

Declaration on the rights of Indigenous Peoples



A POWERFUL INSTRUMENT

The Declaration is a strong instrument, backed by the UN charter or treaty itself, along with the 'International Bill of Rights' and Convention on the Elimination of All Forms of Racial Discrimination.

- Indigenous Peoples status in global politics is acknowledged, and
- International law is evolving with regard to the right of self-determination.

Indigenous Peoples consider the Declaration on the rights of Indigenous Peoples to be their **MAINSTAY FOR DEVELOPMENT** when participating in dialogues with States. And the United Nations has affirmed its commitments by resolutions, passed by the UN General Assembly on an annual basis since 2007, which are 'plans of action' for UN Member States to achieve the ends of the Declaration.

WHAT ARE HUMAN RIGHTS?

Human rights are inherent to us all

PRINCIPLES

Human rights are -

- Universal and inalienable
- Indivisible and interdependent
- Equal and non-discriminatory

BUT A DECLARATION IS NOT A TREATY

A declaration is not legally binding but a declaration carries moral weight because it is adopted by the international community.

“the power of ideas to change the world.”

A Declaration is a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society shall strive by teaching and education to promote respect for rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both

- among the **peoples of Member States** themselves and
- among the **peoples of territories** under their jurisdiction.

OBLIGATIONS OF STATES

States have obligations and duties under international law to respect, protect and fulfill human rights

NOTE: In 2009, at its eighth session, the UN Permanent Forum on Indigenous Issues adopted a 'General Comment' on the legal status of the Declaration. The PFII concluded that the Declaration should be afforded a 'superior status' by the Forum in relation to national law and that it had a duty to 'spread this view all over the world'.

(refer UN Document E/2009/43)



Photo by Shane Brown, GCG Media Team.

THE DECLARATION

THE EARLIEST DRAFT - 1993

PREAMBLE

- Part I general, fundamental rights,
- Part II indigenous peoples as distinct peoples.
- Part III cultural rights.
- Part IV education and public information.
- Part V economic and social matters.
- Part VI land and other property rights.
- Part VII self-government.
- Part VIII general monitoring and implementation provisions.
- Part IX rights within the international human rights framework.

THE DECLARATION

EQUALITY AS PEOPLES

Affirming that indigenous peoples are equal to all other peoples, ([Preambular Paragraph 2](#))

Affirming doctrines based on superiority of peoples are racist and unjust, ([Preambular Paragraph 4](#))

Bearing in mind that nothing in this Declaration may be used to deny any peoples their right to self-determination, exercised in conformity with international law, ([Preambular Paragraph 17](#))

Indigenous peoples have the right to the full enjoyment of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law. ([Article 1](#))

Indigenous peoples are free and equal to all other peoples. ([Article 2](#))

Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development. ([Article 3](#))

Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture. ([Article 8](#))

Indigenous peoples and individuals have the right to belong to an indigenous community or nation, ([Article 9](#))

Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard. ([Article 25](#))

The rights recognized herein constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world. ([Article 43](#))

THE DECLARATION

INDIGENOUS INSTITUTIONS AND PROPERTY

Recognizing the urgent need to respect the inherent rights of indigenous peoples which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies, especially their rights to their lands, territories and resources, ([Preambular Paragraph 7](#))

Indigenous peoples shall not be forcibly removed from their lands or territories. ([Article 10](#))

Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages. ([Article 14](#))

States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples' laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources. ([Article 27](#))

Indigenous peoples have the right to protect and develop their cultural heritage. They also have the right to maintain and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions. ([Article 31](#))

Indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions. **Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures.** (Article 33)

Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs and juridical systems or customs. ([Article 34](#))

THE DECLARATION

TREATIES

Recognizing the urgent need to respect the rights of indigenous peoples affirmed in treaties and other constructive arrangements with States, ([Preambular Paragraph 8](#))

Considering that the rights affirmed in treaties and other constructive arrangements are matters of international concern, ([Preambular Paragraph 14](#))

Considering also that treaties and other constructive arrangements are the basis for a strengthened partnership between indigenous peoples and States, ([Preambular Paragraph 15](#))

Indigenous peoples have the right to the enforcement of treaties and other constructive arrangements concluded with States. ([Article 37](#))

THE DECLARATION

RIGHTS TO POLITICAL DEVELOPMENT

Welcoming the fact that indigenous peoples are organizing themselves for political enhancement to end discrimination and oppression, ([Preambular Paragraph 9](#))

Acknowledging that the Charter of the United Nations, the International Covenant on Economic, Social and Cultural Rights¹ and the International Covenant on Civil and Political Rights as well as the Vienna Declaration and Programme of Action,² affirm the fundamental importance of the right to self-determination of all peoples, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development, ([Preambular Paragraph 16](#))

Indigenous peoples have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions. ([Article 4](#))

Indigenous peoples have the right to maintain and strengthen their distinct political and legal institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State. ([Article 5](#))

Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions. ([Article 18](#))

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them. ([Article 19](#))

Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities. ([Article 20](#))

THE DECLARATION

LANDS AND DEVELOPMENT

Convinced that control by indigenous peoples over developments affecting them and their lands, territories and resources will promote their development, ([Preambular Paragraph 10](#))

Indigenous peoples have the right to own, use, develop and control their lands, territories and resources. ([Article 26](#))

Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources. States shall cooperate in good faith through indigenous peoples own representative institutions to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly mineral, water or other resources. ([Article 32](#))



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