



MAX PLANCK INSTITUTE

FOR COMPARATIVE PUBLIC LAW
AND INTERNATIONAL LAW

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The Inter-American Jurisprudence on Indigenous Land Rights
MPIL Agora
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The jurisprudence of the Inter-American Court regarding indigenous rights has for a long time represented a breakthrough model for protection of traditional peoples' territory, becoming inspiration for other human rights' systems and treaties all around the world. The decisions of the Court gave voice to formerly invisible people in the international sphere allowing their demands to be heard. It has influenced not only indigenous rights, but also represents a model for judicial expansion of human rights through interpretation methods.

During eighteen years of strategic litigation, the Court was able to progressively develop its jurisprudence both in procedural and in substantive aspects, reinforcing the position of the victim in the procedure at the same time that more rights have been recognized. The Court has simultaneously widened the reach of classical rights (property right, right to life and political rights) and protected implicit rights (cultural identity, consultation and self-determination). Even though the case law is considered a breakthrough model for enhanced protection of indigenous rights, contradictions and omissions are discussed with the aim to improve decisions in further cases. Matters of concern are focused on two aspects, namely restrictions in the property right and insufficient protection of human rights defenders.

In this presentation, Gabriela will discuss the proposal of a reinforced model for protection of traditional territory, based upon the interdependence among human rights and the inseparable link among property rights, cultural identity and self-determination.



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