

After the Constitution: Indigenous Proposals for Territorial Demarcation in Colombia

The Colombian constitution granted all Indigenous territories legal status as "Territorial Entities" within the republic. The Indigenous movement's triumph during the constitutional convention is particularly important since it makes Colombia the first country to have recognized all Indigenous communities territorial rights, rather than selectively granting rights to certain peoples.

by Ana Cecilia Betancourt and Hernán Rodríguez

With 82 different ethnic groups living within its national boundaries, Colombia is second only to Brazil in terms of ethnic diversity in South America. As a result, we in Colombia have learned to respect differences, while working together to defend our ancient cultures, ancestral territories, and autonomy. This history explains, to a certain extent, why the Organization of Colombian Indigenous Nations (ONIC), and the Colombian Indigenous Authorities (AICO), representing 40 different local and regional organizations, were the only nonpartisan groups represented in the Constitutional Assembly of 1991.

Acting as spokespeople, Lorenzo Muelas of AICO, Francisco Rojas Birry of ONIC, and Alfonso Pena Chepe of the now demobilized armed indigenous movement, Manuel Quintín Lame, ensured that the Magna Carta protect the rights and aspirations of the various ethnic groups in Colombia, including the natives of San Andrés Archipelago, and African-American communities.

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Although the Constitution has established legal norms for establishing territories, pressure to speed up the secondary legislative procedures has led to continued exclusion of indigenous communities from the political process. Agreements reached at the Constitutional Assembly are thus being disregarded.

Constitutional History

The political constitution of 1991 defines Indigenous Lands under Article 286 as Territorial Entities with the same political and administrative jurisdiction as departments and municipalities. This permits indigenous communities autonomy to define their own development strategies and be governed by their own authorities who will have authority to administer public resources including local and national taxes. The Constitution left the actual distribution of territorial entities as well as definition of their responsibilities to a piece of follow-up legislation called the Organic Law for Territorial Demarcation. This law would also regulate the settlement of disputes between the National Government and the Territorial Entities.

Indigenous organizations published

their proposals for the Organic Law two years after the Constitution was ratified. This proposal was developed through consensus and focused on three general considerations:

- a) As products of the national constitution the indigenous territories shall not be subject to decisions made at the congressional level.
- b) Indigenous Territories will be those areas currently held by indigenous communities with boundaries defined by traditional social, economic, and cultural activities, regardless of whether the communities have received prior legal title.
- c) The Organic Law should be designed with a certain margin for change as the territories' actual boundaries are drawn by future legislation.

Delimiting Territories

As a result of 500 years of colonial domination and genocide, many communities have been fragmented, or severely reduced in size. To allow for the variation among communities, there should be no minimum size limitations either for populations or areas in establishing territories. Problems may, however, arise if many small territories

