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Indigenous Sovereignties and Modern States

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Introduction

This book examines how Indigenous peoples across South America have asserted sovereignty in and against modern states from the nineteenth century to the present. Rather than treating sovereignty as a singular attribute possessed exclusively by nation-states, the chapters that follow trace a plurality of sovereignties—rooted in territory, kinship, law, and cosmology—that persist, adapt, and innovate within changing political orders. Sovereignty, in this telling, is not a fixed status but a practice: the ongoing work of governing land and life, negotiating borders and jurisdictions, and sustaining normative systems under conditions of profound inequality.

The historical arc begins in the age of republican state formation, when new civil codes, military campaigns, and missionary projects sought to reorder frontier regions and fold diverse Indigenous polities into centralized regimes. Land laws recast communal territories as alienable property; labor regimes extracted value through debt peonage and the rubber frontier; and “civilizing” projects targeted languages, kinship, and authority structures. Yet even as these regimes expanded, Indigenous communities defended collective lands, reconstituted leadership, and developed legal strategies that contested dispossession in courts and administrative offices. These early confrontations foreshadowed contemporary struggles over titling, demarcation, and jurisdiction.

Foregrounding Indigenous legal thought, the book combines legal and political history with ethnographic insights and analysis of jurisprudence. It reads lawsuits, constitutional debates, cadastral maps, ethnographies, and community archives alongside testimonies and oral histories. This interdisciplinary approach reveals how legal categories—“tribe,” “community,” “property,” “autonomy,” “nature”—travel across forums and are translated, resisted, or redefined by Indigenous actors. It also highlights the ethics of research in contexts where law has been both a tool of dispossession and a resource for defense, demanding attention to authority, consent, and reciprocity.

The legal field in which these struggles unfold is multiscalar. National constitutions and administrative procedures interact with international norms such as ILO Convention 169, the UN Declaration on the Rights of Indigenous Peoples, and evolving standards on free, prior, and informed consent. Communities litigate in local courts, mobilize national federations, and appeal to the Inter-American human rights system. Law is never merely textual: it is enacted in marches, road blockades, assemblies, and ritual acts that make territory visible and governable. The book analyzes how rights are claimed and remade in these arenas, and how victories on paper can be hollowed

out—or transformed—by implementation politics.

Three country clusters provide depth and comparison. In Ecuador, movements have leveraged constitutional recognition of plurinationality and the rights of nature while confronting extractive concessions and disputes over consultation and consent. In Bolivia, the refounding of the state opened pathways to Indigenous autonomías and the revitalization of ayllu-based governance, even as hydrocarbons and mining posed hard tests for redistribution and self-government. In Brazil, the long campaign for demarcação of Indigenous lands, and recurrent attempts to curtail those gains, illuminate the stakes of constitutional interpretation, administrative policy, and social mobilization. Across these cases, strategies vary—from courtroom advocacy and participatory mapping to interethnic alliances and international campaigning—yet a common thread is the insistence that territory is a living legal subject, not a commodity.

The central claim is that Indigenous sovereignties endure not as vestiges of the past but as contemporary political projects that refashion state law and political imagination. Legal pluralism is not an exception to modernity; it is constitutive of it. Recognizing this pluralism requires rethinking how jurisdiction is allocated, how consent is defined and verified, and how reparations, redistribution, and environmental governance are designed. It also entails acknowledging that Indigenous legal orders are dynamic systems of authority and accountability, oriented toward collective flourishing and interdependence with lands and waters.

By placing legal battles, land claims, and political mobilization in the same frame, the book speaks to scholars and practitioners in law, political science, history, and Latin American studies, as well as to advocates engaged in community defense and policy reform. The chapters show that the most durable advances emerge where legal victories are braided with organizational strength, cultural revitalization, and territorial governance. They also map the vulnerabilities—criminalization, bureaucratic delay, extractive pressures—that continue to shape outcomes.

The organization moves from conceptual groundings and nineteenth-century histories to contemporary arenas of litigation and autonomy, then to country-specific case studies, and finally to forward-looking debates on climate policy, digital data, and intergenerational leadership. Readers will find detailed analyses of cadastral reforms and collective land titling; close readings of jurisprudence on consent and consultation; and portraits of communities building institutions that both converse with and exceed the state. Throughout, the book asks what it would mean to take Indigenous sovereignties as coequal, not subordinate, within modern political orders—and how such recognition might transform the futures of South American democracies.

CHAPTER ONE: Nations Within: Indigenous Sovereignties in Theory and Practice

The concept of sovereignty, a cornerstone of modern political thought, often conjures images of singular, indivisible state power, a final authority residing within defined borders. Yet, for millennia before the advent of European colonial projects and the subsequent formation of South American republics, diverse Indigenous nations exercised their own forms of self-governance, holding sway over vast territories, intricate legal systems, and vibrant cultural practices. These were not proto-states awaiting enlightenment but fully formed political entities, often with sophisticated diplomatic relations, trade networks, and methods of conflict resolution. Their sovereignty was not merely a theoretical construct but a lived reality, woven into the fabric of daily existence and expressed through ceremony, kinship, and stewardship of the land.

The encounter between these pre-existing Indigenous sovereignties and the burgeoning European colonial powers, and later the independent South American states, set in motion a profound and ongoing tension. European legal traditions, particularly those rooted in Roman law and later Enlightenment philosophy, struggled to recognize or accommodate political systems that did not fit their predefined notions of statehood. Indigenous nations were often categorized as nomadic, uncivilized, or lacking the essential attributes of sovereign entities, a convenient legal fiction that facilitated conquest and dispossession. This denial of Indigenous sovereignty was not an oversight but a deliberate strategy, a rhetorical and legal maneuver to legitimize the appropriation of land and resources.

Even as colonial powers established their dominion, Indigenous communities, often through remarkable acts of resilience and strategic adaptation, continued to practice their forms of governance. This persistence of Indigenous sovereignty, often in clandestine forms or through clever reinterpretation of colonial law, challenges the neat linear narratives of state formation that tend to dominate historical accounts. It reveals a more complex reality, one where multiple legal orders and political authorities coexisted, sometimes in open conflict, other times in uneasy truce, and occasionally in unexpected symbiotic relationships. The idea of "nations within" thus describes not only a demographic reality but a profound legal and political condition, where distinct Indigenous polities maintain their identity and normative systems within the territorial bounds of larger states.

The theoretical lens through which we view sovereignty has profound practical implications. If sovereignty is understood solely as a state monopoly, then Indigenous

self-determination is perpetually framed as a concession, a delegation of power from the state, rather than an inherent right. This perspective often leads to a paternalistic approach, where Indigenous rights are granted rather than recognized, and where autonomy is seen as a privilege that can be revoked. Conversely, if we acknowledge the historical and ongoing existence of Indigenous sovereignties, then the relationship between Indigenous nations and modern states shifts from one of subordination to one of ongoing negotiation and, ideally, co-existence on more equitable terms.

One key aspect of Indigenous sovereignty, particularly in South America, is its profound connection to territory. Unlike the Western notion of territory as a quantifiable parcel of land to be owned and exploited, Indigenous territories are often understood as living entities, imbued with spiritual significance, ancestral connections, and a complex web of reciprocal relationships between humans and the natural world. This difference in understanding gives rise to fundamental conflicts when state-backed development projects, extractive industries, or conservation initiatives seek to impose their own definitions and uses of land. For many Indigenous peoples, the loss of territory is not merely an economic setback but an existential threat to their cultural identity, their spiritual well-being, and their ability to perpetuate their unique forms of governance.

The practice of Indigenous sovereignty is also deeply intertwined with customary law. These are not static, archaic legal systems but dynamic bodies of rules, norms, and dispute resolution mechanisms that have evolved over generations. Customary law often governs everything from land tenure and resource management to marriage, inheritance, and criminal justice. It is typically rooted in community consensus, oral traditions, and the authority of elders or traditional leaders. The challenge for modern states lies in recognizing and accommodating these parallel legal systems without undermining their integrity or imposing external frameworks that distort their meaning and function. This often involves navigating complex questions of jurisdiction, legal pluralism, and the potential for clashes between state law and customary law.

The very term "Indigenous" itself is a product of this historical encounter, a collective identifier imposed by external powers to categorize diverse peoples who often referred to themselves by distinct nation names. While the term has become a powerful tool for political mobilization and solidarity, it also sometimes masks the immense diversity of Indigenous cultures, languages, and political systems across South America. Recognizing this internal diversity is crucial, as the specific forms and expressions of sovereignty vary significantly from the high Andes to the vast Amazon basin, reflecting different historical trajectories, ecological adaptations, and cultural priorities.

Despite centuries of colonization, assimilation policies, and often brutal repression, Indigenous peoples throughout South America have consistently resisted attempts to extinguish their sovereignties. This resistance has taken many forms: armed rebellion, strategic engagement with colonial and state legal systems, cultural revitalization

movements, and the quiet persistence of traditional practices in the face of overwhelming pressure. These acts of resistance are not merely reactive but are affirmative expressions of enduring self-determination, demonstrations of the inherent right of Indigenous nations to govern themselves according to their own laws and customs.

The idea of sovereignty itself has also undergone transformations within Indigenous thought and practice. It is not always a direct translation of Western concepts but is often reinterpreted and re-articulated through Indigenous epistemologies. For some, it might be understood as "autonomy," "self-determination," or "good living" (*sumak kawsay* or *buen vivir*), concepts that often emphasize collective well-being, ecological balance, and harmonious relationships over individual rights or state power. These Indigenous understandings offer alternative models of governance that could potentially enrich contemporary debates about sustainability, justice, and democratic participation.

The legal and political histories of Indigenous movements are thus not just a story of oppression and resistance, but also a story of innovation, adaptation, and the continuous reimagining of what it means to be a sovereign people in a complex and often hostile world. It is a story that requires us to move beyond simplistic notions of sovereignty and to embrace a more nuanced understanding of political authority, one that recognizes the enduring power and legitimacy of Indigenous self-governance. By examining these "nations within," we gain a deeper appreciation for the multifaceted nature of political life and the persistent struggle for self-determination in the face of formidable odds.

Understanding Indigenous sovereignties also requires a critical examination of the very foundations of modern statehood in South America. Many of these states were founded on the explicit denial of Indigenous political existence, framing their territories as *terra nullius* - empty lands - or their inhabitants as subjects to be civilized and integrated. This historical legacy continues to shape contemporary legal and political interactions, often manifesting in the state's reluctance to fully recognize Indigenous land rights, jurisdiction, and political autonomy. The ongoing struggles over land demarcation, resource extraction, and constitutional reform are direct echoes of these foundational historical injustices.

Furthermore, the concept of internal colonialism is often relevant in understanding the relationship between Indigenous nations and modern states. This framework suggests that even after achieving independence from European powers, South American states often perpetuated colonial patterns of domination over Indigenous populations, extracting resources, exploiting labor, and suppressing cultural and political distinctiveness. Recognizing internal colonialism helps explain why Indigenous movements often frame their struggles not just in terms of civil rights but as battles for decolonization and the restoration of inherent political rights.

The assertion of Indigenous sovereignty is rarely a demand for complete secession or the establishment of entirely separate states, though some historical instances exist. More often, it is a demand for a different kind of relationship with the existing state, one based on mutual respect, co-existence, and the recognition of distinct legal and political orders. This often involves calls for greater autonomy within existing state structures, the recognition of customary law within national legal frameworks, and the establishment of formal mechanisms for consultation and consent on matters affecting Indigenous territories and peoples. These are not revolutionary demands in the sense of overthrowing the state, but rather transformative demands that seek to reconfigure the very nature of the state and its relationship with its diverse constituent peoples.

The intellectual and political work of Indigenous scholars, activists, and legal practitioners has been instrumental in articulating and advancing these understandings of sovereignty. They have challenged dominant narratives, reclaimed historical memory, and developed sophisticated legal and political arguments that draw upon both Indigenous epistemologies and international human rights law. Their contributions are essential to moving beyond romanticized or essentialist notions of Indigenous culture and instead recognizing Indigenous nations as active, dynamic political actors with legitimate claims to self-determination.

In essence, Chapter One lays the groundwork for understanding the complexities that will unfold in the subsequent chapters. It asks us to confront the limitations of Western-centric notions of sovereignty and to open our minds to the plurality of ways in which peoples have, and continue to, govern themselves. By foregrounding the historical and contemporary realities of Indigenous sovereignties, we can better appreciate the legal battles, land claims, and political mobilizations that have shaped, and continue to shape, the political landscape of South America. It is a necessary departure point for a book that seeks to analyze the persistent assertion of Indigenous self-determination in the face of modern state power.

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