

Article

The Struggle of Indigenous Peoples to Maintain Their Spirituality in Latin America: Freedom of and from Religion(s), and Other Threats

Alexandra Tomaselli ^{1,*}  and Alexandra Xanthaki ²¹ Institute for Minority Rights, Eurac Research, 39100 Bolzano-Bozen, Italy² Brunel Law School, College of Business, Arts and Social Sciences, Brunel University London, Uxbridge, London UB8 3PH, UK; alexandra.xanthaki@brunel.ac.uk

* Correspondence: alexandra.tomaselli@eurac.edu

Abstract: This article argues that the (Western-oriented) right to religion has been proven inadequate in protecting Indigenous Peoples' rights. It recognizes that this is partly because of the distinctive characteristics of Indigenous religions, which differ from other dominant religions, but also because of the way in which religion has been used by colonialism with dramatic effects on Indigenous Peoples and their beliefs, spiritualities, and worldviews. The article focuses on Latin America to argue further that in addition to colonialism, the early Constitutions also attacked Indigenous religions. As Indigenous rights are more acknowledged in Latin America, we take this region as an excellent, albeit painful, example of how Indigenous religions have been pushed aside even in the most positive contexts. The article uses the constitutional and legal arrangements in Latin American states, mainly Ecuador and Bolivia, to critically assess the protection that these favorable to Indigenous Peoples legal systems' guarantee to Indigenous rights despite a persistent implementation gap. Also, this article highlights the weaknesses of the international system in mitigating the manifold threats that Indigenous Peoples have to face on a daily basis in their struggle to maintain and transmit their religions and spirituality, including the assault of other religions and sects into their communities and the so-called neo-extractivism. The article finally draws some concluding remarks and recommendations on how to improve the freedom of and violations from religion(s) of Indigenous Peoples in the context of Latin America as well as international law more broadly.

Keywords: Indigenous Peoples; spirituality; cultural identity; land; traditional customs; Latin America; Ecuador; Bolivia; UN Declaration on the Rights of Indigenous Peoples



Citation: Tomaselli, Alexandra, and Alexandra Xanthaki. 2021. The Struggle of Indigenous Peoples to Maintain Their Spirituality in Latin America: Freedom of and from Religion(s), and Other Threats. *Religions* 12: 869. <https://doi.org/10.3390/rel12100869>

Academic Editors: Silvio Ferrari, Roberta Medda-Windischer and Kerstin Wonisch

Received: 4 August 2021

Accepted: 19 September 2021

Published: 13 October 2021

Publisher's Note: MDPI stays neutral with regard to jurisdictional claims in published maps and institutional affiliations.



Copyright: © 2021 by the authors. Licensee MDPI, Basel, Switzerland. This article is an open access article distributed under the terms and conditions of the Creative Commons Attribution (CC BY) license (<https://creativecommons.org/licenses/by/4.0/>).

1. Introduction

International human rights law is very clear that the right to religion has to be protected. Yet, this has so far not helped Indigenous Peoples from violations on their manifestations of religion, whether in the form of material objects or practices and rituals. This article argues that the (Western-oriented) right to religion has been proven inadequate in protecting Indigenous Peoples' rights. It recognizes that this is partly because of the distinctive characteristics of Indigenous religions which differ from other dominant religions, but maintains that this is also because of the way in which religion has been used by colonialism with dramatic effects on Indigenous Peoples and their beliefs, spiritualities, and worldviews.

The article uses Latin America to discuss the weaknesses of domestic arrangements, legal and other, to protect Indigenous religions. We have situated the discussion in Latin America for manifold reasons. First, the colonising of this region has been intertwined with religion since the very beginning. Second, Christianity (mainly Catholicism) has played a fundamental role in annihilating Indigenous cultures along the centuries. Third, although a number of issues and threats persist, from the 1960s, Christian denominations

such as Catholicism and Protestantism have opened up new approaches to Indigenous identity and spirituality in this region. Fourth, despite five long centuries of legalized assimilation and discrimination against Indigenous Peoples (when not their physical and cultural annihilation), some positive trends towards Indigenous Peoples and their rights were observed since the late 1980s.

In addition to the domestic level, the article also looks at the international level, the international Indigenous and human rights law protection for Indigenous religions and spirituality, including Indigenous spiritual identity, religions, spiritual relationship with their lands, and traditional customs, as well as other intertwined dimensions (e.g., customary law). The article highlights the weaknesses of the international system in mitigating the many threats that Indigenous Peoples have to face on a daily basis in their struggle to maintain and transmit their religions and spirituality, including the assault of other religions and sects into their communities and the so-called neo-extractivism.¹

The article starts by discussing the concept of 'religion' and how it has been hijacked by the non-Indigenous world in its colonizing attempts. The article then discusses how law, in the form of the early Constitutions, also annihilated Indigenous beliefs, spiritualities, and worldviews, making the contrast with the recent Constitutions of Ecuador and Bolivia and their protection of Indigenous Peoples and their rights. Then, the article assesses the international Indigenous and human rights law and the standards that safeguard Indigenous religions, before highlighting the continuing threats that Indigenous Peoples have to face to maintain and transmit their religions. Finally, the article draws some concluding remarks and recommendations on how to improve the freedom of and from religion(s) of Indigenous Peoples in the context of Latin America as well as internationally.

2. Religion, Its Meaning and Its Use in the Case of Indigenous Peoples

It is rather rare to talk about Indigenous Peoples' right to religion. This is not to say that religion is not important to them. If anything, we know that their spiritual beliefs are at the centre of their identity. Neither is it true that the right to religion is not well established in international human rights law. The main reason has been the level of distinctiveness of Indigenous religions to other non-Indigenous ones. Cox (2007) gives the example of Inuit in Alaska by highlighting how "religion" for them may correspond to their traditional ways of relating to their land and the life that is present in seas and other waterways. Hence, there is no equivalent word for "religion" among these peoples. The Inuit did transmit their traditions and customs from a generation to another with the purpose of ensuring communal well-being. Such "Inuit way of life" is what the author considers the closest concept to the Western category of "religion" (Cox 2007).

One of the main elements of Indigenous religions is the level of interconnectiveness within such 'religions' of the peoples, their land, plant and animal world, supranatural beings, forces, and rituals. As stated by Fonda (2011), "Aboriginal [Indigenous] cultures did not have as marked a conceptual separation between sacred and secular, or between culture, language and identity, or between spirituality and the land on or through which it is expressed as did most European cultures. These things were and, for many contemporary Aboriginal [Indigenous] peoples, are all interrelated [. . .]" (p. 1).

Such interconnectiveness runs through Indigenous ontology, epistemology, worldviews, and ethical beliefs (Carroll 2019). Among the elements of Indigenous religions there are methods, theories, and practices that go beyond other religions (King 2013). Sable and Francis (2012) have highlighted this by using the Mi'kmaw 'religion', which considers language, myth, ritual, culture, and land as inseparable elements of the whole. None of these elements can explicate without the others (Sable and Francis 2012). Part of such a complex, continuously evolving system is the deep association of Indigenous with all elements of the physical world. As Fonda (2011) has stated, "[F]or Aboriginal [Indigenous] persons land is not merely material, and nature is not merely natural. Both have spiritual dimensions and make up a sacred substance, which is the source, sustenance, and end of all cosmic life on which everything depends. If the spiritual is not distinct from the

land, then taking the land is tantamount to prohibiting traditional spiritual experiences. Moreover, Aboriginal [Indigenous] peoples often see land as both sacred and instrumental in value" (p. 2).

This holds true also for the context of Latin America (Zwetsch 2015, p. 533). All such these characteristics make Indigenous 'lived religions', religions in the context of peoples' daily lives and experiences (McGuire 2008).

Certainly, more discussions on the distinctions between Indigenous religions and non-Indigenous religions are welcome. Refocusing on the meaning and nature of Indigenous religions is a way of continuing the decolonisation of Indigenous Peoples. It is well known that Indigenous beliefs and worldviews were disrespected for centuries. Alfred discusses the need of the colonisers to transform the Indigenous ways of life into a formal code of ethics, taking them away from their Indigenous context and transform them into "an actual religion" (Alfred 2005, p. 198). Indeed, the very same word "religion" comes from the Western tradition. It has been imposed by profoundly transforming those non-Western peoples and societies and their spiritual dimension (Fonda 2011, p. 3). For instance, in the case of Talamanca (Costa Rica), the Indigenous *Bribis* had no "religion" as it is understood in the West. They believed that they did not need any religion and that it was something brought by the "foreigners". They had their own law and rules (*Sibö*), and that was their way of living until Western religions (e.g., Catholicism but also Adventism and others) arrived in the 1960s (Tafjord 2006, p. 375). Also, Indigenous spiritual relationship with their land may not legally appear as their "religion" (e.g., in Guatemala), thereby further undermining the exercise of "religious rights" from the part of Indigenous Peoples (Hurd 2015, p. 31). Indigenous Peoples have seen their ontologies, epistemologies, and worldviews refuted for centuries (Fonda 2011, p. 5).

Indigenous ways of life have been recast in Western terms, made into falsely perceived "actual religions", in order to make them more familiar to the non-Indigenous world. Several scholars have noted the danger that non-Indigenous scholars' ideas and practices of Western knowledge systems used in order to understand Indigenous "religion" can end up decontextualizing them, turning them into poorer versions of Christianity (King 2013, pp. 503–4).

For all these reasons, the term 'religion' does not fully correspond to Indigenous belief systems. Often, Indigenous religions are discussed using the term spirituality. But even this is controversial. For example, McGuire (2008) believes that the distinction between religion and spirituality points towards acceptable and unacceptable beliefs and even worthy or non-worthy ideas (p. 6). Also, more and more Indigenous Peoples become aware of the solid basis that the right to religion may offer for their claims and try to fit their cosmo-theories around this concept. For example, the *Bribis*, the Indigenous community in Costa Rica that Tafjord (2016) has followed, have shifted their terminology about their beliefs from referring to them as Indigenous traditions to referring to them as Indigenous religion for that very reason.

Therefore, in this article, we use the terms Indigenous beliefs, spirituality(ies), worldviews, or even religions while taking into due consideration the abovementioned issues and ongoing discussions.

3. Religion and Indigenous Peoples in Latin America: From Colonization to the Multicultural Constitutionalism and the Plurinational States

The previous section demonstrated how colonization in different parts of the world used religion to strip Indigenous worldviews from protection, even by using this actual term. Legal domestic systems also entered into this pattern, as obvious in Latin America. The practice of ethnocide, destroying the psyche of the peoples, became a very well-trodden path.

Broadly speaking,² the relations between Indigenous Peoples and the "conquerors" first and the "new" Latin American states afterwards may be summarized in four main phases: colonization, that was essentially segregation; (creoles³-driven) independence,

which consisted of assimilation; the indigenist period, that aimed at a benevolent integration but by nullifying Indigenous cultural diversity (Cabedo Mallol 2004, p. 82; Giraudo 2009, pp. 10–11); and the so-called “multicultural constitutionalism”, which started in the late 1980s (Van Lee Cott 2000, p. 17). The most recent Constitutions of both Ecuador in 2008 and Bolivia in 2009 may represent a fifth phase, that of “plurinational constitutionalism”. However, this concept is far from being fully clarified and applied, and Indigenous rights are far from being fully respected, as is discussed below.

Christian precepts drove and permeated the colonization of the current Latin American subcontinent as well as the independence phase, as the first laws and constitutions show (Giraudo 2009, p. 18; Gargarella 2013, pp. 11–13). Initially, the (then) Spanish law that was applied to the colonies was composed by Roman, Canon, and Castilian laws but also combined with Indigenous customary laws. This mixed law constituted the first forms of legislation vis-à-vis Indigenous Peoples. There were great legislative variations depending on the geographical context and on the degree of subjugation of Indigenous Peoples by the conquerors.⁴ As it is well known, many Indigenous Peoples were enslaved through the practice of the “*encomiendas*”, which allowed a colonizer to take “possession” of Indigenous youngsters to force them to work in his lands by the promise of evangelizing them. Although this practice was formally abrogated by the Valladolid New Laws (*Leyes Nuevas*) of 1542, it continued to be applied afterwards (Hidalgo Nuchera 2006, p. 313). Indeed, Catholic evangelism had devastating effects during the 15th and 16th centuries. On the one hand, Catholic missionaries were among the first to learn Indigenous languages and promoted peaceful coexistence in some places (see also infra). On the other hand, they eradicated Indigenous religious practices even by violent means (e.g., in Yucatán, Franciscans punished, and even sentenced to death, those Mayan people who continued to practice their “pagan” worship; O’Toole 2011, pp. 162–63).

After the creoles’ declarations of independence, the assimilation of Indigenous Peoples worsened through the official mission to “civilize” them. The first Latin American Constitutions officially proclaimed equality before the law for all, thus, including Indigenous Peoples, but they also imposed massive religious conversions or “corrective” education measures (Stavenhagen 2002; Bello 2004; Cabedo Mallol 2004; Clavero 2006; Giraudo 2009, pp. 24–27).

For example, articles 200 and 201 of the (first) Constitution of Venezuela of 1811 gave the local government the duty to save Indigenous Peoples from their “rusticity”, because they had remained “isolated” and “non-integrated”, while their lands should be cropped only by “real Lords” (*verdaderos señores*).⁵ In addition, several Latin American Constitutions (e.g., of Chile of 1823 and 1833, of Peru of 1839, of Colombia of 1843 and 1886, of Mexico 1843, and of Ecuador 1869) adopted a conservative approach that was driven by religion, and, thus, e.g., prohibited some kinds of worship (Gargarella 2013, pp. 11–13). At the same time, missionaries (e.g., Jesuits) kept on promoting the assimilation of Indigenous Peoples and their cultures and beliefs through the colonial system of catechesis, which especially targeted Indigenous children in order to form “new Christian people” at a very early age (Zwetsch 2015, p. 534).

After 1850, all over the subcontinent, Indigenous Peoples were more aggressively deprived of their lands and thus of their culture and traditional practices (Bello 2004, p. 49). While political and institutional instability continued in the 19th century (Gargarella 2013, pp. 8–19, 21–29), the legal treatment of Indigenous Peoples did not essentially change until the *indigenismo* period,⁶ which influenced the new or revised Constitutions (Bello 2004, pp. 62–63, 68; Giraudo 2006).

The agrarian reforms, prompted by the Mexican revolution and Constitution of 1917, facilitated the assimilation of Indigenous Peoples and their relabeling into “peasants” (*campesinos*) and their affiliation with the farmer and trade unions. This was particularly evident in Bolivia, Chile, Guatemala, Mexico, and Peru (Bello 2004, p. 63; Yashar 2005, p. 61; Zúñiga García-Falces 2004, pp. 36–37, 48).

After the democratic crises and the dictatorships that affected the subcontinent in the second half of the 20th century, Indigenous Peoples and the recognition of their rights finally found a momentum in the democratic transitions and the new or reformed Constitution that were adopted from the late 1980s. At the same time, Indigenous Peoples formed and founded their movements, which progressively gained political impact (Bello 2004, p. 64; Stavenhagen 2002, pp. 31–32).

The Guatemalan Constitution of 1985 included the first change vis-à-vis Indigenous Peoples by recognizing them and their rights to collective lands (arts. 66–67), to cultural identity (art. 58), and to bilingual education (art. 76). The Brazilian Constitution of 1988 protected Indigenous organizations, languages, customs, and traditions, as well as their “original” rights over their traditional lands, which shall be inalienable, imprescriptible, and well demarcated (arts. 231–232).⁷ The Colombian Constitution of 1991 and the profound reforms to the Bolivian Constitution of 1967 in 1994 followed a similar pattern. Several other Latin American countries reformed or adopted new Constitutions during the same years: Nicaragua in 1987, 1993, and 2000; Paraguay in 1992; Peru in 1993; Argentina in 1994; Mexico in 1994, 1995, and 2001; Ecuador in 1998; Guatemala (again) in 1998; Honduras in 1999; and Venezuela in 1999 (Giraudó 2009, pp. 131–33; Aguilar et al. 2010).

Many of these incisive amendments embodied what Van Lee Cott (2000) coined as “multicultural constitutionalism” (p. 17). In fact, all these constitutional changes (apart Honduras) included at least three of the following five aspects: recognition of the existence and multicultural nature of Indigenous societies and peoples as distinct collectivities; recognition of Indigenous customary law as part of ordinary law; Indigenous property rights that were protected from collective sale, dismemberment, or confiscation; status or official recognition of Indigenous languages; and a guarantee of bilingual education (Van Lee Cott 2000, pp. 266–67).⁸

The two last more incisive constitutional reforms have involved Ecuador and Bolivia, which have self-identified as Plurinational States in their new Constitutions of 2008 and 2009, respectively, and are analysed below.

4. Indigenous Peoples and Religions in the Bolivian and Ecuadorian Constitutions

The two Constitutions of Ecuador and Bolivia provide Indigenous Peoples with an extensive and innovative protection system, which, however, is far from being fully applied (Jameson 2011; Postero 2017). The social unrest and the protests that burst out in both the Andean countries in the last months of 2019 urged the withdrawal of new austerity measures in Ecuador (Grant 2019) and the escape of the former President Evo Morales from Bolivia (Página Siete 2019). However, these demonstrations were prompted by the systematic socioeconomic inequality that affects these states as well as Latin America as a whole. This is particularly evident in the case of Indigenous Peoples as well as other vulnerable sectors of the society (e.g., Afrodescendants, peasants, et al.) and it has been further exacerbated by the pandemic.

Art. 1 of both the Ecuadorian and Bolivian Constitutions states that these countries are “Plurinational States”. Both were adopted by referendum (Ecuador in September 2008, Bolivia in February 2009), and their Constituent Assemblies included a wide participation of Indigenous organizations (Ortiz-T. 2009; Schilling-Vacaflor 2008).

Both these Constitutions contain a specific chapter (in cases No. 4) that groups several (but not all) of the fundamental rights of Indigenous Peoples (arts. 56–60 of the Ecuadorian Const.; arts. 30–32 of Bolivian Const.). They refer to Indigenous Peoples as “Indigenous Communities, Peoples and Nationalities” (*Comunidades, Pueblos, y Nacionalidades*) in Ecuador (art. 56), and “Peasant Native Indigenous Nations and Peoples” (*Naciones y Pueblos Indígena Originario Campesinos*) in Bolivia (art. 30.1).

Both include the Indigenous concept of “buen vivir” (*Sumak Kawsay* in Kichwa (or Quechua) for ‘good living’) or “vivir bien” (*Suma Qamaña* in Aymara for ‘living well’): the former is enshrined in art. 14 of the Ecuador Constitution, and the whole chapter 2 (arts.

12–34) which is titled “Rights of the Good Living”; the latter is (mainly) proclaimed in art. 8 of Bolivian Constitution.⁹

Other relevant novelties of both the Constitutions are the recognition of the official use of Indigenous languages: 36 in the case of Bolivia (art. 5.1); in Ecuador, Kichwa (or Quechua) and Shuar are official languages at the state level while the other Indigenous idioms are official in the areas where they are spoken (art. 2.2).

Indigenous cultural identity as well as land rights are protected in both Constitutions. With regard to the former, the Ecuadorian Magna Carta recognizes the collective right to Indigenous identity, sense of belonging, ancestral traditions, and forms of social organizations (art. 57.1). The Bolivian Constitution states the Indigenous right to cultural identity, religious beliefs, spirituality, practices and customs, and worldview (*cosmovisión*; art. 30.2 no. 2). The latter (land rights) are enunciated in art. 57.4 of the Ecuadorian Constitution in terms of imprescriptible property of communitarian lands, which are inalienable, non-seizable (*inembargable*), and indivisible and are not subject to taxes or levies. Moreover, art. 57.5 declares the Indigenous right to maintain possession of ancestral lands and territories and obtain their adjudication for free. Bolivia recognizes the Indigenous right to collective ownership of lands and territories in art. 30.2, no. 6.

Both Magna Cartas protect Indigenous customary law, which is framed as the system of “Indigenous justice” in art. 171 of the Ecuadorian Constitution, and as “Peasant Native Indigenous jurisdiction” in the Bolivian case (arts. 190–192). In accordance with the former, Indigenous authorities may exercise the jurisdictional functions on the basis of their ancestral traditions and own customary law within their territorial competence by guaranteeing participation and decisions on the parts of women too. Indigenous trials may solve internal conflicts but not those matters that are contrary to the Constitution or international instruments. Indigenous tribunals’ decisions shall be subject to Constitutional control. In the Bolivian case, art. 190.1 states the right of Indigenous Peoples to exercise their own jurisdictional functions and competences through their authorities and by applying their own principles, cultural values, norms, and procedures. Art. 190.2 adds that the “Peasant Native Indigenous jurisdiction” has to respect the rights to life and to security and all the other rights recognized in the Constitution. Such a system has to be coordinated with the ordinary justice system through a law on jurisdictional separation (*Deslinde Jurisdiccional*; art. 192.3), which was enacted in 2010 (Law on Jurisdictional Separation No. 73/2010, Ley de Deslinde Jurisdiccional).

Finally, both Constitutions prohibit discrimination on the basis of religion or belief (arts. 11.2 and 19 Ecuadorian Const.; art. 14.2 Bolivian Const.) and protect the right of all individuals to own religion, belief, and worship (art.66.8 Ecuadorian Const.; art. 21.3 Bolivian Const). In addition, the Bolivian Constitution expressly declares to be secular (art. 4 Bolivian Const.), and, as mentioned above, to safeguard the Indigenous right to cultural identity, religious beliefs, spirituality, practices and customs, and worldview (*cosmovisión*; art. 30.2 no. 2).

In sum, both Constitutions provide Indigenous Peoples with a number of rights that regard their “religion”, or, better put spirituality, which is interlinked with their lands, their languages, and their good living or living well. Notwithstanding this, as mentioned, the implementation of both Magna Cartas is far from being successful. In addition, as flagged by Hurd (2015), the protection of religious rights in Latin America tends to be partial, reflecting of and/or privileging the majoritarian (non-Indigenous) view (p. 32). This may be particularly the case of Ecuador.

Finally, a number of threats undermine the exercise of Indigenous ‘freedom of religion’. Among these are the extractivist and neo-extractivist policies as well as the assault of other religions and sects present in their communities. This leads to another dimension, i.e., the freedom from religion of Indigenous Peoples.

5. Indigenous and Religions in the International Indigenous and Human Rights System

The right to religion has so far been of limited use to Indigenous Peoples, mainly because of its recognition as an individual right in international law; hence, current, national case law has been heavily reliant on the right to property or even intellectual property rights for the protection of manifestations of the Indigenous spiritual beliefs (Blakeney 2013). The UNDRIP is the first international instrument that recognizes explicitly a collective aspect of the right to religion in its preambular paragraph No. 118 and its articles 11 and 12. Newman (2013) noted that although the right is individually framed in Article 18 of the International Covenant of Civil and Political Rights (ICCPR) and since individuals generally require like-minded communities to exercise their religion, religious associations may be framed as juridical persons and thus fall under the scope of article 18.¹⁰ Certainly, both international and national courts have started discussing the collective element in the right to religion (Newman et al. 2017).¹¹

Indigenous 'religions' have mainly been protected under the banner of culture. Even in the earlier 1993 draft of the UN Declaration on the Rights of Indigenous Peoples that Erica Daes, the then Chairperson of the Working Group on Indigenous Populations, submitted, religion was included as part of the right to culture. Four paragraphs recognized cultural rights, among them one on religious and spiritual traditions. The 1995 Secretariat Review of the United Nations used the working definition put forward by Martinez Cobo to repeat the phrase 'culture in general, or in specific manifestations (such as religion [. . .])' (United Nations 1994, p. 4). This review also noted the additional limitations that the right to manifest one's religion has under the ICCPR and the Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief (United Nations 1994, p. 11).

The final text of the 2007 UN Declaration on the Rights of Indigenous Peoples (UNDRIP), which may also serve as an interpretative tool of the binding article 27 ICCPR, as mentioned, recognizes in article 12 the right of Indigenous Peoples to 'manifest, practice, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains'. The scope of the provision is wide. It adopts the understanding of religion endorsed by the Human Rights Commission in its General Comment No. 22 on the Right to Thought, Conscience, and Religion, which includes the right to hold 'theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief' (OHCHR 1993, para. 2).

Article 12 of UNDRIP is the first clear and explicit recognition of Indigenous spiritual and religious rights in international law. In essence, it does apply to Indigenous Peoples article 18 of the ICCPR, which protects the right of everyone 'to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching'. It is noteworthy that article 18 ICCPR protects equally religion or belief; in this respect, whether or not the state recognizes the Indigenous spiritual values of Indigenous Peoples as a religion or not is irrelevant.

The recognition of a collective right to religion in the UNDRIP is an important step forward in international law standards that may have a considerably positive effect on Indigenous Peoples' rights (Wiessner 2011), provided that states implement such provision. One has to note that in conflicts between Indigenous religious rights and third parties' rights, Indigenous Peoples' concerns should prevail as international law has accepted that the latter is more vulnerable and needs further protection. Situations when Indigenous religious rights conflict with religious rights of other Indigenous or minority groups may be more problematic.¹²

Article 12 of UNDRIP reflects several judgments of the Inter-American Court of Human Rights as well as the communications of the African Commission on Human and

Peoples' Rights and a recent judgement of the African Court on Human and Peoples' Rights on Indigenous issues.¹³ The jurisprudence of the Inter-American Court of Human Rights is particularly relevant in the case of Latin America. For example, in the *Aloeboetoe* case, the Court took into account the customary marriage practices of the Saramakan people (*Inter-American Court of Human Rights 1993*, paras. 17 and 58). The Inter-American Court also ordered reparations to reinforce the cultural traditions and customary law of the Mayan Achi peoples when their culture was almost destroyed through human rights violations. The Court found in the *Massacre of Plan de Sánchez* case that the deaths of the women and elderly, who were traditionally the oral transmitters of the Mayan Achi culture, interrupted the passage of cultural knowledge to future generations and the militarization and repression after the massacre resulted in the Indigenous Peoples' loss of faith in their traditions (*Inter-American Court of Human Rights 2004*, paras. 1–2). The Court specifically discussed Indigenous burial sites and implied that prohibition of such sites violates their right to religion. Indeed, the prohibition of the Indigenous group to practice their traditional burial ceremonies because of their relocation was deemed a violation of their rights, which Guatemala accepted as a violation of the freedom to manifest their religious, spiritual, and cultural beliefs (*Inter-American Court of Human Rights 2004*). In the *Bamaca Velasquez* case, the Court also noted that the funeral ceremonies of the Mam ethnic group were something that is traditional in the Indigenous culture (*Inter-American Court of Human Rights 2000*). The *Case of Moiwana Community v Suriname*, in which an Indigenous people were denied the right to honor their deceased according to their own traditions, is of huge importance for the protection of Indigenous culture. As the Indigenous Peoples did not know what happened to the remains of their deceased, the Court ordered Suriname to take all measures to recover promptly the remains of the Moiwana community members killed by the national army in 1986 (*Inter-American Court of Human Rights 2005*). Therefore, in fulfilling Indigenous Peoples' cultural rights, states are now under the obligation to act in positive and precise ways in order to recover the remains of Indigenous members.

6. The Limitations of the Current Legal Systems and the Threats Faced by Indigenous Peoples

6.1. Neoliberal Policies and Neo-Extractivism

One of the main continuing problems in Latin America is that Indigenous Peoples, as other vulnerable sectors of the society (e.g., Afrodescendants, low-income peasants, et al.) are more exposed than others to, and pay the higher toll of, those mechanisms that exacerbate social inequality well before the pandemic. These include neoliberal policies, and, more specifically, the so-called neo-extractivism (and/or pure extractivism). The extractive industry (including, mining but also logging and others) tends ultimately to concentrate onto Indigenous territories since they are often located in remote areas that were not so far explored and where Indigenous Peoples may have had their traditional lands and/or being relocated to in the past. In principle, neo-extractivism, as the cases of Bolivia and Ecuador, would point at an extractivist model that interestingly, reallocates part of the revenues to social aids, services, and programs (*Burchardt and Dietz 2014*, p. 468). Nevertheless, this has proved to be very controversial and ineffective (*Brand et al. 2016*). Other countries (e.g., Chile) adhere to the classic extractivist model, i.e., an economic model that articulates only on extractions and exportations of raw material (*Burchardt and Dietz 2014*, p. 481). This further has caused heavy environmental consequences and fuels social malcontent and socioenvironmental conflicts across the whole subcontinent (*Equipo OCMAL 2019*, p. 4).

In the face of the natural resources' indiscriminate exploitation and environmental degradation, a number of Indigenous leaders have been and continue to be murdered to defend Indigenous lands and the environment.¹⁴

6.2. Continuing Violations of Indigenous Lands

The continuing violations of Indigenous Peoples' lands have a catastrophic effect on the protection of spiritual rights of these communities. Indigenous Peoples have a spiritual relationship with their lands, which are intertwined to what we may call in Western terms as Indigenous "religion". Land deprivation, grabbing, and devastation directly undermine the exercise of the Indigenous rights to identity, religions, spiritual relationship with their lands, and traditional customs. Many Indigenous natural sanctuaries and sacred land and territories have been transformed into touristic destinations while Indigenous Peoples live in poor conditions in remote villages.¹⁵ In other cases, Indigenous territories were flooded to allow for the constructions of dams (Steffens 2019).¹⁶

6.3. Continuing Dominance of Main Religion and Most Recent Developments

Another persisting issue (and threat) is represented by the increasing number of other religions, beliefs, and sects¹⁷ that have taken root in communities inhabited by Indigenous Peoples. The pressure of their evangelization has fueled intra-community frictions, and sometimes even when not conflicts. Among other, Cevallos (2005) has reported that religion-driven conflicts and religious sectarianism caused the expulsion (or even the death) of many Tzotzil Mayan Indigenous individuals from their communities or peoples because they professed Protestant beliefs in Chamula (Chiapas, Mexico). Cevallos (2005) also denounced imprisonment, physical violence, and the denial of educational and medical services in Chiapas, Oaxaca, and Guerrero, and other divisions that have merged with the existing political competition in Guatemala and Bolivia (on this latter issue, see also Gallaher 2007, p. 91). In other cases, the advent of Western religions caused artificially profound changes in Indigenous institutions, ideas, and ways of life as well as in the social networks and bonds (Tafjord 2006, pp. 379–80).

As mentioned, Indigenous Peoples across Latin America (with few exceptions, e.g., Talamanca in Costa Rica; Tafjord 2006, p. 378) were forced to convert into Roman Catholicism during the 15th and 16th centuries. The Catholic Church, although with notable exceptions,¹⁸ generally suppressed and annihilated Indigenous cultures and beliefs in the following centuries until essentially the Second Vatican Council of the 1960s and the advent of new theologies, such as Liberation Theology (Cevallos 2005; Pacheco 2014, pp. 28–29, 33; Zwetsch 2015, pp. 531, 535).¹⁹

Indigenous representatives demanded in the World Council of Indigenous Peoples that took place in Santo Domingo in 1992 that bishops present at the meeting recognized Indigenous religions as full religions ones, not merely cultural expressions. This favoured the emergence of Indigenous theologies (Steffens 2019).

Some scholars (Trejo 2009, pp. 324, 340; Hale 2018, p. 30) have noted that the change in the attitude of the Catholic Church towards Indigenous Peoples has been partly due to the spread of Protestantism among Indigenous Peoples. This latter religion has been also destructive of Indigenous beliefs (Gallaher 2007, pp. 88, 94), by, e.g., condemning practices of syncretism (Gallaher 2007, p. 89) or organizing acculturation campaigns (Gallaher 2007, p. 94). However, there have been also some recent cases in which Protestant missionaries have changed their approach and opted for an evangelization on "Indigenous terms", i.e., by allowing and promoting identity (re)construction in Southern Mexico (Gallaher 2007, p. 94). Indeed, as put by Trejo (2009), "The Catholic God [. . .] became [Indigenous] Tzeltal only after the Protestant God had learned to *speak* Tzeltal [. . .]" (p. 341) [emphasis in the original].

However, conflicts continue due to other Protestant missionaries that keep on openly denigrating Indigenous cultures (Gallaher 2007, p. 108).

Proposals from the Catholic Church, such as the one of the abovementioned Liberation Theology favoured the refocusing of the Church's action on the protection of the disadvantaged, the promotion of human rights, and the support to the poor, rather than the socioeconomic elite. The proposals included the accommodation of Indigenous cultures and the abandonment of the colonialist mission (Gallaher 2007, p. 92; Zwetsch 2015, pp. 530,

536; Hale 2018, pp. 29–30). Unfortunately, the Liberation Theology was eventually rejected by the Catholic Church (Gallaher 2007, p. 92).

At some point, the Catholic Church has indeed been a vehicle for providing networks, ideological and physical spaces, and skills for Indigenous movements (Yashar 2005, p. 74; Trejo 2009, p. 323). In specific cases, such as Chiapas, the Catholic Church enhanced collective actions (Hale 2018, p. 28) and integrated Indigenous cultures in the liturgy (Hale 2018, p. 37). The Diocese in Chiapas—under the leadership of the Liberation Theology-inspired Bishop Samuel Ruiz García—inter alia, promoted the learning of Indigenous languages and the Bible’s translations into such idioms (which is something Protestant missionaries had performed too; Trejo 2009, p. 324) and included Mayan beliefs and customs as well as their cultural perspective in the Mass and the Gospel (Trejo 2009, pp. 338–39; Hale 2018, pp. 37, 40). It also promoted the establishment of cooperative enterprises within the Catholic community (Hale 2018, pp. 37–38), by however accompanying and not leading them (Hale 2018, p. 40). However, the pro-Indigenous clergy never became a prominent majority (Trejo 2009, p. 324).

The Catholic Church continues to be an extremely powerful actor that highly influences social affairs in Latin America (Hale 2018, p. 48). While the Latin American and Caribbean Episcopate have repeatedly recognised that Catholicism has reached and spread into this region in a violent way, Indigenous Peoples (as well as Afro-descendants) and their cultures continue to be discriminated against (Pacheco 2014, p. 33). Hence, if there is not a clear change of paradigm from their part, Indigenous “religions” are likely to continue to be rejected and annihilated, especially now after the pandemic.

7. Ways Forward

Most of the ongoing challenges that affect Indigenous Peoples’ religions affect several of their human rights and not just their Indigenous right to religion. For example, neo-extractivism constitutes a violation of Indigenous land rights, the Indigenous rights to an adequate standard of living, Indigenous rights to culture, and Indigenous economic rights. Focusing on only one right does not make justice to the level of harm committed against Indigenous Peoples. The pandemic has further exacerbated the social inequality faced by Indigenous Peoples.

The doctrine of the indivisibility of human rights is very relevant in this respect. Quane (2012) has noted “that there is a mutually reinforcing dynamic between different categories of rights in the sense that the effective implementation of one category of rights can contribute to the effective implementation of other categories of rights and vice versa” (p. 49).

The interdependence has been declared to be fundamental to the effective protection of human rights (UN General Assembly 1993, para. 5; Eide 2007, p. 11). At its core, it suggests that the enjoyment of one set of rights is necessary for the effective enjoyment of another (Nickel 2008). International human rights law has attracted criticism that it locks individuals into specific human rights in terms of one prevailing identity (Zetter 1991; Brown 2002), or/and one specific experience (Brown 2004; Nickel 2008). In this respect, the end of fragmentation (Xanthaki 2017) and the recognition of intersectionality (Xanthaki 2019) are ongoing processes that help the actual evolution of international human rights law into a system that helps, rather than prevents, individuals to achieve their potential.

For Indigenous Peoples, the indivisibility and interdependence of human rights are sine qua non elements of their human rights. The close interlink of their right to religion with different rights became once again obvious, for example, in the recent 2017 Canadian Supreme Court’s decision in *Ktunaxa First Nation v British Columbia*, where the Court had to deliver a decision on the right to property that could not be separated from the right to religion of the involved Indigenous people.²⁰

The discussion above also reminds us of how decolonisation as a process has not yet been completed. Despite the successes of the last decades since the adoption of the UNDRIP, domestic legal systems are still ignoring the implementation of its provisions,

in this case Indigenous Peoples' rights to their spirituality and beliefs. But in addition to the lack of implementation, states also continue to interpret concepts such as religion in a Western way and disregard the different elements of such concepts for indigenous peoples. Unfortunately, decolonisation is also a process to be continued for international human rights law. An-Na'im's statement that "what we" call human rights now is a "variety of the civilized mission of the white man" rings true. The right to religion has yet to become inclusive of the collective, spiritual connotations that are fully consistent with Indigenous Peoples' worldviews.

Finally, the discussion above once again highlights the importance of Indigenous participation in all processes and matters that affect them.²¹ Only their participation allows the domestic and international mechanisms that have been maintained for so long without their input to change. The Courts and their understanding of the Indigenous spirituality; the media and their uneasiness when dealing with Indigenous sacred sites; the state mechanisms and their decisions affecting Indigenous sacred lands; all these processes need Indigenous effective participation and respect for their free, prior, and informed consent.

8. Concluding Remarks

Indigenous beliefs, spiritualities, and worldviews, otherwise understood as their "religions", have important distinct characteristics that have been long misinterpreted by the non-Indigenous world. The very term "religion" originated from a Western tradition. Some Indigenous peoples, such as the Indigenous *Bribis* in Talamanca in Costa Rica, had no "religion" as it is conceived in Western terms until mainstream religions (e.g., Catholicism but also Adventism and others) spread in their lands (Tafjord 2006, p. 375).

In this context, this article has explored why Indigenous beliefs, spiritualities, and worldviews cannot be reduced to the (Western) understanding of religions. It has situated its discussion in the context of Latin America, where Catholicism acted as an important vehicle for colonialism but included also other detrimental practices such as enslavement. It has thus unveiled the contents of the two most recent Constitutions of Ecuador (2008) and Bolivia (2009), which are generally perceived as stewards of Indigenous rights, but they ultimately fail to protect them. The weaknesses at the domestic level have also been transferred to a large degree at the international level. The right to religion has not been fully effective in protecting Indigenous beliefs, spiritualities, and worldviews. Hence, we have analysed the main drivers that further hinder the exercise of the right of Indigenous Peoples to maintain and transmit their religions and spirituality, including neo-extractivism and the assault of other religions and sects into their communities. Finally, we have flagged some ways forward.

In sum, as highlighted by some authors (Pacheco 2014, p. 34; Hurd 2015, p. 32), a true freedom of and from religion for Indigenous Peoples—despite its Western connotation—may be realized through a fair and honest dialogue both at an institutional and theological level but through an understanding on "Indigenous terms" of their beliefs, spiritualities, and worldviews. As stated by the Indigenous priest Eleazar López (López 1997, as cited by Pacheco 2014, p. 35), there exists a hope for such a dialogue between the Indigenous cultures and the Christian tradition. However, this dialogue has to be truly equal to—and sincerely respectful of—Indigenous cultures. Indeed, for Indigenous priests and theologians, it is hard to try to reconcile their own, ancestral "religion" with the Western ones that have caused so much suffering among their peoples (Steffens 2019). Ultimately, it is not as crucial to understand whether Indigenous beliefs, spiritualities, and worldviews can be translated into their "religions" but more so to enter into a dialogue and propose a new framework for a mutual understanding. As underlined by Hurd (2015), such new framework "involves reconsidering, without discarding, the assumptions about [the traditional understanding of] religion that underlie current legal and constitutional debates and inform international human rights advocacy", too (p. 34). Indeed, a dialogue has to be combined with an effective fight against the discrimination and marginalization that Indigenous Peoples continue to face with regards to access to jobs, education, health, and political and economic

decision-making (Pacheco 2014, p. 34), especially now, after the pandemic. In addition, one has to remember that the more the wider right to culture consolidates in international human rights law, the more effective the protection of Indigenous religions becomes.

In conclusion, both the implementation of the UN Declaration on the Rights of Indigenous Peoples and the dialogue within and across international human rights systems have to continue to ensure that both national and international human rights law are truly decolonised and adequately incorporate the different concepts and understandings of Indigenous peoples relating to their beliefs, spiritualities, and world-visions.

Author Contributions: In the common elaboration of this article, Sections 3, 4 and 6 (and subsections) have been written by A.T., Sections 5 and 7 by A.X. and Sections 1, 2 and 8 by both. All authors have read and agreed to the published version of the manuscript.

Funding: This research received no external funding.

Conflicts of Interest: The authors declare no conflict of interests.

Notes

- ¹ Neo-extractivism is a recent form of extractivist development that, in principle, invests part of the revenues into social programs (Burchardt and Dietz 2014, p. 468). However, it is not exempt from contradictions and other limitations (Brand et al. 2016). See further in Section 6.1.
- ² This section offers only a brief overview on how the main historical phases of Latin American history, constitutionalism, and the role of religion affected Indigenous Peoples. Thus, it is very far from being exhaustive. For a throughout analysis see, inter alia, Giraudo (2009), Holloway (2011), and Gargarella (2013).
- ³ This article employs the term “creole” in its historical connotation, that is, the Spaniards’ or European descendants who were born on the Americas’ soil (Giraudo 2009, p. 16).
- ⁴ See further in Molina Martínez (2006, pp. 275–78) and Giraudo (2009, pp. 19–24).
- ⁵ Many other Constitutions included similar provisions. See, e.g., art. 128 of the 1819 and art. 64.15 of the 1853 Argentinean Constitutions; art. 87.10 of the 1823 and art. 75.10 of the 1828 Peruvian Constitutions; art. 47.6 of the 1822 Chilean Constitution; art. 68 of the 1830 Ecuadorian Constitution; and art. 72.15 of the 1870 Paraguayan Constitution. Conversely, the first Constitutions of Mexico and Guatemala followed another approach, and, similarly to the American Constitution of 1787, arts. 50.11 and 83.32 of the 1824 Mexican and the 1835 Guatemalan Constitutions, respectively, foresaw the possibility to trade with foreign nations and Indigenous “tribes”. Hence, in these latter cases, Indigenous Peoples were treated as legal persons who were able to enter into contractual relations.
- ⁶ *Indigenismo* may embrace several concepts. This article uses this term in relation to those policies that aimed at “friendly integrating” Indigenous Peoples into the new nation-States and that Latin American countries pursued in different ways during the 20th century. See further in Giraudo (2006).
- ⁷ The attempts to reform this extensive protection have started already in 2010 but worryingly increased in the recent years (Morton and Carniero da Cunha 2013), especially after the election of President Bolsonaro (Cunha 2019).
- ⁸ Although Van Lee Cott (2000) did not include Venezuela in her analysis, this case can also be ascribed to her concept. This is because chapter 8 (arts. 119–126) of the Constitution of 1999—which was adopted under the first mandate of former President Hugo Chavez—included, inter alia, Indigenous rights to ethnic and cultural identity, worldview (*cosmovisión*), spirituality, land, benefit-sharing from the exploitation of natural resources, intellectual property, and political participation. In addition, art. 9 defined all Indigenous idioms as official languages of the state. It goes without saying that the application of the Venezuelan Constitution is far from being a reality, particularly in the recent years. For a critical analysis, see López Maya (2016).
- ⁹ For a critical analysis, the evolution and the politicization of this concept, see, inter alia, Bold (2017), Cuestas Caza (2017), and Domínguez et al. (2017).
- ¹⁰ On this, see also Kuppe (2009).
- ¹¹ Newman et al. (2017) cites the case *Gay and Lesbian Clergy Anti-Discrimination Society Inc v Bishop of Auckland* [2013] NZHRRT [36] of 17 October 2013, para 3.
- ¹² See, e.g., the case *Hopi Tribe v Navajo Nation*, that was a complaint filed in the US District Court of Arizona on 5 July 2013, terminated on 8 November 2013 (Arizona District Court 2013).
- ¹³ Both the African Commission on Human and Peoples’ Rights and the African Court on Human and Peoples’ Rights have linked the Indigenous right to land to their right to religion in the cases *Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v Kenya* (African Commission on Human and Peoples’ Rights 2010, para. 173), and *African Commission on Human and Peoples’ Rights v. Republic of Kenya* (African Court on Human and Peoples’ Rights 2017,

para. 164). This latter case is of particular importance since it has been the first case on Indigenous issues that was dealt with by the African Court.

- ¹⁴ The best known murder is the one of Berta Cáceres in Honduras in 2016, but there are many others. In 2019, the Indigenous activists Paulo Paulino Guajajara was killed in November in Brazil (Survival International 2019) and Lucia Villareal at Christmas time in Colombia (Econews Portal 2019). The number of murders of Indigenous and other social activists is worryingly getting higher and higher; e.g., in Colombia alone, 160 were assassinated in 2019 (Econews Portal 2019).
- ¹⁵ This is the case of Teotihuacan, Chichen Itza, and Palenque in Mexico; Tikal, Quiriguá, and Iximché in Guatemala; Ollantaytambo and Machu Pichu in Peru; Tiawanaku in Bolivia; and the UNESCO world heritage site of Copán in Honduras.
- ¹⁶ See, e.g., the Xalalá dam in Alta Verapaz in Guatemala (Steffens 2019) but also the Ralco-ENDESA dam in Mapuche lands (Nesti 2002; Tomaselli 2012), and many others.
- ¹⁷ E.g., Roman Catholic, Lutheran, Adventist, Baptist, and Mormon, but also lesser-known groups such as the Church of the Word, the Fountain of Life, Alpha Omega, and the Guardians of the Holy Sepulchre (Cevallos 2005).
- ¹⁸ E.g., Bartolomé de las Casas, Antonio de Montesinos, Francisco de Vitoria, Vasco de Quiroga, Miguel de Salamanca, Matías Paz, Miguel Arco (Trejo 2009, p. 324; Pacheco 2014, p. 27; Zwetsch 2015, p. 535).
- ¹⁹ Among other theologies that also point at refocusing the Church action by incorporating the perspectives of other (vulnerable) sectors of the society, including Indigenous Peoples and their cultures, there are the so-called “Indian (Indigenous) Theology”, the “Pastoral of Interaction”, the “Inculturation Theology”, the “Afro- (or African) Theology”, the “Eco-theology”, and the “Feminist Theology” (Pacheco 2014, pp. 28–29, 33; Zwetsch 2015, pp. 531, 535).
- ²⁰ For more on this case, see Robinson (2020). The African Commission on Human and Peoples’ Rights has reached similar conclusions in its Endorois and Ogiek cases (African Commission on Human and Peoples’ Rights 2010; African Court on Human and Peoples’ Rights 2017). See above note 13.
- ²¹ On this, see, inter alia, Doyle (2015), Tomaselli (2016, 2017), Papillon and Rodon (2017, 2019, 2020), and Wright and Tomaselli (2019).

References

- African Commission on Human and Peoples’ Rights. 2010. *Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v. Kenya*. Decision of February 2. Communication No. 276/2003. Available online: https://www.escr-net.org/sites/default/files/Endorois_Decision.pdf (accessed on 31 March 2021).
- African Court on Human and Peoples’ Rights. 2017. *African Commission on Human and Peoples’ Rights v. Republic of Kenya*. Decision of May 26. Application No. 006/2012. Available online: https://www.escr-net.org/sites/default/files/caselaw/ogiek_case_full_judgment.pdf (accessed on 31 March 2021).
- Aguilar, Gonzalo, Sandra LaFosse, Hugo Rojas, and Rebecca Steward. 2010. South/North Exchange of 2009. The Constitutional Recognition of Indigenous Peoples in Latin America. *Pace International Law Review Online Companion* 2: 44–104. Available online: <http://digitalcommons.pace.edu/cgi/viewcontent.cgi?article=1017&context=pilronline> (accessed on 25 March 2021).
- Alfred, Taiaiake. 2005. *Wasase: Indigenous Pathways of Action and Freedom*. Peterborough: Broad-View Press. ISBN 9781551116372.
- Arizona District Court. 2013. *Hopi Tribe v Navajo Nation*; Complaint Filed in the US District Court of Arizona on 5 July 2013, Terminated on 8 November 2013. Available online: <http://turtletalk.files.wordpress.com/2013/07/hopi-tribe-v-navajo-nation-complaint-07-05-13-copy.pdf> (accessed on 25 March 2021).
- Bello, Álvaro. 2004. *Etnicidad y Ciudadanía en América Latina. La acción Colectiva de los Pueblos Indígenas*. Santiago de Chile: United Nations.
- Blakeney, Michael L. 2013. Protecting the Spiritual Beliefs of Indigenous Peoples: Australian Case Studies. *Pacific Rim Law & Policy Journal* 22: 391–427.
- Bold, Rosalyn. 2017. Vivir Bien: A study in alterity. *Latin American and Caribbean Ethnic Studies* 12: 113–32. [CrossRef]
- Brand, Ulrich, Kristina Dietz, and Miriam Lang. 2016. Neo-Extractivism in Latin America. *One Side of a New Phase of Global Capitalist Dynamics. Ciencia Política* 21: 125–59. [CrossRef]
- Brown, Wendy. 2002. Suffering the Paradoxes of Rights. In *Left Legalism/Left Critique*. Edited by Wendy Brown and Janet Halley. Durham: Duke University Press, pp. 420–34. ISBN 9780822329756.
- Brown, Wendy. 2004. ‘The Most We Can Hope For...’: Human Rights and the Politics of Fatalism. *The South Atlantic Quarterly* 103: 451–63. [CrossRef]
- Burchardt, Hans-Jürgen, and Kristina Dietz. 2014. (Neo-)extractivism—A new challenge for development theory from Latin America. *Third World Quarterly* 35: 468–86. [CrossRef]
- Cabedo Mallol, Vicente. 2004. *Constitucionalismo y Derecho Indígena en América Latina*. Valencia: Universidad Politécnica de Valencia. ISBN 9788497056052.
- Carroll, Michael P. 2019. What evicting Grizzly Bear Spirit Does (and Doesn’t) Tell us about Indigenous ‘Religion’ and Indigenous Rights. *Studies in Religion/Sciences Religieuses* 49: 32–49. [CrossRef]
- Cevallos, Diego. 2005. Religion-Latin America: Indigenous Peoples Divided by Faith. *Inter Press Service*, May 6. Available online: <http://www.ipsnews.net/2005/05/religion-latin-america-indigenous-peoples-divided-by-faith> (accessed on 24 February 2021).

- Clavero, Bartolomé. 2006. Derechos Indígenas y Constituciones Latinoamericanas. In *Pueblos Indígenas y Derechos Humanos*. Edited by Mikel Berraondo. Bilbao: Universidad de Deusto, pp. 313–38. ISBN 9788498300581.
- Cox, James L. 2007. Secularizing the land: The impact of the Alaska Native Claims Settlement Act on Indigenous understandings of land. In *Religion and the Secular: Historical and Colonial Formations*. Edited by Timothy Fitzgerald. London: Equinox, pp. 71–92. ISBN 9781845537227.
- Cuestas Caza, Javier. 2017. Sumak kawsay: El buen vivir antes de ser buen vivir. In *El Extractivismo en América Latina: Dimensiones Económicas, Sociales, Políticas y Culturales*. Edited by Manuel Delgado Cabeza and Aline Lara Galicia. Sevilla: Universidad de Sevilla, pp. 356–68. ISBN 978-84-96178-78-6.
- Cunha, Daniel. 2019. Bolsonaroism and ‘Frontier Capitalism’. *The Brooklyn Rail*, February. Available online: <https://brooklynrail.org/2019/02/field-notes/Bolsonarism-and-Frontier-Capitalism> (accessed on 24 February 2021).
- Domínguez, Rafael, Sara Caria, and Mauricio León. 2017. Buen Vivir: Praise, instrumentalization, and reproductive pathways of good living in Ecuador. *Latin American and Caribbean Ethnic Studies* 12: 133–54. [CrossRef]
- Doyle, Cathal M. 2015. *Indigenous Peoples, Title to Territory, Rights, and Resources. The Transformative Role of Free, Prior and Informed Consent*. Abingdon: Routledge. ISBN 9781315780665.
- Econews Portal. 2019. Indigenous Leaders Assassinated in Colombia. *Econews Portal*. December 26. Available online: <https://ecoterra.info/index.php/en/1413-indigenous-leaders-assassinated-in-colombia> (accessed on 24 February 2021).
- Eide, Asbjørn. 2007. Interdependence and Indivisibility of Human Rights. In *Human Rights in Education, Science and Culture. Legal Developments and Challenges*. Edited by Yvonne Donders and Vladimir Volodin. Farnham, Surrey and Burlington: UNESCO and Routledge/Ashgate, pp. 11–52. ISBN 978-0754673125.
- Equipo OCMAL-Observatorio de Conflictos Mineros de América Latina. 2019. *Conflictos Mineros en América Latina: Extracción, Saqueo y Agresión. Estado de Situación en 2018*. Available online: <http://conflictosmineros.net/wp-content/uploads/2019/05/informe-final.pdf> (accessed on 24 February 2021).
- Fonda, Marc V. 2011. Are they like us, yet? Some thoughts on why religious freedom remains elusive for Aborigines in North America. *The International Indigenous Policy Journal* 2: 1–15. Available online: <http://ir.lib.uwo.ca/iipj/vol2/iss4/4> (accessed on 2 March 2021). [CrossRef]
- Gallaher, Carolyn. 2007. The Role of Protestant Missionaries in Mexico’s Indigenous Awakening. *Bulletin of Latin American Research* 26: 88–111. [CrossRef]
- Gargarella, Roberto. 2013. *Latin American Constitutionalism 1810–2010: The Engine Room of the Constitution*. New York: Oxford University Press. ISBN 9780199937967.
- Giraud, Laura. 2006. El Instituto Indigenista Interamericano y la participación indígena (1940–1998). *América Indígena* 62: 6–34.
- Giraud, Laura. 2009. *La Questione Indígena in America Latina*. Roma: Carocci. ISBN 9788843049783.
- Grant, Will. 2019. Ecuador repeals law ending fuel subsidies in deal to stop protests. *BBC*, October 14. Available online: https://www.bbc.com/news/world-latin-america-50038126?intlink_from_url=https://www.bbc.com/news/topics/cz4pr2gd580t/ecuador&link_location=live-reporting-story (accessed on 24 February 2021).
- Hale, Christopher W. 2018. Religious Institutions and Collective Action: The Catholic Church and Political Activism in Indigenous Chiapas and Yucatán. *Politics and Religion* 11: 27–54. [CrossRef]
- Hidalgo Nuchera, Patricio. 2006. Expansión, gobierno y defensa de las Indias. In *Historia de América*. Edited by Juan Bosco Amores Carredano. Barcelona: Editorial Ariel, pp. 287–325. ISBN 9788434405684.
- Holloway, Thomas H., ed. 2011. *A Companion to Latin American History*. Chichester and Malden: Wiley-Blackwell. ISBN 9781405131612.
- Hurd, Elizabeth Shakman. 2015. Thinking about Religion, Law, and Politics in Latin America. *Revista de Estudios Sociales* 51: 25–35. [CrossRef]
- Inter-American Court of Human Rights. 1993. *Aloeboetoe and Others v. Suriname (Reparations and Costs)*. Judgment of September 10. Series C No. 15. Available online: https://www.corteidh.or.cr/docs/casos/articulos/seriec_15_ing.pdf (accessed on 14 March 2021).
- Inter-American Court of Human Rights. 2000. *Case of Bámaca-Velásquez v. Guatemala (Merits)*. Judgment of November 25. Series C No. 70. Available online: https://corteidh.or.cr/docs/casos/articulos/seriec_70_ing.pdf (accessed on 14 March 2021).
- Inter-American Court of Human Rights. 2004. *Case of the Plan de Sánchez Massacre v. Guatemala (Reparations)*. Judgment of November 19. Series C No. 116. Available online: https://www.corteidh.or.cr/docs/casos/articulos/seriec_116_ing.pdf (accessed on 14 March 2021).
- Inter-American Court of Human Rights. 2005. *Case of the Moiwana Community v. Suriname (Preliminary Objections, Merits, Reparations and Costs)*. Judgment of June 15. Series C No. 124. Available online: https://corteidh.or.cr/docs/casos/articulos/seriec_124_ing.pdf (accessed on 14 March 2021).
- Jameson, Kenneth P. 2011. The Indigenous Movement in Ecuador. The Struggle for a Plurinational State. *Latin American Perspectives* 38: 63–73. [CrossRef]
- King, Sarah J. 2013. Context Matters: Studying Indigenous Religions in North America. *Religion Compass* 11: 498–507. [CrossRef]
- Kuppe, René. 2009. Religious Freedom Law and the Protection of Sacred Sites. In *Permutations of Order: Religion and Law as Contested Sovereignities*. Edited by Thomas G. Kirsch and Bertram Turner. Farnham, Surrey and Burlington: Routledge/Ashgate, pp. 49–66. ISBN 9780754672593.
- López Maya, Margarita. 2016. La crisis venezolana y el futuro del chavismo. *Foreign Affairs Latinoamérica* 16: 28–35.

- López, Eleazar. 1997. Dios Camina entre los Mayas. Available online: http://usuariis.tinet.cat/fqi_sp02/docs/camina.doc (accessed on 26 March 2021).
- McGuire, Meredith B. 2008. *Lived Religion: Faith and Practice in Everyday Life*. New York: Oxford University Press. ISBN 9780195172621.
- Molina Martínez, Miguel. 2006. La organización administrativa de las Indias. In *Historia de América*. Edited by Juan Bosco Amores Carredano. Barcelona: Editorial Ariel, pp. 215–85. ISBN 9788434405684.
- Morton, Gregory, and Manuela Carneiro da Cunha. 2013. Indigenous Rights and Brazilian democracy: An Interview Manuela Carneiro da Cunha. *Cultural Anthropology*, December 20. Available online: <https://culanth.org/fieldsights/indigenous-rights-and-brazilian-democracy-an-interview-manuela-carneiro-da-cunha> (accessed on 24 February 2021).
- Nesti, Lorenzo. 2002. The Mapuche-Pehuenche and the Ralco Dam on the Bío-Bío River: The Challenge of Protecting Indigenous Land Rights. *International Journal on Minority and Group Rights* 9: 1–40. [CrossRef]
- Newman, Dwight, Elisa Ruozzi, and Kirchner Stefan. 2017. Legal Protection of Sacred Natural Sites within Human Rights Jurisprudence: Sapmi and Beyond. In *Experiencing and Protecting Sacred Natural Sites of Sami and Other Indigenous Peoples*. Edited by in Leena Heinamaki and Thora M. Herrmann. Cham: Springer, pp. 11–26. ISBN 978-3-319-48068-8.
- Newman, Dwight. 2013. Recognition of Collective Religious Rights as a Means to Legal Protection of Sacred Natural Sites. Paper presented at the Conference on ‘Protecting the Sacred: Recognition of Sacred Sites of Indigenous Peoples for Sustaining Nature and Culture in Northern and Arctic Regions’, Northern Institute for Environmental and Minority Law, Rovaniemi, Finland, September 11–13.
- Nickel, James W. 2008. Rethinking Indivisibility: Towards a Theory of Supporting Relations between Human Rights. *Human Rights Quarterly* 30: 984–1001. [CrossRef]
- O’Toole, Rachel Sarah. 2011. Religion, Society, and Culture in the Colonial Era. In *A Companion to Latin American History*. Edited by Thomas H. Holloway. Chichester and Malden: Wiley-Blackwell, pp. 162–77. ISBN 9781405131612.
- OHCHR. 1993. General Comment No. 22: The Right to Freedom of Thought, Conscience and Religion (Art. 18), UN Doc. CCPR/C/21/Rev.1/Add.4. Available online: <https://www.equalrightstrust.org/ertdocumentbank/general%20comment%2022.pdf> (accessed on 15 March 2021).
- Ortiz-T., Pablo. 2009. Ecuador. In *The Indigenous World 2009*. Edited by International Work Group for Indigenous Affairs. Copenhagen: IWGIA, pp. 148–60. ISBN 978-87-91563-57-7.
- Pacheco, Daniel. 2014. Desafíos de la antropología de la religión en América Latina para abordar el tema del cristianismo entre pueblos indígenas. *Cuadernos de Antropología* 24: 21–36. [CrossRef]
- Página Siete. 2019. Morales parte rumbo a México, donde le dieron asilo. *Página Siete*, November 12. Available online: <https://www.paginasiete.bo/nacional/2019/11/12/morales-parte-rumbo-mexico-donde-le-dieron-asilo-237108.html> (accessed on 24 February 2021).
- Papillon, Martin, and Thierry Rodon. 2017. Proponent-Indigenous Agreements and the Implementation of the Right to Free, Prior, and Informed Consent in Canada. *Environmental Impact Assessment Review* 62: 216–24. [CrossRef]
- Papillon, Martin, and Thierry Rodon. 2019. From Consultation to Consent: The Politics of Indigenous Participatory Rights in Canada. In *The Prior Consultation of Indigenous Peoples in Latin America: Inside the Implementation Gap*. Edited by Claire Wright and Alexandra Tomaselli. London and New York: Routledge, pp. 261–75. ISBN 9781138488069.
- Papillon, Martin, and Thierry Rodon. 2020. The Transformative Potential of Indigenous-Driven Approaches to Implementing Free, Prior and Informed Consent: Lessons from Two Canadian Cases. *International Journal on Minority and Group Rights* 27: 314–35. [CrossRef]
- Postero, Nancy. 2017. *The Indigenous State: Race, Politics, and Performance in Plurinational Bolivia*. Oakland: University of California Press. ISBN 9780520294035.
- Quane, Helen. 2012. A Further dimension to the Interdependence and Indivisibility of Human Rights?: Recent Developments Concerning the Rights of Indigenous Peoples. *Harvard Human Rights Journal* 25: 49–83.
- Robinson, Andrew M. 2020. Governments must not wait on courts to implement UNDRIP rights concerning Indigenous sacred sites: Lessons from Canada and Ktunaxa Nation v. *British Columbia*. *The International Journal of Human Rights* 4: 1–24. [CrossRef]
- Sable, Trudy, and Bernie Francis. 2012. *The Language of This Land*. Mi’kma’ki. Sydney: Cape Breton University Press. ISBN 9781897009499.
- Schilling-Vacaflor, Almut. 2008. Identidades indígenas y demandas político-jurídicas de la CSUTCB y el CONAMAQ en la Constituyente boliviana. *T’inkazos Revista de Ciencias Sociales* 23–24: 149–66.
- Stavenhagen, Rodolfo. 2002. Indigenous Peoples and the State in Latin America: An Ongoing Debate. In *Multiculturalism in Latin America. Indigenous Rights, Diversity and Democracy*. Edited by Rachel Sieder. New York: Palgrave Macmillan, pp. 24–43. ISBN 978-1-4039-3782-7.
- Steffens, Elisabeth. 2019. Indigenous Peoples and Religious Freedom in AbyaYala–Latin America: Reflections from a European Point of View. *Countercurrents*, March 6. Available online: <https://countercurrents.org/2019/03/indigenous-peoples-and-religious-freedom-in-abyayala-latin-america-reflections-from-a-european-point-of-view> (accessed on 24 February 2021).
- Survival International. 2019. Amazon Guardian killed, another shot, as loggers attack in Brazil. *Survival*, November 2. Available online: <https://www.survivalinternational.org/news/12253> (accessed on 24 February 2021).
- Tafjord, Bjørn Ola. 2006. Defining Religion, Defying Tradition? Concord and Conflict about the Role of Religion in a Costa Rican Indigenous Community. *Scripta Instituti Donneriani Aboensis* 19: 374–92. [CrossRef]
- Tafjord, Bjørn Ola. 2016. How talking about indigenous religion may change things. *NUMEN* 63: 548–75. [CrossRef]

- Tomaselli, Alexandra. 2012. Natural resources' claims, land conflicts and self-empowerment of indigenous movements in the Cono Sur. The case of the Mapuche People in Chile. *International Journal of Minority and Group Rights* 19: 153–74. [CrossRef]
- Tomaselli, Alexandra. 2016. *Indigenous Peoples and their Right to Political Participation. International Law Standards and Their Application in Latin America*. Baden-Baden: Nomos. ISBN 9783845268781.
- Tomaselli, Alexandra. 2017. The Right to Political Participation of Indigenous Peoples: A Holistic Approach. *International Journal on Minority and Group Rights* 24: 390–427. [CrossRef]
- Trejo, Guillermo. 2009. Religious Competition and Ethnic Mobilization in Latin America: Why the Catholic Church Promotes Indigenous Movements in Mexico. *American Political Science Review* 103: 323–42. [CrossRef]
- UN General Assembly. 1993. Vienna Declaration and Programme of Action. A/CONF.157/24 (Part I). Available online: [https://undocs.org/en/A/CONF.157/24\(PartI\)](https://undocs.org/en/A/CONF.157/24(PartI)) (accessed on 24 February 2021).
- United Nations. 1994. Technical Review of the United Nations Draft Declaration on the Rights of Indigenous Peoples, UN Doc. E/CN.4/Sub.2/1994/2. Available online: <https://digitallibrary.un.org/record/186085> (accessed on 4 April 2021).
- Van Lee Cott, Donna. 2000. *The Friendly Liquidation of the Past: The Politics of Diversity in Latin America*. Pittsburgh: University of Pittsburgh Press. ISBN 978-0-8229-5729-4.
- Wiessner, Siegfried. 2011. The Cultural Rights of Indigenous Peoples: Achievements and Continuing Challenges. *The European Journal of International Law* 22: 121–40. [CrossRef]
- Wright, Claire, and Alexandra Tomaselli, eds. 2019. *The Prior Consultation of Indigenous Peoples in Latin America: Inside the Implementation Gap*. London and New York: Routledge. ISBN 9781138488069.
- Xanthaki, Alexandra. 2017. International Instruments on Cultural Heritage: Tales of Fragmentation. In *Indigenous Peoples' Cultural Heritage. Rights, Debates, Challenges*. Edited by Alexandra Xanthaki, Sanna Valkonen, Leena Heinämäki and Piia Kristiina Nuorgam. Leiden: Brill/Nijhoff, pp. 1–19. ISBN 978-90-04-34218-7.
- Xanthaki, Alexandra. 2019. When Universalism Becomes a Bully: Revisiting the Interplay Between Cultural Rights and Women's Rights. *Human Rights Quarterly* 41: 701–24. [CrossRef]
- Yashar, Deborah J. 2005. *Contesting Citizenship in Latin America. The Rise of Indigenous Movements and the Postliberal Challenge*. Cambridge and New York: Cambridge University Press. ISBN 9780511790966.
- Zetter, Roger. 1991. Labelling Refugees: Forming and Transforming a Bureaucratic Identity. *Journal of Refugee Studies* 4: 39–62. [CrossRef]
- Zúñiga García-Falces, Nieves. 2004. Emergencia del Movimiento indígena en América Latina: De 'objeto' a 'sujeto'. In *Etnicidad, Autonomía y Gobernabilidad en América Latina*. Edited by Salvador Martí i Puig and Josep Maria Sanahuja. Salamanca: Universidad de Salamanca, pp. 35–52. ISBN 9788478005758.
- Zwetsch, Roberto E. 2015. Intercultural Theology and the challenge of the Indigenous Peoples in Latin America. *Missionalia* 43: 526–44. [CrossRef]