



INDIGENOUS TERRITORIAL AUTONOMY AND SELF-GOVERNMENT IN THE DIVERSE AMERICAS

Edited by Miguel González, Ritsuko Funaki, Araceli Burguete Cal y Mayor, José Marimán, and Pablo Ortiz-T

ISBN 978-1-77385-463-2

THIS BOOK IS AN OPEN ACCESS E-BOOK. It is an electronic version of a book that can be purchased in physical form through any bookseller or on-line retailer, or from our distributors. Please support this open access publication by requesting that your university purchase a print copy of this book, or by purchasing a copy yourself. If you have any questions, please contact us at ucpress@ucalgary.ca

Cover Art: The artwork on the cover of this book is not open access and falls under traditional copyright provisions; it cannot be reproduced in any way without written permission of the artists and their agents. The cover can be displayed as a complete cover image for the purposes of publicizing this work, but the artwork cannot be extracted from the context of the cover of this specific work without breaching the artist's copyright.

COPYRIGHT NOTICE: This open-access work is published under a Creative Commons licence. This means that you are free to copy, distribute, display or perform the work as long as you clearly attribute the work to its authors and publisher, that you do not use this work for any commercial gain in any form, and that you in no way alter, transform, or build on the work outside of its use in normal academic scholarship without our express permission. If you want to reuse or distribute the work, you must inform its new audience of the licence terms of this work. For more information, see details of the Creative Commons licence at: <http://creativecommons.org/licenses/by-nc-nd/4.0/>


UNDER THE CREATIVE COMMONS LICENCE YOU MAY:

- read and store this document free of charge;
- distribute it for personal use free of charge;
- print sections of the work for personal use;
- read or perform parts of the work in a context where no financial transactions take place.

UNDER THE CREATIVE COMMONS LICENCE YOU MAY NOT:

- gain financially from the work in any way;
- sell the work or seek monies in relation to the distribution of the work;
- use the work in any commercial activity of any kind;
- profit a third party indirectly via use or distribution of the work;
- distribute in or through a commercial body (with the exception of academic usage within educational institutions such as schools and universities);
- reproduce, distribute, or store the cover image outside of its function as a cover of this work;
- alter or build on the work outside of normal academic scholarship.

**INDIGENOUS
TERRITORIAL
AUTONOMY** AND
SELF-GOVERNMENT
IN THE **DIVERSE
AMERICAS**



MIGUEL GONZÁLEZ
RITSUKO FUNAKI
ARACELI BURGUETE CAL Y MAYOR
JOSÉ MARIMÁN
PABLO ORTIZ-T

INDIGENOUS TERRITORIAL AUTONOMY

Global Indigenous Issues Series

SERIES EDITOR: Roberta Rice, Associate Professor,
Department of Political Science, University of Calgary

ISSN 2561-3057 (Print) ISSN 2561-3065 (Online)

The Global Indigenous Issues series explores Indigenous peoples' cultural, political, social, economic and environmental struggles in para-colonial and post-colonial societies. The series includes original research on local, regional, national, and transnational experiences.

No. 1 · **Flowers in the Wall: Truth and Reconciliation in Timor-Leste, Indonesia, and Melanesia**

Edited by David Webster

No. 2 · **Indigenous Territorial Autonomy and Self-Government in the Diverse Americas**

Edited by Miguel González, Ritsuko Funaki, Araceli Burguete Cal y Mayor, José Marimán, and Pablo Ortiz-T



UNIVERSITY OF CALGARY
Press

INDIGENOUS TERRITORIAL AUTONOMY AND SELF-GOVERNMENT IN THE DIVERSE AMERICAS

MIGUEL GONZÁLEZ
RITSUKO FUNAKI
ARACELI **BURGUETE CAL Y MAYOR**
JOSÉ MARIMÁN
PABLO ORTIZ-T

Global Indigenous Issues Series
ISSN 2561-3057 (Print) ISSN 2561-3065 (Online)

© 2023 Miguel González, Ritsuko Funaki, Araceli Burguete Cal y Mayor, José Marimán, and Pablo Ortiz-T

University of Calgary Press
2500 University Drive NW
Calgary, Alberta
Canada T2N 1N4
press.ucalgary.ca

All rights reserved.

This book is available in an Open Access digital format published under a CC-BY-NCND 4.0 Creative Commons license. The publisher should be contacted for any commercial use which falls outside the terms of that license.

LIBRARY AND ARCHIVES CANADA CATALOGUING IN PUBLICATION

Title: Indigenous territorial autonomy and self-government in the diverse Americas / Miguel González, Ritsuko Funaki, Araceli Burguete Cal y Mayor, José Marimán, Pablo Ortiz-T.
Other titles: Autonomías y autogobierno en la América diversa. English
Names: González Pérez, Miguel, 1967- editor. | Funaki, Ritsuko, editor. | Burguete Cal y Mayor, Aracely, editor. | Marimán, José A. (José Alejandro), editor. | Ortiz-T., Pablo, editor.
Series: Global indigenous issues series ; no. 2.
Description: Series statement: Global Indigenous issues series ; no. 2 | Includes bibliographical references and index.
Identifiers: Canadiana (print) 20230221807 | Canadiana (ebook) 20230221890 | ISBN 9781773854625 (softcover) | ISBN 9781773854618 (hardcover) | ISBN 9781773854632 (open access PDF) | ISBN 9781773854649 (PDF) | ISBN 9781773854656 (EPUB)
Subjects: LCSH: Indigenous peoples—America—Politics and government. | LCSH: Indigenous peoples—America—Government relations. | LCSH: Indigenous peoples—Legal status, laws, etc.—America.
Classification: LCC E59.P73 A9813 2023 | DDC 305.80097—dc23

The University of Calgary Press acknowledges the support of the Government of Alberta through the Alberta Media Fund for our publications. We acknowledge the financial support of the Government of Canada. We acknowledge the financial support of the Canada Council for the Arts for our publishing program.

The editors would like to acknowledge the valuable support received for this publication from the International Working Group on Indigenous Affairs (IWGIA) and the Japanese Society for the Promotion of Science (JSPS-Kakenhi). The work was originally published in 2021 as *Autonomías y autogobiernos en territorios indígenas de la América diversa* by Editorial Universitaria Abya Yala/UPS (<https://abyayala.org.ec/editorial-universitaria-abya-yala-ups/>). This translation is published with the permission of the originating publisher.



Canada



Canada Council
for the Arts

Conseil des Arts
du Canada



Cover art: Michelle Hallatt, *Bien Chiclas*
Page design and typesetting: Melina Cusano

Contents

Foreword	ix
Introduction	1

*by Miguel González, Araceli Burguete Cal y Mayor,
José Marimán, Pablo Ortiz-T. and Ritsuko Funaki*

PART I. POST-MULTICULTURAL CONSTRICTUM 29

1: The Right to Self-determination and Indigenous Peoples: The Continuing Quest for Equality	31
<i>by Dalee Sambo Dorough</i>	
2: The Implementation Gap for Indigenous Peoples' Rights to Lands and Territories in Latin America (1991–2019)	57
<i>by Ritsuko Funaki</i>	
3: Framework Law on Autonomy and Decentralization for Native Indigenous Peasant Autonomies (AIOCs): Autonomous Regulation or Institutional Restriction?	103
<i>by María Fernanda Herrera Acuña</i>	
4: Indigenous Autonomy in Bolivia: From Great Expectations to Faded Dreams	127
<i>by John Cameron and Wilfredo Plata</i>	
5: The Tragedy of <i>Alal</i> : Regression of Rights in the Nicaraguan Autonomous Regime	163
<i>by Miguel González</i>	
6: Mapuche Autonomy in <i>Pwelmapu</i> : Confrontation and/ or Political Construction?	193
<i>by Verónica Azpiroz Cleñan</i>	
7: A Future Crossroads in Rebellious and Pandemic Times: National Pluralism and Indigenous Self-government in Chile	221
<i>by José A. Marimán</i>	

PART II. POSSIBILITIES: RECOVERING WHAT HAS BEEN LOST AND REBUILDING	257
8: Restoring the Assembly in Oxchuc, Chiapas: Elections Through Indigenous Normative Systems (2015-2019) <i>by Araceli Burguete Cal y Mayor</i>	259
9: Building Autonomies in Mexico City <i>by Consuelo Sánchez</i>	289
10: <i>Neggsed</i> (Autonomy): Progress and Challenges in the Self-government of the Gunadule People of Panama <i>by Bernal D. Castillo</i>	327
11: Autonomy, Intersectionality and Gender Justice: From the “Double Gaze” of the Women Elders to the Violence We Do Not Know How to Name <i>by Dolores Figueroa Romero and Laura Hernández Pérez</i>	353
12: The Thaki (Path) of Indigenous Autonomies in Bolivia: A View from the Territory of the Jatun Ayllu Yura of the Qhara Qhara Nation <i>by Magali Vienca Copa-Pabón, Amy M. Kennemore, and Elizabeth López-Canelas</i>	387
13: Indigenous Jurisdiction as an Exercise of the Right to Self-determination and its Reception in the Chilean Criminal Justice System <i>by Elsy Curihuinca N. and Rodrigo Lillo V.</i>	417
14: Indigenous Autonomy in Ecuador: Fundamentals, Loss and Challenges <i>by Pablo Ortiz-T</i>	449

PART III. AUTONOMIES AS EMANCIPATION: OWN PATHS	483
15: Gender Orders and Technologies in the Context of Totora Marka's Autonomous Project (Bolivia) <i>by Ana Cecilia Arteaga Böhr</i>	485
16: Autonomy as an Assertive Practice and as a Defensive Strategy: Indigenous Shifts in Political Meanings in Response to Extreme Violence in Mexico <i>by Mariana Mora</i>	519
17: Building Guaraní Charagua Iyambae Autonomy: New Autonomies and Hegemonies in the Plurinational State of Bolivia <i>by Pere Morell i Torra</i>	547
18: The Path to Autonomy for the Wampís Nation <i>by Shapiom Noningo and Frederica Barclay</i>	583
19: "¡Guardia, Guardia!": Autonomies and Territorial Defense in the Context of Colombia's Post Peace-Accord <i>by Viviane Weitzner</i>	603
20: Indigenous Self-Government Landscapes in Michoacán: Activism, Experiences, Paradoxes and Challenges <i>by Orlando Aragón Andrade</i>	641
21: Indigenous Governance Innovation in Canada and Latin America: Emerging Practices and Practical Challenges <i>by Roberta Rice</i>	667
List of Contributors	695
Index	707

Foreword

The academic work that I am honored to present is steeped in history, paradigms, realities, experiences, denunciations, questions and struggles, from the point of view of an outstanding group of professional specialists or activists committed to the defense, promotion and enforcement of the human rights of Indigenous peoples.

The compendium of writings collected in *Indigenous Territorial Autonomy and Self-Government in the Diverse Americas* is one more milestone achieved in this process of recovery of rights.

There are 22 authors, mostly women, and Indigenous women, who share the different experiences they have lived within the states of the region, in this rugged journey along the path towards the recovery of fundamental rights.

The book is organized in three sections, based on chapters written by the different authors. The first part, entitled “Post-multicultural *Constrictum*,” begins with a critical look at multiculturalism and Indigenous recognition policies. It addresses the advances, restrictions and setbacks that Indigenous autonomies have experienced in relation to the states. The second section, called “Possibilities: Recovering What Has Been Lost and Rebuilding,” identifies and describes certain spaces of openness in the exercise of Indigenous autonomy and self-government. In this area, the importance of the agency of the Indigenous peoples themselves in defending their rights to political autonomy is highlighted.

Finally, the third part, entitled “Autonomies as Emancipation: Own Paths,” presents various instances in which Indigenous peoples, regardless of official recognition by the states, have advanced in the exercise of their autonomous rights, as an emancipatory process expressed in self-determination.

Undoubtedly, this work constitutes an ample space for reflection that allows the reader to enter into the thinking and knowledge of the Abya Yala. A commendable effort that permeates not only the academy but the entire society and all democratic institutions and public policies aimed at making “the dignity of and for Indigenous peoples a custom.”

Our unique and diverse America has been the stage for a history of countless injustices, exclusions, dispossessions, inequalities, aggressions and even exterminations against Indigenous peoples, paradoxically the original

ones. From the conquest to our times of supposed democracy, the value of Indigenous culture, their cosmovision and ancestral knowledge has been undervalued; they have been dispossessed of their lands, territories and natural resources, for which today they maintain their struggle to recover their autonomy, self-government and self-determination. And they continue to suffer exclusion and marginalization in conditions of inequality and discrimination.

International organizations in this quest for respect, promotion and protection of the human rights of Indigenous peoples have made significant progress, but we are still far from the legal and practical consolidation of their right to self-determination.

An important normative movement has been developing in a group of countries in our region, including the recognition of the autonomy of Indigenous peoples to decide on their own development processes, forms and rules of coexistence, self-government and autonomy, assigning it constitutional status. This raised great expectations of progress in these areas, but translating it into practices and actions continues to be a great challenge for the states.

Unfortunately, Indigenous peoples continue to face new forms of colonialism, restrictions to their rights, setbacks, confrontations and even the criminalization of their leaders for their struggles in defense of their lands, territories and natural resources.

This panorama is described from the diverse America, with the different approaches presented by the authors of the book; advances, regressions, contradictions in public policies and the search for new paths to build firm autonomies, among other aspects.

In addition to being inspiring, this book requires the IACHR, from the Rapporteurship on the Rights of Indigenous Peoples, to reaffirm its commitment to accompany, monitor and defend their rights, in the context of the international obligations assumed by the countries of the region, employing all the mechanisms and tools available for this task

Finally, I would like to highlight my appreciation to the Indigenous peoples, as well as to all the national and international organizations that serve as a voice in accompanying the initiatives of these collectives to achieve their autonomy, self-government and self-determination. The work of the IACHR in these matters cannot wait.

Esmerelda E. Arosemena de Troitiño
Inter-American Commission on Human Rights/OAS
Commissioner Rapporteur for the Rights of Indigenous Peoples