**Draft of the Inter-American Declaration of the Rights of Indigenous Peoples**

**Draft approved by the IACHR at the 1278 session held on September 18, 1995**

*The present draft has been approved by the Inter American Commission on Human Rights of the OAS for consultation about its text with Governments, indigenous organizations, other interested institutions and experts. On the basis of their answers and comments, the IACHR will prepare its final proposal to be presented to the General Assembly of the OAS.*

**INTERAMERICAN COMMISSION ON HUMAN RIGHTS**

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## PREAMBLE

1. Indigenous institutions and the strengthening of nations.

The Member States of the Organization of American States (hereafter the States),

Recalling that the indigenous peoples of the Americas constitute an organized, distinctive and integral segment of their population and are entitled to be part of the countries' national identity, and have a special role to play in strengthening the institutions in the state and in establishing national unity based on democratic principles; and,

Further recalling that some of the democratic institutions and concepts embodied in the Constitutions of American States originate from institutions of the indigenous peoples and that in many instances their present participatory systems for decision-making and the internal authority of the indigenous peoples contribute to improving democracies in the Americas.

2. Eradication of poverty

Recognizing the severe and widespread poverty afflicting indigenous peoples in many regions of the Americas and that their living conditions and social services are generally deplorable; and concerned that indigenous peoples have been deprived of their human rights and fundamental freedoms resulting inter alia in their colonization and the dispossession of their lands territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests.

Recalling that in the Declaration of Principles issued by the Summit of the Americas. in December 1994, the Heads of State and Governments. declared that in observance of the International Decade of the World's Indigenous People, they will focus their energies on improving the exercise of democratic rights and the access by indigenous peoples and their communities.

3. Indigenous Culture and Ecology

Appreciating the respect for the environment accorded by the cultures of indigenous peoples of the Americas, and considering the special relationship between the indigenous peoples and the land on which they live.

4. Harmonious relations, respect and the absence of discrimination

Mindful of the responsibility of all the States and peoples of the Americas to participate in the struggle against racism and racial discrimination.

5. Enjoyment of community rights

Recalling the international recognition of rights that can only be enjoyed when exercised in community with other members of a group.

6. Indigenous survival and control of their territories

Considering that in many indigenous cultures, traditional collective systems for control and use of land and territory, including bodies of water and coastal areas, are a necessary condition for their survival, social organization, development and their individual and collective well-being, and that the form of such control and ownership is varied and distinctive and does not necessarily coincide with the systems protected by the domestic laws of the States in which they live.

7. Demilitarization of indigenous areas

Noting the presence of armed forces in many areas of the lands and territories of the indigenous peoples and emphasizing the importance of withdrawing them from where they are not strictly needed for their specific functions.

8. Human rights instruments and other advances in international law

Recognizing the preeminence and applicability of the American Declaration of the Rights and Duties of Man, the American Convention on Human Rights and international human rights law to the States and peoples of the Americas; and

Mindful of the progress achieved by the States and indigenous organizations in codifying indigenous rights especially in the sphere of the United Nations and the International Labor Organization, and in this regard recalling the ILO Agreement 169 and the Draft UN Declaration on the subject.

Affirming the principle of the universality and indivisibility of human rights, and the application of international human rights to all individuals.

9. Advances in the provisions of national instruments

Noting the constitutional and legislative progresses achieved in some countries of the Americas in guaranteeing the rights and institutions of indigenous peoples.

#### 

*Declare:*

## SECTION ONE. 'INDIGENOUS PEOPLES'

### Art. 1 Definition

1. In this Declaration indigenous peoples are those who embody historical continuity with societies which existed prior to the conquest and settlement of their territories by Europeans. (alternative I) [as well as peoples brought involuntarily to the New World who freed themselves and cultures from which they have been torn]. (alternative 2) [, as well as tribal peoples whose social, cultural and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations].
2. Self identification as indigenous or tribal shall be regarded as a fundamental criterion for determining, the groups to which the provisions of this Declaration apply.
3. The use of the term "peoples" in this Instrument shall not be construed as having any implication with respect to any other rights that might be attached to that term in international law.

## 

## SECTION TWO. 'HUMAN RIGHTS'

### Art. II. Full observance of human rights

1. Indigenous peoples have the right to the full and effective enjoyment of the human rights and fundamental freedoms recognized in the Charter of the OAS the American Declaration of the Rights and Duties of Man, the American Convention on Human Rights and international human rights law; and nothing in this Declaration shall be construed as in any way limiting or denying those rights or authorizing any action not in accordance with the instruments of international law including human rights law.
2. The States shall ensure for all indigenous peoples the full exercise of their rights.
3. The States also recognize that the indigenous peoples are entitled to collective rights insofar as they are indispensable to the enjoyment of the individual human rights of their members. Accordingly they recognize the right of the indigenous peoples to collective action, to their cultures, to profess and practice their spiritual beliefs and to use their languages.

### Art III. Right to belong to an indigenous community or nation

Indigenous peoples and individuals have the right to belong to an indigenous community or nation in accordance with the traditions and customs of the community or nation concerned. No disadvantage of ally kind may arise from the exercise of such a right.

### Art. IV. Legal status of communities

The States shall ensure that within their legal system personality is attributed to communities of indigenous peoples.

### Art. V. No forced assimilation

The States shall not take any action which forces indigenous peoples to assimilate and shall not endorse any theory, or engage in any practice, that imports discrimination, destruction of a culture or the possibility of the extermination of any ethnic group.

### Art. VI Special guarantees against discrimination

1. The States recognize that where circumstances so warrant special guarantees against discrimination may have to be instituted to enable indigenous peoples to fully enjoy internationally and nationally-recognized human rights; and that indigenous peoples must participate fully in the prescription of such guarantees.
2. The States shall also take the measures necessary to enable both indigenous women and men to exercise, without any discrimination, civil, political, economic, social and cultural rights. The States recognize that violence exerted against persons because of their gender prevents and nullifies the exercise of those rights.

## SECTION THREE. CULTURAL DEVELOPMENT

### Art. VII. Right to cultural integrity

1. States shall respect the cultural integrity of indigenous peoples, their development in their respective habitats and their historical and archeological heritage, which are important to the identity of the members of their groups and their ethnic survival.
2. Indigenous peoples are entitled to restitution in respect of property of which they have been dispossessed, or compensation in accordance with international law
3. States shall recognize and respect indigenous lifestyles, customs, traditions, forms of social organization, use of dress, languages and dialects.

### Art. VIII. Philosophy, outlook and language

1. States recognize that indigenous languages philosophy and outlook are a component of national and universal culture and as such shall respect them and facilitate their dissemination .
2. The States shall take measures to see to it that broadcast radio and television programs are broadcast in the indigenous languages in the regions where there is a strong indigenous presence and to support the creation of indigenous radio stations and other media.
3. The States shall take effective measures to enable indigenous peoples to understand administrative legal, and political rules and procedures and to be understood in relation to these matters. In areas where indigenous languages are predominant, States shall endeavor to establish the pertinent languages as official languages and to give them the same status that is given to non-indigenous official languages.
4. When indigenous peoples wish educational systems shall be conducted in the indigenous languages and incorporate indigenous content and that shall also provide the necessary training and means for complete mastery of the official language or languages.

### Art. IX. Education

1. Indigenous peoples shall be entitled to a) establish and set in motion their own educational programs institutions and facilities b) to prepare and implement their own educational plans programs curricula and materials; c) to train, educate and accredit their teachers and administrators The States shall endeavor to ensure that such systems guarantee equal educational and teaching, opportunities for the entire population and complementary with national educational systems.
2. States shall ensure that those educational systems are equal in all ways to that provided to the rest of the population.
3. State shall provide financial and any other type of assistance needed for the implementation of the provisions of this article.

### Art. X. Spiritual and religious freedom

1. Indigenous peoples have the right to liberty of conscience freedom of religion and spiritual practice for indigenous communities and their members, a right that implies freedom to conserve them, change them, profess and propagate them both publicly and privately.
2. States shall sake necessary measures to ensure that attempts are not made to forcibly convert indigenous peoples or to impose on them beliefs against the will of their communities.
3. In collaboration with the indigenous peoples concerned, the States shall adopt effective measures to ensure that their sacred sites, including burial sites, are preserved, respected and protected. When sacred graves and relics have been appropriated by state institutions they shall be returned.

### Art. XI. Family relations and family ties

1. Families are a natural and basic component of societies and must be respected and protected by the State. Consequently the State shall protect and respect the various established forms of indigenous organizations relating to family and filiation.
2. In determining the child's best interest in matters relating to the protection and adoption of children of members of indigenous peoples and in matters of breaking of ties and other similar circumstances, consideration shall be given by Courts and other relevant institutions to the views of the those peoples including individual family and community views.

### Art. XII. Health and wellbeing

1. The States shall respect indigenous medicine, pharmacology, health practices and promotion, including preventive and rehabilitative practices.
2. They shall facilitate the dissemination of those medicines and practices of benefit to the entire population.
3. Indigenous peoples have the right to the protection of vital medicinal plants, animal and minerals.
4. Indigenous peoples shall be entitled to use, maintain, develop and manage their own health services, and they shall also have access, without any discrimination, to all health institutions and services and medical care.
5. The states shall provide the necessary means to enable the indigenous peoples to eliminate such health conditions in their communities which fall below international accepted standards.

### Art. XIII. Right to environmental protection

1. Indigenous peoples are entitled to a healthy environment, which is an essential condition for the enjoyment Or the right to life and well-being.
2. Indigenous peoples are entitled to information on the environment, including information that might ensure their effective participation in actions and policies that might affect their environment.
3. Indigenous peoples shall have the right to conserve restore and protect their environment and the productive capacity of their lands, territories and resources
4. Indigenous peoples shall participate fully in formulating and applying government programmes of conservation of their lands and resources.
5. Indigenous peoples shall be entitled to assistance from their states for purposes of environmental protection and may request assistance from international organizations.

## SECTION FOUR. 'ORGANIZATIONAL AND POLITICAL RlGHTS'

### Art XIV. Rights of association, assembly, freedom of expression and freedom of thought.

1. The States shall promote the necessary measures to guarantee to indigenous communities and their members their right of association assembly and expression in accordance with their usages, customs, ancestral traditions, beliefs and religions
2. The States shall respect and enforce the right of assembly of indigenous peoples and to the use of their sacred and ceremonial areas, as well as the right to full contact and common activities with sectors and members of their ethnic groups living in the territory of neighboring states.

### Art. XV. Right to self government, management, and control of internal affairs.

1. States acknowledge that indigenous peoples have the right to freely determine their political status and freely pursue their economic social and cultural development and that accordingly they have the right to autonomy or self-government with regard to their internal and local affairs including culture religion education information media health housing employment, social welfare, economic activities, land and resource management, the environment and entry by nonmembers; and to the ways and means for financing these autonomous functions.
2. Indigenous populations have the right to participate without discrimination, if they so decide, in all decision-making, at all levels, with regard to matters that might affect their rights, lives, and destiny. They may do so through representatives elected by them in accordance with their own procedures, They shall also have the right to maintain and develop their own indigenous decision-making institutions, as well as equal opportunities to access to all national fora.

### Art. XVI. Indigenous Law

1. Indigenous law is an integral part of the States' legal system and of the framework in which their social and economic development takes place.
2. Indigenous peoples are entitled to maintain and reinforce their indigenous legal systems and also to apply them to matters within their communities including systems pertaining to ownership of real property and natural resources resolution of conflicts within and between indigenous communities crime prevention and law enforcement and maintenance of internal peace and harmony.
3. In the jurisdiction of any State procedures concerning indigenous peoples or their interests shall be conducted in such a way as to ensure the right of indigenous peoples to full representation with dignity and equality before the law. This shall include observance of indigenous law and custom and, where necessary, use of the native language.

### Art. XVII. National incorporation of indigenous legal and organizational systems

1. The States shall promote the inclusion in their national organizational structures. of institutions and traditional practices of indigenous peoples.
2. The institutions of each state in areas that are predominantly indigenous or that are serving in those communities, shall be designed and adapted as to reflect and reinforce the identity, culture and organization of those populations, in order to facilitate their participation.

## SECTION V. 'SOCIAL, ECONOMIC AND PROPERTY RIGHTS'

### Art. XVIII. Traditional forms of ownership and ethnic survival. Rights to land and territories

1. Indigenous peoples have the right to the legal recognition of the various and specific forms of control, ownership and enjoyment of territories and property by indigenous peoples.
2. Indigenous peoples have the right to the recognition of their property and ownership rights with respect t to lands and territories they have historically occupied, as well as to the use of those to which they have historically had access for their traditional activities and livelihood.
3. Where property and user rights of indigenous peoples arise e from rights existing prior to the creation of those States the States shall recognize the titles of indigenous peoples relative thereto as permanent exclusive inalienable imprescriptible and indefeasible. This shall not limit the right of indigenous peoples to attribute ownership within the community in accordance with their customs traditions uses and traditional practices nor shall affect any collective community rights over them. Such titles may only be changed by mutual consent between the States and respective indigenous people when they have full knowledge and appreciation of the nature or attributes of such property.
4. The rights of indigenous peoples to existing natural resources on their lands must be especially protected. These rights include the right to the use management and conservation of such resources.
5. In the event that ownership of the minerals or resources of the subsoil pertains to the State so that the State has rights over other resources on the lands the governments must establish or maintain procedures for the participation of the peoples concerned in determining whether the interests of these people would be adversely affected and to what extent before undertaking or authorizing any program for tapping of exploiting existing resources on their lands. The peoples concerned shall participate in the benefits of such activities, and shall receive compensation in accordance with international law, for any damages which they may sustain as a result of such activities.
6. The States shall not transfer or relocate indigenous peoples except in exceptional cases, and in those cases with the free, genuine and informed consent of those populations, with full and prior indemnity and prompt replacement of lands taken, which must be of similar or better quality and which must have the same legal status; and with guarantee of the right to return if the causes that gave rise to the displacement cease to exist.
7. Indigenous peoples have the right to the restitution of the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated occupied, used or damaged, or the right to compensation in accordance with international law when restitution is not possible.
8. The Stales shall take all measures, including the use of law enforcement personnel to avert prevent and punish if applicable any intrusion or use of those lands by unauthorized persons or by persons who take advantage of indigenous peoples or their lack of understanding of the laws, to take possession or make use of them. The States shall give maximum priority to the demarcation of properties and areas of indigenous use.

### Art. XIX. Workers rights

1. Indigenous peoples shall have the right to full enjoyment of the rights and guarantees recognized under international labor law or domestic labor law; they shall also be entitled, where circumstances so warrant, to special measures to correct, redress and prevent the discrimination to which they have historically been subject.
2. Where circumstances so warrant, the States shall take such special measures as may be necessary to:

a. protect effectively the workers and employees who are members of indigenous communities in respect of fair and equal hiring and terms of employment, insofar as general legislation governing workers overall does not provide;

b. to improve the work inspection service in regions, companies, or paid activities involving indigenous workers or employees,

c. ensure that indigenous workers:

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| --- | --- |
|  | i. enjoy equal opportunity and treatment as regards all conditions of employment, job promotion and advancement; |
|  | ii. are not subjected to racial, sexual or other forms of harassment; |
|  | iii. are not subjected to coercive hiring practices, including servitude for debts or any other form of servitude. even if they have their origin in law, custom or a personal or collective arrangement which shall be deemed absolutely null and void in each instance; |
|  | iv. are not subjected to working conditions that endanger their health, particularly as a result of their exposure to pesticides or other toxic or radioactive substances; |
|  | v. receive special protection when they serve as seasonal, casual or migrant workers in agriculture or in other activities and also when they are hired by labor contractors in order that they benefit from national legislation and practice which must itself be in accordance with firmly established international human rights standards in respect of seasonal workers, and |
|  | vi. ensure that indigenous workers or employees are provided with full information on their rights consistent with such national legislation and international standards and on recourses available to them in order to protect those rights. |

### Art. XX . Intellectual property rights.

1. Indigenous peoples shall be entitled to recognition of the full ownership control and protection of such intellectual property rights as they have in their cultural and artistic heritage, as well as special measures to ensure for them legal status and institutional capacity to develop use share market and bequeath that heritage on to future generations.
2. Where circumstances so warrant indigenous peoples have the right to special measures to control develop and protect and full compensation for the use of their sciences and technologies. including their human and genetic resources in general, seeds, medicine, knowledge of plant and animal life, original designs and procedures.

### Art. XXI. Right to development.

1. The States recognize the right of indigenous peoples to decide democratically what values, objectives, priorities and strategies will govern and steer their development course, even if they are different from those adopted by the national government or by other segments of society. Indigenous peoples shall be entitled to obtain on a non-discriminatory basis appropriate means for their own development according to their preferences and values, and to contribute by their own means, as distinguishable societies, to national development and international cooperation.
2. The States shall take necessary measures to ensure that decisions regarding any plan, program or proposal affecting the rights or living conditions of indigenous people are not made without the free and informed consent and participation of those peoples, that their preferences are recognized and that no such plan, program or proposal that could have harmful effects on the normal livelihood of those populations is adopted. Indigenous communities have the right to restitution or compensation in accordance with international law, for any damage which, despite the foregoing precautions, the execution of those plans or proposal may have caused them; and measures taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

## SECTION SIX. 'GENERAL PROVISIONS'

### Art. XXII. Treaties agreements and other implied arrangements.

Indigenous peoples have the right to the recognition observance and enforcement of treaties agreements and other arrangements concluded with States or their successors according to their spirit and intent and to have States honor and respect such treaties agreements and other constructive arrangements. Conflicts and disputes which cannot otherwise be settled should be submitted to competent international bodies (agreed to by all parties concerned).

### Art. XXIII.

Nothing in this instrument shall be construed as diminishing or extinguishing existing or future rights indigenous peoples may have or acquire.

### Art. XXIV.

Nothing in this instrument shall be construed as granting any rights to ignore boundaries between States.

*September 19, 1995*

**Draft approved by the IACHR at the 1278 session held on September 18, 1995**

*The present draft has been approved by the Inter American Commission on Human Rights of the OAS for consultation about its text with Governments, indigenous organizations, other interested institutions and experts. On the basis of their answers and comments, the IACHR will prepare its final proposal to be presented to the General Assembly of the OAS.*

**INTERAMERICAN COMMISSION ON HUMAN RIGHTS**

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## PREAMBLE

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The Member States of the Organization of American States (hereafter the States),

Recalling that the indigenous peoples of the Americas constitute an organized, distinctive and integral segment of their population and are entitled to be part of the countries' national identity, and have a special role to play in strengthening the institutions in the state and in establishing national unity based on democratic principles; and,

Further recalling that some of the democratic institutions and concepts embodied in the Constitutions of American States originate from institutions of the indigenous peoples and that in many instances their present participatory systems for decision-making and the internal authority of the indigenous peoples contribute to improving democracies in the Americas.

2. Eradication of poverty

Recognizing the severe and widespread poverty afflicting indigenous peoples in many regions of the Americas and that their living conditions and social services are generally deplorable; and concerned that indigenous peoples have been deprived of their human rights and fundamental freedoms resulting inter alia in their colonization and the dispossession of their lands territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests.

Recalling that in the Declaration of Principles issued by the Summit of the Americas. in December 1994, the Heads of State and Governments. declared that in observance of the International Decade of the World's Indigenous People, they will focus their energies on improving the exercise of democratic rights and the access by indigenous peoples and their communities.

3. Indigenous Culture and Ecology

Appreciating the respect for the environment accorded by the cultures of indigenous peoples of the Americas, and considering the special relationship between the indigenous peoples and the land on which they live.

4. Harmonious relations, respect and the absence of discrimination

Mindful of the responsibility of all the States and peoples of the Americas to participate in the struggle against racism and racial discrimination.

5. Enjoyment of community rights

Recalling the international recognition of rights that can only be enjoyed when exercised in community with other members of a group.

6. Indigenous survival and control of their territories

Considering that in many indigenous cultures, traditional collective systems for control and use of land and territory, including bodies of water and coastal areas, are a necessary condition for their survival, social organization, development and their individual and collective well-being, and that the form of such control and ownership is varied and distinctive and does not necessarily coincide with the systems protected by the domestic laws of the States in which they live.

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Noting the presence of armed forces in many areas of the lands and territories of the indigenous peoples and emphasizing the importance of withdrawing them from where they are not strictly needed for their specific functions.

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Recognizing the preeminence and applicability of the American Declaration of the Rights and Duties of Man, the American Convention on Human Rights and international human rights law to the States and peoples of the Americas; and

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Affirming the principle of the universality and indivisibility of human rights, and the application of international human rights to all individuals.

9. Advances in the provisions of national instruments

Noting the constitutional and legislative progresses achieved in some countries of the Americas in guaranteeing the rights and institutions of indigenous peoples.

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*Declare:*

## SECTION ONE. 'INDIGENOUS PEOPLES'

### Art. 1 Definition

1. In this Declaration indigenous peoples are those who embody historical continuity with societies which existed prior to the conquest and settlement of their territories by Europeans. (alternative I) [as well as peoples brought involuntarily to the New World who freed themselves and cultures from which they have been torn]. (alternative 2) [, as well as tribal peoples whose social, cultural and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations].
2. Self identification as indigenous or tribal shall be regarded as a fundamental criterion for determining, the groups to which the provisions of this Declaration apply.
3. The use of the term "peoples" in this Instrument shall not be construed as having any implication with respect to any other rights that might be attached to that term in international law.

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2. The States shall ensure for all indigenous peoples the full exercise of their rights.
3. The States also recognize that the indigenous peoples are entitled to collective rights insofar as they are indispensable to the enjoyment of the individual human rights of their members. Accordingly they recognize the right of the indigenous peoples to collective action, to their cultures, to profess and practice their spiritual beliefs and to use their languages.

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### Art. VII. Right to cultural integrity

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### Art XIV. Rights of association, assembly, freedom of expression and freedom of thought.

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2. The States shall respect and enforce the right of assembly of indigenous peoples and to the use of their sacred and ceremonial areas, as well as the right to full contact and common activities with sectors and members of their ethnic groups living in the territory of neighboring states.

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2. Indigenous populations have the right to participate without discrimination, if they so decide, in all decision-making, at all levels, with regard to matters that might affect their rights, lives, and destiny. They may do so through representatives elected by them in accordance with their own procedures, They shall also have the right to maintain and develop their own indigenous decision-making institutions, as well as equal opportunities to access to all national fora.

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2. Indigenous peoples are entitled to maintain and reinforce their indigenous legal systems and also to apply them to matters within their communities including systems pertaining to ownership of real property and natural resources resolution of conflicts within and between indigenous communities crime prevention and law enforcement and maintenance of internal peace and harmony.
3. In the jurisdiction of any State procedures concerning indigenous peoples or their interests shall be conducted in such a way as to ensure the right of indigenous peoples to full representation with dignity and equality before the law. This shall include observance of indigenous law and custom and, where necessary, use of the native language.

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1. The States shall promote the inclusion in their national organizational structures. of institutions and traditional practices of indigenous peoples.
2. The institutions of each state in areas that are predominantly indigenous or that are serving in those communities, shall be designed and adapted as to reflect and reinforce the identity, culture and organization of those populations, in order to facilitate their participation.

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1. Indigenous peoples have the right to the legal recognition of the various and specific forms of control, ownership and enjoyment of territories and property by indigenous peoples.
2. Indigenous peoples have the right to the recognition of their property and ownership rights with respect t to lands and territories they have historically occupied, as well as to the use of those to which they have historically had access for their traditional activities and livelihood.
3. Where property and user rights of indigenous peoples arise e from rights existing prior to the creation of those States the States shall recognize the titles of indigenous peoples relative thereto as permanent exclusive inalienable imprescriptible and indefeasible. This shall not limit the right of indigenous peoples to attribute ownership within the community in accordance with their customs traditions uses and traditional practices nor shall affect any collective community rights over them. Such titles may only be changed by mutual consent between the States and respective indigenous people when they have full knowledge and appreciation of the nature or attributes of such property.
4. The rights of indigenous peoples to existing natural resources on their lands must be especially protected. These rights include the right to the use management and conservation of such resources.
5. In the event that ownership of the minerals or resources of the subsoil pertains to the State so that the State has rights over other resources on the lands the governments must establish or maintain procedures for the participation of the peoples concerned in determining whether the interests of these people would be adversely affected and to what extent before undertaking or authorizing any program for tapping of exploiting existing resources on their lands. The peoples concerned shall participate in the benefits of such activities, and shall receive compensation in accordance with international law, for any damages which they may sustain as a result of such activities.
6. The States shall not transfer or relocate indigenous peoples except in exceptional cases, and in those cases with the free, genuine and informed consent of those populations, with full and prior indemnity and prompt replacement of lands taken, which must be of similar or better quality and which must have the same legal status; and with guarantee of the right to return if the causes that gave rise to the displacement cease to exist.
7. Indigenous peoples have the right to the restitution of the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated occupied, used or damaged, or the right to compensation in accordance with international law when restitution is not possible.
8. The Stales shall take all measures, including the use of law enforcement personnel to avert prevent and punish if applicable any intrusion or use of those lands by unauthorized persons or by persons who take advantage of indigenous peoples or their lack of understanding of the laws, to take possession or make use of them. The States shall give maximum priority to the demarcation of properties and areas of indigenous use.

### Art. XIX. Workers rights

1. Indigenous peoples shall have the right to full enjoyment of the rights and guarantees recognized under international labor law or domestic labor law; they shall also be entitled, where circumstances so warrant, to special measures to correct, redress and prevent the discrimination to which they have historically been subject.
2. Where circumstances so warrant, the States shall take such special measures as may be necessary to:

a. protect effectively the workers and employees who are members of indigenous communities in respect of fair and equal hiring and terms of employment, insofar as general legislation governing workers overall does not provide;

b. to improve the work inspection service in regions, companies, or paid activities involving indigenous workers or employees,

c. ensure that indigenous workers:

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| --- | --- |
|  | i. enjoy equal opportunity and treatment as regards all conditions of employment, job promotion and advancement; |
|  | ii. are not subjected to racial, sexual or other forms of harassment; |
|  | iii. are not subjected to coercive hiring practices, including servitude for debts or any other form of servitude. even if they have their origin in law, custom or a personal or collective arrangement which shall be deemed absolutely null and void in each instance; |
|  | iv. are not subjected to working conditions that endanger their health, particularly as a result of their exposure to pesticides or other toxic or radioactive substances; |
|  | v. receive special protection when they serve as seasonal, casual or migrant workers in agriculture or in other activities and also when they are hired by labor contractors in order that they benefit from national legislation and practice which must itself be in accordance with firmly established international human rights standards in respect of seasonal workers, and |
|  | vi. ensure that indigenous workers or employees are provided with full information on their rights consistent with such national legislation and international standards and on recourses available to them in order to protect those rights. |

### Art. XX . Intellectual property rights.

1. Indigenous peoples shall be entitled to recognition of the full ownership control and protection of such intellectual property rights as they have in their cultural and artistic heritage, as well as special measures to ensure for them legal status and institutional capacity to develop use share market and bequeath that heritage on to future generations.
2. Where circumstances so warrant indigenous peoples have the right to special measures to control develop and protect and full compensation for the use of their sciences and technologies. including their human and genetic resources in general, seeds, medicine, knowledge of plant and animal life, original designs and procedures.

### Art. XXI. Right to development.

1. The States recognize the right of indigenous peoples to decide democratically what values, objectives, priorities and strategies will govern and steer their development course, even if they are different from those adopted by the national government or by other segments of society. Indigenous peoples shall be entitled to obtain on a non-discriminatory basis appropriate means for their own development according to their preferences and values, and to contribute by their own means, as distinguishable societies, to national development and international cooperation.
2. The States shall take necessary measures to ensure that decisions regarding any plan, program or proposal affecting the rights or living conditions of indigenous people are not made without the free and informed consent and participation of those peoples, that their preferences are recognized and that no such plan, program or proposal that could have harmful effects on the normal livelihood of those populations is adopted. Indigenous communities have the right to restitution or compensation in accordance with international law, for any damage which, despite the foregoing precautions, the execution of those plans or proposal may have caused them; and measures taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

## SECTION SIX. 'GENERAL PROVISIONS'

### Art. XXII. Treaties agreements and other implied arrangements.

Indigenous peoples have the right to the recognition observance and enforcement of treaties agreements and other arrangements concluded with States or their successors according to their spirit and intent and to have States honor and respect such treaties agreements and other constructive arrangements. Conflicts and disputes which cannot otherwise be settled should be submitted to competent international bodies (agreed to by all parties concerned).

### Art. XXIII.

Nothing in this instrument shall be construed as diminishing or extinguishing existing or future rights indigenous peoples may have or acquire.

### Art. XXIV.

Nothing in this instrument shall be construed as granting any rights to ignore boundaries between States.

*September 19, 1995*