

16. Indigenous Peoples

→ MANDATE

The Heads of State and Government at the Third Summit of the Americas agreed to strengthen participation of indigenous peoples, communities, and organizations, to promote an open dialogue between them and governments, and to continue to work together to ensure effective implementation of the relevant mandates in the Santiago Summit Plan of Action.

They also pledged to make their best efforts to encourage donor agencies, the private sector, other governments, regional and international organizations as well as multilateral development banks to support hemispheric and national conferences in order to exchange experiences among indigenous peoples and their organizations in implementing activities identified by them.



The Heads of State and Government also decided to develop strategies to respect indigenous peoples' cultural practices and protect their traditional knowledge, and pledged to increase the availability and accessibility of educational services in consultation with indigenous peoples, in accordance with their values, customs, traditions and organizational structures. They agreed to develop mechanisms aimed at ensuring the effective participation of indigenous peoples in the design, implementation, and evaluation of comprehensive health plans, policies, and programs. They specifically decided to support the Health of Indigenous Peoples Initiative—promoted by PAHO—with particular emphasis on children. They agreed as well to promote the collection and publication of national statistics to generate information on the ethnic composition and socio-economic characteristics of indigenous populations, in order to define and

evaluate the most appropriate policies to address needs.

The Action Plan of the Quebec City Summit expressed the need to build bridges for dialogue between governments and indigenous organizations, peoples, and communities. The Hemisphere leaders pledged to ensure broad and full participation of indigenous peoples throughout the inter-American system, especially in the discussions on the Proposed American Declaration on the Rights of Indigenous Peoples, which is being developed in the OAS framework.

All countries in the Hemisphere recognize the existence of indigenous peoples and the imperative to reflect their needs in constitutions and domestic law. The Hemisphere has gone much further in this regard than regions such as Africa and Asia. The trend toward

recognition of and support for indigenous peoples' rights by countries is reflected in the Summit Action Plan, and has become firmer in recent years. This trend is not all positive, as it has experienced historical difficulties and new challenges.

Recognition of indigenous lands and territories is moving forward in most countries, with titling, boundary marking, and enactment of laws and regulations for the purpose. For example, Venezuela has adopted the law on "Boundary Marking and Guarantees for Indigenous Peoples' Habitat and Lands," which implements the constitutional principle that recognizes these rights. In December 2002, Nicaragua enacted Law 445 for Boundary Marking and Titling of Indigenous Lands and Territories, which flowed from the decision of the Inter-American Court of Human Rights in the "Awas Tingni" case. This case has had international repercussions in recognition of communal property, based on articles of the American Convention on Human Rights. The ruling required the Nicaraguan government to institute mechanisms for titling and demarcation of indigenous lands.

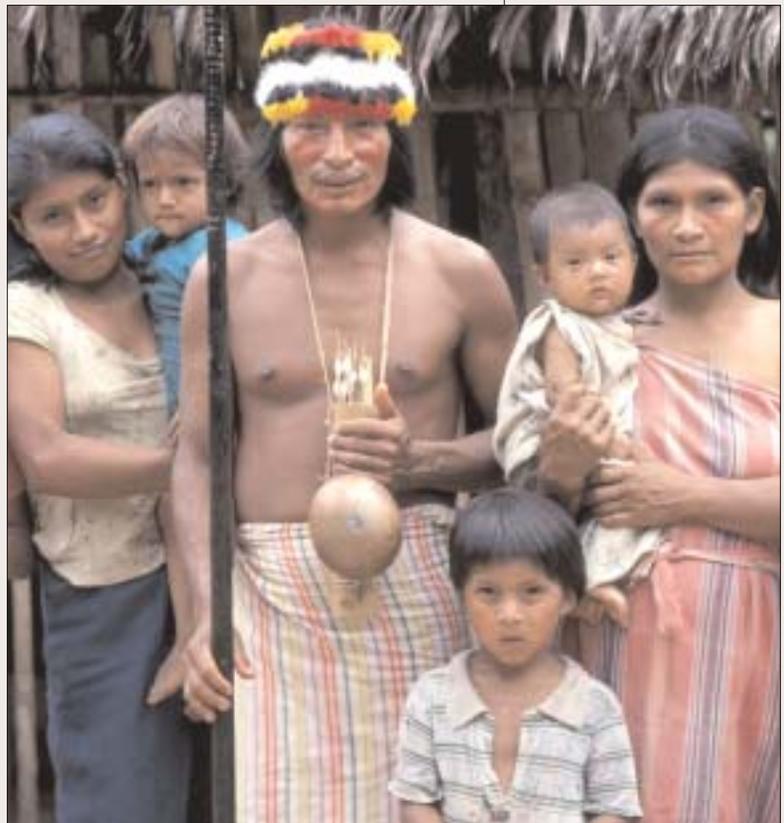
Canada continued its policy of active negotiation with its native peoples to establish good-faith treaties in the spirit of a common future. One example is the agreement signed with the Nisga'a people, which thoroughly covers political, economic, and educational matters, and topics of public services, jurisdiction, structure, and relations with federal and provincial governments.

In 2003, as part of a constitutional reform process, Guyana adopted a constitutional amendment that establishes a charter of basic rights, including the right of indigenous peoples and Guyanese maroons to their cultures and lifestyles. Guyana also finished an extensive consultation with indigenous communities as part of the process of drafting a new Amerindian Act.

Ecuador has included in its Constitution provisions that not only recognize these

rights but also link them to ecological sustainability, and recognize the validity of indigenous common law and economic institutions, such as barter.

This progress has been significantly bolstered by the growing acceptance of the



principles and instruments of international law on this subject. Brazil joined the majority of countries by ratifying ILO Convention 169 on "Rights of Indigenous Peoples and Tribes in Independent Countries" in June 2002.

Like the dialogue with civil society that took place in the Third Summit of the Americas in Quebec City, the Assembly of First Nations of Canada held a meeting with representatives of indigenous peoples of the Hemisphere, called the Summit of Indigenous Peoples of the Americas, in March 2001. This conference's objective was to draft recommendations to present to the Heads of State and Government in the Third Summit on matters of economic development, and the link between new schools of

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Meeting on the Rights of the Indigenous Peoples Official Photo February 25, 2003 Washington, DC

economic thought and human rights. The Heads of State and Government took these recommendations into account, but the most important regional initiative is undoubtedly the review and negotiation of the American Declaration on the Rights of Indigenous Peoples, which has been under discussion in the Organization of American States since 1997.

Declaration on the Rights of Indigenous Peoples has been drafting and discussing that declaration. The governments of Canada, the United States, Brazil, Nicaragua, and Finland have contributed resources to ensure broad participation of indigenous representatives in the process.

PROGRESS

Canada gave US\$100,000 for holding a Summit of Indigenous Women in Oaxaca, Mexico, which was held November 30 to December 4, 2003. The Summit was inaugurated by Rigoberta Menchú, Nobel Peace Prize Winner. The Summit brought together representatives of indigenous peoples of the Hemisphere to discuss strategies for ensuring the rights of indigenous women.

In fulfillment of the Quebec City Summit, delegates of indigenous peoples from throughout the Hemisphere have taken part in several special sessions (April 2001, March 2002, November 2002, February 2003, and November 2003) at OAS headquarters, where the Working Group entrusted with the American

These special sessions have been open, transparent, high-level discussions of the elements of the draft Declaration among indigenous leaders and representatives of the member States. Topics discussed during the sessions include self-determination, traditional forms of culture preservation, and land and territorial rights. They have also served to review progress in domestic and international law, as well as doctrines and practices regarding traditional forms of ownership, land, territory, and natural resources. The first round in the final stage of the negotiations began in 2003, and there will be at least one more Special Meeting of the Working Group held no later than February 2004.

Accompanying the development of international law on the subject, the OAS moved toward approval of the future American Declaration on the Rights of Indigenous Peoples. In the respective working group of the OAS Permanent Council, indigenous representatives interacted with government delegations in a climate of trust, implementing the General Assembly resolution to begin the stage of negotiation through consensus building. This forum and procedure have made it possible to solve significant differences in a climate of growing trust and reach broad areas of agreement. The Indigenous Forum of the United Nations, the World Bank, the Inter-American Development Bank (IDB), and other technical and political organizations are also working to design legal mechanisms to examine indigenous rights at the global and regional levels.

According to the Report on Democratic Development in Latin America of the United Nations Development Program (UNDP), serious violations of human rights persist not because of deliberate and planned acts by governments, but because of the difficulty in applying the law, and the greatest failing in the Hemisphere is discrimination against indigenous peoples despite the progress in domestic law on this subject. Indigenous peoples experience a high degree of discrimination and have a low level of participation and representation. For example, the percentage of Indians in the lower house in Peru is 0.8 (1 out of 120), in Ecuador 3.3 (4 out of 121), and in Bolivia 26.2 (34 out of 130), which does not correspond with the percentage of indigenous population in those countries.

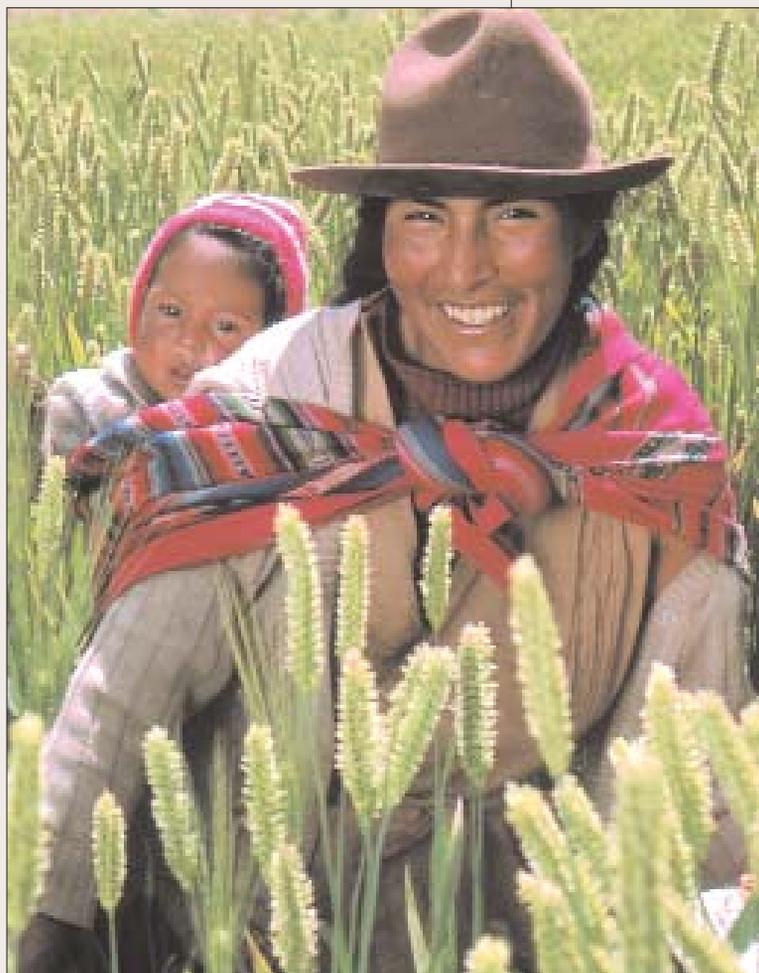
In the area of health, it is important to note the Health of Indigenous Peoples Initiative supported by the Pan American Health Organization since 1993, which works with indigenous peoples to improve their health and well-being. This initiative involves continuous consultation with indigenous peoples in a framework of participation and reciprocity among the various participants. Accomplishments of the initia-

tive include: collection, analysis, and dissemination of scientific and technical information on the health of the region's indigenous peoples; establishment of an international network of persons responsible for indigenous peoples' affairs; the Agreement with the Indigenous Parliament of the Americas, which established national policies and championed the cause of Indians' health; and a grant to the Inter-American Indian Institute for compilation of a document on ethnic groups in the Americas. In general, the efforts have served to stimulate national awareness of the health needs of indigenous populations, and the governments' interest in starting to respond to the indigenous peoples' health concerns.

CHALLENGES

Inclusion of indigenous peoples in the societies of the Hemisphere's nations is indispensable for continued strengthening of

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ESTIMATED INDIGENOUS POPULATION IN THE AMERICAS

Source: *The Health of Indigenous Peoples Compiled by Ethel (Wara) Alderete World Health Organization (WHO), 1999.*

		Indigenous Population (millions)	%
Over 40%	Bolivia	4.9	71
	Guatemala	5.3	66
	Peru	9.3	47
	Ecuador	4.1	43
5%-20%	Belize	0.029	19
	Honduras	0.70	15
	Mexico	12.0	14
	Chile	1.0	8
	El Salvador	0.4	7
	Guyana	0.045	6
	Panama	0.14	6
	Suriname	0.03	6
	Nicaragua	0.16	5
1%-4%	French Guiana	0.004	4
	Paraguay	0.10	3
	Colombia	0.60	2
	Venezuela	0.40	2
	Jamaica	0.048	2
	Canada	0.35	1
	Costa Rica	0.03	1
	Argentina	0.35	1
0.01%-0.9%	United States	1.6	0.65
	Brazil	0.3	0.20

human rights, democracies, economies, and civilizations. It is critically important to reinforce protection of indigenous human rights because these people have fallen prey to much abuse due to their lack of understanding and unfamiliarity with the system. Although progress has been made, it is necessary to strengthen the participation of indigenous communities and organizations with a view to promoting open dialogue between indigenous communities and governments, and to continue working to implement the Summit mandates. The Declaration on the Rights of Indigenous Peoples will become the most important tool for defense and protection of these rights.

Progress achieved in indigenous policies should not distract attention from traditional problems and new challenges arising as a result of the progress. Deficiencies in many social areas—health, education, communications, etc.—below national averages and international standards, demonstrate the persistent effect of historical discrimination. Furthermore, as indigenous peoples gradually win the right to their autonomy, lands, and resources, they need to mesh their traditions and values with the national and international economic systems, the monetary and market economy, the globalization of the media, and the demands of their younger generation.