



## Governing Body

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**Policy Development Section**  
*Employment and Social Protection Segment*

**POL**

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### SECOND ITEM ON THE AGENDA

## Indigenous peoples' rights for inclusive and sustainable development

#### Purpose of the document

Taking into account experiences and developments since the adoption of Convention No. 169 some 25 years ago and the integrated approach to addressing inequality and discrimination introduced by the Office reform, this paper outlines a strategy for ILO action concerning indigenous and tribal peoples to reinforce the ILO's role in this regard.

The Governing Body is invited to advise the Office on how to modify, improve or complement the strategy, and to request the Director-General to take into account its guidance in pursuing the strategy for ILO action concerning indigenous and tribal peoples in the implementation of the programme and budget, future programme and budget proposals and the preparation of the next strategic policy framework (see the draft decision in paragraph 29).

**Relevant strategic objective:** All.

**Policy implications:** The proposed strategy is expected to strengthen the ILO's capacity to promote indigenous and tribal peoples' rights for inclusive and sustainable development, in line with ILO standards and policies.

**Legal implications:** None.

**Financial implications:** None.

**Follow-up action required:** See decision point.

**Author unit:** Gender, Equality and Diversity Branch, Conditions of Work and Equality Department (WORKQUALITY/GED).

**Related documents:** Convention No. 169, 1989 ILC resolution concerning ILO action concerning indigenous and tribal peoples, Programme and Budget for 2016–17.



## I. Introduction

1. The situation of indigenous and tribal peoples has been a concern of the ILO since its foundation. The Indigenous and Tribal Populations Convention, 1957 (No. 107), was the first international instrument addressing the working and living conditions of indigenous and tribal peoples comprehensively. In 1989, the Conference adopted the Indigenous and Tribal Peoples Convention, 1989 (No. 169), to revise Convention No. 107 which is now considered as outdated.<sup>1</sup>
2. Convention No. 169 is based on the recognition of the aspirations of indigenous and tribal peoples to exercise control over their own institutions, ways of life and development and to maintain and develop their identities, languages and religions, within the framework of the States in which they live. Emphasizing the principles of equality, consultation, participation and cooperation, the Convention is a framework for participatory democracy, social peace and sustainable development.
3. Until 2013, the ILO's work regarding indigenous and tribal peoples was mainly undertaken through a dedicated programme to promote Convention No. 169, under the follow-up to the 1998 Declaration with a focus on child labour and forced labour, and in connection with local economic development. Subsequently, the Office reform introduced a comprehensive approach to addressing inequality and discrimination which offers new opportunities for addressing indigenous and tribal peoples' issues in a more integrated manner. In addition, several key developments have taken place at the international level, most recently the adoption of the 2030 Agenda for Sustainable Development.
4. Against this background and building on experiences since the Convention's adoption some 25 years ago, this paper outlines a proposed strategy for ILO action concerning indigenous and tribal peoples to reinforce the ILO's role in this regard.<sup>2</sup>

## II. Strengthening ILO action concerning indigenous and tribal peoples: Context and rationale

5. Since its adoption, Convention No. 169 has had far-reaching impacts on the laws and societies of ratifying member States. Major reforms have been achieved, such as the constitutional recognition and protection of the rights of indigenous peoples, their identification and visibility in census data and the recognition of land rights. Ratifying countries have also developed specific laws on consultation, often with ILO support. Yet, the Convention's influence goes beyond ratifying countries: it has also helped in shaping laws and policies in many other countries as well as influencing the work of international organizations at the global and regional levels.
6. Indigenous and tribal peoples' rights and issues are now an integral part of major global agendas, including those on sustainable development, human rights and the protection of

<sup>1</sup> To date, 22 countries have ratified Convention No. 169; Convention No. 107 has been ratified by 27 countries and remains in force for 17.

<sup>2</sup> The Office collaborated with the Governments of Denmark and Mexico, International Work Group for Indigenous Affairs (IWGIA) and the University of Lucerne in holding a seminar in November 2014 to mark the 25th anniversary of Convention No. 169. A summary of the discussions is available at: [http://www.ilo.org/gender/Events/WCMS\\_339096/lang--en/index.htm](http://www.ilo.org/gender/Events/WCMS_339096/lang--en/index.htm).

the environment. Negotiations on a UN instrument on indigenous peoples led to the adoption by the General Assembly of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2007.<sup>3</sup> While the Declaration is the most recent and fullest expression of indigenous peoples' aspirations, Convention No. 169 is a treaty setting out specific measures for their realization.

7. There is now a need to shift attention to efforts at the country level in order to translate the rights of indigenous and tribal peoples recognized at the international level into reality. The outcome document of the 2014 high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples contains a comprehensive set of commitments in this regard, including a call for further ratification of Convention No. 169.<sup>4</sup>
8. Concerns for indigenous peoples' rights and well-being are also an integral part of the 2030 Sustainable Development Agenda which seeks to tackle poverty and inequality by empowering groups facing socio-economic vulnerability. The Addis Ababa Action Agenda recognizes that indigenous peoples' traditional knowledge, innovations and practices can support sustainable livelihoods, while also calling for a focus on indigenous peoples in the context of social protection.
9. Reaching the ambitious goals of the 2030 Agenda for Sustainable Development will be challenging and requires a focus on indigenous and tribal peoples estimated to be over 370 million around the globe. The World Bank estimated that they constitute about 5 per cent of the world's population while accounting for 15 per cent of the poor.<sup>5</sup> Even where economic growth has resulted in overall decreasing inequality, indigenous and tribal peoples tend not to benefit from such progress; poverty among them is often increasing.<sup>6</sup>
10. Strengthened ILO action concerning indigenous and tribal peoples can play an important role in supporting efforts for overcoming exclusion of and discrimination against indigenous and tribal peoples and for achieving inclusive and sustainable development for all.

### III. Elements for an ILO strategy

11. Building on the integrated approach for addressing inequality and discrimination introduced by the Office reform and experiences of previous ILO interventions concerning indigenous and tribal peoples, the proposed strategy seeks to strengthen the ILO's capacity to respond to constituents' needs, while also engaging with indigenous and tribal peoples. ILO action on indigenous and tribal peoples is guided by Convention No. 169,<sup>7</sup> and the 1989 Conference resolution on ILO action concerning indigenous and tribal peoples.

<sup>3</sup> General Assembly Resolution 61/295, adopted on 13 September 2007.

<sup>4</sup> General Assembly Resolution 69/2, adopted on 22 September 2014.

<sup>5</sup> *Implementation of Operational Directive 4.20 on Indigenous Peoples: An independent desk review*, World Bank, 2003.

<sup>6</sup> Hall and Patrinos, *Indigenous Peoples, Poverty and Development*, 2014.

<sup>7</sup> Other particularly relevant instruments include the fundamental and governance Conventions and the more recently adopted instruments on HIV and AIDS, domestic workers, social protection floors, forced labour and the formalization of the informal economy.

12. The ILO will support constituents, based on demands and needs, in countries that have ratified the relevant Conventions as well as in countries which have not yet done so. Interventions will be tailored to the prevailing national conditions and will use methodologies and approaches allowing for involvement of indigenous and tribal peoples as partners. All interventions will effectively mainstream gender issues, and attention will be paid to indigenous youth and indigenous persons with disabilities.

#### A. Promoting Convention No. 169

13. Despite its visibility, the Convention's content and implications often remain unknown to policy- and decision-makers, ILO constituents, and indigenous and tribal peoples, particularly at the local level. The ILO will intensify the dissemination of the 2013 Handbook on Convention No. 169 for ILO constituents,<sup>8</sup> including in additional language versions, and develop additional tools tailored to different contexts and needs. There is a need for scaling up training activities to promote a better and shared understanding of the Convention which could include country-based as well as subregional training programmes, in addition to interregional courses at the Turin Centre.
14. Interventions to build national capacity for the application of the Convention will combine various types of action, including promotion of dialogue between the ILO constituents and indigenous and tribal peoples, standards-related technical assistance, and the documentation, assessment and sharing of existing experiences and good practices with the involvement of ILO constituents and indigenous and tribal peoples. Sharing of experiences will also be promoted across countries and regions.<sup>9</sup> This could lead to the development of ILO guidelines or a code of practice.
15. Out of the total 22 ratifications of Convention No. 169, 15 are from countries in Latin America and the Caribbean, four from Europe, two from the Asia and Pacific region and one from Africa.<sup>10</sup> In a number of countries, including in regions with currently few ratifications, discussion regarding ratification are ongoing. The ILO will promote ratification and effective implementation and provide related support including facilitating dialogue among ILO constituents and with representative organizations of indigenous and tribal peoples; supporting preliminary assessments; and capacity building for establishing a legal, policy and institutional framework suitable for the Convention's application.

#### B. Strengthening institutionalized dialogue, consultation and participation

16. Consultation with and participation of indigenous and tribal peoples are crucial for enhancing policy coherence, reconciling different interests, achieving agreements and creating favourable environments for development. The absence of appropriate legal and institutional frameworks for consultations and participation has negative consequences for

<sup>8</sup> *Understanding the Indigenous and Tribal Peoples Convention, 1989 (No. 169). Handbook for ILO Tripartite Constituents*, ILO, Geneva: Geneva, 2013. Available at: [http://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/indigenous-and-tribal-peoples/WCMS\\_205225/lang--en/index.htm](http://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/indigenous-and-tribal-peoples/WCMS_205225/lang--en/index.htm).

<sup>9</sup> As regards the Africa region, this can build on previous work with the African Commission on Human and Peoples' Rights (ACHPR).

<sup>10</sup> The 1989 Conference resolution has called on Members to consider ratifying the Convention at the earliest possible time.

indigenous communities, but often also creates legal uncertainty for enterprises. The ILO supervisory bodies frequently draw attention to gaps in the implementation of the Convention's provisions with regard to consultation and participation, both as regards specific development projects and more broadly regarding development plans and public policies. Where procedures for consultation and participation exist, their functioning is often challenged by weak capacity of the actors involved and distrust between the parties, among other difficulties.<sup>11</sup>

17. Promoting institutionalized dialogue between indigenous and tribal peoples and state institutions, as well as capacity building for ILO constituents and indigenous and tribal peoples' organizations for establishing and strengthening procedures for consultation and participation regarding key public policy areas will be a strategic focus of ILO action. This would include mapping and assessing existing practices and challenges regarding such mechanisms and promoting dialogue, involving ILO constituents and indigenous and tribal peoples, in order to seek solutions for overcoming related difficulties, in line with ILO standards. Particular attention will be given to ensuring active involvement of indigenous women and youth in consultation and participation processes.

### **C. Improving livelihoods and working conditions**

18. The ILO will pursue action to improve livelihoods and working conditions of indigenous and tribal women and men, taking into account their aspirations and needs and the diversity of situations facing them. This will include participatory interventions supporting traditional livelihood activities, as well as support for the economic activities combining traditional livelihoods with new forms of income generation, such as entrepreneurship, small businesses, self-employment and cooperatives.
19. Indigenous and tribal workers seeking waged employment do so from a disadvantaged position, which is also due to limited access to public services of their communities, including education and vocational training corresponding to their needs and aspirations. This increases their vulnerability to discrimination and exploitation, including forced labour. Indigenous and tribal workers tend to be found in the informal economy – both in urban and rural areas – and in sectors or occupations with gaps in labour law coverage and enforcement, such as domestic work or agriculture, or hazardous work. The ILO's response will include action for the protection of indigenous workers from unacceptable forms of work in target sectors, the promotion of decent work in the rural economy and addressing the challenges faced by them in the informal economy.<sup>12</sup>

### **D. Extending social protection**

20. Within its effort to support member States in extending social security, including by building national social protection floors, the ILO will pay specific attention to the conditions, needs and aspirations of indigenous and tribal peoples, barriers faced by them in accessing social protection, and their consultation and participation in the process of

<sup>11</sup> A forthcoming regional report prepared by the Bureau for Employers' Activities (ACT/EMP) has examined the functioning of procedures for prior consultation in connection with investment projects in Chile, Colombia, Costa Rica, and Guatemala. The report identifies difficulties affecting the private sector and makes related recommendations.

<sup>12</sup> See Paragraph 7(i) of the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), and document GB.325/POL/1 (Follow up to the resolution concerning efforts to facilitate the transition from the informal to the formal economy).

designing and implementing related benefits and schemes. This will include the collection and assessment of existing experiences and practices, with the involvement of ILO constituents and indigenous peoples, and the preparation of guidance tools for policy development and implementation.

## **E. Indigenous and tribal women**

21. Indigenous and tribal women face discrimination on multiple grounds, both outside and within their communities. The ILO will develop interventions to address the specific barriers and challenges faced by them. This would include interventions to give women a voice within and outside their communities, building knowledge on the role of women in traditional economies, support for entrepreneurship, and awareness raising to mobilize for preventing and combating gender-based violence.<sup>13</sup>

## **F. Closing the knowledge gap**

22. Promoting the access of indigenous women and men to decent work and social protection requires a sound knowledge base to make informed policy decisions. In 2014–15 the Office stepped up its work to enhance knowledge on the socio-economic conditions of indigenous women and men. The ILO seeks to expand its quantitative and qualitative research, including ad hoc surveys, to address current knowledge and data gaps concerning indigenous and tribal peoples in the world of work, and to support disaggregated data collection. This will contribute to translating the sustainable development goals into national development plans.

## **G. Partnerships**

23. As an active member of the Inter-agency Support Group on Indigenous Issues (IASG), the ILO will continue to raise the visibility and awareness of Convention No. 169 within the UN system, including through taking on leadership in the relevant inter-agency groups at the regional and country level. It will seek opportunities for joint interventions, building on the experiences in the context of the UN Indigenous Peoples' Partnership (UNIPP).<sup>14</sup>
24. In response to a request by the World Conference on Indigenous Peoples, the Secretary-General of the United Nations is currently developing a UN system-wide action plan to ensure a coherent approach to achieving the ends of the UNDRIP, in consultation and cooperation with indigenous peoples, the IASG, and UN member States. The action plan is expected to offer opportunities for promoting Convention No. 169 and expanding joint UN interventions and initiatives.
25. The ILO will continue to collaborate with the UN Working Group on Business and Human Rights and the Global Compact regarding guidance for enterprises as part of “due diligence” processes, and liaise with the social partners in this regard. The ILO will also build and share knowledge on company policies and practices regarding respect for indigenous peoples' rights.

<sup>13</sup> See, for instance ILO/UNDP, UNICEF, UNFPA/UN Women, *Breaking the Silence on Violence against Indigenous Girls, Adolescents and Young Women*, 2013.

<sup>14</sup> *UNIPP Success Stories: Cooperating to promote & protect indigenous peoples' rights*, May 2014.

## IV. The way forward

26. The Programme and Budget for 2016–17 commits the Office to address indigenous and tribal peoples' issues both in the context of the cross-cutting policy driver of gender equality and non-discrimination as well as specific outputs under policy outcomes. The Office intends to rely on the proposed strategy to ensure a coherent ILO approach regarding indigenous and tribal peoples, maximizing synergies between the different policy outcomes and interventions. Action under the strategy will contribute to the women at work centenary initiative, as well as the end to poverty initiative.
27. The Office has established an indigenous and tribal peoples network comprised of concerned headquarters and field staff. Facilitated by the Gender, Equality and Diversity Branch (GED), the network will be used to share information and the designing of joint or coordinated activities within and across global technical teams. It will also be a channel for promoting understanding of Convention No. 169 and UNDRIP among ILO staff.
28. ILO interventions on indigenous and tribal peoples will rely on regular budget funds as well as extra-budgetary resources.

### **Draft decision**

**29. *The Governing Body may wish to:***

- (a) *advise the Office on how to modify, improve or complement the strategy for ILO action concerning indigenous and tribal peoples; and*
- (b) *request the Director-General to take into consideration the strategy and the guidance given in the discussion in the implementation of the Programme and Budget for 2016–17, in preparing the next strategic framework and future programme and budget proposals, and in facilitating extra-budgetary resources.*