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Postgraduate Certificate in Indigenous Rights Law

# International legal standards for Indigenous rights

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## International legal standards for Indigenous rights

Indigenous peoples around the world have a long history of facing discrimination, marginalization, and violations of their rights. In response to these challenges, there have been significant efforts at the international level to protect and promote the rights of Indigenous peoples. International legal standards play a crucial role in ensuring that Indigenous rights are respected, recognized, and upheld.

### Key terms and vocabulary

- 1. Indigenous peoples:** Indigenous peoples are distinct ethnic groups who have inhabited a particular region or country for generations. They have a unique cultural, social, and political identity that is often tied to their ancestral lands.
- 2. Self-determination:** Self-determination is the right of Indigenous peoples to freely determine their political status, pursue their economic, social, and cultural development, and manage their own affairs. It is a fundamental principle of international law that is enshrined in various human rights instruments.
- 3. Free, prior, and informed consent (FPIC):** FPIC is a key principle that requires states to seek the consent of Indigenous peoples before taking any actions that may affect their lands, resources, or rights. It is a crucial safeguard against the imposition of projects or policies that may harm Indigenous communities.
- 4. Cultural rights:** Cultural rights refer to the rights of Indigenous peoples to practice, preserve, and revitalize their cultural traditions, languages, and customs. These rights are essential for maintaining the cultural identity and integrity of Indigenous communities.
- 5. Land rights:** Land rights are central to the identity, livelihoods, and well-being of Indigenous peoples. These rights encompass the rights to land, territories, and resources that are traditionally owned or used by Indigenous communities.
- 6. Collective rights:** Collective rights are the rights that belong to Indigenous peoples as a group, rather than as individuals. These rights recognize the collective identity, culture, and governance structures of Indigenous communities.
- 7. UN Declaration on the Rights of Indigenous Peoples (UNDRIP):** UNDRIP is a landmark international instrument that sets out the rights of Indigenous peoples and provides a framework for their protection and promotion. It was adopted by the United Nations General Assembly in 2007.
- 8. International Labour Organization (ILO) Convention No. 169:** ILO Convention No. 169 is a legally binding international instrument that sets out the rights of Indigenous and tribal peoples. It covers a wide range of issues, including land rights, consultation and participation, and the protection of Indigenous cultures.

9. Customary law: Customary law refers to the traditional legal systems, practices, and norms of Indigenous communities. It is based on long-standing customs, values, and beliefs that have been passed down through generations.

10. State sovereignty: State sovereignty is the principle that states have the authority to govern their territories and make decisions without interference from external actors. However, this principle must be balanced with the rights and interests of Indigenous peoples.

11. Non-discrimination: Non-discrimination is a fundamental principle of international human rights law that prohibits discrimination on the basis of race, ethnicity, or any other grounds. It is essential for protecting the rights of Indigenous peoples against discrimination and inequality.

12. Remedies and redress: Remedies and redress refer to the mechanisms and processes that are available to Indigenous peoples to seek justice for violations of their rights. These may include legal remedies, compensation, restitution, and other forms of redress.

13. Self-governance: Self-governance is the right of Indigenous peoples to govern themselves according to their own customs, traditions, and practices. It involves the establishment of Indigenous governance structures and institutions that reflect the values and priorities of the community.

14. Traditional knowledge: Traditional knowledge refers to the knowledge, practices, and skills that are developed and passed down within Indigenous communities. It is often tied to the environment, natural resources, and cultural heritage of Indigenous peoples.

15. Legal pluralism: Legal pluralism is the coexistence of multiple legal systems within a single society. In the context of Indigenous rights, legal pluralism recognizes and respects the traditional legal systems of Indigenous communities alongside the national legal system.

16. Consultation and participation: Consultation and participation are essential principles that require states to engage with Indigenous peoples in a meaningful and respectful manner. This includes seeking their input, involving them in decision-making processes, and respecting their right to participate in matters that affect them.

17. Land tenure: Land tenure refers to the systems of land ownership, control, and use that govern Indigenous lands. It is crucial for securing the rights of Indigenous peoples to their territories and resources.

18. Human rights violations: Human rights violations are actions or omissions that infringe upon the rights of individuals or groups. Indigenous peoples often face human rights violations, including land dispossession, forced displacement, violence, and discrimination.

19. Decolonization: Decolonization is the process of undoing the legacy of colonialism and restoring the rights and sovereignty of Indigenous peoples. It involves challenging colonial structures, policies, and practices that continue to impact Indigenous communities.

20. International legal frameworks: International legal frameworks are the treaties, conventions, declarations,

and other instruments that establish the rights and obligations of states in relation to Indigenous peoples. These frameworks provide a basis for holding states accountable for their actions.

21. **Legal capacity:** Legal capacity refers to the ability of Indigenous peoples to exercise their rights, make decisions, and access justice on an equal basis with others. It is essential for empowering Indigenous communities and ensuring their full participation in society.
22. **Indigenous rights defenders:** Indigenous rights defenders are individuals, groups, or organizations that advocate for the rights of Indigenous peoples and work to protect them from violations and abuses. They play a critical role in raising awareness, providing support, and holding authorities accountable.
23. **Territorial rights:** Territorial rights are the rights of Indigenous peoples to their ancestral lands, territories, and resources. These rights are closely linked to the cultural, spiritual, and economic well-being of Indigenous communities.
24. **Resource rights:** Resource rights refer to the rights of Indigenous peoples to access, use, and manage the natural resources found within their territories. These rights are essential for sustaining traditional livelihoods and protecting the environment.
25. **Intersectionality:** Intersectionality is the interconnected nature of social categorizations such as race, gender, class, and ethnicity. It recognizes that individuals and communities may experience multiple forms of discrimination and oppression based on their intersecting identities.
26. **Environmental rights:** Environmental rights are the rights of Indigenous peoples to a safe, clean, and healthy environment. These rights are closely tied to the protection of Indigenous lands, resources, and ecosystems from environmental degradation and pollution.
27. **Indigenous languages:** Indigenous languages are the languages spoken by Indigenous peoples that are often endangered or at risk of extinction. The preservation and revitalization of Indigenous languages are essential for maintaining cultural diversity and heritage.
28. **Land restitution:** Land restitution is the process of returning lands that have been unlawfully taken from Indigenous peoples. It is a key mechanism for addressing historical injustices, restoring Indigenous rights, and promoting reconciliation.
29. **International jurisprudence:** International jurisprudence refers to the body of legal principles, decisions, and interpretations that have been developed by international courts and tribunals in relation to Indigenous rights. It provides guidance on the application and enforcement of international legal standards.
30. **Customary land rights:** Customary land rights are the traditional land tenure systems and practices that govern Indigenous lands. These rights are based on customary laws, traditions, and customs that have been established over generations.
31. **Legal recognition:** Legal recognition is the formal acknowledgment by states of the rights and status of Indigenous peoples. It is essential for ensuring that Indigenous communities are able to exercise their rights,

access services, and participate in decision-making processes.

32. **Traditional governance:** Traditional governance refers to the systems of leadership, decision-making, and conflict resolution that are practiced by Indigenous communities. It is based on cultural values, kinship ties, and community consensus.

33. **Regional human rights systems:** Regional human rights systems are mechanisms and institutions that are established at the regional level to protect and promote human rights. These systems complement the international human rights framework and provide additional avenues for redress.

34. **Legal pluralism:** Legal pluralism is the recognition and coexistence of multiple legal systems within a single society. In the context of Indigenous rights, legal pluralism acknowledges the legitimacy of Indigenous legal systems alongside the national legal system.

35. **Social rights:** Social rights are the rights that guarantee access to basic needs and services, such as education, health care, housing, and social security. These rights are essential for ensuring the well-being and development of Indigenous communities.

36. **Indigenous territories:** Indigenous territories are the lands and resources that are traditionally owned, occupied, or used by Indigenous communities. These territories are central to the cultural, spiritual, and economic life of Indigenous peoples.

37. **International cooperation:** International cooperation refers to the collaboration between states, international organizations, and Indigenous peoples to address common challenges, promote human rights, and achieve sustainable development. It is essential for advancing Indigenous rights at the global level.

38. **Discrimination:** Discrimination is the unjust or prejudicial treatment of individuals or groups based on factors such as race, ethnicity, or religion. Indigenous peoples often face discrimination in access to services, employment, and justice.

39. **Legal empowerment:** Legal empowerment is the process of equipping individuals and communities with the knowledge, skills, and resources to understand and exercise their legal rights. It is a key strategy for promoting access to justice and combating legal inequality.

40. **Indigenous knowledge systems:** Indigenous knowledge systems are the bodies of knowledge, practices, and beliefs that are developed and transmitted within Indigenous communities. These systems encompass a wide range of fields, including agriculture, medicine, and environmental stewardship.

41. **Monitoring mechanisms:** Monitoring mechanisms are processes and institutions that are established to oversee the implementation of international legal standards and ensure compliance by states. These mechanisms play a crucial role in holding states accountable for their obligations.

42. **Transitional justice:** Transitional justice is the process of addressing past human rights violations, promoting reconciliation, and rebuilding trust in societies that have experienced conflict or repression. It involves mechanisms such as truth commissions, reparations, and institutional reforms.

43. Legal remedies: Legal remedies are the measures that are available to individuals or communities to seek justice for violations of their rights. These remedies may include compensation, restitution, injunctions, and other forms of redress.

44. Access to justice: Access to justice is the right of individuals and communities to seek legal recourse, obtain a fair trial, and have their rights protected by the legal system. It is essential for ensuring accountability and upholding the rule of law.

45. International human rights law: International human rights law is the body of law that sets out the rights and obligations of states in relation to human rights. It encompasses treaties, conventions, declarations, and customary law that protect the rights of individuals and groups.

46. Legal pluralism: Legal pluralism is the coexistence of multiple legal systems within a single society. In the context of Indigenous rights, legal pluralism recognizes and respects the traditional legal systems of Indigenous communities alongside the national legal system.

47. Traditional ecological knowledge: Traditional ecological knowledge is the knowledge and practices of Indigenous peoples related to the environment, ecosystems, and natural resources. It is based on long-standing observations, experiences, and interactions with the natural world.

48. International legal obligations: International legal obligations are the commitments that states undertake to uphold the rights and principles established in international treaties and agreements. States are legally bound to respect, protect, and fulfill the rights of Indigenous peoples under international law.

49. Indigenous representation: Indigenous representation refers to the participation and inclusion of Indigenous peoples in decision-making processes, institutions, and forums. It is essential for ensuring that Indigenous voices are heard, respected, and taken into account.

50. Legal capacity: Legal capacity refers to the ability of individuals and communities to exercise their legal rights, make decisions, and access justice. It is essential for empowering Indigenous peoples and promoting their full participation in society.

51. Human rights mechanisms: Human rights mechanisms are the institutions, procedures, and processes that are established to monitor, investigate, and address human rights violations. These mechanisms include international courts, treaty bodies, and special rapporteurs.

52. Indigenous consultation: Indigenous consultation is the process of engaging with Indigenous peoples to seek their input, gather their perspectives, and obtain their consent on matters that affect them. It is a key principle of international law that recognizes the rights of Indigenous communities to participate in decision-making.

53. Legal assistance: Legal assistance refers to the provision of legal support, advice, and representation to individuals or communities who are seeking to enforce their rights or seek redress for violations. Legal assistance is essential for ensuring access to justice and equality before the law.

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54. **International standards:** International standards are the norms, principles, and guidelines that are established at the international level to promote and protect human rights. These standards provide a framework for states to uphold their obligations under international law.
55. **Historical injustices:** Historical injustices are past wrongs, abuses, and violations that have been committed against Indigenous peoples. These injustices often have lasting effects on Indigenous communities and contribute to ongoing challenges in securing their rights.
56. **Indigenous women's rights:** Indigenous women's rights are the rights of Indigenous women to equality, non-discrimination, and empowerment. These rights recognize the unique challenges and vulnerabilities faced by Indigenous women and the need for gender-sensitive approaches to Indigenous rights.
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