

Cambridge University Press

978-0-521-83574-9 - Indigenous Rights and United Nations Standards: Self-Determination,
Culture and Land

Alexandra Xanthaki

Table of Contents

[More information](#)

Contents

<i>Table of cases</i>	page viii
<i>Table of statutes</i>	xi
<i>Acknowledgments</i>	xxxix
Introduction	1
1 Recognition of cultural membership and implications	13
Introduction	13
The importance of cultural membership	13
Autonomy and the neutral state	15
The need for multiplicity of cultural frameworks	19
Interaction of cultures	22
Preservation of cultures	27
Especially on collective rights	29
Concluding comments	38
Part I United Nations instruments on indigenous peoples	47
2 The ILO Conventions	49
Convention No. 107	49
The ILO and indigenous peoples	49
Provisions of ILO Convention No. 107	52
Concluding comments	66
Convention No. 169	67
Procedure of the revision	67
Basic orientation of Convention No. 169	68
Provisions of Convention No. 169	70
Concluding comments	90

Cambridge University Press

978-0-521-83574-9 - Indigenous Rights and United Nations Standards: Self-Determination,
Culture and Land

Alexandra Xanthaki

Table of Contents

[More information](#)

vi

CONTENTS

3	Emerging law: The United Nations draft Declaration on indigenous peoples	102
	Process and status of the draft Declaration	103
	The contents of the draft Declaration	105
	Peoples, membership, self-identification, nomadic peoples	105
	Individual and collective rights	107
	Self-determination	109
	Protection of indigenous peoples	112
	Cultural and linguistic identity	115
	Land and resources	117
	Concluding comments	119
	Part II Thematic analysis	129
4	Do indigenous peoples have the right to self-determination?	131
	Introduction	131
	Are indigenous peoples beneficiaries of the right?	132
	The issue	132
	No clear recognition of indigenous as ‘peoples’ in international law	133
	Employment of the definition of ‘peoples’ in international law	135
	Employment of international documents	136
	The hurdle of territorial integrity	140
	The scope of the right to self-determination	146
	The minimalist approach: self-determination as independence	146
	The maximalist approach: self-determination as an umbrella right	152
	Re-evaluating the meaning of the right	155
	Self-determination is a right and a principle	155
	The political core of the right to self-determination	157
	Concluding comments	173

Cambridge University Press

978-0-521-83574-9 - Indigenous Rights and United Nations Standards: Self-Determination,
Culture and Land

Alexandra Xanthaki

Table of Contents

[More information](#)

CONTENTS vii

5	Indigenous cultural rights	196
	Introduction	196
	Overview of standards relevant to indigenous peoples	197
	General standards	197
	Minority standards	200
	Obstacles to the effective protection of indigenous cultural rights by international law	204
	The meaning of culture	204
	The concept of cultural property	209
	Ownership of culture	211
	Specific issues concerning cultural rights	214
	Indigenous cultural autonomy	215
	Misappropriation and misuse of indigenous cultural heritage	217
	Repatriation of indigenous cultural objects	221
	Indigenous biodiversity rights	224
	Concluding comments	227
6	Indigenous land rights	237
	Introduction	237
	Legal basis for indigenous land claims	238
	Important issues related to indigenous land claims	243
	Collective ownership	243
	Rights of consultation and participation	252
	Rights of use, management and resources	256
	Removal and relocation	262
	Restitution and compensation	264
	Concluding comments	267
	Conclusions	280
	<i>Bibliography</i>	286
	<i>Index</i>	306