>, [16/6/2550].

บุญชู ณ ป้อมเพชร, คดีตัวอย่างเกี่ยวกับการรับรองสิทธิชุมชนในกฎหมายระหว่างประเทศ,
คณะนิติศาสตร์ มหาวิทยาลัยเชียงใหม่. 2547

มหาวิทยาลัยสุโขทัยธรรมมาธิราช, เอกสารการสอนชุดวิชากฎหมายระหว่างประเทศ หน่วยที่
1-6, (กรุงเทพ: รุ่งศิลป์การพิมพ์ (1977) จำกัด, 2528).

วิรัช จีระแพทย์. ชนกลุ่มน้อยตามกฎหมายระหว่างประเทศ. นนทบุรี: สถาบันพระปกเกล้า.
2548.

วิฑิต มั่นตาภรณ์, นโยบายสากลว่าด้วยสิทธิมนุษยชน-ชนกลุ่มน้อย, [ออนไลน์] แหล่งที่มา :
<http://www.midnightuniv.org/forum/index.php?topic=11527.0> [20/2/2552]

ศราวดี ปทุมราช. ปฎิญญาสากลว่าด้วยสิทธิมนุษยชนของชนเผ่าพื้นเมือง, [มปป].

ศุภมิตร ปิติพัฒน์. "ชาติพันธุ์ชาตินิยม (Ethnonationalism)." จุลสารความมั่นคงศึกษา. มกราคม
2550 ฉบับที่ 15.

ลมชาย ปรีชาศิลปกุล. "สิทธิพื้นเมืองในกระบวนการยุติธรรมมาเลเซีย" แปลและเรียบเรียงจากคดี
Adong bin Kuwau & Ors V. Kerajaan Negeri Johor & Anor คำพิพากษาของ High

Court (Nov 21, 1996) ใน *Malayan Law Journal* (1997) สาขานิติศาสตร์ คณะ
สังคมศาสตร์ มหาวิทยาลัยเชียงใหม่/มหาวิทยาลัยเที่ยงคืน, [มปป].

- อัศวรุฒิ นีร์ฤทธ์. การศึกษาเกี่ยวกับความสัมพันธ์ทางกฎหมายระหว่างสิทธิในการกำหนด
อนาคตตนเองและสภาพเสมือนอาณานิคม. กรุงเทพฯ: วิทยานิพนธ์ปริญญา
มหาบัณฑิต สาขากฎหมายระหว่างประเทศ บัณฑิตวิทยาลัย จุฬาลงกรณ์มหาวิทยาลัย,
2537.
- อุดมศักดิ์ สินธิพงศ์. สิทธิมนุษยชน. กรุงเทพฯ: วิญญูชน. 2548.

ภาษาอังกฤษ:

- Aikio, P., and Scheinin, M., eds. *Operationalizing the Right of Indigenous Peoples to
Self-determination*. Åbo, Finland. : Institute for Human Rights Åbo Åbo Akademi
University, 2000.
- Alkire, S. *Valuing Freedoms; Sen's Capability Approach and Poverty Reduction*.
Oxford: Oxford University Press, 2002.
- Allan R. "Internal Self-Determination," in: Tomuschat, Christian (ed.), *Modern Law of
Self-Determination*. Dordrecht, 1993.
- Amartya, K. S. *Development as Freedom*. Oxford: Oxford University Press, 1999.
- Anaya, S. J. *Indigenous Peoples in International Law*. Oxford: Oxford University Press,
1st ed, 1996; 2nd ed, 2004.
- Anaya, S. J. *Indigenous Peoples in International Law*. USA: Oxford University Press,
2004.
- Asbjørn Eide, " Cultural Autonomy: Concept, Content, History and Role in the World
Order", in: Suksi, Markku (ed.) *Autonomy: Applications and Implications*.
Dordrecht, 1998.
- Bartlett, A. *Self Determination*, [Online] available from:
<http://andrewbartlett.com/faq.php?id=20&category=4>, [20/7/2550].
- Behrendt, L. *Achieving Social Justice; indigenous Rights and Australia's Future*.
Sydney: Federation Press, 2003.
- Benedict, K. "Indigenous Peoples" in *International Law: A Constructivist Approach to
the Asian Controversy*. (n.p.), 1988.

- Benedict, K. **Reconciling Five Competing Conceptual Structures of Indigenous Peoples' Claims in International and Comparative Law**, 34 NYUJ. INT'L L. & Pol. 189 2001.
- Blackburn, J., and Holland, J., eds. **Who Changes? Institutionalizing Participation in Development**. London: Intermediate Technology Publications, 1998.
- Blair, H. 'Participation and Accountability at the Periphery: Democratic Local Governance in Six Countries (2000) 28(1) **World Development** 21, 2000.
- Buchanan A., "Toward a Theory of Secession," in: **Ethics**, 101, 2, 1991.
- Cassese, A. **Self-determination of peoples: a legal reappraisal**. Cambridge, 1995.
- Chalesworth, H., and Chinkin, C., eds. **The Boundaries of International Law: A Feminist Analysis**. Manchester: Manchester University Press, 2000.
- Convention on the Protection and Promotion of the Diversity of Cultural Expressions.
- Cooke, B., and Kothari U., eds. **Participation: the New Tyranny?**. London: Zed Books, 2001.
- Craig, S. "Indigenous Self-determination and the decolonisation of the international imagination: a plea," **Human Rights Quarterly** 18 (4) 814, 1996.
- Crawford, J. **The Rights of Peoples**. Oxford: Clarendon Press, 1988.
- Critescu, A. **The Right to Self-determination**. U.N. Doc. E/CN.4/Sub.2/404/Rev. 1, U.N. Sales No. E.80.XIV.3 1980.
- Cwaszcza, C., and Kerstin, W., eds. **Politische Philosophie der internationalen Beziehungen**. Frankfurt am Main, 2002.
- Deepa, N. **Voices of the Poor: Can Anyone Hear Us?**. New York: Oxford University Press for the World Bank, 2000.
- Deepa, N., and Ebbe, K., eds. 'Design of Social Funds: Participations, Demand Orientation and Local Organizational Capacity,' **World Bank Discussion Paper No 375**. Washington, D.C.: the World Bank, 1997.
- Deepa, N., and Petesh, P., eds. **Voices of the Poor: From Many Lands**. New York: Oxford University Press for the World Bank, 2002.
- Deuene, C. **Social Order and Political Change: Constitutional Governments among the Cherokee, the Choctaw, and the Creek**. California: Stanford University Press, 1992.

- Draft Aide Memorie African Group: United Nations Declaration on the Rights of Indigenous People, 9/11/2006.
- Emmerich D. V. **The Law of nation, or The principles of Nation law.** First publish 1758; Classic of International Law Series, 1916.
- ESCR, "Case of the Indigenous Community Yakye Axa v. Paraguay" [Online] Available from: <http://escr-net.org/case> [19 April 2008].
- Falk, R. "Revisiting the Right of Self-Determination," **Human Rights Horizons. The Pursuit of Justice in a Globalizing World.** New York, 2000.
- Faulkner, R. K. **The Jurisprudence of John Marshall.** Princeton: Princeton University Press, 1968.
- Ghandi, P. R. **International Human Rights Documents.** Oxford, 2002.
- Gudmundur, A. "The Right of Self-Determination and Indigenous Peoples," in: Tomuschat, Christian (ed.), **Modern Law of Self-Determination.** Dordrecht ,1993.
- H. Gros Espiell, **The Right to Self-Determination,** U.N. Doc. E/CN. Sub.2/405/Rev.1, U.N. Sales No. E.79. XIV. 5 (1980).
- Hannikainen, L. "Self-Determination and Autonomy in International Law". in: Suksi, Markku (ed.) **Autonomy: Applications and Implications.** Dordrecht: Martinus Nijhoff, 1998.
- Hannum, H. **Autonomy, Sovereignty, and Self-Determination. The Accommodation of Conflicting Rights.** Philadelphia, 1990.
- Hargrove, J. L., and Henkin, L., eds. "Human Rights: an Agenda for the Next Century," **Washington, Studies in Transnational Legal Policy,** No. 26, Washington, 1994.
- Henkin, L. **The International Bill of Rights: The Covenant on Civil and Political Rights.** New York: Columbia University Press, 1982.
- Hitchcock, R. K. **International Human Rights, the Environment, and Indigenous Peoples.** (n.p.),1994.
- Horst, H. **Autonomy, Sovereignty, and Self-Determination. The Accomodation of Conflicting Rights.** Philadelphia, 1990.
- I/A HR Court, **Awas Tingni Mayagna (Sumo) Indigenous Community v. Nicaragua,** Series C (No. 79) (2001).
- I/A HR Court, **Masacre de Plan de Sanchez (Guatemala),** Series C (No. 105) (2004).

- I/A HR Court, *Moiwana Community v. Surinam*, Series C (No. 124) (2005).
- Ian Brownlie. *Principles of Public International Law*. Oxford: Clarendon Press, 6th ed. 2003.
- ICJ, *Western Sahara Case*, 1975 International Court of Justice 12, 31.
- Identification of indigenous and tribal peoples, [Online] available from: www.ilo.org/indigenous ,[20/2/2552].
- ILO, *Convention concerning the Protection and Integration of Indigenous and Other Tribal and Semi-Tribal Populations in Independent Countries*, ILO Convention No.107, Geneva, 26 June 1957.
- ILO, *Convention No.169 concerning Indigenous and Tribal Peoples in Independent Countries*, 27 June 1989.
- ILO, *International Labor Conventions and Recommendations 324*. (International Labor Organization, 1966), reprinted in 28 I.L.M. 1382 (1989).
- Imai, S. *Indigenous Self-Determination and the State*. Oxford: Hart Publishing, 2009.
- IWGIA. *Declaration on the Rights of Indigenous Peoples*. [Online] available from: <http://www.iwgia.org/sw248.asp>, [4/10/2551].
- Joachim, H. "On the Legal Understanding of Autonomy", in: Suksi, Markku (ed.) *Autonomy: Applications and Implications*. Dordrecht, 1998.
- Kirgis, F. "The Degrees of Self-Determination in the United Nations Era," in: *The American Journal of International Law*, 88, 2, 1994.
- Kumbaro, D. *The Kosovo Crisis in an International Law Perspective: Self-Determination, Territorial Integrity and the Nato Intervention*, Albania, 2001.
- Laiser A, "Self-Determination : A Perennial and Preemptory Norm of International Law," in: Vijapur, Abdulrahim (ed.), *Essays on International Human Rights*. New Delhi, 1991.
- Lerner, N. *Group Rights and Discrimination in International Law*. Dordrecht ,1990.
- Locke, J. *Second Treaties of Government*. Davidson, 1982.
- Macklem, P. *Indigenous Difference and the Constitution of Canada*. University of Toronto Press, 2001.
- Marisol Ruiz, Nathalie Mariano & Kimberly Jones, "Indigenous People." [Online] available from: <http://www.munfw.org/archive/45th/chr2.htm>, [20/7/2550].

- Markku, S. **Autonomy: Applications and Implications**. Dordrecht, 1998.
- Mortimer, S. **The New World Order. Sovereignty, Human Rights, and the Self-Determination of Peoples**. Oxford 1996.
- Musgrave, D. T. **Self-Determination National Minority**. London: Oxford University Press, 1997.
- Myntti, K. **BEF Indigenous Development Report: The Right of Indigenous Peoples to Participation in Development-An Overview of International Human Rights Instruments, Institute for Human Rights**. Finland, 2002.
- Nicholas, Colin. "A common struggle: To Regain Control." [Online] available from: <http://www.magickriver.net/control.htm>, [20/7/2550].
- Nussbaum, M. C. **Women and Human Development. The Capability Approach**. Cambridge: Cambridge University Press, 2000.
- Panzironi, F. **Indigenous Peoples' Right to Self-Determination and Development Policy**. Doctoral's Thesis. Department of Law, University of Sydney, 2006.
- Parker, K. **Understand Self-Determination: The Basic**. [Online] available from: <http://130.94.183.89/parker/selfdet.html>, 8/10/2551.[September 2008].
- Parker, K., and Neylon, L., eds. **Jus Cogens: Compelling the Law of Human Rights**. 12 *Hastings Int. & Comp. L. Rev.* 411, 440, 1989.
- Poelzer, G. **Indigenous Rights and Self-determination: Models and Options**. Introduction to the Circumpolar World University of the Arctic-Bcs100, University of Saskatchewan, Saskatoon, Saskatchewan, Canada.
- Propose American Declaration on the Rights of Indigenous Peoples, Doc. EA/Ser/L/V.II.95, Doc. 6, Article 1 (2) (1977).
- Roepstorff, K. **Self-Determination of Indigenous Peoples within the Human Rights Context: A Right to Autonomy?**. Kenya, 2000.
- Rowse, T. **Indigenous Futures; Choice and Development for Aboriginal and Islander Australia**. Sydney: University of New South Wale Press, 2002.
- Royal Commission on Aboriginal Peoples, Report (Supply and Services Canada, 1966), Vol. 2 Pt 2, 245-65.

- Salmen, L. 'Participatory Poverty Assessment: Incorporating Poor People's Perspectives into Poverty Assessment Work', *Social Development Paper No 11*. Washington D.C.L World Bank, 1998.
- Salmen, L. *Listen to the People*. New York: Oxford University Press, 1987.
- Salmon, J. "Internal Aspects of the Right to Self-Determination: towards a Democratic Legitimacy Principle?," Tomuschat, Christian (ed.), *Modern Law of Self-Determination*. Dordrecht, 1993.
- Schäfer, B. *Die Individualbeschwerde nach dem Fakultativprotokoll zum Zivilpakt. Handbuch für die Praxis*. Berlin, 2004.
- Self-Determination: A Case for Tibet. [Online] available from:
<http://tibetsites.blogspot.com/2008/06/self-determination-case-for-tibet.html>,
 [1/7/2551].
- Sieghart, P. *The International Law of Human Rights*. Oxford: Clarendon Press, 1983.
- Smith, R. "The Right to self-determination," in: *ibid.*, *Textbook on International Human Rights*. Oxford, 2003.
- Stannard, R., and Dodd, W., eds. *The New Democrecy: Presidentail Messages, Adress and Others Papers*. (n.p.), 1926.
- Thornberry, P. "The Democratic or Internal Aspect of Self-Determination with some remarks on Federalism," *Modern Law of Self- Determination*. Dordrecht, 1993.
- Tomuschat, C. *Modern Law of Self-Determination*, Dordrecht, 1993.
- Tully, J. "The Struggles of Indigenous Peoples for and of Freedom", in: Ivison, Duncan / Patton, Paul / Sanders, Will (eds.), *Political theory and the rights of indigenous peoples*. Cambridge, 2000.
- U.N. declaration becomes law of the land in Bolivia. [Online] available from:
<http://www.globalexchange.org/countries/americas/bolivia/5234.html>,
 [10/12/2007].
- United Nations, 'Development Group Guidelines on Indigenous Peoples,' New York, 2008.
- United Nations, 'Study of the problem of discrimination against indigenous populations', UN Sub-Commission on the Prevention of Discrimination and the Protection of

Minorities, by Special Rapporteur, Mr. Martinez Cobo, UN Doc.

E/CN.4/Sub.2/1986/7 (1986).

United Nations, 1994/5 Draft United Nations declaration on the Rights of indigenous peoples.

United Nations, Convention on Biological Diversity 1992.

United Nations, E/C.12/Q/HON/1, 13 December 1999.

United Nations, E/C.12/Q/JAP/1, 24 May 2000.

United Nations, E/CN.4/Sub.2/AC.4/1969/2.

United Nations, Economic and Social Council, Commission on human Rights, UN Doc.

E/CN.4/Sub.2/1985/30.

United Nations, Economic and Social Council, Commission on human Rights, UN Doc.

E/CN.4/Sub.2/1968/7.

United Nations, Economic and Social Council, Commission on human Rights, UN Doc.

E/CN.4/Sub.2/1968/7.Add.1 (Vol.2)

United Nations, Economic and Social Council, Commission on human Rights, UN Doc.

E/CN.4/Sub.2/1968/7.

United Nations, Human Rights Commission Res.2001/57, UN Doc.

E/CN.4/DEC/2001/571(24 April 2001).

United Nations, Resource Kit on Indigenous Peoples' Issues Economic & Social

Affairs, Department of Economic & Social Affairs, New York, 2008.

United Nations, The International Covenant of Civil and Political Rights (ICCPR), in force

Mar.23. 1976.

United Nations, The International Covenant on Economic, Social and Cultural Rights

(ICESCR), 1976.

United Nations, The Universal Declaration of Human Rights provides that "the will of the

people shall be the basis of the authority of government." Universal Declaration of Human Rights, G.A. Res. 217A (III) (1948).

United Nations, U.N. Doc. E/CN.4/2002/97

United Nations, U.N. Document, A/HRC/10/51, 2009.

United Nations, U.N. Document, CCPR/C/CRI/CO/5, CERD/C/NIC/CO/14 and

CEDAW/C/PER/CO/6.

- United Nations, U.N. Document, E/CN.4/2002/17/Add.1.
- United Nations, U.N. Document, E/CN.4/2003/90.
- United Nations, U.N. Document; CERD/C/BWA/CO/16. 4 April 2006.
- United Nations, U.N. General Assembly, Programme of Action for the second International Decade of the World's Indigenous Peoples, 2005.
- United Nations, UN OHCHR. (2001). World Conference Against Racism: Durban, South Africa, Leaflet 8. [Online] available from: from <http://www.unhcr.ch/html/racism/00-indigenousguide.html>, [06/09/2550].
- United Nations, United Nations Declaration on the Rights of Indigenous Peoples, "Draft Aide Memoire" of The African Group: A Brief Commentary, 2007.
- United Nations, United Nations Declaration on the Rights of Indigenous People, Draft Aide Memoire African Group, New York, 2006.
- United Nations, United Nations Declaration on the Rights of Indigenous Peoples, "Draft Aide Memoire" of The African Group: A Brief Commentary. 2007.
- Uphoff, N. 'Learning about and for Participation: from Theoretical and Empirical Studies to Practical Experience, and Back to Theory' (1998) 19(3) Canadian Journal of Development Studies 439, 1998.
- Wheaton, H. *Elements of International Law*. Boston: Little, Brown and Co., 8th ed, 1866.
- Wiberg, M. "Political Autonomy: Ambiguities and Clarifications", in: Suksi, Markku (ed.) *Autonomy: Applications and Implications*. Dordrecht, 1998.
- Wikipedia, "Self-Determination of Australia Aborigines" [Online] available from: http://en.wikipedia.org/wiki/Self-determination_of_Australia_Aborigines, [2/11/2551].
- Wikipedia, Paris Charter, [Online] available from: <http://en.wikipedia.org/wiki/ParisCharter>, [19/4/2551].
- Will Kymlicka, *The rights of minority cultures*. (Oxford 1995).
- World Bank, Operational Directive on Indigenous Peoples, OD 4.20, September 1991.

Internet Website:

<http://en.wikipedia.org>

<http://www.mfa.go.th>

<http://tibetsites.blogspot.com>

<http://www.biothai.net>

<http://www.globalexchange.org>

<http://www.jpthal.org>

<http://www.magickriver.net>

<http://www.midnightuniv.org>

<http://www.munfw.org>

<http://www.unhchr.ch>

www.icj-cij.org

www.ilo.org

www.pro169.org

www.un.org/

ภาคผนวก

ภาคผนวก ก

**Convention (No. 169) concerning Indigenous and Tribal Peoples
in Independent Countries**

**Adopted on 27 June 1989 by the General Conference
of the International Labour
Organisation at its seventy-sixth session**

entry into force 5 September 1991

*status of ratifications (ILO database on International Labour Standards) **

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its seventy-sixth session on 7 June 1989, and

Noting the international standards contained in the Indigenous and Tribal Populations Convention and Recommendation, 1957, and

Recalling the terms of the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, and the many international instruments on the prevention of discrimination, and

Considering that the developments which have taken place in international law since 1957, as well as developments in the situation of indigenous and tribal peoples in all regions of the world, have made it appropriate to adopt new international standards on the subject with a view to removing the assimilationist orientation of the earlier standards, and

Recognising the aspirations of these peoples to exercise control over their own institutions, ways of life and economic development and to maintain and develop their identities, languages and religions, within the framework of the States in which they live, and

Noting that in many parts of the world these peoples are unable to enjoy their fundamental human rights to the same degree as the rest of the population of the States within which they live, and that their laws, values, customs and perspectives have often been eroded, and

Calling attention to the distinctive contributions of indigenous and tribal peoples to the cultural diversity and social and ecological harmony of humankind and to international co-operation and understanding, and

Noting that the following provisions have been framed with the co-operation of the United Nations, the Food and Agriculture Organization of the United Nations, the United Nations Educational, Scientific and Cultural Organization and the World Health Organization, as well as of the Inter-American Indian

Institute, at appropriate levels and in their respective fields, and that it is proposed to continue this co-operation in promoting and securing the application of these provisions, and

Having decided upon the adoption of certain proposals with regard to the partial revision of the Indigenous and Tribal Populations Convention, 1957 (No. 107), which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention revising the Indigenous and Tribal Populations Convention, 1957,

Adopts this twenty-seventh day of June of the year one thousand nine hundred and eighty-nine the following Convention, which may be cited as the Indigenous and Tribal Peoples Convention, 1989:

PART I. GENERAL POLICY

Article 1

1. This Convention applies to:

(a) Tribal peoples in independent countries whose social, cultural and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations;

(b) Peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonisation or the establishment of present State boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions.

2. Self-identification as indigenous or tribal shall be regarded as a fundamental criterion for determining the groups to which the provisions of this Convention apply.

3. The use of the term "peoples" in this Convention shall not be construed as having any implications as regards the rights which may attach to the term under international law.

Article 2

1. Governments shall have the responsibility for developing, with the participation of the peoples concerned, co-ordinated and systematic action to protect the rights of these peoples and to guarantee respect for their integrity.

2. Such action shall include measures for:

(a) Ensuring that members of these peoples benefit on an equal footing from the rights and opportunities which national laws and regulations grant to other members of the population;

(b) Promoting the full realisation of the social, economic and cultural rights of these peoples with respect for their social and cultural identity, their customs and traditions and their institutions;

(c) Assisting the members of the peoples concerned to eliminate socio-economic gaps that may exist between indigenous and other members of the national community, in a manner compatible with their aspirations and ways of life.

Article 3

1. Indigenous and tribal peoples shall enjoy the full measure of human rights and fundamental freedoms without hindrance or discrimination. The provisions of the Convention shall be applied without discrimination to male and female members of these peoples.

2. No form of force or coercion shall be used in violation of the human rights and fundamental freedoms of the peoples concerned, including the rights contained in this Convention.

Article 4

1. Special measures shall be adopted as appropriate for safeguarding the persons, institutions, property, labour, cultures and environment of the peoples concerned.

2. Such special measures shall not be contrary to the freely-expressed wishes of the peoples concerned.

3. Enjoyment of the general rights of citizenship, without discrimination, shall not be prejudiced in any way by such special measures.

Article 5

In applying the provisions of this Convention:

(a) The social, cultural, religious and spiritual values and practices of these peoples shall be recognised and protected, and due account shall be taken of the nature of the problems which face them both as groups and as individuals;

(b) The integrity of the values, practices and institutions of these peoples shall be respected;

(c) Policies aimed at mitigating the difficulties experienced by these peoples in facing new conditions of life and work shall be adopted, with the participation and co-operation of the peoples affected.

Article 6

1. In applying the provisions of this Convention, Governments shall:

(a) Consult the peoples concerned, through appropriate procedures and in particular through their representative institutions, whenever consideration is

being given to legislative or administrative measures which may affect them directly;

(b) Establish means by which these peoples can freely participate, to at least the same extent as other sectors of the population, at all levels of decision-making in elective institutions and administrative and other bodies responsible for policies and programmes which concern them;

(c) Establish means for the full development of these peoples' own institutions and initiatives, and in appropriate cases provide the resources necessary for this purpose.

2. The consultations carried out in application of this Convention shall be undertaken, in good faith and in a form appropriate to the circumstances, with the objective of achieving agreement or consent to the proposed measures.

Article 7

1. The peoples concerned shall have the right to decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy or otherwise use, and to exercise control, to the extent possible, over their own economic, social and cultural development. In addition, they shall participate in the formulation, implementation and evaluation of plans and programmes for national and regional development which may affect them directly.

2. The improvement of the conditions of life and work and levels of health and education of the peoples concerned, with their participation and co-operation, shall be a matter of priority in plans for the overall economic development of areas they inhabit. Special projects for development of the areas in question shall also be so designed as to promote such improvement.

3. Governments shall ensure that, whenever appropriate, studies are carried out, in co-operation with the peoples concerned, to assess the social, spiritual, cultural and environmental impact on them of planned development activities. The results of these studies shall be considered as fundamental criteria for the implementation of these activities.

4. Governments shall take measures, in co-operation with the peoples concerned, to protect and preserve the environment of the territories they inhabit.

Article 8

1. In applying national laws and regulations to the peoples concerned, due regard shall be had to their customs or customary laws.

2. These peoples shall have the right to retain their own customs and institutions, where these are not incompatible with fundamental rights defined by the national legal system and with internationally recognized human rights.

Procedures shall be established, whenever necessary, to resolve conflicts which may arise in the application of this principle.

3. The application of paragraphs 1 and 2 of this Article shall not prevent members of these peoples from exercising the rights granted to all citizens and from assuming the corresponding duties.

Article 9

1. To the extent compatible with the national legal system and internationally recognised human rights, the methods customarily practised by the peoples concerned for dealing with offences committed by their members shall be respected.

2. The customs of these peoples in regard to penal matters shall be taken into consideration by the authorities and courts dealing with such cases.

Article 10

1. In imposing penalties laid down by general law on members of these peoples account shall be taken of their economic, social and cultural characteristics.

2. Preference shall be given to methods of punishment other than confinement in prison.

Article 11

The exaction from members of the peoples concerned of compulsory personal services in any form, whether paid or unpaid, shall be prohibited and punishable by law, except in cases prescribed by law for all citizens.

Article 12

The peoples concerned shall be safeguarded against the abuse of their rights and shall be able to take legal proceedings, either individually or through their representative bodies, for the effective protection of these rights. Measures shall be taken to ensure that members of these peoples can understand and be understood in legal proceedings, where necessary through the provision of interpretation or by other effective means.

PART II. LAND

Article 13

1. In applying the provisions of this Part of the Convention governments shall respect the special importance for the cultures and spiritual values of the peoples concerned of their relationship with the lands or territories, or both as applicable, which they occupy or otherwise use, and in particular the collective aspects of this relationship.

2. The use of the term "lands" in Articles 15 and 16 shall include the concept of territories, which covers the total environment of the areas which the peoples concerned occupy or otherwise use.

Article 14

1. The rights of ownership and possession of the peoples concerned over the lands which they traditionally occupy shall be recognised. In addition, measures shall be taken in appropriate cases to safeguard the right of the peoples concerned to use lands not exclusively occupied by them, but to which they have traditionally had access for their subsistence and traditional activities. Particular attention shall be paid to the situation of nomadic peoples and shifting cultivators in this respect.

2. Governments shall take steps as necessary to identify the lands which the peoples concerned traditionally occupy, and to guarantee effective protection of their rights of ownership and possession.

3. Adequate procedures shall be established within the national legal system to resolve land claims by the peoples concerned.

Article 15

1. The rights of the peoples concerned to the natural resources pertaining to their lands shall be specially safeguarded. These rights include the right of these peoples to participate in the use, management and conservation of these resources.

2. In cases in which the State retains the ownership of mineral or sub-surface resources or rights to other resources pertaining to lands, governments shall establish or maintain procedures through which they shall consult these peoples, with a view to ascertaining whether and to what degree their interests would be prejudiced, before undertaking or permitting any programmes for the exploration or exploitation of such resources pertaining to their lands. The peoples concerned shall wherever possible participate in the benefits of such activities, and shall receive fair compensation for any damages which they may sustain as a result of such activities.

Article 16

1. Subject to the following paragraphs of this Article, the peoples concerned shall not be removed from the lands which they occupy.

2. Where the relocation of these peoples is considered necessary as an exceptional measure, such relocation shall take place only with their free and informed consent. Where their consent cannot be obtained, such relocation shall take place only following appropriate procedures established by national laws and regulations, including public inquiries where appropriate, which provide the opportunity for effective representation of the peoples concerned.

3. Whenever possible, these peoples shall have the right to return to their traditional lands, as soon as the grounds for relocation cease to exist.

4. When such return is not possible, as determined by agreement or, in the absence of such agreement, through appropriate procedures, these peoples shall be provided in all possible cases with lands of quality and legal status at least equal to that of the lands previously occupied by them, suitable to provide for their present needs and future development. Where the peoples concerned express a preference for compensation in money or in kind, they shall be so compensated under appropriate guarantees.

5. Persons thus relocated shall be fully compensated for any resulting loss or injury.

Article 17

1. Procedures established by the peoples concerned for the transmission of land rights among members of these peoples shall be respected.

2. The peoples concerned shall be consulted whenever consideration is being given to their capacity to alienate their lands or otherwise transmit their rights outside their own community.

3. Persons not belonging to these peoples shall be prevented from taking advantage of their customs or of lack of understanding of the laws on the part of their members to secure the ownership, possession or use of land belonging to them.

Article 18

Adequate penalties shall be established by law for unauthorised intrusion upon, or use of, the lands of the peoples concerned, and governments shall take measures to prevent such offences.

Article 19

National agrarian programmes shall secure to the peoples concerned treatment equivalent to that accorded to other sectors of the population with regard to:

(a) The provision of more land for these peoples when they have not the area necessary for providing the essentials of a normal existence, or for any possible increase in their numbers;

(b) The provision of the means required to promote the development of the lands which these peoples already possess.

PART III. RECRUITMENT AND CONDITIONS OF EMPLOYMENT

Article 20

1. Governments shall, within the framework of national laws and regulations, and in co-operation with the peoples concerned, adopt special measures to ensure the effective protection with regard to recruitment and conditions of employment of workers belonging to these peoples, to the extent that they are not effectively protected by laws applicable to workers in general.

2. Governments shall do everything possible to prevent any discrimination between workers belonging to the peoples concerned and other workers, in particular as regards:

(a) Admission to employment, including skilled employment, as well as measures for promotion and advancement;

(b) Equal remuneration for work of equal value;

(c) Medical and social assistance, occupational safety and health, all social security benefits and any other occupationally related benefits, and housing;

(d) The right of association and freedom for all lawful trade union activities, and the right to conclude collective agreements with employers or employers' organisations.

3. The measures taken shall include measures to ensure:

(a) That workers belonging to the peoples concerned, including seasonal, casual and migrant workers in agricultural and other employment, as well as those employed by labour contractors, enjoy the protection afforded by national law and practice to other such workers in the same sectors, and that they are fully informed of their rights under labour legislation and of the means of redress available to them;

(b) That workers belonging to these peoples are not subjected to working conditions hazardous to their health, in particular through exposure to pesticides or other toxic substances;

(c) That workers belonging to these peoples are not subjected to coercive recruitment systems, including bonded labour and other forms of debt servitude;

(d) That workers belonging to these peoples enjoy equal opportunities and equal treatment in employment for men and women, and protection from sexual harassment.

4. Particular attention shall be paid to the establishment of adequate labour inspection services in areas where workers belonging to the peoples concerned undertake wage employment, in order to ensure compliance with the provisions of this Part of this Convention.

PART IV. VOCATIONAL TRAINING, HANDICRAFTS AND RURAL INDUSTRIES

Article 21

Members of the peoples concerned shall enjoy opportunities at least equal to those of other citizens in respect of vocational training measures.

Article 22

1. Measures shall be taken to promote the voluntary participation of members of the peoples concerned in vocational training programmes of general application.
2. Whenever existing programmes of vocational training of general application do not meet the special needs of the peoples concerned, governments shall, with the participation of these peoples, ensure the provision of special training programmes and facilities.
3. Any special training programmes shall be based on the economic environment, social and cultural conditions and practical needs of the peoples concerned. Any studies made in this connection shall be carried out in co-operation with these peoples, who shall be consulted on the organisation and operation of such programmes. Where feasible, these peoples shall progressively assume responsibility for the organisation and operation of such special training programmes, if they so decide.

Article 23

1. Handicrafts, rural and community-based industries, and subsistence economy and traditional activities of the peoples concerned, such as hunting, fishing, trapping and gathering, shall be recognised as important factors in the maintenance of their cultures and in their economic self-reliance and development. Governments shall, with the participation of these peoples and whenever appropriate, ensure that these activities are strengthened and promoted.
2. Upon the request of the peoples concerned, appropriate technical and financial assistance shall be provided wherever possible, taking into account the traditional technologies and cultural characteristics of these peoples, as well as the importance of sustainable and equitable development.

PART V. SOCIAL SECURITY AND HEALTH

Article 24

Social security schemes shall be extended progressively to cover the peoples concerned, and applied without discrimination against them.

Article 25

1. Governments shall ensure that adequate health services are made available to the peoples concerned, or shall provide them with resources to allow them to design and deliver such services under their own responsibility and control, so that they may enjoy the highest attainable standard of physical and mental health.

2. Health services shall, to the extent possible, be community-based. These services shall be planned and administered in co-operation with the peoples concerned and take into account their economic, geographic, social and cultural conditions as well as their traditional preventive care, healing practices and medicines.

3. The health care system shall give preference to the training and employment of local community health workers, and focus on primary health care while maintaining strong links with other levels of health care services.

4. The provision of such health services shall be co-ordinated with other social, economic and cultural measures in the country.

PART VI. EDUCATION AND MEANS OF COMMUNICATION

Article 26

Measures shall be taken to ensure that members of the peoples concerned have the opportunity to acquire education at all levels on at least an equal footing with the rest of the national community.

Article 27

1. Education programmes and services for the peoples concerned shall be developed and implemented in co-operation with them to address their special needs, and shall incorporate their histories, their knowledge and technologies, their value systems and their further social, economic and cultural aspirations. They shall participate in the formulation, implementation and evaluation of plans and programmes for national and regional development which may affect them directly.

2. The competent authority shall ensure the training of members of these peoples and their involvement in the formulation and implementation of education programmes, with a view to the progressive transfer of responsibility for the conduct of these programmes to these peoples as appropriate.

3. In addition, governments shall recognise the right of these peoples to establish their own educational institutions and facilities, provided that such institutions meet minimum standards established by the competent authority in consultation with these peoples. Appropriate resources shall be provided for this purpose.

Article 28

1. Children belonging to the peoples concerned shall, wherever practicable, be taught to read and write in their own indigenous language or in the language most commonly used by the group to which they belong. When this is not practicable, the competent authorities shall undertake consultations with these peoples with a view to the adoption of measures to achieve this objective.

2. Adequate measures shall be taken to ensure that these peoples have the opportunity to attain fluency in the national language or in one of the official languages of the country.

3. Measures shall be taken to preserve and promote the development and practice of the indigenous languages of the peoples concerned.

Article 29

The imparting of general knowledge and skills that will help children belonging to the peoples concerned to participate fully and on an equal footing in their own community and in the national community shall be an aim of education for these peoples.

Article 30

1. Governments shall adopt measures appropriate to the traditions and cultures of the peoples concerned, to make known to them their rights and duties, especially in regard to labour, economic opportunities, education and health matters, social welfare and their rights deriving from this Convention.

2. If necessary, this shall be done by means of written translations and through the use of mass communications in the languages of these peoples.

Article 31

Educational measures shall be taken among all sections of the national community, and particularly among those that are in most direct contact with the peoples concerned, with the object of eliminating prejudices that they may harbour in respect of these peoples. To this end, efforts shall be made to ensure that history textbooks and other educational materials provide a fair, accurate and informative portrayal of the societies and cultures of these peoples.

PART VII. CONTACTS AND CO-OPERATION ACROSS BORDERS

Article 32

Governments shall take appropriate measures, including by means of international agreements, to facilitate contacts and co-operation between indigenous and tribal peoples across borders, including activities in the economic, social, cultural, spiritual and environmental fields.

PART VIII. ADMINISTRATION

Article 33

1. The governmental authority responsible for the matters covered in this Convention shall ensure that agencies or other appropriate mechanisms exist to administer the programmes affecting the peoples concerned, and shall ensure that they have the means necessary for the proper fulfilment of the functions assigned to them.

2. These programmes shall include:

- (a) The planning, co-ordination, execution and evaluation, in co-operation with the peoples concerned, of the measures provided for in this Convention;
- (b) The proposing of legislative and other measures to the competent authorities and supervision of the application of the measures taken, in co-operation with the peoples concerned.

PART IX. GENERAL PROVISIONS

Article 34

The nature and scope of the measures to be taken to give effect to this Convention shall be determined in a flexible manner, having regard to the conditions characteristic of each country.

Article 35

The application of the provisions of this Convention shall not adversely affect rights and benefits of the peoples concerned pursuant to other Conventions and Recommendations, international instruments, treaties, or national laws, awards, custom or agreements.

PART X. FINAL PROVISIONS

Article 36

This Convention revises the Indigenous and Tribal Populations Convention, 1957.

Article 37

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 38

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.
2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.
3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 39

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International

Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 40

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 41

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

Article 42

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 43

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

(a) The ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 39 above, if and when the new revising Convention shall have come into force;

(b) As from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 44

The English and French versions of the text of this Convention are equally authoritative.

ภาคผนวก ข

General Assembly

2 October 2007

Sixty-first session
Agenda item 68

Resolution adopted by the General Assembly

[without reference to a Main Committee (A/61/L.67 and Add.1)]

61/295. United Nations Declaration on the Rights of Indigenous Peoples

The General Assembly,

Taking note of the recommendation of the Human Rights Council contained in its resolution 1/2 of 29 June 2006, by which the Council adopted the text of the United Nations Declaration on the Rights of Indigenous Peoples,

Recalling its resolution 61/178 of 20 December 2006, by which it decided to defer consideration of and action on the Declaration to allow time for further consultations thereon, and also decided to conclude its consideration before the end of the sixty-first session of the General Assembly,

Adopts the United Nations Declaration on the Rights of Indigenous Peoples as contained in the annex to the present resolution.

107th plenary meeting
13 September 2007

Annex**United Nations Declaration on the Rights of Indigenous Peoples**

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations, and good faith in the fulfilment of the obligations assumed by States in accordance with the Charter,

Affirming that indigenous peoples are equal to all other peoples, while recognizing the right of all peoples to be different, to consider themselves different, and to be respected as such,

Affirming also that all peoples contribute to the diversity and richness of civilizations and cultures, which constitute the common heritage of humankind,

¹ See Official Records of the General Assembly, Sixty-first Session, Supplement No. 53 (A/61/53), part one, chap. II, sect. A.

Affirming further that all doctrines, policies and practices based on or advocating superiority of peoples or individuals on the basis of national origin or racial, religious, ethnic or cultural differences are racist, scientifically false, legally invalid, morally condemnable and socially unjust,

Reaffirming that indigenous peoples, in the exercise of their rights, should be free from discrimination of any kind,

Concerned that indigenous peoples have suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests,

Recognizing the urgent need to respect and promote the inherent rights of indigenous peoples which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies, especially their rights to their lands, territories and resources,

Recognizing also the urgent need to respect and promote the rights of indigenous peoples affirmed in treaties, agreements and other constructive arrangements with States,

Welcoming the fact that indigenous peoples are organizing themselves for political, economic, social and cultural enhancement and in order to bring to an end all forms of discrimination and oppression wherever they occur,

Convinced that control by indigenous peoples over developments affecting them and their lands, territories and resources will enable them to maintain and strengthen their institutions, cultures and traditions, and to promote their development in accordance with their aspirations and needs,

Recognizing that respect for indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment,

Emphasizing the contribution of the demilitarization of the lands and territories of indigenous peoples to peace, economic and social progress and development, understanding and friendly relations among nations and peoples of the world,

Recognizing in particular the right of indigenous families and communities to retain shared responsibility for the upbringing, training, education and well-being of their children, consistent with the rights of the child,

Considering that the rights affirmed in treaties, agreements and other constructive arrangements between States and indigenous peoples are, in some situations, matters of international concern, interest, responsibility and character,

Considering also that treaties, agreements and other constructive arrangements, and the relationship they represent, are the basis for a strengthened partnership between indigenous peoples and States,

Acknowledging that the Charter of the United Nations, the International Covenant on Economic, Social and Cultural Rights¹ and the International Covenant on Civil and Political Rights,² as well as the Vienna Declaration and Programme of

¹ See resolution 2200 A (XXI), annex.

Action,³ affirm the fundamental importance of the right to self-determination of all peoples, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development.

Bearing in mind that nothing in this Declaration may be used to deny any peoples their right to self-determination, exercised in conformity with international law,

Convinced that the recognition of the rights of indigenous peoples in this Declaration will enhance harmonious and cooperative relations between the State and indigenous peoples, based on principles of justice, democracy, respect for human rights, non-discrimination and good faith,

Encouraging States to comply with and effectively implement all their obligations as they apply to indigenous peoples under international instruments, in particular those related to human rights, in consultation and cooperation with the peoples concerned,

Emphasizing that the United Nations has an important and continuing role to play in promoting and protecting the rights of indigenous peoples,

Believing that this Declaration is a further important step forward for the recognition, promotion and protection of the rights and freedoms of indigenous peoples and in the development of relevant activities of the United Nations system in this field,

Recognizing and reaffirming that indigenous individuals are entitled without discrimination to all human rights recognized in international law, and that indigenous peoples possess collective rights which are indispensable for their existence, well-being and integral development as peoples,

Recognizing that the situation of indigenous peoples varies from region to region and from country to country and that the significance of national and regional particularities and various historical and cultural backgrounds should be taken into consideration,

Solemnly proclaims the following United Nations Declaration on the Rights of Indigenous Peoples as a standard of achievement to be pursued in a spirit of partnership and mutual respect:

Article 1

Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights⁴ and international human rights law.

Article 2

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.

³ A/CONF.157/24 (Part I), chap. III.

⁴ Resolution 217 A (III).

Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

Article 4

Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.

Article 5

Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

Article 6

Every indigenous individual has the right to a nationality.

Article 7

1. Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.
2. Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.

Article 8

1. Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.
2. States shall provide effective mechanisms for prevention of, and redress for:
 - (a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;
 - (b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;
 - (c) Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights;
 - (d) Any form of forced assimilation or integration;
 - (e) Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them.

Article 9

Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the

Article 10

Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.

Article 11

1. Indigenous peoples have the right to practise and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.

2. States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.

Article 12

1. Indigenous peoples have the right to manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains.

2. States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with indigenous peoples concerned.

Article 13

1. Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons.

2. States shall take effective measures to ensure that this right is protected and also to ensure that indigenous peoples can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means.

Article 14

1. Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.

2. Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.

3. States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.

Article 15

1. Indigenous peoples have the right to the dignity and diversity of their cultures, traditions, histories and aspirations which shall be appropriately reflected in education and public information.

2. States shall take effective measures, in consultation and cooperation with the indigenous peoples concerned, to combat prejudice and eliminate discrimination and to promote tolerance, understanding and good relations among indigenous peoples and all other segments of society.

Article 16

1. Indigenous peoples have the right to establish their own media in their own languages and to have access to all forms of non-indigenous media without discrimination.

2. States shall take effective measures to ensure that State-owned media duly reflect indigenous cultural diversity. States, without prejudice to ensuring full freedom of expression, should encourage privately owned media to adequately reflect indigenous cultural diversity.

Article 17

1. Indigenous individuals and peoples have the right to enjoy fully all rights established under applicable international and domestic labour law.

2. States shall in consultation and cooperation with indigenous peoples take specific measures to protect indigenous children from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development, taking into account their special vulnerability and the importance of education for their empowerment.

3. Indigenous individuals have the right not to be subjected to any discriminatory conditions of labour and, inter alia, employment or salary.

Article 18

Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

Article 19

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

1. Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.

2. Indigenous peoples deprived of their means of subsistence and development are entitled to just and fair redress.

Article 21

1. Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, *inter alia*, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security.

2. States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities.

Article 22

1. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities in the implementation of this Declaration.

2. States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.

Article 23

Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.

Article 24

1. Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals. Indigenous individuals also have the right to access, without any discrimination, to all social and health services.

2. Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health. States shall take the necessary steps with a view to achieving progressively the full realization of this right.

Article 25

Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.

1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.
2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.
3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

Article 27

States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples' laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.

Article 28

1. Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.
2. Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress.

Article 29

1. Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.
2. States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.
3. States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by such materials, are duly implemented.

1. Military activities shall not take place in the lands or territories of indigenous peoples, unless justified by a relevant public interest or otherwise freely agreed with or requested by the indigenous peoples concerned.

2. States shall undertake effective consultations with the indigenous peoples concerned, through appropriate procedures and in particular through their representative institutions, prior to using their lands or territories for military activities.

Article 31

1. Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.

2. In conjunction with indigenous peoples, States shall take effective measures to recognize and protect the exercise of these rights.

Article 32

1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.

2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.

3. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

Article 33

1. Indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions. This does not impair the right of indigenous individuals to obtain citizenship of the States in which they live.

2. Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures.

Article 34

Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards.

Indigenous peoples have the right to determine the responsibilities of individuals to their communities.

Article 36

1. Indigenous peoples, in particular those divided by international borders, have the right to maintain and develop contacts, relations and cooperation, including activities for spiritual, cultural, political, economic and social purposes, with their own members as well as other peoples across borders.

2. States, in consultation and cooperation with indigenous peoples, shall take effective measures to facilitate the exercise and ensure the implementation of this right.

Article 37

1. Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements and other constructive arrangements.

2. Nothing in this Declaration may be interpreted as diminishing or eliminating the rights of indigenous peoples contained in treaties, agreements and other constructive arrangements.

Article 38

States in consultation and cooperation with indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration.

Article 39

Indigenous peoples have the right to have access to financial and technical assistance from States and through international cooperation, for the enjoyment of the rights contained in this Declaration.

Article 40

Indigenous peoples have the right to access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and collective rights. Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights.

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.

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.

Article 43

The rights recognized herein constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world.

Article 44

All the rights and freedoms recognized herein are equally guaranteed to male and female indigenous individuals.

Article 45

Nothing in this Declaration may be construed as diminishing or extinguishing the rights indigenous peoples have now or may acquire in the future.

Article 46

1. Nothing in this Declaration may be interpreted as implying for any State, people, group or person any right to engage in any activity or to perform any act contrary to the Charter of the United Nations or construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States.

2. In the exercise of the rights enunciated in the present Declaration, human rights and fundamental freedoms of all shall be respected. The exercise of the rights set forth in this Declaration shall be subject only to such limitations as are determined by law and in accordance with international human rights obligations. Any such limitations shall be non-discriminatory and strictly necessary solely for the purpose of securing due recognition and respect for the rights and freedoms of others and for meeting the just and most compelling requirements of a democratic society.

3. The provisions set forth in this Declaration shall be interpreted in accordance with the principles of justice, democracy, respect for human rights, equality, non-discrimination, good governance and good faith.

ประวัติผู้เขียนวิทยานิพนธ์

นางสาวณัฐกฤตา เมฆา สำเร็จการศึกษานิติศาสตร์บัณฑิต คณะนิติศาสตร์ มหาวิทยาลัยธรรมศาสตร์ในปีการศึกษา 2544 สอบผ่านหลักสูตรวิชาว่าความแห่งสภาทนายความรุ่นที่ 20 ปีการศึกษา 2545 และศึกษาต่อในหลักสูตรนิติศาสตรมหาบัณฑิต คณะนิติศาสตร์ สาขาวิชากฎหมายระหว่างประเทศ จุฬาลงกรณ์มหาวิทยาลัย ปีการศึกษา 2548

