

GUIDELINES for BEST PRACTICES

for the application of rights of indigenous
villages in the Education, Health,
Environment and Natural Resource Sectors



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COVER PHOTO:

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SUGGESTED CITATION:

Guidelines for best practices for the application of rights of indigenous villages in the Education, Health, Environment and Natural Resource Sectors. Foro Indígena de Abya Yala (FIAY). 2018. 36 pp.

First edition: February 2018, 1,000 copies

Hecho el Depósito Legal en la Biblioteca Nacional del Perú Nº 2018-04130

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Published by Foro Indígena de Abya Yala (FIAY) with the support of Derecho, Ambiente y Recursos Naturales (DAR), Oxfam and the World Bank. In collaboration with Forest Carbon Partnership Facility and Sotz'il.

This publication presents the opinion of the authors and not necessarily the vision of Oxfam, the World Bank Forest Carbon Partnership Facility and Sotz'il.

Printed in Lima, Peru.



Presentation

The Abya Yala Indigenous Forum (FIAY for its acronym in Spanish), as a coordination movement of the Latin-American indigenous organizations and networks, and the World Bank, worked on the elaboration of this guide as a part of the strategic dialogue process that we bring forth.

The instructions summarized in this guide include the educational, health, environmental and natural resource sectors. These sectors are relevant for the well-being of indigenous peoples, as well as places where the World Bank focuses the majority of its investments.

We hope that that the most relevant aspects of the instructions included in this summary will contribute to a larger understanding of how to promote the effective application of indigenous rights.

Jesús Amadeo Martínez Guzmán
General coordinator FIAY

01 Background

The instructions herein are the result of the strategic dialogue led by FIAY and the World Bank, and emerged in the World Bank's enquiry process on the reform of its safeguards. During the inquiry, the indigenous populations laid out their rights relative to all World Bank investments in question. The Bank requested further clarification on how to apply these rights in practice. This situation led both parties to agree to work on the identification of best practices of the application of indigenous rights in the sectors with highest levels of investment in Latin America.





Photo: Inigo Maneiro
Labayen

In 2016, the World Bank and FIAY began a joint project relating to the creation of the Guidelines for Best Practices in four sectors: education, health, natural resources, and productive development. Indigenous leaders and experts, governmental authorities linked to the aforementioned sectors, sectoral specialists from the World Bank and experts on indigenous rights participated in the development of the Guidelines. The purpose of this guide is to articulate concrete guidelines based on experiences and best practices on how to contribute to an effective application of collective and individual rights of indigenous peoples in the projects led by the World Bank in the aforementioned four sectors, in the region.

The contents of the Guidelines refer to the situation and rights of the indigenous peoples in relation to each one of the aforementioned sectors. The rights identified are recognized in international legal and judicial instruments, such as the UN Declaration on the Rights of Indigenous Peoples (2007), the International Labor Organization's (ILO) Convention 169 on Indigenous and Tribal Peoples (1989) and the Organization of American States' (OAS) American Declaration on the Rights of Indigenous Peoples (2016).

The Guidelines also identify the principle barriers and obstacles to the effective application of indigenous rights and proposes a large list of guidelines to help overcome these barriers and obstacles. The Guidelines have been deduced from the successful experiences and lessons learned in each sector and seek to create a reference and analysis framework for the design of future programs and policies supported by the World Bank, governments and other stakeholders.

02

Educational Sector

The situation of education of Indigenous Peoples

In the first decade of the 21st century, the levels of school attendance of indigenous peoples have increased. For example, the percentage of boys and girls from ages 6-11 that attend school has increased from 73% to 83% in Brazil, from 87% to 96% in Ecuador, from 78% to 92% in Panama, and from 80% to 91% in Peru. However, differences between indigenous and non-indigenous populations still exist with the widest gap in countries with small, diverse, or scattered indigenous populations, as is the case in Brazil, Colombia, Costa Rica, El Salvador, Honduras, Nicaragua, Paraguay and Venezuela. Additionally, the inclusion of the Bilingual Intercultural Education (EIB for its acronym in Spanish) in the national educational structures in the region is scarce: focus is put on the language (not taking into account socio-cultural aspects and teacher training) and its application varies significantly.



World Bank Investments

The World Bank adopted the Education Strategy 2020 and as such implements a total of 25 educational projects in the region, with a total value of \$2,500 million. 18 of these projects have the potential of impacting (negatively or positively) indigenous peoples and have activated the application of the *Operational Manual of Indigenous Peoples (OP 4.10)*. We should specify that in the future, the projects of the World Bank that negatively affect or benefit indigenous peoples will apply Standard 7 on *Indigenous Peoples/ Traditional Local Communities ("ESS7")* which was approved in August 2016.



Photo: Ruth Zenaida Buendía Metsuquiari

Essential Rights



- **Access to quality education.** This point refers to the rights of indigenous peoples to have access to a quality education without discrimination and on equal conditions to the rest of the population.
- **Access to education with pertinence and respect to cultural diversity.** It is expected that the systems, institutions and teachers will provide education to indigenous peoples in their own languages and in accordance with their own methods of teaching and learning.
- **Attendance and graduation of indigenous students.** Indigenous students should manage to finish each level of study, and should be guaranteed continuity of education.
- **Cultural visibility of indigenous peoples and their knowledge within the national educational system.** The contributions, knowledge, history and culture of indigenous peoples should be recognized by society.
- **Full and effective participation of indigenous peoples in educational policies, programs and projects.** This point refers to the right of indigenous peoples to participation and self-determination in regards to the creation, management and evaluation of educational policies, programs and projects.

Obstacles and guidelines

The geographic dispersion of the communities and the difficulty accessing these groups create obstacles to public investment in educational infrastructure which creates an obstacle to access to education. In response to this obstacle, the Guidelines propose to put in place a planning system of educational provision. This planning system should allow for the participation of indigenous communities, take into account the distribution of indigenous populations and be mindful of the channels of access to educational centers. This action should be accompanied by an increase in the investment in the educational infrastructure with designs adapted to the geographical, climatic and cultural context, as well as by an improvement of the channels of access.

Basic and middle level education (examples)

With respect to access to education with pertinence and respect to cultural diversity, **insufficient educational institutions with intercultural focus and content** were identified as an obstacle. In light of this barrier, the Guidelines recommend completing an assessment followed by the development of an educational provision system based on the needs of and in consultation with the indigenous population. The Guidelines also recommend implementing bilingual intercultural education at different educational levels, taking into account the linguistic diversity and cultural concepts prioritized by each indigenous village. Additionally, in light of the **lack of culturally relevant educational materials**, the Guidelines propose the systematization of indigenous knowledge with the objective of defining the design and content of said materials.

Education Unit of the Millennium in Chubeleo, Ecuador

One of the priorities for the educational system in Ecuador was to elevate the quality of education, starting with the transformation of educational infrastructure. In this context, the project of Educational Units of the Millennium was implemented. One of these units was the Educational Unit of the Millennium in Cibolo, considered as Education Unit of the Millennium “Guardian of the Tongue”. This Educational Unit is located in the province of Tungurahua, Ambato sector, administrative district of Chibuleo, and is meant to cater to indigenous students belonging to the village of Chibuleo with Kichwa nationality.

The educational center has cutting-edge technology, equipped with sufficient computers for the students and with internet service, in addition to educational materials, a large library equipped with texts, large sports courts for different sports and activities and agricultural farms.

Furthermore, the project implemented training strategies for teachers during their master’s programs, creating incentives through the provision of teacher scholarships.

The objective of this project is to provide an education with cultural pertinence, fostering the education of students in all levels of their native language, Kichwa and strengthening their cultural identity. This includes teaching ancestral knowledge and wisdom of the indigenous peoples to students. The Ministry of Education provides uniforms to all students, in the style of dress of the Chibuleo village.

The World Bank, together with other multilateral institutions, provides support to the Ecuadorian government in its financing of Schools of the Millennium. Although the World Bank did not participate in the case referred to above it is currently financing the “Guardian of the Tongue” Unit Surupucyu in Guaranda.

Source: Ministry of Education in Ecuador (<https://educacion.gob.ec/>)

With respect to the right to attendance and graduation of students, one of the obstacles is that support mechanisms for indigenous students to prevent academic drop-out do not exist. To overcome this obstacle, the Guidelines propose the establishment of monitoring and prevention systems to prevent non-attendance, as well as an early warning system under the responsibility

of teachers and other professionals with the aim of supporting the academic difficulties and the socio-economic issues the students face. Another proposed guideline is the implementation of academic support plans that include family participation, as well as leveling courses and tutoring, in order to encourage continuity and access to higher levels of study.

**Higher education
(examples of obstacles
and guidelines)**

The ***lack of economic resources to complete studies at a higher level*** is one of the obstacles to the ***indigenous access to higher quality education***. To overcome this obstacle, the suggested guideline is to provide timely, socio-culturally relevant and true information on financial options and requirements for scholarships offered by universities, governments, international cooperation actors or organizations, etc. This information should be provided in indigenous territories and the students should be able to submit their applications directly in their communities. Additionally, facing the obstacle of ***weakness in previous education or training, and not meeting the admission requirements***, the recommended guideline is to establish indigenous person quotas for access to higher education and training establishments, as well as to carry out remedial processes and academic tutorials.

In terms of access to higher-level education with relevance, one of the obstacles is the ***curriculum and methodology of Westernized educational systems***. In this area, the Guidelines propose that when it is relevant, indigenous thought or ideology should be included in the curriculum of educational programs. Additionally, recognition and use of indigenous languages in academic activities should be promoted.

Meanwhile, in the area of ***permanence, graduation or work placements***, the main obstacle is the ***difficulty of adaption to the training process in higher education by indigenous students, which can generate a sense of alienation, loneliness and socio-cultural gapping***. The Guidelines propose to establish an interdisciplinary mentoring program for indigenous students and to support the establishment of ties between new, existing and graduated students with the objective of developing support networks. Additionally, in order to deal with the ***weakness in previous education***, proposed measures are the creation of preparatory classes to update and improve language skills and the assignation of individual tutors for indigenous students.

**CASE
STUDY:**

Mentoring of students in the Technological Institute of Costa Rica (TEC)

As part of the management of the safeguard program for indigenous peoples at the Technological Institute of Costa Rica (TEC), interdisciplinary teams have been set up and encouraged to provide support to the indigenous populations.

Within the follow-up that is given to indigenous students (both male and female), the program identifies the needs of indigenous populations in the areas of academic performance, support resources, scholarships, student life, adaptation to the university environment, among others. The personnel of the program coordinates with the personnel of the Institute in the department of student life (who are in charge of the services offered by the university

to serve the process of permanence) and with faculty of the students' department, to consider the conditions and needs that have been identified for indigenous students. The above-mentioned actors establish an integral support program, with the consent of the student, in order to accompany and support the student in his/her educational process, with the aim of improving his/her permanence.

This experience has not only resulted in the successful achievement of the academic process of the student population, but has also brought faculty members and student life services closer to the realities and socio-cultural conditions of indigenous peoples.

Source: Costa Rica, Technological Institute of Costa Rica (Instituto Tecnológico de Costa Rica), Five-Year Plan for Indigenous Peoples and Villages, Project for Improved Access to Higher Public Education in Costa Rica, financed by the World Bank.

In the area of cultural visibility of the indigenous peoples and their knowledge within national educational systems, one of the barriers is the limited knowledge and recognition of indigenous knowledge and wisdom, and its value in the academic sphere. To confront this situation, the Guidelines propose systemizing indigenous principles, policies, values, knowledge, and contributions to solve current challenges and socializing this knowledge

within indigenous communities. At the same time, the educational community should be sensitized about the value that indigenous knowledge has, through different methodologies aimed at the gradual inclusion of this knowledge in academic environments.

All educational levels

In terms of effective participation of indigenous peoples in educational policies, programs, and projects, the principle obstacle is the lack of institutional mechanisms that channel the effective participation of the indigenous people in decision-making. One of the proposed guidelines to overcome this obstacle is to promote the establishment of organizations (for example, roundtables) that link the ministries of education with the educational institutions and the indigenous organizations.



CASE:

National Roundtable of the Education Policy of the Indigenous Peoples of Colombia (CONTCEPI)

The Ministry of National Education in Colombia has the authority to “establish the mechanisms for the implementation of the educational policy for outreach to minority, diverse, and vulnerable populations in the territorial entities” in accordance with the Decree 1075 of 2015. Under these parameters, the educational outreach to the ethnic groups is a strategic and cross-curricular project, which is supported by an ample regulatory framework – grounded in the Articles 7 and 10 of the Political Constitution; in Title III, Chapter 3 of the Law 115 of 1994; the Regulatory Decree 804 of 1995, and the international conventions and treaties – and looks to guarantee a relevant and quality education that recognizes the cultural diversity and the construction of knowledge.

In this sense, the policy of educational outreach to the indigenous peoples of Colombia is transitioning from the “ethnoeducation,” as a policy of the recognition of diversity, identity, respect, and inclusion in a multicultural country, to the construction of a participative policy in the framework of recognition of representative, community, and intercultural educational systems. In this framework

of action, the National Round Table of the Educational Policy of the Indigenous Peoples of Colombia (CONTCEPI) was regulated, through the issuance of the Decree 2046 of 2007.

In this space the concept of the Educational System of Indigenous Peoples (SEIP) emerged as a concretion mechanism for representative education, which must contribute to ensure the physical and cultural survival of the 102 indigenous peoples of Colombia. After 7 years of work, the document Profile-SEIP was finalized, which is made up of three fundamental components: educational, political-organizational, and administrative-management.

Later, the official protocolization of a methodological route of a previous consult was done, distributed in three stages: the first stage was pre-registration; the second stage was socialization, feedback, and agreement; and the third stage of protocolization of the regulatory project that develops the three components of the Educational System of Indigenous Peoples (SEIP) in the Permanent Roundtable (MPC). It is important to emphasize that the socialization

phase of be performed with a territorial focus in terms of the jurisdiction of each one of the organizations. It was in this vein that more than 6 routes of consultation were created, around 12,700 members convened from every indigenous tribes that was represented by the national organizations, and a specific route for the Wayuu people – in light of their

political-organizational dynamic, which works through clans – was created, through the execution of more than 114 consultation workshops in all the regions of the country that, until today, have managed the participation of more than 80 indigenous tribes or villages.

Source: Ministry of Education of Colombia



Photo: Fede
Blanco CIDH

03

Health Sector

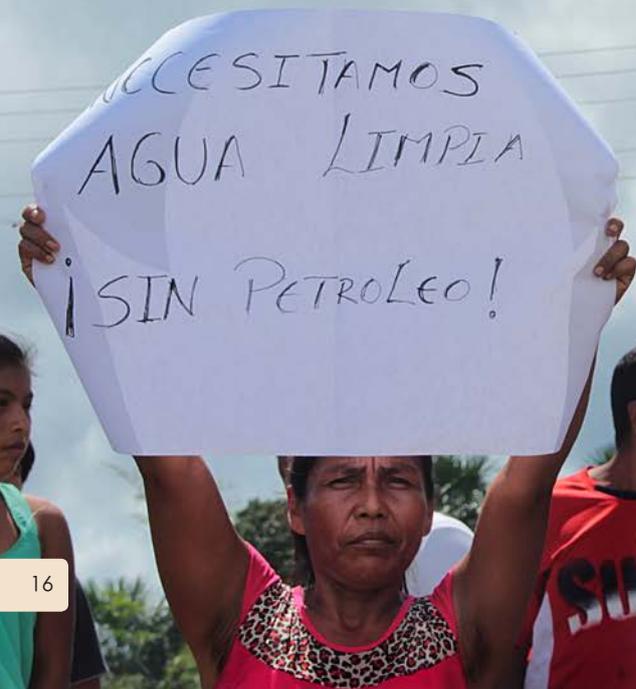


Photo: Fede Blanco CIDH

Current situation of indigenous health:

Indigenous peoples have their own vision of health and sickness. Health is the result of having harmonious relationships between the human and him- or herself, family, community, and nature. On the other hand, sickness is the loss of equilibrium in body-spirit-nature relationships. Additionally, they preserve their knowledge on the prevention and restoration of individual and collective health. However, the complementary use of indigenous medicine with Western medicine still is very limited, even though the recognition and promotion of intercultural health has improved in the last decade. For example, according to Economic Commission for Latin America and the Caribbean (CEPAL), 14 countries in the region have state agencies that manage intercultural health and carry out programs aimed at indigenous peoples.

On the other hand, there is a lack of information on indigenous peoples' access to health. The available sources show critical restrictions on the indigenous population in comparison to the non-indigenous population, in terms of access to infrastructure, health personnel, and medication.

Maternal mortality has higher rates among the indigenous population. For example, in Guatemala, maternal mortality of Mayan women is 211 for every 100,000 live births, while among non-indigenous women, this figure is only 70. In Bolivia, this number is 390 women, in Honduras, it is 147, and in Colombia, it is 240.

The infant and childhood mortality rates are higher in the case of the indigenous population, with one of its principal causes being malnutrition. The chronic and global malnutrition rates of indigenous children is equivalent to less than twice that of non-indigenous children in the seven countries of the region that provide data about this issue. For example, in Brazil, 55% of deaths due to early childhood malnutrition (registered since 2008) affected indigenous peoples, even though they only represented 0.5% of the total population at that time.

The morbidity rates are significantly higher in indigenous populations than in non-indigenous populations. For example, in the case of tuberculosis, the indigenous population suffers from a higher number of cases (proportionally) than the non-indigenous population, in countries like Brazil, Chile, Colombia, Mexico, Paraguay, Peru, and Venezuela.

The indigenous population presents higher rates of suicide than the non-indigenous population. For example, in Chile the rate of suicide among indigenous peoples from ages 15 to 24 is 14.4%, compared to 2.2% among non-indigenous youth.

World Bank Investments

The World Bank carries out 10 projects, for a total of \$2,310 million USD, under the leadership of the Global Health Practice. Of these projects, 9 have activated the Operational Policy for Indigenous Peoples (OP/BP 4.10), which means that 90% of the health portfolio should have actions aimed at the participation of indigenous peoples among listed benefits and/or measures to avoid adverse impacts.

The projects with impacts on indigenous peoples or villages are related to the expansion of health coverage, which in many cases includes the construction and/or renovation of health establishments in rural areas; the use of mobile equipment that take into account the practices and beliefs of indigenous peoples; recruitment and training of health personnel; and incorporation of cultural relevance in the design and implementation of activities, such as strategies of communication and training of personnel.

Photo: Fede
Blanco CIDH





Essential Rights

- **Access to quality health services.** This means that indigenous persons can access quality health providers that are culturally relevant. The following aspects should be considered: dignity in the treatment, touch, warmth, language, spatial disposition and furniture, hours of operation, culturally adequate food, closeness of the therapist, previous therapeutic itinerary (traditional practices of prevention, healing, and rehabilitation), the protective health processes of a given culture, reception centers, transportation (considering companions), intercultural facilitators that reduce bureaucratic barriers, and the return of corpses to their territory of origin, among others.
- **Intercultural health system.** This refers to health systems that allow the users to use conventional biomedicine and traditional indigenous medicine in a complementary fashion.
- **Full and effective participation of indigenous peoples in health policies, programs, and projects.** The participation of the indigenous peoples should be effective in the different stages of the projects and programs that can affect them.

Obstacles and Guidelines

In terms of access to health services, one of the barriers that has been identified is the **geographic, organizational, economic, and cultural access, and transport**. In this regard and among many other guidelines, it is recommended that the organization of infrastructure and service offers should consider the times and ease of access, the preferences of access to the services, and the traditional indigenous territorial organization. Additionally, flexible schedules should be established in accordance with the sociocultural reality of the communities, including the availability of different means of travel or transportation. Another barrier that has been is the **administration and management**. With the objective of overcoming these barriers, the requirements for the access to the system should be reviewed and made more flexible, the area of service and furniture should be reorganized in such a way that does not impede direct treatment, and cultural relevance in the system of health information should be ensured.

CASE:

Indigenous Association for Health Makewe Pelale (Chile)

In the region of Araucanía, since the year 1999, the Indigenous Association for Health Makewe Pelale managed a rural hospital of low complexity amongst 909 Mapuche indigenous communities.

In their organization of care in the hospitalized area, patients' families can visit their patients all day long, without

restrictions of schedules, and are attended by local health personnel, the majority belonging to the Mapuche people. Likewise, health care is adapted to the rural transport of Mapuche families in the sector.

In terms of an intercultural health system, the Guidelines identify the ***lack of effective recognition, protection, and promotion of the indigenous medical systems*** as a barrier. One of the measures proposed to overcome this obstacle is that the biomedical health personnel should understand the concept of health/sickness for the indigenous peoples with which they work. Additionally, directives that ensure assure the protection of the background and practices of the indigenous health system should be established. It is also necessary to understand, characterize and protocol the prevalent, epidemic and lethal socio-cultural diseases in the information and epidemiological surveillance system in conjunction with traditional doctors.

CASE:

Indigenous Health Promotion Centers (Colombia)

In Colombia, the organizational and mobilizational capacity of indigenous peoples allowed the Political Constitution of 1991 to recognize ethnic and multicultural diversity, creating a favorable context for the adoption of policies and the issuance of rules on differential health.

Law 691 of 2001, which regulates the participation of ethnic groups in the General System of Social Security in Health, incorporates important elements such as: free services; obligation to adapt health services; subsidies for pregnant women and children under 5; the possibility of differential funding; and the reiteration of the recognition of traditional

medicine. It highlights the recognition of the authorities and other indigenous institutions, such as Indigenous Health Promotion Centers (EPS-I) and Health Provider Institutions (IPS-I), through which the indigenous peoples administer and directly provide health services.

Currently, the Statutory Law of Health 1751 of 2015 and the Autonomous Decree 1953 of 2014, have elevated the standard of the Indigenous System of Personal and Intercultural Health (SISPI), proposed by the indigenous people.



Photo: Jenny Garcia Soto

In this same area, another obstacle is the **lack of coordination and articulation between the indigenous and biomedical health systems**. In respect of this, the Guidelines suggest training biomedical health teams on the indigenous systems of health, prior to the implementation of a model of intercultural health, and seeking that of intercultural health services be organized based on logic shared by both

systems. Systems of coordination, and systems reference and cross-reference within the health systems should be designed in the same way, as should the labor insertion of indigenous professionals and technicians in the health area.

In terms of *full and effective participation of indigenous peoples in health policies, programs, and projects*, the **absence of mechanisms for indigenous participation in the definition of health policies** was identified as an obstacle. To overcome this barrier, the Guidelines propose the formulation of health policies for indigenous peoples with the participation of the representative organizations of the indigenous peoples and with a large consultation process, in order to promote institutionality within the State to articulate multisectoral policy that addresses the health situation of the indigenous peoples. Another obstacle is that the **governance, management, and provision of health do not incorporate mechanisms of indigenous participation**. In light of this, transparent and culturally adequate mechanisms should be incorporated to ensure the governance and provision of health benefits by indigenous populations.

CASE:

House of the Indigenous Woman (Mexico)

In Mexico, 24 “Houses of the Indigenous Woman,” located in the states of Puebla, San Luis Potosi, Sonora, Oaxaca, Michoacán, Guerrero, Baja California, Chiapas, Hidalgo, Estado de México, Querétaro, Veracruz and Yucatán, are a culturally relevant public policy strategy that promotes the rights of indigenous women to a life free of violence and the right to sexual and reproductive freedom.

They work as self-managing organizations, coordinated with the National Commission for the Development of Indigenous Peoples (CDI). Among their responsibilities

are: (i) to sensitize and train, promulgate rights, identify and channel cases; (ii) generate information, register cases and integrate updated micro-local diagnostics; (iii) manage resources; and (iv) act as a participatory space in public decision-making.

Besides facilitating the expansion of coverage for women in the cases of health and justice, the houses train personnel, provide comprehensive healthcare, emotional care, and legal help, and work to provide recognition of, and timely referrals related to, obstetric emergencies.

Finally, to overcome the barrier of ***scarce training of indigenous and non-indigenous actors to perform an informed and effective dialogue for the shaping of policies, programs, and projects***, the following guidelines are suggested: to establish of international spaces where indigenous peoples address an agenda on health; to promote opportunities for continual and professional training in intercultural health policies and programs; to promote internships and exchanges between professionals and indigenous youth of the region to learn about the different intercultural health systems; and to support the formation and sustainability of research, development and health training opportunities for indigenous peoples.

04

Environmental and Natural Resource Sector

Situation

According to a report from CEPAL, there have been advances in the recognition of the territorial rights of indigenous peoples in the last two decades. For example, according to RAISG, in December 2014, indigenous territories accounted for a surface area of 2,144,302 km² in the Amazon, of which 1,729,116 km² had legal recognition.

A photograph of a dense forest stream. The water is dark and reflects the surrounding trees and branches. The stream is surrounded by a thick layer of fallen leaves and twigs, creating a textured foreground. The background shows more trees and foliage, creating a sense of depth and a lush, natural environment.

Photo: Ander Ordoñez Mozombite



The highest percentages of biological diversity can be found in the indigenous territories, and they are areas where one can observe a large environmental conservation effort. According to UICN, in Central America, 39% of the protected areas overlaps with indigenous territories, while in the Amazon region – according to RAISG – only 17% of the land overlaps (between protected areas and indigenous territories).

The conservation of forests is closely related to the recognition of indigenous territories. For example, according to RAISG, deforestation rates in the Amazon are higher outside protected areas and indigenous territories.

The indigenous territories, according to the World Bank, are subject to a high degree of pressure that feeds rural-urban migration. For example, the Amazon, according to RAISG, supports pressures and threats from activities, such as the construction of roads, the exploitation of oil and natural gas, hydroelectric construction, mining, agriculture, and deforestation.

World Bank Investments

In the framework of its Environmental Strategy 2012-20122, the World Bank Group agreed on an agenda to support “green, clean, resistant” paths for developing countries, through which they would seek the reduction of poverty, and development in an increasingly fragile environment.

Essential Rights

- **Protection and legal security of lands and territories, and recognition of traditional governance.** The recognition of the territorial rights of the indigenous peoples is fundamental for the recognition and exercise of other collective rights.
- **Systems of use, management, and conservation of natural resources for indigenous peoples.** The indigenous peoples maintain their own systems of use, management, and conservation of the environment and natural resources.
- **Recognition and promotion of traditional knowledge.** The traditional knowledge of the indigenous peoples is their knowledge, innovations and practices based on their resources, environment and culture, and acquired across centuries and transmitted from generation to generation.
- **Free, prior, and informed consent.** This is part of the autonomy or governance of indigenous peoples.





Photo: Larry
Taminchi
Yaicate

Obstacles and Guidelines

In terms of protection and legal security of lands and territories, and recognition of traditional governance, one of the obstacles that was recognized was the ***lack of recognition of the rights of the indigenous peoples and their traditional systems of governance over ancestral lands and territories***. Consequently, the proposed guidelines, among others, are: to develop dialogue mechanisms that will permit indigenous people and States to evaluate the state of territorial security and coordinate policies, as well as to produce an analysis of the national system to register, demarcate and title lands in order to identify technical, administrative and legal barriers for the recognition of indigenous collective territories.

Another obstacle is the ***lack of public policies, legal instruments, and financial resources, as well as verification mechanisms for the implementation of the legal frameworks and indigenous participation in the titling, ordering, restitution and sanitation of indigenous lands and territories***. Among the proposed guidelines, the training of personnel involved in the programs or projects on the value and rights of Indigenous Peoples in relation to collective land tenure is highlighted. At the same time, capacity-building processes of indigenous peoples should be supported in the areas of demarcation, titling and sanitation, combining technical processes with social cartography. Another one of the proposed measures is to ensure the participation of indigenous peoples in the formulation of land management and territorial policies.

CASE:

Development of an intercultural system of participatory demarcation of indigenous lands in Brazil

The integrated project of protection for the Indigenous Populations and Lands in the Legal Amazon (PPTAL) implanted the “participatory demarcation”. With the equal participation of the State and the indigenous peoples, efforts are made to answer the complex questions related to the demarcation and protection of the indigenous lands.

The PPTAL allowed a change in the indigenous lands that were effectively demarcated from 14% in 1988 to 90.5% in 2007, with the participatory procedure of recognition, demarcation, and registration. The observable

achievements are as follows:

- Technical personnel, sensitized to the way of life of the indigenous peoples and their ancestral territories.
- Effective demarcation of the territories from ethnocartography by the indigenous peoples themselves.
- Substantial Impact on the number of regularized indigenous lands.

Related links: http://www.mma.gov.br/estruturas/168/_arquivos/168_02122008054922.pdf

Additionally, the pressures and threats due to overlapping interests in the territory of the indigenous peoples was identified as an obstacle. Among the guidelines it is suggested to ensure that, before the start of the implementation of a project, environmental, social and cultural impact studies be conducted with the effective participation of indigenous peoples, as well as ensuring that the use and ancestral rights of indigenous peoples on territorial spaces are

effectively integrated into any evaluation of strategic, environmental and social impact, along with other strategic planning instruments that inform public policies on the granting of permits and concessions thereof. Specialists from indigenous populations should be included in the accomplishment of impact studies and the analysis of pre-feasibility and feasibility alternatives.

In terms of systems of use, management, and conservation of natural resources for indigenous peoples, the barrier that was identified was the absence of full and effective participation by indigenous peoples in the development of national policies and plans of action for the use, management, and conservation of the environment. To overcome this obstacle, the proposed guidelines were: the promotion of the creation of institutional guidelines that consider the methodology; and, technical and financial resources to guarantee the effective participation of indigenous peoples in the development, implementation, and follow-up of regional and national territorial plans, policies and strategies. Likewise, consent and inquiry mechanisms should be designed and implemented, from the cultural perspective of each peoples and the specificities of the role of women, taking into account: language, level of literacy, and conditions that facilitate their participation (schedule, place of meeting, writing tools to be used, childcare).

Another obstacle that was identified was the imposition of conservation policies and protected areas in the indigenous lands and territories disavowing traditional systems of use, management and conservation of natural resources. To change this situation, it is suggested, among other guidelines, to recognize through specific legislation, the own systems of conservation and governance of indigenous peoples; and, to establish and promote incentives to encourage the contributions of traditional systems for the use, management and conservation of ecosystems through laws and payment programs for environmental services oriented towards Indigenous Peoples. Additionally, it is suggested to analyze and reform the laws and regulations that guide the plans of forest management, so that the aforementioned laws and regulations keep in mind traditional systems of use, management and conservation of forests; and to ensure that the policies of conservation, as well as strategies and plans of management at national and international level, keep in mind the traditional uses and symbolic values of the natural resources, flora, fauna, and other elements of nature that exist in indigenous lands and territories.

CASE:

Recognition of community forest management

In many countries of Mesoamerica (Mexico, Guatemala, Honduras), the indigenous and rural communities are involved in the processes of community forest management, in communal, cooperative and community concession lands, as alternative processes to extractive activities. The sustainable use of forests allows the communities to access the benefits and ensure the protection of the forests. The Mexican communal model, the communal forests of Guatemala, and the forest cooperatives in Honduras have become cases that are widely recognized at the international level.

In Guatemala, the indigenous communities of the Altiplano have, since ancestral times, used a system of communal forests, whose use, management, and conservation is

accomplished through their own community government. They work with their own regulations based on customary law and the system of community charges (called Kax kol in the Maya K'iche' language), and include the role of park rangers and nurserymen who are in charge of exercising vigilance, control and maintenance of natural resources.

In Costa Rica, a decree was approved in 2016 that recognized the conservation efforts of different sectors, including the indigenous peoples. In Mexico, 150 protected community areas have been created, by decision of the indigenous communities themselves, through community territorial ordinances, to ensure the protection of springs, sacred places, species or ecosystems vital for the population.

Relative to the ***political obstacles and incentives that promote the use of land for the proliferation of monocultures, the use of transgenic seeds, pesticides, fertilizers and extractive activities that affect traditional practices***, guidelines were identified such as the creation of incentives for sustainable use of the soil and natural resources in the environments of

the indigenous land and territories, so as to support policies of the use of soil and natural resources that would be compatible in terms of management, use and conservation of natural resources by indigenous people. Furthermore, it is suggested to establish plans of environmental restoration in indigenous territories affected by the contamination derived from agricultural, industrial, extractive, urban, energy, waste, transport and infrastructural activities and projects, with the effective participation of indigenous peoples.

In terms of recognition and promotion of traditional knowledge, the barrier that was identified was the ***lack of legal, institutional, and financial mechanisms of recognition, protection, promotion, and validation of traditional knowledge.***

Among the recommended measures, the incorporation of national policies and regulatory frameworks can be highlighted, as well as the protection and use of traditional knowledge, and the development of bio-cultural protocols for the protection and promotion of indigenous knowledge. Likewise, it is established that the scientific investigation, or that of discovery or innovation linked to traditional knowledge and the use of its results, should be supported by free, previous, and informed consent of the indigenous people in question; and, fair and equitable distribution of the benefits due to the use of the biodiversity and natural resources associated with traditional knowledge should be agreed upon by the relevant and related indigenous peoples, the State, and the research institutions.



Photo: Fede Blanco CIDH

The second obstacle in this area was the ***lack of recognition of complementarity between systems of knowledge***. Among the guidelines proposed to overcome this situation, it is proposed to support the creation of processes of dialogue that address both indigenous and scientific knowledge, and to promote programs that identify and promote the complementarity between the two systems of knowledge, responding to challenges prioritized by Indigenous Peoples. Likewise, it is proposed to support the programs carried out by indigenous peoples themselves for research and systematization of their traditional knowledge, and the publication of material produced by Indigenous Peoples concerning the use, management, and conservation of natural resources and the environment.

Finally, in the area referred to as free, prior, and informed consent (FPIC), one of the identified obstacles is that of ***absence (or poor design) of mechanisms, policies, and protocols agreed upon between indigenous peoples and the state to apply the FPIC***. To overcome this barrier, it is proposed to create clear guidelines between indigenous peoples and the State to define when the FPIC should be applied and when a full and effective participation should be used, so as to promote areas of consent between indigenous peoples and the state to define the mechanisms or protocols to implement the FPIC, and adjust the national regulations and public policies so the results of the FPIC become links in the decision-making process surrounding the use, management, and conservation of natural resources.

Biological Corridor of the Atlantic (Panama)

The National Authority of the Environment in Panama (ANAM) launched the initiative of the Biological Corridor of the Atlantic in Panama in 1998, within the framework of the initiative of the Mesoamerican Corridor. At the beginning of the initiative, there was no direct participation by the town Guna, which delayed the implementation of the initiative in the zone of Gunayala.

To achieve free, prior, and informed consent, the ANAM presented the initiative to the General Congress of Guna for their consideration. The Gunan authorities, in their regular assembly in 2000, approved the implementation of the initiative in the Biological Corridor of the Atlantic in the Gunayala Region. The steps completed to obtain the

endorsement of the Guna peoples were:

- a. The ANAM presented the initiative.
- b. The General Guna Congress formed a team to analyze the proposal.
- c. The report of the team was presented in the ordinary session of the Guna General Congress.
- d. After the presentation of the report from the team, the plenary decided to accept the proposal.

This process can last from 6 to 12 months depending on the impact of the project. The ordinary session of the Guna General Congress is done every 6 months.

Another obstacle is the ***absence or weakness of an institution responsible for the application of the FPIC by the State***, against which it is proposed as a guideline to make sure that an independent institution exists within the structure of the State responsible for the application and follow-up of the FPIC, with the objective of balancing the interests of the agency proposing the project and the rights of the indigenous peoples. Meanwhile, to overcome the obstacles of ***costs, time, and clarity of representation***, it is proposed to create a map of key stakeholders – from the officially recognized actors to the traditional authorities – and to analyze their role in decision-making.

Conclusion

In the Guide, the advances towards the regulatory recognition and application of the rights of indigenous peoples in the region are recognized, although these are not homogeneous among the countries of the region, and a review of the situation shows that applicational gaps between the indigenous and non-indigenous populations still persist. The Guidelines also identify the main barriers faced in practice by the realization of the rights of indigenous peoples. In this context, the Guidelines contribute by identifying cases of best practices and proposing guidelines on how to overcome barriers and obstacles, and how to contribute to the effective application of indigenous rights.

The FIAY highlights the process of elaboration of the guidelines that has constituted an exercise in intercultural dialogue among government officials, specialists of the World Bank, experts in indigenous rights, and indigenous leaders from indigenous organizations and networks. During the process, all the actors have highlighted that the dialogue has allowed an exchange and mutual learning about the situation, the advances and the challenges in relation to the application of the rights of indigenous peoples, and value positively the usefulness of the Guidelines in their future activities due to its practical orientations.

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