

## **Research Paper**

Commission 1 of the Senate of Cambodia: Human Rights Reception of Complaints and Investigation

# **Indigenous People: Political Rights, Culture, Education and Health Care**



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November 2015

**Parliamentary Institute of Cambodia**

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## Executive Summary

Indigenous peoples – also called Tribal Peoples, First Peoples, Native Peoples – constitute about 5 percent of the world’s population, yet account for about 15 percent of the world’s poor. There are approximately 370 million indigenous people in the world, belonging to 5,000 different groups, in 90 countries worldwide. Indigenous people live in every region of the world, but about 70 percent of them live in Asia. They practice unique traditions, and they retain social, cultural, economic and political characteristics that are distinct from those of the dominant societies in which they live in.

Cambodia is home to 24 different indigenous peoples. With an estimated population of 200,000 to 400,000 overall, indigenous peoples are generally estimated to account for 1 to 2 percent of the national population although they are not clearly disaggregated in national census data. Compared with its neighbors in Southeast Asia, Cambodia has the smallest ethnic minority population, both relatively and in absolute numbers.

Cambodia is a signatory to a number of international conventions protecting the rights of indigenous peoples. Most notably, the country voted to support and implement the provisions of the United Nations Declaration on the Rights of Indigenous Peoples on 13 September 2007. It sets out a universal framework of minimum standards for the survival, dignity, well-being and rights of the world’s indigenous peoples. It addresses both individual and collective rights, cultural rights and identity, and rights to education, health, employment, language and others.

Nonetheless, indigenous peoples in Cambodia still face numerous challenges. Alienation of indigenous land rights as a result of illegal land transactions has been plaguing many of the indigenous communities in the country, especially in the Northeast. On the education front, the availability of school above grade 3 and bilingual teaching are still limited. Indigenous peoples are reported to have significantly poorer health status than other Cambodians.

Following its endorsement of the Declaration, New Zealand has taken steps which go towards fulfilling the rights in the Declaration such as repealing the Foreshore and Seabed Act 2004 - this Act concerns the ownership of the country’s foreshore and seabed with many Maori groups claiming that Maori have a rightful claim to title. Likewise, the Australian government established the National Congress of Australia’s First Peoples in 2010 to give Aboriginal and Torres Strait Islander people a voice in national affairs and policy development.

At the national level, Cambodia has a number of laws and policies that protect land and natural resources and provide for the rights of local communities. The Land Law of 2001 is most important for indigenous peoples because it sets the basis for their rights to land. The National Policy of the Development of Indigenous Peoples, which was officially approved on 24 April 2009, could be seen as a complement to the laws and policies on land, forest, environment and international documents.

Nonetheless, indigenous peoples still face various challenges, such as alienation of land rights, low educational attainment, and poorer health status, amongst others.

Indigenous peoples in New Zealand (the Maori) and Australia (the Aborigines and the Torres Strait Islanders) also face numerous challenges. Educational outcomes for the Maori are poorer in comparison with those of non-Maori New Zealanders. Maori people have poorer health and social outcomes than those of the rest of the population of New Zealand. Likewise, Aboriginal Australians

are more than twice as likely as non-indigenous Australians to leave school before year ten (age 16), and half as likely to complete year 12 (age 18). More strikingly, health and social indicators for the Aboriginal people of Australia indicate significant problems. The life expectancy at birth for Aboriginal Australians is around 20 years less than that of the total Australian population. Aboriginal and Torres Strait Islanders' infant mortality rate is three times the rate of non-indigenous Australians.

However, many lessons can be learned from the two countries. The Maori Purposes Act (1947) changed the Department of Native Affairs to the Department of Maori Affairs and subsequently the Ministry of Maori Development. In addition, seven seats in Parliament are reserved for Maori electorates. Government organizations are routinely required to seek Maori input before moving forward on issues. Improving Maori educational outcomes is addressed in two policies papers - *Managing for Success: the Maori Education Strategy (2008 – 2012)* and *Accelerating Success (2013 – 2017)*. On the health front, the goal of improving health outcomes for Maori people is evident in the Maori Health Strategy. In Australia, the Native Title Act, passed in 1993, was designed to provide a national system for the recognition and protection of native title. Education is listed as one of the six goals targeted by Australia's "Closing the Gap" campaign, designed to improve Australian Aboriginal outcomes in life expectancy, child mortality, education, and employment.

It can be concluded that Australia and New Zealand are international leaders in education rights for indigenous populations, and are especially outspoken on the issue. Both aggressively fund and provide legislative and regulatory support for indigenous education, with the majority of authority for implementation granted to indigenous authorities.

## 1. Introduction

Indigenous peoples – also called Tribal Peoples, First Peoples, Native Peoples – constitute about 5 percent of the world’s population, yet account for about 15 percent of the world’s poor. There are approximately 370 million indigenous people in the world, belonging to 5,000 different groups, in 90 countries worldwide. Indigenous people live in every region of the world, but about 70 percent of them live in Asia.<sup>1</sup> They practice unique traditions, and they retain social, cultural, economic and political characteristics that are distinct from those of the dominant societies in which they live in.<sup>2</sup>

Cambodia is home to 24 different indigenous peoples. With an estimated population of 200,000 to 400,000 overall, indigenous peoples are generally estimated to account for 1 to 2 percent of the national population although they are not clearly disaggregated in national census data.<sup>3</sup> Compared with its neighbors in Southeast Asia, Cambodia has the smallest ethnic minority population, both relatively and in absolute numbers.<sup>4</sup> Over half of the indigenous population is found in the north-eastern provinces of Ratanakiri and Mondul Kiri.<sup>5</sup> Indigenous groups from south-western and north-eastern provinces of Cambodia have similar cultural practices. Their livelihoods are based on animal husbandry and rotation (shifting) cultivation. Collection of non-timber forest products from the natural forest and weaving are the main sources of income. Indigenous peoples depend on forest products for their livelihoods, without destroying the land and forest that have been preserved by their ancestors. They have strong unity and respect for their customary law, practices and religion that bring blessings of good health and high-yielding crops.<sup>6</sup>

The Ministry of Rural Development’s Ethnic Minority Development Department – as its name implies - is charged with the development of those indigenous peoples. The Royal Government of Cambodia (RGC) adopted the National Policy on Indigenous Peoples’ Rights in 2009. Land registration of indigenous communities for collective title is also guaranteed by the 2001 Land Law and Sub-Decree No. 83. Nonetheless, indigenous peoples still face various challenges in their everyday life.

This research paper will look at political rights, culture, education and health care of indigenous peoples residing in New Zealand, Australia, and Cambodia. As this research paper is a comparative study, good practices/examples from the abovementioned countries will be highlighted.

## 2. Indigenous Peoples in Cambodia

### 2.1 Indigenous peoples’ organizations

Only very recently have indigenous peoples in Cambodia started to develop a common identity and indigenous peoples’ organizations at the national level are still in their infancy. At the first ever forum of Cambodia’s indigenous peoples in September 2004, representatives from indigenous

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<sup>1</sup><http://www.culturalsurvival.org/who-are-indigenous-peoples> (accessed 10 May 2015)

<sup>2</sup> United Nations, Factsheet, Who are indigenous peoples?

<sup>3</sup><http://www.iwgia.org/regions/asia/cambodia> (accessed 1 September 2015)

<sup>4</sup> Duncan C.R. (ed): *Civilizing the Margins. Southeast Asian Government Policies for the Development of Minorities*. Ithaca: Cornell University Press, pp. 241-269.

<sup>5</sup> NGO Forum on Cambodia, *Indigenous Peoples in Cambodia*. April 2006., p. 2.

<sup>6</sup> Moul Phath and Seng Sovathana, “Country Technical Note on Indigenous Peoples’ Issues,” Kingdom of Cambodia. IFAD. AIPP. November 2012., p. 1.

communities from 14 provinces discussed what identifies/unifies indigenous peoples in Cambodia. The discussion yielded the following characteristics:<sup>7</sup>

***We have indigenous blood***

***(our parents and grandparents were indigenous)***

***We live communally***

***We use land and forest communally***

***We respect spirits and have ceremonies for the village spirit every year***

***We call (pray) for the help and have ceremonies to compensate when spirits help***

***We have ceremonies to call up “araks”***

***(a spirit called up to find out why someone is sick)***

***We practice or have a history of practicing rotational agriculture***

***We hold sacrifices when we farm***

***We have village leaders (chahsrok)***

***We have burial forests***

Following this forum, a series of workshops was held throughout Cambodia. The workshops assisted indigenous people in coming together and learning about their rights and discussing their future. At each workshop provincial representatives were selected by the participants. These representatives have formed an interim national workshop of indigenous peoples that is now working together to develop strategies to jointly advocate for the rights of Cambodia’s indigenous peoples to their lands and to self-determined development.<sup>8</sup>

## ***2.2 Legal framework***

Cambodia has a number of laws and policies that protect land and natural resources and provide for the rights of local communities. The Land Law of 2001 is most important for indigenous peoples because it sets the basis for their rights to land. Article 25 provides for collective ownership of land, while Article 26 recognizes the role of traditional authorities, mechanisms and customs in decision-making and exercising ownership rights. The subsequent Policy and Sub-decree for Indigenous Peoples’ Registration of Collective Land Rights set as a condition for receiving collective title the incorporation of the community as a legal entity. However, these legal instruments need to be reinforced to ensure best practices are implemented.<sup>9</sup>

The National Policy of the Development of Indigenous Peoples (NPDIP) was officially approved by the plenary of the Cambodian Council of Ministers on 24 April 2009. It could be seen as a complement to the laws and policies on land, forest, environment and international instruments.

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<sup>7</sup> NGO Forum on Cambodia., p. 5.

<sup>8</sup>Ibid., p. 5.

<sup>9</sup>MoulPhath and SengSovathana., p. 1.

The policy concentrates on ten development sectors including culture, education and vocational training, health, environment, land, agriculture and water resources, infrastructure, justice, tourism, and industry, mine and energy.

The Royal Government of Cambodia has ratified important human rights treaties, including the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), International Convention on Civil and Political Rights (ICCPR), International Convention on Economic, Social and Cultural Rights (ICESCR), Convention on the Rights of the Child (CRC), the Convention on the Elimination of all Forms of Discrimination Against Women and the Convention on Biological Diversity (CDB). It voted to support and implement the provisions of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2007.<sup>10</sup>

### **2.3 Location of indigenous peoples**

Prior to 1998, the policy in relation to indigenous peoples was named the Ethnic Minority Development in North-eastern of Cambodia. Now, the official policy used by the Ministry of Rural Development (MRD) is the National Policy on the Development of Indigenous Peoples (NPDIP) of 2009, which is consistent with the 2001 Land Law and the 2002 Forest Law. It shows that there are 24 groups of indigenous minorities in Cambodia such as Broa, Chhnong, Jarai, Kachak, Kavet, Kel, Koang, Kuoy, Kreung, Krol, Phnong, La Eun, Lun, Mil, Por, Radei, Ro Ang, Sa Ouch, Sam Rei, Souy, Stieng, Thnoun and Tumpoun.<sup>11</sup>

A 2006 study on the indigenous population of the MRD, National Institute of Statistics (NIS) and Commune Database found that indigenous groups are living in 15 provinces of Cambodia. 1) Mondulkiiri –Jarai, Kraol, Kreung, Stieng, Kuoy, Phnong, Thmoon, Tumpoun, 2) Ratanakiri – Brao, Jarai, Kavet, Kachak, Kreung, Lun, Phnong, Tumpoun, Radei, 3) Kratie – Khnong, Kuoy, Krol, Phnong, Mil, Stieng, Thmoon, 4) Stung Treng – Kuoy, Jarai, Kreung, Phnong, Tumpoun, 5) Preah Vihear – Kuoy, 6) Kampong Thom – Kuoy, 7) Koh Kong – Por, 8) Pursat – Por, 9) Kampong Speu – Souy, 10) Sihanoukville – Sa Ouch, 11) Banteay Meanchey, 12) Battambang, 13) Kampong Cham, 14) Oddar Meanchey, 15) Siem Reap.

**Table 1: Distribution of indigenous peoples in the six provinces of Kampong Speu, Kratie, Mondulkiiri, Preah Vihear, Ratanakiri and Stung Treng**

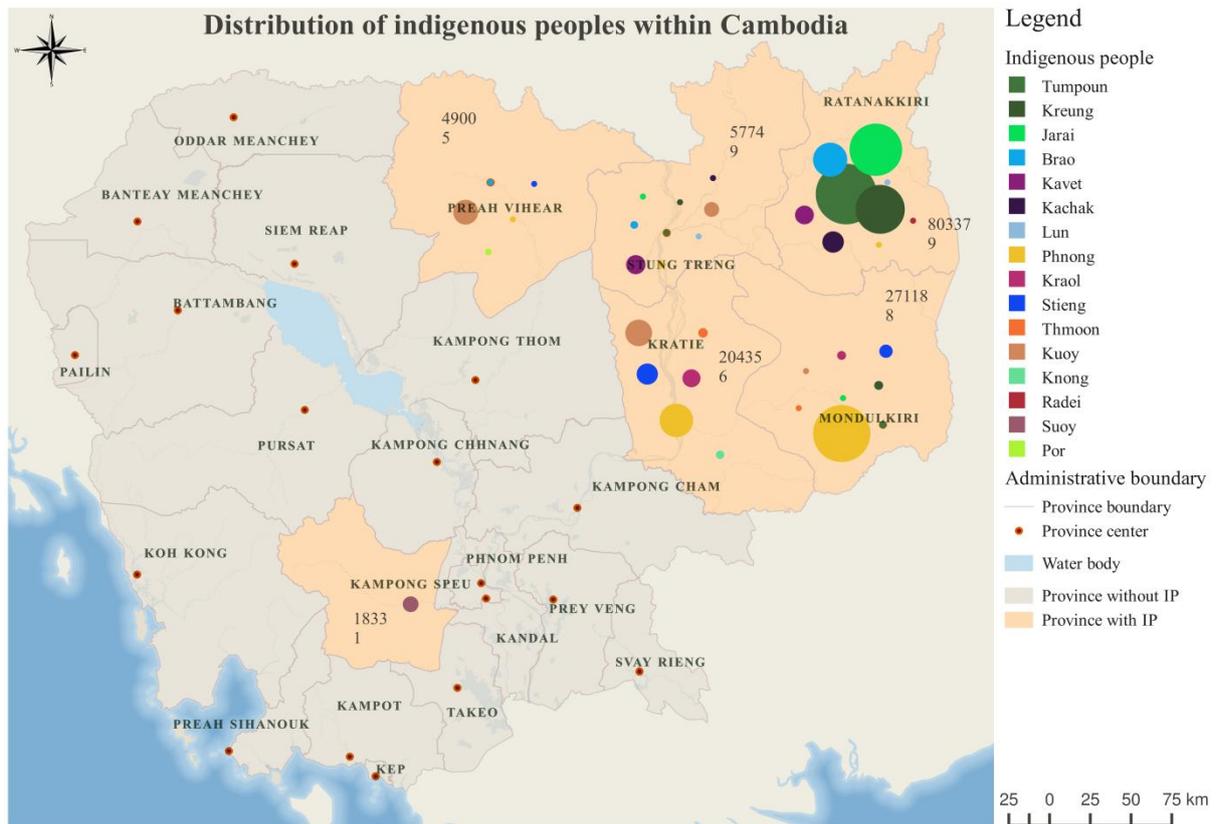
No.	Indigenous Groups	Ratanakiri	Kratie	Stung Treng	Mondulkiiri	Kampong Speu	PreahVihear	Total
1	Tumpoun	27,239	0	4	382	0	0	27,625
2	Kreung	17,683	0	278	598	0	0	18,559
3	Jarai	20,312	0	12	93	0	0	20,417
4	Brao	8,560	0	444	0	0	8	9,012
5	Kavet	2,620	0	2,710	0	0	0	5,330
6	Kachak	3,383	0	1	0	0	0	3,384
7	Lun	267	0	251	0	0	0	518
8	Phnong	270	8,306	430	23,964	0	39	33,009
9	Kraol	0	2,389	0	597	0	0	2,986
10	Stieng	0	3,311	0	1,335	0	1	4,647

<sup>10</sup>Ibid., p. 2.

<sup>11</sup>Ibid., p. 3.

11	Thmoon	0	669	0	147	0	0	816
12	Kuoy	0	5,216	1,644	2	0	4,536	11,398
13	Knong	0	544	0	0	0	0	544
14	Radei	3	0	0	0	0	0	3
15	Suoy	0	0	0	0	1,833	0	1,833
16	Por	0	0	0	0	0	316	316
	<b>Total</b>	<b>80,337</b>	<b>20,435</b>	<b>5,774</b>	<b>27,118</b>	<b>1,833</b>	<b>4,900</b>	<b>140,397</b>

Source: Ministry of Rural Development.



Source: Ministry of Rural Development.

## 2.4 Issues faced by indigenous peoples in Cambodia

Indigenous peoples living in Cambodia still face numerous challenges. Among them are:

**Land alienation:** despite the favorable regulations for indigenous communities in the 2001 Land Law, deficiencies in implementation and enforcement have left some indigenous peoples vulnerable to commercial interests. Commercial concerns have been increasingly attracted by the economic potential of the forests and fertile upland areas, traditionally used and managed by indigenous communities. Alienation of indigenous land rights as a result of some illegal land transactions has been plaguing many of the indigenous communities in the country, especially those in the Northeast.<sup>12</sup>

The trading of land has also involved many indigenous persons: some have not known about the laws; some have been encouraged to sell and broker sales by outsiders; some have lost hope in the

<sup>12</sup>NGO Forum on Cambodia., p. 6.

social and legal system and sought short-term solutions or gains, rather than following indigenous traditions. In some cases the problem has become so severe that the majority of indigenous villagers in some villages have been involved in selling off their community land, and occasionally, the land of neighboring communities.<sup>13</sup>

**Education:** in the majority of indigenous villages, schools are not available above grades 2 or 3. In many cases the school exists but there are inadequate efforts to make them functional. At higher levels of school, indigenous students report that they need to pay large sums of money in order to be able to pass years 9 and 12 (year 9 is when you have to take an exam to complete Junior High School and year 12 to complete High School) .<sup>14</sup>

However, since the mid-nineties, linguists developed orthographies for five indigenous languages and several NGOs have developed adult literacy courses and non-formal education in the national language Khmer, and in local languages. Since 2002, CARE has developed a bilingual education program for primary education using a community school model. This has been done in close cooperation with the Ministry of Education, Youth and Sport in Cambodia and groups of indigenous elders. Both the bilingual non-formal education and formal education programs are strongly supported by the Ministry who have just approved an expansion of bi-lingual education up to grade 3 into state schools in the five north eastern provinces of Cambodia.<sup>15</sup>

**Health:** the indigenous peoples in Cambodia have a significantly poorer health status than other Cambodians. Increasing degradation of natural resources is exerting a negative impact on the already precarious health and nutritional status of the local people. Indigenous communities in particular suffer from high child mortality rates, something that was clearly illustrated in a study conducted in Ratanakiri province. Two-thirds of the women interviewed for the study had lost at least one child.<sup>16</sup>

Malaria, tuberculosis and diarrheal diseases are endemic, and vaccine preventable diseases and acute respiratory infections continue to be major causes of morbidity and mortality. Studies have shown that a majority of children and most women are anemic, and rates of vitamin A deficiency (2 percent of children and 6.8 percent of pregnant women have night blindness) are also high. Around 70 percent of children are stunted which is an indication of chronic malnutrition. Intestinal parasitic infections are universal and hygiene and sanitation in the villages is very poor increasing the risks of diarrhea and malnutrition. The risk of cholera epidemics is high, the last one being in 1999.<sup>17</sup>

The majority of the population does not have proper or sufficient access to government health services. The ongoing national health sector reforms have yet to significantly benefit the indigenous population as improvement in the fields of health management, financial resources, or human resources at health facilities in the province remain seriously limited. Indigenous persons still report that they are in many instances forced to pay high informal medical fees in order to get medical services and face discrimination and lack of qualified staff who speak indigenous languages.<sup>18</sup>

**Local government and decentralization:** in February 2002 Cambodians elected, for the first time in decades, their local government representatives as the new commune councils, replacing the state-appointed commune chiefs of the past. The establishment of locally elected commune councils in

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<sup>13</sup>Ibid., p. 6.

<sup>14</sup>Ibid., p. 10.

<sup>15</sup>Ibid., p. 11.

<sup>16</sup>Ibid., p. 11.

<sup>17</sup>Ibid., p. 11.

<sup>18</sup>Ibid., p. 11.

Cambodia has a strong potential to contribute to the self-management of indigenous peoples. The laws governing decentralization provide for strong, autonomous bodies of self-governance and devolve substantial powers and functions to these bodies. However, in the total absence of provisions to recognize and accommodate indigenous languages and institutions, the current design of decentralization in most areas does not realize this potential. Rather, it contributes to the marginalization of indigenous peoples through a number of mechanisms.<sup>19</sup>

### 3. United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)

**What is the United Nations Declaration on the Rights of Indigenous Peoples?** The Declaration was adopted by the United Nations General Assembly on 13 September 2007. It is an inspirational document that sets out a universal framework of minimum standards for the survival, dignity, well-being and rights of the world's indigenous peoples. It addresses both individual and collective rights, cultural rights and identity, rights to education, health, employment, language, and others. It declares discrimination against indigenous peoples to be unlawful, and promotes their full and effective participation in all matters that concern them. It also affirms their right to remain distinct and to pursue their own priorities in economic, social and cultural development. The Declaration explicitly encourages harmonious and cooperative relations between states and indigenous peoples.<sup>20</sup>

When the United Nations General Assembly voted to adopt the Declaration in 2007, 144 countries voted in favor and four against adoption of the Declaration. Another 11 nations were either absent or abstained from the vote. The countries that voted against adopting the Declaration were Australia, New Zealand, the United States and Canada.<sup>21</sup>

**How is New Zealand meeting these obligations?** In September 2007, New Zealand was one of four countries to vote against the United Nations' adoption of the Declaration on the Rights of Indigenous People. New Zealand did not endorse the Declaration until 2010, and, even then, the government made it clear that they considered the document inspirational rather than legally binding and it would only be implemented within the current legal and constitutional frameworks of New Zealand. However, New Zealand has taken steps which go towards fulfilling the rights in the Declaration such as repealing the Foreshore and Seabed Act 2004. This Act concerns the ownership of the country's foreshore and seabed with many Maori groups claiming that Maori have a rightful claim to title. It was repealed in 2011.<sup>22</sup>

**What is Australia's current status in regard to the Declaration?** In September 2007, Australia was one of four countries to vote against the United Nations' adoption of the Declaration on the Rights of Indigenous People. Following a change of government in November 2007, however, the Australian government officially endorsed the Declaration on 3 April 2009. Although the Declaration is non-binding, in issuing its statement in support of the Declaration, Australia accepted the document as a framework for recognizing and protecting the rights of indigenous Australians.<sup>23</sup>

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<sup>19</sup>Ibid., p. 12.

<sup>20</sup>Council for International Development. United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Understanding New Zealand's Responsibilities under UNDRIP., p. 1.

<sup>21</sup>Reconciliation Australia.

<sup>22</sup>Council for International Development., p. 1.

<sup>23</sup>Reconciliation Australia.

The Declaration simply draws together existing rights from other international laws and conventions and explains how they apply to indigenous peoples. By doing this, the Declaration asks nations to pay attention to treating indigenous peoples' rights as seriously as the rights of all other citizens.

**How can Australia use the Declaration in a practical way?** One of the rights stated in the Declaration is that, "Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves." Following this endorsement of the Declaration in 2009, the Australian government committed to support the creation by Aboriginal and Torres Strait Islander peoples, of a national indigenous representative body. The National Congress of Australia's First Peoples was established in 2010 to give Aboriginal and Torres Strait Islander people a voice in national affairs and policy development. The declaration also affirms the right to free, prior or informed consent. In practice, this means that when making policies or laws, or when undertaking activities that affect indigenous peoples, governments and other parties such as corporations should negotiate with indigenous peoples to obtain their consent. Working this way allows governments, corporations and Aboriginal and Torres Strait Islander people to work together on a more equal basis to arrive at solutions and agreements that all parties can accept. There are many other guiding principles in the Declaration that can help indigenous and other Australians work together more respectfully and effectively, and with greater understanding.<sup>24</sup>

#### 4. New Zealand

In New Zealand, the Maori are numbered at 682,100, representing 14.6 percent of the total population (Statistics New Zealand).<sup>25</sup>

**4.1 History:** The Maori people of New Zealand have been involved in the country's politics since the Declaration of Independence of New Zealand of 1835, and have had reserved seats in the Parliament of New Zealand since 1868, receiving universal suffrage in 1893. Given the traditional tribal structure of the Maori people, there is no one person or group who serves to speak for all Maori across the country. Instead, there are seven designated Maori seats in Parliament, and Maori occupy general seats as well.<sup>26</sup> Government organizations are routinely required to seek Maori input before moving forward on issues. Because of the success of Maori in Parliament, there is frequent debate surrounding the need for designated seats, and the National Party aims to abolish these seats when all historic Treaty settlements are resolved, by 2014.<sup>27</sup>

The right to self-identify is an important aspect of self-determination. The Maori were originally referred to by European visitors and settlers as "New Zealanders" or "natives", but Maori is the term they used to describe themselves, or sometimes the term "*tangatawhenua*" ("*people of the land*") in order to describe a tribal relationship to the land. The term Maori has been officially acknowledged since the 1947 Maori Purposes Act, changing the Department of Native Affairs to the Department of Maori Affairs (now called TePuniKokiri, or the Ministry of Maori Development). The legal definition

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<sup>24</sup>Reconciliation Australia.

<sup>25</sup> <http://www.stats.govt.nz/>

<sup>26</sup> In New Zealand politics, Maori electorates (Maori seats), are a special category of electorate that gives reserved positions to representatives of Maori in the Parliamentary of New Zealand. Consequently, every area in New Zealand is covered by both a general and a Maori electorate

<sup>27</sup> Katie Saulnier. Aboriginal Self-Determination: A Comparative Study of New Zealand, Australia, and the United States, ISID Aboriginal Policy Study Papers, Paper No.6, Institute for the Study of International Development (ISID), May 2014.p. 4.

of what it means to be Maori has also changed in recent years. Prior to 1974, genetic ancestry was used to determine the legal status of “a Maori person”, used for such purposes as deciding whether to enroll in the general electoral roll or the separate Maori roll. However, the Maori Affairs Amendment Act of 1974 altered this legal definition to one of cultural identification, meaning that although some sort of demonstration of ancestry or cultural connection is sometimes required – for instance, in cases of scholarship or Waitangi Tribunal settlements – there is no minimum “blood” requirement to identify as Maori and enroll on the Maori electoral roll.<sup>28</sup>

The official Maori Party first entered Parliament in 2005. The Maori Party have made their goals clear: “the Maori Party seeks significant outcomes in *whanauora* (family health); through eliminating poverty, advocating for social justice, and advancing Maori social, cultural, economic and community development in the best interest of the nation.”<sup>29</sup>

**4.2 Relationship with Government:** The Maori population of New Zealand experiences a comparatively positive relationship with the government of New Zealand. Maori interests are woven into the broader context of the country’s governance: “some departments have particular formal responsibilities across government, e.g. Crown Law (legal) and Treasury (fiscal). TePunkikokiri (Ministry of Maori Development) provides an important contribution to policy generally, to Maori development issues and to monitoring of service delivery across government from a Maori perspective, drawing on their interaction with Maori communities (New Zealand Ministry of Justice).”<sup>30</sup>

Because the relationship between this government and the Maori is an increasingly positive one, it is possible to allow for self-governance to take place while ensuring that the Maori are integrated fairly seamlessly into the country’s broader governance. It is particularly important to note that the Ministry of Justice appears to be very conscious of where this integration is not occurring seamlessly, and is taking steps to address these concerns.<sup>31</sup>

**4.3 Education:** UNDRIP article 14 states:

1. Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and training;
2. Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination; and
3. States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.

Education outcomes for Maori are poorer in comparison with those of non-Maori New Zealanders. In 2001, 43.6 percent of Maori adults did not have school qualifications, in comparison with 23.6

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<sup>28</sup>Ibid., p. 5.

<sup>29</sup>Bargh, Maria. *Maori and Parliament: Diverse Strategies and Compromises*. Vitoria: University of Wellington, 2010., p. 35.

<sup>30</sup>Katie Saulnier., p. 14.

<sup>31</sup>Ibid., p. 15.

percent of the total population. As of 2009, 48 percent of Maori students were achieving a year 11 National Certificate of Education Achievement (NCEA), as compared with 69 percent of non-Maori. These statistics are similar in other grades.<sup>32</sup>

Improving Maori educational outcomes is addressed in two policy papers - *Managing for Success: The Maori Education Strategy (2008 – 2012)* and *Accelerating Success (2013 – 2017)*. The strategies use five guiding principles. The first is the Treaty of Waitanga. The second is the Maori Potential Approach, which states that “students who are expected to achieve and who have high (but not unrealistic) expectations of themselves are more likely to succeed. Students, parents, Maori organizations, communities, peers, and education and vocational training sector professionals must share high expectations for Maori students to achieve.” The third is *Ako*, a two-way teaching and learning process whereby educators seek out views and opinions from students, parents, and Maori organizations on how to improve the education process. The fourth principle is the inclusion of Maori identity, language, and culture in education, and the fifth is the formation of successful and respectful partnerships with Maori communities.<sup>33</sup>

**4.4 Healthcare:** Maori people have poorer health and social outcomes than those of the rest of the population of New Zealand (Indigenous Health). Although there were substantial improvements in life expectancy between the 1950s and 1980s, non-Maori life expectancy has continued to increase since then, while Maori numbers have stagnated. These disparities may arise from a number of sources, some related to self-governance and some to other factors. Access to health care remains a significant factor in rates of disease and mortality, as significantly larger numbers of Maori women than non-Maori women reported in 2002/2003 that they were unable to meet their medical needs from a general practitioner (Indigenous Health).<sup>34</sup>

The goal of improving health outcomes for Maori people is evident in the Maori Health Strategy. Part of this strategy involves an increase in the development of Maori medical service providers, with a significant increase being seen between 1992 and now in the number of Maori organizations involved in the provision of health care services. These range from primary health care to health promotion activities. However, given that a significant proportion of Maori still rely on mainstream primary-care providers, the solution to Maori health problems becomes twofold: Maori organizations continuing to increase their involvement in health provision; and mainstream health services needing to work to provide culturally appropriate responses to the particular unmet needs of the Maori community.<sup>35</sup>

## 5. Australia

**5.1 Profile of Indigenous Australians:** Aboriginal and Torres Strait Islander people (indigenous Australians) are the indigenous people of Australia. They live in all parts of the nation, from major cities to remote tropical coasts and the fringes of the central deserts. They are not one group, but comprise hundreds of groups that have their own distinct set of languages, histories and cultural traditions. In Australia, the Aboriginal population as of 2011 numbered 669,881 or 3 percent of the population (Australian Bureau of Statistics). Around 90 percent of them have been identified as

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<sup>32</sup>Ibid., p. 17.

<sup>33</sup>Ibid., p. 17.

<sup>34</sup>Ibid., p. 20.

<sup>35</sup>Ibid., p. 21.

Aboriginal origin only, 6 percent as Torres Strait Islander origin only, and 4 percent as both Aboriginal and Torres Strait Islander origin.<sup>36</sup>

**5.2 History:** The history of the Aboriginal Australian people involves a great deal of conflict. Following European colonization of Australia, by the late 1880s most Aboriginal Australians had joined white rural and urban communities as a result of forced assimilation. The effects of this forced assimilation are still seen today, as evidenced by the even more problematic relationship between Aboriginal Australians' self-identify and self-determination and the Australian government in comparison with either New Zealand or the United States. Assimilation introduced Aboriginal Australians to new diseases and economic marginalization, resulting in massive depopulation and even extinction for some tribes.<sup>37</sup>

It was not until the civil rights movements of the 1970s that real improvements began to take place, fuelled by land and property rights, as Aboriginal Australians began to speak out about land that had been forcibly taken by British settlers. The Aboriginal Land Rights Act, which was passed in 1976, became important in territories with tribal associations, as it provided the basis for Aboriginal Australians in the Northern Territory to make land rights claims based on traditional occupation of the land (Central Land Council)<sup>38</sup>. Further rights milestones were reached in the 1990s, including government legislation that provided for a greater degree of autonomy and increased wages and welfare benefits for Aboriginal populations (Aboriginal Australia). Of particular importance was the 1992 Australian High Court decision of *Mabo and others v Queensland*, which further recognized Aboriginal title and led to the 1993 passing of the Native Title Act, designed "to provide a national system for the recognition and protection of native title and for its co-existence with the national land management system."<sup>39</sup>

**5.3 Relationship with Government:** Traditional ideas about governing, social and political structures and hierarchies of power help to shape the way in which the Aboriginal people of Australia interact with the federal government. Traditional ideas about the concept of "bosses" as people or groups who not only possess power, but who care for those under their power and are invested in creating positive outcomes for them, mean that Aboriginal Australians anticipate a reciprocal type of relationship with their federal government.<sup>40</sup>

**5.4 Education:** Education is a powerful tool in achieving better economic outcomes and is considered one of the main strategies for addressing indigenous issues in Australia.<sup>41</sup>As of 2002, Aboriginal Australians were more than twice as likely as non-indigenous Australians to leave school before year ten (age 16), and half as likely to complete year 12 (age 18). However, these numbers had increased significantly from 1994, and they continued to increase until 2004 when 37 percent of Aboriginal Australians had attained a minimum of year 12 or a skilled vocation, doubling the 1994 number of 16 percent. Additionally, those completing year ten increased from 48 percent in 1994 to 71 percent in

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<sup>36</sup> Indigenous Health., p. 2.

<sup>37</sup> Katie Saulnier., p. 6.

<sup>38</sup> The Central Land Council is an Indigenous Land Council that represents the indigenous people of the southern half of the Northern Territory of Australia, predominantly in land issues.

<sup>39</sup> Ibid., p. 7 .

<sup>40</sup> In Australia there is no "reserved seats" for Aboriginal Australians. The Aborigines are "under-represented" in Parliament.

<sup>41</sup> Hunter, B. H. and R. G. Schwab (2003). "Practical reconciliation and continuing disadvantage in Indigenous education." *The Drawing Board: An Australian Review of Public Affairs* 4(2): 84-98.

2008 (Australian Bureau of Statistics). These numbers were significantly affected by the remoteness of the individuals. While major cities saw 39.8 percent of individuals attaining year 12 or a skilled vocation, this number dropped to 32 percent in regional areas, and to 21.2 percent in remote areas.<sup>42</sup>

Education is listed as one of the six goals targeted by Australia's "Closing the Gap" campaign, designed to improve Australian Aboriginal outcomes in life expectancy, child mortality, education, and employment. Among these are goals to: "ensure access to early childhood education for all indigenous four year olds in remote communities by 2013; reduce the gap by half in reading, writing and numeracy achievements for children by 2018; and halve the gap for indigenous students in year 12 (or equivalent) attainment rates by 2020." However, according to a 2014 report card on the project, only two out of eight areas have met the goals of improvement in reading, writing, and numeracy for children since 2008.<sup>43</sup> In addition, sources consulted by the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples, James Anaya, identified problems with the curriculum currently used and the day-to-day operations of schools across Australia that are attended by indigenous children, as well as a lack of adequately trained teachers for bilingual and culturally-appropriate education and a lack of resources to sustain such programs. There are very few examples of Aboriginal children being taught in their own languages. The remote character of many indigenous communities is another major challenge for the provision of education.<sup>44</sup>

**5.5 Healthcare:** Health and social indicators for the Aboriginal people of Australia indicate significant problems. The life expectancy at birth for Aboriginal Australians is around 20 years less than that of the total Australian population (Indigenous Health). Aboriginal and Torres Strait Islanders' infant mortality rate is three times the rate of non-indigenous Australians.<sup>45</sup> Although intentions have been positive for rectifying these health outcome disparities, strategies have not always met with success. It was not until 1989 that Australia first agreed to a National Aboriginal Health Strategy, and subsequent reports show that its implementation was unsuccessful, even though it listed as its goals an Aboriginal community-controlled health service (i.e., meaning one that is initiated by, governed by, and based in Aboriginal communities) (National Strategic Framework ).<sup>46</sup> The Closing Gap campaign aims to eliminate the indigenous vs. non-indigenous disparity in life expectancy within a generation and halve the gap in mortality rates for indigenous children under five within a decade. However, a lack of adequate cultural adaptation in the delivery of health services continues to represent a barrier to the effective employment of the right to health for indigenous peoples. There is a reported dearth of indigenous physicians, nurses, sex offender counselors, and psychologists, as well as a continuing need to strengthen indigenous control over the design and delivery of health services. While there are several successful health care programs by and for Aboriginal and Torres

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<sup>42</sup> Katie Saulnier., p. 18.

<sup>43</sup> Ibid., p. 19.

<sup>44</sup> United Nations Human Rights Council. Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development. The Situation of Indigenous Peoples in Australia., p. 17.

<sup>45</sup> Oxfam Australia. Closing the Gap! Solutions to the Indigenous Health Crisis Facing Australia. April 2007., p. 3.

<sup>46</sup> Katie Saulnier., p. 21.

Strait Islanders, in particular those provided by the National Aboriginal Community Controlled Health Organization (NACHO), further support is needed to provide culturally-appropriate health services.<sup>47</sup>

Coombs lists the principles for good Aboriginal health as: needing to originate from Aboriginal control; an emphasis on Aboriginal health workers in the communities as the primary instruments of health service delivery; and a respect for traditional Aboriginal medical knowledge and healing.<sup>48</sup>

Additionally, specific measures should be funded including:

- Improved access for Aboriginal peoples and Torres Strait Islanders to culturally-appropriate primary health care, and to a level commensurate with need;
- Increasing the number of health practitioners working within Aboriginal health settings, and further development and training of the indigenous health workforce;
- Improving the responsiveness of mainstream health services and programs to Aboriginal peoples and Torres Strait Islander health needs;
- Greater targeting of maternal and child health and greater support for indigenous-specific population programs for chronic and communicable disease;
- Greater funding and support for the building blocks of good health such as awareness and availability of nutrition, physical activity, fresh food, healthy lifestyles, and adequate housing; and
- Setting national targets and benchmarks towards achieving healthy equality, by which progress can be closely monitored.<sup>49</sup>

## 5. Conclusion:

Cambodia is home to 24 different groups of indigenous peoples. The country is a signatory to a number of international conventions protecting the right of indigenous people. The rights of indigenous peoples are further protected by the Land Law and Forest Law. The National Policy of the Development of Indigenous Peoples (2009) could be seen as a complement to the laws and policies on land, forest, environment and international documents. However, indigenous peoples in Cambodia still face many challenges, such as alienation of land rights, low education attainment, and poorer health status amongst others.

Indigenous peoples in New Zealand (the Maori) and Australia (the Aboriginal and Torres Strait Islanders) also face a number of challenges. However, a number of strategies have been developed to bridge the gap between the Maori and non-Maori and the Aboriginal and non-Aboriginal people. In New Zealand, in addition to having the Ministry of Maori Development, seven seats are reserved for Maori electorates. Improving Maori educational outcomes is addressed in two policies papers: *Managing for Success: the Maori Education Strategy (2008 – 2012)* and *Accelerating Success (2013 – 2017)*. On the health front, the goal of improving health outcomes for Maori people is evident in the Maori Health Strategy. In Australia, the Native Title Act, passed in 1993, was designed to provide a national system for the recognition and protection of native title. Closing the Gap campaign was

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<sup>47</sup> United Nations Human Rights Council., p. 15.

<sup>48</sup> Coombs, HC. *Aboriginal Autonomy: Issues and Strategies*. Cambridge UP, 1994., p. 65.

<sup>49</sup> Oxfam Australia., p. 3.

designed to improve Australian Aboriginal outcomes in life expectancy, child mortality, education, and employment.

It can be concluded that Australia and New Zealand are international leaders in education rights for indigenous populations, and are especially outspoken on the issue. Both aggressively fund and provide legislative and regulatory support for indigenous education, with the most of the authority for implementation granted to indigenous authorities.

## References

1. Bargh, Maria. *Maori and Parliament: Diverse Strategies and Compromises*. Vitoria: University of Wellington, 2010.
2. Coombs, HC. *Aboriginal Autonomy: Issues and Strategies*. Cambridge UP, 1994.
3. Council for International Development. *United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Understanding New Zealand's Responsibilities under UNDRIP*.
4. Duncan C.R. (ed): *Civilizing the Margins. Southeast Asian Government Policies for the Development of Minorities*. Ithaca: Cornell University Press.
5. Hunter, B. H. and R. G. Schwab (2003). "Practical reconciliation and continuing disadvantage in Indigenous education." *The Drawing Board: An Australian Review of Public Affairs* 4(2).
6. *Indigenous Health*.
7. *Indigenous Peoples in Australia*.
8. Katie Saulnier. *Aboriginal Self-Determination: A Comparative Study of New Zealand, Australia, and the United States*, ISID Aboriginal Policy Study Papers, Paper No.6, Institute for the Study of International Development (ISID), May 2014.
9. Moul Phath and Seng Sovathana, "Country Technical Note on Indigenous Peoples' Issues," Kingdom of Cambodia. IFAD.AIPP. November 2012.
10. NGO Forum on Cambodia, *Indigenous Peoples in Cambodia*. April 2006.
11. Oxfam Australia. *Closing the Gap! Solutions to the Indigenous Health Crisis Facing Australia*. April 2007.
12. *Reconciliation Australia*.
13. United Nations Human Rights Council. *Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development. The Situation of Indigenous Peoples in Australia*.
14. <http://www.culturalsurvival.org/who-are-indigenous-peoples> (accessed 10/05/2015)  
United Nations, Factsheet, Who are indigenous peoples?
15. <http://www.iwgia.org/regions/asia/cambodia> (accessed 01/09/2015)