Indigenous Peoples in Latin America: Identity and Territory

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Rights and Resources Initiative
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• Overview of Latin American Indigenous Peoples

• International instruments for Indigenous Peoples’ rights

• Key Indigenous peoples rights

• Examples of “Land Titling – Demarcation” processes
Overview

- Statistics vary from 28 to 43 million indigenous peoples, divide into some 400 ethnic groups.
Overview

Independence mid-late 19th Century

Three major lines of policy: Removal; Confinement; Integration-assimilation

1940s

Indigenism: Integration in national Socio-economic models; “IP in the way of development”

1970s-1980s

Strengthening of IP ties and group identity based on ethnic and cultural traits

IP international mobilization for land rights and participation in national politics

1990s

Democratization of LA Countries – New Constitutions

Major steps for recognition of IP land rights

2000s

New threats & Opportunities derived From CC REDD +

Resurgence of indigenous identity tied to land claims
ILO Convention 169 of 1989, is the most important international legal framework concerning indigenous peoples rights:

Requires ratifying states to identify indigenous lands and guarantee the effective protection of rights of ownership and possession; to safeguard indigenous rights to participate in the management and conservation of resources; to consult with IP over mineral or subsoil resources.
The UN Declaration on the Rights of Indigenous Peoples, October 2007

Establishes the rights of IP to the protection of their culture and identity and the rights to their traditional lands and resources, as well as rights to education, employment, health, the practice of their own religion and the use of their own languages.
**Key Indigenous Peoples Rights**

**Self-determination:** Freedom to determine their political status and to pursue their economic, social, and cultural development.

**Land rights:** rights to their lands, territories, and resources which they have traditionally owned, occupied or otherwise used or acquired.

**Consultation:** rights to be consulted previously to the approval of any project affecting their lands, territories, and natural resources.

**Self-definition:** rights to determine their own identity or membership in accordance to their customs and traditions.
Self-Definition

- No single and formal definition of “Indigenous Peoples.”
- The ILO Convention indicates self-definition as the fundamental criterion for determining what and who is indigenous.
- Historical experience of vulnerability to disruption, dislocation, or exploitation
- Retain some or all of their own social, cultural and political institutions.
- Self-definition and recognition by their own group.
Indigenous Peoples in Colombia

- They represent only 2% of the total population.

- Around 30 million hectares of the country constitute indigenous territories or Resguardo, (510 indigenous lands).

- Law 30, 1988 recognized indigenous land, broaden their area, and established resguardos in the Amazon.

- The 1991 constitution recognizes the collective title and inalienable, indivisible and indefeasible character of indigenous lands and provide the same constitutional guarantees of protection that private property enjoys.
## Land Titling Process, Colombia

<table>
<thead>
<tr>
<th>STEP</th>
<th>DESCRIPTION</th>
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<tbody>
<tr>
<td>Request of land titling or extension of the <em>resguardo</em> to INCORA,</td>
<td>Local authority –<em>cabildo</em>- or indigenous organization present request with basic information on the community</td>
</tr>
<tr>
<td>Studies</td>
<td>Socio-economic and legal studies of the tenure conditions of the area requested</td>
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<tr>
<td>Clarification and adjudication</td>
<td>Identification and clarification of property rights. INCORA buy or expropriate land.</td>
</tr>
<tr>
<td>Previous Concept</td>
<td>INCORA presents concept of the formation of the resguardo to the Ministry of Interior, which will give a concept of recognition in 30 days</td>
</tr>
<tr>
<td>Provision of land titles</td>
<td>Resolution of the establishment of the resguardo</td>
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Indigenous Peoples in Brazil

- Indigenous lands - Terras indigenas
- 170 groups, aprox. 300-400,000 (2%). Approx. 50 “uncontacted” groups.
- 401 Indigenous Lands totaling 20.84% of the Legal Amazon.
- Of these, 65% had the process of delimitation completed.
- Law 6001 of 19th December 1973, known as the Indian Statute, recognizes the permanent leasehold on lands that are traditionally occupied by indigenous communities. With the promulgation of the Federal Constitution in 1988 the leasehold was guaranteed to indigenous communities.
## Land Demarcation Process, Brazil

<table>
<thead>
<tr>
<th>STEP</th>
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<tbody>
<tr>
<td>Identification</td>
<td>FUNAI - Constitution of the Technical Group (GT), field studies and elaboration of proposal for demarcation.</td>
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<tr>
<td>Delimitation</td>
<td>Publication of proposal and analyses of contesting claims, and presentation of report to Ministry of Justice</td>
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<tr>
<td>Demarcation</td>
<td>Definition of indigenous land to demarcate, analysis of costs, and implementation</td>
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<tr>
<td>Approval</td>
<td>Enactment of federal decree that confirms the demarcation of the land</td>
</tr>
<tr>
<td>Registry</td>
<td>Registration of the indigenous land</td>
</tr>
<tr>
<td>Expulsion of non-indigenous</td>
<td>Actions to remove and relocate non-indigenous peoples from the demarcated land, payment of compensation</td>
</tr>
</tbody>
</table>
THANK YOU