



**Economic and Social  
Council**

Distr.  
GENERAL

E/CN.4/2005/89/Add.1  
24 February 2005

ENGLISH ONLY

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COMMISSION ON HUMAN RIGHTS  
Sixty-first session  
Item 15 of the provisional agenda

**INDIGENOUS ISSUES**

**Human rights and indigenous issues**

**Report of the Working Group established in accordance with  
Commission on Human Rights resolution 1995/32 of 3 March 1995**

**Chairperson-Rapporteur: Mr. Luis-Enrique Chavez (Peru)**

**Addendum\***

1. The present addendum contains a list of the documentation which was available at the session of the working group and the list of Governments and non-governmental organizations that participated in the meetings.
2. The addendum also contains three communications from non-governmental organizations.

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\* This addendum is being circulated as received.

## **I. DOCUMENTATION**

3. The working group had before it the following documents:

E/CN.4/2004/WG.15/1	Provisional agenda
E/CN.4/2004/WG.15/2	Agenda
E/CN.4/2004/WG.15/CRP.1	Information provided by States (amended text)
E/CN.4/2004/WG.15/CRP.2	Information provided by States (explanatory comments)
E/CN.4/2004/WG.15/CRP.3	Draft report of the working group
E/CN.4/2004/WG.15/CRP.4	Chairperson's summary proposals
E/CN.4/2004/WG.15/CRP.5	Information provided by the Saami Council and the Tebtebba Foundation
E/CN.4/2004/WG.15/CRP.6	Draft report of the working group
E/CN.4/2004/WG.15/CRP.7	Draft report of the working group

4. The following background documents were made available to the working group:

Draft United Nations declaration on the rights of indigenous peoples Sub-Commission resolution 1994/45, annex.

Report of the working group established in accordance with Commission on Human Rights resolution 1995/32 of 3 March 1995 on its ninth session (E/CN.4/2004/81 and Add.1).

Report of the Working Group on Indigenous Populations on its twenty-first session (E/CN.4/Sub.2/2003/22).

Technical review of the draft United Nations declaration on the rights of indigenous peoples (E/CN.4/Sub.2/1994/2)

## **II. PARTICIPATION**

5. The following States members of the Commission on Human Rights were represented: Argentina, Australia, Austria, Bahrain, Brazil, Chile, China, Congo, Costa Rica, Cuba, Dominican Republic, Egypt, France, Germany, Guatemala, Honduras, Hungary, Indonesia,

Ireland, Italy, Japan, Mexico, Netherlands, Nigeria, Pakistan, Paraguay, Peru, Russian Federation, South Africa, Sweden, Ukraine, United Kingdom of Great Britain and Northern Ireland and United States of America.

6. The following States Members of the United Nations were represented by observers: Bangladesh, Belgium, Bolivia, Brunei Darussalam, Canada, Colombia, Czech Republic, Denmark, Ecuador, El Salvador, Estonia, Finland, Greece, Jordan, Latvia, Luxembourg, Malaysia, Mauritius, Morocco, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Spain, Switzerland, Syrian Arab Republic, Tunisia, Turkey and Venezuela.

7. The following non-member State was represented by an observer: Holy See.

8. The following United Nations bodies and specialized agencies were represented by observers: United Nations Institute for Training and Research, United Nations Permanent Forum on Indigenous Issues, International Labour Office, World Bank and World Intellectual Property Organization.

9. The following national institution was represented by an observer: Human Rights and Equal Opportunity Commission, Australia

10. The following non-governmental organizations in consultative status with the Economic and Social Council were represented as observers:

All For Reparations and Emancipation, American Association of Jurists, American Indian Law Alliance, Amnesty International, Asian Indigenous and Tribal Peoples Network (AITPN), Assembly of First Nations, Association Kunas Unidos por Napguana, Association of Indigenous Peoples of the North, Siberia and Far East of the Russian Federation (RAIPON), Association of World Citizens, Canadian Council of Churches, Comision Juridica para el Autodesarrollo de los Pueblos Originarios Andinos (CAPAJ), Congress of Aboriginal Peoples, Coordinadora de las Organizaciones Indigenas de la Cuenca Amazonica (COICA), Foundation for Aboriginal and Islander Research Action (FAIRA), Friends World Committee for Consultation (QUAKERS), Grand Council of the Crees, Human Rights Defence Centre, Indian Council of South America (CISA), Indian Law Resource Center, Indigenous Peoples' Centre for Documentation, Research and Information (DOCIP), Indigenous World Association, Innu Council of Nitassinan, Interfaith International, International Centre for Human Rights and Democratic Development, International Indian Treaty Council, International League for the Rights and Liberation of Peoples (LIDLIP), International Movement against All Forms of Discrimination (IMADR), International Movement for Fraternal Union among Races and Peoples, International Organization for the Development of Freedom of Education (OIDEL), International Organization of Indigenous Resource Development (IOIRD), International Service for Human Rights (ISHR), International Society for Threatened Peoples, International Work Group for Indigenous Affairs (IWGIA), Inuit Circumpolar Conference, Lutheran World Federation, Metis National Council, Minority Rights Group International (MRG), National Congress of American Indians, Native American Rights Fund, Netherlands Centre for Indigenous Peoples, New Humanity, Nord Sud Xxi, Saami Council, Shimin Gaikou Centre, Tebtebba Foundation (Indigenous Peoples'

International Centre for Policy Research and Education), Unitarian Universalist Service Committee, World Council of Churches, World Federation of Trade Unions, World Peace Council.

11. The following organizations of indigenous people accredited in accordance with Commission on Human Rights resolution 1995/32 were represented as observers:

Ainu Association of Hokkaido, Association for the Promotion of Batwa, Association of the Shor People, Association Tamaynut, Aukin Wallmapu Ngulam, Black Hills Teton Sioux Nation, Chicksaw Nation, Comité Intertribal, Consultative Committee of Finno-Ugric Peoples, Cordillera Peoples Alliance, Mejlis of Crimean Tatar People, Mohawk Nation Council of Chiefs, Na Koa Ikaika O Ka Lahui Hawaii, Navajo Nation Council, Nepal Indigenous Peoples Development and Information Service Centre, Oneida Indian Nation, Organización de la Nación Aymara.

### **III. COMMUNICATIONS FROM NON-GOVERNMENTAL ORGANIZATIONS**

#### **A. Statement by the International Indian Treaty Council, the Indigenous World Association and the International Organization of Indigenous Resource Development, non-governmental organizations in consultative status to the United Nations Economic and Social Council**

#### **Oral statement presented in the plenary session of 29 November 2004**

Today, 29 November 2004, at 11 a.m., we, indigenous peoples' delegates, declare a hunger strike and spiritual fast inside the United Nations Palais des Nations in Geneva, during this third week of the tenth session of the intersessional working group on the United Nations draft declaration for the rights on indigenous peoples.

“We, indigenous peoples' delegates from different countries, undertake this action, with the support and solidarity of indigenous peoples and organizations from around the world, to call the world's attention to the continued attempts by some States, as well as this UN process itself, to weaken and undermine the draft declaration developed in the UN Working Group on Indigenous Populations and adopted by the UN Sub-Commission for the Prevention of Discrimination and Protection of Minorities in 1994.

“The Sub-Commission text has also been endorsed and supported by hundreds of indigenous peoples and organizations around the world as the minimum standard required for the recognition and protection of indigenous peoples' rights internationally.

“We delegates who will undertake the hunger strike and spiritual fast, along with the undersigned indigenous peoples, organizations, tribal governments, nations, communities and networks, call for the Sub-Commission text of the declaration to be sent back to the UN

Commission on Human Rights with the message that in 10 years, proposals by States to weaken or amend the text have not gained the consensus of the working group participants, which include both States and indigenous peoples.

“Mr. Luis Chavez, the Chairman-Rapporteur of the working group, should report this reality and not present a consolidated text as if it was ‘close to consensus’. The Commission on Human Rights must establish a process that does not provide a handful of States an opportunity to weaken the human rights of indigenous peoples. The process also must take into account the voices of the great numbers of indigenous peoples from all parts of the world.

*“We will not allow our rights to be negotiated, compromised or diminished in this UN process, which was initiated more than 20 years ago by indigenous peoples. The United Nations itself says that human rights are inherent and inalienable, and must be applied to all peoples without discrimination.*

”We request that the secretariat of this session immediately inform the Office of the High Commissioner for Human Rights and the High Commissioner herself of this action. We also request that the secretariat arrange for the hunger strikers to be able to remain in the UN during the entire week of the session.

“Indigenous delegates participating in the hunger strike and spiritual fast include:

“Adelard Blackman, Buffalo River Dene Nation, Canada;

“Andrea Carmen, Yaqui Nation, Arizona, United States;

“Alexis Tiouka, Kaliña, French Guyana;

“Charmaine White Face, Ogala Tetuwan, Sioux Nation Territory, North America;

“Danny Billie, Traditional Independent Seminole Nation of Florida, United States;

“Saul Vicente, Zapoteca, Mexico.

**“The following organizations, nations, tribal governments and communities have signed on in support of this action and of the position presented in this statement:**

“Africa: Indigenous Peoples African Coordinating Committee (IPACC);

“Argentina: Asociación Mapuche los Toldos, Organizacion de Naciones y Pueblos Indígenas en Argentina, Comisión de Juristas en la República de Argentina;

“Argentina/Bolivia/Chile/Peru: Parlamento del Pueblo Kullana Aymara;

“Arctic: Indigenous Peoples and Nations Coalition, Kasgit Council of Elders Nutmlak (Inherent Traditional Government) Iupik Nation, Alaska Native Village of Venetie Tribal Government Alaska;

“Asia: Alifurus in Maluku (Moluccas);

“Bolivia: Confederación Sindical Única de Trabajadores campesinos de Bolivia (CSUTCB); Taypi Ceqe (Organización Indígena Aymara);

“Canada: Buffalo River Dene Nation, Confederacy of Treaty 6 First Nations;

“Ermineskin Cree Nation, Indigenous Organization of Indigenous Resource Development (IOIRD), Innu Council of Nitassinan, Union of British Columbia Indian Chiefs, Samson

Cree Nation, Louis Bull Cree Nation;

“Chile: Consejo de Todas las Tierras;

“Colombia: Akuaipa Waimakat (Asociación de Derechos Humanos Wayuu de la Guajira), Organización Zonal Indígena del Putumayo (OZIP);

“Ecuador: Instituto Científico de Culturas Indígenas (Amawta Runakunapak Yachay);

“French Guyana: Fédération des Organisations autochtones de Guyane (FOAG), membre de la COICA;

“Guatemala : Comité Campesino del Altiplano (CCDA), CONAVIGUA, Defensoría Maya, Fundación Rigoberta Menchú Tum (Guatemala), Oxlaju Ajpop de los Ajq'ijab' (Conferencia Nacional de Ministros de la Espiritualidad Maya de Guatemala);

“Kenya: Maimyoito Pastoralist Integrated Organization;

“Mexico: Academia Mexicana de Derechos Humanos, Agencia Internacional de Prensa India (AIPIN), Alianza de Organizaciones Sociales, Alianza de Pueblos Indígena de la Sierra Oriente del Estado de México, Alianza Indígena Mexicana-Anipa Hidalgo, Anipa Chihuahua, Anipa Guerrero, Anipa Quintana Roo, Anipa Tabasco, Asamblea Nacional Indígena Plural por la Autonomía, Asamblea Nacional por la Autonomía (ANIPA), Asociación Nacional de Abogados Democráticos (ANAD), Axale, S.S.S., Centro de Derechos Humanos Yaxkin, Centro Nacional de Comunicación Social, A.C., Centro para el Autodesarrollo de los Pueblos Indígenas del Alto Balsas, Centros de Derechos Humanos Digna Ochoa, CEREAL GUADALAJARA, CEREAL MEXICO, Cesem A.C., Coalición de Atención a la Juventud, Comisión Mexicana de Defensa y Promoción de los Derechos Humanos A.C., Consejo de la Nación Amuzga, Consejo de la Nación Nahuatl, Consejo de la Nacionalidad Otomí, Consejo de Organizaciones Triquis, Consejo de Pueblos Nahuatl del Alto Balsas, Guerrero, A.C., Consejo Indígena Municipal Chocholteco, Consejo Indígena Popular de Oaxaca "Ricardo Flores Magón" (CIPO-RFM – Oaxaca), Consejo Mazahua Región Almoloya de Juárez, Consejo Tradicional de los Pueblos Indios de Sonora, Cooperativa Flores de la Tierra Amuzga, Coordinadora de Grupos Culturales Indígenas y Populares, Coordinadora Guerrerense de Mujeres Indígenas, Coordinadora Nacional de Mujeres Indígenas, Coordinadora Regional de Organizaciones Indígenas de la Sierra de Zongolica, Educa A.C., Federación de Indígenas Migrantes de Acapulco, Foro Migraciones, Fraternidad Revolucionaria, Frente Independiente de Pueblos Indios, Frente Indígena Campesino y Popular (FICAPO, A.P.N.), Fundación Rigoberta Menchú Tum (México), Incide Social, Jóvenes En Alternativa Pacífica, La Coordinadora Nacional de Mujeres Indígenas, Mephah-Savi Mujeres Indígenas, Nación Purepecha Zapatista, Ndu Nu Ñu Savi, Noche Sihame Sanse Tajome, Organización de

Artesanos Migrantes "Tonhalli", Organización Nación Purhepecha, Parlamento Indígena Estatal Campesino y Popular, Red Codapi, Red Indígena de Turismo Alternativo de México, Red Indígena de Turismo de México, Regiones Autónomas Pluriétnicas, Romero" (SICSAL), Se Ojtli Yankuik, A.C., Secretariado Internacional Cristiano de Solidaridad con América Latina "Oscar A., SEPROJUSDAC, AC, Taller Universitario de Derechos Humanos A. C., Umbral Axochiatl, Yoloxochitl SPR, Servicios de Pueblo Mixe;

“Morocco: Tamaynut (Amazigh Peoples);

Pacific: Aotearoa Indigenous Rights Trust (Aotearoa/New Zealand); Nation of Hawaii (Hawaii), Sovereign Union of Aboriginal Nations and Peoples in Australia, Te Rau Aroha (Aotearoa/New Zealand);

“Panama: Asociación Nabguana, Comunidad de Ustupu, Kuna Yala, Fundación Dobbo Yala, Fundación para la Promoción del Conocimiento Indígena, Jóvenes Ngobe – Bugle, Movimiento Juventud Kuna, Nis Bundor, Organización de Jóvenes Embera – Wounam de Panamá, Red de Mujeres sobre la Biodiversidad;

“United States: Abya Yala Nexus, Cactus Valley/Red Willow Springs Sovereign Community, Big Mountain Arizona, Centro Mundo Maya , El Colectivo de Contacto Ancestral, Indigenous Environmental Network, Pit River Tribe California, Seminole Sovereignty Protection Initiative Oklahoma, Teton Sioux Nation Treaty Council, Traditional Independent Seminole Nation of Florida, Wanblee Wakpeh Oyate Pine Ridge Reservation South Dakota, White Clay Society, Fort Belknap Reservation Montana, Yoemem Tekia Foundation Pascua Yaqui Reservation, Arizona;

“Multiregional: Coordinadora Indígena de la Cuenca Amazonica (COICA), Indigenous World Association, International Indian Treaty Council, Land is Life.”

**B. Statement submitted by the International Indian Treaty Council, the International Organization of Indigenous Resource Development, the Indigenous World Association, the Ermine Skin Cree Nation, the Assembly of Treaty Six First Nations, the Assembly of First Nations Canada, the Aotearoa Indigenous Rights Trust, the Buffalo River Dine Nation and Na Koa Ikaika Kalahui Hawaii, after consultation with a number of other indigenous delegations; and the Government of Guatemala.**

#### **Cross-cutting issues for indigenous peoples**

In addition to the “cross-cutting issues” presented by some States during the discussions throughout the three weeks of this session and during the “informal informal” discussions on this topic, as well as in previous sessions of the working group, there are several cross-cutting issues that are of primary importance to the great majority of the indigenous peoples who were present at this and past sessions.

These themes have been raised consistently by indigenous delegates in the discussions regarding a number of the articles and perambulatory paragraphs as well as in general statements regarding the draft declaration as a whole throughout this process.

It is the view of indigenous participants that it is very important that they be included in the report of this session regarding the discussions on crosscutting issues, in order to present an accurate summary for the participants in the working group, as well as for the Commission on Human Rights, of the status of the debate on the declaration and the concerns we are continuing to address together as we move forward in this process.

These “cross-cutting issues” expressed by indigenous peoples can be summarized as follows:

1. The text of the declaration adopted by the Sub-Commission for the Prevention of Discrimination and Protection of Minorities in 1994 represents for indigenous peoples the “minimum standard” of rights which are required for their survival. The rights expressed in the original text must be preserved in any final declaration that will be acceptable to most indigenous peoples.
2. The Sub-Commission text must remain the basis for discussions of the declaration in this working group.
3. The declaration’s focus must remain the collective rights of indigenous peoples.
4. The term “Indigenous Peoples” must be used without qualification throughout the text.
5. The internationally recognized rights of indigenous peoples must not be defined or qualified by domestic laws of the various countries in which they live.
6. The principles of prior informed consent and full collaboration with affected indigenous peoples must be applied for the effective implementation by States of the provisions throughout the declaration.
7. The rights recognized for other peoples under international law must be applied to indigenous peoples without discrimination or qualification. This is particularly stressed regarding the right to self-determination as expressed in the declaration.
8. The rights related to self-determination, lands, territories, natural resources and treaties span a number of articles and perambulatory paragraphs, and are of core importance to Indigenous Peoples for the implementation and realization of all other rights contained in the declaration.

**C. Comments and amendments to examined articles of the draft declaration on the rights of indigenous peoples formulated by the World Peace Council**

**OPERATIVE PART I**

**General principles**

Article 1 (amended version)\*

Indigenous peoples have the **collective and individual** right to the full and effective enjoyment of all human rights and fundamental freedoms recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and international law, **without any discrimination.**

**All obstruction to the free exercise of these rights will be interpreted as an act contrary to the letter and spirit of international instruments.**

Article 2 (amended version)\*

Indigenous peoples and **nations are born** free and equal in dignity and rights, and possess the reason and conscience to live in conditions of equal rights and obligations.

**No one may be subject to discrimination** based on their **indigenous identity, social origins, political opinion or any other condition.**

**No one should be forced to undertake work of any kind without his free consent and without fair remuneration.**

**States condemn racial discrimination and they are committed to the implementation of a coherent policy aimed at combating and eliminating, by all appropriate means, racial discrimination in all its forms and to foster friendly relations between all peoples.**

**Right to Self-determination**

Article 3 (amended version)\*

**In conformity with the universally recognized principles of international law and international norms and agreements, all indigenous peoples have the full right to self-determination.**

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\* The comments, amendments and introduction of new provisions to the draft declaration are printed **in bold type.**

**By virtue of this inalienable and indivisible right inherent in all peoples, the indigenous peoples and nations shall freely decide on their way of life, freely determine their political status, freely pursue and establish their own economic, social and cultural development and freely dispose of their lands and natural resources in accordance with their usages, traditions and customary law.**

Article 31 (amended version)\*

**In accordance with the principle of international law**, the indigenous peoples, as a specific form of exercising their right to self-determination, have the collective right to autonomy and self-government in matters relating to their internal, local, **political and administrative affairs**, including culture, religion, education, information, media, health, housing, employment, social welfare, economic activities, land and resources management, environment and entry by non-members, as well as ways and means for financing these autonomous functions.

Article 31 bis (new provision)

**For the purposes of this article, local and administrative autonomy shall be understood as the full ability of peoples and aboriginal communities (within the national State) to exercise the effective right to manage and enjoy the benefits of their lands and natural resources; as the promotion of education and culture; as the protection of health, housing, employment; as the insurance of the right to food and social welfare, all under their own rules and organs of self-government.**

**Local authorities emanating from the sovereignty of indigenous communities shall have the competence and prerogatives to resolve disputes and controversies by peaceful means, to protect the environment and to raise local taxes to finance autonomous programmes.**

Article 31 bis (new provision)

**Any attempt aimed at diminishing the will of indigenous peoples to freely select the paths of their own sustainable development and assume their own destinies with dignity, shall be interpreted as an act designed to deprive a people of its means of subsistence and hence, consequently incompatible with the purposes and principles of the Charter of the United Nations.**

**The States agree to respect and guarantee the effective exercise of the right to self-determination, in conformity with the Charter of the United Nations.**

Article 5 (amended version)

**Every indigenous person has the right to acquire his own nationality immediately after birth in accordance with the national legislation of the State concerned. No one shall be arbitrarily deprived of his nationality on grounds of race, religion or social**

origins.

## PART II

### Life, integrity and security

#### Article 6 (amended version)

Indigenous peoples have the collective and **individual** right to live in freedom, peace and security **as peoples of diverse cultures and with distinct forms of social organization.**

**Under the protection of the Convention on the Prevention and Punishment of the Crime of Genocide of 1948, they shall enjoy full guaranties against the crimes of genocide committed with the intention of the total or partial destruction of an historically constituted social or ethnic group. No one shall be subjected to torture, punishments, or cruel, inhumane or degrading treatments or to any other act of violence, including the removal of indigenous children from their families and communities under any pretext.**

**States recognize the rights of indigenous peoples to live in peace and security and agree to adopt appropriate measures with the aim of guaranteeing the full enjoyment of the right to a high level of health, the individual rights to life, physical and mental integrity, liberty and security of person.**

#### Article 7 (amended version)

Indigenous peoples have the collective and individual right to **appropriate protection** against any **perpetration** of ethnocide and cultural genocide **committed in times of peace or in times of war.**

**This protection, prevention and reparation shall apply to:**

- (a) Any act which has the aim or effect of depriving indigenous peoples of their ethnic identity or their cultural values, attempting their physical and mental integrity, denying them their right to enjoy, develop and transmit their cultural values to future generations;**
- (b) Any of the mentioned acts of genocide in the Convention on the Prevention and Punishment of the Crime of Genocide, perpetrated with the intention to destroy, in whole or in part, indigenous communities.**
- (c) Any form of assimilation or integration of other cultures or ways of life foreign to the indigenous values and philosophies, imposed on them by legislative, administrative or other measures or through pressure, intimidation and including the use of force.**

(d) Any action which has the aim or effect of dispossessing **or depriving them of their lands and territories, through violent means, denying indigenous peoples the right to enjoy their natural and genetic resources, traditional knowledge used and occupied by indigenous peoples since time immemorial;**

(e) Any form of populations transfer which has the aim or effect of violating or undermining any of the rights **to the capacity of biological production, in violation of the intrinsic right to life.**

(f) Any forced practice of evangelism or penetration of foreign religious sects into aboriginal lands which has the aim or effect of **imposing and violating the spiritual, religious and philosophic vision of the indigenous peoples.**

(g) Any racist propaganda, incitement of violence, hatred, or terrorist act, **which strikes against the dignity, peace and security of indigenous peoples and nations.**

Article 8 (amended version)

Indigenous peoples have the collective and individual right to maintain and develop their distinct identities and characteristics, **in particular the intrinsic** right to identify themselves as **peoples and nations, without conditions or restrictions** and to be recognized as **subjects of the law by the international community.**

Article 10 (amended version)

Indigenous peoples shall not be forcibly removed from their **original** lands and territories **nor be deprived of their resources and their means of sustenance.** No relocation shall take place without the free and informed consent of the indigenous peoples concerned.

**States shall guarantee the return to their original lands and communities, after agreement, by the resettled families with just and equitable compensation.**

Article 11 (amended version)

Indigenous peoples have the right to **appropriate** protection and security in periods of armed conflict.

States shall observe **and respect** international standards, in particular the Fourth Geneva Convention of 1949, for the protection of civilian populations in circumstances of emergency and armed conflict,

**In application of the present provision, the States shall:**

(a) Not recruit indigenous people against their will to serve in the armed forces **of a belligerent Power for the purpose of using them in armed conflict** against other indigenous peoples;

- (b) **Not allow at any time or under any circumstances the recruitment of indigenous children and teenagers under 18 by virtue of the Convention on Rights of Child;**
- (c) **Not force indigenous people and communities to abandon their lands or territory, nor deprive them of their means of subsistence, nor resettle them in special areas or centres for military purposes;**
- (d) **Not force indigenous peoples or individuals and groups to work for military purposes without their free consent or in discriminatory, degrading conditions damaging to their health, in violation of international standards, such as humanitarian and labour law.**

### **PART III**

#### **Cultural and intellectual heritage**

##### Article 12 (amended version)

Indigenous peoples have the right and the **moral duty** to preserve, practise and revitalize their **cultural values and customs, which constitute an integral part of the cultural and intellectual heritage of humanity.**

**By virtue of the standards of intellectual property**, indigenous peoples have the right to protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, ceremonies, **artistic creation and sculpture**, musical instruments, artefacts, designs and scientific knowledge, technological traditions, **visual arts** and literature, **all of which are of universal value from the historical, aesthetic and anthropological point of view.**

##### Article 12 bis (new provision on restitution)

**Under the procedures laid down in international agreements, indigenous peoples have a right to the restitution and restoration of cultural, intellectual, religious and spiritual articles and property. This includes the remains of their ancestors taken from them without their full consent and in breach of their customary laws and traditions.**

**Indigenous peoples reserve the right to a just compensation for the material and moral injuries caused by national and international piracy.**

##### Article 13 (amended version)

**In accordance with recognized human rights standards, indigenous peoples enjoy freedom of thought and conscience. They have a collective right to manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites, the right to**

the use **and safeguard their** ceremonial objects **of worship**, **and to secure the** repatriation of human remains **and other funerary articles**.

States shall take effective measures, **with the full consent of the peoples concerned**, to ensure that indigenous sacred places, including burial sites and cemeteries, be preserved, respected and protected.

Article 14 (amended version)

Indigenous peoples have the right to revitalize, use, develop and transmit to **present and** future generations their own histories, , philosophies, languages, oral traditions, writing systems and literatures, **and to preserve and designate their own names to their native communities, pay tribute to the memory of their martyrs and respect mythological sites**.

States shall take effective measures, whenever any right of indigenous peoples may be threatened, to guarantee the **protection of their cultural and intellectual heritage** and ensure that they can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation.

Article 14 bis (new provision)

**The legal protection of intellectual and cultural heritage against national and international piracy shall apply to:**

- (a) **Verbal creations such as popular stories and legends, popular poetry and riddles;**
- (b) **Musical creations such as songs and popular instrumental music;**
- (c) **Physical creations such as folk dances and plays and ritual performances;**
- (d) **Tangible creations such as drawings, paintings, sculptures, pottery, woodwork and jewellery;**
- (e) **Musical instruments and works of architecture.**

**PART IV**

**Education and Information**

Article 15 (amended version)

**All indigenous peoples have the collective and individual right to free, complete and diverse education at all levels and in all forms of basic, secondary and higher education, in their own languages, including bilingual education.**

**Indigenous peoples shall have authority over policy formulation in their own educational systems and teaching institutions, and they shall manage and administer the resources allocated to education.**

**States recognize education as their highest function and agree to orient teaching in all its forms towards the full development of the human personality, and to the strengthening of respect for human right and friendship among all nations.**

Article 15 bis (new provision)

Indigenous children, **including those** living outside their communities, shall have free access to education **and shall be at liberty to learn to read and write in their own mother tongue in accordance with their cultural traditions, values and methods.**

State shall take effective measures to provide appropriate resources for theses purposes.

Article 17 (amended version)

Indigenous peoples have the right to establish their own media in their own languages. They also have the right of equal access to all **existing** mass media, **including the access to information and communications technologies (ICT).** **Indigenous peoples have the right to set up radio and television networks in indigenous languages in order to instil in indigenous people a respect for their identity and promote the friendship and peace among different groups within society.**

States shall take appropriate steps to ensure that State-owned media duly reflect indigenous **multicultural** diversity and guarantee the right to free expression.

Article 18 (amended version)

Indigenous peoples have the right to enjoy fully all rights established under international labour law and national labour legislations.

**Under the international convention adopted by the ILO, indigenous peoples have the full right to work, to freely choose their employment, to satisfactory health conditions, to medical attention and social security, without distinction or discrimination based on race or identity.**

**Equally, indigenous workers have the right to equal salary for equal work.**

**States shall, in accordance with their labour legislation, take effective measures with the aim of guaranteeing the effective exercise of labour rights enunciated in the present article. In particular the legal protection against the illicit and degrading exploitation of children, through child labour, that might have harmful consequences for their health, education, and physical and mental development.**

## PART V

### Participation by indigenous peoples

#### Article 19 (amended version)

**In accordance with the Vienna Declaration and Programme of Action adopted at the World Conference on Human Rights**, indigenous peoples have the right to participate fully at all levels of the **political legislative and administrative** decision making process, in matters that may affect their rights, lives or destinies, through representatives freely chosen in accordance with their own procedures and institutions **of self-government**.

#### Article 22 (amended version)

Indigenous peoples have the right to **appropriate** measures for the immediate, effective and continuing improvement of their economic and social conditions, including in the areas of employment, vocational training and retraining, housing, sanitation, health, **education** and social security, **especially to eradication of extreme poverty**.

**Without prejudice to the assistance of international cooperation, the public organs of the State shall give priority attention to the vital needs** of the aged, women, young people, children and the disabled.

#### Article 23 (amended version)

**By virtue of the principle of self-determination**, indigenous peoples have **the collective and individual right** to determine and develop priorities and strategies for the effective exercising of their right to **sustainable** development and **the exploitation of natural resources according to their material and spiritual needs**.

**In accordance with the rules on self-government and self-management**, indigenous peoples have the right to determine and develop all health, housing, **education, environment and** other economic and social programmes affecting them and to administer such programmes through their own institutions.

#### Article 24 (amended version)

Indigenous peoples have the right **to appropriate protection of plants, animals and minerals with medicinal properties widely used as ancestral remedies in traditional practice and medicine**.

**States shall take effective measures to protect the variety of living organisms, used by indigenous peoples, against illicit exploitation**.

They shall also have access without discrimination to all medical institutions, health services and medical care.

## PART VI

### Lands, territories and natural resources

#### Article 25 (amended version)\*

Indigenous peoples have the right to maintain and strengthen their distinctive material and spiritual relationship **of respect and veneration for their lands, territories and natural resources, considered since time immemorial as the source of all life and the harmony and balance between man and nature.**

**In accordance with this customary right, the lands, territories and natural resources traditionally possessed, occupied and used by indigenous and aboriginal populations are inalienable, indivisible and subject to neither prescription nor embargo.**

#### Article 26 (amended version)

**All indigenous peoples have the ancestral right to collective ownership and possession over their traditionally occupied lands and the full right to the enjoyment of their natural and genetic resources and traditional knowledge.**

**By virtue of this right, indigenous peoples and nations shall enjoy permanent sovereignty over their wealth and the renewable and non-renewable natural resources of their territories, including the total environment of the lands, coastal seas, sea ice, air, water resources, flora and fauna, mineral and forestry reserves and other resources which they have traditionally owned or otherwise occupied and used in conformity with their vision of the universe, according to their material and spiritual needs.**

**States agree to recognize indigenous laws, traditions and customs, land tenure systems and institutions, guaranteeing collective and individual ownership based on self-management of their own resources and protection against any illicit encroachment, invasion or usurpation of their land and natural resources.**

#### Article 27 (amended version)

Indigenous peoples have the right to the restitution of the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, occupied and damaged without their free and informed consent, **based on the doctrine of *terra nullius* , as "conquered or discovered land".**

**The right to just compensation and reparation, indemnification and rehabilitation shall extend to such damage and injury that might have been suffered by farm land as a result of the use of contaminating products or inappropriate technologies. Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal or better in quality size and legal status than those formerly owned.**

**States shall establish appropriate measures and procedures, under their national legal systems, with the aim of guaranteeing a just and fair indemnification or restitution of usurped lands with related assets and accessories of which have been plundered without their free consent.**

Article 28

Indigenous peoples have the right to the conservation, restoration and protection of the total environment and the productive capacity of their lands, territories and resources, **in particular the protection of biological resources**, as well as to assistance for this purpose from States and through international cooperation.

Article 28 bis (new provision on demilitarization)

**Except in cases where the indigenous peoples have freely consented, States agree to prohibit the use of lands, territories and natural resources belonging to indigenous peoples for military purposes, for the installation of armaments factories or for the storage of radioactive or toxic waste that might contaminate the environment and threaten the lives of the indigenous peoples.**

**Indigenous peoples reserve the right to initiate the legal proceedings aimed at protecting their lands and resources until they obtain the complete demilitarization of their territories.**

States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands and territories of indigenous peoples

States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by such materials, are duly implemented.

Article 29 (amended version on cultural and intellectual property)

Indigenous peoples are entitled to the full recognition of the full ownership, control and protection of their cultural and intellectual property.

**Without prejudice to the provisions of international instruments, they have the right to the conservation and protection of their biological resources, their scientific and ecological knowledge, their traditional technology, and thus to a fair and equitable share of the derived benefits of the exploitation of their genetic resources, traditional knowledge and cultural expressions, including human resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures and visual and performing arts.**

**States shall take effective measures in order to guarantee the legal protection of the cultural and intellectual heritage of the indigenous peoples.**

Article 30 bis (new provision on the role of TNCs)

**The activities of transnational corporations concerned with the execution of macro-economic and agro-industrial projects, as well as the import of foreign capital for the exploration and exploitation of energy and genetic resources, mineral and forestry reserves in indigenous territories, should be in conformity with the rules and conditions which the peoples and nations freely consider to be necessary or desirable to the authorisation, restriction, or prohibition of such activities.**

**States shall consult with the indigenous peoples and shall obtain their free consent before the authorization of foreign investments and shall grant licences to the trans-national corporations for the exploitation of such resources fundamental to the survival of indigenous people.**

Article 30 bis (new provision on activities of TNCs)

**Except those interested indigenous peoples that have freely consented, States shall not permit the establishment of transnational companies and their foreign affiliates in indigenous territories and lands. The activities of such supranational entities that, from their headquarters, decide the investments in merging and privatizations of lands and services, with the sole objective of exploiting and despoiling their basic strategic resources, causing the contamination of the air and water, exacerbating extreme poverty, shall submit to the jurisdiction and rules or codes of conduct of the host countries.**

Article 33 (amended version)

Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive juridical customs, traditions, procedures and practices, in accordance with **universally** recognized human rights standards.

**States shall take steps to guarantee the effective exercise of political, economic and cultural rights so that:**

- (a) Specific characteristics and customs and customary standards are duly reflected in the legal system and political institutions of the State;**
- (b) Ancestral social organization and collective working practices are taken into consideration in the design of sustainable development programmes.**

Article 36 (amended version)

Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and constructive arrangements concluded with States and their successors, according to their original spirit and intent.

**States have the contracted obligation to honour and respect such treaties, agreements and arrangements. Disputes and controversies to which no settlement can be found by peaceful means shall be submitted by the parties in dispute to the competent international bodies, including the International Court of Justice.**

## **PART VIII**

### Article 40 (amended version)

The United Nations system, their specialized agencies and other intergovernmental organizations, **in particular the Permanent Forum on Indigenous Issues**, shall contribute to the full realization of the provisions of this Declaration through the mobilization, inter alia, of financial cooperation and technical assistance. Ways and means of insuring participation of indigenous peoples on issues affecting them shall be established.

### Article 44

Nothing in this Declaration may be construed as diminishing or extinguishing or future rights indigenous peoples may have acquire **by virtue of the new international instruments**.

### Article 45 (amended version)

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity **encouraging to diminish the national sovereignty** or to perform any act contrary to the Charter of the United Nations.

Palais des Nations, 24 September to 3 December 2004.

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