

Ethno-national policies: legal dimensions and protections for indigenous peoples

Políticas etno-nacionais: dimensões jurídicas e proteções para os povos indígenas

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Abstract

The problem of observance of the rights of indigenous peoples is an urgent challenge for the modern legal system. The purpose of this study is to examine the legal aspects of ethno-national policy, especially in protecting indigenous peoples' rights and interests. The study is based on the scientific methods of synthesis, analysis of current regulations, and scientific literature. The scientific literature analysis was carried out per the criteria for selecting relevant studies and their processing. The results show that the term "ethno-national policy" defines a set of governmental measures aimed at addressing the needs of ethnic and indigenous communities within the nation-state. It is observed that the trajectory of society's development has limited the protection of the rights of indigenous peoples. An important step in counteracting this was the adoption of Convention No. 169 by the International Labour Organization, which defined approaches to the protection and integration of the rights of indigenous peoples. The author notes that this Convention, as well as the Declaration of the Rights of Indigenous Peoples, have contributed to improving their legal protection and social status, although some EU countries have not adopted the provisions of the Convention. It is noted that the right to self-determination fills other rights, including the right to culture and autonomy. The Declaration recognises the link between self-determination, autonomy, and the preservation of indigenous identity. The conclusions emphasise regional initiatives and jurisprudence, including decisions of the Inter-American Court of Human Rights, which confirm indigenous peoples' rights to land and resources.

Keywords: Rights of indigenous peoples; UN; Court decisions; International legal practice.

Resumo

O problema da observância dos direitos dos povos indígenas é um desafio urgente para o sistema jurídico moderno. O objetivo deste estudo é analisar os aspectos jurídicos da política etno-nacional, especialmente no respeito à proteção dos direitos e interesses dos povos indígenas. O estudo baseia-se nos métodos científicos de síntese, de análise da regulamentação em vigor literatura científica. A análise da literatura científica foi efectuada de acordo com os critérios de seleção dos estudos pertinentes e do seu tratamento. Os resultados mostram termo "política etno-nacional" define um conjunto de medidas governamentais destinadas a responder às necessidades das comunidades étnicas e indígenas no âmbito do Estado-nação. Observa-se que a trajetória de desenvolvimento da sociedade tem limitado a proteção dos direitos dos povos indígenas. Um passo importante para contrariar esta situação foi a adoção da Convenção n.º 169 pela Organização Internacional do Trabalho, que definiu abordagens para a proteção e integração dos direitos dos povos indígenas. O autor observa Convenção, bem como a Declaração dos Direitos dos Povos Indígenas, contribuíram para melhorar a sua proteção jurídica e estatuto social, embora alguns países da UE não tenham adotado as disposições da Convenção. É de notar direito à autodeterminação preenche outros direitos, incluindo o direito à cultura autonomia. A Declaração reconhece a ligação entre a autodeterminação, a autonomia preservação da identidade indígena. As conclusões sublinham as iniciativas e a jurisprudência regionais, incluindo as decisões do Tribunal Interamericano dos Direitos do Homem, que confirmam os direitos dos povos indígenas à terra e aos recursos.

Palavras-chave: Direitos dos povos indígenas; ONU; Decisões dos tribunais; Prática jurídica internacional.

1 Introduction

Ethno-national policy is an important aspect of modern society that defines the relationship between different ethnic groups and national communities. In a mixed world, where diversity is becoming an integral part of the cultural landscape, effective ethno-national policies are key to ensuring harmony and equality. In this context, the legal dimensions and protection of the rights of indigenous peoples are of particular importance, as they determine the degree of their participation in the political, economic, and socio-cultural life of society.

The legal dimensions of ethno-national policy help to define the legal status of different ethnic groups, ensuring their rights and obligations. Recognition and guarantee of the rights of indigenous peoples within the framework of constitutional norms and international conventions becomes a guarantee of their protection from discrimination and unlawful interference. In addition, the legal aspect of ethno-national policy regulates the issue of respect for the cultural heritage of indigenous peoples and ensuring their equality in access to education, healthcare, and other social benefits.

Protecting the rights of indigenous peoples includes not only the adoption of relevant laws but also the implementation of specific measures to ensure their active participation in decision-making processes that affect their interests. It is also important to consider aspects of economic and social justice to ensure the balanced development of all groups in society.

The purpose of this study is to examine the legal aspects of ethno-national policy, especially in protecting indigenous peoples' rights and interests. An analysis of the situation and legal protection of these groups can highlight the effectiveness of current policy strategies and indicate possible areas for further improvements in this area.

2 Theoretical framework and literature review

The democratisation of international legal relations and liberalisation of domestic processes, together with the international community's rapid desire to establish the primacy of law, have caused significant transformations in the modern international legal sphere. For example, in the field of human rights protection, there is a growing focus on the development of group rights, and there are also notable trends in the development of indigenous law. These aspects influence the scientific and practical discourse of indigenous studies. According to Dalimarttha, Sara (2021)¹, indigenous

1 DALIMARTHA, Felix; SARA, Rieneke. Human Rights for Indigenous Peoples. In: *proceedings of the 1st international conference on law, social science, economics, and education*, iclssee 2021, march 6th 2021, jakarta, Indonesia. [S. l.]: EAI, 2021. Available in: <https://doi.org/10.4108/eai.6-3-2021.2306859>. Accessed: January 7, 2024.

communities constitute a vulnerable demographic prone to human rights violations. These violations stem from the intrinsic vulnerability of this group, which lacks the capacity to defend itself. These researchers examined the legal regulation of indigenous peoples in Indonesia. Among these fundamental rights are population rights, freedom of religion, and land rights, all of which require protection by the Indonesian government. Dudgeon; Bray; Walker (2023)² believe that indigenous peoples require not only legal protection but also specific legal guarantees from the state. The protection of human rights, an important component of the right to life, is crucial in the current international political context, and indigenous communities represent a segment that requires special attention and protection³. Thus, the state is responsible for protecting and promoting the human rights of indigenous peoples, recognising their integral role in the broader human rights system. According to the study by Hatzikidi; Lennox; Xanthaki (2021)⁴, in the field of international law, the state is obliged to protect cultural rights, including intangible cultural heritage. Various rights-holders, such as minorities or indigenous communities, have a number of rights that enable them to influence the fulfilment of these obligations. Notably, the suppression of cultural identity poses a significant threat to many countries⁵. An important step is the UNESCO ICH Convention, where States play a key role in nominating and endorsing forms of the intangible cultural heritage of indigenous peoples. Article 15 of the ICH Convention emphasises the importance of participation rights, stating that each State Party should seek the widest possible involvement of the communities, groups, and, where possible, individuals involved in the creation, preservation, and transmission of such heritage. However, contemporary studies by Val (2009)⁶, Van Genugten; Van Den Bosch (2002)⁷ argue that the practical reality shows that the power

2 DUDGEON, Pat; BRAY, Abigail; WALKER, Roz. Mitigating the impacts of racism on Indigenous wellbeing through human rights, legislative and health policy reform. *Medical Journal of Australia*, v. 218, n. 5, Mar. 2023. p. 203-205. Available in: <https://doi.org/10.5694/mja2.51862>. Accessed: January 7, 2024.

3 DE VRIES, Byung Sook; MEIJKNECHT, Anna. Is there a place for minorities' and indigenous peoples' rights within Asean? Asian values, Asean values and the protection of Southeast Asian minorities and indigenous peoples. *International Journal on Minority and Group Rights*, v. 17, n. 1, 2010. p. 75-110.

4 HATZIKIDI, Katerina; LENNOX, Corinne; XANTHAKI, Alexandra. Cultural and language rights of minorities and indigenous peoples. *The International Journal of Human Rights*, v. 25, n. 5, may 2021. p. 743-751. Available in: <https://doi.org/10.1080/13642987.2020.1859487>. Accessed: January 7, 2024.

5 HATZIKIDI, Katerina; LENNOX, Corinne; XANTHAKI, Alexandra. Cultural and language rights of minorities and indigenous peoples. *The International Journal of Human Rights*, v. 25, n. 5, may 2021. p. 743-751. Available in: <https://doi.org/10.1080/13642987.2020.1859487>. Accessed: January 7, 2024.

6 VAL, Napoleon. Looking beyond the Law: Questions about Indigenous Peoples' Tangible and Intangible Property. In: *Protection of First Nations Cultural Heritage*. Columbia: University of British Columbia Press, 2009. p. 370-393. ISBN 9780774857222. Available in: <https://doi.org/10.59962/9780774857222-016>. Accessed: January 7, 2024.

7 VAN GENUGTEN, Willem; VAN DEN BOSCH, Marianne. International Legal Protection of

of minorities and indigenous peoples to protect their culture or language is often weak when they face state oppression or indifference. These views are partially confirmed by Ulfstein (2004)⁸, who describes in detail the specifics of indigenous land rights. Kugelman (2007)⁹ also addresses the issue of protecting the rights of minorities and indigenous peoples with regard to cultural diversity. He describes the main legal aspects and international standards related to the rights of minority groups and indigenous peoples, in particular in the context of preserving their cultural heritage. Niemi (2008)¹⁰, part of the collective monograph *Scandinavian Museums and Cultural Diversity*, is devoted to the study of issues related to indigenous peoples and national minorities in Norway. The author explores various aspects of the status and rights of indigenous peoples and national minorities in Norway, including their cultural heritage, legal protection, participation in decision-making, and other important aspects. Prouvez (2003)¹¹ examined the practices of United Nations (UN) bodies responsible for protecting the rights of smaller groups and indigenous peoples. The work includes an analysis of reports, documents, and decisions of UN bodies aimed at protecting the rights of smaller groups and indigenous peoples. The research covers various aspects, such as legal standards, international agreements, practical measures, and challenges faced by these groups in a particular period of time. Based on the study of UN practices, Paryzkiy (2021)¹² examined the concept of future law, elaborated on the definition of this concept, and assessed its innovative potential, making an important contribution to the evolving discourse on legal theories viewed from a future perspective. Similarly, Rezvorovych et al. (2023)¹³ focused on the unique aspects of the

Migrant Workers, National Minorities and Indigenous Peoples - Comparing Underlying Concepts. *International Journal on Minority and Group Rights*, v. 9, n. 3, 2002. p. 195-233. Available in: <https://doi.org/10.1163/157181102777647169>. Accessed: January 7, 2024.

- 8 ULFSTEIN, Geir. Indigenous Peoples' Right to Land. *Max Planck Yearbook of United Nations Law Online*, v. 8, n. 1, 2004. p. 17-47. Available in: <https://doi.org/10.1163/187574104x00012>. Accessed: January 7, 2024.
- 9 KUGELMANN, Dieter. The Protection of Minorities and Indigenous Peoples Respecting Cultural Diversity. *Max Planck Yearbook of United Nations Law Online*, v. 11, n. 1, 2007. p. 233-263. Available in: <https://doi.org/10.1163/18757413-90000007>. Accessed: January 7, 2024.
- 10 NIEMI, Einar. *Indigenous peoples and national minorities in Norway*: Scandinavian Museums and Cultural Diversity. New York: Berghahn Books, 2008. p. 1-7. ISBN 9781789204049. Available in: <https://doi.org/10.2307/jj.7079911.6>. Accessed: January 7, 2024.
- 11 PROUVEZ, Nathalie. Minorities and Indigenous Peoples' Protection: Practice of UN Treaty Bodies in 2003. *European Yearbook of Minority Issues Online*, v. 3, n. 1, Jan. 2003. p. 481-508. Available in: <https://doi.org/10.1163/221161104x00255>. Accessed: January 7, 2024.
- 12 PARYZKYI, Igor. General Theory of Future Law: Definitions, Innovative Potential. *Futurity Economics&Law*, v. 1, n. 3, 2021. p. 25-32. DOI: <https://doi.org/10.57125/FEL.2021.09.25.03>. Available in: <https://www.futurity-econlaw.com/index.php/FEL/article/view/28>. Accessed: January 8, 2024.
- 13 REZVOROVYCH, Krystyna; SKALETSKA, Zoryana; DOROSHEVA, Antonina; SUSHYTSKA, Yulia. Application of law as a special form of its implementation: trends for the future. *Futurity Economics&Law*, v. 3, n. 1, 2023. p. 28-35. DOI: <https://doi.org/10.57125/FEL.2023.03.25.03>. Available in:

use of legal principles, drawing valuable conclusions to the understanding of how legal principles are practically applied at the international level.

Åhrén (2023)¹⁴ determined that national legislators have demonstrated an inability or unwillingness to support dynamic and resilient Sami communities, potentially even working against such goals. In contrast, international law on indigenous rights provides a normative framework that promises to promote sustainable indigenous societies. Thus, his study argues that incorporating the principles of the international indigenous rights regime into national legislation can be a valuable strategy to achieve these goals. At the same time, Cambou (2023)¹⁵ considers the Fosen decision to be important for the protection of the cultural rights of the Sámi indigenous peoples in the context of the green transition. His study includes an analysis of the legal aspects, challenges, and opportunities that arise for the Sámi in connection with environmentally oriented transformations and activities. It also addresses indigenous rights issues through the lens of environmental sustainability. Therefore, given the different views among scholars, it is important to comprehensively describe this issue and characterise the main legal mechanisms for the protection of indigenous peoples in the context of ethno-national policy.

3 Research design and methods

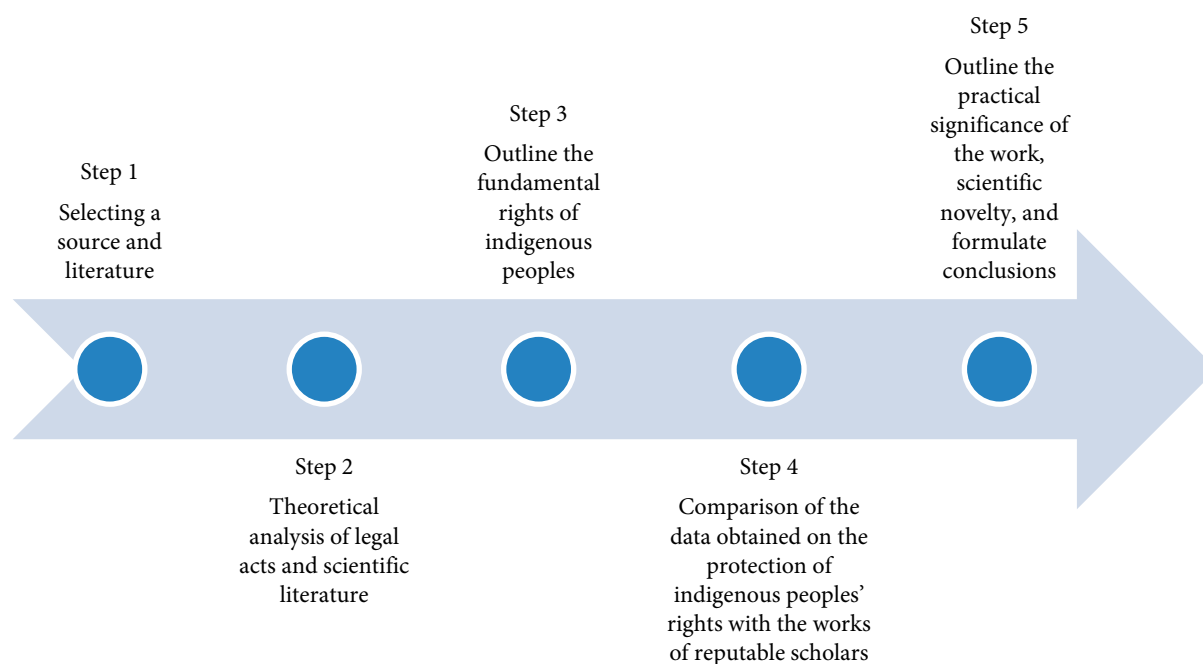
The study is based on an analysis of current regulations and scientific literature. The work was carried out in stages (see Figure 1).

<https://www.futurity-econlaw.com/index.php/FEL/article/view/76>. Accessed: January 8, 2024.

14 ÅHRÉN, Mattias. The relevance of the UN Declaration on the Rights of Indigenous Peoples to vibrant, viable, and sustainable Sámi communities. In: *The Significance of Sámi Rights*. London: Routledge, 2023. p. 5-21. ISBN 9781003220640. Available in: <https://doi.org/10.4324/9781003220640-2>. Accessed: January 7, 2024.

15 CAMBOU, Dorothée. The significance of the Fosen decision for protecting the cultural rights of the Sámi Indigenous people in the green transition. In: *The Significance of Sámi Rights*. London: Routledge, 2023. p. 52-71. ISBN 9781003220640. Available in: <https://doi.org/10.4324/9781003220640-5>. Accessed: January 7, 2024.

Figure 1: Steps to implement the study



Source: author's development

3.1 Materials and Data collection

The main materials of the study were selected international documents and acts of national legislation, in particular:

1. The UN Declaration on the Rights of Indigenous Peoples: adopted in 2007, this declaration defines the fundamental rights of indigenous peoples and calls on states to take into account and protect their rights in all aspects of social, economic, cultural, and political life^{16,17}.
2. ILO Indigenous and Tribal Peoples Convention (ILO Convention 169): Adopted by the International Labour Organization, this Convention provides legal protection for the rights of indigenous peoples, in particular with regard to land and resources¹⁸.
3. Canada's Indigenous Peoples' Rights Act (UN Declaration on the Rights of Indigenous Peoples): The Canadian government passed the Indigenous Peoples' Rights Act to align its domestic legal framework with the provisions

16 BELLEVUE, Casandia. GMOs, International Law and Indigenous Peoples. *Pace International Law Review*, v. 30, n. 1, feb. 2018. Available in: <https://doi.org/10.58948/2331-3536.1371>. Accessed: January 7, 2024.

17 UNITED NATIONS. General Assembly. *Declaration on the Rights of indigenous Peoples*. Australia: Allen & Unwin, 2009. ISBN 9781741758450.

18 INTERNATIONAL LABOR. *Indigenous and Tribal Peoples' Rights in Practice: A Guide to Ilo Convention No. 169*. [S. l.]: International Labour Organisation (ILO), 2009. ISBN 9789221223795.

of the UN Declaration on the Rights of Indigenous Peoples¹⁹.

4. The New Zealand Natural Resources Management Act (Taonga Tuku Iho): This law recognises and protects the traditional rights of indigenous Māori to land, water, and other natural resources²⁰.
5. The Swedish National Strategy on Indigenous Sami Issues: Sweden has developed a strategy to support the rights and development of the Sami, taking into account their unique needs and traditions^{21, 22}.
6. Indian Land Reservations Act, Indian Rights Act: this law establishes the rights of Indians in the United States, similar to the rights guaranteed by the United States Constitution.
7. Native American Languages Act, American Indian Religious Freedom Act: guarantees the development of indigenous languages and the freedom of expression of religious and cultural beliefs of Indians²³.
8. Indian Self-Determination and Education Assistance Act: provides Native American people with greater control over social service and education programmes in their territories²⁴.

Selection of literature

The choice of scientific literature was based on pre-formed criteria that influenced the selection of authoritative works (see Table 1).

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- 19 BELLEVUE, Casandia. GMOs, International Law and Indigenous Peoples. *Pace International Law Review*, v. 30, n. 1, feb. 2018. Available in: <https://doi.org/10.58948/2331-3536.1371>. Accessed: January 7, 2024.
 - 20 NEW ZEALAND. *Ministry of forestry; new zealand forest research institute*. The Resource Management Act. Wellington: Ministry of Forestry, 1995. ISBN 0477021670.
 - 21 CAMBOU, Dorothée. The significance of the Fosen decision for protecting the cultural rights of the Sámi Indigenous people in the green transition. In: *The Significance of Sámi Rights*. London: Routledge, 2023. p. 52-71. ISBN 9781003220640. Available in: <https://doi.org/10.4324/9781003220640-5>. Accessed: January 7, 2024.
 - 22 ÅHRÉN, Mattias. The relevance of the UN Declaration on the Rights of Indigenous Peoples to vibrant, viable, and sustainable Sámi communities. In: *The Significance of Sámi Rights*. London: Routledge, 2023. p. 5-21. ISBN 9781003220640. Available in: <https://doi.org/10.4324/9781003220640-2>. Accessed: January 7, 2024.
 - 23 UNITED STATES SENATE, COMMITTEE ON INDIAN AFFAIRS (1993-) (SENATE), UNITED STATES CONGRESS. *Native American Languages Act*. Chicago: Independently Published, 2020. ISBN 9798628536773.
 - 24 WILSON, Michael. Reclaiming self-determination from the Indian Self-Determination and Education Assistance Act of 1975. *International Journal of Qualitative Studies in Education*, v. 25, n. 7, Oct. 2012. p. 905-912. Available in: <https://doi.org/10.1080/09518398.2012.720734>. Accessed: January 7, 2024.

Table 1. Literature inclusion criteria

Criterion	Explanation
Relevance of the topic	Selection of literature that reflects relevant and contemporary aspects of ethno-national policies and indigenous rights, especially in the context of recent developments and changes.
International approach	Involvement of works that explore ethno-national policies and legal protection of indigenous peoples in different countries and regions
Comprehensive approach	Inclusion of literature that presents different theoretical approaches and methodologies to understanding the interaction between ethno-national policies and indigenous rights.
Analysis of legal acts	Consideration of literature that analyses specific legal acts and international documents regulating the rights of indigenous peoples.
Historical context	Consideration of the literature that analyses the historical context of ethno-national policies and its impact on contemporary events.
Global perspective	Inclusion of studies that examine the interaction of ethno-national policies and indigenous rights at the international level and their interaction with global issues.
Availability of empirical data	Consideration of research based on empirical data and real cases of ethno-national policies.
Impact on legal protection	Engage with literature that examines specific cases or examples where ethno-national policies affect the legal protection of indigenous peoples.

Source: authors' elaboration

These criteria for selecting the literature were aimed at ensuring the diversity and depth of research on the topic and took into account the different aspects and dimensions of ethno-national policies and their impact on the rights of indigenous peoples.

3.2 Data analysis

Based on theoretical analysis, the article reviews the sources for understanding the implementation of ethno-national policies and the protection of the rights of indigenous peoples. The main concepts for studying the interaction of ethno-national policies and indigenous peoples' rights were also identified. Separately, the use of the synthesis method made it possible to combine individual components in considering the problems of regulating ethno-national policy at the present stage. Therefore, the use of these methods is aimed at implementing a comprehensive analysis of the

interaction between ethno-national policies and legal protection of indigenous peoples, considering international and national perspectives, as well as theoretical and practical aspects of the study.

4 Results

The term “ethno-national policy” refers to a set of governmental measures and strategies aimed at addressing the specific needs and concerns of ethnic and indigenous communities within a nation-state. These measures are aimed at recognising and protecting the rights of indigenous peoples, recognising their cultural, social, and historical specificities. However, the trajectory of democratic social development in the second half of the 20th century showed a limited commitment to the protection of indigenous peoples’ rights, as acknowledged by contemporary researchers. An important event was the adoption of Convention No. 107 by the International Labour Organization (ILO)²⁵ This convention was the first international normative agreement on the rights of indigenous peoples and defined approaches to their protection and integration. The main provisions of this document are defined by the protection of cultural heritage, property rights, protection from eviction, and participation in decision-making. This document was later replaced by the more progressive and modern ILO Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries. Convention 169 provided more robust and up-to-date standards for the protection of indigenous peoples’ rights in the context of changes in international perceptions and approaches to human rights.

Therefore, the key moment in ensuring legal support for the rights of indigenous peoples was the adoption of the International Labour Organization Convention No. 169. This convention introduced clearer provisions governing the use of indigenous labour and established norms for their legal protection. Importantly, the Convention legally codifies the creation of collective legal norms for indigenous peoples, the potential allocation of specific territories for their use, and the definition of specific rights for indigenous communities. In general, these legal developments have had a positive impact on the protection of their interests and enhanced public protection^{26,27}.

25 WIESSNER, Siegfried. Indigenous Peoples: The Battle over Definition. In: *Reflections on International Law*. Leiden: Brill Nijhoff, 2023. p. 4-40. ISBN 9789004545946. Available in: https://doi.org/10.1163/9789004545946_003. Accessed: January 7, 2024.

26 DE VRIES, Byung Sook; MEIJKNECHT, Anna. Is there a place for minorities’ and indigenous peoples’ rights within Asean? Asian values, Asean values and the protection of Southeast Asian minorities and indigenous peoples. *International Journal on Minority and Group Rights*, v. 17, n. 1, 2010. p. 75-110.

27 LENZERINI, Federico. The Destruction of Indigenous Peoples’ Heritage and International Law. In: *Heritage Destruction, Human Rights and International Law*. Leiden: Brill Nijhoff, 2023. p. 283-311. ISBN 9789004434011. Available in: https://doi.org/10.1163/9789004434011_013. Accessed: January 7, 2024.

However, it is worth noting that some European Union countries, including the Netherlands and Luxembourg, have not adopted the provisions of the Convention. They argued that their national legislation already provides adequate protection for indigenous peoples in their territories. A notable exception was in 2021, when the Federal Republic of Germany, despite the fact that there are no indigenous peoples within its borders, demonstrated a democratic gesture of solidarity with Latin American countries by adopting Convention 169²⁸

Active legal regulation of the international activities of indigenous peoples gained momentum in 2007 with the development and adoption of the most important legal document in the UN - the Declaration of the Rights of Indigenous Peoples. This UN-approved document practically affirmed the recognition of self-determination trends, the potential for autonomous rights and self-government in the legal spheres regulating the internal affairs of indigenous communities within national borders, as well as mechanisms for ensuring the financing of their autonomous entities (see Table 2).

Table 2. Key features of the protection of indigenous peoples' rights in the Declaration

Aspect	Explanation	Articles
Self-determination	The Declaration recognises the right of indigenous peoples to self-determination. This means their ability to freely decide their political status, economic development, social and cultural affairs.	Article numbers: №1, №2, №3, №4, №5, №6, №8, №33, №34
Protecting traditions and cultures	The Declaration defines the right of indigenous peoples to maintain and develop their traditions, cultures, and languages. This includes the right to free access to their sacred sites and traditional lands.	Article numbers: №9, №15, №17, №23, №31
Human rights and fundamental freedoms	The Declaration guarantees indigenous peoples all the universally recognised rights and freedoms provided for in international legal instruments. This includes the right to life, liberty, security, free thought and expression, education and other	Article numbers: №22, №23, №24, №25
Participation in decision-making, certain economic aspects	The Declaration establishes the right of indigenous peoples to participate in decision-making concerning their rights and interests. It also grants the right to consultation and cooperation in the development of policies that may affect them.	Article numbers: №17, №18, №19, №20, №21, №35, №36, №37
Protection against discrimination	The Declaration recognises the inadmissibility of any form of discrimination against indigenous peoples and calls for effective measures to prevent it.	Sub-clause in many articles

28 BURIÁK, Ievgen *et al.* Future legal culture as an element of the legal system. *Futurity Economics&Law*, v. 3, n. 2, 2023. p. 39-47. DOI: <https://doi.org/10.57125/FEL.2023.06.25.03>. Available in: <https://www.futurity-econlaw.com/index.php/FEL/article/view/115>. Accessed: January 8, 2024.

Aspect	Explanation	Articles
Land and resource rights, environmental aspects	Indigenous peoples are guaranteed the right to their own traditional lands, territories, and resources. This includes the right to free access to natural resources and participation in their management.	Article numbers: №10, №26, №27, №28, №30, №32

Source: compiled by the authors based on the analysis of ^{29,30, 31}

All the rights enshrined in the Declaration are indivisible and interdependent, and this principle extends to the right to self-determination. The right to self-determination imbues other rights with a meaning that requires them to be considered in the context of indigenous self-determination. For example, the right to culture, which includes the potential for autonomy in cultural matters for indigenous peoples, must be considered in the light of their self-determination. Article 4 of the Declaration addresses the right of indigenous peoples to autonomy or self-government, stating that indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs³². This provision emphasises the autonomy of indigenous communities to manage their internal and local affairs, including determining the mechanisms for financing their autonomous functions. In the context of the right to autonomy, Article 34 of the Declaration affirms that indigenous peoples have the right to develop their customs and traditions³³. This emphasises an inclusive scope of autonomy that extends beyond governance to the protection and development of the cultural, spiritual, and traditional aspects of indigenous communities. In this way, the Declaration recognises the inherent link between self-determination, autonomy, and the preservation of the unique identity and heritage of indigenous peoples.

- 29 KRYVOSHEIN, Vitaliy. Transformation of Political Perceptions in the Age of Information Technologies: Analyzing the Impact on Political Beliefs. *Futurity of Social Sciences*, [S. l.], v. 1, n. 3, 2023. p. 20–32. DOI: <https://doi.org/10.57125/FS.2023.09.20.02>. Available in: <https://futurity-social.com/index.php/journal/article/view/9>. Accessed: January 8, 2024.
- 30 MUELLER, Karl; SUHRBIER, Andrew; MONTGOMERY, Emaline. Aspects of the relationship between the giant red sea cucumber, *Apostichopus californicus*, and the Indigenous People of the Northwest Coast of North America. In: *The World of Sea Cucumbers*. Amesterdã: Elsevier, 2024. p. 149-159. ISBN 9780323953771. Available in: <https://doi.org/10.1016/b978-0-323-95377-1.00047-3>. Accessed: January 7, 2024.
- 31 UNITED NATIONS. *Sub-commission on prevention of discrimination and protection of minorities* (ed.). Technical review of the United Nations draft declaration on the rights of indigenous peoples: Note. Geneva: United Nations, 1994.
- 32 HATZIKIDI, Katerina; LENNOX, Corinne; XANTHAKI, Alexandra. Cultural and language rights of minorities and indigenous peoples. *The International Journal of Human Rights*, v. 25, n. 5, may 2021. p. 743-751. Available in: <https://doi.org/10.1080/13642987.2020.1859487>. Accessed: January 7, 2024.
- 33 DALIMARTHA, Felix; SARA, Rieneke. Human Rights for Indigenous Peoples. In: *proceedings of the 1st international conference on law, social science, economics, and education, iclssee 2021*, march 6th 2021, jakarta, Indonesia. [S. l.]: EAI, 2021. Available in: <https://doi.org/10.4108/eai.6-3-2021.2306859>. Accessed: January 7, 2024.

The international legal framework also allows for the development of regional initiatives. In particular, the last decade has seen significant legal developments at the local level that have become the basis for the development of international jurisprudence, including on the rights of indigenous peoples and the basis for their coexistence with other ethnic groups. Recent judgments of the Inter-American Court of Human Rights and the African Commission on Human and Peoples' Rights have indicated that the rights of indigenous peoples to ownership of their lands, territories, and resources, as well as the principles governing their free, independent and informed consent and joint ownership, are essential components of universally recognised human rights norms. In the African context, there is an active process of formalising the rights of indigenous peoples in national legal systems. Courts are helping to apply internationally proclaimed indigenous rights in domestic cases³⁴. In particular, the involvement of human rights defenders and human rights institutions means that legal rights for indigenous peoples as outlined in international human rights treaties are much more considered in the formulation of subsequent state policies than in the past.

Similarly, the Inter-American Commission on Human Rights has examined several complaints concerning alleged human rights violations against indigenous peoples and indigenous peoples in general. The analysis was carried out in accordance with the American Declaration of Human Rights and the American Convention on Human Rights (it is important to note that the Convention applies only to states that have ratified it, while the Declaration is binding on all member states of the Organisation of American States). In its rulings, the Inter-American Commission has endorsed the reaffirmation of a number of legal norms concerning indigenous peoples, including the possibility of owning arable land, territories for settlements, and resources³⁵³⁶ VAL, 2009). The Inter-American Court of Human Rights is part of the human rights system of the Organisation of American States. Its capacities are used to consider complaints about countries' non-compliance with the rulings of the American Convention on Human Rights, but only when a particular state has accepted the Court's jurisdiction by ratifying the relevant convention. The Court has ruled on numerous cases concerning the rights of indigenous peoples³⁷. In particular, it has determined that

34 KUGELMANN, Dieter. The Protection of Minorities and Indigenous Peoples Respecting Cultural Diversity. *Max Planck Yearbook of United Nations Law Online*, v. 11, n. 1, 2007. p. 233-263. Available in: <https://doi.org/10.1163/18757413-90000007>. Accessed: January 7, 2024.

35 ULFSTEIN, Geir. Indigenous Peoples' Right to Land. *Max Planck Yearbook of United Nations Law Online*, v. 8, n. 1, 2004. p. 17-47. Available in: <https://doi.org/10.1163/187574104x00012>. Accessed: January 7, 2024.

36 ULFSTEIN, Geir. Indigenous Peoples' Right to Land. *Max Planck Yearbook of United Nations Law Online*, v. 8, n. 1, 2004. p. 17-47. Available in: <https://doi.org/10.1163/187574104x00012>. Accessed: January 7, 2024.

37 WILSON, Michael . Reclaiming self-determination from the Indian Self-Determination and Education Assistance Act of 1975. *International Journal of Qualitative Studies in Education*, v. 25, n. 7, Oct. 2012. p. 905-912. Available in: <https://doi.org/10.1080/09518398.2012.720734>. Accessed: January 7, 2024.

indigenous property rights are mandatory for protection in state institutions (as well as traditional land tenure models). On the North American continent, there are other mechanisms for protecting indigenous rights that are used in the United States and Canada. These mechanisms include legislative and judicial precedent. First of all, during the twentieth century, the transfer of certain legal rights and the creation of judicial autonomy for indigenous peoples in North America did not demonstrate effective results. In this regard, legislators in legal practice consider the possibility of concluding agreements between the government and indigenous peoples regulating their legal status. Equally important is the impact of court decisions resulting from court cases in which indigenous peoples' representatives oppose governmental organisations or local executive bodies³⁸. These decisions are legally binding and establish norms that affect the legal status and rights of indigenous peoples.

The Council of Europe has no specific standards or mechanisms dedicated to indigenous peoples. However, the Convention for the Protection of Human Rights and Fundamental Freedoms is also based on certain legally binding human rights standards, which nevertheless prohibit discrimination and guarantee the right to respect for private and family life. The European Court of Human Rights is guided by the relevant case law on the rights of indigenous peoples^{39, 40}. Additionally, the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages address human rights issues of indigenous peoples during their country visits and include them in their conclusions.

5 Discussion

Therefore, the analysis of the legal aspects of ethno-national policy in the context of the protection of the rights and interests of indigenous peoples has demonstrated the relevance of this issue for modern legal science. At the same time, the main emphasis in the development of appropriate national solutions is placed on the use of international legal norms applicable in different regions. These conclusions confirm the hypotheses

38 CLARIDGE, Lucy; KOBEL, Daniel. Protected areas, Indigenous rights, and land restitution: the Ogiek judgment of the African Court of Human and Peoples' Rights and community land protection in Kenya. *Oryx*, v. 57, n. 3, Feb. 2023. p. 1-12. Available in: <https://doi.org/10.1017/s0030605322000989>. Accessed: January 7, 2024.

39 NIEMI, Einar. *Indigenous peoples and national minorities in Norway*: Scandinavian Museums and Cultural Diversity. New York: Berghahn Books, 2008. p. 1-7. ISBN 9781789204049. Available in: <https://doi.org/10.2307/jj.7079911.6>. Accessed: January 7, 2024.

40 OGHLU ALIYEV, Aydin Jamil. Legal Principles of the Advocacy Activities in Azerbaijan and in the post-Soviet States: The Role of Digitalization and Technological Aspects. *Futurity Economics&Law*, v. 3, n. 4, 2023. p. 223-238. DOI: <https://doi.org/10.57125/FEL.2023.12.25.14>. Available in: <https://www.futurity-econlaw.com/index.php/FEL/article/view/179>. Accessed: January 8, 2024.

^{41,42;43}, which also note the importance of the UN constituent documents and Declarations of influential international organisations for the regulation of indigenous peoples' rights at the international and national levels. These conclusions were also reached by Claridge and Cobei (2023)⁴⁴, who examined a specific case when, in May 2017, the African Court on Human and Peoples' Rights for the first time considered the relationship between nature conservation and human and indigenous rights.

Instead, the content analysis of the professional literature and legal framework shows that the issue of politicisation of ethnicity is an underestimated challenge and a factor of destabilisation in the realisation of indigenous peoples' rights. Modern Ukrainian experience has demonstrated (DERVIŞ, 2023)⁴⁵ that legal nuances in the understanding of indigenous peoples can become a target for propaganda and aggressive actions. In particular, the official Kremlin uses the consequences of Soviet policy, such as the resettlement of Russians in other republics, to actualise claims that it was Russians who became the indigenous ethnic group in these regions. Abuse of tolerance to such challenges is also the subject of legal responses in Latvia, Lithuania, and Estonia, where the institution of non-citizens helps to overcome political ambitions to use fellow citizens to achieve their own goals. Attempts to find opportunities for coexistence at the legal level may include methods of supporting tolerant attitudes and legal instruments of punishment for those who try to use the terms of tolerance to sow political discord or civil conflict. The results obtained in this paper also confirm the conclusions of Johnstone (2023)⁴⁶ that current trends in granting indigenous peoples a new legal status that will significantly distinguish them from the status of national minorities may be relevant. This may serve as compensation for the lack of statehood.

41 VAN GENUGTEN, Willem; VAN DEN BOSCH, Marianne. International Legal Protection of Migrant Workers, National Minorities and Indigenous Peoples - Comparing Underlying Concepts. *International Journal on Minority and Group Rights*, v. 9, n. 3, 2002. p. 195-233. Available in: <https://doi.org/10.1163/15718110277647169>. Accessed: January 7, 2024.

42 PROUVEZ, Nathalie. Minorities and Indigenous Peoples' Protection: Practice of UN Treaty Bodies in 2003. *European Yearbook of Minority Issues Online*, v. 3, n. 1, Jan. 2003. p. 481-508. Available in: <https://doi.org/10.1163/221161104x00255>. Accessed: January 7, 2024.

43 BELLEVUE, Casandia. GMOs, International Law and Indigenous Peoples. *Pace International Law Review*, v. 30, n. 1, feb. 2018. Available in: <https://doi.org/10.58948/2331-3536.1371>. Accessed: January 7, 2024.

44 CLARIDGE, Lucy; KOBEL, Daniel. Protected areas, Indigenous rights, and land restitution: the Ogiek judgment of the African Court of Human and Peoples' Rights and community land protection in Kenya. *Oryx*, v. 57, n. 3, Feb. 2023. p. 1-12. Available in: <https://doi.org/10.1017/s0030605322000989>. Accessed: January 7, 2024.

45 DERVIŞ, Leyla. Transformation of Geopolitical Perceptions in the Russian-Ukrainian War: Impact on Regional Relations in the Future. *Futurity of Social Sciences*, [S. l.], v. 1, n. 1, 2023. p. 21-34. DOI: <https://doi.org/10.57125/FS.2023.03.20.02>. Available in: <https://futurity-social.com/index.php/journal/article/view/2>. Accessed: January 8, 2024.

46 JOHNSTONE, Rachael Lorna. Colonisation at the Poles, Incomplete Decolonisation and the Creation of Indigenous Peoples. In: *The Routledge Handbook of Polar Law*. London: Routledge, 2023. p. 385-407. ISBN 9781003404828. Available in: <https://doi.org/10.4324/9781003404828-30>. Accessed: January 7, 2024.

The process of legal renewal of the status of indigenous peoples can be an important tool for reducing tensions in society and preventing possible separatism caused by the obsession with the definition of indigenous people during the collapse of empires in the mid-twentieth century. The findings also confirm the conclusions of Altamirano Rayo; Mosinger; Thaler (2024)⁴⁷, who define the incentives for state-building as governments to implement political and territorial autonomy, which is considered on the example of Central America. In some scenarios, governments may see indigenous autonomy as the best way to regulate hard-to-reach territories and populations. Regimes of autonomy can improve governance, especially in regions where criminal organisations or other armed groups are active. They can also facilitate the identification of indigenous peoples with the nation-state. In addition, autonomy regimes can further integrate indigenous communities into economic processes by establishing ownership relationships and consultation mechanisms that weaken indigenous opposition to industrial projects. Therefore, the model of indigenous self-government, which the study shows to be applicable in African and American contexts, can be applied to other indigenous peoples, giving them the right to participate in public and political life, governance, and cultural life. This can be an important tool for regulating certain aspects of their legal life, especially in the context of the proposed UN documents on the rights of indigenous peoples. The practical novelty of this study is an attempt to summarise and consider the existing legal mechanisms for the protection of indigenous peoples' rights.

The study also faced certain limitations. First of all, despite all the mechanisms for selecting relevant scientific literature on this issue, there is a possibility that some studies and their results were not considered when writing the text. This may lead to further discussion and the development of new proposals for improving the protection of the rights of indigenous peoples. Actually, the prospect of further research is also related to the study of the new relevant legislative framework, since even new court proceedings at the international level can provide updated information on the ways of such protection.

5 Conclusion

Therefore, the term “ethno-national policy” defines a set of governmental measures aimed at addressing the needs of ethnic and indigenous communities within the nation-state. It is noted that the trajectory of society's development has limited the protection of the rights of indigenous peoples. An important step in counteracting this

47 ALTAMIRANO RAYO, Giorleny; MOSINGER, Eric S.; THALER, Kai M. Statebuilding and indigenous rights implementation: Political incentives, social movement pressure, and autonomy policy in Central America. *World Development*, vol. 175, p. 106468, Mar. 2024. Available from: <https://doi.org/10.1016/j.worlddev.2023.106468>. Accessed: 7 Jan. 2024.

was the adoption of Convention No. 169 by the International Labour Organization, which defined approaches to the protection and integration of the rights of indigenous peoples. The author notes that this Convention, as well as the Declaration of the Rights of Indigenous Peoples, have contributed to the improvement of their legal protection and social status, although some EU countries have not adopted the provisions of the Convention. Active legal regulation of international activities of indigenous peoples received an impetus with the adoption of the UN Declaration, which recognises their rights to self-determination and autonomy in the regulation of internal affairs. The text notes that the rights defined in the Declaration are indivisible and interdependent, especially in the context of the right to self-determination of indigenous peoples. It is noted that the right to self-determination fills other rights, including the right to culture and autonomy. The Declaration recognises the link between self-determination, autonomy, and the preservation of indigenous identities. The text also highlights regional initiatives and jurisprudence, such as the Inter-American Court of Human Rights, which have affirmed indigenous peoples' rights to land and resources. In Europe, although there are no specific standards for indigenous peoples, the European Court of Human Rights has developed case law in this context. The impact of court decisions on the legal status and rights of indigenous peoples is also noted.

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