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Yaqui Community: Bioresistance, Biopower, Customary Law and Preservation of Cultural Identity

Comunidad yaqui: biorresistencia, biopoder, derecho consuetudinario y preservación de la identidad cultural

J. Guadalupe Rodríguez Gutiérrez,[1] & Elia Anell Castro Peralta[2]

ABSTRACT

The article aims to explain the configuration of socio-community bioresistences and legal strategies negotiated by the Yaqui people (Yoemem) in Sonora, Mexico, in response to state mechanisms aimed at perpetuating the delegitimization of their territory. A qualitative approach is employed, including a literature review, Foucault's theories of power, interviews with key informants in the Vícam and Pótam villages in Sonora, as well as records of observations at Yaqui community meetings. The results show that this community is developing both social and instrumental resilience strategies. The article concludes that harmonization of the national legal framework with international laws is necessary to ensure an effective recognition of Yaqui customary law. Although the study focuses on the Yaqui community in Mexico, it highlights the importance of their transnational processes of resistance to defend their cultural identity, territory, and water resources.

Keywords: 1. cosmology, 2. legislation, 3. international instruments, 4. indigenous population, 5. customary law.

RESUMEN

En el presente artículo se busca explicar la configuración de biorresistencias socio-comunitarias y de gestión jurídica que negocian los Yaquis en Sonora, México, en respuesta a los mecanismos estatales que intentan prolongar los procesos de deslegitimación de su territorio. Se utiliza un enfoque cualitativo que incluye una revisión bibliográfica, teorías sobre el poder de Foucault, entrevistas a informantes clave en los pueblos de Vícam y Pótam en Sonora, así como registros de observaciones en reuniones comunitarias yaquis. Los resultados muestran que la comunidad está desarrollando acciones de resiliencia social e instrumental. Se concluye que es necesario armonizar el marco legal nacional con leyes internacionales para asegurar un efectivo reconocimiento del derecho consuetudinario yaqui. Aunque el estudio se limita a la comunidad yaqui en México, se resalta la importancia de los procesos de resistencia transnacional yaqui para defender su identidad cultural, su territorio y sus recursos hídricos.

Palabras clave: 1. cosmología, 2. legislación, 3. instrumento internacional, 4. población indígena, 5. derecho consuetudinario.

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[1] (Corresponding author) Universidad de Sonora (https://ror.org/00c32gy34), jose.rodriguezgutierrez@unison.mx, https://orcid.org/0000-0003-4777-9632

[2] Universidad de Sonora (https://ror.org/00c32gy34), elia.peralta@unison.mx, https://orcid.org/0000-0002-7268-2042

INTRODUCTION

Mexico, home to 68 recognized Indigenous peoples, stands as a crucible of ongoing struggles against colonization, invisibilization, and the suppression of cultural identities (Bonfil Batalla, 1990). Over time, these ethnic communities have developed diverse forms of resistance to safeguard their traditions and to assert control over their territories, lands, and natural resources—strategies collectively referred to here as *bioresistances* (Valenzuela Arce, 2019). The Yaqui community, located in the southwestern region of Sonora,[3] exemplifies these processes of historical resistance against a series of normative mechanisms unilaterally imposed by the State which have perpetuated exclusion, discrimination, and violence, as well as the privatization and dispossession of land, water, and territorial space (Luna, 2007).

During the liberal period, from 1876 to 1910, the government of Porfirio Díaz launched a project to expand the agricultural frontier of the Yaqui Valley through the privatization and commercialization of the lands traditionally inhabited by these indigenous peoples. To achieve this goal, between 1883 and 1910, the Mexican State exercised its biopower through bureaucratic mechanisms designed to regulate the lives of its subjects, employing two governmental instruments that disregarded ethnic populations as culturally distinct and denied their right to traditional settlement.

In this context, the "Decreto sobre Colonización y Compañías Deslindadoras de 1883 y la Ley de Ocupación y Enajenación de Terrenos Baldíos de 1884"[4] (cited in Grijalva Díaz & Gracida Romo, 2019, p. 45) served as the normative instruments through which the State operationalized its exercise of biopower. Both legal texts functioned as technical and administrative mechanisms intended to legitimize the expropriation of Indigenous territories by transforming communal possession into property subject to demarcation, measurement, and alienation. Through these measures, the State established a regime for the administration and commercialization of Yaqui territory was established, subordinating traditional rights to the legal logic of the liberal modernization (Grijalva Díaz & Gracida Romo, 2019).

In response to these processes, the Yaqui community has preserved its cultural identity and cohesion through social actions that, over time, have shaped a form of communal bioresistance. This includes cross-border collaboration with the Pascua Yaqui Tribe located in Tucson, Arizona, United States, which has contributed to the strengthening of the community's collective rights. According to Anaya and Rogers (2009), legal security for Indigenous communities—together with the territorial

[3] In this article, "Yoeme" refers to an individual member of the community, and "Yoemem" is the plural used for the community as a whole, following the term the community uses to refer to themselves. "Yaqui" is used in singular to refer to an individual, and "Yaqui people" in plural to refer to the community from an external or legal perspective. These terms are not fully interchangeable: Yoeme/Yoemem is used when emphasizing the community's internal perspective, cultural practices, worldview, or bioresistance, while Yaqui/Yaqui people is used when discussing legally recognized rights, state policies, or international frameworks.

[4] Decree on Colonization and Boundary Companies of 1883 and the Law on the Occupation and Alienation of Vacant Lands of 1884 (unofficial translations).

spaces and natural resources they inhabit—constitutes a historical and inherent right rooted in their cultural worldview, spirituality, and traditional ways of life. These rights are recognized in international legal instruments, including United Nations Declaration on the Rights of Indigenous Peoples (United Nations, 2007), the International Labour Organization's (ILO) Convention no. 169 (OIT, 2014), and relevant jurisprudence of the Inter-American Court of Human Rights.

Social solidarity, collaborative practices, and community cohesion are central to the Yaqui worldview, which reflects an intrinsic relationship between territorial space, land, and natural resources (Olavarría, 2000). From this perspective, these elements are intimately linked to cultural identity, sacred practices, daily life, and traditions. Consequently, the defense of territorial space is imbued with ancestral meaning, oral knowledge, and the historical memory of each segment of the community, forming a set of sociocultural actions that constitute internal forms of bioresistance (Valenzuela Arce, 2019).

This study aims to examine how the Yoemem develop social, communal, and legal forms of bioresistance in response to the normative mechanisms of control and biopower exercised by the State—mechanisms that seek to perpetuate the delegitimization of their territory. It also seeks to contribute to the broader discussion on instruments for the restitution of Indigenous rights, focusing specifically on the Plan de Justicia para el Pueblo Yaqui.[5] Since 2019, under the presidential administration of Andrés Manuel López Obrador, this plan has been promoted as a governmental initiative to address the dispossession of the Yaqui River's territory and water resources (Gobierno de México, 2021).

The article is organized as follows. After the introduction, the methodology section presents the analytic approach used to examine the normative, political, and social instruments shaping the relationship between the Mexican State and the Yaqui community, as well as the bioresistance strategies documented through fieldwork. The core analytical sections then follow: *(a)* the territorial and water-control mechanisms historically imposed by the State; *(b)* the forms of ethnic bioresistance that emerge as socio-legal defense strategies; and *(c)* the national and international legal frameworks supporting Yaqui customary law. This article then discusses the findings from interviews and community-based observations, highlighting processes of resilience and cross-border collaboration with the Pascua Yaqui Tribe in Arizona. It concludes with reflections on the implications of State biopower and the significance of customary law as a foundation for the autonomy and cultural preservation of the Yaqui community.

METHODOLOGY

The methodology employed in this study is interdisciplinary and qualitative, integrating elements from legal studies, anthropology, sociology, and history, and complemented by Foucault's theories on power and cultural control. This approach allows for an in-depth examination of the Yaqui case through the identification of the normative mechanisms of control and biopower exercised by the

[5] Justice Plan for the Yaqui People (unofficial translation).

State through processes of governmentality. Simultaneously, the study explores the diverse forms of bioresistance enacted by the Yoemem, framed within: *(a)* social struggle and resilience, and *(b)* initiatives aimed at protecting their customary rights. Furthermore, the voices of the study participants are incorporated throughout the research process, reflecting a commitment to the decolonization of Indigenous research, as advocated by Chilisa (2012).

Drawing on Foucault, this study adopts a perspective on the disciplining of bodies through political mechanisms and the instrumentalization of governmental power that shapes and conditions the Yaqui community. Foucault illustrates how power is produced across diverse contexts and discourses and how it is enacted in everyday life, rather than functioning as an arbitrary force (Foucault, 1999). Concerning bodies, his theories emphasize the ways in which the State reinforces itself through disciplinary power, employing various control techniques—such as instruments, mechanisms, and technologies, to regulate them. These techniques include institutional surveillance, the normalization of legal, social, and moral practices, and the organization and management of territory and space, all aimed at producing bodies that are obedient and aligned with the policies and legal norms established by the State (Foucault, 2009).

To understand the Yaqui community within a disciplinary framework, it is first necessary to identify the governmentality strategies exercised by the State, conceptualized here as normative instruments. Over time, these strategies have been translated into technical-legal mechanisms that, as will be demonstrated, gradually enable the dispossession of portions of the community's territorial space, including land, water, and symbolic sites such as Tetakawui Hill, located at the center of the international beach of San Carlos, Nuevo Guaymas.

It is also important to recognize the set of positive legal norms designed to uphold the rights of the Yaqui people. These instruments, however, are often instrumentalized and function as mechanisms of political and economic control that benefit specific groups of individuals. The Yoemem do not legitimize these norms, perceiving that certain external actors may gain advantages in exchange for accepting new territorial delimitations or relinquishing water allocations designated for the community, among other conditions.

Faced with structural pressures exerted by governmental instruments and mechanisms at the community level, the customs and traditions of the Yoemem are challenged, along with their historically shaped forms of local and international organization and collaboration. Bonfil Batalla suggests that the ancestral knowledge, traditions, and spiritual practices of Indigenous communities should be recognized as a guide for fostering community resilience in the face of cultural control (Bonfil Batalla, 1990).

According to this author, the distinctions between what is intrinsic and what is external to Indigenous cultures in Mexico must be understood with the goal of fostering a community-based alternative that acknowledges *Indigenous autonomy*. This perspective allows for an explanation of the set of actions that constitute Yaqui bioresistance, aimed at defending their territory and preserving a *constellation* of uses, customs, and traditions. These practices challenge hegemonic,

racist, and classist cultural assumptions that portray Indigenous communities as unprotected, impoverished, dependent on aid, and incapable of "modernization" (Bonfil Batalla, 1990).

To address the research questions, this study employed observation, semi-structured interviews, and document analysis. The documents examined included the Political Constitution of the United Mexican States (Constitución Política de los Estados Unidos Mexicanos [CPEUM], 1917), the Justice Plan for the Yaqui People, relevant international treaties on Indigenous autonomy and rights, and cases of international jurisprudence. Permission was first obtained to conduct observations from the traditional *ramada*,[6] and participants provided informed consent for interviews, with assurances regarding the confidentiality of their responses and the use of pseudonyms.

Interviews were conducted extensively with ten Yaqui people identified as key informants, including community leaders, members of the Yaqui Church, and elders, to gather information on the forms of bioresistance within the community. These forms encompass their worldview as well as their collaborative social, political, and legal relationships, including cross-border connections with counterparts residing in Tucson, Arizona, United States. Fieldwork also included interviews conducted in the Yaqui language, facilitated by generational translators who were of similar ages to the interviewees.

The distribution and analysis of the information were conducted using the qualitative method selected for this study, complemented by data triangulation to validate the results. Collected information was organized to process interviewee responses, grouped according to agreement or disagreement, and categorized to consolidate insights regarding participants' perspectives. The community members interviewed described the legal and socio-community resilience actions that the Yoemem have undertaken in response to the normative control mechanisms exercised by the State, which continue to perpetuate the dispossession and delegitimization of their territory.

TERRITORIAL AND WATER-CONTROL MECHANISMS IN THE YAQUI COMMUNITY

Following the arrival of Europeans in Yaqui territory, the land was quickly coveted for its abundant water and fertile soil, ideal for large-scale agriculture (Spicer, 1994). In response to the Yoemem's resistance to territorial dispossession, the Spanish employed racialized language and discrimination as instruments of socio-cultural control and domination. A theological mechanism also emerged through the arrival of Jesuit missionaries, who sought to assimilate the Yoemem population, ultimately producing a form of religious syncretism that resulted in a hybrid coexistence of two distinct realities (Gouy-Gilbert, 1985).

Over time, colonial power was replaced by the legal and administrative framework of the Mexican State, which reproduced similar mechanisms of domination. In 1940, the State initiated a

[6] The *ramada* is a physical structure within the Yaqui community, constructed with wooden posts and a palm-thatched roof. It is situated at the center of each of the eight Yaqui villages and holds political significance, serving as a space for political meetings and embodying ceremonial symbolism with specific meaning for the Yoemem people.

series of governmental actions through normative instruments, boundary regulations, the issuance of possession documents, and other legal provisions that restricted mobility and sought to control the lives of the Yoemem within their territorial space. In this way, the State assumed the role of administrator, exercising biopower through the unilateral implementation of governmental instruments authorized by political and legal structures, including regulations approved by Congress and laws enacted by judges that determined who lives and who dies.

The decree signed in 1940 by President Lázaro Cárdenas formally recognized the land rights of the Yaqui people and allocated 50% of the water from the La Angostura Dam to them. In practice, however, this allocation was never realized, despite formalizing a prior 1939 agreement that had already established this provision for crop irrigation (Lerma, 2014). Regarding territorial control, Grijalva Díaz and Gracida Romo (2019) note that between 1930 and 1940, more than two thousand new landowners emerged in the Yaqui Valley, controlling agricultural production on the land. This situation illustrates the persistent gap between legal recognition and the reality of State-imposed control over resources within Yaqui territory.

The 1940 presidential instrument served a dual function of control. On one hand, it generated expectations and hopes for the recognition of the Yaqui people's original land rights; on the other, it lacked clear procedural norms and employed vague formulations, such as "on the right bank of the Yaqui River and the Yaqui Sierra" (Fabila, 1940, p. 21), to define territorial boundaries, without reference to traditional recognitions of Yaqui territory. This ambiguity has since facilitated the privatization of Yaqui lands, as well as the construction of dams and aqueducts carried out without the community's ability to contest them. In this way, the State exercised its biopower to instrumentalize legal norms that partially recognized Indigenous territorial space while simultaneously deploying mechanisms that created conditions for its usurpation (Grijalva Díaz & Gracida Romo, 2019).

From the perspective of Foucault (2012) and Mbembe (2019), this decree can be understood as a set of anatomo-political instruments of control: legal mechanisms that created the appearance of certainty while maintaining legal gaps that served the interests of sovereign power. Both authors contend that the State exercises multiple forms of biopower and sovereign control, including states of exception and the instrumentalization of disciplinary legal and normative frameworks.

Under this logic, President Lázaro Cárdenas' 1940 decree can be interpreted as one of the instruments that collectively generate conditions of anatomo-political control over the Yaqui community, serving as a legal mechanism presented as mandatory to provide the appearance of certainty regarding territorial tenure. In this sense, the omissions and imprecisions of the decree were instrumental in rendering the agreement insufficient, becoming a structural component of the State's anatomo-political control. These legal ambiguities, understood as techno-instruments of control, constitute the inherent legal gap of the 1940 decree, that is, a mechanism through which the State formally recognizes the community without granting full rights over its territory, representing a concrete expression of sovereign power in the terms outlined by Mbembe (2019).

The techno-instrument referred to as legal gaps thus became part of the framework of anatomo-political control that enabled a large-scale agricultural project, initiated in 1940 during the Mexican Revolution and intensified during the Green Revolution between 1960 and 1970. This form of control facilitated the implementation of technological packages that transformed productivity within the Yaqui community's territorial and agricultural space, supported by funding from the Rockefeller Foundation and applied by engineers from the Universidad Autónoma Chapingo (Ortoll, 2003; Grijalva Díaz & Gracida Romo, 2019). Collectively, these actions consolidated a technical and state-driven rationality which, under the discourse of progress, reinforced the structural subordination of Yaqui territory to productive and scientific interests external to the Yoemem community.

Similarly, the "Cardenista" decree-instrument represented an exercise of governmental biopower aimed at establishing the technical and legal conditions that anticipated State investment in hydraulic infrastructure at the confluence of the Yaqui River. This included the construction of the El Oviachic Dam (Álvaro Obregón) in 1952 and the El Novillo Dam (Plutarco Elías Calles) in 1962 (Lerma, 2014), hydraulic structures utilized by transnational companies such as the Irrigadora del Yaqui, which promoted large-scale, export-oriented agriculture. These developments resulted in extensive water extraction and violated the legal provisions of the water allocation decreed in favor of the Yaqui community (Grijalva Díaz & Gracida Romo, 2019; Cerutti, 2011).

In the following decades, territorial control assumed new legal forms. A second techno-instrument exercised through State power was the 1992 reform of Article 27 of the Mexican Constitution, which fundamentally transformed traditional forms of land tenure (CPEUM, 1917). Community territorial space shifted toward private property and other agrarian processes (Barabas, 2004, p. 110), giving rise to a new dispute over control of Yaqui community land, in which the State applied institutional pressure to favor agro-industrial and transnational interests.

The reform functioned as a techno-instrument of power that conflicted with the Yoemem worldview, in which land, water, and wind form an indivisible unity. It segmented, divided, and parceled the Indigenous property regime, disregarding the guarantees inherent in customary law that protect the Yoemem; in other words, it failed to account for the system of inheritance and obligations associated with land and property. The reform diverged from the cultural worldview and knowledge systems related to territorial space, water sources, and other elements of Yoemem cultural heritage.

The new legal regime divided the territory, disregarding the systems of inheritance, obligations, and spiritual ties that govern property within the Yoemem community. As Díaz (2012, p. 47) observes, the legal technicism of the reform introduced a bureaucratic structure that facilitated the privatization of *ejidos* and expropriation under the rationale of "public utility." In summary, the reform liberalized communal property and paved the way for private land accumulation, a process consolidated during the government of Carlos Salinas de Gortari (1988–1994). Evidence of this is the Programa de Certificación de Derechos Ejidales y Titulación de Solares Urbanos (PROCEDE),[7] which by 1996 had

[7] Program for the Certification of Ejido Rights and Titling of Urban Plots (unofficial translation).

privatized 92.2 percent of national agrarian nuclei (Decree of 1992; Reglamento de la Ley Agraria, 1993; Agreement of 2006; Barba & Valencia, 2013).

From this perspective, the 1992 constitutional reform introduced techno-legal instruments to ejido and communal population centers, granting them property rights over land while relying on the legal principle that the State holds "original ownership" of the nation's lands and waters. This created a confrontational ambiguity with respect to Indigenous communities' traditions of inheritance and historical claims to "original legitimacy" over territorial space. According to Díaz (2012, p. 47), the legal technicism of the reform established the bureaucratic and procedural foundations—including lawyers, lawsuits, trials, and related mechanisms—to consolidate private, ejido, and communal land ownership, while simultaneously laying the governmental groundwork for the expropriation of strategic resources under the normative technicism of public utility.

In summary, the reform of Article 27 functions as a governmental techno-instrument that facilitated land accumulation through the privatization of ejidos, allowing communal property to be converted into private ownership via a legal disincorporation process. This ran counter to the community's inheritance practices, sense of ownership, and customary systems of the Yoemem. Within this context, the State exercised despotic and sovereign power through a series of governmental instruments that legitimized a new conception of autonomy in land use, enabling ejido assemblies and individual *ejidatarios* to partially or fully divide their lands and convert them into private property, representing a form of capital accumulation cloaked in legality. This process, far from signifying agricultural modernization, consolidated a regime that subordinated communal tenure practices to market logic, reconfiguring the relationship between land, power, and legality.

Although the State discursively claimed to protect the land rights of Indigenous communities, in practice this protection translated into new regulatory mechanisms that constrained their exercise and limited their scope. The reform of Article 27 established a brief and contentious process for safeguarding Indigenous land rights through two mechanisms recognized by the State: a) restitution, which applies to dispossessed lands whose ownership must be legally proven, and b) allocation, which applies when no prior ownership exists or when land derives from agrarian characteristics or the expropriation of adjacent territories (CPEUM, 1917). In practice, both procedures have generated prolonged conflict between State governmentality and Indigenous communities. The first imposes legal rationality over ancestral normative systems, while the second fails to fully recognize customary rights. Consequently, the protection proclaimed by law has become the starting point for structural tension between the State's discourse and the cultural legitimacy of Indigenous peoples.

A third techno-instrument was the incorporation of the Yaqui Valley into global agricultural value chains. This process of integration was preceded by the Green Revolution and the subsequent disincorporation of lands between 1970 and 1985, which not only transformed the valley's productive structure but also consolidated an agro-industrial model dependent on external technologies and an export-oriented logic that subordinated local interests to global capital circuits. To illustrate the scale of agricultural frontier expansion, it is estimated that between 1930 and 1970 at least 2.5 million hectares were usable, while by the late 1980s the area had increased to 3.5 million

hectares irrigated through "federal government hydraulic works" (Esteva, 1981, cited in Cerruti, 2019), of which 3 million hectares were under federal government control (Warman, 2001, cited in Cerruti, 2019). As a result of large-scale wheat exports, Sonora and particularly the Yaqui Valley emerged as the "granary of Mexico."

This process, together with the economic liberalization policies promoted during the presidency of Carlos Salinas de Gortari and the implementation of the North American Free Trade Agreement (NAFTA), facilitated foreign direct investment in large-scale agriculture. The result was the intensive exploitation of the Yaqui River's waters and the leasing of communal territory to external actors, marginalizing the Yoemem from the benefits of this development model and reproducing the pattern established during the Green Revolution, in which the Yoemem never considered themselves participants despite its implementation within their territorial space.

The exclusion of Yaqui agricultural land from global value chains has had adverse effects on both the environment and the community's cultural and social practices, particularly regarding local development opportunities. Rodríguez (2005) draws a suggestive connection between the term security and its Latin root, sine cura—"without concern"—highlighting the possibility of development free from external threats or fears. Similarly, Luque and Robles (2006, p. 73) propose a perspective of community-based sustainable development grounded in the nature-culture interrelation, as illustrated by the case of the Comcáac (Seri) people in Sonora, Mexico. This approach addresses issues of territoriality and the implementation of sustainable environmental policies through the creation of new territorial frameworks that integrate local symbolism, customs, and cultural practices while ensuring the protection of the natural environment and the preservation of Indigenous traditional knowledge. Ultimately, it offers an alternative to the dominant ecological categorization of territory promoted by State development policies, which tend to prioritize productivity over cultural continuity.

Finally, a fourth techno-instrument of control emerged during the presidency of Ernesto Zedillo (1994–2000) with the so-called "Zedillo Decree" (1997), which created informal mechanisms for the expropriation of Yaqui territory, a form of "granting the land without recognizing its jurisdiction," through governmental processes that reflected despotic expressions of sovereign power and generated a state of uncertainty. According to Petition 79/06 of the Inter-American Commission on Human Rights (IACHR), this decree "expropriated 2 688 hectares in areas known as La Cuchilla and Isleta I and II, and also dispossessed them of more than 40 499 hectares on vast tracts of land outside La Cuchilla and Isleta I and II" (IACHR, 2015, p. 4). This instrument was used to legalize possession of Yaqui lands by individuals external to the community rather than as a public utility arrangement, resulting in a disregard for the boundaries established by the decree promulgated by Cárdenas in 1940 (García, 2015). Regarding the effects of this measure, traditional Yaqui authorities recognize that:

> [Zedillo] delivered a coup de grace to the Yaqui People by signing an expropriation decree for more than 2 000 hectares, known as La Cuchilla, located in Bahía de Lobos and Ignacio, under the pretext that it would serve public utility and regularize the holdings of small private

> owners and ejidatarios external to the Yaqui Tribe who were occupying land within the Tribe's territory. (Interview cited in Gobierno de México, 2021, p. 84)

Overall, it is evident that the State has instrumentalized anatomo-political devices to regulate ways of living and discipline bodies within specific spaces and territories, formally recognizing the Yaqui people's territorial and water rights, although in practice these remain limited to the areas designated for them. These instruments and techno-devices, along with other governmental processes promoted or decreed by the State, ultimately serve to delimit, constrain, or render the Yaqui community invisible. Nevertheless, in response to these anatomo-political control mechanisms, the community has developed trajectories of struggle, resistance, and collective empowerment, constituting a form of community bioresistance. This has been expressed through multiple processes, most notably social resistance in defense of their rights within an *international normative framework* known as *customary law*.

One avenue of response has been social organization and collaboration with their counterparts in Tucson, Arizona. The legal support of the Tucson Yaqui Tribe is grounded in customary law, understood as an international normative instrument that provides mechanisms for defending land, water resources, and cultural traditions, while also strengthening their capacity for autonomous decision-making and self-governance, particularly through the legal organization of traditional authorities. Within this framework of social action, the Yaqui people have promoted legal protections, or amparos, to initiate the process of declaring and adjudicating nationally owned lands without renouncing their traditional property, allowing new lands to be incorporated and recognized according to their "natural points," a process outlined in the Plan of Justice for the Yaqui People (Gobierno de México, 2021, p. 88).

ETHNIC BIORESISTANCE: TERRITORIAL AND WATER SECURITY A SOCIO-LEGAL FIELD OF STRUGGLE

The broad concept of security encompasses multiple dimensions, including water security, territorial security, and environmental security for Indigenous communities, all grounded in human rights. Carbonell Sánchez (2004) argues that, ideally, national and international legal norms should be free of gaps or ambiguities and provide individual or collective actors with legal certainty. In this regard, the *Human Development Report* (United Nations Development Programme, 1994) identifies territorial insecurity as a threat that affects the integrity of people within a given space. Within this context, bioresistance refers to a population's capacity to protect and defend its territorial rights, natural resources, identity, and cultural traditions against external threats. It encompasses a set of social actions and practices aimed at ensuring the community's continued existence as an ethnic group.

Yaqui territorial space has been subjected to a series of governmental techno-devices that have compelled the community to engage in a continuous struggle, sometimes covertly and at other times openly. Over time, a set of bioresistances has emerged to defend what rightfully belongs to them,

grounded in a profound connection between their worldview and the cultural values that reinforce their self-determination and autonomy.

Among the primary actions of bioresistance is the holistic understanding of water, land, and space, a triad around which the social construction of Indigenous water and territorial security has revolved. This security is grounded in universally recognized fundamental rights (Stavenhagen, 2007) and, in particular, is closely linked to the right to life and the comprehensive development of individuals and communities, rights protected by various international treaties (Van Beek & Arriens, 2016).

In 2007, the United Nations General Assembly ratified the Declaration on the Rights of Indigenous Peoples, recognizing their collective rights, including self-determination and traditional rights over lands and natural resources, particularly water (United Nations, 2007). Article 26 of this declaration establishes that Indigenous peoples have the right to control and benefit from the lands, territories, and resources they possess by virtue of traditional ownership or other forms of occupation (United Nations, 2007). This provision underscores the importance of respecting Indigenous peoples' traditions, customs, and land tenure procedures. However, State biopower constrains and pressures ethnic communities through a series of normative and legal technicalities, appropriating territories and water-use rights through dams and other unilateral mechanisms that benefit transnational companies and private actors.

Meanwhile, the international instrument ILO Convention no. 169 defines the concept of land for Indigenous communities as follows: "The use of the term *lands* in Articles 15 and 16 shall include the concept of territories, which covers the total environment of the areas which the peoples concerned occupy or otherwise use," equating land with territorial space and establishing the State's obligation to effectively protect Indigenous land ownership and possession (OIT, 2014, p. 35). This instrument encompasses economic, social, spiritual, and cultural aspects closely related to Indigenous communities' rights over natural resources (Article 15), development (Article 7), and consultation (Article 6) (Paz, 2017). In this context, the legal security provided by this instrument is directly linked to the protection of natural resources located within the territories and lands that constitute the full habitat occupied by Indigenous populations (Paris, 2020).

In the Americas, the Inter-American Court of Human Rights has issued numerous rulings concerning Indigenous land and territorial rights, establishing important precedents for their protection. The Inter-American Court has affirmed that Indigenous peoples hold legitimate rights over the legal ownership of their ancestral lands, introducing the concept of *communal property*, as well as the right to use and enjoy the natural resources located therein. The Inter-American Court has further recognized that communal property encompasses a spiritual dimension (Paredes Paredes, 2021) and has emphasized that States are obligated to guarantee prior, free, and informed consultation with Indigenous peoples before taking any measures that may affect their lands and territories.

In its legal evolution, the Inter-American Court has addressed the concept of "territory" in several cases, noting that the term is linked to the community and encompasses the entirety of land and natural resources traditionally used by Indigenous peoples. Under this interpretation, Indigenous

territories and lands are not limited to the community's physical areas; they also include spaces essential for the cultural and spiritual practices of these peoples (Paredes Paredes, 2021, p. 179).[8]

At the national level, the 2011 reform to Article 1 of the Mexican Constitution elevated international human rights treaties to constitutional rank. However, in the case of the Yoemem community, this reform has not ensured the effective implementation of the human rights granted to Indigenous communities under the Constitution (CPEUM, 1917). Despite these legal provisions, the State, responsible for respecting Indigenous customs and traditions, including the self-delineation of their territories (Barabas, 2004), continues to reproduce structural violence, undermining the normative frameworks intended to uphold these rights.

RESULTS

The Yaqui community maintains a system of bioresistant knowledge and practices that enables them to survive and defend their territory and natural resources against structural conflicts and historical dispossession. Bioresistance encompasses a broad spectrum of objective, subjective, and intersubjective actions, including the capacity to preserve their language, norms, ethnic relationships, traditions, rituals, and connections with nature, as well as the ability to organize socially and politically to safeguard communal property. Within their sociocultural context, the Yoemem community preserves and protects a triadic worldview that integrates territorial extent, the water contained in the Yaqui River, and space itself. This unified worldview constitutes a fundamental element of their daily habitus, ancestral traditions, and ongoing sociocultural processes, understood as bioresistances aimed at preserving communal property.

The community bioresistances of the Yoemem are embedded within an ancestral worldview, solidified through struggles and complex sociohistorical, cultural, and identity-based relationships closely linked to how they conceive, perceive, fight, resist, die, live, and organize communal property. Within this worldview, the term ania refers to the whole, which can be compared to the globe from a Western perspective. In this vision, everything that exists in the cosmos is known as *teeka ania*, while beyond the universe lies *yoo'ania*, representing the perpetual cosmos (Gobierno de México, 2021, p. 38). These concepts illuminate the internal processes of Yaqui bioresistance, grounded in ancestral and spiritual knowledge applied to challenges related to land, territory, and resources within the community space.

The results indicate consensus among the interviewees regarding the triadic perspective of territory, water, and space, which encompasses traditional knowledge that shapes the Yoemem cultural identity. This knowledge has been transmitted orally across generations, primarily from elders to youth, ensuring the preservation of a profound and spiritual connection with the territory, which is regarded not merely as a physical space but as a sacred place. In this context, land tenure

[8] In cases of violations of Indigenous property rights, the Inter-American Court establishes the obligation of full reparation. Failure to comply with a Court ruling in this regard constitutes a breach of international justice by the State involved, as illustrated by the case of Moiwana v. Suriname (Inter-American Court, 2005).

constitutes a de facto right, forming the foundation upon which the territorial rights of the Yaqui people should be established.

Yaqui communal property embodies a simultaneous worldview of space, territory, land, and water. Territory is considered a God-given inherited right (Spicer, 1994) and is intrinsically linked to the continuity of life and its relationship with nature, as exemplified by the term *itombawe*, meaning "our river" (Erickson, 2008, p. 142). This configuration externalizes and objectifies the significance attributed to hills, waters, and all-natural elements, which are simultaneously associated with territorial boundaries. These boundaries are not necessarily physical spaces on a map; instead, they refer to traditional knowledge, rituals, festivals, and historical memory transmitted orally by elders and understood within a framework of ethnic responsibility and cultural heritage. This ethnic worldview aligns with Bonfil Batalla's perspective on preserving Indigenous knowledge as a form of resistance against cultural imposition, a stance also supported by Anaya and Rogers (2009), who, along with other scholars, have recognized a "special connection" between Indigenous peoples and their ancestral territories.

According to the interviewees, Yaqui territory and water are intimately linked to a historical and inherent right integral to their human existence, directly connected to the survival and collective well-being of their communities. For the Yoemem, territorial security entails the protection of their ancestral lands, which is essential for preserving their culture as well as their economic and social practices. Access to and control over water resources, such as the river that traverses their territory, are crucial for safeguarding communal property, unity, and cultural identity, making territory and water inseparable. Ensuring water security requires recognizing water as an integral resource, inseparable from the Yaqui community itself. This can be operationalized through a collective water management model that respects traditional uses and customs, guided by Yaqui authorities in coordination with the Mexican State, alongside a profound understanding that the river is an inherent element of the Yaqui worldview.

In Mexico, Article 2 of the Constitution seeks to ensure that Indigenous communities, such as the Yaqui, can maintain ways of life in accordance with their culture and customary practices, which are considered essential to their self-determination and existence as an Indigenous people. Specifically, Section V establishes that Indigenous peoples have the right to preserve the integrity of their lands, while Section VI affirms their right to access forms and modalities of communal property recognized in the Constitution, highlighting the legitimate right to Indigenous territorial ownership as further detailed in Article 27 (CPEUM, 1917).

Similarly, Article 2 of the Constitution recognizes the right of Indigenous communities to use and enjoy the natural resources associated with the lands they inhabit. Taken together, this article provides a legal foundation for protecting the territorial and water security of the Yoemem. However, its implementation is constrained by structural rigidities imposed by the State, particularly because it conflicts with Article 27 and does not fully acknowledge the integrality of public policies and actions affecting Indigenous peoples (CPEUM, 1917).

The Mexican constitutional reform of Article 27 adversely affected the Yaqui community in at least two ways. First, it led to the *commodification of communal property*, with the State facilitating private investment in social lands through commercial arrangements involving new ejidatarios, the Yoemem who only have access to land and water, and external investors. Second, it enabled the *privatization of communal property* by transforming social property through a legal process of disincorporation that converted it into private property, making it subject to the free market and national production processes promoted by the neoliberal policies of the Mexican State (CPEUM, 1917). In this context, one interviewee emphasized, "In the Yaqui community, customary property is maintained and cannot be converted into private property, and this is the main reason for not selling the land" (Interviewee 4, personal communication, December 11, 2023).

In the Yaqui community, official agrarian frameworks were never fully applied, which allowed the community to maintain political autonomy through land-owning families and traditional authorities. In this context, Article 27 of the Constitution limits Indigenous property rights by failing to recognize Yaqui customary property and by not aligning with international legal definitions of land and territory or with the provisions established in Article 2 of the Constitution (CPEUM, 1917).

The defense of Yaqui territory has been reinforced through cross-border alliances and collaborative actions with their Yaqui counterparts in Arizona, United States. These transnational synergies represent another form of resistance to governmental conflicts and a strategy to safeguard their triadic worldview of water, land or territory, and space. Such cooperative efforts have resulted in binational agreements with the Pascua Yaqui Tribe in Arizona, enhancing the international visibility and recognition of the Yaqui people's struggle.

The cross-border collaboration between the two Yaqui groups fosters relationships grounded in deep reciprocity, encompassing cultural, social, religious, legal, and political dimensions. Both the Yaqui community in Mexico and their counterparts in the United States are committed to advancing the process of Yaqui self-determination and autonomy. A clear example of their joint efforts is the petition submitted to the Inter-American Commission on Human Rights (IACHR) by Yaqui authorities in Mexico, supported by the Pascua Yaqui government in Arizona and the Indigenous Peoples Law and Policy Program (IPLP) at the University of Arizona. This initiative constitutes the principal legal precedent for the Yaqui People's Justice Plan.

In their petition to the IACHR, Yaqui authorities highlighted the dispossession of their traditional territory, the absence of clear demarcation of their lands, and the lack of access to the water resources granted to them under the decree issued by Lázaro Cárdenas, as well as their limited economic capacity to meet obligations related to customary land ownership (IACHR, 2015, p. 1). These claims are consistent with the findings of this study, as interviewees concurred that, although the Cárdenas decree provided a legal foundation for the Yaqui community, the allocation of water resources and other guarantees was never fully realized.

Therefore, current efforts are directed toward the recognition and effective realization of the Yaqui people's historical rights through the Plan for Justice for the Yaqui People. In this context, international mechanisms and resolutions, such as the Friendly Settlement Agreement issued by the

Inter-American Commission on Human Rights (IACHR, 2015), play a crucial role in ensuring the implementation of the commitments and negotiations established within the Plan. This program is structured around three central pillars: land rights, water resources, and the comprehensive development of the Yaqui community, while also aiming to strengthen their autonomy. However, the challenges to its effective implementation persist and have become increasingly urgent due to the continuous pressure from external actors who seek to maintain water exploitation and the extensive leasing of Yaqui territory.

FINAL REFLECTIONS

The Yaqui community has faced a series of governmental techno-devices that have exerted pressure on them, compelling continuous efforts to defend their traditional territory, land, and natural resources. During the consolidation of the Mexican State in the transition from the 19th to the 20th century, policies of extermination and dispossession of Yaqui territory were implemented by the government of Porfirio Díaz, intensifying this ongoing struggle, which at times unfolded covertly and at other times led to open confrontation.

In 1940, the decree issued by President Lázaro Cárdenas formally recognized the land rights of the Yaqui people and allocated 50% of the water from the La Angostura Dam. However, the community never fully received the land or water promised under this agreement. While the decree represented a political action implemented through legal channels, the necessary legal and technical conditions for its effective enforcement were not established, resulting in the partial and incomplete execution of its provisions.

Between 1960 and 1985, the integration of Yaqui territory into global agricultural value chains created tensions and conflicts over land and water resources, further intensified by the participation of transnational companies. Similarly, the 1992 reform of Article 27 of the Constitution classified the Yaqui community as peasants and ejidatarios, thereby failing to recognize their historical and inherent rights as an Indigenous people. This constitutional reform primarily benefited private capital and restricted the Yaqui people's access to agricultural credit.

In 1997, a decree enacted during the administration of Ernesto Zedillo dealt what many considered the final blow, allowing the expropriation of more than 2,000 hectares of Yaqui territory under the pretext of public utility and facilitating the regularization of small landowners and ejidatarios outside the Yaqui people (Gobierno de México, 2021). This measure, like earlier instruments, exemplified the exercise of State power over the territorial and water rights of the Yaqui community, prompting them to resist and defend their rights.

The Yaqui community has demonstrated bio-resistance in defending their ancestral territory, grounded in a profound spiritual connection, which has reinforced their struggle for the recognition of their rights. In this process, they have undertaken community resilience actions, including the establishment of cross-border alliances with their Pascua Yaqui kin in Arizona. These alliances have enabled them to gain international visibility for the challenges facing their community, for instance, by submitting a petition to the Inter-American Commission on Human Rights (IACHR).

Prior to this petition, there was no political will for the restitution of Yaqui territory, nor were there formal processes for granting water according to the provisions of Cárdenas' 1940 decree. It was under the anticipation of an international resolution and its subsequent negotiations that the Plan of Justice for the Yaqui People was developed, emerging from political will during the presidential term of Andrés Manuel López Obrador (2018–2024). This plan represents a highly significant step in recognizing the rights of the Yaqui people to territory, land, water, and development, although uncertainty remains regarding its full implementation. In this context, the importance of international human rights instruments is evident, along with the urgent need for greater alignment between the Mexican legal framework and Yaqui customary law, with the objective of ensuring, in the future, the full titling of their territory as recognized by their internal norms.

Translation: Erika Morales.

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