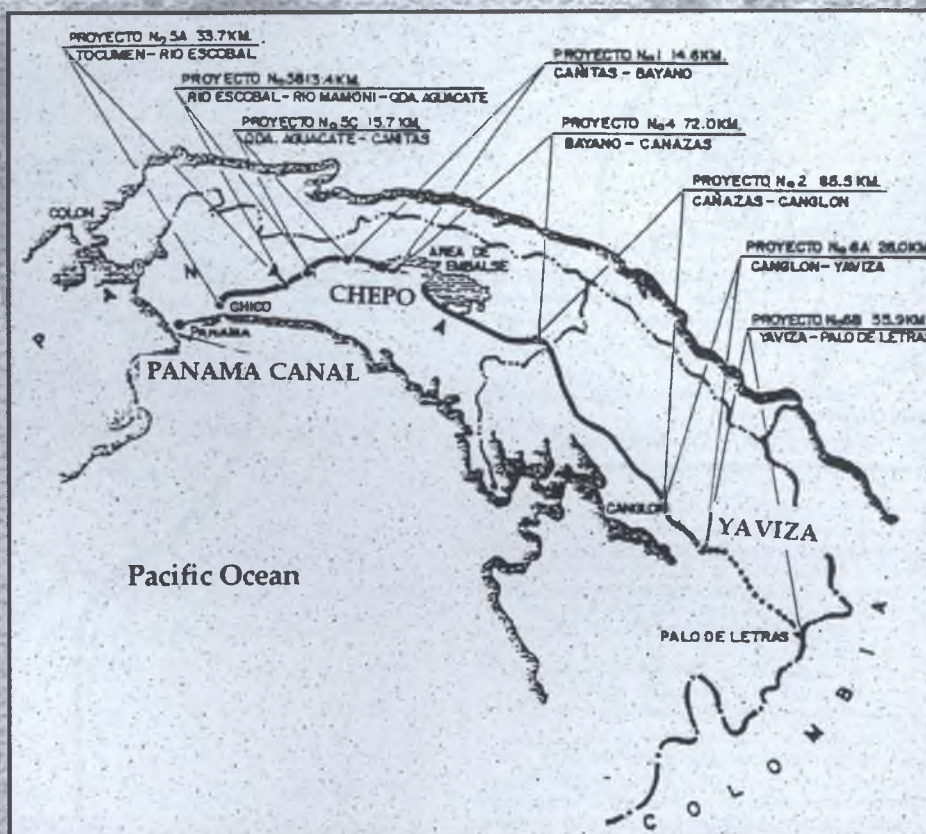
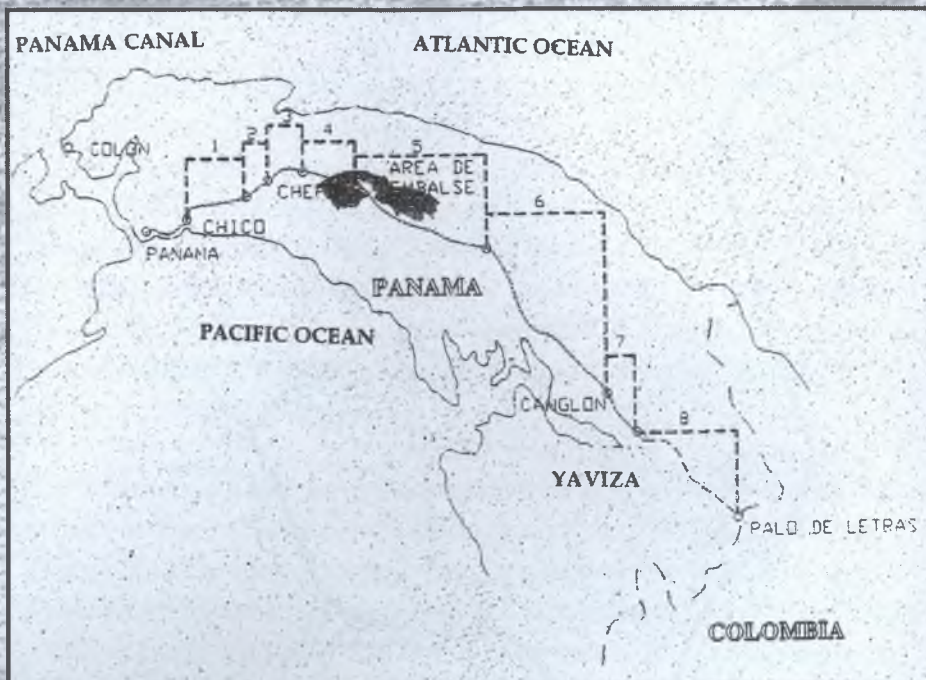


Indigenous Response to Highway Plans

In contrast to the 1970s, when leadership arose from U.S. based groups, in the 1990s indigenous peoples were the ones to catalyze an international campaign. The Embera-Wounaan General Congress, one of the most powerful indigenous congresses in Panama, worked with allies to uncover confidential documents confirming road construction plans. With these documents in hand, they mounted a campaign to make sure that their voices were clearly represented in all discussions regarding the future of their lands.

The Embera-Wounaan General Congress was in a much better position to lead a campaign than they had been in the 1970s for several reasons. Firstly, they had been significantly strengthened internally by the passage of Law 22 in 1980. This law granted them title to the Embera-Wounaan Comarca and recognized the Embera-Wounaan General Congress as the official governing body for the people living within its boundaries. Secondly, they had joined forces with other indigenous peoples in the country. During this period the congress helped to form a national body called the National Coordinating Body for Indigenous Peoples (COONAPIP) that advocated on behalf of indigenous peoples at the national level. Finally, they had begun in recent years to work more closely with several national NGOs and had just begun to reach out internationally for support.

THE PANAMERICAN HIGHWAY - PANAMA



Source: Ministerio de Transporte de Colombia: Instituto Nacional de Vias, Proyecto Conexion Terrestre Colombia-Panama (Bogota, Colombia, 1996)

The 224 kilometer dirt road that would constitute part of the intercontinental highway runs from Chepo to Yaviza, a port town in the Darien Province. From there a 56 kilometer new road would be constructed to Palo de Letras situated along the Panama - Colombia border.

One important project that set the stage for the campaign on the Darien Gap Link was a 1993 mapping project that a few congresses in the Darien Gap had developed in conjunction with national and international NGO partners. This map strengthened the position of indigenous peoples at the national level by showing the location of each of their villages and the surrounding land that they used for hunting, fishing, medicinal and farming purposes. The project culminated in an international conference to present the results. The Embera-Wounaan General Congress used this conference as an opportunity to discuss their plans and positions regarding the highway with national and international NGOs.

The Creation of the Indigenous Pan-American Highway Commission

In December 1993, the Embera-Wounaan General Congress passed a resolution in opposition to the highway project at a congress attended by roughly 500 indigenous leaders and community members in the Embera-Wounaan Comarca. The resolution stated that they were

opposed to the construction of the Pan-American Highway through indigenous territories in Panama . . . the construction of the Pan-American Highway through our territories would cause irreparable damage to our forests, rivers, flora and fauna upon which depend our brothers and sisters the animals and our river culture. The wounds caused by the recent construction of the Pan-American Highway to Yaviza are still fresh. This construction caused the conversion of our territories into cow pastures and little by little the extinction of the biodiversity of our lands.

CEALP's Role

CEALP played an important role in helping the Embera-Wounaan General Congress develop their campaign on the Darien Gap Link. The Center had been working with indigenous congresses in the region for many years and had developed the expertise, as well as the bonds of trust with the congresses, that was critical for the working partnerships that sustained the campaign.

Throughout the campaign, CEALP provided research, translation, legal and networking support that enabled indigenous leaders to back up their positions. For example, CEALP staff collected critical documents from Panama, Colombia and the United States that confirmed project plans and tied the initiative to specific funders and governmental bodies. The staff then helped indigenous leaders determine strategies to influence these entities, including reviewing laws, regulations and relevant documents for legal conditions that could support indigenous positions. The Center also supported village seminars to ensure that indigenous leadership and community members were aware of their rights. In addition, the staff was critical in helping connect indigenous responses to U.S. NGOs, funders and sympathetic government officials who could provide advocacy, financial and research support for the effort.

The resolution also created the **Indigenous Pan-American Highway Commission (IPAHC)** to further investigate and to develop a strategy to ensure indigenous voices would be heard in any highway plans for their lands. The resolution named Embera and Wounaan delegates to the commission, as well as a technical support staff provided by CEALP.

Consolidating a Unified Indigenous Front

The first step in the campaign strategy was to ensure that the villagers within the Embera-Wounaan Comarca were well versed with respect to plans to construct the highway through their lands. The leadership of the Embera-Wounaan

Congress wanted to be sure that their own communities understood and participated in the development of a strategic plan to ensure their own internal cohesion as the campaign moved forward. Without this grassroots involvement, national and international attention generated by the campaign might have divided the communities and left the congress as a less effective player.

Over the next two years, IPAHC held dozens of seminars in villages within the Embera-Wounaan Comarca to train community members and further develop their plans. Through these workshops, community leaders were able to expand their initial position in opposition to the project to

include their own aspirations for the future development of the region. The proposals they developed included concerns related to land security, political autonomy and the preservation of the rainforests.

As they carried out these seminars, IPAHC delegates also began to reach out to indigenous congresses throughout the Darien Gap. The effort of the Embera-Wounaan General Congress to build a unified coalition between congresses within the region was another important strategic move. The work ensured that indigenous congresses in the region were working collaboratively on one campaign, rather than developing separate campaigns that might have worked at cross-purposes. Their ability to negotiate with the government as a unified front significantly enhanced their political leverage.

By 1994, IPAHC included membership not only from the Embera-Wounaan General Congress, but also from the Kuna General Congress, the Madungandi General Congress and the Kuna communities of Pucoro and Paya. Now representing over 60,000 people, the commission moved from the jurisdiction of the Embera-Wounaan General Congress to COONAPIP. To solidify alliances, IPAHC held four inter-congressional meetings between 1994 and 1996, which were each hosted in the homelands of the different coalition member organizations.



Hector Huertas, Alicia Korten, _____, Dialys Ehrman y Eddy Gaiza.
Indigenous Pan-American Highway Commission (IPAHC)

These meetings were extremely significant as they allowed leaders the opportunity to develop a common platform that all participating congresses could support. In addition, the gatherings were a rare opportunity for leaders of each congress to meet together in traditional village settings, rather than in the capital city where most inter-congressional work was done. In the village setting, whole families could participate in the meetings and spiritual leaders could weave their chants and storytelling through the dialogue. These gatherings engendered deeper bonds of trust that allowed the leadership to stand united during difficult moments in the campaign (see 1995 *Tupile Declaration*).

Indigenous Platform

In these meetings, the leadership reached consensus on three positions. In a series of resolutions they stated that they:

- Would not support the paving of dirt roads in their ancestral lands until the Panamanian government had complied with a series of requirements outlined in a consensus document called *the Panamanian Indigenous Congresses' National Document on Highways that Affect Indigenous Territories*;
- Demanded participation in all official bodies and programs supporting the construction of the Pan-American Highway through their lands including the Colombia-Panama Good Neighbor Commission and the IDB/World Bank-funded transport sector program.
- Opposed the construction of the 107-kilometer Darien Gap Link;

National and International Outreach

Indigenous efforts to gain access to official bodies met with limited success. Following continued lobbying efforts, both the Panamanian and Colombian governments granted indigenous peo-

1995 Indigenous Declaration Consensus Document developed in Tupile, Kunayala

In 1995, IPAHC organized a meeting in Tupile, Kunayala in which traditional indigenous leaders reaffirmed their opposition to the Darien Gap Link project and developed a consensus document regarding measures that should be taken before major infrastructure projects were built through their lands. In a resolution, the traditional leadership wrote their demands.

Before paving dirt roads or constructing new highways that affect our territories, we demand that the state:

- Recognize our land rights by approving and upholding laws that guarantee our right to land, as well as international agreements such as the International Labor Organization's Agreement 169 which includes provisions to protect indigenous rights, as well as to protect the biodiversity in the region.
- Approve a law that would give the Embera, Wounaan and Kuna peoples collective title to their territories and to coordinate the development of this law with indigenous organizations.
- Approve laws that recognize the rights of indigenous peoples to political autonomy over their lands and to practice their own forms of traditional government, including following their own laws within their lands, as well as [laws pertaining to the defense] of their culture and traditions.
- Promote environmental conservation within indigenous territories, as well as alternative forms of economic development that support the sustainable use of natural resources. These economic alternatives should take into account indigenous knowledge and traditional practices with respect to biodiversity and ensure that indigenous peoples are beneficiaries of these practices.
- Approve funding for a national study that would outline a strategy for the [economic, political and cultural] development of indigenous peoples and ensure that this study is carried out by professionals who are chosen by the indigenous congresses themselves, or, if indigenous peoples write this document on their own, to support its implementation.
- Reject any study that does not take an integrated approach to resolving the problems of indigenous peoples. The study should be done using the parameters and guidelines with respect to participation outlined in this document. The state and the multilateral development banks should follow up the study with economic and political commitments for its implementation.
- Ensure that studies such as environmental impact statements include broad participation by indigenous peoples and [other sectors of] civil society, specifically in the writing of the documents as well as in the development of the terms of reference for the studies.
- Ensure that participation is real and effective by providing information to indigenous leaders well before decisions will be made [pertaining to projects and studies] so that there is ample time for indigenous peoples to consult on these projects.
- Support, particularly economically, a plan that ensures effective consultation and participation and that is developed, carried out and approved of by respective indigenous congresses.
- The indigenous congresses will have the right to verify whether the conditions and recommendations determined by the environmental impact studies and the social impact studies have been met.



ples in both countries permission to send a delegate to ongoing meetings of the Colombia-Panama Good Neighbor Commission. However, just before the May 1994 meeting, the Panamanian government withdrew funding keeping the Panamanian indigenous delegate from participating.

In 1995, to leverage indigenous voices CEALP staff went to Washington, DC to discuss indigenous concerns with representatives of major human rights and environmental organizations, as well as U.S. government officials in the State Department, Environmental Protection Agency and the Treasury Department. With strong support from the Bank Information Center and the Sierra Club, IPAHC and the CEALP staff that made up the technical team for the commission were able to pull together a U.S.-based coalition that lobbied financial institutions funding the project to support indigenous positions at critical junctures in the campaign.

The Legal Framework Protecting Indigenous Peoples and the Environment

The right of indigenous peoples to participate in development plans that affect their lands is protected by national legislation, as well as the constitution. Laws that have helped to uphold this right include Panama's recently passed National Environmental Law (July 1998), as well as the laws that established the indigenous comarcas. The constitution of Panama also outlines broad principles with respect to indigenous peoples' right to uphold their cultural practices and assert autonomy over their collective territories.

Panama's Legislative Assembly has also approved several international agreements pertaining to indigenous peoples' rights, including Agreement 107 of the International Labor Organization and the Biological Diversity Agreement established in Rio de Janeiro. The Biological Diversity Treaty outlines indigenous peo-

ples' right to have a voice in development projects that affect them.

By 1995 several other groups nationally and internationally were developing creative responses to plans to construct the Darien Gap Link. One landmark event was a bilateral conference on the future of the Darien Gap held in March 1996 organized by the National Association for the Conservation of Nature (ANCON) in Panama and the Nature Foundation in Colombia. The planning for this conference, which was attended by indigenous peoples, national and international NGO representatives and high level government officials, began in 1995 and helped to mobilize national movements in both countries in opposition to the highway.

With a clear platform and organizing structure in place, IPAHC was able to negotiate with ANCON to ensure a significant indigenous presence at this conference. Their chosen delegate co-facilitated this meeting, and they were able to create a participatory methodology for the event that allowed conference members to develop creative proposals with respect to the future of the Darien Gap.

The Tide Turns

By the end of 1995, fault lines within the Panamanian government were increasingly evident with respect to the highway. The growing opposition had emboldened some state officials to speak out against the project. These individuals within the government were particularly concerned that the



highway would encourage the spread of armed conflict in Colombia into Panama and flood their markets with cheap Colombian produce. Increasingly, government representatives were forming alliances with NGOs and indigenous leaders to pressure Panama's executive branch to withdraw its support for the project.

Then in January 1996, the Panamanian government began construction on the Chepo-Yaviza dirt road before completing either an environmental impact statement or an Indigenous Peoples Development Plan (IPDP), as required in the IDB/World Bank loan agreements (*see box*). Indigenous leaders immediately sent protest letters to the President

of Panama, as well as the presidents of the IDB and World Bank, and copied these letters to dozens of environmental and human rights organizations that provided lobbying work in Washington, DC.

Officials at the World Bank and the IDB responded with two precedent-setting moves. First they let the Panamanian government know that they would have to stop loan disbursements if violations to the loan requirements were not resolved. By April, the government had stopped the paving project and had pulled the bulldozers back out of the region. The move represented the first time in the history of the country that a road construction project already underway had been

stopped due to environmental and social concerns.

The second important precedent was that the World Bank encouraged the Ministry of Public Works (the lead government agency for the program) to hand responsibility for the development of the IPDP to the Madungandi Congress, in coordination with ANCON. As the first to be affected by the paving project, IPAHC delegates had successfully lobbied the World Bank to help the Madungandi Congress take the leadership role in the development of the study. This was a rare opportunity, as agencies within borrowing governments are usually the ones that carry out such studies.

As part of the initiative, indigenous leaders were given the opportunity to conduct their own interviews with their people for the study, to convene communal meetings to discuss the project, and to write up the results for the project. ANCON played a supportive role in this process by helping the indigenous leadership refine their research methodologies, as well as by providing office space, computers and other needed supplies.

The effectiveness of this strategy was immediately apparent following the completion of the study.

The purpose of such a plan is to ensure that cultural safeguards are in place before projects are carried out that might affect indigenous peoples negatively. In reality government officials tend to file these studies without providing

follow up. In this case, however, the beneficiaries had developed the plan themselves and had clear incentive to provide follow up.

The study became a cornerstone for many of the future negotiations by the Madungandi Congress with the Panamanian government and international lending institutions. For example, once the study was completed, it was the Madungandi Congress who took the initiative to convene a meeting with government authorities to present the document and discuss proposals. Through their efforts they have been able to attain funding for many elements of the larger proposal outlined in

the IPDP including demarcation of their lands and the creation of a school, sports facilities, a handicraft workshop area and a warehouse for their agricultural products. In addition, they have secured funding to build a small port for their canoes and small boats to help them better watch over their territories and monitor for illegal timber operations.

Darien Gap Link Stopped

With indigenous peoples and other sectors of civil society showing increasing resistance to the highway, international lending institutions that had initially supported the project began to see the Darien Gap Link as a pariah pro-

ject. In 1996, the Panamanian Minister of Public Works conceded that neither the IDB nor World Bank was still interested in funding the project stating that these "international organizations fear the negative impacts that the project would cause to the ecology of the region."¹²

By the end of March 1996 Panama's President Ernesto Perez Balladares had changed his position. At an event in the Darien sponsored by ANCON, he stated specifically that he was not in favor of building the road during his administration. This policy shift ground plans to build the road to a halt. Without Panamanian support, the Colombian government had no choice but to abandon the bilateral elements of the initiative. The project, which only a year earlier had been considered by many officials throughout the Americas to be unstoppable, now appeared to be only a distant possibility.

President Balladares' opposition to the highway marked a new strategy for the government with respect to the Darien Gap. Instead of an international trade initiative to which Panama had been a reluctant partner, the administration decided to capitalize on the international attention to the environment that the Darien Gap Link campaign had generated. The Balladares administration was well aware of the funds such initiatives could attract. Tens of millions of dollars were already

World Bank's Operational Policy on Indigenous Peoples OD 4.20

In Operational Directive 4.20, the bank states that its "broad objective towards indigenous people, as for all the people in its member countries, is to ensure that the development process fosters full respect for their dignity, human rights, and cultural uniqueness . . . For an investment project that affects indigenous peoples, the borrower should prepare an indigenous peoples development plan that is consistent with the Bank's policy. [This plan should include mechanisms for] participation by indigenous peoples in decision making throughout the project planning, implementation, and evaluation. Many of the larger groups of indigenous people have their own representative organizations that provide effective channels for communicating local preferences."¹¹

As seen in the above directive, on paper the World Bank has guaranteed the right of indigenous peoples to participate in the development of bank-funded projects that affect them. The on-the-ground reality, however, has rarely held up to the bank's stated aims, generating tremendous mistrust by indigenous peoples in Panama toward international lending institutions.

¹¹ "World Bank Operational Manual", The World Bank, Washington, DC, 1991, 1-4.

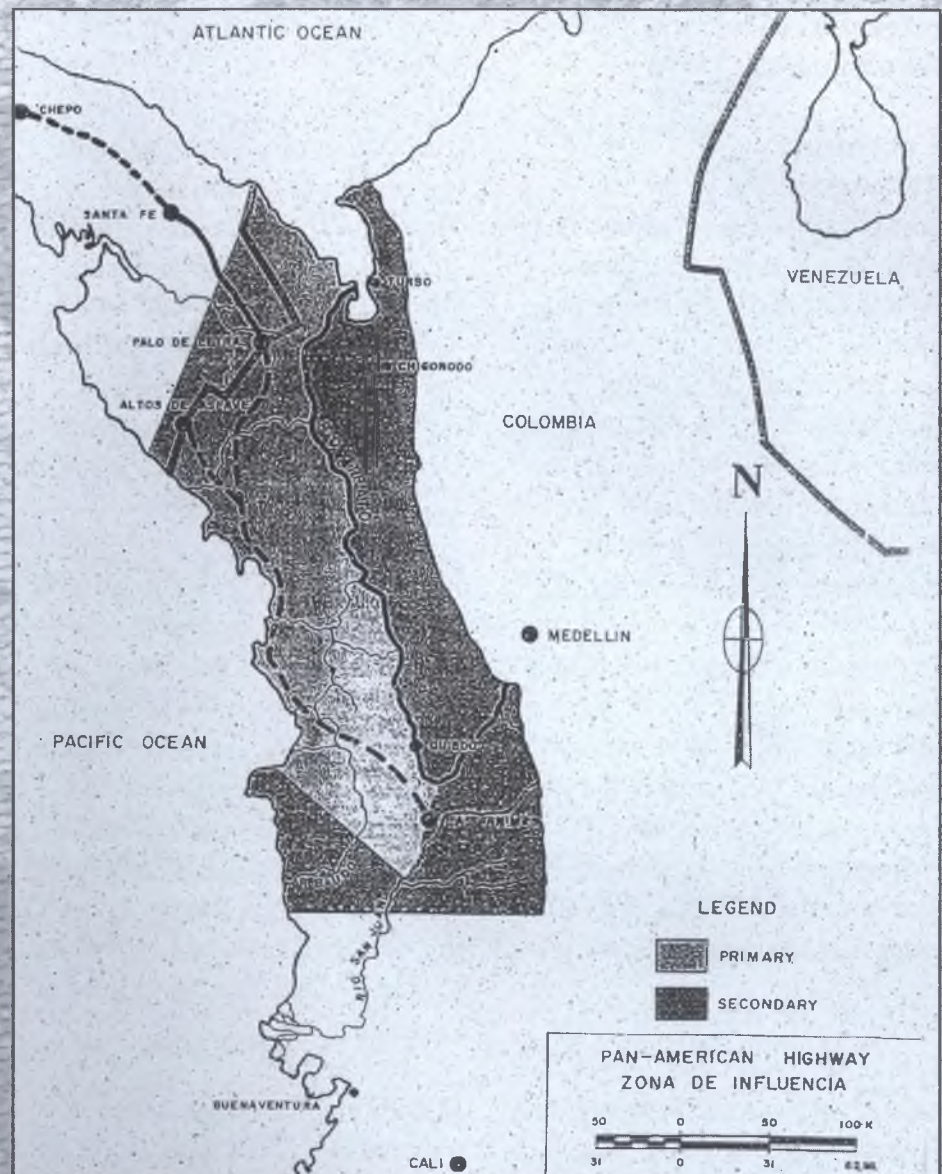
¹² Candanedo Diaz, 25.

flooding into the region from institutions such as the United Nations Environmental Program, the World Bank and the European Commission to preserve the rain-forests and indigenous cultures in the region.

Soon the IDB followed with its own policy reversal, stating for the first time its opposition to the Darien Gap Link project. In addition, the bank decided to use the momentum built by the campaign to launch an initiative to showcase new participatory methodologies that they were trying to incorporate within the bureaucracy of the bank. The ensuing project, the *Darien Sustainable Development Program*, and the role that indigenous peoples played within it is the subject of the third case study of this report.

These events strengthened the position of environmental advocates in both Panama and Colombia, and helped to move forward a bilateral initiative to protect the natural resources in the region. In February, 1997 President Balladares and Colombian President Samper signed agreements to develop activities aimed at coordinating management of the Katios and Darien National Parks.¹³

In 1998, the interest of the United States in the project further cooled following the release of the feasibility study done by the Federal Highway Administration. The study concluded that the Darien



Source: Brown & Root Overseas, Inc., La Vialidad Limitada, Estudio y Diseño. Sección de la Carratera Panamericana, Palo de Letras. Bogotá. Organización de los Estados Americanos.

Gap Link was not an essential piece of infrastructure for trade initiatives in the Americas, as shipping goods by sea and air were more cost effective.

These policy shifts have represented tremendous milestones in the campaign to save the Darien Gap. However, they do not ensure that the road will never be built. Particularly in Colombia, many regional interests still favor the construction of the Darien

Gap Link. Regional governments in Colombia have continued to take steps, including carrying out feasibility studies, to facilitate the completion of the Darien Gap Link in the future. In Panama, the Panamanian government also has plans to pave the Chepo – Yaviza dirt road that would constitute part of the intercontinental highway. U.S. officials have stated that if Panama regains interest in the project in the future, the United States would need to

¹³ Candanedo Diaz, 16.

reassess its withdrawal of support for the project.

Conclusion

The construction of the Pan-American Highway System is a story of a highway that almost completely linked the Americas, with the almost exclusive exception of a small green filament in the Darien Gap. In this culturally and biologically rich region, first the rainforest saved itself – confounding engineers with its marshlands and difficult terrain.

Later environmentalists worldwide sounded the drums that kept this small link from being built. And finally, deep within the rainforests of the Darien Gap, an indigenous resistance movement was born that led a successful campaign to keep this green oasis intact.

While the victory may prove to be only temporary, the campaign has built the foundation for continued resistance in the future.

Indigenous peoples throughout the region have new awareness of the effects the road would have on their way of life and the options available to them to respond. In addition, they have seen how, when acting in unison and in coordination with national and international allies, they can influence institutions such as the World Bank and the IDB that had previously been inaccessible to them. This continued awakening within the people who inhabit the Darien Gap is the best guarantee for the protection of the region

from future development pressures.

The Darien Gap Link campaign has also had national impact in Panama. The successful efforts to stop the construction of the Darien Gap Link, as well as to postpone the paving of the Chepo – Yaviza road, have helped to transform how NGOs and grassroots peoples organize campaigns through out the country.

Specifically, leaders of resistance movements have become more sophisticated in connecting grassroots constituencies to international support networks, and combing existing laws and regulations to identify ways in which projects might be in violation to relevant legal codes. These new organizing strategies have already helped to stop a major mining project in Panama.

In addition, the campaign set a national precedent with respect to participation by local people in studies related to projects that will affect them. The World Bank's IPDP for the Bayano region represented the first time that grassroots peoples in Panama had led the development of a project impact study, and the experience set the stage for other grassroots constituencies to demand participation in future studies.

Following the initiative, indigenous leaders in Panama's western province of Bocas del Toro were able to secure active participation in the development of the required environmental impact statement

for the construction of a major road project in that region. The IDB's *Darien Sustainable Development Program* further helped to cement the new standard in Panama of local participation in studies and projects that affect them.

The campaign to stop the Darien Gap Link had far reaching impacts. The effort stopped the construction of a major intercontinental highway. In addition, the campaign helped to redefine the way that many policymakers in Panama, Colombia as well as international lending institutions engaged the region – shifting their focus from trade initiatives to environmental opportunities. In addition, the successes of the campaign led to new ways of organizing inside the country to hold the Panamanian government and international lending institutions accountable to the needs of civil society. Through these successes, the campaign has not only strengthened indigenous rights, but also democratic practices nationally.

Case Study #3: The IDB - Funded Darien Sustainable Development Program



The IDB launched the *Darien Sustainable Development Program* to model the institution's new philosophy with respect to civil participation in projects. Following its approval in December 1998, IDB President Enrique Iglesias declared, "what we do in the Darien Province will be a model for all of Latin America." The IDB's official magazine *BIDAmerica* hailed the project as "an unprecedented consultation and community planning process" and showcased the initiative as marking a new era of civil participation in project development for the bank.¹⁴

Indigenous peoples were meant to be an integral part of the civil participation strategy. They were included in many consultations and were the primary grassroots group directly represented during the planning stages for the loan agreement.¹⁵ However, five years since the conception of the project, the indigenous leadership has felt that the project has often not respected their traditional decision-making processes. In addition, they have expressed concern that the project design did not incorporate their extensive knowledge with respect to environmental conservation or participatory methodologies. Despite these flaws, the program

has been an important milestone for people in the region. Most importantly, the project has recognized local people as legitimate actors in the development of bank-funded projects in the Darien. In addition, local people have learned a tremendous amount about the IDB, including strategies for influencing bank-funded projects.

The IDB's Initiative to Preserve the Darien Gap

The *Darien Sustainable Development Program* was launched by a precedent-setting trip by President Iglesias to meet with President Balladares in the

¹⁴ Inter-American Development Bank, "Nuevo rumbo para una fragil frontera: Gente de Darien ayuda a preparar un proyecto", *BIDAMERICA*, July - August 1998.

¹⁵ In late 2000, the IDB invited an Afro-Hispanic and a farmer representative from the region to join the international advisory body established to provide input into project development.

Darien Gap. The meeting was held on February 17, 1997 and included several hundred people from the region including indigenous peoples, as well as mestizo and Afro-Hispanic populations.

At the meeting, President Iglesias announced that the IDB wanted to fund a project that would protect the natural resources of the region and support its human populations. He also stated publicly for the first time that the IDB would not be funding any projects related to the construction of the last 107-kilometer Darien Gap Link and that, before providing funding to pave any dirt roads in the region, land tenure issues would need to be resolved.

President Iglesias' new position contained watered-down aspects of the indigenous platform developed during the Darien Gap Link campaign. During this campaign indigenous peoples had stated that the Chepo-Yaviza road should only be paved if several conditions were met that would help ensure the preservation of their culture and the forests. (*See Tupile Resolution in Darien Gap Link case study.*)

When the IDB launched the *Darien Sustainable Development Program* that same year, local people and the environment were not the primary objectives of the program. Despite being billed as an environmental project, the program was clearly first and fore-

most a highway and transportation initiative and its first objective was to pave the Chepo – Yaviza dirt road. This priority was reflected in budgetary allocations with almost half of the programmatic budget funding the paving of the 224-kilometer dirt road between Chepo and Yaviza (*see box*).

The program initiators tried to incorporate people and the environment through a precedent-setting Environmental and Social Sequencing Matrix, which laid out important requirements that would need to be met partially or completely before sections of the dirt road were paved. Several of these

requirements addressed longstanding indigenous complaints related to land tenure issues.

However, by stating that many of these requirements only needed to be implemented partially, the IDB ensured that the paving project could move forward even if there were difficulties in implementing components of the matrix. Some of the most important requirements included the following:

- Demarcation of the Madungandi Comarca and the Embera-Wounaan Comarcas;
- Titling of the Collective Lands of the Embera and Wounaan peo-

Budget Allocations Darien Sustainable Development Program

The IDB approved a \$70.4 million loan for the *Darien Sustainable Development Program* in December 1998. The Panamanian government also provided \$17.6 million for a total project cost of \$88 million. The budgetary breakdown for the project was as follows:

<i>Millions</i>	<i>per cent of total</i>	<i>Line Item</i>
\$33.0	45 %	Road Rehabilitation
\$13.6	19 %	Institutional Strengthening
\$13.4	18 %	Land Use, Titling and Environmental Protection
\$13.2	18 %	Agricultural Production and Services
Subtotal (programmatic expenses)		
\$73.2	100 %	
Subtotal (non-programmatic expenses)		
\$14.8		Salaries, administrative fees and financing charges
Total Project Costs ¹⁶		
\$88.0		

¹⁶ Inter-American Development Bank, "Panama: Darien Sustainable Development Program", loan agreement approved on 16 December 1998, Washington, DC., 23.

¹⁷ Inter-American Development Bank, "Panama: Darien Sustainable Development Program", 15 - 16 and annexes.

ples living in the Bayano region;

- Resolution of land conflicts between mestizo farmers and indigenous peoples, including moving farmer populations off indigenous lands;
- Provision of land titles to relocated mestizo populations, as well as other mestizo populations, with 2,000 families benefiting;
- Demarcation of sections of the Darien Biological Corridor, particularly those that overlapped with the boundaries of the Darien National Park;
- Passage of a special law for the Darien Province that would enable the government and local populations to preserve more effectively the natural resource base of the region, as defined by the Land Use Management Plan written as part of the IDB-funded project; and
- Amendments to the existing regulations for land use planning and for managing the forestry and fishery sectors to support the Land Use Management Plan.¹⁷

In addition to these requirements, the project aimed to enhance social services in the region including improving water supplies, energy grids and health centers, as well as the productive capacity of farmer populations.

The program also planned to strengthen the enforcement capacity of government institutions

such as the Institute for the Environment, the National Police Force and the Panamanian Marine Authority.

IDB Defines Programmatic Structure, Including Participatory Methodologies

While the project included advisory committees with participation from civil society, primary control for the program remained in the hands of the IDB and the Panamanian government. The IDB was in charge of writing loan agreements as well as framing and moderating many of the public dialogues, which allowed its staff to determine the content of these meetings, as well as what actually got written into loan documents.

In Panama, on-the-ground implementation for the project lay in the hands of the Program Coordination Unit, a body that consisted solely of IDB and Panamanian government officials and fell under the jurisdiction of Panama's Ministry of Planning.¹⁸ This unit was in charge of making the loan agreement operational, including writing the annual operating plans and mobilizing community participation for the project.

Despite these limitations, the IDB set up innovative committee structures to provide civil society an opportunity to inform project development. They were the following:

- *The International Advisory Committee.* This body met three times in Washington, DC and

once in the Darien Province during the planning phases for the project to discuss the details of the loan agreement. The IDB dismantled this committee following the approval of the loan in December 1998, but reinstated it in the year 2000 during which time the body has continued to meet in Panama. The committee has included representation from the indigenous congresses, local NGOs, the Diocese of the Darien Province, governmental bodies such as Panama's National Institute on the Environment and the Ministry of Planning, as well as international institutions such as the Smithsonian and the Nature Conservancy. The IDB also invited Afro-Hispanic and mestizo representatives to join the body following its reinstatement in 2000.

- *The Local Provincial Committee.* This body has been overseen by the Governor of the Darien Province and has included representation from organizations of people living or working in the region such as the Diocese of the Darien Province, the National Cattle Rancher's Association (ANAGAN) and the indigenous congresses.

- *The Executive Committee.* This committee was established to provide final approval for the annual operating plans developed by the Program Coordination Unit. Among the members of this committee were representatives from the National Institute for the Environment, an individual chosen by the National Private Business Council (CONEP), the

¹⁸ Inter-American Development Bank, "Panama: Darien Sustainable Development Program", 15 - 16 and annexes.

Governor of the Darien Province and the Cacique of the Embera-Wounaan General Congress.

These committees were significant because they formally recognized the need to include local people in development initiatives. In addition, the committees provided a space for local people and NGOs to provide a certain degree of input into the design and implementation of the project.

This step has signaled an important policy reversal for the IDB, which has most often practiced a closed-door policy, including keeping any information related to loan negotiations from the public until after loans are approved.

However, the participatory methodology that the IDB chose was flawed from the outset. In fact, the IDB drew up its consultative process without even consulting the local people that were to participate in the effort. The result was that the committees have at times served more as appendages to the core project, which has been largely controlled by the IDB and the Panamanian government (*see box*).

Indigenous peoples have often influenced the project, not so much from their participation in the committees, but from gleaning information from committee meetings and then linking their efforts to national and international allies that could help indigenous peoples' leverage their voices

through additional lobbying work outside of the meetings.

Indigenous advocacy efforts led to two significant victories with respect to the program. The first was a commitment by the IDB to resolve land rights issues before paving the Chepo-Yaviza dirt road. The second victory was to place a moratorium on land sales in the Darien for several years while the project was being implemented. This act halted a wave of land sales to speculators who were hoping that the paving

of the Chepo - Yaviza dirt road would enhance development opportunities in the Darien.

Consultation at the Village Level

The flaws of the national and international participatory design were also reflected during the consultative process at the village level. The program did not include a strategy for indigenous leaders to conduct their own consultative process with their communities and then develop a cohesive indigenous proposal for the

What Is Consultation? The IDB's Perspective

Around the world, people are recognizing the need for active participation by local peoples in projects that affect them. But what is meant by participation? The IDB concept paper *Community Consultation, Sustainable Development and the Inter-American Development Bank* outlines three definitions for the word consultation.

The *Darien Sustainable Development Program* partially met the criteria for the first two definitions. However, the program did not create the working partnerships described in the final and fullest definition provided by the bank.

Informing: The project team gives information to affected communities regarding development plans.

Eliciting Opinion: The project team takes into consideration the opinions of the affected communities in the process of project planning and implementation.

Participation and Dialogue: True participation includes "active community involvement in, and shared control of, all phases of development programs that affect the community. . . . Consultation, in the strong meaning of the word, recognizes the expertise of donors, technical staff, and members of affected communities and restructures what may begin as vertical relationships into horizontal ones."¹⁹

¹⁹ Norman Schwartz and Anne Deruytere, "Community Consultation, Sustainable Development and the Inter-American Development Bank: A Concept Paper", Inter-American Development Bank, Washington, DC. 1996, 5.



project from the information gathered. Instead, the Program Coordination Unit hired consulting firms to carry out assessments with respective communities and then selectively used the information to develop the annual action plans for the program. This methodology gave the Panamanian government tremendous power in determining the final strategy for the project.

The methodology also allowed the Panamanian government, which felt threatened by the concept of sharing their loan negotiating power with local groups, to block indigenous participation at important points throughout the development of the project. For example, during the planning stages for the program the Program Coordination Unit would sometimes send out consultants to survey communities regarding the upcoming project, without coordinating with the indigenous representative on the advisory committee. In one ironic twist, the

indigenous representative discovered that the initiative was underway only when the consultant knocked on the door of his village home to ask him some questions about the highway as part of the survey.

Despite these limitations, the consultative process included some positive outcomes. Many interesting proposals were gathered from local people throughout the region, which were synthesized in the IDB document *Consulta comunitaria: el caso de Darien, Panama*. These included proposals to place a moratorium on commercial logging in the region, to create locally run committees to patrol the region in order to enforce environmental regulations and to develop laws that would restrict mining operations. Though none of these proposals were included in the loan agreement, their compilation has been an important step in documenting the aspirations of local people in the Darien.

Environmental Strategy

The limited role indigenous peoples played in the design of the program weakened its environmental strategies. The loan document outlined an environmental strategy that relied almost exclusively on the state to enforce regulations in the region. The stated aims of the program were to strengthen the National Institute on the Environment (ANAM) and the National Police Force, as well as the park system in the region.

However, the IDB loan document repeatedly points out that the state has a very poor track record in enforcing environmental regulations, in part due to lack of funding but also due to frequent conflicts of interest.

Enforcement mechanisms that rely on community participation were clearly outlined in the consultative process. As of yet, however, the congresses have not been included as part of a comprehensive strategy for resource protection in the region. For example, indigenous congresses have long sought monies from the government that would enable them to pay small stipends to their community members to patrol their own lands to protect them from illegal loggers and hunters. They have viewed such a strategy as a way to strengthen law enforcement, without further militarizing the region. As the traditional guardians of the forests, many indigenous peoples feel that they would be better at enforcing laws that protect natural resources in the region than the National Guard, which is notorious for taking bribes.

Project Implementation

Following the approval of the loan in December 1998, the project lay dormant for over a year due to presidential elections and a subsequent change in administration. Project implementation actually began in 2000, with the program scheduled to close in 2004.

Since its inception, the project has had a few important successes. Most importantly, the program has helped to encourage greater dialogue between mestizos, indigenous peoples and Afro-Hispanics in the region. Increased communication has opened possibilities for more integrated approaches to resolving conflicts between these parties. One important result has been a growing awareness among diverse constituencies in the region that the Afro-Hispanic population also needs to resolve land tenure insecurity issues. In addition, the government has used program funds to demarcate the Madungandi Comarca and to

begin demarcating another comarca in the area, the Wargandi Comarca. As part of the program, the government has also worked with local peoples to organize several conflict resolution round tables to settle land disputes between mestizo populations and indigenous peoples living within the Madungandi Comarca. These groups were able to reach initial agreements with respect to relocation initiatives.

However, the government has recently challenged the results of these round tables, stating that the IDB-funded program does not have enough money to relocate the non-indigenous farmers living within the demarcated boundaries of the Madungandi Comarca.

IDB officials have concurred that funds for relocation are not an appropriate solution. Instead, the government has proposed reducing the boundaries of the already demarcated Madungandi Comarca

in order to leave the non-indigenous farmers where they are. This policy reversal has alienated indigenous peoples in the region and served to exacerbate tensions between the affected parties.

With paving of the road scheduled to begin in April 2002, prospects for meeting many of the other benchmarks in the Environmental and Social Sequencing Matrix look dim. With the government's negation of the round table results, land conflicts between indigenous peoples and mestizo populations remain unresolved.

In addition, the Embera and Wounaan of the Bayano area do not have title to their lands. Nor have laws been passed or regulations changed that would support sustainable development in the region, as outlined in the loan agreement. These laws include the proposed Darien Law, changes to the existing fishery and forestry regulations and a law that would give the Embera



and Wounaan peoples in the Bayano area the ability to collectively own their land.

With respect to the laws proposed in the loan document, the IDB project staff has stated that the bank has no jurisdiction to influence the autonomous right of the Panamanian government to define their own laws. While a valuable premise, it is also important to note that the IDB has been instrumental in changing many laws in Panama to support corporate business interests – including measures to change Panama's Mining Code to favor foreign investment by mining companies.

Without changing the legal framework for the region, the possibility of ensuring a truly sustainable development strategy for the Darien Gap remains distant. Current laws, which have been in some cases supported by the IDB, have encouraged large-scale extractive industries such as logging, mining and fishing to continue to strip the region of its natural resources.

By focusing on sustainable practices primarily for the impoverished sectors of the Darien, the program has failed to address the larger economic forces that threaten the region. As soon as the road has been paved, these industries will have increased access to the forests, fisheries, and mineral deposits of the region and will likely accelerate the depletion of the natural resources in the Darien.

Steps to Improve Darien Sustainable Development Program

The IDB has hailed the *Darien Sustainable Development Program* for redefining how civil society participates in program design, as well as for its contribution to preserving the environment and cultures in the Darien Gap. However, the IDB and also the World Bank in many ways played a greater role in protecting people and the environment in the Darien region in the much less publicized events that led up to the IDB-sponsored program, than through the program itself.

The following recommendations contrast the experience of indigenous peoples participating in the *Darien Sustainable Development Program* with their earlier campaign initiative with respect to the IDB/World Bank transport sector loan approved in 1993. The section focuses on several elements of this initiative that help to shed light on how the more recent program might have been designed differently for greater positive impact in the region. These included the following:

- The clear language in the early versions of the IDB-portion of the transport sector loan with respect to the approval of the Madungandi Comarca;
- The clear language in the IDB and World Bank loan agreements with respect to the need to carry out environmental and social impact studies before paving the Chepo – Yaviza dirt road;

- When the government began paving the Chepo – Yaviza dirt road before completing the necessary impact studies, the statements by World Bank and IDB officials to the Panamanian government that they would need to freeze loan disbursements if the Chepo – Yaviza paving project was not stopped and an adequate IPDP carried out;

- The leadership role that the Madungandi Congress was able to take in the development of the IPDP required by the World Bank.

There were several factors that allowed indigenous peoples to use the transport sector loan to support their rights. The first was that the loan agreement had uncommonly clear language with respect to indigenous rights. The second was that indigenous peoples were in a strong position to hold their government and the banks accountable to these legal agreements. They had seen the loan agreements and were aware of the language that protected their rights. In response they had developed a strong national indigenous platform with respect to the transport program. In addition, they had made the alliances with international partners who were able to help them hold their government and the banks accountable to the requirements outlined in the loan documents with respect to indigenous peoples. (*See Darien Gap Link case study for more details*).

This combination of factors meant that the government and the banks were unusually responsive to

indigenous needs following the loan violations (*see box*). The strong position of indigenous peoples allowed them to frame the negotiations, and set new precedents with respect to indigenous participation in the design of social and environmental studies for projects that affect them.

Social and Environmental Requirements. The Social and Environmental Matrix for the *Darien Sustainable Development Program* should have stated that the government needed to comply fully with outlined requirements before paving the road began. Because the language in the loan document only sought partial compliance, the road will likely be paved without having established many of the criteria that would protect the biological and cultural diversity in the region.

In contrast, the IDB and the World Bank outlined clear requirements, with strong consequences if the Panamanian government did not fully comply, with respect to the transport sector loan. The loan agreement stated that the government needed to fully comply with regulations to complete social and environmental studies with indigenous participation. When these requirements were not met, bank officials told the Panamanian government that they would need to stop money disbursements for the loan agreements if the Ministry of Public Works did not stop the paving project and carry out the necessary studies. Their strong position halted all construction plans and created an

atmosphere that allowed indigenous peoples to take on a leadership role in shaping elements of the transport program.

In addition, the initial drafts of the IDB-portion of the transport sector loan included clear language with respect to the approval of the Madungandi Comarca. The loan stated that if the Madungandi Comarca was not approved, loan monies would not be disbursed. While the IDB later removed this requirement, the clear consequence had already sent a strong signal to the government. The Kuna of the Bayano area were able to leverage the opportunity with their own political actions in order to attain successfully their comarca.

Leadership. The *Darien Sustainable Development Program* should have provided clearer leadership opportunities for indigenous peoples in the design and implementation of the project, including the following:

- Giving participating congresses the opportunity to design and lead their own consultative process with their communities, in accordance with their traditional practices. These efforts could have been complemented with technical support from government, private sector and NGO sources.
- Giving an indigenous delegate chosen by involved congresses active participation in the Program Coordination Unit, and having negotiated the terms of this position with the indigenous congresses. By participating in

the Program Coordination Unit, indigenous peoples would have had the opportunity to help design programmatic strategy for the annual operating plans, rather than simply reacting to plans that had already been developed.

Without leadership positions, many indigenous peoples have continued to feel that they have been more objects than participants in project design and implementation.

The way in which the IPDP for the Bayano area was developed sheds light on elements of an alternative model of participation. In this case, an indigenous representative led the consultative process with indigenous communities, with ANCON acting in a support capacity for the initiative. In addition, the representative was responsible for writing the document for final approval by the government. The result was a study that the people of the Bayano region have continued to use to secure funding for proposals outlined in the document. (*For impact of study on the region see Darien Gap Link case study*).

Local NGO participation. The program should have included greater involvement by NGOs working with grassroots organizations in the region. These NGOs could have added vital resources and services that would have enhanced grassroots peoples' capacity to respond to the initiative. By working more closely with local NGOs, the program could have bolstered grassroots

Indigenous Leaders in Strong Position to Negotiate

Indigenous peoples were able to negotiate remarkably favorable terms with respect to the Indigenous Peoples Development Plan (IPDP) required by the World Bank as part of the transport sector loan approved in 1993. Their strong position was in part due to the fact that the Panamanian government had violated the terms of the loan agreement by beginning construction of the Chepo-Yaviza dirt road before first completing the study. The violation gave indigenous peoples the option to take the case to the World Bank Inspection Panel, an independent branch of the World Bank that investigates complaints by affected parties with respect to loan agreement violations. Neither the World Bank nor the Panamanian government wanted the international embarrassment such a case would have caused.

Indigenous leaders were aware of the strong position that they were in to negotiate the terms of the study due to a recent training session held in Panama and attended by national and international partners. In this session, partners alerted indigenous leaders of the existence of the inspection panel, as well as outlined the procedures that would be involved if they decided to present their case. The indigenous congresses did not take the case to the inspection panel. Instead they reached an agreement that was acceptable to all parties with respect to the development of the IPDP.

voices and ensured that local people had greater human resources available to them to provide project follow up. Ideally, grassroots leaders would also have had input into which organizations the IDB chose to involve in order to ensure a strong relationship with local NGO partners. Instead, most of the NGO participants in the program came from international organizations with little prior involvement in the region.

In the Bayano study the World Bank and the Ministry of Public Works used their prerogative to choose ANCON as the NGO partner organization. Having just stopped the highway project, how-

ever, indigenous peoples were in a strong position to negotiate the terms of their relationship with the selected partner organization. ANCON responded positively and gave indigenous representatives the lead role for the project.

Financial support. The program should have provided participating congresses with a small annual budget to support their independent efforts to mobilize their communities to participate in the project. With almost all funds for consultative processes in the hands of the state, government officials have taken on this organizing role themselves. At times violating indigenous decision-

making channels, these officials have often alienated, not galvanized, communities with respect to the project.

In the case of the IPDP for the Bayano region, ANCON managed project funds. However, ANCON's role was much more one of managing the funds in service to the indigenous leadership who were partially responsible for determining how funds would be used.

Technical support. The program should have included professionals chosen by participating congresses that could have provided the congresses with necessary legal and technical expertise. Unlike most project participants, who have had their own large institutional budgets to support their work, the indigenous congresses have few resources to hire the support staff needed to decipher technical documents and legal conditions related to the project. Instead they have had to rely on the limited resources of allies in Panama and the United States. In addition, indigenous leaders should be able to invite professionals of their choosing to sit with them at official meetings to advise them more effectively with respect to legal and strategic aspects of the project. On several occasions, such access was denied.

In the case of the Bayano study, the indigenous representative's expertise was supplemented by technical assistance provided by ANCON. The shared power arrangement that the Madungandi Congress had negotiated with ANCON allowed

indigenous leaders to draw on the institution's technical capacity, while maintaining their leadership position in the study.

Terms of reference. Participating congresses should have helped to define the terms of reference for project components that involved them. The terms of reference establish the scope and the guidelines for a project or study and are written as the first step in project design. Such involvement would have allowed indigenous peoples to help define the consultative and implementation strategies for the program. If indigenous peoples had been able to help define the terms of reference for the program, many of the problems that later plagued the initiative might have been avoided.

In the case of the Bayano study, the World Bank did not invite indigenous peoples to define the terms of reference for the study. Instead indigenous leaders were dependent on their outside lobbying efforts to ensure that the World Bank staff included terms that would be favorable to them.

Information sharing. Indigenous peoples should be given all documents relevant to upcoming meetings at least one to two months before these meetings take place. Indigenous representatives need to have time to read relevant materials or to give them to professionals with whom they work to help them decipher the legal terms in these often dense and technical documents. They also need the opportunity to consult with their

congresses before meeting dates, in accordance with their traditional decision-making practices.

The imbalance of power in the program was nowhere more evident than in the way information has been shared throughout the project. The government has often had access to the official program documents for many weeks before indigenous representatives receive them. In some cases, even U.S. NGO partners have received documents before indigenous representatives and these partners have had to send the information to Panama to keep representatives informed. By often providing indigenous delegates information only days before meetings, the government has severely limited indigenous peoples' ability to participate in the development of the program.

In the Bayano study, information sharing was not a significant issue once the project was underway. Indigenous peoples had access to needed documents, as they were the ones developing many of the materials. ANCON, an NGO with close ties to the government, also provided a counterpoint that ensured the government was informed regarding the development of the study. Information sharing was primarily a problem before the study began, when the government had sole responsibility for all studies related to the paving project.

International Connections. The program should have provided greater opportunity for indigenous peoples to develop their interna-

tional alliances. The program provided such occasions during the planning stages of the project, before the loan document was approved. During this stage, the International Advisory Committee met in Washington, DC to define the terms of the program. Indigenous participation in these meetings allowed them to meet with bank officials based in the capital, which gave them greater leverage in the program. However, trips to Washington, DC were suspended once project implementation began. Maintaining local peoples' international visibility once the program began would have helped to hold the IDB and the Panamanian government accountable to local peoples' needs.

In addition, indigenous leaders should be able to request additional time in Washington, DC as part of these trips. On two occasions indigenous leaders asked to extend their stay to meet with their NGO partners. However, the IDB rejected these requests and the leaders were able to stay only for the duration of the IDB meetings.

With the Bayano study, there were no monies provided by the World Bank for any type of international networking. Indigenous peoples had to rely on their own resources, as well as their allies, for their international campaign needs. However, do to prior organizing efforts, they did have money available to them for international phonecalls, as well as to bring U.S. partners to Panama to support their needs.

Recommendations for IDB-funded Darien Sustainable Development Program

With the project already underway, the IDB can no longer implement many of the recommendations outlined above. However, there is still time to make some of the suggested changes. These include giving indigenous congresses the following:

- Representation in the Program Coordination Unit;
- Jurisdiction to lead any additional consultative processes with their communities;
- Independent budgets to support ongoing consultations, as well as to implement the annual operating plans and to hire professionals to provide them with needed technical support;
- Greater leeway in determining which organizations they partner with to implement the program;
- License to include professionals that they choose to observe project meetings;
- Necessary information at least one to two months before meetings or events are held.

Conclusion

The IDB-funded *Darien Sustainable Development Program* represents an important example of an international lending institution working to strengthen grassroots voices in the Darien Gap. By legitimizing the need for local participation in internationally financed projects, the IDB has made an important step in addressing power inequalities within the region.

Despite gains, the program failed to establish local people as working partners within the project. The program did not allow indigenous peoples to play a leadership role in project design. Instead project control and leadership responsibilities lay primarily in the hands of the IDB and the

Panamanian government.

The policy changes recommended in this case study for the *Darien Sustainable Development Program* would have created greater checks and balances within the program and distributed power more evenly between local people, the IDB and the Panamanian government. Such power sharing would have enhanced the capacity of project implementers to seek creative solutions to problems in the region. In addition, greater shared control would have allowed indigenous peoples to play a more prominent role in pressuring the government to implement politically sensitive initiatives, particularly related to land tenure and resource extraction in the region. Without this shared power, many of the more controversial goals

outlined in the loan agreement have languished.

As this report is being written, the project is still underway, leaving bank and government officials time to make some of the changes recommended in this report.

Modifying the programmatic structure could still help to better harness the creative force of indigenous peoples and allow them to manifest their roles more fully as stewards of the cultural and biological treasures in the Darien Gap.

The recommendations outlined in this report would not be politically easy for an institution such as the IDB to implement.

International lending institutions have in place policies and structures that minimize the role of civil society in project development for many reasons. However, to the extent that these institutions hope to play a role in supporting democratic practices, strengthening the voices of the world's most vulnerable sectors, and preserving the last remaining resources of the planet, such policy changes are politically necessary.