

American Declaration and UN Declaration: Minimum Standards

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1. The *American Declaration on the Rights of Indigenous Peoples* was adopted by consensus by the Organization of American States (OAS) General Assembly on 15 June 2016.¹ This is a significant development, with potentially far-reaching positive implications for Indigenous peoples.
2. Indigenous peoples in the Americas² now have two declarations that explicitly affirm and elaborate upon their human rights and related State obligations. The *American Declaration on the Rights of Indigenous Peoples* includes some provisions that fall below the *United Nations Declaration on the Rights of Indigenous Peoples* and others that go beyond. In addition, both include provisions that the other does not have.
3. **In any specific situation, the minimum standard is the one that is *higher* in these two human rights instruments.**
4. In analyzing the *American Declaration* or the *UN Declaration*, no specific provision should be interpreted in isolation. Rather each provision should be interpreted in the context of the whole instrument and other regional and international human rights law.
5. Article XLI of the *American Declaration* provides: “The rights recognized in this Declaration and the United Nations Declaration on the Rights of Indigenous Peoples constitute the minimum standards for the survival, dignity, and well-being of the indigenous peoples of the Americas.”
6. The *American Declaration*, article XL affirms: “Nothing in this Declaration shall be construed as diminishing or extinguishing rights that **indigenous peoples now have** or may acquire in the future.” Thus, in any given situation, if the *UN Declaration* has a higher standard than that in the *American Declaration*, the standard in the *UN Declaration* would apply.
7. Article 43 of the *UN Declaration* affirms: “The rights recognized herein constitute the minimum standards for the survival, dignity, and well-being of the indigenous peoples of the world.”
8. Article 45 of the *UN Declaration* affirms: “Nothing in this Declaration may be construed as diminishing or extinguishing the rights that indigenous peoples have now or **may acquire in the future.**”
9. While the *American Declaration* reaffirms some rights of Indigenous peoples in the Americas in exactly the same wording as in the *UN Declaration*, other rights are elaborated differently. Should such rights include a higher standard than what is in the *UN Declaration*, they would constitute new minimum standards in both the *UN Declaration* and the *American Declaration*.

¹ *American Declaration on the Rights of Indigenous Peoples*, Res. AG/doc.5537, adopted without vote by Organization of American States, General Assembly, 46th sess., Santo Domingo, Dominican Republic, 15 June 2016.

² In this context, the Americas refers to North, South and Central America and the Caribbean.