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Office of the High Commissioner for Human Rights (OHCHR)

Research Report

Topic 3: Securing indigenous self-determination in Latin America by addressing challenges of land rights and political participation.



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Introduction:

According to the World Bank report, "Indigenous Latin America in the Twenty-First Century", there are 42 million indigenous people in Latin America. Mexico, Guatemala, Peru, and

Bolivia, alone account for more than 80 percent of the regional total, comprising approximately 34 million indigenous individuals.

Around 43 percent of the indigenous population in the region are affected by poverty, which is more than twice the proportion of non-indigenous people. Furthermore, 24 percent of indigenous people live in extreme poverty, which is 2.7 times higher than of non-indigenous people.

Additionally Indigenous People often lack formal recognition over their lands, territories and natural resources, and are often the last to receive public investments in basic services and infrastructure, as well as facing multiple barriers to fully participate in the formal economy, access to justice, and participate in political processes and decision making.

One article states that more than 500 Indigenous groups have experienced repression and attempts at erasure in terms of their political participation. Still, Indigenous communities persist and are politically active. The same article argues that institutional and structural factors within the democracies don't fully explain Indigenous political engagement. They are often missing important dynamics within communities, where activism is often locally focused, rooted in community organisations, and focused on high-salience issues. Furthermore, using the Americas Barometer survey (17 countries, 2004–2019)¹ it shows that Indigenous people vote at equal levels to other citizens, as well as protesting, contacting the government, joining parties, campaigning, and discussing politics at higher rates than non-Indigenous people.²

Definition of Key Terms:

Indigenous Peoples³ - An ethnic group who are the original inhabitants of a region, before colonisation. Indigenous peoples have unique cultures, governance systems and languages. Their historical oppression makes the protection of land rights and political participation an ongoing concern.

Land Rights⁴ - The legal and customary ownership, control of land and its usage. The lands owned by the Indigenous are often not individual but collective.

Self - determination⁵ - The right of a person to decide their own political status and control their social, cultural, and economic developments. For indigenous communities, self-determination means that they have authority over their ancestral lands and the ability to participate in political decisions.

¹ <https://www.vanderbilt.edu/lapop/regional-reports.php>

² <https://journals.sagepub.com/doi/abs/10.1177/00104140251Indigenous328005>

³chrome-

extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.un.org/esa/socdev/unpfii/documents/5session_factsheet1.pdf

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extension://efaidnbmnnnibpcajpcglclefindmkaj/<https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/04/Indigenous-Peoples-Collective-Rights-to-Lands-Territories-Resources.pdf>

⁵ <https://www.idea.int/news/self-determination-indigenous-peoples>

Free, Prior and Informed Consent (FPIC)⁶ - A principle that Indigenous People must be consulted before any law, affecting their land or resources, is passed and approved.

Colonisation⁷ - The process by which European powers took control of Latin American territories, leading to the displacement and political exclusion of Indigenous communities.

Background Information

Latin America consists of over 50 million indigenous groups, which are mainly living in countries like Mexico, Guatemala, Brazil, Peru and Bolivia. Before the colonisation of these nations, the indigenous communities had existed long before the modern states, governing their own territory and state. The effects of colonisation, discrimination, widespread land loss and political exclusion are still present and show their consequences in the present day.⁸

Indigenous self-determination applies to the rights of Indigenous people to be able to control their land, social, economic and political development. This right is internationally recognised by the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)⁹ and by the ILO Convention No 169¹⁰. While Latin America introduced and supports these frameworks, their enforcement on a national level is very weak.

A major challenge was Indigenous people's land rights. Their land is often threatened by logging, agriculture, infrastructure projects and mining. Even though a land is legally recognised, governments may fail to protect it, which frequently leads to displacement and damage to the environment.¹¹

Indigenous people are very frequently underrepresented in national governments, they are not fully consulted on decisions that affect them, even though there are legal requirements for prior, free and informed consent. Things such as poverty, language barriers and lack of recognition of traditional governance systems fully limit the Indigenous people's political participation.¹²

Major Countries and Organisations Involved

⁶ <https://www.ohchr.org/en/indigenous-peoples/consultation-and-free-prior-and-informed-consent-fpic>

⁷ <https://www.un.org/dppa/decolonization/en>

⁸ Chromeextension://efaidnbmnnnibpcajpcglclefindmkaj/<https://documents1.worldbank.org/curated/en/145891467991974540/pdf/Indigenous-Latin-America-in-the-twenty-first-century-the-first-decade.pdf>

⁹ <https://social.desa.un.org/issues/indigenous-peoples/united-nations-declaration-on-the-rights-of-indigenous-peoples>

¹⁰ <https://www.ilo.org/resource/who-are-indigenous-and-tribal-peoples>

¹¹ <https://www.amnesty.org/en/what-we-do/indigenous-peoples/>

¹² Chromeextension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@ed_norm/@normes/documents/instructionalmaterial/wcms_088485.pdf

Brazil - Brazil has one of the largest Indigenous communities. Many of them are located in the Amazon region, where mining, logging, and agriculture often cause land disputes.

Mexico - Home to many Indigenous groups with constitutional rights. Though enforcement of land protections and political inclusion differ across regions.

Bolivia - Has a large Indigenous group with constitutionally recognised rights. Though enforcement of land protections and their political inclusion differ in regions.

Peru - Has Indigenous rights, which are often challenged by environmental factors and human activity such as mining and oil extraction projects.

Guatemala - Indigenous peoples form a significant part of the population but still remain underrepresented in politics and are affected by land inequality.

United Nations (UN) - The UN plays a key role in setting international standards for indigenous people and their rights, specifically through UNDRIP. Supports Indigenous communities by setting international standards that protect that protect their land, culture and their self-determination.

World Bank - Conducts research and funds development projects in Latin America, which include the affecters of the Indigenous communities.

International Labour Organisation (ILO) - The ILO oversees Convention No. 169, which is legally binding for the approval of states and focuses on Indigenous land rights. Protects Indigenous communities by requiring governments to consult with them before using their land.

Inter - American Commission on Human Rights - The body monitors human rights and addresses any complaints related to indigenous land and political rights. Helps Indigenous communities change human rights abuses and land loss.

Relevant UN Resolutions:

A/RES/76/148 Rights of indigenous peoples (16 December **2021**)

1. At its 3rd plenary meeting, on 16 September 2022, the General Assembly, on the

recommendation of the General Committee, decided to include in the agenda of its seventy-seventh session the item entitled:

“Rights of Indigenous Peoples:

“(a) Rights of Indigenous Peoples;

“(b) Follow-up to the outcome document of the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples”

A/RES/78/328 Enhancing the participation of Indigenous Peoples' representatives and institutions in meetings of relevant United Nations bodies on issues affecting them (11 September 2024)

3. Continues to encourage further efforts to facilitate the participation of Indigenous Peoples' representatives and institutions in meetings of relevant United Nations bodies on issues affecting them, in accordance with their respective rules of procedure, inter alia, through the inclusion of Indigenous Peoples' representatives and institutions in the modalities for relevant conferences, summits and other meetings convened by the United Nations on issues affecting them, in accordance with the relevant decisions established by the appropriate body or organisation responsible for those meetings;

4. Urges Governments and intergovernmental and non-governmental organisations to continue to contribute to the United Nations Voluntary Fund for Indigenous Peoples to assist Indigenous Peoples' representatives and institutions to participate in the consultation process on the procedural and institutional steps to enable the participation of Indigenous Peoples' representatives and institutions in meetings of relevant United Nations bodies on issues affecting them, and invites the United Nations Voluntary Fund for Indigenous Peoples, within the rules and established procedures of the Fund, to facilitate the participation of Indigenous Peoples' representatives and institutions in such meetings, promoting balanced regional, gender and intergenerational representation.

A/RES/79/159 Rights of Indigenous Peoples (19 December 2024)

4. Underscores the importance of implementing the outcome document of the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples, and reiterates the commitment of Member States to cooperating with Indigenous Peoples, through their own representative institutions, to develop and implement national action plans, strategies or other measures, where relevant, to achieve the ends of the United Nations Declaration on the Rights of Indigenous Peoples, and acknowledges the positive development that several States have developed, or are in the process of developing, national action plans and domestic legislation for their implementation with the coordination of Indigenous Peoples;

5. Encourages the leadership of the Secretary-General and of the Under Secretary-General

for Economic and Social Affairs, as the responsible senior official of the United Nations system, in overseeing the implementation of and in following up on the system-wide action plan to ensure a coherent approach to achieving the ends of the United Nations Declaration on the Rights of Indigenous Peoples, raising awareness of the rights of Indigenous Peoples and increasing the coherence of the activities of the system in this regard, and encourages the funds, programmes and specialised agencies of the United Nations system, resident coordinators and United Nations country teams to implement this plan in full alignment with national development needs and priorities;

6. Encourages Member States, resident coordinators and United Nations country teams, within their mandates and in coordination with the Governments concerned, to involve Indigenous Peoples regarding issues affecting them in the preparation of the United Nations Sustainable Development Cooperation Frameworks and country programme action plans;

7. Reminds Member States to work towards achieving the ends of the United Nations Declaration on the Rights of Indigenous Peoples;

8. Encourages those States that have not yet ratified or acceded to the Indigenous and Tribal Peoples Convention, 1989 (No. 169), of the International Labour Organisation to consider doing so;



Previous Attempts to Address the Issue

A/77/460 Rights of Indigenous Peoples (Dec 2022)¹³

Reaffirms self-determination and engagement in the implementation of global frameworks.

A/RES/76/148 Rights of Indigenous Peoples (2021)¹⁴

¹³ <https://docs.un.org/en/A/77/460>

¹⁴ <https://docs.un.org/en/A/RES/76/148>

Urges implementation of UNDRIP through national measures.

There have been annual resolutions on the rights of Rights of Indigenous Peoples since 2012.¹⁵

Proposed Solutions

- Strengthening the enforcement of any other existing laws.

Improvements in monitoring, enforcement and accountability on a national level that could bridge the gap between the legal recognition and protection of the Indigenous communities.

- Working with indigenous individuals and communities.
- Creating new legislation to protect indigenous rights.

Bibliography:

Sage Journal “Indigenous Political Participation in Latin America. ”

<https://journals.sagepub.com/doi/abs/10.1177/00104140251Indigenous328005>

The World Bank:

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extension://efaidnbmnnnibpcajpcglefindmkaj/<https://documents1.worldbank.org/curated/en/145891467991974540/pdf/Indigenous-Latin-America-in-the-twenty-first-century-the-first-decade.pdf>

United Nations Declaration on The Rights of Indigenous Peoples:

¹⁵ <https://docs.un.org/en/a/res/78/189>

<https://social.desa.un.org/issues/indigenous-peoples/united-nations-declaration-on-the-rights-of-indigenous-peoples>

International Labour Organisation:

<https://www.ilo.org/resource/who-are-indigenous-and-tribal-peoples>

Useful Links:

Amnesty International: Indigenous Peoples' Rights:

<https://www.amnesty.org/en/what-we-do/indigenous-peoples/>

ILO Convention On Indigenous and Tribal Peoples (1989):

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extension://efaidnbmnnnibpcajpcgiclfindmkaj/https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@ed_norm/@normes/documents/instructionalmaterial/wcms_088485.pdf

ILO “Who are the indigenous and tribal peoples?”:

<https://www.ilo.org/resource/who-are-indigenous-and-tribal-peoples>

<https://www.idea.int/our-work/what-we-do/democracy-inclusion/indigenous-peoples>

