



**COMMITMENT 5**



# LEARN, SHARE AND BE INSPIRED

LEARNING FROM ILC DATABASE OF GOOD PRACTICES

**INDIGENOUS PEOPLES' LAND RIGHTS**

INTERNATIONAL  
**LAND**  
COALITION

**COMMITMENT 5**

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# INDIGENOUS PEOPLES' LAND RIGHTS

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The International Land Coalition's **Commitment 5** seeks to respect and protect the inherent land and territorial rights of indigenous peoples, including by recognising that respect for indigenous knowledge and cultures contributes to sustainable and equitable development and proper management of the environment. **ILC's Database of Good Practices** provides concrete examples and guidance to Coalition members and partners on how to achieve this commitment.

What processes, tools, and methods have ILC members successfully used to overcome some of the challenges they face in defending Indigenous Land Rights? Learn about:

## **LAND CONFLICT RESOLUTION**

How ILC members have resolved land disputes through the use of tools that strengthen participatory decision-making and recognise the legitimacy of indigenous tenure systems.

## **MAPPING AND LAND REGISTRATION**

How ILC members have developed tools for participatory mapping, including methodologies and procedures for cultural mapping, 3D mapping, and land registration.

## **PROJECT DESIGN AND IMPLEMENTATION SUPPORT**

How ILC members and partners have rejuvenated tradition and culture as a basis for sustainable ecosystem management.

## **LEGAL ASSISTANCE, LEGAL EMPOWERMENT, AND ACCESS TO JUSTICE**

How ILC members and partners have offered technical legal support and used judicial review to challenge laws and administrative actions that violate the rights of indigenous peoples.

## **ADVOCACY AND CAMPAIGNING**

How ILC members have carried out negotiations and demonstrations, while engaging with media and using innovative online tools to link international and local campaigns.



## LAND CONFLICT RESOLUTION

- ▶ **Joint village land use planning (JVLUP)** between pastoralists, hunter-gatherers, and farmers can be used to defuse inter-community land conflicts over shared land and other resources. Since conventional land use and planning are limiting to pastoralists and hunter-gatherers, the JVLUP tool provides an opportunity for participatory identification of community land use priorities and planning. In **Tanzania, ILRI and IFAD (C0015)** worked in partnership with the Ministry of Agriculture to establish a Livestock Keepers Association as provided for in the country's Land Use Planning Act. The Act assigns administrative duties to Village Councils and Technical Committees and provides for the formation of planning authorities and the definition of their functions and procedures. Furthermore, it defines the process for developing and approving participatory village land use plans. Based on community consultations, by-laws, and enabling legislation, pastoralists and hunter-gatherers were issued with group Certificates of Customary Rights of Occupancy, which could only be amended with the consent of other land users.
- ▶ The creation and registration of **family land ownership and land use contracts**, in line with customary land tenure systems of indigenous peoples, can contribute to the resolution of land conflicts. Recognition of the social value of customary land tenure systems may influence communities to enter into land use agreements for individuals and groups of people with collective titles. In **Bolivia, Fundación TIERRA (C0060)** used this tool to resolve inter- and intra-community land conflicts amongst indigenous peoples. While providing support to the public office of La Paz on the community management of land, the organisation mobilised and gained community support for the registration of individual, family, and community land rights. Once the government had issued a resolution initiating the registration process, Fundación TIERRA, the office of La Paz, and the indigenous peoples and adjoining communities began participatory territorial mapping in accordance with the Boundary Compliance Act and registered individual, family, and community land use contracts and titles. Through this project, the government encouraged and endorsed participatory land dispute resolution mechanisms based on tradition and registered the land of indigenous peoples.

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- ▶ The creation of a **community land registry** can be used to prove the plight of indigenous peoples in cases where infrastructure projects threaten to displace local communities without their free, prior, and informed consent (FPIC). Compiling a community land registry that details the land use rights and incomes of local communities can convince a government that a construction project will displace families and affect their livelihoods. In **Myanmar**, where a hydropower dam project threatened to displace people in four villages, **Trócaire** and **Dawei Development Association (C0092)** sensitised the community on new land laws that allowed for land use registration for farmlands. They formed a Village Committee that assisted in the creation of its own land registration forms. The Committee worked with community members to measure land, fill in registration forms, and attest to the land use rights of fellow community members. The community land registry was used to prove to the government that communities would lose land if construction continued. Consequently, the government decommissioned construction of the dam and acknowledged and documented the rights of 386 community members to cultivate the land.



## MAPPING AND LAND REGISTRATION

- ▶ **3D mapping**, which entails the creation of community land maps that fully capture the community landscape, is a pioneering tool for the protection of indigenous peoples' land rights. Internal migration can cause encroachment on the communal lands of indigenous peoples, resulting in unwanted changes to their cultural practices and values. In **Nicaragua, CADPI (C0095)** mobilised and sensitised indigenous peoples about 3D maps. With the community's consent, it formed working groups and tasked them with the collection of material for the maps and research on the history and origin of communities. Using this information, CADPI and the communities began to map out community land. The 3D map was used to demarcate and identify the boundaries of disputed territories. Furthermore, it accurately delineated the landscape, showing geographic elevations, slopes, boundaries, rivers, forests, degraded areas, sacred sites, and fauna in the territory.
- ▶ **Village land use planning (VLUP)** supports participatory cultural mapping of village land. VLUP enables traditional elders to teach both youth and local government authorities about the connections between their culture and land, thus providing a unique basis for land mapping. In **Tanzania, UCRT (C0104)** set up an open forum where it introduced VLUP principles to

community members, in order to identify community priorities and needs, and to district ward officials, in order to enhance synergies and government-level cooperation. Through the forum, the community developed a land and natural resource management plan, which was approved and ratified by the Village Council, Village Assembly, and District Council. The historical land of the hunter-gatherer community was secured and their land rights were recognised as Customary Right Land of Occupancy. Furthermore, a land use plan was developed for the community, with specific by-laws establishing zones for hunting and gathering, crop farming, and pastures.

- ▶ The **formulation of participatory land demarcation procedures** strengthens the land rights of communities and indigenous peoples. The comprehensive approach taken by the **World Bank** in partnership with the Government of **Nicaragua (C0020)** included revision of the national land policy, the consolidation of land institutions, capacity building, and modernisation of land records and information systems. Through the project, the tradition and culture of communities were recognised as bases for participatory land mapping. Using this as a foundation, the World Bank and the government provided step-by-step manuals for participatory land demarcations, conflict resolution and mediation, surveying, titling of land and preparation of territorial management plans. The World Bank also assisted in the creation of administrative institutions and procedures, which included National and Regional Commissions

for Demarcation and Titling and Regional Technical Commissions. Using the new land demarcation procedures, the World Bank implemented a pilot project for participatory demarcations of indigenous peoples' land.

## **PROJECT DESIGN AND IMPLEMENTATION SUPPORT**

- ▶ **Payments for Ecosystem Services (PES)** is a tool for sustainable alternative funding for the management of traditional ecosystems. It incentivises forest managers for the ecological services they provide to the community. Since forests have cultural and ancestral significance for indigenous peoples, PES encourages them to serve as forest managers and stewards of ecosystem products. The traditional and customary forest management practices of indigenous peoples are essential for the rehabilitation of denuded forests and protection of the livelihoods, traditions, and culture of indigenous peoples. In the **Philippines, Xavier Science Foundation (XSF) (C0072)** was part of a reforestation project in which indigenous peoples, through PES, served as forest managers and stewards of ecosystem products. To implement the project, XSF partnered with civil society, local NGOs, and the government to identify potential ecosystem stewards and buyers. Buyers included individuals, corporations purchasing services on behalf of a portion of the

public, and tertiary buyers purchasing on behalf of the general public. Thereafter, XSF and its partners identified land for the implementation of the project. To gain community buy-in, they held meetings with local communities and potential buyers to convince them of the benefits of this forest management system. Under the project, 40.09 hectares of land were reforested with endemic seedlings and Arabic coffee seedlings.

**Water harvesting** can strengthen indigenous peoples' resilience to shock in the event of drought. When drought affects communities that are unable to withstand shock, it can lead to land loss, either through undervalued alienation or large-scale urban migration. Water harvesting presents local communities with an opportunity to secure water, and consequently their ancestral land, through the installation of water cisterns, drip irrigation systems, and shallow wells for animals to drink from within the community. In **Argentina**, using contributions from the community, **Fundapaz (C0114)** implemented a water harvesting project to strengthen the resistance of local communities to shock. Communities were trained on the installation and maintenance of water harvesting systems. In order to strengthen the role of government, Fundapaz also worked with the Ministry of Indigenous Affairs and Community Development to increase synergies between the ministry and NGOs working to secure land and water rights for indigenous peoples.

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The creation of **Self Help Groups (SHGs)** strengthens the interest of local indigenous communities in using traditional and cultural methods of forest ecosystem management. In Rajasthan, **India, Natural Justice** and **KRAPAVIS (C0100)** established SHGs which worked to restore and rejuvenate the Oran (sacred grove) system for the traditional management of grazing lands and arid forests located within and around the Sariska Tiger Reserve. Orans comprise grasslands, medicinal trees and shrubs, and Oran Talaab (waterways) that contribute to the livelihoods of forest-dwelling indigenous peoples. At community level, the SHGs created flyers and wrote periodic newsletters and educational notes to re-establish and promote the traditional cultural ecosystems. They also aided in the construction and repair of water harvesting ponds, establishing and maintaining tree nurseries and offering capacity building on the Oran system. At national and political levels, they documented and advocated for forest management policies based on the interdependence of the traditional Oran system, the livelihoods of indigenous peoples, and the management of wildlife and biodiversity on drylands. As a result, the Oran system was recognised under the state forest policy as a living ecosystem that needs to be preserved for the purposes of biodiversity conservation and the religious faith of indigenous peoples.



## LEGAL ASSISTANCE, LEGAL EMPOWERMENT, AND ACCESS TO JUSTICE

- ▶ **Judicial review of administrative actions** is instrumental in the enforcement of indigenous peoples' land rights and access to justice. Since indigenous peoples' land rights are inherited collective rights, governments tend to bypass the FPIC requirement and grant concessions on land that they co-manage with indigenous peoples. Judicial review was used in **Belize** by **SATIIM (C0058)** to challenge the government's decision to unilaterally grant seismic testing rights over wetlands and tropical rainforests that it co-manages with indigenous peoples. SATIIM first mobilised and sensitised communities on their right to FPIC and led a campaign to strengthen community agreements. Thereafter, it took legal action to challenge the government's unilateral granting of seismic rights and its failure to conduct a prescribed environmental impact assessment. When the case came to court, the Supreme Court of Belize held that the licence had been unlawfully granted and violated rights protected by the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). Furthermore, it ordered the government to enter into mediation to gain the free, prior, and informed consent of the people.
- ▶ **Judicial review of administrative laws** can be used to challenge their constitutionality. Where statutes violate constitutional rights, indigenous peoples can seek judicial

review of the laws. In **Indonesia (C0048)**, AMAN a member of **AAIP**, partnered with other indigenous peoples' CSOs and sought a judicial review of the Forestry Law, which violated the constitutional rights of indigenous peoples. The constitution recognises the right of indigenous peoples to own the land that they live on, yet the Forestry Law vested ownership of forest land occupied by indigenous peoples in the government. Based on the constitutionally flawed Forest Law, the government had granted mining concessions to foreign companies without consulting local communities. Through judicial review, the Constitutional Court confirmed the constitutional protection of customary land tenure of indigenous forest dwellers and found that the law violated their constitutional rights. Consequently, the government passed regulations recognising indigenous peoples' land rights.

- ▶ **Legal support in judicial actions** can strengthen communities' defence of their sacred religious territories and their right to FPIC when mining companies are granted mining concessions. Since mining has a negative impact on bio-cultural and religious land uses, governments are obliged to seek consent from communities. In **Mexico**, the government granted 78 mining concessions to foreign companies without the free, prior, and informed consent of indigenous peoples. **Consejo Regional Wixárikapor la Defensa de Wirikuta (C0099)** supported local communities to strengthen their agreements and strategies by following a case it had brought to court and conducting legal

workshops to sensitise people about the proceedings. The UN Special Rapporteur on the Human Rights of Indigenous Peoples and the National Human Rights Commission of Mexico called on the government to respect the protected historical and religious sites of indigenous peoples. Eventually, the Administrative Court ordered the suspension of the mining concessions.

## ADVOCACY AND CAMPAIGNING

- ▶ **Continued negotiations** with a government can influence its response to natural disaster in flood-prone areas. In the wake of natural disasters, governments are obliged to provide temporary disaster relief and alternative land for people who cannot afford to purchase land for themselves. Sometimes, however, governments ignore their duty to provide temporary and permanent relief for people who are displaced by floods. In **India**, **SDF (C0037)** and local communities held peaceful demonstrations to raise awareness of the plight of displaced indigenous peoples. They also negotiated for adequate temporary relief for 580 families and the long-term relocation of

indigenous families living in flood-prone areas. As a result, over a two-year period, a total of 100 indigenous people received land with title deeds in an area less prone to floods and financial assistance to rebuild their homes.

- ▶ **Linking international and national media campaigns** can draw local and international attention to violations of indigenous peoples' land rights and assist in returning land to local communities. International tours, continuous media attention on land grabs, and presentations on international forums can connect local and international campaigns. In **Guatemala**, **Oxfam Guatemala, Oxfam International, and Oxfam Intermón (Spain) (C0091)** worked with local NGOs to strengthen the visibility of their media campaigns against the grabbing of land from 769 families for the expansion of biofuel agriculture. Oxfam Guatemala and Oxfam Intermón coordinated their actions and held two international awareness-raising tours. They also utilised online tools such as Avaaz and Change to strengthen their public campaign. As a result of international pressure, the country's president returned land to 140 families and issued land titles.

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The ILC **Database of Good Practices** is organised around the **10 commitments for people-centred land governance**. The case studies in the Database provide concrete examples and guidance to the members and partners of ILC on how to achieve each of these commitments.