



**Human Rights Council
Expert Mechanisms on the Rights of Indigenous Peoples
Eleventh Session, 9-13 July 2019**

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Item 7: United Nations Declaration on the Rights of Indigenous Peoples: good practices and lessons learned

Statement by the ILO

ILO interventions to build capacity for the application of the Indigenous and Tribal Peoples Convention, 1989 (No. 169) combine various types of action, including promotion of dialogue between the ILO constituents and indigenous and tribal peoples, standards-related technical assistance, and the documentation, assessment and sharing of existing experiences and good practices.

In November 2017, the ILO held a Regional forum on Convention No. 169 in Lima during which constituents and indigenous peoples' representatives have discussed concerns and priorities with regard to implementation deficits. One of the points of convergence was the urgency of moving forward to establish strong and effective mechanisms, institutions and procedures for consultation and participation of indigenous peoples.

The ILO has initiated the preparation of a series of case studies on consultation and participation to facilitate dialogue and policy debates among the stakeholders including peer-to-peer learning amongst government entities responsible for indigenous peoples' affairs in Latin America.

In April 2018, the ILO collaborated with the Fund for the Development of Indigenous Peoples in Latin America and the Caribbean (FILAC) and the Spanish Agency for Development Cooperation in holding a three-day workshop on the Convention which allowed for the sharing and reviewing of practices and experiences across the region, involving indigenous peoples and ILO constituents.

In line with established practice and procedures, the International Labour Office provides, upon request, technical comments on draft legislation against the standards set out in Convention No. 169. In doing so the Office highlights possible inconsistencies with the provisions of the Convention, without prejudice of future comments by the ILO supervisory bodies. In this connection, we would like to inform that 2018 is a reporting year for Convention No. 169 and ratifying countries have been requested to submit their reports to the ILO before 1st September.

Finally, drawing on ILO experience, we would like to share some of the lessons learned and issues to keep in mind with regard to regulation of consultations:

- Ensure that all administrative or legislative measures that may directly affect indigenous peoples are subject to consultation.
- Provide for participation of indigenous peoples concerned in the planning and design of consultation processes.
- Clear articulation of agreement and consent as the objective of the consultation process.
- Design of laws and regulations should be responsive to the different type of measures under consultation (development projects, public policies, legislative, development plans etc.), and allow for sufficient flexibility to enable implementation in a culturally appropriate manner.
- Define the responsibility of the government in cases where no agreement or consent is reached.
- Allow for administrative/judicial review of state decisions made in the context of consultation, with a view to ensuring respect for human rights and compliance with related international obligations.
- Ensuring appropriate budgetary allocations and institutional set-up of government bodies responsible for conducting/overseeing consultation processes.
- Creation of permanent bodies or fora for institutionalized dialogue for consultation, participation and cooperation.