



USAID
FROM THE AMERICAN PEOPLE



PHOTO CREDIT: MR. CHHENG SAMBO, USAID GREENING PREY LANG, TETRA TECH

INDIGENOUS PEOPLES REGIONAL PROFILE: ASIA AND THE PACIFIC ISLANDS

OCTOBER 2021

This document was produced by Tetra Tech under the Integrated Land and Resource Governance Task Order (ILRG; 7200AA18D00003/7200AA18F00015) for the United States Agency for International Development (USAID).

CONTENTS

CONTENTS i

INTRODUCTION 1

REGIONAL DIVERSITY AND COMPLEXITY OF INDIGENEITY AND INDIGENOUS PEOPLES IN ASIA AND THE PACIFIC ISLANDS..... 2

HISTORICAL AND CULTURAL CONCEPTS..... 4

NAVIGATING INTERNATIONAL, REGIONAL, AND DOMESTIC LEGAL FRAMEWORKS AND GOVERNANCE BODIES AND INSTITUTIONS 5

CASE STUDIES 14

CONSIDERATIONS FOR USAID..... 20

CONCLUSION..... 21

ANNEX: COUNTRY STATUS FOR INTERNATIONAL AND REGIONAL FRAMEWORKS22

INTRODUCTION

In March of 2020, the United States Agency for International Development (USAID) approved its first [Policy on Promoting the Rights of Indigenous Peoples \(PRO-IP\)](#). The overarching goal of this Policy is to improve the measurable impact and sustainability of USAID's programs by ensuring that USAID staff and implementing partners engage Indigenous Peoples as meaningful partners in development processes, safeguard against harm, and enhance their ability to promote their rights, determine their own priorities, and advance their self-reliance.

The PRO-IP establishes four objectives for USAID's engagement with Indigenous Peoples:

1. Strengthen engagement with Indigenous Peoples to safeguard against harm and support their development priorities and self-reliance;
2. Increase the integration of Indigenous Peoples' concerns across all sectors of USAID's portfolio of investments and promote cross-sectoral development approaches;
3. Empower Indigenous Peoples and their representative organizations to advocate for, and exercise, their rights and practice self-determined development; and
4. Foster an enabling environment for Indigenous Peoples to advocate for, and exercise, their rights.

The PRO-IP also provides five operating principles for USAID:

1. Identify Indigenous Peoples;
2. Analyze Indigenous Peoples' Opportunities and Challenges;
3. Engage Indigenous Peoples;
4. Safeguard Indigenous Peoples' Rights and Well-Being; and
5. Establish Partnerships with Indigenous Peoples.

The PRO-IP establishes how USAID will work with Indigenous Peoples; it does not supersede or redirect USAID efforts to work with other stakeholder populations.

In addition, USAID designed eight sector-specific guidelines to serve as a practical tool for USAID missions and operating units to more effectively engage and partner with Indigenous Peoples. The guidelines complement the PRO-IP and are intended to be integrated with other USAID planning and programming tools. The sector-specific guidelines include:

1. [Indigenous Peoples' Agriculture and Food Security Guidance](#);
2. [Indigenous Peoples' Biodiversity Guidance](#);
3. [Indigenous Peoples' Education Guidance](#);
4. [Indigenous Peoples' Energy and Infrastructure Guidance](#);
5. [Indigenous Peoples' Sustainable Landscapes Guidance](#)
6. [Indigenous Peoples' Democracy Rights and Governance Guidance](#);
7. [Indigenous Peoples' Global Health Guidance](#); and
8. [Indigenous Peoples' Livelihoods Guidance](#).

The objective of this region-specific profile is to provide a resource map of current practical understanding of the different laws and issues relevant to engaging Indigenous Peoples in Asia and the Pacific Islands. This document is intended to help USAID staff mitigate the risks of adverse social impacts and improve the impact of development programming.

This region-specific profile calls attention to key concepts, standards, and issues relevant to engaging with Indigenous Peoples in the region with a focus on legal context. This profile covers Asia and the

Pacific Islands. Asia is treated according to sub-regions: South Asia, East Asia, Southeast Asia, and the Pacific Islands. The profile does not examine Central Asia as there are scant resources on Indigenous Peoples in the sub-region.¹

The profile is organized around a discussion on the regional diversity and complexities around the terminology of “Indigenous Peoples” and indigeneity. It covers international, regional, and domestic legal frameworks and governance bodies and institutions. This profile also includes case studies as illustrative examples and provides considerations for USAID, recommendations, and a conclusion. The profile does not intend to provide statements of country obligations or requirements, or interpretations of the law.

REGIONAL DIVERSITY AND COMPLEXITY OF INDIGENEITY AND INDIGENOUS PEOPLES IN ASIA AND THE PACIFIC ISLANDS

Asia and the Pacific Islands hold the greatest number of Indigenous Peoples: 260 million out of 370 million worldwide (70 percent).² Distribution varies across the sub-regions. According to the United Nations’ (UN) State of the World’s Indigenous Peoples (2016) report the majority of Indigenous Peoples, more than 200 million, reside in South and East Asia.³

While there is no universal or regional definition for “Indigenous Peoples” (see text box below for more information), the PRO-IP provides a set of criteria for USAID to identify Indigenous Peoples (see box below). Across Asia, there is diverse terminology,⁴ including references to “‘tribal peoples,’ ‘hill tribes,’ ‘scheduled tribes,’ ‘janajati,’ ‘orang asli,’ ‘masyarakat adat,’ ‘ethnic minorities,’ or ‘ethnic nationalities’”⁵; “‘tribal people[s],’ ‘aboriginal people and traditional people,’ ‘scheduled tribes,’ and ‘Adivasi.’”⁶ Pacific Islands terms include Indigenous Peoples, customary [land] owners, traditional villages, and tribes.

USAID PRO-IP CRITERIA FOR IDENTIFYING INDIGENOUS PEOPLES

Per the PRO-IP, “in the absence of a single definition for ‘Indigenous Peoples’ under international law, international donors, multilateral development banks, the UN, and private corporations have collaborated for decades to develop guidelines for the identification of Indigenous Peoples to help ensure the adequate respect of their rights. Accordingly, USAID uses a set of criteria to identify Indigenous Peoples, rather than a fixed definition, developed in consultation with the communities themselves, the Agency’s Senior Advisor for

¹ UN Permanent Forum on Indigenous Issues (UNPFII). (2016). *State of the World’s Indigenous Peoples: Indigenous Peoples’ Access to Health Services*, Vol. 3, p. 36, available at: <https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/03/The-State-of-The-Worlds-Indigenous-Peoples-WEB.pdf> (notes that information on Indigenous Peoples in Central Asia “is so scarce it is very difficult to draw even a rough profile of the population”).

² UN Food and Agricultural Organization (FAO). (2018). *Indigenous Peoples in the Asia-Pacific Region*, available at: <http://www.fao.org/3/CA2045EN/ca2045en.pdf>; International Labour Organization (ILO). (n.d.a). *Indigenous and tribal Peoples*. Available at: https://www.ilo.org/asia/areas/WCMS_100364/lang--en/index.htm

³ UNPFII (2016).

⁴ UN Human Rights Council (UNHRC). (2013). *Report of the Special Rapporteur on the Rights of Indigenous Peoples, Addendum: Consultation on the situation of Indigenous Peoples in Asia, A/HRC/24/41/Add.3*, available at: <https://www.refworld.org/docid/522db7fa4.html>

⁵ UNPFII. (2019). *State of the world’s Indigenous Peoples: Implementing the United Nations Declaration on the Rights of Indigenous Peoples*, Vol. 4, p. 6 (internal citation omitted). Available at: <https://social.un.org/unpfii/sowip-vol4-web.pdf>

⁶ FAO (2018), UNHRC (2013).

Indigenous Peoples' Issues, and other experts on Indigenous Peoples' rights." The criteria below are used by USAID to identify Indigenous Peoples⁷:

- self-identification as a distinct social and cultural group;
- recognition of this identity by others;
- historical continuity with pre-colonial and/or pre-settler societies;
- collective attachment to territories and their natural resources;
- customary social, economic, or governance institutions that are distinct;
- distinct language or dialect; and/or
- resolve to maintain and reproduce their ancestral environments and systems as distinctive peoples and communities.

Where any combination of several of these characteristics applies, USAID should presume the presence of Indigenous Peoples. Where information is inconsistent or uncertain, Operating Units must consult with the USAID Senior Advisor for Indigenous Peoples' Issues for guidance and a determination as to whether further evidence, examination, or analysis is required.

Indigenous Peoples in Asia and the Pacific Islands face significant development challenges. A 2016 World Bank report found that in all studied countries, including countries in Asia, Indigenous Peoples are poorer than the rest of the population (in terms of numbers, severity of poverty, and the speed at which poverty rates decline).⁸ An International Labour Organization (ILO) report on Asia and the Pacific Islands highlighted strong links between being Indigenous, extremely poor, and worse living conditions; having limited access to healthcare, education, and other services; restricted access to land, capital, and labor; less remuneration for their work; weaker political representation; and insecurity.⁹ According to a 2018 UN Food and Agricultural Organization (FAO) report, Indigenous Peoples are among the most marginalized groups in the Asia-Pacific region and do not enjoy many basic human rights, including with respect to their land and natural resources.¹⁰

There is also diversity within Indigenous Peoples and intersecting identities that may compound development challenges and discrimination. Critical relevant factors include but are not limited to gender, age, religion, ethnicity and race, political affiliation, sexual orientation, location, language, education, and disability.¹¹ Women are roughly half the Indigenous population.¹² In the region, Indigenous women face more disadvantages than Indigenous men, encountering "triple discrimination"

⁷ USAID. (2020). *Policy on promoting the rights of Indigenous People (PRO-IP)*. Available at <https://www.usaid.gov/sites/default/files/documents/1866/USAID-IndigenousPeoples-Policy-mar-2020.pdf>

⁸ Hall, G., & Gandolfo, A. (2016). *Poverty and exclusion among Indigenous Peoples: The global evidence*. World Bank Blogs, available at: <http://blogs.worldbank.org/voices/poverty-and-exclusion-among-indigenous-peoples-global-evidence>.

⁹ Dhir, R. K. (2015). *Indigenous Peoples in the world of work in Asia and the Pacific: A status report*. ILO (internal citation omitted). Available at: https://www.ilo.org/wcmsp5/groups/public/---dgreports/---gender/documents/publication/wcms_438853.pdf

¹⁰ FAO (2018); Errico, S. (2017). *The rights of Indigenous Peoples in Asia: Human rights-based overview of national legal and policy frameworks against the backdrop of country strategies for development and poverty*. Geneva: ILO, available at: https://www.ilo.org/wcmsp5/groups/public/---dgreports/---gender/documents/publication/wcms_545487.pdf

¹¹ See, e.g., Asia-Pacific Forum on Women, Law, and Development (2001). *Intersectionality of race and gender in the Asia-Pacific*. Asia-Pacific NGO Position Paper prepared for the 45th Session of the UN Commission on Status of Women, New York. Available at: <https://www.hurights.or.jp/wcar/E/doc/gender/CSWpositionpaper.htm>

¹² Asia Indigenous Peoples Pact (AIPP). (n.d.). *Indigenous women of Asia and access to justice submission to the UN Human Rights UN Expert mechanism on the rights of Indigenous Peoples*. Available at: <https://www.ohchr.org/Documents/Issues/IPeoples/EMRIP/FollowupStudyAccessToJustice/AsiaIndigenousPeoplesPact.pdf>

based on gender, ethnicity, and socio-economic conditions.¹³ Indigenous women in Asia struggle with equal participation in engaging state institutions, accessing land and natural resources, and combating violence against women.¹⁴ Across Asia and the Pacific Islands, there are substantial rural populations, and most Indigenous Peoples live in rural areas.¹⁵ Asia contains 750 million young women and men (age 15-24),¹⁶ with various countries experiencing a youth bulge.¹⁷ Elderly populations in Asia and the Pacific Islands are also escalating¹⁸ and 700 million people live with disabilities.¹⁹ Finally, Asia has the most religious diversity in the world.²⁰

HISTORICAL AND CULTURAL CONCEPTS

Asia and the Pacific Islands exhibit great diversity and complexity, including with respect to history, culture, and the acceptance, rejection, or use of the concept of Indigenous Peoples and indigeneity.²¹ As background, historical definitions of indigeneity emerged from European colonial settler experiences in the Americas, the Arctic, Russia, and parts of the Pacific where colonial powers displaced Indigenous Peoples. These early definitions do not fit well in places like Asia where European colonial powers and their descendants did not displace and replace entire populations.²² Rather, in Asia, the bulk of the population “may be considered, in a literal sense, indigenous to the region.” However, there are specific groups who are distinct from the wider populations in Asian countries that are in the UN’s scope for Indigenous Peoples, according to a former UN Special Rapporteur on the rights of Indigenous Peoples.²³

In Asia, there was discussion and reflection on the concept of indigeneity leading up to and around the adoption of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Many Asian governments expressed reservation during UNDRIP’s adoption about nationally applying the concept of

¹³ FAO (2018).

¹⁴ Errico (2017), at 60.

¹⁵ Index Mundi, Rural Population (% of total population) – Asia (internal citation omitted), available at: <https://www.indexmundi.com/facts/indicators/SP.RUR.TOTL.ZS/map/asia>; ILO (n.d.a); Asian Development Bank (ADB). (2016). *The emergence of Pacific urban villages*. Mandaluyong City, Philippines: ADB, p. 11. Available at: <http://habitat3.org/wp-content/uploads/The-Emergence-of-Pacific-Urban-Villages-Urbanization-Trends-in-the-Pacific-Islands.pdf> (in the Pacific, an estimated an estimated 77% of the population is rural, according to data from August 2015).

¹⁶ UN Economic and Social Commission for Asia and the Pacific (ESCAP). (2016). *Youth in Asia-Pacific*. Available at: <https://www.unescap.org/sites/default/files/Youth%20factsheet%202016.pdf>

¹⁷ Harrison, S. & Norris, D. (2019). *Guidebook for doing business in the Asia Pacific: A resource for Indigenous business*. Asia Pacific Foundation of Canada. Available at: <https://www.asiapacific.ca/publication/guidebook-doing-business-asia-pacific-resource-indigenous>

¹⁸ UN Population Fund (UNFPA) Asia & Pacific. (n.d.). *Ageing*. Available at: <https://asiapacific.unfpa.org/en/node/15208>

¹⁹ ESCAP. (2017). *Disability in Asia and the Pacific: The facts*. Available at: https://www.unescap.org/sites/default/files/Disability_The_Facts_2.pdf

²⁰ Keck, Z. (2014, April 9). Asia leads world in religious diversity. *The Diplomat*. Available at: <https://thediplomat.com/2014/04/asia-leads-world-in-religious-diversity/>

²¹ See Merlan, F. (2009). Indigeneity: Global and local. *Current Anthropology*, 50(3). Available at: <https://www.jstor.org/stable/10.1086/597667?seq=1>

²² UNPFII (2016).

²³ UNHRC (2013).

Indigenous Peoples; such positions continue to be voiced in other UN and international forums.²⁴ Indigenous representatives and organizations in Asia have also reflected on the concept of indigeneity and how it applies to Asia. Through collective reflection, they have identified common (historical, cultural, and social) experiences and distinct cultures and community institutions deeply linked to their histories and territories, that are different from those groups who live in the same territories and that rule over them.²⁵ Indigenous Peoples have a shared experience of marginalization, particularly following nation state formation, and subjection to assimilationist policies and insecurity of customary land tenure.

The Pacific Islands present another diverse context with complexities on indigeneity. This area “has one of the highest proportions of Indigenous Peoples within national populations in any region of the world,” according to United Nations Educational, Scientific and Cultural Organization.²⁶ One conceptual challenge for the region is the standard characterization of Indigenous Peoples as minorities in a context where Indigenous Peoples are the majority. For example, in a 2016 Pacific Islands regional meeting on UNDRIP, a state representative noted that participants learned that UNDRIP was applicable to the Pacific Islands; this contradicted a long-standing assumption that UNDRIP applied only where Indigenous Peoples are in the minority.²⁷

A final complexity stems from the diversity within groups of Indigenous Peoples in Asia and the Pacific Islands. As groups are not homogenous but have various intersecting identities (mentioned above), there is a need to promote inclusivity within the concept of indigeneity. For example, a 2017 ILO report recommends attention on Indigenous women and their empowerment in efforts to support Indigenous Peoples’ rights and development in Asia.²⁸ This exists alongside a “reluctance to address the gender dimensions of Indigenous Peoples’ issues,” stemming from a desire not to interfere with Indigenous culture or to impose Western values.²⁹

NAVIGATING INTERNATIONAL, REGIONAL, AND DOMESTIC LEGAL FRAMEWORKS AND GOVERNANCE BODIES AND INSTITUTIONS

This section provides an overview of the myriad of institutions relevant to Indigenous Peoples in Asia and the Pacific Islands. This includes international and regional legal frameworks and related governing bodies. It also summarizes the universe of national laws and domestic governance bodies to highlight the

²⁴ Errico (2017).

²⁵ Ibid., 11-12; International Justice Center. (2017). *ILO finds Asian countries inconsistently protect Indigenous Peoples’ rights*. Available at: <https://ijrcenter.org/2017/03/06/ilo-finds-asian-countries-inconsistently-protect-indigenous-peoples-rights/>

²⁶ Smith, A., & Jones, K. (2007). *Cultural landscapes of the Pacific Islands*. International Council on Monuments and Sites. Available at: <https://www.icomos.org/studies/cultural-landscapes-pacific/cultural-landscapes-pacific.pdf>

²⁷ Jonas, H., et al. (2015). *Pacific Island delegates at international conference identify endorsement and implementation of UNDRIP as advocacy priority*. Global Forest Coalition. Available at: <https://globalforestcoalition.org/pacific-island-delegates-at-international-conference-identify-endorsement-and-implementation-of-undrip-as-advocacy-priority/>; Pacific Islands Association of Non-Governmental Organizations (PIANGO). (2016). *UNDRIP important for the Pacific*. Available at: <http://www.piango.org/our-news-events/undrip-important-pacific/>

²⁸ Errico (2017), at 60.

²⁹ Secretariat of the UNPFII & United Nations Office of the Special Adviser on Gender Issues and Advancement of Women and the Division for the Advancement of Women. (2010). *Gender and Indigenous Peoples: Overview, Briefing Note No. 1*. Available at: https://www.un.org/esa/socdev/unpfii/documents/BriefingNote1_GREY.pdf

diversity of domestic institutions. The information provides additional context to support USAID missions to seek out and understand relevant legal instruments and institutions.

GLOBAL LEGAL FRAMEWORKS

There are a series of international and regional legal frameworks related to the rights of Indigenous Peoples. Some of these legal frameworks are solely dedicated to or contain explicit provisions that address the rights of Indigenous Peoples, while others have been interpreted to include the rights of Indigenous Peoples. Several of these frameworks are relevant to Indigenous Peoples and states in Asia and Pacific Islands. Key international instruments are described below and relevant state action, particularly with respect to ratification are listed in the Annex. (For more information, including official United States Government positions on each instrument, see insert on “Global Declarations and Frameworks Related to Indigenous Peoples.”³⁰)

- **United Nations Declaration on the Rights of Indigenous Peoples**: UNDRIP is a non-binding legal framework and is considered the most comprehensive legal instrument on the rights of Indigenous Peoples. It includes minimum standards for maintaining their “survival, dignity, and well-being.” It also reframes human rights standards and fundamental freedoms to apply to Indigenous Peoples.
- **International Labor Organization Indigenous and Tribal Peoples Convention, 1989 (ILO Convention 169)**: ILO Convention 169 is a binding legal instrument that recognizes the fundamental human rights of Indigenous Peoples. This includes recognizing Indigenous Peoples’ right to control their own institutions and way of life, including their rights to economic development; governance; free, prior, and informed consent (FPIC); religion; language; etc.³¹
- **International Labor Organization Convention 107, 1957 (ILO Convention 107)**: ILO Convention 169 replaced Convention 107, which promoted the assimilation philosophy prevalent at the time. Therefore, countries are no longer able to ratify ILO Convention 107. However, ILO Convention 107 remains in effect for countries that have ratified it but have yet to ratify ILO Convention 169.³²
- **United Nations Convention on the Elimination of All Forms of Racial Discrimination (CERD)**: CERD is a binding legal instrument that seeks to eliminate racial discrimination and requires parties to guarantee political, economic, social, and cultural rights for all individuals regardless of race, color, or national or ethnic origin.
- **United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)**: CEDAW is a binding legal instrument that is considered the international bill of human rights for women and seeks to eliminate all forms of discrimination against women. CEDAW defines discrimination against women and requires parties to take certain actions to end discrimination, such as ensuring legal systems treat women and men equally, establishing institutions

EQUAL RECOGNITION OF THE HUMAN RIGHTS OF INDIGENOUS WOMEN AND MEN

Both UNDRIP and ILO Convention No. 169 explicitly recognize that all the human rights and fundamental freedoms enshrined in their texts are equally guaranteed to both Indigenous women and men without discrimination.

Pacific Island Forum. (n.d.). *EU assists Forum Countries with human rights*. Available at <https://www.forumsec.org/eu-assists-forum-countries-with-human-rights-2/>

³⁰ USAID. (2021). *Global declarations and frameworks related to Indigenous Peoples*. Available at: <https://www.usaid.gov/indigenous-peoples>

³¹ See generally ILO. (2008). *Research on best practices for the implementation of the principles of ILO Convention 169*. Available at: https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_118120.pdf

³² ILO. (n.d.b). *International labour standards regarding Indigenous and tribal peoples*. Available at: https://www.ilo.org/global/topics/indigenous-tribal/WCMS_502755/lang--en/index.htm

to protect women against discrimination, and eliminating discrimination against women by persons, organizations, or enterprises.³³

- **United Nations Convention on Biological Diversity (CBD):** CBD is a binding legal instrument that seeks to conserve biological diversity, sustain the use of biodiversity, and ensure equitable sharing of benefits. CBD recognizes that Indigenous Peoples are dependent on biological resources and that their knowledge, innovations, practices, and customs, embodying traditional lifestyles, are relevant to respecting, preserving, maintaining, and sustainably using biological diversity.³⁴

The overwhelming majority of countries voted for the [UNDRIP](#) (2007), the cornerstone declaration affirming the human rights of Indigenous Peoples (see Annex). From Asia and the Pacific Islands, only Bangladesh, Bhutan, and Samoa abstained from the vote, and the following ten Pacific Island countries were absent from the vote: Fiji, Kiribati, Marshall Islands, Nauru, Palau, Papua New Guinea, Solomon Islands, Tonga, Tuvalu, and Vanuatu.³⁵ Samoa and the Federated States of Micronesia subsequently endorsed UNDRIP, and Indigenous Peoples networks in the Pacific Islands pushed for all countries to endorse it through instruments such as the Nuku Alofa Declaration (2009).³⁶

Very few countries in Asia and the Pacific Islands have ratified the only binding international conventions on the rights of Indigenous and Tribal Peoples. Out of 23 countries that ratified the [ILO Indigenous and Tribal Peoples Convention No. 169](#) (1989), only two are in Asia and the Pacific Islands; Fiji ratified it in 1998, and Nepal ratified it in 2007.³⁷ Three countries ratified the predecessor convention, [ILO Indigenous and Tribal Populations Convention No. 107](#) (1957); India ratified it in 1958, Pakistan in 1960, and Bangladesh in 1972.³⁸

The [Convention on the Elimination of All Forms of Racial Discrimination](#) (1965) is another major international convention applicable to Indigenous Peoples. Many countries in Asia and the Pacific Islands have ratified CERD. However, Bhutan, Nauru, and Palau are only signatories, and the following countries took no action: Brunei, Cook Islands, Kiribati, Korea, Malaysia, Micronesia, Myanmar, Niue, Samoa, Tuvalu, and Vanuatu.³⁹

The [International Covenant on Civil and Political Rights](#) (ICCPR) (1966) and [International Covenant on Economic, Social and Cultural Rights](#) (ICESCR) (1966) are two other major human rights conventions applicable to Indigenous Peoples.⁴⁰ Many countries in the region ratified both. The following describes the status of the countries who have not ratified them. For ICCPR, China, Nauru, and Palau are

³³ UN Women. (n.d.). *Overview of the convention*. Available at: <https://www.un.org/womenwatch/daw/cedaw/>

³⁴ Convention on Biological Diversity Preamble, Articles 8, 17-18. Available at: <https://www.cbd.int/convention/text/>

³⁵ UN General Assembly. (2007). *General Assembly adopts Declaration on Rights of Indigenous Peoples*. Plenary, 107th & 108th Meetings, GA/10612. Available at: <https://www.un.org/press/en/2007/ga10612.doc.htm>

³⁶ Jonas (2015), PIANGO (2016).

³⁷ ILO. (n.d.c). *Ratifications of C169 - Indigenous and Tribal Peoples Convention, 1989 (No. 169)*. Available at: https://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:PI1300_INSTRUMENT_ID:312314

³⁸ ILO. (n.d.d). *Ratifications of C107 - Indigenous and Tribal Populations Convention, 1957 (No. 107)*. Available at: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO::PI1300_INSTRUMENT_ID:312252

³⁹ United Nations Human Rights Commission Office of the High Commissioner (OHCHR). (n.d.a). *Status of ratification interactive dashboard*. Available at: <https://indicators.ohchr.org/>

⁴⁰ See OHCHR. (n.d.b). *Leaflet No. 4.: Human rights treaty bodies and Indigenous Peoples*. Available at: <https://www.ohchr.org/Documents/Publications/GuideIPleaflet4en.pdf>

signatories, and Bhutan, Brunei Darussalam, Cook Islands, Kiribati, Malaysia, Micronesia, Myanmar, Niue, Singapore, Solomon Islands, Tonga, and Tuvalu have taken no action. For ICESCR, Palau is a signatory, and Bhutan, Brunei Darussalam, Cook Islands, Kiribati, Malaysia, Micronesia, Nauru, Niue, Samoa, Singapore, Tonga, Tuvalu, and Vanuatu have taken no action.⁴¹

“[S]mall Pacific island countries . . . have limited human capacity and financial resources to ratify and report on international norms and standards.”
—Ambassador Mbaye

Source: [Pacific Islands Forum Secretariat](#)

All countries in East Asia, South Asia, and Southeast Asia ratified the [Convention on the Elimination of All Forms of Discrimination Against Women](#), which applies to rural women and Indigenous women.⁴² Most Pacific Island countries ratified CEDAW; Palau signed in 2011, and Tonga and Niue have taken no action.⁴³ For Niue, CEDAW was extended via New Zealand in 1985.⁴⁴

The [Convention on the Rights of the Child](#) applies to Indigenous children and has specific provisions ensuring their rights. All countries in Asia and the Pacific Islands ratified the CRC.⁴⁵

All countries in Asia and the Pacific Islands ratified the [Convention on Biological Diversity](#)⁴⁶; 15 countries also ratified the Nagoya Protocol, and an additional six are signatories.⁴⁷

REGIONAL LEGAL AND POLICY FRAMEWORKS

There is no region-wide legal framework applying to Asia or the Pacific.⁴⁸ However, there are some sub-regional instruments. The [Association of Southeast Asian Nations \(ASEAN\) Charter](#) (2007) is a legally binding instrument among all ten member states in Southeast Asia. It establishes ASEAN's legal and institutional foundation. Conventions have been promulgated under ASEAN and a few are focused on human rights issues, such as the [ASEAN Human Rights Declaration](#) (2012). Additionally, 45 countries adopted the [Asian and Pacific Ministerial Declaration on Advancing Gender Equality and Women's Empowerment](#) (2019) that commits to realizing the rights of women, Indigenous women, and girls.⁴⁹ In

⁴¹ OHCHR (n.d.a).

⁴² CEDAW Committee. (2016). *General recommendation no. 34 on the rights of rural women*, UN Doc. CEDAW/C/GC/34. At paras. 14, 15, & 56. Available at: <https://digitallibrary.un.org/record/835897?ln=en>

⁴³ OHCHR (n.d.a).

⁴⁴ Crook, T., Farran, S., & Roëll, E. (2016). *Understanding gender inequality actions in the Pacific: Ethnographic case-studies & policy options*. European Union: Brussels Available at: <https://doi.org/10.2841/896616>

⁴⁵ Human Rights Watch. (2014). *25th anniversary of the Convention on the Rights of the Child*. Available at: <https://www.hrw.org/news/2014/11/17/25th-anniversary-convention-rights-child>

⁴⁶ Society for Conservation Biology. (n.d.). *The convention on biological diversity*. Available at: <https://conbio.org/policy/policy-priorities/treaties/cbd>

⁴⁷ UN Environment Programme World Conservation Monitoring Centre (UNEP-WCMC). (2016). *The state of biodiversity in Asia and the Pacific: A mid-term review of progress towards the Aichi biodiversity targets*. UNEP-WCMC: Cambridge. Available at: <https://www.cbd.int/gbo/gbo4/outlook-asiapacific-en.pdf>

⁴⁸ Asia Pacific Forum of National Human Rights Institutions (APFNHRI). (n.d.a). *Regional human rights mechanisms*. Available at: <https://www.asiapacificforum.net/support/international-regional-advocacy/regional-mechanisms/>

⁴⁹ ESCAP. (2019). *Asia-Pacific countries adopt declaration to advance gender equality and women's empowerment*. Available at <https://www.unescap.org/news/asia-pacific-countries-adopt-declaration-advance-gender-equality-and-women-s-empowerment> Note: To support ESCAP member states in implementing this Declaration, ESCAP has created an online gender resource facility called the [Asia-Pacific Gender Portal](#).

the Pacific Islands, the [Pacific Plan for Strengthening Regional Cooperation and Integration](#) (2005) is a living document endorsed by Pacific Island leaders to support regional integration and human rights.

INDIGENOUS PEOPLES AND MULTILATERALS/DEVELOPMENT FINANCE INSTITUTIONS (DFIS)

Multilaterals/DFIs operating in Asia and the Pacific Islands have their own guidance on engagement with Indigenous Peoples, and some are tailored to the region.⁵⁰ For example, the Asian Development Bank (ADB) adopted its [Policy on Indigenous Peoples](#) in 1998. The policy was updated in 2009, and integrated into the broader ADB policy statement that supersedes the prior policy.⁵¹ Safeguard Requirement 3 on Indigenous Peoples in the [ADB Safeguard Policy Statement](#) “outlines the requirements that borrowers/clients are required to meet in delivering Indigenous Peoples safeguards to projects supported by ADB.”

INTERNATIONAL AND REGIONAL GOVERNANCE BODIES AND INSTITUTIONS

There are several international governance bodies and institutions related to monitoring and protecting Indigenous Peoples’ rights, although the most notable is the UN Human Rights Council’s (UNHRC) **Universal Periodic Review (UPR)**. The UPR is the human rights review process for UN member states, including those from Asia and the Pacific Islands.⁵² The **UN Working Group on Indigenous Populations** also has a mandate to review developments related to the promotion of Indigenous Peoples’ human rights and freedoms. It is made up of experts and sub-commission members from across the world, including from the Asia region.⁵³ The **UN Economic and Social Commission of Asia and the Pacific (ESCAP)** is the UN’s regional development arm, comprising 58 Pacific Islands governments and the United States Government. It addresses human rights, Indigenous Peoples, and gender equality.⁵⁴ UN Women also has an Asia and the Pacific Islands Regional Office that engages on issues related to Indigenous women.⁵⁵

There is no region-wide intergovernmental system applicable to Asia and the Pacific Islands. However, in Southeast Asia, **ASEAN** is an intergovernmental body that is making advances toward establishing a sub-regional human rights system.⁵⁶ It established an **ASEAN Intergovernmental Commission on Human Rights (AICHR)** in 2009.⁵⁷ Additionally, the **Southeast Asia National Human Rights Institutions Forum (SEANF)** is a membership organization comprised of six independent national

⁵⁰ E.g., the World Bank’s [2018-2022 Country Partnership Framework with Vietnam](#) expanded economic participation to include ethnic minorities, women, and vulnerable groups (World Bank. [2021]. *Indigenous Peoples overview: Results*. Available at: <https://www.worldbank.org/en/topic/indigenouspeoples#3>). DBS is the first bank in Southeast Asia to adopt the Equator Principles (DBS. [2019]. *DBS to adopt Equator Principles*. Available at: https://www.dbs.com/newsroom/DBS_to_adapt_the_Equator_Principles).

⁵¹ ADB. (2009). *Land and cultural survival: The communal land rights of Indigenous Peoples in Asia*. Mandaluyong City: Philippines: ADB. Available at: <https://www.adb.org/sites/default/files/publication/27980/land-cultural-survival.pdf>; ADB. (2020). *Policy on Indigenous Peoples*. Available at: <https://www.adb.org/documents/policy-indigenous-peoples>

⁵² UNHRC. (n.d.). *Universal periodic review*. Available at: <https://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx>

⁵³ OHCHR, Mandate of the Working Group on Indigenous Populations, available at: <https://www.ohchr.org/en/issues/ipeoples/srindigenouspeoples/pages/sripeoplesindex.aspx> One of its current members is from Japan.

⁵⁴ See, e.g., UN-Business Action Hub, ESCAP, <https://www.unescap.org/>; ESCAP. (n.d.). *ESCAP member states and associate members*. Available at <https://www.unescap.org/about/member-states>

⁵⁵ UN Women. (n.d.). *Asia and the Pacific*. Available at <https://asiapacific.unwomen.org/en>

⁵⁶ APFNHRI (n.d.a); Association of Southeast Asian Nations (ASEAN). (n.d.). *About ASEAN*. Available at: <https://asean.org/about-us/>

⁵⁷ OHCHR. (2020). OHCHR Collaboration with AICHR. Available at: <https://bangkok.ohchr.org/support-to-asean-aichr/>

human rights institutions from Indonesia, Malaysia, Philippines, Thailand, Myanmar, and Timor-Leste.⁵⁸ There is also a geographically broader coalition of national human rights institutions called the **Asia Pacific Forum of National Human Rights Institutions**.⁵⁹

In the Pacific Islands, the **Pacific Island Forum** is a regional organization comprised of 18 members, which fosters regional cooperation and values the protection and promotion of human rights and gender equality.⁶⁰ Pacific Island governments are exploring ways to develop human rights bodies appropriate to their needs and circumstances.⁶¹ The Oceania Human Rights Commission and Court Project is an initiative to create a regional human rights mechanism for Pacific Island peoples.⁶²

DOMESTIC LEGAL FRAMEWORKS

In addition to international and regional legal frameworks, domestic legal frameworks govern the rights of Indigenous Peoples' and local communities. They include constitutional provisions, legislation, and case law, and are a part of the regional diversity and complexity on indigeneity. The legal content shared in this section and the next (case studies) should not be used to determine Indigenous Peoples' rights, but instead to appreciate domestic legal frameworks that can serve as vehicles for determining how to engage communities. This section is not intended as an affirmation or rejection of any domestic legal framework, but to provide a snapshot of their existence.

Across Asia and the Pacific Islands, there is diversity in the legal recognition afforded to Indigenous Peoples and local communities under domestic law. In Asia, some governments recognize Indigenous Peoples in constitutions and special laws (e.g., [India's Constitution](#) references "Scheduled Tribes," [Malaysia's Constitution](#) recognizes the "natives" of the states of Sabah and Sarawak, the [Philippines' Indigenous Peoples Rights Act](#) recognizes "Indigenous Cultural Communities/Indigenous Peoples," and [Nepal's National Foundation for Upliftment of Adibasi/Janajati Act](#) acknowledges Indigenous nationalities). Other governments legally recognize ethnic minorities and distinguish among them legally (e.g., Vietnam and Laos). Other governments do not explicitly acknowledge different collectivities but provide a distinct legal status (e.g., Indonesia's recognition of customary law [adat] communities includes a majority who self-identify as Indigenous Peoples). Courts in some countries legally recognize Indigenous Peoples (e.g., Japan's courts affirmed the rights of the Ainu on the basis of international standards of Indigenous rights before statutory recognition, such as in the Sapporo District [Nibutani Dam Case](#)).⁶³ In the Pacific Islands, traditional authority, custom, and customary tenure of Indigenous Peoples "are frequently installed as hallmarks of national identity, in their independent constitutions and

⁵⁸ Commission of Human Rights, Republic of the Philippines. (n.d.). *SEANF*. Available at: <http://chr.gov.ph/seanf/>

⁵⁹ APFNHRI. (n.d.b). About the Asia Pacific Forum, available at <https://www.asiapacificforum.net/about/>

⁶⁰ Pacific Island Forum Secretariat, (n.d.), The Pacific Island Forum, available at: <https://www.forumsec.org/who-we-arepacific-islands-forum/> Member states include the following: Australia, Cook Islands, Federated States of Micronesia, Fiji, French Polynesia, Kiribati, Nauru, New Caledonia, New Zealand, Niue, Palau, Papua New Guinea, Republic of Marshall Islands, Samoa, Solomon Islands, Tonga, Tuvalu, and Vanuatu.

⁶¹ APFNHRI (n.d.a).

⁶² Oceania Human Rights. (2017). *Oceania human rights commission & court project*. UN Oceania Conference. Available at: <https://oceanconference.un.org/commitments/?id=21705>

⁶³ UNHRC. (2007). *Report of the special rapporteur on the situation of human rights and fundamental freedoms of Indigenous People, Rodolfo Stavenhagen: Addendum: General considerations on the situation of human rights and fundamental freedoms of indigenous peoples in Asia*. Available at <https://www.refworld.org/docid/474c19fc2.html>

other laws”⁶⁴ (e.g., [Papua New Guinea’s Constitution](#) recognizes “traditional villages and communities” and “customary owners”).

A recommended starting point for understanding a country’s legal framework is its constitution. In Asia and the Pacific Islands, various constitutional provisions are relevant to Indigenous Peoples, including fundamental rights and freedoms applying to all citizens (such as equal protection and non-discrimination guarantees) that may have particular applications with respect to Indigenous Peoples.⁶⁵ The following are other potentially relevant types of constitutional provisions:

- Recognition of custom or traditions as a source of law;⁶⁶
- Reference to international treaties (e.g., ILO Convention No.169 and CEDAW), including the status relative to national legislation;⁶⁷
- Recognition of Indigenous Peoples;⁶⁸ or
- Recognition of a range of rights specific to Indigenous Peoples such as rights to land, territories, and natural resources; voting and political representation; or language, culture, health, and education.⁶⁹

Some constitutions will include limitations to these rights. For example, the government may reserve the right to explore or use natural resources, such as minerals and water.⁷⁰

In addition to the constitution, a review of relevant national legislation should also be carried out. There is a wide range of laws that may detail Indigenous Peoples’ rights. This includes but is not limited to laws related to group recognition; political representation and voting; land, territories, and natural resources; compulsory acquisition; FPIC; health; education; language; women’s rights; and children’s rights.⁷¹ Similar to constitutional provisions, legislation may also implement and domesticate international legal frameworks.⁷² Legislation tends to provide more detail and guidance on Indigenous rights than constitutional provisions or international treaties, although any legislation should be interpreted in tandem with relevant constitutional provisions, applicable international treaties, and legally recognized

⁶⁴ Fingleton, J. S. (1998). *Legal recognition of Indigenous groups*. FAO Legal Papers Online, p. 5. Available at: <http://www.fao.org/3/bb034e/bb034e.pdf>

⁶⁵ See, e.g., [Constitution of India](#) (as of 2019) (Art. 15, right to equality before the law; Art. 16, prohibition of discrimination on the grounds of race, caste, religion, sex, etc.); [Constitution of Fiji](#) (2013) (Art. 26, prohibition against unfair discrimination on the grounds of race, culture, ethnic origin, religion, gender, sexual orientation, etc.).

⁶⁶ See, e.g., [Constitution of Vanuatu](#) (1980, amd. 2013), Art. 74 (prescribes that customary rules form the basis land ownership and use) and Art. 95 (recognizes that customary law continues to be a part of the laws of the Republic of Vanuatu); [Constitution of Papua New Guinea](#) (1975, amd. up to 2006), Schedule 2.1.1. (recognizes that custom is applied and enforced as law so long as it is not inconsistent with the Constitution, statutes, or general principles of humanity).

⁶⁷ See, e.g., [Constitution of the Philippines](#) (1987, amd. 2014), Section 18 & 21; [Constitution of Papua New Guinea](#) (1975, amd. up to 2006), Article 117.

⁶⁸ See, e.g., [Constitution of Nepal](#) (2015), Art. 51(j) (recognizes the rights of Adivasi Janajatis, the indigenous ethnic groups).

⁶⁹ See, e.g., [Constitution of Fiji](#) (2013), Art. 28 (recognizes land rights of customary owners); [Constitution of Vanuatu](#) (1980, amd. 2013), Art. 73 (recognizes land ownership of indigenous custom owner and their descendants) and Art. 29 (recognizes the council of chiefs); and [Constitution of Nepal](#) (2015), Art. 51(j) (stipulates a policy of preserving Adivasi Janajatis culture and traditional knowledge).

⁷⁰ See, e.g., [Constitution of the Philippines](#) (1987, amd. 2014), Art. 12(§2).

⁷¹ See, e.g., the Philippines’s [Indigenous Peoples’ Rights Act \(IPRA\)](#) (1997) (recognizes indigenous cultural communities/IPs’ right to self-governance, traditionally occupied land and territories, health, education, and equal rights for Indigenous women).

⁷² See, e.g., Indonesia’s [Law No. 39 of 1999 concerning Human Rights](#) (implementing Universal Declaration of Human Rights).

customs. Subsidiary legislation and local-level legislation will also provide additional detail and guidance, including with respect to particular groups or localities.⁷³

Relevant case law may also provide guidance on Indigenous Peoples' rights regarding the meaning and implementation of international treaties, constitutional provisions, and legislation.⁷⁴ Case law may be particularly helpful for resolving any potential conflicts between and within national laws. For example, the case of Vanuatu's *Noel v. Toto* (1994) reconciles internal tensions between constitutional guarantees of gender equality and recognition of fundamental human rights, and customs that discriminate against women's land rights. For many Pacific Islands countries, it has served as "a seminal case . . . in interpreting their constitutions so as to balance customary laws against competing individual human rights."⁷⁵

DOMESTIC GOVERNANCE BODIES AND INSTITUTIONS

In Asia and the Pacific Islands, there are a range of domestic governance bodies and institutions relevant to Indigenous Peoples. They exist at the national, regional, and local level, and are governed by the state, Indigenous Peoples themselves, or a hybrid of the two.

IMPORTANCE OF ENGAGING INDIGENOUS PEOPLES' GOVERNANCE INSTITUTIONS

Indigenous governance systems vary considerably by country and group because they are based on traditional and customary systems and rules created to meet the particular needs in the unique context of each group of Indigenous Peoples. Although traditional and customary systems and rules prove more effective at recognizing and protecting the rights of Indigenous Peoples than external actors like the state, Indigenous Peoples, including those in Asia and Pacific Islands, may face self-governing issues due to a lack of resources, capacity, and support from the state.⁷⁶ For example, countries across Asia and Pacific Islands vary in terms of whether their national legal frameworks recognize, protect, and regulate Indigenous Peoples' right to self-governance. It should also be noted that while traditional and customary systems and rules may better protect the rights of Indigenous Peoples groups generally, disparity and discrimination within these systems (particularly related to gender) can disadvantage certain sub-groups. For example, there is a trend toward increasing socio-economic disparity between Indigenous women and men, and Indigenous women face violence within their own communities in addition to the violence Indigenous Peoples experience from the broader society.⁷⁷

State bodies and institutions can govern a range of substantive issues that affect Indigenous Peoples' rights, from health and education to land demarcation and titling.⁷⁸

⁷³ Aliansi Masyarakat Adat Nusantara (AMAN) & AIPP. (2017). *Joint stakeholders' submission on the situation of human rights of Indigenous Peoples in Indonesia*. Available at: <https://www.forestpeoples.org/sites/fpp/files/publication/2016/09/indonesiaamanaippupr3rdcyclefinal.pdf> (Indonesian local governments are adopting legislation to recognize and protect Indigenous Peoples rights.)

⁷⁴ See, e.g., FAO. (n.d.a). *Indigenous Peoples – Indonesia*. Available at: <http://www.fao.org/indigenous-peoples/country/IDN/en/?iso3=IDN> (Indonesia's Supreme Court ruled in favor of Indigenous Peoples rights to traditional lands located in forest areas.)

⁷⁵ Vanuatu's *Noel v. Toto* (1994), cited in McMurdo, M., & Gardner, J. (2011). Traditional Pacific land rights and international law: Tensions and evolution. *The Asia Pacific Law & Policy Journal*, 12(1), p. 136. Available at: http://blog.hawaii.edu/aplpj/files/2011/11/APLPJ_12.1_mcmurdogardner.pdf.

⁷⁶ United Nations. (2018). *Respect for traditional self-governance, informed consent in decisions critical to upholding Indigenous Peoples' rights, mandate holder tells third committee*. Available at: <https://www.un.org/press/en/2018/gashc4234.doc.htm>

⁷⁷ Secretariat of the UNPFII et al. (2010).

⁷⁸ See, e.g., the Philippines' National Commission on Indigenous Peoples, which issues ancestral land titles; implements health, education, and language programming; and manages socio-economic services and programming (as stipulated in the [Indigenous Peoples' Rights Act](#)).

At the national level, various countries established specialized bodies to focus on the well-being, rights, and institutions of Indigenous Peoples nationwide, and some require quotas for women.⁷⁹ In the Pacific Islands, some specialized bodies ensure the preservation of customary authority and Indigenous Peoples' control over land.⁸⁰ In Afghanistan, there are national bodies that focus on specific groups or territories of Indigenous Peoples.⁸¹ In the Philippines, there are bodies that focus broader segments of the population that may face disadvantage or discrimination, such as women and children, and such bodies may focus on Indigenous women and children.⁸² In Nepal, there are bodies that regulate specific sectors (for example, land, forestry, or agriculture) that impact citizens' rights, and those bodies may contain units or positions focused on Indigenous Peoples.⁸³ In some countries, national human rights bodies may include a thematic focus on Indigenous Peoples, and even specialized positions.⁸⁴

Depending on the country, states may also require mandatory representation of Indigenous Peoples in representative or policy-making bodies at the national and local level.⁸⁵

Indigenous Peoples' customary institutions are also a critical part of the governance context. Depending on the country and locality, customary institutions will vary greatly, they may or may not be recognized by law, and they may or may not feed into or cooperate with state bodies.⁸⁶

GENDER ISSUES AND INCLUSIVE DEVELOPMENT FOR INDIGENOUS PEOPLES

Across the legal and governance context regulating Indigenous Peoples in Asia and the Pacific Islands, it is necessary to apply a cross-cutting gender and social inclusion lens. This principle holds for examining issues of gender, age, religion, sexual orientation, marital status, disability, etc. in the legal framework. It may be useful to consult specialized resources (such as the [Asia country profiles](#) in the Organization for Economic Co-operation and Development's Social Institutions and Gender Index that cover gender and women's rights issues, or NQAPIA's [Fact Sheet: The State of LGBTQ Rights in Asia and the Pacific](#)). This principle also holds for research

⁷⁹ See, e.g., the Philippines' National Commission on Indigenous Peoples (comprised of a body of seven commissioners, at least two of which must be women), Nepal's National Foundation for the Development of Indigenous Nationalities (whose governing council includes Adivasi Janajati men and women), and Fiji's Native Land Trust Board and Fijian Affairs Board.

⁸⁰ Fingleton (1998), (e.g., Fiji's Native Land Trust Board).

⁸¹ See, e.g., Afghanistan's Independent Commission of Kuchi Affairs, Bangladesh' Ministry of Chittagong Hill Tract Affairs, and Indonesia's Directorate for the Empowerment of Isolated Indigenous Communities (Dit.PKAT).

⁸² See, e.g., the Philippines Commission on Women includes a focus on Indigenous women and girls (see FAO [n.d.b]. *Indigenous Peoples – Philippines*. Available at: <http://www.fao.org/indigenous-peoples/country/PHL/en/?iso3=PHL>).

⁸³ See, e.g., National Human Rights Commission (NHRC of Nepal). (2019). *ILO Convention No. 169: Implementation status report*. Available at: <https://nepalindata.com/resource/ilo-convention-no-169-implementation-status-report/> (Nepal's initial assignment of a thematic officer on indigenous nationalities within each government ministry.)

⁸⁴ See, e.g., Indonesia's Komisi Nasional Hak Asasi Manusia (Komnas HAM) work on *masyarakat adat* (customary law communities) and its Special Rapporteur on Indigenous Peoples.

⁸⁵ See, e.g., the Philippines' [Rules and Regulations Implementing IPRA](#) (1998) (requires mandatory representation of Indigenous Peoples in all policy-making bodies and local legislative councils); FAO. (n.d.a). (India's Ministry of Panchayati Raj extended constitutionally mandated decentralized governance to Scheduled Areas and includes reservations for Scheduled Tribes.)

⁸⁶ See, e.g., FAO. (n.d.c). Gender and land rights database: Pakistan. Available at: http://www.fao.org/gender-landrights-database/country-profiles/countries-list/general-introduction/en/?country_iso3=PAK (In Pakistan, elders from tribes are now elected as representatives for the National Assembly, and local disputes are handled by a Jirga, or tribal assembly of elders); Philippine's [Indigenous Peoples' Rights Act](#) (legally recognizes Indigenous Peoples' traditional justice systems); Wilson, C. (2014). *Pacific Islands at sea over land rights*. Inter Press Service News Agency. Available at: <http://www.ipsnews.net/2014/03/pacific-islands-sea-land-rights/> (Vanuatu's Land Management and Planning Committee and customary authorities have decision-making power over leasing land.)

on governance bodies, including those focused on gender, women, and children, to determine how their mandates intersect with the rights and interests of Indigenous Peoples.

CASE STUDIES

The case studies below assess some domestic legal institutions from Southeast Asia, South Asia, and the Pacific Islands. The selected examples highlight and contextualize key concepts and issues relevant to engaging with Indigenous Peoples in the region with a focus on the legal and institutional context. Case Study 1 on the Philippines provides an example where the government recognizes and uses the terminology of Indigenous Peoples. Case Study 2 highlights Nepal as the first country in Asia to ratify ILO Convention No. 169. Case Study 3 provides Pacific Islands examples, covering Papua New Guinea and Fiji.

CASE STUDY 1: THE PHILIPPINES

Indigenous Peoples in the Philippines

In the Philippines, out of a population of 100 million, there are approximately 14 million Indigenous Peoples (according to the National Commission on Indigenous Peoples' Office of Policy Planning and Research).⁸⁷ Officially, they are referred to as Indigenous Cultural Communities/Indigenous Peoples, including in the constitution, laws, and official documents.⁸⁸ According to an International Fund for Agricultural Development (IFAD) publication, there are eight major groups—namely, the Aeta, Ati and Tumanduk, Caraballo groups, Dumagats, Igorots, Lumads, Mangyans, and Palawan groups, and some 70 to 140 distinct groups, some of which are sub-groups of the above major groups.⁸⁹

Indigenous Peoples in the Philippines live in forests, highlands, lowlands, and coastal areas. They have a close connection to their ancestral land, territory, and natural resources, which are integral to their collective identity and survival. They engage in various forms of socio-economic activities, such as swidden farming, sedentary agriculture, hunting and gathering, fishing, raising livestock, trading handicrafts, and cash-generating activities. A few groups (for example, Dumagats and Aetas) maintain their traditional nomadic lifestyles.⁹⁰

Human rights and Indigenous Peoples in the Philippines

In the Philippines, Indigenous Peoples are among the poorest and most marginalized groups in the country, and they live in some of the poorest provinces. The areas where they are concentrated have worse health indicators than the national average; preventable, treatable health problems remain an issue. They also experience food insecurity, low levels of educational attainment, environmental degradation, armed conflict, and

⁸⁷ FAO (n.d.b). According to an IFAD publication, there are no accurate population numbers for Indigenous Peoples in the Philippines due to a lack of a formal census; therefore, the numbers are based on the unofficial National Commission on Indigenous Peoples' data, which range from 12 to 15 million Indigenous Peoples, though the report notes that the actual population may be higher. (Cariño, J. K. [2012]. *Country technical notes on Indigenous Peoples' issues: Republic of Philippines*, p. 3. Available at: https://www.ifad.org/documents/38714170/40224860/philippines_ctn.pdf/ae0faa4a-2b65-4026-8d42-219db776c50d)

⁸⁸ Erni, C. (2008). *The concept of Indigenous Peoples in Asia: A resource book*. Copenhagen: International Work Group for Indigenous Affairs; Chiang Mai: Asia Indigenous Peoples Pact Foundation; Edison: Transaction Publishers.

⁸⁹ Cariño (2012). See page 3 for a visual of the geographic distribution of the eight major groups.

⁹⁰ Ibid.

loss of land and livelihoods.⁹¹ Indigenous women in the Philippines also face various problems, including lack of recognition of their land rights.⁹²

Domestic Legal Institutions in the Philippines

The Philippines' [Constitution](#) (1987) recognizes and protects Indigenous Peoples and their rights. It requires Congress to enact measures that protect all peoples' right to human dignity, reduce inequalities, and eradicate cultural inequities (Art. 8, §1). It contains a due process and equal protection clause applicable to all (Art. 3, §1).

The Philippines's [Indigenous Peoples' Rights Act](#) (IPRA) (1997) recognizes and promotes rights of Indigenous Cultural Communities/Indigenous Peoples. It recognizes their right to self-governance and their ancestral domains (including lands, inland water, coastal areas, and natural resources located therein) and protects Indigenous culture. It requires FPIC (see box below for more information). It also creates an Ancestral Domains Fund to compensate Indigenous Cultural Communities/Indigenous Peoples in the case of expropriation of ancestral domains. More detailed implementation guidance is found in the [Rules and Regulations Implementing IPRA](#) (1998) and [subsequent regulations](#).

Cutting across the laws governing Indigenous Peoples is attention on women's rights, children and youth rights and the rights of other disadvantaged groups. For example, the [Constitution](#) recognizes women's role in nation-building and guarantees gender equality before the law (Art. 2, §14). The IPRA explicitly obligates the state to guarantee that the fundamental human rights enshrined in the Constitution and CEDAW are also guaranteed to Indigenous women (§ 21). The provisions guaranteeing basic services to Indigenous Peoples explicitly pays special attention to Indigenous women, children, youth, elderly, and differently abled persons (§ 25). There are also provisions on protecting and promoting the well-being of children and youth (§ 27), providing an integrated system of education relevant to their needs (§ 28), recognizing their right to all levels and forms of public education (§ 30), and prohibiting their recruitment into the armed forces (§ 22). The [Philippines' Republic Act 9710 Magna Carta of Women](#) provides equal property and inheritance rights to both wives and common law spouses, grants equal right to land (formal or agrarian land, and titled or untitled), and requires equal treatment in agrarian reform programs.

The Philippines has a specialized national body called the National Commission on Indigenous Peoples. The Philippine Commission on Women includes a focus on Indigenous women and girls,⁹³ and the Council for the Welfare of Children includes a focus on Indigenous children.⁹⁴

⁹¹ Ibid.

⁹² UN. (2017, March 20). Indigenous women in Philippines need to 'assert their rights.' UN News. Available at: <https://news.un.org/en/audio/2017/03/625052>

⁹³ FAO (n.d.b).

⁹⁴ See, e.g., Council for the Welfare of Children & UNICEF Philippines. (2016). *National baseline study on violence against children: Philippines*. Available at: [https://www.unicef.org/philippines/media/491/file/National%20Baseline%20Study%20on%20Violence%20Against%20Children%20in%20the%20Philippines:%20Results%20\(executive%20summary\).pdf](https://www.unicef.org/philippines/media/491/file/National%20Baseline%20Study%20on%20Violence%20Against%20Children%20in%20the%20Philippines:%20Results%20(executive%20summary).pdf)

FPIC IN THE PHILIPPINES

In the Philippines, the IPRA recognizes FPIC as a mechanism to safeguard Indigenous Peoples' rights and interests and to ensure they have a voice in issues that affect them. It requires that Indigenous Peoples can access adequate information and that consent is granted prior to resource extraction in Indigenous ancestral domains or lands and is arrived at pursuant to customary laws, without outside manipulation or coercion. Despite strong FPIC provisions in the IPRA, Indigenous Peoples in the Philippines face barriers to effectuating their right to grant or withhold their consent, though implementing regulations have been promulgated to improve future implementation.⁹⁵

History. Adoption of FPIC for Indigenous Peoples in the Philippines required a series of legal initiatives. The Philippine Constitution (1987) explicitly recognizes the rights of Indigenous Peoples, including guaranteeing their right to their ancestral domains. Subsequently, the government engaged in broad consultation to develop a common development agenda that included a comprehensive framework for alleviating poverty. The effort resulted in the Social Reform Agenda that laid out major reforms, including the IPRA. Following its passage, *Cruz v. Secretary of Environmental and Natural Resources* challenged IPRA's constitutionality (under the claim that it violated the state's right to control resources); however, the Supreme Court voted to uphold the new law arguing that ancestral domains, held for time immemorial, are private lands.⁹⁶

FPIC provisions in IPRA. The IPRA provides a statutory basis for FPIC. It defines FPIC and requires FPIC in various contexts, including Indigenous Peoples' right to remain in their territories; right to religion, cultural sites, and ceremonies (including with respect to archaeological sites); right to their biological and genetic resources; right to community intellectual property; and right to redemption where their land and property was transferred without acquiring their consent. FPIC is also required before granting any license, lease, or permit to exploit natural resources that would affect the interests of Indigenous Peoples.⁹⁷

FPIC implementation. There are various challenges to implementing FPIC provisions in the IPRA. For example, other natural resource laws (e.g., Mining Act) undermine the IPRA and create uncertainty in implementation processes. There are also deficiencies in the FPIC process, such as lack of requiring FPIC at the start of projects, lack of procedures for disputing consent or temporarily stopping a non-compliant project, and lack of mechanisms to monitor FPIC violations. Additionally, there are myriad implementation failures, such as companies' failure to conduct consultation before the project, disrespect for customary processes, misrepresentation, coercion, lack of appropriate government intervention, and insufficient information.

However, in 2012, the government promulgated [Revised Guidelines on FPIC and Related Processes](#) to address implementation challenges and the provisions most subject to abuse and misrepresentations. For example, the guidelines make clear that Indigenous Peoples have the right to develop a resolution of consent as well as a resolution of non-consent⁹⁸

⁹⁵ Oxfam America. (2013). *Free, prior, and informed consent in the Philippines: Regulations and realities*. Available at: <https://s3.amazonaws.com/oxfam-us/www/static/media/files/fpic-in-the-philippines-september-2013.pdf>

⁹⁶ *Ibid.*, pp. 3-6.

⁹⁷ *Ibid.*, pp. 6-7.

⁹⁸ *Ibid.*, pp. 8-12.

CASE STUDY 2: NEPAL'S DOMESTIC LEGAL INSTITUTIONS

Indigenous Peoples in Nepal

In Nepal, out of a population of 26 million, there are approximately nine and a half million Indigenous Peoples, comprising around 36% of the population (according to the 2011 census).⁹⁹ Officially, they are referred to as Indigenous nationalities and commonly known as Adivasi Janajati.¹⁰⁰ The Government of Nepal officially recognized 59 Indigenous Peoples groups in 2002.¹⁰¹ These 59 groups are further categorized as endangered, highly marginalized, marginalized, disadvantaged, and advantaged groups. Ten groups are listed as endangered, 12 as highly marginalized, 20 as marginalized, 15 as disadvantaged, and 2 as advantaged.¹⁰²

Indigenous Peoples' populations in Nepal are predominantly located on their ancestral lands. In terms of habitation, they are found in all three ecological regions, from high mountains, through midhills, and the plains (Terai). Several Indigenous Peoples groups from the mountains comprise the majority of the population in those areas (some 75 to 90 percent), and they follow their Indigenous ways of life. Those in the Hills and Terai region comprise less than half the population in those areas and have progressively lost control over their Indigenous land and living due to dominant group influence. Groups are varied as to the extent that they retain or have lost their traditional social and economic structure. Socio-economic activities of Indigenous Peoples in Nepal are varied, including hunting and gathering, agriculture, and engagement in cash-generating commercial and wage labor activities. There are also groups such as the Raute, Bankariya, Chepang, and Hayu who maintain their traditional nomadic way of life and are mainly dependent upon forest resources with nomadic hunting, gathering, and shifting cultivation practices.¹⁰³

Human Rights Situation of Indigenous Peoples in Nepal

Indigenous Peoples in Nepal have a poverty rate around 35 percent (compared to 30 percent for the general population), which is higher than the rates for dominant caste groups. However, the poverty rates amongst the groups vary greatly. Marginalized Indigenous Peoples face food insecurity, many lack access to medical facilities as they live in remote areas, and many have less access to safe drinking water as compared to dominant caste groups. Indigenous women are marginalized, underrepresented, and often ignored in dialogue and data collection on women and women's issues.¹⁰⁴ According to a UN report, 43 percent of Indigenous women reported lacking access to health services (because they lacked money).¹⁰⁵ Proportional representation in state decision-making mechanisms and realization of the right to culture and identity, linguistic equality, and autonomy are other major human rights issues related to Indigenous Peoples in Nepal.

⁹⁹ Central Bureau of Statistics (Nepal). (2011). *National population and housing census 2011 (National report)*. Archived from the original (PDF) on 18 April 2013.

¹⁰⁰ UN Human Rights Council Nepal. (2013). *Report of the special rapporteur on the rights of Indigenous Peoples, Addendum: Consultation on the situation of Indigenous Peoples in Asia*. 31 July 2013, A/HRC/24/41/Add.3. Available at <https://www.refworld.org/docid/522db7fa4.html>.

¹⁰¹ National Foundation for Development of Indigenous Nationalities (NFDIN) Act 2002.

¹⁰² Lama, M. S. (2014). *Communities and Indigenous Peoples*. International Union for Conservation of Nature, Nepal (cited in Government of Nepal National Planning Commission. [2015]. *Nature conservation: National strategic framework for sustainable development (2015-2030)*. Available at https://www.iucn.org/sites/dev/files/content/documents/english_nature_conservation_national_strategic_framework_for_sustainable_development.pdf)

¹⁰³ Ibid.

¹⁰⁴ Indigenous Peoples' Network for SDGs. (2017). *Report of Nepal's Indigenous Peoples for voluntary national review of Nepal: Under the UN high-level political forum on sustainable development*. Available at: <https://www.indigenouspeoples-sdg.org/index.php/english/all-resources/ipmg-position-papers-and-publications/ipmg-reports/national-regional-reports/18-sdg-nepal-shadow-report/file>

¹⁰⁵ UNPFII (2016).

Domestic Legal Institutions in Nepal

Nepal has various domestic legal institutions focused on Indigenous nationalities (Adivasi Janajati). It is the first country in Asia to ratify ILO Convention No. 169, which it did in 2007; it also adopted the UN Declaration on the Rights of Indigenous Peoples in 2007; it subsequently developed a National Action Plan for implementation.¹⁰⁶

Nepal's new [Constitution](#) (2015) recognizes and safeguards the rights of Adivasi Janajati. Its non-discrimination clause prohibits discrimination, including on grounds of race, tribe, language, and sex, provided that such does not bar special legal provisions to protect and empower Adivasi, minorities, women, children/youth, and persons with disabilities, etc. (Art. 18). It also guarantees a wide range of fundamental rights that apply to all citizens, including Adivasi Janajati, such as the right to property (Art. 25), right to a basic education (including in ones' mother tongue) (Art. 31), right to language and culture (Art. 32), right to health care (Art. 35), and rights of women and children—including every women's "equal right to lineage without gender discrimination." (Arts. 38 & 39). It also mandates state policy to focus on social justice and inclusion for Adivasi Janajatis, local communities, and women (Art. 51(j)). Finally, it establishes an Adivasi Janajati Commission (Art. 261).

In addition to constitutional provisions, there is relevant domestic legislation and regulations. The [National Foundation for Upliftment of Adivasi/Janajati Act](#) (2002) recognizes 59 Adivasi Janajati groups. It also establishes a national autonomous foundation focused on their economic, social, and cultural development and their equal participation in mainstreaming national development. Its governing council includes Adivasi Janajati men and women (Art. 7). The main objective of the [Government of Nepal's foundation](#) "is to ensure the overall welfare of the different indigenous nationalities who live across the country." [Indigenous Nationalities District Coordination Committees](#) are established in all of Nepal's 75 districts, as required by Regulation 2072 BS.

CASE STUDY 3: UNDERSTANDING THE DOMESTIC LEGAL INSTITUTIONS IN THE PACIFIC ISLANDS: PAPUA NEW GUINEA AND FIJI

Indigenous Peoples in Papua New Guinea and Fiji

In the Pacific Islands, Indigenous Peoples comprise a majority of the population in most countries, and these populations are still connected to their communal lands, customary law, and culture. Small Pacific Island countries encounter specific challenges that impact Indigenous Peoples' ability to exercise their human rights¹⁰⁷. In Papua New Guinea, there are approximately eight million Indigenous Peoples¹⁰⁸ and over 700 Indigenous groups.¹⁰⁹ In Fiji, there are some 475,000 Indigenous Fijians,¹¹⁰ constituting a majority of the population (which totals some 898,000).¹¹¹ Indigenous Fijians (officially referred to as iTaukei) and Rotumans are identified as Indigenous Peoples in Fiji.¹¹²

¹⁰⁶ NHRC of Nepal (2019).

¹⁰⁷ UN Permanent Forum on Indigenous Peoples. (2015). *UN permanent forum on Indigenous Peoples: 14th Session: Concept note for discussion*. Available at <https://www.un.org/esa/socdev/unpfii/documents/2015/concept-notes/pacific.pdf>

¹⁰⁸ UNPFII (2016).

¹⁰⁹ National Geographic. (n.d.). *Australia and Oceania: Human geography*. Available at: <https://www.nationalgeographic.org/encyclopedia/oceania-human-geography/>

¹¹⁰ Minority Rights Group International. (2017). *World directory of minorities and Indigenous Peoples - Fiji Islands*. Available at: <https://www.refworld.org/docid/4954ce3e53.html>

¹¹¹ Worldometer. (2021). *Fiji population (2021)*. Available at <https://www.worldometers.info/world-population/fiji-population/>

¹¹² Minority Rights Group International. (2017); University of Fiji. (n.d.). *iTaukei corner*. Available at: <https://www.unifiji.ac.fj/itaukei-corner/>

Human Rights Situation of Indigenous Peoples in Papua New Guinea and Fiji

Indigenous Peoples in Papua New Guinea and Fiji are affected by various human rights issues. One key issue affecting Papua New Guinea is the need for international business interests to respect the human rights of its Indigenous Peoples particularly with respect to their land, resources, and culture.¹¹³ It is reported that concessions commit serious human rights abuses and practice deforestation.¹¹⁴ In Fiji, there are serious human rights issues related to freedom of expression and assembly. For Indigenous women, gender roles inhibit their political participation and local authorities exclude them from decision-making processes to transfer communal land and from their right to benefit from related proceeds.¹¹⁵

Domestic Legal Institutions in Papua New Guinea and Fiji

Papua New Guinea's [Constitution \(1975, amd. up to 2006\)](#)¹¹⁶ guarantees equal rights of citizens, regardless of race, tribe, sex, etc. (Art. 55(1)). It recognizes "traditional villages and communities" (Preamble), and it adopts custom as law to the extent it is consistent with the Constitution and laws (Sch. 2.1.1.).¹¹⁷ It does not prohibit affirmative action to advance underprivileged groups, women, children, and youth (Art. 55(2)).

Fiji's [Constitution](#) explicitly recognizes Indigenous Peoples, the iTaukei and Rotuman (Preamble). It guarantees iTaukei and Rotuman customary ownership of Indigenous land (Art. 28). It requires the Constitution be made available in iTaukei language (Art. 3) and the iTaukei language to be taught in primary schools.

In the Pacific Islands, customary tenure covers 80 to 90 percent of land, and customary law regulates land and inheritance rights for clan members and extended families.¹¹⁸ Papua New Guinea's [Land Groups Incorporation Act](#) (1974) recognizes customary group ownership rights to traditional lands held in an incorporated land group. The Registrar of Incorporated Land Groups is appointed to register these groups. Land disputes are managed by the Registrar, Village Court, and customary authorities.

In Fiji, the Native Land Trust Board, under the [Native Land Trust Act](#) (1985), holds native land in trusts for the benefit of Fijian land owners. The [Native Lands Act](#) (1995) recognizes that native Fijians hold native lands according to custom and are subject to regulations of Fijian Affairs Board with disputes in legal decisions handled by courts. The Native Lands Commission is mandated to determine which lands rightfully belong to native Fijian owners. National bodies, such as the Native Land Trust Board, Fijian Affairs Board, and Ministry of Fijian Affairs, "support customary institutions and guide their development."¹¹⁹

¹¹³ UN Papua New Guinea. (2019). "Respect the right of Indigenous Peoples," PNG investors told at UN Global Business & Human Rights Forum. Available at: <https://papuanewguinea.un.org/en/27216-respect-rights-indigenous-people-png-investors-told-un-global-business-human-rights-forum>

¹¹⁴ See, e.g., REDD Monitor. (2016, May 13). UN Human Rights Council review on Papua New Guinea: "Yet another wake up call that what is happening in PNG is a human rights catastrophe. Available at: <https://redd-monitor.org/2016/05/13/un-human-rights-council-review-on-papua-new-guinea-yet-another-wake-up-call-that-what-is-happening-in-png-is-a-human-rights-catastrophe/>; Rainforest Foundation Norway. (2016, May 13). PNG government must act on international criticism over human rights abuses against Indigenous Peoples. Available at <https://www.regnskog.no/en/news/png-government-must-act-on-international-criticism-over-human-rights-abuses-against-its-indigenous-peoples>.

¹¹⁵ US Department of State. (2019). Fiji 2019 human rights report. Available at: <https://www.state.gov/wp-content/uploads/2020/02/FIJI-2019-HUMAN-RIGHTS-REPORT.pdf>

¹¹⁶ Note: More recent amendments to the Constitution of Papua New Guinea are not available online.

¹¹⁷ Independent State of Papua New Guinea. (1975). *Constitution of the Independent State of Papua New Guinea*. Available at: http://www.pacii.org/pg/legis/consol_act/cotisopng534/

¹¹⁸ Wilson (2014).

¹¹⁹ Fingleton, J. (2008). *Pacific land tenures: New ideas for reform*. FAO Legal Papers Online # 73. Available at: <http://www.fao.org/3/a-bb106e.pdf>

CONSIDERATIONS FOR USAID

First, initial identification of possible Indigenous Peoples ought to be broad, erring on the side of over-inclusion. Where any combination of applicable USAID criteria applies, USAID missions should presume the presence of Indigenous Peoples. In Asia and the Pacific Islands, this allows for a broad view of who could be considered Indigenous. In applying the PRO-IP's criteria of self-identification, particularly in Asia, it will be important to use open, country-level consultative processes, given the contested concepts of indigeneity. Because people across Asia are chiefly indigenous to the area, it may be helpful to consider the concept of a distinct group's collective attachment to *specific* territories within a country.¹²⁰ In this process, it may be useful to draw on knowledge of Foreign Service National Officers. Best efforts will need to be made to identify and consult with neutral, well-respected subject matter experts, including social scientists with relevant experience, to better assess (through direct engagement) which populations might be considered as Indigenous Peoples under international standards. Consult the PRO-IP and USAID developed tools, such as [Social Impact Assessment toolkit](#), which includes the Inclusive Development Analysis and Consultation Handbook, to assist in the identification of diverse people and voices within Indigenous communities in the region. In the event of inconsistent or uncertain information, consult the USAID Senior Advisor for Indigenous Peoples' Issues for guidance and for a determination if further evidence or analysis is required. Consult the Missions' Resident Legal Officer (RLO) with legal and diplomatic issues.

Second, when working to understand the legal and governance aspects of identifying and engaging Indigenous Peoples, consult and align efforts to the PRO-IP. When applying relevant global and regional frameworks, where there is disagreement between international and state government views, additional research and analysis may be needed. As necessary, consult with the USAID Senior Advisor for Indigenous Peoples' Issues on substantive issues.

Third, in navigating the domestic legal framework it is important to conduct a desk-based review and to draw on reputable sources that aggregate and summarize legal information. Indigenous Peoples' legal and governance issues are complex, particularly when understanding them to support gender and socially inclusive development programming. Therefore, work with Foreign Service National employees, alongside relevant subject matter expert(s), to help navigate legal and cross-cutting issues. As stated above, draw on the PRO-IP and USAID tools to assist in the identification and engagement of diverse people and voices within Indigenous communities in Asia and the Pacific Islands.

Fourth, it is important to be aware of (and to research as necessary) the broad array of organizations or associations that may be relevant in the identification or engagement of Indigenous Peoples in USAID programming (both standalone and comprehensive cross-sectoral programming). Consult the Mission's RLO to discuss specific legal questions and issues, and USAID Senior Advisor for Indigenous Peoples' Issues, alongside subject matter experts, for substantive issues.

Fifth, USAID has a robust framework for complying with legal requirements for environmental and social impact assessment, Title 22 Code of Federal Regulations, throughout the life of our activities. This includes building the capacity of host governments to safeguard the environment, e.g., land, air, climate, and water, of Indigenous Peoples, and consulting with them when development activities pose potential risks.

Finally, USAID has Indigenous Peoples reference documents such as the [Social Impact Assessment toolkit](#), which includes the Inclusive Development Analysis and Consultation Handbook, and has compiled [sector-specific information](#) including lessons learned, case studies, and resources for the

¹²⁰ Erni (2008).

following issues: Agriculture and Food Security; Biodiversity; Education; Energy and Infrastructure; Sustainable Landscapes; Democracy, Rights, and Governance; Global Health; and Livelihoods. Note that the cross-cutting issues of land tenure, gender, and conflict management and mitigation, are integrated into the sector guidance documents.

CONCLUSION

In conclusion, USAID Operating Units should follow the PRO-IP when designing and implementing inclusive programming, particularly referring to its objectives and operating principles. This document aims to provide additional context that should help Operating Units in implementing PRO-IP. If there are further questions, Operating Units should consult the Senior Advisor for Indigenous Peoples' Issues.

ANNEX: COUNTRY STATUS FOR INTERNATIONAL AND REGIONAL FRAMEWORKS

Status of Country ratification (R) or signatory (S) for human rights frameworks. **ILO107** indicates the country also ratified ILO Convention 107.

Country	International Frameworks				Regional Frameworks	
	UNDRIP	ILO 169	CERD	CEDAW	ASEAN Human Rights Declaration (for ASEAN countries)	Asian and Pacific Ministerial Declaration on Advancing Gender Equality and Women's Empowerment
Afghanistan	R		R	R		S
Bangladesh		R - ILO107	R	R		S
Burma	R			R	R	
Cambodia	R		R	R	R	S
China	R		R	R		S
India	R	R - ILO107	R	R		S
Indonesia	R		R	R	R	S
Kazakhstan	R		R	R		S
Kyrgyz Republic			R	R		S
Laos	R		R	R	R	S
Maldives	R		R	R		
Mongolia	R		R	R		S
Nepal	R	R	R	R		S
Pakistan	R	R - ILO107	R	R		S
Philippines	R		R	R	R	S
Sri Lanka	R		R	R		S
Tajikistan			R	R		
Thailand	R		R	R	R	S
Timor-Leste	R		R	R		S
Turkmenistan			R	R		S
Uzbekistan			R	R		S
Vietnam	R		R	R	R	S