



In the areas of its proposed or current operations, does your company respect the human rights, land, culture and intellectual property of tribal and indigenous peoples?

Question developed with [Survival International](#)

Rationale for question

While a government holds primary responsibility for protecting and respecting the rights of its peoples, including tribal and indigenous populations, other institutions such as businesses, also bear responsibility.

International law, as set out in International Labour Organisation (ILO) Conventions 107 and 169, recognises the right of tribal and indigenous peoples to ownership of the lands that they have traditionally occupied and to the natural resources and intellectual property pertaining to those lands. However, in many countries, including those that have ratified one or both ILO Conventions, governments do not work to ensure that indigenous and tribal land rights are protected. Furthermore, tribal and indigenous peoples often find their other human rights, such as the right to take part in cultural life, consistently ignored or violated. Taken to its extreme, some tribal and indigenous peoples suffer forced displacement and subsequent confiscation of their land for commercial exploitation of natural resources, e.g. timber, oil, gold and diamonds. Even when indigenous populations are not expelled, they may still suffer as a result of environmental damage or by other social harm caused by commercial

operations, potentially leading to the loss of their way of life. Acculturation generally leads to greater poverty, poorer health, more violence and disintegration of social life. In the case of isolated tribal people, contact with outsiders may lead to devastatingly high death rates through the introduction of diseases to which they have no immunity. Operations on their land may also lead to violent conflicts with local people.

The United Nations (UN) makes the following recommendations to companies in its '[Commentary on the Norms on Transnational Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights](#)' (Section E.10-Commentary c):

[Business enterprises] shall particularly respect the rights of indigenous peoples and similar communities to own, occupy, develop, control, protect and use their lands, other natural resources, and cultural and intellectual property. They shall also respect the principle of free, prior and informed consent of the indigenous peoples and communities to be affected by their development projects...Further, they shall avoid endangering the health, environment, culture and institutions of indigenous peoples and communities in the context of projects, including road building in or near indigenous peoples and communities...

Any business operations that may affect tribal and indigenous peoples must take place in a transparent and consensual manner. Peoples affected should receive any appropriate compensation and/or profits, or otherwise benefit.

Finally, if the land concerned is occupied by isolated or 'uncontacted' tribal peoples, companies must respect that the land belongs to these people (who might choose to reject contact) and recognise that it should not be used for developments of any kind.

Defining terms

In the International Labour Organisation (ILO) Convention 169, 'tribal peoples' 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.

In the ILO Convention 169, 'indigenous peoples' are peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonisation or the establishment of present state boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions.

Primary and Secondary answer requirements

ANSWERING YES

Companies must:

1. explain the impact of their operations on tribal and indigenous peoples;
2. describe any consultations and negotiations they have had with the communities; and
3. assess how their actions serve to uphold tribal and indigenous people's human rights, land, culture and intellectual property.

Companies may:

1. describe any measures they have taken to benefit tribal or indigenous peoples.

ANSWERING NO

Companies must:

1. explain the impact of their operations on tribal and indigenous peoples; and
2. explain why they do not or cannot answer YES to this question, listing the business reasons, any mitigating circumstances or other reasons that apply.

Companies may:

1. indicate any relevant practices and policies, even if they do not fully address the specifications for answering YES; and
2. mention any future intentions regarding this issue.

ANSWERING NOT APPLICABLE

Companies must:

1. confirm that they have no proposed or current operations that directly or indirectly affect tribal and indigenous peoples.

Companies may:

1. describe any relationship they have with tribal and indigenous peoples and the purpose it serves; and
2. describe any measures they have taken to benefit tribal and indigenous peoples.

DON'T KNOW is not a permissible answer to this question.

NO ANSWER YET is only permissible under extraordinary circumstances and then for only a limited period.