



Summary

Guaranteeing indigenous people's rights in Latin America

Progress in the past decade
and remaining challenges



UNITED NATIONS

ECLAC

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This document was prepared by the Economic Commission for Latin America and the Caribbean (ECLAC), through the Latin American and Caribbean Demographic Centre (CELADE)-Population Division of ECLAC, under the supervision of Dirk Jaspers-Faijer. This study was carried out at the request of the United Nations Permanent Forum on Indigenous Issues (UNPFII) and the Continental Network of Indigenous Women of the Americas, with support from the Ford Foundation. Technical cooperation was undertaken by Dirk Jaspers-Faijer and Fabiana Del Popolo, Population Affairs Officers of CELADE; Mirna Cunningham, President of UNPFII in 2012-2013; and Tarcila Rivera Zea, Coordinator of the Continental Network of Indigenous Women of the Americas.

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Foreword

Over the past few decades Latin America has made significant gains (at different speeds and in ways that differ from country to country) in economic and social development. This is seen in sustained economic growth, poverty reduction and substantial improvement in a range of social indicators. However, ECLAC has noted that progress in consolidating and building on these gains is encountering constraints and that there are challenges that region must address in order to close the gaps arising from structural heterogeneity, external vulnerability and persistently high levels of inequality. Indigenous peoples are the most disadvantaged groups, owing to complex sociohistorical processes that date back more than 500 years, have fed into discriminatory practices that are still in place and involved systematic dispossession of their territories, with grave consequences for their well-being.

But in this globalized, pluricultural post-cold-war world, the emergence of indigenous peoples and their rights agenda (a process that is not unique to the region but is, instead, worldwide) is one of a number of struggles for recognition and human dignity. The steadfast resistance of indigenous peoples is currently focused on establishing a new political and territorial status quo and on building new kinds of institutional relationships between States and indigenous peoples. The United Nations Declaration on the Rights of Indigenous Peoples emerged from the latter's long struggle and sets out the international standard that is binding on States and provides an explicit public policy framework. And while this report notes indisputable progress in the implementation of these rights, it also notes that gaps remain and inequalities still run deep.

One of the major challenges facing the region in the search for equality is, then, to make the rights of indigenous peoples a policy priority. The challenges are enormous: as will be seen in this report, in Latin America there are more than 800 indigenous peoples accounting for a population of close to 45 million. Their vast sociodemographic, territorial and political diversity ranges from peoples living in voluntary isolation to large urban settlements. This picture is compounded by the fact that economic growth in the region is highly dependent on natural resources and international prices for them, and that these resources are poorly governed. The reprimarization of the economy has put considerable pressure on indigenous peoples' territories and sparked much socioenvironmental conflict that remains unresolved.

ECLAC, as seen in its last three sessions, is now advocating development focused on the value of equality with a rights-based approach. And it has called for striking a new balance between the State, the market and society to build compacts to underpin far-reaching political agreements. There is, therefore, no question that indigenous peoples should be included and that such compacts should open up space for greater strides in putting those standards in place. A key challenge in this regard is the integration of indigenous peoples' rights in a new natural resource governance model. The idea is to move from "new deals" to "new covenants".

Ancestral knowledge, innovations and traditional practices of indigenous peoples for the conservation and sustainable use of biodiversity, as well as the development of new, collective forms of indigenous economies, provide a unique opportunity for building a new development paradigm based on structural change for equality and sustainability. The contribution of indigenous peoples to addressing the challenges facing the future of a sovereign Latin America must be recognized.

This report falls within the framework of the high-level World Conference on Indigenous Peoples to be held in September 2014, and we hope that it makes a contribution in that regard. It is also part of implementation and follow-up of the post-2015 development agenda. We trust, as well, that the World Conference on Indigenous Peoples will bolster both the commitments and the political will to advance the equal enjoyment of human rights for indigenous peoples, as well as women

and children, the young and older persons, and the right of these groups to be different. It is not only a matter of social justice: we are convinced that this will do much to further the profound changes that the region and the world need. And we are convinced that this will lay a more solid foundation for world peace.

Alicia Bárcena

Executive Secretary of the Economic Commission
for Latin America and the Caribbean (ECLAC)

Introduction

In December 2010 the United Nations General Assembly decided to organize a high-level plenary meeting of the General Assembly in 2014: the World Conference on Indigenous Peoples (resolution A/RES/65/198). The main objective of this conference is to share perspectives and best practices on the realization of the rights of indigenous peoples and progress in implementing the United Nations Declaration on the Rights of Indigenous Peoples. The organization of the conference is assigned to the President of the General Assembly, in conjunction with the three mandates of the United Nations, which are the Permanent Forum on Indigenous Issues (UNPFII), the United Nations Expert Mechanism on the Rights of Indigenous Peoples and the United Nations Special Rapporteur on the Rights of Indigenous Peoples, who must ensure the participation of indigenous peoples throughout the process.

UNPFII has a central role in the preparations for the World Conference; at its eleventh session (New York, 7-18 May 2012) it recommended the organization of conferences and joint regional and/or thematic preparatory workshops, as well as other such meetings, with the support of Member States, agencies, funds and programmes of the United Nations and indigenous peoples and with the full participation of indigenous peoples and Member States, in addition to the Expert Mechanism on the Rights of Indigenous Peoples, the Special Rapporteur on the Rights of Indigenous Peoples and the Permanent Forum. It also emphasized that the preparatory conferences should focus on practical initiatives based on inclusive and participatory processes.

In this context, and considering the contributions made by ECLAC relating to indigenous peoples in the region, UNPFII asked ECLAC to draft a reference document for the World Conference on Indigenous Peoples in keeping with the guidelines provided by the organizing committee of the conference. Thus, with the support of the Ford Foundation, a project was undertaken with the following objectives: (1) provide an update on progress and challenges concerning the rights of indigenous peoples in Latin America in conjunction with the indigenous peoples of the region, and (2) contribute substantively to an evaluation of the past decade and to identifying post-2014 actions for discussion at the 2014 World Conference on Indigenous Peoples.

In order to establish a participatory mechanism for drafting the study, a coordinating body was formed comprising CELADE-ECLAC, UNPFII and the Continental Network of Indigenous Women of the Americas. An Indigenous Peoples Advisory Committee was also established, consisting of experts and indigenous experts, UNPFII and regional and subregional indigenous organizations in Latin America: the Alliance of Indigenous Women of Central America and Mexico (AMICAM), the Indigenous Council of Central America (CICA), the Indigenous Council of Mesoamerica (CIMA), the Andean Coordinator of Indigenous Organizations (CAOI), the Coordinator of Indigenous Organizations of the Amazon River Basin (COICA), the Continental Network of Indigenous Women of the Americas (ECMIA) and the Indigenous Women's Biodiversity Network (RMIB). The representatives forming part of this advisory group were selected by the organizations themselves. The content of the document, the approach and the general guidelines for the study were agreed with the Coordinating Group and the Advisory Group, which also provided valuable substantive inputs, comments and observations throughout the drafting process.

Since ECLAC is part of the regional Inter-Agency Support Group on Indigenous Issues (IASG), contributions to the document by the agencies of the United Nations system were added to the list of Group activities, thereby also bringing in valuable inputs and comments from them. These are the regional offices of FAO, OHCHR, UNICEF, PAHO, ILO, UNDP, UNDG LAC, UNFPA, UNESCO and UN Women. The Fund for the Development of the Indigenous Peoples of Latin America and the Caribbean is also part of IASG.

I. Background and sociopolitical context of indigenous peoples' rights in Latin America

A. Historical aspects

The only way to understand the current situation of indigenous peoples in Latin America is to see it as the historic outcome of the process that began with the arrival of Europeans more than five centuries ago, stripping them not only of the territories they lived in and their spaces for social and cultural reproduction but also of their culture, their worldviews and their ways of interacting with nature. This intrusion meant the loss of the “political territoriality” of the indigenous peoples of the continent and the loss of sovereignty over their territories. And it set in motion a long cycle of history.

The war machine was not the only thing that helped the European occupation of the continent and the depopulation of its historical inhabitants. The burden of diseases brought by the Europeans decimated indigenous populations. Along with the introduction of new diseases such as smallpox, measles, typhus, yellow fever and malaria came forced labour and inhuman punishment. Denevan (1976) estimated that at the time of European contact 57.3 million indigenous persons lived throughout the continent, of which 47 million were in countries that today are called Latin American. It is estimated that in 130 years this population decreased by 90% and that the indigenous population of the Caribbean was nearly exterminated in less than 50 years.

On top of occupation justified on the grounds of *terra nullius* (literally “no man’s land”; i.e. uninhabited land or land inhabited by

“barbarians”) came the creation of institutions designed to develop and exploit the work of indigenous persons. Years later, independence movements exacerbated indigenous dispossession. Consolidation of the new nation States just increased dispossession via the adoption of legal frameworks that favoured private ownership and established the primacy of individual rights over collective ones. Towards the end of the nineteenth century, the *terra nullius* doctrine found justification in geopolitics and in the expansion of agricultural and livestock borders, with military campaigns that continued to decimate the population of indigenous peoples, especially in Argentina and Chile.

In the mid-twentieth century, colonization of the Amazon and other “peripheral areas” in the region set off a second cycle of deterritorialization of indigenous peoples that had serious consequences for their living conditions. More recently, the cycle of extractive pressure on natural resources by national and transnational corporations and major civil works projects with negative impacts on ecosystems have swept across the continent with unprecedented force, compounding the historical picture of dispossession and vulnerability. The most recent cycle (appropriation of traditional knowledge, the biodiversity associated with it and genetic resources) is the corollary of dispossession of the indigenous peoples of Latin America down through history.

However, each of these cycles and junctures was met by indigenous resistance until a new political and territorial status quo took root. These periods have brought demographic recovery of indigenous populations, as will be seen below.

B. Rights of indigenous peoples: international standards and progress in State laws and institutions

The struggle of indigenous peoples for the defence and recognition of their rights has been continuous throughout history. This drawn-out pattern of demanding and achieving recognition has in recent decades led to a rights framework based on two main pillars: ILO Convention No. 169 on Indigenous and Tribal Peoples (1989), which recognized their collective rights for the first time; and the United Nations Declaration on the Rights of Indigenous Peoples (2007),

which recognized the right of these peoples to self-determination. The minimum standard of indigenous peoples' rights, binding on States, is in turn set out in five dimensions: the right to non-discrimination; the right to social development and well-being; the right to cultural integrity; the right to own, use, control and access land, territories and natural resources; and the right to political participation.

The United Nations has led the way in addressing the rights of indigenous peoples. Since the establishment of the Working Group on Indigenous Populations in 1982 it has woven a broad range of activities and policies into its agenda, culminating in this century in the establishment of the Permanent Forum on Indigenous Issues (2000), the appointment of a Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous Peoples (2001), the creation of the Expert Mechanism on the Rights of Indigenous Peoples (2007) and the adoption of the above-mentioned Declaration by the United Nations General Assembly (2007).

And there are the international agreements that have been implemented since the 1990s, notably the Earth Summit (Rio de Janeiro, 1992), the World Conference on Human Rights (Vienna, 1993), the International Conference on Population and Development (Cairo, 1994) and the World Conference on Women (Beijing, 1995). These were watershed events in defending the rights of indigenous peoples, recognizing their inherent dignity and unique contribution to development and the plurality of society. At the regional level are the governmental agreements reached by the countries of Latin America and the Caribbean in the first session of the Regional Conference on Population and Development in Latin America and the Caribbean (Montevideo, 2013); these are embodied in the Montevideo Consensus on Population and Development, which has a specific chapter on the rights of indigenous peoples and will guide the post-2015 development agenda with respect to these matters.

Indigenous organizations themselves more recently reached global milestones in the form of the Global Indigenous Preparatory Conference for the World Conference on Indigenous Peoples in 2013 (better known as the Alta Conference) and the Alta Declaration, as well as the World Conference of Indigenous Women, held also in 2013, in Lima.

This process is about to culminate in the High-level Plenary Meeting of the sixty-ninth session of the General Assembly of the United Nations, to be known as the World Conference on Indigenous Peoples (WCIP),¹ to be held on 22 September 2014 in New York in order to share perspectives and best practices on the realization of the rights of indigenous peoples and to pursue the objectives of the 2007 Declaration on the Rights of Indigenous Peoples. The outcome of the World Conference is expected to be a concise, action-oriented final document taking into account the views of Member States and indigenous peoples—in the case of the latter, in the spirit of the Alta Declaration.

At the international level, there are two direct mechanisms for the protection of human rights, including the rights of indigenous peoples: those of the United Nations system and those of the Inter-American Human Rights System of the Organization of American States (OAS). In the latter, Inter-American Court rulings binding on States have been key for the new international legal order in regard to indigenous peoples' rights. In the case of the United Nations, bodies and protection mechanisms are of indisputable political relevance for the recognition and implementation of the rights of indigenous peoples.

In the universal system of the United Nations for the protection of human rights there are (i) mechanisms based on the Charter of the United Nations, such as the Human Rights Council itself (composed of States that adopt resolutions) and which in turn includes several mechanisms: special procedures (like the Special Rapporteur), the Universal Periodic Review mechanism whereby States assess the status of other States according to a predefined format and advisory bodies (such as the Expert Mechanism on the Rights of Indigenous Peoples; and (ii) treaty-based mechanisms for reviewing the implementation of the principal binding treaties of international human rights law by countries that have ratified them. These mechanisms, also called "committees" are composed of experts as well. There is then a range of possibilities for lodging complaints with the Human Rights Council and the committees, with special procedures for emergencies.

The OAS also plays a significant role in upholding the rights of indigenous peoples. In the 1980s came the first rulings of the Inter-American

¹ Resolutions A/RES/65/198 Indigenous issues (2010) and A/RES/66/296 Organization of the high-level plenary meeting of the sixty-ninth session of the General Assembly, to be known as the World Conference on Indigenous Peoples (2012).

Commission on Human Rights (IACHR). Later, in the 1990s, the Inter-American Court of Human Rights (IACHR) began to build jurisprudence. In 1990, the Commission established the Office of the Rapporteur on the Rights of Indigenous Peoples to strengthen the role of the Commission in this area. In April 1997, the Commission submitted to the Permanent Council a Draft Declaration on the Rights of Indigenous Peoples, which since 1999 has been worked on by the Committee on Juridical and Political Affairs. In 2009 the Department of International Law adopted the Program of Action of Indigenous Peoples in the Americas.

ILO Convention No. 169 has had a major impact on constitutional reforms in the countries of the region since 1987, either as new constitutions or amendments of existing ones. In the past decade, following the adoption of the Declaration on the Rights of Indigenous Peoples, this has come to include the recent constitutions of Ecuador (2008) and the Plurinational State of Bolivia (2009). Among the reforms are those of Argentina (1994); Plurinational State of Bolivia (1994, 2004, 2009); Brazil (1988/2005); Colombia (1991, 2003); Costa Rica (1999); Ecuador (1996, 1998, 2008); El Salvador (1983/2000); Guatemala (1985/1998); Honduras (1982/2005); Mexico (1992, 1994/1995, 2001), Nicaragua (1987, 1995, 2005); Panama (1972, 1983, 1994); Peru (1993, 2005); Paraguay (1992); and the Bolivarian Republic of Venezuela (1999).

Indigenous peoples have been positioning their rights in the legislation and institutions of the States in which they live, in a difficult process that continues to this day. Over the past decade significant progress has been made in enacting laws and decrees in a number of spheres; these differ in scope in each of the countries of the region. However, this process of inclusion does not come without contradictions or even setbacks and there are still critical gaps in the implementation of the rights of indigenous peoples as enshrined in constitutions and domestic legislation, as will be discussed in this report.

C. Demands and experiences of indigenous peoples' autonomies in Latin America

The benchmarking framework for autonomy demanded by indigenous peoples is expressed in recognition of the right to self-determination, which means the existence and exercise of collective rights, as well

as respect for indigenous peoples' institutions and systems of self-government. As noted in article 4 of the United Nations Declaration on the Rights of Indigenous Peoples, "Indigenous peoples, in exercising their right of internal self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions".

Some requirements for the exercise of self-determination are the strengthening of the relevant institutions, as well as the potentials and capacities to engage with the State, and honouring even treaties or agreements concluded in the past. Experiences of indigenous autonomy in the region are diverse, and they sprang from individual sociohistorical situations. Indeed, the first experience of autonomy in the region, which dates from 1925 when the State of Panama recognized Comarca Kuna Yala (even though the right to self-determination was not used as an argument), did encompass elements such as the right to culture and customs, recognition of and respect for their authorities and territory, and the non-imposition of national forces.

In recent decades, thinking about self-determination has progressed in that recognizing the right to self-determination of indigenous peoples "as peoples" changes the nature of their relationship with States and is central to the demand for and negotiations on autonomy. This has laid the foundations for attaining equality vis-à-vis other peoples, ratifying that they can freely determine their political regime and pursue their economic, social and cultural development, as well as choose (and negotiate) agreements that will ensure their continuity as peoples. It also entails the obligation of States to negotiate with a collective entity whose rights pre-exist the creation of those States. Autonomy, as an expression of self-determination, allows for making decisions and implementing practices related to worldview, indigenous territory, land, natural resources, sociopolitical organization, administration of justice, education, language, health, medicine and culture.

Experiences of indigenous autonomy in the region are being built in response to factors and contexts inherited from colonial times. For example, treaties concluded during colonization have served as a reference for the recognition of land rights in the autonomous regions of Nicaragua. Another path to indigenous autonomy has started with re-establishing and strengthening ancestral institutions of indigenous

peoples. One experience in the exercise of indigenous autonomy is in Oaxaca (Mexico), where the indigenous municipality has been recognized as a jurisdictional space for indigenous peoples to exercise their autonomy rights. Of the 570 municipalities of Oaxaca, 418 are governed by the system of uses and customs, and it is recognized by the Mexican constitution. The Colombian constitution also recognizes indigenous territories as political and administrative territorial entities with a certain autonomy, in which indigenous authorities carry out functions of self-government.

Delimiting territorial jurisdiction has been a central focus of indigenous autonomy experiences in the region. The relationship of peoples to their lands, territories and natural resources is an essential component of the right to self-determination. It is for them a source of cultural identity, knowledge and spirituality and is closely related to their survival.

Constitutional reforms have undoubtedly been the best framework for recognizing and strengthening processes for indigenous autonomy. Autonomy means the direct election of authorities, the management of economic resources and the exercise of legislative, regulatory, oversight and executive powers by the organs of self-government within their jurisdiction. This is where gaps remain to a greater or lesser extent in all of the countries of the region. In the Plurinational State of Bolivia, plurinationality is a way to recognize indigenous peoples as distinct historical and political entities (authority, territory, institutions, cognitive and spiritual) that make up the State and intercultural society. In this framework, the economic model, transformations of the State and decolonization policies reflect changes driven by indigenous peoples, in a country in which they also form the majority of the population.

In the range of experiences, the gradual deepening of self-determination has been a common trend. In all of them gradual progress is being made in regard to the expansion of powers and transfer of competencies from States at the central level to autonomous bodies. Over the past decade there has been a growing trend toward negotiating the administration of natural resources and territories, implementing agreements and reforms for the structural transformation of States to achieve equality between indigenous peoples and the rest of society.

D. Current situation and new perspectives on the participation of indigenous peoples, including free, prior and informed consent

For indigenous peoples the right to participate in decision-making on issues that affect them has a direct impact on the full enjoyment of other human rights such as self-determination, equality, cultural integrity, free, prior and informed consent and the right to property. Hence, full and effective participation is part of the standards of rights of indigenous peoples. Their participation takes place at different levels against a backdrop of diverse interests and actions, as summarized below.

Participation at the local and community level tends to be spurred by the search for answers to problems, needs and interests. It changes quickly to adapt to the context and, although in some cases it ties in with organizations at another level, it tends to be highly dispersed. There are those who participate through ancestral community structures; other structures are established to press for the provision or improvement of basic services, production, cultural activities or ethnic demands, among other claims. But an issue that has catalysed community organization has been the struggle for territorial rights and pressure for exploitation of resources in their territories or for participation in mobilizations. Community participation has also taken the form of sports and cultural, religious and spiritual activities. And growing migration to urban centres has increased the number of urban indigenous organizations created to press for differentiated services.

Despite unfavourable contexts that have eroded traditional indigenous roles, there are some noteworthy trends. Among them are access to community leadership positions following traditional patterns of rotation, inheritance or election on the basis of personal worth or honourability; in such cases there is still discrimination against women and young people in many communities, as well as interference by political groups and, sometimes, chief systems. Community authorities, spiritual guides, individuals with gifts –traditional doctors and midwives, among others– have begun to take on complementary roles as they work with State authorities on indigenous or intercultural policies and programmes while continuing to promote traditional collective decision-making.

This practice has been incorporated into some legislation concerning indigenous peoples and has expanded to the urban environment as well.

The municipal arena remains a challenge for indigenous peoples. Over the past few decades, they have nominated men and, less frequently, women as candidates for municipal positions. Since the establishment of democratic governments in Latin America, political participation by indigenous peoples has gradually increased, although in some cases this has been on an individual basis in the form of political party membership. Indigenous peoples have participated in civic committees in Guatemala, and in expressions of political organization typical of ancestral peoples as in the case of Guatemala, Mexico and other countries. The Plurinational State of Bolivia stands out here, since changes to the structure of the State have also led to the formation of indigenous governments in most of the country's municipalities.

As indigenous peoples began to form indigenous political parties in some countries, they have also begun to reach positions of power at the municipal level, taking alternative approaches to municipal policymaking and management. In some cases the municipal space is changing, too, to accommodate the reconstitution of ancestral indigenous community organizations. In Guatemala, where the 1985 constitution recognized pluriculturalism, indigenous mayors' offices that had been dismantled in 1871 have begun to play a visible role in municipal governance as an expression of resistance in order to maintain indigenous forms of government. There are 15 indigenous mayors' offices at the municipal level and in ancillary positions at the community level. It is here that inequalities against indigenous women resurface. It has been documented that when indigenous women do attain leadership positions it tends to be in the poorest and most marginalized municipalities. In some cases these are communities subject to tension and conflict. Most are women with exceptional leadership skills and intergenerational family experience with the struggle. The relationship between their private and public life is impacted; in order to take on a commitment they are forced to negotiate with their families. Their approach differs in these cases, mainly in closer community contact. They are seen as an option for resolving conflicts and changing how policy is made.

At the national level, indigenous peoples have strongly questioned the current development model and the kind of democracy it has given

rise to. They have gone from being social subjects to being active political subjects. One of the first strategies for participation at the national level has been to run for elected office at the State level. The first experiences were in national parliaments. But electoral processes entail a number of constraints in the spheres of information, economic capacity, language (monolingual in a multilingual setting), urban coverage when the population is rural and geographic, climate and cultural distances.

In addition to the option of competing for seats in political parties, there are limited cases of political parties that set quotas for indigenous persons, although in some countries laws provide for special constituencies for indigenous candidatures. Another modality has been for national political parties to ally themselves with indigenous movements, platforms and political parties. In some countries, there is also experience in creating indigenous political parties in keeping with national requirements, as in Ecuador with the Pachakutik political movement (launched in 1995) and Guatemala with the Winaq political movement (launched in 2007), or legal procedures defined by the electoral authorities such as the recent case of the Alternative Indigenous and Social Movement (MAIS) in Colombia.

The collective dimension has been added to the right to electoral participation thanks to demands for respect for traditions and customs that, while garnering a more favourable response in local elections, have not been absent from the debate in national elections. In the Yatama versus Nicaragua case, the Inter-American Court of Human Rights recognized indigenous peoples' right to participate in the broader public life of the State, which includes a collective element requiring States to take special measures to ensure effective participation based on values, traditions and customs of indigenous peoples in political structures and institutions of the State.

Quotas have a role to play in measures to foster the political participation of indigenous women. But they need to be supplemented with other affirmative action measures targeting indigenous peoples. And progress needs to be made with active measures to reduce the negative effects of structural factors that put indigenous women at the greatest disadvantage.

As indigenous autonomies grow stronger, political participation on the part of indigenous women has moved up the agenda; Nicaragua and Panama are cases in point. In Nicaragua, scant political participation

of women in autonomous governments led to adoption of the regional gender equality policy containing measures for the empowerment of women, and the national quota law requiring that 50% of the candidates be women, in an equitable and alternating order in each district. As a result, in the span of just two regional elections the share of women in the North Atlantic Autonomous Regional Council has gone from 4% to 50%. In Panama's Kuna Yala indigenous territory, the Kuna General Congress (CGK) is the highest authority. The territory is led by three chiefs elected by the CGK, which comprises the local congresses of 49 communities through 49 sailas (leaders) who represent their communities. Each community must include a woman in its delegation. Some have held positions within the territory's hierarchy, such as President of the Emberá-Wounaan General Congress and as female chiefs.

In a number of countries there are some experiences of indigenous women in cabinet positions (the the Bolivarian Republic of Venezuela, Ecuador, Guatemala, Mexico Nicaragua and the Plurinational State of Bolivia) as ministers of foreign affairs, justice, peace, culture, productive development and plural economy, rural development and lands. The justice system has also had women magistrates in Ecuador and Nicaragua. In Guatemala the Office for the Defence of Indigenous Women's Rights was established following the signing of the peace agreements; this strategy was followed in other countries as well. The opening of these channels for participation has allowed the development of strategies to address indigenous peoples' affairs politically, making women visible, although gains are still limited. The Plurinational State of Bolivia has reached the highest percentage of indigenous representation in parliament: close to 32% of the total, trailed at some distance by Guatemala, with 12%. In the rest of the countries the proportion of indigenous parliamentarians remains well below 10% (UNDP, 2013).

Under ILO Convention No. 169, in implementing its provisions Governments should establish means by which the peoples concerned can freely participate, at least to the same extent as other sectors of the population and at all levels of decision-making in elective institutions and administrative and other bodies responsible for policies and programmes that concern them. Seventeen States in the region have institutions created for handling indigenous peoples' issues. Because some of them were created when indigenist-based policies were still in place, their

organization, forms of work and relationship with indigenous peoples vary widely. Their focus is also affected by the poverty reduction policies followed by States.

The challenges of free, prior and informed consent

The State duty to consult is part of indigenous peoples' rights standards; as a procedure for ensuring the right to free, prior and informed consent (FPIC) it is part of the current legal system. Under articles 6, 7 and 15 of ILO Convention No. 169, not only should States make every effort to fully consult with indigenous peoples on issues related to development, land and resources, but they also should establish means by which they can freely participate at least to the same extent as other sectors of the population at all levels of decision-making in elective institutions and administrative and other bodies responsible for policies and programmes which concern them.

Demands for States to comply with Convention 169 are being made internationally and by indigenous peoples themselves. In 2010 the ILO Committee of Experts on the Application of Conventions and Recommendations requested that the Government of Chile take the necessary steps to align national legislation with the Convention in order to consult with indigenous peoples on investment projects likely to impact them directly and enable them to share in the benefits from exploitation of mineral resources; in November 2013 Chile adopted regulations governing the procedure for consultation with indigenous peoples (Supreme Decree No. 66). In Peru, indigenous organizations making up the Unity Pact of Indigenous Organizations of Peru filed complaints with the Peruvian State concerning regulation of the law of 2011 on prior consultation with indigenous peoples. And the National Indigenous Organization of Colombia (ONIC) made a number of points on the legal framework relating to the right to consultation, which warrant consideration.

The international system of treaties recognizes FPIC in the jurisprudence of several committees, so ratification is binding on States on the basis of international law. The guidelines of the United Nations Development Group (UNDG) for work with indigenous people's issues also call for applying FPIC to programmes and projects on traditional lifestyles, lands and territories and cultural integrity. The Special Rapporteur on the rights of indigenous peoples, James Anaya, included

this in his country visit reports and annual reports to the Commission on Human Rights. The Expert Mechanism has noted the intersection between the right of indigenous peoples to participate in decision-making and the right to self-determination, the right to autonomy, the right to be consulted and the duty of States to seek to obtain the free, prior and informed consent of indigenous peoples.

In 2005 UNPFII held a meeting of experts on the subject; some of the bases for operationalizing FPIC were examined and areas of relevance for implementing it were identified. The International Finance Corporation describes a number of situations where its performance standards require the free, prior and informed consent of indigenous peoples, in particular when there are impacts on land and natural resources under traditional ownership or under customary use, in the event of relocation of indigenous peoples away from their lands and natural resources under traditional ownership or under customary use, or impacts on a particular cultural heritage, such as holy places.

In the case of the Kichwa indigenous people of Sarayaku versus Ecuador, the Inter-American Court of Human Rights analysed international policy developments and comparative jurisprudence, including in countries that have not ratified Convention No. 169. It concluded that the obligation to consult indigenous peoples, in addition to being a convention rule, is also a general principle of international law. Based on such precedents, IACHR proposed the following elements for FPIC:

- the State has the obligation to consult in an active and informed manner;
- the consultation must be in accordance with the customs and traditions of the affected communities;
- the consultations must be undertaken in good faith, using culturally-appropriate procedures and must be aimed at reaching an agreement;
- consultation must be during the early stages of the development or investment plan, and not only when it is necessary to obtain the community's approval;
- the State must ensure that the members of the people or the community are aware of the potential benefits and risks.

The first item for discussion in the region is the relationship between consultation, FPIC and participation of indigenous peoples. The purpose

of consultation and consent is to ensure indigenous peoples' right to effective participation in decisions affecting them. For indigenous peoples the right to participation does not mean consultation alone but also encompasses other forms of participation in decisions affecting their rights and interests in a differentiated way. Some examples are participation in electoral processes, mobilizations and other activities of political relevance and public interest. That is, through consultation it is sought to reach State agreements and decisions ensuring the rights of indigenous peoples. What happens is that too often there is greater emphasis on the consultation procedure than on reaching agreements for the full exercise of indigenous peoples' rights.

Another much-debated subject is the argument put forth by some States that see FPIC as a threat in that it gives indigenous peoples the opportunity to veto policies, measures and provisions. What international law seeks is precisely, through consultation, to reverse the history of marginalization and exclusion suffered by indigenous peoples. Therefore, the goal is, rather, mutual understanding and consensus in decision-making. The intention is that none of the parties impose anything on the other.

In many cases there is still doubt about the need for consultation with indigenous peoples. ONIC notes that the objectives of consultation are, essentially: (i) safeguard the life and integrity of indigenous peoples, avoiding threats that can negatively impact them by causing their cultural or physical extermination; and (ii) ensure their effective participation in making decisions that affect them, as full subjects of rights. This is, in fact, the essence of human rights protection mechanisms and indigenous organizations. The Constitutional Court of Colombia has identified prior consultation as a fundamental right arising from the constitutional protection of the ethnic and cultural identity of indigenous peoples.

In any case, growing pressure on natural resources has brought exponential growth in discussions and legislative and policy proposals on these matters. But they are focused more on consultation procedures; experiences of implementation (which tend to be quite recent) are complex and controversial. This has even spread to areas such as the production of information, as in the 2013-2014 agricultural census in Colombia, where the consultation procedure has been instrumental in ensuring the participation of indigenous peoples all census processes, another part of the international recommendations in this area.

Undoubtedly, this is one of the greatest challenges facing the democracies of the twenty-first century, where participation, consultation and FPIC cannot be left out of the new compacts for equality in the triad of State, society and the marketplace.

E. Participation of indigenous organizations in the social, cultural and political reality at the country level, and at the regional and international level

The status of platforms of indigenous peoples' organizations falls within the framework of the rights defined by the United Nations Declaration on the Rights of Indigenous Peoples, including the right to maintain and strengthen their own political legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

After two decades of mobilizing to promote constitutional reforms in countries and achieve the current rights standards, indigenous peoples are demanding that those rights be respected and fulfilled. The central axes of their struggle have been the recognition of their distinctive identities as subjects of collective rights, among them the right to self-determination, collective ownership of their territory and political participation. These struggles enabled them to launch collective reconstitution processes as peoples and reclaim collective knowledge, wisdom, beliefs, spirituality and institutions of their own. However, the struggle of indigenous peoples is not limited to claiming their own institutionality, but also includes putting forward a new model of society, questioning the development paradigm and proposing good living as an alternative.

There are some trends among indigenous organizations in Latin America. At the local level, traditional authorities and indigenous governments at the community and territorial level prevail, with a comprehensive mandate of self-government. There are also community structures that ensure the functioning of health, education, resource conservation, production and food systems, reproduction of traditional knowledge, administration of justice, child-raising standards, relations between genders and families and election of authorities, among others. These levels of indigenous government are combined with other organizations of various kinds: women, religious, spiritual and youth.

These are structures at the community and territory level; they promote efforts geared toward full enjoyment of territorial, environmental, political, economic, social and cultural rights. Community-based ancestral structures —authority structures, ancestral institutions, traditional rituals and systems— are being revitalized and made part of self-government. In the Andean area, for example, there are institutions like Minga, RantiRanti, Priostasgos, Cargos, Compadrasgos, MarkakTayta, Ayni, Minka, Jayna or Phayna, Anxata, Jaqqhata, Yanapa, Sataqawi and Manq'xaruña.² Some, even if they have undergone adaptations as a result of integrationist policies, and even when they refer to themselves as “peasants”, maintain their characteristics as indigenous communities. As more and more indigenous persons migrate to cities they encounter new ways to live indigenous identities and therefore take on new forms of organization.

Both at the local level, and between it and organizations at other levels, indigenous organizations are tending toward coordination and complementation strategies. The axes of work undertaken by indigenous organizations in the region are, in a nutshell: (i) local community organizations and indigenous governments whose main objective is to ensure the exercise of self-government; (ii) national and territorial organizations (subregional) in coordination with mandates for movements, negotiations and policy impact actions to press for fulfilment of indigenous peoples' rights; and (iii) specialized organizations and networks on global issues and negotiations.

The changes in organizations include adopting strategies in their relations with State bodies. There is greater use of legal and administrative resources to compel the State to meet its obligations. They even call on the electoral authorities to pronounce themselves on indigenous rights within the framework of the right to self-determination. There are indigenous organizations seeking to promote structural changes “from within” States that are therefore participating in elections ranging from local to national and are taking office in the various branches of States, as was seen in the previous section.

In the case of indigenous women the situation is still complex. Despite the discourse about complementarity and indigenous duality,

² These are indigenous institutions which establish functions for collective work, such as agricultural work which are governed by principles of interconnectedness and reciprocity. Each has specific functional characteristics.

what prevails, with very few exceptions, are practices of exclusion and lack of recognition of their contributions to the organizational and political processes of their peoples. There is a clear gender division of political and organizational tasks: more women at the base, in uprisings, organizational processes, community work such as the *mingas* and in global and regional processes. But there are still few women and young people as leaders and in decision-making positions. The barriers to participation are two-fold: discrimination and structural racism to which they are subject as indigenous persons, and their position as women in a patriarchy. The region is also the setting for interesting processes whereby indigenous youth are organizing at the local, national and subregional levels.

The strengthening of subregional indigenous organizations led to coordination at the regional level through a single regional platform: the Indigenous Forum of Abya Yala, which was established for coordination between regional and subregional organizations. It has held regional preparatory meetings for the Conference of the Parties (COP) in Cancun, the Rio+20 process and the United Nations World Conference on Indigenous Peoples in 2014. The Abya Yala Indigenous Forum comprises three subregional territorial organizations, two environmental organizations, a subregional organization of women and a continent-wide organization of indigenous women. The International Indian Treaty Council (CITI), the International Indigenous Women's Forum (IIWF), indigenous youth networks and the Guaraní People's Continental Council have occasionally been invited as observers. Another coordination mechanism that organizations have used has been thematic regional forums and continental summits. The impact of cooperation among indigenous organizations at the regional and subregional level has been significant, ranging from political participation to the production of statistics. One impact of this coordination is the formation of a working group to support the preparation of this study.

The long process of struggle for and recognition of rights that carved space for participation of indigenous peoples in each country had its correlate in spaces for multilateral dialogue, boosting involvement in and influence on international organizations, regional bodies and spaces for regional integration. These processes are ongoing and growing more consolidated as the participation of indigenous organizations becomes

institutionalized. They are furthering the global agenda of the indigenous movement, among many other interventions, by playing a very active role in the World Conference on Human Rights (Vienna, 1993), the Earth Summit (Rio de Janeiro, 1992), the Fourth World Conference on Women in Beijing; and the International Conference on Population and Development (ICPD) in Cairo, as well as by participating as observers in the Committee on World Food Security of the Food and Agriculture Organization of the United Nations (FAO), the Indigenous Peoples' Forum at the International Fund for Agricultural Development (IFAD) and the Civil Society Advisory Group of the United Nations Development Programme (UNDP), among others.

The United Nations mechanisms for indigenous peoples are the spaces with most involvement of indigenous peoples in Latin America, both at the annual sessions of the Permanent Forum on Indigenous Issues in the United Nations and in the Expert Mechanism. Representatives of indigenous organizations in the region also participate in meetings of certain treaty bodies, particularly the Committee on the Elimination of Discrimination against Women, the Commission on the Status of Women, and the Committee on the Elimination of Racial Discrimination. As inter-agency groups have been created for coordinated work among agencies in the system, indigenous advisory groups have been set up at the regional level in Latin America as well as in a number of countries. Some indigenous organizations have acted through mechanisms of the Inter-American Human Rights System, participating in hearings before the Inter-American Commission on Human Rights and, where possible, bringing cases before the Inter-American Court of Human Rights. Through various forums, indigenous organizations are involved in the Fund for the Development of the Indigenous Peoples of Latin America and the Caribbean and in forums for regional integration such as the Andean Community, the Southern Common Market (MERCOSUR), the Central American Parliament, the Indigenous Parliament of America and the Community of Latin American and Caribbean States (CELAC).

F. Development, good living and self-determination

In a process spearheaded by the United Nations, in recent years development has come to be understood as a human right instead of an economic problem. Despite progress since 1949 in thinking about and

measuring development as it came to be viewed a right and as a process of extending freedoms and options, for indigenous peoples the concept (and especially the practice) falls short in areas that indigenous people themselves regard as essential, such as the relationship with nature.

The development paradigm continues to be weighed down by inherent faults and shortcomings, such as greater inequality, cultural homogenization and environmental degradation. Hence the limitations of using development to frame the discussion of well-being and the realization of the rights of indigenous peoples. Moreover, indigenous peoples have suffered directly from such shortcomings, as victims of the development models that have been in vogue in recent decades.

In the first decade of the twenty-first century, and in the context of criticism of the development paradigm, the indigenous world's more experiential viewpoint has been shaping an alternative discourse and concept summed up as *sumak kawsay* (in Kichwa), *suma qamaña* (in Aymara), *ñandereco* (harmonious life, in Guaraní), *qhapaj ñan* (noble path or life, in Quechua) and encompassing principles of living such as *ayni*, *minka*, reciprocity, solidarity, respect, complementarity, dignity, collective participation, social justice, harmony with Mother Nature and with the community, group and family well-being that could be translated as living well or good living. Since indigenous peoples base their lives on experiences within their own cultures and livelihood systems in close relationship with Mother Nature, their languages have a way to express the concept of good living.

Recovering or building good living refers, then, to a close relationship between the past, present and future of a people. Its point of reference is the memory of the historical past, known as the time of freedom, and it has been a constant since the beginning of the struggle, stretching from the occupation by other cultures down to the present day. That is why the longing for good living is coloured by the historical memory of struggle, respect for their territories, identity, language, food sovereignty and rights that concern and affect indigenous peoples.

This concept has lent itself successfully to institutionalization, to the point where the indigenous movement was able to build it into the constitutions of Ecuador (2008) and the Plurinational State of Bolivia (2009). But including it in State legislation has led to inflation

of meanings and practices that, according to indigenous organizations, jeopardizes the original spirit of the concept. Some of the policies implemented by certain States have shown this contradiction by failing to respect in full the ideals of good living: on the one hand they have encouraged the preservation of natural resources, but on the other hand they have put in place aggressive extractivist policies that impact indigenous peoples' territories.

How does good living translate into concrete measures? Shifting from concepts and indicators that are too broad and vague to other more specific and contextualized ones is not easy. And it is not made easier by the fact that some defenders of good living have already said that it cannot be measured, so there is no use in designing indicators. Others do see a need to move in the direction of quantification and measurement, as the United Nations has been advocating at the international level. This is therefore a new approach to the major issue of development as discourse and as practice impacting future experiential scenarios in which indigenous peoples of Latin America have turned an experience, an attitude and an ideal of living into a model for the rest of society to emulate.

In a number of countries of the region, the experience of indigenous economies is an expression of good living and a development approach based on practice. These initiatives have emerged from the indigenous communities themselves (in areas such as tourism and coffee production) as a way to highlight the daily activities of those communities, helping to improve the quality of life of their families, creating jobs, reducing the impact of migration and contributing to the working of the local economy.

But despite the value of good living, within the indigenous movement itself there are those who are warning of the risks of turning it into an empty concept that could be used by some governments to actually extend classic neoextractivist models of development based on reprimarization. From the indigenous viewpoint, if the concept of good living is to be useful for emancipatory social action it should be linked to the rights-based approach and then, as a priority, to the two basic collective rights instruments: ILO Convention No. 169 on Indigenous and Tribal Peoples and the United Nations Declaration on the Rights of Indigenous Peoples.

Recommendations

In view of the need to bridge the gap between the proclamation of principles and facts on the ground that prevents full enjoyment of the fundamental rights of indigenous peoples and their access to good living, a number of policy recommendations are set out below.

- The State must respect and support institutions and systems of self-government of indigenous peoples by strengthening their political, economic, social, cultural and spiritual institutions and promoting organizational and technical capacities for their internal governance and their interaction with State institutions.
- There is a need to document, systematize and promote exchanges among the experiences of indigenous autonomy processes in Latin America on issues related to the expansion of powers, transfer of competencies, institution building and intercultural public policies, among others.
- It is necessary to promote respect and support for community-based cultural revitalization processes (forms of authority, ancestral institutions, rituals and traditional systems, including languages) that are being incorporated into the conduct of autonomy and self-governance processes and initiatives for the protection and development of the traditional knowledge of indigenous peoples.
- Organizational processes that contribute to inclusion and recognition of the contributions of indigenous women and their incorporation into leadership and decision-making roles should be promoted and encouraged by States.
- In the same vein, there must also be support for indigenous youth organizational processes, both local and national as well as subregional.
- Stronger measures are needed to ensure and enhance the participation of women and men from indigenous peoples in electoral processes in the countries, whether through quotas for indigenous peoples and special constituencies for indigenous candidates, or by promoting indigenous movements, platforms and political parties.
- States should also devote efforts to promoting and strengthening experiences of electoral processes where the collective

dimension of the right to electoral participation has begun to be incorporated at different levels, as well as the measures taken to ensure the political participation of indigenous women in these contexts.

- The participation of representatives of indigenous peoples in United Nations mechanisms on indigenous peoples, as well as in the activities of treaty bodies, and the promotion of measures in countries for monitoring their specific recommendations, is another area that requires renewed commitment and political will of States.
- It is necessary to continue creating and/or strengthening mechanisms for the systematic participation of indigenous peoples in States in the framework of ILO Convention No. 169 and the United Nations Declaration on the Rights of Indigenous Peoples.
- It is crucial and urgent to establish consultation mechanisms for applying the principle of free, prior and informed consent in the countries of the region, especially in cases of extractive, forestry and energy industry concessions and infrastructure projects in indigenous territories, and for adopting legislative and administrative measures. The mechanisms must be culturally appropriate and achieved through procedures that take into account the customs and traditions of indigenous peoples and their traditional decision-making methods.
- States need a new approach to development that adopts the perspective of living well/good living not only as a discourse but also in practice in the respective national societies' future experiential scenarios.
- There is a need for the State to promote and enhance indigenous economies as a new strategy for the development of indigenous communities and peoples within the framework of good living.
- Public policies and State statistics should include items defining the well-being of indigenous peoples and the population as a whole within the framework of living well/good living.

II. Mapping the demographics of indigenous peoples: counting is relevant

Knowledge of the population dynamic of indigenous peoples and its inherent components (fertility, migration and mortality rates) is crucial for defining policies aimed at closing the gaps in implementing indigenous peoples' rights, because their biological reproduction and their social and cultural survival depend on it. That is why making the dynamic specific to indigenous peoples a policy consideration with a focus on indigenous peoples in danger of disappearing is one of the governmental agreements in the region included in the Montevideo Consensus on Population and Development (ECLAC, 2013a).

The most basic information here is a count of the indigenous population and information on what and how many indigenous peoples are in each country and in the region. The generation of these data, which are of great political and technical relevance, has been the subject of intense conceptual and methodological discussion and has not been without significant differences among sources of information both within the State apparatus and with regard to the figures handled by indigenous organizations. In recent years, though, and owing primarily to the fact that the 2010 census round was approaching, the countries of Latin America have made significant efforts to improve the statistical visibility of indigenous peoples, in conjunction with the peoples themselves. But progress has been mixed.

A. Who are the indigenous peoples in data sources?

Including questions to identify indigenous persons and peoples in data sources is necessary (but not enough) for constructing statistics in multicultural States. It is also one of the demands of indigenous peoples' organizations as one of the building blocks of the right to information. The first step towards progress in this regard is to define the issue.

Over the years, an international consensus has been reached to use the definition set out in ILO Convention No. 169 concerning indigenous and tribal peoples in independent countries. This makes it possible to identify at least four dimensions related to indigenous peoples: recognition of their identity, common origin, territoriality, and language and culture. These should be taken into account in establishing operational criteria. And it is imperative to respect the position consistently sustained by indigenous organizations as well as by the United Nations system, in that it is the peoples and individuals who consider themselves to be indigenous who should define themselves as such, as part of the right to self-determination.

That is why their representatives must participate in the decisions made in official sources, among other issues, which has been a recurring recommendation at the international level. This can be seen in the reports that human rights committees have submitted to the countries of the region and in the reports of the United Nations Special Rapporteurs for the Rights of Indigenous Peoples. In other words, the criterion of self-identification is the one that should be paramount for quantifying indigenous peoples. The other criteria associated with the rest of the dimensions will help to paint a picture of them and show how different their situations are.

B. Recent census results

The availability of information on indigenous peoples in national population and housing censuses is crucial because it is the only source for estimating their numbers, even in the case of indigenous peoples with a relatively small population size. Furthermore, the census allows the disaggregation of information down to smaller territorial scales. This is essential for constructing indicators at the level of indigenous territories and communities and provides the framework for designing specialized surveys.

The remaining sources, although they do not make it possible to estimate size, provide more detailed, complementary information for designing and monitoring policies and for oversight by the indigenous peoples themselves.

A review of the region shows that in censuses taken in the 1980s only half of the countries of Latin America were close to quantifying the indigenous population. The situation remained virtually unchanged in 1990, when linguistic criteria provided most of the grounds for quantification. In this approach, indigenous peoples were considered “policy objects”.³ In censuses taken early in the current century, sociopolitical changes came along with a significant quantitative leap: 16 of the 19 countries that took a census in the 2000s identified the indigenous population. The most significant change was the inclusion of the criterion of self-identification, consistent with the recognition of indigenous peoples as subjects of rights.

The 2000s brought much action to promote and strengthen the statistical visibility of indigenous peoples, with a view to the 2010 census round. The aim was to shift from the “quantitative leap” seen between 1990 and 2000 to a “qualitative leap”, substantially improving information quality. These actions resulted in a set of recommendations applicable to the region, based on those emanating from UNPFII, making them more strategic and operational. The dialogue between statistical institutes, indigenous organizations, academia and other national and international agencies led to a “minimum standard” for the inclusion of indigenous peoples in population and housing censuses. It includes aspects relating to the criteria and questions for identifying these peoples and aspects that relate to the entire census process, from design to dissemination and analysis of information, stressing the effective participation of indigenous peoples as a *sine qua non* in all stages (ECLAC/UNICEF/UNFPA, 2013).

All of the countries that took censuses, then, have made progress in this area and have implemented (to a greater or lesser extent) current regional and international recommendations. All of them respected the criterion of self-identification, although there are still significant semantic differences arising from operationalization of that criterion. The questions were reviewed through participatory mechanisms with indigenous

³ The term “indigenous population” is used instead of “indigenous peoples” because some countries provided for identification as indigenous or non-indigenous but not for membership of a specific people.

peoples, via discussions, reflections and pilot tests. The end result was rewording—substantial in some cases. There were also improvements in training the census workers and supervisors, as well as in maps and in coverage. Ad hoc outreach campaigns were organized.

With the exception of three Latin American countries (Cuba, Haiti and the Dominican Republic), all of the countries have included self-identification in this decade's censuses or plan to do so (Colombia, El Salvador, Nicaragua and Peru will conduct their population censuses between 2015 and 2017). Peru, the only country that did not consider this approach in past censuses, is already working on the design and implementation of pilot studies for including it in 2017. More countries now include questions about indigenous languages. In some cases they refer to languages learned in childhood; in others they refer to the languages spoken by each individual or the one that is used most frequently in the home.

C. Indigenous population and peoples in Latin America: how many are there, and how many are left?

On the basis of census data it is estimated that in 2010 the indigenous population of the region was nearly 45 million people. The figures vary widely from country to country. At one extreme are Mexico and Peru (with an indigenous population of almost 17 million and 7 million, respectively). At the other are Costa Rica and Paraguay (with little more than 100,000 indigenous people) and Uruguay (with nearly 80,000) (see table II.1).

As a result of the actions taken in recent years, there has been a significant increase in the indigenous population of the region. Bearing in mind that ECLAC (2007) estimated that Latin America had some 30 million indigenous persons in 2000, the figures in or around 2010 reflect an overall increase of 49.3% in 10 years, which would mean an average annual increase of 4.1%. This is a “demographic recovery” of significant magnitude, particularly given that over the same period the population of Latin America increased by 13.1%, at an average annual rate of 1.3%. This rebound is likely due not only to the demographic dynamic of indigenous peoples (which would be expected in view of their demographic profiles), but also to an increase in self-identification. With the exception of the Plurinational State of Bolivia, these increases are seen in all countries to varying degrees. The largest is in Mexico.

Table II.1
Latin America (17 countries): population of indigenous peoples
according to censuses and estimates, around 2010
(Numbers and percentages)

Country and census year	Total population	Total indigenous population	Indigenous percentage of the total population
Census findings			
Argentina, 2010	40 117 096	955 032	2.4
Brazil, 2010	190 755 799	896 917	0.5
Chile, 2012 ^a	16 341 929	1 805 243	11.0
Costa Rica, 2011	4 301 712	104 143	2.4
Ecuador, 2010	14 483 499	1 018 176	7.0
Mexico, 2010 ^b	112 336 538	16 933 283	15.1
Panama, 2010	3 405 813	417 559	12.3
Paraguay, 2012 ^c	6 232 511	112 848	1.8
Uruguay, 2011 ^d	3 251 654	76 452	2.4
Venezuela (Bolivarian Republic of), 2011	27 227 930	724 592	2.7
Estimates as of 2010^e			
Bolivia (Plurinational State of)	9 995 000	6 216 026	62.2
Colombia	46 448 000	1 559 852	3.4
El Salvador	6 218 000	14 408	0.2
Guatemala	14 334 000	5 881 009	41.0
Honduras	7 619 000	536 541	7.0
Nicaragua	5 813 000	518 104	8.9
Peru ^f	29 272 000	7 021 271	24.0
Total	538 153 481	44 791 456	8.3

Source: Latin American and Caribbean Demographic Centre (CELADE)-Population Division of ECLAC, on the basis of special processing of census microdata, except in Argentina: National Institute of Statistics and Censuses, "Censo Nacional de Población, Hogares y Viviendas 2010. Censo del Bicentenario: Resultados definitivos," Serie B, No. 2, Buenos Aires, 2012; and Brazil: Brazilian Geographical and Statistical Institute (IBGE) (2012), "Censo Demográfico 2010: Características gerais dos indígenas. Resultados do universo," Rio de Janeiro, 2012.

^a These are the results of the 2012 census in Chile, but the current administration does not regard them as official owing to quality issues. The National Socioeconomic Survey (CASEN) showed an indigenous population of 8.1% for 2011.

^b Because the question on ethnicity was applied to the population aged 3 years and over in Mexico, children aged under 3 years were classed as indigenous where the head of household or spouse reported themselves as indigenous.

^c These figures are preliminary results of the indigenous census in Paraguay. They do not yet include the indigenous population counted in the general census, which is not yet available.

^d In Uruguay the question of recognition of descent with multiple response categories shows a total of 159,319 indigenous persons.

^e For these countries there are still no census results available for the 2010 decade. The percentages for the indigenous population were therefore taken from the latest census available and applied to the estimated population in 2010, which is based on population estimates produced by the Latin American and Caribbean Demographic Centre (CELADE)-Population Division of ECLAC (ECLAC, 2013b).

^f Peru's 2007 census included only the mother tongue, so the indigenous population was estimated by classing all household members as indigenous when the head of household or spouse reported an indigenous language.

Today, 826 indigenous peoples are accounted for in the countries of the region. Here, too, the picture varies markedly from country to country, ranging from Brazil (305 indigenous peoples), followed by Colombia (102), Peru (85) and Mexico (78) down to Costa Rica and Panama (9 indigenous peoples each), El Salvador (3) and Uruguay (2). Censuses in this decade helped to improve this information by taking account of the names of the indigenous peoples themselves. In several countries this was the result of joint efforts among statistical offices, State agencies in charge of indigenous peoples' affairs and indigenous peoples' organizations, coupled with the cooperation of academic centres.

Within each country there is in turn tremendous demographic diversity in terms of peoples. In those countries of the region with the largest indigenous populations (Plurinational State of Bolivia, Guatemala, Mexico and Peru) the largest peoples far exceed 1.5 million individuals. According to preliminary census figures for 2012, the Plurinational State of Bolivia has 1.84 million indigenous Quechua and 1.6 million Aymara. ECLAC estimates on the basis of Peru's 2007 census that 5.5 million people live in households where Quechua is the mother tongue of the head of household or the spouse (that is 85% of the total number of people in households where an indigenous language is the mother tongue of the head of household or the spouse).

Census figures highlight a priority issue: the demographic fragility of many indigenous peoples, who are in danger of physical or cultural disappearance. This can be seen in Brazil, the Plurinational State of Bolivia, Colombia and Peru. In Brazil, it has been found that 70 indigenous peoples (representing 23% of the country's indigenous peoples) are in an extremely fragile situation, with a population of less than 100 individuals. In the Plurinational State of Bolivia, in 2013 the Ministry of Justice itself acknowledged that the physical and cultural survival of at least 13 of the country's 39 indigenous peoples is under extreme threat. In Colombia, the Constitutional Court acknowledged the existence of 35 indigenous peoples at risk of cultural or physical disappearance as a result of armed conflict and gross violations of fundamental human rights, both individual and collective. In Peru, the 2007 census showed less than 50 members remaining of the indigenous peoples of the Kisamberi, Resígaro and Sapitiere. Eleven peoples of Amazonia registered a population of between 50 and 200, and

another ten a population of over 200 but less than 500. If demographic fragility is compounded by other factors of socioenvironmental and territorial vulnerability (such as forced displacement, food shortages, water pollution, land degradation, malnutrition and high mortality rates, to mention a few), the number of peoples in danger of disappearing is probably significantly higher.

In addition, it is estimated that there are approximately 200 indigenous peoples living in voluntary isolation in the Bolivarian Republic of Venezuela, Brazil, Colombia, Ecuador, Paraguay, Peru and the Plurinational State of Bolivia, who, owing to pressure on natural resources in their territories or nearby areas, are in a situation of extreme vulnerability. The Inter-American Commission on Human Rights noted that incursions by non-indigenous people cause serious violence, epidemics, food shortages and the loss of their culture (IACHR, 2013). The Commission therefore calls upon States to establish the right of indigenous peoples to choose to remain in voluntary isolation; to protect their lands, territories and natural resources in order to prevent their disappearance; and ensure respect for and safeguarding of the principle of no contact by any person or group. It recently issued a set of recommendations on this matter (IACHR, 2013). In 2012 the Office of the High Commissioner for Human Rights (OHCHR), with the cooperation of the Spanish Agency for International Development Cooperation (AECID), issued guidelines for protecting indigenous peoples in isolation and in initial contact in the Amazon Basin and El Chaco, the eastern region of Paraguay (OHCHR, 2012).

D. Age and sex structure and their policy implications

Recent data on structure by age and sex indicate a downtrend in the proportion of younger generations. This development marks a change in reproductive patterns, at least with respect to the average number of children indigenous women are bearing. This is confirmed by recent censuses and demographic and health surveys. But the situation varies among countries and indigenous peoples. For example, the age structure of the indigenous population is still very young in Panama (with a high percentage of children) while in Uruguay, although it is an exception, the indigenous population structure clearly skews old. The very young structures of the Ngöbe, Achuar and Yukpa peoples stand in contrast with

the older ones of the Chorotega, Salasaka and Kumanagoto peoples in Costa Rica, Ecuador and Venezuela, respectively.

While there has been progress in the demographic transition, in all of the countries the populations of indigenous peoples are still younger than non-indigenous ones. This means higher growth potential and should lead to a higher proportion of indigenous persons in national societies in the coming years provided that the population dynamics are not compromised by non-implementation of the rights of indigenous peoples. And the relatively high proportion of indigenous children, which is still a distinctive feature of the region, calls for paying attention to the allocation of resources in sector-based policies while also taking into consideration the particular situation of indigenous adolescents and young people.

Owing to the impact of migration and displacement from territories of origin, in cities indigenous women and men are concentrated largely in the reproductive and economically active age brackets (between 15 and 59). The proportion of girls under 15 years of age is lower than it is in rural areas. This means that many adult and young adult indigenous women migrate without their children, who are likely to stay behind in their territories under the care of other women of the community, mainly older adult women. This could be indicating the fragmentation of families and communities, largely as a result of migration in search of better living conditions, but it cannot be ruled out that the push factor might be survival strategies followed by indigenous peoples, in which women take a leading role.

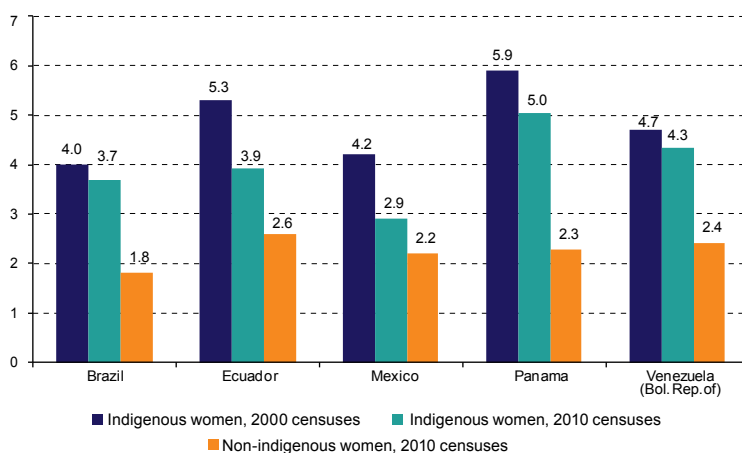
The age structures also show that in 9 of the 11 countries with available data, the percentage of older indigenous women (aged 60 and over) is consistently higher than for indigenous men (Costa Rica and Panama are exceptions). This pattern is to be expected because life expectancy for women is often higher than for men. This calls for a thorough review in the light of the gender inequities that usually impact older women, as well as unequal access to opportunities throughout life. And while among indigenous peoples old age does not have a negative connotation but is rather associated with cultural continuity (status and social role may even increase with age), it would be useful to examine the extent to which these concepts are equally valid for indigenous men and women and to what extent they are still true.

E. Indigenous fertility levels and trends: a key factor in population growth

Examination of the census data also revealed falling fertility levels among indigenous women, at least in the five countries with available data from the 2010 census round. The declines were most striking in Ecuador and Mexico (see figure II.1). Even so, the most recent estimates show substantial differences among countries. In the majority (9 out of 13 countries), indigenous women average between 2.4 children and 3.9 children. In two countries (Bolivarian Republic of Venezuela and Nicaragua) the figure is about four children per woman; Guatemala and Panama have the highest indigenous fertility rates, at five children per woman. The figures also show that regardless of their level, fertility rates for indigenous women are still consistently higher than for non-indigenous women. The largest differences are in Brazil and Panama, where fertility rates for the former are at least twice those for the latter. These gaps are undoubtedly affected by the higher percentage of indigenous women than non-indigenous women in rural areas. Nonetheless, these inequalities in fertility levels between indigenous and non-indigenous women are in rural areas and the gaps do not disappear in cities.

Figure II.1

Latin America (5 countries): overall fertility rates of indigenous women, 2000 and 2010 censuses, and non-indigenous women, 2010 census



Source: Prepared by the authors, on the basis of Latin American and Caribbean Demographic Centre (CELADE)-Population Division of ECLAC, processing of census microdata.

The factors behind these figures are many. As has been raised by indigenous women's organizations, in the case of their peoples fertility must be seen in the broader context of their idea of good living: children represent the potential for biological and cultural reproduction that is under constant threat. The status of these peoples is so complex that it difficult to generalize the situation and social position of indigenous women, but at least it is known that in their life systems dual complementarity (where everything is female-male) is essential for ensuring reproduction, growth and development in balance. The social and cultural organization of indigenous peoples, which in turn governs gender relations, contributes directly to what are called direct or intermediate fertility variables. Among the most relevant ones are contraceptive use, patterns of union or family formation, abortion practices and duration of breastfeeding.

However, the figures also partly mask the gaps in implementation of indigenous women's right to reproductive health, where structural factors like historical discrimination come into play, expressed in greater degrees of material poverty, low levels of formal education and living in remote areas that hinder their access to health services, coupled with the lack of cultural accessibility of such services.

Recommendations

These findings are warning signs that major challenges remain. The following actions are recommended for them, supplemented by those set out under the right to well-being and the right to information and communication.

- Conduct a thorough assessment of this census round, systematizing processes based on national technical reports that examine, for example, how they were organized and how participatory mechanisms have worked with indigenous peoples, with a view to identifying concrete actions to strengthen the processes that were initiated.
- Contribute to the strengthening of post-census phases, namely: data evaluation, disaggregated data processing, dissemination, training, use and policy impact, with participation of indigenous peoples.
- Strengthen the institutional framework for the production of disaggregated statistics, ensuring participatory processes.

- The land-rights perspective necessitates having information on social, demographic, biotic, physiographic and other aspects of indigenous territories, including the location of human settlements and their spatial distribution. Progress in mapping this new census round provides a unique statistical opportunity for conducting useful studies such as the demographic impact of extractive industries and megaprojects in indigenous territories, as well as identifying socioterritorial equity gaps, to name a few.
- Urgently carry out a thorough analysis in each country on demographic fragility of indigenous peoples, to contribute to policy design and implementation. Progress must be made on legal frameworks and targeted strategies to reverse these situations. We must design and implement policies aimed at safeguarding forms of individual and collective life of these persons, taking into account population dynamics and respect for their cultural identity, language, political organization, ancestral territoriality, rituals and worldview.
- With regard to the peoples in voluntary isolation or with no contact, and with a view to preventing their disappearance, it is crucial to advance the implementation of their rights, considering the guidelines developed by the United Nations and the recommendations of the Commission.
- In designing policies and programmes, account must be taken of distinctive demographic profiles characterized by young age structures, that is, with a significant proportion of children, adolescents and young people. Adequate resourcing is essential to address mainly the challenges in health and education, which should fulfil both individual and collective rights, particularly the right to cultural integrity.
- Consider the variability of situations within countries, according to social and cultural factors that affect the “demographic balance” and composition by sex and age of the population of indigenous peoples. They require a thorough review –considering the indigenous peoples of each country and geographical area– to highlight the impacts that these demographic ratios have on the lives of indigenous peoples and indigenous women and youth in particular.

- Observed fertility levels partly mask unequal access to health services. This necessitates implementing policies to ensure effective and relevant access to contraception that peoples, couples and women choose, including traditional and natural methods and respecting the principle of free, prior and informed consent.

III. Territorial rights and spatial mobility of indigenous peoples in Latin America

A. Territorial rights of indigenous peoples: the framework for action

Among the significant developments that have taken place in international law with regard to the rights of indigenous peoples, territorial rights figure prominently as can be seen in ILO Convention No. 169 and the United Nations Declaration on the Rights of Indigenous Peoples. Worthy of note is the influence of the inter-American human rights system (the Commission and the Inter-American Court of Human Rights), whose reports and interpretive rulings on the American Convention on Human Rights have become a must in the area of indigenous peoples' territorial rights.

This trend in international law has led to clearly defined standards on indigenous peoples' right to territory, which focuses on three elements (land, territories and natural resources) that cannot be considered separately because of the special cultural and spiritual relationship between indigenous peoples and their territories. The cornerstone of territorial rights is the concept of indigenous territory (in contrast to Western views) and their conversion into substantive law and an international standard. In the words of the Inter-American Court of Human Rights: "the close ties of indigenous people with the land must be recognized and understood as the fundamental basis of their cultures, their spiritual life, their integrity, and their economic survival" (IACHR, 2009). The Inter-American Court adds, "The relationship with

the Earth is not merely a question of possession and production but rather a material and spiritual element to be fully enjoyed, including to preserve their cultural heritage and to transmit it to future generations” (IACHR, 2009). The territorial claim of indigenous peoples has, then, two dimensions: space and processes. The former is expressed in demand for the use, enjoyment and management of natural resources. And the latter is expressed in the demand for control over political, economic, social and cultural processes for ensuring reproduction and the material and cultural continuity of the group so that they are completed within the normative traditions of indigenous peoples. The territory is therefore regarded as a system of resources, as a jurisdictional space where the collective rights of indigenous people are exercised.⁴

The right to territory ties in to the right to communal property, which entails the right to recordation, demarcation, restitution, compensation and indemnification. The normative action of the bodies of the inter-American system concerning indigenous communal property rights to land, territories and natural resources has spelled out the obligations of States members of the system arising from recognition of this right. While the right to indigenous communal property has limits that may be established by States when necessary, proportional and intended to achieve a legitimate goal in a democratic society, priority is given to the property rights of indigenous peoples because violating them impacts a number of fundamental rights, such as the right to life, the right to self-determination, cultural rights, the right to non-discrimination and the right to effective judicial review.

Situations should be considered on a case-by-case basis, to determine whether an indigenous people, for example, recovers its land or is compensated. To this end there is a wide range of standards and safeguards that States must always fulfil whenever indigenous peoples' territorial rights are curtailed. Consideration should be given to the implications that this would have for their cultural identity and material

⁴ The term “territory” is not to be confused with the concept of “territorial integrity” used in international law. This case does not involve the territory's political separation from the State, because it is clear that all indigenous people, even when exercising their right to self-determination and self-government, remain linked to the sovereign political territory of the State to which they belong.

survival. Running along with implementation of territorial rights, States must respect and ensure the right of participation and the right to free, prior and informed consent of indigenous peoples. The State has a binding duty to consult, so current standards include a number of elements that should be guaranteed during the proceedings: good faith, prior notice, constant communication, access to information, culturally appropriate procedure and the intention to reach agreement.

In Latin America, recognition of indigenous territorial rights has shown significant progress in recent decades, albeit at different speeds and depending on the characteristics and specificities of each country. In the space of only 20 years there has been a shift from denial of rights to legal recognition in most of the countries of the region. Recognition, recordation and demarcation of indigenous lands are taking place in all countries—with varying degrees of success—starting with enactment of laws that recognize and protect indigenous peoples' territorial rights.

This substantial change in recognition has been driven by pressure from indigenous peoples themselves, together with evolving international standards. Overall, there is a high level of constitutional recognition of indigenous territorial rights: among the rights enshrined in the constitutions of many countries is some form of recognition of and protection for indigenous territorial rights. There are also various kinds of law that complement this recognition by means of legislation, executive decree and regulations. Generally, these regulatory frameworks establish procedures for implementation. In several countries (such as Honduras, Nicaragua and Panama in Central America, and Brazil, Colombia, Ecuador and the Plurinational State of Bolivia in South America) they have made a significant difference because they have made it possible for indigenous peoples to make progress with recordation and access to property rights over their lands and territories.

Despite this progress, so far none of the State efforts aimed at recognizing territorial rights have managed to meet international standards defined in the sphere of the United Nations and the Organization of American States. Implementation therefore falls short. While in countries such as the Plurinational State of Bolivia and Ecuador they rank as constitutional law and there are extensive regulations for recognition, recordation and demarcation of territories, international

standards continue to provide a more complete recognition of rights and are closer to the ongoing claims of indigenous peoples. These include the political component of territorial control and ownership of natural resources. That is why in the Alta outcome document from the Global Indigenous Preparatory Conference for the World Conference on Indigenous Peoples, one of the four overarching themes of greatest importance for indigenous peoples is *Indigenous Peoples' lands, territories, resources, oceans and waters*.

B. Gaps in implementation of indigenous peoples' territorial rights and challenges in the region

Local conflicts related to the control and use of territory and natural resources are becoming common in all regions of the world, including the countries of Latin America. The emergence of conflict may be a symptom of the lack of recognition of indigenous territorial rights and of the persistent gaps in implementing them. The Special Rapporteur himself has reported that there are still many obstacles to the full enjoyment of the rights of indigenous peoples, particularly limitations on the exercise of the rights to traditional territories and resources, serious acts of violence and forced displacement resulting from large-scale economic projects, and the suppression of indigenous organizations and traditional forms of government.

All of the countries of Latin America have, in the past few years, seen escalating conflict related to the control and use of territory and natural resources. Expansion of the primary and export sectors in the region has had serious environmental impacts, involved reclassification of spaces and been detrimental to the rights, interests, territories and resources of indigenous peoples. Disputes associated with control over territories and natural resources easily lend themselves to violent conflict but can be exacerbated in contexts of political exclusion, social discrimination and economic marginalization.

Against this backdrop, the boom in mining and hydrocarbon exploitation that the countries of the region have seen in recent years has become a vector of conflict concerning the rights of indigenous peoples over their historical territories, as shown in map III.1.

Map III.1
Latin America: map of extractive projects in the mining
and hydrocarbon sector in territories inhabited
by indigenous peoples, 2010-2013



Source: Victor Toledo, “Catastro de proyectos de industrias extractivas en territorios indígenas”; and “Support Project for the United Nations Special Rapporteur on Indigenous Peoples at University of Arizona” [online] <http://unsr.jamesanaya.info/study-extractives/map/>.

Note: The boundaries and names shown on this map do not imply official endorsement or acceptance by the United Nations.

According to the listing of conflicts sparked by extractive industry projects in indigenous territories, and based on a review of reports from the United Nations Special Rapporteur on the Rights of Indigenous Peoples during 2009-2013, there are six hubs of problems. Most of them overlap to one degree or another. These hubs are:

- (i) Conflicts due to inadequate or non-existent legal safeguards for indigenous peoples’ rights to their lands, waters and natural resources, biodiversity and territory.

- (ii) Conflicts over impacts on sacred sites of indigenous peoples.
- (iii) Weak or non-existent independent assessments of the environmental, social, economic and territorial impacts of extractive projects.
- (iv) Non-compliance of the State's duty to consult indigenous peoples and to put in place safeguards and measures to protect their before awarding concessions or authorizing extractive projects.
- (v) Exclusion of indigenous peoples from sharing the benefits of exploitation of resources in their territories.
- (vi) Criminalization of indigenous social protest against investment projects that impact their rights and territories.

Over the past decade, booming international demand for primary goods (minerals, hydrocarbons, soybeans and other agricultural commodities) has boosted economic growth in the countries of Latin America but has had its cost in the form of a growing number of environmental, social and ethnic conflicts involving extractive industries located in or near indigenous territories. Competition between governments of the region to attract investment aimed at exploiting natural resources and exporting raw materials has created incentives for the extractive industry and skewed the apparatus of the State in this direction. Most of the concessions and projects that are under way have been undertaken without appropriate consultation; this has contributed to the exclusion of the indigenous peoples affected. Pressure from extractive projects and large-scale infrastructure construction projects has an impact on the enjoyment of all rights —economic, social, cultural, civil and political.

International bodies have also noted the severity of conflicts sparked by projects carried out by companies in proximity to indigenous peoples' communities. In 2013 the Expert Mechanism on the Rights of Indigenous Peoples expressed concerns about the negative impact that conflicts between indigenous peoples and corporations have on indigenous women and girls. The experts stressed the importance of national and regional dialogue with States, business enterprises, civil society organizations and indigenous peoples to promote understanding of the rights of indigenous peoples in the context of extractive industries.

The Special Rapporteur has stressed that the generally negative impact of extractive operations should not lead to the conclusion that the interests of extractive industries and indigenous peoples are always divergent. Resource extraction models should be laid out in a manner consistent with respect for the rights of indigenous peoples.

These conflict scenarios concerning territory and control over natural resources are largely due to persistent gaps in implementation and recognition of indigenous peoples' territorial rights. These gaps are even wider when it comes to the right to consultation, to free, prior and informed consent, and to the full and effective participation of indigenous peoples.

With regard to the State's duty to consult —and despite the specific standards and procedures established by international mechanisms (such as CERD, the Special Rapporteur and the Inter-American Court) there are substantial differences between the consultation procedures that are being developed in the countries of the region and international standards. In the case of free, prior and informed consent, the situation would seem to be even worse because States do not see it as an option and do not respect the standards set by the Inter-American Court or the United Nations Declaration. And as for the right to participation, while it is being respected during public policy planning and development in a number of countries, the gaps between international standards and national ones grow wider when the discussion turns to specific development and infrastructure projects in the indigenous territories themselves.

As far back as 2006, the Special Rapporteur on the Rights of Indigenous Peoples stated that the effective enjoyment of rights could only be achieved with the full participation of indigenous peoples, acting constructively in the framework of national institutions, seeking to resolve conflicts and reaching consensus that would ultimately benefit the entire national society. An indispensable tool in the search for solutions to territorial rights issues therefore lies in establishing a permanent and institutionalized dialogue between States and indigenous peoples.

There are other factors that add to the complexity of conflict scenarios involving indigenous peoples' territories, making their communities more vulnerable. Climate change, along with pollution and environmental degradation, is a serious threat to many peoples because they often live on marginal lands and in fragile ecosystems that are particularly

sensitive to changes in the physical environment. Indigenous peoples are the first to face the direct consequences of climate change because of their dependence on the environment and its resources. This not only impacts their own subsistence but also erodes their cultures and traditional government structures.

Although there are still not enough data or evidence as to the causal connection, some studies suggest that the effects of climate change, combined with economic, social and political problems, could help heighten the level of conflict over territories. Climate-change-related conflicts could then be a driver of forced displacement. In addition, a fundamental right of indigenous peoples that might be affected by climate change is the right to food, threatening food and nutrition security. Poor nutrition is one of the problems that most affects indigenous peoples in Latin America; it is caused by environmental degradation, pollution of their traditional ecosystems, loss of their lands and territories and a decline in their traditional food sources or access to them. The data for seven countries of the region show that in the vast majority (five out of seven), chronic undernutrition among indigenous children is at least double the figure for non-indigenous children. And the ethnic gaps are even wider in the case of severe chronic undernutrition, with the pattern being similar for general undernutrition levels.

Food insecurity is clearly greater among the indigenous population than in the non-indigenous population. This is a paradox, because it is the indigenous territories that are home to the greatest genetic diversity and wealth. In addition to explaining how the original communities survived, these resources have been the basis of food systems for modern societies throughout the world.

The Human Rights Council of the United Nations has stressed that repercussions of climate change have an impact on the effective enjoyment of human rights, including the right to life, the right to adequate food, the right to the highest attainable standard of health, the right to adequate housing, the right to self-determination and the right to safe drinking water and sanitation, recalling further that in no case may a people be deprived of its own means of subsistence.

There are a number of resolutions and policy documents on indigenous peoples and climate change that have come to be seen as a new paradigm for conservation, such as the resolution adopted by

the 2008 World Conservation Congress of the International Union for Conservation of Nature, the Durban Action Plan and the Convention on Biological Diversity Programme of Work on Protected Areas (PoWPA). Despite the relevance of this set of decisions, their implementation has been neither consistent nor effective.

The actions of international agencies notwithstanding, indigenous organizations and networks in Latin America have undertaken major efforts to report on and support negotiations on climate change and implementation of policies in this area. Among other actions, these organizations have been challenging the support provided by governments to the economic areas that contribute most to deforestation, degradation and pollution, such as agribusiness, oil palm, biofuels, hydropower, extensive livestock operations, oil, mining and infrastructure megaprojects.

Recommendations

Recently, at the first session of the Regional Conference on Population and Development in Latin America and the Caribbean, the Governments of Latin America and the Caribbean agreed to “Respect and guarantee the territorial rights of indigenous peoples, including those of peoples living in voluntary isolation and those in the initial phase of contact, with special attention to the challenges presented by extractive industries and other major global investments, mobility and forced displacements, and design policies that facilitate free, prior and informed consultation on matters that affect these peoples, pursuant to the provisions of the United Nations Declaration on the Rights of Indigenous Peoples” (ECLAC, 2013a).

As already noted by ECLAC, establishing new compacts for equality requires open discussion on the challenges facing natural resource exporting countries with regard to public policies, institutions and regulation of appropriation and effective use of rents. And in the light of international standards, those processes should include indigenous peoples: the new governance of natural resources must integrate the rights of indigenous peoples, in particular territorial rights.

In the light of this analysis, outlined below are policy recommendations geared toward implementation of indigenous peoples’ territorial rights and current agreements.

- Progress must be made in the alignment and harmonization of national legislation and public policies with international

standards. In cases where there is no consistency between national standards, an order of priority should be established so the human rights standards protecting indigenous peoples and their territories prevail.

- Legislation on land tenure, mining and the extraction of renewable and non-renewable resources, as well as forestry and environmental legislation, cannot promote measures that are contrary to the territorial rights of indigenous peoples, nor can they be given priority on grounds of the so-called general interest. It is critical to harmonize the different national regulatory frameworks in the shortest possible time, respecting indigenous peoples' territorial rights and making it a priority to apply the *pro homine* principle of international law.
- Justice systems must be strengthened in each country, seeking to eliminate any racist thinking and practice in the application of justice so as to ensure the legal security of indigenous territories.
- To ensure and legally guarantee indigenous territories in a manner consistent with international standards, there is a need to strengthen legal figures that recognize indigenous territorial rights as well as to reinforce the processes for recordation, demarcation and protection of indigenous territories that have not yet been recognized.
- It is crucial to ensure free, prior and informed consent, especially with regard to extractive and development projects in or close to their territories that could have a direct impact on areas of cultural importance, in particular holy places, or on natural resources that are used for their survival. The State's duty of consultation must be fulfilled, designing and implementing procedures consistent with international standards.
- Establish reasonable mechanisms for indigenous peoples to participate in the benefits of extractive development projects affecting them; carry out impact studies and develop mitigation and compensation measures with the full and effective participation of indigenous peoples.
- There is a need to promote dialogue and round tables between indigenous peoples and States until they are institutionalized as a regular mechanism and become a permanent practice.

- There is a need for systematic documentation, mapping and monitoring of ongoing consultative processes and conflicts, mainly concerning extractive projects. This should include the compilation and analysis of good practices by institutions and agencies that enjoy legitimacy and objectivity in the region, but also by those Government actors that have direct responsibility for protecting and promoting the rights of indigenous peoples.
- While the Guiding Principles on Business and Human Rights have received a very uneven reception from indigenous organizations, their conceptual framework reflects a minimum consensus with the corporate sector on what can be required of companies. If the Guiding Principles become operational and are integrated into national regulatory frameworks, they can become a very useful conflict prevention and management tool, underpinned by due diligence on the part of companies with the participation of all actors.
- International cooperation should give priority to issues related to local socioenvironmental conflicts and actively engage, early and in a planned way, to design effective conflict prevention strategies.
- There is a need for States to promote sustainable models of economic development and territorial management within the framework of good living.
- A variety of organizations such as the International Union for Conservation of Nature (IUCN) have noted the importance of traditional indigenous knowledge to address climate change. Integrating these forms of knowledge with existing practices could increase the effectiveness of adaptation to climate change and the search for solutions for the benefit not only of indigenous peoples, but of all mankind.

C. Territorial distribution and internal migration of indigenous peoples

Territorial inequalities express the limitations experienced by the people in exercising their rights. For indigenous peoples they are more intense and bear special significance. In a territorial analysis of indigenous peoples, as well as in public policies, there is a need for a concept of territory and

a practice of territoriality that, beyond the physical dimension, include the social, cultural and symbolic dimension. All of these are essential in defining the identity of indigenous peoples and in the exercise of their rights to own, use, develop and control their territories and resources.

Indigenous peoples have not been on the sidelines of the rapid urbanization that has taken place in Latin America. The percentage of indigenous peoples in urban settings is significant: according to the 2010 census round, about 50% of the indigenous population lives in urban areas (see table III.1). Beyond this average, there are substantial differences among countries in the region. The indigenous population is highly urbanized in Uruguay, Bolivarian Republic of Venezuela, Peru and Mexico, where more than half of the indigenous persons are living in cities; it is somewhat urbanized in Nicaragua, Costa Rica and Brazil (between 40% and 50%). It is still predominantly rural in Ecuador, Colombia and Panama, although in the latter cases the indigenous population in urban areas is not inconsiderable in absolute terms (200,000 to 300,000 indigenous persons overall).

Table III.1
Latin America (10 countries): indigenous population in rural and urban areas, around 2010
(Numbers and percentages)

Country and census year	Total urban and rural	Total urban	Total rural	Percentage urban	Percentage rural
Brazil, 2010	821 501	321 748	499 753	39.2	60.8
Colombia, 2005	1 392 623	298 275	1 094 348	21.4	78.6
Costa Rica, 2011	104 143	42 517	61 626	40.8	59.2
Ecuador, 2010	1 018 176	218 571	799 605	21.5	78.5
Mexico, 2010	16 933 283	9 093 447	7 839 836	53.7	46.3
Nicaragua, 2005	311 704	123 852	187 852	39.7	60.3
Panama, 2010	417 559	99 655	317 904	23.9	76.1
Peru, 2007	6 489 109	3 621 440	2 867 669	55.8	44.2
Uruguay, 2011	76 452	73 723	2 729	96.4	3.6
Venezuela (Bolivarian Republic of), 2011	724 592	458 219	266 373	63.2	36.8
Total	28 289 142	14 351 447	13 937 695	50.7	49.3

Source: Prepared by the authors, on the basis of Latin American and Caribbean Demographic Centre (CELADE)-Population Division of ECLAC, processing of census microdata.

In addition to regional imbalances in access to State goods and services that lead people to move from the countryside to the cities, for indigenous peoples the decision to move depends on more drastic expulsion factors linked to gaps in implementation of territorial rights. Other factors are

also behind growing indigenous urbanization. Among them are urban expansion (which can result in the absorption and reclassification of indigenous territories close to large cities) and the natural growth of the indigenous population already located in urban areas. In other cases, cities have been founded directly in indigenous territories.

The economic, social and demographic factors driving urbanization are mediated by their sociocultural systems of origin. All of this means that the degree of urbanization of indigenous peoples differs not only among countries but also within countries. Recent census figures show extreme situations. In Colombia, on average, the indigenous population is still predominantly rural: about 90% of the individuals from the Nasa, Emberá and Wayuu peoples are rural. But there also are indigenous peoples whose members are largely urban. For example, the Quimbaya, Calima, Makaguaje, Chiricoa and Mokana peoples are between 93% and 86% urban. In Costa Rica, more than 91% of the Cabécar people still live in rural areas; for the Ngöbe the figure is 81.4% while the Chorotega are mostly urban (55%). In Ecuador, the peoples with the largest proportion living in urban areas are the Andoa and the Pastos (48% and 41%, respectively). In the Bolivarian Republic of Venezuela, almost the entire population of the Yanomami, Hoti, Mako, Shiriana and Eñepa indigenous peoples is rural while some 85% of the Guajiros, Añú and Wayuu live in cities.

In Brazil, Colombia, Costa Rica and Panama, where censuses can identify residence in indigenous territories, it was found that in Brazil and Colombia about 42% lived outside the territories, rising to more than half of indigenous persons in Costa Rica and Panama (65.5% and 53.2%, respectively). This reflects the difficulties currently facing indigenous peoples to remain and survive in their territories.

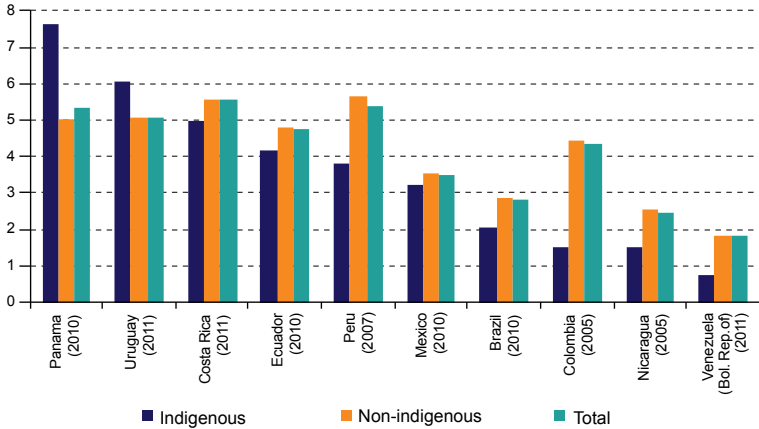
A look at the territorial distribution of the indigenous population according to political and administrative divisions confirms a high concentration in certain areas. Among them are the states of north and north-east Brazil (two thirds of the country's indigenous population as a whole), especially the State of Amazonas; the Atlantic and Pacific coastal regions of Colombia (more than 75% of the total); the departments of Limón and Punta Arenas in Costa Rica (70% of the total); the Sierra and Amazon regions in Ecuador (more than 90% of the total indigenous population of the country); the Sierra region in Peru (more than 70% of

the total indigenous population); and the State of Zulia in the Bolivarian Republic of Venezuela (61% of the total indigenous population). Nevertheless, it should be borne in mind that these results are determined by the most numerous indigenous peoples; asymmetries in population size among peoples, as discussed earlier, mask the specific status of the less numerous ones.

Information on recent internal migration flows between the larger administrative divisions in the 2010 census round in 10 countries with available data show some 816,000 indigenous individuals migrating between major administrative divisions in the five years prior to each census. In general, indigenous individuals are still migrating less than non-indigenous individuals, reflecting their link to their territories above and beyond any adversities. Figure III.1 shows that this lower mobility is very obvious in Colombia and Peru but that the hypothesis of lower mobility is not proven in Panama or Uruguay.

The reprimarization of the region's economy, with its focus on the extraction of natural resources and the conflicts mentioned above, could be driving migration rates up. However, it is difficult to assess the extent to which this is the case, not only because the 2000 and 2010 census rounds are not 100% comparable in terms of the approach to ethnic self-identification but also because it is quite likely that movements between major administrative divisions are not really driven by these pressures. Comparisons between the 2000 and 2010 census rounds indicate very small changes in the percentages of internal migrants—hence the need for detailed analysis at a smaller territorial scale. By way of illustration, the 2010 census in Ecuador showed that expulsion and the decision to stay are both ways in which the incursion of extractive industries shapes indigenous peoples' mobility patterns. In the province of Morona Santiago, in the Ecuadorian Amazon, cantons affected by the recent entry of oil companies show no indigenous migration as an explicit expression of territorial defence. In other cantons, where the extractive industry dates back a long time, the indigenous exodus is alarming, possibly as a result of environmental degradation. In some cantons the balance is clearly in favour of non-indigenous immigration related to extractive activities, further exacerbating the situation because of the negative impact of this migration on indigenous territories, as documented in qualitative studies.

Figure III.1
Latin America (10 countries): internal migrants between major administrative divisions in the five years prior to the census, by ethnicity, latest census
(Percentages)



Source: Prepared by the authors, on the basis of Latin American and Caribbean Demographic Centre (CELADE)-Population Division of ECLAC, special processing of census microdata.

With regard to the main points of origin and destination, the major administrative divisions with the greatest draw for indigenous persons are the most highly developed ones in each country (which usually contain the capital city and other cities of national importance), as is the case with the non-indigenous population. But indigenous migrants, men and women alike, also tend to prefer destinations in geographic areas close to their ancestral territories. Part of indigenous migration is drawn by alternative development poles, mainly the agricultural export sector. The major administrative divisions associated with their territories tend to have a net population loss. These cases show that while the legalization of indigenous territories is a prerequisite for territorial rights, other effective measures are needed to ensure tangible progress in improving their economic and social conditions.

Setting aside the positive potential of indigenous migration to cities (often in response to survival strategies and not necessarily involving de-linking from territories of origin), it is important to consider its negative aspects. Case studies have found that indigenous migrants are subject to extreme poverty or end up living in marginal areas with environmental

and social risks and without security. And migrants encounter difficulties in maintaining and exercising their identity and culture and in accessing services and employment opportunities in cities owing to structural discrimination. This is particularly true for young women and men.

Particular attention must be paid to indigenous women because evidence indicates that they fare worse, not only in comparison with the non-indigenous population but also compared with indigenous men. During the migration process (and even more so when it comes to forced displacement), indigenous women are very often subjected to physical abuse and sexual violence. In places of destination indigenous women face more serious barriers than men in accessing basic social services, and they are more likely to work in domestic service occupations, in maquila industries or in informal own-account activities with extremely precarious working conditions such as miserable wages, total lack of social security and health coverage, and even trafficking and sexual exploitation. Traditional cultural patterns require indigenous women to assume responsibility for all reproductive activities in their homes, in addition to shouldering a very large burden of productive activities. At times the entire burden of responsibility for sustaining their homes falls to them because of their partners' unstable job situation.

Recommendations

In view of these data on the specific distribution of indigenous persons and peoples in the territory, as well as their mobility and related specific vulnerabilities, some policy recommendations are outlined below.

- In designing and implementing public policies on territorial impact, consideration must be given to the wide diversity of situations among indigenous peoples, so that ensuring indigenous peoples' right to participation helps to ensure more realistic and effective policies in the territories.
- States should implement policies to address impoverishment and difficulties of access to essential services for indigenous peoples living in cities. These policies should be based on a human rights perspective, which therefore implies considering both the individual and the collective dimension and bridging the urban-rural divide. In particular, the right to cultural integrity must also be guaranteed in cities.

- Migration cannot be the only way for indigenous peoples to improve their living conditions. The wide variety in terms of magnitude, routes, causes and consequences of indigenous migration in the region must be taken into account in public policies so that, in conjunction with indigenous peoples, living conditions in their territories of origin are improved while respecting the right to self-determination of indigenous peoples.
- There is a need for deeper understanding of the migration of indigenous peoples. Censuses taken this decade provide a statistical opportunity that should be seized to rebuild geographical units of analysis that make sense for indigenous peoples above and beyond the legal status afforded by State recognition. These studies must incorporate and be complemented by a qualitative assessment of these processes and should be carried out jointly with indigenous peoples.
- Considering the crucial role that indigenous women play in maintaining sociocultural ties and the cohesion of their homes and communities, States should take all actions necessary to eliminate the violation of their rights by creating conditions that facilitate their access to basic services and opportunities for improving the quality of life for them and their homes. Similarly, the efforts of States should focus on eliminating violations of the rights of girls and boys, especially those who migrate without accompanying family members or older caregivers.

D. Cross-border mobility of indigenous peoples: international migration and ancestral mobility

Indigenous migration is not only an internal dynamic in the countries of the region, but also a crossborder phenomenon in many cases. Accordingly, indigenous international migration has been receiving more attention in recent years.

In light of sociohistorical processes, a conceptual distinction must be made between actual indigenous international migration and ancestral territorial mobility, which occurs in the case of indigenous peoples who were split apart when the boundaries of newly created States were drawn. Data from the 2010 round censuses confirm a phenomenon first seen

in the 2000 censuses: indigenous migration is primarily a cross-border phenomenon, from which the two cited trends are inferred. Regardless of the causes, migrants maintain social and economic ties with their communities of origin and reproduce sociocultural traditions in their communities of destination, sustained by family networks and participation in organizations that uphold ethnic identity (ECLAC, 2007).

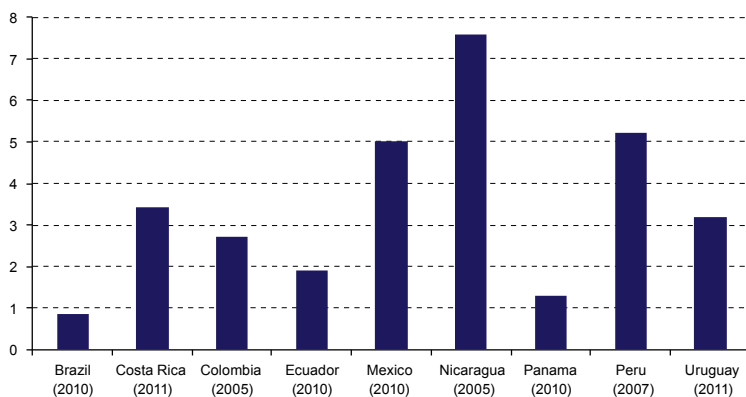
Given the characteristics of international mobility in the region, the rights dimension is doubly present in the case of indigenous peoples and the problems they face. Their vulnerability—due to their dual status as migrants and members of indigenous communities—is exacerbated by the absence or inattention of the State and their isolation from family and community networks.

In the nine countries with available data, the corresponding censuses report more than 83,000 indigenous international immigrants. Looking beyond the specific characteristics of each community and national context, some general patterns and trends with respect to indigenous international migration in the countries of Latin America begin to emerge. Although mobility increased in several countries over the last intercensal period, indigenous migration continues to represent a small proportion of the total volume of international migration in the countries with available data, as shown in figure III.2. At one extreme, not even 1% of the total number of international immigrants in Brazil are indigenous, whereas in Nicaragua, indigenous immigrants make up over 7% of the total, with the figure varying around 4% to 5% in Mexico and Peru.

Although the situation varies, a characteristic feature of indigenous international migration is that most immigrants are men, with the exception of Mexico, Peru and Uruguay, where most are women. Migration has an undeniable impact on the reconfiguration of roles in the home, family and community. As a result of the migration of men, or of women themselves, the latter assume new roles of leadership and responsibility in their communities. Female participation has led to a number of qualitative transformations in networks, roles and gender relations, which can be seen in the connections that are made and in the new migratory social transnationalism (Morales, 2007). However, it also means that indigenous women are exposed to grave new situations of vulnerability, given their female, migrant and indigenous status.

A first look at settlement patterns reveals that indigenous immigrants are more likely to settle in rural areas than their non-indigenous counterparts (except in Uruguay), which is related, in part, to a pattern of ancestral mobility. In five countries with data available from two censuses, there was a relative increase in urban settlement rates, except in Ecuador (see figure III.2). However, patterns vary considerably among the region's countries: in some countries, indigenous international immigrants settle mainly in rural areas (Nicaragua and Panama), whereas in others, settlement is evenly divided between the city and the countryside (Costa Rica, Ecuador and Mexico), and in still others, immigrants tend to put down roots in the city (Brazil, Colombia, Peru and Uruguay).

Figure III.2
Latin America (9 countries): proportion of total international immigrants who are indigenous, censuses between 2005 and 2011
(Percentages)



Source: Latin American and Caribbean Demographic Centre (CELADE)-Population Division of ECLAC, on the basis of special processing of census microdata.

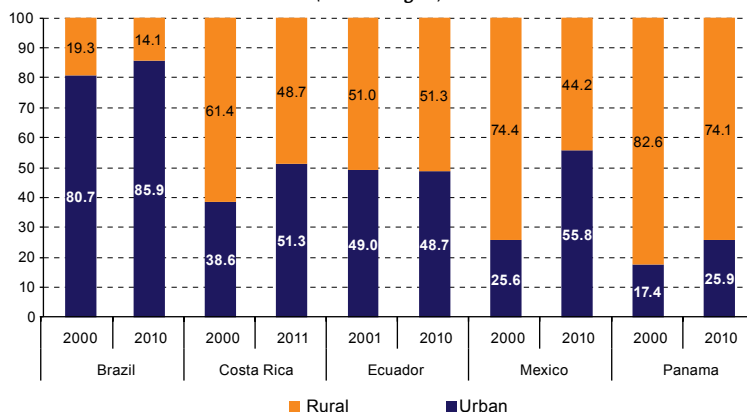
In relation to origin, as is the case with migration generally within the region, the vast majority of indigenous immigrants come from other countries in Latin America, primarily adjacent countries. However, there are also cases of indigenous communities that migrate to countries outside the region, with younger generations subsequently returning to the countries of origin of their parents (as in the case of indigenous

immigrants in Mexico who were born in the United States, or Spanish-born Otavalans who have returned to Ecuador).

An analysis of settlement patterns by major administrative divisions points to migration corresponding to mobility within ancestral territories, such as indigenous international migration among the Pastos, 60% of whom reside in the Ecuadorian province of Carchi, which borders the Colombian department of Nariño, which is home to 84% of Ecuadorian-born Pastos international immigrants. However, the figures reveal other migratory patterns too. For example, capital cities attract flows of indigenous international migrants regardless of the presence or not of ancestral territories straddling two or more countries. There is also the case of indigenous immigrants from origin communities located in a single country —such as Ecuadorian-born Otavalan immigrants residing in Colombia— who migrate to neighboring countries as part of a type of historical mobility. These are patterns associated with trade activities that entail some degree of mobility into territories beyond the traditional ethnic boundary.

Against a backdrop of important but insufficient progress towards recognizing and enforcing the rights of indigenous peoples, and beyond the regional diversity that exists in terms of the magnitude and characteristics of indigenous mobility, the figures clearly show that migration across national borders is another challenge that States should take up as part of actions to close gaps. For example, granting dual citizenship to members of indigenous territories that straddle two countries —a measure that is in the works in Colombia and the Bolivarian Republic of Venezuela— is a path that should continue to be pursued in the region. The Andean Community and the Southern Common Market (MERCOSUR) have been making interesting advances since the last decade in terms of allowing unrestricted circulation and easing migration procedures at border crossings and residency requirements. These measures may not be explicitly formulated for indigenous peoples, but indigenous peoples nonetheless stand to benefit from them inasmuch as they are part of the dynamic of mobility at borders, and the measures could be further developed to address situations specific to these communities.

Figure III.3
Latin America (5 countries): distribution of Latin American and Caribbean-born indigenous international migrants in the destination country, by urban or rural residence, various censuses around 2000 and 2010
(Percentages)



Source: Latin American and Caribbean Demographic Centre (CELADE)-Population Division of ECLAC, on the basis of special processing of census microdata.

These advances, which in some cases have been in place for over a decade, are necessary for achieving greater recognition of the rights of indigenous peoples whose territories are spread across borders, but they are not enough. This is reflected in the Declaration of the II Continental Summit of Indigenous Women (La María Piendamó, Cauca, Colombia, November 2013), which states, “[...] the borders that prevent us from moving freely within our territories have especially impacted our lives as women” (Enlace Indígena, 2014). A similar sentiment was expressed by the Global Indigenous Preparatory Conference for the Plenary Meeting of the World Conference on Indigenous Peoples in the Alta Outcome Document (June 2013), which recommends, “[...] the repeal and/or discontinuance of ‘anti-terrorist,’ national security, immigration, border control and other special laws, regulations, operations and executive orders that violate the rights of Indigenous Peoples.” (WCIP, 2014).

In other words, institutional, regulatory and political obstacles continue to affect the rights of indigenous international migrants. As a region, Latin America and the Caribbean has the most countries signatory to the International Convention on the Protection of the

Rights of All Migrant Workers and Their Families (17 countries as of February 2014), yet national laws must be harmonized in line with the terms of the Convention.

Recognizing indigenous international migrants who move back and forth across borders as subject to protection is a key element in promoting their rights, with special attention paid to the plight of women—who are made vulnerable by their migrant, indigenous and gender status—and of children. In the case of the latter, there is even greater cause for concern given the migrations of unaccompanied minors that the media have been reporting on, and the serious violations of their basic rights.

It is essential to recall that although the region has taken formal steps towards implementing standards of protection of rights, there are also situations in which efforts to execute policies and implement laws and regulations have stalled. This is no small matter when it comes to addressing indigenous cross-border mobility and the primary responsibility that States have to protect migrant rights: in many cases, the specific vulnerabilities that affect indigenous migrants are exacerbated by problems that affect migrants generally, regardless of their ethnicity or nationality, such as irregularities, trafficking and slavery and forced migration.

Recommendations

Based on these findings, the policy recommendations are as follows:

- As ECLAC has been urging in recent decades, it is of utmost importance for the countries that have not yet done so, and especially those that are migrant destination countries, to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, since it adds another level of protection for indigenous people who are international migrants.
- It is essential for States to take all necessary precautions and measures to protect and guarantee the integrity of indigenous and non-indigenous children who cross borders, with unconditional respect for the best interest of the child, in a migratory context in which the spotlight is on the migration of unaccompanied minors, who tend to be victims of mistreatment, violence, abuse and sexual and labour exploitation.

- Given the complexity of migratory dynamics in border regions and the specific problems that characterize these dynamics, it is crucially important to strengthen the presence of the State in terms of the provision of health services, particularly sexual and reproductive health, for indigenous and non-indigenous male and female migrants, with a special emphasis on women, who tend to be more exposed to acts of violence and abuse.
- In the case of indigenous peoples whose territories have been divided by national boundaries, mechanisms to allow for the unrestricted circulation of their members must be created or strengthened. Dual citizenship for members of indigenous communities straddling both sides of a national border is one option. The modalities should be agreed upon by the respective countries and indigenous peoples, and advances towards regional integration and bilateral or subregional agreements in force can be useful in this regard. Groups in voluntary isolation who are forced to move due to pressure on their territories constitute a special situation. Thus, bilateral or subregional agreements, mainly between countries in the Amazon basin and the Chaco region, must take into account the United Nations guidelines on peoples in voluntary isolation and initial contact and the rules and regulations of the Inter-American Commission on Human Rights (IACHR).
- Efforts must be redoubled and resources rallied to look into and investigate the cross-border displacement of indigenous peoples caused by the environmental effects of those industries and pressure and/or violence perpetrated by certain companies, para-State groups and criminal organizations against communities and natural habitats and ecosystems of ancestral territories in the affected areas.
- With respect to destination countries, the figures indicate that attention should be focused on the situation of indigenous international migrants who settle in large cities, which also entails challenges in terms of formulating pluricultural policies in all areas of the lives of indigenous individuals and groups.
- In terms of information, it is critical to continue gathering knowledge about the sociodemographic characteristics of

the indigenous individuals and groups that are experiencing international migration, by fine-tuning existing instruments and conducting specific studies. In the case of censuses, the self-identification question must also be asked of foreign-born individuals, and the possibility of specifying to which indigenous group a person belongs must also be explored.

- Given the complexity of indigenous mobility, qualitative and ethnographic studies must be conducted, all of which will lead to greater understanding of the processes of social and cultural reproduction of the indigenous peoples in the region that are moving across borders and settling in cities as well as the countryside.

IV. The right to well-being of indigenous peoples

A. The right to health: the need for a holistic approach

For indigenous peoples, health is viewed as the harmonious coexistence of human beings with nature, with themselves and with others in pursuit of well-being. The indigenous concept of health melds physical, mental, spiritual and emotional elements, from the point of view of both individuals and communities, and has political, economic, social and cultural components. It addresses the historical experiences and worldviews of each group, and beliefs and practices around health become part of the community code.

In view of the foregoing, the right to health of indigenous peoples should be understood as having both an individual and a collective component, and it is clearly interdependent of the enjoyment of other human rights. At present, the minimum standard summarized in the United Nations Declaration on the Rights of Indigenous Peoples establishes the following: (i) indigenous individuals have the right of access, on a nondiscriminatory basis, to health care; (ii) they have the right to the highest attainable standard of physical and mental health by means of adequate and quality access; (iii) indigenous peoples have the right to promote, develop and maintain their own institutions, which means that States must take measures to ensure not only the right of indigenous individuals to health, but also the collective right of indigenous peoples to promote and strengthen their systems of traditional medicine; (iv) they have a right to their traditional medicines and to maintain their health

practices, including the conservation of their medicinal plants, animals and minerals, as well as territorial spaces of vital interest for the health-sickness-healing process, which generates an indissoluble link with territorial rights; and (v) their right of political participation entails meaningful involvement in the design and social control (resources) of the health policies and programmes that affect them (United Nations, 2007).

In the Americas, the Health of the Indigenous Peoples Initiative, established in 1993 by the Pan American Health Organization (PAHO), has been instrumental for the region. The initiative was launched in recognition of the following: (i) the need for a holistic approach to health; (ii) the right to self-determination of indigenous peoples; (iii) the right to systematic participation of indigenous peoples; (iv) respect for and revitalization of indigenous cultures; and (v) reciprocity in relations between diverse actors (PAHO, 1993).

In this framework, the various United Nations human rights treaty organizations have made myriad observations on the health status of indigenous peoples in the region, expressing concern about their higher morbidity and mortality rates, which suggest that indigenous peoples are experiencing cumulative and more intense harm. In particular, they have cited child and maternal mortality, unwanted pregnancy and sexual abuse derived from structural violence; the incidence of chronic diseases caused by environmental pollution and extractive industries; mental health problems primarily affecting youth; and the lack of access to culturally sensitive health services. The United Nations Permanent Forum on Indigenous Issues (UNPFII) has zeroed in on the health situation of indigenous peoples, developing content and preparing a broad set of recommendations that have not yet been fully implemented. For their part, the United Nations member agencies have been providing systematic support to help the region's countries take action to close gaps as they enforce the right to health.

The structural discrimination that affects indigenous peoples, along with the impoverishment resulting from the systematic plunder of their territories and the loss of traditional ways of life, obstacles to political participation and institutionalized racism, have a strong adverse impact on the health of indigenous individuals and communities. Although the data is still insufficient and fragmented, it shows that the epidemiological profile of indigenous peoples is polarized and protracted, with various

overlapping stages of epidemiological transition marked by persistently high rates of incidence and mortality from both communicable diseases, such as tuberculosis, and non-communicable diseases, such as diabetes associated with malnutrition and obesity. For example, indigenous communities have higher rates of tuberculosis than the general population in the Bolivarian Republic of Venezuela, Brazil, Colombia, Chile, Mexico, Paraguay, Peru and other countries (see table IV.1).

Table IV.1

Chile, Paraguay and Peru: incidence of tuberculosis in the indigenous and non-indigenous population, per 100,000 inhabitants, selected years

	Health services	Indigenous	Non-indigenous
Chile, 2004-2006	Arica	121.9	18.0
	Antofagasta	57.3	7.9
	Arauco	28.0	12.0
	Bío-Bío	23.0	11.9
	Araucanía Norte	16.2	10.5
	Araucanía Sur	21.6	10.0
	Valdivia	21.5	10.4
	Osorno	52.7	17.5
Paraguay, 2005 and 2010		Indigenous	Total
	National, 2005	393.0	38.1
	National, 2010	351.0	32.8
Peru, 2005	Department	Aymara	Non-Aymara
	Puno	33.0	19.6
	Moquegua	68.0	52.9

Source: Prepared by the authors, on the basis of data from the Ministry of Health of Chile, Ministry of Health and Social Welfare of Paraguay, and Dante R. Culqui and others, "Tuberculosis en la población indígena del Perú 2008"; *Revista Peruana de Medicina Experimental y Salud Pública*, vol. 27, No. 1, Lima, 2010.

With respect to non-communicable diseases, diabetes has reached epidemic proportions in some indigenous communities, threatening their very existence. It has also been found that people with diabetes are at higher risk of contracting tuberculosis due to their weakened immune response.

Mental health is another area deserving of special attention. Many indigenous peoples continue to face problems of violence due to the imposition of development projects, forced displacement and expropriation of their lands, armed conflict and economic exploitation, all with psychological repercussions for individuals and communities.

Compounding these problems, which are exacerbated by poverty and marginalization, are other types of social breakdown, such as alcoholism, drug abuse, depression and suicide, especially among young people. In 2003, the Permanent Forum on Indigenous Issues was already shining a light on the high rate of mental illness and suicide in indigenous communities, particularly among adolescents and young adults. The number of indigenous children, adolescents and young adults who take their own lives has reached alarming levels in Argentina, the Bolivarian Republic of Venezuela, Brazil, Colombia, Chile, Nicaragua and Paraguay, a phenomenon that has been observed for several years now.

By way of illustration, while indigenous people represent 0.4% of Brazil's total population according to the 2010 census, 1% of all suicides in the country during the period 2008-2012 occurred within the indigenous community. In Amazonas, indigenous people account for 4.9% of the total population but 20.9% of suicides. In Mato Grosso do Sul, indigenous people account for 2.9% of the population but 19.9% of suicides. Also in Mato Grosso do Sul, around half of all suicides are committed by young people, and in the 13 municipios with the highest rates of indigenous suicide, between 56% and 78% of the victims are young people, a figure that is truly astounding (Waiselfisz, 2014).

Although there is a range of situations based on the socioterritorial context of each group, the excess mortality rate from suicide that is systematically higher among indigenous people than non-indigenous people indicates, first, that they share a series of social determinants (such as ethnicity, poverty and discrimination) that are interacting with an escalation in stress factors caused by pressures external and internal to the communities. Combined with an increasing loss of community organization mechanisms, accelerated cultural changes and an entry to modernity without cultural control, this begins to explain how and why indigenous youth are disproportionately affected by suicide.

Implementing sexual and reproductive rights is another major challenge that the region must take on, with gaps in implementation particularly affecting indigenous women, as well as children, adolescents and young adults. The following paragraphs delve into some aspects of this challenge, and it should be noted that human immunodeficiency virus (HIV) is cause for great concern given that some local data, in Panama and Brazil for example, show that the disease is having a disproportionate

effect on indigenous peoples (UNPFII, 204). Cervical cancer is another area of growing concern on the health agenda for indigenous women. Some studies find high morbidity and mortality from this cause and argue that the issue has received insufficient attention from the various sectors, as the “maternalization” of women’s health has overshadowed the problem, which is highly preventable if diagnosed in time.

In addition, concern is growing over the negative impacts on health in general and on mothers, children and youth, in particular, of the use of chemicals associated with agro-industry and the extractive industries and the environmental contamination of indigenous territories. For example, Chile’s Ministry of Health reported high rates of stomach cancer in some mining areas in the northern part of the country in the period 2004-2006, but further studies are needed to establish the causal relationships and design effective prevention policies. Unfortunately, the region’s countries do not have systematic data in these areas.

In terms of State responses, it should be noted that the right to health of indigenous peoples as differentiated groups is enshrined in the constitutions of the Bolivarian Republic of Venezuela, Ecuador, Mexico and the Plurinational State of Bolivia. Nicaragua recognizes the right of autonomy of indigenous peoples and ethnic communities along the Caribbean and has created Autonomous Regions, which are responsible for health administration, ensuring coordination with indigenous traditional medicine. In practice, to manage cross-cultural health, 17 countries in the region have some type of State infrastructure with that specific mandate. These are vice ministries, national offices, cross-cultural health programmes within the health ministries, national commissions on indigenous affairs and regional health commissions in autonomous regions, with diverse institutional hierarchies and availability of resources.

The vast majority of countries in the region have enacted legislation in this area, but with different approaches, areas of emphasis and specific features, ranging from recognition of the right to health as an individual good, mentioning indigenous peoples as priority groups, to recognition and promotion of collective rights and traditional medicines, such as in the case of the Plurinational State of Bolivia. For their part, indigenous peoples are preparing specific proposals, from the implementation of a Regional Programme of Indigenous Health, which respects each group’s

indigenous language, views and knowledge, gives their leaders an active role, and prioritizes training for indigenous women and documentation of citizenship for children, to the construction of life and well-being plans for each group. These plans comprehensively address health-related issues along with territory, education and culture, economy and production, institutional development, organization and conflict resolution.

Despite the efforts made to establish cross-cultural health systems, a major obstacle to measuring the impact of these experiences has been the lack of statistical data disaggregated by ethnicity in the countries. Therefore, there is no systematic generation of quantitative data, and the data that is available pre-dates implementation of activities or is local in scope, such that the main assessments are largely based on qualitative aspects.

B. The status of indigenous infants and children

There is growing concern over the rights of indigenous children in Latin America due to the serious deprivations facing these boys and girls, many of whom live in extreme conditions of material poverty. Given these conditions, it is crucial that States allocate efforts and resources so that information can be generated and policies designed and implemented to shine a light on the plight of indigenous children, adolescents and young adults, a priority that has been repeatedly identified by human rights treaty organizations, in particular the Committee on the Rights of the Child, the United Nations mechanisms for the rights of indigenous peoples, and at the regional level, the various intergovernmental agreements, the Montevideo Consensus on Population and Development being among the most recent (2013), which sets the post-2014 agenda on population and development in Latin America. This has also been identified as a priority area by the various regional and international summits and agreements promoted and organized by indigenous organizations, and of course the Alta Outcome Document emphasizes the situation of indigenous children.

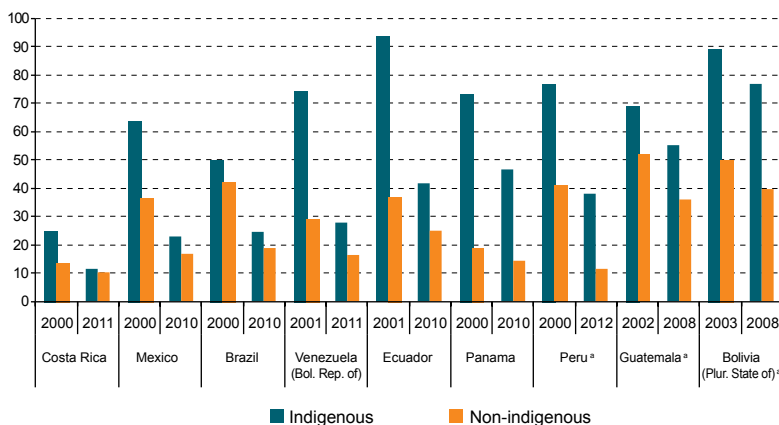
In general terms, indigenous children experience alarmingly high rates of poverty in Latin America, well above the rates for non-indigenous children and other demographic groups. According to ECLAC/UNICEF (2012), in 2000-2005 nearly 63% of children in the region were subject to some type of deprivation, and the situation was worse for indigenous

children, for whom the rate is 88%. This situation is not only a flagrant violation of the rights of children based on international standards but also represents a high cost for society in terms of human capital and social inclusion. Because indigenous groups have age structures that are still young, these wide gaps threaten their physical and cultural survival.

The status of indigenous children with respect to the right to education, which is key in this stage of life, is analysed in detail in section D of this chapter. The emphasis here is on the impacts of discrimination and structural and institutional violence on the health of indigenous children. Chapter III, on territorial rights, pointed up the disproportionate effect of chronic and global malnutrition on indigenous children, with data indicating that efforts are still falling short. Another very direct indicator of these inequalities is infant mortality (death in the first year of life) and child mortality (death before the age of five), with most deaths in the latter case being preventable.

Data from the 2010 round censuses and the latest available surveys are showing that infant mortality in the indigenous population continues to be higher across the board than in the non-indigenous population, and by a large margin, except in Costa Rica. The largest gaps are seen in Panama and Peru, where indigenous communities experience infant mortality at three times the rate in non-indigenous communities, and in the Plurinational State of Bolivia where the rate is over twice as high in the indigenous population. These disparities are seen in urban and rural settings but are generally larger in rural areas, regardless of the level of mortality. Child mortality rates follow a similar pattern. At one end of the spectrum, Costa Rica and Uruguay report the lowest indigenous child mortality rates, at 11.5 and 15.8 deaths per 1,000 live births, respectively. At the other end, Panama and Guatemala report 46.4 and 55 deaths per 1,000 live births, respectively, and conditions are worse still in the Plurinational State of Bolivia, where 77 of every 1,000 indigenous boys and girls die before reaching the age of five (see figure IV.1). The situation in the cities is somewhat better than in the countryside, but ethnic inequalities are persistent and, with the exception of Brazil, always more pronounced in the countryside. There is also considerable variability by indigenous group and the corresponding territorial context. Moreover, national averages for indigenous groups can obscure major disparities based on territorial context and indigenous group.

Figure IV.1
Latin America (9 countries): child mortality per 1,000 live births,
by ethnic status, around 2000 and 2010



Source: Economic Commission for Latin America and the Caribbean (ECLAC), *Social Panorama of Latin America 2006* (LC/G.2326-P), Santiago, Chile, 2007. United Nations publication, Sales No. E.06.II.G.133; Economic Commission for Latin America and the Caribbean/Pan American Health Organization/United Nations Population Fund (ECLAC/PAHO/UNFPA), "Mortalidad infantil y en la niñez de pueblos indígenas y afrodescendientes de América Latina: Inequidades estructurales, patrones diversos y evidencia de derechos no cumplidos," *Project Document*, LC/W.348, Santiago, Chile, Economic Commission for Latin America and the Caribbean (ECLAC), 2010; and Latin American and Caribbean Demographic Centre (CELADE)-Population Division of ECLAC, on the basis of special processing of census microdata and Demographic and Health Surveys.

^a Figures come from the Demographic and Health Surveys.

There has also been progress. Significant reductions have been made in infant and child mortality over the past 10 years. Mexico and the Bolivarian Republic of Venezuela achieved a reduction in child mortality of around 64% between 2000 and 2010. The rate was cut by more than half in Costa Rica (54.0%), Brazil (51.4%), Ecuador (55.6%) and Peru (50.5%), and Panama reduced it by 37%. The figures from the Plurinational State of Bolivia (14%) and Guatemala (20%) are less encouraging, but they come from demographic and health surveys from 2002 and 2003, respectively, and 2008, a period of just five years; if the annual rate of decline in child mortality is calculated, the results are similar to several of the aforementioned countries. All told, if the Bolivarian Republic of Venezuela, Brazil, Costa Rica, Ecuador and Mexico continue to reduce child mortality at the present rate, they will

easily achieve the Millennium Development Goal (MDG) of a two-thirds reduction by 2015 not only at the national level but also for indigenous children. With Peru, it will be close, so the country should redouble its efforts. Panama, Guatemala and the Plurinational State of Bolivia need to step up their efforts. In terms of ethnic inequalities, figure IV.1 shows that five of the nine countries —the Bolivarian Republic of Venezuela, Costa Rica, Ecuador, Mexico and Panama— are closing the gap.

The most successful intercultural health and education policies and programmes in the region have targeted indigenous children and women, and many initiatives have benefitted from varying degrees of participation by indigenous organizations and from the support of agencies of the United Nations System. However, the inequalities in infant and child mortality reflect the structural inequities that continue to affect indigenous peoples in the region. These gaps will not be resolved until the health of indigenous children is addressed synergistically with the rest of sector policies, with due attention to the collective dimension of the situation of indigenous groups. Furthermore, the global commitment to implement the United Nations Declaration on the Rights of Indigenous Peoples must be renewed and strengthened.

Any approach must address institutional violence against indigenous peoples and the numerous conflicts it begets for the legitimate recovery and defense of their territories, with devastating effects on indigenous children. Institutional violence has been perpetrated repeatedly in the vast majority of the region's countries. The occupation of indigenous territories by police forces makes indigenous children victims of harassment and repression, and there have even been cases of criminal punishment of minors, in violation of international commitments assumed by the States in the area of children's rights.

From a human rights perspective, material poverty is another expression of structural violence. The 2000 censuses revealed that 88% of indigenous children were subject to some type of deprivation (ECLAC-UNICEF, 2011). Although in some countries, the deprivations affecting indigenous children fell between 2000 and 2010, a much greater improvement was seen for non-indigenous children, which suggests that the gap between these groups has widened. The 2010 round of censuses offers an opportunity to examine whether these trends are occurring throughout the region.

C. Indigenous women

There is no longer any doubt that indigenous women and their organizations are a driving force in change processes involving the relationship between indigenous peoples and States, as described in the first chapter of this paper. At present, these demands revolve around the deep ethnic, gender and generational inequalities that affect them. Drawing on an extraordinary capacity to establish national, regional and international alliances, indigenous women back up their political activism with content and proposals, promoting the rights of indigenous peoples in the various international forums. At the regional level, for example, the Continental Network of Indigenous Women of the Americas (ECMIA) promotes training, research, development of proposals and political advocacy in the following areas: nonviolence and ancestral justice; territory, environment, climate change and food sovereignty; training in international legal instruments; intellectual property and biodiversity; health and spirituality; sexual and reproductive health, adolescent pregnancy prevention, maternal mortality and intercultural health policy advocacy; political participation; indigenous youth and intercultural education; and racism and discrimination.

Throughout this study, the specific situation of women has been mentioned. This section focuses on sexual and reproductive health and the eradication of violence, since these are precisely the areas where, in the framework of social determinants of health, ethnic and gender inequalities converge most clearly to the detriment of indigenous women and impact their fundamental right to life. Therefore, this is a priority issue not only for the organizations of indigenous women, including girls and young women, but also for the States and the international community, as established in the various regional and international agreements in force.

Promoting and guaranteeing sexual and reproductive rights in multi-ethnic contexts means creating the right conditions for individuals and couples to exercise these rights according to their own practices and model of well-being. Clearly, the consensus indicators established to monitor the Millennium Development Goal of guaranteeing universal access to reproductive health care by no later than 2015 are insufficient from this perspective, and owing to the lack of culturally relevant information, the indicators and underlying concepts should be re-evaluated.

Family planning and cultural beliefs

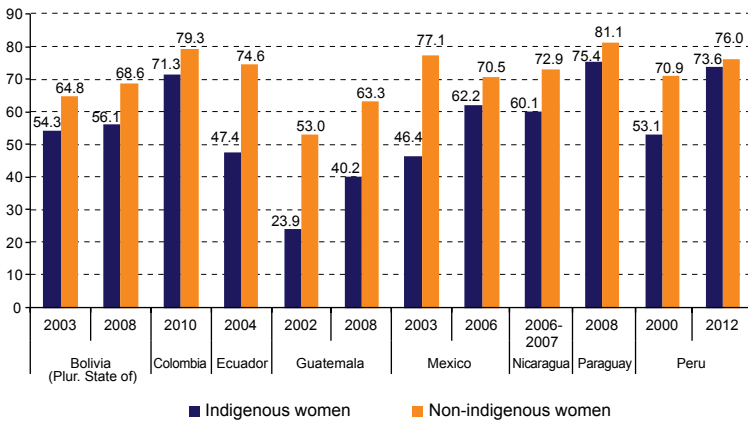
Based on plentiful evidence, there is consensus around the fact that family planning is very beneficial for the health of women, children and families, mainly because it offers the possibility of spacing pregnancies and choosing from among various methods of contraception, which help reduce maternal mortality and improve women's health by preventing unwanted high-risk pregnancies and curbing the practice of unsafe abortions. In addition, some contraceptives improve women's health by decreasing the likelihood of transmission of diseases and protecting them against some types of cancer and other health problems (PAHO, 2004; ECLAC, 2013a). Therefore, failing to meet the demand for contraceptives among the population deprives women of the ability to exercise their right to health and limits, directly or indirectly, their ability to exercise other social and economic rights.

Information could be obtained for some of the region's countries on prevalence of the use of contraceptive methods, an indicator that is strongly inversely correlated with unmet demand for family planning services. Conditions vary across the region. Based on data from the latest available survey, Guatemala has the lowest rate of use, with 40% of indigenous women using some form of contraception. Meanwhile, in Colombia, Paraguay and Peru, the use rate surpasses 70% (see figure IV.2). Inequalities detrimental to indigenous women persist in all countries and are especially severe in Guatemala and Ecuador. Nevertheless, the most recent surveys show fewer differences between ethnic groups.

In addition, the unwanted pregnancy rate obtained for six countries in the region was higher among indigenous women than non-indigenous women, except in Paraguay. The rates for this indicator range from 19% in Nicaragua (2006-2007) to 43.5% in the Plurinational State of Bolivia (2008). These indicators reveal gaps in implementation of the reproductive rights of indigenous women. However, policy design should taken into account that acceptance of contraceptive methods and programmes is part of a complex process largely rooted in the pre-existing system of cultural beliefs that indigenous peoples have about menstruation, sexual relations, conception, gestation, pregnancy, birth, infertility, abortion, menopause and other subjects. Ethnographic studies have found that when oral contraceptives are introduced, the practice must be assimilated into a larger cultural framework for understanding how a woman's body

works and health in general. Although cultural beliefs are dynamic, a traditional practice is never simply replaced by a modern practice but rather acquires new dimensions as a result of assimilation into the cultural matrix and the existing knowledge base (ECLAC/PAHO/UNFPA, 2010). It is therefore essential to understand these matrixes, beliefs and perceptions if programmes are to be effective.

Figure IV.2
Latin America (8 countries): prevalence of contraceptive use
by ethnic status, around 2000-2012
(Percentages)



Source: Prepared by the authors, on the basis of special processing of Demographic and Health Surveys of the respective countries, except Mexico: National Women's Institute, *Fecundidad y preferencias reproductivas en las mujeres indígenas mexicanas. Panorama actual con base en los resultados de la Encuesta Nacional sobre la Dinámica Demográfica 2006*, Mexico City, Federal Government, 2009.

Several studies and diagnostic assessments, some conducted by indigenous women's organizations, have documented the low quality of services, as well as discriminatory practices and the lack of cultural sensitivity. Diagnostic assessments of note have been conducted in Peru, the Plurinational State of Bolivia and Ecuador as part of the United Nations Population Fund (UNFPA) project "Indigenous Women: Health and Rights" to support the governments of five countries in the region. Under this initiative, indigenous women in the three aforementioned countries have identified their main challenges and opportunities and have agreed on priority lines of action to guarantee their health and rights, including sexual and reproductive rights.

Adolescent pregnancy

The adolescent pregnancy rate among indigenous young women between 15 and 19 years old has fallen in the majority of the countries, with the exception of Ecuador. The largest declines have been seen in Costa Rica, Mexico, Panama and the Bolivarian Republic of Venezuela. However, in 15 countries with available data, the adolescent pregnancy rate is consistently higher among indigenous youth, ranging from nearly 12% of indigenous young women who are mothers in Uruguay to 31% in Panama. The largest ethnic gaps, in order of size, are in Panama, Costa Rica, the Bolivarian Republic of Venezuela, Brazil and Paraguay, countries where indigenous teenagers get pregnant at well over twice the rate of their non-indigenous peers. In the Plurinational State of Bolivia, Ecuador and Peru, the gaps are not as large.

The data confirm the adolescent pregnancy rates among indigenous youth fall when they have more years of formal schooling. However, in several countries, pregnancy rates are always higher among the indigenous population than the non-indigenous population, even when controlling for educational levels. Access problems—derived from economic and territorial factors—and cultural accessibility to sexual and reproductive health services by indigenous women and adolescents have been well documented in the region, but more research is needed to understand the relationship between the reproductive lives of indigenous women and communities and their sociocultural organization. To this end, a review could be conducted of the local studies that have been carried out in Brazil, which are very illustrative and useful for policy design. By convention, indicators are calculated for young women between the ages of 15 and 19, but pregnancy for an indigenous young woman in a traditional territorial area does not have the same implications as pregnancy for a young woman who has migrated to the city, so the figures need to be adequately contextualized. However, more attention must be focused on girls under the age of 15, inasmuch as the risks to life and well-being are considerably higher for this age group regardless of environment.

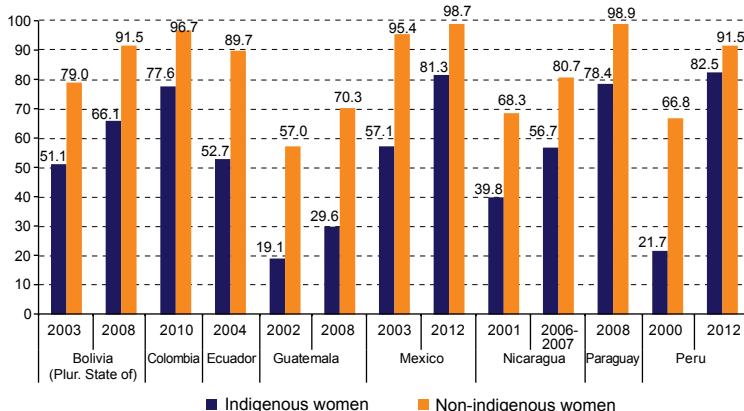
Maternal mortality

Maternal mortality is among the more urgent health problems, one that compromises the health and life of the mother, the newborn and the mother's other children. The limited availability of quality information on maternal mortality, a reproductive health issue of paramount importance,

is very troubling, especially in the case of indigenous women. Available figures are from targeted local studies, with no systematic time series data, and all show excess maternal mortality rates to the detriment of indigenous women. Given the lack of reliable information, one of the consensus indicators for monitoring this problem is type of birth care, due to the role of care in the prevention of maternal mortality.

Recent evidence shows that the proportion of births attended by health professionals is low across the board in the case of indigenous women, and among the countries with data from 2010 or thereabout, the Plurinational State of Bolivia and Guatemala have the lowest coverage (66.1% and 29.6%, respectively). In Guatemala midwives are extremely important, since they attend 62.3% of all births, and in the Plurinational State of Bolivia and Ecuador community and family play a key role, since they attend 28% and 35% of births, respectively. These situations also occur in the other countries, although to a lesser extent. However, progress has been observed in all countries for which there is time series data. In effect, significant advances in the proportion of professionally attended births among indigenous women have been verified, especially in Colombia, Mexico, Paraguay and Peru, countries where the rate is around 80%, as illustrated in figure IV.3.

Figure IV.3
Latin America (7 countries): births attended by skilled personnel,
by ethnic status, selected years
(Percentages)



Source: Prepared by the authors, on the basis of processing of data of Demographic and Health Surveys of each country.

Prenatal, birth and post-partum care is an area in which intercultural health has been widely promoted, beginning with the pioneering experiences in Guatemala and Mexico, which have incorporated practices and practitioners of indigenous traditional medicine, which would be reflected in the observed data and would be expected to contribute to reductions in maternal mortality among indigenous women. Nevertheless, it should be noted that intercultural care models are not widely established in the rural areas of the countries and in many cases do not follow accepted standards, placing midwives in a subordinate role to the health team, for example. Over the last decade, a series of conditional cash transfer programmes have been implemented, with conditions including institutional prenatal, birth and post-partum care. Notwithstanding the critiques that have been directed at these programmes, their effects could be limited to the short term and there is a real risk of setbacks in the region unless intercultural health care models are properly promoted and implemented.

Violence against indigenous women

As with the reproductive health of indigenous women, there is a lack of systematic information on the issue of violence against women, itself a severe expression of inequality and discrimination. Although national figures are not available, serious situations of violence against indigenous women and children have been recorded in the region and should be examined in the context of racism, colonialism and patriarchy. In this regard, indigenous women have made an important contribution to the way in which violence is viewed, drawing on their own perspective and introducing concepts such as structural violence, spiritual violence, violence against the Earth and healing processes. All these elements should be an integral part of diagnostic assessments and the identification of effective strategies.

According to the limited available data on domestic violence, indigenous women have suffered an act of physical or sexual violence at the hands of their partner at a rate of around 38% in Ecuador and Peru, 24% in Guatemala and 20% in Paraguay. However, there is no way to separate out the ethnic and gender biases that might be at play behind these figures, much less to provide a complete picture of the many expressions of violence against indigenous women and the multitude of contexts in which they occur. In the case of structural violence and

situations involving territorial defense, the information is also fragmented and scarce but nevertheless suggests the heavy toll taken on indigenous women and children.

The empowerment of indigenous women is essential to counter situations of violence, upholding the practices and beliefs that they regard as positive and challenging those that they feel are harmful. Several initiatives that follow this logic are under way in the region, including Women's Houses in Mexico, which provides health services and addresses violence against women in 12 states in the country. Empowering indigenous women also contributes to policy advocacy in this area, as seen in Ecuador, where a restructuring of the Justice Administration System has included priorities on the agenda of the indigenous women's organization; in the Plurinational State of Bolivia, where indigenous women have negotiated agreements guaranteeing their rights and ensuring their participation in justice oversight committees at the municipal level; and on the border between Brazil and Paraguay, where indigenous women and girls have been empowered to document and report violations of their rights, including trafficking, to name a few cases. These experiences have received significant and systematic support from the United Nations, through the corresponding agencies. This support must be continued and strengthened to consolidate the progress made.

Recommendations

In order to guarantee indigenous peoples' right to health, including sexual and reproductive rights, States should redouble their efforts so that policies, programmes and guidelines are designed and applied in accordance with existing standards, guaranteeing the right to free determination of indigenous peoples and their full participation in all activities that affect them. There is a need to promote a holistic and intercultural approach informed by indigenous perspectives in the area of health, including traditional medicine and health practices, as well as strengthen the empowerment of indigenous women, youth and communities for health care delivery and access.

It is urgent that States adopt the necessary measures, together with the indigenous groups, to ensure that indigenous women, children, adolescents and young adults receive protection and full guarantees

against all forms of violence and discrimination. It is particularly important to curb the violence associated with socioenvironmental conflicts and contexts of criminalization and militarization in indigenous territories, as well as address the mental health issues afflicting adolescents and young adults in particular, both in territories affected by conflicts and in urban centres.

As a general recommendation, it is crucial for international donors to renew their commitments and continue supporting the governments and the indigenous peoples through the diverse initiatives that have undoubtedly led to major advances in the region in all the areas mentioned. However, the discrimination and poverty to which indigenous peoples are subject have not yet been overcome in the region, so ongoing international support is key.

In addition, the following specific points should be considered:

- Implementing policies and programmes for intercultural health, including sexual and reproductive health, requires the negotiation of agreements, consensuses and mutual understandings. Intercultural dialogue requires genuine recognition of the knowledge systems, worldview and health concepts of indigenous peoples, including women, adolescents and young adults.
- Mechanisms need to be created and strengthened to enforce and evaluate compliance with public policies and health standards. Creative use should be made of the institutional resources of ombudsman's offices, for example through special reports on indigenous health, legislative initiatives, accountability, appeals to the executive branch and other strategies.
- Participatory processes must be strengthened to identify indicators and statistical tools and to build capacity so that those collecting data understand the perspectives of indigenous groups and especially of indigenous women and youth, and also so that indigenous communities make intensive use of information for policy advocacy, noting the gaps that they face.
- Strengthen the generation of information and knowledge on health problems from an indigenous worldview —on issues such as tuberculosis, diabetes, suicide, maternal health and sexual and reproductive health— enabling researchers to focus on the rights, gender and intercultural issues of the communities.

- It is important to generate more knowledge on chronic diseases, such as cancer, considering cultural and socioenvironmental factors, and in particular the health impacts of the extractive industries. The latter is a key input for consultation procedures that guarantee the right to free, prior and informed consent.
- Promote the exchange of experiences between the region's countries, including programmes supported by the United Nations, in order to build upon achievements and avoid repeating mistakes.
- Set up health networks with an intercultural focus that serve as learning communities and help to strengthen and advance intercultural health models, in line with the different socioterritorial contexts of indigenous peoples.
- Design and implement community strategies to comprehensively address mental health issues, with an emphasis on indigenous women, children and youth. Intercultural research is urgently needed on how depression manifests in youth.
- Develop and implement intercultural strategies for the prevention and treatment of diseases, especially those introduced through contact with Western society.
- Concerning the contributions of traditional medicine to health programmes, consideration must be given to the fact that indigenous communities, their healers and medicines are relegated to a subordinate position with respect to biomedical medicine. Thus, it is important to create democratic spaces that guarantee the dynamics and procedures for indigenous participation and decision-making and serve as opportunities for mutual learning.
- Recognizing the contributions of indigenous traditional medicine, research in this area cannot be isolated in a laboratory and removed from the cultural context that makes traditional practices effective and therapeutic. Therefore, it is suggested that a more comprehensive assessment of traditional medicine should be conducted, ensuring that empirical practices are studied in light of their symbolic and cultural dimensions.
- Another major challenge facing health institutions is to move beyond merely applying the practices of indigenous traditional

medicine to also incorporating the social and collective dimensions that make up the underlying ideology of indigenous traditional medicines. Only an intercultural process that fully reflects these dimensions can respond to the complex epidemiological profile of the indigenous peoples of Latin America.

- In addition to improving how violence against indigenous women and children is measured, it is necessary to develop diagnostics defined by the women themselves that are flexible and can be adjusted in real time to respond to their needs and build trust and confidence.
- State programmes or initiatives to eradicate violence, along with guaranteeing the participation of indigenous women's organizations in all stages of the process, should include opportunities for indigenous women to reflect on the definition of violence and its various manifestations from their own perspective, engage with indigenous children and youth to learn what they think about violence and how they experience it, and work with men, government representatives, ancestral and traditional authorities in the communities and health and education sector representatives.
- Processes to empower indigenous women continue to be central to efforts to counter situations of violence, upholding the practices and beliefs that they regard as positive and challenging those that they view as harmful.

D. The right to education

Education is a powerful tool in the fight to eradicate exclusion and discrimination, as well as a right that has long been demanded by the indigenous peoples of Latin America. The right to education is also essential to the full enjoyment human and collective rights. In general, although significant progress has been made in the countries of Latin America in terms of ensuring that indigenous children and youth have access to education, ethnic, generational and gender inequalities persist. Moreover, the data obscure geographic inequities and disparities between indigenous groups within each country. The most disadvantaged areas with respect to education indicators tend to coincide with indigenous territories.

A comparison of data from the 2000 and 2010 round censuses shows that progress on education in indigenous communities has manifested, for example, in a significant increase in school attendance rates among all age groups,⁵ (see figure IV.4). Specifically, children between 6 and 11 years of age are now starting school earlier, remaining in school for more time, and completing the various levels of schooling at a higher rate. In the eight countries with data available from the censuses taken in 2010 and 2011, attendance ranged from 82% in the Bolivarian Republic of Venezuela to 99% in Uruguay. Although school enrolment among 12- to 17-year-olds is much lower than in the younger age group—between 72% and 80% for the same group of countries—the improvement in the past 10 years is nonetheless encouraging. The age group that is least likely to attend school are the 18- to 22-year-olds, with an enrolment rate that does not exceed 40% in any country in the region (ranging from 24% in Mexico to 40% in Costa Rica).

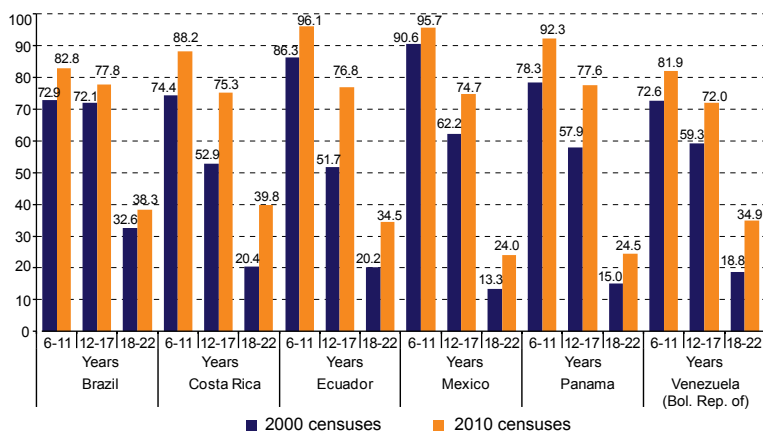
Census data also points to progress in educational persistence among indigenous women and girls and a sizeable increase in the percentage of young women between 15 and 19 years of age who completed primary school. However, these achievements are not enough, given the ethnic gaps that persist to the detriment of indigenous women, as well as territorial and generational gaps, which lead in the former case to sharp inequalities between the countryside and the city and between indigenous territories and other geographic areas of the country. This puts indigenous women at a clear disadvantage, particularly young women, just as they are entering the job market and making decisions about their reproductive lives.

In this context, State policies and action cannot overlook the fact that access to education, and thus to information, impacts the decisions and autonomy of indigenous women, as well as other aspects of their well-being and their families' well-being. The structural discrimination that affects indigenous women and communities manifests in the educational system in various ways and at various levels: delivery of services well below the recommended minimum standards compared with the services provided to other sectors of the population, poor geographic access, weak

⁵ The 6- to 11-year-old age group roughly corresponds to the official ages for primary education, the 12- to 17-year-old group to secondary education and the 18- to 22-year-old group to higher or university education. However, the percentages presented here refer only to attendance at some type of school, regardless of level.

infrastructure, absence of culturally appropriate educational policies and lack of mechanisms for effective community participation in teaching-learning projects and processes.

Figure IV.4
Latin America (6 countries): indigenous children and youth attending an educational establishment, censuses between 2005 and 2011
(Percentages)



Source: Latin American and Caribbean Demographic Centre (CELADE)-Population Division of ECLAC, on the basis of the Socio-demographic System on Indigenous People and Populations in Latin America (SISPPi) and special processing of census microdata.

The roles and functions assigned to indigenous women in certain more traditional contexts also condition educational access and persistence. Therefore, a detailed analysis is needed on how these aspects impact educational access and quality for indigenous women and girls, in each socioterritorial context (ECLAC, 2013b). The flip side of the progress on the school enrolment front is the loss of central aspects of the lives of indigenous peoples, such as language. Having their own language is a right and an essential part of the ethnic identity of any group (Expert Mechanism on the Rights of Indigenous Peoples, 2010) and has been among the fundamental claims of indigenous organizations. The right to use their own language is consistent with the desire to keep their culture alive and represents a basic pillar of identity, a practice that helps indigenous peoples endure.

Census data has made it possible to develop a more complete picture of this topic, inasmuch as most of the region's countries include questions

on this topic in their censuses, as well as questions on self-identification. Some of the findings show that many indigenous groups are working very hard to preserve their languages within their territories, but outside these communities only a small proportion of indigenous youth are speaking them. In other cases, indigenous languages are seriously threatened both in and outside the indigenous territories, and in yet other communities, indigenous languages are rapidly becoming extinct.

This is largely explained by the conditions that have shaped the entry of Latin America's indigenous peoples into modernity and globalization, which have contributed to a gradual loss of their languages and dialects, or to the loss of those languages as their mother tongues. The role of education and public policies is key to mitigating and reversing these processes and safeguarding the linguistic diversity and cultural wealth of the region's countries.

Although the countries of Latin America have made great strides in updating their legal and constitutional systems to recognize and promote indigenous peoples' right to education, it must also be provided in the institutional framework, promoting interculturality and bilingualism at all educational levels.

In recent years, there has been a paradigm shift around intercultural education. Whereas bilingual education was originally conceived as for indigenous children, it is now regarded as a system-wide modality, not only for indigenous peoples but also for the entire population in the school system. The evidence suggests that bilingual intercultural education has been positive in general in the countries in the region where it has been implemented (UNESCO, 2013).

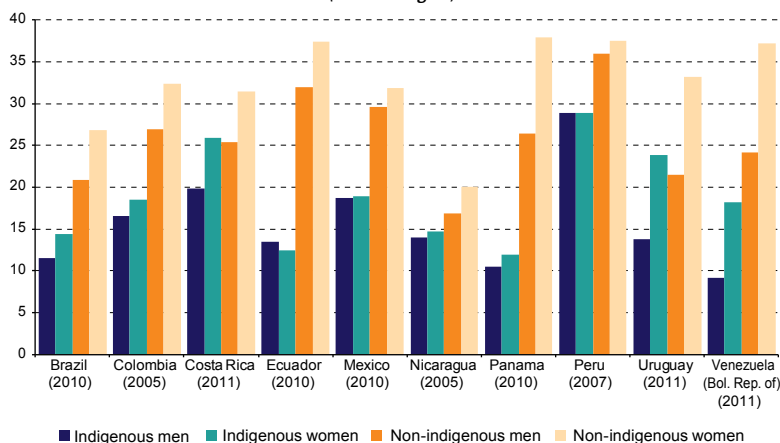
Given that access to the educational system is not guaranteed per se, nor is the quality or cultural relevance of the teaching-learning process, education should also take into consideration the content, values and knowledge of indigenous cultures, as well as those of the rest of society. In so doing, indigenous languages and culture come to be important pedagogical resources in this process. The idea is to "de-colonize" educational content and begin to consider dimensions such as gender, spirituality and interculturality (Cunningham, 2011, cited in SITEAL, 2011). The challenge is to include these elements in sector policies, in the framework of rights of autonomy, territorial control and full participation. It is also essential that governments guarantee educational continuity, from early childhood education to university and specialized and/or post-graduate training, while

also ensuring the quality of education for indigenous peoples, especially as it relates to the cultural background of the students.

The available information indicates that few indigenous students participate in post-secondary and higher education in Latin America. Gaps in access and persistence among indigenous youth at this educational level continue to be large (SITEAL, 2011). There are gaps by place of residence, ethnicity and gender among young adults between the ages of 20 and 29 with 13 or more years of schooling. The first of these gaps is reflected in the evident disadvantage attaching to young adults—indigenous and non-indigenous alike—in rural areas, compared with their urban peers, as shown in figures IV.5 and IV.6. The disadvantage is even sharper for rural indigenous youth, especially in Brazil, Colombia, Nicaragua and Panama, where not even 5% of that population group has 13 or more years of education.

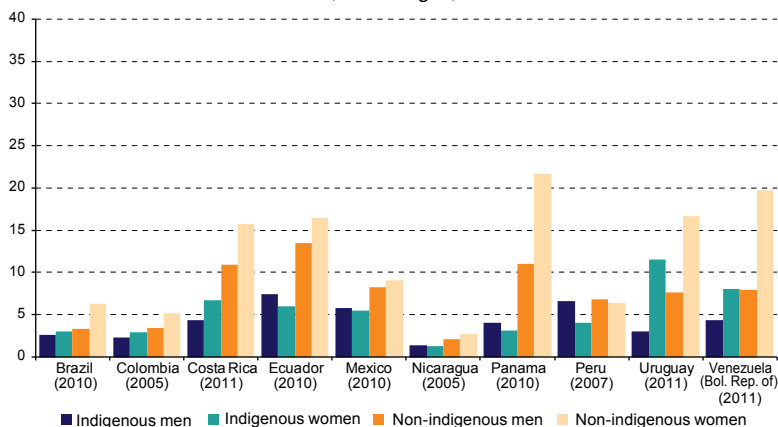
Gender gaps among young indigenous people are generally not significant when rural and urban areas are analysed separately, except in the case of Uruguay and the Bolivian Republic of Venezuela, where young indigenous women are at a clear advantage.

Figure IV.5
Latin American (10 countries): proportion of urban youth aged 20-29
with 13 or more years of schooling, by ethnic status and sex,
censuses between 2005 and 2011
(Percentages)



Source: Latin American and Caribbean Demographic Centre (CELADE)-Population Division of ECLAC, on the basis of special processing of census microdata.

Figure IV.6
Latin American (10 countries): proportion of rural youth aged 20-29
with 13 or more years of schooling, by ethnic status and sex,
censuses between 2005 and 2011
(Percentages)



Source: Latin American and Caribbean Demographic Centre (CELADE)-Population Division of ECLAC, on the basis of special processing of census microdata.

The main reasons for the lower rate of participation of youth in post-secondary education are material poverty, early incorporation into work (including subsistence activities), distance between higher learning institutes and place of residence and the poor quality of primary and secondary education, to mention the most obvious. Moreover, unlike primary and secondary schools, these institutions incorporate barely any cultural elements specific to indigenous peoples or modifications for bilingual intercultural education. In this regard, a number of intercultural post-secondary institutions of diverse origin have been created, ranging from State initiatives —such as the Network of Intercultural Universities, which comes under the Office of the General Coordinator for Intercultural and Bilingual Education (CGEIB) of the Ministry of Public Education of Mexico— to institutes created by indigenous peoples themselves, such as the Kawsay University in the Plurinational State of Bolivia or the University of the Autonomous Regions of the Nicaraguan Caribbean Coast (URACCAN) and the Bluefields Indian and Caribbean University, both in the autonomous regions of Nicaragua. Nine Latin American countries have some sort of intercultural or indigenous university today, which certainly offer a framework of experiences for moving forward with regard

to both indigenous peoples' right to education and the construction of pluricultural societies.

Both the incorporation of an intercultural perspective into existing conventional institutions and the establishment of new institutes of higher learning, that reflect indigenous needs and cosmovisions, are indispensable strategies for transforming social, cultural, economic and political relationships in the region's countries by providing a forum for engaging in balanced, mutually enriching and respectful dialogue and for strengthening diversity.

The limited relevance of the majority of higher learning institutions in Latin America with respect to the social and cultural diversity that characterizes the region's countries has not only reinforced forms of discrimination against indigenous individuals and communities but also affected the content and quality of training provided by these institutions. This lack of relevance to the social and cultural diversity of the contexts in which they operate also limits the ability of these institutions to generate useful social and educational innovations, technologies and knowledge that could prove beneficial not only for indigenous peoples in particular but also for the respective national societies as a whole.

Formulating intercultural education policies is closely tied to the capacity of States to take into account the educational demands of their populations through the active participation of the communities. Baronnet (2013) argues that without the involvement of indigenous families and authorities in educational planning and administration, it makes no sense to design intercultural programmes because this conflicts with the legitimate desire of indigenous groups to execute their own community development projects. The emphasis should instead be placed on developing teacher skills, including instructing in the students' mother tongue and sensitizing them to the importance of involving the community in formal education (UNESCO, 2013).

"Nothing about us without us" is an old saying that has taken on real meaning for indigenous peoples, whose expertise in traditional knowledge, culture, ways of life, worldviews and teaching methods often exists only within the communities themselves. Therefore, a good education requires the participation of the local communities, not only in teaching classes but also in developing curricula and teaching materials and in training teachers (UNESCO, 2013).

There follow some policy recommendations based on this analysis of the educational situation of indigenous peoples in Latin America.

Recommendations

- It is essential for the States—in accordance with ILO Convention 169 and the United Nations Declaration on the Rights of Indigenous Peoples—to adopt all relevant measures to guarantee that indigenous peoples have access to a quality education at all levels, ensuring their participation in the formulation and execution of educational programmes.
- States must take action to ensure that all indigenous school-age children have access to a free education, including in indigenous schools in their neighborhoods or communities that provide instruction in their native languages in line with culturally appropriate teaching and learning methods.
- Instruction must be guaranteed safe and appropriate from a cultural viewpoint, for which curricula must be based on, or adequately reflect, the beliefs and cultural values of the indigenous peoples.
- Access to education and skills development for indigenous women should be a priority, including any reforms to the educational systems that are needed for them to take advantage of training and job opportunities.
- The States need to take the necessary actions to attack the factors hindering participation of young indigenous men and women in higher education.
- Government efforts should therefore position education within a larger framework of well-being that seeks to achieve not only greater coverage but also quality and cultural relevance. Educational institutions must incorporate culturally specific elements and make modifications aimed at delivering education that is more bilingual and intercultural.
- States must redouble their efforts to promote and respect the use of indigenous languages and take urgent measures to avoid the loss of indigenous languages at risk of extinction, since they are, moreover, part of global heritage.

- In order to reduce existing inequalities and gaps, intercultural educational formats should not be limited solely to the translation of content into indigenous languages, but rather broader approaches should be taken that incorporate the experiences of indigenous peoples and their epistemologies, histories, knowledge, techniques and means of transmission.
- Public investment in indigenous education is generally insufficient and lower than the amounts spent on other segments of the population, so the States should take the necessary measures to overcome these deficiencies, and regular studies should be conducted to assess public spending results in this area and the impacts of educational policies among indigenous groups.
- In the framework of free determination and of processes of autonomy, indigenous education systems must be recognized, and States must promote and them and contribute to strengthening them.
- Lastly, it is crucial for the States to allocate resources—financial and technical—to compiling and analysing data disaggregated by indigenous people, in order to build indicators on access to and progression in education, and the quality and cultural relevance of education at all levels of schooling.

V. Right to information and communication

A. Freedom of expression, self-determination and the right to information and communication of indigenous peoples

The right to information is an essential, basic and fundamental human right that is directly associated with freedom of expression and has been recognized in all human rights instruments, such that States must guarantee it, regardless of whether it is provided in a country's national laws, for all citizens without discrimination. Since the 1990s, freedom of expression has been redefined to encompass not only freedom of information but also freedom of communication or the right to communication, in response to the constant and growing penetration of the press, radio and television and the emergence and proliferation of information and communications technology, such as the Internet (ECLAC/UNICEF/UNFPA, 2011; Fuenmayor, 2004).

At present and in light of the advances made in international law, indigenous peoples' right to information and communication is part of the standard set of rights that States must implement. The constituent components of this standard are the right of indigenous peoples to establish their own information and communications media in their own languages and also the right to obtain access to all other non-indigenous information and communications media on a nondiscriminatory basis. In addition, States must adopt measures to ensure that State-owned communications media and information systems duly reflect indigenous cultural diversity, and to encourage the private sector to do the same. The States must also guarantee full freedom of expression.

This also entails unrestricted access to relevant, reliable and timely data as a technical and policy tool that enables indigenous peoples to be agents of their own development and to participate in State decision-making. For these purposes, access to information on public budgets and execution thereof at the various levels of government (national, provincial, municipal, comunal) is indispensable. In order to evaluate rights, information is needed to identify nonfulfillment (or progress towards fulfillment) of duties and obligations. In this regard, information becomes an invaluable tool for evaluating and promoting human rights. It is also essential for any procedure related to free, prior and informed consent. The standard includes full and effective participation by indigenous peoples in all information production processes.

The need for disaggregated information on indigenous groups has been raised repeatedly at various regional and international conferences and summits, as well as by mechanisms for monitoring the rights of indigenous peoples and various treaty organizations, which have observed that the majority of the region's countries have gaps in their implementation of the right to information. Specifically, the right to information and communication is among the commitments made by the governments in the Montevideo Consensus on Population and Development, which will guide the post-2014 population and development agenda, indicating that the existing standards and recommendations should be taken into account.

Initially, the claims and demands of indigenous organizations were for the right to information and communication related to the role of mass media—such as the press and especially radio and television—and subsequently and increasingly were for their inclusion in official statistics systems. In more recent years, these organizations have pushed for the development of statistical tools in accordance with indigenous requirements and ways of life, access to new information technologies and the development of their own communications media. Although this issue has been systematically included in all of the declarations and proposals that have come out of conferences and summits organized by indigenous groups, the Continental Summit of Indigenous Communication should be mentioned in particular, which met first in 2010 and for a second time in 2013. This topic has been included as a priority in the Alta Outcome Document.

B. Right to information with an emphasis on demographic and socioeconomic aspects

The right to information is so fundamental to the exercise of other rights that it has become, along with access to participation, justice and equality, a crosscutting indicator of progress towards State enforcement of social, economic and cultural rights. It is a right that underpins and is a requirement of the State obligation to consult with indigenous peoples on actions and decisions that affect them, as well as respect for free, prior and informed consent. This entails not only an obligation by the State to guarantee the right by providing access to available data, but also a positive obligation to generate information and disseminate it.

ECLAC has been actively supporting the region's countries in this area, considering the recommendations of the UNPFII, providing technical assistance to strengthen national capacities and developing guidelines and support tools, together with PAHO, the UNPFA and UNICEF. The national statistics institutes, lead agencies in the production of sociodemographic information, have started to respond to these State obligations, which have been accompanied by strong and growing demands from the indigenous organizations. However, there are still major challenges ahead, which can be grouped into three categories: including self-identification in all data sources; making information systems culturally appropriate; and developing complementary systems in line with the needs of indigenous peoples. The full and effective participation of indigenous peoples crosscuts all three areas.

Asking self-identification questions is the first step towards being able to disaggregate information. Although 17 countries in Latin America include self-identification questions in their population and housing censuses, the situation is not nearly as encouraging when it comes to other data sources. In the case of employment, income and living condition surveys, aside from the modalities applied in each case, only 11 countries made at least one request for self-identification information from indigenous peoples in the period 2000-2011, and not all have collected this information systematically. In the case of demographic and health surveys, 10 countries collect self-identification information. In addition, there are some limitations to be addressed: even when self-identification questions are included, the information does not tend to be disaggregated and disseminated. This is due in part to the fact that the sample sizes are

not often revised to be “representative” of the indigenous groups. And in many cases, the way in which the questions are asked differs from the way in which they are asked on the population censuses, compromising the comparability of the information.

In the case of continuous records, such as birth and death registries and health, education, housing and other records, major gaps persist. Several countries in the region have started to make progress, but so far Brazil is among the few, though not the only one, to incorporate ethnic identification information throughout the statistics system, including on registries, and to process and disseminate that information. In the rest of the countries, the issue is at least being addressed. In some cases, there are local experiences that function very well but have yet to be implemented throughout the country. As for health records, Colombia, Ecuador, Guatemala and Paraguay are some of the countries that are paying a fair amount of attention to the matter, and in the health sector, highly participatory strategies have been implemented with indigenous communities to move towards inclusion.

Agriculture censuses are another data source of considerable importance for indigenous peoples, because they compile information on the total area of farm operations, land tenure, size and use, livestock count and use of machinery, water sources, infrastructure and other data points. In the past, these censuses rarely included any identification of indigenous peoples, whether through identification of the producer (which could be an individual or group) or identification of the production unit as an indigenous community. There has been real forward momentum in this regard over the past decade, and 7 of 14 countries with recent (2007- present) agriculture censuses now gather some of this information. Colombia and Costa Rica stand out, having incorporated this information in a highly participatory way with indigenous peoples.

Cultural appropriateness refers both to the dimensions and categories included in the data sources and to the procedures that each source uses in the various stage of data production. In the case of population and housing censuses, a number of countries in the region (such as Colombia, Guatemala, Mexico, Peru and the Plurinational State of Bolivia) have long included questions on indigenous languages, and still others incorporated questions on indigenous languages in the 2010 census round, bringing the total number that collect this information to at least 12 countries. This makes

activities such as mapping indigenous languages possible, paving the way for public policies to recognize, preserve and promote these languages.

Some countries have made efforts to incorporate questions on other distinctive aspects of the indigenous experience, customizing dimensions and variables that are traditionally included in population and housing censuses, as a result also of consultations with indigenous organizations. In Brazil, for example, a custom questionnaire was distributed in indigenous territories that included for type of housing the option of indigenous housing (*oca* or *maloca*); for birth records, a category for the administrative registry for indigenous births (RANI) was included; and for questions on marriage, respondents were given the option of identifying more than one spouse, since polygamy is practiced by some indigenous groups. The Plurinational State of Bolivia, Chile and the Bolivarian Republic of Venezuela have also included the option of indigenous traditional housing. The 2012 census in Chile considered not only types of housing tenure but also land tenure, and the category “indigenous spirituality” was added to the question on religion. In the Bolivarian Republic of Venezuela, the option of intercultural education was added to the section on level and type of last grade of school attended. But these experiences are still isolated and insufficient.

In terms of territoriality, the expectation has been for all countries that recognize indigenous territories and lands to include the corresponding designation on the census questionnaire (a variable that does not necessarily coincide with the country’s political-administrative divisions), adjusting the map to allow for the construction of indicators consistent with those territories. Progress in this regard was seen in Brazil, Costa Rica, Panama, Paraguay and the Bolivarian Republic of Venezuela in the 2010 censuses. In Colombia, the delineation of indigenous territories in the 2013-2014 agriculture census set a new precedent given that the map was prepared jointly by the National Administrative Department of Statistics (DANE) and the National Indigenous Organization of Colombia (ONIC) using the territorial boundaries established by the indigenous peoples, regardless of their legal status.

Regarding complementary tools, some countries —Paraguay, Peru (only in Amazonia) and the Bolivarian Republic of Venezuela— administered a community questionnaire in the indigenous territories along with their population and housing censuses. These questionnaires offer

great potential for monitoring collective rights, gathering information on the land and natural resources, access to justice, the supply and characteristics of health and education services (including intercultural and indigenous aspects) and ancestral practices and knowledge. Unreservedly, these three cases are valuable experiences that should be integrated into the formulation and monitoring of policies to improve implementation of the rights of indigenous peoples. Unfortunately, there has not yet been any real attempt to use this information in the region, and strengthening national capacities—of both public officials and indigenous organizations—is one of the areas where efforts must be stepped up in the region. In the case of Argentina, and also in conjunction with the census process, a Supplementary Survey of Indigenous Peoples was administered in 2004–2005, using a sample-based design so it would be representative of the different indigenous groups in the country, in both urban and rural areas.

Lastly, it should be noted that statistical systems are built within conceptual frameworks that reflect the dominant culture. Therefore, transformation processes towards pluricultural democracies will entail a re-design of official information systems, not only in terms of content but also control and management, including the recognition of the information systems of indigenous groups. Regarding content, the “good living” paradigm imposes not-insignificant challenges in terms of statistical measurements. A proposal that emerged in 2006, initiated by organizations of indigenous peoples in the region, is to define structural, process and results indicators for key issues that determine the “well-being” of indigenous peoples, such as: (i) land and territories; (ii) collective natural and cultural heritage; (iii) forms of social organization; (iv) identity (collective and gender); (v) free determination; (vi) autonomy and self-governance models; (vii) intercultural relations; and (viii) degree or level of well-being. Each one of these areas should be defined according to indigenous epistemologies.

C. Right to communication: from access to information and communications technologies to development of their own media

The United Nations specialized human rights agencies have stated that access to the Internet is essential for a truly democratic society, both to facilitate enjoyment of the right to freedom of opinion and expression,

as well as other rights, such as education, freedom of association and assembly, citizen participation and social and economic development. However, there are large discrepancies and inequalities in the region in Internet access in Latin America and the Caribbean, which are expressed both in terms of an overall gap in access between the region's countries and in relation to developed countries, and in terms of social gaps in access within the countries, with digital stratification as the result.

Although the United Nations Declaration on the Rights of Indigenous Peoples establishes the right to communication (Article 16),⁶ the international community has also expressed its concern that indigenous peoples should be included in the information society in other instruments and forums, notably the *Declaration of Principles – Building the Information Society: a global challenge in the new millennium of the World Summit on the Information Society* (2003), and the World Telecommunication Development Conference (Doha, 2006). In the region, it is important to take into account the Plan of Action for the Information and Knowledge Society in Latin America and the Caribbean (eLAC2015), approved in 2010 at the Third Ministerial Conference on the Information Society in Latin America and the Caribbean.

The expression “digital divide” describes the gap that exists between those with good access to digital and information technologies, particularly the Internet, and those with very limited or no access. Although the digital divide consists of factors related to both technology and the skills needed to use it, access to the Internet is a key variable. This digital divide can be seen in inclusion/exclusion dynamics and is an outgrowth of pre-existing social and economic inequalities, while also serving to reinforce and exacerbate them.

The indicator for households connected to the Internet provides a rough idea of the digital divide without reflecting all the factors that contribute to it, such as connection speed or different Internet use skills. Moreover, the first digital divide —Internet access— is being replaced a second, even more exclusive digital divide —broadband access. As the

⁶ Article 16, paragraph 1: Indigenous peoples have the right to establish their own media in their own languages and to have access to all forms of non-indigenous media without discrimination; paragraph 2: States shall take effective measures to ensure that State-owned media duly reflect indigenous cultural diversity. States, without prejudice to ensuring full freedom of expression, should encourage privately owned media to adequately reflect indigenous cultural diversity.

United Nations General Assembly declared in its resolution 67/195 of February 2013, the digital divide is taking on new dimensions, marked by broadband access (United Nations, 2013).

The 2010 round censuses are a valuable source of data for comparative studies on ethnicity-based gaps in access to the Internet and ICT, because this census round had specific modules for self-identification and affiliation with indigenous groups, and ICT equipment and access. A review of census data from nine countries confirms that there is a large digital divide for indigenous peoples, which is a new contemporary manifestation of the historical exclusion that such groups have faced. Indigenous households are connected to the Internet at a lower rate than the total average for the countries analysed (see table V.1).

Table V.1
Households connected to the Internet, by ethnic status and area of residence, census data around 2010
(Percentages)

Country and census year	Percentage of households with Internet access								
	Indigenous households ^a			Non-indigenous households			Ethnic gaps ^b		
	Urban	Rural	Total	Urban	Rural	Total	Urban	Rural	Total
Brazil, 2010	24.7	0.8	15.1	35.2	4.0	30.8	1.4	5.2	2.0
Costa Rica, 2011	33.5	6.9	20.7	40.6	14.7	33.8	1.2	2.1	1.6
Ecuador, 2010	6.3	1.4	2.7	17.9	5.6	13.8	2.9	3.9	5.1
Mexico, 2010	14.9	1.1	9.3	29.7	3.4	24.9	2.0	3.2	2.7
Nicaragua, 2005	4.4	0.1	2.1	7.0	0.5	4.4	1.6	3.7	2.1
Panama, 2010	11.1	0.3	3.3	29.0	3.6	21.9	2.6	11.9	6.6
Peru, 2007	2.6	0.0	1.4	10.2	0.1	8.5	3.9	3.9	5.9
Uruguay, 2011	39.4	21.1	38.7	44.3	23.1	43.2	1.1	1.1	1.1
Venezuela (Bolivarian Republic of), 2011	7.2	0.4	4.9	26.9	2.1	24.2	3.7	5.1	4.9

Source: Latin American and Caribbean Demographic Centre (CELADE)-Population Division of ECLAC, on the basis of special processing of census microdata.

^a Indigenous households: households where the head of household or spouse self-identifies as indigenous, except in the case of Peru, which considers an indigenous mother tongue, and Uruguay, which uses indigenous ancestry.

^b Ratio between the rate of access among non-indigenous households and the rate of access among indigenous households.

The gaps between indigenous and non-indigenous households appear across the board regardless of the level of access in each country. In Ecuador, Peru, the Bolivarian Republic of Venezuela and Panama, the rate of Internet access among non-indigenous households is five to

six times greater than the rate among indigenous households, territorial inequalities in the digital divide are significant and even more so when ethnicity is considered. Ethnicity-based gaps in Internet access between indigenous and non-indigenous households in rural areas are larger than in urban areas in the vast majority of the countries studied.

Challenging this framework of inequality, indigenous peoples are making intensive use of ICT, at various levels, within their organizations, between different indigenous groups and towards society in general. In the past few years, indigenous media have grown notable in the region. These media are community-based and participatory, drawing on local realities to strengthen networking activities for building partnerships, as well as serving as an important tool for political participation and protection of indigenous peoples' individual and collective rights.

With respect to traditional technologies, such as radio and television, indigenous peoples have an undeniable wealth of experience with radio, which has been their main tool for transmitting information at the local or national level. Indigenous radio stations can be found throughout Latin America and tend to broadcast in two or three languages —indigenous languages and Spanish (or Portuguese in the case of Brazil). Many of them now have websites where they can transmit their programming and be heard around the world, as well as profiles on social media sites like Facebook. The work done by community radio stations is key for disseminating human rights. Many are located in highly marginalized communities or conflict zones, which has given them an instrumental role in rebuilding the social fabric and helping to foster a culture of peace. Paradoxically, this also places them in a highly vulnerable position, without full rights to exercise community communication. For example, although community radio stations have been present in Mexico for over 35 years, of the stations that are the result of civic initiatives, few have obtained a broadcast license and the others have been denied the opportunity to obtain a license, whether by omission, because the authorities do not respond to the applications, or by setting requirements that most of these stations could not possibly meet. There are similar situations in other countries, where the constant is the high concentration of the sector and the lack of an adequate legal framework.

As for television projects, there have been some achievements over the past decade, though relatively few in the region, where there are

more social and economic obstacles to obtaining the equipment needed for television transmission. However, there are some experiences of programmes transmitted on national channels. In Colombia, for example, on Canal Capital, in conjunction with the ONIC, indigenous groups have a news show “Colombia Nativa” that airs twice per week. In 2013, the indigenous channel “Wall Kintun” was launched in Bariloche, Argentina, as the first open-signal television channel in the country run by an indigenous organization, although it is still in the implementation phase. In Ecuador, TVMICC (Indigenous Campesino Movement of Cotopaxi), was the first television channel in the country to be run by an indigenous organization. In Guatemala, TV Maya, which first aired in 2007, represents substantial fulfillment of the Agreement on Identity and Rights of Indigenous People and is attached to the Guatemalan Academy of Mayan Languages. In the case of Nicaragua, both community radio and televised media have played a key role in the full exercise of rights to autonomy, and both have been expanding significantly in the autonomous regions.

Meanwhile, new information technologies provide a way to spread the word on activities carried out by indigenous organizations and serve as a platform for indigenous peoples to communicate their beliefs and worldviews, as well as discuss the intersection between these and the precepts and opinions emanating from the non-indigenous context. With these technologies, networks have emerged that extend beyond the reach of radio and television, because they use the Internet as their platform, which provides greater coverage and enables them to be configured around different ideas and interests, modalities and at different levels. An example of this new type of network is the Latin American Coordination Office of Film and Communication of Indigenous Peoples (CLACPI), which produces audiovisual materials on indigenous cultures and provides training in audiovisual production to various indigenous organizations. An online news network is the SERVINDI News Agency, created to promote intercultural and pluralistic communication of current events to indigenous communities in Peru and other countries in the region. National indigenous organizations have websites in nearly every country in the region. The website of Centro de Culturas Indígenas del Perú (CHIRAPAQ) is a widely disseminated news source that presents information on Andean and Amazonian indigenous issues from multiple perspectives and does important work with indigenous women, youth and children. Similar initiatives have arisen throughout Latin America at the

local level too. For example, the Mapuche community has an independent news source, *Mapuexpress*, which reports on news that contributes to plurality of thinking and on prominent Mapuche-related events in Chile and Argentina and other news highlights relating to indigenous peoples in general. A number of regional news and information networks also cover indigenous issues as part of their content. Alainet, Indymedia and Adital are a few examples.

Although there are a multitude of media outlets reporting on and for indigenous peoples in Latin America, the context of discrimination and inequality in which they operate imposes serious restrictions that must be addressed in light of human rights standards. These restrictions take many forms, from the absence of indigenous peoples in the regulatory frameworks and the fight for frequencies to the lack of technical training that would allow for effective use of information and communications technologies. Specifically, and in the framework of the new governance of natural resources that should include the rights of indigenous peoples, an emerging challenge to consider the radio spectrum in this new system of governance, where one of the elements is participation in its benefits. There are already some examples of how this can work in the region, such as the negotiation of agreements between the autonomous regional government of Nicaragua and an international company for payment of a fee to run broadband cable through the territories of autonomous regions. Agreements have also been negotiated between the company and community authorities, for each communal territory through which the cable is laid. As part of the requirements established at the Second Continental Summit of Indigenous Communication on Abya Yala (2013), it was agreed that the indigenous territorial autonomy includes the radio spectrum, and a proposal was tabled for 33% of the spectrum, as well as the assignment of frequencies in the digital transition.

Recommendations

In view of the situation described, some recommendations are:

- Strengthen the legal and regulatory context for the inclusion of indigenous peoples throughout the national statistics system, including the institutions needed to guarantee the participation of indigenous peoples in all stages of the information production process.

- States should promote coordination between all information-producing institutions to include consistent and comparable self-identification questions in the different data sources.
- Together with the indigenous groups, the entities in charge of statistics systems should redouble efforts to ensure the cultural appropriateness of the statistics instruments and procedures for each stage of the information production process.
- Advance with the development of pluricultural information systems, for which the various existing proposals in the region must be reviewed and discussion forums must be promoted to identify a set of well-being indicators that address the requirements of indigenous peoples.
- Strengthen the technical capacities of indigenous peoples to actively use available information and advocate for policy, and of government officials to understand their obligations to produce information and the importance of participation and cultural relevance to improve the quality and validity thereof.
- Between indigenous groups and statistics institutes, jointly evaluate progress and setbacks in these areas, in order to share experiences and identify operational strategies in line with each data source that allow for more comprehensive action, taking into account recommendations already existing in this area.
- The States should redouble efforts to ensure that broadband Internet access becomes available to all indigenous individuals and communities as soon as possible.
- States should design and implement policies for spectrum assignment that explicitly include indigenous peoples. Also, given that the radio spectrum is a natural resource, effective measures should be taken to ensure that it is covered by standards already in place with respect to the territorial rights of indigenous peoples.
- It is important for the States to adopt regulatory frameworks that provide certainty, promote deconcentration of radio and television and help generate a pluralistic media environment that is accessible to all sectors of the population, especially community radio, so it can operate without discrimination.

- Guarantee that radio and television licensing is regulated by law in a comprehensive, clear and transparent way, based on objective, clear, public and democratic criteria, with the full participation of indigenous peoples.
- In order to correct the deficits and delays that affect indigenous peoples, the States have an obligation to extend the communications network to integrate these communities, through the construction and expansion of communications and telecommunications networks.
- Establish conditions that enable indigenous groups to acquire, operate and run media outlets, adapting the relevant legislation.
- Explicitly include indigenous peoples in observatories on racism and discrimination in the media, which should also provide guiding principles and relevant proposals to help eliminate racist content directed at indigenous peoples. Guatemala's experience can serve as an example for other countries to follow.
- Professional training should be promoted for indigenous people in journalism and other technical careers associated with information and communications technologies, including software development.
- The States should promote and strengthen the active participation of indigenous peoples in the meetings of the eLAC2015 ministerial follow-up conference, as well as in the working groups.

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As the twenty-first century advances, the countries of Latin America are building deeper democracies and looking critically at the development process, in the growing conviction that development should focus on equality and be approached on the basis of rights. This means tackling the region's persistent inequalities, especially those affecting indigenous peoples, who have historically suffered exclusion and discrimination. It also means guaranteeing indigenous people both the enjoyment of human rights on an equal footing to the rest of society, and the right to be collectively different. This is a challenge for this century, which began with the recognition of the rights of indigenous people and the role they unquestionably play on national and international agendas.

As the Second International Decade of the World's Indigenous People draws to a close, it is time to take stock of progress in implementing indigenous people's rights and in building pluricultural democracies: how much progress has been made, and how it has been made? This study, prepared during the run-up to the World Conference on Indigenous Peoples, uses empirical evidence to show the undeniable progress made in the region in the past decade, as well as the contradictions, the difficulties encountered and the urgent challenges regarding implementation and follow-up of the post-2015 development agenda.

In this document, ECLAC recognizes the contribution indigenous people have made to building a new development paradigm and offers policy recommendations for moving from "new deals" to "new compacts". In the words of its Executive Secretary, Alicia Bárcena, "this is not just a matter of social justice, but a way to lock in the profound changes needed in the region and the world, and part of stronger foundations for global peace".

