

**THE ROLE OF LANGUAGES AND CULTURE IN THE PROMOTION AND PROTECTION OF THE RIGHTS AND
IDENTITY OF INDIGENOUS PEOPLES**

A SUMMARY OF UNESCO'S KEY INSTRUMENTS, PROGRAMMES AND RESOURCES

As a Contribution to the UN Expert Mechanism on the Rights of Indigenous Peoples

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I. Introduction

Culture and languages fall squarely within UNESCO's core remit and, as such, UNESCO has produced a wide range of documents, instruments and programmes touching upon this theme over the past 60 years. This document summarizes documents that may be of most relevance to this exercise, while presenting a bibliography of key documents and instruments for more in-depth consideration. Although the themes of culture and languages are intricately intertwined, UNESCO has developed distinct statements and tools for the two themes, so they are dealt with separately. Moreover, two other key areas of UNESCO's work that are relevant to the theme of the proposed Expert Mechanism study are discussed: intercultural, mother language and indigenous education and local and indigenous knowledge-based resource management.

II. The Role of Culture in the Promotion and Protection of Indigenous Peoples' Rights, Identity and Well-Being

II.A. The Importance of Culture in Indigenous Peoples' Self-Determined Development

At UNESCO, much of the concrete thinking about the role of culture in the promotion and protection of the rights and identity of indigenous peoples has occurred in the context of articulating the broad links between culture and development. This links back to the human development paradigm¹ and the Human Rights Based Approach to development. For instance, a UN Inter-Agency Support Group (IASG) paper edited by UNESCO and submitted to the 9th session of the UN Permanent Forum on Indigenous Issues² has this to say about culture (UNESCO 2010):

"The World Conference on Cultural Policies (1982), known as MONDIACULT, constituted a landmark for debates on the indivisibility between development and culture, defining the latter in the wider, anthropological sense of the word, as encompassing the entire range of spiritual, material and intellectual values that typify a particular group or society. In other words, culture became understood as encompassing 'all that human beings have and do to produce, relate to each other and adapt to the

¹ UNDP, Human Development Report: Cultural Liberty in Today's Diverse World, 2004 (http://hdr.undp.org/en/media/hdr04_complete.pdf).

² UNESCO, Indigenous Peoples: Development with Culture and Identity in the light of the UN Declaration on the Rights of Indigenous Peoples, 2010 (E/C.19/2010/CRP.3), pp. 7-8

physical environment.’³ Thus, the UN World Commission on Culture and Development (1985) was asked to ‘give culture a permanent place in development thinking’ and emphasized that ‘development divorced from its human or cultural context is growth without a soul’.⁴

“Culture and development remain difficult concepts which have evolved over time. Conceptually, development itself is a cultural construct, since it is based on culture in all its diversity, which is the basic code of human life’s understanding – an open, progressive repository of wisdom, experience, knowledge, exchange, solidarity and ways of living together. Indeed, if culture is understood in this broad way, rather than narrowly as arts, literature and monuments, then it is through culture that we formulate our aspirations for development and give meaning to our lives.”⁵

“The indivisibility of culture and development thus implies recognition of the intangible dimensions of development, recognizing people, values, knowledge systems and the capacity to create and aspire as an integral part of development. The diversity of these visions and expressions, which are not static but constantly evolving, is embodied in the ‘uniqueness and plurality of the identities’ of the groups and societies making up humankind, including indigenous peoples. Cultural diversity is thus ‘one of the roots of development, understood not simply in terms of economic growth, but also as a means to achieve a more satisfactory intellectual, emotional, moral and spiritual existence’ (Article 3 of the UNESCO Universal Declaration on Cultural Diversity, 2001).

“However, connecting culture and development entails challenges for contemporary, de facto plural, societies, well known to indigenous peoples: (i) the ‘hyper-culturalization’ of social issues, which makes culture the single cause of all kinds of problems; (ii) assimilation policies based on the assumption that cultures are a threat to national unity, social cohesion and development; and (iii) segregation in the name of particularism, or stressing differences to the extent where they become incompatible with a public life.⁶ Indigenous cultures may furthermore be confronted with major risks of folklorization, mummification and commercialization.

³ See Naomi Kipuri, ‘Culture’, *The State of the World’s Indigenous Peoples*, United Nations, 2009.

⁴ See summary of the report *Our Creative Diversity: Report of the World Commission on Culture and Development*, UN/UNESCO, 1996 at: http://www.powerofculture.nl/uk/archive/report/intro_sam.html

⁵ The idea of culture as ‘the capacity to aspire’ was formulated by Arjun Appadurai (see ‘The Capacity to Aspire: Culture and the Terms of Recognition’, V. Rao and M. Walton (eds) *Culture and Public Action*, Stanford University Press, 2004).

⁶ Katérina Stenou at the UNESCO Roundtable on ‘Development with Culture and Identity in Light of the Declaration on the Rights of Indigenous Peoples’, Paris 2008.

“However, ... cultural distinctiveness and identity are understood as key assets upon which development may be constructed with indigenous peoples. Indeed, conceptual advances recognizing the indivisibility of culture and development have found an echo in the normative sphere. The Universal Declaration on Cultural Diversity (2001) as well as related conventions⁷ bring together the politics of identity with the economics of sustainable human development, and support individuals and communities, as well as nation-states, to promote their own development in their own terms. Indigenous peoples, their human rights, cultures and knowledge systems hold a significant place in these normative instruments, which along with the WIPO Draft Provisions for the Protection of Traditional Cultural Expressions/Folklore (TCEs) and Traditional Knowledge (TK) constitute important milestones in the promotion of [development with culture and identity].⁸

“By acknowledging that the relation between culture and development is not one of dichotomy but indivisibility, UN discourse and normative frameworks resonate with indigenous peoples’ holistic systems of thought, which consider that ‘culture is development and development is culture’.⁹ Therefore, ‘there is no prescribed pathway for the development of a society, no single model on which development strategies should be based’, as emphasized in the recent World Report on cultural diversity and intercultural dialogue.¹⁰”

II.B. The link between Culture and Human Rights

This approach to a human, culture-based development links directly to human rights through the Human Rights-Based Approach to Development (HRBA). Reflecting the UN wide approach to HRBA, The IASG paper (UNESCO 2010) says this about the HRBA and culture:

⁷ Protection and Promotion of the Diversity of Cultural Expressions (2005), Safeguarding of the Intangible Cultural Heritage (2003), Protection of the Underwater Cultural Heritage (2001), Protection of the World Cultural and Natural Heritage (1972), Prohibiting and Preventing the Illicit Import, Export and Transfer of Cultural Property (1970), Protection of Cultural Property in the Event of Armed Conflict (1954) and Universal Copyright Convention (1952 and 1971).

⁸ See http://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_9/wipo_grtkf_ic_9_4.doc and http://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_9/wipo_grtkf_ic_9_5.doc.

⁹ Victoria Tauli-Corpuz, ‘The Concept of Indigenous Peoples’ Self-Determined Development or Development with Identity and Culture: Challenges and Trajectories’, paper commissioned by UNESCO, 2008.

¹⁰ UNESCO World Report: Investing in Cultural Diversity and Intercultural Dialogue, UNESCO, 2009.

“The Human Rights-Based Approach to Development Cooperation (HRBA) ‘Towards a Common Understanding among the UN Agencies’, adopted by the United Nations Development group (UNDG) in 2003, aims to ensure that UN agencies, funds and programmes consistently apply a human-rights-based approach to common programming processes at global

and regional levels, especially at the country level in relation to Common Country Assessment (CCA) and United Nations Development Assistance Framework (UNDAF) processes. This approach aims to promote and protect human rights, reduce inequality, and harness the substantive participation of those who are most affected, including children. It addresses also issues of culture and gender.

“An essential element of HRBA is participation to empower rights-holders to claim their rights and take charge of their own development. By stressing participation, the HRBA prioritizes democratic principles and culture: if development is not a top-down but a bottom-up process, then the cultural particularity of peoples and communities should find resonance in the development policies, programmes and budgets of their governments and those of international development actors. Conversely, if indigenous peoples’ perceptions and aspirations are not acknowledged, including those of indigenous women and youth, the resulting development initiatives could deprive them of access to crucial resources, undermine traditional governance structures, and contribute to the loss of indigenous cultures and languages. Moreover, experience has shown that development cannot be sustained without full ownership by the involved communities and its effectiveness may be limited.”¹¹

II.C. UNESCO’s International Standard-Setting Instruments

UNESCO’s International Standard-Setting Instruments in the field of culture are important means by which indigenous peoples’ culture, human rights and indigenous rights can be promoted. This is explained in a paper by Bandarin (2012) introducing UNESCO’s instruments vis-à-vis international trade in indigenous cultural heritage:¹²

¹¹ UNESCO, *Indigenous Peoples: Development with Culture and Identity in the light of the UN Declaration on the Rights of Indigenous Peoples*, 2010 (E/C.19/2010/CRP.3), p. 11

¹² Bandarin, Francesco, *International Trade in Indigenous Cultural Heritage: Comments from UNESCO in Light of its International Standard-Setting Instruments in the Field of Culture*. *International Trade In Indigenous Cultural Heritage: Legal And Policy Issues*, Christoph B. Graber, Karolina Kuprecht, Jessica C. Lai, Eds., Edward Elgar, 2012 .

“Indigenous peoples and their culture have been recognised in UNESCO’s standard-setting work since 2001, with the adoption of the UNESCO Universal Declaration on Cultural Diversity.¹³ The UNESCO Declaration contains specific references to the relationship between cultural diversity and human rights. It points to human rights as guarantees for cultural diversity, affirming that the defence of cultural diversity implies ‘a commitment to human rights and fundamental freedoms, in particular the rights of persons belonging to minorities and those of indigenous peoples’.¹⁴ It [goes on] to say that ‘[n]o one may invoke cultural diversity to infringe upon human rights guaranteed by international law, nor to limit their scope’.¹⁵ The defense of [cultural] diversity, according to the UNESCO Declaration, is an ‘ethical imperative’.¹⁶

“The 2001 UNESCO Declaration reflects a strong commitment to cultural rights as an integral part of human rights. It says that ‘the flourishing of creative diversity requires the full implementation of cultural rights’, noting that ‘all persons have the right to participate in the cultural life of their choice and conduct their own cultural practices, subject to respect for human rights and fundamental freedoms’ (Article 5).¹⁷ Thus, as Rosemary Coombe and Joe Turcotte observe in their contribution to this volume, UNESCO is the primary UN body responsible for preparing and interpreting international normative principles and instruments with regard to cultural rights.¹⁸ While the UNESCO conventions are not human rights instruments as such, they have an important role to play, as instruments of international law, in creating the necessary conditions for the realisation of the right of everyone to take part in cultural life, fostering the availability, accessibility, enjoyment and benefits of cultural heritage and expressions, including those of indigenous peoples.

“The UNESCO 2001 Declaration and the subsequent UNESCO conventions in the field of culture have articulated in their texts the links between culture and sustainable development. The understanding of development is broad, comprising all aspects of material, intellectual, emotional and physical well-being.¹⁹ UNESCO’s engagements in sustainable development are therefore not driven by economic or trade considerations, but by a holistic concern for the rights and well-being of communities who wish to transmit

¹³ UNESCO, Universal Declaration on Cultural Diversity, 41 ILM 57 (adopted on 2 November 2001).

¹⁴ Ibid., Article 4.

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ See Article 5 of the UNESCO Universal Declaration on Cultural Diversity, 2001, which continues ‘All persons have therefore the right to express themselves and to create and disseminate their work in the language of their choice, and particularly in their mother tongue; all persons are entitled to quality education and training that fully respect their cultural identity; and all persons have the right to participate in the cultural life of their choice and conduct their own cultural practices, subject to respect for human rights and fundamental freedoms.’

¹⁸ Rosemary Coombe and Joseph Turcotte, ‘Indigenous Cultural Heritage in Development and Trade: Perspectives from the Dynamics of Cultural Heritage Law and Policy’, in this volume.

¹⁹ ‘Cultural diversity widens the range of options open to everyone; it is one of the roots of development, understood not simply in terms of economic growth, but also as a means to achieve a more satisfactory intellectual, emotional, moral and spiritual existence’; UNESCO Universal Declaration on Cultural Diversity, Article 3.

to future generations their cultural heritage or promote their cultural expressions. This holistic understanding resonates with the recent deliberations of the UN Permanent Forum on Indigenous Issues (UNPFII) that advocates for development *with* culture and identity.”²⁰ ...

Bandarin (2012) and the volume of which it is part ask a key question: “how, in light of the UNDRIP and within the intergovernmental reality in which UNESCO operates, can the implementation of its standard-setting instruments foster respect for and recognition of indigenous peoples’ heritage values and identity, support their heritage safeguarding efforts and thus positively affect the rights and well-being of indigenous communities? In other words, how can the implementation of UNESCO’s conventions help advance indigenous peoples’ claim to ‘maintain, control, protect and develop their cultural heritage’ as stipulated in Article 31 of UNDRIP?”²¹ Several sections are of particular relevance to the current topic, in particular, the discussion of how the 2003 Convention for the Safeguarding of Intangible Cultural Heritage and the 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions may foster moral and political recognition of indigenous peoples as custodians of heritage and bearers of culture, even if the instruments were not designed specifically for indigenous peoples. The following sections are excerpted from Bandarin (2012).

II.C.1. Indigenous Peoples in the 2003 Convention for the Safeguarding of Intangible Cultural Heritage

“The adoption of the Convention for the Safeguarding of the Intangible Cultural Heritage (Intangible Heritage Convention) in 2003 can be considered the most ground-breaking development in the field of international standard-setting for cultural-heritage protection in recent years, as it reflects most clearly the changing cultural-heritage paradigm of the late twentieth and early twenty-first centuries. What has been called, after long and thorough debates at the international level, ‘intangible cultural heritage’ (ICH) are the practices, representations, expressions, knowledge and skills that provide orientation to people’s lives and give them a sense of belonging. The Convention recognises that heritage is alive and has

²⁰ This theme was at the centre of the 9th Session of the UN Permanent Forum on Indigenous Issues in 2010. For further information on this notion, see also Inter-Agency Support Group on Indigenous Peoples’ Issues (IASG), ‘Indigenous Peoples: Development with Culture and Identity in Light of the UN Declaration on the Rights of Indigenous Peoples. A Reflection Paper of the Inter-Agency Support Group on Indigenous Peoples’ Issues’, (UN Doc. E/C.19/2010/17, 2010), available on line at http://www.un.org/esa/socdev/unpfii/en/session_ninth.html (all online sources were accessed 8 September 2011) .

²¹ Bandarin, Francesco, International Trade in Indigenous Cultural Heritage: Comments from UNESCO in Light of its International Standard-Setting Instruments in the Field of Culture. *International Trade in Indigenous Cultural Heritage: Legal And Policy Issues*, Christoph B. Graber, Karolina Kuprecht, Jessica C. Lai, Eds., Edward Elgar, 2012.

continued social significance for those who practise it today. Many indigenous communities consider their contemporary livelihood practices as part of their cultural heritage and thus understand well this notion of 'living heritage' promoted by the Intangible Heritage Convention.

"Indeed, the main goal of the Convention is to *safeguard* ICH, thus ensuring its continued practice and transmission from one generation to the next. The Convention is not about preservation in a narrow sense of documenting for a museum. Article 2.3 of the Convention explains that 'safeguarding' means 'ensuring the viability of the intangible cultural heritage';²² this can only be done by the communities and groups themselves, who are its owners and stewards. This goal resonates with indigenous peoples' rights and aspirations to transmit to future generations their distinct customs and cultural practices.²³

"The definition of ICH as the 'practices, representations, expressions, knowledge, skills ... that communities, groups and, in some cases, individuals recognize as part of their cultural heritage' (Article 2) is relevant to indigenous peoples' claim to determine what is, for them, their own intangible heritage.²⁴ No external expert, no political decision-maker, no international jury may decide for them, just the practitioners, bearers, those who enact and recognise a specific heritage as their own. This fundamental principle lies at the very centre of the Convention and has considerable implications for how it is to be carried out.

"The safeguarding approach of the Intangible Heritage Convention emphasises community involvement and consent and recognises 'communities, in particular indigenous communities, groups and, in some cases, individuals' as the primary agents in the 'production, safeguarding, maintenance and recreation of the intangible cultural heritage' (Preamble). However, elsewhere in the text of the Convention, indigenous peoples are not identified separately; they are fully encompassed within all references in the Convention and its Operational Directives (ODs)²⁵ to 'communities, groups and, in some cases,

²² The Convention has four stated objectives in its first Article: (i) safeguard intangible cultural heritage; (ii) ensure respect for the intangible cultural heritage of the communities, groups and individuals concerned; (iii) raise awareness at the local, national and international levels of the importance of the intangible cultural heritage, and of ensuring mutual appreciation thereof; and (iv) provide for international cooperation and assistance.

²³ See the UNDRIP which speaks about the right of indigenous peoples to 'manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies' (Article 12); and the right to 'revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures' (Article 13).

²⁴ Coombe and Turcotte, *supra* note 18, quoting Amanda Kearney, 'Intangible Cultural Heritage: Global Awareness and Local Interest', in Laurajane Smith and Natsuko Akagawa (eds), *Intangible Heritage*, New York and London: Routledge, 2009, pp. 209-226, at p. 218.

²⁵ See 'Operational Directives for the implementation of the Convention for the Safeguarding of the Intangible Cultural Heritage', in UNESCO, *Basic Texts of the 2003 Convention for the Safeguarding of the Intangible Cultural Heritage*, Paris: UNESCO, 2011.

individuals'. The Convention thus asserts no rights unique to indigenous communities, while affording them the same rights vis-à-vis their ICH as any other communities – as those who 'recognize [certain phenomena] as part of their cultural heritage' (Article 2.1) and as those who 'create, maintain and transmit such heritage' (Article 15). As such, they are to be involved actively in its management (Article 15).

"The relation of States to ICH is carefully distinguished from that of communities. A State Party has the obligation to 'take the necessary measures to ensure the safeguarding of the intangible cultural heritage *present in its territory*' (Article 11, emphasis added). The Convention carefully distinguishes that ICH is 'present' in the territory of States, but is the *possession* of the communities who are its creators, maintainers and transmitters. If certain national heritage laws assert that ICH is the property of the nation, or of the State, this finds no support in the Convention at the international level.

"As an instrument of law the Intangible Heritage Convention imposes obligations on its State Parties, while also citing and incorporating 'existing international human rights instruments' (Article 2.1). These latter are, as noted by Coombe and Turcotte, fundamental in framing most, if not all, principles of indigenous cultural heritage protection. The Convention makes clear that for its purposes, only ICH that is consistent with internationally accepted human rights instruments and with the principle of mutual respect can fall within the scope of the Convention. The Convention, or the goal of safeguarding intangible heritage, cannot therefore be instrumentalised to contravene universal human rights. If international instruments addressing the rights of indigenous peoples – the most significant of these being the UNDRIP – have fundamentally altered the international consensus on the scope and meaning of cultural rights, this applies equally to the 2003 Intangible Heritage Convention: since 2007, it can only be read in the context of the UNDRIP.

"Concretely, the Intangible Heritage Convention offers several ways for indigenous peoples to engage in its implementation both at the national and international levels, either as a 'community' practicing a certain form of intangible heritage that is to be safeguarded under the Convention or as a non-governmental organisation.

"First, indigenous peoples may propose safeguarding projects to the governments of their countries that could be submitted for consideration under one or more of the following mechanisms: nominations to the Urgent Safeguarding List or the Representative List (Articles 17 and 16); proposals for the Register of Best

Practices (Article 18); and International Assistance requests (Article 23). Such a ‘community-driven’ approach is in line with the spirit of the Convention. A number of examples concerning indigenous peoples’ heritage already exist for each mechanism. Elements of intangible heritage inscribed on the Lists concerning indigenous peoples include the Andean cosmovision of the Kallawayaya (Bolivia); the polyphonic singing of the Aka Pygmies of Central Africa (Central African Republic); the cultural space of the gongs (Viet Nam); and the Olonkho, Yakut heroic epos (Russian Federation). A recent example of financial assistance that concerns indigenous peoples comes from Kenya, which was granted assistance for the safeguarding of the traditions and practices associated with the Kayas in the sacred forests of the Mijikenda.²⁶

“Indigenous peoples might also consider engaging in inventorying of intangible heritage, in line with Articles 11 and 12 of the Convention. According to these provisions, State Parties have to take the necessary measures at the national level to identify and safeguard the ICH present in their territory with the full participation of the communities, groups and relevant non-governmental organisations. The elaboration of one or more inventories that are to be regularly updated is an obligation laid out in the Convention. Indigenous peoples have been rightly concerned about the risks and opportunities of inventorying, so it should be emphasised that community participation is mandatory for inventorying under the Convention.

“With regard to the participation of relevant non-governmental organisations at the international level, Article 9 of the Convention stipulates that the Committee shall propose to the General Assembly the accreditation of non-governmental organisations with recognised competence in the field of the ICH to act in an advisory capacity to the Committee. ...Indigenous peoples’ organisations that satisfy the criteria for accreditation are welcome to request accreditation as an advisory NGO. Accreditation automatically confers upon them an observer status in the meetings of the Intergovernmental Committee.”

II.C.2. Indigenous Peoples in the 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions

²⁶ See UNESCO, Intergovernmental Committee for the Safeguarding of the Intangible Cultural Heritage, ‘Evaluation of International Assistance Requests of USD 25,000 or More’, (UNESCO Doc. ITH/09/4.COM/CONF.209/11, 2009), available at www.unesco.org/culture/ich/doc/.../ITH-09-4.COM-CONF.209-11-EN.doc.

Again, excerpted from Bandarin (2012):

“The 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions (Convention on the Diversity of Cultural Expression) deals specifically with contemporary cultural expressions as they are disseminated across the world. Its Preamble recognises the importance of traditional knowledge, and in particular, the knowledge systems of indigenous peoples, as a source of intangible and material wealth and the positive contribution of traditional knowledge to sustainable development. The Convention preamble also takes into account the importance of the vitality of indigenous peoples’ cultures, as manifested in their freedom to create, disseminate and distribute their traditional cultural expressions.

“The Convention contains recurring references to indigenous peoples, not only in the preamble as mentioned above but also in its operative text. It affirms the principle of the equal dignity of and respect for all cultures, including the cultures of persons belonging to minorities and indigenous peoples (Article 2.3). More concretely, the Convention calls on State Parties to introduce measures to promote cultural expressions that pay ‘due attention to the special circumstances and needs of various social groups, including persons belonging to minorities and indigenous peoples’. The purpose of such measures is to encourage individuals and social groups to create, produce, distribute and have access to their own cultural expressions (Article 7.1.a). Indeed, the OGS²⁷ on Article 7 approved by the Conference of Parties in 2009 encourage States to foster the full participation and engagement of indigenous peoples in cultural policies and measures to promote the diversity of cultural expressions (see paragraph 1.3).

“The emphasis on civil society participation is a significant feature of the 2005 Convention on the Diversity of Cultural Expression. Indeed, non-governmental organisations actively participated in the process of its elaboration and the opportunities for participation also apply to indigenous peoples’ organisations. State Parties are called upon to strengthen partnerships with civil society, non-governmental organisations and the private sector in pursuit of the objectives of the Convention (Articles 11, 12.c, 12.d and 15). The Intergovernmental Committee may also invite at any time public or private organisations or individuals to participate in its meetings for consultation on specific issues (Article 23.7).

²⁷ The Operational Guidelines regarding a number of Articles for the implementation of the Convention on the Diversity of Cultural Expressions already exist and can be found on the UNESCO Website at: <http://www.unesco.org/new/en/culture/themes/cultural-diversity/cultural-expressions/the-convention/operational-guidelines/#topPage>.

“The International Fund for Cultural Diversity (IFCD) is a specific financing mechanism of the Convention on the Diversity of Cultural Expressions of interest also to indigenous peoples (Article 18). The purpose of the Fund is to promote sustainable development and poverty reduction in developing countries that are Parties to the Convention. It does this through support for projects and activities that aim to foster the emergence of a dynamic cultural sector. The guidelines on the use of the resources of the IFCD specifically lists representatives of vulnerable groups and other social groups identified in the Convention (paragraph 9.1.6) that are beneficiaries for funding.”

Some examples of projects that are funded by the IFCD include:

- Pastoralist Development Network of Kenya: Pastoralist Development Network of Kenya proposes to help indigenous communities build advocacy, awareness-raising and research platforms that will encourage the Kenyan government to review its cultural policies to better reflect their interests and rights. This will be achieved through high level meetings with government officials, capacity building workshops and the publication and distribution of reports demonstrating the socio-economic contribution of indigenous communities’ cultural expressions in Kenya.
- Vídeo nas Aldeias (Brazil): Vídeo nas Aldeias proposes to provide workshops to veteran and new indigenous filmmakers in the production of children's programming and distribute their films to classrooms across Brazil as a means to introduce culturally diverse content to the youth.
- Promoting the involvement of indigenous peoples in cultural industries (Guatemala): The *Instituto de Relaciones Internacionales e Investigaciones para La Paz* aims to create a training course and centre to provide young men and women from different Guatemalan indigenous groups with the skills to become audiovisual creators and cultural entrepreneurs. By using new technologies to empower these communities, it will contribute to fostering and promoting indigenous cultural industries in the country.

II.C.3. UNESCO's Normative Instruments in the Field of Culture: A summary

Excerpted from Bandarin (2012):

“In sum, a variety of opportunities for protecting and promoting indigenous peoples’ cultural heritage and contemporary cultural expressions exist in the UNESCO body of standard-setting instruments pertaining to cultural heritage, whether in the texts of the Conventions themselves or in their respective OGs and ODs. The Intangible Heritage Convention is arguably the furthest reaching in proposing new ways of State and community collaboration in safeguarding heritage, recognising the right of communities, including indigenous communities, to act as agents in the identification and safeguarding process. The Convention on the Diversity of Cultural Expressions also offers some promising avenues for the protection and promotion of the diversity

of indigenous peoples' cultural expressions that will need to be further explored as the implementation of Convention gains maturity."

III. The Role of Languages in the Promotion and Protection of Indigenous Peoples' Rights, Identity and Well-Being

III.A. The Importance of Languages

As the vehicles through which culture is transmitted, maintained and developed and through which societies, peoples and communities negotiate their shared lives, languages should be considered an indivisible element of culture. However, given the endangered status of many indigenous languages and their unique importance, they warrant special attention.

UNESCO is convinced of the importance of languages for promoting the human rights of indigenous peoples. For instance, UNESCO's '*Atlas of the World's Languages in Danger of Disappearing*' describes the importance of languages thus:

"Each language reflects a unique world-view and culture complex, mirroring the manner in which a speech community has resolved its problems in dealing with the world, and has formulated its thinking, its system of philosophy and understanding of the world around it. In this, each language is the means of expression of the intangible heritage of a people..."²⁸

Based on this perspective, UNESCO's endangered languages programme has raised the importance of languages and linguistic diversity, has highlighted the fact that many of the world's languages are endangered and has sought to provide practical tools for safeguarding endangered languages.

III.B. UNESCO's Endangered Languages Programme

A flagship project of the Endangered Languages programme, the *Atlas*, was first published in 1996, when it was instrumental in raising awareness about the endangered status of many of the world's languages.

²⁸ UNESCO, *Atlas of the World's Languages in Danger of Disappearing*, 2nd edition, 2001, Stephen Wurm, ed.

While not focussing exclusively on indigenous languages, it helped raise awareness of the importance and endangered status of many of the world's indigenous languages. The most recent edition of the *Atlas* reports on 2500 endangered languages in a printed copy and an on-line interactive version.²⁹

In order to ensure that the endangered status of languages is not just acknowledged, but that efforts are made to safeguard and revitalize those languages, UNESCO's Ad Hoc Expert Group on Endangered Languages has developed a methodology for assessing language vitality and endangerment. The objective of this methodology was to assist in policy development, identification of needs and appropriate safeguarding measures. A few elements of this work are of particular relevance to this study. In particular, in a report entitled *Language Vitality and Endangerment*, the following overview of a language revitalization methodology is offered:³⁰

III.B.1. The Role of the Speech Community

"In all parts of the world, members of ethnolinguistic minorities are increasingly abandoning their native language in favour of another language, including in childrearing and formal education. Among ethnolinguistic communities, a variety of opinions on the future prospects of their languages can be observed. Some speakers of endangered languages come to consider their own language backward and impractical. Such negative views are often directly related to the socioeconomic pressure of a dominant speech community. Other speakers of endangered languages, however, attempt to directly counter these threats to their language, and commit themselves to language stabilization and revitalization activities. These communities may establish environments such as daycare centers, schools or at least classes in which their languages are exclusively spoken. In the end, it is the speakers, not outsiders, who maintain or abandon languages. Still, if communities ask for support to reinforce their threatened languages, language specialists should make their skills available to and work with these ethnolinguistic minorities."

III.B.2. External Specialists and Speech Communities

"External language specialists, primarily linguists, educators and activists, see their first task as documentation. This includes the collection, annotation and analysis of data from endangered languages. The second task entails their active participation in educational programs. Speakers increasingly demand

²⁹ UNESCO, *Atlas of the World's Languages in Danger of Disappearing*, 3rd edition, 2010, Christopher Moseley, ed. (<http://www.unesco.org/new/en/culture/themes/endangered-languages/atlas-of-languages-in-danger/>)

³⁰ UNESCO, *Language Vitality and Endangerment*, the UNESCO Ad Hoc Expert Group on Endangered Languages, 2003, pp. 5-6 (CLT/CEI/DCE/ELP/PI/2003/1).

control over the terms and conditions that govern research; furthermore, they claim rights to the outcomes and future uses of the research. They want, for example, the right to informed consent and to veto power, they want to know how results will benefit them, and they want to be able to determine how research results will be disseminated. Above all, they want an *equal relationship* with outside researchers and want to be actors in a process that is theirs, not someone else's."

III.B.3. What can be done?

"Just as speech community members react differently to language endangerment, so do linguists, educators and activists to requests for assistance by speech communities. Such requests relate mainly to five essential areas for sustaining endangered languages:

1. **Basic linguistic and pedagogical training:** providing language teachers with training in basic linguistics, language teaching methods and techniques, curriculum development and teaching materials development.
2. **Sustainable development in literacy and local documentation skills:** training local language workers to develop orthographies if needed, to read, write, and analyse their own languages, and to produce pedagogical materials. One of the effective strategies here is the establishment of local research centres, where speakers of endangered languages will be trained to study, document and archive their own language materials. Literacy is useful to the teaching and learning of such languages.
3. **Supporting and developing national language policy:** National language policies must support diversity, including the preservation of endangered languages. More social scientists and humanists--and speakers of endangered languages themselves--should be actively involved in the formulation of national language policies.
4. **Supporting and developing educational policy:** In the educational sector, a number of linguists are engaged in implementing increasingly popular mother tongue education programs. Since 1953 and especially in the past fifteen years, UNESCO has been instrumental in this development through its policy statements. So-called mother tongue education, however, often does not refer to education in the ancestral languages of ethnolinguistic minorities (in most cases endangered languages), but rather to the teaching of these languages as school subjects. The most common educational model for teaching ethnolinguistic minority children in schools still uses locally or nationally dominant languages as media of instruction. Teaching exclusively in these languages supports their spread, at the expense of endangered languages. For example, fewer than 10% of the approximately 2000 African languages are currently used in teaching, and none of these 10% is an endangered language. We favour the inclusion of regional languages in formal education, but not at the expense of ethnolinguistic minorities (*The Hague Recommendations on the Educational Rights of National*

Minorities, 1996; Skutnabb-Kangas, 2000). It has been demonstrated convincingly that acquiring bilingual capability need in no way diminish competence in the official language.

5. **Improving living conditions and respect for the human rights of speaker communities:** Language documenters, though not directly involved in economic and social development, can help governments identify overlooked populations. For example, national HIV/AIDS awareness or poverty-alleviation programs often do not consider minority communities, especially if they are illiterate. Linguists and educators can be vital mediators by supporting these communities in formulating claims about their linguistic and other human rights. Conversely, materials such as those on health care, community development or language education produced for these marginalized communities require specialist input. Concepts and content need to be conveyed in a culturally meaningful way.”

Aside from the endangered languages programme, which addresses the issue directly, UNESCO’s work on intercultural, mother language and indigenous education and its local and indigenous knowledge systems (LINKS) programme contribute to promoting indigenous culture and languages through a range of projects.

IV. Intercultural, Mother Language and Indigenous Education

IV.A. The Significance of Intercultural, Mother Language and Indigenous Education

A UNESCO paper entitled “Indigenous Knowledge in Global Policies and Practice for Education, Science and Culture” (Nakashima 2010) explains the importance of education in supporting and promoting indigenous culture and languages and, by extension, to improving well-being of indigenous peoples:

“The UNESCO *Guidelines for Inclusion: Ensuring Access to Education for All*, (2005) addresses the issue of culture and indirectly that of ... language as the component of culture most closely associated with learning.

“The *Guidelines* define inclusive education as “a process of addressing and responding to the diversity of needs of all learners through increasing participation in learning, cultures and communities, and reducing exclusion within and from education. It involves changes and modifications in content, approaches, structures and strategies, within a common vision which covers all children of the appropriate age range and a conviction that it is the responsibility of the public school system to educate all children”(page 13). Inclusive education also implies a relevant

and responsive curriculum that takes tribal, ethnic, or indigenous languages into account along with a second and/or a third language in the framework of a bilingual education and/or multilingual education. As stated in the UNESCO Position Paper 'Education in a Multilingual World' (2003) 'the requirements of global and national participation, and the specific needs of particular, culturally and linguistically distinct communities can only be addressed by multilingual education. In regions where the language of the learner is not the official or national language of the country, bilingual and multilingual education can make mother tongue instruction possible while providing at the same time the acquisition of languages used in larger areas of the country and the world...' (pages 17 and 18)

"Inclusive education policies and practices promote indigenous cultures, values and identity through mother tongue instruction. Local languages are the means for preserving, transmitting and applying traditional knowledge in schools. A bilingual or multilingual education allows the full participation of all learners; it gives learners the opportunity to confront, in the positive sense, the knowledge of their community with knowledge from elsewhere."

IV. UNESCO's activities to promote indigenous culture and language in education

UNESCO's strategy for language in education is guided by the following three principles.³¹ These are:

- Mother tongue instruction to promote inclusion in education and improve the quality of education by building on the knowledge and experience of both learners and teachers. UNESCO believes and supports findings of studies showing evidence that mother tongue instruction is a key factor for literacy and learning.
- Bilingual and/or multilingual education at all levels, to promote equality and reflect the diversity of languages in society, including literate environments, media and cyberspace. The main objective is to promote at least the use of three languages in education in multilingual contexts.
- Promoting language as an essential part of intercultural education, to encourage understanding among peoples and build respect for human rights.

UNESCO also works with indigenous communities around the world to develop pedagogical tools or materials in mother languages. These include two projects coordinated by UNESCO's Local and Indigenous Knowledge Systems (LINKS) programme: "*Reef and Rainforest: An Environmental wiki of*

³¹ <http://www.unesco.org/new/en/education/themes/strengthening-education-systems/languages-in-education/strategy/>

Marovo Lagoon Solomon Islands”,³² and “*Revitalizing Mayangna Language and Culture: Developing mother tongue education in the BOSAWAS Biosphere Reserve, Nicaragua*”.³³

Useful resources for mother language, bilingual or multilingual education include the “*Advocacy Kit for Promoting Multilingual Education: Including the Excluded*” (UNESCO Bangkok: 2007)³⁴, the literature review “*Enhancing learning of children from diverse language backgrounds*”(2009); the case studies “*Mother Tongue Matters: Local Language as a Key to Effective Learning*” (2008); the publication “*The Challenge of Indigenous Education: Practice and Perspectives*” (King and Schielman 2004) and the UNESCO Position paper “*Education in a Multilingual World*” (UNESCO 2003); the UNESCO “*Work on Indigenous Education*” booklet.

V. Traditional and Indigenous Knowledge in Resource Management and Environmental Protection

IV.A. Defining Traditional and Indigenous Knowledge in the International Context

During the latter part of the Twentieth Century and early Twenty-first Century, the definition of culture shifted from being focussed on end products and outputs to emphasising creative and social processes. As discussed above, this shift was reflected in UNESCO’s normative instruments and it led directly to recognition of and emphasis on a facet of this wider definition of culture that had previously been largely overlooked: what is variously called indigenous or traditional knowledge. To draw again from Nakashima (2010: 6-9):

“The redefinition of culture [following the Mondiacult conference] opened the way for intangible heritage, i.e. expressions, practices, knowledge and skills that communities and groups recognize as forming part of their cultural heritage, to become an area of international cooperation. UNESCO’s 1989 Recommendation on the Safeguarding of Traditional Culture and Folklore, which was the first

³² http://en.marovo.org/index.php?title=Main_Page

³³ <http://www.unesco.org/new/en/natural-sciences/priority-areas/links/resource-management/projects/mayangna/>

³⁴ UNESCO, *Advocacy kit for promoting multilingual education: Including the excluded*. Bangkok: UNESCO Bangkok, 2007 (<http://unesdoc.unesco.org/images/0015/001521/152198e.pdf>).

international standard-setting instrument for the protection of traditional culture and folklore, greatly influenced national policies and practices and laid the foundations for UNESCO's subsequent work in this field.

"An international conference, held in Washington DC, USA, in June 1999 to evaluate the effects of the 1989 Recommendation underscored its importance and impact and sought a terminology that would be more in phase with the challenges of the contemporary world, avoiding the term 'folklore' and emphasizing creative processes rather than end-products. Strongly emphasizing the need to give a greater role to the creators and practitioners of intangible cultural heritage, conference participants suggested that not only should 'artistic expressions like tales, songs, decorative designs, and traditional medicine' be taken into consideration, 'but also the knowledge and values that enable their production, the living-act that brings these products into existence, and the modes of interaction with which the products are appropriately received and appreciatively acknowledged'. The meeting explicitly referred to traditional knowledge, a concept that had been absent from the 1989 Recommendation.

Although it is difficult to precisely define traditional and indigenous knowledge because of the diversity of worldviews and know-hows that are included within the concept, Nakashima (2010: 1) describes it thus: "...traditional or indigenous knowledge [systems], are the intangible heritage of numerous societies around the globe. They comprise the understandings, skills and philosophies that span the interface between ecological and social systems, and intertwine nature and culture."

IV. B. Traditional and Indigenous Knowledge in UNESCO's Instruments

Following on from the increasing recognition of traditional and indigenous knowledge in the 1990s, the 2001 Declaration and the 2003 and 2005 Conventions make explicit statements on the ways in which traditional and indigenous knowledge links to the domain of culture:

"Point 14 of the [Universal Declaration of Cultural Diversity's] Action Plan includes an explicit reference to traditional and indigenous knowledge: 'Respecting and protecting traditional knowledge, in particular that of indigenous peoples; recognizing the ... contribution of traditional knowledge, particularly with regard to environmental protection and the management of natural resources, and fostering synergies between modern science and local knowledge.' ..." (Nakashima 2010: 8)

“Article 2.2 [of the 2003 Convention for the Safeguarding of Intangible Cultural Heritage] mentions a number of domains in which intangible cultural heritage is manifested, including in addition to traditional craftsmanship the domains of “Oral traditions and expressions”, which cover a large variety of forms that transmit knowledge, values and collective memory and play an essential role in cultural vitality, as well as “knowledge and practices concerning nature and the universe”, including knowledge, know-how, skills, practices and representations that are:

- developed and perpetuated by communities in interaction with their natural environment;
- expressed through language, oral traditions, attachment to a place, memories, spirituality, and worldview, and
- displayed in a broad complex of values and beliefs, ceremonies, healing practices, social practices or institutions, and social organization.

“This domain encompasses areas such as traditional ecological wisdom, indigenous knowledge, ethnobiology, ethnobotany, ethnozoology, traditional healing systems and pharmacopoeia, esoteric sciences, cosmologies and cosmogonies—that is, the panoply of forms and expressions of traditional knowledge—as well as social practices such as rituals, food, initiatory rites, divination, shamanism, social organization, festivals, and visual arts among others.

“The 2003 Convention provides a programmatic framework for the development of policies and activities, and is expected to contribute to interdisciplinary debates concerning traditional knowledge in the coming years. While its potential utility as a tool to safeguard traditional knowledge remains to be tested through its national and international implementation, it may be anticipated that communities, NGOs and government agencies will increasingly turn to the provisions of the text to support their own safeguarding efforts.

“The 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions entered into force in March 2007. Recognizing “the importance of traditional knowledge as a source of intangible and material wealth, and in particular the knowledge systems of indigenous peoples, and its positive contribution to sustainable development, as well as the need for its adequate protection and promotion”, it encourages States Parties to create the conditions that will allow cultural goods and services to be created and disseminated in a fair environment.

These normative instruments are guiding UNESCO's work on traditional knowledge in the field of culture and constitute the bedrock on which the efforts of the international community to foster cultural diversity are based." (Nakashima 2010: 9-10)

IV.C. UNESCO's Traditional and Indigenous Knowledge Programmes and Activities

The Local and Indigenous Knowledge Systems (LINKS) programme is a UNESCO interdisciplinary initiative that works:³⁵

- to secure an active and equitable role for local communities in resource management;
- to strengthen knowledge transmission across and within generations;
- to explore pathways to balance community-based knowledge with global knowledge in formal and non-formal education;
- to support the meaningful inclusion of local and indigenous knowledge in biodiversity conservation and management, and climate change assessment and adaptation, in particular through work with the Convention on Biological Diversity (CBD), the UN Framework Convention on Climate Change (UNFCCC), the Intergovernmental Panel on Climate Change (IPCC) and the Intergovernmental Platform on Biodiversity and Ecosystem Services (IPBES).

The LINKS programme's projects, based as they are on a holistic and procesual approach to promoting traditional and indigenous knowledge, also promote and safeguard indigenous languages and culture. For instance, the Mayangna project mentioned above is currently working to insert Mayangna knowledge of fishes and turtles into the formal education curriculum through materials and lesson plans based on Mayangna knowledge. Not only are the materials in the Mayangna language, but the lesson plans include myths and stories, techniques and community activities that serves as vehicles for culture, language, technical know-how, world views and social relationships. In fact, through its promotion of the holistic nature of many local and indigenous cultures, traditional and indigenous knowledge-based development has the potential to break down many of the conceptual divides upon which development theory has been based, which in turn would have wide-ranging ramifications for the well-being and empowerment of indigenous peoples. As Nakashima (2010: 28-29) argues:

³⁵ LINKS website: <http://www.unesco.org/links>

“Recognition of indigenous knowledge calls into question many basic assumptions about development, biodiversity conservation, heritage protection and education for all. It offers a different perspective on the much criticized but persistent divide that accompanies the notion of development, whereby some are ‘developed’ and others are not. If the latter are now understood to possess their own sophisticated sets of traditional knowledge, accompanied by practices that may be more sustainable than those of industrialized societies, then we may need to re-think these notions. Similarly, the relationship of State resource managers to local communities may also be perturbed. Rather than mere resource users whose practices must be managed, local people might now be recognised as knowledge holders in their own right with their own ecological understandings, conservation practices and visions of how resource management goals should be defined and attained.”

IV. Conclusion

The topic of the role of languages and culture in the promotion and protection of the rights and identity of indigenous peoples is very broad and falls squarely within UNESCO’s core areas of expertise. The objective of this report is to offer guidance to the most relevant of UNESCO’s studies, policy positions, normative instruments and programmes. Key passages that may be of interest or use to the Expert Mechanism or indigenous peoples in their reflection upon the issue have been excerpted. However, a list of key references are also compiled with a view to offering more in-depth information of the role of culture, cultural diversity, languages and linguistic diversity in promoting human rights and identity. The documents also offer strategies and guidelines for revitalising and promoting endangered or threatened culture and language.

V. A Selected Bibliography of UNESCO resources of relevance

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V.D. Traditional and Indigenous Knowledge

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