



Photo: CIDH

Minimum protocol structure

- **Indigenous peoples:** Identification of the measure to be consulted and strengthening of internal capacities to participate in a consultation process (internal dimension).
- **Indigenous peoples and the State:** Initial dialogue for the joint construction of materials to disseminate measures to be consulted (external dimension).
- **Indigenous peoples:** Development of a consultation plan with the participation of indigenous communities (internal dimension).
- **Indigenous peoples and the State:** Presentation and validation of a consultation plan with the State, and negotiation stage (external dimension).
- **Indigenous peoples:** Evaluation and deliberation, first proposal of agreements (internal dimension).
- **Indigenous peoples and the State:** Validation of agreements, elaboration of an agreement monitoring matrix

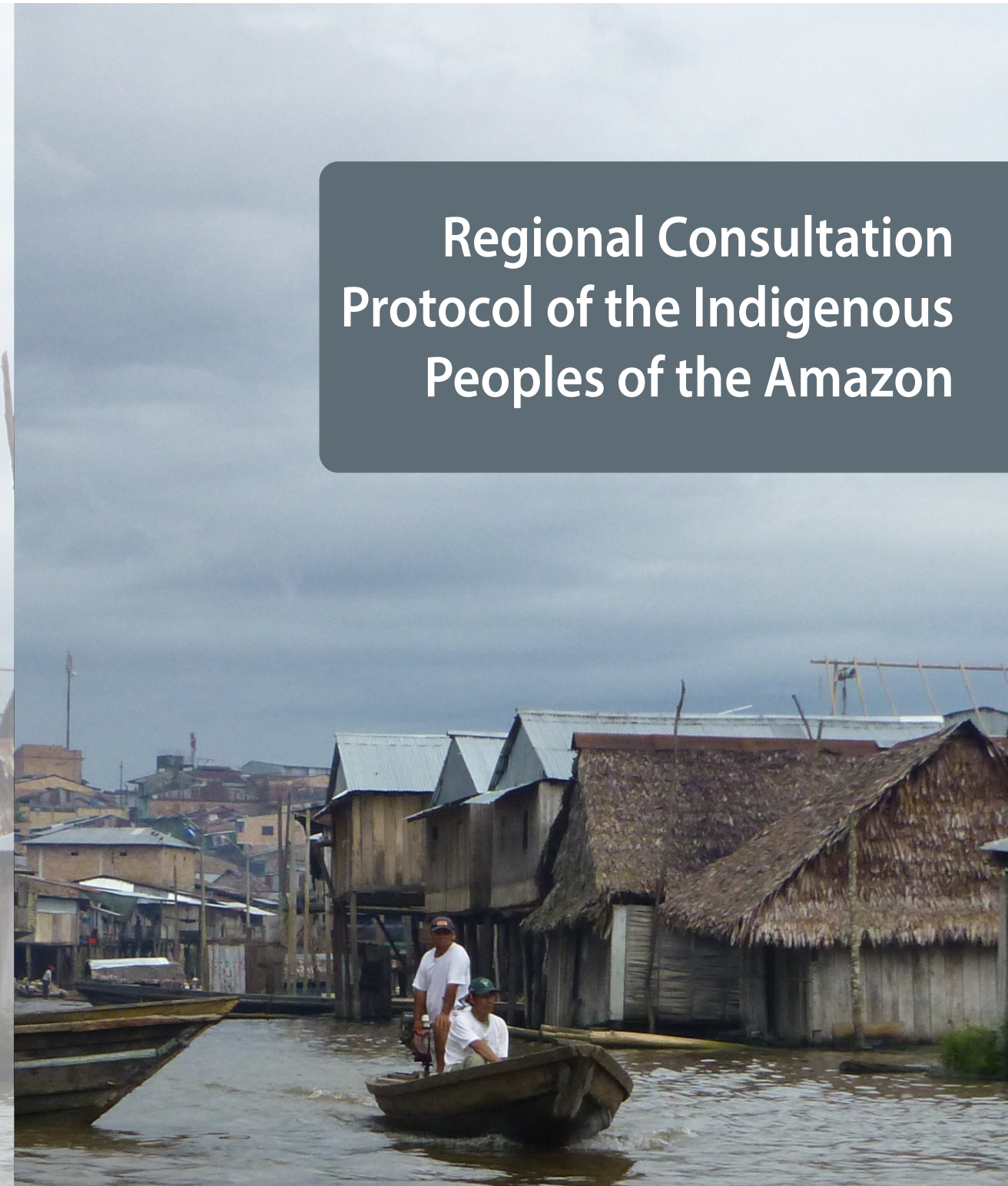
*Where the State is indicated, it can also be an International Financial Institution that is in the process of hiding its policies or safeguards, or that is in the process of dissemination about a project.

Challenges and limits for the future of Prior Consultation Protocols

- **Territorial control and precondition.** There are no questions about impacts, but, before a project is planned, an administrative measure that affects the rights of PPII is made.
- **That the states validate the protocols and implement them.** This not only demands political will, but also lack of planning tools that incorporate the cultural vision of indigenous peoples.
- **Lack of regulatory development** that fits ILO Convention 169 to the national regulations of the countries of the Amazon basin.
- **Imposition of extractive projects and infrastructure.** Market and accumulation are prioritized, rather than participation and intercultural dialogue.

COICA and the construction of a Regional Consultation Protocol

- Social conflicts are reduced and prevented by encouraging the participation of local people and strengthening the representation and governance of indigenous peoples.
- The responsibility is strengthened and conditions the companies and investors in the respect of the C169, and the guiding principles on companies and human rights.
- The protocols promote mechanisms for monitoring and monitoring compliance with prior consultation agreements.
- Recognition that each people can and should produce their own protocols according to their cultural and geographical conditions. And in turn, it points the way to understand that prior consultation is not only a dialogue with the State, but also a process of internal strengthening of indigenous organizations and peoples.



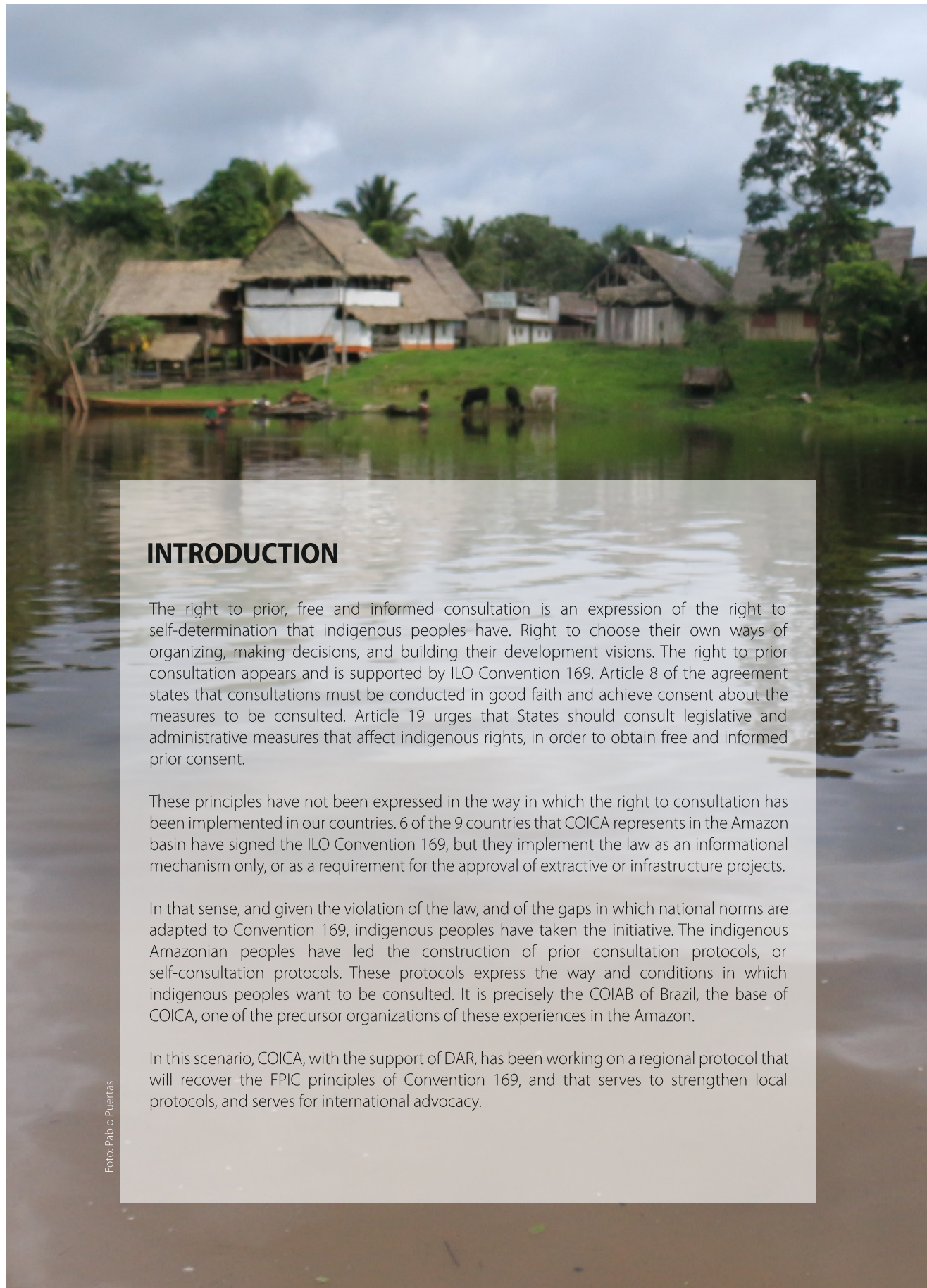
Regional Consultation Protocol of the Indigenous Peoples of the Amazon

Members of the COICA:



With the support of:





INTRODUCTION

The right to prior, free and informed consultation is an expression of the right to self-determination that indigenous peoples have. Right to choose their own ways of organizing, making decisions, and building their development visions. The right to prior consultation appears and is supported by ILO Convention 169. Article 8 of the agreement states that consultations must be conducted in good faith and achieve consent about the measures to be consulted. Article 19 urges that States should consult legislative and administrative measures that affect indigenous rights, in order to obtain free and informed prior consent.

These principles have not been expressed in the way in which the right to consultation has been implemented in our countries. 6 of the 9 countries that COICA represents in the Amazon basin have signed the ILO Convention 169, but they implement the law as an informational mechanism only, or as a requirement for the approval of extractive or infrastructure projects.

In that sense, and given the violation of the law, and of the gaps in which national norms are adapted to Convention 169, indigenous peoples have taken the initiative. The indigenous Amazonian peoples have led the construction of prior consultation protocols, or self-consultation protocols. These protocols express the way and conditions in which indigenous peoples want to be consulted. It is precisely the COIAB of Brazil, the base of COICA, one of the precursor organizations of these experiences in the Amazon.

In this scenario, COICA, with the support of DAR, has been working on a regional protocol that will recover the FPIC principles of Convention 169, and that serves to strengthen local protocols, and serves for international advocacy.

Foto: Pablo Puertas

BASICS ASPECTS



Photo: R. Mondragón/DAR

The six questions of the Prior Consultation

What are the Prior Consultation Protocols?

- They are linked to an indigenous people, their ontology, and worldview.
- They are linked to a proposal or vision of development that supports it as a right and tool to achieve it.
- Fills legal, political, and regulatory gaps in prior consultation in different countries.
- Strengthen and revitalize the right to free, prior, and informed consultation.
- It allows recovering the principles of Convention 169, in relation to prior consent.

Why is it important for countries to respect and implement Consultation Protocols?

- Recover the principles of C169 on free and informed prior consent, a framework that recognizes the right to consultation to strengthen it.
- There is much evidence of the weakening and reduction of prior consultation to an information protocol, or to a requirement to approve projects.
- The protocols allows us to know and link decisions of the indigenous peoples with their visions of development.
- The protocols are sustained and strengthened with the collective right to the territory. Thus, the protocols are an expression of what indigenous peoples decide for their territories.

How does a Consultation Protocol work?

- **National:** In this scope they are implemented and must be recognized by the States. At this level there may be a consultation protocol for each indigenous people.
- **International:** COICA, being a regional organization, proposes that the protocols also have a level of implementation and international - regional recognition. At that level, a regional prior consultation protocol will serve to demand better standards and consent to instances such as the United Nations. But they will also serve as an advocacy tool in spaces for dialogue with Multilaterals and International Financial Institutions.
- It must take place in planning stages, not after the approval of a project or an administrative measure, or when there is already a violation of indigenous rights. A query about after effects already made is not a prior consultation.
- If there is consent from the local population to the project or measure to consult. The consultation should not only be at the beginning, but at each stage of the project cycle.

What is consulted?

Administrative, legislative and development measures that directly and indirectly affect the rights of indigenous peoples.

Who consults?

It is the main duty of the States. However, given the regional - international role of COICA, it is essential to raise the standard of prior consultation, proposing the protocol both at the level of the Inter-American Human Rights System and the Universal System. Likewise, the International Financial Institutions promote "consultation" processes that must comply with C169 standards.

When is there consultation?

In the planning stages of these decisions, complying with the concept of free and informed prior consent. And if there is consent, each stage of a project should be consulted.

Where is it consulted?

Always in the territories of the indigenous peoples that are consulted. The consultation must comply with the "informed" principle.

How long does a query take?

The times are agreed upon in the elaboration of the consultation plan from the proposal of the indigenous peoples. Priority and clear and informed understanding of the measure to be consulted are prioritized.

How is it consulted?

Methodological tools must be constructed for each particular stage of the protocol. Each of them must have graphic materials that demonstrate the agreements that result from each stage. The agreements are not only minutes, the protocols say that they are registered in talking maps, cultural diagrams, or matrixes adapted to the characteristics of each town. Thus, the consultation is not only a negotiation, but a process of local strengthening.