



# INDIGENOUS MEDICINE CONSERVATION FUND

**IMCF Fund Briefing Note: International Legal  
Frameworks Related to Indigenous Medicines**



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## 1. UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES (UNDRIP)



UNDRIP, adopted by the United Nations General Assembly in 2007, affirms the collective rights of Indigenous peoples to preserve their cultures, knowledge systems, lands, and governance. Although it is not a binding treaty, it establishes globally recognized standards that governments, institutions, and organizations are required to respect.

UNDRIP affirms that Indigenous peoples have the right to self-determination, the preservation of their culture, and control over their lands, territories, and resources. It also recognizes the right to preserve, protect, and develop traditional knowledge, cultural practices, medicines, and spiritual traditions.

Several provisions specifically relate to traditional medicines and knowledge:

- **Free, Prior, and Informed Consent (FPIC)** – Indigenous peoples have the right to give or withhold their consent regarding activities affecting their lands, territories, resources, cultural heritage, and traditional knowledge.
- **Protection of Traditional Knowledge** – Indigenous peoples have the right to preserve, control, protect, and develop their knowledge systems, including medical knowledge.
- **Cultural and Spiritual Rights** – Indigenous ceremonies, healing practices, and traditional medicines are recognized as an integral part of cultural survival.

In the context of the psychedelic boom, the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) provides an essential ethical, political, and rights-based framework to support the authority of Indigenous peoples in matters related to traditional medicines and associated knowledge systems.

Specifically, Articles 31, 29, 26, 25, 24, 19, 12, 11, 4, 3, and 32 apply as follows:

**Article 3, Right to Self-Determination:** Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social, and cultural development.

**Relevance:** *This article establishes the foundation of Indigenous authority over cultural practices, medicines, and knowledge systems. Decisions regarding the use or sharing of traditional medicines must ultimately rest with Indigenous peoples themselves.*



**Article 4, Autonomy:** Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs.

**Relevance:** *This supports Indigenous governance over cultural heritage, healing traditions, and the management of sacred remedies.*

**Article 11, Cultural Traditions and Customs:** Indigenous peoples have the right to practice and revitalize their cultural traditions and customs. States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.

**Relevance:** *This applies directly to the use of Indigenous ceremonial practices and knowledge related to sacred remedies.*

**Article 12, Spiritual and Religious Traditions:** Indigenous peoples have the right to manifest, practice, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains.

**Relevance:** *Many traditional remedies are part of spiritual practices. This article protects these traditions.*

**Article 31, Traditional Knowledge and Cultural Heritage:** Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.

**Relevance:** *This is one of the most important provisions regarding sacred plants and Indigenous medicinal traditions. It affirms the authority of Indigenous peoples over the knowledge associated with these remedies.*

**Article 25, Spiritual Relationship with the Land:** Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.

**Relevance:** *Many sacred remedies originate from specific ecosystems tied to Indigenous territories.*

**Article 26, Rights to Lands and Resources:** Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.

**Relevance:** *This includes remedies derived from these lands.*

**Article 29, Environmental Protection:** Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources.

**Relevance:** *The overharvesting of sacred plants (such as peyote or iboga) can fall under this article.*

#### **Free, Prior, and Informed Consent (FPIC)**

- **Article 19:** States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.
- **Article 32:** States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent prior to the approval of any project affecting their lands, territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.



**Relevance: This principle is widely recognized as applying to research, commercialization, or policy**

**Article 24, Traditional Medicine:** Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals. Indigenous individuals also have the right to access, without any discrimination, to all social and health services.

**Relevance: This article directly affirms the rights of Indigenous peoples related to healing systems and sacred remedies.**

**Article 31, Intellectual Property and Cultural Protection:** Indigenous peoples have the right to control how their traditional knowledge is used and shared.

**Relevance: This article is frequently cited in discussions regarding:**

- **Biopiracy**
- **The commercialization of traditional spiritual remedies**
- **Patents on traditional knowledge**
- **Research ethics**

These articles of the UN Declaration are important for supporting equitable relationships between Indigenous traditional medicine communities and advocacy efforts within the rapidly expanding psychedelic landscape. The growing global interest in psychedelics and traditional medicines directly intersects with several protections and rights frameworks within the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

Key issues include:

- **The use of Indigenous ceremonial knowledge**
- **The commercialization of sacred plants and medicines**
- **Pharmaceutical development derived from traditional medicines**
- **Ecological pressures on culturally significant species**
- **The representation and participation of Indigenous peoples in policy and decision-making processes**

**The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)** establishes that Indigenous peoples are not merely stakeholders in these discussions: they are rights-holders with authority over their knowledge, cultures, and lands.

Access to the full declaration : [https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/11/2018/19/UNDRIP\\_E\\_web.pdf](https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/11/2018/19/UNDRIP_E_web.pdf)



## 2. CONVENTION ON BIOLOGICAL DIVERSITY - NAGOYA PROTOCOL ON ACCESS AND BENEFIT-SHARING)



### COP10/MOP5 AICHI-NAGOYA JAPAN 2010

The Nagoya Protocol is an international agreement adopted in 2010 under the Convention on Biological Diversity (CBD). It establishes frameworks for access to genetic resources and the fair and equitable sharing of benefits arising from their utilization.

The protocol recognizes that many biological resources and traditional knowledge systems originate within Indigenous territories and local communities. It encourages countries to establish procedures for prior informed consent, mutually agreed terms, and benefit-sharing when genetic resources or associated traditional knowledge are used for research, commercial, or pharmaceutical purposes.

Key principles include:

- **Prior informed consent** of the country or community providing the genetic resource.
- **Mutually agreed terms** governing the conditions of access to and use of genetic resources or associated traditional knowledge.
- **Benefit-sharing**, which may include financial compensation, research partnerships, technology transfer, capacity building, or community investments.

The Nagoya Protocol is increasingly being raised in discussions regarding traditional medicines, pharmaceutical development, bioprospecting, and concerns about biopiracy. It can be particularly relevant in cases where compounds derived from traditional medicines or culturally significant species are studied, commercialized, or patented. The protocol aims to ensure that Indigenous communities benefit from the use of their knowledge and biological resources, where applicable.

**Access to the booklet :** <https://www.cbd.int/abs/default.shtml#:~:text=The20%Nagoya20%Protocol20%on20%Access20%to20%Genetic20%Resources20%and20%the,a20%fair20%and20%equitable20%way.>



### 3. WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO) TREATY ON GENETIC RESOURCES AND ASSOCIATED TRADITIONAL KNOWLEDGE



In 2024, member states of the World Intellectual Property Organization adopted a new treaty addressing the relationship between intellectual property systems and genetic resources, including their associated traditional knowledge.

Historically, concerns have been raised regarding patents on biological materials and traditional knowledge originating from Indigenous peoples and local communities without clear disclosure, consent, acknowledgment, or benefit-sharing. These concerns are often described as forms of exploitation and «biopiracy.»

The treaty introduces disclosure obligations in certain patent procedures. Patent applicants may be required to identify the origin of genetic resources and, where applicable, the associated traditional knowledge linked to the patent claims.

Although the treaty does not fully resolve long-standing concerns regarding the rights of Indigenous peoples and intellectual property systems, it represents an important step forward toward better recognition of the relationship between biodiversity, innovation, and traditional knowledge systems.

In the context of traditional medicines, the treaty could serve as an additional tool to monitor or challenge patent claims involving genetic resources or associated traditional knowledge.

Access to the booklet : <https://www.wipo.int/publications/en/details.jsp?id=4504>



## 4. RIGHTS OF NATURE LAWS

The rights of nature constitute an emerging legal framework that recognizes ecosystems and the natural world as having rights or legal standing, rather than treating them solely as property or resources for human use.

Certain countries and jurisdictions, notably Ecuador, Bolivia, and several local governments in the United States, have adopted rights of nature laws or policies in various forms. In Ecuador, for example, the Constitution recognizes the rights of «Pachamama» (Mother Earth).

While these frameworks are still developing and unevenly implemented, they are increasingly being raised in discussions concerning environmental protection, Indigenous peoples' rights, sacred sites, and biocultural conservation.

In the context of traditional medicines and psychedelic plants and fungi, rights of nature frameworks can support efforts to protect culturally and ecologically significant species, ecosystems, and territories from exploitation or ecological harm.

### **Why Are These Frameworks Important for Indigenous Medicines?**

Taken as a whole, these international frameworks contribute to evolving global standards regarding:

- **The rights, sovereignty, and self-determination of Indigenous peoples**
- **The protection of traditional knowledge and cultural heritage**
- **Free, prior, and informed consent**
- **Benefit-sharing and research ethics**
- **The protection of ecosystems, sacred remedies, and biocultural relationships**

As global interest in psychedelics and traditional medicines continues to grow, these frameworks are increasingly cited in discussions concerning research, commercialization, conservation, intellectual property, and policy-making. They serve as important ethical, political, and legal benchmarks to support the rights, responsibilities, and participation of Indigenous peoples in decisions regarding traditional medicines, knowledge systems, territories, and cultural practices.