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STANDARD-SETTING ACTIVITIES: EVOLUTION OF STANDARDS
CONCERNING THE RIGHTS OF INDIGENOUS POPULATIONS

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CANADA

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With reference to the Note by the Secretary-General, contained in document E/CN.4/Sub.2/AC.4/1987/2 and concerning the analytical compilation of existing legal instruments and proposed draft standards relating to indigenous rights which was prepared by the Secretariat in accordance with Sub-Commission resolution 1985/22, the Government of Canada has noted that the compilation contains a number of existing and proposed international standards that refer specifically to indigenous populations. It is the view of the Government of Canada, however, that in drafting principles on indigenous populations the Working Group on Indigenous Populations should bear in mind a number of additional international conventions and instruments that might not explicitly address the situation of indigenous populations or use the term "indigenous population", but nevertheless pertain to the nature of certain relevant rights and their applicability to indigenous populations.

Accordingly, as a supplement to the analytic compilation, the Government of Canada wishes to submit for the consideration of the Working Group and interested observers a compilation of related provisions in other international instruments. This compilation is organized in conformity with the seven draft principles prepared by the Working Group to date. It refers to a number of existing conventions, as well as some draft conventions and other international instruments that may be of interest to the Working Group in undertaking its task.

DRAFT PRINCIPLES ON INDIGENOUS POPULATIONS: RELATED PROVISIONS
IN OTHER INTERNATIONAL INSTRUMENTS 1/

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1/ The following abbreviations are used in this document:

ACHR:	American Convention on Human Rights
ACHPR:	African Charter on Human and People's Rights
CDE:	Convention against Discrimination in Education (UNESCO)
CEDAW:	Convention on the Elimination of All Forms of Discrimination Against Women
CERD:	International Convention on the Elimination of All Forms of Racial Discrimination
CPPCG:	Convention on the Prevention and Punishment of the Crime of Genocide
CRC	Draft Convention on the Rights of the Child
DEDR:	Declaration on the Elimination of All Forms of Intolerance and Discrimination based on Religion or Belief
DPICC:	UNESCO Declaration on the Principles of International Cultural Co-operation
ECHR:	European Convention for the Protection of Human Rights and Fundamental Freedoms
HFA:	Helsinki Final Act.
ICCPR:	International Covenant on Civil and Political Rights
ICESCR:	International Covenant on Economic, Social and Cultural Rights
ITPC:	Indigenous and Tribal Populations Convention, 1957 (ILO Convention No. 107)
UDHR:	Universal Declaration of Human Rights

ENTITLEMENT TO RIGHTS

(1) The right to the full and effective enjoyment of the fundamental rights and freedoms universally recognized in existing international instruments, particularly in the Charter of the United Nations and the International Bill of Rights.

(a) International conventions

Article 55 (c) of UNC:

With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote ...

(c) universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion ...

Article 2 (1) of ICCPR:

Each State party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 2 (2) of ICESCR:

The States parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 14 of ECHR:

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

Article 1 of ACHR:

1. The States parties to this Convention undertake to respect the rights and freedoms recognized herein and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms, without any discrimination for reasons of race, colour, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social condition.

2. For the purposes of this Convention, "person" means every human being.

Article 1 of ACHPR:

The Member States of the Organization of African Unity parties to the present Charter shall recognize the rights, duties and freedoms enshrined in this Charter and shall undertake to adopt legislative or other measures to give effect to them.

Article 2 of the ACHPR:

Every individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status.

(b) Other international instruments

Principle VII of Part A of HFA:

VII. Respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief.

The participating States will respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion.

They will promote and encourage the effective exercises of civil, political, economic, social, cultural and other rights and freedoms all of which derive from the inherent dignity of the human person and are essential for his free and full development ...

The participating States recognize the universal significance of human rights and fundamental freedoms, respect for which is an essential factor for the peace, justice and well-being necessary to ensure the development of friendly relations and co-operation among themselves as among all States.

They will constantly respect these rights and freedoms in their mutual relations and will endeavour jointly and separately, including in co-operation with the United Nations, to promote universal and effective respect for them.

They confirm the right of the individual to know and act upon his rights and duties in this field.

In the field of human rights and fundamental freedoms, the participating States will act in conformity with the purposes and principles of the Charter of the United Nations and with the Universal Declaration of Human Rights. They will also fulfill their obligations as set forth in the international declarations and agreements in this field, including inter alia the International Covenants on Human Rights, by which they may be bound.

Article 2 of UDHR:

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status ...

ANTI-DISCRIMINATION

(2) The right to be free and equal to all other human beings in dignity and rights and to be free from discrimination of any kind

(a) International conventions

Article 26 of ICCPR:

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Articles 2 (1) of CERD

1. States parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, and, to this end:

(a) Each State party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation;

(b) Each State party undertakes not to sponsor, defend or support racial discrimination by any persons or organizations;

(c) Each State party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists;

(d) Each State party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization;

(e) Each State Party undertakes to encourage, where appropriate, integrationist multiracial organizations and movements and other means of eliminating barriers between races, and to discourage anything which tends to strengthen racial division.

Article 5 of CERD:

In compliance with the fundamental obligations laid down in Article 2 of this Convention, States parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

- (a) The right to equal treatment before the tribunals and all other organs administering justice;
- (b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution;
- (c) Political rights, in particular the right to participate in elections - to vote and to stand for election - on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service;
- (d) Other civil rights, in particular:
 - (i) The right to freedom of movement and residence within the border of the State;
 - (ii) The right to leave any country, including one's own, and to return to one's country;
 - (iii) The right to nationality;
 - (iv) The right to marriage and choice of spouse;
 - (v) The right to own property alone as well as in association with others;
 - (vi) The right to inherit;
 - (vii) The right to freedom of thought, conscience and religion;
 - (viii) The right to freedom of opinion and expression;
 - (ix) The right to freedom of peaceful assembly and association;
- (e) Economic, social and cultural rights, in particular:
 - (i) The right to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration;
 - (ii) The right to form and join trade unions;
 - (iii) The right to housing;

- (iv) The right to public health, medical care, social security and social services;
 - (v) The right to education and training;
 - (vi) The right to equal participation in cultural activities.
- (f) The right of access to any place or service intended for use by the general public, such as transport, hotels, restaurant, cafés, theatres and parks.

Article 24 of ACHR:

All persons are equal before the law. Consequently, they are entitled, without discrimination, to equal protection of the law.

Article 3 of ACHPR:

1. Every individual shall be equal before the law.
2. Every individual shall be entitled to equal protection of the law.

Article 19 of ACHPR:

All peoples shall be equal; they shall enjoy the same respect and shall have the same rights. Nothing shall justify the domination of a people by another.

Article 15 of ITPC:

1. Each Member shall, within the framework of national laws and regulations, adopt special measures to ensure the effective protection with regard to recruitment and conditions of employment of workers belonging to the populations concerned so long as they are not in a position to enjoy the protection granted by law to workers in general.
2. Each Member shall do everything possible to prevent all discrimination between workers belonging to the populations concerned and other workers, in particular as regards:
 - (a) admission to employment, including skilled employment;
 - (b) equal remuneration for work of equal value;
 - (c) medical and social assistance, the prevention of employment injuries, workman's compensation, industrial hygiene and housing;
 - (d) the right of association and freedoms for all lawful trade union activities, and the right to conclude collective agreements with employers or employers' organizations.

(b) Other international instruments

Article 7 of UDHR:

All are equal before the law and are entitled without any discrimination to equal protection to the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Principle VII of Part A of HFA:

... The participating States on whose territory national minorities exist will respect the right of persons belonging to such minorities to equality before the law, will afford them the full opportunity for the actual enjoyment of human rights and fundamental freedoms and will, in this manner, protect their legitimate interests in this sphere ...

Note: In fact all of the provisions of CERD, and also of the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, are relevant to Draft Principle (2).

RIGHT AGAINST GENOCIDE, AND INDIVIDUAL RIGHT TO LIFE, ETC.

(3) The collective right to exist and to be protected against genocide as well as the individual right to life, liberty and security of the person.

(i) Genocide

(a) International conventions

Article II of CPPCG:

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.

Article III of CPPCG:

The following acts shall be punishable:

- (a) Genocide;
- (b) Conspiracy to commit genocide;
- (c) Direct and public incitement to commit genocide;
- (d) Attempt to commit genocide;
- (e) Complicity in genocide.

Note: This entire convention is relevant to draft Article 3.

Article 6 (3) of ICCPR:

When deprivation of life constitutes the crime of genocide, it is understood that nothing in this article [on the right to life] shall authorize any State party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.

(ii) Individual right to life

(a) International conventions

Article 6 (1) of ICCPR:

Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of life.

Article 11 of ICE CR:

1. The States parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

2. The States parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed.

- (a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;

(b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

Article 12 of ICESR:

1. The States parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
2. The steps to be taken by the States parties to the present Covenant to achieve the full realization of this right shall include those necessary for:
 - (a) The provision for the reduction of the still-birth rate and of infant mortality and for the healthy development of the child;
 - (b) The improvement of all aspects of environmental and industrial hygiene;
 - (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;
 - (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

Article 2 of ECHR:

1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.
2. Deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is no more than absolutely necessary:
 - (a) in defense of any person from unlawful violence;
 - (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
 - (c) in action lawfully taken for the purpose of quelling a riot or insurrection.

Article 4 of ACHR:

1. Every person has the right to have his life respected. This right shall be protected by law, and, in general, from the moment of conception. No one shall be arbitrarily deprived of his life.
2. In countries that have not abolished the death penalty, this may be imposed only for the most serious crimes and pursuant to a final judgement rendered by a competent court and in accordance with

a law establishing such punishment, enacted prior to the commission of the crime. Its application shall not be extended to crimes to which it does not presently apply.

3. The death penalty shall not be re-established in States that have abolished it.

4. In no case shall capital punishment be inflicted for political offences or related common crimes.

5. Capital punishment shall not be imposed upon persons who, at the time the crime was committed, were under 18 years of age or over 70 years of age; nor shall it be applied to pregnant women.

6. Every person condemned to death shall have the right to apply for amnesty, pardon, or commutation of sentence, which may be granted in all cases. Capital punishment shall not be imposed while such a petition is pending a decision by the competent authority.

Article 4 of ACHPR

Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right.

Article 20 of ITPC:

1. Governments shall assume the responsibility for providing adequate health services for the populations concerned.

2. The organization of such services shall be based on systematic studies of the social, economic and cultural conditions of the populations concerned.

3. The development of such services shall be co-ordinated with general measures of social, economic and cultural development.

(b) Other international instruments

Article 3 of UDHR:

Everyone has the right to life, liberty and security of the person.

Article 25 of UDHR:

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

(iii) Right to liberty and security of the person

(a) International conventions

Article 9 (1) of ICCPR:

Everyone has the right to liberty and security of the person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

Article 5 (1) of ECHR:

Everyone has the right to liberty and security of the person.

Article 7 (1) of ACHR:

Every person has the right to personal liberty and security.

Article 6 of ACHPR:

Every individual shall have the right to liberty and to the security of his person. No one may be deprived of his freedom except for reasons and conditions previously laid down by law. In particular, no one may be arbitrarily arrested or detained.

Article 10 (1) of ITPC:

Persons belonging to the populations concerned shall be specially safeguarded against the improper application of preventive detention and shall be able to take legal proceedings for the effective protection of their fundamental rights.

FREEDOM OF RELIGION

- (4) The right to manifest, teach, practise and observe their own religious traditions and ceremonies, and to maintain, protect, and have access to sites for these purposes.

(a) International conventions

Article 18 of ICCPR:

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

4. The States parties to the present Covenant undertake to have respect for the liberty of parents, and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

Article 9 of ECHR:

1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

Article 12 of ACHR:

1. Everyone shall have the right to freedom of conscience and of religion. This right shall include freedom to maintain or to change his religion or beliefs, and freedom to profess or disseminate his religion or beliefs either individually or in community with others, in public or in private.

2. No one shall be subject to restriction that might impair his freedom to maintain or to change his religion or beliefs.

3. Freedom to manifest one's religion and beliefs may be subject only to the limitations prescribed by law that are necessary to protect public safety, order, health, or morals, or the rights or freedoms of others.

4. Parents or guardians, as the case may be, have the right to provide for religious and moral education of their children, or wards, that is in accord with their own convictions.

Article 8 of the ACHPR:

Freedom of conscience, the profession and free practice of religion shall be guaranteed. No one may, subject to law and order, be submitted to measures restricting the exercise of these freedoms.

Article 4 of ITPR:

In applying the provisions of this Convention relating to the integration of the populations concerned:

(a) Due account shall be taken of the cultural and religious values and of the forms of social control existing among these populations, and of the nature of the problem which face them both as groups and as individuals when they undergo social and economic change;

(b) The danger involved in disrupting the values and institutions of the said populations unless they can be replaced by appropriate substitutes which the groups concerned are willing to accept shall be recognized;

(c) Policies aimed at mitigating the difficulties experienced by these populations in adjusting themselves to new conditions of life and work shall be adopted.

Article 5(b) of CDE

It is essential to respect the liberty of parents and, where applicable, of legal guardians, firstly to choose for their children institutions other than those maintained by the public authorities but conforming to such minimum educational standards as may be laid down or approved by the competent authorities and, secondly, to ensure in a manner consistent with the procedures followed in the State for the application of its legislation, the religious and moral education of the children in conformity with their own convictions; and no person or group of persons should be compelled to receive religious instruction inconsistent with his or their conviction;

(b) Other international instruments

Principle VII of Part A of HFA:

... within this framework the participating States will recognize and respect the freedom of the individual to profess and practice, alone or in community with others, religion or belief acting in correspondence with the dictates of his own conscience.

Article 18 of UDHR:

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 1 of DEDR:

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have a religion or whatever belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
2. No one shall be subject to coercion which would impair his freedom to have a religion or belief of his choice.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others.

Article 6 of DEDR:

In accordance with article 1 of the present Declaration, and subject to the provisions of article 1, paragraph 3, the right to freedom of thought, conscience, religion or belief shall include, inter alia, the following freedoms:

- (a) To worship or assemble in connection with a religion or belief, and to establish and maintain places for these purposes;
- (b) To establish and maintain appropriate charitable or humanitarian institutions;
- (c) To make, acquire and use to an adequate extent the necessary articles and materials related to the rites or customs of a religion or belief;
- (d) To write, issue and disseminate relevant publications in these areas;
- (e) To teach a religion or belief in places suitable for these purposes;
- (f) To solicit and receive voluntary financial and other contributions from individuals and institutions;
- (g) To train, appoint, elect or designate by succession appropriate leaders called for by the requirements and standards of any religion or belief;
- (h) To observe days of rest and to celebrate holidays and ceremonies in accordance with the precepts of one's religion or belief;
- (i) To establish and maintain communications with individuals and communities in matters of religion and belief at the national and international levels.

Note: This entire Declaration is relevant to Draft Principle 4.

RIGHT TO EDUCATION

- (5) The right to all forms of education, including the right to have access to education in their own language, and to establish their own educational institutions.
- (a) International conventions

Article 18(4) of ICCPR:

The States parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

Article 13 of ICESCR:

1. The States parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

2. The States parties to the present Covenant recognize that, with a view to achieving the full realization of this right:

(a) Primary education shall be compulsory and available free to all;

(b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;

(c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;

(d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;

(e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.

3. The States parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.

4. No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 14 of ICESCR:

Each State party to the present Covenant which, at the time of becoming a party, has not been able to secure in its metropolis or territory or other territories under its jurisdictions compulsory

primary education, free of charge, undertakes within two years to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all.

Article 2 of First Protocol to ECHR:

No person shall be denied to the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.

Article 17 of ACHPR:

1. Every individual shall have the right to education.
2. Every individual may freely take part in the cultural life of his community.
3. The promotion and protection of morals and traditional values recognized by the community shall be the duty of the State.

Article 16 of ITPC:

Persons belonging to the populations concerned shall enjoy the same opportunities as other citizens in respect of vocational training facilities.

Article 17 of ITPC:

1. Whenever programmes of vocational training of general application do not meet the special needs of persons belonging to the populations concerned governments shall provide special training facilities for such persons.
2. These special training facilities shall be based on a careful study of the economic environment, stage of cultural development and practical needs of the various occupational groups among the said populations; they shall, in particular, enable the persons concerned to receive the training necessary for occupations for which these populations have traditionally shown aptitude.
3. These special training facilities shall be provided only so long as the stage of cultural development of the populations concerned requires them; with the advance of the process of integration they shall be replaced by the facilities provided for other citizens.

Article 21 of ITPC:

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

Article 22 of ITPC:

1. Education programmes for the populations concerned shall be adapted, as regards methods and techniques, to the state these populations have reached in the process of social, economic and cultural integration into the national community.
2. The formulation of such programmes shall normally be preceded by ethnological surveys.

Article 23 of ITPC:

1. Children belonging to the populations concerned shall be taught to read and write in their mother tongue or, where this is not practicable, in the language most commonly used by the group to which they belong.
2. Provision shall be made for a progressive transition from the mother tongue or the vernacular language to the national language or to one of the official languages of the country.
3. Appropriate measures shall, as far as possible, be taken to preserve the mother tongue or the vernacular tongue.

Article 24 of ITPC:

The imparting of general knowledge and skills that will help children to become integrated into the national community shall be an aim of primary education for the populations concerned.

Article 25 of ITPC:

Educational measures shall be taken among other sections of the national community and particularly among those that are in most direct contact with the populations concerned with the object of eliminating prejudices that they may harbour in respect of these populations.

Article 26 of ITPC:

1. Governments shall adopt measures, appropriate to the social and cultural characteristics of the populations concerned, to make known to them their rights and duties, especially in regard to labour and social welfare.
2. If necessary this shall be done by means of written translation and through the use of media of mass communication in the languages of these populations.

Article 5(c) of CDE:

It is essential to recognize the right of members of national minorities to carry on their own educational activities, including the maintenance of schools and depending on the educational policy of each State, the use or the teaching of their own language, provided however:

- (i) That this right is not exercised in a manner which prevents the members of these minorities from understanding the culture and language of the community as a whole and from participating in its activities, or which prejudices national sovereignty;
- (ii) That the standard of education is not lower than the general standard laid down or approved by the competent authorities; and
- (iii) That attendance at such schools is optional.

(b) Other international instruments

Article 26 of UDHR:

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
3. Parents have a prior right to choose the kind of education that shall be given to their children.

Article 5(2) of DEDR:

Every child shall enjoy the right to have access to education in the matter of religion or belief in accordance with the wishes of his parents or, as the case may be, legal guardians, and shall not be compelled to receive teaching on religion or belief against the wishes of his parents or legal guardians, the best interests of the child being the guiding principle.

Draft article 16 bis of CRC:

In those States in which ethnic, religious or linguistic minorities or indigenous populations exist, a child belonging to such minorities or populations shall not be denied the right, in community with other members of its groups, to enjoy its own culture, to profess, practise its own religion or to use its own language.

CULTURAL IDENTITY

- (6) The right to preserve their cultural identity and traditions and to pursue their own cultural development.

(a) International conventions

Article 1(1) of ICCPR and ICESCR:

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

Article 27 of ICCPR:

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

Article 15 of ICESCR:

1. The States parties to the present Covenant recognize the right of everyone:

(a) To take part in cultural life;

(b) To enjoy the benefits of scientific progress and its applications;

(c) To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

2. The steps to be taken by the States parties to the present Covenant to achieve the full realization of this right shall include those necessary for the conservation, the development and the diffusion of science and culture.

3. The States parties to the present Covenant undertake to respect the freedom indispensable for scientific research and creative activity.

4. The States parties to the present Covenant recognize the benefits to be derived from the encouragement and development of international contacts and co-operation in the scientific and cultural fields.

Article 20 of ACHPR:

1. All peoples shall have the right to existence. They shall have the unquestionable and inalienable right to self-determination. They shall freely determine their political status and shall pursue their economic and social development according to the policy they have freely chosen.

2. Colonized or oppressed peoples shall have the right to free themselves from the bonds of domination by resorting to any means recognized by the international community.

3. All peoples shall have the right to the assistance of the States parties to the present Charter in their liberation struggle against foreign domination, be it political, economic or cultural.

Article 22 of ACHPR

1. All peoples shall have the right to their economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind.

2. States shall have the duty, individually or collectively, to ensure the exercise of the right to development.

Article 29(7) of ACHPR:

The individual shall also have the duty:

7. To preserve and strengthen positive African cultural values in his relations with other members of the society, in the spirit of tolerance, dialogue and consultation and, in general, to contribute to the promotion of the moral wellbeing of society;

Article 4 of ITPC:

In applying the provisions of this Convention relating to the integration of the populations concerned:

(a) Due account shall be taken of the cultural and religious values and of the forms of social control existing among these populations, and of the nature of the problems which face them both as groups and as individuals when they undergo social and economic change;

(b) The danger involved in disrupting the values and institutions of the said populations unless they can be replaced by appropriate substitutes which the groups concerned are willing to accept shall be recognized;

(c) Policies aimed at mitigating the difficulties experienced by these populations in adjusting themselves to new conditions of life and work shall be adopted.

Article 7 of ITPC:

1. In defining the rights and duties of the populations concerned regard shall be had to their customary laws.

2. These populations shall be allowed to retain their own customs and institutions where these are not incompatible with the national legal system or the objectives of integration programmes.

3. The application of the preceding paragraphs of this Article shall not prevent members of these populations from exercising, according to their individual capacity, the rights granted to all citizens and from assuming the corresponding duties.

(b) Other international instruments

Principle VIII of Part A of HFA:

VIII. Equal rights and self-determination of peoples

The participating States will respect the equal rights of peoples and their right to self-determination, acting at all times in conformity with the purposes and principles of the Charter of the United Nations and with the relevant norms of international law, including those relating to territorial integrity of States.

By virtue of the principle of equal rights and self-determination of peoples, all peoples always have the right, in full freedom, to determine, when and as they wish, their internal and external political status, without external interference, and to pursue as they wish their political, economic, social and cultural development.

The participating States reaffirm the universal significance of respect for an effective exercise of equal rights and self-determination of peoples for the development of friendly relations among themselves or among all States; they also recall the importance of the elimination of any form of violation of this principle.

Article 1 of DPIICC:

1. Each culture has a dignity and value which must be respected and preserved.
2. Every people has the right and the duty to develop its culture
- ...

Draft article 16 bis of CRC:

In those States in which ethnic, religious or linguistic minorities or indigenous populations exist, a child belonging to such minorities or populations shall not be denied the right, in community with other members of its group, to enjoy its own culture, to profess, practise its own religion or to use its own language.

CULTURAL EXCHANGES

(7) The right to promote intercultural information and education recognizing the dignity and diversity of their cultures.

(b) International instruments

Article 2 of DPIICC:

Cultural co-operation is a right and a duty for all peoples and nations, which should share with one another their knowledge and skills.

Portion of Section 3 ("Co-operation and Exchanges in the Field of Culture") of Part D of HFA:

The participating States, ...

Declare that they jointly set themselves the following objectives:

- (a) to develop the mutual exchange of information with a view to a better knowledge of respective cultural achievements,
- (b) to improve the facilities for the exchange and for the dissemination of cultural property,
- (c) to promote access by all to respective cultural achievements,
- (d) to develop contact and co-operation among persons active in the field of culture,
- (e) to seek new fields and forms of cultural co-operation,

Thus give expression to their common will to take progressive, coherent and long-term action in order to achieve the objectives of the present declaration; and

Express their intention now to proceed to the implementation of the following ...

Draft article 9 of CRC

The States parties to the present Convention recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, including those aimed at the promoting of his social, spiritual and moral well-being and physical and mental health. To this end, the States parties shall:

- (a) Encourage the mass media agencies to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 16;
- (b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;
- (c) Encourage the mass media agencies to have particular regard to the linguistic needs of the child who belongs to a minority group or an indigenous population;
- (d) Encourage the development of appropriate guidelines for the protection of the child from information and material potentially injurious to his well-being bearing in mind the provisions of article 8.