

## **Towards an Adequate Protection of the Rights of Indigenous Communities: A Literature Review of Proposals and Contributions from 2017 to 2022**

Medrano-Sánchez, Emilio José<sup>1</sup>, Sotomayor, Caroline N.<sup>2</sup>, Mamani Salinas, Alfredo<sup>3</sup>, Medrano-Sánchez, María Isabel<sup>4</sup>

### **Abstract**

*The rights of indigenous communities have been the subject of research from different angles of knowledge, covering historical, social, political and normative aspects, addressed from theoretical approaches. However, this topic is often not investigated as a primary object, but as a secondary variable in relation to other factors such as education, production, health and economy, which has limited its role as "fundamental rights of indigenous peoples". For this reason, the objective of this article is to provide a comprehensive overview of the research available in the Scopus and Web of Science databases between 2017 and 2022 and to critically analyze the evidence that demonstrates how the regulatory framework and the promotion of greater active participation of Indigenous Communities can contribute to the effective protection of their rights and resources in situations of natural resource exploitation and industrial projects. As a result of the analysis, it became evident that the main topics investigated are those that deepen the normative nature of indigenous communities, as well as the importance of dialogue and their participation in decision making. Likewise, proposals and contributions related to these topics were identified with a high frequency.*

**Keywords:** *Indigenous communities; indigenous rights; indigenous autonomy; self-determination; indigenous participation; recognition of rights.*

### **1. Introduction**

In recent years, there has been a series of research that explores the rights and resources of indigenous communities, ranging from their origins to normative regulation and the use of litigation to protect these rights, both nationally and internationally (Van der Broecke & Lopes, 2022). That is, they reflect a modern overview of indigenous rights from environmental, social, cultural and political approaches and impacts (Allard & Curran, 2023). However, despite these advances, little research has examined the importance of environmental restoration as a means to protect the natural resources and rights of indigenous communities (Nightingale & Richmond, 2021).

In addition to the previous reasons, there are the problems and concerns faced by indigenous peoples (Howard-Bobiwash et al., 2021), especially in situations such as the COVID-19 pandemic and the negative effects of mining projects and concessions, which are overlooked and only limited to a theoretical and social description. Likewise, the

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<sup>1</sup> Universidad Cesar Vallejo

<sup>2</sup> Universidad Privada Antenor Orrego

<sup>3</sup> Universidad Nacional Federico Villareal

<sup>4</sup> Universidad Nacional Federico Villareal

disproportions in the normative, social and political treatment of the State on the conditions of Indigenous Communities, even though there is an international norm that guarantees the rights of indigenous peoples: the "United Nations Declaration on the Rights of Indigenous Peoples" (for its acronym in English UNDRIP), which is a starting point to eliminate the disparities, human rights violations and other injustices carried out against indigenous communities (Thompson et al., 2022).

These reasons generate concern and they evidence the need for further research on Indigenous Communities, especially on their rights and protection. It is important to analyze, describe and identify, the main factors or causes that lead to the absence of implementing measures or strategic alternatives by the State, to guarantee the fundamental rights of the indigenous person and the lack of participation and commitment of these Communities in the management and control of their natural resources (Kamal & Lim, 2019).

In a complementary way, it is specified that most of the researches use international standards to define Indigenous Communities and generally define them as "descendants of those who inhabited a country or geographic region at the time when peoples from different cultures or ethnic origins arrived" (Nugroho et al., 2022). Likewise, for Nugroho et al. (2022) they are those that, due to their uninterrupted historical connection, flourished in territories where pre-colonial societies originated, thus distinguishing themselves from other societies. These authors state that they are non-dominant segments of society that strive to preserve, develop and transmit to future generations their ancestral territories and ethnic identity, which is a fundamental characteristic for their continuity as peoples, in accordance with their own cultural and social patterns, institutions and legal systems. In this definition, indigenous knowledge is also valued as an integral part of their reality. This consists of a collaborative tool that allows informing and giving a better understanding of the utilities of natural resources and the transcendence of Indigenous Communities (Huambachano & Cooper, 2021).

Therefore, having delimited the definition of "Indigenous Communities", it is understood that they are not limited entities. Even so, there are general rules and mechanisms that weaken their legitimacy, authority, rights and participation in decision making (Doyle, 2021; Thériault et al., 2022); since the ambiguities that derive from them may cause conflicts, both in the rights of the Communities and in their resources and environment, thus failing the constitutional duty of the State to consult, accommodate and encourage participation.

From what has been said, as well as the abstract theoretical bases, relevant aspects were identified such as the following: weak relationship between the State and Indigenous Communities (Allard & Curran, 2023; Cruz, 2019; Robinson et al., 2021; Thompson et al., 2022), the exclusion of Indigenous Communities in decision making and, absence of mechanisms (Van der Broecke & Lopes, 2022), techniques or strategies for strengthening the rights and protection of Indigenous Communities' resources (Nugroho et al., 2022), absence of the application of the principle of free, prior and informed consent (FPIC) (Teitelbaum et al., 2021), as well as environmental management and remediation (Nightingale & Richmond, 2021).

In this context, the rights of the Indigenous Communities are a necessary and relevant axis to study and analyze, because it will allow to identify and expose the social, political and normative realities of the different Indigenous Communities of the world and, at the same time, to determine the different problems and contributions for solutions. For this reason, the objective of this article is to provide a comprehensive overview of the research available in the Scopus and Web of Science databases between 2017 and 2022 and to critically analyze the evidence that demonstrates how the regulatory framework and the promotion of greater active participation of Indigenous Communities can contribute to the effective protection of their rights and resources in situations of natural

resource exploitation and industrial projects; academic production that has a geographical distribution in countries such as Canada (11 articles), United States, Bolivia, Russia and Peru (3 articles for each country) and some countries located in South Africa and Europe; seeking to answer the following question: How can the implementation of an international normative framework for consultation and prior consent and the promotion of greater active participation of Indigenous Communities in decision-making effectively contribute to the protection and preservation of their rights and resources in the context of natural resource exploitation and industrial projects?

Finally, this research shows a general overview of the rights of Indigenous Communities in order to identify the contributions and/or proposals to guarantee the protection of the rights of Indigenous Communities and their natural resources under the socio-legal description of the different countries of the world.

## **2. Materials and Methods**

The research was based on a descriptive literature review, for which scientific articles were analyzed as primary sources of information, articles that presented as a common factor, the variable or object of study selected: "the indigenous community" and "the law". These words were used for the bibliographic search in the Web of Science and Scopus databases, selecting articles that met the following two criteria: 1) articles that included the words "indigenous communities" and "rights" in the title, abstract or keywords; 2) articles published between 2017 and June 2022.

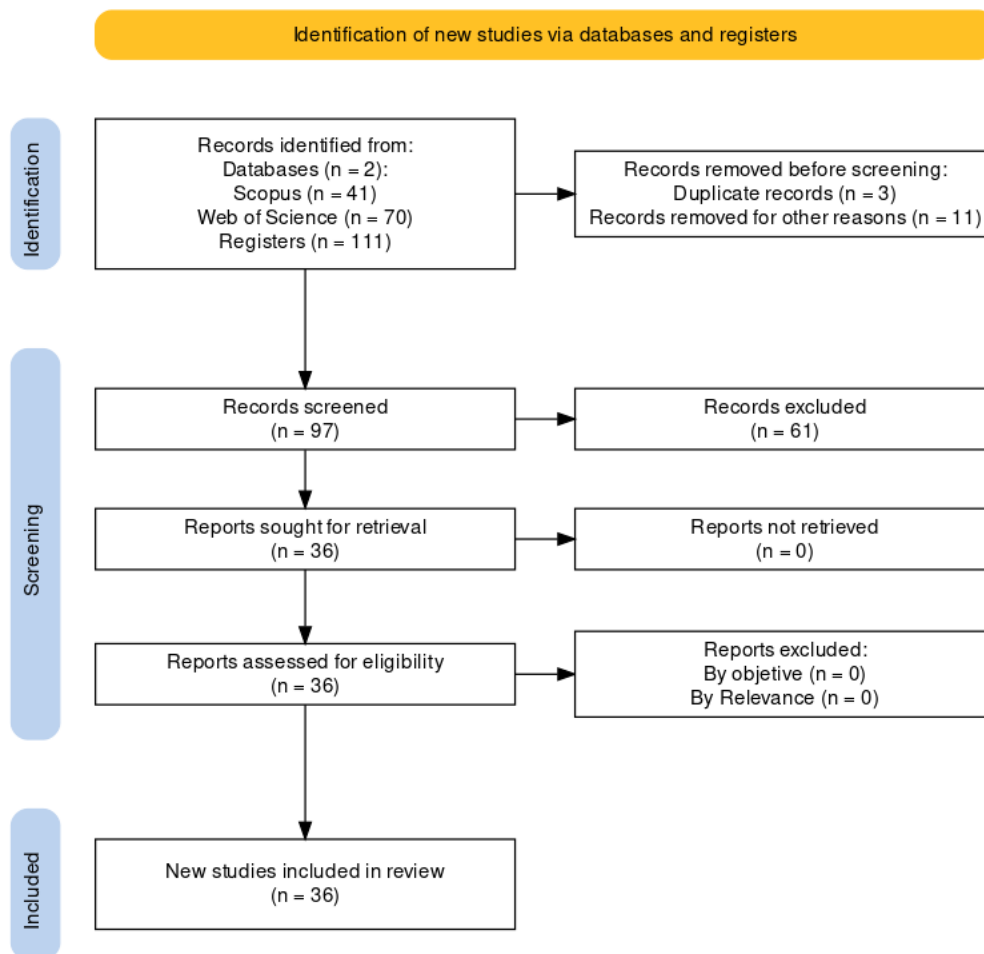
In application of the aforementioned criteria, 111 articles were obtained, of which 41 belonged to Scopus and 70 to Web of Science, information that can be retrieved from the following search formulas: i) to Scopus: ( TITLE-ABS-KEY ( "indigenous community" ) AND TITLE-ABS-KEY ( right ) ) AND PUBYEAR > 2017 AND ( LIMIT-TO ( DOCTYPE , "ar" ) ) AND ( LIMIT-TO ( OA , "all" ) ) AND ( LIMIT-TO ( EXACTKEYWORD , "Indigenous Peoples" ) OR LIMIT-TO ( EXACTKEYWORD , "Human Rights" ) OR LIMIT-TO ( EXACTKEYWORD , "Indigenous" ) OR LIMIT-TO ( EXACTKEYWORD , "Indigenous Rights" ) ) and ; ii) to Web of Science: <https://www.webofscience.com/wos/woscc/summary/a4410b0c-4bff-4dcc-bde9-54b48c95e365-924a0893/relevance/1>

With 111 articles registered, 11 of them were eliminated because they were outside the established time frame, which was for the years 2017 and 2022, leaving a total of 100 articles for analysis.

Next, using the duplicity criterion established in the Prisma diagram, 3 articles were eliminated because they were found in both databases. Subsequently, we proceeded to evaluate the relevance of the articles for the present investigation, analyzing both the title and the abstract of each one. As a result of this process, 24 articles were discarded from Scopus and 37 from Web of Science. Therefore, the number of documents to be analyzed was reduced to a total of 36, as shown in Figure N° 01.

In summary, after applying the Prisma diagram criteria, 36 articles were selected for full-text analysis. This allowed the creation of an analysis matrix, called "Appendix A", which consists of three columns representing different categories. The first column corresponds to the authorship information and date of the study, the second column covers the research topics and the third column focuses on the main proposals and/or contributions related to the indigenous community and the law.

Figure 1. Prisma Flow



Note: It expresses the results of the search in the Scopus and Web of Science databases and the application of the temporality criterion.

To organize and document the research topics in "Appendix A", the Excel tool was used, which allowed for an adequate handling of the categories and grouping of the information. For example, the topic "Recognition of the rights of indigenous communities" was categorized as "normative nature". Thus, any topic directly or indirectly related to normativity was classified in this category. This same procedure was carried out with all the articles, giving rise to a total of 10 general topics.

Applying the same approach used for the themes, the proposals and/or contributions were grouped in the third column of "Appendix A". As a result of this process, a total of 18 different categories were generated, each with varying frequencies that together totaled 55. In this way, an exhaustive classification of the proposals and/or contributions present in the matrix was achieved, providing a complete view of the contributions related to the research.

It is important to emphasize that in selecting the proposals and/or contributions, all premises and statements that contribute to the knowledge and understanding of the rights of indigenous communities were taken into account. In order to clarify the aforementioned, the following illustrative example will be presented: one of the contributions identified in the article by Bogdanova et al. (2022) was the following statement: "indigenous communities should participate in decision-making with the authorities to improve and implement quality of life conditions as a guarantee of human rights", a proposal and or contribution that was classified within the group of "Dialogue and participation of Indigenous Communities in decision-making".

Finally, taking into account the above considerations, the analysis carried out and recorded in "Appendix A" led to two main results. The first is a bar chart showing the categorization of the topics addressed in the articles examined. On the other hand, the second output consisted of a Summary Figure representing frequency of proposals and/or theoretical/empirical contributions found in the various articles analyzed. These products provide a visual representation and a synthesis of the information obtained during the analysis.

### 3. Results

The methodological application used in the present study, which focuses on the rights of indigenous communities, has made it possible to organize the information in two fundamental aspects. First, a bar chart has been generated showing the topics investigated, together with the number of articles that address them. On the other hand, a Table has been developed that compiles the main proposals and/or contributions extracted from the 36 articles analyzed in full text, reaching a total of 55 proposals and/or contributions. Thus, taking into account the above, both aspects, which constitute the main findings of this study, are presented in detail below.

#### 3.1 Main research topics on the rights of indigenous communities

After analyzing the selected articles and documenting the results in Appendix A, 10 research topics were identified, each one grouping a different number of articles, whose details can be seen in Figure N° 02.

Figure 2. Grouping of research topics on the rights of indigenous communities



Note: The thematic grouping of research on the rights of indigenous communities identified in the 36 selected articles is described.

In order to present the results in Figure 02 in an organized and clear way, it was decided to describe the columns from left to right, taking into account that the interpretation of the information is intended to simplify the understanding of the data without making a value judgment on their importance.

Then, the first column on the left of Figure 02 presents the topic "Indigenous Community Participation and Consultation", which is investigated in three articles. The first article has the purpose of analyzing how indigenous communities can influence and participate in the mining permit system celebrated by British Columbia (BC) (Allard & Curran, 2023). In this article, a social, normative and political analysis of the participation of Indigenous communities and their rights in the approvals of mining projects, carried out between the State and the company, is evidenced. The second article analyzes the different colonial trajectories and configurations of indigenous peoples' rights based on the case of the Tata Steel Minerals Canada projects (Thériault et al., 2022). The third article, aims to analyze the access of coastal and indigenous communities to marine resources in Canada (Bennett et al., 2018). Both articles - the second and the third - refer to the importance of the participation of indigenous communities in decision-making processes and access to natural resources.

The second column of Figure N° 02, whose theme is "Participation of Indigenous Communities and their rights", is investigated in six articles. The first article refers to participation as a means of protecting the rights of Indigenous Communities, self-determination and freedom (Robinson et al., 2021); whereas the second article focuses on analyzing the means of how to improve and promote participation for the respect of indigenous rights (Winter et al., 2021). The third article aims to analyze how indigenous communities in Brazil have organized autonomous actions and strategies to face the COVID-19 pandemic, highlighting the importance of the participation of indigenous communities in this situation (Silva et al., 2021).

Continuing with the second column of Figure 02, there is a fourth article whose purpose is to provide a description of the effects of COVID-19 on Indigenous Communities in the United States and Canada (Howard-Bobiwash et al., 2021). This article provides a detailed analysis of how COVID-19 has significantly impacted Indigenous Communities, highlighting the lack of protection of their rights and emphasizing the importance of participation as a means of support. In contrast, the fifth article focused on assessing the collaboration of indigenous peoples as key stakeholders in the Yamal-Nenets Okrug (YNAO), the Nenets Autonomous Okrug (NAO) and the Murmansk region; as well as identifying the main challenges contributing to the vulnerability of these indigenous communities during the COVID-19 pandemic, and the obstacles to achieving the Sustainable Development Goals (Bogdanova et al., 2022). Finally, the sixth article aimed to demonstrate how state-national control over land, water and indigenous management practices is carried out through multinational agencies (Datta, 2019). In this article, a reflection on the environmental crisis in the Laitu Kyeng Indigenous Community is made, highlighting the importance of protecting their rights and generating awareness about it.

The topic "Environmental remediation in Indigenous Communities," in the third column of Figure 02, is addressed in an article whose objective was to explore how Indigenous Communities apply and evaluate environmental remediation as a way to restore their lifestyle and well-being (Nightingale & Richmond, 2021). This article highlights the importance of environmental remediation in two fundamental aspects. In the first place, it is recognized as a way of returning the lands to their original state in accordance with the cosmovisions and perspectives of the Indigenous Communities and, in the second place, its role in the reconstruction of the connections between the lands and the Indigenous Communities is highlighted, thus promoting their rights and well-being, evidencing that environmental recovery plays a crucial role in the strengthening of the Indigenous Communities and in the protection of their natural environment.

Two articles examine the theme "Dialogue of Indigenous Communities" in the fourth column of Figure 02. The first article focuses on the analysis of the performance of the Federal Supreme Court in relation to the STF 709/2020 structural litigation case, and seeks to identify the contributions that may arise from the interaction with the regional jurisdiction and other states in the area of the Constitutional *Ius Commune* in Latin

America (Van der Broecke & Lopes, 2022). In this context, the role of dialogic activism as a means to protect the rights of indigenous communities is highlighted. On the other hand, the second article focuses on the analysis of indigenous governance structures and dialogue, with the aim of maintaining ecosystem services, promoting self-organization and fostering collective mobilization (Murali et al., 2022). Both articles highlight the importance of dialogue as a key tool in the protection of indigenous rights and in strengthening their governance systems and relationships with the natural environment.

The fifth column of Figure 02, focused on the issue of "Free, Prior and Informed Consent of Indigenous Communities", is addressed in an article that analyzes in detail this principle as a fundamental requirement to ensure respect for the rights of indigenous peoples (Teitelbaum et al., 2021). The article examines the application of the principle of free, prior and informed consent in the countries of Sweden, Canada and Russia, taking into account the design and concepts of the national norms of each country. The study provides a comprehensive overview of how this principle is implemented in different contexts, which is relevant for understanding the importance and challenges associated with respecting the rights of indigenous communities in relation to decision-making that affects their territories and ways of life.

The sixth column of Figure 02, which focuses on the topic of "Description of policies", is addressed in an article whose main objective is to analyze and study the policy related to the Lowland Indigenous Community and the Guaraní from Charagua in Bolivia, focusing on the perspective of self-determination (Postero & Fabricant, 2019). This article highlights the influence that politics has on the autonomy of indigenous communities, and provides a detailed analysis of the policies implemented in such a context. The study provides an in-depth understanding of how policies can affect the self-determination of indigenous communities, which is a relevant aspect to understand the challenges and opportunities they face in the pursuit of their empowerment and preservation of their cultural identity.

Continuing with Figure 02, the seventh column entitled "Normative character" is analyzed, in which eleven articles are investigated and grouped as follows: i) those that focus on the description of the recognition of Indigenous Communities. These articles aim to determine the recognition of the rights of indigenous communities, considering their origin and concept, as well as the legal protection recognized by international standards (Nugroho et al., 2022; Raath & Brits, 2019); ii). The second subcategory, which addresses the reflections and application of the UN Declaration on the Rights of Indigenous Peoples, highlights the relevance of its implementation as a measure to stop the violations and disparities faced by indigenous communities (Kamal & Lim, 2019; Thompson et al., 2022). iii). The third subcategory focuses on the legal and constitutional jurisprudential analysis of the rights of Indigenous Communities, highlighting the importance of the jurisprudential criteria issued by the IACHR to protect and support these rights (Cárdenas & Vallejos, 2022; Cruz, 2019); iv). The fourth subcategory focuses on the affectations and limitations of the rights of Indigenous Communities, highlighting the lack of recognition of the rights of indigenous settlers in the problems arising between the government and the industry (Benavides, 2022; Munshi, 2019); v). Finally, the fifth subcategory focuses on the socio-legal reflection of the rights of Indigenous Communities, addressing the social and legal situation of indigenous minority communities in India and the various affectations they face (Malu et al., 2022).

Subsequently, the eighth column of Figure 02, whose theme is "Authority of Indigenous Communities", is addressed by three articles. These articles refer to: i) Legitimacy and the exercise of self-determination of Indigenous Communities. This first subcategory makes a reflection on the policies, authority and self-determination of Canadian indigenous peoples vis-à-vis the different levels of the State (Sarson, 2022); ii). The second subcategory focuses on the recognition of the self-government of Indigenous Communities in decision-making, highlighting its importance as a means to legitimize



and guarantee the rights of these communities. According to Espinosa & Duque (2018) the self-governance of indigenous communities is fundamental to empower and recognize the autonomy of these communities in making decisions that concern them. Finally, iii). The third subcategory focuses on the benefits that self-determination brings to Indigenous Communities through their participation in decision-making (Ward et al., 2020). This subcategory highlights the importance of self-determination for indigenous communities as a means to recognize their rights, as well as to guarantee their well-being and quality of life, allowing them to have control over their own lives and strengthening their autonomy and empowerment.

The ninth column of Figure 02, whose theme is "Factors influencing Indigenous Communities," has been investigated through five articles. These articles refer to factors that positively or negatively affect the rights of Indigenous Communities, which are: i) the indigenous economy as preservation of resources and rights (Gladun et al., 2022); ii) community forest management in Indigenous Communities (Barletti et al., 2022); iii) mobilization of the rights of Indigenous Communities (Maher et al., 2021); iv) integration and/or association of Indigenous Communities (Jongwe et al., 2020) and; v) application of traditional technological knowledge (TEK) in Indigenous Communities (Huambachano & Cooper, 2021). The research cited and grouped in the ninth category shows several positive factors in relation to the preservation and recognition of the rights of Indigenous Communities.

Finally, the tenth column of Figure 02, whose theme is "Social description of Indigenous Communities", has been addressed in three articles. The first article aims to define the contributions of Latin American socio-legal culture in the vindication of the social, economic, cultural and environmental rights of indigenous collectives and peoples (Duque, 2022). This article refers to the transformative social reparation in Indigenous Communities presented by the Inter-American Court of Human Rights. On the other hand, the second article aims to examine the land dispute of an Indigenous Community of the Bolivian Altiplano as a result of a disagreement between local forms of political and judicial authority (Doyle, 2021). This article refers, through customary law, to the intervention of Indigenous Communities and social organization in decision making. The third article aims to analyze the concession of coastal and marine resources and its implications on the livelihood base of the Tribu Bajo (Obie, 2018). This article describes the social situation and environmental impacts of the resources of the Indigenous Communities resulting from the concessions made in the Tibu Bajo area.

In the end, by carefully analyzing Figure 02, it can be inferred that there are certain topics that have received greater attention in research on the rights of Indigenous Communities. First, the normative nature has been the subject of study in a total of 11 articles, which indicates its relevance in the academic field. The participation of indigenous communities and their rights has also been extensively researched, with a total of 06 articles dealing with this topic. Likewise, 05 articles have been devoted to the analysis of the factors that influence Indigenous Communities, highlighting the importance of understanding the aspects that impact on their rights.

On the other hand, it is important to note that there are topics that have received less attention in terms of research. The dialogue of Indigenous Communities, for example, has been addressed in only 01 article, indicating a gap in the available knowledge in this area. Similarly, environmental remediation in Indigenous Communities, free, prior and informed consent of Indigenous Communities, and description of related policies have also been the subject of study in only 01 article each. These findings reveal the need to encourage further research and attention to less explored topics, in order to expand knowledge about the rights of Indigenous Communities and promote a more comprehensive approach to their study.



### 3.2 Main contributions and proposals on the rights of Indigenous Communities

As a result of the review and analysis of the 36 articles, 2 to 3 proposals and/or contributions per article were identified in relation to the rights of the Communities. These proposals and/or contributions were categorized and subsequently grouped, thus generating a frequency number for each category, which are shown in Table 01.

Table 01 shows a variety of proposals and/or theoretical contributions related to the rights of Indigenous Communities. Some of these were collected in a single article, while others were mentioned in up to fifteen different articles. This highlights the diversity of perspectives and approaches present in the academic literature on this topic.

Among the most frequent proposals and/or contributions, the topic of "Dialogue and participation of Indigenous Communities in decision-making" stands out, addressed in 15 articles. These articles highlight the importance of the exercise of the right of participation of Indigenous Communities, as a means of recognizing their rights to participate in decision-making in relation to projects and/or contracts entered into between the State and the enterprise.

Likewise, another proposal and/or contribution with high frequency related to "Self-determination and legitimacy of Indigenous Communities in decision making", present in 07 articles, stands out. These studies emphasize the importance that mining projects and contracts related to resources located in areas of indigenous communities be informed and shared with these native peoples. In this way, indigenous communities can exercise their legitimacy and authority over the conditions of their resources and understand the implications generated by such projects. This approach is aligned with Sarson (2022) and Espinosa & Duque (2018), who emphasize that self-determination and legitimacy allow indigenous communities to participate in decision-making and effectively exercise their rights. The authors' perspective seeks to promote inclusion, respect for the sovereignty of indigenous communities and ensure their meaningful participation in issues that directly affect them.

In contrast, the proposals and/or contributions with lower frequency were: (i) application of consultation and reconciliation in the rights of indigenous peoples (01 article); (ii) economy as a factor in the recognition of the rights of Indigenous Communities (01 article); (iii) mobilization of the rights of Indigenous Communities in the taking of decisions (01 article); (iv) application of transformative social reparation in Indigenous Communities (01 article); (v) application of the UNDRIP as recognition of the rights of the Communities (01 article); (vi) application of international standards in the jurisprudence of the IACHR (01 article); (vii) application of forest management of Indigenous Communities (01 article) and; (viii) application of the TTK and sustainability of Indigenous Communities (01 article).

In addition, as can be seen in Table 01, the proposals and/or contributions with intermediate frequency correspond to two topics: i) relationship model between the State and the Indigenous Communities and; ii) The State and its relations with the Indigenous Communities. These topics were addressed by 6 articles each, in which different forms of relationship between the State and the Indigenous Communities were identified, which can be summarized in three main aspects: 1) the State and its constitutional duty to consult the Indigenous Communities before the impacts that could occur in their natural resources; 2) the change of access processes in the participation of the Indigenous Communities with the State; and 3) the revitalization of the indigenous legal processes.

In this sense, it is crucial to highlight the importance of the study of the rights of Indigenous Communities, both for the learning process of citizens and for the development of societies. Table 01 clearly illustrates the relevance of such study, since each proposal and contribution contributes to theoretically strengthen the rights of these communities through their historical and socio-legal description. As a result, these rights

are considered fundamental to promote respect for indigenous people and their natural resources.

Table 01 Frequency of proposals and/or contributions made in the articles.

Contributions and proposal	Frequency
Dialogue and participation of Indigenous Communities in decision-making.	15
Self-determination and legitimacy of Indigenous Communities in decision making.	7
Relationship model between the State and the Indigenous Communities.	6
The State and its relations with the Indigenous Communities.	6
Application of techniques, mechanisms and strategies for the protection of Indigenous Communities.	3
Application of free, prior and informed consent of Indigenous Communities.	2
Application of Community Forest Management in the protection of the rights of Indigenous Communities.	2
Partnership and integration of Indigenous Communities.	2
Policy Partnership in Indigenous Communities.	2
Application of Indigenous knowledge as recognition of Indigenous Communities.	2
Application of consultation and reconciliation in the rights of indigenous peoples.	1
Economy as a factor in the recognition of the rights of Indigenous Communities.	1
Mobilization of the rights of Indigenous Communities in the taking of decisions	1
Application of transformative social reparation in Indigenous Communities.	1
Application of the UNDRIP as recognition of the rights of the Communities	1
Application of international standards in the jurisprudence of the IACHR	1
Application of forest management of Indigenous Communities	1
Application of the TTK and sustainability of Indigenous Communities	1

Note: The number of proposals and/or contributions identified in the selected articles on the rights of indigenous communities is described.

#### 4. Discussion

In the analysis for the identification of the contributions found in the 36 articles, a great diversity could be appreciated. On the one hand, they reflect theoretically the importance of the rights of the Indigenous Communities and, on the other hand, they contribute positively with measures, techniques or mechanisms for the strengthening and legal support of the rights of the indigenous population and the protection of their natural resources.

The 36 articles analyzed generate uncertainty regarding the implementation of the provisions contemplated in the norms and research on the rights of Indigenous Communities. In the first place, a scarce number of articles that address in depth the following aspects is observed: i) the application of consultation and reconciliation in the

rights of indigenous peoples; ii) the economy as a factor in the recognition of rights of Indigenous Communities; iii) the mobilization of the rights of Indigenous Communities in decision making; iv) the application of transformative social reparation in Indigenous Communities; v) the application of the UNDRIP as recognition of the rights of Indigenous Communities; vi) the application of international standards in the jurisprudence of the IACHR; vii) the application of forest management of Indigenous Communities and; viii) the application of the TEK and the sustainability of Indigenous Communities. These contributions are characterized by their lack of depth in the subject matter, which implies that the results obtained remain in a superficial vision of the socio-legal reality of the Indigenous Communities and their rights.

Secondly, of the 36 articles analyzed, 55 proposals and/or contributions were identified, where the need for dialogue and participation of the Indigenous Communities in decision-making (15 articles) and the self-determination and legitimacy of the Indigenous Communities (07 articles) are frequently expressed as a means of recognizing the original authority of the Indigenous Communities and the exercise of their rights in the decisions that imply their necessary intervention in matters related to the protection of their rights and their natural resources. The aforementioned contributions are limited to a theoretical analysis, based on policies, realities and legislation worldwide. Likewise, they focus on the constitutional duty of the State to carry out the respective consultations with the Indigenous Communities on the impacts that could be generated on their resources (Allard & Curran, 2023) and, in turn, promote participation to guarantee the support and protection of their rights (Bogdanova et al., 2022; Datta, 2019; Doyle, 2021; Howard-Bobiwash et al., 2021; Robinson et al., 2021; Thériault et al., 2022; Van der Broecke & Lopes, 2022); since, with this, there will be a better conservation of the lands and their rights (Barletti et al., 2022). In other words, they present a general and theoretical approach, where there is no evidence of mechanisms for the implementation of the contributions and/or solutions, which could improve the conditions of the Indigenous Communities and their rights.

On the other hand, the diversity of the contributions shows that the analysis in relation to the rights of the Indigenous Communities is multifaceted, taking into account the realities in the different countries, as well as the temporality, that is, despite the existence of different descriptions of the Indigenous Communities, all express the importance of protecting and respecting the fundamental rights of people, without having identified any measure or technique to solve the problems that arise, as in the case of environmental remediation due to mining problems (Duque, 2022; Nightingale & Richmond, 2021).

As is evident from what has been described in the preceding paragraphs, the rights of Indigenous Communities are linked to the social, legal and political realities of each country, regardless of international recognition by the UNDRIP (Allard & Curran, 2023; Thompson et al., 2022), which could explain the need to apply and implement measures, techniques or mechanisms that allow the promotion of the rights of Indigenous Communities (Nugroho et al., 2022), in the absence of these.

In this sense, despite the presence of research, norms and policies that highlight the importance of recognizing the rights of Indigenous Communities, an unanswered question arises: Why, until now, have not been implemented any concrete measures or mechanisms to guarantee the respect and protection of the rights of Indigenous Communities and their resources?

As a complementary and relevant note, it should be noted that, from the information analyzed, most of the articles were developed in: Canada (12 articles), the United States, Peru, Bolivia and Russia (03 articles each) and, in smaller numbers, in countries such as Sweden, Hawaii, Indonesia, Australia, Chile, among others (01 article each). All of them with general descriptions in relation to the rights of the Indigenous Communities, their realities and legislations of formative and normative character.

In this sense, it is important to mention that in the 36 articles it is possible to identify some factors that allow recognition and protection of the rights of Indigenous Communities from a theoretical approach. They are: 1) the exercise of participation, dialogue and consultation of the Indigenous Communities; 2) application of free, prior and informed consent; 3) legitimacy and authority; 4) application of the norms contemplated in the UNDRIP; 5) application of policies and regulations; 6) implementation of techniques and strategies; 7) strengthening of environmental management and recovery and; 8) improving the fluidity in the relationship between the State and the Indigenous Communities. Therefore, it is undeniable that these issues should be studied in future research in order to obtain concrete proposals and contributions on the protection and recognition of Indigenous Communities.

## 5. Conclusions

The implementation of an international regulatory framework for consultation and prior consent is crucial to ensure that Indigenous communities have a voice in decision-making related to natural resource exploitation and industrial projects. This framework provides a solid legal basis for the protection of community rights.

The promotion of greater active participation of Indigenous Communities is a key factor because, when they are given the opportunity to participate in the decision-making process, the protection and preservation of their rights and resources is strengthened. This active participation allows for a constructive dialogue between the parties involved.

Throughout the review, challenges were identified in the effective implementation of the regulatory framework, as well as in the promotion of active participation. These challenges relate to lack of resources and inequalities in bargaining power.

Despite the progress made, there is still a need for further research because of the need for a deeper understanding of how specific policies and practices influence the effectiveness of the protection of Indigenous communities' rights and resources.

It is important that policy makers and decision makers consider the research evidence so that they can design policy frameworks and consultation strategies that ensure greater protection of the rights and resources of Indigenous communities.

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