LANDex Methodology: 5A

Commitment 5: Secure Territorial Rights for Indigenous People

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| 5A | Legal and institutional framework in place at national level recognizes indigenous peoples’ right to land, territories, and resources |

Section 1: Description of Indicator, Implementation and Scoring

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| Method to be Used | People-Based Assessment  |

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| Introduction | Indicator 5A uses a series of question to measure the extent to which the national legal framework provides for indigenous peoples’ right to land, territories, and resources.By completing indicator 5A, you will simultaneously contribute Block 4 of LANDex Indicator 1A. If you have already fully implemented 1A, you do not need to implement this indicator. Likewise, if you fill out indicator 5A, please do not fill out Block 4 of indicator 1A.  |
| Sources of Methodology | UNDRIP-Indigenous Navigator for indigenous land rights. |
| Data Needed | The information necessary for this indicator can be found in the countries’ national laws, its constitution, and ratified international agreements and conventions. |
| How to Implement | 1. All of the questions in Indicator 5A should be answered by someone considerable knowledge of national laws and international conventions concerning indigenous peoples’ rights.
2. Indicator 5A includes a single block (Block 1: Indigenous Land Rights) comprised of 23 questions.
3. Not all questions will apply to your country; see below for how to score questions that do not apply.
4. At the end of these 23 questions, you will need to calculate a “Block Score” that will be used in Section 3: Results to generate your final score for Indicator 5A.
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| How to Score | Block 1: Indigenous Land Rights  | * In Block 1, there will be two kinds of questions available:
	+ Questions answered “Yes,” “No,” or “Not Applicable” (N/A)
	+ Questions answered in a range from 0-3.
	+ For all questions answered “Yes” or with a number greater than zero, a reference to the corresponding law or policy should be included in the space below.
* For questions answered “Yes,” “No” or “Not Applicable,”
	+ A “Yes” will receive three points.
	+ A “No” will receive zero points.
	+ A “Not Applicable” will receive no points, and three points will be deducted from the Block 1 Total (B1T) score. See further explanation below.
* For questions answered in a range from 0-3, use the *Block 1 Rubric* as a guide for scoring. It’s located just below Block 1.
* At the end of Block 1, add the scores of all the questions – this total will be the Block 1 Score, which will be used for the final calculation, together with the Block 1 Total (B1T), below.
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| Block 1 Total | * At the end of Block 1, you will see a section called the “Block 1 Total Possible” or B1T.
* If all of the questions in Block 1 were applicable – you didn’t answer any questions as “Not Applicable” ­– the total for the Block 1 Total Possible will be 69 (23 questions, each worth 3 points).
* For every question that you answered “Not Applicable,” it is necessary to deduce three points from the original Block 1 Total Possible of 69.
* For example, if you answered three questions as “Not Applicable” the Block 1 Total Possible would be 60, which is the maximum total possible (69) minus 9 (69 – (3x3=9) = 60).
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| 5A Final Score | Enter the B1 Score in Section 3: Results to obtain the 5A Final Score (0-100), with 100 being the maximum score. |

Section 2: Assessment

Block 1: Indigenous Rights to the Land

Methodology: Indigenous Navigator (UNDRIP)

To Score: Use *Block 1 Rubric* below for questions answered with a range (0-3). A question answered “Yes” will receive three points; a question answered “No” will receive zero points.

Equivalent to Block 4 of Indicator 1A

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|  |
| 1 | Has the International Covenant on Civil and Political Rights (ICCPR) been ratified? | Y/N |
| Ref: |  |  |
| 2 | Has the International Covenant on Economic, Social and Cultural Rights (ICESCR) been ratified? | Y/N |
|  |  |  |
| 3 | Has the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) been ratified? | Y/N |
|  |  |  |
| 4 | Has the Convention on Rights of the Child (CRC) been ratified? | Y/N |
|  |  |  |
| 5 | Has the International Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) been ratified? | Y/N |
|  |  |  |
| 6 | Has ILO Convention No. 107 been ratified? | Y/N |
|  |  |  |
| 7 | Has ILO Convention No. 169 been ratified?  | Y/N |
|  |  |  |
| 8 | Has the American Convention on Human Rights been ratified?  | Y/N; N/A |
| Ref: |  |  |
| 9 | Has the African Charter on Human and Peoples been ratified?  | Y/N; N/A |
| Ref: |  |  |
| 10 | Have national action plans been developed by States, in consultation and cooperation with indigenous peoples, to achieve the ends of the UNDRIP? | 0-3 |
| Ref: |  |  |
| 11 | Do domestic law(s) prohibit advocacy of hatred constituting incitement to discrimination, hostility or violence against indigenous peoples? | Y/N |
| Ref: |  |  |
| 12 | Are the collective rights of indigenous peoples to self-determination, i.e. to freely determine their political status and freely pursue their economic, social and cultural development, recognized in the constitution or other forms of superior law? | 0-3 |
| Ref: |  |  |
| 13 | Is the recognition of indigenous peoples’ distinct identity in the constitution or national legislation based on self-identification? | Y/N |
| Ref: |  |  |
| 14 | Is indigenous peoples’ right to self-government in internal and local affairs recognized in national legislation? | Y/N |
| Ref: |  |  |
| 15 | Are indigenous peoples’ self-governing institutions and territories recognized in the political-administrative structure of the State?  | Y/N |
| Ref: |  |  |
| 16 | Is the jurisdiction of customary law institutions recognized in the constitution or other forms of superior law or domestic law(s)? | Y/N |
| Ref: |  |  |
| 17 | Are indigenous peoples’ rights to lands, territories and resources recognized in national legislation? | Y/N |
| Ref: |  |  |
| 18 | Are there clear procedures adopted by the State for identification, demarcation, mapping and registration of indigenous peoples’ lands or territories lands, in consultation with and in accordance with indigenous norms, values and customs? | 0-3 |
| Ref: |  |  |
| 19 | Is indigenous peoples’ right to maintain cross-border contacts and collaboration recognized in national legislation? | Y/N |
| Ref: |  |  |
| 20 | Is it a state duty to consult with indigenous peoples before adopting or implementing legislative or administrative measures that may affect them and prior to approval of any project that affects their lands, territories and resources in national legislation recognized?  | Y/N |
| Ref: |  |  |
| 21 | Do procedures or mechanisms for State consultation with indigenous peoples exist at national, sub-national and local levels?  | 0-3 |
| Ref: |  |  |
| 22 | Is the right of indigenous peoples to participate in decisions that may affect them, through their representative institutions, recognized in national legislation?  | Y/N |
| Ref: |  |  |
| 23 | Is right to access to translation into indigenous languages in legal proceedings recognized in the national legislation? | Y/N |
| Ref: |  |  |
| Block 1 Score (0-69) | B1 |
| Block 1 Total Possible  | B1T |

*Block 1 Rubric*: Use to Score Block 1

|  |  |
| --- | --- |
| Description | Score |
| No, the law does not address the issue. There are no attempts in the law to meet the issue addressed in the indicator. | 0 |
| Partial, the law makes only limited progress towards addressing the issue. The legal framework addresses the indicator, but insignificantly. | 1 |
| Partial, the law makes significant progress towards addressing the issue. The legal framework makes significant progress towards, but does not entirely meet the issue addressed in the indicator. | 2 |
| Yes, the law addresses the issue fully. The legal framework clearly or expressly meets the issue addressed in the indicator. | 3 |

Section 3: Results

Compute Total Score:

|  |  |
| --- | --- |
| Block 1 Score (0-69) | B1 |
| Block 1 Total Possible (69-total value of questions answered N/A) | B1T |
|  Final Score (0-100):  | $$\left(\frac{B1}{B1T}\right)× 100$$ |

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| 5A Final Score | 0-100 |