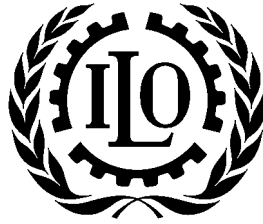


Check Against Delivery



## **INTERNATIONAL LABOUR ORGANIZATION**

**United Nations Permanent Forum on Indigenous Issues**  
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**Agenda Item 3:**  
**Territories, Lands, and Natural Resources**  
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The ILO's second *Global Report on Discrimination under the Follow-up to the Declaration of Fundamental Principles and Rights at Work*, released last week,<sup>1</sup> emphasizes that indigenous peoples continue to be subject to discriminatory exclusions and practices world-wide. They are among the poorest sections of society, with limited opportunities to pursue the occupation of their choice, including their traditional occupations and livelihood activities, or to find employment.

The World Bank estimates that indigenous peoples constitute approximately 5% of the world's population but 15% of the poor<sup>2</sup>. They often have limited access to basic social services (including education and vocational training) and are disproportionately represented among the victims of fundamental labour rights violations regarding child labour and forced labour. Among the causes for the high incidence of poverty among indigenous and tribal peoples are the obstacles they face in engaging in their traditional occupations and livelihood activities.

The main problem faced by indigenous peoples with regards to their traditional occupations is the lack of recognition of their rights to lands, territories and resources. Throughout history, indigenous peoples have struggled to maintain control over their territories but many communities have been marginalised and alienated, due to land grabbing, large-scale development projects, population transfer or increase, and the establishment of protected areas among other things. Lack of respect for indigenous peoples' rights and cultures often lead to discrimination against their traditional livelihood strategies and occupations and may also be the cause of discrimination against indigenous individuals seeking employment and economic opportunities outside their traditional lands.

Decision-makers are often unaware of the importance of land rights for the exercise of indigenous peoples' traditional occupations, as well as for the goals of poverty reduction, food security and sustainable development and for the national economy in general. Traditional occupations are often unjustly regarded as being outdated or unproductive or are even, in some cases, prohibited by law. This is, for example, the case with shifting cultivation in certain countries in Asia. Despite its centrality to the traditional economy and culture of the indigenous peoples in that region, it has been successively discouraged by the state and other mainstream development actors, who regard it as outdated and destructive of environment and wildlife. On the contrary, shifting cultivation is actually regarded by soil scientists as a sustainable response to erosion and environmental degradation inherent in other cultivation practices.

## **ILO responses**

Promoting respect for indigenous peoples' rights relating to their territories, lands and natural resources and assisting countries to address land rights issues are key objectives of the of ILO's work for indigenous and tribal peoples. The *Convention on Indigenous and Tribal Peoples, 1989 (No. 169)*, is a key instrument that provides guiding legal principles for the recognition of rights of indigenous peoples' to lands, territories and resources. Furthermore, the *Discrimination (Employment and Occupation) Convention, 1958 (No. 111)* provides an additional framework for

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<sup>1</sup> Equality at work: Tackling the challenges, Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, [International Labour Conference](#), 96th Session 2007, International Labour Office, Geneva, available at [www.ilo/declaration](http://www.ilo/declaration).

<sup>2</sup> World Bank: Implementation of Operational Directive 4.20 on Indigenous peoples: An independent desk review, Report No. 25332, 10 January 2003, Operations Evaluation Department, Country Evaluation and Regional relations (OEDCR), World Bank (Washington, DC).

addressing issues of employment and occupation for indigenous peoples that are often directly linked to rights to land.

More recently, the ILO has initiated work to raise awareness of the potential of Convention No. 111 as a framework for protecting indigenous and tribal peoples' right to carry out their traditional occupations without discrimination. Convention No.111 is based on the right to engage in the work or occupation of one's choice without distinction on grounds such as race, colour ethnicity or indigenous identity. As the recognition of rights to lands and natural resources is a precondition for indigenous peoples to engage in their traditional occupations, national policies and programmes to promote Convention No. 111 should address these issues. The ILO is currently undertaking three case studies (Bangladesh, Nepal and Kenya) and an overview study to address the interlinked issues of rights to land, territories and resources, traditional occupations and discrimination in employment and occupation. A draft Guide for indigenous and tribal peoples on Convention No. 111 has also been prepared for circulation at the Permanent Forum. It will be finalized on the basis of any comments received.

Several ILO initiatives also address the specific issue of land rights. The PRO 169 project in Cambodia is a case in point. Here, the ILO has been working with the Government to establish by-laws that will enable indigenous communities to register as legal entities. This is with a view to enabling these communities to go on to register their lands for collective title under the Land Law.

Beyond specific ILO projects, Convention No. 169 provides a framework for a number of large-scale development initiatives for the demarcation and securing of indigenous peoples' rights to lands territories and resources. This is the case in Bolivia, for example.

The ILO also continues its efforts to make poverty reduction strategies more responsive to the rights and need of indigenous peoples. Recent research on poverty reduction processes - for example in Cambodia, Cameroon and Nepal - has shown clearly that secure rights and access to land and resources are fundamental to the achievement of the respective governments' goals for poverty reduction and development. In this sense, traditional activities often may constitute a more sustainable way of managing lands and natural resources than mainstream focuses on large scale commercial agriculture.

Concerns relating to territories, lands and natural resources are also increasingly recognized as an import aspect of ILO's work to support indigenous and tribal communities to foster sustainable economic and employment development programmes through local economic development initiatives (LED). LED is a participatory and locally-owned and managed development process that encourages partnerships between private and public stakeholders of a defined territory with the objective of creating decent jobs and stimulating economic activity. The territorial dimension of LED is consistent with ITPs focus on ancestral lands as the basis for cultural, social and economic development. For instance, the INDISCO programme has provided technical support to ancestral domain management in the Philippines.

## **Lessons and challenges**

A number of lessons and common challenges that require addressing in a more systematic manner have been identified from the supervision of ILO Convention No. 169 in countries that have ratified it, as well as from ILO experiences in other countries. Indigenous and tribal peoples

need security of land and resource use in order to engage in sustainable forms of subsistence or livelihood, including in the exercise of traditional occupations. However, the existence of a legal framework is not in itself sufficient. Even when there is a specific legal framework for the protection of indigenous peoples' land rights, there are often considerable challenges for its implementation.

Some of the main challenges and lessons are:

- **Identification of entry points** Where there is no specific law detailing indigenous peoples' land and resource rights, entry points can often be identified in the form of specific provisions of broader legal frameworks, for the protection of the rights of indigenous peoples, e.g. Convention No. 111, as indicated above.
- **Building capacity** to implement existing legislation is among the main challenges at both national and local levels. This requires a sustained and long term effort by a broad range of partners. Among the capacity building activities undertaken by the ILO in this respect are: training on legal provisions and procedures of relevance for indigenous peoples; training for officials and other external actors on methodologies for working with indigenous peoples; and capacity building for indigenous communities to assist them with management of their lands, territories and resources.
- **Consultation and participation of indigenous peoples.** Lack of consultation with indigenous peoples remains one of the key ongoing challenges in the implementation of their rights to lands, territories and resources, and the delineation of the areas to which these rights pertain. The ILO is undertaking several initiatives not only to assist a number of governments (in particular in Latin America) in defining systematic frameworks for consultation, but is also working to document best practices for the implementation of the various principles contained in Convention No. 169, including the various provisions on consultation, participation, and land and resource rights. This is with a view to providing practical tools for use at the national level.
- **Differing concepts of development** remain a major challenge to securing land rights for indigenous peoples, and in turn, creating enabling conditions for them to exercise their traditional occupations. National level perceptions of what is required in terms of development initiatives in rural areas do not necessarily reflect the real needs of indigenous peoples at the local level. For example, a focus on large-scale infrastructure development, and commercial agriculture may be at odds with indigenous peoples' traditional means of subsistence. There is also often a perception that indigenous peoples' traditional occupations any ways of land use are somehow "primitive", and need modernizing at any cost.
- **Increased coordination between development partners.** In a number of cases, different approaches adopted by different development agents can have a detrimental impact on the ability of indigenous peoples to access and use their lands, and enjoy their rights to these lands. This is essential to ensure a coherent approach to questions concerning the lands and territories of indigenous peoples. The ongoing UN reform process provides an opportunity for all agencies concerned to ensure close cooperation and collaboration on these issues.