

Indigenous Peoples

Convention No.169 Concerning Indigenous and Tribal Peoples in Independent Countries

Summary: This treaty recognizes the **rights and aspirations of indigenous peoples** 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 in which they live. The Convention defines the protected peoples and provides for special measures to be enacted by Member States to ensure **equal protection and opportunity under national law** for all protected peoples.

PART I. GENERAL POLICY

Article 1 provides the applicability of the treaty. The Convention applies to:

(a) tribal peoples in independent countries whose social, cultural and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations;

(b) peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonisation or the establishment of present state boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions.

2. Self-identification as indigenous or tribal shall be regarded as a fundamental criterion for determining the groups to which the provisions of this Convention apply.

3. The use of the term peoples in this Convention shall not be construed as having any implications as regards the rights which may attach to the term under international law.

Article 2 The government's responsibility for developing coordinated and systematic action to protect the rights of these peoples and to guarantee respect for their integrity, including:

- ensuring equal rights and opportunities granted under national laws
- promoting the full realisation of the social, economic and cultural rights; social and cultural identity, customs, traditions, institutions;
- eliminating socio-economic gaps in a manner compatible with their aspirations and ways of life.

Article 3 provides for application and enjoyment of human rights without discrimination and contains a clause prohibiting force or coercion.

Article 4 provides that for special protection measures, and that enjoyment of the general rights of citizenship, without discrimination, shall not be prejudiced in any way by such special measures.

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Access status [here](#).

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Article 5 recognition and respect for the social, cultural, religious and spiritual values and practices of these peoples; due account shall be taken of the nature of the problems which face them both as groups and as individuals; participation and co-operation of the peoples affected.

Article 6 Duty to consult with the peoples concerned; establish free and equal participation; institutions and resources; agreement and consent.

Article 7 Development; the peoples' right to decide and exercise control over their own development; the impact of development measures; preservation of territory.

Article 8 Due regard to customs and customary laws; conflicting customs

Article 9 Customary civil and criminal laws

Article 10 Penalties and punishments

Article 11 Exaction and compulsory personal services

Article 12 Duty to safeguard against abuse of rights; legal proceedings.

PART II. LAND

Article 13 Duty to respect the special importance for the cultures and spiritual values of the peoples concerned of their relationship with the lands or territories, or both as applicable, which they occupy or otherwise use, and in particular the collective aspects of this relationship.

2. The use of the term lands in Articles 15 and 16 shall include the concept of territories, which covers the total environment of the areas which the peoples concerned occupy or otherwise use.

Article 14 Rights of ownership, possession or use of lands traditionally occupied or accessed; nomadic peoples; resolving claims.

Article 15 Use and conservation of natural resources

Article 16 provides that, subject to the following paragraphs of this Article, the peoples concerned shall not be removed from the lands which they occupy.

2. Where the relocation of these peoples is considered necessary as an exceptional measure, such relocation shall take place only with their free and informed consent. Where their consent cannot be obtained, such relocation shall take place only following appropriate procedures established by national laws and regulations, including public inquiries where appropriate, which provide the opportunity for effective representation of the peoples concerned.

3. Whenever possible, these peoples shall have the right to return to their traditional lands, as soon as the grounds for relocation cease to exist.

4. When such return is not possible, as determined by agreement or, in the absence of such agreement, through appropriate procedures, these peoples shall be provided in all possible cases with lands of quality and legal status at least equal to that of the lands previously occupied by them, suitable to provide for their present needs and future development. Where the peoples concerned express a preference for compensation in money or in kind, they shall be so compensated under appropriate guarantees.

5. Persons thus relocated shall be fully compensated for any resulting loss or injury.

Article 17 Transmission of land rights

Article 18 Adequate penalties for unauthorized intrusion onto land

Article 19 Equal treatment with regard to the provision of more land when necessary and the means required to promote the development of the lands which these peoples already possess.

PART III. RECRUITMENT AND CONDITIONS OF EMPLOYMENT

Article 20 special measures to ensure the effective protection with regard to recruitment and conditions of employment of workers belonging to these peoples, to the extent that they are not effectively protected by laws applicable to workers in general.

2. Governments shall do everything possible to prevent any discrimination between workers belonging to the peoples concerned and other workers, in particular as regards:

- (a) admission to employment, including skilled employment, as well as measures for promotion and advancement;
- (b) equal remuneration for work of equal value;
- (c) medical and social assistance, occupational safety and health, all social security benefits and any other occupationally related benefits, and housing;
- (d) the right of association and freedom for all lawful trade union activities, and the right to conclude collective agreements with employers or employers' organisations.

3. The measures taken shall include measures to ensure:

- (a) that workers belonging to the peoples concerned, including seasonal, casual and migrant workers in agricultural and other employment, as well as those employed by labour contractors, enjoy the protection afforded by national law and practice to other such workers in the same sectors, and that they are fully informed of their rights under labour legislation and of the means of redress available to them;
- (b) that workers belonging to these peoples are not subjected to working conditions hazardous to their health, in particular through exposure to pesticides or other toxic substances;
- (c) that workers belonging to these peoples are not subjected to coercive recruitment systems, including bonded labour and other forms of debt servitude;
- (d) that workers belonging to these peoples enjoy equal opportunities and equal treatment in employment for men and women, and protection from sexual harassment.

4. Particular attention shall be paid to the establishment of adequate labour inspection services in areas where workers belonging to the peoples concerned undertake wage employment, in order to ensure compliance with the provisions of this Part of this Convention.

PART IV. VOCATIONAL TRAINING, HANDICRAFTS AND RURAL INDUSTRIES

Article 21 Equal opportunities to those of other citizens

Article 22 Measures to promote voluntary participation; special needs and programs;

Article 23 relates to the protection, recognition and promotion of community-based industries and traditional activities to allow economic self-reliance and development; appropriate technical and financial assistance, traditional technologies, sustainable and equitable development

PART V. SOCIAL SECURITY AND HEALTH

Article 24 Social security schemes shall be extended progressively to cover the peoples concerned, and applied without discrimination against them.

Article 25 Duty to ensure adequate health services

PART VI. EDUCATION AND MEANS OF COMMUNICATION

Article 26 Equal opportunities

Article 27 Incorporating their histories, knowledge and technologies, value systems, social, economic and cultural aspirations; training; independent institutions meeting minimum standards.

Article 28 Reading, writing and language

Article 29 preparation in their own community and the national community

Article 30 Government measures to be appropriate to their traditions and cultures; Government duties and dissemination of information

Article 31 National educational measures to eliminate prejudice

Articles 32-44 omitted.