

The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)

PLAN

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I. Purpose of the UNDRIP

- 1. Recognition of Indigenous Peoples as equal Peoples and Nations that suffered from historical wrong, discriminations, colonization and dispossession to be redressed**
- 2. Reaffirm equal enjoyment of all rights by Indigenous Peoples**
- 3. Restore Indigenous Peoples' control over their destiny with Self-determination as central mechanism**
- 4. Reconcile modern States with Indigenous Peoples.**

II. Summary content of the UNDRIP

- **Not new or special rights for Indigenous Peoples:** Very same rights guaranteed for all but reformulated to suit the particular discriminations that affect IPs: “*Recognizing and reaffirming that indigenous individuals are entitled without discrimination to all human rights recognized in international law, and that indigenous peoples possess collective rights*” (Preamble UNDRIP)
- **Not rights that threaten national unity of States:** On the contrary, UNDRIP seeks to forge partnerships between States and IPs: “Convinced that the recognition of the rights of indigenous peoples in this Declaration will enhance harmonious and cooperative relations between the State and indigenous peoples, based on principles of justice, democracy, respect for human rights, non-discrimination and good faith” (Preamble UNDRIP)
- **IPs’ rights do not negatively affect equality:** The UNDRIP seeks no more than an equal enjoyment of fundamental human rights and freedoms by Indigenous Peoples.

Summary content of the UNDRIP (2)

- ***Many rights in the UNDRIP are part of customary international law:*** Those rights are mandatory for States even if by nature the UNDRIP is presented as legally binding. It is for this reason that many Courts have grounded rulings in certain provisions of the UNDRIP (General practices accepted as law)
- ***IPs' rights are not minorities or any other group' rights:*** IPs' are restorative rights aimed at redressing particular historical injustices suffered by Indigenous Peoples. Human rights are not recognised to someone or a group as gratification; they are granted as means to correct or protect against specific social wrongs. A local community or a minority group that has never suffered the same social wrongs as Indigenous Peoples cannot therefore be granted the same rights as them.

Summary content of the UNDRIP (3)

The right to self-determination:

- *“The fulfilment of the self-determination goals of indigenous peoples would constitute a completion of the process of decolonization through mechanisms that would not (or not necessarily) involve the creation of new nation-states.”*
- ***Fountain-right from which flow other rights or a pillar-right that support other rights:*** Without the right to self-determination, IPs wouldn't be able to enjoy so many rights without it; and without it a State would be unable to deliver on so many rights for Indigenous Peoples
- ***It is enabling right for many other rights:*** It enable indigenous peoples to decide which education for their children, which health system for their communities, how to use their lands and resources, how to preserve their cultures and livelihoods, etc. Without it, decisions continue to be made by others for Indigenous Peoples.

Summary content of the UNDRIP (4)

The right to free, prior and informed consent:

- ***A procedural right that serves other rights:*** Right to hold or give consent. It cannot exist in a vacuum of recognition of Indigenous Peoples' rights; otherwise it serves other interests than Indigenous Peoples
- ***It is often wrongly confused with the veto:*** It FPIC can lead to an IP refusing of holding its consent; in which case several options become open, including going back to negotiations, seek a judicial review, put an end to the project, pause the dialogue, etc, etc.
- ***One of the most widely repeated rights because it is a constituting element of the right to self-determination:*** Article 10 on forced relocation, article 11 on cultural traditions, Article 19 on representative institutions, article 23 on developing their own development strategies, article 28 on compensation or restitution for lands, article 29 right to conservation and protection of the environment, article 30 of military activities on Indigenous Peoples' lands, Article 32 on IPs own development strategies,

III. Global context and human rights

- ***Equality, non-discrimination, self-determination for each Nation and Peoples, and International friendly relations***
- ***Construed after 1945 to make the World what is or has been:*** Rule—based international order where States respect one another
- ***Current global context a glimpse of what the World would look like is those four principles were to collapse:*** A World in which those who are rich, or powerful will get, claim, do or take whatever pleases them;

THANK YOU