A sense of space: land struggles of the Semai of peninsular Malaysia
Chai, M.

Citation for published version (APA):
Appendix I:


Thank you Mr. Chairman, Mr. President, we have carefully examined the issues raised by the states that have reservations on article three. They have put forward their positions in different formulations, but they all boil down to the following:
1. Local Self-Government or Autonomy as self-determination,
2. states rights to territorial integrity precedes the rights of the people to self-determination,
3. limiting the enjoyment of the right to self-determination to those who already claim it,
4. The absence of the universally acceptable definition of the word "people". Mr. President, to think of self-determination as local self-government or autonomy is absolutely wrong. It must be understood that the right to self-determination and self-government or autonomy are two totally different sets of rights altogether. The right to "self-determination" is an inherent right and on the other hand, autonomy is a right granted by a sovereign state. Meaning, the sovereign that grants autonomy has absolute right to take away the right as well without consultation.

Secondly, the concept of sovereignty and territorial integrity as a right which precedes the right of self-determination of the people is completely opposed to the doctrine of popular sovereignty, the basis of the modern nation-states. It cannot be sustained without first denying the peoples of their sovereignty wherever they are. This concept, the concept of sovereignty and territorial integrity challenges the legitimacy of the existence of the states that has emerged on the strength of "We The People" which is also in their constitutions. We also want to remind the states of the position of the International Court of Justice on this issue in the well known Western Sahara Case of 1975. Judge Dillard, International Court of Justice: "It is for the people to determine the destiny of the territory and not the territory the destiny of the people".

Thirdly, Article 7 of the of the Declaration on the Granting of Independence to Colonial Countries and Peoples, and 1970 Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among States have been referred to by countries including Argentina in support of their argument that there is no basis for self-determination in countries where there are elected governments and that assertion of the right of self-determination cannot be allowed since that will amount to permitting disruption of the states territorial integrity.

These states seem to have got themselves totally wrong because the reading of the specific articles and paragraphs and the whole declarations give a different picture altogether.

The "De-Colonisation Process" itself is a process of recognition and respect for the right of self-determination of peoples under alien subjugation and domination.
De-colonisation involves disruption of dismemberment of territories of the existing states, there is no doubt about it.

Further, the language of the 1970 Declaration on Friendly Relations is simple and clear. The world body does not favour disruption/breaking up of states conducting themselves in compliance with the principle of equal rights and self-determination. In other words, the rights of states to their territorial integrity is conditional to their compliance with the principle of equal rights and self-determination. This is consistent with the United Nations Charter, and the two International Covenants on Economic, Social and Cultural Rights; and the International Covenant on Civil and Political Rights.

Lastly, the absence of an Universally accepted definition of the term "People" has been used by the states to cover-up their expansionist designs. But the 1960 Declaration of Independence in Article 1 has given it unmistakable terms that peoples under alien subjugation, domination and exploitation may legitimately, meaning under international law, asserts their rights to self-determination. We would like to refer again to the famous Western Sahara Case of 1975 where the I.C.J held that "a people - defined by their sense of collective identity, mode of political self-regulation, and predictable territory of economic activity-stable population, and demarcated territory - can claim sovereignty and assert self-determination even if they do not have a developed administrative apparatus.

Thank You.
APPENDIX II

Memorandum 1982 of the Orang Asli Headmen’s Conference

We the Orang Asli of West Malaysia wish to make known our aspiration for our future to the Government and people of our country.

1. Orang Asli representation in Parliament
We hope that the Government will make efforts to increase Orang Asli representations in Parliament. This will ensure that our voice will be heard in the supreme decision-making body in our country. Furthermore, we appeal that those chosen to represent us be elected by the Orang Aslis.

2. The Aboriginal Act 134 (Amendment in 1974)
We appeal that the above Act be reviewed again and amendments be made where necessary to ensure that it conforms with the aspirations of the Orang Aslis today.

3. Administration of the Jabatan Hal Ehwal Orang Asli
That a deadline be given by the Government as to when the JHEOA will be administered by Orang Aslis themselves.

4. Land
We appeal that all Orang Asli land will be gazetted and a copy of the land title be given to each village headman. This will ensure that our land will not be taken away from us by any outsiders.

5. Exploitation of our Natural Habitat
We appeal that the Government enact new laws to safeguard the indiscriminate exploitation of our natural habitat by mining and timber companies. And that all present activities of such companies be ceased to safeguard the livelihood of our people in the villages.

6. Economic Development Programs
Much has been achieved over the years and therefore we call for the intensification of such efforts to make sure that the objectives of the 4th Malaysia Plan be achieved among our people.

7. Education
We call for a review of the effectiveness of our village schools set-up by the JHEOA. Furthermore, we appeal that the Government will grant us special places in the institutions of higher learning.

8. Health
Community health programmes must be intensified and the Orang Asli Hospital in Gombak be expanded and modernised to serve our people more effectively.

9. Orang Asli Culture
We applaud the efforts of RTM to broadcast Asli programs over the air. We seek that this be continued and intensified and be expanded to include programs on television. We seek that efforts be made by authorities concerned to ensure that our language be preserved and be given importance so that our children may be able to learn them.
We also appeal that the Government seriously consider granting us one public holiday, preferably during our harvest festival, so as to give us a chance to share our culture and celebration with the other races in our country.

10. Security
The security of our villages from communist terrorists be given utmost priority. The "Senoi Praak" be further strengthened and modernised and be given the recognition for their noble services to the country.

11. Religion
We appeal that the freedom of religion be respected among our people and that no one be forced to accept any religion against one's own wishes.

12. Social Prejudice
That the Government will ensure that all forms of social prejudice against Orang Asli found in literature, mass media, exhibitions, tourism and the rest, be wiped out through positive measures.

With love and loyalty to our homeland,
We the Orang Asli of West Malaysia

Sekian, terima kasih.

Kami yang benar

[Signed by 22 Orang Asli headmen]
APPENDIX III:

DRAFT DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

1. AFFIRMING that indigenous peoples are equal in dignity and rights to all other peoples, while recognizing the right of all peoples to be different, to consider themselves different, and to be respected as such.

2. AFFIRMING ALSO that all peoples contribute to the diversity and richness of civilizations and cultures, which constitute the common heritage of humankind.

3. AFFIRMING FURTHER that all doctrines, policies and practices based on or advocating superiority of peoples or individuals on the basis of national origin, racial, religious, ethnic or cultural differences are racist, scientifically false, legally invalid, morally condemnable and socially unjust.

4. REAFFIRMING also that indigenous peoples, in the exercise of their rights, should be free from discrimination of any kind.

5. CONCERNED that indigenous peoples have been deprived of their human rights and fundamental freedoms, resulting, inter alia, in their colonization and dispossess of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests.

6. RECOGNIZING the urgent need to respect and promote the inherent rights and characteristics of indigenous peoples, especially their rights to their lands, territories and resources, which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies.

7. WELCOMING the fact that indigenous peoples are organizing themselves for political, economic, social and cultural enhancement and in order to bring an end to all forms of discrimination and oppression wherever they occur.

8. CONVINCED that control by indigenous peoples over developments affecting them and their lands, territories and resources will enable them to maintain and strengthen their institutions, cultures and traditions, and to promote their development in accordance with their aspirations and needs.

9. RECOGNIZING also that respect for indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment.

10. EMPHASIZING the need for demilitarization of the lands and territories of indigenous peoples, which will contribute to peace, economic and social progress and development, understanding and friendly relations among nations and peoples of the world.

11. RECOGNIZING in particular the right of indigenous families and communities to retain shared responsibility for the upbringing, training, education and well-being of their children.
12. RECOGNIZING ALSO that indigenous peoples have the right freely to determine their relationship with States in a spirit of coexistence, mutual benefit and full respect.

13. CONSIDERING that treaties, agreements and other arrangements between States and indigenous peoples are properly matters of international concern and responsibility.

14. ACKNOWLEDGING that the Charter of the United Nations, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights affirm the fundamental importance of the right of self-determination of all peoples, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development.

15. BEARING IN MIND that nothing in this Declaration may be used to deny any peoples their right of self-determination.

16. ENCOURAGING States to comply with and effectively implement all international instruments, in particular those related to human rights, as they apply to indigenous peoples, in consultation and cooperation with the peoples concerned.

17. EMPHASIZING that the United Nations has an important and continuing role to play in promoting and protecting the rights of indigenous peoples.

18. BELIEVING that this Declaration is a further important step forward for the recognition, promotion and protection of the rights and freedoms of indigenous peoples and in the development of relevant activities of the United Nations system in this field.

Solemnly proclaims the following United Nations Declaration on the Rights of Indigenous Peoples.

PART I

ARTICLE 1

Indigenous peoples have the right to the full and effective enjoyment of all human rights and fundamental freedoms recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law.

ARTICLE 2

Indigenous individuals and peoples are free and equal to all other individuals and peoples in dignity and rights, and have the right to be free from any kind of adverse discrimination, in particular that based on their indigenous origin or identity.

ARTICLE 3

Indigenous peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

ARTICLE 4

Indigenous peoples have the right to maintain and strengthen their distinct political, economic, social and cultural characteristics, as well as their legal
systems, while retaining their rights to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

ARTICLE 5

Every indigenous individual has the right to a nationality.

PART II

ARTICLE 6

Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and to full guarantees against genocide or any other act of violence, including the removal of indigenous children from their families and communities under any pretext.

In addition, they have the individual rights to life, physical and mental integrity, liberty and security of person.

ARTICLE 7

Indigenous peoples have the collective and individual right not to be subjected to ethnocide and cultural genocide, including prevention of and redress for:

a. any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;

b. any action which has the aim or effect of dispossessing them of their lands, territories or resources;

c. any form of population transfer which has the aim or effect of violating or undermining any of their rights;

d. any form of assimilation or integration by other cultures or ways of life imposed on them by legislative, administrative or other measures;

e. any form of propaganda directed against them.

ARTICLE 8

Indigenous peoples have the collective and individual right to maintain and develop their distinct identities and characteristics, including the right to identify themselves as indigenous and to be recognized as such.

ARTICLE 9

Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No disadvantage of any kind may arise from the exercise of such a right.

ARTICLE 10

Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.
ARTICLE 11
Indigenous peoples have the right to special protection and security in periods of armed conflict.
States shall observe international standards, in particular the Fourth Geneva Convention of 1949, for the protection of civilian populations in circumstances of emergency and armed conflict, and shall not:
   a. recruit indigenous individuals against their will into the armed forces and, in particular, for use against other indigenous peoples;
   b. recruit indigenous children into the armed forces under any circumstances;
   c. force indigenous individuals to abandon their lands, territories or means of subsistence, or relocate them in special centres for military purposes;
   d. force indigenous individuals to work for military purposes under any discriminatory conditions.

PART III
ARTICLE 12
Indigenous peoples have the right to practice and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature, as well as the right to the restitution of cultural, intellectual, religious and spiritual property taken without their free and informed consent or in violation of their laws, traditions and customs.

ARTICLE 13
Indigenous peoples have the right to manifest, practice, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of ceremonial objects; and the right to the repatriation of human remains.
States shall take effective measures, in conjunction with the indigenous peoples concerned, to ensure that indigenous sacred places, including burial sites, be preserved, respected and protected.

ARTICLE 14
Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons.
States shall take effective measures, whenever any right of indigenous peoples may be threatened, to ensure this right is protected and also to ensure that they can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means.
PART IV

ARTICLE 15
Indigenous children have the right to all levels and forms of education of the State. All indigenous peoples also have this right and the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning. Indigenous children living outside their communities have the right to be provided access to education in their own culture and language. States shall take effective measures to provide appropriate resources for these purposes.

ARTICLE 16
Indigenous peoples have the right to have the dignity and diversity of their cultures, traditions, histories and aspirations appropriately reflected in all forms of education and public information. States shall take effective measures, in consultation with the indigenous peoples concerned, to eliminate prejudice and discrimination and to promote tolerance, understanding and good relations among indigenous peoples and all segments of society.

ARTICLE 17
Indigenous peoples have the right to establish their own media in their own language. They also have the right to equal access to all forms of non-indigenous media. States shall take effective measures to ensure that State-owned media duly reflect indigenous cultural diversity.

ARTICLE 18
Indigenous peoples have the right to enjoy fully all rights established under international labour law and national labour legislation. Indigenous individuals have the right not to be subjected to any discriminatory conditions of labour, employment or salary.

PART V

ARTICLE 19
Indigenous peoples have the right to participate fully, if they so choose, at all levels of decision-making in matters which may affect their rights, lives and destinies through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

ARTICLE 20
Indigenous peoples have the right to participate fully, if they so choose, through procedures determined by them, in devising legislative or administrative measures that may affect them.
States shall obtain the free and informed consent of the peoples concerned before adopting and implementing such measures.

ARTICLE 21
Indigenous peoples have the right to maintain and develop their political, economic and social systems, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities. Indigenous peoples who have been deprived of their means of subsistence and development are entitled to just and fair compensation.

ARTICLE 22
Indigenous peoples have the right to special measures for the immediate, effective and continuing improvement of their economic and social conditions, including in the areas of employment, vocational training and retraining, housing, sanitation, health and social security. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and disabled persons.

ARTICLE 23
Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to determine and develop all health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.

ARTICLE 24
Indigenous peoples have the right to their traditional medicines and health practices, including the right to the protection of vital medicinal plants, animals and minerals.
They also have the right to access, without any discrimination, to all medical institutions, health services and medical care.

PART VI
ARTICLE 25
Indigenous peoples have the right to maintain and strengthen their distinctive spiritual and material relationship with the lands, territories, waters and coastal seas and other resources which they have traditionally owned or otherwise occupied or used, and to uphold their responsibilities to future generations in this regard.

ARTICLE 26
Indigenous peoples have the right to own, develop, control and use the lands and territories, including the total environment of the lands, air, waters, coastal seas, sea-ice, flora and fauna and other resources which they have traditionally owned or otherwise occupied or used. This includes the right to the full recognition of their laws, traditions, and customs, land-tenure systems and institutions for the development and management of resources, and the right to effective measures by
States to prevent any interference with, alienation of or encroachment upon these rights.

ARTICLE 27

Indigenous peoples have the right to the restitution of the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, occupied, used or damaged without their free and informed consent. Where this is not possible, they have the right to just and fair compensation. Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status.

ARTICLE 28

Indigenous peoples have the right to the conservation, restoration, and protection of the total environment and the productive capacity of their lands, territories and resources, as well as to assistance for this purpose from States and through international cooperation. Military activities shall not take place in the lands and territories of indigenous peoples, unless otherwise freely agreed upon by the peoples concerned.

States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands and territories of indigenous peoples.

States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by such materials, are duly implemented.

ARTICLE 29

Indigenous peoples are entitled to the recognition of the full ownership, control and protection of their cultural and intellectual property. They have the right to special measures to control, develop and protect their sciences, technologies and cultural manifestations, including human and other genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs and visual and performing arts.

ARTICLE 30

Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands, territories and other resources, including the right to require that States obtain their free and informed consent prior to the approval of any project affecting their lands, territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources. Pursuant to agreement with the indigenous peoples concerned, just and fair compensation shall be provided for any such activities and measures taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.
PART VII

ARTICLE 31
Indigenous peoples, as a specific form of exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, including culture, religion, education, information, media, health, housing, employment, social welfare, economic activities, land and resources management, environment and entry by non-members, as well as ways and means for financing these autonomous functions.

ARTICLE 32
Indigenous peoples have the collective right to determine their own citizenship in accordance with their customs and traditions. Indigenous citizenship does not impair the right of indigenous individuals to obtain citizenship of the States in which they live.
Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures.

ARTICLE 33
Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive juridical customs, traditions, procedures and practices, in accordance with internationally recognized human rights standards.

ARTICLE 34
Indigenous peoples have the collective right to determine the responsibilities of individuals to their communities.

ARTICLE 35
Indigenous peoples, in particular those divided by international borders, have the right to maintain and develop contacts, relations and cooperation, including activities for spiritual, cultural, political, economic and social purposes, with other peoples across borders.
States shall take effective measures to ensure the exercise and implementation of this right.

ARTICLE 36
Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors, according to their original spirit and intent, and to have States honour and respect such treaties, agreements and other constructive arrangements. Conflicts and disputes which cannot otherwise be settled should be submitted to competent international bodies agreed to by all parties concerned.
PART VIII

ARTICLE 37
States shall take effective and appropriate measures, in consultation with the indigenous peoples concerned, to give full effect to the provisions of this Declaration. The rights recognized herein shall be adopted and included in national legislation in such a manner that indigenous peoples can avail themselves of such rights in practice.

ARTICLE 38
Indigenous peoples have the right to have access to adequate financial and technical assistance, from States and through international cooperation, to pursue freely their political, economic, social, cultural and spiritual development and for the enjoyment of the rights and freedoms recognized in this Declaration.

ARTICLE 39
Indigenous peoples have the right to have access to and prompt decision through mutually acceptable and fair procedures for the resolution of conflicts and disputes with States, as well as to effective remedies for all infringements of their individual and collective rights. Such a decision shall take into consideration the customs, traditions, rules and legal systems of the indigenous peoples concerned.

ARTICLE 40
The organs and specialized agencies of the United Nations system and other intergovernmental organizations shall contribute to the full realization of the provisions of this Declaration through the mobilization, *inter alia*, of financial cooperation and technical assistance. Ways and means of ensuring participation of indigenous peoples on issues affecting them shall be established.

ARTICLE 41
The United Nations shall take the necessary steps to ensure the implementation of this Declaration including the creation of a body at the highest level with special competence in this field and with the direct participation of indigenous peoples. All United Nations bodies shall promote respect for and full application of the provisions of this Declaration.

PART IX

ARTICLE 42
The rights recognized herein constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world.

ARTICLE 43
All the rights and freedoms recognized herein are equally guaranteed to male and female indigenous individuals.
ARTICLE 44

Nothing in this Declaration may be construed as diminishing or extinguishing existing or future rights indigenous peoples may have or acquire.

ARTICLE 45

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act contrary to the Charter of the United Nations.
APPENDIX IV:

UNITED NATIONS INTERNATIONAL LABOUR ORGANISATION CONVENTION 169 CONVENTION CONCERNING INDIGENOUS AND TRIBAL PEOPLES 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 76th Session on 7 June 1989, and Noting the international standards contained in the Indigenous and Tribal Populations Convention and Recommendation, 1957, and Recalling the terms of the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, and the many international instruments on the prevention of discrimination, and Considering that the developments which have taken place in international law since 1957, as well as developments in the situation of indigenous and tribal peoples in all regions of the world, have made it appropriate to adopt new international standards on the subject with a view to removing the assimilationists orientation of the earlier standards, and Recognising the aspirations of these peoples to exercise control over their own institutions, ways of life and economic development and to maintain and develop their identities, languages and religions, within the framework of the States in which they live, and Noting that in many parts of the world these peoples are unable to enjoy their fundamental human rights to the same degree as the rest of the population of the States within which they live, and that their laws, values, customs and perspectives have often been eroded, and Calling attention to the distinctive contributions of indigenous and tribal peoples to the cultural diversity and social and ecological harmony of humankind and to international co-operation and understanding, and Noting that the following provisions 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, as well as of the Inter-American Indian Institute, at appropriate levels and in their respective fields, and that it is proposed to continue this co-operation in promoting and securing the application of these provisions, and Having decided upon the adoption of certain proposals with regard to the partial revision of the Indigenous and Tribal Populations Convention, 1957 (No. 107), which is the fourth item on the agenda of the session, and Having determined that these proposals shall take the form of an international Convention revising the Indigenous and Tribal Populations Convention, 1957; adopts this twenty-seventh day of June of the year one thousand nine hundred and eighty-nine the following Convention, which may be cited as the Indigenous and Tribal Peoples Convention, 1989:

PART I. GENERAL POLICY

Article I 1.
This Convention applies to:
(a) tribal peoples in independent countries whose social, cultural and economic conditions distinguish them from 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) peoples in independent countries who 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 or the establishment of present state boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions.

2. Self-identification as indigenous or tribal shall be regarded as a fundamental criterion for determining the groups to which the provisions of this Convention apply.
3. The use of the term "peoples" in this Convention shall not be construed as having any implications as regards the rights which may attach to the term under international law.

Article 2
1. Governments shall have the responsibility for developing, with the participation of the peoples concerned, co-ordinated and systematic action to protect the rights of these peoples and to guarantee respect for their integrity.
2. Such action shall include measures for:
(a) ensuring that members of these peoples benefit on an equal footing from the rights and opportunities which national laws and regulations grant to other members of the population;
(b) promoting the full realisation of the social, economic and cultural rights of these peoples with respect for their social and cultural identity, their customs and traditions and their institutions;
(c) assisting the members of the peoples concerned to eliminate socio-economic gaps that may exist between indigenous and other members of the national community, in a manner compatible with their aspirations and ways of life.

Article 3
1. Indigenous and tribal peoples shall enjoy the full measure of human rights and fundamental freedoms without hindrance or discrimination. The provisions of the Convention shall be applied without discrimination to male and female members of these peoples.
2. No form of force or coercion shall be used in violation of the human rights and fundamental freedoms of the peoples concerned, including the rights contained in this Convention.

Article 4
1. Special measures shall be adopted as appropriate for safeguarding the persons, institutions, property, labour, cultures and environment of the peoples concerned.
2. Such special measures shall not be contrary to the freely-expressed wishes of the peoples concerned.
3. Enjoyment of the general rights of citizenship, without discrimination, shall not be prejudiced in any way by such special measures.

Article 5
In applying the provisions of this Convention:

(a) the social, cultural, religious and spiritual values and practices of these peoples shall be recognised and protected, and due account shall be taken of the nature of the problems which face them both as groups and as individuals;

(b) the integrity of the values, practices and institutions of these peoples shall be respected;

(c) policies aimed at mitigating the difficulties experienced by these peoples in facing new conditions of life and work shall be adopted, with the participation and co-operation of the peoples affected.

Article 6

1. In applying the provisions of this Convention, governments shall:

(a) consult the peoples concerned, through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them directly; (b) establish means by which these peoples can freely participate, to at least the same extent as other sectors of the population, at all levels of decision making in elective institutions and administrative and other bodies responsible for policies and programmes which concern them; (c) establish means for the full development of these peoples' own institutions and initiatives, and in appropriate cases provide the resources necessary for this purpose. 2. The consultations carried out in application of this Convention shall be undertaken, in good faith and in a form appropriate to the circumstances, with the objective of achieving agreement or consent to the proposed measures. Article 7

1. The peoples concerned shall have the right to decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy or otherwise use, and to exercise control, to the extent possible, over their own economic, social and cultural development. In addition, they shall participate in the formulation, implementation and evaluation of plans and programmes for national and regional development which may affect them directly. 2. The improvement of the conditions of life and work and levels of health and education of the peoples concerned, with their participation and co-operation, shall be a matter of priority in plans for the overall economic development at areas they inhabit. Special projects for development of the areas in question shall also be so designed as to promote such improvement. 3. Governments shall ensure that, whenever appropriate, studies are carried out, in co-operation with the peoples concerned, to assess the social, spiritual, cultural and environmental impact on them of planned development activities. The results of these studies shall be considered as fundamental criteria for the implementation of these activities. 4. Governments shall take measures, in co-operation with the peoples concerned, to protect and preserve the environment of the territories they inhabit. Article 8

1. In applying national laws and regulations to the peoples concerned, due regard shall be had to their customs or customary laws. 2. These peoples shall have the right to retain their own customs and institutions, where these are not incompatible with fundamental rights defined by the national legal system and with internationally recognised human rights. Procedures shall be established, whenever necessary, to resolve conflicts which may arise in the application of this principle. 3. The application of paragraphs 1 and 2 of this Article shall not prevent members of these peoples from exercising the rights granted to all citizens and from assuming the corresponding duties. Article 9

1. To the extent compatible with the national legal system and internationally recognised human rights, the methods customarily practised by the peoples concerned for dealing with offences committed by their members shall be
respected. 2. The customs of these peoples in regard to penal matters shall be taken into consideration by the authorities and courts dealing with such cases. Article 10 1. In imposing penalties laid down by general law on members of these peoples account shall be taken of their economic, social and cultural characteristics. 2. Preference shall be given to methods of punishment other than confinement in prison. Article 11 The exaction from members of the peoples concerned of compulsory personal services in any form, whether paid or unpaid, shall be prohibited and punishable by law, except in cases prescribed by law for all citizens. Article 12 The peoples concerned shall be safeguarded against the abuse of their rights and shall be able to take legal proceedings, either individually or through their representative bodies, for the effective protection of these rights. Measures shall be taken to ensure that members of these peoples can understand and be understood in legal proceedings, where necessary through the provision of interpretation or by other effective means. PART II. LAND Article 13 1. In applying the provisions of this Part of the Convention governments shall respect the special importance for the cultures and spiritual values of the peoples concerned of their relationship with the lands or territories, or both as applicable, which they occupy or otherwise use, and in particular the collective aspects of this relationship. 2. The use of the term "lands" in Articles 15 and 16 shall include the concept of territories, which covers the total environment of the areas which the peoples concerned occupy or otherwise use. Article 14 1. The rights of ownership and possession of the peoples concerned over the lands which they traditionally occupy shall be recognised. In addition, measures shall be taken in appropriate cases to safeguard the right of the peoples concerned to use lands not exclusively occupied by them, but to which they have traditionally had access for their subsistence and traditional activities. Particular attention shall be paid to the situation of nomadic peoples and shifting cultivators in this respect. 2. Governments shall take steps as necessary to identify the lands which the peoples concerned traditionally occupy, and to guarantee effective protection of their rights of ownership and possession. 3. Adequate procedures shall be established within the national legal system to resolve land claims by the peoples concerned. Article 15 1. The rights of the peoples concerned to the natural resources pertaining to their lands shall be specially safeguarded. These rights include the right of these peoples to participate in the use, management and conservation of these resources. 2. In cases in which the State retains the ownership of mineral or sub-surface resources or rights to other resources pertaining to lands, governments shall establish or maintain procedures through which they shall consult these peoples, with a view to ascertaining whether and to what degree their interests would be prejudiced, before undertaking or permitting any programmes for the exploration or exploitation of such resources pertaining to their lands. The peoples concerned shall wherever possible participate in the benefits of such activities, and shall receive fair compensation for any damages which they may sustain as a result of such activities. Article 16 1. Subject to the following paragraphs of this Article, the peoples concerned shall not be removed from the lands which they occupy. 2. Where the relocation of these peoples is considered necessary as an exceptional measure, such relocation shall take place only with their free and informed consent. Where their consent cannot be obtained, such relocation shall take place only following appropriate procedures established by national laws and regulations, including public inquiries where appropriate, which provide the opportunity for effective representation of the peoples concerned. 3. Whenever possible, these peoples shall have the right to return to their traditional lands, as soon as the grounds for relocation cease to exist. 4. When such return is not possible, as determined by agreement or, in the absence of such agreement, through appropriate procedures, these peoples shall be provided in all
possible cases with lands of quality and legal status at least equal to that of the lands previously occupied by them, suitable to provide for their present needs and future development. Where the peoples concerned express a preference for compensation in money or in kind, they shall be so compensated under appropriate guarantees. 5. Persons thus relocated shall be fully compensated for any resulting loss or injury. Article 17 1. Procedures established by the peoples concerned for the transmission of land rights among members of these peoples shall be respected. 2. The peoples concerned shall be consulted whenever consideration is being given to their capacity to alienate their lands or otherwise transmit their rights outside their own community. 3. Persons not belonging to these peoples shall be prevented from taking advantage of their customs or of lack of understanding of the laws on the part of their members to secure the ownership, possession or use of land belonging to them. Article 18 Adequate penalties shall be established by law for unauthorised intrusion upon, or use of, the lands of the peoples concerned, and governments shall take measures to prevent such offences. Article 19 National agrarian programmes shall secure to the peoples concerned treatment equivalent to that accorded to other sectors of the population with regard to: (a) the provision of more land for these peoples 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 peoples already possess. PART III. RECRUITMENT AND CONDITIONS OF EMPLOYMENT Article 20 1. Governments shall, within the framework of national laws and regulations, and in co-operation with the peoples concerned, adopt special measures to ensure the effective protection with regard to recruitment and conditions of employment of workers belonging to these peoples, to the extent that they are not effectively protected by laws applicable to workers in general. 2. Governments shall do everything possible to prevent any discrimination between workers belonging to the peoples concerned and other workers, in particular as regards: (a) admission to employment, including skilled employment, as well as measures for promotion and advancement; (b) equal remuneration for work of equal value; (c) medical and social assistance, occupational safety and health, all social security benefits and any other occupationally related benefits, 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. 3. The measures taken shall include measures to ensure: (a) that workers belonging to the peoples concerned, including seasonal, casual and migrant workers in agricultural and other employment, as well as those employed by labour contractors, enjoy the protection afforded by national law and practice to other such workers in the same sectors, and that they are fully informed of their rights under labour legislation and of the means of redress available to them; (b) that workers belonging to these peoples are not subjected to working conditions hazardous to their health, in particular through exposure to pesticides or other toxic substances; (c) that workers belonging to these peoples are not subjected to coercive recruitment systems, including bonded labour and other forms of debt servitude; (d) that workers belonging to these peoples enjoy equal opportunities and equal treatment in employment for men and women, and protection from sexual harassment. 4. Particular attention shall be paid to the establishment of adequate labour inspection services in areas where workers belonging to the peoples concerned undertake wage employment, in order to ensure compliance with the provisions of this Part of this Convention. PART IV. VOCATIONAL TRAINING, HANDICRAFTS AND RURAL INDUSTRIES Article 21 Members of the peoples concerned shall enjoy opportunities at least equal to those of other citizens in respect of
vocational training measures. Article 22. Measures shall be taken to promote the voluntary participation of members of the peoples concerned in vocational training programmes of general application. 2. Whenever existing programmes of vocational training of general application do not meet the special needs of the peoples concerned, governments shall, with the participation of these peoples, ensure the provision of special training programmes and facilities. 3. Any special training programmes shall be based on the economic environment, social and cultural conditions and practical needs of the peoples concerned. Any studies made in this connection shall be carried out in cooperation with these peoples, who shall be consulted on the organisation and operation of such programmes. Where feasible, these peoples shall progressively assume responsibility for the organisation and operation of such special training programmes, if they so decide.

Article 23. Handicrafts, rural and community-based industries, and subsistence economy and traditional activities of the peoples concerned, such as hunting, fishing, trapping and gathering, shall be recognised as important factors in the maintenance of their cultures and in their economic self-reliance and development. Governments shall, with the participation of these people and whenever appropriate, ensure that these activities are strengthened and promoted. 2. Upon the request of the peoples concerned, appropriate technical and financial assistance shall be provided wherever possible, taking into account the traditional technologies and cultural characteristics of these peoples, as well as the importance of sustainable and equitable development.

PART V. SOCIAL SECURITY AND HEALTH

Article 24. Social security schemes shall be extended progressively to cover the peoples concerned, and applied without discrimination against them. Article 25. Governments shall ensure that adequate health services are made available to the peoples concerned, or shall provide them with resources to allow them to design and deliver such services under their own responsibility and control, so that they may enjoy the highest attainable standard of physical and mental health. 2. Health services shall, to the extent possible, be community-based. These services shall be planned and administered in cooperation with the peoples concerned and take into account their economic, geographic, social and cultural conditions as well as their traditional preventive care, healing practices and medicines. 3. The health care system shall give preference to the training and employment of local community health workers, and focus on primary health care while maintaining strong links with other levels of health care services. 4. The provision of such health services shall be co-ordinated with other social, economic and cultural measures in the country.

PART VI. EDUCATION AND MEANS OF COMMUNICATION

Article 26. Measures shall be taken to ensure that members of the peoples concerned have the opportunity to acquire education at all levels on at least an equal footing with the rest of the national community. Article 27. Education programmes and services for the peoples concerned shall be developed and implemented in cooperation with them to address their special needs, and shall incorporate their histories, their knowledge and technologies, their value systems and their further social, economic and cultural aspirations. 2. The competent authority shall ensure the training of members of these peoples and their involvement in the formulation and implementation of education programmes, with a view to the progressive transfer of responsibility for the conduct of these programmes to these peoples as appropriate. 3. In addition, governments shall recognise the right of these peoples to establish their own educational institutions and facilities, provided that such institutions meet minimum standards established by the competent authority in consultation with these peoples. Appropriate resources shall be provided for this purpose.

Article 28. Children belonging to the peoples concerned shall, wherever practicable, be taught to read and write in their own indigenous language or in the language most
commonly used by the group to which they belong. When this is not practicable, the competent authorities shall undertake consultations with these peoples with a view to the adoption of measures to achieve this objective. 2. Adequate measures shall be taken to ensure that these peoples have the opportunity to attain fluency in the national language or in one of the official languages of the country. 3. Measures shall be taken to preserve and promote the development and practice of the indigenous languages of the peoples concerned. Article 29 The imparting of general knowledge and skills that will help children belonging to the peoples concerned to participate fully and on an equal footing in their own community and in the national community shall be an aim of education for these peoples. Article 30 1. Governments shall adopt measures appropriate to the traditions and cultures of the peoples concerned, to make known to them their rights and duties, especially in regard to labour, economic opportunities, education and health matters, social welfare and their rights deriving from this Convention. 2. If necessary, this shall be done by means of written translations and through the use of mass communications in the languages of these peoples. Article 31 Educational measures shall be taken among all sections of the national community, and particularly among those that are in most direct contact with the peoples concerned, with the object of eliminating prejudices that they may harbor in respect of these peoples. To this end, efforts shall be made to ensure that history textbooks and other educational materials provide a fair, accurate and informative portrayal of the societies and cultures of these peoples. PART VII. CONTACTS AND CO-OPERATION ACROSS BORDERS Article 32 Governments shall take appropriate measures, including by means of international agreements, to facilitate contacts and cooperation between indigenous and tribal peoples across borders, including activities in the economic, social, cultural, spiritual and environmental fields. PART VIII. ADMINISTRATION Article 33 1. The governmental authority responsible for the matters covered in this Convention shall ensure that agencies or other appropriate mechanisms exist to administer the programmes affecting the peoples concerned, and shall ensure that they have the means necessary for the proper fulfillment of the functions assigned to them. 2. These programmes shall include: (a) the planning, co-ordination, execution and evaluation, in co-operation with the peoples concerned, of the measures provided for in this Convention; (b) the proposing of legislative and other measures to the competent authorities and supervision of the application of the measures taken, in co-operation with the peoples concerned. PART IX. GENERAL PROVISIONS Article 34 The nature and 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 35 The application of the provisions of this Convention shall not adversely affect rights and benefits of the peoples concerned pursuant to other Conventions and Recommendations, international instruments, treaties, or national laws, awards, custom or agreements. PART X. FINAL PROVISIONS Article 36 This Convention revises the Indigenous and Tribal Populations Convention, 1957. Article 37 The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration. Article 38 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 39 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 40 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 41 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 42 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 43 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 39 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 44 The English and French versions of the text of this Convention are equally authoritative