
Convention No.169 on indigenous and tribal peoples



Convention No. 169:

- Only international legally-binding instrument open for ratifications
 - Ratified by 19 countries
 - Instrument in development cooperation
 - Guide for private sector
 - Crucial for inclusive development, democracy, governance and conflict resolution
 - Complementary to the UNDRIP
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Fundamental rights (article 2)

- Full measure of human rights and fundamental freedoms without hindrance or discrimination
 - Benefit equally from rights and opportunities
 - Full realisation of social, economic and cultural rights
 - Respect for their social and cultural identity, their customs, traditions and institutions
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Self-management

– within the framework of the State

Indigenous peoples:

- Recognising the aspirations of ITPs to exercise control over their own institutions, ways of life and economic development, and to maintain and develop their identities, languages and religions within the framework of the States (preamble).

Governments:

- ...have the responsibility for developing, with the participation of ITP, coordinated and systematic action to protect the rights of these peoples and to guarantee respect for their integrity (Article 2)
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Main mechanisms for the implementation of the Convention:

CONSULTATION (article 6) &

In applying the Convention, governments shall consult indigenous peoples:

- On legislative or administrative matters likely to affect them
- Through appropriate procedures and through their representative institutions
- In good faith and in a form appropriate to the circumstances
- With the objective of achieving agreement or consent

PARTICIPATION (article 7)

- ITPs have the right to decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy or otherwise use and to exercise control over their own economic, social and cultural development (Article 7.1.).
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Obligations and flexibility

- Special measures to safeguard the persons, institutions, property, labour, cultures and environment of ITPs (Article 4)
 - Agencies or appropriate mechanisms to administer programmes, with the means necessary to fulfil functions (Article 33)
 - Planning, coordination, execution and evaluation of measure, in cooperation with ITPs (Article 33).
 - Nature and scope of measures shall be determined in a flexible manner, having regards to the conditions characteristic of each country (Article 34)
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Lands and territories (Article 13)

- Respect for the special importance for the cultures and spiritual values of ITPs of their relationship with the lands or territories which they occupy or otherwise use and in particular the collective aspects of this relationship
 - Term “lands” includes the concept of territories, which covers the total environment of the areas which ITPs occupy or otherwise use
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Lands and territories (Article 14)

- Recognition of rights to ownership and possession of lands they traditionally occupy or to which they have traditionally had access for their subsistence and traditional activities.
 - Particular attention to nomadic peoples and shifting cultivators
 - Identification of the land and effective protection of ownership and possession
 - Procedures within national legal system to resolve land claims
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Natural resources (Article 15) :

Indigenous peoples have the right to:

- The natural resources pertaining to their land, including the right to participate in the use, management and conservation of these resources.

Where the State retains ownership of mineral or sub-surface resources, governments shall:

- Consult to ascertain whether and to what degree interests would be prejudiced.
 - ITPs shall participate in benefits of such activities and receive compensation for damages.
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Displacement (Article 16)

- ITPs shall not be removed from their land
 - If necessary as an exceptional measure, then only with their free and informed consent.
 - If consent is not obtained, then relocation must follow appropriate procedures, which provide opportunity for effective representation of ITPs.
 - Whenever possible, ITPs have right to return
 - If no return possible, ITPs shall be provided with lands of equal quality and legal status as previously
 - Full compensation for loss or injury.
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Elimination of socio-economic gaps

- Strengthen traditional economies (Art. 23.1):
 - Provide technical and financial assistance
 - Provide means to develop the lands of ITPs (Art. 19b)
 - Provide special training programmes and facilities, responding to special needs (Article 22.3.).
 - Respect labour rights (Art. 20)
 - Equal admission to employment and vocational training (Art. 20-22)
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Elimination of socio-economic gaps

Social security & health (Art. 24-25)

- Ensure access or provide resources to develop their own health services
- Take into account particular conditions and traditional preventive care, healing practices, medicines.

Education (Art. 26-31)

- Respond to special needs
 - Incorporate their histories, knowledge and technologies, value systems and further social, economic and cultural aspirations.
 - Literacy in indigenous languages
 - Teach national language and general knowledge and skills
 - Provide education to general population to eliminate prejudices.
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Contacts and cooperation across borders

- Facilitate contacts and cooperation between ITPs across borders, in the economic, social, cultural, spiritual and environmental fields.
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