

J.N.C. v A.G.H, 2024 BCSC 1783.

SUMMARY

Application related to the [Hague Convention on the Civil Aspects of International Child Abduction](#) [Hague Convention] for the return of the subject child to Mexico. A.G.H. argues the child is habitually resident to Canada and should remain there. J.N.C. argues habitual residence is Mexico. Hamilton. J applies the Balev framework for Hague Convention Proceedings and determines that A.G.H. fails to satisfy the requirements. Habitual residence is determined to be Mexico, and the child must be returned there.

JURISDICTION	British Columbia
COURT	Supreme Court of British Columbia
JUDGE	Hamilton J
PARTIES	Applicant 1. J.N.C. Father Respondent 1. A.G.H. Mother
TREATY TERRITORY	None.
INDIGENOUS GROUP, COMMUNITY, OR PEOPLE	Katzie First Nation Kwantlen First Nation Kwikwetlem First Nation Lyackson First Nation Musqueam First Nation New Westminster/Qayqayt First Nation Semiahmoo First Nation Squamish Nation Tsawwassen First Nation Tsleil-Waututh Nation
APPLICABLE INDIGENOUS LAW	None.
TOPICS	Cultural Continuity Habitual Residence Relocation
LEGISLATION CITED	An Act Respecting First Nations, Inuit and Métis Children, Youth and Families, SC 2019, c 24. (Federal Act) Sections 8; 18(1); 20; 21; 22 Criminal Code, RSC 1985 c C-46. (CC) Section 718.2(e)

	The Constitution Act, 1867, 30 & 31 Vict, c 3. (Constitution Act, 1867) Section 91(24) United Nations Declaration on the Rights of Indigenous Peoples Act, SC 2021, c 14. (Federal DRIPA) Sections 4; 5; 6 Declaration on the Rights of Indigenous Peoples Act, SBC 2019, c 44. (BC DRIPA) Sections 2; 3; 4 Family Law Act, SBC 2011, c 25. (FLA) Section 80 Hague Convention on the Civil Aspects of International Child Abduction, 25 October 1980, Can. TS 1983 No. 35. (Hague Convention) Article 1; 3; 12; 13; 26 United Nations Declaration on the Rights of Indigenous Peoples, GA Res 61/295, UNGAOR, 61st Sess, Supp No 49, UN Doc A/RES/61/295 (2007). (UNDRIP) Article 3; 8; 9; 10; 11; 13; 38; 43
CASE LAW CONSIDERED	Batten v Batten, 2021 BCSC 2507. Beatty v Schatz, 2009 BCSC 769. De Leon Saldierna v Shergill, 2023 BCSC 257. De Oliveira v Campbell, 2019 BCSC 623. F v N, 2022 SCC 51. GB v VM, 2012 ONCJ 745. Gill v Gill, 2024 BCSC 346. Gitxaala v British Columbia (Chief Gold Commissioner), 2023 BCSC 1680. Laranjeira e Silva v Virco, 2024 BCCA 164. Ludwig v Ludwig, 2019 ONCA 680. Luongo v Luongo, 2023 ONSC 6013. Office of the Children’s Lawyer v Balev, 2018 SCC 16.

	<u><i>Paschel v Paschel</i>, 2017 ONSC 6952.</u> <u><i>Pasco v Pasco</i>, 2015 BCSC 1412.</u> <u><i>Puggioni v Puggioni</i>, 2023 CanLII 98036.</u> <u><i>Reference re An Act respecting First Nations, Inuit and Métis children, youth and families</i>, 2024 SCC 5.</u> <u><i>Ross River Dena Council v Canada</i>, 2017 YKSC 59.</u> <u><i>R v Gladue</i>, 1999 CanLII 679 (SCC), [1999] 1 SCR 688.</u> <u><i>R v Ipeelee</i>, 2012 SCC 13.</u> <u><i>R v Kehoe</i>, 2023 BCCA 2.</u> <u><i>Thomson v Thomson</i>, 1994 CanLII 26 (SCC), [1994] 3 SCR 551.</u> <u><i>Viltman v Borovskaia</i>, 2020 BCSC 381.</u>
CASE HISTORY	None.

CASE BRIEF

DECISION

- The child (A) is a habitual resident of Mexico.
- Order return of the child to Mexico.
- A.G.H did not discharge the onus to prove that there would be a grave risk of harm if the child returned to Mexico.
- Decline to create a new version of the Balev test.

FACTS

- Parties meet in October 2018.
- The child, “A”, is born December 2019 in British Columbia (BC).
- The parties and A are Canadian – they have temporary residence visas in Mexico.
- A.G.H and A are Indigenous.
- A.G.H says a significant portion of A’s Indigenous heritage is connected to Vancouver.
- The parties spent the majority of past 3 years in Mexico, returning to BC for summers.
- The parties purchase two lots in Mexico – one for a family home and one for an investment property.
- In the Spring of 2022, the parties move into the completed home, obtain temporary residence visas for Mexico and pay a school deposit for A.
- Disputed incident of IPV occurs, with both parties perpetrating.
- Family sells their home in BC in 2023.
- December 8, 2023, is the agreed upon separation date.
- The parties live separately in Mexico in 2024. A.G.H purchases her own home in the country. A spends half a week with each parent.
- March 25, 2024, A.G.H gives ‘two-week notice’ of returning to BC with A. J.N.C consults a lawyer and expressed his lack of consent in A’s relocation.
- Additional instance of IPV occurs between both parties after conflict regarding A.
- April 21, 2024, A.G.H travels to Canada with A.
- J.N.C begins his petition to the BCSC, pursuant to the Hague Convention.

ISSUES

1. Whether the child's habitual residence is Mexico or Canada.
2. If the child's habitual residence is Mexico, should the court decline to return the child there based on risk of harm.
3. Does the Balev test established by the SCC adequately consider the indigeneity of a child when considering their habitual residence?

ANALYSIS

Legal Framework: Hague Convention and Balev/Ludwig Test

- Ludwig v Ludwig, 2019 ONCA 680 – analytical framework for Hague Convention proceedings

Stage one: habitual residence

- Includes habitual residence immediately before removal, focal point of child's life, links and circumstances to both countries, nationality, intention of parents, etc.
- End of stage one: Outcomes
- If child habitually resided in applicant's country immediately prior to removal, convention applies and court proceeds into stage two.
- If not habitually resident in applicant's country, convention does not apply.

Stage two: exceptions

- Parent seeking return was not exercising custody, grave risk of harm, child objects to return and is of sufficient age and maturity.
- [United Nations Declaration on the Rights of Indigenous Peoples](#) was incorporated into domestic Canadian law through the [United Nations Declaration on the Rights of Indigenous Peoples Act](#) (Federal DRIPA).
- The Federal Act was response to this.
- However, this does not mean this court has to reformulate the Balev test.
- To add indigeneity as a primary consideration would undercut the uniformity the Hague Convention calls for and encourages forum shopping.
- UNDRIP is affirmed in provincial law through the [Declaration on the Rights of Indigenous Peoples Act](#) (BC DRIP).

- List of considerations is purposefully broad to allow the court to consider the entirety of a child's circumstances – broad enough that there is already ample room to consider a child's indigeneity.
- Indigeneity needs to be consideration at both stages but is not determinative of the outcome.
- The analysis is fact specific for each child, regardless of whether they are Indigenous.
- The focus of the Convention in determining the proper forum is habitual residence, not best interest of the child.

Application of the Balev/Ludwig Test

Stage one

- Evidence regarding A's indigeneity is vague and limited.
- A's indigeneity can be properly addressed in determination of custody and access.
- Parties chose to live in Mexico, and evidence supports that A's Indigenous Connections grew in Canada and Mexico.
- April 21, 2024, was the date of removal, and her habitual residence immediately prior to this was in Mexico.
- It is undisputed that the parties have important ties to Canada, but the question is habitual residence, not whether the parties have ties to Canada.
- Parties travelled to Mexico with one-way tickets, sold their home in BC, adopted pets in Mexico, purchased land, obtained temporary residence visas, and registered A in school in Mexico.

Stage two

- The burden is on A.G.H to prove that A would be exposed to grave risk of harm if returned to Mexico.
- Harm must be substantial, not trivial, and greater than normal risk of separating a child from a parent.
- Evidence must be credible and meet a high threshold (Batten v Batten, 2021 BCSC 2507)
- Even if it is accepted that A.G.H's version of the IPV events is true, there is no evidence that A will be in grave risk of harm in Mexico.

Credibility of Witness / Affidavit Evidence

- Gill v Gill, 2024 BCSC 346 (Citing Bradshaw v Stenner, 2010 BCSC 1398) – factors in credibility and reliability assessment (not exhaustive).
- Capacity and opportunity of the witness to observe the events at issue.
- Witness' ability to remember those events.
- Ability of the witness to resist being influence by their interest in recalling those events.
- Internal and external consistency in evidence.
- Whether the evidence seems unreasonably, improbable or unlikely, considering the probabilities affecting the case.
- J.N.C's evidence is credible – resists influence of his own legal interests, provides detailed affidavits, etc.
- Concerns regarding A.G.H's credibility – evidence is tainted by her interest in the proceedings remaining in Canada, provides exaggerations, etc.
- However, has more credibility in evidence regarding Indigenous heritage.
- It is true that A would be physically separated from her Indigenous lands, but her connections can continue.
- A.G.H indicated she wished to raise A as a global citizen.
- A.G.H has maintained A's Indigenous connections in various ways (ex. drumming and dancing in Mexico). This can continue.

RELEVANT EXCERPTS

[133] In determining whether there has been a wrongful removal or retention of a child under Article 3 of the Hague Convention, the court must first determine where the child was “habitually resident” immediately before the removal or retention. If the child’s habitual residence is not in the state of the parent seeking return (here Mexico), then the Hague Convention does not apply: Balev at para. 36; Gill at para. 21.

[181] In the years following its formal endorsement, the government of Canada started to reflect its commitment to implementing UNDRIP in federal legislation. For example, An Act respecting First Nations, Inuit and Metis children, youth and families, S.C. 2019, c. 24 [FNIM Act], which was enacted on June 21, 2019, notes that the government of Canada “is committed to implementing [UNDRIP]” (preamble), and that one of the purposes of the FNIM Act is to contribute to the implementation of UNDRIP (s. 8).

[209] As well, the Canadian jurisprudence on habitual residence recognizes that courts are to consider the “entirety” of the child’s circumstances, that the list of factors is not closed, and that “no single factor” is to dominate the analysis (Balev at paras. 44 and 47). In my view, there is already ample space within the Balev/Ludwig framework for the Court to consider A’s indigeneity and her Indigenous Connections when considering her habitual residence, without reformulating the test.

[229] I do agree that Canada’s history of colonialism and its effects, including displacement of Indigenous peoples from their lands and the associated loss of culture, traditions and community can offer context for the court’s analysis in a Hague Convention matter in determining an Indigenous child’s habitual residence pursuant to the test set out in Balev/Ludwig. The same context can be useful in the analysis of whether there is grave risk of harm in returning a particular Indigenous child. However, while these factors can offer context for each of these steps of the analysis, they ought not to dictate or determine the outcome. The analysis is fact-specific based on the individual child, whether or not the child is Indigenous.

[230] It must also be noted that the cases relied on by counsel all deal with entirely different matters than the case at hand. International child abduction cases such as the case before me – even when the child is an Indigenous child – are not at all similar to child welfare matters. In Hague Convention matters, the court must determine habitual residence of the child in order to determine the proper

forum for the substantive determination of custody and access which occurs later. The focus in determining the proper forum under the Hague Convention is habitual residence, not best interests of the child. The court applies an international treaty and the case law developed with the principle of harmony in mind.

LEGISLATION CITED

An Act Respecting First Nations, Inuit and Métis Children, Youth and Families, SC 2019, c 24.

Section 8 – Purpose

The purpose of this Act is to

- (a) affirm the inherent right of self-government, which includes jurisdiction in relation to child and family services;
- (b) set out principles applicable, on a national level, to the provision of child and family services in relation to Indigenous children; and
- (c) contribute to the implementation of the United Nations Declaration on the Rights of Indigenous Peoples.

Section 18(1) - Affirmation

The inherent right of self-government recognized and affirmed by section 35 of the Constitution Act, 1982 includes jurisdiction in relation to child and family services, including legislative authority in relation to those services and authority to administer and enforce laws made under that legislative authority.

Section 20

(1) If an Indigenous group, community or people intends to exercise its legislative authority in relation to child and family services, an Indigenous governing body acting on behalf of that Indigenous group, community or people may give notice of that intention to the Minister and the government of each province in which the Indigenous group, community or people is located.

Coordination agreement

(2) The Indigenous governing body may also request that the Minister and the government of each of those provinces enter into a coordination agreement with the Indigenous governing body in relation to the exercise of the legislative authority, respecting, among other things,

- (a) the provision of emergency services to ensure the safety, security and well-being of Indigenous children;

- (b) support measures to enable Indigenous children to exercise their rights effectively;
- (c) fiscal arrangements, relating to the provision of child and family services by the Indigenous governing body, that are sustainable, needs-based and consistent with the principle of substantive equality in order to secure long-term positive outcomes for Indigenous children, families and communities and to support the capacity of the Indigenous group, community or people to exercise the legislative authority effectively; and
- (d) any other coordination measure related to the effective exercise of the legislative authority.

Application — sections 21 and 22

(3) Sections 21 and 22 apply only in respect of an Indigenous group, community or people on whose behalf an Indigenous governing body

- (a) entered into a coordination agreement; or
- (b) has not entered into a coordination agreement, although it made reasonable efforts to do so during the period of one year after the day on which the request is made.

Clarification

(4) For the purposes of paragraph 3(b), sections 21 and 22 apply beginning on the day after the day on which the period referred to in that paragraph ends.

Dispute resolution mechanism

(5) If the Indigenous governing body, the Minister and the government of each of those provinces make reasonable efforts to enter into a coordination agreement but do not enter into a coordination agreement, a dispute resolution mechanism provided for by the regulations made under section 32 may be used to promote entering into a coordination agreement.

New request

(6) If sections 21 and 22 do not apply in respect of an Indigenous group, community or people, nothing prevents the Indigenous governing body that has already made a request under subsection (2) on behalf of the Indigenous group, community or people from making a new request.

Coordination agreement entered into after one year

(7) For greater certainty, even if sections 21 and 22 apply in respect of an Indigenous group, community or people on behalf of which an Indigenous governing body has not entered into a coordination agreement, nothing prevents the Indigenous governing body from entering into a coordination agreement after the end of the period referred to in paragraph (3)(b).

Section 21

(1) A law, as amended from time to time, of an Indigenous group, community or people referred to in subsection 20(3) also has, during the period that the law is in force, the force of law as federal law.

Interpretation

(2) No federal law, other than this Act, affects the interpretation of a law referred to in subsection (1) by reason only that subsection (1) gives the law the force of law as federal law.

Application of federal laws

(3) No federal law, other than this Act and the Canadian Human Rights Act, applies in relation to a law referred to in subsection (1) by reason only that subsection (1) gives the law the force of law as federal law.

Section 22

(1) If there is a conflict or inconsistency between a provision respecting child and family services that is in a law of an Indigenous group, community or people and a provision respecting child and family services — other than any of sections 10 to 15 of this Act and the provisions of the Canadian Human Rights Act — that is in a federal Act or regulation, the provision that is in the law of the Indigenous group, community or people prevails to the extent of the conflict or inconsistency.

Clarification

(2) The reference to a “federal Act or regulation” in subsection (1) does not include a reference to a law that has the force of law under subsection 21(1).

Conflict — provincial laws

(3) For greater certainty, if there is a conflict or inconsistency between a provision respecting child and family services that is in a law of an Indigenous group, community or people and a provision

respecting child and family services that is in a provincial Act or regulation, the provision that is in the law of the Indigenous group, community or people prevails to the extent of the conflict or inconsistency.

Criminal Code, RSC 1985 c C-46

Section 718.2(e)

A court that imposes a sentence shall also take into consideration the following principles:

(e) all available sanctions, other than imprisonment, that are reasonable in the circumstances and consistent with the harm done to victims or to the community should be considered for all offenders, with particular attention to the circumstances of Aboriginal offenders.

The Constitution Act, 1867, 30 & 31 Vict, c 3.

Section 91(24) - Legislative Authority of Parliament of Canada

It shall be lawful for the Queen, by and with the Advice and Consent of the Senate and House of Commons, to make Laws for the Peace, Order, and good Government of Canada, in relation to all Matters not coming within the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces; and for greater Certainty, but not so as to restrict the Generality of the foregoing Terms of this Section, it is hereby declared that (notwithstanding anything in this Act) the exclusive Legislative Authority of the Parliament of Canada extends to all Matters coming within the Classes of Subjects next hereinafter enumerated; that is to say,

United Nations Declaration on the Rights of Indigenous Peoples Act, SC 2021, c 14.

Section 4 – Purposes

The purposes of this Act are to

(a) affirm the Declaration as a universal international human rights instrument with application in Canadian law; and

(b) provide a framework for the Government of Canada's implementation of the Declaration.

Section 5 – Consistency

The Government of Canada must, in consultation and cooperation with Indigenous peoples, take all measures necessary to ensure that the laws of Canada are consistent with the Declaration.

Section 6

Action Plan

(1) The Minister must, in consultation and cooperation with Indigenous peoples and with other federal ministers, prepare and implement an action plan to achieve the objectives of the Declaration.

[Declaration on the Rights of Indigenous Peoples Act, SBC 2019, c 44.](#)

Section 2 – Purposes of Act

The purposes of this Act are as follows:

(a) to affirm the application of the Declaration to the laws of British Columbia;

(b) to contribute to the implementation of the Declaration;

(c) to support the affirmation of, and develop relationships with, Indigenous governing bodies.

Section 3 – Measures to align laws with Declaration

In consultation and cooperation with the Indigenous peoples in British Columbia, the government must take all measures necessary to ensure the laws of British Columbia are consistent with the Declaration.

Section 4 – Action Plan

(1) The government must prepare and implement an action plan to achieve the objectives of the Declaration.

(2) The action plan must be prepared and implemented in consultation and cooperation with the Indigenous peoples in British Columbia.

(3) The action plan must contain the date on or before which the government must initiate a review of the action plan.

(4) After the action plan is prepared, the minister must, as soon as practicable,

(a) lay the action plan before the Legislative Assembly if the Legislative Assembly is then sitting, or

(b) file the action plan with the Clerk of the Legislative Assembly if the Legislative Assembly is not sitting.

(5) The government may prepare a new action plan in accordance with this section.

Content

(2) The action plan must include

(a) measures to

(i) address injustices, combat prejudice and eliminate all forms of violence, racism and discrimination, including systemic racism and discrimination, against Indigenous peoples and Indigenous elders, youth, children, women, men, persons with disabilities and gender-diverse persons and two-spirit persons, and

(ii) promote mutual respect and understanding as well as good relations, including through human rights education; and

(b) measures related to monitoring, oversight, recourse or remedy or other accountability measures with respect to the implementation of the Declaration.

Other elements

(3) The action plan must also include measures related to monitoring the implementation of the plan and reviewing and amending the plan.

Time limit

(4) The preparation of the action plan must be completed as soon as practicable, but no later than two years after the day on which this section comes into force.

Tabling in Parliament

(5) The Minister must cause the action plan to be tabled in each House of Parliament as soon as practicable after it has been prepared.

Action plan made public

(6) After the action plan is tabled, the Minister must make it public.

[*Family Law Act, SBC 2011, c 25.*](#)

Section 80 - International Child Abduction

(1) In this section, "convention" means the Convention on the Civil Aspects of International Child Abduction signed at The Hague on October 25, 1980.

(2) The definitions in the convention in relation to custody and access apply to this Division for the purpose of applying the convention.

(3) For the purpose of the convention, the Attorney General is the Central Authority for British Columbia.

(4) Subject to subsection (5), the provisions of the convention have the force of law in British Columbia.

(5) The government is not bound to assume any costs resulting from the participation of legal counsel or advisors, or from a court proceeding, in relation to applications submitted under the convention, except to the extent that the costs are covered under British Columbia's system of legal aid and advice.

(6) Subsections (1) to (5) and the convention apply respecting a child who, immediately before a breach of custody or access rights, was habitually resident in a contracting state, but do not apply respecting a child described in subsection (7).

(7) Division 7 [Extrajurisdictional Matters Respecting Parenting Arrangements] applies respecting

- (a) a child who is in Canada and who, immediately before a breach of custody or access rights, was habitually resident in Canada,
- (b) a child who, immediately before a breach of custody or access rights, was habitually resident in a state other than a contracting state,
- (c) a child who, immediately before a breach of custody or access rights, was resident, but not habitually resident, in a contracting state, and
- (d) any other child affected by an extrajurisdictional order, other than a child respecting whom subsections (1) to (5) of this section and the convention apply.

[Hague Convention on the Civil Aspects of International Child Abduction, 25 October 1980, Can. TS 1983 No. 35.](#)

Article 1

The objects of the present Convention are –

- a) to secure the prompt return of children wrongfully removed to or retained in any Contracting State; and
- b) to ensure that rights of custody and of access under the law of one Contracting State are effectively respected in the other Contracting States.

Article 4

The removal or the retention of a child is to be considered wrongful where –

- a) it is in breach of rights of custody attributed to a person, an institution or any other body, either jointly or alone, under the law of the State in which the child was habitually resident immediately before the removal or retention; and
- b) at the time of removal or retention those rights were actually exercised, either jointly or alone, or would have been so exercised but for the removal or retention.

The rights of custody mentioned in sub-paragraph a) above, may arise in particular by operation of law or by reason of a judicial or administrative decision, or by reason of an agreement having legal effect under the law of that State.

Article 12

Where a child has been wrongfully removed or retained in terms of Article 3 and, at the date of the commencement of the proceedings before the judicial or administrative authority of the Contracting State where the child is, a period of less than one year has elapsed from the date of the wrongful removal or retention, the authority concerned shall order the return of the child forthwith. The judicial or administrative authority, even where the proceedings have been commenced after the expiration of the period of one year referred to in the preceding paragraph, shall also order the return of the child, unless it is demonstrated that the child is now settled in its new environment. Where the judicial or administrative authority in the requested State has reason to believe that the child has been taken to another State, it may stay the proceedings or dismiss the application for the return of the child.

Article 13

Notwithstanding the provisions of the preceding Article, the judicial or administrative authority of the requested State is not bound to order the return of the child if the person, institution or other body which opposes its return establishes that –

- a) the person, institution or other body having the care of the person of the child was not actually exercising the custody rights at the time of removal or retention, or had consented to or subsequently acquiesced in the removal or retention; or
- b) there is a grave risk that his or her return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation.

The judicial or administrative authority may also refuse to order the return of the child if it finds that the child objects to being returned and has attained an age and degree of maturity at which it is appropriate to take account of its views.

In considering the circumstances referred to in this Article, the judicial and administrative authorities shall take into account the information relating to the social background of the child provided by the Central Authority or other competent authority of the child's habitual residence.

Article 26

Each Central Authority shall bear its own costs in applying this Convention.

Central Authorities and other public services of Contracting States shall not impose any charges in relation to applications submitted under this Convention. In particular, they may not require any payment from the applicant towards the costs and expenses of the proceedings or, where applicable, those arising from the participation of legal counsel or advisers. However, they may require the payment of the expenses incurred or to be incurred in implementing the return of the child.

However, a Contracting State may, by making a reservation in accordance with Article 42, declare that it shall not be bound to assume any costs referred to in the preceding paragraph resulting from the participation of legal counsel or advisers or from court proceedings, except insofar as those costs may be covered by its system of legal aid and advice.

Upon ordering the return of a child or issuing an order concerning rights of access under this Convention, the judicial or administrative authorities may, where appropriate, direct the person who removed or retained the child, or who prevented the exercise of rights of access, to pay necessary expenses incurred by or on behalf of the applicant, including travel expenses, any costs incurred or payments made for locating the child, the costs of legal representation of the applicant, and those of returning the child.

[United Nations Declaration on the Rights of Indigenous Peoples, GA Res 61/295, UNGAOR, 61st Sess, Supp No 49, UN Doc A/RES/61/295 \(2007\).](#)

Article 3

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.

Article 8

1. Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.

2. States shall provide effective mechanisms for prevention of, and redress for:

- (a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;
- (b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;
- (c) Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights;
- (d) Any form of forced assimilation or integration;
- (e) Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them.

Article 9

Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No discrimination of any kind may arise from the exercise of such a right.

Article 10

Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.

Article 11

1. Indigenous peoples have the right to practise and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.

2. 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.

Article 13

1. Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons.

2. States shall take effective measures to ensure that this right is protected and also to ensure that indigenous peoples can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means.

Article 38

States in consultation and cooperation with indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration.

Article 43

The rights recognized herein constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world.