

## Anti-Poverty Legislation for Particularly Vulnerable Groups: The Example of Indigenous People and Minorities

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### Abstract

In terms of combating poverty, the “leave no one behind” principle of the 2030 Agenda for Sustainable Development requires that particularly vulnerable people and those who frequently face discrimination deserve special protection. Governments that pursue pro-poor policies should therefore be mindful of the needs of these people and develop special programmes to ensure that adequate protection is guaranteed. This is also stipulated by international human rights law. Both relevant global treaties—such as the International Covenant on Economic, Social and Cultural Rights—and international soft law provide for such provisions. This short note highlights the international legal requirements that states are subject to when it comes to protecting, particularly, Indigenous peoples or members of religious and ethnic minorities from the risk of poverty. It focuses primarily on the rights-based approach. States must not only make political and administrative decisions to implement pro-poor policies in favour of these groups, but also provide a legal framework that legitimises and structures these decisions. For this, it is important that, in addition to the constitutional level, regulations to give concrete form to the rights-based approach to social protection are also enshrined at the level of statutory law and ministerial implementing regulations.

### Keywords

anti-poverty legislation; Indigenous people; minorities; vulnerability

### 1. Poverty Risk Among Vulnerable Groups

An important consequence of the *leave no one behind*-principle of the 2030 Agenda is that particularly vulnerable population groups require special protection against poverty risks. Looking at the statistics of

international organizations, it is evident that this problem primarily affects children, people with disabilities, and migrants. Of the 6.3 billion people living in the 112 developing countries analyzed in the *Global Multidimensional Poverty Index*, 1.1 billion people currently face multidimensional poverty, more than half of whom—584 million—are children under the age of 18 (United Nations Development Programme & Oxford Poverty and Human Development Initiative, 2024, p. 8); and 333 million children live in extreme poverty (United Nations Children’s Fund, 2025). In almost all countries, the proportion of multidimensionally poor people is higher among persons with disabilities than among those without; in some countries, it is more than twice as high (United Nations Department of Economic and Social Affairs, 2024). The scale of poverty risk for these individuals, especially in the Global South, can be measured, for example, by the fact that in low- and lower-middle-income countries workers with disabilities earn up to 26% less than workers without disabilities (Ananian & Dellaferrera, 2024, p. 24). It is also unsurprising that refugees generally face significantly higher poverty risks than the rest of the population (Böhm et al., 2025, pp. 4, 7).

However, two other population groups are particularly affected by poverty risk but receive less attention in public discourse: Indigenous peoples and people who belong to ethnic or religious minorities. While Indigenous peoples are considered to be the original inhabitants of a particular geographical area, whose cultures and languages developed long before the arrival of other peoples and who are therefore closely connected to the land, their ancestors, and the environment, a minority is defined as a population group within a state that differs from the majority in terms of common ethnic, cultural, linguistic, or religious characteristics. Many Indigenous peoples are also ethnic minorities, but not all ethnic minorities are Indigenous. The distinction is also legally relevant, not least because Indigenous groups can invoke the 2007 UN Declaration on the Rights of Indigenous Peoples (UN GA/RES/61/295), a legal instrument that provides them with relatively strong guarantees of autonomy (humanrights.ch, n.d.; for the distinction between these groups see also Shelton & Guzmán Duque, 2024, p. 54; cf., in addition, Barelli, 2009; Kymlicka, 2001, p. 120 ff.; Thornberry, 2002, pp. 33 ff.). Country—and region-specific analyses clearly show that minorities and Indigenous peoples also belong to the particularly vulnerable groups disproportionately represented in poverty statistics. This is most evident among Indigenous communities. Although they make up only about 6.2 percent of the world’s population, they account for an outsized 18.2 percent of all people living in extreme poverty (World Bank, 2025a). The discrepancy is especially well documented in Latin America. There, on average, 43 percent of the Indigenous population live in poverty, and 24 percent live in extreme poverty—rates which are significantly higher than those of non-Indigenous groups (World Bank, 2025b). In Mexico, the situation is particularly dramatic: in 2018, the official extreme poverty rate among Indigenous people was 27.9 percent, compared to just 5.3 percent among the non-Indigenous population (Consejo Nacional de Evaluación de la Política de Desarrollo Social, 2022). These disparities persist despite economic growth and poverty reduction programs. In Asia, too, ethnic minorities are heavily overrepresented among the poor. A particularly revealing example is Vietnam. Although ethnic minorities make up only around 14 percent of the population, they accounted for about 73 percent of all poor people in 2016 (World Bank, 2019, p. 6).

The reasons why marginalized groups such as Indigenous peoples and ethnic or religious minorities are not equally reached by poverty reduction measures—and are therefore overrepresented in poverty statistics—are complex. Disadvantages arise mainly from limited land and resource rights, lack of political representation, and enduring prejudices against these groups. Geographical factors also play a role, as many minority communities live in remote regions cut off from infrastructure investments, markets, and

government services. This isolation hinders registration necessary for access to education, healthcare, and social services, and it generally reduces economic opportunities. Political and administrative strategies aimed at these groups must therefore respond to their specific living conditions—for example, through infrastructure investments in remote areas, culturally appropriate education programs, and stronger political participation. If the aim is to systematically combat poverty among Indigenous peoples and members of ethnic or religious minorities, it is advisable to focus on consistently expanding social protection for these population groups. Social protection programs (especially cash transfer programs) would also enable governments to address the problem of intersectional discrimination—i.e., the increased poverty risks faced by subgroups such as women, children, the elderly, and people with disabilities within already disadvantaged communities (see on “intersectional” or “cumulative discrimination” UN CESCR, 2009, E/C.12/GC/20, para. 17). Comparative experience from Latin America, however, shows that governments have generally focused more on expanding existing social protection programs than on adapting them to Indigenous contexts (Correa Aste, 2024, p. 168). There are exceptions, such as Colombia’s Más Familias en Acción program, which is also directed at the Indigenous population (Medellín & Sánchez Prada, 2015). In Asia and Africa, too, there are examples of minority-focused social protection programs, e.g., the work of the Equal Opportunities Commission in Uganda (Equal Opportunities Commission, 2025), the inclusion of the pastoralist minority in Ethiopia’s Productive Safety Net Programme (see Alene et al., 2021, for a critical assessment), and the Endangered Ethnicity Grants in Nepal (Food and Agriculture Organization, 2025). Overall, however, it must be stated that Indigenous peoples’ access to social protection is still rather limited (Rai & Pradhan, 2021).

## 2. Social Protection of Indigenous Peoples and Minorities in International Law

The international community has recognized not only at the political level but also legally that Indigenous peoples and minorities require special protection regarding their social rights, and thus also the right to social security. This is reflected, for instance, in Article 4(1) of the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (UN GA Res. 47/135) and in Articles 1, 21, and 24 of the 2007 Declaration on the Rights of Indigenous Peoples (UN GA/RES/61/295). This recognition is also emphasized in legally binding treaties, such as Article 5(e) of the 1966 International Convention on the Elimination of All Forms of Racial Discrimination, Articles 4(xii) and 7 of the 2013 Inter-American Convention against All Forms of Discrimination and Intolerance, and Articles 2(2b), 20(2c), and 24 of the 1989 Indigenous and Tribal Peoples Convention (ILO C169). While the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities refers only generally to the human rights obligations of states (which, of course, include the social rights and therefore also the right to social security), in the other documents, the right to social security (or social protection) is explicitly mentioned.

Of particular importance alongside these specific treaties is the International Covenant on Economic, Social and Cultural Rights (International Covenant on Economic, Social and Cultural Rights, 1966), as it is the central international legal document guaranteeing the right to social security worldwide (Art. 9 International Covenant on Economic, Social and Cultural Rights). In General Comment No. 19 on this human right, the Committee on Economic, Social and Cultural Rights repeatedly emphasises the special protection needs of Indigenous peoples and minorities: “Whereas everyone has the right to social security, States parties should give special attention to those individuals and groups who traditionally face difficulties in exercising this right, in particular...minority groups” (UN CESCR, 2008, E/C.12/GC/19, para. 31); “States parties should take

particular care that Indigenous peoples and ethnic and linguistic minorities are not excluded from social security systems through direct or indirect discrimination, particularly through the imposition of unreasonable eligibility conditions or lack of adequate access to information” (UN CESCR, 2008, E/C.12/GC/19, para. 35); and “The obligation to promote obliges the State party to take steps to ensure that there is appropriate education and public awareness concerning access to social security schemes, particularly in rural and deprived urban areas, or amongst linguistic and other minorities” (UN CESCR, 2008, E/C.12/GC/19, para. 49).

The Human Rights Council has also stressed that “cash transfer schemes and related social protection measures should be adapted to take account of vulnerabilities and risks due to discrimination based on minority identity” (UN HRC, 2011, A/HRC/16/46, para. 27). In this context, the ILO’s Social Protection Floors Recommendation (ILO, 2012, Rec. 202) is also significant, as it provides guidelines for establishing minimum social protection standards with particular consideration for disadvantaged groups (see for more details Errico, 2018).

### 3. National Legislation to Protect Indigenous Peoples and Minorities Against Poverty Risks

To meet the requirements derived from international human rights documents, states need not only political and administrative measures but also national legal rules to address the problem of insufficient social protection for minorities. In most countries, including least developed countries, constitutions contain anti-discrimination clauses that cover minorities among other vulnerable groups. These provisions are also relevant to the design of social protection systems. For example, the Constitutional Court of South Africa in the *Khosa and Others v. Minister of Social Development and Others*, 2004) relied on both the right to social security (Sec. 27 of the Constitution) and the equality clause (Sec. 9 of the Constitution) to rule that permanent residents, even if not citizens, are entitled to social benefits (see Mpedi, 2005). In some states, constitutions also include explicit provisions for the protection or promotion of Indigenous peoples and minorities. Examples include the constitutions of Bolivia (Arts. 30, 306, 314, 338), Brazil (Arts. 215, 231), Ecuador (Art. 57), and Colombia (Art. 13). Other examples are found in the constitutions of India (Arts. 15(4), 15(5), 46), Indonesia (Art. 18B), Iraq (Art. 125), Kenya (Art. 56), Nepal (Art. 18(3)), Pakistan (Art. 36), South Africa (Sec. 9(2)), and Uganda (Arts. 32, 36).

Constitutional guarantees can play a crucial role in court proceedings where individuals challenge discriminatory practices. But to achieve broad progress for minority groups beyond individual cases, it is often necessary for legislators to act in addition to constitutional provisions. The importance of embedding social protection against poverty risks not only in constitutions but also in dedicated laws is emphasized in both General Comment No. 19 (para. 11) and the Social Protection Floors Recommendation (para. 7). Unlike constitutions, laws specifically define the social benefits provided by the state, the eligibility criteria, organizational frameworks for administrative responsibilities, financing rules, and procedures for complaints and dispute resolution. The incorporation of social rights into statutory law is part of the so-called rights-based approach, which aims to empower individuals and groups to claim and exercise their rights while ensuring that those responsible, whether state or non-state actors, uphold these rights. It is guided by five principles: Everyone should participate in decisions affecting their rights; duty-bearers must be held accountable with effective remedies available for violations; all individuals should enjoy their rights without

discrimination; people should be empowered to understand and exercise their rights and engage in policy-making; and all actions must comply with national and international human rights laws (European Network of National Human Rights Institutions, n.d.).

When applying a rights-based approach to social protection (see, for details, Sepúlveda & Nyst, 2012, p. 18), social protection programmes should be based on a legal foundation (see Kaltenborn et al., 2017, p. 19 ff.). Clearly established legal entitlements contribute significantly to the stability and durability of such systems. They protect against political arbitrariness and ensure that programs persist even when governments change. They reduce risks of political manipulation by clarifying who is responsible for benefits. Legally anchored social protection systems also enhance predictability and transparency: benefits become more reliable, their amounts and criteria are fixed and understandable. Laws also offer protection against discrimination through transparent legislative processes involving public debate and consideration of social interests, making it more likely that relevant groups are not overlooked. Moreover, clear legal frameworks raise public legal awareness, strengthen consensus on universal social protection, and enable more effective measures against corruption and abuse. Therefore, while some of the advantages of a rights-based approach are obvious, it should, however, not be overlooked that legalisation sometimes also involves potential risks (such as the possible reinforcement of stigmatisation through legal codification). It should also be considered that legalisation processes are often lengthy and that fast, flexible adjustments to the legal framework may not always be feasible.

In countries where the entire population enjoys at least a minimum level of social protection, anti-discrimination provisions in constitutions or social laws are generally sufficient to ensure that vulnerable groups are not disadvantaged in poverty reduction programs. Depending on how these clauses are formulated or interpreted, they may even require special (affirmative) measures for such groups. Of course, legal guarantees alone do not ensure that people are actually covered by protection systems, but they provide the necessary basis for achieving universal social protection, with implementation then depending on further political and administrative action.

The situation is different in countries where the population as a whole is inadequately protected against poverty risks, which is the case in most Global South countries. In 2023, only 9.7 percent of low-income countries were able to provide their population with at least one social protection benefit (excluding health; International Labour Organization, 2024, p. 281). To prevent minorities and Indigenous peoples from “falling through the cracks” when scarce resources are allocated to poverty reduction, it is important to establish special protection programs for them. These should also be enshrined in law (or subordinate legislation such as implementing regulations or ministerial decrees) in order to meet the requirements of the rights-based approach.

So far, only a few countries in the Global South have adopted such laws. In Brazil, for example, Lei nº 14.601/2023 provides the legal basis for the nationwide Bolsa Família program, combined with the Orientações para o acompanhamento das condicionalidades de saúde do Programa Bolsa Família de famílias indígenas aldeadas (Guidelines for Monitoring the Health Conditionalities of the Bolsa Família Program for Indigenous Families in Villages, 2023) and the Agenda Social Quilombola (Decreto nº 11.447, 2023, replacing Decreto nº 6.261, 2007), thereby legally ensuring social protection for Indigenous peoples and Quilombola. Another example is the Philippines, where the Indigenous Peoples’ Rights Act (1997, para. 25) guarantees that:

[Indigenous cultural communities and Indigenous peoples] have the right to special measures for the immediate, effective and continuing improvement of their economic and social conditions, including in the areas of employment, vocational training and retraining, housing, sanitation, health and social security. Particular attention shall be paid to the rights and special needs of Indigenous women, elderly, youth, children and differently-abled persons.

Based on this law, the Ancestral Domain Sustainable Development and Protection Plan grants Indigenous peoples access to social services (Abansi, 2011, p. 179). The Endangered Ethnicity Grants in Nepal are also based on legislation, namely the Social Security Act, 2075 (2018).

In general, when comparing social protection laws in different regions, it can be said that Latin American countries (more than countries in other regions of the Global South) are often willing to strengthen the social security of their populations through constitutional guarantees, which also promotes the establishment of statutory law (International Labour Organization, 2011, pp. 101 ff). However, it is not possible to draw a clear picture in this regard, as constitutional and legal protection of social security is also emphasized in some African and Asian countries. Likewise, it is difficult to identify any general regional trends with regard to the issue of protecting vulnerable groups, which is the subject of our discussion here. In any case, from a human rights perspective, it would be important that, in addition to the examples mentioned, other countries where Indigenous peoples or minorities are exposed to a significantly higher risk of poverty than the general population also establish a legal framework for social protection programmes that benefit these groups. Such legal measures would be a key element in building effective and non-discriminatory poverty reduction strategies.

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