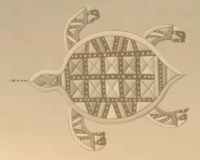


Wayana INDIGENOUS PEOPLE OF SURINAME

CONSULTATION PROTOCOL:

Protection of the rights of the Wayana's in the field of self-determination, participation and decision-making.



WHO ARE WE?

The Wayanas live in an extensive area in the northern Amazon Region, in Suriname, French Guyana and Brazil. In Suriname, the Wayanas have lived and live along the rivers Lawa, the Litani, the Oelemari and the upper Tapanahoni. We have entered Suriname from Brazil and have settled in Apetina (Puleowime), Palumeu and Kawemhakan (Anapaïke) Kumakupan, Lensi dede and Tutu Kampu. There are about 800 Wayanas in Suriname and about 2500 Wayanas in total, living in three countries. What we value most is our freedom and independence. We live in harmony with nature. To secure our future, we make use of the land in a way that ensures its use for generations to come. We hunt, fish and plant cassava and other crops on our lands. Our way of life is threatened by external influences. Illegal gold mining is destroying our nature. It poisons our rivers and the fish with mercury. Our rivers become muddy, so fish can no longer live in them. Due to overhunting by illegal prospectors, not much game is left. We are therefore very much aware of the fact that external influences affect our way of life. That is why we write this document, so that we ourselves can influence and determine our future, in a way that fits within our culture and in which our rights are protected.



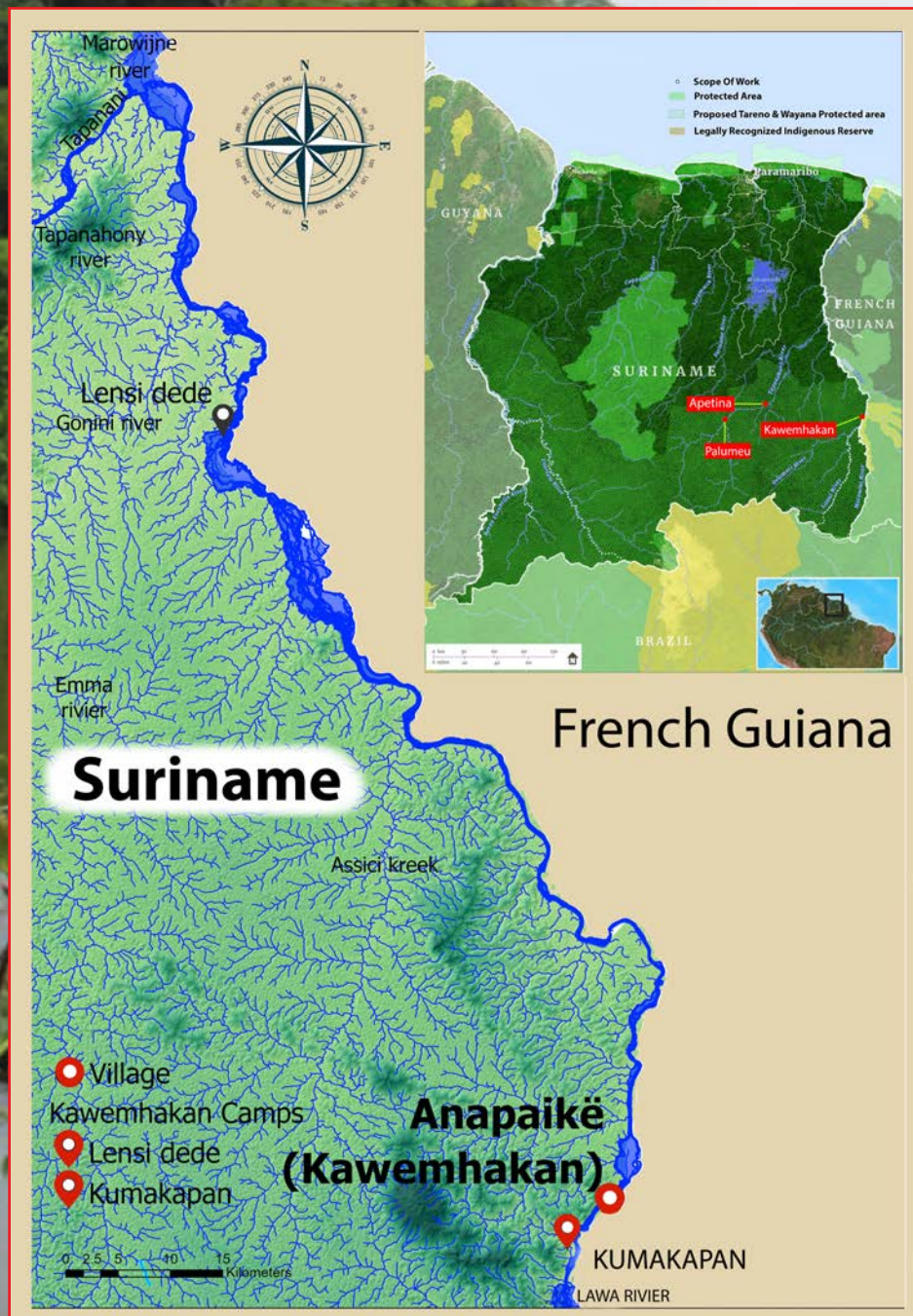
WHY DO WE WRITE THIS DOCUMENT?

We, Wayanas, have a completely different way of life than you do. We have lived in the Amazon region for thousands of years. We are the protectors of this area and live from what we get of Mother Nature. External factors can endanger our way of life. We have drawn up this protocol because in the past we have often experienced that the government, NGOs or others come up with projects for the Wayana community, without any communication with us, to see if we want them, how we want them or even if we really need them. In some cases, the government, NGOs or others engage in activities within our territory that affect our land rights. Activities, projects etc. that are carried out, around or on our territory, can directly affect our lives, the lives of the animals, the rivers, the fish and the forest. We all agree that our highest priority must be the preservation of our land, forest and natural resources.

The government/NGOs and third parties must listen to our opinions and ask what our priorities are. It's all about working together and going into partnerships.

We do not agree with the government/NGOs when they come to us with ready-made projects and want to invest money in things that we consider unnecessary or do not see as a priority.

We know that there are many projects that are not only intended for the indigenous peoples and that the government sometimes also wants to involve the Wayanas in these projects. And we are not against this, but we prefer that they communicate with us in the proper way. The parasisi (outsiders) have drawn up all kinds of rules for us, such as the FPIC rules and the "Right Based Approach". Although it is good that these laws/rules have been made, they were not made by us. Through this document we want to make clear how the government/NGOs and other "parasisi" should deliberate and communicate with us, according to our "Wayana" way of consultation. The FPIC rules are the base for this document.



HOW DO WAYANAS CONFER AND HOW DO THEY TAKE DECISIONS?

There is no central authority for all Wayanas. We consist of different families, groups and villages. Each group has its own leader, who can be a Chief Captain or a Granman. Together with the other Captains and Basjas they represent the traditional authority. But we are a people who allow all people (young, old, male or female) to participate in the thought process and decide when important matters are discussed. Through krutus (meetings) everyone has influence and can help determine the future of our communities and our land.

In addition, each village has its own foundation:

- Piya Foundation in Apetina chairperson Johan Neni Tel.: 8693162 Email: info@piya.com
- Paatu Foundation in Palumeu chairperson Espanyo Achki Tel.: 8957112 Email: info@paatu.com
- Mulokot Foundation in Kawemhakan chairperson Jupta Itoewaki Tel.: 8691541 Email: info@mulokot.com

These foundations were established to assist the traditional authority, but they do not make any decisions. All decisions are made in consultation with the traditional authority. Before the government/NGOs enter into consultation with the Wayana communities, they must first contact the different foundations. On the basis of these consultations and the traditional authorities, it will be decided whether or not and when there will be consultations with the various Wayana communities.

PROTOCOL OF CONSULTATION AND AUTHORIZATION

The government/NGOs and others are obliged to consult us first about the topics they want to talk about.

We know that we have the right to be informed about all decisions that are related to our territory. When the government/NGOs want to carry out a project on our land, and if this project can affect our rights, they must consult us first.

One may not consult with only one person. All Wayanas must get the chance to be involved in the decision-making process and must get proper information about the project or activity.

The right time to consult.

We set our own priorities, participate in meetings and together we work out the projects or activities of the government/NGOs. Before taking any decisions, consultation should take place, when the project plans can still be changed. Neither the government, nor the NGOs can consult us after they have already made their decisions. Then we will not cooperate on the implementation of the project and will formally protest against it.

How do the government/NGOs and others have to consult with us?

The government/NGOs must deliberate with us in good faith, the proposals must be interpreted to us in such a way that we understand it well. There must therefore always be an interpreter present, appointed by us. During the consultation, the government/NGOs are not allowed to withhold any information, and they may not consult with bad faith. They need to explain all details, advantages and disadvantages of the project and answer our questions.

The government/NGOs should also organize meetings to obtain information and advice, in which we can independently assess the effects of the projects and other decisions taken by the government/NGOs.

In order to consult, when making of a rule, task or project, the government/NGOs have to finance the meetings from their own budget.

This does not only apply to the meetings of the Wayana with the government/NGOs, but also to the meetings among us.

At all meetings, it is required that an interpreter appointed by the traditional authority is present. There must be enough time to express all doubts and to understand the proposals of the government/NGOs. After the meeting with the government/NGOs, we want to have time for meetings with all Wayanas, so that we can discuss among ourselves and take decisions if necessary. This can last several weeks, if necessary. During this period, there should not be any interference from government/NGOs. We will contact them after we have finished the decision-making process.



During our internal meetings, we try to reach unanimous agreement, that is why we sometimes need more than one meeting to deliberate. Only if we cannot reach an unambiguous agreement, will we vote. Here the decision of the majority (3/4 part) of the participants applies. This decision will be respected by everyone. But we do not like voting, we would rather come to a collective decision. The decision to discuss or vote further is exclusively taken by us.

The presidents of our foundations, Piya, Paatu and Mulokot are not allowed to negotiate independently with the government/NGOs. Unless the traditional authority has in advance explicitly agreed upon this with the government/NGOs.

Their tasks are organizing meetings and gathering information, to have knowledge about the subject, so that they can explain it correctly to all Wayanas. Through the Wayana Vision plan 2020-2030 they have collected all our wishes/dreams about the development of our area in one document. It contains all the projects of the coming ten years that we want to have been implemented. They will write project plans for us, look for sponsors and implement the project plans together with us.



Young Wayana women, with Jupta Itoewaki at the center, Chairperson Mulokot Foundation (Mulokot)



Granman Ipomadi Pelenapin(L) and station chef Isajasi Pelenapin(R)

The rules required for meetings between the Wayanas and the government/NGOs.

The representatives of the traditional authority of all Wayana villages and the presidents of all three Wayana foundations are required to participate in the meetings with the government/NGOs, unless the traditional authority composes another delegation in advance. The three foundations must ensure that all representatives of the villages participate in the meetings and they must support the whole meeting.

Choosing the representatives of the government/NGOs for participation in the meetings depends on the subject of the meeting. The subject may be of interest to the Ministries of Justice, Education, RO, Social Affairs, Health or ROGB.

The representative of the government/NGOs, who participates in the meetings, should have the authority to take decisions. The government/NGOs may not send a representative who does not have any knowledge or responsibility on the subject of the meeting. During the meetings with the government/NGOs, we will rely on the advice of the representatives of the Ministries and of our partners. They may all participate in the meetings, but none of them is allowed to make a decision on our behalf. The Ministry must see to it that our rights and laws are respected.

The role of the boards of the Wayana foundations in this is giving advice to all Wayanas. Meetings to inform or discuss subjects should always be held in one of our villages. In the invitation to the meetings it should always indicate whether it will be about providing information or making decisions.



A meeting in the community house (TukoSPAN) (Iepe Brasil)



Birthday party in Taluen (Frans-Guiana (Mulokot)

In the consultation process, the first meeting between the Wayanas and the government/NGOs should solely be about providing information on the subject.

At this meeting, no decisions are taken, we just listen to the ideas of the government/NGOs.

At every meeting with the government/NGOs, we must get enough time to be able to discuss with each other. Every meeting should last at least a day, so that we have enough time to ask questions, talk, translate, discuss and explain the proposal.

Considering the fact that we will need at least a whole day for discussing, it is important that the representatives of the government/NGOs prepare for sleeping at least two nights in our village. Otherwise, it will not be possible to deliberate with our representatives properly.

Of all meetings minutes must be taken and it must be recorded. The minutes that will be written in Dutch must also be translated into our language, the Wayana and also signed by the government/NGOs and our representatives. During the meeting, the Wayanas must have one or more secretaries/interpreters to take down in the language of the Wayanas. The costs of this will be borne by the government/NGOs.



Child in the rapids at Apetina (Milton Kam)

Our internal meetings

After the meetings with the government/NGOs, we need time for our own internal meetings, that are necessary to discuss the subject, before having another meeting with the government/NGOs. Board members of our foundations take care of the preparation and organization of our internal meetings.

Our internal meetings must be financed by the government/NGOs as well. The relevant representatives of the ministries/NGOs or other partners can also be invited if we consider it necessary.

In some cases, after we have had our internal meetings, we may conclude that we need more information to ensure that we take the proper decisions. Then we make a new schedule, so that we can gather more information about the subject. A new schedule is not always necessary. It depends on the subject and the mutual decision-making process of the Wayanas. Sometimes we can start the process for making a decision, together with the government/NGOs, without a new schedule. It depends on the gravity of the subject and our decision. After the mutual meeting of the Wayanas, we will pass on our decision to the government/NGOs. This may be in agreement with their proposal or quite the opposite. In case of the latter, we shall have to negotiate further to reach a final decision. The planning needs to be done together with the government/NGOs in order to know exactly what the time limit is for consultation. The representatives of the government should also participate in the negotiations and implementation of this planning, so that we are convinced that our rights are respected during the decision-making process and when the final decision is made.

After the planning, the government/NGOs should participate in order to discuss and negotiate together with the Wayanas, till we have made a decision that is correct and that is in line with our rights and priorities.

Meetings of the Wayanas with the government/NGOs and internal meetings

Before phase one takes place, consultations should first have been held between the foundation and the government/NGOs. This is always done in writing via the email addresses mentioned. The foundations have been designated by the traditional authority to ensure that the contacts between the government/NGOs, third parties and the Wayanas are conducted properly.

Phase 1

The first meetings between the Wayanas and the government/ NGOs.

Participants: the Wayanas – representatives of all the participating villages and representatives of the Wayana Foundation(s).

The government/NGOs – representatives, parties concerned with the subject to be discussed.

Possible guests: partners and consultants of the Wayanas.

The objective: obtaining information from the government/NGOs about the subject of consultation.

Phase 2

Internal meetings among the Wayanas .

Participants: the Wayanas – representatives of all villages and the board of the Wayana foundations

Possible guests: the VIDS, partners and consultants of the Wayanas, representatives of the government/NGOs and/or specialists.

Objective 1: discussing the subject, expressing all doubts and obtaining independent information.

Objective 2: decide on the answer that will be given to the government/NGOs.

Phase 3

Meetings with the government/NGOs and the Wayanas to reach an agreement.

Participants: the Wayanas – representatives of all villages and the organization. The government/NGOs - representatives of the organizations concerned with the subject of discussion and the VIDS.

Possible guests: partners and consultants of the Wayanas.

Purpose 1: presenting and discussing our conditions to accept or change the proposal (in case we have already taken a final decision in phase 2).

Otherwise, objective 1 will be: presenting and discussing our proposal.

Objective 2: signing an agreement, which can be a final decision, which was already presented during the last meeting or a plan of discussion to continue consultations.



Wayana school in Kawemhakan (Mulokot)



Wayana kids in Kawemhakan (Mulokot)

This way of consultation, explanation, signing agreements and the decision-making process on subjects that concern the whole Wayana community, is slow, compared to the way of other groups than the Wayanas. But this is our way and it should be respected. If the government/NGOs do not respect our way of consulting and decision-making, they cannot say that they have consulted our people.

The government/NGOs must work according to the law and comply with their obligations: consulting with regard to decisions that affect the rights of indigenous people, help us to strengthen our culture, respect our way of life, help us protect our environment and respect our decisions so that we can determine our own future.



Wayana women share their knowledge about Traditional Medicine (Iepe Brasil)



Krutu (meeting) at the community house (tukoespan) (Iepe Brasil)

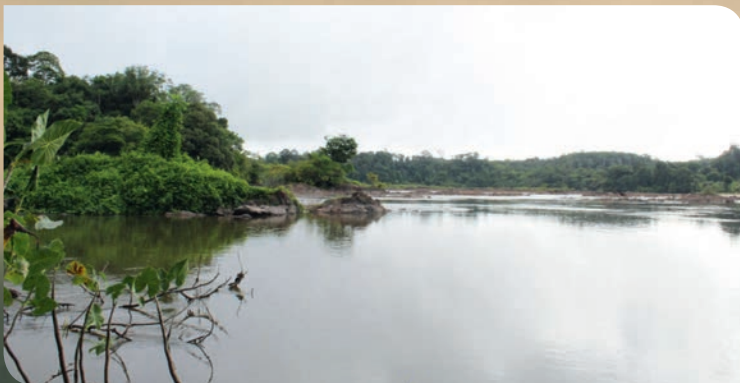
FPIC (Free, Prior, Informed, Consent)

What is FPIC? FPIC is following the rules so that your community can take well considered decisions. A well considered decision is for example a decision:

1. Where you have the freedom to be for or against a project and you may openly say this. The decision you make may not have been imposed and you take that out of your own free will. This is indicated by the letter 'F' (which stands for the English word: free).
2. The project has been completely explained before it has started, and not when the project is already in operation. So, you are informed in advance about the project, and this is indicated by the letter 'P' (which stands for the English word: prior). FPIC are rules to protect the rights of the community in a project. FPIC stands for Free: free will and freedom.
3. The project has been explained clearly, and all information has been passed on to your community. You have been informed about the project about how the activities will take place, the people who will be involved, who makes the decisions, how much money is available, and how reports will be made. So you are informed of all details of the project and this is indicated by the letter 'I' (which stands for the English word: informed).
4. You may finally decide whether or not to participate in the project. This is indicated by the letter C (which stands for the English word: consent).

FPIC stands for time: information and consensus must be discussed before the start of the project. : FPIC stands for being informed: complete and correct information must be exchanged. FPIC's steps have not just been made. It has been found that Indigenous peoples were often disregarded when making decisions about projects. In some cases they were even forced to approve of a project without enough information. One of the important international agreements for guaranteeing the rights of Indigenous peoples is the UNDRIP, which stands for the Declaration of the Rights of Indigenous Peoples at the United Nations. The UNDRIP is an agreement made in 2007, after more than 20 years of negotiations by various groups, such as governments, indigenous and maroon representatives and experts. The main rights of indigenous peoples are indicated as follows:

- The right to self-determination. This means that Indigenous people have the right to decide on their social, political, economic and cultural development. They also have the right to appoint their own representation, and to make decisions in their own cultural way.
- The right to land and to natural resources. Indigenous peoples have the legal right to use the land where they practice their customs and traditions.
- The right to FPIC. Indigenous peoples have the right to FPIC in creating new laws, projects or activities that affect them.
- The right to development. Indigenous peoples have the right to create their own political, economic and social structures to ensure their development and survival. FPIC stands for permission: the community may or may not give permission for the implementation of the project. They may denote their own priorities.
- The right to culture and cultural property. Indigenous peoples have the right to preserve their culture – traditional knowledge and cultural expression – and to cultivate and protect it.
- The right to education. Indigenous peoples have the right to create their own education system, in which education can be provided, according to their own method and in their own language.
- The right to health care. Indigenous peoples have the right to preserve, practice and protect the customs and knowledge of their traditional health care, if it does not violate the national law of Suriname. So FPIC was created to work together in a proper way.



The Lawa river, rapids (Mulokot)



Birthday party (Mulokot)

United Nations Declaration on the Rights of Indigenous Peoples, Sept. 13, 2007, G.A. Res. 61/295, U.N. Doc. A/RES/61/295 (2007) articles 10, 11, 19, 28, 29, 32; ILO, Convention Concerning Indigenous and Tribal Peoples in Independent Countries (ILO Doc. 169), adopted June 27, 1989, entered into force September 5, 1991 Inter-American Court of Human Rights, *Saramaka People v. Suriname*, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 172, para 134 (Nov. 28, 2007); International Labour Organisation (ILO), Convention Concerning the Protection and Integration of Indigenous and Other Tribal and Semi-Tribal Populations in Independent Countries (ILO No. 107), adopted June 26, 1957, entered into force June 2, 1959, 328 U.N.T.S. 247; 28 I.L.M. 1382; American Declaration of the Rights and Duties of Man, O.A.S. Res. XXX, reprinted in Basic Documents Pertaining to Human Rights in the Inter-American System, OAS/Ser.L/V/II.4 Rev. 9 (2003); 43 AJIL Supp. 133, (1949); Organisation of American States, American Convention on Human Rights, Nov. 22, 1969, O.A.S. T.S. No. 36; 1144 U.N.T.S. 123 [hereinafter American Convention]; *Mayagna (Sumo) Awastingu Community v. Nicaragua*, Merits, Reparations, and Costs, Judgment Inter-Am. Ct. H.R. (ser. C) No. 79, (August 31, 2001); *Mary & Carrie Dann v. U.S.*, Case 11.140, Inter-Am. Comm'n H.R., Report No. 75/02, OEA/Ser.L/V/II.117, doc. 5. Rev. ¶ 1 (2002); *Maya Indigenous Communities of the Toledo Dist. v. Belize*, Case 12.053, Inter-Am. Comm'n H.R., Report No. 40/04, OEA/Ser.L/V/II.122 doc. 5 rev. 1, ¶ 194 (2004); *Kichwa People of Sarayaku and its members v. Ecuador*, Case 12.465, Inter-Am. Comm'n H.R., Application to the Inter-Am. Ct. H.R. ¶¶ 56-69 (Apr. 26, 2010); Committee on Elimination of Racial Discrimination General Recommendation XXIII (51) concerning Indigenous Peoples. Adopted at the Committee's 1235th meeting, 18 August 1997. UN Doc. CERD/C/51/Misc.13/Rev.4, at para. 3; U.N. Commission on Human Rights, Sub-Comm. on the Promotion and Protection of Human Rights Working Group on Indigenous Populations, Working Paper: Standard-Setting: Legal Commentary on the Concept of Free, Prior and Informed Consent, ¶ 57, U.N. Doc. E/CN.4/Sub.2/AC.4/2005/WP.1, 2005 (July 14, 2005) (prepared by Antoanella-Iulia Motoc and the Tebtebba Foundation); International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 171 (1978); International Covenant on Economic, Social and Cultural Rights, Dec. 16, 1966, 993 U.N.T.S. 3 (1967); U.N. High Commissioner for Human Rights, General Comment No. 23: The rights of minorities (Art. 27), ¶ 3.2, U.N. Doc. CCPR/C/21/Rev.1/Add.5 (Apr. 8, 1994); Concluding observations of the Human Rights Committee: Panama, ¶ 21, U.N. Doc. CCPR/C/PAN/CO/3 (Apr. 17, 2008); U.N. High Comm'r. for Human Rights, Concluding observations of the Human Rights Committee: Nicaragua, ¶ 21, U.N. Doc. CCPR/C/NIC/CO/3 (Dec. 12, 2008); 15 U.N. High Comm'r. for Human Rights, Committee on Economic, Social and Cultural Rights [CESCR], Concluding observations of the Committee on Economic, Social and Cultural Rights: Colombia, ¶ 12 and 33, U.N. Doc. E/C.12/1/Add.74 (Dec. 6, 2007); CESCR, Concluding observations of the Committee on Economic, Social and Cultural Rights: Ecuador, ¶ 12 and 35, U.N. Doc. E/C.12/1/Add.100 (June 7, 2004); CESCR, General comment No. 21 Right of everyone to take part in cultural life (art. 15, ¶ 1 (a), of the International Covenant on Economic, Social and Cultural Rights), U.N. Doc. E/C.12/GC/21 (Dec. 21, 2009); International Convention on the Elimination of All Forms of Racial Discrimination, Dec. 21, 1965, 660 U.N.T.S. 195 (entered into force Jan. 4, 1969); U.N. Commission. on the Elimination of Racial Discrimination, Report of the Committee on the Elimination of Racial Discrimination: Annex V - General Recommendation XXIII, ¶

Op rechten gebaseerde benadering Een op mensenrechten gebaseerde benadering (rights-based approach) houdt in dat een organisatie (i.c. de overheid): • de resultaten van de interventie/het project formuleert als (het streven naar) de realisering van een of meer mensenrechten, bijv. het recht op onderwijs, gezondheid, arbeid, cultuur, eigendom, toegang tot informatie, rechtsbescherming, etc.; • mensenrechten respecteert in elke fase en activiteit van haar werk (bijv. respecteren van het recht op participatie, maar ook het recht op cultuur en levenswijze); • rechthebbenden (incl. inheemse en tribale gemeenschappen) versterkt om op te komen voor hun rechten, en plichtdragers (bijv. gezondheidszorgactoren) versterkt om hun plichten te kunnen vervullen.