THE RIGHTS OF INDIGENOUS PEOPLES: LATIN AMERICA

HEARING

BEFORE THE

TOM LANTOS HUMAN RIGHTS COMMISSION

HOUSE OF REPRESENTATIVES

ONE HUNDRED AND ELEVENTH CONGRESS

SECOND SESSION

APRIL 29, 2010

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THE RIGHTS OF INDIGENOUS PEOPLES: LATIN AMERICA

THURSDAY, APRIL 29, 2010

HOUSE OF REPRESENTATIVES,
TOM LANTOS HUMAN RIGHTS COMMISSION,
Washington, D.C.

The Commission met, pursuant to call, at 10:07 a.m., in Room 2200, Rayburn House Office Building, Hon. James P. McGovern [cochairman of the Commission] presiding.

Cochairman McGOVERN. Good morning. I have a brief opening statement.

I want to welcome everyone to this very important hearing on the rights of indigenous peoples. The United Nations and the World Bank estimate that there are between 300- and 370 million indigenous peoples worldwide. They represent an important and irreplaceable piece of the world's cultural fabric, with unique ways of life, distinct identities and many different economic, social and political traditions.

Today's hearing will focus on the indigenous peoples of Latin America. It is the first in a series of hearings the Human Rights Commission intends to hold over the coming months on the rights of indigenous peoples, which will look at the situation of indigenous peoples and tribal and ethnic minorities in other parts of the world.

I would like to thank Lars de Gier, who is a fellow at the Tom Lantos Human Rights Commission, for coordinating today's hearing. I would also like to express my appreciation to Hans Hogrefe, our Staff Director; and Cindy Buhl, my Legislative Director; and Ellen Lutz with Cultural Survival for helping us prepare for this hearing. There are also several individuals at the Office of the U.N. Special Rapporteur on Indigenous Peoples, and at Amazon Watch, the Washington Office on Latin America and the Center for International Policy who were generous with their time and support for today's hearing.

Growing up in the United States, I was aware from an early age that Native peoples have been gravely harmed and wronged over the centuries. It is an inescapable fact of our country. But I began to understand the situation of indigenous peoples in Latin America much later in life.

In the 1980s, when I was a congressional aide with Congressman Joe Moakley from Boston, I worked on issues related to Central America. In the mid-1980s, a very infamous massacre took place in El Salvador at the Las Hojas Cooperative, outside the town of Suchitoto. Now, that is saying a great deal since there were many massacres in El Salvador in the 1980s. Why was this one so special and so infamous?

Because Las Hojas was one of the last communities where the remaining indigenous peoples of El Salvador lived and worked, and this massacre killed so many of their residents of all ages. Most of El Salvador's indigenous peoples were wiped out in 1932, during what was called "La Gran Matanza," or the Great Slaughter, when the army killed over 35,000 people, most of them indigenous, in the space of just a couple weeks. So the military's massacre at Las Hojas was heinous not just from a human rights point of view, but how it amplified the historic slaughter of Native peoples in El Salvador and the hemisphere.

I was also involved in Guatemala, and I accompanied indigenous leader

Rigoberta Menchu on her first attempt to return to her country before the civil war ended. We flew into Guatemala City together, along with exiled labor lawyer Frank LaRue, and the Guatemalan security forces boarded the plane as soon as we landed and dragged Rigoberta and Frank off the plane and into custody. Not a good situation. I spent the next 24 hours trying to find them to get them back safely. Years later Rigoberta would head a caravan of thousands of indigenous Mayans who had fled to southern Mexico during the civil war, leading them back into Guatemala after the peace accords were signed.

In the past few years, I have come to know some of the indigenous peoples and their chosen representatives in Colombia and Ecuador. Colombia has 87 indigenous peoples, with an estimated population of around 1.4 million. I have met with some of their leaders in the steamy lowlands of Putumayo, and in the cool, high mountains of Popayan. I was privileged to spend an entire day in 2003 with Floro Tunubala, the first indigenous Governor of Cauca, and to attend with him a meeting of many of Cauca's indigenous and Afro-Colombian communities.

I am well aware of the impact of the continuing violence that conflict has had on so many of Colombia's indigenous peoples, driving some to the very brink of extinction. Indigenous peoples, like Afro-Colombians, make up a disproportionate number of Colombia's internally displaced. Government, corporate and wealthy interests want to exploit their water, forests and natural resources and take over their ancestral lands. And even though Colombia has some of the best laws protecting the rights of indigenous peoples, many indigenous communities are seeing their livelihoods, their culture, their very survival as a people under constant threat and attack. In some communities young people are even committing suicide at alarming rates, seeing a future empty of hope, without room for them or their culture.

I've met with members of the Kofan community in Dureno, in the northeastern Amazon region of Ecuador, whose survival is precarious because of decades of exploitation and contamination from oil production, much of it under the control or direction of U.S. companies such as Texaco, now owned by Chevron. Last year the Commission held a hearing on how environmental degradation by U.S. and other corporations directly contributes to the destruction of indigenous economic, social and cultural traditions, not to mention adversely affecting their health and their very ability to survive.

As I expressed to the U.S. Embassy personnel in Quito, and as I stated in last year's hearing, I remain angry and deeply disturbed that the State Department doesn't view these types of violations of basic human rights to be worthy or legitimate enough to be included in our annual country reports.

I also traveled up to the Ecuadoran border area, north of Lago Agrio, right on the San Miguel River, to meet with communities of Colombian refugees. Many of these refugees were indigenous peoples who had fled from Putumayo and Narino, or areas of Colombia even further away. All they wanted was to return home, back to their ancestral homes, and have the right to live in peace.

So, on both a personal and professional level, I am very much looking forward to hearing the testimony of our U.S. government, NGO, and indigenous witnesses.

[The statement of Mr. McGovern follows:]

PREPARED STATEMENT OF THE HONORABLE JAMES P. MCGOVERN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MASSACHUSETTS AND COCHAIRMAN OF THE TOM LANTOS HUMAN RIGHTS COMMISSION

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people are even committing suicide at alarming rates, seeing a future empty of hope, without room for them or their culture.

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So, on both a personal and professional level, I am very much looking forward to hearing the testimony of our U.S. government, NGO and indigenous witnesses.

INTRODUCTION OF FIRST PANEL

In the interest of time, I will not summarize the biographies of our distinguished first panel. But I want to say for the record, that this is, I think, the first time so many government officials have asked to testify at the same hearing. So, I'm very pleased that we have representatives from State, USAID and the Human Rights Bureau – They are:

- **Janet Ballantyne,** Senior Deputy Assistant Administrator for the Bureau on Latin America and the Caribbean at USAID;

- **Kevin Whitaker,** Director for Andean Affairs at the Bureau of Western Hemisphere Affairs at the State Department; and

- **Joe Cassidy,** Director of Global and Multilateral Affairs, in the Bureau of Democracy, Human Rights and Labor, also at the State Department.

INTRODUCTION OF SECOND PANEL

There are approximately 23-25 million indigenous peoples living south of the U.S. border. In some countries, they are the majority or a plurality of a country's population; in others, they are dwindling almost to the point of disappearing altogether. The largest concentrations are found in Mexico, Bolivia, Ecuador, Guatemala, Peru, Brazil and Colombia. Our second panel looks at three case studies, representing three very different realities of indigenous peoples in Latin America. I am very grateful for their presence and testimony. Our witnesses are:

- **Dinah Shelton,** Professor of International Law at George Washington University, who will provide us with an overview of the international instruments and the human rights situation of Latin America's indigenous peoples;

- **Daisy Zapata Fasabi,** representing the Yine community in Peru, and who is also the Vice President of the National Organization of the Amazon Indigenous People of Peru;

- **Estanislao Bejerano,** representing the Ngöbe people of Panama, and **Feliciano Santos,** who is a Ngöbe leader with the Movement for the Defense of the Territory and Ecosystem of the Bocas del Toro Archipelago; and

- **Dario Mejía,** representing the Zenú people of Colombia and speaking on behalf of the National Indigenous Organization of Colombia (ONIC).

Cochairman McGOVERN. Before I introduce the panel, I want to acknowledge my colleague, the Honorable Joseph Cao from Louisiana, for a brief opening statement.

Mr. CAO. Thank you, Mr. Chairman.

Before I begin, I just want to introduce to you a group of students from New Orleans. If you don't mind, just raise your hands.

They are up here visiting the Hill for several days, and obviously in the post-Katrina environment of New Orleans, they themselves have experienced what it means to have basic human civil rights being addressed. So I am pretty sure that this will be a learning experience for them.

But in regard to the issue of human rights for the indigenous peoples of Latin America, when I was in the Society of Jesus from 1990 to 1996, I had the great opportunity of working in Mexico and working with the indigenous peoples in Chapas, and I was very much concerned with many of their issues then, and I am still very much concerned with the issues that they have to face now. And I hope that through these hearings we can better understand some of the problems that they are facing and hopefully how we as a Nation can help address those issues.

So with that I yield back. Thank you.

Cochairman McGOVERN. I thank my colleague for yielding.

I want to welcome the students as well, and you are here for a very interesting and important hearing, and we are privileged to have you.

In the interest of time, I am not going to enunciate the entire biographies of our first distinguished panel, but I want to say for the record that this is -- and I think for the first time, so many government officials have asked to testify at the same hearing, so I really appreciate that. So I am very pleased that we have representatives from State, USAID and the Human Rights Bureau.

They are Janet Ballantyne, Senior Deputy Assistant Administrator for the Bureau on Latin America and the Caribbean at USAID; Kevin Whitaker, Director for Andean Affairs at the Bureau of Western Hemisphere Affairs at the State Department; and Joe Cassidy, the Director of Global and Multicultural Affairs in the Bureau of Democracy, Human Rights and Labor, also at the State Department.

We are honored that you are here, and why don't we begin with Administrator Ballantyne, and we welcome you.

STATEMENT OF JANET C. BALLANTYNE, SENIOR DEPUTY ASSISTANT ADMINISTRATOR AT U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT

Ms. BALLANTYNE. Thank you. Mr. Chairman, the Commission, Members, it is an honor to present this testimony to the Tom Lantos Human Rights Commission.

My own interest in indigenous peoples of the Americas stems back 32 years when my husband and I were privileged to find a very small, very injured young man about 18 months old and were privileged to be able to adopt him in Urubamba in the Sacred Valley of Peru.

He is now 33 years old. He works for the United States Government and remains very, very much committed to the indigenous values of the place that he comes from, and reminds us every day how important it is to maintain those contacts.

I welcome the opportunity to present how the United States Agency for International Development is committed to addressing the challenges faced by indigenous peoples throughout Latin America. In particular, given the focus of the second panel of today's Commission meetings, I am pleased to share with you some

of our ongoing and emerging projects in Peru, Colombia and Panama. We have quite a bit of literature that we are leaving on the table for those who are interested in looking at the larger picture of what we are doing throughout the region.

I would like to begin by sharing USAID's perspective and program directions on a regional basis. Throughout Latin America and the Caribbean region, we recognize and support the significant and historic advances made in guaranteeing Afro-descendent and indigenous rights, the increasingly strong government role that indigenous peoples have assumed, and a growing number of indigenous leaders both in government and civil society organizations.

The growing presence and activity of representative indigenous organizations across the region is a harbinger, we think, of strengthened democratic processes as indigenous peoples elect their leaders to represent their needs and their interests. USAID respects and supports these many indigenous organizations and their leaders as they represent important opportunities for free and open dialogue, empowerment, capacity building and transparent governments.

Most importantly, these organizations and a new generation of Afro-descendent and indigenous leaders taking the mantle across Latin America and the Caribbean represent new opportunities for us to work with indigenous people; to extend their rights; to develop, determine, administer, social and economic development programs.

All of USAID's offices design programs through extensive consultation with indigenous peoples as part of the all-government approach in each country where our missions operate, ensuring that our indigenous focus programs are in line with State Department policies as governed by the Chiefs of Mission.

Incorporating Afro-descendent and indigenous issues in a holistic approach within our development assistance has required USAID to strengthen both its own institutional capacity and programming methods. For example, in the very decentralized agency, we rely heavily on the extensive experience of our local staff throughout our overseas missions, many of whom are indigenous, and many of whom have worked with indigenous people across development sectors for years. USAID hiring practices and staff training increasingly focus on indigenous and social inclusion issues. Many programs disaggregate their program indicators by ethnicity so we can track how many indigenous people benefit from USAID funding and training.

We strongly and actively exercise our responsibility within title 13 of the International Financial Institutions Act to review multilateral assistance programs and address any potential adverse impact on indigenous people.

Through our agencywide requirement to analyze and address gender issues, many USAID programs focus on the particular needs and rights of indigenous women.

By integrating indigenous languages and contact into education curricula, agency programs strengthen indigenous peoples within a cross-sector and development approach in support of their language and educational rights.

To further exemplify, I would like to briefly highlight some of our programs in Peru, Colombia and Panama. Our mission in Peru has a new leadership and training program for Afro-Peruvian and indigenous internships to increase professional and educational opportunities. This holistic and forward-looking approach implements USAID's on-the-ground projects by fostering the next generation of leaders.

The mission also recently instituted new project design procedures that require analysis of potential impact on indigenous peoples for all development activities.

These two new practices exemplify the ways in which the USAID missions across the region are institutionalizing approaches that support the economic development rights of indigenous and Afro-descendent peoples and that improve the

impact of USAID programs.

USAID and implementing partners are building the capacity of indigenous groups in sensitive ecosystems to generate sustainable livelihoods and equip them with business management skills and the ability to negotiate fair contracts for commercial timber production. Other efforts strengthen the monitoring and enforcement of environmental regulations and seek to stem illegal and/or informal extractive activities.

We recognize that indigenous peoples are at the center of these extractive conflicts, such as the recent strike and violence related to the informal and illegal gold mining in the Madre de Dios region of Peru's southern Amazon and mega development projects such as highway construction corridors through the fragile ecosystems and zones designated for the protection of indigenous people in voluntary isolation.

In these and other circumstances, USAID partners are catalyzing dialogues and working groups of indigenous communities and organizations in order to prevent conflict, address tenure issues, and institutionalize consultative processes among governments, indigenous groups and the private sector that foster transparent decisionmaking.

Moving from Peru to Colombia, I would like to share with you some of our projects that address Afro-Colombian and indigenous rights and development needs.

Indigenous peoples have been identified as extremely vulnerable to criminal activity, and their protection is a priority of USAID's justice programs in recognition of indigenous rights to live in security.

USAID has created justice houses, Casas de Justicia, in Colombian towns located in rural conflict areas to provide community-based alternative dispute resolution and multiagency services. Working together with the indigenous federation OZIP, USAID tailored the Justice House in the Putumayo Valley region to the specific security needs of indigenous peoples there.

Towards the internally displaced persons programs, the agency provides emergency assistance and facilitates protection measures to indigenous leaders and communities who have been threatened or displaced by illegally armed groups. We have worked with over 150 indigenous and Afro-Colombian organizations to generate Life Plans. With these ethnic development plans in place, communities are better able to manage and govern their territories and advocate for their rights.

In Panama, in the Choco-Darien region that covers 22-1/2 million hectares across Ecuador, Colombia and Panama, USAID is developing a new regional strategy to address the development of the region's 2 million indigenous and Afro-descendent persons. Many of these people live on less than $1 a day, and their livelihoods are threatened by the increasing security threats from illegal activities, such as narcotrafficking and insurgency. Other challenges are emerging for these communities as road and electrical utility corridors are pending in the Darien region connecting Colombia and Panama, which could further increase such illegal activities and offset intended development benefits.

Next month USAID will implement a 2-year cooperative agreement with the International Organization for Migration in the Darien to target at-risk youth through technical assistance to local traditional governments and indigenous communities.

Looking ahead, USAID is committing to strengthening our ongoing consultations with indigenous peoples through the Agency's program, design and implementation processes, as well as our institutional capacity on indigenous and related development issues.

New and future programs for climate change recognize a significant overlap of indigenous territories and standing forests in the region due to the unique and historic role the indigenous people have played in conserving these globally important resources in the ecosystems and vibrant indigenous leadership in the region

for implementing climate-change programs that address tenure and benefits. Through these programs and others, USAID and its partners are working with Afro-descendent and indigenous peoples to improve their lives.

Mr. Chairman, this concludes my statement. I welcome any questions that you or other Members may have. We have presented a written statement for the record.

Cochairman McGOVERN. I appreciate it very much. Thank you.

[The statement of Ms. Ballantyne follows:]

PREPARED STATEMENT OF JANET C. BALLANTYNE

Written Statement of
Janet C. Ballantyne
Senior Deputy Assistant Administrator,
Bureau for Latin America and the Caribbean
United States Agency for International Development
Before
Tom Lantos Human Rights Commission
Committee on Foreign Affairs
U.S. House of Representatives
Thursday, April 29, 2010
"**Indigenous Peoples of Colombia, Panama, and Peru"**

Mr. Chairman, Members of the Commission, it is an honor and a privilege to present this testimony to the Tom Lantos Human Rights Commission. I welcome the opportunity to outline how the United States Agency for International Development is helping to address the challenges faced by indigenous peoples in Colombia, Panama, and Peru and throughout Latin America.

Over 30 million Latin Americans are indigenous. In countries such as Guatemala, Bolivia, Ecuador, and Peru, close to half the population is indigenous. In Latin America, indigenous peoples have, in general, not received the full benefit of development. They suffer from high childhood mortality rates, lack of education, low income levels, and high rates of crime and violence against women. They are often caught in the crossfire between opposing governmental factions and in Andean countries, targeted by narco-traffickers who pressure them to develop coca rather than sustainable licit agricultural products. They are also vulnerable to industries who want to use their territories for extractive industries, often without prior consultation. USAID programs work to empower indigenous peoples and assist them in mitigating the various factors that create the challenges they contend with.

In Latin America, USAID has a wide range of programs in the health, education, governance, economic growth, and environment sectors that support indigenous peoples.

COLOMBIA

In Colombia, there are approximately 1.4 million indigenous people. There is also a large mixed-race population, many of whom reside in indigenous communities and identify as Amerindian. USAID programs impact these communities throughout the country.

Indigenous peoples have been identified as extremely vulnerable to criminal activity and their protection is a priority of USAID's justice programs. USAID has created Justice Houses in Colombian towns located in rural conflict areas that contend with poverty, unemployment, and issues related to domestic violence, gangs, neighborhood conflicts, and displaced populations. These integrated, multi-agency service centers provide community-based alternative dispute resolution and conflict prevention. Since their inception, Colombian Justice Houses have assisted over 7.8 million citizens. While most indigenous communities have traditionally not been located in urban areas where most justice houses are located, they still benefit from easy access to identification cards, voter registration cards, dispute resolution services, and other assistance that justice houses provide. These "one stop shops" provide legal and social assistance that simplifies processes that have usually taken years to resolve under Colombia's traditional system.

USAID in Colombia has worked closely with over 50 indigenous organizations in the development of community "Life Plans", so that communities are better able to manage their territories and advocate for their rights. This strengthens the communities internally, as well as their relationships with outside actors and authorities. Each plan determines how the community will be administratively organized, how finances will be managed, decisions made, natural resources utilized, and from where, within the collective land, they will be extracted.

In addition, USAID is working with indigenous farmers to support traditional farming practices, including infrastructure development, technical assistance, identification of best practices, provision of materials, and improved market access.

Most recently, USAID/Colombia is leading a new approach to support natural forest management, based on payments for conservation/carbon sequestration. Experience showed that the financial results of natural forest, low impact extraction, on five pilot projects in the Pacific region was not profitable. The new approach is called "Improved Natural Forest Management" and it is part of a strategy to fight illicit crops in collective territories and at the same time support natural forest conservation efforts. The approach greatly supports community development and strengthened governance through capacity development and leadership building. In this program, USAID pays communities for natural forest conservation an amount per hectare per year (around $35). This only happens after external verification has certified that no wood extraction has taken place in agreed upon conservation areas. These funds are paid directly to a steering committee of the indigenous communities and they must invest

these resources in food security projects and on income-generating projects through a revolving fund. Cacao, rice, cassava, and fisheries have been financed with this mechanism. The aim is to strengthen the economic dynamic of these communities and develop a range of funding sources including revenues from carbon sequestration and payment for environmental services.

Other examples of assistance to indigenous groups and communities in Colombia include infrastructure projects such as the improvement to a meeting house for indigenous from the Putumayo Watershed, food security programs with the Siona, Embera and Bajo Baudó communities in the department of Chocó, and indigenous communities in Cauca, which includes the formation of an emergency warning system so threats to food security can be monitored through an interagency famine early warning system. In addition, through its Internally Displaced Persons (IDP) program, the Agency also provides emergency assistance and facilitates protection measures to indigenous leaders and communities who have been threatened or displaced by illegally armed groups.

PANAMA

There are approximately 100,000 indigenous people in Panama, constituting approximately six percent of the country's population. They live primarily in eastern Panama and within the Panama Canal Watershed. USAID assistance in these communities has largely been based on ecotourism, providing the wherewithal for communities to preserve their cultures while engaging in industries that protect their lands. Community participation is key to what makes these programs successful.

With USAID support, the Emberá and Woounan indigenous communities received technical assistance to develop sustainable tourism in the Panama Canal Watershed. They established contacts with tour operators, designed a webpage, recorded a CD of authentic tribal music, and produced a catalog of their products to sell on the internet. These projects also brought infrastructure such as water systems, thus improving their health and hygiene. These projects not only produced increased income for the indigenous communities, but also a newfound sense of community and confidence in their ability to be self sufficient and environmentally friendly at the same time.

Next month, USAID will implement a two-year cooperative agreement with the International Organization for Migration in the Darien Province of eastern Panama. This is an area prone to drug trafficking and other illicit activities. This program will target local governments and at-risk youth through technical assistance to local traditional governments and their indigenous populations to strengthen their participative political processes and thus better their ability to attend to community livelihood needs. Other activities will identify and promote economic opportunities for vulnerable youth as well as support youth projects that will benefit the community. These efforts will be complemented by a small grants program that will include training in fundraising techniques and grant management. In this way indigenous groups will be less vulnerable to victimization by criminal elements and others who wish to exploit them for their own gains.

PERU

Indigenous peoples make up over 45% of Peru's population. Some of the most effective programs USAID implements reflect a commitment to biodiversity and empowerment of indigenous peoples to protect and benefit from their natural heritage.

The Initiative for Conservation in the Andean Amazon is a regional program designed to strengthen indigenous organizations' efforts to protect and conserve the Amazon. Efforts focus on the management and conservation of the Manu National Park by strengthening communication capabilities, sustainable resource management, and knowledge sharing and conservation capacity throughout the Andean Amazon region. Working with implementing partners, USAID/Peru is building the capacity of indigenous groups in sensitive ecosystems to generate sustainable livelihoods and equip them with business management skills and the ability to negotiate fair contracts for commercial timber production. The overall goal of this activity is to promote flexible, voluntary, and incentive-based mechanisms to attract private investments in sustainable forest management. The activity is mitigating environmental hazards associated with extractive industries and infrastructure development, and whenever possible, increasing indigenous stewardship and autonomy, while improving the quality of life for these communities.

Other efforts are designed to strengthen monitoring and enforcement of environmental regulations and to stem illegal/informal extractive activities, while institutionalizing consultative processes between government, indigenous groups, and the private sector. Through a new civil society and extractive industries transparency initiative, USAID/Peru will strengthen the capacities of indigenous people to exercise their rights to oversee the use of extractive royalties in on their lands. Training efforts will increase their participation in regional and district organizations and strengthen their own community-based organizations. Efforts will focus on the hydrocarbon-rich Amazon and the mining-rich Andes region. USAID supports self governance for indigenous peoples in Peru. A recent USAID-supported exchange between indigenous groups from the U.S. and Canada and Peruvian indigenous communities facilitated the sharing of experiences on establishing and using property rights to enhance economic growth in native communities.

Finally, USAID project design procedures in Peru require all new activities to conduct an analysis of the potential impacts they may have on indigenous groups and disadvantaged people. Activities are required to mitigate any potential negative impacts on these communities and where possible, improve the health, social, and economic conditions of these groups.

BOLIVIA

In Bolivia, USAID has strengthened the participation of Quechua and Aymara communities in municipal and national governance activities. USAID/Boliva's Integrated Development (ID) Program provides assistance to promote sustainable, diversified economic and social development in Bolivia's coca growing regions and associated areas.

Health and environment initiatives have been integrated into USAID's approach, strengthening overall impact, participation, and responsiveness to local needs. Most of the program's activities are carried out in the Yungas region of Bolivia—home to a majority population of indigenous and AfroBolivians.

This also includes improvement of rural roads and construction of bridges to make transportation to and from agricultural markets possible, which opens the doors to ecotourism, and other economic incentives. USAID's Economic Growth program directly supports the Bolivia Productiva pillar of the National Development Plan (PND) of the Government of Bolivia.

The forestry sector is a cornerstone sector in Bolivia's economic and social development. USAID's forestry program promotes greater opportunities for Bolivians from sustainable forest management and improving the competitiveness of Bolivian

forestry exports through community forestry and better social, economic, and environmental practices. USAID is also working to strengthen forest regulatory systems.

BRAZIL

In the Brazilian Amazon, USAID is working with local partners to strengthen the capacity of the Xingu and Kayapo Indians so they can manage their own lands and forests. Brazil's indigenous population contains the largest number of uncontacted tribal peoples in the world. A recent survey indicated that there are at least 67 different communities that live in isolated tribal communities. There are also large Indian communities in urban areas. Indigenous Brazilians have made substantial contributions to the world's medicine with knowledge used today by pharmaceutical corporations, and to the world's nutritional, material, and cultural development in significant ways such as developing the domestication of cassava, which is still a major staple food in rural areas of the country.

USAID programs for indigenous Brazilians have largely focused on protections for these isolated peoples and the lands they live on. Programs include building indigenous institutional capacity and ability to work with the Government of Brazil and NGOs, support for practices and policies aimed at guaranteeing the integrity of indigenous areas, creation of sustainable income-generating activities, and training for indigenous peoples in improved natural resource management.

ECUADOR

Indigenous territories are critical in Ecuador because they cover a fifth of the country, and globally because they contain some of the world's richest biodiversity. Ecuador's natural environments have been shaped and are intensely used by a diverse array of ancestral indigenous groups that have intricate relationships with and a complex knowledge of their surroundings. Many indigenous peoples have a long-term vision that combines biodiversity conservation with sustainable use of renewable resources in a strategy to improve the quality of their lives. However, these territories are threatened by illegal logging, incursions by extractive industries, and drug-related violence.

USAID programs provide lowland indigenous groups with the technical and institutional resources needed to maintain their traditional territories and to determine their own futures. The work helps the Awa, Cofan, and Waorani indigenous groups to secure their lands, strengthen their institutions, improve their livelihoods, and support the long term conservation of their cultures and territories (over 1,400,000 hectares).

The program helps consolidate indigenous territorial rights through the establishment of legally defined boundaries, legal titles and permanent boundary makers, while improving the institutional capacity of indigenous organizations through training in administrative, technical, and logistical procedures. Assistance facilitates the implementation of ecologically sustainable economic activities consistent with cultural standards and long-term sustainable land use.

EL SALVADOR

In El Salvador, USAID's Artisan Development Program has worked with Salvadorians, some of them indigenous, in supporting activities that facilitate the marketing of traditional crafts for export to US markets. USAID has also funded ecotourism projects such as *Eco-Experiencias El Salvador*, which reinforces indigenous crafts and cultural values through projects that promote market-based eco tourism in biodiverse areas.

HONDURAS

In Honduras, The Garífuna (descendents of African, Arawak, and Carib peoples) have benefitted from a USAID-established "Garífuna Route" that promotes small-scale ecotourism, food fairs, and a Garífuna museum.

USAID HIV prevention activities reach almost 54,000 Garífuna per year. With an HIV prevalence rate of 4.5%, the Garífuna population is one of the most affected in Honduras. The Garífuna communities along the North Coast are primary beneficiaries of USAID's HIV program, which through three grants with local NGOs, provides mass media HIV prevention activities and voluntary HIV counselling and testing.

A USAID education program in Honduras supports the provision of decentralized technical assistance and teacher training, standards, curriculum calendars, and monthly standardized formative tests for all Honduran children in primary school, including Garífuna and groups such as the Lenca in western Honduras. Out-of-school Garífuna youth and adults also benefit from the alternative education system, *EDUCATODOS*.

Garífuna also benefitted through USAID's Integrated Watershed Resources Management project, which provided the Garífuna community of Rio Esteban en Bafalte, Colón with assistance in watershed management, disaster preparedness, and tourism promotion, impacting approximately 4,000 Garífuna.

GUATEMALA

USAID/Guatemala's programs that impact indigenous peoples include outreach centers for at-risk youth, democracy programs that have dramatically increased indigenous representation in local leadership, improved municipal processes, and exhumations of over 175 Mayans who disappeared during Guatemala's "Decade of Terror."

USAID's strategy for assisting indigenous Guatemalans includes programs to reduce maternal and neonatal mortality and support local demand for assistance in family planning. USAID has trained Mayan midwives in Guatemala to address high infant mortality and provided nearly 90,000 persons with HIV/AIDS prevention services as well as providing health services to 400,000 poor indigenous persons from rural areas through local NGOs.

USAID has used $15 million in food aid to assist the indigenous in food insecure areas, while providing training in nutrition and maternal and child health. Working with implementing partners including Mercy Corps and Save the Children, USAID has promoted programs that focus on better nutrition, (particularly in early childhood), improved hygiene, safe water management, and capacity building of community volunteers. USAID also assisted in the establishment of better agricultural and animal husbandry practices.

Direct food aid has resulted in 9,590 metric tons of food being distributed. We've also helped in the design of an early warning system to assist Guatemalans in preparing for natural disasters that threaten food security.

Indigenous education in Guatemala has also been positively impacted. With 97% of indigenous children now enrolled in primary school, 76% percent of indigenous girls now finish primary school and a standardization of curricula has been

established. Indigenous Guatemalans are also attending higher education institutes through USAID alliances with the private sector to increase university scholarships.

NICARAGUA

Programs that impact indigenous peoples in Nicaragua include *EXCELENCIA,* a current USAID education project that is developing the active teaching and learning method and a new curriculum to develop competences in intercultural bilingual schools on Nicaragua's Atlantic Coast. *EXCELENCIA* also includes development of applied research in specific education topics and development of teaching guides and student workbooks for the new competence-based curriculum in the local languages of Miskitu, Mayangna, and Creole English.

USAID/Nicaragua established five mediation centers in indigenous communities that are providing free legal services. Most of the cases handled by the centers in Sebaco and Mozonte are related to property rights issues involving communal lands. Indigenous community leaders have been trained as facilitators, providing legal advice, mediation, and legal education workshops to the Miskitus, Mayagnas, Tuasca, and Chorotegas indigenous groups.

Two legal assistance centers were established in Bonanza and Matagalpa that are focused on indigenous issues. These centers provide legal advice and assistance to indigenous peoples, including property rights. The center in Bonanza conducts work related to the prevention of environmental crimes and issues associated with the implementation of the Indigenous Land Demarcation Law.

In collaboration with universities and local institutions located on the Caribbean Coast, USAID created legal education brigades that carry out legal education workshops on the Autonomy Law, the Law of Languages and the Indigenous Land Demarcation Law in communities located in both autonomous regions. Twenty communities have been visited by the brigades, and leaders of seven other communities have participated in USAID-sponsored legal education workshops.

USAID helped establish the Human Rights and Justice Research Institute at the Bluefields Indian & Caribbean University (BICU) located in the South Atlantic Autonomous Region (RAAS). The Institute at BICU was the first in Central America to specifically look at indigenous law and issues of regional autonomy. At the same time, USAID assisted with the creation of an Indigenous Rights Coalition to advocate for better access to justice and the protection of human rights for indigenous communities

Working with the NGO, Rainforest Alliance, USAID has provided assistance for forestry-based indigenous communities in the Región Autónoma del Atlántico Norte (RAAN). Activities focused on organizational strengthening and improved technical and business skills for communities to enable them to negotiate effectively with the private sector. In forest areas heavily damaged by Hurricane Felix, "controlled wood" certification was introduced as a tool to guide sustainable management of community resources through the Forest Stewardship Council's Controlled Wood Standard. The program, which ended in 2009, developed and strengthened value chains for forest products, building on the work started by the first community forestry companies in Nicaragua.

In the health sector, USAID's *FamiSalud* community health program reaches 35 of the poorest communities in the Miskito indigenous municipality of Waspan, benefiting more than 3,600 families. *FamiSalud* provided $262,372 for health activities in the municipality of La Cruz de Rio Grande, a municipality selected because of its high level of poverty, its identification as having the lowest index of human development in the RAAS, as well as the highest rate of mortality because women have limited access to prenatal care or medically-assisted childbirths.

Health activities include vaccination campaigns, child growth monitoring, hygiene programs, family planning, HIV/AIDS testing, maternity care, and deliveries by trained medical personnel.

USAID/Nicaragua is a long-time supporter of Intercultural/Bilingual Education (IBE), an educational program that tailors educational approaches and resources to the learning needs of Miskitu, Mayagna, Creole, and Rama speaking students. These programs support the Autonomy Law and the Law of Languages, which mandate the right to receive education in the languages of the ethnic groups in the RAAN and the RAAS. USAID provided $3 million in assistance for 148 schools, including the development of educational materials in four local languages: Panamahka, Tuahka, Miskitu, and English, to benefit Mayagna, Miskitu and Creole group members.

This is only an overview of some of the work USAID does to empower and ensure the futures of these vulnerable communities. USAID continues to work with governments, indigenous communities, and NGOs to support indigenous peoples in ways that resonate with their highest aspirations.

USAID/LAC was recently represented at the United Nations Permanent Forum on Indigenous Issues in New York where we had an opportunity to outreach to indigenous participants. We also sponsored an event focusing on our initiatives for indigenous peoples in the areas of conservation and sustainable resource-based economic development and other USAID programs in the region.

CONCLUSION

Indigenous peoples are among the most marginalized in the region. USAID and its partners are working to improve their lives in ways that are consistent with their cultures, values, and interests. We believe our work is significant and the communities we impact have responded favorably. Through focused efforts on the strategic needs of indigenous peoples, we will continue to see progress.

Cochairman McGOVERN. Mr. Whitaker.

STATEMENT OF KEVIN WHITAKER, DIRECTOR FOR ANDEAN AFFAIRS AT U.S. DEPARTMENT OF STATE

Mr. WHITAKER. Thank you very much, Mr. Chairman. It is an honor to be here with you today.

Thank you, Congressman Cao, for the opportunity to speak here today.

This is a period of great every effervescence in Latin America from a government's perspective. There is a profound discussion going on now about how democratic governments will address fundamental issues of poverty, inequality and social exclusion. Providing social justice is essential and critical to the longevity of political institutions.

Democracy has to deliver the goods. It has to deliver benefits and services to the poorest and most vulnerable members of society in order to give them a stake in those societies and their governments. Without authentic social inclusion, we as a hemisphere will not have achieved our potential or guaranteed the durability of our institutions.

One of the central challenges we face in the hemisphere is how these societies deal with the unique obstacles faced by indigenous peoples. As Secretary Clinton said earlier this year, we seek to engage women and historically marginalized populations such as indigenous peoples and Afro-descendents to give them a chance to contribute to and share in the benefits of society at large.

We are well aware of the specific circumstances which indigenous peoples refer to, including pervasive discrimination, the need for consultation and the requirement to respect their culture's heritage and customs.

I want to cover three topic areas very quickly in the four Andean nations, Colombia, Ecuador, Peru and Bolivia: First, the legal frameworks in those countries; second, what we are doing to meet the goals set by the Secretary; and third, some continuing areas of conflict and concern.

I heard what you said, Mr. Chairman, when you noted that Colombia had some of the best laws regarding indigenous people's rights, but what really matters in practice, of course, is how they are respected in practice. That said, the legal framework is important.

For much of the 19th and 20th centuries, indigenous peoples were not recognized as having rights at all. But in the last two decades, Colombia, Ecuador, Peru and Bolivia have all altered their Constitutions and laws in profound ways to respect the unique nature of indigenous peoples and the need to respect their cultures and traditions.

To cite a number of examples, some or all of these countries recognize indigenous people's rights to existence as indigenous peoples, the right to national plurality, and the Constitutions of Ecuador and Bolivia specifically refer to plurinationality; the right to speak and in some cases receive education in their own language; the right to hold land in common and in some cases to have reserves; and the right to assigned seats in the legislative assembly.

I think these societies deserve credit for incorporating these concepts into national jurisprudence in their Constitutions, but, again, it is how it is respected in practice that we need to urgently concern ourselves with.

We, as the Department, and I include USAID in this, of course, we are making specific strides to try to reach out to indigenous peoples and better understand their issues, to encourage communication between indigenous peoples and their governments, and to provide specific assistance to meet indigenous people's needs, as

Janet has underlined. Our embassies in particular are coming up with imaginative and effective ways of addressing indigenous people's needs, an example of the new space for diplomacy which now exists.

I will give you a few examples. In Bolivia, where, as you noted, perhaps more than 50 percent of the population are indigenous peoples, the Public Affairs Section provides monthly programming in Aymara and Quechua to 250 radio stations, telling America's story and providing useful educational background. PAS Sections, the Public Affairs Sections, in Bolivia, Peru and Ecuador all have country-specific international visitor programs to bring up numbers of indigenous leaders to understand our experience and to meet with Native Americans and understand their experience. PAS in Bolivia is also going to be bringing Alaskan Natives to Bolivia to conduct seminars on the Alaskan Native corporate model, and we are trying to incorporate these ideas as best practices in other embassies in the region.

Embassy La Paz has a locally employed indigenous people's adviser, who reports directly to the Chief of Mission. His responsibility is to help the mission understand and make contact with the indigenous peoples in Bolivia.

Embassies La Paz and Lima both have internship programs for indigenous peoples and Afro-descendents, reaching out to historically disadvantaged youths. They work these through the universities in the capitals and, again, to bring interns into the embassy to work on a temporary basis in the embassy.

In Bolivia, Colombia and Ecuador, most advanced in Colombia, we have offered to create Joint Action Plans to Eliminate Racial and Ethnic Discrimination and Promote Equality. We refer to it as JAPER. We have a JAPER with Brazil, which was signed in 2008. We are close to reaching one with Colombia. The plans recognize that we have multiethnic, multiracial democracies, and that shared experiences can strengthen the ties of friendship between our Nation in a number of fields of cooperation, including education, culture, labor, justice, health and the environment, to name a few.

In Colombia, and I take particular note of your comments, Mr. Chairman, we focused on building links with the leadership of indigenous peoples. Indigenous peoples constitute between 3 to 5 percent of the overall population of Colombia. As you correctly note, they are disproportionately impacted by the problems of narcotics trafficking and the insurgency. Ambassador Brownfield met with the head of the ONIC, the National Organization of Indigenous Communities. When Arturo Valenzuela recently visited earlier this month, in fact, he also met with the head of ONIC.

Part of our approach to the particular problems in Tumaco and Putumayo area that you had noted was Colombia's Strategic Development Initiative, which is aimed at addressing in holistic ways the various problems of narcotics trafficking, lack of government presence and the insurgency.

Let me touch on four continuing challenges that we see in the region with respect to indigenous people's issues. First, resources. Local law and fundamental fairness should establish that indigenous peoples must at a minimum be consulted about use of resources in their areas. Tensions have arisen between governments and indigenous peoples over the failure of these consultative processes. The tragic case of Bagua in Peru last year, 34 people lost their lives over an adjudication by a question over land rights.

Other disputes have arisen over how indigenous peoples may choose to exploit their own resources, including the controversy earlier this month in Madre de Dios where there was a series of violent incidents and Peruvian Government clashed with artisanal miners.

A second point: integration into political and economic systems. The fundamental point is the need to respect the cultures and traditions of indigenous

peoples, but as a matter of policy, the government supports their folding in and their being included into existing political structures. It doesn't necessarily need to be a point of conflict, but it needs to be accomplished in a way that is consistent with democratic values. Take an example of certain countries permit the existence of parallel justice systems, parallel and indigenous people's justice systems. And, you know, there is the potential for those to work well, and there is a potential for a conflict to exist. How they work out in practice is the critical matter.

Security I touched on earlier, this matter. I note in particular the requirement of a consulta previa, the previous consultation, which the Colombian Government has an obligation affirmed by the Constitutional Court to reach out to indigenous peoples when they intend to conduct security operations in their areas. Indigenous peoples claim that these consultas are not done with sufficient advance warning or sufficient detail to make them of value.

The final point I will make is about economic advancement. The Secretary said that the income gap continues to widen. Too few girls and boys finish their educations. Women, rural farmers, Afro-descendents and indigenous peoples remain trapped on the bottom rung with too few opportunities to move up. To help remedy this situation, we work with others in the hemisphere to create Pathways for Prosperity, an initiative to promote inclusive growth, prosperity and social justice. Pathways is designed to help countries learn from one another's experiences and spread the benefit of economic growth broadly to all of our citizens, recognizing that the benefits of trade and the gains of trade have not been equitably shared in these societies. Pathways seeks to close this gap by empowering small farmers, small businesses, craftspeople, workers, women, indigenous peoples and Afro-descendents and other vulnerable groups to help them participate effectively in the global economy.

Mr. Chairman, that concludes my testimony. I look forward to your questions.

Cochairman McGOVERN. Thank you very much.

[The statement of Mr. Whitaker follows:]

PREPARED STATEMENT OF KEVIN WHITAKER

Lantos Commission Hearing on Indigenous Peoples
Testimony of Kevin M. Whitaker
Office Director, Andean Affairs
Bureau of Western Hemisphere Affairs
U.S Department of State

This is a period of great effervescence in Latin America, marked by a profound discussion about how democratic governments will address the issues of poverty, inequality, and social exclusion. Providing social justice is critical to the longevity of our political institutions.

Democracy has to deliver the goods. It has to deliver benefits and services to the poorest and most vulnerable members of our societies to give them a stake in those societies and their governments. Without authentic social inclusion, we, as a hemisphere, will not have achieved our potential or guaranteed the durability of our institutions.
One of the central challenges within this framework is how our societies deal with the unique obstacles faced by indigenous peoples. As the Secretary said earlier this year, "we seek to engage women and historically marginalized populations, such as indigenous peoples and Afro-descendants, to give them a chance to contribute to and share in… the benefits of the society at large."

We are well aware of the specific circumstances which indigenous peoples refer to, including pervasive discrimination, the need for consultation, and the requirement to respect their culture, heritage, and customs.

I want to cover three topic areas quickly with you: first, the legal framework in four Andean nations with large populations of indigenous peoples; second, what we are doing in those countries to achieve the goal set for us by the Secretary; and finally, some of the continuing areas of conflict which must be addressed.

The legal framework in this case is important. For much of the 19th and 20th centuries, indigenous peoples were not recognized as having rights at all.

Colombia, Ecuador, Peru, and Bolivia now have altered their constitutions and laws in profound ways designed to recognize the unique nature of indigenous peoples and the need to respect their culture and traditions. To cite a number of examples quickly, some or all four countries recognize their rights to:

- existence as indigenous peoples, i.e., their right to national "plurality;" – both Ecuador and Bolivia refer in their constitutions to the concept of "plurinationality"
- to speak and in some cases receive education in their languages
- to hold land in common and in some cases to formal reserves,
- to maintain separate legal systems, and
- to assigned seats in the legislative assembly.

These nations deserve credit for incorporating these concepts into their constitutions and laws. Admittedly, it is as important to note how they are respected in practice, but a sound legal framework is a worthy beginning.

We are making increasing efforts in each of the four countries noted and more broadly in the hemisphere to reach out to indigenous peoples so we can know their experiences, encourage communication between governments and indigenous peoples, and provide assistance to meet the indigenous peoples' specific needs. Asst. Administrator Ballentyne has addressed the last issue in detail.

Our embassies are coming up with imaginative and effective ways of addressing the other issues – an example of the space that now exists for a new type of diplomacy.

In Bolivia – where perhaps more than 50% of the population is indigenous peoples – the public affairs section provides programming in Aymara and Quechua to 250 radio stations on a bi-monthly basis, telling America's story and providing useful educational background. PAS also has proposed a country-specific International Visitor Program to bring six leaders of indigenous peoples here for a three-week period to exchange ideas with Native Americans here. PAS will also bring Alaskan Natives to Bolivia to conduct seminars on the Alaskan Native corporation model and is looking at an exchange program with the Choctaws through Mississippi State. We are looking to incorporate these ideas as a best practice.

Embassy La Paz also has a locally-employed indigenous peoples' advisor, who reports to the Chief of Mission and is responsible for helping the mission understand and maintain contact with indigenous peoples throughout the nation.

Embassies La Paz and Lima have internship programs for indigenous people and Afro-descendants to work at the Embassy.

In Bolivia, Colombia, and Ecuador, we have offered to create Joint Action Plans to Eliminate Racial and Ethnic Discrimination and Promote Equality. The model here is our "JAPER" with Brazil, signed in 2008; we are close to concluding one with Colombia. The plans recognize that we have multic-ethnic, multi-racial democracies, and that shared experiences can strengthen the ties of friendship between our nations. Fields of cooperation include education, culture, labor, justice, health, and the environment, and partners share best practices, resources, and information to promote equality of all racial and ethnic groups.

In Colombia, we have focused on building links with the leadership of indigenous peoples. Ambassador Brownfield met with the head of ONIC, the National Organization of Indigenous Communities, and during his recent trip to Colombia, A/S Valenzuela did as well.

In Ecuador, with some 25% of the population being indigenous peoples, we have devoted considerable focus to addressing the special needs of indigenous peoples in the northern border area, as this area is affected by narcotics trafficking and related criminal activity.

In Peru, with 45% of the population being indigenous peoples, we have worked on environmental programs to increase the capacities of indigenous peoples to manage their lands for commercial timber production.

Finally, let me touch on four continuing challenges we see for indigenous peoples and governments, including ours.

Resources: Local law and fundamental fairness establish that indigenous peoples must at a minimum be consulted on the use of resources in their areas. Tensions have arisen between governments and indigenous peoples over the failure of consultative processes. There is the tragic case of Bagua last year, in which 34 people lost their lives, occasioned by a dispute over land rights. Other disputes can arise over how indigenous peoples themselves may choose to exploit resources, as in the Madre de Dios controversy of earlier this year, where the Peruvian government clashed with artisanal miners over environmental laws.

Integration into political and economic systems: It is becoming well established that indigenous peoples have the right to their separate culture and structures. Yet as a matter of policy, we believe it is essential that indigenous peoples also incorporate themselves into the political life of the. These political systems cannot be fully representative without their participation. This is not necessarily a point of tension, but it does go to the heart of our belief about the need to make democracy work.

Security: In Ecuador, Peru, and especially Colombia, indigenous peoples find themselves in areas of conflict between terrorist groups and narcotraffickers on the one hand, and government armed forces on the other. The governments have the responsibility to directly confront violent terrorist organizations, and at the same time the responsibility to ensure that innocents, including indigenous peoples, are not harmed. This has proven difficult to pull off in practice, and there have been a number of deeply regrettable incidents. The Colombian government is committed to the legal requirement to prior consultation ("consulta

previa") with indigenous peoples about security force presence and operations in their areas. But the indigenous peoples complain that the consultas are not done with sufficient advance warning or sufficient detail to make them of value.

Economic advancement: The Secretary said that "the income gap continues to widen; too few girls and boys finish their educations; women, rural farmers, Afro-descendants and indigenous people remain trapped on the bottom rung … with too few opportunities to move up." To help remedy this situation, we have worked with others in the hemisphere to create Pathways for Prosperity, an initiative to promote inclusive growth, prosperity, and social justice. Pathways is designed to help countries learn from one another's experience through the exchange of best practices for spreading the benefits of economic growth widely. Pathways countries recognize the benefits of trade, but as well that the gains from trade have not been equitably shared and the promise of economic and social opportunity remains elusive for too many. Pathways seeks to close the gap by empowering small farmers, small businesses, and vulnerable groups, including indigenous peoples.

Cochairman McGOVERN. Mr. Cassidy.

STATEMENT OF JOSEPH CASSIDY, DIRECTOR MULTILATERAL AND GLOBAL AFFAIRS AT U.S. DEPARTMENT OF STATE

Mr. CASSIDY. Thank you very much, Mr. Chairman, Congressman Cao. Thanks very much for the invitation. This is a very important issue for the Human Rights Bureau, so we are grateful for the opportunity.

Assistant Secretary Mike Posner and the rest of us in the Human Rights Bureau are really grateful for not only the opportunity presented by this hearing, but also your leadership on human rights issues. It opens up this kind of -- the space that we need to better protect human rights victims and their defenders.

Human rights work has several overarching goals. One is the imperative to protect the powerless from the powerful. The second is the creation of vibrant civil societies where rule of law prevails, and organizations can take part in the national dialogue. A third is to foster respect and cooperation, communication between groups in society and combat discrimination and structural inequalities. All three of these goals, I am happy to say, are relevant to the subject of this hearing and relevant to the work that we do at DRL.

We work in close cooperation with our colleagues at the U.S. Agency for International Development, with embassies abroad, and with the regional functional bureaus at the Department.

Sir, as you mention, indigenous peoples, including those in the United States, are among the world's most vulnerable groups. They face disproportionate poverty, unemployment, environmental degradation, health care gaps, violent crime and discrimination. Against that backdrop, and consistent with the importance of this hearing, I want to draw special attention to an announcement made on April 20th by Ambassador Rice, our Permanent Representative to the U.N. in New York, that the United States will review its position regarding the U.N. Declaration on the Rights of Indigenous Peoples.

This administration, sir, as you know, is committed to having the U.S. serving as a role model on human rights both for their protection and their promotion overseas. The State Department has engaged over the last couple of months in a nationwide series of consultations with American civil society groups. Those will form the basis for a presentation that we are going to be doing in Geneva in November to the Human Rights Council's Universal Periodic Review process.

Congressman Cao, I should say that one of those sessions was held in New Orleans. It was quite well attended, and, from our perspective, it was quite useful. Two of the other sessions, and we have had more than a dozen now, were held in Window Rock, Arizona, and Albuquerque, New Mexico, and focused on indigenous issues. In those sessions and in other consultations that we have had with Native American groups, we have heard very strongly the feeling that the U.N. Declaration on the Rights of Indigenous Peoples can form a framework for dealing with those issues.

As we undertake our review over the next few months, we are going to be consulting extensively with federally recognized Indian tribes in the U.S., with interested NGOs, and with our sister agencies in the USG. We also plan to keep this Commission and Congress in general apprised of our progress.

One of the other issues in my remit is multilateral affairs, and DRL, as part of the administration's overall engagement strategy with the world, wants to make sure that U.N. bodies and other multilateral fora are taking indigenous rights seriously. Ambassador Rice's April 20 appearance on the Forum on Indigenous Issues was a

signal of that commitment.

Last summer a State Department delegation attended for the first time the U.N. Expert Mechanism on the Rights of Indigenous Peoples. We will do that again this summer. At the Human Rights Council in Geneva and at the U.N. General Assembly in New York, our negotiators pay a lot of attention to indigenous issues and make sure that in the dialogue and the outcomes of those sessions, that indigenous rights are dealt with seriously and as the important issue they should be.

You have heard from my colleagues from USAID in the Western Hemisphere Bureau about some of the assistance programs that they are carrying out in Latin America. DRL also has its own separate programming to protect and support indigenous groups. We currently get grants totaling $1.9 million. In Bolivia, for example, DRL is working to provide indigenous Quechua and Chiquitano citizens with the legal documentation to enable them to participate in elections and exercise their civic rights.

Through another grant, DRL provides psycho-social assistance to families of persons killed or disappeared in the internal conflict in Colombia, with a particular focus on vulnerable populations, including, sir, as you mentioned, Afro-Colombians.

Although this hearing focuses on Latin America, I also want to note that for DRL our efforts to promote the rights of indigenous peoples extend beyond the Western Hemisphere. In Burma, for example, DRL programs work to build the capacity of Burmese ethnic minority organizations and individuals so that they can investigate, document and report human rights violations and become active supporters of democracy in Burma.

In Iraq, a DRL grantee works with the indigenous Marsh Arab population in rural southern Iraq to raise awareness of their heritage, to encourage active political and civil engagement, and to improve access to state-provided education, health and vocational services.

We are also especially committed to promoting corporate social responsibility, particularly with extractive industries whose operations can so dramatically affect the living conditions of indigenous peoples. In our annual Country Reports on Human Rights Practices, we have, just in the last couple of years, increased our efforts to highlight the link between human rights abuses and the lack of accountability in some situations surrounding the extraction of natural resources. I have heard your concern, Mr. Congressman, about this and will relay that back to my folks. We do want to take this seriously, and we will make sure that we do.

One important multistakeholder initiative having direct bearing on indigenous rights is the Voluntary Principles on Security and Human Rights organization. In March, Assistant Secretary Posner traveled to London for the annual plenary meeting of the so-called VPs, which coincided with the beginning of the United States year-long chairmanship of the Steering Committee. And our goal as chair is to lead a transformational process that strengthens the VPs as a results-oriented effort that delivers clear value for all participants and has greater impact on the ground.

Indigenous issues are cross-cutting, as you have said this morning, and involve more than just the Human Rights Bureau. To give you a sense of other things happening in the Department, the Bureau of Oceans, Environment and Sciences organizes active participation in the Arctic Council, where Arctic indigenous peoples are represented by permanent participant organizations.

Our colleagues on the economic side, we work with them closely on the Extractive Industries Transparency Initiative that looks at big industries and their potential effect on indigenous communities.

But despite our efforts so far, the challenges faced by indigenous peoples are serious and will demand our continued concerted efforts. Sensible policies only arise from good information and close communication with the people affected, so I am particularly interested to hear the folks from panel two representing the indigenous

communities from Colombia, Peru and Panama.

I would also like to mention how grateful we are that Professor Shelton is serving on the American Court of Human Rights. Mike Posner recently had the opportunity to meet with her and assured her of our support. We are also proud that Jim Anaya is serving as the U.N. Special Rapporteur, and we have remained in close contact with him about the important work that he does.

In closing, Mr. Chairman, I wanted to say that as someone who grew up in southeast Massachusetts just a stone's throw from your district, I am very proud that somebody from Massachusetts plays such a leadership role on international human rights issues.

With that, I would like to offer to take any questions you might have.

Cochairman McGOVERN. Well, thank you very much, Mr. Cassidy. After that kind of closing, all I can say is you are terrific.

[The statement of Mr. Cassidy follows:]

PREPARED STATEMENT OF JOSEPH CASSIDY

Lantos Commission Hearing on Indigenous Peoples
Testimony of Joseph P. Cassidy,
Office Director, Multilateral and Global Affairs
Bureau of Democracy, Human Rights and Labor
U.S Department of State
April 29, 2010

SUMMARY

Thank you Mr. Chairman, and thanks to you and your colleagues for inviting us here today. Assistant Secretary Mike Posner and the rest of us at State's Human Rights Bureau are extremely grateful for the support we get from members of the Lantos Commission. Your moral leadership has expanded the space for our work to protect human rights abuse victims and their advocates.

Human rights work has several overarching goals. One is the imperative to protect the powerless from the powerful. A second is the creation of vibrant societies where rule of law prevails and civil society plays a prominent role. A third is to foster respect and cooperation between groups in society, and combat discrimination and structural inequalities. All three of these goals are relevant to the situation of indigenous peoples today. The Bureau that I represent -- the Bureau of Democracy, Human Rights, and Labor (DRL) -- is engaged on all three, in close cooperation with the U.S. Agency for International Development and other government agencies, with State's regional and functional bureaus, and with our embassies overseas.

UNDRIP

By some counts, there are three hundred and seventy million indigenous persons around the world. Indigenous people, including in the U.S., are among the world's most vulnerable groups, facing disproportionate poverty, unemployment, environmental degradation, health care gaps, violent crime, and discrimination. Against that backdrop, and consistent with the importance of this hearing today, I want to highlight the April 20 announcement by Ambassador Susan Rice, the U.S. Permanent Representative to the UN in New York, that the United States will review its position regarding the UN Declaration on the Rights of Indigenous Peoples.

The Administration is committed to having the U.S. serve as a model in promoting and protecting human rights, which is why the State Department participated in a nationwide series of consultations with civil society representatives in preparation for our presentation in November in Geneva on our domestic human rights record, which will be part of the UN Human Rights Council's Universal Periodic Review process. Two out of more than a dozen listening sessions were held in Albuquerque, NM, and Window Rock, AZ, and focused on indigenous issues. In those sessions, and through other communications with Native American groups, we heard strongly that, for many, this Declaration provides a framework for addressing indigenous issues. As we undertake our review, we will consult extensively with federally recognized Indian tribes and reach out to other interested nongovernmental organizations. We also intend to keep the Commission, and Congress more generally, apprised of our progress.

MULTILATERAL ENGAGEMENT

As part of our overall multilateral engagement strategy, we are working hard to ensure that UN bodies and other multilateral human rights institutions take indigenous rights seriously. Ambassador Rice's April 20 appearance at the UN Permanent Forum on Indigenous Issues was a signal of our commitment. Last summer, a State Department delegation participated in the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) for the first time and we intend to participate again this July. At the Human Rights Council in Geneva and at the UN General Assembly in New York, our negotiators pay particular attention to Indigenous Rights issues, and our goal is that UN action should focus on real-world improvements for vulnerable populations.

PROGRAMMATIC ASSISTANCE

You have heard from my USAID and Western Hemisphere bureau colleagues about the robust assistance efforts being implemented in Latin America. DRL is also actively engaged in programming to protect and support indigenous communities, with grants totaling $1.9 million. In Bolivia, for example, DRL is working to provide indigenous Quechua and Chiquitano citizens with legal documentation to enable them to participate in elections and to exercise their civic rights. Through another grant, DRL provides psycho-social assistance to families of persons killed or disappeared as a result of internal conflict in Colombia, with a particular focus on vulnerable populations.

Although this hearing focuses on Latin America, I want to note that our efforts to promote the rights of indigenous people extend beyond the Western Hemisphere. In Burma, for instance, DRL programs work to build the capacity of Burmese ethnic minority organizations and individuals to investigate, document and report on human rights violations in their communities and become active supporters of democracy in Burma. In Iraq, a DRL grantee works with the indigenous Marsh Arab population in rural southern Iraq to raise awareness of their heritage, to encourage active political and civic engagement, and to improve their access to state-provided education, health, and vocational services.

ENVIRONMENT, BUSINESS AND HUMAN RIGHTS

We are especially committed to promoting corporate social responsibility, particularly with extractive industries whose operations can so dramatically affect the living conditions of indigenous peoples. In our annual *Country Reports on Human Rights Practices*, we have in recent years increased efforts to highlight the link between human rights abuses and the lack of accountability surrounding the extraction of natural resources. One important multi-stakeholder initiative having direct bearing on extractive industries is the Voluntary Principles on Security and Human Rights. In March, Assistant Secretary Posner traveled to London for the annual plenary meeting of the VPs, which coincided with the beginning of the United States' year-long chairmanship of the VPs Steering Committee. Our goal as chair is to lead a transformational process that strengthens the VPs as a results-oriented effort that delivers clear value for all participants and has greater impact on the ground.

Indigenous issues are cross-cutting, and involve more than just the Human Rights bureau. The Bureau of Oceans, Environment and Sciences organizes active U.S. participation in the Arctic Council, where Arctic indigenous peoples -- represented by Permanent Participant organizations -- have a co-equal role.

CONCLUSION

Despite our efforts so far, the challenges faced by indigenous peoples remain. Sensible policies only arise from good information and close communication with affected groups, so I am eager to hear the views of the members of your second witness panel today, and particularly the representatives from indigenous communities in Peru, Panama, and Colombia.

I'd also like to mention how grateful we are that Professor Shelton is serving on the Inter American Court of Human Rights. As A/S Posner recently assured her, we look forward to supporting her efforts there.

In closing, let me once again thank you Mr. Chairman for your leadership on indigenous rights issues and for the dedication of all members of the Lantos Commission to protecting the world's most vulnerable groups. I would be happy to answer any questions you might have.

Cochairman McGOVERN. But let me first say, to a point that you raised, Mr. Cassidy, we are very pleased to hear the U.S. Ambassador to the United Nations Susan Rice announced last week that the United States is going to review its position on the U.N. Declaration of the Rights of Indigenous Peoples, which was formally adopted in 2007, but which the U.S. has yet to join. So this is a very welcome announcement not only for Native -- our own Native peoples, but for indigenous peoples throughout the hemisphere and the world. This Commission is going to monitor the review very closely, so we appreciate that very much.

I have got a few questions here. Let me begin with this. In a 2005 appropriations bill, a position of an adviser on indigenous peoples was created within USAID. This position was moved to the State Department in the Office of the Director of U.S. Foreign Assistance.

So I guess my question is twofold. I mean, how far are we in the hiring process? Have you collaborated with the NGO community to identify people with the right credentials as well as the status that fits the position? Is there a short list with names of potential candidates? And how, exactly, do you envision this position to become effective and operational? And in your opinion, where should the position be located to coordinate the efforts in the State Department to ensure the protection of the rights of indigenous peoples should be -- and another department or agency? I would just be curious if anyone has any response to that.

Mr. CASSIDY. Yes, thank you very much, Mr. Chairman. I can't say why, since this has been many years and was done in the last administration, we don't have more movement on this. But I can say that there are a number of smart people who are thinking over this right now trying to figure out how best this position could support the issues that you care about.

On behalf of the Human Rights Bureau, I think we think someone dedicated to these issues is quite a good idea. I think we will want to support that. We will want to engage in the debate within the Department about how best to do that.

As you know, there are -- in sort of organizational science, there are often two poles that we are pulled between, and one of them is wanting to make sure that there is a specific coordinator for issues on the subject of this importance, and the other is wanting to avoid having those issues stovepiped and make sure that every part of the Department is doing what it should related to these issues.

So, again, I can't speak for the Department, but on behalf of Human Rights Bureau, we are quite interested in where that comes out. I know that there are people thinking seriously about it right now, where that position would fit in, what its responsibilities will be.

Cochairman McGOVERN. So we are not yet at a short list as far as you know?

Mr. CASSIDY. As far as we know, in the Human Rights Bureau I don't know that there is a short list, but I can take the question back.

Cochairman McGOVERN. That would be helpful. Let me say, too, one of the things I appreciate about this new administration is kind of handling a lot of these issues is that we are moving away from that stovepipe mentality. There is a lot more discussion and collaboration between agencies and departments, and I appreciate that.

Let me ask another question here, and that was in regard to consultation with representatives in the indigenous communities. You know, I guess the question is, how do you consult, and how do you make sure that you are speaking with the authentic representatives? You know, with both indigenous peoples and Afro-Colombians, the Colombian Government oftentimes has created parallel organizations that they have brought up here to represent communities, which, really, they don't. And this is not unique to Colombia, but I guess the question is, how do you sort through, you know, all the politics that is sometimes at play and to ensure

that you are actually dealing with people who legitimately represent these indigenous peoples communities?

And it is not always easy, because we get asked all the time to meet with different groups, and it is -- you know, some of the groups we meet with really do not represent the communities that are brought up here. So how do you get through all of that?

Mr. WHITAKER. For my part it is sort of the on-the-ground view at the embassies, which is principally where this takes place. You are right, it is a difficult problem, and I think part of the answer is that, in fact, over the course of the last 20 years, we have engaged in a learning experience to try to figure out what the structures are, what the organizations are, who speaks for who. That is why the person of -- the Indigenous Peoples Adviser at Embassy La Paz is so important, because I am just sort of recognizing that we don't have all the information we need to make valid decisions about these things.

It is a learning process. I think we are getting better at it. I think that the fact that we reach out to the indigenous peoples themselves and not exclusively through the government means that we are getting a different perspective on it.

And then the final point, I don't know if Janet has something she wants to add here, but the final point is particularly with agencies like USAID, they are actually out in the countryside where this is actually happening, and the clarity on the question of leadership and who speaks for who actually becomes better out there. You get more precision when you are dealing not with the folks in the capital, but out in the countryside.

Cochairman McGOVERN. Ms. Ballantyne.

Ms. BALLANTYNE. Let me just add that USAID relies very, very largely on its local staff. I was recently in Peru. We have about 50 Foreign Service Nationals, who are people who know Peru much better than any American is ever going to. We rely on them to be our eyes and ears in the field. We have a number of indigenous peoples among the Foreign Service National staff.

In Panama, I was there recently. I am going again next week. We have people who come from the Darien region, and while we can never be 100 percent sure that we are getting the right connections, I think we are getting very, very close.

Cochairman McGOVERN. That is important, because, I mean, I have been focused on Latin America for a lot of years, and there are places where I think we get right, and there are places where I think we are missing the boat. And then there are places where sometimes they feel that our embassy doesn't have a clue about what is going on in the indigenous communities.

Let me just give you one example. I mentioned this in my opening statement, a visit to Ecuador, and going out to the areas of Ecuador that have been polluted by the oil industry, most namely Texaco, now Chevron. And we saw firsthand the impact on the indigenous communities, which is basically to wipe some of them out and then to move some further, you know, into other places.

But I will just say, I have a great respect for our new ambassador, who, when I was there, was just appointed. So I have nothing but nice things to say about Ambassador Hodges, but our embassy, in general, I didn't think had any clue about the struggle of the indigenous communities and how they were impacted, and in this case impacted negatively, by U.S. corporate activities. And, you know, again, we worry not just about the rights of indigenous communities, we worry about the extinction in cases like that.

So from my vantage point, and, again, I think you all get it, so I am kind of preaching to the choir, it is just, you know, we need this kind of aggressive outreach, and we need to make sure we are dealing with authentic representatives in the communities, and in some places we need to establish relationships with the community. And in Ecuador, I get the impression -- and, again, this was before the

administration got all of its people in place here -- but the impression that we weren't tied in to the struggles of this community. So I appreciate your comments here.

Let me ask a question with regard to free trade agreements, all right, between the U.S. and Peru, and now we are talking about a potential free trade between the U.S. and Colombia. Can you describe how the provisions in these -- you know, as we are putting these trade agreements together, how the provisions -- how we think about -- how the provisions of these agreements will impact the indigenous communities? Is that a discussion that actively goes on, I mean, you know, as these trade issues are discussed?

Mr. WHITAKER. I think that it does, perhaps not as indigenous peoples issues per se in the trade context, but I can give you a couple of angles on this. There is one with respect to environment. Indigenous peoples often will live more out in the country. This is, you know, as a general matter. And so when you are looking at the environmental protections that are built into our FTAs, there is a direct implication for how that affects the lifestyles of and cultures and traditions of the indigenous peoples themselves.

This is one of the areas of conflict that I noted, because there is a tension there between the requirement of the society in their view to develop natural resources on the one hand, and then in some cases indigenous peoples can be resistant to that because of historic concerns about exploitation of resources and the benefits of that not returning to the communities at all, not returning to the indigenous peoples at all.

You have other sorts of conflicts, for example, in the Madre de Dios matter in Peru recently, where artisanal miners, who in their majority are indigenous peoples according to the Peruvian Government, were conducting their mining operation in a way that wasn't consistent with Peruvian environmental laws. So it cuts in a number of different directions.

The other angle is -- so one is through the environmental piece. And then the other angle on it is the partnership -- Pathway to Partnership, I should say, is sort of directly aimed at this question. FTAs aren't the sole answer to economic and social and political development in the hemisphere. Some people aren't fully benefiting from the trade, and so Pathways helps develop different and parallel links to reach out to the more vulnerable members of society. So, in a respect, Pathways is a -- is kind of exactly what you are thinking of. There is a way to look after the more vulnerable members of society.

Cochairman McGOVERN. I guess, and I don't know quite how trade agreements are all put together. I mean, it is kind of a big mystery, and -- you know, but one of the things that -- you know, one of the things I am always curious about is that -- well, one of the things that troubles me is I kind of feel that it is government-to-government discussions, and a lot of the people who are most directly impacted, including people in the indigenous communities, don't have a representative at the table. And so oftentimes, you know, they are kind of marginalized, you know, and we are kind of doing whatever the government wants us to do.

And I guess my hope is that we kind of move away from that. I think some of these countries that we are talking about doing free trade agreements with are pretty complicated, you know, and with indigenous communities and -- you know, it is just one of the complications. But it seems to me that if we are all talking about respecting the rights of indigenous communities, that they need to have a larger presence, you know, in the discussions. And so it just can't be the Trade Representative for the United States and the Trade Representative from Colombia, or the Trade Representative from the United States and the Trade Representative from Peru, that there are other people that need to be consulted, you know. And my impression has been that a lot of the people that are most adversely impacted by some of these trade agreements are never even brought to the table, and when they speak up

in civil society, they are usually marginalized and told that they were in the way, and we move forward.

Mr. CASSIDY. Sir, can I respond to that, because I would agree with you that probably like lawmaking, policymaking can be sort of an ugly sausage making at times. But it is true that, you know, all of us from the Human Rights Bureau look to opportunities to raise human rights issues wherever we can. Free trade agreements is one of the potential areas that we could use.

We also -- we have a new Assistant Secretary, confirmed this past year, who came from the human rights world himself, founder and longtime president of Lawyers Committee and then Human Rights First, somebody who in his past life had dealt quite a bit with business in human rights issues, cares deeply about that.

I think the fact that we have now taken on the chairmanship of the Steering Committee of the voluntary principles organization is a sign that we are ramping up our efforts on this. Our Deputy Assistant Secretary just gave a speech at the Extractive Industries Transparency Initiative the other day. We are doing hiring. We now have a new office that is going to take a more robust role in this. Free trade agreements, like everything else the State Department does in terms of its diplomacy abroad, is an opportunity for us to press the importance of human rights issues, and we will continue to do that.

Cochairman McGOVERN. Look, I am a huge fan of Mike Posner. I mean, I introduced him at his Senate confirmation hearing. I have great admiration for him. But I -- again, I guess what I am trying to get at here, though, is if, in fact, the administration were to propose a U.S.-Colombia free trade agreement, which I hope they don't personally, but if they do, I hope that accompanying the submission of asking for that, that there would be a human rights report that would describe for us the impact that such an agreement would have on not only labor rights, but also on the indigenous communities, because I think that is one of the things that we always get concerned about is all these people that are impacted that may not be in positions of power that are not always at the table.

So to the extent that when we talk with these trade agreements, that there is an accompanying report that describes the impact on human rights and on indigenous peoples, I think that would be something that we would welcome, and it would be important for us to be able to talk about it.

I just have a couple of other really quick questions. With regard to the current reporting requirements, you know, that come out of the State Department reports, you know, I had raised this issue about the impact of the environment on indigenous communities, and for whatever reason, again, going back to my Ecuador example, I was kind of stunned that the human rights report did not report on the pollution from the oil industry, you know, in an area the size of Rhode Island. And I visited there. I mean, Cindy Buhl and Hans Hogrefe were with me, so don't take my word for it.

Everywhere I went, it reeked of oil, and kids were swimming in rivers that were filled with oil. They were drinking out of well water that reeked of oil. The animals were drinking water that was contaminated with oil, everywhere you went, and people were living there. And indigenous communities were displaced, and, you know, there was nothing in the State Department report that talked about the environmental impact on these people.

And I guess one of the things that I am hoping will happen is that as we move forward in future reporting, that environmental degradation is an important part of human rights, the human rights report.

Mr. CASSIDY. Sir, this is something else, though, Assistant Secretary Posner takes very, very seriously. As you know, the human rights reports at this point are more than 40 years old, and they have changed pretty dramatically since they were founded. Initially they were much shorter, much less detailed. They focused on civil and political rights almost exclusively, and then over the years we have seen the

connection between human rights and other aspects, like environmentalism, for example, where those ties weren't initially so apparent.

As you know, Mike Posner has been up on the Hill a bunch lately talking to a number of you about how best to regularize the human rights reporting that we do. We do a number of separate reports. They are separate schedules; they deal with separate subjects. And I can tell you that in his thinking he wants us to ask big questions to make sure that we are addressing all the issues we should be.

So on one side we need to make sure that we are doing -- we are covering that nexus between environmental issues and human rights issues. We also, frankly, need to make sure that we are doing everything we can to cover human rights and indigenous issues, the subject of this hearing.

So I think he would welcome lots more discussions with you and other key Members on this.

Cochairman McGOVERN. We appreciate that.

Mr. CASSIDY. We want to be aggressive and sort of proactive on that.

Cochairman McGOVERN. I appreciate that.

One final question for me, and that is when I was in Ecuador, we met with President Correa, and one of the things we talked about when we met with him was the plight of the indigenous communities in Ecuador and the concern that, you know, in this kind of struggle to develop more and more and more and more, because countries want more and more investment, more and more industry, you know, it is kind of everybody -- we do hear it, too. But in that effort that -- you know, that more and more kind of very precious land and water would be taken away, and as that happens, you have more and more of an impact on the indigenous communities.

And one of the things that he raised, which at the time seemed to me kind of like no way, but the more I think about it, I am thinking maybe there is some sense to it, was that international investments in countries, you know, might be geared toward actually the preservation of land, to preserve the rainforests from further development, and to, you know, basically help the Ecuadorans meet their -- or any other country -- kind of meet their financial needs. But our investment and our aid would be in the form of helping them protect some of these very precious and vital lands.

I mean, I don't know whether anybody has any thoughts on that or whether that is even something that someone at the State Department or USAID is thinking about, but it seems to me that part of the struggle here is to protect land and to protect it from development that would displace people. And maybe, you know, it is worth thinking about as a possibility down the road. I don't know what anyone thinks about this.

Mr. WHITAKER. I think there is an important point to be made there. The only thing that occurs to me as being right on target with what you are discussing is just the notion of corporate social responsibility. I understand that is five degrees off from what you are thinking about here, or maybe more. But the point is not just U.S. corporations, but other corporations, Brazilian, Ecuadorian, whatever, they have an obligation to conduct their activities in a way that is respectful of culture and traditions, it is respectful of the land, it is done in a way that we can all be proud of. And I think that notion of corporate social responsibility is becoming more and more embedded in the way certainly U.S. corporations conduct their business in the hemisphere.

Cochairman McGOVERN. I understand the importance of social responsibility. But if you are a government where the economy is in the tank, you know, then sometimes social responsibility gets thrust to the side and you say okay, we will do some development.

We have these arguments here in our own country. During these very difficult economic times, do we develop this land here that we wanted to keep as a parkland,

but we are going to do it because it is going to bring more revenue to the city or town. We all say, well, you know, we need the money. So sometimes people do things that are socially irresponsible because they need the money and they need the funds and resources.

I wish everybody, I wish all governments would be socially responsible enough to say absolutely no, no matter what, you are not going to develop here. But given the realities that governments have to deal with and given the terrible kind of global economy situation, sometimes there may be a need to kind of inject something new to help them actually be socially responsible.

Again, I am not asking for a formal yes or no. It just seems to me that we need to be thinking a little out of the box as we go down the road, because you can't always count on governments to be socially responsible during difficult economic times.

Ms. BALLANTYNE. I would just add that along with Ambassador Hodges, we have a new USAID Director in Quito, and I talk with her on a weekly basis.

I am delighted to hear President Correa's interest that you mentioned. This is something we will follow up on. I have asked our aid director, I have given her the mandate, get out, leave Quito, find out what is happening in the country.

We do have a number of programs dealing with indigenous people, dealing with conservation, and I would be glad to provide any further information to you.

Cochairman McGOVERN. I appreciate any follow-up on that. Look, I appreciate all the work that this panel does, and I admire you all for what you have not only done, but what you stand for. So I appreciate you being here. I am not raising these issues to be critical. I am thinking where we need to be thinking out of the box as we move forward.

Mr. Smith?

Mr. SMITH. Thank you very much, Mr. Chairman. Thank you for calling this hearing on the rights of indigenous people in Latin America. I think it is a very important hearing with an important focus.

Mr. Chairman, as can be seen from the U.N. Declaration on the Rights of Indigenous People, protecting and respecting each human culture is a multifaceted and very high calling.

Our insensitivities and failures of the past in some ways inspire our current efforts to deal justly and respectfully with first peoples groups. I am concerned, however, that our past failures may also be hindering beneficial human rights actions we could be taking in relation to some indigenous people in Latin America.

For example, in Brazil, there is strong evidence from multiple sources showing that infanticide is still being practiced by many of Brazil's 200 indigenous tribes. Children who are with deformities or other medical conditions or born to a single mom are buried alive.

One of these children, Hakani, was suffering from a mysterious disease that left her unable to walk or speak at the age of two. Her tribe decided it was best for her to die and buried her alive. But her older brother dug her out in time and carried her to the edge of the jungle on his back. Now a teenager, she is healthy, walking and talking. Her only problem was a highly-treatable thyroid condition.

While Brazil has tried to discourage infanticide and I have raised it with parliamentarians in Brasilia, its Office of Indian Affairs seems not to have a policy of actively stopping it and there seems to be a hesitancy to criminalize indigenous actions. A law that would have addressed the issues of indigenous practices that violate human rights seems to have died in the Brazilian Congress.

My question would be, why, if the Declaration of the Rights of Indigenous Peoples explicitly states that indigenous practices are only protected if they are in accordance with international human rights standards, wouldn't infanticide be similarly protected? Surely it is in the best interests of all involved, including the

survival of the tribe itself, to stop infanticide practices.

I would be very interested in knowing from our distinguished panel if any of our witnesses have insights as to why the stalemate, how or whether or not our embassy has raised this issue. I would also like to know from the government witnesses if this is an issue that you yourselves have also addressed, Hakani in particular, but this larger issue.

I would note for the record that in November of 2008, over 350 Indians, including chiefs from seven tribes, gathered to talk about the issues, alternatives to infanticide, and I think that was an important first step. But, again, the reluctance on the part of some top people in the Lula government to somehow have a hands-off, as if this practice is something they don't want to engage themselves in, it seems to me for the young child who is being buried we need to do more to intervene.

Perhaps you want to speak to that.

Mr. CASSIDY. Thank you very much, Congressman Smith. I am not aware of that particular case, but let me give you a sense of how the Human Rights Bureau thinks about these things.

For us, we start with the presumption that human rights are individual, inalienable, and not subject to things like someone's ethnicity or their indigenous status. So human rights is that sort of basis. Infanticide is a human rights abuse, a crime, and it should continue to be no matter who practices it.

The subject of this hearing, indigenous peoples, reminds us that for indigenous peoples there are communitarian rights as well relating to religion and culture and self-sufficiency, things like that. But as you rightly pointed out, even in the U.N. Declaration on the Rights of Indigenous Peoples, those communitarian rights don't trump other human rights standards. The things that would be abuses elsewhere would still continue to be abuses. So that is sort of how we think of these things.

Again, I am not familiar with this case, but it would be our understanding that we would not align ourselves with the U.N. Declaration on the Rights of Indigenous Peoples if we understood it to undercut the human rights protections in other seminal documents like the Universal Declaration or the ICCPR.

Mr. WHITAKER. We can check and see whether the embassy has in fact brought it up and any other observations on the views the government has.

Mr. SMITH. I appreciate that. On Hakani's and similar issues like hers.

Mr. WHITAKER. Her specific case, and more generally.

Mr. SMITH. She is now an older child. But her case is so spectacular in the fact that she was saved by a loving brother. The parents were so distraught, they took their lives. This is a situation that begs intervention for the sake of the individual life lost, but also for the tribe, it would seem to me.

So if you could get back to us with some insights, it would be appreciated, and how we have conveyed our concerns to the Lula government. Because when I saw the statements by the head of Indian Affairs, I was shocked. To somehow say, sacrosanct, can't raise it. No, you have a duty to intervene. It is a universally recognized duty at that, recognized by the U.N. itself.

Let me ask you another question if I could. Maternal mortality is an issue that for 30 years as a Member of Congress I have taken very, very seriously. Two days ago, I hosted a briefing on maternal mortality and ways of mitigating it. The Bill and Melinda Gates study published in Lancet 2 weeks ago showed there has been a dramatic decline of maternal mortality, under appreciated I think by some and under-focused upon. It made a New York Times story, but not much more. But the reasons why those numbers are coming down, I think is, is very indicative.

Chile has had a very strong effort at female literacy and skilled birth attendants with the right equipment, especially to deal with an obstructed delivery or deal with hemorrhaging where safe blood would be required.

I held a hearing some years ago on safe blood, and a WHO representative said

that in Africa, I know that is not what we are talking about today, but certainly the issue is transferable, if women had access to safe blood in Africa, 44 percent of maternal mortality goes away, because they don't have access to that blood in a timely fashion or in sufficient quantity.

The skilled birth attendant to deal with an obstructed delivery is absolutely the key. The key. I don't think there is anything else that even comes close to mitigating maternal mortality. Yet many of the indigenous women actually have unattended births. They go out and have their child either in a hut or somewhere outside and they do it in many cases alone.

It seems to me from a totally humanitarian point of view, promotion of skilled birth attendants with the right kind of backup, so if there is an obstructed delivery, would prevent the woman from dying as well as the child, or an obstetric fistula or some other morbidity complication.

So, what is your view on that? Because, again, I think this hands-off view that is taken sometimes by certain governments, and Brazil might be one of those as well, leads to dead women and dead babies.

Ms. BALLANTYNE. Thank you, Congressman Smith. We know of your long interest in maternal and child health, and like you, watching the maternal mortality and the infant mortality figures dropping is very, very pleasing.

The Global Health Initiative, the USAID initiative, has increased funding over the last several years. I understand from this morning's meeting that there will be increased funding this year.

You have hit exactly the right points; the female literacy, hand washing, safe blood, the presence of skilled birth attendants.

I was recently in the Amazon area of Peru where there is a maternal child health program funded by USAID which actually has a series of river launches that they go out on the tributaries working with indigenous people to bring exactly those points, bringing leaders into the capital in San Martin to be trained, but also understanding most river people are not going to come in, so we send the people out.

This has been very exciting over the course of my involvement in the hemisphere, which is almost four decades, to watch these kind of figures become public.

So thank you for your support, and we will continue to learn from you.

Mr. SMITH. Just one final question, if I could. In 1983, I offered an amendment to the foreign aid bill that passed and became law to provide $50 million for the child survival revolution, the four major pillars, ORT and vaccination being among the greatest savers of human life, children's lives I think ever.

I remember traveling, I went to El Salvador, I went to several of the Latin countries, where they have these, in El Salvador, "days of tranquility." The FMLN and the government said, no fighting today. We are going to vaccinate children, and polio, pertussis, diphtheria, you know, leading childhood killers were vaccinated against.

Jim Grant, we all recall, he did a great job in promoting ORT as well as vaccinations. But have those vaccinations and other very basic interventions reached the indigenous people, like in Brazil, like in Colombia and other places, in sufficient numbers to make a difference, or is there still a big challenge there?

Ms. BALLANTYNE. What I would like to do, Congressman, is to get specific figures on this and get this back to you.

Mr. SMITH. I appreciate that.

Ms. BALLANTYNE. I know that oral rehydration therapy and vaccination are very important pillars of our maternal child health. The develop of cold chains so that you really can get the right vaccines into very rural areas has been very successful. But let me get some specifics and we will get those to you.

Mr. SMITH. Thank you very much. Thank you all.

[The information follows in the appendix:]

Cochairman McGOVERN. Thank you for your willingness to be here today with us, and thank you for your service. We appreciate it.

There are approximately 23 to 25 million indigenous peoples living south of the U.S. border. In some countries, they are the majority or plurality of a country's population. In others they are dwindling almost to the point of disappearing altogether. The largest concentrations are found in Mexico, Bolivia, Ecuador, Guatemala, Peru, Brazil, and Colombia.

Our second panel looks at three case studies representing three very different realities of indigenous peoples in Latin America, and I am very grateful for their presence and their testimony.

Our witnesses are Dinah Shelton, who has been us before. She is a Professor of International Law at George Washington University, who will provide us with an overview of the international instruments and the human rights situation of Latin America's indigenous people.

Daisy Zapata Fasabi, representing the Yine community in Peru, and who is also the Vice President of the National Organization of the Amazon Indigenous People of Peru.

Estanislao Bejerano Morales, representing the Ngobe People of Panama.

Feliciano Santos Santos, who is a Ngobe People leader with the Movement for the Defense of the Territory and Ecosystem of the Bocos del Toro.

Dario Mejia, representing the Zenu people of Colombia and speaking on behalf of the National Indigenous Organization of Colombia.

So I want to welcome you very much. I should tell you, we have plenty of time here, but we need to vacate this room unfortunately by noon. But I want everybody to have their time.

We will begin with Professor Shelton.

STATEMENT OF DINAH L. SHELTON, PROFESSOR OF INTERNATIONAL LAW AT THE GEORGE WASHINGTON UNIVERSITY

Ms. SHELTON. Thank you very much for the invitation to come back and speak to you again.

Cochairman McGOVERN. Welcome.

Ms. SHELTON. I will make just a couple of preliminary remarks. First, I hope you excuse me if I address you incorrectly. I am old enough to remember when the name "McGovern" was preceded with the name Senator.

Cochairman McGOVERN. That is okay.

Ms. SHELTON. I just let you know that.

Secondly, I am wearing two hats here, because I am Special Rapporteur on Indigenous Peoples for the Inter-American Human Rights Commission, and some of the material I have comes from commission reports.

But when I turn to the United States and things it might do, I speak in my personal capacity, since the Commission regulations preclude our participating in any activities concerned with our own country.

Finally, I am a bit at the mercy post-surgery of medical appointments, and so I have to be at one at noon.

With that in mind, as you mentioned in your opening remarks, we have millions of indigenous people in the world, mostly living in highly vulnerable ecosystems, the Arctic and tundra, tropic and boreal forests, riverine and coastal zones, mountains and semi-arid rangelands, and these lands have come under increasing pressure as outsiders have sought and extracted or converted natural resources to supply a growing demand.

Once hardly accessible, these territories that have been used and occupied by

indigenous people for millennia have become a major source of hydroelectric power, minerals, hardwoods and pasture lands. Some indigenous regions are also being threatened or lost due to climate change.

The invasion of the outside world has brought with it disease, exploitation, loss of language and culture, and in too many instances, complete annihilation of the group as a distinct entity. So we are facing crises.

At our recent March hearings at the Inter-American Commission, the overwhelming majority of hearings we held were related to indigenous lands, deprivation of rights and often linked to infrastructure projects. You mentioned Guatemala.

One of our hearings concerned the 41,000 disappeared people in Guatemala, the overwhelming majority of which are indigenous peoples. This is the highest number of disappeared in the world, far more than any other country, and includes thousands of children.

So we are dealing throughout the hemisphere with forced relocation, with major infrastructure projects, deprivation of land and resources, with indigenous often targeted for killing and literally being decimated by development projects. Like you, I have been in Ecuador many times, been to the Oriente, and am aware of the situation there.

There has been discussion already of Colombia, where indigenous are at the risk both of guerrillas, of criminal gangs, but also of companies and government oppression through the military. There are two forms of mining going on in Colombia. There is the extracted mining, but there is also the insertive mining with land mines being placed on indigenous lands resulting in death.

In 2009, Colombia's Constitutional Court listed the U'wa among a handful of indigenous groups at the risk of extinction. In Brazil, in addition to the situation that Congressman Smith reported, there have been numerous claims about government failure to demarcate and title ancestor lands, accompanied by violence.

Large dams are being built in Peru and Brazil and Guyana in many areas that are causing forced relocation.

In the area of the Chaco of Brazil, I brought with me many copies of the report the Commission issued in December of this year on the situation of the Guarani, who because of debt bondage and forced labor are suffering a contemporary form of slavery. They are being punished by the deprivation of food resources. This is being tolerated by the government.

In Chile, the protests of the Mapuche have been criminalized, protests that deal with the deprivation of their land and resources.

So, in sum, throughout the hemisphere some of the most marginalized and vulnerable people are losing their lands, liberty, their identity and too often their lives.

There is, as has been reported by the previous panel with respect to some of these countries, very good constitutional and legislative provisions now, and in many cases these have been added in response to the human rights revolution of the last six decades.

There is clear human rights law now protecting indigenous peoples, particularly in the Western Hemisphere, with very clear state obligations to respect property rights of indigenous people, and this is a large part of the Inter-American Commission's work. In addition to the Bolivian report that I brought with me, we are in the final steps of preparing a new comprehensive report on indigenous land and resource rights in the entire hemisphere.

In addition to that, in early June we will be holding a training seminar for English-speaking indigenous lawyers that will be co-organized with the U.N. Special Rapporteur on both Global and Regional Norms and Procedures. And on an issue related to what Congressman Smith raised, we have another report that will be coming out soon on access to maternal health care focusing on indigenous.

What the global and regional norms have made clear is that development is subordinate to human rights; that every state, of course, may pursue in its sovereignty its economic development, but it must do so consistent with human rights; and there is a special relationship and special obligations owed to indigenous peoples which involves in the Inter-American system guarantees for the communal property rights of indigenous peoples to their traditional lands, requiring that they be demarcated and titled to them.

In addition, they are entitled to prior consultations, prior environmental and social impact assessments, and other procedural guarantees before any major development project occurs on those lands. If those development projects are to have any impact on their subsistence resources, prior informed consent is required. In other words, they may veto those projects if they are to be deprived of their resources.

These norms are contained in ILO Convention 169 in the 2007 U.N. Declaration on the Rights of Indigenous People. The U.S. is one of only two countries in the world not on record supporting that declaration, the other is Canada, and also in the Inter-American Declaration and Convention on Human Rights.

Of course, property rights may be limited under any legal system, but must be done so through consultation. It must be proportionate, and, as I said, with the prior informed consent of indigenous peoples.

What is the U.S. role? What can be done? The U.S. can exercise tremendous leadership on a multilateral, bilateral and unilateral level.

On the multilateral level, I would hope that the committee could encourage the administration to quickly reverse U.S. policy to support the U.N. Declaration on the Rights of Indigenous People as a framework for protecting their rights, including their lands and resources, and also support the efforts that have been underway now almost as long as those in the U.N. to conclude an Inter-American Declaration on the Rights of Indigenous Peoples. It is close to conclusion and, with some U.S. support, I think could be adopted in the near future, and continue to push for the inclusion of reporting on the linkages between environmental degradation and human rights in U.S. country reports.

On the bilateral basis, yes, including the issue of respect for human rights, especially indigenous rights in bilateral free trade agreements, is an extremely important initiative.

On the unilateral level, I think we need to get our own House in order for leadership purposes. There is a singular case that the Inter-American Human Rights Commission decided involving the United States, the Dan case, involving access to grazing lands for members of the Western Shoshone Tribe. Those are Federal lands. There is no State issue involved there. The Commission is still waiting for compliance with the decision in the Dan case. So I would hope that a means could be found for the government to comply with the recommendations of the Commission in that issue.

Then, finally, please try to maintain and find some mechanism to legislatively or otherwise encourage corporate accountability for violations of human rights and environmental laws wherever they occur.

Thank you very much. I look forward to your questions.

[The statement of Ms. Shelton follows:]

PREPARED STATEMENT OF DINAH L. SHELTON

The Crises Affecting Indigenous Peoples in the Western Hemisphere

Dinah Shelton,
Manatt/Ahn Professor of Law
The George Washington University Law School
Member, Inter-American Human Rights Commission

There are over 200 million indigenous people in the world. Most of them live in highly vulnerable ecosystems: the Arctic and tundra; tropical and boreal forests, riverine and coastal zones, mountains and semi-arid rangelands. In the past few decades, traditional indigenous lands have come under increased pressure as outsiders have sought and extracted or converted natural resources to supply a growing global demand. Once hardly accessible, the territories used and occupied by indigenous peoples have become a major source of hydroelectric power, minerals, hardwoods and pasture lands. Other indigenous regions are being threatened or lost due to climate change. For those indigenous and tribal peoples who have remained in their traditional territories, the invasion of the outside world has brought with it disease, exploitation, loss of language and culture, and in too many instances, complete annihilation of the group as a distinct entity.

Indigenous peoples are uniquely vulnerable to environmental harm because of their cultural and religious links to their territories. The UN's special rapporteur on human rights and the environment described the relationship between indigenous peoples and their surroundings:

> In nearly all indigenous cultures, the land is revered; "Mother Earth" is the core of their culture. The land is the home of the ancestors, the provider of everyday material needs, and the future held in trust for coming generations. According to the indigenous view, land should not be torn open and exploited--this is a violation of the Earth--nor can it be bought, sold or bartered. Furthermore, indigenous peoples have, over a long period of time, developed successful systems of land use and resource management. These systems, including nomadic pastoralism, shifting cultivation, various forms of agro-forestry, terrace agriculture, hunting, herding and fishing, were for a long time considered inefficient, unproductive and primitive. However, as world opinion grows more conscious of the environment and particularly of the damage being done to fragile habitats, there has been a corresponding interest in indigenous land-use practices. The notion of sustainability is the essence of both indigenous economies and their cultures.

E/CN.4/Sub.2/1990/12, ¶33 and n. 9.[1] The linkages between environmental protection and human rights are perhaps most obvious and critical in the context of indigenous peoples, their lands and resources.

1. The Crises

Throughout the Western Hemisphere indigenous peoples are being deprived of their lands and resources, often targeting for killing and literally decimated by development projects.

In Colombia, American companies engage in large-scale megaprojects, both infrastructural and economic/extractive, in different parts of Colombia, many of which take place in indigenous territories or over indigenous peoples' natural resources; these companies, which are at risk of guerrilla and other criminal violence, obtain support and protection by both the Colombian military and the paramilitary groups; the violence exerted by the Army and by paramilitary groups against the indigenous inhabitants of the territories where the projects are to take place is a cause of death, forced internal displacement, and the like. Their lands are being appropriated by "legal" companies backed by paramilitary violence, in order to develop there their agro-industrial, mining, or infrastructural projects.

The U'wa community of 5,000 in northeast Colombia has been subject to invasions of their lands and violence as a result of Occidental Petroleum activities and militarization of lands to prepare for three mega-projects extraction of natural gas, construction of a highway to Venezuela U'wa legal reserve, and expansion of a national park into sacred areas. In 2009, Colombia's Constitutional Court listed the U'wa amongst a handful of indigenous groups at risk of extinction.

In Brazil, the Raposa Serra do Sol (RSS or Raposa) case concerns indigenous land in the state of Roraima, Brazil. Indigenous groups claim the Government has failed to demarcate and title their ancestral lands. Acts of violence are alleged to have been perpetrated against indigenous peoples in the course of their efforts to reclaim their lands, including an armed raid on several indigenous communities and their institutions resulting in displacement, burning of buildings, significant physical injuries; as well as the shooting and resulting injury of several indigenous members peacefully building a traditional structure within the demarcated lands).

In Guyana, the Akawaio and Arecuna Amerindian tribes of the Upper Mazaruni river basin have been subjected to systematic and massive deprivations of their lands and resources, including impacts of large scale dam project.

The Brazilian Yanomami have neared decimation by garimperos/rubber tappers and the Pataxuh-he group reported at least 80 women were sterilized by a politician looking for votes from non-indigenous land owners.

In Chile, the Mapuche protests have been criminalized, and indigenous leaders referred to as terrorists for their efforts to combat loss of their lands.

In sum, throughout the hemisphere some of the most marginalized and vulnerable people are losing their lands, their liberty, their identity and too often their lives.

2. There is Clear International Law Protecting Indigenous Peoples[2]

In recent decades, human rights law, particularly in the Western Hemisphere, has made clear state obligations to respect property rights and access to justice for indigenous peoples. Preservation of ancestral territories enable indigenous peoples to maintain their own social, political, and legal institutions as well as their own vision of integral development.

ILO Convention 169 on indigenous peoples establishes that the states parties have the duty to respect "the special importance for the cultures and spiritual values of the peoples concerned [i.e. indigenous peoples] of their relationship with the lands or territories … and in particular the collective aspects of this relationship" – the term "lands" being understood as the

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[1] For other reports of the special rapporteur discussing indigenous peoples and the environment, *see*: E/CN.4/Sub.2/1991/8; E/CN.4/Sub.2/1992/7; E/CN.4/Sub.2/1992/7/Add.1; E/CN.4/Sub.2/1993/7.

[2] This section is derived from the Inter-American Commission report *Captive Communities: Situation of the Guarani Indigenous Peoples and Contemporary Forms of Slavery in the Bolivian Chaco* (2010), paras. 64-80.

concept of "territories" – which "covers the total environment of the areas which the peoples concerned occupy or otherwise use." (ILO Convention 169, art. 13). Article 14 of that Convention establishes the duty of States to take measures to safeguard the right of indigenous peoples even with respect to lands not exclusively occupied by them, but to which they have traditionally had access for their subsistence and traditional activities.

Article 14 also establishes a duty on States in the following terms: "Adequate procedures shall be established within the national legal system to resolve land claims by [indigenous] peoples…." In addition, Convention 169 provides that the indigenous peoples "shall be safeguarded against the abuse of their rights and shall be able to take legal proceedings, either individually or through their representative bodies, for the effective protection of these rights." (art. 12)

With respect to access to justice, the United Nations Declaration on the Rights of Indigenous Peoples provides that indigenous peoples have the right to procedures that are "just and fair procedures for the resolution of conflicts and disputes with States or other parties" that lead to prompt decisions that include effective reparations for the injury to their individual and collective rights, taking due consideration of "customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights." Art. 40

In relation to the issue of reparations, the United Nations Declaration on the Rights of Indigenous Peoples provides at Article 28 that reparations should be made by means of restitution; and in case the restitution of lands is not possible, there should be "fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent." It should be noted that in relation to any legislative, administrative, or other measure that affects indigenous peoples, including measures of reparation, States should engage in consultations and should cooperate in good faith with those peoples so as to secure their free, prior, and informed consent. Art. 19

Indigenous peoples are entitled as well "to the improvement of their economic and social conditions, especially in the areas of education, employment, training, housing, sanitation, health, and social security." Art. 21(1) The State therefore has the obligation to adopt "effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions." Art. 21(2)

In addition, the United Nations Declaration establishes that the indigenous peoples have the right to "determine and develop priorities and strategies for exercising their right to development," which also includes the right of those peoples "to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions."[1] Art. 23.

The above-mentioned provisions of international law with respect to the rights of indigenous peoples are also backed by the case law of the inter-American human rights system in the context of its interpretation of the American Convention.

With respect to the duty of the State to protect the right to life with respect to the indigenous peoples, the Inter-American Court has reiterated that "the States must adopt any measures that may be necessary to create an adequate statutory framework to discourage any threat to the right to life; … and to protect the right of access to conditions that may guarantee a decent life."[3] In this regard, the State has the duty to take positive, concrete measures geared toward fulfillment of the right to a decent life, especially in the case of persons who are vulnerable and at risk, whose care becomes a high priority.[4]

The Inter-American Commission and the Inter-American Court have issued rulings in matters related to the right to communal property, the restitution of ancestral lands, the contradictions that may arise between indigenous communal property and individual private property, the right of access to justice, as well as the obligation of the States to ensure a dignified life for the members of indigenous peoples.

The Inter-American Court of Human Rights has established that Article 21 of the American Convention (right to property) also protects "the rights of members of the indigenous communities within the framework of communal property," and recognizes that "[a]mong indigenous peoples there is a communitarian tradition regarding a communal form of collective property of the land, in the sense that ownership of the land is not centered on an individual but rather on the group and its community."[5] The Inter-American Court recognizes: "For indigenous communities, relations to the land are not merely a matter of possession and production but a material and spiritual element which they must fully enjoy, even to preserve their cultural legacy and transmit it to future generations."[6]

The possession of land under the "customary law" of the indigenous peoples, according to the Inter-American Court, "should suffice for indigenous communities lacking real title to property of the land to obtain official recognition of that property, and for consequent registration."[7] Therefore, the Court has ruled as follows on the right to property of indigenous peoples and the obligation of the States to recognize that right in their domestic legal systems:

> … (1) traditional possession of their lands by indigenous people has equivalent effects to those of a state-granted full property title; (2) traditional possession entitles indigenous people to demand official recognition and registration of property title; (3) the members of indigenous peoples who have unwillingly left their traditional lands, or lost possession thereof, maintain property rights thereto, even though they lack legal title, unless the lands have been lawfully transferred to third parties in good faith; and (4) the members of indigenous peoples who have unwillingly

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[3] I/A Court H.R., *Indigenous Community Sawhoyamaxa v. Paraguay Case*. Judgment of March 29, 2006. Series C No. 146, para. 153; *Indigenous Community Yakye Axa v. Paraguay Case*. Judgment of June 17, 2005. Series C No. 125, para. 161.
[4] I/A Court H.R., *Indigenous Community Yakye Axa v. Paraguay Case*. Judgment of June 17, 2005. Series C No. 125, para. 162.
[5] I/A Court H.R., *The Mayagna (Sumo) Awas Tingni Community v. Nicaragua Case.* Judgment of August 31, 2001. Series C No. 79, paras. 148, 149.
[6] I/A Court H.R., *The Mayagna (Sumo) Awas Tingni Community v. Nicaragua Case.* Judgment of August 31, 2001. Series C No. 79, para. 149.
[7] I/A Court H.R., *The Mayagna (Sumo) Awas Tingni Community v. Nicaragua Case.* Judgment of August 31, 2001. Series C No. 79, para. 151.

> lost possession of their lands, when those lands have been lawfully transferred to innocent third parties, are entitled to restitution thereof or to obtain other lands of equal extension and quality. Consequently, possession is not a requisite conditioning the existence of indigenous land restitution rights.…[8]

In those cases in which the restitution of ancestral lands of the indigenous peoples is made difficult by the presence of third parties who have acquired title to or possession of those lands, the guidelines under the provisions and case law of the inter-American system dictate that there may be restrictions on the enjoyment of and right to property if these (a) are established by law; (b) are necessary; (c) are proportional; and (d) are put in place for the purpose of achieving a legitimate objective in a democratic society.[9] The American Convention, at Article 21, provides that a law of a State "may subordinate [the] use and enjoyment [of property] to the interest of society." The need for such restrictions depends on the imperative public interest sought to be satisfied; and proportionality is "based on the restriction being closely adjusted to the attainment of a legitimate objective, interfering as little as possible with the effective exercise of the restricted right."[10] In addition, the restrictions on the right to property "must be justified by collective objectives that, because of their importance, clearly prevail over the necessity of full enjoyment of the restricted right."[11]

Therefore, in the context of indigenous peoples, and the contradictions that may arise between the ancestral property claimed and the existence of private property within the area claimed, the Court has established that:

> "the States must assess, on a case by case basis, the restrictions that would result from recognizing one right over the other. Thus, for example, the States must take into account that indigenous territorial rights encompass a broader and different concept that relates to the collective right to survival as an organized people, with control over their habitat as a necessary condition for reproduction of their culture, for their own development and to carry out their life aspirations. Property of the land ensures that the members of the indigenous communities preserve their cultural heritage.
>
> … Disregarding the ancestral right of the members of the indigenous communities to their territories could affect other basic rights, such as the right to cultural identity and to the very survival of the indigenous communities and their members.
>
> … On the other hand, restriction of the right of private individuals to private property might be necessary to attain the collective objective of preserving cultural identities in a democratic and pluralist society, in the sense given to this by the American Convention; and it could be proportional, if fair compensation is paid to those affected.…[12]

According to the case law of the inter-American system, the State has the duty to ensure the right to collective property of the indigenous peoples, and with respect to the indigenous peoples who are not in possession of their ancestral territory, the State should facilitate the restitution of their lands, which may include the impairment of private rights that currently vest in the lands claimed by those peoples. As follows from the case law cited above, private property may be restricted for the sake of a greater collective interest, so long as there is fair compensation for the owner harmed, if he or she has been an innocent third-party buyer to whom that right has been conveyed.

The Inter-American Court has established that the right of the indigenous peoples to the recovery of their traditional lands that are not in their full possession persists indefinitely to the extent that there continues to be a cultural, spiritual, ceremonial, or material relationship of the indigenous people with their territory. Nonetheless, as the Court explains, "if the members of the indigenous people carry out few or none of such traditional activities within the lands they have lost, because they have been prevented from doing so for reasons beyond their control, which actually hinder them from keeping up such relationship, such as acts of violence or threats against them, restitution rights shall be deemed to survive until said hindrances disappear."[13]

The case law of the inter-American system has also established that to ensure access to justice for the members of indigenous peoples, the States have the duty to grant effective protection that takes into account their own particularities:

> As has been established by this Tribunal [on] other occasions and pursuant [to] the principle of non-discrimination enshrined in Article 1(1) of the American Convention, in order to guarantee the members of indigenous communities access to justice, "it is necessary that the States grant an effective protection taking into account their specific features, economic and social characteristics, as well as their special situation of vulnerability, their common law, values, uses and customs."[14]

Moreover, the Court has highlighted that under Articles 8 (right to a fair trial) and 25 (judicial protection), and in light of the duty to adopt provisions of domestic law pursuant to Article 2 of the American Convention, the State is "obliged to provide for appropriate procedures in its national legal system to process the land claim proceedings of the indigenous peoples with an interest thereon. For such purpose, the generic obligation to respect rights established in Article 1(1) of [the Convention]

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[8] I/A Court H.R., *Indigenous Community Sawhoyamaxa v. Paraguay Case*. Judgment of March 29, 2006. Series C No. 146, para. 128.
[9] I/A Court H.R., *Indigenous Community Yakye Axa v. Paraguay Case*. Judgment of June 17, 2005. Series C No. 125, para. 144.
[10] I/A Court H.R., *Indigenous Community Yakye Axa v. Paraguay Case*. Judgment of June 17, 2005. Series C No. 125, para. 145.
[11] I/A Court H.R., *Indigenous Community Yakye Axa v. Paraguay Case*. Judgment of June 17, 2005. Series C No. 125, para. 145; *See (mutatis mutandi) Ricardo Canese v. Paraguay Case*. Judgment of August 31, 2004. Series C No. 111, para. 96; *Herrera Ulloa v. Costa Rica Case*. Judgment of July 2, 2004. Series C No. 107, para. 127.
[12] I/A Court H.R., *Indigenous Community Yakye Axa v. Paraguay Case*. Judgment of June 17, 2005. Series C No. 125, paras. 146-148.
[13] I/A Court H.R., *Indigenous Community Sawhoyamaxa v. Paraguay Case*. Judgment of March 29, 2006. Series C No. 146, para. 132.
[14] I/A Court H.R., *Indigenous Community Yakye Axa v. Paraguay Case*. Judgment of June 17, 2005. Series C No. 125, para. 63; *Indigenous Community Sawhoyamaxa v. Paraguay Case*. Judgment of March 29, 2006. Series C No. 146, para. 83; and *Saramaka People. v. Suriname Case*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 28, 2007 Series C No. 172, para. 178; *Case of Tiu Tojin*, Judgment of November 28, 2008. Series C No. 190, para. 96.

imposes on the States the duty to ensure an accessible and simple procedure and to provide competent authorities with the technical and material conditions necessary to respond timely to the requests filed in the framework of said procedure."[15]

OAS member states have an uneven record in regard to respecting and protecting these rights. In some instances, governments have demarcated and titled lands in indigenous peoples. They have cancelled concessions and removed non-indigenous settlers. In other states there is a climate of impunity and violence against indigenous peoples is widespread, while development projects result in their forced removal from their ancestral lands. Compliance with human rights law remains a work in progress.

3. Recommendations

- Encourage the administration to reverse U.S. policy and to support the United Nations Declaration on the Rights of Indigenous Peoples as a framework for protecting their rights, including their lands and resources.

- Call on the administration to support efforts to conclude the Inter-American Declaration on the Rights of Indigenous Peoples

- Find a means for the U.S. government to comply with recommendations of the Inter-American Human Rights Commission in the Dann Case, involving access to grazing lands for members of the Western Shoshone tribe.

- Utilize opportunities arising from bilateral negotiations, such as the projected Colombia-US Free Trade Agreement, to promote compliance with human rights standards and changes on the ground by the Colombian government.

- Consider legislative action on corporate accountability for violations of human rights and environmental laws wherever they occur.

[15] I/A Court H.R., *Indigenous Community Sawhoyamaxa v. Paraguay Case*. Judgment of March 29, 2006. Series C No. 146, para. 109.

Cochairman McGOVERN. Thank you very much. If you need to go to your doctor's appointment, we understand.

Dario, welcome.

[The following testimony was delivered through an interpreter.]

STATEMENT OF DARIO MEJIA REPRESENTATIVE OF ONIC, THE NATIONAL INDIGENOUS ORGANIZATION OF COLOMBIA

Mr. MEJIA. Thank you very much.

On behalf of the indigenous people of Colombia, the people whom I represent at the Colombia National Organization for Indigenous People, we extend a fraternal greeting to the Congress of the United States.

The Constitutional Court of Colombia, the United Nations Rapporteur on the Fundamental Rights of the Indigenous People out of two visits in Colombia, Amnesty International, as well as several human rights organizations, both domestic and international, have confirmed that the indigenous people in Colombia are facing a humanitarian tragedy which is getting worse every day.

It is clear there are three factors that have shaped the current situation. One is the economic moral push by the Colombian Government, the armed conflict, as well as a lack of policies that work toward the benefit of indigenous people.

We have lands that we have lived on for thousands of years before the Colombian Government even existed. Today, these lands are seen as useful tools for the accumulation of wealth. At least 400,000 indigenous people in Colombia have no access to the ownership of land, and of those who do own titles to their lands, 80 percent of them have lost them through concessions granted out for the construction of economic projects. This was done without any previous consultation.

We should note that between 2002 and 2009, 70,000 people have been displaced in Colombia. In 2009 alone, 6,201 were violently forced out of their land for that purpose, to expropriate their land. In 2009, 114 indigenous people were murdered. That is a 63 percent increase compared to 2008.

It is important to note that women and children are the most affected by the armed conflict which takes place in our territory. It is also worth pointing out in a large part of our territories, it is the Colombian Government through its law enforcement forces that occupies our territory in order to guarantee these economic projects.

No less serious are the actions that are carried out by the guerrillas and the paramilitaries. They also do these actions in order to provide development of economic projects, both legal and illegal.

No less serious is institutional neglect. Thirty-three percent of our people in Colombia have no access to health care, education is imposed through a foreign model, and there is no policy that gives us control of our system of education.

While it is true that in Colombia we have a legal framework that on paper protects our rights, in practice and reality the situation regarding our human rights grows worse every day. The Constitutional Court has issued Findings 04 and 092 of 2009 and 008 of 2010 which provide for or guarantee our rights. However, they have not been fully implemented, while it has been portrayed that way internationally. The same Constitutional Court, as well as other agencies, have stated that there are 64 indigenous groups on the verge of extinction in Colombia.

We are greatly concerned by the position adopted by the United States in support of the policy of democratic security which is contributing to the extinction of our people. It is impossible that while we are in the 21st century we do not revise these policies of cooperation which are leading to the extermination of indigenous people.

We want to thank the Congress for the recent Resolution 1224. We think it is an important step forward, and we would like to also ask for recommendations to be made to the government of Colombia as well as the United States Department of State.

First, we would like you to urge the Colombian Government to comply with the Declaration on the Rights of Indigenous People. While they have said that they will unilaterally support it, the fact is that the reservations expressed about the declaration by the Colombian Government are still in effect.

We the indigenous people of Colombia have launched a campaign to protect the indigenous groups that are on the verge of extinction. We ask for the political support at the highest level on this issue, which we feel is something that the world should take note of.

We also think it is very important for the Department of State of the United States to not certify military assistance to Colombia, as well as the policy of crop spraying, because these actions lead to serious violations of the rights of indigenous people, and that aid should be conditioned until those problems are solved.

We feel that the free trade agreement still continues to be a risk to our people. There should be no discussion on the free trade agreement with this administration or any other administration until we have mechanisms that allow for the direct participation of the indigenous people in that process.

We also believe that it is very important for U.S. cooperation to be directly given to our people. It is very difficult to present any kind of figures showing progress if this continues to be a policy and the aid goes to the Colombian Government instead of to the people directly.

Our organization believes that our human rights should not be ignored because we are indigenous, nor should the responsibilities of the corporations be ignored, because it is their actions that are leading to the deaths of so many children, so many women, the displacement of so many of our peoples, and the extermination of our people.

We thank you for this hearing, and we urge you to hold hearings like this with greater frequency, because the situation regarding indigenous people is a situation that deserves this attention.

[The statement of Mr. Mejia follows:]

PREPARED STATEMENT OF DARIO MEJIA

National Indigenous Organization of Colombia – ONIC
[1]

The National Indigenous Organization of Colombia (ONIC) respectfully greets US Members of Congress and the audience. We are thankful for the opportunity to present our perspective on the Indigenous Communities of Colombia.

The Colombian Constitutional Court's Orders 004 and 092 of 2009 and Order 008 of 2010; the reports of the United Nations Rapporteur for Rights and Freedoms of Indigenous Communities from their visits to Colombia in 2004 and 2009; Amnesty International's February 2010 report; and several international and Colombian human rights organizations confirm that indigenous communities in Colombia face a humanitarian tragedy that worsens by the day.

[1] Translation from Spanish to English by Anthony Dest, Program Assistant, Washington Office on Latin America.

At least three factors determine this situation: the economic model, the armed conflict, and the lack of specific policies that respect the rights of indigenous people.

Indigenous communities conserve the equilibrium, harmony and property of Colombia's diverse geological territories (jungles, mountains and plains) which are seen by the current economic model as a source of wealth.

The government's search for investment and extraction of natural resources implies the proliferation of mining concessions and infrastructural large scale economic projects or "mega-projects"; the expansion of agricultural boundaries for industrial cash crops; and the legalization of violent expropriations committed by armed actors.

In many parts of the country, the Colombian armed forces lead violent military occupations against communities in order to facilitate the implementation of mega-projects. The actions of guerrilla and paramilitary groups who seek control of our territories in order to secure the extortion of multinational companies are of equal concern. These confrontations, far from achieving an ideological objective, are over territorial control. This is the primary motivation for violence against the civilian population and forced displacement in Colombia.

More that 80% of our territories have been conceded for the implementation of economic projects without respect for our right to previous consultation. In September 2009, the Colombian state decided that the colonial reserves, which are over 190 years old, **DO NOT EXIST**.

Between 2002 and 2008, over **70,000** indigenous people were registered for individual or collective internal displacement; in 2009 alone, **6,201** indigenous people were violently expelled from their ancestral homelands.

During 2009, **114** indigenous people were murdered, a 63% increase from 2008.

While we have a normative framework that is progressive and legally constituted consultation processes, we do not have policies that favor the indigenous peoples that help resolve the historical abandonment, segregation and exclusion that we've experienced in decision making processes.

On the contrary, despite orders from the Constitutional Court, the Colombian Government has not complied. The Colombian Government's reservations, which were exposed by their abstention during the vote on the Declaration on the Rights of Indigenous People in the United Nations, remain valid.

32.4% of the indigenous population is not covered by healthcare. In 2009, 45 children from the Puinave, Curripaco, and Sikuani communities died from lack of medical attention.

Education is implemented using external models. High levels of illiteracy and drop-outs, in addition to low coverage, persist in indigenous communities. Teachers' salaries are discriminated against because of their ethnic background or because they are working with our communities.

US Members of Congress have already made statements on internal displacement specifically addressing indigenous populations. The situation becomes more worrisome because many indigenous people do not denounce violations; limitations of language and geography, in addition to the presence of armed actors, prevent them from doing so.

We are worried about the role of the United States in supporting policies that affect our cultures and can put our existence at risk. The Colombian Constitutional Court has signaled at least 34 indigenous groups that are at risk of *physically and culturally* disappearing. According to ONIC, the figure exceeds more than 64 groups. It is unthinkable that humanity would permit tragedies such as this in the 21st century by not revising cooperation policies with the Colombian Government.

We recommend that the United States Congress call on the Colombian Government to fully and without reservations apply the sacred rights in the United Nations Declaration on the Rights of Indigenous Populations through policies that are urgent, effective and agreed upon.

We also recommend that the US Congress make a statement on the situation of the communities that are at risk of extinction and acts to support our campaign in favor of these communities.

We are very pleased to see the introduction of House Resolution 1224 by Representative Hank Johnson of Georgia on *Recognizing and honoring the important work that Colombia's Constitutional Court has done on behalf of Colombia's internally displaced persons, especially indigenous peoples, Afro-Colombians, and women.* We hope that all Members of the US Congress co-sponsor this resolution and that the House of Representatives passes it soon.

We suggest that the US Congress ask the Department of State not to certify military assistance to the Colombia given the high number of abuses committed by the Colombian armed forces in indigenous territories; (extrajudicial executions and not applying the principle of distinguishing themselves from the civilian population). The Department of State should fist verify that effective changes have been made in the conduct of the armed forces and that they have resolved the cases of violations already committed.

Similarly, we solicit that you revise the assistance given to fumigation policies because their implications are very grave for indigenous populations and nature.

We recommend that you do not consider discussing the Free Trade Agreement, with this government or whichever other one, without first complying with the fundamental right to previous consultation with the indigenous groups.

Just like the rest of the civilian population, the indigenous populations consider that the extradition of paramilitary leaders to the United States cannot be turned into an excuse for impunity for crimes against humanity committed against us. We recommend that you support truth, justice and reparation processes and peace initiatives through political dialogue.

Cooperation should be direct and in accordance with the priorities of civil society and indigenous groups.

Finally, we reiterate our thanks and urge you to continue these kinds of meetings with more frequency and impact.

Thank you.

Cochairman McGOVERN. Thank you very much.

Daisy.

[The following testimony was delivered through an interpreter.]

STATEMENT OF DAYSI ZAPATA FASABI, VICE PRESIDENT OF AIDESEP, THE INTERETHNIC DEVELOPMENT ASSOCIATION FOR THE PERUVIAN AMAZON

Ms. FASABI. In the name of my organization, AIDESEP, it is my pleasure to offer warm greetings to the North American people represented by you illustrative Representatives of the United States Congress. AIDESEP is the organization that represents some 61 indigenous peoples and roughly 1,350 indigenous communities in the Peruvian Amazon. Created in 1908, AIDESEP adopted the mission of promoting indigenous rights within the national legal system and fighting for the respect and defense of those rights.

Since its creation, AIDESEP has worked to improve this situation, reaching out to all governments over the years for a permanent dialogue. In some cases, this has resulted in the signing of cooperative agreements for the execution of projects in such areas as land registry, education, and health.

Currently, the natural resources found within our Amazonian territories, such as gold, oil, wood, et cetera, are increasingly desired by extractive companies. With the government's authorization, they extract these resources without consulting us or having our consent. As a consequence, this situation causes huge damage to our peoples: Displacement, depredation, deforestation, and the poisoning of our sources of life, such as water, air, and the Earth.

In 2009, in the context of the implementation of the free trade agreement between the United States and Peru, the Peruvian Government created more than 100 legislative decrees, some 10 of which essentially facilitated the process of displacing us from our territories and taking the resources from indigenous peoples.

AIDESEP initiated a process of conversations with diverse governmental agencies, asking for the revocation of the legislative decrees that impacted us negatively and demanding that the government comply with a proper consultation before adopting these damaging laws, as established in the ILO Convention 169. However, the government did not listen to the indigenous peoples.

Tired of being forgotten, resolved to not allow that we be displaced off our Mother Earth, and following the mandate of local communities, AIDESEP called for a strike which peacefully mobilized thousands of indigenous people. These people closed down the principal roads and riverways through the Amazon and were backed up by many city dwellers.

After 56 days of the strike, the government ordered that it be broken with special anti-riot forces with military arms and they were given orders to shoot. They confronted an unarmed population. The violence resulted in a tragic total of 24 police deaths and nine civilians, in addition to hundreds of injured indigenous protesters.

Immediately the government initiated a strategy of legal persecution against indigenous leaders. In fact, the public campaign to demonize and blame indigenous leaders for what happened turned out to be a total failure. Public opinion forced the government to establish agreements with AIDESEP to establish a dialogue process around different themes. We will refuse to be silenced and we will continue to defend our rights.

Four tables of dialogue were created around priority themes with the objective of replacing the controversial legislative decrease and drafting proposals for new policies and public investment projects to be carried out in indigenous communities.

Table 1: The Commission regarding the events of June 5th.

Table 2: To evaluate the legislative decrees.
Table 3: Regarding the right to consultation.
Table 4: Regarding development programs.

After six months participating in the dialogue tables and the growing legal harassment and persecution of AIDESEP's leaders notwithstanding, we indigenous continued working in order to come to conclusions in consensus with the government officials. However, we have seen that the decisionmakers within the government's political party have not demonstrated the necessary political will nor have they complied with the need to include the results of the dialogue tables in legal norms, public policies, and administrative procedures.

One example is the forestry law that is currently being debated in the Congress. It does not take into consideration the proposal that came out of dialogue, Table 3. Currently, there are more than 49 million hectares under oil and gas concession, or roughly 72 percent of the Peruvian Amazon, overlapping natural protected areas, indigenous community lands and special reserves for isolated indigenous peoples. Additionally, there are new forms of displacement caused by concessions of forests on indigenous lands for mono-cultivation of biofuels.

On the other hand, the Initiative for the Regional Integration of South America, IIRSA, is impacting indigenous peoples within the Peruvian Amazon with such mega-projects such as roads, river dredging, oil and gas pipelines and hydroelectric dams. Most of these projects are carried out within indigenous territories and they leverage the colonization of these territories and their resources. Just in the case of the Inambari hydroelectric dam, 57 indigenous communities will be flooded out.

At the same time, we are seeing the terrible impacts of the warming and decertification of the Amazon created by global climate change that is being predicted for the tropical rain forest and its inhabitants. We are extremely concerned that the proposed solutions coming out of industrialized countries such as the U.S.A. are market-oriented. They speak of such things as carbon markets, the clean development mechanism, and reducing emissions from deforestation and degradation. These don't take into account that our people are not participating. We don't understand the logic of the market, and believe that these solutions put us at a tremendous disadvantage when we need to conserve our territories and forests for our children and for the planet.

I would like to thank you for the opportunity offered to us by the Members of the Congress who form the Tom Lantos Human Rights Commission, especially co-chairs Jim McGovern and Frank Wolf. We would like to request that the U.S. Congress use its good offices to assist our peoples in our efforts to have the Peruvian Government comply with the respect for the rights of the indigenous people, especially in regards to legal property and our ancestral territories; that any decision the Peruvian Government plans to take which might impact indigenous people should be appropriately consulted with the peoples involved; that the U.S. Congress pay special attention to and take responsibility for the consequences of the implementation of the free trade agreement in its impact against indigenous peoples, and that the Peruvian Government lift the arrest warrants against our brother and leader Alberto Pizango Chota, who has been exiled in Nicaragua because of political persecution by the government.

Thank you very much.

[The statement of Ms. Fasabi follows:]

PREPARED STATEMENT OF DAYSI ZAPATA FASABI

Testimony of Daysi Zapata Fasabi, Vice President of Interethnic Development Association for the Peruvian Amazon – AIDESEP

Before the Tom Lantos Human Rights Commission

Hearing: "The Rights of Indigenous Peoples: Latin America"

Thursday, 29 April 2010

In the name of my organization, AIDESEP, it is my pleasure to offer warm greetings to the North American people, represented by you, illustrious Representatives of the United States Congress.

AIDESEP is the organization that represents some 61 indigenous peoples and roughly 1350 indigenous communities in the Peruvian Amazon. Created in 1980, AIDESEP adopted the mission of promoting indigenous rights within the national legal system and fighting for the respect and defense of those rights.

For thousands of years the Amazonian indigenous peoples have lived in harmony with the Amazon rainforest. Since the creation of the Peruvian state in 1821, however, we have been excluded and have been invisible in the public policies and plans.

Since its creation, AIDSEP has worked to improve this situation, reaching out to all governments over the years for a permanent dialogue. In some case this has resulted in the signing of cooperative agreements for the execution of projects in such areas as land titling, education, and health.

Currently, the natural resources found within our Amazonian territories, such as gold, oil, wood, etc, are increasingly desired by extractive companies. With the government's authorization, they extract these resources without consulting us or having our consent. As a consequence, this situation causes huge damage to our peoples: displacement, depredation, deforestation, and the poisoning of our sources of life, such as water, air, and the earth.

In 2009, in the context of the implementation of the Free Trade Agreement between the United States and Peru, the Peruvian government created more than 100 "legislative decrees", some ten of which essentially facilitated the process of displacing us from our territories and taking the resources from indigenous peoples.

AIDESEP initiated a process of conversations with diverse governmental agencies, asking for the revocation of the legislative decrees that impacted us negatively, and demanding that the government complied with a proper consultation before adopting these damaging laws (as established in the ILO Convention 169). However, the government did not listen to the indigenous peoples.

Tired of being forgotten, resolved to not allow that we be displaced off our mother earth, and following the mandate of local communities, AIDESEP called for a strike which peacefully mobilized thousands of indigenous people. These people closed down the principle roads and river ways through the Amazon, and were backed up by many city dwellers.

After 56 days of the strike, the government ordered that it be broken with Special Anti-riot Forces with military arms and orders to shoot, who confronted an unarmed population. The violence resulted in a tragic total of 24 police deaths and 9 civilians, in addition to hundreds of injured indigenous protesters.

Immediately the Government initiated a strategy of legal persecution against indigenous leaders. If fact, the public campaign to demonize and blame indigenous leaders for what happened turned out to be a total failure. Backing in public opinion forced the government to establish agreements with AIDESEP to establish a dialogue process around different themes.

Four "dialogue tables" were create around priority themes with the objective of replacing the controversial legislative decrees and drafting proposals for new policies and public investment projects to be carried out in indigenous communities.

Table #1: The Commission regarding the Events of June 5th

Table #2: To Evaluate the Legislative Decrees

Table #3: Regarding the Right to Consultation

Table #4: Regarding Development Programs

After six months participating in the Dialogue Tables, and the growing legal harassment and persecution of AIDESEP's leaders notwithstanding, we indigenous continued working in order to come to conclusions in consensus with the government officials. However, we have seen that the decision-makers within the Government's political party have not demonstrated the necessary political will nor have the complied with the need to include the results of the Dialogue Tables in legal norms, public policies, and the corresponding administrative procedures.

One example is the Forestry Law that is currently being debated in the Congress. It does not take into consideration the proposal that came out of Dialogue Table #3.

In terms of the Commission that investigated what happened in Bagua, we haven't seen that the Government is willing to take actions to avoid a repeat of the serious things that happened there. The official version of the report (Majority Report) blames indigenous people for everything that happened, and does not incorporate the recommendations of international human rights organizations. For their part, we indigenous have also written a Minority Report, which investigates the incident in a transparent and objective manner.

The critical situation of the Amazonian indigenous people continues to grow. While the government has not complied with the Dialogue Table agreements, they are continue to violate the right of indigenous people to prior consultation as they intensify the sale of oil and mining concessions in indigenous territory.

Currently, there are more than 49 million hectares under oil and gas concession, or roughly 72% of the Peruvian Amazon, overlapping natural protected areas, indigenous community lands and special reserves for isolated indigenous peoples. Additionally, there are new forms of displacement caused by concessions of forests on indigenous lands for the mono-cultivation of agro-fuels.

On the other hand, the Initiative for the Regional Integration of South America (IIRSA), is impacting indigenous peoples within the Peruvian Amazon with such mega-projects as roads, river dredging, oil and gas pipelines, and hydroelectric dams. Most of these projects are carried out within indigenous territories, and the catalyze the colonization of said territories and their resources. Just in the case of the Inambari hydroelectric dam, 57 indigenous communities would be flooded. Many projects are also impacting natural protected areas.

At the same time that we are seeing the terrible impacts of the warming and drying of the Amazon created by global climate change that is being predicted for the tropical rainforest and its habitants, we are extremely concerned that the proposed solutions, coming out of the industrialized countries like the USA, are oriented toward the market – such as carbon markets, the Clean Development Mechanism, and Reducing Emissions from Deforestation and Degradation – that don't take into account that our peoples are not participating. We don't understand the logic of the market and believe that these solutions put us at a tremendous disadvantage when we need to conserve our territories and forests for our children and for the planet.

I would like to thank you for the opportunity offered to us by the Members of Congress who form the Tom Lantos Human Rights Commission, especially the Co-Chairs Rep. Jim McGovern and Frank Wolf.

I would like to request that the U.S. Congress use its good offices to assist our peoples in:

-- Our efforts to have the Peruvian Government comply with respect for the rights of indigenous peoples, especially in regards to the legal property of our ancestral territories.

-- That any decision the Peruvian Government plans to take which might impact indigenous peoples should be appropriately consulted with the peoples involved

-- That the U.S. Congress pay special attention to and take responsibility for consequences the implementation of the FTA has which impact indigenous peoples

-- That the Peruvian Government lift the arrest warrant for our brother and leader Alberto Pizango Chota, who has been exiled in Nicaragua because of political persecution of the Peruvian government.

Thank you very much.

Cochairman McGOVERN. Our final two witnesses. Welcome.

[The following testimony was delivered through an interpreter.]

STATEMENT OF FELICIANO SANTOS SANTOS REPRESENTING THE NGÖBE PEOPLE

Mr. SANTOS. Firstly, I would like to thank the omnipotent creator of nature that surrounds us.

Good afternoon, members of the Commission on Human Rights. Good afternoon, Representatives and brothers of the indigenous people.

The residents of Rio Changuinola are heirs of these lands that we work and love. We extract from the land our daily sustenance. Our most fundamental rights are the rights to land and to water. We have lived without electricity for many years. However, it is a fact that without land or without water, we cannot survive.

The government of Panama has signed an endless number of international agreements. However, this has been done by a small political circle while marginalizing the indigenous people of our country.

The AES arrived in 2006 by offering lots of favors and help. Their actions caused a lot of differences between the residents of the community, causing divisions among them which allowed them to take control of our land. They have taken hold of our land and water and destroyed our legacy and our future. Those who initially accepted an agreement with this company in 2006 now regret having done so. They feel tricked and they look for a place to relocate. I am talking about 4,000 indigenous brothers and sisters.

The company is trying to use maps and development plans which are existing only on paper to prove that they have improved the quality of life for our communities. Relocation is not true. It is a mere fiction. From the very beginning, no efforts were made to obtain the prior and free and informed consent from our people. We are simply not part of the relocation plans.

The government sees our natural resources as merchandise to be sold to the highest bidder. The indigenous people are seen as an inconvenience when it comes time to sell these resources. They have changed their laws in order to favor their interests. However, they are the first ones to violate the very same laws.

In 1983, the Palo Seco Protected Forest area was created. This was part of a plan to develop three hydroelectric dams in the Changuinola River area. So what sense does it make to call this a protected area?

The indigenous communities feel threatened, and they are afraid of being thrown out of their own land. AES stated publicly that the indigenous people living in that area actually immigrated from other places and that these lands do not belong to them. AES can bear false witness behind the backs of the community leaders and the residents. However, they cannot do so to our face. I would like for them to tell us what country, what continent do we come from? Where is it we should go? It seems as if they know us better than we know ourselves.

They come to our country in search of wealth while leaving our people in poverty. In 1997, Law Number 10 was approved. It creates the region of the Ngobe People. However, there is no clear delineation of the surrounding territories which are now occupied by the Ngobe community. However, this law does allow for the destruction of our land through hydroelectric projects such as the Chan-75 dam built by AES.

We have exhausted our legal recourse both nationally as well as internationally. This is despite the injunction granted by the Inter-American Commission on Human Rights. The government of Panama, however, has decided

not to comply with these measures. Panama, by omitting its international agreements and conventions that they have signed on to, have shown that their respect for rights and laws are only when it comes to special interests. The defender of the people in fact denied the enforcement of these measures. So what justice is there for us under this Western system of human rights?

We believe that international justice can help us to safeguard our ancestral rights as well as our fundamental rights. These rights are included in the Constitution of the Republic of Panama, the Inter-American Convention on Human Rights, as well as the Universal Declaration, and that this is the opportunity for this Commission to help us get the protection that we need for our rights as well as to provide for the survival of our culture.

Mr. Chairman, at this hearing we would like to say the following:

We do not accept the government and the national environmental authority playing with our hunger, our thirst and the pain of the people of the Rio Changuinola.

Number two, we demand respect for our land.

Number three, we demand respect for our water.

Number four, we ask for respect for our cultural identity.

No more lies and no more abuse. We ask this Commission to make efforts to suspend this project which has caused so much harm to our people.

I would like to finish my statement. Thank you.

Cochairman McGOVERN. Thank you very much. I appreciate it.

Do you want to add something? Let me say, we are running into a little bit of an issue right now. I have a vote, and there is another hearing coming into this room.

Mr. MORALES. I will be brief.

[The following testimony was delivered through an interpreter.]

STATEMENT OF ESTANISLAO BEJERANO MORALES REPRESENTING THE NGÖBE PEOPLE

Mr. MORALES. On behalf of the indigenous people of Panama, on behalf of the movement to defend the land in Bocas del Toro, I want to thank you for giving me this important opportunity.

Just as was mentioned here at the Energy Service of the United States, AES, we are not demanding a right that doesn't correspond to us. It is our territory which we have lived in ancestrally before the Spanish conquest or invasion.

Mr. Congressman, we would also like to make note of how the government of Panama has defied the Inter-American Commission by asking for an injunction by the Commission. The government has not respected that injunction.

We as indigenous people perhaps lack the scientific and technical expertise necessary to carry out an evaluation, but I would like to mention the evaluation carried out by the Rapporteur James Anaya regarding the abuse and violations committed against our people. I would also like to mention the Geneva Commission's statement that mentions the violations committed against the territories and peoples of indigenous origin in Panama.

Mr. Congressman, we simply demand that our government respect the rights of our people and the territory as they are obligated to do under the international agreements.

Thank you very much.

[The statement of Mr. Morales follows:]

PREPARED STATEMENT OF ESTANISLAO BEJERANO MORALES

Mi nombre es Estanislao Bejerano Morales y soy miembro de la Comunidad Ngöbe que reside a orillas del Río Changuinola.

Primero doy gracias al omnipotente creador de toda la naturaleza que nos rodea. También a los miembros principales aquí presentes en este importante evento. Buenos días representantes y hermanos de los pueblos indígenas de diferentes países y público presente.

Obviamente los hermanos de los pueblos indígenas son los originarios y verdaderos dueños de las tierras ancestrales que hoy son ocupadas por el hombre occidental.

Los habitantes del Río Changuinola son herederos de éstas tierras que los vieron nacer, tierras que trabajan con amor, sacando el sustento diario de ella, siendo los derechos más elementales los derechos a la tierra y el agua, donde nuestra existencia está decidida por Dios. Sin energía eléctrica nosotros los indígenas hemos vivido por muchos centenares de años, lo cierto es que sin agua ni tierras sabemos que no podremos sobrevivir.

Es evidente que la presencia de corporaciones internacionales con su desmedido crecimiento vulnera nuestros derechos al territorio y al libre acceso y uso de nuestros recursos naturales. Señores, estos recursos no son mercancía, por ende no los regalaremos ni los venderemos porque son los medios que necesitamos para sobrevivir, y así ha sido siempre desde tiempos inmemorables.

El Gobierno de Panamá ha firmado un sin número de acuerdos y convenios internacionales, pero esto es solo para responder a un circulo político, dejando tirado a un lado a los pueblos indígenas de nuestro país, dejando de lado el futuro del pueblo indígena como tal.

La empresa AES Changuinola, una empresa americana llegó a nuestras tierras en 2006, con lindas promesas llenas de bondad ofreciendo favores y ayudas. Esto provoco intranquilidad y diferencia entre los moradores de las comunidades, dividiéndolos para filtrarse y lograr sus objetivos, que serían adueñarse de nuestras tierras, de nuestra agua y al final, destruir nuestro legado y nuestro futuro.
Inicialmente quienes escucharon y aceptaron acuerdos con la empresa en el año 2009 hoy se arrepienten y se sienten engañados y buscan un lugar donde reubicarse, y estoy hablando de alrededor de 4,000 hermanos indígenas y no 2 ó 3 personas.

La empresa siempre tiene en su discurso palabras de aliento y comunican que todo marcha perfectamente, y además que han mejorado potencialmente la calidad de vida de los pobladores del área, nada más alejado de la realidad. La empresa pretende hacer creer a través de los mapas y desarrollos comunitarios; que solo están en papel, que han mejorado la calidad de vida de nuestras comunidades. La reubicación no es una realidad, es una mera ficción que sigue y seguirá estando en un pedazo de papel, en un simple plan de reubicación que no puede llevarse a cabo y que no va a llevarse a cabo pues si desde un principio no se ha buscado obtener el consentimiento previo, libre e informado de nuestro pueblo para la construcción de este megaproyecto destructor de nuestros recursos, no va a ser muy diferente el desenlace en cuanto a reubicación se refiere. Simplemente no estamos en los planes de la empresa y nunca hemos estado.

En las áreas afectadas se vive una realidad muy dura. Nuestros hermanos indígenas son víctimas de las estrategias de la empresa para poder acaparar y apoderarse de las tierras, con la complicidad del Gobierno Nacional y la Autoridad Nacional del Ambiente (ANAM), quien debería velar por la conservación de nuestros recursos naturales, cosa que seguirá siendo imposible pues para el Gobierno los recursos naturales son mercancía que se vende al mejor postor y los indígenas son solo objetos que causan molestia cuando se pretende vender estos recursos, indicando que se trata de desarrollo para el país, pero muerte para el indígena.
Son ellos quienes han modificado leyes para favorece los intereses de transnacionales sin importar con los recursos naturales y mucho menos con los pueblos originarios. Son ellos los primeros infractores de las leyes que promulgan tanto a nivel nacional e internacional.

En el año de 1983, se creó mediante Ley el Bosque Protector Palo Seco, hoy área protegida donde las poblaciones indígenas que siempre han vivido ahí en su tierra. Nunca se supo que esta creación obedecía a planes del gobierno para construir 3 represas hidroeléctricas en el Río Changuinola, entonces qué sentido tiene seguir llamándole ÁREA PROTEGIDA?

Producto de la construcción de estas represas hidroeléctricas las comunidades indígenas se sienten amenazadas y temen ser expulsadas o lanzadas de sus propias tierras. La empresa AES por su parte como estrategia reporto y dio publicidad de que las poblaciones indígenas habitantes de las áreas relacionadas al proyecto son emigrantes de otros lugares por lo que esas tierras no le pertenecen; nada más alejado de la realidad.

Estos señores de la empresa AES pueden dar falso testimonio a espalda de los dirigentes y moradores de las comunidades pero jamás hablando de frente con altura y respeto a la dignidad del hombre, dignidad que no tiene ninguno de los señores miembros de AES que impulsan este proyecto de exterminio. Que nos expliquen ellos entonces de que país o continente somos inmigrantes, de dónde venimos y a donde tenemos que ir; pues parece que ellos nos conocen mejor a nosotros que nosotros mismos. Que nos digan quiénes somos y que tenemos que hacer; aunque parece que ni ellos mismos saben que son y como no tienen nada, viajan a países como el nuestro en busca de riquezas para adueñarse de ellas y dejar en la miseria a pueblos como el nuestro que ha compartido la riqueza de la tierra con todos en este mundo.

Esta es una actitud de discriminación de forma arbitraria donde se refleja claramente actos inmorales que se vienen cometiendo en múltiples ocasiones en contra de nuestros pueblos indígenas a lo largo y ancho del planeta, ante a elevada crisis de valores morales que viven nuestros pueblos y del mundo.

Desde el año 1997 se creo la Ley 10 mediante la cual se crea la Comarca Ngöbe-Bugle, sin embargo nunca se ha llegado a delimitar los territorios anexos que son los que hoy ocupan las comunidades Ngöbe a orillas del río Changuinola, pero si permitiendo la destrucción de estas tierras para proyectos hidroeléctricos como el de la Presa Chan 75 de AES, con lo cual se impide que el indígena tenga derecho; por Ley, a las tierras que le pertenecen.
Solicito que se tomen los correctivos necesarios de acuerdo a las normas legales vigentes y siempre tomando en cuenta el derecho consuetudinario de nuestros pueblos y a su vez se pida respuesta a quienes han causado tanto daño a nuestro pueblo .

Hemos agotado recursos judiciales a nivel interno y en el ámbito internacional, donde a pesar de tener resultados que pudieron en su momento resultar en un aliciente para nuestro pueblo como lo fueron las medidas cautelares otorgadas por la Comisión Interamericana de Derechos Humanos de la OEA, el Estado panameño prefirió omitir el cumplimiento de estas medidas, obviando la observancia de los convenios internacionales a los que Panamá se ha obligado, demostrando que la voluntad del respeto a los derechos y leyes solo obedece a intereses particulares, como lo es en este caso, la elaboración de una hidroeléctrica en territorios indígenas.

Inclusive el Defensor del Pueblo negó la aplicación de estas medidas; entonces ¿Qué podemos esperar? ¿Qué justicia existe para nosotros en este sistema occidental de derechos humanos? La justicia habrá de llegar pero definitivamente no por los canales nacionales; sin embargo, creemos que la justicia internacional puede ayudar a salvaguardar nuestros derechos ancestrales y los derechos fundamentales incluidos en la propia Constitución Política de la República de Panamá, la Convención Americana de Derechos Humanos y la Declaración Universal de Derechos del Hombre y que ésta oportunidad ante ésta Comisión permitirá encontrar esos canales tan necesarios para la protección de nuestros derechos y garantizar la sobrevivencia de nuestra cultura, legado y futuras generaciones.
Señor presidente de esta audiencia, quisiera manifestar lo siguiente:

1. No aceptamos que el Gobierno y a la Autoridad Nacional del Ambiente continúe jugando con el hambre, sed y dolor de nuestros pueblos del Río Changuinola.
2. Solicitamos el respeto por nuestra tierra ancestral y hacia la madre tierra que es madre de todos, no solo de nuestros pueblos
3. Solicitamos que se respete nuestra agua, que es el agua de todos.
4. Solicitamos respeto para nuestra identidad cultural, lo que conlleva el respeto a nuestras tierras, costumbres, cosmovisión de nuestro entorno.
5. No más engaños ni atropellos ni etnocidio de nuestros compañeros y hermanos, pues en esta lucha no solo acompañan los pueblos indígenas, también el hombre occidental que comprende más allá de planes capitalistas en donde solo el dinero importa.

Pero quisiera preguntarles, acaso cuando hayamos talado el último árbol, secado el último río y minado la última hectárea de tierra quisiera saber si el dinero se puede comer o beber?
Mi nombre es Estanislao Bejerano Morales y soy miembro de la Comunidad Ngöbe que reside a orillas del Río Changuinola. Muchas gracias por su atención.

Cochairman McGOVERN. Thank you very much. I want to apologize for not having more time here today. I think you have all presented some very powerful testimony. On behalf of the Commission, I appreciate it very much. It will be shared with our colleagues, and we look forward to following up on some of these issues that you raised with you personally.

Even though we are out of time, if you could do me a favor, one of the things that I want to make sure of is that my government is doing what it is supposed to do. I would be curious if you could let our staff know whether or not our embassies, whether in Peru, Panama or Colombia, whether or not they are receptive to you and to your leaders and whether or not your concerns are being heard, because I want to make sure that my government is being responsive.

We can continue that discussion kind of off the official hearing. But that would be very helpful, to figure out specifically, to make sure that in-country our government, our embassies, are being as responsive as they need to be.

I apologize. I have a vote. Thank you very much. This was an incredible hearing, and you are all incredible leaders. Thank you very much.

[Whereupon, at 12:17 p.m., the Commission was adjourned.]

A P P E N D I X

MATERIAL SUBMITTED FOR THE HEARING RECORD

Tom Lantos Human Rights Commission (TLHRC)
Hearing Notice

The Rights of Indigenous Peoples: Latin America

Thursday, April 29
10 a.m. – noon
2200 Rayburn HOB

Please join the Tom Lantos Human Rights Commission for the first in a series of hearings on the rights of indigenous peoples. The hearing will explore the serious challenges faced by indigenous peoples in Latin America, which threaten their communities, their health and property, as well as traditional knowledge and culture. The hearing is open to the media and the public.

According to estimates by the United Nations, there are between 300 million and 370 million indigenous peoples in over 70 countries. They represent an important facet of the world's cultural fabric, with unique ways of life, distinct identities and different economic and political traditions. Despite the differences among indigenous communities, they continue to face common global threats and injustices as they have throughout their history. These threats range from expropriation and destruction of traditional livelihoods, to forced assimilation and migration, racial discrimination and exclusion from political participation and self-determination.

The Universal Declaration on Human Rights guarantees fundamental rights of all human beings, but many indigenous peoples remain without effective protection. As a result of an almost 22-year process, the international community finally further clarified indigenous rights in the 2007 Declaration of the Rights of Indigenous Peoples, which lacks the enforceability and monitoring of a U.N. Convention.

To discuss these issues, we will welcome the following witnesses***:

Panel 1

- Janet Ballantyne, Senior Deputy Assistant Administrator, Bureau for Latin America and the Caribbean, U.S. Agency for International Development
- Kevin Whitaker, Office of the Director for Andean Affairs, Bureau of Western Hemisphere, State Department
- Joe Cassidy, director, Multilateral and Global Affairs Office, Bureau of Democracy Human Rights and Labor, State Department

Panel 2

- Dinah L. Shelton, Mannatt/Ahn Professor of International Law, George Washington University
- Daisy Zapata Fasabi, Vice President, AIDESEP
- Estanislao Bejerano Morales, representing the Ngöbe People, Panama
- Feliciano Santos Santos, representing the Ngöbe People, Panama
- Dario Mejia, representative of the Indigenous and Intercultural Education Council, ONIC

***Witness list subject to change.

If you have any questions, please contact Hans Hogrefe (Rep. McGovern) or Elizabeth Hoffman (Rep. Wolf) at 202-225-3599.

/s/James P. McGovern, M.C.
Co-Chair, TLHRC

/s/Frank R. Wolf, M.C.
Co-Chair, TLHRC

Question for the Record Submitted toUSAID Senior Deputy Assistant Administrator for Latin American and the Caribbean, Janet C. Ballantyne by Congressman Chris Smith
Tom Lantos Human Rights Commission
U.S. House of Representatives
April 29, 2010

Question:
But have those vaccinations and other very basic interventions reached the indigenous people, like in Brazil, like in Colombia and other places, in sufficient numbers to make a difference, or is there still a big challenge there?

Answer:

In fact, there is still a very big challenge in this area. USAID continues to work through governments and NGOs to improve indigenous health. However, with limited resources on all sides, successes are relatively limited in scale in relation to the overall challenge.

Across Latin America, the socioeconomic status of indigenous peoples tends to be quite low as a result of a range of historical and current factors discussed in the hearings. This is especially true for those who live in rural and isolated areas. Given inadequate financing and governance of the health systems in most Latin American countries with large indigenous populations, the challenge of reaching those populations remains formidable.

USAID's health programs are explicitly designed to target poor and marginalized populations, and thus intentionally target the indigenous. With (very modest) funding from the Global Health and Child Survival account, LAC health programs aim to improve basic health services for mothers and children in countries with large indigenous populations and high poverty: Bolivia, Colombia, Guatemala, Honduras, and Peru.

- Basic maternal and child health: Projects work at the community level to improve primary health care services, boosting immunization, infant nutrition, and prenatal care in poor rural communities.
- Childbirth: USAID collaborates with PAHO and other regional organizations to improve the quality of birthing services, which has been responsible for better trained health care providers and steadily declining maternal and child mortality over the last two decades.
- Vaccinations: USAID works with governments to improve the delivery of immunizations in rural areas, by strengthening financing and organizational aspects of their health service systems. PAHO administers a revolving fund for vaccines in which nearly all Latin American countries participate – helping to ensure the availability of vaccines.
- Control of malaria: USAID's Amazon Malaria Initiative is an ongoing program working in seven countries that has contributed to dramatic reductions in malaria transmission throughout the Amazon basin.
- Culturally appropriate health care services: USAID works closely with ministries of health and indigenous groups to promote services that are suitable for and acceptable to indigenous populations.

The funding available at this time allows USAID to develop model health programs and to work with governments to strengthen their own capacity to respond to the needs of the poorest people in their respective countries. Note also that USAID no longer funds maternal and child health programs in Brazil, Ecuador, Mexico, or Paraguay. Health programming for internally displaced persons (many of whom are indigenous) in Colombia is funded through the Economic Support Fund, and implemented by USAID.

It should be noted that in most countries, USAID implements complementary programs that directly affect the health and broader socioeconomic situation of disadvantaged peoples, including indigenous populations. For example, USAID implements programs that promote education, economic growth, democracy, and environment, as well as cross-cutting municipal development and departmental programs, which underpin decentralization activities. These programs create the wherewithal for governments and indigenous communities to recognize, advocate for, and meet their needs, including healthcare needs. They strengthen the ability of governors, mayors, and indigenous groups to deliver

services, including health programs, to their constituents, and to create more sustainable institutional structures to assist communities over the long term.