

United Nations Declaration on the Rights of Indigenous Peoples



**E-Learning Series on International Frameworks that
Support Indigenous Peoples, Local Communities, and
Their Territories and Areas**

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Cover photo: Traditional rice cultivation in Madagascar

INTRODUCTION

Module Overview

This module aims to provide insight into the United Nations Declaration on the Rights of Indigenous Peoples and how its provisions apply to Indigenous Peoples worldwide. It provides background to the Declaration, a detailed examination of its provisions, and guidance for communities to recognize relevant provisions for application in their own contexts.

Objectives

1. To gain a better understanding of the United Nations Declaration on the Rights of Indigenous Peoples;
2. To identify specific rights within the Declaration and link them with relevant provisions;
3. To determine how these rights can be applied; and
4. To examine examples of how Indigenous peoples and other relevant actors have applied these rights around the world.

Key Concepts and Terms

This module uses the term “Indigenous peoples” in particular. Under international law, “peoples” have the right to self-determination – not simply “minorities” or “communities”, which are ambiguous terms. Some States prefer to refer to Indigenous peoples as “populations” or “communities”. However, denying Indigenous peoples their status as “peoples” in order to deny them the human right of self-determination constitutes “racial discrimination” under Article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination.

Assimilation	Involves forcefully incorporating Indigenous individuals or groups into wider society so as to destroy the culture, language and other features of a distinct Indigenous group.
Consent	Giving permission for something to happen. This should be after you have been consulted and participating in the process. The process of informing and negotiation should include: <ul style="list-style-type: none">- All parties meeting and interacting at an equal level, with no power imbalances;- Respect for decision-making process of Indigenous peoples;- Respect for the traditional way of life of Indigenous peoples.¹
<u>Expert Mechanism on the Rights of Indigenous Peoples</u>	Established by the UN’s main human rights body, the Human Rights Council. The Expert Mechanism consists of five independent experts on the rights of Indigenous peoples. It provides the Human Rights Council with advice on the rights of Indigenous peoples through studies and research on particular themes. Current studies include indigenous languages and cultures, and indigenous peoples’ right to participate in decision making (with a particular focus on extractive industries). Here is a video discussing the Expert

¹ Australian Human Rights Commission, *The Community Guide to the UN Declaration on the Rights of Indigenous Peoples* at page 25.

	Mechanism and its role.
Free	To be able to do whatever you wish including making decisions, without being controlled or pressured by others.
General Assembly	A major body of the United Nations that is involved with policy making and is most representative – it is comprised of all 193 member states of the United Nations. Each United Nations member state has equal representation and voting powers.
Genocide	The destruction (typically by killing) of a distinct ethnic group. It can also mean the destruction of other features of a distinct ethnic group, including cultural practices, language, etc.
Informed	Having all the information necessary (including ongoing updates to that information) in order to make a proper decision. It also means that you must <u>understand</u> that information, so in some circumstances an interpreter and proper time to receive the information is necessary.
Institution	An institution is a body that helps to govern or determine the way people live their lives. For example, governments and representative bodies are institutions.
Intellectual Property	Intellectual property refers to “creations of the mind” including inventions, images, artistic works and designs. Issues arise about the “traditional” innovations and creative expressions of Indigenous peoples and local communities and whether they are protected by intellectual property laws and systems. ² The World Intellectual Property Organisation (WIPO) website has further information here .
International human rights law	Consists of a number of human rights treaties and sources of law (including customary international law) that protect human rights and create binding obligations within states. The international bill of human rights is the name given to the collection of instruments including the Universal Declaration of Human Rights , the International Covenant on Civil and Political Rights , and the International Covenant on Economic, Social and Cultural Rights and their optional protocols. These instruments are considered to be core human rights legal instruments setting out minimum human rights standards. They are supplemented by more detailed human rights instruments including the Convention on the Elimination of all forms of Racial Discrimination and the Convention on the Rights of the Child .
Permanent Forum on Indigenous Issues	Advises the UN Economic and Social Council on Indigenous issues related to social development, culture, the environment, education, health and human rights. Its mandate also includes raising awareness, distributing information and coordinating activities relating to Indigenous issues. The Permanent Forum consists of sixteen independent experts, half nominated by states and Indigenous organizations. Indigenous peoples, state representatives and diverse UN agencies attend sessions of the Permanent Forum.
Prior	Being told and a part of discussions <u>before</u> any project begins.
Special Rapporteur on the Rights of Indigenous Peoples	Appointed by the Commission on Human Rights in 2001. The role of the Special Rapporteur is to promote good practice between Indigenous peoples and states, implement international standards regarding the rights of

² World Intellectual Property Organisation (WIPO), *What is Intellectual Property?* Located at <http://www.wipo.int/about-ip/en/>

Indigenous peoples, report on the human rights situations of Indigenous peoples in particular countries, address rights violations through communications with Governments, and conduct or contribute to studies regarding the protection and promotion of the rights of Indigenous peoples.

Who Is This E-learning Module Directed Towards?

This e-learning module may be useful if your community has any of the following:

- Characteristics of “Indigenous peoples” as set out in this module;
- A close, historic relationship with a particular territory, area, or resource;
- Historical issues regarding that territory, area, or resource such as a lack of consultation for their use or negative impacts of external activities; and/or
- An interest in, as an Indigenous person or community, asserting any of the rights in the Declaration on the Rights of Indigenous Peoples.



COMMUNITIES & THE UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

The Emergence of the Declaration

There are more than 370 million Indigenous peoples in more than 70 countries worldwide. Despite the number, Indigenous peoples are some of the most vulnerable peoples in the world. Subjected to discrimination, oppression, colonization, assimilation, and cultural and other genocide over generations, many have suffered unimaginable traumas that continue to be remembered and have formed part of the identities of such groups to this day. Many governments around the world have denied and continue to deny the rights of indigenous peoples to lands, territories and resources which they have traditionally owned or otherwise occupied or used.

As awareness increased of these particular vulnerabilities, a Special Rapporteur on Indigenous Peoples, Jose Martinez Cobo, was appointed by the United Nations Economic and Social Council in 1971 to study the patterns of Indigenous populations around the world. His study prompted the establishment of a Working Group on Indigenous Populations, made up of five independent experts appointed by the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities. Part of its role was to develop international standards on the rights of Indigenous peoples.

A draft declaration on the rights of Indigenous peoples began to be drafted in 1984 with the broad participation of indigenous peoples and organisations and States. A final draft of the declaration was

agreed in July 1993 at the eleventh session of the Working Group and presented to the sub-commission. This draft was adopted and submitted to the Commission on Human Rights. In 1995, a new Working Group was appointed to elaborate on the draft declaration. The draft declaration was adopted by the newly formed Human Rights Council through the adoption of resolution 1/2 of 29 June 2006. Unexpectedly, the Third Committee of the General Assembly then deferred adoption of the Declaration, pending further consultations.³

It is in this context of more than two decades of negotiations that the [United Nations Declaration on the Rights of Indigenous Peoples](#) (the “*Declaration*”) was eventually adopted by the United Nations *General Assembly* on 13 September 2007, at which time the Declaration became universally applicable.

Background

The Declaration is an international human rights instrument that affirms the fundamental rights of Indigenous peoples around the world. At the time of adoption, 144 countries voted in favour of the Declaration, four countries (the United States, Canada, Australia, and New Zealand) voted against, and eleven countries abstained from voting (including Azerbaijan, Bangladesh, Bhutan, Burundi, Colombia, Georgia, Kenya, Nigeria, Russian Federation, Samoa, and Ukraine). Since 2007 adoption of the *Declaration*, all four countries originally opposed have now endorsed it.

The *Declaration* sets out in one instrument the collective and individual human rights of Indigenous peoples. These rights are not new - whilst the *Declaration* is not legally binding in the same manner as international conventions, it does have legal effect. The Declaration reflects customary international law (legal standards that have become obligatory on states through their widespread use) and the principles are pre-existing human rights standards, already recognized in a number of human rights instruments. The rights set out in the *Declaration* are regarded as “the minimum standards for the survival, dignity and well-being of the Indigenous peoples of the world” (see Article 43 of the *Declaration*).

Guidance as to the application of the *Declaration* is especially provided by three UN mechanism created to deal with Indigenous issues: the *Permanent Forum on Indigenous Issues*, the *Expert Mechanism on the Rights of Indigenous Peoples*, and the *Special Rapporteur on the Rights of Indigenous Peoples*.

Resources: Factsheets about the *Declaration* by Key Organizations

[Australian Human Rights Commission](#)

[The Assembly of First Nations, Canada](#)

[Amnesty International Canada, Canadian Friends Service Committee, and Assembly of First Nations \(with endorsements by a number of other organizations\)](#)

[Webinar: Implementing the UN Declaration on the Rights of Indigenous Peoples](#) (Assembly of First Nations, Grand Council of the Crees (Eeyou Istchee), Union of BC Indian Chiefs, Amnesty International Canada, and CFSC)

³ Wiessner, S., “United Nations Declaration on the Rights of Indigenous Peoples” in *Audiovisual Library of International Law* located at http://untreaty.un.org/cod/avl/ha/ga_61-295/ga_61-295.html.

Guiding Questions for Self-Assessment

1. *When was the first draft declaration on Indigenous peoples drafted?*
 - a) 1985
 - b) 1996
 - c) 2001
2. *In what year was the United Nations Declaration on the Rights of Indigenous Peoples adopted?*
 - a) 2005
 - b) 2007
 - c) 2006
3. *Which four countries voted against the adoption of the United Nations Declaration on the Rights of Indigenous Peoples?*
 - a) United States, Canada, New Zealand, Australia
 - b) Kenya, Canada, Bangladesh, Australia
 - c) Australia, New Zealand, United States, Russia Federation

Answers: 1(a); 2(b); 3(a)

How Does the Declaration Apply to Communities?

The *Declaration* directly applies to Indigenous peoples and individuals in general. Courts are free to rely on declarations in interpreting human rights – as are Indigenous and non-Indigenous governments and human rights bodies. Human rights declarations are not legally binding on states in the same manner as treaties. The Declaration was adopted as an annex to a General Assembly resolution. Treaties, however, must be ratified by states who are then legally bound. A treaty or convention is an agreement between States that creates binding legal obligations under international law. It is important to note that many of the rights in the Declaration (referring to how they apply to Indigenous peoples in particular) reflect those in binding human rights treaties such as:

- [The International Covenant on Civil and Political Rights](#);
- [The International Covenant on Economic, Social and Cultural Rights](#); and
- [The International Convention on the Elimination of All Forms of Racial Discrimination](#).

The Declaration elaborates on international human rights, providing a global context relating to indigenous peoples.

The Declaration was a response to many years of negotiations within the international community between States and Indigenous peoples. As such, it reflects an understanding between both States and Indigenous peoples the Declaration constitutes a standard of achievement to be pursued in a spirit of partnership and mutual respect. (Preamble, Paragraph 24). In addition, there are United Nations bodies such as the Permanent Forum on Indigenous Issues and the Special Rapporteur that have a responsibility to monitor the application (or violation) of Indigenous rights worldwide.

Community Experiences

The *Declaration* is relatively new and, as such, has not been commented on widely with respect to experience of its usage in communities. However, it is highly significant that the *Declaration* has been

commented on in regional jurisprudence with respect to, amongst other things, the land rights of Indigenous peoples. Some examples of use of the *Declaration* at the community, state and regional levels include:

- The Endorois people argued, in their case against Kenya, that the Kenyan government was in violation of several provisions of the *Declaration*. Whilst acknowledging that Kenya had not endorsed the *Declaration*, the African Commission on Human and Peoples Rights in the case of *Endorois Welfare Council v Kenya*⁴ identified a number of rights within the *Declaration* that the Endorois claimed had been violated and looked to other regional cases to support these rights.
- Within the Organization of American States (OAS), the UN Declaration is being used as “the baseline for negotiations and ... a minimum standard” for the draft American Declaration on the Rights of Indigenous Peoples.
- In Bolivia, the Declaration was adopted at the national level as Law No. 3760 of 7 November 2007 and incorporated into the new Constitution promulgated on 7 February 2009. Bolivia emphasizes that it “has elevated the obligation to respect the rights of indigenous peoples to constitutional status, thereby becoming the first country in the world to implement this international instrument”.
- In the Arctic, Greenland achieved significantly enhanced self-government on June 21, 2009 and celebrated its new partnership with Denmark. As described by the Premier of Greenland Kuupik Kleist, “this new development in Greenland and in the relationship between Denmark and Greenland should be seen as a de facto implementation of the Declaration and, in this regard, hopefully an inspiration to others”.
- In Belize, the Supreme Court of Belize relied on the UN Declaration and other aspects of international and domestic law in upholding the land and resource rights of the Maya people.
- In many regions globally, Indigenous peoples’ organizations are implementing the Declaration widely in their policy and decision-making, negotiations with governments and corporations, and educational initiatives.

Who does the *Declaration* apply to?

The *Declaration* affirms both Indigenous individuals and communities and recognizes both individual and collective human rights of Indigenous peoples. Historically, the collective rights of Indigenous peoples have too often been denied. Use of the term Indigenous “peoples” in this Declaration serves to affirm the existence of group rights. Harmonious and cooperative relations are encouraged between the State and indigenous peoples, based on principles of justice, democracy, respect for human rights, non-discrimination and good faith. The collective rights of Indigenous peoples are “indispensable for their existence, well-being and integral development as peoples” (see Preamble, Paragraph 22). Collective rights have been recognised by the international and regional human rights systems for more than 30 years.

Some examples of Indigenous communities around the world include the Aborigines and Torres Strait Islanders in Australia, the Maori in New Zealand, the Saami of northern Europe, the Tuareg and San in Africa, the Mayans in Guatemala, and the Inuit and First Nations in North America and the circumpolar Arctic.

⁴ See *Communication 276/2003 – Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v Kenya*.

Are you an Indigenous person or do you belong to an Indigenous group?

There is no uniform definition of “Indigenous peoples”. It is the view of the Special Rapporteur on the Rights of Indigenous Peoples, James Anaya, that the term “Indigenous” “refers broadly to the living descendants of pre-invasion inhabitants of lands now dominated by others... are culturally distinctive groups that find themselves engulfed by settle societies born of the forces of empire and conquest... (and) their ancestral roots are embedded in the lands in which they live, or would like to live, much more deeply than the roots of more powerful sectors of society living on the same lands or in close proximity”.⁵

Some other sources provide universal characteristics that are used to identify Indigenous peoples. The International Labour Organisation’s *Indigenous and Tribal Peoples Convention, 1989 (No. 169)* describes who the Convention applies to in Article 1:

- Tribal peoples that can be distinguished from other groups in their country, based on their social, cultural and economic conditions
- Peoples who follow their own customs, traditions, special laws or regulations, either in whole in or in part
- Peoples who descend from Indigenous populations which inhabited the country or a particular region at the time of conquest or colonisation or the establishment of present state boundaries; and who still have retain some or all of their own social, economic, cultural, and political institutions
- Self-identification as Indigenous or tribal

The United Nations Sub-commission on Prevention of Discrimination and Protection of Minorities produced a study that set out the following definition:

*“Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing in those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal systems”.*⁶

Most recently, the Permanent Forum on Indigenous Issues has also identified that Indigenous peoples may have the following characteristics:

- A strong link to land and natural resources
- A distinct language, culture and beliefs
- A non-dominant position in society
- A dedication to preserving and reproducing ancestral environments and systems as distinct

⁵ Anaya, S. James, *Indigenous Peoples in International Law*, 2004, 3.

⁶ U.N. Subcommission on Prevention of Discrimination and Protection of Minorities, *Study of the Problem of Discrimination against Indigenous Populations*, U.N. Doc. E/CN.4/Sub.2/1986/7/Add.4, para.379 (1986).

It is important to recognise that “Indigenous” is not the only term used to describe such peoples. Other terms used include: tribes, first peoples/nations, aboriginals, and ethnic groups. The United Nations Permanent Forum on Indigenous Issues has stated that occupational and geographical terms like “hunter-gatherers, nomads, peasants, hill people, etc.” are also terms that can be used interchangeably with “Indigenous peoples”. Whilst a State may not recognize certain peoples living within their territories as “Indigenous”, this does not necessarily mean that such groups are not Indigenous. It is important to take note of the characteristics of Indigenous peoples above, when evaluating whether a group of people can be identified as “Indigenous”. Local communities may be identified as such if they can identify with the above characteristics.

In many instances, being identified as “Indigenous” has negative connotations and people may choose not to openly define themselves as such.

Resources

For an explanation of the Declaration, see the [short interview](#) with Victoria Tauli Corpuz, Chairperson, UN Permanent Forum for Indigenous Issues (UNPFII) entitled “The UN Declaration on the Rights of Indigenous Peoples”.

For further resources on the question of “Who is Indigenous?,” see the following fact sheet produced by the United Nations Permanent Forum on Indigenous Issues entitled [“Who are Indigenous Peoples”](#).

Guiding Questions for Self-Assessment

1. What are not some typical characteristics of Indigenous peoples?
 - a) A unique language, culture, and set of beliefs;
 - b) A dominant, wealthy position in society;
 - c) Self-identification as tribal or Indigenous.
2. True or false: Indigenous peoples can include hunter-gathers, fisherfolk, nomads and hill people?
 - a) True
 - b) False

Answers: 1(b); 2(a)

Guiding Questions for Discussion

- Do you or your community identify as Indigenous, given the characteristics listed above?
- Is your community recognized by your government as Indigenous?



RIGHTS & RESPONSIBILITIES

There are a number of toolkits that assist Indigenous peoples in interpreting their rights under the Declaration and have been utilized to elaborate on the rights below. These toolkits can be found in the *Additional Resources* section at the end of this e-module.

What Rights and Responsibilities Do Communities Have?

The *Declaration* includes rights of Indigenous individuals and peoples. It is divided into several sections, setting out particular groups of rights in each section. Each will be explained in detail.

The Preamble:

This is the introduction to the *Declaration* and consists of 24 paragraphs of setting the intention and helping to guide the interpretation of the *Declaration* in whole and part.

The Preamble is important as it recognizes:

1. The recognition of existing international law in support of the *Declaration*;
2. Indigenous peoples are equal to all other peoples, differences should be respected and discrimination and racism against Indigenous peoples is wrong;
3. Indigenous peoples have suffered historical injustices that have had an impact on their right to develop in their own way;
4. Indigenous control over developments that affect them will help Indigenous peoples to maintain and strengthen Indigenous institutions, cultures, and traditions and promote development;
5. The political, economic and social structures of Indigenous peoples are intricately connected to their culture, spiritual traditions, histories and philosophies as well as their rights to lands, territories and resources;
6. Respect for Indigenous knowledge, culture and practices contributes to sustainable and equitable development and proper management of the environment; and
7. The recognition of Indigenous rights improves the relationship between the State and its Indigenous peoples, based on principles of justice, respect, non-discrimination and good faith.

Overarching Rights

The first two Articles of the *Declaration* set out fundamental overarching rights of Indigenous peoples.

Article 1 recognizes that Indigenous peoples have the right to fully enjoy the human rights and freedoms set out in several international human rights instruments such as the [Charter of the United Nations](#), the [Universal Declaration of Human Rights](#), and *international human rights law*. These rights are recognized as applying to individuals or to Indigenous people collectively. The recognition of collective rights is important given that Indigenous peoples often identify themselves collectively, rather than as individuals.

Article 2 states that Indigenous peoples are equal to all others and have the right to be free from discrimination, particularly discrimination due to their Indigenous identity.

Self-Determination

The right to self-determination is an important and fundamental right for Indigenous peoples. It is widely recognized as a principle of customary international law.⁷ It is essentially the acknowledgement that all people are equal and are entitled to control their lives and their futures. All other rights in the *Declaration* support the right to self-determination. It is an individual and collective right.

Articles 3, 4, and 5 set out the right of self-determination, which includes:

- The right to choose for Indigenous peoples to choose their own political status;
- The right to pursue economic, social and cultural development;
- The right to autonomy or self-government, including the right for Indigenous peoples to have their own *institutions*; and
- The right to participate in the political, economic, social and cultural life of the State while maintaining their own self-government.

NOTE THAT given the implications of this right, self-determination is usually accompanied by a State's reluctance to recognize self-determination as it may be seen as a direct threat to its own sovereignty. This particular vulnerability of States led to the creation of Article 46, stating that the provisions within the Declaration do not destroy State sovereignty. This is set out in more detail below.

Free, Prior and Informed Consent

There are a number of Articles in the *Declaration* that recognize the principle of *free, prior and informed consent* with respect to:

- The forced removal of people from their lands or territories (**Article 10**);
- The removal of cultural, intellectual, religious and spiritual property (**Article 11**);
- The creation of legislation or administrative measures that may affect Indigenous peoples (**Article 19**);
- The confiscation, use, occupation or damage of traditional lands or territories (**Article 28**);
- Storage or disposal of hazardous materials on Indigenous lands or territories (**Article 29**); and
- State approval of projects affecting Indigenous lands, territories or other resources, especially in connection with development, utilization or exploitation of mineral, water or other resources (**Article 32**).

It is very important that Indigenous peoples have all information possible before making a decision that is likely to affect them. This information must not only be available, but must be understood and translated (if necessary) in order to be able to make a proper decision. This means that if Indigenous peoples are not given all information, information is out of date or newer information is not made available, any decisions made have not been made with free, informed consent. The Declaration notes above several particular instances where free, prior and informed consent is especially important.

⁷ Anaya, 97.

Life and Security (7-10)

Articles 7 to 10 set out the rights of Indigenous peoples with respect to life, security, *genocide*, forcible removal, and *assimilation*. In particular:

Articles 7 and 8 state that Indigenous individuals and peoples collectively:

- Have a right to life, liberty and safety;
- Have the right to integrity of the mind and body;
- Have the right to live freely, in peace and safety as a distinct group; and
- Shall have remedy for actions by the State including dispossession of lands, forced removal, assimilation or deprivation of culture.

Indigenous individuals and peoples collectively:

- Shall not be subjected to genocide or any other acts of violence;
- Shall not have children forcibly removed; and
- Shall not be forcibly assimilated or have their culture destroyed.

Articles 9 and 10 state that:

- Indigenous peoples have the right to belong to an Indigenous community, according to its traditions and customs; and
- Indigenous peoples will be free from discrimination because of their right to belong to an Indigenous community.

Indigenous individuals and peoples collectively:

- Shall not be forcibly removed from their lands or territories; and
- If relocation must take place, it must not be done without free, prior and informed consent and agreement on fair compensation (with the possible option of return).

These articles detail the rights of Indigenous peoples to live in safety, to have their culture, customs and traditions respected and to be free from violations of their rights that they have previously been subjected to including genocide, assimilation and forcible removal of their lands.

Language, Culture and Spiritual Identity (11-13)

There are a number of provisions in the *Declaration* that set out Indigenous rights with respect to language, culture, and spiritual identity. These rights make explicit the importance of cultural traditions of Indigenous peoples, including traditions and customs that are practised and manifested in objects or sacred sites and the importance in being able to transmit these customs from generation to generation. The specific rights include:

Article 11(1), which gives Indigenous peoples the right to practice and enliven cultural traditions and customs. It also gives the right to maintain and protect past, present, and future examples such practices including historical sites, visual arts, etc.

Article 12 gives Indigenous peoples the right to practice and develop and teach their spiritual and religious traditions, customs and ceremonies. It also recognizes the right to privacy for religious and cultural sites, the right to use and control ceremonial objects, and the right to repatriation of human remains.

Article 13 gives Indigenous peoples the right to use, develop and teach to future generations of Indigenous peoples' their histories and oral traditions as well as keep traditional names for communities, places, and people.

Education, Information and Employment (14-17)

Articles 14 to 17 set out rights of Indigenous peoples to education, public information, media and employment. In more detail:

Article 14 sets out the right of Indigenous peoples to establish and control their own educational systems and to provide education in their own language in culturally appropriate ways. Education is to be provided without discrimination.

Article 15 gives Indigenous people the right to dignity in their culture, traditions, and histories and this will be evident in information that is publicly available.

Article 16 gives Indigenous peoples the right to establish their own media in their own language and have access to all forms of media (including non-Indigenous media) without discrimination.

Article 17 sets out the right for Indigenous peoples to enjoy domestic and international labour laws and protections without discrimination. In particular, Indigenous children have the right to be free from exploitation and from performing work that is likely to be hazardous to their health.

Participation, Development and Economic and Social Rights (18-24)

The next bundle of rights deals with Indigenous peoples' rights of participation, consent, political, economic or social systems, economic and social conditions, disabilities, development, and health. These include, in more detail:



Article 18 recognizes the right of Indigenous peoples to participate in decision making in situations that will affect them and to allow Indigenous peoples to maintain their decision-making methods;

This is an essential right that Indigenous peoples should be aware of and States should respect. A lack of a participation in decision making in situations that will affect them goes to the very heart of self-determination and self-governance. It is and has been one of the major violations of the human rights of Indigenous peoples to date.

Article 20 recognizes the right of Indigenous peoples to have their own political, economic or social systems, enjoy their own means of survival and development and enjoy their traditional and economic activities. In the event that Indigenous peoples have their means to live and develop taken away from them, they are entitled to just and fair compensation.

Article 21 sets out the right of Indigenous peoples to improvement of their economic and social conditions including education, housing and health.

Article 22 pays particular attention to the rights of special needs of those most vulnerable in the community, including Indigenous elderly, women, children and disabled.

Article 23 sets out the right of Indigenous peoples to development, including their right to be actively involved and administer programmes that affect them.

Lastly, Article 24 recognizes the right of Indigenous peoples to traditional medicine and the maintenance of their traditional practices including conservation of relevant resources. This right also includes the right to access health services for Indigenous peoples.

Article 24 is particularly important as it recognizes the links between preservation of traditional plants, animals and minerals and the health and traditional medicinal practices of Indigenous peoples.

Rights to Country, Resources and Knowledge (25-32)

The next bundle of Articles relates to the rights of Indigenous peoples with respect to their lands, territories and resources, recognition of these rights as well as their culture, laws and traditions, compensation with respect to the taking away of their land, conservation and military activities, and traditional knowledge. These rights are critical to self-determination and self-governance, given the intricate links between Indigenous peoples and their traditionally owned land and natural resources and the importance of recognition of land and resources rights to the survival of Indigenous culture, customs, health, and livelihoods. These rights include:

Article 25 recognizes the right for Indigenous peoples to maintain their spiritual relationship with their traditionally owned (or occupied) lands, territories and resources and uphold their responsibilities to future generations.

Article 26 importantly acknowledges the rights of Indigenous people to lands that they have traditionally owned or occupied. Due to this ownership, Indigenous peoples are able to use and develop this territory as they wish, without interference from the State.

Article 27 gives Indigenous peoples the right to participate in a fair, open and transparent process in recognizing their rights to their lands and resources. This right can be linked to Article 18, the right to be involved in decisions that are likely to affect them.

Article 28 recognizes that Indigenous peoples the right to a remedy (either returning what is rightfully theirs or by way of compensation) for lands and resources that Indigenous peoples have traditionally owned or occupied but have been taken away from them, occupied or damaged without their free, prior and informed consent. Compensation could be in the form of land or resources of equivalent value, money or another appropriate remedy.

Article 29 acknowledges the right of Indigenous peoples to the conservation and protection of their environment, including the capacity of production of their lands.

Article 30 states that military activities shall not occur on Indigenous lands unless agreed or requested by Indigenous peoples or it is justified in the public interest;

Article 31 states that Indigenous peoples have the right to maintain, protect and develop their own cultural heritage, traditional knowledge and cultural expressions and have the right to protect and develop their own *intellectual property* accordingly. This includes, for example, their own genetic, scientific resources and knowledge of plants and animals.

Finally, Article 31 recognizes that Indigenous peoples have the right to determine their own priorities and strategies for the development of their lands and resources.

Note that the rights of Indigenous peoples to ownership of traditionally owned and utilized lands, territories and resources are contrary to a State's rights over their resources in their own territories. For example, Article 3 of the Convention on Biological Diversity recognizes the sovereignty of States over their natural resources, completely discounting the role of Indigenous peoples as traditional owners of certain parts of a States' territory. This provision and others within the Convention on Biological Diversity and its Nagoya Protocol that do not demand the free, prior and informed consent on Indigenous peoples in decision making and fair and equitable sharing of benefits with respect to access and benefit sharing arrangements ultimately demonstrate the weaknesses in these international legal frameworks, despite the rights set out in the Declaration.⁸ However, the Declaration is a fairly recent addition to the range of international human rights instruments available for use. It does have some weight and earlier international law instruments should be interpreted in conjunction with the Declaration.

Self-Governance (33-37)

Articles 33 to 37 of the Declaration discuss different elements that make up self-governance, including Indigenous identity, institutional structures, integrity of the group and the unique role of Indigenous peoples in international treaties. These rights are important as they are linked to self-determination and the right of Indigenous peoples to control their own destinies, enliven, maintain and protect their unique cultures, traditions, ways of life, lands and natural resources and customary laws.

Article 33 identifies the right of Indigenous peoples to determine membership of their particular Indigenous group as well as membership of their own institutions according to their own procedures.

Article 34 recognizes the right to develop and maintain their own institutional structures and unique customs and traditions according to international human rights standards.

Article 35 acknowledges the right of Indigenous peoples to make their own decisions about responsibilities given to members of their communities.

Article 36 states that Indigenous peoples on international borders have the right to maintain and develop contacts with their own peoples and peoples across borders, particularly for spiritual, cultural, and economic reasons.

⁸ Morel, C., "Conservation and Indigenous Peoples' Rights: Must One Necessarily Come at the Expense of the Other?" in (2010) 17 *Policy Matters* 174-181, 176.

Article 37 acknowledges that Indigenous peoples have the right to the recognition and observance of treaties and agreements with States and that States will honour such treaties and agreements.

Implementation (38-40)

There are a number of provisions within the Declaration that assist in its implementation. These are important as they guide States and Indigenous peoples as to how the Declaration should be used.

Article 38 states that States must, in cooperation with Indigenous peoples, take appropriate measures to fulfil the obligations and achieve the goals of the Declaration. This is less of an Indigenous right, but important to note.

Article 39 acknowledges the right of Indigenous peoples to access financial and technical assistance from States in order to make sure that the rights in the Declaration are fully enjoyed.

Article 40 recognizes the right of Indigenous peoples to access quick and fair procedures for the resolution of conflicts with States or other parties. This also includes quick and fair, effective remedies for infringements of Indigenous individuals and peoples. The outcome of these procedures should take into account Indigenous customs, traditions, legal systems, and international human rights.

Interpretation (43-46)

Articles 43 to 46 do not impose rights or responsibilities on any party. They do, however, set out important information as to the interpretation of the Declaration that Indigenous peoples should be aware of.

Article 43 states that the rights set out in the Declaration are only minimum standards for the survival, dignity, and well-being of Indigenous peoples. These rights are not only set out in the Declaration, but are enforceable in other human rights instruments. Because of this, there is nothing in the Declaration that does, or will in the future, reduce or destroy the rights of Indigenous peoples (Article 45).

Article 44 recognizes that the rights and freedoms in the Declaration apply to both male and female Indigenous individuals.

Lastly, Article 46 reminds all signatories to the Declaration that nothing in the Declaration gives permission for any States, organization, person, or peoples to perform any activity that is opposed to the Charter of the United Nations, or impair or destroy the sovereignty (including territory) of States. The human rights and freedoms of all are to be respected. Any limits on the rights in the Declaration should not be discriminatory. The provisions of the Declaration will be interpreted in good faith, with respect for human rights, equality and justice.

Guiding Questions for Self-Assessment

1. *How many articles are in the United Nations Declaration on the Rights of Indigenous Peoples?*
 - a) 47
 - b) 48
 - c) 46
2. *What are the two fundamental overarching rights found in the first two Articles of the Declaration?*
 - a) *The right to be free from discrimination and the right to free, prior and informed consent*
 - b) *The right to be free from discrimination and the right to full enjoyment of human rights*
 - c) *The right to full enjoyment of human rights and the right to free, prior and informed consent*
3. *What articles discuss the implementation of the Declaration?*
 - a) Articles 43-46
 - b) Articles 33-37
 - c) Articles 38-40
4. *All other rights in the Declaration support the essential right of Indigenous peoples to:*
 - a) *Self determination*
 - b) *Non-discrimination*
 - c) *Self-governance*
5. *Article 18 describes the rights of Indigenous peoples to participate in decision making in situations that will affect them, as well as the right of Indigenous peoples to maintain their decision making methods. This is one of the most violated rights of Indigenous peoples. True or false?*
 - a) *True*
 - b) *False*
6. *True or false? The Declaration sets out the maximum standards for the particular human rights of Indigenous peoples.*
 - a) *True*
 - b) *False*
7. *Which Article in the Declaration acknowledges the rights of Indigenous peoples to lands that they have traditionally owned or occupied?*
 - a) Article 26
 - b) Article 19
 - c) Article 28

Answers: 1(c); 2(b); 3(c); 4(a); 5(a); 6(b); 7(a)
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Guiding Questions for Discussion

- *When looking at the rights set out in the Declaration, which provisions are most relevant to your community?*
- *What opportunities do you see for using them to engage with external actors?*

The Declaration, Biological Diversity, and Conservation

There are a number of Articles in the Declaration that acknowledge the relationship between Indigenous peoples and their environment, including their essential role in conservation and the rights that are associated with this role. These rights preserve the traditional relationship between Indigenous peoples and local communities and the lands, territories, and natural resources that they have traditionally owned, used, and conserved. The relevant rights reflected in the Declaration include provisions concerning:

- Self determination (Articles 3 to 5)
- Respect for Indigenous culture, customs and ways of life (Articles 7-11 and 13)
- Decision-making, free, prior and informed consent (Articles 18-19)
- The right to Indigenous development (Articles 20, 23, and 32)
- The right to health and conservation of plants, animals and minerals that contribute to good health (Article 24)
- The right to the legal recognition, protection, and use of their traditionally owned lands, territories, and natural resources as well as the maintenance of the spiritual relationship between Indigenous peoples and their lands, territories, and resources. This also includes transparent process in dealing with recognition of such land and resource rights and remedies where land and natural resource have been confiscated (Articles 25 to 28).
- The right to the conservation and protection of their lands, as well as the right to obtain benefit from the resources on their lands. This includes the responsibility of the State not to dispose of hazardous wastes or participate in military activities on lands traditionally owned or utilized by Indigenous peoples without their free, prior and informed consent (Articles 29 and 30).
- The right of Indigenous peoples to control, protect, and develop their own cultural heritage, traditional knowledge, Indigenous technologies and practices (for example, cultivation of genetic resources such as properties of flora and fauna), and intellectual property (Article 31).
- The right to self-governance (Articles 33 to 37)

What Rights and Responsibilities Do States Have?

Whilst the Declaration is not legally binding on a signatory, it does restate fundamental protections in international law that are recognized in other legally binding international human rights instruments. However the use of the word “shall” in the Declaration does not force signatories to fulfil any of the obligations set out in the Declaration. Obligations on States in Declaration include:

Life and Security

States will make sure that there are effective measures (like compensation) in place to prevent and provide remedy for (Article 8):

- Its own actions that have deprived Indigenous peoples of their cultural values or identities, or jeopardized Indigenous groups as distinct;
- Action that has led to the taking away of lands, territories or resources of Indigenous peoples;
- Transferring Indigenous peoples causing a violation of Indigenous rights;
- Assimilation or forced integration; and

- Propaganda that promotes or causes racial hatred or ethnic discrimination.

Free, Prior and Informed Consent

States should provide proper compensation to Indigenous peoples if their cultural, spiritual, intellectual, or religious property is taken away from them or used without their free, prior and informed consent (Article 11(2)). This particular right is represented in other international treaties, including the [Convention on Biological Diversity](#) (Article 8(j)) and the [Nagoya Protocol on Access and Benefit Sharing](#) (Articles 7 and 12).

Language, Culture and Spiritual Identity

States will make an effort to either give access to or give back Indigenous ceremonial objects and human remains in their possession. This will be done after fair and proper collaborations with Indigenous peoples (Article 12(2)).

States shall make sure that there are effective measures to protect the rights of Indigenous peoples' to use, develop and teach their future generations their histories. The State also has the responsibility to make sure that Indigenous peoples understand legal, political, and administrative procedures that are relevant to them and this includes providing an interpreter if that is needed (Article 13(2)).

Education, Information and Employment

States shall make sure that there are proper and effective measures in place to provide access for Indigenous children to an education in their own culture and language (Article 14(3)). This means that States must respect the rights of Indigenous peoples to transfer their culture, traditions, and languages to their children.

States shall make sure that there are effective measures in place (in collaboration with Indigenous peoples) to stop prejudice against Indigenous peoples and promote good relationships between Indigenous peoples and society (Article 15(2)).

States shall make sure that there are effective measures in place to make sure that Indigenous cultural diversity is present in the media (Article 16).

States shall make sure that specific measures are in place to protect Indigenous children from



hazardous work and economic exploitation, in collaboration with Indigenous peoples (Article 17(2)).

Participation, Development and Economic and Social Rights

States should consult and cooperate with Indigenous peoples to obtain their free, prior and informed consent for any decisions that will affect them (Article 19). This means that decisions regarding any aspect of Indigenous peoples should not be made without the cooperation and consent (having been provided full information) of the Indigenous peoples it will affect.

States shall take effective or special measures to improve the economic and social conditions of Indigenous peoples, particularly for Indigenous women, children, the elderly and disabled (Article 21(2)).

States shall take measures in collaboration with Indigenous peoples to ensure that Indigenous women and children have protection against discrimination and violence (Article 22(2)).

States shall take all necessary steps to make sure Indigenous peoples enjoy a high standard of physical and mental health (Article 24(2)). This means that States must pay particular attention to the health and wellbeing of Indigenous peoples and seek to improve and maintain good standards of health.

Rights to Country, Resources and Knowledge

States shall give legal recognition and protection to lands that are traditionally owned or occupied by Indigenous peoples, with respect to traditional customs, traditions, and land ownership systems (Article 26(3)). This means that States should be aware of the territories that its Indigenous people traditionally identify with and respect that relationship accordingly by recognizing their traditional and legal ownership.

States shall establish, in collaboration with Indigenous peoples, a fair, open and transparent process that recognizes Indigenous traditions, laws and customs, to make sure there is recognition of Indigenous rights relating to their lands and resources (Article 27).

States shall take effective measures to make sure that no hazardous materials are stored or disposed of on the lands of Indigenous peoples without their free, prior and informed consent. States should also take effective measures to monitor and restore the health of Indigenous peoples if affected by such materials (Article 29(2) and (3)). So, States must make sure that Indigenous groups are fully informed and aware of the likely consequences of the storage or disposal of hazardous materials on Indigenous lands. If this material is stored or disposed of on Indigenous lands, the State should monitor the health of affected Indigenous peoples and if health deteriorates, restore their health.

States shall have effective meetings with Indigenous peoples, through proper representatives and using appropriate procedures, before using lands for military activities (Article 30(2)). This means that States must make sure that Indigenous peoples fully understand what it means and the likely consequences of approving military activities on Indigenous lands.

States shall take effective measures to recognize and protect the rights of Indigenous peoples to maintain, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions (Article 31(2)). This means that States must try to recognize and protect Indigenous cultural heritage and traditional knowledge. This can be done in a number of ways, including making sure that the interests of Indigenous peoples are taken into consideration when negotiating with companies on access and benefit sharing.

States shall meet and discuss in good faith with Indigenous peoples and appropriate representatives, to obtain their free, prior and informed consent before the approval of any activities on Indigenous lands that is likely to affect their lands or resources, particularly regarding the exploitation of mineral, water or other resources. States should also provide effective mechanisms for remedies and States should lessen the potentially negative environmental, economic, social, cultural, or spiritual impacts (Articles 32(2) and (3)).

Self-Governance

States should make sure that Indigenous peoples within their borders are able to maintain and develop contacts with their own peoples and peoples across borders, particularly for spiritual, cultural, and economic reasons (Article 36(2)).

Implementation

Article 38 states that States must, in cooperation with Indigenous peoples, take appropriate measures to fulfil the obligations and achieve the goals of the Declaration.

Guiding Questions for Self-Assessment

1. *Is the Declaration legally binding on States?*
 - a) Yes
 - b) No
2. *True or false: A signatory does not have to give legal recognition and protection to lands that are traditionally owned or occupied by Indigenous peoples.*
3. *True or false: Article 32 states that States shall meet and discuss with Indigenous and their appropriate representatives to obtain their free, prior and informed consent before approval of any activities on Indigenous lands likely to affect their lands or resources.*
 - a) True
 - b) False

Answers: 1(b); 2(a); 3(a)

Note: The answer to question 2 is technically (a), though any signatory to the Declaration must act in a manner that follows the spirit of the Declaration, so cannot, without criticism, contravene the provisions.

What Rights and Responsibilities Do the United Nations Have?

The United Nations and organizations under the auspices of the United Nations such as the Permanent Forum on Indigenous Issues also have responsibilities in the Declaration. These responsibilities include:

Article 41 sets out the responsibility of the United Nations and other organizations to help to implement the aims of the Articles in the Declaration by financial cooperation and technical assistance. The Declaration also states that these organizations will try to find ways to make sure Indigenous peoples participate in discussions on issues that affect them.

Article 42 states that the UN and its organizations will promote respect for and full application for the Declaration, as well as monitoring the effectiveness of the Declaration.



WHAT DOES THE DECLARATION MEAN FOR MY COMMUNITY?

The Declaration gives Indigenous peoples the opportunity to examine and assert their rights as Indigenous peoples, many of which are set out in this one instrument.

Does the Declaration apply to my country and my community?

Search the [list of states that initially signed](#) the Declaration. Note that the four countries who originally voted against it (Australia, New Zealand, the United States and Canada) have reversed their positions.

The Declaration requires, at Article 38, that signatories take appropriate measures to achieve the rights set out in the Declaration. Article 38 states:

“States, in consultation and cooperation with Indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration”.

Ideally, if your country is a signatory, it has started to implement the rights set out in the Declaration through its policies, laws, or in the way judges have interpreted Indigenous rights in case law. State signatories are increasingly beginning to respect the principles found within the Declaration. For example, provisions of the Declaration are found in the Indigenous People’s Rights Act in the Philippines and it was referred to in *Saramaka People v Suriname* by the Inter-American Court of Human Rights.

Domestic laws and policies

The Declaration is fairly new and may not have been implemented into the laws of your country. Still, Indigenous peoples may read into existing domestic laws particular protections for Indigenous peoples if their State is a signatory. This is because the Declaration sets out, in the preamble, the urgent need for States to promote the rights set out in the Declaration. The Declaration also notes in Articles 37 and 38 the obligations of States to honour and respect the rights set out in the Declaration and to take appropriate measures to achieve the goals of the Declaration.

Indigenous peoples may be able to identify rights that they can use in their State's constitution, bill of rights or other rights-based document. These rights may be found in legislation that addresses the following topics, among others:

- Discrimination
- Racial discrimination
- Freedom of information
- Human rights
- Property law
- Environmental law

Conversely, there may be domestic laws that go against the principles set out in the Declaration. You should be familiar with laws such as those:

- Governing land ownership, including rules that may be old and out-dated
- Regarding intellectual property
- Regarding freedom of information and when a government body can withhold information
- Recognizing Indigenous peoples
- That *allow* discrimination (for example, exceptions to non-discrimination laws such as laws that allow discrimination for the purposes of national security or in special circumstances)



Regional Instruments

It may be worthwhile investigating regional laws and instruments that also set out the rights of Indigenous peoples. For example, the [African Charter on Human and Peoples' Rights](#) contains several provisions that can further supplement the rights set out in the Declaration. A guide produced by the Forest Peoples Programme may assist you navigating the [African Human Rights System](#).

The Permanent Council of the Organisation of American States is currently drafting an “American Declaration on the Rights of Indigenous Peoples”. It is currently in draft form and further information is located [here](#). There is also a [Charter of the Organisation of American States](#) that sets out relevant human rights obligations.

If a State is not upholding its obligations under the Declaration

If you are an Indigenous individual or represent Indigenous peoples, there are avenues to report a violation of your rights under the Declaration, including the following:

The Special Rapporteur on the Rights of Indigenous Peoples

One of the important tasks of the Special Rapporteur is to interact and exchange information with Indigenous peoples and their representatives. This includes receiving information from relevant actors on alleged violations of human rights. The Special Rapporteur can intervene in a human rights violation that has already taken place, is ongoing, or has a high risk of occurring. The intervention will either be an urgent appeal or an allegation letter, depending on the nature of the alleged violation. The Special Rapporteur will then send a confidential communication to the government of the State concerned, requesting information, noting the allegation and suggesting particular action to be taken (either preventative or actions to investigate the matter). The full process is set out [here](#).

There are no formal requirements for setting out the alleged violation suffered (or that is likely to be suffered) by an Indigenous individual or peoples. Anybody (or group) can send the complaint. The description should be precise and brief (1-2 pages) and it may have annexes or additional documents and evidence attached. Recommended information to include is:

- Details of when, where, date, time, precise location of the incident
- Name of victim or community, including location
- Detailed background of the violation in order of what happened first to what is happening now
- Details of the person, State, or company that is responsible for the violation
- Action that has been taken by any authorities (if any)
- Action that has before any other international bodies
- Source of the information provided

The above information (with more detail), including the address to send the information to, is directly available on Office of the High Commissioner for Human Rights [website](#).

The Human Rights Council

The Human Rights Council has a complaints procedure through which violations of human rights and fundamental freedoms can be addressed in a confidential manner. These complaints or “communications” are screened for admissibility and, if not rejected, are forwarded to the relevant State whom the complaint concerns, in order to obtain their views on the complaint. Two Working Groups (the Working Group on Communications and the Working Group on Situations) assist in bringing to the attention of the Council “consistent patterns of gross and reliably attested violations of human rights and fundamental freedoms.”⁹ The Council then makes a decision on each situation that is brought before it.

There are a number of criteria that need to be followed to make sure that a complaint is admissible. These are listed on the relevant [website](#) (including the address to send complaints to). This particular method of complaint appears likely to take a long time with no real assurance of an effective outcome.

⁹ See the UN Human Rights Council website at <http://www2.ohchr.org/english/bodies/chr/complaints.htm>.

Other Human Rights Bodies

Individual complaints can be made to various human rights treaty bodies (where the complaint is relevant to the particular human rights body). These include:

- The [Human Rights Commission](#) for violations of the Convention on Civil and Political Rights
- The [Committee on the Elimination of Racial Discrimination](#)
- The [Committee Against Torture](#), which monitors the prevention of torture and other forms of cruel, inhuman or degrading treatment or punishment
- The [Committee on the Elimination of Discrimination Against Women](#)

The Australian Human Rights Commission has recently produced a guide entitled [“A Guide to Using the Optional Protocol to CEDAW and other international complaint mechanisms”](#) that may be useful.

There is also a helpful [link](#) setting out the procedure for lodging a complaint by individuals under human rights treaties.

Guiding Questions for Discussion

- *Is your country a signatory to the Declaration? If so, are there local non-government organizations or community-based organizations that advocate for Indigenous rights?*
- *Search through recent case law in your country or region using “Indigenous”, “rights” and “Declaration on the rights of Indigenous peoples” as search terms. Did you find any cases that may be helpful?*
- *How can the Declaration be utilized by your community to assert your rights?*
- *Who can you appeal to if your rights in the Declaration have been breached?*



TAKING ACTION

Discussing Our Community’s Views, Priorities, and Strategies

Despite the Declaration being non-binding, some of its provisions are regarded as binding international customary law that ought to be followed by all States, whether signatory to the Declaration or not. It is up to Indigenous individuals and groups to educate themselves on the provisions within the Declaration that are relevant to them, including the corresponding functions and work of agencies of the United Nations. It is individuals and communities who will ultimately have to advocate for their international rights to be upheld locally.

If you feel that any of the rights set out in the Declaration above have been violated, you may wish to discuss with your community what your collective view is, what your community’s priorities are, and strategies you may wish to implement to voice your concerns and advocate for your rights. Some

avenues for advocacy have been listed above for your assistance. In preparation for a potential situation that you may have to address in the future, consider how your community would or should respond to the following scenarios:

- If you were approached by a company that says they have a licence to extract minerals on your traditionally held lands
- If you were told by the government that you were trespassing on government property, even if you and your ancestors have lived on and utilized the lands for many generations
- You found out that the drinking water you relied on was being contaminated by a company upstream
- If your community were approached by a PhD student from Europe who wanted to conduct academic research on your customary uses of biodiversity or your traditional medicinal knowledge
- If you were approached by an organization that wanted to discuss developments on your land

It would be helpful if you could navigate your way around the Declaration and pick out the provisions relevant in each of the situations above. You should also try to familiarize yourself with local and national laws and your community's customary laws, particularly with respect to engaging with outsiders. You could also take into consideration the information provided in this e-module, including the minimum guidelines and principles that outsiders to your community should adhere to.

Communicating Your Views to Others

There are a number of organizations and resources (listed below in the *Additional Resources* section as well as throughout this e-module) that will assist you in interactions with outsiders to your community. If any company or official approaches your community (for example, to seek information about your resources or with respect to a development project), you have the right to ask for information and to withhold consent. Ask any organizations for their procedures or guidelines for conducting research, impact assessments, feasibility studies, or any other forms of engagement with communities. These procedures or guidelines should not be contrary to the community's customary laws or community protocols or procedures.

Ideas for Advocacy and Action

- Follow the work of the Special Rapporteur on the Rights of Indigenous Peoples, the Expert Mechanism on the Rights of Indigenous Peoples, and the Permanent Forum on Indigenous Issues. Contribute to submissions or participate in their work, forums, or conferences.
- Liaise with other Indigenous organizations in your country and region.
- Meet with relevant government representatives to discuss your rights at the local, national, and international level.
- Educate others in your community about the rights that Indigenous peoples are entitled to at the international level.



SUMMARY

This e-learning module provided an introduction to the Declaration on the Rights of Indigenous Peoples, including an explanation as to how it was created, who is considered “Indigenous” in international law, identification of the particular rights and responsibilities of all parties to the Declaration, and an explanation as to how the rights set out in the Declaration accord with international human rights instruments in general.

The e-module identified some opportunities and challenges in this international framework and set out options for individuals and communities to pursue if their rights have been violated. It also set out a number of questions to gauge understanding of the material in addition to discussion questions for community reflection.

The Declaration was created as a result of the hard work of Indigenous groups, non-government, community-based, and civil society organizations, and governments alike. Whilst it is not legally binding, its provisions are drawn from legal instruments that are. The Declaration provides many supportive provisions for Indigenous people in the context of self-determination, land rights, non-discrimination, and resource rights. It is an essential legal instrument that Indigenous groups should understand and actively use in the context of seeking recognition and respect for their rights and responsibilities.



ADDITIONAL RESOURCES

Other Relevant E-modules

There are a number of other international frameworks that relate to the rights of Indigenous peoples. If you are interested in learning more, please visit www.community-protocols.org for the following additional e-modules (some forthcoming):

- Other International Human Rights Instruments, including ILO 169
- Traditional Knowledge and Customary Sustainable Use
- Impact Assessments
- Farmers’ Rights
- Livestock Keepers’ Rights
- Cultural Heritage

Bibliography & Further Reading

[United Nations Declaration on the Rights of Indigenous Peoples](#)

Audiovisual Library of International Law

Provides an excellent background of the history of Indigenous rights in international human rights instruments and the creation of the Declaration

[Video: Indigenous Peoples and the United Nations](#)

United Nations Permanent Forum on Indigenous Issues

Institutional Policies and Guides on Indigenous Peoples

[FAO Policy on Indigenous and Tribal Peoples](#)

Food and Agriculture Organization of the UN

[Guidelines on Indigenous Peoples' Issues](#)

United Nations Development Group

[Operational Policy and Bank Procedure on Indigenous Peoples \(OP/BP 4.10\)](#)

World Bank

[Performance Standard 7: Indigenous Peoples](#)

International Finance Corporation

[Safeguard Policy Statement](#)

Asian Development Bank

[Engagement with Indigenous Peoples – Policy](#)

International Fund for Agricultural Development

Resource Materials

[UNDRIP Manual](#)

Asia Indigenous Peoples Pact

Developed as an educational toolkit for community training and seminars to raise awareness and generate advocacy, the manual contains an overview of the provisions in the Declaration and modules on the thematic areas.

[Resource Kit on Indigenous Peoples' Rights](#)

Secretariat of the United Nations Permanent Forum on Indigenous Issues

This resource kit sets out how to identify Indigenous peoples, key elements regarding Indigenous peoples and development, including free, prior and informed consent and making the United Nations Millennium Development Goals relevant. This resource is useful as it refers to specific human rights provisions in relevant instruments.

[A Community Guide to the UN Declaration on the Rights of Indigenous Peoples](#)

Australian Human Rights Commission

[United Nations System Flowchart: Focusing on key human rights bodies where Indigenous Peoples can participate](#)

International Indian Treaty Council

[The United Nations Declaration on the Rights of Indigenous Peoples: What It Says and What It Means for First Nations in Canada](#)

Assembly of First Nations

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Contact & Request for Feedback

This e-learning module is part of a toolkit for community facilitators on biocultural community protocols. The complete toolkit, including additional e-learning modules, is available at: www.community-protocols.org.

We welcome any and all feedback on the content and use of the e-learning modules and toolkit. If you have suggestions for improvement, would like more information, or would like to request a hard copy of the toolkit, please contact Holly Shrumm (holly@naturaljustice.org).

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