

INDIAN LAW RESOURCE CENTER

CENTRO DE RECURSOS JURÍDICOS PARA LOS PUEBLOS INDÍGENAS

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Informative Note No. 1, July 2019

THE INTER-AMERICAN DEVELOPMENT BANK'S INDIGENOUS PEOPLES POLICY REVIEW



The Indian Law Resource Center is a non-profit law and advocacy organizations established and directed by American Indians. The Center provides legal assistance without charge to Indian and Alaska Native Nations and other indigenous communities in the Americas that are working to protect their lands, resources, human rights, environment, and cultural heritage. Our principle goal is the preservation and well-being of Indian and other Native

The Inter-American Development Bank (I.D.B. or the Bank) has officially launched the review and update of its environmental and social operational policies, including the policy relating to indigenous peoples. On July 2, 2019, the Bank's Board of Executive Directors approved the [Policy Profile](#), the document governing the review process that points out the policies subject to review as well as the plans on how the review process ought to be carried out. The Bank will seek inputs from internal and external stakeholders, including indigenous peoples, throughout the review process. A new set of policies is expected to be presented to the Board of Executive Directors for approval by September 2020.

The Indian Law Resource Center (the Center) is working to ensure that a consultation process dedicated to indigenous peoples is carried out, the shortcomings of the existing operational policies are fully addressed, the rights of indigenous peoples are protected by strong safeguard measures, and indigenous peoples are properly consulted about the development activities that could potentially affect them. Please find additional information below on the I.D.B. policy review process and how to get involved. Please also visit our website for critical updates: www.indianlaw.org/mdb/idb. If you would like to join our I.D.B. listserv to receive regular updates on the I.D.B policy review process, please send a request to dcoffice@indianlaw.org.

What is the Inter-American Development Bank?

Established in 1959 by the Agreement Establishing the Inter-American Development Bank, the Bank's state-created constituent instrument, the I.D.B. is a regional intergovernmental financial organization created by the states of the Americas that is tasked with fostering economic and social development within the public sector. In other words, it is a regional multilateral development bank whose purpose is to contribute to the development of developing countries in the region, either individually or collectively. It is exclusively comprised of and governed by Member States that are represented in the Board of Executive Directors (the Board). The Board is the Bank's main decision-making body tasked with approving loans, policies, country strategies, budgets, and other financial matters.

What are operational policies?

Operational policies are Board-approved instruments containing safeguard measures, which are designed "to prevent harm to people and the environment" from Bank-funded projects. Since 1998, the Bank has developed about five operational policies embracing a "do-no harm" approach that are meant to be fully implemented by borrowing countries. For example, in 2006, the Board approved the [OP-765 Indigenous Peoples](#), the Bank's first-ever policy on indigenous peoples, which aims at preventing harm to indigenous communities and the environment they depend upon for physical and cultural survival from Bank-funded projects.

Does the Indigenous Peoples Policy follow the U.N. and O.A.S. Declarations on the Rights of Indigenous Peoples? Why?

Generally, the I.D.B. Indigenous Peoples Policy neither follows the 2007 U.N. Declaration nor the 2016 O.A.S. Declaration. In light of the legal standards crystallized in both Declarations, the Indigenous Peoples Policy is an outdated policy instrument that falls short not only in meeting such standards, but also in upholding the safeguard measures that are consistent with them. For example, instead of requiring borrower countries to obtain indigenous peoples' consent for projects adversely affecting them, the policy merely requires them to carry out "good faith consultations and negotiation processes." Furthermore, Bank-funded projects subject to the Indigenous Peoples Policy continue to harm indigenous peoples and their environment. For example, the [Mareñas Renovables Wind Power Project in Mexico](#), an I.D.B.-funded project, resulted in non-compliance with critical safeguards measures, including the failure to publicize project documents of mandatory release and improperly consulting with the seven indigenous communities affected by the project.

Will the I.D.B. consult with indigenous peoples during the Policy Review?

The [Bank's March 2019 response](#) to our joint letter states that it will consult with indigenous peoples regarding the Indigenous Peoples Policy. In addition, it states that it will seek input from various stakeholders during the next two years, including consultations with indigenous peoples' representatives through in-country meetings, dialogues, and online platforms. However, the Bank's specific plan for consulting indigenous peoples and whether the Bank will conduct meaningful and effective dedicated consultations with indigenous peoples' representatives at the regional and national levels is unclear.

In November 2018, jointly with about 13 indigenous organizations from the region, the Center sent a [letter to the Bank's President Luis Enrique Moreno](#) expressing concerns about the then Bank's internal review of the Indigenous Peoples Policy, highlighting some shortcomings of this policy, and asking the Bank to carry out a consultation process dedicated to indigenous peoples. In May 2019, as requested by the Bank's Executive Directors and their Counselors, the Center followed up with another [letter providing suggestions on how the Bank should seek inputs](#) from indigenous peoples and experts on its Indigenous Peoples Policy.

We also asked them to be open to hold face-to-face meetings with indigenous leaders and experts while they are in Washington, D.C. As a result, the Bank decided to hold a [workshop for indigenous peoples](#) on August 8, 2019 in Washington, D.C. During that week, a number of indigenous peoples' representatives will be in Washington, D.C. to attend the O.A.S. Inter-American Week for Indigenous Peoples.

What can you do?

The I.D.B. Policy Review Process provides you with opportunities to help improve the Bank's policies and practices and, more importantly, to help ensure that your community is better protected from future Bank-funded projects.

1. Contact your [country's representative on the I.D.B. Board of Executive Directors](#) and the I.D.B. President Luis Enrique Moreno, and urge them to:
 - Carry out dedicated consultations with indigenous peoples at the regional and national levels.
 - Align the Bank's Indigenous Peoples Policy with the U.N. and O.A.S. Declarations on the Rights of Indigenous Peoples.
 - Institute mandatory human rights impact assessment for all Bank-funded projects and programs.
2. Submit inputs on the Indigenous Peoples Policy through <https://www.iadb.org/en/mpas> or by sending an email to: bid-mpas@iadb.org.
3. Please share copies of your correspondence with us so that we can help amplify your concerns. If your community has been or may be potentially affected by a project financed by the I.D.B., please compile all relevant information and contact the Center at dcoffice@indianlaw.org.
4. Follow us at <https://indianlaw.org/mdb/idb> or <https://www.facebook.com/IndianLawResourceCenter> to learn about future developments and opportunities to get involved.