

**OAS DEPARTMENT OF INTERNATIONAL LAW
PROGRAM OF ACTION ON INDIGENOUS PEOPLES IN THE AMERICAS**

**Department of International Law
Secretariat for Legal Affairs**

Washington, D.C.
April 2010



**Organization of
American States**

Introduction

In recent years, indigenous issues have been covered by a large number of resolutions adopted by the OAS General Assembly and declarations and plans of action arising from the Summits of the Americas.

The OAS General Assembly has worked for the adoption of an American Declaration on the Rights of Indigenous Peoples, the discussions for which have enabled active participation by indigenous representatives at the negotiating sessions held by the states in pursuit of consensus.

In turn, the Summits of Heads of State and Government have recognized, *inter alia*, the importance of the world views, customs, uses, and traditions of indigenous peoples. In addition, the Summits have promoted access to education for indigenous women, children, and young people, in accordance with their values, customs, traditions, and forms of organization; they have also called for hemispheric and national conferences to enable indigenous peoples and their organizations to share their experiences with implementing activities for promoting their sustainable cultural, economic, and social development and other areas identified by the indigenous peoples themselves.

In the universal system, on September 13, 2007, the United Nations adopted a Declaration on the Rights of Indigenous Peoples. The provisions of this instrument include the right of indigenous peoples to self-determination and their right to determine their political status and to pursue their economic, social, and cultural development. The Declaration also identifies methods for indigenous peoples to participate in the national lives of their states, in addition to protecting the specific character of their cultural identity. One key element affecting indigenous peoples' relations with the state requires their prior, free, and informed consent on matters dealing with restitution, redress, forced displacements, or projects affecting their lands, in particular as regards the exploitation of mineral and water resources. In addition, the Declaration recognizes the rights of indigenous peoples to possess, use, develop, and control the lands, territories, and resources that they have traditionally occupied or used.

Also worthy of note at the global level is the Millennium Development Goal targeting the eradication of extreme poverty, which has a disproportionate effect on indigenous people who live in rural areas.

In addition, through its various technical areas the OAS General Secretariat has promoted a series of projects and activities to assist the indigenous communities found in different member states. In the field of promoting and protecting human rights, both the Inter-American Court and the Inter-American Commission have developed extensive jurisprudence on the topic.

In spite of this, at the present time there is no comprehensive program that identifies the priority needs of indigenous peoples and proposes a coherent and complete plan of action to address those concerns.

In this context, and within the framework of the mandates issued by the Summits of Heads of State and Government and by the General Assembly of the Organization, the Department of International Law of the OAS Secretariat for Legal Affairs has drawn up this Program of Action with the aim of promoting and strengthening the participation of indigenous peoples in domestic and international decision-making processes, increasing the awareness of society in general regarding this topic, training indigenous peoples' representatives in a range of areas that will allow the comprehensive development of their communities, and establishing indigenous issues as a cross-cutting theme in the Organization's different projects and activities.

The Department of International Law, in proposing the activities set out in this Program of Action, also seeks to promote gender awareness, cultural diversity, and an equitable geographical balance.

Among its expected results, the Program seeks to increase strengths, skills, and know-how through training, skill acquisition, and outreach efforts, to encourage effectiveness and accountability in the projects designed and managed by users themselves, to raise the general population's awareness about the need for the progressive elimination of practices that discriminate against this sector of the population, and to strengthen indigenous peoples' access to the benefits of development while acknowledging the diversity that exists in our societies.

The Program is aimed at the members of indigenous peoples and indigenous organizations and, above all, their leaders: the goal is to have an impact on grassroots communities and, at the same time, to ensure the multiplication of the proposed activities. The aim is also to involve non-indigenous individuals who work with indigenous peoples, in both governmental and nongovernmental organizations from the OAS member states.

1. Promoting the indigenous agenda among indigenous peoples and society in general

The Program seeks to inform about the indigenous agenda and to provide training on its topics, working in close collaboration with indigenous representatives through outreach activities that target both indigenous people and society in general.

1.1 Dissemination and promotion of the rights of indigenous peoples in indigenous communities and among public officials and society in general, including judges, prosecutors, public defenders, state administrative personnel, bar associations, members of the armed forces, teachers at all levels of education, as well as employees of private companies and the general public, through regional courses, to bring about a greater understanding of the content and scope of those rights and to raise the awareness of society in general regarding indigenous issues.

1.2 Inclusion of the indigenous agenda in the Courses on International Law organized by the Department of International Law since 1974 in the city of Rio de Janeiro, Brazil, with the aim of providing young lawyers, diplomats, and teachers of international law and international relations with training in the field of international law. In addition, the Program seeks to promote the participation of indigenous students meeting the above profile in those courses by providing full attendance scholarships.

1.3 Inclusion of the indigenous agenda in the Workshops on International Law organized by the Department of International Law since 1999 with the aim of training the participants and raising their awareness. The Workshops on International Law bring together qualified international public and private law teachers and experts from prestigious universities from across the Americas, in order to further the analysis of current international law issues, exchange ideas, and launch proposals for action to improve the teaching of international law, strengthen ties between the Hemisphere's academic institutes, and promote the study of the inter-American system and the incorporation of innovative topics into the international law programs of different law schools at the universities of the Americas. In addition, the aim is to promote the participation of teachers of indigenous descent who meet the specified profile at these workshops.

1.4 Creation and maintenance of a web site on indigenous issues, setting out the most recent developments within the inter-American system, developments in legislation and jurisprudence at the national and international levels, and successful experiences with indigenous participation in the national lives and development efforts of different countries.

1.5 Organization of seminars, round tables, workshops, and information events for members of permanent missions to the OAS and General Secretariat staff, in order to disseminate the indigenous agenda and promote the Organization's activities related to indigenous peoples.

1.6 Awareness raising on topics dealing with indigenous children and youth, with emphasis on education; the aim of this is to enable implementation of Article 30 of the United Nations Convention on the Rights of the Child, which sets out the rights to be extended to indigenous children and young people, including the right to a decent existence, without poverty or discrimination, and the right to education.

2. Training and empowerment

Among the principles enshrined by the Declaration on the Rights of Indigenous Peoples adopted by the United Nations is that of consent. Under Article 19 of that Convention, states must obtain indigenous peoples' prior, free, and informed consent "before adopting and implementing legislative or administrative measures that may affect them." That obligation requires the proactive participation of indigenous peoples in making decisions about the planning, implementation, and monitoring of activities, programs and projects that could have a real impact on their lives. In that context, the Department of International Law proposes training and outreach activities, through practical workshops within indigenous communities, enabling their members to develop specific skills and abilities.

2.1 Training on the comprehensive use of the inter-American system for the promotion and protection of human rights, to familiarize indigenous leaders with it so they can learn to use it as effectively as possible and organize similar workshops in their communities, with the support of the Department of International Law. This will involve seeking the assistance of a range of bodies, including the Inter-American Court of Human Rights, the Inter-American Commission on Human Rights, the Inter-American Institute of Human Rights, and the Indigenous Intercultural University and its network of associated centers.

2.2 Training in alternative conflict resolution methods, in order to promote the development of early-warning strategies to identify problems before a crisis erupts, and to promote the identification and use of optimal resolution methods in individual situations.

2.3 Training in good governance, in order to familiarize participants in different decision-making processes with methods for formulating public policies and for institutional development. Another aim is to strengthen local governance and ensure greater participation by indigenous peoples in the construction of democratic societies.

2.4 Training in business leadership for indigenous youth, with emphasis on promoting enterprise as a tool for development, leadership techniques, enhancing self-esteem, and methods for self-management and negotiation.

2.5 Training for the political participation of indigenous women, through the development of their capacities, the cultural construction of gender, and the promotion of their human rights.

2.6 Training in project design, to familiarize indigenous representatives with the process of conceptualizing, planning, designing, executing, and evaluating projects liable for funding by national and foreign donors. Skills and abilities for self-management will also be generated.

2.7 Technical assistance and mentoring in securing funding for and executing projects put forward by indigenous peoples or their representatives.

2.8 Training on topics dealing with transparency, joint responsibility, and anticorruption efforts, in order to strengthen indigenous peoples' ability to ensure improved management based on the principles of effectiveness, efficiency, accountability, transparency, and participation.

2.9 Training in ecotourism in their natural habitats, in order to encourage respect for age-old ways of life and to build capacities in the areas of marketing, customer service, and quality control. Support from private enterprise is hoped for, with a view to boosting productive capacities and local economic development.

3. Attention to specific needs

The Program identifies areas of particular interest to the members of indigenous communities in situations that warrant an effective response from society in general or in situations that could be worsened by the fact that an ethnic group or community is involved. These proposals aim to mitigate the negative effects to which indigenous people could be exposed.

3.1 Implementation of a legal assistance program for indigenous people deprived of their freedom, in order to provide them with complete, free, quality services that respect their cultural identity, and to offer mechanisms for bringing the practices of current indigenous law into line with positive law.

3.2 Implementation of a legal assistance program for internally displaced or migrant indigenous people.

3.3 Implementation of a practical training program on intellectual property, explaining the scope of that field of law to help identify rights and obligations in connection with intellectual property rights.

4. Mainstreaming the indigenous perspective in the programs and activities of the OAS

In recent years, several initiatives have been developed to encourage participation by indigenous peoples in OAS activities. There is, however, no methodology or procedure that includes the indigenous perspective in the planning, design, and implementation of the Organization's programs, projects, and activities.

Consequently, there should be a Guide for Mainstreaming the Indigenous Perspective, addressing the particular characteristics and specific needs of those different areas of the Organization that pursue activities on the indigenous agenda or on related topics in which the indigenous perspective could have a particular impact.

Such a guide would help build internal capacities, introduce simplified, streamlined conceptual elements, and take into account the specific needs, concerns, and interests of indigenous peoples, together with the elements of key importance in promoting their development.