

Human rights organizations issue a statement on the implementation of the right to prior, free and informed consultation and consent in Latin America

Washington, D.C., March 20, 2015. The undersigned organizations recognize that in spite of advances in the implementation of the Right to Prior, Free and Informed Consultation and Consent (PFICC) in Latin America, a series of barriers persist that hinder the implementation of this guarantee, which puts at risk indigenous peoples, tribes or other similar communities (hereinafter “Peoples”).

Among the main obstacles, we wish to highlight the following:

1. States have not brought their legislation into compliance with international standards on the right to PFICC. In those countries where regulations have been issued, they share one characteristic: they reduce the protection of the Peoples’ right to PFICC.

2. States must change their institutions in order to carry out appropriate PFICC processes. Keeping in mind the violations of the right to PFICC and the increase in socio-environmental conflicts, the States should guarantee at a minimum:

- (i) Autonomous and effective institutions, equipped with sufficient resources to carry out these processes;
- (ii) Information and communication mechanisms for these processes;
- (iii) Independent and transparent mechanisms to follow-up on compliance with the agreements reached between the peoples and the State;
- (iv) Benefits for the Peoples free of any coercion or conditions; and,
- (v) Reparations for the Peoples in cases where damages have been suffered.

3. Deficiencies in the judicial protection of the right to PFICC: In spite of advances derived from judicial decisions that comply with international standards on the right to PFICC, a series of geographic, economic and cultural barriers persist that hinder full access to justice or compliance with the decision.

4. Deficiencies in the legal interpretation of the right to PFICC: States have misinterpreted the right to PFICC, specifically, in defining the moment to hold a process, identifying the subjects of the right, the stages of the process and the allowed time to develop the process.

In view of this situation, we remind the States that the right to PFICC is a recognized international human right of the Peoples. For this reason, we urge the States of our region to modify the norms and administrative measures that impede the exercise of this right.

Signing organizations:

Asociación Interétnica de Desarrollo de la Selva Peruana – [Aidesep](#); Centro de Derechos Humanos de la Pontificia Universidad Católica del Ecuador ([PUCE](#)); Centro de Estudios de Derecho, Justicia y Sociedad ([Dejusticia](#)); Consejo de Pueblos Mayas de Guatemala ([CPO](#)); [Cooperacion](#) – Acción Solidaria para el Desarrollo; Derecho, Ambiente y Recursos Naturales ([DAR](#)); Due Process of Law Foundation ([DPLF](#)); Human Rights Research and Education Centre of the University of Ottawa ([CDP-HRC](#)); Instituto de Defensa Legal ([IDL](#)); Instituto de Estudios Sociales y Culturales ([PENSAR](#)); [Observatorio Ciudadano](#); Organización Nacional Indígena de Colombia ([ONIC](#)); OXFAM and Rede de Cooperação Amazônica ([RCA](#)).