Convention 107

CONVENTION CONCERNING THE PROTECTION AND INTEGRATION OF INDIGENOUS AND OTHER TRIBAL AND SEMI-TRIBAL POPULATIONS IN INDEPENDENT COUNTRIES

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Fortieth Session on 5 June 1957, and

Having decided upon the adoption of certain proposals with regard to the protection and integration of indigenous and other tribal and semi-tribal populations in independent countries, which is the sixth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention, and

Considering that the Declaration of Philadelphia affirms that all human beings have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity, and

Considering that there exist in various independent countries indigenous and other tribal and semi-tribal populations which are not yet integrated into the national community and whose social, economic or cultural situation hinders them from benefiting fully from the rights and advantages enjoyed by other elements of the population, and

Considering it desirable both for humanitarian reasons and in the interest of the countries concerned to promote continued action to improve the living and working conditions of these populations by simultaneous action in respect of all the factors which have hitherto prevented them from sharing fully in the progress of the national community of which they form part, and

Considering that the adoption of general international standards on the subject will facilitate action to assure the protection of the populations concerned, their progressive integration into their respective national communities, and the improvement of their living and working conditions, and

Noting that these standards have been framed with the co-operation of the United Nations, the Food and Agriculture Organisation of the United Nations, the United Nations Educational, Scientific and Cultural Organisation and the World Health Organisation, at

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appropriate levels and in their respective fields, and that it is proposed to seek their continuing co-operation in promoting and securing the application of these standards,

adopts this twenty-sixth day of June of the year one thousand nine hundred and fifty-seven the following Convention, which may be cited as the Indigenous and Tribal Populations Convention, 1957 :

PART I. GENERAL POLICY

Article 1

1. This Convention applies to—

(a) members of tribal or semi-tribal populations in independent countries whose social and economic conditions are at a less advanced stage than the stage reached by the other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations ;

(b) members of tribal or semi-tribal populations in independent countries which are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonisation and which, irrespective of their legal status, live more in conformity with the social, economic and cultural institutions of that time than with the institutions of the nation to which they belong.

2. For the purposes of this Convention, the term " semi-tribal " includes groups and persons who, although they are in the process of losing their tribal characteristics, are not yet integrated into the national community.

3. The indigenous and other tribal or semi-tribal populations mentioned in paragraphs 1 and 2 of this Article are referred to hereinafter as " the populations concerned ".

Article 2

1. Governments shall have the primary responsibility for developing co-ordinated and systematic action for the protection of the populations concerned and their progressive integration into the life of their respective countries.

2. Such action shall include measures for—

(a) enabling the said populations to benefit on an equal footing from the rights and opportunities which national laws or regulations grant to the other elements of the population ;

(b) promoting the social, economic and cultural development of these populations and raising their standard of living ;

(c) creating possibilities of national integration to the exclusion of measures tending towards the artificial assimilation of these populations.

3. The primary objective of all such action shall be the fostering of individual dignity, and the advancement of individual usefulness and initiative.

4. Recourse to force or coercion as a means of promoting the integration of these populations into the national community shall be excluded.

Article 3

1. So long as the social, economic and cultural conditions of the populations concerned prevent them from enjoying the benefits of the general laws of the country to which they belong, special measures shall be adopted for the protection of the institutions, persons, property and labour of these populations.

2. Care shall be taken to ensure that such special measures of protection—

(a) are not used as a means of creating or prolonging a state of segregation ; and

(b) will be continued only so long as there is need for special protection and only to the extent that such protection is necessary.

3. Enjoyment of the general rights of citizenship, without discrimination, shall not be prejudiced in any way by such special measures of protection.

Article 4

In applying the provisions of this Convention relating to the integration of the populations concerned—

(a) due account shall be taken of the cultural and religious values and of the forms of social control existing among these populations, and of the nature of the problems which face them both as groups and as individuals when they undergo social and economic change ;

(b) the danger involved in disrupting the values and institutions of the said populations unless they can be replaced by appropriate substitutes which the groups concerned are willing to accept shall be recognised ;

(c) policies aimed at mitigating the difficulties experienced by these populations in adjusting themselves to new conditions of life and work shall be adopted.

Article 5

In applying the provisions of this Convention relating to the protection and integration of the populations concerned, governments shall—

(a) seek the collaboration of these populations and of their representatives ;

(b) provide these populations with opportunities for the full development of their initiative ;

(c) stimulate by all possible means the development among these populations of civil liberties and the establishment of or participation in elective institutions.

Article 6

The improvement of the conditions of life and work and level of education of the populations concerned shall be given high priority in plans for the over-all economic development of areas inhabited by these populations. Special projects for economic development of the areas in question shall also be so designed as to promote such improvement.

Article 7

1. In defining the rights and duties of the populations concerned regard shall be had to their customary laws.

2. These populations shall be allowed to retain their own customs and institutions where these are not incompatible with the national legal system or the objectives of integration programmes.

3. The application of the preceding paragraphs of this Article shall not prevent members of these populations from exercising, according to their individual capacity, the rights granted to all citizens and from assuming the corresponding duties.

Article 8

To the extent consistent with the interests of the national community and with the national legal system—

(a) the methods of social control practised by the populations concerned shall be used as far as possible for dealing with crimes or offences committed by members of these populations ;

(b) where use of such methods of social control is not feasible, the customs of these populations in regard to penal matters shall be borne in mind by the authorities and courts dealing with such cases.

Article 9

Except in cases prescribed by law for all citizens the exaction from the members of the populations concerned of compulsory personal services in any form, whether paid or unpaid, shall be prohibited and punishable by law.

Article 10

1. Persons belonging to the populations concerned shall be specially safeguarded against the improper application of preventive detention and shall be able to take legal proceedings for the effective protection of their fundamental rights.

2. In imposing penalties laid down by general law on members of these populations account shall be taken of the degree of cultural development of the populations concerned.

3. Preference shall be given to methods of rehabilitation rather than confinement in prison.

Part II. Land

Article 11

The right of ownership, collective or individual, of the members of the populations concerned over the lands which these populations traditionally occupy shall be recognised.

Article 12

1. The populations concerned shall not be removed without their free consent from their habitual territories except in accordance with national laws and regulations for reasons relating to national security, or in the interest of national economic development or of the health of the said populations.

2. When in such cases removal of these populations is necessary as an exceptional measure, they shall be provided with lands of quality at least equal to that of the lands previously occupied by them, suitable to provide for their present needs and future development. In cases where chances of alternative employment exist and where the populations concerned prefer to have compensation in money or in kind, they shall be so compensated under appropriate guarantees.

3. Persons thus removed shall be fully compensated for any resulting loss or injury.

Article 13

1. Procedures for the transmission of rights of ownership and use of land which are established by the customs of the populations concerned shall be respected, within the framework of national laws and regulations, in so far as they satisfy the needs of these populations and do not hinder their economic and social development.

2. Arrangements shall be made to prevent persons who are not members of the populations concerned from taking advantage of these customs or of lack of understanding of the laws on the part of the members of these populations to secure the ownership or use of the lands belonging to such members.

Article 14

National agrarian programmes shall secure to the populations concerned treatment equivalent to that accorded to other sections of the national community with regard to—

(a) the provision of more land for these populations when they have not the area necessary for providing the essentials of a normal existence, or for any possible increase in their numbers ;

(b) the provision of the means required to promote the development of the lands which these populations already possess.

Part III. Recruitment and Conditions of Employment

Article 15

1. Each Member shall, within the framework of national laws and regulations, adopt special measures to ensure the effective protection with regard to recruitment and conditions of employment of workers belonging to the populations concerned so long as they are not in a position to enjoy the protection granted by law to workers in general.

2. Each Member shall do everything possible to prevent all discrimination between workers belonging to the populations concerned and other workers, in particular as regards—

(a) admission to employment, including skilled employment ;

(b) equal remuneration for work of equal value ;

(c) medical and social assistance, the prevention of employment injuries, workmen's compensation, industrial hygiene and housing ;

(d) the right of association and freedom for all lawful trade union activities, and the right to conclude collective agreements with employers or employers' organisations.

Part IV. Vocational Training, Handicrafts and Rural Industries

Article 16

Persons belonging to the populations concerned shall enjoy the same opportunities as other citizens in respect of vocational training facilities.

Article 17

1. Whenever programmes of vocational training of general application do not meet the special needs of persons belonging to the populations concerned governments shall provide special training facilities for such persons.

2. These special training facilities shall be based on a careful study of the economic environment, stage of cultural development and practical needs of the various occupational groups among the said populations ; they shall, in particular, enable the persons concerned to receive the training necessary for occupations for which these populations have traditionally shown aptitude.

3. These special training facilities shall be provided only so long as the stage of cultural development of the populations concerned requires them ; with the advance of the process of integration they shall be replaced by the facilities provided for other citizens.

Article 18

1. Handicrafts and rural industries shall be encouraged as factors in the economic development of the populations concerned in a manner which will enable these populations to raise their standard of living and adjust themselves to modern methods of production and marketing.

2. Handicrafts and rural industries shall be developed in a manner which preserves the cultural heritage of these populations and improves their artistic values and particular modes of cultural expression.

Part V. Social Security and Health

Article 19

Existing social security schemes shall be extended progressively, where practicable, to cover—

(a) wage earners belonging to the populations concerned ;

(b) other persons belonging to these populations.

Article 20

1. Governments shall assume the responsibility for providing adequate health services for the populations concerned.

2. The organisation of such services shall be based on systematic studies of the social, economic and cultural conditions of the populations concerned.

3. The development of such services shall be co-ordinated with general measures of social, economic and cultural development.

Part VI. Education and Means of Communication

Article 21

Measures shall be taken to ensure that members of the populations concerned have the opportunity to acquire education at all levels on an equal footing with the rest of the national community.

Article 22

1. Education programmes for the populations concerned shall be adapted, as regards methods and techniques, to the stage these populations have reached in the process of social, economic and cultural integration into the national community.

2. The formulation of such programmes shall normally be preceded by ethnological surveys.

Article 23

1. Children belonging to the populations concerned shall be taught to read and write in their mother tongue or, where this is not practicable, in the language most commonly used by the group to which they belong.

2. Provision shall be made for a progressive transition from the mother tongue or the vernacular language to the national language or to one of the official languages of the country.

3. Appropriate measures shall, as far as possible, be taken to preserve the mother tongue or the vernacular language.

Article 24

The imparting of general knowledge and skills that will help children to become integrated into the national community shall be an aim of primary education for the populations concerned.

Article 25

Educational measures shall be taken among other sections of the national community and particularly among those that are in most direct contact with the populations concerned with the object of eliminating prejudices that they may harbour in respect of these populations.

Article 26

1. Governments shall adopt measures, appropriate to the social and cultural characteristics of the populations concerned, to make known to them their rights and duties, especially in regard to labour and social welfare.

2. If necessary this shall be done by means of written translations and through the use of media of mass communication in the languages of these populations.

Part VII. Administration

Article 27

1. The governmental authority responsible for the matters covered in this Convention shall create or develop agencies to administer the programmes involved.

2. These programmes shall include—

(a) planning, co-ordination and execution of appropriate measures for the social, economic and cultural development of the populations concerned ;

(b) proposing of legislative and other measures to the competent authorities ;

(c) supervision of the application of these measures.

Part VIII. General Provisions

Article 28

The nature and the scope of the measures to be taken to give effect to this Convention shall be determined in a flexible manner, having regard to the conditions characteristic of each country.

Article 29

The application of the provisions of this Convention shall not affect benefits conferred on the populations concerned in pursuance of other Conventions and Recommendations.

Article 30

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 31

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 32

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 33

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 34

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

Article 35

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 36

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides—

(a) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 32 above, if and when the new revising Convention shall have come into force ;

(b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 37

The English and French versions of the text of this Convention are equally authoritative.