

# **Suggested Guidelines for Assessing the Intersection of the Rights of Traditional and Indigenous Peoples, Group Rights, and Freedom of Religion and Belief.**

## **Product of the Sub-Committee on Freedom of Religion or Belief of the G-20 Interfaith Forum**

### **At Meetings Held in Belém, Brazil, June 13-14, 2024 and discussions at the IF-20 Meetings in Brasilia on August 20-22**

Rights for indigenous<sup>1</sup> and traditional<sup>2</sup> peoples, although variously defined, have been increasingly recognised by human rights bodies and numerous states over the past four decades.<sup>3</sup> Importantly, the development of specific rights for indigenous peoples occurs within an existing framework of international human rights, which notably includes the right to freedom of religion or belief.<sup>4</sup> In advancing and articulating the rights of indigenous peoples, authorities should observe the following guidelines in order to preserve and promote both indigenous rights and the Freedom of Religion and Belief, which is a fundamental right for all persons.

#### **I) Freedom of Religion or Belief of Indigenous Peoples: Group and Individual Rights**

- 1) **Freedom of indigenous religion:** The right of indigenous groups to maintain their own religious traditions should be ensured and protected. This includes the

---

<sup>1</sup> In the absence of an internationally agreed-upon definition of indigenous peoples, four criteria are often cited: 1) Historical continuity with pre-colonial societies within a territory; 2) Cultural distinctiveness from the majority population ; 3) Non-dominance; 4) A collective determination to preserve, develop and transmit to future generations their ancestral territories and identity as peoples in accordance with their own cultural patterns, social institutions, and legal system. Cf : José Martínez Cobo , Study of the Problem of Discrimination Against Indigenous Populations Final report submitted by the Special Rapporteur, E/CN.4/Sub.2/1986/7. Discuss Afro-Brazilian communities, and other traditional people groups of cultural, spiritual, and social

<sup>2</sup> The phrase traditional peoples is distinguished from indigenous peoples by the fact that the former may have relatively recent origins in a location different from their current location, and thus not be technically indigenous. But the circumstances of their displacement, whether through slavery, forced migration, or some other exigent circumstance, combined with their shared ethnic, culture, traditional, religious or spiritual heritage and practices causes them to continue as a discrete and organic community within the larger state or nation. Examples of such communities would include certain Afro-diasporic peoples, such as the Afro-Brazilian communities of Brazil, as well as various Native American groups in the United States whom have been displaced from their native and historic lands. It could also extend to religious groups that retain an ethnic cultural identity, such as Muslim or Jewish communities.

<sup>3</sup> The most notable international expression of indigenous rights is the United Nations Declaration on the Rights of Indigenous Peoples passed in September of 2007. Various translations of this document can be found here: <https://www.ohchr.org/en/indigenous-peoples/un-declaration-rights-indigenous-peoples>.

<sup>4</sup> United Nations Universal Declaration of Human Rights, found at <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

freedom of indigenous peoples to express their traditional beliefs and practices without fear of retribution or discrimination, both within and outside their communities, within the limits of peace and safety, and other compelling state interest applicable to all religious communities and practices.

- 2) **Education and Preservation of Traditions:** In ensuring the right to education for indigenous people, efforts should be made to support the practice and revitalization of indigenous traditions, customs, and languages. In the pursuit of this aim, indigenous peoples should have 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, within the limits of peace and safety and with respect for the non-derogable rights of individuals and, in particular, the rights of the child.<sup>5</sup>
- 3) **Environmental Stewardship and Sacred Sites:** Ensure that public, private, and religious entities respect the environmental stewardship responsibilities of the land of indigenous peoples, and that sacred sites important to religious groups and indigenous peoples not be desecrated or exploited. Promptly investigate and prosecute with full seriousness acts of violence and destruction against indigenous shrines, temples, and other property.
- 4) **Individual freedom of religion for indigenous persons:** The individual right to leave or not to practice an indigenous community's religion should be protected. Individuals should not be coerced into observing traditional beliefs on the basis of their traditional and indigenous group membership, nor should the barriers to exit be so high as to make it reasonably impractical for a person to leave the community's religious practices or beliefs, or that ending the religious involvement would require leaving the indigenous community.
- 5) **Freedom against internal religious oppression and persecution:** As such, indigenous persons or groups should be permitted to dissent from the dominant beliefs or practices within their community's religious tradition, as well as to hold beliefs and engage in practices which do not conform to the dominant norms within that community. In such cases, the existent indigenous religious group should retain autonomy in matters pertaining to qualification for involvement in religious practices,

---

<sup>5</sup> Cf. Convention on the Rights of the Child, 1989.

rituals, and instruction, as well as who can access religious and ritual assets held by the relevant institution.

## **II) Relations between Sovereign States and Indigenous Peoples**

- 1) **Legal Recognition of Rights:** States should provide legal recognition and protection for both religious freedoms and the collective rights of traditional and indigenous peoples. Such protections should prohibit discrimination against individuals based on their religious beliefs or traditional/indigenous and ethnic identity, and provide for the protection of the rights of both individuals and group to exercise their religious beliefs and practices, in a manner consistent with the peace and safety, and other compelling state concerns of other persons and the larger community.
- 2) **Balancing Public and Private Interests:** Legal regimes should balance the interests of public order and secular governance with the private rights of individuals and cultural communities to practice their religion and culture, recognizing that only public interests of the highest order, such as public health, peace, and safety, and other compelling government interest, be allowed to limit a religious practice or conduct.
- 3) **Balance Collective and Individual Rights:** Strive within these legal frameworks to balance collective rights of indigenous peoples with the individual religious freedoms of members within and outside those communities. Such religious freedom involves, according to international standards, the right to hold and practice a religious belief, as well as freedom to change one's religion or religious belief.
- 4) **Foster Mutual Respect:** Strive to foster mutual respect between secular society, religious groups, and indigenous communities, acknowledging the importance and value of each group's beliefs and practices. This can be aided by developing and promoting educational programs that increase awareness and understanding of the value of both religion and religious freedoms as well as indigenous peoples and their rights within the context of a pluralistic community.
- 5) **Be Intentional About Interfaith and Intercultural Cooperation in Policy-Making:** Officials should approach policymaking that will impact religious and indigenous groups with cultural sensitivity and cooperation, understanding the

needs of larger society in the context of both religious and indigenous practices. To this end, both religious and indigenous leaders should be involved in the development of policies that will affect their communities.

- 6) **Monitor Policy Implementation:** Establish platforms for dialogue and mediation to address conflicts that arise between societal policies, religious freedom and indigenous group rights. Work to minimize, and where possible eliminate, the impact of social policies and practices on the religious, cultural, and traditional practices of both religious and indigenous peoples.

### III) International Norms

- 1) **Consistency with International Norms:** Align legal protections with international standards such as relevant United Nations documents, including the Declaration on the Rights of Indigenous Peoples (UNDRIP), the Universal Declaration of Human Rights (UDHR), and other international human rights treaties.
- 2) **Monitoring and Evaluation:** States should regularly monitor and evaluate the implementation of policies and practices to ensure they are effectively balancing the rights of traditional and indigenous peoples and religious freedom, making adjustments as necessary. Monitoring bodies should have representatives from the affected communities, including from relevant religious, traditional and indigenous groups.