



AMPB
MESOAMERICAN
ALLIANCE OF FOREST
AND PEOPLE



**Global
Alliance**
of Territorial
Communities

Local Communities from the Mesoamerican Perspective

Who are we, what are we, and what
rights do we have?

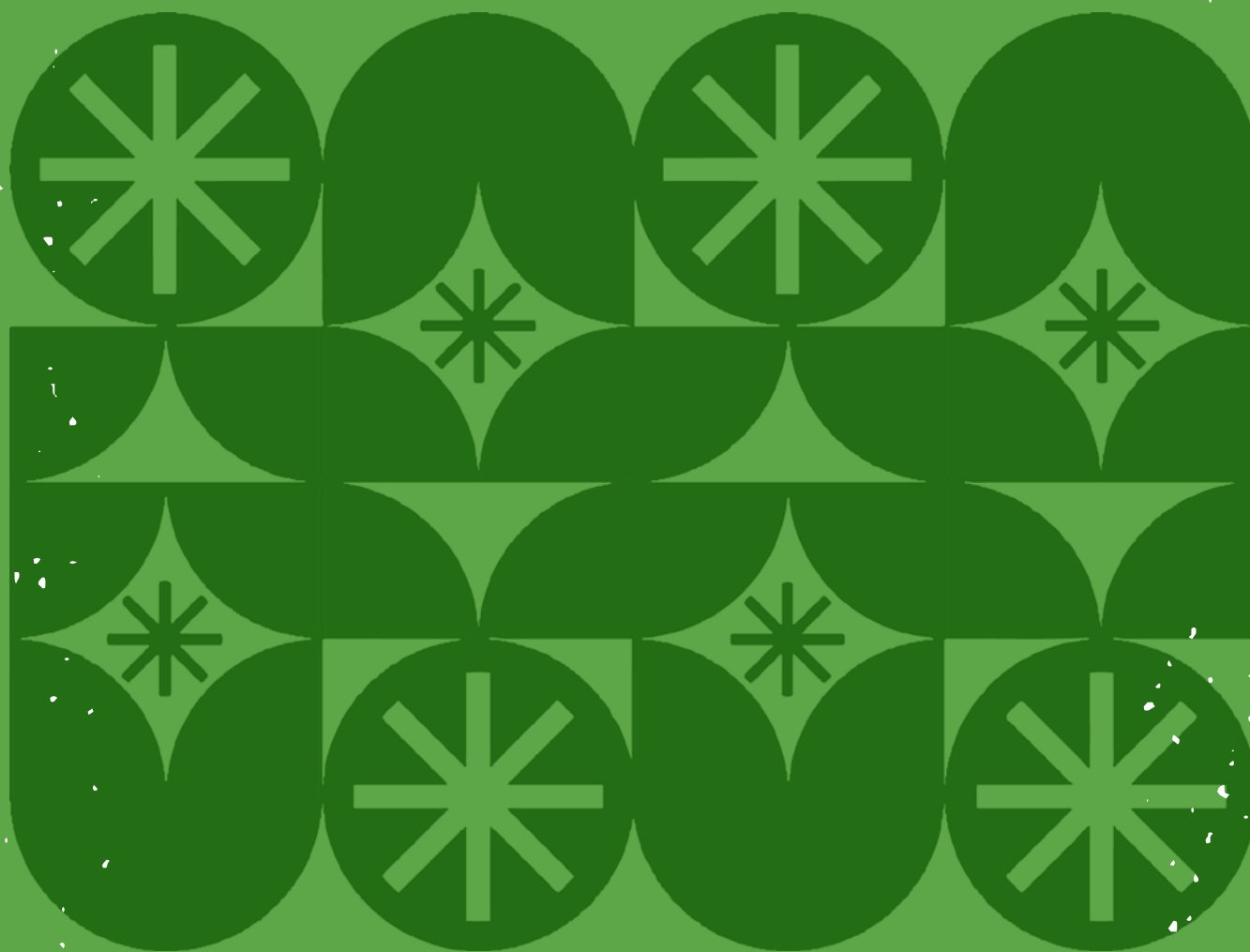


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Introduction

The Mesoamerican Alliance of Peoples and Forests (AMPB) is an alliance between territorial authorities of Indigenous Peoples and Local Communities¹ that manage or influence the main forest areas of Mesoamerica. Some of our member organizations are constituted by Indigenous Peoples, others are Local Communities, and some are constituted by both Indigenous Peoples and Local Communities. In our Alliance, we recognize and respect our own identity and that of others, and we are united in common goals and solidarity in the face of challenges and risks that affect us all.

Our organizations have agreed to promote five common lines of work: Recognition of Territorial Rights; Free, Prior, and Informed Consultation and Consent; Access to Direct Territorial Financing; an End to Criminalization; and Respect for our Culture and Rights.

In this regard, the identification and scope of the rights of Local Communities is an issue that interests our organizations and has generated increasing discussion and interest, including at the international level and in biodiversity and climate change processes.

Therefore, since 2019², the AMPB has been working on this issue from the ground up and in a joint effort with other organizations in Latin America and, more recently, with organizations in Asia and Africa. The purpose is to promote, from within our own representative organizations, a process of recognition and exercise of the rights of Local Communities at the global level, to agree on the general lines of a work plan for the future, and to strengthen our networks and ties of solidarity with other actors, including Indigenous Peoples.

This report reflects the analysis, discussions, and decisions we have made together with sister organizations throughout this process, and presents a proposal to strengthen the criteria we have developed for the identification and self-identification of Local Communities as subjects of rights in the international arena.

¹In this report, we capitalize the initial letters of Local Communities to refer to groups of rights holders enshrined in international instruments, as distinct from the wide range of communities characterized by their religious faith, social status, geographical location, or other factors, which are commonly referred to as local communities in everyday language.

²In June 2019, Red MOCAF was invited to participate in a workshop organized by the Platform of Local Communities and Indigenous Peoples in a panel on the 'concept' of Local Communities (see more information [here](#)) ←



*Photo: INUTW



The presentation of this report is not the conclusion of a process, but rather a stage in which one of the possibilities is the establishment of an International Caucus or Council of Local Communities on Climate Change. Hence, it is an invitation to other Local Communities and their allies to join and contribute perspectives and inputs from their realities, emphasizing that any debate on the relevance and specificities of such identification criteria must take place in consultation and with the full participation of representatives of Local Communities.

The report is structured as follows:



*Photo: INUTW

1. Introduction to the AMPB, its background, objectives, and lines of work.
2. A brief description of the members of the AMPB and the situations that unite them.
3. A brief description of the characteristics and values of the Local Communities that make up the AMPB.
4. An analysis of the challenges associated with the identification and recognition of the rights of Local Communities at the international level.
5. A brief description of the international regulations applicable to Local Communities in terms of the environment and human rights.
6. Examples of the recognition of the rights of Local Communities in national legislations.
7. Analysis of the need and methodology for developing criteria for identifying Local Communities.
8. The AMPB's proposal for criteria for identifying Local Communities.



In addition, the annexes provide additional information that allows for a more in-depth examination of the following aspects:

Annex A: Summary of the environmental rights of Local Communities.

Annex B: Key provisions of the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas.

Annex C: Main differences between the rights of Indigenous Peoples and those of Local Communities.

It is our expectation that this report will serve to advance the recognition of Local Communities and that their rights will be enshrined in international instruments.



**Photo: INUTW*

1. Introduction to the Mesoamerican Alliance of Peoples and Forests

The Mesoamerican Alliance of Peoples and Forests (AMPB) was created in response to the need felt by Mesoamerican Indigenous Peoples and Local Communities for a political space in which to develop their ideas and proposals on issues of common interest. The agreement to create the AMPB dates back to 2010, and the platform is made up of 10 organizations³ from six different countries: Mexico, Guatemala, Honduras, Nicaragua, Costa Rica, and Panama.

AMPB is a platform and space for coordination and exchange among the territorial authorities that manage or influence the main forest areas of Mesoamerica. The Alliance includes Indigenous Peoples and Local Communities that manage their natural resources communally and face the same threats to their forests and collective lands and to the lives of their authorities. The AMPB seeks to jointly influence governments and international cooperation so that biodiversity conservation and climate change strategies appropriately integrate the rights and benefits of Indigenous Peoples and Local Communities.

The AMPB has developed a series of programs and projects for forest conservation, community forest management, and sustainable development. These include initiatives to improve community forest management, training and education programs on forestry and human rights issues, and economic development projects based on the sustainable use of forest resources.

Among other areas, the AMPB seeks to influence:

- Community Forest Management and Conservation ,and
- Territorial Rights.

Both areas are based on global frameworks for human rights, sustainable development, biodiversity conservation, and the fight against climate change. As a platform, the AMPB has made significant progress in protecting forests and promoting the participation of peoples and communities in different national, regional, and international political arenas.

³The members of the AMPB are: the Mexican Network of Peasant Forestry Organizations (Red MOCACF), the Association of Forest Communities of Petén (ACOFOP), the National Alliance of Community Forestry Organizations of Guatemala (Alianza OFC Guatemala), the Association of Community Forestry of Guatemala Utz Che', the Federation of Agroforestry Producers of Honduras (FEPROAH), MASTA, Inhwanka Raya, the Bribri-Cabecar Indigenous Network (RIBCA), the Guna General Congress, and the Emberá-Wounaan Comarca.





2. The members of the Mesoamerican Alliance of Peoples and Forests

The members of the AMPB have distinct identities, clearly identifying them as Indigenous Peoples or Local Communities.

Local Communities are communal groups made up of farmers, peasants, fishermen, and foresters who have spent centuries caring for, protecting, and living in harmony with their territory. They see themselves, or identify themselves, as collectives of people who live together and manage a territory, with a common history and culture, and with community principles and norms that regulate them. They point out that identifying as Local Communities means that they have a connection to the local and internal work they do in the territories. In many cases, members of Local Communities assume and recognize their Indigenous roots.



*Photo: INUTW

Indigenous Peoples are descendants of peoples who inhabited the Mesoamerican region before the conquest, colonization, and establishment of current state borders. They have their own social, economic, cultural, and political institutions. Therefore, they self-identify—and are recognized—as Peoples and as Indigenous.



*Photo: INUTW



Despite this fundamental difference in identity between Indigenous Peoples and Local Communities, the members of the AMPB have many similarities, and all share the following characteristics:

- They are territorial authorities that manage and/or use their natural resources in a sustainable manner.
- They exercise local governance guided by knowledge and practices inherited from their ancestors and/or passed down from previous generations who cared for Mother Earth and nature over time.
- They collectively manage and administer their forest areas and communal territories based on traditional knowledge.
- They have legal and customary norms and management tools to manage territorial governance within their jurisdictions.
- They are historical organizations with recognized institutional practices and elect their authorities periodically in democratic communal assemblies.

Similarly, the Indigenous Peoples and Local Communities organizations that make up the AMPB have realized that not only do they share many objectives, but in many cases they coexist in the same territories and face similar challenges and threats, which they can better address together, for example, to influence public policies and projects in their territories and to confront extractive projects such as mining.





3. Characteristics and values of Local Communities in Mesoamerica

For the region, the term “Local Communities” encompasses and integrates the work, efforts, and self-organization of the locality. It is the daily experience of groups that pursue the common good for their members, their surroundings, and the environment. The Local Communities that are members of the AMPB have identified the following shared characteristics and values:

Common characteristics:

We are collectives made up of women and men who manage traditional territories in a sustainable manner over time; we therefore share a history and culture, work on community projects, and have our own forms of governance and representation.



*Foto: INUTW



Shared values:

- We aim to maintain and strengthen territorial control and the development of our communities.
- Our forms of governance are based on the collective management of the territory, which determines the obligations and rights of community members.
- Our members self-identify with the community and are recognized by it.
- We conserve and protect biodiversity and restore ecosystems, making sustainable use and management of land and natural resources, and we pass on this knowledge and these practices to our children.
- We respect and promote the human rights of all, including the rights of women, children, youth, the elderly, and people with disabilities within our communities, as well as the rights of Indigenous Peoples.
- When we migrate, we try to maintain our connection to the land through various means, such as preserving our culture, managing resources, and sending remittances.

These characteristics and values have been fundamental in the development of a proposal for Criteria for Identification and Self-Identification of Local Communities in conjunction with other organizations from other regions of the world.



*Photos: INUTW



4. Challenges in the identification and recognition of Local Communities



*Foto: INUTW

All human beings are entitled to rights under the Universal Declaration of Human Rights and other universally applicable human rights instruments. These instruments establish that all human beings are born free and equal in dignity and rights and that we are all entitled to all universal human rights, without distinction of race, color, sex, language, religion, political opinion, or any other distinction.

However, over the decades, international law has evolved to improve the protection of the rights of certain groups of rights-holders. As a result, complementary instruments have been developed that contextualize universal human rights to the specific situation of women, children, persons with disabilities, and Indigenous Peoples, among others. The aim is to specify the special considerations and measures that may be necessary for these rights-holders to overcome current patterns of discrimination and enjoy the full range of universal human rights.



Indigenous Peoples constitute a specific group of rights-holders recognized in international law. The scope of the rights of Indigenous Peoples is codified in instruments such as the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and ILO Convention No. 169.

It should be noted that ILO Convention No. 169 also applies to “tribal peoples.” The Convention recognizes tribal peoples as distinct peoples, and the set of rights enshrined in the Convention applies equally to both Indigenous Peoples and tribal peoples⁴.

Many countries have revised their constitutions and/or national legislation to incorporate the rights of Indigenous Peoples into national law.

In contrast, “**Local Communities**” is a term that is mainly reflected in national legislations and in international instruments and policies for the protection of biodiversity and the fight against climate change. There is no international human rights instrument that refers exclusively to Local Communities, but they are listed as one of the groups mentioned in the **United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas (UNDROP)**.

Therefore, at the international level, there are two major challenges associated with the term “Local Communities”:



*Photo: INUTW

- To date, there are no agreed-upon international criteria for identifying Local Communities, and there are different interpretations of the term.
- There is still no international human rights instrument that exclusively addresses the situation of Local Communities and the scope of their rights.
- To date, the situation of Local Communities has not been comprehensively analyzed in the context of generally applicable human rights instruments.

⁴Article 1.1 of ILO Convention No. 169 establishes the criteria for identifying tribal peoples, stipulating that they are “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”. As in the case of Indigenous Peoples, self-identification is considered a fundamental criterion. Several Afro-descendant peoples in Latin America are recognized as “tribal peoples” under Convention No. 169 (Garifuna and Quilombos, among others). It can be assumed that some local communities would self-identify as “tribal peoples” in the context of the Convention if they were made aware of the term and the related identification criteria and implications, particularly in countries that have ratified the Convention.



*Photo: INUTW

This has given rise to both conceptual and practical challenges and risks:

- It is difficult to promote the rights of Local Communities in international agreements and policies if the legitimate holders of those rights are not identified and if the scope of those rights is not clarified and understood by those who have an obligation to protect them (primarily governments).
- The term “Local Communities” is sometimes confused with other terms such as Indigenous Peoples, tribal peoples, minorities, vulnerable groups, Afro-descendants, among others. This confusion blurs the distinct identities and sets of rights that correspond to these different groups.
- The term “local communities” is polysemic, meaning it can have different meanings and connotations depending on the context in which it is used.
- Sometimes, either through confusion or intentionally, these communities are stigmatized by associating the term “Local Communities” with individuals or groups that invade Indigenous territories.



*Photo: INUTW



5. Local Communities in international environmental and human rights instruments

In the context of international instruments, the rights of Local Communities include:

Environmental rights recognized in various multilateral environmental agreements in favor of Local Communities, which consist mainly of rights of participation and the right to respect and protection of their knowledge, innovations, and practices.

Human rights, both individual and collective, as articulated in the Universal Declaration of Human Rights and other universally applicable instruments and, in particular, in the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas (UNDROP).

5.1 International environmental instruments

The category of “Local Communities” was introduced in the 1992 **Rio Declaration on Environment and Development**, which states that:

*“Indigenous people and their communities, **as well as other local communities**, have a vital role in environmental management and development because of their knowledge and traditional practices. States should recognize and duly support their identity, culture, and interests and enable their effective participation in the achievement of sustainable development”* (Rio Declaration, Principle 22, emphasis added).





The expression “other local communities” suggests that, from the outset, Local Communities were considered distinct from Indigenous Peoples. However, these Local Communities, like Indigenous Peoples, were considered to play a vital role in environmental management and development due to their traditional knowledge and practices.

Furthermore, Agenda 21, also from 1992, which constitutes the operational plan of the Rio Declaration on Environment and Development, includes the term “local communities” 48 times in its main text, not including footnotes and other comments. This shows that the recognition of the importance of communities other than Indigenous Peoples since the origin of the United Nations conventions on the environment, is unquestionable and in no way a drafting error, as claimed in some narratives.

Similarly, the term ‘local communities’ was included in the 1992 **Convention on Biological Diversity (CBD)** to refer to traditional communities that are closely dependent on biological resources and therefore possess traditional knowledge, innovations, and practices relevant to the conservation of biological diversity and the sustainable use of its components⁵.

Specifically, **Article 8(j) of the CBD** stipulates that States Parties “shall respect, preserve and maintain knowledge, innovations, and practices of indigenous peoples and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application, with the approval and involvement of the holders of such knowledge, innovations, and practices, and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations, and practices.”

⁵See the preamble.



The emphasis on “local communities embodying traditional lifestyles” means that the Convention covers Local Communities that have a long association with the lands and natural resources where they have traditionally lived or used. Because of this long association and dependence, they have accumulated knowledge, innovations, and practices relating to the sustainable management and development of their territories, including useful environmental knowledge⁶. Therefore, these Local Communities share some similarities with Indigenous Peoples, who have developed traditional knowledge and subsistence practices in their traditional territories.

There are also references to Local Communities in other instruments of international environmental law, such as the 1992 **Convention to Combat Desertification**⁷, the **Paris Agreement on Climate Change**⁸ and the **Cancun Safeguards** for REDD+ actions⁸.

The **Kunming-Montreal Global Biodiversity Framework**, adopted in 2022, recognizes the important roles and contributions of both Indigenous Peoples and Local Communities as custodians of biodiversity and as partners in its conservation, restoration, and sustainable use.

The recent **Agreement under the United Nations Convention on the Law of the Sea relating to the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (BBNJ Agreement)** also refers to both Indigenous Peoples and Local Communities who possess traditional knowledge associated with marine genetic resources.¹⁰

Hence, multilateral environmental agreements, especially those relating to the protection of biodiversity, often contain provisions that refer to and apply equally to Indigenous Peoples and Local Communities.

Annex A provides further details on the rights of Local Communities in international environmental instruments.

⁶The Concept of Local Communities – Background paper prepared by the Secretariat of the Permanent Forum on Indigenous Issues for the Expert Workshop on the Disaggregation of Data, PFI/2004/WS.1/3/Add.1, available [here](#).[←]

⁷See Article 3, which requires the participation of Local Communities in decision-making on programs

⁸See the preamble, which states that Parties, when taking measures to address climate change, must respect, promote, and consider their respective human rights obligations, including the rights of local communities.

⁹The safeguards require (c) Respect for the knowledge and rights of indigenous peoples and members of local communities, (d) Full and effective participation of relevant stakeholders, in particular indigenous peoples and local communities.

¹⁰See Article 13.



*Photo: ACOFOP

5.2 Human rights instruments

The rights of Local Communities in universal human rights instruments:

Universal human rights as set out in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights are fully applicable to members of Local Communities. These include fundamental rights such as the right to life, culture, adequate food, property, and a clean, healthy, and sustainable environment, among others.

International and regional mechanisms for monitoring these human rights play an important role in overseeing the realization of these rights and clarifying their scope, including through general observations. These mechanisms have often referred to “local communities,” but in most cases, they have used the term in its generic sense, understood as “local residents.” However, there are exceptions where the mechanisms clearly use the term with reference to specific Local Communities, as contemplated in international law. For example, the Special Rapporteur on human rights and the environment, in his report on Botswana, states that:

*“If renewable energy projects are to be built on the territory of Indigenous Peoples and **local communities**, their right to free, prior, and informed consent must be respected from the outset of the planning processes” (A/HRC/55/43/ADD.2, 2023, para. 38, emphasis added).*



*Photo: ACOFOP



*Photo: FTM-AMPB



*Photo: FTM-AMPB



Similarly, the Committee on Economic, Social and Cultural Rights, in its General Comment No. 26 (2022) on land rights and economic, social and cultural rights, states that:

*"[...] land is closely and often intrinsically linked to the enjoyment of the right to participate in cultural life owing to the particular spiritual or religious significance of land to many communities, for example, when land serves as the basis for social, cultural, and religious practices or the expression of cultural identity. This is particularly the case for Indigenous Peoples and for peasants and **other local communities living traditional lifestyles**" (paragraph 10, emphasis added).*

"Where the State owns or controls land, it should ensure that the legitimate land tenure rights of individuals and communities, even within customary tenure systems, are recognized and respected. Collective systems of use and management of land, be they traditional systems, cooperatives, or other forms of common management, should be identified, recognized, and registered. Policies aimed at granting tenure rights of publicly owned land to landless peasants should follow broad social and environmental objectives in accordance with human rights obligations. Local communities that have traditionally used the land should be prioritized in the reallocation of tenure rights" (paragraph 25, emphasis added).





Although the process is still in its infancy, it can be concluded that the term Local Communities is an emerging human rights term, which is increasingly used and mentioned in the work of international human rights mechanisms.

The rights of Local Communities in the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas:

In international human rights law, the concept of Local Communities, as used in the environmental instruments mentioned above, is only found in the **United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas** (UNDROP), which was adopted by the United Nations General Assembly in 2018.

UNDROP applies to “peasants and other people working in rural areas,” including “small-scale fishers and fish workers, pastoralists, foresters, and other local communities” (UNDROP, preamble). Article 1 of UNDROP defines the scope of application in more detail and, in paragraph 3, expressly states that the Declaration also applies to Local Communities.



*Photo: FTM-AMPB

Article 1.3 of UNDROP: *The present Declaration also applies to indigenous peoples and local communities working on the land, transhumant, nomadic, and semi-nomadic communities, and the landless, engaged in the above-mentioned activities.* comunidad, los sujetos It is





important to note that since UNDROP focuses on small-scale agriculture and related activities carried out either individually or as a community, the rights-holders it covers may have different identities, such as Indigenous Peoples, Local Communities, or Peoples of African Descent. In other words, it is not an instrument with a single-group perspective.

In its first report to the UN Human Rights Council, the *Working Group on the rights of peasants and other people working in rural areas* has specified that the scope of UNDROP covers those individuals and communities who work the land for subsistence and/or for the market and who: a) rely significantly, although not necessarily exclusively, on family or household labor or other non-monetized forms of organizing work; and b) have a special dependence on and attachment to the land (see A/HRC/51/57, paragraph 37).

The report also emphasizes that these individuals and communities have been subjected to severe forms of discrimination and social, economic, and political exclusion, which have undermined their equal and effective enjoyment of human rights and denied them the opportunity to secure sustainable and dignified livelihoods (paragraph 43).

A comprehensive reading of the text of UNDROP allows for the identification of other elements specific to these communities, in particular that they have: customary





and community-based systems of land and natural resource management and use; their own culture, including traditional knowledge and practices associated with land and natural resource management and use; their own ways of life, production methods or technology, customs, and traditions.

UNDROP articulates all universal human rights (civil, political, economic, social, and cultural) in the context and specific realities of peasants and other people working in rural areas, including Local Communities. It is based on the recognition that there is a need for greater protection of their human rights and for a consistent interpretation and application of existing international human rights norms and standards in this area.

At the core of UNDROP are the provisions on land and natural resources. These provisions cover aspects related to participation and consultation prior to the adoption of decisions that may affect peasants and their communities, as well as aspects related to the recognition of tenure rights.

Annex B provides further details on the rights of Local Communities in UNDROP.

Annex C explains the main differences between the international rights of Indigenous Peoples and the recognized international rights of Local Communities.



*Photo: FTM-AMPB





6. Local Communities in National Legislation

Although there is no specific international instrument on the rights of Local Communities, many countries recognize community rights in their constitutions and national legislation. No in-depth analysis of the recognition of the rights of Local Communities in national legislation has yet been carried out. This is a pending task, which could possibly inspire discussion processes at the international level. However, a few examples suffice to show that, in several countries in different regions, states have seen the need to combat discrimination against Local Communities and codify their rights in national legislation.

For example, Article 260 of the **Kenyan Constitution** considers **marginalized** communities that, due to past, present, or contemporary laws or practices, have been or are disadvantaged by discrimination. These include:

- * Numerically small communities that have been unable to participate fully in social and economic life;
- * Traditional communities that, out of necessity or desire to preserve their unique cultures and identities from assimilation, have remained on the margins of social and economic life;
- * Indigenous communities that have preserved and maintained traditional lifestyles and livelihoods based on a hunting and gathering economy;
- * Pastoral, nomadic, or sedentary communities that, due to their relative geographical isolation, have only participated marginally in social and economic life.¹¹

In the case of **Mexico**¹², the Constitution affirms the rights of Indigenous Peoples and “equivalent communities.” Article 2 of the Mexican Constitution recognizes the multicultural composition of the nation, originally based on its indigenous peoples, and affirms that: *“Communities that form a social, economic, and cultural unit, settled in a territory and recognizing their own authorities in accordance with their normative systems, are members of an indigenous people”*¹³.

¹¹See Article 260 of the Kenyan Constitution [here](#). ←

¹²In the following, all quotes of legislation and policies from Mexico, Honduras, Brazil and Guatemala are translated from the original languages into English. References are provided to the texts in the original languages.

¹³Article 2 of the Political Constitution of the United Mexican States, accessible [here](#). ←





Article 2 of the Constitution establishes the right of Indigenous Peoples and communities to self-determination and autonomy, and to a series of rights associated with these general rights, such as institutions of self-government, languages, lands, and natural resources, among others.

Furthermore, subsection B of Article 2 of the Constitution specifies that: *“Without prejudice to the rights established herein in favor of indigenous peoples, their communities, and peoples, any **community comparable to them** shall have the same rights as established by law¹⁴”* (emphasis added).

With this, the Mexican Constitution adopts an inclusive approach to address communities that share comparable characteristics with Indigenous Peoples but do not have an established descent from pre-colonial peoples. The term “comparable community” indicates a firm intention to overcome discrimination against these communities and ensure that they can maintain their social, economic, and cultural identity, their territories, and their authorities.

Likewise, the **General Law on Sustainable Forest Development** stipulates that: *“Legal and policy instruments to regulate and promote the conservation, improvement, and development of forest resources must guarantee respect for the safeguards recognized by international law, as well as the following:*

I. Free, prior, and informed consent of ejidos, **communities**, and indigenous and Afro-Mexican peoples and communities; [...]

VII. Recognition of and respect for the forms of internal organization and self-determination of indigenous and Afro-Mexican peoples and communities and **comparable communities**, and

VIII. Recognition and respect for the traditional cultural practices of **local communities** and indigenous and Afro-Mexican peoples and communities”¹⁵

¹⁴Ibid. ←

¹⁵Emphasis added. See the General Law on Sustainable Forest Development [here](#). ←



With this, the Law recognizes the key role of Local Communities in the conservation, improvement, and development of forest resources and grants them rights equal to those of Indigenous Peoples in this context.

An important case is **Brazil**, Decree No. 6040 of February 7, 2007, which establishes the National Policy for the Sustainable Development of Traditional Peoples and Communities¹⁶.

Article 3 of the decree in question states that the following definitions apply:

I – Traditional peoples and communities: culturally distinct groups that recognize themselves as such, that have their own forms of social organization, that occupy and use territories and natural resources as a condition for their cultural, social, religious, ancestral, and economic reproduction, using knowledge, innovations, and practices generated and transmitted by tradition;

II – Traditional territories: the spaces necessary for the cultural, social, and economic reproduction of traditional peoples and communities, whether for permanent or temporary use, observing, with respect to indigenous peoples and quilombolas, respectively, the provisions of Articles 231 of the Constitution and 68 of the Law on Transitional Constitutional Provisions and other regulations;”

Honduras provides an example of a sectoral law that recognizes the rights of forest communities in the Forestry, Protected Areas, and Wildlife Law (Decree No. 156-2007). In Article 126, the Law establishes *“the Social Forestry System as the mechanism for including communities living in or near national forest areas in activities related to protection, management, afforestation, harvesting, processing, and marketing”*¹⁷. Article 129 of the same Law recognizes the preferential right of communities organized and accredited by the National Institute for Forest Conservation and Development, Protected Areas and Wildlife to sign community forest management contracts. In addition, it provides legal certainty, including land tenure when the areas assigned are designated for national forestry.

¹⁶See Decree No. 6040 [here](#). ←

¹⁷Emphasis added. The Forestry, Protected Areas, and Wildlife Law is available [here](#). ←

In **Guatemala**, Article 67 of the Constitution stipulates that: *“The lands of cooperatives, indigenous communities, **or any other forms of communal or collective tenure of agricultural property**, as well as family heritage and popular housing, shall enjoy special protection from the State, credit assistance, and preferential technical assistance, which shall guarantee their possession and development, in order to ensure a better quality of life for all inhabitants. Indigenous communities and others that have lands that historically belong to them and that they have traditionally administered in a special way shall maintain that system.”¹⁸*

In the national judicial system, Article 67 of the Constitution has been widely used in the defense of rights relating to land administration, the defense of criminalized river and land defenders, and the right to organize, among others.

Likewise, the Land Fund Law (Decree 24-99) seeks to formalize the tenure of lands that have been traditionally occupied by communities, whether indigenous or non-indigenous.

As can be seen, the recognition of the rights of Local Communities in national legislation represents a wealth of considerations and experiences that serve to inform processes and arguments at the international level. Therefore, systematizing the elements of national legislation relevant to the rights of Local Communities will be a priority for the future.



*Photo: ACOFOP

¹⁸Emphasis added. The Political Constitution of the Republic of Guatemala is available [here](#). ←



7. Criteria for identifying Local Communities

7.1 The need to establish criteria for identifying Local Communities as rights holders

There are still no internationally agreed criteria for identifying Local Communities as considered in international environmental instruments and in the UNDROP. The challenge of identifying these Local Communities in a constructive manner, in order to promote and realize their rights, has two aspects:

- Distinguishing the specific use of the term 'Local Communities' as considered in international instruments from the everyday use of the term 'local communities' with reference to a wide range of communities characterized, for example, by their religious faith, neighborhood, geographical area, social status, or others. The term 'local communities' used in everyday language does not imply recognition of rights in international environmental instruments or in UNDROP.
- Distinguish between Local Communities, recognized in international instruments, and other groups recognized as rights-holders in other instruments of international law (such as Indigenous Peoples, tribal peoples, minorities, etc.).

The distinction between generic "local communities" and specific Local Communities considered in international instruments is important, since only Local Communities with certain specific characteristics are considered rights-holders in these instruments.

Likewise, the distinction between Local Communities and other groups of rights-holders is of utmost importance in understanding the scope of the rights of different rights-holders, and holding duty-bearers (mainly States) accountable, and developing strategies for the realization of those rights.



*Photo: ACOFOP



This table shows some examples of the relationship between terms, characteristics, and applicable rights:

Term	Characteristics	Applicable rights
"local communities" as a generic term used in everyday language	None	Universal human rights, enshrined in universally applicable instruments.
"Local Communities" as a specific term, related to international environmental instruments and UNDROP	Traditional knowledge and practices; traditional lifestyles relevant to the conservation and sustainable use of biological diversity, among others. Self-identification as Local Communities	• Universal human rights, enshrined in universally applicable instruments. • Human rights, enshrined in UNDROP. • Environmental rights enshrined in CBD, BBNJ Agreement, etc.
Indigenous Peoples	• Pre-colonial presence • Distinct social, economic, cultural, and political institutions • Self-identification as Indigenous Peoples	• Universal human rights, enshrined in universally applicable instruments. • Specific human rights, enshrined in UNDRIP and Convention No. 169 • Environmental rights enshrined in the CBD, BBNJ Agreement, etc.
Tribal peoples	• Social, cultural, and economic conditions that distinguish them from other sectors of the national community. • Status that is regulated wholly or partly by their own customs or traditions or by special laws or regulations. • Self-identification as tribal peoples	• Universal human rights, enshrined in universally applicable instruments. • Specific human rights, enshrined in Convention No. 169



7.2 Our path to agreeing on identification criteria

In recent years, the AMPB has played a key role in exchanges and debates between organizations that self-identify as Local Communities, with a particular focus on the characteristics and similarities that identify them.

In November 2019, Red MOCAF, one of our partner organizations, participated in a Thematic Workshop within the Session: Improving the participation of Local Communities, in addition to Indigenous Peoples, in the Platform for Local Communities and Indigenous Peoples. This session was convened by the UNFCCC Platform for Local Communities and Indigenous Peoples. During the event it became clear that one of the challenges for organizations representing this sector is the lack of clear criteria for the identification and self-identification of Local Communities.

This led to a discussion with other organizations, and one of the conclusions was that we could add contributions from other actors, but that leadership in developing criteria for the identification and self-identification of Local Communities should come from the Communities themselves and their representative organizations.

This process has given rise to a proposal to develop **criteria for identifying Local Communities**, with a view to raising awareness and recognizing their rights, developing effective advocacy strategies, holding rights guarantors accountable, and strengthening alliances and bonds of solidarity with other groups of rights holders.

The discussion on identification and self-identification criteria required numerous working sessions and meetings, both in person and virtual, and one of its greatest advances took place at the **Latin American Regional Meeting: Local Communities Facing Climate Change**¹⁹, held on October 1 and 2, 2020, with the participation of organizations from Brazil, Chile, Colombia, Guatemala, Honduras, and Mexico, as well as experts on the rights agenda from academia in Mexico and Colombia, officials from the Mexican government and the United Nations system pertaining to the Climate Change Convention and the Convention on Biological Diversity. Representatives of Indigenous Peoples from various countries were also present to express their solidarity.

At this meeting, participants agreed that the purpose was to influence multilateral spaces at the national and local levels so that legal, regulatory, and promotional

¹⁹In 2020, the Latin American Regional Meeting: Local Communities Facing Climate Change was held, where a methodological proposal for the collective construction of criteria for the identification and self-identification of Local Communities was agreed upon, along with a proposal for criteria based on this methodology (see more information [here](#)).←



instruments and frameworks, among others, recognize Local Communities as a category that can encompass many community identities around the world and, as a result, strengthen their rights. Therefore, the proposed identification criteria should be adapted to the following **methodological considerations**:

- Semantic and syntactic univocity. In other words, a word or phrase should not be understood or interpreted in several ways, giving rise to doubt, confusion, or uncertainty. This is especially important considering that the term “Local Communities” is polysemous.
- Lexical economy. This means using all and only the necessary words, avoiding repetition and redundancy.
- Conceptual precision. In other words, the exact use of terms together with semantic and syntactic univocity will allow us to avoid ambiguities.





In addition to the above considerations and learning from the experiences of Indigenous Peoples, this study proposes that the criteria already developed should be adapted to the following **principles**:

- To be globally relevant and pertinent, the criteria must be linked to the characteristics of Local Communities explicitly or implicitly reflected in relevant international instruments (CBD, UNDROP, etc.).
- Emphasis should be placed on developing identification criteria rather than constructing a “definition”. Identification criteria aim at constructive processes to identify rights-holders in a flexible manner that is contextualized to the realities on the ground. In contrast, a rigid definition could exclude some Local Communities in particular situations.
- The criterion of self-identification as a Local Community is essential to avoid any attempt at imposition by external actors. This is also important to prevent external actors from labeling other rights-holders, such as Indigenous Peoples, as Local Communities²⁰.
- It should be emphasized that the term “Local Communities” is a unified term at the international level, but in the field and in their national contexts, Local Communities will be known by their own terms and names that express their own identities (Ejidos, Forest Communities, river dwellers etc.). The important thing is that they self-identify with the criteria for identifying Local Communities.
- The identification criteria should cover aspects that can be objectively verified (e.g., traditional management practices) combined with the subjective aspect of self-identification. This combination ensures a balance in the identification process between the characteristics contemplated in international instruments and the control of their identity by the Local Communities themselves.
- To avoid semantic confusion, the term “Local Communities” used in this context of rights should be written with the first letter of both words capitalized.

²⁰In its report to the Human Rights Council, the *Working Group on the Rights of Peasants and Other People Working in Rural Areas* also indicates that the most fruitful approach would be self-identification, as is the case with Indigenous Peoples (A/HRC/57/5).



8. Proposed criteria for identifying Local Communities

Based on the considerations and principles presented in the previous section, the AMPB presents its proposal for criteria to identify Local Communities as rights-holders. The proposal consists of:

- **Objectively verifiable criteria**, derived from the elements of identification implicitly or explicitly established in international environmental law and in the UNDROP.
- **The fundamental subjective criterion** of self-identification, avoiding any imposition in the identification of Local Communities.

Criteria for identifying Local Communities	
Objective criteria	Subjective criterion
• They have a special relationship and interaction with land, water, and nature²¹ and traditional lifestyles, knowledge, and practices that are relevant to the conservation and sustainable use of biological diversity²². • They share substantial elements of identity and culture and common interests²³, which differentiate them from other social groups. • They have customary and community-based systems for managing and using land and natural resources²⁴, • They have their own forms of representation and governance.	They self-identify as Local Communities, according to the objective criteria

²¹Element derived from UNDROP, preamble.

²²Element derived from the CBD, Article 8(j).

²³Element derived from the Rio Declaration, principle 22.

²⁴Element derived from UNDROP.



Annex A: Summary of Local Communities' Environmental Rights

In summary, the environmental rights of Local Communities enshrined in international instruments require States to:

- Recognize and support their identity, culture, and interests, and enable their effective participation in the achievement of sustainable development (Rio Declaration, Principle 22).
- Respect, preserve, and maintain their knowledge, innovations, and practices; promote their wider application with the approval and participation of those who possess such knowledge, innovations, and practices; and encourage equitable sharing of the benefits arising from the utilization of such knowledge, innovations, and practices (CBD art. 8 (j)).
- Ensure that decisions on the design and implementation of programs to combat desertification and/or mitigate the effects of drought are made with the participation of populations and local communities (United Nations Convention to Combat Desertification (art. 3 (a)).
- Adopt legislative, administrative, or policy measures, as appropriate and as necessary, to ensure that traditional knowledge associated with marine genetic resources in areas beyond national jurisdiction is accessed only with the free, prior, and informed consent or approval and participation of indigenous peoples and local communities (BBNJ Agreement, art. 13)
- They shall collaborate and consult with Indigenous Peoples and local communities in the development of proposals for the establishment of area-based management tools, including marine protected areas (BBNJ Agreement, Art. 19).





Annex B: Key provisions of UNDROP

With regard to ***participation and consultation rights***, UNDROP stipulates that:

- Without disregarding specific legislation on indigenous peoples, before adopting and implementing legislation and policies, international agreements and other decision-making processes that may affect the rights of peasants and other people working in rural areas, States shall consult and cooperate in good faith with peasants and other people working in rural areas through their own representative institutions, engaging with and seeking the support of peasants and other people working in rural areas who could be affected by decisions before those decisions are made, and responding to their contributions, taking into consideration existing power imbalances between different parties and ensuring active, free, effective, meaningful and informed participation of individuals and groups in associated decision-making processes (Art. 2.3).
- States shall take measures to ensure that any exploitation affecting natural resources traditionally owned or used by peasants and other people working in rural areas is permitted on the basis of, among other things (a) A duly conducted social and environmental impact assessment; (b) Consultations in good faith, in accordance with Article 2 ③ of this Declaration; (c) Modalities for the fair and equitable distribution of the benefits of such exploitation that have been established on mutually agreed terms between those exploiting the natural resources and peasants and other people working in rural areas (Art. 5.2).
- Peasants and other people working in rural areas have the right to participate actively and freely, directly and/or through their representative organizations, in the preparation and implementation of policies, programs, and projects that may affect their lives, lands, and livelihoods (art. 10).

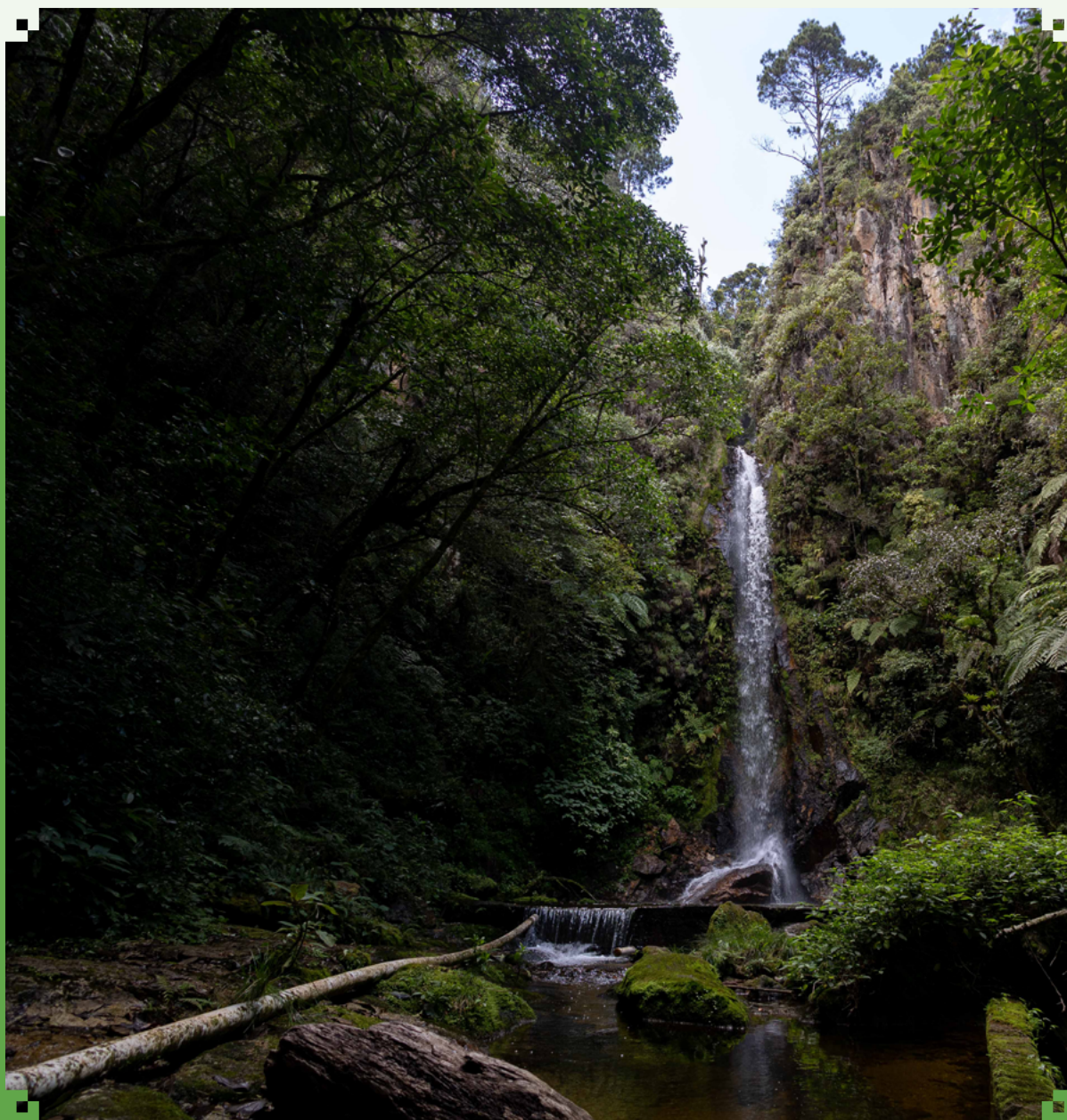


With regard to **rights to land and natural resources**, UNDROP states, among other things, that peasants and other people working in rural areas have the right to:

- Have access to and to use in a sustainable manner the natural resources present in their communities that are required to enjoy adequate living conditions [...]. They also have the right to participate in the management of these resources. (art. 5.1)
- Land, individually and/or collectively [...], including the right to have access to, sustainably use and manage land and the water bodies, coastal seas, fisheries, pastures and forests therein, to achieve an adequate standard of living, to have a place to live in security, peace and dignity and to develop their cultures (art. 17.1).
- Legal recognition for land tenure rights, including customary land tenure rights not currently protected by law, recognizing the existence of different models and systems. States shall protect legitimate tenure, and ensure that peasants and other people working in rural areas are not arbitrarily or unlawfully evicted and that their rights are not otherwise extinguished or infringed. States shall recognize and protect the natural commons and their related systems of collective use and management (art. 17.3).
- Return to their land of which they were arbitrarily or unlawfully deprived, including in cases of natural disasters and/or armed conflict and to have restored their access to the natural resources used in their activities and necessary for the enjoyment of adequate living conditions, whenever possible, or to receive just, fair and lawful compensation when their return is not possible (art. 17.5).
- Conservation and protection of the environment and the productive capacity of their lands, and of the resources that they use and manage. (art. 18.1).
- Seeds, including protection of traditional knowledge relating to plant genetic resources for food and agriculture; and equitable sharing of benefits (art. 19.1).



- Water for personal and domestic use, farming, fishing and livestock keeping and to securing other water-related livelihoods, ensuring the conservation, restoration and sustainable use of water. They have the right to equitable access to water and water management systems, and to be free from arbitrary disconnections or the contamination of water supplies. (Art. 21.2).





Annex C: Main differences between the rights of Indigenous Peoples and those of Local Communities

The premises and logic of UNDRIP and UNDROP differ fundamentally:

- In the context of UNDRIP, Indigenous Peoples have claimed control over their territories, their lives, and their development in the exercise of their identity as distinct Peoples with the right to self-determination, in the broader context of what has been considered a late construction of the State.
- In the context of UNDROP, peasants and other people working in rural areas have claimed control over their livelihoods, including land, water, seeds, biodiversity, agricultural production methods, and associated peasant knowledge, invoking the concept of “food sovereignty.”²⁵

The different premises and foundations of these instruments explain their differences, for example, with regard to the recognition of the right to self-determination as Peoples, and the right to give or withhold free, prior, and informed consent. These are fundamental rights of Indigenous Peoples, but they are not covered by UNDROP.

The main differences between UNDRIP and UNDROP are reflected in this table:

UNDRIP	UNDROP
Peoples	Communities
Self-determination	Control over their means of subsistence: land, water, seeds, biodiversity, agricultural production methods, and associated knowledge, invoking the concept of “food sovereignty.”

²⁵See Errico, S., Claeys, P., “Human Rights and the Commons: Exploring Approaches to the Governance of Land and Natural Resources beyond Indigenous Peoples’ Rights. The Case of Peasants,” in *International Journal on Minority and Group Rights* 27 (2020) 1–33.



Participation and consultation	Participation and consultation
Free, prior, and informed consent	
Rights to land, territories, and resources	• Right to access and use natural resources in their communities in a sustainable manner • Right to land, individually and/or collectively, including bodies of water, coastal seas, fisheries, pastures, and forests; to use them sustainably and manage them; to achieve an adequate standard of living; to have a place to live in safety, peace, and dignity; and to develop their cultures

While UNDROP includes Indigenous Peoples who work the land among those considered in the Declaration (see Art. 1.3), it also explicitly recognizes the need not to ignore “specific legislation on indigenous peoples” (Art. 2.3). Across the board, Article 28.1 stipulates that: *“Nothing in the present Declaration may be construed as diminishing, impairing or nullifying the rights that [...] indigenous peoples currently have or may acquire in the future.”*

Therefore, although Indigenous Peoples may invoke elements of UNDROP if they so wish, the scope of their rights under UNDRIP goes beyond those recognized in UNDROP. More specifically, as stated in Article 43 of UNDRIP, the rights in UNDRIP constitute *“the minimum standards for the survival, dignity, and well-being of the indigenous peoples of the world.”*



*Photo: FTM-AMPB



In contrast, Local Communities are not covered by UNDRIP. Therefore, although some Local Communities may aspire to expand the scope of their rights, the current basis for understanding the scope of their human rights at the international level would be based on UNDROP, as well as on interpretations of the application of generally applicable human rights instruments by treaty bodies and other authorized human rights monitoring mechanisms.





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