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**Submission to the CRPD Draft Comment No. 7 on Article 4.3 and 33.3**

**on behalf the Center for Human Rights and Humanitarian Law of the American University Washington College of Law**

1. **Introduction**
   1. **Identification of the submitting entity**

The Center for Human Rights & Humanitarian Law[[1]](#footnote-1) at American University Washington College of law (AUWCL) was created in 1990 as part of its long-standing commitment to international human rights and the rule of law. Today, our faculty and staff include scholars, practitioners, and activists with decades of experience in human rights and international humanitarian law. The Center’s program staff and faculty co-directors engage in cutting-edge research, create scholarship, organize events, develop trainings, and implement a host of projects focused on cultivating the next generation of human rights advocates and improving the rights of vulnerable and marginalized populations around the world.

The Center hosts the Disability and Human Rights Program, which seeks to advance the human rights of persons with disabilities and help overcome the effects of exclusionary practices for persons with disabilities to achieve a state of full and effective participation and inclusion in society. Additionally, the Center hosts a Disability & Human Rights Fellows Program, sponsored by the Open Society Foundations (OSF), which brings attorneys from various parts of the world to AUWCL to engage in a specialized course of study focused on disability and human rights.

This contribution was written by AUWCL Disability Rights Fellow Mariela Galeazzi, and is the product of her research under the supervision of Professor Robert Dinerstein, Director of the Clinical Program, Associate Dean for Experiential Education, and Director of the Disability Rights Law Clinic, and Professor Macarena Saez, Faculty Director of the Center for Human Rights and Humanitarian Law.

* 1. **Issues addressed in the present submission**

The present submission addresses the issues related to the characterization of participation as a right and the legal consequences that derive from that position, its enforceability and obligation of immediate application. It also discusses legal issues such as legal standing, participation as a mandatory prerequisite, and remedies for non-compliance. This submission will focus on the following issues of the Draft Comment in the following sections: Introduction (I); Normative content (II), Scope of Article 4.3. (II.b); and Obligations of State Parties (III).

1. **Participation as an enforceable civil and political right and as a due process guarantee**
   1. **Participation as a civil and political right**

States’ obligation to consult and actively involve persons with disabilities through their representative organizations under Article 4.3 of the CRPD has its correlation in their right to be consulted and actively involved, or the right to participate in the development and implementation of legislation and policies to implement the present Convention and in other decision-making processes concerning issues relating to them.

Several human rights binding instruments include the right to participate in their respective bill of rights, and some of them also include the concept of participation in their preambles or findings, frequently relating it with the ideas of diversity, contribution to society and equality.[[2]](#footnote-2)

While this might be considered one of the most important definitions of the General Comment, the first moment in which the right to participate appears in the Draft is in paragraph 29 and 33. It would be advisable that the General Comment state that participation, or the right to participate, is a civil and political right at the very beginning. From that starting point, it might be easier to extract the legal consequences that derive from that statement.

* 1. **The meaning of mandatory mechanisms**

The CRPD Committee has recommended States Parties set up “mandatory mechanisms” for standing consultations with organizations representing persons with disabilities.[[3]](#footnote-3) The Committee has described consultations as a "collaboration" between the States and the organizations of persons with disabilities.[[4]](#footnote-4) It also recommended that the mechanisms for “regular consultations”[[5]](#footnote-5) must be established “prior”[[6]](#footnote-6) to the adoption of the decision and must be applied “from the early stages and across all sectors”[[7]](#footnote-7). They must also be “permanent,”[[8]](#footnote-8) “systematic,”[[9]](#footnote-9) “formal and transparent,”[[10]](#footnote-10) “independent,” “extensive and democratic.”[[11]](#footnote-11) The consultation has to be “meaningful,”[[12]](#footnote-12) “effective and result-orientated,”[[13]](#footnote-13) and “take into account the results of such consultations and reflect them in the decisions adopted.”[[14]](#footnote-14) In one case, the Committee recommended that the State Party “establish a permanent consultative body that effectively and meaningfully consults with persons with disabilities through their representative organizations in the development of all laws, policies and programmes.”[[15]](#footnote-15)

To conclude, the Committee throughout its jurisprudence has declared that, to comply with Article 4.3, States must establish mandatory mechanisms for standing consultations with organizations representing persons with disabilities at all levels of administration and prior to the adoption of laws, regulations, policies or plans. Additionally, States must take into account the results of such consultations and reflect them in the decisions adopted.

While the CRPD Committee has developed a strong jurisprudence around the concept of mandatory mechanisms, this concept appears for the first time in the Draft in Paragraph 38, under Obligation of State Parties.It would be advisable for the General Comment to state that States must closely consult with and actively involve persons with disabilities as a mandatory legal step when describing the Scope of Article 4.3. It also would be advisable to explicitly acknowledge and include in the Introduction that the lack of these mandatory mechanisms constitutes one of the most relevant barriers to the implementation of this right.

* 1. **A broad interpretation of issues concerning persons with disabilities**

Having to interpret similar wording with regard to the right of the child to be heard, the UN Committee on the Rights of the Child (CRC Committee) stated that the term “concerning” should be understood in “a very broad sense” and include issues that may directly or indirectly affect children.[[16]](#footnote-16)

Given that it might be challenging to establish a definite distinction between which issues concern and which ones do not concern persons with disabilities, it may not be advisable to establish strict criteria in laws or regulations to determine which are the issues relating to persons with disabilities. An open enumeration of issues that directly concern them will be useful if it allows persons with disabilities to make a claim for participatory decision-making processes on other issues that might indirectly affect them. Also, when a controversy arises on the subject, it would be advisable to put on the State the burden to demonstrate that the issues discussed do not concern persons with disabilities or do not affect them directly or indirectly.

* 1. **Immediate realization of the right to participate**

As the right to participate is both civil and political, its immediate obligation is unquestionable. Therefore, that the adoption of legislative and administrative measures is necessary to fully comply with the obligation does not prevent States from opening *ad hoc* consultations on a case by case basis. Also, courts should be able to halt decision-making processes or stop the implementation of laws, regulations, plans, and policies concerning people with disabilities issued without their participation.

The right to participate as a civil and political right has consequences regarding public resources and budgets. As stated by the OHCHR, however, “[w]here a human rights treaty requires immediate and full realization of the rights or aspects of rights set out in the treaty, budget constraints are not acceptable as an excuse for noncompliance with this obligation.”[[17]](#footnote-17)

* 1. **Standards for the incorporation of the views of persons with disabilities in decisions adopted by State Parties**

Without any legal provision similar to Article 4.3, the Committee on the Elimination of Discrimination Against Women (CEDAW Committee) established that advice of women should be incorporated in the decision adopted by all branches of the State and at all levels of government.[[18]](#footnote-18) Therefore, at least the same standard would be advisable for the authoritative interpretation of Article 4.3, whose text itself has a more demanding wording.

Article 6 of the Convention 169 of the International Labor Organization establishes that “in applying the provisions of [the Convention 169] governments shall consult the peoples concerned, through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them directly.”[[19]](#footnote-19) This Article has similarities with Article 4.3. While it does not include the adverb “directly” to describe the issues object of consultation, it includes the adverb “closely” and the phrase “actively involve,” which seems to imply that Article 4.3 has a stronger wording.

On the other hand, the Convention 169 states that "the consultations carried out in the application of this Convention shall be undertaken…with the objective of achieving agreement or consent to the proposed measures.”[[20]](#footnote-20) Although to achieve an agreement or consent is not explicit in Article 4.3, it would be reasonable to conclude that the same aim should guide consultation processes under Article 4.3. Finally, Article 19 states that “States shall consult and cooperate in good faith …in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.”[[21]](#footnote-21) Here again, although the CRPD does not demand prior and informed consent, that provision might be useful to support the existence, under the CRPD, of a duty not to adopt public decisions in contradiction to the results or outcomes of the consultation.

The Inter-American Human Rights Court and Commission have issued precautionary measures and decisions on the merits regarding the right to consultation of indigenous peoples that made clear that "[t]he consultation procedure cannot be exhausted in the fulfillment of a series of pro forma requirements …[and that] States must give due consideration to the results of the consultation or, failing that, provide objective and reasonable reasons for not to have taken them into consideration." [[22]](#footnote-22) The right of indigenous peoples to be consulted follows the same criteria as the CRC Committee and the CEDAW Committee. It is not enough to adopt a formal procedure. Rather, it is necessary to consider the results of the consultation and incorporate them in the final decision adopted or provide reasons for not doing so.

Throughout the Draft Comment, “priority,” “weight,” and “consideration” are used alternatively. It would be advisable to standardize the language and to state the differences, if any, among “due priority,” “due weight,” and “due consideration.”

* 1. **Consequences of the lack of incorporation of the outcomes of the consultation and legal remedies**

The natural legal consequence of considering participation both a mandatory step in the approval of legislation and policies, as well as a civil and political right, is its legal (administrative or judicial) enforceability. Reviewed International law standards, along with Administrative and Constitutional Law can provide the theoretical basis to implement and enforce the right to participation, by recognizing the principle of legality, the right to be previously heard in an administrative process that may affect a person’s interests, and the democratic principle that requires that public actions must be justified.

The principle of legality is located within a particular conception of democratic legal culture, the culture of justification, and, therefore, it “entails a duty on administrative decision-makers to give reasons for their decisions.”[[23]](#footnote-23) The right to be heard prior to a decision that may affect someone’s interest or rights is a fundamental principle that has its roots in criminal law and the right to a fair trial. Internationally, it has been developed by the CRC and its Committee, which has stated that the right to be heard of children as a group requires States to provide them with “clear feedback on how their participation has influenced any outcomes.”[[24]](#footnote-24)

Applying these principles here allows us to identify three duties derived from Article 4.3 concerning their implementation at the local level through administrative procedures. The first duty is formal and is to regulate the mandatory mechanisms. The second one is to open the consultation procedures as a necessary antecedent to the adoption of any decision concerning issues relating to persons with disabilities. The omission of regulating these mandatory mechanisms might be considered a violation of Article 4.1 (a) and (b) of the CRPD. Also, whether or not the mandatory mechanism exists, breaching the obligation to consult undermines the decision finally adopted. As the consultation is mandatory, a decision adopted is void or can be annulled merely for having been adopted without holding any consultations or for holding them improperly.

The third duty, of a rather substantive nature, has to do with the obligation to explicitly include in the justification of the decisions adopted due consideration of the visions, suggestions, and arguments revealed during the consultation process. While failing to consider or take into account the outcomes of the consultation process at all could be considered a formal defect that invalidates the decision without further analysis, the reasoning itself should also be subject to scrutiny. If, for example, a decision maker invokes the reasons alleged by organizations *for* people with disabilities or by service providers and gives priority to those reasons over those given by OPDs, the decision may be nullified because of a violation of the duty to justify the decision appropriately.

The only moment in which nullification appears in the Draft is at the end of the section of Obligation of the States (Paragraph 48), and between brackets. Also, it appears as the only possible remedy; it would be advisable to include a range of different remedies for different situations.

1. **The General Comment should include concrete examples of best practices**

Given that one of the main gaps for the implementation of the right to participate is the lack of regulatory frameworks and the lack of knowledge and experience on how to implement them, it would be advisable for the Committee to incorporate examples of good or best practices.

1. **Proposed text for amendments**

In line with the analysis above, we propose the following amendments. We use italics and bold text to suggest adding a word or phrase to a paragraph. We cross out phrases that we think it might be useful to delete or rephrase, and introduce, when appropriate, the suggested phrase that could be used instead.

**Paragraph 3:**“Participation is a core human rights principle *and a civil and political right*, allowing individuals to play a significant role in the development of every democratic society, as well as their communities. *For persons with disabilities, through their representative organizations, this civil and political right to participate is the right to be closely consulted and actively involved in decision-making processes on issues concerning them, and in the development of laws, policies and regulations for the implementation of the Convention.* The active and informed participation of everyone, including but not limited to women, children, older persons, ethnic groups, indigenous peoples and persons with disabilities, in decisions that affect their lives and rights, is consistent with and required of a human rights-based approach, and ensures good governance and social accountability.”

**Paragraph 4:** “The principle of participation is well established in article 21 of the Universal Declaration of Human Rights. It is also reaffirmed in article 25 of the International Covenant on Civil and Political Rights. Participation as a principle and a ***civil and political*** right is also recognized in other international and regional human rights instruments, including under article 5 (c) of the International Convention on the Elimination of All Forms of Racial Discrimination, article 7 of the Convention on the Elimination of All Forms of Discrimination against Women, articles 12 and 23 (1) of the Convention on the Rights of the Child, and throughout the Convention on the Rights of Persons with Disabilities as a cross-cutting issue, with “close consultation and active involvement” and “participation in monitoring” as part of a wider concept of participation in ***political and*** public life (articles 4.3, *29,* and 33.3).”

**Paragraph 11:**“(a) The lack of understanding of the concept of participation itself, ***especially* *the legal consequences of recognizing it as a civil and political right****,* and the absence of best practices for proper implementation;”“(f) The insufficient or non-existent ***constitutional, legal or regulatory frameworks for the implementation of the right to participate, followed by the lack*** of enforcement mechanisms ~~[~~with meaningful penalties and remedies for non-compliance] to closely consult with and actively involve DPOs/OPDs in law and policy-making, as well as in the implementation of laws, policies and regulations to implement the Convention;”

**Paragraph 18:**“The Convention explicitly requires States parties to consult closely with and actively involve persons with disabilities, through DPOs/OPDs, including those representing children and women with disabilities, in the “development and implementation of legislation and policies to implement the present Convention, and in other decision-making processes” concerning issues relating to them. This means that legal and regulatory frameworks and procedures, across all levels and branches of government, should explicitly require**, *as a mandatory step prior to the approval of laws, regulations, and policies****,* that public authorities consult closely with and actively involve persons with disabilities, including those representing women and children with disabilities as well as persons with intellectual disabilities, ~~in~~ *prior to and throughout* the development and implementation of such processes.”

**Paragraph 19:**“Prior consultations and engagement with DPOs/OPDs at all stages of public decision-making, including before the adoption of legislation, policies, and programmes that affect them, is a ***mandatory*** prerequisite. The legal obligation of States parties to ensure consultation of and with DPOs/OPDs is not limited to access to public decision-making spaces but is automatically extended into the areas of partnership, delegated power and citizen control. It is further an obligation which also includes global and/or regional DPOs/ODPs.”

**Paragraph 20:** “The phrase ‘concerning issues relating to persons with disabilities’, as referred to in article 4.3, must be broadly interpreted to cover the full range of legislative, administrative and other measures that may directly or indirectly affect persons with disabilities; take into account the protection and promotion of the human rights of persons with disabilities; and refraining from engaging in any act or practice, be it deliberate or otherwise that is inconsistent with the Convention. ***If a controversy arises, the burden to prove that the issue under discussion will not have a disparate or disproportionate effect on persons with disabilities rests on the public authority involved***. This is a way for States parties to mainstream disability through inclusive policies, ensuring that persons with disabilities are considered on an equal basis with others. It also ensures that the knowledge of and life experience of persons with disabilities are considered when deciding upon new legislative, administrative and other measures. This includes any decision-making processes, whether disability-specific or mainstream, such as general laws, disability specific laws and the public budget, which might have an impact on their lives.”

**Paragraph 21:**To “closely consult with and actively involve” persons with disabilities through their representative organizations means that their consultation and involvement in the development and implementation of legislation and policies to implement the Convention, and in other decision-making processes, is a full-fledged strong obligation under international human rights law. This includes the right of organizations of persons with disabilities, to be consulted timely, with guarantees of accessibility, including to all relevant information, and reasonable accommodation when required, such as the provision of sign language interpreters and Easy Read text and language, Braille and tactile communication. Their respective views must be given due ***explicit*** consideration, ***priority*** and weight and they must be duly informed of the outcome of the process, including an explicit explanation, in the findings, considerations or reasoning of decisions, on how their views were considered and why. ***Non-compliance with the aforementioned obligations shall be subjected to adequate remedies, including the retrogression to earlier stages of the procedure, the suspension of the implementation of the decision until appropriate consultations take place, or the total or partial nullification of the decision, among others.”***

**Paragraph 23:**“‘Full and effective participation’ in a democratic society refers to engaging with all citizens, including persons with disabilities, to provide for a sense of belonging to and being part of society and its entities. This includes being encouraged and receiving appropriate support, including peer support, to participate in society, freedom from stigma and feeling safe and respected when expressing oneself in public. ***The right to participate is a civil and political right, and therefore*** an obligation of immediate application ***not subjected to budgetary restrictions,*** to be applied not only to decision-making, monitoring and implementation processes but also to be guaranteed the right to due process of law, the right to participate in political life and the right to be heard. If participation is to be effective and meaningful, it needs to be understood as a process, not as an individual one-time event.”

**Paragraph 29:**“Participation constitutes a full-fledge right whose compliance must be ensured. The civil and political rights’ obligations of States parties are immediately applicable ***without regard to limitations on resources.*** States parties have a general obligation to respect, protect and fulfill the right of persons with disabilities to be closely consulted and actively involved, through their DPOs/OPDs, in decision making, monitoring and implementation processes under article 4.3. Effective remedies, ***including the retrogression to earlier stages of the procedure, the suspension of the implementation of the decision until appropriate consultations take place, or the total or partial nullification of the decision,*** must be available to enforce compliance with this right to participation.”

**Paragraph 33:**“[In addition, in line with the basic principle of good governance and international law, States parties must consult and engage with DPOs/OPDs in good faith. Acting truthfully and fairly with each other, should be a foundational stone of all State party actions during processes of dialogue and consultation with DPOs/OPDs.] [The process of dialogue and consultation between organizations of persons with disabilities and States parties should be based on transparency, mutual respect, meaningful dialogue and a sincere desire to reach a collective agreement ***on the substance of the decision*** and on the procedures to adopt it. ~~That are~~ ***These procedures*** must be appropriate to the circumstances of the diversity of the disability movement and must allow for reasonable and realistic timelines.] States parties should take into consideration that representatives of DPOs/OPDs often participate in the collaboration with States parties as volunteers. To respect persons with disabilities’ right to be closely consulted and actively involved, through their DPOs/OPDs, States parties should undertake periodic evaluations of the functioning of the different participation and consultation mechanisms, with the active involvement of DPOs/OPDs.”

**Paragraph 34:**“Persons with disabilities, through their DPOs/OPDs, can only effectively participate whether their views are given due weight guaranteeing that they are not only heard as a mere formality or as part of a mere tokenistic approach to consultation. [Furthermore, their views should be ***prioritized*** ~~considered as no less important than other actors, under article 4.3~~ ~~(see para. …)].~~ States parties decision-making actors should “take into account the results of such consultations and reflect them in the decisions adopted,” by duly informing them of the outcome of the process and explicitly explaining, in the findings, considerations or reasoning of decisions, how their views were considered and why.”

**Paragraph 48:**“~~[~~States parties should establish formal mechanisms and effective remedies for challenging public bodies’ decisions adopted without complying to their duty to closely consult and actively involve DPOs/OPDs “concerning issues relating to persons with disabilities” ~~(see para. ….),~~ particularly in all disability-relevant law and policy-making, on an equal basis with others. States parties should establish complaint mechanisms and remedies for persons with disabilities, including the effect of **retrogression to earlier stages of the procedure, suspension of the implementation of the decision, and** nullification of decisions in cases where they have been adopted in breach of article 4.3 of the Convention by not ensuring close and timely consultation and active involvement of DPOs/OPDs complying with the duties, requirements, and features put forward in this general comment].”

**Paragraph 49:**“States parties should develop strong monitoring and enforcement mechanisms with [dissuasive/effective] penalties and remedies for non-compliance of the implementation of laws, policies and regulations that seek to implement the Convention. Compliance should be monitored by independent mechanisms, with the authority to initiate investigations and impose sanctions to both public and private entities who fail to implement them, but at the same time by DPOs/OPDs themselves, ~~being able~~ ***as they have legal standing*** to trigger a procedure when they feel that public or private entities have failed to comply with adopted policies and programmes, and/or to involve and consult them in the process.”

1. Center for Human Rights and Humanitarian Law, <https://www.wcl.american.edu/impact/initiatives-programs/center/about/> [↑](#footnote-ref-1)
2. See Universal Declaration of Human Rights (arts. 21 and 27), International Covenant on Civil and Political Rights (art. 25), International Covenant on Economic, Social and Cultural Rights (arts. 13.1 and 15.1), Convention on the Elimination of All Forms of Discrimination Against Women (arts. 7, 8, 13(c) and 14.2), the International Convention on Elimination of All Forms of Racial Discrimination (art. 5(e)(vi)), the Convention on the Rights of the Child (arts. 12 and 31), the Convention on the Rights of Persons with Disabilities (arts. 3(c), 4.3, 9, 29 and 30), the International Convention on the Rights of All Migrant Workers and Members of their Families (arts. 41 and 42.2), the United Nations Declaration on the Right to Development (arts. 1.1, 2 and 8.2) and the United Nations Declaration on the Rights of Indigenous Peoples (arts. 5, 18, 19 and 41). [↑](#footnote-ref-2)
3. U.N. Committee on the Rights of Persons with Disabilities, Concluding Observations on the initial report of Honduras [Concluding Observations on Honduras] at para. 12, U.N.Doc. CRPD/C/HND/1 (2017); U.N. Committee on the Rights of Persons with Disabilities, Concluding Observations on the initial report of Chile [Concluding Observations of Chile] at para. 10, U.N. Docs. CRPD/C/CHL/CO/1 (2016). [↑](#footnote-ref-3)
4. U.N. Committee on the Rights of Persons with Disabilities, Concluding Observations on the initial report of Cyprus [Concluding Observations on Cyprus], at para. 6, U.N.Doc. CRPD/C/CO/CYP/1) (2017). [↑](#footnote-ref-4)
5. Concluding Observations of Boznia and Herzegovina, above note 68, at para. 7. [↑](#footnote-ref-5)
6. U.N. Committee on the Rights of Persons with Disabilities, Concluding Observations on the initial report of Jordan [Concluding Observations on Jordan] at 8(a), CRPD/C/JOR/CO/1 (2017). [↑](#footnote-ref-6)
7. Concluding Observations of Lithuania, above note 74, at para. 12 (a). [↑](#footnote-ref-7)
8. Concluding Observations on Honduras, above note 68, at para. 12. [↑](#footnote-ref-8)
9. U.N. Committee on the Rights of Persons with Disabilities, Concluding Observations on the initial report of Moldova [Concluding Observations on Moldova], at 7 (a) U.N. Doc. CRPD/C/MDA/CO/1 (2017) [↑](#footnote-ref-9)
10. Concluding Observations of Boznia y Herzegovina, above note 68, at para. 7. [↑](#footnote-ref-10)
11. U.N. Committee on the Rights of Persons with Disabilities, Concluding Observations on the initial report of Colombia [Concluding Observations on Colombia], at 11 (a), U.N.Doc. CRPD/C/COL/CO/1 (2016). [↑](#footnote-ref-11)
12. U.N. Committee on the Rights of Persons with Disabilities, Concluding Observations on the initial report of Iran [Concluding Observations on Iran], at para 11(a), U.N.Doc. CRPD/C/IRN/CO/1 (2017); Concluding Observations on Jordan, above note 79, at para. 8(a); Concluding Observations on Moldova, above note 82, at para. 7(a). [↑](#footnote-ref-12)
13. Concluding Observations of Canada, above note 75, at 12 (a). [↑](#footnote-ref-13)
14. Concluding Observations on Colombia, above note 86, at 11 (a). [↑](#footnote-ref-14)
15. U.N. Committee on the Rights of Persons with Disabilities, Concluding Observations on the initial report of Italy [Concluding Observations on Italy], at para. 7, U.N. Doc. CRPD/C/ITA/CO/1 (2016). [↑](#footnote-ref-15)
16. U.N. Committee on the Rights of Child, General Comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1), at para. 19, U.N.Doc. CRC/C/GC/14 (2013). [↑](#footnote-ref-16)
17. OHCHR, International Budget Partnership, Realizing Human Rights Through Government Budgets, New York and Geneva (2017), p. 35 [↑](#footnote-ref-17)
18. U.N. Committee on the Elimination of Discrimination Against Women, General Recommendation No. 23: Article 6 political and public life, at paras. 26, 27, U.N.Doc. A/52/38 (1997). [↑](#footnote-ref-18)
19. U.N. International Labor Organization, Indigenous, and Tribal Peoples Convention, (1989), Art. 6.1, a. [↑](#footnote-ref-19)
20. Id., Art. 6.2. [↑](#footnote-ref-20)
21. Id., Art. 19. [↑](#footnote-ref-21)
22. Organization of American States, Rights of Indigenous and Tribal Peoples over their Ancestral Lands and Natural Resources. Norms and jurisprudence of the Inter-American Human Rights System, OEA/Ser.L/V/II. Doc. 56/09, para. 285 (2009), [original: Spanish] https://www.oas.org/es/cidh/indigenas/docs/pdf/tierras-ancestrales.esp.pdf (last visited Dec 15, 2017). [↑](#footnote-ref-22)
23. TAGGART, Mike. The principle of legality in administrative law: internationalization. Oxford University Commonwealth Law Journal 5-34, January 2001,1 (2000). [↑](#footnote-ref-23)
24. Committee on the Convention of the Rights of Child, General Comment No. 12, above note 15, para. 134 (i). [↑](#footnote-ref-24)