

SPECIAL MEETING OF THE WORKING GROUP  
TO PREPARE THE DRAFT AMERICAN DECLARATION  
ON THE RIGHTS OF INDIGENOUS PEOPLES

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PROPOSALS PRESENTED BY  
THE STATES AND THE REPRESENTATIVES OF INDIGENOUS PEOPLES  
ON THE ARTICLES CONSIDERED AT THE SPECIAL MEETING



## **SECTION THREE: RIGHT TO CULTURAL INTEGRITY**

**Note:** To facilitate the study of this text, the original proposal of the Inter-American Commission on Human Rights (IACHR) is transcribed at the beginning of each article.

### Article VII. Right to cultural integrity

1. Indigenous peoples have the right to their cultural integrity and their historical and archeological heritage, which are important both for their survival and for the identity of their members.

2. Indigenous peoples are entitled to the restitution of property of which they have been dispossessed, and when that is not possible, to compensation on a basis no less favorable than the standard recognized by international law.

3. The states shall take effective measures to enable indigenous peoples to understand administrative, legal, and political rules and procedures, and to be understood in relation to these matters. In areas where indigenous languages predominate, states shall expend the necessary efforts to have them established as official languages and to grant them the same status that is accorded to non-indigenous official languages.

### **Proposals of the states**

#### **Venezuela**

1. Indigenous peoples have the right to maintain their ethnic identity, the right to their forms of social, political, and economic organization, their historic and archaeological heritage, world view, values, and spirituality, and to maintain their own practices, habits, and customs, which are essential components of their survival, the identity of their members, and the social continuity of the states themselves.

#### **Panama**

1. Indigenous peoples, in the exercise of the right to self-determination, have the right to their cultural integrity, which is intimately linked to their world view, ancestral wisdom, and spiritual relationship to nature, for the social, economic, and political continuity of their members.

2. Indigenous peoples have the right to the restitution of property that is part of the heritage of which they have been dispossessed or, when that is not possible, to fair and equitable compensation on a basis no less favorable than the standard recognized by international law.

## **Canada**

2. Indigenous peoples are entitled to the restitution of property that is part of that heritage, and of which they are wrongfully dispossessed, or when that is not possible, to fair compensation.

### **Proposals of indigenous representatives**

#### **Hector Huertas G. (representing the Indigenous Organizations of Panama)**

– Change the title of the section to: Development of cultural identity

1. Indigenous peoples have the right to their cultural integrity, and the integrity of their cultural and ancestral heritage, which are important for their collective continuity and for the identity of their members and of states.

2. Indigenous peoples have the right to the restitution of property that is part of that heritage, and of which they are dispossessed or, when that is not possible, to **fair and equitable** compensation, on a basis no less favorable than the standards recognized by international law.

#### **Emeterio Cumes [representative of the Intercontinental Corporativist Society (SCI)]**

1. The states hereby make political commitments to guarantee, promote, protect, develop, disseminate, and respect the cultural integrity and identity of indigenous peoples with respect to their scientific and technological heritages and values, traditions, customs, languages, dress, religion, spirituality, practices, work, arts, and intellectual property rights over all past, present, and future creation and invention.

#### **Máximo Paredes [Spu Mallku of the Aymara Parliament (PPGA)]**

1. Indigenous peoples have the collective customary right to the heritage of cultural integrity; to revitalize, reinforce, use, develop, and transmit from generation to generation, and to support pluriculturalism in the philosophical, ideological, and cosmogonic spheres (our spirituality) of their own political structure. This constitutes the fundamental basis of the right to self-determination, and shall be applied in every state of the Hemisphere.

**The National Congress of American Indians, the Indian Law Resource Center, the Native American Rights Fund, the Amerindian Peoples Association of Guyana, the Carib Council of Dominica, the Metis Nation (Canada) as represented by the Metis National Council, Brooklyn Rivera, YATAMA Main Leader, the Maya Leaders Alliance of Southern Belize, the World Indigenous Association, and the Haudenosaunee Confederacy**

1. Indigenous peoples have the right to their cultural integrity and their historical and archeological heritage.

2. Indigenous peoples have a right to restitution in respect of the property of which they have been dispossessed.

3. The States shall recognize and respect indigenous ways of life, customs, traditions, forms of social, economic and political organization, institutions, practices, beliefs and values, use of dress, and languages.

#### Article VIII. Concepts and language

1. Indigenous peoples have the right to their own languages, philosophy, and concepts as a component of national and universal culture and, as such, the states shall respect them and facilitate their dissemination thereof, in consultation with the peoples involved.

2. The states shall take measures to promote and ensure that radio and television programs are broadcast in the indigenous languages in areas having a strong indigenous presence, and to support the creation of indigenous radio stations and other means of indigenous communications.

3. The states shall take effective measures to enable indigenous peoples to understand administrative, legal and political procedures, and are stood in relation to these matters. In areas where indigenous languages predominate, states shall expend the necessary efforts to have them established as official languages and to grant them the same status that is accorded to non-indigenous official languages.

4. Indigenous peoples have the right to use their indigenous names, and to have the states recognize them as such.

### **Proposals of the states**

#### **Venezuela**

1. Proposal of the chair, with the underscored amendment: “Indigenous peoples, as members of multiethnic and pluricultural societies, have the right to use ...” [from this point on, the paragraph remains unchanged].

2. “The states shall adopt measures to ensure that the official media broadcast programs in the indigenous languages in areas with indigenous presence. The state shall also support the creation of radio stations and other means of indigenous communication.”

#### **Colombia**

1. Indigenous peoples, as components of national and universal cultures, have the right to revitalize, use, develop, and transmit to future generations their histories, languages, oral traditions, philosophies, concepts, writing systems, and literature, and to designate and retain their

own names for communities, places, and persons. The states shall take appropriate measures to protect the exercise of this right.

2. The states shall take measures to promote and encourage the broadcasting of radio and television programs in indigenous languages in areas having a strong indigenous presence and to support the creation of radio stations and other means of indigenous communication.

3. Include at the end of the text proposed by the Chair: "... within their indigenous territories."

4. If paragraph No. 1 is approved, paragraph No. 4 would be unnecessary, as it would be subsumed within it (in keeping with the proposal of Mr. Celso Oliveira).

## **Panama**

1. Indigenous peoples have the right to their own languages, philosophy, and concepts, as components of national and universal culture and, as such, the states shall recognize, respect, and promote them, in consultation with the peoples concerned.

2. The states shall take measures to promote and ensure that programs are broadcast in indigenous languages by radio and television stations in indigenous territories and non-indigenous areas having an indigenous presence and to support the creation of radio stations and other means of indigenous communication.

## **Proposals of indigenous representatives**

### **Máximo Paredes**

1. Indigenous peoples have the right to legal recognition of all components of the customary control of the territories they have traditionally occupied: the land, the natural resources thereon, and subsoil, which shape the ecosystems and biodiversity. Water is the blood that runs through the veins of mother earth, "Pacha Mama," the air, the wind, and all the heavenly bodies produce food for mankind.

### **Article IX. Education**

1. Indigenous peoples shall be entitled: a) to establish and set in motion their own educational programs, institutions and facilities; b) to prepare and implement their own educational plans, programs, curricula and teaching materials; and c) to train, educate and accredit their teachers and administrators. The states shall take steps to ensure that such systems guarantee equal educational and teaching opportunities for the general population as well as complementarity with the national educational systems.

2. When indigenous peoples so desire, educational systems shall be conducted in the indigenous languages and shall incorporate indigenous content, and they shall also be given the necessary training and means for complete mastery of the official language or languages.

3. The states shall ensure that those educational systems are equal in quality, efficiency, accessibility and in all other respects to that provided to the general population.

4. The states shall include in national general educational systems content reflecting the pluricultural nature of their societies.

5. The states shall provide financial and any other type of assistance needed to implement the provisions of this article.

### **Proposals of the states**

#### **Panama**

1. Indigenous peoples shall have the right to intercultural bilingual education that incorporates their world view, history, knowledge, values, spiritual practices, and lifestyles. Systems of basic and higher education include the right: (a) to determine and implement their own educational programs, institutions, and facilities; (b) to prepare and implement their own educational plans, curricula, programs, and teaching materials; and (c) to educate, train, and accredit their teachers and administrators.

2. When indigenous peoples so desire, educational systems shall be conducted in the indigenous languages and shall incorporate indigenous content, and they shall also be given the necessary training and means for complete mastery of the official language or languages.

3. The states shall ensure that such intercultural education is provided at no cost, and that it is equal in quality, efficiency, and accessibility to that provided to the general population. Indigenous children working outside their communities shall have access, whenever possible, to education in their own cultures and languages.

4. The states shall include in national educational systems content reflecting the pluricultural, multiethnic, and multilingual nature of their societies.

5. The states shall provide financial, technical, and any other type of assistance needed to implement the provisions of this article.

#### **Colombia**

4. The states shall include in their national educational systems content reflecting the pluricultural, multilingual, pluriethnic, and historical characteristics of their societies, thereby contributing to the eradication of all forms of discrimination.

#### **Canada**

1. Indigenous individuals, particularly children, have the right to all levels and forms of education of the State on the same basis as other members of the society...

### **Proposals of indigenous representatives**

#### **Hector Huertas G. (representing the Indigenous Organization of Panama)**

1. Indigenous peoples have the right to intercultural education and, by virtue of that right: (a) to determine and implement their own educational programs, institutions, and facilities; (b) to prepare and implement their own educational plans, programs, curricula, and teaching materials; and (c) to educate, train, and accredit their teachers and administrators. The states shall take steps to ensure that such systems guarantee equal educational and teaching opportunities for the general population, as well as complementarity with the national educational systems.

2. When indigenous peoples so desire, educational systems shall be conducted in the indigenous languages and shall incorporate indigenous content, and they shall also be given the necessary training and means for complete mastery of the official language or languages.

3. The states shall include in national educational systems content reflecting their intercultural nature.

4. The states shall make the administrative, financial, and other adjustments necessary to implement the provisions of this article.

#### **Lola Veliz (Representative of the Oullana Aymara People's Parliament)**

Indigenous peoples have the right:

- a. To provide institutions, facilities, and laboratory equipment at the different indigenous educational levels and for human resource training.
- b. To an education involving plans, programs, and curriculum that pertain to their cultural identity, thereby affording indigenous peoples the right to self-determination.
- c. To educate and train teachers, and accredit teacher training in the framework of the cosmic, ideological, and cosmogonic philosophy of nature (spirituality), and of their own political structure, for the continuation and survival of the indigenous peoples of the Hemisphere.

#### **Emeterio Cumes (representative of the Intercontinental Corporativist Society (SCI) – Guatemala)**

1. The states shall respect and support indigenous peoples in formulating and establishing their own educational programs, curricula, institutions, facilities, and systems, and in educating, training, and accrediting their own teachers and administrators. To that end, the states shall allocate financial, technical, and material resources and other technological elements to ensure quality of education and equal opportunity for indigenous peoples with respect to education and lifestyle.



**Robert Cartagena, Pueblo Tacaná [Secretary for Natural Resources of the Confederation of Indigenous Peoples of Bolivia (CIDOB)]**

New paragraph 6:

6. In the framework of agreements with other countries on fellowships, states shall mandatorily include indigenous peoples so as to provide them with training at all levels.

**José Carlos Morales, member of the board of trustees of the UN voluntary funds; ARADIKES Indigenous Organizations, Costa Rica)**

3. The states shall ensure that those educational systems are equal in quality, efficiency, mandatory accessibility at no cost (for example, through ninth grade), and in all other aspects to that provided to the general population.

Article X. Spiritual and religious freedom

1. Indigenous peoples have the right to freedom of conscience, freedom of religion and spiritual practice, and to exercise them both publicly and privately.

2. The states shall take the necessary measures to prohibit attempts to forcibly convert indigenous peoples or to impose on them beliefs against their will.

3. In collaboration with the indigenous peoples concerned, the states shall adopt effective measures to ensure that their sacred places, including burial sites, are preserved, respected and protected. When sacred graves and relics have been appropriated by state institutions, they shall be returned.

4. The states shall ensure respect from society as a whole for the integrity of indigenous spiritual symbols, practices, sacred ceremonies, expressions and protocols.

**Proposals of the states**

**Colombia**

3. The states shall adopt the necessary measures, in consultation with the indigenous peoples concerned, to preserve, respect, and protect ceremonial sites, including burial sites.

4. The states and their institutions shall ensure respect from society as a whole for the integrity of indigenous symbols, practices, sacred ceremonies, expressions and spiritual protocols, as well as the use of plants considered sacred by indigenous peoples.

**Panama**

– Change the title to Article X. Spirituality

1. Indigenous peoples shall have the right to freedom of belief and freedom of spiritual practice, and to exercise them both publicly and privately.

**United States**

1. Indigenous individuals have the right to freedom of thought, conscience, and religion. This right shall include freedom to have or adopt a religion or belief of her or his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice, and teaching

2. Indigenous individuals shall not be subject to coercion which would impair their freedom to have or to adopt a religion or belief of their choice.

**Proposals of indigenous representatives**

**Juan Reategui, Peru**

2. Their spiritual practices and spiritual ceremonies shall be exercised freely, in keeping with their customary law.

3. In collaboration with indigenous peoples, the states shall adopt effective measures to ensure and guarantee that their burial sites, lakes, territory, and natural resources are preserved, respected, and protected.

**Francisco Raymundo, Maya Defender**

1. Indigenous peoples have the right to recover, reinforce, and practice spirituality as an essential element of communication with the elements surrounding them, with a view to resolving problems and disputes. No restriction whatsoever shall be placed on the exercise of such spirituality.

**Máximo Paredes [Spu Mallku of the Aymara Parliament (PPGA)]**

Indigenous peoples have the right:

- a. To continue to practice our cosmic and telluric spirituality of nature, which represents the symmetrical man-nature relationship.
- b. Indigenous peoples mark our spirituality in the heavenly bodies, Mother Earth - Pachamama, the seas, lakes, rivers, mountains, forests, rocks, stones, animals, etc. This is our natural university, our wisdom and knowledge, our laboratory, our hospital. It is life itself.

- c. It is our ancestral heritage to protect, care for, and defend her. Our spirituality relates to nature and is not religious.

### **Brooklyn Rivera**

1. Indigenous peoples shall have the right to freedom of thought, freedom of conscience, and freedom of spirituality. This right includes the freedom to change spirituality or belief, and the freedom to exercise it publicly and privately, individually or collectively, so as to express spirituality or belief in education, practice, worship, and observance.

2. The states shall take the necessary measures to prohibit attempts to convert indigenous peoples or impose on them beliefs without their express consent and against their will.

3. Indigenous peoples have the right to maintain and protect their cultural and spiritual properties, including sacred sites, relics, graves, and the human remains and artifacts found within the graves. This includes the right to restitution of spiritual and cultural properties that may have been taken without their free and express consent, or in violation of their laws, traditions, and customs. In collaboration with the indigenous peoples concerned, the states shall adopt effective measures to ensure that such properties are preserved, protected, and respected. When such properties have been appropriated by state or private institutions, without the consent of the people concerned, they shall be returned.

### **Eduardo A. Nieva (Commission of Indigenous Jurists in the Argentine Republic)**

3. The states shall adopt the necessary measures, with the free and informed consent of indigenous peoples, to preserve, respect, and protect sacred sites, including burial sites, sacred objects, and relics. When they have been appropriated by public or private institutes, indigenous peoples have the right to their restitution.

### **Hector Huertas G. (representing the Indigenous Organizations of Panama)**

1. Indigenous peoples have the right to freedom of conscience and freedom of spirituality, and to exercise them in keeping with their practices and with indigenous law.

2. To states, in conjunction with indigenous peoples, shall ensure the adoption of the necessary measures to prohibit attempts to forcibly convert indigenous peoples or to impose on them beliefs against their will.

3. The states shall recognize the rights of indigenous peoples to exercise the control and management of their sacred sites, including burial sites, and to ensure that such sites are preserved, respected, and protected. When sacred graves and relics have been appropriated by state institutions, they shall be returned.

4. The states shall ensure respect for the integrity of the symbols, practices, sacred ceremonies, expressions, and spiritual protocols, and of any other object related to such practices. Such objects shall not be the subject of private appropriation.

**The National Congress of American Indians, the Native American Rights Fund, the Indian Law Resource Center, the Haudenosaunee Confederacy, the Amerindian Peoples Association of Guyana, the Carib Council of Dominica, and the Maya Leaders Alliance of Southern Belize**

1. Indigenous Peoples have the right to freedom of thought, conscience and religion; this right includes freedom to change one's religion or belief, and freedom in public or private, individually or collectively, to manifest one's religion or belief in teaching, practice, worship and observance.

2. The States shall take necessary measures to prohibit attempts to convert Indigenous Peoples without their free and informed consent or to impose on them beliefs against their will.

3. Indigenous Peoples have the right to maintain and protect their cultural and religious properties including sacred sites, relics, graves, and the human remains and articles found within graves. This includes the right to restitution of religious and cultural properties taken without their free, and informed consent or in violation of their laws, traditions and customs. In collaboration with the Indigenous Peoples concerned, the States shall adopt effective measures to ensure that such properties are preserved, protected, and respected. Where such properties are appropriated by State or private institutions or individual without the consent of the Peoples concerned, they shall be returned.

Article XI. Family relations and family ties

1. The family is the natural and basic unit of societies and must be respected and protected by the state. Consequently, the state shall recognize and respect the various forms of the indigenous family, marriage, family name and filiation.

2. In determining the child's best interests in matters relating to the protection and adoption of children of members of indigenous peoples, and in the severance of ties and other similar circumstances, consideration shall be given by courts and other relevant institutions to the views of the peoples, including individual, family and community views.

**Proposals of the states**

**United States**

2. Consistent with international human rights law, States should strive to establish minimum standards on foster care and adoption which reflect the unique values of indigenous culture, as well as strive to establish child and family-focused programs.

**Panama**

1. The family is the natural and basic unit of societies and shall be respected and protected by the state. Consequently, the state shall recognize and respect the various forms of the indigenous family, in particular, the extended family, marriage, family name, and filiation, taking an equity and

equity and gender-based approach.

2. The state shall afford particular protection to indigenous single or abandoned women whose situation stems from the breakdown of the family.

### **Proposals of indigenous representatives**

#### **Magdalena Choque Blanco (Presidente, CADMA and ASIACHA, Aymara Organizations of Chile)**

1. I wish to underscore the fact that for us, the Aymara of Chile, territory and self-determination are fundamental rights for indigenous families and peoples. However, I consider it necessary to underscore the fact that territory without water destroys families (community), as they are forced to migrate to other areas, thereby dispersing. This arises in Chile because water and land are governed by separate legislation, and may be sold separately.

The state owns the ground water. The Government is currently seeking, through public works, to extract ground water from the Lauca River basin (a National Park) to supply this resource to large-scale Azapa Valley entrepreneurs. The project jeopardizes both the family and human rights, as the Aymara of that territory cannot live without water.

Accordingly, it is suggested that recognition be accorded to the family as a whole, including its right to land, territory, and self-determination.

#### **Lourdes Tibán (CONAIE, Ecuador)**

1. The family is the basic and natural unit of indigenous peoples. It is the duty of the state to protect, strengthen, and respect it.

Consequently, the state shall recognize and respect their different institutions, such as the extended family, marriage, filiation, and forms of social organization, in keeping with their system of practices and customs and, with a view to equitable practice, shall respect their gender and generational attributes.

#### **Tarcila Rivera, Peru**

3. The state shall protect and assist indigenous families to prevent their breakdown owing to political violence and extreme poverty.

#### **National Congress of American Indians and Native American Rights Fund**

3. Proceedings to determine the custody of indigenous children should be within the exclusive jurisdiction of the Indigenous Peoples' own institutions.

Article XII. Health and well-being

a. Indigenous peoples have the right to legal recognition and practice of their traditional medicine, treatment, pharmacology, health practices and promotion, including preventive measures and rehabilitative.

2. Indigenous peoples have the right to protection of vital medicinal plants, animals, and minerals in their traditional territories.

3. Indigenous peoples shall be entitled to use, maintain, develop and manage their own health services, and they shall also have access, on an equal footing, to all health institutions and services and medical care accessible to the general population.

4. The states shall provide the necessary means for indigenous peoples to eliminate any health conditions in their communities which fall below the standards accepted for the general population.

**Proposals of the states**

**Mexico**

2. The states shall take measures to protect, on behalf of indigenous peoples, their medicinal plants, animals, and minerals in their traditional lands and territories.

3. Indigenous peoples shall have the right to use, maintain, implement, and administer their own health services, in keeping with nationally and internationally accepted standards, and to have access, on an equal footing, to public health services and medical care. The states shall seek to ensure the quality thereof, and their provision by bilingual specialists.

4. The states shall provide the necessary means for indigenous peoples to improve health conditions in their communities that fall below the standards accepted for the general population, with particular attention to preventive medicine.

**Panama**

2. Indigenous peoples have the right to the protection and use of the medicinal plants, animals, and minerals that are essential to life in their ancestral territories.

**Canada**

1. Indigenous individuals have the right to access health institutions and services and medical care on the same basis as other members of the general population.

## **Peru**

1. Indigenous peoples shall have the right to legal recognition of and to the practice of indigenous health systems, including preventive and rehabilitative measures.
2. Indigenous peoples have the right to protection of the medicinal plants, animals, and minerals that are essential to life in their ancestral territories.
4. The states shall provide the necessary means for indigenous peoples to institutionalize the knowledge of their health systems and for them to be adopted as state policy in the framework of intercultural health.

### **Proposals of indigenous representatives**

#### **Juan Reategui, Peru**

1. Indigenous peoples shall have the right to the exercise and legal recognition by the state of the practice of their indigenous medicine, to develop their own health and treatment systems, pharmacology, and spiritual practices, and to promote intercultural health, including preventive and rehabilitative measures.
2. The states recognize the right of indigenous peoples to protection of the use and management of the plants, animals, and minerals that are essential to life in their ancestral territories.
3. Indigenous peoples shall be entitled to use, maintain, develop, and manage their own health services, and they shall have access, on an equal footing, to all health institutions and services, and quality medical care accessible to indigenous peoples.
4. The states shall provide the necessary means and shall recognize their human and material resources, to include human resource training in the intercultural approach, so that indigenous peoples may eliminate the cultural gap, along with health conditions existing in their communities that fall below the accepted standards for indigenous people in general.

#### **Tarcila Rivera, Peru**

5. The states shall protect, together with indigenous peoples, the knowledge, resources, and practices of indigenous medicine to prevent their use and appropriation by third parties for commercial purposes.

#### **Armando Valbuena Goauriyu (President, National Indigenous Organization of Colombia)**

5. Recognition and protection of traditional medicinal practices by the states shall imply prohibition of their agents and institutions, or private individuals, from benefiting from the knowledge acquired by indigenous peoples in the areas of health and medicine. They shall also prohibit the conduct of experiments that constitute affronts to their dignity.

## **OPIAC of Colombia**

1. Indigenous peoples have the right to recognition by the states of the practice of their ancestral medicine, treatment, pharmacology, and practices, and promotion of their health systems, including preventive and rehabilitative measures.

2. Indigenous peoples have an inalienable and imprescriptible right to the use of the vital medicinal plants, animals, and minerals that are essential to life in their ancestral territories.

### Article XIII. The right to environmental protection

1. Indigenous peoples have the right to a safe and healthy environment, which is an essential condition for enjoyment of the right to life and collective well-being.

2. Indigenous peoples have the right to be informed of measures which could affect their environment, including information ensuring their effective participation in acts and policies which might affect it.

3. Indigenous peoples shall have the right to conserve, restore and protect their environment and the productive capacity of their lands, territories and resources.

4. Indigenous peoples have the right to full participation in formulating, planning, managing and applying governmental programs for the conservation of their lands, territories, and resources.

5. Indigenous peoples shall have the right to assistance from their states for purposes of environmental protection, and shall be allowed to receive assistance from international organizations.

6. The states shall prohibit and punish, and in conjunction with the indigenous peoples, shall impede the introduction, abandonment, or deposit of radioactive materials or residues, toxic substances and waste material in contravention of legal provisions; as well as the production, introduction, transportation, possession or use of chemical, biological and nuclear weapons in indigenous areas.

7. When a State declares an indigenous territory to be a protected area, and in the case of any lands, territories and resources under potential or actual claim by indigenous peoples, as well as locales used as natural biopreserves, conservation areas shall not be subject to any natural resource development without the informed consent and participation of the peoples concerned.



### **Proposals of indigenous representatives**

#### **Taymond Robins Lino (President, WAULA Federation, and member of SUKAWALA, Nicaragua)**

7. When a state declares an indigenous territory to be a protected area, and in the case of any lands and territories under potential or actual claim by indigenous peoples, as well as locales used as natural biopreserves, conservation areas shall not be subject to any natural resource development without the informed consent and participation of the peoples concerned, thereby ensuring indigenous peoples equitable and fair participation in the benefits thereof.

#### **Hector Huertas G. (representing the Indigenous Organizations of Panama)**

1. Indigenous peoples have the right to the protection, conservation, control, and management of the environment within their territories to ensure the possession and enjoyment of a safe and healthy environment, which is an essential condition for enjoyment of the right to life and collective well-being.

2. Indigenous peoples have the right to make informed consent to projects, activities, and studies which could affect their environment, and to participate in acts and policies that could affect it.

6. Delete the phrase: "... in contravention of legal provisions ...".

7. The right is recognized of indigenous peoples to restitution of indigenous territories and lands under their potential or actual claim which are used as protected areas. The state, with the informed consent and participation of indigenous peoples in management procedures for purposes of protection and conservation.

8. (New) By virtue of international commitments in the environmental area, the states shall ensure the informed consent of indigenous peoples to projects, along with their fair and equitable participation in the benefits thereof.

#### **Alejandro Laos (ALLPA Group / Farming Communities for Development (SER) – PERU)**

2. Indigenous peoples have the right to be informed of and consulted regarding measures that could affect their environment, to monitor them, and to participate in acts and policies that might affect them. Indigenous peoples are not obliged to agree to such measures if such consultation does not take place.

3. Indigenous peoples have the right to conserve, restore, and protect their environment and the productive capacity of their territories.

4. Indigenous peoples have the right to participate fully in the formulation, planning, organization, and implementation of government programs for the conservation of their territories.

5. It is suggested that this paragraph be deleted (as it may be seen that the preceding paragraphs provide for recognition of the right of indigenous peoples to have responsibility for the environment within their territories, which includes the carrying out of different activities and the mandate of the state to provide resources for such activities and/or to enter into negotiations for them with international cooperation).

7. When the States declares an indigenous territory to be a protected area, and in the case of any lands under potential or actual claim by indigenous peoples, as well as locales used as natural biopreserves, conservation areas shall not be subject to any natural resource development without the informed consent and participation of the peoples concerned. The states shall recognize the rights of indigenous peoples, in the exercise their autonomy, to declare their territory, or part of it, a protected or conservation area.

### **Sebastião Haji Machineri (COICA)**

3. Indigenous peoples are entitled to the right of protection of the environment, and to effective participation in acts and policies affecting them.

4. Indigenous peoples have the right to formulate, plan the organization of, and implement programs for the conservation of their lands, territory, and resources.

5. Indigenous peoples have the right to manage and protect the environment and, to that end, shall enter into cooperation agreements.

6. The states shall prohibit and punish and, in conjunction with indigenous authorities, shall impede the introduction, abandonment, or deposit of radioactive materials or residues, toxic substances and waste material, in contravention of legal provisions; as well as the production, introduction, transportation, possession, or use of chemical, biological, and nuclear weapons in indigenous areas. Indigenous peoples have the right to fair compensation for injury and damage caused.

7. Owing to the protected nature of indigenous territories, in keeping with indigenous customs and practices, the natural resources thereof must be developed to benefit their members and with a view to maintaining environmental and natural balance.

## **SECTION FOUR: ORGANIZATIONAL AND POLITICAL RIGHTS**

### **Article XIV. The rights of association, assembly, freedom of expression and freedom of thought**

1. Indigenous peoples have the right of association, assembly and expression pursuant to their values, usages, customs, ancestral traditions, beliefs and religions.

2. Indigenous peoples have the right of assembly and to the use of their sacred and ceremonial areas, as well as the right to full contact and common activities with their members living in the territory of neighboring states.



## **Proposals of the states**

### **Argentina**

2. Cross-border contacts and cooperation: The governments shall adopt appropriate measures, including under international agreements, to facilitate cross-border contact and cooperation among indigenous and tribal peoples, to include activities in the economic, social, cultural, spiritual, and environmental areas.

### **Venezuela**

– Change the title to: “Right of association, right of assembly, freedom of expression and freedom of thought”

1. The states shall respect the indigenous people’s collective right of association, assembly, and expression and communication, in keeping with their values, practices and customs, ancestral traditions, beliefs, and spirituality.

2. Indigenous peoples have the right of assembly and the right to use their sacred and ceremonial areas, while taking into account the rights of third parties.

3. Indigenous peoples have the right to maintain full contact and common activities with their members living in the territory of neighboring states. The states shall adopt special measures to facilitate such rights.

### **United States**

1. Indigenous individuals have the right of freedom of association, peaceful assembly and expression, and to hold opinions without interference.

2. Indigenous Peoples have the right to freedom of assembly, to the use of their sacred and ceremonial areas on extended lands subject to the rights of third parties and on public lands subject to reasonable accommodation. They also have the right.

### **Panama**

1. Indigenous peoples have the right to freely determine their political status and to freely pursue their economic, social, spiritual, and cultural development and, consequently, they have the right to autonomy or self government with regard to, inter alia, culture, religion, education, information, media, health, housing, employment, social welfare, economic activities, land, resource, and environmental management, and entry by non-members; and to determine ways and means of financing these autonomous functions.

### **Proposals of indigenous representatives**

#### **Sebastião Haji Machineri (COICA)**

1. Indigenous peoples have the rights of organization, association, assembly, and expression of their values, practices, customs, ancestral traditions, beliefs, and spirituality.

2. Indigenous peoples have the right to establish their political and spiritual practices, inter alia, to assemble and to use their sacred and ceremonial areas, and the right to maintain full contact and common activities with their members living in the territory of neighboring states.

#### **Emeterio Cumes Oxí [Intercontinental Corporativist Society (SCI)]**

2. The states shall respect, promote, develop, support, reinforce, and recognize indigenous peoples' social, economic, and financial organizations and institutions, their political, legal, cultural, academic, commercial, scientific, technological, and linguistic forms of organization, and the authorities representing such peoples and conducting their diplomatic relations as instruments and channels for the development of expression and representation.

#### **Jaqueline Johnson (National Congress of American Indians)**

1. Indigenous Peoples, as a specific form of exercising their right to self-determination, have the right to autonomy and self-government...

2. Indigenous Peoples have the right to the use of their sacred and ceremonial areas, as well as the right to establish and maintain without discrimination, free and peaceful contacts with other Indigenous Peoples living in the territory of neighboring States or across State borders.

#### **The National Congress of American Indians, the Native American Rights Fund, the Indian Law Resource Center, the Haudenosaunee Confederacy, the Amerindian Peoples Association or Guyana, the Carib Council of Dominica, and the Maya Leaders Alliance of Southern Belize**

2. Indigenous Peoples have the right to the use of their sacred and ceremonial areas as well as the right to establish and maintain without any discrimination, free and peaceful contacts with other Indigenous Peoples living in the territories of neighboring States across State borders.

#### Article XV. The right to self government

1. Indigenous peoples have the right to freely determine their political status and freely pursue their economic, social, spiritual and cultural development, and are therefore, entitled to autonomy or self-government with regard to *inter alia* culture, religion, education, information, media, health, housing, employment, social welfare, economic activities, land and resource management, the environment and entry by nonmembers; and to determine ways and means for financing these autonomous functions.

2. Indigenous peoples have the right to participate without discrimination, if they so decide, in decision-making, at all levels, concerning matters which might affect their rights, lives and destiny. They may do so directly or through representatives chosen by them pursuant to their own procedures. They shall also have the right to maintain and develop their own indigenous decision-making institutions, as well as equal opportunities to gain access to, and participate in, all state institutions and fora.

### **Proposals of the states**

#### **United States**

1. Indigenous Peoples have the right to internal self-determination. By virtue of that right, they may negotiate their political status within the framework of the existing nation-state and are free to pursue their economic, social and cultural development. Indigenous Peoples in exercising their right of internal self-determination, have the internal right to autonomy or self-government in matters relating to their local affairs, including determination of membership, culture, language, religion, education, information, media, health, housing, employment, social welfare, maintenance of community safety, family relations, economic activities, lands and resources management, environment and entry by non-members, as well as ways and means of financing these autonomous functions.

2. Where a national policy, regulation, decision, legislative comments or legislation will have substantial or direct effects for Indigenous Peoples, States shall consult with Indigenous Peoples prior to the taking of such actions, where practicable and permitted by law.

#### **Peru**

1. Indigenous peoples, in the exercise of their self-determination, have the right to freely determine their political status and to freely promote their economic, social, spiritual, and cultural development and, consequently, they have the right to autonomy or self-government in regard to culture, belief, spirituality, education, information, media, health, housing, employment, social welfare, economic activities, territorial, natural resource, and environmental management, and entry by non-members; and to ways and means of implementing these autonomous functions, with support from the states.

#### **Panama**

– Change the title to: Right to self-determination

1. Indigenous peoples, in the exercise of their self-determination, have the right to freely determine their political status and to freely promote their economic, social, spiritual, and cultural development and, consequently, they have the right to autonomy or self-government in regard to, inter alia, culture, spirituality, education, information, media, health, housing, employment, social welfare, economic activities, land, resource, and environmental management, and entry by non-members; and to ways and means of financing these autonomous functions.

## **Argentina**

1. ... Indigenous peoples have the right to self-determination ... “Self-determination” means the capacity of indigenous peoples to freely develop and exercise their forms of political, economic, social, and cultural organization, and to guarantee access to the jurisdiction of the state, in a framework of autonomy and self-government, compatible with the national unity, territorial integrity, and the organizational structure of each state.

## **Venezuela**

2. “Indigenous peoples have the right to political participation and the states must guarantee, through their domestic legislation, that indigenous peoples are represented in deliberative bodies at the national level, and in all administrative, federal, and local entities having an indigenous presence.”

### **Proposals of indigenous representatives**

#### **Jaqueline Johnson**

1. 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, spiritual and cultural development. As one form of exercising their right to self-determination, they have the right to autonomy and self-government with regard to inter alia culture, religion, education, information, media, health, housing, employment, social welfare, economic activities, land and resources management, the environment and entry by non-members; and to determine ways and means of financing these autonomous functions.

2. Indigenous peoples have the right to give their free and informed consent without discrimination, if they so decide, in decision-making, at all levels, concerning matters which might affect their rights, lives and destiny. They may do so directly or through representatives chosen by them pursuant to their own procedures. They shall also have the right to maintain and develop their own indigenous decision-making institutions, as well as equal opportunities to gain access to, and give their free and informed consent in, all state institutions and fora.

#### **Brooklyn Rivera B. (YATAMA Main Leader, Miskitu People, Nicaragua)**

4. The states shall guarantee the right of, participation by, and representation of indigenous peoples in state structures and institutions in the pursuit of their collective interests. Such rights shall be exercised through their elected representatives versed in traditional procedures, and via procedures and spaces defined under the concept of universal suffrage.

#### **Eduardo Nieva (Commission of Indigenous Jurists in the Argentine Republic)**

1. Indigenous peoples have the right to self-determination. By virtue of this right, they may freely determine their political status and may provide for their economic, social, and cultural development.

2. One of the many forms of the right to self-determination is autonomy and self-government. Consequently, indigenous peoples have the right to autonomy or self-government with regard to, inter alia, culture, spirituality, education, information, media, health, housing, employment, social welfare, economic activities, land, resource, and environmental management, and entry by non-members; and to determine ways and means of financing these autonomous functions.

**The National Congress of American Indians, the Native American Rights Fund, the Indian Law Resource Center, the Haudenosaunee Confederacy, the Amerindian Peoples Association of Guyana, the Carib Council of Dominica, and the Maya Leaders Alliance of Southern Belize**

1. 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, spiritual and cultural development. As one form of exercising their right to self-determination, they have the right to autonomy and self-government with regard to inter alia, culture, religion, education, information, media, health, housing, employment, social welfare, economic activities, land and resources management, the environment and entry by non-members; and to determine ways and means for financing these autonomous functions.

Article XVI. Indigenous law

1. Indigenous law shall be recognized as a part of the states' legal system and framework in which the states' social and economic development takes place.

2. Indigenous peoples have the right to maintain and reinforce their legal systems and apply them to affairs within their communities, including systems addressing such matters as conflict resolution, crime prevention and the maintenance of peace and harmony.

3. In the jurisdiction of each state, procedures involving indigenous persons or their interests shall be conducted in such a way as to ensure the right of indigenous peoples to full representation with dignity and equality before the law. This shall include observance of indigenous law and custom and, where necessary, use of their language.

**Proposals of the states**

**Peru**

- Change the title to: "Right to intercultural coexistence"

1. Indigenous law shall be recognized as part of the states' legal system and framework in which the states' social, cultural, political, and economic development takes place.



## **Venezuela**

- Change the title to: “Law and special indigenous jurisdiction”

1. The states shall recognize the legitimate authority of indigenous peoples in applying their legal systems in keeping with their own provisions, procedures, and ancestral traditions.

2. The way in which this special indigenous jurisdiction is to be coordinated with the national legal system shall be determined by law.

## **Panama**

1. Indigenous law shall be recognized as an integral part of the legal systems of states, and shall serve as a framework for the economic, political, and social development of indigenous peoples and of the plural character of states.

2. Indigenous peoples have the right to justice and to maintain and reinforce their legal systems and authorities, and to apply them to affairs within their communities, including systems addressing such matters as conflict resolution, crime prevention, and the maintenance of peace and harmony.

3. Within the jurisdiction of each state, procedures involving indigenous persons or their interests shall be conducted in such a way as to ensure the right of such peoples to full representation with dignity and equality before the law. This shall include observance of indigenous law and custom and, where necessary, use of their language.

## **United States**

2. Consistent with international human rights standards, Indigenous Peoples may develop maintain and reinforce their legal systems, to apply indigenous law to the internal and local affairs of their communities, including systems pertaining to ownership, management and development of lands and natural resources, resolution of conflict with and between indigenous communities, prevention of crime, law enforcement and maintenance of peace and harmony.

## **Colombia**

1. The states shall recognize the capacity of indigenous authorities to exercise jurisdictional functions within their territories, in keeping with their own provisions and procedures, provided that these do not contravene the national Constitution and laws.

2. Where appropriate, the states shall take measures to reinforce the capacity of indigenous peoples to preserve their own legal systems and the application thereof in resolving conflicts and maintaining internal harmony, in keeping with the national legal system.

3. Within the jurisdiction of each state, procedures involving indigenous persons or their interests shall be conducted in such a way as to ensure the right of indigenous peoples to full

representation with dignity and equality before the law. This shall include observance of indigenous law and custom and, where necessary, use of interpreters in their language.

### **Proposals of indigenous representatives**

#### **Francisco Raymundo and Rodolfo Pocop (and Augusto Willemsen Díaz, guest participant on the Panel of Experts at the March 11 session of the Special Meeting)**

1. Indigenous peoples and communities have the right to maintain, develop, update, and transmit to future generations their own legal systems and to apply them in regulating their organization and the social conduct of their members (and in the exercise of their jurisdictional authority within their territory).

2. The state shall respect the autonomy of the natural or traditional authorities of indigenous peoples and communities in the exercise and application of their own legal systems and the finality of their decisions or rulings.

3. Such provisions shall be established as the natural or traditional authorities of indigenous peoples and communities and officials, judges, and magistrates of the state judiciary deem, by mutual consent, to be necessary to coordinate, without hegemony or preeminence of any kind, the special jurisdiction of the community and the jurisdiction of the state.

#### **Alejandro Laos (ALLPA Group / Farming Communities for Development (SER) – PERU)**

– Change the title to: “Right to administer own justice”

1. All indigenous peoples are entitled to recognition of their justice administration systems and to legal recourse in resolving their conflicts. This shall form part of the states’ legal system and framework for the social and economic development.

2. Indigenous peoples have the right to maintain and reinforce their legal systems and to apply them to affairs within their communities, including systems addressing such matters as conflict resolution, crime prevention and the maintenance of peace and harmony. Jurisdictional decisions of indigenous institutions shall be res judicata and shall be taken as such by national courts.

#### **Vilmar Martins Moura Guarany (Indigenous delegate of Brazil)**

4. The states shall apply the provisions of ordinary law to relations between indigenous and non-indigenous persons, while taking account of indigenous social and cultural differences.

#### **Brooklyn Rivera B. (YATAMA Main Leader, Miskitu People, Nicaragua)**

2. Indigenous peoples have the right to maintain and reinforce their legal systems, and to strengthen their traditional authorities and to utilize them in justice administration, including systems and authorities addressing matters such as conflict resolution, crime prevention and the maintenance of peace and harmony.

– (New paragraph) The states shall establish mechanisms to address the collective demands of indigenous peoples in keeping with their values and traditional practices. Justice administration for indigenous peoples shall be governed by special provisions that reflect their world view.

#### **Amparo Gutiérrez, Purépecha People**

1. Indigenous law shall be recognized as a part of the states' legal system and framework in which the states' social and economic development takes place. With a view to ensuring this, the states shall adopt the pertinent measures for its dissemination and application within state judiciaries.

3. In the jurisdiction of each state, procedures involving indigenous persons or their interests shall be conducted in such a way as to ensure the right of indigenous peoples to full representation with dignity and equality before the law. This shall include the observance of indigenous law and custom and, preferentially, the use of their language.

#### **Rigoberto Mendoza, Nicaragua**

1. The indigenous legal system shall be recognized and incorporated in the national legal system. Indigenous law shall serve as a source of national positive law.

#### **Héctor Huertas and Tomás Alarcón**

1. Indigenous peoples have the right to justice and, by virtue of that right, to their own legal systems, jurisdiction, and competence in applying indigenous law within their territories, as part of the national legal system.

2. Indigenous peoples have the right to maintain and reinforce their legal systems and to apply them within their territories, including systems addressing such matters as, *inter alia*, conflict resolution, crime prevention, and the maintenance of peace.

3. The states shall adopt within their internal jurisdiction mechanisms to ensure indigenous peoples recognition of the decisions of their courts, access to justice, and judicial guarantees to afford them dignity and equality before the law.

4. Indigenous peoples have the right to judicial guarantees of equality when they are subject to the states' courts, in particular, to recognition of indigenous law, of their right to an indigenous defender and, where necessary, to the use of their language.

#### **Sebastião Haji Machineri (COICA)**

1. Indigenous peoples are guaranteed the right of their legal systems to form part of the states' legal systems, to include social, economic, political, cultural, and spiritual development. The states shall respect the full exercise of such rights.

2. Indigenous peoples have the right to maintain and reinforce their legal systems and to

to apply them to affairs within their communities, including systems addressing matters such as conflict resolution and the maintenance of peace and harmony.

3. Within the jurisdiction of each state, procedures involving indigenous persons or their interests shall be conducted in such a way as to ensure the right of indigenous peoples to full representation with dignity and equality before the law. This shall include the observance of indigenous law and custom and, where necessary, use of their language.

**The Maya Leaders Alliance of Southern Belize, the National Congress of American Indians, the Native American Rights Fund, the Indian Law Resource Center, the Carib Council of Dominica, and the Amerindian Peoples Association or Guyana**

We have a number of proposals for this article:

First, that sub-section two be modified by adding the words “AND TERRITORIES” after the words “within their communities”

Second, that an additional sub-section be added that reads:

The official decisions, rulings, and actions of indigenous institutions shall be fully recognized, honored and enforced by the institutions of the State.

Article XVII. National incorporation of indigenous legal and organizational systems

1. The states shall facilitate inclusion of the institutions and traditional practices of indigenous peoples in their organizational structures, in consultation with, and subject to the consent of, the peoples concerned.

2. The relevant institutions in each state which serve indigenous peoples shall be designed in consultation with and are subject to the participation of, the peoples concerned so as to reinforce and promote the identity, cultures, traditions, organization and values of those peoples.

**Proposals of the states**

**Panama**

1. With a view to strict respect for self-determination and the exercise of interculturality, the states shall recognize indigenous values, wisdom, knowledge, and culture, and shall facilitate the inclusion thereof in national life, in consultation with and with the consent of indigenous peoples, provided that this does not imply assimilation and transculturation.

2. The pertinent institutions of each state that may serve indigenous peoples, and its pertinent public policies, shall be designed and executed in consultation with and the participation of the peoples concerned so as to reinforce and promote the identity, culture, traditions, organization, and values of those peoples.

## **Venezuela**

2. “The states shall encourage institutions devoted to each state’s historical heritage and official culture to recognize the contribution made by indigenous heroes to history and to the formation of the multiethnic and pluricultural nature of their respective societies. To that end, they shall be elevated to their national pantheons of heroes, with the due consent of the respective indigenous peoples.”

### **Proposals of indigenous representatives**

#### **Alejandro Laos (ALLPA Group / Farming Communities for Development (SER) – PERU)**

- (New paragraph) The states shall establish an entity with responsibility for activities involving indigenous peoples, with a view to coordinating state policy and facilitating relations with that group.
- (Proposed additional paragraph on political rights) At the request of indigenous peoples, the states may establish electoral districts to enable indigenous representatives to be elected to local, regional, and national government.

#### **The Maya Leaders Alliance of Southern Belize, the National Congress of American Indians, the Native American Rights Fund, the Indian Law Resource Center, the Carib Council of Dominica and the Amerindian Peoples Association of Guyana**

2. “that no decisions directly relating to their rights and interests are taken without their free and informed consent.”

## **SECTION FIVE: SOCIAL, ECONOMIC, AND PROPERTY RIGHTS**

### **Article XVIII. Traditional forms of property ownership and cultural survival. The rights to land and territories**

1. Indigenous peoples have the right to legal recognition of the varied and specific forms and modalities of their possession, control, and enjoyment of territories and property.

2. Indigenous peoples are entitled to recognition of their property and ownership rights with respect to lands, territories and resources they have historically occupied, and to the use of those to which they historically have had access for their traditional activities and livelihood.

3. i. Subject to the contents of 3.ii., when property and user rights of indigenous peoples arise from rights existing prior to the creation of those states, the states shall recognize the titles of indigenous peoples relative thereto as permanent, exclusive, inalienable, imprescriptible and is not subject to attachment or seizure.

ii. Such titles may be changed only by mutual consent between the state and the respective indigenous peoples when they have full knowledge and understanding of the nature or attributes of such property.

iii. Nothing in 3.i. shall be construed as limiting the right of indigenous peoples to attribute ownership within the community in accordance with their customs, traditions, use and traditional practices, nor shall it affect any collective community rights thereto.

4. Indigenous peoples have the right to an effective legal framework for the protection of their rights with respect to the natural resources on their lands, including the ability to use, manage, and conserve such resources, and with respect to traditional uses of their lands and their interest in lands and resources, such as subsistence items.

5. In the event that the subsoil minerals or resources of the subsoil belong to the state, or the state has rights over other resources on the lands, the governments shall establish or maintain procedures for the participation of the peoples concerned in determining whether the interests of such peoples would be adversely affected and to what extent, before undertaking or authorizing any program for planning, prospecting, or exploiting the resources existing on their lands. The peoples concerned shall participate in the benefits of such activities, and shall receive compensation, on a basis no less favorable than the standard international law sum for any loss which they may sustain as a result of such activities.

6. Unless exceptional and justified circumstances so warrant in the public interest, the states shall not transfer or relocate indigenous peoples without the free, genuine, public and informed consent of those peoples, and in all cases with prior compensation and prompt replacement of lands appropriated, which must be of similar or better quality and which must have the same legal status; and guaranteeing the right to its return if the causes that gave rise to the displacement cease to exist.

7. Indigenous peoples have the right to restitution of the lands, territories, and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, occupied, used or damaged; or when restitution is not possible, the right to compensation on a basis no less favorable than the standard set by international law.

8. The states shall take all possible measures, including the use of law enforcement mechanisms, to avert, prevent and punish, when applicable, any intrusion on or use of those lands by unauthorized persons in order to take possession or make use thereof. The states shall place maximum priority on the demarcation and recognition of properties and areas of indigenous use.

## **Canada**

Canada proposes the following definitions:

- “Lands” are understood to mean those areas of land, which indigenous peoples may own or have exclusive use of.
- “Territories” are understood to be those areas which indigenous peoples do not own and do not have exclusive use of, but where they may conduct their traditional lifestyles, in accordance with domestic law or agreement.

5. Indigenous peoples and individuals shall not be arbitrarily removed from their lands. No relocation shall take place, except on at least the same basis as applies to other members of the national community, after consultation, and on the basis of just and fair compensation and shall take place, where possible, with the option of return.

### **Proposals of indigenous representatives**

**The National Congress of American Indians, the Native American Rights Fund, the Indian Law Resource Center, the Amerindian Peoples Association of Guyana, the Carib Council of Dominica; and the Maya Leaders Alliance of Southern Belize**

2. Indigenous Peoples have the right to own and control the lands, territories and resources they have traditionally occupied or used, as well as those to which they have traditionally had access. This right extends to resources associated with such lands and territories

### **Emeterio Cumes Oxi, Intercontinental Corporativist Society**

1. The states recognize the right of indigenous peoples to possession and legal and customary ownership of land, territory, the soil, subsoil, and ecosystem, and to participate in the management of renewable and non-renewable resources, and the inalienable right to the enjoyment thereof, including the obligation of states to defend the land, territory, and resources in the possession of indigenous peoples so that they do not incur risk of appropriation, seizure, dispossession, or any other act detracting from their property rights.

### **Juan Reategui, Shuar - Awajun People (Peru)**

1. Indigenous peoples have the right to ownership of the territories they occupy and the natural resources traditionally used in their activities, in keeping with the preservation and appropriate use thereof. They have autonomy in the control, rational use, and management of the natural resources found within such territories and the right to the practice of collective ownership.

The territory of indigenous peoples is inalienable, imprescriptible, and is not be subject to attachment or seizure. The state shall guarantee the protection of indigenous peoples in voluntary isolation, and shall punish any individual or entity who, without their consent, seeks to assimilate them, appropriate their resources, and invade their ancestral territories, thereby adversely affecting their continued existence.

**Rigoberto Mendoza, Nicaragua**

1. Indigenous peoples have the right to legal recognition of the varied and specific forms and modalities of control of their ancestral property, lands, territory, and all resources therein, and to the use, possession, and enjoyment thereof.
2. Delete “**historically**” and substitute “**ancestrally**.”

**Hector Huertas G. (representing the Indigenous Organizations of Panama)**

- Change title to: Rights to collective property and development

1. Indigenous peoples have the right to collective ownership of their territories and to their world view in that regard and, by virtue of that right to, determine the varied and specific forms and modalities of their use, possession, control, and enjoyment of such territories, in keeping with their practices.
2. The states shall recognize the rights to collective ownership and control with respect to the lands, territories, and resources they have historically occupied, and to the use of those to which they also have had access for their traditional activities and which relate to their lifestyle.
3.
  - ii. Such titles may be changed only by mutual consent between the state and the respective indigenous people, wherein their free and informed consent is guaranteed.
5. In the event that mineral or other resources are found in the subsoil of indigenous territories, indigenous peoples have the right to be informed of any request to conduct studies with a view to prospecting, bioprospecting, or planning, in order to ensure their free and informed consent. Having obtained the authorization or concession for studies or exploitation, the state shall take account of indigenous public interest and shall provide broad guarantees with respect to possible direct and indirect effects on their territories and lifestyles. If such activities are authorized, the states shall ensure a prior procedure for just and equitable compensation, on a basis no less favorable than the standard recognized by international law for any loss they may sustain as a result of such activities and the direct benefits that may be generated.
6. If such transfer becomes necessary, their free and informed consent shall be required, and in all cases with prior fair and equitable compensation on a basis no less favorable than the standard recognized by international law and prompt replacement of lands appropriated, which shall be of similar or better quality and which shall have the same legal status; and guaranteeing the right of return to such indigenous peoples if the causes that gave rise to the displacement cease to exist.

**Alejandro Laos F**

We consider that it is not enough to recognize the right of indigenous peoples to ownership of their land. In several of our countries, such ownership is a constitutional right, but this has been insufficient to ensure the rights of indigenous communities and peoples. Currently various disputes are under way with states, companies, and colonists for the control of their land for the purposes of agricultural, forestry, and mining exploitation, where the peoples have no one to defend their rights.



In addition, this situation has produced confrontations among groups in view of the failure of the states to guarantee ownership of lands. Thus, beyond the fundamental consideration that lands and their natural resources represent for the lives of indigenous peoples, we suggest that it is advisable to recognize the right to ownership of their territory, thereby making it possible to protect the full use and possession of their property in keeping with their cosmology, culture, and customs. Accordingly, we would be more comfortable with wording that, in an appropriate way, includes the right of indigenous peoples to ownership of their territories.

**The National Congress of American Indians, the Native American Rights Fund, the Indian Law Resource Center, the Amerindian Peoples Association of Guyana, the Carib Council of Dominica and the Maya Leaders Alliance of Southern Belize**

2. Indigenous Peoples have the right to own and control the lands, territories and resources they have traditionally occupied or used, as well as those to which they have traditionally had access. This right extends to resources associated with such lands and territories.