

INFORMATION SHEET: INDIGENOUS PEOPLES OR MINORITY GROUPS

POLICY AREA / POLICY ISSUE

Indigenous peoples or minority groups

ISSUES TO CONSIDER

Although the provisions of the Convention and its Operational Directives apply to all communities, groups and individuals who identify with a specific ICH element, not just to indigenous communities and their ICH, in the Preamble the Convention mentions indigenous communities as requiring special consideration. Indigenous and minority communities often experience difficulties in safeguarding their ICH; it may have been historically devalued by the government or broader society, and in some cases its practice may even have been constrained or prohibited.

International human rights instruments link the protection of human dignity to respect for culture, and thus protect freedom of expression, conscience and religion, and freedom to participate in cultural life.¹ However, it should be noted that the interpretation of these concepts has changed over time. While individual rights to choose what cultural groups they wish to join have not changed in scope, the focus has shifted from protecting the cultural rights of nations to the rights of minorities and other sub-national groups to practice their culture. The right to participate in cultural life (protected in the UDHR and ICESCR) was initially framed as the right of participation in the national culture and the right of 'peoples' to self-determination was interpreted largely in the sense of national sovereignty.² In the 1970s, many States stopped promoting assimilation as a strategy for managing cultural and ethnic diversity embraced strategies of multiculturalism instead, buttressed by human rights provisions for individuals.³ After the end of the Cold War and the re-emergence of central and eastern European conflicts in the 1990s, the right to participate in cultural life was increasingly being reinterpreted as a recognition of cultural rights for minority groups.⁴

The General Assembly of the United Nations adopted the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) in September 2007, which has now been widely endorsed by States around the world. The Declaration recognizes that 'respect for indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development'. It says that indigenous people have the 'right to practise and revitalize their cultural traditions and customs', and to 'the dignity and diversity of their cultures, traditions, histories and aspirations' including traditional medicines. They have the right to 'maintain, control, protect and develop their 'cultural heritage, traditional knowledge and traditional

1. Francioni, F. 2008. 'Culture, Heritage and Human Rights: An Introduction' in Francioni and Scheinin (eds) Cultural Human Rights. Martinus Nijhoff Publishers, pp.8-9. Cited in Deacon, 'A comparative review of cultural rights provisions in the Kenyan constitution'.
2. Vrdoljak, A.F. 2008. 'Self-Determination and Cultural Rights' in F. Francioni and M. Scheinin (eds) Cultural Human Rights. Martinus Nijhoff Publishers, p.57. Cited in Deacon, 'A comparative review of cultural rights provisions in the Kenyan constitution'.
3. Such as Canada (1971), Australia (1973) and later the UK, US, South Africa and New Zealand: Harrison, R. 2013. Heritage: Critical approaches. Routledge, p.143. Cited in Deacon, 'A comparative review of cultural rights provisions in the Kenyan constitution'.
4. Vrdoljak, A.F. 'Self-Determination and Cultural Rights'.

cultural expressions'. 'Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture'.⁵

In line with the development of more international instruments for the protection of rights of indigenous groups and minorities, constitutional and other national provisions for minorities and indigenous groups have become much more common globally in the last few decades.⁶ States take many different approaches to indigenous communities living within the borders of their territory, depending on the history and legal context of the relationship between indigenous communities and the State, and the attitude of the prevailing government.

WHAT THE CONVENTION AND ITS TEXTS SAY

The Convention

Preamble: **Recognizing** that communities, in particular indigenous communities, groups and, in some cases, individuals, play an important role in the production, safeguarding, maintenance and re-creation of the intangible cultural heritage, thus helping to enrich cultural diversity and human creativity

Operational Directives

OD 174: States Parties shall endeavour to ensure that their safeguarding plans and programmes are fully inclusive of all sectors and strata of society, including indigenous peoples, migrants, immigrants and refugees, people of different ages and genders, persons with disabilities and members of vulnerable groups, in conformity with Article 11 of the Convention.

OD 194: States Parties should endeavour to recognize and promote the contribution of the safeguarding of intangible cultural heritage to social cohesion, overcoming all forms of discrimination and strengthening the social fabric of communities and groups in an inclusive way. To that end, States Parties are encouraged to give particular attention to those practices, expressions and knowledge that help communities, groups and individuals to transcend and address differences of gender, colour, ethnicity, origin, class and locality and to those that are broadly inclusive of all sectors and strata of society, including indigenous peoples, migrants, immigrants and refugees, people of different ages and genders, persons with disabilities and members of marginalized groups

OD 197 (a): 197. States Parties should endeavour to recognize, promote and enhance the contribution that safeguarding the intangible cultural heritage of communities, groups and individuals makes to the construction of lasting peace. To that end, States Parties are encouraged to: (a) ensure respect for the intangible cultural heritage of indigenous peoples, migrants, immigrants and refugees, people of different ages and genders, persons with disabilities, and members of vulnerable groups in their safeguarding efforts

Ethical Principles

Ethical Principle 2: The **right of communities, groups and, where applicable, individuals** to continue the practices, representations, expressions, knowledge and skills necessary to ensure the viability of the intangible cultural heritage should be recognized and respected.

Ethical Principle 3: **Mutual respect** as well as a respect for and mutual appreciation of intangible cultural heritage, should prevail in interactions between States and between communities, groups and, where applicable, individuals.

5. See <http://undesadspd.org/IndigenousPeoples/DeclarationontheRightsofIndigenousPeoples.aspx>

6. Goderis and Versteeg 2014 cited in Deacon, 'A comparative review of cultural rights provisions in the Kenyan constitution'.

Ethical Principle 11: **Cultural diversity** and the identities of communities, groups and individuals should be fully respected. In the respect of values recognized by communities, groups and individuals and sensitivity to cultural norms, specific attention to **gender** equality, **youth** involvement and **respect for ethnic identities** should be included in the design and implementation of safeguarding measures.

OTHER RELEVANT LEGAL INSTRUMENTS

United Nations Declaration on the Rights of Indigenous Peoples (2007)

International Labour Organization (ILO) Convention No.169 (1989)⁷

EXAMPLES

- According to **Venezuela's** Constitution:
Native peoples have the right to maintain and develop their ethnical and cultural entity, world view, values, spirituality and holy places and places of cult. The State shall promote the appreciation and dissemination of the cultural manifestations of the native peoples, who have the right to their own education, and an education system of an intercultural and bilingual nature, taking into account their special social and cultural characteristics, values and traditions (Article 121).
- Devolution of responsibilities for ICH safeguarding to autonomous indigenous communities: The **Bolivian** Constitution of 2009 devolves some responsibilities for promoting and safeguarding ICH to indigenous communities who exercise their authority through departmental and municipal levels of government:
The central level of the State has exclusive authority over ... Promotion of culture and the conservation of important cultural, historic, artistic, monumental, architectural, archaeological, paleontological, scientific, tangible and intangible patrimony at the central level of the State (Article 298).
The autonomous departmental governments have exclusive authority over the following in their jurisdictions ... Promotion and conservation of culture, cultural, historic, artistic, monumental, architectural, archaeological, paleontological, scientific, tangible and intangible departmental patrimony (Article 300).
The following are the exclusive authority of the autonomous municipal governments, within their jurisdiction ... Promotion and conservation of culture and municipal cultural, historic, artistic, monumental, architectural, archaeological, paleontological, scientific, tangible and intangible municipal patrimony (Article 302).⁸

RELEVANT CASE STUDIES IN THE CAPACITY-BUILDING MATERIALS

Case Study 31. State agencies protecting the rights of indigenous groups in Brazil

CS31-v1.0: [English](#)|[French](#)|[Spanish](#)|[Russian](#)|[Arabic](#)

7. United Nations Declaration on the Rights of Indigenous Peoples, www.un.org/esa/socdev/unpfi/documents/DRIPS_en.pdf;
International Labour Organization (ILO) Convention No.169,
http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C169

8. https://www.constituteproject.org/constitution/Bolivia_2009.pdf?lang=en

FURTHER INFORMATION

Francioni, F. 2008. 'Culture, Heritage and Human Rights: An Introduction' in Francioni and Scheinin (eds) Cultural Human Rights. Martinus Nijhoff Publishers, pp.8-9. Cited in Deacon, 'A comparative review of cultural rights provisions in the Kenyan constitution'.

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QUESTIONS TO CONSIDER

- In a State with recognized indigenous and minority groups, what special provisions are in place for them, if any, and what is their purpose and effect?
- Is there any reference to recent immigrant communities (if any), indigenous or minority groups and how identification and safeguarding of their ICH will be supported, if at all?
- Do these special provisions refer to culture or ICH, or to ethno-linguistic identities? How might they be used to encourage safeguarding, or develop policy to that effect?

UNESCO THESARUS KEYWORDS

[policy making](#); [government policy](#); [intangible cultural heritage](#); [Indigenous peoples](#); [traditional knowledge](#); [minority groups](#); cultural minorities