

R104 Indigenous and Tribal Populations Recommendation, 1957

Recommendation concerning the Protection and Integration of Indigenous and Other Tribal and Semi-Tribal Populations in Independent Countries

Description:(Recommendation)

Recommendation:R104

Place:Geneva

Session of the Conference:40

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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 a Recommendation, supplementing the Indigenous and Tribal Populations Convention, 1957, and

Noting that the following 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 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 Recommendation, which may be cited as the Indigenous and Tribal Populations Recommendation, 1957:

The Conference recommends that each Member should apply the following provisions:

I. Preliminary Provisions

1.

(1) This Recommendation 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 Recommendation, 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 subparagraphs (1) and (2) of this Paragraph are referred to hereinafter as the populations concerned.

II. Land

2. Legislative or administrative measures should be adopted for the regulation of the conditions, de facto or de jure, in which the populations concerned use the land.

3.

(1) The populations concerned should be assured of a land reserve adequate for the needs of shifting cultivation so long as no better system of cultivation can be introduced.

(2) Pending the attainment of the objectives of a settlement policy for semi-nomadic groups, zones should be established within which the livestock of such groups can graze without hindrance.

4. Members of the populations concerned should receive the same treatment as other members of the national population in relation to the ownership of underground wealth or to preference rights in the development of such wealth.

5.

(1) Save in exceptional circumstances defined by law the direct or indirect lease of lands owned by members of the populations concerned to persons or bodies not belonging to these populations should be restricted.

(2) In cases in which such lease is allowed, arrangements should be made to ensure that the owners will be paid equitable rents. Rents paid in respect of collectively owned land should be used, under appropriate regulations, for the benefit of the group which owns it.

6. The mortgaging of land owned by members of the populations concerned to a person or body not belonging to these populations should be restricted.

7. Appropriate measures should be taken for the elimination of indebtedness among farmers belonging to the populations concerned. Co-operative systems of credit should be organised, and low-interest loans, technical aid and, where appropriate, subsidies, should be extended to these farmers to enable them to develop their lands.

8. Where appropriate, modern methods of co-operative production, supply and marketing should be adapted to the traditional forms of communal ownership and use of land and production implements among the populations concerned and to their traditional systems of community service and mutual aid.

III. Recruitment and Conditions of Employment

9. So long as the populations concerned are not in a position to enjoy the protection granted by law to workers in general, recruitment of workers belonging to these populations should be regulated by providing, in particular, for--

- (a) licensing of private recruiting agents and supervision of their activities;
- (b) safeguards against the disruptive influence of the recruitment of workers on their family and community life, including measures--
 - (i) prohibiting recruitment during specified periods and in specified areas: (ii) enabling workers to maintain contact with, and participate in important tribal activities of, their communities of origin; and
 - (iii) ensuring protection of the dependants of recruited workers;
- (c) fixing the minimum age for recruitment and establishing special conditions for the recruitment of non-adult workers;
- (d) establishing health criteria to be fulfilled by workers at the time of recruitment;
- (e) establishing standards for the transport of recruited workers;
- (f) ensuring that the worker--
 - (i) understands the conditions of his employment, as a result of explanation in his mother tongue;
 - (ii) freely and knowingly accepts the conditions of his employment.

10. So long as the populations concerned are not in a position to enjoy the protection granted by law to workers in general, the wages and the personal liberty of workers belonging to these populations should be protected, in particular, by providing that--

- (a) wages shall normally be paid only in legal tender;
- (b) the payment of any part of wages in the form of alcohol or other spirituous beverages or noxious drugs shall be prohibited;
- (c) the payment of wages in taverns or stores, except in the case of workers employed therein, shall be prohibited;
- (d) the maximum amounts and manner of repayment of advances on wages and the extent to which and conditions under which deductions from wages may be permitted shall be regulated;
- (e) work stores or similar services operated in connection with the undertaking shall be supervised;
- (f) the withholding or confiscation of effects and tools which workers commonly use, on the ground of debt or unfulfilled labour contract, without prior approval of the competent judicial or administrative authority shall be prohibited;

(g) interference with the personal liberty of workers on the ground of debt shall be prohibited.

11. The right to repatriation to the community of origin, at the expense of the recruiter or the employer, should be ensured in all cases where the worker--

(a) becomes incapacitated by sickness or accident during the journey to the place of employment or in the course of employment;

(b) is found on medical examination to be unfit for employment;

(c) is not engaged, after having been sent forward for engagement, for a reason for which he is not responsible;

(d) is found by the competent authority to have been recruited by misrepresentation or mistake.

12.

(1) Measures should be taken to facilitate the adaptation of workers belonging to the populations concerned to the concepts and methods of industrial relations in a modern society.

(2) Where necessary, standard contracts of employment should be drawn up in consultation with representatives of the workers and employers concerned. Such contracts should set out the respective rights and obligations of workers and employers, together with the conditions under which the contracts may be terminated. Adequate measures should be taken to ensure observance of these contracts.

13.

(1) Measures should be adopted, in conformity with the law, to promote the stabilisation of workers and their families in or near employment centres, where such stabilisation is in the interests of the workers and of the economy of the countries concerned.

(2) In applying such measures, special attention should be paid to the problems involved in the adjustment of workers belonging to the populations concerned and their families to the forms of life and work of their new social and economic environment.

14. The migration of workers belonging to the populations concerned should, when considered to be contrary to the interests of the workers and of their communities, be discouraged by measures designed to raise the standards of living in the areas which they traditionally occupy.

15.

(1) Governments should establish public employment services, stationary or mobile, in areas in which workers belonging to the populations concerned are recruited in large numbers.

(2) Such services should, in addition to assisting workers to find employment and assisting employers to find workers--

(a) determine the extent to which manpower shortages existing in other regions of the country could be met by manpower available in areas inhabited by the populations concerned without

social or economic disturbance in these areas;

(b) advise workers and their employers on provisions concerning them contained in laws, regulations and contracts, relating to wages, housing, benefits for employment injuries, transportation and other conditions of employment;

(c) co-operate with the authorities responsible for the enforcement of laws or regulations ensuring the protection of the populations concerned and, where necessary, be entrusted with responsibility for the control of procedures connected with the recruitment and conditions of employment of workers belonging to these populations.

IV. Vocational Training

16. Programmes for the vocational training of the populations concerned should include provision for the training of members of these populations as instructors. Instructors should be conversant with such techniques, including where possible an understanding of anthropological and psychological factors, as would enable them to adapt their teaching to the particular conditions and needs of these populations.

17. the vocational training of members of the populations concerned should, as far as practicable, be carried out near the place where they live or in the place where they work.

18. During the early stages of integration this training should be given, as far as possible, in the vernacular language of the group concerned.

19. Programmes for the vocational training of the populations concerned should be co-ordinated with measures of assistance enabling independent workers to acquire the necessary materials and equipment and assisting wage earners in finding employment appropriate to their qualifications.

20. Programmes and methods of vocational training for the populations concerned should be co-ordinated with programmes and methods of fundamental education.

21. During the period of vocational training of members of the populations concerned, they should be given all possible assistance to enable them to take advantage of the facilities provided, including, where feasible, scholarships.

V. Handicrafts and Rural Industries

22. Programmes for the promotion of handicrafts and rural industries among the populations concerned should, in particular, aim at--

(a) improving techniques and methods of work as well as working conditions;

(b) developing all aspects of production and marketing, including credit facilities, protection against monopoly controls and against exploitation by middlemen, provision of raw materials at equitable prices, establishment of standards of craftsmanship, and protection of designs and of special aesthetic features of products; and

(c) encouraging the formation of co-operatives.

VI. Social Security and Measures of Assistance

23. The extension of social security schemes to workers belonging to the populations concerned should be preceded or accompanied, as conditions may require, by measures to improve their general social and economic conditions.

24. In the case of independent primary producers provision should be made for--

- (a) instruction in modern methods of farming;
- (b) supply of equipment, for example implements, stocks, seeds; and
- (c) protection against the loss of livelihood resulting from natural hazards to crops or stock.

VII. Health

25. The populations concerned should be encouraged to organise in their communities local health boards or committees to look after the health of their members. The formation of these bodies should be accompanied by a suitable educational effort to ensure that full advantage is taken of them.

26.

(1) Special facilities should be provided for the training of members of the populations concerned as auxiliary health workers and professional medical and sanitary personnel, where these members are not in a position to acquire such training through the ordinary facilities of the country.

(2) Care should be taken to ensure that the provision of special facilities does not have the effect of depriving members of the populations concerned of the opportunity to obtain their training through the ordinary facilities.

27. The professional health personnel working among the populations concerned should have training in anthropological and psychological techniques which will enable them to adapt their work to the cultural characteristics of these populations.

VIII. Education

28. Scientific research should be organised and financed with a view to determining the most appropriate methods for the teaching of reading and writing to the children belonging to the populations concerned and for the utilisation of the mother tongue or the vernacular language as a vehicle of instruction.

29. Teachers working among the populations concerned should have training in anthropological and psychological techniques which will enable them to adapt their work to the cultural characteristics of these populations. These teachers should, as far as possible, be recruited from among such populations.

30. Pre-vocational instruction, with emphasis on the teaching of subjects relating to agriculture, handicrafts, rural industries and home economics, should be introduced in the programmes of

primary education intended for the populations concerned.

31. Elementary health instruction should be included in the programmes of primary education intended for the populations concerned.

32. The primary education of the populations concerned should be supplemented, as far as possible, by campaigns of fundamental education. These campaigns should be designed to help children and adults to understand the problems of their environment and their rights and duties as citizens and individuals, thereby enabling them to participate more effectively in the economic and social progress of their community.

IX. Languages and Other Means of Communication

33. Where appropriate the integration of the populations concerned should be facilitated by--

- (a) enriching the technical and juridical vocabulary of their vernacular languages and dialects;
- (b) establishing alphabets for the writing of these languages and dialects;
- (c) publishing in these languages and dialects readers adapted to the educational and cultural level of the populations concerned; and
- (d) publishing bilingual dictionaries.

34. Methods of audio-visual communication should be employed as means of information among the populations concerned.

X. Tribal Groups in Frontier Zones

35.

(1) Where appropriate and practicable, intergovernmental action should be taken, by means of agreements between the governments concerned, to protect semi-nomadic tribal groups whose traditional territories lie across international boundaries.

(2) Such action should aim in particular at--

- (a) ensuring that members of these groups who work in another country receive fair wages in accordance with the standards in operation in the region of employment;
- (b) assisting these workers to improve their conditions of life without discrimination on account of their nationality or of their semi-nomadic character.

XI. Administration

36. Administrative arrangements should be made, either through government agencies specially created for the purpose or through appropriate co-ordination of the activities of other government agencies, for--

- (a) ensuring enforcement of legislative and administrative provisions for the protection and integration of the populations concerned;

- (b) ensuring effective possession of land and use of other natural resources by members of these populations;
- (c) administering the property and income of these populations when necessary in their interests;
- (d) providing free legal aid for the members of the populations concerned that may need legal aid but cannot afford it;
- (e) establishing and maintaining educational and health services for the populations concerned;
- (f) promoting research designed to facilitate understanding of the way of life of such populations and of the process of their integration into the national community;
- (g) preventing the exploitation of workers belonging to the populations concerned on account of their unfamiliarity with the industrial environment to which they are introduced;
- (h) where appropriate, supervising and co-ordinating, within the framework of the programmes of protection and integration, the activities, whether philanthropic or profit-making, carried out by individuals and corporate bodies, public or private, in regions inhabited by the populations concerned.

37.

(1) National agencies specifically responsible for the protection and integration of the populations concerned should be provided with regional centres, situated in areas where these populations are numerous.

(2) These agencies should be staffed by officials selected and trained for the special tasks they have to perform. As far as possible, these officials should be recruited from among the members of the populations concerned.