

**You can sit with us, but under our terms: The recognition of Indigenous self-determination
by nation-states throughout the Abya Yala.**

Abstract

In this paper I discuss Indigenous self-determination in our continent (the Abya Yala and Turtle Island) and how most nation-states address this issue from a standpoint of “you can sit with us but under our terms”. This position preaches the inclusion of Indigenous peoples in society, but under western liberal standards that are conducted as assimilation, characteristic of neoliberal and neocolonial capitalism. I argue that Indigenous self-determination, basing in Indigenous, decolonial and Marxist thinkers, includes two elements: the right to effectively exercise autonomy in their communities, as well as participation in the decision-making in the nation-state. I show that less than a thirds of the countries in the continent recognize Indigenous self-determination in their Constitutions formally, and that most nation-states that recognize it, only consider one element of Indigenous self-determination, not both, with almost non-existing mechanisms to effectively exercise it by all Indigenous groups.

Key words

Indigenous Self-determination / Abya Yala / Latin America / Autonomy / Political representation

Introduction

Indigenous groups around the world have resisted more than 500 years of oppression: They have resisted the colonial invasion of the European empires; they have resisted the oppression of the nation-states that followed the formal independence of colonized countries; they have resisted the oppression of private corporations. In other words, they have resisted hundreds of years of colonialism, capitalism and racism, which are intertwined manifestations of the colonality of power (Quijano 2000). However, in the last 25 years, some nation-states have made some changes in their constitutions, laws, and policies, that are preached to include Indigenous peoples, with varying results. These changes range from special financial aid for Indigenous peoples, to quotas in higher education, to affirmative actions in political representation, just to mention a few.

The issue is that most changes are framed under a logic of inclusion, not under a logic of recognizing self-determination as Indigenous peoples' demand. This can be understood as a logic of "you can sit with us, but under our terms". There is a common notion of ruling elites of most nation-states that Indigenous peoples have to be included under an assimilation scheme, rather than under an Indigenous self-determination one. I argue that most efforts by nation-states for Indigenous peoples have been conducted towards a limited inclusion that is in line with western liberal standards, which in turn, do not allow full Indigenous self-determination to be exercised.

Regarding Indigenous studies, there is a range of different research areas in different disciplines, especially about the Abya Yala (Latin America) (Van Cott 2010); for example, in the USA, political science studies on indigenous politics have focused in electoral aspects, such as voting behavior of Indigenous people (Herrick, Davis, and Pryor 2022; Sanchez, Foxworth, and Evans 2020), while in the Abya Yala there is a broader range of topics such as affirmative action in

political representation (de la Vega 2020; Fuentes and Sánchez 2018; Vázquez Correa 2020), social movements (Footit 2015; Moog Rodrigues 2002; M. L. Picq 2017; Sandoval and Capera Figueroa 2017; Zamora 2014), to mention a few. Other Indigenous studies area are land property rights (Hendlin 2014; Nason 2001; Tully 1994), and cases of Indigenous autonomy, which I will address in the discussion of self-determination.

While Indigenous studies have had an increased interest in the last few years, there are still several topics, issues and cases that have not been studied. One of the topics that are understudied is the disconnection between Indigenous autonomy and participation in public decision-making federally. While there have been studies in political representation and studies on autonomy, there is a gap in literature about how these two issues are linked. My main argument is that Indigenous self-determination includes both the recognition of autonomy in the local level, and the right to political representation in the nation-state, based on the discussion of different authors and cases of Indigenous struggle for self-determination in the continent.

Theoretical discussion

The colonial invasion of the Abya Yala and Turtle Island by European powers (and afterwards perpetuated also by neocolonial and neoliberal capitalism) established not only a global capitalism system, but also a racial hierarchy of power, as Quijano discusses in his prominent piece on coloniality of power, where he argues that “All the forms of labor, production, and exploitation were in ensemble around the axis of capital and the world market: slavery, serfdom...” and in the same page he writes “At the same time...the idea of ‘race’, as biologically structural and hierarchical differences between the dominant and dominated” (Quijano 2000,

216), which after formal independence of most nation-states in this continent has been led by the US under a “capitalist imperialism” (Quijano 1993, 146). The colonial invasion allowed for capital accumulation to happen in a global scale. Massive resource extraction with unpaid slave labor allowed for massive accumulation of surplus in the hands of European elites, first the Spaniard, Portuguese and British monarchies, and later British, Dutch, Swiss (to mention a few) companies (maritime and trade) and banks that profited from the dispossession, extraction and exploitation of Indigenous people and their land, both from the Abya Yala and Africa. With the gold and other resources extracted from the Abya Yala, the European empires obtained products from India and the Far East that were very profitable in the European market, then “The concept of metropole and dependency automatically came into existence...On the one hand, there were the European countries who decided on the role to be played by the African [and the Abya Yala] economy; and on the other hand, Africa formed an extension to the European capitalist market. As far as foreign trade was concerned, Africa was dependent on what Europeans were prepared to buy and sell” (Rodney 1982, 76). Not only the extraction of slave labor and resources was entirely for European empires to accumulate, but also the economies of Africa and the Abya Yala were inserted in a dependent role that would perpetuate hundreds of years after the formal independence of colonized countries. Moreover, the rules of the global economy were established by the European elites: “From the beginning, Europe assumed the power to make decisions within the international trading system. An excellent illustration of that is the fact that the so-called international law which governed the conduct of nations on the high seas was nothing else but European law” (Rodney 1982, 77). Since the colonial invasion, the European elites established the rules of the capitalist system so they would always profit from the exploitation of people of the colonized territories.

On the other hand, Mills (2015) argues that in western societies, but especially in the US, there is no real "social contract", because that implies tacit agreement on the terms of the contract by "equi-powerful individuals" (p.545), which never happened. He rather argues that we are living in a domination contract, where powerful class/gender/racially privileged groups established the terms of this so-called contract of white supremacy and domination. For Mills, the domination contract was imposed since the creation of the US nation, because the institutional structure imposed and the terms implied in it, established a differentiation of superior/inferior beings. He specifically acknowledges black and Indigenous people: "No other Western nation had large-scale plantation chattel slavery on its soil in the modern period (Canada had small-scale slavery, largely domestic); no other Western nation (again, by comparison with Canada) was as ruthless in its treatment of its Indigenous population" (Mills 2015, 549). The issues raised by Mills are also pointed out by Coulthard (2014), who criticizes the liberal idea of recognition poised by western thinkers, especially Taylor, because this western liberal notion doesn't address the structural and material oppression that Indigenous peoples have suffered and the reparations needed; only allowing recognition in the terms most convenient for the nation-state.

Moreover, colonized countries that achieved independence have perpetuated the colonial oppression through internal colonialism. The minorities (especially Indigenous groups) colonized by the nation-state suffer from similar oppression than colonialism and neo-colonialism: they are prohibited to conduct self-government and are oppressed by the elites of the state (González Casanova 2006, 86). This system is not only imposed economically but also culturally, where the elites determine what is acceptable and what is not. Moreover, his ideas are closely linked with Fanon's arguments discussed in his book *The Wretched of the Earth*: In internal colonialism, the elites in colonized countries act as an intermediary of the western elites; they only seek to serve

the perpetuation of the oppressive system that is manifested currently as neocolonial capitalism (Fanon 1963, 76, 86). He specifically explains how capitalism reconfigured into (what I call) its neocolonial form: “Capitalism in its ascendance period saw colonies as a raw materials source, that transformed, could be sold in the European market. After a capital accumulation phase, now it modifies its profitability conception. Colonies have become markets. The colonized population are clients that buy” (Fanon 1963, 32). In neocolonial capitalism, the colonial oppression is more subtle, its through economical neoliberal reforms, through privatization and deregulation, in order for transnational companies to keep and increase their profit levels, not only exploiting labor but also consumers of the colonized regions. Additionally, Fanon argues that the oppressed people need to be politicized and he incorporates Marxist arguments proposing the nationalization of the economy and the creation of democratic economic cooperatives (Fanon 1963, 89,104).

To add to the discussion of internal colonialism, Gandarilla Salgado argues that the current neocolonial oppression is based in the fact that colonial relations weren’t dismantled in the Abya Yala, and thus, the “independent” republics of the region perpetuated both external and internal colonialism: “...el “colonialismo externo” de las potencias metropolitanas y el “colonialismo interno” de los grupos de poder (élites criollas y poscoloniales) que se adueñaron de la conducción de los estados (pero que no propiciaron una independencia real, ni un proceso democratizador completo)” (Gandarilla Salgado 2021, 92). He also adds that this situation made the anti-colonialist struggle of the mid XX century to surge, represented by writings of authors such as Aimé Césaire and Frantz Fanon.

To sum up my discussion on colonial oppression, decoloniality comes up. Decoloniality departs from the different forms of colonial oppression and shows how they are intertwined, in order to

challenge them. The colonial oppression is structured from the colonial matrix, composed of coloniality of power, coloniality of knowledge, coloniality of being and coloniality of mother nature. Coloniality of power refers to the structure imposed by western colonialism in which a hierarchization based on race and class dominates the institutions and is perpetuated by the nation-state. Coloniality of knowledge refers to the western forms of science and knowledge imposed in the Global South, that marginalized any other forms of knowledge that didn't comply with western terms. Coloniality of being refers to the inferiorization of all people that are different than the image that western colonial 'modernity' imposed, which is clearly linked with the coloniality of power. Finally, the coloniality of mother nature refers to the ethno- and anthropocentric idea that western colonialism imposed, where certain humans are considered superior, and as such, can appropriate, destroy and privatize all life in the planet (animals, plants, rivers, mountains, forests, jungles, etc.) (Quijano 2000; 2015; Walsh 2007; 2008; 2013). Decoloniality then can be understood as a process of humanization and liberation of the individuals and societies (in both levels), where the objective is to fight towards emancipation from the colonial matrix of oppression (Walsh 2013, 54).

Moreover, it is important to discuss the structural conditions of the neocolonial and neoliberal capitalist system that establish precedents to Indigenous struggles for self-determination and the attempts of neoliberal governments to assimilate them under an inclusion framework. Neoliberal capitalism encompasses the following elements: "Decentralization, trimming down of the state, affirming basic human rights, and calling for minimally functional democracies" (Hale 2005, 12). It is worth highlighting that neoliberal capitalism is not all "bad" or "destructive", but it includes some measures to make sure the system can be presented as "necessary" and "modern", such as granting collective rights to a minimum extent. According to Hale, these rights "are what

give the “neo” its real meaning” (2005, 12). An example of neoliberalist policies are the multicultural reforms in México that came into effect in 2001 to recognize cultural rights of Indigenous peoples. These reforms assimilated Indigenous groups into the neoliberal capitalist system by imposing a program of individual land titles for Indigenous people, allowing to separate and commercialize communal land and sell it to private companies, as well as assimilating Indigenous people into the framework of “vulnerable groups”, blocking the autonomy struggles of the Zapatistas and other groups (Mora 2018, 28). These reforms respond to an element of the current phase of capitalism, where the process of “recolonization” is conducted, where the IMF imposes structural reforms that allow the plundering of oppressed peoples by the capitalist elites (Gluckstein 2000, 299–300).

The capitalist system, under the current phase (which is neocolonial and neoliberal at the same time), configures at the same time the destruction of nature and the cooptation of people considered an obstacle to the mass production of merchandise required in a capitalist system. The nation-state under this system acts subordinated to the power of global capital, having the role of broker of nature and communities in the territories to comply with the needs of capitalism. This is accompanied by an erasure of state sovereignty that has fostered a legitimization crisis of the neoliberal nation-state, and of political parties (Echeverría 2010), as well as globalization, which is an “extremely bitter class struggle of capitalism” (Gluckstein 2000, 2), and is characterized by deregulation of the market, of the economy, and by export-oriented economies, especially in developing countries.

Added to this, neocolonial and neoliberal capitalism relies in the dispossession of Indigenous communities through neoextractivism: “Neoextractivism can be characterized as a development model based in the overexploitation of nature” (2019, 21). Moreover, “neoextractivism presents

territorial dynamics that center intensive occupation of the territory and hoarding of land, through processes linked with [capitalistic] agricultural monoculture, which displaces communities” (p.23). Svampa’s elaboration is closely related with David Harvey’s discussion on accumulation by dispossession, which he explains as “...the continuation and proliferation of accumulation practices which Marx had treated of as ‘primitive’ or ‘original’...These include the commodification and privatization of land and the forceful expulsion of peasant populations...suppression of rights to the commons...and the suppression of alternative (indigenous) forms of production and consumption” (Harvey 2007, 159).

In Indigenous communities all these elements are present; for the current system the dispossession of Indigenous peoples’ lands is necessary to exploit their land and nature without limits and to erase their resistance and cosmovisions that pose a threat to their interests. On the other hand, crushing their movements for self-determination is necessary to keep controlling and exploiting their lands and to prevent the neoliberal political system from collapsing further. Capitalist efforts to block Indigenous self-determination have been exercised through the inclusion framework, especially in countries where Indigenous movements are strong and countries with an important number of Indigenous peoples.

The dispossession of land from Indigenous peoples was discussed from a Marxist stance a hundred years ago by José Carlos Mariátegui, who argued that Indigenous peoples had to be the protagonist of the construction of Latin American Marxism, incorporating Indigenous peoples to class and ethnic discussions and centering their struggle in the struggle for the land, or how Mariátegui said “buscar el problema indígena en el problema de la tierra” (Gandarilla Salgado 2021, 88).

Indigenous self-determination

To begin with this discussion is worth noting that, according to Cherokee Indigenous thinker Jeff Corntassel and Marc Woons, for Indigenous peoples, self-determination notions are based in their relationship with their lands, waters, memory, plants, animals, rituals, languages and cosmovision (Corntassel and Woons 2017). Moreover, one important notion of self-determination is the notion of the two levels of Indigenous self-determination, proposed by the Māori Indigenous thinker Dominic O’ Sullivan. This notion entails that Indigenous people have both human rights as individuals, and collective, differentiated rights as Indigenous groups. This implies that for Indigenous self-determination to be a reality, Indigenous peoples should have autonomy in the local level, at the same time they have the rights to participate in public decision-making in the federal level as any other citizen (O’Sullivan 2015). This notion of self-determination is not accepted in most nation-states, because their structure is based on an individualistic approach, in which there should be no legal distinction or rights for specific groups, because under the western canon ‘everyone is equal’ (in the discourse).

A more critical approach to self-determination is poised by the Yellowknives Dené Indigenous thinker Glen Coulthard, in his book “Red Skin, White Masks”, where he argues that the liberal ‘politics of recognition’ used in Canada “...promises to reproduce the very configurations of colonialist, racist, patriarchal state power that Indigenous peoples’ demands for recognition have historically sought to transcend” (Coulthard 2014, 4). He argues that the Canadian state, even if it presents itself as one of the most progressive in the world, tries to accommodate Indigenous claims as issues of inclusion, not self-determination. For Coulthard, the recognition of Indigenous peoples preached by the nation-state, echoing Fanon’s argument “is not posited as a

source of freedom and dignity for the colonized, but rather as the field of power through which colonial relations are produced and maintained” (Coulthard 2014, 17).

Leanne Betasamoske Simpson, a Nishnaabeg Indigenous thinker, also argues for a more critical notion of self-determination, rejecting the recognition and inclusions framework of the neoliberal Canadian nation-state. She argues that this framework “...can be read as compatible with settler colonialism because it fits within an inclusive narrative of Canada as a multicultural society. Language, cultural expression, and even spirituality...can rather effortlessly be co-opted by liberal recognition” (Simpson 2017, 50). She also highlights that dispossession of Indigenous territories have left Indigenous communities almost no place to fish, to hunt, to live. She argues that “...land and bodies are commodified as capital under settler colonialism and are naturalized as objects for exploitation” (Simpson 2017, 41). Furthermore she specifies what is needed to exercise self-determination: “I’m interested in unapologetic placed-based nationhoods using Indigenous practices and operating in an ethical and principled way from an intact land base” (Simpson 2017, 50).

Another important element to consider of Betasamoske Simpson’s thought is the critique to capitalism. She argues that “I see the dismantling of global capitalism as inseparable from the struggle for Indigenous sovereignty, self-determination, and nationhood because capitalism at its core is not just incompatible with core Indigenous values but has to violently shred the bodies who house those values in order to sustain itself” (Simpson 2017, 67). The anti-capitalist critique is also present in Coulthard, as he argues that “...for Indigenous peoples to reject or ignore the insights of Marx would be a mistake, especially if this amounts to a refusal on our part to critically engage his important critique of capitalist exploitation and his extensive writings on the entangled relationship between capitalism and colonialism” (Coulthard 2014, 8).

The arguments put forward by both Simpson and Coulthard, share important elements with the decolonial and Marxist authors discussed previously. The colonial invasion established a colonial matrix of oppressions and global capitalism violently, dispossessing Indigenous peoples from their land, their bodies, and in several cases, their lives. This oppression continues in the form of neocolonial and neoliberal capitalism. The current system perpetuated by neoliberal governments then establishes liberal frameworks centered on inclusion and recognition in order to keep blocking Indigenous self-determination; by marginalizing and erasing their cosmovisions and values, by taking their lands, by taking their right to autonomy, sovereignty and in general, self-determination. Thus, the struggle for self-determination, according to these authors, is naturally a struggle against capitalism.

It is also important to highlight that Lenin discussed the importance of autonomy of rural communities and of self-determination. In 1917 in his writings of *The tasks of the proletariat in our revolution* he proposed to create rural legislators soviets, both local and regional, which would decide on how to use and enjoy nationalized lands (Lipschutz 1974, 51). Moreover, in his 1914 writings of *About the right of self-determination of nations*, Lenin argues in favor of self-determinations of the regions that composed Russia, adding that it is necessary to recognize the equal right of any peoples to their self-determination, to form their own nation-state (Lipschutz 1974, 87). Even Marx, in his last years argued for the importance of autonomy of rural communes: in a letter written to Vera Zasulich in 1881, he defends the right of peasants to constitute communities of communal rural property in what he calls the “Russian commune” (Vázquez Heredia 2022, 14). However, is important to note that Marx’s early writings didn’t consider the importance of self-determination of rural communities and he wasn’t as critical to the colonial invasion as in his latter years.

On the other hand, it is relevant to discuss specific examples of Indigenous struggles for self-determination along the continent. One of the most known cases is the Quechua and Aymara's struggle in Ecuador. The Indigenous Maya Xinka feminist thinker Lorena Cabnal (2010) and others (Ranta 2018; M. Picq 2015) point out how Indigenous notions such as the Quechua's *Sumak Kawsay* and Aymara's *Suma Qamaña* have been misappropriated by western thinkers and politicians to advance their agenda, distorting their original meaning. For instance, Rafael Correa's government in Ecuador enthroned the notion of *Buen Vivir* as one of the Constitutional principles, but in practice, a developmentalist-exploitative approach was taken by the government, disrespecting notions of harmony and co-living with nature of both Indigenous notions by establishing oil extraction projects in Indigenous lands. As a response, tens of thousands of Indigenous peoples organized protests in several cities against the neoextractive measures of Correa's government, led by CONAIE (Confederation of Indigenous Nationalities of Ecuador), demanding that the government respected the self-determination rights over their lands and stopped extractive projects (M. Picq 2015).

On the other hand, in Bolivia, the CONAMAQ (National Council of Ayllus and Markas of Qullasuyu), the biggest Indigenous organization in the country, which led the massive mobilization and protests that supported Evo Morales to reach power and to establish a new Constitution in Bolivia (2009), proposed that in the Bolivian Constitution two parallel forms of self-determination were enacted, turning Bolivia to a plurinational country, where Indigenous communities could exercise autonomy in the local level but also participate in the federal level decision-making (Footit 2015; Ranta 2018). However, when Evo's government announced a project to build a transcontinental highway in Indigenous lands, an important fraction of the

Indigenous movement broke the alliance with Evo's party (MAS) and organized mass protest against extractivism in Evo's government (Del Valle 2015; Berger et al. 2020).

Another Indigenous self-determination struggle is the Zapatista Indigenous movement in México. For them, self-determination is shown in the idea of *por un mundo donde quepan muchos mundos*, which can be translated as “for a world, where multiple worlds fit” (Aguirre Rojas 2018, 134). The Zapatistas movement is composed of different Indigenous groups that compose the larger Maya group, like Tsotsil, Tzeltal, Ch'ol, Tojolabal, and Mam. The Zapatistas Indigenous self-determination is about having autonomy to practice their self-government, which they have been exercising without the recognition of the Mexican nation-state since late 90's. The first step of their struggle was to take their lands, even without the recognition of the federal government. Recovering their lands allowed to have collective crops or *milpas*, build their schools, hospitals, community centers, etc. The living conditions of Indigenous people in the Caracoles have improved in education, health, justice, women's rights and food sovereignty (Granda Henao 2022). The Zapatistas organize in *Caracoles* which are composed of various Zapatista municipalities. Each municipality has an Autonomous Council for decision making, with members chosen through an Assembly by consensus. The Autonomous Councils of all municipalities confirm the *Junta de Buen Gobierno* (translated as “Good Government Body”), which is composed of 12 people from the Autonomous Councils that rotate each week to lead the body and then return to their communities (Mora 2018, 237–38).

But the element of autonomy is also complemented with their demand for political representation rights, which was one of the main demands of the Zapatistas in the San Andrés agreements, that were signed to end the armed conflict between the EZLN and the Mexican government (EZLN and Gobierno de México 1996). In the present this demand has shown in their alliance with the

Mexican CIG (Indigenous Council of Government) to launch Marichuy, an Indigenous Nahua woman as an independent candidate for the presidential elections of 2018 (Márquez Duarte 2022).

Another relevant case of struggle for self-determination is the Purhépecha Indigenous community of Cherán in Michoacán, México. In 2011, the Cherán community began their struggle to expel organized crime groups that were illegally destroying their forests, killing their leaders, kidnapping women, and taking their lands for profit. The community also decided to fight because they knew that if the forests were destroyed, their water springs and water sources will disappear too, because they depend on each other, and the community depends on both (Hernández García 2020, 38). They also managed to expel political parties and corrupt politicians of their community because of their ties with organized crime. All of these actions were executed while exercising autonomy, without state recognition. They then established a legal fight to get recognized as an autonomous community with self-determination, which they achieved after a few years. Since the establishment of their autonomous community they have drastically reduced crime, ended corruption and conducted projects to improve the living conditions of the community (Hernández García 2020, 25,26).

Both the Zapatistas and the Cherán cases illustrate that struggles for self-determination and autonomy can be conducted without state recognition, but at the same time fighting for political representation and/or constitutional recognition.

The Indigenous self-determination conceptions discussed show that Indigenous self-determination notions incorporate struggles for autonomy in the local level, for the right to their lands, for political representation and direct participation in public-decision making, and against an inclusion framework. There have been Indigenous struggles for self-determination that push

for autonomy in the local level together with demands of participation in federal decision-making, such as the Zapatistas in México, the CONAMAQ in Bolivia, and the Maori Indigenous notions discussed. Other notions focus in autonomy, like the community of Cherán in México and authors like Simpson. There is a third case like the CONAIE in Ecuador, that even though it hasn't officially demanded to have reserved seats in Congress, they created a political party (Pachakutik) that has won some seats in the Federal Congress and in different local assemblies. Thus, for this paper, I argue that self-determination requires both elements. It is extremely difficult to achieve the respect of local autonomy for Indigenous groups with effective mechanisms, if Indigenous peoples themselves are not participating directly in the federal decision-making processes in Congress. In the following section I analyze nation-states throughout the continent and discuss if any form of autonomy, and political representation, is not only recognized formally, but if there are mechanisms for Indigenous people to exercise these forms of Indigenous self-determination.

Comparative reality of Indigenous self-determination throughout the continent

While Indigenous peoples exercise their own organization forms every day, from choosing their traditional authorities, to defending their territory from exploitation (Comisión Interamericana de Derechos Humanos 2021), very few nation-states officially recognize and protect the right to exercise autonomy of Indigenous peoples. On the other hand, there are very few nation-states that have measures to secure the right of Indigenous peoples to participate in federal decision-making processes. For this paper, I'm interested in both dimensions of Indigenous self-determination, which as mentioned before, includes both the recognition of autonomy in the local level, and the right to political representation in the nation-state to be part of the public-

decision making processes. In the following table that I created, a comparison of different nation-states in the continent is shown:

TABLE 1 HERE

In the table, I include three columns to compare each of the countries that have either some form of Indigenous autonomy recognized, or Indigenous political representation assured. As it can be perceived most nation-states in the table have only one element of Indigenous self-determination recognized. The only nation-state that has both elements of Indigenous self-determination is Bolivia. México and Colombia also have both elements but in a limited form. The exception of the table is Chile, that doesn't have any of the two elements currently, but the Constitutional Convention recently approved measures to assure Indigenous political representation in the following elections (Carvajal 2022). However, the new Constitution was rejected in the National Plebiscite in September 2022, which makes the possibility of these measures to be enacted low.

It is relevant to clarify what I mean by each of the categories of the table, before explaining the cases depicted in it. First, I make a distinction between Indigenous autonomy's formal recognition and having existing mechanisms to exercise it; this distinction is important because there are nation-states that recognize this right for Indigenous peoples, normally in the Constitution, but these constitutional provisions have not been regulated. This means that the nation-state has not established institutional mechanisms for Indigenous peoples to actually access the right to exercise autonomy, which in practical terms doesn't allow them to exercise it. However, there are some nation-states that recognize the right of Indigenous peoples to autonomy and have established institutional mechanisms to do so, that are accessible to Indigenous communities (such as Bolivia). Second, having political representation of Indigenous peoples secured implies not only that in the Constitution their right to participate in public

decision-making is recognized, but also that there are mechanisms established that secure it. The only four cases in the continent that have some kind of affirmative action or quota to assure Indigenous legislators in the federal level are Bolivia, Colombia, México, and Venezuela.

In order to compare the cases that have both Indigenous autonomy recognized, and have existing mechanisms, it is important to discuss how autonomy is considered and to what extent can be exercised by Indigenous communities in each of the countries that have a YES in both columns in a limited form, which are Colombia, Ecuador, México, Panamá, Perú and the USA. Beginning with Colombia, articles 286 and 287 of the Constitution recognize the right of Indigenous autonomy to exercise self-government in their communities (Clavijo Ortiz 2019, 105), including to deliberate, plan, decide and reach compromises about their communities (2019, 107), but actually, the only dimension where Indigenous self-determination has existing mechanisms to be exercised is the judicial system, where there is a special Indigenous legal jurisdiction for Indigenous communities. Courts with Indigenous judges, based on legal pluralism, resolve cases with different processes, legal bases and punishments for legal conflicts and situations of Indigenous communities (Sánchez Botero 2005). However, in the political and economic dimensions, there are no mechanisms for Indigenous communities to defend themselves against extractive projects (from both transnational and national companies, as well as public-private projects) in their lands, for example.

Ecuador, on the other hand, established in the 1998 Constitution the creation of “Indigenous territorial circumscriptions” (Fuentes and Sánchez 2018, 15), but this recognition didn’t consolidate until the 2008 Constitution. In article 257 it is recognized that in these territories, Indigenous peoples had the right to exercise an “autonomous territorial government” (Fuentes and Sánchez 2018, 16). However, as discussed earlier, Ecuador’s government continued with

neoextractive projects and dispossession of Indigenous land during Correa's presidency, showing the contradictions of a capitalist government that preaches recognition of Indigenous rights, but only in the terms that are convenient for the neocolonial capitalist system. The current right-wing government of Lasso in Ecuador is worse, repressing Indigenous protests and imposing privatizing reforms during 2022.

Panama is a peculiar case regarding Indigenous self-determination, specifically with autonomy, since it was the first country in the Abya Yala to officially recognize the rights of Indigenous peoples in their Constitution in 1938, focusing on their collective right to the lands and their right to autonomy, but only in five Indigenous regions determined by the nation-state (Dahl et al. 2020). This changed with Law 72 in 2008, where two juridical figures have been recognized: "Indigenous districts" and "collective lands" (Martínez Mauri 2021, 178). The maximum authority of the Indigenous jurisdictions in Panama is the *Congreso General de Gunayala* (The General Congress of Gunayala) which leads the struggle for the defense of the territory, intercultural education, intellectual property of their knowledge, etc. However, even with the Constitutional recognition of their self-determination, the nation-state unilaterally decides on how -and if- autonomy can be exercised; in topics such as natural resources exploitation and the demarcations of their lands, the government has continuously violated Indigenous self-determination, which they justify under a "public interest" logic, where Indigenous jurisdictions are subjected to the power and will of the nation-state (Martínez Mauri 2021, 181).

Another case is Perú. In the local and regional level, Indigenous people have the representation right assured in the "Regional Elections Law" with quotas (Fuentes and Sánchez 2018, 12), but not in the federal level. Moreover, in article 89 of Perú's Constitution, it is recognized the right to autonomy, though not directly to Indigenous peoples, but rather to "rural and native

communities with rural *rondas*” (Comisión Interamericana de Derechos Humanos 2021, 112).

These communities have the right to an autonomous organization in the use of their lands, and in economic and administrative aspects. Even though the Constitution grants them the recognition and even some type of mechanisms like the *rondas* (which are autonomous rural police and judicial organs), this is not for Indigenous communities, because there is no explicit recognition in the Constitution of Indigenous groups or recognition of the right to exercise autonomy of each different Indigenous community.

In the case of México, in the Constitutional reform of 2001, Indigenous peoples were recognized as right-bearing subjects, including the right to exercise self-government in their communities (López Bárcenas 2002), but not autonomy *per se*. In order for an Indigenous community to actually exercise autonomous self-government (including their own economic resources, their own police bodies and legal system, their own decision-making processes and mechanisms of conducting their own public policies), it has to gather all the conditions necessary to have the status of “Indigenous Free Municipality”. Currently, only a few communities have this status recognized by the nation-state, like Cherán in the state of Michoacán. Other Indigenous communities exercise autonomy, without the recognition of the Mexican nation-state, such as the *Caracoles* that are part of the Zapatista movement in the state of Chiapas (Aguirre Rojas 2018). On the other hand, most Indigenous communities in México have a system of “traditional” government and authorities in practice, parallel to the nation-state, and recognized by it, but its functions are limited to a mostly symbolic role.

A different case is the USA, where Indigenous autonomy recognition is in a case by case basis, because in order to access autonomy in the figure of reservations (that are considered autonomous “nations”, with their own police body, schools, to mention some elements), an

Indigenous group has to be recognized by the Office of Federal Acknowledgement (OFA); currently less than half of Indigenous groups existing in the USA are recognized by the OFA, denying them any Indigenous right whatsoever, let alone acknowledgement of their lands (Brown-Pérez 2017). This is very problematic, since not only Indigenous autonomy is not recognized to all Indigenous groups, but not even recognition as Indigenous peoples. Moreover, not everyone that is part of the recognized Indigenous groups is acknowledged, because the colonial idea of blood purity or blood quantum was imposed by the US nation-state, which makes it even more difficult for Indigenous people to access their rights (Brown-Pérez 2017; M. L. Picq 2017). Opposite from most countries in the Abya Yala, self-adscription is not enough under US government standards to recognize an individual as Indigenous; this strategy has been used by the US government (as well as the Brazilian government) to deny demands of Indigenous peoples and allow private companies to dispossess them from their lands and exploit them (da Silva 2007).

Other cases, such as Canada and Venezuela, have Indigenous autonomy recognized in the Constitution, but there are no mechanisms that allow its exercise by Indigenous communities, which makes their recognition rather symbolic.

Canada recognized Indigenous rights in Section 35 of Constitution act of 1982, as well as Treaty rights (McNeil 2007, 16). However, there is no existing mechanism that allows Indigenous communities to exercise autonomy, because there is a controversy between local and federal level jurisdictions. Whereas there is no federal level self-government provision for all Indigenous groups, there are only some local level provisions for some Indigenous groups. The way that some Indigenous groups in Canada have been “exercising autonomy”, is by evoking their Treaty right, by holding treaties with the local government, like the Ktunaxa Nation (Cornell 2015, 16).

However, these efforts are not officially recognized by the nation-state, because self-government right is not federally regulated. Moreover, Canadian courts “did not recognize the inherent right of selfgovernment” (McNeil 2007, 23) of Indigenous communities.

To complete these cases where Indigenous self-government is recognized but there are no existing mechanisms to exercise it, there is the case of Venezuela. In Venezuela, Indigenous rights were recognized in chapter VIII of the Constitution of 1999, including ancient land property, Indigenous languages as official languages of the nation-state, political participation, just to mention a few (Orellano 2016, 117). Afterwards, specific laws for Indigenous peoples were created, such as the Law of Indigenous Peoples and Communities of 2005, which specifies in article 130 that Indigenous peoples have the right to exercise “their own justice systems in their communities” by their legitimate authorities (Orellano 2016, 131). This law led to the creation of the figure of “indigenous communes”, that in practice, are just an administrative figure that holds little to no real power to exercise autonomy (Orellano 2016, 139), because these figures are subject to the nation-state structure and federal legal system.

Finally, there is Bolivia, which has been the nation-state that allows more space for actual Indigenous self-determination, having not only Indigenous political representation assured, but also Indigenous autonomy recognized in the local level with actual mechanisms existing for all Indigenous regions and Peoples. Indigenous rights in Bolivia were established in the Constitution of 2009, as a result of a Constitutional Assembly, pushed by Evo Morales, the first Indigenous president of Bolivia. In this Constitution, not only Indigenous peoples are recognized as an integral part of the nation-state, but more importantly, Bolivia is established as a *Plurinational* republic, recognizing collective rights for both Indigenous peoples and Afro people. Regarding Indigenous rights, Indigenous autonomy is explicitly recognized in article 89 (Fuentes and

Sánchez 2018, 10). Besides that, Indigenous peoples have reserved seats for local Congress and decision-making organs (Fuentes and Sánchez 2018, 11). This includes the right to decide the public policy priorities by their Indigenous consuetudinary systems, to have the right to own their lands and decide on any project that seeks to use or exploit any resources inside their lands, to decide on their own education system, etc., which Indigenous communities have actually exercised since the establishment of the Constitution (Comisión Económica para América Latina y el Caribe (CEPAL)/Fondo para el Desarrollo de los and Pueblos Indígenas de América Latina y el Caribe (FILAC) 2020; Comisión Interamericana de Derechos Humanos 2021). However, Bolivia's autonomy exercise also has its problems, evidenced by the breaking of the alliance with Evo's governments by Indigenous organizations, such as the CONAMAQ (National Council of Ayllus and Markas of Qullasuyu), due to extractive projects, as discussed before.

The other side of Indigenous self-determination is also important: Indigenous political representation. As shown in Table 1, only four nation-states have this assured (Chile's current situation is uncertain): Bolivia, Colombia, México and Venezuela.

In México, since the 2018 federal elections, a quota was established, which mandated all political parties to present only Indigenous candidates in the 13 federal districts that have 60% or more of Indigenous population in México (Fuentes and Sánchez 2018; Tribunal Electoral del Poder Judicial de la Federación 2017). However, for the 2021 federal elections the quota increased to assure at least 21 Indigenous federal representatives (Redacción 2021) of a total of 300 federal districts that are elected by direct voting, as well as nine more via proportional representation, for a total of 30 Indigenous federal legislators.

In the case of Colombia, there are currently three reserved spaces for Indigenous federal legislators: one in the lower camera (*diputados*) and two in the upper camera (senators), out of a total of 172 representatives (de la Vega 2020; Fuentes and Sánchez 2018).

Regarding Venezuela, Indigenous people have three reserved spaces for Indigenous federal legislators, out of a total of 167 representatives (de la Vega 2020; Fuentes and Sánchez 2018).

Finally, for the case of Bolivia, seven federal circumscriptions are reserved for Indigenous legislators, meaning that the federal legislative body must have at least seven Indigenous representatives, out of a total of 130 total representatives. (de la Vega 2020).

Conclusion

Throughout this paper I have discussed the issue of Indigenous self-determination in our continent (the Abya Yala and Turtle Island) and how most nation-states have a position of “you can sit with us but under our terms”. The current nation-state structure that is pervasive around the continent follows the state structure imposed since the colonial invasion, but currently manifests as neocolonial and neoliberal capitalism. This position preaches the inclusion of Indigenous peoples in society, but under the terms that nation-states decide unilaterally, which are in line with western liberal standards. This western liberal position in reality operates under an assimilation scheme rather than a real recognition of Indigenous self-determination.

I have argued in this paper that Indigenous self-determination includes both the right to effectively exercise autonomy in their communities, as well as participating in public decision-making in the nation-state. However, as analyzed, the reality is that most nation-states of the continent only consider either autonomy in the local level or political representation in the

federal level, and only in a limited way. Most nation-states that have some kind of Indigenous self-determination acknowledged, only recognize the rights of Indigenous peoples in the Constitution, but don't establish mechanisms that make these rights accessible for all Indigenous peoples to exercise, making the recognition of the rights rather symbolic, as evidenced by the discussion of some cases of Indigenous struggles in Bolivia, Ecuador, México and Panama. The cases shown in Table 1, and discussed throughout this paper, support the general argument, which is that most nation-states only recognize Indigenous self-determination under the logic of "you can sit with us, but under our terms", allowing dispossession and exploitation of Indigenous peoples to continue.

Some nation-states like Colombia, México and Bolivia recognize Indigenous self-determination to a larger extent than others but extractive projects and dispossession of Indigenous lands continue; the neocolonial and neoliberal capitalist structure continues, even in current governments that are considered left-wing. Other countries such as Ecuador, Panamá, and Perú have a more limited recognition of Indigenous self-determination, as well as other cases like Venezuela, Canada, and the US which have an even more limited form of recognition. Moreover, only four countries assure political representation of Indigenous peoples. Finally, an indicator that shows that there is still a huge amount of work to be done by nation-states if they really want to recognize Indigenous self-determination as they preach, is that currently less than a third of the countries of the continent have some recognition of Indigenous self-determination, the other countries (more than 20 countries actually) do not even recognize Indigenous self-determination rights in the Constitution, leaving Indigenous groups even more defenseless to violation of their rights and dispossession.

The conclusions of this paper show that in order for Indigenous peoples to really exercise self-determination, nation-states have to not only recognize the right of Indigenous self-determination “formally” but do it according to the ideas and demands of Indigenous peoples.

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