



Governing Body

341st Session, Geneva, March 2021

Policy Development Section

POL

Employment and Social Protection Segment

Date: 8 March 2021

Original: English

First item on the agenda

Follow-up to the Strategy on indigenous peoples' rights for inclusive and sustainable development, including implementation of the strategic plan for engagement with the United Nations system bodies and relevant regional organizations regarding the Indigenous and Tribal Peoples Convention, 1989 (No. 169)

Purpose of the document

To provide an update on related ILO action; explore implications of the COVID-19 crisis in relation to the strategy and identify opportunities for leveraging it in the context of the response and recovery; and outline possible directions and actions for the Governing Body's consideration and guidance (see the draft decision in paragraph 36).

Relevant strategic objective: All.

Main relevant outcome: Outcome 6: Gender equality and equal opportunities and treatment for all in the world of work.

Policy implications: Yes.

Legal implications: No.

Financial implications: No.

Follow-up action required: See section IV.

Author unit: Conditions of Work and Equality Department (WORKQUALITY).

Related documents: [GB.334/POL/2](#); [GB.334/PV](#); [GB.335/POL/2](#); [GB.335/PV](#).

▶ Background

1. In 2015, the Governing Body endorsed a strategy to reinforce ILO action concerning indigenous and tribal peoples.¹ The strategy emphasizes the importance of promoting the rights of indigenous and tribal peoples as an integral part of inclusive and sustainable development, and, to this end, promotes the ratification and effective implementation of the Indigenous and Tribal Peoples Convention, 1989 (No. 169).
2. The strategy is articulated in seven main blocks: (a) closing the data and knowledge gap; (b) promoting Convention No. 169 and its implementation; (c) strengthening institutionalized dialogue, consultation and participation; (d) fundamental principles and rights at work, working conditions and livelihoods; (e) indigenous and tribal women; (f) extending social protection; and (g) partnerships.²
3. The Governing Body reviewed the strategy's implementation in October 2018³ and requested that ILO engagement with UN system bodies and regional organizations regarding Convention No. 169 be discussed more thoroughly at its March 2019 session. On that occasion, the Governing Body endorsed a strategic plan for engagement with these bodies.⁴ To secure visibility of the Convention and clarity and understanding of its scope, the plan prioritized: active dissemination of ILO tools and guidance from the ILO supervisory bodies; dialogue with UN bodies and regional organizations; and initiatives to advance UN system-wide coherence and joint training activities.
4. The COVID-19 pandemic and the resultant economic and labour market shocks have dramatically altered the path towards achieving the Sustainable Development Goals (SDGs). Indigenous and tribal peoples are being hit particularly hard by the pandemic and its socio-economic impacts. The Governing Body's review of the strategy is in line with the ILO Centenary Declaration for the Future of Work, which calls for a people-centred approach to the future of work, and reflects the UN system's focus on groups in vulnerable situations, upholding the principle of leaving no one behind.

▶ The strategy in action

A. Closing the data and knowledge gap

5. It is often difficult to monitor public policies intended to improve the socio-economic conditions of indigenous and tribal peoples owing to a lack of statistical data disaggregated by ethnicity and gender. The Office has, however, been able to prepare global and regional estimates of population, employment and poverty for indigenous and tribal peoples, based on various official data sources.⁵

¹ GB.325/POL/2.

² GB.334/POL/2, para. 8.

³ GB.334/POL/2; GB.334/PV.

⁴ GB.335/POL/2; GB.335/PV.

⁵ ILO, *Implementing the Indigenous and Tribal Peoples Convention No. 169: Towards an inclusive, sustainable and just future*, 2019.

6. According to those estimates, there are over 476 million indigenous and tribal peoples in the world, one third of whom live in Asia and the Pacific. Latin America and the Caribbean is the region with the highest number of indigenous and tribal peoples as a proportion of the total population. While indigenous and tribal women and men consistently showed higher employment rates than their non-indigenous counterparts, 86.3 per cent work in the informal economy and experience poor working conditions, including a 19 per cent ethnic wage gap. Among employed indigenous and tribal persons, almost 47 per cent have no education (53.5 per cent for women), compared to 17 per cent among the non-indigenous population (17.8 per cent for women). Indigenous and tribal peoples are nearly three times more likely to live in extreme poverty. Over 18 per cent of indigenous women live on less than US\$1.90 per day.⁶
7. Inequalities experienced by indigenous and tribal communities prior to COVID-19 are now also a factor behind the disproportionate impacts of the pandemic on many of these communities. Loss of income and livelihood, insufficient access to social protection including health services, food insecurity, reports of increasing violence and harassment against indigenous women, and interruption in education for indigenous children, are among the reported impacts.⁷ In order to monitor and respond to these impacts, the availability of meaningful data, disaggregated by gender and ethnicity, must be improved. Under outcome 6 of the programme and budget, the ILO supports, upon request, the strengthening of labour market data disaggregated by ethnicity and indigenous or tribal identity, in addition to other characteristics including gender and disability.⁸

B. Promoting Convention No. 169 and its implementation

8. As called for by the Governing Body in March 2019, the 30th anniversary of Convention No. 169 was leveraged to raise the Convention's visibility as the only treaty open for ratification that specifically addresses the rights of indigenous and tribal peoples, and to raise awareness of its scope and of the obligations of ratifying Member States. During the anniversary year, several activities were undertaken across the ILO, UN and at the regional and country levels, to encourage implementation by ratifying Members, and to encourage others to consider ratification.
9. In April 2019, during the 18th session of the United Nations Permanent Forum on Indigenous Issues (UNPFII), the ILO organized a high-level event on Convention No. 169, at which the President of the UN General Assembly expressed strong support for efforts to promote the Convention. Participants, including the Minister of Culture of Peru, the Director-General of the National Institute of Indigenous Peoples of Mexico, employer and worker representatives from Guatemala and Chile, respectively, and a member of the Permanent Forum, shared their perspectives on lessons learned and the work still to be done.⁹ An informal consultation on the strategy for action was also organized, to brief delegations from New York-based permanent missions to the UN of States that have

⁶ ILO, *Implementing the Indigenous and Tribal Peoples Convention No. 169: Towards an inclusive, sustainable and just future*, 2019.

⁷ ILO, *COVID-19 and the world of work: A focus on indigenous and tribal peoples*, 2020; ILO/IWGIA, *The impact of COVID-19 on indigenous communities: Insights from the Indigenous Navigator*, 2020.

⁸ See indicator 6.4.2 for outcome 6, GB.337/PFA/1/1, table I.2.

⁹ https://www.ilo.org/newyork/events-and-meetings/WCMS_696178/lang--en/index.htm.

ratified the Indigenous and Tribal Populations Convention, 1957 (No. 107) or Convention No. 169.

- 10.** In July 2019, a first-of-its kind Global Dialogue on Convention No. 169 was held in Geneva, allowing tripartite constituents from Chile, Colombia, Costa Rica, Guatemala, Honduras, Nepal, Norway and Peru to share experiences concerning the Convention's implementation. Participants also engaged in dialogue with members of the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR), the Chair of UNPFII, the Special Rapporteur on the rights of indigenous peoples, and a member of the Expert Mechanism on the Rights of Indigenous Peoples. A central topic was the scope of state duty to consult, with the objective of obtaining consent. Participants agreed that appropriate institutions and consultation procedures were indispensable for attaining fair and transparent results, including achieving agreement or consent, or for determining the proper course of action where agreement or consent could not be found. They welcomed the dialogue and expressed an interest in organizing similar opportunities in future.
- 11.** In December 2019, a Latin American Regional Forum and tripartite workshop on lessons learned in the implementation of Convention No. 169 were held in Lima, Peru, with tripartite participation from ten countries, as well as the participation of representatives of indigenous peoples, UN agencies, regional organizations, NGOs and the diplomatic community. During the workshop, constituents discussed key issues related to strengthening institutions and frameworks for consultation with indigenous peoples (legal frameworks, type of institutions, time frames, identification of representative institutions of indigenous peoples, funding for consultation processes). In conjunction with the workshop, an online training course on Convention No. 169 was launched, developed jointly by the ILO and the Spanish Agency for International Development Cooperation (AECID).
- 12.** An event to mark the 30th anniversary of Convention No. 169 was hosted by the Embassy of Spain in San Jose, Costa Rica, in December 2019, affording an opportunity for constituents, indigenous peoples and the diplomatic community to discuss strengthening application of the Convention in Costa Rica.¹⁰ In Bangladesh, where Convention No. 107 remains in force, Convention No. 169 was highlighted during an event in Dhaka, on the International Day of the World's Indigenous Peoples. Attention was also drawn to the Convention during the ILO Centenary celebrations in Manila, Philippines.
- 13.** During these events, constituents highlighted: the role of the Office in providing expertise on the Convention in global and country-level discussions; the importance of raising awareness of the Convention among judges; the usefulness of documenting experiences for sharing, learning and policy development; the need to intensify capacity-building on the Convention for constituents, indigenous peoples, UN officials and civil society; the need for clear legal and institutional frameworks for participation and consultation, both for the protection of indigenous peoples' rights and as an enabler for sustainable enterprises; the importance of support for indigenous peoples' enterprises; and the positive role that employers' and workers' organizations can play in strengthening application of the Convention.
- 14.** As envisaged in the strategy for action and the strategic plan for engagement, and in response to constituents' requests, several new tools on Convention No. 169 were made

¹⁰ https://www.ilo.org/global/docs/WCMS_734837/lang--en/index.htm.

available: a thematic compilation of excerpts from the reports and comments of the supervisory bodies concerning Convention No. 169; a specific tool for judges and lawyers, drawing on the work of the supervisory bodies; and a series of countries profiles comprising information on existing laws, policies and other measures taken to apply the Convention in 14 countries in Latin America.

15. The general observation on the Convention,¹¹ adopted by the CEACR at its 2018 session, was issued as a stand-alone brochure to facilitate its dissemination. A thematic search function was developed to allow easy access to NORMLEX content on Convention No. 169. ILO tools on the Convention can be accessed easily using the web-based C169-Toolbox¹² as a single entry point. These tools have been actively used and disseminated in the context of capacity-building, webinars and other events, including in collaboration with the International Training Centre (ITC) of the ILO in Turin.
16. As part of its efforts to mitigate the impacts of the COVID-19 pandemic and pave the way for inclusive and sustainable recovery, the Office is currently documenting experiences and practices with regard to consultation and participation, indigenous peoples' access to social protection, and combating child labour affecting indigenous communities. An inter-regional course on Convention No. 169 at the ITC, which was planned for 2020, was postponed due to COVID-19 and will instead be held virtually in 2021.

C. Strengthening institutionalized dialogue, consultation and participation

17. Institutions and mechanisms for indigenous peoples' participation and consultation, as required under Convention No. 169, are often either weak or completely absent. Countries that have a dedicated lead agency for indigenous peoples' affairs, which also coordinates action by other relevant government agencies, are best placed to assist indigenous and tribal communities in the context of the pandemic.¹³ The COVID-19 crisis is also illustrating that coordination among all relevant government entities is essential for addressing the rights and needs of these communities effectively.
18. To ensure an inclusive and sustainable recovery, action must be stepped up to close long-standing institutional and regulatory gaps, especially with regard to participation and consultation. This is essential for ensuring that indigenous and tribal peoples benefit from public policies, including access to decent work and social protection, with access to healthcare, on an equal footing with the rest of society.
19. As and when economic reactivation commences, adequate state institutions responsible for consultation with indigenous and tribal peoples, in line with Convention No. 169, and clear procedures and legal security will be essential for ensuring that the rights of indigenous and tribal peoples are respected, and for creating an enabling environment for public and private sector-led development.¹⁴
20. In Guatemala, the ILO is providing support for strengthening the institutions responsible for indigenous peoples' affairs, in collaboration with the Office of the UN Resident Coordinator and the United Nations Development Programme. An online capacity-building programme for key public officials from relevant government agencies was

¹¹ https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_717509.pdf.

¹² <https://www.ilo.org/global/topics/indigenous-tribal/toolbox/lang--en/index.htm>.

¹³ ILO, COVID-19 and the world of work: A focus on indigenous and tribal peoples, 2020.

¹⁴ ILO, COVID-19 and the world of work: A focus on indigenous and tribal peoples, 2020.

designed and implemented in cooperation with the Ministry of Labour and the Ministry of Mining, with contributions from experts from Chile, Colombia and Peru. The ILO is also supporting a platform that brings together Guatemalan unions and indigenous peoples (*mesa sindical y pueblos indigenas*), as well as employers' organizations, to boost application of Convention No. 169. This included experience-sharing workshops for employers' and workers' representatives from Central America in August and September 2019, respectively.

21. Activities to raise awareness of responsibilities and obligations under Convention No. 169 related to participation and consultation were also carried out through the Joint Project on Responsible Business Conduct in Latin America and the Caribbean, implemented with the Organisation for Economic Co-Operation and Development and the Office of the United Nations High Commissioner for Human Rights, and with support from the European Union.¹⁵

D. Fundamental principles and rights at work, working conditions and livelihoods

22. The recent ILO regional and global estimates of indigenous and tribal peoples' employment and poverty confirm the relevance of the strategy's integrated approach, which combines focus on fundamental principles and rights at work, working conditions and livelihoods, including by supporting indigenous and tribal peoples' enterprises and cooperatives.
23. While over 55 per cent of indigenous and tribal workers are employed in agriculture, indigenous people are also employed in other sectors including commerce, tourism, care, manufacturing and mining. Globally, over 73 per cent of indigenous and tribal peoples live in rural areas where labour inspection tends to be weak.¹⁶ With many engaged in sectors hard-hit by the COVID-19 pandemic, and often in the informal economy, many indigenous and tribal communities are enduring hardship caused by limited access to healthcare, loss of income, and food insecurity.¹⁷ Expected increases in poverty may lead to increased vulnerability to discrimination, child labour and forced labour practices. Freedom of association and the right to collective bargaining are key for improving working conditions for indigenous and tribal workers and reducing that vulnerability. Alliances and networks of unions and indigenous and tribal peoples' organizations have a role to play in this regard.
24. Indigenous and tribal peoples' traditional livelihood strategies and occupations, many of which rely on land and natural resources, have helped these communities cope with the impacts of the COVID-19 pandemic. As part of an inclusive and sustainable recovery, they can also be leveraged as assets for strengthening local economies and resilience through indigenous entrepreneurship and cooperatives, generating green jobs and protecting biodiversity.¹⁸

¹⁵ The 2017 revision of the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy included Convention No. 169 in its annex.

¹⁶ ILO, *Implementing the Indigenous and Tribal Peoples Convention No. 169: Towards an inclusive, sustainable and just future*, 2019.

¹⁷ ILO, *COVID-19 and the world of work: A focus on indigenous and tribal peoples*, 2020; ILO/IWGIA, *The impact of COVID-19 on indigenous communities: Insights from the Indigenous Navigator*, 2020.

¹⁸ ILO, *Indigenous peoples and climate change: From victims to change agents through decent work*, 2017.

25. With support from the Swedish International Development Cooperation Agency (SIDA) and AECID, the ILO has been working in Bangladesh, Guatemala and the Plurinational State of Bolivia to promote indigenous and tribal women's access to decent work, with a focus on particular occupations and sectors, such as construction, domestic work and agriculture. In Brazil, in partnership with the Public Ministry of Labour, the ILO worked with indigenous and *Quilombola* communities on agro-ecological food production and marketing. The ILO's Bridge Project, which is funded by the United States Department of Labor, works to combat forced labour practices in several countries with indigenous and tribal peoples' communities. The ILO also continues to support employment-intensive public investment projects, including in crisis-affected areas, such as water supply projects in the Philippines and Papua New Guinea, funded by the Japanese Government. By building skills and generating jobs and income, these projects have a lasting positive impact on local economies.

E. Indigenous and tribal women

26. A lesson learned from ILO activities to promote indigenous and tribal women's access to productive employment and decent work, is that the disadvantages they face in the world of work are linked to broader patterns of discrimination and exclusion. Research carried out with support from SIDA explored barriers for indigenous and tribal women's participation in decision-making, such as economic dependence, violence and harassment, and weak capacity of their organizations. This research generated insights to inform future interventions to promote access to productive employment and decent work as a strategy to reduce these barriers.¹⁹
27. The COVID-19 pandemic has, in many ways, increased the risks and vulnerabilities faced by indigenous and tribal women in the world of work.²⁰ The ILO supported indigenous women entrepreneurs in Guatemala in establishing a cooperative, developing an online shop, and linking up with the Global Indigenous Business Network. In Argentina, the ILO implemented a financial education programme for training trainers on economic empowerment under the UN/EU Spotlight Initiative, which works towards the elimination of violence against women and supports indigenous communities, with a focus on indigenous women, in developing sustainable and inclusive tourism. The Violence and Harassment Convention, 2019 (No. 190) and the Violence and Harassment Recommendation, 2019 (No. 206) offer an opportunity to include indigenous women in efforts to eliminate these practices.

F. Extending social protection

28. Although further analysis is needed of the social protection gaps faced by indigenous and tribal peoples and approaches for overcoming them, ILO research suggests that lack of access can be attributed to a combination of factors: large proportions of indigenous workers in the informal economy; lack of access to public services, particularly in rural and remote areas; lack of national identity cards; lack of access to information on available protection; and programmes potentially not taking into account the specific needs and characteristics of indigenous and tribal communities, including their culture and traditional practices, or the needs of indigenous persons with disabilities or living

¹⁹ ILO (forthcoming).

²⁰ ILO/IWGIA, *Indigenous women's realities: Insights from the Indigenous Navigator*, 2020.

with HIV. In the context of the COVID-19 pandemic, racial discrimination was identified as a factor impeding access to healthcare services.²¹

- 29.** The COVID-19 pandemic, with its devastating impacts on indigenous and tribal peoples' incomes and livelihoods, has further exposed the gaps in national social protection floors and the systems providing social protection to these groups. Indigenous and tribal women are particularly affected by social protection gaps for reasons including: the disproportionately high number of them employed in the informal economy; limited access to property and financial assets; and barriers to decision-making. Future action to extend social protection will therefore need to focus specifically on indigenous and tribal women. In line with Convention No. 169, indigenous and tribal peoples should participate in the development of social protection policies and measures.

G. Partnerships

- 30.** During 2019, the ILO became Co-Chair of the Inter-Agency Support Group on Indigenous Issues (IASG), alongside permanent Co-Chair, the United Nations Department of Economic and Social Affairs. The ILO hosted the IASG annual meeting at ILO headquarters in Geneva in September 2019. The meeting included a dialogue with the Director-General as well as ILO constituents. The central themes of the meeting were ensuring that indigenous peoples are not left behind in the implementation of the 2030 Agenda for Sustainable Development, and the need to strengthen UN system collaboration and coherence in the context of the ongoing reform of the UN development system.
- 31.** The need to revitalize the system-wide action plan for ensuring a coherent approach to achieving the ends of the United Nations Declaration on the Rights of Indigenous Peoples²² was subsequently discussed by the High-Level Committee on Programmes of the United Nations Chief Executives Board for Coordination (CEB) in October 2019.²³ The CEB subsequently issued a Call to Action in November 2020.²⁴ The Call to Action, the first of its kind, highlights Convention No. 169 and the ILO supervisory bodies, along with the United Nations Declaration, and stresses support for Member States in establishing mechanisms and procedures for consultations within indigenous peoples. The CEB requested that IASG collect and analyse lessons learned from UN actions supporting of the rights of indigenous peoples, and make recommendations on how to step up efforts to work collaboratively to strengthen coherence, consistency and impact.
- 32.** Other key ILO engagements with the UN system included active participation in the elaboration of an IASG guidance note on indigenous peoples and COVID-19,²⁵ which draws attention to social protection gaps affecting indigenous peoples, as well as the United Nations Model Approach for Environmental and Social Standards that includes a

²¹ ILO, [Social Protection for Indigenous Peoples](#), 2018; ILO/IWGIA, *The impact of COVID-19 on indigenous communities: Insights from the Indigenous Navigator*, 2020; ILO, *COVID-19 and the world of work: A focus on indigenous and tribal peoples*, 2020; Pan American Health Organization, [Indigenous and Afro-descendant voices must be front and center of COVID-19 response in the Americas](#), says PAHO, 30 October 2020.

²² [E/C.19/2016/5](#).

²³ [CEB/2019/6](#), para. 30.

²⁴ UNSCEB, [Building an Inclusive, Sustainable and Resilient Future with Indigenous Peoples: A Call to Action](#), November 2020.

²⁵ [Indigenous Peoples and COVID-19: A Guidance Note for the UN System prepared by the United Nations Inter-Agency Support Group on Indigenous Issues](#).

dedicated chapter on indigenous peoples.²⁶ The Office has continued to collaborate with the Indigenous Peoples Major Group for Sustainable Development (IPMG), including in the context of the Indigenous Navigator initiative supported by the European Union.²⁷

► Taking stock and moving forward: Building back better in partnership

- 33.** Since the Governing Body first endorsed the strategy for action in 2015, successive programmes and budgets have articulated a focus on indigenous and tribal peoples, across several policy outcomes. In the Programme and Budget for 2020–21, output 6.4 under outcome 6 (Gender equality and equal opportunities and treatment for all in the world of work) puts targeted programmatic focus on indigenous and tribal peoples and Convention No. 169, while other outcomes also continue to pay attention to this group through attention to groups in vulnerable situations, gender equality and non-discrimination as cross-cutting concerns.
- 34.** New tools and knowledge products, dissemination of the work of supervisory bodies, and dialogues and events at the global, regional and country levels involving constituents, indigenous peoples, representatives of UN bodies and other actors, have contributed to a better understanding of the underlying issues and challenges, and have ensured greater visibility of Convention No. 169. South–South experience sharing played an important role. As IASG Chair, the ILO facilitated interactions between constituents and representatives of the UN system, and advanced the process for improved UN system-wide coherence and effectiveness, mandated by the CEB’s unique Call for Action.
- 35.** Despite the efforts made, challenges remain with regard to promoting Convention No. 169 and its implementation. To tackle these challenges effectively and in a timely manner, the ILO will need to scale up support for constituents and work with indigenous and tribal peoples and UN partners, particularly at the country level. While the scale of the ILO’s work in this field will depend on resources available, future action could place emphasis on:
- scaling up country-level capacity-building on Convention No. 169 among constituents, to promote its ratification and effective implementation;
 - designing an initiative to promote Convention No. 169 as a framework for advancing inclusive and sustainable development in regions where it is less visible;
 - supporting the establishment of institutions, mechanisms and procedures for indigenous peoples’ participation and consultation, in line with Convention No. 169;
 - promoting fundamental principles and rights at work for indigenous and tribal workers – universal ratification of the Worst Forms of Child Labour Convention, 1999 (No. 182) and the designation of 2021 as the International Year for the Elimination of Child Labour provide an opportunity to further explore and tackle child labour in indigenous and tribal communities;

²⁶ [Moving towards a Common Approach to Environmental and Social Standards for UN Programming.](#)

²⁷ ILO/IWGIA, *The impact of COVID-19 on indigenous communities: Insights from the Indigenous Navigator*, 2020; ILO/IWGIA, *Indigenous women’s realities: Insights from the Indigenous Navigator*, 2020.

- supporting indigenous and tribal communities' economic activities, such as by supporting entrepreneurs and cooperatives, while including indigenous persons with disabilities;
- supporting indigenous and tribal women's participation by fostering economic empowerment through access to decent work;
- building and improving indigenous and tribal peoples' knowledge of and access to social protection, taking into account gender dimensions;
- holding inter-regional training and a global dialogue on Convention No. 169 in 2021 for constituents, indigenous peoples and UN actors (virtual if necessary); and
- maintaining active engagement with UN system bodies and entities, including involvement in the UN system's follow-up to the 2020 CEB Call for Action, as well as engaging with interested regional organizations.

▶ Draft decision

36. The Governing Body:

- (a) advised the Office with regard to the way forward in implementing the strategy for action concerning indigenous and tribal peoples; and**
- (b) requested the Director-General to take into consideration the strategy and the guidance given in the discussion in the implementation of the programme and budget and in facilitating extra-budgetary resources.**